CHAIR: This is a continuation of the hearing on the Tennessee Gas Pipeline Company, Londonderry 20 Inch Replacement Project, Docket #00-01 and we finally finished our panel last night and we’ll now, as we discussed yesterday, have a presentation of a witness from Public Counsel.

ATTORNEY WAGELING: Thank you Mr. Chairman, I also would like to just indicate for the record that at this point I will waive presenting a statement of position so that we can continue providing testimony to the Committee and at some point either I can submit something in writing or fill in the record when we have more time.

CHAIR: Sure.

ATTORNEY WAGELING: Thank you. Would someone swear in the witness?

ANDREW F. McKOWN

Having been duly sworn by Attorney V. Iacopino was examined and testified as follows:

DIRECT EXAMINATION BY ATTORNEY WAGELING:

Q Thank you. If you could state your full name for the record and indicate how you are employed? And also provide your business address.

A My name is Andrew F. McKown. I am employed by Haley &
Aldrich. The address is 465 Medford Street in Boston, Massachusetts.

Q Mr. McKown, would you please tell the Committee how long you’ve been employed with Haley & Aldrich?

A I’ve been with Haley & Aldrich for 23 years.

Q Have you had any involvement in the review of the application process submitted by Tennessee Gas Pipeline which is currently before this Committee for which you have been in attendance for the hearings?

A Yes, I have.

ATTORNEY WAGELING: Actually, would you all mind pulling a couple of exhibits and I will come back to it and I’ll be able to show them to him. Exhibits 27, 44, 43, and 71. Thank you.

Q If you could, I would like you to provide a general overview of your experience for the Committee.

A As I said, I’ve worked for Haley & Aldrich for 23 years. Haley & Aldrich is an underground engineering and environmental consulting company with offices in Manchester, Boston and 12 others throughout the country. I have a Bachelor of Science degree in civil engineering from Tufts University, a Master of Science degree in civil engineering from MIT. I have developed an area of expertise in my 23 years in rock engineering and
drilling and blasting. I am a member of several related societies and have been chairman of several committees within International Society of Explosive Engineers, the American Rock and Cam Association, American Society of Civil Engineers. I’ve had considerable experience in consulting with respect to drilling and blasting, including blasting near gas transmission pipelines. I have taught courses and written some papers on the subject.

Q I have before me now, a variety of exhibits which have been marked for I.D. purposes. I would like to show you first Exhibit #27 which I believe is the September 5, 2000 report provided to the Committee in the pre-filed testimony as well as the pre-filed testimony dated September 5, 2000. I’d like to also show you what’s been marked as #44 for I.D. purposes which I again, believe to be the pre-filed testimony of Haley & Aldrich, supplemental, dated October 9, 2000. I’d like to also show you what’s been marked Exhibit #A43 which is the Public Utility Commission Safety Division responses to data requests submitted by Counsel for the Public. And lastly, what’s been marked Exhibit #A71, which is the supplemental filing of Tennessee Gas Pipeline, dated October 18, 2000, particularly section
E which is the pre-filed testimony of Paul Kretschmer.

Are you familiar with all of those exhibits which I have just shown you?

A Yes, I am.

Q Specifically, with reference to the pre-filed testimony submitted by Haley & Aldrich, was it true and accurate at the time that it was submitted to the Committee?

A Yes, it was.

Q With the exception of some minor changes which we will discuss during your testimony, does it remain true and accurate to this date?

A Yes. With the one exception that we’ll discuss.

Q Thank you. Beyond the documents that I’ve shown you, are you familiar with the testimony that’s been provided during the hearings up until this very moment?

A Yes.

Q Have you been in the room for all of the testimony of the panel as well as Paul Kretschmer, who was part of the panel?

A Yes.

Q Are you familiar with the position of the Public Utility on the blasting issues?

A Yes, I am.

Q And do you feel that you are familiar with the position
of Tennessee Gas Pipeline on the blasting issues?
A  Yes.

Q  Lastly, are you familiar with -- well actually, two
    minor things. Are you familiar with the New Hampshire
    Code of Administrative Rules, Chapter, Safety - C16000.
A  Yes. I have reviewed that.

Q  And are you familiar with Pre Seis which is the company
    for which Paul Kretschmer is employed?
A  Yes, I am.

Q  What is your opinion of that firm?
A  I think it’s a good firm. We have worked with them on
    several projects and I feel comfortable about them as a
    company.

Q  Now in your pre-filed testimony, Haley & Aldrich had
    submitted issues of concern which, as I understand it,
    have been resolved during the course of these hearings.
A  Yes. That’s correct.

Q  Would one of those issues include ground heave, or
    testing for ground heave?
A  Yes.

Q  Based upon the agreements that were reached and
    testified to yesterday, is Haley & Aldrich now satisfied
    with the, not only the standard or the criteria that’s
    been put in place, that is one inch at the testing, and
also that they are going to test for every blast for
ground heave?

A Yes, I am.

Q With respect to the issue of water well pre and post
blast inspections as, again, was discussed yesterday,
are you now satisfied that they will be implementing
procedures that are appropriate for this project?

A Yes. As I understand it, the disagreement was in the
post blast monitoring of wells and, as I understand it,
that they agreed to do post blast monitoring of all the
wells for which they do the pre blast monitoring.

Q Relative to an independent state inspector, are you in
agreement with the arrangement that has been brought to
this Committee and has been testified to?

A Yes. As I understand it, there will be review on behalf
of the state of the blast plan as well as receipt of the
monitoring data as the project proceeds.

Q Would you indicate for the Committee why you felt that
was a critical issue as it relates to this project or
any project?

A I think it is important for any project, and in
particular this one because of the nature of the
blasting so close to the pipeline, it’s going to be
really important that a good, sound blast plan be
implemented, be put in place with some thought given to it. And I think the issue and review of another expert would be of benefit to make sure they get it right the first time, basically.

Q And lastly, relative to the issue of the pre and post blast surveys, originally Haley & Aldrich had submitted in their pre-filed testimony a limit of 300 or a minimum limit of 300 feet for all blast sites. Do you continue to maintain that position?

A No. Since the company has agreed to implement a peak particle velocity limit of four inches per second at the pipeline, we agree with the expert, Mr. Kretschmer, that given that they hold that four inches per second limit at the pipeline, which is only 10 or 15 feet away, the vibrations at any homes at a distance of 200 feet would be extremely low. So for that reason we are now in agreement that as long as they maintain that four inch per second limit at the pipeline that the pre blast surveys to 200 feet is appropriate for the project. And, as I also understand it, in those areas where the pipeline does not exist at a distance of 10 or 15 feet away, they will continue to maintain that peak particle velocity limit of four inches per second at 15 foot distance and that will also satisfy our concerns. So we
therefore would agree with a 200 foot, given those conditions.

Q Do you have any other testimony that you would like to present to the EFSEC Committee at this time?

A I believe that that -- our concerns in our pre-filed testimony have all been addressed and we feel comfortable with things the way they are now. Thank you.

CHAIR: Questions from the Applicant?

ATTORNEY SMITH: The Applicant has no questions of this witness.

CHAIR: Londonderry Neighborhood Coalition?

ATTORNEY ROCHWARG: Yes. Very briefly if I may.

CROSS-EXAMINATION BY ATTORNEY ROCHWARG:

Q Good morning. Could you describe what restrictions, if any, you would place on the State Independent Inspector in reviewing the blasting plan and any reports that are provided by Tennessee Gas?

A I'm not sure I understand the question. Restrictions?

Q What criteria would you consider to be important?

A Again, what criteria should be important for the review
by the state?

Q Correct. In other words, would you put any limitations on the ability of an independent State Inspector to supplement, should the State Inspector have concerns with regard to the results that they are provided with as a consequence of being provided with information in the reports that they receive from Tennessee Gas?

A I’m still not sure. I guess the intent of the review would be that everybody in the review process -- well, let me step back. A submittal would be included by the blasting contractor. He would indicate the intended spacing, loading and all of the particulars of the blast ground, the typical blast ground for the project. And the review purpose would be to basically, with the experience of the reviewers, would be brought there to check to make sure that the loading, spacing of holes, delay sequence, and all is appropriate for the blasting and estimates of peak particle velocity, heave and all those things are appropriate. So the State Inspector, in the review process, would have to feel comfortable about all those parameters along with the review by the experts for Tennessee Gas. And all parties would agree that it’s an appropriate design, will sign off, and then the blasting will go forward.
Q And if the inspector became concerned during the course of blasting that the original specified conditions were not sufficient would you put any limitations on the inspector’s ability to recommend to Tennessee Gas that that be modified?

A I think as things go along, as he receives the information, if he sees things that he doesn’t like he should pass his concerns along to Tennessee Gas, yes.

Q And would those be binding on Tennessee Gas to modify their procedure for blasting, in your recommendation if there were safety concerns associated with that?

A Well, I think if there were safety concerns, I think that Tennessee Gas would definitely take appropriate action.

Q I don’t have any further questions at this time.

CHAIR: Members of the Committee?

EXAMINATION BY ATTORNEY M. IACOPINO:

Q The report filed by your company is a geotechnical peer review. Were you involved in all aspects of preparation of that report?

A I was involved in preparation of only those aspects dealing with the drilling and blasting.

Q Does that include the recommendation that test borings
be conducted on each side of the proposed intermediate water body crossings?

A No.

Q Somebody else from your company would speak to that?

A Yes.

Q I have no further questions.

ATTORNEY WAGELING: With the Committee’s permission may this witness be excused from the hearing then?

CHAIR: Yes. Did you have another witness or will you go back to the Applicant?

ATTORNEY WAGELING: That was my understanding, thank you.

ATTORNEY ARNOLD: We’re going to proceed with our Water Panel, Mr. Chairman, so I would call John Auriemma and Roger Treddle to join me.

JOHN AURIEMMA & ROGER TREDDLE

having been duly sworn by Attorney V. Iacopino was examined and testified as follows:

DIRECT EXAMINATION BY ATTORNEY ARNOLD:

Q Mr. Auriemma, we’re going to begin with you. Would you please state your full name for the Committee and give your business address.

A Good morning to you all. My full name is John Auriemma,
business address is 1001 Louisiana Street, Houston, Texas.

Q Can you briefly describe for the Committee what your educational and work background is.

A Yes. I have a bachelor’s degree in geography from Rutger’s University, a master’s degree in urban affairs from Boston University. I’ve been involved with natural gas facility construction for over 11 years.

Q How long have you been employed with Tennessee Gas?

A That’s somewhat of a tricky question or a tricky answer -- I was a consultant for Tennessee Gas commencing in 1990. I became a direct contract employee in 1994. I became a direct employee in 1998. So I’m full 11 years.

Q In terms of the project that’s before the Committee during this process, can you describe what your role and responsibilities are?

A My responsibility on the project is acting in the capacity of the principal environmental coordinator. I’m responsible for all environmental activities as they are related to the project. I deal with the engineering right-of-way groups. I oversee and manage everything that has any relationship to the environment.

Q Does Tennessee Gas have an overall environmental mission statement that they try to comply with?
A Yes, we do. In short, we basically have a zero
tolerance environmental mission statement or corporate
policy. On every project our approach is for zero
noncompliance. There’s an incentive built in for
employee benefit sharing with respect to all involved.
We approach every project with the strictest sensitivity
towards the environment. We make everyone responsible
to be compliant with the environment. All the
conditions, the permit conditions, all our techniques,
all the inspectors, the full inspection staff. We do
have an environmental inspector out on the project.
Their sole responsibility is to maintain environmental
control and compliance on the project. However, all of
our inspectors, everyone involved all the way up the
corporate ladder back to Houston is fully responsible
for protection of the environment.

Q Thank you. I’d like to take a moment and show you some
of the pre-filed testimony and supplemental pre-filed
testimony that has been submitted in this case and I
refer you initially to the Applicant’s Exhibit #12 and
just show you briefly the segment at page 15, your
direct pre-filed testimony. And was this prepared under
your direction?

A Yes, it was.
Q And is it true and accurate to the best of your belief?
A Yes, it is.

Q Do you have any changes that need to be made to this testimony?
A Yes, I do.

Q And will be testifying to that during the course of this proceeding?
A That’s correct.

Q But you adopt it as your testimony here today?
A Yes, I do.

Q I’d like to also refer you to the Applicant’s Exhibit #68 which is your supplemental direct pre-filed testimony. And was that also prepared under your review and direction?
A Yes, it was.

Q And it’s true and accurate to the best of your belief?
A Yes, it is.

Q And you adopt it before this Committee today?
A I do.

Q Finally, let me show you pre-filed testimony, direct pre-filed testimony of Ricardo Lopez. This is contained in Applicant’s Exhibit #12 at page 28. But specifically I would like to refer you to page 33 of that testimony which deals with areas regarding environmental issues,
sensitive species and historical landmarks. Was this information prepared under your review and direction?
A Yes, it was.
Q Is it true and accurate to the best of your information and belief?
A Yes, it is.
Q And is it your understanding that it may have inadvertently been placed in Mr. Lopez’s direct pre-filed testimony as opposed to yours?
A That is my understanding.
Q So you would adopt it here today before this Committee?
A Yes, I do.
Q Thank you. Now the testimony that you wish to supplement today before this Committee, can you tell us generally what issues that relates to?
A It would relate in general to the water body crossings and other environmental issues related to the construction of the project.
Q Can you, just briefly, to put this in perspective, can you describe for the Committee the environmental, the review of environmental resources and mitigation that has been conducted by Tennessee Gas as regards to this project?
A Yes. Initially the project was conceived in 1998. We
actually began our environmental review and consideration and assessment right at that time. To prepare for the filing for the Federal Energy Regulatory Commission we conducted field surveys. We did paper studies. We looked at maps. We looked at the route. We pulled together information for what’s called the environmental report that gets filed with FERC and that has 13 resource reports associated with it. They cover project descriptions, water quality, vegetation and wildlife, cultural resources, socio economics, geology, soils, land use, air and noise issues, alternatives, reliability and safety. PCB and LNG facilities. Which, of course, are not related to this project.

Q Let me just show you briefly two exhibits. One is Applicant’s A-59 and the other is Applicant’s A-76. The first, could you describe for the Committee what that is and what its significance is in terms of review of environmental issues by Tennessee Gas?

A Yes. That exhibit had to do with -- as with this process which is very comprehensive also, we received data requests from the FERC. The exhibit pertains to the data request relating to the alternative studies. FERC requested us to look at alternative areas, alternative systems. That response does deal with
looking at alternatives in the field. We actually had a site visit with the FERC to determine that these alternatives as we described in that response were not feasible as compared to the preferred route which is to remain in the same ditch.

Q Do you know approximately how many alternatives were examined by Tennessee Gas?

A I think roughly, we looked at anywhere from six or eight to maybe up to ten alternative areas.

Q And in terms of the Applicant’s Exhibit #76, can you briefly describe what that document is and its significance to this project?

A Yes. That exhibit is the draft environmental assessment that the FERC produces. Again, we produce an environmental report, the FERC will take that information and conduct their own investigations and their own site visits and they produce what is called the environmental assessment. Now the environmental assessment is still in draft form but it does have recommendations within it that will start leading us towards a direction as to where or what we are going to have to comply with. It’s fully comprehensive. It will apply to the same set of resources that I’ve just described in the environmental report.
Q Thank you. Now specifically, in terms of dealing with the State of New Hampshire on this project and environmental issues, primarily ones related to water body crossings, did you have the opportunity to review draft conditions that were put together by the Water Division on August 29th of this year?

A Yes, I did. Very thoroughly.

Q Did you participate in a response to those conditions?

A Yes, I did.

Q Let me show you Applicant’s Exhibit 62. Can you tell us what that is?

A Exhibit #62 does pertain to our responses, whether it be acceptance, recommendation for revision to the draft conditions.

Q How many -- I guess in terms of the draft conditions that were proposed to Tennessee Gas, can you give us an overview of how many of those were acceptable to Tennessee and how many are still areas where there is a disagreement?

A The overwhelming majority of the permit conditions were acceptable to Tennessee. They are normal in the course of construction for a project as such. We do have some concerns with respect to possibly six or seven of the conditions.
Q Why don’t we talk specifically about those issues of concern that remain in your understanding. And for ease of the Committee we’ll be working off of Exhibit 62, which is the responses, but also includes the draft conditions so it’s probably the easiest document to reference. The first issue that I’d like to address with you is the recommendation regarding, or the proposed condition regarding topsoil segregation which is a site specific condition proposed by the Water Division and it’s #A-8 in the draft conditions. Can you generally explain to the Committee what the proposal was by the state?

A Yes. The proposal by the state in not so many words is basically to segregate topsoil in all areas. Now ‘all’ is a very broad term. We consider ‘all’ to mean every disturbed area of the project. Normally under FERC guideline and as recognized and approved by other jurisdictions, not only within this state but in other states that we conduct our business in, that topsoil segregation occurs in wetland areas and agricultural areas. ‘All’ to us is now meaning those areas which are non wetland and non agricultural.

Q Can you explain, in your view, what the significance is of topsoil segregation and how that relates to what
Tennessee has proposed to the state?

A The significance of the topsoil segregation, particularly in a wetland area, is to preserve the seed bed that is there and exists naturally. We would like the wetlands to return back to a natural state when we complete our construction. Agricultural areas, we just consider it someone’s livelihood. We’ll strip the topsoil there. The issue we’re having is in doing it in all areas, and having limited work room on the project we will have to reassess the amount of work room we have requested to segregate topsoil in all areas could be considered inefficient to the flow of construction. If we need more work room to store the topsoil, to preserve it during construction, it’s now going to impact possibly new areas to the environment, new landowners, which may not be involved currently with the project. Our proposal is to basically segregate the topsoil along the entire project within the ditch line area, in those areas other than wetland and agricultural.

Q Okay. Generally in the industry and under other regulatory provisions, what is the practice regarding segregation of topsoil?

A Again, the practice of segregating topsoil seem to apply
only to wetland and agricultural areas for the reasons I just described. The common practice and is recognized by other jurisdictions that the upland areas -- we have to restore the project in full, when we are completed. Every area has to be revegetated. It’s just not common practice, or we don’t feel a need to segregate the topsoil in upland areas.

Q Are there any safety considerations that weigh into the proposed condition that you’ve recommended to DES?

A There could be safety considerations by way of -- again, if in segregating the topsoil requires extra work room and that extra work room is either not available due to development along our project corridor, or not granted by an agency, you’re not constricting our work area. You’re starting to confine us within the right-of-way, the corridor. It gets very crowded out there with equipment, with personnel, with inspection trucks, with welding equipment. When you become very congested it creates an unsafe atmosphere that we try to avoid.

Q And was it your testimony that in the past when work has been done within this right-of-way, the area revegetated through replacement or segregation of topsoil in a manner that was comparable to what you’re proposing here?
A Yes, it is.

Q So in your opinion is there any additional environmental impact or benefit that would result from segregating all topsoil as opposed to segregation of topsoil in agricultural wetlands and ditch line areas as proposed?

A We feel for the effort involved the benefit is minimal.

Q Let’s move to the next issue which is the methods and procedures for disposal of trench water, which is at site specific or section A9. Can you briefly explain the proposed condition and what it seeks to address?

A The proposed condition, again, in not so many words, is for the trench water not to violate the water quality standards of the state. Disposal trench water discharge. What we do is commonly practiced. FERC recognizes it as a proven method. Our method of discharge is to, of course, minimize the amount of sediment within the discharge. To minimize the amount of sediment that can find its way back to surface waters of the state, we have proven procedures in place. This is what we’ve recommended. This is what we’ve done on every project. This is what is recognized by other jurisdictions. The condition as proposed has been discussed with some members of the DES staff, can become a little extreme. It has been recommended to us to
possibly dig sumps out on the right-of-way, where you basically dig a pit and you discharge the water into it and just let it percolate back into the ground. Again, it dwells upon the work space issue. It’s also another safety issue. We have an open trench along the right-of-way and we’d like to just minimize the amount of open territory with respect to open ground to just maintaining the trench area. If we start setting sumps up along the right-of-way in other areas you’re now having two areas of excavation within the right-of-way, people have to start meandering around those. It could disrupt the flow of construction. It will create an unsafe condition as we see it. Now what we’ve proposed and we would like to work it out in the field with the environmental inspector, not only Tennessee’s environmental inspector but the representative of the DES. We have other methods that could be applied to the project beyond what our normal methods are.

Q Let’s talk for a second about the normal methods or just to give the Committee an idea of what we’re talking about. I don’t know how familiar all the members are with the type of methodology that goes on but let me show you a couple of photographs which we’ve marked as Exhibit #65. I have copies to pass around to Committee
members and Counsel. Maybe just in the meantime you could hold this up so people can see as they’re getting their copies and just generally describe what it is you propose to do and why Tennessee believes that this is an adequate measure to protect water quality.

ATTORNEY ROCHWARG: Can I just ask that before he discusses what’s in the photograph, I just want to take a look at what’s in the photograph if I can look along as he describes it. Thank you. These are new photographs, compared to what was previously provided, is that it?

ATTORNEY ARNOLD: Yes.

MR. CANNATA: Again, I’m sorry, this was Exhibit?

ATTORNEY ARNOLD: #65.

A What you see in the photograph and again, I’m looking at the one with the hay bale setup which looks like it’s in an agricultural area. What you see in the photograph is somewhat of our typical setup. This is even a little beyond what we would do, but what we have is water in the trench, and what we like to do is clear that water out of the trench so we can look at the bottom to make sure that we’re not laying the pipe, as the engineers
discussed, laying the pipe in an environment that would not be conducive to having the pipe safely installed in
the trench. We’ll have to pump this trench water out.
Now of course, we don’t like to pump it directly on the
right-of-way. We try to keep our construction areas as
dry as possible. We’ll set this up. Now again, we’ll
call this a sump for sake of argument as compared to the
sump I just described that was done through excavation.
We like to set this up adjacent to the right-of-way.
The environmental inspector is principally responsible
for determining the best area for this. And what it
does is, we’ll put an intake hose into that trench and
the trench water will suspend it. If you don’t suspend
it, what you end up getting is, you’re not only sucking
up the water out of the trench but you’re pulling
sediment with it. So that’s one way to initially
minimize how much sediment you’ll have in the trench
water as being discharged. The discharge hose will be
routed to an area as such and we’ll set this up for two
reasons. The first reason is to minimize or dissipate
the water as it’s being discharged out of the hose. We
don’t like to just put this water as it’s discharging
out onto bare soil or directly into a water body or a
wetlands. We’ll put it into a setup as such. We’ll set
it with hay bales and/or silt fence. That acts as not only a filtration device but a dissipater again. What you see in the middle of the sump is a filter bag. What that does, it’s almost like the way your vacuum works with a bag in your vacuum. It’s going to collect as much sediment as possible.

Now again, when we do this type of setup, our intent is to minimize the amount of turbidity, the amount of sediment in the water. It does not remove it fully. It will minimize it. And what we’ll rely on is as this water dissipates out of the sump area, it will go into a well vegetated area and Mother Nature will take its course and by the time it could work its way back to a water body, it’s principally under FERC terms, it’s not heavily silt laden water. That’s how FERC describes it. We do not directly discharge this into a water body or wetland. We will maximize the dissipation and minimize the amount of sediment that could possibly reach the surface water. But again, it doesn’t remove it in full.

Q Can it be removed in full?

A From all my experience, it cannot be removed in full. Particularly when you deal with fine sediments. It’s just very difficult.
Q So in your opinion then the methodologies that are being proposed by Tennessee Gas maximize the ability to remove the sediment before the water makes its way back to the wetland area or the water crossing?

A Yes, it does. The combined approach of using something as such in this photo as well as the other photo, the other photo is a very similar setup. Again, it’s adjacent to the work area. We do not like working in a muddy environment. It only creates a safety and a greater environmental impact. We like to keep the water off the right-of-way. It’s the same type setup. You see a filter bag in the center. We have the hay bales and the silt fence setup for dissipation and filtration and location is also a consideration when you lay these out in the field. We try to keep them at a maximum distance from water body or wetlands. If you’re within an extended length of a wetland, you know, we’ve been involved with wetlands up to a half mile long. You’re not going to route the hose out of the wetlands. What you’re going to do is set this up to minimize the amount of sediment laden water, again as described within the industry and by the FERC, that will reach the natural environment.

Q Is my understanding correct that Tennessee is proposing
to deal with these sites on a site by site basis in conjunction with the environmental inspector?

A That’s correct.

Q I believe you had testified that in addition to some of the more ordinary methods that there were other alternatives that you were proposing above and beyond those as well, to deal with this issue?

A Yes, we were. Again, what you see in these photos in the exhibit, this is our normal procedure. Even some of this is maximized. There are times when we may not need the filter bag. There are times when just the hay bales and/or silt fence will act accordingly to produce that end result that we desire. What we also propose, which is actually very older method that for some reason got away from the industry is what we like to call a shower method, for layman’s terms. And basically it’s taking that hose and having someone there and you basically spray it up into the air into the vegetation and let it come down like rain water. That actually has minimal impact. It will act in the same manner as what is shown in these photos. It’s just coming down like rain water as compared to being discharged in one solid location.

Q Thank you. Is there anything in addition that you would like to add on that issue?
One other thing I'd like to add on the issue is when we set these types of things up, they're monitored. We'll monitor the discharge. We'll monitor the suction. And we'll make sure that someone maintains that suction hose, again, up out of the sediment and into the body of the water that we would like to discharge. We'll have someone monitor the discharge end. If it does become somewhat of an increasing concern to us we'll stop the activity and we'll rearrange things and rework it and put it back to the way that we would like it to work.

And in fact, that acknowledgment of the willingness to monitor and to stop activity if it causes an undue concern is outlined in your environmental construction plan which has been submitted to the State as part of this proceeding?

That is correct.

Let's move to the next issue, which I believe it deals with crossings of surface waters and streams in the dry which was site specific proposed condition, draft condition A-12, prepared by DES. Can you just give us a basic wet and dry crossing, kind of 101, so that people will understand what we're talking about?

Yes. Of course, and we apologize, these are all industry slang terms, if you want to call it that. A wet
crossing is basically as stated. The water will be flowing through the job site. And any time we try to apply these procedures we try to take into consideration many factors on the technique that we would like to apply in a particular crossing. The water body crossing technique we call Water Body Crossing Method One, is the wet crossing. And in essence the trench is excavated and the pipe is installed as the water is flowing across the job site.

Q Let me just stop you for one second, because I do have some sample photographs we should probably get around to the Committee which is also, they’re all at Exhibit #65. But the three you’ll get, some are wet and some are dry so we’ll just pass them out at one time.

ATTORNEY M. IACOPINO: Will these be additional sub-exhibits in Exhibit #65?

ATTORNEY ARNOLD: I haven’t broken them out. If the Committee would prefer us to do that, that’s fine.

ATTORNEY M. IACOPINO: Just your list has two photographs listed on it.

ATTORNEY ARNOLD: Oh it does. You’re right. I apologize. They are by trench, they are by the two specific issues. But if you want to delineate
it further so that that will be clear for the record we can do that. I was thinking ahead further. Can we begin? Is everybody about set?

A The one photo I’m discussing has the backhoe, the arm of which is working within the water.

CHAIR: What’s the number of these?

ATTORNEY ARNOLD: It’s Exhibit #65

CHAIR: Still part of #65?

ATTORNEY ARNOLD: Yes, Sub 2.

ATTORNEY M. IACOPINO: Sub 1.

ATTORNEY ARNOLD: Sub 1? Thank you. It’s probably marked on them. Lessons learned.

A The photograph I’m working from shows two backhoes working from each bank in the water body. Within the wet crossing technique as described, as you can see in the photo, the backhoes work right within the wet. The trench is excavated in the wet, as we say. The backhoes will operate from the banks. They will not operate in the water body itself which is a very important point to make.

ATTORNEY M. IACOPINO: This is wetland crossing type number 1?

A This is water body crossing Method 1. Numeric #1.
ATTORNEY BROCKWAY: Excuse me. I’m still confused which one is which. Is this the one with no vegetation in it?

A That’s correct.

ATTORNEY ROCHWARG: For purposes of these photographs, these, as I understand it, are just to describe the techniques, not project specific conditions?

ATTORNEY ARNOLD: Exactly.

A Correct. It’s just a visual aid to give you a better feel for what I’m trying to describe. Again, the backhoes will operate from each bank of the water body. Depending on the width of a smaller water body, maybe they’ll just use one backhoe from one side. As you can see in this photograph it’s more sizable. We’ll place a backhoe on each bank. They will both excavate simultaneously from the center back to the banks. They’ll excavate the trench within the water itself. Spoils are placed away from the water body. It is not placed within the water body. It’s not side cast, as we say. It will be excavated to the proper depth. That depth will be checked very quickly. What we do is bring the section of pipe in, install it within that water body and the trench is back filled. It’s a very simple
description of our wet crossing technique.

Q And just so we can put this, I guess, in a certain amount of perspective, can you tell the Committee of all the crossings that are proposed, how many are proposed to be done in the dry and in the wet? How many are we talking about at issue here?

A Out of a total of 37 water body crossings, we have proposed seven to be done in this manner.

Q And the remaining ones you’ve agreed to conduct in the dry?

A That’s correct.

Q What’s the reason for requesting that seven of the 37 be performed in the wet?

A Again there are a multitude of factors that we consider when we come upon a resource as such and we determine how to cross it. One of the reasons why we’re proposing a wet crossing in certain stream areas is because we feel due to the size, the configuration, the volume of flow, the type of substrate or soils involved within that water system, that a dry crossing is going to be very difficult. Nearly infeasible. Then we have other areas where we have a combined system where we have a wetland complex with a stream within it. And some of these wetland crossing techniques, which I’ll get into
soon, involve the necessity of a wet crossing just because of the technique that we’ll apply to the wetland. What you end up doing is influencing the technique that is applied to the water body itself within that wetland system.

Q Can you -- Let me refer you to the other photographs which we’ve handed out to the Committee and maybe just take a minute and describe for them exactly what those are and how those are used.

A If you look at the first of the two photographs and this is basically just a description of the same technique. The first of the two with the backhoes, this is what we call a dry crossing technique. This is our water body crossing method #2A. #2A in simple terms is a flumed crossing. What we do as you can see here is it’s done in the dry and again, don’t let the water in the trench fool you, that could be ground water associated with the area. What we do is we’ll place this flume pipe within the creek. It’s the first thing that goes into the creek or water body. We’ll channel the water through this flume pipe so we can excavate underneath it in the dry, as we call it. Again, it may take two backhoes. It could be just one. What that flume pipe does is carry the water through the entire installation period.
When we install the pipe underneath and as you can see in the next photograph without the equipment, when the pipeline gets installed underneath, we complete the crossing and put it back in order, that flume pipe is the last thing to be removed. It’s basically a dry technique.

Q In terms of the issues and the conditions under which you’re proposing wet crossings at this project, can you explain for us what the potential safety issues or environmental impacts may be if you tried a dry crossing but it was unsuccessful?

A Yes. What we’re dealing with on some of these wet crossings, we’re on the threshold of the wet/dry approach and there are times when some of these crossings, when you try to do it in the dry you could be in that stream longer, which again will just create more issues at the site in terms of safety concerns particularly with 12 inch pipelines as being the looping part of the system, as we call it. What we like to do sometimes with these larger crossings is use the water itself within that water body, use it as back pressure against the trench walls as we’re excavating. There are times that we have installed flume pipe and as we’re trenching in the dry with a particular substrate or soil
like we do have at some of these crossings which is one of the reasons why we’re proposing a wet crossing, the sides of that trench can just start sloughing off and caving in. And what happens is the width of the trench just continues to grow as we’re trying to excavate through it. If that water is allowed, if we do a wet crossing and the water is within that trench it provides back pressure which actually holds the trench intact as we’re excavating. That’s one of the reasons why we propose a wet crossing. Again, another for the wet crossings on this project a few have that wetland technique applied. The other ones again are the flow of the water, the volume. Sometimes if you have too much volume or too rapid a flow, it’s very difficult to channel all of that water through the flume pipe. You may have a meandering stream channel and our flume pipes are straight and if you can picture it, if you’re trying to put a straight line within a circle or even a bell curve, it’s just very difficult to do. It’s also a time factor again. A wet crossing allows you to get in and out of that stream rapidly, get the pipe installed and commence restoration all within one day.

Q And in terms of being able to do this kind of crossing quickly and get in and begin revegetation, does that
have an environmental benefit?

A It does have an environmental benefit. Through my experience what you’re doing is just you’re lessening the time that you’re stirring up that water, suspending any sediment at the crossing, and the restoration quickly occurs within the same day. There are times in doing the flume method when you have that left overnight. And again in the dry manner while we’re all gaining our energy for the next day’s effort, that trench could be sloughing off. When we get back we have to begin excavation again. There are times that we’ve actually, the trench is widened so much that the flume pipe has just fell into the trench also. And a prime example, on a project we had in upstate New York in Plattsburg, we did try to work it out with the agencies in New York and we brought them out to the site. We recommended a wet crossing just for that same reason, to be in and out quickly. The soils were very similar. The configuration, the volume of water was very similar to some of the locations on this project we’re proposing the wet crossing in. We ended up being in that crossing for roughly four days plus because we kept losing the seals on the flume pipe. When we install a flume pipe, in order to channel the water through it we seal it. We
normally use sandbag material so you can seal the water in to go through that pipe so that you have minimal leakage, if any, into the trench area. We were losing the seals. We lost the flume pipe. Eventually, when we did bring the state out on the fourth day after contacting them throughout the period, they gave us permission to open cut it. Within one day we were complete. The stream was restored. The banks were restored. We put down our mulch, our geo-thatching material which is like a hay blanket. And we walked away from that installation.

Q Are there any other specific examples or are there any representatives of Tennessee that are here in the audience that could speak to other experience with wet and dry crossing? Not today. Okay. Then we'll just do it with you.

Just so that I understand. The proposal by Tennessee then is to deal with the seven crossings at issue on a site specific basis, depending upon the conditions at the time of the crossing with the EI?

A That's correct. What we have in our most recent submittals to the DES and the agencies, the seven wet crossings along the project out of 37. I believe three of those are associated with that wetland technique that
basically mandates a wet crossing. There are four others where again, due to the volume of water, the flow, the conditions, the substrate, the time factor, that we’re considering the wet crossing because we feel it’s going to be a less impacting method.

Q And is it your opinion then, that the environmental impact of the proposed wet crossing under appropriate conditions would have greater environmental benefit than the proposed draft condition by DES?

A Yes, I do.

Q Mr. Auriemma, have you submitted to DES specific crossing plans for each of the proposed wet crossings?

A Yes, we have.

Q Let me just briefly refer you to the Applicant’s Exhibit 24 and 62 which are supplemental filing. Number one is #24 and response to draft conditions is A-62. Are your site specific plans included in those documents?

A Yes, they are.

Q Let me turn your attention to supplemental pre-filed testimony of Richard Stulgis, who is the expert of Public Counsel on some of these issues which is at Exhibit #44. And actually, I think what I really want to do is refer you to his direct pre-filed testimony, which is Exhibit #27 and specifically the discussion at
paragraph #10 which is on -- well, it’s not numbered, but I think it’s page 3. Could you just tell us what the Public Counsel’s expert’s recommendation is regarding wetland and water body crossings in the wet as proposed by Tennessee Gas?

A Yes. In short, the testimony does describe exactly our point, is that the duration as shortened within the water body does minimize the amount of turbidity at the crossing. It also minimizes the fluctuation of river stage that can occur herein for a longer period. So in essence they’re agreeing with the get in and get out type of technique that we were describing.

Q Just as long as we’re on that paragraph so that we don’t need to go back, there’s also a recommendation by Public Counsel’s expert regarding backfilling as well. Has Tennessee come to an agreement with Public Counsel’s expert on the amount of backfill and the nature of it that would be necessary?

A Yes, we have.

Q Can you briefly describe what that is for the Committee?

A Yes. Normally what we do as common practice, as also recognized by the FERC, at the cold water fishery type crossings and at crossings that are considered sensitive by other entities outside of FERC or state agencies,
even local agencies that we’ll have to deal with, what we do is in the backfill of these water bodies is within the top one foot of the trench we will place a gravel compatible to that water system. What this does is help the trench settle in. It will minimize with the amount of flow coming across the trench area. It will minimize grabbing that loose sediment. It just minimizes any sort of release that could occur until the trench settles. What is being described to us, particularly at these certain water body crossings where we have the wet method, if approved, and the size, the intermediate water bodies, is to backfill the trench entirely with that type of gravel. We’ve agreed to do it in its entirety within these select locations. The difference being the one foot as compared to the trench in full.

Q Thank you. I’d like to turn your attention to site specific condition A-19 which deals with in stream drilling and blasting and if you would please explain the draft condition and Tennessee’s position to the Committee.

A Yes. The draft condition is following along the lines of the crossing technique for the water body that all in stream drilling and blasting will be conducted in the dry as just described.
Q At how many locations does Tennessee propose to do that in the dry?

A We’re proposing to conduct in-stream drilling and blasting, and again, at this point we’re anticipating it’s not necessary at all locations. But we wanted to conform to the approach of 30 of the 37 water bodies that we are going to conduct in a dry installation technique to conduct in-stream drilling and blasting as needed in the dry. The seven water bodies where we have the wet crossing technique approach, we would like to do in the wet. Basically conduct this activity in the wet as compared to the dry.

Q Can you explain how that works? What do you do when -- what precautions are taken and what is -- how does it work when you do it in the wet?

A In the wet it’s been my experience, we approach it in a sensitive manner. What we’ll do is we’ll apply blasting mats. It’s a very controlled atmosphere. It’s just like blasting anywhere along the pipeline. Very, very controlled. There’s a plan in place. Everyone understands what has to be done. We’ll put a blasting mat out into the water body to control any sort of shot rock. What we’ll do is produce any type of scare charges. Now, in my personal opinion, and anyone who
fishes, when you go out fishing you’re not supposed to talk. Apparently it scares the fish away. So you can imagine heavy equipment and people moving around and things being placed in the water, there won’t be many fish left. However, we do conduct what we call a scare charge. It’s just a very minimal charge, just to scare the fish out of the site. Whatever remaining -- however tough they are. What we’ll do with the blasting mat, the blasting is very controlled. It’s minimal. We’ll conduct the blast and remove the blasting mat. Hopefully it’s enough that we can just excavate the trench and we get back to our normal procedure.

Q When you blast and you have the blasting mat, I mean, what does it look like, is there -- I mean, I envision water spraying -- what does the mat do?

A There are several variations of blasting mats. The one that I have seen applied to this type of technique are just basically old used tires chained together. It creates a blasting mat. It basically just puts weight on the area where you’re going to blast. You won’t see a geyser like Old Faithful when the blast is conducted. It just maintains integrity to the system within the immediate area of where the blast is.

Q Just to summarize, can you describe why Tennessee
believes it may be necessary to do some of this drilling or blasting in the wet?

A Yes. There have been times when we have attempted to do blasting techniques in the dry, particularly with the dry flume technique. What ends up happening is that you may get some movement in that blasting mat. It may vibrate a little bit or such. What ends up happening it may knock the seal of the flume pipe or just move the flume pipe maybe an inch or so or even just the seal just gets lost and now you end up getting water into the trench. So it’s basically like trying to fight what you initially tried to do in the first place, which is to conduct everything in the dry.

Q The Applicant’s Exhibit #A-62 which is the Response to Draft Conditions that was filed on October 13th. In attachment #2 you have a preliminary list of water bodies potentially requiring in-stream drilling and blasting. Am I correct in understanding that you won’t know whether it needs to be done in the wet or the dry until you get out there?

A That’s correct. This list, again, is a preliminary list of where we anticipate blasting may be necessary. There are 12 water bodies within that list and until you get out there and start excavating you’re still unsure as to
when you’re going to require this blasting. We can prep
for items like this and put a lot of time and effort as
we have into it. We do a lot of investigations of
existing data. But until you get out there and dig, we
don’t know. Now out of the 12 water bodies that are
listed in that table, four are associated with the wet
crossing technique.

Q And so essentially what you are seeking is the
permission to do the drilling and blasting in the wet if
conditions require it at the time you go out into the
field?

A That is correct. The four locations again, to conform
to our request for the wet installation technique.

Q Mr. Auriemma, let’s look at site specific condition A-
16, which deals with timber mat bridges over perennial
or intermittent streams requiring a geo-textile diaper
and construction over flume. Can you describe what the
issue is regarding that condition?

A Yes. What the DES has proposed to us was in areas where
we have to set up these type of equipment bridges as we
call them, or access points, they are proposing that we
install when we construct the bridge, to use a geo-
textile diaper as they want to call it.

Q Let me just stop you for one second because I don’t know
how much people know. I certainly didn’t. Can you just explain what the timber mat bridges are and what geo-
textile diapers are and then go from there?
A Timber mat bridge is very simple. It’s just used to span a water body crossing for access. The timber mat bridges come in various sizes. I’ve seen them five feet wide by maybe 18 to 20 feet long. They’re made of sizable timber. Maybe 8 x 8. Just a bunch of 8 x 8 timbers, rough cut, and bolted together with a binding strap that’s actually used also to move the timber mats into place and withdraw them. We’ll span them accordingly. The timber mat bridge, again, is one method of equipment access. Personally it’s a preferred method of myself. It creates easier clean up although we do have flexibility in the field to apply different types of bridges. It’s like any span or bridge that you’d see on a highway over a small water body. Now granted, we’re not building them to the specs of the DOT. We’re putting them in for permanent use during construction. We’ll lay them side by side. We’ll create side walls. We’ll put catch walls on the side. We’ll button them up close together. We maintain these bridges throughout heavy equipment crossing back and forth over them. It does need a daily maintenance. Any
mud that’s tracked onto the bridges we would basically maintain it at the end of every day and remove it from it. Now, the geo-textile diaper, as recommended by the DES, what they would like us to do is put a diaper underneath this bridge to catch any inadvertent soil that may slip between the crevices because again, these mats are four to five feet wide. You need to put roughly three or four mats together to make the width of the crossing accessible for larger equipment. The geo-textile fabric, it’s man made. It’s like a plastic fabric. It’s very similar to the silt fence type of material that we’ll put at the edges of the right-of-way for erosion control.

Q And so Tennessee’s issue with the draft condition is the requirement for the geo-textile diaper?

A That’s correct. The intent of the geo-textile diaper, again, is to try and catch any minimal sediment that may find its way between the individual timber mats which comprise the overall bridge or access system. The amount of that material, as we maintain these equipment crossings daily, again we have these side barriers so nothing can fall off the sides of the bridge. We usually put in in very muddy areas, sometimes a gravel access area which can remove mud from tracks before it
becomes across the bridge. What I’ve seen throughout my experience, the amount of sediment that may find its way into the water body is possibly a bucket or two, at the most, over the course of several months. The geo-textile fabric as proposed by the DES would be to catch that one or two bucket of soil material.

The issue we have is, first off, the manner in which to maintain that geo-textile fabric and over time it becomes very brittle, it becomes like glass. The geo-textile fabric, what you’re doing is introducing material into the water environment that’s not there and it’s very difficult to clean up in full.

Q What do you do with it when you’re finished with it?
A Using geo-textile fabric in that manner, again, to avoid a negligible, what’s considered a negligible impact, you now need to find a place to dispose of it. It just adds to the amount of construction debris for the project. So what you end up doing is impacting a third area which is not associated with the project but with disposal.

Q So then it’s Tennessee’s position that with the type of timber mat bridges that you use, the methods that you will adopt to maintain it as well as for dealing with your equipment prior to the time, over a wet area, that that should be sufficient to protect the environment
under the circumstances?

A That’s correct. This is, again, a proven method that’s recognized by the FERC and several other jurisdictions. It’s a common industry practice and it’s the practice of Tennessee Gas.

Q Let me direct your attention to dredge and fill condition B-32, which is a timing issue, as I understand it. It requires that wetlands impacts will be restored prior to September 1st of the year of construction. Can you just briefly describe what Tennessee has proposed and why?

A Yes. The conditions as stated is that all wetlands impacts will be restored prior to September 1st of the year of construction. In order to do that and particularly with other conditions within the draft permit that say that conditions allow for a construction season from April 1 to November 1. What you’re now doing is cutting off the time frame of which we’re allowed to be constructing and installing the pipeline. In order to do this, or conduct this type of activity, you’re going to disrupt the normal flow of the installation of the project. In doing that, what you do is add time to the amount of effort that we have to put in to install the pipeline properly and safely. To
restore wetlands prior to September 1st, which is possible in some areas, we may be through some certain areas. We have a different condition within the permit that we’ve agreed to that we have 30 days to restore wetlands from a point of disturbance. We’ve agreed to that condition. We may not get to some wetland areas for the installation of the pipe before September 1st. But adhering to the 30 days condition, we’ll have the right-of-way fully restored by November 1st.

Q So it’s your intention then to restore all wetlands areas within the 30 days as requested by DES for each impact but what you would like is to be able to complete restoration of all the wetlands until the November 1st project deadline so that if there are wetlands at the tail end of the project, so to speak, you’ll be restoring them within 30 days but that may not be by September 1st just because of timing?

A That’s correct. Again, our intent is to fully restore the right-of-way prior to exiting for the winter season. This is our common practice. Again, this is recognized by other agencies. It is our goal and we are mandated to revegetate the right-of-way in a proper manner and it does have to do with restoration of wetlands. And we feel that having to do it prior to September 1 as
compared to November 1, again the benefit versus disrupting the flow of construction, the offset is not beneficial to Tennessee.

Q Finally Mr. Auriemma, the last draft condition I’m going to have you testify about is the water quality certification C-6. Would you -- first of all, does Tennessee generally agree with the condition as drafted by DES?

A Yes, we do.

Q And what is the area of disagreement that you have, or the issue that you have with the draft proposal?

A The draft proposal is a very extensive one, that I’ve fully recognized. It deals with turbidity and the issue of turbidity. Tennessee uses conditions to which we’ve agreed to in many parts, there is one issue that we have with the condition with respect to the monitoring of the turbidity. I know this was extensively applied in the past. Tennessee’s interpretation of the condition and even the subject of turbidity, our interpretation is that this type of condition we see is normally applied to a point source discharge. A continuous point source discharge of some operating plant. As it’s being applied to this project we can respect the position of the Committee and the DES. However, the one issue that
we have with the condition is with respect to the monitoring. The monitoring program as proposed as was previously implemented on a recent project is somewhat excessive. It created unsafe working environment, not only on the right-of-way, but off of the right-of-way. What the condition does for the monitoring is, it’s requesting us to take several monitoring measurements for turbidity at each crossing as it’s being conducted. Upwards of five or six throughout the period of the installation. What that created was unsafe environment. We had to have numerous people just for the monitoring program out on the right-of-way. When you put numerous people out on the right-of-way around heavy equipment you start setting up an unsafe environment. Not only that but to get from area, to point to point while each installation was being conducted simultaneously, they almost had to drive like the Domino’s Pizza delivery person out there on the road to ensure that they made it to the next point within that time frame and be able to get the measurement within the water body.

Q I know we’re going to move on to Mr. Marini and I guess I would just ask one final question of Mr. Auriemma and then pick up with Mr. Treddle after. Mr. Auriemma, just so I’m clear about this condition, Tennessee Gas agrees
to comply with the Section 401 water quality certificate and water quality standards established by the State of New Hampshire. Is that correct?

A Yes, we do. And as written in the condition, the creation of the mixing zones and how the water quality standards are met through that type of parameter, we agree with it. We feel it’s fully capable on our part to do it. We have done it in the past. The issue we have at hand is with respect to the turbidity monitoring only.

Q We’ll come back to that.

CHAIR: Thank you. As we discussed late yesterday, we will accommodate the schedule of one of the witnesses for Public Counsel. Michael?

ATTORNEY M. IACOPINO: Thank you, Mr. Chairman. For the record, I’d just like to point out that the next witness is Richard Marini, the New Hampshire Public Utility Commission’s Safety Division Administrator. And we have him here as a witness called out of order for scheduling purposes. But he is here at the request of the Committee to be here because of his report and draft conditions which were issued involve very important issues in this case. Public Counsel is
going to lead off with questioning Mr. Marini but I just
wanted the record to be clear that he’s here at the
request of Committee members so that we can address his
report and draft conditions.

**RICHARD MARINI**

having been duly sworn by Attorney V. Iacopino

was examined and testified as follows:

**DIRECT EXAMINATION BY ATTORNEY WAGELING:**

Q Just to lay a bit of a foundation for the record, Mr.
Marini, could you please state your full name and
indicate where you are employed and provide us a bit of
background relative to your work?

A My name is Richard Marini. I’m the administrator for
the Safety Division for the Public Utilities Commission.
I’m a graduate engineer with a bachelor’s degree in
mechanical engineering. I’m a registered professional
engineer in the State of New Hampshire. My
responsibilities at the Commission are enforcing and
administering the pipeline safety law for the State of
New Hampshire and also our Dig-Safe law. I’ve been in
this as program manager for 20 odd years, I guess.

Prior to that I was a pipeline safety specialist
for the National Transportation and Safety Board out of
Washington D.C. I was one of two pipeline safety
specialists who investigated accidents similar to New Mexico and Edison and Bellingham and that was the type of work that we did at NTSB. Essentially we investigated accidents, determined probable cause, and made recommendations. Prior to that I was the Chief Engineer for a natural gas distribution company in the State of New Hampshire. I was there for over six years.

Q Are you familiar with the EFSEC process that’s currently going on involving the Tennessee Gas Pipeline project?

A Yes, I am.

Q Have you ever testified before an EFSEC Committee?

A Yes, I have.

Q On what other occasions, if you could outline that for the record?

A Not too long ago within, I think, it was a year and a half to two years ago, we had another applicant in here that involved the running of a transmission line. It was a PNGTS-M&N pipeline that ran through southern New Hampshire and northern New Hampshire.

Q And were you extremely involved not only with the application process of that project but also in the ongoing project as it progressed through the field?

A Most certainly. I had given testimony before this Committee involving the safety issues and some of the
conditions that were brought up were adopted by the Committee. The Public Utilities Commission was granted a temporary interstate agent status from the Office of Pipeline Safety which allowed the Safety Division to inspect the construction of the pipeline in New Hampshire.

Q I’d like lay a bit of a foundation relative to the documents within this particular project. There is an exhibit list that’s been provided to us. And just for the record I’d like to ask if you’re familiar with these documents? It’s my understanding that Exhibit #43 is the Public Utility Commission response to Public Counsel’s data request. Are you familiar with that document?

A Yes.

Q Do you have that actually before you?

A Yes.

Q It’s my understanding that Exhibit 60 and, actually all these exhibits have an “A” before them and I apologize for not noting that earlier. Exhibit A-60 is the Public Utility Commission Safety Report and Draft Permit Conditions dated August 29, 2000. Are you familiar with that document?

A Yes.
Q #A-62 is the Tennessee Gas Pipeline response to and actually it includes the DES report also. But it’s the PUC Report and Draft Condition and that response is dated October 13, 2000?

A Yes.

Q Have you been present in the room for all of the testimony that’s been presented?

A No, I haven’t. I was here as of noontime on Monday and thereafter.

Q So you were here all of yesterday?

A Yes.

Q Would it be fair to say that you heard all of the testimony presented not only during the direct examination but also the cross-examination of the panel that was presented by Tennessee Gas Pipeline?

A During that time, yes.

Q I’d like to move on if we could to not only your report on draft conditions but also the responses provided. And just for the convenience of not only the witness but for the Committee I was going to move through them in the same order that they were presented in your original Report on Draft Conditions dated August 29th so that we can go through the subject matter in the same numerical order. Or the same sequence, I should say. The first
issue that was raised, as I understand it, in your draft conditions involved pipeline standards and specifications. Considering the condition that you had proposed and the response, what would you like to inform the Committee in terms of your position now that you’ve heard the response of Tennessee Gas?

A Well, as far as the pipeline specifications, one of the key ingredient to that was what we call pipe toughness. I haven’t seen anything official outside of some prints that were given to me showing the pipeline installation along the right-of-way. At the bottom of the print it did say that they’re using X65 pipe with a toughness of, if I remember right now, I think it’s 42 pounds. The wall thickness is .380 and also .317 wall and I believe the toughness they were looking at was 42 foot pounds at 23 degrees Fahrenheit. That’s the only information that I have on the pipe. I know it’s API5L. And that’s been a standard for a long time. The API5L and 5LX. That’s been around as long as I can remember, I guess. But it does have some specifications or standards that are part of that. But I would like to ask the Company if they would look into a new standard that really came out in July of this year. It’s an industry standard that’s also API but it’s now called PSL-2, which the pipe is
readily available at the mill. It’s available and it’s not something extra that you have to order. But it does have tighter standards on the chemical and physical specifications of the pipe. I’m not saying that API5L or 5LX is not a good standard but when you have something coming out new like this that really adds more quality to the pipe I think it’s something that’s worthwhile looking into.

Another thing that I would like to see is probably the purchasing specifications on the pipe and that way there you can know exactly what the Company is ordering. We heard some testimony that the mill does all sorts of testing. Well, the mill will do whatever you pay to have done. It’s my understanding that some of the quality mills, and there are several of them, will do a full body inspection of the pipe. Or they’ll do nothing. So it’s all determined on what the Company wants to get out of the mill.

Q Now in terms of, let’s take it in a two step process. Number one, as I understand the testimony yesterday, we were, I believe, advised that the materials as it relates to the pipe were put out to bid. Did you hear that testimony yesterday?

A Yes.
Q Would you like to receive the specific information as it relates to that process?

A Well, yes.

Q Not so much the bid process but the materials that they are requesting that they are intending to use?

A Well yes, that’s what I was referring to. Whatever those specifications, those purchasing specifications are, is what they are asking the mill to supply.

Q When would you like that information provided?

A Well, I would say as soon as possible.

Q Would you like for the Committee to request that information before the Certificate is issued?

A Definitely.

Q In terms of the inspection possibilities that would be allowed, not only at the site but at the mill that you’ve just discussed, are there any specific criteria you think the Committee should put into place in terms of the certificate process as it relates to that issue?

A As far as the purchasing of the pipe, you’re talking about?

Q Yes, but also the process that Tennessee should require the mill to go through in terms of inspection.

A I’m going to answer that no, not necessarily. Like I said, the API5L and 5LX standards are a good standard.
That’s something that they’re meeting. That should give us some level of safety. I just mention this other standard because it’s, as I mentioned, it’s July of this year that it came out. The pipe is available and it just gives you a better handle, a better -- a more solid hold on what the specifications of that pipe are.

Q And when we’re talking about pipeline specifications, I know we’ve just talked about toughness and the fact that you think the general line specification should be provided as soon as possible, certainly before the certificate is issued. What about the issue of the type of class of pipe that’s going to be used in this project?

As I understand the testimony yesterday there was either an oversight on the part of some of us reviewing it or a change of position by Tennessee and they’ve agreed to change to a Class 3 pipe, I believe that the testimony was, within a 200 mile or it might have been a 300 mile radius -- sorry. I did the mile thing again, didn’t I? I apologize. Actually I’m just trying to get it increased without them noticing it. (Laughter) It’s not working, I guess. The 200 foot radius adjacent to any school property, not exclusive to structures. Are you satisfied with that? Is that correct? I’m sorry,
I don’t mean to be misstating it into the record.

A I understand your question.

Q 300 okay. Thank you. 300 feet radius. Are you satisfied with that change or are there any other changes that you think should be implemented within the certificate process?

A I think that was an excellent move on the part of the company to do that. If you look at the federal regs, the language that’s in there was set up with some level of safety. How minimum it is, that can be debated, I guess. But by increasing the safety factor as they did, gives us a greater level of comfort I think. I think that in this particular case, I think that was an excellent move.

Q Is there any other issue, as it relates to pipe specification, that you think needs to be addressed at this point during the EFSEC proceeding?

A Well, the only thing that I would be doing, when I get the, if I can get the purchasing specs on the pipe, is that I’m not a materials engineering nor do I want to be. I have a consultant in Washington who I work with who is a materials engineer, he works for the Office of Pipeline Safety. He helped me out during the PNGTS-M&N line and we dealt with a dozen material engineers and
lawyers too in looking at what’s acceptable for pipe
toughness for the State of New Hampshire. What I did in
the case is because it got so technical that I said
whatever this person in Washington says is good for New
Hampshire then we will accept. And I would like to be
able to take that information, the specifications that
are needed, I’d like to take that and present that to
him so that he can look at it and say, yes, they’ve
covered all our bases. Then that would give me comfort
also. And I do have documentation from OPS that I keep
in my file that says that they’ve accepted this and that
they have determined that this is a good level of
safety.

Q Would it be fair to say then, that you would like the
Committee to provide you with the authority through the
certificate process to allow for that consultation prior
to a certificate being issued?

A If that’s necessary.

Q I thought that was just what you described?

A No, no. I mean if they would --

Q Work directly with your consultant?

A Yes.

Q Okay. Is there anything else relative to the pipe
specifications that you would like to discuss during
your testimony?

A No. I’m pretty comfortable with what we have now.

Q Also, just for the record, just so that it’s not unclear, other than the issues that you’ve just raised, are you satisfied with the information that has been provided from Tennessee Gas, not only with the information exchange but also with the standards that have been set, other than what we’ve discussed so far?

A Well, with what I’ve learned in the last couple of days and what I have I would have to say yes.

Q I’d like to move on to the trenching issue. I believe that was the next issue that you raised within your draft condition?

A Yes.

Q Again, I’m going back to the same line of questioning based upon the condition that you put forth in your August 29 document and the responses that have been provided not only in the October 13 written documentation but the testimony that you’ve heard thus far. Do you have any comments that you would like to provide to the Committee?

A Well, trenching is -- trenching and backfilling go together and that’s probably the major portion of installing a pipe and giving that part of the pipeline...
integrity. I think I heard the other day testimony that
one of the Committee members said, "What do you do with
all the rocks?" This is a concern when you are burying
a pipe. You have to have some sort of protection on
that pipe, especially for the coating and that is a
concern. And I don’t think I’ve seen any sort of
specifications that says what size rocks would be
acceptable for backfill.

Q I think there were some general comments provided to us
yesterday.

A I haven’t seen anything in writing. I can tell you that
in my experience most recently with PNGTS-M&N, there are
areas that they brought in a padding machine, which
essentially sifts out the large rocks, you might say.
It only allows a certain size backfill material to be
around the pipe. That is a good way of going,
especially when you’re in an area that’s been blasted --
no, excuse me. In a place that you blast, you’ve really
got to bring in some backfill material to protect it.
But in other areas, using a padding machine really helps
the process out. It moves along fast and it gives you
that good protection that you need around the pipe.

Q Do you think it would be appropriate for you to be
reviewing a more comprehensive plan with specifics as it
relates to their intention relative to that issue?

A  I think it’s very important to know how they are going
to backfill the pipe.

Q  Again, using the same line of questioning I have on the
other specifics that we’ve addressed, do you think that
that information should be provided and considered prior
to a certificate being issued?

A  What’s the time frame for the certificate?

Q  I think it’s reasonably short after this hearing.

CHAIR:  December.

Q  Yes.  December.

A  If the Company can do it that fast, that would be good.

Q  Well, let me ask you this then.  Do you think that that
information is anything that should hold up the
certificate process?  How critical is it in your mind
that we receive that information prior to a certificate
being issued?

A  Well, that’s a good question.  I guess I’m going to have
to say we should have all this information prior to
because if we don’t get it and we end up with statements
from the Company that say we’re going to allow 10 inch
rock or six inch rock or whatever, that could be a
problem.  Then where do we go from there?  So I guess
this is information that we should have.
Q Are there any other comments that you would like to provide relative to the trenching issue that we haven’t already addressed thus far?

A No. I’m all set with that.

Q Okay. I believe that the next item that you had addressed within your draft conditions were key valves. And I heard testimony I think not only from my questioning but through other questioning yesterday relative to the more specific information on the automatic valve closure process that Tennessee Gas intends to use. Are you satisfied that those types of valves are adequate for this project or do you maintain your position that remote valves should be implemented?

A Let me give you a little background there. When we did PNGTS-M&N I gave the company an option of either auto close valves or remote operated. They came back to me and said, “We don’t like auto close. We want to go remote.” They gave me a bunch of reasons why they should go that route. So essentially, when I came to this pipeline I said, “Okay, let’s go with remote.” But there’s difference of philosophy amongst companies and the auto close will essentially do the same thing. One of the concerns I had, I think Mr. Cannata brought it up and that was some sort of redundancy in the operation of
the operator for the valve. Edison, New Jersey was a prime example of what can happen on an auto close valve when you don’t have backup. That was, I believe it was a 36 inch line that they had there and you can imagine going out there and -- some of those operators would know what it’s like to try to hand close a valve that’s 36 inches. As long as there is redundancy on the valve operator, I’m comfortable with that. The only other area of concern I would have is location of the valves.

Q Have you been provided with specifics in any of the plans that you’ve reviewed?

A I believe last year we had some talks with Tennessee and they had tentatively shown some places that they would put valves but I would really like to see something that’s more exact because the question that arises here is we’re not talking a single line. We’re talking a dual line where 12 inches is going to remain and 12 inches is going to be tied into the 20. And I think, from an operations standpoint, you know, if you have a valve that shuts down well, it might shut down but if it’s being fed by another pipeline it doesn’t accomplish anything. So -- and I’m sure, Tennessee is not a -- they didn’t just create themselves last week, so they’ve got some good experience and they know, they should know
anyway, where these valves should be located. And I’d just like to know where they’re going to be putting them and make sure that we do have them in areas that we have concern about.

Q And again, using the same line of questioning, is that information that you think that the Committee should have and that you should be able to review prior to the certificate being issued?

A Yes.

Q Is there anything else about the valves other than what we’ve already spoken of?

A No, I think we’ve covered that area.

Q Okay. Now moving on to the all important, internal inspection criteria, that is the pigs.

A Smart pigs.

Q Smart pigs. We’ve obviously sat through quite a bit of discussion not only during the direct but then during the questioning. I assume you were here for all of that testimony?

A Yes.

Q Obviously you’ve read the written responses as we’ve already outlined through the exhibits?

A Yes.

Q Would you like to tell the Committee what your position
is and what the basis is for your position as it relates to the issue?

A Yes. First of all, the other day we heard some testimony from Tennessee that listed the causes of failures. He went down and he mentioned third party damage. He mentioned corrosion. He mentioned material and construction defects and he mentioned human error.
The focus of that conversation, that discussion, was around third party and corrosion. Really, when you come down to installing a pipeline the last two are the concerns that I have.

Now, to understand what happens with a pipeline you have to go back to where the pipe was made. At the mill it goes through all their inspections there. They hydro test it at the mill but it’s only like for ten seconds. So you get somewhat of a testing there but whatever else the Company wants to be done can be done at the mill. When that pipe comes out it’s in great shape. It should be in great shape. But then it’s put on either a rail car, which I would assume is going to be done in this case. It’s put on a rail car, it’s shipped hundreds of miles in a rail car, bounces all over the place. When it gets to the yard, they unload it and then they put it on a truck and they haul it over and they stack it up
and then it’s put there and then when the clearing is
done, and the grading is done, and the trenching is
done, they haul the pipe on a truck again. They haul it
over to the site. They unload it and then they string
it out. Then they weld it up. Then they do their
coating and they do their testing to see if the coating
was damaged and all that and they do their stringing and
bending. Some of the pipe has to be bent above ground,
and the welding and the coating. Then it’s lowered in
the pipeline. Then hopefully it’s got backfill material
around it that doesn’t cause any damage. It’s
backfilled and then everyone thinks well we’re all set
now. Well, now what happens is, now what do you do?
You do hydro test. Now everyone says, that’s not going
to affect the pipe. Well, to get an idea of what a
hydro test does, if you imagine what happens with a fire
hose, you take an empty fire hose and then you fill it
up, what does it do? It kind of moves, doesn’t it?
Well, that’s what happens with a pipeline. That
pipeline can move. And if you have any kind of rocks or
if -- you know, this pipe isn’t straight, it goes up and
down and all over, so it’s moving all over the place.
If your backfill material isn’t right or if you went
through some ledge that was blasted and you didn’t have
enough material underneath or on the side of it or whatnot, that pipe can move and dent it or gouge it or scratch it.

So that pipe is handled an awful lot between the mill and when it gets in the ground. And there’s a lot of inspections done along the way also. Believe me there is, by all sorts of people from -- who are involved at all phases of this pipeline. But once that pipeline is in the ground, my feeling is, okay we can have material defects, we can have construction defects and also there is human error involved. Now to eliminate all this, I honestly feel that the internal inspection tool is the ideal thing to have.

Now in PNGTS’ case and M&N we allowed them three years to do the inspections. That was somewhat of a -- we were very conservative with them on that. I would think that the sooner you can do that internal inspection the better off you are because if there are any defects you’re going to find them and then you correct them and not let them sit there for awhile. Now we heard discussion here that the magnetic flux leakage, that’s MFL which is magnetic flux leakage. It’s an in-line inspection tool. They focus in on corrosion.

Q Let’s back up just so it’s clear for the record. That
magnetic flux leakage is that a smart pig test?

A Yes.

Q Okay. Just so the record is clear.

A The discussion that we heard in the last couple of days was really around corrosion. And MFL is definitely a good way of finding corrosion. And I don’t think we’re going to have any corrosion or should we have any corrosion in this pipe when it’s newly in the ground. But a smart pig can do other things. That’s the part that I think is well worthwhile. It can pick up dents and buckles, with or without metal loss. Normally we’re looking for metal loss and that metal loss can be scratches or gouges.

Q What’s the concern if those things exist?

A Well, you’re -- the integrity of the pipe has been decreased tremendously. If you have a gouge or a scratch of some sort you’re setting up a concentrated area of stress. That could be stressed out when the pipe is in operation and that could lead to failure of the pipe.

Q Is there any other mechanism that could be put into place by Tennessee that would accomplish that same result, that is, determine any of those gouges or other defects within the materials?
A Not that I’m aware of.

Q Is it your position that the hydrostatic testing and the calliper pigging which has been suggested by Tennessee is insufficient to provide that specific information that you’ve just described that you think is necessary to ensure the integrity of the line?

A Yes. There are two ways of really identifying integrity of your pipeline. One is hydrostatically testing and the other is in-line inspection. The smart pig in the hydro test, that’s the cat’s eye. That gives you as much as possible you can do to assure yourself that your pipe is the way you want it.

Q Yesterday we heard quite a bit of testimony from Tennessee that, “But we’re going to follow every specific inspection allowable. We’re not going to tolerate anything from the mill that isn’t perfect. We’re not going to put anything into the ground unless it’s perfect. We’re going to do every and all tests to ensure that.” Even with their history, that is their safety history, that they spoke of. Understanding all of those issues and statements of fact by Tennessee can -- and understanding that they are going to comply with all of that. Can that ensure the interior integrity of the line?
A No. As I mentioned, you’re talking areas here of material defect, construction defects, and human error. You know I’ve been in this business a long time and I don’t know of any contractor that’s perfect. They all have good intentions. They all want to do a good job but they also want to make a buck. And when they’re out there you’re inspecting them, you can’t be watching them every minute they’re there. Your inspectors are moving along, looking at different things and trying to keep the contractor on their toes but things happen out there. I don’t know of any project that has not found some sort of defect in the pipe, in doing all sorts of inspections.

Q Now during the testimony presented by Tennessee my understanding and if we could have a little bit of a dialogue on it, is that they didn’t feel that the smart pig was necessary because they are not going to tolerate anything other than a perfect line. So the use of the smart pig as a baseline is irrelevant because even if there is anything that is shown in terms of the result of the smart pig test, they are not going to tolerate any defects or any bumps in the road, so to speak, and so it’s not going to serve a purpose as a baseline, therefore we shouldn’t be required to use it. Again,
I’m not sure if I understood fully what they were trying to get at but that was my understanding. Do you have any comments you’d like to provide to the Committee as it relates to that issue?

A Well, doing that smart pigging is going to accomplish several things. One is it should eliminate any doubts that there are scratches or gouges and also it can pick up laminations. If they have testing done at the mill for laminations that’s fine but if they don’t, this also should pick up -- has the possibility of picking up laminations. Also, what it also does when it establishes the baseline, we’re talking about a thumbprint of that pipeline and there are going to be some imperfections in the pipe. These imperfections in some cases won’t be a problem, but you’ll know some of them. Where they are. These imperfections can turn into defects. And then down the line a defect can turn into some other problem. So I think having that baseline, that thumbprint of the pipeline is well worthwhile.

There was a statement also that they said something about OPS has gone on record as saying that they believe that doing a baseline on older pipe is the way to go. I don’t know. I’ve talked to the director of the
Eastern Region. I’ve known him for over 20 years, and recently I went in on my discussions with him on this topic because it’s such a major area. He told me that he definitely feels, and this is the director of the Eastern Region, that doing a baseline on a new pipeline is definitely has its advantages. There’s no question about it.

Q I’d like to ask you, in the response provided by Tennessee Gas to your issue of internal inspection criteria, they stated and I’d like to quote it, and I believe this is the document that was provided on October 13, 2000. “The Applicant does agree to run a calliper pig before the pipeline is put in service. In addition to the running of a calliper pig, the integrity of the pipeline will be verified/maintained by mill inspectors, weld X-rays, coating inspection prior to backfill, detailed corrosion surveys after construction, hydrostatic testing, and annual corrosion surveys.” Are you familiar at all in terms of any of the documentation or dialogue you’ve had with Tennessee, what annual corrosion surveys they were going to conduct on this pipeline?

A Well, that’s just something that’s required by the OPS.

Q How can they perform or provide annual corrosion surveys
internally?

A Oh, internally. Where does it --?

Q Well, this was in response to your internal inspection criteria.

A I’m reading that but I don’t see where it says internal corrosion.

Q Well, that’s exactly my point.

A Oh, okay.

Q They’ve indicated that in response to your comment about internal inspection criteria, their response is that they are going to annual corrosion surveys. I was assuming that they would be responding to your internal inspection criteria since that’s what we were talking about. That’s what your condition was describing.

A As far as internal corrosion, I’ve heard the testimony in the last couple of days and I have to agree with the Company on internal corrosion. I’ve talked to the Eastern Region. I’ve talked to their inspectors. I’ve talked to other states in New England. My counterparts. We don’t have any records of internal corrosion in New England, which kind of supports what the Company is telling us. The gas, I believe, is clean. There’s no indications of carbon dioxide or hydrogen sulfide or water. I think we’re in good shape. For one time, it
pays to be at the end of the pipeline.

CHAIR: Pays dearly.

Q Well, let me be more direct. Maybe I’m misstating my question. What are the annual corrosion surveys?

A Those annual corrosion surveys are more for external.

Q What internal detail corrosion surveys or annual corrosion surveys for internal corrosion of that pipeline have been put into place by Tennessee that you’re aware of?

A I’m not aware of any.

Q Thank you. Is there anything else that you’d like to share with the Committee about this issue?

A Yes. There’s one other area with internal inspection. I think one of the key things in my safety program is to be consistent. If you’re consistent you have credibility. I think this Committee has already set a level of safety, what they feel is right for the State of New Hampshire in previous proceedings. We’ve done that with PNGTS-M&N and this Committee has asked or required internal inspection of the pipeline. I think to be consistent is very important in a safety program and that’s why I would strongly recommend that we continue with that type of thing.

Q And just as a closing question on it, obviously I’m
sympathetic to the fact that it’s very costly and
Tennessee indicates to us that that’s not the issue. If
there was another way to provide that same information
to the people of New Hampshire, that is, internal
corrosion information, would that be something that you
would be willing to implement?
A Well --
Q I guess my point is, is there any other way we can get
this information, in your opinion?
A No, there isn’t. But corrosion isn’t the issue.
Internal corrosion isn’t the issue. Internal inspection
is to examine the pipeline, the pipe itself, to
determine if there’s any flaws in it at all.
Q And obviously corrosion later on would be the issue.
A That should be -- external corrosion? internal?
Q Internal.
A I don’t expect any internal corrosion on this pipeline.
I really don’t. Also, as a matter of fact, the
information to the Committee is that the lateral that’s
coming off this pipeline in Londonderry that runs over
to AES, that is going to be a 16 inch pipeline which
would be installed by EnergyNorth and that’s going to be
running at a line pressure which means the same pressure
that Tennessee has is what the lateral is going to have.
In my discussions with EnergyNorth, they will be doing a smart pig of that line also.

Q Is there anything else that you’d like to share with the Committee on the issue?

A No. I think that’s about it.

Q I think moving on now to the next topic that you had discussed was Operation, Maintenance Emergency Plan, also known as the O & M. You’ve asked for a comprehensive plan and have indicated that one had not been filed as of the date that you submitted this in August. They have responded, as I understand it, that they do intend to file a plan and they provided us with a 30 day prior to start of operation deadline for that. Again, continuing on with that same line of questioning we’ve had for all the other subjects, how can you and EFSEC make a determination on that plan if it’s not provided until after this process?

ATTORNEY SMITH: I missed it. Could you tell me which plan you’re referring to?


A The one question that I have here is in the response they mention 30 days before operations begin.
pipeline, is the question and if I can have that
answered then I can elaborate on it.

Q Again, I think going back to what we’ve already
discussed, how can you after this process is done, how
can you comment whether or not it’s sufficient if you
don’t get it before the process is done? At least in
draft form.

A Well, I think the Committee could make some sort of
stipulation in the certificate saying that prior to
operation the plans be reviewed by the Safety Division.

Q And approved by. Or not?

A I guess you can do that. I’m just thinking as an agent
for OPS what we would do is, if we find any deficiencies
as an agent of OPS we would turn it over to OPS and then
they would do the enforcing, but I think the Site
Committee probably could add a little more clout to that
and require the same thing.

Q So other than your interest in learning, at least in
terms of their response, as to whether or not they
intended to file it 30 days before the beginning of
construction or the beginning of operation.

A That’s a major concern because if it’s 30 days before
they start operating, I would have a concern with that,
especially in the emergency plan. Not knowing that it
meets the requirements.

Q When would you like it ultimately?
A Well, I would say before construction starts so that it would give us time to review that. It's not something that you can just review in a few minutes.

Q When would you like it though, specifically? I know you're saying before construction starts but --
A Just prior to construction would be fine.

Q The day before? I don't mean to be nitpicking here but if you could be more specific.
A May 1st. That's fine.

Q May 1st is okay? Thank you. Is there anything else on that subject that you would like to discuss with the Committee?
A Well, it is critical that the operations and maintenance is -- Tennessee is a good company in New England. As a matter of fact, they're a very good company. Pigging of their pipeline, just off the top of my head I can tell you that they're one of the more aggressive companies in the country for doing pigging. In the Hopkinton district alone, which takes New Hampshire, Eastern Mass. and I think there's a lateral that goes down to Rhode Island. That area alone, I believe that 80 percent of that line is their lines have been internally inspected.
Wonder where I get that information, huh? But that’s the type of information that I do in my research. I want to know who I’m dealing with and what kind of operation they have. But I can tell you that I feel that they’re a good company. They’re an excellent company.

Now what effect El Paso has on them is a different story because we all know that mergers and acquisitions change things. Tennessee has some best practices and I hope they can maintain those best practices and I guess time will only tell.

Q Thank you. Is there anything else that you’d like to add other than what you’ve just done, in terms of the O & M issue? The Operation, Maintenance Emergency Plan.

A No. As long as we have an opportunity to review those because they have to be site specific. Especially the Emergency Plan. That is a major concern with the communities and along the pipeline because the public awareness is definitely a major issue.

Q The next issue that I believe you had reviewed within your report on draft conditions was quality control during construction.

A With any pipeline construction you can do all the foot work prior to and come up with a nice print showing
where you’re going to put the pipeline, how you’re going
to construct it and do it. But when you get out in the
field there’s always field changes. Especially in the
welding end of it where you have to -- you end up
cutting out a section or trying to put in a spool of
some sort. And other certain conditions. There’s so
much that can happen in the field, changes to what you
originally planned on doing, that I think those are just
as important, if not more important than having an
involvement in the changes.
I’m not saying that we should go out there and get into
any kind of a stop action type of thing. We’re not out
there. If this pipeline is approved it makes no
difference to me whether it is or not, but my job for
the State of New Hampshire is to make sure that it’s
done right. I just think that we should be involved in
any field changes and be aware of them and work with the
Company in making sure that the changes are being done
properly. That the contractor is aware of the changes
and is doing it according to specifications.
Q They have indicated relative to field changes that they
would provide you with that specific -- I assume site
specific protocol and maybe that should be clarified,
but 30 days prior to the start of construction. Is that
time adequate for your concerns?

A For the protocol? Yes.

Q You had also indicated that you think that it should include state agencies?

A Oh definitely. Because this isn’t just the Safety Division. We’re talking the rest of the departments that are represented here. If there are any changes to what they understand that the Company is going to be doing they should be aware of these changes also and be involved in any changes.

Q What do we do -- if you can advise me and the Committee. What do we do if we wait and allow them to provide this information 30 days prior to construction and they do not include within their protocol, individuals or agencies that we think would be necessary to ensure the safety of not only the environment but the people of New Hampshire?

A Well, I think what I would recommend to the Committee is that they require the Company to set up this protocol to address anything that happens. That’s going to be agreed upon with the Company. And if they deviate from that protocol then we would have recourse with the Committee. But that protocol, setting it up saying okay this is how we will handle this, if it involves DES or
it involves PUC or any other department this is how we’re going to handle it.

Q So we should have final say on the protocol, the specific protocol that’s provided?

A I think the Committee would have the final say on the protocol.

Q If that document isn’t provided to all of us until 30 days prior to construction, is that sufficient time to remedy any differences of opinion within the protocol prior to construction starting?

A I would say yes, because when construction starts, they don’t just dig a trench right away. There is time involved in mobilizing, getting everything in place, the clearing, the grading and all that. So it will give us enough time, I think, for the departments to review it.

Q Prior to getting field changes within your document, you also had a discussion of quality control during discussion and you had suggested that Tennessee should submit an inspection plan with written criteria which delineates qualifications of inspectors, frequency of inspections and critical activities to be monitored. My memory is that Tennessee had responded that they would, number one, to look toward their application which they cited to a specific section of it, but also that they
would provide that information no fewer than 30 days before the start of construction. Is that sufficient time?

A Yes.

Q And again, same discussion as we had with the field changes issue. In your opinion, who should have ultimate decision on that plan, whether or not it’s sufficient?

A Well, I’m trying to think of other departments here that might be involved in that, so I would probably say that I think this all should be run by the Commission, run through the Committee.

Q Is there anything else on that subject matter that you would like to discuss with the Committee?

A Well yes, probably the most important thing out of that is what if we find a problem in that area, if there’s a deficiency in the Company performing according to the way they’re supposed to. Whether it’s a Safety Division condition or whether it’s a DES condition. What happens if the inspector for any department is out there and finds a deficiency there and wants it corrected and it doesn’t get corrected? What happens then?

Q What do you suggest?

A I think there should be some language in here that says
that the pipeline will not be operated unless all deficiencies are resolved prior to operation. Like I said, I don’t think we’re looking to get out there and be a cop and say okay I’m going to shut this pipeline down. That’s not what we’re out there for. We want the pipeline to be put in in a safe manner and they have to -- you know, it costs them money each day. It costs bucks and I think as long as we can be out there inspecting and working with them, because no matter how you look at it, we have to work with them and if they can agree to working with us then I think that we should have no problem. We didn’t have any problem in New Hampshire I can tell you that with the PNGTS-M&N line. And that’s only because, and this is my opinion, which I honestly feel this is what helped me out, was not only was I an OPS agent, but I wear two hats. I represented the Committee and I represented OPS. Now OPS will not shut down a pipeline. I can tell you that. The Company knows that and this is their philosophy. It’s a bureaucratic way that they operate, unfortunately. But when I had a problem out there and I met with the companies and I tried to resolve, I said, listen we’re I’m not trying -- we’re reasonable. Anyone that’s worked with me over the last 20 years knows that we are very
reasonable. So when I go out there and I say -- and some of them are company oriented and they’ll say, “Hey, we’re not going to do anything you say.” Well, the bottom line is, I can say, “Okay. I will take this back to my Commission and they in turn will take it to the Site Evaluation Committee and they in turn will shut down the pipeline.” And that works. That’s the bottom line in getting something resolved. I only did that once and I think to word got out that, hey, let’s work with these guys and try to do a good job.

Q I think that leads me right into the next issue which is --

ATTORNEY SMITH: Excuse me, but just for the record, Mr. Chairman, I don’t want to interrupt your examination unnecessarily but anticipating that the Committee we certainly hope will issue a certificate and thinking about the framework in which this testimony is introduced into the record, I’d like to be sure that the record is clear that we think there is a fundamental, jurisdictional difference that’s being discussed in this testimony. So as we all go forward we keep that in mind. I think this witness expressed a framework that is pretty much consistent with our view and then expressed -- the question really drew him into that, a
concept which we think is inconsistent with that framework in this sense. We understand that the EFSEC will compose its own conditions and that it may under RSA 162-H delegate certain authority to individual agencies where that efficacious and the Committee believes it’s prudent. But we are operating here with federal preemption over some of these issues. Most of them. Mr. Marini has mentioned that, as we expect, this would go forward, he or someone from his office at the PUC would be empowered to inspect this facility for the Office of Pipeline Safety. At one point in his testimony he mentioned that if a problem arises in that capacity well, I suppose state officials will also have in mind their state authority that they believe the legislature conferred upon them. His remedy might be to try to work the matter out or to invoke federal authority to stop this project. I do not believe state authorities would allow stopping this project in the face of what the federal agencies want it to do.

So when we move to that part of the testimony here about how would Mr. Marini or others as he mentioned who represent the authority of the state work out an issue, I can tell you that the Applicant is trying to do that here. And the Applicant will try to continue to do that
in all cases. But if we come to what the witness said about how the certificate perhaps should have some language that said the Applicant cannot proceed unless all deficiencies have been corrected, I’d like to make it clear that we believe the certificate should not include such language. First of all, there is federal control whether the project goes forward or not. I believe the way Mr. Marini explained it is consistent with our view is, that if, as a federal agent or as a state agent on this project, those that you grant authority to inspect and interact with the Applicant at the site believe a deficiency has arisen or a problem of any type has arisen, the mechanism will be to try to work that out. A quality control plan can be worked out with those representatives, and at one point Mr. Marini said it would be agreed upon with the Company. If that effort to work it out is unsuccessful, and I believe in our view, he correctly stated the mechanism which would work legally and that is that a party could come before this Committee. We are mindful that this Committee on the face of the statute has enforcement authority that continues over a project. But that the delegated official would not, under any language in the certificate, have the authority to stop this project.
If there were an issue that needed resolution and any party felt that a hearing should occur here, they can request it. And I believe this Committee could probably invoke a hearing on its own motion. That, to us, is a world apart from trying to give in the certificate, any state agent the authority to stop this project.

So again, I think there’s a mechanism that works for all of us. But I want to make sure that we don’t step over the edge on that point. I think Mr. Marini expressed it exactly as we would think it would work properly. But on the other hand, if there were any deficiency in language and the certificate said that the project couldn’t go forward, I believe that wouldn’t conform to the law and I think it would present some other problems too. Thank you.

CHAIR: Thank you. Deborah?

COMMISSIONER SCHACHTER: May I ask a question to further qualify the position of the Supreme Court? As I understand what you’ve said you disagree that any agency member of this Committee could put a stop to the operation of the project based on perceived deficiency and you propose calling the Company back in for a hearing. What would --

ATTORNEY SMITH: If it couldn’t be
resolved.

COMMISSIONER SCHACHTER: Right. Presuming a more informal method is unsuccessful. What would the outcome of the hearing produce if the Company continued to disagree with the position of the Committee relative to perceived deficiencies?

ATTORNEY SMITH: I’m trying to balance the, if you will, the kind of inconsistencies that we are all operating with recognition at the back of our minds, and that is that I believe federal law really preempts most of this and therefore federal regulatory authority would control whether the project could proceed or not proceed and in many respects, how. But we’re trying to come in a cooperative way with the reservations of rights to a resolution of all of those things. So if there was some matter, I’m not quite sure which ones to envision, relatively minor or in the view of the state agencies more material, that wasn’t resolved, I think the only way we could try to deal with that would be for the parties to decide whether or not they thought invoking a proceeding, whether a hearing would be required or not, invoking some action by this Committee was an appropriate step to take with respect to that issue. Or whether at that point, parties would
decide that the federal authorities are going to deal with that issue. We would be -- all of us would have to consider whether we want to have further legal proceedings at the state which the Applicant thinks are preempted or not at that point. All the following consequences of having further proceedings at that point. So I don’t want to have something pass by that seems kind of routine and going on at the construction site when if we put it in the certificate and knowing that there are routes to judicial review, more than one of them, that we would have created a spot for ourselves where this becomes inconsistent with federal law and perhaps even unworkable. That’s what I’m trying to stay away from.

CHAIR: Well, I think there’s potentially a long discussion about this issue and in which there are different opinions of how a mechanism could work from a legal standpoint. And I think we could spend a long time discussing that and would rather defer that for now and try to finish the witness, given his schedule, if we could. Thank you.

A If I could just mention to the Committee that this was one of our conditions in the previous PNGTS-M&N where we did say that said inspectors will not have stop work
ability. However, all noted deficiencies in construction shall be mitigated prior to operation. Just wanted to mention that.

CHAIR: Thank you.

Q Now Mr. Marini, you were just talking before we went off on the legal discussion about the dual role of somebody, possibly yourself, or somebody within your Division to be working with authority that you would receive from EFSEC on safety inspection for the state, and also wearing the hat of an OPS inspector. If you could provide us further information on that and what, if any, comments you might have relative to the response provided by Tennessee on that issue?

A Yes. I have some concern here. The Applicant responded by saying that the Applicant agrees to a state inspector working independently from the Applicant who will have dual functionality, first acting as an agent for the Office of Pipeline Safety. Well, for one thing, that person, that inspector, will not be designated by OPS to be inspector. Only the PUC can be that agent. In turn, the Safety Division of the PUC would give that responsibility to the Safety Division which would include myself and my inspector. So that’s one thing that would have to be changed, where the PUC would be
granted that status.

Also, it got into the cost of inspection. Some of the percentages that are used here are close but not close enough. I believe there was some discussion last year about being involved in inspecting the pipeline. There have been some changes in policy with the Office of Pipeline Safety since then. We have been informed by OPS that they will grant us interstate agent status on a temporary basis for the construction of this pipeline providing that we don’t take away from our other responsibilities as far as inspecting intrastate operators. Now we’re talking construction here from May to October which is prime time for all our operators. All my LDC’s. So therefore, I won’t be able to, and my inspector won’t be able to be here 100 percent of the time because we’ll still have to inspect our LDC’s. So the only way to handle this would be what we did with PNGTS-M&N and that is to bring in a consultant, and hire that person on a full time basis who will be on site and he will be supplemented by myself and my inspector. And that would give us what I consider a better coverage of the project and should give us a better level -- a better feeling that we’re doing the job we’re supposed to be doing for the State of New Hampshire. So the cost
would change.

The percentages that are here were percentages that we were talking about in previous years. Congress has not been very good to us lately and on a yearly basis they’ve been cutting our federal funds. Last year we were down to 41 percent from the feds. The pie is only that big. We’ve got states like New York and Louisiana, Texas, California who are growing by leaps and bounds. We’re talking 12 million dollars. 13.5, I’m sorry. 13.5 that’s being divvied up with all the states for pipeline safety. That’s not much. When you get California that takes them over a million dollars and Texas that takes over a million dollars, New York, they’ve got 38 inspectors. They’re up to close to $950,000. That leaves the smaller states with not much. So the percentages are dropping and I anticipate that there will probably be at 40 percent, if not 39 percent federal funds. It hasn’t been allocated yet for next year. We’re on the calendar year with the feds with our safety program so it starts January 1. They haven’t told us what the percentages are going to be yet.

Q So it would be fair to say that you would like this agreement if you will, to be amended from the 57 percent of $50,000 and have it tied to whatever the funding is
that’s received from the federal government? Is that fair to say?

A Well, I would like to, without trying to figure out what the percentages are going to be, is to come up with a number and say that the cost to the Applicant would be no more than -- that type of number and they can be guaranteed that that’s what it will be so they’ll have a better handle on what their costs will be. I still have to get approval from my Commissioners, so what I’m saying here is not a totally --.

Q It’s still fluid?

A It most certainly is. I have to get approval from the Commission and then go to OPS and we have to refile our application for next year and all that. So there’s still work to be done.

Q I believe we have already discussed field changes in terms of your report. Is there anything else within field changes that you haven’t already discussed?

A No. I think that’s it.

Q In terms of the data request that had been provided to you from Counsel for the Public, one of the issues that had been addressed is the blasting issue. Could you provide the Committee with any information that you might have as to the existence of anybody within the
state system that could act as an independent state inspector relative to blasting?

A I think it’s important that we all work together in this. This pipeline is close to another pipeline. It crosses in areas. There is going to be some blasting that we’re aware of and probably some that we’re not aware of as of yet. I think it’s important that the people that are involved work together. That includes the Safety Division, the Applicant. And we’re not experts in blasting. I would think that someone in the state, I’m aware of some people in the Department of Safety who are experts in blasting, that maybe we could ask them to assist us and just looking at what the situation is here. Well, first of all, they could probably review the blasting procedure, for one thing.

Q The specific blasting plans for this project?

A Right. So they would have a handle on what the Company plans on doing.

Q Let me interrupt you for just a second. Do you think it would be prudent for them to be provided with a specific blasting plan prior to the start of construction and be part of the review process of that blasting plan prior to it being put into effect?
A Well, I think they should be given the opportunity to
review that plan prior to doing any blasting. Review
the plan and ascertain that yeah, everything looks right
to them. Then in the field I think there would be some
areas where we might want to have that person on site to
maybe lend some expertise and from the Safety Division
we can tell them, or be involved in the dialogue and
say, “Okay, we got a 12 inch line here, it’s operating
at 650 or whatever at that time. These are our
concerns.” We can do that type of thing. But as far as
knowing the charges that they’re going to be using and
what effect it’s going to have, the movement of the soil
and whatnot, I think having an expert there to assist us
would be helpful.

Q Is there anything else that you’d like to discuss with
the Committee in terms of this project that we haven’t
already put forth?

A No, I think that covers that.

Q Is there any other testimony that you would like to
provide at this time?

A Well, one of the areas that we didn’t cover was
encroachment and closeness of structures. There are
areas that I’m aware of that there is structures that
are very, very close to the pipeline. And I think the
Company has already said that they will use a class minimum of a Class 3 location on these dwellings that are less than 40 feet. I think that’s -- I’m very pleased to hear that. I think that’s important. We’ve heard a lot of talk about other structures that are close and maybe they should be 200 feet away or 600 feet away or 1500 feet away. I don’t know if there’s any clear cut answer to any of this. You can come up with a worse case scenario and you might as well say well nobody should live in the State of New Hampshire. But if we look at our pipeline structure, our infrastructure, people south of the border down in Massachusetts and I can tell you there’s some high pressure lines operating at 500, 800, 900 pounds downtown. Wall to wall pavement. High rises. It scares you. But I honestly think that if you construct the pipeline properly, you install it properly, it’s not over yet. You’ve got to operate and maintain it. If you do all these things that you should have no problem.

The only problem you do have is third party. That’s where your damage prevention program comes into play and your public awareness. So I think that the encroachment problem is -- you don’t see anywhere in the
federal regs that you have to be a certain distance from a pipeline. I’m co-chair of a committee that’s reviewing these federal regs. We’ve already done part of it and we’re -- in another couple of weeks we’ll be doing three other parts of these regs. We’re reviewing them and we’re going to be making recommendations to the Federal Office of Pipeline Safety for changes. But I can tell you that the federal government will not put anything in here that says you have to be so far from a pipeline. They think it should be on the local level.

Now on the state level, my discussions with state people, we don’t want to get into that position either. It should go to the local level which it is now. The communities. And that’s where it should fall on, but the jurisdiction technically falls on the zoning board or whoever you have in that area. They’re the ones that should be really looking at this because these pipelines are all on record. They know where the pipelines are. The question now is the communities. Where do they want to build around there.

So I just think that this is not a New Hampshire or a New England problem. This is a national problem, believe me. New Jersey when they had Edison, New Jersey
had their incident, that was a 36 inch line operating at
900 and some odd pounds. You’re talking major incident
there. I don’t want to get into any horror stories
about it but you had a congested area. And one of the
things that they did in their study, they looked at
population density and encroachment and -- but New
Jersey is pretty well populated in areas where the
pipeline corridors go through. Now you can’t change the
pipelines. So what you have to do is you have to work
with what’s there now. And I think that’s what we can
do here is work with what’s there now. Doing this
pipeline if we do it right, I’m comfortable we’re going
to have a safe system.

Q Thank you Mr. Marini.

CHAIR: Cross-examination by

the Applicant?

ATTORNEY SMITH: Just briefly.

CROSS-EXAMINATION BY ATTORNEY SMITH:

Q Is the system that’s there now safe in your opinion?

A Well, you’ve got to understand that I’m not involved in
the inspection of the pipeline. That’s the
responsibility of the Office of Pipeline Safety. I
don’t think I can give you a clear answer on that. I
can just tell you that what I know is that the pipeline
has been there for a long time. I wasn’t involved in the construction of it. I’m not involved in the O & M of it. I can just say that we haven’t had any problems with it. So, so far, I guess we can say that the pipeline is safe.

Q You are aware of the fact that there was actually a recent newspaper article published where a reporter, I guess, from the Union Leader interviewed you. Have you seen that?

A Yes.

Q Understandably you were asked if something like New Mexico’s tragic incident would happen here in New Hampshire’s pipeline and you’re described in that article as giving a decisive, no, it’s highly unlikely that would happen here. Is that correct?

A That’s correct.

Q You said that, is this correct, because you do see the benefit of being at the end of the pipe and because you too have concluded that we would have dry gas here in New Hampshire.

A We have clean gas.

Q Clean and dry?

A That’s part of it.

Q So we shouldn’t have problems with internal corrosion
here like they may have had in New Mexico, is that right?

A That’s correct. And as I mentioned, I’m not an inspector for interstate but in my research and talking to OPS and other states, there is absolutely no record that anyone is aware of that we have had problems with internal corrosion in New England.

Q And I guess I’d like to be just sure I understand what you’re telling us about the use of an intelligent pig. I think I clearly understand that you have divided the purposes for using such a tool into an inspection for corrosion and I think I understand your testimony to be that that wouldn’t be a principle reason for doing that at the outset, at the installation of a new pipe. Is that right?

A That’s correct.

Q For the reasons I think you’ve already explained in the record. Then you’ve talked about a second area and I just want to see if I understand really what your thinking is on this point. You, like the Applicant’s witnesses, went through a whole series of steps that are taken to design, select materials for, inspect at the mill, as you said put in to place appropriate standards and procedures and that there are people all along the
way who are responsible for testing or visually inspecting the pipeline to try to make sure that all those standards are met. All the way, you described it quite articulately, all the way to laying it into the trench and thereafter. If I understood your testimony, this really is a question for you, you think that putting the intelligent pig run through would add information because those procedures might not be followed to the “T” and someone might not inspect and find those things. Whereas the Company has testified that if all those procedures are done correctly, will assure that that has been done to a satisfactory level. Is that a fair statement? Kind of the difference in how you look at it and how we look at it?

A Yes. The question is whether or not you can accomplish all that.

Q Right and you have some concerns about that and you think running the pig would be another way to be sure all that got done the way it was supposed to have gotten done?

A That’s correct.

Q And if it was done the way it was supposed to have gotten done then the pig would simply be redundant. Is that true?
A  Not necessarily. Because we’re talking, there could be some defects -- like I said, I don’t know what kind of testing will be done at the mill. In some cases this internal inspection can pick up laminations which I think I heard someone say that the mill will do that. I’m not -- if the Company has got that in their specifications, purchasing specs, that’s fine. We won’t have to worry about that too much. But as I mentioned, the handling of the pipe. So many times when you’re handling that pipe you might hit it against something or whatnot and nobody thinks anything of it. Maybe you didn’t damage the coating, maybe you just dinged it a little bit or whatnot. Or when you put it in the trench if it happens to hit an edge or something you can get a gouge or a scratch and nobody can see it because maybe it’s on the bottom. Or during hydrostatic testing the moving of the pipe, it rubs against something and causes a defect. These are things that you’re not going to know about. You’ll never know about until it’s too late. So by having this internal inspection, I think it’s the frosting on the cake. That’s going to tell you that yes, we have a good pipe now. Everything has been done right down the pike. Everything that we wanted to do and accomplish we’ve done.
Q I’d like to ask you just one more question. You’re pretty thoroughly familiar at this point with the Applicant’s proposal pending before the Committee on these issues that you’ve talked about in response to questions from Public Counsel?

A Yes.

Q Is it correct that the Applicant has put a proposal before this Committee that in all respects meets or exceeds the federal standards that would apply to these issues? Could you just give me a yes or no? Has it done that in your judgment?

A Well, I really don’t like yes or no answers but.

Q Well, you can explain but I’d just like to know for the record, is it your view that the Applicant’s proposal, just measuring it now by the federal yardstick. We understand that you have a different perspective and you’ve explained that very well to us today. But just measuring it by the federal standard, does the Application meet or exceed federal standards as far as you know?

A It appears that it meets the standards but the federal standards are minimum requirements. That’s the key to this whole thing. Any company that says they meet minimum requirements, right away a red flag goes up in
my mind.

Q I understand. But I just wanted to know if that was --
A Federal safety is like this. If you’re down here at minimum we have a long way to go.

Q I understand. Okay. Thank you. No further questions.

CHAIR: Thank you.

Londonderry Neighbor Coalition?

ATTORNEY EDWARDS: Real quick Commissioner Varney before I start, I just wanted to say that the LNC objects to many of Attorney Smith’s statements regarding the federal preemption issues. I’m not about to get into a legal debate right now as much as I’d like to but.

CHAIR: Duly noted.

CROSS-EXAMINATION BY ATTORNEY EDWARDS:

Q Mr. Marini, you mentioned that some new pipeline standards that came out in July called the PSL-2?
A Yes.

Q I’d just like you to elaborate a little bit on them. What heightened -- or just elaborate on them a little bit on them. What do they impose that we’re not -- or what do they suggest that have not been previously?

ATTORNEY SMITH: I’m sorry. I don’t mean to interrupt but I didn’t catch what it is you’re
asking about?

ATTORNEY EDWARDS: Early in Mr. Marini’s testimony he mentioned a pipeline spec. He referred to it as a July Standard. That’s what I’m asking him about.

A It’s a new standard. It’s not being imposed. All I was mentioning is that we’ve had the API5L and 5LX for a number of years, which is a good standard. I think all the construction that’s going on has been using that for years and years. However there is a new standard that came out in July and it’s a standard that was developed by the industry. And it was brought to my attention by my consultant in Washington who worked with the industry on developing this stuff. He informed me of this thing. It’s a new standard. It puts more of a handle on the manufacturer of the pipe in that it has more controls on the chemical and physical properties of the pipe which brings into pipe toughness which is a major area of concern of ours. To make sure that that pipe has that characteristic.

ATTORNEY SMITH: Could I say something Mr. Chairman? It just might shorten things. I could inform the Committee if you wish or someone could say so, I’m told that our specifications as pending before
you comply with that standard. The new July standard.

CHAIR: Okay. Thank you.

Q No more questions on that issue.

MR. CANNATA: It takes a few off my list too.

CHAIR: Yes. I was going to say, the Committee will be asking about that so thanks.

Q I’d like to move on to the issue of trenching and the possibility of backfilling rocks in the trench. You addressed a concern for the potential for rocks to damage the coating to the pipe. I know yesterday during Mr. Auriemma’s direct, I got into it briefly with him and we discussed the possibility of damage to the pipe coating. Are you aware of any specific specifications that Tennessee has proposed as to the maximum size of rock permissible to backfill in the trench?

A No, I’m not. I haven’t seen anything.

Q Would you propose a recommendation to the Committee that they adopt for a specific size that’s permissible to backfill?

A I would like to see the Company submit their proposal first and run it through us.

Q If you’re not comfortable specifying a specific size of a stone it’s understandable, but at the very least you’d
like to see Tennessee submit a proposal addressing this issue?

A If they come up with a smaller size, I’ll take that too.

Q I’d like to point your attention to a DES draft condition that touches on this issue. I don’t know what exhibit Attorney Smith -- okay, it’s A-62 I guess is the one that has the DES draft permit conditions and it’s condition 16. I’m just going to read it to you. You may not have it in front of you. It’s on page 15 of 28. It states that, “Blast rock from trench excavation shall be disposed of in the trench or shall be removed from the wetland. Blast rock shall not otherwise be buried or distributed on the surface of wetlands.” This is DES Draft Condition #16. Okay, this is under the Draft Standard Dredge and Fill Permit Condition which is “B”. So it’s B-16. Do you see that condition that I just read, Mr. Marini?

A Yes.

Q Would you recommend that the Committee revise this Draft Permit Condition so as to reflect the Applicant’s proposed method for backfilling rock in the trench, after that submittal is forwarded for review?

A Normally in pipeline construction you do end up throwing some of the rock back in the trench but it’s at a
distance away from the pipeline. So I would say that you can put some of the rock back in the ground as long as it’s a distance away from the pipe.

Q Okay.

A That last sentence is kind of confusing where it says, “Blast rock shall not” -- okay. I’m all set.

Q But you would agree that there should be some limit imposed on the size of the rock that will be backfilled into the trench?

A Oh, definitely. No question about it.

Q On the smart pig, I just wanted to hear what your position as to the recommendation as to when you recommend the pipeline should be inspected with the smart pig? You reference the three year standard that was ultimately applied in PNGTS-M&N project. Are you recommending a similar three year standard here?

A Well, like I said, I’d like to be as consistent as possible. We were a little conservative with them on that but to get the pigging was worth waiting the three years if we had to wait the three years. But if I was to do it I think the sooner you can do it the better off you are.

Q Would it be reasonable for the Committee to ask for the three year requirement in this case?
A Yes, to be consistent I think that would be the way to go.

Q Okay. You also mention a concern over the actual construction process and you address the reality that not all contractors are perfect. Would you agree then that despite all the comprehensive policies and safeguards and procedures that Tennessee will no doubt diligently impose that the actual pipeline itself is only as good as the contractor that builds it?

A Well, it’s more than that. It’s more than the contractor. It’s all the stakeholders that are involved. That includes us, as inspectors. If we’re doing our job, then the people we’re looking at our doing their job. It’s just a chain reaction. So it’s not just one entity. It’s not one stakeholder. It’s everyone together.

Q And just like all the stakeholders involved in the process, any one of these stakeholders, including the contractor has the potential to be a weak link in the chain?

A Oh definitely. No question about it.

CROSS-EXAMINATION BY ATTORNEY ROCHWARG:

Q If I may be permitted to do so, I just have a few follow up questions. Good morning everyone. Good morning Mr.
Marini.

A  Good morning.

Q  You had mentioned that you were previously employed by NTSB?

A  That’s right.

Q  Pipeline Specialist?

A  Yes.

Q  Are you aware of the NTSB position regarding the sufficiency of pipeline regulations currently in existence?

A  Could you repeat that?

Q  Are you aware of the NTSB position regarding the current pipeline regulations and the sufficiency thereof?

A  Sufficiency?

Q  Correct.

A  Yes.

Q  What is your understanding of the position of the National Transportation Safety Board? Are you aware of whether there are any proposed changes to those regulations which would beef up enforcement, if you will, of the pipeline regulations?

A  NTSB, as I mentioned, they’re an independent agency which is unique to the federal government. They answer to the President only. And when they go out and do an
inspection or investigation, their responsibility is to
determine probably cause and make recommendations.
Those recommendations will go out to operators,
companies, associations and also to the Office of
Pipeline Safety which is the regulatory arm of the feds.
I would have to say that probably in all of their
investigations they always will find an area that they
can find some deficiency in the federal regs. The
federal regs, you’ve got to understand are performance
language. They tell you what to do but not how to do
it. They’ve been in effect since, you know, we’re
talking 30 years now. That’s why I’m on a committee to
try to rewrite them and bring them up to current
thinking.

Q Which brings me to my next question actually. You
mentioned that you are on a -- that you are co-chair of
a committee reviewing the federal regulations and you
will be making recommendations to change those federal
regulations. Can you suggest to the Committee what
changes, if any, you will be recommending to those
federal regulations that you might recommend would be
appropriate for this pipeline being proposed by
Tennessee Gas?

A Well, the sections of 192 that we’re going to be
addressing in a couple of weeks is Subpart J, K, and L, which really has to do with testing and M, N, O, P and up-rating. So I think -- I don’t think in those particular areas there’s going to be anything that will or should affect this project. There’s several subparts in here. We’re going after the areas that are gray and we’re having problems with enforcing and companies understanding what their requirements are in that so right now I can’t tell you anything other than just J, K, and L that we’ll be addressing. When we get into the other subparts I’m sure that there are some areas but right now I don’t think that what we see proposed here, I don’t see anything that would be a problem in any changes in the future.

Q Other than the changes that you’ve recommended?

A Yes, correct. The pigging is a very hot issue across the country. My national association has been working on this for a number of years now trying to establish some sort of a standard for operators to accept.

Q To go back to the issue of pipe toughness, you had mentioned that you feel that it’s a very critical consideration. I know that counsel for Tennessee Gas has indicated that the new specifications provide for the use of the PSL2. Do you know who will be
responsible for assuring that PSL2 is actually
installed?

A Well, as I mentioned, when I get the specifications that
the Company is proposing, I will turn this over to my
consultant. I think in the other projects that we had
what had happened was -- you have to do some testing at
the mill to make sure that you’re getting what you’re
paying for. Some of those tests that were performed,
the results of those tests were sent to my consultant in
Washington to verify that yes, the run of pipe that
you’re getting is what we originally wanted.

Q And you’ve indicated they’re tested as the pipe arrives,
is that correct? If I understand.

A No. It’s tested at the mill.

Q At the mill. Are they again tested in the field? In
other words, once the pipe is installed in the field, if
I were a citizen of Londonderry can you provide me with
a level of comfort to assure that that PSL2 pipe is
actually installed where Tennessee Gas indicates that
it’s going to be installed? In other words, is it
inspected in the field again by anyone?

A I don’t think there’s any way you can do that in the
field. It’s something that is done at the mill to
verify that that’s what they’re getting. As far as
other tests that are done, we’ve talked about hydrostatically testing the pipe and also internal inspection and also the other inspections that are done prior to them getting the pipe in the ground. I think all of those should give you a high level of comfort as far as the pipeline being safe to operate.

Q You had recommended requiring the use of padding machine which you had indicated was used on the PNGTS-M&N pipeline in New Hampshire which allows, as I understand it, the use of only a certain size rock for backfill?

A That’s correct. It wasn’t a requirement. We didn’t have a requirement. It was a suggestion that they utilize it in areas that would be beneficial and the Company, both PNGTS and M&N said that they would utilize it wherever it would be able to use it efficiently. When you’re blasting in ledge you can’t use it. You’d got to bring in backfill material. There are areas where you just can’t use it, the machine. But it is beneficial as far as moving the pipeline along and cost efficient, I think, in a lot of cases.

Q So would that be something that you would leave up to Tennessee Gas or would it be something that you would consider imposing as a requirement, would be voluntary?

How would you suggest to the Committee that such a
recommendation for using a padding machine be implemented?

A Well, like I said, I want to be consistent and it wasn’t required before and I guess if the Company doesn’t want to use it; they don’t think it’s efficient, or cost effective then that’s fine. But if they don’t use it, then we’ll be making sure that our inspections are even closer -- our scrutiny will be more so, because I’m a firm believer that the backfill material is critical in giving you that level of safety that’s necessary.

Q By any chance, and I don’t know when the construction -- the newly modified construction specifications in this particular instance came about, however have you had an opportunity to compare the construction specifications on the PNGTS-M&N line with those proposed by Tennessee Gas? And if you haven’t had an opportunity, do you intend to compare them prior to commencement of construction in this particular instance?

A I definitely would be comparing them.

Q Just a couple of more questions. You had mentioned in your direct testimony that you had been consulting with an OPS director of the Eastern Region who had recommended a baseline on new pipelines, that it had advantages. Could you tell us a little bit more about
what those advantages would include?

A Well, I think they pretty much mirror what I had said, what you can pick up with your internal inspection. We’re not talking just corrosion with an MFL unit. You can pick up gouges and scratches and in some cases laminations, imperfections. Like I said, some imperfections not necessarily would affect the integrity of the pipeline and others have the potential of affecting it. So there are areas that he felt would be an added benefit to doing a baseline on a new pipeline. There’s a lot of human error that can happen here. A lot of construction defects that can happen. This is the frosting on the cake. Not only that you’ve got that thumbprint for the future. You’ve got something to compare to. This imperfection has gotten bigger, something’s wrong here. Also it’s a scenario.

Q As a follow up question to and along the same lines on the issue of quality control and the fact that inherent in virtually any construction project, if not all construction projects, there are always field changes. There are always defects to the contractor’s performance. What assurances can you provide the citizens of Londonderry that either the state or someone else will ensure that the contractors Tennessee Gas
ultimately hires or contracts with, will perform in accordance with the contract specifications?

A I can give you my guarantee that the Safety Division will do their job and not only for the citizens of Londonderry but for the State of New Hampshire. That’s our job. We will be out there inspecting and we’ll be inspecting everything from soup to nuts. I can guarantee you that.

Q I don’t have any further questions at this time. Thank you.

CHAIR: Members of the Committee? Michael?

EXAMINATION BY COMMISSIONER CANNATA:

Q I want to go back over the cross, Mr. Marini, and there are some area which I think responses may have been a little bit inconsistent. I want to make sure that the record is left in the manner in which you probably would desire it to be left. We’ve eliminated any questions on the pipeline specs, but the question on utilizing Class 3 within 300 feet of the school property, do you believe that this would also allow a safety factor for future growth should it occur near the pipeline?

A Well, there’s two things that can happen here. Number one, the Company is responsible for evaluating their
pipeline to see if there are any changes in class location. They have absolutely no control on what can develop in an area around their pipeline. We’re looking at a Class 3. The next class up would be a Class 4. Now you’re talking high rises. Can that happen? Not in my lifetime. I don’t know. Unless Londonderry’s got some plans or any other towns got some plans, but that’s the only other scenario I can see. But they’re responsible for evaluating their pipelines and if they do, if there is a change in class then they have to make efforts to do some changes.

Q Do you think that this is an effort that at least addresses that concern in your mind by going to the highest class pipe except for high rises in the Londonderry area?

A I feel comfortable.

Q Now I’m going to cross over into Northern Ireland and talk about pigging there. I believe you made the statement that you could not guarantee or ensure the integrity of the pipeline without an intelligent pig run. Yet your recommendations state that you would require it within the first three years. Now what I draw from that is -- and your final comments on calling the intelligent pig run a frosting on the cake that
you’re taking the margin of safety on the safe system
and making it safer. Is that correct?

A Yes.

Q You also indicated that ENI would be doing a smart pig
run on their section of the pipe which was running at
the same pressure on the lateral over to the proposed
AES plant. When would that pig run be done in
connection with construction?

A That’s still under discussion because I believe last
year when we were having some dialogue with Tennessee
about any type of pigging done, there were different
scenarios on, well, if we don’t do it, but if we do it,
maybe the best time to do it is prior to operation. I
had mentioned it to EnergyNorth that I thought it would
be a good idea for them to work with Tennessee with not
only maybe utilizing the same contractor and saving some
money because it’s mobilizing contractors that are from
a different part of the country with, you know, if
you’ve got one contractor coming up here to do the job,
he might as well do the whole thing and save some money.
And the pigging would be the same thing. If they’re
going to be coming up and bringing in a contractor to do
the pigging, he might as well do the lateral also. You
can save some money there. So right now it’s -- it
hasn’t been finalized on when it’s going to be done.

Q In summary, your intent was that whatever was going on in the ENI branch or lateral line, was entirely consistent with what we’re talking about here today?

A That’s exactly right. The lateral is no different than the main line. Even though the lateral is considered an intrastate lateral and the main line is an interstate line, as far as operations, I consider it the same.

Q When we were discussing operation maintenance plans and emergency plans you requested that a condition be put into the certificate if it’s issued that prior to operation and prior to operation meaning May 1, 2001 I believe, that those plans be reviewed and was it “and approved”? Because I thought I heard reviewed and approved and I thought I heard reviewed, at two different stages of the testimony. I just wanted to clear that up.

A I want to be consistent, so if you’ll give me a minute.

ATTORNEY WAGELING: I think I had interjected “and approved” at the end of your comments, so I’m sorry if I confused the record.

COMMISSIONER CANNATA: And I wasn’t sure where it came from.

A I guess to be consistent with the other projects that
we’ve had here, I don’t see the word “approved”. It just says that it will be filed. I would have to say that OPS will also be reviewing those O&M Emergency Plans. As a matter of fact, when we did the PNGTS-M&N I asked them to be with me to review those plans also. So if there are any deficiencies in the plans, OPS will take it from there and address those issues.

Q You’d be acting as their agent in that regard for PUC?
A Yes. I can inspect but I can’t enforce as an agent. So my concern --

Q Sort of like being a supervisor.
A My concern is the O & M plan. I like to look at it and make sure that it’s a good plan. The Emergency Plan is really the one that I’m concerned about for the State of New Hampshire in that it covers all the areas along the right-of-way, all the towns. To make sure that it’s site specific and it can’t be generic. It’s got to be site specific so that emergency phone numbers have got to be there for all the towns. And all the emergency response type of people, how they’re going to educate the people. Their line markers and what they mean and all that. There’s so much involved in it but it’s so important to letting the people along the right-of-way to know what they have there and how they would react to
an emergency. How quickly they'd -- you know if they
smell gas, what do they do? If they see construction on
the pipeline to call the number to protect that
pipeline.

Q  Thank you. The next area I'd like to delve into a
little bit, concerns your office acting as an inspector
and the blasting inspector. You were here yesterday
during testimony where I think your recommendation was
agreed to by the Company to have a blasting inspector
being a Department of Safety?

A  Yes.

Q  And in terms of your responsibilities, your inspection
responsibilities, were you also here when the Company
committed to fund that position, that they weren’t
holding to the $28,500 that appears in their response?
That that was just the current estimate but they were in
support of the activity that you were proposing.

A  Yes. But I thought they were holding to the
percentages. And those percentages aren’t correct.

Q  Well, then the number would not be correct.

A  That’s right.

Q  So then they’re not holding to the number.

A  Yeah, but if the number went up, the percentage still
dictates how much we’re going to get.
Q So could we just then clarify maybe, perhaps, with the 
Applicant that -- is my statement correct that you’re 
basically in support of the type of inspection that’s 
been proposed and currently estimated at $28,500 and I 
think this is a similar discussion to what we had 
yesterday?

ATTORNEY SMITH: That’s right.

COMMISSIONER CANNATA: Okay. Thank you.

Q Then you talk a little bit about closeness of structures 
commending the Company for going to Class 3 within 40 
feet of the pipeline and you got into a dissertation 
whereby you said that the feds would never put a 
specification of distance in their regulations. Isn’t 
that basically imbedded in there by going to the 
classes? Isn’t there some type of a distance or safety 
factor in there?

A Well, to some extent yes, but if you have a 20 foot 
right-of-way, or 25 foot right-of-way, even a 50 foot 
right-of-way and then you get a development coming up 
right on that pipeline --

Q I guess that’s just my point. You were talking about 
the local level control being the regulation of how 
close you could put buildings to a pipeline, not how 
close you could put a pipeline to buildings.
A That’s correct.

Q Okay.

A I’m faced with this all the time. I get calls from towns wanting to know if there’s any state requirement on how far you can be from a pipeline. We can get into all sorts of requirements on how to put the pipeline in but once it’s in there, there’s no state requirement or federal requirement that says that you have to be so far away. That’s really local jurisdiction. The Zoning Board.

Q In the discussion regarding the update to current federal standards, 192, when you talked about doing subparts J, K, and L currently, off bringing them up to snuff. You were not indicating that the current standards were inadequate, were you?

A They’re not inadequate. They’re minimum.

Q Minimum safety margins?

A Right.

Q Okay. From recommendations from organizations such as NSTB, industry and others, you’re always striving to improve just as they do after an aircraft accident, they go through maintenance procedures or whatever for the particular aircraft and make good -- better you do that. Is that the type of process that’s going on?
A Yes.

Q Okay. Lastly, in terms -- you mentioned that there were performance standards and that you need to interpret them to wind up with a safe system. Is that what we're doing here in this Committee? Taking those performance standards, putting flesh on them and making a safe system out of it? Is that what your recommendations do if adopted by the Committee?

A I think in some cases, yes, that's correct.

Q In what cases wouldn't it be?

A Well, an example would be welding. The specifications or the requirements that are in the regulations right now require X-raying of the welds. That's something that we required -- it was a condition for our previous applicant PNGTS but yet it's nothing that was greater than what is already here.

Q It's 20 percent of the federal level? Or is it 100 percent?

A It's 100 percent for transmission.

Q Okay. The last line of discussion was comparing PNGTS standards to those of the proposed pipeline. In some cases -- you know, first of all, excuse me, let me start again. It's not your intent that the construction standards have to be the same, is it? In some cases --
A Not necessarily the same, but I think there are areas that we should be consistent.

Q In some cases construction standards for Tennessee could be stricter? In some cases it could be looser? Just because of geography. I’m building a pipeline 100 miles into the north woods may allow one construction standard but in the backyard where you have buildings and in urban areas it would be something different?

A That’s correct. We also -- you know, companies operate differently. Their philosophies are different. That doesn’t mean that one is safer or one less safe than the other. It’s just a different way of doing something. That should be acceptable.

Q Just as the toughness standards for the pipe may be different in southern New Hampshire than they are in northern New Hampshire.

A That’s correct.

Q That’s part of the review you want to do with the people in Washington?

A That’s correct.

Q Okay. Thank you that’s all the questions I have.

CHAIR: Nancy?

EXAMINATION BY COMMISSIONER BROCKWAY:

Q Good morning Mr. Marini. I just had one area of
questions. I’m a little bit confused about the
contribution by the Applicant towards cost of
inspection. On the one hand the flavor of some of what
I heard you testifying this morning was the money is
going tight. It’s getting harder to have sufficient
staff to do inspections as you would like. And on the
other hand, I heard a very firm commitment that you
guarantee that there will be adequate inspections.
Maybe I’m mixing apples and oranges but if you could
clarify that for me so that we could be assured that the
guarantee was backed up by sufficient resources.

A I would present to the Commission and for the
Committee’s information, I still haven’t run this
through them, and I would get my Commission’s approval
to hire a consultant similar to what we did with PNGTS.
This person that I would be looking for is -- I’m not
looking for an engineer necessarily, or a Ph.D. I’m
looking for a hands on person who knows everything from
soup to nuts as far as the transmission construction.
We did that with PNGTS and that person did such a
fantastic job for the State of New Hampshire that the
federal government hired him a year later to do the rest
of the project up in Maine. So I was very fortunate to
find this person and I think he did one heck of a job
for us. And he was a full timer. He was -- he lived out on the pipeline. He had a mobile home that he parked out there and he worked out of his mobile home. He was on the project 100 percent. Myself and my other inspector supplemented that to add more inspection days to being out in the field. I think that type of program would be sufficient for this project. But that would mean hiring a full timer for the five or five and a half months or whatever for this project.

As far as the money aspect of it, I would have to submit to Washington a change in my budget for the calendar year 2001 to include this added cost to the State of New Hampshire. Those percentages are, as I said last year, was 41 percent that we got from the feds. The other 59 percent was picked up by our operators. I think that number is going to change to maybe 40 percent or even 39 percent of the cost. What I would be recommending is that the cost be shared, not necessarily equally, between the Applicant and the Office of Pipeline Safety. Whatever our costs are and the percentages that are paid to by OPS then the rest of it would be picked up by the Applicant.

Q I think implicit in what you’re saying but I just want to make sure that it’s explicit is that if this proposal
were to be approved by the Commission here that you would not foresee any difficulty, not withstanding the problems of the federal budget, in getting this additional money from the Office of Pipeline Safety and also getting the agreement of the Applicant to pay in their share? Is that a fair assessment or characterization?

A Yes. I don’t think there’s -- as far as the Office of Pipeline Safety, I’ve already had discussions with the director there. They’re very anxious for us to be involved again. We did -- I think we did an excellent job on the previous project and they were happy with our work and our inspections and our reports and everything else. This is just, it helps them out because they have limited inspectors also. So by us helping them out in this case, it helps free up their people. Their people will still be on site. They still have inspectors that will be coming in, not as often as we will be there, but they will supplement also. So there will be essentially four of us out there. Maybe not at the same time.

Q Thank you.

CHAIR: Other questions from the Committee? Brook?

EXAMINATION BY COMMISSIONER DUPEE:
Q Thank you Mr. Chairman. Just a question about -- you talked about the determination in regards to a defect in the tubing, the piping. Can you describe for me what that term actually means?

A Okay, I’m not an expert in the field, but it’s my understanding that when the pipe is rolled, you can get some type of material in there that would cause the pipe to laminate. Similar to -- what can we make that?

Q Overlapping of steel is what you’re saying?

A Yes.

Q Accordion effect?

A Yes.

Q Thank you.

**EXAMINATION BY CHAIR:**

Q A question I have, Mr. Marini, what we heard earlier in this hearing, you may not have been here about the fact that two schools are under construction adjacent to the pipeline. Did either of those communities consult with you or your office prior to that construction?

A No sir. Not that I’m aware of.

Q Are you aware of any local regulations and I realize you probably haven’t done any sort of exhaustive study of this so, I’m not suggesting that you have, but are you aware of any local regulations that relate to the
setbacks from a gas transmission line right-of-way that exist in Pelham or Londonderry?

A I’m not aware of any setback requirements on the federal, state or local level.

Q That doesn’t mean that they may exist. Just that you’re not aware of them?

A I’m not aware of them.

Q Okay. Just curious about that.

A Like I mentioned, I have received calls from communities asking about it and I informed them that there aren’t any on the federal or state and that we felt that this is more on the local level, that the local jurisdiction would be better to handle that as to how they want to develop their community.

Q Do you make recommendations? Do they ask you for recommendations? You indicated that didn’t happen in these two communities.

A No. Not in these communities. I’m thinking of one other community that called me up this past summer, the developer was putting in a line, putting in a project next to Tennessee’s line and they asked me -- this is when I told them that there aren’t any restrictions or anything. But I said we do have under our 500 rules with the PUC we do have a requirement in there that
whenever you construct a pipeline within 40 feet of a dwelling, you have to get the approval of the PUC. So they -- the one community I was talking to, they said, "Well, we’ll use your 40 feet." I told them, once the pipeline is in there, there’s nothing. We don’t have anything. But if the pipeline is going in then we can look at it and say, “Okay, if you’re going to be 35 feet from this dwelling and we feel that certain things you should do to bring the level of safety where we’re comfortable with”, but that’s the only instance where I gave them any kind of number and I said this is how we use it. You do whatever you want. We can’t impose that on them.

Q Are you aware of any state laws that would forbid communities from setting their own setback requirements from gas pipelines?

A Not in New Hampshire.

Q Okay. Thank you. Michael?

EXAMINATION BY ATTORNEY M. IACOPINO:

Q I just have a couple of follow up questions. First of all, Mr. Marini, earlier in the proceedings we asked for the Applicant to provide a schematic indicating placement of the auto lose valve. Would that type of document satisfy your concerns to look at where these
valves are placed?
A Yes.
Q Secondly --
A As long as that includes both pipelines together acting together in operation. We have to have a schematic of both lines. Not just the 20 inch so we can know how it’s going to work in relation to the other one.
Q You also testified about these federal regulations being, I take it Part 192 haven’t been around for a long time. And Mr. Cannata asked you if, in fact, they are informed by agencies like the National Transportation Safety Board. Do you recall that?
A Yes.
Q It’s my understanding that it’s Chapter I of the Part 192 which relates to safety features, is that correct?
A Well, all the subparts refer to safety.
Q But isn’t Chapter I, that’s where all the class locations, pigging, pipe design and those sorts of things are?
A That’s subpart I.
Q Subpart I. I’m sorry. It’s true, isn’t it, that that section has been amended, was amended in 1998, is that correct?
A No wait, I stand corrected. Subpart I is corrosion.
Q Isn’t it Chapter I? Title 49. Chapter One I should say. Chapter One. I’m sorry, I’m reading it as an I.

A You’re not under 192. Are you referencing 192?

Q Title 49. Chapter One, Part 192.

MR. RICHARDSON: Actually that’s normally referred to as Volume 49, Part 192 point whatever and it is in the first section which you referred to as (inaudible) and it has some other bugs in it too.

Q Let me put it this way, Part 192, you’re familiar with that?

A Yes.

Q And Part 192 contains safety requirements?

A Yes.

Q And that part was, in fact, amended in 1998. Are you familiar with that?

A Yes. There are have several amendments to that.

Q Do you consider the amendments as far as safety issues go to be significant amendments in 1998?

A I do so.

Q Prior to that they were amended in 1996. Are you familiar with that?

A Yes.

Q And with respect to safety issues did you consider that
the amendments in there to be significant as well? '96?

A Yes.

Q I have no further questions.

A One other thing about the NTSB making recommendations to
OPS on changes to this also, our association, National
Association of Pipeline Safety Reps, we also make
recommendations to OPS for changes in here. There are
several organizations that do it. The American Gas
Association or their transmission association, ANGA,
y they can also request changes. So it's --

Q It's true, isn't it, that the Department of
Transportation in the issuance of these regulations
will often modify them or amend the regulations to
reflect what all these various agencies and groups are
recommending?

A That's correct.

Q Thank you.

CHAIR: Jeff?

EXAMINATION BY COMMISSIONER TAYLOR:

Q Mr. Marini, I'd like to clarify the situations in which
a developer would need to get to get permission from the
PUC. As I understood your testimony it would be for
construction within 40 feet of the pipeline, is that
correct?
A No. Not the developer. If a distribution company was
to install a pipeline within 40 feet of a dwelling,
that’s operating at over 200 pounds, they would have to
get our approval.

Q Is that 40 foot distance and your related approval a
safety based concern or the need perhaps in the future
to get a construction easement for maintenance? What is
the basis for the concern within 40 feet?

A You had to ask me that. I did some research and to be
honest with you I can’t find out where they came up with
the 40 feet. Or how they came up with the 40 feet. By
coincidence, and I talked to some of my other colleagues
in New England and they have the 40 feet and nobody
knows where the 40 feet came from. But it’s in our regs
and we -- several years ago I sat down with my operators
and we reviewed all of our regs to bring them up to
speed and that was one that we all researched and
couldn’t find out where it came from. But we felt,
let’s leave it in there, it kind of keeps us on our toes
and when you’re talking pressures of 200 pounds and
more, you’ve got to scrutinize it a little more than you
would on a lower pressure line. So we just left it in
there and we work with that accordingly. It pretty much
leaves it open for discussions because all it says is
PUC approvals which means they come in here and we sit down and say, “Okay what are you going to do?” and we’ll review with them their intent on installing a pipeline. If we feel that they’re taking all the precautions that they should, the Commission will approve it and that will be it.

Q Thank you.

CHAIR: Any other questions?

ATTORNEY V. IACOPINO: Mr. Chairman, just a follow up. Can we ask the Company at this point, if they would agree to supplying the alignment chart that Mr. Cannata asked for for both lines?

ATTORNEY SMITH: The location of the valves?

ATTORNEY V. IACOPINO: Yes.

COMMISSIONER PATCH: While we’re on that subject of asking the Company questions like that, I guess Mr. Marini had indicated in terms of the purchasing specifications on the pipe if the Company would provide that? I’d like to know if the Company will?

CHAIR: Could you repeat the question before you answer it?

ATTORNEY SMITH: Yes. I think the
question was would the Company be willing to provide it’s purchasing specs as were discussed in this morning’s hearing. That it would utilize in acquiring the pipe from the mill. And it’s construction specifications. And I understand the Applicant to say that it would provide those to governmental review but it has the concerns expressed earlier about maintaining appropriate control of those documents. None of them given to competitors or generally available to the public which would accomplish that purpose. They have no objection to providing them appropriately for government review if we could fashion a way to do that.

CHAIR: Okay. Thank you.

COMMISSIONER CANNATA: I would suggest perhaps maybe the system that we set up for the other documents would work if it was put into counsel’s hands, if they could be looked at there?

ATTORNEY SMITH: I wasn’t actually, I’m sorry I wasn’t suggesting that. But more like the way OPS reviews these documents. You will have, I assume, an arm of the PUC that will have joint responsibility as an OPS agent and I would start by trying to fashion it that way so that these things can be reviewed and
commented on and so forth, but they do not come into the public process. They don’t at the federal level, we’d like not to do that here if you’ll allow that.

CHAIR: But it would limit it to review by state and federal experts?

COMMISSIONER BROCKWAY: I just wanted to ask Mr. Smith to confirm the answer that was given off the mic to the earlier question about the valve specification, because I don’t think it was picked up.

ATTORNEY SMITH: Yes. It is my understanding that the schematic drawing that is prepared by the Applicant will show valve locations on the proposed new pipeline and the interconnected existing pipeline.

CHAIR: Any other questions?

ATTORNEY SMITH: Mr. Chairman, could I just clarify just one point?

RE CROSS-EXAMINATION BY ATTORNEY SMITH:

Q I guess just to be sure that there’s clarity of understanding mostly. There was testimony, Mr. Marini, if I heard it correctly that the current federal regulations require X-ray examination at 100 percent of the weld locations and I think you may have heard the testimony from the Applicant that they were going up to
100 percent on this route. That was their statement, that it exceeded federal regulations. Did I understand you correctly to say that that is the federal regulation?

A I thought it was.

Q Okay. I just want to get that cleared up if I can. Is this the regulation we’re all referring to? I’m pointing to 49CFR Section 192.243 captioned Non-Destructive Testing. Is that the right one?

A Yes.

Q Would you like a moment to look at it?

A I’m so used to 100 percent welding -- X-raying. It’s Class 3 and 4 that requires 100 percent. In this instance, there is Class 2 and the Company will be exceeding that in those areas.

Q Thank you very much. I have no further questions.

CHAIR: Thank you. It’s now five of twelve so I think it would be best to break for lunch and then we’ll pick up with the continued environmental panel that we started earlier today.

(Off record for break)

CHAIR: We’re continuing with the application of Tennessee Gas Pipeline Company the Londonderry 20 inch replacement project docket #00-01.
I would like to call on a member of the public who would like to speak. I don’t know if counsel for the Londonderry Neighborhood Coalition would like to comment?

ATTORNEY ANDREWS: I have a quick oral motion to make. It will take 30 seconds, Mr. Chairman. We just need to orally move to remove Mr. Kelvin Kerns from our revised witness list. He is not a member of the LNC.

CHAIR: Okay. But he would like to speak?

ATTORNEY ANDREWS: That’s right. He would now like to speak on behalf of the public. Yes.

CHAIR: Okay. Thank you. Also before we call on him, I note that the Town of Londonderry’s legal counsel has not been here this morning.

ATTORNEY M. IACOPINO: Mr. Chairman, she advised me yesterday she would not be able to be here, she would try to send somebody from her office but she clearly understood that the proceedings would continue through today whether she, her client, or another representative of her office was present or not.

CHAIR: Okay. Thank you. Mr.
MR. KERNS: Good Afternoon. Thank you very much for letting me speak out of turn and thank you to the Committee for listening to my comments. I wrote a letter to the Federal Energy Regulatory Commission and as part of the comment to their environmental assessment and I’d like to share just five of these comments with the Committee.

First, Tennessee Gas is going to conduct a safety training for Tennessee Gas inspection crews and the construction contractors and personnel prior to construction. I’d like you to require the Londonderry School District, its administration, and Town officials to also receive this training.

My second point is in this environmental assessment they had alternate selections for route of this pipeline. As you know, it runs adjacent to the middle school. One of the alternates, 104I, suggests a 300 foot buffer around the middle school. I would like you to consider this as an option. It certainly makes more sense and the direct route is merely a construction convenience.

The third point I would like to make is, I’d like the students and the parents of the Londonderry School
District to have abutter status. Those people who are truly -- whose homes abut the pipeline and they don’t know anything about this. I think it’s important that the parents have the same information available to them as abutters.

Fourth, the DOT minimum Federal Safety Standards suggest several types of pipelines to be built dependent upon the number of the concentration of people living adjacent to that pipeline. There are 4,000 students at these school facilities. I would like the Committee to consider upgrading this pipeline to a Class 4 pipeline.

The last point I would like to make is that the environmental assessment suggests that there are no greenhouse gas emissions from this pipeline because this is considered just a pipeline, it’s not considered as an entire project. I think that considering one part of the entire project is not unreasonable for consideration. As a whole, this pipeline will certainly contribute to the gases. It also took into no effect the fuel oil burned at this facility one out of every 12 days. Also, it did not consider what would happen if the power plant was built at much smaller scale. Particularly one that didn’t need to have a pipeline
upgrade. I’m not a technical engineer. I’m a molecular and cellular biologist. I’m a resident of Londonderry and I hope that you will give these points consideration when you decide on this project. Thank you.

CHAIR: Thank you very much. Thanks for coming today. We’re now ready to continue the panel on environmental issues.

ATTORNEY SMITH: If I may, Mr. Chairman?

CHAIR: Yes.

ATTORNEY SMITH: Two or three brief things before we start this afternoon’s testimony? It was my understanding that Mr. Kern’s pre-filed testimony and because he has asked to withdraw as a witness, that particular document be stricken?

CHAIR: Yes.

ATTORNEY SMITH: And I think I understand that Valerie Mazzola, who commented yesterday, would like to speak today as a witness so I just want to make that clear, if that’s correct?

ATTORNEY ROCHWARG: That’s correct. We had that conversation earlier, as you know Greg, and the witness approached me this morning and suggested that she would like to testify as part of the LNC.
 Apparently yesterday she was unavailable to come back today and wanted to give her statement as public comment because she was afraid she was not going to be able to return today. She would, however, and I explained to her -- like to testify today. I explained to her that she will be subject to cross-examination today and she understands that. I did explain that to counsel for the Committee, Michael Iacopino. I had a conversation with him prior to the commencement of the afternoon hearings and Mr. Iacopino was kind enough to let us give this explanation to yourself, Mr. Chairman and Mr. Vice-Chairman as well as the members of the Committee. So to avoid any possible misunderstanding, I think that Ms. Mazzola is prepared to explain the circumstances under which she is returning today and is able to provide full testimony before the Committee and she was, as Mr. Smith pointed out yesterday, part of the direct pre-filed testimony on behalf of the Londonderry Neighborhood Coalition.

CHAIR: Will she, to save time, simply allow her prior testimony to stand so that we don’t have to repeat everything?

ATTOmNEY ROCHWARG: I don’t see that there’s a problem with that. If I can just verify with
my client? That will be fine. Thank you, Mr. Chairman.

ATTORNEY SMITH: A couple of other matters. There was testimony that if anyone wants to come back as a witness we can do that. As I understand it yesterday, that there was a community meeting in Manchester in the spring of this year, I think everyone will recall. And I believe the correct explanation for that is that there was not a meeting of this public safety, informational type in Manchester in the spring of 2000. The last time a meeting like that was held was in 1998. I think the testimony was that those are held every couple of years and annual mailings occur. My client tells me that there were meetings to which people were invited in all three communities about this project. I think that may have led to the confusion on the witness’s part. But I just -- if anyone would like to ask the witness, they may, but I wanted to clear that up.

CHAIR: Sure.

ATTORNEY SMITH: Because you had asked us who would have attended the meetings and it is my information that there was not such a meeting this past spring.

CHAIR: So they’re not annual,
they’re --?

ATTORNEY SMITH: Every couple of years.

CHAIR: Periodic?

ATTORNEY SMITH: That’s what I’m told.

CHAIR: 20 years, 30 years, periodic meetings?

ATTORNEY SMITH: I think every two years they invite people to the meetings and every year they do the mailings. And people don’t come to the meetings every two years.

CHAIR: Is that based on a requirement or a policy?

ATTORNEY SMITH: I’m told that’s a policy.

CHAIR: Which could change?

ATTORNEY SMITH: Yes. I think that’s been the practice.

CHAIR: Okay.

ATTORNEY SMITH: The second thing, if I may, is yesterday the Committee asked if we would produce the 10K forms for the preceding years ending December 1998 and 1997. We supplied a copy of the form dated February 2000, for the year ending 1999 and I think that’s Exhibit #A85. I have here the reports for
the two preceding years marked Exhibit #A89 and it’s been suggested that we make more limited copies of this to Committee Counsel, to other Counsel if they’d like it but not a full set to the Committee and I’m just asking if that’s how we ought to proceed in reproducing this?

ATTORNEY M. IACOPINO: I suggested that -- they are the published versions from the Company. I suggested that just having the originals filed here, making sure that they got copies to the other parties.

CHAIR: Fine.

ATTORNEY M. IACOPINO: Rather than making 60 copies. If anybody wishes them we can have them made up for you.

ATTORNEY SMITH: Good. Thank you.

CHAIR: Michael?

COMMISSIONER CANNATA: Mr. Chairman, getting back to Mr. Smith’s first point regarding the meeting that I guess was not held in May of this year. I think the discussion was centering around that the Company periodically held meetings and it represented that not all communities took advantage of attending those meetings. If the last meeting was in 1998 I would like the request to stand to see who was invited and who attended the last meeting that was held and I think that
would answer my request if I may.

CHAIR: Okay. Good idea.

RESUME DIRECT EXAM OF MR. AURIEMMA BY ATTORNEY ARNOLD:

Q Thank you. Good afternoon. I’d like to return for a brief moment to Mr. Auriemma before we move on to Mr. Treddle to clarify something that I think might not have been completely clear when he testified earlier and that relates to Exhibit #27, which is the direct pre-filed testimony of Richard Stulgis. We had talked about -- or Mr. Auriemma you had testified as to what your understanding was in terms of reaching an agreement with Mr. Stulgis and the Office of Public Counsel regarding the nature of backfill trenching for intermediate water bodies and I was wondering if you would just state concisely for the Committee what Tennessee has agreed to do that you understand is acceptable to Public Counsel and at what water bodies?

A Yes. I apologize for the confusion I may have created. We were discussing the backfill of the gravel material into the trench of a wet crossing. We were going to apply that in full the entire depth of the trench at four locations along the pipeline route. I may have come across as sounding like we were going to do it in all locations, but as agreed to it’s only going to be
four locations. Basically the three crossings of Beaver Brook and the one crossing of the pond within, I believe it’s Muldoon Park.

Q Mr. Auriemma, before I let you off the hook here I’d also like to show you a couple of other exhibits which have been filed in this matter. They are Tennessee’s Supplemental Filing #1 which is A-24 and Supplemental Filing #2 which is A-71. Can you just tell the Committee are you familiar with these documents?

A Yes, I am.

Q Were they prepared under the direction of Tennessee Gas?

A Yes, they were.

Q And they were submitted on your behalf to this Committee?

A That’s correct.

Q Thank you.

ATTORNEY ARNOLD: We were discussing the water quality Draft Condition of DES which is C #6 and when we broke earlier today, related to the monitoring requirement and the different monitoring schedule that Tennessee Gas had proposed to DES. And I think what I’d like to do is move forward with a further discussion of that issue with Mr. Treddle. So Roger, would you please just state your name and business address for the
DIRECT EXAM OF MR. TREDDLE BY ATTORNEY ARNOLD:

A My name is John Roger Treddle. I’m with Northern Ecological Associates, 451 Persumscott Street, Portland, Maine.

Q Can you just briefly describe your educational background and work experience?

A I have a Bachelor of Science degree in forestry from Pennsylvania State University. Master of Science in Wetland Ecology from Duke University. I am a Professional Wetland Scientist, have been involved in -- I’m a principal and vice president of Northern Ecological Associates. We specialize in the environmental aspects of energy development projects and have been involved with a variety of projects from project conception, environmental field surveys, permitting, construction monitoring, post construction monitoring. We’ve worked both on behalf of pipeline companies as well as regulatory agencies including the U.S. Army Corp of Engineers and the Federal Energy Regulatory Commission.

Q What is your role and responsibility as regards the project before the Committee?

A NEA was brought into the project this past summer to
assist with the permitting activities, to provide testimony in this proceeding and to prepare for the construction phase of the project.

Q Can you briefly describe for us as well, what your experience has been more specifically in terms of dealing with water body crossings and the issues that are presented as related to water body crossings in this project?

A I’ve been involved with a number of projects where we had to prepare site specific water body crossing plans. I’ve been involved with like I said, basically all phases of the development of these projects from planning and implementation of the water body crossings during construction. I’ve also done turbidity monitoring and post construction monitoring.

Q Have you done research related to those issues as well?

A We’ve implemented on the most recent project in New Hampshire, the recent two projects in New Hampshire. The PNGTS project and the PNGTS-Maritimes & Northeast project. We implemented a comprehensive turbidity monitoring program during construction.

Q Let me show you what has been marked as Exhibit #67. It is captioned Direct Pre-filed Testimony of Roger Treddle. Can you identify that document?
Q Was it prepared under your direction? With your assistance?
A Yes, it was.
Q Do you wish to adopt it as your testimony here today?
A I do.
Q Let me direct you, please, to condition #6 and the proposed response by Tennessee Gas which was provided in Exhibit #62 to the State of New Hampshire and ask you if you could give us your understanding of that condition and the reasons for the proposal submitted by Tennessee Gas?
A Condition #6, as I understand it, was developed to go to the State Water Quality Standard for turbidity. Which is 10 MTU’s, or Methometric Turbidity Units. This is a very stringent water quality standard that the State of New Hampshire has, primarily intended for long term point discharges in water bodies. We understand the condition has been proposed to address our activities in water bodies in an effort to ensure compliance with this 10 MTU standard.
Q And in terms of the standard that’s proposed by DES, how does the response from Tennessee Gas differ? What issue does Tennessee Gas take with that condition?
A Tennessee Gas agrees with the concept of a temporal and spatial mixing zone, which is what is proposed in the condition. We understand that in order to enable this type of construction there has to be this mixing zone read. What -- and we fully intend to comply with the water quality standard. The problem that we have with the condition as written is that it’s extremely -- the monitoring component of it is extremely cumbersome and redundant in terms of the number of samples required and the various phases of construction that would have to be monitored.

Q Generally can you describe the number of monitoring -- you know, the sampling that’s required and how that compares with what Tennessee is proposing?

A The current conditions would require turbidity monitoring upstream and downstream of the crossing area, three to five individual, separate times during the construction. Each time for an extended period of time. So resulting probably at each crossing on the order of 50 or so samples collected during construction. What we found in implementing the program on the PNGTS-M&N projects was that we saw a very similar pattern from stream to stream and we were documenting the same pattern over and over again that basically what you
would expect to happen when you do construction in a stream. Turbidity is created for a short period of time. It settles back down after a short period of time and the pattern is fairly consistent. So what we proposed is a much more manageable scaled back version whereby we would be monitoring during the period of time when there would be the greatest impact and based on the empirical data from the PNGTS-M&N projects the greatest of that impact occurs during the water barrier removal and final cleanup phases of the project. We’re proposing to modify that so we have one sampling done on each stream.

Q And when you talk about empirical data from PNGTS you were involved in collecting that data and analyzing it?

A Yes, I was.

Q And I believe that that’s attached to your pre-filed testimony as well at Exhibit #67?

A That’s correct. That summary report for the PNGTS-M&N project.

Q That would be Attachment #4 I believe to that submittal. Is that correct?

A That’s correct.

Q What did you learn from the analysis of data from the PNGTS project in terms of how the monitoring was of
value as required under that condition?

A Well, as I stated before, we documented repeatedly. As everybody anticipated in the development of the condition of the monitoring program, that there would be a short term elevation in the turbidity level in the stream. That would settle back down after a period of time. That each time there was activity in the stream. Like I said, it was a very comprehensive program, very logistically complicated working around the equipment. But what we basically documented was that when you cross the stream you create turbidity.

Q So is it your opinion then that the value of the additional -- that there is no significant value to the additional monitoring that was requested but, in fact, you could gain the same knowledge of circumstances and the impact of the activity by monitoring around the event as has been proposed?

A Yes. I feel that the level of sampling that is proposed in DES’s current condition is in excess of what is required to generate valuable information.

Q Let me focus on one of the other issues that you’ve raised in your response, which is the logistical and practical considerations of the amount of monitoring and sampling that’s being proposed in this Draft Condition.
Can you speak to the practical impact of that as a result of your prior experience?

A Yes. As Mr. Auriemma mentioned earlier that at first glance of the condition it appears, it doesn’t seem as complicated as it is in reality trying to implement such a program. What it involves is numerous field crews and environmental scientists, technicians in various places in advance of construction. They have to position themselves in advance of the various phases of construction. Set up their equipment. Be ready and as the pipeline construction process -- it’s an assembly line process and there is constant movement up and down the right-of-way. So we are constantly having to anticipate where the crews are going to be. Get our people in place. Get our equipment set up. Collect our information and then quickly move to the next spot. What it does is create a lot of people working in close proximity to heavy equipment. They’re trying to collect scientific data. There’s side booms carrying pipe and backhoes operating. There is just really a lot of people being exposed in unsafe working environments.

In addition, as John mentioned, moving these crews from place to place along the right-of-way, they’re going to have to travel down the right-of-way, get on
public roads and travel to the next spot. And certainly we obey the laws of the road, but there’s just more traffic on the roads and in the construction zones as a result of the level of monitoring that would be required.

Q Mr. Treddle, are you familiar with other sites or permits that have been issued by DES that deal with this issue differently than as have been proposed here?

A I’m aware of several recent permits of pipeline projects that have been permitted that do not have the turbidity monitoring requirement.

Q I would refer you to Attachment 5 in your pre-filed testimony, Exhibit #67. Are those the permits that you are referring to?

A Yes.

Q So in your experience and based upon your education, is it your opinion that the increased monitoring or the monitoring that is being requested under condition #6 will provide an additional environmental benefit that’s warranted under the circumstances?

A The additional monitoring is not warranted.

Q Will there be a detrimental environmental impact if it’s not imposed, but rather if the condition as drafted by Tennessee is adopted?
A There would be no additional environmental impact as a result of it. Tennessee will be applying approved best management practices and I feel that those are acceptable to ensure compliance with the water quality standards and minimize impacts.

Q Just so that we’re clear, Tennessee has agreed to comply with the water quality standards that are set forth in that condition?

A Yes. That’s correct. Absolutely.

Q Let me turn your attention briefly to the issue of sensitive species and the natural plant community. Have you been involved in analysis of that issue for this project?

A Yes, I have.

Q Can you describe generally how that process works and what you’ve done on behalf of Tennessee to deal with those issues?

A Yes. Basically the process for any of these projects is consultation with the appropriate species of concern agencies. In this case it’s the New Hampshire Natural Heritage Inventory, the U.S. Fish and Wildlife Service, New Hampshire Fish and Game Department. Letters were sent to each of those agencies in 1999 during the early planning of the project. We received responses back.
Certain species, potential species were identified as occurring in the project area. Some surveys were performed prior to my involvement with the project. Some have been performed since my involvement with the project.

Q Let me direct your attention to Exhibit #53, which is a compilation of letters to which you refer. Would you just look through that and explain to the Committee what that is and if it was prepared on behalf of Tennessee?

A Yes. There are several letters here. There’s a letter to the National Heritage Inventory dated February 11, 1999 which requests information of known species of concern in the project area. There is also a letter to the -- actually a letter from the U.S. Fish & Wildlife Service. And letters from the NHI and from the U.S. Fish & Wildlife and another letter from NHI.

Q Has NEA or you on behalf of NEA responded to the governmental agencies that have been involved?

A Yes, we have.

Q What have you done in response to requests from governmental agencies?

A We’ve been in coordination with the New Hampshire Fish & Game regarding the state endangered floater mussel that was identified as potentially occurring in Beaver
Brook. It had been identified along the way during this consultation process. We’ve been in contact with John Cantor at Fish & Game as well as the U.S. Fish & Wildlife Service to identify their recommendations for surveys. They provided recommendations for survey methodologies as well as qualified experts in the area. We are a full service environmental firm but we don’t profess to be experts in brook floater mussels so we contracted with Professor Barry Wickole (ph), St. Anselm College in Manchester. He’s a recognized expert in applied ecology and mussels in particular and he has since performed surveys on each of the crossings.

Q What are the results of those surveys, if you know?
A There were no brook floaters or evidence of brook floaters identified in any of the crossings.

Q Are there other surveys that you are aware of that will need to be conducted regarding this project?
A There were, during the initial field surveys that were performed in 1999, there were several populations of rare plants that were identified and those were filed in the FERC filing as well as the EFSEC filing. There needs to be an additional survey to really pinpoint those locations just prior to construction so that we can implement any mitigation. Transplanting is the
likely form of mitigation to minimize impact to those populations.

Q If those populations are found or substantiated what is Tennessee’s willingness to deal with that situation?

A Tennessee will coordinate with NHI, Fish & Game, the appropriate agencies to develop an acceptable mitigation plan and carry that implementation plan out to avoid impacts. That’s a pretty standard practice with Tennessee Gas.

Q Thank you. I have no further questions.

CHAIR: Public Counsel?

ATTORNEY WAGELING: Thank you, Mr. Chairman.

CROSS-EXAMINATION BY ATTORNEY WAGELING:

Q While we’re on the issue of animals and plants, why don’t I just go back to it and I’d like to just confirm what I understand to be some of the processes that you intend to implement and just so we can have it in the record. As I understand it from reviewing documents there has been -- you’ve been informed as to the natural wetland inventory that there are black birch and swamp white oak in -- I’m sorry, there is a swamp white oak flood plain -- I’m sorry. The wording of my question is bad and I’m trying to rephrase it as I -- There is black
Birch and swamp white oak along the flood plain and
around the Beaver Brook area. And as I understand it
you’ve been requested to avoid construction within that
flood plain. Or at least there has been a
recommendation to that effect. Are you aware of that?
A I’m aware of it. I’m not aware that there is a request
to avoid construction. There was a request to consider
that in our crossing plan to minimize impact to that.
Following our best management practices and construction
techniques as proposed that should minimize impact and
by following the existing clear corridor.
Q Is there an intent, at this point as far as you’re aware
to have construction within the flood plain?
A Yes.
Q As I understand it there have been concerns raised that
if there is construction within that area that it could
seriously affect the hydrology or there could be the
potential and if there is there’s concern for the
habitat along that area. What is going to be done by
Tennessee to ensure that there isn’t any serious affect
to that area?
A I think the most important thing would be installing the
pipe in the existing clear corridor and in the existing
ditch line that has been disturbed previously and has
been successfully revegetated back to it’s present condition.

Q As I understand it also you’ve been informed that there’s a few rare plant species to include the wild garlic and the bulbous bitter cress in and around the area of construction. Also the river birch along the construction paths. As I understand it from the review of the documents, you have been informed that there could be an impact to these species with any increased sedimentation and I’d like for you to inform the Committee as to what you will do to monitor that in and around the areas that these species have been located.

A We intend to develop a specific mitigation program for each of these species in consultation with the Natural Heritage Inventory. What we’ve done on previous projects in New Hampshire, for example the PNGTS-Maritimes project there were some species of concern identified that we, in working with the Natural Heritage Inventory and John Cantor’s group at Fish & Game, we developed a mitigation program which basically involved transplanting of the plants up to a qualified nursery during construction phase, complete our construction and then replace them back in the appropriate environment after construction. Those species that are -- portions
of the population that not on our construction right-of-
way or directly adjacent we will flag and fence off
those areas so that there’s no potential for inadvertent
impact as well as any potential for off right-of-way
spoil or sedimentation that may occur.

Q In terms of the -- I think earlier you had talked about
one of the mitigation possibilities would be
transplanting and you’ve just given that as an example
in the PNGTS-M&N project. Have you gone back to see
whether or not there was success with that?

A Yes, we have.

Q What was it?

A Yes and no. There were certain species that did very,
very well and there were certain species that didn’t do
as well. They tended to be the ones that were very site
specific. They had very unusual soil and hydrological
characteristics.

Q What would those have been, if you can?

A I don’t know off the top of my head.

Q Well, I guess I’m wondering if they included in the list
of the endangered or threatened species that we’ve just
discussed, for instance the wild garlic or the bulbous
bitter cress or the river birch.

A None of these were found on that project.
Q What, if anything, can be done then, in your estimation with the failures that you’ve just discussed, is there any other mitigating factors that you could have implemented that would have better ensured the success of what you did?

A That’s a real good question in the whole restoration ecology field that’s -- there’s been a lot of research done on it. There are a number of studies that have been done and the conclusions are there are certain species that can handle this type of stress and there are certain species that are so site specific. One of the best ways to minimize impact is to reduce your impact area where you can. I’m personally not familiar with the real hydrologic and soil requirements of these particular species but as part of our work with the NHI we intend to come up with the best plan for these.

Q When you use the term ‘best plan’, I guess at the risk of what, I guess is my interest in learning for the people of New Hampshire, if it’s a matter of either changing spoil sites or moving the pipeline to accommodate it, who’s going to win out?

Q Well, there are a number of things that can be done, avoidance type measures that can be done without moving the pipeline. There’s restriction of the work space.
There’s putting spoil on the opposite side of the right-of-way as opposed to this side of the right-of-way. There’s fencing, there’s matting. One of the techniques we used on the PNGTS project was to mat over the populations and certainly they were crushed during construction but the root systems were retained and the soil was retained in place and those came back pretty well. So there are a number of techniques that we’re certainly open to working on.

Q As far as you’re concerned if there’s a disagreement between how any of this should be handled either from the New Hampshire Natural Heritage Inventory or Fish & Game or any other state agencies as compared to you as the consultant or Tennessee Gas, again, who’s going to win out? Are you going to cooperate with the state agencies to their satisfaction?

A That’s our intent, yes.

Q There are other animals that again, from my review of the documents, the Eastern box turtle. Are you familiar with the concerns of that and the banded sunfish, I guess were recorded in Beaver Brook. I understand you did the surveys for the floater mussel, were there any surveys done for either of those?

A No. Those species are a little bit lower on the status
in terms of their status in the state and no surveys were required.

Q You mean in terms of them being endangered?
A Right. They’re -- I forget the exact classification, but they’re certainly species of concern but they don’t have protection status.

Q So because they’re not higher up on the list, it doesn’t warrant a survey to ensure that they will remain safe through this project? Is that what you’re telling us?
A Well, a formal survey has not been required by the agencies.

Q What’s going to be done to coordinate ensuring their safety to possibly include relocating any of these animals found within the project to protect them?

MR. AURIEMMA: If I may?
ATTORNEY WAGELING: Sure. As long as we don’t have any panel creep we’ll be fine.

A (By Mr. Auriemma) What we’ve done to date by way of surveys are -- with respect to brook floater mussels and some of the plant species on the right-of-way, and some have been found. Now granted, every time we write agencies and request information in the project area with respect to species we can get a very extensive list. What we’ll do is we’ll consider that list, we’ll
talk to the agency before. We’ll ask what is really known of that list to occur in the area of most recent or historical records of something 50 years or older, we do give consideration but for practicality purposes, and we do coordinate with the agency with this. Now we have conducted some surveys to date. We have located some species. They’ve only been identified by way of location. We do intend to conduct further surveys for them. With respect to the box turtle and the banded sunfish, there was no recommendation for survey but it doesn’t mean the case is closed. We’re still coordinating with these agencies to implement the plans that were just being discussed by Mr. Treddle. I’m sure that will be brought up again and we’ll just confirm that issue one more time, whether we do have to do the survey or not. If we don’t, then we’ll just abide by the recommendation of the agency. If we do, we’ll work it into the plan and program that is still pending.

Q Will these agencies be coordinated with in terms of the relocation also?

A (By Mr. Treddle) Yes. If that’s required. Another thing to point out is that we will have environmental inspectors on the project and one of their duties during the pre-construction phase, they’ll be flagging wetland
boundaries. They’ll be doing flagging stream buffers. They’ll be basically walking along in advance of construction. Any incidental sightings of turtles or that kind of thing will be noted, they’ll be physically moved from the area of construction. So we’ll have people out there on the ground.

Just going back to the banded sunfish and Eastern box turtle. They are considered controlled species but not regulated.

Q When you say that there will be environmental inspectors, will they be qualified to provide the information that you’ve just indicated will be noted? If you don’t have people qualified in that area, I don’t know what the specific qualifications are going to be for the various environmental inspectors that you’re going to have there on the scene pre-construction.

A Are environmental inspectors are trained environmental scientists, typically at least bachelor’s level, if not master’s level. In some instances if there is a particularly sensitive species there will be a requirement for someone that really is an expert in that species. To date, none of these have been identified as requiring that an expert be on site.

Q One of the other issues again, within the documents that
we’ve been provided included a sensitive natural community up on Hickory Hill in Pelham. Are you familiar with that location? As I understand it the Natural Heritage Inventory has noted 13 rare plant species and one sensitive natural community within that area. It’s also my understanding that the Hill is composed of bedrock and till which is enriched in calcium and it sounds as if it might be a unique soil concentration as you have just previously discussed which provides a difficult situation for transplanting, potentially. As I understand it, again from the documents, these plants are concentrated on the ridge and upper sections of the Hill and possibly within the pipeline corridor. I guess I would like for the Committee to be informed what you are going to do to specifically monitor this area and ensure that this plant community isn’t altered.

A The specific species were not -- it was identified as a potential sensitive habitat but specific species were not culled out. But in our standard of construction through that area in restoring the grade, restoring the physical characteristics, we anticipate we’d restore the habitat appropriately.

Q Well, as I understand it, it is specifically composed of
till enriched with calcium and because of the particular soil type there is an ability for these 13 rare plant species to grow in that location. So I’m not sure exactly what you’re intending to do to restore it. If you could be more specific.

A Well, likely it’s bedrock material. Limestone based bedrock material which will not be removed from the site or the material that’s there will be restored.

Q Are you going to be segregating that soil to be able to replace it?

A It’s currently not in the plan but if that is what is recommended by the agencies, that could be implemented.

A (By Mr. Auriemma) If I may add again, these plans are ongoing and coordination is ongoing with the agencies. These types of matters can be worked out with them and made feasible for both parties to agree to.

Q Thank you. There is also an area, as I understand it, in a marsh wetland south of Old Nashua Road in Londonderry. And again, as I understand it from the documents, it supports the uncommon small Biden which is a wildflower. From what I understand, again, has only had six reported populations in New Hampshire during the last 20 years and I’d like to know on behalf on the people of New Hampshire if you’re going to provide
special attention to this concern and limit any impact
to the area?

A (By Mr. Treddle) Yes. It’s part of the overall rare
plant mitigation program. That would be one of the
species.

COMMISSIONER BROCKWAY: I’m sorry I didn’t
hear the end of your comment?

A That species would be addressed as part of the overall
rare plant mitigation program that we developed in
conjunction with NHI.

Q I think I’m off of plants and animals for a short while.
I might bounce around a little bit but I’ll let you off
the hook for a minute. I’d like to talk about spill
control plans and I’m not sure if this is the panel, or
if there’s anybody else? Okay. As I understand it in
the documents you’ve provided to the Committee you state
that spill prevention and control methods are based upon
approved spill control plans that Tennessee has
successfully used in the past. You also note that
spills will be cleaned up immediately. What time frame
can you provide to this Committee as the outermost limit
that you’re going to accept for spill cleanup?

A (By Mr. Auriemma) That’s a very good question and very
appropriate question. Section 7 of our Environmental
Construction Plan contains our spill prevention and control plan. Within that plan, as you noted, are the procedures that we follow, we’ve successfully implemented. Of course, the first act with respect to a spill is to contain the spill area and then notify the proper chain of command of who needs to be notified. We normally have these spills cleaned up immediately. Immediately meaning within an hour depending on the size. My experience, I’ve only had one spill out on a right-of-way, some diesel fuel got spilled while we were refueling and we cleaned it up within an hour. Basically took the soil, put it in drums, labeled them, sent them back for further detail and consideration to be taken care of.

Q I understand that’s your experience in the past and it’s taken it out but within the environment construction plan are you going to set an outer limit of time in which a spill has to be cleaned up depending upon it’s size or location?

A I can honestly tell you to set a time frame for reaction is going to be immediate. Immediate would be minutes, depending on the location of it and who is at the site. Now for the outermost time frame it’s going to be whatever it takes to clean that up and it’s very
difficult to justify whether it’s going to be five
minutes or several hours depending on the type and the
spill, where it’s spilled, the material that is spilled.
But we react in minutes.

Q You also have within that environmental construction
plan that the environmental inspector will assure that
the contractor notify appropriate agencies if it’s
determined that a spill exceeds reportable quantity
thresholds. Who decides what a reportable threshold is?

A That’s usually a measurement that’s given to us by the
state. Depending on which state we work in, for
instance, one of the toughest and most strict is Rhode
Island where they have a zero tolerance. If you
basically have a drop that comes off your transmission
of your car, you’re supposed to report that. We have
other states where up to ten gallons are acceptable
without being reported.

Q Within that same subject matter, in terms of who is
notified, would it be fair to say that there are state
and local agencies within that appropriate list of
notification?

A That’s correct.

Q Are there going to be records kept of the inspection and
maintenance of the pipeline during the life of the
pipeline where the records are available to DES and the PUC?

A I’m sorry, records with respect to?

Q The inspection and maintenance of the pipeline?

A With respect to inspection and maintenance, it’s more of an engineering realm. What we do from the environmental standpoint in relation to construction, we’ll do inspection where mandated for two to three years afterwards to ensure everything revegetates properly. After that the inspections that are involved with the engineering inspection do consider some environmental factors. Any sort of sink hole that it may create down the road or any sort of erosive condition will be monitored and it will be within the reports.

Q Are those provided to either the PUC or DES that you know?

A (By Mr. Treddle) Can I add something? During the construction phase each environmental inspector will be providing a daily environmental inspection report and then there will be an overall project summary environmental report prepared on a weekly basis. That’s been consistently provided to the state. Then over the long term we’ll do quarterly reports that are required to be filed with the FERC and those are also typically
filed with the state for a period of three years.

Q I believe I heard this, but again, because it’s on my list and just to make sure that the record is clear, did I hear correctly that no chemicals will be used to clean the pipes at either the construction site or in the pipe storage area?

A (By Mr. Auriemma) That’s correct. You might be referring to the hydrostatic tests. We don’t put any additives into the water we withdraw to conduct the hydrostatic tests.

Q What about in either of the piping storage area or before you bring it to the site or at the site or in the process, as it’s put in the ground, before the hydrostatic testing takes place, are there any chemicals used to clean the pipes?

A Not that I’m aware of, no.

Q I thought that that’s what you said yesterday. But just to make sure. Your ECP indicates, I think it’s at 3.1 that there’s going to be at last one EI per construction spread? What’s a construction spread and how big are they?

A (By Mr. Treddle) A construction spread, there may be times when we have a project as such, 16 miles long in New Hampshire. Nearly 20 overall. It may be considered
as one spread. IE where there’ll be one contractor.
There’ll be a singular flow. It will be treated as one
construction area. There may be times due to topography
or difficulty where you break it out into spreads. As
on PNGTS, it was broken into many spreads not only
because of its length but because of terrain. The
northern reaches up in northern New Hampshire had a
greater differential in elevation so it was treated as
its own spread. There may be times where we have a very
densely populated area with residential construction
that because of the different techniques gets treated as
its own spread. This project, I believe, is going to be
treated as one spread.

Q So there will be one environmental inspector for the
whole of the 16 some odd miles?

A According to the FERC regulation you have to have at
least one. We plan on having more than one because of
the conditions that will arise from this proceeding as
well as others. We know through experience that it’s
very difficult for one person to handle all these tasks
so we will have multiple out there. The exact number
hasn’t been decided yet, but I can guarantee you there
will be more than one.

Q You also indicate in that same area of your
environmental construction project that the EI must inspect activities daily to verify and document that the contractors are complying with the ECP. What documentation will be required and to whom is it going to be made available?

A (By Mr. Auriemma) The documentation for compliance, when I was an environmental inspector and Roger has also been in the past, you basically keep a field book with you. That field book basically becomes your bible so to speak. Everything that you witness. Everything that’s conducted on a daily basis. Everything that you notice gets written into that book. Now we do have some inspection forms that we use that follow the FERC forms. We have forms for water body crossings, wetland crossings, agricultural areas, residential areas. These will also be used. What we do is -- those are basically in-house documents. What we do is take that information, tailor it and as Roger stated, FERC is going to require most likely a week or bi-weekly monitoring report be filed with them. I know -- I believe we worked that out in a similar manner on the PNGTS project. Your environmental inspector will also be out there with his own data. If required, we’ll probably supply this information to the agency and the
reason why we whittle it down is just to get to the focus of what has been noticed throughout the period because it is many layers of information.

Q Will you agree to provide that to the state agencies?

A Sure.

Q Thank you. How long will unusable timber, stumps or rocks be left at work sites that are to be disposed of by Tennessee?

A We’d like to have that sort of material, with the exception of usable timber, we’d like to have that sort of material cleaned up by the end of the job. It’s been my experience in the past, the usable timber, the landowner is always very interested in it, of course particularly in this region with the firewood that’s necessary in the winter time. We’ll either just windrow it to the side of the work area with an agreement with the landowner that they’ll come get it. Most of the times I used to go back and do the revegetation monitoring two to three to four years after and I’d still see the same set of logs sitting there. So it’s more of a right-of-way issue in the easement negotiations. We have worked out in the past also that either the landowner can come get it or we can deliver it to their property. Things like that. Just to keep
it out of the way of construction. There are times when we are constricted on space. It becomes an issue. But the intent is to have that cleaned up with the exception of the usable timber from the job site.

Q From what I’m gathering, you try to do it by the end of the project, that’s just what you just stated. Maybe I’m not so concerned with the usable timber because I assume exactly what you’ve just indicated that you have agreements. The unusable timber, the stumps and the rocks, what’s the outermost limit that you’re intending to have that stuff remain at the construction site?

A Up until November 1st of the point of the permit with our cleanup. That is when we would like to have it removed. If, for some unforeseen reason, some part of it has to remain, we usually come back right in the next season and take care of it.

Q In your environmental construction plan 5.5 you discuss residential area construction sites. You indicate I noted, that lawns were going to be restored per landowner agreements and that ornamental shrubs are going to be replaced when possible and I wanted you to tell the Committee under what circumstance will you not be able to replace ornamental shrubs?

A That’s a very good question. The only time we are not
able to replace an ornamental shrub is directly over the pipeline. We have guidelines not only from FERC but within the company policy. We usually have a ten foot strip centered over the pipeline itself that we maintain on a yearly basis. We’re allowed to maintain on a yearly basis. From that ten foot strip, you go out another ten feet, so in essence, a 30 foot corridor. We do not prefer to have ornamental shrubs in there that could create any potential issue. What we normally allow is anything that would grow upwards to 15 feet only, directly over the pipeline but most of the time it’s just a cleared corridor.

Q What is the outermost limit of the time line that you’re going to permit for replacement of sidewalks, roads and driveways?

A We want to do that immediately. Again, that is a certain concern of ours also. Access to your homes, sidewalks, roadways, by the end of the project the construction season of 2001.

Q So again, November 1?

A Correct.

Q I have another animal question. As I understand it you all have stated that all impacts to migratory bird habitat will be temporary and I’m wondering upon what
data you are relying on to make that statement.

A (By Mr. Treddle) Just the nature of pipeline construction in general, it’s a temporary impact and we are maintaining a clear -- basically working through a clear -- already cleared corridor. We’re not expanding our right-of-way such that we’re going to be creating a loss of additional migratory bird habitat.

Q I apologize if this has been answered in previous testimony. I don’t recall it so with that in mind -- In terms of the hydrostatic testing and the intake and discharge locations, have you determined whether or not there are any fisheries located in or near those locations?

A (By Mr. Auriemma) From our current investigations we have not finalized that determination. We plan on doing it prior to construction. Again, as part of the mitigation program, even with respect to some of the endangered species discussed, we’ll negotiate with the agencies and work it out then but it hasn’t been determined completely to date.

Q When are you going to determine what the intake and discharge locations are?

A The locations have been discharged. Whether there is a fishery within the area has not been finalized.
Q Would it be fair to say -- I’m sorry?
A The locations have been determined, excuse me.
Q They have been determined. Are you going to do any
surveying of those locations within the time frame prior
to the start of construction or are you waiting until
construction starts? At least what is your intent at
this time?
A (By Mr. Treddle) What we do know about the stream, the
hydrostatic test water source is that it’s designated as
a cold water fishery. We do not have any records of any
endangered species or other significant fisheries in
that stream. It’s typically not the standard practice
to do a survey. The withdrawal of hydrostatic test
water is a relatively low impact sort of thing. There’s
the intake pipe is screens so that you don’t entrain any
fish or other organisms and then the discharge is either
back into the water body through a diffusing structure
or on land near the water body through a diffusing
structure. So in terms of the impact, it hasn’t been
shown to be a problem.
Q As I recall, that was a condition, potentially a draft
permit condition that was noted by DES that they wanted
you to provide the exact location on a USGS map of the
withdrawal points and then become aware of the
characterization of fisheries in and around those areas. Am I correct in that? Okay. Are you going to comply with that?

A (By Mr. Auriemma) Yes. We will. We prefer to do it prior to construction. We probably will do it prior to construction. Again, as Roger said it’s not a normal procedure but we didn’t see any issue with respect to that condition.

ATTORNEY M. IACOPINO: Perhaps later on you can just tell the Committee where those areas are that you’re going to do the discharging of this water.

A We have a preferred and an alternate area of withdrawal and it’s the Beaver Brook crossing at milepost, I believe 4.79. And the alternative location is a second crossing of Beaver Brook further north from there.

Q Again, I have to apologize. I had to step out of the room for a minute and consult on another issue, but in terms of the restoration along the right-of-way, if it appears satisfactory in the first year, or even the second year and then in the third year everything has now died. Not everything, but a certain proportion. Or there’s been an influx of undesirable plant life in the second growing or third growing season, what, if anything, is Tennessee going to do to respond to those
concerns?

A Again, we’re mandated for two to three years after
construction to make sure that everything revegetates
properly.

Q Is that two or three?

A Well, it depends on the agency. I believe FERC says up
to three the Army Corp may say even more and it depends
on the issue also. FERC with respect to agricultural
areas which we have very few, on this project require
two years of monitoring crop productivity. Wetland
areas are normally seen as three years. What we end up
doing is just sweeping the entire right-of-way anyway.
If during that period it seemed to revegetate
successfully what we normally do is just end the program
with respect to that and turn it over to the operations
group. We do get calls past that period of time
occasionally by a landowner or even someone monitoring
the pipeline may bring up an issue and we remediate the
condition at that time. It’s very difficult to say what
we’d do, it just depends on what you happen upon.

Q There’s a term of art that’s used on the documentation,
"An inadvertent disturbance of the right-of-way." You
have indicated that if there is such a thing that an
employee of Tennessee Gas is notified immediately and
then they decide what to do. And then it goes on to indicate that landowners and agencies are to be notified of the disturbance. But you don’t indicate any time frame in which any of this notification is going to take place. I’d like for you to explain to the Committee those time frames for landowners. The time frames for the different agencies. Do you have any specific requirement of time frames for notification for those different people?

A If I may, I think you might mean “inadvertent disturbance off the right-of-way?”

Q I could have had a typo there.

A It’s okay because off and of are very, very similar. “Inadvertent disturbance off the right-of-way”, needless to say it happens, you have to factor in human error of these projects. It’s normally minimal. Actually, someone parking their vehicle off the right-of-way is considered an “inadvertent disturbance off the right-of-way.” Depending on the occurrence and what has happened, the landowners is usually notified that day. We usually take a day to assess what has occurred, what has to be done, how to mitigate it, get our facts together and call the agencies or notify the agencies that same day or by the next morning. It’s usually no
more than a 48 hour period that everyone is notified.

Q I don’t mean to be a lawyer here but when you say
‘usually’ I have concern. So is that a definite? You
are going to notify landowners within the same 24 hour
periods and agencies?

A Yes. It may spill into that next morning, depending on
what has occurred and for us to gather our facts with
the agency. But the landowner that same day is
definitely notified because they are the ones that --
they may even notice it so we have to discuss it with
them. Your environmental inspector will be out there.
Probably he will be notified the same day, because you
do have the privilege of having the inspector out there.

Q Again, I think that this has been covered but if it
hasn’t I’m glad I’m bringing it up but I apologize if
I’m being redundant. I noted that there had been an
agreement that you will be clearly identifying the 12
inch pipeline in, at least in the dry areas, and I
wanted to ensure that we’re talking about a staking of,
or somehow positively identifying the 12 inch pipeline
through the whole duration of the pipeline.

A Yes.

Q When water crossings are going to be conducted in the
wet will you all agree to stake, and it’s for a variety
of reasons but, stake the pipeline, the 12 inch pipeline? As I understand it, in consultation with Haley & Aldrich, it was recommended that approximately five feet off from the 12 inch pipeline they had recommended staking in the wet so that the stakes can provide information, for instance, you can tell if the soil wall has been compromised and so forth during your trenching and whatever activities are going on in and around the 12 inch pipeline while you’re in the wet. Will you all agree to do that?

A I will ask Mark Hamarich to answer that. The only thing I can add is that in the past I’m seen a stake center line through the water body and I know they’re asking for the five foot difference and that’s something for Mark to answer.

Q And not just the center line as I understand it.

A Correct.

MR. HAMARICH: We have agreed to that and we’ll also mark the center line in five feet over from that in the existing trench line.

Q Okay and we’re also talking about not just at either end of the wetland crossing but throughout the wetland crossing at appropriate increments?

MR. HAMARICH: Absolutely. And the
only thing I want to add is if it’s in the steam crossing, it might be either bank as the approach. I don’t know if we’re going to do the -- if you’re asking for a buoy or something in the middle we might be able to do something like that also like they do when they’re doing a water crossing. In other words, if it’s a stream 35 feet across and it has stakes on either side I don’t know with five feet across what the options were.

Q As I understand it the buoy system isn’t necessarily a concern it’s more that we want to be able to determine if there’s any compromise during the trenching of the swale wall and also so that you absolutely are aware of where the 12 inch pipeline is. If you’re stringing buoys it’s not going to --

MR. HAMARICH: No. What I’m saying is if you’re in water it’s very deep in the extremes however we mark it. We’re going to have to use some system to mark it in the streams. We can do that.

Q And I wasn’t aware that any of the water bodies were that deep in this project, are they?

MR. HAMARICH: We can mark them five feet off. We’ll work up a system, whether it’s buoys or stakes.
Q Thank you. I just want the record to be clear that I think the parting comment was buoys or stakes and buoys aren’t what would be acceptable and we can have that testimony presented but --

MR. HAMARICH: Stakes.

Q Thank you. In the documentation provided to this Committee you indicated that temporary work space beyond approved construction right-of-ways will be located at least 50 feet from the boundary of all wetlands and service water unless appropriate approval is given. You have indicated that that was alright with all of you as long as possible and then you went on to qualify that by including a statement where efficient construction will require. Otherwise you will ask for a variance. And I guess I would like you to explain to the Committee of an example of when the efficiency of this construction project will get in the way of the concerns of the people of New Hampshire have for their wetlands and water bodies.

A (By Mr. Treddle) I think it’s not just efficiency, I think it’s practicality. There may be situations where there may be a wetland right adjacent to a roadway and we typically need additional work space to conduct the road crossing. In that particular case it’s not
possible to locate that extra work space 50 feet away from the wetland because it needs to be adjacent to the roadway in order to complete the construction. That’s normally the reason why we would request additional work space closer than that 50 feet. It’s a physical necessity of doing the construction.

Q If I could have just one more minute. I’d like to ask a few questions about the wetlands crossings. Again, for the record I think, in part, I’d like to ask some of these questions. The Dunlop wetland in Pelham is designated as a prime wetland. What efforts to minimize impacts of that wetland have you done and what coordination has occurred with the Pelham Conservation Commission?

A (By Mr. Auriemma) The coordination with the Pelham Conservation Commission is that we did hold a workshop and we did have written correspondence which I believe is included as part of the record. We’re going to be using that wetland for what we call a push/pull construction technique. It’s noted as a wetland construction method III and I know the numeric and the Roman Numeral, we try to differentiate between the water body and the wetland. What that entails is to minimize impact. It minimizes the amount of equipment within the
wetland. Due to the hydrology of the wetland we normally have one piece of equipment walk through that wetland with a set of timber mats for support. It will excavate the trench, the pipe will be welded together on one of the ends of the wetland and it’s usually pushed and pulled through the trench and only that one piece of equipment comes back through the wetland to backfill all of that. What that does is minimize the amount of equipment. It minimizes the amount of impact. It minimizes the amount of disturbed area. But it does depend on the hydrology of the wetland. If for some reason we get a summer of 1999 and it dries up we will have to coordinate again with the agencies and try to discuss an alternate method but that is our intent at the present time.

Q With that same thought in mind, at least in terms of the documentation that you’ve provided, you’ve indicated that it’s underlain with unstable organic soils. Have you done any test borings to determine what data you were relying on to make that assertion? As I understand it that was in part the basis of your decision for the push/pull?

A We have not done any test drilling or borings out in the field and there is a differentiation between drilling
and boring or coring. What we have relied on is existing literature and basically field walk throughs. You can tell just sometimes by walking through a wetland that it’s an unstable type soil. Plus it’s just past experience of dealing with wetlands as such in this region and within the State of New Hampshire.

Q I have basically the same question on that. The wet crossings that you’ve proposed for Beaver Brook and Little Coos Creek, you have indicated that, at least insofar as, I think, the Beaver Brook crossing, you substantiated in part by relying upon the fact that there’s a sandy soil base and I have the same question as it relates to that. Did you do any testing that provides you with that information?

A To date we have not. That was a visual inspection of a field walk through.

Q Do you have information that would tell you what the specific level of water flow would be at the time that you’re doing the crossing?

A If I may. One minute. I’m going to allow Eric Kleinhenz to provide an answer.

MR. KLEINHENZ: During some of our engineering survey walk throughs we had determined depths at that time and also widths of the Beaver Brook
crossing and obviously, that would be dependent upon the
flow conditions at that time.

Q Is it a fair assumption for this Committee to believe
that your crossing methods may change dependent upon
what you find at the time you begin that part of the
project?

MR. KLEINHENZ: That is correct. And
also, as John alluded to, the wetlands crossing as well.

Q If deemed appropriate, and again, I’m not meaning to put
this in to suggest that I think it is appropriate but if
appropriate at the time that you’re making that decision
will you include directional drilling as an option if
it’s deemed appropriate at the time?

MR. KLEINHENZ: In terms of all
locations?

Q Sure.

MR. KLEINHENZ: We did some field
observations regarding the feasibility of directional
drilling and based on impacts and other factors we did
not consider those viable options.

Q You don’t know any of the substrate conditions of any of
those crossings? I mean that’s not part of your --

MR. KLEINHENZ: Not specifically.

There are no specific soil borings done.
Q Has it more to do with the right-of-way distances that are available?

MR. KLEINHENZ: Right. Obviously that’s the impact that we’re discussing.

Q Thank you. I just have a couple more questions. Again I think it’s the lawyer in me coming on when I reviewed some of these documents. In the Draft Conditions of DES, it stated that a condition would include that Tennessee would conduct crossings at times approved by New Hampshire Fish & Game. Your response was saying that you agreed to it as it relates solely to the installation of the 20 inch pipe. Was there some distinction you were trying to make there?

A (By Mr. Auriemma) Yes, there is. Actually, when I wrote that I knew it would raise questions from someone so it’s very good that you found it. What we’re trying to do is make everyone understand that compared to a project that was recently built, PNGTS-M&N that this is a two step process. We have the removal of the eight inch pipeline but we also have the installation of the 20 inch pipeline. Certain conditions with respect to the draft set that was released on August 29th have timing consideration or certain aspects of construction that if you consider it for the eight inch pipeline it
somewhat becomes double work because you have a two step process. To remove the eight inch pipeline, most of the time, we try to snake it out from underneath the water bodies because we don’t want to get in it until we do the actual installations. But in order to remove that pipeline we may do it outside of that period that’s recognized for the installation of the 20. Now our intent may be to snake it out from underneath the water bed and not have to get in. But for some unforeseen reason, as it’s snaking out, you don’t know. You may end up having to get into that water body. There may be times that occurs. What we’re going to try to do is analyze those types of areas and we may do the crossing simultaneously with the removal.

Q So I guess my interpretation of what you’re stating to this Committee is that you, while you’ll comply with the concerns of the New Hampshire Fish & Game as it relates to the installation of the 20 inch pipe, you’re not going to do so with the removal of the eight inch?

A No. We intend to comply throughout the entire project. The intent is to snake that pipe out from underneath the water body. Like I said we have to discuss it with the engineers. We have to do further field visits. We have to determine the timing of removing that eight inch
pipeline with the installation of the 20 inch pipeline with respect to the scenario that you’re noting. We’ll most likely do it simultaneously. But the reason why I put that wording within some of our responses is to make everyone understand that it is a two step process.

Q Understanding that it’s a two step process, it is a two step process for that same crossing.

A Correct.

Q And I’m sure you can understand that the people of New Hampshire have the same concerns as it relates to the impact that it might have on that crossing relative to the removal of the eight inch. So I guess I’m wondering why our concerns will be addressed by Tennessee as it relates to the installation of the 20 but potentially not as it relates to the removal of the eight?

A It’s a different construction process to remove than to install. Most likely it will not impact or violate the standards. But you always have to build in these factors that may occur. And until we do further research -- it may negate that wording that I put in. But at the current time with what we know about the project all we’re trying to do is have everyone understand that the process involved with removal versus the installation, it may change once we get some further
investigation conducted.

Q I noted some other distinctions in the answers. One of the other ones was the completion time lines for stream crossings. In the DES report it qualified that to include trenching, lowering, backfilling and restoration. You responded by stating that you agree as it applies to both removal of the eight inch and installation of the 20. But I wanted to make sure that it included, as noted by the DES condition, the trenching, lowering and backfilling and restoration.

A I agree.

Q Thank you. That went quicker when we agreed, didn’t it? You also qualify a response to DES condition about stream bank contours and stabilization. You indicated that you agree as it applies solely to the 20 inch installation and I assume it goes back to the same discussion we just had about the eight inch.

A Yes.

Q I can indicate to you that I have concern for your response as Counsel for the Public.

A I’d like to qualify that. With respect to the removal of the eight inch, there’s going to be some disturbance. Most likely it will not occur within the stream bed. And again, in those scenarios where it will, we will
probably do that simultaneous, removal, installation.

Q When you do it together there’s not so much problem?

A Correct. But there are times too, particularly when you refer to final stream bank stabilization. Here’s what we’re trying to avoid. I guess my fingers might have gotten tired and I couldn’t type all this into the document.

Q Sort of like my off and my of.

A When you say final stream bank restoration what we envision that as is final, i.e. it’s battened down, we put our mulch down. We may or may not put seeding, depending on the stream bank. To do that, for the removal of the eight inch and then come back in and tear it up for the installation of the 20 inch, we’re just looking at it in that sort of process. And this may be the areas where we don’t have that simultaneous. There are going to be areas where we’ll be very capable to snake the eight inch out from underneath the stream bed. Now for instance, let’s just say as part of the stream bank there may be some slight disturbance. Very slight. Because most of the time what we do to remove that is we’ll cut the pipe a certain distance back. As we’re snaking it out let’s just say that it creates minor disturbance. We will temporarily restore that before
the installation of the 20 inch. But to go to a final and then have to tear up a final restoration, to us it just didn’t make sense.

Q Do you agree that -- well, let me put it this way. Will you agree to work with DES to come up with a mutually agreed upon process for those types of specific concerns that you’ve outlined within your testimony?

A Yes and particularly with the environmental inspector in the field.

CHAIR: Could I just interject here a bit? One of the concerns that I think people are driving at is the possibility for delay in your project in which you say you have an end date hopefully, you’ve indicated in the application of November 1st but we’ve seen through past history that sometimes projects aren’t finished on time and there could be heavy rains in the fall, typically fall season has heavy rains and you could have a situation in which the site restoration is not completed. So you would then potentially have the concern would be a situation in which you have opened up an area, haven’t restored it and it goes all fall, all winter and into the spring before it’s addressed and the potential harm, degradation that could occur during that time period. So just to elaborate for some of the
others who may not be familiar with this kind of an issue and we’ll get to that later, but. Thank you.

Q I have one last question. In reviewing the Massachusetts recommendations to FERC on the same project, it recommended that Tennessee be required to provide an evaluation of environmental advantages and disadvantages of the removal or the abandonment of the eight inch pipe. Up to this point I know that there comments made within your proposal that there were situations where you might have to abandon the eight inch in place. Have you prepared that information, well, let me step back a minute. Were you asked to provide that information and if you were asked, have you done so? And if you have done so will you do that for New Hampshire also?

A I’m aware of the situation with respect to that issue. We are continuing to review that. Most of the areas where the abandonment in place would occur are going to be at the road crossings for the reasons that the engineering panel considered. To date I’m not sure if we’re going to leave or abandon the pipe in place in any other area than the road crossings. I know this is an ongoing type of measure we’re looking at. We have not supplied anything to the state yet because it is an ongoing issue. If we do so for them, we don’t see it
being a problem to supply the same type of study to the Committee here.

Q As a follow up, would you agree to do so for New Hampshire notwithstanding, what you do for Massachusetts?

A Correct. Yes, I will.

Q Thank you. I have no other questions at this time. Oh, I do. I apologize. I’m sorry and it’s solely relating to the turbidity studies that you’ve discussed. My question is actually rather simple and I’m sorry if my question is long but it’s a reasonably simple question. If the turbidity monitoring that you’ve talked about, the results of that that you talked about that were conducted on the PNGTS-M&N project, if it was collected as I understand it, based upon turbidity occurring or resulting on a project when the project manager knew that there was going to be turbidity monitoring. Is that a fair basis upon which you now come to this Committee and say that it’s redundant monitoring? I guess what I’m trying to get out is, do you have any empirical studies or just a basis of knowledge that you can tell this Committee that notwithstanding what happened with PNGTS-M&N that these studies are redundant? Because, as you can imagine, what I’m
wondering is if everybody on the project knew that these
studies were going to be done and they did, then
couldn’t that have affected how they managed that
project as it related to the turbidity?

A (By Mr. Treddle) There is a very involved process in
developing the study. We felt, I guess, going into the
study that it was more than was really necessary the
first time and then when we actually implemented it,
that sort of confirmed what we had envisioned going into
it that it was kind of overkill.

ATTORNEY M. IACOPINO: Along these lines.
Was there anything built into the study to eliminate
that sort of bias that people who were doing the study
brought to it? Was there any sort of blind -- people
doing evaluations blindly or any kind of control group
or anything like that so that your results aren’t
subject to the bias that went into the study?

A I’m not sure I understand the question. I don’t think
there was any bias introduced by the people that were --
we were implementing basically the permit condition as
it was written. And basically followed the procedures
that we were required to follow and we just determined
that that level of monitoring was excessive. There was
a lot more data saying the same thing over and over, was
collected.

Q  It’s my understanding though that -- and exactly that. As you continued with the study you were finding the results that you expected to find. That is, the same turbidity monitoring levels were changed as time went on just as you expected. That’s pretty much my point though.

Have there been other studies done where -- you were measuring turbidity based upon the actions of a contractor who knew turbidity studies were being done. Do you have anything that you can point us to that would tell us that that’s what happens all the time even if people don’t realize turbidity studies are being done. Maybe I’m wording it badly but
A: I understand what you’re saying. I can’t point to any examples where the contractor is sort of being monitored without them knowing it.

Q: That would be a good example, thank you.

A: But I think, the number of inspectors that are out there watching construction, the contractor was building the project the way they would have built it whether there was monitoring going on or not. That’s my professional opinion. The monitoring did not affect how they constructed the crossing. It did not affect how they trenched. How we installed the flume pipes. That’s -- you know, there’s a way to do it and that’s the way it was done. And the monitoring was just kind of documenting what went on during that normal process.

Q: Sir, I would agree with you in a perfect world. Thank you. I don’t have any other questions.

ATTORNEY V. IACOPINO: Mr. Chairman, may I just follow up a question or two on that?

EXAMINATION BY ATTORNEY V. IACOPINO:

Q: That whole issue, in the prior pipeline case was a very controversial issue, was it not?

A: Yes, it was.

Q: And the division of the Department of Environmental
Services representatives were involved with that to the extent of constant monitoring, were they not?

A    That’s correct.

Q    Did you at any point convince them that their standard was wrong and that they should -- or it was too tight?

A    We were never able to convince them of that, no.

Q    And without being facetious about this, during the course of that operation you were constantly telling them that this is unnecessary and they were constantly telling you that it was necessary?

A    I don’t think throughout construction. We accepted that that was the condition and we were going to comply with it. There wasn’t any continual dialogue about we shouldn’t be doing this. I think once we got to the point where it was going to be a condition, we implemented the condition, regardless of the results.

Q    Well, I guess what’s concerning me, I’ve never found the agency people to be unreasonable and if you’re telling me that you were making these measurements and they were continuously verifying what you had told them, I can’t believe that they wouldn’t have changed their standard or their practice, to be honest. I find that a little hard to take.

A    The actual results from each stream crossing were not
being reported on an ongoing basis to the DES. So I guess they wouldn’t have been able to see the empirical data as it was being generated.

Q Well, they’ve seen it since though, haven’t they?
A It has been submitted in a report, yes.
A (By Mr. Auriemma) If I may add, that’s the reason for the request now within the draft permit conditions. Going into the project in which it was implemented there were numerous similar studies which reflect the same results done by the Gas Research Institute, done by Southern Gas Association of American, done by the Interstate Natural Gas Association of American. We brought all of that to the table to reflect what it is that should be expected during these crossings. And the measurements as taken in the field did reflect those same results.

CHAIR: Town of Londonderry is not here, correct? So Londonderry Neighborhood Coalition?

CROSS-EXAMINATION BY ATTORNEY EDWARDS:

Q I just have one quick question for the environmental panel on this issue of tree removal and what I’m wondering is if the removal of large numbers of trees in the right-of-way has the potential to impact adjoining
landowners’ property or even adjoining wetlands, in terms of water retention. What I’m wondering is if removal of a lot of trees and their root systems has the potential to, for example, impact someone’s back yard in terms of being wetter than it normally is during the wet season?

A (By Mr. Treddle) That has been a documented occurrence. When you remove trees it reduces the evaporal transpiration and you can have a little bit wetter soils. I haven’t observed it as being a problem in a pipeline project. I know it’s a problem in clear cutting, a lot of times you can change the hydrology of an area, of a large area. But the amount of clearing we’re talking about, it doesn’t, in my opinion, would not create a change in the hydrology of the soil.

A (By Mr. Auriemma) If I might also add, the removal of trees outside the permanent easement area is temporary. We’re required to revegetate those areas and starting after actually with restoration of construction and monitoring, revegetation. With this project it’s already existing corridor. We’re not expecting those type of impacts from the tree removal.

Q Right. In the event that it does impact someone’s property I would just like to know what the landowner is
supposed to do. I don’t know that it’s been addressed in the application but if they perceive their property to have been wetter as a result of some surrounding tree removal. Do you have any thoughts on that?

A What we do, as a matter of fact, with respect to the FERC environmental assessment, there is going to be mandated by the FERC a landowner dispute resolution procedure with respect to environmental concerns during construction and to some period after construction. Now I know the period after has not been determined. Most likely FERC will include that within our monitoring period and being that it’s a draft environmental assessment, we haven’t begun to work on it but we are expecting that that procedure will be in place in addition to what our property rights services group already has with respect to company policy and function with landowner concern.

Q I’m wondering if this has ever been brought to the attention of landowners before the tree removal so that they can essentially monitor their own property to see if they think it’s been affected by this.

A If I may ask one of our right-of-way agents to assist me with this. Since it’s not a concern with respect to construction from the normal sense, it’s usually not
discussed with the landowners that a removal of a tree may create increased hydrologic conditions on the property. The right-of-way agents, Rick if you’d like to get up and assist with the answer. What is actually discussed during negotiations?

Q He’s not been sworn in.

RICK LOPEZ

having been duly sworn by Attorney V. Iacopino

was examined and testified as follows:

CROSS-EXAMINATION BY ATTORNEY EDWARDS:

A My name is Rick Lopez and I’m a coordinator for this project and generally landowner concerns on our right-of-way, we have another gentleman named Mr. Hubble, we meet with these landowners in their homes and discuss any problems or concerns that they may have. They bring them to our attention. If it’s outside of our responsibility then we discuss it with the proper individuals. If it’s an environmental issue then we discuss that with John. Construction? With one of the engineers. But we’re responsible for all of the landowner contacts.

Q So during the initial landowner consultation would something such as potential for the land to become wetter from season to season, would that be brought to
their attention?

A If someone asked about it. We're not out there to observe it.

Q I understand.

A Okay.

Q I have one more question. When do you meet with the landowners?

A We're in the process of doing that right now. We have met with probably close to 90 percent of the landowners on either line.

Q Okay. Thank you Mr. Lopez.

CHAIR: Questions from the Committee?

ATTORNEY ROCHWARG: I have a few. I'm sorry.

CROSS-EXAMINATION BY ATTORNEY ROCHWARG:

Q I think it was Mr. Auriemma, you were, at the beginning of your testimony, it seems like some time ago, but see if I can pull it back and you can help me perhaps. You had testified to something that you referred to as zero noncompliance. Could you be more specific and explain to the Committee what you meant by that?

A (By Mr. Auriemma) What our company policy and train of thought entails is no environmental infractions. That
means no violations. Abide by all the permits. Abide by the conditions. Abide by what’s been discussed and supplied and filed with the agencies. That is our goal. That is our mission statement.

Q What happens if that is not attained?

A If that is not attained, again, it depends on the infraction, it is remediated. It is taken into consideration. It is taken back to the Houston office. It’s a lesson’s learned. It gets involved with further training of staff. It does get noted by our senior management. And again, depending on what occurs, there are several different things that can happen but the largest intent is to bring it back and create a lessons learned scenario so it does not occur again.

Q So other than preventing repeat occurrences will Tennessee take additional mitigative measures to rectify any damage that may have occurred as consequence of the noncompliance?

A Yes, we will.

Q You had indicated during your testimony, I believe it was regarding trench water disposal that Tennessee had concerns about disrupting the flow of construction. If you could, does that disruption to the flow of construction include additional costs to Tennessee?
Does it also include concerns for delay of completion? I would imagine. And does it actually include in that analysis additional environmental impacts?

A Yes. All of the above.

Q How would it add to potential environmental impacts, if you could be more specific? I think the other two are inherently obvious.

A Let’s use for example the sump method where to dispose of the trench water we can excavate a small hole and depending on the amount you’re going to dispose of, will dictate the size of the hole. You now have an area where that spoil has to be placed. We may not have considered that sort of method in that location. We may now have to ask not only the agencies within New Hampshire but the FERC for increased land disturbance area. That could in turn create clearing of trees just to place that spoil properly so that it’s out of the way of construction. That’s just one example.

Q Something that you said earlier in your testimony and perhaps to adopt a comment of the Attorney General present, Attorney Wageling. Something to me is intellectually inconsistent with what you said and maybe it’s the lawyer in me as Attorney Wageling has said, you said something about you did not want to remove heavily
sedimented water in full because one, it couldn’t be removed. I think you said it can’t be removed in full. And then you said, it’s very difficult. Which is it? Is it that it can’t be removed or is that it’s difficult and becomes more costly?

A Using the current technology it cannot be removed in full. Now the intent is to minimize. The intent of our approach to these projects is to minimize the environmental impact. With using such methods it becomes extremely difficult. You just cannot remove all the sediment from that discharged water. Even setting up numerous filtration devices. It’s just the intent to minimize.

Q So it’s the current technology that doesn’t allow full removal?

A That’s correct.

Q Is Tennessee Gas currently undergoing any research and development to increase the removal of sedimentation procedures?

A We do, as a matter of fact, I’m actually involved with such measures. We work within the Gas Research Institute. We work within INGA and SGA which I mentioned previously. I’m constantly attending seminars to discuss such measures, not only with respect to trench
water but just other methods of construction for pipeline.

Q Along that same testimony, I believe, regarding trench water disposal as well, you mentioned in your direct testimony, if I’m not mistaken that there were times when a filter bag is not necessary. Is that correct?

A Yes.

Q Can you describe to the Committee if you would when that might occur and what are the criteria that you use in order to determine that a filter bag is not necessary?

A It may depend upon the amount of water within the trench. The amount of suspended sediment within that water. There are times you can walk up to a trench that’s been left for several days and the water is crystal clear. You may have dense vegetation off to the side where a simple hay bale sump will handle it as compared to a combination of a filter bag. It depends on the location of where you discharge that water. Of course the filter bag is one of the better mechanisms to apply. However, it doesn’t apply in every situation.

Q This question might combine some blasting as well as environmental considerations and hopefully someone here can still address it. Has Tennessee tested the surrounding areas for contamination, for example,
surrounding areas of wells and what have you for potential contamination to wells during and after blasting?

CHAIR: Did you mean before and after blasting?

Q Correct. I’m sorry. I might have said during.

A What we normally do for well tests, pre and post blast are water quality and yield. In and around the area of the well it’s normally not tested. Now what we do as part of our investigation is to look for and coordinate with the agencies of any known contaminate sites along our project corridor.

Q Have any those known contaminated sites been identified as of this point in time?

A Not to my knowledge.

Q Have there been efforts to ascertain whether such contaminated sites exist?

A Yes, we have. Through out FERC process and also included within this application.

Q Have you exhausted all efforts to identify contaminated sites?

A Yes, we have. We’ve even as part of our field survey and visual inspection of the project corridor. We’ve also looked for any sort of surface feature which might
allude us to think that there is something there. We
also keep an open eye for it during construction,
particularly during the trenching.

Q I think it was during your discussion of in stream
drilling and blasting that you had mentioned and it may
have been during your discussion of in the dry. You had
mentioned conforming your approach of the 30 water body
crossings on an as needed basis in the dry. Could you
identify or specify what the criteria are for
determining what the as needed basis would be?

A I’m not sure I understand the question. Correct me if
I’m wrong, you might be alluding to that 30 out of the
37 water bodies involved with this project are to be
crossed in the dry. That is going to be the
installation technique. We plan to conform the in
stream drilling and blasting in the dry with those
techniques at those 30 locations.

Q On an as needed basis?

A Okay, on an as needed basis -- right now we have a
preliminary list of areas where blasting is anticipated.
We don’t have a complete list. So it may not be
necessary for all 30 of those areas for any sort of
drilling or blasting.

Q So those will be identified I believe you said, when you
go out to the field and make further determinations? Is that it?

A That’s correct. It’s identified prior to and during construction.

Q I think it was your testimony as well, you discussed that you’d seen the use of old tires to be used as blasting mats? Tires tied together?

A Yes.

Q What will be used in this particular project if Tennessee has identified such a mat procedure?

A I’m unsure to this point what techniques are going to be applied in the field. What we already know we are going to do is that same end result. We just don’t know what method is going to be applied. We don’t know if it’s going to be that type of blast mat.

Q Do the various blast mat methods used, have varying environmental impacts?

A Through my experience and there is more than just the blast mat as I described. If you can envision the tires are not whole. They are cut into sections and then they are chained together in that manner. In drier areas, of course not in the water body, we’ll use simple spoil. We’ll place spoil on top of that blast area and let that be the mat cushion for the blast.
Q And I understand that the construction of this pipeline is intended to follow the same corridor as the existing pipeline. Have you reviewed the original pipeline construction records to identify expected subsurface conditions at wetland crossings and in wetland areas?

A I have not. No.

Q Do you know whether Tennessee has?

A I’ll let one of the engineers speak to that.

MR. KLEINHENZ: There has been an overview, I guess you could say a perusal of that information and based on the time, that was in the year 1951, very little information has been given regarding that type of information.

Q To follow up on a question that I asked you about shortly before this last question, we were discussing wet or dry blast. To determine what needs blasting actually, you’d have to go out into the field. You don’t know until you get there. Who does Tennessee Gas notify when they make such a determination and when would such notification take place?

A (By Mr. Auriemma) Again, I’m going to have to defer to Eric on that. The realm of geotechnical investigation has some environmental consideration but it’s not my full responsibility. I usually coordinate with Eric.
MR. KLEINHENZ: Can you repeat the question?

Q During the course of Mr. Auriemma’s testimony he had discussed the fact that Tennessee still needs to identify whether there would be wet or dry water crossing and until you get out there Tennessee would not be certain which technique would be used, and which water crossings require blasting. Who is it that Tennessee will notify and when will they notify that party?

MR. KLEINHENZ: Regarding blasting in these wet crossings, as a matter of fact, for all the crossings, whether they’re dry or wet would be conducted prior to the actual ditch excavation of the project and that would be done by the contractor with test drilling that would be done. So more or less he is running ahead of his ditch crew to see where there’s going to be areas that would have to be blasted and this is where the determination for blasting would be verified. No soil borings would substantiate where a blast would actually occur. It would be much more prudent to do that prior to construction.

ATTORNEY WAGELING: Excuse me. If I could interject for a second. I believe yesterday that you
all had agreed that you would notify the environmental
inspector the day before any blasting would occur?

MR. KLEINHENZ: That would be correct.

Q Mr. Auriemma, you had testified that your responses to
the draft of the New Hampshire Department of
Environmental Services, Water Division permit
conditions, that there was a dispute resolution
procedure, it may have been in your pre-filed testimony.
What is the dispute resolution procedure that you
referred to in your supplemental draft pre-filed
testimony? I believe it’s at Exhibit #A-68.

A Correct. It’s in the supplemental pre-filed testimony.
The dispute resolution procedure is going to be a
mechanism that will be implemented in the field with the
representative of the New Hampshire, the environmental
inspector and our environmental inspector and
construction team. Inevitably there is always a
difference of opinion on how something should be
completed during construction. It helps to have that
mechanism in place so any sort of disagreement doesn’t
carry on for an extended period, or so we can reach the
best possible beneficial type of procedure that will
make all parties satisfied.

Q Do you have a projected time as to, and I believe this
may have been in -- Mr. Treddle, you had been discussing
the need for an additional survey to determine what rare
plants might need to be identified and transplanted? Do
you have a projected time period for providing that
information to the Committee or --?

A (By Mr. Treddle) The previous surveys identified
several populations, a general location of them. We
will need to do another follow up survey of those
locations to pinpoint the exact number of plants that
will fall within the right-of-way. The intent is to do
that in springtime prior to the start of construction.

Q It’s my understanding that the Londonderry Conservation
Commission has some proposed regulations. Has there
been any effort by Tennessee to coordinate with the
Londonderry Conservation Commission to address those
proposed regulations and how they might impact the
proposed pipeline?

A (By Mr. Auriemma) Yes, there has been some discussion
with respect to that issue.

Q Are any of the proposed recommendations of the
Londonderry Conservation Commission being implemented
into Tennessee’s construction of the pipeline or
proposed construction?
A Yes. I reviewed the proposed regulations of the
Londonderry Conservation Commission and believe we can
comply with them. Again, it’s still an ongoing process
as our many other things.

CHAIR: This is from which exhibit?

ATTORNEY ROCHWARG: I do not believe it’s
been made an exhibit at this point. I just became aware
of it today.

CHAIR: So you’re questioning
him on something we don’t have?

ATTORNEY ROCHWARG: Correct. I can see if
I can get that as part of the panel’s testimony. I
apologize. I just became aware of it at the break and
I didn’t have time to obtain a copy.

CHAIR: So could you clarify,
is it a letter that you’re referring to?

ATTORNEY ROCHWARG: It’s actually a
document. It’s dated I believe September 13th which is
proposed regulations of the Londonderry Conservation
Commission. If I could have one moment I’ll just step
to the back of the room. It’s a two-page document which
is entitled, “Answers to Some of the Questions about the
Proposed Wetlands Buffer Ordinance.” And it indicates
that it’s been prepared by the Londonderry Conservation Commission. I can --

CHAIR: Could we have multiple copies of that?

ATTORNEY ROCHWARG: That would be great.

Thank you very much.

ATTORNEY SMITH: Could we see that document please before we go further with it?

ATTORNEY ROCHWARG: I just have a couple of final questions, if I could.

ATTORNEY ARNOLD: If you want to make copies that’s fine. Obviously it’s been referred to and my understanding is that this has already been voted down by the Town of Londonderry. In any event, obviously we have not had a chance to review it in any detail. Apparently it’s just a fact sheet answering questions about a proposed wetlands buffer ordinance. So it was prepared by the Conservation Commission but we understand that the ordinance has been rejected already. But bearing that in mind, if counsel wants to make copies of it to pass around --

CHAIR: Is this on Town letterhead?

ATTORNEY ROCHWARG: No, no it’s not.
CHAIR: However, in response to the question that you were being asked, you indicated that you were aware of this? Could you clarify what you are aware of? Or any discussions that you’ve had with the Town about issues?

A (By Mr. Auriemma) I was aware that it was a proposed regulation and was asked to look at it. I glanced at the material. We took it into consideration. We were waiting for the final designation of whether it was going to become rule or be voted down. I hadn’t known until now that according to our staff that --

ATTORNEY SMITH: Let me just ask counsel, does she know whether this ordinance was rejected?

ATTORNEY ROCHWARG: I do not. Not at this point in time.

ATTORNEY ARNOLD: This isn’t the ordinance, in any event. It’s just a fact sheet so I’m going to argue that it is irrelevant at this point.

CHAIR: Why don’t you ask some specific questions about, instead of referring to an ordinance why don’t you ask specific questions specific concerns about --

ATTORNEY ROCHWARG: The proposed changes?
CHAIR: Well, not even, about specific concerns about the environment that you may have.

ATTORNEY ROCHWARG: I think what I’d like to do at this point in time is move on without this document, quite frankly. Because I just, as I said, received it at the break and I think for purposes of this proceeding, what I’d like to do in the event that I become aware of or are provided with a copy of the actual proposed regulations, Mr. Chairman, then I can ask some more specific questions. And I’d just reserve my right to recall this witness if that becomes necessary to do so. I don’t know that I’m going to be able to come into this document today. As I said, I just received this information at the break. So what I’d like to do is just for purposes of moving the proceeding along, continue.

ATTORNEY ARNOLD: In that same vein, and I think it was a misunderstanding on behalf of Mr. Auriemma about the document that was being referred to, because we don’t know the status of either the ordinance or what its terms are, any suggestion that Tennessee Gas was going to comply with that, I’d like to make the record perfectly clear there is no intention to comply
with that.

ATTORNEY ROCHWARG: Maybe we can clarify with Mr. Auriemma at some point in time what those proposed conditions he saw were.

CHAIR: Michael?

MR CANNATA: Excuse me. Mr. Chairman, I’m a non-lawyer, and I just wanted to get the framework of where we are straightened out in my own mind. I’ve heard many instances where people have reserved to question further on in time or, “I have no further questions of this witness at this time.” Are those time bounds restricted by the time that these hearings are open? Or is it open ended? I heard the counsel for LNC say that she may not be able to come into this document today. If these hearings end today, what does that reservation mean?

CHAIR: Well, this is a document that was not submitted previously. It is not even -- she doesn’t even know if it’s an official document. She doesn’t know the status of it and so I don’t think it should be introduced at this time.

ATTORNEY ROCHWARG: As I indicated, I think just to clarify any of your concerns, Mr. Cannata, I don’t intend to introduce this at this time.
Obviously it’s not the document which I initially thought that it was, but should I come into possession of the proposed regulation, that was my intention to reserve my right to be able to do that and obviously it’s up to the Chairman of the Committee to make a determination as to whether the Committee could consider that.

MR. CANNATA: And this isn’t the first time that this has been mentioned. Let’s assume for discussion purposes that the hearings end at some point today or this evening, and you come into that document tomorrow, what does that reservation of rights mean? That’s all I’m trying to clear up.

CHAIR: And I’m not sure I see a great deal of relevance about a proposed document anyway. It might have relevance if it were something that were passed as a Town Ordinance but there seems to be a consensus here that isn’t even an official document. It was a proposal at one time and --

ATTORNEY ROCHWARG: I also think that counsel for Tennessee had indicated that it was overruled and it was rejected as a proposed regulation. That’s obviously something that I was not aware of.

MR. CANNATA: For the sake of
brevity I’ll move on. I’ll talk to counsel --

CHAIR: So let’s move on.

Thank you.

Q (By Attorney Rochwarg) I just have a couple of questions concerning the wells. Has there been, and I know that we’ve discussed the fact that there is a dispute resolution process of some nature. Does this include if a landowner has a dispute over a well, is there a well dispute resolution procedure and if not would Tennessee agree to commit to one?

A (By Mr. Auriemma) Let me clarify from a previous response. The condition of the FERC is probably going to mandate that. We have not seen the final document. We have seen it in draft form. Typically, what’s in draft form becomes final with respect to the FERC. It’s not in place at the moment. What it does though is allow the landowner to, with any concern, of any respect, to any part of the construction concerning the environment allow contact between the landowner and Tennessee for resolution. Whether it relates to wells, clearing, anything. So it will be in place prior to construction.

Q I have another question concerning the turbidity. Isn’t it a likely result of blasting -- isn’t turbidity rather a likely result of blasting and the second part, can’t
even temporary turbidity foster bacterial growth in well
water?

A (By Mr. Treddle) I’m really not an expert on the
subject. It’s my understanding that blasting can cause
well water turbidity. Whether that fosters bacterial
growth, I can’t comment on that.

Q You had testified that both you and Mr. Treddle, Mr.
Auriemma were environmental inspectors, correct?

A (By Mr. Auriemma) That’s correct.

Q And obviously as environmental inspectors you want to
ensure you take all impacts and potential impacts to the
environment into consideration in any decision making
process or evaluation, correct?

A That’s correct.

Q Otherwise the results of your inspections wouldn’t be
accurate?

A Correct.

Q And you wouldn’t be able to provide appropriate
mitigative measures if you weren’t aware of all the
potential environmental impacts?

A Yes.

Q I don’t have any further questions of these witnesses.

CHAIR: Thank you. Members of
the Committee? Michael? Do you have any questions?
ATTORNEY M. IACOPINO: I just have a couple of lawyer-like questions too. I just want to make sure of a couple of things.

EXAMINATION BY ATTORNEY M. IACOPINO:

Q In reviewing the Environmental Construction Plan and some of the supplemental filings I note references to EI, as opposed to either Tennessee environmental inspector or DES environmental inspector. In those cases, which environmental inspector does that apply to?

A (By Mr. Auriemma) If it’s solely the acronym of EI, of course the environmental world is full of acronyms, it would apply to the Tennessee inspector. Anywhere we intended it to mean the environmental inspector for the DES we tried to put NHDES in front of it.

Q Another thing. I was unsure when you were talking about topsoil segregation you indicated that you agreed to segregate in wetland and agricultural areas for the entire area, correct?

A Entire area meaning project or within the area of the wetland? Or agricultural area?

Q I understood you to say that in all agricultural and wetland areas you will be doing topsoil segregation.

A That’s correct. If I may clarify. In wetland areas it’s conducted over the ditch line. In agricultural
areas it’s usually conducted full right-of-way width or
we have the option of ditch line plus spoil side. It’s
just going to depend on the preference of the
construction crew. So it’s segregated in those areas
yes, but there are different methods depending on the
area.

Q Your concern with the DES condition is that they require
you to do it in non agricultural and non wetland areas?
A That’s a partial concern to us particularly in the way
it was stated as "all" disturbed areas.

Q Okay, and how much of this proposed pipeline is in those
non agricultural, non wetland areas? I don’t need an
exact number. Is it a majority? Is it --
A For a rough number, roughly two-thirds.

Q Did you also -- And I got confused about this. This is
just to straighten me out. Did you also indicate that
you’ll be segregating in the ditch line in all areas?
All disturbed areas or is that just in the wetlands.
A I know, it gets confusing. In the non wetland and non
agricultural areas, in other words, the areas that are
being requested of the permit condition, we’re proposing
to do it within the trench line, within those areas.
Basically that would be for the full length of the
project in other than the wetland/agricultural areas.
Q Now in your communication with DES have you advised them of that fact?

A Yes, we have.

Q And were there conditions required in all disturbed areas regardless of that communication? Or has there been some negotiation on that? I’m trying to figure out where you are with DES on that.

A We haven’t heard anything back with respect to our proposal. Simply the ditch line area is compared to the entire construction area.

Q And I take it your proposal came after they issued their conditions?

A That is correct.

Q One last question with respect to topsoil segregation. You indicated that the benefit is minimal for the effort involved. What is the effort -- I’ve heard some talk about different techniques but in terms of -- when you say “the effort” are you talking about what’s actually going to take people to undertake the topsoil segregation or the cost of it?

A It’s the effort by way of labor. If you can envision, particularly as it’s worded, the entire area. You now have to have additional equipment come in. Normally it’s bulldozer. They’ll strip that topsoil and push it
to an area of the right-of-way. If there’s not enough
work area as presently proposed, we now have to request
further work area because that topsoil has to be stored
somewhere. And it also has to be brought back into the
work area. So for the benefit that we’ve seen from all
of our projects, all the projects that I’ve been
involved on with respect to the upland areas as we’re
discussing, to do that, I’ve rarely seen an upland area
not come back and revegetate without implementing that
measure.

Q I stepped out when you were talking about geotextile
diapers. I just want to ask you a couple of questions
on that. I know we want to move this hearing along but
-- what does that material cost? What is the cost of
using that material?

A (By Mr. Treddle) I’ll take a stab at it. I don’t know
the exact cost but it certainly is an expensive
material. I think the biggest concern is the
maintenance of it once you’ve got it installed. It’s
something that you have to continually tack back up to
the bridge to keep it there and then really the disposal
is the biggest issue. It’s a lot of material. It’s
basically plastic. It’s material that goes to the
landfill. You know, as John mentioned earlier, proper
maintenance of these bridges and equipment crossings will prevent having to do this belt and suspenders type extra protection that’s going to be costly and generate more waste that has to be disposed of afterwards.

EXAMINATION BY CHAIR:

Q Clarification there, when you say tacking it back up? What do you mean, it falls off?

A It can or it’s attached to the bottom of the bridge in various --

Q But we had testimony earlier that only a bucket of mud or soil would potentially fall on this fabric. Why would it be -- if it’s tacked on properly why would it be falling off all the time?

A Well, equipment moving over the bridges dislodges -- moves the mats. There’s various reasons that it can come undone. Certainly some of the spoil falling into it can pull it down a little bit too. But it’s just another maintenance issue.

Q And again, just to follow up on the same issue while we’re on it. You indicated that there could be flaking associated with geo-textile material and my kids have a trampoline out in the yard which I put away for the winter last weekend and it’s a geo-textile material. It’s not a bouncy material, it’s the springs obviously
that create the bounce. Not a very expensive type of material, but it doesn’t have any flaking at all and is obviously very strong and durable. Why is there such a problem finding a geo-textile material that would withstand being out in the elements the way a trampoline is?

A It gets shredded by this heavy equipment tracking over it and just being in close proximity to heavy equipment.

Q They’re driving over it?

A No. It’s underneath.

Q How can it get shredded if it’s underneath?

A (By Mr. Auriemma) For our construction purposes it’s a different material than the trampoline fabric which your children enjoy. It makes it more brittle because it’s a more rigid fabric for construction purposes. We can explore other types of geo-tech fabrics but from what we’ve used in the past that has been our experience.

Q It sounds like some of the issues I deal with with my staff at times when you ask them why it’s a problem, and, “Well, this is because we’ve always done it this way” instead of focusing on the performance standard approach and looking at solutions to achieve the desired goal as opposed to saying, “Well, gee what we’ve always used hasn’t worked to our satisfaction so therefore it
must not be doable" and that isn’t always the answer that one likes to hear. So I would urge that you take a look at some of the other alternatives that may overcome your concerns. Thank you. Michael back to you.

Q  (By Attorney M. Iacopino) Getting away from fabrics. Recently you filed a request for a waiver or variance from the Shoreline Protection Act. Would you just for the record tell us why you have done that?

A  (By Mr. Treddle) In general, one of the conditions of the Shoreline Protection Act was that there will be no clearing in the buffer zone of the water body. By the nature of pipeline construction we cannot install the pipeline without doing some clearing in the buffer zone.

Q  When you say ‘clearing’, you mean trees and brush?

A  Clearing of trees and brush.

Q  And that’s something that would otherwise be governed by that New Hampshire --

ATTORNEY ARNOLD: If I could just interject because there is a legal issue here and we refer to it in our submittal. But, in fact, there is a provision within the Shoreline Protection Statute that allows for the Commissioner to provide for a waiver, or to allow this project to go forward because it involves
a transmission line, a gas line if he thinks it’s necessary. So we think that that is the standard and that’s what we’ve asserted in our submittal.

ATTORNEY SMITH: Excuse me. Could I just make something clear because I think it’s obscure. Our original application intended to ask the same waiver but you have to look very closely because what it refers to is the statutory authority waiver. That’s all it does. When we were preparing for this hearing we thought it might be but we didn’t realize there was a form for a waiver. So all we’ve really done is change the form of the request but we knew the original request was the same.

ATTORNEY M. IACOPINO: I just wanted to make sure that we had it in the record the reasons why it was there.

Q The last thing I just want to get back to, Mr. Treddle, is the issue of the mixing zone. Measuring of the turbidity there. I don’t want it to be -- I don’t want you to think I’ve been unfair -- when I say bias I don’t mean personal bias or anything like that. I mean bias in the way that a study was designed and conducted. And sort of what I’ve learned since about that and you can either confirm or deny this for me is that you didn’t,
you and the people who were doing the evaluation didn’t design the way the study was to be conducted. Is that correct?

A  (By Mr. Treddle)  I was part of a group of people including the DES that developed the condition.

Q  Did the DES members, or at least in your opinion from dealing with the DES members who helped design that condition have the same theory, shall we say, of what the results would be as you did?

A  I don’t think anybody knew exactly what the results were going to be. Everybody knew that there was a potential to create or there was going to be some turbidity created during construction of the project. We were attempting to come up with a plan to enable construction to go forward. We came up with some time frames that were based on some modeling that was done. This is what we think will happen. But nobody knew exactly what was going to happen because every site is a little bit different. So we came up with a plan, everybody’s best professional judgment, that seemed to be a workable solution. But then, when it was implemented we found that it was much more labor intensive and cumbersome than I don’t think anyone anticipated.

Q  And the results confirmed what you thought would be the
results anyway?
A Yes.

Q And you’ve dealt with the DES on that and you negotiated with them and has the proposal that you have contained in your supplemental filing, has that been responded to by the DES?
A Not yet.

Q I have no further questions.

CHAIR: Michael?

EXAMINATION BY COMMISSIONER CANNATA:

Q There are just a few areas that I’d like to touch on that were discussed. The first area goes back to the disposal of trench water condition #A-9 which was discussed this morning. And I believe it was stated that the Applicant wanted to work things out on a case by case basis or site by site basis with the environmental inspector which I think you meant the DES inspector. Who would have the final say on working that out?
A (By Mr. Auriemma) That’s a good question. That goes back to our lessons learned approach. Because I believe on PNGTS there was no dispute resolution procedure as to who would have final say. We know on that project who eventually ended up having final say.
Q That's why I'm asking the question.

A What we are hoping to do with that procedure, it's in development, it's not finalized yet. Is to make it agreeable to all parties to become satisfied. If for some reason there can't be, there's going to be a mechanism in there that may kick it back or probably we'll even kick it back to people outside of just the environmental inspectors in the field. The final say, I'm unsure of where the plan stands now with respect to that but hopefully it becomes a mutual agreement to satisfy all parties.

Q By kicking it back do you mean kicking it back to the environmental inspectors superiors or at DES?

A What would happen is it would go beyond the environmental inspectors. It would come back to DES staff who are not considered to be the environmental inspector applied to the project and possibly other personnel who are not the inspection staff for Tennessee Gas.

ATTORNEY M. IACOPINO: Mike, to you mind if I?

MR CANNATA: No. Go ahead.

ATTORNEY M. IACOPINO: In your supplemental filing on last Friday your response to question #12 on
page 10, you indicated you did not agree with the response of Peter Walker with respect to sanctions in the event of violations. That basically was an agreement that DES reserves the right to enforce the provisions of all applicable state law pertaining to the project and specifically the right to issue administrative orders and fines. Doesn’t that pretty much answer the question of who has the final authority?

ATTORNEY ARNOLD: I think the distinction, if I may, is one is reaching a field solution to the mechanisms that are going to be abided by as opposed to a clear violation of a condition of approval. So what we have proposed to DES is that we come up with a dispute resolution mechanism so that when you have these areas where we’ve requested there be site specific determinations, if the NHDES EI and the Tennessee Gas EI can’t agree then we come up with a mechanism that affords a resolution of that that’s expeditious and with the expertise that needs to deal with it. But I wouldn’t view that as being the same as saying DES has ultimate enforcement authority because it seems to me until there is an agreement on what the method is going to be there can’t be a determination that there’s been a violation.
ATTORNEY M. IACOPINO: I guess my question though is does the Applicant object if such a condition is that the DES has the ultimate enforcement authority and the statutory right to issue administrative orders and fines with respect to violations?

ATTORNEY ARNOLD: We don’t disagree that the state has the authority to do that and it says it doesn’t either.

ATTORNEY M. IACOPINO: Is that supposed to say does not agree or it does not disagree?

ATTORNEY ARNOLD: I’m sorry, I’m struggling --

ATTORNEY M. IACOPINO: I’m talking about on page 10 of Mr. Auriemma’s supplementary direct pre-filed testimony which is in the booklet that we received last Friday, dated October 18th. Supplemental filing #2.

ATTORNEY ARNOLD: Our intention is to agree with the statement that DES has the authority to enforce violations.

ATTORNEY M. IACOPINO: Thank you.

CONTINUED EXAMINATION BY COMMISSIONER CANNATA:

Q The second area I wanted to follow up on a question to Mr. Kleinhenz from counsel from LNC regarding determination of substrata on crossings and I believe
your answer was that the review of the eight inch records did not reveal any information. Is he in the room? Okay sorry. I’ll move on to another question while we’re waiting.

On the seven wet crossings, I believe the testimony of the company was on dry crossings they wanted to be sure that the material was of such a nature that the pipe could be properly placed so it would not be damaged in the dry crossing, is that correct?

A (By Mr. Auriemma) I’m sorry, could you repeat the question?

Q I believe the Company testified that during dry crossings, that they use the dry crossing to be able to ensure that the pipe is not set down on rock and that the materials are properly set in along the pipe to
ensure the integrity of the pipe. Is that correct?

A That’s correct. That’s for trench de-watering. That’s correct.

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Q The question is in the seven wet crossings how do you assure that that’s the case, that the material is — that there’s no rocks etc. and this is being set properly?

A There are several factors to consider and that’s a good question. First of, at water body crossings the pipe is concrete coated, which is a completely different atmosphere than just laying it with the fusion bond epoxy coat. Also, what we do is we’ll probe that trench area. They’ll just go and — someone, depending on the size of the water body could even get out there in a boat and we’ll probe that trench area just to make sure that nothing solid is down there. If it is, we do have the concrete coating to mitigate for that fact.

ATTORNEY WAGELING: If I could interject. Yesterday there was an agreement between Haley & Aldridge and testified to by the Applicant that they will backfill the whole trench with clean gravel bank run for the whole trench.

MR. CANNATA: For the wet
crossings?

ATTORNEY WAGELING: The wet crossings.

Q Okay. And a right-of-way question. I’m under the impression that the Applicant has rights-of-way.

ATTORNEY ARNOLD: Mr. Cannata, I hate to interrupt you but I don’t think that our right-of-way person is in the room.

MR. CANNATA: We’re 0 for 2. I’ve got two questions and those people aren’t here.

ATTORNEY ARNOLD: I’m sorry.

CHAIR: Well, he’ll be on later, won’t he?

ATTORNEY ARNOLD: Yes. Perfect timing.

(Arrival of Mr. Lopez)

MR. CANNATA: This is only a quick question.

EXAMINATION OF MR. LOPEZ BY COMMISSIONER CANNATA:

Q I’m under the assumption that the Company has a right-of-way for its existing facilities and does not own the land in fee.

A That’s correct.

Q And that the timber in New Hampshire belongs to New Hampshire landowners?

A Yes, that’s correct.
Q Who gets the money for any valuable timber? Or you had -- the phrase I think you used was ‘usable’ timber versus something non-usable like slash, firewood and/or lumber, is that credited to the landowner?

A The landowner will be compensated for any timber that we have to clear.

Q Okay, thank you.

MR. CANNATA: Did Mr. Kleinhenz come back yet?

MR. HAMARICH: Eric had to leave. He had a flight out tomorrow but his wife is ill and had to go to the hospital so he’s been released. Mr. Richardson has left too so I’ll try to fill in and supplement any questions you have.

MR. CANNATA: Alright. There was just one question.

EXAMINATION OF MR. HAMARICH BY COMMISSIONER CANNATA:

Q There was a question asked about being able to determine the substrata material at crossings and I believe Mr. Kleinhenz’s answer was that review of the records of the eight inch pipe did not reveal anything of much use. And what my question was, that may be so 50 years ago but there was a three phase project for the 12 inch, although 15 feet away. I’m wondering if you’re able to
extract any information about the substrata from the 12
inch pipe, which is along that route for 90 percent of
the line.

A  We were not able to correlate, or did not correlate any
of the data from either the eight inch line or the 12
inch line, in regards to substrata conditions.

Q  Either line, okay. That’s what I wanted to check and
make sure you’ve done both. Thank you. That’s all I
have.

CHAIR: Other questions? A
couple of quick ones from me.

EXAMINATION OF PANEL BY CHAIR:

Q  Mr. Treddle, you referred a couple of times to your
experience with the PNGTS construction. Were there any
delays in the construction project on the PNGTS line?

A  Yes. The project took longer than expected.

Q  And could you describe the delay? How long and what
time frames of the year that was.

A  Well, I’d like to clarify that it was two separate
projects. There was the PNGTS North project and then
the PNGTS-Maritimes. The PNGTS-Maritimes joint
facilities in the south was pretty much on schedule, I
think.

Q  Right. I’m referring to the North.
A: I don’t remember exactly when it was completed. The North was about -- extended into February before it was completed. There were a number of circumstances, primarily weather related, that from my understanding, that extended the construction season.

Q: Were there any well related problems or disputes as a result of that pipeline construction?

A: I don’t have any direct information on that. I’ve heard hearsay that there were landowner complaints afterwards. But I don’t have any information on that.

Q: Okay. But you’ve heard that that’s the case?

A: I’ve heard there were complaints, yes.

Q: As someone closely involved with the project you did hear that there were problems.

A: Yes.

Q: As it relates to the wells themselves, one of my concerns is making sure that people who have wells near this project do, in fact, not suffer degradation of water quality. And my concern is not just with the blasting issue but obviously all the other activities surrounding the project, which can include construction activity, can include regrading, which changes surface water flow inadvertently, etc. And in some of those cases there may be people who are some distance from --
they may not have had a pre-blast survey, for example. What will they do if they suddenly, in the spring of 2002 or in the fall of 2001, seem to notice that they have a turbidity problem, an odor, taste, some esthetic problems as well as perhaps some chemical issues?

A Those concerns would be relayed to the right-of-way department, who would perform an investigation. And I probably should defer that to them.

Q Okay.

MR. HAMARICH: Just want a clarification on the question, at what distance are you talking about from the pipeline? Are you talking about within the 200 feet that we discussed?

CHAIR: I’m saying that if you have a problem with some people who are along the right-of-way who perhaps were not part of a pre-blast survey or who perhaps did have one but experienced degradation of water quality, not immediately after your construction, perhaps it was several months later. Will you be working with these people to try to ensure that their concerns are addressed? It was a very important issue to a number of people with the other pipeline construction project.

MR. LOPEZ: Are you saying that
this is for people who are outside of our 200 foot corridor, that we’re going to check?

CHAIR: Yes.

MR. LOPEZ: Well, I’ll answer you this way: we have right-of-way agents who will be out on the job during construction and after construction for clean up and to settle damages. That would probably be the way. We’d have to work through our right-of-way department, bring in whatever experts we can to determine whether or not its Tennessee’s responsibility. If it is then we’ll live up to the responsibility and take whatever mitigative measures are necessary.

CHAIR: Okay. I just want the homeowners to be assured that if there is something that can be related to the activity of the pipeline construction, that they’ll have an opportunity to have it mitigated if it’s reasonably apparent that it is related.

MR. LOPEZ: Yes.

CHAIR: Thank you.

Q Mr. Treddle, were there any erosion control problems in the northern segment?

A (By Mr. Treddle) Yes.

Q There were. Were there any lessons learned from that
experience, in your opinion?

A I think that the best management practices were employed. The biggest lesson learned is that sometimes Mother Nature is pretty hard to control. We intend to install erosion control measures to the greatest extent possible to prevent any sedimentation or erosion control problems on this project.

Q And can weather also effect turbidity in the stream or river --

A Certainly.

Q -- as a result of your project?

A As a natural occurrence, as well as a result of our project. Turbidity can be caused by either.

Q Thank you.

CHAIR: Any other questions?

Thank you very much. While we’re preparing for the next panel why don’t we take a five minute break. Also, we have a request from Mr. Finch to offer some remarks. In five minutes could you take three minutes in five minutes? Thank you.

(Off the record for break)

CHAIR: For public informational purposes I assume that we’ll continue the hearing for another few hours in the hopes of finishing
this hearing today so that we would not need to reschedule. So, if you have plans, try to cancel them. That is our intention. And if everything goes well we may finish by seven or eight this evening. Mr. Finch?

MR. FINCH: Thank you very much Mr. Varney.

STATEMENT BY MR. FINCH:

My name is Jim Finch. I am a resident taxpayer and property owner in Londonderry and have been for 22 years. I want to thank you for giving me a chance to make a few comments.

We’ve certainly had a wide ranging discussion so far over these three days but we don’t want to lose sight of the fact that the focus of this meeting is to take out of service a 50 year old eight inch pipeline, which probably used 50 year old technology. And we’re talking about replacing it with a 20 inch pipeline that’s going to use 21st century technology. I had the pleasure of being an intervenor on the AES project 20 months in a hearing before you, when I represented the Londonderry Coalition for AES. That was an organization that we put together of 1,000 Londonderry voters who were supportive of the AES project. When you approved that unanimously in May of 1999, you knew ahead of time
that this application would be coming along. Obviously you didn’t approve the AES project without certainly leaning in the direction of also approving this. You would certainly would not cut off the supply line to a 300 million dollar gas fired generating plant.

So I think the focus now is on the safety involved, both to people and the environment in the installation of this. So the answer is: does the Tennessee Gas Transmission Company have the expertise, the experience and the financial resources to complete this project? And I think, from what we’ve heard so far, the answer has to be a very rousing affirmative. The best predictor of the future is always what has been the experience in the past. And in Londonderry we’ve had a pipeline in the ground for 50 years and we’ve had another one in the ground for, I believe, 19 years. So we have had a lot of experience with pipelines in Londonderry and we’ve never had an incident.

This pipeline is important because, although it’s difficult to identify our national energy policy, we can take some indication of it from the action of the Federal Energy Regulatory Commission, who is not approving additional nuclear power plants, not approving additional coal fired or oil fired power plants. They
are encouraging the establishment of additional natural
gas fired facilities. And along with that, they are
giving priority to the pipelines needed to supply these
generating plants.

Last but not least, I’ll tell you that this morning
I got up a couple of hours early. My wife said, “Jim,
where are you going?” And I said, “I’ve got a date with
a pipeline” and she said, “I should have known.” So I
went out and walked the pipeline in Londonderry closest
to our schools and I started -- if you’re familiar with
Londonderry, I started on Pillsbury Road and walked
north and the first thing I came to was or is the
kindergarten building, which today is simply a site
under construction. Nothing above ground yet. And I
would estimate that the distance from the right-of-way
to the kindergarten is somewhere between 150 and 200
feet. Off to the east is Londonderry’s first elementary
school, which happens to be the largest elementary
school in the state, Matthew Thornton. And that is over
500 feet away. Continuing to walk north I could see our
high school, probably about 400 feet away. And then I
came to our middle school, which was built around 19 --
the late 80’s I believe, and expanded, actually doubled
in size in 1996. And I have to tell you I was really
taken away by how close our school, the middle school, is to the right-of-way.

When they built the original part of the building it was probably 200 feet from the pipeline. The new extension is probably 180 feet. So if you stand at the back door of the middle school and walk across about a 12 foot roadway there’s a fence and you can peer down right almost on top of the right-of-way. Now that right-of-way was there five decades before the school was built. I was really surprised that it was in the judgement of our school department to add to that building in such a way that it would bring the building that close to the right-of-way.

If there is a possibility of moving that pipeline, as I understand FERC has recommended, there certainly is going to be some expense involved in that. And it would be unfortunate to see the company, Tennessee Gas Transmission, having to pay for the mistake of our school department. On the other hand, it would be unfortunate if we had to finance the relocation of that on our town. So that is a dilemma.

Also, earlier you talked about the wetlands, proposed wetland document. That was a document that was proposed and a public hearing was held in September by
the Planning Board. No action was taken and it was
tabled. It was never passed. So that’s all for
additional study.

Thank you for letting me make my comments and I
wish you well on making your decision.

CHAIR: Thank you.

ATTORNEY M. IACOPINO: Mr. Chairman, I
understand that the Applicant’s next witness would be
the right-of-way individuals but I understand certain
members of the Committee wish to question Mr. Hamarich
with respect to some pipe design issues. I know that
those Committee members have some engagements so they’ve
asked if we could take him back.

CHAIR: Okay.

ATTORNEY WALLS: Mr. Chairman, before
we get to Mr. Hamarich, there are three DES employees
who thought they might be called as witnesses by the
Committee and it’s my belief that no member of the
Committee needs to call -- wants to call these witnesses
today. And I don’t believe Public Counsel wants to call
them either. So I was looking for some indication --

CHAIR: Does anyone have
questions for the DES staff that are here?

ATTORNEY WALLS: -- that they might be
excused.

CHAIR: Okay. Thanks.

ATTORNEY WALLS: Thank you.

CHAIR: Go home but take some paperwork with you. They think I’m kidding. Was it Michael who had the question for Mr. Hamarich?

MR. TAYLOR: I did.

CHAIR: Oh, Jeff did. I’m sorry.

EXAMINATION OF MR. HAMARICH BY COMMISSIONER TAYLOR:

Q Good to see you again, Mr. Hamarich. There have been a number of offers by the Company, one in particular, that deals with this issue of public gathering places in close proximity to the existing pipeline. And my questions relate to resolving some of the concerns that were expressed by Mr. Finch and earlier expressed this afternoon by Mr. Kerns. In looking at the alternatives that were suggested for evaluation by FERC, I gathered that there is one school in Pelham that is under 20 feet away from the existing pipeline, in fact, I believe it’s the school in which we had the public informational meeting back last spring. And the school that has been referenced in Londonderry as being within 40 or 50 feet of the eight inch pipeline. Are there other public
gathering places along the right-of-way that you’re aware of that are less than 100 feet away from the pipeline? Are those the only two or are there other public gathering buildings?

A What I can say is the pipeline in Pelham, I believe, is 41 feet from the pipe construction easement. Just a clarification of the 20. As far as public gathering places, we never did discuss that in detail. We just discussed the school. We were looking at the Londonderry School and what is defined as a public gathering place were some of those playgrounds and soccer fields, also in Muldoon Park. I don’t know exactly where you’re saying as far as any others, have we identified any others? But public gathering --

Q Town halls, places where town meetings are held. Places where we might expect large gatherings of the public to be. To your knowledge, would those two schools be the structures that would fall within the standard of being within 100 feet of the pipe?

A No, they’re not the only structures that would fall within that code.

Q Public gathering structures as opposed to businesses or private residences.

A There may be others on the system.
Alright. There was --

CHAIR: Just for clarification, when you say others along the system, would they be commercial structures like a supermarket?

A There may be and those would fall into the Class 3 location. They would fall as a Class 3 location in the design.

CHAIR: That’s what I thought, based on the definitions you had read from the manual.

A Of Class 3 --

CHAIR: Yes.

A With over 46 buildings within a mile for intended use.

CHAIR: Right.

Q As I mentioned yesterday, I have a strong sense of your rights having been in the right-of-way since 1952 and the conflict has occurred because of the decisions by others. And yet, respecting that, I’m trying to pursue ways that will be a reasonable balance of your interests and the safety of the individuals who might be gathering in those schools or in the other buildings. And there’s been a discussion today about the various classes of pipes, Class 3 and Class 4 in particular. And I may not be phrasing this question entirely right from an engineering standpoint but what I’m looking for is some
analysis of the increased level of protection that you might achieve for the individuals in those buildings if you were to use Class 4 pipe in the immediate vicinity of the school buildings as opposed to the additional expense that would be incurred by using that heavier class pipe. I wondered if you could talk both about the increased levels of protection that might be achieved, the increased levels of safety that you would expect to achieve using a Class 4 pipe, as opposed to the increased cost that would be incurred by the installation in a short section close to those structures of that class pipe.

A Let me first go back and start out saying it is our belief and my testimony that Class 4 pipe will not provide an inherent safety factor in those areas versus a Class 3 pipe. And that is in the testimony.

Q Okay.

A I also want to explain a little bit about class pipe, what it is. Class 1 pipe is for lesser populated, Class 2 for more populated, Class 3 for even more populated. Class 4 pipe is for areas such as high rises, such as pavement to pavement areas, inroads, running along parallel with roads in the roadways. And the reason -- that’s the intent of that class. What it is, what it
means is a different, thicker pipe for each class location. Class 1 has one thickness, Class 2 has a little more thickness, Class 3 a little more thickness. When you get to Class 3 you’re still twice as thick steel to hold the same hoop stress already. So you’re twice as thick. You get to Class 4 maybe you’re 2.2 times thicker. I’m not running the calculations here.

Q But the major increment is between 2 and 3 and a more modest increment between 3 and 4, is that what you’re --

A The major increment is between 1 and 2 then 2 and 3 and then -- 1 and 2 is the biggest increment, 2 and 3 -- I mean, 2 and 3 and 3 and 4 are about the same increment. And, like Mr. Marini said this morning, enhancements to these -- any enhancements to these standards and codes really aren’t any -- wouldn’t enhance public safety. But let me go on that and go back to your other questions now. Now that I’ve defined that I forget the questions we were --.

Q The additional expense that would be incurred for installing the heavier class pipe.

A Well, the expense is really not the issue in regards to it doesn’t add any value to that. We’ve got codes and standards and it’s not just the pipe itself. It’s like I said earlier, you put the pipe in there and then you
have to have this maintenance program to protect that pipe with cathodic protection, with patrols and whatnot.
So it’s really not -- it’s to the point that it’s really not adding any value to the safety regardless of the cost. Similar to our testimony on the intelligent pig and some of those other analogies. I don’t want to -- that is the position, that’s the standard of where we’re at and we’re at a point that we feel very comfortable that we could assure the safety of the public within those areas with the Class 3 pipe. We’ve already committed to expand the Class 3 areas along the route.

EXAMINATION BY CHAIR:

Q Understood. Would you, however, agree with me that if you were to tell the average citizen that you had a choice of pipe and that the one that is being installed is the thickest pipe that they install for gas pipelines, would there be perhaps some, in terms of public reaction, the public might feel better at least even if you feel that there’s no -- I mean, what is the -- if there’s no value why does your industry have different classes of pipe in the first place if everything is safe and there’s no difference of safety to your adjacent populations?
A I think you know the answer to that question so I’m not even going to answer that because we could hypothetically talk about many, many things here to that respect, including not even having a pipeline there. Therefore, we’re here before the Committee to try to present a proposal that’s reasonable in all aspects.

Q Right. But I’m asking if you could answer the question, which was the price differential between Class 3 and Class 4.

A Let me go back and explain why -- again, is the reason for the not added benefit. The Class 4 pipe and the intent of Class 4 pipe, and as we’ve testified, we have Class 4 in one or two areas on our system. It’s very rare. It’s in areas -- the intent of Class 4 pipe is in areas where you have high rise buildings, multi-story, you’re built -- the pipelines are in roadways usually, in areas where they shared other utility corridors where you need the extra pipe for -- the extra pipe is there because you cannot implement some of your other maintenance activities. You cannot sometimes adequately get cathodic protection on it. You have a lot of activity, way increased activity from third party damages. You may not be able to even detect leaks in environments like that. That is the reason for Class 4
pipe. As I’ve said before and I have testified, there
is really nothing that qualifies on this project for
that type of design in the system.

Q We realize that’s your opinion and that was very clear
in your prior testimony. We’re not trying to suggest
that you change your opinion. We’re asking you to
answer our questions. One of our questions was what is
the price differential between Class 3 and Class 4 pipe?

A I cannot adequately answer that right here. I don’t
have the figures with me.

Q Can you follow up on that with the Committee?

A Sure. And let me say it’s material and installation.
Yes, I can follow up.

Q And if theoretically again we -- and we don’t even have
the town here so we can’t even ask them this at the
moment. But if, for example, the town came to the gas
pipeline company and said, “Gee, we would like to put in
the heaviest pipe possible in this area and we, as the
town of Londonderry, are willing to pay any additional
costs to the company to have it in. While you’re
opening the trench and you’ve got to put pipe down
anyway, could we pay you the extra to put in Class 4
pipe instead of Class 3 pipe so we can have our
residents know that it’s the heaviest pipe of the four
classes?" What would the Company say to that kind of a scenario?

A I don’t think the Company would agree to a scenario like that. It is not the Company’s intent or operations to have the towns support any of the pipeline design, any of the pipeline costs. It is our pipeline, it is our cost. I think there would be too many legalities, too many liabilities. I just think that’s a scenario that we don’t want to really go. It would really be difficult.

Q That’s right. But it’s their kids who are in the schools and you’re in Houston.

ATTORNEY SMITH: Can I just try to be helpful, Mr. Chairman?

CHAIR: Yes.

ATTORNEY SMITH: I think -- it occurs to me that as you probably realize, there are people with different responsibilities on this project and I think we’ve been pretty clear about that.

CHAIR: Yes.

ATTORNEY SMITH: And then they work together as a team but they really do have different responsibilities. If I could suggest, as counsel for the Company, in response to your question, if someone
proposed something like that I would take whatever it was that they proposed. I have no idea what the Company would do with such a proposal but I’m not sure any of us sitting here today can respond, other than to say if someone had a proposal I can listen to what people have to say. I don’t have any authority to do anything. I don’t think Mark does either.

A (By Mr. Hamarich) I can say this, like Greg, we will take the recommendation. I can give you my opinion based on my 23 years and as a representative of the company. At this point in time I don’t think -- there’s a lot of reasons I would not like to pursue that type of arrangement.

Q (By Chair) So you have never partnered with other entities in anything like that?

A To my knowledge, in a situation like this, no. In a situation with a siting similar -- you know, the same situation. There are other situations that are different.

Q Even if there was no cost difference to you?

A Cost isn’t the issue. But let’s leave it where Greg said. Let’s take it -- to my knowledge, no, on this area.

MR. TAYLOR: Just a follow up
question to try and clarify why Class 4 pipe is used.

EXAMINATION BY COMMISSIONER TAYLOR:

Q It’s used in more dense urban areas and as I understand your testimony, Mr. Hamarich, it’s used there not so much because of the increased exposure to individuals in the event of some incident. It’s used in urban areas because of the more difficult environment in which the pipe is placed, is that correct?

A Correct. That was the intent of the regulation as it was written and how it is applied.

Q But is has, whether by design or by chance, it is used in areas where there’s a higher concentration of human activity.

A Yes.

CHAIR: Michael?

EXAMINATION BY COMMISSIONER CANNATA:

Q Just to get some numbers on the record, Mr. Chairman. You threw out some multiples of what classes were of another class and I jotted them down quickly. What I came up with was that roughly a Class 1 pipe is about .19 inches thick. Is that approximately correct?

A No. It would all depend on grade. It’s percentages.

Q Oh. Of the same type pipe we have here, the X65.

A Well, X65 here, the thickness for the Class 3 pipe is
.380.

Q Right. And --

A Class 2 is .317.

Q And what is Class 1?

A Class 1 would be .2 something. I'd have to calculate it out. I don't have my calculator with me. Class 1 would be under -- it would be .2 something.

Q And Class 4 would be --

A Probably about .4 or more.

Q I've got .42 using the 2.2 that you used before.

A Probably .42, okay.

Q And I thought I heard you say that even at .2 something the Class 1 is designed with some type of a safety margin to handle the maximum operating pressures, the hydrostatic testing and all the things that you talked about.

A Correct.

Q Okay. Then to follow up on Commissioner Taylor's question, in terms of your 23 years not be able to see why the Company would want to get into such an arrangement. I mean, there are such things as contribution during construction, there's tabs that are paid for by customers. Contributions are not a strange animal. If it's precedent, I think you agreed on the
stand the other day that in areas where you might be able to have Class 2 you’re willing to go to Class 3 at the Company’s expense. And I’m wondering why wouldn’t you agree to go further at somebody else’s expense?

A The reason is the Class 3 is part of this project. The intent of it is I can look at that map, I can understand the future growth possibilities of the school, that they may want to come closer to that property. So listening to the whole situation, it’s already Class 3, that was the intent. We realized the intent of the Code 3, which is your playground in that area, we’re looking at that very closely. We’ve taken growth areas into the design of this pipeline to go from -- we already agreed to Class 2. We’re putting Class 2 in wetlands, there’s no population in wetlands. And we’re doing a Class 2 minimum so we’re putting extra steel in those areas. The other is -- Class 3 is a different situation. My concern is on the Class 4, and you’re right, I was going to say, there are reimbursement agreements and things like that. But we’re talking about a safety concern here and our basis is that the Class 3 pipe is safe and it’s a good design for this system. And to have towns supplement and decide what is safe, what isn’t safe, regardless of the money, what is safe, what isn’t safe
is a position that bothers me. There’s a difference. There’s a difference when we enter Class 4 in Londonderry and then there’s a school 41 feet away in Pelham and then there’s a homeowner, there’s homeowners that are 20 feet away. And that homeowner, I’m concerned with that homeowner but I can sit here and testify that Class 3 pipe, properly designed and installed and maintained is going to give the protection to that homeowner. It’s going to give the same protection everywhere we put it. That’s my concern. Regardless of the cost of this. And that’s been our testimony, and it’s been supported by other experts on the PUC and that’s really where I’m coming from on that concern.

CHAIR: I think we all understand your testimony on that and we’re not trying to attack you on your testimony on those assertions. We’re asking a very simple question, which is a very common practice, in which standards are exceeded. And you’ve indicated many instances in which you’ve chosen to exceed standards. And we’re asking a very logical question that an average citizen may want to ask about exceeding standards even perhaps to a greater degree than you have decided to do. That’s all. In a way that
would not harm the Company, would not cost the Company
anything necessarily. That’s all we’re focusing on.

ATTORNEY SMITH: Can I offer this? I’m
not familiar with the Company’s operations elsewhere.
I do not speak for the Company generally. I’m counsel
for the Company here and we’re both trying to be as
helpful as possible to this Committee. If remarks can
be understood as essentially without any particular
charge to me to deal with that broader issue, perhaps I
can be helpful. It occurs to me that the questions
you’re asking seem to be as straightforward as you’ve
described them and would be the kind of political
question that the people in the community, the public
might ask. But it also occurs to me that it is not as
simple as it seems because of the complexity of what
underlies these national standards, all the working
assumptions that underlie a system all across this
country that, for example, a Class 3 pipe where it’s
accessible enough and can be maintained the way the
witness has testified, provides safety and an adequate
margin of safety for anyone who lives near that. And I
guess what occurs to me just reasoning my way through
this discussion and nothing more, is that we all know
enough about the body of regulatory law and the body of
common law that surrounds it to know that there are negative implications to what you’re talking about here. That is, it may seem straightforward and simple enough outside the legal context to say, “Well, if someone else would put it in and we went over this standard here, what could possibly be the downside of doing that?” I think as regular people we can all think that way.

So speaking as only Greg Smith, I’ll say it occurs to me that one reason why a company that’s involved time and time again in these situations might be reluctant to deviate in certain situations from what they believe every bit of the body of scientific information and regulatory approval says is safe enough, is that there’s going to be that next case that says, well, if you did that here and something went wrong over here and you didn’t do it over here, what kind of a case does that generate? A legal case.

So I guess, without trying to put too fine a point on it, there are negative implications to the path that we’re trying to take here being cooperative in a preemptive situation, and probably some underpinnings for why a company does not want to go out and do what might seem simple enough if somebody wants to pay for it. I hope that’s clear and not unclear. It does occur
to me that there are dilemmas that would go way beyond
Mark and me. At the moment we are here dealing with this
particular project, the Committee is dealing with this
particular project and I don’t generally, as I said, address the Company policy across the country. But I think that’s probably what underlies, to some extent, Mark’s concern. He’s not here authorized to say what they do. He can only tell you they don’t do it. And it occurs to me that would be a rational reason why they don’t do it.

CHAIR: Understood. And let me just also say that, as I’m sure you’re well aware, many of the people at this table have a fair amount of experience in dealing with standards and have gone through a lot of process about how standards were arrived at, at the state level, at the federal level, as industry standards. In many cases there were compromises, many cases there were disagreements about what those standards should be. In some cases there was political interference on what the final standards ended up being, especially at the federal level. So I don’t think that we will all necessarily buy the argument that these are standards, someone has decided these are the safe standards and no one shall in any way question them
or try to suggest that they be exceeded, particularly in a way that is not harmful to anyone or in some cases may not even be costly for people. So I think it’s a legitimate question that Mr. Taylor has asked and would ask that we hear back from the Applicant on that as soon as possible.

ATTORNEY SMITH: And I think, quite honestly, we understand all of that. We understand the Committee’s perspective and we appreciate it. We’re not quarreling with that. We all have respective responsibilities here.

CHAIR: Right. Understood.

ATTORNEYS SMITH: We understand, Mr. Chairman.

CHAIR: Thank you. Nancy?

MS. BROCKWAY: Thank you. I have questions on this same topic.

EXAMINATION BY COMMISSIONER BROCKWAY:

Q Because of the way that this has emerged in the hearings I go back through my notes and I can pick out different parts of what I understand to be the Company’s position about the difference in safety or the issue of the safety here. But I don’t see the Company making an affirmative case for Class 3 being safe enough and Class
4 differentials being addressed to some different topic. I think rather than just saying, "Well, this is the standard" and sort of implying that what we ought to do is just not worry about it, I think it would be more useful if we concentrated on exactly how safe is Class 3, if it’s your position that you shouldn’t do Class 4. And a little bit more about what are the differences between Class 3 and Class 4 and in what circumstances Class 4 is used and in what way those are different from these circumstances. You talked about that but if you could couch it in an affirmative way rather than a reactive way it would be most helpful.

A Class 4 pipe would be used if I’m building a pipeline in downtown Boston. That would be where I would use a Class 4 pipe or in an area like that. Even a suburb like that. That is the intent of Class 4 pipe in areas like that.

Q But again, what I understood you to say before is that that’s not because there’s a greater concentration of people near the pipe.

A That’s part of it but it’s also because you cannot -- there’s a greater concentration of people of course but there’s also the other maintenance practices that I talked about. There’s comprehensive practice. If it’s
a Class -- in those areas you put a little heavier walled pipe because you may not be able to adequately cathodically protect your pipeline. You can’t do much maintenance underground there once you put that pipeline in, like you could in an open area where you have access to the right-of-way and you can’t walk the right-of-way and do an effective leak survey, a helicopter patrol is not as effective. So this whole -- the marker posts -- so this whole concept, this whole comprehensive -- so it’s not -- I don’t want everybody to say that I’m saying Class 3 pipe or Class 4 pipe one is safer than the other. What I’m saying is Class 3 pipe has a certain part of the safety of the pipeline. It’s the strength of the steel, it’s the hoop stress, and it provides a safety factor just for that hoop stress as the pipe is operating. There are other things that have to be done and we discussed a lot of that. We have to maintain the pipeline, we have to install it correctly, we have to cathodically protect it, we have to patrol it, we have to make sure Dig-Safe, as we said, were many of the possibilities if someone digs into the pipe. I’m not so sure -- I don’t want to say this but if a Class 3 or a Class 4 is not going to protect us that well should there be someone digging on the pipeline in any
area. We have to patrol that. What it will do is it will, say in an area that we can’t get cathodic protection, it’s that much extra steel that if we should get in a corrosive situation for some reason, and in the areas I’m describing it’s more likely that that may happen because of the operating -- the environment that the pipeline is in, that you can’t maintain cathodic protection or correct that, a leak or whatever. It reduces the risk that there may be any failure in the pipe. So what it basically does is give you a more safety factor of wall loss through the failure. So that’s the whole intent again.

Q Can I follow up and ask you a question about in those urban settings would you ever use Class 4 -- let me first ask, would you ever place the pipe above ground?  

A No.

Q Would you ever use Class 4 in an area where you could get --

A Let me go back to that above ground. There are installations, let me go back. It’s not recommended to put it above ground. There are pipelines installed above ground across rivers. I know that’s not what you’re asking about. Urban. For some reason there may be pipes on bridges and things like that. Myself, as an
engineer, my company as a thing, that is a hard maintenance thing. We would much rather bury the pipeline. It would be really hard to -- it’s hard to site one underground let alone above ground. But there are pipelines above ground so I want to take that back. But our position would be we wouldn’t want to put one above ground, no.

Q When you ‘one’ are we clear we’re both talking about a Class 4 pipe?

A Yes, I’m just --

Q Or any pipe.

A Any pipe.

Q Okay. Because what I’m trying to get at is again the difference between Class 3 and Class 4. In one of these urban areas would you ever put a Class 4 pipe in such a configuration that you had no problem with doing the walk by or the fly over or the cathodic protection or any of the other maintenance things?

A I cannot answer that exactly because I don’t know the situation. I was just saying the intent of the Class 4 pipe is for that reason. It’s also for the -- that was the intent of the code. That’s the way the code is intended to be interpreted.

Q In your own professional judgement, getting away from
whatever the regulations say you have to do, if you put a Class 2 pipe next to an elementary school, would you expect that the kids would be safe?

A I would feel -- again, I’m going to go back. It’s hard for me to separate my personal opinion from the code because I’ve been looking at the code, I’ve been working with the code. And I have to go back to the code is designed in that area with this 300 foot circle, it would be a Class 3 in that area.

Q I guess I’m talking about --

A I would have to support that Class 3 in that particular area.

Q -- a smaller circle. So you would say no, you wouldn’t want to put -- your own judgement is you wouldn’t want to put a Class 2, you’d really want to put a Class 3?

A If, according to code, it went to this 300 foot circle and hit the school or the gathering place. Or if it was in the population density.

Q Thank you.

CHAIR: Deborah and then Mike.

MS. SCHACHTER: Thank you, Mr. Chairman.

EXAMINATION BY COMMISSIONER SCHACHTER:

Q If I could ask a related question. I’m still trying to
probe this fully. What I thought I heard you say originally about this issue was that in the Company’s view moving to a Class 4 would be duplicative, if you will, because Class 3 plus all the various inspection and other monitoring protections -- Should I wait?

A Just moment. I’m sorry. Okay, I’m sorry.

Q Okay. What I thought I heard you say in essence, if I could characterize it as I understood it, was that in the Company’s view there’s no need for Class 4 because Class 3 pipe in the locations proposed plus the various monitoring and testing and other precautions that you’re taking, this is a safe pipe. Did I correctly understand your position?

A Yes, that is the position that’s been stated.

Q Okay. And then what I thought I also understood your position to be was that Class 4 pipe is used in locations where it’s not possible to augment the inherent safety construction of the pipeline with these other monitoring, leak testing and other activities. Where that’s more difficult. Did I understand that correctly?

A Yes, that was the intent of why Class 4 was developed.

Q Okay. My understanding about that is impaired then when I look at -- the reason I’m confused and would
appreciate your further clarification, in the FERC filing I’m looking at 11-3, which is in the section on the liability and safety, the Company has presented that pipeline design pressures, hydrostatic test pressures, MAOP, inspection and testing of wells and frequency of pipeline patrols and leak surveys must also conform to higher standards in more populated areas. And in this section it’s talking about Classes 1, 2, 3, and 4. And so what I thought I read when I read that was that if you’re in a Class 4 situation because you’re in a very highly populated area, that you also have to do more tests, more inspections, more patrols, more leak surveys so that you would be increasing both the testing and the thickness of the pipe. Can you explain what I’m not understanding?

A Let me separate class and pipe design. I didn’t want to get into this detailed but I will. A class location -- and you’re correct, the higher the class -- a class location is defined by population density. It’s there. It’s a Class 1 -- if we decide -- and it’s tied to a certain pipe if you design exactly to that class. A Class 2 is designed to a certain pipe if you go to that class. A Class 3 is designed to pipe if you go to that class. This pipeline, by definition, by federal
regulations, has a lot of Class 1 for instance. There’s no houses within 220 feet anywhere but I’m going to put in Class 2 pipe. So let’s think of it different. I’m going to put in 60 percent pipe. It’s a 100 percent -- it’s got a 40 percent safety factor. Class 1 is 72 percent design. It has a 28 percent safety factor. So let’s think of pipe and class.

ATTORNEY SMITH: Can you explain what you mean by percent, before you go on? Percent of what to what?

A Okay. Percent of -- 100 percent yield is in theory where the hoop stress of the pipe, there’s a pressure where the hoop stress of the pipe starts to yield. It does not fail at that pressure. In fact, we will hydrostatically test it sometimes over 100 percent yield because it’s an elastic yield. I don’t want to get into elasticity but it’s a yield that the pipe will yield but come back to its normal condition. So pipe, if you designed it with the wall and the grade, the thickness, it’s designed at 100 percent. That means, for instance, let’s say I’ve got 1,000 pounds design, that pipe will hold that 1,000 pounds. It will actually -- based on the mechanics of the pipe and the design it will start to yield at that point. We don’t want to put in that
pipe. There’s no safety factor at all in the steel. So the safety standards are in a Class 1 it’s been determined that you put in, it’s a .72 so you’re actually -- you’re operating at a lesser stress level. You’re not even reaching that 100 percent yield.

ATTORNEY SMITH: 72 percent of the pressure?

A It’s either 72 percent of the pressure but because we want to keep the pressure constant we raise the thickness of the pipe because we want to stay at say at that 1,000 pounds. But yes, it could be -- you would only be able to operate that at 720 pounds. Let’s use that example. Then in a Class 2 you would only be able to operate that at 600 pounds and a Class 3 you would only be able to operate that pipe at 500 pounds. Realizing the yield is way up here at 1,000, now at a Class 3 we’re down to 500 pounds. Class 4 you would be able to operate at 400 pounds. But because we design our system where we want to maintain the ability to operate the same pressure or maximum operating pressure, we increased the -- there’s two ways to do it. You can increase the thickness of the pipe or the grade of the pipe. And our project we’re holding the grade or the yield of the steel and we’re going thicker.
So that’s your pipe, your pressures. The other thing is your class. What we’ve got on this line, we’ve got a lot of areas that are Class 1 that we’re putting in the Class 2 pipe. We’ve got a lot of areas that are Class 2 that we’re putting in the Class 3 pipe because we’re -- like we did on the board here, we’ve looked into future growth areas so we’re going to put in a little more pipe for when those areas grow up, that they’ve got that steel in there. So even if we put Class 4 at the school, by definition we would operate that as a Class 3 pipeline because it’s not -- it’s just the pipe. So we’re talking Class 4 pipe. It’s really what you’re looking for is a 40 percent design factor pipe versus a 50 percent design factor pipe.

Q Okay but if I may, let me ask this question again and ask if you could put this really in simple lay terms.

A That’s why I didn’t go there before.

Q What I understand the aspect that I quoted of your filing to say is that if you were to find yourself in a Class 4 location because of increased population density you would need to do two things. Very simplified. You would need to have a thicker pipe and you would also need to do more patrolling and testing and surveying. That’s what I read this to say.
A Yes. And I don’t know what the difference is in -- there’s not a big difference in Class 3 and 4 in a lot of the patrolling requirements but you know, some of them are grouped together but there are areas where that changes.

Q But in general am I right to understand that the Company is representing here in the FERC filing --

A Oh yes, that’s --

Q -- that the more populated the area the more testing and surveying and monitoring you need to do.

A All that’s doing is quoting the part 192. I don’t have my book. I’ve got it right here. All that’s quoting is verbatim the way this book is set up.

Q So again, for those of us struggling to understand this, if the Committee were to understand you to suggest that a Class 4 pipe, a thicker pipe, is a substitute for enhanced monitoring and leak surveys and pipeline patrols, then we would be misunderstanding that?

A Yes, I didn’t say it was a substitute. I’m sorry. And my testimony doesn’t reflect that. The intent was, because of the inability to effectively carry out those programs because of the location of the pipe underneath pavement and in those areas. I never said it was a substitute or inability -- I mean, a substitute for
that.

MS. BROCKWAY: That’s what it sounded
like to me.

A And if that’s the case it’s the effectiveness of those
things. It doesn’t mean you go in there and don’t try
to get a cathodic protection system in and do a cathodic
protection. That cathodic protection system should work
but there’s a risk that it may not work. You’re exposed
to more third party damage. It does not change the
requirements and I apologize if that was misleading in
any way.

ATTORNEY SMITH: Can I just ask because
I’m trying to follow this too. Do we understand, Mark,
that if the regulations say there may be more
activities, this combination of things you’ve told us
all about several times, in a Class 4 area, the
distinction you’re trying to explain is that in a place
where it’s congested or inaccessible you may try to have
more of those types of activities but the practical
locational realities are that you can’t make them as
effective in those locations? You may have more risk of
third party damage, you may have places where you can’t
get at the cathodic protection system even if you’re
supposed to be doing it even at an enhanced level. Is
that what you’re trying to say?

A That’s what I’m trying to say. That was the intent of bringing Class 4 in here.

EXAMINATION BY CHAIR:

Q You just brought up the third party damages. Could you explain how the Class 4 pipe provides more protection to third party damages?

A If someone hit the pipe and they didn’t realize it was pipe the first time and hit it the second time and for some terrible reason the pipe was to fail, I’m not sure I could predict the safety factor in there and what it would do in particular because of the minimal difference in wall thickness we may be talking about here.

Q But you’re the one that raised it as the reason that it is safer because it’s thicker.

A No, I didn’t -- you --

Q What did you just say? Why is Class 4 safer from third party damages?

A No, I never said it was safer from third party damages. I said --

Q Yes, you’re the one that raised the third party damages, I didn’t.

A It’s one of the things -- it’s thicker steel so conceivably in those areas I said you’re subject -- I
didn’t say -- you’re subject to more third party damages in those types of environments so your frequency are there. So you would have that in. It’s just a combination of things there.

Q I’m not quite following your logic here but we’ll leave it at that.

CHAIR: Michael?

MR. CANNATA: I was just going to ask that when the Applicant responds to the original question if you could calculate out the thicknesses of the four classes. We have two of them on the maps that have been supplied, the Class 2, Class 3 but could you supply the Class 1 and Class 4 wall thickness for the X65 pipe?

A Yes.

MR. CANNATA: I believe it’s around .24 and .44 but I’ll wait for your calculations.

CHAIR: Anything else for Mr. Hamarich? Thank you very much.

DIRECT EXAMINATION OF MR. LOPEZ BY ATTORNEY ARNOLD:

Q Mr. Lopez, you’ve already been sworn in by Mr. Iacopino so I’m just going to proceed along and remind you that you’re under oath. Would you please state your full name and business address for members of the Committee?
A Ricardo Lopez, El Paso Building in Houston, Texas.

Q Can you tell us what your responsibilities are in this project?

A Yes. I’m the right-of-way coordinator for this project. I’m responsible for management and supervision of all right-of-way activities, those would include identification of landowners, notification of landowners, title work, negotiation of easements, and eventually settlement of damage claims.

Q Would you also please tell us your educational and work background?

A I attended the University of New Orleans and the University of Southwest Louisiana. I have 20 years in New Orleans Gas and the pipeline business, the last 10 of which I’ve been associated with Tennessee Gas Pipeline Company.

Q Let me show you Applicant’s Exhibit 12, which is your direct pre-filed testimony. Was this prepared under direction with your assistance?

A Yes, it was.

Q With the exception of paragraph eight, which was John Auriemma’s testimony and inadvertently placed in there, is it true and accurate to the best of your knowledge?

A Yes, it is.
Q And do you adopt it before this Committee today?
A Yes, I do.

Q Do you have any additional testimony that you would like to provide the Committee?
A Yes.

Q Great. Would you tell us, if you can, just in summary fashion because of the time of the day, what exactly has been done by Tennessee Gas in relation to its right-of-way issues on this project?

A Sure. When we made the initial contact with landowners was in January of 1999 and that was done door to door by several contract right-of-way agents working for Tennessee Gas. They attempted to call on each landowner and deliver a letter which described the project in some detail, just kind of an overview of what we’re planning to do. That was our first contact with landowners. Once Tennessee Gas decides this was a viable project and they filed with the Federal Energy Regulatory Commission we mailed out notifications to all landowners and abutters as defined by FERC order 609, which included certain items that were determined by FERC we should include, in addition to other things that were above and beyond what we were supposed to include.

Q Let me just refer you to the Applicant’s Exhibit 45 and
I believe there are notification materials that are attached to this document. It’s the Tennessee’s responses to record requests from the EFSEC. Is that the material that you’re referring to in your testimony?

A Yes, it is.

Q Did you do anything specifically related to the EFSEC process that you didn’t have to do for FERC, which I believe you just said.

A Yes.

Q Can you tell us what it was you did?

A Yes, we did. We included what’s called a Landowner Fact Sheet, which gives a little more detailed overview of the project and what landowners should expect in the coming days leading up to construction and then after construction. It gives you a project description, it gives landowners a little overview of negotiations that they’re going to be engaged in during the process. It gives you some information on construction, some design, what to expect before, during and after construction.

Q Did you also publish notices of this project in local newspapers?

A Yes, we did. It was in three newspapers. The Windham Independent, The Dracut Dispatch and The Eagle Tribune. In addition to that the FERC filing was deposited in a
library in each of the towns affected by the project.

Q Can you also describe for us since this summer when you began contacting landowners with existing easements or to acquire temporary work space. Can you just update us as to what the current status is of those efforts?

A Sure. At present we have about 80 percent of the easements we will require for construction.

Q Compared to other projects you’ve been involved in, how does that ratio compare at this point of time in the project?

A We’re doing very well at this point.

Q I’d like to refer you as well to the Applicant’s Exhibit 79, which is the preliminary determination on non-environmental issues from the Federal Energy Regulatory Commission. And I’d like to refer you specifically to page 2 where FERC addresses the efforts that Tennessee is making regarding landowner interests. Would you please quote from that section or read from that section to the Committee?

A Sure. It says, “Moreover the Commission finds that Tennessee is making reasonable efforts to accommodate landowner interests in the siting process.”

Q And as far as you’re concerned in your experience and throughout this project does that seem to accurately
reflect the efforts and the responses that you’re getting from landowners in this project?

A Yes, I believe it does.

Q I know that the Committee members have raised some questions to you already and I think probably for the sake of expediency I would just end my questioning here and allow people to go forward with other questions they have.

MR. PATCH: Does Public Counsel have questions?

ATTORNEY ROCHWARG: She stepped out of the room. There she is.

ATTORNEY WAGELING: I apologize. I was listening from the back of the room because my back was killing me. And I apologize for not being -- I have no questions. Thank you.

MR. PATCH: Neighborhood Coalition?

ATTORNEY ROCHWARG: Very briefly.

CROSS-EXAMINATION BY ATTORNEY ROCHWARG:

Q Mr. Lopez, will you continue as the right-of-way coordinator to work with and identify landowners in order to determine what the needs and the rights of those landowners would be?
A Yes, we will.

Q You had mentioned earlier in your testimony, if I’m not mistaken I believe it was you, that in fact if there was an issue with a landowner over damage to their well or contamination to their well that you would be the one, or at least your department would be the one that would work with the landowner to determine whether in fact that landowner had any rights in order to negotiate some type of a resolution to their dispute.

A That’s correct. We’ll have right-of-way agents in the field during construction to -- well, to answer or try to answer any of those problems and if not, they’ll try to put them together with the right body. We’ll be liaisons between the landowners and the Company.

Q I believe that Chairman Varney raised an issue with regard to possible contamination and I don’t want to misquote the area of inquiry but it did raise an area of inquiry for me. In the event of contamination to someone’s well, let’s say that it happened long after construction had been completed. For example, a landowner discovers one year after blasting occurs or one year after construction through the right-of-way occurs, that they believe the cause of disruption or contamination to their water supply was as a consequence
of the construction and/or the blasting, what time period, if any, does Tennessee Gas intend to impose upon landowners before they can come forward? And also, what proof will a landowner need in order to satisfy Tennessee Gas that there was a connection between the construction and the contamination or problems that they’re incurring with well water?

A I assume there’s some statutory limitation so I wouldn’t -- I don’t know if -- if you’re asking is there a limitation on how long between the incident that they think caused it.

Q I suppose I’m outside of any statutory limitations which may apply, does Tennessee Gas have a different limit that they intend to impose?

A Tennessee Gas does not have a different limit. If the landowner can put forth irrefutable proof some years down the road that it was our construction activities that caused this contamination, we’re willing to live up to our responsibilities.

Q You used a word that brings something to mind, and I don’t mean to cut you off but you used the word ‘irrefutable’ proof --

A Well, it would have to be proven that it was our fault. I mean, we’ll work with the landowner. We won’t call
someone and say, "Okay, prove to me that this is our responsibility." We’ll try and work with them to arrive at a reasonable conclusion.

Q And is there a period of time after which Tennessee Gas presumptively assumes that the damage was not due to blasting and/or construction in the area?

A We do -- we’ve committed to do blast testing before and after construction. If anything other than that arises we’ll take that on a case by case basis. But you asked me before if there was any time limitation, there’s not necessarily any time limitation.

Q The FERC order that you’re referring to, 609, for persons who are present who may not be as familiar with it as you perhaps are, who is required to be notified in terms of landowners? I know that you stated in your direct testimony that you sent a letter to all landowners. Does that mean all landowners in Londonderry, for example, where the pipeline runs through or is that a smaller group of people?

A The Federal Energy Regulatory Commission gives a pretty strict definition as to abutter. Well, landowners are anyone who the pipeline, where there’s work space, excuse me, pipeline or work space is on their property. An abutter is anyone whose property line abuts that
construction area. That’s the definition that we’ve used to send notifications out.

Q No further questions.

MR. PATCH: Members of the Committee have questions?

ATTORNEY M. IACOPINO: I just have one question.

EXAMINATION BY ATTORNEY M. IACOPINO:

Q I know that you have certain notifications that you’re required to provided under the FERC laws pertaining the federal law. And I know that the Applicant published notice of these proceedings in papers of general circulation in the area of the pipeline, which will be exhibits in this proceeding, I believe. Has the Company done anything -- and at the public informational hearings which were held in Londonderry and Pelham there was also a notice of these proceedings, these adjudicative proceedings, given to people who went to those hearings. Has the Company done anything above and beyond that to notify individuals of these particular hearings that we’re in right now?

A I know we sent a lot of notifications to elected officials in the towns in the area. In addition to that there was at least one person who asked specifically can
I get a notification of this and we’ve accommodated that wish.

Q That was based on that person’s request for you to notify them of the hearings?
A Right.
Q Okay.
A That’s not to say I’m willing to go wholesale notification if someone requests but.
Q No, I understand that. I mean, you’re just talking about that particular instance. That was somebody who requested --
A Correct. I’m just saying what we went above and beyond what we -- what FERC order 609 tells us to do.

ATTORNEY EDWARDS: Mr. Iacopino, I have another comment to offer in line with what you’re asking. I was just made aware of something I’d like to ask you about.

RE CROSS-EXAMINATION BY ATTORNEY EDWARDS:
Q I’ve been told by members of the Londonderry Neighborhood Coalition that this notification was not published in the Derry News or The Londonderry Times or The Manchester Union Leader. Is that true?
A Yes, that’s true.
Q What paper was it published in?
A I gave that answer earlier. It was *The Windham Independent*, *Dracut Dispatch* and *Eagle Tribune*.

Q Those are the only two papers?

A They’re three papers, yes.

Q Three papers.

A Yes.

Q And you consider that adequate?

A It’s adequate according to Federal Energy Regulatory Commission requirements that we publish it in a paper of general circulation.

ATTORNEY M. IACOPINO: I think we’re talking about two different hearings. I was specifically specifying these hearings.

A Oh, I’m sorry. We’re talking about --

ATTORNEY M. IACOPINO: And if you’ll note, there are affidavits of publication in *The Union Leader*, in *The Derry News* on your exhibit list and I believe the originals are in the box.

A I apologize. I thought we were talking about the FERC notification.

ATTORNEY M. IACOPINO: No.

A Sorry.

ATTORNEY M. IACOPINO: You did -- I mean, there is an affidavit. You did publish those -- notice
of this hearing that we’ve been going on for the last three days, in *The Union Leader* and *The Derry News*. Is that correct?

A Yes.

ATTORNEY ARNOLD: So these other three papers are in addition to that, is what your testimony is.

A That’s a different notification.

ATTORNEY M. IACOPINO: So the notification in the three other papers that you were talking about are representative of the FERC proceedings, is that correct?

A That was the FERC notification that Order 609 tells us we have to publish.

ATTORNEY M. IACOPINO: Thank you.

A Sorry.

ATTORNEY M. IACOPINO: I just have one other question. I can’t seem to find it right now but I remember there was some dispute about negotiations with the owner of a tennis court or something. Has that been resolved?

A Yes, it has.

ATTORNEY M. IACOPINO: Thank you.

ATTORNEY ANDREWS: So just to clarify that on our behalf, then I guess I was referring to the
FERC Order 609 that Tennessee did not publish in The Derry News or The Londonderry Times or The Manchester Union Leader.

A That’s correct. We did not.

CHAIR: Any other questions?

Thank you very much.

A Thank you.

ATTORNEY SMITH: Mr. Chairman, I think there are three things I’d like to do this morning. One is I’d like to just go over the evidence offered by other parties and reserve the right to rebuttal, which I assume we will have the right to do. And it’s my understanding the procedure would be to deal with the admissibility of exhibits, evidence, to the extent that needs to be addressed at the end of all the testimony, not at the end of our case, where I strike identification, for example.

CHAIR: Yes.

ATTORNEY SMITH: So with that understanding I’ll leave that to the end.

CHAIR: Okay.

ATTORNEY SMITH: And I have two items that I’d like to suggest be made exhibits now if that’s alright. One would be the letter that I guess was
delivered to the Committee from Mr. Bernstein’s office as counsel for the Town of Londonderry and the school district, dated today. I’d just ask that that be marked as an exhibit.

CHAIR: And that was distributed by Mr. Dustin earlier in the day.

ATTORNEY M. IACOPINO: What number would that be?

ATTORNEY SMITH: A-90. And then I would like to offer into the record copies of a FERC certificate which we received and have tried to reproduce this afternoon. I had a little difficulty getting the pages together but I think we now have copies for the Committee. And we’d like to make that Exhibit A-91 in this record if there’s no objection.

CHAIR: Okay.

ATTORNEY M. IACOPINO: Mr. Dupee has a question about the last exhibit. Could you just explain what it is?

ATTORNEY SMITH: Yes. I can try to do that. I have very few — it’s my understanding from my clients that today the Federal Energy Regulatory Commission met and issued this decision. And that this is stamped ‘draft’, I don’t practice before FERC, maybe
others here can try to explain it better than I. But there was a comment period on the documents we’ve previously introduced into the record, the environmental assessment and the preliminary determination on non-environmental issues, which I think are both already in the record, issued in August of this year. There’s a period of time for those participating before FERC to comment on that and then FERC issues this. So that period for input, I think, is over and it’s my understanding in the next few days they will turn this from a draft to a final document and then the judicial review procedures would take effect. So except for that short delay I think this is the final FERC decision as has been related to me. It was faxed to us today, apparently issued today.

ATTORNEY M. IACOPINO: Mr. Chairman, may I address Mr. Smith a moment?

CHAIR: Yes.

ATTORNEY M. IACOPINO: Mr. Smith, the copy that’s been given to me obviously is a photocopy. I see where you reference a draft up at the top where it says, “stamped draft”. At the bottom of my copy it says, “Property of the Public” something. Do you have what that is?
MR. HAAS: The FERC documents are stamped, “Property of the Public Reference Room, Do Not Remove.” You can go to the reference room and copy them and take the copies.

ATTORNEY M. IACOPINO: I just wanted to know what it said.

MR. HAAS: We didn’t take the actual copy.

MS. SCHACHTER: Mr. Chairman, I wonder if before we go farther we might decide about when we might take a break, if we plan to, so those of us with any conflicts or scheduling needs can envision what the proceedings may look like for the rest of the evening.

CHAIR: Well, we’re waiting to -- are we done with this?

ATTORNEY SMITH: Yes. I think we’ve completed the presentation of our direct case, Mr. Chairman.

CHAIR: Okay. Thank you.

ATTORNEY WAGELING: Mr. Chairman, I have Richard Stulgis here from Haley and Aldridge, who has been here for basically the three days of hearings. I would estimate his direct testimony to be at about a 20 minute range. I’m not sure if the Committee would...
anticipate having a lengthy time of questioning or if
the intervenors would but if it’s possible I certainly
wouldn’t mind putting him on before the dinner break but
I certainly leave it to your discretion.

CHAIR: Okay. I think we’re
planning to break for dinner at about quarter of six so
that would probably work out pretty well in that regard.
Just to clarify for the dinner hour, I think that we’re
planning on just momentarily taking a break and then
continue the hearing. We do not plan to break for an
hour at dinnertime but rather will continue the hearing
and work straight through and just take it as if it’s a
mid afternoon break that happens to be at dinnertime.
Okay. Are you ready?

ATTORNEY WAGELING: Sure. Again, I
certainly don’t mind continuing to waive my right to
make a statement of position so that we can move on with
the testimony.

RICHARD STULGIS

having been duly sworn by Attorney V. Iacopino
was examined and testified as follows:

DIRECT EXAMINATION BY ATTORNEY WAGELING:

Q Mr. Stulgis, if you could state your full name for the
record, provide information about your employment and
then if we could move for you to describe in some
general terms what your background and education is.

A My name is Richard Stulgis, I’m a vice president of
Haley and Aldridge. My educational background is I have
a master’s degree in civil engineering from Purdue
University. I’ve been a practicing geotechnical
engineer for over 30 years. I’ve been involved in
engineering projects both here domestically in the
United States and overseas.

Q I’d like, if we could, to review a variety of documents
that have been submitted as exhibits. They all have the
letter ‘A’ in front of them and I’d like to go through
them with you and see if you could provide testimony to
the Committee that you’re familiar with them and that
you have reviewed them in preparation for your
testimony. And I’d like to start with what’s been
marked 27, which I believe to be your September 5, 2000
pre-filed testimony on behalf of Haley and Aldridge.

A That’s correct.

Q Would you agree with me that included in that is the
report you submitted, the peer review report, that you
submitted to my office, which was then appendixed to
your written pre-filed testimony?

A That’s also correct.
Q Number 44, which I believe to be your supplemental pre-filed testimony on October 9, 2000.

A That’s also correct.

Q Number 24, which is the Tennessee Gas Pipeline August --

I’m sorry. I have a date on my outline that’s kind of confusing me and I apologize. I’ll get back to this one in a minute. Number 46, which is the response to the data requests put forth by Public Counsel to DES and the date is September 29, 2000.

A Yes, I reviewed that also.

Q Number 43, which is the PUC response, again, to the data request put forth by Public Counsel dated October 4, 2000.

A Yes, I reviewed that document.

Q Number 62, which is the Tennessee Gas Pipeline October 13 filing with the EFSEC Committee.

A Yes, I reviewed that also.

Q And specifically on the cover I note that it is responses to DES and PUC proposed draft conditions and their status report.

A That is correct.

Q And lastly, what should be in here but is not, but it’s my understanding that and maybe I’m mistaken in my numbers, I think I might have gotten these numbers from
your proposed exhibit list and some of them might have
changed, but the Tennessee Gas Pipeline filing of
October 18, 2000, which I happen to have here.

A That’s correct.

Q And I believe it to be the same -- I’ve seen it as the
exhibit brought around but I’m sorry I’m mistaken on the
exhibit number apparently. And again, I’ll get back to
that before your testimony is complete so that we have
that in the record.

ATTORNEY ARNOLD: I believe that’s
Exhibit 71 on the final list. Is that what you --

Q Yes. If you could look over at the woman there.
They’re holding up Exhibit 71. Would you agree with me
it’s the same as the item I just held up and showed you?

A Yes, I would.

Q Thank you. Moving on in terms of the information that
you had accessible to you and what you reviewed, would
it be fair to say that you are familiar with the EFSEC
filing on behalf of Tennessee Gas Pipeline, as well as
the FERC filing that is currently before this Committee
today?

A That is correct.

Q In addition to the information that you’ve reviewed,
have you ever participated in, as a consultant, on
behalf of Counsel for the Public, on a similar project?
A Yes. That would be roughly several years ago in PNGTS-Maritimes pipeline application.

ATTORNEY WAGELING: And I bring that to the Committee’s attention just in case there are questions that you might have that he could answer in comparison of this project as it relates to that project, because I know that has come up before.

Q Did you fulfill a similar role in that project as to what you’ve come forward today to present for this Committee?
A That’s correct.

Q I’d like firstly for you to provide an opinion to this Committee, in a general sense, as to the plan that’s been submitted by Tennessee Gas, in a general overview of that. What your opinion is of it.
A Our focus and my focus was to evaluate the proposed water body crossings, and in particular I focused on the larger crossings, the intermediate water body crossings. Those would be crossings that are greater than ten feet and less than 100 feet. And on this project there are roughly a handful or half a dozen, seven, such crossings. By way of comparison, for the Committee, the PNGTS-Maritimes project, similar focus, the scope of
that project involved major water body crossings somewhere on the order of 12 or so. They were several hundred feet in width, the largest crossing was several thousand feet in length. So again, during my review of the Applicant’s application relative to water body crossings drew on my experience relative to the Maritimes submitted several years ago.

And again, the current project as proposed, by comparison, the water body crossings that the Applicant proposes to cross using the wet method are roughly seven. The width of these crossings are typically 25 to 30 feet. Based on the nature of those crossings, based on the Applicant’s proposed wet method approach for those crossings, based on my evaluation of the site conditions I found that the Applicant’s proposed methods to be reasonable and in accordance with the standard of practice. In addition, the ECP obviously included controls relative to environmental protection during implementation of those methods for those crossings.

Having said that, there were two aspects that I felt were important and qualified my evaluation of those crossing methods. And they basically revolved around the nature of the backfill that would be used to backfill these wet trench evacuations from the point of
view of water quality turbidity. I made the recommendation that the Applicant basically use clean granular soils in the backfilling of those handful of wet water body crossings. And second of all, the uniqueness of the project where the proposed pipeline is going to be constructed adjacent to the existing 12 inch line, the concern that I had was that in these wet water body crossings, essentially excavating in the blind so to speak, that the Applicant should put forth a plan to essentially indicate how the Applicant would protect the existing 12 inch line and monitor the effect of the proposed wet construction of the 20 inch line on that existing line so that if, in fact, the existing line was being impacted that measures could be taken to essentially protect that line.

So having essentially made the general conclusion that the proposed wet water body crossings were reasonable and in conformance with practice, again, qualified those crossing methods to the considerations I’ve just indicated.

Q If I could back up, I have compared Exhibit 24 and I was confused simply by some of the dates that were present on the cover but I failed to note the last one. It is exactly what I thought it was originally and I apologize
for the confusion. Did you also have an opportunity to
review Exhibit 24, which is the information submitted
from Tennessee Gas in August 2000?
A Yes, I did.
Q If we could go back just for the foundation, which I
feel now is appropriate for me to now ask you, based
upon your review of particularly items that were marked
27 and 44, which we have pre-filed testimony, were they
true and accurate at the time that they were filed by
you?
A That’s correct.
Q And do they remain true and accurate today?
A Yes, they do.
Q Would you like to adopt the information contained within
those filings as your testimony today?
A Yes, I would.
Q I’d like to ask you some follow up questions and ask
that you further delineate your position on a couple of
things, including, and I don’t think you got into it
particularly a few minutes ago. But when you were
talking in your pre-filed testimony and earlier today
about water body crossings, as I understand it you had
discussed the test borings?
A That’s correct.
Q  I don’t know whether or not you feel that you should go into it anymore but if you don’t mind would you explain to the Committee why you thought it was essential in terms of the preparation for determining which water body crossings would be appropriate?

A  Well, again, in my opinion, particularly with respect to the sixth and seventh crossings, the intermediate crossings that are proposed in the wet, in my opinion the standard of practice at this point in the process or prior to construction would be to conduct one test boring on each of the river banks at each of the crossings. The purpose being to identify the subsurface conditions, to allow the Applicant to take a proactive position by having identified those subsurface conditions, being then able to properly plan how the specifics of the crossings would be executed. For example, will bedrock be encountered? They then basically set off a chain of design decisions and construction decisions for the Applicant. Are there cobbles and boulders in the stream or the riverbanks? Are there soft soils? So again, my position in terms of the standard of practice would be that it would be prudent to essentially develop that information prior to construction so that particularly in view of the
existing 12 inch line, the Applicant could proactively take the proper steps in terms of implementing those crossings.

Q What about erosion control measures that have been suggested, both through the DES report and draft conditions as well as the responses by Tennessee Gas?

A Again, in my opinion, I think they’re reasonable and they certainly conform to the standard of practice and we have no problem with them whatsoever.

Q There’s been quite a bit of discussion on the turbidity issue today. Have you been present for all of that testimony?

A Yes, I have.

Q Do you wish to provide any opinion to this Committee as it relates to that issue?

A Only in terms of, again, the nature of the backfill that I would recommend in these wet trenching operations. Again, to minimize the turbidity problem, siltation, in my opinion the use of clean granular backfill would be prudent to use in its presence.

Q More specifically, in terms of the testing that was spoken of by Mr. Treddle, that involved the last project that you happened to be involved with and as I understand his testimony, he felt that it was rather
redundant. I don’t know if you’d care to share your opinion with this Committee as it relates to the testing that was required in that --

A I really have no opinion on that. That’s beyond my area of expertise.

Q Another issue that, as I recall, came up during discussions relative to the trench operations in this project, is the protection of the 12 inch pipeline during excavation in the wet. Do you have any specific suggestions that you think should be implemented to ensure the integrity of that line?

A Yes, I do. In my opinion, during the trenching operation and pipeline operation of the 20 inch line the existing 12 inch line should be monitored and a system of basically alignment of marker stakes in my opinion should be installed across the full water body crossing roughly five feet downstream from the existing 12 inch line. The Applicant has indicated in their filing that they proposed to essentially monitor the side walls of the trench excavation and if they indicate or observe movement in those side walls that that would trigger a response in terms of further protection of the 12 line. The problem is is that excavation is in the wet and in the blind and there’s no way to really monitor visually
the side wall of the excavation. By installing these alignment or marker stakes downstream from the pipe and upstream from the 20 inch pipe trench excavation and monitoring those alignment stakes, if there’s any movement they would be the first precursor or indication that something is happening at the trench bottom or the river bottom and then the Applicant could take the appropriate additional protective measures relative to the 12 inch pipeline.

Q Earlier on there was some discussion about geo-textile diapers. Is there anything that you could share with this Committee relative to your expertise or knowledge in the use of such a material in a project such as this?

A Well, the use of geo-textile materials in construction are a matter of routine course in most projects now for either filtration separation, protection reinforcement. The cost of these materials is relatively low. We’re talking about cents per square yard relative to the materials. The materials, I was listening to Chairman Varney’s comment earlier on the trampoline in the back yard. These materials are typically polyester or polypropylene materials. They’re durable. They don’t become brittle and they’re relatively flexible. In my experience they’re a common material that is used for
various purposes during construction. They’re relatively expensive [sic] and they certainly maintain their flexibility.

Q Relatively expensive or inexpensive?
A Inexpensive. I’m sorry.

Q And do you think that it’s an appropriate condition to be placing on Tennessee to require that they use them in this project?
A Well, to be honest with you I would defer to the regulatory agencies relative to that issue. I can understand both arguments and like I said, I would defer to the regulatory agencies in that issue.

Q I’m going to put you on the spot here, earlier on you had indicated that you thought that the crossings that have been suggested by Tennessee are reasonable based upon your experience and standards.
A Correct.

Q He’s going to kill me here. Would you say the same for what DES is recommending? And what I mean by that is, is it unreasonable for DES to be suggesting to this Committee that all the crossings should be done in the dry?
A Is it unreasonable? I think that’s the prerogative of the agency. Whether it’s reasonable or not I’m not sure
I’m in a position to really address that. I can tell you that there are pros and cons of dry versus wet. If a dry crossing is executed properly with the appropriate controls it certainly will have less impact on the environment in terms of stream or river water quality. Having said that, the wet crossing, I agree with the Applicant from the point of view of minimizing the time that the crossing is open, it certainly is quicker. I think that if some of the controls that obviously are indicated in the ECP are implemented, I think if the backfilling of the trench material with clean material is executed as we’re suggesting, again, a crossing of that nature can certainly be effected with a minimum impact on the environment.

Q There had been some discussion, and I’m not sure if it was on the record or off the record, with me at some point about some difficulties in the PNGTS project where a dry crossing had been required and eventually -- it was during the testimony. Eventually they allowed for the wet crossing. Can you provide any input to the Committee on issues such as that? And I guess basically what I mean is, are there times where because of the insistence of the state agency to do it in the dry they end up creating more problems, innocently enough but end
up creating more problems relative to the environment?

A I don’t think you could link that to the insistence of
the agency. Again, I think it’s a matter of execution
and how it’s executed in the field. If appropriate
construction techniques, if a knowledgeable experienced
contractor is executing the work and the means and
methods are appropriately adopted to the site condition
then I don’t see that.

Q Is there any other testimony that you would like to
provide to this Committee at this time?

A No, there isn’t.

Q Thank you. I have no further questions at this time.

CHAIR: Any questions from the
Applicant?

ATTORNEY ARNOLD: Just a couple, if I
may.

CROSS-EXAMINATION BY ATTORNEY ARNOLD:

Q Mr. Stulgis, you have testified and provided in your
pre-filed testimony that you believe that the wet cross
methods that have been proposed by the Applicant are
reasonable and consistent with established methods and
practices, correct?

A That’s correct.

Q And that you believe the environmental construction plan
that was submitted is reasonable and appropriate as well?

A That’s correct.

Q And if I understood your testimony correctly in reference to the PNGTS site and I believe our testimony related to a site in Plattsburg, New York, but it seemed to me that what you said there was that it was important to deal with these issues on a site by site basis and deal with the conditions as they exist --

A I’m sorry. I was distracted.

Q I’m sorry. The testimony that you were asked about in terms of PNGTS, and I was just clarifying that I believe our witnesses had testified about similar incidents in Plattsburg, New York, not PNGTS. But in any event, I believe or what seemed to be the gist of your testimony was that it makes sense to analyze the appropriate methodology in the field based upon the site conditions. Would that be correct?

A That’s correct. Prior to construction though.

Q And in fact, that’s exactly what the Applicant has proposed to do in this case, is it not?

A In terms of?

Q Dealing with the seven wet crossings by analyzing them and the site conditions at the time.
A That’s correct.

Q And would it be true to say then that it’s also your opinion that there would not be any undue adverse environmental impact as a result of the methods and the construction plan that’s been proposed by the Applicant?

A Depending upon what the site specific -- you know, what the subsurface conditions are.

Q And if there was a determination at the seven sites where that’s proposed that, in fact, the wet crossing method as proposed and particularly in the environmental construction plan is the most appropriate, then you would conclude there would be no undue environmental impacts?

A I would conclude that that approach is reasonable and in accordance with the standard of practice qualified by the recommendations that I’ve made relative to trench backfill and methods to monitor the behavior of the existing 12 inch line.

Q And in fact, the Applicant, throughout this proceeding has agreed to the backfill which you recommended at four out of the seven locations, correct?

A That’s correct.

Q And also, Mr. Hamarich testified today that the Applicant would agree to the monitoring of the 12 inch
pipe as you’ve requested?

A That’s correct.

Q So is it fair to say then that with your recommendations having been adopted and based upon your statement that the methods proposed are reasonable and I believe you also stated that there would be minimal impact on the environment, is it fair to say then that that means there would be no undue adverse impact on the environment?

A That’s my opinion.

Q Thank you.

ATTORNEY WAGELING: Mr. Chairman, if I could just ask one follow up question, just to clarify for the record on one issue?

CHAIR: Clarification only.

REDIRECT EXAMINATION BY ATTORNEY WAGELING:

Q You just indicated that for four of the seven wet crossings the trench backfill requirement or suggestion, recommendation if you will, will be implemented. Could you explain to the Committee why, for the remaining three, you don’t think that that’s a recommendation that should be implemented?

A Well, I think it depends upon the conditions during construction. The Applicant is proposing the push/pull
technique, which I think is appropriate assuming that
the conditions at the time of construction are basically
a wet saturated ground surface. So on that basis that’s
my opinion.

Q Would it be your understanding, however, that if at the
time they go out to the site there’s a determination
made, again, because of those specific conditions, that
a push/pull isn’t conducted and instead a trench is
going to be dug, that they will be implementing the
backfill as we’ve already agreed to in the other four
sites?

A That’s my understanding.

ATTORNEY WAGELING: And if we’re unclear
on that, in terms of the Applicant, if you could state
into the record that you disagree with that position.

CHAIR: LNC?

ATTORNEY EDWARDS: I’m pleased to
announce we have no questions.

CHAIR: Thank you. Members of
the Committee, questions? Michael?

MR. CANNATA: I don’t want to be
skunked, Mr. Chairman.

EXAMINATION BY COMMISSIONER CANNATA:

Q There was just one question. You stated that you were
requesting that the 12 inch pipe be staked five feet downstream?

A Correct.

Q Does that assume that the location of the 20 inch is always on the downstream side?

A That’s my assumption. If it’s -- yes, that’s my assumption.

Q Now if it’s on the upstream side, would you change your recommendation?

A That’s correct. Yes.

Q You would.

A We would want the alignment marker stakes --

Q On the side of the pipe --

A -- on the side of the pipe closest to --

Q -- where the 20 inch was.

A Correct.

Q Okay. And just as a follow up question, you had as a distance five feet from the 12 inch pipe.

A Correct.

Q Which my understanding would leave a construction zone of ten or so feet. Is five feet enough protection? Why didn’t you pick, say, ten feet away to give a quicker indication of erosion towards the 12 inch pipe?

A Well, in my opinion that five foot buffer zone is enough
of an early indicator if the indicator or marker stakes
begin to essentially move, for the Applicant to initiate
appropriate remedial measures. You don’t want it too
far away and you don’t want it too close. The further
away and closer to the trench you’re observing movement
of the trench side walls but it’s still far enough away
from the pipe that it’s not a consideration. So you
want to strike a balance and get those marker stakes a
little closer to the 12 inch pipe.

Q To provide protection but still no false figures, I
guess is your testimony?

A Right.

EXAMINATION BY CHAIR:

Q Does it also relate to the depth?

A The depth of the trench?

Q Yes.

A My assumptions are that the --

Q In terms of setting the five foot cushion.

A I would assume that the trench depth at all the
crossings basically is going to be the same in terms of
the --

Q Right but -- understood. You were saying what factors
led to the five foot and I was saying that one of the
factors would likely be the depth that they’ve indicated
A Correct.

Q Okay. Thanks.

MR. CANNATA: No further questions.

CHAIR: Any other questions?

Michael.

EXAMINATION BY ATTORNEY M. IACOPINO:

Q I got a little bit confused. You indicated during your direct testimony with respect to erosion control measures.

A Yes.

Q You indicated that you thought that what was proposed was reasonable.

A Yes, I did. For the intermediate wet water body crossings.

Q Whose proposal, from the DES or the Applicant’s proposal?

A My examination of the ECP.

Q Are you aware that there remains a dispute regarding erosion controls between the DES conditions and what the Applicant is intending to do? Specifically with respect to siltation, erosion and turbidity controls being in place prior to construction. You reviewed that at Exhibit 62, which is the DES conditions and the
responses thereto from the Applicant.

A    I’d have to refresh my memory.

ATTORNEY WAGELING:    Do you have a page?

ATTORNEY M. IACOPINO:    Page 14. I think it’s

the October 13th filing.

ATTORNEY WAGELING:    If I could have a

minute. And you said the 13th?


A    Okay. Your question is?

Q    You reviewed that here.

A    Yes.

Q    Have you reviewed that before --

A    Yes, I have.

Q    Is that within your area of expertise?

A    Generally, sure.

Q    As I understand it condition number 10 in the draft
dredge and fill permit required that those controls,
siltation, erosion and turbidity, be in place prior to
construction and that the Applicant has objected to that
for various reasons listed in that response that
generally have to do with construction issues and they
recommend a compromise to the condition. What is your
opinion with respect to whether those controls should be
in place prior to construction or whether the response
from the Applicant is the appropriate way to deal with that issue?

A Well, I think just from a matter of practicality and understanding the construction aspects of any project, particularly a linear project such as this pipeline, that to be honest with you, I find the Applicant’s response reasonable in terms of their suggestion. I think that as they suggest here that a lot this can be coordinated in the field prior to the time of construction and prioritized in terms of where it can be implemented prior to construction and where it makes sense to essentially wait until some clearing takes place. So I would basically defer, from a construction standpoint, to the practicality of what they’re suggesting here. And balancing it by the fact that my opinion is I don’t believe it’s going to create severe negative impacts to the environment, that’s my opinion.

Q There was also an issue about -- did you only review crossings that were greater than ten feet wide?

A That’s correct.

Q I have no further questions.

CHAIR: Thank you. Any other questions from the Committee? Yes.

ATTORNEY WAGELING: Mr. Chairman, I wasn’t
sure if the Applicant had any response to my last comment prior to the Committee asking other questions of Mr. Stulgis. If they did have a response that was different from my comment I wouldn’t mind having that on the record.

CHAIR: Sure.

ATTORNEY ARNOLD: Can I just allow Mr. Auriemma to address that and clarify it?

CHAIR: Sure.

MR. AURIEMMA: I believe you asked the question with respect to the three out of the seven wet crossings.

ATTORNEY WAGELING: The three that are remaining, yes.

MR. AURIEMMA: Correct. As was stated by Mr. Stulgis, the three are in the areas of what we call the push/pull wetland technique. And I did state that hydrologic conditions had to be there and be proper for us to conduct that construction method. If, for some reason they’re not, we will end up doing those crossings in the dry because it will -- the conditions of the ground will not be as saturated, it will allow us to use different techniques. Conducting that in the dry, I think that negates the purpose of the backfill.
ATTORNEY WAGELING: Thank you. I’m sorry, I guess I should have brought it to the other spectrum also but again, just so the record is clear, if for whatever reason we have monsoon season here prior to the review of that particular wetland site, and there’s a decision made to trench through that site, for whatever reason, will you all agree that you’re going to be using the bank run as has been discussed in the other four?

MR. AURIEMMA: Correct. In the four of the seven.

ATTORNEY WAGELING: Thank you.

CHAIR: One other matter relating to this on the environmental side is that we heard earlier that there’s not yet been a response from the Department of Environmental Services Water Division staff on the Applicant’s response. And so I would ask that the Water Division of DES respond within the next ten days to the written comments that were received from the Applicant.

MR. NYLANDER: That’s fine, Mr. Chairman.

ATTORNEY ARNOLD: Mr. Chairman, before we break, I’d hate to go back here again but there’s some confusion among everyone that’s listening to this
discussion and I want to make sure that we’re clear on
the record about what the discussion is between Public
Counsel and Tennessee.

CHAIR: Sure.

ATTORNEY ARNOLD: So I guess Mr. Auriemma, if I could ask you once again, just to make
sure we got this right, to confirm what it is Tennessee
is willing to do in terms of the crossings where
backfill will be installed as recommended or not.

MR. AURIEMMA: Okay. I apologize for the confusion. After three days you can imagine that
this would happen. What I believe we’ve agreed to, what
I’m to understand we’ve agreed to is the four out of the
seven wet crossings, the backfilling of the granular
material in the full depth of the trench. The other
three, as mandated by that wetland technique, if that
wetland technique is applied will not be backfilled in
that manner. However, if we switch the technique to
where the crossing can be conducted in the dry, it
negates the backfilling issue because he does not have
issue with respect to the backfilling of the dry
crossing method.

ATTORNEY WAGELING: That is correct.

CHAIR: Thank you. Are there
any other witnesses from Public Counsel?

ATTORNEY WAGELING: I have no other witnesses and with the Committee’s permission, unless you would like to stay for pizza with us all, I’d like to ask that Mr. Stulgis be excused.

CHAIR: Great. Thank you. Thanks for joining us. This might be a good point to take a ten minute break. Since we didn’t have an afternoon break I thought that we’d might take a ten minute break and then we’ll start with the LNC witnesses.

(Off the record for break)

CHAIR: For the record, our agenda is presentation of witnesses by the Town of Londonderry but they still do not seem to be here so we’ll move on to a presentation by the Londonderry Neighborhood Coalition.

ATTORNEY M. IACOPINO: Mr. Chairman, with respect to the Town, I’d also like to point out, in addition to what I said before, that they have never filed a motion to continue or in any way sought a continuance of this matter on the record.

CHAIR: Okay. Thank you.

ATTORNEY ANDREWS: What we’re going to
do, Chairman Varney, is, at least propose to do is one panel. We’re going to have five people on one panel. We’ll introduce all five people and then just ask some general questions from all five people and that will be the only panel that we’ll put on.

ATTORNEY ROCHWARG: Just so it’s clear, there have been several people from the Coalition, members of the Coalition that have been here the entire time. However some of them do have family obligations that they had to attend to do so what they did is, there is a select group remaining and they felt as though their interests could adequately be represented by those five people. But they didn’t want the Committee to believe that they were no longer interested in having the Committee hear what their position was with regard to certain concerns.

MR. CANNATA: Mr. Chairman, could those people be identified so the record is clear on who’s who?

ATTORNEY ROCHWARG: Sure. When I call up the Coalition members then it will be easier to do it that way then I can let you know --

MR. CANNATA: That would be fine. Just so long as the record is clear.
ATTORNEY ROCHWARG: Thank you for the suggestion. Would it be possible to have five chairs maybe right in this area? That would be great.

SWEARING IN:

KENNETH BARTON, VALERIE MAZZOLA, COLLETTE GABBIDON,

ROLAND GOUDREAULT & JACQUIE KYLEBERG

BY ATTORNEY V. IACOPINO:

ATTORNEY ANDREWS: Our first witness is going to be Collette Gabbidon. The other four witnesses we have are Valerie Mazzola, Jacquie Kyleberg, Kenneth Barton and Roland Goudreault. That leaves the witnesses who aren’t here, which are Nikki Sosnick, Richard Evans, Irene Goudreault, who is not going to testify, Vinnie Samson, Richard Bielinski, Jr. and Denise Southmayd.

DIRECT EXAMINATION OF MS. GABBIDON BY ATTORNEY ANDREWS:

Q Hello Collette.
A Hello.
Q Could you please state your name and spell your last name for the record?
A Sure. The first name is Collette. The last name is G- A-B-B-I-D-O-N.
Q Where do you live, Collette?
A I live in Londonderry.
Q How long have you lived there?
A Six years.
Q When did you become affiliated with the LNC?
A I formed the LNC in June of 1998.
Q Why did you become involved in the LNC?
A Initially because communication was very poor in the town of Londonderry between the citizens and elected officials and we wanted to do everything and anything possible to facilitate communication within the town itself.
Q How many members are currently involved with the LNC?
A We haven’t done a recent census.
Q How long has the group been tracking the status of this pipeline project?
Q Would you consider yourself to have been actively involved and up to date on the status of the pipeline?
A Yes, I would.
Q How about with respect to the AES power plant, were you also involved in tracking that?
A Yes. We consider them the same proposal.
Q I’d like to show you what was marked as Exhibit L-1. That’s your direct pre-filed testimony. Do you recognize it?
A Yes, I do.
Q Is it true?
A Yes, it is.
Q Would you like to adopt it as part of your testimony here today?
A Yes, I would.
Q Is there anything you need to add or change to it?
A Yes.
Q What is that?
A To the testimony itself or just add overall?
Q Well, I’m going to ask you a few questions that you can elaborate on but first of all, is there anything you need to change to what you have submitted?
A Oh, no.
Q Let’s get into some of your concerns on this project, Collette. Why don’t you elaborate generally, if you will, on what your concerns are with respect to safety?
A Okay. Actually my concerns in regards to safety start with the regulation of a pipeline industry overall. If you remember the explosion in Carlsbad, New Mexico USA Today had an excellent editorial in which they spoke about the lack of regulation and the fact that the pipeline industry itself is very powerful. Because they are so powerful they’ve been able to hire lobbyists to
make sure that there is indeed limited regulation. So it was very interesting to hear them say that they’re going above and beyond federal regulations when at the same time they’re lobbying to limit regulations.

The other thing I wanted to talk about in regards to safety -- we’ve heard a lot of testimony here today about the fact that this pipeline went in 50 years ago. And the inference seems to be that Tennessee Gas has a right to do whatever they want with the pipeline because it’s been there for 50 years. When I think back to where our country was 50 years ago, I think we’ve learned a lot about safety since that time. I mean, 50 years ago we painted our homes with lead paint. 50 years ago we didn’t believe in seat belts, we didn’t believe in airbags. 50 years ago people weren’t questioning whether or not they should smoke. And the question is not whether or not there should be a pipeline there, but the question is what type of activity should take place around that pipeline given the fact that we have five schools. When I say five schools we only have six schools in the entire town of Londonderry. So you say because this went in 50 years ago and people could not perceive there would be a power plant and there would need to be an upgrade of the
pipeline that the rights of the town and the rights of
the parents of the children in the schools do not
matter? I don’t agree with that at all.

Q Collette, one thing I forgot to ask you is if you have
any family in Londonderry.

A Yes, I do.

Q What does that comprise of?

A I have two daughters and a husband.

Q Are your daughters in school?

A Yes. My youngest daughter is in elementary school and
my oldest daughter is in the middle school.

Q Are they attending the schools about which you just
referred to?

A My oldest daughter attends the middle school.

Q And you have safety concerns for their well being as
well because they’re attending the schools?

A Oh, absolutely.

Q What other concerns might you have, Collette, about
environmental issues?

A Well, environmental issues, one of the things that we’re
looking at now in Londonderry is the fact that we have
a growing population and we have a problem with our
wetlands. And there was a wetlands ordinance that was
proposed and I agreed with most of the residents in the
town that it was too restrictive upon property owners but I also agreed with the Conservation Commission that we need to do something, that the majority of people in our town rely upon well water. And as you know, the pipeline goes through wetlands, so I’m very concerned about this dirtying the wetlands and what are going to be the long term ramifications to those of us who rely upon well water.

Q What considerations, Collette, would you ask that the Committee take into account in deciding whether to grant the Applicant’s certificate for this 20 inch pipeline?

A I actually have a few considerations. One of the concerns that I have is that we’ve been talking, the LNC, about this pipeline for two and a half years. I recently went through all of the literature that came out when they were proposing the power plant and either the pipeline issue was not addressed at all or on this document they actually stated that they would interconnect with the existing pipeline. On our web site we were so concerned that there was a sense of denial on the part of the company that proposed the power plant that the pipeline would have to be updated that when we talked about we called it “The Big Secret”. And it wasn’t until the power plant was approved that
the citizens in the town were told, “Guess what? The Londonderry Neighborhood Coalition was right. There is going to be a pipeline upgrade.”

So I don’t think the town was notified in a timely manner. I don’t think the town has been aware of this. And I think at this point, at this late date, to say that the town should have known is unfair to the town itself. I mean, there’s no way as a town we could perceive that there would be a pipeline upgrade. Not that there is a pipeline currently, but at a time when they say that most accidents occur during construction on or around a pipeline, you’re putting the children in our school district in unnecessary danger.

Q Do you happen to have any particular recommendations in mind that you would ask the Committee to consider in granting the certificate?

A Yes. I would like the Committee to consider whether or not the pipeline upgrade could be moved away from the school systems. I don’t think that’s unreasonable. I don’t think pipeline explosions are as uncommon as they have been stated. The Office of Pipeline Safety and their recent report indicated there was 1,954 incidents in distribution systems and 1,162 incidents in transmission systems. That’s enough to be concerned
about five schools.

Q Did you hear the testimony earlier, Collette, about the discussions surrounding the various classes of pipe, particularly the classes of pipe near the schools?

A Yes, I did.

Q Do you recall, I think it was Chairman Varney proposing the question as to whether or not Tennessee would consider Class 4 pipe near the schools if the town were to pay for it?

A No, I didn’t hear that.

Q You didn’t hear that?

A No. I don’t think the town should have to pay for it though.

Q Let me ask you this, would you support an upgrade of the pipe class near the schools?

A Oh, absolutely.

Q Why is that?

A Well, because when you’re weighing the rights of a private corporation against the rights of the citizens of the town in an upgrade that would not be necessary unless another private corporation needed to build a facility to make a profit. I think, first and foremost, the children should be protected.

Q If you were told by the company that they were putting
in Class 4 pipe near the schools, as a citizen of Londonderry, would that make you feel safer?

A It would not [sic] make me feel safe if they put in the Class 4 pipelines and also redirected the pipeline away from the schools.

Q Do you have anything else that you’d like to add to what you’ve said so far?

A If you give me just a second.

Q Take your time.

A Just very briefly, I wanted to discuss -- there’s been some discussion on the town of Londonderry not moving quickly enough to address pipeline safety issues and also the fact that the town of Londonderry had changed its attorneys. Londonderry Neighborhood Coalition has been asking the school board for over two years to look at this issue, to be ready for this issue. The problem was that the chairman of the school board was vice president of AES and he told us in no uncertain terms that absolutely he wasn’t going to do anything about this issue. And it wasn’t until he withdrew from being the chairman of the school board and now has withdrawn from the school board itself that we were able to even get the school board to act on this issue. So there was a direct conflict of interest and it was not on the part
of the town. It was because you had someone from one
facility who was going to make a profit not wanting to
do anything to act on behalf of the residents of the
town.

Q Would you support the Committee’s decision to impose
standards greater than the minimum federal standards
that have been discussed throughout these hearings?

A Absolutely. I mean, the General Accounting Office has
said that the Office of Pipeline Safety has not enforced
22 of 49 safety regulations. So when we talk about
federal standards being adequate we should actually look
at if they’re even enforcing the standards that they’re
supposed to. I don’t think you can take credit for
saying, “We’re going above federal standards” as I said,
at the same time you’re making sure that the federal
standards are very limited.

Q Is that all you have to say to the Committee today,
Collette?

A Yes.

Q Okay, thank you.

A You’re welcome.

ATTORNEY ROCHWARG: The next witness would
be Jacqui Kyleberg.

ATTORNEY M. IACOPINO: Is it the intent to
open up the panel to questions?

ATTORNEY ROCHWARG: Oh, I’m sorry. I apologize.

ATTORNEY M. IACOPINO: Is that intent? However you want to present your case is fine.

ATTORNEY ROCHWARG: I was going to follow along with the traditional procedure of having all the witnesses testify and then -- if that’s okay with the Committee.

CHAIR: Yes.

DIRECT EXAMINATION OF MS. KYLEBERG BY ATTORNEY ROCHWARG:

Q Good evening.

A Hi.

Q Could you please introduce yourself to the members of the Committee?

A Yes. My name is Jacquie Kyleberg. I’ve never done anything like this so please bear with me. I’m very concerned about what’s going on in Londonderry. I’m a realtor in Londonderry and I was a director of nurses for several years. I have two boys that have graduated from Londonderry High School. I have several different concerns that before you make a decision I would hope that you would really think and pray about what’s the right thing to do.
Q Could you tell the Committee where you're living currently?

A I have a house in Londonderry on Wilshire Drive. I am an abutter.

Q How long have you lived at that residence?

A Seven years.

Q Are you a member of the Londonderry Neighborhood Coalition?

A Yes. I only joined in the last couple months simply because I became very concerned as to what was going on with the pipeline and AES. And I couldn’t find any information anywhere else. No one that I knew in the town, in the church, in real estate, wherever, knew what was going on as far as meetings or what was being done. So luckily one of the people in the Coalition I had sold a house to and he was able to connect me with Collette. Other than that I still wouldn’t know what was going on. And interestingly enough when I go to different meetings and I talk to people about what’s happening and what’s going to happen they’re all mortified in the town.

Q I’d like to show you now what’s been previously marked as Exhibit L-2 for identification only. Can you identify that exhibit?

A Yes. And I’d like to talk about each piece there.
Q If I may, before you do that, have you had an opportunity to review Exhibit L-2?
A Yes.
Q And it is true and accurate?
A Yes.
Q Was it true and accurate at the point in time when you submitted it as your pre-filed testimony in this matter?
A Yes.
Q Does it remain true and accurate today?
A Yes.
Q Would you like to adopt that as your testimony here today?
A Yes.
Q What I’d like to do now is follow up a little bit further and discuss some of your additional concerns. Why don’t you please elaborate, if you could, for the Committee some of your concerns regarding safety in connection with the pipeline.
A Regarding safety, in the different reports I’ve read I’m very concerned with the safety during construction. I live in this house. One of my sons lives there. We have several pets. Where are we going to go during construction? It’s been told to me that that is one of the worst times for accidents during construction and
I’m petrified. I had no idea where we’re going to go.
In regards to Tennessee Gas, I’ve lived there for seven
years and I never even knew there was a pipeline there.
I had no idea. And yet Tennessee Gas says, “We let you
know every year what to do in case there is a problem.”
I didn’t know that nor did any of my neighbors know that
either.

Q Can you describe to the Committee the proximity of the
pipeline to your residence?

A It’s in the back yard and I’m going to show you some
pictures of the back yard and what they’ve proposed to
tear down.

ATTORNEY ROCHWARG: Why don’t we mark the
photographs, if we can do that. Do you have any
objection to admitting those into evidence?

ATTORNEY SMITH: Can I see those?

A No, but I want to kind of show them a little bit if I
could.

Q You’ll be able to do that, we just need to mark them for
identification and if you could hand them to the
attorneys next to you.

A Sorry. Okay. According to a paper that I received from
Tennessee Gas, the Londonderry 20 inch replacement
project, they had a corridor outlined that they are
going to be using for construction.

Q Could you describe to the Committee and for the purposes of the record what document you’re looking at right now?

A The Londonderry 20 Inch Replacement Project Environmental Assessment dated August 2000.

Q Thank you. And what page are you referring to in your testimony?

A It’s under a diagram labeled B-1.

MS. BROCKWAY: For the record that’s the Federal Energy Regulatory Commission assessment?

ATTORNEY ROCHWARG: That is correct.

A Yes.

Q Please continue.

ATTORNEY SMITH: Excuse me a second. Would you like us to put markers on that or would you want to do that?

ATTORNEY ROCHWARG: If you have stickers that’s fine. That would be terrific.

ATTORNEY SMITH: Why don’t we do that. And you would like them marked how?

ATTORNEY ROCHWARG: Why don’t we do them as L-2a, L-2b. Thank you.

CHAIR: And they’re dated what?
A In the last two weeks these pictures were taken. But the point I'd like to bring up is the corridor that they have proposed here. So this line is the existing pipeline, ten feet away is the replacement pipeline. Then 50 feet away from that they want for construction with another 15 and 15 feet over here. So that's basically all the trees that I have in the back yard.

Now, to let you know something about the back yard, it abuts a marshland, which has been Mack's Apples.

Q Is that described better by you by looking at the photographs and showing to the Committee the photographs.

A Yes.

Q Okay.

A Hopefully we'll have the photographs back in a minute. But anyway, so have the treeline, a marsh line and then Mack's Apples. And obviously the marsh helps to irrigate the apple orchard. And this back portion of the land is very wet. I can't even mow it until the end of May, first of June. When you see the pictures you'll see the trees there. If those trees all come down, which according to this corridor, they are, I am going to have a very, very wet yard as well as my neighbors.
It’s going to be very, very wet back there. I’ve talked with Tennessee Gas about this and they are not putting trees up there. They’ve told me they are going to seed it. So I am very worried about the water table and what that’s going to do to this whole side of the street.

This is Exhibit L-2a of h. This is the back yard first thing in the morning. It kind of gives you a little perception, the colored leaves behind there.

ATTORNEY ROCHWARG: Mr. Chairman, may I bring that photograph to the Committee so they can review it while she’s testifying.

ATTORNEY SMITH: Could we just wait one moment please?

ATTORNEY ROCHWARG: The photograph that we’re currently distributing is Exhibit L-2a of g.

A Okay. Thank you. So the concern I have with cutting down these trees is twofold. It’s not just the water table, it’s also the wetlands. And let me tell you a little bit about the wetlands.

Q Can we distribute them or do you need to specifically describe --

A No, no. So the wetlands we started to talk about a little bit. Basically what’s happening with that is the town of Londonderry, the Conservation Committee is
concerned with the wetlands because 83 percent of the people in the town get their water from wells. 83 percent of the town's water is from wells so they're very concerned. And they're realizing they have to do something about this. Now apparently 92 percent of the communities in southern New Hampshire already have wetland buffer protection ordinances.

Q: Do you know whether you have wetland buffer protection?
A: Londonderry does not but we're working on it. So, in working on it, yes, we had several meetings. Here's a picture of the attendance at one of the meetings. There was many hundreds of people there at this meeting. One thing they had talked about was --

Q: What are you referring to so that the record is clear? It's an article from which paper?
A: This is an article from the Derry News dated September 14, 2000.

Q: Could you describe for the Committee, since they're looking at the photographs right now, what those photographs depict?
A: Okay, those photographs are the back yard. You can see the grass, that's where the house is. And then all the trees in the back there, according to the numbers that we talked about on the environmental assessment here are
going to be cut down. And it’s not just my land it’s
everybody along Wilshire Drive corridor that’s going to
be effected. And as I said, the water table’s already
very high there.

Q What would you like to see this Committee do or consider
in terms of your concerns regarding the wetlands and
your back yard?

A Well, let me finish the wetlands thing. The concern
with the wetlands is obviously the wells but why are we
worried about the wells? Well, -- and the wetlands?
It’s because they remove the bacteria from pets. The
wetlands filter the runoff of rain and also all kinds of
oil from asphalt. Apparently the Conservation Committee
had another workshop October 11th and they’re still
working on this. What they had proposed originally was
to create a buffer which would absorb some of these
contaminants. And this buffer would be 100 feet buffer
on named wetlands and perennial streams and a 50 foot
buffer on unnamed wetlands. Well, this property that we
are looking at here has named wetlands, that is a named
wetland. It’s Mack’s and it’s listed in this brochure
here. And it also has a small lake behind there too.

Q What’s the name of the wetland?

A I think it’s Mack’s. I believe it’s Mack’s. I’ll look
in the book here.

Q And what’s the lake?

A I’m not sure the name of the lake either but I can get back to you about that. So here, Londonderry has not had an opportunity to create this wetland buffer but we are destroying these wetlands with this pipeline. So now what’s going to happen with our wells? Now we’re going to have to expend a lot of money to put in town water. Millions of dollars to put in town water because of the destruction with the pipeline, this is one of the major wetlands in town. I think this is a really bad decision. It’s a far reaching decision that’s going to effect families for a long, long time.

Q Could you go back to my original question where I asked you if you could describe to the Committee what you would like to see them do with regard to the impact that the pipeline has on your back yard and to the wetlands.

A It’s not just the back yard, it’s the whole wetlands, it’s all the neighbors that are there. I’d like to see them look at the alternative routes, which are listed in the book here, which apparently --

Q The book that you’re referring to is the Environmental Assessment?

A Yes. Which we referred to before. There are
alternative routes. I mean, there’s many concerns about the route of this pipeline, one being the schools. That’s a very dramatic concern. Why have even one percent probability that there may be an explosion? Do you want your children there or your grandchildren? I mean, why do we even go that direction?

Q So if I understand your testimony, you’d like to see the Committee consider alternative routes and any upgrades to the safety of the pipeline, is that it?

A Yes. Alternative routes that are not affecting the wetlands and alternative routes that are concerned about the safety of these children.

Q Do you have any specific concerns regarding the health of the citizens of the town of Londonderry, including your family and friends?

A With regard to the pipeline?

Q That’s correct. The pipeline and the related power plant.

A Well, of course we did talk about the pipeline in regard to the well, which everyone along Wilshire Drive there has wells within that proximity. All the houses are at least 25 years old. How are we going to go about proving that this is what contaminated these wells? I’m sure that’s going to be no easy process.
Q: Have you had conversations with anyone from Tennessee Gas regarding your wells and the proximity to the proposed pipeline?

A: I have talked with them about this. They came to my house. I did not want them on the land. They said that they would be taking the trees down. I spoke with them at the Londonderry town meeting. They would be taking the trees down. They would put grass there. I spoke with one of my neighbors a few weeks ago with Collette, who was also there. Apparently Tennessee Gas had told them that everything was a done deal and asked them to sign the papers.

Q: If someone from Tennessee Gas were to approach you to discuss with you what types of measures they might be willing to consider regarding your concerns, regarding environmental aspects, whether it's to the wetlands or to your wells, would you be willing to talk with them?

A: Sure I would talk with them but I really think there needs to be some kind of direction as far as these wells. It’s very costly to have a well dug. It’s four and five thousand dollars to have a well dug. These people cannot afford that. And to try to prove that Tennessee Gas was the one that contaminated the wells, that’s very difficult.
Q What other things would you like the Committee to consider before granting a certificate to the Applicant?

A I don’t understand that.

Q Are there any additional conditions that you would like to see the Committee impose upon Tennessee Gas before they allow the application or certificate to proceed?

A No, just really, really re-looking at the location for the sake of these wetlands that are just so important to the town of Londonderry. And I’d also like to go back a step and reference that when the town voted on AES we voted on the AES plant. We did not vote on the other pieces of it that we’re now finding out, which are the pipeline and high tension wires. We voted on the plant. And as everybody, I’m sure, knows the vote was very, very close. And suddenly this pipeline and all the issues about it sneak in. And so as I mentioned before, people in Londonderry just -- people in my bible study, that I work with, that I do sports with, people have no idea of what’s going on.

Q So perhaps one of things that you’d like to encourage the Committee to require Tennessee to do is enhance public awareness?

A Enhance public awareness, yes.

Q Would you like to see the Committee impose standards
greater than those required under the federal standards, the minimum federal standards?

A Most certainly.

Q I’m going to ask you just one last question. Is there anything else that you would like to add to your testimony here this evening?

A Well, you see, on the testimony that the last paragraph on the first page is --

Q You’re referring to your direct pre-filed testimony?

A Yes. Is in regard to notification of when the gas is turned on and when it’s tested. I’m very concerned with that and I’m starting to ask people where I can stay because I can’t live there when this is going on. During construction is one of the worst times. Where am I going to go with two big dogs and a cat?

Q You mentioned that you are in real estate. Is it commercial or residential real estate?

A I’ve been in residential real estate five years.

Q Do you have an opinion as to whether the proposed construction of the pipeline has impacted the values of the homes in the town of Londonderry?

A Most certainly. It has already impacted North Londonderry. It’s very difficult to sell property there. It stays on the market for a long time. People
are very concerned with what’s going on with AES. Also, in all honesty, with what’s going on with the airport. The airport is expanding and there are several different phases of that expansion and AES is right next to it, which seems to me to be a double dose of a problem. And we have to have signed disclosures from everyone who buys property in North Londonderry, that they realize that they’re buying property here. Otherwise you can be very liable for all kinds of legal problems down the road for not giving these disclosures.

Q Is there anything further that you’d like to add?

A I’m sure when this pipeline comes in in my back yard and these trees are gone and my back yard is a swamp and I don’t want to live there that it’s going to be very difficult to sell this house that I bought as a single parent and did all the work on this house with my two children and had hoped to leave it to them when I was gone because they have redone the entire inside and outside of the house. I can’t leave them this house now.

Q Thank you, Ms. Kyleberg.

ATTORNEY ROCHWARG: The next witness will be Kenneth Barton.

ATTORNEY M. IACOPINO: Were the newspaper
articles marked as an exhibit? The ones that were referenced.

ATTORNEY ROCHWARG: No, they were not.

ATTORNEY M. IACOPINO: Did you intend to do that?

ATTORNEY ROCHWARG: I didn’t receive them back so I apologize. If I can mark them for identification. I apologize, I don’t believe that I did that. That would be Exhibit L-3. Thank you, Counsel. If I could circulate this to the Committee.

ATTORNEY ANDREWS: Our next witness is Kenneth Barton.

DIRECT EXAMINATION OF MR. BARTON BY ATTORNEY ANDREWS:

Q Hi Ken.
A Hello.
Q Would you state your name and spell your last name.
A Ken Barton, B-A-R-T-O-N.
Q Are you a member of the LNC, Ken?
A I am now, yes.
Q How long have you been?
A About a year. Actually, May 1999, I think, was when I joined.
Q Why did you become involved in the LNC?
A I basically testified here back, whenever you were here...
last. It was in March, April of 1999. Whatever it was.
I testified here as just an individual from the town and
after the decision was rendered I realized that I didn’t
have much impact on the proceedings so I figured I’d
join the group that might. So that’s why I joined.

Q Do you live in Londonderry, Ken?
A I do.

Q How long have you been there?
A Since 1995.

Q Do you have family with you also?
A I do. A wife and a daughter.

Q How old is your daughter?
A She is six, former Little Miss Londonderry.

Q Congratulations.
A She’s got my looks.

Q So she attends school in Londonderry, Ken?
A She does. Matthew Thornton Elementary School.

Q I’m going to show you what will be marked as L-7. This
is your direct pre-filed testimony. Do you recognize
it?
A Yes, I do.

Q Is it true and accurate?
A No, actually.

Q Okay. Before I ask you to correct it I’d like to ask
you if you’d like to adopt it the way it exists and then
if you’d like to make changes to it.

A Okay. Then ask the question and I’ll give you the right
answer.

Q Would you like to adopt your testimony?

A Yes, I would.

Q Are there any changes you’d like to make?

A Yes, there are.

Q What are they?

A Just a couple of housekeeping notes. At the time that
I had written it I had confused a couple of specs. One
of them was the 1,500 children that I represented that
were within 150 yards of the proposed pipeline, was
really the 1,500 children that would be attending the
middle school that’s only 50 feet from the proposed
pipeline. And the following paragraph where I mentioned
that there was a 16 year old eight inch pipeline, that’s
obviously a 50 year old eight inch pipeline or somewhere
thereabouts. So a couple of flawed specs.

Q Explain to the Committee, if you would, what your
concerns are about safety on this pipeline.

A Where do I begin? Basically I’ll go with it as I stated
in the pre-trial and then we’ll --

Q Why don’t you begin with your concerns about the
location of the pipeline by the schools.

A Obviously there are three schools that I’m concerned about because they’re the three that my daughter will go to. The rest of them -- But my daughter is going to Matthew Thornton followed by the middle school, back to the high school. So for the next 12 years she is going to be spending somewhere between six and eight hours a day on the premise, not to mention soccer and whatever other activities she does behind those buildings. The pipeline as it exists right now exists. As it’s undisturbed one can make an argument about the 50 year old technology versus what’s new but I feel that 20 inches of pressurized gas going through that pipeline, if it ever did erupt would take out a considerable amount of people and that’s my biggest fear.

Q And you’ve heard the testimony about the various classes of pipe?

A Yes, I did.

Q Do you have any thoughts on that?

A Oh, but I do. Oh, I have thoughts on that. I was taking notes and I was kind of -- the more I heard about why not to have that pipe the more I loved it. The concept of a Class 4 pipe that doesn’t require but certainly we can service or test on a regular basis,
excites the living daylights out of me. Beautiful. If
the only thing the Class 4 does for us is add a little
more resistance against a puncture wound from a
bulldozer or backhoe or some third party catastrophic
event that we were talking about, hell, bring it on.
Costs some money, I’m really not sympathetic to the cost
of this project. I’m sympathetic to the cost of the end
result of a catastrophe. So I appreciate the questions
that were coming from all of you, including Chairman
Varney, regarding why not upgrade? Where you get from
the school zone all the way through to the end of the
school zone and re-up it by North School and do it again
in Pelham. For me, if it’s the best, use it. Because
basically they’re going to invent something better three
to ten years, 15 years out but that thing is going to be
buried for the next millennium, if they have their way.

So basically if it exists I would appreciate it if
you would ask them to use it.

Q What other factors would you like the Committee to
consider, Ken, in rendering its decision on Tennessee’s
application?

A Well, a couple of things. I don’t know who anymore
because you all were asking great questions but somebody
had asked a question about the redundancy of the shut
off valves. I love that question because I don’t care if the existing technology has a shut off valve that’s manual if it’s downwind, down the road or at the beginning of the pipeline. And the you put another one within about 500 yards of the school that’s automatic, fine. Then you have the opportunity to at least have an automatic response when it can do you the most good. That’s one man’s opinion. But it seems to me -- and also, whatever you do on the 20 inch pipeline, why not ask for an upgrade in some part to the 12 inch? I’m afraid that that 12 inch pipeline, because it’s 16 years old, now becomes the week link in the chain. To me, I look at it like a fuse, and the 20 inch is the bomb. If that 12 inch goes the 20 inch most certainly will follow. And if somebody says to me, “No, this is why this can’t happen” I’d appreciate that. I’ve always asked, I asked at the last time I was here, make me feel better about this. Make me feel like we are protected. I don’t feel that. I feel as though people are trying to deal with the minimum standards. Attorney Smith was very clear on a few occasions to make it -- or to let people know that their intention -- you can check and see if I’m wrong on this but that the intention of Tennessee Gas was to follow the guidelines set forth by
the national whoevers.

Q  The Federal Regulatory --

A  Them. Those guys. Now, then what are you all here for?

In other words, I’m resisting like hell the notion that this is a moot point. I figure that this is New Hampshire and you’re here to protect New Hampshire citizens. And this federal guidelines are behind. What Collette said, she had better stats than I did, but I was watching a program where they went hammer and tong at the fact that there was 50 percent of the laws that are on the books are not being enforced at this time. I don’t know if it is the intention of Tennessee Gas to follow the laws that are on the books but it seems to me that if they’re not being enforced what good are they?

So my concerns are, you can levy all kinds of additional burdens on Tennessee Gas but if you’re not going to enforce them or if there’s no way to enforce them then we’re in trouble. I wouldn’t know Class 4 pipe if I fell on it. I imagine that we have, in the state of New Hampshire, somebody who would and that’s great. I hope that’s true but I really believe that we should use the best available technology. I just can’t stress that enough because you know and I know that it only gets better so whatever is great now is mediocre
later. That’s one of the things I would like to make sure that we stress.

Q So you would certainly support any conditions that the Committee might impose to elevate any of the standards above the minimum required by the federal guidelines?

A Oh yes.

Q In addition to the technical benefits that maybe --

A As long as they make sense.

Q In addition to any of the technical benefits that may be gained from these elevations of the minimum standards, would you agree that just simply makes you feel better as a resident that lives near the pipelines?

A There’s no question about that. I mean, basically anybody who has been following this, and believe me, I have. Anybody who has been following this has a big decision to make, okay? Do we stay or do we go? I mean, we’re really in a situation now because the airport is what it is and now we’re piling a power plant on top of that. And now I have to decide whether or not I’m being derelict in my duties as a father to leave my daughter there for the next 12 years in a school system that abuts this pipeline. Basically, to me, that’s --

I just got lost. Let’s bring it back. Where was I?

Q No problem, Ken.
A I lost you all? Can anybody tell me?

ATTORNEY M. IACOPINO: Being a father.

A That’s it, that’s my decision. That’s what’s facing us right now and I hate being in the position to do that. But certainly if we got these kinds of safety concessions, whether they move the line, whether they upgrade it to the point where you know, if somebody says that Class 3 is safe and Class 4 is safer, I don’t care if they do Class 4. After looking at the records that we’re not going to probably see, but the maintenance over the last 16 years on the 12 inch pipe, I’m not real worried about the redundancy of the maintenance on the Class 4 pipe because I don’t see that we’re going to have a tremendous amount of expense as Tennessee Gas going back through. Because if I heard things correctly we didn’t have a whole lot of internal testing going on for 16 years. Did I hear that right? I’m alone. Am I wrong? There were no internal test performed on the 12 inch pipe for the entire existence of the pipe.

ATTORNEY V. IACOPINO: I think you have this wrong. They ask the questions.

Q Okay, I do have another one for you. You were here for all three days of the hearing, Ken?

A Yes. All three.
Q Did you hear anything discussed during the course of these hearings that you feel the Committee should consider imposing as an additional standard, on any of the various issues?

A You know, I had so many. Bear with me. I was writing notes and crossing them out as people took my point away. I’m not focused on the ecological issues so much, not that I don’t care but if I filled my head with that stuff I’d explode.

Q Did you hear the testimony on the additional testing and inspecting procedures that have been discussed?

A Yes. Frankly I started to lose track of what as -- you know what I mean? There was stuff that was proposed and then it was taken off the table and I don’t remember what it was. But certainly it seems to me, I will say this, if Mr. Marini’s proposal to pig the pipe on the first year or within the first three years, seemed like a concession that he was willing to make but not thrilled about. Hell, pig the pipe. We need a safe pipe and if what he says is true, if the thing reacts like a fire hose and stresses everything on the first fire, well heck, that’s when to check it because that’s when the problems certainly will surface.

Q So similar to the upgrade in the class of pipe, the
notion of additional testing similarly appeals to you as a resident nearby?

A Absolutely. I don’t want it to be -- I will take anything they’ll give us in terms of a reasonable test. I’m not going to put them through paces just to create a hardship. That’s not my position on this. I do want it safe and the standards have to be set and I think they should be set high. We’re Class 4 pipe -- who is the gentleman, you were asking about the city, you know, where Class 4 pipe is for the city where high rises only or whatever. It seems to me that Class 4 is the pipe you use when you absolutely can’t afford a catastrophe. Boom, that’s us. We want that. That’s what we need. You know what I mean? I don’t care about if we’ve gone this long without the regular testing. I do want the baseline tests. I think that’s important and then after that I think that there should be some standards set by whoever governs it. I don’t even know who that is now. Is it this group? I’ll govern it. I’ll tell you what we’re testing annually. We’re going to pig this thing every year. We’re going to have Londonderry Pig Day and I’m going to be the damn mayor.

Q I’ve got one more question for you. How do you feel about community involvement in the emergency response
program?

A  I think everybody should know what they’re options are. Unfortunately I feel a little fatalistic about our odds once the problem rears its ugly head. But heck, if we can save some lives I think it should be there. If you understand some of the horror stories that are associated with these gas pipelines, one of the ones that I heard most recently, which is really horrifying, is the pipe was leaking and there was kind of a mist in the air. A policeman drove his cruiser into it -- I think this took place in Texas recently. Did anybody hear this? Anyway, a policeman drove his cruiser into the fog and somewhere in the ignition in his engine created the explosion that ripped across several neighborhoods. That’s the kind of thing, you know. Now, to that end, recently we had a problem at the metering station, that I haven’t heard come up in testimony here and the problem was that the scent, the odorizing agent --

ATTORNEY ROCHWARG: Mercapton?

A   That, what she said. Whatever, the stench. According to them it was being added at the metering station. Now that only causes me a little concern because the metering station is well upline from the schools.
Q Well, just tell us what your concerns are about the odorant.

A If you’re adding the odorant upline, that means there’s no odorant going through the school area. Is that how you understand it?

Q Just tell us what you think.

A I’m trying to understand this. If the odorant is added upline then there’s no odorant so that there’s no early detection in the school area. Am I right here?

Q Tell us what you think.

A I’m telling you what I think.

Q This is your shot.

A I think it’s a problem, that’s all. And I think if that’s a safety measure and it isn’t added until it’s well upline then I have a problem with it, that’s all.

Q Okay, Ken, I’m just going to give you a chance to let the Committee know if there’s any additional concerns you’d like them to address.

A Simply that I know it was discussed and I don’t know it was resolved but the 12 inch line will probably undergo more stress than the construction of the 20 inch line during the construction of the 20 inch line. I think we can appreciate that it will undergo more stress than it currently does on any given day, let’s assume. I could
be wrong. I know all the numbers that are being thrown around and that we’re within safety guidelines and all that stuff but I have to assume that it is going to be, to some extent, disturbed by blasting and such. If we don’t pig that line I think that’s a mistake, that’s all, because that line could cause a problem for the other lines. So to me, again, if a chain is as strong as its weakest link, it just seems to me that we would look to protect the 12 inch with the same fervor that we’re trying to protect the 20. With that, I say do it.

ATTORNEY ANDREWS: Are you all set?

MR. BARTON: Yes. Thank you.

ATTORNEY ANDREWS: Our next witness is Valerie Mazzola.

EXAMINATION OF VALERIE MAZZOLA BY ATTORNEY ANDREWS:

Q Hi Valerie.

A Hello.

Q Would you state your name and spell your last name please?


Q And where do you live?

A Londonderry.

Q How long have you lived there, Valerie?

A About five years.
Q And you’re a member of the LNC?
A Yes, I am.
Q For how long?
A Just recently actually, I think it’s been about two months.
Q Why did you become involved?
A Well, it’s sort of a long story but I sat back for quite a while watching what was going on in town about the power plant and realized that there was a pipeline issue actually that nobody was addressing because they were all so focused on the power plant. So I actually went off on my own independent journey, so to speak, and I made some very early contacts with Tennessee Gas and I think Robert Haas can attest to that. He’s in the room today. I talked with him several times. I also talked with FERC. I learned the process of how this whole thing happens, how pipelines are regulated and how they get their certificates. That was actually very helpful until AES came into the picture and made contact with them and then my contact with them changed. The tone of my contact, I should say.

Anyway, I approached the LNC early on, probably a year, year and a half ago and basically worked, I would say, alongside them and told them that this pipeline
issue was something that I was really going to be focusing on. And I approached them because they seemed to be the only group in town that was standing up and fighting and being vocal about some of the problems with this whole process. So just recently I did join the LNC officially. I was in a group prior to the election called the Citizens for Representative Government, which some LNC members were also in that group. But I did officially join just a couple of months ago to be involved in this process.

Q Do you have a family in Londonderry?
A Yes, I do.

Q Kids?
A Four children and a husband, yes.

Q How old are your children?
A I have a nine year old, a six year old and twin boys that are five.

Q And they attend the schools in Londonderry?
A I have two at the Matthew Thornton School and I have two that will be at the public kindergarten next year.

Q I’m going to show you what we’ve marked L-6, Valerie. This is your direct pre-filed testimony.
A Yes.

Q Do you recognize it?
A Yes, I do.

Q Is it true and accurate?

A Yes, it is.

Q Would you like to adopt it as part of today’s testimony?

A Yes, I would.

Q Tell the Committee a little bit about what types of concerns you have regarding the safety of your children.

A Well, I have several. Not to be redundant, but I know we’ve been talking a lot about the fact that this does go close to the schools and I guess what I can say about that is if there is ever an accident it’s a catastrophic accident. It’s irreversible. If I were to lose my four children in a blast I would not be a pretty person to be around, let’s put it that way.

I am concerned about the water contamination. I know the Middle School is listed as one of the water tables that’s in danger of being contaminated in the Tennessee Gas application. I have other concerns. One is that I have yet to hear a commitment from Tennessee Gas that they will not construct this pipeline while school is in session. That’s something I would like to see in writing that even if they have to change their construction schedule of the power plant or the pipeline, that they will not be working on this, nor
will they be testing it while our children are in those buildings. And that’s a real concern of mine because I have learned through this process that there are a lot of promises made verbally and they’re not put in writing and then when it comes right down to it the Company says, “Well, I’m sorry. That doesn’t fit with our schedule so we’re going to do what we need to do even though your kids are there.” So that’s another one of my concerns.

I have four children, they all have asthma, believe it or not. I have one that has it very badly and I’ve actually been up for the last two nights with no sleep because of this. He was born critically ill and he has come through that. However, just the construction alone of this pipeline is going to put a lot of pressure on him and us as a family because he will most likely be in the hospital a lot during this pipeline construction because of the disruption of dust and sand and blasting and everything else that will be going on.

Let’s see --

Q Valerie, on one of the things you’ve already mentioned about the construction during school session. Is that then a condition that you would like to see the Commission impose as a condition to granting the
certificate?

A Yes, I would.

Q Okay, go ahead. What other conditions would you like to see them consider?

A Well, we’ve already talked about rerouting the pipeline away from the schools. I definitely support that. And I definitely support using the best technology available and I mean that that would be investigated and proven that it’s the best technology. Because in my experience, with the power plant we’ve been told that they’re using the best available technology and, in fact, I don’t believe that that’s true.

Q Valerie, do you have any particular concerns regarding the environment?

A Yes, I do. Again, I talked about the disruption of -- the environmental concerns with the disruption of the ground, the dirt, the blasting. I also have a concern about the corridor itself and all the trees that are going to be cut down, all the animals that are going to be effected. We really don’t know when we disrupt this land what the results are going to be for our environment, for our water, for -- I know I was talking with somebody recently that abuts the power plant site and she says she has skunks all over her yard because
they have no place to go. She has raccoons that are coming out in broad daylight and are petrified when her children are in the yard. And she’s afraid they’re going to get bitten by these animals. So that’s another concern.

There are dead animals all over the road already in Londonderry from the building that’s going on with houses so I have no idea, when we cut this huge corridor up through the center of town, what the results of that are going to be. And you all know, when you’re driving and an animal runs in front of you, that’s a hazard in and of itself because it’s just a reaction to try to turn the wheel.

Q Valerie, how would you feel if you knew that the pipe to be installed near the schools was a class higher than that is required or even higher than that that Tennessee has proposed to install?

A Well, like I said, I’d like them to use the best available pipeline, the safest, the best that they produce, the best that’s out there that they could possibly purchase, regardless of the price.

Q Do you have anything else to add to your testimony, Valerie?

A Yes, I do. Just a couple of points of clarification.
I know I was here on Monday and I made a statement to public comment and I had no plans on being here today. I did get a call this morning saying how important it was for me to come and testify live because I have been sort of the person that’s been dealing with the pipeline for the last year and a half. I’ve been here all day. It was a real struggle. It has been to juggle everything going on back in Londonderry. My husband does travel so this has been -- I had no plans on being here. However, the comments I made on Monday I do support and I wanted to make sure that I got those in. So that’s one thing.

The other thing I just wanted to comment on, and I think Collette already touched on this, but some of the obstacle that have been put in our way through this whole process with the public. One, I had a real issue, I know that it was mentioned that there were public information meetings, or a meeting I guess, held in Londonderry, where supposedly it was open to the public. I just found it amazing that in a town of 22,000 or more, that nobody showed up, including the LNC. And that is simply because nobody knew about it. I know there was a notification because I investigated this in the Union Leader, thrown in the legal section that,
unless you read those on a regular basis, you would never know. And I happened to just notice that they didn’t put it in the Derry News or the Londonderry Times, where many, many residents would have seen that and would have come out to speak and be heard. And again, I felt that that was a deliberate -- I feel that it was a deliberate way to keep us quiet.

And I know that Collette touched on the school board issue and I know that I actually had been the one at a couple of school board meetings to address that issue. You know, we have the chairperson of our school board working for AES and again, it just, I feel, impeded the process. I was being told time and time again that there was no conflict of interest and that personal lives were being separated from professional lives but I don’t believe that that was the case. I thought that that was, again, something of concern to me.

Q Is that all, Valerie?

A Hold on. I guess I just have one other comment. And I think Ken might have already touched on this but I just had something here off the Internet about the explosion in New Mexico. That it’s saying that the federal agency responsible for enforcing pipeline safety was falling
behind in its duties and the Office of Pipeline Safety has not enforced 22 of 49 safety regulations passed by Congress since 1988. And that, again, concerns me.

Q What is it that you’re reading from, Valerie? Just to identify this for the record, it’s from a web site printed from the Internet. The web site is www.abcnews.com. The title of the article is How Safe? Officials Concerned About Potential Danger of Aging Pipelines.

COMMISSIONER BROCKWAY: What was the web site again?

ATTORNEY ANDREWS: It’s abcnews.com.

I’ll mark this for an exhibit also.

ATTORNEY M. IACOPINO: Is it dated?

ATTORNEY ANDREWS: Yes, it should be.


ATTORNEY M. IACOPINO: Thank you.

ATTORNEY ANDREWS: Oh, I’m sorry. That’s when it was printed. The date of the article is August 21. I’m going to mark this Exhibit L-6a.

ATTORNEY SMITH: May I see it?

ATTORNEY ANDREWS: Absolutely.

Q Is that all, Valerie?

A Yes, I believe so.
Q Okay, thank you very much.
A Thanks.

ATTORNEY ROCHWARG: The last witness this evening will be Roland Goudreault.

EXAMINATION OF MR. GOUDREAULT BY ATTORNEY ROCHWARG:

Q Good evening, Mr. Goudreault. Would you please introduce yourself to the Committee?
A Yes, good evening. My name is Roland Goudreault. I live in Londonderry and I have been a resident along with my wife, in Londonderry for 13 years.

Q Where do you currently reside in Londonderry?
A Where do I reside? I reside on 158 Litchfield Road.

Q What is the proximity of your home to the proposed pipeline?
A I am an actual property abutter to the power plant but I am approximately somewhere in the range of two, two and a half miles from the metering station, or the north end of the pipeline.

Q How close are you to the power plant?
A Approximately -- some of the figures on maps that I’ve looked at, something like between 800 and 1,000 feet from the cooling towers.

Q Are you a member of the Londonderry Neighborhood Coalition?
Q Why did you join Londonderry Neighborhood Coalition?
A I joined the coalition early on when we, again, I think we’ve had similar answers -- when we were listening and finding out what the process was involved in the siting of the power plant and we saw that there was really very few people that had the facts and they knew -- and they were willing to speak up and try to make improvements and get our voice heard. And the Londonderry Neighborhood Coalition was the only group available in our town that seemed to be doing that.

Q How long have you been tracking the pipeline and the AES Londonderry power plant?
A Exact date, I think it was the fall of 1998. Over two years anyway of tracking and investigation.

Q I’m showing you now what’s been previously marked for identification purposes only as Exhibit L-5. Can you identify that exhibit?
A Yes.

Q What is that?
A That is my direct filed testimony that I --

Q Previously filed in this proceeding?
A Previously filed with you.

Q And is it a true and accurate representation?
A I would only ask a minor correction and clarity that
I’ve noted. Some new information as far as the
termination point of the Londonderry -- at the
Londonderry North School. We know have been calling
that the metering station on Adams Road.

Q Other than that change to your testimony, is it true and
accurate?

A Yes.

Q Would you like to adopt that as your testimony here
today?

A Yes, I would.

Q And do you have additional testimony that you’d like to
give to the Committee today?

A Yes.

Q Now I know you’ve been present for much of the
proceedings. Could you tell the Committee for what
duration you’ve been present during these proceedings?

A Every minute from eight o’clock on Monday morning.

Q All three days?

A Yes.

Q Would you like to explain to the Committee some of your
concerns regarding safety, health and environment in
connection with the proposed pipeline?

A In regards to the pipeline, initially I had similar
statements that have been heard today where we really --
we knew it was there but we really didn’t understand
what it was until we studied it, and this matter of the
expansion has come to light. I mean, I travel over that
pipeline maybe two to three times a day. My studies and
getting on the web and trying to understand the
technology is unbelievably frightening when you’re a
citizen and you’re not aware of what this is. And I
know many, many people in Londonderry are not aware of
what this pipeline does. I know you people know what it
does but we feel it -- I guess to summarize it. I don’t
know if I answered your question.

Q That’s okay. Do you think that it would give the people
in the town of Londonderry and perhaps elsewhere, who
are effected by the proposed pipeline, a greater level
of comfort if they felt as though they were being better
educated by Tennessee Gas during the course of the
proposed construction and all of these proceedings and
also if, in fact, a certificate is allowed, throughout
the course of construction?

A Yes, this has come up at several town meetings where we
feel that they should notify and treat everyone that has
schoolchildren in the town, or anyone that drives over
-- everyone in the town should be educated to this
pipeline. And we never really got a response. They said, "Well, we’ll notify the abutters" and I feel that’s totally inadequate.

Q If, as a result of your being here today and having the ears of Tennessee and several people having seen your presence and counsel for Tennessee, it resulted in Tennessee’s willingness to participate in conversations with you, public awareness programs, would you participate in that?

A Yes, I would.

Q How do you feel about the adequacy of information concerning emergency response programs that Tennessee may or may not be implementing?

A I am not aware of their emergency response procedure. They keep saying that they have one but it is not disseminated. They say they’re working with authorities in Londonderry and I hear that but I don’t see it. I mean, we just had an emergency response the other day when we had that leak at the metering station, but there’s conflicting interests and conflicting stories and we don’t know how -- was our fire department really aware of how to handle that? Did they have the material there, the safety sheets available? I don’t know. I’m not privy to that information because I’m not on the
fire department. I’m just a resident. But to answer your question, I really am also appalled that that information isn’t readily available.

Q Would you like to have that information available to you in the future, whether it be on a local level in the town of Londonderry, perhaps in the Town Hall or elsewhere?

A Yes. We’ve talked -- we’re setting up a web site in town and we really want to be able to get this information to the people of the town and to have one point of access. I know they say, “Well, you can call the pipeline” or “You can call AES” but I feel that is totally inadequate. We need someone in the town, we’ve talked about it. There is, on the -- I think it will be in the town council meeting next week, we have on the minutes the proposal to set up an oversight committee to handle this aspect of it. Somebody that is technical enough -- I’m not saying we’re experts but people that are technical enough to answer and be able to respond to the public too, other than just the companies themselves. It hasn’t happened yet but it is something that we’re looking into. The Londonderry Neighborhood Coalition has been looking into this and is actively pursuing this.
Q I know that you said that you’ve been here throughout the course of the testimony for these proceedings, and much of the testimony involved or included some suggestions for increasing testing, inspections and the like on both the existing 12 inch pipeline and the proposed 20 inch pipeline. How do you feel about that?

A Well, again, I am definitely in favor of using the best technology, the best inspection. But the trouble is, what does that mean? I have 30 years in the quality control field myself so I understand when they talk about specifications and the ability to inspect and enforce them. So I am very skeptical when I hear this discussion. If there is inadequate people to police this, I have total fear that it’s not going to happen. I think this also happened in the power plant issue where we found out that DES -- there was a report in the Globe, I don’t know if you remember that back a couple of years ago that the DES could not support if there was a problem at the power plant. And they admitted, the DES admitted that they could not support this. So I feel it’s similar. I hear the Office of Pipeline Safety says that they also have fund problems. So you can understand our concerns. Well founded, I think.

Q What types of things would you like the Committee to
consider before allowing the Applicant a certificate, in addition to those things that we’ve discussed?

A I would like to see more contracts in writing. I think we brought up at the meeting that they have some -- I think it was brought up that they have an emergency plan but they didn’t want to share it with the town. I think we need to stop that. We’re not total idiots. I mean, we’re pretty dumb but we’re not total idiots.

Q Just to clarify, I think that there was an agreement, and I don’t know if you were in the room at the time, but there was an agreement to share a generic proposed emergency plan that should not be copied for confidentiality and privilege reasons. But that is something that you will be able to look at in the confines of my office, should you be interested.

A How do we work that into a comprehensive plan that is interfaced with the town of Londonderry? I’ve also seen -- there’s a game being played between -- is the Town Council the authority in Londonderry or is are the town workers? So many papers that come across my desk say, “We are presently working with the town, working for the Town Manager but we don’t work with the Town Council.” So there is -- we have to work that out, I say in our own town. I’m not saying we’re totally on top of this
either. Believe me, we’re as frustrated or more frustrated than this Committee is, I feel. We don’t know how to handle it. All we hear is, “Don’t worry about a thing. The gas line company will handle it.” AES says, “Don’t worry about a thing. We’ll handle it.”

Q So it sounds to me like you’d like to be better informed?

A Yes.

Q I know that you also have heard testimony today, rather extensively, about the use of Class 4 pipe in highly populated or densely populated areas, including the schools. How do you feel about that?

A I think it’s definitely the best technology. I think it will take some of the fears out of the people. If you can allay the fears of the people in Londonderry in any way, I mean, we’re not talking about money here, you probably are but we’re talking about the fears that people have that live in this town. And if you can allay them by putting in a Class 4 pipe, I think it should definitely be required. But again, knowing that if you don’t inspect that pipe, I agree with them that if the pipe is inspected properly and the maintenance program is proper, then it is also even a better
advantage because we need to give the people of Londonderry a break. They haven’t had one in over two and a half years of this process.

Q So understanding that you have upwards of 30 years in quality control, ensuring that inspections, which are required and inspections which are agreed upon and imposing conditions of inspection, would be important to you, would it not?

A Yes.

Q Would you also, along that line, like to see this Committee consider imposing standards that are greater than those minimum federal standards that currently exist?

A Yes. Definitely.

Q Just a couple of questions to tie this up, if I may, Roland. I know that you said that you’ve lived in Londonderry for several years. Do you know any people who have moved out of the town since the proposed pipeline and also the proposed power plant, which is, as I understand it, perhaps under construction at this point in time?

A That’s a very good question. I live on Litchfield Road and it is kind of like, it’s a part of North Londonderry and we’re kind of a little bit of a community up there
on our own. We're a bit removed from the center of town. In that area, and also in our organization, we have -- I have a list of people but I can name -- I'd have to do a little research but at least 24 to 30 families that I know -- I also have a hobby which is gardening and farming on my farm. I do know the neighbors well because of that. I have seen and I know my neighbors that have either left town, have moved out, have chosen that route, and believe me, we all consider it. We have some that are planning and trying to sell their house but haven't moved. I mean, you can drive up and down the neighborhood and you can see so many for sale signs, that you'd almost trip over them. But it is a sad fact. I mean, everyone says, "Well, there's people moving in, so what's your problem?" I'm saying, "Well, they're going to also have to address this." So it is not a happy town. I think that Val said it very well, that we -- I don't think you understood when she said that we are a devastated town, that you really have looked into what we mean by we're a devastated town. We're not joking about that in any shape.

Q Can you describe -- I know that you're familiar and you've been a member of the Londonderry Neighborhood Coalition, how the proposed pipeline and the power plant
have impacted your personal lives as a group? If you could do that, if you know.

A Oh, God, don’t ask me that question. We do not have a life. My wife and I practically -- we do not have a life. We attend every town council meeting, we attend every public meeting so that we can hear what’s going on and we can keep track of what’s going on. We spent the last week monitoring truck frequencies on Litchfield Road, which go into the plant site. I mean, we are adjacent to the plant site so we’re always there watching what’s going on and trying to monitor what’s going on because the neighbors call and they’ll come over to my house and they’ll knock on the door and say, “Where are these trucks coming from?” And I don’t know but I have been in discussions with AES on that and straightened out some of it. We have resolved some of those issues but again, it is -- I could not even count the hours. Luckily I am a retired professional and I thought I was going to retire. I think two years I addressed this group. I don’t know if you remember that I said that my dream was to retire early. Well, I thought I was young anyway. But I was young then and my dream was to retire early and try my luck at agricultural pursuits, organic farming. That dream has
been curtailed and put aside. I tried, I try to go on because there’s so many wonderful neighbors in my neighborhood that demand that I go on and service and give them the vegetables and flowers that they love. But it hurts. It hurts on a daily basis. There’s not a day that we don’t escape this in two and a half years. Our life has been destroyed. We would like to get away from it. We have considered moving away from it, even though this property has belonged in my wife’s family for two generations. I think I said that the last time. I won’t get into my last statement. But we have been devastated by this. We cannot afford to move. We are not rich people. We’re trying to live a sustainable life, preparing, making our own foods. We burn wood, by the way. We haven’t got solar energy yet but we’re working on it. Yes, I could go on and on how this is impacted -- fortunately my wife and I both agree and we both fight together so we’ve made a new life of activism.

Q Is there anything else that you would like to add?

A Yes. I have several additional issues to add. I’ll list them quickly here. I’ll try to stick with issues that were brought during the three days. We brought up the, I guess to group it in one word, the risk
assessment issue, which we’ve also heard in town council meetings, where they have data reporting the safety of travel methods versus airplane travel and highway travel. I don’t know if you all remember that testimony. I think it was yesterday.

ATTORNEY WAGELING: The risk of death.

A Right. Of course, I’ll tell you right now that to me when you make a standard -- I look at a standard as saying that nobody should die. I don’t like it when people start saying, “Well, if five or six die, somebody else, it’s okay.” I don’t like that. But anyway, what happened was relative to that statement, that kind gentleman that brought in that paper at the town council meeting which gave the statistics, my answer to that is, if I may give it, is that when you fly in a plane you have a choice either to walk there or fly there. When you drive a car you have a choice, you can decide that you’re going to buy a Volvo or you can buy a Pinto or a Corvair. But when the children go to school in Londonderry, they’re not going to decide how far they’re going to be from that pipeline. And I can’t be more firm than that about that.

The other area that I’d like to talk about is, I did not hear at the meeting any discussion -- we heard
a lot about how sophisticated blasting is. I’ve never such great stuff, I mean, they can blast anywhere without causing any damage. It’s wonderful. But we did bring up, or some of the town council, in our letter that the use of pneumatic hammers could be used instead of blasting, I thought. But I didn’t hear anybody propose that. I’d like you just to consider that in future deliberation.

The other issue that was brought up that I haven’t heard addressed is that one of the meetings that we had with Tennessee at our town council meeting several weeks ago, was whether or not they could empty the 12 inch pipeline. I really have a concern with the fact that the 12 inch pipeline is supposed to stay -- is that correct? Is supposed to stay in operation while this work is going on. I mean, we all know that some of the worst dangers and injuries have occurred when heavy equipment have run over another pipeline. I mean, one of the worst blasts was a bulldozer while they were putting it in. I think we all know that the biggest concern -- I mean, in our town we know that the biggest concern is when the construction goes in. We’re petrified of that. I don’t think you understand that.

We’re petrified of what’s going on in our town.
The other issue that I wanted to bring up is they continually talk about the right-of-way and that they’re using the existing right-of-way, the existing corridor. I have a real problem with that in that first of all, the dangers that they -- there’s a potential for them causing, the dangers of explosion, dangers of pipe leaks, do not stay in the corridor. If it stayed in the corridor and they could keep it in there with walls then we could walk up and down Londonderry and not be fearful. But they make it sound like that corridor is the safest thing in the world and because of what our research is we know that’s not true. You know, 500 feet away you can get roasted if you’re in the way of an explosion.

I wish -- it has never been clearly stated, do they need to expand that corridor because of the 20 inch line versus the 12 inch line? Are you trying to tell me that the 20 inch line does not need a safer corridor than the one they have? I just throw that out at you for additional concerns.

The most unacceptable concern I have for school safety, and it wasn’t addressed here yet, is the metering station. There’s probably a few reasons why it wasn’t addressed here, one of them could be that
EnergyNorth is part of it, which, of course, irritates me because they’re not here and they’re involved in the decision. But the metering station is still owned by Tennessee Gas as they said and a new item that was brought up this week was that there is a header up there. I wasn’t aware of that. But as you know, there was a header involved in New Mexico which kind of caught my ear. I don’t know if it caught yours. I also have come across -- I don’t know where the data -- but I have some concerns and I wish Tennessee Gas could allay some of them. That at metering stations, at points of that -- filtering stations, there is higher risks of leaks and accidents. Now it wasn’t brought out that that is right across the street from the North Elementary School. If you’ve ever driven out there and you’ve seen where that metering station is in conjunction with that school -- I hope you don’t have children in that school. That’s all I can tell you. I mean, I don’t have children in that school. I had children -- I have three children, I have six grandchildren. Thank God they don’t live in Londonderry so I don’t have to move them. But anyway, the North School, I don’t know if things have changed but at one of the meetings -- I can only go by what I hear at these meetings and I
understand that EnergyNorth or the lateral terminal has already been approved. It was approved by FERC, I mean, EFSEC, as far as I know. I wasn’t involved in FERC but this is what I know. I could be wrong. But it’s supposed to cut right through the school yard. I mean, it never came up, never been addressed because you people separate everything into nice little neat packages so you can decide on them. There is a -- and I heard there was some discussion today about Little Coos and the environmental study that was done there. As far as I know this is supposed to cut through our primary valuable wetlands in Londonderry.

The other issue I have is that I really enjoyed the last three days here because I saw and heard what our federal government can do to a committee. And the restrictions we talked about, the wild onions and the mussels and the environmental study, which I absolutely am in favor of. The work that was done was great. There’s only one problem. It was not done for the power plant. As far as I understand, this power plant is built on valuable wetlands. The lateral is going through that. I mean, that might not be the case. If it is then they’ve changed their plans and that’s never come up at any meeting that I’ve attended at Londonderry
Town Council.

And my last concern is that all through this process, the Londonderry Neighborhood Coalition, we’ve been told by many, many people it’s a done deal. Why are you fighting? The decision was made in Washington. The decision was made by Governor Shaheen. We don’t want to believe it’s a done deal. We don’t want to believe this Commission has already made and had a secret meeting, had already given some type of promise to AES and to Tennessee on this. We don’t want to believe that. But when you see a power plant being constructed in your backyard, when you listen to the trucks and the bulldozers and the grinding machines and you hear this daily and you see one truck every ten minutes at 78 dB go by you, you begin to watch this a lot more closely. You say, why, why, Commissioners, would AES, a very intelligent, I give them all the credit in the world for their intelligence. And I know them. I’ve talked to Steve and I know these people, I feel to some degree. They have just completed their first cement pour, would they do this without some assurance of approval of a gas supply? Would you do that? I wouldn’t do it in my own business.

I’d also like to -- I have a picture here to put
into evidence. I’d also like to ask you -- there was a recent article in the Nashua Telegraph, of course it was in the Nashua Telegraph because it’s not a local newspaper as far as we’re concerned. You might think it is but. Greg might think it is too but it isn’t. Reporting that a large amount of pipeline construction equipment belonging to Delta Gulf Corporation is already staged in Londonderry. I’ve driven by it several times. I go by it on a daily basis. It is a tremendous amount of equipment. It is not tractors. I mean, it is heavy equipment and there’s some pipes there, they’re leaking. Anyway, it’s major. We’ve got a picture of it here for you. I ask you, would you bring the equipment there if you did not think that this was going to be approved? This was several weeks ago. Please, please, help Londonderry. Help me. Help the Londonderry Neighborhood Coalition. Tell us it’s not a done deal.
Thank you.

Q Do you have the photograph with you that you wanted to put in? Is this the one?
A Yes.

Q I’m going to hand this to you and state for the record what paper that came out of.
A This is from the Nashua Telegraph. An article by Josh
Adams. I don’t know exactly the date. Do you know?

MS. MAZZOLA: Within the last week.

A I don’t have the exact date on it. I have got a call in to the author of that but I haven’t been home to talk to him.

ATTORNEY ROCHWARG: I’d like to have that marked as Exhibit L-5a.

Q Is there anything further that you would like to add, Mr. Goudreault?

A I think it’s late and I really -- I don’t want to get the Committee any more angry at me than I can possibly do. Thank you.

Q No further questions at this time.

CHAIR: Thank you. Are there any other witnesses?

ATTORNEY ROCHWARG: No, that would be all of the witnesses for this evening, for this proceeding.

CHAIR: Okay. Thank you.

Yes?

ATTORNEY SMITH: First, just a housekeeping matter. Is that L-5?

ATTORNEY ROCHWARG: L-5a. Thank you.

CHAIR: And we’d appreciate a date.
ATTORNEY ROCHWARG: I think the closest that we’ve come is within a week.

CHAIR: I know. Could you follow up with the actual date?

ATTORNEY ROCHWARG: Absolutely.

CHAIR: Thank you.

ATTORNEY SMITH: May I inquire?

CHAIR: Yes.

ATTORNEY SMITH: I’ll try to be as brief as possible.

CROSS-EXAMINATION OF MR. GOUDREAULT BY ATTORNEY SMITH:

Q You mentioned you are a property owner in Londonderry.

A Yes.

Q How far is your property boundary from the Tennessee Gas pipeline right-of-way?

A I haven’t measured it exactly but I assume since it’s near Mammoth Road, approximately two and a half miles.

Q Two and a half miles?

A I think so.

Q Thank you.

ATTORNEY SMITH: Before I forget, again, as a housekeeping matter, are you intending to withdraw the other pre-filed testimony, when you testified?
ATTORNEY ROCHWARG: Yes, we would do that. Just for the record, we intend to withdraw the pre-filed testimony of those people who couldn’t be here this evening but I did want the Committee to know it wasn’t for lack of interest.

MS. BROCKWAY: Mr. Chairman, could those materials possibly be submitted in the nature of public comment?

CHAIR: Fine.

ATTORNEY ROCHWARG: If the Committee would consider that I would appreciate it.

CHAIR: Sure.

ATTORNEY ROCHWARG: Thank you.

ATTORNEY SMITH: Ms. Gabbidon?

CROSS-EXAMINATION OF MS. GABBIDON BY ATTORNEY SMITH:

Q You were the president of the LNC?

A Yes, I am.

Q You formed it and have actually been involved for a couple of years?

A Yes, and I have received personal threats during the past two years because I formed it.

Q How many members of the LNC are there?

A We haven’t done a recent census.

Q Could you give us some estimate of how many --
A I couldn’t and I’ll tell you why. Right now in Londonderry there is a mass exodus of people. On the street that I used to live on, I don’t live near the power plant or near the pipeline, of 22 homes approximately 12 people have sold their homes.

Q And are these 12 people, people who were members of the LNC before they left?

A Quite a few of them.

Q Alright --

A Can I just finish for one second? Throughout Londonderry people have moved, not to other parts of town. People have felt almost helpless after the decision to site the power plant so they’ve moved in some cases out of the state, in some cases across the country. After the Supreme Court decision if you drive through North Londonderry today it looks like a wasteland. People are despondent and in the process of moving out. So it’s very hard to say how many people still are left.

Q I appreciate that but are there more than 10 members?

A Are there more than 10 members?

Q Yes.

A Overall? Yes.

Q Are there more than 25?
A Yes. There are 25.
Q Active members?
A Yes.
Q Are there more than 50?
A Oh, I believe so, yes.
Q Do you have meetings, I assume, from time to time?
A Yes.
Q On average, how many people come to your meetings, who are actually active members of the LNC, if you could tell us?
A We have approximately one annual meeting a year.
Q But you meet at other times, is that right?
A The board.
Q Again, can you tell us how many people typically come to your meetings who you consider active member of the LNC? They have joined the LNC.
A We have board meetings every month and we have one annual meeting a year. I would have to check and see how many people attended the last annual --
Q Just approximately, 25, 50, 75?
A I couldn’t tell you how many people attended the last annual meeting. I don’t know.
Q Was it more than 25?
A I don’t know. I’m sorry, I couldn’t tell you.
Q You don’t remember?
A I don’t know right now.
Q Did the LNC participate in the proceedings before the Federal Energy Regulatory Commission, do you know?
A Before FERC?
Q Yes.
A Yes.
Q It did?
A Through our attorneys.
Q Thank you.

ATTORNEY SMITH: Ms. Kyleberg.

CROSS-EXAMINATION OF MS. KYLEBERG BY ATTORNEY SMITH:

Q Have you refused to allow the Tennessee Gas Pipeline Company to survey your property to figure out what the disturbance line would actually be?
A Yes, I have.
Q Thank you.
A The reason I did that is because they came up to the door and it was very intimidating the way they came up to the door, kind of demanding to go in the back yard, “We want to survey the yard” this that and the other. I had no idea there was a pipeline back there. This was before I got paperwork from them. Being a single person in the house by myself, obviously I’m not going to let
someone go in my back yard.

Q Well, you continued to not allow them to come on to determine where the disturbance would be?

A They haven’t come since.

Q Oh, I see. Could I see your Exhibit L-3? Ms. Kyleberg, I still would like to ask you about this. I think you produced this newspaper article about the wetlands ordinance, is that right?

A Yes.

Q And this newspaper article, in fact, describes and provides a photograph of approximately 400 people who attended a meeting at the Middle School on the question of the proposed wetlands ordinance, is that right?

A Yes.

Q In fact, does the article that of the two dozen people who spoke at this meeting, not one single speaker spoke in favor of the proposed ordinance, is that right?

ATTORNEY ROCHWARG: Objection. The article speaks for itself.

Q Well, would you like to read it for me then, please?

A There were a lot of concerns that were brought up by the Conservation Committee.

Q Could you please sit down here?

ATTORNEY ROCHWARG: It’s the intention of
the LNC to introduce the article into evidence so therefore I think it’s the best evidence and it would be up for consideration before the Committee.

ATTORNEY SMITH: We have no objection to introducing it as an exhibit.

Q I’d just like you to read that right there, that paragraph.

A Okay. He’s asking me to read a paragraph that you really need to know the whole context.

Q I’d like you to just read that one sentence please.

ATTORNEY ROCHWARG: I reiterate my objection. I think that if the whole thing is going to go into evidence then the whole thing should go into evidence, it shouldn’t be taken out of context.

CHAIR: The objection is overruled and it’s certainly pertinent to ask about one piece of the evidence that you’ve presented.

A Okay. “More than two dozen residents stepped up to the microphone and not a single speaker spoke in favor of the proposed ordinance.” Now, the proposed ordinance --

Q That’s all I asked you to read. Can I have that back please? May I have it back please?

A Obviously there has to be some ordinance to protect wells or Londonderry is going to have to do something
else about drinking water. They just didn’t like that particular ordinance.

CHAIR: Understood. You made that point clear during your testimony.

A Okay.

ATTORNEY SMITH: Thank you. I have no further questions, Mr. Chairman.

CHAIR: Questions from Public Counsel?

ATTORNEY WAGELING: I don’t have any questions at this time. Thank you.

CHAIR: Questions from the Committee? Brook?

EXAMINATION OF MS. KYLEBERG BY COMMISSION DUPEE:

Q How many residents roughly, or homes are there on Wilshire Drive?

A I’m the fifth house down on the left and then there’s two more houses in that area that are abutters. I’m not aware of the rest of Londonderry, how many abutters there are. I do know that my minister of Londonderry Presbyterian Church, who unfortunately didn’t get on the list of people to speak, his front yard is also effected on Windsor Drive. But anyway, to answer your question, seven houses there.
Q Thank you.

CHAIR: Any other questions? Nancy?

MS. BROCKWAY: Just one thing, which is I just checked on the Internet and the date of the article is October 16.

CHAIR: The Nashua Telegraph article?

MS. BROCKWAY: Yes.

ATTORNEY ROCHWARG: Thank you.

EXAMINATION OF MR. GOUDREAULT BY COMMISSIONER BROCKWAY:

Q This question is specifically to Mr. Goudreault but anyone from the panel can answer it. The statement was in Mr. Goudreault’s testimony, which was that anything that should be done that could alleviate the fears of the people of Londonderry. The question I have is whether or not it’s possible to do that. This goes back to what the fellow who was proposing Londonderry Pig Day, Mr. Barton, he was making the point that technology always gets better; people’s understanding of risk gets better. So there always will be something better around the corner. Putting those two things together and the level of concern which I’m sure I’m not the only one around the table here who appreciates very much your
coming here because we definitely palpably feel the concern that you have and understand that you have your kids in the school system, some of you are abutters and so forth. But would there, in fact, be anything that, assuming that this Committee had the jurisdiction to do it, and we know we’ve been warned that there are limits to that or we’d have a fight on our hands depending upon how far we decided to go. If we did everything that was asked for, would we not still have a situation in which people were scared?

A I’ll take a stab at that. That’s a good question. You always ask good questions, Nancy. There are things that could have went [sic] differently in this town, as far as these issues go, that could have made us all feel safer. We could have been brought into the process earlier. I can give you an example of what helped our neighborhood just last week when I contacted AES. I use that as an example a little bit but it’s a good example I feel. Here we are, in our homes, unaware of what’s going on and we get these 24 wheel, whatever you call them, gravel trucks going by at a rate of one every 15 minutes. We get used to it after three days but like on the third day they now have a Redi-Mix truck, how many tons that is, coming by every 10 minutes of 15 minutes,
which adds to a truck every 10 minutes. Now picture
yourself sitting there and thinking, “Is this what
collection is going to be like?” I had no
understanding of what’s going on and neither did my
neighbors. They’re calling me up, they’re coming over.
I do not know. Does that give you an idea of how fears
can be allayed? When we did get to the bottom of it,
when we did get answers, I mean, I did not get called
back the first day, the next day I did. I understand
now that that was a pour. I didn’t know what a pour
was. I didn’t know how long they were going to last.
I didn’t know how many -- there’s a lot of people on our
street did not even know that trucks were supposed to go
on that street. Now whether that’s their stupidity or
not I don’t know, but they didn’t know. So was there a
failure to communicate here? Of course there was a
failure to communicate. And I addressed that with AES.
And that’s what we don’t like. We’re not -- the LNC
is looked upon as a bunch of subversive activist
fanatics that they won’t even talk to. And I think they
made a big mistake when they took that position. If
they had put us at the table, put the community at the
table with these negotiations. If they had done that,
I mean, we didn’t know what we were doing two years ago
when we sat before you people. We didn’t even know what
the procedure was. We were not even full intervenors at
that time.

To answer your question, we are not, I mean, it
hasn’t even come up, I was hoping it was going to come
up but nobody has asked me am I an anti power plant
person? I’ve had this discussion with Steve Hase. I
said, “No, we’re not anti power plant people. But we
have some strong ideas about that plant and its best
technology.” It’s too big for that site. We told you
a hundred times that site is wrong for that plant and
you would not listen to us. It is too big for that
site. We told you that. Nobody cared. I said, “I’ll
take a 500 megawatt.” The biggest problem, the biggest
issue and the fear of my neighbors, I’m talking about
just not me [sic] but my neighbors and the LNC too. I
think I can speak for some of them. The wet cooling
system is not a controlled technology. It really is not
controlled properly by the federal government. They’re
going to put waste water 800 feet from my house, four
million gallons a day into the air. Do you think our
neighborhood is sitting there quietly thinking this is
just wonderful that they’re going to have free water?
No, they’re not. They’re scared out of their bloody
minds. Does that answer your question, how that could have been alleviated?

They’ve never been able to -- we had a collaborative session that never agreed on anything as far as I’m concerned. We had the CLF, which was actually paid for -- which was supposed to protect us as citizens, bought by AES and working for AES. And they still are. I’ll tell you right now we are not done with this issue. We were not listened to. These fears in town, these are not just my fears, these are fears that are talked to me on a daily basis by people in our community. I do not think you still get that our community is devastated. I don’t think you get it. I hope that answers your question.

MS. GABBIDON: I just wanted to answer part of that, if I may. I think you need to realize there’s a difference between fear and concern. When I get in my car I put on my seatbelt, not because I fear that I will get into an accident but I am concerned that if I do get in an accident that I mitigate any impact the accident will have on myself or my children. My husband flies quite a bit with his job and he has concerns of course about air transportation but we have FAA as a regulatory body to alleviate some
of the concerns that citizens have about the airline industry.

I think we should keep the FDA, not because I don’t believe that we should take medication or eat but I think that people have concerns that companies don’t always look after the best interests of citizens. So when we say that as a community we are concerned that if we left it up to Tennessee Gas to implement and enforce their own regulations it’s because history has dictated -- and I think we see that in almost every industry, that there has to be a buffer between the citizens and the industry.

Fear -- and the fear that you hear people talk about, at least in our organization, is not related specifically to these proceedings or the power plant proceedings. When you talk about fear, and I think it’s important that the Committee know this, that we have had numerous incidents where members of our group have been threatened, driven off the road. We have four complaints at the AG’s office. There was a gentleman who claimed to be being paid by the power plant company who tried to hit me in March. And that’s at the Londonderry Police Department. So our fear is that you do have people in the industry who are out of control.
But our concern is that the industry knows that there are some guidelines and there are ramifications for every action taken. That’s just all I had to add.

MS. BROCKWAY: I just wanted to make it clear that I hope that I did not give the impression that I was denigrating any of the fears that have been expressed. There have been two courses of action suggested to the Committee at various times during these hearings, one of them is require an additional change or restriction or some different technology, almost as a public relations gesture. It won’t really have anything to do with safety but it will make people feel better. And the other one is: do what’s necessary to make it safe and ignore the PR. I’m inclining toward doing what’s necessary to make it safe and ignoring the PR and one of the reasons for that is because I don’t think that any amount of PR investment would be sufficient, for whatever reason. Whether the history of it or whatever reason. But that’s what I was trying to explore is whether, in a sense, what standard do you think the Committee ought to use? Should it be -- should we give you things that you’ve asked for because in our judgement it will quiet concerns? Or should we give you things that you’ve asked for if, in our
judgement, we think if we had our kids in that school or we were abutters we would like to have those things done as a matter of safety or whatever the other standard was?

MR. BARTON: Nancy, may I say something to that? I really believe, I really, really believe that putting in best available will go a long way towards allaying real fears that people have. The alternative route concept that has -- I know that there’s been one tossed around by FERC and another modification somewhere in there. But anything along those lines or a compromise of both, if you consider that in Arizona a truck 900 feet away was incinerated, pretty good guess that the people who would have been in that truck would have been there too. You’re drawing -- in this meeting they were drawing 300 foot radius and calling that a safety zone. Well, there’s 600 feet of burn that I would, you know -- but if you minimize the risk, and I minimize by using the best available technology in that area where there’s that concentration of people. 4000 kids on a given day in those three schools and 800 teachers and administrative staff, that’s a pretty good catastrophe. If you did a combination of those two things: move it and put the
Class 4 pipe in, I think it would go a heck of a long way. And I do believe that it would allay a lot of fears that people have. I really do. I think the thing -- that explosion in Carlsbad made it real for people, made it very real and very scary. So I really think that this is not an irrational fear. And I know that you’re not minimizing that but I also want you not to forget the PR aspect of this because it really is -- I think it really would make a difference. I really do, especially if you can say to people, point for point -- in fact, if our town council, back when they were proposing the power plant, bothered to get educated on it and go point for point and say this is where this is, you know, this technology is better than that technology and we had them use that instead because of these parameters, and sold it to the people instead of trying to -- we had to scrape and fight and go into every blessed meeting and tell these guys who just said, "Yeah."

We really should do this for the people. I think -- I don’t know how many miles we’re talking about through that school zone but I can’t imagine that it represents that big a cost increase.

MS. MAZZOLA: I’d like to make one
comment also about the fears. Some of this may be a little redundant and I apologize if it is. When this whole process started I had concerns. I was not fearful, I had concerns. What made me fearful was that along the way it seemed like nobody who had the power to address those concerns had any fear about what we were trying to -- what we were concerned about at the time. And as the process has gone on my fear -- some of those concerns had turned to fear only because the very people that we needed to turn to to make sure that those concerns were addressed, something went wrong. And when my fear -- I have a few fears left, not left, I should say that have been created through this process and one is, and I had mentioned this before, that we are residents and we are citizens of the United States and here we are trying to exercise our rights and we’re in fear of the price we’re paying for that, in that, we are threatened, run off the road, harassing telephone calls at our home. I’m going to say this and I may not -- but I have concerns that my phone line at my home is not secure. Somehow information that I have exchanged with people on my private phone line has gotten to places that could have got there by no other way but that invasion of my privacy.
Anyway, given that, those are my fears. That a company can engage -- and I don’t know -- I should say a company can come into town and all of a sudden these things start happening. That’s my fear. We do plan -- this is not a dead issue. And my fear is, again, that comes back to somebody is going to get really hurt over this. So I guess one of my fears that has been created through all this is that in a country where we’re supposed to be free to speak, is that really the case because when we try to speak we become in fear for our lives or our safety and the safety of our family.

As far as the best available technology and the other requests that we have asked around the schools and moving the pipeline and upgrading it, I would feel very good if -- and it would actually give me back some of my confidence that there’s somebody out there that cares about the safety of our children as opposed to how much it’s going to cost. Because in the long run, these powerful companies are going to make their money and they’re going to make their profits but all it takes is one accident and they continue to go on and make their money but we will be absolutely devastated as a community. Thank you.

ATTORNEY V. IACOPINO: Mr. Chairman, may I
ask Ms. Mazzola a question?

EXAMINATION OF MS. MAZZOLÀ BY ATTORNEY V. IACOPINO:

Q I understood before, previously that you were concerned with the construction time table.

A Yes.

Q And I just happened to be glancing at the FERC order that was handed to us today and the FERC order requires that Tennessee consult with the school district to determine the time period during which there will be the least use of school facilities and the least disturbance to school use. Is that basically what you’re asking this Committee to adopt also?

A Yes. Actually, I’d like to address the wording of this FERC document since it’s another thing I think --

Q Well, we can’t change that.

A No, I know but this is a concern of mine. I read this and what this does is leave it wide open because in the end it says they can consult with the school board but that --

Q No, it says that they ‘shall’.

A Okay. It will consult with the school board. Consult means talk with them about what they would, my guess would be prefer as a time table for construction. But nowhere in this paragraph does it say, does it forbid
the construction of this pipeline to happen during the hours or the days when the school is in attendance. And in the last sentence here it says, “Tennessee will conduct the replacement on school property during this time period as long as it is consistent with the overall requirements of the project.” Now, my interpretation is that’s a door that’s open so that if they, after consulting with the school board, they decide that the time frame in which the summer falls or the time that the kids are not in school is not consistent with the power plant project, in other words, if they delay the construction of the pipeline because the kids are in school and it impacted the construction deadline or the completion deadline of the power plant, that they have the right to say, “Well, we’re sorry but what you’re suggesting to us is not consistent with the overall requirements of the project.”

Q Well, that’s the way you read it. You see some door that’s open for them to change that.

A Yes. Because, in my experience, if something isn’t in writing and concrete, in other words, it stays A,B,C and it’s clear in black and white then it’s used in a way to again, like I said, it’s sort of manipulated, I guess, in the best interests of the company.
CHAIR: Any other questions from members of the Committee or staff? Michael?

ATTORNEY M. IACOPINO: I just have one. Mr. Goudreault, you had mentioned during your testimony something about a leak at the metering station recently?

MR. GOUDREULT: Yes. I’m not fully up on that. There is a -- do we have a newspaper article here available?

MR. BARTON: What do you need? I’m the one who mentioned it.

ATTORNEY M. IACOPINO: Do you know where the leak was?

MR. BARTON: I was only told it was a metering station. It was reported by the fire chief that it was a leak at the metering station because a worker -- they were doing some maintenance or something and the leak came from, not the gas but the odorizing agent. They said that that’s where -- at that metering station is where they add that agent and that’s why I made the point because it’s so far down line. After all the schools have had their gas or it has already passed by the schools, it doesn’t get added until the very end of the line.

ATTORNEY M. IACOPINO: Do you understand that
gas may be added at different points along the line?

MR. BARTON: No, I didn’t.

ATTORNEY M. IACOPINO: Well, okay. So it’s at the metering station owned by Tennessee Gas, is that --

MR. BARTON: Yes. Right? Tennessee? Do you know this?

ATTORNEY M. IACOPINO: While you guys have got the chance, did you learn any other information about that?

MR. BARTON: Here’s the article.

MS. GABBIDON: The person who had direct interaction with the fire chief is a man by the name of Richard Bielinski. He actually -- his wife went to take their child to an adjacent daycare center and there was this overpowering odor and the daycare center was in the process of evacuating and opening all the windows. And he, in turn, contacted the fire chief, who in turn got back to him and said that he had to notify Tennessee Gas. He, unfortunately, was here for most of the testimony.

ATTORNEY M. IACOPINO: Richard?

MS. GABBIDON: Yes, Richard. But had to leave about two o’clock today.
ATTORNEY M. IACOPINO: Thank you. That’s the only question I have.

MR. CANNATA: Just a follow up question. Perhaps we could ask the Applicant, Mr. Hamarich, with regards to the addition of odorant, they were discussing the odorant leak that took place at the Londonderry metering station within the last couple of weeks. And there was a concern that there was no odorant in the pipe prior to that point as it went by the schools. Could you just describe what the process of adding odorant in is. Where it’s put into the system and what your requirements are.

MR. HAAS: Can I answer that one?

MR. CANNATA: Sure.

MR. HAAS: Actually on our system we’re required to inject odorant well upstream of Londonderry. As a matter of fact, all of New England is odorized on the system. What you’re talking about is additional odorant that’s required by the state that EnergyNorth injects on top of the odorant that we’re required to. So all of the gas in New Hampshire is odorized. This is just on top of that. And the leak that you’re talking about was the EnergyNorth facility that’s injecting it.
MR. CANNATA: There was one other area I'd just like to clear up from a technical basis. I think it was Mr. Goudreault discussed the possibility of perhaps emptying the 12 inch pipeline before construction is undertaken for the 20 inch. My understanding of the system, and I'm going to ask the Applicant if this is a correct understanding, that if the 20 inch line is replacing the eight inch line, if you take and de-gas the 12 inch line, that the tens of thousands of customers north of Londonderry, all the way to Laconia, would have to be without gas for the total construction season. That they have an obligation to keep service for the tens of thousands of people. Is that a correct understanding? If you could just comment on that please.

MR. HAAS: Yes, as a matter of fact, what we would have to do is shut off the entire system in Dracut and take it out of service for that construction period. Because we wouldn't necessarily start it and move in pieces from the southern end north. So it wouldn't just be from the Londonderry point north that would be impacted, it would be the entire New Hampshire system.

MR. CANNATA: So the schools
themselves that they’re concerned about, would be
without the facilities in order to run?

MR. HAAS: I don’t think they run
on natural gas but any residents or businesses that are
fed off the line would be impacted during construction.

MR. CANNATA: I was assuming they
were gas customers.

MR. GOUDREAULT: May I comment? At the
meetings that that was discussed they stated that they
would be able to -- they were going to try to do this
whole project in the summertime when there was not a
customer demand. That’s what they told us.

MR. CANNATA: My understanding would
be such that if you had a system that has both a 12 and
an eight inch pipe, in the wintertime you need both
facilities to feed the peak demand. However, in the
summertime you could take one of those facilities out
and still meet the summertime demands when they’re low.
But I don’t think you can take everything out. And
that’s the only point I wanted to make sure you
understood.

MR. GOUDREAULT: But you realize that
we feel that we have a fear of that?

MR. BARTON: Could they at least
pig it when it’s over? I mean, when the construction is
over. I love the pig. We can have two pig days.

CHAIR: Any other questions?
Okay. Thank you. Are there any other members of the
public -- excuse me, did you have a follow up? Sorry.

ATTORNEY EDWARDS: Yes. On the members
of the public issue, Commissioner Brockway has asked if
we could submit the pre-filed direct testimony from
those LNC members that could not testify tonight. We
have them. We have marked them for exhibits. I just
want to read them into the record and then offer them
in.

ATTORNEY V. IACOPINO: They’re not exhibits, are they?

ATTORNEY EDWARDS: These are for public
comments.

CHAIR: Aren’t they already
in? Or not? Oh, we struck them already so -- okay.

ATTORNEY EDWARDS: Right. I had them
struck. So they’re now being reintroduced for public
comment purposes. The first one is --

ATTORNEY SMITH: They’re just to be
submitted in writing?

ATTORNEY EDWARDS: That’s all I’m doing.
ATTORNEY SMITH: Rather than reading.

ATTORNEY EDWARDS: No, I’m not reading the entire document. I’m just going to read the names of the witnesses.

ATTORNEY SMITH: Oh, okay.

ATTORNEY EDWARDS: The first one is marked L-3 and this is by Nikki Sosnick. The next one is marked L-4, this is by Richard Evans. The next one is marked L-9, this is by Vinnie Samson. The next one is L-10 by Richard Bielinski. And the last one, L-11 by Denise Southmayd. Thanks.

CHAIR: Thank you. Nancy?

MS. BROCKWAY: I’ve got a couple of questions for the Applicant based on some of the concerns that were raised by the witnesses for the LNC. I’m not sure to whom to direct it but let me just put out the question. The first -- I apologize, I’m forgetting people’s names but it had to do with the trees and the statement that trees will not be restored, rather the company will seed it. And I don’t know whether this has been testified to earlier but can someone clarify whether that is in fact the proposal by the Applicant and whether the Applicant would consider restoring trees. If you could identify -- we have one
of the site maps here which shows Wilshire Drive and it shows the plots identified here. If someone could use one of those so that we could know what you were referring to. Mile 27.

MS. KYLEBERG: In the, again, in the environmental assessment from --

MS. BROCKWAY: I’m sorry, ma’am, it’s not actually a question for you. What I’m trying to do is get the Company to respond to the concerns that you raised.

MS. KYLEBERG: I’m sorry. I was going to read it out of here what they said.

MS. BROCKWAY: Oh, that’s okay. They might repeat that or they might make further offering. We’ll see what they say tonight. While they’re looking for that, is the environmental assessment in the record?

ATTORNEY ARNOLD: Yes, it is. It’s --

MS. BROCKWAY: That’s okay. That’s all I needed to know.

ATTORNEY ARNOLD: It’s 76. It’s there.

ATTORNEY SMITH: Do you have the drawings there?

MR. CANNATA: Yes, we do.

ATTORNEY SMITH: It’s ED504.
MS. BROCKWAY: And that is -- I’m sorry ma’am, I’ve forgotten your name. Kyleberg. That’s Ms. Kyleberg’s property. As I look at this map the lot, if these marks show the lot lines, the lot goes all the way back and corner of it is actually across the pipe itself. And the very, very back corner is within a hatch marked area. First, is that hatch marked area the same as the corridor that we were talking about?

MR. LOPEZ: The hatch marked area indicates the construction corridor.

MS. BROCKWAY: The construction corridor.

MR. LOPEZ: No trees would be permitted within 15 feet of this replacement pipeline. Now anything outside of that towards the house, we may discuss replanting. But inside the permanent space we wouldn’t allow any trees to be replanted.

MS. BROCKWAY: Do you know what the scale is on this map?

MR. CANNATA: I think it 1:200.

MS. BROCKWAY: One inch is 200 feet?

Do you have a --

MR. CANNATA: I think if you go right down here, Nancy, this is what you’re looking at
right here.

MS. BROCKWAY: We’re having an off the record discussion trying to scale the map.

MR. LOPEZ: Let me say, I was looking at this and I don’t know what you -- the document that controls your property is and I don’t like to conduct individual negotiations in a public forum. You’re putting me on the spot here and I’m just going to tell you that we will not --

MS. BROCKWAY: Well, I’m asking you the question, sir.

MR. LOPEZ: Yeah, and I will tell you that I don’t negotiate in public. But I’ll tell you this --

MS. BROCKWAY: I’m not negotiating with you, I’m asking you a question.

MR. LOPEZ: And I’m going to respond that no trees are permitted within the permanent space. And if I review this individual’s easement I can determine what the permanent space is. I said 15 feet a minute ago but that may not be correct.

MS. BROCKWAY: When you say permanent space, that has to do with your easement?

MR. LOPEZ: That’s correct.
MS. BROCKWAY: And that's some distance from the pipe, generally speaking?

MR. LOPEZ: That's right.

MS. BROCKWAY: So it's not 15 -- is it 15 feet from the space or 15 feet from the edge of the space? In other words, can we look at this map and get a sense roughly --

MR. LOPEZ: No. This map just shows the corridor here so I don't know what of that is permanent and what of that is temporary.

MR. CANNATA: But it would be 15 feet from the pipe, correct?

MR. LOPEZ: Possibly. As I said, I don't know what the specific easement says on her property.

MR. CANNATA: Until you know the temporary versus the permanent and where the location is on each individual parcel?

MR. LOPEZ: That’s correct.

MS. KYLEBERG: Just to keep in -- apparently there’s been other people that Collette has talked to that also have a concern about the destruction that’s going to be occurring on their property. They’ve also been told it’s going to be seeded. I just happen
to be the one who is here but there’s a lot of other
people that are concerned.

MR. LOPEZ: And let me assure you
that we’re dealing with all those folks.

MS. BROCKWAY: When you say ‘dealing
with all those folks’ -- for the rest of the people in
the room, what we’re doing is we’re not negotiating.
Maybe, Mr. Chairman, what I could do, respecting the
fact that they don’t want to negotiate through this
process, and I understand that. I get a sense consistent
with the environmental assessment of the Federal Energy
Regulatory Commission, if they could show mile 27
showing where the trees -- if that were adopted, where
the trees would be gone from. And what they’re current
blanket willingness is with respect to reseeding trees,
understanding that they may negotiate for some further
remediation for individual abutters.

ATTORNEY SMITH: I’m sorry. I thought
they were trying to figure out the answer to your
question. I’m not sure anyone actually heard it.

MR. LOPEZ: I’m sorry.

MS. BROCKWAY: What I was suggesting
is one way to deal with this would be if the Company
could provide map mile 27, or at least the part of it
that’s associated with Wilshire Drive, showing if you were to meet the standards set forth in the environmental assessment adopted by FERC, where would the trees be gone from and where, if at all, would they be restored to? And what has been the proposal here for the minimum amount of tree restoral the Company would do? I understand that you may talk with individual abutters and you may come to different agreements or you may substitute something for tree restoral here, whatever, but just sort of as a blanket floor on what you’re proposing, what it would look like. If that is different from the environmental assessment. What I’ve heard in the colloquy we just had was that it is a bit different. Without taking a lot more time tonight I’m trying to get a sense of it.

MR. CANNATA: Mr. Chairman, may I suggest, I think your looking at the map and identifying the right-of-way for Ms. Kyleberg seemed to change the location of where you thought that right-of-way was. I mean, if you are willing to let the people on the property and survey the property, they could give you a better feel of just what the treeline that they were talking about was.

MS. KYLEBERG: Now it’s even worse
than I thought. I thought the pipeline was abutting the property, I find it’s on. Things have gotten from worse to more worse.

MS. BROCKWAY: I had one last question for the Company regarding issues that were brought up. And I will attempt to do a very quick question about it but if it gets bogged down then I think we have testimony earlier. It has to do with the assertion that it’s hard to prove that Tennessee Gas was the one that contaminated a well. What I didn’t understand was what the remedy was for that problem other than just don’t do this construction. I understand the Company’s position is, “Well, don’t worry. We can do the construction and we won’t contaminate any wells.” Is there any middle ground that we can find between those two positions? Is there any way to tell whether or not Tennessee Gas was the one that contaminated a well, if it happened? There was some talk yesterday or the day before about some monitoring but I’m not sure that I captured that.

ATTORNEY SMITH: I’m not sure I can help but I thought that part of the testimony -- the thrust of part of the testimony was that we would know certain things as a matter of physics and measurement.
And from that other measurements or conclusions could be calculated. I thought what the witness was saying, up to a certain -- beyond a certain point there would be a vanishing probability that anything that was done on the pipeline could have affected the well or would have affected it even closer in on a long term basis. But that’s my effort to recharacterize what I thought they were saying. So if you’re looking for lines or some way to approach this we’ve set up a 200 foot limit because, I think the working assumption is it would be extremely unlikely that anything would be affected beyond that.

MS. BROCKWAY: I apologize. Mr. Smith, you’re reminding me of what was discussed. Within that 200 foot limit there will be measurements taken of the water quality before and after?

ATTORNEY SMITH: Yes.

MS. BROCKWAY: Okay. And you all will be providing some document responsive to the request that I made on the record with regard to the tree restoration?

ATTORNEY SMITH: They were trying -- you were trying to consult on that?

MR. HAAS: Yes, we can do that but we do need access to the property to do an actual
survey so we’ll know exactly where the trees are, so we can identify them. So if we can get access to the property we can gather that information and submit it.

MS. BROCKWAY: So perhaps with the good offices of counsel for the Londonderry Neighborhood Coalition you all can work out some kind of arrangement to get the best evidence that’s going to be possible within the time frame that we need it?

ATTORNEY ROCHWARG: Absolutely.

MS. BROCKWAY: Thank you.

CHAIR: Any other questions from the Committee? We need to set some time frames, I believe, for some of the data requests.

ATTORNEY V. IACOPINO: Mr. Chairman, there’s been numerous requests for data from Commissioners and others and I was wondering if you could request the Company to put in a letter to us the various agreements that were made, such as the graph records for the Sanborn metering station, the location of valves, the blasting agreements, pre and post blast agreements, and ground heave agreements. But I think if we can get a list of all those things to us then we’ll know what to expect and they won’t get lost in the shuffle. Any problem with that?
ATTORNEY SMITH: I’m trying to make sure I hear. You listed a number of things and we were keeping a list during the hearing.

ATTORNEY V. IACOPINO: Those are the ones I could think of.

ATTORNEY SMITH: And you would like a letter that would memorialize what those are from us?

ATTORNEY ARNOLD: You’ll let us know if we miss something.

CHAIR: We noticed you were taking very careful notes.

ATTORNEY ARNOLD: We’ve been trying.

CHAIR: You’re a team.

ATTORNEY V. IACOPINO: I actually have about a half dozen more here but you know what you agreed to and I think if you memorialize that for us then we can check it.

ATTORNEY SMITH: I think you’re speaking about the things that the Committee asked us about or agreements that were referenced that may have been by public counsel, their expert, yes.

ATTORNEY V. IACOPINO: Right.

ATTORNEY WAGELING: I’m sorry, I don’t know if I heard what time frame, at least to get the
list and then --

CHAIR: We haven’t set the time frame yet and that’s the next topic.

ATTORNEY WAGELING: Well, Mr. Chairman, I just wanted to -- is there going to be a list provided, at least in the first instance, within a time frame and then if there are amendments to it -- at least so we’ll all know what page we’re on out of the gate. And I think if we don’t get the list until a certain time frame then if there’s something omitted there’s a further delay.

CHAIR: Okay. Why don’t we have counsel for the Committee confer with counsel for the Applicant, put a list together, send it out to the other parties immediately, meaning within the next two days. And then we’d like a response back within a week. Keep in mind some of the requests were made a couple of days ago so you’ve already had a couple of days’ start.

ATTORNEY ARNOLD: Sure we have.

ATTORNEY SMITH: So the one week is one week from the two day point or today?

CHAIR: One week from Friday.

Are there any other exhibits that we need to go over?

ATTORNEY SMITH: I’d like to make a
request that we strike the marking for identification and admit as full exhibits Applicant’s Exhibits 1 through 91 inclusive. I believe we also requested jointly the admission of L-3, the newspaper article.

CHAIR: Is that agreed to by all the parties?

ATTORNEY M. IACOPINO: Yes, we have no objections.

ATTORNEY V. IACOPINO: Marguerite?

ATTORNEY WAGELING: I’m sorry, I was consulting with a Committee --

ATTORNEY V. IACOPINO: He’s moving Exhibits 1 through 91 and L-3.

ATTORNEY WAGELING: I take exception to just one of them and it’s, I believe, number 66, which was the proposed stipulation. I don’t think that it’s relevant nor was it technically put into effect. I know we made some other arrangements.

ATTORNEY ARNOLD: That’s no problem.

ATTORNEY WAGELING: Thank you.

CHAIR: All in agreement on that?

ATTORNEY SMITH: Yes.

ATTORNEY WAGELING: I have no other
objection to any of the others. Thank you.

CHAIR: LNC?

ATTORNEY SMITH: I guess it could remain as identification only. Does that matter for the record?

ATTORNEY WAGELING: I have no problem with that.

ATTORNEY SMITH: We just don’t strike the ID from that one.

CHAIR: Okay. Does that sound reasonable?

ATTORNEY WAGELING: Then later on when they’re wondering what happened with that number no one will think that it somehow got missed. Probably a good idea.

CHAIR: Right. Good idea.

Any other --

ATTORNEY EDWARDS: Yes, Chairman. We need to do something similar. We need to move to strike the exhibits for identification only and have them admitted as full exhibits.

ATTORNEY M.IACOPINO: That’s the L-1 through L-11?

ATTORNEY EDWARDS: Yes, but it’s not that
linear. I’m going to read them off, just the numbers. L-1, L-2, L-2a through g, L-3, L-4, L-5, L-5a, L-6, L-6a, L-7, L-9, L-10, L-11 and lastly, L-13.

ATTORNEY SMITH: I don’t have on my list what some of them are. If you could just -- L-4, what is that?

ATTORNEY ROCHWARG: It’s the public comment of Richard Evans.

ATTORNEY SMITH: Oh, alright. And what is 9, 10, 11 and 13?

ATTORNEY ROCHWARG: Probably the remaining public comments.

ATTORNEY SMITH: Those are all public comment?

ATTORNEY ROCHWARG: L-9 is the public comment of Mrs. Vinnie Samson. L-10, public comment of Richard D. Bielinski, Jr. L-11, public comment of Denise Southmayd. And L-13 is public comment of Nikki Sosnick.

ATTORNEY SMITH: If I understand how the record is usually maintained we wouldn’t object to that. It would be my understanding that those things were public comment, would be placed in the record as public comment. That’s a slightly different status.
CHAIR: Yes.

ATTORNEY SMITH: With that understanding we have no objection.

ATTORNEY M. IACOPINO: Was there an L-12 for identification?

ATTORNEY EDWARDS: No.

ATTORNEY M. IACOPINO: We’ll just skip that number of was there a document?

ATTORNEY ROCHWARG: Skipped it. Skip that number. One was marked as L-3 so we remarked it as 13 because we already had an L-3.

ATTORNEY V. IACOPINO: There was no 8 either?

ATTORNEY M. IACOPINO: What about L-8?

ATTORNEY EDWARDS: L-8 is also not present. It was never a document.

CHAIR: Any other housekeeping items? Also, I want to make it clear that there will be a transcript of this hearing and would ask that all of the members of the Committee, as well as parties, review that transcript. Is there any other information that needs to come before the hearing?

ATTORNEY V. IACOPINO: The motion to hold the record open for a certain time period?

CHAIR: I thought we had voted
on that, didn’t we, for 10 days and then another 10 days
to respond.

ATTORNEY V. IACOPINO: Ten days from today.

CHAIR: Yes. Mr. Goudreault, did you have something you wanted to add before we conclude?

MR. GOUNDEREAULT: I just have one last request. I don’t really know if you can authorize this
or not but I wanted to point out the fact that we, in
the Londonderry Neighborhood Coalition, would, at any
time, and we would appreciate if it was possible to meet
with anyone on this Commission and discuss further,
because we know it’s late. We felt that during the
power plant hearing we would have liked to talk a lot
more than we did. So, in this case, if there is
anything, we are available through attorneys.

CHAIR: Thank you but we will
now be in a stage of deliberation on the application and
will not be available to meet with other parties. But
we appreciate that.

MR. PATCH: In response, it might
be helpful if legal counsel just explained to Mr.
Goudreault and members of the public the ex parte
provisions that we’re subject to under the
Administrative Procedures Act. I know we’ve been advised of that through a memorandum to the members of the Committee. But if you would I think that would be helpful.

ATTORNEY M. IACOPINO: This board is sitting as an adjudicative body. You are all parties in this proceeding and you probably learned a little bit about what ex parte communications are over the last few months but essentially the Committee as a whole, nor any individual members of the Committee are permitted to take evidence from or hear your opinions without convening the entire Committee and having all of the other parties present as well.

MS. BROCKWAY: And we’re not allowed to hear from the Company either.

ATTORNEY M. IACOPINO: That’s correct. When I say ‘parties’ I mean the Company as well. Except to the limited extent that there are these record requests that are outstanding that have been made but there’s not going to be, for instance, a lawyer for one of the parties who is filing an answer to the record request doesn’t come in and see any member of the Committee and explain it further. Whatever is there will be in writing, it will be copied to your lawyer as well as
every other party and then there will be a period of another 10 days for responses to that.

ATTORNEY WAGELING: And I think, just for clarity also, when the documents are submitted there won’t be any cover letter providing further discussion about the document. It’s solely the documents that have been requested that will be provided with nothing further, as I understand it.

CHAIR: Let me also say though too that it is acceptable, if someone were to be presented with a general question about the operation of the Committee, the process that we follow in the application and deliberating on applications or holding public informational hearings and the like, that’s acceptable. We just can’t talk about the details of a pending proceeding that’s before us.

ATTORNEY SMITH: I have one simple question, Mr. Chairman, my clients are asking if we know when the transcripts might be ready.

ATTORNEY M. IACOPINO: We can probably talk about that after. I need to speak to the stenographer.

CHAIR: I would like to now adjourn the adjudicatory hearing for the Tennessee Gas Pipeline hearing. I’d like to thank all of the local
citizens who have participated. I’d like to thank all
the parties for their work and time and patience and
expertise. And most of all, would like to thank the
members of the Committee itself, who have shown what
great public servants they really are. Thank you very
much.

OFF THE RECORD