

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

CASE NO. 17-4630-INV

CASE NO. 17-3550-INV

IN RE: CASE NO. 17-4630-INV INVESTIGATION
PURSUANT TO 30 V.S.A. SECTIONS 30, 207 AND
209 REGARDING THE ALLEGED FAILURE OF VERMONT
GAS SYSTEMS, INC. TO COMPLY WITH THE FINAL
ORDER AND CERTIFICATE OF PUBLIC GOOD IN
DOCKET 7970 BY FAILING TO OBSERVE THE
REQUIREMENTS OF THE BLASTING PLAN

AND

IN RE: CASE NO. 17-3550-INV INVESTIGATION
PURSUANT TO 30 V.S.A. SECTIONS 30 AND 209
REGARDING THE ALLEGED FAILURE OF VERMONT GAS
SYSTEMS, INC. TO COMPLY WITH THE CERTIFICATE
OF PUBLIC GOOD IN DOCKET 7970 BY BURYING THE
PIPELINE AT LESS THAN REQUIRED DEPTH IN
NEW HAVEN, VERMONT

November 21, 2017
7:30 p.m.

220 Airport Road
Bristol, Vermont

Public Hearing held before the
Vermont Public Utility Commission, at the Mount Abraham
Union High School, 220 Airport Road, Bristol, Vermont, on
November 21, 2017, beginning at 7:30 p.m.

P R E S E N T

HEARING OFFICER: Michael Tousley, Staff Attorney

CAPITOL COURT REPORTERS, INC.
P.O. BOX 329
BURLINGTON, VERMONT 05402-0329
(802) 863-6067
EMAIL: info@capitolcourtreporters.com

S P E A K E R S

		<u>Page</u>
1		
2		
3	Jane Palmer	8
	Barbara Clearbridge	13
4	Mary Martin	15
	Rachel Smolker	16
5	Lawrence Shelton	22
	Michael Hurlburt	25
6	Margaret Klohck	29
	Ross Conrad	31
7	Robert Hyams	33
	Casey Whiteley	35
8	Bobbie Carnwath	37
	Julie Macuga	38
9	Lisa Barrett	41
	Bob Atchinson	44
10	Kevin Leveret	46
	Bill Marks	47
11	Jon Chapin	50
	Jean Pekol	54
12	Rick Barstow	56
	Jennifer VyhnaK	57
13	Barrie Bailey	60
	Jacob Powsner	62
14	George Klohck	63
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 HEARING OFFICER TOUSLEY: All right
2 folks. If you folks could please take your
3 seats, we have 17 folks who want to come up
4 and talk. In order to achieve that before
5 10:00, we are going to limit you to six
6 minutes. That way everybody can get a
7 chance to make their statement. And if you
8 could take your seats, please.

9 All right. The way we are going to do
10 this is in order so that everyone can hear
11 comments and that the court reporter can
12 record them, I'm going to ask you, this is
13 our virtual lectern here. If you could come
14 up to this position, turn and face the
15 crowd, that way everyone can hear you and be
16 seen by them. And use the microphone. We
17 will get started in a minute.

18 MEMBER OF THE PUBLIC: Could you
19 introduce yourself?

20 HEARING OFFICER TOUSLEY: I will. It's
21 on my script. I have to wait until I get to
22 my script, otherwise I'll get it wrong
23 sometimes, you know.

24 Good evening. And thank you all for
25 being here. This is Vermont Public Utility

1 Commission public hearing in case numbers
2 17-3550-INV and 17-4630-INV which are
3 investigations into whether Vermont Gas
4 Systems, Incorporated violated the
5 Certificate of Public Good in docket 7970 by
6 failing to bury the pipeline at the required
7 depth and failed to observe the requirements
8 of the blasting plan respectively.

9 My name is Mike Tousley, I am a staff
10 attorney with the Public Utility Commission
11 and have been assigned as the hearing
12 officer in both of these cases. As you
13 heard earlier, there are representatives
14 here from VGS, and they had the opportunity
15 to interact with you in an information
16 session earlier as well as representatives
17 of the Vermont Department of Public Service
18 and Vermont Agency of Natural Resources, and
19 Mr. Dumont is also here. He represents the
20 interveners in both of these cases.

21 This public hearing is a joint public
22 hearing. And it's likely, although it has
23 not been finally determined, that the --
24 that much of the remainder of the
25 proceedings for these two cases will be held

1 jointly for efficiency since the parties are
2 all the same, though some of the witnesses
3 will be different. That's not been
4 finalized yet. I only saw the request this
5 afternoon. But that request is out there,
6 and we will make a determination here in the
7 next week or two as to whether or not those
8 things can happen at the same time.

9 MS. MARTIN: Who requested?

10 HEARING OFFICER TOUSLEY: All the
11 parties.

12 MS. MARTIN: All the parties requested
13 it be --

14 HEARING OFFICER TOUSLEY: That gives me
15 the opportunity to remind everybody that you
16 had your chance to ask questions before.
17 I'm here to listen to you, not to answer
18 your questions. If there are procedural
19 questions, I'm more than happy to answer
20 them. But the subject matter has been
21 addressed, and the questions for the subject
22 matter has been addressed by the folks who
23 spoke earlier.

24 So please don't come up and ask me
25 questions because I'll forget my name again.

1 Over on the table along with the sign-up
2 sheet there were a couple of handouts.
3 There is -- one is a handout that talks
4 about how to participate and how to file
5 comments and addresses --

6 MEMBER OF THE PUBLIC: Excuse me. We
7 can't hear you. Any way you could use
8 amplification?

9 HEARING OFFICER TOUSLEY: I sure could.

10 MEMBER OF THE PUBLIC: Thank you.

11 HEARING OFFICER TOUSLEY: I'm sorry if
12 you weren't able to hear me earlier. My
13 name's Mike Tousley. There are a couple of
14 handouts over here on the second table that
15 address basically commission proceedings and
16 how they work, and how you can participate
17 in them, and how you can file comments. And
18 there is a -- basically the schedule for
19 3550 which has been agreed upon at this
20 point although may change slightly in the
21 next couple weeks is also listed in those
22 handouts.

23 The purpose of tonight's hearing is to
24 provide you with an opportunity to hear
25 input from the public regarding these two

1 investigations. The comments received at
2 this hearing will become part of the public
3 record in these cases. You can also provide
4 written comments using the commission's
5 electronic document management system, ePUC,
6 or by direct mail or email. Contact
7 information to do that is on the handouts
8 that are over on the other table.

9 You can also subscribe to the case in
10 ePUC which means you will receive email
11 notification of any commission order filed
12 or made by a party in the case. You will
13 have to log into ePUC with an account, and
14 if you're unfamiliar with that, the
15 commission's website does show how to do it.
16 You can always call Holly, the deputy clerk,
17 who is more than happy to walk you through
18 the process of subscribing and entering and
19 using ePUC system.

20 Tonight's hearing will be transcribed
21 by a court reporter. This transcript along
22 with all other comments received by the
23 commission become part of the case's public
24 file so that commission members, staff and
25 participants in the case can consider the

1 comments. Although the comments do not
2 become part of the formal evidence in this
3 case, they can be helpful in raising new
4 issues and perspectives, and the commission
5 is responsible for addressing those comments
6 as part of its review and final report. The
7 transcript of this public hearing will be
8 available on ePUC which is accessible
9 directly online or from the commission
10 website which is located at PUC.
11 vermont.gov.

12 We have now 20 or 19 folks who have
13 signed up, 20 folks who have signed up, and
14 I'll take them in the following order. What
15 I'll do is I'll try to say -- I'm going to
16 say five names at a time so that you know
17 whether or not you're in the batter's box or
18 not. The first five to speak are Jane
19 Palmer -- I would ask Ms. Palmer to come up.
20 Barbara Clearbridge. Mary Martin. Rachel
21 Smolker and Lawrence Shelton. And I'm going
22 to ask that when you do come up you say your
23 name again and spell your last name for the
24 court reporter so it gets correctly into the
25 record.

1 Ms. Palmer.

2 MS. PALMER: Okay. Thank you. My name
3 is Jane Palmer. P-A-L-M-E-R. And I live in
4 Monkton. I am one of the interveners in
5 Case Number 17-3550- INV represented by
6 James Dumont, Esquire.

7 Tonight I do not intend to argue any of
8 the legal points we made during the
9 investigation. Tonight I want to talk about
10 the emotional and physical stress from --
11 that results from living within the
12 potential impact radius or consideration
13 zone of the Vermont Gas pipeline.

14 My husband and I argued vehemently with
15 the PUC to not accept or approve the
16 pipeline project. We argued the
17 environmental issues both here in Vermont
18 and at the other end of the pipeline where
19 the extraction of the gas occurred, the
20 unacceptable economics and the moral issues.
21 One issue we did not argue was about safety.
22 This is because we still trusted that if the
23 project were approved, the Department of
24 Public Service would oversee the
25 construction, and Vermont Gas would build

1 the pipeline to the stricter safety
2 standards they agreed to build it to. And
3 even though more fossil fuel infrastructure
4 was not needed; farmland, wetlands and
5 public parks -- parks would be desecrated
6 and the ratepayers would have to pay for a
7 project they would not benefit from. We
8 were confident the pipe would be built to a
9 greater level of safety than the federal
10 minimum.

11 Over the past several months I have
12 been privy to information that indicates
13 that not only was the pipe not built to the
14 standards agreed to, it was not even built
15 to federal minimum safety standards. I now
16 know from reading accounts from the gas
17 company and employees of the Department of
18 Public Service that the guidelines and
19 specifications spelled out in the CPG were
20 not followed during construction. What I
21 don't know is the extent of this negligence.

22 The PUC has agreed to conduct an
23 investigation into the depth and burial of
24 the pipe in New Haven where a citizen
25 documented the shallowness of the pipe. Had

1 other citizens been vigilant there may well
2 have been other areas where specific
3 violations would have been observed and
4 documented. But the problem is, we let our
5 guard down. We trusted and believed the PUC
6 when they put in a Certificate of Public
7 Good that the project would have oversight,
8 and if any violations occurred and were
9 observed, they would be corrected. We were
10 assured this personally by then Chairman of
11 the Public Service Board, James Volz.

12 Now there is anywhere from 6 to 48
13 inches of dirt covering over that pipeline
14 that may or may not have faulty welds,
15 faulty weld sleeves, may or may not be
16 buried deep enough or with the coating still
17 intact. It may or may not have been laid on
18 and surrounded by a soft protective
19 supporting of material to protect it from
20 abrasion from rocks or damage from heavy
21 vehicles traveling over the pipeline.

22 We are left with the strong sense that
23 this pipeline was built recklessly and
24 without oversight, leaving us with a
25 compounding or coincidence of risk factors

1 that make eventual rupture even more likely.
2 Will that happen in my yard? Or my
3 neighbor's yard? I lay my head 300 feet
4 from this pipeline every night when I go to
5 bed. Can anyone tell me with certainty that
6 this pipeline is safe?

7 Our Public Service Department deflected
8 our worries. We were all paying attention
9 to the cost of the project, and the
10 Department put a cap on the amount the
11 ratepayers could be charged for, but the
12 result was the contractors and the gas
13 companies -- company were motivated to build
14 the pipeline as cheaply as possible so the
15 company would not have to pay for anymore
16 than necessary over the spending cap.

17 My husband has a saying. You can build
18 things good or you can build things cheap,
19 but you can't build things good and cheap.

20 A couple of months ago my neighbor
21 called me and asked if I could hear a noise
22 coming from the direction of the pipeline.
23 It was a loud hissing, just the sort of
24 sound you would imagine a high pressure
25 leaking pipe would make. When I stepped

1 outside, I heard the sound and it frightened
2 me. But what really made the hairs stand up
3 on my arms was that my neighbor had called
4 VGS and asked if they were working on the
5 pipe. And they said they had no knowledge
6 of anyone working on the pipeline.

7 I decided to call 911 and ask the
8 dispatcher what to do, and he said he would
9 call the Fire Department. In the meantime,
10 I am thinking another neighbor who's in her
11 80s and is a shut-in and can't walk far or
12 drive, I was thinking I would have to go
13 toward the sound of gas to bring her to
14 safety. This entire episode lasted for
15 about 20 minutes to half an hour until VGS
16 finally determined that they did in fact
17 have a crew sandblasting on the main line
18 valve behind my neighbor's home.

19 In the meantime the Fire Department had
20 arrived, and I had already called my
21 neighbor and told her to get ready to
22 evacuate. This was an entirely terrifying
23 event.

24 A few nights ago we had a freakish
25 thunderstorm. And before I realized the

1 loud rumbling I could hear coming from the
2 south, it was actually thunder, my mind
3 raced to explosions and my neighbor's and
4 our house being in the path of a huge
5 fireball. These fears might seem a little
6 irrational to the unenlightened, but knowing
7 what I now know about the infractions
8 committed during the building of this
9 pipeline, they are entirely rational.

10 Please do not think a fine or more
11 testing will make us safe. No amount of
12 testing after the fact can make up for lack
13 of oversight, inattention to federal
14 minimums during installation, and rush to
15 construction which allowed problems to be
16 buried in the first place with the
17 proliferation of long-term unknowns.

18 This pipeline has to have been built
19 according to the way it was specified, and
20 if it was not, it should not be allowed to
21 operate. If a person has a car that does
22 not pass the state safety inspection, they
23 are not allowed to operate that vehicle on
24 public roads. This faulty pipeline is
25 potentially a thousand times worse than a

1 rotted out car with an engine light that
2 won't go out.

3 I urge the PUC to do what you must to
4 ensure the safety of all people who live
5 near or pass by this pipeline every day.
6 Because now we have a pipeline in our midst
7 that is not only not delivering the public
8 good promised, it is posing a dangerous risk
9 to the safety and welfare of the people of
10 this state.

11 HEARING OFFICER TOUSLEY: Thank you,
12 Ms. Palmer.

13 MS. PALMER: Thank you.

14 HEARING OFFICER TOUSLEY: Ms.
15 Clearbridge.

16 MS. CLEARBRIDGE: It's Barbara like
17 Clear Bridge. I also have safety concerns
18 about the pipeline, not only how deep it's
19 buried, but about the inspections of it. We
20 know that the normal precautions and safety
21 standards are not good enough because in the
22 news there is pipeline accidents every
23 month, even more often than every month and
24 some of these are horrendous accidents, and
25 even one accident is too many.

1 So I don't think we should have lawyers
2 to determine what the outcome is. I think
3 we need to overdo the safety, bury it
4 deeper, inspect it more often. These are
5 our lives we are talking about and our homes
6 and our futures.

7 When I asked that question earlier
8 about more inspections I was told about all
9 other kinds besides walking inspections; we
10 track it this way, we track it that way, we
11 track it the other way. The other companies
12 doing the designs are doing the same things
13 all over the country, all over other
14 countries, and there is still explosions and
15 damage and other things going on.

16 So I just want to say again one
17 accident is too many, and I would like four
18 feet to be the minimum. I think that the
19 company can't put the bottom line first in
20 this instance. It has to overshoot the
21 mark. Thank you.

22 HEARING OFFICER TOUSLEY: Thank you,
23 Ms. Clearbridge. Sorry I mispronounced your
24 name.

25 MS. CLEARBRIDGE: That's all right.

1 HEARING OFFICER TOUSLEY: Ms. Martin.

2 MS. MARTIN: Thank you. My name is
3 Mary Martin. M-A-R-T-I-N. Some of this I
4 said earlier, but you weren't here. So
5 Vermont Gas stated they would build this
6 pipeline going above and beyond federal
7 pipeline safety standards. Vermont Gas said
8 they have never used eminent domain and had
9 no plans to do so in this project either.

10 The blasting accident and other
11 violations the company claims were the fault
12 of their contractors, not them. Vermont Gas
13 was questioned about this in Cornwall back
14 in 2013 and Eileen Simollardes said Vermont
15 Gas is ultimately responsible for the entire
16 project. The buck stops here with us. Beth
17 Parent assured us that the pipeline depth
18 requirements would be followed even if they
19 had to cover the pipe one shovelful, one
20 spoonful at a time.

21 I think we know it's fallen way short
22 of that. We never trusted this company's
23 practices and they have proved us right time
24 and time again. We knew Shumlin and his
25 minions were in favor of this project, but

1 we mistakenly thought the Department of
2 Public Service and the Public Utility
3 Commission had our backs as far as safety
4 was concerned. Imposing fines does not make
5 the pipeline any safer. We don't trust the
6 fox to guard the hen house, and we shouldn't
7 allow Vermont Gas to investigate their own
8 violations. At the very least, we want a
9 mutually agreed upon private party, third
10 party to investigate, and Vermont Gas should
11 pay that bill.

12 HEARING OFFICER TOUSLEY: Ms. Smolker.
13 And then Mr. Shelton and then Mr. Hurlburt.

14 MS. SMOLKER: Hi. I'm Rachel Smolker.
15 S-M-O-L-K-E-R. And Mr. Tousley, I would
16 like to start by just thanking you. I've
17 seen you on several occasions. You act with
18 great integrity. I would like to take that
19 opportunity --

20 HEARING OFFICER TOUSLEY: Thank you,
21 ma'am.

22 MS. SMOLKER: I don't normally read my
23 interventions, but I am going to do so this
24 time, and I'll probably sound very stilted,
25 but we have studied this project in as much

1 detail as the public record requests that we
2 have filed allow.

3 From that, we have become aware that
4 among many other issues, there are
5 persistent problems with padding, support,
6 backfill and compression of backfill around
7 the pipe in addition to the depth concerns.
8 We know that the DPS inspector observed this
9 problem in one location. The company denied
10 it was a problem, but it really was a
11 problem. The company said, well, it's a
12 problem, but we only laid the pipe on the
13 bottom of the trench without padding and
14 support in place in one location. Then lo
15 and behold, a little later some other places
16 were discovered, and recently even more
17 locations lacking backfill, padding and
18 support materials.

19 One of the locations where this was the
20 case is the New Haven swamp, the same
21 location that we are talking about where the
22 shallow burial occurred. We are not
23 pipeline engineers or experts, but we can
24 see that the ANGP project specifications
25 include very detailed requirements for

1 trenching that include how the trench is
2 dug, dewatering, supports under the pipeline
3 in the trench, laying the pipe into the
4 trench, filling with select backfill
5 material under the pipe, around, over the
6 pipe, the select backfill has to cover the
7 pipe by 12 inches over the top, and should
8 be mechanically compressed so that the
9 materials don't settle over time.

10 This is all part of the trenching
11 specifications. And I have a document here
12 which I'll hand to you which has an
13 illustration of how that is supposed to be
14 done. It's very particular. Select
15 backfill material usually is sand, or it can
16 screen material that has to be all the
17 stones above a certain dimension have to be
18 removed and so on. These specifications
19 exist for a reason. It's considered
20 important to ensure that the pipe is not
21 vulnerable to damage from abrasive rocks or
22 from loading like when a vehicle drives over
23 the top. Without proper compliance to the
24 specifications on backfill, the backfill can
25 settle, the pipe may be vulnerable to wall

1 crushing, dents and bending.

2 June of 2014 the DPS pipeline safety
3 consultant David Berger stated in prefiled
4 testimony that the Department, I'm quoting:
5 "The Department recommends VGS be required
6 to use clean, select backfill directly
7 around the pipeline to prevent rocks and
8 other debris from causing an integrity issue
9 such as that which was described in the
10 referenced response as the cause of the leak
11 on another pipeline owned by VGS. This leak
12 was caused by a rock rubbing on the steel
13 pipe. Using select backfill without any
14 rocks around the pipeline will prevent this
15 problem from happening on the new
16 pipelines." That was Mr. Berger's prefiled
17 testimony.

18 The presence or absence of padding,
19 support, compressed select backfill is
20 integral to the issue of depth. After all,
21 the depth of the trench has to accommodate
22 both the padding and the support underneath
23 the pipeline as well as the 12 inches of
24 over the top of the pipeline and ultimately
25 the depth measured from the top of the pipe

1 to the ground surface. So it's an integral
2 part of the depth equation. Also digging
3 deeper trenches, purchasing select backfill,
4 and hauling it to the site or using
5 equipment to screen material to get rid of
6 the rocks including also equipment for
7 compressing the backfill all takes
8 equipment, time and money.

9 Now in New Haven we have a pipeline
10 that was buried too shallow. There are
11 potential risks. It lacks the specified
12 support material which adds more additional
13 risks. And it is located under high voltage
14 overhead lines which introduces further
15 risks. And it is located in a wetland where
16 the soil is mushy and changes over the year.
17 Pipelines move. So we have multiple
18 compounded risks, and this is just what we
19 know about one location that happened to be
20 the location where somebody took a
21 photograph, delivered it to PHMSA. PHMSA
22 came back to VGS and said what about this
23 problem in the wetland in New Haven, and
24 eventually VGS came to the state and said,
25 hey, we have a problem. We need a

1 non-substantial change designation to our
2 permit.

3 Would that have all happened if we
4 hadn't taken those photographs, in that one
5 area, and delivered them to PHMSA, and PHMSA
6 come to the state, I wonder if VGS would
7 have come and filed for a non- substantial
8 change or just gone on with their business.
9 The problems in New Haven only came to light
10 as a result of our documenting and conveying
11 those to PHMSA. In other words, VGS got
12 caught.

13 In the communications we delivered to
14 PHMSA we raised many other issues, those
15 included things like failed or loose weld
16 sleeves and alarming lack of comprehensive
17 written specifications for the contractors,
18 which is very worrying, violations of
19 electrical safety requirements, gross
20 misinformation and failure to provide
21 notifications concerning the odorant leak
22 issue that happened in Williston,
23 unqualified workers and more.

24 I have in my -- to put into your hand
25 here the table of concerns that we delivered

1 to PHMSA in April of 2016. To the best of
2 our knowledge many, if not all, of these
3 issues still remain pending and unresolved.
4 Even though VGS is now flowing pipe through
5 the pipeline. Those issues have not been
6 resolved so far as we can tell.

7 PHMSA tells their stakeholders in
8 information online no amount of testing,
9 this is PHMSA's words, no amount of testing
10 after the fact can make up for lack of
11 oversight, rushed construction, which allows
12 problems to be buried in the first place
13 with a proliferation of long-term unknown
14 risks.

15 The PUC process tends to treat one
16 thing at a time. But it is becoming
17 increasingly clear it is the collective
18 burden of compounded risks, additive in
19 nature, that demands a far more
20 comprehensive assessment. Problems have
21 occurred throughout all years of
22 construction. Lack of oversight, multiple
23 concurrent construction sites, the public
24 cannot rest easy.

25 We relied on the DPS to do their job;

1 oversight and enforcement to ensure
2 compliance with the regulations, not just
3 the minimum federal regulations, but the
4 much more stringent regulations that were
5 part of the Certificate of Public Good and
6 were put in place specifically to protect
7 Vermonters' safety and our environment.

8 DPS failed us. And we have been forced
9 to do their job for them because we care.
10 If this pipeline blows, who will be held
11 responsible? Will we find ourselves
12 sometime in the future standing here after
13 some horrific accident saying we told you
14 this would happen and you didn't listen to
15 us. Happy Thanksgiving.

16 HEARING OFFICER TOUSLEY: Thank you,
17 Ms. Smolker. Mr. Shelton. Mr. Shelton, I'm
18 going to list the next 6 through 10. I
19 mentioned earlier Mr. Hurlburt. Jerome
20 Lapari.

21 THE VIDEOGRAPHER: That was me
22 actually. I wasn't intending to testify.

23 HEARING OFFICER TOUSLEY: Okay. So Mr.
24 Hurlburt. Ms. Klohck, Mr. Conrad, Mr.
25 Hyams, and Casey Whiteley are the next five.

1 MR. SHELTON: My name is Lawrence
2 Shelton. S-H-E-L-T-O-N. I'm a resident of
3 Hinesburg, member of a concerned group of
4 citizens, who have been looking into
5 alarming evidence of shoddy, reckless
6 construction on the ANGP.

7 Earlier tonight in the public portion
8 of the comments I noticed a flippant,
9 cavalier dismissal of, you know, safety
10 issues. And this photograph that they
11 talked about, I noticed the DPS lawyer
12 turning to his friends at VGS and getting
13 clarification from them, yeah, that's that
14 picture. That's nothing. That doesn't
15 count for anything.

16 I took that picture. I was in the
17 swamp in New Haven after work was shut down
18 on September the 19th. All of the equipment
19 was demobilized from the site. There was a
20 machine there that was a light stand. The
21 excavator, all the heavy equipment was
22 demobilized from the site. Whatever they
23 did the next day they did during that one
24 day with whatever equipment they mobilized
25 to the site and brought in and finished up.

1 You can do a lot of work.

2 And when I took the pictures the pipe
3 was just inches under the ground. Standing
4 water. I think the standing water was a
5 violation too. Construction was completed
6 the next day. In June of 2017 VGS requested
7 that a non-substantial change be granted
8 after the fact to this alarming shoddy work.
9 While the burial depth issue at New Haven is
10 a concern, it's only one of many examples, I
11 believe, going to a systemic failure, from
12 end to end reckless construction by VGS and
13 contractors, in combination with lax
14 oversight by DPS.

15 We urge the PUC to commission an
16 independent, comprehensive, end-to-end
17 investigation to include not only depth of
18 cover, real depth of cover measurements, not
19 VGS smoke and mirrors, pretend measurements.
20 Real, physical measurement and depth of the
21 pipeline that can be done, and additionally,
22 the living violations that have been found,
23 the compounded risks of systemic failure to
24 comply with the CPG should compel the PUC
25 not to allow gas to flow through this

1 pipeline at least until everything is
2 mitigated, which I don't think it is.

3 Vermont Gas doing construction to the
4 area in New Haven is the subject of this
5 case in September of 2016. They failed to
6 submit a filing for non-substantial change
7 with the permit then, when it was clear that
8 they were facing problems achieving proper
9 depth. They waited until June of 2017, nine
10 months later, to request non-substantial
11 change. They are required to notify the DPS
12 of such matters immediately when they occur.
13 Doing so would have given DPS and the public
14 an opportunity to consider how to remedy the
15 problem.

16 For example, given that this is a
17 designated state significant area, the state
18 could have demanded that the installation be
19 done using HDD. The opportunity to make
20 that demand was lost by virtue of VGS
21 behavior, not reporting the matter, and
22 proceeding with the reckless construction
23 practice, then after the fact telling the
24 state and the public, oh well, it's all
25 done.

1 If the requirement for a timely
2 reporting, requirement for depth and safe
3 construction are not enforced, even when VGS
4 so blatantly violates them, what's the
5 purpose of the CPG? Is the whole CPG
6 process just a PR exercise, or is it meant
7 to have airing upon the project? What is
8 the role of the PUC if the conditions of the
9 CPG are simply easily ignored? Thank you.

10 HEARING OFFICER TOUSLEY: Mr. Hurlburt.

11 MR. HURLBURT: Hi. My name is Michael
12 Hurlburt. H-U-R-L-B-U-R-T. I didn't come
13 prepared, but I could kind of tell you my
14 story a little bit. Dealing with Vermont
15 Gas has been quite a headache. Doing
16 contracts, and contracts, and prior to the
17 hearings and three years of paperwork, but I
18 think in the long run we got some money out
19 of it, and that was a good thing.

20 The pipe's in the ground, can't do much
21 about it. Just hope that they look after it
22 good and take care of it. Regarding the
23 depth, on our -- in our contract I fought
24 tooth and nail, and ours is five feet deep
25 on our property. It's five feet deep. And

1 when they started coming on to our property
2 they dug the trench, and they laid the pipe
3 in, and my brother and I went up with the
4 tape measure, put a board across the trench,
5 42 inches. Called Dave Walker. Dave, why
6 don't you come. So they came and took the
7 pipe back out, dug deeper down, and got it
8 deep enough.

9 And I was talking earlier about the
10 blasting. You know, my brother's had
11 trouble with his foundation cracking. Still
12 haven't resolved that. He's kind of given
13 up. Insurance companies they deny it the
14 first time, and the second time I don't know
15 how -- it becomes more of a headache than
16 it's worth sometimes. But we do have areas,
17 like I said earlier, where the rubble was
18 left. Big piles of rubble, and we very
19 specifically in our contract said the land
20 is to be put back to the original contour.

21 So we still are working on with Vermont
22 Gas negotiating. We are still working on
23 the mylar maps to be recorded in the town.
24 We still have the deed in escrow. We are
25 still working on that too, but Dave Walker

1 seems the state -- trying to get it done,
2 and it seems the state is not going to
3 finish it up until they get the deed. So I
4 wish they would get it done.

5 But there is areas when they were
6 getting down near the swamp where you're
7 talking about, well we own part of that
8 swamp. And when they were doing the
9 planning I said, you guys need to border on
10 to that. Don't bottom it, but they wouldn't
11 listen. And when they were digging the
12 field before the swamp, the swamp starts at
13 New Haven town line, again I went down and
14 checked it. It wasn't deep enough. I took
15 a picture and called David Walker. No Dave,
16 not deep enough. They came back and dug
17 beside it. I assume it's deep enough.

18 And then when they got out of the swamp
19 the water started running out of the swamp
20 into our field. And I asked about putting
21 trenches in the edge of our field and how we
22 are going to keep the water from migrating
23 from the wetlands in our corn field.
24 There's still places where you drive your
25 tractor across and it sinks right in. I

1 don't know how long it's going take for it
2 to settle. I did put in the contract that
3 the soil was supposed to be compacted to the
4 original compaction that's put in. So we
5 will see. There is a lot of settling, and
6 there is still a lot of areas that topsoil's
7 got to be brought in.

8 They did come in a year or so ago with
9 a truckload of topsoil because the pipe
10 wasn't deep enough. They did put soil over
11 it. There is still areas where there is
12 wetlands now and they can't go in there and
13 put any soil in because it's wetland area.
14 They can't fill it in. My contract did
15 state wherever water coagulated they were to
16 put drain tile in and drain it out. Once
17 the end of the drainage ditch is filled in,
18 I told them you were going to clean it out
19 to get below the six foot depth, and now
20 it's level right to the -- even to the top.
21 The water above it is running into the
22 field, and we are still negotiating that.

23 We have got a lot of issues that we
24 still got to get done. The area down in the
25 swamp. You know, I walked down there when

1 they were putting the pipe in. And they dug
2 a trench, and they put it down a couple feet
3 deep, and I was told that they came in
4 afterwards and dug the trench beside it and
5 pushed it down. It's a swamp. I mean it's
6 a soup. And I think some of the pipe had
7 concrete on it. I don't know if all of it
8 did in the swamp. Might want to check and
9 just see if it does. That might be
10 something that the board might want to look
11 at.

12 But that area they put matting down
13 like they did on the rest and drove in and
14 the matting sunk in. And they got --
15 brought in big, long mats and corduroy it so
16 they could get in there. They got through
17 after awhile. But one of the excavators
18 slid off the mat, and it sunk, and it was 9
19 o'clock at night. They had a big Debold to
20 drag that excavator up through the field.
21 So it was really wet in there. It's -- it
22 was amazing they even got it in doing it the
23 way they did it. But I can see why it's
24 probably not deep enough.

25 But hopefully, you know, if it's got

1 concrete on it, you don't put concrete and
2 water -- hopefully the pipe will go down,
3 and they should check it at a different --
4 it would be good for Vermont Gas to go in
5 and recheck it to see if it's settling down,
6 because I mean three-foot depth, I mean I've
7 seen skidders in there logging in the
8 wintertime getting buried, big skidder tires
9 go down three feet and are buried, so they
10 might hit it. So but I would like to get
11 this done. Thank you.

12 HEARING OFFICER TOUSLEY: Thank you,
13 sir. Ms. Klohck.

14 MS. KLOHCK: I'll definitely spell it
15 for you. Last name is -- Margaret, and it's
16 K-L-O-H -C-K.

17 HEARING OFFICER TOUSLEY: Is it
18 pronounced clock?

19 MS. KLOHCK: Sometimes, but usually
20 cloak.

21 HEARING OFFICER TOUSLEY: Cloak.
22 Sorry.

23 MS. KLOHCK: I tell people cloak and
24 dagger.

25 I brought up at the earlier question

1 and answer period the idea of the
2 Certificate of Public Good had designated,
3 and it took me awhile to find that
4 information out, had designated the pipeline
5 had to be laid at four feet. And now it
6 seems that the -- it was modified somehow,
7 and I'm not sure if the PUC was involved in
8 that, but there is -- it's somewhere between
9 three and four feet.

10 Four feet is the natural depth of
11 things in State of Vermont because of the
12 frost line. I'm very concerned about that.
13 But I wondered why if this was the
14 designation in the Certificate of Public
15 Good, how could that be changed and still be
16 legal? It just doesn't seem right to me.
17 And if it's in a swamp, what's the problem
18 with getting it down deeper? It's not like
19 you've got to dig more dirt in the solid
20 surface, and you came against rock and
21 couldn't get it down any further.

22 I mean what's -- why is there an issue
23 of getting it down four feet like it was
24 supposed to be? And there is some comments
25 that were made by the VGS that this was

1 because it was in the VELCO corridor. Well
2 the VELCO folks are probably very nice
3 folks, but they don't -- they can't speak
4 for what the Certificate of Public Good said
5 was the real place that it had to go.

6 So as far as I'm concerned they just
7 done what they wanted to do and just didn't
8 finish it correctly. And that's a concern.
9 It seems to be another instance of non trust
10 on the part of the public.

11 HEARING OFFICER TOUSLEY: Thank you,
12 Ms. Klohck. Mr. Conrad.

13 MR. CONRAD: Good evening. Ross
14 Conrad. C-O-N-R-A-D. From Middlebury,
15 Vermont. Basically I just want to request
16 that the Public Utility Commission not take
17 Vermont Gas's word that the trenching was
18 not deep enough only in 18 places. In this
19 one area where it just happens that a
20 Vermonter -- concerned citizen -- happened
21 to get a picture showing a pipe being laid
22 in that wasn't deep enough. And that just
23 happens to be the only spot that wasn't deep
24 enough. I find that very hard to believe.
25 And that's because of Vermont Gas's past

1 record. They have been consistent in being
2 unreliable. Starting with claims that they
3 have never done eminent domain when they did
4 in the very first pipeline coming down from
5 Canada. The claims of not trespassing on
6 people's property. Being due diligence when
7 they hired people and have contractors work
8 on the pipe without a contract.

9 I mean if they are working on a pipe
10 without a contract, do you think they were
11 really given all the written materials to
12 follow that -- to put in pipe the right way.
13 And then, you know, taking care of the
14 endangered species, reporting financial
15 fiduciary information, just consistently
16 over and over and over Vermont Gas has
17 proven their word is unreliable.

18 So please, I would -- I'm hoping the
19 Utility Commission has the authority to
20 actually have an independent third party
21 confirm that the rest of the pipe is
22 actually buried appropriately. And don't
23 use anything at Vermont Gas. It should be
24 totally separate from Vermont Gas and their
25 numbers and their work. Just have someone

1 else just to confirm it to see if this is
2 another instance of Vermont Gas saying
3 things they want us to believe. Maybe they
4 actually believe it, but it's just not true.
5 Or if they really did do the job correctly.
6 Thank you.

7 HEARING OFFICER TOUSLEY: Thank you,
8 Mr. Conrad. Mr. Hyams?

9 MR. HYAMS: This supposed to be six
10 minutes?

11 HEARING OFFICER TOUSLEY: As close as
12 you can get.

13 MR. HYAMS: As close as I can get.

14 HEARING OFFICER TOUSLEY: It's not a
15 race though.

16 MR. HYAMS: Robert Hyams, H-Y-A-M-S. I
17 am a member of the Hinesburg Conservation
18 Commission. And I want to talk to you about
19 wetlands, and in particular, wetlands in
20 Hinesburg. As a member of the Conservation
21 Commission, we have real concerns about the
22 route of the -- the proposed route of the
23 pipeline going through the park. We went
24 out -- we went on the ground, and we saw a
25 lot of wetlands and a lot more wetlands than

1 were ever on the site plan. And you know,
2 there is wetlands and then there is
3 wetlands. And these wetlands you did not
4 need to be an expert to know that you were
5 in a wetland.

6 In fact, if you're in it too long you
7 would be up to your knees. Somehow this did
8 not make it to the map, to the wetland map.
9 And we took it up with the Department of
10 Public Service, asked, hey, what do we do
11 about this? Too late. It's already been
12 approved. We took it up with wetlands
13 talking to Laura Lapierre. She said no, we
14 have already approved it. It's done. And
15 it was not until we had to pay -- the
16 interveners had to pay for a wetlands
17 ecologist to come out and say yes, this is a
18 wetland.

19 We finally got the wetlands program to
20 come out and verify that, in fact, it was a
21 wetland and happy ending, we got to drill
22 under the park. Well the other thing we did
23 is we decided to go out and look at the
24 other public wetland crossing in Hinesburg.
25 And sure enough, we found similar results.

1 By all indications, those wetlands were not
2 properly delineated either.

3 So what are the chances that two
4 crossings would yield two poor or
5 insufficient wetland delineations? And
6 maybe it's not enough for a pattern, but
7 combined with all the other stuff we are
8 hearing tonight, and it certainly sounds
9 like a pattern.

10 So I guess what I would ask of you is
11 to consider as representatives of the state,
12 that really you guys do not have the
13 capacity to manage and oversee a project of
14 this size, and if that's the case, then you
15 should not be permitting projects of this
16 size. Thank you.

17 HEARING OFFICER TOUSLEY: Thank you,
18 Mr. Hyams. Casey Whiteley.

19 MS. WHITELEY: Casey Whiteley, W-H-I-T
20 -E-L-E-Y. This is more a personal comment
21 than addressing any specific violations.

22 In the past few years as I've been
23 watching the process of approving the VGS
24 pipeline, I have lost my faith in our
25 democratic institution like the Public

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Service Board and now Public Utilities Commission. As a Vermont citizen, I am deeply disappointed and angry in the failure of both the Department and the PUC to protect the public safety and serve the public good of the citizens of the state. To allow the number of public safety concerns, the cost overruns and VGS violations to continue and accumulate is a dereliction of duty.

It is challenging as a citizen observer not to assume a level of partnership between our state administration and departments in furthering and facilitating the construction goals of the Vermont Gas pipeline. What possible rationale would make the PUC to approve the continuation of a dangerous pipeline carrying fracked gas that locks us into using fossil fuels for generations to come instead of, if we wanted to help Vermonters, we would be investing and meeting the renewable energy goals of the Vermont Comprehensive Energy Plan which is to use 90 percent renewable by 2050. We are not on track to achieving that goal.

1 didn't come prepared to speak, and people
2 have been so articulate before me. So just
3 a couple of things.

4 And one is something Rachel said about
5 the way the process works. And those of us
6 who have not been in favor of the pipeline
7 for a long time have worked through the
8 process step by step. And you know, every
9 -- it's a cost overrun. It's a safety
10 concern. It's one thing and then another.
11 And the PUC finds its way to get past that
12 one technicality that's in the way.

13 And I'm just asking the PUC to please
14 just make a list and just keep an overall
15 picture of how problematic this pipeline has
16 been. And I was there in Middlebury, when I
17 was at the gym in Middlebury, and I remember
18 Ms. Simollardes saying VGS doesn't do
19 eminent domain. Never has, and sort of
20 implying never will. And it's just been,
21 you know, kind of keeping track of what VGS
22 is saying what they are doing. And I don't
23 think it's fair for folks like me that have
24 come from Cornwall to all those meetings to
25 this kind of keep track of what's going on.

1 I think that's all I want. Just hope that
2 you're keeping ongoing notes of how this
3 process is working and useful for you in the
4 future.

5 HEARING OFFICER TOUSLEY: Yes, ma'am.
6 Thank you. Julie Macuga. Did I pronounce
7 your name correctly?

8 MS. MACUGA: M-A-C-U-G-A. My name is
9 Julie Macuga. I'm a senior at the
10 University of Vermont pursuing a degree in
11 environmental studies. I would like to
12 start with a quote. "Pipeline safety is
13 ensured with compliance with design
14 standards and regulations, not setbacks."
15 This quote is found in both the Certificate
16 of Public Good and in the rebuttal testimony
17 of John Mark Texiera, employee of Vermont
18 Gas.

19 I have been to the last public hearing
20 on October 10. Many people spoke with fear
21 in their voices. They are afraid that
22 projects like this will leave behind a
23 planet that's not livable for their children
24 and grandchildren. As one of the children
25 they spoke of, I am afraid too. But that

1 rhetoric has fallen on so many deaf ears.

2 This time I speak with fear for the
3 immediate future. I volunteer with a group,
4 Protect Geprags Park, in which myself and my
5 colleagues have sifted through hundreds this
6 not thousands of documents from PHMSA
7 regulations, numerous PUC filings and public
8 documents requests. I wish I could say that
9 this was the first time that depth was an
10 issue, but this time two years ago Vermont
11 Gas was in court with their own contractor
12 regarding 5.6 miles of pipe that were buried
13 too shallow.

14 This time Vermont Gas neglected to
15 inform ANR, DPS and the PUC that they had
16 made arguably substantial changes, at least
17 not until we brought photographic evidence
18 to the Department's attention. The
19 photographs according to John St. Hilaire's
20 August 11 testimony showed that the pipe is
21 in what is called a staging trench. Even if
22 St. Hilaire's testimony is correct, there
23 are a number of violations that are still
24 visible.

25 According to Vermont Gas's own 2016

1 version of the technical specifications
2 quote: The contractor shall remove all
3 water from the excavation promptly and
4 continuously throughout progress of the work
5 and keep the excavation dry at all times
6 until the work is completed and excavation
7 is backfilled. Minimum depth of cover shall
8 be strictly adhered to. No pipe shall be
9 strung before the trench is excavated to
10 full depth and meets the requirements of the
11 specification. Pipe shall not be placed
12 directly on the ground but on wooden skids
13 with proper protective padding.

14 Regardless of St. Hilaire's testimony
15 the pipe is clearly on the bare ground and
16 in the water with no backfill. This is
17 another in the catalog of ignored safety
18 measures and each compounds the rest.

19 In the past with many of the people in
20 this room I stood in the way of
21 construction. Then I bought shares of
22 GazMetro, Vermont Gas's parent company and
23 tried to plead with their investors to stop
24 this project. Now I come before the Public
25 Utilities Commission with my concerns hoping

1 that they will listen. Even if we ignore
2 the inflated cost of the project, and the
3 environmental degradation, it would be
4 unconscionable to ignore the risks to human
5 health and safety that this pipeline poses.
6 We don't want to wait for errors to pile up
7 until we end up like the folks in San Bruno,
8 California where a natural gas pipeline
9 exploded causing a fire that left eight
10 people dead. The reason for this tragedy?
11 Disregard for the rules and regulations
12 coupled with inadequate record keeping.

13 There is no fine that Vermont Gas could
14 pay or assure the ultimate ratepayers that
15 would excuse them from an explosion.
16 Perhaps it is easy to move on when
17 sunflowers are destroyed, but what about
18 human lives? Vermont Gas should properly
19 bury this pipeline before we have to bury
20 our friends and neighbors. Thank you.

21 HEARING OFFICER TOUSLEY: Thank you,
22 Ms. Macuga. Lisa Barrett.

23 MS. BARRETT: I'm Lisa Barrett, B-A-R-R
24 -E-T-T. I want to ask the commission to
25 arrange for independent physical

1 measurements of depth of cover. Vermont Gas
2 promised during the CPG hearings to create a
3 safer pipeline by quote; exceeding federal
4 standards both for depth of cover and for
5 pipeline thickness.

6 Now that Vermont Gas has been caught by
7 the Shelton photos, among other things,
8 failure to bury the pipeline at the required
9 and promised depth, VGS disingenuously
10 claims depth doesn't matter because of the
11 thickness of the pipe. Looking at the
12 Shelton photo and video, it is clear the
13 pipe is not buried four feet deep or even
14 three feet deep or even two feet deep in the
15 swamp.

16 Those photos were taken on the evening
17 of September 19, 2016. The video pans
18 around the site and shows no excavating
19 equipment, and the wooden mats are shown
20 piled up, not ready to use and drive on.

21 Now Vermont Gas has repeatedly said
22 that the work was completed and the
23 contractor left on September 20th, the day
24 after the photos were taken. It just
25 doesn't seem to me possible that in one day

1 Vermont Gas or Michels moved in multiple
2 excavators, spread those heavy wooden mats
3 out, managed to lower a significant length
4 of pipe another two or three feet by digging
5 along both sides of the pipe, an awkward
6 method at the best, and then remove the
7 mats. It just doesn't seem possible that
8 that all happened in one day.

9 We need to get some independent
10 physical measurements of the actual depth of
11 cover in the swamp. I'm sorry to say that
12 just because somebody pounded in a stake
13 that said 3.5, that shouldn't convince us
14 that the pipe is actually buried three
15 and-a-half feet.

16 Now the 78-page depth of cover table
17 looks impressive. But it doesn't offer any
18 information about where those numbers come
19 from, and some are estimates. And in some
20 cases the depth table is inconsistent with
21 the remediation table. In other words, the
22 depth table says the final depth is X, and
23 the remediation table says the final depth
24 is X minus something. The contractor,
25 Michels, did not finish its work for Vermont

1 Gas until December. Vermont Gas then had
2 almost three months to ask the PUC for an
3 amendment.

4 During that time VGS still could have
5 sent the excavators back in or perhaps have
6 drilled the pipe under the swamp if that was
7 what the PUC wanted. Instead Vermont Gas
8 and the Department of Public Service did not
9 disclose the non compliance until June,
10 after the pipeline was completed and the gas
11 was flowing to customers. The train had
12 left the station before the PUC had a chance
13 to weigh in.

14 Vermont Gas insists it has no
15 responsibility for this problem. Their root
16 cause analysis explains the cause as
17 follows. I'm reading from the root cause
18 analysis. "Root cause. The soils in the
19 clayplain swamp were deep and wet resulting
20 in the inability to maintain trench
21 stability while installing the pipeline
22 along its entire length." That's the root
23 cause.

24 Vermont Gas takes no responsibility for
25 the failure to identify the problem of soupy

1 soils ahead of time or for its decision not
2 to use HDD or anything else. In other
3 words, the root cause was the swamp. So who
4 is protecting us? The federal agency,
5 PHMSA, recently found that the Department
6 was not doing an adequate job of assuring
7 compliance. Department records show that
8 inspectors found violations but no action
9 was taken. So at the very least, we need
10 independent physical measurements of the
11 depth of cover.

12 HEARING OFFICER TOUSLEY: Thank you,
13 Ms. Barrett. Mr. Atchinson.

14 MR. ATCHINSON: Atchinson. A-T-C-H-I-N
15 -S-O-N. Bob. I'm Bob Atchinson. I come to
16 you from Plainfield tonight.

17 MEMBER OF THE PUBLIC: Microphone.

18 MR. ATCHINSON: I'll do it. My name is
19 Bob Atchinson. I come to you from
20 Plainfield, Vermont, where I serve as energy
21 coordinator. I also am a member of the 350
22 Vermont Montpelier node, and we work very
23 strongly on justice issues. It's bad enough
24 that the fossil fuel industry is peddling
25 their poisons by harvesting them from the

1 ground at the expense and costs of the
2 working people of the planet while somebody
3 else sits there and makes the big profit.

4 And secondly, bad enough that then they
5 purveyed this poison to the citizens of the
6 State of Vermont with the claim that it's
7 safe, we are going to get there. We are
8 going to do it. Everybody will be happy.
9 And we won't have to raise any costs because
10 that natural gas, that's the golden fuel of
11 the future. No. It's all about risk
12 assessment.

13 We saw it way back in my day, when Ford
14 Motor Company decided that it wasn't worth
15 fixing the gas tanks on the Pinto cars
16 because we have got enough lawyers. We have
17 got enough money to pay off the few deaths
18 that may occur, and it goes on to this day.

19 The risks involved are not worth the
20 cost of one human life. The risks involved
21 are not worth the death of the planet, the
22 death of the people of the planet, and
23 handing off to our children, our
24 grandchildren poisons that they can never
25 deal with. And so the big train goes on.

1 From an engineering standpoint, this is
2 just a farce. You know, why can't you do it
3 once and do it right? Do it with integrity.
4 Do it with morality, and have it fixed and
5 stop this melange that's going on.

6 I'll close with my mom's words. It is
7 a bad thing if you do something wrong. It's
8 even worse when you lie about it. Thank
9 you.

10 HEARING OFFICER TOUSLEY: Thank you,
11 Mr. Atchinson. The next five begin with
12 Kevin Leveret. Then Bill Marks. Jon
13 Chapin. Jane Pekol. And Rick Barston.

14 So next up is Mr. Leveret.

15 MR. LEVERET: Good evening. My name is
16 Kevin Leveret. L-E-V-E-R-E-T. And I have
17 been thinking about the Certificate of
18 Public Good. Public good. I can't believe
19 it's in the public good to risk polluting
20 the environment by assured future leaks,
21 especially when you consider that renewable
22 energy has shown that fossil fuels should
23 from now on remain a fossil that is left in
24 the ground.

25 Isn't it ironic why are we concerned

1 the pipes must be buried between three and
2 four feet below grade? Because it belongs
3 in the ground. Too bad the clayplain swamp
4 isn't the La Brea tar pit, a suitable burial
5 site for fossils. Fossil fuel. You know,
6 it's kind of hard to illustrate a gas. But
7 the same people that are producing the
8 fracked gas are also producing the fracked
9 fuel, liquid fuel.

10 As a matter of fact, the Keystone spill
11 just recently, can you see it? Should I
12 walk it over?

13 THE VIDEOGRAPHER: I'm zooming in on
14 it.

15 MR. LEVERET: Okay. This is oval,
16 actually it's a circle, but because of
17 perspective it's, you know, like a circle is
18 like that, but if you tip it like that it
19 looks like an oval, so there is the oval.
20 This thing is a hundred feet radius, that
21 means 200 foot -- this is the leak. This is
22 that ground -- that brown spot is the
23 fracked fuel that has spilt. What was it
24 200 -- 10,000 gallons. Yes, indeed. So for
25 like 200 feet across how is 2,100 -- two

1 thousand one hundred thousand gallons fit in
2 that small space? It's because it goes down
3 deep. So there is a lot of volume there. I
4 don't know. It really infuriates me to see
5 waste like that. But it even makes me
6 madder to see it not in the ground. Not a
7 good finish but --

8 HEARING OFFICER TOUSLEY: Thank you,
9 Mr. Leveret.

10 MR. LEVERET: Thank you.

11 HEARING OFFICER TOUSLEY: Mr. Marks.

12 MR. MARKS: Bill Marks. M-A-R-K-S as
13 in Karl. I have a specific request for the
14 Public Utilities Commission. I think it's
15 pretty much the same as what Lisa Barrett's
16 is. And that is that the commission hire
17 its own investigators and experts mandating
18 the VGS pay for them to do independent
19 testing of the burials wherever there is a
20 question of depth in the state.

21 However, my experience or my reason for
22 showing this lack of credibility is -- to me
23 this is a credibility issue, is more in line
24 with Bob Hyams' testimony a little earlier
25 in that I was involved in the Geprags Park

1 case. In fact, I was the lead Plaintiff,
2 not because I'm the most articulate or the
3 most knowledgeable on these issues, but
4 because I was the one person who had control
5 and management authority over the park for
6 the longest period of time of anyone, over
7 25 years. And the Hearing Officer had the
8 insight to understand I had something to
9 contribute.

10 Well what I learned in the course of
11 this case were two very astounding things.
12 One, which really has more to do with
13 perhaps Vermont Gas's legal advice, and that
14 because of other citizens more aware than I
15 was, what turned out to be a quote unquote,
16 secret agreement, between certain town
17 selectboard members and Vermont Gas to
18 convey an interest in land, this was
19 stopped, but any -- any attorney I would
20 think would know enough when presented with
21 a municipal -- an agreement for a municipal
22 property not to rely simply on the signature
23 of an attorney, because in fact the majority
24 of the selectboard members didn't even know
25 about this alleged agreement.

1 And there was -- and there was no
2 public vote. In fact there was no vote.
3 This shocked me that a company this size
4 would accept and present to the Public
5 Service Board an agreement with this
6 background. But this is maybe more to do
7 with the legal advice than the rank and file
8 of Vermont Gas, and which brings me to the
9 next point which was the other shocking
10 thing and somewhat embarrassing for me
11 because being a long-term member of the
12 Conservation Commission but not an expert on
13 wetlands, and when I heard the experts hired
14 by Vermont Gas tell the public at a public
15 hearing that their proposed course avoided
16 most of the wetlands and the least impact,
17 and they presented this finding also to the
18 ANR which accepted it, because they don't
19 have an ability to do the field work, to
20 check the background, they accepted these
21 reports. And they presented them to the --
22 in testimony, I believe.

23 But in any event, it was Bob Hyams who
24 discovered this error and in fact walked
25 these wetlands with VGS's experts and

1 watched their embarrassment in seeing their
2 error. Why does this happen? I don't know.
3 But the fact that we were probably the only
4 group because it was planned and managed by
5 environmental activists, who knows how many
6 other areas in Vermont where they have
7 crossed wetlands that were not accurately
8 delineated. We were not able, of course, to
9 determine that and no one has, including the
10 ANR.

11 This relates, I think, directly to the
12 burial issue, and why we need to have
13 independent verification of the underlying
14 data. And again, it's not -- my distrust is
15 not based on any personal certainly
16 animosity or belief that anyone is
17 particularly lying, but I think this is a
18 very clear loyalty between subcontractors,
19 employees, their bosses, and the
20 shareholders ultimately, and that's
21 understandable. It's a corporation. Their
22 loyalties are not to the public which is
23 where we must step forward, I think, and be
24 more aggressive. Thanks.

25 HEARING OFFICER TOUSLEY: Thank you,

1 Mr. Marks. Jon Chapin.

2 MR. CHAPIN: Jonathan Chapin, C-H-A-P-I
3 -N. Jon was the nickname.

4 I don't really have any prepared
5 comments tonight, but I have great respect
6 for all of those that did come prepared and
7 have been following this colossal travesty
8 over the course of a number of years. Maybe
9 it's four or so at this point.

10 I think we have some really disturbing
11 matters that are going on now, and if you
12 think about the 50 to 70 people that are
13 here, probably would be multiplied by a
14 factor of 10 if this issue wasn't so
15 complex. It's highly technical. It takes a
16 great amount of effort to try and stay on
17 top of all of this. We have citizenry here,
18 and volunteer efforts, and people that are
19 showing up on their own time. We have the
20 world that we live in now, it's a question
21 of inequities, very disturbing again.

22 The world that we used to live in was
23 -- and the lives that we used to lead were
24 of trust, of honesty, of working together,
25 and I think now we live in an age of

1 disinformation, a totally different ethic
2 and business, money and power seem to
3 prevail. And this hearing has an
4 opportunity to try and once again, see if we
5 can turn that around.

6 We have a stream alteration issue. We
7 have burial depths of the pipeline. We have
8 a Public Service Department which doesn't
9 seem to really be serving the public. Over
10 and over again. Safety, non compliance. If
11 you think about that is a little heavy, but
12 appeasement over and over and over again in
13 this process.

14 When World War II was going on that was
15 very effective to say we are peaceful, we
16 are just going to come in and take over your
17 country, and everything will be okay. And
18 then it marched on and marched on and
19 marched on. This is a type of appeasement
20 process that business is very adept at. We
21 will go ahead and do what we want to do, and
22 then we will either ask permission or pay
23 the penalty later.

24 And we have got to stop this. It's
25 insidious. A penalty is, you know, some

1 form of reconciliation. But the penalties
2 are never high enough. So if you're in
3 business, pay a penalty and move on. The
4 penalty has to be so egregious that a
5 company is going to say we have got to
6 adhere to what needs to happen. And comply.
7 It can't be about non compliance and so on.

8 I think there's -- I come from the
9 woodworking world. And used to be measure
10 twice -- excuse me -- measure once and cut
11 twice. And this seems to be the opposite
12 which is go ahead and, you know, we will do
13 what we have got to do. We will go back and
14 do it again when somebody tells us we did it
15 wrong. I just don't want to feel that we
16 are in this position where the wool is being
17 pulled over our eyes and that we are just
18 sort of helpless.

19 There needs to be a sense that a person
20 that's trying to follow this process and
21 wants to speak up is not just going to be
22 bowled over by the corporate process that
23 just can out legalize the common citizen.
24 By a show of hands if people are so
25 inclined, who is here of their own free will

1 testifying tonight and is not paid?

2 (Raising hands).

3 MR. CHAPIN: I would like to
4 acknowledge that there are many people, well
5 not maybe many, but there are several people
6 that are paid here, and they are paid for
7 the whole process of guiding this pipeline.
8 It's a navigational sort of track to get to
9 the other end. And when you're paid to go
10 ahead and figure it out, you're going to
11 snake your way through it, and that's pretty
12 scary.

13 So we have the world we used to live
14 in. And it was trusting, and it was with
15 neighbors, and it was a sense of
16 communities. And we have a world that we
17 live in now. And it's really problematic.
18 It's about inequities, it's about
19 disinformation. It's about power and money
20 and business prevailing, and if we don't get
21 a handle on that, our democracy and what we
22 stand for is really -- it's already in
23 peril. We have got to have a chance to go
24 ahead and change those dynamics, disturbing
25 dynamics.

1 You need to live in this world and have
2 a conscience about what you do, do it well,
3 and have it so it matters not just for your
4 own bottom line but for everybody, because
5 we are all in this together. Thank you.

6 HEARING OFFICER TOUSLEY: Thank you,
7 Mr. Chapin. Jane Pekol. The next three are
8 Rick Barstow, Jennifer Vyhnak and Barrie
9 Bailey.

10 MS. PEKOL: So it's Jean Pekol, P-E-K
11 -O-L. I did want to say thank you to all
12 the citizen inspectors and enforcers. You
13 seem to be picking up the slack. That is
14 from the heart; it's sincere. Thank you.

15 I am originally from Pennsylvania. And
16 in August of 2016 I took a trip to
17 Susquehanna County to see kind of exactly
18 what went on there during the fracking free
19 for all. And the image that stays in my
20 mind is the one of the vent stacks on top
21 of, you know, what used to be household
22 water wells, artesian wells, to vent the gas
23 that mixes in with the water to prevent the
24 household well from exploding or exploding
25 again. So the image of vented water wells,

1 you know, one after another, and the water
2 buffalo tanks sitting next to the houses
3 supplying water are not images that go out
4 of your mind quickly.

5 So those families in Pennsylvania they
6 lost their water to fracking chemicals and
7 gas contamination, now have to haul their
8 water spending time and effort and money.
9 So they really lost something. And the
10 families here in Vermont who had to move,
11 who lost their land, or who no longer feel
12 safe on their land, for the purposes of
13 transporting explosive fossil fuel that is
14 worse than carbon dioxide have also really
15 lost something.

16 And I was just heartbroken to see all
17 this happen in the city I grew up in, and I
18 was frankly shocked to see it happen here.
19 And I'm heartened to see some states and
20 countries and even cities and towns banning
21 fracking. And if I were the CEO of Vermont
22 Gas I would start diversifying quickly, and
23 I would recommend looking at renewables.

24 HEARING OFFICER TOUSLEY: Thank you,
25 Ms. Pekol. Rick Barstow.

1 MR. BARSTOW: Hi. Rick Barstow. B-A-R
2 -S-T-O-W. I wasn't really planning on
3 making any comment. But I noticed one
4 curious thing during the presentation which
5 I think is indicative of this whole project,
6 and it had to do with the streams and the
7 burial depth that the pipeline should be
8 seven feet under these streams because of
9 the potential of erosion and cutting down
10 further from the existing streambed.

11 We all know that weather is becoming
12 more severe and the likelihood that we will
13 have a flooding event that could really cut
14 right down through the streambed is becoming
15 more and more likely. Especially who knows
16 in another 60 years, this pipeline is
17 supposed to be put in for 60 years out, I
18 hope we are long done with the need for such
19 pipelines by then, but just shows how this
20 -- Vermont Gas and the parent companies that
21 go along with it look for ways to cut costs
22 and for expediency to do this project in a
23 way that yields more income for the
24 shareholders and those at the top who really
25 have no interest in the safety of the

1 citizens.

2 And so I see this is maybe a situation
3 where it's time to turn this whole thing
4 around. This becomes a moral issue.
5 Allowing this kind of corporate greed which
6 I think people are beginning to wake up to
7 the fact that it's become so rampant, it's
8 really the root of so many problems that we
9 are dealing with right now. So I would hope
10 that the PUC going forward, whoever is
11 responsible for making decisions about what
12 kind of projects get a green light, that
13 there would be much higher degree of
14 scrutiny and oversight so that we are not
15 faced with this kind of a situation where
16 there are many safety concerns. I guess in
17 summing, I guess that's --

18 HEARING OFFICER TOUSLEY: Thank you,
19 Mr. Barstow. Ms. Vyhnak.

20 MS. VYHNAK: I'm Jennifer Vyhnak. V as
21 in Victor, Y-H-N-A-K. I live here in
22 Bristol, and I spoke a little earlier
23 tonight, but I feel this definitely needs
24 repeating. And just to, you know, early on
25 when the local citizens heard that the

1 pipeline was coming, I really had it in my
2 heart that I wanted to be a part of
3 educating the public. And my mother said,
4 "Jennifer, there is a movie you need to see.
5 I've saved it on HBO for you, and it's
6 called Gasland The Movie." Well when my mom
7 speaks and she says she's got something for
8 me I'm going to watch it, and I watched that
9 movie and it changed my life. I bought that
10 movie, got back to Vermont. I gave it to
11 Dave Sharpe, our local representative. And
12 I believe he may have shown it to some of
13 his folks in the legislation in Montpelier.

14 Three years later, I don't know if I
15 had any -- maybe a little something to do
16 with it, perhaps with a lot of other people,
17 but Vermont banned fracking. And so that
18 movie definitely puts into perspective a lot
19 of the things that we have all heard here.
20 Speaks to a larger picture that is really
21 important for people to understand if you
22 want to know why folks are motivated about
23 being good to their neighbor, taking care of
24 one another. You know, basic human decent
25 kinds of things that I think is at the

1 bottom of a lot of the motivation here.

2 So anyway, I took it upon myself to
3 show that movie to as many people as I
4 possibly could back here at home. I was
5 going to towns, and some with folks here,
6 and one evening it was being shown at Otter
7 Valley High School. I mean let me -- Otter
8 Valley High School was hosting Vermont Gas,
9 and I gave them a call and I asked the
10 principal. I said, "Well, you've got
11 Vermont Gas there with a demonstration of
12 what they are going to do. Can folks who
13 have another point of view also be there?"
14 And the principal said yes. So we had a
15 table. And I created a handout which
16 mentioned my name and said I'm showing this
17 movie to people because I believe it
18 identifies the activists among us, because
19 you get stirred when you see the culture
20 that this fracked gas came from, and the
21 culture of this -- of the industry.

22 And that was probably an unfortunate
23 thing that I made that document with my
24 phone number on it and my name. Because
25 things started right after that have

1 affected my health. Could be a great
2 coincidence for all I know. But ever since
3 that time for about perhaps six months I
4 experienced things at my home here in
5 Bristol at night, and I got phone calls, and
6 I got emails that were pretty awful. And I
7 did tell my doctor about this, and my doctor
8 said, "Jennifer, you need to just get out of
9 this, which is -- leave this whole thing
10 alone." And I did. But it definitely
11 affected me, and I didn't talk about it. I
12 did not share this. Did not really share
13 this with my fellow activists because I
14 didn't want to scare them. I didn't want
15 them to think that there could be anything
16 that might want to hurt them or deter them
17 from their activities. So I kept it quiet.
18 And that was probably a mistake.

19 But I did tell a few people who were
20 close to me because I felt like my life was
21 in danger. And so I told my friends. I
22 said if anything happens to me, you know,
23 because in my effort of showing this movie I
24 really helped touch the hearts of a lot of
25 people who were here tonight. Activists.

1 And this is a movie, if you haven't seen it,
2 you should see it. Gasland The Movie.

3 So I am here now, and I'm advocating
4 for myself. And I realize that in order for
5 me to get well, I would like to find other
6 people who think that they too may have
7 experienced harassment, terrifying things,
8 that have affected their health. And so if
9 you want to come up to me, and we can talk,
10 I think it would be a fascinating topic and,
11 you know, who knows. There might be a
12 little investigation at some point.

13 So I guess that's all I want to say.
14 And I thank you all.

15 HEARING OFFICER TOUSLEY: Thank you,
16 Ms. Vyhna. Ms. Bailey.

17 MS. BAILEY: Barrie Bailey. B-A-R-R
18 -I-E. B-A-I-L-E-Y. I'm from Salisbury.

19 The whole time this evening as I was
20 listening, I wasn't going to speak, but this
21 theme kept going through my head.

22 Precedence. We have been setting a
23 precedent with this situation for three to
24 four years. There's been double speak.
25 Landsmen threatening landowners with eminent

1 domain, and if they don't sign on the line
2 right away, and you can't tell anybody what
3 you got paid for, and then they find out how
4 other people were treated and fought back.
5 Cheerleading by the Department of Public
6 Service for VGS instead of being in service
7 to the public. Numerous environmental
8 violations. Lax enforcement by DPS, by the
9 Agency of Natural Resources, and to me, the
10 Public Service Board now the PUC has also
11 been lax.

12 What I see tonight is that the local
13 people here are the ones who are actually
14 doing the due diligence of oversight. This
15 is an open invitation to other corporations,
16 especially fossil fuel industries, to come
17 into other areas of Vermont because you can
18 get away with things. Because regulation
19 enforcement is so lax. That's not what we
20 should be doing in Vermont. We do not want
21 to set a precedent as an open invitation for
22 the large power struggle of fossil fuels
23 against the little guys. We need to hold
24 our heads high, ask our Public Utilities
25 Commission to do the right thing, create a

1 public investigator who is not associated
2 with our public service; I've lost faith in
3 them, who is not affiliated with ANR, who
4 cannot get out in the field and do their own
5 assessment work, but someone who is truly
6 independent and is not directly paid by
7 Vermont Gas, but will be billed through the
8 state for -- to Vermont Gas.

9 So I ask that you on the Public Utility
10 Commission please consider the precedent
11 that's being set and help us go on a
12 straight and narrower path so that we aren't
13 setting this precedence for others to come
14 after us.

15 HEARING OFFICER TOUSLEY: Thank you,
16 Ms. Bailey. And finally Mr. Powsner.

17 MR. POWSNER: Powsner.

18 HEARING OFFICER TOUSLEY: Powsner.

19 MR. POWSNER: Hi. Good evening. P as
20 in Peter, O-W-S-N-E-R. Jake; Jacob. From
21 Ira, Vermont.

22 I guess I have more of a personal
23 comment. I just wanted to apologize to the
24 future generations of Vermont that are going
25 to have to live with our actions. And I

1 think we all failed to come together, and I
2 think that failure has consequences. I
3 think ANR owes an apology. I think PUC owes
4 an apology. I think VELCO owes an apology.
5 I think Vermont Gas owes an apology. I hope
6 one day we can move towards a place in a
7 conversation where we can talk about making
8 amends. Thank you.

9 HEARING OFFICER TOUSLEY: Thank you,
10 Mr. Powsner.

11 MEMBER OF THE PUBLIC: Thank you.

12 HEARING OFFICER TOUSLEY: Mr. Klohck.

13 MR. KLOHCK: My name is George Klohck.
14 K-L-O-H-C-K. I'm a retired former minister
15 at the Methodist Church in Middlebury.
16 Middlebury is where I live now. I have been
17 thinking it's time to go home, and I didn't
18 want to talk a long time, but I thought
19 maybe I had something to add. I'm going to
20 do it from this perspective. That good
21 religion and good religion -- good religion
22 and good living is more about love than it
23 is about rules, which is not to say that
24 rules don't matter. And that love is the
25 motivation for keeping the rules.

1 So I've heard a number four, seven;
2 four feet, seven feet mentioned. These are
3 rules that I wish that they were enforced.
4 And I would like everybody to remember who
5 has a leadership position or a
6 responsibility that involves other people,
7 that we are here to love and care for each
8 other, to love and care for the earth that
9 is ours to use and to live in and to
10 preserve for others. And to be people who
11 respect and honor and care for each other in
12 every way we can. So thank you for
13 listening.

14 HEARING OFFICER TOUSLEY: Thank you,
15 Mr. Klohck.

16 All right. It is now 24 speakers.
17 Does anyone else wish to speak?. If no one
18 else has additional comments, thank you to
19 everyone who came tonight. We appreciate
20 your comments and concerns. Good night.

21 (Whereupon, the proceeding was
22 adjourned at 9:34 p.m.)
23
24
25

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I, Kim U. Sears, do hereby certify that I recorded by stenographic means the Public Hearing re: CASE NO. 17-4630-INV and 17-3550-INV at the Mount Abraham Union High School, 220 Airport Road, Bristol, Vermont, on November 21, 2017, beginning at 7:30 p.m.

I further certify that the foregoing testimony was taken by me stenographically and thereafter reduced to typewriting and the foregoing 64 pages are a transcript of the stenograph notes taken by me of the evidence and the proceedings to the best of my ability.

I further certify that I am not related to any of the parties thereto or their counsel, and I am in no way interested in the outcome of said cause.

Dated at Williston, Vermont, this 27th day of November, 2017.

A rectangular box containing a handwritten signature in cursive script that reads "Kim U. Sears". The signature is written in dark ink on a light-colored background.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25