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PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMPLAINT OF:

KATHERINE M. LYCOURT-DONOVAN,	:
	:
Complainant,	:
	:
v.	: Case No.
	: 12-2877-GA-CSS
COLUMBIA GAS OF OHIO, INC.,	:
	:
Respondent.	:

- - -

Deposition of JOHN L. WEISS, a Witness
herein, called by the Respondent as upon Cross
Examination pursuant to the Ohio Rules of Civil
Procedure, taken before Nicole D. Blaker,
Registered Merit Reporter and Notary Public in and
for the State of Ohio, at the offices of Columbia
Gas of Ohio, 2901 East Manhattan Boulevard, Toledo,
Ohio, on Friday, November 15, 2013, commencing at
2:22 p.m.

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I N D E X

DEPOSITION OF JOHN L. WEISS

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1 APPEARANCES:

2 On behalf of Columbia Gas of Ohio:

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5 On behalf of Seneca Builders and Ryan Roth, et al.:

6 WILLIAMS, ALLWEIN & MOSER:

7 Christopher J. Allwein

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8 Columbus, Ohio 43212 (614) 429-3092

9 Also Present: Katherine M. Lycourt-Donovan

10 - - -

11 JOHN L. WEISS,

12 being first duly sworn, as hereinafter certified,

13 testified and said as follows:

14 - - -

15 CROSS EXAMINATION

16 BY MR. GALLON:

17 Q Mr. Weiss, thank you for being here today. I
18 believe we met before. My name is Eric Gallon.
19 I'm an attorney with Porter, Wright, Morris &
20 Arthur in Columbus, Ohio. I'm representing
21 Columbia Gas in the complaint case brought by Kathy
22 Lycourt-Donovan.

23 Could you state your full name for the
24 record?

25 A John L. Weiss.

1 Q Mr. Weiss, what is your home address?

2 A 506 Hunt Club Drive, McMurray, Pennsylvania,
3 15317.

4 Q And your work address?

5 A John T. Boyd Company, 4000 Town Center Boulevard,
6 Suite 300, Canonsburg, Pennsylvania, 15317.

7 Q Mr. Weiss, I know you've been deposed several
8 times before, so I'll just state the ground rules
9 very briefly. I'm sure you can recite them with
10 me.

11 Please make sure to provide all of your
12 responses verbally rather than by shaking your head
13 or saying uh-huh or huh-uh so as to insure that the
14 record is clear. If you have any questions or
15 don't understand the question I've posed to you,
16 please let me know.

17 As I tell all my witnesses, this isn't
18 meant to be a forced march of any kind, so if at
19 any time you need to take a break, use the
20 restroom, or get another drink, please let me know.

21 If you need to talk with
22 Ms. Lycourt-Donovan at any time, that's fine, but
23 I'd appreciate if you not break off to talk with
24 her while a question is pending.

25 Do you have any questions about any of

1 those general instructions?

2 A No.

3 Q Are you on any medication today that would
4 interfere with your ability to provide full and
5 accurate responses to my questions?

6 A No.

7 MR. GALLON: Mark this as Exhibit 1.

8 (Exhibit 1 marked.)

9 Q Mr. Weiss, is this a true and accurate copy of
10 your prefiled testimony in this case?

11 A It appears to be.

12 Q Are you presenting testimony in this case in your
13 capacity as a vice-president of John T. Boyd
14 Company?

15 A I'm a vice-president of John T. Boyd Company. I'm
16 presenting testifying on behalf of Ms. Donovan.

17 Q Did Ms. Lycourt-Donovan contact John T. Boyd
18 Company to obtain consulting advice or expert
19 witness services in this proceeding?

20 A Not that I'm aware of.

21 Q Does Ms. Lycourt-Donovan have a contract with
22 John T. Boyd Company?

23 A No.

24 Q Is Ms. Lycourt-Donovan paying John T. Boyd Company
25 for your services as an expert witness in this

1 matter?

2 A I don't know.

3 Q Is Ms. Lycourt-Donovan paying you anything for
4 your services as an expert witness in this matter?

5 A No.

6 Q Is anybody at John T. Boyd Company supervising
7 your work as an expert witness in this matter?

8 A No.

9 Q Who prepared your testimony in this case?

10 A I did.

11 Q Was any of your testimony copied from any other
12 source?

13 A I don't know.

14 Q Why do you not know whether any portion of your
15 testimony is copied from any other source if you're
16 the one who prepared it?

17 A I would have to look at a specific portion of it
18 to refresh my recall.

19 Q Okay.

20 A Certainly portions of it are attributed to other
21 sources.

22 Q For example, let's turn to Question and Answer 51.
23 Your testimony does not have page numbers, so
24 throughout this deposition I'll be referring to it
25 by paragraph number.

1 In Paragraph 51 there is a picture of two
2 coal miners working next to a piece of equipment in
3 a mine. Do you see that?

4 A Yes.

5 Q I'm guessing that you took this picture from
6 somewhere else? Let me ask you this. Did you take
7 this photograph?

8 A No.

9 Q Do you know where this photograph is from?

10 A Specifically I do not.

11 Q If we could turn to Question and Answer 42, there
12 are a number of diagrams here of a basement floor
13 pad and methane in the atmosphere. Do you see
14 those diagrams?

15 A Yes.

16 Q This, I believe, is something that you prepared to
17 depict the primary steps in the bar-hole testing
18 process, correct?

19 A Yes.

20 Q Did you prepare these four diagrams?

21 A Yes.

22 Q Are these diagrams based on anybody else's work?

23 A No.

24 Q Before preparing your testimony in this case, did
25 you review Columbia Gas of Ohio's discovery

1 responses in the three consolidated cases?

2 A Yes.

3 Q Did you review all of Columbia Gas of Ohio's
4 discovery responses in the three consolidated
5 cases?

6 A I don't think I read every word of every document.
7 I went through the documents. I can't say I read
8 every word of every document.

9 Q If we could turn to Paragraph 20 of your
10 testimony, I'd like to start by talking about your
11 education and training. Your testimony says you
12 have a Bachelor of science degree in mining
13 engineering from the Pennsylvania State University
14 and that you achieved that in 1983, correct?

15 A Yes.

16 Q And it says you completed coursework for a Master
17 of engineering degree in mineral engineering
18 management, correct?

19 A That's correct.

20 Q Was that at the same university?

21 A Yes.

22 Q So when did you complete the coursework for your
23 Master of engineering degree at Pennsylvania State
24 University?

25 A '85.

1 Q In either your courses to complete your degree in
2 mining engineering or your coursework for a Master
3 of engineering degree in mineral engineering
4 management, were you taught to conduct bar-hole
5 testing?

6 A No.

7 Q In either your courses for your Bachelor's degree
8 in mining engineering or your coursework for your
9 Master of engineering degree in mineral engineering
10 management, were you taught to measure methane in
11 the atmosphere?

12 A Yes, in ventilation lab.

13 Q What is ventilation lab?

14 A It was a ventilation engineering course.

15 Q So this is a course that teaches you how to ensure
16 proper ventilation in a mine?

17 A Among other things, yes.

18 Q What are the other things you learned in venting
19 engineering lab?

20 A Ventilation, gases, engineering aspects regarding
21 ventilation, humidity, similar lines.

22 Q What was the last --

23 A Similar lines of work.

24 Q When you say you learned gases, what do you mean?

25 A That was among the coursework is ventilation of

1 mines and gases in mines.

2 Q So you learned proper ways to ventilate gases in
3 mines?

4 A That was part of the course, yes.

5 Q Did you take any courses in geology at
6 Pennsylvania State University?

7 A Yes.

8 Q Which courses did you take?

9 A I don't recall the course names. There would have
10 been three or four geology courses as part of the
11 curriculum.

12 Q When you say as part of the curriculum, you mean
13 there would have been three or four geology courses
14 as part of the curriculum for your Bachelor in
15 mining engineering?

16 A Correct.

17 Q Did you take any courses in geology for your
18 Master of engineering degree coursework?

19 A I don't recall.

20 Q Do you have a degree in geology?

21 A No.

22 Q Do you have any specialized training in geology
23 subsequent to your graduation from Pennsylvania
24 State University?

25 A My training and experience during the course of my

1 professional career.

2 Q But you don't have any particular courses you've
3 taken to further your education in geology since
4 your graduation from college?

5 A Correct.

6 Q Are you a certified fire and explosion
7 investigator?

8 A No.

9 Q Have you taken any courses in fire or explosion
10 investigation?

11 A No.

12 Q And by courses, I mean either education -- either
13 classes at Pennsylvania State University or
14 training since graduation. Is your answer the
15 same?

16 A Correct, it's the same.

17 Q Do you have any experience in remediating methane
18 in soil?

19 A No.

20 Q Do you have any experience remediating any other
21 volatile or organic compounds or gases in soil?

22 A No.

23 Q Do you have any training in methane remediation?

24 A Extensively at mine sites and mine operations.

25 Q Do you have any training in methane remediation in

1 a residential environment?

2 A No.

3 Q Do you have any personal familiarity with methane
4 remediation systems in a -- remediation in a
5 residential context?

6 A No.

7 Q Do you have any personal familiarity with methane
8 remediation used in any context other than mines?

9 A Yes.

10 Q What other contexts are you personally familiar
11 with methane remediation systems other than mines?

12 A Storage silos, processing facilities. There may
13 be other large industrial structures, but that
14 would be typical, of that type.

15 Q When you say storage silos, do you mean coal
16 storage?

17 A Coal or grain.

18 Q How do you have any personal familiarity with
19 methane remediation systems used in coal or grain
20 storage silos?

21 A Professional experience on the job over the
22 decades.

23 Q Can you tell me a particular case you worked on
24 that involved methane remediation systems in coal
25 or grain storage silos?

1 A Probably not particularly other than the
2 ventilation systems installed and utilized in such
3 facilities.

4 Q Can you tell me what the locations were where
5 these remediation systems were installed?

6 A Can I give you examples?

7 Q Please do.

8 A For example, at the mine site where I worked, the
9 coal was processed at the Robena, R-o-b-e-n-a,
10 preparation facility, a large, old facility, and
11 there were storage bins, storage silos where
12 methane could accumulate unless fans and ducting
13 were appropriate.

14 Q So methane could accumulate in these storage bins
15 and silos unless fans or ductwork were appropriate?

16 A Fans and ductwork were appropriate.

17 Q What do you mean by appropriate?

18 A To provide sufficient ventilation to dilute,
19 render harmless any methane accumulation.

20 Q Can you provide me with any other examples of
21 ventilation systems you've worked with in coal or
22 grain silos?

23 A I have probably been in 100 coal processing
24 facilities, I'm guessing if the number is 75 or
25 200, but it's many. The potential for accumulation

1 of methane is known and recognized at such
2 facilities, and those facilities have to be built
3 and designed to a standard that prevents that from
4 happening, so I've seen many, many over the
5 decades.

6 Q Would you consider yourself a soil expert?

7 A No.

8 (Exhibit 2 marked.)

9 Q Mr. Weiss, can you identify the document that has
10 been marked as Exhibit Number 2?

11 A It appears to be my resume.

12 Q When was your resume -- more specifically, when
13 was this resume last updated?

14 A Probably within the last two months.

15 Q Did you modify your resume for production in this
16 case?

17 A No.

18 Q Do you have different resumes that you use for
19 different types of cases?

20 A Yes.

21 Q What are the different types of resumes you have
22 for different types of cases?

23 A There may be a case tailored to a limestone or
24 aggregate project. It may be tailored to an
25 acquisition. It may be tailored to a valuation.

1 It could be tailored to virtually any kind of
2 project.

3 Q So for what kinds of projects is this resume
4 tailored?

5 A This is probably -- this would either be my safety
6 resume or a general resume.

7 Q Just to go briefly through your work experience,
8 in 1981 you worked as an underground general
9 laborer for MAPCO, Mettiki Coal Corporation in
10 Maryland; is that correct?

11 A Yes.

12 Q And that was while you were still in school,
13 correct?

14 A Yes.

15 Q Is this a part-time job?

16 A No.

17 Q Were you a night student at Pennsylvania State?

18 A No, it was a temporary.

19 Q How long did you hold this position?

20 A May to November, five, six, seven months, whatever
21 that is.

22 Q And then your next position was as an engineering
23 assistant/surveyor at W.S. Frey Company in
24 Virginia?

25 A That's correct.

1 Q Am I pronouncing Frey properly?

2 A Yes.

3 Q And was this also while you were in school?

4 A No.

5 Q Was this the summer after you graduated from
6 college?

7 A Yes.

8 Q So can I assume that you pursued your coursework
9 for your Master of engineering degree in mineral
10 engineering management for two years before
11 beginning at Consolidation Coal Company?

12 A Yes.

13 Q So you worked for Consolidation Coal Company,
14 Dilworth and Bailey Mines in Pennsylvania from 1985
15 to 1990, correct?

16 A Dilworth and Bailey in the first year, Dilworth in
17 the next four.

18 Q And ever since 1990 you've been with John T. Boyd
19 Company as a mining and geological consultant?

20 A That's correct.

21 Q Have you not been associated with John T. Boyd
22 Company at any period between 1990 and the present
23 date?

24 A No.

25 Q If we could turn back to your testimony, which was

1 Exhibit 1, I'd like to ask you a question about
2 Question and Answer 26.

3 My question is how frequently did you
4 perform testing to identify methane gas levels
5 during your coal mining experience, and the answer
6 provided in your testimony is as an engineer, as a
7 safety inspector, and as a certified mine foreman
8 with legal responsibility for the safety of the
9 mine and my employees, I took many thousands of
10 readings. I tested for methane dozens of times
11 every day for five years. Is that correct?

12 A Yes.

13 Q What kind of methane readings were you taking
14 dozens of times a day every day for five years?

15 A I'm not sure I understand the question.

16 Q Were you testing for methane in the atmosphere
17 within the mine?

18 A Predominantly, yes.

19 Q What other kinds of methane tests were you taking
20 during that period?

21 A It would have been tests for methane at the
22 preparation facility as well.

23 Q And for those methane tests, again, would you be
24 testing for methane in the atmosphere within those
25 preparation facilities?

1 A Yes.

2 Q Would it be safe to say then that all of the tests
3 you took as an engineer or safety inspector and a
4 certified mine foreman during the five years you
5 spent at Consolidation Coal Company were tests for
6 atmospheric methane?

7 A Yes.

8 Q Did you ever take any bar-hole tests while you
9 were working for Consolidation Coal Company?

10 A No.

11 Q You said that since 1990 you've been with John T.
12 Boyd Company, correct?

13 A Yes.

14 Q And you're currently a vice-president there?

15 A Yes.

16 Q How long have you been a vice-president at John T.
17 Boyd?

18 A 1997 or 1998.

19 Q What is --

20 A I believe it was 1998.

21 Q What is the management structure at John T. Boyd
22 Company, by which I mean is there a president above
23 you?

24 A As you are aware, there is.

25 Q And how many vice-presidents are there at John T.

1 Boyd?

2 A I think seven, it might be seven or eight.

3 Q What are your job responsibilities as a
4 vice-president?

5 A They're diverse, and they primarily involve the
6 management of projects that we perform.

7 Q I'll ask you a question that assumes some basic
8 understanding of how law firms work. That's the
9 atmosphere I'm in so I'll use that as an example.
10 In a law firm new attorneys typically start as
11 associates. As they progress in their development,
12 they may be named senior associates, and then
13 they're named partners.

14 At John T. Boyd, is selection as a
15 vice-president equivalent to being selected as a
16 partner at a law firm?

17 A I don't know.

18 Q Are there any particular requirements for being
19 selected as a vice-president at John T. Boyd?

20 A I don't know.

21 Q Who made the decision to advance you to the
22 position of vice-president?

23 A I assume it would be the president of the company.

24 Q Is there a managing board of directors for John T.
25 Boyd Company?

1 A I don't know.

2 Q Is there a CFO?

3 A No.

4 Q Do you have any ownership stake in John T. Boyd
5 Company?

6 A No.

7 Q You mentioned that one of the job responsibilities
8 as a vice-president is project management. What
9 are some of the other job responsibilities?

10 A Interfacing with clients and providing service to
11 those clients.

12 Q How does John T. Boyd Company decide who to assign
13 to work on matters that are brought to the company?
14 To put it a different way, somebody calls John T.
15 Boyd Company with a project they'd like some
16 consulting or expert witness service. How is it
17 determined who will work on a given project?

18 A It depends on availability, client needs, existing
19 relationships, professional skills, travel
20 locations, and I'm sure there are other factors.

21 Q Do you know who makes those decisions, who decides
22 who will be assigned to a particular project?

23 A It depends on the project.

24 Q How does it depend on the project?

25 A It depends on where those -- the skill set or

1 personnel would be assigned. It depends on all the
2 factors I think I previously gave you, client
3 needs, the relationships, the locations, the
4 availability, preexisting commitments, things of
5 that nature.

6 Q Let me give you a more direct example. If
7 somebody were to call the Mechanicsburg,
8 Pennsylvania office of John T. Boyd Company and
9 state that they needed somebody to advise in a
10 methane remediation case or a case involving stray
11 gas, who would make the decision as to who would be
12 assigned to that project?

13 A It could be a vice-president or managing director
14 or a president.

15 Q I'd like to ask you just one or two questions
16 about your relationship with Ms. Lycourt-Donovan.
17 Paragraph 29 of your testimony, it states that you
18 are dating Ms. Lycourt-Donovan and that you have
19 known each other for more than three years; is that
20 correct?

21 A Yes.

22 Q Are you still dating Ms. Donovan today?

23 A Yes.

24 Q How long have you been dating Ms. Donovan?

25 A More than two years.

1 Q Are you and Ms. Donovan engaged?

2 A No.

3 Q Are you and Ms. Donovan living together?

4 A No.

5 Q How often do you see each other?

6 A Typically weekends.

7 Q Turn back to Exhibit 2. You'll see at the top
8 that it provides a summary of your expertise. Is
9 this an accurate description of your areas of
10 expertise?

11 A I think it's a summary of my expertise.

12 Q Is it a thorough summary of the areas in which you
13 would consider yourself an expert?

14 A I'm not quite sure how to answer that. I consider
15 myself to have expertise. I don't believe I'm able
16 to determine and define expert.

17 Q Fair enough. Are there areas in which you
18 consider yourself to have expertise in a
19 professional context that are not included in this
20 summary?

21 A I think the summary is intended to be general and
22 encapsulate -- there may certainly be fine or
23 technical areas or particular areas that I have
24 expertise involved within here, but I don't know
25 that I would profess to have expertise beyond this.

1 Q Would you consider yourself an expert on college
2 saving plans?

3 A I have no idea what you mean by that.

4 Q Well, this is Exhibit --

5 MR. GALLON: Mark this as Exhibit 3.

6 (Exhibit 3 marked.)

7 Q Mr. Weiss, I've asked the court reporter to hand
8 you an article that I've printed off of the
9 internet that's been marked as Exhibit 3. Do you
10 recognize this article?

11 A No, I do not.

12 Q Have you ever spoken with a woman named Michelle
13 Brunetti, to your knowledge?

14 A Not to my knowledge.

15 Q If you'll look at the sixth paragraph of this
16 article, which is titled "Saving for College 101,"
17 you'll see it begins with a quote, and I'll read
18 it, it says a 529 plan is frequently managed to be
19 aggressive when a child is young, says John Weiss,
20 financial consultant and vice-president of John T.
21 Boyd Company. Quote, it gradually becomes focused
22 on capital preservation, cash and bonds, as the
23 child approaches college age, end quote. Those are
24 other benefits of 529s.

25 Are you aware of any other vice-presidents

1 at John T. Boyd Company that share the name John
2 Weiss?

3 A No.

4 Q Do you consider yourself a financial consultant?

5 A No.

6 Q Have you ever been made aware that there is an
7 article on the internet in which a man with your
8 name and your position at John T. Boyd Company is
9 purportedly giving advice on college saving plans?

10 A No.

11 Q Are you familiar with a website called
12 thecutekid.com?

13 A No.

14 (Exhibit 4 marked.)

15 Q Mr. Weiss, can you identify the document that I've
16 asked the court reporter to mark as Exhibit 4?

17 A This appears to be a copy of my history of expert
18 witness testimony.

19 Q Is this document up to date?

20 A I think it is. I can't remember if I gave another
21 deposition after that, but I think it's up to date.

22 Q Is this a complete listing of the instances in
23 which you have provided expert witness testimony?

24 A I will qualify my answer by saying I became aware
25 a couple months ago there was an omission on here.

1 I believe it's been corrected. I can't recall the
2 specific one, but I believe it's a complete copy.

3 Q To your knowledge, are there any cases listed in
4 this document that do not relate to mines or
5 mining?

6 A Yes.

7 Q Which cases in this document do not relate to
8 mines or mining?

9 A For example, the top one on the list is a
10 valuation of reserves. Reserves are mineable, but
11 it is not in relation to a mine or mining. It is
12 related to a valuation.

13 Q Are there any other cases listed on Document
14 Number 4 that do not relate to mining or mines?

15 A Yes, the third one on the list, which is the
16 5/7/2013, was a contractual situation.

17 Q And the third one on the list is the deposition
18 you provided in a case in the United States
19 District Court for the Southern District of West
20 Virginia relating to damages due to alleged breach
21 of a coal supply agreement?

22 A Yes.

23 Q If you would review the remainder of the list and
24 let me know of any other cases on your record of
25 expert witness testimony that do not relate to

1 mines or mining.

2 A Yes, the second page includes testimony -- the
3 second one includes testimony regarding royalty
4 calculations, it's a financial matter. Likewise,
5 about the fifth or sixth one down, the 9/25 and
6 9/26 of 2006, relates to royalty rate fees,
7 management and marketing fees.

8 The next one is a -- 5/22/2006 was a shaft
9 construction site, which is not a mining site,
10 which involved a multiple fatality explosion caused
11 by methane at a shaft construction site.

12 The event of 7/7/2005 was a managerial
13 responsibility issue, not a mine or
14 mining-related -- it might have been on mine
15 property, but it was unrelated to mining
16 operations. I believe that's it.

17 Q Mr. Weiss, let me take those in order and ask some
18 clarifying questions. We'll start with the one at
19 the top of Exhibit 4 which is a deposition provided
20 in the State of New Mexico, County of Eddy, Fifth
21 Judicial District Court, regarding valuation of
22 alleged damage to potash reserves.

23 A Yes.

24 Q Can you tell me a little bit more about what that
25 case involved?

1 A A company, Devon Energy Production Company, LP,
2 and one of its subsidiaries, I'm not sure, drilled
3 a natural gas well in an errant location, and an
4 entity called Mosaic, M-o-s-a-i-c, operated a
5 nearby potash mine, filed a lawsuit for trespass
6 and damage.

7 Q What is potash?

8 A Potash is a naturally-occurring evaporite mineral.
9 It is found in horizontal beds in various locations
10 around the world. Basically it is used to create
11 fertilizer. I mean, there may be other uses, but
12 that's what it --

13 Q And if we could turn back to your testimony for a
14 moment, which is Exhibit 1. In Paragraph 15 you
15 mention this case, I believe. You state I am
16 presently involved in litigation between a gas
17 producer and a potash producer, and among the
18 elements of the case is whether there is potential
19 for gas inflow from gas wells into underground mine
20 workings. Have I read that correctly?

21 A Yes.

22 Q Is it your responsibility as an expert in that
23 case to provide testimony regarding whether there
24 is potential for gas inflow from gas wells into
25 underground mine workings?

1 A No.

2 Q What is your role in that case?

3 A It is now limited to the valuation of the damage.

4 Q Did you provide testimony at your deposition on
5 September 23rd of this year in that case on the
6 potential for gas inflow from gas wells into
7 underground mine workings?

8 A I did not.

9 Q If we could turn back to Exhibit 4, your record of
10 expert witness testimony. The second case I
11 believe you said that did not involve mines or
12 mining was the Southern District of West Virginia,
13 you provided deposition testimony in May of this
14 year regarding damages due to alleged breach of a
15 coal supply agreement, correct?

16 A Yes.

17 Q Your client it says was Bridgehouse Commodities
18 Trading Limited?

19 A My client was Williams Mullen, the law firm, who
20 was representing Bridgehouse Commodities Trading
21 Limited.

22 Q And were they the plaintiff or the defendant in
23 that case?

24 A The defendant.

25 Q Who was the plaintiff in that matter?

1 A I don't remember if it was Patriot Energy or
2 Patriot Coal Sales, Patriot Mining, Patriot
3 somebody.

4 Q Turning back to the final case that you referenced
5 in your record of expert witness testimony, the
6 matter for which you provided a deposition on
7 July 7, 2005, in the Circuit Court of Kanawha
8 County, West Virginia, and you state in this record
9 that --

10 A I'm sorry, which one are you on?

11 Q We're on Page 2. It is toward the bottom. It's
12 July 7, 2005, and it's the deposition in Kanawha
13 County, West Virginia. Are you --

14 A 7/7/2005.

15 Q That's correct. And you stated that you provided
16 testimony on managerial responsibility on mine
17 property during nonworking hours, correct?

18 A Correct.

19 Q Can you tell me a little bit more what the issues
20 in that case were?

21 A Yes.

22 Q Will you tell me a little bit more about what the
23 issues in that case were?

24 A An employee alleged horseplay and claimed mine
25 management had responsibility for conduct of other

1 persons on the property because he ended up with a
2 stick of pepperoni up his rear end. Asked and
3 answered.

4 MR. GALLON: Off the record, please.

5 (Discussion held off the record.)

6 Q If we could turn back to your testimony,
7 Mr. Weiss, same paragraph, 15, the question there
8 is did any of your expert witness work have
9 anything to do with methane, and the answer was, in
10 part, yes. I testified in a case where four coal
11 miners were horribly disfigured in a methane
12 ignition at a coal mine in Alabama.

13 Can you tell me which of the cases listed
14 on your record of expert witness testimony is the
15 case involving the disfigured coal miners?

16 A Yes, it's on the third page, March 12, 1998.

17 Q And what was the cause of the methane ignition at
18 that coal mine, at least in the opinion that you
19 provided in deposition in that case?

20 A My opinion and what I believe to be the opinion of
21 all personnel who I spoke to was a frictional
22 ignition where a continuous miner operation was
23 cutting, an arc was created and ignited a pocket of
24 methane.

25 Q You say a continuous mining --

1 A A continuous miner, it was a name of an
2 underground piece of production equipment.

3 Q Is this a large piece of production equipment?

4 A It weighs about 50, 60, 70 tons, so I would
5 consider it large.

6 Q I think we can all agree that 50 to 70 tons is
7 large. And you say it ignited methane?

8 A Yes.

9 Q And you said this was a frictional ignition. What
10 was rubbing together to cause the ignition?

11 A The carbide tips of the cutting bits on the
12 cutting drum of the machine when cutting mine
13 floor, which includes quartz and other minerals.

14 Q Who was the -- well, who were the plaintiffs in
15 that?

16 A There were four individuals.

17 Q They were the four miners who were injured in the
18 accident?

19 A Yes.

20 Q Were there any fatalities in that accident?

21 A No.

22 Q Who was the defendant in that matter?

23 A Joy -- I think it was Joy Technologies, Inc.

24 Q And was Joy Technologies, Inc. the company that
25 manufactured the continuous miner?

1 A Sort of.

2 Q What was their role in this litigation? Why were
3 they the defendant?

4 A They originally manufactured the machine which had
5 substantially been rebuilt since the manufacture.

6 Q And was it your opinion in that case that the mine
7 operator had failed to properly maintain the
8 equipment and that was what led to the ignition?

9 A Generally, that was part of it, but there were
10 other matters regarding potential for other
11 ignition sources which did not make sense to me,
12 and that is how Joy ended up being brought into the
13 case. I was defending on that. It was a product
14 liability.

15 Q I meant to follow up with you, on the second page,
16 approximately half way down, the case in Marshall
17 County, West Virginia, in May of 2006, you stated
18 that you provided testimony regarding an assessment
19 of multiple fatality explosion at a shaft
20 construction site; is that correct?

21 A Yes, it is.

22 Q And you said that the shaft is not a mine?

23 A That's correct.

24 Q What is a shaft in this context?

25 A The shaft is a construction site. It is a

1 construction site where a contractor, which had its
2 own operating identification number, was installing
3 a 24 or 26 or 28-foot in diameter shaft down into
4 the ground for the purposes of accessing an
5 underground coal mine, and -- well, that's what a
6 shaft construction site is. I don't remember if
7 there was any more to the question. I'm sorry.

8 Q I think I was asking what a shaft is. So this is
9 a mine shaft -- let me rephrase the question.

10 Why would a contractor be installing a
11 25-foot shaft to access an underground coal mine?
12 Were you -- was the company constructing an
13 aboveground facility that would connect to an
14 existing coal mine?

15 A The company contracted so as to have a shaft
16 installed to provide additional ventilation to the
17 underground mines.

18 Q So to some extent this one does involve a mine; it
19 is a shaft being constructed to access a mine,
20 correct?

21 A Actually, that's not correct. It was being
22 constructed for a mine. Until it connects, it was
23 not a part of the mine. It is not considered to be
24 part of the mine.

25 Q There was an existing mine though beneath where

1 the construction site was located, right?

2 A Generally, yes.

3 Q And what was your -- let me rephrase the question.
4 What were the topics of your testimony in that
5 case?

6 A The topic of my testimony was largely the
7 contractor sinking the shaft failed to properly
8 examine for methane and through its improper
9 actions caused the fatality that killed three men
10 and maimed three others.

11 Q Other than in this proceeding and the three cases
12 identified in Paragraph 15 of your testimony, have
13 you offered testimony in any other court or
14 regulatory proceeding that related to methane?

15 A Yes.

16 Q Is that court or regulatory proceeding also listed
17 on your record of expert witness testimony?

18 A Yes.

19 Q Which of the other matters on your record of
20 expert witness testimony related to methane?

21 A On 12/13/2012 is a case regarding -- a contractual
22 case involving force majeure, but part of the
23 reason for that is the presence of methane in the
24 underground mine workings that moved into and out
25 of sealed areas to contribute to the force majeure

1 event.

2 Q And what was the topic of your testimony in that
3 case?

4 A Generally the ability for the mine operator or
5 inability of the mine operator to safely operate
6 the mine and construct or reconstruct or
7 reventilate sealed areas -- construct or
8 reconstruct seals or ventilate ground sealed areas
9 I suppose I should put it.

10 Q Did you testify or offer an opinion on whether
11 methane was moving in and out of the sealed areas?

12 A No, it was clearly known and recognized by all
13 parties that it did so.

14 Q Are there any other cases on your record of expert
15 witness testimony other than the ones we've already
16 discussed that relate to methane?

17 A To some effects, yes. This would be -- there was
18 trial testimony on 7/2/2013 and proceedings and
19 depositions early on the same subject case number.
20 While my primary role was regarding subsidence,
21 there were elements related to underground mine
22 emissions, and I don't recall in two or three or
23 four days of testimony if I opined anything at all
24 on it, but that was not the primary basis of my
25 testimony.

1 Q Mr. Weiss, can you think of any other cases on
2 this list that would relate to methane beyond the
3 ones we've already discussed?

4 A I will qualify it that every mine -- every coal
5 mine is considered to be gassy and must adhere to
6 methane and ventilation rules and regs. To the
7 extent that there is something related to methane
8 in terms of cost and cost calculation, things like
9 that, I would say it's possible. I believe the
10 three I identified and to some extent the fourth
11 one, which I didn't because it wasn't an explosion
12 case, I believe that is primarily the ones related
13 to methane.

14 Q Other than in this proceeding, have you ever
15 offered testimony on how methane is generated?

16 A Testing my memory, but I doubt it.

17 Q Other than in this proceeding, have you ever
18 offered testimony regarding bar-hole testing?

19 A No.

20 Q Other than for this proceeding or for
21 Ms. Lycourt-Donovan or other residents of Graystone
22 Woods, have you ever performed bar-hole testing in
23 order to develop information to use in providing
24 testimony?

25 A No.

1 Q Before 2012 had you ever performed bar-hole
2 testing?

3 A No.

4 Q Other than in this proceeding, have you ever
5 offered testimony on whether the presence of
6 methane in the soil at or near the foundation of a
7 residence is evidence of a hazardous condition?

8 A No.

9 Q Other than in this proceeding, have you ever
10 offered testimony on the likelihood that methane in
11 the soil will migrate?

12 A No, I don't believe so. Can we take five?

13 Q Of course.

14 MR. GALLON: Off the record.

15 (Recess taken.)

16 (Exhibit 5 marked.)

17 Q Mr. Weiss, can you identify the document that the
18 court reporter has marked as Exhibit 5?

19 A This is Kathy Lycourt-Donovan's complaint.

20 Q Did you draft any portion of Ms. Lycourt-Donovan's
21 complaint?

22 A I would say I assisted.

23 Q Would it be fair to say that you helped provide
24 much of the research and argument for the formal
25 complaint?

1 A I don't know the definition of much, but I
2 assisted.

3 Q If you would turn to Appendix C to
4 Ms. Lycourt-Donovan's complaint. Are you familiar
5 with the document that is appended to
6 Ms. Lycourt-Donovan's complaint as Appendix C?

7 A Yes.

8 Q Did you prepare the questions that are listed in
9 Appendix C to Ms. Lycourt-Donovan's complaint?

10 A Some of them, yes.

11 Q Do you recall which ones you prepared?

12 A No.

13 Q Did you prepare most of the questions in
14 Appendix C?

15 A I don't know.

16 Q If you could turn to Appendix F to the same
17 complaint, which is a letter dated October 2nd,
18 2012. Are you familiar with this document?

19 A Yes.

20 Q Did you prepare the letter that is attached as
21 Appendix F to Ms. Lycourt-Donovan's complaint?

22 A I would have had input certainly.

23 Q Did you take fingers to keyboard to help draft any
24 portion of this letter?

25 A Very possibly.

1 Q Are you aware of any portion of Appendix F to
2 Ms. Lycourt-Donovan's complaint that you did not
3 draft?

4 A I wouldn't know whether I did or did not. I would
5 have certainly had input. Ultimately I did not
6 take authoritative responsibility for sending it.
7 I don't know.

8 Q I have the same question with regard to the letter
9 that is attached as Appendix H to
10 Ms. Lycourt-Donovan's complaint. Let's start off
11 with the question are you familiar with the letter
12 dated October 4th, 2012, that is attached as
13 Appendix H to Ms. Lycourt-Donovan's complaint?

14 A Yes.

15 Q Did you help prepare this letter?

16 A Yes.

17 Q Did you prepare the entirety of this letter?

18 A No.

19 Q Would you say that your role in the preparation of
20 the letter attached as Appendix H to
21 Ms. Lycourt-Donovan's complaint was similar to your
22 role in the preparation of Appendix F?

23 A Yes.

24 Q Can you identify any particular portions of
25 Appendix H that you developed?

1 A I'm sorry, could you --

2 Q Can you identify any particular portions of
3 Appendix H that you drafted?

4 A Particularly, no, but I would have had
5 participation in it.

6 Q Did you help any of the other residents of
7 Graystone Woods draft their formal complaints to
8 the Public Utilities Commission?

9 A Yes.

10 Q Which residents at Graystone Woods did you aid in
11 the preparation of their formal complaints?

12 A Mr. Jensen.

13 Q Kris Jensen?

14 A Yes.

15 Q In what way did you aid Kris Jensen in the
16 preparation of his formal complaint to the
17 commission?

18 A I talked to him numerous times. I don't recall if
19 I provided a Word version of anything or if
20 Ms. Lycourt-Donovan did.

21 Q Did you provide any other help to Mr. Jensen in
22 the preparation of his formal complaint to the
23 commission?

24 A I don't recall.

25 Q And did you help any other residents with the

1 preparation of their formal complaints?

2 A I don't know.

3 Q How did you first get involved in the stray gas
4 issues at Graystone Woods?

5 A Specifically I don't recall, but I am generally
6 aware that I probably received a call that Columbia
7 Gas turned her gas off.

8 Q I assume when you say you received a call, you
9 mean from Ms. Lycourt-Donovan?

10 A Yes.

11 Q Do you recall when the natural gas service to
12 Ms. Lycourt-Donovan's home was initially
13 interrupted?

14 A I believe it was May 31st, 2012.

15 Q And do you recall when Ms. Lycourt-Donovan first
16 learned of the interruption of gas service to her
17 home?

18 A The Sunday after that.

19 Q Do you remember what that date would have been?

20 A June 2nd, 3rd, 4th, whatever.

21 Q So you say the Sunday following May 31st, 2012,
22 Ms. Lycourt-Donovan called you regarding the
23 interruption of service to her home. What did she
24 tell you?

25 A I don't recall specifically other than the gas

1 being turned off.

2 Q Do you recall what your initial reaction to
3 learning this news was?

4 A I'm pretty certain I asked why.

5 Q Did she provide you with a reason for the
6 interruption in service?

7 A I don't recall specifically what she told me about
8 that.

9 Q When did you learn that Columbia Gas had
10 interrupted service to Ms. Lycourt-Donovan's home
11 because it had detected methane in the soil at or
12 near the foundation of her residence?

13 A Probably June 15th or 16th.

14 Q And where was it that you first learned Columbia's
15 stated reason for interrupting service to
16 Ms. Lycourt-Donovan's home?

17 A Could you repeat that?

18 (Said question read.)

19 MS. LYCOURT-DONOVAN: What are you asking
20 him, where was he or --

21 MR. GALLON: (Nodded.)

22 THE WITNESS: I'm sorry, could you
23 repeat the question one more time?

24 (Said question read.)

25 A Probably when I was in Ms. Lycourt-Donovan's home

1 on whatever that Monday was, June 11th, when
2 Mr. Kozak came to the house. That would have been
3 when I heard Columbia's stated reason.

4 Q Had you heard a different reason in the days
5 leading up to that meeting?

6 A Yes.

7 Q What was the reason that you had heard in the days
8 leading up to that June 11th or 12th, 2012 meeting
9 at Ms. Lycourt-Donovan's home?

10 A I had heard about stray gas and general confusion
11 about what it was, where it was, what one was
12 supposed to do, and what it meant.

13 Q Who had you learned these -- let me rephrase the
14 question. In the days leading up to the June 11th/
15 June 12th meeting at Lycourt-Donovan's home, who
16 had you talked to about the reasons why Columbia
17 Gas had interrupted service?

18 A Ms. Lycourt-Donovan and then some of the
19 neighbors.

20 Q Do you recall which neighbors?

21 A It would have been Mr. Jensen. It would have been
22 Mr. Insco, the Virtelbecks. I would think others,
23 but I don't recall specifically.

24 Q How did the June 11th or June 12th meeting at
25 Ms. Lycourt-Donovan's home last year come about?

1 A I believe it was arranged by Mr. Jensen.

2 Q Who was present at that meeting?

3 A I recall a kitchenful. Mr. Kozak was there.

4 Q Chris Kozak?

5 A Yes.

6 Q From Columbia Gas?

7 A Yes.

8 Q Was -- apology, I interrupted you.

9 A Ms. Donovan and her son, Mr. Jensen, and I do not

10 recall which, but I recall a roomful of neighbors,

11 so if it was five, if it was eight, I don't know.

12 Q What was the purpose of that meeting?

13 A Our purpose or Columbia's purpose?

14 Q What was the Graystone Woods residents' purpose

15 for that meeting?

16 A I think to find out what's going on.

17 Q Was that also your purpose for the meeting?

18 A Yes.

19 Q Did you identify yourself to Columbia Gas at this

20 meeting?

21 A I don't recall.

22 Q Do you recall whether you were identified as an

23 engineer at that meeting?

24 A I don't recall.

25 Q What was your role, if any, at that meeting?

1 A I asked a lot of questions.

2 Q And did Mr. Kozak provide answers to those
3 questions?

4 A I would say he provided cursory and guarded
5 answers to a few questions. He generally refused
6 to answer the questions on this list. And he said
7 basically that this is a problem on the part of the
8 developer, that residents should procure
9 alternative forms of energy, and they would take
10 our questions and get back.

11 Q You made a reference to a list of questions. Is
12 that the list of questions that is attached to
13 Ms. Lycourt-Donovan's complaint as Appendix C?

14 A Yes. I'm sorry, which was it, Appendix C?

15 Q Yes, that's correct.

16 A Yes.

17 Q So you and the other -- let me rephrase the
18 question. You and the residents at Graystone Woods
19 presented the list of questions that was attached
20 to Ms. Lycourt-Donovan's complaint as Appendix C on
21 June 11, 2012, correct?

22 A I'm sorry, could you repeat that?

23 Q The list of questions that is attached to
24 Ms. Lycourt-Donovan's complaint as Appendix C was
25 provided to Kris Kozak of Columbia Gas on

1 June 11th, 2012, correct?

2 A Yes.

3 Q At approximately what time of day was this list of
4 questions presented?

5 A I believe it was morning. I don't recall when.

6 Q And did Columbia provide responses to these
7 questions?

8 A Yes.

9 Q Are Columbia's responses to the questions in
10 Appendix C to Ms. Lycourt-Donovan's complaint
11 attached as Exhibit D to Ms. Lycourt-Donovan's
12 complaint?

13 A Yes.

14 Q When you and the residents of Graystone Woods
15 presented the questions attached at Appendix C to
16 Mr. Kozak, did you provide him with a deadline for
17 providing a response?

18 A I don't know if we provided a deadline. I fully
19 expected to have answers to each one of those
20 things on the spot. I'm fairly certain when he
21 said he wouldn't provide them, he would go back, I
22 think we said we wanted them immediately, but I
23 don't recall if immediately was a deadline.

24 Q And while we're looking through
25 Ms. Lycourt-Donovan's complaint, if you could turn

1 to Appendix E. Are you familiar with the document
2 attached to Ms. Lycourt-Donovan's complaint as
3 Appendix E?

4 A Yes.

5 Q Can you identify this document?

6 A Yes. It is the written questions, the Columbia
7 Gas answers placed to it, and then narrative
8 comment following some of the answers.

9 Q Who prepared the narrative comments following some
10 of the answers listed in Appendix E to
11 Ms. Lycourt-Donovan's complaint?

12 A Ms. Donovan and I.

13 Q Do you recall when those comments were prepared?

14 A Prior to the complaint, but I don't know.

15 Q Do you recall if the comments following some of
16 the responses in Appendix C were prepared for the
17 purpose of Ms. Lycourt-Donovan's complaint?

18 A No, I don't recall.

19 Q So you cannot remember why the comments in
20 Appendix C to Ms. Lycourt-Donovan's complaint were
21 prepared?

22 A I'm not sure I understand what you mean.

23 Q Why were the comments prepared -- let me rephrase
24 the question.

25 Why were the comments that are included in

1 Appendix E to Ms. Lycourt-Donovan's complaint as to
2 the written questions to Columbia Gas and Columbia
3 Gas' responses prepared?

4 A I believe to have it on the record as to the
5 invalid points of Columbia's responses.

6 Q Were they prepared so that you could attach this
7 document to Ms. Lycourt-Donovan's complaint?

8 A I don't know.

9 Q We discussed that you attended the June 11th, 2012
10 meeting with Columbia Gas' representative at
11 Ms. Lycourt-Donovan's home. I'd like to ask you
12 about a meeting that occurred a few months later.
13 You attended a meeting on or about September 17th,
14 2012, with various representatives from Columbia
15 Gas, correct?

16 A I think that was the date, yes.

17 Q And Seneca Builders' counsel was present at that
18 meeting, correct?

19 A Prior counsel, Mr. Haynam.

20 Q Correct. When I say counsel, I'm referring to
21 Doug Haynam, the prior counsel for Seneca Builders.

22 A Correct.

23 Q Who else was present at this meeting?

24 A Ron Hensley, Bill Petruzzi, I think there was
25 another individual from Hull, H-u-l-l, &

1 Associates, but I do not recall his name.

2 Mr. McCreery from Columbia was present, Mr. Kozak,
3 and there were two others present, but I cannot
4 recall their names.

5 Q So at the September 17, 2012 meeting -- let me
6 rephrase the question. Where was the meeting on or
7 about September 17, 2012 held?

8 A I believe it was Mr. Haynam's -- one of the
9 conference rooms at his law firm. I don't recall
10 the name of the firm.

11 Q Who invited you to attend that meeting?

12 A I don't remember if it was Mr. Haynam or if it was
13 Mr. Hensley.

14 Q Had you been retained as the consulting expert at
15 that point by any of the people attending that
16 meeting?

17 A No.

18 Q Had you been retained in any other capacity by any
19 of the people attending that meeting?

20 A No.

21 Q Were you representing Ms. Lycourt-Donovan at that
22 meeting?

23 A I considered my input to be assisting any of the
24 parties who had gas turned off or sought to have
25 gas turned back on, but I was -- obviously

1 Ms. Donovan's home was first and foremost on my
2 list.

3 Q But you had not been contractually retained by
4 either Seneca Builders, Hull & Associates, or Ron
5 Hensley, correct?

6 A Correct.

7 Q And you had not been contractually retained by
8 Doug Haynam, the then counsel for Seneca Builders?

9 A Correct.

10 Q Did Seneca Builders ever retain you as a
11 consultant?

12 A No.

13 Q Did Seneca Builders ever retain you as an expert
14 witness?

15 A No.

16 Q To your knowledge, was Doug Haynam representing
17 Ms. Lycourt-Donovan as of September 17, 2012?

18 A No.

19 Q To your knowledge, has Doug Haynam ever
20 represented Ms. Lycourt-Donovan?

21 A Not that I'm aware of.

22 (Exhibit 6 marked.)

23 Q Mr. Weiss, can you identify the document that has
24 been marked as Exhibit 6?

25 A This appears to be a Power Point presentation that

1 I discussed or viewed with representatives on that
2 September 17th meeting.

3 Q Did you prepare this Power Point presentation
4 yourself?

5 A Yes.

6 Q Did you have any input into this Power Point
7 presentation from Doug Haynam?

8 A No.

9 Q Did you have any input to this Power Point
10 presentation from Hull & Associates or its
11 employees?

12 A No.

13 Q Did Ms. Lycourt-Donovan provide you any input to
14 this document?

15 A I don't recall.

16 Q Did you go through the entire Power Point
17 presentation at this September 17th, 2012 meeting?

18 A Yes.

19 Q If you would turn to Page 31 of Exhibit 6. There
20 are two slides on this page. I'm focusing on the
21 second one with the title stray gas. Do you see
22 it?

23 A Yes.

24 Q I'd like to ask you about the bullet points in
25 this second slide on Page 31 of Exhibit 6. The

1 first one says test holes do not behave like wells,
2 correct?

3 A Correct.

4 Q What did you mean by test holes do not behave like
5 wells?

6 A Quite simply, the test holes are bar holes, simple
7 holes pounded into the ground with a steel bar or
8 some sort of bar, and when tests were taken in the
9 holes. If combustible gas was detected, that
10 combustible gas detection would effectively go to
11 dilution and dissipate rather than behaving like a
12 well which continues to flow.

13 So my description there was it does not
14 behave like a well wherein gas flows out of the
15 well and continues to flow out of the well.

16 Q In the next bullet point you state results show
17 entrained gas in soil; is that correct?

18 A That's what it says.

19 Q What does entrained gas in soil mean?

20 A That is intended to mean it shows what was in the
21 soil surrounding the void created by the bar hole,
22 and when the bar hole is extracted from the ground,
23 the low pressure of extracting the bar hole drew
24 entrained gas, and there was void space in the
25 soil. Whatever was entrained in the soil went into

1 the bar hole.

2 Q Which results were you referring to in the second
3 bullet point of the second slide on Page 31 of
4 Exhibit 6?

5 A Any positive detection of methane or any positive
6 detection of combustible gas.

7 Q Can you be more specific? Were there particular
8 positive detections that you were referencing in
9 that bullet point?

10 A The positive detection in the bar holes around the
11 Graystone Woods properties.

12 Q Are you referring to the positive detections that
13 were obtained by Columbia Gas through its bar-hole
14 tests?

15 A By Columbia Gas, by Hull & Associates, TTL, Toledo
16 Department of Environmental Services. There were a
17 number of entities that took bar-hole tests in
18 various locations.

19 Q And for the third bullet point of the second slide
20 on Page 31 of Exhibit 6, you state these results
21 are present elsewhere, correct?

22 A Correct.

23 Q What do you mean by these results?

24 A Positive detections.

25 Q And what do you mean by elsewhere?

1 A Elsewhere being other than Graystone Woods, such
2 as the documents provided by the Toledo Department
3 of Environmental Services which showed positive
4 detections in numerous locations.

5 Q Are you aware of positive detections of entrained
6 gas in the soil at or near the foundation of any
7 homes in Toledo outside of Graystone Woods?

8 A Service addresses or homes?

9 Q Homes.

10 A I don't know off the top of my head. I'd have to
11 go back through and look.

12 Q To your knowledge, are there any opinions you
13 expressed in the Power Point that you presented
14 last September at the meeting in Doug Haynam's
15 office that you no longer hold today?

16 A I don't know. I'm not really prepared to opine on
17 that. I was asked to provide my work papers and I
18 did so.

19 Q Did you use this Power Point in preparing your
20 expert testimony in this case?

21 A I believe I used the photos and the diagrams from
22 it or some form of them, yes.

23 Q You mentioned that at the September 17th, 2012
24 meeting at Doug Haynam's office there were perhaps
25 two representatives from Hull & Associates; is that

1 correct?

2 A Yes.

3 Q One of them is Bill Petruzzi?

4 A Yes.

5 Q What is Bill Petruzzi's position at Hull &
6 Associates?

7 A I don't recall.

8 Q And you cannot recall the name of the other person
9 present at that meeting?

10 A Correct, I can't recall.

11 Q Did you have any communications with any
12 representative from Hull & Associates regarding the
13 methane investigations at Graystone Woods?

14 A There was some discussion that day prior to the
15 meeting with Columbia Gas.

16 Q What was the substance of that discussion?

17 A The upcoming meeting with Columbia Gas, general
18 discussion about Hull's work for Mr. Hensley or for
19 Seneca.

20 Q Did the issue of whether the methane detected in
21 the soil at Graystone Woods was evidence of a
22 hazardous or potentially hazardous situation arise
23 during those communications?

24 A Yes.

25 Q Did the representatives from Hull & Associates

1 offer any opinions on whether the methane detected
2 in the soil at Graystone Woods was evidence of a
3 hazardous or potentially hazardous situation?

4 A Yes, they offered it wasn't.

5 Q And the two you spoke with you said were William
6 Petruzzi and one other individual whose name you
7 can't recall?

8 A That's still correct.

9 Q Are you aware of any written statements by Hull &
10 Associates expressing that the methane in the soil
11 at Graystone Woods is not evidence of a hazardous
12 or potentially hazardous situation?

13 A I don't recall how it was worded in writing, so I
14 don't know.

15 Q Did you speak with any other individuals at Hull &
16 Associates regarding their methane investigations
17 at Graystone Woods?

18 A I don't believe so. I couldn't swear to it, but I
19 don't believe so.

20 Q Did you ever speak with a gentleman by the name of
21 James Kirsch, K-i-r-s-c-h?

22 A I recall the name. I do not recall if I spoke to
23 him or I didn't.

24 Q You mentioned that there was another company that
25 had performed bar-hole testing at Graystone Woods.

1 I think you said it was TTL; is that correct?

2 A That's correct.

3 Q Did you ever speak with anyone at TTL regarding
4 the investigation of methane that they performed at
5 Graystone Woods?

6 A I don't believe I did.

7 Q Did you contact anyone at Hull in the course of
8 preparing your written testimony in this case?

9 A No.

10 Q Have you had any communications with anybody from
11 Hull & Associates regarding the methane
12 investigations at Graystone Woods since September
13 of 2012?

14 A Since September? There may have been discussion
15 after the meeting with Columbia Gas, but beyond
16 there, I don't believe so.

17 Q When you say there may have been a discussion
18 after that meeting, do you mean near in time to the
19 meeting but following the meeting?

20 A Immediately thereafter, within a day or two
21 thereafter.

22 Q So you can be fairly confident that you have not
23 spoken with anybody at Hull & Associates regarding
24 the methane investigation at Graystone Woods since
25 either late September of last year or early

1 October?

2 A I believe that's correct.

3 Q Did you have any communications with Hull &
4 Associates regarding the manner in which they had
5 conducted their investigation of methane at
6 Graystone Woods?

7 A I don't believe so, other than general discussion
8 about their testing, but I don't recall
9 specifically about the manner.

10 Q Did you have any discussions with representatives
11 from Hull & Associates regarding their interim
12 conclusions regarding the potential sources of the
13 methane detected in the soil at Graystone Woods?

14 A Other than what may have been encapsulated in the
15 hours a day or two prior to the meeting with
16 Columbia, I don't believe so.

17 Q Did you have any communications with any
18 representative from Hull & Associates regarding
19 their willingness to sign a written statement
20 expressing that it was safe to restore service to
21 Graystone Woods?

22 A I don't recall.

23 Q Can you recall whether Hull & Associates was
24 willing to sign a written statement expressing that
25 it was safe to restore service to Graystone Woods?

1 A It's my recollection that they were not willing to
2 execute such an agreement, but I do not know if I
3 recall that from a secondhand discussion from a
4 resident, from Mr. Hensley, or from someone else.
5 I don't know.

6 Q Do you recall hearing any explanation for why
7 Hull & Associates was not willing to sign a written
8 statement expressing that it was safe to restore
9 service to Graystone Woods?

10 A Yes.

11 Q What was the reason that they were not willing to
12 sign such a written statement?

13 A Generally that they were unwilling to take
14 Columbia's liability.

15 Q What does that mean, to take Columbia's liability?

16 A My understanding of the way I recollect, and
17 again, this is recollection, was that Columbia was
18 essentially looking for an indemnification of some
19 sort.

20 Q Did you ever see any written documentation
21 supporting the idea that Columbia was looking for
22 written indemnification from Hull & Associates for
23 potential liability at Graystone Woods?

24 A I know there are numerous references in a variety
25 of documents regarding sign-off or approval. I

1 don't recall specifically how it addresses
2 indemnification.

3 Q You helped Ms. Lycourt-Donovan conduct bar-hole
4 testing at Rogers High School and several other
5 locations in Toledo, Ohio, in early October of last
6 year, correct?

7 A Yes.

8 Q Did you take the bar-hole tests yourself?

9 A Yes. I either did it or I sat there and
10 supervised, but I was right there. I was one of
11 the guys pulling on the bar or putting the tube
12 down the hole or reading the detector. I probably
13 was the one who read the detector each time.

14 Q Who else was present for the bar-hole testing at
15 Rogers High School?

16 A The complainant, Ms. Lycourt-Donovan, her son,
17 John, and Mr. Jensen.

18 Q What was Ms. Lycourt-Donovan's role during the
19 taking of the bar-hole test?

20 A I know she didn't pound the bar into the ground,
21 nor did she pull it out.

22 Q Did she record the testing?

23 A I don't recall if it was her or John or Kris.

24 Q Who pounded the bar for the bar-hole test?

25 A Myself, Kris, or her son, John.

1 Q To what depth was the bar pounded into the ground
2 for the testing at Rogers High School?

3 A I recall that we marked the bar. I don't recall
4 if we marked it two feet or 30 inches.

5 Q How did you determine what depth the steel rod
6 should be driven into the soil to perform the
7 bar-hole test?

8 A I believe it was a combination of discussion
9 between Mr. Jensen, Kathy's observations of testing
10 that was performed, if Mr. Petruzzi had mentioned
11 it. I do not recall specifically. Our intention
12 was to mimic the approach used by Columbia Gas.

13 Q So you drove the bar into the soil either two feet
14 or 30 inches during the bar-hole testing at Rogers
15 High School because you were trying to mimic the
16 testing that Columbia Gas performed at Graystone
17 Woods?

18 A We tried to mimic the technique that Columbia
19 performed, yes.

20 Q But you can't recall exactly what the depth was or
21 where you heard that you were supposed to drive the
22 bar into the soil to that depth?

23 A The correct answer is yes, I don't recall
24 specifically.

25 Q What kind of equipment did you use to perform the

1 bar-hole test at Rogers High School?

2 A I don't recall specifically. It was a gas
3 detector, a calibration unit, and a sampling
4 bottle, and I don't recall -- I don't recall the
5 entity where -- the entity that rented it. I do
6 recall the device itself, but I don't recall the
7 make or the model.

8 Q You said you don't remember where you got the
9 equipment from?

10 A No, I remember exactly where we got the equipment
11 from. I just don't recall the name of the entity,
12 if it was Precision Labs or Data Lab. I don't
13 recall the name of the entity. It would be on the
14 receipt.

15 Q Where did you rent the equipment from?

16 A An office just outside of Pittsburgh,
17 Pennsylvania.

18 Q What was the name of that office?

19 A I don't recall the name of it. It was the company
20 building.

21 Q It was the company building?

22 A It was the building of the entity that rented the
23 detector.

24 Q What was the name of the entity that rented the
25 detector to you?

1 A That's what I said. I don't recall the name of
2 the entity that rented the detector. I don't
3 recall the specific model of the detector, nor do I
4 recall -- I do know it is on the receipt.

5 Q I see. So you rented the detector directly from
6 the entity that produces the make or model of the
7 gas detector that you used?

8 A I don't believe so.

9 Q Who paid for the rental of the gas detector,
10 calibration unit, and sampling bottle for the
11 testing at Rogers High School?

12 A Ms. Lycourt-Donovan.

13 Q What was the approximate cost of that rental?

14 A I'm guessing 5, 6, \$700. That included the
15 calibration.

16 Q Did you originally pay for the rental of the
17 testing unit and associated equipment?

18 A I don't think so. I don't recall, but I don't
19 think so.

20 Q Did Ms. Lycourt-Donovan receive any reimbursement
21 for the cost of renting the testing unit to your
22 knowledge?

23 A I certainly didn't, but I don't -- I don't know.
24 I don't know.

25 Q Is it safe to assume that you rented the gas

1 detector, calibration unit, and sampling bottle
2 because you did not own any of this equipment
3 yourself?

4 A That's correct.

5 Q Had you ever used that particular make and model
6 of gas detector before?

7 A No.

8 Q Did you have to read the instructions for the gas
9 detector before taking the bar-hole test at Rogers
10 High School in October, 2012?

11 A I don't think I had to read the instructions, but
12 I read every single instruction to a T.

13 Q Are you the kind of person who always reads the
14 instructions before you use a new piece of
15 equipment?

16 A Knowing this setting, I absolutely read it all.

17 Q Did you do any research on how to perform bar-hole
18 tests before you took the bar-hole tests at Rogers
19 High School in October, 2012?

20 A I believe I talked to the neighbors. I believe
21 I -- it probably came up in discussion with
22 Mr. Petruzzi. I probably did some looking on the
23 internet. As far as doing specific learning of it
24 or anything else, it certainly came across to me as
25 far less complex and difficult testing than the

1 underground mines. We have millions of cubic feet
2 and hundreds of guys, so, I mean, to me it's pretty
3 simple.

4 Q And just to clarify, before -- let me rephrase the
5 question. Was the bar-hole testing at Rogers High
6 School the first bar-hole tests that you ever
7 performed?

8 A No.

9 Q Where did you perform your first bar-hole tests?

10 A Around the foundation of Kathy's house.

11 Q Approximately what date did you perform the
12 bar-hole tests around Kathy's house?

13 A I don't recall if it was late September, early
14 October. The record is in here somewhere, but I
15 don't recall specifically.

16 Q Did you detect any methane in the soil around
17 Kathy Lycourt-Donovan's house when you performed
18 those bar-hole tests?

19 A I did not. Let me restate that. I did not find
20 any near the foundation. I did find some next to
21 the street.

22 Q Do you recall the readings you obtained near the
23 street when you conducted bar-hole testing at Kathy
24 Lycourt-Donovan's house in late September or early
25 October of 2012?

1 A No.

2 Q Did you maintain written records of the test
3 results you obtained when bar-hole testing at or
4 around Kathy's house in late September or early
5 October?

6 A No, I did not.

7 Q Did anyone else to your knowledge retain written
8 records of that testing?

9 A Not to my knowledge.

10 Q How many bar-hole tests did you perform at Kathy
11 Lycourt-Donovan's house on that occasion?

12 A A dozen, 15, I don't recall.

13 Q Where was the next place that you conducted
14 bar-hole testing?

15 A I believe next to the sidewalk across from
16 Mr. Hensley's house.

17 Q Did you obtain any readings of methane when you
18 conducted the bar-hole testing next to the sidewalk
19 at Mr. Jensen's house?

20 A Yes.

21 Q Do you recall what readings you obtained?

22 A No. I recall it was higher than it was at
23 Kathy's, but I do not recall what it was, but it
24 was a higher reading.

25 Q Did you bar-hole test at or near the foundation of

1 Mr. Jensen's home?

2 A Not that I recall. I don't believe I did.

3 Q What was the next location at which you conducted
4 bar-hole testing?

5 A I don't recall.

6 Q According to the documents that have been produced
7 by Ms. Lycourt-Donovan and the discovery responses
8 we've received from her, bar-hole tests were
9 performed at approximately eight locations; is that
10 correct?

11 A Perhaps, maybe five, that's the right approximate
12 number, yes.

13 Q And were those locations -- let me rephrase the
14 question. Did the locations at which you conducted
15 bar-hole testing include the post office that's
16 close to Graystone Woods?

17 A Yes.

18 Q Did it include Hawkins Elementary?

19 A I don't recall.

20 Q It did include Rogers High School, correct?

21 A Yes.

22 Q Did it include McTigue Junior High?

23 A That rings a bell, but I -- I believe so, but I
24 couldn't -- I don't recall.

25 Q Did it include Kaiser Elementary?

1 A I don't recall.

2 Q Did it include Toledo Environmental Services?

3 A Yes.

4 Q Where at Toledo Environmental Services did you
5 conduct bar-hole testing?

6 A Not too far from the front door, just kind of
7 walked along the front of the building.

8 Q Did you obtain any positive detections of methane
9 when you conducted bar-hole testing at Toledo
10 Environmental Services?

11 A No, I did not.

12 Q Did you perform bar-hole testing at a Montessori
13 school?

14 A I don't know.

15 Q Would it be fair to say that out of the several
16 locations you performed bar-hole tests you only
17 obtained positive detections of methane in one or
18 two locations?

19 A Yes.

20 Q Who chose the locations at which you performed
21 bar-hole tests?

22 A I think it was probably general discussion and
23 consensus between the four people taking the tests.

24 Q And what was the reason why so many public schools
25 were chosen as locations for bar-hole testing?

1 A Great place to do it, a great place to do it to
2 demonstrate that it's present elsewhere where their
3 kids are present where people will take notice.

4 Q Why was it beneficial to demonstrate that methane
5 is present in the soil where kids are present?

6 A Generally to put pressure on Columbia Gas to say
7 this is present elsewhere, you're aware that it's
8 present elsewhere, it's simple enough to run around
9 and do tests to prove it's present elsewhere.

10 Q How did you intend to put pressure on Columbia Gas
11 by conducting bar-hole tests?

12 A Basically to put it into the public domain and say
13 look, this is the reason that the Graystone Woods
14 gas has been turned off and it can be found
15 elsewhere.

16 Q The videotapes of the testing at Rogers High
17 School were placed on to YouTube, correct?

18 A Yes.

19 Q Who uploaded those videos to YouTube?

20 A I believe it was Kathy's son.

21 Q John?

22 A Yes.

23 Q Were any other videos of your bar-hole testing
24 recorded?

25 A Yes.

1 Q Were any other videos of your bar-hole testing
2 uploaded to YouTube?

3 A Not that I am aware of.

4 Q Were the videos or results of the bar-hole testing
5 that you, Ms. Lycourt-Donovan, her son, John, and
6 Kris Jensen performed shared publicly through a
7 means other than YouTube?

8 A Yes.

9 Q Through what other means were the results of your
10 bar-hole testing shared publicly?

11 A They were listed in the complaint.

12 Q Any other means of publicizing the results of the
13 bar-hole tests?

14 A I am not aware of any. I don't recall any if
15 there are.

16 Q Did you make any efforts to share the results of
17 the bar-hole testing that you and Ms. Donovan and
18 her son and Kris Jensen performed with media
19 sources in Toledo?

20 A I did not.

21 Q Did Kris Jensen make any efforts that you're aware
22 of to share the results of the bar-hole testing
23 with media sources in Toledo?

24 A I don't know.

25 Q Did Ms. Lycourt-Donovan make any efforts to share

1 the results of the bar-hole testing with media
2 sources in Toledo?

3 A I don't know.

4 Q Did Kris or John make any efforts to share the
5 results of the bar-hole testing with media sources
6 in Toledo?

7 A I don't know. Can we take five?

8 Q Of course.

9 (Recess taken.)

10 Q I just have a couple more questions, and then we
11 can move to the substance of your testimony,
12 Mr. Weiss.

13 You have participated in several of the
14 conferences with the Public Utilities Commission
15 that were scheduled as part of the proceedings for
16 which we're here today, correct?

17 A Yes.

18 Q You participated in the commission ordered
19 settlement conference in November of 2012, correct?

20 A Yes.

21 Q And on whose behalf did you attend that
22 conference?

23 A Ms. Lycourt-Donovan.

24 Q And you traveled to Columbus in January of this
25 year with Ms. Lycourt-Donovan to engage in

1 settlement communications with Columbia's counsel,
2 correct?

3 A Yes.

4 Q And in February --

5 A I -- I was with Ms. Leslie. I mean, I consider
6 you Columbia's counsel.

7 Q Yes. Thank you for the clarification. You
8 traveled to Columbus in January of this year with
9 Ms. Lycourt-Donovan to engage in settlement
10 communications with Columbia's in-house counsel,
11 Brooke Leslie?

12 A Yes.

13 Q And in February of this year you called into a
14 conference call with Attorney Examiner Scott Farkas
15 and took notes on Ms. Lycourt-Donovan's behalf,
16 correct?

17 A I don't recall the date.

18 Q And in Toledo -- in April of this year you
19 traveled to Toledo with Ms. Lycourt-Donovan to --
20 let me rephrase that question.

21 In April of this year you attended a
22 settlement meeting with me and Kris Kozak at the
23 Toledo mayor's office, correct?

24 A Yes.

25 Q Did you participate in any other settlement

1 conferences relating to these consolidated
2 proceedings?

3 A I'm not aware of any.

4 Q You attended a telephone conference with Attorney
5 Examiner Jeff Jones in this proceeding in July of
6 2013, correct?

7 A Yes.

8 Q Have you attended any other telephone conferences
9 with Attorney Examiner Jones except the one this
10 afternoon?

11 A I don't recall if there were others. My
12 recollection is there weren't others, but if there
13 were, I don't recall.

14 Q Have you ever been retained to provide expert
15 witness services to or consulting services to Bruce
16 Roth?

17 A No.

18 Q Have you ever been retained to provide expert
19 witness or consulting services to Ryan Roth?

20 A No.

21 Q Have you ever been retained to provide expert
22 witness or consulting services to RAP Investments,
23 Inc.?

24 A No.

25 Q And we've already confirmed that you've never been

1 retained to provide expert witness or consulting
2 services to Seneca Builders, correct?

3 A Correct.

4 Q If we could turn now to your testimony, I have a
5 few questions to ask you regarding the substance of
6 your opinions.

7 In Paragraph 37 of your testimony, in your
8 description of the concept of volume, you say it is
9 common to measure volumes of methane and natural
10 gas in cubic feet; is that correct?

11 A Yes.

12 Q What do you mean by common?

13 A Common, frequently, it's often done that way.

14 Q In what industries is it common to measure volumes
15 of methane and natural gas in cubic feet?

16 A It's common on the gas bill where it comes in --
17 the amount of gas measured in cubic feet, so I
18 guess the gas industry to start with and other
19 industries, I believe, as well.

20 Q Do you know whether it is common in the methane
21 remediation industry to measure volumes of methane
22 in cubic feet?

23 A I'm not aware of what's entailed by the methane
24 remediation industry.

25 Q You're not familiar with the methane remediation

1 industry?

2 A I didn't know there was a specific industry as
3 such.

4 Q If you could turn the page to Paragraph 40. The
5 question there is how does one measure the
6 concentration of methane, and you respond methane
7 can be measured with great precision in laboratory
8 settings using sophisticated testing equipment.
9 What is the basis for that statement?

10 A My training, education, experience over the last
11 30-some years.

12 Q Have you measured methane in the laboratory
13 setting since you graduated from college?

14 A No.

15 Q Did you measure methane in the laboratory setting
16 while you were at Pennsylvania State University?

17 A No.

18 Q In what settings, if any, have you ever measured
19 methane in the laboratory setting?

20 A I don't recall that I have done work in a
21 laboratory for this purpose.

22 Q So, to your recollection, you have never measured
23 methane in a laboratory setting?

24 A That's correct. That's not part of my basis and
25 skill. I know it exists. I know it's done.

1 Q In the same paragraph you say, quote, methane can
2 be measured to acceptable levels of accuracy in
3 various commercial, residential, or industrial
4 settings by using commercially available
5 instruments. What is the basis for that statement?

6 A My training, education, and experience.

7 Q By which you mean your work in coal mines and your
8 subsequent consulting and expert witness experience
9 at John T. Boyd?

10 A I would use my entire education, experience, and
11 training dating back to my days at Penn State.

12 Q We discussed earlier that when you conducted
13 bar-hole testing along with Ms. Lycourt-Donovan,
14 Mr. Jensen, and Ms. Lycourt-Donovan's son, you were
15 trying to mimic the manner in which Columbia Gas
16 performed bar-hole testing; is that correct?

17 A Generally speaking, yes.

18 Q Did you witness any of Columbia's bar-hole testing
19 at Graystone Woods?

20 A I did not.

21 Q If we could turn to Paragraph 44 of your
22 testimony. In Paragraph 44 you describe how one
23 determines if combustible gas in a bar hole is
24 stray gas or natural gas leaking from a pipe,
25 correct?

1 A Yes.

2 Q Have you ever had to make a determination as to
3 whether methane detected in soil was stray gas or
4 natural gas leaking from a pipe?

5 A I think the answer is yes. Just as some practical
6 construction-related stuff, I'm aware of backhoes
7 encountering pipes and things like that on sites
8 that I've been present at, so, practically, yes.

9 Q Was this while you were working for Consolidation
10 or subsequent to your work for that company?

11 A It may have occurred during that period. I doubt
12 it. I do recall a specific event in a place in
13 West Virginia where a mine operator -- it wasn't a
14 mine operator. It was a contractor hit a pipe near
15 a mine office, and they capped it, and everybody
16 stood there and said wow, there's gas coming out of
17 the pipe.

18 Q So from your experience in witnessing accidents in
19 which contractors hit natural gas pipeline
20 facilities, you have personal experience that gas
21 from those facilities is modified with mercaptan so
22 that it has a poor smell?

23 A I think there's more to it. I mean, I know
24 there's mercaptan in it. I don't recall what -- I
25 learned that in my career.

1 Q Most adults know that natural gas in a pipeline
2 facility contains mercaptan so that it has an odor,
3 correct?

4 A I think it's the other way around. I think most
5 adults know the odor of natural gas and assume it's
6 natural gas but don't realize it's mercaptan.

7 Q Have you ever had to identify or make a
8 determination as to whether methane in soil was
9 stray gas or natural gas leaking from a pipe when
10 the odor of mercaptan was not present?

11 A No, that's not a part of my expertise. I don't
12 think it's really the basis of any of this.

13 Q If you look at Page 44, and you say that the only
14 certain way to positively identify a combustible
15 gas is to collect select a sample for chemical
16 analysis, and then you go on to describe how the
17 sample is collected and what testing that sample
18 indicates. What is the basis for that portion of
19 your answer to Question 44?

20 A Which portion, the -- starting where, the only
21 certain way?

22 Q Yeah. Let me read the portion I'm talking about.
23 In Question 44 of your testimony, part of your
24 response states as follows, quote, the only certain
25 way to positively identify a combustible gas is to

1 collect a sample for chemical analysis. A small
2 sample is bottled and tested in a lab setting.
3 This provides proof as to whether the combustible
4 gas in the bottle sample is consistent with the
5 chemical properties of local pipeline gas or if it
6 is not, end quote.

7 What is the basis for that portion of your
8 response?

9 A That's just the result of my education, training,
10 experience.

11 Q Have you ever witnessed a gas sample being
12 collected from the soil and sent off for testing in
13 the laboratory other than when you yourself
14 collected a gas sample at Rogers High School?

15 A First, I didn't collect a gas -- we measured a gas
16 concentration.

17 Q Okay.

18 A So that would differentiate there.

19 Q Thank you for correcting me. Let me rephrase the
20 question then.

21 Have you ever witnessed a combustible gas
22 being -- let me rephrase that. Have you ever
23 witnessed a combustible gas sample being collected
24 from soil, bottled, and sent off for testing?

25 A I have witnessed many, many gas samples collected.

1 I have not witnessed soil gas samples collected.

2 Q And have you ever tested a sample of combustible
3 gas from the soil in a lab setting to determine
4 whether it is consistent with the chemical
5 properties of local pipeline gas?

6 A No, I have not.

7 Q In Paragraph 45 you state that Columbia did not
8 collect gas samples near the foundation of
9 Ms. Lycourt-Donovan's home; is that correct?

10 A Correct.

11 Q Is --

12 A Yeah, I correctly answered the question asked in
13 45.

14 Q And in Question 45 you stated that Columbia did
15 not collect and analyze gas samples from any bar
16 holes within five feet of the foundation of
17 Ms. Lycourt-Donovan's residence so as to confirm
18 that their alleged gas detections are indeed stray
19 gas.

20 A Prior to Columbia's interruption of natural gas
21 service to the Plaintiff on May 31st, 2012, and my
22 answer was no, Columbia did not as evidenced by
23 their discovery response.

24 Q Is the Columbia discovery response attached as
25 Attachment JLW01 to your testimony your sole basis

1 for the conclusion that Columbia did not collect
2 and analyze gas samples from any bar holes within
3 five feet of the foundation of Ms. Donovan's home
4 on or before May 31, 2012?

5 A Yes, that's what Columbia responded to with
6 Ms. Lycourt-Donovan's request for production.

7 Q You have no personal knowledge of where Columbia
8 did or did not collect gas samples, correct?

9 A I believe Columbia -- there are a couple -- I
10 believe -- let me start over.

11 I'm aware that there is discovery
12 evidence, requests to responses to production of
13 documents, that shows the addresses of a couple of
14 the bottle samples. I don't recall what the
15 addresses were. I thought one was 2107. I don't
16 recall the other one. Neither was from
17 Ms. Donovan's home.

18 Q Is it your opinion that Columbia did not detect
19 methane in the soil at or near the foundation of
20 Ms. Lycourt-Donovan's home at any time?

21 A I don't believe Columbia detected it at any time
22 prior to June 14, 2012.

23 Q So you accept that Columbia did detect methane in
24 the soil at or near the foundation of
25 Ms. Lycourt-Donovan's home on at least June 14th of

1 2012?

2 A I accept that Columbia reported that they detected
3 that. While they wouldn't allow the residents to
4 photograph it, videotape it, observe the meter, I'm
5 aware that that's what Columbia reported.

6 Q Is it your opinion that the methane that Columbia
7 reported that it detected in the soil at or near
8 the foundation of Ms. Lycourt-Donovan's home on
9 June 14th, 2012, was not stray gas?

10 A Is it my opinion that it's not stray gas? No.

11 Q So you accept that the methane that Columbia
12 reported detecting at or near the foundation of
13 Ms. Lycourt-Donovan's home on June 14th, 2012, was
14 stray gas?

15 A Columbia reported that they detected stray gas.
16 I'm not questioning that they reported that.

17 Q Do you question whether the methane that they
18 report detecting was actually from their
19 facilities?

20 A I don't have an opinion one way or another. I
21 believe it was.

22 Q So you're not offering an opinion in this matter
23 as to the provenance of the methane that Columbia
24 reported detecting at or near the foundation of
25 Ms. Lycourt-Donovan's home?

1 A Correct.

2 Q If we could turn to Paragraph 49 of your
3 testimony. In Paragraph 49 you talked about the
4 Cameron Creek case that was heard by the Public
5 Utilities Commission and eventually ruled upon by
6 the Ohio Supreme Court, correct?

7 A Yes.

8 Q You say that, quote, among the issues in Cameron
9 Creek was whether there was adequate ventilation to
10 dilute carbon monoxide to acceptable levels, end
11 quote. Is that correct?

12 A Yes.

13 Q On what do you base that opinion?

14 A Just having read some of the discussion in the
15 Cameron Creek findings that the question -- the
16 verbiage of dilution came up into play, and I
17 wanted to include that in here.

18 Q And why did you want to include that in there?

19 A It's extraordinarily helpful with this case, that
20 the dilution of tiny, tiny volumes of methane,
21 which were harmless to start with, further
22 enhances -- or further demonstrates the safety of
23 the situation, that dilution is an effective means
24 of making the situation entirely safe.

25 Q Did you review the commission's orders, opinions

1 and orders and entry under hearing in Cameron
2 Creek?

3 A I don't recall specifically what I reviewed. I
4 reviewed a lot of documentation. I don't recall
5 specifically which items I reviewed or not
6 reviewed.

7 Q So can you recall whether you read the expert
8 testimony that was submitted by the expert witness
9 retained by Cameron Creek Apartments?

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

11 Q Do you recall whether you read the Supreme Court
12 briefs, by which I mean the filings in the Supreme
13 Court by the parties to that appeal?

14 A I don't recall.

15 Q Do you recall whether you read the Supreme Court
16 opinion?

17 A If that was what came out in August this year, I
18 believe I read that, yeah. Well, I did read that.

19 Q If we could turn to Paragraph 54. You state in
20 Paragraph 54 that the concentrations reported in
21 the bar-hole tests, quote, vary from day to day.
22 Which reported concentrations are you referring to
23 in your answer to Question 54?

24 A Any concentrations in the bar hole samples
25 reported by Columbia, TTL, or Hull showed

1 significant variation depending on when they were
2 taken.

3 Q You also say that the fact that the concentrations
4 reported in the bar-hole tests are, quote, not
5 consistent and repeatable means that they are not,
6 quote, a reasonable basis to say that there are
7 hazardous conditions at the residences on Oakside
8 Road; is that correct?

9 THE WITNESS: I'm sorry, could you
10 read back the question? I was reading
11 along and I got cut off.

12 (Said question read.)

13 A That wasn't my -- what I said was the
14 identification of a specific concentration reading
15 is not a basis for proclaiming a hazardous
16 condition, nor is it a basis that warrants the
17 interruption of natural gas service. In other
18 words, the concentration itself is not a hazardous
19 condition.

20 Q Let me direct you to the text of the question in
21 54. The question says, quote, but what about the
22 concentrations reported in the bar-hole tests,
23 aren't these concentrations a reasonable basis to
24 say there are hazardous conditions at Complainant
25 Ms. Lycourt-Donovan's residence or other residences

1 on Oakside Road, and you respond no. The
2 concentrations reported vary from day to day. They
3 are not consistent and repeatable. They bleed off
4 rapidly. And then you go on to say what you just
5 read.

6 A Correct.

7 Q So my question relates to the part where you say
8 they are not consistent and repeatable. Why is the
9 fact that the concentrations are not consistent and
10 repeatable one of the reasons you conclude that
11 they're not evidence of a hazardous condition at
12 Oakside Road?

13 A First and foremost, the lack of repeatability
14 demonstrates this is not something that's, first of
15 all, consistently present with a pressure source
16 that continues to flow.

17 The demonstration of a concentration in a
18 tiny, tiny volume contained within the diameter of
19 the bar hole of some concentration that then goes
20 to zero demonstrates there is stray gas in soil
21 periodically depending on a whole bunch of factors.

22 That in itself isn't an unreasonable basis
23 to say let's do some other testing. Other testing
24 includes the atmosphere around, in, and -- in the
25 homes themselves. That is demonstrating that the

1 periodic and occasional detection isn't a hazard.

2 Q Are you aware that Columbia has reported that it
3 has detected methane inside one of the homes on
4 Graystone -- in Graystone Woods?

5 A I'm aware that Columbia reported detecting one
6 percent LEL at 2107 is what Columbia reported.

7 Q Is it your opinion that the methane that Columbia
8 detected in the basement at 2107 Oakside Road did
9 not come -- migrate from the soil outside that
10 residence?

11 A I do not know where that purported detection came
12 from, and I believe there is an outstanding
13 discovery request as to proving where it did come
14 from.

15 Q So to clarify, you are aware that Columbia has
16 reported that it detected methane in the atmosphere
17 inside the home at 2107 Oakside Road, correct?

18 A I am aware that Columbia reported they detected
19 one percent LEL.

20 Q Are you offering as opinion in this case as to
21 where the methane that Columbia reported detecting
22 at 2107 Oakside Road came from?

23 A No.

24 Q Is it possible that the methane that Columbia
25 reported detecting in the basement of Megan

1 Simmons' house on Oakside Road came from natural
2 gas in the soil outside her home?

3 A Is it possible? Anything's possible.

4 Q And to return to what we were discussing before we
5 began discussing Megan Simmons' basement, is it
6 your opinion that unless methane in soil is shown
7 to be consistently present and from a pressurized
8 source that it is never a hazard or potential
9 hazard?

10 A I don't think I've gone that far as to say
11 anything of that sort. What I've said is the
12 situation present at Ms. Lycourt-Donovan's home and
13 at the other homes that I am aware of is not a
14 hazardous situation, it's not an imminent or
15 verified safety threat, and I know of no one at
16 Columbia Gas who believes it is.

17 Q Do you know of anybody other than yourself who has
18 been willing to come out and state publicly and in
19 writing that it is not a safety hazard?

20 A I don't know. I'd have to go through all the
21 records and files. I don't know.

22 Q If we could turn to Question 55. In Question 55
23 you state, quote, I personally conducted methane
24 tests of the atmosphere surrounding Complainant
25 Ms. Lycourt-Donovan's home, and I did not find

1 detectable concentrations of methane. Do you see
2 that? It's Lines 19 through 21.

3 A Yes.

4 Q When did you conduct methane tests of the
5 atmosphere surrounding Ms. Lycourt-Donovan's home?

6 A Whatever that date was in September, October. I
7 don't recall the dates.

8 Q Was it the same date that you performed the
9 bar-hole testing at Ms. Lycourt-Donovan's home?

10 A Yes.

11 Q And what equipment did you use to conduct methane
12 tests of the atmosphere surrounding
13 Ms. Lycourt-Donovan's home?

14 A It would be the same testers and calibration unit
15 as the bar hole. It would have been the same
16 material.

17 Q So you used the same equipment that you had used
18 to conduct the bar-hole tests at
19 Ms. Lycourt-Donovan's home to conduct methane tests
20 of the atmosphere surrounding her home?

21 A Yes.

22 Q And did you keep any records of the results of the
23 methane tests of the atmosphere surrounding
24 Ms. Lycourt-Donovan's home that you conducted?

25 A I didn't keep any. It was all zeroes. I had no

1 reason to keep a list of zeroes when I know it was
2 zero.

3 Q In that same paragraph you say, quote, there is no
4 evidence of any methane concentrations approaching
5 or within the explosive range in the atmosphere
6 surrounding Complainant's residence or other
7 Oakside residences. Do you see that on Lines 21
8 through 23 of the first page of Question 55?

9 A Yes.

10 Q Did you conduct methane tests of the atmosphere
11 surrounding any other residence other than
12 Ms. Lycourt-Donovan's home at Graystone Woods?

13 A I believe I stated I went over to Mr. Jensen's
14 yard near his sidewalk, but I didn't walk around
15 other homes.

16 Q So what is the basis for your statement that there
17 is no evidence of any methane concentrations
18 approaching or within the explosive range in the
19 atmosphere surrounding the other Oakside
20 residences?

21 A I think the basis is I've seen no evidence of any
22 sort.

23 Q If we could look at the second full paragraph in
24 your response to Question 55, which starts on the
25 next page with the word next.

1 A Yeah, the page number didn't come out.

2 Q Fortunately we have the paragraph number so at
3 least we can find it that way. The second full
4 paragraph states next, any methane that is present
5 in the ground is essentially confined, correct?

6 A Correct.

7 Q What is the basis for your opinion that any
8 methane that is present in the ground at Graystone
9 Woods is essentially confined?

10 A Well, if it's in the ground, it's in the ground.
11 There's void space in soil. If there's methane in
12 the void space, it resides in the void space. If
13 methane comes into the atmosphere, and it's a big
14 atmosphere, it's diluted. If there's -- there's
15 methane in the soil, it's confined in the soil.

16 Q Or it can be released into the atmosphere where it
17 becomes diluted, correct?

18 A Yes.

19 Q Do you deny that methane that is present in the
20 soil can migrate within the soil?

21 A I do know and recognize that methane and other
22 soil gases can migrate along the path of least
23 resistance and the methane in the soil can move and
24 migrate. I think the assertions that methane will
25 migrate into specific residences, I don't think

1 there's any basis of that. I don't think there's
2 any basis of any sort along that.

3 Is the question is there a theoretical?
4 It's a whole different ball game. But
5 theoretically is not the issue here. The question
6 is does it, will it, is there a likelihood. The
7 answer is no. So migration, soil gas can and does
8 move.

9 Q And you said soil gas tends to migrate along the
10 path of least resistance, correct?

11 A Correct.

12 Q So sometimes the path of least resistance may be a
13 buried pipeline or sewer line, correct?

14 A It could be.

15 Q And why is it possible that a buried pipeline or
16 sewer line might present the path of least
17 resistance for soil gas?

18 A Why might it? Composition of it different from
19 the native soil surrounding it perhaps, that may be
20 a reason. I don't know that it is or that it is
21 not.

22 Q You have no opinion on whether the buried natural
23 gas facilities in Graystone Woods or the buried
24 sewer lines in Graystone Woods might present a
25 preferential pathway or path of least resistance

1 for the methane in the soil at Graystone Woods?

2 A I have an opinion that it may or may not, but I do
3 not believe that there is any indication that it
4 does.

5 Q Later on in your answer to Paragraph 55, I believe
6 it's the third full paragraph, you say, quote, I
7 personally tested for combustible gas throughout
8 Complainant's garage, home, and basement with a
9 combustible gas indicator that was calibrated on
10 each day of use.

11 A Correct.

12 Q Is this the atmospheric methane testing that we've
13 already discussed?

14 A Yes.

15 Q If you turn to the next page, Line 2, which is the
16 page above where Question 56 begins, in the first
17 full sentence you state neither Columbia nor the
18 Toledo Fire Department informed Oakside residents
19 that there was a hazardous condition at their
20 homes. Do you see that?

21 A Yes.

22 Q Did you interview each of the residents of Oakside
23 Road to determine the truth of that statement
24 before including it in this testimony?

25 A Did I interview them?

1 Q Yes.

2 A I did not interview them.

3 Q What is the basis of your statement that Columbia
4 did not inform Oakside residents that there was a
5 hazardous condition at their home?

6 A I believe my basis goes back to are the bar-hole
7 tests a reasonable basis to say there are hazardous
8 conditions -- this is Question 54 -- at
9 Complainant's residence or other residences on
10 Oakside Road, and Columbia's notification letter on
11 May 31st said -- it said what it said. We have the
12 letter in evidence. I don't have it right in front
13 of me. But there was no notification of a
14 hazardous condition.

15 Q If you could turn back to Exhibit 5, which is
16 Ms. Lycourt-Donovan's complaint in this matter, and
17 turn to Appendix A. Is that the May 31st, 2012
18 letter that you were just referring to?

19 A Yes.

20 Q And you stated that this letter does not state
21 that there is a hazardous condition at the homes
22 that we're dealing with?

23 A Correct.

24 Q The letter does state that natural gas service has
25 been interrupted, correct?

1 A Yes.

2 Q And it says that Columbia Gas of Ohio has detected
3 gas of an undetermined source and your service is
4 off to ensure your safety, correct?

5 A With the typos, yes.

6 Q I corrected one of the words there, it was
7 mistyped. And in the second paragraph, it goes on
8 to say Columbia Gas is working with the Toledo Fire
9 Department to determine a resolution and to ensure
10 your safety, correct?

11 A That's what it says.

12 Q So why do you state that this letter does not
13 inform the residents of Graystone Woods that there
14 is a hazardous condition at their homes?

15 A First of all, it doesn't say so. Secondly, other
16 than the fact that the residents all say they got
17 the same letter, I don't know how far or wide this
18 got distributed. I know it got distributed at
19 Graystone, but beyond that I don't, but the reality
20 is there's nothing that says anything was a hazard
21 or what was detected or where it was detected.

22 Q So you do not interpret the words, again,
23 correcting for a typo, your service is off for
24 your -- to ensure your safety and Columbia Gas is
25 working with the Toledo Fire Department to

1 determine a resolution and to ensure your safety as
2 indicating that they believe that the presence of
3 gas of an undetermined source is a hazardous
4 condition?

5 A It doesn't indicate that to me whatsoever that
6 Columbia believed anything was hazardous.

7 Q And is that because it does not use the word
8 hazardous?

9 A Absolutely. If someone thought something was a
10 hazard and would allow people to live in their
11 homes with it, I think that's terrible. I think
12 it's terrible.

13 Q But, again, to focus on the language of the
14 letter, your primary reason for concluding that
15 this letter does not inform the residents of
16 Graystone Woods that the presence of gas of an
17 undetermined source is a safety hazard is that it
18 does not use the words hazard or hazardous?

19 A There are many reasons. That's one, that it
20 doesn't say it's hazardous. It doesn't say what
21 was detected, where it was detected. It doesn't
22 say how anyone's affected.

23 Q Have you ever spoken with anybody from the Toledo
24 Fire Department regarding their communications with
25 the residents of Graystone Woods?

1 A I don't believe so.

2 Q Have you ever spoken with any of the residents of
3 Graystone Woods regarding their communications with
4 the Toledo Fire Department?

5 A Yes.

6 Q Which residents at Graystone Woods did you discuss
7 their communications with the Toledo Fire
8 Department with?

9 A Mr. Jensen, and there may be others, but I don't
10 know specifically.

11 Q If we could turn back to your testimony,
12 Mr. Weiss, and I'd like to direct your attention to
13 Paragraph 59, and the question there is, quote,
14 what would cause considerable variation in
15 combustible gas concentrations in bar-hole tests,
16 correct?

17 A Yes.

18 Q And your response begins to start with, soil is
19 not homogenous. There is natural variation in the
20 composition of soil, and this becomes even more so
21 in areas where construction has occurred. This is
22 particularly so when earth moving and construction
23 have recently been performed. Is that correct?

24 A Yes.

25 Q You go on to say on the next page there are

1 varying amounts of methane in the soil depending on
2 the amounts and types of organic compounds present,
3 correct?

4 A There are varying amounts of methane in soil
5 depending on the amounts and types of organic
6 compounds present.

7 Q Did you conduct any soil bore sampling at
8 Graystone Woods?

9 A No.

10 Q Did you conduct any other soil sampling at
11 Graystone Woods?

12 A No.

13 Q Did you do any research regarding the kinds of
14 soil present at Graystone Woods?

15 A No, I did not do those things. My intention was
16 simply to say that there is variation.

17 Q Do you have any evidence to demonstrate that there
18 is actually variation in the soil at Graystone
19 Woods?

20 A Practically speaking, based on my knowledge of
21 engineering and taking civil engineering courses,
22 this is part of my training, education, experience,
23 soil is not homogenous. It varies quite a lot in
24 content for many, many technical and geological
25 reasons, so I just know that.

1 Q Do you know what the predominant soil type is at
2 Graystone Woods?

3 A It's immaterial to my opinion. I didn't make any
4 effort to go through and analyze it.

5 Q So your opinion that the variations in the soil at
6 Graystone Woods can explain the differences in the
7 soil methane readings at Graystone Woods is based
8 solely on your training, education, and experience
9 and not in any particular knowledge regarding the
10 soil actually found at Graystone Woods, correct?

11 THE WITNESS: Could you please read it
12 back?

13 (Said question read.)

14 A I thinks that's incorrect. I think my answer to
15 59 speaks for itself, that first and foremost the
16 soil is not homogenous. It's not like a steel beam
17 where every -- every increment of the steel beam is
18 identical.

19 Soil itself is not a consistent uniform
20 product no matter where you are. That is a reason
21 why combustible gas concentrations vary. That was
22 intended to be a description of soil. It's not
23 intended to be exclusive to Graystone or methane
24 detection at Graystone.

25 Q But just to clarify, you have not actually done

1 any investigation of the soils found at various
2 places in Graystone Woods and attempted to connect
3 your conclusions regarding those soil types to the
4 differences in methane readings obtained by
5 Columbia Gas?

6 A Correct, I have not.

7 Q So it is your theory that the presence of methane
8 readings at or near the foundation of some homes at
9 Graystone Woods and the absence of methane readings
10 at or near the foundation of other homes at
11 Graystone Woods might be explained by variations in
12 soil types at or near the foundation to those
13 homes, correct?

14 A In part, yes.

15 Q But you have not actually determined whether the
16 soil types at or near the foundations of the
17 various homes at Graystone Woods are actually
18 heterogenous?

19 A I have made no attempt to analyze the soil or
20 compare it for any reason. I'm not asserting I've
21 done so, and I think it's meaningless for the
22 purpose of the case. I just simply wanted to
23 demonstrate or describe that soil composition
24 varies, and that is one of many factors.

25 Q In Paragraphs 60 and 61 of your testimony you talk

1 about various factors that you say can cause
2 considerable variation in combustible gas
3 concentrations in bar-hole tests, correct?

4 A Correct.

5 Q And among those factors you say is barometric
6 pressure, correct?

7 A Correct.

8 Q What is the basis of the opinions you offer in
9 your response to Question 61 regarding the manner
10 in which barometric pressure can influence soil gas
11 and variation in combustible gas concentrations in
12 bar-hole tests?

13 A The significant part of my training, education,
14 and experience involves areas where large amounts
15 of gases are confined behind sealed areas in mines
16 and mining operations. It's an area where there is
17 considerable analysis, particularly in the last ten
18 years.

19 There was a multi-fatality explosion that
20 took place in a mine called the Sago mine in West
21 Virginia, which I've been in that mine. It had to
22 do with a barometric pressure differential and how
23 gas moves from a confined area into the nonconfined
24 area. That includes a sealed area in the mine into
25 the open space within the mine which is connected

1 to the atmosphere. It is one that wouldn't be a
2 circuit but it's connected, so as the barometer
3 changes outside, it has a response to the sealed
4 area.

5 That holds true for not just mines and
6 mining operations but any confined space relative
7 to the atmosphere. That was one of the issues in
8 the case that I testified in in the case that you
9 asked me about earlier regarding the force majeure
10 and there were sealed areas.

11 Variations in pressure do occur. They're
12 analyzed. It's an area that people involved in the
13 detection of methane, in the measurement of
14 methane, in the safety of hundreds of thousands of
15 people have to know a lot about. I spent a lot of
16 time looking at it and understanding it.

17 Soil doesn't behave any differently than
18 any other confined area. It reacts to barometric
19 pressure, and I know that and I learned that
20 through my experience.

21 Q It sounds to me like your experience relates to
22 the effect of barometric pressure on the movement
23 of methane from confined areas to nonconfined
24 areas; is that accurate?

25 A Among other things, yes.

1 Q And in Paragraph 61 we're really talking about the
2 movement of methane in the soil from one confined
3 area to another confined area or within a confined
4 area, aren't we?

5 A No.

6 Q Why not? I see -- just to look at, about half way
7 down, your response to Paragraph 61, you say soil
8 gas in the upper portion of the soil tends to move
9 from the upper layers of the soil to voids that are
10 somewhat deeper in the soil and are at a lower
11 pressure. Methane that is entrained in the soil
12 matrix is likely to be forced downward into the
13 ground away from the atmosphere during periods when
14 barometric pressure is rising, thus reducing the
15 likelihood of positive gas detections. Have I read
16 that accurately?

17 A Yes.

18 Q If soil gas is moving from the upper portion of
19 the soil to lower portions of the soil, isn't it
20 moving within a confined space?

21 A It's moving from a high pressure to low pressure.
22 The high pressure permeates its way and pushes, for
23 lack of a better term, the gases into -- from
24 higher to lower pressure. That's the way gases are
25 moved.

1 I mean, it's no different than a Columbia
2 Gas pumping facility. You're pushing gas from a
3 high pressure area into a lower pressure area and
4 the gas will flow. That's the whole basis of the
5 movement of fluids or gases. So this is known,
6 established engineering stuff that's been known for
7 generations.

8 Q But, again, if gas is moving from the upper
9 portion of the soil to lower portions of the soil,
10 it is moving from one confined area to another
11 confined area; is it not?

12 A I think you're mixing -- those are not -- those
13 are your words and not mine. It is moving away
14 from the higher pressure in the surface to the
15 lower pressure below the surface.

16 When I say a confined area, gas that is
17 confined to the voids in the soil is confined to
18 the voids in the soil. That doesn't mean it can't
19 move from void to void according to pressure
20 changes.

21 Q Okay.

22 A There's no inconsistency in that testimony.

23 Q Okay. So if we turn back to Paragraph 55, the
24 second full paragraph, Line 4, where you say any
25 methane that is present in the ground is

1 essentially confined, you're not saying that the
2 methane that is present in the ground can't migrate
3 within the soil; we've agreed on that, correct?

4 A My response there is that when it is confined in
5 the soil, as it's confined in the soil, it's
6 confined in the soil. It is not a hazardous
7 condition being in the soil in whatever
8 concentration it is in. The question is it can't
9 move within the soil as I described in the response
10 to Question 61.

11 Q The question is it can't move within the soil as
12 you described in your response to Question 61? I
13 don't understand. Let me rephrase the question.

14 In Paragraph 61 you're merely saying that
15 higher barometric pressure will cause methane in
16 the soil or other soil gases to move from areas of
17 higher pressure to areas of lower pressure?

18 A That's correct.

19 Q If we can turn then to Paragraph 64. The question
20 in Paragraph 64 is but isn't there a threat that if
21 combustible gas is in the soil, then the gas could
22 migrate from the soil to the interior of the homes
23 either through foundation walls, utility
24 connections, pipes, et cetera, correct?

25 A Correct.

1 Q And your response is it is my opinion that this is
2 not a threat. I won't say it is impossible.
3 Nothing is impossible. However, I consider the
4 likelihood to be infinitesimal; is that correct?

5 A That's correct.

6 Q How did you determine that the likelihood of
7 combustible gas in the soil at Graystone Woods
8 migrating to the interior of the homes is
9 infinitesimal?

10 A How did I determine?

11 Q Yes.

12 A Practically, because it's not being -- it's not
13 materializing. It's not occurring. We're not
14 having ignitions and explosions within the homes.

15 The detections when they are achieved, and
16 they are not achieved every time someone makes a
17 test as Columbia Gas well knows, those do not --
18 those when there are positive detections are
19 temporary detections. They go away quickly. There
20 is not a recharge mechanism. It is not a well that
21 flows.

22 To me the fact and the evidence support
23 that the detection of methane in a bar hole that
24 dissipates rapidly is evidence that there's methane
25 gas periodically in the soil. That's the end of

1 the story. Further investigation has shown that
2 the homes are safe for the residents.

3 Q If we could turn to the second -- or the following
4 question, which is Paragraph 65. The question
5 there is is there anything that can be done to
6 further minimize this infinitesimal possibility,
7 and you respond, in part, quote, sure. A single
8 proven, reliable, and cost effective approach is to
9 install methane monitors in the homes and
10 basements. Such devices are proven technology.
11 The most common ones operate on electrical power
12 with battery back-ups. Do you see that?

13 A Yes.

14 Q Have I accurately stated the question and that
15 portion of your response?

16 A Yes.

17 Q Do you have any experience installing methane
18 monitors in homes?

19 A Do I?

20 Q Yes.

21 A No.

22 Q Do you manufacture methane monitors?

23 A No.

24 Q Have you ever offered expert testimony regarding
25 the reliability or effectiveness of methane

1 monitors?

2 A I don't think so.

3 Q Are you aware of any tests or studies regarding
4 the reliability or effectiveness of methane
5 monitors?

6 A I don't think that was part of my opinion in this
7 case, and I have not pursued that.

8 Q So what is the basis for your statement in
9 Paragraph 65 that residential methane monitors are,
10 quote, proven technology?

11 A Well, the fact of the matter is they do work. I'm
12 aware of that just through my general knowledge,
13 training, and experience. I have not gone back to
14 research this. Your line of questioning was on
15 what have I done to research it or analyze it. I
16 have not.

17 Q Do you have a methane monitor in your home?

18 A Do I?

19 Q Yes.

20 A No.

21 Q Do you know anybody who does have a methane
22 monitor in their home?

23 A I don't know anybody that has a need for one, so
24 the answer is no.

25 Q Is your experience with methane monitors limited

1 to methane monitors in mines?

2 A I think I said before that there's monitoring
3 systems in plants and other storage facilities
4 where there are known and established
5 concentrations in the presence of methane.

6 Q Are those the kinds of methane monitors that
7 you're discussing in your response to Paragraph 65?

8 A I don't know that I would say they're the same.
9 They're comparable. I don't know if I would say
10 they're the same.

11 MR. GALLON: Mark this as 7.

12 (Exhibit 7 marked.)

13 Q Mr. Weiss, can you identify the document that the
14 court reporter has marked as Exhibit 7?

15 A This appears to be correspondence between Hull &
16 Associates, Inc. on August 3rd, 2012, to Mr. Ron
17 Hensley. This is about ten pages.

18 Q Are you familiar with this document, Mr. Weiss?

19 A I believe I've seen this document, yes.

20 Q Did you rely on this document in forming the
21 opinions that you are expressing in your testimony
22 in this proceeding?

23 A I don't know that I would say I relied upon it. I
24 would say that I have read it and it's part of my
25 general knowledge of the case.

1 Q The document consists of two documents, correct, a
2 cover letter from Hull & Associates dated
3 August 3rd to Mr. Ron Hensley with the subject line
4 recommended next steps for methane exploration and
5 then a second letter also dated August 3rd, 2012,
6 from Hull & Associates to Ron Hensley with the
7 subject line methane exploration interim summary
8 report for the Graystone subdivision located on
9 Oakside Road, Toledo, Ohio; is that correct?

10 A Yes.

11 Q The first document has the number SEN000051 in the
12 lower right-hand corner, correct?

13 A SEN000051.

14 Q And in the first full paragraph of that letter it
15 states, in part, the methane data we have since
16 collected does not appear to be indicative of a
17 pressurized continuous release but gas does appear
18 to be migrating through the utilities conduit from
19 a relatively limited source (non-anthropogenic
20 and/or anthropogenic).

21 At this time we believe that the potential
22 sources of methane may be one or a combination of
23 the following: One, the slow decomposition of
24 subsurface organic-rich flood plane deposits; two,
25 sewer gas associated with sanitary sewer; three,

1 other source that is migrating through the backfill
2 and utility trenches. Do you see that?

3 A Yes.

4 Q Is there anything in that portion of the
5 August 3rd cover letter by Hull & Associates with
6 which you disagree?

7 A I didn't really try to form an opinion in my
8 testimony regarding that. I agreed to disagree
9 with it, so I don't know quite how to answer that.

10 Q You are not expressing an opinion in this case
11 regarding whether the methane detected at or near
12 the foundations of the homes at Graystone Woods is
13 from another source of methane gas and is migrating
14 through the backfill and utility trenches?

15 A Did I make -- I don't believe I've opined on that,
16 and that is not -- my opinion is there are
17 detectable concentrations of methane that are not a
18 hazard. I have not opined as to where it came
19 from.

20 Q Your opinion does not rely on a conclusion as to
21 where the methane detected at or near the
22 foundations of the homes in Graystone Woods comes
23 from?

24 A I believe that's -- I have not.

25 THE WITNESS: Could you read that back?

1 (Said question read.)

2 A That's correct.

3 Q So it is not your opinion in this case that the
4 methane detected at or near the foundations of the
5 homes at Graystone Woods was produced by subsurface
6 organic material at or near the foundation of those
7 homes?

8 A My opinion is not based on anything other than it
9 has been detected periodically and occasionally
10 near the foundation of homes and that it is not a
11 safety hazard, it's not a threat, it's not a viable
12 threat.

13 Q If you could turn to the second document that is
14 part of Exhibit 7 and turn to Page 6 of that
15 document which has the number SEN000058 in the
16 lower right-hand corner. There are several
17 numbered paragraphs on that page.

18 Paragraph 5 states if the source of the
19 methane is from an off site source
20 (nonanthropogenic and/or anthropogenic) and
21 migrating through the backfill materials
22 surrounding the utilities conduits, then we would
23 expect to see similar concentrations of methane gas
24 at select locations that have favorable conditions
25 to allow for the migration of methane (i.e. sandy

1 dry soils). At this time patterns in the data
2 appear to support this theory. Do you see that
3 language?

4 A Yes.

5 Q You are not offering an opinion in this case as to
6 whether that conclusion is correct, are you?

7 A I am not.

8 Q Your opinion in this case does not rely upon a
9 rejection of this conclusion, does it?

10 A I wasn't offering anything one way or the other.

11 Q You believe your opinion in this case may be
12 correct even if the conclusion expressed in
13 Paragraph 5 of this page is correct?

14 A I believe my opinions are correct irrespective of
15 whether 5 is correct or not correct.

16 MR. GALLON: We can go off the record.

17 (Recess taken.)

18 MR. GALLON: Mr. Weiss, I have no further
19 questions. Thank you for your time today.

20 (Deposition concluded at 5:50 p.m.)

21

22

23

24

JOHN L. WEISS

25

C E R T I F I C A T E

STATE OF OHIO)
) SS.
COUNTY OF LUCAS)

I, Nicole D. Blaker, RMR, Notary Public for
the State of Ohio, do hereby certify that JOHN L. WEISS
was first duly sworn; that the testimony given was
reduced to stenotype; that the foregoing is a true and
correct transcript of the testimony so given; that this
deposition was taken at the time and place in the
foregoing caption specified.

I do further certify that I am not a relative,
employee, or attorney of any of the parties or counsel
employed by the parties hereto or financially
interested in this action, nor am I or the court
reporting firm with which I am affiliated under a
contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my
hand and affixed my notarial seal of office at Toledo,
Ohio, this 18th day of November, 2013.

NICOLE D. BLAKER, RMR
Notary Public in and for the
State of Ohio

My Commission expires January 26, 2014.

This foregoing document was electronically filed with the Public Utilities

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Case No(s). 12-2877-GA-CSS

Summary: Deposition of John L. Weiss (Nov. 15, 2013) electronically filed by Mr. Eric B. Gallon on behalf of Columbia Gas of Ohio, Inc.