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BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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IN THE MATTER OF: : Docket No.
ROCKIES WESTERN PHASE PROJECT : CP06-354-000
: CP06-401-000
: CP06-423-000
- - - - -x

Holiday Inn
644 Chase Blvd.
Sidney, Nebraska

Monday, December 11, 2006

The above-entitled matter came on for public meeting,
pursuant to notice, at 7:01 p.m.

MODERATOR: DAVE SWEARINGEN, FERC

1 P R O C E E D I N G S

2 (7:03 p.m.)

3 MR. SWEARINGEN: Okay. I want to go ahead and
4 get started. My name is David Swearingen, and I'm an
5 environmental project manager with the Federal Energy
6 Regulatory Commission or FERC.

7 To my left is J.H. Rumpp with TRC Environmental
8 Consulting Corporation. TRC is assisting us in our
9 environmental analysis. Erika Lunn, also with TRC, is at
10 the sign-in table at the back.

11 Also here tonight is Harold Winnie, to the far
12 left, with the Department of Transportation's Pipeline and
13 Hazardous Material Safety Administration.

14 On behalf of the FERC, I want to welcome you all
15 here tonight. Let the record show that the Rockies Western
16 Phase Project meeting began at 7:03 p.m. December 11, 2006.

17 The purpose of this meeting is for FERC to get
18 your comments on the draft Environmental Impact Statement or
19 EIS that we recently released. I'm going to give a brief
20 overview of the FERC process, and then Harold with the DOT
21 will say a few words.

22 Okay. Where we are in the process. We're at the
23 next 45-day comment period on the draft EIS. That comment
24 period ends on December 28th. All comments that we receive
25 within the comment period will be addressed in our final

1 EIS.

2 To speak tonight, we have a sign-in sheet in the
3 back. If you could, I'd like you to sign up there if you
4 haven't already. If you prefer not to speak tonight, you
5 could submit written comments using the FERC website or the
6 directions that were included with the draft EIS.

7 So you can submit them electronically through the
8 website, you can mail them in, or you can speak comments
9 here tonight. It doesn't matter how you make your comments
10 to us. We treat all comments equally.

11 So if you'd like to speak tonight, that's great.
12 If you'd rather just mail them in or submit them
13 electronically, those comments are just as valid and we will
14 address them in our final EIS.

15 If you have any questions on how to submit
16 comments, you can talk to me after the meeting. I'd be glad
17 to help you out. Like I said, the purpose of this meeting
18 is to get your comments on the draft.

19 The FERC had scoping meetings early in the
20 process where we got your issues, and that's what we use to
21 help us to make the draft EIS. Now hopefully we've
22 addressed some of the issues that you've already brought up,
23 and what we'd like you to do tonight is to give us your
24 comments on what you think of the presentation.

25 It's not very helpful if you just say well, I

1 don't like it or we don't agree. If you say that there's a
2 specific thing that you think is, that our analysis is
3 flawed or that the data are incorrect or if there's
4 something that we missed, that's the type of comment that's
5 most helpful for us.

6 That way we can revise the draft when we do the
7 final. If you received a copy of the draft EIS, you're
8 automatically on the mailing list to receive a copy of the
9 final. Mostly we send out CDs, unless you specifically ask
10 for a hard copy. The same thing goes for the final EIS.

11 Because we have such an extensive mailing list,
12 you'll be getting a CD in the mail unless you tell us
13 otherwise. Now if you already told us you wanted a hard
14 copy for the draft, you're on the list to get a hard copy
15 for the final. I have a few extra CDs in the back, if you'd
16 like to pick one up. If you don't have one, you can pick
17 one up off the table in the back on your way out.

18 Once we finish the final EIS and mail that out,
19 we'll forward that on to our commissioners at the FERC. The
20 commissioners will consider our environmental analysis,
21 along with other non-environmental issues, in order to
22 determine whether or not to issue an authorization for the
23 Rockies Western Phase Project.

24 So the EIS is one tool in the process. However,
25 it is not a decision-making document. Are there any

1 questions regarding the purpose of this meeting or the FERC
2 process?

3 (No response.)

4 MR. SWEARINGEN: Okay. Now I'm going to hand the
5 mike to Harold, with the Department of Transportation, and
6 he can say a few words about his agency's responsibilities.

7 MR. WINNIE: Thank you. Good evening. My name
8 is Harold Wayne. I'm an engineer with the Office of
9 Pipeline Safety, which is a branch of the U.S. Department of
10 Transportation, Pipeline and Hazardous Materials Safety
11 Administration, PHMSA, Pipeline Safety Program.

12 I'd like to thank David Swearingen for inviting
13 me here to the scoping session. Hearing the concerns of the
14 public with respect to pipeline safety, my purpose at this
15 meeting is to assure you that if the pipeline receives a
16 favorable review from FERC, the Pipeline Hazardous Materials
17 Safety Administration will maintain a continual regulatory
18 watch over the pipeline, from its construction to its
19 testing and for the entire operational life of the pipeline.

20 The regulatory oversight will consist of
21 measuring the operator's performance to ensure that the
22 pipeline is constructed of suitable materials that is welded
23 in accordance with industry standards, that the welders
24 themselves are qualified to join the pipeline.

25 That the pipeline is installed to the proper

1 depth, that it is coated to ensure effective cathodic
2 protection from erosion, that the backfill is suitable and
3 that it is properly tested upon completion, to ensure that
4 it can hold up to pressures that the operator requires to
5 transport his product.

6 Beyond the construction process, the PHMSA
7 Pipeline Safety Program conducts inspections periodically
8 over all aspects of the operations and maintenance of the
9 pipeline. The operator must have a written plan in place to
10 instruct his personnel, and to relate to federal inspectors
11 exactly what testing or monitoring is done and the
12 frequency.

13 In addition, if testing or monitoring prompts a
14 response or corrective action, the operator must detail his
15 process to address problems.

16 Examples of the checks that an operator must have
17 in place is the adequacy of the cathodic protection,
18 monitoring the surface of pipelines exposed to the
19 atmosphere, annual testing of the pipeline valves and
20 inspection of pressure regulation and relief devices to
21 assure that the pipeline does not exceed its maximum
22 allowable operating pressure.

23 Periodic patrolling and leaking survey of the
24 pipeline, following allowed procedures for pipeline repair.
25 Beyond the routine functions that have for decades been the

1 baseline for operations and maintenance, PHMSA has in the
2 past few years implemented new initiatives to ensure
3 pipeline safety.

4 At the forefront is the Integrity Management
5 Program. This program was published in the Federal Register
6 December 15th, 2003. It requires operators to identify high
7 consequence areas, Class 3 or Class 4 area, or other areas
8 where specified population density concentrations or
9 buildings of assembly or buildings, housing, confined or
10 impaired persons.

11 IMP, Integrity Management Program mandates that
12 operators rely not only on spot checks but a comprehensive
13 understanding of its pipelines using established risk
14 assessment methods combined with emerging technologies.

15 The intent is to find critical defects and repair
16 them before a failure occurs. The plan is continual,
17 implementing up-to-date mapping techniques, hydrostatic
18 testing, in-line inspection, ILI tools of a pipeline,
19 verification of the ILI and additional steps to assure that
20 the pipeline has a real time file, with any anomalies
21 documented and tracked.

22 To measure the effectiveness of its Integrity
23 Management Plan, operators are required to measure
24 performance through a variety of measurements, including
25 test excavations. In addition to the physical pipeline

1 itself, Congress has mandated that operator personnel that
2 perform operating, maintenance or emergency response be
3 qualified, OQ'd, in the performance of those functions.

4 The aim of this initiative is to minimize
5 operator error as the cause of any pipeline failure.
6 Beginning in 2001, operators are required to develop a
7 written plan to qualify every individual performing a
8 covered task.

9 This has been expensive not only to perform the
10 testing, but has also launched more intensive training
11 programs for employees and contractors who operate and
12 maintain the pipeline. The OQ regulation was stacked on top
13 of the 1988 requirement for operators to perform mandatory
14 drug and alcohol testing for all employees who perform
15 operations, maintenance and emergency response functions.

16 This was not precipitated by substance abuse in
17 the pipeline industry, that as a U.S. DOT initiative on
18 operators of transportation systems. Drug and alcohol abuse
19 has been discovered in post-incident investigations in other
20 sectors of the transportation industry.

21 Presently, an operator must conduct random drug
22 testing of 25 percent of its employees performed covered
23 tasks annually, as well as pre-employment testing and post-
24 incident testing.

25 Another initiative relative to this meeting is

1 public awareness. Recently, a standard was adopted as
2 regulation, API RP 1162. The standard requires operators to
3 identify persons along the right-of-way affected by the
4 pipeline, to inform the public about recognizing leaks and
5 taking appropriate action, and to evaluate the effectiveness
6 of the program.

7 RP 1162 establishes lines of communications and
8 information-sharing with the public, excavators, emergency
9 responders and local officials.

10 Operators have prepared the written plans to
11 comply with the standard of June 20th, 2006, and have
12 submitted their plans, were required to submit their plans
13 by October 8th, 2006 for review.

14 The initiatives that I've described above are a
15 sampling of what PHMSA's Pipeline Safety Program does. As I
16 said earlier, we inspect the interstate natural gas
17 operators in Nebraska. If an operator's procedures are
18 found inadequate or if an operator is not following its
19 procedures or the appropriate regulatory requirements, PHMSA
20 is authorized to seek punitive action in the form of
21 remedial action, civil penalties, which is a frequent
22 practice, and even criminal action.

23 The authority is mandated by Congress and the
24 agency is responsible to Congress for the execution of its
25 mandates.

1 The other issue that is important to understand
2 is damage prevention. The state of Nebraska, as well as
3 Colorado and Wyoming, has a law that requires anyone
4 performing excavation activities to call the one-call center
5 in advance of the work, and have all underground utilities
6 located with paint and/or flags.

7 Since third party damage is one of the major
8 causes of damage to pipelines, it is important for each of
9 us to utilize the one-call system prior to doing any
10 excavations, and to make sure that others digging in our
11 neighborhoods have had the underground utilities located
12 prior to excavating, by looking for the paint and/or flag
13 markings of those utilities.

14 Should you need additional information, you can
15 visit the PHMSA website, or you can contact Karen Butler or
16 myself at the Kansas City, Missouri regional office. I hope
17 the preceding has been informative. PHMSA's Pipeline Safety
18 Program's mission is safety, and we want to assure the
19 public that its interests are not ignored in this area.

20 If there are any questions, I will be around for
21 a short while at the conclusion of this meeting.

22 MR. SWEARINGEN: Okay. Thank you, Harold. I
23 note that there are representatives of Rockies Express here
24 tonight. After the meeting, if you'd like to ask them some
25 questions, I'm sure that they will make themselves

1 available.

2 If you have something specific to your property
3 or to a negotiation that you're having with the company, you
4 can catch them after the public part of this meeting is
5 over.

6 So I'll go ahead and take speakers. We have one
7 person who has signed up to speak, and after that person has
8 spoken, then I'll open the floor to whoever else may want to
9 make comments on the draft.

10 I note that there is a transcription service here
11 tonight. This proceeding is going to be a part of the
12 public record. So before you make your comments, if you can
13 state your name clearly and also spell it for the record, it
14 will make things easier for the transcriber.

15 Now when you come up, if you'd like to stand at
16 the podium, you can do that. You can hold the mike. You
17 can sit in the chair. The cord will go to the front row.
18 So whatever makes you the most comfortable is fine.

19 The person that we have signed up is Charles,
20 Charlie Smith. Would you like to make comments?

21 MR. SMITH: I was really hoping to ask a couple
22 of questions. But pardon me. I was hoping to ask some
23 questions --

24 (Simultaneous discussion.)

25 MR. SWEARINGEN: Go ahead.

1 MR. SMITH: Perhaps also of the pipeline company.
2 I am told that the pipeline will be tested with water from
3 the Platte River, and we're wondering what arrangements are
4 being made for the discharge? I don't think there's
5 anything in the draft --

6 Now I haven't read this yet, but I'm told there's
7 nothing in the draft that talks about where that water will
8 be discharged. That's an awful lot of water that's testing
9 say ten miles or something. It would be nice to know where,
10 that the test is not going to end up in the middle of
11 somebody's field.

12 Second, I understand there's nothing in the draft
13 about weather conditions that might make installation a
14 problem. That is, when -- in our area, for example, a
15 mutual rain would make an awfully muddy area, that if say
16 the contractors have to get the job done for some deadline
17 that may have been fixed, they might be out there plowing
18 through the fields, which would not be good for the --
19 keeping the top soil and the subsoil from being mixed
20 together.

21 Third item is the easement is forever. It's not
22 restricted to the life of the pipeline, because the pipeline
23 contract specifies that they can abandon it, replace it,
24 repair it, whatever.

25 The EPA and the contract are both restricted to

1 the installation, that it would be --it would have been much
2 easier for us to respond to the contract if there had been
3 some attention to what happens down the road.

4 If there's a repair necessary, will the same
5 double-ditching be used? If it's replaced, will there be
6 restrictions on -- could they put a railroad on the
7 easement? As I say, the easement is forever, and that's a
8 long time. So persons now are committing generations
9 forever to the maintenance of that easement.

10 It would have been helpful if there had been some
11 greater attention to what can or can't happen down the
12 trail, and whether the same kind of care, the same kinds of
13 methods of installation, the same no dumping of oil and
14 things of this sort apply to everything done in the future
15 as well.

16 MR. SWEARINGEN: Okay. I'll be glad to answer
17 some of those questions here. Some of those, I think I can
18 probably set your mind at ease at least a little bit.

19 Okay. The first one was about the Platte River,
20 the testing of the Platte River, about the water. Yes. To
21 answer your question, if water from the Platte River is
22 being proposed to use for hydrostatic testing, and as I
23 recall the scope from memory, that Rockies Express has not
24 identified the precise locations of the discharge.

25 However, the mechanism of the discharge is

1 generally that there is a permitting process. I think
2 that's part of an extended EDS program. I'm not sure
3 exactly which permit it is.

4 But that permit requires that there be an energy
5 dissipation device, so that the water doesn't scour out a
6 certain location. If they're discharging into an upper
7 area, that there's filtration system, so that sediment and
8 water doesn't run back into a wetland or something like
9 that.

10 So there are some specific guidelines for
11 hydrostatic test water discharge that will be adhered to.

12 Okay. The next --

13 MR. WINNIE: Weather conditions.

14 MR. SWEARINGEN: Weather conditions. There's a
15 discussion in the draft about what we consider to be wet
16 weather events, and we have a recommendation for a condition
17 that Rockies Express develop a wet weather construction plan
18 that addresses what happens if there's, you know, a straight
19 downpouring of rain or something, so you don't have the
20 trench filling up with water and then they're trying to pump
21 out all that silty water into somebody's field, you know,
22 while they're constructing.

23 Things like deep rutting could occur, and we've
24 put that in the draft, and requested that Rockies submit a
25 plan that addresses such things.

1 MR. WINNIE: Easements.

2 MR. SWEARINGEN: The easement. I can't really go
3 too much into the easements, because that is a negotiation
4 process. However, you mentioned the fact that the easement
5 is forever, and that the company -- you're questioning what
6 may be -- if I understand your question, it's what rights
7 the company has within that easement.

8 One of the things you mentioned was abandoning
9 the line. If Rockies Express wishes to abandon the line or
10 any portion of the line, they have to get a separate FERC
11 approval to do that. They can't just go in and dig it back
12 up at some point without FERC approval.

13 So that's another process, that if they were to
14 propose that, we would have go through another final review
15 of that abandonment process. You can probably get more
16 direct answers from Rockies Express regarding other uses of
17 the easement.

18 FERC, for this particular project, if the
19 authorization goes through, the company is authorized to put
20 in the pipeline that they have proposed. It does not give
21 them the right to go back in and put something else in there
22 later without an additional round of review.

23 If there's a repair that has to be done, they do
24 have the option, I mean the opportunity to go in and repair
25 their pipeline as part of ongoing operation and maintenance.

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But that's, you know, under the same type of stipulation. They have to stay within their easement; they have to, you know, just go in and dig up whatever the problem area is, then restore it and be back out of your way.

6

7

Okay. Was there anything else that you mentioned that I missed? Okay. So hopefully that addresses some of your questions.

9

10

We will take, you know, a further look and make sure that there are discussion on the issue of test water discharge is, you know, we solidify that discussion, and you can talk to Rockies people about easement stuff after the meeting.

14

15

Okay. Is there anybody else who would like to make comments on the draft EIS? I'll one the floor up to anybody who wants to come up.

17

18

MR. THEOBALD: Hi. I'm Alliant (ph) Theobald, T-H-E-O-B-A-L-D. As Mr. Smith said there about the easement, could this be a situation like this happened with the railroad? You know, when they went through, if had an easement, they were granted an easement.

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That's what we're doing to you people. It's granting you an easement. Then the railroad decided in the last 20 years, well, we've got an easement here we're not

25

1 using. Let's lease it to Sprint or Qwest or whoever we want
2 to. That is still in the court today. It has to be
3 settled.

4 Is this something that could happen with this
5 pipeline, that they've got a right-of-way through us down
6 the road, 30, 40, 50 years, probably up to where we're
7 going, that they could say okay, we'll put something else in
8 there and not compensate the land owner any more? That's
9 one of my questions.

10 Also, I still have a problem and I've talked to
11 the Rex Pipeline people just before the meeting. Is it up
12 to the pipeline, after the situation's happened in Cheyenne,
13 Wyoming here a month ago.

14 I don't feel they're -- they say 24 inches over
15 rock, 36 inches. I don't think in our area where we have
16 the wind erosion and the water erosion and the light soil
17 that this is sufficient. I think it should be 48 inches.
18 That's all the questions I have. Thank you.

19 MR. SWEARINGEN: Okay. I can go ahead and touch
20 on those as well. If Rockies Express has an easement across
21 your property for this particular project, they can not go
22 in and start building something else in there some time
23 later, without first getting additional FERC approval.

24 It does happen that a pipeline company sometimes
25 will want to loop their line. They'll say well, we have a

1 line going along, and we need some more capacity. So we
2 want to put a second pipeline next to or adjacent to the
3 original pipeline.

4 That does happen. For them to do that, we have
5 to go through this whole process again. So that may not
6 answer your question about, you know, whether it will or
7 won't happen. But it won't happen without the FERC process
8 going through, and we do another environmental evaluation.

9 My understanding of the negotiation process is
10 that there would be an additional negotiation for use of the
11 land, whether or not -- it depends on what they want to do.

12 If it's, you know, the offsetting, to where they
13 need additional right-of-way, they would have to compensate
14 for additional right-of-way. Any specific questions that
15 you have regarding easement rights, you can ask one of the
16 land agents for Rockies Express after the meeting.

17 The other issue you brought up is depth of cover.
18 When I came out for the scoping meetings and also received
19 the scoping comments, I think depth of cover was if not the
20 main issue one of the top several main issues.

21 I think that we address depth of cover several
22 places in the draft EIS. I know that Rockies Express has
23 proposed 36 inches of cover in its general construction
24 proposal.

25 If you'll notice that we have recommended in a

1 couple of places, and if you check Chapter 5, Section 5,
2 where we have our list of recommendations, that we are
3 requesting that Rockies Express develop what we call a depth
4 of cover plan.

5 We've asked them to identify certain locations
6 where we think that additional depth of cover may be
7 warranted, and that would be, for examples, places, you
8 know, increased erosion potential or perhaps terraced areas
9 or other areas that may need additional depth of cover.

10 So one of the ways of the condition is -- the
11 recommendation for the condition is where is that. They're
12 supposed to talk to the individual land owners and feel them
13 out for where additional depth of cover may be warranted,
14 and then come back to us with a depth of cover plan.

15 If they say "Well, we looked at that and we don't
16 think we need additional depth of cover," the requirement
17 would be that they have to justify to us why not.

18 So I don't have a response from Rockies Express
19 that specifically deals with that depth of cover. We're
20 still in the comment period and Rockies Express will submit
21 their comments on the draft by the end of the comment
22 period.

23 I'm looking forward to seeing exactly what they
24 say on depth of cover as well. So just like you're
25 interested in what their response would be, I'm almost

1 interested in that.

2 We will take that, their response during the
3 comment period, and we will use that when we make the final
4 environmental impact statement and our final recommendations
5 to the Commission.

6 MR. SWEARINGEN: Is there anybody else who would
7 like to make some comments tonight?

8 MR. TOYNE: My name's David Toyne, T-O-Y-N-E. I
9 have some questions on the hydrostatic testing.

10 MR. SWEARINGEN: Okay. Can you get -- I guess
11 get closer.

12 MR. TOYNE: When they're right on the river where
13 they plan on doing this.

14 MR. SWEARINGEN: Hold the mike.

15 MR. TOYNE: When your negotiator guy came
16 through, he assured me they weren't even going to hydrostat
17 the pipeline. Now I find out not only are you testing it,
18 you're pumping the water from my place. You're probably
19 going to dump it on my place.

20 I'm wondering how much slag, oil and other crap's
21 going to be in the water. Plus with the compact on the
22 river, I don't see how you can touch, pump any water out of
23 it until after October 15th, which means you're going to be
24 on my river, open-trenched or whatever, for well at least
25 until October, from whenever you start.

1 Also, I was wondering why when they negotiated
2 the contract, his first written contract to me was half as
3 much as we were paid 23 years ago? That just didn't seem
4 like a good way to start. They did a bunch of test boring
5 on my property, to see if they could bore under the river,
6 and I was promised the logs from that. Haven't seen them.

7 Your geologists came through looking for
8 arrowheads and they found some. Whose are they? Are they
9 mine or his?

10 MR. SWEARINGEN: Okay. First of all, just so
11 that you don't leave here with the wrong impression, the
12 people that came out to your property, of course, were
13 representatives of the applicant, not us.

14 So I don't know the specific answer to your
15 question about what they may have told you as far as the
16 hydrostatic test water or the easement negotiations. That's
17 strictly -- the easement negotiation is strictly between you
18 and the company.

19 Just like with any negotiation, you're free to
20 reject any offer that is presented, and you can make a
21 counteroffer. That's just part of the negotiation process,
22 and the FERC does not step in the middle of that.

23 A couple of responses to the hydrostatic testing
24 question. The pipe will be tested, hydrostatically tested.
25 That's a requirement, that all pipeline, new pipeline needs

1 to be tested. So that will happen.

2 The pipe that is being tested is new pipe, and it
3 does not have any oil or sludge or anything in it. It's
4 just stainless steel brand new pipe. The water that's being
5 put into the pipe is not treated. It's not going to be
6 treated with any chemicals. So it's just water from the
7 river goes in; they test it, and the water from the river
8 goes out.

9 As I alluded to before, the process of
10 withdrawing the water and discharging the water has to go
11 through a permitting process. Part of the issues with
12 withdrawing water, of course, are fisheries issues and
13 endangered species issues and other water use issues.

14 There are permits that are necessary before
15 anybody can just start, you know, taking millions of gallons
16 of water out of a local water body. So that local
17 permitting will need to be completed before they can do
18 that.

19 The discharge, like I said, it's a controlled
20 discharge. Sometimes, depending on the specific permits,
21 sometimes water is discharged back directly into the water
22 body; sometimes it's directed into upland areas. In any
23 case, it has gone through energy dissipation.

24 So it's not a stream of, you know, heavily forced
25 water scouring out a particular location, and that any, you

1 know, additional silt and turbidity of stuff that comes from
2 the discharge process doesn't end up, you know, dumping a
3 ton of silt onto your field or back into a wetland or
4 something like that. There are permitting processes that
5 try to reduce those impacts as much as possible.

6 MR. WINNIE: Artifacts.

7 MR. SWEARINGEN: I don't know the answer to your
8 question about artifacts that are found. That's something
9 that if you don't get an answer from the company tonight, I
10 will take that question back and ask the cultural resources
11 person who is on this project. I don't know the answer to
12 that.

13 Is there anybody else that would like to make
14 comments?

15 (No response.)

16 MR. SWEARINGEN: Okay. If not, then the meeting
17 will close. Anyone wishing to keep up with the official
18 activity associated with the Rockies Western Phase Project
19 can use the FERC website.

20 Within our website, there's a link called e-
21 Library. If you type in the docket number, in this case
22 it's CT-06-354, you can use e-Library to gain access to
23 everything on the public record concerning the Rex West
24 portion of the project, including all the public filings and
25 information submitted by Rockies Express.

1 On behalf of the Federal Energy Regulatory
2 Commission and the Department of Transportation Pipeline
3 Safety Administration, I want to thank you all for coming
4 here tonight. Let the record show that the public comment
5 meeting concluded at 7:35 p.m. Thank you.

6 (Whereupon, at 7:35 p.m., the meeting was
7 adjourned.)

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