

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of:

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HOUSE EXPLOSION IN FIRESTONE,
COLORADO, APRIL 17, 2017

Accident No.: DCA17FP005

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Interview of: DAVID LINDSAY

Frederick-Firestone Fire Protection
District Business & Education
Center
Longmont, Colorado

Tuesday,
July 25, 2017

APPEARANCES:

RAVI CHHATRE, Investigator in Charge
National Transportation Safety Board

MATTHEW MCKENZIE, Attorney
National Transportation Safety Board

GBENGA AJIBOYA, General Engineer
Pipeline and Hazardous Materials Safety Administration
(PHMSA)

MICHAEL LEONARD, Quality Assurance Professional
Colorado Oil & Gas Conservation Commission

MATTHEW LEPORE, Director
Colorado Oil & Gas Conservation Commission

DOUG PRUNK, Fire Investigator
Frederick-Firestone Fire Protection District

DAVID PUC CETTI, Fire Investigator
Frederick-Firestone Fire Protection District

DAVID McBRIDE, Vice President of Health, Safety &
Environment
Anadarko Petroleum Corporation

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I N T E R V I E W

1
2 MR. CHHATRE: Good morning. Today is Tuesday, July 25, 2017.
3 We are currently at Frederick-Firestone Fire Protection District's
4 Business and Education Center located at 8426 Kosmerl Place,
5 Longmont, Colorado. We are meeting regarding the investigation of
6 explosion of a house located at 6312 Twilight Avenue, Firestone,
7 Colorado that occurred on April 17, 2017.

8 My name is Ravi Chhatre. I am with the National
9 Transportation Safety Board in Washington, D.C. and I am
10 Investigator in Charge of this accident. The NTSB investigation
11 number for this accident is DCA17FP005.

12 I would like to start by notifying everyone present in this
13 room that we are recording this interview and we may transcribe it
14 at a later date. Transcripts will be provided directly to the
15 interviewee for review and identifying any typographical errors.
16 The transcripts may be posted in NTSB's public docket.

17 Also, I would like to inform Mr. Dave Lindsay that you are
18 permitted to have one other person present with you during the
19 interview. This is a person of your choice -- your supervisor,
20 friend, family member or, if you choose, no one at all. Please
21 state for the record your full name, spelling of your name,
22 organization you work for and your title, business contact
23 information such as mailing address or email address, and whom you
24 have chosen to be present with you during your interview.

25 MR. LINDSAY: My name is David Brian Lindsay. Lindsay is

1 L-I-N-D-S-A-Y. I work for Colorado Civil Group. We are the civil
2 engineering consultant for the Town of Firestone Colorado, and I
3 am here in that role.

4 MR. CHHATRE: Now I would like to go around and have each
5 person introduce themselves. Please state your name, spelling of
6 your name, your title, and organization that you represent, and
7 your business contact information, starting from my left.

8 But before you proceed, give me your contact information,
9 business contact information where I can send you the transcripts.

10 MR. LINDSAY: Sorry. My mailing address is [REDACTED]

11 [REDACTED]
12 MR. CHHATRE: Can you spell the name of the city?

13 MR. LINDSAY: Loveland is [REDACTED].

14 MR. CHHATRE: Okay. Thank you.

15 Now I would like to go around and have each person introduce
16 themselves. Please state your name, spelling of your name, your
17 title, and organization that you represent, and your business
18 contact information, starting from my left.

19 MR. LEONARD: Mike Leonard, first name common spelling. Last
20 name L-E-O-N-A-R-D. I'm the Quality Assurance Professional for
21 the Colorado Oil and Gas Conservation Commission. My phone number
22 is [REDACTED]. Email address is [REDACTED].

23 MR. LEPORE: Matt Lepore, Director of the Colorado Oil and
24 Gas Conversation Commission. First name, M-A-T-T; last name L-E-
25 P-O-R-E. Work contact [REDACTED]. Email:

1 [REDACTED].

2 MR. PRUNK: Doug Prunk with Firestone Fire Protection
3 District, fire investigator. It's P-R-U-N-K. Contact is

4 [REDACTED]. It's [REDACTED]. And [REDACTED],
5 [REDACTED], [REDACTED]

6 MR. PUCETTI: Dave Puccetti, P-U-C-C-E-T-T-I, Frederick-
7 Firestone Fire, Fire Investigator. Contact information, 8426

8 [REDACTED]

9 MR. McBRIDE: David McBride with Anadarko Petroleum
10 Corporation. I'm Vice President of Health, Safety & Environment.

11 My email address is [REDACTED] -- [REDACTED] --

12 [REDACTED]. That's A-N-A-D-A-R-K-O. My phone number is [REDACTED]

13 [REDACTED]. And address is [REDACTED],
14 Texas 77380.

15 MR. MCKENZIE: My name is Matt McKenzie, attorney with the
16 NTSB Office of General Counsel Headquarters at 490 L'Enfant Plaza,
17 S.W., Washington, D.C. 20594. Email's matthew [REDACTED] --

18 [REDACTED].gov. And [REDACTED].

19 MR. CHHATRE: Thank you very much for that.

20 INTERVIEW OF DAVID LINDSAY

21 BY MR. CHHATRE:

22 Q. Mr. Lindsay, for the record, just give us some background,
23 your formal education, informal education, any registrations, any
24 trainings, and your work experience.

25 A. Okay. I have a bachelor's degree in civil engineering

1 technology from Metropolitan State College in Denver. I was
2 licensed in -- a long time ago, 1990 something. I don't remember
3 the exact date. I've been practicing Civil Engineering as a
4 general civil engineer my entire career.

5 Q. Okay.

6 A. Began working in the town of Firestone with a different firm.
7 It was a company called TST Consulting Engineers in Fort Collins.
8 I began doing work here in the town of Firestone through that firm
9 in 1991. And in 1995 I actually became the project manager for
10 that firm for the town of Firestone and at that time was actually
11 sworn in as the town engineer for the town of Firestone. It was
12 at that time an officer's position. They've changed their code
13 since then. And I have served in the role of town engineer for
14 Firestone since 1995.

15 I left TST in 2007 and started Colorado Civil Group and was
16 able to retain the town off Firestone as a client. So I've been
17 with the town for a long time.

18 Q. Thank you very much for that. So as a project -- as a, you
19 said a town engineer now, right?

20 A. Correct.

21 Q. So tell me what your responsibilities are as the town's
22 engineer.

23 A. It's essentially twofold. One is development processing. So
24 landowners or developers will submit land development applications
25 to the town. I will review them, those applications, and provide

1 engineering comments. And then we also will see those generally
2 through construction. And then we also do most, not all but most,
3 of the town's capital infrastructure design.

4 Q. So walk us through land development applications. What are
5 those? You know, who's involved and how the process works.

6 A. The very first step is for property to annex into the town of
7 Firestone. So the town of Firestone is a statutory town in the
8 state of Colorado. Petitions have to be executed to include
9 property within the town's corporate limits. It is a voluntary
10 process. So we would review those annexation applications
11 primarily looking at legal descriptions to make sure that those
12 are correct.

13 It's a public process. They have to go through the town's
14 planning commission and then the town board of trustees. When
15 they annex they also zone the property. At that point there's
16 really not much if any technical matters that are addressed.
17 They're just bringing the property within the corporate limits of
18 the town of Firestone.

19 After that, there is a -- there are two more steps. We have
20 a preliminary plat and preliminary development plan process which
21 as the name implies is preliminary. It does not formally entitle
22 them to any division of property or anything. But it allows them
23 to go through, again, a public process planning commission, and in
24 front of the board of trustees with a general overview of what
25 they would like to do to develop their property.

1 Once they complete that process, then they are eligible to
2 move on to what is called a final plat, a final development plan
3 process. That is usually a narrower scope of their broader
4 preliminary. A landowner, but I'll speak specifically to
5 residential development because it is most common. You may have
6 150 acres that you own. So you'll bring your entire 150 acre
7 project through our preliminary process, preliminary plat,
8 preliminary development plan.

9 Once they get through that process then they will typically
10 come back with a smaller subset of that to go through final. That
11 is where the more detail goes -- is applied. So that's generally
12 how our process would work. There are some other processes
13 related to gravel mining that would require a conditional use
14 permit. In the case of oil and gas well facilities they go
15 through a land use process in Firestone called a special use
16 permit.

17 Q. Okay. So going back to the development, you are being the
18 ground zero.

19 A. Okay.

20 Q. In this particular case. So how does -- was this particular
21 area, location, already in the town limit, city limit, or it was
22 -- it went through the process you just described?

23 A. The property was annexed into the town of Firestone. I don't
24 remember the exact date. But it was annexed into the town of
25 Firestone. And then it did go through a preliminary development

1 plan and preliminary plat process, and then several actual final
2 plats. There was a first filing. The home that we're discussing
3 was actually part of filing number two where that lot was formally
4 platted.

5 MR. LEONARD: I'm sorry to interrupt. Can we just be more
6 specific about the subdivision and the home that we're talking
7 about?

8 MR. CHHATRE: Yes. I sort of get the flavor for the whole
9 process first.

10 MR. LEONARD: Okay.

11 MR. CHHATRE: And then we can --

12 MR. LEONARD: Okay. I know we all know, but I think it helps
13 to have on the record.

14 MR. CHHATRE: Sure.

15 MR. PRUNK: That we're talking about this anyways.

16 MR. CHHATRE: Okay.

17 BY MR. CHHATRE:

18 Q. Let me get the correct name of the development in this case.
19 You said the property was annexed. Was it at the request of the
20 homeowner or the developer or it was by the city?

21 A. No, it was annexed by the landowner. The landowner executes
22 a petition effectively asking the town to annexing them into the -
23 - into the town.

24 Q. I'm just trying to get the correct name of the developer
25 here. Just give me a second.

1 A. Okay.

2 Q. This is my understand that Hurt Oaks (ph.) is the subsidiary
3 develop -- who developed the Twilight Avenue community. And that
4 is what we are talking about in this particular case.

5 A. Could you repeat that again, sir?

6 Q. Sure. Century Community is -- is the parent company of the
7 Hurt Oak. And Hurt Oak is the subsidiary which developed the
8 Twilight Avenue Community.

9 A. And that's what we are talking about in this particular case.
10 Now, as far as the subdivision, do you know the subdivision where
11 the house was located?

12 MR. LEONARD: Oak Meadows.

13 MR. LINDSAY: It was Oak Meadows, filing number two.

14 MR. CHHATRE: Okay.

15 MR. LINDSAY: And this was Phase 2C. There were multiple
16 different -- the reason I point that out it because there were
17 multiple developers in the different filings and phases. Century
18 Communities was the -- the ultimate developer of that segment of
19 Twilight.

20 BY MR. CHHATRE:

21 Q. So if you just walk me through this particular process, what
22 happened in this case?

23 A. Okay. As far as the subdivision?

24 Q. Yes.

25 A. The subdivision was actually completed previously by another

1 developer. It was Oak Meadows Subdivision Filing Number Two.
2 That subdivision had, I believe at the time, three phases. It
3 went through a portion of the development. We had a downturn of
4 the economy. The developer in it had changed hands. The
5 developer at that time lost the property to a bank. It was
6 foreclosed on.

7 Century Communities came in later and purchased two phases.
8 They -- they purchased Phase 2B and 2C. The home in question was
9 in Phase 2C. The developer's responsibility at that point -- the
10 lot was already divided. So it was a legally -- a legal process
11 of land. The right of way was already conveyed. So the developer
12 at that point's responsibility was to assume final completion of
13 the public improvements. So building the water and sewer and
14 drainage system and then building the -- the public street.

15 And then once they completed that then they are allowed to
16 move on and start building the private homes that they would --
17 that they built.

18 Q. And so they require your inspections, city's inspection and
19 approval that everything was done according to your regulations?

20 A. For the public improvements, yes. So for all of the items
21 that were in the -- the -- the public right of way. Again, the --
22 the -- we don't actually control the sewer. There is a -- a
23 separate special district, Saint (indiscernible) Sanitation
24 District. They provide sewer service. But the street, the
25 waterline, the drainage system we would inspect all of that, yes.

1 Q. Okay. And what about the underground utilities in that
2 location?

3 A. Private utilities are not something that the town would
4 inspect. It is the developer's responsibility to coordinate with
5 those different companies, gas, electric, telephone, cable
6 television, to extend their -- those private utilities, what we
7 call the dry utilities, into the subdivision. Those typically are
8 not located within the public right of way. They will frequently
9 cross the public right of way. But those are typically located in
10 private easements outside of the public right of way. The public
11 right of way is where the -- the street is at.

12 Q. And how big a volume of paper we are looking at for the
13 regulations? Is it a (indiscernible) volume, or can I get a copy
14 of those regulations?

15 A. Yes, it's actually available on the town's website.

16 Q. Okay.

17 A. So you can go on the Firestone website and in the planning
18 tab you can find the development regulations. There are actually
19 three documents you may want to look at. There's the development
20 regulations that would walk you through all these processes. The
21 Firestone Municipal Code is also on there. There are a lot of
22 things related to subdivisions and development of property that is
23 articulated in the -- the Firestone code. And then on the
24 engineering tab are the design criteria and construction
25 regulations manual again for the public improvements that we

1 require.

2 Q. Now, (indiscernible), what about the underground, I call
3 utilities, but any piping? Like in this particular case, the oil
4 and gas?

5 A. Gas pipeline. So when the -- when the project first came
6 through, and this is typical, you'll have -- if there's oil and
7 gas development activity, wells, that exist on the property
8 oftentimes those are completed before the property's ever
9 developed in the town. So when it's annexed in those -- those
10 already exist. And that was the case here. There were a couple
11 of oil and gas wells and some processing facilities on this
12 property.

13 So when they annex that in, the land developer will generally
14 work with that oil and gas company to coordinate how they want to
15 lay out their lots and their streets and all that kind of thing.
16 And in some cases that requires relocation of some of the oil and
17 gas company's facilities, and it's up to them to negotiate that.
18 Those are private property interests. And so we typically don't
19 get involved in those.

20 The pipelines that are associated with those oftentimes are
21 not in recorded easements. A lot of times these oil and gas
22 companies would come meet owner, who was a lot of times a farmer
23 at the time. And they would negotiate a surface use agreement
24 that would allow them access to the property. They have rights
25 under Colorado law to be able to drill wells and whatnot.

1 And so they would enter into these arrangements. Sometimes
2 there was a financial component of it. A lot of times that wasn't
3 disclosed, you know, in a recorded document that would be
4 available to the public. So a lot of times pipelines that they
5 would build are not necessarily identifiable in a research of
6 public records because the -- the -- the easements aren't
7 recorded. They're -- they're -- they're referred to in these
8 surface use agreements which oftentimes are not recorded.

9 Sometimes they would record a memorandum so that there was a
10 record that there actually is a surface use agreement in place.
11 In some cases there weren't even necessarily surface use
12 agreements. But the town doesn't get terribly involved in those
13 unless there's something that would conflict with public property
14 like the road right of way or -- or, you know, a park that the
15 town was going to own or something like that.

16 Q. But do you know where those things would be recorded at all,
17 or there may not be any records?

18 A. Again, you can do title searches. And that would identify
19 anything that was recorded with the Wild (ph.) County Clerk and
20 Records Office. But oftentimes agreements between those --
21 those private, you know, property owners are not recorded. So
22 there may not be a record of those.

23 Q. Okay. So would those -- in your approval process, do you
24 check if the piping exists or is taken care of, or relocated or --

25 A. We do require as part of our process that they show any

1 existing utilities that exist on the property. We require that
2 they show any existing easements that exist on the property. For
3 the most part we are relying on that applicant to complete that.
4 There is a level of -- of checking that we do. It is not overly
5 intensive. But we do require that they show these facilities on
6 the property so that we know what it is.

7 In fact, most of that is even required at the annexation
8 stage that we know what kind of encumbrances there may be on the
9 property. And it helps us -- if there are easements we've got an
10 idea of what may be underground on the property in the way of
11 pipelines and things like that. Like I said, in some cases they
12 don't show up because it's not a recorded easement.

13 Q. Okay. So I guess it is then fair to say that the piping may
14 exist but the city would have no knowledge. And the developer or
15 applicant may have no knowledge of it?

16 A. It's very possible because a lot of times the -- the
17 landowner who, or developer who is bringing it through may not
18 actually realize that there's, you know, that there's pipelines or
19 -- or, you know, electric lines or things like that. If there's
20 not a recorded easement they may not know that it's there.

21 Q. So making one call would not help in a situation like this?

22 A. Again, one call is different. So with one call situation
23 your -- these different entities, and I am not an expert on this,
24 but these -- these different utility organizations will register
25 with one call. And they do that to protect their own -- their own

1 facilities. So you can call in and if they have a facility out
2 there, they will go mark that for you. That doesn't necessarily
3 tell you that there's an easement or not. But if they are
4 registered under the One Call system then they would go out and
5 locate that utility for you and you would at least know that there
6 is some sort of a utility there.

7 Q. So this easement agreement, so I'm not required to locate it,
8 or register it in any place? Based on your knowledge?

9 A. Based on my knowledge I don't believe that even the state
10 requires that these pipelines be in a recorded easements.

11 Q. No state regulations?

12 A. Not as far as I know.

13 Q. So when the city goes and inspect in different phases of your
14 (indiscernible) your regulations --

15 A. Yes.

16 Q. Does the city pay attention to the wellbeing nearby that
17 there may be underground piping in that or?

18 A. Yeah, that's one of the things. When we do our -- our review
19 both at annexation and at preliminary, if we see that there are
20 wells on the property but they're not showing any pipelines, that
21 will be a comment of ours because we know that it -- it's going
22 somewhere, usually. In some cases, you know, a lot of these old
23 vertical wells if it was relatively remote there might not be a
24 pipeline. They might just put a tank facility and a separator and
25 everything right there. They may process everything right there

1 on that location.

2 But that is usually a red flag. If we see a well and there's
3 not tank or anything associated with that we assume that there's a
4 pipeline out there. And so we will comment on that.

5 Q. Now, when -- specifically for this particular location do you
6 recall was there any -- question was raised with the piping marked
7 or identified on the construction pipes and -- and I didn't go
8 back and look. I don't remember if they were actually shown on
9 the annexation documents, but the pipelines for -- for the
10 existing wells and facilities that were out there before the
11 development occurred were shown on the approved construction plans
12 for that subdivision. It was the very last sheet in that
13 construction plan set, showed both where the lines were at that
14 time and where they were going to be relocated to. And there were
15 notes to that effect, that those lines were going to be relocated.

16 Q. And for this particular development, can we get this on your
17 webpage? Will that be available on the webpage, or it could have
18 been something that you may have to provide us?

19 A. No, I would need to provide you -- the construction plans are
20 not actually on our webpage. Any of the recorded documents like
21 the annexation maps or the subdivision plats and the development
22 plans, those would all be on the -- the town's website. Those
23 would be available there. But the construction plan documents are
24 not actually on the town's website. But yes, I can provide that.

25 Q. Can you provide us? That would be great. Now, does the city

1 regulations require them to I guess report in case they hit any
2 underground pipelines?

3 A. If they hit them? We don't actually require at the state --
4 or I'm sorry at the local level we do not require that they report
5 that to us.

6 Q. Okay.

7 A. Yeah, so if they were to hit a line out, generally if -- if
8 they are -- if -- if the -- if they hit it while they're
9 installing public utilities, we certainly know about it at that
10 point. If they're installing, you know, a water or sewer line or
11 something like that out in the public street and they hit a gas
12 line then we would certainly know about it at that point. And at
13 that point then it's up to the -- the contractor will have to
14 ascertain whether or not that is an active line or if it's a -- if
15 it's an abandoned line.

16 Q. Now, in this particular case, do you recall if you guys ever
17 received any comment from the developer that they hit any lines or
18 that lines were present?

19 A. I knew that the lines were present, like I said, because they
20 were shown on the construction plans. And they did identify the
21 relocation. What I can recall when this all first came up because
22 I gave that map to the fire department and police department so
23 that they knew where those old lines were at. What I could recall
24 was some of the companies when they'd take those old lines out of
25 service they'll physically remove them. In some cases they don't.

1 And I couldn't even tell you what percentage of them do and don't.

2 We usually don't get terribly concerned if they want to just
3 abandon them in place because for the most part these pipelines
4 are heavy walled steel and they're relatively small diameter. So
5 as it crosses one of my roads, our concern would always be if you
6 have an abandoned utility under there that were to collapse, is it
7 going to cause damage to the roadway. But again these pipelines
8 are so heavy walled steel and they're, generally, small enough
9 diameter that even if it collapsed it really wouldn't impact the
10 road negatively. So we don't have requirement that those get
11 removed. But they do get bumped into occasionally.

12 Q. Okay. If you'll please explain -- show it to me?

13 A. Yeah, that's it right there.

14 MR. LEONARD: Could you provide it for us?

15 MR. LINDSAY: Okay.

16 MR. LEONARD: And then the other one I just wanted to let you
17 see, too. This is the one that we -- when we -- this was the
18 provided drawing that you had given to us?

19 MR. LINDSAY: Yep.

20 MR. LEONARD: So David provides both of these.

21 MR. LINDSAY: That was me kind of hand sketching it out on
22 there.

23 MR. LEONARD: Okay.

24 MR. LINDSAY: Yeah.

25 MR. LEONARD: So David produced, this being north.

1 MR. LINDSAY: Correct.

2 MR. LEONARD: And then this being west and running to --
3 here's he well.

4 MR. LEPORE: Ravi, could we -- could we identify the
5 document, please, on the record, looking at, talking about?

6 MR. CHHATRE: Yes. Actually, we just write down the name and
7 the --

8 MR. LEONARD: Certainly. So this first --

9 MR. LEPORE: Yeah. This is our only copy.

10 MR. CHHATRE: Oh, okay. Okay. All right.

11 MR. LEPORE: We'll need copies if they're going to go on
12 the record.

13 MR. CHHATRE: Now, can you provide -- can you send us a copy
14 of this?

15 MR. LINDSAY: Oh, yeah.

16 MR. CHHATRE: And we can just identify your drawing then for
17 the recording. Just identify the drawing.

18 MR. LEONARD: Is these the only two that you're going to be
19 talking about? Because I can make copies of these.

20 MR. CHHATRE: Yeah, if you can. That'll be great. Yeah.

21 MR. LEONARD: Yes.

22 MR. LINDSAY: Okay.

23 MR. LEONARD: Let me -- let me make --

24 MR. LINDSAY: Go ahead.

25 MR. LEONARD: You only need this one, correct?

1 MR. LINDSAY: This sheet and -- yeah. If you want to give
2 them that one too.

3 MR. LEONARD: Just these two? Okay.

4 BY MR. CHHATRE:

5 Q. I want to make sure I'm done -- understand. And not assuming
6 anything. I'm not a city planner. So walk me through.

7 A. Okay.

8 Q. If (indiscernible) or anybody had a well in here any place --

9 A. Correct.

10 Q. -- in Colorado or your county, where that will be documented?

11 In the state document. And where the piping will be shown?

12 A. Piping is -- is a little bit more complicated. The wells are
13 easy enough, especially now. The COTCC has on their website --
14 you have -- we have access a GIS database that shows all of the
15 wells in the state. And it will identify the well by its name and
16 it will tell you if it's -- if it's in service or if it's been
17 plugged or abandoned and give you some other statistics about the
18 well. We actually use that database for some other things fairly
19 regularly.

20 There is not to my knowledge any kind of a database that
21 exists like that related to pipelines. Generally what would
22 happen is when a development application comes in, I could say our
23 criteria requires that they show even at the examination level any
24 of those existing facilities. So if there's an -- an oil and gas
25 well, they're required to show that on that annexation map.

1 They're supposed to show, again, any easements or pipelines that
2 they know of. At that annexation level sometimes they don't
3 always know what's out there.

4 So that -- that's, like I say, the -- generally what they're
5 presenting to us is what is of record. So anything that has been
6 recorded with the county as far as easement agreements and things
7 like that. Actually if there wasn't an easement agreement for a
8 pipeline the developer would have to find that by calling that One
9 Call or calling the oil and gas operator directly and asking them
10 to go out and locate those lines.

11 And they'll generally do that because they want to know where
12 those are too. Because clearly that's going to affect their --
13 their subdivision. And so they need to decide if they can design
14 around that or if they're going to have to work with that operator
15 to relocate a facility. And that's what happened in this case.
16 There was -- there were actually two pipelines or we thought it
17 was just two pipelines that connected two wells that were in the
18 south central portion of this property. The -- the flow lines,
19 this is a term of ours that we use, the flow line is what is the
20 pipeline that comes right out of the well.

21 So this is pre-processing or anything like that. These are
22 typically relatively high pressure pipelines. That's the heavy
23 gauge metal pipe that they use. But those two flow lines came
24 together and then went kind of caddy corner across the property to
25 the north end of the property where there was a processing

1 facility and a tank battery.

2 So going back to your --

3 Q. If you write down your --

4 A. -- exhibits.

5 Q. Sir, if you can just write down your name and today's date.

6 A. Okay.

7 Q. And I'll do --

8 A. Twenty-fifth?

9 Q. Twenty-fifth.

10 A. Okay. So this is sheet 72, which is the last sheet, of the
11 as-built construction plan set for the Oak Meadows PUD
12 subdivision. Also just as a little bit of background, I told you
13 that with the subdivision process there were a number of what we
14 call filings. So this went through several processes to get
15 subdivided. We actually allow them to do the construction plan
16 set for the entire project up front. And then as they come
17 through and record their subdivision plats as long as they haven't
18 changed anything in their construction plans are good all the way
19 through the project.

20 So this was originally approved by the town I want to say
21 1999, somewhere in that area, right around 2000. But this was
22 from the construction plan set for the whole project. Once they
23 were completed with all of the public improvements they submit as-
24 built drawings to us. Those were completed -- this set was
25 completed I believe in 2003. And this was for filing number one.

1 But as you can see from this, there were two well locations
2 identified and some existing pipelines. Actually there's a third
3 well back up here. This is on a town park.

4 Q. Circle that? You want to circle that?

5 A. I'm sorry.

6 Q. Go ahead and circle that. Yeah.

7 A. So there's a well there. There's a well there. And there's
8 a well there. So there were what we call flow lines that
9 connected this well and this one. This isn't showing up real
10 clearly. Yeah there it is right there. Sorry. It's highlighted.
11 So the flow line from this well came across the property over to
12 this well location where there was another flow line. And those
13 moved north up here to this location where I believe there was
14 actually another well up here as well. And then there was also a
15 tank battery and some processing facilities.

16 And then this third well at this location, it had a flow line
17 that took that route. So there was actually three pipelines based
18 on this mapping that had been identified. This map also then
19 showed where -- that these -- it labeled these as being -- to be
20 abandoned. And it also showed the new pipelines so that those
21 would not interfere with any of the lots of the public streets.

22 So these two well then were going to be connected with this
23 new flow line and a new tank battery and processing facility put
24 over here near this well site on the west end of the property.
25 The -- the tank battery in processing facility up here at the

1 north end remained. And the -- the flow line for this well was
2 simply realigned to avoid these lots in the street.

3 Q. So these lines -- the -- the lines from the well in question
4 --

5 A. Yes?

6 Q. -- to the north side was abandoned supposedly.

7 A. Correct. Based on the -- based on the -- the -- the plans
8 that they had prepared those -- that line was going to be
9 abandoned, correct.

10 Q. And does the -- well owners are involved in this whole
11 process?

12 A. Not directly with us because, again, in Colorado you have two
13 types of property rights. There's a surface property right, but
14 then there's a mineral right. And those oftentimes are separated.
15 And then you have potentially a -- or oftentimes a third party
16 that comes in that does not own that mineral right but negotiates
17 a lease that allows them to go extract that. And then the state
18 as a lot of regulations and authorities that give these people --
19 it's kind of a joint ownership. But the mineral owner does have
20 some rights to access that surface to -- to go down and get their
21 mineral. So they have the ability to do that.

22 So at the local government level we don't get terribly
23 involved in that because those are two property right interests.
24 And so we generally stay out of that, let them negotiate that out
25 amongst themselves. And that's often what will happen with these

1 pipelines. It'll be a decision that they make jointly or -- or
2 unilaterally as to whether or not a pipeline is going to be
3 abandoned in place or if it will be physically removed.

4 Q. But you don't get the confirmation from the owner of the
5 pipeline.

6 A. No, we do not.

7 Q. In this case the available owner of the well.

8 A. Correct.

9 Q. The -- the developer comes and tells you that these lines
10 are abandoned.

11 A. Correct.

12 Q. But you don't seek the confirmation from the owners of those
13 saying yes, indeed, they are.

14 A. No, we do not. We do not get a confirmation of that.

15 Q. Okay. Then is it local? I mean, you guys are unique not
16 requiring it, or it's pretty common in Colorado?

17 A. My experience working with local governments in Colorado,
18 this is not something that local governments generally get into.
19 Principally because the state of Colorado has made very clear that
20 oil and gas operations are theirs. At the local level we do have
21 some authorities related to their activities at the surface. So
22 for instance if they're going to put a new well in, we do have the
23 authority to require them to come through a reasonable public land
24 use process. So they would go through planning commission and
25 town board for, again, what we describe to you as a special use

1 permit.

2 There are a lot of restrictions though that what we have at
3 the local level we can dictate to them. We do have the ability to
4 require, you know, if they're going to have an access road it
5 needs to access, you know, the public street here and these
6 improvements need to be made. We have some ability to require
7 them to put up some sort of landscape or land type buffers for
8 sound and -- and -- and light and whatnot while they're drilling
9 and -- and so one. But the state actually restricts what we can
10 do with that. We don't have the authority for instance to tell
11 them that they can't drill a well.

12 The pipelines are a little bit different. They are -- they
13 are a subsidiary improvement that goes along with the well
14 activity. But again it's that private facility. And so we really
15 don't get involved in it very much like we don't dictate
16 powerlines. We have certain restrictions about, you know,
17 powerlines being located in the town and if they're going to be in
18 our public right of way or not. But the actual design of a
19 powerline, the town of Firestone does not review that and approve
20 that before the power company would go extend that utility service
21 into a -- a neighborhood, so.

22 Q. I understand. I was really looking from a (indiscernible)
23 viewpoint. I was just looking at like the plan comes to the city.

24 A. Yeah.

25 Q. So you want to develop this lot. And the city provides you

1 that these lines are abandoned.

2 A. Right.

3 Q. There is no -- you don't have a requirement of a crosscheck
4 that --

5 A. No.

6 Q. -- that the owner confirm that yes, indeed, that what John
7 Doe or Jane Doe is telling you is indeed correct.

8 A. Correct.

9 Q. And they are abandoned.

10 A. No, we are relying -- in this particular case, like I said,
11 they actually included this in their -- in their -- this is called
12 an as-built, but it is the drawing of record. So we are relying
13 on that developer when he tells us that yes tis was abandoned,
14 that it's abandoned.

15 Q. Okay. But they are not required to provide you any process
16 lie this a correspondence between the --

17 A. That's correct. They do -- they are not required to provide
18 anything like that to us.

19 Q. They have to send accountable like their word that this is --
20 this has been done.

21 A. That's correct.

22 Q. So whether these lines are abandoned or not the city really
23 would not know that they actually are abandoned.

24 A. No and we bump into them occasionally, like I said, when
25 we're building the public infrastructure. If we're installing --

1 usually it's -- because sewer is the deepest, so if you're going
2 to cross one of these old abandoned lines that's usually the case.
3 If it is inactive when the contractor calls for utility locates,
4 because they are required, we actually have them put that note on
5 their construction plans that they're required to call for utility
6 locates prior to excavating.

7 Sometimes those will get located. Sometimes they won't. If
8 it is located then clearly it was, you know, it's an active line.
9 If it's not located that's not a guarantee that it's not an active
10 line. It could just be that they didn't, you know, they didn't
11 locate it. And so, that's always a little ticklish when we're out
12 there doing construction and you come across one of those
13 pipelines, generally you can go to the nearest well and there's
14 placards that will tell you who the well operator is. And there's
15 usually a number that you call. And so we'll try and track it
16 down that way. And so these contractors will do their best.

17 If it's not a conflict then we'll usually just work around
18 it. But occasionally they'll hit them and they'll actually -- you
19 know, they'll damage it. And so then we're trying to figure out,
20 is it a live line or not. And so that's -- that -- that's an
21 exercise sometimes.

22 Q. So in this particular case based on your drawing here.

23 A. Yes.

24 Q. All this property was developed as one plan that came to
25 city?

1 A. Well, the constructions were. It was actually developed in
2 multiple pieces. So filing one of this project was essentially
3 this -- this part of the -- the project. So it was the, what
4 would be the western half if you will of the project. And it was
5 actually built in two phases. So phase one was essentially the
6 corridor around here. And then phase two was this piece down
7 here. The rest of this portion of the project was actually part
8 of filing number two that in this little piece over here.

9 And that was developed in -- originally it was going to be
10 three phases, Phase 1, Phase 2, and Phase 3. Then Phase 2 was
11 actually broken up into three sub phases, a 2A, 2B, 2C.

12 Q. Okay.

13 A. So Century Communities who was the end owner of this
14 developed the very last phase of this development which was Phase
15 2C.

16 Q. I would -- I would request you to circle those and write
17 those down for me.

18 A. Actually, we could provide that to you. In fact on the
19 website in the final development plan there's actually already a
20 map that would show all that, all the different phases.

21 Q. Okay. If -- and you're going to give me that.

22 A. Yes.

23 Q. But for right now for our understanding.

24 A. Oh, okay.

25 Q. That's why I actually damage these -- this copy that because

1 I'm going to get another one.

2 A. Okay.

3 Q. So I think you circle this area --

4 A. So --

5 Q. -- being the Phase 1 and the --

6 A. Yeah, essentially. So this was -- this is kind of rough.

7 But I'm going to just --

8 Q. Yeah, you know, rough is fine.

9 A. This was -- I wonder if that was part of it or not.

10 Q. But approximate is good enough.

11 A. I think it was, yeah. I think this was Filing One.

12 Q. Just write that one.

13 A. Was this. And that was done in two phases.

14 Q. (Indiscernible) Filing One and in between you can write on

15 here Phase 1, Phase 2.

16 A. Okay.

17 Q. Easier. Because I -- I understand right now. But --

18 A. Yep.

19 Q. -- I'm not sure one month later or two months later.

20 A. Okay. So Filing One, Phase 1 would have been roughly, would

21 have been this if I remember correctly. So that was Filing 1

22 Phase 1. This was Filing 2 Phase 2. Filing 1 --

23 Q. Phase 2.

24 A. Phase 2. There are much better maps of this.

25 Q. That is fine.

1 A. And then for this, let's see. This was Phase 1 up here.
2 This was Phase -- where am I? Yeah, this was Phase 3 down here.
3 And these were not built in order by the way.

4 Q. No, that's okay.

5 A. And then this would have been -- yeah.

6 Q. Okay. So --

7 A. I apologize for my penmanship, too.

8 Q. No. So this is Phase 2, Filing 2 Phase 2 --

9 A. Phase 2C.

10 Q. -- is where -- where the ground zero building is involved.

11 A. Yes, sir. There is -- it's this property right here
12 actually. There is an open space tract right here.

13 Q. Right, I remember that.

14 A. That was actually a leftover because our developer
15 regulations did not allow you to plat a lot within the 150 foot
16 setback from a well. That's actually our current regulations. At
17 the time the regulation was you couldn't plat a building envelope.
18 So your lot could encroach in the 150 feet but the building
19 envelope could not.

20 Q. Okay.

21 A. So on some of these --

22 Q. (Indiscernible) from the -- for the pipeline.

23 A. I'm sorry, yeah. So not from pipeline, from the well itself.

24 Q. Oh, I see, well itself.

25 A. Right. From the well itself. And so that's -- that's why

1 this was left out. Because that 150 foot setback would not allow
2 for any lots to be developed on -- on -- on that piece of
3 property.

4 Q. Now, does the city require that the developer to inform the
5 homeowners or buyers that they should disclose that there's a
6 (indiscernible) pipeline on the property or acting pipeline in the
7 property?

8 A. Not the pipelines. We do require on our subdivision plats
9 which is something that the -- the landowner would -- would
10 certainly want to take a look at. We do require that all of the
11 existing wells and processing facilities be shown on those plats
12 and that the -- we have a requirement in our regulations that --
13 and again it's changed a little bit. But now we actually don't
14 allow any lot to be platted within the 150 foot well setback.

15 So we do require them to show the well in the setback circle
16 so that it is clear. The pipeline would not necessarily be shown
17 on that. Under our current regulations, and these were developed
18 in 2003 or '04 I believe, we did change our development
19 regulations and we required these flow lines if they're going to
20 relocate those that those need to be relocated in a separate tract
21 of land. We'd always kind of done that in practice. But it was
22 formally in our requirements.

23 So for instance, we required this pipeline to be located in a
24 track rather than it being in the easement that might be in
25 somebody's backyard. Again, in practice we'd always required that

1 but in 2003 or '04 we actually changed the -- the town code to
2 require that. And the reason that we didn't want that is because,
3 like I said, these flow lines can be extremely high pressure. And
4 right, wrong, or otherwise an individual homeowner might not call
5 for utility locates if they're going to go build a -- a fence or,
6 you know, put a shed in or something like that.

7 And we didn't want anyone inadvertently drilling into one of
8 those with a fencepost auger. And so we had -- we required that
9 those be located at a separate track so it wouldn't be running
10 through somebody's yard. Now, the distribution lines that are
11 operated by the retail provider, those would still be in easements
12 within your yard. But these real high pressure flowlines, which
13 also didn't have the odor added, we -- we required that those be
14 located at a tract outside of any parcel that would be developed
15 for residential use.

16 Q. Now, does the county require all the well owners or operators
17 to be a -- to be a member of One Call or locate request like
18 (indiscernible) or LOBO (ph.)?

19 A. I do not know. Yeah, I don't know if they require that or
20 not.

21 Q. Because even if somebody makes a One Call, if Anadarko (ph.)
22 or Nobel (ph.) are not member, their lines may not get --

23 A. Correct.

24 Q. -- located.

25 A. That's correct. Yeah, so if there's a -- you're -- yeah. If

1 they're not on that list, and I don't know if they're required to
2 or if they are or not, but if they're not then it would be up to
3 that landowner to contact them directly to see if they've got
4 anything on that property.

5 Q. But you -- the developer is not required either to -- to mark
6 those lines or tell people that there's a high pressure line going
7 near your property or --

8 A. Not on -- yeah. Not in any document like that. Like I say,
9 we do require that it be shown on our construction plans. So if
10 there's a pipelines then -- then they would be able to see it on
11 there. And in this case it would be identified as being
12 abandoned. It wouldn't tell you whether it was abandoned in place
13 or if it was removed and abandoned, so.

14 Q. But even the active line, they don't have to disclose the
15 home buyers I guess that there's an active line going or --

16 A. Not -- not disclose to them, no. The -- the construction
17 plans are available for the public to view. So if you were going
18 to buy a home -- and oftentimes they do. They're generally
19 looking at things like grading and drainage. They want to know
20 what the, you know, the grading and drainage is supposed to be on
21 the lot. Oftentimes, homeowners will look at that. This would be
22 available to them through that if they wanted to, but they would
23 have to make that effort. It's not something that would be
24 automatically provided to them.

25 Q. So that's required on the builders part.

1 A. Right.

2 Q. That -- that (indiscernible) disclose.

3 A. Correct. Yeah, there is nothing like that.

4 Q. But for -- for commercial, retail, gas lines, you know, there
5 are -- lines are typically shown on road, there is an underground
6 gas line.

7 A. The --

8 Q. But the (indiscernible) piping is a requirement in the city
9 that shows that you have to show the line? Like the gas that is
10 marked here if I remember.

11 A. Yes.

12 Q. On the street level.

13 A. Yeah. We do require -- yeah. Like I said, our construction
14 -- our construction regulations do require that for the
15 development of these -- these -- the utility plans for the project
16 they do need identify all of the existing oil and gas wells and
17 facilities and the pipelines. But like I said, if a private
18 property owner within that subdivision wanted that information,
19 they would have to make the effort to go look that up.

20 Q. Okay.

21 A. They could come look at our construction plans. And those
22 are available to them. But it's not something that would
23 automatically be turned over and disclosed to them.

24 Q. Okay.

25 A. If the pipeline were in an easement that would be shown on

1 their subdivision plat.

2 Q. Okay.

3 A. So if they looked at the plat, like I said, you know, before
4 they bought their lot then it would be shown on that.

5 Q. Did the city -- was -- was the city contacted by any
6 homeowners saying, hey, we didn't know that the pipeline after the
7 fact?

8 A. Not as far as I know. I was not contacted.

9 Q. Now in this -- this Phase 1, whatever the -- did the line
10 (indiscernible) be hit does the city require that abandoned or
11 not, is the city required to tell city or somebody that they hit
12 the line or there are some action items on the developer?

13 A. No, the -- the developer will hire their own construction
14 contractor. And so it's their contractor that's actually out in
15 the field. The town will stop by the sight periodically to
16 inspect. Mostly what we're looking for is to make sure that, you
17 know, their -- if they're backfilling trenches that they're
18 compacting it properly. If they're putting in for instance our
19 utilities, our water lines or storm sewer line, we want to make
20 sure that the pipe is -- is assembled correctly. If the
21 contractor hits a pipeline or any other utility that wasn't shown
22 on the plans or wasn't located, that's not necessarily something
23 that they would automatically call us. Sometimes they would just
24 because they know we've got history in the area. We might know
25 whose it is and what it is. But there's a process that they go

1 through if they bump into something like that. They can call for
2 emergency locates and have somebody come out. Like I say, if they
3 believe that it's a gas pipeline, like I said, they may go look at
4 those well heads and try and call those folks.

5 Q. But, I mean, like do you require them to show the abandoned
6 pipelines on your plat, right? When they make submission to city.
7 On this particular drawing they showed the lines.

8 A. Correct, yes.

9 Q. They are required to show you that.

10 A. Yep.

11 Q. And my question is in case they look at starting an
12 excavation another line that's not shown on this drawing that they
13 submitted to city?

14 A. Right.

15 Q. Does the city require them to say, hey, look I mean, you told
16 us something. We found something more. So come and tell us.

17 A. We would want to see that on the as-built drawings, that's
18 correct.

19 Q. There's no legal requirement on --

20 A. No.

21 Q. -- your part that if they find something different than what
22 they told you.

23 A. Correct.

24 Q. -- to come back and correct that.

25 A. That's correct. They are required to submit as-built

1 drawings. And if they did come across something, generally they
2 would show it on those plans if it was something that interfered
3 with one of the public utilities that they needed to install.

4 Q. Okay.

5 A. Then they would show that on there.

6 Q. And while I'm thinking, I'm thinking loudly (indiscernible).

7 If there is 12 more line which is abandoned --

8 A. Yeah.

9 Q. -- and they hit the line, they see the pipe is abandoned. No
10 big deal. Just -- but then they're required to come back to you
11 and say, hey, look there is some --

12 A. No, they are not.

13 Q. -- problem in here.

14 A. And the gas pipelines like I say are one issue. Part of the
15 reason that we would require something like that, it could kind of
16 onerous. And you don't know necessarily where it goes. You're
17 just -- you're crossing at a certain point in space. You don't
18 really know where it goes beyond your trench. We have a real
19 problem honestly in a lot of locations with old telecommunications
20 lines, phone lines and things like that. The phone company will
21 abandon things in place all the time. And you hit them, you still
22 have to go through all those hoops because you don't know if it's
23 a live line. It could be a 911 line, and so it is a challenge for
24 us sometimes to figure out what's live and what's not live.

25 And we're totally relying on those utility companies when

1 they locate their facilities that they're locating the live stuff.
2 And so if we hit something that wasn't located they'll still, the
3 contractors will still go back and call for the emergency locate,
4 or if they know that it's the phone company they'll call them to
5 come out and try and determine or if it's a gas company, if that
6 is live or not. Because they do miss them.

7 Q. Well, I was amazed at the drawing that the fire department
8 provided me how many wells you had in the town of Firestone. So I
9 just -- it's almost impossible to find a house with no well or
10 with piping nearby.

11 A. It is, yeah. This is -- Weld County (ph.) is one of the most
12 productive oil and gas fields in -- in the country. And it's -- a
13 lot of that has been developed in the last 15, 20 years. Some of
14 this is older. But, yeah, there's been a lot of -- of activity,
15 and there's a lot of pipelines that go along with that.

16 Q. (Indiscernible), you know, the foreman -- since this accident
17 did the developer come to city and contact you guys saying hey
18 look there was a (indiscernible) active pipeline?

19 A. The developer? No.

20 Q. Placing that is still on their property development, the
21 property that they developed, that did not show the active line.

22 A. Right. At that point, like I said, the developer would have
23 -- I won't speak for the developer. But he'd sold the property.
24 It wasn't his anymore. He'd -- they'd built the house and then
25 they sold that house. And so while they're building the house

1 when they came across that, no, they did not report anything to
2 us. They may have referred back to these plans and saw that there
3 was in fact a pipeline that went through there and the plans
4 called that out to be abandoned. And so they may have just made
5 that assumption that, yep, it's abandoned. And that was all they
6 did. But they did not report anything back to us. They weren't
7 required to.

8 Q. I don't know how (indiscernible) I've come back to the
9 (indiscernible) and I'll just pass on to other people. I'm trying
10 to understand the next step. What happens?

11 A. Sure, yep.

12 Q. Come to that.

13 A. We've been wrestling with that too.

14 BY MR. AJIBOYE:

15 Q. So this is (indiscernible) from PHMSA. We're talking about
16 easement, right?

17 A. An easement.

18 Q. Yeah, can you explain what easement is?

19 A. An easement is a private property interest or it could be a
20 public property interest that is conveyed from a landowner who
21 actually owns the property to some other entity that gives them
22 some rights to utilize a portion of their property. Doesn't
23 necessarily give them an ownership entrance. So for instance if
24 you have a utility that you want to extend across somebody's
25 property, without going in and actually buying that piece of

1 property, that sliver of land, that landowner has the ability to
2 convey a property right to you,, something of a property right,
3 that gives you some ability to utilize that under certain terms
4 and conditions.

5 You do not own it. But it does give you a property right to
6 utilize that under the terms and conditions of tat easement
7 agreement.

8 Q. And those easements, are they recorded? Like even when it is
9 between two private people, do they -- are they required to report
10 to the city?

11 A. That would be up to them if they wanted to record that. That
12 would -- because it is a private property interest if it were an
13 easement that was going to be conveyed for instance to the town of
14 Firestone for a waterline or a drainage -- part of a drainage
15 system, we would require that that be recorded, either on a
16 subdivision plat or if it's an easement by a separate document, if
17 there is an easement agreement, that would be reported separately.

18 If it's two private property owners, or a private property
19 owner and a utility company it would be up to them if they wanted
20 that recorded.

21 Q. Okay. As for this duty, right, because when we go to this
22 location for example, there's a lot of activities right behind.

23 A. Yes.

24 Q. When we're doing a new construction. Are they required to
25 get a meet from you guys? Before those new constructions can go

1 on?

2 A. Yes, so the -- the property that is immediately adjacent to
3 the south of the ground zero property is actually owned by the
4 town of Firestone.

5 Q. Okay.

6 A. That was a part of this subdivision which was the Firestone
7 Meadows. It's an apartment complex. They dedicated that Tract A,
8 is what it's identified on that plat, to the town of Firestone.
9 And its primary use is for a trail corridor that's going to run
10 through there. And then there's some open space, landscaped open
11 space. The developer of that apartment complex, even though the
12 town owns it, that developer is actually obligated to put those
13 landscaping improvements in.

14 So they've had to build the trail. They actually had the
15 irrigation system installed. We had given them the authority to
16 postpone putting in the landscaping improvements until actually
17 the spring because it was so late in the year last year. And then
18 when the accident occurred, that piece of property could have got
19 occupied by COGCC and Anadarko (ph.) and a few other folks doing
20 monitoring and whatnot.

21 And so we're actually still working through that with
22 Anadarko get that formally released. But we do own that property
23 immediately to the south, and then there is the apartment complex.

24 Q. So the developers now -- I'm trying to focus more on what's
25 going on. In what way, if you can recall, has this new

1 development have an impact to assessing this particular well in
2 question. Do you think that development has any impact to the
3 access road because you talked about access road, right? To well
4 heads.

5 A. Yes.

6 Q. So do you recall this construction having a problem or
7 impacting the access road to their well head?

8 A. The access for this well was originally supposed to be off of
9 -- actually it might show up a little bit better over here. So
10 this is that -- this is the ground zero lot. This is a tract that
11 was over here that was undevelopable because of the setbacks
12 because of the well. The original plan was is there was going to
13 be a private -- this is actually owned by the homeowner's
14 association. There was supposed to be an access road built across
15 that to access this well.

16 The developer up here, this Century Communities talked to the
17 oil and gas company, and they determined that they didn't want
18 access through here, that they were going to work out access with
19 this landowner and access the well from the south. That was --
20 that was their arrangement.

21 Q. And that spot (ph.) is where the new development is coming
22 up, right?

23 A. The south is where this apartment complex is under
24 construction right now. That's correct.

25 Q. So are you aware of any kind of access problem to this

1 particular well within this period?

2 A. I am not. No.

3 Q. And if there was any problem would you have been aware?

4 A. Not necessarily. Again, the well is actually on the town's
5 property.

6 Q. Okay.

7 A. How the oil and gas operator would get to that would be
8 between them and either of these two landowners.

9 Q. Okay. Okay. Now, from this -- from this plat, right? I see
10 you -- this existing well, to me it's new information. And that's
11 why it's catching my attention.

12 A. Okay.

13 Q. Do you know if this one is still there or it's been
14 abandoned?

15 A. That well is -- yeah, I believe that well is still there.
16 The town actually owns this property up here as well. This is a
17 public park.

18 Q. So if you go in right now we'll see a well here?

19 A. Yes, I believe that is still up there.

20 Q. So is that different from where we were the other day? Is
21 that -- this is where we walked through, right?

22 MR. LEONARD: You were there. Yes.

23 MR. AJIBOYE: And this well now is what we're talking about.

24 MR. LEONARD: Yeah, that's -- that's open space?

25 MR. LINDSAY: That's over next to the tennis court, yeah.

1 MR. LEONARD: This is hard park (ph.).

2 MR. LINDSAY: No, this is Settler's Park.

3 MR. LEONARD: Settler's Park.

4 MR. LINDSAY: Settler's Park.

5 BY MR. AJIBOYE:

6 Q. So the reason I asked is we were aware that this
7 (indiscernible) battery's been relocated.

8 A. Yes.

9 Q. And we have -- we a see a pipeline go into that tan battery.
10 So do you know --

11 MR. LEONARD: I believe that well's been --

12 MR. LINDSAY: If this -- yeah. This either -- if it hasn't
13 been plugged and abandoned then it would need to be. I don't
14 remember if this one was. Is it? I know that we've been working
15 with Anadarko. They are going to plug an abandon these two. But,
16 yeah, I -- I don't --

17 MR. LEONARD: We found this one.

18 MR. AJIBOYE: Yeah, we found this.

19 MR. LINDSAY: Yeah, this one.

20 MR. AJIBOYE: But this one is kind of --

21 MR. LEONARD: This one we didn't find.

22 MR. AJIBOYE: Yeah, that's kind of new.

23 MR. LINDSAY: The gas wells are different. Sometimes it's
24 just a pipe sticking up out of the ground.

25 MR. LEONARD: It's plugged. There's no well there.

1 MR. LINDSAY: Okay. That one has been plugged and --

2 MR. LEONARD: The next one's farther to the east.

3 MR. LINDSAY: Okay. All right.

4 BY MR. AJIBOYE:

5 Q. So then the other question I will like to ask is, if you can
6 walk us through some frustration you guys are having, especially
7 with this surface right, mineral rights? Are there -- really for
8 our -- their frustration from your experience you can express to
9 us?

10 A. It is -- like I said, we -- we sometimes get put in the
11 middle of disputes between the surface owner and the mineral
12 owner.

13 Q. Okay.

14 A. The Colorado Oil and Gas Conservation Commission has some --
15 and they updated those I think in 2013. But they have fairly
16 restrictive requirements on oil and gas operators on where they
17 can drill wells in proximity to certain facilities. So for a
18 single family residence there is a certain setback that they have.
19 If you have a school, there's a different setback. If it's a fire
20 station they have a setback.

21 So when a land developer comes through and there's just a
22 vacant piece of land and they want to come through and develop it,
23 they have this mapped out where they want to put streets and lots
24 or if it's going to be a commercial development or whatever. And
25 obviously the surface owner's trying to maximize, you know, the

1 financial return that he's going to be able to realize on that.

2 Well sometimes his desire to do certain things is in conflict
3 with what the oil and gas operators want to be able to either
4 preserve now or facilities that they may want to have out there in
5 the future. And so it creates some disputes sometimes. We don't
6 really have any authority over that. So oftentimes they'll try
7 and bring this to us. But we don't have any authority over it.
8 It's two private property interests. And so we -- we tend to stay
9 out of it.

10 Our ability to regulate things at the surface even with these
11 oil and gas facilities is restricted by the COGCC. Like I said,
12 they have a legal right to go access that and we have the ability
13 to put some restrictions on what they can do as far as access and
14 how it looks and whatnot. But for the most part that's about it.
15 So, yes, sometimes there are those disputes. As far as where
16 pipelines go and things like that, again, that would be something
17 that those two interests would be looking at.

18 And sometimes oil and gas operator is even a third party to
19 this because they don't even necessarily own the mineral
20 interests. They may just be leasing them. But clearly, you know,
21 their goal is to extract, produce, and, you know, they've got a
22 financial stake in this too. So sometimes those are competing
23 interests. Our general -- because we will -- oftentimes we'll
24 have a development application that comes through. And sometimes
25 they'll show up in person. Sometimes they'll just send us a

1 letter. But the oil and gas operator will have certain
2 objections. And our position is you guys need to go work that out
3 on your own. But we're evaluating the land use application based
4 on our regulations and our requirements and what exists today.

5 Q. So --

6 A. I don't know if that helps.

7 Q. Because you guys are like kind of local and I will consider
8 you the local subject matter expert for your land use. What do
9 you think can be done to make -- to reduce the frustration you
10 guys are having with this kind of dispute. They are areas that
11 you guys have talked about that you've taken care of to make
12 things a little better and we can avoid events like this in the
13 future.

14 A. Well those are honestly -- those are two different questions.

15 Q. Okay.

16 A. To avoid the disputes that you're going to have between
17 surface odors and mineral owners, you're never going to -- there's
18 -- there's not a silver bullet answer to that one because if it
19 was up to the oil and gas operators they would just as soon that
20 it was vacant land. They could get in there, get their stuff
21 done, and their wells will be there for however long, and when
22 they're finished they pull up stakes and leave. And then you can
23 come in and develop it.

24 But the surface owner doesn't want to wait 25 years or 30
25 years or however long those facilities are going to want to be

1 there. And so they are learning to cohabitate.

2 Q. Okay.

3 A. Honestly, some of the new regulations that COGCC put out has
4 actually forced that to happen a little more preemptive if you
5 will. You're seeing especially these bigger operators have become
6 much more sophisticated. They will approach these landowners
7 before the land is developed and get these surface use agreements
8 in place, which is terrific for us. It avoids those arguments.

9 That's a little bit different than -- than what happened
10 here. There were some mechanics here that obviously could have
11 been done a little bit differently, not necessarily something that
12 we would have control over or -- or even the desire to necessarily
13 control, but if you're going to abandon a line, having some sort
14 of a checklist that somebody, whether it's the local level or the
15 state level, somebody's going out there and physically making sure
16 this was disconnected. You know, that it wasn't just called out
17 on a map that it was going to be disconnected. You know?

18 Having something like that in place I think certainly would
19 have benefitted this situation for sure because somebody would
20 have gone out there and said, this isn't disconnected. And in
21 this particular case even the flow lines were shown on this map.
22 My understanding from what I've gotten from the fire department as
23 part of their investigation, there was a third line there. And it
24 was part of this pneumatic system that operated those, you know,
25 those valves. That was never identified on here. The people that

1 drew this probably didn't know anything about it.

2 And so understanding those a little bit better, I think, you
3 know, the -- the -- that would have helped. But having some --
4 some sort of a physical observation that this was going to be, you
5 know, cut and abandoned. Removing the lines, like I said, I've
6 seen some of these oil and gas operators in -- physically go out
7 there with a dozer. You know, because they're a pretty heavy
8 steel pipeline and they'll pull some of it up out of the ground,
9 coil it up, wrap around the back of a dozer and they'll pull it
10 out of the ground just so that it's not there anymore.

11 So that can be done too. I'm not saying that that should be
12 a requirement, but that is certainly one way to make sure that you
13 don't mistake a -- you know, an abandoned line for a live line.
14 If it's not there, you're not going to have that problem. It's
15 more difficult to do that though if you have an area that has
16 developed or if it crosses, for instance, a major roadway to go
17 and physically remove that line from the ground.

18 That may disrupt things more than just leaving it in place.
19 There are techniques that we use in potable water systems. We
20 have a lot of old pipe. The pipe of du jour of the 1970s was a
21 concrete pipe product that had asbestos fibers in it. It's called
22 asbestos cement pipe. As we put new pipelines in to replace those
23 old ones, there's a lot of regulations if you pull that pipe out
24 of ground and have to dispose of it, there's a lot of hoops you've
25 got to jump through. You can leave the -- the pipe in place and

1 it doesn't hurt anything. It doesn't -- as long as that -- that
2 material's not friable it's not going to create any -- any
3 problems for anyone.

4 So we'll oftentimes abandon those. But I don't want an eight
5 inch void underneath my road that might collapse in the future.
6 So we use a material called flash fill and we fill those. So
7 there is no void left underneath there. Again, that would be a
8 technique that if you're going to abandon a pipeline in place you
9 could flash fill these things and then physically material can't
10 move back and forth through it. It's a -- a plug for all intents
11 and purposes.

12 Q. Okay. Now, finally, have you -- (indiscernible) the city,
13 have you guys taken the time to review other plans within the city
14 of Firestone that have similar kind of abandoned line to really
15 look at it to see so that we --

16 A. We have not. We have been very focused on this one. But,
17 no, we have not gone back to look at --

18 Q. So for you guys (indiscernible) so that we don't -- because
19 this is already here. And the potential that this is duplicated -
20 -

21 A. Yes.

22 Q. -- in Firestone or nearby is high. And if you -- if I'm or
23 Jim Nye (ph.) if you guys can look into that to see so that we can
24 preemptively, you know, address this issue before anything
25 happens.

1 A. And, again, I -- I don't have all of the information. But in
2 the periphery what my understanding has been is that this -- this
3 secondary system, this pneumatic system that was operating that
4 actually is what created this problem is not present on any of the
5 newer wells. That it is something that -- that was more prevalent
6 on older systems. And many of those were vertical wells. This is
7 before directional drilling technology came along. And Anadarko
8 has obviously undertaken a lot of effort. They're going back
9 through and they're -- they're plugging the banding in a lot of
10 those vertical wells.

11 So a lot of that may be resolving itself. It's difficult for
12 Firestone to have the resources to go back and investigate all of
13 these things, you know, just personnel type to go -- we have all
14 the construction plans. But to invest the time to go back and --
15 and look at all this and then even if we identified where they
16 were I'm not sure what we would do with the information right now
17 short of going out and digging a hole and finding out if it was
18 abandoned or not. We -- we really wouldn't know.

19 And like I said in some cases some of those things just
20 weren't shown on the plans. They're supposed to show them to us.
21 They're supposed to show them on those plans. But a lot of them
22 didn't make it on there.

23 Q. Okay. That's -- that's the extent my (indiscernible).

24 BY MR. LEPORE:

25 Q. Mr. Lindsay, I'm Matt Lepore from the Oil and Gas

1 Conservation Commission. I first appreciate your efforts to try
2 to resolve the tension between surface and mineral owners.

3 A. Sometimes we wear striped shirts and have whistles.

4 Q. Could you -- I would like as much of an understanding as I
5 can gain of the history of the developers of the Oak Meadows
6 subdivision. I understand you described a little bit at the
7 beginning that the first developer encountered financial
8 difficulties, etcetera. Can you --

9 A. It was actually the second developer that ran into that.
10 But, yes, there is a history of developers there. So the very
11 first development -- developer on the property actually still has
12 an ownership interest in some property over here on the west side
13 of Oak Meadows Boulevard. There's a piece of property that's
14 undeveloped. So it's across the street from the apartment
15 complex. So it's sandwiched in between the single family
16 residential development and some of that commercial development
17 that's occurred there.

18 His name is Joe Tarantino. He had a partner, Leo Schuster,
19 who is deceased now. They had a company, I believe it was called
20 ST Firestone is the company that they formed. They were the
21 original developer. So they brought this through annexation and
22 then preliminary and the first filing. If I recall they -- they
23 were the developer. They filed the Filing 2 subdivision plat.
24 And then they began selling a lot of this off.

25 Q. Let me -- let me interrupt you there --

1 A. Yes, sir. Okay.

2 Q. -- for a few reasons. One, I want to make sure I capture it
3 all, and two I have some follow up. So Joe Tarantino, Leo
4 Schuster, ST Firestone, original developer.

5 A. I believe that was -- I believe that that would show up on
6 the subdivision plat though. If you'll look at the Filing 1
7 subdivision plat it's right -- we require the landowner to
8 actually execute those plats. So it'll be right on there.

9 Q. Okay. And you said, I believe, that they took it through
10 annexation.

11 A. Correct. So that was their very first stage, yes.

12 Q. And what was next after annexation?

13 A. Preliminary plat and preliminary development plan.

14 Q. And that's Filing 1?

15 A. Actually the preliminary was for the entire project.

16 Q. Okay. And so I -- I get confused with the different filings.

17 A. Sure. So Filing Number 1, they owned, and was essentially
18 the west half of the development.

19 Q. Okay.

20 A. Filing Number 2 was the east half. And let me back it up for
21 one second, too. I keep talking about east and west. There is a
22 portion here on the south end of the project which has always been
23 planned to be -- at one point it was going to all be commercial.
24 Later it was rezoned. This remained commercial and this was
25 rezoned to allow for multifamily. So --

1 Q. Okay. Let me interrupt you again.

2 A. Yes.

3 Q. You're indicating on the map. And the part you've indicated
4 to be rezoned for multifamily is that where in fact the
5 condominium is being built today?

6 A. Those are apartments.

7 Q. Apartments.

8 A. And yes.

9 Q. But that's where the departments --

10 A. That is where those are being constructed right now, yes.

11 Q. Okay. That -- that helps me. Now I'm oriented.

12 A. Okay. So, anyway, so that original development group brought
13 it through annexation, preliminary plat, preliminary development
14 plan. That's hard to say really fast. And then they also
15 processed Filing Number 1 with us.

16 Q. But not Filing Number 2?

17 A. I am 90 percent sure that they did process Filing Number 2.
18 But then they began selling some of that off.

19 Q. Great. Thank you. That helps. You mentioned that Mr.
20 Schuster is deceased. Is that correct?

21 A. Yes.

22 Q. And what about Mr. Tarantino?

23 A. Mr. Tarantino is still alive and well.

24 Q. And do you know his -- does he live in Firestone? Do you
25 know where he can be found?

1 A. No, he actually -- in fact you can probably find it by
2 looking on the title records for that piece of property right
3 there. But, no, he is actually -- in fact he's been working with
4 us to develop this piece of property. His address I believe's up
5 in Loveland.

6 Q. Okay. Thank you. Do you know the entity to whom or which ST
7 Firestone sold its interests?

8 A. Filing Number 2 was originally sold to -- and I'm going to
9 apologize, the mother company was called Parkside Homes. They
10 were a Fort Collins land developer and builder. They may have
11 purchased it under -- a lot of these folks will form a little LLC
12 or something like that. But Parkside Homes was the principal
13 purchaser of Filing Number 2. They were the ones that ran into
14 financial problems when the economy took that downturn. And they
15 lost Filing 2 Phase, I believe it was, 2B and 2C to the bank.

16 Parkside Homes, I believe, developed or sold the rest of
17 those lots off to other people. And then so the third entity that
18 was involved, again I'm talking specifically about this what you
19 call a ground zero property. That's when Century Communities came
20 in under, again, a different company name and acquired those
21 phases to complete those.

22 Q. And earlier Robbie asked you a question about Century
23 Communities and said the name of a developer maybe that was a sub
24 of Century and I --

25 A. Hearth at Firestone.

1 Q. Hearth, H-E --

2 A. H-E-A-R-T-H, Hearth at Firestone, LLC. Don't ask me how they
3 came up with that name.

4 Q. And are they related to Century Communities?

5 A. Yes.

6 Q. Okay. Thank you. So now I've got filings and then I have
7 subparts. So I've got Filing 2 and Subpart B and C.

8 A. Filings and phases within those filings.

9 Q. Phases, okay.

10 A. Yes, so filings are -- are -- and, again, this term of ours.
11 But filing is what we refer to as a subdivision.

12 Q. Okay.

13 A. So that legally divides property. Phases are typically
14 construction phases that occur within filings. And the --

15 Q. So no -- no legal property right associated with a phase?

16 A. No.

17 Q. Okay.

18 A. And those phases are most clearly articulated on our final
19 development plans. So on Filing 1 you can look -- again, these
20 are available on the town's website. You can look at the Oak
21 Meadows subdivision PUD Filing Number 1 subdivision plat on the
22 website. There is an associated final development plan of a
23 similar name. The development plan will show that phasing. There
24 were two phases. In Filing 2 there were three phases which that
25 FDP was amended to then break Phase 2 up into three sub phases,

1 2A, 2B, 2C.

2 Q. Got it. Thank you.

3 A. And those are of record. We record those -- those
4 development plans, but those are available. So you can either get
5 those off of Weld County's website or you can find them on
6 Firestone's website.

7 Q. Okay.

8 A. We put them up there as a curtesy.

9 Q. So between ST Firestone, Parkside Homes, and Century
10 Communities, including Hearth Fire -- Hearth at Firestone are all
11 -- does that list all of the developers of the Oak Meadow
12 Subdivision that you are aware of?

13 A. Of the single family, yes.

14 Q. Okay. Thank you.

15 A. The multi-family there's been a couple of developers down
16 there as well.

17 Q. Okay. Thanks. I want to walk through the dates a little bit
18 on Plat 72. I'm not sure I'm using the right term. But Drawing
19 72?

20 A. Sheet 72 from the construction plan set.

21 Q. Sheet 72 from the construction plan set, thank you. There
22 are a number of dates. And I can read the dates. But I'd like
23 you to help me understand what those dates mean.

24 A. Generally what an engineer will do when they are processing
25 their construction drawings, if there are revisions to those, they

1 will acknowledge those revisions to that plan set in a revision
2 block that's in their title block and that's what these are.

3 Q. Okay. So would you read the dates for me and read the
4 division or revisions?

5 A. I've probably got the worst eyes in this room.

6 Q. Oh I doubt that.

7 A. And you're asking me to read the little stuff here.

8 Q. I -- I might have reading glasses if it helps.

9 A. So in this particular case there were one, two, three, four
10 revision dates identified. And all of these revisions were
11 addressing town (indiscernible). So all of these revisions
12 occurred prior to the plans actually being approved by the town of
13 Firestone.

14 So, again, the developer hires an engineer. They prepare
15 their -- their drawings. They submit to the town. We review them
16 based on our criteria. We provide them comments back. They make
17 revisions and resubmit. This particular consultant, Applegate
18 Group, actually articulates those revision dates on their plan
19 set. Some engineers do not identify revisions until after it's
20 been approved. So you know that those revisions would have
21 occurred during construction. But they will generally identify
22 the date. They will give you a description of what the revision
23 was. And then oftentimes if there is a physical revision of the
24 plans they will cloud those with some sort of a notation that
25 would refer you back to this so that you would know that there was

1 a change.

2 Q. Okay. So maybe you can't actually physically read the dates,
3 but I can. And so --

4 MR. CHHATRE: I can read it for you if you want. But, yeah,
5 it starts with May '98, June '98, July '98, and August '98.

6 BY MR. LEPORE:

7 Q. Right. So 1998 are the various -- various months in 1998
8 that these revisions were made. And then the as-built date it
9 says Phase 1 modified January 15, 1999.

10 MR. CHHATRE: No, '98 -- 1999, yep.

11 BY MR. LEPORE:

12 Q. And Phase 2 modified July 1, '03. So 2003.

13 A. Correct.

14 Q. So this -- you refer to this as an as-built drawing, and in
15 fact it says as-built right there. The revisions had been made
16 previously and incorporated into the as-built drawing. Is that --

17 A. This was actually even prior to this being an -- so the as-
18 built is something that they are required to provide us after
19 everything has been built. So these revisions actually occurred
20 before the town even approved the final construction plans. So,
21 again they go through the process. They submit. We review,
22 provide comments. They revise, resubmit.

23 Once they're all through that process the town formally
24 approves the plans. And that is acknowledged on the coversheet by
25 a signature block that is executed by the mayor. So once we've

1 gone through everything in the plat, the construction plans, all
2 the technical reports, we have drainage reports and soils reports
3 and things like that they're required to do. Once they've
4 completed all those, they get all this stuff in front of the mayor
5 and he actually signs that construction plan set.

6 Then they go out and build it. After they've built it then
7 they produce these as-built drawings. So these revision blocks
8 actually occurred even before the town signed the contractions
9 plans and approved them. So they were just acknowledging changes
10 that they made from their initial submittal all the way through us
11 finally approving their plans.

12 Then this -- this clouded area here that says as-built, what
13 the -- the engineer's acknowledging there is when they completed
14 these as-built drawings. So for the Phase 1 construction, Filing
15 1, Phase 1, those as-builts were completed in 1999. And the Phase
16 2 improvements, the as-built drawings for that were completed in
17 2003.

18 So shortly on the heels of them physically completing the
19 improvements the town would go out and inspect the final
20 improvements and everything once we got ready to sign off on them
21 and they required to provide these as-builts to us.

22 Q. Okay. So the drawing then highlighted here in yellow is
23 something that the drawing identifies. And, again, I'll read it
24 aloud and you can check me that I read it correctly. It -- it
25 points to this dashed line running in a north/south direction

1 slightly trending northwest. And it is identified as existing
2 patina gas line to be relocated. Is that correct?

3 A. That's correct.

4 Q. And is that in Phase 1 or Phase 2 part?

5 A. Both. It -- this actually crosses both phases of Filing 1.
6 It also crosses Filing Number 2.

7 Q. Okay. So in terms of the timing, existing patina gas line to
8 be relocated, does that tell you that as of 2003 there was still a
9 gas line there that was to be relocated?

10 A. My -- no, this would have had to have -- but this relocation
11 would have had to have occurred prior to 1999.

12 Q. Okay.

13 A. They would not have been able to complete all of these public
14 improvements that were done for Filing Number 1 Phase 1. They
15 would not have been able to complete that if this pipeline were
16 still in service and in the way.

17 Q. Okay. And do you know whether the town was required to
18 verify that that had taken place or in this case did attempt to
19 verify that the relocation had taken place?

20 A. We are not required to, and no we did not.

21 Q. Okay. I think that's all the questions I have on that
22 document. I have another document that I've made a copy of. I
23 have copies for folks and I forewarn you that it's very difficult
24 to read. But it's the only copy I have. And I think there should
25 be enough for each party.

1 So let me walk you through some parts of this. I'm just
2 trying to get a foundation for what we're talking about. There's
3 a header above the first body of text that says surface use
4 agreement. Do you see that?

5 A. Yep.

6 Q. And the first line of the text says this agreement is made
7 and entered into this 31st day of August 1998. Do you see that?

8 A. Yes.

9 Q. So let's have the witness answer.

10 A. Yes, I do see that. Sorry.

11 Q. And the parties are Patina (ph.) Oil and Gas Corporation, a
12 Delaware corporation and ST Firestone with an address on, I think
13 it says --

14 A. Garfield.

15 Q. Garfield Avenue in Loveland.

16 A. Yes.

17 Q. Do you see that?

18 A. Yep.

19 Q. Okay. So we've talked about who ST Firestone was.

20 A. Yes.

21 Q. Do you happen to know who Patina Oil and Gas Corporation was?

22 A. They -- again, they were the original operator. They used to
23 have a number of interests in this area. I don't know if they --
24 if they lost them, if they sold them, but we don't see Patina
25 anymore. So I'm not sure exactly what their disposition is. But

1 we don't see them around here anymore.

2 Q. Okay. Thanks. Then I want to go back up to the top of the
3 page. And there's some information that appears that if it's been
4 typed in with a different typewriter than created the documented.
5 It says, general data, and then a document number, and a recording
6 date. Do you see that?

7 A. Yes.

8 Q. At the top left. What does that tell you about this document
9 if anything?

10 A. This was recorded three years after they actually entered
11 into the agreement.

12 Q. And that would have been the recording date shown there on
13 the document, September 13, 2001?

14 A. Correct.

15 Q. Okay. Do you know where it was recorded?

16 A. Yes, it was recorded in Weld County. That's identified -- if
17 you see the little bar chart or the little bar code there.

18 Q. Okay.

19 A. Underneath that it is identified that it was recorded with
20 the Weld County Clerk and Records Office.

21 Q. Great. Thank you very much. So on this first page again,
22 there's the -- the body of the text. Lawyers wrote this so there
23 are a number of whereas clauses. So there's one, two, three --
24 the fourth whereas clause which is the last whereas clause before
25 them now there are four clause, do you see where I am looking?

1 A. Yes, I do.

2 Q. I'm going to read that. Whereas as a condition of approval
3 for the final development plan for the subdivision the town of
4 Firestone requires an agreement between Patina and ST Firestone
5 regarding the relocation of flow lines. Did I read that
6 correctly?

7 A. Yes, you did.

8 Q. Can you elaborate on that at all for me? What requirement of
9 the town of Firestone is being referred to, do you know?

10 A. Not specifically. We were not actually a party to this
11 agreement.

12 Q. Right.

13 A. The reference could simply be that in approval of our
14 construction plans those facilities had to be relocated. That was
15 a condition of our approval. It may be reference to that. But I
16 could not tell you for sure.

17 Q. And similarly it says, an agreement between Patina and
18 Firestone regarding the relocation of flow lines. It doesn't
19 really say explicitly what needs to happen. Would you agree?

20 A. Agreed.

21 Q. Okay. And I -- I think I've asked before. So forgive me if
22 it's redundant, but do you recall the town taking any action as it
23 relates to the relocation and as it might relate to this document?

24 A. I do not.

25 Q. Okay. Just one other thing on the document I want to turn

1 your attention to. So let's see. The pages aren't really
2 numbered but in the printed pages that we have it's on -- I'll
3 call it page four or the back of the second page. There's a
4 paragraph four and a subparagraph A and a subparagraph B. Maybe
5 I'll give everybody a couple of minutes just to read those two
6 paragraphs as best they can and then ask a question or two about
7 it.

8 MR. CHHATRE: You said A and B, right?

9 MR. LEPORE: Four A and B.

10 MR. CHHATRE: Yeah.

11 MR. LEPORE: Paragraphs 4A and B.

12 BY MR. LEPORE:

13 Q. So I will -- I'll just go ahead and read 4A. Upon payment by
14 ST Firestone of \$15,000 in immediately available funds, Patina
15 agrees to abandon pursuant to COGCC rules and regulations their
16 existing underground flow lines, to relocate and install new flow
17 lines, and to construct a new production facility for the Coors
18 V6-13, Coors V6-14, and Coors V6-13Ji and 14Ji wells. Patina
19 agrees to install low profile product tanks at such new production
20 facility. ST Firestone will survey and field stake the new
21 production facility and flow line -- I can't read the next word.
22 Perhaps locations. Prior to the commencement of installation
23 operations.

24 Patina agrees to complete the relocation operation within 60
25 days from the latter -- later of one, the date that Patina

1 receives the written notice from ST Firestone that the field
2 staking is complete, or two, the date ST Firestone makes the
3 payment to Patina provided for herein.

4 And I'm going to go ahead and read paragraph B. Within 10
5 days from the receipt from Patina of written notification that the
6 flow line abandonment and installation operations have been
7 completed in accordance with paragraph 4A, ST Firestone will pay
8 to Patina the amount of \$10,000 in immediately available funds.

9 Did I read that accurately as best you can tell?

10 A. Yes, sir.

11 Q. From the town's point of view, did the town -- does the town
12 have any knowledge whether the transaction described here or the
13 actions described here occurred?

14 A. I have no knowledge, no.

15 Q. You talking during your testimony about new flow lines or
16 under current regulations if I understood you correctly, under
17 current town regulations, underground lines, or flow line, oil and
18 gas pipelines are placed in a separate track, I believe was the
19 word you used.

20 A. Our code specifically uses the term flow line as well. So
21 this would not necessarily relate to a distribution line used for
22 retail purposes, or now a lot of the operators are actually
23 getting away from tank batteries and putting in these larger
24 collection lines. It would not necessarily apply to those. It
25 was specific to the flow lines.

1 Q. Okay. I would like if you could to differentiate for me,
2 explain the difference between a tract and an easement?

3 A. Okay.

4 Q. And a right of way.

5 A. Okay. A tract is a, for all intents and purposes a lot.

6 Q. Okay.

7 A. Again, term of art. Under our context a tract is not
8 anything that you would typically ever be able to get a building
9 permit for. So we would have like a park dedicated -- identified
10 as a tract. It would not actually need a building permit. You're
11 not going to build a house or a -- some sort of a commercial
12 facility there. But that would be under separate ownership. That
13 tract would be under some other ownership. It is not just an
14 easement, an arrangement between, in this case a utility company
15 and a landowner that allows for use of a piece of the property.
16 You actually own it outright.

17 A right of way has multiple definitions. Looking back at a
18 lot of old agreements with utility companies, the term right of
19 way and easement were interchangeable. Under current definitions,
20 we, from the public side, look at a right of way as being fee
21 ownership in a piece of property just like a track. So a right of
22 way, for instance a public right of way that we would use for a
23 street is owned in fee by the town of Firestone. But I can tell
24 you that that term right of way is oftentimes used interchangeably
25 with easement.

1 And so in those cases it's important to read those terms to
2 understand what was being conveyed. Are you deeding a piece of
3 property? Or are you conveying what I would refer to as an
4 easement interest in the property. But that term does get
5 interchanged.

6 Q. Thank you. Would you know look at drawing 72? Sheet 72
7 there that we've looked at previously and looking now at sort of
8 the south half of the platted area, there is a line marked -- an
9 existing gas line and a proposed -- two proposed gas lines. So
10 the proposed gas line here --

11 A. Yes.

12 Q. -- appears to be located below the platted streets and
13 residential homes.

14 A. Correct. When you say below you mean south?

15 Q. To the south, thank you for that clarification. Do you know
16 whether that proposed gas line was in a tract or a right of way,
17 or an easement, or -- or do you not know? Can you not tell?

18 A. Off the top of my head I don't recall from that -- from the
19 original subdivision how this was -- I -- I can't tell you for
20 sure. I believe that these were tracts. Because this road right
21 of way was platted with Filing Number 1.

22 Q. Okay.

23 A. So this road right of way would have divided these two.

24 Q. And by these two what do you mean?

25 A. I'm sorry. The two left over parcels of land south of the

1 single family residential area, what is currently on the east side
2 of Oak Meadows Boulevard, that is the apartment complex now. On
3 the west side of Oak Meadows Boulevard and south of the single
4 family residential is a commercial development.

5 Q. Great. And you answered my other question by identifying the
6 road you were referring to as Oak Meadows Boulevard. Is that
7 correct?

8 A. Correct. That's correct.

9 Q. Thank you. I want to ask a couple of questions about what I
10 believe are the current Firestone Municipal Code.

11 A. Before we get into that could I -- I'm sorry. I drank a lot
12 of coffee this morning. Can we take a five minute break?

13 MR. CHHATRE: Let's take a five minute break.

14 MR. LEPORE: Take a break.

15 MR. LINDSAY: Okay. Thank you very much.

16 (Off the record.)

17 (On the record.)

18 MR. CHHATRE: Back on the record.

19 MR. LEPORE: Ravi, we want to wait for David to come back if
20 that's okay.

21 MR. CHHATRE: Oh sure.

22 (Off the record.)

23 (On the record.)

24 MR. CHHATRE: Back on the record.

25 BY MR. LEPORE:

1 Q. Mr. Lindsay, thanks again. Matt Lepore for COGCC. I -- I do
2 want to go back to the surface use agreement for one more question
3 on the first page. It identifies -- in the first whereas clause
4 it says Patina is the owner of certain oil and gas lease hold
5 rights under the following lands, Township 2 North Range 67 West
6 Section 6 Southwest Corner -- sorry, Southwest Corner, Weld County
7 Colorado.

8 MR. CHHATRE: I'm sorry. This is Robbie. Can you tell me
9 which page you are referring to?

10 MR. LEPORE: First page.

11 MR. CHHATRE: Okay.

12 MR. LEPORE: Very, very beginning.

13 MR. LINDSAY: Yes, I see what you're referring to.

14 BY MR. LEPORE:

15 Q. Thank you. And then in the third whereas paragraph it says
16 ST Firestone is the owner of the surface rights of the lands,
17 which is what I just described. And ST Firestone is in the
18 process of developing the surface into a residential and
19 commercial development described as the Oak Meadows Subdivision
20 within the town of Firestone.

21 My question is, do you know whether the Oak Meadows
22 Subdivision is confined to the lands that is one quarter section
23 or 160 acres? Was that the totality of Oak Meadows Subdivision if
24 you know?

25 A. It was not exactly a quarter section. It was -- it was a

1 little more oddly shaped than that. But it was generally located
2 in that southwest quarter.

3 Q. Thank you very much. Okay. Now I want to turn to what I --
4 again, I understand to believe current Firestone Municipal Code.
5 And I'm looking at Section 15.44.

6 MR. LEONARD: Do you have an extra copy?

7 MR. LEPORE: I do not.

8 MR. LEONARD: Okay.

9 MR. LEPORE: So I'll --

10 MR. CHHATRE: Well we --

11 MR. LEPORE: -- read. I'll bring it over here.

12 BY MR. LEPORE:

13 Q. So I'm looking at 15.44.010 which has a heading of Permit
14 Required. And then I'm also going to look at 15.44.080,
15 Supervision of Installation or Removals. I'm going to give you a
16 chance to read those --

17 A. Okay.

18 Q. -- top two provisions.

19 A. 010 and I'm sorry, what was the other one.

20 Q. And the next one, 080.

21 A. Okay.

22 MR. LEONARD: You've probably got them memorized.

23 MR. LINDSAY: Okay.

24 BY MR. LEPORE:

25 Q. So my first question is, do you -- can you tell us whether

1 that is in fact current Firestone Municipal Code?

2 A. I cannot tell you that for certain.

3 Q. All right. Do you know -- do you have -- do you know if
4 those provisions that I've asked you to read, do you know when
5 those came into effect?

6 A. I do not. And I don't see anything on there that would tell
7 me that. No.

8 Q. Okay. So Provision 15.44.010 states that it is unlawful for
9 any person to remove, install, construct, or otherwise put in
10 place any pipeline, conduit, transmission line, cable or other
11 similar facility either above or below the ground surface in the
12 town without first having obtained a permit or franchise to do so
13 from the Board of Trustees of the town according this provision.

14 Is that your understanding of current requirements, that a
15 permit is necessary to install any kind of pipeline, conduit,
16 transmission line, etcetera?

17 A. I am not familiar with that specific reference in the code,
18 but in general yes.

19 Q. And can you -- do you understand that to apply that to gas
20 flow lines?

21 A. The provision, again, I don't remember the context within the
22 code that that's within. Most of those regulations that we have
23 that are like that, most, are related to crossing public property
24 or public road rights of way. So it may not be applicable on
25 private property.

1 Q. Okay. Thank you. And then the supervision -- I'm sorry.
2 I'm going to start again. Subsection 15.44.080 is titled
3 Supervision of Installation or Removals and the text reads, all
4 installations or removals shall be supervised by the town engineer
5 or other official as may be designated by the board of trustees to
6 ensure compliance with the code of the town.

7 My questions are similar. Would that apply to gas flow lines
8 as they were being installed or removed?

9 A. Again, under the context of, yes, we do have a permit process
10 if you need to get across a public road right of way. We have a
11 right of way work permit that you do have to submit. We review it
12 once it's approved, when it goes out to the construction. Then it
13 is inspected. But, again, that would be specific for crossing a
14 public road right of way.

15 Q. Okay.

16 BY MR. LEONARD:

17 Q. Mike Leonard, COGCC. So the -- this -- this talks about
18 removals. These flow lines in question did cross public road
19 right of ways, correct?

20 A. Yes, and the reason that a separate permit -- the road right
21 of way work permit that we've got in place is primarily to bring
22 in installations or removals that would not otherwise go through
23 our development process. So in this particular case because those
24 abandonments and the new line were part of a subdivision process
25 we would not require that separate permit.

1 So their approved construction plans would have authorized
2 that work to proceed. The right of way work permit process that
3 we have is principally for instance we have an existing roadway
4 that is functioning and a utility company comes to us and need to
5 cross it with their utility, they would be required to get a right
6 of way work permit for that particular case. But that was the
7 function of that right of way work permit process was to capture
8 those construction activities that might not otherwise be captured
9 underneath our normal subdivision provisions, if that makes sense.

10 Q. So it would be for existing roadways, not planned roadways.

11 A. Correct.

12 Q. Roadways in the process of being constructed.

13 A. Correct.

14 Q. There's no permit required to do any of that.

15 A. That's correct. Same thing with the developer. So they're
16 going to install water lines, sewer lines, whatnot. They don't
17 need a permit, a right of way work permit from use because it was
18 approved by the town as part of their subdivision process.

19 Q. You might have answered this previously. I apologize. It's
20 getting to where it's been a while ago. But as the developer
21 installed, for example, sewer lines, if that developer had
22 encountered a flow line whether it was steel or poly pipe and
23 found it necessary to cut that flow line to install their sewer --

24 A. Yes.

25 Q. -- was there any requirement that they notify the town of

1 Firestone?

2 A. No, there's not.

3 Q. And were there any requirements that you know of that
4 dictated how they should handle that flow line? In other words,
5 cut it and leave it, cut it and cap it, cut and fill it?

6 A. No, I'm not aware of anything.

7 Q. No requirements that you're aware of.

8 A. There's no requirements from the town of Firestone. And I'm
9 not familiar if there were to be any requirements with COGCC or
10 between the landowner and the oil and gas operator.

11 Q. Okay.

12 MR. LEONARD: Anything there?

13 MR. LEPORE: No.

14 MR. LEONARD: Okay. Thank you very much for your time.
15 Appreciate it.

16 MR. CHHATRE: Fire department.

17 MR. PRUNK: I have nothing.

18 MR. PUCETTI: I don't either. I -- I work very close with
19 Dave. I develop. That's pretty much where a lot of my forte is,
20 as the fire marshal. I understand the process from all the way
21 through. So I would (indiscernible).

22 MR. CHHATRE: Okay. David?

23 BY MR. McBRIDE:

24 Q. I just have a couple of questions around the code because I'm
25 a little confused. And I don't do this often with you. So bear

1 with me as I --

2 A. Okay.

3 Q. -- I try to get a little clarification. On the well location
4 and setbacks, I mean, I keep 150 feet being referenced. But when
5 I look in the code the reference there is at 350 feet for any
6 occupied building and then 75 feet from any public right of way.
7 So how does -- how does that interpreted. And how does that
8 apply?

9 A. And I would have to -- you need to clarify which part of the
10 code you're talking about. The reason I say that is because the
11 developer regulations that we have pertain to new development
12 that's being proposed in Firestone and its proximity to an
13 existing oil and gas well.

14 Q. Right.

15 A. So the 350 I think is applicable to higher density. I don't
16 think that -- that doesn't apply to single family. It's 150 foot
17 setback for single family.

18 Q. I -- I -- I don't know. I'm trying to understand that
19 because this is in Chapter 15.48 of the -- the Colorado --
20 Firestone Colorado Municipal Code. And it just says well location
21 and setbacks. It says all wells shall be set back -- set at a
22 distance not less than a minimum setback allowed by OGCC rules.
23 And I would assume that means that any new well that's being put
24 in has to --

25 A. So those regulations -- yes. So those -- that's why I was

1 asking for clarification. There's two portions of our code. And
2 I apologize. I can't quote them for you. One of them applies to
3 new development that's going to occur and its required setback
4 from existing wells. There's another section of our code that
5 deals with new wells that would come into Firestone. And its
6 reference to COGCC setback regulations.

7 Q. Okay. Yeah. That was that one.

8 A. Okay.

9 Q. And then the other section was notwithstanding forgoing, it
10 says, a well location shall be set back not less than 350 feet
11 from any occupied building.

12 A. So, again, that would apply if we had an oil and gas
13 development that came in and they wanted to drill a new well.
14 That provision would apply the -- the folks that wanted to drill
15 the new well.

16 Q. Do you know where the -- the rules are for existing
17 requirements? Because I can't find them.

18 A. For subdivision?

19 Q. Yeah.

20 A. Yeah. That would be in I believe in Section 16.

21 Q. Section 16, okay.

22 A. Sixteen is our -- in our town code is subdivision. Fifteen
23 is construction.

24 MR. LEPORE: David?

25 MR. McBRIDE: Yeah.

1 MR. LEPORE: Not for COGCC, look at 16.16.230.

2 MR. CHHATRE: Go there.

3 MR. McBRIDE: Okay. I appreciate it. That's what I was
4 trying to figure out. Just trying to make sense of it.

5 MR. LINDSAY: So most of our code is structured around non-
6 oil and gas development activity, or, you know, new activities
7 that would occur around existing oil and gas facilities. And so
8 we have total authority on telling them how far they can set back.
9 As you know, the COGCC dictates to oil and gas companies how close
10 they can be to certain things like road rights of way, like
11 buildings and things like that. How close they can drill new
12 wells or put in new tank batteries and things like that.

13 BY MR. McBRIDE:

14 Q. So do you know how 150 feet came to be?

15 A. My understanding -- this is because I've been here for a
16 long, long time. What I was told is that the 150 feet setback was
17 originally established way back in the day based on the size of
18 the derricks, that was how far they needed to run their
19 outriggers. You know, their tie downs, dead man, to anchor those
20 so that they wouldn't tip over. And so that was where those,
21 those original 150 foot setbacks came from. It was to physically
22 be able to bring the rig in and tie it down and still have, you
23 know, room to operate their other equipment. That was my
24 understanding where that all came from.

25 Q. So when the county planners put together and are looking at

1 plats and surveys for developers to build housing, do they look at
2 any sort of blast radius information, combustion, impact
3 information, process safety information from existing equipment
4 and facilities that are infrastructure in the oil field that they
5 may be building against with that 150 foot?

6 A. I can't speak to the county regulations that you specifically
7 ask about.

8 Q. Oh you didn't know when they're -- when they're permitting
9 that. I mean that's 150 foot barrier, right?

10 A. The county regulations would be different than -- than our --
11 our regulations. So Weld County has their own set of regulations
12 that would apply to any development that would occur in
13 unincorporated areas. Our regulations can only apply to those
14 properties that are within the town of Firestone's corporate
15 limits. But the answer to your question is no. We do not look at
16 that.

17 Q. So it's just -- the 150 foot is pretty much an arbitrary
18 number. It's not really safety based or --

19 A. It's not based on --

20 Q. -- weighted for risk at all in any way really.

21 A. From explosion, no, it's not.

22 Q. So I mean --

23 A. So I wouldn't say it's arbitrary. It's based on more of a
24 practical setback to be able to go in and actually conduct the
25 surface work that the oil and gas operators need to be able to do

1 without causing interference to the adjacent properties. But no,
2 it is not -- it is not an examination of blast radiuses or other
3 potential --

4 Q. So not being from Colorado I'm trying to make sense of COGCC
5 wants you to be X amount of feet away from any inhabited dwelling
6 when you spot a well and drill it.

7 A. Correct.

8 Q. But you can be 150 feet away from a dwelling when somebody
9 else builds into you, and then the county can have a different
10 rule about 350 feet under other circumstances. So I'm trying to
11 figure out how all that equates and why those numbers are --

12 A. And, again, I don't mean to keep correcting you. But we're
13 not the county.

14 Q. I understand.

15 A. You keep saying county.

16 Q. I know. I'm talking about the town of Firestone, 150 is that
17 number, right?

18 A. Okay. So if you go back far enough our -- our setback
19 requirements were exactly the same as the COGCCs. COGCC changed
20 theirs in 2013 I believe it was and put in these larger setbacks.
21 The COGCC regulations, when they updated those, specifically said,
22 the very first paragraph said, these do not apply in reverse. I'm
23 paraphrasing. They don't apply in reverse. So local governments
24 were still able to establish setbacks for new development from
25 existing oil and gas facilities based on their own determinations.

1 The town of Firestone chose to not modify our regulations
2 from what they had been for a long time where they were exactly
3 the same as the COGCC's. But like I said the -- and then you'd
4 have to talk to the COGCC about what all efforts they went through
5 to determine why they came up with a new setback dimensions that
6 they did.

7 Q. Okay. Okay. Appreciate it. Thanks.

8 BY MR. CHHATRE:

9 Q. A couple of quick follow up questions. Ravi Chhatre, NTSB.
10 What departments the city has in terms of developer as to what the
11 developer needs to tell the home owners, anything except this is
12 the price, and this is the home?

13 A. Under our -- under our current regulations we would require
14 on the subdivision plat -- so again this would be something that
15 the -- the owner would need to proactively on their own go
16 examine. Because this is not any information that the developer
17 is obligated to provide them. But on the subdivision plat, we
18 would identify, again, the well locations and the setbacks under
19 our code. If there were pipeline easements those would be
20 identified on the subdivision plat. And if there were a well that
21 were plugged and abandoned, we would require that that old well
22 site be identified.

23 So if you're buying a lot and there was an old well that had
24 been there that was plugged and abandoned we would want you to
25 know that. And so we would have that in place. We do the same

1 thing. There's a lot of old coal mining in the area. There was a
2 lot of underground coal mining. We actually require subdivision
3 plats that you identify the limits of those old coal mines so that
4 if you're going to buy a house you understand that at some point
5 in the past there was a mine underneath you.

6 Q. But that's, again, only at initiating of the homeowner.

7 A. Correct. There is nothing that we require that the developer
8 pass that information along to the -- any future purchaser of the
9 property. That's correct.

10 Q. The city requires that the developer tell city all this
11 information.

12 A. Yes.

13 Q. And maybe -- and maybe the -- you can answer this, or maybe
14 you cannot. Why doesn't city require -- but city knows not to
15 tell the homeowners. Information's already there.

16 A. Certainly, it is available to the public. So we don't
17 specifically require the developer to pass that information on.
18 To be candid it's never been taken up by the town why we would or
19 would not formally require them to pass on this information or,
20 you know, umpteen other things that -- that -- that come up over
21 the course of a development process.

22 Q. Let me restate my question. The city needs to know this
23 because the city feels it's important for the city to know both
24 safety wise and the (indiscernible) wise right?

25 A. Correct, yes.

1 Q. So what city feels is important for the city from the safety
2 viewpoint, the information's already available at no additional
3 cost --

4 A. Correct.

5 Q. -- to the developer. Does the city at minimum require that
6 the developer to tell that if you want more information it's
7 available at this location. Even though they may not tell them
8 exactly, but I think it's -- do they -- as a homeowner, a layman,
9 would I even know that the plats exist?

10 A. The only way -- well. you would know in Colorado for a real
11 estate transaction there are documents of record. So things that
12 are recorded with the County Clerk and Recorders Office. So you
13 can get as a landowner, and most financing for a real estate
14 transaction would require this, you get what's called a title
15 commitment. So you would get title insurance. That -- so a title
16 company is effectively an insurance company that deals strictly
17 with just real estate. The title company will do a research on
18 the county records of any recorded document that is specifically
19 related to that piece of property. And then they will list those
20 things. And that is provided to the purchaser.

21 So the purchaser would have the ability to go through and
22 examine that title commitment and identify or see these things
23 that would affect their property. It may be easements. It may be
24 mineral interests. Anything like that would show up on a title
25 commitment. So they would go through that on their own. And they

1 could flag those. And if they wanted to investigate them further
2 they can pull the document up from the county. If they wanted
3 more specific information that's not of record they would need to
4 know where to go look for that.

5 Construction drawings for instance are not a matter of -- we
6 don't record those. We record the subdivision plats. We record
7 the annexation documents. We record the development plans.
8 Construction plans we don't record. We have those on file.
9 They're available to the public.

10 Q. Now, last one. In your opinion, if a requirement is made to
11 the developer to share this with the homeowner, is that any
12 additional cost involved for the developer?

13 A. There would be some cost because likely what they would do is
14 similar to what often happens -- now this -- this surface use
15 agreement was actually recorded in its entirety. A lot of things
16 these don't get recorded because the two parties that are involved
17 don't want the rest of the world to know about the financial
18 transaction. And so oftentimes what they will do is just record a
19 memorandum that identifies that there is one of these in place.
20 Likely what would happen is that if we were require something like
21 that of the developer, they would report a document that would
22 cover the entirety of that subdivision plat that said every piece
23 of property that's within this legal boundary is subject to the
24 terms and conditions of these construction plans which are on file
25 with the town of Firestone. And you can go have a look at them

1 there.

2 Something like that could be done. It would be minimal
3 expense. But in practical terms it would be one of things that if
4 you've ever bought a house in Colorado the closing documents are
5 about this thick. And you sit there for 45 minutes signing your
6 name to stuff. You would sign your name to that little thing
7 acknowledging that you got that, but whether or not you ever went
8 an actually looked for the information or not you would -- but
9 yes. It would not be impractical to require something like that.
10 And it would be relatively easy to implement. Whether or not it
11 would ever be used I couldn't tell you that.

12 Q. Okay. Thanks.

13 MR. CHHATRE: Any follow-up questions?

14 MR. LEONARD: No.

15 MR. CHHATRE: If not, thanks -- thanks for stopping by and
16 helping us.

17 MR. LINDSAY: Certainly.

18 MR. CHHATRE: Off the record.

19 (Whereupon, the interview was concluded.)
20
21
22
23
24
25

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD


IN THE MATTER OF: HOUSE EXPLOSION IN FIRESTONE,
 COLORADO, APRIL 17, 2017
 Interview of David Lindsay

ACCIDENT NUMBER: DCA17FP005

PLACE: Longmont, Colorado

DATE: July 25, 2017

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been transcribed
to the best of my skill and ability.



Rebecca Thompson
Transcriber