

1 SAN FRANCISCO, CALIFORNIA, APRIL 11, 2011

2 10:00 A.M.

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4 ADMINISTRATIVE LAW JUDGE BUSHEY: The  
5 Commission will come to order.

6 This is the time and place set for  
7 Oral Argument and report by Pacific Gas and  
8 Electric Company in Rulemaking 11-02-019.

9 Good morning. Our first matter this  
10 morning is oral argument. I have five  
11 presenters beginning with Pacific Gas and  
12 Electric Company and then four parties  
13 following with ten minutes each. PG&E will  
14 have 15 minutes.

15 Do any of the Commissioners wish to  
16 make opening statements?

17 COMMISSIONER FLORIO: Yes. Thank you.

18 I am the assigned Commissioner in  
19 this matter, and I think it's important to  
20 put what we are doing here today in context.

21 This is closing argument on the  
22 Order to Show Cause that the Commission  
23 issued at its last meeting. This is not  
24 about the cause of the San Bruno explosion or  
25 whether PG&E has any degree of fault for that  
26 accident.

27 This is also not addressing the  
28 Investigation that we have launched into

1 PG&E's recordkeeping practices.

2 The Order to Show Cause is a narrow  
3 matter regarding the filing that PG&E made on  
4 March 15th which the Commission perceived as  
5 inadequate given our prior directives. PG&E  
6 then on March 21st made an additional filing  
7 which prompted our staff to negotiate a  
8 stipulation that is before you today.

9 This is not the only enforcement  
10 proceeding involving San Bruno. For example,  
11 the so-called recordkeeping OII is still  
12 ongoing. This has nothing to do with that  
13 proceeding. And there may be other  
14 enforcement proceedings launched as the NTSB  
15 investigation goes forward.

16 Now, PG&E filed a motion for  
17 clarification of the ruling that called for  
18 this hearing today. And I did not issue a  
19 written ruling because I think there are a  
20 couple of points that I need to make clear.  
21 The focus today is on the stipulation and  
22 whether the Commission should approve the  
23 stipulation. But as assigned Commissioner, I  
24 cannot dictate, nor would I wish to, to my  
25 colleagues about what questions they may wish  
26 to ask.

27 There is obviously a great deal of  
28 interest in this matter. And we did have an

1 evidentiary hearing previously, but because  
2 of notice requirements only two Commissioners  
3 at a time were able to attend that. So I did  
4 request that the parties make their witnesses  
5 available if other Commissioners have  
6 questions of those witnesses in addition to  
7 any questions they may have for counsel  
8 making arguments. And I appreciate that the  
9 parties have made those folks available.

10 PG&E also asked essentially what  
11 happens if the stipulation is rejected. And  
12 in my view, at least, if that were to be the  
13 will of the Commission, we would go back to a  
14 full hearing on the original Order to Show  
15 Cause. Again, I'm just one voice on that,  
16 but I believe that will be the appropriate  
17 way to proceed.

18 Finally, there's been some confusion  
19 about where we go from here on this matter.  
20 Because this is an adjudicatory proceeding,  
21 ALJ Bushey will prepare a Presiding Officer's  
22 Decision. Typically, a Presiding Officer's  
23 Decision goes out for review, and if no one  
24 requests a decision by the full Commission,  
25 that becomes the order of the Commission  
26 after 30 days. Then again, because of the  
27 great public interest in this matter, we will  
28 treat it more like a normal Proposed Decision

1 in a ratemaking or Rulemaking proceeding and  
2 we will have comments on the Presiding  
3 Officer's Decision and then place it on the  
4 next Commission agenda for a full Commission  
5 vote and essentially skip that step of seeing  
6 if anybody wants the full Commission to vote  
7 on it, because I think the full Commission  
8 does want to vote on it.

9 And with that, other Commissioners  
10 with opening comments?

11 President Peevey.

12 COMMISSIONER PEEVEY: Thank you,  
13 Commissioner Florio.

14 I just wanted to seek, commenting on  
15 something that Commissioner Florio has said,  
16 I want to seek a little further  
17 clarification.

18 I have been very concerned about the  
19 way that the media has described the  
20 stipulation, again today singling out our  
21 executive director Brad [sic] Clanon. And I  
22 want to give a little context of this by  
23 pointing out something that each Commissioner  
24 received at the end of last week. And this  
25 is from our General Counsel. I am going to  
26 read it.

27 It is important to  
28 recognize that this Order

1 to Show Cause and proposed  
2 Stipulation do not even  
3 begin to address whether  
4 PG&E should be found to be  
5 at fault for poor  
6 recordkeeping, or more  
7 importantly, for any  
8 irresponsible or negligent  
9 or other actions that may  
10 have contributed to the  
11 September 9th explosion in  
12 San Bruno. The allegations  
13 about PG&E's poor  
14 recordkeeping are the  
15 subject of a pending Order  
16 Instituting Investigation.  
17 Which Commissioner Florio just referenced.  
18 Meanwhile, any allegations  
19 about fault on PG&E's part  
20 of the San Bruno explosion  
21 itself will occur, if at  
22 all, in the future only  
23 after the NTSB completes  
24 its roots cause  
25 investigation. It is  
26 unfortunate that news media  
27 incorrectly characterized  
28 the proposed Stipulation,

1           and in particular the \$3  
2           million fine, as somehow  
3           freeing PG&E from any  
4           further Commission  
5           sanctions for the explosion  
6           in San Bruno. This is  
7           entirely inaccurate and  
8           should not influence the  
9           Commissioners as they  
10          evaluate the specific  
11          question of whether to  
12          approve the instant  
13          stipulation; that is, the  
14          Compliance Plan and the  
15          proposed civil penalty.

16        End of quote.

17                I hope that puts some of this in  
18        some context. I can't control the  
19        irresponsibility of some in the political  
20        world or media in refusing to characterize  
21        properly what the Stipulation sets forth, but  
22        I do think that the words of our General  
23        Counsel are wise as we go forward in this  
24        matter this morning.

25                Thank you, Commissioner Florio.

26                ALJ BUSHEY: Commissioner Simon.

27                COMMISSIONER SIMON: Yes. Thank you,  
28        Commissioner Florio. And I also want to

1 thank you for agreeing to conduct this en  
2 banc hearing in response to a memorandum that  
3 I sent to you and my fellow Commissioners  
4 expressing my concerns regarding the process  
5 used to arrive at the stipulated resolution  
6 and how that resolution was brought before  
7 the Commission's adoption.

8           Resolution 11-02-019 and Resolution  
9 L-410 directed PG&E to provide the Commission  
10 with the records by March 15th, 2011,  
11 relating to the maximum operating pressure  
12 for certain high risk gas transmission  
13 pipelines.

14           When the item was introduced at the  
15 March 24th business meeting, the Commission,  
16 or at least I should say my office, was not  
17 presented with an Order to Show Cause for  
18 consideration but instead a stipulated  
19 agreement reached between the CPUC staff and  
20 the PG&E.

21           I was led to believe by the  
22 March 16th letter by Executive Director Paul  
23 Clanon and related press release that we  
24 would be considering an Order to Show Cause  
25 at the March 24th business meeting. At no  
26 time prior to the meeting was I briefed or  
27 informed of any settlement discussion or  
28 possible outcomes of a settlement.

1           While there is a need for  
2 confidentiality in settlement discussions, I  
3 am deeply concerned that my office was not at  
4 least notified of the fact that settlement  
5 discussions were in fact in place and that a  
6 settlement had been adopted.

7           Ultimately, the intent of the  
8 Commission's proceedings is to ensure that  
9 the September 9th, 2010, San Bruno explosion  
10 does not again occur in this state, but at  
11 this time I have reservations about whether  
12 the proposed penalty and Compliance Plan  
13 contemplated by the stipulated agreement  
14 fully effectuates this intent.

15           Some question whether a penalty of  
16 6 million, 3 million of which is paid after  
17 the stipulation is approved and 3 million of  
18 which will be suspended and may never be  
19 paid, is sufficient to serve the purpose of  
20 the punishment and deterrent.           ]

21           I particularly point this out when  
22 this week the press covered a severance  
23 package of a PG&E executive that I believe is  
24 \$2.3 million.

25           I also have concerns about --

26           COMMISSIONER PEEVEY: 3.2.

27           COMMISSIONER SIMON: Oh, excuse me.

28           \$3.2 million. Thank you for that correction,



1 President Peevey.

2 I also have concerns about the  
3 Compliance Plan, in particular the timeline  
4 for determining maximum pipeline pressure,  
5 the need for strict Commission oversight of  
6 PG&E's compliance actions, and the importance  
7 of public transparency. Bottom line, why  
8 will it take nearly a year after the San  
9 Bruno explosion for PG&E to demonstrate to  
10 the Commission and the public that it is not  
11 putting neighborhoods at risk of explosions.

12 Separately, it seems more reasonable  
13 to me that any plan approved by the  
14 Commission should be clear, and the  
15 Commission, not PG&E, I repeat, the  
16 Commission, not PG&E, will decide when  
17 assumptions rather than documents can serve  
18 as an appropriate basis for establishing  
19 maximum pressure, and the Commission will  
20 have a final say on whether the assumptions  
21 are valid.

22 I just want to say in closing that I  
23 do look forward to PG&E's testimony. I do --  
24 I will maintain an open mind regarding this  
25 transaction or occurrence, but I still have  
26 concerns as to why we're not hearing oral  
27 arguments on an Order to Show Cause. That  
28 was the original purpose of this process, and

1 I am looking forward at some point,  
2 Commissioner Florio, to hearing why PG&E  
3 should not be sanctioned for the failure to  
4 comply with the order issued by this  
5 Commission.

6 Thank you.

7 COMMISSIONER FLORIO: Commissioner  
8 Sandoval.

9 COMMISSIONER SANDOVAL: Thank you very  
10 much. Thank you so much for the opportunity  
11 to have this hearing. I think this is a very  
12 important opportunity.

13 I, like Commissioner Simon, was very  
14 surprised to hear on the dais about the  
15 proposed settlement. I too have been -- have  
16 received the documentation regarding the  
17 Order to Show Cause and was not informed of  
18 the fact of a proposed settlement and any  
19 negotiations and was in no way a party to the  
20 settlement, which is also important to  
21 underscore that this proposed Stipulation is  
22 merely that, a proposal by PG&E and certain  
23 members of the CPUC staff and not by any  
24 means a fait accompli.

25 In the oral arguments today there  
26 are a few questions which I would like the  
27 parties to answer and any witnesses to  
28 address your testimony to. One would be to

1 examine what should be the appropriate unit  
2 used to calculate a fine. Should fines be  
3 calculated per pipeline segment, per document  
4 which is missing for a pipeline segment?  
5 What is the appropriate unit? And therefore,  
6 is the calculation of this, of any proposed  
7 fine appropriate given the qualitative  
8 character of any fine and also any violations  
9 and also the extent of violations?

10 The California Public Utility Code  
11 also requires that we take into account the  
12 utility's actions to prevent a violation, the  
13 utility's actions to detect a violation, and  
14 the utility's actions to disclose and rectify  
15 a violation. Therefore, we also need to look  
16 at whether or not the proposed work plan and  
17 the proposed Stipulation would help to  
18 rectify those violations, particularly when  
19 it proposes to substitute assumptions for  
20 actual documents that were required by either  
21 CPUC rules or by the Code of Federal Register  
22 in the Transportation Code.

23 Second, I would like the witnesses  
24 to address the adequacy and fit of the work  
25 plan to protect public safety and the public  
26 interest. That is, I think, the -- the other  
27 thing that is absolutely critical here is,  
28 apart from fines, does this proposed work

1 plan actually increase public safety, and  
2 particularly since the proposed work plan  
3 proposes to substitute assumptions for actual  
4 documentation, is this well calculated to  
5 protect the public safety both in the short  
6 term and in the long term?

7           Number three, the NTSB reiterated in  
8 its March 29th, 2001 letter, which was  
9 submitted after PG&E's March 25th and March  
10 21st submissions, that if the documents and  
11 records that were requested regarding  
12 pipeline segments, which were supposed to be  
13 complete, verifiable, and traceable, could  
14 not be satisfactorily produced, then PG&E was  
15 to provide and oversee spike and hydrostatic  
16 testing.

17           So why isn't this directive included  
18 in the work plan? It was also included in  
19 the NTSB's January 3rd letter, and I also  
20 note that PG&E has already committed in its  
21 March 21st letter to this Commission and also  
22 in a separate proceeding involving L-411,  
23 which provides the opportunity for 100  
24 percent depreciation on certain operating  
25 capital deployed by the end of 2011 and 50  
26 percent depreciation for operating capital  
27 deployed by the end of 2012. In their  
28 proposals regarding L-411 PG&E identified as

1 an area of priority pipeline replacement.

2 So particularly in light of PG&E's  
3 commitments, why aren't these commitments to  
4 test or replace, which would also be  
5 consistent with the NTSB's requirements,  
6 incorporated into the work plan? And is  
7 their absence indicia that this plan is or is  
8 not well calculated to protect public safety  
9 and the public interest?

10 Thank you very much for the  
11 opportunity to have this hearing.

12 COMMISSIONER FLORIO: Commissioner  
13 Ferron.

14 COMMISSIONER FERRON: Thank you very  
15 much. I guess this is the cost of being last  
16 in the line. I'll try to be incremental  
17 here.

18 Firstly, I just want to say that I'm  
19 very, very concerned that we make immediate  
20 progress on addressing the safety  
21 shortcomings of the pipeline system in  
22 California. So to me that, making steady and  
23 quick progress on ensuring that is the number  
24 one priority for me.

25 I guess, as described earlier, to me  
26 this session is about trying to understand  
27 two elements. One would be to determine the  
28 appropriateness of the size of the fine

1 that's being imposed on PG&E, and secondly,  
2 to examine the appropriateness of the  
3 Compliance Plan itself.

4 I know there's been a lot of  
5 attention in the press on the former. To me,  
6 I understand, as President Peevey mentioned,  
7 this is not the only such proceeding against  
8 PG&E. To me the issue is, really surrounds,  
9 in terms of the size of the fine, as  
10 Commissioner Sandoval pointed out, the code  
11 is clear that fines, the size of the fine  
12 should be determined by a number of factors  
13 including the conduct of the utility, as she  
14 mentioned, the utility's action to prevent a  
15 violation and the utility's action to detect  
16 a violation.

17 To me the question I have, and I'd  
18 like to try to have that addressed here, is  
19 to understand the decisionmaking process that  
20 took place within PG&E surrounding  
21 appropriation of the March 15th submission.  
22 I'd like to understand what that process was,  
23 who the author was, who did the review and so  
24 forth.

25 Again, thank you very much,  
26 Commissioner Florio, for leading this  
27 proceeding.

28 ALJ BUSHEY: Thank you, Commissioners.

1           Is there anything else before we  
2 begin with oral argument?

3           (No response)

4           ALJ BUSHEY: Hearing none then, Mr.  
5 Malkin.

6                     ARGUMENT OF MR. MALKIN

7           MR. MALKIN: Thank you, ALJ Bushey,  
8 Commissioners, and thank you, Commissioner  
9 Florio.

10                    Thank you, Commissioner Florio, for  
11 your clarification this morning. We  
12 appreciate that the focus of this proceeding  
13 is going to be on the Stipulation and are  
14 prepared both through oral argument and with  
15 witnesses if you wish to address that  
16 Stipulation.

17                    Even before the Commission voted out  
18 the Order to Show Cause, PG&E and the  
19 Commission's enforcement staff, CPSD,  
20 realized that working together to enfor -- to  
21 enhance the safety of PG&E's natural gas  
22 transmission system is more important than  
23 arguing about what happened in the past.

24                    The very day the Order to Show Cause  
25 was issued, as several of you Commissioners  
26 have noted this morning, CPSD and PG&E signed  
27 and filed a Stipulation resolving the Order  
28 to Show Cause and agreeing on a Compliance

1 Plan that will lead to an engineering  
2 validation of the MAOPs, the Maximum  
3 Operating --

4 COMMISSIONER SIMON: Excuse me, Mr.  
5 Malkin. Was this a resolving of the  
6 compliance or the failure to comply or a  
7 proposal to resolve?

8 MR. MALKIN: This is a very good  
9 question, Commissioner Simon. It is a  
10 stipulation and agreement between the  
11 enforcement staff and PG&E that is expressly  
12 subject to the approval of the five  
13 Commissioners. So it is our agreement that  
14 this is an appropriate resolution, but it is  
15 your decision whether or not it is.

16 COMMISSIONER SIMON: Thank you. I  
17 appreciate that clarification.

18 MR. MALKIN: You're welcome.

19 So our agreement, PG&E's and the  
20 enforcement staff's, includes a plan that  
21 will lead to an engineering validation of the  
22 MAOPs on all of PG&E's HCA, High Consequence  
23 Area pipelines that do not have pressure  
24 tests by August 31st of this year. It is  
25 this Stipulation, as you've said, that is  
26 before you today.

27 The January 3rd NTSB safety  
28 recommendations leading to the MAOP



1 validation work were unprecedented in their  
2 scope. They went far beyond existing  
3 requirements calling for PG&E in effect to  
4 abandon the grandfathering allowed by the  
5 federal regulations and instead to engage in  
6 a massive search, collection, organization  
7 effort for documents relating to 1805 miles  
8 of pipe followed by a forensic engineering  
9 evaluation and analysis of every pipe  
10 segment, every valve, every bend, every  
11 fitting, and every other component, literally  
12 a foot-by-foot review of every one of these  
13 pipelines without pressure test records.

14 To put that recommendation in  
15 context, there was recently proposed an  
16 amendment to the Senate Pipeline Safety Bill  
17 that would add a similar requirement for all  
18 pipeline operators to conduct an MAOP  
19 validation. It gives the operators 18 months  
20 to perform that work.

21 Knowing that what was asked of it  
22 was a daunting task, PG&E nevertheless  
23 embraced the challenge. In fact, as we have  
24 said in several filings and orally to the  
25 Commission, PG&E decided on its own to go  
26 beyond what the NTSB recommendation was, to  
27 go beyond what this Commission asked it to do  
28 and to do field verifications to verify that

1 the information it was deriving from these  
2 sometimes ancient documents was accurate, to  
3 fill in gaps in documents, to answer  
4 questions.

5           Secondly, we're going beyond the  
6 recommendations in that we are extending this  
7 review to the pipe in HCAs that already have  
8 pressure test records. And then finally,  
9 when PG&E is done with that, we're going to  
10 take it another step further and we're going  
11 to apply the same methodology, the same MAOP  
12 validation to the rest of PG&E's gas  
13 transmission system.

14           So on January 5th, two days after  
15 getting the Executive Director's letter  
16 asking it to undertake the NTSB  
17 recommendations by February 1st, PG&E  
18 personnel met with the Commission staff,  
19 shared with them the draft MAOP Validation  
20 Report that PG&E had already prepared  
21 documenting its work on Line 101, and told  
22 the staff that this was the type of analysis  
23 that it planned to do and that it would take  
24 a long time.

25           On January 7th PG&E wrote back to  
26 the Executive Director saying it would comply  
27 with the directives and advising that it  
28 would take until March 15th to complete the

1 first step, the record collection and  
2 verification of which pipe segments had  
3 already been pressure tested. That was the  
4 first requirement, because the MAOP  
5 validation applies to those pipes that have  
6 not been pressure tested.

7 Now, I may be dating myself with  
8 this reference, but what followed was, in the  
9 words of the movie *Cool Hand Luke*, a failure  
10 to communicate. Where PG&E thought it was  
11 being clear as to what it could physically  
12 accomplish by March 15th, record collection  
13 and verification of those pipe segments that  
14 had been pressure tested, the Commission  
15 obviously thought otherwise.

16 Despite what you may read about PG&E  
17 in the newspapers, it was literally stunned  
18 when it received the Executive Director's  
19 March 16th letter accusing it of willfully  
20 disobeying this Commission's order. The  
21 company immediately set about preparing and  
22 filing a supplemental report both  
23 acknowledging its failure to communicate  
24 clearly and emphasizing its commitment to  
25 fulfill the Commission's directives and to  
26 enhance the safety of its natural gas  
27 pipeline system.

28 Now, you have before you the

1 Stipulation and a Compliance Plan agreed upon  
2 by your enforcement staff and PG&E. This  
3 Stipulation and Compliance Plan in our view  
4 puts the most important priority first,  
5 safety. It includes what PG&E views as a  
6 substantial penalty, and I'll comment more  
7 about that in a moment, but more importantly,  
8 the Stipulation includes a concrete  
9 Compliance Plan with definitive milestones  
10 and enforceable along the way. It provides  
11 for regular reporting to the Commission to  
12 ensure transparency and regular consultation  
13 with the enforcement staff.

14 To those, including some of you on  
15 the dais, who think the Compliance Plan may  
16 provide too much discretion to PG&E, the  
17 Compliance Plan really says otherwise. It  
18 requires PG&E to report and consult with the  
19 enforcement staff on a regular basis. Now,  
20 it does not literally provide that PG&E will  
21 not use any assumption with which the CPSD  
22 disagrees. But do you really think at this  
23 point in time PG&E wants to be in a position  
24 to stand before you trying to justify an  
25 assumption that is contrary to what CPSD or  
26 its retained experts said it should use and  
27 not only have to justify that but risk the  
28 Commission agreeing with CPSD and its expert

1 and saying that it was inappropriate and thus  
2 having to start the MAOP validation all over  
3 again? That's simply not going to happen.

4 The filed comments on the  
5 Stipulation generally ask the Commission to  
6 order more, although in most cases without  
7 being terribly specific about what that more  
8 is. Now, TURN and CCSF both take positions  
9 that the agreed upon penalty is too low, and  
10 this is one of the specific questions that  
11 was raised from the dais this morning, the  
12 appropriateness of the size of the penalty.

13 As the Commissioners have already  
14 noted, this is a penalty for a specific  
15 issue, whether or not PG&E adequately  
16 complied with a specific directive to collect  
17 records. It's not broader than that.

18 Now, in CCSF's case they assert the  
19 penalty is just generally too low. TURN  
20 agrees that the \$3 million penalty for past  
21 conduct is adequate but says there should be  
22 a bigger future penalty hanging over PG&E's  
23 head.

24 The touchstone of looking at any  
25 penalty ought to be the code, and several of  
26 you Commissioners have referred to the code  
27 this morning. But before those factors come  
28 into play in determining how the Commission

1 exercises its discretion, it's the discretion  
2 to fix a penalty between the \$500 per  
3 violation and the \$20,000 per violation that  
4 the code permits. So the touchstone is, what  
5 is a violation? And the code does provide  
6 that a continuing violation every day can be  
7 considered a separate violation.

8 In this case, Commissioner Sandoval,  
9 you've asked specifically the question, what  
10 is a violation here? In our view, and there  
11 is, I believe, good case law to support this  
12 position, the issue that has been raised, the  
13 allegation that is made is that PG&E  
14 committed an act of contempt by not complying  
15 with this Commission's directives on March  
16 15th, or that it failed to comply with that  
17 order on March 15th.

18 In either event, it is a singular  
19 wrong that is alleged. It is a failure to  
20 comply or a willful disregard of a Commission  
21 order. And while you could look at it in  
22 terms of if you violated the order on March  
23 15th, when did you stop violating the order  
24 and say every day is a singular vio -- a  
25 singular violation that can be cumulated,  
26 there simply is not in our view a way derived  
27 from any normal principle of American  
28 jurisprudence where you could say every

1 document that was not produced on March 15th  
2 is a separate violation, every segment of  
3 pipe for which all of the documents were not  
4 collected on March 15th is a separate  
5 violation. The violation is in not  
6 completing the work if that's the violation  
7 that you want to look at.

8           So we think the appropriate penalty  
9 is, as CPSD said, six days worth of penalty.  
10 They pegged it at a million dollars a day.  
11 We agreed to pay 3 million with another  
12 potential 3 million if we miss on an  
13 unexcused basis any of the milestones we've  
14 agreed to in the Compliance Plan. Our own  
15 view, as we said in our motion, is it should  
16 have been \$20,000 a day for six days,  
17 \$120,000, if any penalty at all is warranted.  
18 But having said that, that really diverts us  
19 from what is the important point to us and  
20 what ought to be everyone's top priority in  
21 thinking about this Stipulation and the  
22 Compliance Plan, safety, and that's what I  
23 want to get back to.

24           In this regard, I note that some of  
25 the comments including some from the  
26 Commissioners this morning asked about the  
27 hydro testing and replacement that PG&E has  
28 said it plans to do this year and raise the

1 question, why isn't that part of the  
2 Compliance Plan? ]

3 First, it doesn't have anything to  
4 do with the NTSB's recommendations, although,  
5 as Commissioner Sandoval noted, the NTSB made  
6 three safety recommendations, the third one  
7 of which was if you don't have records -- and  
8 in our view that is a recognition of the fact  
9 that for old pipelines no one is expected to  
10 have all the records -- the NTSB said in its  
11 third recommendation if you do not have  
12 complete, verifiable, traceable records, then  
13 you should do a hydro test preceded by a  
14 spike test.

15 When Executive Director Clanon  
16 directed PG&E to comply with the NTSB  
17 recommendations, he specifically excluded  
18 that recommendation saying that's the  
19 recommendation, we don't want you to do  
20 anything about that, we want to think about  
21 what is the right thing to do if you cannot  
22 validate the MAOP through an engineering  
23 analysis.

24 And in fact, we are currently in  
25 dialogue with the Safety Branch of the  
26 Commission about that planned hydro testing.  
27 And before that plan is going to go forward,  
28 we are looking for some broad concurrence



1 from the CPSD, from retained experts.

2 The CPSD, for example, wants us to  
3 look at alternate technologies, not simply do  
4 hydro testing in all of those places we had  
5 planned to do it. Local communities have to  
6 be considered as well. Some of those are  
7 indicating they, too, prefer that PG&E use  
8 alternate technologies and not hydro test  
9 pipes that are in their communities.

10 There is a lot of complexity around  
11 that hydro testing and pipe replacement. And  
12 it doesn't serve the principle of safety or  
13 the Commission well to try to legislate, in  
14 effect, what that should be.

15 The appropriate way to deal with it,  
16 we believe, and I think we have the  
17 concurrence of the safety staff because they  
18 agreed that it should not be part of the  
19 stipulation, is to let us continue to work  
20 with your staff, with their experts, with  
21 local communities, with other experts and  
22 devise a plan that is best suited to meet the  
23 objective that we all share, enhancing the  
24 safety of the natural gas transmission  
25 system.

26 There is important work to be done,  
27 work to enhance the safety of PG&E's natural  
28 gas transmission system, work that will

1 provide added assurance to the public, to  
2 this Commission, and to PG&E itself that  
3 PG&E's gas transmission lines are operating  
4 at safe MAOPs.

5           The stipulation allows PG&E and your  
6 enforcement staff to focus on that important  
7 work and not to devote their resources, time  
8 and energy to an enforcement proceeding in  
9 which the staff has the burden of proving  
10 beyond a reasonable doubt whether or not PG&E  
11 committed a willful violation of the  
12 Commission's directives, a proceeding focused  
13 on who said what in the past rather than on  
14 who is doing what in the future to enhance  
15 the safety of the pipeline.

16           We urge you to approve the  
17 stipulation as submitted by PG&E and your  
18 staff.

19           ALJ BUSHEY: Thank you, Mr. Malkin.

20           Questions for Mr. Malkin, or should  
21 we move on to the next oral presenter?

22           (No response)

23           ALJ BUSHEY: Okay. Mr. Heiden.

24           ARGUMENT OF MR. HEIDEN

25           MR. HEIDEN: Good morning,  
26 Commissioners and Judge Bushey. My name is  
27 Greg Heiden. I am representing the Consumer  
28 Protection and Safety Division in this

1 stipulation of the Order to Show Cause.

2 Julie Halligan, the Deputy Director  
3 of CPSD, is available today to answer any  
4 questions.

5 You heard from PG&E about what the  
6 stipulation accomplishes. In recommending  
7 that you adopt the stipulation, I would first  
8 like to talk about what the stipulation does  
9 not do. Then I will talk about why the  
10 stipulation is in the public interest and why  
11 it should be adopted by the Commission.

12 First, what the stipulation does not  
13 do, my comments are going to reflect what you  
14 heard already this morning from President  
15 Peevey and from Commissioner Florio, the  
16 stipulation only purports to resolve the  
17 narrow issues set in the Order to Show Cause.

18 The stipulation expressly provides  
19 in Paragraph 3(C) the penalty specified above  
20 does not limit the Commission's authority to  
21 impose additional penalties for any violation  
22 of law or regulation with regard to the  
23 Commission's Investigation into the San Bruno  
24 pipeline rupture not related to the  
25 completion of the Compliance Plan.

26 So the stipulation really only  
27 covers the narrow issue of PG&E's response to  
28 the Commission's Resolution L-410 and not

1 other issues associated with the San Bruno  
2 explosion.

3 The following current and possible  
4 future proceedings concerning the San Bruno  
5 explosion are not affected by the  
6 stipulation.

7 First, the ongoing National  
8 Transportation Safety Board and CPSD root  
9 cause San Bruno investigation: Our staff and  
10 NTSB staff continue to investigate the cause  
11 of the San Bruno explosion. We expect the  
12 NTSB to issue findings on that investigation  
13 in August of this year.

14 Our staff will also be releasing a  
15 report on that accident which could form the  
16 basis of a future Commission Order  
17 Instituting Investigation into the San Bruno  
18 explosion.

19 The stipulation does not impact this  
20 potential OII.

21 Second, the stipulation does not  
22 impact the current Commission Order  
23 Instituting Investigation into PG&E's  
24 recordkeeping, which is docket number  
25 I 11-02-016. That Investigation, and not  
26 this Order to Show Cause proceeding, is the  
27 venue to investigate PG&E's recordkeeping.

28 That order states at page 1, I will

1 read from it:

2 By this order the  
3 Commission institutes a  
4 formal Investigation to  
5 determine whether PG&E  
6 violated any provision or  
7 provisions of the  
8 California Public Utilities  
9 Code, Commission General  
10 Orders or Decisions or  
11 other applicable rules or  
12 requirements pertaining to  
13 safety recordkeeping for  
14 gas services and  
15 facilities. This  
16 proceeding will pertain to  
17 PG&E's safety recordkeeping  
18 for the San Bruno,  
19 California gas transmission  
20 pipeline that ruptured on  
21 September 9th, 2010,  
22 killing eight persons.  
23 This Investigation will  
24 also review and determine  
25 whether PG&E's  
26 recordkeeping practices for  
27 its entire gas transmission  
28 system have been unsafe and

1           in violation of the law.

2           So any concern that this  
3 stipulation represents any judgment of PG&E's  
4 recordkeeping practices is misguided.

5           The OII 11-02-016 will judge PG&E's  
6 recordkeeping practices and determine what,  
7 if any, penalty is appropriate. The  
8 stipulation does not impact the Commission's  
9 ability to judge PG&E's recordkeeping in any  
10 way.

11           Third, this stipulation does not  
12 affect any forward-looking rules on  
13 recordkeeping that might be adopted in this  
14 Rulemaking, docket R 11-02-019.

15           The Order to Show Cause states:  
16           Other issues related to  
17           this Rulemaking are  
18           specifically excluded from  
19           the scope of the Order to  
20           Show Cause.

21           Parties to the Rulemaking will have  
22 the opportunity to submit comments on issues  
23 identified in the Rulemaking. In fact,  
24 opening comments that we will be making are  
25 due this week on April 13th.

26           The stipulation does not impact any  
27 forward-looking rules established in the  
28 Rulemaking.

1           Fourth, the stipulation does not  
2 affect potential litigation related to the  
3 San Bruno explosion by private parties for  
4 damages or other remedies, nor does it impact  
5 any other prosecution by the Attorney  
6 General, District Attorney or other law  
7 enforcement.

8           Next, I would like to talk about  
9 what the stipulation accomplishes and why it  
10 is in the public interest, which is what  
11 Deputy Director Julie Halligan testified  
12 about on March 28th.

13           As PG&E has testified today, the  
14 stipulation requires PG&E to comply with  
15 urgent safety recommendations issued by the  
16 National Transportation Safety Board by  
17 August 31st of this year. This means that  
18 PG&E will have completed two important steps  
19 in improving pipeline records, which we  
20 believe will help make PG&E's pipeline safer  
21 and restore confidence in pipeline integrity.

22           One, PG&E will have completed its  
23 records search for pipelines in specified  
24 high consequence areas, or HCAs, that do not  
25 have a maximum allowable operating pressure  
26 or MAOP established through hydrostatic  
27 testing.

28           Second, PG&E will have calculated a

1 valid MAOP based on the weakest segment of  
2 the pipeline.

3 The Compliance Plan divides up the  
4 records search and MAOP process into four  
5 priorities.

6 The first priority is to search for  
7 records and validate the MAOP of 152 miles of  
8 pipeline that is most similar to the pipeline  
9 involved in the San Bruno explosion.

10 The additional three priorities are  
11 shown in Attachment A, the MAOP  
12 prioritization and work plan, and also  
13 detailed in PG&E's March 25th filing.

14 All four priorities will be  
15 completed in five months.

16 The Compliance Plan requires PG&E  
17 to submit monthly progress reports and have  
18 meetings to review these reports with the  
19 CPUC staff and provides for PG&E to reimburse  
20 the Commission for any fees, expenses or  
21 costs for consultants retained by the  
22 Commission for implementing, monitoring or  
23 enforcing the Compliance Plan.

24 Finally, the stipulation provides  
25 for a fine, \$3 million now and a potential  
26 fine of another \$3 million. We think this  
27 fine is a serious and appropriate remedy for  
28 the allegations raised in the Order to Show



1 Cause.

2 We believe it sends the right  
3 message that complying with NTSB safety  
4 recommendations is very important to  
5 improving PG&E's pipeline safety.

6 The purpose of the fine is  
7 compliance. We want to get PG&E to comply  
8 with these recommendations.

9 In conclusion, staff recommends you  
10 adopt the stipulation. The stipulation, to  
11 borrow from Commissioner Florio's language  
12 from the March 28th hearing, helps us to get  
13 to a place where PG&E itself and this  
14 Commission and the broader public can be  
15 assured that PG&E's gas system is safe.

16 I want to respond to a few of the  
17 questions that were raised today,  
18 specifically by Commissioner Sandoval, first,  
19 having to do with the fine, what units should  
20 be used to calculate a fine, should it be per  
21 segment or per document. That's a good  
22 question.

23 Public Utilities Code 2107 and 2108  
24 provide for a \$20,000 fine for violating a  
25 Commission order. 2108 provides each fine is  
26 a separate offense.

27 So the question is how do you  
28 calculate that fine and what exactly counts

1 as an offense.

2 You heard PG&E's interpretation  
3 that they think this potentially would be one  
4 offense which would be a \$20,000 per day  
5 fine. If this case were litigated, CPSD  
6 would probably take a different position.

7 I don't have a calculation for you  
8 today, Commissioner, but one interpretation  
9 would be each segment of pipeline is an  
10 offense. There's other variations, but I  
11 don't have a calculation for you today. I  
12 think it is something that would be  
13 litigated.

14 Another issue you raise is the  
15 adequacy of the work plan to protect public  
16 safety, the concern about assumptions. Staff  
17 shares your concern. We saw the assumptions  
18 in both the March 15th and March 21st filing.  
19 We think that is addressed in the Compliance  
20 Plan.

21 If you look at page 2, third  
22 paragraph, the last few lines, I am looking  
23 at the Compliance Plan, it is says if the  
24 determination is based on assumptions, each  
25 must be identified. This is very important  
26 to staff. If PG&E is going to use  
27 assumptions rather than actual documents, we  
28 want there to be a record of it so it is very

1 clear to anyone auditing or as part of the  
2 process to know exactly what are your  
3 assumptions and which are your documents. I  
4 think that is consistent with what the NTSB  
5 wanted.

6           The PFL will also identify all  
7 source documents for the data in the PFL  
8 including, but not limited to, as-built  
9 drawings. All such documents will be  
10 available in our electronic data bases. We  
11 will provide the CPUC staff with access to  
12 these documents.

13           Then looking at the next paragraph,  
14 any MAOP calculation based on assumptions  
15 will be identified as such, along with all  
16 assumptions. In no case will an MAOP  
17 increase as a result of this calculation.

18           So I don't think this is a  
19 situation where PG&E is going to be making  
20 assumptions in the field with no record of  
21 it, no way to verify it, no way to audit it.  
22 I think this is going to be a collaborative  
23 process, and they are certainly -- we don't  
24 expect them to be making secret calculations.

25           The other thing to keep in mind,  
26 your Honor, is it may not be possible to do  
27 an MAOP validation. It just might not be  
28 possible. They may have to do some

1 assumptions -- they have to use some actual  
2 source documents, but if they don't have  
3 enough they just can't do it, in which case  
4 they would probably have to excavate or maybe  
5 remove the pipe. I am not an engineer, but  
6 that is my understanding.

7           The third issue you raised is NTSB  
8 recommendation number three which asks PG&E  
9 to spike test or hydrostatic test where they  
10 can't do the MAOP. That is not contained in  
11 the Commission order, that third  
12 recommendation. That was in the NTSB order  
13 but not in the Commission order.

14           PUC has not ordered this. My  
15 understanding is it is controversial and some  
16 of this hydrostatic testing might not be  
17 practical and might be dangerous, might not  
18 be the best way to prove pipeline safety.

19           In some instances they will need to  
20 replace pipelines or there may be other  
21 alternatives available. I am sure there are  
22 engineers here today that can talk about that  
23 in more detail.

24           Thank you. And I am available for  
25 questions.

26           ALJ BUSHEY: Thank you, Mr. Heiden.

27           Next, Mr. Hawiger.

28           ARGUMENT OF MR. HAWIGER

1           MR. HAWIGER: Thank you very much,  
2 Judge Bushey and the Honorable Commissioners.  
3 I am Marcel Hawiger, staff attorney with The  
4 Utility Reform Network.

5           TURN recommends that the Commission  
6 adopt the stipulation but if, and only if,  
7 PG&E and CPSD agree to two modifications:  
8 First, in the scope of work, to add a  
9 deadline, whether December 31st, 2011, or  
10 some other date negotiated, for doing the  
11 testing or replacement of the 152 miles of  
12 pipeline identified by PG&E; second, the  
13 penalty in the future, as Mr. Malkin  
14 mentioned, hanging over PG&E's head if they  
15 fail to meet the deadlines in the Compliance  
16 Plan should be increased more in the range of  
17 \$30 million, not just another \$3 million.

18           We believe that those two  
19 modifications will advance the goal, as  
20 Commissioner Sandoval mentioned, of promoting  
21 public safety and make the stipulation a  
22 stronger document.

23           If the stipulation is not modified,  
24 regretfully, I must recommend that you reject  
25 the stipulation and continue with the  
26 Investigation into PG&E's violation of the  
27 Commission order.

28           Now, in evaluating the stipulation,

1 there is a certain dilemma here. How can we  
2 evaluate the reasonableness of a stipulation  
3 filed on the very same day as the Order to  
4 Show Cause was filed without having some  
5 sense of the merits of the allegations in the  
6 Order to Show Cause, especially where here  
7 PG&E itself claims that the \$6 million  
8 penalty is reasonable because it would be the  
9 maximum amount even if PG&E was found to be  
10 in contempt of the Commission order. And  
11 PG&E bases this claim on the rather extreme  
12 notion that they were in compliance with  
13 Commission orders by March 21st.

14 Now, PG&E encourages you to move  
15 forward without litigating the Order to Show  
16 Cause, and I am extremely sympathetic to that  
17 suggestion. TURN would also prefer that PG&E  
18 focus on finding its records, validating the  
19 MAOP and ensuring the safety of its  
20 pipelines. TURN would rather expend our  
21 resources on the other matters raised in this  
22 Rulemaking to improve pipeline inspections  
23 and management going forward.

24 But as I reviewed the various  
25 documents in responding to the motion, I was  
26 struck by the fact that on the prima facie  
27 basis it is clear that PG&E violated the  
28 directives of Resolution L-410.

1           Now, PG&E mentioned that there were  
2 subsequent letters and communications with  
3 the Commission, and we go into some detail in  
4 our response that I don't want to repeat, but  
5 essentially, especially when I looked at the  
6 letter PG&E wrote, there was no indication  
7 that PG&E was not going to be able to do,  
8 provide the documents and the MAOP validation  
9 by March 15th.

10           In its first letter of January 7th,  
11 PG&E promises that, quote, we will deliver  
12 the results of our pressure testing  
13 verification work to you on March 15, 2011.

14           In its letter of February 1st, PG&E  
15 stated that, quote, it is aggressively and  
16 diligently working to meet the expectations  
17 of the Commission to perform our records  
18 review and verification work by March 15,  
19 2011.

20           Now PG&E already asked for an  
21 extension. It could have asked for another  
22 extension. And perhaps then we wouldn't be  
23 sitting here today. But PG&E failed to do  
24 so. And I think the Order to Show Cause and  
25 the letter from Executive Director Clanon  
26 very well explained the problem with  
27 PG&E's -- we are back to where we started,  
28 PG&E seems to say that having the records of

1 the highest pressure kind of somehow takes  
2 place of pressure testing.

3 But I suggest that on the prima  
4 facie basis PG&E is still in violation of the  
5 Commission order.

6 And with this background in mind, I  
7 ask you to weigh the reasonableness of the  
8 stipulation.

9 Now, in terms of the Compliance  
10 Plan, the schedule, this is basically the  
11 schedule by which PG&E will now comply with  
12 the Commission directive to produce records  
13 and verify the MAOPs. And essentially I  
14 cannot second guess the timeline, and I  
15 realize this is a large undertaking, and so  
16 we do not object to providing PG&E up until  
17 August 31st to do the validation. But PG&E  
18 had already prior to the stipulation in its  
19 own filing committed to doing the testing and  
20 repair of the 152 miles of pipeline most  
21 similar to the San Bruno pipeline. So I was  
22 actually very surprised not to see that in  
23 this stipulation.

24 And I would suggest that to promote  
25 safety we should go ahead, PG&E should  
26 include that commitment in the stipulation  
27 subject to the same penalty provisions as are  
28 the other deadlines.



1           Now, whether it has to be  
2     December 31, 2011, or whether PG&E and CPSD  
3     can negotiate another deadline if PG&E feels  
4     that's not totally realistic, we take no  
5     position on that. And we really want PG&E to  
6     do what's right in the timeline they need,  
7     but they need to have something hanging over  
8     their heads to make sure they do this work.

9           And that leads me to my second  
10    modification, and that is that the \$3 million  
11    penalty for future compliance is just not  
12    enough. PG&E has agreed to pay \$3 million  
13    for its failure to meet the March 15th  
14    deadline. I see no reason why having another  
15    deadline six months out should only be  
16    subject to the same additional 3 million  
17    penalty.

18           The Commission has identified  
19    various factors that it uses to weigh an  
20    appropriate penalty. And that is contained  
21    in our response and I think in the response  
22    of the City and County of San Francisco. I  
23    will not go into those in detail. But let me  
24    just mention two things. One, this is  
25    certainly an issue of very serious public  
26    safety. And so in terms of the physical  
27    health and safety, we are dealing with one of  
28    the most critical areas, ensuring that the

1 proper testing, validation of the pressures  
2 in the pipelines.

3           And in terms of the harm to the  
4 regulatory process, PG&E by my account had a  
5 direct order from the Commission, had asked  
6 for an extension, twice in written letters  
7 stated -- promised to deliver those  
8 validations by March 15th and then completely  
9 turned around in its March 15th filing and  
10 said we are going to do this by the end of  
11 2011. On its face it just appears  
12 preposterous.

13           But I don't want to quibble about  
14 how much we are going to fine them for the  
15 past violation, but at a minimum going  
16 forward the Commission needs to indicate that  
17 this is a very serious matter that will be  
18 subject to much stiffer penalties.

19           I fully agree that, as  
20 Commissioner Florio stated, this is just a  
21 first step. Evaluating and fixing the  
22 pipeline system must be done expeditiously  
23 but also in a systematic and thoughtful  
24 manner. This document search and validation  
25 is really just the first step in this  
26 process. But how the Commission responds and  
27 shows its resolve in deciding on this first  
28 step and PG&E's recalcitrance in this first

1 step will help us navigate this serious work  
2 ahead of us.

3 So I fully urge you to request that  
4 the parties change the stipulation in two  
5 relatively -- they are not minor -- but they  
6 are in ways that do not add new commitments  
7 but that will really ensure that PG&E does  
8 the right thing.

9 Thank you very much.

10 ALJ BUSHEY: Thank you, Mr. Hawiger.

11 Our next speaker the Ms. Mueller.

12 ARGUMENT OF MS. MUELLER

13 MS. MUELLER: Thank you, your Honor.

14 Good morning, Commissioners. I am  
15 Theresa Mueller from the San Francisco City  
16 Attorney's Office. Thank you for the  
17 opportunity to present comments to you.

18 The City submitted comments on  
19 Friday, and I won't repeat all of those in  
20 detail, although I know that they do address  
21 a lot of the issues that you have mentioned  
22 here.

23 One of the things that we learned at  
24 the March 28th hearing on this issue was that  
25 no actual safety improvements in the pipeline  
26 system have been made since the San Bruno  
27 explosion. And PG&E talked about its plan to  
28 do the hydro testing and replacement program

1 and also identified the potential  
2 disagreement with that proposal that the  
3 Commission staff, possibly PHMSA or other  
4 entities may have.

5 The City's concern about that is  
6 whatever the appropriate next step is,  
7 whether it is hydro testing, some other  
8 testing, pipeline replacement, that's for the  
9 Commission and PG&E to figure out, but it's  
10 got to be the highest priority, to move  
11 forward with actually making safety  
12 improvements.

13 So whether you include it in this  
14 stipulation or in a separate order, we would  
15 urge you to turn to that issue immediately.

16 Everyone acknowledges that it is  
17 important to have records, but having records  
18 is not a replacement for actually doing  
19 things.

20 And I think both PG&E and the staff  
21 witnesses acknowledge that we shouldn't be  
22 waiting to do actual improvements until we  
23 have all the records and particularly when it  
24 is going to take a very long time to get the  
25 records together.

26 I would like to address another  
27 issue, which is the penalty analysis. You  
28 heard a little bit about that from other

1 parties. And several Commissioners asked  
2 questions about that.

3 The Commission has a great deal of  
4 discretion about how to set penalties. And  
5 as you have already heard, there are a lot of  
6 ways to compute those units. You can add  
7 them up however you want. And part of how  
8 you decide to do that is through the  
9 qualitative analysis of what you think  
10 happened. This is particularly what  
11 Commissioner Sandoval mentioned.

12 In this case we believe you have to  
13 think about the allegations that the staff  
14 made, the allegations in your OSC, in the  
15 Executive Director's letter, which are very  
16 serious. And for those of us who have been  
17 following the MAOP issue and the NTSB order,  
18 to see what PG&E filed on the 15th, it  
19 doesn't seem to leave a lot of doubt that  
20 that filing was not in compliance and on a  
21 pretty important issue. So we would urge you  
22 to think about that.

23 I think this is a very important  
24 issue to the public, and they're watching  
25 what the Commission does.

26 Related to that is the scope of the  
27 stipulation. There's been a lot of talk  
28 about that this morning. And the City agrees

1 completely that the scope of this stipulation  
2 is very narrow. I think what we wrote on  
3 Friday is almost identical to what the  
4 General Counsel sent to you as read by  
5 President Peevey. But just because this  
6 issue is narrow does not mean it's not  
7 important. What the Commission does here is  
8 very important. In the context of the San  
9 Bruno explosion and its consequences, PG&E  
10 compliance with every Commission order is  
11 related to public safety and it should be  
12 treated like that.

13 Both PG&E and CPSD indicated in the  
14 hearing that they don't assume the pipeline  
15 system is unsafe. And we all hope that  
16 that's correct, but the Commission cannot go  
17 forward assuming that the system is safe.  
18 Operating a gas pipeline system is inherently  
19 risky. It requires the highest degree of  
20 care, and that extends to recordkeeping,  
21 operations, maintenance, testing and  
22 compliance with Commission orders.

23 And although nothing has been  
24 finally adjudicated, there is a great deal of  
25 public information that raises at least  
26 serious questions about how PG&E has carried  
27 out some of those duties.

28 And as a legal matter, the old

1 doctrine of res ipsa loquitur suggests that  
2 if a pipeline explodes, something is wrong;  
3 they just don't do that on their own.

4 And I think certainly the public  
5 feels that way. Something is wrong here for  
6 this to have happened.

7 So both for safety and for public  
8 confidence the Commission needs to be very  
9 aggressive in monitoring PG&E's practice and  
10 ensuring its compliance with Commission  
11 orders.

12 This is a new Commission in part.  
13 It has three new members appointed by a new  
14 Governor. And I think that even for those of  
15 you who are veteran Commissioners, there is a  
16 renewed emphasis on safety and monitoring and  
17 enforcement. And that's appropriate given  
18 the situation you're in now.

19 A resolution of the OSC is one of  
20 the first public steps that you are going to  
21 take in that process, and it requires a full  
22 investigation of what happened.

23 The Commission doesn't have to  
24 choose here between fully investigating the  
25 OSC and moving forward with compliance. PG&E  
26 already stated at the hearing that they were  
27 moving ahead, they were implementing their  
28 Compliance Plan and getting their records and

1 getting ready to make improvements. ]

2 So the Commission does not have to  
3 risk getting caught up in a battle about, you  
4 know, who said what or who did what at the  
5 expense of public safety and accurate  
6 records. PG&E is already doing the records  
7 search.

8 And not that any one, including the  
9 City, would look forward to such a  
10 proceeding. I would hope not to participate  
11 in one myself, but the Commission can require  
12 a stipulation that appropriately enforces  
13 your orders and your authority.

14 Thank you.

15 ALJ BUSHEY: Thank you, Ms. Mueller.

16 On to speaker, Ms. Chen.

17 ARGUMENT OF MS. CHEN

18 MS. CHEN: Thank you. Good morning,  
19 your Honor, President Peevey, Commissioners,  
20 and thank you for your time this morning.

21 My name is Stephanie Chen, and I'm  
22 Senior Legal Counsel for the Greenlining  
23 Institute. And my remarks here this morning  
24 will be brief because there's simply not that  
25 much left to say.

26 The one remaining question, at least  
27 for the time being right now, is whether or  
28 not to approve the Stipulation and Compliance



1 Plan offered by PG&E and CPSD staff. This  
2 question comes down, as many parties have  
3 mentioned, to safety and compliance, and  
4 nothing is more important than that.

5 So while we're going to find  
6 ourselves here talking about whether this was  
7 produced by this date and whether that was  
8 equivalent to this, what we're really talking  
9 about is whether or not we're all on the same  
10 page when it comes to safety and compliance.

11 Now, as Mr. Malkin noted, this  
12 shouldn't be about what happened in the past,  
13 and that's true. It shouldn't. What it  
14 should be about is what all of this means,  
15 what everything that has happened thus far  
16 means for the future. And I would urge you  
17 when you're considering this question to  
18 consider the actions that have been taken and  
19 not the words that have been spoken.

20 Simply put, the order was to produce  
21 certain traceable, verifiable records by  
22 March 15th along with calculations based on  
23 those records that would accurately  
24 demonstrate Maximum Allowable Operating  
25 Pressure. It was actually supposed to be  
26 produced by February 1st, but PG&E requested  
27 an extension because the scope of this  
28 project proved to be so immense.

1           As the City and County of San  
2           Francisco pointed out in its written  
3           comments, when PG&E realized, as it must  
4           have, prior to March 15th that it would be  
5           unable to comply by that due date, rather  
6           than request another extension or even  
7           explain at that point where it was in the  
8           process and why it wouldn't be able to meet  
9           deadline, PG&E instead filed a noncompliant  
10          report that relied heavily on historical  
11          MAOP.

12           Now, at the time of that filing, Mr.  
13          Clanon, and that would be Paul and not Brad,  
14          noted that this data was an insufficient  
15          substitute for sound calculations based on  
16          verified records.

17           Next, PG&E, no doubt aware that this  
18          Commission was prepared to heavily sanction  
19          it for failure to comply, filed a supplement  
20          to its report on March 21st, which still  
21          didn't bring it into compliance. The  
22          supplement describes PG&E's search and how it  
23          plans to go ahead with validating MAOPs, but  
24          this still is not the documentation and  
25          calculation that was required by Resolution  
26          L-411.

27           Next, on March 24th PG&E introduced  
28          the Stipulation which is at the heart of

1 today's hearing. This Stipulation still  
2 doesn't bring PG&E into compliance with  
3 Resolution L-410 or with the NTSB's urgent  
4 safety recommendations. It relies  
5 extensively on certain assumptions that PG&E  
6 would be allowed to make without any  
7 oversight of any kind about what components  
8 it has in the ground and what kind of  
9 pressure these components can safely handle.

10 Now, PG&E says, we wouldn't make any  
11 inappropriate assumptions, and CPSD says they  
12 won't make any inappropriate assumptions.  
13 But Commissioners, would you rather believe  
14 these words that are spoken here today, or  
15 would you rather see them on paper?

16 It's worth remembering that these  
17 recommendations came up in the first place  
18 because PG&E was mistaken about the  
19 components of the San Bruno pipeline and what  
20 kind of pressure they could handle.

21 This isn't simply a question of  
22 whether or not PG&E has turned in its  
23 homework on time. PG&E has been asked to  
24 demonstrate, according to sound engineering  
25 practices, the safety of its gas transmission  
26 system. This is something it should be able  
27 to do on demand. Safety demands that these  
28 records in question be at the ready and that

1 they be accurate and complete. But instead  
2 of producing these records, PG&E is asking  
3 for more time, the better portion of a year,  
4 to do the job incompletely.

5           Commissioners, this series of  
6 actions does not inspire customer confidence  
7 in a company that is engaged in an inherently  
8 dangerous business. As seriously as PG&E is  
9 approaching this problem, and no one here, I  
10 think, mistakes the massive nature of this  
11 undertaking, the facts demonstrate that  
12 minimum expectations are being missed, not  
13 just from PG&E's customers, but even the  
14 expectations that have been clearly set forth  
15 by this Commission.

16           The question is, what is the  
17 appropriate course of action for this  
18 Commission to take to properly motivate PG&E  
19 to meet these minimum expectations? What can  
20 we reasonably expect a \$3 million fine or  
21 even a \$6 million fine to accomplish? Will  
22 it inspire confidence among PG&E's customers  
23 that this Commission is seeking the culture  
24 change that was stated by Mr. Clanon? Will  
25 the nearly year-long search from the time of  
26 this incident to the time of the completion  
27 date listed in the Compliance Plan inspire  
28 the kind of confidence and promote the kind

1 of cultural change that I think everyone in  
2 this room is looking for?

3 Greenlining urges PG&E, for the sake  
4 of its customers as well as for the company,  
5 to focus on finding solutions rather than  
6 mirroring itself in another public battle.  
7 PG&E's hints that it might engage in a  
8 protracted legal battle over this issue are  
9 counterproductive to what we are all trying  
10 to accomplish. Following through on these  
11 hints risks losing what little patience the  
12 general public has left in PG&E's leadership.  
13 There would be nothing to gain by PG&E or its  
14 customers if the company chose that path.

15 I will close by saying this.  
16 Commissioners, California depends on you.  
17 PG&E's customers depend on you. Even before  
18 all these investigations are complete, plenty  
19 of troubling information has already surfaced  
20 about the nature of PG&E's pipelines,  
21 recordkeeping, and management practices.

22 Even at this early stage in the  
23 game, it's clear that it's time for a culture  
24 change. Mr. Clanon himself recommended this  
25 need. This Commission is in the position to  
26 spur that change, and indeed it must.

27 Greenlining urges that this portion  
28 of the proceeding remain open, and that means

1 rejecting the Stipulation at hand, until we  
2 can implement a solution that will include  
3 appropriate monetary penalties and a truly  
4 aggressive and complete Compliance Plan that  
5 will create the kind of culture change we all  
6 need to see.

7 Thank you for your time.

8 ALJ BUSHEY: Thank you, Ms. Chen.

9 Questions from the Commissioners?

10 Commissioner Sandoval.

11 COMMISSIONER SANDOVAL: Go ahead.

12 COMMISSIONER SIMON: Is there another  
13 party?

14 ALJ BUSHEY: Oh, Mr. Boyd, you weren't  
15 here when we signed up. Okay.

16 ARGUMENT OF MR. BOYD

17 MR. BOYD: I guess I'm the newest  
18 party, so, new to the party.

19 My name is Mike Boyd, and I'm the  
20 President of Californians for Renewable  
21 Energy, Inc., CARE. And I was at your  
22 meeting last week and spoke to you, and I  
23 have some follow-up information to provide  
24 you.

25 First, on the Stipulation. CARE  
26 believes that a stipulation is unlawful, and  
27 here's why. First, in order for you to enter  
28 into an agreement for compliance you have to

1 have either evidence of compliance or a  
2 schedule of compliance. By a schedule of  
3 compliance I mean an approved schedule of  
4 compliance. You approve the schedule, not  
5 CPSD, to my knowledge. So without either, I  
6 don't see how you're in a legal position to  
7 approve the stipulated agreement because PG&E  
8 certainly hasn't provided you that and nor  
9 has CPSD.

10 So without that, I don't see how you  
11 can do it. And as I said before at the  
12 meeting last week, you're not my only relief.  
13 I can go to the FERC, and the FERC does have  
14 a million dollar a day fine. And I believe  
15 this is a federal compliance issue as well as  
16 a state compliance issue. And therefore, I  
17 would ask that you support what CARE is  
18 saying and go for the federal standard, a  
19 million dollars a day, until they establish  
20 compliance through evidence or a schedule  
21 that you've approved for compliance. Okay.

22 Because we believe Pacific Gas and  
23 Electric Company, PG&E, cannot or will not  
24 produce the required records to complete the  
25 validation of pipeline Maximum Allowable  
26 Operating Pressures as well as to complete  
27 the pipeline testing and repairs promised by  
28 PG&E, Californians for Renewable Energy and

1 CARE hereby submits two Google Earth pictures  
2 of the site of the San Bruno natural gas  
3 pipeline explosion that killed eight of  
4 PG&E's natural gas service customers to  
5 define the exclusion zone necessary to,  
6 quote, "avoid potential high risk for  
7 fatalities in future pipeline explosions."

8 The line pictured in yellow measures  
9 a distance of approximately 600 feet. I  
10 provided a picture from October 1st, 2009,  
11 for the fire to show you the homes that were  
12 present there. The next figure shows you  
13 after the fire, two days after the fire, that  
14 there were some homes there that were  
15 destroyed 600 feet from the fire, from the  
16 explosion source. And if you look to the  
17 south on the road in the picture, you'll see  
18 the section of pipeline that exploded is  
19 still present there on the 11th sitting  
20 there.

21 Without these necessary records to  
22 determine safe operating pressures for PG&E's  
23 continued operations of natural gas pipelines  
24 in its service territory, the Commission is  
25 not in a position to say that any of those  
26 pipelines PG&E is operating are safe to the  
27 general public and PG&E's customers. But  
28 PG&E is not alone in its liability because



1 the local government, the city or county  
2 issued building permits for all the homes  
3 that burned in San Bruno, likely after the  
4 pipeline was built. Where were our elected  
5 local leaders then?

6 I have attached a copy of Robert  
7 Sarvey's rebuttal testimony, Exhibit 405, on  
8 hazardous materials before the California  
9 Energy Commission on the Mariposa Natural Gas  
10 Turbine Project in CEC Docket 09-AFC-03 on  
11 two other high risk natural gas pipelines at  
12 PG&E where Mr. Sarvey states:

13 The combination of these  
14 two projects and their  
15 impact [to degrade] -- to  
16 the degraded PG&E Line 002  
17 are not addressed or  
18 analyzed in staff's  
19 testimony. A significant  
20 increase in natural gas  
21 volume will occur because  
22 of the addition of the MEP  
23 and the conversion of the  
24 Tracy Peaker Project to  
25 combined cycle. Pipeline  
26 pressure fluctuation from  
27 the cycling of these  
28 projects will cause

1 additional stress to Line  
2 002. Given the significant  
3 risk of a natural gas line  
4 failure as evinced by the  
5 recent San Bruno Tragedy,  
6 this impact needs to be  
7 addressed. We certainly  
8 cannot rely on PG&E's  
9 incomplete and inaccurate  
10 records and inadequate  
11 safety practices.

12 Mr. Sarvey has provided on page 5  
13 of his testimony a picture of a temporary  
14 fence PG&E erected at the site of a proposed  
15 sports park in Tracy where apparently PG&E  
16 allowed heavy equipment to operate unattended  
17 as an offer of proof to PG&E's safety  
18 practices or lack thereof.

19 Therefore, first we need to know  
20 what is the safe zone where residential  
21 dwellings, parks and recreation facilities  
22 and businesses can be built? The City and  
23 County then must change its general plans and  
24 zoning designations to exclude any  
25 development where there is a high risk  
26 pipeline where high risk may be based on the  
27 lack of recordkeeping by PG&E. PG&E must buy  
28 out all those affected landowners along the

1 exclusion zone along the line under eminent  
2 domain exercised by authorization of this  
3 Commission, if necessary, at fair market  
4 value.

5 In absence of knowing the root  
6 cause of the failure that caused PG&E's  
7 pipeline to explode, the Commission has no  
8 choice but to exclude future development and  
9 remove existing developments from the safety  
10 exclusion zone. Otherwise, the question will  
11 not be if this will ever happen again, but  
12 when is the next pipeline explosion going to  
13 occur?

14 Thank you.

15 ALJ BUSHEY: Thank you, Mr. Boyd.

16 Other parties that wish to present  
17 oral argument?

18 (No response)

19 ALJ BUSHEY: If not, we'll begin the  
20 questions from the Commissioners.

21 Commissioner Florio.

22 COMMISSIONER FLORIO: I was able to ask  
23 my questions at the earlier hearing. So I  
24 would defer to my colleagues at this point.

25 ALJ BUSHEY: Thank you.

26 Any Commissioner with questions?  
27 Commissioner Simon.

28 COMMISSIONER SIMON: Thank you, ALJ

1 Bushey.

2 First, Mr. Heiden, as CPSD is aware,  
3 there is a PG&E Gas Accord, that's  
4 A.09-09-013, that also involves safety  
5 issues. Separate from the rulemaking in the  
6 OII, is the Gas Accord part of the -- or is  
7 it cross-referenced or recognized in your  
8 Stipulation?

9 MR. HEIDEN: Not that I'm aware of,  
10 Commissioner.

11 COMMISSIONER SIMON: Do you feel it  
12 would be appropriate to do so?

13 MR. HEIDEN: I really don't know  
14 anything about the Accord. Sorry. But I can  
15 respond in writing.

16 COMMISSIONER SIMON: Okay. Thank you.  
17 I have another question for you. Regarding  
18 the order of the Commission and specifically  
19 the letter of Mr. Clanon, the Stipulation  
20 seems to at least mitigate the effect of  
21 that.

22 Did you -- does CPSD consider that  
23 order to be frivolous?

24 MR. HEIDEN: Are you referring to --  
25 which letter of Paul Clanon?

26 COMMISSIONER SIMON: The Resolution  
27 L-410, the order for PG&E to produce records  
28 by, which was originally February 2nd, as

1 Commissioner Sandoval stated, and then March  
2 15th.

3           Was that a frivolous order on the  
4 part of the Commission? Because it appears  
5 that, you know, we were operating under that  
6 order, and now I'm hearing all the reasons  
7 why we should not go forward under that  
8 order. So is CPSD -- how do you assess that  
9 order since you're coming with a  
10 recommendation for now a stipulation from  
11 that order?

12           MR. HEIDEN: Well, it's a serious  
13 order, and we think a stipulation  
14 accomplishes the order. It just sets out a  
15 timeline with specific goals and benchmarks,  
16 and it clearly does extend the date to the  
17 end of August.

18           COMMISSIONER SIMON: Now, Mr. Malkin  
19 stated that there had been regular meetings  
20 with enforcement staff. Did those meetings  
21 occur after the Clanon letter and prior to  
22 the date of submission?

23           MR. HEIDEN: Yes.

24           COMMISSIONER SIMON: So during this  
25 time was CPSD --

26           MR. HEIDEN: Excuse me. Sorry. I want  
27 to make sure I answer your question  
28 correctly. You mean the meetings were after

1 the Commission order?

2 COMMISSIONER SIMON: Correct.

3 MR. HEIDEN: After his letter?

4 COMMISSIONER SIMON: Excuse me. After  
5 his letter.

6 MR. HEIDEN: The?

7 COMMISSIONER SIMON: The letter  
8 requesting the MAOP documents be submitted by  
9 the specified date, which was February 2nd  
10 and then moved to March 15th. During that  
11 period of time was CPSD meeting with PG&E?

12 MR. HEIDEN: Yes.

13 COMMISSIONER SIMON: Was enforcement  
14 staff meeting with PG&E?

15 MR. HEIDEN: Yes.

16 COMMISSIONER SIMON: Was CPSD staff  
17 aware of the fact that PG&E could not comply  
18 with that order during this period?

19 MR. HEIDEN: I wasn't at those  
20 meetings. So I can't speak for CPSD. But my  
21 understanding is that they were not aware.

22 COMMISSIONER SIMON: So they were not  
23 aware of the fact that PG&E could not meet  
24 the order until the March 15th submission by  
25 PG&E?

26 MR. HEIDEN: That's my understanding,  
27 Commissioner.

28 COMMISSIONER SIMON: And does CPSD view

1 the March 15th submission as being in  
2 compliance with the order?

3 MR. HEIDEN: No.

4 COMMISSIONER SIMON: Do you know what  
5 CPSD or enforcement staffers were involved in  
6 these weekly meetings with PG&E during this  
7 period?

8 MR. HEIDEN: Prior to March 15th?

9 COMMISSIONER SIMON: Prior to March  
10 15th.

11 MR. HEIDEN: No, I do not.

12 COMMISSIONER SIMON: Because I'm  
13 puzzled to how PG&E cannot be in compliance  
14 while in dialogue with CPSD and we're not  
15 aware of the fact that they're not in  
16 compliance until the March 15th deadline and  
17 then we have a stipulation from CPSD. It  
18 just -- the lines seem very blurred here, and  
19 I'm just trying to understand the chronol --  
20 the timetable, okay, the chronology on what  
21 has in fact transpired.

22 And I say this because, as you know,  
23 under current Bagley-Keene interpretations we  
24 as commissioners are very limited in the  
25 dialog that we can have on open dockets of  
26 this nature. So I'm just simply trying to  
27 understand how for all this time that PG&E  
28 clearly could not comply that there was not a

1 notification by CPSD that they could not  
2 comply.

3 MR. HEIDEN: I understand,  
4 Commissioner. If this helps, I think  
5 following the March 15th filing the  
6 Commission issued or drafted an Order to Show  
7 Cause. There was a draft Order to Show Cause  
8 on the web site. There was also a letter  
9 from Paul Clanon to PG&E saying, you're not  
10 in compliance with our order. I'm going to  
11 recommend or staff recommends -- may  
12 recommend an Order to Show Cause. PG&E,  
13 according to their March 21st filing, I  
14 believe, acknowledged that they saw the draft  
15 order on our web site and they got the letter  
16 from Mr. Clanon and they understood that  
17 staff didn't think they were in compliance  
18 and that the Commission was prepared to vote  
19 on this issue.

20 I think PG&E at that point, and I  
21 think you'd have to ask PG&E for some  
22 clarification, I think at that point staff  
23 and PG&E engaged in negotiations to try to  
24 get us on the same page.

25 So I think it was basically them  
26 understanding the seriousness following their  
27 March 15th submission, which was not what  
28 staff expected, if that's what you're asking.



1 It was not what staff expected.

2 COMMISSIONER SIMON: So Mr. Malkin, in  
3 these weekly meetings that occurred, was  
4 there any dialogue with staff that would  
5 notify staff that we're frankly not in a  
6 position to meet the March 15th deadline, or  
7 had PG&E operated on this failure to  
8 communicate presumption or basis?

9 MR. MALKIN: Commissioner Simon, in our  
10 view there were repeated communications with  
11 the CPSD that were clear that what PG&E could  
12 physically accomplish by March 15th and what  
13 it was working to accomplish by March 15th  
14 was the record collection and an analysis to  
15 determine which of the 1805 miles of HCA  
16 pipeline that are subject to the order had  
17 previous pressure tests. That would be the  
18 first step in the analysis.

19 The next step after that was done  
20 would be to look more closely at the miles of  
21 pipe for which there were not pressure test  
22 records to do the MAOP validation on those  
23 miles of pipe. And that was described in our  
24 March 15th report and described in meetings  
25 to the staff as Phase 1, collecting the  
26 records and doing the determination of the  
27 pressure tests, and Phase 2, the longer term  
28 more complicated MAOP validation.

1           COMMISSIONER SIMON: So in your March  
2 15th response the methodology that you  
3 adopted, this Phase 1, Phase 2, was a result  
4 of dialogue with CPSD through these weekly  
5 meetings?

6           MR. MALKIN: First of all, let me say,  
7 the meetings were not weekly. They were I  
8 would say frequent but not weekly.

9           COMMISSIONER SIMON: Okay. Frequent or  
10 periodic.

11          MR. MALKIN: And yes, what is in the  
12 report in our view is completely consistent  
13 with both what we told the Commission in our  
14 letters that we would accomplish by March  
15 15th and what in terms of the phasing of  
16 Phase 1 and Phase 2 was made even more  
17 explicit in discussions with the staff.

18          COMMISSIONER SIMON: Thank you.

19          ALJ BUSHEY: Commissioner Sandoval.  
20 I'm sorry. Commissioner Peevey.

21          COMMISSIONER PEEVEY: Mr. Hawiger, I  
22 want to ask you a question. I appreciate  
23 your comments. As I understand it, you  
24 support the stipulation with two provisos or  
25 changes to it, and I want to ask you about  
26 the second one.

27                 You suggested that you don't have a  
28 quarrel with the \$3 million but you do

1 think -- the original 3 -- but you think that  
2 the second 3 should be boosted to 30. Did I  
3 understand you right?

4 MR. HAWIGER: Yes, President Peevey.  
5 That's correct.

6 COMMISSIONER PEEVEY: Is that because  
7 30 is not chump change?

8 MR. HAWIGER: You have it exactly  
9 right.

10 COMMISSIONER PEEVEY: Can you work out  
11 a scale? And what has become chump change?

12 (Laughter)

13 MR. HAWIGER: You know, there's  
14 several --

15 COMMISSIONER PEEVEY: We need a little  
16 levity, but this is a very serious matter  
17 here.

18 MR. HAWIGER: Certainly. Look, 3 mil  
19 -- PG&E's average profits are about 1.1  
20 billion a year and have been increasing  
21 steadily from '06 through 2010. We have a  
22 chart in our comments.

23 COMMISSIONER PEEVEY: I saw that.

24 MR. HAWIGER: 3 million is .3 percent.  
25 And as you -- as I think Commissioner Simon  
26 indicated, it's less than one severance  
27 package that was recently adopted. You know,  
28 it's a judgment call certainly. I think 11

1 million represents 1 percent of net profits.  
2 So that starts, I think, to get to a figure  
3 that is slightly meaningful.

4 COMMISSIONER PEEVEY: Beyond chump  
5 change?

6 MR. HAWIGER: Yes. Beyond chump  
7 change.

8 COMMISSIONER PEEVEY: I mean it's a  
9 term that your organization has used.

10 MR. HAWIGER: Absolutely. It was not  
11 my quote, but it's I think appropriate.

12 COMMISSIONER PEEVEY: I assume you  
13 stand by it. I stand by everything Simon  
14 said.

15 (Laughter)

16 MR. HAWIGER: Absolutely, absolutely.

17 At the rate of a million dollars a  
18 day by August 31st you get 250 million.

19 COMMISSIONER PEEVEY: Thank you very  
20 much. But I do think that you made a  
21 positive contribution to this. Thanks.

22 ALJ BUSHEY: Commissioner Sandoval.

23 COMMISSIONER SANDOVAL: Thank you very  
24 much.

25 I have a couple of technical  
26 questions. I see that Mr. Johnson is in the  
27 room. So some of these technical matters, I  
28 know Mr. Malkin is extremely knowledgeable,

1 but a couple of them are engineering related.  
2 So it might be appropriate to ask Mr. Johnson  
3 to come forward.

4 I know as a lawyer I studied these  
5 things but would never hold myself out as an  
6 engineering expert.

7 Thank you very much.

8 KIRK JOHNSON

9 resumed the stand and testified further  
10 as follows:

11 EXAMINATION

12 BY COMMISSIONER SANDOVAL:

13 Q So my first question, and this gets  
14 in part to the issue of how do we define the  
15 appropriate unit for calculating a violation  
16 or a penalty but also to get a sense of the  
17 scope of potential safety concerns here. So  
18 I think this is appropriate for Mr. Johnson.

19 How many pipeline segments are in a  
20 mile?

21 A A pipeline segment is not defined  
22 as a length. A pipeline segment is any time  
23 the pipeline characteristics change, it  
24 becomes a new segment. So a segment could be  
25 a foot long, a segment could be five miles  
26 long. But if the diameter were to change,  
27 the wall thickness were to change, the class  
28 location of the pipeline were to change, that

1 becomes a different segment for purposes of  
2 integrity management. And that's the term  
3 we've used throughout the discussions we've  
4 had with folks.

5 Q Okay. So that explains in part  
6 what the NTSB found was at the section of --  
7 let's call it the section of pipeline that  
8 was the subject of the explosion in San Bruno  
9 was in part composed of four different  
10 segments of pipe, which they said also had  
11 different longitudinal welds.

12 So you're saying that that's not  
13 unexpected, that sometimes within, you know,  
14 I'm calling it a segment that blew, but that  
15 that, it turns out, was actually composed of  
16 four smaller segments; is that correct?

17 A Well, I think we're using different  
18 terms here. When I spoke of segments, I was  
19 talking about the engineering definition as  
20 used in the integrity management program to  
21 define what a segment of pipe is. And we  
22 talk in terms of integrity management for  
23 each segment.

24 I think what you're referencing is  
25 that one, a joint, one section of pipe that  
26 was made up of the segment that failed in San  
27 Bruno, that segment was about 1800 feet long,  
28 if I recall correctly, one 30-foot section of

1 that was made up of what we oftentimes refer  
2 to as joiners, which are small sections of  
3 pipe that are manufactured that way.

4 And so what the NTSB was  
5 referencing in their metallurgy report was  
6 the different aspects of each joiner or each  
7 piece of -- small piece of pipe in that  
8 overall segment of the pipe, or a stick of  
9 pipe as we oftentimes refer to it.

10 Q So is there any way then to  
11 calculate how many segments one would likely  
12 find in a mile without having the  
13 documentation that tells you that?

14 A Well, for integrity management for  
15 areas that are defined as High Consequence  
16 Areas and for that matter for PG&E anyway,  
17 every time a piece of pipe changes or  
18 something in the system changes its  
19 characteristic, it becomes a new segment. So  
20 we can calculate or calculate how many  
21 segments are in our system with some clarity.  
22 And again, that changes on a daily, daily  
23 basis. As we make changes to our system, of  
24 course the segments change.

25 Q And I believe there was a previous  
26 PG&E submission where PG&E stated that in the  
27 152 miles of high consequence pipeline that  
28 there were 699 segments. Do you recall that?

1           A    I do recall that there was some  
2 notification of how many segments we're  
3 referring to.  I don't have --

4                    My counselor is showing me the  
5 document.  So 699 pipeline segments as of the  
6 date of that writing.

7           Q    Great.  Engineering knowledge, by  
8 the way, is always helpful.

9                    Okay.  So for the 152 miles of  
10 identified -- so these are the 152 miles that  
11 are identified in what I would call Category  
12 1 of your proposed work plan where it talks  
13 about the 152 miles that are targeted for  
14 document completion by June 10th.           ]

15                   That has 699 segments; is that  
16 correct?

17           A    That is correct.  The document we  
18 are talking about, Attachment A of the  
19 Compliance Plan, talks about 152 miles, and  
20 152 miles would calculate out to 699 pipeline  
21 segments at the time of that writing.

22           COMMISSIONER SANDOVAL:  Q   Thank you.

23                    Then my next question -- so I am  
24 going to refer to these for the sake of  
25 convenience as the June 10th section, I will  
26 call it Category 1, the July 10th target I  
27 will refer to as Category 2, the August 10th  
28 target I will refer to as Category 3, and



1 then I am going to ask you about some  
2 additional categories that were listed in  
3 your March 21st letter from PG&E. So we have  
4 got our nomenclature clear.

5 So with regard to Categories 1 and  
6 2, Category 1 refers to 152 miles of DSAW  
7 pipe, 24 to 36-inch outside diameter and  
8 installed prior to 1962.

9 Can you please tell us nonengineers  
10 what is DSAW.

11 A That is a type of welded pipe known  
12 as double submerged arc welded pipe. When a  
13 pipeline is manufactured, it is manufactured  
14 generally speaking out of plate, plate steel.  
15 That plate steel is rolled together to create  
16 a pipeline segment. And then it is welded at  
17 the seam. And the seam -- a pipe segment  
18 usually runs about 30-plus feet long. That  
19 30-foot long seam is known has a longitudinal  
20 seam, oftentimes referred to as the long  
21 seam. And DSAW, or double submerged arc  
22 weld, is one technique to weld that long  
23 seam.

24 Q For the pipeline segment that  
25 exploded at San Bruno, did NTSB find that it  
26 was in fact double submerged arc welded?

27 A I don't believe that the NTSB has  
28 specifically stated what type of weld they

1 have seen at this point in time. They have  
2 only stated that a missing inside weld  
3 existed on one of those small segments of the  
4 joiner.

5 Q If there were -- let me just back  
6 up. A double submerged arc weld would  
7 indicate in nontechnical terms it was welded  
8 both from the top and from the inside,  
9 correct?

10 A Correct. The technique for double  
11 submerged is it is welded from the top or  
12 from one point and then the other point. So  
13 in this particular case the top first and  
14 then the inside. It can also be done the  
15 inside and then the top by other  
16 manufacturers. And the other term that is  
17 oftentimes used is single submerged arc weld  
18 which would indicate one weld, period.

19 Q So the NTSB indicated that at least  
20 a portion of the pipeline which exploded  
21 appeared to be single submerged arc welded  
22 and not double submerged arc welded; is that  
23 your understanding of their findings today?

24 A My understanding of their findings  
25 today is that the pipeline, the small piece  
26 of pipe that ruptured on the longitudinal  
27 seam, was missing its inside weld.

28 Q Which would indicate it's not

1 double submerged arc welded?

2 A It might indicate it was double  
3 submerged arc welded but it wasn't  
4 manufactured correctly. The inside weld  
5 didn't happen properly.

6 Q So it could be double submerged arc  
7 welded but welded improperly, or single  
8 submerged arc welded?

9 A That was also not welded properly,  
10 that's correct.

11 Q So then Category 1 also proposes to  
12 identify documents for seamless pipe greater  
13 than 24 inches outside diameter and installed  
14 prior to 1974.

15 In what year was seamless pipe  
16 available for gas pipelines?

17 A I would have to go back to the  
18 records of vintage pipe and determine exactly  
19 when it was available.

20 For gas transmission pipelines  
21 there are smaller techniques such as 8-inch  
22 still available, but for larger pipelines we  
23 would have to go back into the records and  
24 determine exactly when it was manufactured in  
25 either the U.S. or in other countries.

26 Q My understanding is that seamless  
27 pipe of 24 inches diameter and greater was  
28 not available before 1962. Is that your

1 understanding as well?

2 A I don't know if that is correct or  
3 not.

4 When we say not available, I am not  
5 sure if we are talking about manufactured in  
6 the U.S. or manufactured somewhere else.

7 But again, we would have to go back  
8 to the records of what is known as vintage  
9 pipe for the industry and verify that.

10 Q Is that something that you could  
11 find out? Because I have done some research  
12 and found that in the industry it is known  
13 that before 1962 that basically seamless pipe  
14 was not available, which would indicate that  
15 you would never have seamless pipe before  
16 1962. Is that something that you could  
17 verify what is the status of that?

18 A Certainly we will look at what we  
19 have available and respond back.

20 Q Thank you. That would be very  
21 helpful.

22 So with regard to Category No. 2,  
23 the document whose completion is scheduled  
24 for July 20th, that is 295 miles of ERW pipe,  
25 so let's start with that first. Can you tell  
26 us what is ERW?

27 A ERW is also a type of welding on  
28 the longitudinal seam, electric resistance

1 weld it is oftentimes referred to. It also  
2 goes by other nomenclature from back in its  
3 day.

4 Q An article in the San Francisco  
5 Chronicle this weekend discussed these ERW  
6 welds and said that these ERW welds had been  
7 tied to at least 100 failures nationwide.

8 Are ERW welds seen as more or less  
9 reliable than double arc welds?

10 A I think from an industry point of  
11 view and as referenced on our Attachment A,  
12 we talk about those welds having a joint  
13 efficiency of less than one. And in general  
14 a joint efficiency means that the weld is not  
15 as strong as the pipe itself. It is welded  
16 together. So there is, if you will, a safety  
17 factor put into the calculation of the  
18 pressure that the pipeline can operate under.

19 Q So those, then, that would fall  
20 within Category No. 1 should have a joint  
21 efficiency of greater than one, is that what  
22 I'm understanding from your testimony?

23 A A DSAW weld under the code and  
24 under PG&E's guidelines has a coefficient of  
25 one. I am not aware of any welds that could  
26 have a coefficient greater than one.

27 Q Okay. And having a coefficient of  
28 one indicates what?

1           A    It indicates that the weld would  
2 be, for all practical purposes, it indicates  
3 the weld would be as strong as the pipe  
4 itself.

5           Q    Okay. So the weld is as strong --

6           A    -- as the pipe material itself.

7           Q    So then everything which falls in  
8 Category No. 2 has a joint efficiency of less  
9 than one which would indicate it would be  
10 less strong, the weld may be less strong than  
11 the pipe; is that correct?

12          A    I want to clarify that. It is how  
13 PG&E has chosen to design its coefficient,  
14 the joint efficiency of less than one. The  
15 code itself, Part 192 and GO 112 (E), allows  
16 certain categories of weld to have a joint  
17 efficiency of one. PG&E discounts the ones  
18 that we are stating here that you have stated  
19 as Priority 2. So it is PG&E's desire to add  
20 additional safety factors in place.

21          Q    Okay. Then SSAW would be the  
22 single submerged arc welded; is that correct?

23          A    That's correct.

24          Q    And that would be -- with the SSAW,  
25 are they welded from the top, or from inside?  
26 Is that always consistent?

27          A    Without saying how things were done  
28 back in the '30s, '40s and '50s, I believe

1 most of them were welded from the outside.

2 Q From the outside. All right.

3 And so that is one of the  
4 questions, was the pipe that exploded at San  
5 Bruno in fact single submerged arc welded, or  
6 was it double submerged arc welded but  
7 improperly done, so it wasn't welded on both  
8 sides?

9 A In terms of San Bruno, what we have  
10 put forth to the NTSB and the NTSB has shared  
11 in public documents is that we believe that  
12 pipeline was purchased from Consolidated  
13 Western. Consolidated Western manufactured  
14 double submerged arc weld at the time we  
15 purchased it. That pipe was purchased  
16 between roughly, I believe it was, 1946, '47,  
17 up to about 1956. And certainly that was the  
18 process that Consolidated Western was using  
19 for 30-inch pipeline at that time. So what  
20 we believe, it is double submerged arc welded  
21 pipe.

22 Q So can you tell us what is the next  
23 category, flash and lap welded, what are  
24 those?

25 A Those are just different types of  
26 welding techniques used over the years for  
27 different types of pipes.

28 As pipelines were manufactured

1 through the years, whether it be the '30s,  
2 '40s, '50s or '60s, different welding  
3 techniques were used and these are just  
4 different welding techniques available and  
5 still in service.

6 Q And ERW, as you stated, are flash  
7 and lap welded, they are all according to  
8 your calculations welds that produced joint  
9 efficiencies of less than one; is that  
10 correct?

11 A We assume a joint efficiency of  
12 less than one for those types of welds,  
13 that's correct.

14 Q Do you have the documents that are  
15 necessary to determine which pipes fit into  
16 which categories?

17 It seems that as you read Category  
18 No. 1 and Category No. 2, you would have to  
19 have some documents either to classify which  
20 belong into which categories.

21 A Correct. I think for purposes of  
22 this document, we used our GIS database, our  
23 summary database, to articulate how many  
24 segments and how many miles we believe we  
25 have in our system.

26 Q And this may be a question for  
27 Mr. Malkin.

28 Do you believe that you have the



1 proper documentation to at least determine  
2 which pipelines belong into which categories?

3 A We are certainly verifying that as  
4 part of the process. As we do the MAOP  
5 validation and the pipeline features list, we  
6 will verify if indeed we see something on our  
7 documents that don't match what we previously  
8 had in our summary sheet, which is what we  
9 have talked about last time in our GIS  
10 database, we will be looking at that source  
11 document, those as-builts and seeing if they  
12 match. And that is part of the MAOP  
13 validation process.

14 Q It seems you would need information  
15 about welds to even determine which category  
16 the pipes fit into?

17 A Correct. And as I stated, we used  
18 GIS as a summary level to identify how many  
19 miles of pipe we believe we have in each  
20 category.

21 Q So this is really a question about  
22 priority. As a nonengineer, it strikes me  
23 that Category 2 is in many ways a category  
24 that poses a greater potential concern about  
25 safety than Category 1 because Category 2, as  
26 you said, includes those with the joint  
27 efficiency of less than one. So why is  
28 Category 1 with the DSAW pipe which is likely

1 to have the joint efficiency of one  
2 prioritized as being completed first over  
3 Category 2?

4 A Well, I think in terms of what is  
5 in priority one, as you have listed it, that  
6 is the pipe that has similar characteristics  
7 of San Bruno, and we want to make sure that  
8 we don't have and we want to make sure we do  
9 everything possible to ensure that that  
10 situation doesn't exist anywhere else in the  
11 system. So we are prioritizing that as the  
12 first pipe that we would like to go after and  
13 ensure that what happened in San Bruno never  
14 happens again.

15 In terms of comparing the two, they  
16 are somewhat equivalent, I guess. In terms  
17 of priority two as you have listed it, that  
18 pipe that is ERW, that pipe already has an  
19 additional safety factor put in place because  
20 of that type of weld. So it's already going  
21 to operate at a lower pressure than it might  
22 have if it was a DSAW pipe.

23 So the pipeline pressure is already  
24 operating below that. And in fact PG&E goes  
25 above the code on these pipeline joints. So  
26 whereas the code might say, for example,  
27 single submerged arc weld is a joint  
28 efficiency of 1.0, we already discount it to

1 a .8 discount and have the pressure operating  
2 in accordance. So we don't believe there's  
3 any additional risk there associated with the  
4 weld pipe.

5 Q So the next question, so for the  
6 next category, Category No. 3, so that really  
7 identifies two different types of pipe. So  
8 it says in what is listed as number three,  
9 priority focus, 206 miles, all remaining 619C  
10 documented pipe and pipe installed prior to  
11 7/1/1970 with records still under review.  
12 What is 619C documented pipe?

13 A 619C references the Part 192 code,  
14 49 CFR, Part 192. That document is also  
15 referred to oftentimes as a grandfather  
16 clause. That is a section that was put into  
17 the code, as I understand it. Obviously, the  
18 code didn't exist, the federal code didn't  
19 exist prior to the middle of 1970. And it  
20 was an acknowledgment that records for  
21 purposes of calculation didn't exist for many  
22 of these pipes prior to the code, that  
23 records weren't necessarily required in some  
24 areas as part of a code, and therefore those  
25 records wouldn't exist. And therefore to  
26 establish a safe operating pressure, that  
27 pressure was deemed to be whatever the  
28 highest pressure had been the previous five

1 years prior to the code, so back to 1965,  
2 irregardless of what records you might have  
3 or irregardless of what the yield strength  
4 might be. So that pipeline might be  
5 operating a yield strength of 21, 22 percent,  
6 very, very low. That pipeline was still  
7 locked into the highest pressure you had seen  
8 the previous five years.

9 Q And then the category you identify  
10 as number four, 52 miles, all pipe installed  
11 after 7/1/1970, with records still under  
12 review. So can you inform us, please, about  
13 what does the transportation code require for  
14 the maintenance of pipeline records for pipes  
15 installed after 7/1/1970?

16 A I don't have the code in front of  
17 me. I think there's numerous references to  
18 the code after the federal code was put into  
19 place. But I don't have that code right in  
20 front of me.

21 MR. MALKIN: If I may add, Commissioner  
22 Sandoval, as part of the records OII, we were  
23 asked and agreed to provide by next Monday,  
24 April 18th, a report, if you will,  
25 summarizing the history of the regulations  
26 both on the state and federal level that will  
27 be covering that subject.

28 COMMISSIONER SANDOVAL: Q Okay. So it

1 would be useful to have your understanding of  
2 what does the code require with regards to  
3 records retention and production for the post  
4 July, 1970 pipes. And also when you say  
5 these records are still under review, is  
6 still under review in compliance with the  
7 Code of Federal Register requirements?

8 A I think the concept of under review  
9 references back to earlier documents, where  
10 we have strength test pressure reports for  
11 those pipelines, but we are still trying to  
12 match that strength test pressure report to  
13 the exact footage of the pipeline.

14 I think it is important to remember  
15 that even in 1970 we didn't have computers,  
16 we didn't have GPS, we didn't have documents  
17 across the board that would indicate exactly  
18 what segment of pipe was where. And so you  
19 need to go back through and match those  
20 records now up with the new NTSB  
21 recommendations and the Commission order.  
22 You need to literally match those up with  
23 foot by foot of pipe.

24 So we are still reviewing some of  
25 our strength test pressure reports to do that  
26 physical match.

27 Q All right. Then if we refer to  
28 PG&E's March 21st filing, on page 17, PG&E

1 submitted a table discussing priorities for  
2 MAOP validation work. So Categories 1  
3 through 4 appear to be captured in what I  
4 would call Categories 1 through 3 in the  
5 proposed stipulation. Is that correct?

6 A Well, we are looking at page 17 of  
7 the --

8 Q -- March 21st --

9 A I'm sorry. I didn't follow your  
10 entire question. But we listed there seven  
11 priorities as we called them at that time.

12 Q Right. So it appears that what is  
13 listed on page 17, priority one through four,  
14 appeared to correlate with what I would call  
15 Categories 1 through 3 in the proposed  
16 stipulation? Is that your understanding?

17 A Yes. As you laid it out, priority  
18 three was what was due on August 31st, and  
19 that's priority three and four laid out per  
20 this table, per the table on page 17, that's  
21 correct.

22 Q All right. So my question on page  
23 17 goes to Category No. 5. It is 83 miles of  
24 pipe, all remaining pipe with partial test  
25 records and pressure test records from the  
26 1968 CPUC filing.

27 So let's start with the latter.  
28 Can you tell us a little bit more about the

1 1968 CPUC filing and what types of test  
2 records we could expect from that?

3 A We will have to pull that out of  
4 the document. I don't recall exactly what  
5 the '68 filing was.

6 Q If you could provide us some  
7 information on that, that would be very  
8 helpful.

9 A Okay.

10 Q And then you are saying the first  
11 category there is partial pressure test  
12 records. What does partial mean in this  
13 context, to have a partial pressure test  
14 record?

15 A It can mean -- what it probably  
16 means is that the job that it worked on  
17 doesn't match exactly the footage of pipe we  
18 see on our strength test pressure report. So  
19 again we have to go back and do all the  
20 matching and ensure that we have covered foot  
21 by foot of that pipeline.

22 So it has a record of strength test  
23 pressure report. We just haven't been able  
24 to match it up foot by foot per the job  
25 estimate.

26 Q All right. And then with regard to  
27 what is listed here on the March 21st letter  
28 as priority number six, it says pipe with

1 verified pressure test documentation for the  
2 STPR footage test does not equate to the  
3 pipeline HCA footage. What is STPR?

4 A Strength test pressure report.

5 Q And how important is it that this  
6 strength test pressure report footage does  
7 not equate -- does not equal the pipeline HCA  
8 footage? What does that indicate to you?

9 A It indicates that potentially when  
10 the strength test pressure report was done,  
11 whether it be in the 1970s or 1980s, their  
12 ability to delineate feet aren't as accurate  
13 as it is today. So whereas we have GIS and  
14 GPS and all these sort of things that help us  
15 understand exactly what's in each location,  
16 we now need to go back and try to verify that  
17 with the strength test pressure report that  
18 may say something to the effect that from  
19 2nd Street to 3rd Street, and those streets  
20 may no longer exist. It is just a matter of  
21 matching everything up and making sure it  
22 matches up and we have got strength test  
23 pressure reports for every foot of those  
24 pipes and identify those that don't have  
25 strength test pressure reports.

26 Q I am trying to understand how  
27 important is it that there is this mismatch  
28 with regard to measurement?



1           A    Well, I think it is important to  
2 note that after 1970 after the federal code  
3 went into place, that strength test pressure  
4 report, strength testing was completed on  
5 that pipeline. So in terms of how important  
6 it is, it is something we need to do as part  
7 of our MAOP validation activity. We want to  
8 make sure we have covered every foot of that  
9 pipe in its entirety, but it is not something  
10 that at this point in time we are concerned  
11 with. We believe that pipe is strength  
12 tested, and now we are just going back  
13 through the excruciating effort to do the  
14 forensics 30, 40 years back to determine that  
15 every foot matches up as it stands today.

16           Q    So why isn't priority number five  
17 from the March 21st filing included in the  
18 work plan that is proposed in response to the  
19 Order to Show Cause?

20           A    I think the intent of the  
21 Compliance Plan was to identify and focus on  
22 those locations where strength test pressure  
23 reports weren't required necessarily and for  
24 which we don't have records of the strength  
25 test pressure report. So we are really  
26 trying to get to, for all practical purposes,  
27 the pre-1970 or potentially pre-1961  
28 pipelines. And that is how we prioritized

1 it, laid out.

2 Q But you are making a distinction  
3 between no pressure test records versus  
4 partial pressure test records. And this  
5 indicates that there are at least 83 miles  
6 with only partial pressure test records. And  
7 the question is what is missing in the  
8 partial could be crucial.

9 A We need to understand what is  
10 missing, if anything is missing. We just  
11 haven't gone through all the forensics to be  
12 able to match it up.

13 It is a very, very time consuming  
14 process to try to match up every foot of  
15 pipeline that was constructed as early as  
16 1930s with documentation that back then was a  
17 tape measure and some estimates going back to  
18 today's world that we are used to where we  
19 can get foot by foot of what we're doing.

20 So it is just an extraordinary  
21 effort to try to match everything up. That  
22 is what we have been focused on since the day  
23 we received the order, and we continue to  
24 work on that effort.

25 Q So I would like to suggest that  
26 this is a question that should be reviewed,  
27 whether priority number five should be  
28 included in the work plan or priority number

1 six you seem to indicate that because there  
2 is pressure test documentation but the  
3 numbers don't match up, that's why it is not  
4 in the work plan; is that correct?

5 A Well, I think what you see in front  
6 of you is a Compliance Plan that I signed  
7 that says this is what we believe we want to  
8 focus on and is consistent with what was in  
9 the order that the CPUC issued to us.

10 And this is the agreement we have  
11 right now with at least four priorities will  
12 be worked first.

13 Having said that, we have already  
14 stated that we will be doing all 1805 miles  
15 of pipe, MAOP calculations for that and  
16 pipeline features list for that activity, and  
17 in addition we will be going forth and  
18 completing that for all our gas transmission  
19 system. So it is really a matter of  
20 prioritizing the work, working through it and  
21 trying to get it done as soon as we  
22 practically can with the accuracy that we  
23 absolutely need for this type of work.

24 Q And thus the issue of the schedule  
25 becomes important?

26 A The issue of schedule is it needs  
27 to be done and it needs to be done  
28 accurately. And as we said earlier, this is

1 a very, very aggressive schedule.

2 And the other thing I think that is  
3 important to note and it's been brought up  
4 several times is we put forth in early  
5 January what we thought a MAOP validation  
6 study looked like. What we are trying to do  
7 here in many cases is meet a definition or a  
8 statement by the NTSB and order by the CPUC  
9 that isn't well defined. What does it mean  
10 to be complete, et cetera, for a 1970s pipe  
11 where records never did exist for that  
12 pipeline, what do you do?

13 And so we have done that for Line  
14 101. We shared that in early January with  
15 the Commission staff. We shared it again as  
16 one of our recent filings of what we believe  
17 is appropriate.

18 We had already started this work  
19 prior to the NTSB ruling anyway. And we just  
20 want to make clear we understand the scope of  
21 this work so we can understand exactly what  
22 we are trying to accomplish before we agree  
23 to deadlines and dates.

24 Q All right. So moving onto a  
25 different question, this may bring up a mix  
26 of engineering and legal questions, so  
27 whichever of you is appropriate to answer  
28 this.

1           In the proposed work plan in  
2 Footnote 2, it defines "complete," when you  
3 refer to each of these steps start with  
4 "complete these tasks."

5           So, first of all is complete the  
6 search for records. And there's a Footnote 2  
7 which says for search and collection,  
8 complete signifies that the vast majority of  
9 records have been collected.

10           How do you define the vast majority  
11 of records? And is that a qualitative  
12 assessment, or a quantitative assessment?

13           A    What we have previously said is we  
14 believe we have collected 70 to 80 percent of  
15 the records necessary. As you do with  
16 forensics, you may find additional records  
17 that are needed. And in fact you oftentimes  
18 find records that have nothing to do with gas  
19 transmission lines that you must also pull in  
20 order to do what we have defined as an MAOP  
21 validation activity.

22           So we have pulled the records on  
23 the gas transmission system as defined.  
24 There may be records you have to pull from  
25 the distribution system also to do an MAOP  
26 validation as we have defined it.

27           Q    I am still trying to understand,  
28 because this proposes to define "complete" as

1 production of the vast majority of records.  
2 So are you asserting that you have -- by  
3 collecting 70 to 80 percent of the records  
4 that you have already produced complete  
5 records?

6 A What we are trying to say is until  
7 you absolutely finish your MAOP validation  
8 study you can't say you have completed all  
9 your records. You must continuously search  
10 for those records.

11 We have pulled all the job files we  
12 are aware of that we might need, but again,  
13 oftentimes you have to go into other  
14 documents unrelated to gas transmission to  
15 see if other available information exists  
16 that can help you verify what's in the  
17 ground.

18 COMMISSIONER SANDOVAL: So it seems,  
19 ALJ Bushey, that there's a question of what  
20 does "complete" mean and especially with this  
21 vast majority of records, is this a  
22 qualitative distinction, is this a  
23 quantitative distinction, particularly if  
24 what is missing is records relative to welds.

25 So I would suggest that that would  
26 be an area that needs clarification.

27 Also, I note that footnote number  
28 two is only listed for what I call

1 Category 1, the category for completion date  
2 is June 10th.

3 Mr. Malkin, did you intend that  
4 definition of "complete" to apply to all  
5 three of these categories, or only to the  
6 June 10th category?

7 MR. MALKIN: The intention,  
8 Commissioner Sandoval, is that the two  
9 footnotes, 2 and 3, apply to all of the uses  
10 of the word "complete" in the context of  
11 those specific activities.

12 COMMISSIONER SANDOVAL: That is a  
13 helpful clarification.

14 Q So therefore, this definition of  
15 "complete," as well as Footnote 3, would  
16 apply throughout this work plan. So we will  
17 get to the rest of that.

18 So then with regard to footnote  
19 number three, it says once you gather the  
20 documents you are supposed to calculate the  
21 MAOP based on the documents, then number  
22 three says completion of a MAOP validation  
23 assumes limited field work. If more field  
24 work is needed PG&E may ask the executive  
25 director to use his authority to approve a  
26 modification of the schedule.

27 So, Mr. Johnson, what does limited  
28 field work mean?

1           A    We defined limited field work from  
2   our MAOP validation study that we previously  
3   filed on Line 101 where we did, I believe it  
4   was, six digs were required on that pipeline,  
5   subject to check, for over 30 miles of pipe.  
6   So we are talking about having to do one dig  
7   roughly every four or five miles in order to  
8   do the field verification.

9           As I mentioned earlier, we had  
10  shared the MAOP validation efforts with the  
11  staff, both in January and again recently.  
12  And the issue is if certain other  
13  expectations are needed and additional field  
14  work is needed, do the verification to a  
15  different standard or different expectation,  
16  those field digs can take an extraordinary  
17  amount of time depending on location, whether  
18  they are in freeways or streets, and that  
19  would certainly have a potential impact on  
20  the timing of this work.

21          Q    And what are the standards that  
22  determine when field work is needed?

23          A    We laid out in our MAOP validation  
24  study of when we believe a dig would be  
25  necessary. Most of the digs on Line 101, and  
26  that is the one we have completed so far,  
27  were to verify and validate the seam type on  
28  a piece of pipe. But they can be used for



1 other activities, too, such as having to do a  
2 tensile strength test or yield strength test  
3 on a piece of pipe, a nondestructive test, or  
4 potentially to dig up an elbow to look for  
5 particular information on it.

6 So it depends on what you can find  
7 in your records. It obviously probably  
8 depends on the generation which the pipe was  
9 built and how many of these we will have to  
10 do.

11 We did Line 101. That is the one  
12 pipeline that has been completed. I believe  
13 we had 6 digs in over 30 miles. And that is  
14 the basis by which we have going forward.

15 If those assumptions are wrong or  
16 if staff comes back and says we want you to  
17 do X, Y, Z as opposed to what you put forth,  
18 then obviously there would be a change in the  
19 scope of the work.

20 COMMISSIONER SANDOVAL: And this  
21 question would go I think either to PG&E or  
22 to Mr. Heiden from CPSD.

23 PG&E referred to the MAOP validation  
24 study. Is reference to that incorporated in  
25 this work plan as governing the standard for  
26 when field work is triggered?

27 MR. MALKIN: The MAOP validation study  
28 for Line 101 is specifically referenced on

1 page 2 of the Compliance Plan, the third  
2 paragraph from the bottom, which identifies  
3 that the staff is reviewing it. And we were  
4 expecting to be advised within ten days if  
5 the staff believed we should make any changes  
6 in the approach to the MAOP validation. We  
7 haven't gotten that feedback yet. We are  
8 still looking for it.

9 As I said in my opening remarks,  
10 while we think this is an appropriate  
11 approach, we are not going to march down a  
12 path of doing an MAOP validation for  
13 1800 miles of pipe at the end of which your  
14 staff says to you what they did was all  
15 wrong.

16 So we are very much looking for  
17 their input. We have started the work, as we  
18 said, following the same procedure. So we  
19 urge them to give us input as quickly as  
20 possible. But we take very seriously their  
21 suggestions, both because of the quality of  
22 the staff that you have and also because we  
23 know how important their guidance is to you  
24 as Commissioners.

25 COMMISSIONER SANDOVAL: Having a  
26 standard for when field work is triggered and  
27 what field work is appropriate would be very  
28 helpful because I don't feel it is well

1 articulated in the proposed stipulation. ]

2 My next set of questions, and this I  
3 think may go to -- I'm not trying to make you  
4 a witness, ALJ Bushey, but it says that PG&E  
5 may ask the Executive Director to use his  
6 delegated authority to approve a modification  
7 of the schedule.

8 Since this particular proceeding  
9 will result in a Presiding Officer's  
10 Decision, would it be more appropriate to  
11 have what I understand is called a mod POD, a  
12 Modified Presiding Officer's Decision, rather  
13 than delegated authority to determine whether  
14 or not extensions are merited?

15 ALJ BUSHEY: Well, a Presiding  
16 Officer's Decision becomes a decision of the  
17 Commission, and then that would trigger the  
18 Commission's Rules of Practice and Procedure  
19 which allow for the Executive Director to  
20 grant extensions of time to comply with a  
21 Commission decision.

22 A mod POD is a Modified Presiding  
23 Officer's Decision, and it's really an  
24 internal review document. It's not something  
25 that becomes -- that necessarily would become  
26 final. I think what you're thinking of is  
27 something more like a modified Commission  
28 decision, perhaps a petition to modify the

1 decision. That would require the full  
2 process, which can take several months to  
3 complete, as opposed to an Executive Director  
4 letter which can be issued in minutes if we  
5 write fast enough.

6 COMMISSIONER SANDOVAL: Okay. That's  
7 very helpful, especially for a new member of  
8 the Commission such as myself.

9 So, but my other question would be,  
10 what would be -- this might go to CPSD, what  
11 would be the standard for approving the  
12 modification of the schedule? This doesn't  
13 list any standard for approving modification.

14 MR. HEIDEN: I think PG&E would have to  
15 show good cause for a modification. I think  
16 it would have to show good cause, and I think  
17 we discussed that at the hearing last week at  
18 the evidentiary hearing. That's CPSD's  
19 position.

20 COMMISSIONER SANDOVAL: And under this  
21 proposal, if the schedule is modified, is it  
22 CPSD's understanding that that would pull the  
23 deadline for the payment of the second  
24 penalty if the August 31st deadline is not  
25 met?

26 So for example, if it were  
27 determined that an extension until let's say  
28 September 15th was appropriate and August 31

1 is past, would the second payment still be  
2 due, or would that be pulled so that it would  
3 not be due unless the documents are not  
4 produced or the MAOP is not calculated within  
5 the time of the modification?

6 MR. HEIDEN: It's our position that if  
7 it's an excused delay, then the penalty would  
8 be excused also. It would be pushed back.

9 COMMISSIONER SANDOVAL: So isn't there  
10 a difference between an excused delay and a  
11 modification of the schedule? Is a  
12 modification of the schedule automatically an  
13 excused delay?

14 MR. HEIDEN: I was referring to a  
15 modification of the schedule.

16 COMMISSIONER SANDOVAL: So thus, I  
17 think it becomes even more critical to have  
18 standards articulated for when a modification  
19 of the schedule is appropriate and also what  
20 types of modification are we talking about,  
21 30 days, 60 days, 90 days, six months. So  
22 that would be extremely helpful.

23 Q All right. So then the proposed  
24 Stipulation admits on page 2 that PG&E  
25 doesn't believe it will find complete  
26 verifiable and traceable records of each  
27 component and instead proposes to use  
28 assumptions including assumptions about

1 fittings and elbows based on material  
2 specifications to help determine pipeline  
3 characteristics.

4           So this -- I understand, Mr.  
5 Johnson, you've been the one supervising the  
6 document production. So this material  
7 specifications would rely on procurement  
8 records in part; is that correct?

9           A Well, in terms of fittings where  
10 records were never kept on specific  
11 components and now we've been asked to do  
12 that for each individual component under the  
13 NTSB order or recommendation and the CPUC  
14 order, since those documents never in many  
15 cases even existed, what we are proposing and  
16 what we recommended in our MAOP validation  
17 study is, for example, elbows, where you may  
18 have purchased, let's say, 30 elbows for a  
19 job or PG&E may have purchased 30 elbows,  
20 under a specification where we have  
21 documented what that elbow is supposed to be,  
22 that that documentation exists for that  
23 elbow, but we cannot necessarily trace every  
24 purchase order for every piece of equipment  
25 for an individual elbow from back in, say,  
26 the '70s or '60s. It just never existed. We  
27 didn't purchase material that way.

28           Q And you testified in the previous

1 hearing that information about elbows and  
2 fittings is not necessarily going to give you  
3 information about welds; is that correct?

4 A Well, the information about the  
5 elbows and fittings will give you information  
6 about the strength and capabilities of those  
7 elbows and fittings themselves, of those  
8 components.

9 Q But not about pipeline welds?

10 A The pipeline segments, you have to  
11 look at the pipeline. For elbows you have to  
12 look at elbows. For valves you have to look  
13 at the valves.

14 Q Right. So elbows give you  
15 information about elbows?

16 A Correct.

17 Q Fittings give you information about  
18 fittings. But elbows and fittings don't tell  
19 you anything about what I'm calling pipeline  
20 segments and welds; is that correct?

21 A In general, they're not going to  
22 tell you anything about the pipeline itself.  
23 That's correct.

24 Q But my question is also trying to  
25 get at what types of documents you have or  
26 you believe you would have to have. So  
27 you're saying that you're going to look at  
28 basically procurement records to try to find

1 information about what I understand is called  
2 appurtenances such as fittings and elbows; is  
3 that correct?

4 A Well, we said material  
5 specifications. Those aren't necessarily  
6 purchase documents. Those are engineering  
7 documents that state what should be -- what  
8 that elbow should be made up of, how it's  
9 designed, what the criteria is for that  
10 particular case.

11 Q So I'm trying to make a distinction  
12 between, as you said, purchase orders, which  
13 might be procurement records, versus the  
14 engineering specification documents.

15 Does PG&E retain those engineering  
16 specification documents from the 1950s?

17 A In some cases those engineering  
18 specification documents are still available,  
19 and we have found some of them. That's  
20 correct.

21 Q And where PG&E does not have those  
22 in your possession, in its possession, what  
23 is the plan for getting those specifications?

24 A Well, we'll either continue to look  
25 for those specifications. If we can't find  
26 any other mechanism to verify what's in the  
27 ground, ultimately you have to dig it up and  
28 do some sort of testing on it.



1           COMMISSIONER SANDOVAL: All right. So  
2 then the next question, and so this, I think,  
3 is appropriate for CPSD as well as a comment  
4 perhaps for ALJ Bushey.

5           So the work plan states that PG&E  
6 proposes to work with staff to discuss  
7 assumptions. So which staff is this? Is  
8 this CPSD? It just says Commission staff.

9           MR. HEIDEN: Yes. CPSD and any  
10 consultants that CPSD retains. This is  
11 extensive work, and we expect to have  
12 consultants working with our internal staff.

13           COMMISSIONER SANDOVAL: So, and again,  
14 as a relatively new member of the Commission,  
15 a procedural question which perhaps ALJ  
16 Bushey can assist me with.

17           So since CPSD is a party to this  
18 proceeding, is this appropriate for one party  
19 to be consulting with another party about  
20 compliance with the plan and assumptions used  
21 in the plan? You know, I've been concerned  
22 about just the entire way that this came  
23 about that CPSD became a party, which has  
24 various ramifications including ramifications  
25 for consultation with a full Commission and  
26 even ramifications for consultation with the  
27 Administrative Law Judge.

28           ALJ BUSHEY: Well, the Commission's ex

1 parte rules do not apply to party-to-party  
2 communication. So it's just communication  
3 with decisionmakers. So to the extent that  
4 CPSD staff is acting as a member of the  
5 proceeding, they can communicate with the  
6 parties. It's when they try to communicate  
7 with the decisionmakers that the ex parte  
8 rules are implicated. So there's often  
9 collaboration and communication between  
10 parties that don't include decisionmakers at  
11 the Commission.

12 COMMISSIONER SANDOVAL: So then under  
13 this proposed plan, the discussion of  
14 assumptions with CPSD's staff, it would be  
15 party to party, but if such a stipulation  
16 were approved, would the ex parte rules  
17 remain in effect such that CPSD staff that  
18 were at least involved as a party could not  
19 therefore brief Commissioners on the  
20 assumptions?

21 ALJ BUSHEY: Depending on the staff, if  
22 they were acting as advocacy staff or  
23 advisory staff. So that would be the problem  
24 about bringing any type of information back  
25 to the Commission.

26 It seems to me that many of your  
27 questions surround the indefiniteness of the  
28 agreement and the likelihood that the parties

1 would need to add greater detail to the  
2 agreement on sort of an as they're proceeding  
3 through this.

4 COMMISSIONER SANDOVAL: Well, on a  
5 going-forward basis, and also, as you  
6 identified, I think that there has been a  
7 problem with drawing that line between what  
8 is advocacy staff versus, what was the other  
9 word you used?

10 ALJ BUSHEY: Advisory.

11 COMMISSIONER SANDOVAL: Advisory staff.  
12 So I mean this entire status is new to me.  
13 Having worked for the Federal Communications  
14 Commission for six years, no division would  
15 ever become a party in this type of fashion.  
16 So having clearly delineated lines to ensure  
17 that advocacy doesn't overtake advice I think  
18 would be critical going forward.

19 MR. HEIDEN: Your Honor, can I comment  
20 on that briefly?

21 COMMISSIONER SANDOVAL: Please.

22 MR. HEIDEN: CPSD is not -- was not a  
23 party to the rulemaking, was not planning on  
24 submitting comments in the rulemaking.  
25 CPSD's role in the rulemaking was to advise  
26 the Administrative Law Judge and the  
27 Commissioners.

28 CPSD is a party to this limited

1 enforcement action because we're the party at  
2 the Commission that enforces the Commission's  
3 orders. It's not CPSD's anticipation that  
4 they are suddenly going to become a party to  
5 the rulemaking. CPSD staff wants to be  
6 advisory. It's appropriate that they're  
7 advisory. And obviously, safeguards would be  
8 put into place so you don't have the same  
9 people advising as advocating. It's not  
10 anything that CPSD would ever allow to  
11 happen.

12 COMMISSIONER SANDOVAL: And having  
13 clarity about the advisory role with regard  
14 to if there were any proposed stipulation  
15 would be I think extremely important to  
16 delineate that line going forward.

17 So my next question is that in the  
18 proposed Stipulation PG&E says that it will  
19 consider any recommendations made by CPUC  
20 staff. It does not bind itself to actually  
21 adopt recommendations made by the staff.

22 Could either CPSD or PG&E please  
23 speak to why it says that you will -- that  
24 PG&E will consider staff recommendations as  
25 opposed to binding itself to staff  
26 recommendations?

27 MR. MALKIN: I'm happy to address that,  
28 Commissioner Sandoval. As I mentioned in my

1 opening remarks, the Compliance Plan does not  
2 say in so many words, we will do what CPSD  
3 says. And it's written the way it is because  
4 what is contemplated is a collaborative  
5 process. But as I said, realistically, PG&E  
6 is either going to convince the CPSD and its  
7 consultants, which we're paying for, that the  
8 proposed course is a sensible one, or as a  
9 practical matter we will have to change  
10 course.

11 We cannot put ourselves in the  
12 position and you wouldn't want us to be in  
13 the position either of coming at the end of  
14 this process with some kind of adversary  
15 proceeding in which we're trying to prove to  
16 you what we did that was better than what  
17 your advisory and compliance staff had been  
18 recommending.

19 So the language is not prescriptive  
20 in part because we didn't want the power to  
21 go to anybody's head, but it's going to be a  
22 process that requires consensus building  
23 because we have the mutual objective of doing  
24 this in a way that provides added assurance  
25 about the safety of PG&E's pipeline system.  
26 So for us to do it in a way that CPSD says  
27 doesn't accomplish that goal, per se doesn't  
28 accomplish that goal.

1           COMMISSIONER SANDOVAL: And I'd like to  
2 hear from CPSD about that. PG&E commits that  
3 it will consider your recommendations but  
4 doesn't commit itself to adopting staff  
5 recommendations.

6           MR. HEIDEN: I think that's what the  
7 Stipulation provides for.

8           COMMISSIONER SANDOVAL: That's what the  
9 words say, right.

10          MR. HEIDEN: Certainly if staff saw  
11 PG&E doing something that we thought was  
12 unsafe, there's many things staff could do.  
13 We could bring a proceeding. We could write  
14 a letter. I mean what staff normally does  
15 when they do inspections, the same type of  
16 thing. Staff is not going to allow them to  
17 just do something that is unsafe. I think it  
18 will be a collaborative process.

19          COMMISSIONER SANDOVAL: So again, ALJ  
20 Bushey, this is another area where I believe  
21 that we need more standards for when  
22 recommendations would be adopted because it  
23 seems rather open ended. And I want to thank  
24 everybody for indulging me in my questions.  
25 I assure you I am on my last three questions,  
26 last page.

27          Q So do PG&E -- so you're proposing  
28 that where you do not have complete,

1 verifiable and traceable records that you  
2 will use assumptions as discussed in this  
3 proposal.

4           What do you propose to do with  
5 these assumptions? For example, will you  
6 populate the GIS database with assumptions?  
7 You also mention a Pipeline Features List.  
8 I'm just trying to get to what will these  
9 assumptions -- what is the end result that  
10 the assumptions will produce and how will it  
11 be reflected in databases?

12           A Well, in the terms of the databases  
13 as it stands even today, if you have an  
14 assumption in there, you highlight that  
15 assumption so all parties know when they look  
16 at the database it's an assumption. And in  
17 fact, that's very clear in the GIS database  
18 of what's assumed and what's a known value.  
19 Again, the assumption level that you have to  
20 go to depends, but as we talked about, there  
21 are no records for certain pieces of pipe,  
22 and so you must assume something in terms of  
23 what was put in the ground.

24           It will be the same, as we envision  
25 it right now, it will be the same in the new  
26 GIS system or the updated GIS system, and  
27 also in the Pipeline Features List would  
28 identify that along with a listing of where

1 that information comes from. So, and again,  
2 in the MAOP validation study we try to be  
3 very clear on how that process would work,  
4 and that's the process we want feedback on as  
5 we are going down this path right now. And  
6 to change it after 15 days or 20 days or in  
7 this case months of work will potentially  
8 have a dramatic impact on our ability to get  
9 the work done.

10 Q And does the identification of  
11 assumptions clearly identify what is missing?  
12 Right? Again, in my nonengineer mind, I  
13 imagine something that says we assumed X. So  
14 for example, we assume double arc welded or  
15 double submerged arc welded pipe. Does it  
16 indicate what is missing, e.g., no records of  
17 welds available?

18 A Well, it indicates it's an  
19 assumption. To say it's missing is probably  
20 not quite correct in that it probably never  
21 existed. I mean we are using terms today  
22 like double submerged arc weld that weren't  
23 even used when it was originally started. It  
24 had its own terminology. Things have changed  
25 over time. What it will indicate is that  
26 that document is an assumption, and we will  
27 have a link to what document we're utilizing  
28 for purposes of that work.



1           So for example, PG&E is going to  
2 use its material specifications, and we are  
3 going to assume that the fittings we  
4 purchased are under those material  
5 specifications. That's what we ordered.  
6 That's what we got. That's what we  
7 installed. You won't have a document that  
8 says, for this elbow it was purchased on, you  
9 know, June 3rd of 1956 on this day and  
10 installed in this location because that's  
11 certainly not how equipment was purchased.

12           So we will have assumptions and we  
13 will have links to those assumptions. If  
14 there's an assumption involved, it will be  
15 highlighted in the database.

16           Q   Okay. You know, again looking  
17 forward to, looking to the future,  
18 identifying not just what the assumptions are  
19 but also what there is not can be very  
20 helpful. You know, looking to the future, I  
21 mean part of what we're dealing with is the  
22 problem of interpreting records or nonrecords  
23 that are 50 or 60 years old.

24           I remember when I took a computer  
25 class once I got a B because I didn't put  
26 comments in my code. And they said you need  
27 comments because years later somebody will  
28 come back and look at this APL document and

1 try to figure it out. So that certainly  
2 would have happened in the year 2000. So  
3 clearly identifying not just what the  
4 assumptions are but therefore being clear  
5 about what is missing would be helpful.

6 So just on this subset of  
7 questions. So how will these assumptions  
8 then affect the Pipeline 2020 Report, which I  
9 understand is due in May? Can you tell us  
10 something about that Pipeline 2020 Report?

11 A I assume you're referring to as  
12 our -- like the filing we'll be making in  
13 May? I don't know. I mean obviously as we  
14 go through and find out, if we find specific  
15 issues on our pipeline, if they're safety  
16 related, we'll deal with them immediately.  
17 If there's something we're learning about our  
18 pipeline that's new, we will share that. We  
19 will be implementing that in our proposal for  
20 Pipeline 2020.

21 Pipeline 2020 is more of a  
22 methodology of what we propose to do for each  
23 section of our pipeline going forward. So if  
24 characteristics of a piece of pipe change  
25 either because we find new information or if  
26 in fact because it gets changed in the next  
27 coming months because something else happens,  
28 that will just work right into the proposal.

1 It's a decisionmaking process or a decision  
2 tree to Pipeline 2020. It will just feed  
3 into that.

4 Q And last set of questions.  
5 Particularly for pipelines where assumptions  
6 are made or there are incomplete records,  
7 what action will that trigger with regard to  
8 pipeline testing or pipeline replacement, and  
9 does this document include those standards  
10 for the actions triggered?

11 What I'm trying to understand is,  
12 is this current work plan designed to suggest  
13 that populating a database with assumptions  
14 is sufficient to meet the NTSB  
15 recommendations and does CPUC request, or  
16 where you have assumptions, is that a  
17 complete data, will that actually target  
18 testing and replacement action and what are  
19 the standards for such a trigger?

20 A Well, if I understood your question  
21 correctly, our intent is to obviously collect  
22 all the data that we can to do the MAOP  
23 validation study, and we will state  
24 assumptions in there, and there will be  
25 assumptions in there. And in fact, the  
26 standard that was put forth by NTSB is a  
27 standard that pipeline operators that are  
28 building today probably cannot beat, quite

1 frankly. So it will change the standards  
2 most likely going forward.

3 But I mean after we've done the  
4 MAOP Validation Study, and as we mentioned,  
5 there may be pipelines where this just isn't  
6 possible. There aren't enough records to do  
7 a valid MAOP Validation Study in terms of the  
8 way it's laid out. We will then sit down  
9 with the Commission, and either part of our  
10 Pipeline 2020 or some other proceeding or  
11 some other discussion and determine what we  
12 should do next steps. Do you lower the  
13 pressure of the pipeline? Do you run a pig  
14 through the pipeline? Do you hydro test the  
15 pipeline? Are there other technologies you  
16 want to use? Just what do you do in those  
17 circumstances? And you have to look at each  
18 one of them individually.

19 COMMISSIONER SANDOVAL: And very last  
20 question for CPSD. This work plan is silent  
21 on at what point is testing or replacement  
22 appropriate. I'm concerned here about the  
23 lack of standards or a trigger to determine  
24 when there are not complete, verifiable and  
25 traceable records and instead assumptions are  
26 used, what are the standards for determining  
27 when testing or replacement is appropriate  
28 given that our highest goal and duty is the

1 protection of public safety and the public  
2 interest?

3 MR. HEIDEN: Right. And certainly in  
4 some instances I think PG&E and staff would  
5 agree that pipeline is going to need to be  
6 replaced if they don't have the records. The  
7 question is, what are the standards for doing  
8 that? I don't know what they are. I think  
9 that's an engineering question. I also think  
10 it depends on a lot of factors, but I can't  
11 answer it today or give you objective  
12 criteria on when they should replace or when  
13 they should not.

14 COMMISSIONER SANDOVAL: So, and I would  
15 submit to ALJ Bushey this is another example  
16 of a very open-ended standard that also  
17 doesn't incorporate NTSB's Step 3 or even a  
18 consideration of what testing is appropriate  
19 as perhaps a complement or a substitute in  
20 certain circumstances for hydro testing.

21 And again, I find this particularly  
22 curious in light of PG&E's commitment in the  
23 March 21st letter and also statement in a  
24 separate filing related to Resolution L-411  
25 that one of its priorities is to engage in  
26 gas pipeline replacement in order to take  
27 advantage of certain provisions of the tax  
28 code which allow a hundred percent

1 depreciation this year and 50 percent  
2 depreciation next year. I just find the  
3 absence of this trigger to be not only  
4 curious but inconsistent with the NTSB  
5 recommendations.

6 So thank you all very much for  
7 indulging my questions. This has been  
8 extremely helpful follow-up to our last  
9 meeting.

10 ALJ BUSHEY: Commissioner Ferron,  
11 before we move on to you, I just want to  
12 confirm with Mr. Johnson that at our hearing  
13 last week we placed you under oath, and that  
14 oath continues to apply.

15 Is there any of your testimony that  
16 you would like to change in light of that  
17 reminder?

18 THE WITNESS: No, I don't believe so.

19 ALJ BUSHEY: Thank you.

20 Commissioner Ferron.

21 COMMISSIONER FERRON: Thank you very  
22 much. And I'd like to thank Commissioner  
23 Sandoval for thorough questioning on the  
24 issue of compliance with the work plan. So I  
25 won't cover that area.

26 But what I would like to do is go  
27 back to the question of the scale of the  
28 fine, which I guess we now have a range of

1 between 6 million and 153 million.

2 I guess the question is, as I read  
3 the code here, it says, the purpose of a fine  
4 is to go beyond restitution to the victim and  
5 to effectively deter further violations by  
6 the perpetrator or others.

7 So what I'd like to understand here  
8 is what the process was internally within  
9 PG&E surrounding the submission on the 15th  
10 of March. I see here that the document is  
11 signed by you, Mr. Malkin and by Mr. -- where  
12 are their names now -- Pendleton and Garber.  
13 And I presume that they're from the Law  
14 Department. I presume that the work was not  
15 entirely theirs.

16 So what I'd like to understand, as  
17 you said earlier, what we've had here is a  
18 failure to communicate. So I'd like to  
19 understand from our end with whom within PG&E  
20 we are communicating, and specifically within  
21 the hierarchy of the organization where was  
22 the document commented on and who ultimately  
23 approved the March 15th document?

24 MR. MALKIN: The March 15th report,  
25 like the March 21st supplement, received a  
26 relatively broad review by senior management  
27 of the company both in the specific business  
28 lines and more generally.

1           In terms of the circulation, I can  
2 tell you the circulation included the  
3 President of the company as well as the  
4 Senior Vice Presidents.

5           COMMISSIONER FERRON: So that would  
6 include the President, the COO, the SVP for  
7 Engineering. Did it include the Chairman as  
8 well?

9           MR. MALKIN: No, it did not.

10          COMMISSIONER FERRON: Would not have  
11 included the Chairman. Okay.

12          All right. Thank you. No more  
13 questions.

14          ALJ BUSHEY: Further questions?

15          COMMISSIONER SIMON: I did have one  
16 more. If you have closing.

17          COMMISSIONER FLORIO: No. Go ahead.

18                               EXAMINATION

19 BY COMMISSIONER SIMON:

20           Q I did have a question, thank you,  
21 regarding pipelines segments that have been  
22 placed since 1970.

23           Mr. Johnson, based on some of your  
24 responses to Commissioner Sandoval's  
25 questioning, I'm getting the sense that we  
26 have documents missing for pipelines  
27 post-1970 as well or yet to be found  
28 documents for post-1970 pipelines?



1           A    Pipelines post-1970 after the  
2 federal program was put into place had  
3 specific requirements for certain pipelines  
4 to be hydro tested or pressure tested is the  
5 appropriate term. And we have not yet found  
6 every one of those documents to our  
7 understanding, to my understanding.

8           Q    So we don't know if there was or  
9 was not hydro testing performed since 1970 on  
10 these pipes because of the lack of  
11 documentation?

12           A    Well, I think we believe certainly  
13 that we've met the code criteria. That code  
14 had been in place for -- you know, we knew it  
15 was coming. So we believed we would meet  
16 that standard. We just haven't been able to  
17 find the documents yet or match them  
18 correctly to each piece of pipe.

19           Q    Do you have any idea of what  
20 percentage of that pipeline is in HCAs or  
21 High Consequence Areas?

22           A    I would have to actually look at  
23 the numbers specifically to know what was an  
24 HCA.

25           Q    And in terms of the pre-1970 or  
26 grandfathered, do we know the percentage of  
27 pipe placed prior to 1970 that's in High  
28 Consequence Areas which is either by way of

1 grandfathering or by way of record  
2 mismanagement or whatever term would be  
3 utilized that we know what percentage of that  
4 pipe is unavailable from a recordkeeping  
5 standpoint?

6 A Well, I think what we filed, and  
7 Joe, you've got it in front of you there.  
8 It's Class 3 and Class 4 plus High  
9 Consequence Areas in Class 1 and 2. It is  
10 listed on page -- page 13 of the March 15th  
11 document in terms of what records we have for  
12 each vintage of pipe before 1961 and other  
13 dates specific to the codes.

14 COMMISSIONER SIMON: Mr. Malkin, you  
15 speak of a cooperative or collaborative  
16 effort. Would an Order to Show Cause on the  
17 originally proposed sanctions irrespective of  
18 what those calculations are, would that in  
19 any way inhibit or deter PG&E from going  
20 forward on a cooperative or collaborative  
21 basis with CPSD?

22 MR. MALKIN: Absolutely not,  
23 Commissioner Simon. What it would do and one  
24 of the things that we are seeking not to have  
25 to do by virtue of the Stipulation is it  
26 wouldn't keep us from cooperating. It  
27 wouldn't keep us from collaborating. It  
28 wouldn't keep us from going forward with the

1 Compliance Plan and doing the safety work.  
2 What it would do is it would distract some  
3 number of people who are important to doing  
4 that safety work who would have to split  
5 their time to litigation functions. It would  
6 do that on our side, and it would do that on  
7 CPSD's side. ]

8 And that is why we both felt that  
9 since we are going to work together  
10 collaboratively, we are both going to focus  
11 on the safety work, that we should, if we  
12 could, and we did, try to reach a resolution  
13 of the backward-looking piece so that the  
14 people involved in that safety work didn't  
15 have to split their time thinking about the  
16 litigation part.

17 COMMISSIONER SIMON: So if the  
18 stipulation was rejected and the Commission  
19 opted to go with the Resolution originally  
20 presented for the Order to Show Cause, it  
21 would be PG&E's intent to protest and  
22 litigate that resolution?

23 MR. MALKIN: Commissioner Simon, if the  
24 hypothetical is the stipulation is rejected,  
25 we are still doing the safety work and what's  
26 on the table is allegations that the company  
27 was in contempt for having willfully  
28 disregarded the Commission's order or

1 otherwise having violated it, at that point  
2 there really are only two paths. We tried  
3 the one path which is to resolve it amicably  
4 through an agreement with the enforcement  
5 staff, which is the way typically resolutions  
6 of enforcement proceedings come before the  
7 Commission is through an agreement of the  
8 Respondent, in this case PG&E, and the  
9 enforcement staff. So that path -- the  
10 hypothetical was that path is gone. That  
11 leaves us -- I guess you could say we have  
12 another path, we could just plead guilty. I  
13 don't think that one has ever crossed our  
14 mind particularly.

15           So that leaves us with the other  
16 path, which is to put the enforcement staff  
17 to its proof to put on our defense and then  
18 leave it in the first instance to a Presiding  
19 Officer's decision and then ultimately  
20 potentially to the Commission to decide.

21           All of that, that whole process I  
22 just described and everything that is  
23 involved in it from putting on the witnesses  
24 to writing briefs to arguments to the ALJ  
25 expending her time writing a decision, to you  
26 considering it again, those are all the  
27 reasons why we and CPSD got together right  
28 after we got the letter from Executive

1 Director Clanon and began discussions that  
2 led ultimately to the conclusion that the  
3 best course was to resolve that and focus  
4 on --

5 COMMISSIONER SIMON: Do you know the  
6 date on or about the time when this  
7 collaborative stipulation process began?  
8 Because that's where I am getting somewhat  
9 confused based on when we -- I apologize to  
10 my fellow Commissioners and Administrative  
11 Law Judge for being somewhat redundant here,  
12 but again, this is where I think the  
13 confusion lies for many of us in reference to  
14 when prior to March 15th did this stipulation  
15 preparation process begin?

16 MR. MALKIN: It didn't begin prior to  
17 March 15th. What the sequence is, we filed  
18 the report on March 16th. We got the  
19 Executive Director's letter that expressed  
20 displeasure with our filing on March 16th.  
21 We went ahead and filed our supplemental  
22 report on March 21st. And it was really  
23 between March 21st when we filed that  
24 supplement, so I guess it would have been  
25 starting the 22nd, and the 24th that the  
26 discussions began and came to fruition on the  
27 24th. It was literally, we had the  
28 conceptual agreement at the time of your

1 meeting. We did not have the actual  
2 documentation done until I think around 3 or  
3 4 in the afternoon.

4 COMMISSIONER SIMON: Because as I  
5 recall, it was not prepared at our meeting.  
6 We were told something would be issued that  
7 afternoon, the afternoon of the meeting  
8 itself.

9 MR. MALKIN: That's right. We had  
10 gotten to a point where we had conceptual  
11 agreement, and I think both we and CPSD had  
12 the confidence we would be able to  
13 memorialize it in a mutually acceptable  
14 document. So that is when it was mentioned  
15 at the Commission meeting.

16 We continued to work on the  
17 documentation and got it done by, I want to  
18 say, 3 or 4 in the afternoon.

19 COMMISSIONER SIMON: Okay. Then  
20 lastly, you had mentioned the number of digs,  
21 the amount of experts and others. Are you  
22 seeking recovery on this investigative cost?

23 MR. MALKIN: If you are referring to  
24 the costs that we have agreed to pay for  
25 CPSD's consultants, the answer is no. We had  
26 said clearly that we are not going to seek to  
27 recover those costs.

28 COMMISSIONER SIMON: Thank you.

1                   No more questions.

2                   ALJ BUSHEY: Further questions of the  
3 Commissioners?

4                   COMMISSIONER FLORIO: No. I'm thinking  
5 we probably need a lunch break before we go  
6 to the second half of this, which is the  
7 report.

8                   ALJ BUSHEY: Why don't we go off the  
9 record.

10                   (Off the record)

11                   ALJ BUSHEY: Back on the record.

12                   While we were off the record we  
13 rearranged the room to move on to our second  
14 topic for today, and that is the report from  
15 Pacific Gas and Electric Company.

16                   Are there any statements from the  
17 Commissioners before we begin the report?

18                   (No response)

19                   ALJ BUSHEY: Hearing none, Mr. Johnson,  
20 would you like to begin.

21                   THE WITNESS: Thank you.

22                   Good afternoon. This report is at  
23 the request of the Commission to give a quick  
24 update on what's happened since  
25 September 9th. So please if you have  
26 questions as we go through it, I will be  
27 happy to answer. But in the interest of time  
28 and everyone's calendar I will move pretty

1 quickly, if that's okay.

2 So the first slide is just an  
3 overview of PG&E's gas transmission system as  
4 we define it. We have 6750 miles of gas  
5 transmission pipeline. For purposes of the  
6 Gas Accord, regulatory requirements and a lot  
7 of our discussions, we talk in terms of gas  
8 transmission as everything over 60 pounds or  
9 60 psig.

10 From a federal government point of  
11 view or from the Department of Transportation  
12 definition, which is any pipeline operating  
13 at 20 percent or greater of SMYS, specified  
14 minimum yield strength, we have 5,700 miles  
15 of pipeline. So there is a difference there,  
16 and that explains why sometimes you hear  
17 different mileage depending on who you are  
18 talking to or what you are specifically  
19 talking about.

20 All our discussion earlier this  
21 morning, that 1805 miles, that Class 3, Class  
22 4 and high consequence area, Class 1 and 2,  
23 is a subset of that 5,700 miles of pipeline.

24 Also, we have 42,000 miles of  
25 distribution line, and we serve 4.4 million  
26 customers.

27 In terms of activity since  
28 September 9th, I am going to go through a



1 little bit of detail in each of one of these,  
2 but we have pressure reductions, leak  
3 surveys. We have provided maps to our first  
4 responders. That was an item that we were  
5 requested to talk about. We have done some  
6 integrity management work, a lot of field  
7 work and field validation work.

8 We will talk about the MAOP  
9 validation study we started on Line 101 very  
10 shortly after the incident, talk a little bit  
11 more about proposed field work, planned field  
12 work, our remedial actions that we might be  
13 looking to in the future and our new  
14 mitigation programs or Pipeline 2020 going  
15 forward.

16 So immediately the evening of the  
17 rupture we reduced pressure by 10 percent on  
18 the three pipelines in the San Francisco Bay  
19 area. We then shortly reduced it down by  
20 20 percent in terms of reducing the pressure  
21 on those pipelines and everything in the  
22 San Francisco Peninsula.

23 We subsequently reduced the pressure  
24 in two East Bay pipelines that had similar  
25 characteristics of San Bruno by 20 percent of  
26 its MAOP. And we have also reduced pressure  
27 on five pipelines that have exceeded their  
28 MAOP by 110 percent or more.

1           All this information has been shared  
2 with the Commission since September 9th in  
3 different filings. But that is a quick  
4 summary of our pressure reductions that we  
5 have taken so far.

6           We also conducted a leak survey of  
7 the gas transmission system. The leak survey  
8 for the San Francisco Peninsula was a  
9 traditional ground survey that was started  
10 the next morning after the event. That was  
11 September 10th. That was conducted over  
12 approximately ten-plus days for every section  
13 we could get to.

14           We then subsequently branched out  
15 and chose to do a leak survey on our entire  
16 gas transmission system. That's all  
17 6750 miles of pipe as we define it.

18           We started with the helicopter  
19 aerial survey using LIDAR technology, a new  
20 technology that allows us to do a leak survey  
21 very, very rapidly but is not, quote, an  
22 authorized tool, but we wanted to understand  
23 how well it worked and how far it had come in  
24 the previous many years of using LIDAR.

25           So we started with that and followed  
26 up on the entire transmission system with a  
27 ground survey. That is either an individual  
28 walking specifically over the pipeline with a

1 specific piece of equipment, or in areas  
2 where it is not safe to walk, we connected to  
3 a vehicle and traveled that pipeline at a  
4 specific speed trying to find any leaks in  
5 our gas transmission system.

6 COMMISSIONER SANDOVAL: Is it  
7 appropriate to ask questions?

8 I have a question. There seems to  
9 have been conflicting testimony about whether  
10 or not there were actually reports of  
11 smelling gas before the San Bruno explosion.  
12 So let me ask that. Do you know if PG&E  
13 actually received reports of smelling gas  
14 before the San Bruno explosion? And what I  
15 mean by before, within the weeks or months  
16 immediately preceding the explosion.

17 THE WITNESS: My recollection, and I  
18 know we put this in writing to the  
19 Commission, we can get it back to you, we  
20 went through our records for months prior to  
21 the San Bruno explosion and found no  
22 indications of leaks in that particular area  
23 or no indications of people smelling gas in  
24 that particular area. But we can follow up  
25 and get that information to you.

26 COMMISSIONER SANDOVAL: Yeah. It would  
27 be helpful, because even at the public  
28 hearing that we had last week some of the

1 witnesses who lived in the San Bruno area  
2 indicated that they smelled gas and that they  
3 had reported it. So this seems to be an  
4 issue of some dispute. So it would be very  
5 helpful to understand that.

6 THE WITNESS: Okay. And we have shared  
7 that at the public hearings we have had.  
8 Each and every time we asked if anybody did  
9 actually smell it in the San Bruno area,  
10 because that is the folks who come to these  
11 town halls, if you will, in San Bruno, to  
12 please come forward. Nobody has come  
13 forward. We met with the city on this issue  
14 many times. My recollection is we had no  
15 calls in that area for smelling gas many  
16 months prior to that event.

17 But we will verify that, and I know  
18 we have given a written report on that many  
19 months ago. I just can't remember exact  
20 wording of it.

21 COMMISSIONER SANDOVAL: If you were to  
22 get a call of smelling gas, is this a  
23 technique that you would use, this laser  
24 methane detection followed by a ground survey  
25 to determine whether or not there was  
26 actually gas that was coming out of the  
27 pipeline?

28 THE WITNESS: If we were to get a call

1 for smelling gas, we will send an individual  
2 out there who will then look at the situation  
3 himself and they would do ultimately a ground  
4 survey.

5           What is beneficial for a helicopter  
6 in this particular case, LIDAR survey, is you  
7 can do 6750 miles of pipe over very rough  
8 terrain very, very quickly. It is not what  
9 you would ultimately use as your tool, but we  
10 wanted to do it very, very quickly and then  
11 follow up with a ground survey which took  
12 about three and a half months, as I recall,  
13 to get done with that many qualified  
14 surveyors. We had over 125 qualified  
15 surveyors doing it.

16           But we would send a qualified  
17 surveyor out there if it was a pipeline.

18           If it is a home we have gas service  
19 reps go to the home and make repairs  
20 accordingly.

21           If it is on a pipeline area we will  
22 send somebody out there and actually ground  
23 survey it, look for that leak and take  
24 appropriate action.

25           COMMISSIONER SANDOVAL: So how broad  
26 was your aerial survey for your many miles of  
27 pipe?

28           THE WITNESS: The aerial survey, the

1 helicopter survey, sits at about 500 feet  
2 high and was ranging anywhere from 200 to  
3 300 feet outside the corridor of the pipeline  
4 to down as low, as narrow as 20 feet. And it  
5 is a LIDAR methane detection system. So it  
6 picked up a lot of activity that had really  
7 nothing though do with pipelines.

8 COMMISSIONER SANDOVAL: How many miles  
9 were surveyed using this method?

10 THE WITNESS: Everything except for the  
11 San Francisco Peninsula was utilized. So it  
12 would be approximately 6,500 plus miles of  
13 pipe were surveyed using the helicopter, and  
14 then we followed up with a ground survey  
15 accordingly.

16 COMMISSIONER SANDOVAL: You said  
17 everything except for the San Francisco  
18 Peninsula?

19 THE WITNESS: The San Francisco  
20 Peninsula we started with a ground survey the  
21 next day, and the helicopters weren't in  
22 place for several weeks afterwards. Bringing  
23 them into the state, getting them qualified,  
24 certified to do the work took a couple of  
25 weeks. We were already done with the San  
26 Bruno area and all of the San Francisco  
27 Peninsula well before those helicopters  
28 showed up.

1           COMMISSIONER SANDOVAL: Thank you.

2           THE WITNESS: We also did an integrity  
3 review of the San Bruno area shortly  
4 thereafter that incorporated Lines 101, 109  
5 and Line 132. That is primarily a look at  
6 the coating of the pipeline itself to see if  
7 there is any corrosion activity in the area.  
8 It also gives any indication if there is  
9 anything happening in the area that is unique  
10 in terms of cathodic protection. This was  
11 just one more tool we had available to us to  
12 again check the integrity of the pipeline in  
13 and around the San Bruno area immediately  
14 after the San Bruno rupture.

15                     And again, we found no integrity  
16 issues that required any immediate action  
17 based on that integrity review.

18                     We also started very shortly after  
19 the San Bruno incident what I referred to  
20 earlier as the MAOP validation activity on  
21 Line 101. So we did conduct as part of that,  
22 we had about 27 people working that six to  
23 seven days a week up to about 14, 16 hours a  
24 day.

25                     We ultimately had to do six digs to  
26 do verification. Most of those digs were  
27 associated with verifying the type of seam on  
28 a weld -- on a pipe. Excuse me.

1           We wanted to make sure that what we  
2 saw in our records really reflected what was  
3 in the ground. So we did those digs there.

4           We were able and did confirm what we  
5 call A.O. Smith pipe. And this again is an  
6 MAOP validation study that we shared with  
7 everybody. But we were able to validate that  
8 the A.O. Smith pipe, which was of question  
9 that had come up during conversations, was  
10 certainly within code and the information we  
11 have on it is accurate.

12           And again, no long seam,  
13 longitudinal seam or long seam concerns were  
14 identified as any part of those digs.

15           We also had done some field work  
16 around Line 132 and line 109. Those are the  
17 other pipelines in the San Francisco  
18 Peninsula.

19           As I mentioned last time when we  
20 started our MAOP validation work, we started  
21 with the concept we were going to do one  
22 pipeline at the time starting with  
23 San Francisco. That's obviously changed.  
24 But we had gone down the road obviously of  
25 starting all the pipelines in the  
26 San Francisco Peninsula. We did 13 digs  
27 total. All those were nondestructive.

28           We also ran an internal camera



1 through some of the segments of Line 132 of  
2 similar pipe as that that ruptured in San  
3 Bruno, again looking for the missing inside  
4 weld.

5           There was one 10-inch section that  
6 looked different than the rest. In other  
7 words, the weld cap, if you will, was missing  
8 on the inside of the pipe. A weld cap is the  
9 little bump when you weld, it goes a little  
10 bit higher than the pipe itself. A ten-foot  
11 foot section was removed and sent to the NTSB  
12 for their investigation. We haven't heard  
13 anything at this point in time. Frankly,  
14 don't expect to. But they will do a final  
15 report and some testing on that piece of  
16 pipe.

17           Also on Line 300A and Line 300B we  
18 had an overpressurization event on that  
19 pipeline, and to ensure its integrity and to  
20 follow through with our MAOP validation  
21 activity that we're also doing on those  
22 sections of pipe, we completed 19  
23 excavations. Most of those, as you can see,  
24 eleven were on 300A system. That was the  
25 first pipeline built. 300B system had 8. We  
26 did direct examination on those also, both  
27 X-rays, nondestructive testing, looking at  
28 elbows, trying to find additional information

1 on that pipeline segment. And again, they  
2 confirmed the integrity of the pipeline. And  
3 of course that information will be feeding  
4 ultimately into the MAOP validation activity  
5 around those two segments of pipe also.

6 COMMISSIONER FERRON: Excuse me.

7 What was the third-party action you  
8 referred to?

9 THE WITNESS: The third-party action on  
10 the Line 300A and B, we have turned it over  
11 to -- we have turned over some of that  
12 information to Kiefer and Associates and  
13 asked them to validate that what we see is  
14 what they see and are there any other  
15 recommendations that organization may have.

16 Is that what you are referring to?  
17 Oh, I'm sorry. The caused by third-party  
18 actions. That's our interconnecting point  
19 with Transwestern Pipeline. It was their  
20 equipment that had trouble and  
21 overpressurized on the pipeline.

22 In terms of planned field actions,  
23 we have talked about this at length, so I  
24 will go through it quickly.

25 We talked about priorities and what  
26 we are doing. We have 152 miles of pipe that  
27 look a lot like San Bruno that we are looking  
28 for, continuing to look for pressure test

1 records for. We have proposed hydro testing,  
2 and we will have a discussion with the staff  
3 on exactly how that will look sometime this  
4 week. And we have also got 435 miles of  
5 pipe. Again, we are going to go through this  
6 whole process of what will we do with that  
7 pipeline and what activity should take place  
8 in terms of do you reduce the pressure or  
9 replace the pipe, do you pig it or hydro  
10 test, et cetera. And those have all been  
11 talked about at great lengths this morning.

12 In terms of the actions that we are  
13 looking to take place going forward on the  
14 pipeline system itself and the types of  
15 things we think we should look at and we will  
16 have conversations with staff and others on,  
17 first you can use smart pigs that can look at  
18 the longitudinal seam properly. And we are  
19 continuing to look at what techniques and  
20 technology are available because it gets  
21 better each week, each month. So there may  
22 be some things we see coming forth that will  
23 be helpful to us.

24 The advanced camera inspection is  
25 just that, putting a high resolution camera  
26 inside the pipe and actually looking at the  
27 weld itself.

28 I think what is important to

1 remember is on San Bruno that pipeline  
2 segment that ruptured was, we believe it to  
3 be missing its inside weld. So you may not  
4 need a full blown smart pig or some other  
5 technique to look at that. It is visually  
6 evident that it is missing.

7 So a camera may serve the purpose of  
8 verifying that the inside weld actually  
9 exists.

10 Hydrostatic testing is an option --

11 COMMISSIONER SIMON: Excuse me.

12 Does the camera process comply with  
13 NTSB inspection guidelines?

14 THE WITNESS: The NTSB doesn't itself  
15 have any inspection guidelines. All the  
16 guidelines are under obviously the federal  
17 code or the state code.

18 COMMISSIONER SIMON: PHMSA.

19 THE WITNESS: The PHMSA guidelines for  
20 integrity management purposes only authorize  
21 smart pigging, direct assessment, which is  
22 what was done on Line 132, and pressure  
23 testing.

24 COMMISSIONER SIMON: So where does  
25 this high resolution camera come in in those  
26 three?

27 THE WITNESS: The high resolution  
28 camera is just one more tool we have

1 available to us that we can send into the  
2 pipeline to actually look for something very  
3 specific like an inside weld.

4 COMMISSIONER SIMON: But this tool is  
5 not captured by the Code of Federal  
6 Regulations or any state or federal safety  
7 practice?

8 THE WITNESS: If it is high consequence  
9 area, which is a majority of what we are  
10 talking about, but we are going to do our  
11 entire pipeline system ultimately, if it is  
12 high consequence area, you use integrity  
13 management. Those three tools that I  
14 mentioned earlier are the only approved  
15 tools. But this is just one more tool we can  
16 utilize to check for integrity.

17 So, for example, if we have a  
18 segment of pipe that looks similar to San  
19 Bruno, 30-inch, built in or around 1950, '56,  
20 Consolidated Western pipe potentially, if we  
21 are doing a hydro test we may choose to put  
22 the camera in their first, verify we don't  
23 see any missing seams, then do the hydro  
24 test, and you kind of hit both activities.

25 If it is not high consequence area  
26 and we still want to check it, the code at  
27 this time doesn't require anything, we still  
28 might like to get a camera in there. It is

1 just one more tool available to us.

2           Again, we are looking at new  
3 technologies and working with many vendors on  
4 new types of cameras, new pigs that might be  
5 able to capture exactly what we are looking  
6 for.

7           You had specifically asked last week  
8 to talk about vehicular protection, I think  
9 it was, or vehicular crossings. I know that  
10 was referenced in our public hearing the  
11 other day.

12           In terms of PG&E's pipeline system,  
13 and actually this is covered in the code  
14 along with the standards that PG&E has, but  
15 we use what I believe is usually used in this  
16 concern is cased piping where a pipeline is  
17 inserted into another pipe so the pipe, the  
18 outer pipe, protects it, if you will, in  
19 theory from movement.

20           That is used a lot of times around  
21 perpendicular crossings or crossings under  
22 freeways, under railroads, railroad tracks,  
23 and in some other certain circumstances.  
24 There's code requirements for that as covered  
25 both in Part 192, covered in GO 112 (E). And  
26 it is covered under PG&E's standards of when  
27 these tools are utilized.

28           There are also other opportunities

1 to use. Instead of using casing over a  
2 pipeline, which casings have their own issues  
3 to be dealt with, there are also things in  
4 the code that allow for thicker walled pipe.  
5 There's other safety factors built in for  
6 crossings.

7           You can also utilize additional  
8 cover which reduces the amount of pressure  
9 that a pipe would see from heavy, heavy  
10 traffic, if indeed, and you could also use  
11 concrete caps or other activities to  
12 dissipate the load over the pipeline. ]

13           It is covered in the code, but the  
14 reference that was brought up at the  
15 particular public hearing is this pipeline  
16 was in a roadway and therefore had issues.  
17 We don't see any circumstances where we  
18 understand it being in a roadway as a  
19 problem. It had the proper amount of depth,  
20 and there are pipelines built into roadways  
21 and in franchise areas throughout the service  
22 territory. But we do have a standard, and  
23 the code does cover vehicular crossings of  
24 pipelines.

25                               EXAMINATION

26 BY COMMISSIONER SANDOVAL:

27           Q I have a question.

28           A Sure.

1           Q    So were any of these or other what  
2 I'm going to call additional measures  
3 utilized for the segment of the San Bruno  
4 pipe that exploded to account for the fact  
5 that it was under a roadway?

6           A    When the pipe is built, they look  
7 at a roadway being there. A roadway is  
8 obviously known. And so really what you're  
9 looking for in general is is there going to  
10 be anything unique to that pipeline other  
11 than the amount of cover it has. The deeper  
12 you put a pipeline, the more insulated it is  
13 from road activity, if you will. So as long  
14 as it's the proper depth, there really isn't  
15 any issues with roadways being put over  
16 pipelines. And in fact, roadways over  
17 pipelines are very, very common.

18                   The issue that we usually look at  
19 in terms of vehicular crossings where you're  
20 actually going under very heavy travel like  
21 in a freeway or a railroad track, that's when  
22 you have to look at very, very specific items  
23 to mitigate that activity. But there was  
24 nothing necessary for Line 132 in San Bruno  
25 or any pipelines over and above what we would  
26 normally do.

27           Q    Okay. So none of these additional  
28 steps or standards was used --



1           A    No.

2           Q    -- for that particular segment; is  
3 that correct?

4           A    Well, in 1956 there was no federal  
5 code.  So there wouldn't have been these  
6 obvious standards in place, but these  
7 standards only point to crossing over a  
8 roadway.  So that's when you're actually  
9 going perpendicular or underneath a freeway,  
10 which happens occasionally in the PG&E  
11 system.  It doesn't -- it doesn't cover a  
12 pipeline that's in a street.  Pipelines in a  
13 street is a very common activity, and that  
14 activity is taken into account when the  
15 pipeline is built.  And usually it's just the  
16 amount of cover over and above the roadway  
17 that you're looking for.

18          Q    It would be helpful to understand  
19 how PG&E took into account the fact that it  
20 was under a roadway.  So for example, if  
21 you're saying, the fact that it was under a  
22 roadway led us to bury it to X many feet.  So  
23 I'm asking a factual question which you don't  
24 have to answer now, but it would be very  
25 helpful to understand what factors were taken  
26 into account.

27          A    Well, we'll look in to see if the  
28 forensics engineering can solve that.  That

1 can mean our pipeline was built in 1956. So  
2 I'm not sure that information is available.  
3 But somebody will take a look at it.

4           And then in terms of the new  
5 programs, we talked about this. This is our  
6 Pipeline 2020 Program. In the interest of  
7 time I'll go through it very, very quickly  
8 because we covered a lot of it this morning.  
9 We will have a proposal to modernize the  
10 critical infrastructure. That's all of our  
11 pipeline infrastructure. Again, it will be a  
12 decision matrix, if you will, or  
13 decisionmaking tree that says, if a pipeline  
14 is under these circumstances, this is what we  
15 should do. And we'll be looking for  
16 obviously input from many parties including  
17 the Commission.

18           We will be and we agree to start  
19 the installation of automatic and remote  
20 control valves. Remote control valves are  
21 the majority of what those valves will be in  
22 High Consequence Areas. And we're also going  
23 to be talking about the use of automatic  
24 valves in areas that cross over an earthquake  
25 fault. So not necessarily near an earthquake  
26 fault. Being near an earthquake fault  
27 doesn't necessary bother the pipeline, but  
28 crossing an earthquake fault, if it can't be

1     engineered out, if you can't use heavier  
2     walled pipe or specifically designed  
3     trenches, then it may be appropriate to use  
4     an automatic valve in those locations. And  
5     that will be part of the testimony also.

6             And we are looking for the next  
7     generation of technologies. We have put in  
8     \$10 million into that. And again, this is  
9     not just making pigs smarter but the next  
10    generation of technologies to do  
11    nondestructive testing for our pipelines so  
12    we can look at integrity going forward and  
13    see if other industries have activities that  
14    might benefit us such as nuclear.

15            And then we've talked to others  
16    about our industry leading best practices,  
17    looking what other industries are doing,  
18    other countries are doing in terms of their  
19    best practices around pipeline infrastructure  
20    and utilizing those.

21            And then earlier I mentioned our  
22    public safety partnerships. We have shared  
23    drawings with folks. I think it's pretty  
24    common knowledge that after 9/11 we quit  
25    sharing gas transmission information. Prior  
26    to that we handed it out pretty regularly  
27    and, you know, with the fire chiefs. After  
28    it was listed as critical infrastructure, we

1 quit sharing that information. We have gone  
2 back to at least first responders should have  
3 that information. We share that with them.  
4 We're also working on a couple of pilots to  
5 give it to them electronically so that they  
6 may be able to match it up with their system  
7 and potentially be able to use it for  
8 dispatch purposes. So we've got several of  
9 those pilots going on with cities and  
10 counties in PG&E's service territory.

11 And I think with that that probably  
12 covers the highlights of the presentation.  
13 If there's any questions, but I know we're  
14 short on time. So I don't want to go through  
15 a lot of details.

16 Q I have another question on this  
17 plan. So you mentioned earthquake safety.  
18 So trying to put 2 and 2 together with what's  
19 happening in the Japan. Japan has invested  
20 in a earthquake alert system which did allow  
21 time for things like all the high speed  
22 trains to be slowed, and that is being cited  
23 as a reason why no high speed trains  
24 derailed.

25 You know, with an earthquake alert  
26 system, and I understand that there are huge  
27 financial implications for that, it might be  
28 possible to do things like if you knew a

1 massive earthquake was coming on the San  
2 Andreas Fault if you had a gas pipeline in  
3 that area particularly with remote shut-off  
4 valves to make a decision about whether or  
5 not that particular gas should be shut off.

6           So have you considered or would you  
7 consider the whole issue of, as part of the  
8 earthquake issues looking at any possible  
9 alert systems and how that might interact  
10 with remote shut-off triggers to try to  
11 ensure -- I understand that for the San  
12 Francisco earthquake in 1906 that gas  
13 pipeline explosions were part of the cause of  
14 the fires then. But just want to make sure  
15 that we're thinking broadly about putting all  
16 the factors together.

17           A Well, I can't speak, and I'm  
18 probably not the expert witness on predicting  
19 earthquakes. That's not something up my  
20 skill set. I would say that in general the  
21 gas transmission system is designed for the  
22 earthquakes we expect to see. Certainly in  
23 the San Francisco Bay Area there are many  
24 earthquake faults, both the Hayward Fault,  
25 San Andreas Fault and many others throughout  
26 the San Francisco Bay Area. We look at  
27 those. Pipelines generally speaking, steel  
28 pipelines of today's technology withstand

1 earthquakes relatively well. There are some  
2 techniques we obviously want to continue to  
3 look at.

4 And for those, as I mentioned  
5 earlier, if we have to cross a fault, which  
6 is really the issue for -- there are really  
7 two issues in terms of earthquakes for PG&E  
8 that we concern ourself with at great length  
9 after reviewing Loma Prieta and the many  
10 earthquakes we've had in California.

11 One is if you cross an  
12 earthquake -- if you cross a fault line, that  
13 fault line is going to move, that clearly  
14 puts the pipeline in a difficult or a  
15 stressful situation. And the second one is,  
16 is everything bolted down properly,  
17 particularly above-ground piping and all the  
18 infrastructure that supports it. Well, the  
19 bolting down is relatively straightforward,  
20 and that's been completed. After Loma Prieta  
21 we bolted all our stuff down.

22 In terms of crossings, we're  
23 constantly looking at new technologies.  
24 There's new codes and standards constantly  
25 coming out for pipelines around crossings.  
26 You can design very heavy walled pipe that  
27 might withstand it, withstand that activity.  
28 You can design special trenches that allow

1 the earth to move but the pipe not to have to  
2 move. So V trenches filled with sand, if you  
3 will, that will just move around the  
4 pipeline. And if your engineering tells you  
5 that won't work for the magnitude you think  
6 you potentially have, that's when we'll look  
7 at these automatic valves.

8 But in terms of tying in automatic  
9 valves, automatic valves will sense it and  
10 shut it off. In terms of using remote  
11 control valves, I think as a pipeline  
12 operator I would tell you I want to make sure  
13 that that prediction system is very, very  
14 good because if I'm shutting off gas to  
15 800,000 customers in San Francisco Bay Area  
16 on a feel that I might have an earthquake,  
17 those individuals would be out of gas for a  
18 very, very long time going forward. But it  
19 is -- earthquake preparedness in California  
20 certainly is a very big issue for us.

21 EXAMINATION

22 BY COMMISSIONER FLORIO:

23 Q One of your earlier slides you  
24 mentioned, I think it was in the initial  
25 post-San Bruno inspection that you found  
26 something like ten class leaks, and I think  
27 it was Class 1, but I wasn't sure. Yeah, 20  
28 Grade 1 leaks. Is Grade 1 the lowest or the

1 highest?

2 A Grade 1 is the highest. That is  
3 oftentimes referred to as a potentially  
4 hazardous or a hazardous leak. And there's a  
5 lot of criteria that goes along with grading,  
6 and I won't try to memorize and share it all  
7 with you, but in general terms that's a leak  
8 that has the potential to cause a problem.  
9 And so PG&E's response is immediate. We  
10 stand by until the leak is resolved. And  
11 that means that there were 20 Grade 1's  
12 found. A crew -- a standby person stays  
13 there. We send a crew out. We locate it.  
14 We repair it, fix it, and move on. And that  
15 was over the 67 -- you know, over the 5700  
16 plus miles of DOT defined gas transmission  
17 pipeline.

18 Q And, you know, we seem to be driven  
19 a lot by the news media on these issues.  
20 Line 109, also on the Peninsula, was the  
21 subject of an article yesterday which I  
22 understand you haven't had much time to even  
23 read potentially, but, you know, you've done  
24 the Line 101 validation, obviously doing a  
25 lot with Line 132. What can you tell us  
26 today about Line 109?

27 A Well, and just so I can be very  
28 clear there. The validation we did on Line



1 101 was the high pressure section of Line 101  
2 that operates at 400 MAOP. The section of  
3 line -- Line 101, Line 132, and Line 109 all  
4 feed San Francisco proper, and all of them  
5 have a regulator station prior to or just on  
6 the border of San Mateo County and San  
7 Francisco County that regulate the pressure  
8 down to approximate 150 pounds. So that's a  
9 much lower pressure system in terms of what I  
10 think is being referenced in San Francisco,  
11 if you will.

12 Line 101 is complete, as I  
13 mentioned. We, you know, we were able to  
14 verify a lot of information, but all of our  
15 digs on Line 101 verified that the seam type  
16 we thought we had is what we had. We haven't  
17 completed all of the digs on Line 132 or Line  
18 109, but there hasn't been anything found  
19 that is of I would call it a significant  
20 surprise or anything that indicates that we  
21 have any issues with code compliance or are  
22 operating a pipeline outside of its class  
23 location at this point in time.

24 And I will read that article, I  
25 believe it was from *The Chronicle*, when I  
26 return to my office today.

27 ALJ BUSHEY: Questions, Commissioners?

28 (No response)

## EXAMINATION

1  
2 BY ALJ BUSHEY:

3 Q I have just two quick questions for  
4 you.

5 From your presentation, I'm  
6 concluding that you have not found any other  
7 defective welds similar to the one in Line  
8 132; is that correct?

9 A That's correct. In terms of what  
10 we've done since September 9th and all the  
11 data we've found, we have not found the  
12 similar circumstances of what happened, which  
13 is a missing inside weld in Line 132. That's  
14 correct.

15 Q Do you have a tentative conclusion  
16 that the missing weld in Line 132 is simply a  
17 singular anomaly?

18 A Well, in ter -- we haven't found  
19 anything that indicates to us we have  
20 anything similar elsewhere in our system, but  
21 we'll continue to look for that, and that's  
22 part of the MAOP validation activity. But  
23 again, we've completed, you know, roughly 35  
24 miles of Line 101. We've done some camera  
25 work on Line 132. We've done a lot of work  
26 on Line 109.

27 If you added all that up, you  
28 probably would come to the conclusion it's

1 about a hundred miles of pipe plus or minus a  
2 little bit. You know, we have a lot of  
3 pipeline still to look at. But at this point  
4 in time we don't have any reason to believe  
5 we have that situation anywhere else, but  
6 we're certainly going to look and make sure  
7 we don't have it anywhere else.

8 Q Thank you.

9 One last question now looking  
10 forward. I noticed in all of your  
11 presentation you referenced several times  
12 that you're going to be conferring with our  
13 staff. Do you have any specific plans to  
14 bring any applications or specific proposals  
15 to the Commission?

16 A Well, in terms of hydro testing, I  
17 believe we're scheduled -- we were talking  
18 about our schedule and our proposal of hydro  
19 testing 152 miles this week. The MAOP  
20 validation study is in their hands, and we're  
21 looking for proposals there. And then the  
22 Commission staff will have seen all the  
23 proposal we're making forth as part of  
24 Pipeline 2020 prior to any filings.

25 Q I was distinguishing between the  
26 Commission staff and the Commission itself,  
27 like was a formal proposal that would  
28 possibly go to hearing and result in the

1 Commission decision as opposed to your  
2 collaborative, your ongoing collaborative  
3 efforts with our staff?

4 A Well, if I understood your question  
5 correctly, I know we're going to have a  
6 formal filing for Pipeline 2020, including  
7 the remote control valves and the pipeline  
8 modernization activity will be filed mid-May.

9 Q Mid-May. So that's the next time  
10 you -- or the first you time anticipate  
11 bringing something formally before the  
12 Commission for official Commission action?

13 A You want to answer that?

14 MR. MALKIN: Let me add to the  
15 response. We will also be filing comments in  
16 two days on the rulemaking proposals in this  
17 proceeding, and those are certainly for  
18 formal Commission action. We have -- there  
19 is pending an application, I'm not sure it  
20 was an application, I think it was an advice  
21 letter filing requesting the establishment of  
22 a memorandum account. There's a draft  
23 resolution on that that is in front of the  
24 Commission as well as the record OII, and  
25 there are probably a number of proceedings  
26 that I'm forgetting.

27 ALJ BUSHEY: Thank you.

28 Final questions for?

1           COMMISSIONER SIMON: I just have one.  
2           Going back to this failure to communicate  
3           reference, and I don't want to use a term  
4           that animal rights activists would not like,  
5           but it has something to do with a horse. Are  
6           you saying that PG&E failed to communicate or  
7           there was a failure of communication between  
8           PG&E and CPSD or the wider Commission staff?

9           MR. MALKIN: I'm saying that there was  
10          a failure of communication among PG&E, the  
11          staff, and the Commission itself.

12          COMMISSIONER SIMON: And the staff has,  
13          to the best of your knowledge, admitted to  
14          that failure of communication? I know this  
15          would probably have been better asked of Mr.  
16          Heiden but --

17          MR. MALKIN: Yeah. The reason I'm  
18          pausing is I mean I think they would  
19          certainly agree that there was a failure of  
20          communication. I think they would say the  
21          failure was PG&E's. So I don't -- didn't  
22          want to misrepresent the staff's position in  
23          that regard. But I don't think that, at  
24          least from my conversations, I don't think  
25          there is a disagreement about the basic  
26          proposition that there was a failure of  
27          communication.

28          COMMISSIONER SIMON: Mr. Heiden, is

1 that a accurate assessment from your -- I  
2 imagine Mr. Heiden is still under oath,  
3 correct?

4 ALJ BUSHEY: He's counsel.

5 COMMISSIONER SIMON: Oh, he's counsel.  
6 So he's not under oath.

7 (Laughter)

8 COMMISSIONER SIMON: It gets a little  
9 confusing from this angle I should say.

10 Is that a fair depiction, that it  
11 was failure of communication between staff  
12 and PG&E in reference to the documents, the  
13 information that was required under the order  
14 issued by this Commission and the letter by,  
15 sent by Executive Director Paul Clanon? Is  
16 that where the failure is?

17 MR. HEIDEN: It's not staff's position  
18 that we failed to communicate. It's not  
19 staff's position that the Commission failed  
20 to communicate. That's not our position.

21 COMMISSIONER SIMON: So if you have a  
22 comment on this notion of failure to  
23 communicate, am I saying it properly, Mr.  
24 Malkin, that it's a failure to communicate  
25 versus failure to comply? Are you saying it  
26 wasn't a failure to comply but a failure to  
27 communicate?

28 MR. MALKIN: Well, I would say,

1 Commissioner Simon, from our vantage point,  
2 we believed, and I put it in the past tense  
3 because obviously Mr. Clanon's March 16th  
4 letter and the Order to Show Cause has to  
5 make us think the communication wasn't as  
6 clear as we believed at the time. We  
7 believed that our January 7th and February  
8 1st letters were clear as were the other  
9 communications that we had with the  
10 Commission staff that what we were physically  
11 able to do by March 15th was to collect  
12 documents sufficient to allow us to  
13 determine, of the 1805 miles subject to the  
14 directives, which of them had pressure test  
15 records. And from that we would proceed to a  
16 second step or second phase which would not  
17 be completed anywhere near March 15th of  
18 looking more closely at the miles of pipe for  
19 which we didn't have the pressure test  
20 records and performing the engineering  
21 analysis to do the MAOP validation. That was  
22 what we believed.

23 As you can see from Mr. Clanon's  
24 letter and the fact that the enforcement  
25 staff brought this draft OSC to the  
26 Commission, while they may concur that there  
27 was a failure of communication, they think  
28 that we did not communicate that, that we

1 understood and that the expectation on their  
2 part was that we would complete the MAOP  
3 validation by March 15th.

4 As I said, we have a very different  
5 view in terms of both written communications  
6 and the oral communications that we thought  
7 it was clearly understood certainly by all of  
8 the staff people we were meeting with what we  
9 were going to be able to physically do and  
10 what we would physically do later.

11 COMMISSIONER SIMON: So the phase, the  
12 phase process or concept was in collaboration  
13 with CPSD staff, this two-prong document  
14 submission -- document submission and testing  
15 process?

16 MR. MALKIN: I want to be precise  
17 because I don't --

18 COMMISSIONER SIMON: I want you to  
19 also.

20 MR. MALKIN: Yeah. What I would say is  
21 we clearly described to CPSD that the way we  
22 were approaching this huge, huge task which  
23 was in phases, and we described that. Phase  
24 1 was going to be collecting the basic  
25 records, determining where we could verify  
26 pressure tests, and that Phase 2 was going to  
27 be then to analyze more closely the miles of  
28 pipe for which we didn't have the pressure



1 test records.

2           The reason I hesitate to use the  
3 word "collaborative" is because we described  
4 that process. The staff asked us questions  
5 about what was going to be included in each.  
6 They asked us how long we thought Phase 2  
7 would take to complete. And they didn't say,  
8 yes, we think you should do it in two phases;  
9 nor did they ever say, you realize if you do  
10 it that way, come March 15th you're out of  
11 compliance.

12           We -- there was never that  
13 communication, and that was the basis on  
14 which we believed that the expectations on  
15 the Commission's side were the same as what  
16 we thought we had communicated and that we  
17 would be doing this in two phases and in fact  
18 meeting the Commission's expectations in what  
19 we filed on March 15th.

20           COMMISSIONER SIMON: And Mr. Heiden,  
21 that's an accurate assessment on your part?

22           MR. HEIDEN: Well, I personally was not  
23 at meetings with PG&E that he's describing.

24           COMMISSIONER SIMON: Okay. So here we  
25 go again. Who was at the meeting? I'm sorry  
26 that I was not at the prior hearing, but who  
27 at CPSD? Was it Julie Halligan who  
28 participated in these meetings?

1           MR. HEIDEN:   Probably.  I don't know  
2 right now.

3           COMMISSIONER SIMON:  Mr. Clark, can you  
4 verify who was in attendance at the meetings?  
5 And again I apologize for the delays here.  
6 This to me at least in my assessment is  
7 germane to the process.

8           MR. CLARK:  Commissioner Simon, there  
9 were more than one meeting, and there were  
10 more than one person at these meetings.  I  
11 was at some of these meetings.  Julie  
12 Halligan was at some of the meetings.  Staff  
13 were on the phone in the room.  Paul Clanon  
14 was at many of these meetings also as I  
15 recall.

16           COMMISSIONER SIMON:  And during these  
17 meetings there was a reasonable belief that  
18 there would be a two-phase submission as  
19 opposed to the complete submission on March  
20 15th?

21           MR. CLARK:  There was a belief that  
22 PG&E was going to undertake to identify all  
23 aspects of their -- all segments of their  
24 system which had been hydro tested, that they  
25 were then going to conduct a diligent and  
26 thorough search for the records which  
27 reflected hydro testing or lack of hydro  
28 testing on the rest of their system and that

1 they were going to bring those documents to  
2 us on March 15th, that the completion of the  
3 MAOP validation study, the entire crunching  
4 of the numbers, analysis over all the  
5 underlying documents and that sort of thing  
6 was going to take longer.

7 COMMISSIONER SIMON: And August was the  
8 projected timeline?

9 MR. CLARK: I don't recall specifically  
10 what the timeline was.

11 COMMISSIONER SIMON: Okay. Thank you.  
12 I appreciate that. And Commissioners, I  
13 thank you as well.

14 ALJ BUSHEY: Final questions?

15 (No response)

16 ALJ BUSHEY: Hearing none then, this  
17 oral argument and report are concluded and  
18 the Commission is adjourned.

19 (Whereupon, at the hour of 1:32  
20 p.m., this oral argument was  
concluded.)

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