

SOAH DOCKET NO. 582-18-3319

TCEQ DOCKET NO. 2013-1506-MSW

APPLICATION BY RANCHO VIEJO ) STATE OFFICE OF  
WASTE MANAGEMENT, LLC, )  
FOR NEW SOLID WASTE )  
PERMIT NO. 2374 ) ADMINISTRATIVE HEARINGS

ORAL DEPOSITION

CARLOS BENAVIDES

Tuesday, March 12th, 2019

ORAL DEPOSITION OF CARLOS BENAVIDES, produced as a witness at the instance of the Respondents and duly sworn, was taken in the above-styled and numbered cause on Tuesday, March 12th, 2019 from 9:06 a.m. to 4:46 p.m., before Rebecca J. Callow, CSR, RMR, CRR, RPR, in and for the State of Texas, reported by computerized stenotype machine at the offices of Baker Botts LLP., 98 San Jacinto Boulevard, Suite 1500, Austin, Texas, pursuant to the Texas Rules of Civil of Procedure and the provisions stated on the record or attached hereto.

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1 (Exhibit 93 marked.)

2 MR. McDONALD: I just wanted to mark,  
3 if we can, for the deposition today applicant  
4 Rancho Viejo Waste Management's notice of deposition  
5 of corporate representative and objections. And  
6 those will be marked and included on the transcript  
7 of this deposition today. That would be 93, I  
8 believe.

9 MR. KOMKOV: Should we do it as 94?  
10 93 is the notice that I already marked.

11 MR. McDONALD: We'll do 94, then.  
12 Deposition Exhibit 94.

13 (Exhibit 94 marked.)

14 CARLOS BENAVIDES,  
15 called as a witness herein, having been first duly  
16 sworn, was examined and testified as follows:

17 EXAMINATION

18 BY MR. KOMKOV:

19 Q. Good morning, Mr. Benavides.

20 A. Good morning.

21 Q. My name is Leon Komkov. We've met before  
22 today, and I represent ANB Cattle Company in this  
23 proceeding.

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

1 A. Carlos Ygnacio Benavides, III.

2 Q. And where do you reside, sir?

3 A. Laredo, Texas.

4 Q. Do you have an address in Laredo?

5 A. 1116 Calle Del Norte.

6 Q. Mr. Benavides, I've put in front of you  
7 what's been marked as Exhibit 93 and I'd ask you to  
8 take a look that document and tell me if you  
9 recognize it.

10 A. Yes, sir.

11 Q. Were you served with a copy of this notice  
12 of deposition?

13 A. I was.

14 Q. And have you had a chance, before coming  
15 here today, to review Exhibit 93?

16 A. Yes, sir.

17 Q. Okay. You note that there are 16 topics  
18 listed on Exhibit 93 that we've asked to examine a  
19 representative of Rancho Viejo Waste Management on.  
20 Did you review each of those 16?

21 A. I did.

22 Q. And are you -- you're here today as a  
23 representative -- let me back up.

24 There are different Rancho Viejo  
25 entities. Can we agree that today, when I'm

1 referring to Rancho Viejo, I'm talking about  
2 Rancho Viejo Waste Management?

3 A. Could we do something different? Can you  
4 make that PERC, or Pescadito, and keep Rancho Viejo  
5 Rancho Viejo?

6 Q. I may just use "waste management"  
7 because --

8 A. That's fine.

9 Q. -- some of the corporate documents  
10 actually -- I know Pescadito is the name of the  
11 proposed landfill facility. Correct?

12 A. Correct.

13 Q. And Rancho Viejo Waste Management is the  
14 owner of that Pescadito project.

15 A. That is correct.

16 Q. Okay. And I'm not trying to be difficult  
17 with you --

18 A. No. No.

19 Q. -- but, you see, we're going to talk about  
20 corporate entities, so it's reasonably important  
21 that we keep them straight.

22 A. Absolutely.

23 Q. Let's jump back.

24 You are here today as the  
25 representative of Rancho Viejo Waste Management.

1 Correct?

2 A. Yes, sir.

3 Q. What is your office with Rancho Viejo Waste  
4 Management?

5 A. It's 1116 Calle del Norte.

6 Q. I'm sorry. I didn't state that well.

7 Are you an officer of that entity?

8 A. I am.

9 Q. And what office do you hold with that  
10 entity?

11 A. I am manager and corporate rep.

12 Q. Are there other officers of Rancho Viejo  
13 Waste Management?

14 A. There's two other managers.

15 Q. Okay. Each of these being a managing  
16 member?

17 A. Yes, sir.

18 Q. And who are the two other managers of that  
19 company?

20 A. Guillermo David Benavides and Linda  
21 Cristina Alexander.

22 Q. And are each those managers siblings of  
23 yours?

24 A. They are.

25 Can I -- just for the record, my

1 address is 916 Calle del Norte.

2 Q. Okay.

3 A. I just wanted to correct it.

4 Q. Okay. Thank you.

5 Let's turn back to Exhibit 93. On  
6 those 16 topics, are you the person best suited,  
7 most knowledgeable, to testify on each of the 16  
8 topics?

9 MR. McDONALD: Objection. Form.

10 A. I believe so.

11 Q. (BY MR. KOMKOV) With respect to any of the  
12 16, do you know anyone that might have superior  
13 knowledge to yours regarding those subject matters?

14 A. I don't know about superior knowledge, but  
15 equal knowledge.

16 Q. And who would have equal knowledge of those  
17 subject matters?

18 A. Other team members.

19 Q. Okay. Can you designate who those team  
20 members are that might have equal knowledge to you  
21 on any of these topics?

22 A. Mike Oden. Pierce Chandler.

23 Q. Anyone else?

24 A. Not for the whole set.

25 Q. Okay. Are there specifics, as we go

1 through these lists, that you'd say Pierce Chandler  
2 has equal knowledge of topics 1 through 9? Or have  
3 you broken it down like that? Could you?

4 A. I'm sure I could if you wanted to do that.

5 Q. If we could, very briefly. If you would  
6 tell me the topics on this list of 16 that you  
7 believe Pierce Chandler may have equivalent  
8 knowledge to you.

9 A. All of them.

10 Q. All of them. Okay.

11 How about on this list of 16 the  
12 topics that Mr. Oden would have equivalent knowledge  
13 to you?

14 A. All of them.

15 Q. On any of these topics would  
16 Guillermo Benavides have equivalent knowledge to you  
17 on any of the topics listed?

18 A. No, sir.

19 Q. Would -- is it Ms. Alexander, your sister?  
20 Is that correct?

21 A. Yes.

22 Q. Would Ms. Alexander have equivalent  
23 knowledge to you on any of these 16 topics?

24 A. No, sir.

25 Q. Is Rancho Viejo Waste Management wholly

1 owned by Rancho Viejo Cattle Company?

2 A. It is.

3 Q. There are no other members or shareholders  
4 or Rancho Viejo Waste Management?

5 A. There is one more.

6 Q. Who is the one more?

7 A. CY Benavides Jr.

8 Q. Is that your son?

9 A. No. That's my father.

10 Q. Oh, your father. I'm sorry.

11 A. That's okay.

12 Q. And what interest does CY Benavides Jr.  
13 hold in Rancho Viejo Waste Management?

14 A. A little over 49 percent.

15 Q. And is a little under 51 percent of  
16 Rancho Viejo Waste Management then owned by  
17 Rancho Viejo Cattle Company?

18 A. No. We own it equally as we do our  
19 partnership of Rancho Viejo Cattle Company. So my  
20 dad's share mirrors his ownership in Rancho Viejo.

21 Q. Okay. Maybe I'll break this down from the  
22 different --

23 A. The waste management ownership is identical  
24 to the parent company's ownership.

25 Q. Okay. If they're identical, let's take



1 waste management. If you'd give me the list of who  
2 owns it.

3 A. The father, CY Benavides Jr.; myself;  
4 Mr. Benavides, Guillermo; Alexander, Cristina.

5 Q. Okay. Are there any persons or entities  
6 that have a right to acquire interests in  
7 Rancho Viejo Waste Management other than those folks  
8 you've just listed?

9 A. Only our children.

10 Q. Okay. There's not been any options granted  
11 or warrants or anything, that would give someone the  
12 right to acquire an equity interest in the entity  
13 other than your family?

14 A. No, sir.

15 Q. Has any property of Rancho Viejo Waste  
16 Management been pledged to secure loans?

17 A. No, sir.

18 Q. Is it correct to say that Rancho Viejo  
19 Waste Management is debt free currently?

20 A. No.

21 Q. Okay. To whom is the company indebted?

22 A. To the parent company.

23 Q. Okay. No third parties, not affiliated  
24 with your family, are owed money by Rancho Viejo  
25 Waste Management. Is that correct?

1 A. That's correct.

2 Q. I'm going to refer to a permit boundary.

3 If I refer to that, do you know what I mean by that  
4 term?

5 A. I believe so.

6 Q. Okay. In referring to the permit boundary,  
7 I'm referring to the approximate 900-plus-acre tract  
8 for which currently Rancho Viejo Waste Management is  
9 seeking a permit from TCEQ. Is that what your  
10 understanding of what I mean by "permit boundary"?

11 A. That's correct.

12 But if you're going to do a line of  
13 questioning along lines, I'd like to see a map that  
14 we could reference.

15 Q. Okay. I don't think I brought you a map  
16 today.

17 MR. MILLER: Would you like one?

18 MR. KOMKOV: Yes.

19 (Pause in proceedings.)

20 (Discussion off the record.)

21 (Exhibit 95 marked.)

22 Q. (BY MR. KOMKOV) Mr. Benavides, I'm putting  
23 in front of you, at your request, a map, as well as  
24 field notes, that we've marked as Exhibit 95.

25 A. Okay.

1 Q. Does Exhibit 95 -- when we've been  
2 referring to "permit boundary," does it accurately  
3 depict what the current permit boundary of the  
4 Pescadito facility is?

5 A. I believe so.

6 Q. Previously, there was a prior permit  
7 application that had a slightly different proposed  
8 permit boundary. Correct?

9 MR. McDONALD: Objection. Form.

10 Q. (BY MR. KOMKOV) Was there?

11 A. There has been.

12 Q. And in a previous permit application, or  
13 prior to the permit application that's on file, the  
14 permit boundary would have included what's shown on  
15 Exhibit 95 as tract 2366. Correct?

16 MR. McDONALD: Objection. Form.

17 A. Yes, sir.

18 Q. (BY MR. KOMKOV) Was all the property  
19 within the permit boundary originally owned by  
20 Rancho Viejo Cattle Company?

21 A. What does "originally" mean?

22 At what point?

23 Q. Has Rancho Viejo Cattle Company ever owned  
24 the property that currently comprises the permit  
25 boundary?

1 A. The entire property.

2 Q. When was the permit boundary property  
3 transferred from Rancho Viejo Cattle Company to  
4 Rancho Viejo Waste Management?

5 A. I don't recall the date, but somewhere  
6 around '11.

7 Q. '11.

8 (Exhibit 96 marked.)

9 Q. (BY MR. KOMKOV) Mr. Benavides, I'm putting  
10 in front of you what's been marked as Exhibit 96.  
11 Do you recognize that document, sir?

12 A. Yes, sir.

13 Q. Is this a true and correct copy of the  
14 general warranty deed that transferred the permit  
15 boundary property from Rancho Viejo Cattle Company  
16 to Rancho Viejo Waste Management?

17 A. It is.

18 Q. And I think you're refreshing your  
19 recollection. Is it correct that that transfer  
20 occurred on April 6th, 2011?

21 A. That's what the document says.

22 Q. Could I get you to look at Exhibit A for a  
23 moment? I believe it appears at 4954.

24 A. It's the same map as Exhibit 95.

25 Q. Actually, if I could get you to pause a

1 moment on saying it's the same map.

2 A. All right.

3 Q. The Exhibit A -- we talked about an  
4 original permit boundary and then a modified permit  
5 boundary.

6 A. Okay.

7 Q. And 95 is an amended permit boundary.  
8 Correct?

9 A. Yes.

10 Q. And if I look at Exhibit A, does it depict  
11 what the original proposed permit boundary for the  
12 facility was?

13 A. Yes.

14 Q. Looking at this Exhibit A, and looking at  
15 the general warranty deed, did this general warranty  
16 deed convey tract 2366 from Rancho Viejo Cattle  
17 Company to Rancho Viejo Waste Management?

18 A. It did.

19 Q. Did this general warranty deed convey  
20 tract 112 from Rancho Viejo Cattle Company to  
21 Rancho Viejo Waste Management?

22 A. Not the entire tract.

23 Q. Did it convey a portion of tract 112 from  
24 cattle company to Rancho Viejo Waste Management?

25 A. Yes, sir.

1 Q. Outside the footprint that's shown on  
2 Exhibit A, did Rancho Viejo Cattle Company convey to  
3 Rancho Viejo Waste Management any additional  
4 property?

5 A. Just the -- I think it's 1,100 acres or so.

6 Q. Did Rancho Viejo Cattle Company convey to  
7 Rancho Viejo Waste Management any roadway access?

8 A. It did.

9 Q. And what form did that conveyance take?

10 MR. McDONALD: Objection. Form.

11 A. Just the agreement to be able to utilize  
12 our existing access road from Highway 59 to 359.

13 Q. (BY MR. KOMKOV) Okay. And so the  
14 conveyance you refer to is a grant of easement from  
15 Rancho Viejo Waste Management to -- from cattle  
16 company to waste management?

17 A. Right.

18 Q. And is that formal grant of easement in a  
19 document that was recorded in the deed records of  
20 Webb County?

21 A. I don't think it has yet.

22 Q. Does Rancho Viejo Waste Management contend  
23 that it has a legally enforceable right against  
24 cattle company to access the permit boundary from  
25 Highway 359?

1 A. Yes.

2 Q. And would you describe for me each basis of  
3 that legal right that the waste management company  
4 has?

5 MR. McDONALD: Objection. Form.

6 A. It's the same owners. They've all agreed  
7 that when we had a final delineation of the roadway  
8 that we would convey.

9 Q. (BY MR. KOMKOV) Okay. Has that final  
10 agreement been reduced to writing in any form?

11 A. No. Because we're still in the permitting  
12 process.

13 Q. So as we sit here today, there's no legally  
14 enforceable right that's been recorded granting  
15 waste management access from the permit boundary to  
16 Highway 359.

17 A. We have it within our minutes of what  
18 we've -- what we're willing to convey and when it  
19 would happen.

20 Q. Okay. But it's not been done at this  
21 point?

22 A. No.

23 Q. Okay. Let me ask the same set of questions  
24 for access from the permit boundary to Highway 59.

25 Does Rancho Viejo Waste Management

1 have a legally enforceable right to access the  
2 permit boundary from Highway 59?

3 MR. PRICE: Objection. Form.

4 A. I think we do.

5 Q. (BY MR. KOMKOV) And could you describe for  
6 me each legal basis upon which that enforceable  
7 right is based?

8 MR. McDONALD: Objection. Form.

9 A. Within the ownership, we've warranted to  
10 each other that we would make those modifications at  
11 the time needed to allow that access to occur.

12 Q. (BY MR. KOMKOV) When you say "within the  
13 ownership," let's pick that apart.

14 Within the ownership of the cattle  
15 company and the waste management, you've reached  
16 some agreement that when the time occurs, you'll  
17 grant an easement to waste management?

18 A. Yes.

19 Q. Okay. The north emergency access road,  
20 I'll call it, crosses ANB Cattle Company Land also.  
21 Correct?

22 A. It does.

23 Q. And does Rancho Viejo Waste Management  
24 contend that it has a legal right to cross ANB  
25 property to get to Highway 59?



1 A. Not at this time.

2 Q. Okay. You say "not at this time." Will it  
3 in the future?

4 A. Yes.

5 Q. And what will be the source of that right  
6 to cross ANB Cattle Company land to access  
7 Highway 59?

8 A. The same rights that Rancho Viejo has will  
9 be conveyed to waste.

10 Q. And those same rights, what is the source  
11 of those rights?

12 A. The cross-conveyances that we did with our  
13 family to allow access to both those highways.

14 (Exhibit 97 marked.)

15 Q. (BY MR. KOMKOV) Mr. Benavides, I'm putting  
16 in front of you what's been marked as Exhibit 97.  
17 Can you identify that document for me?

18 A. It's a document that was created  
19 November 1998 where two families were working  
20 together to share and share alike on ownership of  
21 property.

22 Q. Okay. Is this a true, correct, and  
23 complete copy of the stipulation between ANB and  
24 Rancho Viejo Cattle Company regarding surface  
25 ownership and access?

1 A. It looks right.

2 Q. And when did you say that was executed?

3 A. '98.

4 Q. Okay. Can I get you to turn to page 5 --  
5 Section 5?

6 A. Page 5 of 11?

7 Q. Yes, sir.

8 A. Okay.

9 Q. There's a provision in here regarding  
10 ANB Cattle Company grants, conveys, and confirm to  
11 Rancho Viejo Cattle Company a perpetual,  
12 nonexclusive roadway easement.

13 Do you see the provision I'm referring  
14 to?

15 A. I do.

16 Q. When we were talking earlier about  
17 Rancho Viejo Waste Management's legally enforceable  
18 right to access Highway 59 from the permit boundary,  
19 is this provision 5 the source of that legal right?

20 A. You know, I'm not a lawyer. So I think the  
21 document speaks for itself on a whole, not just  
22 maybe one item.

23 Q. Okay. Well, there's a grant of easement in  
24 here. Are you relying on this grant of easement for  
25 access to Highway 59?

1 A. I'm relying on this document.

2 Q. Okay. And you're relying on any grant of  
3 easement contained in this document. Correct?

4 A. That's correct.

5 Q. Outside of this grant of easement, are  
6 there other provisions of this document that you  
7 contend give Rancho Viejo Waste Management the right  
8 to cross ANB's property?

9 A. I think there could be other things that  
10 might be out there that would continue to support  
11 this document.

12 Q. Okay. And what are those other things?

13 A. I'm not prepared to talk about them today.

14 Q. Oh, I am.

15 Are you able to talk about them --

16 A. You can ask them.

17 Q. I've asked.

18 A. And there are certain things I will talk  
19 about and certain things I won't talk about. We  
20 have a pending case with ANB Cattle Company and I'm  
21 not going to offer any other information on that.

22 Q. Are you refusing to tell me the other  
23 sources that you say give you the right to cross  
24 ANB Cattle Company land to reach Highway 59 from the  
25 permit?

1           A.     I'm still dealing with a current lawsuit  
2 that I have in place in Webb County, and I'm not  
3 going to talk about that.

4                         MS. WHITTLE:  Objection.

5 Nonresponsive.

6           Q.     (BY MR. KOMKOV)  You state there are other  
7 grounds --

8           A.     Yeah.  There's --

9           Q.     -- on which you can cross ANB land to  
10 reach --

11          A.     There's a case that we have --

12          Q.     -- 59?

13                         THE REPORTER:  Wait.  One at a time,  
14 please.

15          A.     There's a case that we have with a  
16 Joe Lopez that we have taken up on appeal and ...

17          Q.     (BY MR. KOMKOV)  What case is that?

18          A.     It's a case that I have with Mr. Price and  
19 ANB Cattle.

20          Q.     Okay.  Does it involve easements?

21          A.     It involves easements.

22          Q.     Which easements?

23          A.     The easement you're talking about.  It  
24 talks -- it talks about the middle class flat tracts  
25 and things of that nature.

1 Q. It talks about roadways?

2 A. I haven't gone into all that part.

3 I'm prepared to talk about whatever  
4 you want to talk about with the landfill.

5 MR. RICHARDSON: Objection.  
6 Nonresponsive.

7 Q. (BY MR. KOMKOV) And what I want to talk  
8 about is, you've proposed for the landfill a north  
9 access -- emergency access route to Highway 59.  
10 Correct?

11 A. That's correct.

12 Q. You understand that your TCEQ application  
13 says you have to discuss the roadways to and from  
14 the permit boundary. Correct?

15 A. That's correct.

16 Q. And the north access is one of your  
17 roadways to and from. Correct?

18 A. Correct.

19 Q. And I'm asking you what are your rights to  
20 use that roadway and to detail them. And we've  
21 listed one which is an easement --

22 A. You've handed 97 to me. It looks pretty  
23 good. I'll stick with that.

24 Q. So there's nothing outside 97 that gives  
25 you the right to cross ANB's land to access the

1 permit boundary. Correct?

2 A. I'm not saying there's not anything else,  
3 but this document speaks for itself. And that's  
4 what I'm sticking with.

5 MS. WHITTLE: Objection.  
6 Nonresponsive.

7 MR. RICHARDSON: Join.

8 Q. (BY MR. KOMKOV) Okay. Sticking to today,  
9 are you able to -- whether you're going to talk to  
10 me about it or not, are you able today to tell me  
11 other sources of right to cross the land of  
12 ANB Cattle Company to reach Highway 59?

13 MR. PRICE: Objection. Form.

14 A. No.

15 Q. (BY MR. KOMKOV) Is that answer, no?

16 A. Yeah.

17 Q. Could I get you to turn to Article 8 on  
18 page 6 of 11 of Exhibit 97?

19 Am I correct that this provision  
20 confirms that certain surveys on tract 2 are owned  
21 in undivided 50 percent interest by ANB Cattle  
22 Company?

23 MR. McDONALD: Objection. Form.

24 MR. PRICE: Objection. Form.

25 A. One more time.

1 Q. (BY MR. KOMKOV) Am I correct that Article  
2 8 confirms that certain surveys on tract 2 are owned  
3 50 percent undivided by ANB Cattle Company?

4 MR. McDONALD: Objection. Form.

5 MR. PRICE: Object to form.

6 A. I'm going to have to ask you to ask that  
7 one more time.

8 Q. (BY MR. KOMKOV) Does ANB Cattle Company  
9 own a 50 percent undivided interest in tract -- in  
10 survey 2366 and survey 112?

11 MR. McDONALD: Objection. Form.

12 A. No.

13 MR. PRICE: Object to form.

14 Q. (BY MR. KOMKOV) It's your position they  
15 own no interest in survey 112?

16 A. No. They own --

17 MR. McDONALD: Objection. Form.

18 A. -- an interest.

19 Q. (BY MR. KOMKOV) And what's that interest?

20 A. It's still not specified.

21 Q. Does the document speak for itself here as  
22 to what their interest is?

23 A. Like I said, I'm in litigation over this  
24 particular matter in another lawsuit, and I'm not  
25 going to speak to any more of that. I do agree that

1 ANB owns something.

2 MS. WHITTLE: Objection.

3 Nonresponsive.

4 MR. MILLER: Same objection.

5 MR. COHEN: Derek, can we have an  
6 agreement that an objection by one is an objection  
7 by all?

8 MR. McDONALD: Sure.

9 MR. PRICE: Yes. That's fine.

10 Q. (BY MR. KOMKOV) Let me break this into  
11 bite-sized pieces. Can you tell me if I'm reading  
12 the first sentence of Article VIII, Exhibit 97,  
13 correctly?

14 "Survey Nos. 1994, 1604, 2366, and  
15 112, as made reference to in Sections Ic and IIa  
16 above, are owned in undivided 50 percent interest  
17 each by ANB Cattle Company Ltd. and Rancho Viejo  
18 Cattle Company respectively."

19 MR. PRICE: Leon, let me stop you  
20 there for a second. Rancho Viejo Cattle Company and  
21 Waste Management's position on what this means is  
22 well stated in our legal briefs in the case that you  
23 know about because you're representing ANB in. If  
24 you want to talk about what this agreement means,  
25 take his deposition in that case.



1 MS. WHITTLE: I object to counsel's  
2 talking objections.

3 MR. KOMKOV: No. I asked him if I  
4 read the sentence correctly, Derek.

5 MR. RICHARDSON: Object to side bar  
6 remarks.

7 MR. PRICE: Well, maybe we need to go  
8 off record for a second.

9 MR. KOMKOV: No.

10 Q. (BY MR. KOMKOV) Did I read the sentence  
11 correctly?

12 A. You read the sentence.

13 Q. To the extent there are surveys in here  
14 that say Rancho Viejo Cattle Company owns an  
15 undivided one-half interest with ANB, do you take  
16 the same position that you don't actually own a  
17 one-half interest in -- Rancho Viejo Cattle Company  
18 doesn't own a true one-half interest in those  
19 tracts.

20 MR. McDONALD: Objection. Form.

21 MR. PRICE: Objection form.

22 A. Rancho Viejo owns the whole of those  
23 tracts.

24 Q. (BY MR. KOMKOV) Rancho Viejo owns the  
25 whole of 112?

1 A. Yes, sir.

2 Q. Rancho Viejo owns the whole of 2366?

3 A. Yes, sir.

4 Q. Has Rancho Viejo paid 100 percent of the  
5 taxes on those tracts?

6 A. Yes.

7 MR. PRICE: Objection to the form.

8 Q. (BY MR. KOMKOV) Has ANB Cattle Company --

9 MS. WHITTLE: What is the basis of the  
10 objection?

11 MR. McDONALD: You're going to have to  
12 go a little slower. We've got people listening in,  
13 so just slow it down a little bit.

14 MS. WHITTLE: I'd like to know the  
15 basis for the objection.

16 MR. PRICE: The basis for these  
17 objections are that the nature of the interests  
18 owned by both Rancho Viejo and ANB is subject to a  
19 pending lawsuit that you are well aware of, Leon, in  
20 Webb County.

21 That is not -- there is an order in  
22 that case, there's not a final judgment, so that is  
23 the forum for adjudicating that interest and what  
24 that interest is and what it's not.

25 MR. RICHARDSON: Can you provide any

1 legal authority for your position, sir?

2 MS. WHITTLE: That's not analogous --

3 MR. RICHARDSON: Like the Texas Rules  
4 of Evidence or any other case law or rule supporting  
5 your position?

6 MR. PRICE: I'm just not going to have  
7 my client testifying today as to the meaning of this  
8 document when --

9 MS. WHITTLE: Are you instructing your  
10 witness not to answer? Because this is a deposition  
11 where we are allowed to look for all potentially  
12 relevant discovery.

13 MR. PRICE: That's fine. You can ask  
14 these questions; I can make may objection.

15 MR. KOMKOV: Okay.

16 MS. WHITTLE: Are you instructing your  
17 witness not to answer?

18 MR. PRICE: I'm not -- I'm just  
19 objecting to the question. I'm not going to  
20 instruct him not to answer, but you have the basis  
21 of my objection.

22 Q. (BY MR. KOMKOV) The original permit  
23 application filed in 2011 proposed to install waste  
24 cells on tract 2366. Correct?

25 A. I believe so.

1 Q. Does the current permit application propose  
2 to install waste cells on 2366?

3 A. No, sir.

4 Q. Does the current application propose to use  
5 any portion of tract 112 for any purpose related to  
6 landfill operations?

7 A. No, sir.

8 (Exhibit 98 marked.)

9 Q. (BY MR. KOMKOV) Mr. Benavides, I've put in  
10 front of you what's been marked as Exhibit 98, which  
11 is an excerpt -- actually, it's two items: It's an  
12 excerpt from the current permit application and then  
13 a surface use agreement attached.

14 Looking at what's -- the page is  
15 RV\_000065. Do you recognize this as an excerpt from  
16 your current permit application?

17 A. I mean, if you want to pull out the  
18 application, we can go to it. If you'll warrant  
19 that it is.

20 Q. I'll warrant that it's the permit  
21 application provided by Baker Botts, an excerpt.

22 A. Okay.

23 Q. Section 4.3, there's a reference there that  
24 survey 2366 will be used for landfill operations.  
25 Do you see that?

1 Is that an accurate statement?

2 A. That it will be used for landfill  
3 operations. I think it has to do just with the  
4 driving over that wedge.

5 Q. Okay. Is it --

6 A. Not actual operations, but, you know, just  
7 ingress and egress, potentially, to the area.

8 Q. So current plan is, 2366 will be used for  
9 landfill operations. Correct?

10 MR. McDONALD: Objection. Form.

11 A. Not in the way you're talking about.

12 Q. (BY MR. KOMKOV) Well, actually, I'm going  
13 to keep asking questions, so --

14 A. Yeah. Go ahead.

15 Q. So it's correct that 4.3 states that it's  
16 going to be used for landfill operations. Correct?

17 MR. McDONALD: Objection. Form.

18 A. It says it's going to be used for  
19 something.

20 Q. (BY MR. KOMKOV) And it's your testimony  
21 that survey 2366 use for landfill operations will  
22 consist of providing egress and ingress between the  
23 two portions of the landfill?

24 A. It's the only thing that I can think of.

25 Q. You're not aware of any plans to use that

1 tract 2366 for landfill drainage?

2 A. No, sir.

3 Q. You're not aware of any plans to use survey  
4 tract 2366 for placement of monitoring wells for the  
5 landfill facility?

6 A. Not that I'm aware of. No.

7 Q. Okay. Well, let's talk about egress and  
8 ingress. Is it the intention to use some or all of  
9 2366 to drive between -- looking at map 95 -- what  
10 I'll call the north and the south portions of the  
11 permit boundary?

12 A. No. It's probably going to be used outside  
13 of the permit boundaries.

14 Q. Okay. So the permit boundary geometrically  
15 consists of, essentially, a north portion which is  
16 relatively square and a south portion which is  
17 relatively rectangular with a notch. Correct?

18 A. Um-hmm.

19 Q. And 2366 is a pie-shaped wedge between  
20 those. Correct?

21 A. That's correct.

22 Q. Where what I'll call the north permit tract  
23 and the south permit tract meet, how big is that  
24 geographic point?

25 A. Meet on the west or meet on the east?

1 Q. Meet on the west.

2 A. Zero.

3 Q. It's a single point in space. Correct?

4 A. It's a rock in the ground that was put  
5 there 100 years ago.

6 Q. How big is that rock?

7 A. I don't know. I haven't seen it.

8 Q. Okay.

9 A. But I've seen it referenced many times.

10 Q. All right. Today -- have you been to the  
11 site recently?

12 A. Yes.

13 Q. If I stood at that single geometric point  
14 where the north and the south permit tracts meet, is  
15 there anything physical I would see that says this  
16 is the point where the north and the south permit  
17 boundaries meet?

18 A. There could be some modern stakes and  
19 whatnot.

20 Q. Okay. Are there any roadways or pathways  
21 currently traversing tract 2366?

22 A. Through its entirety? Yes.

23 Q. Okay. And when you say "through its  
24 entirety," explain what you mean.

25 A. So from that rock, it goes and opens up

1 into just a little triangle that goes all the way to  
2 the eastern boundary of our property holdings.

3 Q. Okay. And for clarity, since we're  
4 painting word pictures, tract 2366 meets the north  
5 and south permit areas at an infinitesimal point on  
6 the west side. Correct?

7 A. Yes.

8 MR. McDONALD: Objection. Form.

9 Q. (BY MR. KOMKOV) And then going eastward,  
10 it broadens out to -- how wide is it at its widest  
11 expanse?

12 A. I'll look at a glossary here.

13 For argument's sake, it appears to be  
14 a little over a half inch so about 550 feet.

15 Q. Okay. And I think we covered this, but I  
16 want to make sure.

17 Sitting here today, does Rancho Viejo  
18 Waste Management company take the position is the  
19 sole and exclusive owner of tract 2366?

20 MR. PRICE: Object to the form.

21 A. We are an owner where ANB shares some  
22 ownership.

23 Q. (BY MR. KOMKOV) Okay. Did Rancho Viejo  
24 Waste Management file documents with the Webb County  
25 Appraisal District showing itself to be the sole



1 owner of tracts 2366 and tract 112?

2 A. I don't think we ever did, no.

3 Q. Okay. Do the Webb County Appraisal  
4 District records indicate that Rancho Viejo Waste  
5 Management is a 50 percent owner of those two  
6 tracts?

7 A. I don't know what's stated there, but I  
8 know we've been paying on the taxes for most of the  
9 entire time since my grandfather passed away until  
10 recently that ANB started paying part of it.

11 Q. Okay. What part has ANB started paying  
12 recently?

13 A. I'm sure they paid for half.

14 Q. When did that start?

15 A. I don't know. Six, seven years ago.

16 Q. Okay. The last several pages, there's a  
17 surface use agreement, pages 3, 4, and 5 of  
18 Exhibit 98.

19 A. What number page?

20 Q. A surface use agreement. RV\_78.

21 A. Okay.

22 Q. 79 and 80.

23 Do you recognize this document?

24 (Document review.)

25 A. Okay.

1 Q. (BY MR. KOMKOV) I'll represent to you it's  
2 from your permit application, but --

3 A. That's fine.

4 Q. -- you can ...

5 Does that appear to be your signature  
6 on this surface use agreement?

7 A. Yes, sir.

8 Q. And does that appear to be your sister's  
9 signature also?

10 A. It is.

11 Q. And are you familiar with this surface use  
12 agreement between Rancho Viejo Cattle Company and  
13 Rancho Viejo Waste Management?

14 A. Yes, sir.

15 Q. Explain to me the purpose of this  
16 agreement.

17 A. I think the document speaks for itself. I  
18 mean, what do you want me -- ask me a specific  
19 question to the document and I'll answer it.

20 Q. Okay.

21 MR. MILLER: Objection.  
22 Nonresponsive.

23 Q. (BY MR. KOMKOV) You executed the agreement.  
24 I was interested in the purpose for executing it.

25 A. It's something that we needed. We created

1 it obviously, and we implemented it as to our  
2 permit.

3 Q. Okay. Is the purpose of this surface use  
4 agreement to permit Rancho Viejo Cattle Company full  
5 access to all the lands of waste management?

6 A. I think I've already answered the question.

7 MS. WHITTLE: Objection.

8 Nonresponsive.

9 Q. (BY MR. KOMKOV) It was filed with the  
10 TCEQ. I'm interested in what you -- what rights you  
11 think this agreement grants to Rancho Viejo Waste  
12 Management.

13 A. Everything that's stated in here.

14 Q. Okay.

15 A. You're the lawyer. Why don't you tell me  
16 what it says?

17 MR. MILLER: Objection.

18 Nonresponsive.

19 Q. (BY MR. KOMKOV) I don't think you want me  
20 to tell you.

21 Outside of this surface use agreement,  
22 does Rancho Viejo Waste Management have any rights  
23 in the property of Rancho Viejo Cattle Company?

24 A. Outside of the 1,100 acres that we conveyed  
25 and outside of ingress and egress to 59 and 359,

1 there's nothing else that it has.

2 Q. Okay. The surface use agreement,  
3 obviously, is not executed by ANB Cattle Company.  
4 Right?

5 A. I think you've mentioned who executed it.

6 Q. Okay. So it's solely between Rancho Viejo  
7 Waste Management and Rancho Viejo Cattle Company.  
8 Correct?

9 A. That's correct.

10 Q. Does Rancho Viejo take the position it can  
11 use survey tract 2366 without the consent of  
12 ANB Cattle Company?

13 MR. McDONALD: Objection. Form.

14 MR. PRICE: Leon, can you clarify what  
15 you mean by "Rancho Viejo" in that statement?

16 Q. (BY MR. KOMKOV) Does Rancho Viejo Waste  
17 Management take the position it can use 2366 for  
18 landfill operations without ANB's consent?

19 MR. PRICE: Objection. Form.

20 A. Rancho Viejo Waste was granted that  
21 acreage, and the portions of those tracts, those  
22 surveys, that you're talking about, and they can do  
23 whatever they want with it.

24 Q. (BY MR. KOMKOV) Just to pick that into  
25 small pieces.

1                   Rancho Viejo Waste Management was  
2 conveyed, or received, all of Rancho Viejo Cattle  
3 Company's right, title, and interest in 2366. Is  
4 that what you're saying?

5           A.     As to the 1,100 acres, which was conveyed,  
6 it has what it has. The document speaks for itself.  
7 Everything you -- you know what was transferred.

8                   MS. WHITTLE:  Objection.  
9 Nonresponsive.

10           Q.     (BY MR. KOMKOV)  Did you intend, on behalf  
11 Rancho Viejo Cattle Company, to transfer all of  
12 cattle company's right, title, and interest in tract  
13 2366 to Rancho Viejo Waste Management?

14           A.     Not its entirety, no.

15           Q.     Okay.  What was reserved from that  
16 transfer?

17           A.     I believe we have -- you said 2366?

18           Q.     Yes, sir.

19           A.     Sorry.  No.

20                   Yes.  We conveyed it in its entirety.

21           Q.     Okay.  Did Rancho Viejo Cattle Company  
22 convey to waste management all of its right, title,  
23 and interest in tract 112?

24           A.     No.

25           Q.     And I take it, then, Rancho Viejo Cattle

1 Company reserved some rights in tract 112?

2 A. No. Some acreage.

3 Q. Some acreage. Okay.

4 So a portion of tract 112 was conveyed  
5 by cattle company to Rancho Viejo Waste Management.  
6 Correct?

7 A. That's correct.

8 Q. And the conveyance took place in that  
9 general warranty deed that we reviewed earlier?

10 A. Yes, sir.

11 Q. Has the tract been resurveyed subsequent to  
12 that conveyance to show its division between the  
13 entities?

14 A. I'm sure there's a survey. Probably  
15 Mr. Mejia's (ph) survey here.

16 Q. Have the Webb County tax records been  
17 corrected to reflect that Rancho Viejo Cattle  
18 Company now owns only a portion of the tract and  
19 Rancho Viejo Waste Management owns the other portion  
20 of the tract?

21 A. I'm sure. Webb County has a habit being  
22 pretty prompt on getting those things switched out.

23 Q. We spoke earlier about a lawsuit in  
24 Webb County and that was the suit brought by  
25 ANB Cattle Company with respect to a determination

1 of its rights in tracts 112 and 2366. Is that  
2 right?

3 A. Yes, sir.

4 Q. You're aware that in that case Webb County  
5 entered summary judgment in favor of ANB Cattle  
6 Company. Correct?

7 A. I am.

8 MR. PRICE: Object to the form.

9 MS. WHITTLE: I just want to object to  
10 the fact that there appear to be two witnesses  
11 defending the deponent -- or two lawyers defending  
12 the deponent. There should be one lawyer making the  
13 objections on behalf of the deponent.

14 MR. McDONALD: Objection noted.

15 (Exhibit 99 marked.)

16 Q. (BY MR. KOMKOV) Mr. Benavides, I'm putting  
17 in front of you what's been marked as Exhibit 99.  
18 And I ask if you can identify that document?

19 A. It's the case that we've been talking  
20 about.

21 Q. I think you referred to it as the Lopez  
22 case. This is the summary judgment entered in that  
23 case. Correct?

24 A. Yes, sir.

25 Q. The judgment was entered March of 2017.

1 Correct?

2 MR. PRICE: I'm going to object to the  
3 form of that, because this is -- there's not a final  
4 judgment in this case.

5 MR. KOMKOV: I said "summary  
6 judgment."

7 MR. PRICE: Oh, I'm sorry. Summary  
8 judgment.

9 MR. KOMKOV: Is there a summary  
10 judgment in the case?

11 MR. PRICE: There's an order. We're  
12 looking at it.

13 MR. KOMKOV: That's what I was asking.

14 Q. (BY MR. KOMKOV) Is this a true and correct  
15 copy of the summary judgment that was entered in the  
16 Webb County case?

17 A. I answered that "yes, sir."

18 Q. Okay. As we sit here today, has this order  
19 been overturned, to your knowledge?

20 A. It has not.

21 Q. Has it been appealed, to your knowledge?

22 A. It's in the process of being appealed.

23 Q. Okay. And what is that process?

24 A. Preparing the case to file it in the fourth  
25 quarter.



1 Q. Okay. Has Rancho Viejo Cattle Company done  
2 anything to advise TCEQ regarding the status of this  
3 Webb County case and the status of tracts 112 and  
4 2366?

5 A. I think the attorneys at TCEQ are aware of  
6 everything that's going on, for the most part.

7 Q. Okay. Your permit application, we looked  
8 at 4.3. It states that you intend to use 2366 in  
9 landfill operations. Correct?

10 A. That's what it reads.

11 Q. Okay. As we sit here today, there's a  
12 summary judgment essentially saying no part of that  
13 tract can be used without the consent of ANB Cattle  
14 Company. Correct?

15 MR. McDONALD: Objection. Form.

16 A. Like I said, it's a pending case. And TCEQ  
17 will look at that, I guess, when it decides, if it  
18 decides, to grant a permit.

19 MS. WHITTLE: Objection.

20 Nonresponsive.

21 (Exhibit 100 marked.)

22 Q. (BY MR. KOMKOV) Mr. Benavides, I'm handing  
23 you what's been marked as Exhibit 100. I ask if you  
24 recognize that document and if you can identify it.

25 (Document review.)

1 Q. (BY MR. KOMKOV) Do you recognize  
2 Exhibit 100?

3 A. Yes.

4 Q. Describe to me what is Exhibit 100?

5 A. It's a Property Development & Utility  
6 Connection Application.

7 Q. Okay. Is this something that you filed  
8 with Webb County on behalf of Rancho Viejo Waste  
9 Management?

10 A. Yes.

11 Q. And page 1, if we look at it, it lists  
12 tracts for which this development application is  
13 filed, and it includes tract 112. Correct?

14 A. It does.

15 Q. What's the purpose of this submission, sir,  
16 if you can recall?

17 A. It was for us to develop a deflection berm  
18 and dam under our federal FEMA CLOMR.

19 Q. Okay. And the deflection berm and dam were  
20 to be located on tract 112?

21 A. Located on several tracts.

22 Q. Including 112?

23 A. Yes, sir.

24 Q. So the deflection berm and dam actually  
25 would be located on 373, 111, 112, and 1654?

1 A. That's correct.

2 Q. Your signature on page 4 attests that the  
3 information in this application correct. Is that  
4 true?

5 A. Yes, sir.

6 Q. Was this to commence the process for a  
7 floodplain development permit?

8 A. Yeah.

9 I guess -- I mean, you're aware that  
10 we had the floodplain manager authorizing everything  
11 we were doing. And then we have John Galo getting  
12 elected to be a commissioner and then things changed  
13 and all of a sudden I need new permits and things of  
14 that nature, and this is the process to try to  
15 scuttle the project.

16 MR. MILLER: Objection.  
17 Nonresponsive.

18 Q. (BY MR. KOMKOV) Let's back up.

19 Does the project, as proposed with the  
20 west detention dam, with the pond, with the CLOMR,  
21 require a Webb County floodplain development permit?

22 A. It does now.

23 Q. It didn't previously?

24 A. The floodplain manager said we're in  
25 compliance, we didn't need anything. We did

1 everything she asked us to do. She signed off on  
2 our project.

3 Q. She gave you a development permit?

4 A. She said she gave us everything she needed  
5 to give us and then, all of a sudden, had an  
6 accident and didn't remember to include it in this  
7 particular permit.

8 MS. WHITTLE: Objection.

9 Nonresponsive.

10 Q. (BY MR. KOMKOV) How long has the  
11 Webb County flood protection ordinance, or order,  
12 been in effect?

13 A. I have no idea.

14 Q. Looking at this, you submitted it in 2016.  
15 Correct?

16 A. Um-hmm.

17 Q. There's a box there. "Any development  
18 found within a regulated floodplain must file a  
19 separate application for a floodplain development  
20 permit."

21 Did you ever file a separate  
22 application for a floodplain development permit?

23 A. No, sir.

24 Q. So John Galo getting elected somehow caused  
25 this notation to be put in here, any development

1 found must file for a floodplain development permit?

2 A. It caused there to be problems. It's the  
3 beginning of the problems that we had with this  
4 project.

5 Q. You have evidence of this?

6 A. Sure.

7 Q. What?

8 A. All you have to do is go to commissioner  
9 hearings and hear their evolution from support to no  
10 support.

11 Q. So Rhonda Tiffin, if she testified in this,  
12 she would say she had earlier waived the Webb County  
13 requirement for a floodplain development permit for  
14 you?

15 MR. McDONALD: Objection. Form.

16 A. I don't know what she'd say.

17 Q. (BY MR. KOMKOV) Do you believe you're  
18 exempt from the Webb County flood prevention order  
19 of 2018?

20 MR. McDONALD: Objection. Form.

21 A. No, sir.

22 Q. (BY MR. KOMKOV) Why haven't you filed a  
23 floodplain development permit then?

24 MR. McDONALD: Objection. Form.

25 A. I have.

1 Q. (BY MR. KOMKOV) You have?

2 When?

3 A. Some time ago.

4 Q. Is this Exhibit 100 your floodplain  
5 development permit application?

6 A. Um-hmm.

7 Q. And this is all you filed in 2016.

8 Correct?

9 A. Since then, as you're aware, we've had it  
10 denied and then sat in at Webb County for the last  
11 18 months.

12 MR. MAGEE: Objection. Nonresponsive.

13 Q. (BY MR. KOMKOV) In 2016 you filed this  
14 Exhibit 100. Did you file anything with it at that  
15 time with Webb County?

16 A. If there is anything else that we needed to  
17 file, I'm sure we did.

18 Q. Page 2, Property Ownership:

19 You list two owners of the tracts  
20 involved; Rancho Viejo Cattle Company and  
21 Rancho Viejo Waste Management. There are spaces  
22 here to show undivided interest owners. You did not  
23 list ANB Cattle Company. Correct?

24 A. I did not list ANB Cattle Company.

25 Q. At any point, did Webb County point out to

1 you that one of the reasons for rejection of your  
2 application was, you weren't listing the undivided  
3 interest owners?

4 A. I don't recall.

5 Q. When you signed this Exhibit 100 under  
6 penalty of perjury, you were aware of the existence  
7 of the stipulation of cross-conveyance, certainly,  
8 weren't you?

9 A. I'm aware to my grandfather's intent on his  
10 gift to his families.

11 MR. MILLER: Objection.

12 Nonresponsive.

13 Q. (BY MR. KOMKOV) When was your  
14 grandfather's gift to the families?

15 A. I don't know.

16 Q. Give me a date.

17 A. Back in '89.

18 Q. Okay. And when was that cross-conveyance  
19 and stipulation signed?

20 A. I don't know. You have it. We had it here  
21 earlier.

22 Q. 1998. Correct?

23 A. Yes.

24 Q. You signed that, didn't you?

25 A. I don't know. Probably. Yes, I did.

1 Q. You -- never mind.

2 In any of our -- of Rancho Viejo Waste  
3 Management's submissions to Webb County, has it ever  
4 indicated that ANB Cattle Company owns any interests  
5 in tracts 112 or 2366?

6 A. I don't recall, but I don't think so.

7 (Exhibit 101 marked.)

8 Q. (BY MR. KOMKOV) Mr. Benavides, I'm going  
9 to hand you what's been marked as Exhibit 101 and  
10 I'll ask you if you can identify this document for  
11 me.

12 A. An updated variation of what you showed me  
13 earlier.

14 Q. And is this a second Property Development &  
15 Utility Connection application filed by Rancho Viejo  
16 Waste Management with Webb County?

17 A. Um-hmm.

18 Q. And it's dated January 25th, 2017?

19 A. That's correct.

20 Q. And looking at the first page of it, this  
21 application continues to involve tract 112?

22 A. It does.

23 Q. Is this application, once again, with  
24 respect to construction of dam and detention pond to  
25 the west of the permit boundary?



1 A. Yes, sir.

2 Q. And when we're talking about floodplain  
3 development permit applications, is this a  
4 development permit application you submitted to  
5 Webb County?

6 A. Yes, sir.

7 Q. Going to page 2, I think it's obvious, but  
8 I just want to confirm with you.

9 Once again, you've -- on the list of  
10 property ownership, you've given no indication that  
11 ANB Cattle Company owns any interest in this tract.  
12 Correct?

13 A. That's correct.

14 Q. To your knowledge, has the 1998 stipulation  
15 ever been modified or revoked?

16 A. It has not.

17 Q. Now, in 2017, when this second permit was  
18 submitted, you're aware at that time that there was  
19 Webb County litigation brought by ANB to obtain a  
20 declaration of its rights in tract 112, weren't you?

21 A. I'm not sure how the time coincides, but it  
22 could have.

23 Q. Can I get you to turn -- and they're not  
24 numbered -- to page 6. It says "Webb County  
25 Floodplain Development Provisions."

1 A. Um-hmm.

2 Q. And this was executed by you. Correct?

3 A. Yes, sir.

4 Q. Do you see the provision above the  
5 development -- in the indented: "The development  
6 permit may be revoked if any false statements are  
7 made on the application"?

8 A. Yeah.

9 Q. Did you believe it was a false statement to  
10 omit undivided interest owners on tract 112?

11 A. Did I admit it was a false statement?

12 Q. Did you believe that your statements were  
13 true, correct, and complete when you omitted ANB as  
14 an undivided owner of tract 112 on this permit  
15 application?

16 A. Yes.

17 Q. Now, the purpose of this permit  
18 application, again, was for purposes of doing the  
19 construction work proposed in the CLOMR?

20 A. Yes, sir.

21 Q. Rancho Viejo Waste Management filed a CLOMR  
22 in 2014. Correct?

23 A. Yes, sir.

24 Q. And it's in the record, and I don't want to  
25 burden the record with more paper, but if I'm

1 talking about the CLOMR, are we in agreement we're  
2 talking about that application that was filed in  
3 2014 by Rancho Viejo?

4 A. That's fine.

5 Q. And it was a CLOMR that was prepared by  
6 TRC Solutions. Is that correct?

7 A. Originally, yes.

8 Q. Did -- when you say "originally" -- and I'm  
9 not trying to be tricky here -- TRC Solutions  
10 prepared the CLOMR. Correct?

11 A. I believe so.

12 Q. And that was in 2011?

13 A. That we prepared the CLOMR?

14 Q. Yes, sir.

15 A. We started working on it before the  
16 submittal. I'm not sure exactly how it started or  
17 what date exactly it started.

18 Q. Okay. Was the CLOMR --

19 A. But I will warrant that we filed something  
20 in 2014.

21 Q. And ultimately, the CLOMR was filed by  
22 Mr. Oden in 2014. Correct?

23 A. With CB&I.

24 Q. Are you aware of any reason why there was a  
25 three-year delay between the preparation of the

1 CLOMR and the filing of the CLOMR?

2 A. Our engineer had a stroke.

3 Q. Okay. Which engineer was that?

4 A. Jim Neyens.

5 Q. Did Mr. Neyens seal the CLOMR or someone  
6 else?

7 A. I don't know if he did seal it. If you  
8 want to produce it, we can look at it.

9 Q. I could show you a copy.

10 I'll represent to you Mr. Frithiof  
11 sealed the CLOMR. Do you recall Mr. Frithiof?

12 A. Yes.

13 Q. Let me ask you this:

14 Does the CLOMR have any applicability  
15 to the current permit application that's before  
16 TCEQ?

17 A. No.

18 Q. Okay. There's no present intention to  
19 construct dam and pond on tract 112?

20 A. We're still looking to do that CLOMR, but  
21 totally, as a ranch, not in conjunction with the  
22 landfill.

23 Q. We talked about the CLOMR. Is it the  
24 intention to eliminate Burrito Tank presently?

25 A. What does "eliminate Burrito Tank" mean?

1 Q. I think the CLOMR proposes that  
2 Burrito Tank be eliminated and water diverted to the  
3 west. Correct?

4 A. I don't think you can eliminate it to  
5 you -- you know, dig it up or something. I think it  
6 will still exist.

7 Q. Well, I think you said that the ranch  
8 intended to proceed with the CLOMR.

9 A. That's correct.

10 Q. As part of that proceeding, is it still the  
11 intention of the ranch, or any other party, to  
12 eliminate Burrito Tank?

13 A. Maybe at some point, but not today.

14 Q. You agree with me that any improvements or  
15 construction projects done in the floodplain will  
16 have to have a Webb County development permit?

17 MR. McDONALD: Objection. Form.

18 A. I would agree with you that they would.

19 Q. (BY MR. KOMKOV) Does Rancho Viejo have --  
20 Rancho Viejo Waste Management have a currently  
21 pending floodplain development permit with  
22 Webb County?

23 A. You know it does.

24 Q. Actually, I don't know it does.

25 Is that your testimony?

1           A.     The same John Galo that you talked about is  
2 holding it up at the public review board for the  
3 last two years.

4                         MS. WHITTLE:  Objection.  
5 Nonresponsive.

6           Q.     (BY MR. KOMKOV)  You've talked about -- how  
7 is John Galo holding it up at the public review  
8 board?

9           A.     All you have to do is watch the  
10 commissioners court meetings; he practically runs  
11 them.

12          Q.     Do you have any evidence to support this,  
13 or this is a surmise of yours?

14          A.     No.  Just looking at yesterday's  
15 commissioners court hearing, you can see.

16          Q.     What happened yesterday regarding it?

17          A.     Just the way he conducts the leadership on  
18 that group.

19          Q.     So let's get this very clear:

20                         Do you have any evidence, sitting here  
21 today, that John Galo has somehow held up your  
22 Webb County development permit?

23          A.     All of Webb County has held it up.

24          Q.     Okay.

25                         MR. MILLER:  Objection.

1 Nonresponsive.

2 Q. (BY MR. KOMKOV) You keep coming back to  
3 John Galo, though.

4 Do you have evidence that John Galo  
5 has held up your Webb County development permit?

6 A. There's things, there's evidence, out there  
7 that he, and the rest of the commissioners court,  
8 have held up that that review.

9 MR. RICHARDSON: Objection.

10 Nonresponsive.

11 Q. (BY MR. KOMKOV) And what is that evidence?

12 A. They have yet to give us a meeting date.  
13 They have yet to assign proper counsel to the review  
14 board. They have yet to assign proper independent  
15 composite information for that public review board.  
16 They have yet to file -- I mean, to fill open seats  
17 on that board so that the people can conduct a  
18 meeting to go ahead and authorize or deny our  
19 permit.

20 Q. Okay. That sounds like you have some  
21 gripes with Webb County. I asked the evidence that  
22 John Galo is --

23 A. Those people are Webb County.

24 Q. John Galo is Webb County?

25 A. Absolutely.

1 Q. What he says, Webb County does?

2 A. What the commissioners and the county judge  
3 say is what Webb County does.

4 Q. How about Commissioner Tijerina?

5 A. Absolutely.

6 Q. Do you have evidence Commissioner Tijerina  
7 is holding up --

8 A. I mean, I don't know who are the particular  
9 commissioners that not have assigned those seats,  
10 but those would be direct people right off the bat.

11 Q. Just to get very clear:

12 You submitted a Webb County floodplain  
13 development permit application. Correct?

14 A. Yes, sir.

15 Q. When did you submit it?

16 A. The first month, the 25th day of 2017.

17 Q. And was that granted or denied?

18 A. Denied.

19 Q. When was it denied?

20 A. I don't know. Shortly after that.

21 Q. Did you resubmit a floodplain development  
22 permit?

23 A. I did.

24 Q. And when was that?

25 A. I don't know. I mean, I don't think it



1 gets resubmitted, I think it gets just moved to a  
2 different venue. I think it went to the county  
3 commissioners then.

4 Q. Did Webb County ever correspond with you  
5 saying that you had not provided all the submission  
6 items that were needed to proceed?

7 A. We've had communication.

8 If you want to talk about a specific  
9 letter, show it to me.

10 Q. Did you withdraw any floodplain development  
11 permit applications?

12 A. Same comment. Show me something.

13 Q. I'm just asking you. I have a right to an  
14 answer. Yes or no?

15 A. I don't recall, sitting here today, but I'd  
16 be happy to look at anything you want to talk about.

17 Q. Okay. You don't recall, sitting here  
18 today, whether you withdrew --

19 A. I mean --

20 Q. -- whether Rancho Viejo Waste Management  
21 withdrew --

22 A. I mean, it's obvious --

23 THE REPORTER: One at a time.

24 Q. -- whether Rancho Viejo Waste Management  
25 withdrew its floodplain development permit

1 application.

2 A. I don't believe, sitting here today, that  
3 we have withdrawn what was the final version that's  
4 waiting to be reviewed by the public review board at  
5 Webb County.

6 THE WITNESS: Can we take a break?

7 MR. KOMKOV: Sure.

8 (Recess: 10:15 a.m. to 10:30 a.m.)

9 Q. (BY MR. KOMKOV) Mr. Benavides, in 2012, did  
10 Rancho Viejo Waste Management enter into a joint  
11 venture agreement with the Green Group Holdings?

12 A. I don't exactly remember what year, but  
13 yes.

14 Q. I may have a reminder.

15 (Exhibit 102 marked.)

16 Q. (BY MR. KOMKOV) I've put in front of you  
17 what's been marked as Exhibit 102. It's a string of  
18 emails, but the one I'm focusing on is the bottom  
19 half of the first page.

20 Does that email refresh your memory  
21 when the joint venture with Green Group may have  
22 been formed?

23 A. Yes.

24 Q. And that would be approximately July 2012?

25 A. June.

1 Q. June of 2012?

2 A. It says, "Notice of June 10th, 2012, to  
3 enter into an agreement with Green Group."

4 Q. Okay. You're absolutely correct.

5 Was the joint venture agreement ever  
6 executed between Rancho Viejo Waste Management and  
7 Green Group?

8 A. It was.

9 Q. And was a formal entity named Rancho Viejo  
10 Ventures, LLC, formed?

11 A. Something like that.

12 Q. What were the broad terms of the joint  
13 venture between Green Group and Rancho Viejo Waste  
14 Management?

15 A. It was pretty simple: 55/45 split in  
16 ownership, with Green Group owning 55 percent.

17 Q. Okay.

18 A. And a board comprising of four members,  
19 with one member, I believe, being a Rancho Viejo  
20 representative.

21 Q. And Green Group appointing three members of  
22 the board?

23 A. That's correct.

24 Q. Were there any members of that venture  
25 besides Rancho Viejo Waste Management and

1 Green Group Holdings?

2 A. No, sir.

3 Q. And was any real property ever conveyed to  
4 the joint venture?

5 A. Yes, sir.

6 Q. What real property was conveyed to the  
7 Rancho Viejo Ventures, LLC?

8 A. Well, it wasn't -- you know, it was --  
9 there were executed documents that were held in  
10 trust should we continue after the so-called  
11 feasibility period.

12 Q. Okay. So let's back up a bit, because I  
13 want to make sure the record's clear.

14 No real property was ever formally  
15 conveyed to Rancho Viejo Ventures, LLC?

16 A. No.

17 Q. Were any contract rights ever formally  
18 conveyed to Rancho Viejo Ventures, LLC?

19 A. Yes.

20 Q. And what were those contract rights?

21 A. They committed like \$1 million -- or a  
22 little bit more than \$1 million to utilize for  
23 extensive engineering and documentation to move  
24 forward and develop the project.

25 Q. When you say "they," and I think I

1 appreciate what you mean. But, for the record,  
2 Green Group Holdings committed that it would fund  
3 \$1 million into the venture for the various purposes  
4 you just named?

5 A. No. Both Green Group and Rancho Viejo  
6 Waste agreed to convey a little over \$1 million at a  
7 65 -- 55/45 split.

8 Q. Okay. And then just to move on to the  
9 second question: That \$1 million contribution was  
10 to be used for what purpose?

11 A. Primarily for engineering.

12 Q. Okay. And when you say "engineering," was  
13 that primarily TRC Solutions at that point?

14 A. No, sir.

15 Q. Was that CB&I at that point?

16 A. No.

17 Q. Who are the engineers that it was to be  
18 used for?

19 A. The new entity contracted a gentleman named  
20 Bill Hodges to do the work. And I don't recall the  
21 name of the company, but he's a recognizable entity.

22 Q. Okay. And what work was Mr. Hodges  
23 specifically contracted to do?

24 A. I guess Green Group wanted to review what  
25 we had put forward as our permit. And then, you

1 know, qualify ownership and other things of that  
2 nature so that it was doing all the things necessary  
3 to secure that they could have the rights to move  
4 forward and develop this project.

5 Q. Okay. And was Mr. Hodges actually retained  
6 by Green Group to do a feasibility study for them?

7 A. I'm not sure if they had part of that done.  
8 But the new entity hired him directly to do those  
9 tasks.

10 Q. Okay. Is that new entity -- or not new  
11 entity anymore.

12 Is Rancho Viejo Ventures, LLC, still  
13 in existence?

14 A. No.

15 Q. Was it formally dissolved?

16 A. I don't think it was formally dissolved --  
17 well, yeah. It was formally dissolved.

18 Q. Okay.

19 A. In a letter from Green Group deciding to  
20 not move forward with their option period.

21 Q. When did Green Group make the determination  
22 not to move forward with its option period?

23 A. I don't recall. About a year later.

24 Q. At this date, does Green Group retain any  
25 direct or contingent rights in the Pescadito

1 project?

2 A. No, sir.

3 Q. Have there been communications between  
4 Rancho Viejo Waste Management and Green Group in the  
5 last, say, 24 months regarding a potential  
6 transaction?

7 A. No, sir.

8 Q. I think you just answered that.

9 And since the dissolution of  
10 Rancho Viejo Ventures, has Green Group expressed any  
11 interest in acquiring any rights in the Pescadito  
12 project?

13 A. Not anything formal.

14 Q. Okay. How about informal?

15 A. I mean, they come to all our meetings,  
16 they've made calls kind of inquiring about us, but  
17 that's it.

18 Q. What was the cause for the dissolution of  
19 Rancho Viejo Ventures?

20 A. I don't know.

21 Q. Was it Green Group that determined to  
22 dissolve it?

23 A. That's correct.

24 Q. And when did that -- when did they give you  
25 notice of their intent to dissolve it?

1       A.    I don't have the letter in front of me, but  
2   it was just something -- like, a letter maybe a  
3   year, year and a half later, they -- for XYZ.  They  
4   didn't really state the reason.

5       Q.    Did they verbally state their reason for  
6   not proceeding?

7       A.    I don't think we had any calls with any of  
8   their senior management.

9       Q.    You had talked earlier about this engineer  
10  that was involved, and one of things you said he was  
11  looking at was ownership.  What specifically was he  
12  looking at regarding ownership?

13      A.    He was just tying in all the different  
14  tracts and everything that we were conveying and  
15  what Rancho Viejo had conveyed to the partnership.

16      Q.    Did Green Group ever express a concern  
17  regarding undivided ownership interests in any of  
18  the tracts in the facility?

19      A.    They expressed an interest to try to  
20  resolve any dispute about what the ownership was of  
21  those tracts.

22      Q.    Was the lack of resolution one of the basis  
23  for their dissolving the venture?

24      A.    I don't know.

25      Q.    Did Green Group have any input into the



1 determination to terminate TRC as the lead engineer  
2 on the permit application?

3 A. Can you repeat that question one more time?

4 Q. Did Green Group ever suggest that, rather  
5 than TRC, a different engineer should be used for  
6 the permit application?

7 A. Yes.

8 Q. And did that occur in or about 2012 when  
9 this venture was ongoing?

10 A. Yes.

11 Q. And what was Green Group's grounds for  
12 contending that a different engineer should be used?

13 A. I think they just believed that that's what  
14 they were bringing to the table was the cash and the  
15 expertise in developing landfills and getting them  
16 permitted nationwide.

17 Q. And did Green Group believe that TRC was  
18 not the proper engineering firm to get this permit  
19 granted?

20 A. No. I don't think they had a problem with  
21 TRC, they just wanted to bring their guy in.

22 Q. And was their guy CB&I?

23 A. No. Their guy was Bill Hodges.

24 Q. Okay. So the original permit application  
25 in 2011 was prepared by TRC Solutions. Correct?

1 A. Yes.

2 Q. And TRC was retained by Rancho Viejo Waste  
3 Management. Correct?

4 A. Originally by Rancho Viejo and then by  
5 waste management.

6 Q. Okay. And I think we spoke earlier, TRC  
7 also prepared the CLOMR that was filed in 2014.  
8 Correct?

9 A. Yes.

10 Q. When did Rancho Viejo Waste Management  
11 terminate TRC as the lead engineer on the project?

12 A. I don't recall the time frame when that  
13 occurred.

14 Q. Was there a reason that Rancho Viejo Waste  
15 Management terminated TRC?

16 A. Yes.

17 Q. And what was that reason?

18 A. The company was being unresponsive.

19 Q. Okay. And can you be specific as to areas  
20 where they were nonresponsive?

21 A. Just simple communication. We had huge  
22 gaps in being able to talk to people on different  
23 tasks that were being performed.

24 Q. Okay. I think you referred earlier with  
25 regard to TRC that one of the engineers had had a

1 stroke. Is that correct?

2 A. The lead engineer and the guy that was the  
3 day-to-day person I would speak to about the process  
4 of our permit.

5 Q. Okay. And was that Mr. Neyens?

6 A. That's correct.

7 Q. And was it approximately around the time of  
8 this stroke that Rancho Viejo Waste Management  
9 terminated TRC?

10 A. I don't recall. I'm sure it was after his  
11 stroke, because that's part of the reasons -- well,  
12 apparently, he was sick and we were not getting  
13 information. And I don't even recall the amount of  
14 time that he lapsed, but, you know, several months  
15 went by and then we were informed that -- that he  
16 was not going to be able to help us, and we decided  
17 to terminate him.

18 Q. Ultimately, Rancho Viejo Waste Management  
19 sued TRC. Correct?

20 A. It did.

21 Q. And do you recall the basis for that  
22 lawsuit?

23 A. Because they forced us to expend a lot of  
24 money in the development of permitting that should  
25 have not occurred.

1 Q. Okay. And specifically, what permitting  
2 did they develop that should not have occurred?

3 A. Different items associated with wetlands  
4 and jurisdictional waters.

5 Q. Okay. Is it an accurate statement that  
6 TRC, in its work, had found that there were  
7 jurisdictional wetlands within the permit boundary?

8 A. Rephrase the question.

9 Q. Had TRC's work on the permit application  
10 determined that there were jurisdictional wetlands  
11 within the permit boundary?

12 A. It was a process that evolved or -- their  
13 first recommendations were that there were no  
14 wetlands present. And then after the fact, when we  
15 had disconnection and kind of when they went dark,  
16 the next thing we know, they had submitted  
17 information saying that there were existing wetlands  
18 to the feds.

19 Q. And when you say "the feds," that was  
20 submitted to the Army Corps of Engineers?

21 A. Yes, sir.

22 Q. And was it this finding of wetlands that  
23 was the cause for Rancho Viejo Waste Management to  
24 sue TRC?

25 A. No.

1 Q. Okay. What else were the basis of that  
2 lawsuit?

3 A. It was based on the fact that they told us  
4 no wetlands existed, then they said there were  
5 wetlands existed. And then on top of that, they  
6 said that it was jurisdictional in nature. None of  
7 which was represented to us by TRC when Rancho Viejo  
8 parent company originally hired them for the  
9 evaluation of the site.

10 Q. Okay. Did they have an explanation why  
11 suddenly they found wetlands on your property?

12 A. No. That's part of the lack of  
13 communication that we were getting. We didn't have  
14 any explanation.

15 Q. Aside from the work on the wetlands, were  
16 there other parts of TRC's work on the application  
17 that Rancho Viejo Waste Management found deficient  
18 or inadequate?

19 A. At that time?

20 Q. At that time. Yes, sir.

21 A. At that time, that's all that we felt that  
22 could be an issue and so we hired an independent  
23 consultant to review their work.

24 Q. And who was the independent consultant?

25 A. Steve Paulson. A company called ACI.

1 Q. And ACI remains the wetlands engineering  
2 firm on this project today. Correct?

3 A. It does. It is.

4 Q. You said "at that time." Were there  
5 subsequent inadequacies or defects that you found in  
6 TRC's work?

7 A. I think there were some modifications that  
8 were done engineering-wise by CB&I and the folks of  
9 Mike Oden after the fact, but not one thing I can  
10 specifically tell you. Just one engineer does it a  
11 little different than the other engineer.

12 Q. Did Mike Oden have to do anything to modify  
13 the CLOMR that had been prepared by TRC?

14 A. I'm not sure how that all went after --  
15 after we were having problems with Jim. I know that  
16 Mr. Chandler -- Pierce Chandler was involved at the  
17 same time, and we tried to work with the different  
18 consultants to make sure there was some kind of  
19 smooth transition and how the finalized documents  
20 were prepared.

21 Q. You and I spoke earlier about Mr. Chandler.  
22 But, for the record, can you identify for me who is  
23 Pierce Chandler?

24 A. He's an engineer that we hired as an  
25 independent consultant to overview and inspect our

1 work from the opposite side of the spectrum during  
2 permitting.

3 Q. Okay. And is he associated with a firm or  
4 does he work individually?

5 A. I believe he's an independent consultant.

6 Q. When was Mr. Chandler retained in this  
7 matter?

8 A. Early on. Probably '11-'12 time frame.

9 Q. So from the start, Pierce Chandler has been  
10 involved overseeing, overseeing, engineering work  
11 on the permit application?

12 A. It was important for us, because of the  
13 scope of the project, that we be as transparent as  
14 possible. And so we brought on what we think are  
15 the best experts out there that looked at things,  
16 you know, both not only as applicants, but also  
17 potential opponents to what we were trying to.

18 MS. WHITTLE: Objection.

19 Nonresponsive.

20 Q. (BY MR. KOMKOV) In addition to  
21 Mr. Chandler, were there any other outside  
22 engineering consultants that you've used to kind of  
23 overview the work in this matter?

24 A. With the permitting part or different  
25 sections of ...

1 Q. With permitting.

2 A. No, sir.

3 Q. Okay. Are there engineers who  
4 independently have reviewed, say, the wetlands  
5 determinations of ACI?

6 A. I don't think anybody has reviewed what ACI  
7 did, other than the consultants that we had with  
8 U.S. Fish & Wildlife and Texas Parks & Wildlife, and  
9 those folks.

10 Q. Okay. Did Green Group's engineer ever do  
11 any wetlands review or oversight in the course of  
12 their involvement with this project?

13 A. They did a cursory of the work that had  
14 been performed and felt that they were in agreement  
15 with what Mr. Paulson and his team had come up with.

16 Q. And when would that have occurred  
17 approximately?

18 A. During their overview option period.

19 Q. So sometime in or about the summer of 2012.  
20 Is that correct?

21 A. That's probably right.

22 Q. When did Green Group's option period  
23 expire? Do you know?

24 A. I don't recall how that was actually  
25 structured.



1 Q. How was the lawsuit with TRC resolved?

2 A. They paid us a settlement.

3 Q. Okay. Approximately how much did they pay  
4 in settlement?

5 MR. McDONALD: And objection. There  
6 is some confidentiality associated with that  
7 settlement.

8 And I'd prefer if you speak generally  
9 to these kind of questions.

10 Q. (BY MR. KOMKOV) If it's subject to a  
11 confidentiality agreement, I will withdraw the  
12 question.

13 A. It is.

14 MR. McDONALD: Thank you.

15 Q. (BY MR. KOMKOV) If you can answer subject  
16 to the confidentiality agreement, did it involve a  
17 cash payment or a release of invoices by TRC?

18 A. Cash and all our documents.

19 Q. Who executed the agreement -- the  
20 settlement agreement on behalf of TRC?

21 A. Their president.

22 Q. Okay. Do you recall his name?

23 A. I forget his name.

24 Q. Was Mr. Frithiof involved at all in the  
25 negotiations regarding the settlement?

1 A. Not at all.

2 Q. Was Mr. Frithiof's work ever a subject of  
3 complaint in the lawsuit?

4 A. I don't think there was anything of his  
5 that we complained about.

6 (Exhibit 103 marked.)

7 Q. (BY MR. KOMKOV) Mr. Benavides, I'm handing  
8 you what's been marked as Exhibit 103. I'll  
9 represent, like the last one, this is a hybrid  
10 exhibit, so it's two parts and we'll go through them  
11 each.

12 The first part, I'll represent to you,  
13 is an excerpt from the currently pending permit  
14 application, Section 16.0. You can believe me on  
15 that, but I'm going to ask you about the substance  
16 of it.

17 A. That's fine.

18 Q. Do you see the last sentence of the first  
19 paragraph, also marked RV\_000138, stating that "STDC  
20 has determined the proposed facility conforms to the  
21 regional plan, and is compatible with land use in  
22 the area"?

23 A. I'm sorry. Which page were you talking  
24 about?

25 Q. 138.

1 A. Okay.

2 Q. The last sentence of the first paragraph.

3 A. Okay.

4 Q. As we sit here today, is it a correct  
5 statement that STDC has determined the proposed  
6 facility conforms to the regional plan and is  
7 compatible with the land use in the area?

8 A. I think that they, as I understood it, were  
9 going to defer to Webb County on that.

10 Q. Okay. If I can get you to turn to the next  
11 two pages --

12 A. In a modification that they did. But at  
13 the time, they did agree to that.

14 Q. Well, all I'm asking is, as we sit here  
15 today, is it the determination of the STDC that the  
16 facility conforms with the regional plan and it's  
17 compatible with land use in the area?

18 MR. McDONALD: Objection. Form.

19 A. Let's move on to the letter that you're  
20 talking about.

21 Q. (BY MR. KOMKOV) Well, first of all, let me  
22 ask. As we sit here --

23 A. I think I already answered the question.

24 MS. WHITTLE: Objection.

25 Nonresponsive.

1 Q. (BY MR. KOMKOV) I don't think you did.

2 A. Yeah. They told me that they were going  
3 defer to Webb County on that determination the last  
4 time I met with these people in Zapata.

5 Q. On August 2nd -- let's look at the last two  
6 pages of this Exhibit 103. Do you recognize these  
7 two pages, the letter from the South Texas  
8 Development Council to Chance Goodin?

9 A. I don't recognize it, but I know some kind  
10 of letter like this existed.

11 Q. Okay. Are you aware that on a vote of  
12 10 to 1 in favor, none opposed, and three  
13 abstentions, the board of the STDC moved to oppose  
14 the current application?

15 A. I didn't know it was that vote, but yeah.

16 Q. Okay. Are you aware that, according to  
17 this letter sent to Mr. Goodin, that that action by  
18 the board is the official opinion of the South Texas  
19 Development Council?

20 MR. McDONALD: Objection. Form.

21 A. As we sit here today, yes.

22 Q. (BY MR. KOMKOV) So it's correct -- and that  
23 was my original question -- as we sit here today,  
24 the STDC opposes the permit application. Correct?

25 A. By this letter, yes.

1 Q. And you agree with me, then, that looking  
2 at Section 16 of the currently filed permit  
3 application that says STDC says that the facility  
4 conforms with the regional plan is not a correct  
5 statement. Correct?

6 MR. McDONALD: Objection. Form.

7 A. No. It is a correct statement.

8 Q. (BY MR. KOMKOV) It's a correct statement  
9 that the STDC today says that the facility conforms  
10 to the regional plan?

11 A. No. It was as -- correct as we submitted  
12 this to TCEQ in our permit application.

13 What you're talking about just  
14 occurred a month ago. Two. Whenever it was.

15 Q. August 2018?

16 A. August, yeah.

17 Q. Okay.

18 A. But we had already filed all this with TCEQ  
19 before that date, as you're aware.

20 Q. I guess, the easy answer is, Section 16  
21 hasn't been updated since this action by the  
22 South Texas Development Council.

23 A. I'm not aware that we have to update it at  
24 this time.

25 Q. Let's -- now, turning back to this

1 Section 16, which is page 138.

2 (Exhibit 104 marked.)

3 Q. (BY MR. KOMKOV) I'll hand you what's been  
4 marked as Exhibit 104. And let's start with  
5 Exhibit 103 on page 138.

6 The final paragraph here notes that  
7 the Webb County judge and all four county  
8 commissioners express support for the project.

9 Correct?

10 A. Yes.

11 Q. Do you agree that in 2016, Webb County  
12 passed the resolution that I've put in front of you  
13 marked as Exhibit 104?

14 A. Can you rephrase your question?

15 Q. Did Webb County pass a resolution in 2016  
16 opposing the Pescadito landfill?

17 A. It appears that they did.

18 Q. Okay. And that resolution predated the  
19 filing in November 2017 of this updated permit  
20 application saying Webb County supports the project.

21 Correct?

22 A. Yes, sir.

23 Q. Okay. Do you agree with me that, as we sit  
24 here today, this third paragraph of Section 16 is  
25 not accurate when it tells the TCEQ that Webb County

1 supports the project?

2 A. As you know, we've been through several  
3 revisions and there's a potential that something  
4 could be, you know, accidentally left behind from the  
5 original corpus of the permit. But I think it's  
6 always been consistent with what I've told you  
7 earlier about our support and then recent backing  
8 off of that support because of certain politics in  
9 the community.

10 MR. MILLER: Objection.

11 Nonresponsive.

12 MR. MAGEE: Objection. Nonresponsive.

13 Q. (BY MR. KOMKOV) The South Texas Development  
14 Council has stated it does not support the project  
15 currently. True?

16 A. I think we've already gone over that.

17 MR. RICHARDSON: Objection.

18 Nonresponsive.

19 Q. (BY MR. KOMKOV) True?

20 A. I've already answered the question.

21 MS. WHITTLE: Objection.

22 Nonresponsive.

23 Q. (BY MR. KOMKOV) I'm asking it again.

24 South Texas Development Council has  
25 dated it does not currently support the Pescadito

1 project. Correct?

2 A. I've already answered that question.

3 Q. Are you refusing to answer it now?

4 A. I've already answered it.

5 Q. How did you answer it?

6 A. You -- you know how I answered.

7 Q. No, I don't.

8 MR. McDONALD: Objection. Form.

9 MS. WHITTLE: Objection.

10 Nonresponsive.

11 A. Let the court reporter read it back to you  
12 if you don't.

13 MR. MILLER: Objection.

14 Nonresponsive.

15 Q. (BY MR. KOMKOV) Has the South Texas  
16 Development Council indicated it does not currently  
17 support the project?

18 A. I've already answered your question.

19 Q. Okay. We'll try it again. Just for --  
20 humor me.

21 A. Why?

22 MR. KOMKOV: Derek, are we going to go  
23 to the judge on a refusal to get a yes-or-no answer?

24 MR. McDONALD: He's already given you  
25 an answer.



1 MR. KOMKOV: And what was it?

2 MR. McDONALD: You've had this same  
3 line of questions before and my recollection is that  
4 he read exactly what it said in the Exhibit 103,  
5 which he has no further information than that.

6 MR. KOMKOV: So was the answer yes or  
7 no?

8 MR. McDONALD: And I don't understand  
9 why you need to ask another question about it.

10 A. The answer was yes, for the second time.

11 Q. (BY MR. KOMKOV) Okay.

12 I'd like to turn to the second  
13 paragraph now of 000138.

14 A. On 103 or 104?

15 Q. That is 103.

16 A. Do you want to go to 128 -- 138?

17 Q. 138.

18 So we've gone through the STDC, we've  
19 gone through Webb County. The second paragraph here  
20 speaks to letters about the proposed project were  
21 submitted to the City of Laredo. Do you see that?

22 A. Um-hmm.

23 Q. What letters were submitted to the City of  
24 Laredo?

25 A. I don't know.

1 I'm sure it was the letters from the  
2 STDC and the original conformance.

3 Q. Okay. It says review letters are being  
4 requested from each entity.

5 So were review letters requested from  
6 City of Laredo regarding the project?

7 A. I don't recall.

8 Q. Do you recall in any context Rancho Viejo  
9 Waste Management inviting the City of Laredo to  
10 review the proposed Pescadito project?

11 A. In a written form?

12 Q. In any form.

13 A. Yes.

14 Q. Okay. What form did that take?

15 A. We met with staff for about a year and a  
16 half.

17 Q. Okay. Is it correct that on May 16th,  
18 2016, the City of Laredo adopted a resolution  
19 opposing the Pescadito project?

20 A. That's true.

21 Q. Okay. Is it correct that on May 15th,  
22 2018, Rancho Viejo sued the City of Laredo for  
23 adopting a resolution opposing the project?

24 A. That's correct.

25 Q. Is it true that that suit was dismissed

1 yesterday?

2 A. That is true.

3 (Exhibit 105 marked.)

4 Q. (BY MR. KOMKOV) Mr. Benavides, I'm putting  
5 in front of you what's been marked as Exhibit 105  
6 and ask if you can identify that document.

7 (Document review.)

8 A. Okay.

9 Q. (BY MR. KOMKOV) Can you identify that  
10 document?

11 A. It's the lawsuit that you just referenced.

12 Q. Okay. This -- for the record, this is a  
13 true and correct copy of the original petition that  
14 Rancho Viejo Waste Management filed against the  
15 City of Laredo and others?

16 A. Yes.

17 Q. And if I look at page 10, I see a  
18 verification. Is that your signature on the  
19 verification?

20 A. Yes.

21 Q. And that signature was to certify that the  
22 facts in this were true. Is that right?

23 A. Yes, sir.

24 Q. The judgment yesterday kind of changes the  
25 tense of my next question, but when this suit was

1 filed, Rancho Viejo took the position that the City  
2 of Laredo had no cognizable interest in the  
3 Pescadito project, didn't it?

4 A. Can you rephrase that.

5 Q. Did Rancho Viejo believe that the City of  
6 Laredo had any recognizable interest with respect to  
7 approving or disapproving the Pescadito project?

8 A. They did not have an interest in our  
9 project.

10 Q. Okay. Is it true and correct that part of  
11 your site operating plan, though, that the Laredo  
12 Fire Department would provide fire service in the  
13 event of an event at the landfill?

14 A. Yes, sir.

15 Q. Okay. Did the City of Laredo ever agree to  
16 provide fire service to the landfill in the event a  
17 fire occurred there?

18 A. I'm sure we don't have something in  
19 writing.

20 Q. But you think there was a verbal agreement  
21 by them to provide fire service to the landfill?

22 A. Well, at the time, when we first applied  
23 for this permit, they were the only show in town.

24 MR. MILLER: Objection.

25 Nonresponsive.

1 Q. (BY MR. KOMKOV) That kind of begs the  
2 question: If they're the only show in town, had  
3 they agreed to provide fire service to you?

4 A. I think there's a couple of options today  
5 that we could use. But at the time, we had spoken  
6 to Chief Landin about this.

7 MR. MILLER: Objection.  
8 Nonresponsive.

9 Q. (BY MR. KOMKOV) You had spoken to the  
10 chief about providing fire service to the landfill?

11 A. I mean, no more than anybody does when  
12 they're building a house. If their house is burning  
13 down, they expect the fire department's going to  
14 show up.

15 Q. Even though the landfill is not in Laredo.  
16 Correct?

17 A. They serve the whole community, as a whole,  
18 including Webb County.

19 Q. Okay. So one of the duties as a city is to  
20 serve Webb County with emergency and fire service?

21 A. Yes.

22 Q. So Webb -- in that sense, the City of  
23 Laredo had some interest -- some cognizable interest  
24 in the Pescadito facility if it was providing fire  
25 and emergency services. Correct?

1 MR. McDONALD: Objection. Form.

2 A. I don't know. I'm not a lawyer.

3 And how you're spinning that I can't  
4 tell you if what you're saying is true.

5 MR. RICHARDSON: Objection.  
6 Nonresponsive.

7 MR. KOMKOV: Do you want to a take a  
8 break very quickly, Derek? Just like three minutes  
9 off.

10 MR. McDONALD: Sure.

11 (Recess: 11:06 a.m. to 11:10 a.m.)

12 MR. McDONALD: I neglected to mention  
13 that we did bring a document today in response to  
14 the subpoena duces tecum. It's a copy of the  
15 résumé.

16 MR. KOMKOV: Oh, okay.

17 MR. McDONALD: We'll pass those  
18 around.

19 MR. KOMKOV: Do you have -- did I --  
20 do you want to put it into the record?

21 MR. McDONALD: No. I don't want to.  
22 I'm just making it available.

23 MR. KOMKOV: Okay. For clarity,  
24 Mr. McDonald's had just produced a current résumé  
25 for Mr. Benavides. It is marked as RV\_103048, but I

1 don't think we'll burden the record with it.

2 Q. (BY MR. KOMKOV) Mr. Benavides, the current  
3 permit application proposes a 73-, approximate, acre  
4 disposal cell footprint. Correct?

5 A. Yes, sir.

6 Q. I take it it's the ultimate plan of  
7 Rancho Viejo Waste Management to have a larger waste  
8 cell footprint approved on the permit boundary.  
9 Correct?

10 A. Not at this time.

11 Q. So the sole intent at this time is to have  
12 a 73-acre waste cell footprint?

13 A. That's correct.

14 Q. And the reason I ask -- and, again, we've  
15 talked about things getting caught up.

16 The permit application continues to  
17 speak to ultimately seeking a 900-acre cell  
18 footprint, but it's your testimony here today that  
19 the sole intention at this point is to get a 73-acre  
20 footprint?

21 MR. McDONALD: Objection. Form.

22 A. That's correct.

23 Q. (BY MR. KOMKOV) Has Rancho Viejo Waste  
24 Management performed any economic feasibility studies  
25 regarding a 73-acre disposal footprint?

1 A. We have not.

2 Q. Internally, have you sought to create any  
3 estimates as to how many loads per day would have to  
4 be accepted for a 73-acre footprint to break even?

5 A. No.

6 I think we testified to TCEQ, by our  
7 application, what we think we can create with our  
8 permit moving forward and bringing about 1,000 tons  
9 a day to the site.

10 MR. COHEN: Can the witness speak up a  
11 little louder? We're having a hard time hearing.

12 THE WITNESS: I'm sorry.

13 Q. (BY MR. KOMKOV) So for clarity, and for  
14 Mr. Cohen, it's your testimony that you've testified  
15 to TCEQ that the 73-acre footprint of landfill cells  
16 should be able to accept 1,000 tons a day of waste?

17 A. Correct.

18 Q. The permit application talks about the  
19 various kinds wastes that Rancho Viejo Waste  
20 Management proposes to accept at Pescadito.  
21 Correct?

22 A. Yes, sir.

23 Q. Would that waste stream vary in any way  
24 from what the permit application says with respect  
25 to creating a 73-acre waste footprint versus a



1 900-plus-acre?

2 A. I think they're similar.

3 Q. Okay. Are there some differences that you  
4 would foresee in the waste stream you had proposed  
5 to accept at a 73-acre site?

6 A. No.

7 I think that our project has the  
8 ability to work within the community to make it a  
9 successful project. And if the economics drive it,  
10 then we'll look to consider to expand the facility.

11 Q. Okay. Let's get concrete on that.

12 You just talked about within the  
13 community. Is the 73-acre site proposing to accept  
14 City of Laredo household waste?

15 A. Yes, sir.

16 Q. Do you know what the tipping fee would be  
17 per truckload.

18 A. I'm not sure what we would charge yet. It  
19 will be a range. You know, somewhere between \$17 to  
20 \$32 probably.

21 Q. Okay. And is that comparable with what  
22 Ponderosa's charging?

23 A. I don't know what Ponderosa's charging.

24 Q. Is it comparable with what the city  
25 landfill is charging?

1 A. I'm sure it is. But there's things about  
2 our element that are helpful to the City of Laredo.

3 Q. Okay. And can you describe for me what  
4 those are?

5 A. Yeah. Because of our project, the City of  
6 Laredo could indefinitely keep its current permit  
7 alive and provide a much needed resource for them.  
8 They have a huge lack, or need thereof, of cover or  
9 fill. And so they could send waste to us and we can  
10 send material back to them for cover. And we can  
11 reapply and redevelop that footprint to allow us to  
12 move back and forth those goods using the KCS  
13 railway system.

14 Q. Okay. So you're proposing to use the KCS  
15 railway system to transport fill and waste back and  
16 forth with the city landfill?

17 A. That's correct.

18 MR. McDONALD: Objection. Form.

19 A. Redevelop the existing landfill so that it  
20 can continue its life. It could even potentially  
21 reduce the overall height that it's currently at and  
22 maybe even manipulate it to create some kind of  
23 parks or something on that project one day.

24 Q. (BY MR. KOMKOV) Have you had discussions  
25 with the city regarding this proposal to move waste

1 from the city landfill to Pescadito by a KCS  
2 railroad?

3 A. Yes.

4 Q. And who did you discuss that with there?

5 A. With their staff.

6 Q. Okay. Any staffer in particular you  
7 recall?

8 A. Riazul, John Porter, primarily.

9 Q. Have these discussions ever been reduced to  
10 writing?

11 A. No.

12 Q. Have you discussed what kind of rail  
13 handling facilities would have to be constructed in  
14 order to move waste back and forth from the city  
15 landfill to Pescadito?

16 MR. McDONALD: Objection. Form.

17 A. I mean, briefly.

18 Q. (BY MR. KOMKOV) Okay. What -- where on  
19 the KCS railroad track would Pescadito be offloading  
20 these prospective shipments from the City of Laredo  
21 landfill?

22 A. Well, it depends what you built on.  
23 Currently, right now, you'd be using the intermodal  
24 facility there right next to the landfill and the  
25 double tracks that exist between the Benavideses and

1 the Hurds.

2 Q. Okay. And has there been a proposal with  
3 regard to the actual physical facilities that would  
4 have to be built there to use the KCS rail line as a  
5 source for this transferred waste?

6 MR. McDONALD: Objection. Form.

7 A. Can you kind of rephrase that question? It  
8 seems like two questions to me.

9 Q. (BY MR. KOMKOV) It probably was.

10 You've been speaking with the City of  
11 Laredo about maybe they could offload waste from  
12 their landfill to the Pescadito project --

13 A. It's been a good while since I've spoken to  
14 them, but the same people are still in place there  
15 at the city.

16 Q. When -- maybe let's start there.

17 When did those discussions occur?

18 A. Maybe four years ago.

19 Q. Okay. And the discussions were the  
20 possibility of them removing waste from the Laredo  
21 landfill and transferring it by train to the  
22 Pescadito landfill.

23 A. Our communication has evolved over time.  
24 In 2011, the city had failed on the ability to get a  
25 permit, Ponderosa did not exist, we're applying. So

1 we started talking about how we could integrate our  
2 projects. At that time, the city only had, say, six  
3 or seven years of life. They have since amended  
4 their permit, but, at that time, had a short fuse on  
5 that.

6 But some things haven't changed along  
7 with that. They still have a real need for landfill  
8 space. They are trying to work on changing  
9 easements, and things of that nature, to expand that  
10 life at the existing facility. And the reason for  
11 that is because that location is functional. So  
12 tied with that, ultimately, just by working with us  
13 and redeveloping their project, they can save  
14 closure costs indefinitely and that's somewhere  
15 between thirty and forty-five million dollars right  
16 off the bat. So with those kind of real savings,  
17 you look at how you can option out with a company  
18 that can actually be helpful to you like Pescadito.

19 Q. How many acres does the Laredo landfill  
20 occupy?

21 A. I don't know. 250, 300 acres.

22 Q. We've talked about the 73-acre landfill and  
23 it would be accepting, you believe, household waste  
24 from the City of Laredo. Is it still Rancho Viejo  
25 Waste Management Company's intention to accept coal

1 ash waste in a 73-acre footprint?

2 A. I mean, we're not going close ourselves off  
3 to any option that's economically viable to come to  
4 our community or to our landfill facility.

5 Q. Okay. How would coal ash be transported to  
6 your landfill facility?

7 A. How would it be?

8 Q. Yes, sir.

9 A. I'm sure over rail.

10 Q. Are there any specific handling issues  
11 relating to coal ash from transferring it from rail  
12 to a landfill?

13 A. There could be. I don't know.

14 Q. Have you explored at all what facilities  
15 might have to be built in order to handle coal ash  
16 at the facility?

17 A. No.

18 Q. Would you intend to accept medical waste at  
19 the 73-acre landfill facility?

20 A. No.

21 Q. Okay. Would you still be intending to  
22 accept Mexican industrial waste at the 73-acre land  
23 facility?

24 MR. McDONALD: Objection. Form.

25 A. I would stipulate that we'd be willing to

1 take anything that is nonregulated, hazardous,  
2 maquiladora U.S. waste coming from Mexico.

3 Q. (BY MR. KOMKOV) Maybe I can do -- I think  
4 I've summarized this, but I'll try.

5 Is there any waste stream set forth in  
6 the current permit application that you would not be  
7 accepting at this 73-acre footprint?

8 A. I think any waste that the TCEQ allows me  
9 to bring under MSW I or Industrial 1, 2, and 3 could  
10 be. If it's economically viable, we would look into  
11 it as an option that we might/would take it.

12 Q. Okay.

13 A. We're preparing, just like Ponderosa and  
14 just like the City of Laredo, the identical permits  
15 that they have is all we're requesting.

16 Q. But as we sit here today, there has been no  
17 economic viability study been done regarding the  
18 73-acre footprint?

19 A. Nothing that's written.

20 Q. Okay. Anything, unwritten, discussions  
21 regarding the economic viability?

22 A. My siblings and I have talked about it and  
23 we think that it's economically viable.

24 Q. Was an economic viability study ever  
25 performed with respect to the 900-acre waste cell

1 facility?

2 A. We had a review of what we think economics  
3 could be performed by CB&I.

4 Q. Okay. And they did a formal report for  
5 you?

6 A. Yeah. Kind of a draft report, a summary,  
7 of what they thought might/could happen.

8 Q. Is one of the potential considerations that  
9 you've had simply the economics of obtaining a  
10 permit and selling it to a third party?

11 A. I'm sure that that could be an economic  
12 interest for someone. But we're no different than  
13 the Gregorys here in Travis County trying to build a  
14 landfill permit, you know, utilizing our backgrounds  
15 similar to theirs.

16 Q. First of all, let me get an answer to my  
17 question.

18 Have you undertaken to study whether  
19 it would be profitable simply to obtain a permit and  
20 sell it to a third party?

21 A. The only thing I would agree to tell you is  
22 that if you have a permit and you have real estate,  
23 that's got a value.

24 Q. Did you ever charge TRC with the task of  
25 trying to determine what the value of a permit was



1 if it was sold to a third party?

2 A. I think they may have commented on it in  
3 the past on the original footprint.

4 Q. Okay. And since then, have you charged  
5 anyone else with the task of trying to develop a  
6 model for obtaining a permit and selling it?

7 A. No.

8 Q. You talked about the Gregorys and your  
9 similar background. Have you ever operated a  
10 landfill before?

11 A. No.

12 Q. Have you ever permitted one before?

13 A. No, sir.

14 Q. Have you ever owned an interest in any  
15 waste disposal corporation that was not publicly  
16 traded?

17 A. No, sir.

18 Q. Who's Bernhard Capital?

19 A. Bernhard Capital?

20 Q. Yes, sir.

21 A. Jim Bernhard.

22 Q. Okay.

23 A. That's who Bernhard Capital is.

24 Q. Have you negotiated with Bernhard Capital  
25 for an investment in the Rancho Viejo Waste

1 Management project?

2 A. They have talked to us about making an  
3 investment in the project.

4 Q. Okay. Are there still discussions with  
5 Bernhard Capital?

6 A. No, sir.

7 Q. What -- when did they talk about making an  
8 investment in the project?

9 A. About the time when the city took action  
10 against our project, the resolution opposing the  
11 project.

12 Q. So approximately the date that the city  
13 resolved to oppose the project was when you were  
14 talking with Bernhard Capital about an investment?

15 A. That's correct. And, you know, maybe a  
16 couple of years, you know, before that as well.

17 Q. Okay. Did anything ever get reduced to a  
18 term sheet or to writing regarding their investment  
19 in the project?

20 A. I don't think that we had a term sheet that  
21 we came up with, no.

22 Q. Okay. Has Rancho Viejo Waste Management  
23 negotiated with other groups or companies regarding  
24 an investment in the project besides the Green Group  
25 and Bernhard Capital?

1           A.    No.  Nothing -- nothing that -- I think  
2  that's about it, probably.

3                       MR. KOMKOV:  Okay.  I'll pass the  
4  witness.

5                                       EXAMINATION

6           BY MR. RICHARDSON:

7           Q.    Mr. Benavides, my name is James Richardson.  
8  You and I know one another and have known one  
9  another for a number of years.  Isn't that correct?

10          A.    Yes, sir.

11          Q.    I'm going to ask you some questions on  
12  behalf of the Jordan Group and also on behalf of  
13  JEV Family, Ltd., today.

14                       So my first question for you, sir, is  
15  you have produced a résumé during the deposition.  
16  Correct?

17          A.    Yes, sir.

18                                       (Exhibit 106 marked.)

19          Q.    (BY MR. RICHARDSON)  I hand you what's been  
20  marked as Deposition Exhibit 106.

21                       Is that a true and correct copy of the  
22  résumé that you produced today?

23          A.    Yes.

24          Q.    And when did you prepare this résumé?

25          A.    I don't know.  It's been a while.

1 Q. So this was not something recently  
2 prepared, it was something you prepared some time  
3 ago?

4 A. I think I may have made some small  
5 modifications to it.

6 Q. When?

7 A. Recently. I don't know.

8 Q. Okay. And "recently" means within a couple  
9 of weeks or --

10 A. Yeah. Preparing for this.

11 Q. Preparing for this --

12 A. I think it was a request. You-all had  
13 asked and I think I went over a few things. I don't  
14 recall exactly, but I did tweak a few things.

15 Q. All right. What did you tweak?

16 A. For example, the 300K at the Boys & Girls  
17 Club on my annual event.

18 Q. Okay. Anything else?

19 A. That's about it, I think.

20 Q. Okay. Does this résumé accurately  
21 represent your educational background education?

22 A. I'm pretty sure it does.

23 Q. Are there any educational courses that  
24 you've attended that are not represented on this  
25 résumé?

1 A. Yes.

2 Q. What are those?

3 A. I spent some time at TSTI in Waco in the  
4 wildlife management school. I spent some time at  
5 Texas A&M learning embryology and artificial  
6 insemination. I spent some time at Texas Christian  
7 University in a specialty school for range  
8 management. I ultimately do not have a degree, in  
9 case that was your question.

10 Q. That actually was not my question. I was  
11 going to be asking that in a few minutes.

12 Other than the other schools or  
13 educational facilities that you've attended,  
14 anything else? Any other facilities or educational  
15 facilities or colleges or universities of any kind  
16 other what are shown on the résumé under "Education"  
17 and that you've just listed?

18 A. I spent time on working for Soil and  
19 Water -- not working for them. Working with Soil  
20 and Water Conservation District. Webb County, I  
21 spent time in Webb County ag with  
22 George Gonzalez and those guys.

23 Q. Webb County ag?

24 A. Yeah. The Agriculture Extension Office.

25 Q. Okay.

1           A.    I participated in that organization for a  
2 number of years.

3           Q.    Anything else?

4           A.    I think that's about it.

5           Q.    Okay.  So I'm going to ask you a few  
6 follow-up questions about these items.

7                         Sul Ross University you indicate is  
8 the university you attended.  That's in Alpine,  
9 Texas.  Correct?

10          A.    Yeah.

11                         So I include that there because that's  
12 the place -- the last place I was at school.  I was  
13 going to get a degree there in wildlife and range  
14 management.

15          Q.    So when this résumé states Sul Ross  
16 University, wildlife and range management, you're  
17 not stating that you have a degree in that subject.  
18 Correct?

19          A.    That's correct.

20          Q.    How many credit hours did you obtain from  
21 Sul Ross University?

22          A.    I don't recall separately.  But  
23 collectively, between that, and then I also have a  
24 small stint at St. Mary's University, about  
25 106 hours.

1 Q. Hold off. I'm asking about Sul Ross right  
2 now.

3 How many hours --

4 A. Yeah. I'm not going to be able to identify  
5 those for you.

6 Q. So sitting here today, you don't know how  
7 many hours that you earned at Sul Ross University?

8 A. No, sir.

9 Q. Next question:

10 Was that Sul Ross University campus  
11 that you attended in Alpine, Texas?

12 A. It is.

13 Q. All right. And how many quarters did you  
14 attend?

15 A. I probably attended for about a year and a  
16 half.

17 Q. Why did you leave?

18 A. My grandfather was looking to retire and  
19 handed me over the company, at the time, to run.

20 Q. All right. And after you left Sul Ross  
21 University, did you ever return there to earn  
22 additional credit hours?

23 A. No, sir.

24 Q. Okay. You also stated that after you left  
25 Sul Ross University, you had some credit hours at

1 St. Mary's University?

2 A. This is all before.

3 Q. Before. Okay.

4 How many credit hours did you earn at  
5 St. Mary's University?

6 A. I'm telling you I don't remember  
7 individually, but collectively, somewhere  
8 around 160.

9 Q. All right. So how many quarters did you  
10 attend St. Mary's University?

11 A. Like a year and a half as well.

12 Q. All right. Why didn't you ever obtain a  
13 degree?

14 A. I just told you why.

15 Q. Because your grandfather passed away and  
16 you took over his business?

17 A. He didn't pass away.

18 Q. Okay.

19 A. He wasn't feeling well, wanted to retire.  
20 He and I had a working relationship, and he handed  
21 me over about 33 employees and different parcels of  
22 property and said, Hey, I want you to take care of  
23 it all.

24 Q. Okay. Now, let me follow up on some of  
25 your answers about these other aspects to your



1 résumé.

2                   You don't have anything listed on here  
3 about TSTI-Waco, but you just mentioned that. What  
4 did that entail?

5           A.     They're all wildlife/range management  
6 schools except for St. Mary's.

7           Q.     How long of a school was that? How long  
8 did it last?

9           A.     Again, about a year or so.

10          Q.     All right. Did you obtain any type of  
11 certificate from that class?

12          A.     I may have gotten some certificates, but I  
13 don't recall.

14          Q.     Did you graduate from that class?

15          A.     I did not graduate from there.

16          Q.     And then what about Texas A&M? You said  
17 you attended Texas A&M to learn about embryology and  
18 artificial insemination. When did that occur?

19          A.     They were just specialty classes during  
20 that same time frame. You're talking about a  
21 four-year stint, more or less, and I would go for  
22 specialty schools.

23          Q.     I'm not just not sure what the time frame  
24 is. Can you be specific about what time frame that  
25 was?

1 A. From the time I was 19 to 23 years of age.

2 Q. All right. And did you obtain any kind of  
3 degree in embryology and artificial insemination?

4 A. No.

5 Q. How many courses did you take?

6 A. It was just specialty courses. Single  
7 courses to each one.

8 Q. One for embryology and one for artificial  
9 insemination?

10 A. They're not designed for a degree, it's  
11 just for ...

12 Q. Did you just audit those classes?

13 A. Basically.

14 Q. Then Texas Christian University, that was  
15 also range management?

16 A. Yes, sir.

17 Q. Was that also during the same period of  
18 time, between the period you were -- from the date  
19 you were 19 to the date you were 23?

20 A. Yes, sir.

21 Q. Any formal degree awarded to you from  
22 Texas Christian University?

23 A. No, sir.

24 Q. All right. Soil and Water Conservation  
25 District in Laredo. Is that correct?

1 A. Um-hmm.

2 Q. And how long did you work there?

3 A. I didn't work there, that's an  
4 organization.

5 Q. Okay.

6 A. And I was part of that organization.

7 Q. What was your title or position?

8 A. No title, just a member.

9 Q. Were you a member of management of Soil and  
10 Water Conservation District in Laredo?

11 A. Nothing to do with the direct management,  
12 just the collective as being a landowner in  
13 Webb County.

14 Q. But I'm -- I'm trying to get to this.  
15 You didn't serve as an officer or  
16 director. Correct?

17 A. No, sir.

18 Q. Your answer is yes --

19 A. No, sir.

20 Q. -- or no? Okay.

21 And finally, Webb County Agricultural  
22 Extension Office. You said you worked with them for  
23 a number of years.

24 A. Yes, sir.

25 Q. Doing what?

1           A.     Promoting Webb County ag and  
2     introducing youth to ag programs for, I don't  
3     know, six to ten years.

4           Q.     Did you hold a formal title or position  
5     with Webb County agricultural extension office?

6           A.     No, sir.

7           Q.     Were you paid any salary?

8           A.     No, sir.

9           Q.     You were essentially just sponsoring and  
10    promoting it?

11          A.     Yes, sir.

12          Q.     Free, gratis.

13          A.     Yes.

14          Q.     Looking at your résumé, there is -- under  
15    "Education," there is a topic called "Professional."

16                    Do the items listed under the  
17    "Professional" topic comprehensively list all of the  
18    activities that you've been involved with during  
19    your career?

20          A.     Yes.

21          Q.     Also, there's a topic called "Civic," which  
22    is about the center of the résumé. Does that  
23    accurately depict all of the civic activities you've  
24    been involved with during your career?

25          A.     Yes.

1 Q. And finally, on "Awards," does that  
2 accurately depict the awards that you've received  
3 during your career?

4 A. Yes, sir.

5 Q. Are there any professional -- pardon me.  
6 Are there any civic activities or  
7 awards that you've been involved in, or that you've  
8 received, other than the ones shown here?

9 A. I don't think so.

10 Q. Now, going back to the professional  
11 category. I'd like to ask you about different  
12 organizations or businesses that are listed under  
13 "Professional" that you were involved in managing.  
14 Okay? Not just being a member, but managing.

15 So if I were to go through this list,  
16 my first question is, were you ever a manager of the  
17 Texas Deer Association?

18 A. No.

19 Q. Did you ever hold any title or position  
20 with Texas Deer Association other than member?

21 A. Lifetime member.

22 Q. Other than lifetime member.

23 A. No.

24 Q. Did you ever hold any position as manager  
25 with Exotic Wildlife Association?

1 A. No, sir.

2 Q. And did you ever hold the title or position  
3 other than lifetime member of that organization?

4 A. No. No, sir.

5 Q. Next is Benavides Family Mineral Trust,  
6 trustee. Is that -- do you classify that as a  
7 business?

8 A. Yes.

9 Q. What's your title or position with that  
10 business?

11 A. Trustee.

12 Q. Anything else?

13 A. No.

14 Q. Are you an officer of that entity?

15 A. Yes.

16 Q. What's your title or position as an  
17 officer?

18 A. Trustee.

19 Q. Anything else?

20 A. No.

21 Q. I guess what I'm getting to is, are there  
22 positions, like, for example, president, vice  
23 president, treasurer for that organization?

24 A. No, sir.

25 Q. Are you managing trustee?

1 A. I'm the comanaging trustee.

2 Q. Who's the comanager?

3 A. Anna Galo.

4 Q. Anyone else?

5 A. AT Benavides.

6 Q. Anyone else?

7 A. No.

8 Q. Okay. The next one that you have listed is  
9 Rancho Viejo Cattle Company. It states member. Is  
10 that a Texas corporation?

11 A. No.

12 Q. Does it have officers and directors?

13 A. It's a partnership.

14 Q. All right. Who are the partners?

15 A. CY Benavides Sr, III; Guillermo David  
16 Benavides; and Linda Cristina Alexander.

17 Q. All right. And what about Rancho Viejo  
18 Waste Management, LLC? This notes you're the  
19 manager of Rancho Viejo Waste Management, LLC. Is  
20 that correct?

21 A. I am one of three managers.

22 Q. Who are the other managers?

23 A. Guillermo David and Linda Cristina.

24 Q. All right. And then the next one is Trophy  
25 Magazine, president. Is Trophy Magazine in

1 existence today?

2 A. No.

3 Q. When did Trophy Magazine enter into  
4 business?

5 A. '94.

6 Q. How long was it in existents?

7 A. About a year.

8 Q. During the period within which it existed,  
9 were you the president?

10 A. Yes.

11 Q. So when it says here Trophy Magazine,  
12 president, that's incorrect, isn't it?

13 A. What do you mean?

14 Q. Well, you're not the president of  
15 Trophy Magazine if Trophy Magazine went out of  
16 business in 1995. Correct?

17 A. It's about what I did at that time.

18 Q. Okay. So some of these are what you did at  
19 that time, but don't necessarily indicate that  
20 you're an officer now at the time this résumé was  
21 presented today at the deposition?

22 A. I still own Trophy Magazine; Trophy  
23 Magazine's mine.

24 Q. So you're still the president of  
25 Trophy Magazine even though it no longer exists?



1 A. No. It's just not active.

2 Q. Okay.

3 A. It exists.

4 Q. All right. Next is Camino Colombia Toll  
5 Road, LLC. It states president. Are you still the  
6 president of Camino Colombia Toll Road?

7 A. I'm still the president of Camino Colombia  
8 Toll Road.

9 Q. And then finally, Rio Grande International  
10 Study Center promotor. Were you an officer or  
11 director with that entity?

12 A. Lobbyist.

13 Q. Okay. Lobbyist?

14 A. Yes, sir.

15 Q. Any other title or position?

16 A. And member.

17 Q. Other than lobbyist and member, any other  
18 title or position?

19 A. No, sir.

20 Q. All right. So what I'd like to do is start  
21 with the first entity here that you've indicated you  
22 were -- that was a business that you were a trustee  
23 on, and that's the Benavides Family Mineral Trust.

24 When did the Benavides Family Mineral  
25 Trust come into existence?

1 A. Somewhere around '89 or so.

2 Q. And what's the business goal of the  
3 Benavides Mineral Trust?

4 A. Its goal is to manage and seek to enter  
5 into third-party negotiations, and then ultimately  
6 contracts, to explore in every form somewhere around  
7 150,000 acres.

8 Q. All right. And 150,000 acres of Benavides  
9 family property? Or would it include properties  
10 outside the Benavides family?

11 A. It would include properties within --  
12 surface properties with the Benavides, but  
13 ultimately where the Benavides own the fee titles to  
14 the mineral estate.

15 Q. All right. And has the Benavides Family  
16 Mineral Trust been involved in litigation?

17 A. Sure.

18 Q. How many times?

19 A. I don't know. I haven't been an original  
20 trustee.

21 Q. Well, since you've been -- when did you  
22 become a trustee?

23 A. I don't know. Maybe around 2002-'3 during  
24 that time frame.

25 Q. How many lawsuits has Benavides Family

1 Mineral Trust been involved in since you've been a  
2 trustee starting in 2003?

3 A. I don't think any.

4 Q. I thought you just said that they were  
5 involved in lawsuits.

6 A. They were.

7 Q. So you're saying they were involved in  
8 lawsuits before you became a trustee?

9 A. Yes.

10 Q. So your testimony is today, that since you  
11 became a trustee in 2003, to your knowledge, the  
12 Benavides Family Mineral Trust has not been involved  
13 in any litigation?

14 A. I don't think we've been in any litigation,  
15 no.

16 Q. All right. Next, Rancho Viejo Cattle  
17 Company. It indicates you're a member along with  
18 your siblings.

19 When did you become a member of  
20 Rancho Viejo Cattle Company?

21 A. When that document -- conveyance that my  
22 dad and my uncle ultimately made from their  
23 inheritance with my grandfather and my great uncle.

24 Q. Is Rancho Viejo Cattle Company a Texas  
25 corporation?

1 A. I think I've already answered that.

2 Q. I'm sorry. If you did, I don't remember.

3 A. It's a limited partnership.

4 Q. I'm sorry?

5 A. It's a limited partnership.

6 Q. So it's a partnership.

7 And my question now is, since you  
8 became a partner, how many lawsuits has Rancho Viejo  
9 Cattle Company been involved in?

10 MR. McDONALD: Objection. Form.

11 A. I think just one.

12 Q. (BY MR. RICHARDSON) And which one was  
13 that?

14 A. I think with our cousins.

15 Q. Is that an ongoing lawsuit or is it  
16 completed?

17 A. I think it's an ongoing lawsuit.

18 Q. That's the one you were referring to  
19 earlier in the deposition?

20 A. Yes.

21 Q. Okay. And next is Rancho Viejo Waste  
22 Management, LLC, and you indicate that you're a  
23 manager.

24 You mentioned one lawsuit today  
25 involving Rancho Viejo Waste Management, LLC. Are

1 there any others?

2 A. I mean, we have the City of Laredo lawsuit.

3 Q. Is that dismissed or ongoing?

4 A. It's dismissed as of yesterday. I have not  
5 responded to that yet, but it will be ongoing.

6 Q. What do you mean you haven't responded to  
7 that yet?

8 A. It just happened. I haven't had a chance,  
9 to tell you what my next move's going to be.

10 Q. Okay. Then Camino Colombia Toll Road.  
11 That entity no longer -- well, that entity does  
12 exist today.

13 A. It exists, but it doesn't exist.

14 Q. Okay. It exists, but it does not carry  
15 owner business operations. Correct?

16 A. That's correct.

17 Q. All right. So I want to focus on the one  
18 entity that you list, Camino Colombia Toll Road,  
19 LLC, president.

20 Was Camino Colombia Toll Road a  
21 limited liability company or was just a regular  
22 corporation?

23 A. A limited liability company.

24 Q. All right. And did it have a board of  
25 directors?

1 A. It did.

2 Q. When was Camino Colombia, LLC,  
3 incorporated?

4 A. I think in '91.

5 Q. Were you a member of the board of directors  
6 of Camino Colombia, LLC, at the time of its  
7 incorporation?

8 A. Yes.

9 Q. Did you also hold a position as an officer  
10 and director?

11 A. Yes.

12 Q. Was your position president of Camino  
13 Colombia, LLC?

14 A. Yes.

15 Q. When did you become president,  
16 approximately 1991?

17 A. Yeah. When it was formed.

18 Q. So, in other words, from and after the date  
19 it was formed, you were president. Correct?

20 A. That's correct.

21 Q. And based on your testimony today, it still  
22 exists and you're still president today. Correct?

23 A. Yes.

24 Q. All right. What was the business goal of  
25 Camino Colombia, LLC, at the time of its formation?

1           A.    To connect Interstate 35 with the Colombia  
2 Solidarity Bridge at the state of Nuevo Leone.

3           Q.    And, in other words, to create a private  
4 toll road that would furnish additional access from  
5 I-35 to Mexico?

6           A.    Yes, sir.

7           Q.    In order to do that, how was Camino  
8 Colombia to achieve that objective?

9           A.    Be more specific.

10          Q.    Yeah.  What did you have to do as president  
11 of the company to make that a reality?

12          A.    I had to acquire the right-of-way, design,  
13 build, finance.  Everything.

14          Q.    So you said acquire the right-of-way.  How  
15 would you go about acquiring the right-of-way?

16          A.    I went door to door and got all the  
17 participants involved and got them to execute deeds  
18 to me to the company.

19          Q.    By that -- meaning going door to door to  
20 the participants, you went door to door asking for  
21 landowners in Laredo to deed portions of their land  
22 so that it could be used as a right-of-way for the  
23 toll road.  Correct?

24          A.    That's how we ultimately determined the  
25 ownership percentages within the company --

1 Q. Okay.

2 A. -- by their contribution of --

3 MR. RICHARDSON: Objection.

4 Nonresponsive.

5 Q. (BY MR. RICHARDSON) You also mentioned  
6 that you needed to do the design work, which I  
7 understand meant -- means that you had to hire  
8 engineers. Is that correct?

9 A. That's correct.

10 Q. You hired engineers out of Austin, Texas.  
11 Correct?

12 A. I did.

13 Q. You hired an outfit by the name of  
14 Traffic Consultants, Inc., to do engineering work  
15 and traffic studies. Correct?

16 A. Primarily traffic studies, not the  
17 engineering work.

18 Q. You had to complete an environmental impact  
19 statement. Correct?

20 A. I did.

21 Q. And all of that required significant  
22 funding. Correct?

23 A. It did.

24 Q. And Camino Colombia, Inc., didn't have any  
25 money as a private toll road entity and had to



1 borrow that money. Correct?

2 A. No. It did not borrow the money.

3 Q. Camino Colombia, LLC, borrowed money and  
4 had a line of credit with International Bank of  
5 Commerce. Is that not correct?

6 A. We potentially had that for some time, but  
7 then we put together resources from the partnership  
8 group to exhaust that and fund the project.

9 Q. Okay. I want to go back to the beginning,  
10 though.

11 Isn't it --

12 A. Yes --

13 Q. -- a fair statement --

14 A. -- when we first stayed -- when we first  
15 opened, we -- I do recall that.

16 Q. Okay.

17 A. I'm sorry. You refreshed my memory that we  
18 did open a line of credit with IBC originally, yes.

19 Q. And when you say "we" opened a line of  
20 credit, that means Camino Colombia, LLC, opened a  
21 line of credit with International Bank of Commerce.  
22 Correct?

23 A. Patrick Walker and myself, dealing as the  
24 treasurer and the president of the company, went and  
25 made that loan.

1 Q. And executed a note --

2 A. Yes, sir.

3 Q. -- to International Bank of Commerce.

4 Correct?

5 A. Correct.

6 Q. For a line of credit. Correct?

7 A. That's correct.

8 Q. And that line of credit was used to pay for  
9 the necessary development for the Camino Colombia  
10 entity. Correct?

11 A. In the beginning.

12 Q. Okay. Well, I'm just talking about the  
13 beginning right now --

14 A. Yeah. Well --

15 Q. -- I haven't --

16 A. -- because we ended up spending a lot of  
17 money and lots of years, so --

18 Q. I haven't jumped --

19 A. -- it changes.

20 THE REPORTER: One at a time, please.

21 THE WITNESS: Sorry. Sorry.

22 Q. (BY MR. RICHARDSON) I haven't jumped to the  
23 end --

24 A. Yeah.

25 Q. -- I'm still talking about the beginning.

1           A.     But the way you're phrasing it, I mean,  
2     that -- I want you to know, and be clear that that  
3     line -- I'm sorry.

4                     The line of credit did not pay for all  
5     the work we did from day one to when we opened.

6                     MR. RICHARDSON:   Okay.   Objection.  
7     Nonresponsive.

8           Q.     (BY MR. RICHARDSON)   So the line of  
9     credit -- initially, after the line of credit was  
10    obtained, it was utilized to pay for the development  
11    costs of the company.   Correct?

12          A.     Yes.

13          Q.     All right.   And is it correct to say that  
14    prior to that line of credit being paid off  
15    ultimately, that it had escalated to more than  
16    several million dollars?

17          A.     That's correct.

18          Q.     All right.   And in connection with meeting  
19    the business goals of Camino Colombia, Inc., you  
20    stated that you went door to door and talked to  
21    landowners.   Correct?

22          A.     Yes.

23                     I talked to the landowners, most of  
24    the right-of-way was secured before we ever moved  
25    forward on any part of the company.

1 Q. These landowners were residents and  
2 citizens of Laredo, Texas. Correct?

3 A. Or Webb County.

4 Q. Or Webb County.

5 And my question is, in connection with  
6 going door to door, did you represent to land --

7 A. I say "door to door." I didn't go  
8 physically go door to door.

9 Q. Fair enough.

10 A. Okay. I just want to make sure.

11 Q. Okay. But you did make contact with  
12 landowners.

13 A. They were our neighbors.

14 Q. All right. So you went to these  
15 landowners, who were neighbors, and you -- is it  
16 fair to say you represented to them that, in  
17 exchange for deeding lands for right-of-way to  
18 Camino Colombia, Inc., for use as a highway, those  
19 landowners would receive shares of stock in  
20 Camino Colombia, LLC?

21 A. That's correct.

22 Q. Did you also represent to those landowners  
23 that, in exchange for executing guaranties of the  
24 loan that Camino Colombia took from International  
25 Bank of Commerce, those landowners would also get to

1 receive shares of stock of Camino Colombia?

2 A. Those same people were the ones that  
3 represented for themselves. I was just acting on  
4 behalf of the corpus.

5 Q. I know you were acting on behalf of  
6 Camino Colombia, the corporation. Correct?

7 A. But I'm acting on behalf of the same people  
8 you're talking about. Well, those are the people  
9 that control the company.

10 Q. I'm talking about your role as president of  
11 the company.

12 A. I understand. But you're not dealing with  
13 a second person, you're dealing with one in the same  
14 group of people.

15 Q. Okay.

16 A. Within the company and the people that were  
17 guarantying, and the people that were promised --  
18 they promised themselves.

19 Q. Okay.

20 MR. RICHARDSON: Objection.  
21 Nonresponsive.

22 Q. (BY MR. RICHARDSON) Here's the question:

23 Did you represent to any of these  
24 landowners and neighbors of yours that, in executing  
25 guaranties of the debt at International Bank of

1 Commerce, they would be stockholders of  
2 Camino Colombia? Yes or no.

3 A. I acted in managing with the same owners,  
4 what the same landowners were doing for each other  
5 through the process as president, yes.

6 Q. So the answer is yes?

7 A. The answer is, they controlled their  
8 destiny. They were the owners.

9 MR. RICHARDSON: Objection.

10 Nonresponsive --

11 A. They're one in the same.

12 MR. RICHARDSON: Objection.

13 Nonresponsive.

14 Q. (BY MR. RICHARDSON) Did you ask those  
15 landowners who deeded right-of-way to sign letters  
16 of guaranty for the debt of Camino Colombia at IBOC?

17 MR. McDONALD: Objection. Form.

18 A. The company asked.

19 Q. (BY MR. RICHARDSON) Okay. The company  
20 asked. All right.

21 Who in the company asked?

22 A. The members. The same people that are  
23 sitting -- that's what I'm trying to tell you.

24 They asked themselves. It's -- they  
25 set up the company, they set up the rules in which

1 they were going to participate.

2 Q. All right.

3 A. I didn't create that; they created it.

4 Q. Let me see if I can get an answer to this  
5 question.

6 Did you request that landowners who  
7 deeded the right-of-way execute a letter of guaranty  
8 of CCI's debt with the International Bank of  
9 Commerce?

10 A. The board of directors in the meetings made  
11 motions for me to carry out those kind of duties.

12 Q. And you did carry those out, didn't you?

13 A. Yes, I did.

14 Q. All right. And then in reliance upon your  
15 representations that you made as president of CCI to  
16 the landowners, those landowners did ultimately deed  
17 land to Camino Colombia, Inc., for use at a  
18 right-of-way in the many hundreds of acres. Is that  
19 correct?

20 MR. McDONALD: Objection. Form.

21 A. I think they deeded it before that.

22 Q. (BY MR. RICHARDSON) They deeded it at your  
23 request because you were the one that --

24 A. Not all of them --

25 THE REPORTER: One at a time, please.

1 Q. (BY MR. RICHARDSON) Mr. Benavides --

2 A. I'm not --

3 THE REPORTER: Please --

4 THE WITNESS: Calm down. It's all  
5 good.

6 THE REPORTER: No. It's not all good.

7 THE WITNESS: I'm not trying to --

8 Q. (BY MR. RICHARDSON) Wait until I finish and  
9 I'll try to wait until you finish.

10 A. Okay.

11 Q. All right. So we've already talked about  
12 that you -- you reached out, you clarified what you  
13 meant by going door to door. Right?

14 You reached out and contacted  
15 landowners. Correct?

16 A. I contacted landowners to see if they were  
17 interested in building a toll road.

18 Q. Well, in response to your request that they  
19 deed land, they did deed land, didn't they?

20 A. That's correct.

21 Q. And that land was ultimately set aside for  
22 use as the right-of-way for Camino Colombia Highway.  
23 Correct?

24 A. Yes, sir.

25 Q. And in addition, those same landowners who



1 deeded right-of-way did, in fact, sign guaranty  
2 agreements to guarantee the debt of Camino Colombia,  
3 Inc., at International Bank of Commerce. Correct?

4 A. For a short period of time, yes.

5 Q. All right. The answer is yes, isn't it?

6 A. Yes.

7 Q. And after the landowners deeded land and  
8 executed those guaranties, did you refuse to  
9 acknowledge that these landowners were stockholders  
10 of CCI?

11 MR. McDONALD: Objection. Form.

12 A. No.

13 Q. (BY MR. RICHARDSON) Okay. Are you sure  
14 that's correct?

15 A. Yeah.

16 Q. You never stated, after they deeded the  
17 land and signed the guaranties, that they were not  
18 stockholders of Camino Colombia?

19 A. If you want to show me something for me to  
20 look at.

21 Q. Well, let me ask you this:

22 Do you recall having been personally  
23 sued for fraud for refusing to acknowledge that the  
24 landowners who had deeded land to Camino Colombia,  
25 Inc., were stockholders?

1           A.     We were sued, but it was by people that are  
2 looking to scuttle the project.

3                     MR. RICHARDSON:  Objection.  
4 Nonresponsive.

5           Q.     (BY MR. RICHARDSON)  Were you sued for  
6 fraud by landowners who contributed right-of-way to  
7 the Camino Colombia Toll Road?

8           A.     Pull out the lawsuit that you want to  
9 reference and I'll talk to you about it.

10                    MR. RICHARDSON:  Objection.  
11 Nonresponsive.

12           Q.     (BY MR. RICHARDSON)  I'm not pulling out  
13 any lawsuit.  I'm asking you a question, yes or no:

14                     Were you sued for fraud,  
15 Mr. Benavides, by the landowners who deeded the  
16 right-of-way for the Camino Colombia project?

17           A.     I was sued by my cousins, who were trying  
18 to scuttle the project.

19           Q.     Were your cousins landowners?

20           A.     Yes.

21           Q.     Well, would it be correct to say, then,  
22 that you were sued by landowners who contributed  
23 property to the Camino Colombia Toll Road?

24                    MR. McDONALD:  Objection.  Form.

25           A.     We never used their property.

1 MR. RICHARDSON: That's not my  
2 question. Objection. Nonresponsive.

3 Q. (BY MR. RICHARDSON) Let me just ask the  
4 question in a very simple way.

5 Yes or no: Were you sued for fraud by  
6 landowners who contributed right-of-way to the  
7 Camino Colombia Toll Road project?

8 MR. McDONALD: Objection. Form.

9 A. I was sued by a landowner.

10 Q. (BY MR. RICHARDSON) Who?

11 A. I don't know the way the lawsuit read. You  
12 can pull it out if you want.

13 Q. You don't know --

14 A. ANB Cattle? I don't know.

15 Q. So sitting here today, you don't know who  
16 sued you for fraud?

17 A. I already told you what happened.

18 A landowner from a group of landowners  
19 sued.

20 Q. Okay. For fraud?

21 A. I don't know what they alleged.

22 Q. Well, Mr. Benavides, it seems to me that if  
23 one was sued for fraud in a lawsuit filed in the  
24 state of Texas, one would remember that, wouldn't  
25 they?

1 MR. McDONALD: Objection. Form.

2 A. Is there some kind of conviction or  
3 something?

4 Q. (BY MR. RICHARDSON) No. I'm asking you.

5 Is it -- are you saying in this  
6 deposition that you may have been sued for fraud in  
7 a court in Texas and you don't remember that?

8 A. I mean, I don't remember exactly the  
9 lawsuit.

10 Q. So sitting here today, you don't know  
11 whether you were sued for fraud in connection with  
12 the Camino Colombia Toll Road project?

13 A. I never defrauded anyone.

14 MR. RICHARDSON: Objection.  
15 Nonresponsive.

16 Q. (BY MR. RICHARDSON) Sitting here today,  
17 are you saying that you don't know whether you were  
18 sued for fraud in connection with the Camino  
19 Colombia Toll Road project?

20 A. I was sued by my cousins in an attempt to  
21 scuttle the project.

22 Q. What's the answer to my question, though?

23 A. I said was sued by my cousins in an attempt  
24 to scuttle the project. Similar to this situation  
25 we're in today.

1 MR. RICHARDSON: Objection.

2 Nonresponsive.

3 Q. (BY MR. RICHARDSON) Were you sued for  
4 fraud?

5 MR. McDONALD: Objection. Form.

6 A. If you want to show me the lawsuit, I'll  
7 read it for you.

8 Q. (BY MR. RICHARDSON) So you don't know, one  
9 way or another, sitting here today?

10 A. It doesn't matter to me one way or another  
11 today.

12 Q. Okay. After you were sued in connection  
13 with the Camino Colombia Toll Road project -- and I  
14 mean individually. Do you recall that?

15 A. You could show it to me if you want me to  
16 go back and try to recollect all that.

17 MR. RICHARDSON: Objection.

18 Nonresponsive.

19 Q. (BY MR. RICHARDSON) Do you recall having  
20 been sued individually by landowners of the Camino  
21 Colombia Toll Road project?

22 MR. McDONALD: Objection. Form.

23 A. I've already answered that question.

24 Q. (BY MR. RICHARDSON) Okay. I'm talking  
25 about you personally. Do you understand that?

1 A. It's going to be all the same answers that  
2 you heard.

3 Q. Okay. After you were sued, did landowners  
4 of the Camino Colombia project request that they be  
5 acknowledged as stockholders?

6 A. You know, I don't recall the timeline, if  
7 you want to break it out. Everybody received stock;  
8 everybody had their participation based on acreage.

9 MR. RICHARDSON: Objection. Non --

10 A. I don't know what you're trying to get at.

11 MR. RICHARDSON: Objection.

12 Nonresponsive --

13 A. The project was built; it's open today;  
14 it's awesome.

15 MR. RICHARDSON: Objection.

16 Nonresponsive.

17 Q. (BY MR. RICHARDSON) Mr. Benavides, do you  
18 recall that after the original deeds of right-of-way  
19 were deeded over, the engineers required there to be  
20 changes to the right-of-way which required Camino  
21 Colombia to receive additional lands for  
22 right-of-way?

23 A. I don't recall, but there could be.

24 I mean, ultimately, right before we  
25 finalized the final design, we needed some extra

1 acreage, I believe, on an intersection and our  
2 connection into the Port of Colombia.

3 Q. So what you're saying is you recall that  
4 Camino Colombia did need additional acreage over and  
5 above the original grants of right-of-way. Correct?

6 A. Yes.

7 Q. In that regard, you, on behalf of  
8 Camino Colombia, asked landowners to deed additional  
9 lands after you had been sued. Correct?

10 A. I don't recall, but we did in some cases.  
11 Although, most of the people that we received  
12 acreage for after the fact are just straight out  
13 donations. They did not end up participating in the  
14 company.

15 MR. RICHARDSON: Objection.

16 Nonresponsive.

17 Q. (BY MR. RICHARDSON) Did you, as president  
18 of Camino Colombia, Inc., authorize, seeking to  
19 condemn the lands of Webb County residents and  
20 landowners who refused to grant their land after you  
21 refused to acknowledge them as stockholders?

22 MR. McDONALD: Objection. Form.

23 A. You know, that stuff's pretty dated. If  
24 you want to show me something and try to direct, and  
25 then I can try to derive an answer for you, but ...

1 Q. (BY MR. RICHARDSON) Okay. Let me ask it  
2 this way:

3 Did Camino Colombia, Inc., bring a  
4 petition in Travis County, Texas, to condemn the  
5 lands of certain residents of Webb County for use as  
6 right-of-way?

7 MR. McDONALD: Objection. Form.

8 A. Again, show me something. It's too dated  
9 for me to --

10 Q. (BY MR. RICHARDSON) So let me just see if  
11 I can understand this.

12 The answer to the question is you  
13 don't know?

14 A. I just don't recall. I mean, you're  
15 talking 30 years ago.

16 Q. Okay. So you don't recall whether  
17 Camino Colombia, Inc., brought a petition in  
18 Travis County to condemn lands for use as a  
19 right-of-way?

20 MR. McDONALD: Objection. Form.

21 A. I don't recall.

22 Q. (BY MR. RICHARDSON) Do you recall that the  
23 presiding judge of the Travis County District Court  
24 sitting in Austin denied Camino Colombia, Inc.'s  
25 motion to condemn lands?



1           A.    I'm telling you I don't remember the  
2 lawsuit, how can I know what he decided?

3           Q.    So your answer is you don't recall that  
4 either?

5           A.    I don't recall.

6           Q.    Okay. Do you recall that the presiding  
7 judge of the Travis County District Court denied the  
8 motion to condemn lands stating in his findings that  
9 Camino Colombia could not condemn lands because it  
10 was guilty of unlawful conduct?

11                       MR. McDONALD:  Objection.  Form.

12          A.    Show it to me.

13          Q.    (BY MR. RICHARDSON)  Your answer is you  
14 don't recall that either?

15          A.    No.

16          Q.    Okay. Do you recall that you, in fact,  
17 testified at the hearing?

18          A.    I'm telling you I don't remember the  
19 beginning, how can I remember the middle and the  
20 end.

21          Q.    So you don't recall that either.  Correct?

22                       I'm waiting for an answer.  You do not  
23 recall --

24          A.    I think I've already answered this as plain  
25 as I can.

1 Q. So you do not recall having testified at a  
2 hearing where the presiding judge later stated  
3 Camino Colombia was guilty of wrongful conduct.  
4 Correct?

5 MR. McDONALD: Objection. Form.

6 A. I've already answered the question.

7 MS. WHITTLE: Objection.

8 Nonresponsive.

9 Q. (BY MR. RICHARDSON) You haven't answered  
10 that question.

11 A. I think I have.

12 Q. All you have to do is say "I don't recall"  
13 and we'll move on.

14 A. I think I've answered it.

15 Q. Okay. I'm going to certify that question  
16 if I don't get an answer today.

17 A. You can do whatever to want.

18 MR. RICHARDSON: Okay. I certify that  
19 question.

20 Q. (BY MR. RICHARDSON) Mr. Benavides, have  
21 you ever developed a successful landfill operation?

22 A. I've not developed any landfill operation.

23 Q. Have you ever managed a landfill operation?

24 A. No, sir.

25 Q. Have you ever held responsibility for

1 complying with statutory requirements governing the  
2 transportation of waste to a landfill?

3 A. No.

4 Q. Your answer is no?

5 A. No.

6 Q. Okay. Have you ever held responsibility  
7 for complying with statutory requirements for  
8 regulating the handling of waste at a landfill?

9 A. No, sir.

10 Q. And I take it that you have not been  
11 involved in managing storage or handling of waste.  
12 Correct?

13 A. That's correct.

14 Q. Other than the answers that you gave at the  
15 beginning of this deposition regarding the various  
16 classes that you took, sitting here today, do you  
17 have any kind of formal certifications of  
18 specializations in any area other than wildlife  
19 management?

20 A. No.

21 MR. RICHARDSON: No further questions  
22 at this time. Thank you.

23 THE WITNESS: Thank you.

24 MR. McDONALD: Who's next?

25 MR. MILLER: Me.

1 MR. McDONALD: Lunch break?

2 MR. MILLER: It's 12:10. Back by a  
3 little before one we can do it?

4 MR. McDONALD: One o'clock.

5 MR. MILLER: One o'clock? Fair  
6 enough.

7 (Exhibit 107 marked.)

8 (Recess: 12:09 p.m. to 1:07 p.m.)

9 EXAMINATION

10 BY MR. MILLER:

11 Q. Mr. Benavides, I think we've met before.  
12 My name is Dan Miller. I represent the Hurds.  
13 You're aware of that?

14 A. Yes, sir.

15 Q. I'll remind you that you are still under  
16 oath in this deposition. Do you understand that?

17 A. I do, sir.

18 Q. I have put before you Exhibit No. 107,  
19 which are excerpts from the application that's  
20 currently on file, the conformed copy, that you  
21 produced in this case.

22 We've talked a little bit about parts  
23 of it from previous lawyers asking you questions. I  
24 want to focus on some other things in the  
25 application if I can.

1 A. Yes, sir.

2 Q. If you turn to page -- and I'm going to use  
3 Bates numbers. You know what those are. Right,  
4 sir?

5 A. Yes, sir.

6 Q. Bates No. 4.

7 A. Okay.

8 Q. Bates No. 4 is an affidavit, along with a  
9 signature. It has your name. Is that your  
10 signature?

11 I've got two-sided copies. I'm sorry.

12 A. Okay.

13 Q. I'm trying to save a little bit. Go to  
14 page 4, Bates No. 4. There you go.

15 A. Yes, sir.

16 Q. All right. Is that your signature?

17 A. It is.

18 Q. All right. And so, basically, you're  
19 saying, if I understand it right, that you've made  
20 every effort that -- that the statements contained  
21 in this application are true and correct and  
22 complete. Right?

23 A. Yes, sir.

24 Q. All right. And I think you said something  
25 in your earlier testimony about that it is important

1 for you to be transparent in this process. You'd  
2 agree with that. Right?

3 A. Yes, I would.

4 Q. All right. So let's talk a little bit  
5 about the road. I seem to be the road man here, in  
6 part.

7 So if you would turn to Bates No. 50  
8 in Exhibit No. 107. Now, down there in the middle  
9 of the first big paragraph under "Transportation  
10 Access," there's a statement made that says "The  
11 owners of Yugo Ranch will convey an easement  
12 generally along existing all-weather ranch roads to  
13 RVWM ..."

14 Do you see that sentence? It might  
15 help you if -- I probably could have highlighted  
16 yours.

17 A. Yeah. Got it.

18 Q. And then it says "... as necessary, to  
19 ensure access to the landfill site, and RVWM will  
20 improve and maintain this road as its main access  
21 route."

22 Do you see that?

23 A. Yes.

24 Q. You're talking about the road that comes  
25 from the end of Jordan Road that enters the ranch,

1 and from the southern gate on the Yugo Ranch where  
2 it meets Jordan Road, all the way up to the  
3 permitted boundary. Right?

4 A. Pretty much.

5 Q. Okay. And so, as I understand it from the  
6 application -- and let's turn to another page here.  
7 If you could flip to Bates No. 124. And -- are you  
8 there, sir?

9 A. Yes, sir.

10 Q. And that, again, deals with transportation.  
11 And in the fourth paragraph, in the middle, it talks  
12 about the expected traffic. And it says "The  
13 facility traffic is expected to be 520 trips per  
14 day, 260 vehicles entering and leaving."

15 Do you see that?

16 A. Yes, I do.

17 Q. And it also talks about 20 passenger  
18 vehicles. Right?

19 A. Yes, it does.

20 Q. Okay. So the public is going to be using  
21 this road as well to access the landfill facility.  
22 Right?

23 A. Yes, sir.

24 Q. That's the plan?

25 A. That's the plan.

1 Q. All right. And you would agree with me  
2 that with that volume of traffic, and with the  
3 public using it, that this access road that you're  
4 talking about there should be safe, adequate, and an  
5 all-weather road capable of handling the large  
6 trucks that you indicate in your application are  
7 going to be accessing the landfill that are hauling  
8 waste up and down that road 520 times each day.  
9 You'd agree with me that you want it to be safe,  
10 adequate, and an all-weather road. Right?

11 A. 260 trips a day, individual vehicles.

12 Q. Well, 260 vehicles, but basically coming  
13 and going 520. You've got 260 going; 260 coming  
14 back. Right?

15 A. Yeah. I just want to make sure we're clear  
16 of that.

17 Q. Okay.

18 A. How many vehicles.

19 Q. All right.

20 A. Yeah.

21 Q. But you'd agree with me that you want that  
22 road to be safe for the people that are traveling  
23 it, adequate to handle the traffic, and that it be  
24 an all-weather road. Right?

25 A. That's correct.



1 Q. All right. Our experts -- and your lawyers  
2 have seen it, I don't know if you have.

3 But our experts that are talking about  
4 roads in this case have indicated, in their opinion,  
5 that access road should be designed and constructed  
6 with a crown and a slope to drain water, it should  
7 be 24 feet wide on the driving surface, and it  
8 should have bar ditches on both sides to handle  
9 runoff.

10 Are you aware of that, that that's  
11 their opinion?

12 A. Not exactly, but I could believe that  
13 that's something they may want.

14 Q. Okay. Are you willing to design and  
15 construct a road that meets those requirements as  
16 the access road through the Yugo Ranch?

17 A. I agree with just about everything that you  
18 have talked about, but I think that 20 feet would  
19 suffice.

20 Q. You think 20 feet driving surface?

21 A. Yes, sir.

22 Q. But you think the bar ditches on either  
23 side would be a good idea to drain water?

24 A. If required.

25 Q. Okay.

1           A.    I mean, I think that -- I think your guys  
2 are talking about if those things are required, then  
3 you'd have them.

4                    You don't want to build a bar ditch if  
5 there's not a requirement, because then you're  
6 building a safety hazard.

7           Q.    Well, let's talk about it. The idea is to  
8 get water off the road in part. Right? That's what  
9 the crown --

10          A.    Yeah.

11          Q.    That's what the crown --

12          A.    That's why you have the crown slope.

13          Q.    Okay. And once the water runs off the  
14 road, you don't want it coming right back on the  
15 road, do you?

16          A.    Well, it won't if you have the crown,  
17 because -- so you'd have that slope and crown. And  
18 I think I previously have testified that, you know,  
19 it would be somewhere between 6 and 24 inches high,  
20 so you wouldn't have the water coming back on to the  
21 road.

22          Q.    No. You wouldn't as long as there's not an  
23 edge on the road that would cause it to pool. You'd  
24 to have something that takes the water away. Right?

25          A.    Absolutely.

1 Q. And a bar ditch does that.

2 A. In the right circumstances, yes.

3 Q. Okay.

4 A. Sometimes, no.

5 Q. All right. Basically, with the exception  
6 of you saying 20 feet you think is an adequate  
7 driving surface, though, you'd agree to design and  
8 construct a road that meets those specifications we  
9 talked about.

10 MR. McDONALD: Objection. Form.

11 A. Somewhat. With the exception -- I don't  
12 think the idea of bar ditches, especially in a lot  
13 of flat country, because then it just allows for  
14 pooling to happen in that area.

15 Q. (BY MR. MILLER) So you're not sure about  
16 the bar ditches.

17 A. I wouldn't agree to bar ditches throughout  
18 the area is what I'm saying.

19 Q. Okay.

20 A. There might be locations that it would make  
21 sense.

22 Q. Are you willing to make the construction  
23 and design requirements a condition of the permit?

24 A. I don't know.

25 Q. You don't know?

1                   Why not?

2           A.     Well, we're going to do what's right and  
3 what's consistent with what we've always had as a  
4 family out there, because we've always had services  
5 from 18-wheeler traffic for the last 40-something  
6 years. So believe me when I tell you, it's going to  
7 be done right.

8                   MR. MILLER: Well, objection.  
9 Nonresponsive.

10          Q.     (BY MR. MILLER) The question really is,  
11 why not make it a condition of the permit? If  
12 you're willing to do it and make it right, make it a  
13 condition of the permit so that everybody knows  
14 that. Why not?

15          A.     Well, because the permit doesn't require  
16 for people to have to do that.

17                   But, you know, you can rest assured  
18 that it's going to -- it doesn't make no sense, you  
19 know, just like how your client, you know, would  
20 want certain roads on his property, and nothing  
21 short of that would suffice. It's the same way that  
22 the Benavideses feel about our property. I mean,  
23 it's not like this is just one small tract on our  
24 property. So if I have an improper road, it affects  
25 my entire property, not just the landfill.

1 Q. Okay. And you -- you stand by your  
2 statement that you think this road should be proper,  
3 it should be designed right, and be adequate to  
4 handle this traffic, drain water, be an all-weather  
5 road.

6 A. Absolutely.

7 Q. Be safe for the vehicles that are traveling  
8 and the public that's traveling.

9 A. That's paramount.

10 Q. Okay. Let me switch topics for a second  
11 and go back to Bates 54.

12 Are you with me?

13 A. I'm with you.

14 Q. All right. The middle paragraph talks  
15 about waste from Laredo will be trucked to the site  
16 via Highway 359. Do you see what I'm reading from?

17 A. Yes, sir.

18 Q. "It is anticipated that a waste transfer  
19 station will be established in the city so that the  
20 city waste collection trucks will not need to drive  
21 to and from the facility."

22 Do you see that?

23 A. Yes.

24 Q. "Instead, waste will be hauled by semi  
25 tractor-trailer units dedicated to the transfer

1 station operation."

2 That's what's stated there. Right?

3 A. Yes, sir.

4 Q. Is that still the plan?

5 A. I mean, that's one of the ways that we  
6 could try to address that movement of goods.

7 Q. Okay. But by "one way" is, you mean a  
8 transfer station?

9 A. Right. So I think what's required by the  
10 permit is for us to give examples how we would move  
11 waste from the community. That's an example.

12 Q. It's an example, not necessarily the plan.  
13 Which is it?

14 A. There may be multiple examples.

15 And all of this we won't know till the  
16 maturation of our permit process that let's me go  
17 out to the free market and establish myself as a  
18 competitor being able to provide services. When I  
19 know who I'm going to provide services and in what  
20 way, then at that time I'll be actually creating the  
21 right formulas on how to get waste from point A to  
22 point B.

23 Q. Okay. At this time, do you anticipate  
24 having a transfer station in city of Laredo, as you  
25 sit here today?

1       A.    I believe that it would be the case, yes,  
2   sir.

3       Q.    All right.  Do you have any property  
4   purchased for that purpose?

5       A.    No.

6       Q.    Do you have any property optioned for that  
7   purpose?

8       A.    I've discussed with an owner.

9       Q.    Who?

10      A.    Is that something that I have to talk  
11   about?

12      Q.    Now that you've mentioned it, it is.

13      A.    With the Barrera family.

14      Q.    And where is the property?

15      A.    It's next to the Laredo landfill.

16      Q.    All right.  And how big a tract is it?

17      A.    I don't know the exact acreage.  50,  
18   60 acres.

19      Q.    All right.  And you say the Barrera family.  
20   Is there a first name that goes with that?

21      A.    No.  It's owned by multiple members of the  
22   family.

23      Q.    Okay.  So do you have anything other than  
24   discussions?  Do you have a contract?

25      A.    I do not.

1 Q. Have you talked to anybody else about  
2 contracting for the purchase or use of property for  
3 that purpose?

4 A. No, sir.

5 Q. All right. Let's talk a little bit about  
6 the north and south areas in your permit boundary  
7 for a minute. You talked a little bit with  
8 Mr. Komkov about those.

9 Basically, why do you have almost half  
10 of your permitted boundary in a south area? Why do  
11 you have that here? What's the purpose of that?

12 A. The purpose for the second tract?

13 Q. For the second -- the south area, yeah.  
14 The second tract.

15 A. It's a buffer, currently, to the landfill  
16 project as it stands.

17 Q. Well, you do understand that you are -- you  
18 are making an application that it be included within  
19 the permitted facility. Right?

20 A. That's correct.

21 Q. And so you're asking for it to be included  
22 only because of it being a buffer?

23 A. That's correct.

24 Q. All right. No other reason? You don't  
25 intend to expand into that?



1 I know you said you didn't do so  
2 currently, but do you plan to expand a waste  
3 footprint into that southern area in the future?

4 A. If my project is successful and I run out  
5 of space, I could consider it if it's economically  
6 viable to expand it, and I'm reserving the rights to  
7 be able to do that. And how that design would be  
8 ultimately made would be a little different,  
9 because, as you know, since we did the cell C, they  
10 wouldn't require us -- for us to apply for a new  
11 permit and redevelop that's -- that extension cell  
12 of some sort. But I can't tell you, as we sit here  
13 today, what that would look like or if we would need  
14 to do it.

15 Q. Okay. If you did do that, if it became  
16 economically viable, and you decided to apply for an  
17 amendment to the permit to expand the landfill  
18 footprint into the southern part, you'd have to  
19 design a way to get from the northern part to the  
20 southern part. Right?

21 A. I assume so.

22 Q. Well, you've talked a little bit about it  
23 before in your testimony with Mr. Komkov. You  
24 talked about getting vehicles from the north to the  
25 south over 2366. Right?

1 A. Um-hmm.

2 Q. That's a yes?

3 A. Yes, sir. I'm sorry.

4 Q. She can't really do um-hmms.

5 A. Yeah. Yeah. Yeah.

6 Q. All right. Fair enough.

7 You talked with Mr. Komkov about the  
8 surface use agreement that's part of the  
9 application. Do you remember that?

10 A. Yes, sir.

11 Q. And you talked to Mr. Komkov about the  
12 lawsuit that you had with ANB where there's a  
13 summary judgment. And that order says that you  
14 can't really use that property for that purpose.

15 If that order is upheld on appeal, you  
16 couldn't really get from the north area to the south  
17 area, could you?

18 MR. McDONALD: Objection. Form.

19 A. No. Because I currently do all the time.

20 Q. (BY MR. MILLER) Well, I know you do all  
21 the time. That's not my question.

22 My question is, if that order -- that  
23 summary judgment order in the ANB lawsuit were  
24 upheld on appeal that restricts you and says you  
25 can't use it for landfill purposes, you couldn't get

1 from the north area to the south area if that  
2 eventuality occurred, could you?

3 MR. McDONALD: Objection. Form.

4 A. I mean, maybe if the supreme court said  
5 that I couldn't do it. Maybe at that point.

6 Q. (BY MR. MILLER) Right.

7 Are you aware that Webb County has  
8 passed an ordinance in November of 2016 prohibiting  
9 waste, either, processing, disposal, or any kind of  
10 operation, within 1,500 feet of 100-year floodplain  
11 as established by the existing firm?

12 A. Yes.

13 Q. All right. You'd agree with me, certainly,  
14 looking at that plat, that the proposed waste  
15 footprint is within 1,500 feet of the existing  
16 floodplain as defined by the firm. Right?

17 A. As it sits today, yes.

18 Q. Okay. Let's go back to Exhibit 107 for a  
19 minute and, if you would, turn to Bates No. 39.

20 Are you with me?

21 A. Yes, sir.

22 Q. All right. The second box of that page has  
23 "Local Government Jurisdiction" at the top,  
24 "Webb County." And then there's a box checked at  
25 the bottom, "No."

1                   And the language above it says: "Is  
2 the proposed municipal or industrial solid waste  
3 disposal or processing facility located in an area  
4 in which the governing body of the municipality or  
5 county has prohibited the disposal or processing of  
6 municipal or industrial solid waste."

7                   Do you see that?

8           A.     Yes, sir.

9           Q.     And you checked "No."

10          A.     Right.

11          Q.     That is inaccurate at the time that this  
12 application was submitted that you signed on  
13 November 30th, 2017, isn't it?

14          A.     But you have to go back that, you know, our  
15 processing is what we have grandfathered in from our  
16 original application.

17                   MR. MAGEE: Objection. Nonresponsive.

18          Q.     (BY MR. MILLER) Oh, I'm not quibbling with  
19 the idea that there is a provision in the ordinance  
20 that says that if your application is on file with  
21 TCEQ, you're grandfathered. That wasn't the  
22 question.

23                   My question is that, you know, at the  
24 time that you submitted this application on  
25 November 30th, 2017, you were aware that Webb County

1 had adopted an ordinance that prohibited landfills  
2 in this area. Right?

3 Yes? No? Yes?

4 A. I think that -- I don't know. I don't have  
5 a good explanation for you, so ...

6 Q. Okay. So but, as we sit here today, you  
7 know that's not accurate. There is an ordinance  
8 that covers it. You could explain that you don't  
9 think the ordinance covers you to the TCEQ, but to  
10 be honest, open, and transparent, the answer to this  
11 is yes, isn't it? Not no.

12 A. I don't have an answer for you.

13 Q. Well, there is an ordinance, isn't there?

14 A. Yes.

15 Q. Okay. Let's flip to Bates 107. And I know  
16 it's on the previous page at the bottom of 106, but  
17 this is a section that talks about oil and gas  
18 production. Right?

19 A. Okay.

20 Q. And in the third paragraph on  
21 Bates No. 107, it says "The oil and gas production  
22 at and around the site has resulted in a number of  
23 wells and pipelines being installed."

24 Do you see that?

25 A. Yes.

1 Q. While I'm at it -- while we're there on  
2 that particular line, you signed an affidavit in  
3 conjunction with this application about a plugged  
4 well on the permitted facility -- or the proposed  
5 permitted facility, didn't you?

6 A. Yes.

7 Q. Okay. I think I've got that in this  
8 exhibit. If we could, let's flip to page 823.

9 Are you with me?

10 A. Yes, sir.

11 Q. Okay. 823 is an affidavit. And is that  
12 your signature on the affidavit?

13 A. It is.

14 Q. All right. And attached to the affidavit  
15 is a portion of the well file that you attached as  
16 Exhibit A to your affidavit. Right?

17 A. Yes.

18 Q. All right. I take it that you're familiar  
19 with the rules and regulations of the Texas Railroad  
20 Commission?

21 A. Some.

22 Q. Some?

23 Well, in your affidavit, you state  
24 that you're aware Conoco drilled a well on the  
25 property in 1980. Right?

1 A. Right.

2 Q. That's in Paragraph 3.

3 And then there you say "This well is  
4 referred to by the railroad commission as the  
5 Caprice (Walker Lobo)." Right?

6 A. Um-hmm.

7 Q. And then you say the well was plugged in  
8 '84.

9 A. Right.

10 Q. Okay. Actually, that's not the well's  
11 name, is it? Do you know from looking at the  
12 railroad commission forms you attached?

13 A. You're just showing it to me now. I  
14 haven't seen it in a while.

15 Q. I know. Okay. Well, so --

16 A. I think it says right here. Caprice  
17 (Lobo Walker).

18 Q. What box is that in?

19 A. Number 2.

20 Q. And it says "Field Name." Right?

21 A. Yes.

22 Q. And over on the right of that it says  
23 "Lease Name," and it says "Rosa Benavides B."  
24 Right?

25 A. Right.

1 Q. And over that -- further to the right it  
2 says "Well" and it says "3." Right?

3 A. Yes.

4 Q. So really the name of the well is the  
5 Rosa Benavides "B" 3, not Caprice Walker. Right?  
6 You'd agree with me on that?

7 A. I think we agree to both them being the  
8 name.

9 Q. Really?  
10 So you think the field name is a well  
11 name?

12 A. I think it's customary to do those kinds of  
13 things. I mean, I know both of them identify the  
14 well.

15 Q. Do you know what a field is that the  
16 railroad commission identifies as a field?

17 A. Yes, sir.

18 Q. What is it?

19 A. It's the area that you're drilling.

20 Q. The area that you're drilling.

21 A. Yes, sir.

22 Q. What area? Describe that.

23 What do you mean? What area?

24 A. Whatever area that you're drilling on a  
25 particular piece of property is a field.



1 Q. Oh. You think it's sort of defined by the  
2 tract?

3 A. Sometimes it is.

4 Q. You don't think it has anything to do with  
5 the formation you're completing a well in?

6 A. I understand. That's why it's called the  
7 Walker Lobo.

8 Q. Okay. Regardless, what you say in  
9 Paragraph 4 is that you've reviewed the railroad  
10 commission records -- right? -- that are attached.

11 A. Yes, sir.

12 Q. And that you are of the belief that the  
13 well has been properly capped, plugged, and closed  
14 in accordance with applicable rules and regulations  
15 of the railroad commission.

16 That's what you say. Right?

17 A. Yes.

18 Q. So what do you know about the plugging  
19 requirements of the Texas Railroad Commission that  
20 allows you to sign an affidavit that says that, in  
21 fact, this well has been plugged in accordance with  
22 the rules?

23 A. I was told that it was.

24 Q. Who told you?

25 A. That's why I signed the affidavit.

1 Q. Who told you?

2 A. The engineers that helped me prepare this  
3 document.

4 Q. And who was that?

5 A. Michael Oden.

6 Q. Okay. So based on Michael Oden's  
7 representation, you signed the affidavit saying the  
8 plugging of this well complied with the railroad  
9 commission rules?

10 A. Based on the information that he got from  
11 Conoco or Hilcorp.

12 Q. Okay. And while we're at it, you said  
13 Conoco or Hilcorp. Conoco actually drilled and  
14 plugged this well and other wells in the area of the  
15 ranch -- Yugo Ranch. Right?

16 A. Um-hmm.

17 Q. And then sometime, a few years ago, Hilcorp  
18 acquired those wells and facilities, pipelines,  
19 et cetera, from Conoco. Isn't that right?

20 A. That's correct.

21 Q. Okay. Would you have any way, looking at  
22 this plugging form that's attached to your  
23 affidavit, of identifying where the cement and the  
24 casing and the tubing is in the wellbore as it sits  
25 today? Would you be able to do that from looking at

1 this plugging form?

2 A. Probably not.

3 Q. Okay. That's something that you would rely  
4 on Michael Oden for? Or is it?

5 A. I would rely, you know, on my company's  
6 information to get that as well.

7 Q. Your company? Which company?

8 A. Benavides Family Mineral Trust.

9 Q. Okay. And who would you look to at the  
10 Benavides Family Mineral Trust to tell you what the  
11 condition of this wellbore really is as it sits on  
12 the southern area of your permitted facility?

13 A. Pat Bettis.

14 Q. And what is Pat Bettis's background?

15 A. She's been the administrative assistant for  
16 the company for a while.

17 Q. Okay. Have you talked to her about what  
18 this plugging form means and what the condition of  
19 that well is on the southern area?

20 A. No, sir.

21 Q. So you wouldn't know whether there is  
22 cement and tubing and casing that sits right at  
23 the -- just below the surface in this southern area  
24 or not. You wouldn't know that.

25 A. All I was told was that it was plugged.

1 That's what we're signing off on.

2 Q. Right. Okay.

3 All right. Let's go back to Bates 107  
4 again. Down in the fourth sentence of that bottom  
5 big paragraph it says "Many of these pipelines exist  
6 within easements."

7 Do you see where I'm at?

8 A. Um-hmm.

9 Q. And then the says "The easement agreements  
10 allow the landowner (the applicant for this permit)  
11 to reroute the pipelines as may become necessary in  
12 the future, as long as the replacement pipelines  
13 meet industry standards."

14 Do you see that?

15 A. Yes, sir.

16 Q. That's what's stated there. Right?

17 A. Yes, sir.

18 Q. Okay. That isn't true, is it?

19 A. It isn't?

20 Q. Do you think it's true?

21 A. We've done it on other properties, why  
22 wouldn't we not be able to do it on this property?

23 Q. Well, did you look at the easements before  
24 you signed this application saying it was true and  
25 accurate?

1           A.     I've never known of any pipeline that could  
2 be moved that the company would not allow that to be  
3 done.

4                         MR. RICHARDSON:  Objection.  
5 Nonresponsive.

6           Q.     (BY MR. MILLER)  Let's go back and look at  
7 this language carefully -- okay? -- so we're on the  
8 same page.  Will you do that with me?

9           A.     Sure.

10          Q.     All right.  What it says here is, these  
11 agreements, the easement agreements, allow the  
12 landowner -- that's you.  Rancho Viejo Waste  
13 Management.  Right?

14                         Yes?

15          A.     Yes.

16          Q.     To reroute the pipelines as may be  
17 necessary.  That's what it says.

18          A.     All right.

19          Q.     Okay.  So what you're saying here -- let's  
20 be clear.

21                         You're saying, and you are  
22 representing, to the Texas Commission on  
23 Environmental Quality, in your openness and being  
24 accurate, that the easements that you have from  
25 Conoco and/or Hilcorp allow you to move the

1 pipelines. You. You've got the right to do it.

2 That's what that says. Don't you agree?

3 A. I think that's what it says.

4 Although, I don't think it applies to  
5 the current permit as it sits today with no pipe  
6 pipelines on it.

7 Q. There's no pipelines here?

8 A. Where the current footprint is?

9 Q. Oh, where the footprint is. That's not  
10 what I'm saying.

11 What's going on here in this  
12 application, you're saying that there are pipelines  
13 and easements that are sitting within the permitted  
14 facility. You agree with that.

15 A. The boundary, yeah.

16 Q. Okay. And they exist today. Right?

17 A. Correct.

18 Q. And some are in use and some aren't. Would  
19 you agree with that?

20 A. Most are not in use, but ...

21 Q. Some are.

22 A. There could be some that are.

23 Q. There could be some that aren't?

24 A. There could be some that aren't.

25 Q. There could be some that are?

1           A.     There could be some that are. I'm not  
2 going to argue that there's some fuel. It's  
3 minuscule, but there is some fuel there.

4           Q.     But you're saying in this application that  
5 these easement agreements that exist allow you to  
6 move the pipeline. And that's not true, is it?

7           A.     Well, it's just semantics. I mean,  
8 ultimately what we're saying is that we would have  
9 the authority to work with them to do it. We'd fund  
10 it, they would get the engineering, and the company  
11 would make that modification.

12          Q.     That's not what it says here, is it,  
13 Mr. Benavides? It says you have the authority to  
14 move it. It doesn't say, oh, we have the authority  
15 to work with the company to move it. It doesn't say  
16 that, does it?

17          A.     I think it does. I mean, it's just the way  
18 you take it. I mean, you know ...

19          Q.     Well, as we sit here today, you'd agree  
20 with me, would you not, that the easement agreements  
21 you have in place that cover the pipelines that are  
22 within the permitted boundary do not give you the  
23 right to move those pipelines, do they?

24          A.     I would have the ability to work with them  
25 to move the pipelines or the easements.

1 Q. Sure. Sure. You could go seek their  
2 agreement.

3 A. Well, I think that's understood. It's like  
4 one of those unwritten things. You know that that's  
5 what it means. The intent.

6 Q. I don't know that that's what it means. As  
7 a matter of fact, it says just the opposite.

8 It says that you have the authority,  
9 and you don't, do you?

10 A. I think I've already answered the question.

11 MS. WHITTLE: Objection.

12 Nonresponsive.

13 Q. (BY MR. MILLER) Actually, you haven't.

14 Do you or do you not have the  
15 authority to move the pipelines under the easements  
16 that you have in place on the permitted facility?

17 A. I think that I can go and negotiate those  
18 movements.

19 Q. That wasn't the question. Please answer  
20 the question:

21 Do you have the authority, yourself,  
22 to move the pipelines without going and working  
23 something out with the pipeline company?

24 A. No.

25 I think it's understood that we have



1 to work it out with the pipeline to make movements.

2 MR. MILLER: Objection.

3 Nonresponsive.

4 Q. (BY MR. MILLER) You don't have the  
5 authority to do it yourself, do you?

6 A. I have the authority to be able to go make  
7 it happen.

8 MR. MILLER: Nonresponsive.

9 Objection.

10 Q. (BY MR. MILLER) You don't have the  
11 authority to do it yourself, do you?

12 A. I think I've answered the question.

13 Q. You have not.

14 Do you or do you not have the  
15 authority to do it yourself?

16 A. I'm sticking with that I've already  
17 answered it.

18 Q. You have not answered the question.

19 MR. RICHARDSON: I'll certify that  
20 one.

21 Q. (BY MR. MILLER) Regardless, you seem to  
22 think this language suggests something that's not  
23 there, don't you?

24 A. I don't know.

25 Q. Okay.

1 (Exhibit 108 marked.)

2 Q. (BY MR. MILLER) I'm showing you what I'm  
3 marking as Exhibit 108.

4 Mr. Benavides, there is a plat,  
5 Exhibit No. 95, that I'm going to ask you to work  
6 with me on. And if you look at Exhibit 95 on the  
7 second page -- before we get to Exhibit 108, would  
8 you look at Exhibit 95 for me? It's the -- I've  
9 given you the plat in front of you on the second  
10 page. Flip over.

11 There you go. There's a list of  
12 easements that you're -- that are listed that exist  
13 on the facility and that's on the permitted  
14 facility. Let's tie these two together.

15 So on the second page there there's a  
16 list with numbers 2, 5, 6, 9, 22, all the way down  
17 to 72. Do you see that?

18 A. Yes, sir.

19 Q. And when you look at the plat, you can see  
20 those circled numbers with arrows identifying the  
21 locations of those pipelines. Right?

22 A. Yes.

23 Q. So let's look at the first -- the first one  
24 I want you to look at is numbers 42 and 43 on the  
25 list and on the plat.

1 A. Okay.

2 Q. Okay. 42 and 43 goes through the northern  
3 part on the -- of the northern part of the permitted  
4 facility. Right?

5 A. Yes.

6 Q. On the west side at an angle. Correct.

7 Looking at the second page with the  
8 list, those are listed down there. Right?

9 A. Yep.

10 Q. And on the list, it has the reference to  
11 the page -- I mean, I'm sorry -- the volume and the  
12 page number in the deed records that correspond to  
13 the easements, does it not?

14 A. Yep.

15 Q. All right. Would you now look at  
16 Exhibit 108?

17 A. Um-hmm.

18 Q. Exhibit 108 is, in fact, the easements  
19 identified as 42 and 43, isn't it?

20 A. Okay.

21 Q. Is it?

22 A. Yes.

23 Q. Okay. Where in this easement,  
24 Exhibit No. 108 -- where in both of these easements,  
25 Exhibit 108, does it give Rancho Viejo Waste

1 Management or Rancho Viejo Cattle Company the  
2 authority to move a pipeline? Please point it out  
3 to me.

4 A. I don't need to touch those two pipelines.

5 Q. That isn't the question.

6 Where in Exhibit 108, in both those  
7 easements, does it give you, Rancho Viejo, either  
8 cattle company or waste management, the authority to  
9 move pipelines? Is it there?

10 A. I don't know without reading the whole  
11 thing. And I'm not a lawyer to tell you if that's  
12 there.

13 But, like I said, it's not something  
14 that I need to do, so is it relative?

15 MR. RICHARDSON: Objection.

16 Nonresponsive.

17 MR. MILLER: Objection.

18 Nonresponsive.

19 Q. (BY MR. MILLER) It isn't in here, is it?

20 A. I haven't read it. Do you want me to read  
21 it?

22 Q. It isn't there, is it?

23 You know it's not in there.

24 A. Are you warranting that it's not in there?

25 Q. No. I'm asking you a question.

1                   You know it's not in there, don't you?

2           A.     If you want, I'll read it.

3                   MR. McDONALD:   Do you want us to take  
4 a break and he can read it?

5                   I mean, what's your goal?

6                   MR. MILLER:   That would be fine.

7           Let's take a break.

8                   MR. McDONALD:   Okay.

9                   (Recess: 1:43 p.m. to 1:52 p m.)

10           Q.     (BY MR. MILLER)   We took a break so you  
11 could read Exhibit 108.

12                   Do these easements provide that  
13 Rancho Viejo Waste Management or Rancho Viejo Cattle  
14 Company can reroute the pipelines?

15           A.     No, sir.

16           Q.     And if we were to look at the other  
17 easements that are listed on the second page of  
18 Exhibit 95, that would be true with those two,  
19 wouldn't it?

20           A.     Probably.

21           Q.     But you said earlier that it's kind of  
22 irrelevant because you don't need to move those  
23 pipelines.  You told me that.  Right?

24           A.     Under those two that you mentioned.

25           Q.     Those two?

1 A. At this time.

2 Q. Okay. But back in the fall of 2016, it was  
3 pretty relevant, wasn't it?

4 A. I don't know. Do you have something you  
5 want to share with me?

6 Q. So while back in the fall of 2016, do you  
7 recall the TCEQ asking you to confirm that you  
8 either had control over these easements to move them  
9 yourself or go get the documents to show that you  
10 had the agreement of the pipelines to move them?

11 A. I think what was happening there had to do  
12 with pipelines that were registered with the  
13 railroad commission that did not exist.

14 Q. You're talking about the Kinder Morgan  
15 pipeline.

16 A. Yes, sir.

17 Q. Okay. But -- that was one pipeline, but  
18 these pipelines that were owned at that time by  
19 Hilcorp were also an issue, weren't they?

20 A. Again, it was an issue of if we were going  
21 to use that space. And if we needed that area, it  
22 could have been an issue.

23 Although similar to a subdivision, I'm  
24 trying to put in, the City of Laredo has a gas line  
25 and we're talking about relocating that as we speak.

1 I don't know those people, and ultimately they're  
2 going to work with us to do that.

3 MR. MILLER: Objection.  
4 Nonresponsive.

5 (Exhibit 109 marked.)

6 Q. (BY MR. MILLER) I'm going to show you what  
7 I've marked as Exhibit 109.

8 Exhibit 109 is a letter from  
9 Michael Oden with CB&I dated November 9th, 2016, to  
10 Dwight Russell at the TCEQ. Right?

11 A. Um-hmm.

12 Q. Now, in that letter, it's responding -- do  
13 you see in the first paragraph here Mr. Oden saying  
14 we're providing changes based on your email request  
15 dated October 11th, 2016. Do you see that?

16 A. Yes.

17 Q. All right. So then the way the letter is  
18 written, it starts with Paragraph No. 1 and it talks  
19 about something that was said in that email that the  
20 TCEQ wrote Mr. Dwight Russell, apparently, and then  
21 it has the response that CB&I has to that request.  
22 Right?

23 A. Yes.

24 Q. All right. Let's turn to number 2. Item  
25 number 2, the comment that was made by the TCEQ says

1 "Drawing III G. 1-1 identifies several pipeline  
2 easements located in areas proposed for landfilling  
3 of waste."

4 At that time, in 2016, Rancho Viejo  
5 Waste Management was proposing an application to  
6 have its waste landfill footprint in both the north  
7 and south areas that are on Exhibit No. 95. Right?

8 A. Yes.

9 Q. Okay. And some of the pipeline easements  
10 that we've looked at on 95, of course, crossed where  
11 the proposed landfill footprint would be at that  
12 time in 2016. Right?

13 A. I don't know where the map went.

14 Q. Well, I think your counsel took it.

15 MR. McDONALD: No. Not that one.

16 MR. MILLER: I don't know. It got  
17 lost somewhere.

18 Oh. There you go.

19 Q. (BY MR. MILLER) I mean, given that you --  
20 back in 2016, your landfill footprint basically  
21 extended, for the most part, in the entire 952  
22 acres. Right?

23 A. Yeah. I believe, potentially, we had to  
24 contend with the 6 and 9.

25 Q. 6 and 9. What are you talking about?



1 A. In 54.

2 Q. What? I'm sorry.

3 Oh. The pipelines?

4 A. Yeah.

5 Q. Given the footprint of the landfill, you  
6 had to contend with 6, 9, 54, 40, 63, 5. All of  
7 those. Right?

8 A. No. Because the ones to the south, those  
9 were not the containment areas. The south and the  
10 southeast.

11 Q. Well, needless to say, the commission had  
12 asked you -- and then let's go to the second  
13 sentence of what is in Paragraph No. 2 in  
14 Exhibit No. 109.

15 They say, "Please provide either  
16 confirmation that the applicant has control over  
17 these easements or documentation from the easement  
18 holders acknowledging that they will agree to move  
19 the easements to be in compliance with the rules,"  
20 et cetera. Right?

21 A. Um-hmm.

22 Q. All right. And in your -- this is --  
23 Michael Oden's response is underneath that in  
24 italics. Right?

25 A. Um-hmm.

1 Q. All right. With respect to these, he says,  
2 "Applicant has been in contact" -- do you see that  
3 sentence?

4 A. Yep.

5 Q. Okay. "Applicant has been in contact with  
6 the easement holder who has agreed to move the  
7 easements and associated pipelines at the  
8 applicant's request to be in compliance with TCEQ  
9 rules."

10 Do you see that?

11 A. Yes.

12 Q. That's what it says. Right?

13 A. That's what it says.

14 Q. All right. The easement holder we're  
15 talking about -- at least one of the easement  
16 holders we're talking about in that context is  
17 Hilcorp, isn't it?

18 A. Yes.

19 Q. All right. And at that time, when this was  
20 written on November 9th, 2016, Hilcorp had not  
21 agreed to move those easements, had they?

22 A. They had agreed and then they rescinded  
23 their verbal agreement.

24 Q. Who did you -- who at Hilcorp had a verbal  
25 agreement? Who gave you that?

1           A.    I forget who the guy that I was speaking  
2 with that is their area guy.

3           Q.    J.P. Knox?

4           A.    No.  It was somebody in the area -- in the  
5 Laredo area consistent with what Mr. Gonzalez from  
6 Conoco had told us previously with Conoco.

7           Q.    Okay.  You don't remember his name?

8           A.    No.  I may have it here.  Well, I don't  
9 have my phone on me.  If you want it after --

10          Q.    Was it Gatewood Brown?

11          A.    No.  Those are the guys up in Houston,  
12 although I did meet with them.  And he was still of  
13 the positive nature in the first meeting until  
14 afterwards, they changed their mind or changed their  
15 position on how they would go about working with us  
16 or not working with us.

17          Q.    All right.  Well, let's be sure we're  
18 clear.

19                         So you had had a conversation with  
20 somebody locally in the Laredo area who was with  
21 Hilcorp.  Right?

22          A.    That's correct.

23          Q.    Whose name we can't remember.

24          A.    That's correct.

25                         But I can get it for you, I'm sure.

1 Q. Well, I'd like for you to do that, if you  
2 would.

3 A. Sure.

4 Q. And you can put it in your -- when you sign  
5 and the deposition, you can tell me the name.

6 A. No problem.

7 Q. Okay. And what had he told you?

8 A. That if it was able to be moved, they would  
9 be willing to work with us, but we would have to  
10 bear the expense and fund that movement and provide  
11 adequate easement at a different location.

12 Q. Okay.

13 A. Free of cost to them.

14 Q. Okay. At the time that this was written by  
15 Michael Oden -- I know he signed the letter, you  
16 didn't -- but you were aware of this, him making  
17 this statement to the TCEQ. Right?

18 A. Um-hmm.

19 Q. Okay. And so you were relying on the  
20 verbal agreement that you had made with the person  
21 with Hilcorp in the Laredo area where he had said if  
22 we're able to get it moved, we'll work with you.  
23 Right?

24 A. Yeah.

25 So it got refreshed because we had

1 already had that communication with Conoco and  
2 gotten that kind of verbal approval previously.

3 Q. Okay. All right.

4 A. That's what we're relying on. And, of  
5 course, Hilcorp came in and we're just refreshing  
6 those communications. And then, obviously, it got  
7 run up the flagpole and some policies got involved  
8 and then things started to change.

9 Q. Okay.

10 A. That's one of the reasons why we modified  
11 the permit, why we don't have to deal with pipelines  
12 any longer.

13 Q. Well, in fact -- so subsequent to this  
14 November letter, in fact, you found out that Hilcorp  
15 wasn't agreeing to move the pipelines. Right?

16 A. Right.

17 Q. Okay. And yet you continued to insist to  
18 the TCEQ that you had their agreement and asked for  
19 a period of time in which to get that put in  
20 writing, didn't you?

21 A. That's correct.

22 Q. And it never did happen.

23 A. That's correct.

24 Q. All right. And because it didn't happen,  
25 in part -- there were other reasons as well. But

1 the agreement to get the pipelines moved didn't  
2 occur, the commission basically said to you, you  
3 ought to get that done along with resolving some  
4 floodplain issues or we're going to return the  
5 permit. That's what the TCEQ told you. Right?

6 A. Well --

7 Q. I mean, not the permit. I'm sorry.

8 They said they were going to return  
9 the application.

10 A. I'm not sure what conversation from who  
11 you're talking about told me that. But, I mean,  
12 there was things that we had to do that we were  
13 unwilling to do at the time. And we did not want to  
14 get into a fight with the oil company over  
15 easements; although, at some point necessary, and I  
16 guess I could sue for my rights to be able to move  
17 those things.

18 (Exhibit 110 marked.)

19 Q. (BY MR. MILLER) I'm going show you what  
20 I've marked as Exhibit 110. This is another letter  
21 signed by Michael Oden, dated January 11, 2018, to  
22 Dwight Russell at the TCEQ, responding again to  
23 comments/questions that the TCEQ has raised. Right?

24 A. Um-hmm.

25 Q. Is that a yes?

1 A. I'm sorry. Yes, sir.

2 Q. All right. And they, again, in January  
3 2017, like they did in October of 2016, the TCEQ  
4 said, hey, the easement holder's been contacted and  
5 agreed to move, but we don't have those documents,  
6 get them to us. Right?

7 Isn't that the issue that was being  
8 raised there by the TCEQ in comment number 2?

9 A. Yes, sir.

10 Q. And then the response was, you've been in  
11 contact with the easement holder who's agreed to  
12 move the easements and associated pipelines at their  
13 expense, and we need 90 days.

14 That's the essence of it, isn't it?

15 A. At our expense. Applicant's expense.

16 Q. Yeah. Okay.

17 But basically, we're working with  
18 them, they've agreed to do it at our expense, being  
19 the applicant's expense, and we think the agreement  
20 will be done in 90 days.

21 A. So similar, that's about the time frame  
22 that Mr. Brown told me that he believed that's  
23 something that could be accomplished and that he  
24 needed some time to accomplish that, he needed to  
25 just get that signed off. And then ultimately, we

1 didn't get anything.

2 Q. All right. You never got anything, did  
3 you?

4 You never got a written agreement from  
5 Hilcorp to move the pipelines?

6 A. At that point, like I said to you earlier,  
7 we just decided to modify the application to build  
8 the different size cell unit so that we would not  
9 have to contend with pipelines.

10 (Exhibit 111 marked.)

11 Q. (BY MR. MILLER) So I'd asked you earlier  
12 whether or not the TCEQ had contacted you and  
13 threatened to return the application if you didn't  
14 get this issue resolved. I'm showing you to  
15 Exhibit 111. It's the letter dated July 6th, 2017,  
16 addressed to you from Chance Goodin. Right?

17 A. Yes, sir.

18 Q. And this is a letter that, in fact, says  
19 you've got to get that pipeline easement issue,  
20 among other things, resolved or we're returning the  
21 application. Isn't that what it says?

22 A. That's what it says.

23 Q. All right. And, in fact, in response to  
24 that, what you agreed to do to the commission was  
25 change your landfill footprint to the current



1 configuration of 73 acres to avoid the floodplains,  
2 to not have to worry about the pipelines, and not  
3 worry about the mineral classified tracts. Right?

4 A. (No audible response.)

5 Exhibit 112 marked.)

6 Q. (BY MR. MILLER) And that plan is outlined  
7 in what I've handed you as Exhibit 112, a letter  
8 from Bill Thompson to Earl Lott dated July 7, 2017?

9 (Document review.)

10 A. Okay.

11 Q. (BY MR. MILLER) That's right, isn't it?

12 A. Yes, sir.

13 Q. If the application had been returned,  
14 instead of you changing your plans, then your whole  
15 plan for a landfill out here would have been dead  
16 because of the citing ordinance, wouldn't it?

17 A. I don't know.

18 Q. You don't know?

19 Well, you wouldn't have been  
20 grandfathered anymore, would you?

21 MR. McDONALD: Objection. Form.

22 A. I'm not a lawyer. I don't know.

23 Q. (BY MR. MILLER) You don't know?

24 You don't really have any idea?

25 A. I mean, I'm not going to speculate.

1 Q. Okay. Suffice it to say, though, that you  
2 dropped the 952-acre proposed landfill imprint, you  
3 replaced it with a 73-acre landfill footprint, and  
4 with that, it solved some problems for you, didn't  
5 it? Right?

6 A. It's like a 660-acre footprint.

7 Q. I'm sorry. Oh. The footprint was 660?

8 A. Yeah.

9 Q. I'm sorry. Okay. The boundary remained  
10 952?

11 A. Yes.

12 Q. The actual footprint was 660. Okay. I  
13 stand corrected.

14 But it solved some problems for you,  
15 particularly in the southern area -- didn't it? --  
16 by changing the configuration of the footprint to  
17 73 acres. Right?

18 I mean, for instance, the bulk of the  
19 southern area is covered by floodplain as it exists  
20 under the current firm. Right?

21 A. Yes.

22 Q. There are pipeline easements that cross  
23 that area where the footprint was going to go.  
24 Right?

25 A. Yes.

1 Q. Okay. You have a plugged well and you  
2 can't tell me whether or not that could be a problem  
3 for you, really. Right?

4 A. I don't think it would be a problem, but go  
5 ahead.

6 Q. But it's there. Right?

7 A. Okay.

8 Q. It's in the southern area. Right?

9 A. Yes.

10 Q. Okay. And, quite frankly, you've already  
11 admitted that if this summary judgment order gets  
12 upheld on appeal, you can't even get from the  
13 northern area to the southern area. Right?

14 MR. McDONALD: Objection. Form.

15 Q. (BY MR. MILLER) Right?

16 A. That, I think I can still do.

17 Q. Well, but, again, if the order -- the  
18 summary judgment order is upheld on appeal by the  
19 court of final jurisdiction, you can't even get to  
20 the southern area. Right?

21 MR. McDONALD: Objection. Form.

22 A. Like I said, we'd go to the Supreme Court  
23 before we'd figure it out.

24 Q. (BY MR. MILLER) So if the Supreme Court  
25 says that's -- what trial court did is right, then

1 you can't get there.

2 MR. McDONALD: Objection. Form.

3 A. I still think that we have the ability to  
4 use it the way the language is in our documents  
5 but ...

6 Q. (BY MR. MILLER) But you've already agreed  
7 with me that you can't get there --

8 MR. McDONALD: Objection. Form.

9 Q. (BY MR. MILLER) -- if those events occur.

10 MR. McDONALD: Objection. Form.

11 Q. (BY MR. MILLER) You're not changing your  
12 testimony, are you?

13 A. No --

14 MR. McDONALD: Objection. Form.

15 A. -- if the Supreme Court says we can't do  
16 it, we can't do it.

17 Q. (BY MR. MILLER) Okay. Fair enough.

18 MR. MILLER: I think that's all I've  
19 got.

20 Who's next? You?

21 MS. PERALES: I hope so.

22 MR. McDONALD: Short break before you  
23 get going again?

24 MS. PERALES: Sure.

25 (Recess: 2:11 p.m. to 2:19 p.m.)

## EXAMINATION

1  
2 BY MS. PERALES:

3 Q. Good afternoon, Mr. Benavides.

4 A. Good afternoon.

5 Q. My name is Marisa Perales and I represent  
6 an entity known as SPILL, or Stop Pescadito  
7 Industrial Landfill League, and I have some  
8 questions for you.

9 And I'll just remind you that, in  
10 order to make sure we get a good record, I'll ask  
11 you that you allow me to finish my question before  
12 you answer. And I'll try to allow you to finish  
13 your answer before I ask my next question. Can we  
14 agree to that?

15 A. Sure.

16 Q. So I think earlier you were provided with a  
17 document labeled Exhibit 93, which should be the  
18 notice of deposition that I sent out.

19 A. Okay.

20 Q. Okay. And is it your understanding that  
21 you're here today as the designated corporate  
22 representative for Rancho Viejo Waste  
23 Management, LLC?

24 A. Yes.

25 Q. And do you understand you've been

1 designated as the representative with knowledge of  
2 the various topics that are listed in that document?

3 A. Yes.

4 Q. So how did you prepare for today's  
5 deposition?

6 A. In part, the ten years working through this  
7 application, and, in part, just reviewing documents  
8 over the course of that time frame.

9 Q. Okay. And did you go over the various  
10 topics that are listed in Exhibit 93?

11 A. I did.

12 Q. And you made sure that you had the  
13 knowledge that's necessary to answer questions  
14 related to those topics today?

15 A. I do.

16 Q. And I think you testified earlier in  
17 response to some questions that you don't have any  
18 experience managing a landfill. Is that right?

19 A. Not a landfill as the one we're talking  
20 about here.

21 Q. What kind of landfill do you have  
22 experience with?

23 A. Well, I have the experience with how we,  
24 you know, used to deposit waste in to our different  
25 properties that we have in multiple counties and

1 what I've done to remediate most of those  
2 facilities, if not all.

3 MR. COHEN: Could you speak up a  
4 little bit, please?

5 Q. (BY MS. PERALES) So when you say "we," are  
6 you talking about Rancho Viejo Waste Management,  
7 LLC, or "we" another entity?

8 A. Just Rancho Viejo as a whole and the  
9 Benavides family.

10 Q. Okay. So when you talked about other  
11 properties that you've managed and waste that you've  
12 managed on those properties, are you referring to  
13 the Benavides family?

14 A. The Benavides family, CY Benavides Jr. and  
15 family.

16 Q. Okay. And what kind of waste have you  
17 managed as part of the Benavides family?

18 A. Anywhere from household -- you know,  
19 household-generated waste that we have there from  
20 the ranch property and the people that live there,  
21 to old pesticide cans, paints, tires, whatnot.

22 Q. And so is this waste that was generated on  
23 the property of the Benavides family?

24 A. Yes.

25 Q. And what did you do with that waste?

1           A.     Well, historically, it had been just in an  
2 open field pit, like was customary back in the day.  
3 And that's how it had been managed over the years.  
4 And since then, I reclaimed all the facilities that  
5 we have and deposited those waste materials at  
6 registered landfills in different counties that we  
7 own.

8           Q.     And how did you reclaim the waste that had  
9 been deposited on those properties?

10          A.     Dig it up, put it in a container and  
11 shipped it.

12          Q.     Did you ship it to the City of Laredo's  
13 landfill?

14          A.     City of Laredo, City of Kerrville, City of  
15 Uvalde, City of Devine.

16          Q.     And how did you classify that waste?

17          A.     Most of the debris and things of that  
18 nature, and whatever was incinerated, just shipped  
19 it as regular trash. And old batteries, paints,  
20 things of that nature, we either waited for a  
21 round-up day, like at Laredo, for example, where  
22 they do an annual specialty waste round-up and  
23 deliver it there, most of the time.

24          Q.     So after you dug up the waste, you sorted  
25 through it?



1 A. Yes.

2 Q. And you segregated the different types of  
3 waste. Is that what you're testifying to?

4 A. Yes.

5 Q. Have you -- do you have any experience  
6 applying for a landfill permit?

7 A. Just the experience that I've brought to  
8 bear in the last decade.

9 Q. Do you have any experience obtaining a  
10 permit for any type of disposal facility?

11 A. Some.

12 Q. Okay. Explain.

13 A. We have worked with attorneys to set up and  
14 consider an injection well project at multiple  
15 locations.

16 Q. When you say "we," are you referring to --

17 A. My family.

18 Any time I say "we," it's my brother,  
19 sister, my dad, myself.

20 Q. Okay. So you mentioned an injection well  
21 project that you've been consulting about. And  
22 would this injection well project include multiple  
23 injection wells?

24 A. Just one injection well.

25 Q. Where would that be located?

1 A. In western Webb County.

2 Q. Would that injection well be located within  
3 the permit boundary of the Pescadito landfill?

4 A. No.

5 Q. And what type of waste do you intend to  
6 accept at the injection well?

7 A. It was to accept oil and gas, used water,  
8 frac water, et cetera.

9 Q. Has an application been prepared for that  
10 project?

11 A. No.

12 Q. Have you hired any consultants to start  
13 preparing that project?

14 A. No.

15 Q. Have you done any sort of site assessment  
16 to determine the suitability of the property for  
17 such a project?

18 A. Yes.

19 Q. Who conducted that site assessment?

20 A. Originally, myself. And then I brought in  
21 Grissom & Thompson to start working on some basics  
22 necessary for us to consider whether or not that was  
23 a viable, suitable location.

24 Q. And Grissom & Thompson, that's a law firm.  
25 Right?

1 A. That is.

2 Q. Have you engaged any geologists to conduct  
3 a site assessment?

4 A. No.

5 Q. Any engineers?

6 A. No.

7 Just preliminary visits with  
8 representatives and engineers from the oil companies  
9 that do business in that part of the world.

10 Q. And when did you -- when did you first  
11 start consulting about this project?

12 A. Maybe about ten years ago.

13 Q. And so right now, the only thing you've  
14 done in terms of assessing the proposed site, or the  
15 site you're considering is, to hire  
16 Grissom & Thompson, which is a law firm. Is that  
17 right?

18 MR. McDONALD: Objection. Form.

19 Q. (BY MS. PERALES) Have you ever done any  
20 work to obtain any other type of disposal facility  
21 permit or authorization?

22 A. I think there was an element having to do  
23 with my permit with TxDOT that required me to have  
24 some basic ability to do some of that. Because  
25 being that it was a private toll road, we had to

1 collect all the -- for example, the tires that would  
2 get blown up and then quite a few vehicles that  
3 would be abandoned for reasons of smuggling and  
4 otherwise, and we had to have a little containment  
5 area. So that's something that was conducted during  
6 my ownership and management of operations of the  
7 facility from, say, 2000 to the end of 2001. About  
8 a two-year period.

9 Q. So just to make sure I understand. Are you  
10 saying that TxDOT issued a permit that required you  
11 to collect used tires and abandoned vehicles?

12 A. Yes.

13 Q. And is it your understanding that it's  
14 TxDOT who has the authority to issue those types of  
15 permits?

16 A. I don't think that -- that was not the way  
17 it was conducted. And this was unique being that it  
18 was the first private toll road in the state's  
19 history. So that probably wasn't done, you know.  
20 It was the first time something like that had been  
21 done, so -- but I know that we did have a small yard  
22 close to the footprint of the headquarters that  
23 would be the enclosed area where that refuse would  
24 be collected or those impounded cars.

25 Q. And as far as you recall, you never

1 obtained a permit from TCEQ to manage or store the  
2 collected tires and abandoned vehicles?

3 A. As far as I can remember, I don't think we  
4 did.

5 Although, we did drill a well into the  
6 Carrizo aquifer as part of our permit that  
7 potentially -- it was what we used to have water at  
8 the headquarters at Camino Colombia. And I don't  
9 know who we applied with there, but it could have  
10 been TCEQ or the railroad commission.

11 Q. Okay. So the drilling of the well into the  
12 Carrizo for water, that's something where you think  
13 you might have obtained a permit before that work?

14 A. I know we did.

15 Q. Okay. And you just don't remember where  
16 you obtained that permit from?

17 A. That's correct.

18 Q. Okay. Have you ever -- do you have any  
19 experience managing or disposing of industrial  
20 waste?

21 A. I do not.

22 Q. Do you have any experience in managing or  
23 disposing of oil and gas waste?

24 A. I mean, what do you mean by "experience"?

25 Q. Have you had any experience in managing or

1 disposing of oil and gas waste?

2 A. I mean, I'm around it, we deal with it  
3 within our contracts. For example, saltwater that's  
4 created on multiple leases on multiple properties  
5 around the county. That's all a product that  
6 ultimately gets deposited of, and so yes. I'm aware  
7 how that happens and how it goes about happening,  
8 and authorize people to do those things and make  
9 those daily movements of those -- of that byproduct  
10 of the industry.

11 Q. Are you authorized by any entity to manage  
12 or dispose of oil and gas waste?

13 A. I don't think I'm authorized. I think I  
14 authorize others to do that for me.

15 Q. Okay. So you believe that you've issued  
16 authorizations to other entities?

17 A. As far as -- no.

18 I mean, as far as when we make a lease  
19 with an oil company and as part of the language that  
20 we utilize on how they are to remove these products  
21 during construction of a gas well. And then  
22 post-completion and then throughout the life of the  
23 gas well, because as it starts depleting the gas,  
24 you start making a lot of saltwater. All that has  
25 to be disposed of off site.

1 Q. And do you -- do you know what a land farm  
2 is?

3 A. Yeah.

4 Q. What's a land farm?

5 A. A place where they go and pour out mud,  
6 viscum (ph), in the ground, dry it out, rip it up,  
7 and recollect it.

8 Q. Do you have any experience managing or  
9 operating a land farm?

10 A. I do not have experience doing it;  
11 although, I do know how it's done.

12 Q. Have you ever applied for any sort of  
13 authorization to process or land apply grease and  
14 grit trap waste?

15 A. Not before this permit.

16 Q. Is it your understanding that you are  
17 asking for authorization for land-applying grease  
18 and grit trap waste through this permit?

19 A. Yes.

20 Q. Do you have any experience managing or  
21 disposing of grease and grit trap waste?

22 A. I do not.

23 Q. Do you know how grease and grit trap waste  
24 is beneficially reused?

25 A. I know it can be used -- reused.

1 Q. And how so?

2 A. Some people create a form of biodiesel with  
3 it.

4 Q. That's your understanding of beneficial  
5 reuse of grit and grease trap waste?

6 A. I think so.

7 Q. Have you ever sought any kind of  
8 authorization to operate a waste incineration  
9 facility?

10 A. I have not.

11 Q. Do you have any experience operating or  
12 managing a waste incineration facility?

13 A. No.

14 Q. Do you have any experience in managing or  
15 disposing of coal ash waste?

16 A. I do not.

17 Q. Do you have any experience managing or  
18 operating a waste transfer station?

19 A. No.

20 Q. Have you ever sought the permit or other  
21 authorization for a waste transfer station.

22 A. No.

23 Q. Have you ever sought a permit or other  
24 authorization to operate a MRF?

25 A. No.



1 Q. Do you know what a MRF is?

2 A. Somewhat.

3 Q. Is it your understanding that a MRF stands  
4 for a Materials Recycling Facility?

5 A. Something like that.

6 Q. Have you ever been to a MRF?

7 A. I have.

8 Q. When?

9 A. A couple of times, maybe three times, in  
10 the last decade.

11 Q. And which MRFs did you visit?

12 A. TDSL and Pintail in Georgia.

13 Q. Okay. When you say Pintail in Georgia, are  
14 you referring to a facility operated by Green Group  
15 Holdings?

16 A. That's correct.

17 Q. Have you ever had any experience managing  
18 or engaging in the recycling of electronic waste?

19 A. I have not.

20 Q. Have you ever sought any sort of  
21 authorization for the recycling of electronic waste?

22 A. No, ma'am.

23 Q. Have you ever sought any type of permit  
24 from TCEQ, other than possibly this permit, to drill  
25 a well into the Carrizo?

1 A. No, ma'am.

2 Q. So the various operations that I've just  
3 asked you about, the grease and grit trap waste  
4 disposal or reuse, the injection wells, oil and gas  
5 waste disposal, electronic waste recycling, these  
6 are all operations that are currently contemplated  
7 by the Pescadito landfill in the application that  
8 was submitted to TCEQ. Isn't that right?

9 A. Yes.

10 Q. So who came up with these various  
11 operations and determined to include them in the  
12 landfill permit application?

13 A. My family.

14 Q. And can you remind me who that is?

15 A. Cristina Alexander and Guillermo Benavides.

16 Q. And do either of those two individuals have  
17 any experience with waste disposal or management of  
18 waste?

19 A. Similar to what I mentioned to you of the  
20 ranching, that's about it.

21 Q. So what was the basis for the determination  
22 to add these various types of operations to the  
23 landfill permit application?

24 A. Well, we knew we had a quality, number-one  
25 site, first of all. Also, the contour and the way

1 the layout of the land is, it allows you to do a lot  
2 of different things that you normally might not be  
3 able to do on other landfills. Furthermore, it's  
4 part of the economic development of the community  
5 and where this waste needs a home, for example, the  
6 oil and gas stuff. Grit and grease, there's not a  
7 facility within 150 miles when we first applied for  
8 the permit for grit and grease. And a lot of that  
9 grit and grease did not make it to the facility  
10 because it was hoarded to some arroyo or some ditch  
11 along the way, and that's very bad for our  
12 community, very bad for our state.

13 Q. And you observed this? You observed the  
14 grease and grit waste in the various arroyos?

15 A. Absolutely.

16 Q. And what did you do after you observed  
17 that?

18 A. I called different people about it, and  
19 some of it dealt with it internally. I deal with  
20 that today with the oil and gas industry as well.

21 Q. Did you make any reports or complaints to  
22 the TCEQ?

23 A. We got the oil company to mitigate and do  
24 the work to recover what was dumped.

25 Q. What about the grease and grit trap waste

1 that you observed in the arroyos?

2 A. That was on a trip to San Antonio one day  
3 by Devine. And I don't recall if I called the  
4 constable or the sheriff's department. That's about  
5 it.

6 Q. But you didn't call TCEQ?

7 A. No.

8 Q. Did you know that TCEQ is the entity that  
9 regulates the disposal or recycling of grease and  
10 grit trap waste?

11 A. At that time, you know, I'm talking like  
12 20-something years ago, maybe longer. It's not  
13 something that came to mind. It's just when you're  
14 dealing with county issues, we always call the  
15 sheriff kind of a deal.

16 Q. So have you seen any issues related to the  
17 unauthorized disposal of grease and grit trap waste  
18 in Webb County in the last ten years?

19 A. Yes.

20 Q. Did you call the TCEQ and make any  
21 complaints?

22 A. There was nothing that the TCEQ could have  
23 done on a call that I would have made on the  
24 observations that I saw.

25 Q. How do you know that?

1           A.     Because where I saw them was product that  
2 had already been disposed of in the sewer system in  
3 the city of Laredo and was clogging different areas  
4 within our community.

5           Q.     So did you call anyone?

6           A.     Well, there's just observations, you know,  
7 with people that I've been around. I'm quite  
8 involved with different environmental organizations  
9 and observations we saw about when people have done  
10 that in our community.

11          Q.     Okay. So earlier, I think I heard you  
12 testify about how you -- and I suspect you meant the  
13 Benavides family or you and Ms. Alexander and  
14 Mr. Benavides are no different from the Gregorys.  
15 Is that right?

16          A.     Well, we're very different, but we have  
17 similar backgrounds.

18          Q.     Okay. And when you refer to "the  
19 Gregorys," you're talking about the owners and  
20 operators of the TDS landfill in Creedmoor. Is that  
21 right?

22          A.     Yes.

23          Q.     And are you familiar with the TDS landfill?

24          A.     Yes.

25          Q.     And you're familiar with the Gregorys?

1 A. Very.

2 Q. How so?

3 A. We are acquaintances, friends. We have  
4 conducted similar family businesses together. We  
5 have talked about the development of Pescadito  
6 before we ever applied for a permit. We've talked  
7 about Pescadito after we applied for a permit. And  
8 they've also been gracious to host a couple of tours  
9 that we've done out on the site as well.

10 Q. So how many times have you visited the  
11 landfill?

12 A. Me, myself?

13 Q. Yes.

14 A. I think three times.

15 Q. And when was that?

16 A. Sprinkled over the last decade, I don't  
17 recall exactly when, but ...

18 Q. When was the last time you met or had a  
19 conversation with the Gregorys?

20 A. Probably last year with Jimmy. Maybe two  
21 years with Bobby.

22 Q. So based on your familiarity with the TDS  
23 landfill and your close relationship with the  
24 Gregorys, what exactly is it about the TDS landfill  
25 and its operation that you intend to replicate if

1 the Pescadito landfill is permitted?

2 MR. McDONALD: Objection. Form.

3 A. Well, our idea was to have something that  
4 could be very user friendly, be working with the  
5 community on trying to actually do something  
6 different in the way to be able to offer real  
7 services with recycling and re-purposing and reusing  
8 of product waste.

9 We also, even before the landfill,  
10 have been raising exotic species that we have on the  
11 landfill-permitted property as we speak today. And  
12 that's something that we would continue to expand on  
13 over the life of the permit.

14 Q. (BY MS. PERALES) And just to be clear. So  
15 you have made representations, I think even on your  
16 website, that if the Pescadito landfill is  
17 permitted, it will be similar to, or identical to,  
18 the way that the TDS landfill is operated. Isn't  
19 that right?

20 A. Well, like I say, you know, no one landfill  
21 that I have ever seen is identical to any other one.

22 Q. Okay.

23 A. And the nice thing about developing a  
24 project like ours is that we have the most modern  
25 technology and we have the hardest guidelines to

1 have to adhere to, even surpassing the Ponderosa  
2 permit that's already been granted.

3 Q. So my question, though, is related to TDS  
4 landfill.

5 Have you made representations that if  
6 the Pescadito landfill is permitted, it will be  
7 operated similar to the TDS landfill?

8 MR. McDONALD: Objection. Form.

9 A. It would be -- that's a statement where we  
10 believe that somebody's done a good job, and we'd  
11 like to do it as good, or better, as they've done  
12 it. And so, yeah. We're warranting that we want  
13 the best.

14 Q. (BY MS. PERALES) Okay. Do you know how  
15 large the landfill footprint is at the TDS facility?

16 A. I don't recall what they have permitted,  
17 but it's somewhere between like 330 to 550 acres, I  
18 think.

19 Q. Do you know if any of that footprint is in  
20 a floodplain?

21 A. I don't know.

22 Q. Do you know if it ever was in a floodplain?

23 A. I don't know.

24 Q. Do you know if they have any injection  
25 wells on their site?



1 A. I don't know.

2 Q. Do you know if they take oil and gas waste?

3 A. I do not know.

4 Q. Do you know if TDS accepts any maquila  
5 waste from Mexico?

6 A. I don't know.

7 Q. Do you know if TDS accepts coal ash?

8 A. I don't know.

9 Q. Do you know if TDS accepts any Class I or  
10 industrial waste?

11 A. I do not know.

12 Q. Do you know if the TDS landfill accepts any  
13 out-of-state waste by rail?

14 A. I don't think they have a rail facility.

15 Q. So is the answer, no?

16 A. Probably no.

17 Q. And if the Pescadito landfill permit is  
18 granted, will you be the operator of that landfill?

19 A. I would be.

20 Q. Okay. Yet we've already talked about your  
21 lack of experience in managing or operating any type  
22 of disposal facility. Isn't that right?

23 A. That's correct.

24 Q. So how are you going to ensure that the  
25 Pescadito landfill is going to be operated similar

1 to the TDS landfill?

2 A. Well, we'll be hiring a Class A operator to  
3 come that's licensed, that's going to be the  
4 cutting-edge-type individual that will help us  
5 manage the property. I think we're going to have to  
6 train and get set up with about seven to eight  
7 employees starting out, and we're going to look for  
8 the best people that could do the job for us.

9 Q. And how are you going to ensure that the  
10 landfill will be operated in a manner similar to the  
11 operation of the TDS landfill?

12 A. I'm sure we'll never operate like the TDS  
13 landfill because we're our own landfill. We have  
14 our own guidelines that are different than TDS's.  
15 But we will adhere to the letter and then some with  
16 the way our permit is handed to us.

17 Q. So -- and to be clear -- if the permit is  
18 granted, this permit would allow you to accept  
19 type 1 non-hazardous waste, industrial waste,  
20 maquila waste from Mexico. Isn't that right?

21 A. That's correct.

22 Q. So I think we heard you testify earlier  
23 that at one point there was a joint venture between  
24 Rancho Viejo and Green Group Holdings regarding  
25 Pescadito landfill. Isn't that right?

1 A. That's correct.

2 Q. Are you familiar with Green Group Holdings'  
3 experience in operating landfills?

4 A. Limited. It's now dated, but ...

5 Q. Do you have any knowledge about their  
6 compliance history with their existing landfills?

7 A. I haven't spoken to anybody from  
8 Green Group and talked about anything to do with  
9 them in a bunch of years, so I don't know what  
10 they've done or not done.

11 Q. Do you know whether there have ever been  
12 any lawsuits filed regarding the operation of a  
13 Green Group Holdings landfill?

14 A. I do not know.

15 And, for the record, I never wanted to  
16 make a deal with them.

17 Q. Okay. So why was that even contemplated,  
18 the joint venture with Green Group Holdings?

19 A. Because I work for a partnership and  
20 there's other members that make decisions as well.  
21 So the majority wanted to make a deal.

22 Q. I see. And why is it that you didn't want  
23 to make a deal?

24 A. Because I thought it was premature. I  
25 thought if, and when, we got down the road, we'd

1 make a better transaction if we chose to get a  
2 partner, and that -- I thought, you know, we might  
3 even have multiple options for partners.

4 Q. So is that still -- is that still what you  
5 intend to do is to seek a partner if and when the  
6 landfill is permitted?

7 A. Not at this time.

8 The size of the landfill is much more  
9 manageable. I'm not as nervous in being able to  
10 have the right people participating with us.  
11 Although, we would ultimately hire the best  
12 technical people that we're required to to make sure  
13 we have first-class team to handle the waste that  
14 we're looking to generate under the -- under this  
15 new, revised permit application.

16 Q. Do you have any knowledge about whether  
17 Green Group Holdings has operated any landfill  
18 similar to the way that TDS operates its landfill?

19 A. I would tell you that I have no knowledge  
20 with anything to do with Green Group.

21 Q. Okay. So the site collection process:  
22 What type of assessment of the proposed site for the  
23 Pescadito landfill was conducted before you chose  
24 it?

25 A. Well, I think one of the most critical

1 things that came to even having an idea about  
2 developing a landfill is that about 40 years ago --

3 Q. I'm talking about the site. Right? The  
4 site assessment. Okay?

5 A. I'm going to tell you about that.

6 So 40 years ago, a gentleman named  
7 Mertz Gales (ph), who I think was the president of  
8 NRG Oil & Gas at the time, he was a geologist and  
9 landman, spoke to my grandfather and I that that  
10 area and that site in the Lobo formation was like a  
11 deep vault location and that it would not produce  
12 natural gas, but as an anomaly it was a perfect site  
13 location for a landfill.

14 MS. PERALES: I'm going to object to  
15 that as nonresponsive.

16 Q. (BY MS. PERALES) Are you testifying that  
17 you started the Pescadito landfill project 40 years  
18 ago?

19 A. The seed was planted for the idea to create  
20 the Pescadito.

21 Q. Did you start the Pescadito landfill  
22 project 40 years ago?

23 A. Indirectly, yes.

24 Q. So this is a project that has been going on  
25 for 40 years?

1 A. No.

2 Q. Okay.

3 A. I'm saying the seed was planted on having  
4 the prospect of building a landfill at that site.

5 Q. Were you aware that the proposed site for  
6 the Pescadito landfill has extensive floodplains on  
7 it?

8 A. I know everything about the site.

9 Q. Did anybody ever advise you that a site  
10 with such extensive floodplains would be a good site  
11 for a landfill?

12 A. These floodplains are not like any other  
13 floodplains.

14 MS. PERALES: Objection.  
15 Nonresponsive.

16 Q. (BY MS. PERALES) Did anyone ever advise  
17 you that putting a landfill onto a site with such  
18 extensive floodplains would be a good idea?

19 A. I know the site is a good location. That's  
20 why we moved forward on the site, indifferent of the  
21 100-year floodplain, which we knew we'd have to  
22 manage.

23 I mean, I give you that. We  
24 understand that we have to move the 100-year  
25 floodplain, so that's why we filed the CLOMR, to

1 allow us to do that, so we could contain everything  
2 in that 1000-acre -- or 900-acre footprint.

3 MS. PERALES: Objection.

4 Nonresponsive.

5 Q. (BY MS. PERALES) Sir, it's a simple  
6 question:

7 Did anybody, any consultant that  
8 you've hired, anybody assisting you with the site  
9 assessment, did anybody advise you that a site, such  
10 as the one that has been selected here, with  
11 extensive floodplains would be suitable for a  
12 landfill?

13 A. This particular site, yes.

14 Q. So someone said to you that a site with  
15 extensive floodplains is suitable for a landfill.

16 A. No --

17 MR. McDONALD: Objection. Form.

18 A. -- they're saying that this particular  
19 site, and how you could manage that 100-year  
20 floodplain, is a perfect site.

21 Q. (BY MS. PERALES) So nobody has ever said  
22 to you putting a landfill on a site that has  
23 extensive floodplains is a good idea.

24 A. I don't understand that statement.

25 I'm telling you that TRC, the original

1 development, conceptual plan, to move forward with  
2 the permit told Rancho Viejo Cattle Company that  
3 they felt this was the number-one site prospect  
4 location.

5 Q. There's groundwater present at shallow  
6 elevations on that site. Isn't that right?

7 MR. McDONALD: Objection. Form.

8 A. Surface water or underground water?

9 Q. (BY MS. PERALES) Groundwater. Below the  
10 surface.

11 A. There is -- at shallow locations. I don't  
12 agree with that statement.

13 Q. Do you know whether there are -- whether  
14 there is subsurface groundwater at shallow  
15 elevations on the site?

16 A. I think we know -- you know as much as I  
17 know as far as the groundwater that exists. Most of  
18 it is pretty deep as far as anything that is useable  
19 by cattle or humans.

20 Q. I'm not talking about useable water. I'm  
21 asking whether there is subsurface water at the site  
22 at shallow elevations. At elevations that are less  
23 than 100 feet below surface.

24 A. I wouldn't consider that water.

25 Q. Is there water?



1       A.    No.  There's salt and it's got moisture in  
2  it.

3       Q.    So you've never seen water in any of the  
4  piezometers or wells that have been placed around  
5  the site?

6       A.    I've seen water -- subsurface water at  
7  every -- at every instance wherever you traverse one  
8  of these ribbons in the Yegua aquifer, getting down  
9  to the lower sands where you might find one or two  
10 fresh locations, I guess, in the Laredo.

11      Q.    On the site, do you know if there are any  
12 wells, any piezometers, that are drilled deeper than  
13 100 feet below surface?

14      A.    You know, it's been a while since we did  
15 those borings.  You could warrant to me what they  
16 are.  I know there's multiple depths that we did,  
17 but I'm -- I thought I was pretty sure that we did  
18 depths to below 190 or 200 feet on some of those  
19 borings.

20      Q.    And so as we sit here right now, you can't  
21 tell me whether any of those piezometers have  
22 detected any water at elevations of 100 feet below  
23 surface or shallower?

24      A.    I can't tell you where it came from.

25      Q.    I'm not asking that.

1                   My question is whether there has been  
2 any water detected in any of those piezometers.

3           A.     Yeah.  But you were saying at certain  
4 depths.

5           Q.     Well, at the depths that those wells exist.

6           A.     Yeah.  I understand.  But, I mean, you  
7 were -- because it's --

8           Q.     Has there been any water at 100 feet below  
9 surface on the site?

10          A.     There has been some water.

11          Q.     Is that a factor that was considered at all  
12 in determining whether this is a suitable site for a  
13 landfill?

14          A.     No.

15                   Because they don't have any volume  
16 that you cannot manage.

17          Q.     Isn't it true that the landfill is proposed  
18 to be excavated into this water table?

19                   MR. McDONALD:  Objection.  Form.

20          A.     Absolutely.

21          Q.     (BY MS. PERALES)  And was that a  
22 consideration in determining whether this is a  
23 suitable site for a landfill?

24          A.     Of course.

25          Q.     And you determined that excavating a

1 landfill into a water table was a good idea.

2 MR. McDONALD: Objection. Form.

3 A. It's not like you're excavating here next  
4 to this river. You know, there's -- there is  
5 intermittent ribbons of water that don't pool up,  
6 they don't volume in any kind of volume. It's all  
7 manageable-type of underground -- like I said, I  
8 guess, the buzz word is "ribbons of water" that  
9 might exist in there that are not all connected.

10 Q. (BY MS. PERALES) Okay. So there's quite a  
11 bit of landfill at the site, isn't there?

12 A. I'm sorry.

13 Q. I'm sorry. There's quite bit a wildlife at  
14 the site, isn't there?

15 Sorry. Not a landfill yet.

16 A. Yeah. There's a little bit of wildlife.

17 Q. And, in fact, there have been indications  
18 that the indigo snake has been present on the site.  
19 Isn't that right?

20 A. There's many indigo snakes on the site.

21 Q. Okay. What about Texas horned lizards or  
22 horny toads?

23 A. No.

24 Q. There are none on this site?

25 A. No.

1 Q. What about the Texas tortoise?

2 A. Yes.

3 Q. You've seen the Texas tortoise on the site?

4 A. Yes.

5 Q. On several occasions?

6 A. All my life.

7 Q. The presence of these animals: Did that  
8 factor at all into the site assessment for a  
9 landfill?

10 A. Absolutely.

11 Q. How so?

12 A. Again, we know part of the reasons those  
13 animals are on the site is because of the size of  
14 our property. And our size of our property is our  
15 greatest richness, and that allows us to  
16 accommodate, to coexist with wildlife.

17 I'm a wildlife guy. That's all I've  
18 done my entire life. I've spent more money and my  
19 personal resources and family resources to make sure  
20 that these kinds of species exist and other species  
21 from around the world.

22 MS. PERALES: I'm going to object as  
23 nonresponsive.

24 Q. (BY MS. PERALES) Would you agree that there  
25 are feral hogs present on the site?

1 A. There are no feral hogs on the site.

2 Q. Have you ever seen any indication that  
3 there are feral hogs present on the site?

4 You've never seen the soil disturbed  
5 or dug up as though a feral hog might have disturbed  
6 it?

7 A. It's almost totally extinct of feral hogs.

8 Q. So is it your understanding that about  
9 July 2012 a 105-year rain event occurred on the  
10 site?

11 A. Okay.

12 Q. Is that something you recall?

13 A. Yes.

14 Q. And do you recall sharing that with  
15 Mr. Kevin Ramberg.

16 A. Yes.

17 Q. And do you recall sharing with him that you  
18 observed 7 inches of rain over a four-hour period?

19 A. Somewhere thereabouts. It's been a while.

20 Q. And how did you determine that a 105-year  
21 storm event had occurred in July 2012?

22 A. Those are his words, not mine, if he put  
23 that out there.

24 Q. Did you have any -- how did you determine  
25 that 7 inches of rain were collected?

1       A.    We were on the site, we had a gauge that, I  
2 think, was 6 inches.  And that got full and it still  
3 was raining.

4       Q.    So you used a gauge?  Is that what you're  
5 saying?

6       A.    There's a gauge -- a 6-inch gauge that got  
7 full and it was still raining for a good amount of  
8 time, so we're just ball-parking it as around  
9 7 inches.

10      Q.    So you were on the site observing the gauge  
11 when this rain event occurred?

12      A.    Yes.

13      Q.    And did you take any photos?

14      A.    I did not.

15      Q.    Did you take any notes?

16      A.    I did not.

17      Q.    What was your purpose in sharing this  
18 information with Mr. Ramberg?

19      A.    I think we've always -- along the time  
20 frame that we've been working on this permit, we've  
21 always paid attention to those things, because it  
22 determines what we're permitting and how we're  
23 designing things so that we can accommodate for  
24 anything necessary on the movement of water.

25      Q.    What was condition of Burrito Tank when

1 that storm event occurred?

2 A. What do you mean by "condition"?

3 Q. Was the tank full?

4 A. It got full, yes.

5 Q. Before the storm event occurred, was it  
6 full?

7 A. I can't tell you, because it's not one of  
8 those dams you can see from the road. You know,  
9 you'd actually have to walk to it, so I can't tell  
10 you. I didn't go up and see what it looked like  
11 before the rainstorm.

12 Q. Was it empty?

13 A. It's never empty.

14 Q. Do you recall if it had rained anytime  
15 within the week prior to that 105-year storm event?

16 A. You know, I can't recall.

17 Q. Okay. What is the expected lifespan of  
18 this landfill at the current acreage that's proposed  
19 in the application?

20 A. Somewhere around seven years.

21 Q. And do you know how many years of capacity  
22 are left at the Laredo landfill?

23 A. I do not, because they've modified their  
24 permit.

25 Q. Okay. And do you know how many years of

1 capacity are left at the Ponderosa landfill?

2 A. I do not.

3 Q. You testified earlier about conversations  
4 with folks from the Laredo landfill and negotiations  
5 related to providing them some type of cover  
6 material. Do you recall that?

7 A. Yes.

8 Q. Were you talking about daily cover? Final  
9 cover?

10 A. We could provide all of the above.

11 We have so much resources there  
12 material-wise and quality of material that would be  
13 ideal, if they chose to cover it to close. But I  
14 don't think that the city wants to close it. I've  
15 got recent information that they've asked two power  
16 companies to move pipelines so they can expand their  
17 existing permit.

18 Q. Are you talking about final cover?

19 A. No, ma'am. No. I'm talking about  
20 redevelopment cover.

21 They need cover -- daily cover and  
22 redevelopment if they're going to build in -- so  
23 there's two mountains now. They want to build in  
24 the middle of them, basically.

25 Q. So you understand that in their permit



1 application, there were waste acceptance rates and  
2 waste projections provided. Is that right?

3 A. Yes.

4 Q. In coming up with those waste projections,  
5 who is it that the generators are expected to be?

6 A. Who is going to be a generator?

7 Q. Who's going to generate the waste that is  
8 the basis for your waste projections?

9 A. City of Laredo, surrounding communities  
10 around Laredo. And then anybody in the Gulfport  
11 states in an 800-mile direction.

12 Q. Have you reached out to any of the  
13 potential customers or entities who might be  
14 generators of the waste?

15 A. Just local.

16 Q. Do you expect that some of that waste will  
17 come from Canada?

18 A. You know, I don't expect that.

19 Although on a recent presentation to  
20 the Senate Commission here a few weeks ago, I think  
21 TCEQ stated that Canada was delivering some waste to  
22 Laredo.

23 Q. To the Laredo landfill?

24 A. That's correct.

25 Q. And how was it getting there?

1       A.    I'm sure it's via maquila international  
2 waste.

3       Q.    So the type of waste that's coming from  
4 Canada is maquila international waste?

5       A.    Yes.

6       Q.    And how is it getting to the Laredo  
7 landfill?

8       A.    I'm sure it's being containerized and sent  
9 to the city of Laredo.

10      Q.    So have you investigated at all any of  
11 these statements that you heard?

12      A.    No.  That's just ...

13      Q.    Okay.  Do you expect that you will be  
14 getting waste that's been generated in Mexico at the  
15 Pescadito landfill?

16      A.    I suspect that we could take waste from  
17 U.S. companies that are developing products at  
18 maquiladora-type projects, subject to NAFTA laws,  
19 forcing those American companies to retrieve the  
20 waste and to bring it back into the country.

21      Q.    And how will that waste be characterized?

22      A.    Well, it depends on the kind of waste  
23 that's coming, I'm sure.  But all of it will be in  
24 some kind of probably special waste.  And then  
25 similar to, like, other shipments have a bill of

1 lading that will come to the landfill.

2 Q. Do you know whether Mexico classes its  
3 waste in the same way that Texas does?

4 A. I do not know how Mexico classes their  
5 waste.

6 Q. Do you know if Mexico has a Class 1  
7 industrial waste classification?

8 A. I do not.

9 Q. Do you know if Canada does?

10 A. I do not.

11 Q. Do you know if other states within the  
12 United States have a Class 1 industrial waste  
13 designation?

14 A. I believe there are some that don't.

15 Q. How are you going to ensure that the waste  
16 is properly classified before you deposit it into  
17 the landfill?

18 A. As to any waste that's bought outside of  
19 Texas, we will be working with TCEQ on making sure  
20 that it's properly within our rights to accept it.  
21 Either get special permits from the executive  
22 director or working with the staff. And then  
23 re-cataloging and re-categorizing how those  
24 shipments come into our facility, being inspected  
25 first and at the entrance of the facility, and,

1 potentially, during sorting, you know, reinspect it.  
2 And then 1 percent of the entire waste stream coming  
3 in on a daily basis will be inspected mandatorily  
4 and broken down so that we can understand what we  
5 have in front of us.

6 Q. And what type of sampling or testing do you  
7 intend to do to ensure that the waste that's coming  
8 in has been properly classified?

9 A. I think the majority of it will be caught  
10 by the way -- the waste generator. I mean, we can  
11 understand if we're bringing waste and it comes  
12 from, for example, Resendez, which is a trash hauler  
13 that you know it's coming from certain homes or  
14 businesses that are just regular, traditional trash.

15 Now, if you're going to get something  
16 coming from the deep water port of Corpus Christi,  
17 again, it would have some kind of manifest tied to  
18 it, and then you would have visual inspection tied  
19 to prove up with the manifest. And if it all was  
20 kosher, then you get it impounded and if it's not,  
21 you send it back.

22 Q. Sir, do you understand that if a state or a  
23 country does not share our waste classification  
24 system, then the manifest isn't going to help you  
25 identify the type of waste?

1       A.    Well, that's why I'm bringing all the  
2 capable people that have seen every type of waste  
3 and will make visual interpretations.

4                If you're -- if you're saying that  
5 somehow they're going to try to pull the wool over  
6 my eyes and slip one underneath the fence, it's not  
7 going to happen.

8       Q.    And who are these people who knows -- who  
9 know every type of waste and can identify it?

10       A.    Just like every landfill, everybody has a  
11 Class A operator. I'll go out and find a very  
12 respectable one somewhere in this country.

13       Q.    Do you know if the waste that will be  
14 hauled in via rail will be compacted?

15       A.    There is that possibility that that could  
16 happen.

17       Q.    Could it be shredded?

18       A.    Probably not.

19       Q.    You don't think so?

20       A.    Not waste by rail. Not anything that I can  
21 think of that we would bring.

22       Q.    So if the waste is compacted, or if it's  
23 shredded, how will you know whether it's acceptable  
24 to bring into your landfill?

25       A.    I'm sure the way Mr. Gregory knows what's

1 coming into his landfill is kosher, you know.

2 Q. Do you think that he takes waste by rail?

3 A. No. But I know that he takes bales of  
4 waste.

5 Q. Do you think he takes waste from maquilas  
6 in Mexico?

7 A. You know, I don't know if he's ever done  
8 that or not. I can't tell you that.

9 Q. So how long will the waste be held in the  
10 railcars before it's deposited in the facility?

11 A. I'm sure that there's a timeline is the  
12 reason for our hours of operation being a 24/7  
13 facility.

14 So everything in transportation is  
15 about just in time. So I'm sure we'll be on a clock  
16 and we'll be inspecting those cars immediately and  
17 trying to get that waste off the trains. More than  
18 likely, they're going to have to be washed, and so  
19 forth, and so all that will have to be occurring.  
20 And then --

21 Q. Do you know how long the waste will be on  
22 the railcars before it goes to the landfill?

23 A. I'm sure it won't be more than 24 hours.

24 Q. Do you know how that waste will be tested  
25 or screened to make sure it can be deposited?

1           A.     I mean, I know they have to pass certain  
2 tests, like the paint test, and things of that  
3 nature.

4           Q.     Do you know if it --

5           A.     Are you talking about liquids, for example?

6           Q.     Do you know of the TCLP test will be run on  
7 waste.

8           A.     Again, I told you that I'm not an expert  
9 with that, but I will hire an expert that will be  
10 able to be qualified to do that work.

11          Q.     What's going to be done with the leachate  
12 that gathers in the railcars?

13          A.     I think I mentioned it. I think there's  
14 going to have to be catch facilities. Those trains  
15 will probably be washed, you know, unless there's  
16 some kind of -- you know, totally containerized and  
17 they're going to back empty to the generator. I'm  
18 not sure. But we'll address them by TCEQ rule what  
19 we have to do.

20          Q.     Isn't it true that you have no plan right  
21 now for the screening or testing of waste that  
22 arrives by rail to ensure that it can be deposited  
23 in your landfill?

24                         MR. McDONALD: Objection. Form.

25          A.     What I have right now is a process to get a

1 permit to be able to construct and develop a  
2 landfill.

3 Q. (BY MS. PERALES) And my question is, isn't  
4 it true that you have --

5 A. If you'll let me answer, I'll answer.

6 Q. I know. That's --

7 A. I'm trying to --

8 MS. PERALES: I'll object.

9 Nonresponsive.

10 Q. (BY MS. PERALES) That's not answering my  
11 question.

12 MR. McDONALD: You've got to let him  
13 answer the question.

14 A. If you ask it again, I'll try.

15 I apologize.

16 Q. (BY MS. PERALES) Thank you. I'll try to  
17 ask it again.

18 Isn't it true that, right now, you  
19 have no specific plan in place for screening or  
20 detecting the waste that comes by rail to ensure  
21 that it's the type that can be deposited into your  
22 landfill?

23 MR. McDONALD: Objection. Form.

24 A. That's not true. We've stated within our  
25 permit on what we're planning to do. We will have a



1 proper operator, that's a Class A, certified, big  
2 dog in the industry that's going to work for us so  
3 we can provide a successful, safe facility for the  
4 state of Texas.

5 Q. (BY MS. PERALES) Okay. But you can't tell  
6 me right now whether you will conduct any TCLP  
7 testing or paint filter testing or where it will  
8 occur --

9 A. No, no, no. I've told you that we would.

10 Q. Where?

11 A. The paint testing I know. Okay. That's  
12 something that I know.

13 Q. Where is that going to occur? Is it going  
14 to occur at the railcar?

15 A. I don't know.

16 Q. Are you going to unload the waste before  
17 you know what type of waste it is?

18 A. I mean, I think you're getting ahead of  
19 yourself, because you're assuming that the railcars  
20 would be at the site. And at this time, we don't  
21 have anything like that planned. So the railcars  
22 would either be at KCS, which they might have a  
23 facility that would allow that to happen; if they  
24 needed to be tested, if it was that sensitive. And  
25 then that would occur there with them.

1                   Or it would not do any of the sort, in  
2 which it would come into a container facility. That  
3 container would be removed off a flatbed, it would  
4 be put on a bobtail, that bobtail would come --  
5 assuming it passes the front gates to the working  
6 phase area. And at that location, it would be  
7 disposed of and then rinsed, or whatever.

8           Q.     Okay. So it sounds to me like there is no  
9 specific plan in place yet for the unloading of --

10                   MR. McDONALD: Objection. Form.

11           A.     No. I just told you that. I'm telling you  
12 how it would happen.

13           Q.     (BY MS. PERALES) And in either of those  
14 scenarios, have you described where a TCLP, or a  
15 paint filter test, will be conducted at the  
16 Pescadito landfill site?

17           A.     I told you. Probably it would happen at --  
18 right by the working phase in some catch location at  
19 that area.

20           Q.     So it's your expectation that waste that's  
21 hauled in by rail, waste from Mexico, for instance,  
22 is going to be tested after it arrives to the  
23 entrance to the facility?

24           A.     I'm almost 1,000 percent sure can't cross  
25 the boarder without the waste being tested. So the

1 Department of Agriculture will have already done one  
2 cursory review of that process.

3 Q. So you won't be conducting any tests of  
4 those wastes before they go into the landfill?

5 MR. McDONALD: Objection. Form.

6 A. I think I've answered that question.

7 Q. (BY MS. PERALES) Well, I'm asking you  
8 about the waste that's coming into your site -- into  
9 your landfill site, not the waste at the border.

10 When the waste arrives at your  
11 facility, if it was brought in by rail, are you  
12 telling me that you're going to test it as it comes  
13 into the site after it's been unloaded off the  
14 railcar?

15 A. What I'd like for you to be able to split  
16 up is, are we talking about Mexico waste --

17 Q. Sure.

18 A. -- or are we talking about all rail waste?

19 Q. All rail waste.

20 A. But there's two separate things.

21 Q. You're going to test them separately at  
22 your site in different manners?

23 A. Potentially.

24 Q. Okay. Well, describe that for me.

25 Do you have a specific plan?

1           A.     So if there was waste on a train coming  
2 from Mexico into the U.S., that would already have  
3 certain clearance by the Department of Agriculture  
4 to be allowed to be imported into the United States,  
5 into the state of Texas for that matter.

6                   MS. PERALES:   Sir, I'm going to object  
7 as nonresponsive.

8           Q.     (BY MS. PERALES)   I'm not talking about  
9 testing at your site, I'm not talking testing at the  
10 border.

11                   Is it your testimony, then, that you  
12 don't intend to test that waste again at your site?  
13 You're going to rely on whatever clearance they get?

14           A.     I'm telling you that there's a process.

15           Q.     At the site:   That's my question.

16                   At your site:   What is your plan to  
17 test the waste that comes from Mexico?

18           A.     All of it is critical.   The bill of lading  
19 where it comes from Mexico is one thing I would  
20 inspect.   I would inspect what happens when they  
21 cross the border.   And then I would look at it when  
22 got to my front gate.   When it got to my front gate,  
23 after that, I would look at it and see if it would  
24 make it to my working phase.   Within that time, I'll  
25 conduct any other tests that I need and have the

1 expert to be able do it.

2 Q. Okay. At what point in that process that  
3 you just described will you conduct a paint filter  
4 test?

5 A. Most waste coming from Mexico is not going  
6 to require that.

7 Q. Okay.

8 MS. WHITTLE: Objection.

9 Nonresponsive.

10 MR. McDONALD: Do want to take a short  
11 break, Marisa?

12 MS. PERALES: Sure. Yeah.

13 (Recess: 3:17 p.m. to 3:29 p.m.)

14 Q. (BY MS. PERALES) Okay. I want to -- I  
15 think I just have a few more questions,  
16 Mr. Benavides.

17 I want to follow up on your  
18 relationship or communications with the Gregorys in  
19 TDS. Do you have any knowledge about how they  
20 conducted their site assessment before they chose  
21 their landfill site?

22 A. You know, I know that we talked about that,  
23 Bobby and I did, on how he first conceived of the  
24 idea and then sought for potential locations and  
25 stuff. In fact, he's one of the ones that

1 encouraged me with my project, to move forward with  
2 our permit.

3 Q. Did he tell you how he conducted his site  
4 assessment to select his site?

5 A. I don't know to what level we got into  
6 that. Although, he did tell me that every single  
7 person that he bordered, his neighbors, was unhappy  
8 with his decision, that didn't like him, and now  
9 they all like him. And love him, supposedly.

10 Q. In your communications with Mr. Gregory,  
11 did he ever tell you that he actually investigated  
12 several sites before he selected the one that now is  
13 the location of his landfill?

14 A. Well, in that respect, we're different, you  
15 know, is that we actually own our real estate that  
16 is a high-quality site location. And that's the  
17 difference that separates his to ours.

18 You know, in fact, I would be as crass  
19 to say as our permit location is probably better  
20 than almost any application out there.

21 Q. Did he tell you how many borings he drilled  
22 before he chose the site where his landfill is  
23 currently located?

24 A. He did not.

25 Q. How many borings did you drill before you

1 selected the site for your permit for your landfill  
2 permit?

3 A. I think we've already addressed that issue.  
4 We conducted preliminary modeling on what we thought  
5 that site would be and ...

6 Q. How many borings did you drill before  
7 you --

8 A. I'm going to tell you. I'm trying to  
9 think. But I think, ultimately, it was somewhere --  
10 I don't know why the number -- like five or eight  
11 borings ...

12 Q. Okay. So you think that you had five or  
13 eight borings drilled before the site was selected  
14 for the landfill?

15 A. I mean, I think when the site was selected  
16 it was to prove up the site, if that makes any  
17 sense.

18 Q. Well, I'm not sure it does.

19 So I'm going to distinguish between  
20 borings that were drilled because they were required  
21 to be drilled based on TCEQ's regulations. So those  
22 are borings that were drilled after the site had  
23 been selected and an application was being prepared.

24 A. Right.

25 Q. Versus borings that were drilled before you

1 started to work on the permit application.

2 How many borings were drilled before  
3 you decided to start that permit application  
4 process?

5 A. I don't recall.

6 Q. Do you recall whether you had any  
7 piezometers or wells installed to determine what the  
8 water levels were before you started the application  
9 process?

10 A. We relied on a lot of existing data that  
11 was previously existing to determine what we thought  
12 our well conditions -- water -- sub-groundwater  
13 conditions were.

14 Q. Okay. So do you recall whether you had any  
15 piezometers or additional wells drilled?

16 A. No, we did not.

17 Q. Okay. When the -- when we talked earlier  
18 about the 105-year storm event that occurred in 2012  
19 and you mentioned that you collected the data from a  
20 6-inch rain gauge. Is that right?

21 A. Um-hmm.

22 Q. Where was that rain gauge located?

23 A. At the headquarters.

24 Q. At the headquarters of?

25 A. Rancho Viejo headquarters.



1 Q. Okay. And did you have just one rain  
2 gauge?

3 A. Yes.

4 Q. Okay. And you were at the headquarters  
5 when the storm event occurred. Is that right?

6 A. It was pretty nasty. You wouldn't want to  
7 be anywhere else.

8 Q. Okay. What kind of fence do you have  
9 surrounding the site at this time?

10 A. Two types of four- or five-strand barbed  
11 wire to the west and high fence net on the southeast  
12 and north sides.

13 Q. And how tall are those fences?

14 A. The 4-foot on the west and 8-foot on the  
15 south, east, and north.

16 Q. And how deep do those go into the  
17 subsurface?

18 A. The netting?

19 Q. The fence. How deep does the fence go into  
20 the subsurface. The posts.

21 A. The posts or the wire?

22 Q. Both. If they go into the sub-surface.

23 A. The wire does -- for the most part, is just  
24 at grade. And the posts, anywhere from 2 feet to  
25 8 feet.

1 Q. And is it your testimony that thus far that  
2 fencing has been adequate to keep feral hogs out of  
3 the site?

4 MR. McDONALD: Objection. Form.

5 A. I don't think there's any fence that's  
6 adequate enough to keep a feral hog out of the site.

7 Q. (BY MS. PERALES) Okay. Do you have any  
8 plans to change the fencing if a landfill is  
9 permitted at the site?

10 A. Yeah.

11 So a lot of the -- some of the high  
12 fence is old and we are in the process of changing  
13 some of it as we speak. I built about a  
14 two-and-a-half-mile section on that Jordan Road  
15 recently.

16 Q. And so what kind of fence do you intend to  
17 install if you do change it?

18 A. So we installed New Zealand fence, which is  
19 the most expensive fence in the industry. And  
20 8-foot tops with 8-foot -- 8-foot corners, line  
21 posts, everything. All driven posts. Nothing was  
22 disturbed during that application. We drive them  
23 directly into the soil.

24 Q. And is this the type of fencing that you  
25 intend to have surrounding the entire site?

1           A.     That's the kind of fencing that we're going  
2 to continue moving forward with.

3                     We had already done some on the  
4 Yugo Ranch up against Hurd's property.

5           Q.     Okay.

6           A.     Can I get some coffee real quick?

7           Q.     Sure.

8           A.     Two seconds I already have everything  
9 ready.

10                   (Pause in proceedings.)

11          Q.     (BY MS. PERALES) Have you ever observed  
12 any landfill operator conduct any sort of paint  
13 filter tests on samples of waste before it's been  
14 deposited?

15          A.     I have not seen that live.

16          Q.     Okay. Have you seen it in film or picture?

17          A.     Yeah. I saw it at a waste expo in  
18 Las Vegas a few years ago.

19          Q.     Okay. Is that the only time?

20          A.     Yes, ma'am.

21          Q.     Have you ever observed any type of  
22 screening or sampling of waste to determine whether  
23 any radioactive materials are in the waste before  
24 it's deposited?

25          A.     I've seen screening as it was conducted at

1 TDSL on two occasions.

2 Q. And was that radioactive waste screening?

3 A. It was just screening to, I guess, identify  
4 waste that may not have been properly, you know,  
5 characterized before it hit that working phase of  
6 the landfill.

7 Q. Okay. So that would be a little bit  
8 different. Isn't that right? Or do you know?

9 A. Yeah. I'm sure it's different.

10 Q. Do you know what --

11 A. I mean, since I'm not going to do  
12 radioactive, I don't know why we're talking about  
13 that. But go ahead.

14 Q. Well, isn't that the point? That you want  
15 to screen for radioactive waste so that you don't  
16 have it at your landfill?

17 A. My understanding is all radioactive waste  
18 has to be properly manifested, logged, registered,  
19 the whole nine yards. It just can't be shipped  
20 without some really serious laws being broken if  
21 it's not properly identified.

22 Q. Okay. So you've never heard of occasions  
23 where radioactive -- some radioactive waste was  
24 mixed in with other types of waste?

25 A. I mean, I don't have experience with that

1 at this time, but I mean, could it happen? I'm sure  
2 it could. Hence the reason why I told you we'd have  
3 all these inspections that we would be doing.

4 Q. And so you're not familiar with any sort of  
5 screening measures or screening tools that would  
6 actually screen for radioactive waste in a waste  
7 load.

8 A. I have not -- I don't have experience with  
9 it, if that's what you're asking, no.

10 Q. Okay. Is it your intention that random  
11 samples will be tested from every container of waste  
12 that comes in by rail?

13 A. Again, I think that we will inspect every  
14 single load, whether by rail or by car, however --  
15 by truck, however it comes.

16 Q. But that's my question. I'm trying to  
17 determine more specifically how that's going to  
18 occur.

19 Will you be collecting samples --  
20 random samples from those waste loads?

21 A. We will be doing everything that TCEQ  
22 requires us to do.

23 Q. Do you know, as you sit here today, whether  
24 it's your intention to collect random samples from  
25 the loads of waste that come to the facility?

1           A.    I know I have an obligation to collect  
2 those, yes.

3           Q.    And do you know how many samples will be  
4 grabbed from each container of waste?

5                       MR. McDONALD:  Objection.  Form.

6           A.    I think it will be a total inspection.  If  
7 there's any time that we think that it's improper  
8 waste, there's testing that could be done on that  
9 waste.  It could be set aside till that testing gets  
10 cleared.

11                       Outside of that, I know we're required  
12 to test 1 percent of everything we bring in on a  
13 daily basis.  And I think that will also be driven  
14 by the product as we start seeing it.  And at the  
15 end of the day, the most important thing is having  
16 the qualified personnel that will be able to deal  
17 with that from the front gate to the working phase.

18           Q.    (BY MS. PERALES)  Do you intend to have the  
19 facilities that are necessary to conduct any sort of  
20 chemical testing of the waste at the facility?

21           A.    If chemical testing is required, we will  
22 obviously have whatever is necessary to be able to  
23 conduct that right then and there.

24           Q.    Right now, do you have any intention of  
25 having that capability at the landfill site?

1 A. We do have that capability.

2 Q. Okay.

3 A. It's in our permit.

4 Q. Okay. So earlier, you answered some  
5 questions about Mr. Neyens' involvement with this  
6 project earlier on. Do you recall that?

7 A. Yes, ma'am.

8 Q. Mr. Neyens: Did you have a compensation  
9 agreement with him?

10 A. What does that mean?

11 Q. Were you -- did you have an agreement where  
12 you were obligated to pay him for his work a certain  
13 sum?

14 A. To TRC?

15 Q. Sure.

16 A. I think only as to the first two projects  
17 that we did to move forward with this project.

18 Q. Was Mr. Neyens ever promised any shares in  
19 the proposed project?

20 A. Never.

21 Q. Was he ever going to have any ownership of  
22 the landfill?

23 A. Never.

24 Q. Okay. And how did you first become  
25 involved with or meet Mr. Chandler?

1 A. We met Jim --

2 Q. Pierce. I'm talking about Pierce Chandler.

3 A. I'm sorry. I thought you said ...

4 Q. Chandler.

5 A. I apologize.

6 So, Pierce, we met him because of his  
7 work on other projects. I don't recall if it was  
8 Jim's firm or if it was Bill Thompson that brought  
9 him on board.

10 But primarily, he works opposing  
11 projects, you know, and -- history-wise. And he's  
12 the kind of technical nitpicker -- that I call  
13 nitpicker, that, you know, helped us -- I thought we  
14 needed somebody to make sure, as a checks and  
15 balances, when you have a consultant that's offering  
16 opinion on. The magnitude of the permit that we're  
17 applying for, we wanted to make sure that we had  
18 double-checked the Is and the Ts being crossed. And  
19 he was kind of guy that looks at those things. Not  
20 only the way we were looking at it, but from the  
21 opposition side to make sure that we conducted  
22 everything properly so that we could offer a very  
23 qualified first-rate permit --

24 Q. So in response to my question, you first  
25 became acquainted with Mr. Chandler through



1 Mr. Thompson. Is that right?

2 A. I'm pretty sure it was Bill.

3 Q. And did -- was Mr. Chandler involved in the  
4 site assessment? Was he involved in selecting the  
5 site for the landfill?

6 A. He was not.

7 Q. Did Mr. Chandler ever advise you that  
8 putting a landfill on a site with extensive  
9 floodplains was advisable?

10 A. Categorized that way, no.

11 Q. Did Mr. Chandler ever advise you that  
12 excavating a landfill into a water table was  
13 advisable?

14 MR. McDONALD: Objection. Form.

15 A. I think that when we did the initial work,  
16 after we filed the permit -- I mean, after we filed  
17 to move forward with the permitting process, when we  
18 did our exploration through H.C. Clark, which Pierce  
19 brought on board, which was like the guy that wrote  
20 the book of subsurface water in this part of the  
21 world, that identification of the lack thereof of  
22 any kind of potable water or any kind of volume of  
23 aquifer, was all in a way that could be managed, and  
24 he agreed that he thought it was a number-one site.

25 Q. (BY MS. PERALES) So Mr. Chandler told you

1 that he thought this was a number-one site for a  
2 landfill?

3 A. After that work, yes, ma'am.

4 Q. And just to be clear, when you refer to  
5 "Mr. Clark" we're talking about Dr. H.C. Clark.  
6 Right?

7 A. Yes, ma'am.

8 Q. And Dr. H.C. Clark authored the regional  
9 hydrogeology report for the application. Right?

10 A. He did.

11 Q. And, in fact, Dr. Clark had nothing to do  
12 with the drilling of the borings or the selection of  
13 the site of the location of those borings. Isn't  
14 that right?

15 A. That's correct.

16 Q. And Dr. Clark had nothing to do with the  
17 drilling of the piezometers. Isn't that right?

18 A. That's correct.

19 Q. The only thing he authored was the regional  
20 hydrogeology report. Isn't that right?

21 MR. McDONALD: Objection. Form.

22 A. That's correct.

23 MS. PERALES: Okay. I think those are  
24 all my questions.

25 I'll pass the witness.

1 (Pause in proceedings.)

2 EXAMINATION

3 BY MS. WHITTLE:

4 Q. Good afternoon, Mr. Benavides. My name is  
5 Mary Whittle, and I represent JOB Homestead  
6 Partners, Ltd.

7 When Ms. Perales asked you about your  
8 waste management experience, you talked about some  
9 landfills on property you owned, and I'd like to  
10 talk to you a little bit more about those.

11 How many of these old landfills were  
12 on property that you owned?

13 A. I mean, I wouldn't categorize them as  
14 landfills. I think they would be categorized as  
15 just a straight-up dump.

16 Q. So how many dumps are we talking about?

17 A. Three.

18 Q. And how big was each of these dumps? How  
19 many acres did they cover?

20 A. They were all about the size of this room.

21 Q. And how deep were they?

22 A. About the same size.

23 Q. Would you estimate the size of this room?

24 A. 20 by 12.

25 Q. And for each of these, you mentioning

1 different types of waste that were deposited. I  
2 think I heard you say old tires. Is that correct?

3 A. Yes, ma'am.

4 Q. And spent paint. Is that correct?

5 A. Paint cans.

6 Q. Paint cans.

7 What about rags with paint or solvent  
8 on them?

9 A. There could have been.

10 Q. What about old cans with still bottoms or  
11 barrels?

12 A. I mean, there were some barrels next to  
13 those sites where some incineration occurred over  
14 the years. I'm talking about little dump facilities  
15 that have probably been around 30, 40 years, you  
16 know.

17 Q. And were they lined?

18 A. No.

19 Q. Did they have scrap metal in them?

20 A. Sure.

21 Q. Pipe?

22 A. No.

23 Q. Electronic equipment?

24 A. No.

25 Q. Food waste?

1 A. Incinerated, but yes.

2 Q. And so how did the incinerator operate?  
3 Who operated that?

4 A. Just 55-gallon barrel drums that are filled  
5 up and burned.

6 Q. And then that waste --

7 A. There's still people that do that on  
8 ranches all over the state of Texas, unfortunately.

9 Q. Well, we're talking about yours.

10 So how long were these in operation?

11 A. I don't know. Before I was born, probably.

12 Q. And you said that you undertook to close  
13 them?

14 A. Well, I wouldn't talk about closing them.  
15 I mean, I took it upon myself to take that out of  
16 our property and go dispose of it properly.

17 Q. Did you check to see whether there had been  
18 a release from any of the disposal?

19 A. A release of what?

20 Q. Contamination from any of the waste  
21 disposed in these three dumps.

22 A. No.

23 I think that, you know, overall, it's  
24 beer bottles, cans, you know, things that didn't  
25 totally incinerate. You know, empty cans of, you

1 know, paint, and other things, bottles of glass  
2 from, say, injectable vitamins and antibiotics and  
3 things used on a ranch.

4 Q. Tar?

5 A. No tar. No.

6 Q. Degreasers?

7 A. Nothing like that. Lemon juice back in the  
8 day, I think.

9 Q. So you didn't test to see whether there had  
10 been any releases at these dumps?

11 A. I did not test the material, no. I just  
12 removed it from the site and went and landfilled it.

13 Q. So these dumps, were they ever registered  
14 with TCEQ or any of its predecessor agencies, like  
15 the Texas Water Development Board?

16 A. No.

17 Q. Were you aware that a dump like that needed  
18 to be registered with the state?

19 MR. McDONALD: Objection. Form.

20 A. I don't know if anything like that has to  
21 be registered or not. But I know it occurs all the  
22 time and it's unfortunate it does. And I'm telling  
23 you that I didn't want it on my property and so we  
24 cleaned it up and rehabbed our property.

25 Q. (BY MS. WHITTLE) Did you put a deed

1 restriction on the property to notify that there had  
2 been a dump site on the property?

3 A. A deed restriction to who?

4 Q. A deed restriction on -- or deed  
5 notification, rather, on the -- filed with county.

6 A. Why would I effect anything to the deed to  
7 the county?

8 Q. Well, are you aware that Texas rules  
9 require that?

10 MR. McDONALD: Objection. Form.

11 A. Require you to do what?

12 Q. (BY MS. WHITTLE) To put a deed  
13 notification for dump sites on property you own or  
14 control, even if it's your own?

15 A. There's no sites.

16 Q. But there were three, as I understand it.  
17 Is that correct?

18 A. Of different properties.

19 Q. And so my question is, for any of those  
20 properties, do you know if you, or someone else in  
21 your family, undertook to place a deed notification  
22 on the property?

23 A. There's no deed notifications.

24 Some of the properties are properties  
25 that we just acquired recently.

1 Q. And so you stated that you reclaimed the  
2 property. Did you hire anyone to help you reclaim  
3 the property in compliance with the Texas rules?

4 A. I did it all myself.

5 Q. So no one helped you comply with the  
6 Texas Risk Reduction Act or program?

7 MR. McDONALD: Objection. Form.

8 A. I think pretty much of it -- all of it, we  
9 were able to put -- either bag it or stack it and  
10 put it in a dump-type vehicle and send to the  
11 landfill.

12 Q. (BY MS. WHITTLE) And did you report any of  
13 those dump sites to TCEQ? You said some of these  
14 you acquired just recently. Did you report them  
15 when you purchased the property?

16 A. No.

17 Q. You mentioned the railcars that will be  
18 coming in and that they will need to be washed.

19 Do you have a procedure in mind for  
20 how those will be washed?

21 A. I don't think that we're prepared to talk  
22 about railcars until we start moving railcars. And  
23 it -- obviously, if we have them coming to us, we'll  
24 have it all set up where there will be a wash if  
25 that's necessary or required.



1 Q. And so what will you do with the water that  
2 comes out of the railcars?

3 A. Obviously, that will probably go into some  
4 kind of leachate containment facility and managed  
5 under our SOP.

6 Q. So has any of that been designed?

7 A. I think that we have everything necessary  
8 to be able to control leachate and what we have  
9 obligation to do with that leachate when we have it.

10 Q. Well, how will you remove the leachate from  
11 the train facility over to the dump site, which is  
12 some miles away?

13 A. There's no train facility, ma'am --

14 MR. McDONALD: Objection. Form.

15 A. There's no train facility.

16 Q. (BY MS. WHITTLE) But you do expect waste  
17 to come in by train. Correct?

18 A. Right.

19 So assuming nothing changed, and we  
20 did that today. For example, it was open today.  
21 Right? It would be at KCS. And KCS would be  
22 responsible for whatever happens there on their  
23 site.

24 Q. So you don't intend to wash the railcars?

25 A. I didn't say that. I'm saying how we pick

1 it up, how we move it, and then if we dispose of it  
2 on our property, then we would deal with it there  
3 within some part of the footprint of the actual  
4 landfill itself.

5 Q. Do you know why TCEQ rules contemplate  
6 denial of a permit for false statements?

7 A. I don't know.

8 Q. You don't know?

9 Are you aware that many environmental  
10 rules are self-implementing? And do you know what  
11 self-implementing means?

12 MR. McDONALD: Objection. Form.

13 A. Explain to me what you think it means, or  
14 what you know it to be.

15 Q. (BY MS. WHITTLE) Well, are you aware that  
16 most, or many, environmental regulations require  
17 that you self-certify? That you're basically on the  
18 honor system.

19 A. Okay.

20 Q. Are you aware of that?

21 A. No.

22 Q. Okay. And so how will you ensure that what  
23 you are certifying to the state agency is true?

24 A. How would I certify what I'm telling the  
25 state agency is true? By working with a team that's

1 delivering the services of what we're going to.

2           And, you know, you're going to know  
3 that you have an owner/operator that cares about his  
4 properties, his community, his state, his world, and  
5 has actually done things to make a difference  
6 environmentally in that world.

7           MS. WHITTLE: So objection.  
8 Nonresponsive.

9           Q. (BY MS. WHITTLE) How are you going to -- as  
10 someone who doesn't have experience in solid waste  
11 disposal -- correct? -- how will you ensure that  
12 what you are certifying to state agencies with  
13 respect to environmental clients is true?

14           MR. McDONALD: Objection. Form.

15           A. I would be participating within the system  
16 of the running of the operations of that facility.  
17 And while I don't have what you call the proper  
18 experience, I guess, I find myself in the shoes of  
19 Bobby Gregory when he first applied for his first  
20 permit at TDSL. And he brought on the best people  
21 and he worked through the process so that he  
22 understood how it went and how it went forward and  
23 how to do it right. And that's the thing that maybe  
24 sometimes you-all don't get. When you're a  
25 landowner, you do it right on your property.

1 Q. (BY MS. WHITTLE) Okay. By, for example,  
2 not reporting to TCEQ when you have a dump and  
3 handling it yourself?

4 MR. McDONALD: Objection. Form.

5 A. No. By cleaning up a mess that somebody  
6 made some time ago.

7 Q. (BY MS. WHITTLE) Not in compliance with  
8 state law.

9 MR. McDONALD: Objection. Form.

10 A. Somebody else did something like that. I  
11 cleaned it up.

12 Q. (BY MS. WHITTLE) I'd like to talk about  
13 the size of the landfill. You've talked about how  
14 you have not conducted any economic viability  
15 analysis for the 73-acre footprint. Is that  
16 correct?

17 A. That's correct.

18 Q. When starting a business, is it important  
19 to do an analysis of whether that business will be  
20 profitable?

21 A. Absolutely.

22 Q. And so we've talked about other ventures  
23 that you've undertaken that haven't gone well, that  
24 have failed.

25 Do you know what the ramifications are

1 for a failed landfill?

2 MR. McDONALD: Objection. Form.

3 A. Which particular thing did I fail in?

4 Q. (BY MS. WHITTLE) Well, let's talk about a  
5 landfill. If you have --

6 A. No. Let's talk about what you just said.  
7 You said --

8 Q. I get to ask questions.

9 So we've talk about the 73-acre  
10 footprint. It's a very small footprint. Are you  
11 aware that that's an unusually small landfill?

12 A. Are you aware of how many tons I can  
13 impound there?

14 Q. Are you aware that 73 acres is an usually  
15 small landfill?

16 A. I don't know if it's small. As landfill  
17 goes, I think it's probably about average.

18 Q. And have you made any effort to determine  
19 how much acreage you need to break even?

20 A. Well, on the back of a napkin, I think that  
21 you can determine that the site could be worth a  
22 little under \$200 million.

23 Q. And how do you determine that?

24 A. By volume, space, and tipping value.

25 Q. You've already testified that you aren't

1 sure what your tipping value will be.

2 A. That's correct, because I don't know what  
3 I'm going to be bringing.

4 But I'm going to be going after the  
5 most viable, profitable products to be able to  
6 install there so I can make the most money.

7 Q. Okay. So you've talked about how you're  
8 going to hire a Class A operator. Is that correct?

9 A. I think that's what the rules call for.

10 Q. You've talked about how you're going to  
11 build the most expensive fence. Is that correct?

12 A. I don't know if it's the most expensive  
13 fence, but it's the highest quality game fence that  
14 we would have in South Texas.

15 Q. You've talked about how you're going to  
16 build the very best roads to make sure they're  
17 all-weather and comply -- you know, you can operate  
18 safely on them. Is that correct?

19 A. Yes, ma'am.

20 Q. Have you done -- created a budget for  
21 hiring all the people you need to hire and building  
22 this class A, state-of-the-art, modern facility you  
23 claim you're going to build?

24 A. I have an idea what it costs.

25 Q. And what will that be? Where is the

1 budget?

2 A. It's in my head.

3 Q. And without an economic viability analysis,  
4 when you're going to spend all of this money on a  
5 73-acre footprint, what will happen if it does fail?

6 A. It's not going to fail.

7 Q. Are you aware of how many landfills do  
8 fail?

9 A. There are other circumstances, you know,  
10 that those people had to do or acquire property,  
11 deal with things that I don't have to deal with that  
12 put me in a position where the property won't fail.

13 Q. Well, let's talk about marketing.

14 Have you done a market analysis on the  
15 waste streams available to come into your landfill?

16 A. I think I've already talked about that.

17 Q. I don't think so.

18 Have you done a market analysis on the  
19 waste streams that you expect to come into your  
20 landfill?

21 MR. McDONALD: Objection. Form.

22 A. I've done some investigation to that end.

23 Q. (BY MS. WHITTLE) Okay. Well, you've  
24 talked about how you think there will be 1,000 tons  
25 of waste per day. Have you identified waste streams

1 that aren't already covered by the Laredo Municipal  
2 Landfill or the Ponderosa Landfill?

3 A. Have I defined to who? To myself?

4 Q. Identified waste streams that are ready at  
5 1,000 tons of waste per day to be deposited in your  
6 proposed landfill?

7 A. To ourselves or the TCEQ? What are you  
8 trying to get at?

9 Q. To yourself.

10 A. To ourselves? I mean, we've participated  
11 at waste expos and we've heard from many people that  
12 are interested in potentially having space at the  
13 proximity to Laredo, Texas, because it's the largest  
14 inland port in the world.

15 Q. So if this landfill closes at 73 acres, you  
16 think it will be profitable and you'll be satisfied  
17 with that effort?

18 A. Yes, ma'am.

19 Q. There's no need to expand it any further  
20 than 73 acres?

21 A. Not at this time.

22 Q. Where on the site do you intend to place  
23 the MRF?

24 A. I assume it would be somewhere close to the  
25 working station -- the working phase of the landfill



1 as it is initiated.

2 Q. You assume. Do you know?

3 A. You know, it's the one thing I don't  
4 recall. But, if you want, we could open up our  
5 permit and see where that is.

6 Q. Well, do you recall where on the site you  
7 intend to place the grease and grit trap waste  
8 processing and land application?

9 A. So the -- so that would be -- we would have  
10 to go through solidification. And I don't recall  
11 how that mapping is but it's all here in -- I  
12 believe it's right here on the western side of the  
13 northern tract.

14 Q. And where on the site do you intend to  
15 place the injection well?

16 A. We don't have an injection well.

17 Q. You don't intend to put any injection well  
18 within the permit boundary?

19 A. The new permit does not have an injection  
20 well component.

21 Q. Okay. Well, it remains in the permit  
22 application. Are you aware of that?

23 A. It does not. It's not in the remainder  
24 portion of the new application.

25 Q. Okay. So I'd like to talk about coal ash

1 and your plan to accept coal ash.

2 Are you aware of a study that was just  
3 recently issued that evaluated 550 units of coal ash  
4 disposal sites that found that 91 percent of those  
5 sites are contaminating groundwater of toxic  
6 substances at levels been federal safe standards?

7 MR. McDONALD: Objection. Form.

8 A. I'm not aware of the study you're talking  
9 about.

10 Q. (BY MS. WHITTLE) Have you reviewed the  
11 2015 EPA standards for coal ash disposal in  
12 landfills?

13 A. I have not.

14 Q. Have you reviewed any of the damage cases  
15 EPA identified for coal ash disposal in landfills?

16 A. No.

17 Q. Are you familiar with the cost of cleanup  
18 from improper coal ash disposal?

19 A. No.

20 Q. Are you aware that very large companies,  
21 like Duke Energy, Tennessee Valley Authority, and  
22 Dominion virginia Power, have significant  
23 liabilities as a result of their coal ash disposal  
24 practices?

25 A. I think that's the problem they're trying

1 to correct.

2 Q. It is.

3 And do you know how long it will take  
4 for them to correct that problem?

5 A. I have no idea.

6 Q. Would it surprise you to know that it will  
7 take decades and cost millions and millions of  
8 dollars?

9 MR. McDONALD: Objection. Form.

10 A. I don't know how that affects me, though.

11 Q. (BY MS. WHITTLE) Well, these are large  
12 corporations that have lots of standard operating  
13 procedures and have been disposing coal ash for  
14 years.

15 What makes you, as someone who has  
16 never operated a waste disposal facility, more  
17 responsible and capable than Duke, TBA, or Dominion  
18 Virginia Power?

19 A. Because if -- if -- and that's a big if --  
20 I did that kind of business, it would be in a  
21 controlled environment, unlike their situation which  
22 they did not prepare properly for the disposal of  
23 that -- of that waste, and that's why they're being  
24 forced to manipulate and move that waste somewhere  
25 else.

1 Q. Okay. Well, let's talk about your plan.

2 Your plan is to bring in coal ash via  
3 railcar and move that ash to -- from the railcars to  
4 trucks which will then drive over Rancho Viejo  
5 property to the landfill site and then be disposed  
6 from the truck into the waste -- the footprint. Is  
7 that correct?

8 A. No, ma'am.

9 Q. No?

10 How do you intend to bring coal ash  
11 into the site?

12 A. If I brought coal ash in, I would be  
13 creating a rail spur directly to the site. We would  
14 create unit trains that would come directly all the  
15 way to the site. And then utilizing, you know,  
16 modern transfer mechanisms, and, depending on the  
17 kind of containers that were being used, to be  
18 offloaded on the site of the class 1 cell.

19 Q. So that's a lot of infrastructure to bring  
20 in the coal ash that you're talking about.

21 Am I correct in assuming that that  
22 means you intend to bring in large quantities of  
23 coal ash?

24 MR. McDONALD: Objection. Form.

25 A. Again, so coal ash in the state of Texas is

1 a commodity. And we do not anticipate bringing any  
2 coal ash -- or I don't think there's any coal ash  
3 available in the state Texas to bring in.

4 But if we did bring it in, it would be  
5 some place like the Tennessee River Valley, like  
6 what you're talking about. And the only way to make  
7 it cost effective is that you allow for a unit train  
8 to be constructed and those cars would come in to  
9 deposit that waste.

10 Q. So you would be accepting coal ash from a  
11 superfund site, like the Kingston coal ash spill?

12 A. We're getting way ahead of where we're at  
13 with coal ash.

14 I'm just saying that our permit allows  
15 me to take all kinds of different waste streams.  
16 I'm going to look at all of them. And whatever is  
17 economically viable, if we can provide the  
18 surface -- or the service safely, then we will look  
19 at those waste streams as they become available.

20 Q. (BY MS. WHITTLE) Well, are you aware that  
21 a jury recently found that cleanup company at the  
22 Kingston coal ash spill was liable for failing to  
23 protect its workers from fugitive dust?

24 MR. McDONALD: Objection. Form.

25 A. I'm not aware of it.

1 Q. (BY MS. WHITTLE) Will you be protecting  
2 your workers from fugitive dust with respirators and  
3 Tivek suits?

4 A. I'm sure, if we get to the point where we  
5 take coal ash, we would do everything to make sure  
6 that the process would be seamless and safe to  
7 everybody involved.

8 Q. Well, are you aware that insurance  
9 companies are successfully claiming that they don't  
10 have to pay for liabilities related to coal ash  
11 disposal?

12 MR. McDONALD: Objection. Form.

13 A. I'm not aware.

14 Q. (BY MS. WHITTLE) Do you have the financial  
15 wherewithal to clean up a coal ash disposal site if  
16 there is contamination?

17 MR. McDONALD: Objection. Form.

18 A. I believe so.

19 Q. (BY MS. WHITTLE) Are you familiar with  
20 standard operating procedures for operating a  
21 landfill?

22 A. I'm familiar with my SOP.

23 Q. And how many SOPs do you have?

24 A. Just one.

25 Q. Just one.

1                   Have you ever run for elected office?

2           A.    I have.

3           Q.    How many offices have you run for?

4           A.    Three.

5           Q.    And what were those?

6           A.    State rep, county judge, county  
7 commissioner.

8           Q.    Were you elected?

9           A.    I was not.

10                   (Pause in proceedings.)

11                   MS. PERALES:  Is this a good stopping  
12 point?  I could use a bathroom break.

13                   MS. WHITTLE:  Okay.  Sure.

14                   (Recess: 4:10 p.m. to 4:20 p.m.)

15                   (Exhibit 113 marked.)

16           Q.    (BY MS. WHITTLE)  I'm showing you what has  
17 been marked as Exhibit 113.  And it is the current  
18 application for -- part 1 for the Pescadito  
19 Environmental Resource Center.  And I'd like you to  
20 turn to page 3 which is marked RV\_000048.

21                   I'm looking under Paragraph 1.3,  
22 Permits or Construction Approvals.  And three  
23 headings down -- well, it says:  "Following is the  
24 status for the permits or construction approvals  
25 received, applied for, or anticipated to apply for."

1                   Here it says "Underground injection  
2 control program under the Texas Injection Well Act."

3                   I understood you to testify that you  
4 are no longer considering an injection well at the  
5 site. Is that correct?

6           A.    No. It's saying that I'm going to in the  
7 future potentially do something, but not at this  
8 time.

9           Q.    So you are anticipating having an injection  
10 well?

11          A.    Possibly some day, but not today.

12          Q.    Do you know where on the site that would  
13 be?

14          A.    No.

15                    But, I mean, we're not talking about  
16 it anymore, so it's off the table.

17          Q.    Was it in an area that was outside of the  
18 current landfill footprint?

19          A.    Originally?

20          Q.    Yes.

21          A.    Yes.

22          Q.    Where was it originally?

23          A.    I don't know. I think the southwest side  
24 somewhere.

25          Q.    Okay. In the southern portion of --



1 southern tract of the landfill?

2 A. That's correct.

3 Q. Now I'd like to look at page 8, which is  
4 RV\_000053. And I'd like to look at the last  
5 paragraph.

6 You mentioned that it was your  
7 expectation that PERC would be accepting about  
8 1,000 tons per day. But the application says,  
9 "Waste for landfill disposal at PERC is anticipated  
10 to be between 1 million and 2 million tons per year  
11 in the first year after the landfill is permitted  
12 and constructed. This is between about 2,750 and  
13 5,500 tons per day by the based on receiving waste  
14 seven days per week."

15 Did I read that correctly?

16 A. Yes.

17 Q. Is that your current plan, to accept that  
18 much waste per day?

19 A. It will be.

20 Q. So the 1,000 tons per day was not correct?

21 A. I think I was talking about 1,000  
22 specifically to MWSW 1 waste.

23 Q. So 1,000 tons per day would be for  
24 municipal solid waste 1 waste.

25 A. Or maybe -- yeah -- it's the opposite.

1 Somewhere between 750 to 1,000 tons of industrial  
2 1, 2, or 3.

3 Q. And so the remainder of this approximately  
4 3,000 to 5,000 tons per day would be just municipal  
5 waste?

6 A. That's correct.

7 It's a -- I can't take more than  
8 20 percent of my total volume in industrial 1, 2,  
9 and 3. Industrial 1, anyway.

10 Q. So how -- what do you base these numbers  
11 on? How do you expect to actually be able to find  
12 enough generators for this much waste per day?

13 A. They're out there.

14 Q. Where?

15 A. All over the Gulf Coast states.

16 Q. Are you aware of areas that are looking for  
17 waste disposal sites?

18 A. Yes.

19 Q. For industrial waste or for municipal  
20 waste?

21 A. Both.

22 Q. And where are those?

23 A. Harris County, Tarrant County in Texas, and  
24 all the way -- Texas City. And then up through  
25 Biloxi.

1 Q. Do you recognize that 3,000 to 5,000 tons  
2 per day is fairly ambitious for a new landfill  
3 that's only a 73-acre footprint?

4 A. Do you think it's ambitious?

5 Q. I do.

6 A. Have you ever done a landfill?

7 Q. I haven't.

8 Have you?

9 A. I'm an ambitious guy.

10 Q. Okay. Well, what to you base these numbers  
11 on? Because presumably you base these numbers on  
12 something since you --

13 A. I think I've already answered that question  
14 with somebody else.

15 Q. Well, I haven't heard any basis for the  
16 numbers.

17 So you don't currently have any  
18 agreements to bring in waste. Is that correct?

19 A. That's correct.

20 And there's no way to get any  
21 agreements with anybody to get any kind of waste,  
22 whether it's City of Laredo or Texas City -- until  
23 and when I get my permit and I have a product that I  
24 can offer for services to be deposited on, there is  
25 no way to have that.

1 Q. Well, let's talk about the joint venture  
2 you were in with Green Group Holdings.

3 Are you aware that Green Group  
4 Holdings accepted coal ash from the Kingston coal  
5 ash spill and took it to their Arrow Head landfill  
6 in Union Town, Alabama?

7 A. No.

8 Q. Are you aware that the residents in  
9 Union Town, Alabama, brought a civil rights lawsuit  
10 against Green Group Holdings for the injuries that  
11 people claim they were suffering from the disposal  
12 of coal ash in that landfill?

13 MR. McDONALD: Objection. Form.

14 A. No.

15 Q. (BY MS. WHITTLE) Are you aware that  
16 Green Group Holdings brought a \$30 million lawsuit  
17 against the black residents of Union Town, Alabama,  
18 because they brought their civil rights claim?

19 MR. McDONALD: Objection. Form.

20 A. I don't know anything about Green Group.

21 Q. (BY MS. WHITTLE) Well, can you commit to  
22 not working with Green Group at this landfill in the  
23 future?

24 A. Sure.

25 Q. I'd like to talk about the concerns that

1 the community has here.

2 Are you aware that the community has  
3 concerns about coal ash disposal in this area?

4 A. Yes.

5 Q. Do you credit any of those concerns?

6 A. Yes.

7 Q. And has that weighed into your  
8 decision-making when it comes to accepting waste?

9 A. Coal ash waste?

10 Q. Correct.

11 A. Yes.

12 Q. And would you agree to a special condition  
13 not to allow coal ash waste?

14 A. No.

15 Q. And why is that?

16 A. Because I'm a free-market company. And if  
17 I can provide a service that I think I -- not that I  
18 think -- that I know that I can move, transport, and  
19 impound safely, and it's economically viable, it's  
20 something that I would consider.

21 Q. In spite of the examples all over the  
22 country that coal ash disposal is very difficult to  
23 do safely?

24 MR. McDONALD: Objection. Form.

25 A. It might be difficult and -- you know,

1 don't get me wrong. There's some problems with the  
2 product. Right? But the problems that exist  
3 predate anybody impounding it in locations that were  
4 properly developed. And that's the difference with  
5 Pescadito over everybody else.

6 Q. (BY MS. WHITTLE) So you'll agree to comply  
7 with the federal coal ash rule for disposal of coal  
8 ash?

9 A. I'm agreeing to do whatever Chance over  
10 there says I have to do.

11 Q. Well, Chance is not currently requiring you  
12 to comply with the federal coal ash rule. Will you  
13 agree to comply with the federal coal ash rule?

14 MR. McDONALD: Objection. Form.

15 A. I'm doing whatever TCEQ is asking me to do.

16 Q. (BY MS. WHITTLE) So if TCEQ imposed  
17 special conditions to make this landfill in  
18 compliance with the federal coal ash rule, you would  
19 agree to do that?

20 MR. McDONALD: Objection. Form.

21 A. I will do whatever they required Ponderosa  
22 and the City of Laredo today, since they have the  
23 same capability.

24 Q. (BY MS. WHITTLE) Well, are you aware that  
25 when the City of Laredo was permitted there wasn't a

1 federal coal ash rule?

2 A. That's not true.

3 The city just got, recently, their  
4 class 1 industrial permit.

5 Q. Okay. Let's talk about the TRC lawsuit.

6 As I understand it, you stated that  
7 you brought the lawsuit against TRC because they had  
8 not properly warned you that there might be wetlands  
9 on your property. Is that correct?

10 MR. McDONALD: Objection. Form.

11 A. No.

12 They did an inspection of the property  
13 and conveyed to the partnership that there was no  
14 existing wetlands or jurisdictional waters on the  
15 property we selected for that permit.

16 Q. (BY MS. WHITTLE) And then they changed  
17 their mind?

18 A. Yes.

19 Q. And you sued them because they changed  
20 their engineering judgment. Is that correct?

21 A. No. I sued them when I double-checked  
22 their work and found out that they had  
23 misrepresented what they found on the ground, and  
24 I -- and the feds reversed their position about both  
25 jurisdictional waters and wetlands on the site.

1 Q. And so you mentioned with the settlement  
2 with TRC that there was cash and then there was  
3 something else that was done.

4 Who paid the cash?

5 MR. McDONALD: I'm not going to -- I'm  
6 not going to let him speak to things that are  
7 covered by a confidentiality agreement.

8 If you can speak generally to that  
9 without --

10 Q. (BY MS. WHITTLE) Well, were there still  
11 unpaid bills to TRC when you fired them?

12 MR. McDONALD: Same objection.

13 A. When I fired them?

14 Q. (BY MS. WHITTLE) When you ordered them to  
15 stop working.

16 A. No. I think we were current.

17 Q. There were no claims by TRC that they had  
18 not been paid?

19 A. Not that I'm aware of.

20 Q. Okay.

21 MS. WHITTLE: I'll pass.

22 EXAMINATION

23 BY MR. MAGEE:

24 Q. Mr. Benavides, I'm Eric Magee. I'm the  
25 attorney for Webb County. I just want to follow-up



1 on a couple of questions, a couple things, that I  
2 heard here today.

3 The first one was, in front of you, I  
4 think is Exhibit 113.

5 A. Yes, sir.

6 Q. Specifically looking at page 8, which is  
7 RV\_53. I think you were on that page.

8 A. Okay. Sorry.

9 Q. There's a bullet -- well, there's a list of  
10 items under "Description of Facilities and Systems,"  
11 the last one has to do with grease and grit trap  
12 waste. Are you with me?

13 A. Yes, sir. The last one?

14 Q. Yes. Do you see -- earlier, Ms. Perales  
15 asked you some questions about your facility seeking  
16 a permit to dispose of grit trap and grease trap  
17 waste and potentially beneficial reuse.

18 Have you been to any facilities that  
19 beneficially reuse grease and grit trap waste?

20 A. I have not.

21 Q. Do you know what process you must undertake  
22 in order to land-apply for beneficial use of grit  
23 and grease trap waste?

24 A. Before it's landfilled?

25 Q. Yes. Before it's land-applied.

1 A. Before we go to solidification?

2 Q. No, sir.

3 Your application says potentially for  
4 beneficial reuse.

5 A. Right.

6 Q. Do you understand what process has to be  
7 accomplished in order for grit trap and grease trap  
8 waste to be land-applied for a beneficial use?

9 A. I don't know of what -- I thought she was  
10 talking about creating biodiesel from that process.  
11 I don't know what the process would be for  
12 beneficial use means.

13 Q. Okay. So you don't know whether grit trap  
14 and grease trap waste is treated before it becomes a  
15 beneficial use?

16 A. No. My understanding is that the way the  
17 permit sits today, that if we took that product, we  
18 would be landfilling it and so we would move to  
19 solidification and then landfill it.

20 Q. So you will not be processing it for  
21 potential beneficial reuse?

22 A. I'm not saying that. I'm saying that as it  
23 sits today that we don't anticipate there to be any  
24 kind of large volume so we would just be forming it  
25 for landfilling.

1 Q. And -- but you don't know what "beneficial  
2 reuse" means.

3 MR. McDONALD: Objection. Form.

4 A. As I sit here today, I don't know.

5 I thought what -- something that --  
6 maybe it's not that. But, obviously, whatever our  
7 permit what we can do, obviously, we'll do it.

8 The guys that I'll be hiring will be  
9 able to help me accomplish those goals to be able  
10 to -- if there is a potential for reuse benefit that  
11 we will use.

12 MR. MAGEE: Objection.

13 Nonresponsive.

14 Q. (BY MR. MAGEE) If you'll look at  
15 Exhibit 1101. I apologize if some of this -- it was  
16 really difficult to hear down there. So if I'm  
17 projecting, I'm not yelling at you, I just want them  
18 to be able to hear because I was in that position  
19 earlier and couldn't hear what half of what was said  
20 down here.

21 A. That's okay. I'm used to it.

22 Q. Exhibit 100 was dated November 28th, 2016.  
23 Correct?

24 A. Yes.

25 Q. As well as 101 is January 25th, 2017?

1 A. That's correct.

2 Q. And so I heard earlier you provide some  
3 testimony about the Webb County Commissioners Court  
4 and the operation of that commissioners court,  
5 specifically when you were referring to  
6 Commissioner Galo. Do you recall that testimony?

7 A. I think I said a few things about it.

8 Q. Okay.

9 A. Anything specific that you want to talk  
10 about?

11 Q. Yeah. One of the things you mentioned was  
12 yesterday's commissioners court hearing.

13 A. Right.

14 Q. And you discussed Commissioner Galo. Do  
15 you recall that?

16 A. Sure.

17 Q. So were you present at commissioners court  
18 yesterday?

19 A. Not in Laredo.

20 Q. So you watched the commissioners court  
21 online?

22 A. Yes, sir.

23 Q. Okay. So was there any agenda item  
24 yesterday on the commissioners court that dealt with  
25 Pescadito?

1 A. I don't think so.

2 Q. Okay. So anything you were referring to  
3 Commissioner Galo had absolutely nothing to do with  
4 this matter that we're here for. Correct?

5 A. No. Just how he conducts himself in the  
6 court is what I was saying.

7 Q. So earlier, I believe Ms. Whittle asked you  
8 a question if you had ever run for office, and one  
9 of the offices that I heard you had been a candidate  
10 for was county judge. Is that correct?

11 A. That's correct.

12 Q. As well as a commissioner for Webb County.  
13 Is that correct?

14 A. That's correct.

15 Q. So you're familiar with the county must  
16 have an item on the agenda in order for the  
17 commissioners court to take action on it?

18 A. That's correct.

19 Q. And because of the Texas Open Meetings Act,  
20 the commissioners court must have an item on the  
21 agenda, must approve it, for it to be an official  
22 action of the commissioners court. Correct?

23 A. Sure.

24 Q. So if we look at Exhibit No. 107.

25 A. Okay.

1 Q. If we look at -- it's page 40, but it's  
2 also RV\_138.

3 A. Okay.

4 Q. The last paragraph says that "The  
5 Webb County judge and all four county commissioners  
6 expressed support for the project."

7 Did I read that correctly?

8 A. That's correct.

9 Q. "A copy of the letter from Webb County  
10 Judge Danny Valdez affirms the support of  
11 Webb County."

12 Did I read that correctly?

13 A. Yes.

14 Q. If we flip to the next page of Exhibit 107.  
15 It's RV\_790.

16 A. Okay.

17 Q. Is this the letter that you're referring  
18 to?

19 A. It is.

20 Q. Was this letter placed on the agenda of the  
21 Webb County Commissioners Court for approval by the  
22 Court?

23 A. I'm not aware that it was.

24 Q. Okay. So, as you sit here today, you don't  
25 know if this letter has been authorized by the

1 Webb County Commissioners Court to be submitted to  
2 you?

3 A. No. I do know that it was.

4 Q. When was it authorized?

5 A. When all the commissioners and the county  
6 judge were supportive of what our endeavor was.  
7 It's kind of hard to get one of these from a county  
8 judge.

9 Q. So what evidence do you have that this  
10 matter was placed on the agenda and approved by the  
11 Webb County Commissioners Court for submission to  
12 you?

13 A. I don't have any evidence.

14 Q. Okay. And so in 2011, who was on the  
15 commissioners court at that time?

16 A. It would have been Mr. Canales, Mr. Hedina.

17 Q. Commissioner Garza?

18 A. And Commissioner Garza.

19 Q. Commissioner Sciaraffa?

20 A. And Danny Valdez.

21 Q. So this -- let me look here.

22 If we look back at 113, we look at the  
23 cover page which is RV\_46.

24 A. Okay.

25 Q. Down there it says that your application

1 has been modified November 2016 and modified  
2 November 2017.

3 Did I read that correctly?

4 A. Yes, sir.

5 Q. Did you advise that the TCEQ that  
6 Webb County had passed a resolution opposing the  
7 landfill?

8 A. I think Webb County noticed them.

9 Q. But your application says otherwise.  
10 Correct?

11 A. Does it?

12 Q. Sure. Page 107 -- I mean, Exhibit 107.

13 A. Oh. As to your modification?

14 Q. Okay. Sir?

15 A. As to the modification of what Webb County  
16 did.

17 Q. Right. Your application still shows that  
18 Webb County is in support of the project. Correct?

19 A. I guess so.

20 Q. And you haven't withdrawn that statement in  
21 Exhibit 107, RV\_138 that we read, Paragraph 3.

22 Correct?

23 A. That's correct.

24 Q. And you haven't withdrawn the letter that  
25 was not approved by the Webb County Commissioners



1 Court at a commissioners court meeting. Correct?

2 MR. McDONALD: Objection. Form.

3 A. I think the document speaks for itself.

4 Q. (BY MR. MAGEE) Okay. Again, I just want  
5 to make sure I'm clear.

6 You have no evidence that the letter  
7 RV\_790 was ever approved by the Webb County  
8 Commissioners Court at a commissioners court  
9 meeting?

10 MR. McDONALD: Objection. Form.

11 A. I think the letter speaks for itself. It's  
12 evidence.

13 MR. MAGEE: Objection. Nonresponsive.

14 Q. (BY MR. MAGEE) Do you have any evidence  
15 that the Webb County Commissioners Court placed this  
16 item, either the letter or your landfill, on the  
17 agenda for approval and action?

18 A. The letter speaks for itself. The document  
19 speaks for itself.

20 MR. RICHARDSON: Objection.  
21 Nonresponsive.

22 A. TCEQ is aware of everything that's gone on.

23 Q. (BY MR. MAGEE) So if we look at  
24 Exhibit 104, this is a copy of the resolution from  
25 the commissioners court of Webb County opposing the

1 proposed Pescadito Environmental Resource Center.

2 Correct?

3 A. Um-hmm.

4 Q. If we look at the second page -- I think  
5 you're already there.

6 Voting for the opposition was the  
7 county judge. Correct?

8 A. Um-hmm.

9 Q. Also was Commissioner Sciaraffa?

10 A. Um-hmm.

11 Q. That was also someone who was on the court  
12 back in 2011. Correct?

13 A. Yes.

14 Q. Commissioner Tijerina?

15 A. Um-hmm.

16 Q. Is that a yes?

17 A. Yes, sir. I'm sorry. I apologize.

18 Q. Was she on the court in 2011?

19 A. Yes, sir.

20 Q. And Commissioner Jaime Canales?

21 A. Yes, sir.

22 Q. He was on the court in 2011 as well.

23 Correct?

24 A. That's correct.

25 Q. So that's three commissioners from 2011

1 that are now in opposition to the landfill.

2 Correct?

3 A. Yes, sir.

4 Q. And Commissioner Galo, he actually  
5 abstained and wasn't even present during this  
6 resolution. Correct?

7 A. He was present.

8 Q. Well, if the records show otherwise, I  
9 guess they can speak for themselves, that he had  
10 left the courtroom during this resolution.

11 A. He was in the next-door room.

12 Q. But he wasn't present during the vote of  
13 this. Correct?

14 A. But they convened before this item took  
15 place, all the commissioners.

16 Q. And this resolution, for the commissioners  
17 court to oppose the proposed landfill, that actually  
18 was passed before Exhibits 100 or 101. Correct?

19 A. There's no date when it was passed here.

20 Q. If the official records show it was adopted  
21 in April of 2011, do you have any reason to dispute  
22 that?

23 MR. McDONALD: Objection. Form.

24 A. Where are you talking about, 2011?

25 Q. (BY MR. MAGEE) 2016, the commissioners

1 court minutes.

2 A. Okay. May or -- let's say May 9th of 2016.

3 MR. McDONALD: Objection. Form.

4 A. I think the record speaks for itself, like  
5 you said.

6 Q. (BY MR. MAGEE) Okay. And so your  
7 testimony earlier about 100 and 101, these two  
8 documents for the development of the -- these  
9 development permits that were submitted to  
10 Webb County, the county already was in opposition of  
11 your wetland fill at the time you submitted these.  
12 Correct?

13 A. That's correct.

14 MR. MAGEE: No further questions.

15 MS. WHITTLE: I think we're done.

16 (Proceedings concluded at 4:46 p.m.)  
17  
18  
19  
20  
21  
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24  
25

CHANGES AND SIGNATURE

WITNESS NAME: CARLOS BENAVIDES DATE: 3/12/2019

Reason Codes: (1) to clarify the record; (2) to conform to the facts; (3) to correct a transcription error; (4) other (please explain).

PAGE LINE	CHANGE	REASON CODE
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1 I, CARLOS BENAVIDES, have read the foregoing  
2 deposition and hereby affix my signature that same is  
3 true and correct, except as noted above.

4

5

\_\_\_\_\_

6

CARLOS BENAVIDES

7

8 THE STATE OF \_\_\_\_\_ )

9 COUNTY OF \_\_\_\_\_ )

10

11 Before me, \_\_\_\_\_, on this day  
12 personally appeared CARLOS BENAVIDES, known to me or  
13 proved to me on the oath of \_\_\_\_\_ or through  
14 \_\_\_\_\_ (description of identity card  
15 or other document) to be the person whose name is  
16 subscribed to the foregoing instrument and acknowledged  
17 to me that he/she executed the same for the purpose and  
18 consideration therein expressed.

19 Given under my hand and seal of office on this \_\_\_\_\_  
20 day of \_\_\_\_\_, \_\_\_\_\_.

21

22

\_\_\_\_\_

23

NOTARY PUBLIC IN AND FOR

24

THE STATE OF \_\_\_\_\_

25 My Commission Expires: \_\_\_\_\_

## 1 REPORTER'S CERTIFICATE

2 ORAL DEPOSITION OF CARLOS BENAVIDES

3 3/12/2019

4  
5 I, Rebecca J. Callow, Certified Shorthand Reporter  
6 in and for the State of Texas, hereby certify to the  
7 following:

8 That the witness, CARLOS BENAVIDES, was duly sworn  
9 and that the transcript of the deposition is a true  
10 record of the testimony given by the witness;

11 That the deposition transcript was duly submitted on  
12 March 27, 2019 to the witness or to the attorney for  
13 the witness for examination, signature, and return to me  
14 by April 16, 2019.

15  
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25

1       That pursuant to information given to the deposition  
2 officer at the time said testimony was taken, the  
3 following includes all parties of record and the amount  
4 of time used by each party at the time of the  
5 deposition:

6           Leon Komkov (2h 1m)  
7           Attorney for ANB Cattle Company, Ltd.

8           James Richardson (0h 42m)  
9           Attorney for The Jordan Group and  
          JEV Family Ltd.

10          Dan Miller (0h 55m)  
11          Attorney for Hurd Enterprizes, Ltd.,  
          and Hurd Ranch Co.

12          Marisa Perales (1h 17m)  
13          Attorney for Stop Pescadito Industrial  
          Landfill League

14          Mary Whittle (0h 37m)  
15          Attorney for Homestead Partners

16          J. Eric Magee (0h 14m)  
          Attorney for Webb County

17          Derek McDonald (0h 0m)  
18          Attorney for The Applicant

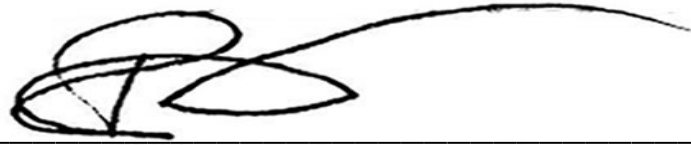
19          Sheldon Wayne (0h 0m)  
20          Attorney for Office of the Public Interest  
          Counsel

21          Derek Price (0h 0m)  
22          Attorney for Carlos Benavides

23          Geoffrey Connor (0h 0m)  
24          Attorney for The Applicant  
25



1  
2 I further certify that I am neither counsel for,  
3 related to, nor employed by any of the parties in the  
4 action in which this proceeding was taken, and further  
5 that I am not financially or otherwise interested in the  
6 outcome of this action.

7  
8 

9 Rebecca J. Callow, RMR, CRR, RPR  
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