

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
Civil Action No.: 7:23-CV-00897

IN RE: )  
 )  
CAMP LEJEUNE WATER LITIGATION )  
 )  
This Pleading Relates to: )  
ALL CASES )  
 )

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**PLAINTIFFS' LEADERSHIP GROUP'S MEMORANDUM OF LAW IN SUPPORT OF  
MOTION TO COMPEL PRODUCTION OF SSPA'S BILLING RECORDS**

**SUMMARY OF THE NATURE OF THE CASE**

This matter comes before the Court on Plaintiffs' Leadership Group's ("PLG") Motion to Compel the production of S. S. Papadopoulos & Associates, Inc.'s ("SSPA") billing records prior to 2022, before the Camp Lejeune Justice Act was enacted, but at a time the Department of Justice ("DOJ") claims SSPA was contracted to work on the DOJ's defense of litigation related to Camp Lejeune. The DOJ opposes this motion and improperly withholds such documents based on their belief that they have satisfied Rule 26 and compliance with the subpoena would be overly broad, unduly burdensome, and not proportional to the needs of the case. The DOJ's refusal to produce the documents is unreasonable, prejudicial, and impedes the PLG's ability to adequately and effectively litigate the water contamination issues at Camp Lejeune.

Plaintiffs respectfully request this Court to enter an Order compelling the production of documents from SSPA pursuant to Federal Rules of Civil Procedure 26 and 45 and other applicable law. In support of this motion, Plaintiffs show as follows:

**INTRODUCTION**

The DOJ has designated Remy Hennet, Ph.D., PG, CPG as a water modeling expert in this

litigation. Dr. Hennet is employed by SSPA. The PLG's Notice of Rule 30(b)(1) Individual Deposition Notice and Request for Production of Documents to Dr. Hennet, with an accompanying subpoena pursuant to Rule 45, Attachment A, request Nos. 6 & 7, was served on February 12, 2025. (**Exhibit 1**). Counsel for the PLG took the deposition of Dr. Hennet on March 20, 2025, and after the deposition, the PLG reiterated the subpoena request, clarifying the scope of the request dating back to billing records from the initial DOJ contract with SSPA related to Camp Lejeune, to the extent they exist. The DOJ's current productions in response to Dr. Hennet's subpoena are inadequate. The Parties have met and conferred and exchanged several good faith letters and emails in an attempt at resolution, but the Parties now seek Court resolution.

#### **FACTUAL AND PROCEDURAL BACKGROUND**

The PLG has met and conferred and exchanged numerous letters and emails with the DOJ to address this discovery dispute, yet the Parties have been unable to resolve certain disagreements regarding the production of documents in response to a subpoena served with the deposition notice of DOJ expert Dr. Hennet. On March 28, 2025, the parties met and conferred regarding the DOJ's inadequate document production in response to the PLG's Notice of Rule 30(b)(1) Individual Deposition Notice and Request for Production of Documents to Dr. Hennet. The PLG followed up by letter on April 16, 2025, regarding the deficient billing production. (**Exhibit 2**). The PLG maintained its argument for such documents: the billing records are relevant to establish the substantive work done by SSPA at Camp Lejeune (**Exhibits 3 & 4**); and the billing records for Camp Lejeune-related work since at least 2005 are accessible to SSPA, which were testified to in Dr. Hennet's deposition. (**Exhibit 5**).

On April 21, 2025, the DOJ answered that PLG letter and claimed to be "working to determine if and to what extent compensation information or documents still exist related to

SSPA's work for DOJ in past Camp Lejeune litigation. The United States will supplement its production with 'basic' compensation information or documents related to SSPA's work for DOJ in past Camp Lejeune litigation to the extent it exists." (**Exhibit 6**).

This same argument was presented to the Court in the Joint Status Report filed on April 21, 2025. (**Exhibit 7**). Thereafter, the PLG continued its efforts to resolve these matters without court intervention by emailing the DOJ twice on April 24. Those emails (1) reminded the DOJ that it had agreed to produce documents "with 'basic' compensation information or documents related to SSPA's work for DOJ in the past" (**Exhibit 8**); and (2) explained that PLG asserts that the past billing records are relevant because it appears that SSPA (and specifically Dr. Hennet) was doing work for the Navy regarding investigations related to Camp Lejeune in the 2005 time frame. (**Exhibit 9**).

On April 25, 2025, the DOJ responded by email, stating: "We're also working to identify and gather available compensation information related to past Camp Lejeune litigation and will supplement our production once we have it." (**Exhibit 10**).

At the status conference on April 28, 2025, the Parties addressed the Court, in relevant part, by stating that the billing records provide information underlying the issue of water contamination investigation and remediation at Camp Lejeune in early 2005 and thereafter. (**Exhibit 11 at 12-14**).

After considerable discovery delay, on May 1, 2025 the DOJ emailed the PLG that "the United States has confirmed through internal documentation that Dr. Remy Hennet was retained by the Department of Justice as of February 25, 2005 in *Gros v. Unites States*, No. CIV.A.H-04-4665 (S.D. Tex.), an action under the Federal Tort Claims Act claiming personal injury as a result of exposure to contaminated water at Camp Lejeune." (**Exhibit 12**).

As of the date of filing of this Motion, the DOJ has not produced any time records for Dr. Hennet's or anyone from SSPA's work on Camp Lejeune matters prior to August 2022.

### **LEGAL STANDARD**

Relevance is broadly construed, and “a request for discovery should be considered relevant if there is ‘any possibility’ that the information sought may be relevant to the claim or defense of any party.” Fed. R. Civ. P. 26(b)(1). “[W]hile Rule 26 mandates certain expert disclosures and provides certain discovery protections, it nowhere expressly precludes expert discovery pursuant to the catchall discovery Rule, Rule 26(b)(1).” *Noveletsky v. Metropolitan Life Ins. Co.*, No. 2:12-cv-21-NT, 2012 WL 11802597, at \*2 (D. Me Oct. 19, 2012). The Federal Rules set a floor—they prescribe the minimum types of expert billing records that are required to be produced. Nothing in the Rules prevents parties from seeking additional, relevant documents from expert witnesses. *Id.* at \*2-4; *Burris v. Ethicon, Inc.*, No. 2:14-CV-24320, 2019 WL 13195497, at \*1 (S.D.W.Va. Nov. 7, 2019) (requiring production of “all invoices and payment documents related to [expert’s] services rendered in generating a report or testifying as an expert witness in any pelvic mesh case during the past five years”). Rule 401 of the Federal Rules of Evidence defines relevant evidence as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence.” The SSPA billing records that date back to 2005 are relevant in that the records make the fact of consequence, the investigation of water modeling by SSPA and reliability of the associated water and soil tests, more or less probable.

The records are also proportional to the needs of this case and are not overly burdensome. In addressing proportionality, as part of a totality-of-circumstances analysis, the court considers “the importance of the issues at stake in the action, the amount in controversy, the parties’ relative

access to *relevant* information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.” Fed. R. Civ. P. 26(b)(1) There is a high probability that SSPA’s billing records are relevant to water modeling disputes regarding the reliability of the Agency for Toxic Substances and Disease Registry’s (“ATSDR”) work. During Dr. Hennet’s deposition, he testified that he and SSPA have performed work related to Camp Lejeune since at least 2005 and such records are searchable through a billing software program. Hennet Deposition at 16-17, 25-26, and 93. Further, the billing records do not contain sensitive information. Rather, the PLG seeks the “basic” compensation information or documents related to SSPA’s work for the DOJ in the relevant time period of work performed at Camp Lejeune. These documents are discoverable because they relate to substantive work done by SSPA at Camp Lejeune for decades.

Independently, the records are discoverable because they go to bias—SSPA (and Dr. Hennet, in particular) has been billing the DOJ for work related to Camp Lejeune for twenty years, but has only produced records for approximately two years (during which they billed over \$2 million). *See, e.g., Burris v. Ethicon, Inc.*, No. 2:14-CV-24320, 2019 WL 13195497, at \*1 (S.D.W.Va. Nov. 7, 2019) (“an expert’s financial gain from testimony in a particular type of case, or on behalf of a specific law firm or party, is relevant to credibility and is appropriate subject matter for impeachment.”)

To the extent that the DOJ claims that this discovery is irrelevant, overly broad, unduly burdensome or unreasonable, which the PLG denies, it is the DOJ’s burden to demonstrate this, and the DOJ cannot do so. *Ashmore v. Allied Energy, Inc.* 2016 WL 301169, at \*3 (D.S.C. Jan. 25, 2016) (“Generally, the party resisting discovery bears the burden of showing that the requested discovery is irrelevant to the issues or is overly broad, unduly burdensome, unreasonable, or

oppressive.””). The DOJ has been investigating the issues before this Court for over twenty years and the work performed, the experts retained to perform it, and the opinions rendered are highly relevant.

## **ARGUMENT**

### **A. Pre-CLJA Billing Records are Relevant and Discoverable.**

The PLG seeks billing records for SSPA’s work on Camp Lejeune-related matters conducted before Dr. Hennet was retained for this specific CLJA litigation. These documents were requested via Rule 45 subpoena which sought relevant documents *in addition to* the documents that are automatically required to be produced pursuant to Federal Rules of Civil Procedure 26(b)(4)(C)(i) and 26(a)(2)(vi).<sup>1</sup>

The documents sought by PLG are relevant, proportional, and discoverable because they relate to substantive work done by SSPA at Camp Lejeune (*i.e.*, selecting the wells, directing which wells be drilled, and taking samples at particular wells during the time frame that the ATSDR was conducting its modeling work; mapping water level gradients and groundwater flow direction around Camp Lejeune; and remediating water supply wells with contaminants) and therefore are relevant to the assessment of the SSPA experts’ opinions in this case. The PLG requests the historic billing records so as to evaluate what SSPA did at Camp Lejeune during the time frame that PLG’s expert, Morris Maslia, was evaluating the water contamination for the ATSDR.

Billing records recently produced by the DOJ state that Dr. Hennet spent time right after he was hired for the CLJA case “dearchiving” and that Saul Allen at SSPA spent time on “inquiries

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<sup>1</sup> Federal Rule of Civil Procedure 26(b)(4)(C)(i) provides that communications that “relate to compensation for the expert’s study or testimony” are discoverable. A witness must provide a written report with “a statement of the compensation to be paid for the study and testimony in the case.” Fed. R. Civ. P. 26(a)(2)(vi). Furthermore, Federal Rule of Civil Procedure 45(e) outlines the duty to respond to a subpoena with the documents “kept in the ordinary course of business,” such as from SSPA’s billing software program.

about past RH expert reports, summary of things that were done in the past, etc.” (**Exhibit 13**). Mr. Allen also “review[ed] old materials and beg[a]n listing data sources.” (**Exhibit 14**). These documents support the contention that the SSPA experts relied on and reviewed their pre-2022 work and other SSPA pre-2022 work; thus, it is relevant to this case and the PLG is entitled to know what work SSPA did in the past.

DOJ has failed to produce pertinent information of which it is impracticable for the PLG to obtain facts or opinions on the same subject by other means. Dr. Hennet has been working since early 2005 to consult with the DOJ, access data, and propose well locations for sampling and remediation. The historic knowledge of Underground Storage Tank data that Dr. Hennet had access to in 2005 means he had years to consider his opinions and report disagreements with ATSDR, if he had them. Any opinions Dr. Hennet is now expressing may well be contradicted by his past work. In fact, Dr. Hennet adopted ATSDR’s model in the *Washington v. Dep’t of the Navy*, 446 F. Supp. 3d 20, 23 (E.D.N.C. 2020) case and now disavows ATSDR’s model for the current litigation. The billing records with their accompanying descriptions are the only method to recover this information on what substantive work was done by whom and when—an exceptional circumstance. Producing only Dr. Hennet’s past two years of billing records at Camp Lejeune misrepresents the scope of Dr. Hennet’s work related to Camp Lejeune and the work the DOJ has contracted this expert firm to perform at Camp Lejeune. Thus, communications both within SSPA that relate to hours billed (time records), and communications from SSPA to the DOJ regarding what work was performed that is reflected on the bills are proportional to the discovery needs.

SSPA’s pre-2022 billing records are also discoverable because they go to reliability, credibility, and bias. SSPA has been billing the DOJ for work related to Camp Lejeune for twenty years, but has only produced records for approximately two years (during which they billed over

\$2 million). The billing records are relevant fodder for impeachment of an expert witness' credibility, and as such, the PLG is entitled to this discovery for use at trial.

Moreover, the production of "basic" compensation records pertaining to and reflecting the DOJ's work with and contracts with SSPA is relevant, proportional to the needs of this case, and reasonable to assess bias.

### **CONCLUSION**

For the foregoing reasons, the PLG respectfully requests the Court to Order the DOJ to produce the SSPA billing records that are responsive to its discovery request made via subpoena.

*[Signature page to follow]*

DATED this 12th day of May 2025.

/s/ J. Edward Bell, III

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**CERTIFICATE OF SERVICE**

I, J. Edward Bell, III, hereby certify that the foregoing document was electronically filed on the Court's CM/ECF system on this date, and that all counsel of record will be served with notice of the said filing via the CM/ECF system.

This the 12th day of May 2025.

*/s/ J. Edward Bell, III*

J. Edward Bell, III

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
Civil Action No.: 7:23-CV-00897

IN RE: )  
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CAMP LEJEUNE WATER LITIGATION )  
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**INDEX OF EXHIBITS**  
**IN SUPPORT OF PLAINTIFFS' LEADERSHIP GROUP'S MOTION TO COMPEL**  
**PRODUCTION OF SSPA'S BILLING RECORDS**

Exhibit 1 — February 12, 2025 Notice of Rule 30(b)(1) Individual Deposition Notice and Request for Production of Documents to Dr. Hennet with an accompanying Subpoena Pursuant to Rule 45, Attachment A

Exhibit 2 — April 16, 2025 PLG Letter to DOJ

Exhibit 3 — Nonprivileged Document: CLJA\_UST02-0000522380-381

Exhibit 4 — Nonprivileged Document: CLJA\_UST02-0000523534

Exhibit 5 — March 20, 2025 Deposition of Remy J.-C. Hennet, Ph.D.

Exhibit 6 — April 21, 2025 DOJ Response to PLG

Exhibit 7 — April 21, 2025 Joint Status Report

Exhibit 8 — April 24, 2025 PLG Email to DOJ

Exhibit 9 — April 24, 2025 PLG Email to DOJ

Exhibit 10 — April 25, 2025 DOJ Email to PLG

Exhibit 11 — April 28, 2025 Status Conference Transcript

Exhibit 12 — May 1, 2025 DOJ Email to PLG

Exhibit 13 — Nonprivileged Document: CLJA\_SSPA\_INVOICES\_0000000044

Exhibit 14 — Nonprivileged Document: CLJA\_SSPA\_INVOICES\_0000000047

IN THE UNITED STATES DISTRICT COURT  
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No. 7:23-CV-897

IN RE: )  
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**PLAINTIFFS' AMENDED NOTICE OF RULE 30(b)(1) INDIVIDUAL DEPOSITION  
NOTICE**

TO: Defendant United States of America  
c/o Adam Bain, U.S. Department of Justice  
P.O. Box 340, Ben Franklin Station  
Washington, D.C. 20044

**PLEASE TAKE NOTICE** that pursuant to Federal Rules of Civil Procedure 26 and 30(b)(1), the stenographic and video-recorded deposition of the following witness will be taken as set forth below, and thereafter by adjournment until the same shall be completed:

**WITNESS:** Remy J.-C. Hennet  
**TIME and DATE:** 3/20/2025 at 9:00am EST  
**LOCATION:** 401 9<sup>th</sup> St. NW, Ste. 630, Washington, DC, 20004  
**MANNER OF TAKING:** In-Person

This deposition will be taken before an officer authorized by law to take depositions and will continue from day to day until completed. The deposition will be recorded via stenographic transcription and videotape for purposes of discovery and use at trial.

Deponent(s) who are parties, are required by this notice to be present for their depositions. The attendance of the deponent(s) who are not parties will be secured by subpoenas (copy attached), unless the deponent has agreed to be present for his/her/its deposition, is a present or former employee or expert retained by a defendant and the party will make the witness available without Plaintiffs' counsel contacting this witness and discussing the case and securing his attendance at this deposition. If you

do not agree to make such person available for this deposition to which you have certain control, please advise within five (5) days of the date of this notice so that contact may be made with the witness to discuss their testimony and their attendance secured.

Please take further notice that the person to be examined is required to produce, ten (10) business days before the date of the deposition, any document relied upon by the deponent, prior to the commencement of the deposition, including but not limited to all documents requested on Exhibit A attached hereto.

You are invited to attend and take such part as is fit and proper.

Respectfully submitted this 18<sup>th</sup> day of March, 2025.

/s/ J. Edward Bell, III

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*Co-Lead Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Amended Notice of Videotaped Deposition to Remy J.-C. Hennet was sent to Counsel for Defendant on the 18<sup>th</sup> day of March 2025, by electronic mail at the following electronic mail address: adam.bain@usdoj.gov.

*/s/ J. Edward Bell, III*  
J. Edward Bell, III  
*Lead Counsel for Plaintiffs*

**UNITED STATES DISTRICT COURT**  
for the  
Eastern District of North Carolina

In RE: Camp Lejeune Water Litigation

*Plaintiff*

v.

United States of America

*Defendant*

Civil Action No. 7:23-CV-897

To:

Remy J.-C. Hennet  
5901 Overlea Road, Bethesda, MD, 20816-2455*(Name of person to whom this subpoena is directed)*

**Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must promptly confer in good faith with the party serving this subpoena about the following matters, or those set forth in an attachment, and you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about these matters:

Place: Motley Rice LLC, 401 9th St. NW, Ste. 630, Washington, DC, 20004

Date and Time:

3/20/2025 at 9:00am EST

The deposition will be recorded by this method: stenographic, video, and audio

**Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material: <sup>See attached Exhibit A.</sup>

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/18/2025*CLERK OF COURT*

OR

*/s/ Kevin Dean**Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Plaintiffs  
Camp Lejeune Water Litigation, who issues or requests this subpoena, are:

Kevin Dean, Esq. 28 Bridgeside Blvd., Mt. Pleasant, SC, 29464; kdean@motleyrice.com; (843) 216-9152

**Notice to the person who issues or requests this subpoena**

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 7:23-CV-897

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for (*name of individual and title, if any*) \_\_\_\_\_  
on (*date*) \_\_\_\_\_.

I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_

\_\_\_\_\_  
on (*date*) \_\_\_\_\_; or

I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
*Server's signature*

*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

## Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

### (c) Place of Compliance.

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

### (d) Protecting a Person Subject to a Subpoena; Enforcement.

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

#### (2) Command to Produce Materials or Permit Inspection.

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

#### (3) Quashing or Modifying a Subpoena.

**(A) When Required.** On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

### (e) Duties in Responding to a Subpoena.

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

#### (2) Claiming Privilege or Protection.

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

#### (g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013).

## **EXHIBIT A**

The items below must be produced to Plaintiffs' Counsel no later than ten (10) days before your deposition:

- 1) Your current curriculum vitae and bibliography.
- 2) All materials in your possession, custody, or control, including but not limited to: data, electronic or paper documents, letters, correspondence, text messages, conversations, chats, voicemails, technical files, emails, memoranda, calendars, PowerPoints, spreadsheets, and any other documents or communications in any format related to any work by performed by you, S.S. Papadopoulos, or any principals or agents of S.S. Papadopoulos related in any way to Camp Lejeune water contamination or any other water quality issues at Camp Lejeune from 2004 to the present.
- 3) All materials in your possession, custody, or control, including but not limited to: data, electronic or paper documents, letters, correspondence, text messages, conversations, chats, voicemails, technical files, emails, memoranda, calendars, PowerPoints, spreadsheets, and any other documents or communications in any format related to any work by performed by you, S.S. Papadopoulos, or any principals or agents of S.S. Papadopoulos related in any way to Camp Lejeune water contamination remediation.
- 4) All emails, letters, correspondence, text messages, conversations, chats, voicemails, data, technical files, or other communications pertaining to Camp Lejeune sent or received prior to your retention as an expert in In Re: Camp Lejeune Water Litigation, 7:23-cv-00897-RJ, including but not limited to, from, or with:
  - a. Morris Maslia,
  - b. Robert Faye,
  - c. Jason Sautner,
  - d. David Savitz,
  - e. Rene Suarez-Soto,
  - f. Susan Martel,
  - g. Scott Williams,
  - h. Frank Bove,
  - i. Mike Partain,
  - j. Jerry Ensminger,

k. Lori Freshwater.

- 5) All bills, invoices, or other documents related to payments from the United States or any of its agencies to you, S.S. Papadopoulos, or any principals or agents of S.S. Papadopoulos relating in any way to work completed by Remy J.-C. Hennet and Alexandros Spiliotopoulos.
- 6) All bills, invoices, or other documents relating to payments from the United States or any of its agencies to you, S.S. Papadopoulos, or any principals or agents of S.S. Papadopoulos relating in any way to Camp Lejeune water contamination, the CLJA litigation, remediation related to Camp Lejeune or any other water quality issues related to Camp Lejeune from 2004 through the present. FRCP 26(a)(2)(B)(vi) & 26(b)(4)(C)(1).
- 7) All timekeeping and billing records related to time that you, S.S. Papadopoulos, or any principals or agents of S.S. Papadopoulos spent working on any projects related to Camp Lejeune and the CLJA litigation from the time you or your employer first were retained, hired or contracted. FRCP 26(a)(2)(B)(vi) & 26(b)(4)(C)(1).
- 8) All communications between or among any employee of S.S. Papadopoulos and the United States or any of its agencies related to Camp Lejeune water contamination, the CLJA litigation, remediation related to Camp Lejeune or any other water quality issues related to Camp Lejeune from 2004 through the date of your retention for this matter, including all emails located following a complete electronic search for such communications, hard copies etc.
- 9) All emails, letters, correspondence, text messages, conversations, chats, voicemails, or other communications to, from, or with any individual who has filed a claim with the Department of the Navy or the Eastern District of North Carolina pursuant to the Camp Lejeune Justice Act of 2022.
- 10) All communications involving any employee of S.S. Papadopoulos and the United States or any of its agencies related to water contamination, remediation, water modeling or any other water quality issues related to any other military base.
- 11) All water testing, modeling, calculations, computations or any other analyses, including computer or mathematical water modeling, performed by or for you, S.S. Papadopoulos, or any principals or agents of S.S. Papadopoulos for evaluation of water quality issues at Camp Lejeune, including all raw data files and native files.
- 12) All water testing, modeling, calculations, computations or any other analyses, including computer or mathematical water modeling, in your possessions, custody or control, for evaluation of water quality issues at Camp Lejeune, including all raw data files and native files.

- 13) All files and data provided by the United States or any of its agencies (including the Department of Justice, the Department of the Navy, and ATSDR) as well as any related documents reflecting when such materials were received and how transmitted, related to any work done by you concerning water contamination at Camp Lejeune for any period when such work began through the present.
- 14) All photographs or video taken by you, S.S. Papadopoulos, or any principals or agents of S.S. Papadopoulos that relate in any way to Camp Lejeune water contamination or any other water quality issues at Camp Lejeune since 2004.
- 15) All emails, letters, correspondence, text messages, conversations, chats, voicemails, or other communications that you sent or received regarding any expert panels or other meetings related to Camp Lejeune that you attended prior to your retention for this litigation.
- 16) All emails, letters, correspondence, text messages, conversations, chats, voicemails, or other communications that you sent or received related to any National Research Council (NRC) report related to Camp Lejeune, including who would be on the NRC panel and including any drafts of any report(s).

W E I T Z  
**L U X E N B E R G**  
A P R O F E S S I O N A L C O R P O R A T I O N  
• L A W O F F I C I E S •

PERRY WEITZ  
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ROBIN L. GREENWALD §§  
GARY R. KLEIN ††  
JERRY KRISTAL †§  
ELLEN RELKIN †§ Y  
MICHAEL P. ROBERTS  
NICHOLAS WISE §§  
GLENN ZUCKERMAN

MEREDITH ABRAMS  
ASHLEY S. ARRARAS §  
ANDREW L. BACKING \*  
LAURA J. BAUGHMAN ΔΔ \*  
RETT BERGMARK †  
DEVIN BOLTON †  
ERIN M. BOYLE §  
AMBRE J. BRANDIS  
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ALICIA D. BUTLER ††  
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THOMAS COMERFORD ~  
EDWARD M. COSTELLO,III ♦  
TERESA A. CURTIN ¶¶  
BENJAMIN DARCHE  
JUSTINE K. DELANEY  
EMMA DIETZ  
ADAM S. DREKSLER  
JASON B. DUNCAN ¶  
BRANDON DUPREE †  
F. ALEXANDER EIDEN ¶  
MICHAEL FANELLI ††  
LEONARD F. FELDMAN ¶  
AARON S. FREEDMAN  
STUART R. FRIEDMAN \*  
MARY GRABISH GAFFNEY ¶  
ERICARAE GARCIA \*\*  
ANDREW J. GAYOSO ~  
DIANA GJONAJ \*  
DANIELLE M. GOLD ††  
LAWRENCE GOLDHIRSH \*  
NICHOLAS A. GONSALVES  
ROBERT J. GORDON ††  
LAURA GREEN ††  
CODY M. GREENES ¶  
MATTHEW A. GRUBMAN ¶  
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ERIK JACOBS  
A. NAOMI JAWAHAR  
JEFFREY S. KANCA ♦♦ ♠  
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SEAN K. KERLEY ♦  
CHANTAL KHALIL  
ILYA KHARKOVER  
SUZANNE KRIEGER —  
JARED LACERTOSA  
MILENA M. LAI \*  
DEBBI LANDAU  
LAUREN S. LINSENBACH —  
ELIZABETH J. LUXENBERG  
JOSEPH J. MANDIA ¶  
COLIN MARKEL  
JAMIE MATTERA  
BRENDAN A. MCDONOUGH ††  
SARA MERRILL \*  
MICHELLE C. MURTHA ¶  
MELINDA DAVIS NOKES ‡  
PAUL F. NOVAK \*  
JOSEPH T. OSBORNE §  
JOSIAH W. PARKER †  
MICHAEL E. PEDERSON  
BRANDON H. PERLMAN  
MICHAEL P. PIGGINS \*  
ROBERT J. QUIGLEY :

ADAM C. RAFFO  
ALLISON H. RAJMAN  
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BRITTANY A. RUSSELL ..  
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SAMANTHA E. STAHL  
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PETER TAMBINI ††  
JAMES S. THOMPSON ††  
BENJAMIN VANSLYKE \*  
CASEY THAL VERVILLE ◇  
JASON M. WEINER ××  
JASON P. WEINSTEIN  
MARK S. WEINSTEIN \* ♦  
LAUREN A. WEITZ  
JUSTIN J. WEITZ  
MARK WEITZ  
MARC WILLICK †  
IILANA S. WOLK ††

\* Of Counsel  
♦ Admitted only in NJ and PA  
§§ Admitted only in IL  
† Admitted only in CA  
\*\* Admitted only in OH  
— Admitted only in PA  
♦♦ Admitted only in TX  
+ Admitted only in CO, IN, UT & WI  
ΔΔ Also admitted in CA, TX, MO  
○○ Also admitted in CO  
§ Also admitted in DC  
○ Also admitted in FL  
♦♦ Also admitted in MA  
◆ Also admitted in IL  
†† Also admitted in NJ  
Y Also admitted in PA  
♦ Also admitted in SC  
~ Also admitted in WI  
++ Admitted only in CA & UT  
¶ Admitted only in NJ & PA  
◇ Admitted only in OR & MI  
×× Also admitted in DC & MD  
† Also admitted in NJ & CT  
~ Also admitted in NJ & DC  
 §§ Also admitted in NJ & ME  
++ Also admitted in NJ & PA  
○ Also admitted in CT & RI  
♦ Also admitted in NJ & PA  
§§ Certified Atty. NJ Supreme Court  
\* Also admitted in CA  
— Admitted only in PA

April 16, 2025

Via E-Mail

Allison O'Leary, Esq.  
Haroon Anwar, Esq.  
Environmental Torts Litigation Section  
U.S. Department of Justice  
P.O. Box 340  
Ben Franklin Station  
Washington, D.C. 20044  
Allison.o'leary@usdoj.gov  
Haroon.Anwar@usdoj.gov

Re: *In re Camp Lejeune* – Documents related to Drs. Hennet and Spiliotopoulos

Counsel:

I am writing to follow up on our March 28th meet and confer regarding certain materials related to Drs. Hennet and Spiliotopoulos which were requested via Plaintiffs' Notices of Rule 30(b)(1) Individual Deposition Notice and Requests for Production of Documents to Alex Spiliotopoulos, Ph.D. and Remy Hennet, Ph.D., with accompanying subpoenas with attached Exhibit A which were served on Feb. 12, 2025.

220 LAKE DRIVE EAST, SUITE 210 • CHERRY HILL, NJ 08002 • TEL 856-755-1115  
1880 CENTURY PARK EAST, SUITE 700 • LOS ANGELES, CA 90067 • TEL 310-247-0921  
3011 WEST GRAND BLVD., 24<sup>TH</sup> FLOOR • DETROIT, MI 48202 • TEL 313-800-4170

First, the compensation records that you have produced for both experts are inadequate. These documents were requested via Plaintiffs' subpoena, Exhibit A, Request Nos. 6 & 7. You produced billing records from S. S. Papadopoulos & Associates, Inc. ("SSPA") for services rendered from August 2022 through January 2025 that contain limited information – namely, the number of hours per month billed for general types of employees (as opposed to individuals). *See CLJA\_SSPA\_INVOICESP\_0000000001 – 42.* For example, these records tell us that the "Employee Type" of "Senior Principal" billed 75 hours and the "Employee Type" of "Senior Scientist/Engineer" billed 20.5 hours in November 2022. Federal Rule of Civil Procedure 26(b)(4)(C) provides that communications that "relate to compensation for the expert's study or testimony" are discoverable. Thus, communications both within SSPA that relate to hours billed (time records), and communications from SSPA to DOJ regarding what work was performed that is reflected on the bills are discoverable. *See, e.g., Noveletsky v. Metropolitan Life Ins. Co., No. 2:12-cv-21-NT, 2012 WL 11802597 (D. Me Oct. 19, 2012).* Plaintiffs are entitled to billing records that identify the number of hours each testifying expert worked each day and describe the work that was performed, to the extent these records exist. Dr. Spiliopoulos testified that such records do in fact exist. Spiliopoulos Deposition at 137-38. Furthermore, the pdf file name of the generic SSPA invoices that were produced is "1817 invoices through 013125 without backup.pdf". Plaintiffs are entitled to the backup. Dr. Hennet testified that this exists. Hennet Deposition at 105. Notably, Plaintiffs have produced such records to DOJ with respect to their experts.

Second, and related to the first issue, you have failed to produce compensation records related to work performed by SSPA for DOJ prior to August 2022 related to Camp Lejeune. These documents were requested via Plaintiffs' subpoena, Exhibit A, Request Nos. 6 & 7. Dr. Hennet testified that he and SSPA have performed such work since at least 2005. Hennet Deposition at 25-26, 93. These bills and time records are discoverable. *See, e.g., Burris v. Ethicon, Inc., No. 2:14-CV-24320, 2019 WL 13195497, at \*1 (S.D.W.Va. Nov. 7, 2019)* ("an expert's financial gain from testifying in a particular type of case, or on behalf of a specific law firm or party, is relevant to credibility and is appropriate subject matter for impeachment.").

Third, Dr. Spiliopoulos's notes, memoranda and any related documents regarding his attendance at the 2005 ATSDR Expert Panel meeting are not protected work product and must be produced. *See In re Application of Republic of Ecuador, 280 FRD 506, 512-15 (N.D. Ca. 2012).* These documents were requested via Plaintiffs' subpoena, Exhibit A, Request No. 15. Dr. Spiliopoulos testified that he attended this meeting as an observer and that he reported back to his SSPA supervisors as to what was said. Spiliopoulos Deposition at 115; 120-21; 123-25. Dr. Spiliopoulos had not been retained as an expert at that time, he was not aware of who his client was (if any) when he attended this meeting, and to this day he does not know if he attended that meeting for a reason related to litigation. Spiliopoulos Deposition at 115; 118-121. In addition, DOJ has not identified the specific litigation matter that Dr. Spiliopoulos was allegedly working on that provides the claimed work product protection.

Fourth, Dr. Spiliopoulos's interview notes and summaries should be produced. On page 1 of his report, Dr. Spiliopoulos states that he reviewed interview summaries as part of his expert work on this case. In deposition, he indicated that these documents were prepared in connection with his visit to Camp Lejeune and interview of employees at the base. Spiliopoulos Deposition at 110-12; 128. These documents fall within 3(b) of CMO 17 and Plaintiffs are entitled to them. In our prior meet and confer on March 28, we were told that you would search for these documents, but we have heard nothing further from you.

If you do not agree to produce the documents requested herein, we believe these issues should be included in the Joint Status Report due April 21. We are available for an additional meet and confer any time this week, to the extent you believe that many assist in resolving any or all of these issues. Thank you.

Very truly yours,



Laura J. Baughman

---

**From:** Bain, Adam (CIV) [Adam.Bain@usdoj.gov]  
**Sent:** 3/21/2007 11:05:59 AM  
**To:** Tegwyn.Williams@CH2M.com  
**CC:** Lowder CIV Robert A [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A64F4F3CE563421FB8F2112866FA6FC6-ROBERT.A.LO]; sam.shannon@ch2m.com; matt.louth@ch2m.com; chris.bozzini@ch2m.com; Williams CIV Scott R [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=333CB126D9534002AE70E49E5D4F829C-SCOTT.R.WIL]  
**Subject:** RE: Building 902, MCB Camp Lejeune, NC

Mr. Williams,

Thanks very much for this technical memo. I spoke with Dr. Hennet, and he had just a few comments.

With respect to the soil analysis, he would prefer that you take a photograph of the soil core and allow him to specify where the samples be taken. If digital photography and e-mail are used, this can be done in near real time to get the most useful results.

Additionally, instead of flame-ionization, photo-ionization should be used which is more sensitive for TCE and PCE

The locations should be as previously indicated on the map provided by Dr. Hennet.

Let me know if you have any questions, and thanks for the opportunity to comment.

Adam Bain

-----Original Message-----

From: Tegwyn.Williams@CH2M.com [mailto:Tegwyn.Williams@CH2M.com]  
Sent: Wednesday, March 21, 2007 9:46 AM  
To: Bain, Adam (CIV)  
Cc: robert.a.lowder@usmc.mil; sam.shannon@ch2m.com; matt.louth@ch2m.com; chris.bozzini@ch2m.com; scott.r.williams1@usmc.mil  
Subject: Building 902, MCB Camp Lejeune, NC

Mr. Bain,

The attached technical memo describes CH2M HILL's recommended approach to implement the scope of work outlined below by Dr. Hennet. This approach is based upon our knowledge and experience with the drilling conditions at Camp Lejeune, and discussions with potential drilling contractors.

Thanks,

Teg Williams, LG  
CH2M HILL - Charlotte, NC  
(704) 329-0073 x227  
(704) 236-9602 mobile  
(678) 579-8069 fax

-----Original Message-----

From: Williams GS12 Scott R [mailto:scott.r.williams1@usmc.mil]  
Sent: Thursday, March 08, 2007 10:33 AM  
To: Adam.Bain@usdoj.gov; Bozzini, Chris/CLT; Williams, Tegwyn/CLT  
Cc: Lowder GS12 Robert A  
Subject: FW: Building 902

All,

Per our conference call I am forwarding Dr. Hennet's September 8th e-mail.

v/r,

Scott W

-----Original Message-----

From: Hennet, Remy [mailto:r.hennet@sspa.com]  
Sent: Friday, September 08, 2006 4:16 PM  
To: Adam.Bain@usdoj.gov  
Cc: Williams GS12 Scott R  
Subject: Building 902

Dear Mr. Bain:

Attached are two maps representing the groundwater flow direction in the deep groundwater (Map 1). The contours are based on 1992/93 measurements at shutdown water supply wells. The data information was not evaluated. The water level gradients indicate flow direction toward the west and north for deep groundwater beneath building 902. The uncertainty on flow direction is quite large.

We recommend that 4 boreholes be constructed to establish the groundwater flow direction in the area of building 902 (see Map2 for suggested approximate locations).

The total penetration depth should be in the range 100 to 140 ft. The elevation of the water table and the potentiometric pressure at about 80 feet below the water table should be measured. The borings should be surveyed for location and elevation. Water levels at WS-601, -602, -634, -635, and -637 should be measured the same day to complement the potentiometric surface data set for the deep groundwater in the area.

In the new borings, groundwater samples should be collected at the water table and deeper at 20-feet depth increments and analyzed for TCE and PCE (i.e. analysis by field GC).

Soil samples should be collected in one borehole at depths of about 20, 40, and 80 feet bgs and analyzed for their fraction organic carbon (at a low detection limit).

Best Regards,

Remy Hennet

---

**From:** Williams GS12 Scott R [/O=ORGANIZATION/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=SCOTT.R.WILLIAMS1]  
**Sent:** 6/8/2007 2:06:18 PM  
**To:** Lowder GS12 Robert A [/o=Organization/ou=First Administrative Group/cn=Recipients/cn=robert.a.lowder]  
**Subject:** Bldg 902/Site 88 Drilling  
**Attachments:** smime.p7s

Bob,

I just spoke with Remy Hennet. He informed me that he has the data he needs but that he thinks we might want to tweak the locations of the permanent wells over at 902. The drillers have contacted him and asked him where to screen the wells. He said his advice would be to locate a well at borehole #2 and screen it at 27'-47'. I know the driller is supposed to be here to start first of next week. My question is this. Can we direct them to start drilling at Site 88 first so that we have time to figure out exactly where we want to site and screen the wells at bldg 902? I will be back at the end of next week. As far as Remy is concerned it is the CERCLA teams call. He has what he needs. If you guys know what you want to do out there then by all means go ahead. The drillers just seem to be looking for direction.

v/r,

## **Scott Reid Williams**

**Environmental Assessment Specialist**  
**Marine Corps Base Camp Lejeune**  
Installation & Environment Department  
Environmental Management Division  
Environmental Quality Branch  
Ph. (910)-451-9421

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
NO. 7:23-CV-897

IN RE: )  
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 )  
CAMP LEJEUNE WATER LITIGATION )  
 )  
 )  
 )  
This Document Relates to: )  
 )  
ALL CASES )  
 )

VIDEOTAPED DEPOSITION OF

REMY J-C. HENNET, PH.D.,

a witness herein, called by the Plaintiffs for examination, taken by and before Ann Medis, RPR, CLR, CSR-WA, and Notary Public in and for the Commonwealth of Pennsylvania, via Zoom Videoconference, at the offices of Motley Rice, 401 9th Street, NW, Washington, DC 20004, on Thursday, March 20, 2025, commencing at 9:05 a.m.

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<p>1 A P P E A R A N C E S</p> <p>2 On behalf of Plaintiff</p> <p>3 MOTLEY RICE</p> <p>4 BY: KEVIN R. DEAN, ESQUIRE</p> <p>5 MARGARET SCALISE JOHNSON, ESQUIRE</p> <p>6 28 Bridgeside Boulevard</p> <p>7 Mount Pleasant, South Carolina 29464</p> <p>8 843.216.9000</p> <p>9 kdean@motleyrice.com</p> <p>10 mscalise@motleyrice.com</p> <p>11</p> <p>12 WEITZ &amp; LUXENBERG, P.C.</p> <p>13 BY: LAURA J. BAUGHMAN, ESQUIRE</p> <p>14 DEVIN BOLTON, ESQUIRE</p> <p>15 700 Broadway</p> <p>16 New York, New York 10003</p> <p>17 212.558.5915</p> <p>18 lbaughman@weitzlux.com</p> <p>19 dbolton@weitzlux.com</p> <p>20</p> <p>21 On behalf of Defendant United States of America</p> <p>22</p> <p>23 U.S. DEPARTMENT OF JUSTICE</p> <p>24 BY: ALLISON O'LEARY, ESQUIRE</p> <p>25 ALANNA HORAN, ESQUIRE</p> <p>26 1100 L Street NW</p> <p>27 Washington, DC 20005</p> <p>28 202.552.9843</p> <p>29 allison.o'leary@usdoj.com</p> <p>30 allana.horan@usdoj.com</p> <p>31</p> <p>32 Also present via Zoom</p> <p>33</p> <p>34 Bradley Loy, videographer</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p> <p>41</p> <p>42</p> <p>43</p> <p>44</p> <p>45</p> <p>46</p> <p>47</p> <p>48</p> <p>49</p> <p>50</p> <p>51</p> <p>52</p> <p>53</p> <p>54</p> <p>55</p> <p>56</p> <p>57</p> <p>58</p> <p>59</p> <p>60</p> <p>61</p> <p>62</p> <p>63</p> <p>64</p> <p>65</p> <p>66</p> <p>67</p> <p>68</p> <p>69</p> <p>70</p> <p>71</p> <p>72</p> <p>73</p> <p>74</p> <p>75</p> <p>76</p> <p>77</p> <p>78</p> <p>79</p> <p>80</p> <p>81</p> <p>82</p> <p>83</p> <p>84</p> <p>85</p> <p>86</p> <p>87</p> <p>88</p> <p>89</p> <p>90</p> <p>91</p> <p>92</p> <p>93</p> <p>94</p> <p>95</p> <p>96</p> <p>97</p> <p>98</p> <p>99</p> <p>100</p> <p>101</p> <p>102</p> <p>103</p> <p>104</p> <p>105</p>	<p>1 * INDEX OF HENNET EXHIBITS (Continued) *</p> <p>2 NO. DESCRIPTION PAGE</p> <p>3 Exhibit 10 Letter, 2/25/25, from A. O'Leary 111</p> <p>4 to Lead Counsel for Plaintiffs, Re:</p> <p>5 Supplemental Expert Reliance</p> <p>6 Materials of Remy Hennet, Ph.D.</p> <p>7</p> <p>8 Exhibit 11 Handwritten notes of site visit 117</p> <p>9 of 2/11/25</p> <p>10 HENNET_USA_0000000034 and 0000000076</p> <p>11</p> <p>12 Exhibit 12 Thumb drive containing photos 124</p> <p>13 taken during site visits</p> <p>14 Exhibit 13 AH Environmental Consultants 172</p> <p>15 December 2004 report</p> <p>16</p> <p>17 Exhibit 14 Jennings Laboratory report, 187</p> <p>18 10/31/80</p> <p>19 CLJA_USMCGEN_0000006650 - 0000006655</p> <p>20</p> <p>21 Exhibit 15 Table C7 Summary of analysis of 196</p> <p>22 water samples taken at Hadnot</p> <p>23 Point</p> <p>24 CLJA_WATERMODELING_01-0000033723 - 33726</p> <p>25</p> <p>26 Exhibit 16 JTC Environmental Consultants 196</p> <p>27 Report # 7, prepared 12/19/84</p> <p>28 CLJA_NAVLANT-0000563489 - 0000563498</p> <p>29 Exhibit 17 JTC Environmental Consultants 197</p> <p>30 Report # 17, prepared 2/6/85</p> <p>31 CLJA_WATERMODELING_09-0000423217 - 423254</p> <p>32 Exhibit 18 Chronology of well sampling data 200</p> <p>33 CLJA_WATERMODELING_09-0000424933 - 494944</p> <p>34</p> <p>35 Exhibit 19 USMC memo, 4/1989, subject: Water 207</p> <p>36 Monitoring Related to the</p> <p>37 Installation Restoration Program</p> <p>38 CLJA_WATERMODELING_09-0000425332 - 425337</p> <p>39 Exhibit 20 2/27/85 meeting notes 216</p> <p>40 CLJA_WATERMODELING_09-0000427825 - 427827</p> <p>41</p> <p>42</p> <p>43</p> <p>44</p> <p>45</p> <p>46</p> <p>47</p> <p>48</p> <p>49</p> <p>50</p> <p>51</p> <p>52</p> <p>53</p> <p>54</p> <p>55</p> <p>56</p> <p>57</p> <p>58</p> <p>59</p> <p>60</p> <p>61</p> <p>62</p> <p>63</p> <p>64</p> <p>65</p> <p>66</p> <p>67</p> <p>68</p> <p>69</p> <p>70</p> <p>71</p> <p>72</p> <p>73</p> <p>74</p> <p>75</p> <p>76</p> <p>77</p> <p>78</p> <p>79</p> <p>80</p> <p>81</p> <p>82</p> <p>83</p> <p>84</p> <p>85</p> <p>86</p> <p>87</p> <p>88</p> <p>89</p> <p>90</p> <p>91</p> <p>92</p> <p>93</p> <p>94</p> <p>95</p> <p>96</p> <p>97</p> <p>98</p> <p>99</p> <p>100</p> <p>101</p> <p>102</p> <p>103</p> <p>104</p> <p>105</p>	
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Golkow Technologies,

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<p>1        PROCEEDINGS  2        ----  3        THE VIDEOGRAPHER: We are now other  4 record. My name is Bradley Loy. I'm a  5 videographer for Golkow. Today's date is  6 March 20, 2025. The time 9:05. This deposition  7 is being held at 401 9th Street, Northwest,  8 Washington, D.C., taken in the matter of Camp  9 LeJeune Water Litigation, for the United States  10 District Court for the Eastern District of North  11 Carolina, Southern Division. The deponent is Remy  12 J.-C. Hennet.  13        Will counsel please identify themselves.  14        MR. DEAN: Good morning. This is Kevin  15 Dean here on behalf of THE PLG.  16        MS. O'LEARY: Allison O'Leary on behalf  17 of the United States.  18        MS. BAUGHMAN: Laura Baughman on behalf  19 of plaintiffs.  20        MS. BOLTON: Devin Bolton on behalf of  21 the plaintiffs.  22        MS. HORAN: Alanna Horan on behalf of  23 the United States.  24        MS. JOHNSON: Margaret Johnson on behalf  25 of the plaintiffs.</p>	Page 6	Page 8
<p>1        THE VIDEOGRAPHER: Will the court  2 reporter please swear in the witness.  3        REMY J.-C. HENNET, PH.D.,  4 having been first duly sworn, was examined  5 and testified as follows:  6        EXAMINATION  7 BY MR. DEAN:  8        Q. Good morning, Dr. Hennet.  9        A. Good morning.  10        Q. Did I pronounce your name correctly?  11        A. Yes, you did.  12        Q. I'm going to try to always refer to you  13 as Dr. Hennet. But I've read so much about you in  14 the last several months, it may very be I  15 mistakenly refer to you as Remy, but I don't do so  16 out of disrespect. Okay.  17        A. You choose.  18        Q. Thank you. You just swore under oath to  19 tell the truth. Do you understand what that means  20 today?  21        A. Yes, I do.  22        Q. And are you having any illnesses today  23 or anything wrong with you that would prevent you  24 from completely responding to all my questions and  25 telling the truth?</p>	Page 7	Page 9

<p>1 A. Yes, I do.</p> <p>2 Q. Now, my first question about that is:</p> <p>3 Did you bring anything today additional that that</p> <p>4 was responsive to that subpoena?</p> <p>5 A. No. I don't have anything.</p> <p>6 Q. Have you seen that list of items to</p> <p>7 bring to the deposition attached to the subpoena</p> <p>8 before today?</p> <p>9 A. I have.</p> <p>10 Q. Did you personally or anyone at your</p> <p>11 direction after seeing that subpoena undertake an</p> <p>12 effort to gather documents?</p> <p>13 A. To the extent that we could answer those</p> <p>14 questions, it was done. I asked, you know -- I</p> <p>15 reviewed my files to respond to the subpoena.</p> <p>16 Everything I did have, I just provided it to</p> <p>17 counsel.</p> <p>18 Q. And when would you have provided that to</p> <p>19 counsel after receipt of the subpoena?</p> <p>20 A. I don't recall when.</p> <p>21 Q. Actually, I've got a copy right here</p> <p>22 myself. Look at the date of the subpoena.</p> <p>23 The original subpoena, it was the middle</p> <p>24 of February. I'll get a specific date in just a</p> <p>25 moment. But it was sometime in the middle of</p>	Page 10	Page 12
<p>1 February that the subpoena was first served with a</p> <p>2 deposition notice after we agreed on your date for</p> <p>3 your deposition.</p> <p>4 What my question you to is, that's a</p> <p>5 little over 30 days ago, 30, 35, 40 days ago. Do</p> <p>6 you know when you responded and provided documents</p> <p>7 to the Department of Justice to produce in this</p> <p>8 case after receipt of the first subpoena?</p> <p>9 MS. O'LEARY: Object to the form and</p> <p>10 foundation.</p> <p>11 THE WITNESS: I do not recall when.</p> <p>12 BY MR. DEAN:</p> <p>13 Q. Now, you said you supplied some</p> <p>14 materials that you could find or that were</p> <p>15 responsive.</p> <p>16 Did you hand deliver them, or did you</p> <p>17 send them electronically, a share file? Do you</p> <p>18 remember the delivery method of that information?</p> <p>19 A. I do not recall the details of it, but</p> <p>20 most of it was done, I suppose, electronically.</p> <p>21 Q. Did you send an email forwarding the</p> <p>22 responsive information or a staff member do that?</p> <p>23 A. I don't recall who did it.</p> <p>24 Q. But either you or someone working at</p> <p>25 your direction would have sent an email to the</p>	Page 11	Page 13

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<p>1        MR. DEAN: Just Exhibit A behind the 2 subpoena.</p> <p>3 BY MR. DEAN:</p> <p>4        Q. Do you see that there's basically 16 5 numbered items over three pages?</p> <p>6        A. Yes. I do see 16 paragraphs.</p> <p>7        Q. Now, I'll mark it in a moment, but I 8 received I guess it was last Friday and then last 9 night a supplemental bill, invoice. I don't 10 remember the totality of the pages, but they were 11 there was invoices from S.S. Papadopoulos &amp; 12 Associates to the Department of Justice for 13 billings in this case.</p> <p>14        Do you know what I'm generally referring 15 to?</p> <p>16        MS. O'LEARY: Object to the form 17 foundation.</p> <p>18        THE WITNESS: I can guess, but I don't 19 know exactly what you are referring to.</p> <p>20 BY MR. DEAN:</p> <p>21        Q. I'll show it to you in a moment. Let's 22 read together No. 5. It asks for all bills, 23 invoices or other documents related to payments 24 from the United States or any of its agencies to 25 you, S.S. Papadopoulos, or principals or agents of</p>	<p>Page 14</p> <p>1 activities though? Do you handwrite on a note pad 2 or do you put it into a computer?</p> <p>3        A. We have a system. It's a software 4 system into which we enter basically our time for 5 billing purposes.</p> <p>6        Q. And what is that program called?</p> <p>7        A. I don't know. I don't recall the name 8 of it.</p> <p>9        Q. It's generic, but there's one called 10 Timekeeper. You don't remember the name of the 11 computer program?</p> <p>12        A. I don't remember the name of the 13 computer program.</p> <p>14        Q. Have you in the past -- say you wanted 15 to do a review of your time. Maybe someone asked 16 you to take a look at your time. Is that 17 something that you could print out a summary of 18 your time so you can see what you entered into the 19 computer, say, for a month, like last February?</p> <p>20        Could you print out your time entries to 21 see what you did in case there was a need?</p> <p>22        A. I don't know how to do it, but admin, 23 administration staff is doing that. And if I 24 wanted to see something, I would have to request 25 it.</p>
<p>1 S.S. Papadopoulos relating to any work completed by 2 Remy J.C. Hennet and Alexandros Spilotopoulos.</p> <p>3        Do you see that?</p> <p>4        A. I see that.</p> <p>5        Q. And then No. 6 asks a little -- let me 6 stay on five just for a moment.</p> <p>7        When you -- I'll get to a point where we 8 talk about everything you've done to prepare for 9 your deposition, but let's just use yesterday for 10 an example. I assume you did a little prep work 11 of some sort yesterday.</p> <p>12        A. I did.</p> <p>13        Q. Now, at the end of the day, did you 14 write down on a note pad your time, or did you go 15 into a computer or a program or something and 16 input your time or someone do it for you?</p> <p>17        A. I did not do that yesterday.</p> <p>18        Q. But is that normally how you track your 19 time?</p> <p>20        A. Normally I track my time daily or 21 sometimes it takes two days. It depends if I'm on 22 travel or those type of issues.</p> <p>23        Q. I'm way behind on my time, so don't feel 24 bad. Lawyers do the same thing.</p> <p>25        How do you keep track of your daily</p>	<p>Page 15</p> <p>1        Q. And who would you go to to request that 2 information?</p> <p>3        A. To our administrative person.</p> <p>4        Q. And who is that?</p> <p>5        A. Her name is Seema, S-E-E-M-A, and she's 6 one of the administrative person that I would 7 request that from.</p> <p>8        Q. No. 6 is a similar question, but a 9 little different. It says all bills, invoices or 10 other documents relating to payments from the U.S. 11 or any of its agencies to you, S.S. Papadopoulos 12 principals or agents, related in any way to Camp 13 LeJeune water litigation.</p> <p>14        Do you see that?</p> <p>15        A. I see that.</p> <p>16        Q. It also refers to the CLJ litigation.</p> <p>17 It refers to the word "remediation" related to 18 Camp LeJeune.</p> <p>19        Do you see those?</p> <p>20        A. It says from 2004 through the present.</p> <p>21        Q. Correct. My question to you on 5 and 22 6 -- let's go to 5. Did you respond to No. 5 and 23 send anything or documents to the Department of 24 Justice in response to No. 5?</p> <p>25        A. I believe it was done, but via</p>

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<p>1 administration, not me.</p> <p>2 Q. And that related to your work on this</p> <p>3 case?</p> <p>4 A. I do not know exactly what was</p> <p>5 transferred.</p> <p>6 Q. No. 6, did you gather any historic</p> <p>7 documents, bills, invoices or anything related to</p> <p>8 your time working on Camp LeJeune issues,</p> <p>9 remediation issues from 2004 to the present? Did</p> <p>10 you send anything to the Department of Justice to</p> <p>11 respond to No. 6?</p> <p>12 MS. O'LEARY: Object to form.</p> <p>13 THE WITNESS: I did not personally, but</p> <p>14 admin may have.</p> <p>15 BY MR. DEAN:</p> <p>16 Q. You don't know if they sent documents</p> <p>17 responsive to 6 or not?</p> <p>18 A. I do not know what I could find because</p> <p>19 we are talking about a long time ago.</p> <p>20 Q. No. 7 says all timekeeping and billing</p> <p>21 records related to time you did any work on Camp</p> <p>22 LeJeune litigation from the time you or S.S.</p> <p>23 Papadopoulos were first retained, hired or</p> <p>24 contracted.</p> <p>25 Do you see that?</p>	<p>Page 18</p> <p>1 issues concerning Camp LeJeune, remediation</p> <p>2 related to Camp LeJeune.</p> <p>3 Do you see No. 8?</p> <p>4 MS. O'LEARY: And object to form and</p> <p>5 foundation.</p> <p>6 THE WITNESS: I see No. 8.</p> <p>7 BY MR. DEAN:</p> <p>8 Q. And you see it asks for stuff back from</p> <p>9 2004? Do you see that?</p> <p>10 A. I see that.</p> <p>11 Q. Did you personally search for documents</p> <p>12 that were responsive to No. 8 and provide them</p> <p>13 either to administration to provide to the</p> <p>14 Department of Justice or you personally remember</p> <p>15 sending some stuff to the Department of Justice to</p> <p>16 respond to No. 8?</p> <p>17 A. Well, all communications by email was</p> <p>18 basically for this litigation always with a lawyer</p> <p>19 present in the conversation, and those</p> <p>20 communications particularly the lawyers have it.</p> <p>21 Q. The lawyers what?</p> <p>22 A. Lawyers would have that to the extent</p> <p>23 that they do exist.</p> <p>24 Q. Let's go back to my question. I</p> <p>25 understood your answer, but my question was a</p>
<p>1 MS. O'LEARY: Object to foundation.</p> <p>2 THE WITNESS: I see that.</p> <p>3 BY MR. DEAN:</p> <p>4 Q. Did you or someone S.S. Papadopoulos &amp;</p> <p>5 Associates send any other supporting timekeeping</p> <p>6 and billing records related to work done by you or</p> <p>7 S.S. Papadopoulos &amp; Associates from the first time</p> <p>8 you were retained for anything related to Camp</p> <p>9 LeJeune? Do you know if you responded to No. 7?</p> <p>10 A. Again, that would have gone through</p> <p>11 admin, administration at SSPA. That's what I can</p> <p>12 recall.</p> <p>13 Q. With regard to five, six and seven,</p> <p>14 we've now established that something was sent.</p> <p>15 You just don't know specifically what it was. If</p> <p>16 it was done, it was through Ms. Seema.</p> <p>17 MS. O'LEARY: Object to form.</p> <p>18 THE WITNESS: I don't know if it was</p> <p>19 done through Ms. Seema, but I don't know what was</p> <p>20 sent.</p> <p>21 BY MR. DEAN:</p> <p>22 Q. No. 8 talks about emails. It says</p> <p>23 communications, but it's primarily looking for</p> <p>24 letters or emails between S.S. Papadopoulos and the</p> <p>25 U.S. from 2004 to the present related to any</p>	<p>Page 19</p> <p>1 little different.</p> <p>2 My question was: After getting this</p> <p>3 subpoena sometime after February 12, 2025, did you</p> <p>4 personally go search historic emails, records,</p> <p>5 communications, letters from 2004 to the present</p> <p>6 and provide them to the Department of Justice?</p> <p>7 MS. O'LEARY: Object to foundation.</p> <p>8 BY MR. DEAN:</p> <p>9 Q. That was my question.</p> <p>10 MS. O'LEARY: I'm sorry. Object to</p> <p>11 foundation.</p> <p>12 THE WITNESS: I don't recall exactly.</p> <p>13 The issue is can I retrieve things all the way to</p> <p>14 years back. Personally, I can't because we have</p> <p>15 an archive system. I am not understanding how it</p> <p>16 is done.</p> <p>17 Since then we have changed computer</p> <p>18 systems. We've changed location. So that's not</p> <p>19 the type of thing that I do. But it was looked at</p> <p>20 to see what we could find. And my understanding</p> <p>21 is Dr. Spiliotopoulos might have done something.</p> <p>22 I don't know. Personally I gave everything I have</p> <p>23 to the Department of Justice. That's what I</p> <p>24 recall.</p> <p>25</p>

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<p>1 BY MR. DEAN:</p> <p>2 Q. Let me go back to my question one more 3 time. I think I understood it, but I just want to 4 be clear.</p> <p>5 You didn't personally undertake an 6 effort to search your computer or any file servers 7 or file folders for emails or other communications 8 as far back as 2004 related to Camp LeJeune 9 issues? You didn't personally undertake that 10 effort?</p> <p>11 A. I looked at what I have on my computer 12 and I gave -- I responded to this the way -- I 13 looked. What do I have? I found no email that 14 are old. Whatever emails that are related to this 15 case were basically always in the presence of 16 counsel, and those were -- counsel has copies of 17 it because they were involved.</p> <p>18 Q. I'll use a particular person's name, 19 Scott Williams. He's a NAVFAC employee.</p> <p>20 Does that name sound familiar to you?</p> <p>21 A. The same sounds familiar to me.</p> <p>22 Q. But I'm just using that as an example.</p> <p>23 You know that Camp LeJeune Justice Act and this 24 case was formally initiated sometime in the summer 25 of 2022.</p>	<p>Page 22</p> <p>1 Q. And you said something about them being 2 archived in another location. You don't have 3 access to it personally. Can you tell me what 4 you're referring to?</p> <p>5 MS. O'LEARY: Object to foundation.</p> <p>6 THE WITNESS: I would be referring to, 7 for example, reports that I wrote if I did and 8 other documents that were part of the files at the 9 time.</p> <p>10 BY MR. DEAN:</p> <p>11 Q. Do you know anyone that has filed -- let 12 me change it a little. Withdraw that.</p> <p>13 Have you or anyone at S.S. Papadopoulos &amp; 14 Associates filed a Camp LeJeune Justice Act claim?</p> <p>15 MS. O'LEARY: Object to foundation.</p> <p>16 THE WITNESS: I have not, and I don't 17 know about -- I don't know what all other people 18 do.</p> <p>19 BY MR. DEAN:</p> <p>20 Q. Do you know of a relative that you have 21 or a friend that has filed Camp LeJeune Justice 22 Act claim?</p> <p>23 A. I do not know of any such person. I 24 want to say I don't know if they did it or not. I 25 do not know anybody who did.</p>
<p>1 MS. O'LEARY: Object to foundation.</p> <p>2 THE WITNESS: Can you repeat the 3 question, please?</p> <p>4 BY MR. DEAN:</p> <p>5 Q. Yes. This case, the Camp LeJeune 6 Justice Act litigation for which we're here today 7 was initiated in the summer of 2022.</p> <p>8 MS. O'LEARY: Object to form.</p> <p>9 THE WITNESS: I don't recall exactly 10 when that would have been initiated.</p> <p>11 BY MR. DEAN:</p> <p>12 Q. Your billing records, which we'll get to 13 in a minute, I think your first invoice was in 14 September of '22.</p> <p>15 A. That's possible.</p> <p>16 Q. So let's separate. I want to talk to 17 you about 2004 until June, July, August of '22, 18 that time period. Okay?</p> <p>19 Did you search for any emails, 20 communications, letters between yourself and any 21 government agency, EPA, Navy, Scott Williams? Did 22 you search for any old emails between 2004 and 23 July of '22?</p> <p>24 A. There are none that I could find on my 25 computer.</p>	<p>Page 23</p> <p>1 Q. Now, do you remember when you became 2 aware of a Marines military base known as Camp 3 LeJeune? And you don't have to be on a specific 4 date. Do you know generally when you first 5 learned? Is that something you learned in high 6 school or college or after you became a 7 professional? Do you know when you first became 8 aware there was a Marines base called Camp 9 LeJeune?</p> <p>10 A. I do not recall when. Camp LeJeune is a 11 big important Defense Department facility. I read 12 the newspaper. So I don't know when I would have 13 first heard about Camp LeJeune, per se.</p> <p>14 Q. Do you remember when you first might 15 have been hired by any United States government 16 agency or military organization to do any sort of 17 work at Camp LeJeune?</p> <p>18 A. Yes. That would have been around the 19 mid 2005 period. I know that in 2005 I did work 20 on Camp LeJeune issues.</p> <p>21 Q. Do you remember who contracted or hired, 22 reached out to you or S.S. Papadopoulos to do some 23 work related to Camp LeJeune?</p> <p>24 A. The Department of Justice.</p> <p>25 Q. So the first time you were asked do any</p>

7 (Pages 22 - 25)

<p style="text-align: right;">Page 26</p> <p>1 work related to Camp LeJeune, as best you can  2 remember as you sit here today, it had to do with  3 the Department of Justice reaching out and saying  4 inquiring about retaining you and your company to  5 do some work?</p> <p>6 A. My recollection is that the person who  7 has been -- was contacted for doing work was  8 Gordon -- Mr. Gordon Bennett. And then I got  9 involved as well.</p> <p>10 Q. We'll come back to that in a moment.  11 (Hennet Exhibit 3 was marked.)</p> <p>12 BY MR. DEAN:</p> <p>13 Q. Let's go ahead and mark your report as  14 Exhibit 3. I've handed you Exhibit 3. Can you  15 identify Exhibit 3?</p> <p>16 A. The first page of Exhibit 3 is expert  17 report of Remy J.C. Hennet.</p> <p>18 Q. And it's dated December 9, 2024. Do you  19 see that?</p> <p>20 A. That's correct.</p> <p>21 Q. At the time you issued this report -- I  22 think your signature on it at the end. Your  23 signature is on page 2 of this document.</p> <p>24 Do you see that?</p> <p>25 A. That's correct.</p>	<p style="text-align: right;">Page 28</p> <p>1 today. I want to add that in February after my  2 report, I did go back to Camp LeJeune, and I did  3 some measurements that basically -- I performed  4 those measurements.</p> <p>5 Q. I believe I remember seeing some of  6 that, and we'll get it to later this morning. I  7 think it was the like February 11 that you went  8 back because there's a couple pages of handwritten  9 notes.</p> <p>10 Does that sound about right about the  11 date?</p> <p>12 A. That's right.</p> <p>13 Q. Why did you -- what triggered you to go  14 back to Camp LeJeune to do those measurements you  15 just referred to?</p> <p>16 A. A couple of things. If I recall, there  17 were two affidavits that were basically produced  18 after my report was submitted that described some  19 witness of some operations at Camp LeJeune. And  20 that was one element. And the other element was  21 in the report of Dr. Sabatini, there was a general  22 agreement on the methodologies I applied to  23 calculate losses from the water, losses of the  24 contaminant of concern from water that the  25 parameters of was a disagreement with</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. And it says it's an expert report of  2 Remy J.C. Hennet, and it's got the style of this  3 case.</p> <p>4 Do you see that?</p> <p>5 A. Yes, I do.</p> <p>6 Q. At the time of your signing this report,  7 do you believe you had all of the information and  8 data in order to provide the opinions that are  9 listed in this report?</p> <p>10 A. At the time of my expert report, all the  11 opinions that I expressed in the report were based  12 on the information that I had at that time and  13 before.</p> <p>14 Q. And at that time, to the extent you have  15 information and opinions in this report, you had  16 at that time all the information you felt like and  17 documents and data to issue these opinions?</p> <p>18 A. Yes, I did.</p> <p>19 Q. Now, you issued it December 9. We're  20 here today on March 20, 2025, about three months,  21 give or take.</p> <p>22 Is there any of your opinions in this  23 report that you want to change, take back, modify  24 or add to so that it is correct and complete?</p> <p>25 A. All the opinions in my report I stand by</p>	<p style="text-align: right;">Page 29</p> <p>1 Dr. Sabatini, not the methodologies. And I  2 wanted -- in particular there was a parameter that  3 I wanted to establish, and I did that.</p> <p>4 Q. When you went back on February 11, 2025,  5 that was not the first time you had been on on  6 board Camp LeJeune?</p> <p>7 A. That was not the first time.</p> <p>8 Q. If I remember correctly some old emails,  9 which I can pull out if I need to, but I think you  10 were involved in some issues related to advising  11 on some remediation issues and were at Camp  12 LeJeune sometime in 2005 for the first time.</p> <p>13 MS. O'LEARY: Objection to form.</p> <p>14 BY MR. DEAN:</p> <p>15 Q. Does that sound about right?</p> <p>16 A. I don't recall those. That's possible.  17 In 2005 I was involved in work for the Department  18 of Justice on issues at Camp LeJeune that it had  19 nothing to do with this case. It was a different  20 case or different cases. And that's what I  21 recall.</p> <p>22 Q. How many times do you think between 2005  23 and February 11, 2025, when you went back this  24 most recent, how many times do you think you've  25 actually been to Camp LeJeune, ballpark?</p>

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<p>1 A. I believe -- my recollection is for this  2 particular case here, I went to Camp LeJeune, I  3 believe, three times. Before that, I don't  4 recall, but it was more than once.</p> <p>5 Q. We'll get to the billing records in a  6 little bit, see if we can figure that out. But  7 what you're telling me right now as best you  8 remember is somewhere between August of '22 and  9 today, you think you've been there approximately  10 three times?</p> <p>11 A. That's what I recall at this moment.</p> <p>12 Q. Had you spent the night in the area of  13 Jacksonville, North Carolina while doing some work  14 or meetings at Camp LeJeune those three times?</p> <p>15 A. Not the three times.</p> <p>16 Q. At least once?</p> <p>17 A. Yes.</p> <p>18 Q. So you've made three trips. One of  19 those trips you stayed multiple days or at least  20 two days?</p> <p>21 A. I think that's correct. One of the trip  22 may have spanned over two days. I believe so.</p> <p>23 Q. Before February 11, 2025, had you gone  24 to the Tawara Terrace water treatment plant and  25 taken a look at it?</p>	<p>Page 30</p> <p>1 MS. O'LEARY: Same objection.</p> <p>2 THE WITNESS: For this litigation case,  3 I was the one who was contacted. And I was  4 contacted to evaluate the work that had been done  5 by ATSDR and to basically evaluate whether or not  6 the data that was or the values that were  7 estimated by ATSDR would be quantitatively  8 reliable to provide reliable values for the  9 chemical of concern in the water supply. That, as  10 I recall, was basically the task.</p> <p>11 BY MR. DEAN:</p> <p>12 Q. Dr. Spilotopoulos or  13 Mr. Spilotopoulos -- I can't remember if he's a  14 doctor or not; I apologize -- he would have  15 started doing some work on this case, as far as  16 this litigation case sometime in '22 along with  17 you?</p> <p>18 MS. O'LEARY: Object to foundation.</p> <p>19 THE WITNESS: It would have been a  20 little bit after I was involved.</p> <p>21 BY MR. DEAN:</p> <p>22 Q. Fair.</p> <p>23 A. That's what I recall.</p> <p>24 Q. Between '22 and '25, did he make  25 independent trips to Camp LeJeune separately from</p>
<p>1 A. Tawara Terrace treatment plant doesn't  2 exist anymore. Anymore I want to add.</p> <p>3 Q. I understand. So you've never  4 physically inspected personally from 2005 to 2025  5 the Tawara Terrace water treatment facility?</p> <p>6 A. Not the water treatment facility at  7 Tawara Terrace because it was not there to be  8 visited.</p> <p>9 Q. Do you know when the water treatment  10 plant at Tawara Terrace was dismantled?</p> <p>11 A. I do not recall when it was dismantled.</p> <p>12 Q. But you've personally never been there?</p> <p>13 A. In the Tawara Terrace water treatment  14 plant, I've never been in there.</p> <p>15 Q. And S.S. Papadopoulos &amp; Associates was  16 retained in 2022 to work on this Camp LeJeune  17 litigation case. You told me that earlier. Is  18 that fair?</p> <p>19 A. That's correct.</p> <p>20 Q. And is that first time that  21 Mr. Spilotopoulos started doing some work on this  22 case along with you?</p> <p>23 MS. O'LEARY: Object to foundation.</p> <p>24 BY MR. DEAN:</p> <p>25 Q. For this litigation case.</p>	<p>Page 31</p> <p>1 you, if you remember, or was he accompanying you  2 on these two or three times that you went to Camp  3 LeJeune?</p> <p>4 A. As far as he's concerned, you will have  5 to ask him. As far as I am concerned, he was  6 there one time when I was there.</p> <p>7 Q. Do you know whether he was able to  8 personally go take a look at Camp LeJeune Tawara  9 Terrace water treatment plant between '22 and '25?</p> <p>10 A. Again, Tawara Terrace plant doesn't  11 exist. So he could not have visited it.</p> <p>12 Q. Now, Hadnot Point water treatment plant  13 have, you ever in the last -- since August of  14 2022, have you gone to the Hadnot Point water  15 treatment plant and done any inspection or done  16 any work there?</p> <p>17 A. Can you repeat the question? I didn't  18 catch the time.</p> <p>19 Q. Since August of '22.</p> <p>20 A. Yes. I have been there.</p> <p>21 Q. And when have you been that?</p> <p>22 A. Every time I went to the base, I went to  23 that plant.</p> <p>24 Q. So approximately three times?</p> <p>25 A. Approximately three times. That's what</p>

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<p>1 I recall, yes.</p> <p>2 Q. And that includes two times before 3 February of '25 and you also went a third time 4 approximately -- we'll look at the records -- on 5 February 11 of this year, you went back to the 6 treatment plant?</p> <p>7 A. I went back to the treatment plant, and 8 the other times I also went to the treatment 9 plant.</p> <p>10 Q. The other two times -- again dates are 11 not important to me -- was the plant operating?</p> <p>12 A. Had not Point?</p> <p>13 Q. Yes.</p> <p>14 A. Yes.</p> <p>15 Q. Do you remember if those prior two 16 occasions you did any inspections or take a look 17 at the spiractors?</p> <p>18 A. Every time I went to the plant, I did 19 that.</p> <p>20 Q. Now, who all from S.S. Papadopoulos &amp; 21 Associates has done some work on this case along 22 with you to support your work? I know about 23 Dr. Spilotopoulos. Whom else?</p> <p>24 A. There were others. I do not remember 25 each one of them probably because there were quite</p>	Page 34	Page 36
<p>1 a few, I suppose, but I can give you the one I 2 remember.</p> <p>3 Q. That's fine.</p> <p>4 A. Dr. Soderberg.</p> <p>5 Q. Can you spell last name for us?</p> <p>6 A. S-O-D-E-R-B-E-R-G. He's a Ph.D. staff 7 member. That would be one. Mr. Saul, S-A-U-L, 8 Allen, A-L-L-E-N. That would be another one.</p> <p>9 Q. Can you give a title or a position as we 10 go through these? You said Dr. Soderberg. Is he 11 a principal?</p> <p>12 A. He's not a principal, but he's, I 13 believe, an associate.</p> <p>14 Q. How about Mr. Allen?</p> <p>15 A. He's not a principal. He's basically 16 our document manager.</p> <p>17 Q. Before we go keep going through the 18 list, what is your title at S.S. Papadopoulos &amp; 19 Associates?</p> <p>20 A. I am a senior principal.</p> <p>21 Q. How many senior principals are there at 22 S.S. Papadopoulos &amp; Associates approximately?</p> <p>23 A. Fully active, there are two.</p> <p>24 Q. And who are those?</p> <p>25 A. The other one is Dr. Matt Tonkin,</p>	Page 35	Page 37

<p>1 the founder of the firm. He used to be at the  2 USGS and basically started his firm in 1979.  3 The second one would be Mr. Steve  4 Larson, L-A-R-S-O-N. He joined Mr. Papadopoulos or  5 Dr. Papadopoulos shortly after the firm started up.  6 And he also used to be at the USGS. Dr. -- Mr.  7 Larson was basically working on the precursor of  8 MODFLOW at the USGS and did some recognized work  9 of that nature. And then he joined  10 Dr. Papadopoulos.  11 After that, maybe three or four years  12 later, I do not know exactly the timing,  13 Dr. Charles Andrews, A-N-D-R-E-W-S, joined the  14 company. And basically they are considered the  15 three founders of the company.  16 Q. And they're semiretired, not full-time  17 principals, I guess, is the best way you  18 described them; right?  19 A. That's right. Different duties.  20 Q. So those five have a majority ownership  21 interest together?  22 A. I do not believe so, but I don't know.  23 Q. Now, did either Dr. Tonkin or any of the  24 other semiretired principals, Dr. Papadopoulos,  25 Mr. Larson, Mr. Andrews, did any of them also work</p>	Page 38	<p>1 A. Well, I would ask admin to tell me who  2 worked on that project probably, and I think they  3 would be able to tell me.  4 Q. They have to pull up some time records  5 or a summary of time records to figure that out  6 for you; right?  7 A. I don't know exactly how they do it. I  8 would expect an answer from them.  9 Q. There's another name that I've noticed  10 in some of the billing records for some travel  11 whose last name was the same as yours.  12 A. Yes. That's correct.  13 Q. And who would that be?  14 A. Crystal Hennet, she's a Ph.D., and she's  15 actually my wife. And on special times when I  16 need support, she has on and off provided some  17 support.  18 Q. What's her expertise?  19 A. She's a geoscientist.  20 Q. What is her title, do you remember?  21 A. I do not know what her title would be,  22 but she's a scientist, Ph.D. She would be an  23 external associate, if you wish. She's not a  24 full-time employee.  25 Q. So she's not a senior hydrologist or a</p>	Page 40
<p>1 on any issue related to this litigation over the  2 last three years and did some billing that you  3 would know about?  4 MS. O'LEARY: Object to foundation.  5 BY MR. DEAN:  6 Q. Or is it just you?  7 A. I do not believe that those persons have  8 worked on this case.  9 Q. So if I see your name on billing records  10 or time records -- not your name, but it says  11 senior principal and those hours that are  12 attributable to that senior principal, the only  13 person that would be to your knowledge would be  14 referring to work yourself did?  15 A. I believe that's correct.  16 Q. Now, other than Dr. Soderberg,  17 Mr. Allen, who else has done some work on this  18 case to support you?  19 A. Right now I don't recall all of them,  20 but, you know, for example, Mr. Cousin, Jim  21 Cousin, C-O-U-S-I-N, has done some work. There  22 are others, but I would have to check the billing  23 again if I wanted to know exactly.  24 Q. What billing records would you have to  25 check?</p>	Page 39	<p>1 project hydrologist?  2 A. I do not know for sure. She could be a  3 senior scientist.  4 Q. How about senior staff hydrologist?  5 A. I don't know.  6 Q. So you don't know really as far as the  7 folks that we've now discussed, four people, you  8 don't know exactly what the billing records  9 reflect their position to be specifically?  10 MS. O'LEARY: Object to foundation.  11 THE WITNESS: At present I do not.  12 BY MR. DEAN:  13 Q. Anybody else provide any additional  14 support or work on Camp LeJeune that you haven't  15 told me about that you remember as you sit there?  16 I recognize you might have to look at some  17 records, but we've talked Dr. Spilopopoulos and  18 these other four.  19 Is there anybody else you haven't talked  20 about that you remember?  21 A. There are others, but specifically the  22 name of them I would not remember right now.  23 Q. How many employees today does  24 Papadopoulos &amp; Associates have active?  25 A. Active I believe is 60 to 65.</p>	Page 41

<p style="text-align: right;">Page 42</p> <p>1 Q. And are they all located in your offices 2 located -- I believe it's Maryland, isn't it, the 3 address, Rockville?</p> <p>4 A. No. They are not all located in 5 Rockville.</p> <p>6 Q. Do you have another office somewhere?</p> <p>7 A. Yes, we do.</p> <p>8 Q. Where is it?</p> <p>9 A. We have more than one.</p> <p>10 Q. How many offices does S.S. Papadopoulos &amp; 11 Associates have, and where are they located?</p> <p>12 A. Well, we have one office in San 13 Francisco. We have one office in Boulder, 14 Colorado. We have one office in Waterloo, Canada. 15 And I think that's it as offices are concerned. 16 Some of our employees are basically remote, but 17 those, I don't count those as offices.</p> <p>18 Q. I understand. Do those offices, 19 San Francisco, Boulder, Colorado or Waterloo, 20 Canada, do they focus on any specific area or 21 region of work?</p> <p>22 A. The San Francisco office is more dealing 23 with engineering and remediation type of issues, 24 to my general knowledge, because I don't know 25 everything. The same would be for the Waterloo,</p>	<p style="text-align: right;">Page 44</p> <p>1 everything I have ever done. 2 BY MR. DEAN:</p> <p>3 Q. Understood.</p> <p>4 A. As well as the CV is limited to 5 deposition experience for the last four years or 6 five years, whatever.</p> <p>7 Q. That's what I was going to ask you on 8 this question. Then we'll take a break. It is 9 showing three depositions that you've been 10 involved in over the last four years.</p> <p>11 Has there been any others since 12 December? Have you given a deposition since last 13 December that this three would be incorrect?</p> <p>14 A. Not since December.</p> <p>15 Q. So the past four years, you've had three 16 depositions. Have you provided some deposition or 17 trial testimony before 2020?</p> <p>18 A. Yes, I have.</p> <p>19 Q. Do you remember approximately how many 20 times?</p> <p>21 A. Depositions or trial --</p> <p>22 Q. Both.</p> <p>23 A. -- testimony. To the best of my 24 recollection, over my career, that would include 25 whatever is in the CV, I testified in court either</p>
<p style="text-align: right;">Page 43</p> <p>1 Canada office. And the Boulder, Colorado office 2 is dealing mostly with water issues.</p> <p>3 Q. Let's go to your CV, and it's not -- 4 it's the first document, your CV, behind 5 Attachment A, like about a third of the way 6 through.</p> <p>7 MS. O'LEARY: Are you on Exhibit 3?</p> <p>8 MR. DEAN: Exhibit 3.</p> <p>9 MS. O'LEARY: If we have a stopping 10 point sometime soon, we've been going for about an 11 hour, can we stop soon?</p> <p>12 MR. DEAN: Yep. Let me ask these next 13 couple questions, and we'll stop.</p> <p>14 BY MR. DEAN:</p> <p>15 Q. Do you have your CV in front of you?</p> <p>16 A. I have the CV attached to my report in 17 front of me.</p> <p>18 Q. I believe the CV, it was attached when 19 the report was issued in December '24. My 20 question to you is: Do you still believe that 21 this CV is correct and complete, or is there 22 anything you need to add to the CV?</p> <p>23 MS. O'LEARY: Object to foundation.</p> <p>24 THE WITNESS: Well, the CV is complete. 25 It contains examples of what I have done, not</p>	<p style="text-align: right;">Page 45</p> <p>1 front of a judge or a magistrate about a dozen 2 times. As far as depositions are concerned, the 3 best of my recollection would be about three dozen 4 times.</p> <p>5 Q. Any trials since 2020?</p> <p>6 A. No. It is not in my CV. I have no 7 trials since 2020.</p> <p>8 Q. I just wanted to to clarify and confirm.</p> <p>9 MR. DEAN: We'll take a break right now 10 if you'd like.</p> <p>11 THE VIDEOGRAPHER: We are off the record 12 at 1004.</p> <p>13 (Recess from 10:04 a.m. to 10:15 a.m.)</p> <p>14 THE VIDEOGRAPHER: We are on the record 15 at 1015.</p> <p>16 BY MR. DING:</p> <p>17 Q. Let's jump to a little bit different new 18 topic. We may jump around a little bit today. 19 That's just how I roll. Okay?</p> <p>20 What did you do to prepare for your 21 deposition today?</p> <p>22 A. Today basically nothing today. But to 23 prepare for the deposition, I did prepare, of 24 course, but not today. Yesterday and before that.</p> <p>25 Q. Let's break it down. Who have you met</p>

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<p>1 with in the past 30 days to prepare for your 2 deposition?</p> <p>3 A. To prepare for my deposition I met 4 yesterday with counsel, counsel who are present 5 here today. And before that, we had conference 6 calls, maybe two or three times, in which we did 7 address some issues of deposition, but the 8 conference calls were not uniquely on depositions. 9 That is what I recall for the last 30 days.</p> <p>10 Q. Since July or August of '22, since you 11 started doing work in this specific case, other 12 than the Department of Justice lawyers, have you 13 met or had any phone conversations with any 14 Marines, Navy personnel, NAVFAC personnel, other 15 federal government agencies to find out 16 information or to have a conversation about 17 something that might be needed for your work?</p> <p>18 A. Not that I can recall. Any such 19 interaction would have been through counsel.</p> <p>20 Q. So, for example, I know you were at the 21 base in May of '24. It's, in your opinion, report 22 and it shows some photos and there's a little date 23 May of 2024. I'm using that simply as an example 24 so you understand where I'm going with this.</p> <p>25 I'm just trying to find out if you</p>	<p>Page 46</p> <p>1 phone representing the base or any U.S. agencies 2 and DOJ lawyers were also on the call? That was 3 my question, if you remember.</p> <p>4 A. I don't remember any.</p> <p>5 Q. Now, those several times you were on the 6 base, you've indicated that there were some base 7 representatives, nonlawyers that were present that 8 you my question interacted with; right?</p> <p>9 A. That's correct.</p> <p>10 Q. Do you remember who they were?</p> <p>11 A. I do not remember who they were. I do 12 not remember their names, perhaps with the 13 exception of the one you mentioned before who I 14 don't remember the name of right now.</p> <p>15 Q. Scott Williams?</p> <p>16 A. Scott Williams. Because he was there to 17 basically provide a tour. Basically just the 18 times I was at the base for this case, he was 19 there for at least a part of it.</p> <p>20 Q. Let's talk about these visits on base as 21 far as locations that you went. I've only been on 22 the base I think once, maybe twice, and I went to 23 something referred to as the cages or a cage. It 24 was a big warehouse and it had some documents in 25 it, some boxes and boxes of documents. I'm using</p>
<p>1 interacted with any nonlawyers in the past two and 2 a half years either, in person or by phone, about 3 issues related to Camp LeJeune. Counsel might 4 have been present. And I'm not asking what 5 necessarily was discussed. I'm trying to find out 6 if there was other individuals, nonlawyers, that 7 might have been at the May '24 inspection or that 8 you've had conversations with over the last couple 9 years.</p> <p>10 A. Counsel was always present during those 11 visits, and there were people from the base that 12 were there. And those people would be there to 13 give us a tour and explain where we were and so 14 on. They would occasionally answer questions that 15 were asked.</p> <p>16 Q. So can we agree on this, that at least 17 over the past two years, you don't remember having 18 any phone calls with any nonlawyers for any 19 purpose related to this Camp LeJeune work?</p> <p>20 A. There was no phone calls that would be 21 with base personnel or so without the presence of 22 a lawyer there.</p> <p>23 Q. That's what trying to figure out. Have 24 you had any phone conversations in the past two 25 and a half years for which a nonlawyer was on the</p>	<p>Page 47</p> <p>1 that as an example.</p> <p>2 Where on the base have you generally 3 been to to do anything related to your work at 4 Camp LeJeune to the best of your recollection on 5 those three visits?</p> <p>6 A. To the best of my recollection, the 7 visits all together included a thorough visit of a 8 large portion of the base, where we were allowed 9 to go because I believe that you may have sections 10 of the base where you cannot go unless you have 11 some clearance or something like that. That's 12 what I recall. But we went to many places with 13 basically a focus on the water treatment plant, 14 the wells and issues that are basically of 15 relevance to what I did.</p> <p>16 Q. So those three times, and just use this 17 as an example, you'd pull up to the gate. Someone 18 would meet you there, maybe Scott Williams or 19 others. You'd all get in a car and you've ridden 20 around Hadnot Point in a car; right?</p> <p>21 A. In a bus.</p> <p>22 Q. In a bus? Car wasn't big enough for all 23 the people; right?</p> <p>24 A. At least on two visits.</p> <p>25 Q. Rode around Hadnot Point observing</p>

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<p style="text-align: right;">Page 50</p> <p>1 whatever it may be that you all were looking at;  2 right?</p> <p>3 A. We were just basically just performing a  4 site visit, that's right.</p> <p>5 Q. Do you remember getting off the bus to  6 walk into a building to do any sort of an  7 inspection or take measurements or do anything  8 other than the water treatment plant?</p> <p>9 A. We were doing site visits, and that  10 included going into certain buildings.</p> <p>11 Q. Do you remember which buildings you went  12 into?</p> <p>13 A. I do not remember the number of the  14 buildings. Each building has a number. The only  15 one I remember is where we went to eat.</p> <p>16 Q. Where was that?</p> <p>17 A. I think it was the officer compound.</p> <p>18 Q. Do you know what Building 20 is?</p> <p>19 A. Yes, I do.</p> <p>20 Q. What is Building 20?</p> <p>21 A. That's Hadnot Point water treatment  22 plant.</p> <p>23 Q. Do you know what the Building 900 series  24 are?</p> <p>25 A. Yes, I do.</p>	<p style="text-align: right;">Page 52</p> <p>1 for documents related to the base.</p> <p>2 Q. Did you have any historical documents  3 that you had prior to July, August of '22, any old  4 files or old working documents, maps, whatever it  5 may be, reports that you might have used prior to  6 '22 that you used and looked at in this case?</p> <p>7 A. Well, my understanding is that all the  8 documents that I had seen before for the base were  9 included into what was basically available for  10 this case.</p> <p>11 Q. So if it's on your reference list, it's  12 complete as far as you know as you sit here today?</p> <p>13 A. What is on the reference list in my  14 report is what supports my report.</p> <p>15 Q. Do you have other documents in your  16 files or old computers at S.S. Papadopoulos that  17 related to Camp LeJeune that you have referred to,  18 reviewed or relied upon that are not listed?</p> <p>19 MS. O'LEARY: Object to foundation.</p> <p>20 THE WITNESS: I do not believe so as far  21 as the way the question was phrased.</p> <p>22 BY MR. DING:</p> <p>23 Q. The reason I ask it was just simply to  24 make sure you and I understand one another and  25 that your reference and reliance materials, which</p>
<p style="text-align: right;">Page 51</p> <p>1 Q. And have you been to the Building 900,  2 901, 902, 903 area?</p> <p>3 A. For this litigation, I have been not  4 been inside those buildings.</p> <p>5 Q. Did you go in any buildings while you  6 were there for those three occasions to look at  7 documents or to see if you could locate  8 information that might be helpful to your work in  9 the case?</p> <p>10 A. I recall that we went into the building  11 you're describing, I believe, before where you  12 have basically locked documents, boxes of  13 documents. I recall we went into that building.</p> <p>14 Q. Did you go through any boxes, look at  15 any documents and pull anything out or flag  16 anything for someone to provide to you?</p> <p>17 A. No.</p> <p>18 Q. Now, we'll get to it in a moment about  19 your reference list, and there's quite a lot of  20 materials listed that. I guess why I'm asking it  21 now is the only way in which you've received  22 information and documents -- let's confine it to  23 documents in this case is from the Department of  24 Justice and their counsel?</p> <p>25 A. For documents, I believe that's correct,</p>	<p style="text-align: right;">Page 53</p> <p>1 we'll get to in a minute, that list is complete  2 and there's not something that's not on that list  3 that's back at your office or on a computer that  4 you reviewed that was maybe in a historical file  5 that you already had and it's something that  6 you've reviewed or relied upon that also supports  7 and it's just not listed. That's why I asked you  8 the question. Okay?</p> <p>9 MS. O'LEARY: Object to form.</p> <p>10 THE WITNESS: I understand the question.  11 And there is information that I collected after my  12 report that we discussed previously that  13 particularly is not in my report because it didn't  14 exist at the time.</p> <p>15 BY MR. DING:</p> <p>16 Q. Understood. Agreed. That's your  17 supplemental materials, which we'll get to in a  18 moment.</p> <p>19 Other than that, you're not aware of  20 anything else historical in your files that you  21 reviewed or relied upon that are not listed?</p> <p>22 A. I cannot think of any documents that  23 relate to the base.</p> <p>24 Q. So what do you consider or how would you  25 define your expertise as a professional?</p>

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<p>1     A. That is described in my CV.</p> <p>2     Q. Understand. Are you a fate and 3 transport expert, groundwater expert, hydrologist?</p> <p>4 How would you classify your general area of 5 expertise?</p> <p>6     A. I am a geochemist. I have a 7 hydrologist. I am a geologist. And in each of 8 those disciplines, I have university degrees.</p> <p>9 That's basically what describes my education, if 10 you wish.</p> <p>11    Q. Your registrations and/or licenses are 12 listed. There's two of them on your CV, 13 geoscientist in Texas and a certified professional 14 geological scientist for the American Institute 15 for Professional Geologists; correct?</p> <p>16    MS. O'LEARY: Object to foundation.</p> <p>17    THE WITNESS: Licenses and 18 certifications, I believe that's complete.</p> <p>19 BY MR. DING:</p> <p>20    Q. And that's complete. So, for example, 21 you're not a professional engineer and hold a 22 professional engineer's license?</p> <p>23    A. I am not a professional engineer.</p> <p>24    Q. Do you have you ever served on a 25 peer-review committee?</p>	<p>Page 54</p> <p>1     Q. Was that Hudson Valley?</p> <p>2     A. That one was not Hudson Valley.</p> <p>3     Q. Who was the committee that asked you to 4 do the peer review for the one you're just 5 referring to in Pennsylvania?</p> <p>6     A. It was a panel that was doing actually 7 peer review of what existed at the time as well as 8 conducting some research for the panel.</p> <p>9     Q. Did you do the report, do a report or is 10 there anything that's publicly available about 11 this peer review?</p> <p>12    A. I do not know about publicly available.</p> <p>13 But there were several reports, and I was one of 14 the contributors. I was not the only one on the 15 panel.</p> <p>16    Q. Is it listed in your CV?</p> <p>17    A. I believe it's with one of the clients 18 listed there in the paper.</p> <p>19    Q. Who was the client involved in the one 20 you're referring to in Pennsylvania?</p> <p>21    A. At the time, I recall the client was 22 Texas Eastern.</p> <p>23    Q. Are you a member of the National Academy 24 of Engineering?</p> <p>25    A. I am not.</p>
<p>1     A. Yes, I have.</p> <p>2     Q. Are there any that you've served on that 3 are related to any of the issues involved in this 4 case related to water contamination?</p> <p>5     A. It was related to water contamination.</p> <p>6     Q. What was that generally just so we have 7 identification?</p> <p>8     A. For example, the one I am thinking and 9 recalling right now was dealing with fuel issues 10 and PCB issues at many sites.</p> <p>11    Q. What sites were they? What was the 12 project referred to or the papers?</p> <p>13    A. It was an expert panel on that topic 14 that dealt with groundwater contamination by fuel 15 compounds as well as PCBs, and that was actually 16 across the country along a pipeline that had 17 basically stations. And most of the one where the 18 issues were the most looked at, if you wish, was 19 Pennsylvania. That's what I recall.</p> <p>20    Q. Did it have another location more 21 specific than Pennsylvania that it was referred 22 to?</p> <p>23    A. There would be many stations within 24 Pennsylvania because the pipeline at the level of 25 the entire country is basically, you know...</p>	<p>Page 55</p> <p>1     Q. Have you ever served on any editorial 2 boards for any publications?</p> <p>3     A. Not editorial boards.</p> <p>4     Q. Now, remind me again when you first came 5 to S.S. Papadopoulos &amp; Associates, the year 6 approximately.</p> <p>7     A. That was 1989.</p> <p>8     Q. So you've spent pretty much the entirety 9 of your professional career affiliated with S.S. 10 Papadopoulos &amp; Associates; is that fair?</p> <p>11    A. As a consultant, that's correct. And 12 before that, I was in research more in the 13 academic world, if you wish.</p> <p>14    Q. Has all of your work for any issue going 15 back as far as you can remember as far as 16 compensation for services rendered by yourself 17 been through S.S. Papadopoulos? Let me tell you 18 why I'm asking that.</p> <p>19    Do you have any other entity that you 20 own or affiliated with that has in the past done 21 any work related to Camp LeJeune to your 22 knowledge, or has it always been through S.S. 23 Papadopoulos &amp; Associates?</p> <p>24    MS. O'LEARY: Object to form.</p> <p>25    THE WITNESS: It has always been through</p>

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<p style="text-align: right;">Page 58</p> <p>1 S.S. Papadopoulos &amp; Associates and the Department 2 of Justice.</p> <p>3 BY MR. DING:</p> <p>4 Q. So have you done -- let's use, for 5 example, and we'll just talk 50,000 feet on the 6 ATSDR water modeling and health studies at Camp 7 LeJeune.</p> <p>8 You know that there was a component of 9 it that involved water modeling and then that 10 water modeling component was then utilized on the 11 health side to do some health studies.</p> <p>12 MS. O'LEARY: Objection to foundation.</p> <p>13 BY MR. DING:</p> <p>14 Q. Correct?</p> <p>15 A. That's my general understanding.</p> <p>16 Q. Is this the first time you've done any 17 work where you've looked at and reviewed and 18 commented on the water modeling and how it may or 19 may not impact activities on the health side, or 20 is there some other projects you've have worked on 21 in the past that are similar?</p> <p>22 MS. O'LEARY: Object to form.</p> <p>23 THE WITNESS: This case, this present 24 case is the first time I was asked to evaluate the 25 results of the ATSDR models both for Tawara</p>	<p style="text-align: right;">Page 60</p> <p>1 ATSDR has brought into the model, especially 2 because there is very little data to predict what 3 happened 35 years ago, 35 years before 1985. And 4 I have reviewed the parameters. I have compared 5 the parameters in the models. I have done that 6 because that's something I do as a geochemist.</p> <p>7 BY MR. DING:</p> <p>8 Q. Any comment or opinion about those 9 reviews?</p> <p>10 MS. O'LEARY: Object to form.</p> <p>11 BY MR. DING:</p> <p>12 Q. You personally or do you defer to 13 Dr. Spiliopoulos?</p> <p>14 MS. O'LEARY: Object to form.</p> <p>15 THE WITNESS: I have not run the models.</p> <p>16 He did. So I have no opinion or comment on that, 17 but I have reviewed.</p> <p>18 BY MR. DING:</p> <p>19 Q. Understood. Have you ever, yourself, 20 performed any historical reconstruction or hind 21 casting using any sort of groundwater modeling 22 tools to reconstruct historical mean monthly or 23 concentration data?</p> <p>24 MS. O'LEARY: Object to form.</p> <p>25 THE WITNESS: Well, there have been</p>
<p style="text-align: right;">Page 59</p> <p>1 Terrace and Hadnot Point as far as the reliability 2 of the estimated values to be quantitatively used 3 for this case.</p> <p>4 BY MR. DING:</p> <p>5 Q. Have you over the past two and a half 6 years rerun any water modeling computer programs 7 to do any water modeling of Camp LeJeune other 8 than what might be identified, disclosed in your 9 report?</p> <p>10 A. I have not.</p> <p>11 Q. Do you know anybody at S.S. Papadopoulos 12 &amp; Associates that's done any additional water 13 modeling computer work related to Camp LeJeune at 14 your direction or with your knowledge?</p> <p>15 A. I know that Dr. Spiliopoulos has 16 basically run the ATSDR model as part of his 17 evaluation of the models. We have two models. He 18 did that. I didn't do that.</p> <p>19 Q. And do you have any comment about his 20 work on that, or do you defer to him about his 21 work and his opinions about it?</p> <p>22 MS. O'LEARY: Object to form.</p> <p>23 THE WITNESS: I have reviewed the model 24 inputs and basically all the materials that are 25 supporting the decisions or the assumptions that</p>	<p style="text-align: right;">Page 61</p> <p>1 cases where a question like that will be asked. I 2 remember one case where I did participate and that 3 was to reconstruct basically some certain 4 chemicals concentration, and that was based on 5 estimates. And I recall having participated to 6 that. And you had data and that was -- that's 7 what I recall.</p> <p>8 BY MR. DING:</p> <p>9 Q. Do you remember the name of that project 10 or the client or anything like that?</p> <p>11 A. I don't remember the details or the 12 client of that, but it was related to uranium 13 mining.</p> <p>14 Q. Uranium mining?</p> <p>15 A. That's my recollection.</p> <p>16 Q. And location?</p> <p>17 A. I believe it was in New Mexico, that 18 one.</p> <p>19 Q. And timeframe, if you remember?</p> <p>20 A. I don't remember the timeframe, but it 21 was maybe 2000.</p> <p>22 Q. As a result of that work, was a 23 concentration -- reconstructed values calculated 24 using that groundwater modeling work that you 25 participated in?</p>

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<p>1 MS. O'LEARY: Object to form and 2 foundation.</p> <p>3 THE WITNESS: I was doing geochemistry 4 in that, and I do not recall door if there was -- 5 there was no complex monitoring done. It was, you 6 know, more like -- if I recall, it was a very 7 large pile of tailings, and the question was, all 8 right, where does it go from the tailings.</p> <p>9 BY MR. DING:</p> <p>10 Q. So go back to my first question and 11 understanding what you just testified to about.</p> <p>12 Other than Camp LeJeune work, have you 13 ever worked on any other project whose goal was to 14 determine and measure human exposure or dose to 15 toxins and contaminants?</p> <p>16 A. Right now, I can not really remember 17 specific ones, but as a geochemist, what my 18 expertise is in is to understand the origin, fate 19 and transport of contaminants in the environment. 20 That's what I do basically. That's what I've been 21 doing all my research years and professional 22 years.</p> <p>23 Q. Have you ever in history utilized and 24 relied upon the ATSDR water modeling results to 25 support any work you've done in any other case or</p>	Page 62	<p>1 report in some other work in the past. 2 Do you remember what occasions those 3 were?</p> <p>4 A. I would have to look at it. There was a 5 case that I did work. I don't remember exactly 6 the timing of it, but I believe it's called the 7 Washington case or something like this. And I 8 worked on that. Because it was related to 9 contamination at Camp LeJeune, I probably referred 10 to the ATSDR work. But I had not done a review 11 that I conducted for this as far as reliability of 12 the work for quantitative views of concentrations 13 in the context of this project.</p> <p>14 Q. We'll call it Washington, and we'll come 15 back to it later in more detail. But you believe 16 it's scientifically valid or you did at the time 17 to cite to a -- cite to this ATSDR water modeling 18 project or refer to it without ever having 19 analyzed whether it was scientifically reliable at 20 the time you relied on it?</p> <p>21 MS. O'LEARY: Object to form and 22 foundation.</p> <p>23 THE WITNESS: Me citing to it, if I did, 24 doesn't mean that -- doesn't mean that -- doesn't 25 explain what I have done to review it. I just</p>	Page 64
<p>1 any other project?</p> <p>2 MS. O'LEARY: Object to form.</p> <p>3 THE WITNESS: Could you repeat the 4 question? I missed the first part.</p> <p>5 BY MR. DING:</p> <p>6 Q. Have you in any other historical 7 activities prior to August of '22 ever utilized 8 and relied upon the ATSDR water modeling chapters, 9 conclusions and work to do work in some other 10 matter?</p> <p>11 A. In other cases and this case, the ATSDR 12 models were used by others. I was not tasked to 13 review the model. And I may have cited to what 14 ATSDR has done at the time without having had done 15 what I have done for the purpose of this 16 particular case, which was to evaluate whether or 17 not the values or the estimated values that ATSDR 18 is presenting with the model could be 19 quantitatively reliable to provide concentrations 20 of the chemical of concern in this case over a 21 long period of time.</p> <p>22 Q. So go back to my question. My 23 question -- I'll ask it a little different, 24 because you seem to affirmatively say you've 25 referred to it in the past and maybe cited to the</p>	Page 63	<p>1 mention that it does exist.</p> <p>2 BY MR. DING:</p> <p>3 Q. But you believe in the context of an 4 expert witness it's okay for you to cite to, refer 5 to, rely upon the ATSDR water modeling in this 6 prior activity without knowing whether or not at 7 that time it was scientifically reliable?</p> <p>8 MS. O'LEARY: Object to form and 9 foundation.</p> <p>10 THE WITNESS: It all depends what is the 11 task and the purpose of the citation.</p> <p>12 BY MR. DING:</p> <p>13 Q. Well, did you at the time -- who 14 retained you in the Washington case?</p> <p>15 A. As I recall, it was the Department of 16 Justice.</p> <p>17 Q. Mr. Bain was your contact at that time?</p> <p>18 A. Probably.</p> <p>19 Q. Did you recommend in that case the need 20 to analyze the model in order for you to provide a 21 scientifically reliable opinion in the Washington 22 case?</p> <p>23 A. Without seeing the report to refresh my 24 memory, I don't know.</p> <p>25 Q. As you sit there -- I'll show you the</p>	Page 65

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<p>Page 66</p> <p>1 report later on -- you don't remember advising  2 Mr. Bain at the Department of Justice the need for  3 you to do a deep dive into analyzing the model at  4 the time you were referring to it back then as  5 best you remember right now?</p> <p>6 A. Again, I will have to see the report.  7 (Hennet Exhibit 4 was marked.)</p> <p>8 MR. DING: For the record, I've handed  9 the witness Exhibit 4, which are the billing  10 records, I believe it's around 42 pages or  11 thereabouts, received a week and a half ago and  12 I've also supplemented Exhibit 4 and added the  13 additional bill we received last night for  14 February of 2025, so the record is clear. Okay?</p> <p>15 BY MR. DING:</p> <p>16 Q. I understand, obviously, March is not  17 over with, so the March bill, invoice, time  18 records, those haven't been finalized; correct?</p> <p>19 A. Yes.</p> <p>20 Q. Now, a couple things I want to ask you  21 about on these Exhibit 4 billing records. Take a  22 look at the first page. In the top right-hand  23 corner, it says the project name DOJ_CL_2022.</p> <p>24 Do you see that?</p> <p>25 A. I see that.</p>	<p>Page 68</p> <p>1 MS. O'LEARY: Object to foundation.  2 BY MR. DING:</p> <p>3 Q. Because you assumed they already had it?</p> <p>4 MS. O'LEARY: Object to foundation.  5 THE WITNESS: I do not know.</p> <p>6 BY MR. DING:</p> <p>7 Q. Under the comments on the left side  8 there a little further down, it says DJ File  9 Number. What does DJ stand for?</p> <p>10 A. I am not sure. I do not know. Again,  11 it is admin.</p> <p>12 Q. Then it says DOJ contract  13 #2W-CIV-03-0513. Do you see that?</p> <p>14 A. I see that.</p> <p>15 Q. Is there a written contract of some sort  16 that that contract number is referred to that's in  17 possession of you or S.S. Papadopoulos &amp;  18 Associates' records?</p> <p>19 A. Probably.</p> <p>20 Q. Did you gather that contract and provide  21 it in response to the subpoena and provide that  22 contract to the Department of Justice to produce  23 to me?</p> <p>24 A. My understanding is if it's contract  25 with the Department of Justice as you describe it,</p>
<p>Page 67</p> <p>1 Q. And that's what you referred to as the  2 project name for your and the S.S. Papadopoulos  3 work on the Camp LeJeune litigation since '22?</p> <p>4 A. That's an internal name.</p> <p>5 Q. Project number is 1817. And then it  6 refers to a PO number. What does that mean? What  7 does PO number mean?</p> <p>8 A. I guess it's a project order number.</p> <p>9 This number is probably from the DOJ. I do not do  10 admin. So that's what I would guess.</p> <p>11 Q. Is it a purchase order number?</p> <p>12 A. I believe that would be right, yes.</p> <p>13 Q. Is there a document that's referred to  14 as a purchase order that's got this number on it  15 somewhere that ends in 502?</p> <p>16 A. Personally I don't know, but it must be  17 because it is written here.</p> <p>18 Q. And did you gather that document and  19 provide it to the Department of Justice?</p> <p>20 A. If it comes from the Department of  21 Justice, I must have it. Personally, I do not to  22 admin.</p> <p>23 Q. So you didn't and you don't believe  24 admin sent that purchase order over to the  25 Department of Justice in response to the subpoena?</p>	<p>Page 69</p> <p>1 the Department of Justice has it.</p> <p>2 Q. Again, I agree with you. You didn't,  3 however, in response to the subpoena supply that  4 document to the Department of Justice because you  5 assumed they had it and would produce it if  6 needed?</p> <p>7 MS. O'LEARY: Object to foundation.</p> <p>8 BY MR. DING:</p> <p>9 Q. Is that fair?</p> <p>10 A. That would have been through admin, and  11 I don't do admin.</p> <p>12 Q. Now, if we look down below this on the  13 first page -- and if you want to, you can glance  14 through -- we'll look at a few pages together.  15 How about we just do it that way.</p> <p>16 Do you see it says Professional  17 Services, and under Employee Type there's some  18 positions, for example, senior principal, but  19 there's no names, specific names?</p> <p>20 A. I see that.</p> <p>21 Q. And you told me earlier, as best you  22 know, you're the only senior principal. So when  23 it refers to senior principal, that would be  24 Dr. Hennet?</p> <p>25 A. That's my understanding, yes.</p>

<p>1 Q. And it says two hours. We don't know  2 what you did for two hours looking at this  3 document, but you did key in on a computer,  4 timekeeping computer program what you did for  5 those two hours?</p> <p>6 MS. O'LEARY: Object to foundation.</p> <p>7 THE WITNESS: Well, maybe, maybe not,  8 because it's not done always the same way. And my  9 recollections is our accounting system or the way  10 we enter time has been basically changed or  11 upgraded. It appears to be upgraded relatively  12 frequently. So I don't remember the situation  13 then.</p> <p>14 BY MR. DING:</p> <p>15 Q. Does Papadopoulos &amp; Associates send this  16 one-page invoice that you see on Exhibit 4, that  17 first page, because the second page is for a  18 different month. Do you see that? The one on the  19 back of the first page is a different month. So  20 the one ending 9/21/22 is just a single page  21 ending in Bates-stamp CLJA_SSPA_INVOICES_1. Do  22 you see that?</p> <p>23 A. You have to help me here.</p> <p>24 Q. Do you see that the invoice is a single  25 page for the Bates-stamp that I provided?</p>	Page 70	<p>1 A. I can read that, yes.</p> <p>2 Q. Is this one-page invoice the only thing  3 that is sent to the Department of Justice for  4 payment of this invoice, or does it have  5 attachments when it goes that itemizes the time  6 that's shown on the summary?</p> <p>7 A. I don't know.</p> <p>8 Q. Who would know that?</p> <p>9 A. Admin.</p> <p>10 Q. The Department of Justice receiving this  11 invoice would also know that, wouldn't they?</p> <p>12 A. I don't know.</p> <p>13 MS. O'LEARY: Object to foundation.</p> <p>14 BY MR. DING:</p> <p>15 Q. Do you understand it's your obligation  16 as an expert as part of the federal rules to  17 specifically provide open and complete information  18 about your billing in a case like this? Are you  19 aware of that?</p> <p>20 MS. O'LEARY: Object to form and  21 foundation.</p> <p>22 THE WITNESS: This is administrative.</p> <p>23 BY MR. DING:</p> <p>24 Q. I'm asking you are you familiar with  25 what's called Rule 26 and an expert's obligation</p>	Page 72
<p>1 MS. O'LEARY: You're on the first page  2 of Exhibit 4?</p> <p>3 MR. DING: Yes.</p> <p>4 BY MR. DING:</p> <p>5 Q. Exhibit 4, page one is a single-page  6 invoice?</p> <p>7 MS. O'LEARY: Object to foundation.</p> <p>8 THE WITNESS: This is a single-page  9 document.</p> <p>10 BY MR. DING:</p> <p>11 Q. Is that for the month -- it's dated 9/21  12 and it says it's for services rendered through  13 August 31, 2022. Do you see that?</p> <p>14 A. I see that in the middle there, yes.</p> <p>15 Q. And this is the first invoice you and I  16 are looking at that I have; correct?</p> <p>17 MS. O'LEARY: Object to foundation.</p> <p>18 THE WITNESS: I will take your word for  19 it.</p> <p>20 BY MR. DING:</p> <p>21 Q. Do you know whether or not when this  22 invoice -- it says it's being -- the client and  23 the address there at the top left is Branch Chief,  24 Finance and Accounting under U.S. Department of  25 Justice. Do you see that, and an address, PO box?</p>	Page 71	<p>1 to provide open and detailed billing records in  2 litigation?</p> <p>3 MS. O'LEARY: Object to form and  4 foundation.</p> <p>5 BY MR. DING:</p> <p>6 Q. Are you aware of that?</p> <p>7 A. I am generally aware of Rule 26, but  8 specifically -- but, you know, my firm gets a  9 contract with the Department of Justice. I don't  10 do the billing. So I don't know if it has one  11 page, two pages or 20 pages. I do not know that.</p> <p>12 Q. Would you agree with me it's your  13 obligation, all experts' obligations to provide as  14 much detail and all information about their  15 compensation and billing to the opposing side in  16 response to what we refer to and you refer to as  17 Rule 26?</p> <p>18 MS. O'LEARY: Object to foundation.</p> <p>19 THE WITNESS: I do not know. We do  20 abide by everything because when you work with the  21 Department of Justice, you have to abide by  22 everything, and we do.</p> <p>23 BY MR. DING:</p> <p>24 Q. Now, if you look through these invoices  25 or this one page, it says the initial budget at</p>	Page 73

19 (Pages 70 - 73)

<p>1 the bottom left-hand corner was \$100,000.  2 Do you see that?  3 A. I do.  4 Q. And then if you flip through it to the  5 invoice that's Bates-stamped page 6, so there will  6 be a 6 at the end of the page, do you see that the  7 behind casting changed 611,664? Do you see that?  8 A. Where is it on the page?  9 Q. Bottom left, Project Summary.  10 A. Yes. I do see that.  11 Q. Do you remember and can you tell me why  12 it went from a \$100,000 budget to a budget of  13 \$611,664?  14 A. I don't recall the details of it, but  15 this is typical of a project like this. The first  16 phase is to evaluate, to do a first evaluation of  17 an understanding what the cases is about, do a  18 first evaluation of certain aspect of it. And I  19 am typically required or requested, if you wish,  20 to provide an estimate of how much it would cost  21 to provide services.  22 And I do a best estimate by saying I  23 would need a team to do this because I cannot do  24 it all by myself. It's too many documents, too  25 much to do. And then I provide my best estimate </p>	Page 74	<p>1 \$611,664?  2 A. I do not know the detail for this  3 particular thing, but there is an estimate  4 somewhere. And I am typically the one who would  5 do such an estimate.  6 Q. And does the process work you send the  7 estimate over to the Department of Justice and  8 they approve or sign off on it and then you  9 proceed with whatever work that's been authorized?  10 A. It's a budget request, and it is  11 evaluated. And then if it was approved, we  12 probably get a green light that it is approved.  13 And then we'll probably have a meeting to explain  14 what we thought should be done. And that's the  15 way it works for most cases like this.  16 Q. Now, turn to page 19.  17 A. By that you mean the Bates number?  18 Q. Yes, sir. Do you see at the bottom of  19 the Bates-stamped page 19 the budget under Project  20 Summary on the left at the bottom says \$611,664?  21 A. I see that.  22 Q. Turn to the next page, 20. And does it  23 reflect that the budget is changed between  24 November and December of '23 to a budget an  25 approved budget of the \$1,216,284? </p>	Page 76
<p>1 of how much it would cost.  2 Q. To do XYZ?  3 A. To do the project up to a certain --  4 typically it's what will it cost for a year, for  5 example.  6 Q. Is there a document that you use to  7 provide that estimate? Is it called a budget, or  8 is it called something else?  9 A. It is my budget estimate, and that's  10 what my budget estimate is and I believe --  11 Q. How do you transmit that budget estimate  12 to the Department of Justice for approval? Is it  13 a letter? Is it email? Is it a report? Is it a  14 budget? What do you remember refer to it as?  15 A. I do not recall about this one in  16 particular. I do not recall how it was that. But  17 obviously, it was transmitted to the DOJ whether  18 by phone or by -- in some manner. Again, I do the  19 budget estimate.  20 Q. I think we've got enough here on this  21 issue. Then I'll move on. You don't remember  22 specifically the mode of the transfer of the  23 information, whether it went from accounting,  24 whether was a formal budget document, an email or  25 a phone call, to provide the budget estimate of </p>	Page 75	<p>1 A. I see that.  2 Q. If you turn to page 25, Bates-stamped  3 page 25, bottom left has that budget now in March  4 of '24 increased to \$1,466,224?  5 A. I see that.  6 MS. O'LEARY: Object to foundation.  7 BY MR. DING:  8 Q. If you flip to page 33 or Bates-stamped  9 page 33. Let me know when you're there.  10 A. I see that, yes.  11 Q. Under the Project Summary, column left  12 has the budget now increased in September of  13 \$1,716,284?  14 A. I see that.  15 Q. If you turn to the top of page  16 Bates-stamp page 37, on December 23, 2024, do you  17 see under the column Budget on page 37 or  18 Bates-stamped 37, the budget has increased to  19 \$1,966,284?  20 MS. O'LEARY: Object to foundation.  21 THE WITNESS: I see that.  22 BY MR. DING:  23 Q. And that was approved by the Department  24 of Justice at some point in time; right?  25 A. I suppose so. </p>	Page 77

20 (Pages 74 - 77)

<p style="text-align: right;">Page 78</p> <p>1 Q. If you turn to be Bates-stamped page 40.  2 A. I am there.  3 Q. On January 17, 2025, invoice No. 27034  4 at the top of the page Bates-stamp 40, did the  5 budget increase to 2,216,275.50?  6 A. I see that.  7 Q. And if you turn to the supplemental  8 Bates-stamp and Allison, I don't know how you want  9 me to refer to it. I made it as one exhibit. I  10 don't know if you're going to Bates-stamp it 43.  11 MS. O'LEARY: Can you refer to it by the  12 invoice number at the top?  13 MR. DING: I can do that.  14 BY MR. DING:  15 Q. The last page of Exhibit 4, the  16 invoices, I received last night invoices 27513,  17 and it's dated March 19, 2025. Do you see that on  18 the first page?  19 A. I see that. That's a loose page.  20 Q. Yes, sir.  21 A. It's not bound with Exhibit 4.  22 Q. Well, it is part of Exhibit 4 for the  23 record. I made it a part of it. It just doesn't  24 have a Bates-stamp because Ms. O'Leary just  25 provided it to me last night.</p>	<p style="text-align: right;">Page 80</p> <p>1 Q. Have you had any discussions with anyone  2 about the needs for a future budget approval  3 moving forward from today if this budget is used  4 up this month?  5 A. I have not talked to anyone about that.  6 Q. And you've not prepared anything about  7 that?  8 A. I have not prepared anything about that.  9 (Hennet Exhibit 5 was marked.)  10 BY MR. DING:  11 Q. I hand you what I marked as Exhibit 5,  12 and I'll tell you this for the record. Exhibit 5  13 I had to print it on larger paper so you and I --  14 with my advanced age, I couldn't see it on eight  15 and a half by 11. So I had to print it on larger  16 paper. Okay?  17 Are you familiar with a website known as  18 USASpending.gov maintained by the federal  19 government of the United States of America?  20 A. I am not.  21 Q. Do you see on Exhibit 5, the first page  22 at the very top it says Active Filters. It says  23 EPA -- it identifies the recipient as S.S.  24 Papadopoulos &amp; Associates, Inc. Do you see that?  25 A. I see that.</p>
<p style="text-align: right;">Page 79</p> <p>1 MR. DING: We'll supplement it with the  2 correct Bates-stamp once we get it. We'll  3 supplement with Exhibit 4, if that's fair.  4 MS. O'LEARY: That seems fine.  5 BY MR. DING:  6 Q. On the back of invoice 27513, it still  7 reflects a budget of 2,216,275.50.  8 Do you see that?  9 A. I do see that.  10 Q. And it says that the budget remaining is  11 only \$171,667.59. Do you see that?  12 A. I see that.  13 Q. And this does not account for the work  14 done in March by you, Mr. Spilotopoulos and any  15 others that might have been working in March.  16 That will come out of that remaining budget once  17 we get the next invoice; right?  18 A. That's my understanding.  19 Q. So my question to you to end this area  20 of the deposition is: Have you prepared a budget  21 estimate and provided it to the Department of  22 Justice to provide for additional funding and/or  23 budget for your work after this month?  24 A. I've not done so because we still have  25 money.</p>	<p style="text-align: right;">Page 81</p> <p>1 Q. And then down in the center, it gives  2 you a prime award ID number, and there's about, I  3 don't know, six or eight listed there. And out  4 beside that is the recipient's name, S.S.  5 Papadopoulos &amp; Associates. And then the  6 obligations are listed there in dollars and cents.  7 Do you see that column?  8 A. I see that column.  9 Q. Then there's some tabs you can click on.  10 It talks about contract IDDs, grants, direct  11 payments, loans and other.  12 Do you see those other tabs?  13 A. No, I did not.  14 Q. Although they're hidden, you see the  15 little tabs beside the contracts?  16 A. Okay. Right on top there, yes.  17 Q. If you turn to the second page on this  18 USASpending.gov federal government website, do you  19 see the awarding agency in the topic left-hand  20 corner, it says Department of Defense and  21 recipients is S.S. Papadopoulos &amp; Associates? Do  22 you see that?  23 A. I see that.  24 Q. Do you see the purchase order referenced  25 there is just above that is listed as</p>

21 (Pages 78 - 81)

<p>1 W912DW11P0056? Do you see that?</p> <p>2 A. I see that.</p> <p>3 Q. And over on the right corner of that</p> <p>4 first block, do you see the start date of that</p> <p>5 contract was February 16, 2011?</p> <p>6 A. I see that.</p> <p>7 Q. And this was for \$40,000. Do you see</p> <p>8 that?</p> <p>9 A. Where is that?</p> <p>10 Q. In the center there it says Current</p> <p>11 Award Amount. Do you see that, \$40,000 potential</p> <p>12 award amount?</p> <p>13 A. I see that.</p> <p>14 Q. And if you keep going down under the</p> <p>15 Award History, you see Action Date of 2/24/11.</p> <p>16 Amount is 40,000. To the right of that, it says</p> <p>17 Transaction Description: MODFLOW Model</p> <p>18 Recalibration.</p> <p>19 A. I see that.</p> <p>20 Q. Do you know what this work was for for</p> <p>21 the Department of Defense that's being referred to</p> <p>22 there in 2011?</p> <p>23 A. I do not. I had nothing to do with</p> <p>24 this.</p> <p>25 Q. Do you know what location someone at</p>	Page 82	<p>1 first one listed there of 9/18/2009 for 22,000?</p> <p>2 A. I see that.</p> <p>3 Q. To put in context just for dates, Tawara</p> <p>4 Terrace report by ATSDR was released in 2007;</p> <p>5 correct?</p> <p>6 A. I believe it's correct.</p> <p>7 Q. And the National Academy of Science</p> <p>8 released an alleged review of that report in July,</p> <p>9 I believe, or August of 2009. Do you remember</p> <p>10 that? I'm not going to hold you to the specific</p> <p>11 date. But the National Academy of Science</p> <p>12 released an alleged review of the ATSDR report in</p> <p>13 the summer of 2009.</p> <p>14 MS. O'LEARY: Object to form.</p> <p>15 THE WITNESS: I will take your word for</p> <p>16 it.</p> <p>17 BY MR. DING:</p> <p>18 Q. Do you see -- who is Howard Hanson?</p> <p>19 Excuse me. Not who. Where is Howard Hanson Dam?</p> <p>20 A. Howard Hanson? Where is that?</p> <p>21 Q. In the center of the webpage or the</p> <p>22 document, out beside 9/18/2009 and 22,000, it says</p> <p>23 groundwater model. Independent technical review,</p> <p>24 ITR, right the abutment integrity, Howard Hanson</p> <p>25 Dam. Do you see that?</p>	Page 84
<p>1 S.S. Papadopoulos was working on in order to do</p> <p>2 some MODFLOW model recalibration work?</p> <p>3 A. I do not.</p> <p>4 Q. Turn to the next page of Exhibit 5,</p> <p>5 third page I think it is. Do you see the top</p> <p>6 left-hand corner there's a new purchase order</p> <p>7 number listed there of W912DW09P0253? Do you see</p> <p>8 that?</p> <p>9 A. I see that.</p> <p>10 Q. And the awarding agency is the</p> <p>11 Department of Defense. Do you see that?</p> <p>12 A. I see that.</p> <p>13 Q. The start date of the project was</p> <p>14 September 18, 2009.</p> <p>15 A. I see that.</p> <p>16 Q. The amount that was obligated or</p> <p>17 potential award amount was \$66,500. Do you see</p> <p>18 that?</p> <p>19 A. I see that.</p> <p>20 Q. By the way, if you go back to the top</p> <p>21 out to the right, far right of the purchase order</p> <p>22 number, does it show the word "Completed"?</p> <p>23 A. I see that.</p> <p>24 Q. Now, if you go to the section under the</p> <p>25 Award History, do you see the Action Date, the</p>	Page 83	<p>1 A. I see that.</p> <p>2 Q. Do you know what that's referring to and</p> <p>3 were you involved?</p> <p>4 A. I was not involved.</p> <p>5 Q. And you don't know what it's referring</p> <p>6 to?</p> <p>7 A. I do not know what it is referring to.</p> <p>8 Q. Turn to the next page. I guess we're</p> <p>9 now on page 4; right?</p> <p>10 A. You are right.</p> <p>11 Q. Do you see the purchase order at the top</p> <p>12 is 15JCIV22P502?</p> <p>13 A. I see that.</p> <p>14 Q. And out to the right, it says in</p> <p>15 progress. 9 months remaining.</p> <p>16 A. It says "Nine months remain."</p> <p>17 Q. Excuse me. "Nine months remain." Do</p> <p>18 you see that?</p> <p>19 A. I see that.</p> <p>20 Q. And it shows the start date of this</p> <p>21 contract with the Department of Justice as the</p> <p>22 awarding agency was July 21, 2022.</p> <p>23 Do you see that, top right-hand corner?</p> <p>24 A. I see that.</p> <p>25 Q. Now, that purchase order number ending</p>	Page 85

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<p style="text-align: right;">Page 86</p> <p>1 in 502, would you go back and look at Exhibit 4 2 and tell me if that's not the exact same purchase 3 order in your very first invoice number 1?</p> <p>4 On exhibit, 4 Bates-stamped first page 5 1, up in the top right-hand corner, it says PO 6 Number. That is the exact same number I just read 7 you to ending in 502 that is on page 4 of 8 Exhibit 5; is it not?</p> <p>9 A. Both numbers or whatever codes are the 10 same.</p> <p>11 Q. Thank you. Now, does it show in this 12 Award Amounts that the obligated amount currently 13 is 2.2 million? Do you see that?</p> <p>14 MS. O'LEARY: Are we back on Exhibit 5?</p> <p>15 MR. DING: I'm sorry. Exhibit 5.</p> <p>16 BY MR. DING:</p> <p>17 Q. Back on Exhibit 5 on page 4, the 18 Department of Justice purchase order page, does it 19 show that the current award amount is the 20 2.2 million?</p> <p>21 A. Yes. I see that.</p> <p>22 Q. And that number under Potential Award 23 Amount several lines down, do you see it's 24 2,216,275.50, and that's consistent with the very 25 last page of invoices that we reviewed from</p>	<p style="text-align: right;">Page 88</p> <p>1 Q. Now, if you scroll over to the right 2 under Action Type, does it say Change Order out 3 beside the one that says P1?</p> <p>4 A. It says that D column Change Order.</p> <p>5 Q. Is the change order the estimation 6 document you referred to earlier that's sent over 7 Department of Justice to get approval for 8 additional work, or is that a different document?</p> <p>9 MS. O'LEARY: Object to foundation.</p> <p>10 A. I believe it must be similar or the 11 same. I don't know.</p> <p>12 Q. Who would know that? Someone in your 13 office, admin, or the Department of Justice?</p> <p>14 A. I personally do not know if this is what 15 you say it is or not.</p> <p>16 Q. Turn to the next page. If you want to 17 take a break now and then come back to the 18 exhibit, that's fine with me. I may have more 19 than five minutes left on these last two pages.</p> <p>20 A. Take a break now.</p> <p>21 Q. That's fine. Go off the record.</p> <p>22 A. Coffee is working.</p> <p>23 Q. Yes, sir. Understood.</p> <p>24 THE VIDEOGRAPHER: We are off the record 25 at 1123.</p>
<p style="text-align: right;">Page 87</p> <p>1 Exhibit 4. The March invoice I received last 2 night has the same number. Do you agree with 3 that?</p> <p>4 MS. O'LEARY: Object to form, just to 5 clarify what you mean by March and February.</p> <p>6 MR. DING: The March I received last 7 night dated March 19, 2025.</p> <p>8 THE WITNESS: I see that. Those numbers 9 are the same.</p> <p>10 BY MR. DING:</p> <p>11 Q. Now, under the Award History --</p> <p>12 A. By the way, when we are done with this, 13 I would like to take a break.</p> <p>14 Q. Yes, sir, no problem. We'll be there 15 very soon.</p> <p>16 Under the Award History, you see that 17 first entry modification, it says zero at the 18 first line there. And then it's got an Action 19 Date 7/21/2022 and \$100,000. Are you with me?</p> <p>20 A. I'm with you.</p> <p>21 Q. Then there's a modification number. The 22 first one says P1. If you look under it, there's 23 additional P1, P2, 3, 4, P5 and 6. Do you see 24 that?</p> <p>25 A. I do see that.</p>	<p style="text-align: right;">Page 89</p> <p>1 (Recess from 11:23 a.m. to 11:32 a.m.)</p> <p>2 THE VIDEOGRAPHER: We are on the record 3 at 1132.</p> <p>4 BY MR. DEAN:</p> <p>5 Q. Dr. Hennet, we've been going for about a 6 couple hours, a little over two hours. We had a 7 couple breaks during the day.</p> <p>8 Have you discussed -- had any 9 discussions with the Department of Justice lawyers 10 at all?</p> <p>11 A. We just chatted on things that have 12 nothing to do with the deposition.</p> <p>13 Q. Thank you. Now, if you turn to, for the 14 record, page 5, the last two pages -- this is a 15 six-page document -- the last two pages, 5 and 6, 16 do you see recipient is identified at the top as 17 Papadopoulos &amp; Associates, Inc.?</p> <p>18 A. I'm confused about what is 6 because the 19 last two pages or double sided.</p> <p>20 Q. Yes, sir.</p> <p>21 A. And you say the last two. So is this 22 one or this one?</p> <p>23 Q. I'm sorry. Good point. We'll just stay 24 on that page 5 for right now. Do you see on page 25 5 at the top it says Recipient under the Active</p>

23 (Pages 86 - 89)

<p style="text-align: right;">Page 90</p> <p>1 Filter is S.S. Papadopoulos &amp; Associates do you see 2 that?</p> <p>3 A. I see that.</p> <p>4 Q. And do you see that in the center of the 5 page there, and it's the tap that's opened says 6 Contracts, and then it says Prime Award ID under 7 that?</p> <p>8 A. I see that.</p> <p>9 Q. And you see from there all the way to 10 the bottom of page 5, there's a list of different 11 award IDs for different contracts, and out beside 12 that is S.S. Papadopoulos &amp; Associates and an 13 obligated amount? Do you see that?</p> <p>14 A. It says Obligations.</p> <p>15 Q. Thank you. It says obligations and then 16 under that is Amounts; right?</p> <p>17 A. I see that.</p> <p>18 Q. If you turn to page 6, the next page, 19 the contracts continue with the same information 20 we had on page 5. Do you see that?</p> <p>21 A. It appears to be a continuation of page 22 5.</p> <p>23 Q. If you go to page 7, do you see the same 24 where it lists the awarding agency as the 25 Department of Justice, the recipient, S.S.</p>	<p style="text-align: right;">Page 92</p> <p>1 Exhibit 6. For the record, Exhibit 6 is an Excel 2 spreadsheet created by my office after clicking on 3 all of those contracts on all of pages that you 4 and I just went the over on Exhibit 5, and if you 5 see I've added the award ID number at the top. 6 I've added the column for Total Obligated Amount. 7 I've added the Award Date that's listed in the 8 government's database on USASpending.gov. I've 9 added the Period of Performance start date column 10 and the end date, the Awarding Agency and the 11 Funding Agency, and they're all listed as 12 Papadopoulos &amp; Associates.</p> <p>13 Do you see that Excel spreadsheet that I 14 created?</p> <p>15 A. I see the Excel spreadsheet. I didn't 16 really follow everything you said.</p> <p>17 Q. I understand. I'm just laying what 18 lawyers call a foundation so understand where this 19 document came from. I created it based on the 20 information that's on the website for the 21 USASpending.gov.</p> <p>22 Do you see that?</p> <p>23 A. Right here I have no possibility to 24 check that.</p> <p>25 Q. I understand that. I'm representing to</p>
<p style="text-align: right;">Page 91</p> <p>1 Papadopoulos &amp; Associates up at that top as far as 2 active filters? Do you see that?</p> <p>3 A. I see that.</p> <p>4 Q. And on page 7 you see a list of awards, 5 prime awards for contracts with the Department of 6 Justice with the recipient S.S. Papadopoulos &amp; 7 Associates, and then there's an amount over in the 8 Obligations section next to each one of those 9 contracts? Do you see that?</p> <p>10 A. Yes. To make sure, page 7 is the one 11 before the last?</p> <p>12 Q. Yes, sir. As a matter of fact, the very 13 first one listed there is that same one that we're 14 here about, which is our case, the award ID is 15 identified as 15JCIV22P502, which is the name 16 number you and I have looked at on the invoices 17 for your work on this litigation; right?</p> <p>18 A. It appears to be the same number, yes.</p> <p>19 Q. And the obligated amount are lining up 20 as the \$2,216,275.50; right?</p> <p>21 A. That to my recollection is the same 22 amount, yes.</p> <p>23 (Hennet Exhibit 6 was marked.)</p> <p>24 BY MR. DEAN:</p> <p>25 Q. Now, I'll show you what I've marked as</p>	<p style="text-align: right;">Page 93</p> <p>1 you that the information on Exhibit 6 came from 2 the information on the website shown on Exhibit 5. 3 Okay?</p> <p>4 A. Okay.</p> <p>5 Q. Now, do you remember me asking you about 6 when you started doing work on this case? Excuse 7 me.</p> <p>8 Do you remember me asking you about when 9 you started doing any work associated with Camp 10 LeJeune?</p> <p>11 A. I believe you asked me a question like 12 that.</p> <p>13 Q. And you told me something along the 14 lines you couldn't remember the exact date, but it 15 was sometime you thought in 2005.</p> <p>16 A. Approximately, yes.</p> <p>17 Q. If you look at the second entry there, 18 do you see the one that ends in 66 in the first 19 yellow mark, Obligated Amount was \$45,634.10 and 20 it said the period of performance start date was 21 11/30/2005 and that the awarding agency is the 22 Department of Justice?</p> <p>23 A. I see that.</p> <p>24 Q. And does that sort of refresh your 25 recollection about the approximate timeframe of</p>

24 (Pages 90 - 93)

<p>1 starting to do work with Papadopoulos &amp; Associates  2 at Camp LeJeune somewhere in November of 2005?  3 MS. O'LEARY: Object to foundation.  4 THE WITNESS: I have no clue if this  5 represents work done at Camp LeJeune or not.  6  7 (Questions on Exhibit 7 bound separately.)  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>	<p>Page 94  1 Q. And if you total up -- before we go  2 there, the one for the Department of Justice that  3 we've been talking about, the last invoice page  4 number, Exhibit 4, remember we talked about there  5 was a \$2,200,000 budget and we had used up about  6 1.9, and there was 178,000 or thereabouts left  7 over. Do you remember that?  8 A. I remember that if that's what you are  9 talking about, the last page of Exhibit 4.  10 Q. If you turn over to page 2 of my  11 Exhibit 6, about the sixth entry there is where  12 the 15JCIV22P502 purchase order is listed and it's  13 got that amount we've been talking about,  14 2,216,275.50. Do you see that?  15 A. I see that.  16 Q. The \$2,216,275.50 is money that  17 Department of Justice has paid your firm or is  18 obligated potentially with a budget from July of  19 '22 to present?  20 A. That's my understanding.  21 Q. However, we know that the Department of  22 Justice and yourself started doing some work at  23 Camp LeJeune, like we've already discussed,  24 beginning in 2005; right?  25 A. Yes. Whether it began in 2005, about.</p>
<p>1  2 BY MR. DEAN:  3 Q. Now, going back to Exhibit 6, the Excel  4 spreadsheet that I prepared and that first one  5 first yellow entry that you and I were just  6 talking about, does that now refresh your  7 recollection that the \$45,634.10 under that award  8 ID DJJ6WENR010066, showing the awarding agency  9 Department of Justice and the recipient as S.S.  10 Papadopoulos &amp; Associates is the project for which  11 you first began working at Camp LeJeune in  12 November 2005 more likely than not?  13 MS. O'LEARY: Object to foundation.  14 THE WITNESS: I don't know. It could  15 be. I don't know.  16 BY MR. DEAN:  17 Q. Fine. If we go down, and I'm not going  18 to go into every single one of these, but do you  19 see a number of entries between 2005 and all the  20 way on the backside -- if you turn it over, you'll  21 see more entries that go through -- the last one  22 is listed as ending in 49 for \$494,846 for some  23 work for the EPA with a start date of 9/30/2024?  24 Do you see that?  25 A. I see that.</p>	<p>Page 99  1 Q. Not a specific date. There are amounts  2 there for the Department of Justice listed for  3 contracts, 45,634. We can go to the next one. It  4 says 40,000. It was 2007 work. Skip the next  5 one, it was EPA, and we go to some work that was  6 done for the Department of Justice in February of  7 2009. That had a \$440,096 payment, do you see  8 that, or obligation?  9 MS. O'LEARY: Object to foundation.  10 THE WITNESS: I see that.  11 BY MR. DEAN:  12 Q. So the point I'm making, and you'll  13 probably agree now that we've gone through this,  14 the amount the Department of Justice has paid  15 Papadopoulos &amp; Associates for all of its work at  16 Camp LeJeune since 2005 is an amount in excess of  17 the current obligated \$2,216,275.50. Can we agree  18 on that?  19 A. I do not agree in the sense that not at  20 all of the Department of Justice cases we're  21 talking about here have to do with Camp LeJeune.  22 Q. I don't disagree with that. But some of  23 these invoices and contracts, were they to be  24 produced, would show us, for example that very  25 first one, the 45,634.10 for the November 2005</p>

25 (Pages 94, 99, 100, 101)

Golkow Technologies,

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<p style="text-align: right;">Page 102</p> <p>1 work, it would show some of these that would be 2 work at Camp LeJeune more likely than not; 3 correct?</p> <p>4 MS. O'LEARY: Object to foundation.</p> <p>5 THE WITNESS: I don't know. I don't to 6 admin, but probably.</p> <p>7 BY MR. DEAN:</p> <p>8 Q. Now, if you turn to the second page, 9 just to finish up this line of questions, do you 10 see that all of the total obligated contracts that 11 are listed on my exhibit that I received the 12 information from USA Spending.gov, part of the 13 federal government's website, shows that of all of 14 these agencies, Department of Justice, the EPA, 15 General Services Admission, Department of Energy, 16 are currently or in the past with a potential 17 total value of awards to your company of 18 \$137,244,621.84 if my math is correct in column 3 19 on the second page?</p> <p>20 MS. O'LEARY: Object to foundation.</p> <p>21 THE WITNESS: If your interpretation is 22 correct. My understanding is that does include -- 23 most of those are not litigation projects. I am 24 not involved, but I know that we work for the 25 Hanford site, for example. And I know that we</p>	<p style="text-align: right;">Page 104</p> <p>1 I do well as well. Like every employee, we all 2 participate. But I want to make one correction 3 here. A potential award is not the same as 4 basically what was actually done.</p> <p>5 BY MR. DEAN:</p> <p>6 Q. Understood.</p> <p>7 A. And I'm not finished. And the potential 8 award sometimes in some of those projects, not the 9 one that I have been involved in, includes 10 subcontracts that can be substantial because -- 11 that's all I can say about that because I don't 12 know the details of all of those contracts.</p> <p>13 (Hennet Exhibit 8 was marked.)</p> <p>14 BY MR. DEAN:</p> <p>15 Q. Understood. I'm going to show you 16 Exhibit 8. I'm going to represent to you this is 17 the metadata from the billing production in this 18 case from you, and you see it indicates there the 19 Bates number is CLJA_SSPA_INVOICES_1 through 42. 20 Do you see that?</p> <p>21 A. At the bottom there I see that.</p> <p>22 Q. You see the file name for this 23 particular file was named by somebody 1817 24 invoices through 11125 without backup.pdf.</p> <p>25 Do you see that.</p>
<p style="text-align: right;">Page 103</p> <p>1 work for EPA Region V. I am not involved. I know 2 that we do work for the government.</p> <p>3 And over the yours, it has been maybe in 4 the 10, 15 percent of the business that my company 5 performs service for. I personally am only 6 involved in a subset of those, and that would be 7 through the Department of Justice.</p> <p>8 BY MR. DEAN:</p> <p>9 Q. So let me finish this up with this 10 question. The total amount that's paid out for 11 all of those various contracts that you just 12 mentioned that has a potential subtotal award of 13 \$137,244,621.84, as a shareholder, you would 14 financially benefit at some potential percentage, 15 whatever your share interest is, with whatever 16 those government contracts are that are paid by 17 these different agencies, including the Department 18 of Justice?</p> <p>19 MS. O'LEARY: Object to foundation.</p> <p>20 BY MR. DEAN:</p> <p>21 Q. Whether you were involved that the 22 project or not, you would personally financially 23 benefit from all these projects; correct?</p> <p>24 MS. O'LEARY: Same objection.</p> <p>25 THE WITNESS: If the company does well,</p>	<p style="text-align: right;">Page 105</p> <p>1 A. I see that that.</p> <p>2 Q. What does backup mean?</p> <p>3 MS. O'LEARY: Object to foundation.</p> <p>4 THE WITNESS: I don't want to speculate, 5 but it seems that -- I don't know what it means. 6 It may be reflecting some notes. For example, if 7 I enter -- today I will enter in my time sheet 8 eight hours, whatever it is, and say deposition or 9 something like that.</p> <p>10 BY MR. DEAN:</p> <p>11 Q. You're not a computer person nor admin 12 person at the office, but someone would have those 13 backup records indicating what work was being done 14 and when that serve to create those invoices that 15 I previously showed you?</p> <p>16 A. I suppose so, yes.</p> <p>17 (Hennet Exhibit 9 was marked.)</p> <p>18 BY MR. DEAN:</p> <p>19 Q. I'm going to show you Exhibit 9. 20 Exhibit 9, you see that it's a January 2010 21 publication from the United States Department of 22 Justice, Executive Office for Attorneys. Further 23 down, it appears to be some sort of a bulletin, 24 United States Attorneys bulletins of some sort.</p> <p>25 Do you see that?</p>

26 (Pages 102 - 105)

<p style="text-align: right;">Page 106</p> <p>1 MS. O'LEARY: Object to foundation.  2 THE WITNESS: I don't know of some sort,  3 what you mean by that.  4 BY MR. DEAN:  5 Q. Can we agree at least on the left-hand  6 side, it says January 10, Volume 58, Number 1,  7 under that United States Department of Justice  8 Executive Office for the United States Attorneys,  9 Washington, D.C., H. Marshall Jarrett, Director.  10 Then under it says, "Contributors' opinions and  11 statements should not be considered an endorsement  12 by EOUSA of any policy, program or service. The  13 United States Attorneys' Bulletin is Published  14 Pursuant to 28 CFR Section 0.22(b)."  15 Do you see that?  16 A. I see that.  17 Q. Then at the top of the document, page 1,  18 it says Expert Witnesses. Do you see that?  19 A. Yes.  20 Q. The first one says, "Considering the  21 proposed changes to Federal Rules of Civil  22 Procedure regarding expert witness discovery by  23 Adam Bain."  24 Do you see that?  25 A. I see that.</p>	<p style="text-align: right;">Page 108</p> <p>1 A. I see some gray area, but I've not read  2 it yet.  3 Q. I'll read it with you and read it for  4 you. It says, "Rules 26(b)(3)(A) and (B) protect  5 communications between a party's attorney and any  6 witnesses required to provide a report under  7 26(a)(2)(B) regardless of the form of the  8 communications, except to the extent that the  9 communications (i) relate to compensation for the  10 expert's study or testimony."  11 Do you see that?  12 A. I can read that, yes.  13 Q. Now, if you turn to your section which  14 begins about page 14 of the document. Down at the  15 bottom left-hand corner are the page numbers. Do  16 you see that?  17 A. I do see that.  18 Q. Is this the section that you wrote,  19 which is about four pages long in January 2010  20 published in this bulletin?  21 A. I take your word for it. I mean, I know  22 I did contribute to this. I don't see -- I have  23 not read it for more than 10 years I am sure. So  24 I don't recall exactly what is in it, but it  25 appears to be what I contributed upon an</p>
<p style="text-align: right;">Page 107</p> <p>1 Q. Then under that it says, "Working With  2 Lawyers: The Expert Witness Perspective, by Remy  3 J.C. Hennet, Ph.D."  4 Do you see that?  5 A. I see that.  6 Q. Did you participate and work at some  7 point in time to prepare a journal article for the  8 Department of Justice back in 2010 by that name?  9 A. Yes. I recall it was an invited paper,  10 and it was invited to be included in there. I  11 don't remember exactly the detail of it. I will  12 have to read it.  13 Q. Do you see that on page 5 -- it's a  14 black and white document, but you can see there's  15 some highlights that's been added to the document.  16 Do you see that in the center about Rule  17 26 trial preparation, protection for  18 communications it party's attorney and expert  19 witnesses?  20 So you see that section?  21 MS. O'LEARY: Just for the record,  22 you're referring to the graying as highlighting?  23 MR. DEAN: Yes, ma'am.  24 BY MR. DEAN:  25 Q. Do you see that grayed area?</p>	<p style="text-align: right;">Page 109</p> <p>1 invitation to contribute.  2 Q. And do you say in the first full  3 paragraph on page 16, "The expert witness is often  4 publicly stigmatized as ethically comprised  5 considered by some as nothing more than hired  6 gun"?</p> <p>7 Did I read that correctly?  8 A. You read that correctly.  9 Q. It goes on it says, "The stigma is borne  10 from misconceptions and from unavoidable human  11 nature. The concept that anyone who charges which  12 high hourly rates would say anything to satisfy  13 the paying party along with a few well publicized  14 examples of professional misconduct server to  15 anchor the stigma. In reality, the enduring  16 expert witness must demonstrate strong  17 professional and ethical conduct."</p> <p>18 Did I read that correctly?  19 A. You did.  20 Q. Do you see at the next to last sentence  21 at the bottom, it says, "Opinions of the court and  22 transcripts of depositions and trial testimony  23 constitute a public record. That record serves as  24 an effective quality control tool that lawyers and  25 the finders of fact can consult. To succeed as an</p>

27 (Pages 106 - 109)

<p style="text-align: right;">Page 110</p> <p>1 expert witness, credibility and thoroughness have 2 to complement education and experience."</p> <p>3 Did I read that correctly?</p> <p>4 A. You did.</p> <p>5 Q. If you turn to page 17, the next page, 6 and this is last page of your section, does it 7 say, "First, for expert testimony, it is important 8 to," and you listed a bullet point of a number of 9 things there, do you remember?</p> <p>10 Do you see that?</p> <p>11 A. I don't remember, but I see that.</p> <p>12 Q. And then you've got, "Second, for a 13 successful lawyer-expert relationship, is 14 important for the expert to." And can you read 15 into record the last bullet point that you wrote?</p> <p>16 MS. O'LEARY: Object to foundation.</p> <p>17 THE WITNESS: The last bullet point 18 reads, "Keep track of the budget since it can be a 19 limiting factor."</p> <p>20 BY MR. DEAN:</p> <p>21 Q. What did you mean by that?</p> <p>22 A. It is important for what I do as a 23 professional to make sure that the client is aware 24 of the degree of effort and cost of a project. So 25 it is important to follow how much money is being</p>	<p style="text-align: right;">Page 112</p> <p>1 MS. O'LEARY: Is all of this 10?</p> <p>2 There's several loose papers.</p> <p>3 MR. DEAN: Yeah. I was going to make it 4 all one exhibit. I'll go through and identify 5 just so it's clear on the record what we're doing.</p> <p>6 BY MR. DEAN:</p> <p>7 Q. Do you see there's a cover letter from 8 Ms. O'Leary, dated February 25, 2025. I'll read 9 into the record what it says. It says, "Counsel, 10 pursuant to Federal Rule of Civil Production 11 Number No. 26(e)(1) &amp; (2), the United States now 12 produces supplemental facts and data considered or 13 relied upon by Dr. Hennet."</p> <p>14 Do you see that?</p> <p>15 A. I see that.</p> <p>16 Q. Now, do you agree with her, this is the 17 way she wrote the letter, that these are new facts 18 and new data that was considered by you after your 19 report?</p> <p>20 MS. O'LEARY: Object to foundation.</p> <p>21 THE WITNESS: I believe it relates to 22 what I did on February 11.</p> <p>23 BY MR. DEAN:</p> <p>24 Q. Which is after your original report in 25 December of 2024?</p>
<p style="text-align: right;">Page 111</p> <p>1 billed. And some projects may have -- when you 2 have a budget, you have a budget. And if you go 3 above budget, you may not be paid.</p> <p>4 Q. But you do believe and you wrote in your 5 article that it's important in order to maintain 6 your integrity as an expert witness that you're 7 thorough and provide truthful accurate information 8 in those situations?</p> <p>9 MS. O'LEARY: Object to foundation.</p> <p>10 THE WITNESS: Yes. As an expert 11 witness, I just follow those ethical rules and 12 answer to the best of my recollections and 13 ability. I am doing that here.</p> <p>14 (Hennet Exhibit 10 was marked.)</p> <p>15 BY MR. DEAN:</p> <p>16 Q. I'll show you what I'll mark -- I'll 17 show you Exhibit No. 10. And we're going to use 18 the TV in just a second and try to get through 19 this, if we can, by lunch. I don't know. We'll 20 see if we can. We're going to turn now to your 21 reliance materials list and supplemental materials 22 that you provided to the Department of Justice to 23 produce in this case in the last few weeks. Okay?</p> <p>24 A. Let's see.</p> <p>25 Q. I'm going to show you Exhibit No. 10.</p>	<p style="text-align: right;">Page 113</p> <p>1 A. That was after my expert report, yes.</p> <p>2 Q. And then the second part of Exhibit 10 3 is an errata sheet -- actually, it's a couple 4 pages -- that relates to some updates, changes or 5 corrections that you wanted to make to your report 6 footnotes.</p> <p>7 Do you see that?</p> <p>8 MS. O'LEARY: Object to foundation. I 9 have two pages of errata. Am I meant to have two?</p> <p>10 MR. DEAN: I agree with that, one on the 11 25th and one on the 28th.</p> <p>12 BY MR. DEAN:</p> <p>13 Q. Do you have the errata sheets there?</p> <p>14 A. I have Exhibit 10.</p> <p>15 Q. Hand it back to me, and I'll see if I 16 can help find where it's at in the group here. At 17 the end there's two pages. So there's three 18 sections to this. Exhibit 10, first page, one and 19 two are two letters, February 25 and 28. The 20 second section of Exhibit 10 is your supplemental 21 reliance materials list that came with these 22 letters. The last thing is the errata sheets, two 23 pages of errata sheets that came with the letter 24 on the 28th.</p> <p>25 MS. O'LEARY: I object to foundation</p>

28 (Pages 110 - 113)

<p style="text-align: right;">Page 114</p> <p>1 there. I don't think both errata came with the 2 letter, either letter from February. 3 MR. DEAN: What's that? 4 MS. O'LEARY: I don't think both errata 5 came with the letters from February. 6 BY MR. DEAN: 7 Q. If you look on the backside of the first 8 page there, you'll see a second letter, dated 9 February 28, and then the last sentence says, 10 "Also produced are errata correcting citations to 11 Bates-stamped documents with the prefix." 12 Do you see that? 13 A. Which date of which letter because I 14 don't know which page -- the second page. 15 Q. Yes. 16 A. February 28, 2025. 17 Q. Does it say in the second sentence, 18 "Also produced are errata correcting citations to 19 Bates stamps"? 20 MS. O'LEARY: Object to foundation. 21 THE WITNESS: Bates-stamp documents with 22 the prefix. 23 BY MR. DEAN: 24 Q. Errata sheets. 25 A. So it's not full sentence you gave. But</p>	<p style="text-align: right;">Page 116</p> <p>1 corrective reliance list? 2 A. My recollection is that it was -- I 3 delegated this could be done by a staff to 4 basically get those things with the errata 5 incorporated. That's my recollection. 6 Q. And it also was to list the photographs 7 and handwritten notes of February 11, 2025 when 8 you made that third visit, and those are listed in 9 here too as well; right? 10 A. I do not know that. You have to show me 11 where they are listed. 12 Q. Sure. Do you see on page 24? 13 A. 24 of the second section of the 14 four-section exhibit? 15 Q. Exhibit 10, yes, sir. Turn to page 24 16 at the bottom. Do you see in the center it says 17 CLJA Photos SSPA 1 through 58, Bates stamps CLJA 18 Photos SSPA 1 through 52. 19 A. I see that. 20 Q. Is that photos you believe to be that 21 you took -- scratch that. I'll show them to you 22 in a second. Turn to page 28. 23 A. Yes. 24 Q. Do you see the last entry there is 25 called Hennet USA 1 through 96?</p>
<p style="text-align: right;">Page 115</p> <p>1 I can see what you say. 2 Q. And do you see at the end of Exhibit 10, 3 the last two pages of Exhibit 10 are those two 4 errata pages? 5 MS. O'LEARY: Object to foundation. 6 THE WITNESS: The last -- you have one 7 page that is two sides and one page that is one 8 side. 9 BY MR. DEAN: 10 Q. Agreed. 11 A. And it is a three pages or four 12 depending on how you look at it. 13 Q. But those are errata sheets that you 14 created subsequent to your report to make some 15 minor changes to some references in footnotes; 16 right? 17 A. Appears to be, yes. It appears to be 18 that. 19 Q. Now, the other section of Exhibit 10 20 that I want to spend most of the time with you is 21 it titled Supplemental and Corrective Reliance 22 List. Do you see that? 23 A. I see that. 24 Q. Did you prepare this document or someone 25 work with you to prepare the supplemental</p>	<p style="text-align: right;">Page 117</p> <p>1 A. I see that. 2 (Hennet Exhibit 11 was marked.) 3 BY MR. DEAN: 4 Q. I'll show you Exhibit 11. Do you see 5 that Exhibit 11 are your notes, sheets one and 6 two, you prepared it appears on February 11, 2025. 7 The Bates-stamp of this exhibit is Hennet_USA_34 8 and Hennet_USA_76. Do you see that? 9 A. I see that. 10 Q. So that is part of the reason for the 11 supplemental reliance materials in addition to the 12 errata changes, was also to provide these updated 13 supplemental documents and data. 14 Do you see that? 15 MS. O'LEARY: Object to foundation. 16 THE WITNESS: I see that. 17 BY MR. DEAN: 18 Q. Now, what we're going to do, just so you 19 know -- you can put that aside for the time being. 20 Let me ask a couple more questions. 21 We talked about it earlier, but the 22 supplemental reliance materials that are listed, I 23 noticed that pages 1 through the middle of page 22 24 you listed out a lot of different specific 25 materials. You've provided whether it be an</p>

29 (Pages 114 - 117)

<p style="text-align: right;">Page 118</p> <p>1 author or whether it be a Bates-stamp, whether it  2 be a JTC Environmental Consultant report, you  3 listed out a lot of things individually on pages 1  4 through 22.</p> <p>5 Do you see that?</p> <p>6 A. I see that.</p> <p>7 Q. Then the last, page 22 through 28,  8 there's a lot of documents listed, which appear to  9 be a lot of the production's Bates-stamps in this  10 case.</p> <p>11 Do you see that as well?</p> <p>12 A. I see that.</p> <p>13 Q. I guess my question is to understand how  14 you may have prepared this list and did your work.</p> <p>15 The first 22 pages where you  16 specifically list out things, are those all of the  17 documents, individual documents that you  18 specifically rely upon for your opinions in this  19 case?</p> <p>20 MS. O'LEARY: Object to foundation.</p> <p>21 THE WITNESS: Those are the documents  22 that I provide in support of my expert report plus  23 what you mentioned that I did after my expert  24 report.</p> <p>25</p>	<p style="text-align: right;">Page 120</p> <p>1 every single one of these productions?</p> <p>2 MS. O'LEARY: Object to form.</p> <p>3 THE WITNESS: No. I didn't review every  4 page, but I basically went through a lot. And I  5 may have missed some, but what was relevant to  6 what I did I basically...</p> <p>7 BY MR. DEAN:</p> <p>8 Q. And you feel like you did a very  9 thorough review of all these materials that are  10 grouped together on pages 22 through 28?</p> <p>11 A. I did as best I could.</p> <p>12 MS. O'LEARY: Object to form.</p> <p>13 BY MR. DEAN:</p> <p>14 Q. And those that you found that were  15 relevant to your opinions, you pulled them out and  16 you've listed them on the first 22 pages that are  17 cited in your report or referred to?</p> <p>18 A. I do not think that reflects that. But  19 in the report itself, you have footnotes. When  20 something is specifically relevant, I would cite.  21 Now, on the list of documents considered and/or  22 relied upon, I listed basically what I have.</p> <p>23 Q. Let's do this. I don't know if we can  24 finish. I doubt we can finish, but we're going to  25 try. Your photographs.</p>
<p style="text-align: right;">Page 119</p> <p>1 BY MR. DEAN:</p> <p>2 Q. February 11?</p> <p>3 A. February 11, yes.</p> <p>4 Q. The documents that are listed in pages  5 22 through 28, and I'll just give you an example,  6 if you look at page 23 and let's go down to the  7 third entry CLJA OCPL 1 through 12, do you see  8 that?</p> <p>9 A. I see that.</p> <p>10 Q. Can you tell me as you sit here what  11 specifically those documents are?</p> <p>12 A. I cannot.</p> <p>13 Q. If there's anything in there that's  14 important to your opinions and that you reviewed  15 and relied upon, it's going to be in the first 22  16 pages?</p> <p>17 MS. O'LEARY: Object to form and  18 foundation.</p> <p>19 THE WITNESS: I wouldn't agree with that  20 without seeing those other documents.</p> <p>21 BY MR. DEAN:</p> <p>22 Q. Well, have you looked at every single  23 page of every single one of these groups of  24 millions of documents on pages 22 through 28?</p> <p>25 Under oath, had you reviewed every single page of</p>	<p style="text-align: right;">Page 121</p> <p>1 Well, let me ask you this: Is there  2 some new opinion you now have as a result of the  3 supplemental work that was done on February 12, or  4 does this information just support some of your  5 prior opinions?</p> <p>6 A. You mean February 11?</p> <p>7 Q. Yes, sir. I'm sorry.</p> <p>8 A. No. My opinions are unchanged.</p> <p>9 Q. So am I accurate that the work you did  10 you believe supports what you've already said.  11 You don't have any sort of new opinions?</p> <p>12 A. Support or confirm.</p> <p>13 Q. Did you create some new calculations to  14 confirm for support some prior opinions that you  15 expressed on or after February 11, 2025?</p> <p>16 A. I didn't do calculations per se, but I  17 just basically thought about what I observed on  18 February 11, especially under filling of the water  19 buffalo that I witnessed. But I didn't write  20 anything or I did not calculate anything.</p> <p>21 Otherwise, you would have obtained it.</p> <p>22 Q. So I've looked at the photographs, the  23 still photographs that you took, which we're  24 fixing to look at, and I think there was some  25 movies in there, some video.</p>

30 (Pages 118 - 121)

<p style="text-align: right;">Page 122</p> <p>1        Do you remember that?</p> <p>2        A. You will have to show me.</p> <p>3        Q. Did you take all of those photos</p> <p>4        yourself and record those videos, or did someone</p> <p>5        else do it?</p> <p>6        A. On February 11 I believe I took all the</p> <p>7        photographs. It might have been that I passed the</p> <p>8        camera to somebody if I was busy. Can you take a</p> <p>9        picture of that? I do not recall that. But on</p> <p>10      the previous visit, because of what we were told,</p> <p>11      I could not personally take photographs. So I</p> <p>12      would ask counsel to take photographs because I</p> <p>13      wanted to have that basically as a document.</p> <p>14      Q. So all of these prior visits -- I won't</p> <p>15      hold you to the specific. We think it's about</p> <p>16      three -- including February 11, there were</p> <p>17      photographs taken either by yourself or at your</p> <p>18      direction by counsel?</p> <p>19      A. I don't know if it was on every visit</p> <p>20      because sometimes they'd say no photographs. I</p> <p>21      don't recall exactly what the circumstances were,</p> <p>22      but they are not always the same.</p> <p>23      Q. We'll get to it in a minute, but you</p> <p>24      clearly went in May of '24, and you clearly took</p> <p>25      photos or someone did because they're in your</p>	<p style="text-align: right;">Page 124</p> <p>1        asking the images, the Bates native images. Do</p> <p>2        you still have the native images of those photos</p> <p>3        you took on February 11?</p> <p>4        MS. O'LEARY: Object to foundation.</p> <p>5        THE WITNESS: My recollection they were</p> <p>6        downloaded and provided to counsel.</p> <p>7        BY MR. DEAN:</p> <p>8        Q. So you don't have copies of these native</p> <p>9        images?</p> <p>10      A. I think I do.</p> <p>11      Q. But, obviously, the Department of</p> <p>12      Justice, you believe you provided the native image</p> <p>13      files to them?</p> <p>14      A. My recollection, it would have been</p> <p>15      electronic transfer of those photographs to them.</p> <p>16      (Hennet Exhibit 12 was marked.)</p> <p>17      BY MR. DEAN:</p> <p>18      Q. We'll call it Exhibit 12 is all of those</p> <p>19      photos provided to us, whatever that date Haroon</p> <p>20      provided them.</p> <p>21      MS. O'LEARY: I think just referencing</p> <p>22      Exhibit 10, which has the supplemental and</p> <p>23      corrected reliance list, we're talking about the</p> <p>24      Bates-stamps HENNET_USA_1 through 96?</p> <p>25      MR. DEAN: Correct. Like I said, I'll</p>
<p style="text-align: right;">Page 123</p> <p>1 report. Okay?</p> <p>2        A. Yeah, on that one, on that specific one,</p> <p>3        I believe I had to ask counsel to take photographs</p> <p>4        because I was not -- the name of the game was the</p> <p>5        expert don't take photographs.</p> <p>6        Q. Did they then send those images -- they,</p> <p>7        DOJ lawyer, whoever it was that took the photos,</p> <p>8        did they then text or email you those digital</p> <p>9        photos for the May '24 inspection if you didn't</p> <p>10      take the photo?</p> <p>11      A. If I didn't take the photo?</p> <p>12      Q. Yeah.</p> <p>13      A. At some point I got them, yes.</p> <p>14      Q. And the photographs that you took on</p> <p>15      February 11 using your phone, do you still have</p> <p>16      those digital original native images?</p> <p>17      A. I don't remember taking them with my</p> <p>18      phone. I think I took them with a camera.</p> <p>19      Q. Do you still have that camera digital</p> <p>20      photographs, original native files of the photos</p> <p>21      you took that day?</p> <p>22      A. Well, I used the company camera, not my</p> <p>23      personal camera, and that camera is used for</p> <p>24      different projects.</p> <p>25      Q. I'm not asking about the camera. I'm</p>	<p style="text-align: right;">Page 125</p> <p>1 just give you this.</p> <p>2        MS. O'LEARY: Is this a copy?</p> <p>3        MR. DEAN: Yeah. I'm going to put them</p> <p>4        on the screen. Actually, I was going to put it</p> <p>5        into the record, but for all of us, I'm going to</p> <p>6        throw them on the screen and refresh his</p> <p>7        recollection about all these photos.</p> <p>8        So for the record I've given you</p> <p>9        Exhibit 12, which are the photos and we're fixing</p> <p>10      to show the witness.</p> <p>11      BY MR. DEAN:</p> <p>12      Q. Now, do you see on the screen,</p> <p>13      Dr. Hennet, a photograph dated -- with a</p> <p>14      timestamp, date stamp of 2/11/2025 at</p> <p>15      HENNET_USA_1?</p> <p>16      A. I recognize that photograph, yes.</p> <p>17      Q. That document was produced to me as a</p> <p>18      .pdf. I'm representing to you I don't have the</p> <p>19      native file, but your representation to me is that</p> <p>20      you personally took that photo and you took it on</p> <p>21      February 11, 2025; right?</p> <p>22      A. That's what I recall, yes.</p> <p>23      Q. Now, whose hands are there? One person</p> <p>24      actually has got a booboo.</p> <p>25      A. It's not me.</p>

<p>1     Q. Are your hands in that picture?  2     A. I don't believe so.  3     Q. Do you wear were cowboy boots?  4     A. I didn't wear cowboy boots that I  5 recall.  6     Q. Do you know who's wearing the brown  7 cowboy boots and the gray pants?  8     A. I do not know.  9     Q. Do you know who person is kneeling down  10 with the blue jacket, tan pants and brown boots  11 holding something?  12    A. That was a person. I don't see his  13 face. But that was a person who helped doing  14 those measurements because you cannot take those  15 measurements alone.  16    Q. There's a rope there and there's a  17 person holding to the left with a bandage on their  18 left thumb.  19    Do you see that?  20    A. I see a bandage on somebody's hand?  21    Q. And that's not your hand?  22    A. That's not my hand.  23    Q. Now, there's a person standing back, and  24 all I can see is two feet or two boots.  25    Are those boots you were wearing that</p>	Page 126	<p>1 was the distance between a reference point, which  2 was that metal bar that was basically held on each  3 side of the spiractor effluent area at the level  4 that was basically making the bar always  5 horizontal.  6     And then we had to measure a distance  7 between that bar and the top of the effluent pipe  8 in the spiractor. And the spiractor, at the time  9 could do that because the spiractor was not  10 online. So it didn't have water in it. So we  11 could see the pipe and we could measure things.  12    So the way to do that was to use that  13 bar and then in order to be able to get that  14 distance, you could not go there physically  15 because it would have been a complicated thing to  16 do. You could not go there physically as a  17 person. So we used a rope, that rope there, to  18 basically position it where we wanted it to be  19 positioned, vertically, to give a distance between  20 the bar, the top of the bar in this case here, and  21 what we wanted to measure, which was the top of  22 the effluent pipe.  23    And then we could bring -- we did bring  24 the rope, if you wish, and the bar back, and we  25 measured that distance that way because we could</p>	Page 128
<p>1 day?  2     A. I don't think so.  3     Q. So you're not in this photo?  4     A. I am not in the photo, but I was there.  5     Q. So we got at least one, two, three,  6 four, five people at least were the there on  7 February 11, 2025. Four are shown in the photo in  8 some manner, and you're off to the side somewhere;  9 is that correct?  10    A. The people who were there as I recall  11 were basically myself, counsel. And then there  12 was three, four, five people who work at the water  13 treatment plant that were basically there to  14 assist. And I asked them questions.  15    Q. What does that photo show? What is the  16 purpose of that photo?  17    A. The photograph is at the water Hadnot  18 Point water treatment plant treatment next to a  19 spiractor effluent to the left. That structure  20 that is covered with some metals there, that's the  21 head of the spiractor at that plant.  22    Now, what is represented on the  23 photograph we needed to use certain tools in order  24 to be able to estimate through measurement certain  25 distances, and the distance we wanted to measure</p>	Page 127	<p>1 not do it directly. It would have been involved  2 getting into a system which would -- we were not  3 prepared to do and would be extremely complicated  4 to do.  5     Q. Maybe not the safest thing to do either;  6 right?  7     A. It would not have been a safe thing to  8 do.  9     Q. So the spiractor that you were doing  10 this measurement there from top to bottom, I  11 believe you mentioned or said that it was empty,  12 it was dry, there was no water in.  13    A. There was no water in it, yes.  14    Q. You're at Hadnot Point water treatment  15 plant; right?  16    A. That's correct.  17    Q. Did you take a look -- did you do any  18 research before you did this experiment? I say  19 experiment. I didn't mean to use that word.  20    Before you did these measurements and  21 went to do the work, whatever it was you did that  22 day on February 11, did you do any work to  23 research or look at any design drawings or  24 research anything about the history of the  25 equipment that you were there measuring?</p>	Page 129

<p style="text-align: right;">Page 130</p> <p>1 A. I looked at documents. Among those 2 documents were drawings, but the drawings were not 3 providing me what I wanted to evaluate directly, 4 at least the drawings I was looking at.</p> <p>5 Q. Where are these drawings that you were 6 looking at?</p> <p>7 A. In the records, I believe.</p> <p>8 Q. Can you give me -- do you know what the 9 dates of those design drawings were that you're 10 referring to? Do you know where they were right 11 now as you sit there today?</p> <p>12 MS. O'LEARY: Object to form.</p> <p>13 THE WITNESS: I do not know. They're in 14 the record.</p> <p>15 BY MR. DEAN:</p> <p>16 Q. Are they in your office?</p> <p>17 A. I don't know. They're in the record. 18 So the records, I have access to the records.</p> <p>19 Q. I need to identify what those records 20 are is what I'm trying to get you to help me do, 21 and we don't have to do it today if you don't 22 remember. But do you have a copy back at your 23 office of these drawings you were looking at 24 before you went to do this work on February 11?</p> <p>25 A. We have access of them. I believe so.</p>	<p style="text-align: right;">Page 132</p> <p>1 Environmental in 2004 did some of these similar, 2 if not same, measurements you're talking about?</p> <p>3 A. I don't think that's correct. AH did 4 not do any measurement. They just looked at stuff 5 and they estimated.</p> <p>6 Q. So you don't think AH Environmental 7 measured the spiractors like you did and similar 8 equipment back then 20 years ago?</p> <p>9 A. They did not.</p> <p>10 Q. Let's go to photo 2.</p> <p>11 What is the basis or why do you think or 12 what do you rely upon to say that AH Environmental 13 did not do some of these same measurements on 14 certain equipment like you did in 2004? What are 15 you relying on?</p> <p>16 A. The AH report.</p> <p>17 Q. And you don't remember anything in my 18 report that relates to their doing any 19 measurements?</p> <p>20 MS. O'LEARY: Object to foundation.</p> <p>21 THE WITNESS: What I recall is a report 22 that say visual estimate.</p> <p>23 BY MR. DEAN:</p> <p>24 Q. Just a different angle, page 3?</p> <p>25 A. Yes. This is just another angle. And</p>
<p style="text-align: right;">Page 131</p> <p>1 It will be in the record.</p> <p>2 Q. How many pages were they?</p> <p>3 A. I do not know.</p> <p>4 Q. Do you remember anything about the dates 5 of the documents?</p> <p>6 A. I do not know.</p> <p>7 Q. So other than looking at an unidentified 8 yet design drawing or two, did you do any other 9 work to ascertain the -- any historical 10 maintenance, installation or anything like that 11 related to the equipment you were measuring?</p> <p>12 MS. O'LEARY: Object to foundation.</p> <p>13 THE WITNESS: What I did is basically 14 looked at schematics of the spiractors. And that 15 didn't change over time to whatever I saw. It was 16 the same type of spiractors. And there is nothing 17 that I found in the records that say that would be 18 a different type or that would have been changed. 19 Spiractors are the spiractors, and they have to 20 fit the bill in the sense that they are very 21 large, very large volume for treatment that 22 basically have to fit the plumbing of the a plant.</p> <p>23 BY MR. DEAN:</p> <p>24 Q. Understood. And you remember and it's 25 listed in your reliance materials that AH</p>	<p style="text-align: right;">Page 133</p> <p>1 if you see the opening into the spiractor, it's 2 that little basically rectangular opening there to 3 the left. And that's one of the complication with 4 the Hadnot Point spiractors. They are covered 5 with basically a metallic protection cover.</p> <p>6 MR. DEAN: Give me about seven more 7 minutes -- it will be at a quarter till -- and see 8 if I can get through this or not. Then we can 9 take a break till about -- 45 minutes or so?</p> <p>10 MS. O'LEARY: Are you okay? Do you need 11 a break?</p> <p>12 MR. DEAN: It will be about seven or 13 eight minutes.</p> <p>14 THE WITNESS: I can do seven minutes.</p> <p>15 BY MR. DEAN:</p> <p>16 Q. Next page. What is shown on page 17 HENNET_USA Bates-stamp 4, and why are you taking 18 that photo?</p> <p>19 A. This photograph is basically taken from 20 the other side of the spiractor, which has a 21 bigger, a larger opening. You saw on the previous 22 photograph you have a smaller opening on one side 23 and a larger one on this side.</p> <p>24 On here you can see the interior of the 25 spiractor, no water. And what you are seeing in</p>

<p style="text-align: right;">Page 134</p> <p>1 the middle of the photograph is a spiractor  2 effluent pipe.  3 Q. And you say no water. How can you look  4 at this photo and tell there's no water?  5 A. I am telling you there is no water. If  6 there was water, you would see because the water  7 when the spiractor is online is all the way to the  8 rim of that pipe.  9 Q. Was there any water inside that pipe?  10 A. Can you repeat that, please?  11 Q. Is any water inside the effluent pipe?  12 A. No.  13 Q. The ruler there, again my eyes are  14 getting bad as I age. I can't read the ruler  15 there, the yellow ruler. Can you read it?  16 A. Maybe on another photograph you can. It  17 was very difficult to measure this. I noticed  18 that in my notes. And what we're trying to do  19 here was without going into this dangerous place  20 is basically to measure the distance between the  21 horizontal bar and the rim of the spiractor  22 effluent pipe.  23 Q. Why is that?  24 A. Because another measurements was to  25 measure the distance between the horizontal bar to</p>	<p style="text-align: right;">Page 136</p> <p>1 there, there it was horizontal because it was held  2 on both sides at the same level. And you can see  3 the level on the rim of the spiractor itself  4 because it is marked by the water.  5 Q. Did you measure that?  6 MS. O'LEARY: Object to form.  7 BY MR. DEAN:  8 Q. So when this was inside the spiractor  9 like you're referring to, was there a measurement  10 there so you would know the 28 inches here is  11 correct?  12 MS. O'LEARY: Object to foundation.  13 THE WITNESS: Yes. When it was inside,  14 it was the rope that was used because we could  15 bring the rope there and basically have it  16 suspended on the metallic horizontal bar to touch  17 the top of the pipe.  18 BY MR. DEAN:  19 Q. Do you have the rope that's shown on  20 page 1?  21 A. Do I have the rope?  22 Q. You used that rope as a part of this  23 experiment or measurement and that was a vital  24 piece of your tools that day to get this  25 measurement; right?</p>
<p style="text-align: right;">Page 135</p> <p>1 the top of the pipe. That would be to the left of  2 this. The pipe basically doesn't come as much  3 further out there.  4 Q. Can we go back one photo, please. Go  5 back one more. We'll come back to that. We'll  6 come back to that.  7 On photo 1, Bates-stamp 1, we can see --  8 it's a little blurry, but you can read those  9 numbers. It looks like the gentleman's thumb on  10 the right side is somewhere around -- is it 28 or  11 not?  12 A. I think it was 28.  13 Q. Is that important that number 28, or is  14 there some other important number?  15 A. Yes, it is.  16 Q. Why is the 28 important?  17 A. Because that's the distance, the total  18 distance between the bar, the horizontal bar and the  19 top of the pipe where it becomes -- after it  20 finishes curving, if you wish.  21 Q. And the bar, is he holding it level or  22 not?  23 A. Not here because now we removed it from  24 the spiractor environment. But when it was in the  25 spiractor environment where we deployed the roll</p>	<p style="text-align: right;">Page 137</p> <p>1 MS. O'LEARY: Object to foundation.  2 BY MR. DEAN:  3 Q. Right?  4 A. The rope was provided by the base  5 personnel.  6 Q. I understand that. My question, it was  7 important for you to use a vital piece of tool to  8 get the measurements. That rope was the one  9 pieces of it?  10 MS. O'LEARY: Object to form.  11 THE WITNESS: Yes. That rope was  12 selected because it's not a rubber band. It is  13 basically something that will give you an  14 estimate, a measured estimate of a distance.  15 BY MR. DEAN:  16 Q. Did you conduct a measurement to  17 determine what the elastic characteristics of that  18 rope was before you used it other than visual and  19 yourself?  20 MS. O'LEARY: Object to foundation.  21 THE WITNESS: It's held the hope in my  22 hand and said that's fine.  23 BY MR. DEAN:  24 Q. Did you take possession of that rope  25 when you left doing this?</p>

<p style="text-align: right;">Page 138</p> <p>1 A. The base has possession of that rope.    2 Q. Who on the base has possession of that    3 rope right now?    4 A. The water treatment plant personnel.    5 Q. Have you seen that rope since    6 February 11, 2025?    7 A. I didn't go to the base since then. So    8 the rope is there. I didn't see it since then.    9 Q. Did you ask anybody that day when you    10 were talking to the personnel there at the water    11 treatment plant, did you ask them to preserve that    12 rope?    13 A. I did not ask them to preserve the rope.    14 Q. Have you ever since 2005, which we    15 believe was maybe some of the first time periods    16 you started doing a little work at time Camp    17 LeJeune, for the last 20 years, have you ever    18 observed Hadnot Point water treatment plant    19 operations on and water in that spiractor?    20 A. Yes, I have.    21 Q. When was that?    22 A. For this case, the times I went to the    23 base, every time I went there. And the spiractors    24 that I observed at the time were actually online.    25 Q. When was that?</p>	<p style="text-align: right;">Page 140</p> <p>1 when we visited.    2 BY MR. DEAN:    3 Q. And in '24, did you have a cell phone    4 with you?    5 A. Probably.    6 Q. Did you have a camera with you?    7 A. I did not have a camera with me because    8 we were told pictures will not be taken by us.    9 Q. But pictures could be taken by base    10 personnel, which they did?    11 A. Not base personnel. It was counsel.    12 Q. Did you ask the DOJ lawyers in '24 if    13 you could do these measurements you did in 2025    14 when you were there in '24?    15 A. Could not have done those because you    16 need some preparation to do this. It's    17 complicated. On top of it, we were on a site    18 visit with several people, other experts, counsel,    19 several counsel. And the purpose of the site    20 visit was not to do measurements at the spiractor.    21 I do recall that -- and I could not have done this    22 measurement there because I would not have had    23 what I needed to do them. Now --    24 Q. After you were there in 2024 through    25 February 11, 2025, did you make -- during that</p>
<p style="text-align: right;">Page 139</p> <p>1 A. I went one time in 2024 and I believe I    2 went one time in 2023.    3 Q. Did you take any photographs of the    4 spiractors and the operations?    5 A. On the 2024 I didn't take pictures, but    6 some pictures were taken by counsel.    7 Q. These same spiractors were there in    8 2024, is that what your testimony is?    9 A. Yes.    10 Q. And did you conduct any measurements    11 when you were there in '24?    12 A. I did not.    13 Q. Was that rope there in 2024?    14 A. Not where you see on the picture. It    15 was not there. I don't know if the base had that    16 rope or not.    17 Q. When you were there in '24, you had some    18 DOJ attorneys with you; right?    19 A. Yes.    20 Q. Did you have some of the well men, some    21 of the well operations people there with you as    22 well?    23 MS. O'LEARY: Object to foundation.    24 THE WITNESS: The best I recall, some    25 people from the water treatment plant were there</p>	<p style="text-align: right;">Page 141</p> <p>1 timeframe, May of '24, February 1, 2025, did you    2 ever make any request for an additional visit --    3 excuse me. Strike that.    4 Between May of '24 and when you issued    5 your report on December 9, 2024, did you make any    6 request of the DOJ or the Marines to go back to    7 the base to do measurements?    8 A. Through counsel I did. And I want to    9 add that during the 2024 visit, unexpectedly there    10 was a spiractor on the truck bed, that was on a    11 truck bed. That was at the Holcomb Boulevard    12 water treatment plant. And when I saw that, I    13 said, well, it is there. It's not going to be    14 there forever. And I asked counsel to take some    15 photographs of that spiractor effluent pipe using    16 a Metro card as a scale.    17 I have a Metro card. I know exactly the    18 distance of it. And I used that as a scale on the    19 spiractor and had counsel take photographs of    20 that. So that's one.    21 Second, I did through counsel ask if the    22 base could measure the distance that I am talking    23 about here, that measurement that is important for    24 parameters that is used in volatilization    25 calculations. And I did on one spiractor effluent</p>

35 (Pages 138 - 141)

<p style="text-align: right;">Page 142</p> <p>1 pipe at Holcomb Boulevard. And they provided me 2 with a measurement. It was much easier to do that 3 at the Holcomb Boulevard water treatment plant 4 because the spiractor there are not covered with 5 this metallic cover that you have at the Hadnot 6 Point water treatment plant.</p> <p>7 Q. Two more points. Then we'll take a 8 break.</p> <p>9 So you did think about the need to do 10 the measurements you did on February 11, 2025 when 11 you saw the effluent pipe over at Holcomb 12 Boulevard; right?</p> <p>13 A. The reason why --</p> <p>14 Q. Let me go slowly through this and, if 15 you could, you did think about the need to do some 16 of these measurements that you ultimately did on 17 February 11, 2025 back in May of '24 when you saw 18 the effluent pipe on the back of the truck, but 19 you were at Holcomb Boulevard and you did some 20 measurements there; right?</p> <p>21 A. Yes. That was an opportunity. I did 22 that.</p> <p>23 Q. Didn't have the equipment, didn't what 24 you needed or circumstances weren't right for you 25 at the time May of '24 and you went back and did</p>	<p style="text-align: right;">Page 144</p> <p>1 Boulevard and you saw it, I guess it had been used 2 and it had been removed and it was in spare parts 3 or to be discarded area or something like that; 4 right?</p> <p>5 A. That's my understanding on the truck 6 bed.</p> <p>7 Q. Did you do any work, see if had any 8 serial numbers to ascertain how old it was? Did 9 you do any metallurgy work on it, anything to 10 ascertain how old that particular pipe was?</p> <p>11 A. I didn't see anything that would allow 12 me to do that.</p> <p>13 Q. Do you even know if that pipe had 14 actually been used in the past?</p> <p>15 A. That pipe obviously had been used.</p> <p>16 Q. Why do you say obviously? Because it 17 was sitting in the back of a pickup truck in a 18 base salvage area. How do you know where it came 19 from?</p> <p>20 MS. O'LEARY: Object to foundation.</p> <p>21 THE WITNESS: Two things. The pipe had 22 been obviously used because it was encrusted, if 23 you wish, with deposits, which is typical of all 24 the spiractor pipes that I've seen in place. That 25 was one. And the second point is I was told at</p>
<p style="text-align: right;">Page 143</p> <p>1 it February of '25?</p> <p>2 A. Yes. And reason I went -- that's one of 3 the reasons I went back on February 11, 2025. 4 It's because of what Dr. Sabatini basically in 5 some sense rebutted my report on some aspect of 6 it. In his estimates, he relied on a fall height, 7 which is a very important parameter for 8 calculating the losses that AH report basically 9 provided as a visual estimate.</p> <p>10 And I was in some sense criticized 11 because the measurement I had was not measurements 12 for Hadnot Point water treatment plant. They were 13 measurements for the Holcomb Boulevard water 14 treatment plant spiractor effluent pipe. And you 15 have two such measurements. You have the one that 16 was on the truck bed. Basically I was there when 17 that was done. And later on, I had requested 18 through counsel that the base perform a 19 measurement on the spiractor pump, and I provided 20 that to me because I did it.</p> <p>21 Q. When you took those photographs, and 22 they're in your report, we're going to go over 23 them a little bit after lunch.</p> <p>24 On the pipe that you saw, the effluent 25 pipe that was in truck bed over at Holcomb</p>	<p style="text-align: right;">Page 145</p> <p>1 other times that it came from the Holcomb 2 Boulevard.</p> <p>3 BY MR. DEAN:</p> <p>4 Q. Did someone show you where it was before 5 it went in the truck bed when it was actually 6 functioning?</p> <p>7 A. No.</p> <p>8 Q. Did you ask anybody where that pipe came 9 from specifically?</p> <p>10 A. I came from the plant.</p> <p>11 Q. Which plant?</p> <p>12 A. The Holcomb Boulevard plant.</p> <p>13 Q. What do you base that on?</p> <p>14 A. That's what I was told.</p> <p>15 Q. By who?</p> <p>16 A. The people from the water treatment 17 plant.</p> <p>18 Q. What was that person's name?</p> <p>19 A. I do not know that person's name.</p> <p>20 Q. Did you make a record of that person's 21 name so if you need to go back to confirm 22 anything, you'd have his or her information?</p> <p>23 A. I did not.</p> <p>24 Q. That pipe could have equally come from 25 Hadnot Point, been on the back of a truck, and</p>

<p style="text-align: right;">Page 146</p> <p>1 they parked it back there behind Holcomb  2 Boulevard, couldn't it?</p> <p>3 MS. O'LEARY: Object to foundation.</p> <p>4 THE WITNESS: I was told it was from  5 Holcomb Boulevard.</p> <p>6 BY MR. DEAN:</p> <p>7 Q. But to be fair and reasonable with me,  8 you don't know, you didn't see where it came in  9 from. It could have come from Hadnot Point as  10 well?</p> <p>11 MS. O'LEARY: Object to form.</p> <p>12 THE WITNESS: It was on the bed of a  13 truck, and that's all I can tell you.</p> <p>14 MR. DEAN: Let's take a lunch break.</p> <p>15 MS. O'LEARY: Before we go off record, I  16 just wanted to note that Exhibit 7, which was the  17 email, I understand from colleagues who's looked  18 into this, we agree that this one was not among  19 the group where we requested the clawback, but  20 that was an oversight. We think it was missed  21 because of the sort of thread nature. And we  22 assert privilege over Exhibit 7.</p> <p>23 MR. DEAN: So let's do it this way.  24 Let's mark that section of the transcript  25 confidential. And let's note on the record when</p>	<p style="text-align: right;">Page 148</p> <p>1 because I don't have photos of water buffalos up  2 here yet. But let's go to item number two.</p> <p>3 Explain to me -- it says spiractor effluent pipe.</p> <p>4 That's a good photo to use? Tell me. If not,  5 I'll find a different one. Tell me what your  6 notes say in No. 2 and how that information  7 supports your opinions.</p> <p>8 MS. O'LEARY: For the record, that's in  9 Exhibit 11.</p> <p>10 MR. DEAN: Correct, Exhibit 11.</p> <p>11 THE WITNESS: So item two on Exhibit 11  12 is basically an explanation of the result of the  13 estimated measurements that I performed on  14 February 11, 2025 at the HP WTP, HP water  15 treatment plant spiractor effluent pipe.</p> <p>16 BY MR. DEAN:</p> <p>17 Q. So which pipe -- so we're clear, you  18 appear to be taking some measurements. You've  19 recorded some measurements here. Which pipe are  20 you measuring the 14-1/2 to 15, the 24 to 18? Is  21 it at Hadnot Point? Is it the one that was --  22 which pipe are you measuring?</p> <p>23 A. This is specifically related to Hadnot  24 Point and the photographs that we have looked at.</p> <p>25 Q. So you're measuring that pipe in photo</p>
<p style="text-align: right;">Page 147</p> <p>1 we don't agree with you, but we'll deal with it  2 later. And we'll mark that document pursuant to  3 your request it be considered privilege and we  4 won't share it outside. We probably won't even --  5 let's remove Exhibit 7. Exhibit 7 will not be  6 attached to the transcript until this issue is  7 resolved.</p> <p>8 THE VIDEOGRAPHER: We are off the record  9 at 1255.</p> <p>10 (Recess from 12:55 p.m. to 1:47 p.m.)</p> <p>11 THE VIDEOGRAPHER: We are on the record  12 at 1347.</p> <p>13 BY MR. DEAN:</p> <p>14 Q. Let's go back to Exhibit 11, your notes.  15 It should be in there Exhibit 11.</p> <p>16 A. Got it.</p> <p>17 Q. Now, as we go through this, if you want  18 me -- I'm going to throw some photos -- we're  19 going to go back through the photos at some point  20 in time. But what I'm saying is if you feel like  21 it would be better for me to throw one of these  22 photos up for you to illustrate what you're doing  23 here, just tell me.</p> <p>24 A. I will.</p> <p>25 Q. We may jump around a little bit too</p>	<p style="text-align: right;">Page 149</p> <p>1 Hennet 4 dated 2/11/25?</p> <p>2 A. That's correct.</p> <p>3 Q. Is that a good photo for you to use  4 to -- let me tell you what I'm trying to figure  5 out, and I don't care how we do it, whatever is  6 most convenient and quick for you and me both.  7 I'm trying to find a photo that can demonstrate  8 what you're doing in number two.</p> <p>9 MS. O'LEARY: And that's on Exhibit 11?</p> <p>10 MR. DEAN: On Exhibit 11.</p> <p>11 MS. BAUGHMAN: Kevin, for the record  12 what you're showing now is No. 8?</p> <p>13 MR. DEAN: Is HENNET_USA_8.</p> <p>14 BY MR. DEAN:</p> <p>15 Q. So eight is one possibility. Stop me if  16 you see a photo that you think might help us  17 illustrate what you're doing in No. 2.</p> <p>18 A. This is a photograph that I took.</p> <p>19 Q. We're looking at HENNET_USA_38 taken  20 2/11/25.</p> <p>21 My question is: Do that help  22 illustrated the measurements that you're showing  23 on Exhibit 11 under item No. 2?</p> <p>24 A. Yes, it does.</p> <p>25 Q. And what does it show?</p>

<p style="text-align: right;">Page 150</p> <p>1 A. It is basically a measurement of the 2 diameter of the effluent pipe.</p> <p>3 Q. And is that effluent pipe that you're 4 measuring there at Hadnot Point water treatment 5 plant?</p> <p>6 A. Yes.</p> <p>7 Q. And did you inspect -- first of all, did 8 you ask anybody when that particular pipe was 9 installed? Did you get any history from anyone?</p> <p>10 A. Nobody knew.</p> <p>11 Q. Did you ask?</p> <p>12 A. Yes, I did.</p> <p>13 Q. Did you look at any documents to 14 ascertain when that effluent pipe extension or end 15 was installed?</p> <p>16 A. I found no information as to this 17 particular pipe installment.</p> <p>18 Q. Did you look at the pipe to see if it 19 had any markings on it, serial numbers, markings, 20 where it came from, anything like that, to give 21 you any information about its era?</p> <p>22 A. There is no such information that I 23 could see.</p> <p>24 Q. Again, do you have a better photo? Is 25 that is the best photo angle? Because of where</p>	<p style="text-align: right;">Page 152</p> <p>1 Q. And what is purpose of the measurement 2 in the photograph 82, page 82?</p> <p>3 A. It's to obtain measurement -- measure 4 estimate of the distance between the top of the 5 metallic bar, the horizontal bar, to the rim of 6 the effluent pipe.</p> <p>7 Q. And is that shown on your -- your 8 interpretation or your measurement estimate, is it 9 shown in Section 2?</p> <p>10 MS. O'LEARY: Exhibit 11.</p> <p>11 BY MR. DEAN:</p> <p>12 Q. On Exhibit 11.</p> <p>13 A. It is not shown on Exhibit 11, but that 14 was measured in order to have dimensions for the 15 pipe, per se. This is the distance from the 16 reference bar to the rim.</p> <p>17 Q. And what's the inside diameter of the 18 horizontal part of the pipe?</p> <p>19 A. The inside -- I couldn't measure that 20 part, but having observed the other effluent pipe 21 that was from the Hadnot Point treatment plant, 22 the pipe is actually -- the diameter appears to be 23 actually a little bit smaller away from this area 24 that you have on the photograph and maybe further 25 away than what even you can see on the photograph.</p>
<p style="text-align: right;">Page 151</p> <p>1 you were situated, I understand it was a safety 2 issue. You didn't have the ability to shoot 3 straight down, did you?</p> <p>4 A. I did not have that ability.</p> <p>5 Q. So you're measuring the inside diameter; 6 is that fair?</p> <p>7 A. That's correct.</p> <p>8 Q. And so the 14-1/2 to 15-inch measurement 9 that you're doing there is the inside diameter 10 best estimation just because you can't see 11 straight down?</p> <p>12 A. Right. It is the best measured estimate 13 of the diameter of the effluent pipe.</p> <p>14 Q. Now, see if we can get this other 15 measurement photo. You were measuring -- is this 16 the same pipe at a different angle?</p> <p>17 MS. O'LEARY: For the record, this is 18 82.</p> <p>19 MR. DEAN: I'm sorry.</p> <p>20 BY MR. DEAN:</p> <p>21 Q. I'm showing you, Dr. Hennet, 22 HENNET_USA_82 showing that you took it on 2/11. 23 Is that the same you pipe or a different 24 pipe than the photo we saw before?</p> <p>25 A. This is the same pipe.</p>	<p style="text-align: right;">Page 153</p> <p>1 Q. So this is a Hadnot Point spiractor 2 tube, right, pipe?</p> <p>3 A. This one is at Holcomb Boulevard water 4 treatment plant. That photograph was not taken by 5 me.</p> <p>6 Q. Who took that a photo?</p> <p>7 A. Base personnel upon my request.</p> <p>8 Q. We're looking at CLJA_USMC_spiractors 2, 9 and you believe that photo was taken at Holcomb 10 Boulevard?</p> <p>11 A. Yes. It was taken at Holcomb Boulevard.</p> <p>12 Q. That pipe, the effluent pipe and the 13 supply pipe at the bottom where they come 14 together, they're the same size appear in this 15 photo?</p> <p>16 A. Yes, they do.</p> <p>17 Q. Where is that photo, HENNET_USA_9, 18 taken?</p> <p>19 A. This one was taken at the Hadnot Point 20 water treatment plant.</p> <p>21 Q. And did you measure -- so is this the 22 same pipe that you measured the inside diameter of 23 the top of the spiractor?</p> <p>24 A. That is the same pipe that we looked at 25 before, yes.</p>

<p style="text-align: right;">Page 154</p> <p>1 Q. Did you measure the section of the pipe, 2 the supply pipe that comes to the curved spiractor 3 end?</p> <p>4 A. No. What I measured was the distance 5 between the top of the horizontal bar to the top 6 of the pipe at that location with a rope that we 7 discussed before, and then I measured the length 8 of that distance.</p> <p>9 Q. I understand that. If I also remember 10 for the record, I mean, all this stuff was empty, 11 dry?</p> <p>12 A. Everything was dry.</p> <p>13 Q. But what I was trying to figure out is 14 what is your belief the diameter of this pipe is 15 right here? It looks like to me it's PVC of some 16 court.</p> <p>17 A. It is not PVC.</p> <p>18 Q. The two pieces are assembled in this 19 little area here with the crease; right?</p> <p>20 A. That's my understanding, yes.</p> <p>21 Q. Did you measure the diameter of the 22 first part of the pipe that's coming out of the 23 wall?</p> <p>24 A. No. I could not do that.</p> <p>25 Q. So you don't have any idea of the size</p>	<p style="text-align: right;">Page 156</p> <p>1 angle?</p> <p>2 A. You can make a fair guess, but I think 3 you have a better photograph of that particular 4 vent pipe.</p> <p>5 Q. I'm showing you HENNET_USA_11. Do you 6 know what the purpose of that photo is and what's 7 going on there?</p> <p>8 A. This is -- this was explained to me to 9 be the treated water after it comes out of the 10 sand filters, treated water.</p> <p>11 Q. I'm not following. Is this an 12 experiment? A demonstration. First of all, let 13 me ask you this: Where was photo taken 14 HENNET_USA_11?</p> <p>15 A. It is inside the Hadnot Point water 16 treatment plant.</p> <p>17 Q. Did you turn the water on?</p> <p>18 A. No. The water is the always on.</p> <p>19 Q. The water is always on. And that vial 20 that's being filled up, was it always there?</p> <p>21 A. I do not know.</p> <p>22 Q. Did you put the vial under the water 23 faucet?</p> <p>24 A. I did not.</p> <p>25 Q. So do you know why that is there at all</p>
<p style="text-align: right;">Page 155</p> <p>1 of this pipe that's supplying the effluent pipe 2 ending piece there?</p> <p>3 A. That portion of the pipe doesn't supply. 4 It is an exit. So the water enters the effluent 5 pipe from the rim you see there, and it goes by 6 gravity that way (indicating).</p> <p>7 Q. Do you know when the spiractor is active 8 what the level of water would be in the effluent 9 pipe horizontally?</p> <p>10 A. That was estimated in the AH report as 11 approximately 6 inches. That would be called the 12 tail end water height.</p> <p>13 Q. Can you show me -- I've got on the 14 screen -- I'm showing you HENNET_USA_10. Can you 15 tell me the purpose of that measurement?</p> <p>16 A. This measurement is a measurement of the 17 distance between the top of the water reservoir to 18 basically vent, exit.</p> <p>19 Q. I cannot -- is there some reason someone 20 didn't take the photo so you can see the 21 measurement of the pipe clearly?</p> <p>22 A. I think there are photographs that show 23 that.</p> <p>24 Q. But that particular one you can't tell 25 the exactness of the measurement, can you, in that</p>	<p style="text-align: right;">Page 157</p> <p>1 from any water supply reasons?</p> <p>2 A. I do not know the reason for the 3 (indecipherable) to be there. I do not know.</p> <p>4 Q. Does this have anything to do with any 5 of your opinions other than it's just an 6 observation when you were in the treatment plant?</p> <p>7 A. I took these photographs because it was 8 explained to me this is where the treated water, 9 after it comes out of the treatment, that's where 10 the samples are taken. That's why I took that 11 picture.</p> <p>12 Q. We're looking at HENNET_USA_7. Is that 13 okay size-wise? Can you tell me what HENNET_USA_7 14 is or the purpose of the photo?</p> <p>15 A. This is an open area that was open for 16 me of the finished water reservoir at the Hadnot 17 Point water treatment plant.</p> <p>18 Q. And is this season normally covered up?</p> <p>19 A. Normally that door is closed, yes.</p> <p>20 Q. And where is the normal water level?</p> <p>21 A. The water level for the reservoir 22 fluctuates I was basically informed of by about, 23 if I recall, 4 feet per day up and down.</p> <p>24 Q. So when you measured it at whatever time 25 it was on February 11 -- I guess the water level</p>

<p style="text-align: right;">Page 158</p> <p>1 is this level right here under the first stair?  2 A. I interpret this as the top of the water  3 level.  4 Q. You interpreted this to be the top of  5 the water level just below -- between the first  6 and the second step?  7 A. Yes. And, as a matter of fact, it was  8 explained to me to be that, because if it goes  9 higher, the water would exit the reservoir through  10 an overflow pipe or vent.  11 Q. Now, what stage of treatment is this?  12 Is this ready to be furnished? Is this finished  13 water ready to be pumped out, or is it still in  14 the treatment process?  15 A. This is finished water, which is  16 basically ready to be pumped into the supply  17 system.  18 Q. When you were there on February 11, did  19 you drink any water?  20 A. I don't recall. I probably -- not  21 there. I wasn't there.  22 Q. You might have had bolted water. But  23 did you drink this water at Hadnot Point?  24 A. I didn't go down there to have a look,  25 no.</p>	<p style="text-align: right;">Page 160</p> <p>1 4 feet?  2 A. I did not take his name. The people  3 were there basically serving the base. They don't  4 give me their names. They're working. They're  5 doing their job. And I ask them questions and  6 they responded and I noted it.  7 Q. Do you, yourself, personally observe a  8 4-foot fluctuation of the water level in order to  9 be able to use that information to support or use  10 those observations to support your opinions?  11 MS. O'LEARY: Object to foundation.  12 THE WITNESS: No. I could not have seen  13 that within the short time that I observed this  14 reservoir water level.  15 BY MR. DEAN:  16 Q. If you stayed there for 24 hours and  17 observed this well, you would possibly have been  18 able to make that observation; right?  19 A. That's possibly.  20 Q. And was there more than one person who  21 told you about the 4 feet or were there like four  22 or five people standing around that agreed it was  23 4 feet? How many people were you talking about to  24 about the fluctuation, one or more?  25 MS. O'LEARY: Object to form.</p>
<p style="text-align: right;">Page 159</p> <p>1 Q. Does that look like water you would want  2 to drink with all the rust in that tank and all  3 the pipe going down? Does that look like safe  4 water even today?  5 A. Safe water is based on measurement of  6 that water. And this is not an unusual setting  7 for a water reservoir that has been there for a  8 while.  9 Q. Who told you the fluctuation was 4 feet?  10 A. People at the base when I asked that  11 question. They have a system, and based on that  12 system, they were able to answer that question.  13 Q. What do you mean by "they have a  14 system"?</p> <p>15 A. They measure it, I mean, automatic  16 measurement.  17 Q. What was the person's name that told you  18 that it was a fluctuations of 4 foot?  19 A. It was a person who worked at the water  20 treatment plant.  21 Q. What was that person's name?  22 A. I do not recall his name.  23 Q. Did you make any notes other than the  24 two pages that we have that would identify this  25 person and the specific statement they made about</p>	<p style="text-align: right;">Page 161</p> <p>1 THE WITNESS: There were several people.  2 And the question was posed when we were in the  3 room where they have the water pressure monitoring  4 done. They have a computer that basically shows  5 water levels in different places. And the  6 reservoirs are one of those places.  7 BY MR. DEAN:  8 Q. Did the system of measuring the  9 fluctuation of the water levels, did you ask them  10 if they kept any records of that?  11 A. I know they measure it. I would say  12 they probably keep a record of that for a period  13 of time.  14 Q. Not you. I'm talking about you got  15 information from the unnamed person who gave you  16 the 4-foot fluctuation. My question was a little  17 different.  18 Did you ask them whether they kept  19 records of that fluctuation using their measuring  20 system? Did they keep any records of this 4-foot  21 fluctuation measuring system?  22 A. I do not know if they keep records, but  23 that's something they monitor because it is  24 important. If it is too low, there can be a  25 failure. If it who high, it will overflow.</p>

40 (Pages 158 - 161)

<p style="text-align: right;">Page 162</p> <p>1 Q. Did you ask how long they had been using 2 this system to measure the fluctuation to be able 3 to say it's 4 feet?</p> <p>4 A. What I was told is that that's a 5 parameter that has to be measured for the system 6 to function. I can extrapolate that to say from 7 day, one they were monitoring the water level on 8 the reservoir, and it goes up and down because it 9 demands (indecipherable).</p> <p>10 Q. You did you ask this person how long 11 their measuring system had been a recording a 12 4-foot fluctuation? Did you ask this person that 13 question?</p> <p>14 A. I was told that it was basically typical 15 fluctuation.</p> <p>16 Q. Do you know how long that person had 17 worked to the water treatment plant?</p> <p>18 A. Not exactly, but I ask. People that 19 were there were working there for 10 years, 15 20 years, but not a hundred years.</p> <p>21 Q. The specific person that told you the 22 4-foot fluctuation, specifically since you don't 23 remember that person's name, do you know how long 24 that person had been on the base to make these 25 observations?</p>	<p style="text-align: right;">Page 164</p> <p>1 A. I probably took some notes of that, like 2 very brief notes because some of those notes you 3 have standing. And then I just put them so they 4 can be understood.</p> <p>5 Q. While you were in the room and you were 6 taking notes on some other note pad or some other 7 notes, did you write down the things that this 8 person was telling you on that note pad?</p> <p>9 MS. O'LEARY: Object to foundation.</p> <p>10 THE WITNESS: Yes, I did. Then I 11 transferred that here. And then basically I 12 discarded the draft or I may still have it. I do 13 not know that.</p> <p>14 BY MR. DEAN:</p> <p>15 Q. Do you know where those other notes are 16 for which you created Exhibit 11 notes the next 17 day?</p> <p>18 A. If they still do exist, I have them in 19 my office probably.</p> <p>20 Q. Well, do you know as you sit here today 21 if you still have them?</p> <p>22 A. And I do not know right now.</p> <p>23 Q. But right now we do know you don't 24 remember the names of the individual or 25 individuals in the room that provided you this</p>
<p style="text-align: right;">Page 163</p> <p>1 A. As I said before, they were several 2 person in the room, and all those people were 3 operating this. And basically the answer was 4 provided, and everybody chimed in. They say 5 that's typical. That's what I do recall.</p> <p>6 Q. You said in the room. Did you all have 7 a meeting either before or after you did the site 8 work?</p> <p>9 A. Yes. When we talked about those 10 specific things, like water level fluctuation, 11 that was done inside the water treatment plant.</p> <p>12 Q. At a conference room of some sort?</p> <p>13 A. Yes, in a room inside the Hadnot Point 14 water treatment plant.</p> <p>15 Q. You had a note pad that has S.S. 16 Papadopoulos &amp; Associates with you; right?</p> <p>17 A. Yes.</p> <p>18 Q. Did you create Exhibit 11, the two pages 19 of notes, on February 11, or did you go home the 20 next day or two and fill out these from some other 21 records you had?</p> <p>22 A. I don't remember when I did this. 23 Probably the next day this.</p> <p>24 Q. Did you copy off of something else that 25 you had?</p>	<p style="text-align: right;">Page 165</p> <p>1 that 4-foot fluctuation history; right?</p> <p>2 A. The names of those people was not 3 provided to me.</p> <p>4 Q. Did you ask and they just didn't want to 5 give you that info?</p> <p>6 A. I was told that there is no photograph 7 of individuals. And basically you had four, five 8 people there depending on when in the tour. And I 9 did not ask the name of those individuals one 10 after the other.</p> <p>11 Q. Did you walk in the room and extend your 12 hand and introduce yourself?</p> <p>13 A. No.</p> <p>14 Q. Did they introduce themselves to you?</p> <p>15 A. No. I was basically following the 16 leader of the visit or the leaders of the visit, 17 which to my understanding was basically the person 18 in charge of the entire treatment plant.</p> <p>19 Q. Did you tell me you thought they kept 20 measurement records or not?</p> <p>21 A. I said you can ask them if you want. 22 But they do measure things, and measurements 23 typically are kept for a period of time. I do not 24 know the period of time.</p> <p>25 Q. Fair. Did you ask them whether -- to</p>

<p style="text-align: right;">Page 166</p> <p>1 look at those measurement records to verify the 4 2 foot that you had been told?</p> <p>3 A. Well, I recall that they showed me on 4 the screen some fluctuations. I recall that. And 5 those numbers came basically from those.</p> <p>6 Q. What screen were you looking at?</p> <p>7 A. Again, it was in a room where they do 8 monitor those devices that measure the elevation 9 in many places, including the water towers, in the 10 water reservoirs, the finished water reservoirs, 11 the old water reservoirs, those kinds of things.</p> <p>12 Q. We're making progress. You're in a room 13 with some individuals that operate the water 14 treatment plant at Hadnot Point; right?</p> <p>15 A. Some?</p> <p>16 MS. O'LEARY: Object to form.</p> <p>17 BY MR. DEAN:</p> <p>18 Q. And you are taking some notes on another 19 piece of paper about observations, what you're 20 learning as you're talking to these and they're 21 showing you a computer screen with some data. 22 Sounds like to me it's a chart, flowchart of some 23 sort.</p> <p>24 MS. O'LEARY: Object to form.</p> <p>25 THE WITNESS: First of all, there was</p>	<p style="text-align: right;">Page 168</p> <p>1 Q. And you were looking at some from 2 computer data history records of some fluctuation 3 data of some sort; right?</p> <p>4 A. That's right.</p> <p>5 Q. And could you tell from looking at the 6 screen or asking questions how far back the 7 information and data went?</p> <p>8 A. I think so because you had two axes. 9 One was in feet and the other axis was basically 10 time, time and date, as I recall. And what I saw 11 was basically what was going on.</p> <p>12 Q. But you don't know how far back that 13 information went?</p> <p>14 A. I do not know how far back that 15 information could be retrieved. I do not know 16 that.</p> <p>17 Q. Was there a printer room?</p> <p>18 A. I do not know that.</p> <p>19 Q. Did you take a picture of the screen 20 that you were looking at to get the information 21 for which you now opine that it's approximately a 22 4-foot fluctuation?</p> <p>23 A. I did not take a picture of that.</p> <p>24 Q. Did you ask anybody if they had the 25 capability to print out the screen you were</p>
<p style="text-align: right;">Page 167</p> <p>1 individuals, not only one.</p> <p>2 BY MR. DEAN:</p> <p>3 Q. I understand.</p> <p>4 A. Second of all, they showed me that. And 5 I asked specific questions, like what is the water 6 level fluctuation in the finished water reservoir. 7 I asked that question and they answered.</p> <p>8 Q. I understand.</p> <p>9 A. I am not finished. And then they also 10 showed me on the screen some graphs of water 11 fluctuations in the water towers and the 12 reservoirs. That's what I recall. I'm not 13 finished.</p> <p>14 And then I took notes of that. And for 15 the reservoirs, my note is 4 feet typical per day. 16 And for the water tower, it's basically 6 feet, if 17 I recall, typical per day.</p> <p>18 Q. Thank you for that. I was asking a 19 little different question sort of as a lawyer.</p> <p>20 The screen you were looking at, is it a 21 computer screen or a TV screen?</p> <p>22 A. It was a computer screen smaller than 23 the one you're showing me now, but it was hooked 24 up to a computer I suppose because I did not check 25 where the extension cord went.</p>	<p style="text-align: right;">Page 169</p> <p>1 looking at in order to base your opinion of a 2 4-foot fluctuation?</p> <p>3 MS. O'LEARY: Object to form.</p> <p>4 THE WITNESS: I did not.</p> <p>5 BY MR. DEAN:</p> <p>6 Q. If you were talking to these well 7 operators in 2025 and they've been there 10 or 15 8 years, assuming you're accurate, that means that 9 they may have started their employment 2010 10 hypothetically using that math; right?</p> <p>11 MS. O'LEARY: Object to form.</p> <p>12 THE WITNESS: I do not know the exact 13 employment history of each one of those 14 individuals. But I asked was anyone there in the 15 1980s, and the answer was no.</p> <p>16 BY MR. DEAN:</p> <p>17 Q. So none of them were there in the '80s. 18 Do you know if any of them were there in 19 2004? Did you ask that question?</p> <p>20 A. I did not ask that question.</p> <p>21 Q. And the record you were looking at, how 22 long did you spend looking at the screen -- let me 23 strike that and ask a different way.</p> <p>24 All I'm trying to figure out is the 25 fluctuation data you were looking at, the screen,</p>

<p style="text-align: right;">Page 170</p> <p>1 and you said it was an axis chart. Do you know  2 what the timeframe of that chart was that you were  3 looking at? Was it data for 2024 or 2025, the  4 last few weeks? What era was that data and the  5 information you were looking at on the screen?</p> <p>6 A. My recollection, the time axis was by  7 the week.</p> <p>8 Q. So the week before you got there?</p> <p>9 A. Yes, because it was up to date.</p> <p>10 Q. Did you ask anybody what were any  11 changes in the operations, the pumping operations  12 there from 2004 to the week before you were there?</p> <p>13 Did you ask anybody if they were aware of any  14 differences in the operational characteristics of  15 the plant?</p> <p>16 A. I asked that question. Basically, to  17 their knowledge, it was still the same. They were  18 just keeping operating it the same way.</p> <p>19 Q. How long were you in the room with them  20 approximately?</p> <p>21 A. Which room?</p> <p>22 Q. The room where you were looking at the  23 data on the screen.</p> <p>24 A. I don't know, 20 minutes, 30 minutes.</p> <p>25 Q. Was there a desk in this room, chairs?</p>	<p style="text-align: right;">Page 172</p> <p>1 So the answer was no.</p> <p>2 Q. And you don't know their names. You  3 don't know exactly how many people were in the  4 room. You were looking at data on the screen that  5 was for the week before you arrived. The pipes,  6 they don't remember them being changed while  7 they've been employees, but you don't know how  8 long they've been employees; right?</p> <p>9 A. Approximately as I answered before.</p> <p>10 Q. 10 to 15 years?</p> <p>11 A. The oldest one maybe 20. I don't know.</p> <p>12 I just tell you what I recollect.</p> <p>13 (Hennet Exhibit 13 was marked.)</p> <p>14 BY MR. DEAN:</p> <p>15 Q. Now, Exhibit 13 I believe is the AH  16 Consultants December 2004 report that you and I  17 have been talking about; correct?</p> <p>18 A. That's the report I mentioned, yes.</p> <p>19 Q. Do you see on -- turn to page 1-1.</p> <p>20 A. Yes.</p> <p>21 Q. The last sentence at the bottom of  22 Section 1.1, does it read, "As a part of this  23 effort, AH conducted a literature review and a  24 search of the appropriate archives to assist in  25 the development of reference estimates of the VOC</p>
<p style="text-align: right;">Page 171</p> <p>1 A. For the people who work there, yes. I  2 was standing.</p> <p>3 Q. Were there file cabinets?</p> <p>4 A. I do not recall that.</p> <p>5 Q. Did you ask them while they were on the  6 computer showing you that screen to go into any  7 historic records and look at any additional  8 documents or information?</p> <p>9 A. No, because I asked the question. The  10 question I asked was in another room. Everybody  11 was standing. But it's inside the plant. And  12 then to answer those questions, we went to that  13 room where you had the computer screen that  14 basically showed me the fluctuations.</p> <p>15 Q. Did you ask before you went out to do  16 your measurements -- for example, you can see the  17 spiractor pipe HENNET_USA_4.</p> <p>18 Did you ask any of those gentlemen in  19 the 20-minute meeting whether or not any of these  20 spiractor pipes had been changed since 2004?</p> <p>21 A. I asked that question, but it was not in  22 the same room. It was in the previous room when I  23 asked a series of questions. Nobody was aware  24 that any one of those pipes was ever changed to  25 their recollection. That's what that answer was.</p>	<p style="text-align: right;">Page 173</p> <p>1 removal rates that you might have occurred through  2 Hadnot Point, Holcomb Boulevard and Tawara Terrace  3 water treatment plants."</p> <p>4 Did I read that correctly?</p> <p>5 A. You read that correctly.</p> <p>6 Q. On page 2-1 under the Chronology  7 section, second full paragraph beginning, in 1982  8 contamination of the Hadnot Point and Tawara  9 Terrace water systems with tetrachloroethylene or  10 PCE and TCE was detected during monitoring of  11 trihalomethanes.</p> <p>12 Do you see that?</p> <p>13 A. I see that except you didn't read it  14 correctly.</p> <p>15 Q. Do you want to read it for me? I was  16 embarrassed because I couldn't pronounce the  17 words. So you go ahead and read it.</p> <p>18 A. "In 1982, contamination at the Hadnot  19 Point and Tawara Terrace water systems with  20 tetrachloroethylene (perchloroethylene or PCE) and  21 trichloroethylene (TCE) was detected during  22 monitoring of trihalomethanes."</p> <p>23 Q. Now, on page -- in your report -- you  24 might want to lay your report next to you. I  25 believe we marked it Exhibit 3.</p>

<p>1 A. I found Exhibit 3.</p> <p>2 Q. Let's finish this first. On page 3-6 of</p> <p>3 the AH report is where I'm at now.</p> <p>4 MS. O'LEARY: Is that Exhibit 13?</p> <p>5 MR. DEAN: Yes, ma'am.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MR. DEAN:</p> <p>8 Q. It says at the bottom, "The spiractors</p> <p>9 at three treatment plants were identical in</p> <p>10 capacity and dimensions. In the model, removal of</p> <p>11 VOC occurred from the top surfaces are shown in</p> <p>12 Figure 3.1 as well as from the nappe (i.e., the</p> <p>13 sheet of water falling over a weir) believed to be</p> <p>14 formed at the center effluent pipe."</p> <p>15 Do you see that?</p> <p>16 A. I see that.</p> <p>17 Q. And then that figure is on the next page</p> <p>18 at the top.</p> <p>19 A. Yes. I see that.</p> <p>20 Q. What's in that photo or that figure?</p> <p>21 MS. O'LEARY: Object to foundation.</p> <p>22 THE WITNESS: This is a schematic of the</p> <p>23 entire spiractor.</p> <p>24 BY MR. DEAN:</p> <p>25 Q. And it shows in it the entire spiractor</p>	Page 174	<p>1 the capacity of flow through for a spiractor.</p> <p>2 BY MR. DEAN:</p> <p>3 Q. If you turn to page 3.8, next page, you</p> <p>4 see a picture, Figure 3.2 of that effluent pipe?</p> <p>5 Do you see that?</p> <p>6 A. I see that, yes.</p> <p>7 Q. And it says the era according to the</p> <p>8 research done by AH Environmental in 2004, that</p> <p>9 this photo was a 1941/1942 era photo.</p> <p>10 MS. O'LEARY: Object to foundation.</p> <p>11 BY MR. DEAN:</p> <p>12 Q. Correct?</p> <p>13 A. That's what it says. I have no way to</p> <p>14 verify that the photograph was taken in 1942 or</p> <p>15 1941.</p> <p>16 Q. Then there's a different looking pipe at</p> <p>17 the same Hadnot Point water treatment plant</p> <p>18 spiractor in a photo in Figure 3.3, on the next</p> <p>19 page, 3-9, says on the photo it was a 1944, 1945</p> <p>20 era photo. Do you see that?</p> <p>21 MS. O'LEARY: Object to foundation.</p> <p>22 THE WITNESS: I can read that under the</p> <p>23 photograph.</p> <p>24 BY MR. DEAN:</p> <p>25 Q. And do you agree with me that effluent</p>	Page 176
<p>1 is a 22 foot tall; right?</p> <p>2 A. That's correct.</p> <p>3 Q. It's 10.4 foot wide?</p> <p>4 A. At the top.</p> <p>5 Q. And it shows the spiractor pipe, I</p> <p>6 guess, at the top exiting to the right?</p> <p>7 A. Yes. That's the exit by gravity of the</p> <p>8 spiractor pipe at the top.</p> <p>9 Q. At the end of that first paragraph --</p> <p>10 let's read the first sentence. "Images of the</p> <p>11 pipes at the Hadnot Point water treatment plant</p> <p>12 are provided in Figure 3.2 and in Figure 3.3 and a</p> <p>13 detailed sketch of the effluent pipe is shown on</p> <p>14 Figure 3.4."</p> <p>15 Do you see that?</p> <p>16 A. That's the first sentence on that page.</p> <p>17 Yes.</p> <p>18 Q. The last sentence, and I just want you</p> <p>19 to tell me what you understand this means, says,</p> <p>20 "The critical depth for a circular 12-inch pipe at</p> <p>21 a flow rate of 1 MGD is approximately 6 inches."</p> <p>22 What does that mean?</p> <p>23 MS. O'LEARY: Object to foundation.</p> <p>24 THE WITNESS: Well, the MGD is million</p> <p>25 gallon per day. And that's basically the flow,</p>	Page 175	<p>1 pipe is different than effluent pipe in 3.2?</p> <p>2 A. That particular pipe is I would call it</p> <p>3 L shaped. The other one is called J shaped pipe,</p> <p>4 but they serve the same purpose.</p> <p>5 Q. I understand they serve, but they're</p> <p>6 different pipes?</p> <p>7 A. They are different shape pipes.</p> <p>8 Q. Now, if you go to Figure 3.4, do you see</p> <p>9 where AH Environmental has measured those</p> <p>10 dimensions of those pipes?</p> <p>11 MS. O'LEARY: Object to foundation.</p> <p>12 THE WITNESS: My understanding is I</p> <p>13 didn't measure those dimensions. It's a visual</p> <p>14 estimate.</p> <p>15 BY MR. DEAN:</p> <p>16 Q. Where do you get that from?</p> <p>17 A. I don't recall exactly where, but it is</p> <p>18 in the report.</p> <p>19 Q. Turn to page 3-7. In the middle of the</p> <p>20 paragraph it says the fall height. Do you see</p> <p>21 that?</p> <p>22 A. Yes.</p> <p>23 Q. Is that the sentence you're referring</p> <p>24 to?</p> <p>25 A. Yes. And I define the fall height on</p>	Page 177

<p style="text-align: right;">Page 178</p> <p>1 Figure 3.4 that we just looked at. And there you 2 have the fall height sketched out.</p> <p>3 Q. No, sir. That says the fall height was 4 estimated visually. That doesn't say that the 5 pipe was not measured. Do you see what I'm 6 saying?</p> <p>7 MS. O'LEARY: Object to foundation.</p> <p>8 THE WITNESS: What I am saying is that 9 the fall height was not measured. The fall height 10 is the most important parameter here.</p> <p>11 BY MR. DEAN:</p> <p>12 Q. I'm not disagreeing with you.</p> <p>13 A. And that was not measured. I see no 14 indication they did actually measure the diameter 15 of the pipe.</p> <p>16 Q. Well, there's no evidence they didn't in 17 this report, is there?</p> <p>18 MS. O'LEARY: Object to foundation.</p> <p>19 THE WITNESS: I will have to read the 20 report again, but to my understanding, they did 21 not measure those values. I estimated them. And 22 the most important one is the fall height.</p> <p>23 BY MR. DEAN:</p> <p>24 Q. They measured the inside diameter of 25 that pipe to be 12 inches, that top measurement;</p>	<p style="text-align: right;">Page 180</p> <p>1 looking at?</p> <p>2 MR. DEAN: I'm looking at the AH report, 3 and I'm going to stay on the AH report until I 4 give you another exhibit number. I believe it's 5 Exhibit 13.</p> <p>6 MS. O'LEARY: What page?</p> <p>7 MR. DEAN: I'm on page 3-10, same page 8 we've been on.</p> <p>9 THE WITNESS: Can you repeat the 10 question, please?</p> <p>11 BY MR. DEAN:</p> <p>12 Q. Do you see that they took three 13 different measurements or they show three 14 different measurements there. First one is at the 15 top, 2 inches. And then they go -- the pipe goes 16 down 12 inches and it stops in the center, and 17 they're depicting a water level.</p> <p>18 Do you see that?</p> <p>19 MS. O'LEARY: On object to foundation.</p> <p>20 BY MR. DEAN:</p> <p>21 Q. Which would be at 14 inches.</p> <p>22 MS. O'LEARY: Same objection.</p> <p>23 THE WITNESS: Again, it is a visual 24 estimate. They did not show any measurement that 25 would show the 2 inch. It could be 2 inch. But</p>
<p style="text-align: right;">Page 179</p> <p>1 right?</p> <p>2 MS. O'LEARY: Object to form and 3 foundation.</p> <p>4 THE WITNESS: You will have to show me 5 where in the report it says they measured it.</p> <p>6 BY MR. DEAN:</p> <p>7 Q. Can you show me in the report where they 8 say they did not measure it and they got these 9 measurements visually from some picture of a pipe?</p> <p>10 A. I have not soon seen a picture of a pipe 11 with a scale that could give you a measurement of 12 any of those values.</p> <p>13 Q. So then you would agree with me they 14 would have had to have physically measured these 15 pipes on the scene?</p> <p>16 MS. O'LEARY: Object to foundation.</p> <p>17 THE WITNESS: They did a visual estimate 18 for the fall height. Why not a visual estimate 19 for the other dimensions that they provide on this 20 diagram.</p> <p>21 BY MR. DEAN:</p> <p>22 Q. They're showing that the water in the 23 pipe and the measurement they're taking is 24 12 inches plus 2 to get 14; correct?</p> <p>25 MS. O'LEARY: I'm sorry. What are we</p>	<p style="text-align: right;">Page 181</p> <p>1 the 12-inch for the fall height, which is a value 2 that is important, I did not measure.</p> <p>3 BY MR. DEAN:</p> <p>4 Q. And then there's a measurement here of 6 5 inches from the center down to the bottom of the 6 pipe; right?</p> <p>7 MS. O'LEARY: Objection. Foundation.</p> <p>8 THE WITNESS: My understanding is I did 9 not measure that either. I assumed that.</p> <p>10 BY MR. DEAN:</p> <p>11 Q. Well, that's what I'm saying. You're 12 speculating regarding whether AH took actual 13 measurements of whatever pipe they were looking at 14 or what they were doing in 2004; right?</p> <p>15 MS. O'LEARY: Object to foundation.</p> <p>16 BY MR. DEAN:</p> <p>17 Q. You don't know what they did.</p> <p>18 MS. O'LEARY: Object to form.</p> <p>19 THE WITNESS: Let's look at them one at 20 a time. We discussed already the 12-inch I 21 estimated. The 2 inch is also an estimate. And 22 the 6 inch, they also estimated for a pipe of 23 12-inch diameter that is basically flowing by 24 gravity at the given flow of the spirator. To me 25 all of those are estimates, not measurements.</p>

<p>1 BY MR. DEAN:</p> <p>2 Q. Is that AH Environmental still in 3 business?</p> <p>4 A. I don't know. I believe so, but I do 5 not know specifically.</p> <p>6 Q. Did you make any attempt to reach to 7 contact maybe at AH Environmental to verify what 8 they were referring to on the page we were just 9 reviewing?</p> <p>10 MS. O'LEARY: Object to the form.</p> <p>11 THE WITNESS: I did not.</p> <p>12 BY MR. DEAN:</p> <p>13 Q. Now, turn to page 4-15 in your report, 14 please.</p> <p>15 MS. O'LEARY: This is Exhibit 3.</p> <p>16 MR. DEAN: I'm sorry.</p> <p>17 BY MR. DEAN:</p> <p>18 Q. Let's go back. Before we go back, let's 19 go back to Exhibit 13. There's one thing I forgot 20 to ask you.</p> <p>21 If you turn to page 2-5 of Exhibit 13.</p> <p>22 A. I am on page 2-5.</p> <p>23 Q. Under 2.3 Water Plant Descriptions 24 Systems, does it read, "The water systems of 25 concern in the ATSDR study including Hadnot Point,</p>	Page 182	<p>1 October 1980." And you footnote 41 and refer to 2 1980 Jennings lab report; right?</p> <p>3 A. You read that correctly.</p> <p>4 Q. If you turn over, let's start the 5 sentence at the bottom of page 4-15, last 6 sentence, it begins for, about three lines up, 7 "For example, the composite sample contained 8 39 percent, 18 and 11 percent of finished water 9 from HP, TT and HB-WTPs, respectively."</p> <p>10 Did I read that right so far?</p> <p>11 A. Yes, but you didn't finish sentence.</p> <p>12 Q. You're right. I'll come back. "The 13 39 percent that's above that is the Hadnot Point 14 reference, the 18 is Tawara Terrace, and the 11 is 15 at Hadnot Point, Holcomb Boulevard.</p> <p>16 A. Yes, that's correct.</p> <p>17 Q. Then the sentence completes. The rest 18 was from the five other water supply systems.</p> <p>19 A. Correct.</p> <p>20 Q. "Analytical results" -- go to the next 21 page 4-16 -- "reported on October 31, 1980 showed 22 only trace levels of COCs in the composite (TCE 23 reported at .005 milligrams a liter; 1,2-DCE at 24 .006 micrograms a liter; VC at .01 micrograms a 25 liter; PCE not detected; benzene not detected.)"</p>	Page 184
<p>1 Holcomb Boulevard and Tawara Terrace are described 2 in the following sections. The descriptions are 3 based on interviews with base personnel, site 4 visits and an examination of the design and 5 as-built drawings that were obtained as a part of 6 this project."</p> <p>7 Did I read that correctly?</p> <p>8 A. You did.</p> <p>9 Q. So AH did do site visits?</p> <p>10 MS. O'LEARY: Object to foundation.</p> <p>11 THE WITNESS: It says they did, yes.</p> <p>12 BY MR. DEAN:</p> <p>13 Q. And in 2004, 21 years before you were 14 there, the personnel at the base in 2004 would 15 have been closer in time to the early 2000s.</p> <p>16 A. I don't know. It's likely.</p> <p>17 Q. Now we're finished with Exhibit 13.</p> <p>18 Would you go to page 4-15 in your 19 report, which I believe is Exhibit 3.</p> <p>20 A. 4-15?</p> <p>21 Q. Yes, sir.</p> <p>22 A. Yes.</p> <p>23 Q. In the second paragraph, you say, under 24 4.5, "The first known analysis of the Camp LeJeune 25 drinking water for VOCs that included COCs was in</p>	Page 183	<p>1 Do you see that?</p> <p>2 MS. O'LEARY: Object to foundation.</p> <p>3 THE WITNESS: I see that except that for 4 TCE you said 0.05 milligrams per liter.</p> <p>5 BY MR. DEAN:</p> <p>6 Q. What is it?</p> <p>7 A. It is microgram per liter.</p> <p>8 Q. Then you say, "Even assuming a worst 9 case scenario that all the reported COCs came from 10 Hadnot Point water treatment plant water, that 11 would yield only trace level COCs in that system."</p> <p>12 Do you see that?</p> <p>13 A. I see that.</p> <p>14 Q. Then "The same can be calculated for 15 each water system, and none would show COC 16 concentrations above trace levels. This indicates 17 that none of the water supply systems were 18 contaminated with COCs at that time."</p> <p>19 Did I read that correctly?</p> <p>20 A. You did.</p> <p>21 Q. Am I understanding that opinion is based 22 on a composite sample that was taken in 1980, that 23 sole opinion is based on this composite sample, 24 sole composite sample taken in 1980?</p> <p>25 MS. O'LEARY: Object to form.</p>	Page 185

<p style="text-align: right;">Page 186</p> <p>1        THE WITNESS: That description is based  2 on water samples taken at eight different water  3 treatment plants, brought to the lab, composited  4 by the lab. Labs do know how to do that. And the  5 composite that was analyzed.</p> <p>6 BY MR. DEAN:</p> <p>7        Q. Do you know if all those wells were  8 operating the day that sample, composite sample  9 was created?</p> <p>10        MS. O'LEARY: Object to form and  11 foundation.</p> <p>12        THE WITNESS: Explain to me what you  13 mean all of those wells.</p> <p>14 BY MR. DEAN:</p> <p>15        Q. Well, the wells that you say were  16 sampled to make up the composite sample, were  17 those wells operating the day the sample was  18 taken?</p> <p>19        MS. O'LEARY: Object to foundation.</p> <p>20        THE WITNESS: It was not wells that were  21 sampled. It was --</p> <p>22 BY MR. DEAN:</p> <p>23        Q. I'm sorry. Water at water treatment  24 plants that created the composite sample, do you  25 know if the plant was operating or the wells were</p>	<p style="text-align: right;">Page 188</p> <p>1 there next to you. We'll be referring to that.  2 For the record, this is Exhibit 14. It's CLW 430  3 through 434, which is the document you reference  4 for your sentence footnote 41. Also known as  5 CLJA_USMCGEN_6650 through 6654.</p> <p>6        MS. O'LEARY: Object to foundation.</p> <p>7 BY MR. DEAN:</p> <p>8        Q. Do you see listed on the first page of  9 Exhibit 14 the eight marked samples?</p> <p>10        A. Just checking something here. I see  11 this.</p> <p>12        Q. Let me ask you --</p> <p>13        A. It seems to be an issue with the Bates  14 number on these documents because you have --</p> <p>15        Q. No, sir. Let me help you if I can.  16 Your sentence, The first known analysis of Camp  17 LeJeune drinking water's plot for VOCs that has  18 included COCs was in October 1980. Footnote 41.  19        Footnote 41 says Jenning Laboratories  20 10/31/1980 Camp LeJeune Justice Act CLW, CLW 430  21 through 435. I put in front of you Exhibit 14 is  22 the CLW 430 through 435 document you're referring  23 to.</p> <p>24        A. You are correct. But there is another  25 Bates number.</p>
<p style="text-align: right;">Page 187</p> <p>1 operating that day the composite samples were  2 taken from the water treatment plant?</p> <p>3        MS. O'LEARY: Object to foundation.</p> <p>4        THE WITNESS: I'm confused because it  5 seems you confused wells and water supply.</p> <p>6 BY MR. DEAN:</p> <p>7        Q. I may have in my first part of my  8 question. I'm trying to clear it up now. My  9 understanding is composite samples that are being  10 referred to here, eight systems were taken,  11 39 percent from the Hadnot Point water treatment  12 plant, 18 percent from the Tawara Terrace water  13 treatment plant, and 11 percent from the Holcomb  14 Boulevard water treatment plant; right?</p> <p>15        A. I don't think that's correct. What is  16 correct is samples were taken at eight water  17 treatment plants, basically finished water. So  18 samples were. And then they were brought to the  19 lab or the lab took them. And in the lab they  20 were composited in a manner that is reflected in  21 that paragraph, 39 percent for Hadnot Point,  22 et cetera.</p> <p>23        (Hennet Exhibit 14 was marked.)</p> <p>24 BY MR. DEAN:</p> <p>25        Q. I'll show you Exhibit 14. Just lay it</p>	<p style="text-align: right;">Page 189</p> <p>1        Q. I agree. I agree. But you refer to --  2 I'm just using the one you refer to and making it  3 clear that it's the same one.</p> <p>4        You agree with that?</p> <p>5        A. I agree with that.</p> <p>6        Q. The first two samples are Hadnot Point  7 water treatment plant samples; right?</p> <p>8        MS. O'LEARY: Object to foundation.</p> <p>9 BY MR. DEAN:</p> <p>10        Q. Sample 1 is Hadnot Point Building 20,  11 which is the Hadnot Point treatment plant?</p> <p>12        A. Right.</p> <p>13        Q. Sample 2 is -- and they took two quarts  14 from there, which is a 152 milliliters; right?</p> <p>15        A. No. It's 1,500.</p> <p>16        Q. I'm sorry. You're right. And Number  17 two sample, they one quart from Hadnot Point  18 Building 670?</p> <p>19        MS. O'LEARY: Object to foundation.</p> <p>20        THE WITNESS: Yes. Building 670 is  21 Holcomb Boulevard.</p> <p>22 BY MR. DEAN:</p> <p>23        Q. Treatment plant?</p> <p>24        A. Treatment plant.</p> <p>25        Q. Now, this is dated October 31, 1980 when</p>

<p style="text-align: right;">Page 190</p> <p>1 the report was issued, but it says the samples 2 were taken on October 1. 3 A. That's right. 4 Q. Do you know if on October 1, 1980 Hadnot 5 Point well 651 was running? 6 A. I do not know. Nobody knows that. 7 Q. Have you done any work to ascertain from 8 historic records whether or not well 651 was 9 operating on October 1, 1980? 10 A. I have looked. I have looked quite a 11 lot to see what is the information on when well 12 651 was operated. 13 Q. So go back to your report. And your 14 report, last sentence of that first paragraph I 15 read, says, "This indicates that none of the water 16 supply systems were contaminated with COCs at that 17 time." 18 Do you see that? 19 A. That's a true statement, yes. 20 Q. And you rely on this report, October 31, 21 and everything else you say in that paragraph to 22 reach that conclusion? 23 A. Yes. 24 Q. I just want to make sure I understand 25 that last sentence. You're saying it's your</p>	<p style="text-align: right;">Page 192</p> <p>1 Do you have independent opinions on 2 contamination analysis of HP-634 as far as its 3 start date of contamination, contamination at all? 4 Do you have independent opinion on that or do you 5 rely on Alex Spiliopoulos? 6 MS. O'LEARY: Object to form and 7 foundation. 8 THE WITNESS: I have reviewed 9 independent data for well 634, and it is in my 10 opinions. I describe that. 11 BY MR. DEAN: 12 Q. What is your opinions with respect to 13 contamination at HP-634? 14 A. It is in my report. So I can go there. 15 Q. Please if you don't mind. 16 A. If you permit me to find it. 17 Q. I'm trying to get there myself. I 18 believe it's page 530. Page 531, bullet point -- 19 I guess it's the third bullet point down, it says, 20 "Supply well HP-634 was not contaminated with 21 TCE." 22 Do you see that? 23 A. I see that, yes. 24 Q. And what's the basis of that opinion? 25 A. The data.</p>
<p style="text-align: right;">Page 191</p> <p>1 opinion based on what we just talked about that 2 none of the water supply systems at Hadnot Point, 3 at Holcomb Boulevard or Tawara Terrace were 4 contaminated on October 31, 1980? 5 MS. O'LEARY: Object to foundation. 6 BY MR. DEAN: 7 Q. October 1, 1980. 8 A. Yeah. I indicated that you had no 9 significant contamination in any of those systems 10 on October 1, 1980. That's what that reports. 11 MS. O'LEARY: If we've been going for a 12 little over an hour. So if there's point where we 13 can take a short break. 14 MR. DEAN: Now is a good time. I'm 15 fixing to go to another subject. 16 THE VIDEOGRAPHER: We are off the record 17 at 1455. 18 (Recess from 2:55 p.m. to 3:06 p.m.) 19 THE VIDEOGRAPHER: We are on the record 20 at 1506. 21 BY MR. DEAN: 22 Q. Can you go to Exhibit 3. Actually -- 23 yeah, Exhibit 3. Let me get the right page for 24 you. I want to talk about your opinions for 25 Hadnot Point well 634.</p>	<p style="text-align: right;">Page 193</p> <p>1 Q. What data are you referring to? 2 A. The available data. 3 Q. It's in your report. Let's just read it 4 together. You're saying that there's two samples 5 taken in December of 1984 after the well was shut 6 down and, two, after wells shut down in '86 and 7 '91. But on those first two, December 4 and 10th 8 they were nondetects. 9 MS. O'LEARY: Object to form and 10 foundation. 11 THE WITNESS: For TCE they were 12 nondetect. 13 BY MR. DEAN: 14 Q. Do you know what the nondetected level 15 was? 16 A. By memory, no, but we have to go back to 17 the data sheets. 18 Q. Do you know, did you do any work or 19 research or data analysis for the December 4, 1984 20 sample at HP-634 to determine whether or not that 21 was a good sample? 22 MS. O'LEARY: Object to form. 23 THE WITNESS: I looked at what is 24 available for the results on that date, and my 25 recollection is that it's some information from</p>

<p>1 the laboratory.</p> <p>2 BY MR. DEAN:</p> <p>3 Q. Do you know whether or not that</p> <p>4 December 4 sample was contaminated in any way?</p> <p>5 A. I would have to go back to the data</p> <p>6 sheets to answer that question if it is. But I</p> <p>7 recall for TCE, it was nondetect as I recall it.</p> <p>8 I would need to see the datasheet to confirm.</p> <p>9 Q. I think this is in your report. Table</p> <p>10 C7 report ATSDR, let's see if that's in here.</p> <p>11 According to your -- I'll show you the</p> <p>12 form the data in just a second. I'm making a copy</p> <p>13 of it. But according to your bullet pointed note</p> <p>14 there, there's only one sample that shows a</p> <p>15 positive result for TCE, which was taken</p> <p>16 January 16, 1985 at 1300 micrograms per liter;</p> <p>17 right?</p> <p>18 A. Out of the five samples taken during the</p> <p>19 period, yes, that's my understanding.</p> <p>20 Q. But you're saying -- what's wrong with</p> <p>21 that 1300 micrograms per liter measurement</p> <p>22 taken in -- reported out January 16, 1985?</p> <p>23 A. So you mean the one with 1300 reported?</p> <p>24 Q. Yes, sir.</p> <p>25 A. Well, that particular sample was part of</p>	<p>Page 194</p> <p>1 indicate specifically which vials were broken and</p> <p>2 what the condition of the 634 vial was? Have you</p> <p>3 seen any documents or data that gives you that</p> <p>4 information?</p> <p>5 A. I recall two or three different sources</p> <p>6 there. And I do not specifically recall the</p> <p>7 content of those. You'll have to show them to me.</p> <p>8 (Hennet Exhibit 15 was marked.)</p> <p>9 BY MR. DEAN:</p> <p>10 Q. We'll show you Exhibit 15, and this is</p> <p>11 the data for -- and for the record, it's</p> <p>12 CLJA_WATERMODELING_01-33723 through 3726. And on</p> <p>13 page -- I'm going to to this referring to the</p> <p>14 Bates-stamp 3724. So it's the second page.</p> <p>15 Do you see the data reported out for</p> <p>16 HP-634?</p> <p>17 A. Well, this is, I believe, from the ATSDR</p> <p>18 report.</p> <p>19 Q. Correct.</p> <p>20 A. And this is not the documents I was</p> <p>21 referring to. I refer to original documents that</p> <p>22 basically describe the sample set.</p> <p>23 (Hennet Exhibit 16 was marked.)</p> <p>24 BY MR. DEAN:</p> <p>25 Q. Now, I'm going to show you Exhibit 16.</p> <p>Page 196</p>
<p>Page 195</p> <p>1 a questionable sample sets that contained broken</p> <p>2 bottles based on what I have reviewed.</p> <p>3 Q. And do you believe that the sample that</p> <p>4 rendered the 1300 microgram per liter measurement,</p> <p>5 was that sample vial broken?</p> <p>6 A. Again, I will have go to look at that.</p> <p>7 There were several samples broken.</p> <p>8 Q. What about the sample for 634, was that</p> <p>9 vial broken?</p> <p>10 A. I have to back to look at that</p> <p>11 information that I cite in my report. And I want</p> <p>12 to say for these type of samples, for those type</p> <p>13 of analytical means, you always -- the protocol is</p> <p>14 to take more than one flask or one sample, so</p> <p>15 typically two or three.</p> <p>16 Q. But you believed that somehow because</p> <p>17 some of the vials collected January 16 that that</p> <p>18 means that the vial for 634 was somehow comprised?</p> <p>19 A. It is a QA/QC flag. So the data should</p> <p>20 be marked as such. You a problem with that</p> <p>21 shipment. And all the samples could have been</p> <p>22 contacted by the broken vials in the package, if</p> <p>23 you wish. And typically the flag, you say, well,</p> <p>24 you should resample.</p> <p>25 Q. Have you seen any documents to date that</p>	<p>Page 197</p> <p>1 This is report # 7.</p> <p>2 MS. O'LEARY: Do you have a copy of for</p> <p>3 me of 16?</p> <p>4 MR. DEAN: Did I hand him two copies?</p> <p>5 MS. O'LEARY: I'm not sure. The last</p> <p>6 one I got was 15 which was Table C7 from the ATSDR</p> <p>7 report.</p> <p>8 BY MR. DEAN:</p> <p>9 Q. This is report 7 from the JTC</p> <p>10 Environmental, December 18, 1984 report,</p> <p>11 CLJA_NAVLANT-563489 through the 563498. If you</p> <p>12 turn to page 3495, you see that that particular</p> <p>13 Navy sample for HP-634 was received on the 12th</p> <p>14 and analyzed December 14. And that's when they</p> <p>15 got the chloroform, the 44V methylene chloride 130</p> <p>16 reading.</p> <p>17 Do you see that?</p> <p>18 MS. O'LEARY: Object to form.</p> <p>19 THE WITNESS: I see that.</p> <p>20 BY MR. DEAN:</p> <p>21 Q. Do you remember that when that -- let's</p> <p>22 go to something else first.</p> <p>23 (Hennet Exhibit 17 was marked.)</p> <p>24 BY MR. DEAN:</p> <p>25 Q. I show you Exhibit 17. That first one,</p>

<p>1 Exhibit 16, it's listed as a part of your 2 reference materials; correct?</p> <p>3 A. I believe so.</p> <p>4 Q. I'll show you just page 9 of your 5 reliance materials, which are Exhibit 1 -- 6 Exhibit 10 is your supplemental reliance 7 materials. Do you see just the two reports I've 8 handed to you, Exhibit 16 and 17, do you see where 9 you listed both those reports in your reliance 10 materials, the highlighted ones that I've got 11 there for you?</p> <p>12 MS. O'LEARY: What do you have 13 highlighted?</p> <p>14 MR. DEAN: Report 7, Exhibit 16 and the 15 report 17 which is Exhibit 17.</p> <p>16 THE WITNESS: Stay with me.</p> <p>17 BY MR. DEAN:</p> <p>18 Q. Exhibit 16 is the report 7; right?</p> <p>19 A. 563.</p> <p>20 Q. Do you see it says test report number 7. 21 That's all you got to look at on the top. Do you 22 see it on Exhibit 16?</p> <p>23 A. I see that. It says Report # 7, but the 24 a Bates-stamp numbers for some reason --</p> <p>25 Q. Don't worry about Bates numbers. Don't</p>	Page 198	<p>1 January 18 reported out at 1300 microgram per 2 liter on that page 5611?</p> <p>3 A. Can you repeat that?</p> <p>4 Q. Do you see at the bottom besides 87V, 5 TCE is reported out at 1300 on the sample for 6 January 18?</p> <p>7 A. Yes. I see that.</p> <p>8 Q. Do you see anything on this lab sample 9 log, page 5611, that says anything about that 10 sample being compromised or there being some sort 11 of an issue with that sample?</p> <p>12 A. Not on this sheet.</p> <p>13 (Hennet Exhibit 18 was marked.)</p> <p>14 BY MR. DEAN:</p> <p>15 Q. I'll show you Exhibit 18 and ask you if 16 you've ever seen that document before today. I 17 will tell you it's not listed in your reliance 18 materials as a part of the ones you specifically 19 set out. It's probably covered in the catch-all.</p> <p>20 My question is just: Do you as you sit 21 there today remember reading this chronology?</p> <p>22 A. Those documents seem familiar, but there 23 are several chronologies in the record that look 24 about the same. So I think I have seen this.</p> <p>25 Q. It's not again listed specifically in</p>	Page 200
<p>1 worry about Bates numbers. Okay? Exhibit 16 is 2 test report # 7 that's referenced that in 3 Exhibit 10 of your reliance materials on page 9; 4 correct?</p> <p>5 A. It's not the same Bates number. But it 6 has the title report number 17.</p> <p>7 Q. Now go to Exhibit 17 laying there. Top 8 left-hand corner it says it's report number 17 9 Enclosure. Actually if you'll turn to the second 10 page that would be the easiest. Turn to the 11 second page. And it says at the top report 17.</p> <p>12 A. It says report number 17.</p> <p>13 Q. And is report 17 in your reliance 14 materials on page 9?</p> <p>15 A. I believe it is.</p> <p>16 Q. Now, on Exhibit 17, if you turn to the 17 page -- the easiest one for me to use is the CLW 18 number 5611, so about a third of the way in. Do 19 you see the large CLW number?</p> <p>20 MS. O'LEARY: That would be the Bates at 21 the bottom CLJA_WATERMODELING_09 and then 423234.</p> <p>22 MR. DEAN: Mine is cut off. Sorry I 23 couldn't give you that one.</p> <p>24 BY MR. DEAN:</p> <p>25 Q. Do you see on 5611 the sample received</p>	Page 199	<p>1 your reliance reference materials, although it's 2 probably in a catch-all at the end in those 3 others, and I just was not certain of whether or 4 not you've ever considered this document and 5 considered it for your opinion in this case.</p> <p>6 That's my question.</p> <p>7 MS. O'LEARY: Object to form.</p> <p>8 THE WITNESS: I have looked at many 9 documents, and this is probably one of the one I 10 looked at because I do remember documents that 11 looked like that that were basically chronologies. 12 I don't think they are more than one to my 13 recollection.</p> <p>14 BY MR. DEAN:</p> <p>15 Q. Now, do you see that January 16, 1985 16 entry? Actually let's go back up. So December 4, 17 which was the date we were talking about earlier 18 shown on the summary that had a nondetect 19 remember, it says, "Sampled Hadnot Point water 20 plant raw and treated water, plus wells 601, 603, 21 608, 634, 637 and 642 because of their proximity 22 to the 602."</p> <p>23 Do you see that?</p> <p>24 A. I see that.</p> <p>25 Q. And it also says on 10 December, a</p>	Page 201

<p style="text-align: right;">Page 202</p> <p>1 couple lines down, "Sampled HP treated water, plus 2 wells 601, 602, 608, 634, 637 and 642."</p> <p>3 Do you see that?</p> <p>4 A. I see that.</p> <p>5 Q. 14 December, "Received the result of the 6 10 December '84 sampling. Treated water levels 7 dropped. Wells 634 and 637 previously showing 8 nothing showed significant levels of methyl 9 chloride. 634 and 637 were shut down."</p> <p>10 Do you see that?</p> <p>11 A. Yes. It is methylene chloride. Yes.</p> <p>12 Q. I'm sorry. Now, I think in your report 13 your opinion is that as of December 14, 634 has 14 been shut down and no longer operating; is that 15 right?</p> <p>16 A. 634 was shut down because of methylene 17 chloride detection.</p> <p>18 Q. And it stayed shut down. It was the 19 never turned back on as far as you know?</p> <p>20 A. It was not returned to service as far as 21 I know.</p> <p>22 Q. I don't know exactly what page that is. 23 It might have Dr. Spilotopoulos' report.</p> <p>24 But as far as you know as you sit here 25 today, you don't know of any information that 634</p>	<p style="text-align: right;">Page 204</p> <p>1 A. Yes, but that's not the sampling data.</p> <p>2 Q. Hold on. Bear with me. If you go to 3 exhibit -- go to Exhibit 15, which is this 4 document, the chart. Do you see on the second 5 page besides or down there where it says the 6 sample date for Hadnot Point 634, it lists 12/4, 7 12/10 and January 16, 1300 micrograms per liter?</p> <p>8 A. Two more dates later. Yes. This is 9 from ATSDR.</p> <p>10 Q. Correct.</p> <p>11 A. This is not primary source of 12 information.</p> <p>13 Q. Sir, the primary source of the 14 information for the 1300 reading right there shows 15 that the Navy received the sample. I'll give you 16 it doesn't say when specifically on that page the 17 sample was taken. It says the Navy received it on 18 the 18th. The result for TCE on the bottom 19 right-hand corner is 1300, isn't it?</p> <p>20 A. That's correct, but it doesn't give me a 21 sampling date.</p> <p>22 Q. I understand it's not there, but we can 23 get that date, assuming it's accurate, from 24 Exhibit 15; right?</p> <p>25 A. Assuming that the ATSDR is accurate.</p>
<p style="text-align: right;">Page 203</p> <p>1 was turned back on after that December 12?</p> <p>2 A. My recollection is that it was shut 3 down. It was said shut down temporarily, but I 4 saw no indication that it was ever put back in 5 service.</p> <p>6 Q. Let's look at that. Do you see the next 7 entry about two down, it says 16 January 1985? Do 8 you see that entry?</p> <p>9 A. Yes, I do.</p> <p>10 Q. And we've already established from 11 Exhibit 17, the JTC report, that 634 was, in fact, 12 tested on January 16; right?</p> <p>13 A. Can you show me which?</p> <p>14 Q. Exhibit 17 or you can go to Exhibit -- 15 Exhibit 17, January 16, 1985, 634 was tested.</p> <p>16 MS. O'LEARY: What page is that?</p> <p>17 MR. DEAN: 5611.</p> <p>18 BY MR. DEAN:</p> <p>19 Q. Page 5611, 634 was a well that was 20 sampled on the 16th, the sample received 18th, and 21 it was reported out on the 28th. Do you see that?</p> <p>22 A. Where is the date of sampling here on 23 this page?</p> <p>24 Q. Do you see at the top of 5611 it says 25 the Navy received the 634 on January 18?</p>	<p style="text-align: right;">Page 205</p> <p>1 There were a few typos in the ATSDR sampling 2 dates.</p> <p>3 Q. Also on Exhibit -- the chronology, 4 Exhibit 18, on the first page, CLW 4546, beside 16 5 January 1985, which is the same date that ATSDR 6 listed in their report as the sample date, does it 7 read, "Sampled all operating wells for Hadnot 8 Point and Holcomb Boulevard water plant (HB). 37 9 wells"?</p> <p>10 Did I read that correctly?</p> <p>11 A. You read that correct.</p> <p>12 Q. So we got two. That's the original 13 source or that a source, not the original. That's 14 a source of the date of January 16 that all 15 operating wells including HP-634 were sampled; 16 right.</p> <p>17 A. It doesn't say January 16 HP-634 on what 18 you showed me.</p> <p>19 Q. It says, "All operating wells were 20 sampled that day."</p> <p>21 Do you see that?</p> <p>22 A. That what it says.</p> <p>23 Q. 634 was sampled on that day.</p> <p>24 MS. O'LEARY: Object to foundation.</p> <p>25 THE WITNESS: Could be.</p>

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<p>Page 206</p> <p>1 BY MR. DEAN:</p> <p>2 Q. The history says it was operating that 3 day; right?</p> <p>4 A. That's the words that is being used in 5 this.</p> <p>6 Q. So my question is: Did you disregard 7 that fact or not consider that fact when you 8 issued your opinion saying that the well shut down 9 on December 12, 1984 and never went back into 10 service?</p> <p>11 MS. O'LEARY: Object to foundation.</p> <p>12 THE WITNESS: I did not disregard that. 13 I did look at the 37 wells that were sampled, and 14 it included both operating wells and the wells 15 that were shut down. For example, 602 was 16 sampled. It was shut down. So I think the person 17 who wrote this narrative just basically probably 18 used the incorrect word because what I did is I 19 sampled all water supply well that they could 20 sample. That's my interpretation of that, because 21 when I look at what was actually sampled, it 22 included wells that were not on.</p> <p>23 BY MR. DEAN:</p> <p>24 Q. Do you know if there's any other 25 evidence that well 634 was, in fact, operating on</p>	<p>Page 208</p> <p>1 BY MR. DEAN:</p> <p>2 Q. Let me show you Exhibit 19. The 3 Department of Justice has retained you as an 4 expert in this case; right?</p> <p>5 A. Yes.</p> <p>6 Q. And they are defending the United 7 States; right?</p> <p>8 A. Pardon me?</p> <p>9 Q. That they are defending the United 10 States in this litigation?</p> <p>11 A. That's the role of the Department of 12 Justice in this case, yes.</p> <p>13 Q. And the location that's at issue in this 14 case is Camp Lejeune, North Carolina, which is a 15 Marine base under the jurisdiction of the Marine 16 Corps which falls under the Navy.</p> <p>17 A. That's my understanding. I have not 18 seen documents that state specifically that. I 19 have not looked for that.</p> <p>20 Q. Do you believe that the United States 21 Marine Corps, if they were to prepare a history 22 that applies to operation 634, that the Marines 23 would be accurate and truthful in that chronology?</p> <p>24 MS. O'LEARY: Object to foundation.</p> <p>25 THE WITNESS: As I mentioned, those</p>
<p>Page 207</p> <p>1 January 6, 1985 other than the document you and I 2 just looked at, the chronology, 4546, CLW 4546? 3 It's Exhibit 18.</p> <p>4 A. Well, I have searched for that. There 5 is no document I could find that would say well 6 634 after it was shut down because of methylene 7 chloride was ever restarted. You are quoting 8 something that is out of the -- not of the time, 9 but somebody just did a narrative.</p> <p>10 And when they say all operating wells 11 were sampled, 37 wells, I looked at the data from 12 those resampling, and it does include wells that 13 were shut down, but they could be sampled because 14 technically because they could be sampled.</p> <p>15 Q. Did you find any other historical 16 documents or any other information about operation 17 of 634 when you were doing your in-depth document 18 review in order to base your opinions other than 19 you now believe you might have seen Exhibit 18?</p> <p>20 A. Yeah. My memory come back. I have seen 21 this. And then I just went to look at all the 22 wells that we sampled, and those included wells 23 that were in operation or operable as well as 24 wells that were closed at that time.</p> <p>25 (Hennet Exhibit 19 was marked.)</p>	<p>Page 209</p> <p>1 chronologies are put together by somebody who was 2 probably task to do that. That doesn't mean that 3 it is absolutely correct. I have noticed several 4 times where things are contradictory in the 5 record.</p> <p>6 BY MR. DEAN:</p> <p>7 Q. Do you trust Marine Corps chemists?</p> <p>8 MS. O'LEARY: Object to foundation.</p> <p>9 THE WITNESS: What do you mean by trust?</p> <p>10 BY MR. DEAN:</p> <p>11 Q. Do you not believe or trust a Marine 12 Corps chemist?</p> <p>13 MS. O'LEARY: Object to form and 14 foundation.</p> <p>15 MR. DEAN: Let me withdraw that. A 16 little argumentative. I'll object to my own 17 question and ask a different way.</p> <p>18 BY MR. DEAN:</p> <p>19 Q. Do you have any reason as you sit there 20 today right now to distrust, not believe, not feel 21 comfortable with a United States Marine Corps 22 chemist analyzing the operation of these wells in 23 1989?</p> <p>24 A. 1989? Everybody do the best they can. 25 I don't see malfeasance, if that's what you mean,</p>

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<p style="text-align: right;">Page 210</p> <p>1 but it is not to the exclusion of sometimes some  2 verbiage that is not correct for litigation or  3 basically some error. Human error happens, but --  4 I want to finish -- I don't see anyone who's is  5 trying to basically say something that I didn't  6 think was the way they said it.</p> <p>7       But I do not cherry pick what I look at.  8 I look at everything. The basis of me as a  9 professional rendering an opinion it's not based  10 on the cherry picked one piece or one sentence  11 here ignoring the other ones. I am taking the  12 entirety of that, and then I make my opinion.</p> <p>13      Q. And your opinions are based on the stuff  14 that's been provided to you or that you've  15 developed or researched and located, produced to  16 you. That's where you get all your information;  17 right?</p> <p>18      MS. O'LEARY: Object to form.</p> <p>19 BY MR. DEAN:</p> <p>20     Q. Let me ask a different way. Did you get  21 any information, did you get any documents  22 directly from the Marine Corps or the Navy, or did  23 you get all of the documents and information  24 supplied to you by the Department of Justice?</p> <p>25     A. My understanding as far as documents,</p>	<p style="text-align: right;">Page 212</p> <p>1 BY MR. DEAN:</p> <p>2      Q. And do you see on the second page, 1819,  3 it says Installation Restoration Program  4 Background Information? Do you see that?</p> <p>5      A. I see that.</p> <p>6      Q. And if you go down to line 6, that very  7 similar sentence where it says, "On December 4,  8 1984 the Hadnot Point water treatment plant's raw  9 water and treated water was sampled as well as any  10 drinking water wells within a mile of Hadnot Point  11 fuel farm or Building 202. The building numbers  12 sampled were 601, 603, 608, 634, 642."</p> <p>13      Do you see that?</p> <p>14      A. I do see that.</p> <p>15      Q. Then the results are received on  16 December 6. In item number 8, it says from  17 October 31 -- excuse me. Does it say, "From 10-31  18 December 84 duplicate and quality control samples  19 were run to confirm the presence of TCE, DCE and  20 PCE in the wells. Wells 634 and 637 on a second  21 sampling shows methyl chloride. The wells were  22 temporarily closed until it was determined that  23 the methyl chloride was probably a laboratory  24 contaminant."</p> <p>25      Do you see that?</p>
<p style="text-align: right;">Page 211</p> <p>1 base-related documents that they basically all  2 came through the Justice Department. But if you  3 have a newspaper article, I may have read that,  4 but it was not coming from the Justice department.</p> <p>5      Q. Understood. I'm going to show you  6 Exhibit 19. Exhibit 19 is a memo from a  7 supervisory chemist Elizabeth Betz, dated 11  8 April 1989. Its subject says Water Monitoring  9 Related to the Installation Restoration Program at  10 the top.</p> <p>11      Do you see that?</p> <p>12      A. I see that.</p> <p>13      Q. This document is not listed in your  14 reliance materials in any of the call-outs through  15 page 22, although it could be covered in some of  16 the other catch-all.</p> <p>17      My question: Do you, as you sit there  18 today, specifically remember reviewing a 1989  19 Marine Corps water monitoring program history  20 document?</p> <p>21      MS. O'LEARY: Object to form.</p> <p>22      THE WITNESS: I believe I have seen  23 this. At least it looks like something I've seen  24 in the past.</p> <p>25</p>	<p style="text-align: right;">Page 213</p> <p>1      A. I see that.</p> <p>2      Q. If you turn to the next page, paragraph  3 9, Ms. Betz notes "On January 16, 1983 37 wells  4 serving the Hadnot Point and Holcomb Boulevard  5 water plants were sampled."</p> <p>6      Do you see that?</p> <p>7      A. I see that.</p> <p>8      Q. Item number 13, moving forward, says,  9 "On 1 February 1985, the 31 January 1985 samples  10 showed that there was still a contaminated well  11 operating in the Hadnot Point system. The results  12 of the 16 January '85 sampling were phoned into  13 Natural Resource and showed high levels of TCE in  14 651. Well 651 is located on the backside of  15 DRMO's disposal storage lot. It was not initially  16 sampled as being in proximity to a NACIP site. It  17 had the highest levels of TCE found. The  18 concentration was in the 17,000 to 18,000 parts  19 per billion range. Well 651 was shut down."</p> <p>20      Can you read what the record what it  21 says on February 1, 1985 about well 634?</p> <p>22      A. Well, we're talking back to this 1300.</p> <p>23      Q. Can you read into the record the rest of  24 the paragraph I just read beginning well 634, sir.</p> <p>25      MS. O'LEARY: Object to form.</p>

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<p style="text-align: right;">Page 214</p> <p>1        THE WITNESS: "Well 634 showed TCE also 2 and was shut down."</p> <p>3 BY MR. DEAN:</p> <p>4        Q. That document says 634 continued to run 5 some point in time after it was temporarily 6 closed, put back in service the end of December, 7 middle to end of December, and it ran until 8 February 1, 1985. That's what that document says; 9 right?</p> <p>10      MS. O'LEARY: Object to foundation.</p> <p>11      THE WITNESS: You have to help me here. 12 I don't see where says that 634 was operated for 13 the water simply.</p> <p>14 BY MR. DEAN:</p> <p>15      Q. Well, it says on the 1st of 16 February 1985, it was shut down. That's the 17 sentence you read. And if it shut down, it means 18 it was operating before it was shut down.</p> <p>19      A. No. That's one interpretation of this. 20 But my interpretation based on everything I have 21 looked at is -- remember that this chronology here 22 was done basically four years or five years after 23 the fact. So it's basically some rehashing of 24 things. I put more credential to basically 25 documents that are close to when things happen or</p>	<p style="text-align: right;">Page 216</p> <p>1 reported in the water from the well.</p> <p>2 BY MR. DEAN:</p> <p>3        Q. And your opinion is it was never started 4 back up?</p> <p>5        A. I'm not finished. I'm not finished. 6 Then I looked for information that would just 7 support what you say, that well 634 was basically 8 reused for the water supply. And you have 9 information from the time that shows you that that 10 well was not on. And that information is given in 11 my report for the period November -- for 69 days, 12 November to basically February 5, 1985, that 13 period of time. And well 634 after this period of 14 shutdown on December 10 or whatever that was, was 15 not on. And that is contemporary information that 16 tells you which wells were on and which wells were 17 off. And that I rely as being primary indication 18 and support for my opinion and deduction and 19 conclusion that well 634, once it was shut down, 20 was not restarted for the water supply.</p> <p>21      Q. We'll circle back to that in a minute, 22 move onto another subject.</p> <p>23      (Hennet Exhibit 20 was marked.)</p> <p>24 BY MR. DEAN:</p> <p>25      Q. I'll show you Exhibit 20. Do you see</p>
<p style="text-align: right;">Page 215</p> <p>1 when things happened.</p> <p>2        Q. Well, this is 1989 and the other 3 document is February 26, 1985. If you go look at 4 Exhibit 18, tell me the date it says that that 5 chronology was prepared.</p> <p>6        MS. O'LEARY: Object to form.</p> <p>7        THE WITNESS: That chronology we talked 8 about was February 26, 1985. This one --</p> <p>9 BY MR. DEAN:</p> <p>10      Q. 30 days later.</p> <p>11      A. That one. And this one is five years 12 later.</p> <p>13      Q. Four years later and it has the same 14 wording, for the most part, of the wording that 15 was done when it was created 30 days within that 16 well -- actually, the well was shut down 17 February 1. So that's 25 days after 634 was shut 18 down. This chronology was prepared. Isn't that 19 sufficiently close in time, sir?</p> <p>20      MS. O'LEARY: Object to form and 21 foundation.</p> <p>22      THE WITNESS: No. I think you are 23 trying to argue with me. But the information I 24 have seen and reviewed was that well 634 was shut 25 down in December after methylene chloride was</p>	<p style="text-align: right;">Page 217</p> <p>1 that Exhibit 20, which is 2 CLJA_WATERMODELING_09-427825 through 427827 is a 3 meeting, 2/27/85 meeting, the day after the 4 chronology document is dated, Exhibit 19.</p> <p>5        A. Are we on 19 or 20?</p> <p>6        Q. I think we're on Exhibit 20. I was 7 referring back to 19 because it's got that date at 8 the top. The chronology is 18.</p> <p>9        Have you seen this document before?</p> <p>10      A. I believe I did.</p> <p>11      Q. It's not listed in your reliance 12 materials specifically as a call-out. It could be 13 covered in some of the catch-alls at the back.</p> <p>14      My question you to is: Do you know for 15 certain one way or the other in forming your 16 opinions in this case, did you, in fact, review 17 this document or not?</p> <p>18      MS. O'LEARY: Object to form.</p> <p>19 BY MR. DEAN:</p> <p>20      Q. If you don't remember, tell me. But if 21 you remember, I'd like to know.</p> <p>22      MS. O'LEARY: Same objection.</p> <p>23      THE WITNESS: This document looks 24 familiar to me. I believe I have seen it.</p> <p>25</p>

<p style="text-align: right;">Page 218</p> <p>1 BY MR. DEAN:</p> <p>2 Q. If you turn to the second page, do you 3 see on the page 826 it is Wilmington Regional 4 Office. It's got a stamp February 7, 1985 in the 5 right corner. Do you see that?</p> <p>6 A. I see that.</p> <p>7 Q. And at the top it says Hadnot Point 8 Water Systems. There's a location line across the 9 top with different dates to the right. Do you see 10 that? So the locations are up and down the left 11 side, and the dates are across the top on the 12 right.</p> <p>13 A. That I see that, yes.</p> <p>14 Q. And if you go down to the bottom, in the 15 middle, do you see the section that says "Wells 16 out of service and could not be sampled on 17 January 16, 1985"?</p> <p>18 Do you see that section?</p> <p>19 A. I do see it.</p> <p>20 Q. They list 610, 615, 654 and LCH 4006. 21 Did I read that list correctly?</p> <p>22 A. I see that.</p> <p>23 Q. 634 is not listed there as being out of 24 service, is it, sir?</p> <p>25 A. It is not listed there as being out of</p>	<p style="text-align: right;">Page 220</p> <p>1 and you go, for example, from the top, Building 2 20, Building 20, well 601, well 602, 603, 608, 3 634, 637, 642, 651, all of those wells were 4 sampled. All of those wells were sampled.</p> <p>5 Those wells sampled, basically some of 6 them were not in service. And then you have the 7 list of the wells that were sampled.</p> <p>8 Q. 16 is not at the top.</p> <p>9 MS. O'LEARY: Object to the foundation.</p> <p>10 BY MR. DEAN:</p> <p>11 Q. 16 is not listed as a sample taken 12 because it was out of service, nor was 615, nor 13 was 654, nor was LCH 4006. Those are noted listed 14 at the top on this document.</p> <p>15 A. I would like to answer, and listen to my 16 logic. You try and pick the one you want, but 17 listen to what is important here. Let's take, for 18 example, well 608. Well 608 says for 1/16 it was 19 broken. You read that; right?</p> <p>20 Q. Yes, sir. I can read.</p> <p>21 A. Does that mean it was sampled? I 22 conclude that it does mean it was sampled. Well 23 608, was it an active well? No. It had been had 24 shut down before. It was never restarted, but it 25 could be sampled. In my evaluation of this, I</p>
<p style="text-align: right;">Page 219</p> <p>1 service.</p> <p>2 Q. On a report generated or received on 3 February 27, 1985; correct?</p> <p>4 MS. O'LEARY: Object to form.</p> <p>5 THE WITNESS: That's correct. And this 6 is one piece of information I have looked at.</p> <p>7 BY MR. DEAN:</p> <p>8 Q. And you discounted and didn't -- before 9 we go there, do you see the information for the 10 vials in the list under 1/16? Do you see there's 11 a 1/16 date. Then there's some results listed 12 under it.</p> <p>13 A. I see that.</p> <p>14 Q. And the location is over along the left 15 side. Would you agree with me that this is 16 additional information that shows that samples 17 were taken January 16 because under January 16 18 next to well 634, out to the right is that same 19 reading we looked at before, 1300.</p> <p>20 A. I see that.</p> <p>21 Q. Do you agree with that?</p> <p>22 A. Yes. And if I may elaborate on this, 23 the meaning of what you read in the record that 24 wells out of service and could not be sampled.</p> <p>25 Now, if you look at the wells that were sampled</p>	<p style="text-align: right;">Page 221</p> <p>1 made the same conclusion for 634.</p> <p>2 Q. But this says on its face that this 3 along with the other two documents I showed you, 4 shows that 634 was, in fact, pumping, operating, 5 when the samples were taken on January 16, 1985 as 6 well as all the way through at least February 1, 7 if not February 27 when this document was 8 prepared.</p> <p>9 A. No. What this means is that 634 could 10 be sampled like 608 could be sampled. We know 11 that 608 was not in service. And what you made me 12 read earlier is that wells out of service and 13 could not be sampled outside those four.</p> <p>14 What is meant by that is those you could 15 not sample. Sometimes it's because you do not 16 have a pump that function anymore or the well has 17 been probably abandoned, so it could not be 18 sampled.</p> <p>19 Now, 608 was abandoned before, but it 20 was sampled as indicated by the data. 634, I saw 21 nothing that says that 634 was restarted after it 22 was shut down because of methylene chloride.</p> <p>23 Q. I just shown you three documents. I'm 24 not going to argue with you anymore about it.</p> <p>25 I'm just asking you: Does that change</p>

<p style="text-align: right;">Page 222</p> <p>1 your view with regard to whether your opinion is    2 correct that 634 was shut down temporarily January    3 12 and was thereafter was restarted?</p> <p>4 MS. O'LEARY: Object to form.</p> <p>5 THE WITNESS: And I explained to you    6 that you are reading words in a wishful manner for    7 what you try to express. And I am explaining to    8 you that basically I have not seen any indication    9 that well 634 was restarted for service, but it    10 could be sampled similarly to well 608 for    11 example, which we know for sure was never put back    12 in service. And by the way, the same is true for    13 well 602.</p> <p>14 BY MR. DEAN:</p> <p>15 Q. What is your basis to say that 634 was    16 shut down December 12 and never turned back on?    17 What is the basis for that statement?</p> <p>18 MS. O'LEARY: Object to foundation.</p> <p>19 THE WITNESS: The well was shut down at    20 that time because of methylene chloride. And I    21 found no indication that it was put back into    22 service. And the fact that you are trying to make    23 me admit that because it was sampled on    24 January 16, that means it was in service.</p> <p>25 You have plenty of more direct evidence</p>	<p style="text-align: right;">Page 224</p> <p>1 '85. I think it goes to February 5, if you look    2 at page 2.</p> <p>3 MR. DEAN: I'm sorry. You're exactly    4 right. My apologies.</p> <p>5 BY MR. DEAN:</p> <p>6 Q. This chart for all these wells gives    7 November 28, 1984 and continues through    8 February 5, 1985; right?</p> <p>9 A. That's correct.</p> <p>10 Q. And you took that chart and you've    11 created an Excel spreadsheet, and we'll talk about    12 it later on, but you used that spreadsheet to then    13 do some calculations and come up with percentages    14 of operation time at these wells; right?</p> <p>15 A. That's a basis for that, yes.</p> <p>16 Q. So this is not a report. Someone    17 created a summary after they went and looked at    18 some records to create this well operational    19 history document; right?</p> <p>20 MS. O'LEARY: Object to foundation.</p> <p>21 THE WITNESS: Somebody working there did    22 this.</p> <p>23 BY MR. DEAN:</p> <p>24 Q. What did you do to ascertain or    25 investigate whether the data or the information</p>
<p style="text-align: right;">Page 223</p> <p>1 that shows that 634 was not restarted. And I    2 mentioned before the document that shows the wells    3 that were on and the wells that were off between    4 November -- sometime in November all the way to    5 February 5, 1985. By November I mean November    6 1984.</p> <p>7 (Hennet Exhibit 21 was marked.)</p> <p>8 BY MR. DEAN:</p> <p>9 Q. We're going to look at it right now.</p> <p>10 Now, in your report -- I'll show you Exhibit 21.    11 I blew it up. You've seen that chart before. I    12 think that's what you're referring to; right?</p> <p>13 A. That's correct.</p> <p>14 Q. And you took Exhibit 21, which is an    15 operational monthly report of when these wells    16 were all -- between November 28, '84 and    17 January 6, '85; right?</p> <p>18 THE WITNESS: That's right. This is    19 independent data, if you wish.</p> <p>20 BY MR. DEAN:</p> <p>21 Q. That you believe shows that this -- do    22 you think when this document was created,    23 Exhibit 21.</p> <p>24 MS. O'LEARY: I'm sorry. I have a    25 foundation objection. I think you said January 6,</p>	<p style="text-align: right;">Page 225</p> <p>1 about what months shown on this chart these    2 different wells were operating? What work did you    3 do to verify that this chart was accurate before    4 you created your own chart?</p> <p>5 A. Well, the chart -- you have information    6 for the well we know were shut down. Let's take    7 634 off the table now. 602, 608, we know when    8 that well was shut down. And we have some others.    9 By memory I don't remember them all.</p> <p>10 But those wells were basically out    11 of service, and that's documented. And they were    12 never restarted. By memory 602 608 are the ones I    13 remember right now. There are probably some other    14 ones. And when you look at this chart, one of the    15 things that I checked was, right, is this    16 consistent with that information. And it is. So    17 602 for example, I know that it was shut down    18 before November '84, and it's never on.</p> <p>19 608, I know that it was shut down    20 approximately in early December, and it was never    21 on. All the ones that were contaminated, once    22 they discovered the contamination, they shut them    23 down.</p> <p>24 Same for 634 now. 634 basically was    25 never on, was never on at all after December,</p>

<p style="text-align: right;">Page 226</p> <p>1 December 10. And it was off a few days before 2 because it was off. But it was never put back on 3 all the way to February 1985.</p> <p>4 Q. I let you finish. I let you finish. So 5 let me ask a question.</p> <p>6 A. Let me finish then. So this to me is 7 important data in that context, because it's not 8 somebody like ASTDR, like me or anyone else who 9 just generated this information.</p> <p>10 Q. My question was: You rely primarily on 11 Exhibit 21, this chart someone created based on 12 some other information to create your chart on 13 page 418 in your report; right?</p> <p>14 A. I basically base what have in my report 15 on this, and I made it to fit on one page.</p> <p>16 Q. Second question, you mentioned some data 17 you conferred with to verify that the information 18 in the chart is accurate.</p> <p>19 Do you remember what you were referring 20 to?</p> <p>21 A. I thought I explained that. You have 22 information in the record that, for example --</p> <p>23 Q. Be specific. What information are you 24 referring to that you conferred or reviewed to 25 determine that you felt this chart was accurate?</p>	<p style="text-align: right;">Page 228</p> <p>1 Q. So on Exhibit 21, the chart, beside 634 2 it shows it was operating on December 28 and 29 3 and it shows it was operating December 2, 3 and 5, 4 and then there's nothing for it throughout --</p> <p>5 A. That was too fast for me. Can you 6 repeat, please?</p> <p>7 Q. For 634 it shows only on the chart that 8 634 was operating November 28, November 29, 9 February 2, 3, 4, 5 and 6, and it stops. If you 10 turn and look all the way across that, it shows it 11 wasn't operated the rest of December, wasn't 12 operating in January. And on the back, if you go 13 to 634, it doesn't show it operating at all in 14 January or February.</p> <p>15 MS. O'LEARY: Object to foundation. I 16 think you just misspoke and February when you 17 meant December.</p> <p>18 BY MR. DEAN:</p> <p>19 Q. The well did not operate at all in 20 December according this document or January or 21 February, and that's where you got your 22 information it must have been shut down and not 23 come back on; right?</p> <p>24 MS. O'LEARY: Object to foundation.</p> <p>25 THE WITNESS: That is consistent because</p>
<p style="text-align: right;">Page 227</p> <p>1 That's what my question is.</p> <p>2 A. For example, well 602, remember this 3 chart are for the wells that are actually used for 4 the water supply. They're water supply wells when 5 you have an X that were in use to supply the 6 water. Now, I know from the record, for example, 7 well 602 was contaminated but was shut down.</p> <p>8 Q. Let me stop you there. I don't know 9 what you're referring to. You just say the 10 record. I need to know what documents you're 11 relying upon that you claim you reviewed to 12 confirm that this chart was accurate.</p> <p>13 MS. O'LEARY: Object to form.</p> <p>14 THE WITNESS: They are documents in the 15 record that I reviewed that basically give you the 16 date when 602 was --</p> <p>17 BY MR. DEAN:</p> <p>18 Q. Can we agree we'll move on. As you sit 19 there, you believe there's records. You believe 20 you reviewed something, but you can't cite to them 21 specifically to me right now?</p> <p>22 A. By memory I am describing those, but I 23 cannot just all of a sudden present them out of my 24 nose.</p> <p>25</p>	<p style="text-align: right;">Page 229</p> <p>1 if it were to have been used, it will be 2 represented with X on this chart, and it was not.</p> <p>3 BY MR. DEAN:</p> <p>4 Q. Then, sir, go back to Exhibit 20 for me.</p> <p>5 It's the handwritten memo page.</p> <p>6 A. Yes.</p> <p>7 Q. I think you missed a document. If you 8 look at page 2, that analysis, if you look at well 9 634 under the date 12/10, what is the 130F?</p> <p>10 A. F stands for methylene chloride.</p> <p>11 Q. Out beside both 12/4, 12/10 you have 12 this 130 reading; right?</p> <p>13 MS. O'LEARY: I'm sorry for which well?</p> <p>14 BY MR. DEAN:</p> <p>15 Q. Well location 634 there's a methyl 16 chloride finding on a sample taken on 12/10; 17 right?</p> <p>18 A. Methylene chloride, yes, on 12/10.</p> <p>19 Q. And in order to obtain that sample, the 20 well is operating; right?</p> <p>21 A. It doesn't mean it was operating. It 22 means it was sampled.</p> <p>23 Q. Well, wouldn't you want to sample it 24 when the well is operating?</p> <p>25 A. Actually, you sample when you can</p>

<p style="text-align: right;">Page 230</p> <p>1 sample. It doesn't have to have the well 2 operating. By operating, I mean providing water 3 to the water supply.</p> <p>4 Q. If this chart you created on 418 that 5 you pulled from Exhibit 21, the historical summary 6 chart --</p> <p>7 MS. O'LEARY: That's 418 of Exhibit 3?</p> <p>8 MR. DEAN: Yes.</p> <p>9 BY MR. DEAN:</p> <p>10 Q. You'd need to rethink your opinions, 11 wouldn't you? If this chart is wrong, Exhibit 21, 12 for which you created 418 and did some 13 calculations, if his chart is wrong, then your 14 opinions with regard to this information and 15 calculation of these well operational 16 contributions by percentages, those opinions would 17 be wrong, wouldn't they?</p> <p>18 MS. O'LEARY: Object to form.</p> <p>19 THE WITNESS: This is a major piece of 20 information that I considered. It's not the only 21 one.</p> <p>22 BY MR. DEAN:</p> <p>23 Q. I understand. But what if it's wrong? 24 What if this information you thought was accurate 25 is wrong? Would you please agree with me you</p>	<p style="text-align: right;">Page 232</p> <p>1 relaxation? I can wait a little bit more, but at 2 some point, my coffee is working.</p> <p>3 THE WITNESS: We've gone a little over 4 an hour.</p> <p>5 MR. DEAN: I'm fine taking five or so 6 minutes if we could.</p> <p>7 THE WITNESS: Five minutes is fine.</p> <p>8 MR. DEAN: Let's take a break.</p> <p>9 THE VIDEOGRAPHER: We are off the record 10 at 1610.</p> <p>11 (Recess from 4:10 p.m. to 4:19 p.m.)</p> <p>12 THE VIDEOGRAPHER: We are on the record 13 at 1619.</p> <p>14 BY MR. DEAN:</p> <p>15 Q. Can you pull back out your handwritten 16 note, please, sir, Exhibit 11.</p> <p>17 A. Got it.</p> <p>18 Q. And also out beside your report. We're 19 going to go to page 5-7.</p> <p>20 A. Can you repeat, please?</p> <p>21 Q. In your report page 5-7. We're talking 22 about volatilization losses at Hadnot Point water 23 treatment plant; right? On Exhibit 2-4 you did 24 some calculation work?</p> <p>25 MS. O'LEARY: I'm sorry. What's Exhibit</p>
<p style="text-align: right;">Page 231</p> <p>1 would need to go back and look at your opinions?</p> <p>2 MS. O'LEARY: Object to form.</p> <p>3 THE WITNESS: You're asking me to 4 speculate that this is wrong.</p> <p>5 BY MR. DEAN:</p> <p>6 Q. I'm saying I want you to assume it's 7 wrong.</p> <p>8 A. If you assume anything is wrong, if it 9 is wrong, then I would consider that and see if it 10 affects my opinion or not.</p> <p>11 Q. What if some of these wells that shows 12 they're not operating on this chart are, in fact, 13 operating. Wouldn't that call into question this 14 chart that you relied upon for your calculations? 15 Yes or no.</p> <p>16 MS. O'LEARY: Object to form.</p> <p>17 THE WITNESS: That depends which 18 information you would show me. Is that 19 information that a well was sampled? For me, if 20 you show me information that the well was sampled, 21 it doesn't mean it was actually being pumped 22 through the water supply at the time.</p> <p>23 BY MR. DEAN:</p> <p>24 Q. Let's relax and go to something else. 25 A. Can we take a break sometimes for</p>	<p style="text-align: right;">Page 233</p> <p>1 2? Excuse me. I'm just confused.</p> <p>2 BY MR. DEAN:</p> <p>3 Q. Page 5-7. It's also at the top called 4 Exhibit 2-4 in your report; right?</p> <p>5 A. Yes. Exhibit 2-4 is actually starting 6 on 5-6.</p> <p>7 Q. How did you do those calculations?</p> <p>8 A. I applied a formula that I describe in 9 an appendix to my report.</p> <p>10 Q. And you started with 1000 parts per 11 billion, and you say that the treatment process 12 removes like 30 percent; is that right?</p> <p>13 MS. O'LEARY: Object to foundation.</p> <p>14 THE WITNESS: No. I did do everything 15 in percent. I started at 100 microgram per liter 16 and then basically taking 100 percent and then 17 that's what you reduced.</p> <p>18 BY MR. DEAN:</p> <p>19 Q. I'm sorry. You took 100 percent, 20 started with that. You took out 30 percent for 21 treatment process; right?</p> <p>22 MS. O'LEARY: Object to foundation.</p> <p>23 THE WITNESS: Where is that, please?</p> <p>24 BY MR. DEAN:</p> <p>25 Q. I'm trying to get you to explain to me</p>

<p style="text-align: right;">Page 234</p> <p>1 how you did the calculations that are shown on    2 Exhibit 2-4. Starting with 100 percent, how did    3 you do these calculations?</p> <p>4 A. In a manner similar to what was done in    5 the AH report basically for the different    6 elements, if you wish, of the storage treatment    7 and water towers.</p> <p>8 Q. You started with 100 percent. How much    9 do you believe the treatment process reduces the    10 volatilization losses?</p> <p>11 MS. O'LEARY: Object to form.</p> <p>12 THE WITNESS: As a whole?</p> <p>13 BY MR. DEAN:</p> <p>14 Q. Yes, sir.</p> <p>15 A. For which compound?</p> <p>16 Q. Did you apply a constant percentage of    17 30 percent to volatilization losses -- let me ask    18 it this way.</p> <p>19 Your overall -- on Exhibit 2-4 under    20 TCE, your overall evaporative removal at the very    21 bottom comes out to be 17.07.</p> <p>22 Do you see that?</p> <p>23 A. I see that.</p> <p>24 Q. And if you add up these percentages, I    25 believe, they -- do you know what they total?</p>	<p style="text-align: right;">Page 236</p> <p>1 MS. O'LEARY: Object to foundation.</p> <p>2 BY MR. DEAN:</p> <p>3 Q. They didn't do it daily?</p> <p>4 A. The ASTDR model reported their results    5 as monthly averages.</p> <p>6 Q. Your chart we talked about earlier that    7 you created is basically two full months?</p> <p>8 A. This one?</p> <p>9 Q. Yes, sir.</p> <p>10 A. This is the information we have on which    11 wells were on, which wells were off for a period    12 of 69 days.</p> <p>13 MS. O'LEARY: For the record, we're    14 referencing 21?</p> <p>15 MR. DEAN: Yes.</p> <p>16 THE WITNESS: As shown in Exhibit 21.</p> <p>17 BY MR. DEAN:</p> <p>18 Q. Do you believe that it's representative    19 of the true nature of well pumping and    20 contributions of these various wells look at just    21 one month?</p> <p>22 MS. O'LEARY: Object to form.</p> <p>23 THE WITNESS: That's not one month.    24 It's more than two months.</p> <p>25</p>
<p style="text-align: right;">Page 235</p> <p>1 MS. O'LEARY: Object to foundation.</p> <p>2 THE WITNESS: I am not sure I understand    3 your question. What this 17 percent is is the sum    4 of the numbers that are in bold in the table for    5 each chemical. This one in particular would be    6 for TCE.</p> <p>7 I want to add something. Those    8 calculated results are for the system and do not    9 include the operation of the recarbonization    10 basin. I didn't put any value on that or it does    11 not include other type of losses. This is    12 evaporative losses as it is today, if you wish, or    13 as it was when the recarbonization basin at Hadnot    14 Point water treatment plant was not operating and    15 the period of operation for the recarbonization    16 basin when it was used for its purpose is unknown.</p> <p>17 BY MR. DEAN:</p> <p>18 Q. Thank you for that. We'll circle back    19 to this in a minute. Let's talk about stressor    20 periods.</p> <p>21 A. Stressor periods.</p> <p>22 Q. So the stressor period that ATSDR did in    23 calculating and doing its water modeling, they use    24 one month and look at all this well information;    25 right?</p>	<p style="text-align: right;">Page 237</p> <p>1 BY MR. DEAN:</p> <p>2 Q. Do you think that's sufficient to look    3 at two months of data in December of '84 and    4 January of '85 to analyze this issue about the    5 contributions of these various wells to the    6 pumping operations?</p> <p>7 MS. O'LEARY: Object to form.</p> <p>8 THE WITNESS: This is the data that is    9 available. And I will comment on this in the    10 sense that during this period of time, you had    11 less wells available for pumping because some of    12 them had been closed because of contamination,    13 which implies that the other wells had to    14 compensate for that. So that information probably    15 exaggerates -- not exaggerates -- but gives a    16 relative on and off period for the well that is --    17 you had less wells. So you had do operate the    18 wells a little bit more to compensate for that.</p> <p>19 BY MR. DEAN:</p> <p>20 Q. Do you remember -- well, you made the    21 mention about wells coming off line. You know    22 that new wells were put in as well in this same    23 timeframe; right? Have you seen that data?</p> <p>24 MS. O'LEARY: Object to foundation.</p> <p>25 THE WITNESS: I don't recollect the date</p>

<p style="text-align: right;">Page 238</p> <p>1 of new wells you would be talking about. But    2 there were new wells, especially -- probably -- I    3 do not know the date of the new wells by memory,    4 but there were some, and I believe they were    5 either for Hadnot -- Holcomb Boulevard system came    6 later as far as Hadnot Point system was concerned.</p> <p>7 BY MR. DEAN:</p> <p>8 Q. If new wells were coming online    9 hypothetically at a particular water treatment    10 plant area, that sort of changes the history or    11 what's going on with pumping because you're taking    12 some off line and then you're bringing on some new    13 ones. And if all this is occurring at the same    14 time, it could artificially not represent the true    15 history of what might have been taking place    16 previously with respect to certain wells.</p> <p>17 Do you see what I'm saying?</p> <p>18 MS. O'LEARY: Object to form.</p> <p>19 THE WITNESS: I understand what you are    20 saying and I understand you are talking about the    21 tools in that sense, and nobody knows for the past    22 except this period of time, which is data in my    23 opinion.</p> <p>24 BY MR. DEAN:</p> <p>25 Q. And you think it's okay just to look at</p>	<p style="text-align: right;">Page 240</p> <p>1 Q. Right. But I mean they're citing -- let    2 me ask you this: Do you not trust any of the    3 historical information that was completed by    4 ATSDR? And they've even footnoted where they got    5 the information from, including Scott Williams, a    6 June 6, 2008 email about well runs from Scott    7 Williams.</p> <p>8 Do you not just the information that's    9 on this chart?</p> <p>10 MS. O'LEARY: Object to form.</p> <p>11 THE WITNESS: It is trust, but verified.    12 I do not care who did what. I just go always to    13 the original document that's close to that that    14 and I can do, and I consider everything in    15 between.</p> <p>16 BY MR. DEAN:</p> <p>17 Q. And the capacity for which this well was    18 originally drilled and -- I don't know if    19 certified is the right word, but capacity in    20 gallons per minute was 323 at the top.</p> <p>21 Do you see that?</p> <p>22 A. That's capacity of the well at    23 construction, yes.</p> <p>24 Q. And well capacity test was performed    25 again 9/5/85 it's at 320. 1986 it's 320. 1988,</p>
<p style="text-align: right;">Page 239</p> <p>1 these two months even though at the same time of    2 these two months, some wells are coming off and    3 others are potentially coming on?</p> <p>4 MS. O'LEARY: Object to foundation.</p> <p>5 THE WITNESS: This is the data that is    6 available.</p> <p>7 (Hennet Exhibit 22 was marked.)</p> <p>8 BY MR. DEAN:</p> <p>9 Q. I'll show you Exhibit 22. Do you see    10 that HP-622 -- let me just for the record,    11 Exhibit 22 is CLJA_WATERMODELING_05-826091 through    12 826118.</p> <p>13 Do you see that HP-622, Hadnot Point,    14 new well 622 put in 5/19/82 the construction was    15 completed. And on 6/1 there's a note that it went    16 in service. Do you see that?</p> <p>17 MS. O'LEARY: Object to foundation.</p> <p>18 BY MR. DEAN:</p> <p>19 Q. Do you see that?</p> <p>20 A. I don't see the last part, but you have    21 to be patient with me.</p> <p>22 Q. At the top, 5/19/83, construction    23 completed. 6/1/84 it's in service.</p> <p>24 A. I see that on this document, which is    25 from the ATSDR, I believe.</p>	<p style="text-align: right;">Page 241</p> <p>1 290. 1988, 330. Do you see that? So it's    2 consistently in the 320, 330 range; right?</p> <p>3 A. For this well, it is.</p> <p>4 Q. Now, if you turn to well 623, its    5 construction was, I guess, about the same day, a    6 few days off. May 25 it says it was completed.    7 Its capacity was originally 360. It went in    8 service August of 1984 according to operation    9 records. 1985 it's got a well capacity test of    10 242.</p> <p>11 Do you see that?</p> <p>12 A. 1985 I see that 242 capacity.</p> <p>13 Q. Turn to the next page Bates-stamp ending    14 97. The next one HP-628 (new). Do you see that    15 new well went in 6/1/1984 construction completed.    16 I guess there's some capacity reading of 160 in    17 October 1984.</p> <p>18 Do you see that?</p> <p>19 A. I see that.</p> <p>20 Q. Turn to the next well, well HP-660, that    21 one, construction was completed in July of '83.    22 Capacity test or whatever result in service    23 7/1/84, and it had I guess a capacity test    24 previously at 151 in November of '83.</p> <p>25 Do you see that?</p>

60 (Pages 238 - 241)

<p>1 A. I see that. That's the only capacity 2 test.</p> <p>3 Q. Agree with you.</p> <p>4 A. And it was put out of service and later 5 abandoned.</p> <p>6 Q. Correct, 1994. HP-661, drilled in March 7 of '83. In service August of '84. Well capacity 8 test October 26, '84 was 280.</p> <p>9 Do you see that?</p> <p>10 A. I see that.</p> <p>11 Q. And the last one is 662, last page 12 ending 118. Says it was in service August of '83. 13 Well capacity test October of '83 146. In service 14 November 1984. Another well capacity test August 15 of '85 at 168.</p> <p>16 Do you see that?</p> <p>17 A. I see that.</p> <p>18 Q. So going back to my question, with all 19 of those wells contributing, if you add them all 20 up, over 988 gallons per minute in addition to the 21 raw water supply, do you really think looking at 22 the two months that you looked at still are 23 representative of well cycling?</p> <p>24 MS. O'LEARY: Object to foundation.</p> <p>25 THE WITNESS: What we talked about on</p>	Page 242	<p>1 BY MR. DEAN:</p> <p>2 Q. For 602, and I believe it's in the 3 records, there were well tests of 602 December of 4 '84 and January '85 to locate the sources of 5 contamination; right.</p> <p>6 MS. O'LEARY: Object to foundation.</p> <p>7 THE WITNESS: What do you mean by well 8 test?</p> <p>9 BY MR. DEAN:</p> <p>10 Q. If you take a look at Exhibit 15, it's 11 the chart with all the well tests summarized. 12 It's Exhibit 15, ATSDR table. You can use mine.</p> <p>13 A. I'd love to find mine so you can keep 14 yours. Got it.</p> <p>15 Q. Do you see beside HP-602 all of the 16 testing that was done in November and December 17 checking for contamination?</p> <p>18 A. I see that. We're talking about 19 chemical tests, I mean sampling and laboratory 20 analysis of chemicals. Just before we were 21 talking about capacities.</p> <p>22 Q. Would those tests have affected pumping?</p> <p>23 MS. O'LEARY: Object to the foundation.</p> <p>24 BY MR. DEAN:</p> <p>25 Q. Operations.</p>	Page 244
<p>1 this sheet, it tells you which wells were on, 2 which wells were off. A well can be in service 3 and but not being bumped.</p> <p>4 BY MR. DEAN:</p> <p>5 Q. Are you aware that November 30, 1984 the 6 Navy received test results for 22 sampled wells, 7 that well 602 was contaminated with benzene and 8 that that initiated additional plans for further 9 testing?</p> <p>10 Do you remember that fact?</p> <p>11 A. What was the date you mentioned?</p> <p>12 Q. December 30, 1984.</p> <p>13 MS. O'LEARY: Object to foundation.</p> <p>14 THE WITNESS: I don't recall the exact 15 date, but during that time, well 602 was shown to 16 be contaminated and was basically shut down.</p> <p>17 BY MR. DEAN:</p> <p>18 Q. And that finding initially would have 19 resulted in some additional testing and the well 20 shut down?</p> <p>21 MS. O'LEARY: Object to foundation.</p> <p>22 THE WITNESS: Yes. The evaluation by 23 the base went step-wise. They were trying to 24 understand the problem.</p> <p>25</p>	Page 243	<p>1 MS. O'LEARY: Object to form.</p> <p>2 THE WITNESS: Test affected pumping?</p> <p>3 The sampling of a well may be done when the well 4 is actually supplying water or when a well is not 5 supplying water if you have a pump that works that 6 is (indecipherable).</p> <p>7 BY MR. DEAN:</p> <p>8 Q. And that well was shut down, 602 was 9 shut down after those contamination results were 10 received in December of '84; correct?</p> <p>11 MS. O'LEARY: Object to foundation.</p> <p>12 THE WITNESS: My understanding, it was 13 shut down because contamination was reported.</p> <p>14 BY MR. DEAN:</p> <p>15 Q. Would the fact 602 being shut down not 16 impact pumping schedules for the other wells?</p> <p>17 MS. O'LEARY: Object to form.</p> <p>18 THE WITNESS: That depends if the well 19 was in use or not. But, of course, you had one 20 less well for the supply when they shut down that 21 well.</p> <p>22 BY MR. DEAN:</p> <p>23 Q. When you shut down one well and you got 24 so many people on base, doesn't it potentially 25 impact pumping operations at other wells?</p>	Page 245

<p style="text-align: right;">Page 246</p> <p>1 A. Yes, it does. You either have to pump 2 the one you have for a longer time or you have to 3 add wells.</p> <p>4 Q. What information would you need, going 5 back to Exhibit -- going back to the well service 6 for the couple months that we've been talking 7 about record that you used to create your chart, 8 what records would you need to look at if you 9 wanted to enhance this analysis to look and see 10 about what was going on with well operations 11 either before or after these time periods?</p> <p>12 What sort of records would you need?</p> <p>13 MS. O'LEARY: Object to form. This is 14 Exhibit 21.</p> <p>15 THE WITNESS: It doesn't exist to my 16 knowledge, because I have looked for. And for the 17 time prior to this, you basically have -- if any 18 record, you basically have nothing all the way to 19 1942. You know the number of wells, more or less, 20 that you had that were potentially in service.</p> <p>21 But you do not know if were they pumping or which 22 group of wells were pumping.</p> <p>23 (Hennet Exhibit 23 was marked.)</p> <p>24 BY MR. DEAN:</p> <p>25 Q. I'll show you what I'm going to mark as</p>	<p style="text-align: right;">Page 248</p> <p>1 capacity or constructed with a capacity rating of 2 200 gallons per minute; right?</p> <p>3 A. It was tested at the capacity of 4 200 gallons per minute with a set pump at a given 5 elevation. We were given horsepower.</p> <p>6 Q. 1977 well capacity test. It says 190.</p> <p>7 1979, well test capacity test is the 167. 1980, 8 capacity 178. 1981 it goes up to 232. 1983 it 9 goes up to 239. And October 29, 1984, it's 10 pumping at its highest rate, 242, according to 11 this information; correct?</p> <p>12 A. According to this, it is correct. And I 13 have looked at the information for this well as 14 well.</p> <p>15 Q. And in your report, you opined that 16 HP-651 is only operating 39 percent of the time 17 based on your calculations and using the 18 spreadsheet you created from the historical record 19 of operation of these various wells, Exhibit 21; 20 right?</p> <p>21 MS. O'LEARY: Object to foundation.</p> <p>22 THE WITNESS: That's the data I have and 23 that's the data I used.</p> <p>24 BY MR. DEAN:</p> <p>25 Q. If it's pumping all of those historical</p>
<p style="text-align: right;">Page 247</p> <p>1 Exhibit 23. This is some historical information 2 about well capacity, operational history for 3 HP-651. Do you see that? It's Bates-stamped 4 CLJA_WATERMODELING_05-826112.</p> <p>5 A. I see this is again from the ATSDR 6 report.</p> <p>7 Q. Yes, sir. You see like some of the 8 other ones we've looked at, this information down 9 at the bottom under the footnotes, you see there's 10 footnote number three. For example, under that it 11 lists all the data sources for which this 12 information came including operation records.</p> <p>13 Do you see that?</p> <p>14 A. Number three?</p> <p>15 Q. Footnote three.</p> <p>16 A. AH Environmental Consultants, Inc., 17 electronic communication, September 3, 2004.</p> <p>18 Q. Now, you see that well was constructed 19 in 1971. Do you see that?</p> <p>20 A. I see that.</p> <p>21 Q. It says it went in service in '72. And 22 I think you got that in your report. Do you 23 remember that?</p> <p>24 A. Yes, I do.</p> <p>25 Q. And it was originally marked with a</p>	<p style="text-align: right;">Page 249</p> <p>1 timeframes where it was tested, does it really 2 make sense that it's only pumping at 39 percent?</p> <p>3 MS. O'LEARY: Object to foundation.</p> <p>4 BY MR. DEAN:</p> <p>5 Q. According to your calculations?</p> <p>6 A. 39 percent of the time?</p> <p>7 Q. That's right.</p> <p>8 A. This is what the data supports.</p> <p>9 (Hennet Exhibit 24 was marked.)</p> <p>10 BY MR. DEAN:</p> <p>11 Q. Now, again so you and I can see it 12 better, I took your page 4-18, which is your Excel 13 spreadsheet graph, and this is Exhibit 24. It's 14 that same page out of your report. It says in 15 your report under that chart Exhibit I-9, 16 Frequency of Use of Supply Wells, November 28, '84 17 to February '85. And your conclusion, Supply well 18 HP-651 was on for 27 out of 69 days, and that gave 19 you an average pumping frequency of .39; right?</p> <p>20 A. That's correct.</p> <p>21 Q. And that is the basis for your opinion 22 that this HP-651 was only pumping 40 percent of 23 the time or thereabouts?</p> <p>24 MS. O'LEARY: Object to foundation.</p> <p>25 THE WITNESS: That's it, yes.</p>

<p style="text-align: right;">Page 250</p> <p>1 (Hennet Exhibit 25 was marked.)</p> <p>2 BY MR. DEAN:</p> <p>3 Q. Now, I'll show you Exhibit 25. And that</p> <p>4 document is an email from Anita Short at the top.</p> <p>5 It was a document found in the CAGE, identified as</p> <p>6 CLJA_USMC_CAGE_350325 through 345. You see the</p> <p>7 subject line of all these emails is the same. It</p> <p>8 says HP &amp; HB Well Pumps: January to June 1980.</p> <p>9 Do you see that?</p> <p>10 A. I see that.</p> <p>11 Q. Now, I didn't see this document listed</p> <p>12 on your reference materials specifically called</p> <p>13 out, although I think it might potentially --</p> <p>14 while I'm doing that, just confirm if it's in the</p> <p>15 catch-all.</p> <p>16 Do you remember ever seeing that</p> <p>17 document before?</p> <p>18 A. I may if it is -- I may have seen it,</p> <p>19 but it seems to be indicating some water levels.</p> <p>20 Q. In order to get these water levels,</p> <p>21 would you agree with me the well has to be</p> <p>22 pumping?</p> <p>23 A. No. Some of them when you have a 3-foot</p> <p>24 water level, it's probably not pumping, 3-foot</p> <p>25 draw down as it's called.</p>	<p style="text-align: right;">Page 252</p> <p>1 8188.</p> <p>2 BY MR. DEAN:</p> <p>3 Q. Right now I'm asking the question about</p> <p>4 age 7944. Do you see well data, monthly well</p> <p>5 pumping data for Hadnot Point, well 651, for July</p> <p>6 on that particular page, August, September?</p> <p>7 A. This does not give you pumping values.</p> <p>8 It just tells you that during those months, the</p> <p>9 well that we are talking about were used. That</p> <p>10 doesn't mean they were used all the time. Of</p> <p>11 course, they were not.</p> <p>12 Q. I understand, but that's some</p> <p>13 information that on that particular month that</p> <p>14 well 651 was operated at sometime. We don't know</p> <p>15 the exact date?</p> <p>16 A. Exactly. But what this tells you as</p> <p>17 well is for 651 is that it was not operated in</p> <p>18 October of that year at all.</p> <p>19 Q. Let's go back to -- where do you see</p> <p>20 that? Show me what page you're looking at.</p> <p>21 A. We were looking at page 7944.</p> <p>22 Q. I agree 100 percent. October it's not</p> <p>23 working at all?</p> <p>24 A. At least it's not reported.</p> <p>25 Q. Did you consider this information at all</p>
<p style="text-align: right;">Page 251</p> <p>1 Q. If you go to well 651, which will be on</p> <p>2 page 29, it's about the third page in, you see</p> <p>3 well 651, the January 1980, that first record, you</p> <p>4 say it says stat 25 foot, pump a hundred, draw</p> <p>5 down 75. Do you see that?</p> <p>6 A. I see that.</p> <p>7 Q. If you look across that, you see in</p> <p>8 February, March, April, May it shows all those</p> <p>9 lines filled out and it's pumping?</p> <p>10 A. It's pumping sometime during that period</p> <p>11 of time; right.</p> <p>12 (Hennet Exhibit 26 was marked.)</p> <p>13 BY MR. DEAN:</p> <p>14 Q. I'll show you Exhibit 26. This is</p> <p>15 CLJA_USMC_CAGE_67935 through 68188. This document</p> <p>16 is not listed in your reliance materials</p> <p>17 specifically. But do you see that it starts in</p> <p>18 1978 at the beginning on that second page at the</p> <p>19 top?</p> <p>20 A. I see that.</p> <p>21 Q. If you turn about four pages in till you</p> <p>22 get to the well 651, do you see some operational</p> <p>23 data in the information there?</p> <p>24 MS. O'LEARY: What's Bates-stamp?</p> <p>25 MR. DEAN: CLJA_USMC_CAGE_67935 through</p>	<p style="text-align: right;">Page 253</p> <p>1 in forming your opinions about what months --</p> <p>2 scratch that.</p> <p>3 If you look through this entire exhibit,</p> <p>4 do you see that it goes all the way through July</p> <p>5 of 1983, December?</p> <p>6 MS. O'LEARY: Objection. Foundation.</p> <p>7 BY MR. DEAN:</p> <p>8 Q. Do you see on the last page, page 68188,</p> <p>9 is July of '83 to December of '83?</p> <p>10 MS. O'LEARY: Object to foundation.</p> <p>11 THE WITNESS: That page does not inform</p> <p>12 me on 651. But that page goes to December 1983</p> <p>13 but for some wells at different places. So that's</p> <p>14 fine. I see you probably have it under Hadnot</p> <p>15 Point.</p> <p>16 BY MR. DEAN:</p> <p>17 Q. Here it is. It's going to be on page</p> <p>18 68148, well 651. The previous page, 68146, began</p> <p>19 January of '83. Do you see that?</p> <p>20 A. I am on 68146.</p> <p>21 Q. Do you see 1983 Hadnot Point at the top?</p> <p>22 A. I see that.</p> <p>23 Q. And the next page, which for whatever</p> <p>24 reason, there's a Bates -- my next page says</p> <p>25 68148.</p>

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<p style="text-align: right;">Page 254</p> <p>1 MS. O'LEARY: That's what I have as 2 well. I don't have a 7. 3 MR. DEAN: I don't know what's going on 4 there at all. 5 BY MR. DEAN: 6 Q. But you see 651? 7 A. I see that, yes. 8 Q. January through June? 9 A. Right. 10 Q. July through December is on about three 11 page over beginning page 54. 12 A. Yes. It goes all the way to December. 13 And I believe if you follow the logic of this, it 14 would be '83. 15 Q. So we have some information for all of 16 those months, 1978 through January of '84 where 17 well 651 is pumping. I'm not sure how many days. 18 But it's pumping at least one day. And you didn't 19 consider that evidence in forming your opinions 20 that the well is only operating 39 percent of the 21 time? 22 A. I have never said that well 651 was not 23 a water supply well during the period 1972 until 24 it was shut down in 1985. It was available. 25 Those sheets are consistent with that, but I did</p>	<p style="text-align: right;">Page 256</p> <p>1 BY MR. DEAN: 2 Q. Well, Dr. Brigham assumed that all you 3 water buffaloes were M107s or if they all -- if 4 they had other models, that they were being filled 5 through the filler neck; right? 6 MS. O'LEARY: Object to foundation. 7 BY MR. DEAN: 8 Q. That what he says in his historical 9 expert opinion report, that these water buffaloes 10 were filled through the filler neck. 11 MS. O'LEARY: Object to form and 12 foundation. 13 THE WITNESS: You have to show me where 14 he says that because I don't recall that. 15 BY MR. DEAN: 16 Q. Well, you relied upon that up until the 17 time you issued your report to support certain 18 opinions about volatilization. And after 19 Dr. Sabatini provided his report, you then went 20 back out there February 11 and did your work 21 including filling a water buffalo; right? 22 MS. O'LEARY: Object to foundation. 23 THE WITNESS: When I made my calculation 24 for the fill up of a water buffalo, I had a 25 diagram of a water buffalo and I filled it up</p>
<p style="text-align: right;">Page 255</p> <p>1 not give you a frequency of use. 2 Q. Do you agree that if you took into 3 consideration those operational months, it would 4 expand potentially the time periods to consider 5 for reaching your calculation of 39 percent using 6 only two months versus five years of well 7 operational history? 8 MS. O'LEARY: Object to form and 9 foundation. 10 THE WITNESS: I will re-answer. This 11 information shows that the well was available for 12 that period that is documented in this Exhibit 26. 13 But that doesn't give you a frequency of use. 14 BY MR. DEAN: 15 Q. Now, let's go to something else, talk 16 about water buffaloes. When you read 17 Dr. Sabatini's report, you realized that 18 Dr. Brigham had made a mistake about how the water 19 buffaloes were filled back in the day as far as 20 what hatch or location they were filled; right? 21 MS. O'LEARY: Object to foundation. 22 THE WITNESS: I don't see what mistakes. 23 My recollection is Dr. Brigham just showed water 24 buffaloes, several types of water buffaloes that 25 were used at the base at the time.</p>	<p style="text-align: right;">Page 257</p> <p>1 through the filler pipe for my calculation. And 2 then I made that calculation. And then I just saw 3 the expert report that rebutted my report by 4 Dr. Sabatini in which he basically agrees with me 5 on the methodologies. But there he just also 6 included two affidavits that I had seen before 7 that says that the water buffaloes, at least some 8 of them, were filled up through the manhole. I 9 understand that, and that one of the reasons I 10 went back to the base to basically evaluate that. 11 BY MR. DEAN: 12 Q. When you issued your report in 13 December 2024, December 9, 2024 when you issued 14 your original report, did you do anything at that 15 time to verify any of the data in Dr. Brigham's 16 report? 17 MS. O'LEARY: Object to foundation. 18 THE WITNESS: I wrote my report. 19 BY MR. DEAN: 20 Q. Can you answer my question yes or no. 21 Did you do anything to verify his data 22 when you first saw his report before you prepared 23 yours? 24 MS. O'LEARY: Object to form and 25 foundation.</p>

<p style="text-align: right;">Page 258</p> <p>1       THE WITNESS: I did not do anything to 2 verify Dr. Brigham report, which basically came at 3 the same time as mine. And I made my calculation 4 as I explained in my report.</p> <p>5 BY MR. DEAN:</p> <p>6       Q. In your report, you did your 7 calculations based on Dr. Brigham's report saying 8 that they were filled through the filler neck; 9 right?</p> <p>10      MS. O'LEARY: Object to foundation.</p> <p>11      THE WITNESS: You will have to show me 12 where and what Dr. Brigham says about that if he 13 said it as you tried to insinuate, that they were 14 only filled up through the filler. I don't recall 15 reading that. So you have to show me that, and I 16 will be able to answer.</p> <p>17 BY MR. DEAN:</p> <p>18      Q. You assumed when you wrote your report 19 on volatilization issues about the water buffaloes 20 you relied on Dr. Brigham's report. And I can 21 represent to you he says in the report they were 22 filled through the filler neck, and that's what 23 you have in your report.</p> <p>24      MS. O'LEARY: Object to foundation.</p> <p>25      THE WITNESS: You have to show me</p>	<p style="text-align: right;">Page 260</p> <p>1 hoses, if you wish. They are not a garden hose. 2 Those hoses are full pressure hoses that can 3 deliver 100, 200 gallon per minute.</p> <p>4       Q. You went back on February 11 and you 5 evidently filled up a water buffalo with a hose 6 because I've seen in it photos; right?</p> <p>7       A. I did not fill it up myself. I 8 witnessed the fill-up of a water buffalo by the 9 base personnel.</p> <p>10      Q. Did you time -- not time -- did you 11 videotape the filling of the water tank?</p> <p>12      A. I did not videotape it. I took many 13 pictures as it was being filled up. And I did 14 time the time it took to fill up that water 15 buffalo at that stage.</p> <p>16      Q. What did you use to record that time? A 17 watch? A stopwatch?</p> <p>18      A. I asked specifically counsel stopwatch. 19 And I said start and at the end I say end. And I 20 was on the top of the water buffalo taking 21 pictures.</p> <p>22      Q. Did you record somehow that stopwatch by 23 the Department of Justice employee or lawyer to 24 see if they actually started and stopped the watch 25 when you told them to? Did you do anything to</p>
<p style="text-align: right;">Page 259</p> <p>1 Dr. Brigham's report where he says that because I 2 don't recollect that specifically, not that it 3 really matter for my opinion.</p> <p>4 BY MR. DEAN:</p> <p>5       Q. So you go back and you do this work. 6 How does that either change your opinions about 7 how these water buffaloes were -- the 8 volatilization of the water buffaloes?</p> <p>9       A. You are going to have volatilization 10 losses when a water buffalo is being filled up.</p> <p>11      Q. Let me ask you this.</p> <p>12      A. I am not finished.</p> <p>13      Q. Let me withdraw the question.</p> <p>14      A. I am not finished.</p> <p>15      Q. I'm withdrawing the question. It's my 16 question. I'm trying to get us out of here on a 17 timely basis. Okay?</p> <p>18      Did you do any work before you issued 19 your first report to that determine how long it 20 takes to fill a water buffalo either through the 21 filler neck or the manhole cover?</p> <p>22      A. I didn't make a specific calculation 23 because I didn't have time of fill up. But my 24 understanding was that it goes relatively fast 25 because we are dealing with big filling pipes or</p>	<p style="text-align: right;">Page 261</p> <p>1 record this timing of the filling?</p> <p>2       A. It was reported to me as 3 minutes and 3 23 seconds, which is consistent with whatever 4 Dr. Sabatini says about filling up through a 5 manhole.</p> <p>6       Q. When you did this experiment or document 7 the timing, did they fill it through the filler 8 neck or the manhole cover?</p> <p>9       A. It was filled through the manhole.</p> <p>10      Q. And did you all tell him how to fill the 11 water buffalo?</p> <p>12      A. I did not.</p> <p>13      Q. Did he stay on top of the water buffalo 14 holding on the hose for the 3 minutes and 23 15 seconds to fill the water buffalo?</p> <p>16      MS. O'LEARY: Object to form.</p> <p>17      THE WITNESS: Who is "he"?</p> <p>18 BY MR. DEAN:</p> <p>19      Q. Whoever filled the water buffalo as 20 shown in the photos.</p> <p>21      A. Yes. There two personnel from the base, 22 two Navy Marines. And one of them was basically 23 holding the hose and filling up. The other one 24 was basically handling the shutoff valve and 25 shut-on valve. I was on the other side of the</p>

<p style="text-align: right;">Page 262</p> <p>1 water buffalo observing and taking pictures.    2 Q. Did you have an iPhone that you were    3 taking picture on?    4 A. I think I took them with my company    5 camera.    6 Q. Did you have the capacity, you or the    7 DOJ lawyer with you, to record the video if you    8 had wanted to?    9 A. Well, I took a lot of pictures of that    10 filling up.    11 Q. Could you have videotaped it if you    12 wanted to?    13 A. I was not permitted to videotape. I    14 wanted to take photographs and I did. And for me    15 as an expert for that, this is sufficient    16 information to support my conclusions.    17 Q. My question is not that.    18 Did your phone have the capability or    19 the DOJ's lawyer to videotape?    20 A. My private phone has that capability.    21 Q. So when you had the Marine stick the    22 hose, did he hold it up at a certain level, or did    23 he drop it all the way into the tank? How did he    24 handle the hose?    25 A. My recollection, and that can be seen on</p>	<p style="text-align: right;">Page 264</p> <p>1 Did you have any discussions with    2 anyone, whether it be someone with the Marines or    3 the NRC, a lady named Susan Martel whose    4 deposition you read. Did you talk to anybody    5 about the formation of that committee back in    6 2006, '7, '8?    7 A. I do not recall such discussion, and I    8 don't know that person Martel you mentioned is.    9 You suggested that I read that deposition. I do    10 not know. You will have to show it to me.    11 Q. You don't remember reading Susan    12 Martel's as you sit there today?    13 A. As I sit here today, I have read a lot    14 of depositions and I do not associate names, this    15 name, to anything that I have seen unless you were    16 to show me the documents you are talking about.    17 Q. How many water modeling hydrogeology    18 experts do you remember that served on that NRC    19 committee panel?    20 A. I have no recollection or understanding    21 of that.    22 Q. Let's talk about travel time of    23 contaminants at TT-26. In your report 5-15 -- I    24 believe your report is Exhibit 3 -- 5-15 you say    25 it's 15 to 25 years travel time for PCE from the</p>
<p style="text-align: right;">Page 263</p> <p>1 the pictures. Basically the hose is partially    2 inside, but it's still under water. It is above    3 the water level in the tank.    4 Q. Well, did he start with the hose all the    5 way at the bottom and then pull it up as it comes    6 out, or did he leave it in there and let the water    7 buffalo fill up and then when it got to the top,    8 pulled it out then? How did he handle the hose?    9 A. He was holding the hose, to the best of    10 my recollection, and that's documented in the    11 picture. The end of the hose, if you wish, was    12 basically always above the water level in the    13 tank.    14 I want to say one more thing. It is    15 possible that some of the picture I took with my    16 cell phone because at the time, there was some --    17 because it was cold and raining, if I recall, you    18 get some fog on the camera I had. So I don't know    19 if it was -- that's kind of what I recall. I    20 wanted to put that in the record.    21 Q. Let's move to different subject. NRC    22 review report issued in 2009, did you play any    23 role in any aspect of the start of that report,    24 assisting with getting -- identifying who might be    25 a good person to be the panel?</p>	<p style="text-align: right;">Page 265</p> <p>1 dry cleaners to TT-26; right?    2 MS. O'LEARY: Object to foundation.    3 THE WITNESS: Can you repeat, please?    4 BY MR. DEAN:    5 Q. Yeah. Let me ask you a question I    6 forgot to ask you at the end of the last one about    7 the water buffalo.    8 I didn't see anything. You haven't done    9 any new calculation based on the observations you    10 made when you were filling the water buffalo on    11 2/11?    12 A. I have not done calculations, but I have    13 basically looked at some EPA information that    14 gives information on, for example, when I saw the    15 water buffalo being filled up with aeration, I    16 say, well, the best comparison to that would be    17 faster fill-up, but it would be much less    18 aeration, if you wish, because I have seen    19 bathtubs being filled up.    20 And I considered that, and I say, well,    21 with the large amount of aeration that I observed    22 when the water buffalo was filled up in 3 minutes    23 and 23 seconds or so for 400 gallons, you have a    24 lot of aeration. And I estimated that, yeah,    25 substantial loss that is comparable to what I</p>

66 (Pages 262 - 265)

<p style="text-align: right;">Page 266</p> <p>1 calculated for the strainer. That's basically --  2 I didn't do calculations, but I did for myself an  3 evaluation of that.</p> <p>4 BY MR. DEAN:</p> <p>5 Q. So travel time for contaminants at  6 TT-26, on page 5-14, you state, "The release of  7 waste materials containing PCE at ABC Cleaners was  8 gradual." Okay? Do you see that?</p> <p>9 A. I don't see that, but I believe I say  10 that. Can you tell me where it is?</p> <p>11 Q. Second sentence in the last paragraph at  12 the bottom. "ABC Cleaners started operations in  13 mid 1954. The release of waste materials  14 containing PCE at ABC Dry Clearance was gradual."  15 Footnote 86. And you're citing to a North  16 Carolina Department of Resources Community  17 Development report by Rick Shiver.</p> <p>18 Do you see that?</p> <p>19 A. I see that.</p> <p>20 Q. And then page 5-15, you opine in the  21 bottom paragraph that the PCE travel time between  22 ABC Dry Cleaners and TT-26 are in the 15 to  23 25-year range. And you've got a chart on page  24 5-16 where you -- the next page, Dr. Hennet --  25 where you illustrate in Exhibit 3-1 those travel</p>	<p style="text-align: right;">Page 268</p> <p>1 the retardation for those travel time. I relied  2 on the site-specific data that the ATSDR did not  3 consider even though it did exist.</p> <p>4 So nobody knows what happened in the  5 domain where you have no data with any degree of  6 reasonable scientific certainty. You have many  7 ways that you can calculate travel times to arrive  8 to a well.</p> <p>9 The thing I want to say, in this case,  10 you are trying to calculate travel times for a  11 period of 30 years during which you have zero data  12 for the contamination arriving at the well. And  13 you have two or three years -- well, you have some  14 data, and that data is a huge portal, if you wish,  15 because it has a huge range. It goes from zero to  16 hundreds.</p> <p>17 So ultimately you have many ways to get  18 through that portal. This is one way. This way  19 here, is there's no fundamental error like in like  20 ATSDR has. It's a Tawara Terrace model. And it  21 is actually something that is -- that I would rely  22 on to give you what is a range, a reasonable  23 range, and that's what I did.</p> <p>24 Q. How, if at all, did your methodology  25 take into account the cone of depression that</p>
<p style="text-align: right;">Page 267</p> <p>1 times.</p> <p>2 Do you see that?</p> <p>3 A. Yes. That's an illustration. And  4 details of this is provided as an attachment to my  5 report.</p> <p>6 Q. How did you choose those three travel  7 pathways at 25, 20 and 15?</p> <p>8 A. Well, I calculated the time it would  9 take for the contaminant PCE dissolved in  10 groundwater to travel to the well from ABC  11 Cleaner, and I used as a basis a simplified setup  12 which is the same as the ATSDR model used, the  13 same layers, the same thickness of each layer, the  14 same permeability in each layer and such.</p> <p>15 And what I did as a hydrogeologist and a  16 geochemist, I applied the fundamental equations of  17 formulas of evaluating fate and transport when you  18 don't have data to illustrate that basically you  19 can get answers that are different from what ATSDR  20 has done as far as the travel time that are as  21 valid and even more in this case, because ATSDR  22 made mistakes and errors in what they did at  23 Tawara Terrace on the parameters.</p> <p>24 I used parameters that were the same as  25 in the Hadnot Point model, and I used to calculate</p>	<p style="text-align: right;">Page 269</p> <p>1 develops around a pumping well which causes the  2 losses to increase in the direction of the well?</p> <p>3 A. In this calculation here that is  4 basically summarized on this figure, I considered  5 ATSDR water level that they use in their model for  6 both layer one and layer three. And I derived  7 congruent gradient from that.</p> <p>8 Now, it is true that the closer to you  9 get to the well, you have what is called a cone of  10 depression, and that cone of depression for  11 potentiometric values would be in layer three  12 because that's where the well is pumping, and it  13 will be less marked in layer one.</p> <p>14 So you have several things that you can  15 say that would slightly accelerate or diminish  16 those travel time, if you wish, but you have other  17 things that would actually make them longer. The  18 thing that would accelerate potentially would be  19 as us you get very close to the well, you  20 accelerate. But before you get it close to the  21 well, you have a long way to go. That's the first  22 thing.</p> <p>23 The second thing would be you could have  24 dispersion that is not in this calculation.  25 Nobody knows what the dispersion is, but that</p>

<p style="text-align: right;">Page 270</p> <p>1 would accelerate this as well somewhat. On the 2 other end, on the other end, things that would 3 actually elongate the time of travel are two major 4 things. The first one --</p> <p>5 Q. Let me withdraw --</p> <p>6 A. I am not finished.</p> <p>7 Q. I don't know what question you're 8 answering.</p> <p>9 A. I am not finished.</p> <p>10 Q. I don't know what question you're 11 answering. That's not what I asked you. I 12 withdraw the question. I withdraw the question.</p> <p>13 What makes your three path flows 14 representative of what actually occurred with 15 contamination at well TT-26?</p> <p>16 A. This is the setup that -- this setup, 17 those layers, the permeability is in each one of 18 those layers. The thickness of those layers is 19 directly from the ATSDR model. I am not trying to 20 critique those. I am just adopting them just to 21 show if you do a calculation in the same framework 22 that the ATSDR model is and you do it without 23 mistakes or errors, you actually can get a 24 representation that is like this.</p> <p>25 So it gives you representative travel</p>	<p style="text-align: right;">Page 272</p> <p>1 (Hennet Exhibit 27 was marked.)</p> <p>2 BY MR. DEAN:</p> <p>3 Q. I'm going to show you -- this is my 4 copy. I'm only using page 5-16. It's the same 5 page he's looking at.</p> <p>6 MS. O'LEARY: The report, sure.</p> <p>7 BY MR. DEAN:</p> <p>8 Q. You've got it in front of you. I'll 9 hand you a copy in a moment, but there's actually 10 four pathways represented here on your chart; 11 right?</p> <p>12 A. There are three pathways to the well 13 screen, the well screen where the pumped water 14 goes through.</p> <p>15 Q. But isn't it true that one of the 16 pathways which you actually show an arrow -- you 17 just stop the arrow -- one of the pathways that 18 you're not considering is the pathway that ATSDR 19 utilized, and that's as I drew on Exhibit 27 where 20 the contaminants go directly in the aquifer all 21 the way to the well; right?</p> <p>22 A. Again --</p> <p>23 Q. Is that a possible travel way?</p> <p>24 MS. O'LEARY: Object to form and 25 foundation.</p>
<p style="text-align: right;">Page 271</p> <p>1 time within a large range which is meant to show 2 that you don't have a single model that would tell 3 you the truth because you don't know where the 4 truth is when you don't have data.</p> <p>5 Q. What makes the three pathways you chose 6 representative of what occurred at TT-26?</p> <p>7 A. Well, similarly to what the ATSDR model 8 represent, you have transport in layer one, and 9 you have transport in layer three. And in order 10 to go to the well, you have to basically end up in 11 layer three because the well is screened in layer 12 three, not in layer one.</p> <p>13 Now, between the source, which is the 14 ABC Cleaner, all the way to the well, you have 15 basically many ways for the groundwater to get 16 there. You don't go there through one single 17 pathway. So that's why I choose some pathways, 18 one which would go a short period of time in layer 19 one and some of that contamination would go 20 through the less permeable layer down to layer 21 three and continue in layer three.</p> <p>22 I have another pathway that is closer to 23 the well, and I have another pathway that is in 24 between. Those are basically estimates that give 25 you a range of travel time of this situation.</p>	<p style="text-align: right;">Page 273</p> <p>1 THE WITNESS: This is a possible 2 pathway. That's an extreme pathway. That will be 3 the fastest of the fastest, and it doesn't go to 4 the screen, as you know. It goes basically to 5 touch the casing of the well which is basically 6 not accepting water.</p> <p>7 BY MR. DEAN:</p> <p>8 Q. Do you know who Dr. Konikow is?</p> <p>9 A. I do know who Dr. Konikow is.</p> <p>10 Q. And did you read his report on pages 28 11 and 29 where Dr. Konikow calculated the 12 alternative travel time to be only 3-1/2 to 5 13 years, not the 15 to 25 that you did?</p> <p>14 A. You have to show me that. And I 15 understand he said something like this. However, 16 I think it was for groundwater transport, not at 17 all related.</p> <p>18 Q. Do you take issue that Dr. Konikow 19 opined in his rebuttal report it was 3-1/2 to 5 20 years he calculated? Can you and I agree that's 21 what he said in his report?</p> <p>22 A. You have to show me his report.</p> <p>23 Q. I'm going to represent to you that's 24 what it says. Do you disagree or have any basis 25 to disagree with Dr. Konikow's calculations, and</p>

<p style="text-align: right;">Page 274</p> <p>1 if so, what are the bases of your disagreement?  2 MS. O'LEARY: Object to foundation.  3 THE WITNESS: What do you represent  4 exactly that Dr. Konikow says?  5 BY MR. DEAN:  6 Q. I'm representing to you that Dr. Konikow  7 calculated an alternative travel time and opined  8 in this case of 3-1/2 to 5 years, not the 15 to 25  9 you calculated.  10 A. Well, I would disagree with  11 Dr. Konikow's calculation.  12 Q. Why?  13 A. Because I made my calculation, and I  14 agree that my calculations are based on  15 site-specific data and they are based the  16 principles of hydrogeology that would allow me to  17 make this calculation that includes the time of  18 travel that it takes for dissolved PCE, which is a  19 compound, a chemical compound in groundwater, and  20 that dissolved PCE is retarded relative to  21 groundwater.  22 And I took that into consideration, and  23 I focused on the site-specific data. I did not  24 make the same errors that the ATSDR did for the  25 Tawara Terrace model.</p>	<p style="text-align: right;">Page 276</p> <p>1 ATSDR?  2 MS. O'LEARY: Object to form.  3 THE WITNESS: My answer to this is ATSDR  4 has no information, and, therefore, they assume  5 something that is not realistic in the real world.  6 BY MR. DEAN:  7 Q. Do you have any evidence they are wrong?  8 A. My evidence that they are wrong is that  9 you don't have wells that would be pumped for 30  10 years without being maintained. That doesn't  11 exist.  12 Q. You don't have any specific data, any  13 specific documents or specific testimony about  14 specific periods when the wells were shut down;  15 right?  16 MS. O'LEARY: Objection to form.  17 THE WITNESS: I believe there is some  18 information. Some capacity test might have been  19 redone. I don't remember specifically for well  20 TT-26. But it is not a correct assumption in my  21 field, in the field of hydrogeology, to assume  22 that because you don't know, it was always on.  23 That is not reasonable.  24 BY MR. DEAN:  25 Q. Have you ever evaluated a contamination</p>
<p style="text-align: right;">Page 275</p> <p>1 Q. So page 5-21 of your report, page 5-21,  2 second sentence, you say in the second sentence  3 "Pumping of well TT-26 was likely not continuous  4 as the well had to be shut down for maintenance  5 and repair."  6 Do you see that?  7 A. I see that.  8 Q. You're aware that ATSDR took into  9 account based on the pumping records when these  10 various wells were on and off; right?  11 A. ATSDR for well TT-26 took into account  12 two stoppage of the well for maintenance that  13 happened, if I recall, in the 1980s. They did  14 that. But there is no information from before  15 that.  16 And what ATSDR did in a conservative  17 way, if you wish, was to assume it was always on,  18 never maintained, never stopped, which is wrong  19 because wells that are used for decades, every  20 well needs maintenance or repair.  21 Q. What evidence do you have, documents,  22 interviews of anybody that you've conducted or  23 review, what factual basis do you have that  24 support a thought, view, your opinion that TT-26  25 had additional shutdown time not accounted for by</p>	<p style="text-align: right;">Page 277</p> <p>1 site for human risk?  2 A. As a geochemist, I do not do human risk.  3 I just do geochemistry.  4 Q. For the Hadnot Point spiractor, did you  5 measure the fall height under operating conditions  6 with backwater?  7 MS. O'LEARY: Object to foundation.  8 THE WITNESS: With backwater? I do not  9 understand what you mean by that.  10 BY MR. DEAN:  11 Q. When you were there, did you measure the  12 fall height under operating conditions on  13 February 11 when there was any water left in the  14 bottom of the spiractor, tubes, pipes?  15 A. So that means the spiractor was working?  16 Q. Correct.  17 A. I did not do that.  18 Q. Ever done that at all?  19 A. Could never have done that there.  20 Q. Are you aware that 43 percent of Camp  21 Lejeune samples tested for FOC had values less  22 than .0001?  23 MS. O'LEARY: Object to foundation.  24 THE WITNESS: Show me the data you are  25 talking about because --</p>

<p>1 BY MR. DEAN:</p> <p>2 Q. I'm just asking.</p> <p>3 A. .001 of what?</p> <p>4 Q. Have you ever been stricken as an expert?</p> <p>5 A. I have never been stricken as an expert.</p> <p>6 Q. Have you ever had your opinions disregarded by a court in the United States?</p> <p>7 A. Among all the testimonies I have done in court, which is 12 or 13, there was one time when one of my answers was actually taken away from the record because I addressed a topic that had already been decided before, and that was basically not -- I should not have talked about that. And the judge decided that that should be stricken, my response should be stricken because it had been decided before. And that's what I understand.</p> <p>8 Q. You've never had your opinion -- do you remember the name of that case?</p> <p>9 A. I believe that case was Titan, T-I-T-A-N, versus -- I think it's versus the United States.</p> <p>10 (Hennet Exhibit 28 was marked.)</p>	Page 278	<p>1 on to say, "In contrast, the court concludes the 2 testimony by defense expert Dr. Remy Hennet that 3 other sources of PCBs were present on the SIM site 4 constituted impermissible expert testimony. The 5 court noted the testimony was based on sheer 6 speculation rather than sufficient facts or data 7 and was not the product of reliable principles and 8 methods. Additionally, the court notes the 9 testimony was not supported by personal knowledge 10 or observation as Hennet neither conducted any 11 testing on other items at the SIM site nor 12 observed any labels on other items at the SIM site 13 indicating the presence of PCBs."</p> <p>14 Did I read that correct?</p> <p>15 A. You read that correct.</p> <p>16 Q. Isn't that the same thing you've done in this case?</p> <p>17 A. Pardon me?</p> <p>18 Q. You speculated, you've not taken into consideration other well pumping information that I've shown you today. Isn't that true?</p> <p>19 MS. O'LEARY: Object to foundation.</p> <p>20 THE WITNESS: I disagree.</p> <p>21 BY MR. DEAN:</p> <p>22 Q. That court didn't believe anything --</p>	Page 280
<p>1 BY MR. DEAN:</p> <p>2 Q. You don't believe a judge has ever disregarded your testimony because he believed that you had insufficient data to provide the opinions that you had given?</p> <p>3 A. I do not recollect any case like this based on data.</p> <p>4 Q. I show you Exhibit 28. Turn to page 75. Are you on page 75?</p> <p>5 A. Yes.</p> <p>6 Q. Page 75, look at page footnote 31. "The court disregards the testimony of the defense expert Remy Hennet geochemical fingerprints of the PCBs found at the DICO site and those found at the SIM site did not match. During cross-examination, Hennet admitted he was mistaken concerning the data on which he based that opinion. Because the opinion was based on unreliable methods utilizing insufficient facts of data, it is inadmissible under Federal Rule of Evidence 702."</p> <p>7 Do you see that? Did I read that correctly?</p> <p>8 A. You read that correctly.</p> <p>9 Q. Now, in the middle of the next paragraph after Federal Rule of Evidence 701, the court went</p>	Page 279	<p>1 didn't believe or struck your opinions for the 2 reasons I just read to you; right?</p> <p>3 MS. O'LEARY: Object to form.</p> <p>4 BY MR. DEAN:</p> <p>5 Q. That was 2017, September 2017.</p> <p>6 MS. O'LEARY: Object to form.</p> <p>7 THE WITNESS: Yes, I remember that case. And I think, you know, for that case there was very little information, and it was basically -- that was the case. That's the way it went. And the judge made his decision.</p> <p>8 (Hennet Exhibit 29 was marked.)</p> <p>9 BY MR. DEAN:</p> <p>10 Q. I'll show you what I marked as Exhibit 29 and 30. Exhibit 29, is this the affidavit you referred to earlier regarding Baby Washington?</p> <p>11 MS. O'LEARY: Object to foundation.</p> <p>12 BY MR. DEAN:</p> <p>13 Q. Is this your report you issued 5 years ago, 4-1/2 years ago, December 22, 2020 expert report Remy Hennet, In Re: Baby Washington case?</p> <p>14 A. It looks like it. I haven't looked at it in a while, but it looks like it's my expert report, not an affidavit.</p>	Page 281

<p style="text-align: right;">Page 282</p> <p>1 Q. And this was in a Camp Lejeune case 2 pending back in 2020 when you issued this report? 3 MS. O'LEARY: Object to foundation and 4 form.</p> <p>5 THE WITNESS: That was one case, one 6 litigation that basically was -- that is basically 7 some correlation to basically Camp Lejeune.</p> <p>8 BY MR. DEAN:</p> <p>9 Q. And in the bottom paragraph on page 1, 10 last full paragraph, you say, "The opinions 11 presented in this report were reached by applying 12 accepted methods in the fields of hydrogeology, 13 geochemistry and environmental sciences. Opinions 14 expressed in the report are my own based on my 15 education, my training, my experience and the 16 documents, the information, the photographs, the 17 diagrams, the data and the facts available to me 18 at the time of the writing. I hold these opinions 19 to a reasonable degree of scientific certainty."</p> <p>20 Did I read that correctly?</p> <p>21 A. You read that correctly.</p> <p>22 Q. And on page 3, next to the bottom 23 paragraph, did you write, "The ATSDR conducted a 24 detailed review of the available data and the 25 information and of the history and contamination</p>	<p style="text-align: right;">Page 284</p> <p>1 and you relied upon those in opining Ms. Bell was 2 not there when there was contamination?</p> <p>3 A. That's at Holcomb Boulevard, and I agree 4 with the ATSDR that the Holcomb Boulevard was not 5 contaminated with the exception of a very short 6 period of time as discussed in my expert report.</p> <p>7 Q. You utilized, relied upon that work, 8 ATSDR work and those reports when you signed this 9 affidavit, this report in 2020; right?</p> <p>10 A. I did rely.</p> <p>11 Q. Did you have time --</p> <p>12 MS. O'LEARY: I'm sorry. That's your 13 third question now.</p> <p>14 THE WITNESS: Can I answer?</p> <p>15 BY MR. DEAN:</p> <p>16 Q. Yeah, if you answer my question. Yes or 17 no. Did you rely --</p> <p>18 A. You cannot jump on me and just confuse 19 me.</p> <p>20 Q. Yes or no. Did you rely upon ATSDR mean 21 monthly concentration data in order to opine that 22 Ms. Bell was not on base at a time period when 23 contamination existed at Holcomb Boulevard? Did 24 you opine that?</p> <p>25 A. Well, my report speaks for itself.</p>
<p style="text-align: right;">Page 283</p> <p>1 of the base water systems. (See, for example, 2 Faye and Venezuela 2007; Sautner, et al., 2013)."</p> <p>3 Did I read that correctly?</p> <p>4 A. You did read that correctly.</p> <p>5 Q. You didn't just cite to them. You said 6 they conducted a detailed review; right?</p> <p>7 MS. O'LEARY: Object.</p> <p>8 THE WITNESS: Yes, I did.</p> <p>9 BY MR. DEAN:</p> <p>10 Q. Turn to page 10, opinion number three, 11 you opined that Holcomb Boulevard water supply 12 wells weren't contaminated during the time period 13 when Rhonda Bell resided on base; did you not?</p> <p>14 A. It speaks for itself.</p> <p>15 Q. And in the first paragraph, does it 16 read, "The main monthly contaminant concentrations 17 in the Holcomb Boulevard water supply over the 18 period of the relevant" --</p> <p>19 MS. O'LEARY: I'm sorry. We're at time.</p> <p>20 MR. DEAN: Let me finish this sentence.</p> <p>21 BY MR. DEAN:</p> <p>22 Q. Did you state, "The mean monthly 23 contaminant concentrations in the Holcomb 24 Boulevard water supply over the period of 25 relevance to the complaint as shown in Exhibit C,"</p>	<p style="text-align: right;">Page 285</p> <p>1 Q. And you did opine on that issue using 2 ATSDR's work; correct?</p> <p>3 A. I considered the ATSDR work. It is not 4 the same --</p> <p>5 MS. O'LEARY: I'm sorry. We're 6 finished.</p> <p>7 THE WITNESS: It is not the same as what 8 I did for this case.</p> <p>9 MS. O'LEARY: We've gone over seven 10 hours, and this deposition is finished.</p> <p>11 BY MR. DEAN:</p> <p>12 Q. Did you have an opportunity --</p> <p>13 MS. O'LEARY: You don't have to answer.</p> <p>14 BY MR. DEAN:</p> <p>15 Q. Did you have an opportunity to review 16 and do the same work you've done in this case at 17 that time that you wanted to? Can you answer my 18 question?</p> <p>19 A. I am advised by counsel that it's out of 20 time. I don't have to answer.</p> <p>21 Q. And you're not going to answer my 22 question?</p> <p>23 MS. O'LEARY: I'm instructing you not to 24 answer.</p> <p>25 THE WITNESS: I did answer your</p>

<p>1 question. My report stands for itself.  2 BY MR. DEAN:  3 Q. No. My question was -- last question I  4 asked you was: Did you have an opportunity to do  5 the same work you did in this case back before you  6 did that report if you wanted to?  7 MS. O'LEARY: I'm instructing you not to  8 answer.  9 MR. DEAN: Can we put on the record that  10 Ms. O'Leary has instructed this witness not to  11 answer my last question. What time is it?  12 MS. O'LEARY: Can we put on the  13 record --  14 MR. DEAN: What's the time?  15 THE VIDEOGRAPHER: 7 hours and 3  16 minutes.  17 MR. DEAN: 7 hours and 3 minutes.  18 Ms. O'Leary has instructed this witness not to  19 answer my final question.  20 Thank you for being here, sir. I wish  21 you'd answer my question, but thank you for the  22 time. That's all I have at this time.  23 THE VIDEOGRAPHER: We are off the record  24 at 1742.  25 (Whereupon, at 5:42 p.m., the taking of</p>	Page 286	<p>1 COMMONWEALTH OF PENNSYLVANIA )  2 COUNTY OF ALLEGHENY ) SS:  3 C E R T I F I C A T E  4 I, Ann Medis, RPR, CLR, CSR-WA and  5 Notary Public within and for the Commonwealth of  6 Pennsylvania, do hereby certify:  7 That REMY J.-C. HENNET, PH.D, the  8 witness whose deposition is hereinbefore set  9 forth, was duly sworn by me and that such  10 deposition is a true record of the testimony given  11 by such witness.  12 I further certify the inspection,  13 reading and signing of said deposition were not  14 waived by counsel for the respective parties and  15 by the witness.  16 I further certify that I am not related  17 to any of the parties to this action by blood or  18 marriage and that I am in no way interested in the  19 outcome of this matter.  20 IN WITNESS WHEREOF, I have hereunto set  21 my hand th  22  23  24  25</p> <p></p> <p>Notary Public</p>	Page 288
<p>1 the instant deposition ceased.)  2  3  4  5  6  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>	Page 287	<p>1 COMMONWEALTH OF PENNSYLVANIA ) E R R A T A  2 COUNTY OF ALLEGHENY ) S H E E T  3 I, REMY J.-C. HENNET, PH.D, have read the  4 foregoing pages of my deposition given on  5 March 20, 2025, and wish to make the following, if  6 any, amendments, additions, deletions or  7 corrections:  8 Page Line Change and reason for change:  9 _____  10 _____  11 _____  12 _____  13 _____  14 _____  15 _____  16 _____  17 _____  18 _____  19 In all other respects, the transcript is true and  20 correct.  21 _____  22 REMY J.-C. HENNET, PH.D  23 _____ day of _____, 2025.  24 _____  25 Notary Public</p>	Page 289

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1           GOLKOW, a Veritext Division  
2           One Liberty Place  
3           1650 Market Street, Suite 5150  
4           Philadelphia, Pennsylvania 19103  
5           877.370.3377

6           March 26, 2025

7           Allison O'Leary, Esquire  
8           U.S. Department of Justice  
9           1100 L Street NW  
10           Washington, DC 20005  
11           Re: Deposition of REMY J.-C. HENNET, PH.D  
12           Notice of Non-Waiver of Signature

13           Dear Ms. O'Leary:

14           Please have the deponent read his deposition  
15           transcript. All corrections are to be noted on  
16           the Errata Sheet.

17           Upon completion of the above, the Deponent must  
18           affix his signature on the Errata Sheet, and it is  
19           to then be notarized.

20           Please forward the signed original of the Errata  
21           Sheet to Kevin R. Dean, Esquire for attachment to  
22           the original transcript, which is in his  
23           possession. Send a copy of same to all counsel.  
24           Please return the completed Errata Sheet within 30  
25           days of receipt hereof.

26           Sincerely,

27           Ann Medis, RPR, CLR, CSR-WA

28           cc:

29           Kevin R. Dean, Esquire

<b>&amp;</b>	<b>0000350325</b>	<b>09-00004278...</b>	<b>1/6/85</b> 5:3
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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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**U.S. Department of Justice**

Civil Division, Torts Branch  
Environmental Tort Litigation

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**VIA EMAIL**

April 21, 2025

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**Re: *Camp Lejeune Water Litigation***  
***Documents related to Drs. Hennet and Spiliotopoulos***

Counsel:

I am writing in response to your April 16, 2025, letter regarding certain materials requested by document subpoenas accompanying the deposition notices directed to the United States' Phase I experts, Drs. Remy Hennet and Alex Spiliopoulos. I am also writing to follow-up about the status of outstanding materials that have yet to be produced from Mr. Maslia and Dr. Konikow.

**SSPA Billing Records Related to CLJA**

The United States disagrees that Plaintiffs are “entitled to billing records that identify the number of hours each testifying expert worked each day and describe the work that was performed, to the extent these records exist.” Fed. R. Civ. P. 26(a)(2)(vi) & 26(b)(4)(C)(i) require the production of “a statement of the compensation to be paid for the study and testimony in the case” and communications that “relate to compensation for the expert’s study or testimony.” District courts within the Fourth Circuit have interpreted these provisions narrowly. *See, e.g., Norman v. Leonard’s Express, Inc.*, 2023 WL 3244002 at \*6 (W.D. Va. May 4, 2023) (“Dispositively, it lists the hourly rates for Dr. Richmond’s services. Because Rule 26 requires a statement of the compensation ‘to be paid’ to an expert—as opposed to the amount ‘paid to date’—and the compensation disclosure is necessarily to be made at the time the expert’s report is disclosed—as opposed to at the time of trial—the defendants have satisfied Rule 26 by producing to Norman the fee schedule.”) (internal citations omitted); *Seaman v. Duke University*, 2018 WL 1441267, at \*8 (M.D. N.C. Mar. 21, 2018) (“Here, based on the above authority, the Court finds Plaintiff’s first two requests—for the total amount Analysis Group has billed in connection with this case

and a breakdown of the proportion of Analysis Group's bills that are attributed to Dr. Cremieux's work—are sufficiently narrow and consistent with the Rule's intent."); *Océ North America, Inc. v. MCS Services*, 2011 WL 13217472, at \*8 (D. Md. Sept. 9, 2011) ("To the extent it has not done so already, Océ should produce for each of its named experts a statement of the total compensation paid for their 'study and testimony in the case.' The court finds, however, that DeFazio has not articulated a compelling need for production of every monthly invoice or other document describing or concerning fees. Disclosure of Océ's experts' total compensation will adequately enable defendants to explore the experts' financial interest in this case on cross-examination.").

Here, the United States has more than complied with Fed. R. Civ. P. 26(a)(2)(vi) & 26(b)(4)(C)(i) and Fourth Circuit case law interpreting these provisions. Specifically, the United States has produced (1) information about the hourly rates of Drs. Hennet and Spilitopoulos and (2) invoices that reflect total compensation paid to S.S. Papadopoulos & Associates related to work performed by or at the direction of Drs. Hennet and Spilitopoulos in the CLJA litigation. The produced invoices identify the employee type or title of each SSPA billing professional, including Dr. Hennet as "Senior Principal" and Dr. Spilitopoulos as "Senior Hydrologist." However, to avoid an unnecessary discovery dispute, the United States is working to gather and produce more detailed, timekeeping records related to the invoices already produced.

### **SSPA Billing Records Related to Past Camp Lejeune Litigation**

The United States disagrees with Plaintiffs' characterization of the United States' objections to producing "compensation records related to work performed by SSPA for DOJ prior to August 2022." The specific document requests at issue in Plaintiffs' subpoena were overly broad, unduly burdensome, and sought documents and information not proportional to the needs of the case. Specifically, Request No. 6 sought "[a]ll bills, invoices, or other documents relating to payments from the United States or any of its agencies to you, S.S. Papadopoulos, or any principals or agents of S.S. Papadopoulos relating in any way to Camp Lejeune water contamination, the CLJA litigation, remediation related to Camp Lejeune or any other water quality issues related to Camp Lejeune from 2004 through the present." Request No. 7 sought "[a]ll timekeeping and billing records related to time that you, S.S. Papadopoulos, or any principals or agents of S.S. Papadopoulos spent working on any projects related to Camp Lejeune and the CLJA litigation from the time you or your employer first were retained, hired or contracted." These Requests sought extensive documentation over a 20-year period dating back to 2005 related to past Camp Lejeune litigation involving distinct and separate issues.

Fed. R. Civ. P. 26(a)(2)(B)(vi) requires a retained testifying expert to disclose "a statement of the compensation to be paid for the study and testimony *in the case*," and district courts within the Fourth Circuit have interpreted this provision narrowly. Plaintiffs cite *Burris v. Ethicon, Inc.*, 2019 WL 13185497 (S.D. W.V. Nov. 7, 2019). In that case, the district court required production of "basic documentation reflecting the expert's income from acting as an expert witness [in prior related litigation]." *Id.* at \*1 (emphasis added). Likewise, in *Bilenky v. Ryobi Ltd.*, the district court limited production of past expert compensation "to Mr. Nielsen's expert-

related income earned on behalf of Husqvarna *during the last three years.*” 2014 WL 12591078, at \*4 (E.D. Va. Oct. 22, 2014) (emphasis added). To avoid an unnecessary discovery dispute, the United States is working to determine if and to what extent compensation information or documents still exist related to SSPA’s work for DOJ in past Camp Lejeune litigation. The United States will supplement its production with “basic” compensation information or documents related to SSPA’s work for DOJ in past Camp Lejeune litigation to the extent it exists.

### **2005 ATSDR Expert Panel Notes**

The United States disagrees that “Dr. Spiliopoulos’s notes, memoranda and any related documents regarding his attendance at the 2005 ATSDR Expert Panel meeting are not protected work product and must be produced.” The work product doctrine protects “(1) documents or tangible things; (2) prepared in anticipation of litigation or trial; and (3) by or for the party or the party’s representative.” *U.S. v. Bertie Ambulance Service, Inc.*, 2015 WL 3932167, at \*3 (E.D. N.C. June 15, 2015) (Jones, J.); *see also* Fed. R. Civ. P. 26(b)(3)(A) (“Ordinarily, a party may not discover documents and tangible things that are prepared in anticipation of litigation or trial by or for another party or its representative....”). Fed. R. Civ. P. 26(b)(4)(B) extends the work product doctrine to draft reports of retained experts. To overcome the work product protection, the discovering party must show that it “has substantial need for the materials to prepare its case and cannot, without undue hardship, obtain their substantial equivalent by other means.” Fed. R. Civ. P. 26(b)(3)(A)(ii).

As you know, Dr. Spiliopoulos testified that “In 2005 Gordon Bennet and Remy Hennet asked me to attend the meeting...and provide them with information about that.” Spiliopoulos Dep., 115:18-21. Furthermore, Dr. Hennet testified that “In 2005 I was involved in work for the Department of Justice on issues at Camp LeJeune that it had nothing to do with this case. It was a different case or different cases. And that’s what I recall.” Hennet Dep., 29:17-21. Contrary to Plaintiffs’ assertion that “Dr. Spiliopoulos had not been retained as an expert at that time...,” Drs. Spiliopoulos’ and Hennet’s testimony in this case make clear that Dr. Spiliopoulos was working with, and under the direction of, the United States’ retained experts at that time in anticipation of litigation. The United States has identified multiple prior cases in which Dr. Hennet went on to submit declarations or expert reports. Accordingly, the United States maintains that any notes taken by Dr. Spiliopoulos in attending the 2005 ATSDR Expert Panel are protected by the work product doctrine. *Deangelis v. Corzine*, 2016 WL 93862 at \*4 (S.D. N.Y. Jan. 15, 2016) (“The CFTC’s arguments as to why these documents are not drafts are unconvincing. First, its claim that ‘notes, summaries, memoranda, and other materials created by an expert or the expert’s assistants in connection with drafting a[n] expert report’ cannot be considered ‘drafts’ proves too much.”). Plaintiffs have failed to articulate a substantial need for these notes in light of the millions of pages of documents produced and dozens of depositions taken in the litigation.

**CLJA Site-Visit Notes from Dr. Spiliotopoulos**

The United States confirms that Dr. Spiliotopoulos searched his records and that he does not have any “interview notes” or “summaries” from his site-visit to Camp Lejeune.

**Morris Maslia’s Supplemental Calculations & Notes**

During Mr. Maslia’s March 14, 2025, deposition, he testified that he had performed additional calculations at some point after Dr. Konikow’s rebuttal report was disclosed. Maslia Dep. (3/14/25), 38:2-42:1; 52:20-54:15. Mr. Maslia specifically testified to creating notes reflecting these calculations related to the geometric bias of ATSDR’s water model for Tarawa Terrace. *Id.* The United States requested production of these notes at Mr. Maslia’s deposition, but they have yet to be produced. The United States again requests production of these notes.

**Leonard Konikow’s Invoices**

During Dr. Konikow’s February 25, 2025, deposition, he testified that he had not yet submitted his invoice for January 2025. Konikow Dep., 66:22-67:15. The United States requested that when the invoice was completed and issued to Plaintiffs’ counsel, a copy of the invoice be produced. *Id.* This invoice has yet to be produced. The United States again requests production of this invoice and any additional invoices issued since Dr. Konikow’s deposition.

Very Truly Yours,

*/s/ Haroon Anwar*

Haroon Anwar  
Trial Attorney  
U.S. Department of Justice  
Environmental Tort Litigation

cc: Plaintiffs’ Leadership Group

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
Case No. 7:23-cv-897

IN RE: )  
 )  
CAMP LEJEUNE WATER LITIGATION ) **JOINT STATUS REPORT**  
 )  
This Document Relates To: )  
ALL CASES )

The Plaintiffs' Leadership Group (the "PLG"), together with the Defendant United States of America ("Defendant" or the "United States") (collectively, the "Parties"), jointly file this Joint Status Report. The matters required to be addressed in a Joint Status Report pursuant to Case Management Order No. 2 ("CMO-2") (D.E. 23) and the Court's Order of August 8, 2024 (D.E. 271) are set forth below.

**(1) An update on the number and status of CLJA actions filed in the Eastern District of North Carolina**

From February 11, 2023 to April 18, 2025, 2,898 Camp Lejeune Justice Act ("CLJA") complaints have been filed in this district. One hundred and twelve cases have been dismissed; 103 of those were voluntary dismissals and the four others were pro se cases. The cases are divided as follows: Judge Dever – 730 cases; Judge Myers – 703 cases; Judge Boyle – 725 cases; and Judge Flanagan – 740 cases.

**(2) An update on the number and status of administrative claims with the Department of Navy**

There are approximately 410,000 de-duplicated administrative claims on file with the Department of the Navy ("Navy"). The Navy's enhanced Claims Management Portal allows filers to effectively manage their CLJA claim online. Approximately 140,000 CLJA claims currently contain at least one supporting document with approximately 18,000 of those claims *alleging* an

injury type that may be settled under the Elective Option framework. The Navy is working to confirm substantiation of those alleged Elective Option injuries and extend settlement offers to as many claimants as possible given workforce shaping impacts.

**(3) An update regarding agreements reached between the Parties concerning the elements of a CLJA claim and the general framework for trial**

The Joint Status Reports of October 15 and December 10, 2024 included a joint proposal that the Track 1 Leukemia and Non-Hodgkin's Lymphoma cases be tried before the same judge. These cases have now been assigned to Judge Dever. The Parties further proposed that the Track 1 Leukemia and Non-Hodgkin's Lymphoma cases be divided into logical subgroups for purposes of trials. The Parties may make additional proposals for subgroups of other diseases for purposes of trials.

On March 3, 2025, the Parties filed a Joint Notice Regarding Hearing on March 25, 2025. [D.E. 329]. In the Joint Notice, the Parties proposed mutually agreed upon language concerning the nature of evidence to be presented by experts in the Water Contamination Phase (Phase One) of this litigation. *Id.* ¶ 4. Further, the Parties set forth competing positions concerning whether there should be a live evidentiary hearing during the Water Contamination Phase. *Id.* ¶¶ 6(A)-(B). At the Court's convenience, the Parties will be prepared to answer the Court's questions concerning these issues.

To the extent necessary, the Parties will continue discussions concerning the types of proof required to satisfy the PLG's burdens under Phases II (general causation) and III (specific causation and residual experts).

**(4) An update on stipulations entered into between the Parties since the last status conference**

The Parties discuss their positions on stipulations on a monthly basis. As forecasted in prior Joint Status Reports, the Parties have found that the areas of dispute have sharpened as expert discovery progressed.

**(5) A summary of the discovery conducted since the last status conference:**

The Parties have agreed to file separate summaries of the discovery conducted since the last status conference. The Parties' respective summaries appear below:

**The PLG's Position:**

The PLG continues to dedicate significant time and resources to conducting discovery in this matter. Below, the PLG sets forth a description of certain ongoing discovery issues.

Expert Disclosures

For all Track 1 health conditions other than Parkinson's disease, the government's deadline to disclose Residual Experts is April 8, 2025, and the PLG's deadline to designate rebuttal experts is May 14, 2025. [D.E. 311]. On March 11, 2025, the Court entered an Order granting the Parties' Joint Motion for Extension of Phase III Deadlines for Track 1 Parkinson's Disease Plaintiffs. [D.E. 332]. Pursuant to that Order, the government will designate its Residual Experts on Parkinson's disease on May 8, 2025, and the PLG will designate its rebuttal Residual Experts on Parkinson's disease on June 13, 2025. *Id.*

Expert Depositions

The Parties have scheduled the Phase I expert witness depositions on water contamination and modeling issues (the "Water Contamination Experts"). Further, the Parties have scheduled all depositions for Phase II experts on general causation ("General Causation Experts"). The Parties

are in the process of obtaining dates for Phase III experts on specific causation (“Specific Causation Experts”).

Independent Medical Examinations (“IME”)

Pursuant to Case Management Order No. 16 [D.E. 300], the Parties have completed all but one defense IME of all Track 1 Trial Plaintiffs who were examined by a PLG retained testifying expert. The remaining IME is scheduled for April 24, 2025. In the Joint Status Report of February 20, 2025, the Parties discussed certain disagreements concerning whether one IME had been interrupted. [D.E. 326]. The DOJ has raised no further issues with respect to the conduct of IMEs since that time.

The Government’s Requests for Supplementation

In the Joint Status Report of March 10, 2025, the PLG discussed in detail the government’s requests that the PLG supplement every Track 1 Trial Plaintiff’s Discovery Pool Profile Form (“DPPF”) to reflect new medical information, such as recent medical treatment or new medical diagnoses. [D.E. 331, at pp 5-7.] In particular, the PLG had concerns about the unduly burdensome and onerous nature of the government’s request that the PLG essentially supplement discovery every few weeks. On March 14, 2025, the Parties were able to achieve a resolution to this dispute. According to the Parties’ agreement, on April 10, 2025, the PLG provided supplemental information with respect Track 1 Trial Plaintiff medical developments and new providers. The PLG will update this information on July 10, 2025 and every three months thereafter. The PLG also will submit an updated, verified and final DPPF 120 days before trial or fifteen (15) days after a trial date is set, whichever is later. The PLG will then discuss with the United States any requests to re-open Plaintiff depositions on a case-by-case basis with no presumption or agreement that a Plaintiff may be re-deposed.

### Frank Mousser's New Cancer Diagnosis

Plaintiff Frank Mousser ("Mr. Mousser") is a Track 1 Trial Plaintiff within the kidney cancer group. Following the PLG's disclosure of Residual Expert reports on February 7, 2025, Mr. Mousser was diagnosed with cancer in his bladder on or about February 10, 2025. The PLG received the medical records concerning this diagnosis on March 6, 2025, and the PLG immediately began evaluating whether this new diagnosis necessitates the supplementation of Residual Expert reports on behalf of Mr. Mousser. On March 28, 2025, the PLG notified the government that it will be supplementing at least two (2) Residual Expert reports exclusively concerning Mr. Mousser's recent cancer diagnosis. In response, the government expressed understandable concerns about its upcoming deadline of April 8, 2025 to designate Residual Experts. The PLG produced 3 supplemental expert reports on April 9, 2025.

### Future Expert Supplementation

On April 11, 2025, the United States proposed amendments to the Court's schedule to address supplemental expert opinions and impose a deadline after which new medical developments or diagnoses could not be presented at trial. The PLG has rejected such proposal and strongly disagrees that any limitations should be imposed with respect to ongoing medical treatment and new developments/diagnoses. Given the Track 1 Trial Plaintiffs' serious health issues, it is to be expected that their conditions will continue to worsen, new diagnoses may arise, and medical treatment will be required up through trial. Such issues can be addressed through the normal course and in accordance with applicable procedures.

### DOJ Expert Discovery Disclosures

PLG has met and conferred with DOJ and been unable to resolve certain disagreements regarding the production of documents in response to subpoenas served with depositions notices

of DOJ experts Drs. Hennet and Spiliotopoulos, both of whom are employed by S. S. Papadopoulos & Associates, Inc. (“SSPA”).

First, the compensation records produced for both experts are inadequate. DOJ produced SSPA billing records for services rendered from Aug. 2022 through Jan. 2025 that contain limited information – namely, the number of hours per month billed for general types of employees (as opposed to individuals). The pdf file name of this production was “1817 invoices through 013125 *without backup.pdf*”. PLJ has requested and believes it is entitled to the “backup”, including more detailed billing records (i.e., time records) that identify the person doing the work; the task being done; and the number of hours worked per task or per day. *See, e.g., Noveletsky v. Metropolitan Life Ins. Co.*, No. 2:12-cv-21-NT, 2012 WL 11802597 (D. Me Oct. 19, 2012) (expert time records are discoverable). Dr. Spiliotopoulos testified that such records do in fact exist. Spiliotopoulos Deposition at 137-38. The cases cited by DOJ are inapposite – they address the compensation information that is required to be provided in an expert’s report, but nothing in the Federal Rules limits discovery to that minimum requirement. Here, unlike the cases cited by DOJ, PLG served a subpoena requesting additional records, which are discoverable. Moreover, the *Seaman* case – cited by DOJ – held that compensation records that breakdown the hours attributable to specific experts were required to be produced. *Seaman v. Duke University*, 2018 WL 1441267, at \*8 (M.D.N.C. Mar. 21, 2018). DOJ has not produced such records here; however, PLG has.

Second, DOJ has refused to produce compensation records related to work performed by SSPA for DOJ prior to Aug. 2022 related to Camp Lejeune. Dr. Hennet testified that he has performed such work since at least 2005. Hennet Deposition at 25-26, 93. These bills and time records are discoverable. *See, e.g., Burris v. Ethicon, Inc.*, No. 2:14-CV-24320, 2019 WL 13195497, at \*1 (S.D.W.Va. Nov. 7, 2019) (“an expert’s financial gain from testifying in a

particular type of case, or on behalf of a specific law firm or party, is relevant to credibility and is appropriate subject matter for impeachment.”). Again, DOJ relies on the minimum requirement in the Federal Rules, but the subpoena properly requested more.

Third, PLG seeks production of Dr. Spiliotopoulos’s notes, memoranda and any related documents regarding his attendance at the 2005 ATSDR Expert Panel meeting. DOJ alleges that these documents are protected work product; however, Dr. Spiliotopoulos attended this meeting as an “observer”; he had not been retained as an expert at that time; he was not aware of the identify of his client (if any) when he attended this meeting; and to this day he does not know if he attended that meeting for a reason related to litigation. Spiliotopoulos Deposition at 115; 118-21; 123-25. In addition, DOJ has not identified the specific litigation matter that Dr. Spiliotopoulos was allegedly working on that provides the claimed work product protection. *See In re Application of Republic of Ecuador*, 280 FRD 506, 512-15 (N.D. Ca. 2012) (work product does not extend to expert or expert employee’s notes, memoranda or “development of the opinions to be expressed outside of draft reports”).

Fourth, Dr. Spiliotopoulos’s interview notes and summaries should be produced. On page 1 of his report, Dr. Spiliotopoulos states that he reviewed interview summaries as part of his expert work on this case. In deposition, he indicated that these documents were prepared in connection with his visit to Camp Lejeune and interview of employees at the base. Spiliotopoulos Deposition at 110-12; 128. These documents fall within 3(b) of CMO 17. DOJ claims that Dr. Spiliotopoulos does not have such interview summaries, but this conflicts with both his report and his sworn deposition testimony.

### PLG Expert Discovery Disclosures

The United States continues to note alleged issues with respect to the PLG's expert disclosures and production of reliance materials. The PLG has timely addressed all alleged deficiencies raised by the United States, and the PLG denies the United States has suffered any prejudice or harm. Given that most issues are resolved, the PLG does not feel it is appropriate to provide further detail herein. However, if the Court has any concerns about the issues raised by the United States, the PLG is glad to provide further detail, including those details omitted by the United States, to correct any misperceptions or concerns the Court may have with respect to such issues.

### CMO No. 5 Clawback & Objection Procedure concerning alleged Privileged Document

As the Parties informed the Court at the last status conference, there is one document produced to the PLG that the United States has provided notice of clawback, for which the Plaintiffs have objected. The PLG asserts that the document in question is plainly not privileged. The parties have conducted multiple meet and confers, as well as attempted resolution, but to no avail and the Parties need to seek Court resolution. The Parties would like to be heard either in person or by submissions regarding this document and will bring the at issue document to the next hearing and be prepared to submit it to the Court in camera.

### Concerns Regarding Deposition Noticing

The PLG notes concerns with the DOJ's deposition noticing protocols. For example, pursuant to Case Management Order 3 the party noticing a deposition is obligated to coordinate the presence of a transcription service and, if applicable, remote access. Instances have arisen where such operations have not been timely effectuated leading to technical and logistical issues. The matters, while concerning, do not yet rise to the level of a formal motion but nevertheless, the

PLG shares the Court's desire to efficiently manage the discovery process on a schedule and would like to note the issue.

**United States' Position:**

The United States has completed substantially all of its general discovery responses. The United States will continue to produce on a rolling basis any Track 1 Trial Plaintiff-related documents that are received from third parties or supplemented by government agencies.

**Fact Depositions**

The United States confirms that all previously scheduled fact depositions have been taken at this point. The United States recognizes that additional depositions related to certain Track 1 Trial Plaintiffs may be necessary based on changing conditions between now and trial, subject to agreement of the Parties or Order of the Court.

**Recent Developments in Track 1 Trial Plaintiffs' Cases**

As put on the record at the March 17, 2025, Status Conference the Parties agreed that PLG would supplement the Discovery Pool Profile Forms and separately update a spreadsheet to reflect any new medical conditions or providers relevant to a Track 1 Trial Plaintiffs' allegations. PLG provided its first spreadsheet update on April 10, 2025. The United States has reached out to PLG to confirm certain information and obligations raised by PLG's update, including whether and when PLG would produce records from new providers who were not previously disclosed. In addition, PLG remains responsible for obtaining and producing medical records for any Track 1 Trial Plaintiff as soon as they receive them.

**Update to Plaintiff Mousser's Medical Condition**

On April 10, 2025, approximately six weeks after the United States learned of a recent bladder cancer diagnosis in a Track 1 Kidney Cancer Trial Plaintiff, PLG served supplemental

specific causation reports from three experts and asserted that 30 days would be a reasonable time for the United States to respond with supplemental reports of its own. The United States is communicating with its experts regarding the new reports and plans to reach out to PLG shortly regarding the amount of time necessary to adequately respond.

#### Future Expert Supplementation

In the last Status Conference, the United States raised its intention to propose a deadline for final expert report supplementation. On April 16, 2025, the Parties conferred on this issue. During that call, the United States proposed establishing a final supplementation deadline for expert causation opinions; that deadline would not affect the overall discovery schedule. PLG indicated that setting a final deadline for expert supplementation may be beneficial, but that establishing such a date at this time is premature. The parties will continue to discuss this matter.

#### Expert Discovery Disclosures

PLG's Phase III expert disclosures were made on February 7, 2025. The United States raised several issues with PLG regarding its compliance with Federal Rule of Civil Procedure 26 requirements, along with any potential deficiencies with the documents produced in conjunction with the reports. The Parties continue to work together to resolve these issues.

On April 8, 2025, the United States served all of its Phase III expert disclosures, with the exception of disclosures for the Parkinson's Disease cases. Phase III expert disclosures for Parkinson's Disease cases will be served on May 8, 2025. On April 15, 2025, the United States served its materials considered lists for all Phase III expert disclosures, with the exception of the Parkinson's Disease cases.

- PLG's Late Supplementation of Materials Considered

On April 11, 2025, the United States notified PLG that it had received amended “materials considered” lists for two experts within days of their depositions. For one expert, the amount of materials added to the list was substantial, and the amended list was provided just two days before his deposition. For the other expert, the new materials included academic articles for three expert reports and the citations were provided on the eve of the deposition. The United States proceeded with the depositions, but reserved the right to keep the depositions open. These late disclosures upset the carefully considered disclosure schedule in the Court’s Case Management Order, which builds in sufficient time for counsel to evaluate an expert’s materials considered prior to the deposition. The Parties have communicated regarding the issue. If this recurs the United States reserves the right to seek appropriate relief, including rescheduling of depositions and amendment of the Cases Management Order.

- PLG's Overbroad Discovery Requests of United States' Experts

The United States takes issue PLG’s complaints about the United States’ responses to PLG’s document requests from Dr. Remy Hennet and Dr. Alex Spiliopoulos. *First*, United States disagrees that Plaintiffs are “entitled to billing records that identify the number of hours each testifying expert worked each day and describe the work that was performed, to the extent these records exist.” Fed. R. Civ. P. 26(a)(2)(B)(vi) & 26(b)(4)(C)(i) require the production of “a statement of the compensation to be paid for the study and testimony in the case,” and communications that “relate to compensation for the expert’s study or testimony.” District courts within the Fourth Circuit have interpreted these provisions narrowly. *See, e.g., Norman v. Leonard's Express, Inc.*, 2023 WL 3244002 at \*6 (W.D. Va. May 4, 2023); *Seaman v. Duke University*, 2018 WL 1441267, at \*8 (M.D. N.C. Mar. 21, 2018)

*Second* The United States disagrees with Plaintiffs' characterization of the United States' objections to producing "compensation records related to work performed by SSPA for DOJ prior to August 2022." The specific document requests at issue in Plaintiffs' subpoena were overly broad, unduly burdensome, and sought documents and information not proportional to the needs of the case. For example, Request No. 6 sought "[a]ll bills, invoices, or other documents relating to payments from the United States or any of its agencies to you, S.S. Papadopoulos, or any principals or agents of S.S. Papadopoulos relating in any way to Camp Lejeune water contamination, the CLJA litigation, remediation related to Camp Lejeune or any other water quality issues related to Camp Lejeune from 2004 through the present." Additionally, Federal Rule 26(a)(2)(B)(vi) requires a retained testifying expert to disclose "a statement of the compensation to be paid for the study and testimony *in the case*," and district courts within the Fourth Circuit have interpreted this phrase narrowly. Nevertheless, to avoid an unnecessary discovery dispute, the United States is working to determine if and to what extent information or documents still exist related to SSPA's work for DOJ in past Camp Lejeune litigation.

*Third*, the United States disagrees that Dr. Spiliopoulos's notes, memoranda, and any related documents regarding his attendance at the 2005 ATSDR Expert Panel meeting are not protected work product and must be produced. The work product doctrine protects "(1) documents or tangible things; (2) prepared in anticipation of litigation or trial; and (3) by or for the party or the party's representative." *U.S. v. Bertie Ambulance Service, Inc.*, 2015 WL 3932167, at (E.D. N.C. Jun. 15, 2015) (Jones, J.); *see also* Fed R. Civ. P. 26(b)(3)(A) ("Ordinarily, a party may not discover documents and tangible things that are prepared in anticipation of litigation or trial by or for another party or its representative... ."). To overcome the work product protection, the discovering party must show that it "has substantial need for the materials to prepare its case and

cannot, without undue hardship, obtain their substantial equivalent by other means.” Fed. R. Civ. P. 26(b)(3)(A)(ii).

With respect to PLG’s fourth point, the United States can confirm that Dr. Spiliopoulos searched his records and that he does not have any “interview notes” or “summaries from his site-visit to Camp Lejeune. Finally, the parties are continuing to meet and confer regarding these matters.

#### Phase I Expert Depositions

All Phase I expert depositions have been taken. There are a few outstanding issues relating to the Phase I expert depositions that the Parties are currently addressing:

- PLG’s Use of a Privileged Document During Dr. Hennet’s Deposition:

On March 20, 2025, PLG used a plainly privileged document as an exhibit during the deposition of the United States’ Phase I expert, Dr. Remy Hennet. PLG did not affirmatively disclose, before the deposition, that they possessed this document. On March 27, 2025, the United States objected and asserted privilege at the deposition before formally clawing back the document. On April 2, 2025, the Parties conferred, and subsequently, the United States provided legal authority supporting its position that the document is privileged along with a privilege log concerning the document. At the April 7, 2025, Status Conference, the United States raised this issue given PLG’s suggestion that it would submit the document for *in camera* review. However, PLG did not do so. As a result, the United States sent another letter requesting that PLG submit the document for *in camera* review by April 15, and advised that, absent submission, the United States would assume the document had been destroyed and that PLG had abandoned its position. On April 15, 2025, PLG responded by letter stating that it disagreed with the United States’ position. Subsequently, the United States reiterated that PLG should submit the document for *in*

*camera* review and seek the Court's guidance on how it would prefer to address the issue. PLG has confirmed that it will not use the document for any purpose absent further Order of the Court. (See CMO No. 5, D.E. 30, ¶ 8.)

- Site Visit of the United States' Expert Geochemist

PLG moved to exclude all evidence related to a February 2025 site visit by the United States' expert geochemist, Dr. Remy Hennet. (D.E. 348). PLG did not request a site visit for its expert, Dr. David Sabatini, who testified during his deposition that he did not need to perform a site visit because he already had all the information he needed to perform his calculations. The United States opposed PLG's motion on April 17, 2025. (D.E. 352). The motion is therefore ripe for decision and the United States will be prepared to address the issue at the Status Conference if necessary.

#### Phase II Expert Depositions

The Parties have scheduled all Phase II expert witness depositions.

#### Independent Medical Examinations

All of the United States' life care, vocational rehabilitation, and psychiatric examinations are now complete, with the exception of the recent psychiatric IME conducted in the Mousser case in connection with PLG's supplemental expert opinions. The United States' expert is currently evaluating whether an additional IME will be necessary. The parties previously agreed, pursuant to CMO 16, if PLG were to conduct an additional IME in the Mousser case, the United States would have the right to conduct its own additional IME if needed. With respect to the neurology examinations, the United States has conducted four of the five examinations, with the remaining examination scheduled for April 24, 2025.

**(6) Any other issues that the parties wish to raise with the Court:**

At present, the following motions are pending before the Court:

- a. The Parties' respective proposed discovery plans for Track 2 illnesses [D.E. 155 & 156], and
- b. The PLG's Motion For An Order Excluding Evidence Related to Dr. Remy Hennet's February 2025 Site Visit [D.E. 348]. The PLG respectfully requests oral argument on the motion.

*[Signatures follow on next page]*

DATED this 21st day of April, 2025.

Respectfully submitted,

/s/ J. Edward Bell, III

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*Co-Lead Counsel for Plaintiffs*

**From:** Baughman, Laura  
**Sent:** Thursday, April 24, 2025 9:45 AM  
**To:** Anwar, Haroon (CIV)  
**Cc:** Ed Bell; zina.bash; Scalise Johnson, Margaret; Havai, Deanna; Dawn Bell; Dean, Kevin R.; Bolton, Devin; O'Leary, Allison (CIV); Bain, Adam (CIV); Lipscomb, Bridget (CIV); Antonucci, Giovanni (CIV); Silverstein, Kailey (CIV); Horan, Alanna R. (CIV)  
**Subject:** RE: Follow-up regarding Hennet and Spiliotopoulos depositions and related document production

CAUTION:EXTERNAL

Haroon:

As stated in the PLG's portion of the Joint Status Report filed on April 21, 2025, PLG maintains that it is entitled to billing records for Dr. Spiliotopoulos and Dr. Hennet that identify the person doing the work; the task being done; and the number of hours worked per task or per day, to the extent these records exist. You stated in your letter of April 21 that the United States is working to gather and produce more detailed timekeeping records. If you can produce those today or tomorrow, that may alleviate raising this with the Court at the hearing on Monday.

Similarly, PLG maintains that it is entitled to past billing records of SSPA regarding work related to Camp Lejeune. Again, you have indicated that the United States will supplement its production with "basic" compensation information or documents related to SSPA's work for DOJ in the past. If you can produce those today or tomorrow, that may alleviate raising this with the Court at the hearing on Monday.

Regarding documents related to Dr. Spiliotopoulos's attendance at the two-day 2005 Expert Peer Review Panel meeting, Dr. Spiliotopoulos testified that when he attended the meeting, he did not know who his client was, he did not know if he was attending that meeting for a litigation purpose, and he did not have any opinions regarding Camp Lejeune at that time because "I didn't know enough about it, and I was not familiar with that work at all." Spiliotopoulos Deposition at 115, 118, 123. Thus, it seems very unlikely that any notes or documents related to attendance at a meeting under those circumstances would comprise a draft expert report. If the United States does not agree to produce Dr. Spiliotopoulos's documents related to his attendance at the 2005 Expert Peer Review Panel meeting, PLG requests a privilege log be produced before Monday related to these documents in order to aid the parties and the Court at oral argument.

Regarding the "interview summaries," please identify which "interview summaries" Dr. Spiliotopoulos reviewed and relied upon for his expert report. See Spiliotopoulos Report at 1. At deposition, he testified that this related to documents from his site visit. If that is not the case, which "interview summaries" is he relying upon, and have they been produced?

I am available to meet and confer today or tomorrow morning if that would be helpful in resolving any of these issues before Monday.

Thank you,  
Laura

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**Sent:** Monday, April 21, 2025 6:23 PM  
**To:** Baughman, Laura <lbaughman@weitzlux.com>  
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**Subject:** RE: Follow-up regarding Hennet and Spiliopoulos depositions and related document production

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Laura,

Please find attached a response to your April 16, 2025, letter. Let us know if we need to meet and confer further.

Thanks,

Haroon



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**Subject:** [EXTERNAL] RE: Follow-up regarding Hennet and Spiliopoulos depositions and related document production

Counsel:

Please see the attached correspondence.

Thank you,

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**Subject:** Re: Hennet Depo Follow-up

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Copying Haroon and Dawn whom I omitted by mistake.

Thanks



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**Subject:** Hennet Depo Follow-up

Allison/Elizabeth:

Good afternoon.

I am following up on a couple items that came up during Drs. Spiliotopolus and Hennet depositions (reserving the right to raise others once we get transcript) last week:

1. Billing records produced are simple summaries without the back-up "copy" referred to in the meta-data, they don't include all the documents received by DOJ to support the billing summaries, and we don't have all the "contracts" and "purchase orders" that are referred to in the public website exhibit I marked in the deposition. ON the invoices you did produce, they reference these same contracts and purchase orders. Furthermore, given the nature of all the requests in the served subpoena and the testimony of Dr. Hennet, clearly more documents exist, including billing records for over \$800k paid by DOJ to SSPA since 2005, all of which have not been produced;
- 2.

3. Original native photos with meta data produced of the 2/11 photos. That production does not comply with the ESI order, and Dr. Hennet testified he sent you original photos. We need the original native photos asap please for Dr. Sabatini's inspection and review please; and
- 4.
5. All notes and photos taken by these experts not yet produced (both testified to other notes in their original files, interview notes, etc.).

As indicated above, we may have other specific issues to raise concerning the deficient responses by the DOJ and its experts in the production to date and responsive to these subpoenas, and will raise later if needed and reserve that right.

we are also waiting to hear back from DOJ on the alleged claw-back of exhibit 7 in Hennet depo, and Laura's request to allow expert and lawyer inspections consistent with the latitude provided to Dr. Hennet 2/11/2025.

If you would like to have a meet and confer, please let us know and we can arrange later this week.

Thank you,

Kevin



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\*\*\*\*\*

**From:** Dean, Kevin R.  
**Sent:** Thursday, April 24, 2025 9:56 AM  
**To:** Baughman, Laura; Anwar, Haroon (CIV)  
**Cc:** Ed Bell; zina.bash; Scalise Johnson, Margaret; Havai, Deanna; Dawn Bell; Bolton, Devin; O'Leary, Allison (CIV); Bain, Adam (CIV); Lipscomb, Bridget (CIV); Antonucci, Giovanni (CIV); Silverstein, Kailey (CIV); Horan, Alanna R. (CIV)  
**Subject:** RE: Follow-up regarding Hennet and Spiliotopoulos depositions and related document production

Haroon, good morning and sorry to double team, but I need to add regarding the billing records for these experts a renewed request for all the documents that Dr. Hennett identified that exist as it relates to billing records which are related to Dr. Hennett and SSPA work at Camp Lejeune (he provided detailed identity of how SSPA compiles time in a software program and referred all of us to an administrator for further information) as requested in the Subpoena served prior to his deposition. As you are aware, SSPA contracted with the DOJ at least by 11/30/2005, and records indicate he was doing work for the Navy and others including the GSA prior to that, but we don't have specificity as to the work being done and by whom as Laura mentioned. Also, the SSPA produced billing only starts in 2022. If we could have you provide the promised updates by tomorrow, then we could be in a better position Monday to try to work out a resolution on the billing records issue. If you are not going to produce any billing records prior to 2022, then just so confirm and we will be in a position to advise the Court and move to compel.

Thank you,

Kevin



**Kevin Dean**  
Attorney at Law

28 Bridgeside Blvd., Mt. Pleasant, SC 29464  
o. 843.216.9152 c. 843.834.1130 f. 843.216.9267  
kdean@motleyrice.com

---

**From:** Baughman, Laura <[ibaughman@weitzlux.com](mailto:ibaughman@weitzlux.com)>  
**Sent:** Thursday, April 24, 2025 9:45 AM  
**To:** Anwar, Haroon (CIV) <[Haroon.Anwar@usdoj.gov](mailto:Haroon.Anwar@usdoj.gov)>  
**Cc:** Ed Bell <[jeb@belllegalgroup.com](mailto:jeb@belllegalgroup.com)>; zina.bash <[zina.bash@kellerpostman.com](mailto:zina.bash@kellerpostman.com)>; Scalise Johnson, Margaret <[mscalise@motleyrice.com](mailto:mscalise@motleyrice.com)>; Havai, Deanna <[dhavai@motleyrice.com](mailto:dhavai@motleyrice.com)>; Dawn Bell <[dbell@belllegalgroup.com](mailto:dbell@belllegalgroup.com)>; Dean, Kevin R. <[kdean@motleyrice.com](mailto:kdean@motleyrice.com)>; Bolton, Devin <[dbolton@weitzlux.com](mailto:dbolton@weitzlux.com)>; O'Leary, Allison (CIV) <[Allison.O'Leary@usdoj.gov](mailto:Allison.O'Leary@usdoj.gov)>; Bain, Adam (CIV) <[Adam.Bain@usdoj.gov](mailto:Adam.Bain@usdoj.gov)>; Lipscomb, Bridget (CIV) <[Bridget.Lipscomb@usdoj.gov](mailto:Bridget.Lipscomb@usdoj.gov)>; Antonucci, Giovanni (CIV) <[Giovanni.Antonucci@usdoj.gov](mailto:Giovanni.Antonucci@usdoj.gov)>; Silverstein, Kailey (CIV) <[Kailey.Silverstein@usdoj.gov](mailto:Kailey.Silverstein@usdoj.gov)>; Horan, Alanna R. (CIV) <[Alanna.R.Horan@usdoj.gov](mailto:Alanna.R.Horan@usdoj.gov)>  
**Subject:** RE: Follow-up regarding Hennet and Spiliotopoulos depositions and related document production

CAUTION:EXTERNAL

Haroon:

As stated in the PLG's portion of the Joint Status Report filed on April 21, 2025, PLG maintains that it is entitled to billing records for Dr. Spiliopoulos and Dr. Hennet that identify the person doing the work; the task being done; and the number of hours worked per task or per day, to the extent these records exist. You stated in your letter of April 21 that the United States is working to gather and produce more detailed timekeeping records. If you can produce those today or tomorrow, that may alleviate raising this with the Court at the hearing on Monday.

Similarly, PLG maintains that it is entitled to past billing records of SSPA regarding work related to Camp Lejeune. Again, you have indicated that the United States will supplement its production with "basic" compensation information or documents related to SSPA's work for DOJ in the past. If you can produce those today or tomorrow, that may alleviate raising this with the Court at the hearing on Monday.

Regarding documents related to Dr. Spiliopoulos's attendance at the two-day 2005 Expert Peer Review Panel meeting, Dr. Spiliopoulos testified that when he attended the meeting, he did not know who his client was, he did not know if he was attending that meeting for a litigation purpose, and he did not have any opinions regarding Camp Lejeune at that time because "I didn't know enough about it, and I was not familiar with that work at all." Spiliopoulos Deposition at 115, 118, 123. Thus, it seems very unlikely that any notes or documents related to attendance at a meeting under those circumstances would comprise a draft expert report. If the United States does not agree to produce Dr. Spiliopoulos's documents related to his attendance at the 2005 Expert Peer Review Panel meeting, PLG requests a privilege log be produced before Monday related to these documents in order to aid the parties and the Court at oral argument.

Regarding the "interview summaries," please identify which "interview summaries" Dr. Spiliopoulos reviewed and relied upon for his expert report. See Spiliopoulos Report at 1. At deposition, he testified that this related to documents from his site visit. If that is not the case, which "interview summaries" is he relying upon, and have they been produced?

I am available to meet and confer today or tomorrow morning if that would be helpful in resolving any of these issues before Monday.

Thank you,  
Laura

**Laura Baughman, Esq. | Weitz & Luxenberg, PC**  
700 Broadway | New York, NY 10003  
Cell: 214-850-6790 | [lbaughman@weitzlux.com](mailto:lbaughman@weitzlux.com)

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**From:** Anwar, Haroon (CIV) <[Haroon.Anwar@usdoj.gov](mailto:Haroon.Anwar@usdoj.gov)>  
**Sent:** Monday, April 21, 2025 6:23 PM  
**To:** Baughman, Laura <[lbaughman@weitzlux.com](mailto:lbaughman@weitzlux.com)>  
**Cc:** Ed Bell <[jeb@belllegalgroup.com](mailto:jeb@belllegalgroup.com)>; zina.bash <[zina.bash@kellerpostman.com](mailto:zina.bash@kellerpostman.com)>; Scalise Johnson, Margaret <[mscalise@motleyrice.com](mailto:mscalise@motleyrice.com)>; Havai, Deanna <[dhavai@motleyrice.com](mailto:dhavai@motleyrice.com)>; Dawn Bell <[dbell@belllegalgroup.com](mailto:dbell@belllegalgroup.com)>; [kdean@motleyrice.com](mailto:kdean@motleyrice.com); Bolton, Devin <[dbolton@weitzlux.com](mailto:dbolton@weitzlux.com)>; O'Leary, Allison (CIV) <[Allison.O'Leary@usdoj.gov](mailto:Allison.O'Leary@usdoj.gov)>; Bain, Adam (CIV) <[Adam.Bain@usdoj.gov](mailto:Adam.Bain@usdoj.gov)>; Lipscomb, Bridget (CIV) <[Bridget.Lipscomb@usdoj.gov](mailto:Bridget.Lipscomb@usdoj.gov)>; Antonucci, Giovanni (CIV) <[Giovanni.Antonucci@usdoj.gov](mailto:Giovanni.Antonucci@usdoj.gov)>; Silverstein, Kailey (CIV) <[Kailey.Silverstein@usdoj.gov](mailto:Kailey.Silverstein@usdoj.gov)>; Horan, Alanna R. (CIV) <[Alanna.R.Horan@usdoj.gov](mailto:Alanna.R.Horan@usdoj.gov)>; Anwar, Haroon (CIV) <[Haroon.Anwar@usdoj.gov](mailto:Haroon.Anwar@usdoj.gov)>  
**Subject:** RE: Follow-up regarding Hennet and Spiliopoulos depositions and related document production

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Laura,

Please find attached a response to your April 16, 2025, letter. Let us know if we need to meet and confer further.

Thanks,

Haroon



Haroon Anwar  
*Environmental Torts Litigation*  
U.S. Department of Justice  
Washington, DC  
202-305-3661 (Voice)  
202-598-3946 (Mobile)  
[haroon.anwar@usdoj.gov](mailto:haroon.anwar@usdoj.gov)

---

**From:** Baughman, Laura <[lbaughman@weitzlux.com](mailto:lbaughman@weitzlux.com)>

**Sent:** Wednesday, April 16, 2025 2:18 PM

**To:** O'Leary, Allison (CIV) <[Allison.O'Leary@usdoj.gov](mailto:Allison.O'Leary@usdoj.gov)>; Platt, Elizabeth K. (CIV) <[Elizabeth.K.Platt@usdoj.gov](mailto:Elizabeth.K.Platt@usdoj.gov)>; Bain, Adam (CIV) <[Adam.Bain@usdoj.gov](mailto:Adam.Bain@usdoj.gov)>; Lipscomb, Bridget (CIV) <[Bridget.Lipscomb@usdoj.gov](mailto:Bridget.Lipscomb@usdoj.gov)>; Anwar, Haroon (CIV) <[Haroon.Anwar@usdoj.gov](mailto:Haroon.Anwar@usdoj.gov)>

**Cc:** Ed Bell <[jeb@belllegalgroup.com](mailto:jeb@belllegalgroup.com)>; zina.bash <[zina.bash@kellerpostman.com](mailto:zina.bash@kellerpostman.com)>; Scalise Johnson, Margaret <[mscalise@motleyrice.com](mailto:mscalise@motleyrice.com)>; Havai, Deanna <[dhavai@motleyrice.com](mailto:dhavai@motleyrice.com)>; Dawn Bell <[dbell@belllegalgroup.com](mailto:dbell@belllegalgroup.com)>; [kdean@motleyrice.com](mailto:kdean@motleyrice.com); Bolton, Devin <[dbolton@weitzlux.com](mailto:dbolton@weitzlux.com)>

**Subject:** [EXTERNAL] RE: Follow-up regarding Hennet and Spiliotopoulos depositions and related document production

Counsel:

Please see the attached correspondence.

Thank you,

**Laura Baughman, Esq. | Weitz & Luxenberg, PC**

700 Broadway | New York, NY 10003

Cell: 214-850-6790 | [lbaughman@weitzlux.com](mailto:lbaughman@weitzlux.com)

---

**From:** Dean, Kevin R. <[kdean@motleyrice.com](mailto:kdean@motleyrice.com)>

**Sent:** Monday, March 24, 2025 4:50 PM

**To:** [allison.o'leary@usdoj.gov](mailto:allison.o'leary@usdoj.gov); [elizabeth.k.platt@usdoj.gov](mailto:elizabeth.k.platt@usdoj.gov)

**Cc:** Adam Bain <[adam.bain@usdoj.gov](mailto:adam.bain@usdoj.gov)>; Baughman, Laura <[lbaughman@weitzlux.com](mailto:lbaughman@weitzlux.com)>; Ed Bell <[jeb@belllegalgroup.com](mailto:jeb@belllegalgroup.com)>; zina.bash <[zina.bash@kellerpostman.com](mailto:zina.bash@kellerpostman.com)>; [bridget.lipscomb@usdoj.gov](mailto:bridget.lipscomb@usdoj.gov); Scalise Johnson, Margaret <[mscalise@motleyrice.com](mailto:mscalise@motleyrice.com)>; Havai, Deanna <[dhavai@motleyrice.com](mailto:dhavai@motleyrice.com)>; Anwar, Haroon (CIV) <[Haroon.Anwar@usdoj.gov](mailto:Haroon.Anwar@usdoj.gov)>; Dawn Bell <[dbell@belllegalgroup.com](mailto:dbell@belllegalgroup.com)>

**Subject:** Re: Hennet Depo Follow-up

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Copying Haroon and Dawn whom I omitted by mistake.

Thanks



**Kevin Dean**  
Attorney at Law

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o. 843.216.9152 c. 843.834.1130 f. 843.216.9267  
kdean@motleyrice.com

---

**From:** Dean, Kevin R.

**Sent:** Monday, March 24, 2025 4:40:41 PM

**To:** allison.o'leary@usdoj.gov <Allison.O'Leary@usdoj.gov>; elizabeth.k.platt@usdoj.gov <Elizabeth.K.Platt@usdoj.gov>

**Cc:** Adam Bain <adam.bain@usdoj.gov>; Baughman, Laura <lbaughman@weitzlux.com>; Ed Bell <jeb@belllegalgroup.com>; Zina Bash <zina.bash@kellerpostman.com>; bridget.lipscomb@usdoj.gov <Bridget.Lipscomb@usdoj.gov>; Scalise Johnson, Margaret <mscalise@motleyrice.com>; Havai, Deanna <dhavai@motleyrice.com>

**Subject:** Hennet Depo Follow-up

Allison/Elizabeth:

Good afternoon.

I am following up on a couple items that came up during Drs. Spiliotopolus and Hennet depos (reserving the right to raise others once we get transcript) last week:

1. Billing records produced are simple summaries without the back-up "copy" referred to in the meta-data, they don't include all the documents received by DOJ to support the billing summaries, and we don't have all the "contracts" and "purchase orders" that are referred to in the public website exhibit I marked in the deposition. ON the invoices you did produce, they reference these same contracts and purchase orders. Furthermore, given the nature of all the requests in the served subpoena and the testimony of Dr. Hennet, clearly more documents exist, including billing records for over \$800k paid by DOJ to SSPA since 2005, all of which have not been produced;
- 2.
3. Original native photos with meta data produced of the 2/11 photos. That production does not comply with the ESI order, and Dr. Hennet testified he sent you original photos. We need the original native photos asap please for Dr. Sabatini's inspection and review please; and
- 4.
5. All notes and photos taken by these experts not yet produced (both testified to other notes in their original files, interview notes, etc.).

As indicated above, we may have other specific issues to raise concerning the deficient responses by the DOJ and its experts in the production to date and responsive to these subpoenas, and will raise later if needed and reserve that right.

we are also waiting to hear back from DOJ on the alleged claw-back of exhibit 7 in Hennet depo, and Laura's request to allow expert and lawyer inspections consistent with the latitude provided to Dr. Hennet 2/11/2025.

If you would like to have a meet and confer, please let us know and we can arrange later this week.

Thank you,

Kevin



**Kevin Dean**  
Attorney at Law

28 Bridgeside Blvd., Mt. Pleasant, SC 29464  
o. 843.216.9152 c. 843.834.1130 f. 843.216.9267  
kdean@motleyrice.com

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**From:** Anwar, Haroon (CIV) <Haroon.Anwar@usdoj.gov>

**Date:** Friday, April 25, 2025 at 6:38 PM

**To:** Laura Baughman - Weitz & Luxenberg <lbaughman@weitzlux.com>, Kevin Dean <KDean@motleyrice.com>

**Cc:** J Edward Bell <jeb@belllegalgroup.com>, Zina Bash <zina.bash@kellerpostman.com>, Margaret Scalise - Motley Rice <mscalise@motleyrice.com>, Havai, Deanna <dhavai@motleyrice.com>, Dawn Bell <DBell@belllegalgroup.com>, Devin Bolton - Robin Greenwald <dbolton@weitzlux.com>, O'Leary, Allison (CIV) <Allison.O'Leary@usdoj.gov>, Bain, Adam (CIV) <Adam.Bain@usdoj.gov>, Lipscomb, Bridget (CIV) <Bridget.Lipscomb@usdoj.gov>, Antonucci, Giovanni (CIV) <Giovanni.Antonucci@usdoj.gov>, Silverstein, Kailey (CIV) <Kailey.Silverstein@usdoj.gov>, Horan, Alanna R. (CIV) <Alanna.R.Horan@usdoj.gov>, Mirsky, Sara J. (CIV) <Sara.J.Mirsky@usdoj.gov>, Anwar, Haroon (CIV) <Haroon.Anwar@usdoj.gov>

**Subject:** RE: Follow-up regarding Hennet and Spiliotopoulos depositions and related document production

Laura and Kevin,

As I mentioned in my letter, we're working to produce more detailed invoices or timekeeping records related to SSPA's work in the CLJA litigation. These billing records will identify things like "the person doing the work; the task being done; and the number of hours worked." We expect to make that production by the end of next week. We're also working to identify and gather available compensation information related to past Camp Lejeune litigation and will supplement our production once we have it.

Regarding the 2005 expert panel notes, I raised this in a prior meet and confer, but we believe those are protected as work-product under Rule 26 and CMO 17. CMO 17, ¶ 3(b) protects "*Any retained, testifying expert's notes*, unless the notes constitute (i) the only record of a fact or data considered or an assumption relied upon by the expert in formulating an opinion in this case, or (ii) interview notes of persons on any Party's witness list if the retained expert participated in or conducted the interview and considered the notes in forming the opinions in his or her final report.... ." In the attached email, PLG withheld notes on the basis that "the purpose of CMO 17, paragraph 3(b), is plainly to allow the parties to obtain discovery of notes *where other sources of discovery would not reveal the information contained within the notes.*" Here, there are 2 days and nearly 500 pages of transcript verbatim reflecting the information discussed at the 2005 expert panel.

Regarding the “interview summaries,” they do not exist. We checked and confirmed that Dr. Spiliopoulos did not take and does not have notes or interview summaries from his visit to Camp Lejeune. The reference to “interview summaries” is boilerplate language that was missed and didn’t get removed from Dr. Spiliopoulos’ report. When you asked him about it during his deposition, he was confused because he had not actually taken any notes. My understanding is there was a similar misunderstanding during Dr. Sabatini’s deposition. He testified to reading Dr. Longley’s expert report and then said he didn’t on your re-direct. Sabatini Dep., 275:15-21; 348:10-350:12.

Lastly, we made two requests for documents during Dr. Sabatini’s deposition:

- Billing records from 2023 and 2025, to the extent he has billed this year. Sabatini Dep., 17:5-18:17; 24:5-11.
- PowerPoint he uses in his class when discussing Camp Lejeune. Sabatini Dep., at 39:15-40:15.

Could you please let us know the status of those requests?

Happy to meet and confer next week to discuss any of these issues further. Thanks.

Haroon



Haroon Anwar  
*Environmental Torts Litigation*  
U.S. Department of Justice  
Washington, DC  
202-305-3661 (Voice)  
202-598-3946 (Mobile)  
[hарoon.anwar@usdoj.gov](mailto:hарoon.anwar@usdoj.gov)

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**From:** Dean, Kevin R. <kdean@motleyrice.com>  
**Sent:** Thursday, April 24, 2025 9:56 AM  
**To:** Baughman, Laura <lbaughman@weitzlux.com>; Anwar, Haroon (CIV) <Haroon.Anwar@usdoj.gov>  
**Cc:** Ed Bell <jeb@belllegalgroup.com>; zina.bash <zina.bash@kellerpostman.com>; Scalise Johnson, Margaret <mscalise@motleyrice.com>; Havai, Deanna <dhavai@motleyrice.com>; Dawn Bell <dbell@belllegalgroup.com>; Bolton, Devin <dbolton@weitzlux.com>; O’Leary, Allison (CIV) <Allison.O’Leary@usdoj.gov>; Bain, Adam (CIV) <Adam.Bain@usdoj.gov>; Lipscomb, Bridget (CIV) <Bridget.Lipscomb@usdoj.gov>; Antonucci, Giovanni (CIV) <Giovanni.Antonucci@usdoj.gov>; Silverstein, Kailey (CIV) <Kailey.Silverstein@usdoj.gov>; Horan, Alanna R. (CIV) <Alanna.R.Horan@usdoj.gov>  
**Subject:** [EXTERNAL] RE: Follow-up regarding Hennet and Spiliopoulos depositions and related document production

Haroon, good morning and sorry to double team, but I need to add regarding the billing records for these experts a renewed request for all the documents that Dr. Hennett identified that exist as it relates to billing records which are related to Dr. Hennett and SSPA work at Camp Lejeune (he provided detailed identity of how SSPA compiles time in a software program and referred all of us to an administrator for further information) as requested in the Subpoena served prior to his deposition. As you are aware, SSPA contracted with the DOJ at least by 11/30/2005, and records indicate he was doing work for the Navy and others including the GSA prior to that, but we don’t have specificity as to the work being done and by whom as Laura mentioned. Also, the SSPA produced billing only starts in 2022. If we could have you provide the promised updates by tomorrow, then we could be in a better position Monday to try to work out a resolution on the billing records issue. If you are not going to produce any billing records prior to 2022, then just so confirm and we will be in a position to advise the Court and move to compel.

Thank you,

Kevin



**Kevin Dean**  
Attorney at Law

28 Bridgeside Blvd., Mt. Pleasant, SC 29464  
o. 843.216.9152 c. 843.834.1130 f. 843.216.9267  
kdean@motleyrice.com

---

**From:** Baughman, Laura <[lbauhman@weitzlux.com](mailto:lbauhman@weitzlux.com)>

**Sent:** Thursday, April 24, 2025 9:45 AM

**To:** Anwar, Haroon (CIV) <[Haroon.Anwar@usdoj.gov](mailto:Haroon.Anwar@usdoj.gov)>

**Cc:** Ed Bell <[jeb@bellegalgroup.com](mailto:jeb@bellegalgroup.com)>; zina.bash <[zina.bash@kellerpostman.com](mailto:zina.bash@kellerpostman.com)>; Scalise Johnson, Margaret <[mscalise@motleyrice.com](mailto:mscalise@motleyrice.com)>; Havai, Deanna <[dhavai@motleyrice.com](mailto:dhavai@motleyrice.com)>; Dawn Bell <[dbell@bellegalgroup.com](mailto:dbell@bellegalgroup.com)>; Dean, Kevin R. <[kdean@motleyrice.com](mailto:kdean@motleyrice.com)>; Bolton, Devin <[dbolton@weitzlux.com](mailto:dbolton@weitzlux.com)>; O'Leary, Allison (CIV) <[Allison.O'Leary@usdoj.gov](mailto:Allison.O'Leary@usdoj.gov)>; Bain, Adam (CIV) <[Adam.Bain@usdoj.gov](mailto:Adam.Bain@usdoj.gov)>; Lipscomb, Bridget (CIV) <[Bridget.Lipscomb@usdoj.gov](mailto:Bridget.Lipscomb@usdoj.gov)>; Antonucci, Giovanni (CIV) <[Giovanni.Antonucci@usdoj.gov](mailto:Giovanni.Antonucci@usdoj.gov)>; Silverstein, Kailey (CIV) <[Kailey.Silverstein@usdoj.gov](mailto:Kailey.Silverstein@usdoj.gov)>; Horan, Alanna R. (CIV) <[Alanna.R.Horan@usdoj.gov](mailto:Alanna.R.Horan@usdoj.gov)>

**Subject:** RE: Follow-up regarding Hennet and Spiliopoulos depositions and related document production

CAUTION:EXTERNAL

Haroon:

As stated in the PLG's portion of the Joint Status Report filed on April 21, 2025, PLG maintains that it is entitled to billing records for Dr. Spiliopoulos and Dr. Hennet that identify the person doing the work; the task being done; and the number of hours worked per task or per day, to the extent these records exist. You stated in your letter of April 21 that the United States is working to gather and produce more detailed timekeeping records. If you can produce those today or tomorrow, that may alleviate raising this with the Court at the hearing on Monday.

Similarly, PLG maintains that it is entitled to past billing records of SSPA regarding work related to Camp Lejeune. Again, you have indicated that the United States will supplement its production with "basic" compensation information or documents related to SSPA's work for DOJ in the past. If you can produce those today or tomorrow, that may alleviate raising this with the Court at the hearing on Monday.

Regarding documents related to Dr. Spiliopoulos's attendance at the two-day 2005 Expert Peer Review Panel meeting, Dr. Spiliopoulos testified that when he attended the meeting, he did not know who his client was, he did not know if he was attending that meeting for a litigation purpose, and he did not have any opinions regarding Camp Lejeune at that time because "I didn't know enough about it, and I was not familiar with that work at all." Spiliopoulos Deposition at 115, 118, 123. Thus, it seems very unlikely that any notes or documents related to attendance at a meeting under those circumstances would comprise a draft expert report. If the United States does not agree to produce Dr. Spiliopoulos's documents related to his attendance at the 2005 Expert Peer Review Panel meeting, PLG requests a privilege log be produced before Monday related to these documents in order to aid the parties and the Court at oral argument.

Regarding the "interview summaries," please identify which "interview summaries" Dr. Spiliopoulos reviewed and relied upon for his expert report. See Spiliopoulos Report at 1. At deposition, he testified that this related to documents from his site visit. If that is not the case, which "interview summaries" is he relying upon, and have they been produced?

I am available to meet and confer today or tomorrow morning if that would be helpful in resolving any of these issues before Monday.

Thank you,  
Laura

**Laura Baughman, Esq. | Weitz & Luxenberg, PC**

700 Broadway | New York, NY 10003

Cell: 214-850-6790 | [lbauhman@weitzlux.com](mailto:lbauhman@weitzlux.com)

---

**From:** Anwar, Haroon (CIV) <[Haroon.Anwar@usdoj.gov](mailto:Haroon.Anwar@usdoj.gov)>

**Sent:** Monday, April 21, 2025 6:23 PM

**To:** Baughman, Laura <[lbauhman@weitzlux.com](mailto:lbauhman@weitzlux.com)>

**Cc:** Ed Bell <[jeb@belllegalgroup.com](mailto:jeb@belllegalgroup.com)>; zina.bash <[zina.bash@kellerpostman.com](mailto:zina.bash@kellerpostman.com)>; Scalise Johnson, Margaret <[mscalise@motleyrice.com](mailto:mscalise@motleyrice.com)>; Havai, Deanna <[dhavai@motleyrice.com](mailto:dhavai@motleyrice.com)>; Dawn Bell <[dbell@belllegalgroup.com](mailto:dbell@belllegalgroup.com)>; kdean@motleyrice.com; Bolton, Devin <[dbolton@weitzlux.com](mailto:dbolton@weitzlux.com)>; O'Leary, Allison (CIV) <[Allison.O'Leary@usdoj.gov](mailto>Allison.O'Leary@usdoj.gov)>; Bain, Adam (CIV) <[Adam.Bain@usdoj.gov](mailto:Adam.Bain@usdoj.gov)>; Lipscomb, Bridget (CIV) <[Bridget.Lipscomb@usdoj.gov](mailto:Bridget.Lipscomb@usdoj.gov)>; Antonucci, Giovanni (CIV) <[Giovanni.Antonucci@usdoj.gov](mailto:Giovanni.Antonucci@usdoj.gov)>; Silverstein, Kailey (CIV) <[Kailey.Silverstein@usdoj.gov](mailto:Kailey.Silverstein@usdoj.gov)>; Horan, Alanna R. (CIV) <[Alanna.R.Horan@usdoj.gov](mailto:Alanna.R.Horan@usdoj.gov)>; Anwar, Haroon (CIV) <[Haroon.Anwar@usdoj.gov](mailto:Haroon.Anwar@usdoj.gov)>

**Subject:** RE: Follow-up regarding Hennet and Spiliopoulos depositions and related document production

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Laura,

Please find attached a response to your April 16, 2025, letter. Let us know if we need to meet and confer further.

Thanks,

Haroon



Haroon Anwar  
*Environmental Torts Litigation*  
U.S. Department of Justice  
Washington, DC  
202-305-3661 (Voice)  
202-598-3946 (Mobile)  
[haroon.anwar@usdoj.gov](mailto:haroon.anwar@usdoj.gov)

---

**From:** Baughman, Laura <[lbauhman@weitzlux.com](mailto:lbauhman@weitzlux.com)>

**Sent:** Wednesday, April 16, 2025 2:18 PM

**To:** O'Leary, Allison (CIV) <[Allison.O'Leary@usdoj.gov](mailto>Allison.O'Leary@usdoj.gov)>; Platt, Elizabeth K. (CIV) <[Elizabeth.K.Platt@usdoj.gov](mailto:Elizabeth.K.Platt@usdoj.gov)>; Bain, Adam (CIV) <[Adam.Bain@usdoj.gov](mailto:Adam.Bain@usdoj.gov)>; Lipscomb, Bridget (CIV) <[Bridget.Lipscomb@usdoj.gov](mailto:Bridget.Lipscomb@usdoj.gov)>; Anwar, Haroon (CIV) <[Haroon.Anwar@usdoj.gov](mailto:Haroon.Anwar@usdoj.gov)>

**Cc:** Ed Bell <[jeb@belllegalgroup.com](mailto:jeb@belllegalgroup.com)>; zina.bash <[zina.bash@kellerpostman.com](mailto:zina.bash@kellerpostman.com)>; Scalise Johnson, Margaret <[mscalise@motleyrice.com](mailto:mscalise@motleyrice.com)>; Havai, Deanna <[dhavai@motleyrice.com](mailto:dhavai@motleyrice.com)>; Dawn Bell <[dbell@belllegalgroup.com](mailto:dbell@belllegalgroup.com)>; kdean@motleyrice.com; Bolton, Devin <[dbolton@weitzlux.com](mailto:dbolton@weitzlux.com)>

**Subject:** [EXTERNAL] RE: Follow-up regarding Hennet and Spiliopoulos depositions and related document production

Counsel:

Please see the attached correspondence.

Thank you,

**Laura Baughman, Esq. | Weitz & Luxenberg, PC**

700 Broadway | New York, NY 10003

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---

**From:** Dean, Kevin R. <[kdean@motleyrice.com](mailto:kdean@motleyrice.com)>

**Sent:** Monday, March 24, 2025 4:50 PM

**To:** [allison.o'leary@usdoj.gov](mailto:allison.o'leary@usdoj.gov); [elizabeth.k.platt@usdoj.gov](mailto:elizabeth.k.platt@usdoj.gov)

**Cc:** Adam Bain <[adam.bain@usdoj.gov](mailto:adam.bain@usdoj.gov)>; Baughman, Laura <[lbaughman@weitzlux.com](mailto:lbaughman@weitzlux.com)>; Ed Bell <[jeb@belllegalgroup.com](mailto:jeb@belllegalgroup.com)>; zina.bash <[zina.bash@kellerpostman.com](mailto:zina.bash@kellerpostman.com)>; [bridget.lipscomb@usdoj.gov](mailto:bridget.lipscomb@usdoj.gov); Scalise Johnson, Margaret <[mscalise@motleyrice.com](mailto:mscalise@motleyrice.com)>; Havai, Deanna <[dhavai@motleyrice.com](mailto:dhavai@motleyrice.com)>; Anwar, Haroon (CIV) <[Haroon.Anwar@usdoj.gov](mailto:Haroon.Anwar@usdoj.gov)>; Dawn Bell <[dbell@belllegalgroup.com](mailto:dbell@belllegalgroup.com)>

**Subject:** Re: Hennet Depo Follow-up

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Copying Haroon and Dawn whom I omitted by mistake.

Thanks



**Kevin Dean**  
Attorney at Law

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o. 843.216.9152 c. 843.834.1130 f. 843.216.9267  
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---

**From:** Dean, Kevin R.

**Sent:** Monday, March 24, 2025 4:40:41 PM

**To:** [allison.o'leary@usdoj.gov](mailto:allison.o'leary@usdoj.gov) <[Allison.O'Leary@usdoj.gov](mailto:Allison.O'Leary@usdoj.gov)>; [elizabeth.k.platt@usdoj.gov](mailto:elizabeth.k.platt@usdoj.gov) <[Elizabeth.K.Platt@usdoj.gov](mailto:Elizabeth.K.Platt@usdoj.gov)>

**Cc:** Adam Bain <[adam.bain@usdoj.gov](mailto:adam.bain@usdoj.gov)>; Baughman, Laura <[lbaughman@weitzlux.com](mailto:lbaughman@weitzlux.com)>; Ed Bell <[jeb@belllegalgroup.com](mailto:jeb@belllegalgroup.com)>; Zina Bash <[zina.bash@kellerpostman.com](mailto:zina.bash@kellerpostman.com)>; [bridget.lipscomb@usdoj.gov](mailto:bridget.lipscomb@usdoj.gov) <[Bridget.Lipscomb@usdoj.gov](mailto:Bridget.Lipscomb@usdoj.gov)>; Scalise Johnson, Margaret <[mscalise@motleyrice.com](mailto:mscalise@motleyrice.com)>; Havai, Deanna <[dhavai@motleyrice.com](mailto:dhavai@motleyrice.com)>

**Subject:** Hennet Depo Follow-up

Allison/Elizabeth:

Good afternoon.

I am following up on a couple items that came up during Drs. Spiliotopolus and Hennet depositions (reserving the right to raise others once we get transcript) last week:

1. Billing records produced are simple summaries without the back-up "copy" referred to in the meta-data, they don't include all the documents received by DOJ to support the billing summaries, and we don't have all the "contracts" and "purchase orders" that are referred to in the public website exhibit I marked in the deposition. ON the invoices you did produce, they reference these same contracts and purchase orders. Furthermore, given the nature of all the requests in the served subpoena and the testimony of Dr. Hennet, clearly more documents exist, including billing records for over \$800k paid by DOJ to SSPA since 2005, all of which have not been produced;
- 2.
3. Original native photos with meta data produced of the 2/11 photos. That production does not comply with the ESI order, and Dr. Hennet testified he sent you original photos. We need the original native photos asap please for Dr. Sabatini's inspection and review please; and
- 4.
5. All notes and photos taken by these experts not yet produced (both testified to other notes in their original files, interview notes, etc.).

As indicated above, we may have other specific issues to raise concerning the deficient responses by the DOJ and its experts in the production to date and responsive to these subpoenas, and will raise later if needed and reserve that right.

we are also waiting to hear back from DOJ on the alleged claw-back of exhibit 7 in Hennet depo, and Laura's request to allow expert and lawyer inspections consistent with the latitude provided to Dr. Hennet 2/11/2025.

If you would like to have a meet and confer, please let us know and we can arrange later this week.

Thank you,

Kevin



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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

IN RE: ) CASE NO. 7:23CV897  
          )  
CAMP LEJEUNE WATER LITIGATION ) Wilmington, North Carolina  
          ) Monday, April 28, 2025  
          ) 11:02 a.m

TRANSCRIPT OF THE **STATUS CONFERENCE**  
BEFORE THE HONORABLE ROBERT B. JONES  
UNITED STATES MAGISTRATE JUDGE

## APPEARANCES:

For the Plaintiffs:

James A. Roberts, III, Jenna Butler, Charles Ellis,  
Kevin Dean, Laura Baughman, Zina Bash (by phone)  
Mona Lisa Wallace (by phone)

For the Government:

Adam Bain, Joshua Carpenito, Allison O'Leary,  
Bridget Bailey Lipscomb (by phone),  
Sara Mirsky (by phone)

For the Settlement Master team:

Ken Knight (by phone), Eleanor Slota (by phone)

Court Reporter: BRIANA L. CHESNUT, RPR  
Official United States Court Reporter  
P.O. Box 615  
Welcome, North Carolina 27374

Proceedings recorded by mechanical stenotype reporter.  
Transcript produced by computer-aided transcription.

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

2 **THE COURT:** Good morning.3 Okay. Mr. Roberts, you're talking on behalf of the  
4 Plaintiffs?5 **MR. ROBERTS:** Yes, Your Honor. Good morning.6 **THE COURT:** Good morning.7 **MR. ROBERTS:** On the way to the courthouse this  
8 morning, I got word from Mr. Bell. He's had something  
9 unexpected come up, and he sends his regrets that he's not  
10 going to be able to be here.11 Your Honor, there are certain issues that I'm sure  
12 we're going to get a little deeper into.13 Ms. Butler is here. Kevin Dean with Motley Rice is  
14 here and Ms. Laura Baughman. So there certainly will be issues  
15 they are going to be addressing.16 Judge, I can report to the Court that I think, by and  
17 large, we've been getting along, moving the ball down the  
18 court. There are a couple of issues that are outstanding that  
19 we are going to need to address this morning.20 Phase I depositions have been completed. Phase II  
21 have all -- Phase II expert depositions have all been  
22 scheduled. And we're working closely with the Government to  
23 schedule our Phase III specific causation and damages experts.24 One issue relates to a Plaintiff, Mr. Mousser. He  
25 was originally a kidney client. I'm sure Your Honor has

1 probably heard of Mr. Mousser.

2                   **THE COURT:** Right.

3                   **MR. ROBERTS:** He was recently diagnosed with bladder  
4 cancer. So we're working closely with the Government to figure  
5 out how to address this new diagnosis. The Government on  
6 Friday sent its proposal on how to handle Mr. Mousser's  
7 additional diagnosis. We've agreed to allow them to do an IME.  
8 So that's something that I anticipate we'll reach resolution  
9 on.

10                  One question that I would like to bring to the  
11 attention of the Court is the issue of supplementation of  
12 information considered by experts. A couple of instances --  
13 after our experts have given their reports, additional  
14 information has come to their attention. There's been  
15 additional scientific studies. What we've done is we've  
16 notified the Government prior to the deposition to allow them  
17 to know, look, he's considered this additional piece of  
18 evidence.

19                  **THE COURT:** Before the deposition?

20                  **MR. ROBERTS:** Yes, sir, before the deposition.

21                  So there's nothing unusual about that, Your Honor.  
22 And, you know, as you know, things happen, new studies come  
23 out, and so forth. So that's another question that the Court  
24 will probably hear about today.

25                  We're also doing a quarterly supplement on our

1 profile form. So if anything is ongoing that, you know, we  
2 believe needs to be addressed, you know, we're certainly giving  
3 the Government a heads-up on that.

4                   The next three issues on my agenda:

5                   One relates to subpoenas on Phase I experts,  
6 Mr. Hennet and Spiliotopoulos. With the Court's permission, I  
7 think Mr. Dean will address that issue.

8                   There was also a clawback objection that I'm sure  
9 Your Honor saw in our report. That's another issue from  
10 Mr. Dean.

11                  So the final issue relates to the motion to exclude  
12 certain opinions of Mr. Hennet that were based upon his site  
13 visit after the discovery had closed, and I think Ms. Laura  
14 Baughman will address that.

15                  So, Your Honor, I'm filling in for Mr. Bell. But  
16 those are the issues that I understand need to be addressed by  
17 the Court this morning.

18                  **THE COURT:** Okay. What have you got?

19                  **MR. BAIN:** Your Honor, I agree with Mr. Roberts'  
20 agenda for the most part. I will say, with respect to the  
21 Phase I depositions, those are complete, except that we  
22 received some supplemental information from one of the  
23 Plaintiffs' experts, Mr. Maslia, just late last week. And the  
24 Plaintiffs offered to make Mr. Maslia available for an  
25 additional hour of deposition based on that late-submitted

1 material. We are considering that, and we'll be conferring  
2 with the Plaintiffs regarding that.

3                   But I think that also goes to the issue regarding  
4 supplementation that Mr. Roberts suggested. Some of these  
5 supplemental materials-considered lists we're getting on the  
6 eve of deposition. So right before the deposition, we're  
7 getting a list of additional materials that the Plaintiffs are  
8 considering.

9                   **THE COURT:** Is that pushing back the depo date or the  
10 depo or --

11                   **MR. BAIN:** Well, we're considering it on a  
12 case-by-case basis. We're usually going forward with the  
13 deposition and reserving our rights to continue it if we don't  
14 have adequate time to prepare. But we are somewhat troubled  
15 that we're getting these supplements right on the eve of the  
16 deposition.

17                   So the other issues Ms. O'Leary and Mr. Carpenito  
18 will be addressing as they come up.

19                   **THE COURT:** Okay.

20                   **MS. BUTLER:** Your Honor, if you have any concerns  
21 about the late supplementations, I can address more detail.  
22 For example, there was one deponent where an additional study  
23 was noted the night before the deposition. That was  
24 Dr. Gilbert. But that was one study, and we did notify them  
25 before the deposition, rather than being surprised at her

1 deposition, that there's an additional study.

2 The others -- for example, there were deposition  
3 transcripts that were provided that were reviewed after the  
4 rebuttal report. They were new depositions.

5 So we're working through it, and I don't believe  
6 there has been any prejudice or harm. And, certainly, we're  
7 addressing the issue, and we acknowledged the Gilbert issue.  
8 And it hasn't occurred on the eve of deposition. Again, I just  
9 want to make sure you don't think that's a recurrence.

10 **THE COURT:** But all these were occurring before the  
11 deposition; correct?

12 **MS. BUTLER:** Yes, Your Honor.

13 **THE COURT:** All right. I'll hear -- well,  
14 Mr. Roberts, did you say Mr. Dean and Ms. Baughman?

15 **MR. ROBERTS:** Yes, Your Honor.

16 **THE COURT:** I guess I'll hear from Mr. Dean first.

17 **MR. DEAN:** Good morning, Your Honor.

18 **THE COURT:** Good morning.

19 So which issue are you talking about?

20 **MR. DEAN:** I am going to talk about the clawback  
21 issue. There's one email, one document, that has --

22 **THE COURT:** Is this not resolved? I thought in your  
23 report, Mr. Bain, you said that the Plaintiffs said they will  
24 not be using the document. So I just assumed that it was  
25 resolved.

1 Is it not resolved?

2 **MR. DEAN:** Actually, what we said was we would not be  
3 using the document in any depositions or motions practice until  
4 it was resolved. We do need the Court to review the document  
5 in camera. We believe it's not confidential or privileged in  
6 any manner. I believe the DOJ has a different view. So we do  
7 need the Court to review the document in camera, and I have  
8 brought it for the Court.

9 **THE COURT:** So you've got it?

10 **MR. DEAN:** Yes, sir.

11 **THE COURT:** Okay.

12 **MR. DEAN:** It's just one page, front and back.

13 **THE COURT:** Do I need to -- I don't know that I've  
14 got any briefing on this.

15 **MR. DEAN:** Well, that was the other point. We  
16 weren't sure. That's why it's in the scheduling -- I mean, the  
17 status report.

18 **THE COURT:** Right.

19 **MR. DEAN:** We needed some guidance from the Court.  
20 We're happy to brief the issue, a small brief. I'm prepared to  
21 make a little presentation about why it's not privileged. But,  
22 again, we can brief it. It's not --

23 **THE COURT:** What do you want to do? Do you want to  
24 brief it or just tell me?

25 **MR. CARPENITO:** Good morning, Your Honor. Joshua

1 Carpenito with the United States.

2 We're happy to do whatever the Court prefers. We can  
3 certainly address it in chambers after the hearing. I do agree  
4 with Mr. Dean; it's a page and a half, two pages. So I think  
5 we could probably get through it pretty quickly.

6 **THE COURT:** Okay.

7 **MR. CARPENITO:** But if the Court prefers a brief, I'm  
8 happy to do that as well.

9 **THE COURT:** Well, let's see what we can do. Yeah, I  
10 guess I'll receive it and hear from you all.

11 **MR. DEAN:** Right now?

12 **THE COURT:** Whatever you want to do.

13 **MR. DEAN:** Sure.

14 **THE COURT:** Okay. Do you want to tell me about it?  
15 How do you want to proceed? Or do you just want to do this in  
16 chambers?

17 **MR. DEAN:** I've done my part. I was supposed to  
18 tender the document.

19 **THE COURT:** Okay.

20 **MR. DEAN:** I don't see any problem with the document;  
21 but if he wants to talk about it in chambers, I am perfectly  
22 fine to do that as well, Your Honor.

23 **MR. CARPENITO:** Yeah, I believe we would prefer to  
24 discuss it in chambers.

25 **THE COURT:** Okay. We'll talk about it in chambers.

7:23CV897 CLWL -- Status conf. -- 4/28/2025

1           **MR. CARPENITO:** Thank you.

2           **THE COURT:** So you're done?

3           **MR. DEAN:** I'm done, Your Honor.

4           **THE COURT:** Oh. All right.

5           **MR. DEAN:** Three and a half hours to hand you one  
6 page.

7           **THE COURT:** Okay. I guess Ms. Baughman?

8           **MS. BAUGHMAN:** Yes. Thank you, Your Honor.

9           I have two issues to discuss with you. The first one  
10 would be the issues on discovery with respect to the  
11 Plaintiffs' subpoena to Dr. Spiliotopoulos and Dr. Hennet,  
12 which is discussed --

13           **THE COURT:** And that's for the billing?

14           **MS. BAUGHMAN:** Yes. And some of this -- that's  
15 correct. It's discussed on page 6 and 7 of the --

16           **THE COURT:** So it's the substance of the compensation  
17 records; it's the compensation records for work performed  
18 before August 2022; and notes, memos, and documents regarding  
19 2005 ATSDR panel; and, fourthly, interview notes and summaries.

20           Correct?

21           **MS. BAUGHMAN:** That's exactly right.

22           **THE COURT:** Okay.

23           **MS. BAUGHMAN:** My understanding regarding the first  
24 two items, which were both compensation records, is that the  
25 DOJ plans to submit -- produce those later this week. So while

1 I think it's clear that we're entitled to those, I'm not sure  
2 that --

3 **THE COURT:** What is it exactly you're saying you're  
4 entitled to? Because the rule just says "statement"; right?  
5 It says "statement." I can think of -- and I found some cases  
6 where it said it wasn't billing records; it was just a  
7 statement, a fee summary --

8 **MS. BAUGHMAN:** Well, I think there's --

9 **THE COURT:** -- is sufficient.

10 **MS. BAUGHMAN:** I'm sorry to interrupt you.

11 The rule says what needs to be provided with an  
12 expert report.

13 **THE COURT:** Right.

14 **MS. BAUGHMAN:** But there's nothing that prevents us  
15 from issuing discovery in addition, right. So we submitted a  
16 subpoena asking for more information than that --

17 **THE COURT:** Right.

18 **MS. BAUGHMAN:** -- including what they did on an  
19 hourly basis, the backup, in other words, for their billing  
20 records.

21 **THE COURT:** So what was the purpose of the subpoena?

22 **MS. BAUGHMAN:** Why do we want that?

23 **THE COURT:** Yeah. For the same purpose as the rule  
24 allows? Because if you're relying on -- if your relevance  
25 argument is the rule allows for it, well, the rule says it's

1 just a statement that you get.

2                   **MS. BAUGHMAN:** Our argument would be more than just  
3 that the rule allows it. There are -- there is case law  
4 talking about whether we are entitled to this information in  
5 order to determine how much time the expert put into the report  
6 to get to whether the expert actually really wrote the report  
7 or whether substantial pieces of the report may have been  
8 actually written by the attorney.

9                   We believe, based on the content of  
10 Dr. Spiliotopoulos' report and testimony that he's provided,  
11 that it may be that substantial portions of his report have  
12 actually not been written by him.

13                   So we want to look at -- so this is for the first of  
14 the four items.

15                   **THE COURT:** Well, can't you just ask him that at a  
16 deposition?

17                   **MS. BAUGHMAN:** He claims that he wrote it. But I  
18 brought a case from -- a district case from the Fourth Circuit  
19 about this that talks about that's just not enough if there are  
20 underlying issues that indicate that, in fact, maybe the expert  
21 didn't write the report. And saying he did, when there are  
22 indications that he didn't, entitles us to the underlying  
23 billing records.

24                   And I will say that on our side the Plaintiff Group  
25 has provided detailed billing records that don't just say this

1 is the amount of money that we paid them, but this is what they  
2 did, you know, on a daily basis, how many hours and what was  
3 done. And on the other side, they're just giving us -- and I  
4 brought the records, if Your Honor would like to see them.

5           **THE COURT:** Was there like a reciprocal agreement  
6 that whatever they would give that you would give?

7           **MS. BAUGHMAN:** To my knowledge, there isn't a  
8 reciprocal agreement on that. But we did issue a subpoena.  
9 They did not issue the same sort of subpoena. And there's  
10 nothing in the federal rules that says that we can't ask for  
11 additional information if it's relevant, and --

12           **THE COURT:** Well, yeah, but Rule 26 is going to  
13 govern; right?

14           **MS. BAUGHMAN:** Right. And if it's relevant  
15 information, we're entitled to it. And what the expert did --  
16 let me -- and I can approach and provide you with a copy of the  
17 billing records, if you would like to see them. They don't  
18 even tell us which person at the company, SSPA, actually did  
19 the work.

20           So it's the same consulting company that employs both  
21 Dr. Hennet and Dr. Spiliotopoulos. And many other people  
22 within their organization did work. We can't even tell what  
23 Spiliotopoulos and Hennet did.

24           **THE COURT:** This is really kind of shaping up like  
25 that *Seaman* case from the Middle District, right, where it

1 was -- I think it was two experts that were being used from a  
2 single company, and Judge Webster -- I think Judge Webster  
3 allowed for the total amount billed attributed to the experts'  
4 work, so more than just the fee rate in the case.

5 **MS. BAUGHMAN:** And I believe in that case you had to  
6 indicate what each person did as opposed to the company --

7 **THE COURT:** Right. It was like a carve-out.

8 **MS. BAUGHMAN:** Correct. Correct.

9 **THE COURT:** Okay. So this is something that you  
10 haven't been able to resolve; correct?

11 **MS. BAUGHMAN:** That's true. But what I started out  
12 by saying is that DOJ has indicated that they're going to  
13 produce records, including records indicating the amount done  
14 per day and the task and that that will be produced later this  
15 week.

16 So for the first two of the four issues that I'm  
17 addressing right now, I believe we should put those on hold and  
18 see what's produced first.

19 **THE COURT:** Okay. And that's a substance issue, but  
20 it's also a time period issue; correct?

21 **MS. BAUGHMAN:** Yes.

22 **THE COURT:** Before August of 2022 and the substance  
23 of the records?

24 **MS. BAUGHMAN:** Correct.

25 There's one issue -- the first issue that's -- we

1 went through four. The first one has to do with what they did  
2 for this case, right. But the background of this -- and this  
3 has some overlap with what Mr. Dean has been talking about --  
4 is that this same consulting company, and, in particular,  
5 Dr. Hennet, has been working on Camp Lejeune-related issues  
6 since at least 2005, and those issues are not related to this  
7 case, okay. I mean, it wasn't in anticipation of this case.  
8 This case wasn't filed until, I believe, 2022. So it couldn't  
9 have been, right. This was more than 15 years before the case  
10 was filed.

11                   And we believe that some of this information -- or  
12 some of the work that Dr. Hennet did, based on documents that  
13 DOJ is not claiming are privileged, includes things like  
14 directing where wells should be drilled and what should be --  
15 what contaminants should be tested for. And it appears to us  
16 that that would not be in anticipation of litigation. It looks  
17 like he was actually working on investigation or maybe  
18 remediation of this site. And so to the extent that work is  
19 not in anticipation of litigation, we believe those documents  
20 should be produced and the billing records related to that work  
21 ought to be produced.

22                   And this sort of overlaps into -- it goes into the  
23 third issue that I've got on the one through four there. The  
24 third issue has to do with Dr. Spiliotopoulos who -- now, this  
25 is different from the drilling of Dr. Hennet. But, in 2005,

1 Dr. Spiliotopoulos went as an observer, according to him,  
2 according to his deposition testimony, to the 2005 expert peer  
3 review panel that ATSDR put on where it was trying to figure --  
4 it was trying to get feedback on the methodology it was using  
5 for the water molding, okay.

6 So there were two -- there was -- 2005 and 2009 they  
7 did this, two days each time, where they brought in experts  
8 from around the country to provide feedback to them. And  
9 Dr. Spiliotopoulos went to the two-day meeting in 2005 as an  
10 observer, and we believe he took notes, and we believe he  
11 reported back to SSPA about what -- and his supervisors  
12 there -- about what he heard and saw and maybe what his  
13 impressions were.

14 Now, DOJ is claiming work product. Well, work  
15 product is supposed to protect the impressions and the opinions  
16 of attorneys. Dr. Spiliotopoulos testified that he didn't even  
17 know -- to the extent that was for litigation, he wasn't aware  
18 of it. He didn't know what litigation it would have been for.  
19 He was just there to observe and report back.

20 So I don't see how his notes would reflect attorney  
21 observations or attorney thought processes here. He didn't  
22 know what litigation, if any, it was for.

23 And why is it relevant? Well, because if he's saying  
24 something then that contradicts what he says later when he's a  
25 retained expert, that's relevant. That's fodder for

1 cross-examination.

2                   And on the flip side, right, Mr. Maslia has been  
3 working from the ATSDR on these issues since 2004, and all of  
4 his notes, all of his emails, all of the work that he did was  
5 produced all the way up through the entire time --

6                   **THE COURT:** Didn't you say the same thing about any  
7 lecture he's given or talk about anything that's relevant?

8                   **MS. BAUGHMAN:** We've produced everything that we have  
9 on Mr. Maslia.

10                  **THE COURT:** I mean, it just -- it seems that this  
11 would be endless -- this would be endless discovery.

12                  **MS. BAUGHMAN:** To the -- I don't think there is an  
13 endless amount of work that Dr. Spiliotopoulos did on Camp  
14 Lejeune.

15                  Maybe one idea would be for the DOJ to provide a  
16 privilege log so we could see what exactly exists. Also, I  
17 believe under work product, if they're claiming it's in  
18 anticipation of litigation --

19                  **THE COURT:** I'm not even talking about privilege.  
20 I'm talking about relevance.

21                  **MS. BAUGHMAN:** Relevance would have to do with  
22 cross-examining him on whether he's taking inconsistent  
23 positions now than he did before when he wasn't a retained  
24 expert.

25                  **MR. DEAN:** Judge, may I supplement that with just one

1 fact?

2 I took Dr. Hennet's deposition.

3 **THE COURT:** Again, I don't know anything about these  
4 depositions. I don't know anything about the reports.

5 This sounds to me like it's something that would be  
6 in an expert's credentialing, in their CV; right? He gave --  
7 he or she gave a lecture in 2005 about ATSDR. Well, I imagine  
8 they gave a lot of lectures. Experts generally do that.

9 Couldn't you say the same kind of argument about  
10 every single lecture an expert gives, where you would be going  
11 endlessly through their prior experiences of giving lectures  
12 and taking notes on issues, and then you're saying that all of  
13 that would be discoverable because it's germane to the --

14 **MR. DEAN:** Judge, this is a little different, and  
15 I'll try not to get into what we're going to talk about in  
16 chambers. But it is a fact from a Government-sponsored website  
17 called usaspending.gov that the only and first contract between  
18 S.S. Papadopoulos & Associates and the Department of Justice was  
19 only approved and authorized retention and work to be done on  
20 November 30, 2005.

21 Now, Spiliotopoulos and Mr. Hennet are doing work  
22 prior to that date for -- we believe for the Navy, for NAVFAC,  
23 might have been consulting with the Department of Justice. But  
24 only the contract that existed for which these two experts now  
25 in this case could have been billing against was a 2002 General

1 Services Administration \$18 million contract that expired in  
2 2009. So they couldn't have billed their work for the 2005  
3 contract when they did this work, including Mr. Spiliotopoulos.

4 And the only reason we need Mr. Spiliotopoulos' notes  
5 is, like Ms. Baughman said, if I have Mr. Hennet on  
6 cross-examination and he signed an affidavit in a case called  
7 Baby Washington in 2020 where he's utilized ATSDR's findings,  
8 relied upon it, claiming that that Baby Washington was not  
9 contaminated, he's sort of taking an inconsistent position now.  
10 And then for 20 years prior to that, he had access to all this  
11 information, all this data. Mr. Spiliotopoulos showed up at a  
12 working expert panel meeting and never voiced objection, never  
13 said anything over 20 years was wrong with ATSDR's work.

14 That's why Ms. Baughman and I sort of bulldog on this  
15 issue, with all due respect, Your Honor, is to show that these  
16 experts had 20 years to say what they are now saying, and we  
17 need to know exactly what it is they had access to and what  
18 they did back in 2005 through 2022 and who were they working  
19 for.

20 The Spiliotopoulos issue -- I didn't mean to digress,  
21 but the Spiliotopoulos issue is solely his notes and  
22 information he developed at this meeting. He didn't lecture.  
23 He just was at the meeting just taking down notes. He was a  
24 participant. We don't even know who he was participating for.

25 **MS. BAUGHMAN:** Let me be clear about that. He

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1 testified that he was there at the request of his superiors,  
2 his boss at SSPA, right, and that he had been asked to go there  
3 as an observer to take notes. He did not know whether it was  
4 for litigation or not. If it was for litigation, he didn't  
5 know what litigation it was for, but he did say that the client  
6 was the Department of Justice.

7 So this is different from something like -- again,  
8 every piece of paper that Mr. Maslia created from 2005 and  
9 earlier and all the way up until he left the ATSDR has been  
10 produced. They have all of it. They have everything he wrote,  
11 everything he thought, everything he said at these meetings.  
12 And we're just asking for -- if they're -- they are the ones  
13 who brought up that Dr. Spiliotopoulos was at that meeting. We  
14 want his notes from that meeting, and it's not work product  
15 because it wasn't for litigation.

16 **THE COURT:** Well, so what? What's in the notes?

17 **MS. BAUGHMAN:** We don't know.

18 **THE COURT:** What do you think is in the notes? Why  
19 do you want them?

20 **MS. BAUGHMAN:** Possibly statements that contradict  
21 what he wrote in his report about the substance of --

22 **THE COURT:** So opinions that he jotted down while he  
23 was listening to a lecture?

24 **MS. BAUGHMAN:** Your Honor, I don't know what he wrote  
25 without seeing it. I think it's relevant what he thought to

1 write down, what he thought was important, what he reported  
2 back in a nonlitigation setting about the same thing he's  
3 talking about now.

4                   **THE COURT:** Okay. So that was three and four?

5                   **MS. BAUGHMAN:** That's three.

6                   Number four, we have been told that despite the fact  
7 that Dr. Spiliotopoulos wrote in his report that he was relying  
8 on summaries of interviews, in fact, that was from some sort of  
9 template that he used for his report, and, in fact, there are  
10 no such summaries. That's part of multiple lines of inquiry of  
11 why are there things in his report that he doesn't know about,  
12 that he couldn't back up at his deposition, and that's in his  
13 report, but now they're saying, well, that was from a template;  
14 he didn't really have any witness summary. So they're saying  
15 it doesn't exist. So number four goes away based on that.

16                   **THE COURT:** All right. Mr. Bain?

17                   **MR. BAIN:** Yes, Your Honor.

18                   On the billing records, as you mentioned, there are  
19 two parts of that. With respect to the billing records for  
20 this case, we're looking into presenting or providing more  
21 detailed information that the Plaintiffs are seeking and will  
22 be doing that this week.

23                   With respect to the old work which was not related to  
24 this case but was for prior litigation, we're looking at  
25 providing some basic information, but not the detailed billing

1 records. We think that goes beyond what should be provided.  
2 It was not for this case, which is what Rule 26 is limited to.

3 The notes -- and we can get into some of this in  
4 chambers because it is related to this email that Mr. Dean has  
5 provided to you about whether or not these particular experts  
6 were involved in litigation at the time. But our position is  
7 that they are protected work product information because the  
8 experts were involved in consulting for litigation at that  
9 time.

10 Moreover, CMO-17 protects notes of experts if they  
11 are not the only document relating to facts that are otherwise  
12 available to them. Mr. Spiliotopoulos was at a meeting of  
13 ATSDR taking notes. The meeting was transcribed. The  
14 Plaintiffs have access to that meeting transcription. So they  
15 know what occurred at that meeting. Dr. Spiliotopoulos' notes  
16 were just notes of that meeting and his impressions, which are  
17 protected. And it's protected not only by attorney work  
18 product but by CMO-17. The Plaintiffs relied on CMO-17 for  
19 protecting their own experts' notes.

20 With respect to the notes that Mr. Spiliotopoulos  
21 referred to in his report, he did make a mistake that there  
22 were interview notes that he did not have. Plaintiffs' experts  
23 had made mistakes about similar things, such as that their own  
24 expert looked at their own historian's report, and he did not.

25 So these are just the errors that occur when you are

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1 producing a lot of reports over a short period of time.

2 **MS. BAUGHMAN:** Your Honor, may I briefly respond?

3 **THE COURT:** Yes, ma'am.

4 **MS. BAUGHMAN:** Okay. The statement that there are  
5 other records of what was said at that meeting in 2005 is true,  
6 but the protection that is claimed is only if that document is  
7 work product, okay. And what we're saying is we don't think  
8 it's work product.

9 And Dr. Spiliotopoulos testified -- and this is on  
10 page 118 of his deposition, lines 3 through 7. He was asked:  
11 "You don't know whether or for what reason Dr. Hennet asked you  
12 to be at that expert panel meeting, whether it is for  
13 litigation or something else; right?" His answer: "I have no  
14 idea."

15 So I don't see how him attending that meeting could  
16 be for litigation if he didn't even know that he was there for  
17 litigation. And it may be that the thing to do here would be  
18 for the DOJ to provide a privilege log that identifies these  
19 documents, to and from, like who wrote it, who received it, the  
20 CCs, and what litigation specifically this was done in  
21 anticipation of, which case, because I don't think there is a  
22 broad, you know, you can hire an expert and let them do  
23 anything they want to do and then later say it was for  
24 litigation.

25 In another vein, DOJ has said, well, these were part

1 of an expert report. These were notes that were part of an  
2 expert report, but which expert report, because he didn't even  
3 know he was there for litigation. So we don't know which  
4 litigation or which report or whose report, because he's never  
5 been retained as an expert except, he said, in 2022 or '23 for  
6 this case.

7 With respect to CMO-17, my interpretation of CMO-17  
8 is that's talking about work done and notes taken for this  
9 litigation, not notes that the expert had done 15 years ago,  
10 okay.

11 So -- and we did cite case law, admittedly from the  
12 Ninth Circuit, saying that experts' notes and memorandum, or  
13 whatnot, are not covered by work product where it wasn't done  
14 as part of the report and for litigation. You can't just say  
15 all the work the expert ever did that's relevant and related to  
16 the case is work product. It has to be specifically done in  
17 anticipation of specific litigation and for that report.

18 And there's no -- we haven't been told which report,  
19 which litigation for -- by which expert. He didn't write a  
20 report until 2024 or '5.

21 **THE COURT:** Okay.

22 **MR. BAIN:** One thing I would say, Your Honor, is the  
23 representation that he didn't know what he was going there  
24 for -- he was very junior at the time. He was sent by the  
25 people we have hired as retained experts to go to this meeting

1 and take notes 20 years ago.

2                   **THE COURT:** I'm going to have to have a lot more  
3 information. You all are much more informed on this than I am.  
4 And so to make a decision on this, I'm going to have to have a  
5 lot more information, whether that's through a privilege log or  
6 whether it's briefing.

7                   Tell me what you think.

8                   **MS. BAUGHMAN:** Your Honor, I would suggest as an  
9 initial matter, there'd be a privilege log. And then that may  
10 resolve it. And if it doesn't resolve it, then we could file a  
11 motion.

12                  **THE COURT:** Okay. I would like to know what I'm  
13 looking at, though.

14                  **MR. BAIN:** Your Honor, I think we could discuss this  
15 a little more in chambers and give you a little more  
16 information, and then we can decide where to go from there.

17                  **MR. DEAN:** All of this kind of ties together. I  
18 think in ten minutes we can tell you what's going on.

19                  **THE COURT:** Okay.

20                  **MS. BAUGHMAN:** Your Honor, just to be clear, I have  
21 another issue that's not related to those four.

22                  **THE COURT:** Right.

23                  **MS. BAUGHMAN:** And I don't know if you want to hear  
24 oral argument. At the last status conference, I was on the  
25 phone, and we discussed this issue of Dr. Hennet having gone to

1 Camp Lejeune and done a significant amount of work that he's  
2 now relying on as a basis for his opinions in this case. And  
3 you suggested --

4           **THE COURT:** You've got a motion.

5           **MS. BAUGHMAN:** -- that we file a motion. We did file  
6 a motion.

7           **THE COURT:** Yeah.

8           **MS. BAUGHMAN:** It's fully briefed. I don't know  
9 whether the Court wants oral argument, but I'm prepared to  
10 argue it today. And I believe that DOJ represented that it  
11 would be prepared to argue as well.

12           **THE COURT:** Okay. Otherwise, you're done with  
13 your --

14           **MS. BAUGHMAN:** Yes, sir.

15           **THE COURT:** What have you got?

16           **MR. BAIN:** Mr. Carpenito has a few items to address,  
17 and then Ms. O'Leary is here if you want to have an argument on  
18 that motion.

19           **THE COURT:** Okay. We'll go to Mr. Carpenito. You  
20 can go first.

21           **MR. CARPENITO:** Thank you, Your Honor.

22           Just one point with respect to something Mr. Roberts  
23 stated at the beginning. I believe he said that PLG was  
24 supplementing the DPPFs quarterly. The parties' agreement was  
25 that PLG is supplementing a spreadsheet quarterly. When we

1 attempted to ask for supplemented DPPFs quarterly, PLG  
2 responded that that was too burdensome. So that's how we  
3 reached the agreement with respect to an updated spreadsheet.  
4 PLG provided that first update April 10, and I believe an  
5 updated DPPF will come one time closer to trial. So I just  
6 wanted to make sure that the record accurately reflects that  
7 agreement.

8                   Next, if I may, with respect to the Mousser case,  
9 which is the kidney cancer Plaintiff --

10                  **THE COURT:** Right.

11                  **MR. CARPENITO:** -- who was recently diagnosed with  
12 bladder cancer, Mr. Roberts is correct; we did respond to PLG  
13 last Friday with our proposed timeline. The only thing I'd  
14 like to note for the Court, Your Honor, is we are not yet sure  
15 whether PLG intends to submit rebuttal reports to our  
16 supplemental reports, and that may disrupt deposition timing.  
17 Obviously, we have not crossed that bridge at this time. I  
18 just wanted to raise that for the Court.

19                  **THE COURT:** Okay. Is that it for you?

20                  **MR. CARPENITO:** Your Honor, if I may, at the last  
21 status conference, the United States did raise its intention to  
22 propose a deadline for final expert supplementation. We had a  
23 meet-and-confer with PLG on this issue on April 16th, during  
24 which the United States proposed setting a supplementation  
25 deadline for expert causation opinions --

1                   **THE COURT:** Right.

2                   **MR. CARPENITO:** -- that would not impact the overall  
3 discovery schedule. PLG acknowledged that the discussion was  
4 beneficial, but that it was premature to set such a deadline at  
5 this time.

6                   So the parties will continue to engage on that issue,  
7 and I just wanted to make the Court aware of that.

8                   **MS. BUTLER:** Your Honor, I can address that if you  
9 want to hear more. That's an ongoing issue. As Mr. Carpenito  
10 stated, we reached an agreement with DOJ on the DPPF  
11 supplementation. We have a spreadsheet.

12                  **THE COURT:** Right.

13                  **MS. BUTLER:** We supplemented it April 10. We're  
14 doing that every quarter for so long as this case goes on with  
15 a final supplementation of the DPPF 120 days before trial.

16                  Separate from that, the DOJ had requested that there  
17 be essentially a cutoff after which these Plaintiffs, who have  
18 obvious serious health issues and ongoing diagnoses, treatment,  
19 and additional diagnoses -- that there be some sort of cutoff  
20 after which they can't recover. And we have rejected that, but  
21 we are in ongoing negotiations about how to deal with that. I  
22 don't think there is any issue before the Court right now that  
23 happens --

24                  **THE COURT:** Well, yeah, I think it was in the future  
25 expert supplementation portion of the status report.

1                   **MS. BUTLER:** That's -- they wanted a date after which  
2 no additional medical issues could be considered so that --

3                   **THE COURT:** Right.

4                   **MS. BUTLER:** -- they could supplement reports.

5                   **THE COURT:** Right. And you all said that it would be  
6 resolved through the normal course and appropriate procedures.  
7 And my notes were what are -- what is the normal course to  
8 address this and the appropriate procedures.

9                   **MS. BUTLER:** Well, I mean -- and Mr. Ellis and  
10 Mr. Roberts can address this as well. But this is an ongoing  
11 issue in cases involving, you know, ongoing health issues, and  
12 it's addressed in the normal course through supplementation.  
13 And if an additional hour needs to be taken for -- it would be  
14 addressed on a case-by-case basis, and it kind of depends. Is  
15 there another Mr. Mousser situation, you know, where you have a  
16 kidney cancer plaintiff who has additional serious, serious  
17 health issues, or is it something more minor that can be  
18 addressed in another manner? You just address it case by case,  
19 depending on the issues, and hopefully agreement can be  
20 reached.

21                   But we don't think that the Plaintiffs should be cut  
22 off from presenting damages based on ongoing health issues, and  
23 that's really the rub.

24                   **MR. CARPENITO:** Your Honor, may I respond?

25                   **THE COURT:** Sure.

1                   **MR. CARPENITO:** We do not dispute supplementing with  
2 respect to the Plaintiffs' evolving conditions for damages  
3 purposes, but what we did propose in this meet-and-confer was  
4 with respect to causation opinions. So I do want to make that  
5 distinction for the record.

6                   We also discussed during that meet-and-confer, as  
7 Ms. Butler noted, the potential for a case-by-case review.  
8 During the March 25th hearing, the Court seemed interested in  
9 setting certain deadlines, and so we were trying to come to an  
10 agreement to expedite things. But, certainly, we would be open  
11 to a discussion in another case such as Mr. Mousser's. But,  
12 openly, we cannot agree to something like that until we were  
13 confronted with such. But we were just trying to come to an  
14 agreement on the front end.

15                  **MS. BUTLER:** Well, we've already agreed as part of  
16 the DPPF agreement that we've addressed before this Court that,  
17 you know, any requests to reopen depositions, you know, any  
18 requests for further supplementation of reports we'll address  
19 on a case-by-case basis.

20                  I mean, without a trial date being set and not  
21 knowing how far into the future we're looking, it's really hard  
22 to set a deadline. And I don't think the Plaintiff should be  
23 precluded from having their experts or their damages consider  
24 ongoing health issues. So I think at this point we have an  
25 agreement to discuss things on a case-by-case basis. That's

1 what we've been doing.

2           **THE COURT:** This has just been limited to Mr. Mousser  
3 at this point; correct?

4           **MS. BUTLER:** Correct.

5           **THE COURT:** Okay.

6           **MS. BUTLER:** But should another Mr. Mousser come up,  
7 we'll address it in a similar fashion. We just -- we really do  
8 not believe there should be a cutoff date for ongoing health  
9 issues.

10           **THE COURT:** Okay. All right.

11           Did we talk about clawback?

12           **MR. CARPENITO:** Your Honor, if I may, that was what  
13 we were going to address in chambers.

14           **THE COURT:** Okay. All right. I was just going  
15 through my notes here.

16           Were the parties rethinking disease selection for  
17 Track 3? I think Mr. Bell mentioned last time rethinking  
18 diseases for Track 3.

19           **MR. BAIN:** Mr. Bell did raise that at the last status  
20 conference. He has not reached out to us yet about that.

21           **THE COURT:** Okay. The Court is interested in disease  
22 census information for claims to the DON. I guess that would  
23 come from you guys?

24           **MR. BAIN:** Yes. Would you like that submitted before  
25 the next status conference?

1                   **THE COURT:** That would be great, as well as  
2 complaints filed in court.

3                   **MR. BAIN:** I think Mr. Bell said he had that  
4 information.

5                   **THE COURT:** So the Court would like that information.

6                   Okay. I think I'm ready to hear from Ms. Baughman  
7 on --

8                   **MS. BAUGHMAN:** Thank you, Your Honor.

9                   **THE COURT:** -- the site visit.

10                  **MS. BAUGHMAN:** Yes. So Plaintiffs have filed a  
11 motion, and there's been a response. I am going to be  
12 referring to some of the exhibits to the motion. I think I  
13 have some of them in hard copy here, if the Court wants them.  
14 But let me just --

15                  **THE COURT:** Are they already submitted?

16                  **MS. BAUGHMAN:** They've been submitted. The only one  
17 that hasn't, if I could approach, Your Honor, and provide it,  
18 is the -- actually, no, it's submitted as part of the DOJ's  
19 response. Dr. Sabatini's deposition was taken after the  
20 Plaintiffs filed their motion but before the DOJ filed its  
21 response, but that was provided with DOJ.

22                  So with that, then, the Court has everything already.

23                  **THE COURT:** Okay. I am going to give my outline for  
24 this discussion after reading the briefing, and here it is:

25                  Ask the parties to summarize their respective

1 positions.

2           Two, what is the core factual dispute?

3           Three, is it just a disagreement over the water fall  
4 height at the Hadnot Point's spiractor effluent pipes? Is this  
5 just a subjective question or is it objective? So which  
6 measurement is correct?

7           Plaintiffs originally proposed a compromise whereby  
8 Dr. Sabatini was allowed a similar site visit to Dr. Hennet's  
9 visit in February 2025. Is this still adequate relief to solve  
10 the dispute?

11           And then does either party plan to file a motion to  
12 seal either of the proposed sealed exhibits?

13           **MS. BAUGHMAN:** Okay. Let me start with -- I am going  
14 to start with the question that you asked about is Dr. Sabatini  
15 going to the site -- would that solve the problem. The issue  
16 with that is the schedule that we have here. Plaintiffs asked  
17 for the visit to occur before Dr. Sabatini was going to be  
18 deposed so that, just like Dr. Hennet, he could rely on what he  
19 saw in his deposition testimony so that he could see what  
20 Dr. Hennet saw, speak to the people Dr. Hennet spoke to,  
21 observe the things Dr. Hennet observed, et cetera. And the DOJ  
22 said no to that.

23           So what has happened in the meantime -- we had three  
24 weeks to get that done when we asked for it. It could have  
25 happened. They said no. They said, well, we want two

1 unrelated depositions in exchange, which has nothing to do with  
2 this issue. All we were trying to do is get on the same  
3 footing as Dr. Hennet, and they said no.

4 So what happened then is because we have a schedule  
5 in place that all leads up to *Daubert* motions, which are due  
6 tomorrow, okay -- ours on their experts and theirs on ours are  
7 due tomorrow -- we produced Dr. Sabatini for his deposition.  
8 So at this point I think it's too late. I don't see how  
9 allowing Dr. Sabatini out there -- unless we then push back the  
10 *Daubert* briefing on Dr. Sabatini and Dr. Hennet, allow the site  
11 visit, have new deposition of Dr. Sabatini based on what he  
12 observed, and then have the briefing, which we think it's --  
13 there is no reason to do that.

14 DOJ had an opportunity to cure what it did in  
15 violation of this Court's scheduling order, and they chose not  
16 to, right. We have a scheduling order. It said when  
17 Dr. Hennet's report was due. It was due December 9. And that,  
18 according to the federal rules, meant that his opinions and the  
19 bases for his opinions needed to be in that report.

20 And I want to be very clear about something.  
21 Dr. Sabatini did not introduce anything new that Dr. Hennet  
22 wasn't already aware of regarding this one-foot fall, okay,  
23 because the thing is, in Dr. Hennet's report, he puts a figure  
24 in there, all right. And that figure is from the AH  
25 Environmental report.

1                   So if we go back in time, in 2004, the Navy and the  
2 Marines were saying, you know what, we think all of this was  
3 resolved by volatilization at the treatment plant. And so they  
4 hire AH Environmental, which is the Navy and Marines'  
5 consultant, not ATSDR's consultant, to go out and investigate  
6 this and write a report about what the extent of volatilization  
7 of these chemicals would have been at the treatment plant; in  
8 other words, how much of it escaped just into the air based on  
9 what they did at the water treatment plant.

10                  AH Environmental did that, and they wrote up a  
11 report. And everybody has that. It's from 2004. And it is  
12 relied on by Dr. Hennet in his December report, including a  
13 schematic from AH that says there was a one-foot drop.

14                  And even more importantly, in that same report -- and  
15 let me be clear for the record. The AH Environmental report is  
16 Exhibit 3 to Plaintiffs' motion. And the schematic that I am  
17 referring to that says it was a one-foot drop is on page 3-10,  
18 and that very same schematic shows up exactly verbatim in  
19 Dr. Hennet's December report as -- which is Exhibit 1 to  
20 Plaintiffs' motion on page 5-4, showing the one-foot drop.

21                  Then, even more importantly, in the AH report, which  
22 is Exhibit 3, on page 4-2, AH Environmental explained that  
23 there was a big difference in the drop at Hadnot Point versus  
24 Holcomb Boulevard. Why is that important? Because Dr. Hennet  
25 had this report when he wrote his report in December, and he

1 knew that the Navy's own expert was -- or consultant was saying  
2 there's a big difference. Even though the spiractors are the  
3 same at Holcomb Boulevard and Hadnot Point, the drop is  
4 different, and the drop is different because there is a  
5 recarbonation basin right after the spiractors at Hadnot Point  
6 that does not exist at Holcomb Boulevard. And AH Environmental  
7 said why that's important is there is only going to be a  
8 one-foot drop because of the backup in the water from that  
9 recarbonation basin at Hadnot Point as compared to Holcomb  
10 Boulevard.

11                   And I'm just going to read this sentence because it's  
12 so clear. They said, AH Environmental, on page 4-2 of  
13 Plaintiffs Exhibit 3: "Because of the downstream recarbonation  
14 basin at that plant, the available head does not appear to  
15 allow a fall height of greater than approximately one foot and  
16 the effluent pipe is likely to be flowing full. However, at  
17 the Holcomb Boulevard water treatment plant, because of the  
18 absence of a recarbonation basin, water falls approximately  
19 two feet to the bottom of the horizontal pipe section..."

20                   So this difference between the two plants was set out  
21 in a document that Dr. Hennet had, and Dr. Hennet testified  
22 that he was aware of this. And he asked before his report that  
23 he could get a measurement of the drop at Hadnot Point, and he  
24 didn't do it. And, instead, he relied on Holcomb Boulevard.

25                   So on that issue, Your Honor, Dr. Sabatini didn't

1 raise something new that, all of a sudden, Dr. Hennet needed to  
2 go and check out after all of the reports were done. He was  
3 aware of it beforehand, and he chose to ignore that and just go  
4 with the two-foot and not to do a measurement at Hadnot Point.  
5 So this isn't something newly raised by Dr. Sabatini.

6 And the other issue -- I know you didn't raise this,  
7 but the DOJ did. The other attempted excuse that DOJ tries to  
8 give for why they had to go out in February and do this new  
9 site visit and new collection of information and data was that  
10 there were these two affidavits from two Plaintiffs about the  
11 use of the water buffaloes and how they were filled.

12 And let me be very clear about this. There's a big  
13 distinction between knowing that there are multiple ways to  
14 fill water buffaloes and how frequently one way was used versus  
15 the other, okay.

16 So a water buffalo, in case you don't know, is this  
17 is a big tank that you can move around the site and provide  
18 water where there isn't water where the Marines were training  
19 and doing other activities, okay. So you can fill it different  
20 ways. You can fill it through this little valve that has a  
21 strainer, right, or you can go to the top and there is a  
22 manhole, right. You can open it, and you can fill it that way,  
23 all right.

24 The instructions provided by the Army for how to fill  
25 these changed over time. And their historian, DOJ's historian,

1 had pictures and had instruction manuals in the report -- in  
2 its report about that, okay. Dr. Sabatini didn't make up the  
3 instructions. The instructions existed before December of 2024  
4 when Dr. Hennet issued his report. Dr. Hennet offered a report  
5 solely about how much volatilization there would be if you go  
6 through that little spigot with the strain; didn't mention  
7 anything at all about how much volatilization there would be if  
8 you go through the manhole, okay.

9                 Now, if you look at Dr. Sabatini's report, which is  
10 Exhibit 5 of the Plaintiffs' motion, there is an appendix -- he  
11 has an appendix called the "Water Buffalo Appendix" to his  
12 report, again part of Exhibit 5. On page 4 of that appendix,  
13 there's information about a World War II era water buffalo that  
14 says there that you can fill it through the cover. You can do  
15 it either way, two ways to fill the water buffalo, okay. And  
16 cited in support of that is a document, BRIGHAM\_USA Bates  
17 number, which means that's their historian's document showing  
18 that it says on the water trailer the manhole cover should be  
19 kept closed and held down tightly with the wing nut, except  
20 when tank is being filled through this cover. That's in their  
21 only document that they had before December of 2024 when they  
22 provided their reports.

23                 Then on pages 14 and 16 of the water buffalo  
24 appendix, there are additional technical manual documents, one  
25 from 1972 and one from 1985, that instruct when that you're

1 filling the water tank, you should open the manhole cover and  
2 make sure the tank is clean, flush the tank, and then fill it,  
3 okay.

4 So that's -- those are the instructions. Those are  
5 the facts. Dr. Sabatini didn't make this up or provide  
6 anything new, right. The fact that there are two affidavits  
7 saying, yes, in the late 1960s we were filling through the  
8 manhole cover, okay, whether those two individuals saw this and  
9 what they observed doesn't change the fact that these  
10 instructions existed, that the relevant time period here  
11 includes 1972 through 1985, that the instructions said to fill  
12 through the manhole in 1972.

13 So Dr. Hennet had or should have had all of that  
14 information before he provided his report. He chose to only  
15 provide a calculation about how there's volatilization, one  
16 method of filling, not the other method of filling.

17 Dr. Sabatini then provides an opinion about both  
18 methods of filling, okay. And then Dr. Hennet realizes he  
19 didn't include that. So he wants to go back and observe  
20 filling through the manhole cover and then provide us with  
21 notes, which are attached to -- the two pages of notes are  
22 attached to Plaintiffs' motion as -- that's Exhibit 6. Those  
23 are the two pages of his notes that the DOJ claims need to be  
24 sealed.

25 To answer your question about that, we don't think

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1 there's any reason to seal those. So if there needs to be a  
2 motion to seal, that should be filed by the DOJ. We were just  
3 respecting their position on that by filing it under seal.

4 So let me go back. Dr. Hennet did a lot -- what I'm  
5 trying to say about those two things, the two excuses that DOJ  
6 is giving that everything -- these were new things that they  
7 needed to go look at, they were aware of or should have been  
8 aware before. They knew about the one-foot drop. They should  
9 have known about multiple ways to fill the manhole. They only  
10 covered one way. That's on them, okay.

11 So what else did Dr. Hennet do when he went out  
12 there? He didn't just address those things. He also took 100  
13 photos. He also met with base personnel and questioned them  
14 about things like how often -- how big were the water  
15 fluctuations. And we don't know, frankly, all of the things he  
16 asked them because he didn't provide -- if he was going to do  
17 this, he should have provided a supplemental report, because  
18 I'm going to get to how are we prejudiced here.

19 We are prejudiced because the federal rules say you  
20 have to put the basis for your opinions in your report. Now  
21 he's gone out there and collected 100 -- taken 100 photos, made  
22 measurements, interviewed personnel. He said he had a  
23 30-minute meeting where he talked to five different people. He  
24 doesn't know who they were. He doesn't know what their  
25 positions were. He doesn't know how long they were there. But

1 he's relying on this as new information for his opinions.

2                   He also viewed -- there was a monitor that had  
3 information about fluctuations of water. Now, it only had it  
4 for, I think, the last -- relevant to the last seven days of  
5 how much the water had fluctuated in different tanks, but he  
6 looked at that. He didn't take pictures of it. We don't know  
7 what it said, but he's relying on it for his opinions.

8                   All of that, Your Honor, under the federal rules  
9 should have been in his report. And so what that means is when  
10 he testifies at a hearing or at a trial, if he's allowed to  
11 rely on what he did in February, we don't know what he's going  
12 to say. We don't know what he's going to pull out of his hat  
13 that someone told him there or that -- some measurement he took  
14 that we don't know about or something he saw on the screen  
15 because he didn't put it in his report, which is what's  
16 required under the rules.

17                   He also said, you know, in his deposition, when he's  
18 talking about what he did out there --

19                   **THE COURT:** So this wasn't in his report; correct?

20                   **MS. BAUGHMAN:** Nothing regarding what he did in  
21 February 2025 is --

22                   **THE COURT:** But this came out in his deposition;  
23 right?

24                   **MS. BAUGHMAN:** Yes. Yes. Yes. But we -- to be very  
25 clear, we didn't have time to ask him about everything everyone

1 said, what all of the 100 photos were of because we only had  
2 seven hours. And he just -- we don't know the extent of what  
3 he did and what he's relying on because we don't have it in a  
4 report, okay. That leaves him free to just throw anything out  
5 at any time in support of his opinions and we won't know.

6 Another thing is he went around and he said he  
7 observed turbulence and the bubbling of the tanks. That's in  
8 his notes that are sealed as Exhibit 6. Again, there's no  
9 reason that he couldn't have seen that and put it in his report  
10 earlier.

11 So going to what the DOJ claims, they say, well, it's  
12 new -- it wasn't new. I've covered that -- and that we're not  
13 prejudiced because of this. We are prejudiced. It wasn't  
14 harmless, and the reason why is because I've explained that we  
15 don't know how that affected the basis of his opinions. He  
16 has -- and he has new opinions. His new opinions are he's  
17 going to opine about the extent of the volatilization through  
18 the manhole.

19 **THE COURT:** Well, I'm sure you asked him about this  
20 in his deposition, didn't you?

21 **MS. BAUGHMAN:** But he didn't do a calculation.

22 We don't -- you know, and the other thing is that he  
23 made new measurements and just -- the case law on this, Your  
24 Honor, from this Court and from the Middle District of North  
25 Carolina cited in Plaintiffs' motion, the Akeva case and the

1 *Severn Peanut* case, talk about how you're not allowed -- I'm  
2 sorry. Let me get to this.

3 In *Akeva*, the expert tried to supplement their report  
4 with the results of an additional test after the expert report  
5 had been provided. And the court said: "This Court" cannot  
6 allow -- "'cannot accept a definition of supplementation which  
7 would essentially allow for unlimited bolstering of the expert  
8 opinions.' To construe supplementation to apply whenever a  
9 party wants to bolster or submit additional expert opinions  
10 would reek" [sic] "havoc on docket control and amount to  
11 unlimited expert opinion preparation."

12 Similarly, in *Severn Peanut*, this court said that  
13 "appropriate supplementation occurs when the previous  
14 disclosures 'happen to be defective in some way so that the  
15 disclosure was incorrect or incomplete and, therefore,  
16 misleading,'" focused on "misleading." You're only allowed to  
17 correct something that's misleading. You're not supposed to go  
18 back and correct a mistake where you should have covered  
19 something or should have made a measurement or you should have  
20 talked about the manhole opening, and you missed it, so you're  
21 going to go back and correct it. That's not what 26(e) is  
22 supposed to cover. So we're prejudiced.

23 We've already taken the depositions, right.  
24 Dr. Sabatini has been deposed. Dr. Hennet has been deposed.  
25 Our motions are due tomorrow for *Daubert* on these experts. And

1 they just went and flouted the Court's order. And they could  
2 have raised it with the Court. They could have raised it with  
3 us. We could have negotiated something where both experts  
4 could go out there, maybe even at the same time. But they  
5 didn't in violation of the Court's order and then wouldn't  
6 allow us to do the same thing where there was time, where  
7 Dr. Sabatini could have gone before his deposition.

8 So the prejudice to us is both his new opinions,  
9 right, new opinions on volatilization via the manhole, new  
10 opinions -- and providing a new measurement that he didn't have  
11 before, and that this is unlimited bolstering basis in his  
12 report via the rules.

13                   **THE COURT:** Okay. This is not new. We were talking  
14 about this the last time and maybe the time before that. So  
15 why couldn't you have done something before today? You got  
16 reports due tomorrow.

17 MS. BAUGHMAN: *Daubert motions are due tomorrow.*

18                   **THE COURT:** Yes. So why couldn't you all have worked  
19 this out a month ago or six weeks ago?

20 **MS. O'LEARY:** Allison O'Leary for the United States,  
21 Your Honor.

22 We did try and work this out when this issue came up  
23 from the Plaintiffs, specifically this dispute. We believe  
24 that this is a late request that came after the close of  
25 Phase I discovery for a site visit that they could have made

1 when they received Dr. Hennet's report or in the years that  
2 they had retained Dr. Sabatini before they even received  
3 Dr. Hennet's report.

4 I think the issue here is that the Plaintiffs simply  
5 don't want the Court to consider relevant information because  
6 it's unfavorable to them.

7 Their argument is that Dr. Hennet's site visit  
8 information was disclosed after the Court's case management  
9 order for 26(a) expert disclosures. There's no dispute that  
10 that is true. But the Plaintiffs have argued that because it  
11 would not be justified independently under Rule 26(e), it's not  
12 allowed and the Court must exclude it. And that's where the  
13 argument is flawed.

14 An argument that some sort of information was not  
15 disclosed as it was required to be under 26(a)  
16 (inaudible/coughing) materials in compliance with the deadline  
17 for those materials under the case management order as governed  
18 by 37(c), which looks at whether the party who received the  
19 late materials was harmed and if the reason was substantially  
20 justified. And the test for looking at that is the *Southern*  
21 *States* five factors from the Fourth Circuit, and all of those  
22 factors favor allowing Dr. Hennet to rely on the information he  
23 learned in his February site visit.

24 The first of those factors is surprise. And surprise  
25 here is very limited. Dr. Hennet did no new calculation. He

1 changed no opinions, though he was asked about that several  
2 times at deposition and was very consistent. He didn't do new  
3 experiments. He just took two new measurements, and those  
4 measurements, one of which was at the fall height of the  
5 spiractors, confirmed his existing opinion about that height,  
6 and the other, which was the timing to fill a water buffalo  
7 through a different method than had been in his report, he  
8 agreed with the Plaintiffs' experts.

9           Other things that Ms. Baughman brought up was that he  
10 observed venting and learned about fluctuations in the heights  
11 of water in reservoirs. And Dr. Sabatini, the Plaintiffs'  
12 expert, testified in his deposition that he assumed those  
13 things were true, that those were normal and expected in a  
14 water treatment plant.

15           In general, just to frame for Your Honor what sort of  
16 information it is we're talking about from this site visit, it  
17 is, one, the measurement of the fall height at a spiractor,  
18 which is used by both Dr. Sabatini and Dr. Hennet for  
19 calculating the UFC losses in that treatment process. And both  
20 Dr. Sabatini and Dr. Hennet agree on the method for calculating  
21 that. So the only dispute between them is what that fall  
22 height is, which is an input parameter for that calculation.

23           The other information about venting and reservoirs  
24 and water towers, about bubbling or turbulence at different  
25 aspects of the water treatment plants and the reservoirs and

1 fluctuations in the height of storage reservoirs, there are no  
2 measurements used in any calculations. These are not input  
3 things, and these, again, are things that the Plaintiffs'  
4 expert assumed existed.

5 At the water buffalo, Dr. Hennet timed the filling of  
6 it and observed turbulence and splashing during that process.  
7 That is the extent of what he learned at his site visit.  
8 Dr. Sabatini had observed YouTube videos of the same thing and  
9 disclosed those in the materials-considered list for his  
10 report, and Dr. Hennet agrees on the time that Dr. Sabatini  
11 had.

12 In terms of the cure, which is the second factor  
13 under the *Southern States* setup, the Plaintiffs had the  
14 photographs and Dr. Hennet's notes from his site visit more  
15 than three weeks before his depositions. They had time to  
16 prepare and, in fact, did and asked Dr. Hennet extensive  
17 questions about what he had done at his site visit and what he  
18 had learned. They did not ask for additional time at his  
19 deposition prior to that deposition, though they received the  
20 materials three weeks early.

21 And they have proposed prejudice in the fact that  
22 they had to spend time asking him about the site visit, and  
23 that is an unsound argument. Dr. Hennet visited Camp Lejeune  
24 two times previous to his February site visit, and the  
25 Plaintiffs had to ask him about those site visits as well, or

1 at least they felt the need to. Whether they had to ask him  
2 about the site visit or not depends on their analysis of the  
3 case and not the timing of that site visit. Just like his site  
4 visit in May of 2024 was asked about, so was the other one.

5 The third factor is whether it will disrupt the  
6 trial. And we have no trial date, no hearing date. And  
7 Dr. Hennet's site visit did not even disrupt the Phase I  
8 scheduling order because the United States worked quickly when  
9 it received Dr. Sabatini's report to schedule Dr. Hennet's site  
10 visit so that he could confirm the issues he needed to and  
11 provided that information to the Hennets -- or to the  
12 Plaintiffs well before Dr. Hennet's deposition.

13 The fourth factor is the importance of the evidence.  
14 And on the spiractor fall height measurement, that is the  
15 dispute between the parties on losses at storage and water  
16 treatment. And both parties' experts agree that the losses at  
17 the spiractor are the largest share of treatment and storage  
18 losses. They agree on the method, as I mentioned. This is  
19 purely a factual dispute about the height.

20 And I should add, too, though Dr. Hennet has a  
21 measurement that he took from February and it confirmed what he  
22 had assumed based on information about the similarities between  
23 the fall height that had been measured at another plant and the  
24 Hadnot Point one, Dr. Sabatini testified that he did not think  
25 he needed to go to Camp Lejeune for a site visit. He didn't

1 agree with the manner that Dr. Hennet had taken the measurement  
2 of this fall height, and he could not identify a way that he  
3 would take such a fall height, which would be difficult. It  
4 would involve trying to somehow measure inside an operating  
5 pipe.

6 In terms of the reasons that the United States did  
7 this measurement, which is the fifth factor, as I've already  
8 explained, the fall height is central to this -- to an  
9 important calculation on losses, and there is no methodical  
10 dispute.

11 And in terms of the filling of the manhole cover,  
12 this is the result of the Plaintiffs' late disclosures. And I  
13 want to make sure that the Court is not misled on what was  
14 disclosed with Dr. Sabatini's report. Dr. Sabatini's report  
15 was accompanied by two affidavits from Plaintiffs, one of which  
16 said that despite the instructions for these water buffalo  
17 saying to fill them one way, they were filled another way.

18 So Dr. Hennet with this information, which had not  
19 been disclosed and which should have been disclosed more than a  
20 year earlier when the United States sent contention  
21 interrogatories asking the Plaintiffs to identify the evidence  
22 they were relying on related to water buffalo -- Dr. Hennet  
23 then undertook to observe this method of filling that the  
24 Plaintiffs disclosed for the first time with Dr. Sabatini's  
25 report was the only way that water buffaloes had been filled.

1           I also want to note, too, that the United States has  
2 not cross-moved to exclude any of the Plaintiffs' many late  
3 disclosures in Phase I because our understanding is that,  
4 looking at these factors from *Southern States*, with the  
5 exception of a very recent one, we don't think that it's  
6 appropriate.

7           But Mr. Bain mentioned earlier whether any of the  
8 Plaintiffs' late disclosures had occurred after depositions,  
9 and I wanted to clarify that I believe Mr. Bain was referring  
10 to the Phase II. In Phase I, we have gotten multiple  
11 disclosures after depositions. I've mentioned a few in the  
12 United States' brief. When I mentioned the sensitivity  
13 analysis on biodegradation rate, that came after the deposition  
14 of Mr. Davis and at 10:45 the night before Mr. Jones. The  
15 supplement from those two experts came two weeks after both of  
16 their depositions.

17           And then Mr. Maslia disclosed during his deposition  
18 that he had done new calculations on a measurement of bias in  
19 one of the models, and that, though it had been requested, the  
20 notes on that were not disclosed until late last week. I  
21 believe it was Thursday evening. That is, in fact, a  
22 supplemental report including a new methodology that was  
23 applied in six calculations. And what the -- that came with an  
24 offer from the Plaintiffs to allow a one-hour deposition by  
25 Mr. Maslia on that, but such deposition would have to come

1 after the deadline for *Daubert* motions that Ms. Baughman said  
2 is prejudicing the Plaintiffs, which was not the case for them.

3 So PLG has been disclosing things frequently after  
4 depositions in Phase I and, in the case of Mr. Maslia's  
5 supplemental report received late last week, to the prejudice  
6 of the United States.

7 To address a few of the questions, if I haven't  
8 already, you raised Your Honor on whether this is a factual  
9 dispute or objective and subjective, in regards to the  
10 measurements, I think it's a factual dispute. It's objective,  
11 though there is a subjective part that won't be resolved by  
12 this, which is whether it's appropriate to measure the way that  
13 Dr. Hennet did or to measure a different thing that  
14 Dr. Sabatini described, but he could not explain how he would  
15 take such a measurement.

16 And whether the Plaintiffs are requesting a site  
17 visit, they did not include that in their motion. They have  
18 not said they're requesting it now. They did not request  
19 additional time for the deposition. They just want the Court  
20 not to consider the relevant evidence.

21 And in terms of the plan to seal the proposed  
22 exhibit, the notes from Dr. Hennet's site visit, I apologize if  
23 we needed to do something more. I understood that by not  
24 filing something that would indicate we were not seeking to  
25 seal it after a week. And so we're not seeking to seal, and

1 that is why we did not. If we need to say that affirmatively  
2 on the record, we're happy to do so.

3           **THE COURT:** No.

4           **MS. O'LEARY:** Thank you.

5           **THE COURT:** Thank you.

6           **MS. BAUGHMAN:** May I briefly respond, Your Honor?

7           **THE COURT:** Sure.

8           **MS. BAUGHMAN:** Thank you.

9           On the issue, very importantly, of whether there's  
10 still a dispute, you could call this a factual issue; but to be  
11 very clear, what Dr. Hennet did was made a measurement when the  
12 spiractor was not running. So there was no water in it, okay.  
13 So that's the same as what AH said. You know, there's going to  
14 be a two-foot drop if there's no water.

15           What Dr. Sabatini wanted to do, in light of the fact  
16 that Dr. Hennet went out there in February, is go out and look  
17 at the spiractor, both when it's running and there's water in  
18 it, which is what AH documented, and when it's dry, which is  
19 what Dr. Hennet did in February. We asked for both of those  
20 things, and that's documented in our motion, Exhibit 7, page 3,  
21 the letter asking for the site visit the day after we took the  
22 deposition of Dr. Hennet.

23           So if the Court were to deny the Plaintiffs' motion,  
24 that doesn't resolve this issue. There's still going to be an  
25 issue of one foot or two foot.

1           And to be clear, when the DOJ says, well, you know,  
2 they did a lot of things late and we're not filing a motion, so  
3 why did they file a motion, we were very clear in the same  
4 letter that's Exhibit 7 we will drop this if you let  
5 Dr. Sabatini go out there and do the same things that  
6 Dr. Hennet did late in February. And they said no.

7           If the DOJ is really just trying to get at the truth,  
8 how big was the drop, then why not let Dr. Sabatini do the same  
9 thing out of time that Dr. Hennet did out of time?

10           This seems like gamesmanship. It's like they go  
11 late. They violate the Court's order. Then when they're  
12 caught, they say, well, we'll only let you go out there and do  
13 exactly what our expert did if you give us two more depositions  
14 that are late that aren't even related to this issue.

15           **THE COURT:** So why not? Why not let him go out  
16 there?

17           **MS. O'LEARY:** Your Honor, because their expert said  
18 he doesn't need to go out there and that he doesn't know how he  
19 would take the measurement he says would be the only one that  
20 would be useful in terms of measuring the fall height, which is  
21 the only measurement where there's any dispute.

22           He said he assumed the venting and fluctuations and  
23 reservoir levels that Dr. Hennet observed and learned from  
24 employees, and Dr. Hennet, in measuring the fill time of a  
25 water buffalo, said that he agreed with the fill time that

1 Plaintiffs' expert, Dr. Sabatini, had observed in a YouTube  
2 video of the same.

3 There is nothing to be gained from a site visit.  
4 That's, I think, why the Plaintiffs are not requesting one.  
5 They don't want one. If they'd wanted one, they would have  
6 asked for one before Dr. Sabatini wrote his report or certainly  
7 after they received Dr. Hennet's report or certainly after they  
8 received Dr. Hennet's notes and photographs from his site visit  
9 three weeks before his deposition. They didn't. They waited  
10 until discovery was closed to request a site visit.

11 **MS. BAUGHMAN:** To be very clear, what Dr. Hennet did  
12 happened when discovery was closed. Discovery was closed six  
13 months before Dr. Hennet went out there.

14 And what -- and the DOJ is misrepresenting what --  
15 the answer you just got about why they didn't let Dr. Sabatini  
16 go out there, his deposition was taken three weeks after we  
17 asked for the site visit, and they said no. They can't be  
18 relying on what Dr. Sabatini said in his deposition for saying  
19 no to the site visit. We wanted the site visit before the  
20 deposition. Before the deposition, they said no. They didn't  
21 have a basis for not allowing Dr. Sabatini there except for to  
22 have these experts on unequal footing before this Court.

23 And to be clear, in Dr. Sabatini's deposition, which  
24 the Court has because it is attached to the DOJ's response to  
25 this motion, on page 75, he explained that he, in fact -- there

1 is a big distinction here, Your Honor. Let's be clear that  
2 Dr. Sabatini is only a rebuttal witness, okay. We got the  
3 DOJ's report on December 9th of 2024. His report was due  
4 January 14, 2025. In that month that he had, he did not  
5 believe he needed to go out and measure this fall drop because  
6 he was relying on AH Environmental's report, and he's still  
7 relying on AH Environmental's report. And that's what he said  
8 in his deposition.

9                   But on page 75 of his deposition, he explained that  
10 he did want to go out and look at this site for these reasons:  
11 In response to Dr. Hennet's visit in February. That's why he  
12 wanted -- he said he wanted, quote, the same opportunity,  
13 quote. Both of that's on page 75.

14                   He also explained: "I don't really know what exactly  
15 Hennet did and who he talked to and what he saw." So it would  
16 be to -- meaning why he wants to go out there, to have the same  
17 background information that he had.

18                   Again, on page 76 and 77, he said: "I don't know  
19 what all he did or what all it meant." He said the same thing  
20 on page 322.

21                   So he's saying he could do his calculations based on  
22 AH, but once Hennet went out there, he wanted the opportunity  
23 to do and see everything Hennet did. Now, had he figured out  
24 how he would measure it? No. He didn't have -- his site visit  
25 was denied. So he didn't figure out his methodology. But he

1 wanted to go out there, and he wanted to observe this, both  
2 when the spiractor was running, in other words, wet, and when  
3 it was dry. And the DOJ did not allow him to do that.

4                   On a few other factor -- the issues on these factors  
5 that the DOJ talked about in argument, they're trying to say  
6 that the -- Dr. Hennet and Dr. Sabatini agree regarding this  
7 manhole issue, okay. I don't think -- I think, to be very  
8 clear, they don't agree on how much volatilization comes out of  
9 the manhole. And if they do, if what they're saying is  
10 Dr. Hennet, having gone and done his manhole experiment,  
11 filling the manhole and measuring timing and whatever, now  
12 agrees that Dr. Sabatini got it right on the amount of  
13 volatilization, then it's a nonissue. But that's not what  
14 they're saying. All they're saying is the timing of how long  
15 it took to fill it, they agree, how many seconds or how many  
16 minutes it took. They don't agree on how much volatilization.

17                   What Dr. Hennet is trying to say is, based on what I  
18 saw that day, okay, it would be the same amount of  
19 volatilization no matter how you fill it. That is a new  
20 opinion that wasn't in his report in December, and he is not in  
21 agreement with Dr. Sabatini about that. They have very  
22 different numbers about how much volatilization there would be  
23 through the manhole. So they are not in agreement, and it is  
24 new.

25                   Just going through my notes.

1                   And then they're saying, well, what Dr. Hennet did on  
2 the fall height, he's just confirming something. But, again,  
3 he didn't -- he didn't take a measurement or even make an  
4 observation when it was running. So he's not confirming  
5 anything about the fall height when the spiractor is running.

6                   They're saying that on the cure that that would have  
7 been -- I'm saying on the cure, it could have been cured. All  
8 this could have been cured if Dr. Sabatini had been allowed to  
9 go out there before his deposition, and he wasn't, okay. That  
10 was the cure, and the DOJ didn't allow that to happen.

11                  Now, they say, well, it's not going to disrupt the  
12 trial; it's not going to disrupt the schedule and whatnot.

13 Well, that's because we're prejudiced, right. We've continued  
14 with the schedule. Our team doesn't want to delay trials any  
15 more than they have already been delayed, but we're having to  
16 proceed without the site visit because they want to keep  
17 Dr. Sabatini not on the same footing as Dr. Hennet.

18                  And the importance of the evidence -- they're saying,  
19 well, this evidence is important and whatnot. If they were  
20 trying to get at the truth, they would have allowed  
21 Dr. Sabatini to see the same thing as Dr. Hennet. If they  
22 weren't playing games, they would have let Dr. Sabatini out  
23 there.

24                  **THE COURT:** Okay. I think I've got a good idea.

25                  **MS. O'LEARY:** And, Your Honor, if I may, just one

1 thing I just wanted to clarify to correct the record?

2 Dr. Hennet's February site visit did not occur after  
3 the close of discovery. Phase I expert discovery closed in  
4 March. I think Ms. Baughman may have been referencing fact  
5 discovery is closed, but that is not Phase I expert discovery.

6 **THE COURT:** Okay.

7 **MS. O'LEARY:** Thank you.

8 **THE COURT:** We'll take a look at it. Thank you.

9 What's left? Just our in camera meeting?

10 **MR. BAIN:** Yes, sir.

11 **THE COURT:** Okay. And we'll talk also about  
12 scheduling our next conference. We'll get a notice out for  
13 that.

14 Okay. Thank you.

15 (END OF PROCEEDINGS AT 12:23 P.M.)

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1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NORTH CAROLINA  
3 CERTIFICATE OF REPORTER

4  
5  
6 I, Briana L. Chesnut, Official United States Court  
7 Reporter for the Middle District of North Carolina, certify  
8 that the foregoing transcript is a true and correct transcript  
9 of the proceedings in the above-entitled matter prepared to the  
10 best of my ability.

11

12 Dated this 1st day of May 2025.

13

14   
15

16 

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Briana L. Chesnut, RPR  
17 Official United States Court Reporter  
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25

**From:** Carpenito, Joshua G. (CIV) <Joshua.G.Carpenito@usdoj.gov>  
**Sent:** Thursday, May 1, 2025 2:34 PM  
**To:** Dean, Kevin R. <kdean@motleyrice.com>; Dawn Bell <DBell@belllegalgroup.com>; James Roberts <jimroberts@lewis-roberts.com>  
**Cc:** J Edward Bell <jeb@belllegalgroup.com>; Zina Bash <zina.bash@kellerpostman.com>; Havai, Deanna <dhavai@motleyrice.com>; Baughman, Laura <lbaughman@weitzlux.com>; Devin Bolton - Robin Greenwald <dbolton@weitzlux.com>; Bain, Adam (CIV) <Adam.Bain@usdoj.gov>; Lipscomb, Bridget (CIV) <Bridget.Lipscomb@usdoj.gov>; Ortiz, David R (CIV) <David.R.Ortiz@usdoj.gov>; Mirsky, Sara J. (CIV) <Sara.J.Mirsky@usdoj.gov>; Bu, Nathan J. (CIV) <Nathan.J.Bu@usdoj.gov>; Anwar, Haroon (CIV) <Haroon.Anwar@usdoj.gov>; Morgan Derrick <MDerrick@belllegalgroup.com>  
**Subject:** RE: UST02-0000657182-83

CAUTION:EXTERNAL

Kevin,

The United States has confirmed through internal documentation that Dr. Remy Hennet was retained by the Department of Justice as of February 25, 2005 in *Gros v. United States*, No. CIV.A.H-04-4665 (S.D. Tex.), an action under the Federal Tort Claims Act claiming personal injury as a result of exposure to contaminated water at Camp Lejeune.

Based on this, the United States is willing to stipulate to the following language:

- “The Parties stipulate and agree that Dr. Remy Hennet was retained as an expert by the Department of Justice in Camp Lejeune-related litigation by no later than February 2005.”

Please let us know your position by 12:00pm tomorrow, May 2. If we do not hear from you by then – or if PLG does not agree to the stipulation – we will proceed with filing our position papers with the Court related to the clawed back document.

Best regards,



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**Subject:** [EXTERNAL] Re: UST02-0000657182-83

I am very sorry for this late notice, but can we do 4pm? I am president elect of the SCAj and a board meeting I must preside over tomm. Truly sorry.



**Kevin Dean**  
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**From:** Dawn Bell <[DBell@belllegalgroup.com](mailto:DBell@belllegalgroup.com)>  
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**Subject:** Re: UST02-0000657182-83

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We will send a link to all on this email for 3:30 tomorrow afternoon. Thanks!

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**Subject:** Re: UST02-0000657182-83

talk tomorrow



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**From:** Carpenito, Joshua G. (CIV) <[Joshua.G.Carpenito@usdoj.gov](mailto:Joshua.G.Carpenito@usdoj.gov)>  
**Sent:** Tuesday, April 29, 2025 5:20:58 PM  
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**Subject:** RE: UST02-0000657182-83

CAUTION:EXTERNAL

Kevin,

The United States understood the potential stipulation discussion to concern your contention that Dr. Hennet was working for DOJ in 2005 – the specific purpose you identified during the *in camera* review as the basis for seeking to use the privileged document.

Your most recent request concerning billing records raises a separate issue. The United States intends to produce basic information related to the FTCA litigation to the extent it's available, but as we represented at the status conference, we do not intend to produce detailed invoices for work related to the

FTCA Camp Lejeune litigation. Once you review our information, we can continue to meet and confer to discuss that issue, or you can seek appropriate relief.

Please let us know whether PLG still wishes to proceed with the meet and confer tomorrow. If so, please feel free to send any proposed stipulation language concerning the issue at hand. If not, we will look forward to reviewing your submission to the Court on or before Friday.

Best regards,



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**From:** Dean, Kevin R. <[kdean@motleyrice.com](mailto:kdean@motleyrice.com)>  
**Sent:** Tuesday, April 29, 2025 11:34 AM  
**To:** Carpenito, Joshua G. (CIV) <[Joshua.G.Carpenito@usdoj.gov](mailto:Joshua.G.Carpenito@usdoj.gov)>; Dawn Bell <[DBell@belllegalgroup.com](mailto:DBell@belllegalgroup.com)>; James Roberts <[jimroberts@lewis-roberts.com](mailto:jimroberts@lewis-roberts.com)>  
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**Subject:** [EXTERNAL] Re: UST02-0000657182-83

thanks, I prefer to wait on the billing records and you answer the question about when he started since the NAVY, GSA or the DOJ paid SSPA between 2002 and november 30, 2005. Then we may be able to propose a stip, but you have the information



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**From:** Carpenito, Joshua G. (CIV) <[Joshua.G.Carpenito@usdoj.gov](mailto:Joshua.G.Carpenito@usdoj.gov)>  
**Sent:** Tuesday, April 29, 2025 11:30:29 AM  
**To:** Dean, Kevin R. <[kdean@motleyrice.com](mailto:kdean@motleyrice.com)>; Dawn Bell <[DBell@belllegalgroup.com](mailto:DBell@belllegalgroup.com)>; James Roberts <[jimroberts@lewis-roberts.com](mailto:jimroberts@lewis-roberts.com)>  
**Cc:** J Edward Bell <[jeb@belllegalgroup.com](mailto:jeb@belllegalgroup.com)>; Zina Bash <[zina.bash@kellerpostman.com](mailto:zina.bash@kellerpostman.com)>; Havai, Deanna <[dhavai@motleyrice.com](mailto:dhavai@motleyrice.com)>; Baughman, Laura <[lbauhman@weitzlux.com](mailto:lbauhman@weitzlux.com)>; Devin Bolton - Robin Greenwald <[dbolton@weitzlux.com](mailto:dbolton@weitzlux.com)>; Bain, Adam (CIV) <[Adam.Bain@usdoj.gov](mailto:Adam.Bain@usdoj.gov)>; Lipscomb, Bridget (CIV) <[Bridget.Lipscomb@usdoj.gov](mailto:Bridget.Lipscomb@usdoj.gov)>; Ortiz, David R (CIV) <[David.R.Ortiz@usdoj.gov](mailto:David.R.Ortiz@usdoj.gov)>; Mirsky, Sara J. (CIV) <[Sara.J.Mirsky@usdoj.gov](mailto:Sara.J.Mirsky@usdoj.gov)>; Bu, Nathan J. (CIV) <[Nathan.J.Bu@usdoj.gov](mailto:Nathan.J.Bu@usdoj.gov)>; Anwar, Haroon (CIV) <[Haroon.Anwar@usdoj.gov](mailto:Haroon.Anwar@usdoj.gov)>; Morgan Derrick <[MDerrick@belllegalgroup.com](mailto:MDerrick@belllegalgroup.com)>  
**Subject:** RE: UST02-0000657182-83

CAUTION:EXTERNAL

Kevin,

Thank you for your response. During the *in camera* discussion yesterday, the parties referenced the possibility of a stipulation concerning PLG's assertions regarding when Dr. Hennet began his work.

The United States would be interested in reviewing a proposal on that topic in advance of the meet and confer. Please feel free to share any language PLG is considering.

Best regards,



**Joshua Carpenito**  
Trial Attorney  
U.S. Department of Justice  
Environmental Torts Litigation  
919-500-4284 (Office)  
202-880-1518 (Mobile)  
[Joshua.G.Carpenito@usdoj.gov](mailto:Joshua.G.Carpenito@usdoj.gov)

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**From:** Dean, Kevin R. <[kdean@motleyrice.com](mailto:kdean@motleyrice.com)>  
**Sent:** Tuesday, April 29, 2025 10:36 AM  
**To:** Dawn Bell <[DBell@belllegalgroup.com](mailto:DBell@belllegalgroup.com)>; Carpenito, Joshua G. (CIV) <[Joshua.G.Carpenito@usdoj.gov](mailto:Joshua.G.Carpenito@usdoj.gov)>; James Roberts <[jimroberts@lewis-roberts.com](mailto:jimroberts@lewis-roberts.com)>

**Cc:** J Edward Bell <[jeb@belllegalgroup.com](mailto:jeb@belllegalgroup.com)>; Zina Bash <[zina.bash@kellerpostman.com](mailto:zina.bash@kellerpostman.com)>; Havai, Deanna <[dhavai@motleyrice.com](mailto:dhavai@motleyrice.com)>; Baughman, Laura <[lbaughman@weitzlux.com](mailto:lbaughman@weitzlux.com)>; Devin Bolton - Robin Greenwald <[dbolton@weitzlux.com](mailto:dbolton@weitzlux.com)>; Bain, Adam (CIV) <[Adam.Bain@usdoj.gov](mailto:Adam.Bain@usdoj.gov)>; Lipscomb, Bridget (CIV) <[Bridget.Lipscomb@usdoj.gov](mailto:Bridget.Lipscomb@usdoj.gov)>; Ortiz, David R (CIV) <[David.R.Ortiz@usdoj.gov](mailto:David.R.Ortiz@usdoj.gov)>; Mirsky, Sara J. (CIV) <[Sara.J.Mirsky@usdoj.gov](mailto:Sara.J.Mirsky@usdoj.gov)>; Bu, Nathan J. (CIV) <[Nathan.J.Bu@usdoj.gov](mailto:Nathan.J.Bu@usdoj.gov)>; Anwar, Haroon (CIV) <[Haroon.Anwar@usdoj.gov](mailto:Haroon.Anwar@usdoj.gov)>; Morgan Derrick <[MDerrick@belllegalgroup.com](mailto:MDerrick@belllegalgroup.com)>  
**Subject:** [EXTERNAL] RE: UST02-0000657182-83

Joshua,

Nice to see you as well yesterday. I can also be available tomorrow at 330pm. We need to try to resolve this week as I start a 2-week trial in Federal Court in SC on Monday, and will be relocating Friday to trial jurisdiction.

As for a proposal, I really don't have much to offer except a few thoughts, since I don't really understand what specifically in the email you find objectionable and/or protected. However, I would be willing to discuss redactions so that legal counsel not referenced or included in the document like we have done in the past, in exchange for more detailed records relating to billing from SSPA that goes back to the start of any work by SSPA at Camp Lejeune. The Gov has indicated some updated supplemental information is coming, so the soon the better to evaluate how we may be able to reach an amicable resolution. Attached is what I propose at this time.

Look forward to your response and speaking tomorrow. Have a good day.

Kevin



**Kevin Dean**  
Attorney at Law

28 Bridgeside Blvd., Mt. Pleasant, SC 29464

o. [843.216.9152](tel:843.216.9152) c. [843.834.1130](tel:843.834.1130) f. [843.216.9267](tel:843.216.9267)

[kdean@motleyrice.com](mailto:kdean@motleyrice.com)

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**From:** Dawn Bell <[DBell@belllegalgroup.com](mailto:DBell@belllegalgroup.com)>  
**Sent:** Tuesday, April 29, 2025 9:48 AM  
**To:** Carpenito, Joshua G. (CIV) <[Joshua.G.Carpenito@usdoj.gov](mailto:Joshua.G.Carpenito@usdoj.gov)>; Dean, Kevin R. <[kdean@motleyrice.com](mailto:kdean@motleyrice.com)>; James

Roberts <[jimroberts@lewis-roberts.com](mailto:jimroberts@lewis-roberts.com)>  
**Cc:** J Edward Bell <[jeb@belllegalgroup.com](mailto:jeb@belllegalgroup.com)>; Zina Bash <[zina.bash@kellerpostman.com](mailto:zina.bash@kellerpostman.com)>; Havai, Deanna <[dhavai@motleyrice.com](mailto:dhavai@motleyrice.com)>; Baughman, Laura <[lbaughman@weitzlux.com](mailto:lbaughman@weitzlux.com)>; Devin Bolton - Robin Greenwald <[dbolton@weitzlux.com](mailto:dbolton@weitzlux.com)>; Bain, Adam (CIV) <[Adam.Bain@usdoj.gov](mailto:Adam.Bain@usdoj.gov)>; Lipscomb, Bridget (CIV) <[Bridget.Lipscomb@usdoj.gov](mailto:Bridget.Lipscomb@usdoj.gov)>; Ortiz, David R (CIV) <[David.R.Ortiz@usdoj.gov](mailto:David.R.Ortiz@usdoj.gov)>; Mirsky, Sara J. (CIV) <[Sara.J.Mirsky@usdoj.gov](mailto:Sara.J.Mirsky@usdoj.gov)>; Bu, Nathan J. (CIV) <[Nathan.J.Bu@usdoj.gov](mailto:Nathan.J.Bu@usdoj.gov)>; Anwar, Haroon (CIV) <[Haroon.Anwar@usdoj.gov](mailto:Haroon.Anwar@usdoj.gov)>; Morgan Derrick <[MDerrick@belllegalgroup.com](mailto:MDerrick@belllegalgroup.com)>  
**Subject:** RE: UST02-0000657182-83

CAUTION:EXTERNAL

All,  
Ed is available at 3:30 tomorrow for call.  
Thanks,  
Dawn



BELL  
LEGAL  
GROUP

Dawn J. Bell  
*Paralegal to J. Edward Bell, III*

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Georgetown, SC 29440  
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**From:** Carpenito, Joshua G. (CIV) <[Joshua.G.Carpenito@usdoj.gov](mailto:Joshua.G.Carpenito@usdoj.gov)>  
**Sent:** Tuesday, April 29, 2025 8:07 AM  
**To:** Kevin Dean <[KDean@motleyrice.com](mailto:KDean@motleyrice.com)>; James Roberts <[jimroberts@lewis-roberts.com](mailto:jimroberts@lewis-roberts.com)>  
**Cc:** J Edward Bell <[jeb@belllegalgroup.com](mailto:jeb@belllegalgroup.com)>; Dawn Bell <[DBell@belllegalgroup.com](mailto:DBell@belllegalgroup.com)>; Zina Bash <[zina.bash@kellerpostman.com](mailto:zina.bash@kellerpostman.com)>; Havai, Deanna <[dhavai@motleyrice.com](mailto:dhavai@motleyrice.com)>; Laura Baughman - Weitz & Luxenberg <[lbaughman@weitzlux.com](mailto:lbaughman@weitzlux.com)>; Devin Bolton - Robin Greenwald <[dbolton@weitzlux.com](mailto:dbolton@weitzlux.com)>; Bain, Adam (CIV) <[Adam.Bain@usdoj.gov](mailto:Adam.Bain@usdoj.gov)>; Lipscomb, Bridget (CIV) <[Bridget.Lipscomb@usdoj.gov](mailto:Bridget.Lipscomb@usdoj.gov)>; Ortiz, David R (CIV) <[David.R.Ortiz@usdoj.gov](mailto:David.R.Ortiz@usdoj.gov)>; Mirsky, Sara J. (CIV) <[Sara.J.Mirsky@usdoj.gov](mailto:Sara.J.Mirsky@usdoj.gov)>; Bu, Nathan J. (CIV) <[Nathan.J.Bu@usdoj.gov](mailto:Nathan.J.Bu@usdoj.gov)>; Anwar, Haroon (CIV) <[Haroon.Anwar@usdoj.gov](mailto:Haroon.Anwar@usdoj.gov)>  
**Subject:** UST02-0000657182-83

Kevin,

It was good seeing you in court yesterday.

As Jim requested, the United States is available tomorrow (4/30) at 9:30am, 12:00pm, or 3:30pm, for one last attempt at resolving the clawback issue. Please send us your proposal prior to the meet and confer, and let us know what time works best for you. I will send around a meeting invite once confirmed.

Best regards,



**Joshua Carpenito**  
*Trial Attorney*  
*U.S. Department of Justice*  
*Environmental Torts Litigation*  
**919-500-4284 (Office)**  
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**S. S. Papadopoulos & Associates****Timesheet Backup Report**

From 8/1/2022 To 8/31/2022

Timesheet Date	Work Date	Hours	Comments
1817-1817-0 DOJ_CL 2022-DOJ_CL 2022			
1817-1817-0-001-01-10 DOJ_CL 2022			
Senior Principal			
Remy Hennet			
	8/20/2022 8/16/2022	1.00	project kickoff organization
	8/31/2022 8/29/2022	1.00	organization, de-archiving
<b>Employee Total Hours:</b>		<b>2.00</b>	
Senior Scientist/Engineer			
Stephanie Shapiro			
	8/6/2022 8/5/2022	4.50	Initial doc retrieval, review. Calls with Remy and Saul.
	8/13/2022 8/8/2022	6.00	Doc retrieval and review.
	8/13/2022 8/9/2022	5.25	Document review, timeline edits.
	8/13/2022 8/10/2022	5.50	New doc retrieval, review.
	8/13/2022 8/11/2022	4.00	Presentation
	8/13/2022 8/12/2022	4.00	Presentation
	8/13/2022 8/13/2022	3.00	Presentation, timeline
	8/20/2022 8/15/2022	4.00	Presentation and timeline.
	8/27/2022 8/22/2022	4.00	Timeline and presentation.
	8/27/2022 8/23/2022	4.00	Timeline and presentation.
	8/27/2022 8/24/2022	4.00	Timeline and presentation.
	8/27/2022 8/25/2022	4.00	Timeline and presentation.
	8/27/2022 8/26/2022	4.00	presentation and timeline
<b>Employee Total Hours:</b>		<b>56.25</b>	
Project Scientist/Engineer			
Zdravka Karanovic			
	8/20/2022 8/15/2022	6.50	data summary
	8/20/2022 8/16/2022	7.50	data summary
<b>Employee Total Hours:</b>		<b>14.00</b>	
Senior Staff Scientist/Engineer			
Saul Allen			
	8/6/2022 8/5/2022	5.00	Contract with SS. Begin downloading files from EPA and NAVTEC sites; make links and indexes to old projects
	8/13/2022 8/8/2022	7.50	NAVFAC files: obtaining and creating document index
	8/13/2022 8/9/2022	3.00	NAVFAC files: obtaining and creating document index; SS inquiries about past RH expert reports, summary of things that were done in the past, etc.
	8/13/2022 8/10/2022	4.00	NAVFAC files: obtaining and creating document index
	8/13/2022 8/11/2022	2.00	NAVFAC files: obtaining and creating document index cont'd
	8/13/2022 8/12/2022	2.50	Complete NAVFAC extraction with document index (spreadsheet) and OCR
	8/20/2022 8/15/2022	1.00	Convene with ZK about SS request for database summary; discuss database history with SS
	8/27/2022 8/22/2022	1.00	Update document index from NAVFEC files
	8/27/2022 8/24/2022	3.00	Search for additional public available documents (FOIA, EPA, etc.)

# Preflight Summary Report for: Exhibit 14.pdf

Profile: Digital printing (B/W) (Processed pages 1 to 1)

Processed by Eric Flynn, Date: 5/12/25 7:52PM

## Fixups

-  Remove, apply or adjust object compression (1 object)
-  Compress all uncompressed objects using lossless ZIP compression (1 object)
-  Recompress LZW as ZIP (1 object)
-  Convert color to B/W (1 object)

## Results (Summary)

### Info

-  Resolution of bitmap images is lower than 550 pixels per inch (1 match on 1 page) - 1

## Document information

File name: "Exhibit 14.pdf"  
Path: "/Users/eric/Desktop/Catchall/MTC SSPA Biling Records"  
PDF version number: "1.5"  
File size (KB): 45.0  
Creator: "Aspose Ltd."  
Producer: "Aspose.PDF for .NET 22.6.0"  
Created: "5/12/25 7:50PM"  
Modified: "5/12/25 7:50PM"  
Trapping: "Unknown"  
Number of plates: 1  
Names of plates: "(Black)"

## Environment

Preflight, 18.6.0 (271)  
Acrobat version: 25.001  
Operating system: macOS 15.4.1

All problems according to Preflight profile  
Digital printing (B/W)