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1 CAUSE NO. 2008-2173-4  
2 AMERICAN ARCHAEOLOGY ) IN THE DISTRICT COURT OF  
GROUP, LLC., )  
3 PLAINTIFF, )  
4 VS. )  
5 CITY OF WACO, TEXAS, )  
6 DEFENDANT, ) MCLENNAN COUNTY, TEXAS  
7 VS. )  
8 TEXAS HISTORICAL COMMISSION )  
9 AND PBS&J, INC. )  
10 DECLARATORY JUDGMENT )  
DEFENDANTS. ) 170TH JUDICIAL DISTRICT  
11  
12  
13  
14 \*\*\*\*\*  
15 VIDEOTAPED ORAL DEPOSITION  
OF  
16 CHRISTINA STOPKA  
17 SEPTEMBER 7, 2010  
18 VOLUME 1  
19 \*\*\*\*\*  
20 VIDEOTAPED ORAL DEPOSITION OF CHRISTINA STOPKA,  
21 produced as a witness at the instance of the Plaintiff,  
22 American Archaeology Group, LLC, and duly sworn, was  
23 taken in the above-styled and numbered cause on the 7th  
24 day of September, 2010, from 10:18 a.m. to 6:11 p.m.,  
25 before LEICA TURNER, a Certified Shorthand Reporter in

2

1 and for the State of Texas, reported by machine  
2 shorthand, at the law offices of Beard, Kultgen Brophy  
3 Bostwick & Dickson, 5400 Bosque Boulevard, Suite 301,  
4 Waco, Texas 76710, pursuant to the Texas Rules of Civil  
5 Procedure and the provisions stated on the record or  
6 attached hereto.  
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1 A P P E A R A N C E S  
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12  
13  
14  
15 **ALSO PRESENT:** Mr. Mike Bradle  
Mr. Max Kennedy, Videographer  
16  
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4

I N D E X

**WITNESS: CHRISTINA STOPKA**

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1 PROCEEDINGS

2 **THE VIDEOGRAPHER:** On the record at 10:18

3 a.m., beginning deposition with tape 1.

4 CHRISTINA STOPKA,

5 having been first duly cautioned and sworn, testified as

6 follows:

7 **THE REPORTER:** Are there any agreements

8 you want on the record?

9 **MR. MASTROGIOVANNI:** Just go under the

10 Rules. Is that fair?

11 **MS. JURGENSEN:** Yes.

12 EXAMINATION

13 **BY MR. MASTROGIOVANNI:**

14 **Q. Ms. Stopka, could you tell us your name and**

15 **spell your last name, please?**

16 A. Yes. It's Christina Kay Stopka, S-t-o-p-k-a.

17 **Q. What is your home address?**

18 A. 10149B Valencia, Waco.

19 **Q. Do you have any present plans to move or**

20 **relocate from that location?**

21 A. No.

22 **Q. How long have you lived there?**

23 A. About six-and-a-half years.

24 **Q. Who lives there with you?**

25 A. Nobody.

10

1 **Q. What is your business address?**

2 A. 100 Texas Ranger Trail.

3 **Q. What is located at that address?**

4 A. The Texas Ranger Hall of Fame and Museum.

5 **Q. Who are you employed by?**

6 A. The City of Waco.

7 **Q. How long have you been a City of Waco**

8 **employee?**

9 A. About 13-and-a-half years.

10 **Q. What is your title?**

11 A. I'm the deputy director of the Texas Ranger

12 Hall of Fame and Museum and the head of the Texas Ranger

13 Research Center.

14 **Q. How long have you had that title?**

15 A. About nine years.

16 **Q. What is your email address?**

17 A. Christinas@ci.waco.tx.us.

18 **Q. Do you have a personal email address that you**

19 **use?**

20 A. I do.

21 **Q. What is that email address?**

22 A. It's tuna51459@aol.com.

23 **THE REPORTER:** I'm sorry, say it one more

24 time.

25 **THE WITNESS:** Tuna51459@aol.com.

11

1 **Q. Do you have any other email addresses other**

2 **than those two that you've used in the past five**

3 **years?**

4 A. I'm not sure if it's been within the last five

5 years. There was a trhf@eramp.net. I'm not sure when

6 we stopped using that one.

7 **Q. Do you use your personal email address in the**

8 **course and scope of your employment with the City of**

9 **Waco?**

10 A. Very rarely.

11 **Q. Do you recall any occasions in which you**

12 **did?**

13 A. Yes.

14 **Q. When would that have been?**

15 A. Actually most recently when I was in Wyoming

16 and they were asking me about possible trial dates.

17 **Q. In this case?**

18 A. Yes.

19 **Q. Did you use that personal email address in**

20 **connection with any other work relating to the project**

21 **that we're discussing today?**

22 A. Occasionally.

23 **Q. Can you remember any of those occasions in**

24 **particular?**

25 A. In particular, no. It was usually if I was on

12

1 vacation and somebody had a question.

2 **Q. Have you ever had your deposition taken**

3 **before?**

4 A. No, I have not.

5 **Q. What I'd like to do, Ms. Stopka, is provide**

6 **some guidelines just so it will go more smoothly for you**

7 **and I if that's okay with you.**

8 A. That's fine.

9 **Q. First the court reporter needs to be able to**

10 **take down what we say so it's important that we not nod**

11 **and gesture but that we make audible our responses. Is**

12 **that fair?**

13 A. Yes.

14 **Q. Secondly, I will try my very best not to**

15 **interrupt you with my question if you'll extend the same**

16 **courtesy to me and let me finish my question before you**

17 **answer. Is that fair?**

18 A. Yes.

19 **Q. Thirdly, it's very important that when you**

20 **answer a question, that you understood my question**

21 **because we're going to rely on your answer at some point**

22 **in time. Hence, if there is something that I ask you**

23 **that you don't understand that's confusing, please bring**

24 **that to my attention. Would you do that for me?**

25 A. I will, yes.

13

1 **Q. Do you understand that you're under oath**  
 2 **today?**  
 3 A. Yes, I do.  
 4 **Q. And we're in your counsel's office; is that**  
 5 **correct?**  
 6 A. Yes.  
 7 **Q. Are you on any medication or is there any**  
 8 **reason why you would not be able to give full and**  
 9 **complete answers today?**  
 10 A. I'm on allergy medication but it should not  
 11 affect anything.  
 12 **Q. If you want to take a break during the**  
 13 **deposition, Ms. Stopka, simply raise your hand and Julia**  
 14 **and I will accommodate you, is that fair?**  
 15 A. That's fine.  
 16 **Q. What did you do to prepare for today's**  
 17 **deposition?**  
 18 A. I met with my counsel.  
 19 **Q. When did you do that?**  
 20 A. Friday.  
 21 **Q. Here in your counsel's office?**  
 22 A. Yes.  
 23 **Q. Was there any impediment to fully preparing**  
 24 **for today's deposition?**  
 25 A. No.

14

1 **Q. Had you met with your counsel prior to today**  
 2 **to prepare for any deposition?**  
 3 A. Yes.  
 4 **Q. When did you meet prior to Friday?**  
 5 A. Could not give you exact dates without looking  
 6 at my calendar; but before each time that I've been  
 7 scheduled for deposition, we have met.  
 8 **Q. How long do you think your meeting lasted with**  
 9 **counsel?**  
 10 A. A few hours.  
 11 **Q. And who was in the meeting with you?**  
 12 A. Julia.  
 13 **Q. Anyone else?**  
 14 A. On Friday, Annette Jones was sitting there but  
 15 she was not part of the meeting.  
 16 **Q. Anyone else in the meeting?**  
 17 A. Rick would occasionally walk in.  
 18 **Q. And that's Rick Bostwick?**  
 19 A. Yes.  
 20 **Q. Anyone else?**  
 21 A. No.  
 22 **Q. And you believe the meeting lasted for a**  
 23 **couple of hours?**  
 24 A. At least a couple of hours.  
 25 **Q. Did you review any documents in preparation**

15

1 **for your deposition?**  
 2 A. No.  
 3 **Q. Have you reviewed any documents in preparation**  
 4 **for your deposition at any time?**  
 5 A. No.  
 6 **Q. Did anyone read any documents to you in**  
 7 **preparation for your deposition?**  
 8 A. My counsel may have. I'm not sure what she  
 9 was looking at.  
 10 **Q. Do you remember what the document was --**  
 11 A. No.  
 12 **Q. -- that she was reading from?**  
 13 A. No.  
 14 **Q. Did you review Mr. Bradle's deposition?**  
 15 A. No.  
 16 **Q. Has anyone read you Mr. Bradle's deposition?**  
 17 A. No.  
 18 **Q. Has anyone provided you with a summary of**  
 19 **Mr. Bradle's --**  
 20 A. No.  
 21 **Q. -- deposition? You did attend Mr. Bradle's --**  
 22 A. Yes, I did.  
 23 **Q. -- deposition; is that correct? Did you**  
 24 **review any videotapes or any study-type material that**  
 25 **indicated to you how to conduct yourself -- excuse**

16

1 **me -- at a deposition?**  
 2 A. No.  
 3 **Q. Have you ever done so?**  
 4 A. No.  
 5 **Q. Did you make any notes in connection with your**  
 6 **deposition preparation?**  
 7 A. No.  
 8 **Q. Were you requested to provide documents in**  
 9 **connection with this lawsuit at any time?**  
 10 A. Yes.  
 11 **Q. I don't want to invade the attorney/client**  
 12 **privilege so I'll ask this question but I want you to**  
 13 **keep in mind that I'm not entitled to nor do I want you**  
 14 **to disclose any communications you had with counsel, is**  
 15 **that understood?**  
 16 A. Yes.  
 17 **Q. Thank you. When were you first asked to**  
 18 **provide documents in connection with this case?**  
 19 A. I believe it was in late spring of 2008, early  
 20 summer, late spring.  
 21 **Q. Who asked you to do that?**  
 22 A. It was through the City Attorney's Office.  
 23 They had received an open records request.  
 24 **Q. How many times have you gone about the**  
 25 **business of gathering documents for production to us in**

1 this lawsuit?

2 A. Probably three or four times, maybe more.

3 **Q. Tell me, if you would, the process that you**

4 **went through in gathering documents.**

5 A. I went through hard copy files. I also looked

6 at email files on three different computers as well as

7 document files on those three computers. I also went

8 through piles of documents on my desk to see if anything

9 had not been filed yet. That's...

10 **Q. The hard copy files that you gathered, where**

11 **were those located?**

12 A. They are in a file cabinet next to my desk.

13 **Q. And the three computers that you reviewed,**

14 **what three computers were those?**

15 A. I have a non-network computer that sits on my

16 desk, I have a networked computer that sits on another

17 table, and then I had switched out computers halfway

18 between so the third computer is now sitting under my

19 desk.

20 **Q. And when you say the document files, what**

21 **programs were those document files located in, if you**

22 **can recall?**

23 A. Most of them are Word documents or PDFs, photo

24 files.

25 **Q. Who, if anyone, reports to you?**

1 A. The research librarian and the physical plant

2 manager.

3 **Q. If I understand correctly, you were not**

4 **responsible for acquiring documents from anyone other**

5 **than your own files; is that correct?**

6 A. Correct.

7 **Q. Who, to the best of your knowledge, had the**

8 **task of making certain that, for example, your**

9 **subordinate was contacted for the purpose of gathering**

10 **documents?**

11 A. As far as I remember, the email from the City

12 Attorney's Office went out to everybody they felt was --

13 possibly had anything.

14 **Q. Do you know if that email still exists?**

15 A. I am assuming it does. I don't know.

16 **Q. And that email would have a list of who was**

17 **contacted?**

18 A. Correct.

19 **Q. What about third-parties' documents such as**

20 **Imperial's, what if anything was done to acquire those**

21 **documents?**

22 A. I have no idea.

23 **Q. Where would those documents be?**

24 A. I have no idea.

25 **Q. There would be documents relating to the**

1 **construction design specifications of the project; is**

2 **that correct?**

3 A. Yes.

4 **Q. Do you know where those would be located?**

5 A. We have some from the early stages of the

6 project, but once the plan was decided on, that became a

7 State project and not a City project.

8 **Q. Where would those documents be located that**

9 **you have?**

10 A. I have some of them. I'm assuming Vince

11 Tobola, who is the City's facility manager, probably has

12 some as well.

13 **Q. Did you produce to us the ones you had?**

14 A. Yes.

15 **Q. And Vince Tobola, do you know whether he's**

16 **produced his files?**

17 A. I don't know if he has or not.

18 **Q. Where would Vince Tobola keep his files?**

19 A. I'm assuming at his office.

20 **Q. And so with regard to any third-party**

21 **subcontractors, the contractor on the project, those**

22 **files would be kept by someone, not you; is that**

23 **correct?**

24 A. Yes.

25 **Q. And you don't believe that the City of Waco**

1 **has maintained those files, but that they have been sent**

2 **to the State?**

3 A. I don't know that the City ever had those

4 files.

5 **Q. Who at the State would you contact if you**

6 **wanted to find those files?**

7 A. The Texas Facilities Commission, Dennis

8 Petras.

9 **Q. To the best of your knowledge, did anyone at**

10 **the City contact him to try to gather his files?**

11 A. I have no idea.

12 **Q. If I understand the interlocal agreement, the**

13 **City had responsibility for the architect and design; is**

14 **that correct?**

15 A. Correct.

16 **Q. Where would those files be located?**

17 A. Those I am assuming are either at the City

18 attorney's office or with Vince.

19 **Q. Do you know whether anyone contacted anyone at**

20 **the City of Waco to make sure that we got copies of all**

21 **that information?**

22 A. I am not sure.

23 **Q. And the City contracted with PBS&J; is that**

24 **correct?**

25 A. Correct.

1 **Q. So where would those files be located related**  
 2 **to PBS&J and its work?**  
 3 A. The contracts would be at City Legal or with  
 4 the City secretary's office, I'm assuming. I have email  
 5 files and copies of letters and things in my files.  
 6 **Q. Have you produced those in this case?**  
 7 A. The ones I was asked for, yes.  
 8 **Q. Are there ones that you didn't produce that**  
 9 **you feel like you weren't asked for?**  
 10 A. Not that I can think of off the top of my  
 11 head.  
 12 **Q. When you say the ones you were asked for, that**  
 13 **draws a line for me that there's something that you**  
 14 **didn't produce that you have.**  
 15 A. Usually it's to a date.  
 16 **Q. Okay. Oh, what was the date?**  
 17 A. You know, I cannot remember what the last --  
 18 it was fairly recently that we were asked for anything  
 19 relating to this project.  
 20 **Q. Did you keep an index of the documents that**  
 21 **you produced from your files?**  
 22 A. No.  
 23 **Q. Did anyone, to the best of your knowledge?**  
 24 A. I do not know.  
 25 **Q. Do you feel like there are any documents that**

1 **you were requested to produce that you did not?**  
 2 A. Not that I am aware of.  
 3 **Q. When did you first meet Mike Bradle?**  
 4 A. It was sometime early spring, late spring,  
 5 2005, I believe.  
 6 **Q. And then I want to speed up a little bit. At**  
 7 **some point in time a contract was executed between the**  
 8 **City of Waco and American Archaeology; is that**  
 9 **correct?**  
 10 A. Correct.  
 11 **Q. For the purposes of this deposition, can we**  
 12 **refer to American Archaeology sometimes as AAG?**  
 13 A. Yes.  
 14 **Q. Who was on-site for the City mostly in**  
 15 **connection with work that AAG was doing?**  
 16 A. I was out most days, not all the time, but I  
 17 would usually go out first thing in the morning just to  
 18 see what was going on.  
 19 **Q. Is it fair to say, Ms. Stopka, that you are**  
 20 **the person at the City who was most familiar with the**  
 21 **actual on-site work that Mike Bradle and AAG was doing?**  
 22 **MS. JURGENSEN:** Objection, form.  
 23 A. For the museum, yes, but there were also  
 24 people working the equipment that were on-site much more  
 25 than I was.

1 **Q. You consider yourself in a management**  
 2 **position; is that correct?**  
 3 A. I think the City considers me sort of mid,  
 4 mid-management.  
 5 **Q. Mid-management. Fair enough. From a**  
 6 **management or mid-management perspective, were you the**  
 7 **person most on-site for the City of Waco during the work**  
 8 **that AAG was doing?**  
 9 A. I was asked to be on-site.  
 10 **Q. So is the answer to my question yes?**  
 11 A. Yes.  
 12 **Q. And would it be fair to say that from a**  
 13 **management position with the City of Waco, you were the**  
 14 **person who spoke most to Mike Bradle and people who**  
 15 **worked with AAG?**  
 16 A. Yes, other than the equipment operators, yes.  
 17 **Q. And you'd be the person at least from**  
 18 **management who would have seen Mike Bradle the most**  
 19 **while this project was ongoing; is that correct?**  
 20 A. Probably.  
 21 **Q. Can you think of anyone else?**  
 22 A. I don't know who else Mr. Bradle may have been  
 23 speaking to. He may have been speaking to Byron  
 24 Johnson. I don't know.  
 25 **Q. Ms. Jones, would she have been on-site very**

1 **often?**  
 2 A. No.  
 3 **Q. Would she have spoken to Mr. Bradle very often**  
 4 **based on your own experience?**  
 5 A. Occasionally, but I don't know very often.  
 6 **Q. And the only other City employee who may have**  
 7 **seen AAG personnel more than you would be maybe the**  
 8 **actual operators of the equipment?**  
 9 A. Yes.  
 10 **Q. And the operators of the equipment would have**  
 11 **been, for example, the backhoe?**  
 12 A. Yes.  
 13 **Q. Those were City employees?**  
 14 A. For the most part, yes.  
 15 **Q. Were there others who were not City**  
 16 **employees?**  
 17 A. I know on occasion Mr. Bradle had his own  
 18 equipment out on-site and his people worked that  
 19 equipment.  
 20 **Q. Were the backhoes operated by the City**  
 21 **employees?**  
 22 A. Yes.  
 23 **Q. And who was giving them direction?**  
 24 A. Mr. Bradle, I'm assuming.  
 25 **Q. Anybody for the City giving those people**

1 **direction?**  
 2 A. Other than telling them they needed to be  
 3 there to work, no.  
 4 **Q. You're aware that a counterclaim has been**  
 5 **filed in this case?**  
 6 A. Yes.  
 7 **Q. What, if anything, did you have to do with**  
 8 **preparing the counterclaim in this case?**  
 9 A. Virtually nothing.  
 10 **Q. Did you meet with Mr. Bostwick or any counsel**  
 11 **prior to the counterclaim being filed?**  
 12 A. No.  
 13 **Q. Did you review the lawsuit prior to it being**  
 14 **filed, the counterclaim?**  
 15 A. I may have. I honestly don't remember. I get  
 16 copies of a lot of stuff coming across my email that I  
 17 don't necessarily read everything.  
 18 **Q. So did you read the counterclaim critically**  
 19 **before it was filed?**  
 20 A. No.  
 21 **Q. Do you know of anyone at the City who did?**  
 22 A. I am assuming City Legal did.  
 23 **Q. But you're not aware of anyone reviewing the**  
 24 **lawsuit before Mr. Bostwick's firm filed it?**  
 25 A. No.

1 **the counterclaim?**  
 2 A. No.  
 3 **Q. You're not aware of any efforts to attempt to**  
 4 **meet with Mr. Bradle or AAG personnel prior to the**  
 5 **lawsuit being filed by the City; is that right?**  
 6 A. Not that I'm aware of.  
 7 **Q. And no one has told you that that happened?**  
 8 A. No.  
 9 **MR. MASTROGIOVANNI:** Julia, do we have  
 10 any idea what the last exhibit was?  
 11 **MS. JURGENSEN:** Oh, no, but I can find  
 12 out pretty easily.  
 13 **MR. MASTROGIOVANNI:** We'll just go ahead  
 14 and start with 1. That's okay.  
 15 **MS. JURGENSEN:** It's in the 20s.  
 16 (Exhibit No. 1 marked)  
 17 **Q. Ms. Stopka, I'm going to hand you what I've**  
 18 **marked as Stopka Exhibit 1 and I'll ask if you've ever**  
 19 **seen that document before, please?**  
 20 A. I believe I have.  
 21 **Q. You believe that's the counterclaim that the**  
 22 **City filed against Mr. Bradle -- well, against AAG? I'm**  
 23 **sorry.**  
 24 A. That's what it says.  
 25 **Q. And when you reviewed it, albeit not**

1 **Q. Did you walk the site with any lawyers or any**  
 2 **people working for the lawyers prior to that**  
 3 **counterclaim being filed?**  
 4 A. I walked the site with the City lawyers, with  
 5 the assistant city attorney.  
 6 **Q. You're talking about Ms. Jones?**  
 7 A. Yes.  
 8 **Q. All right. But no one from Mr. Bostwick's**  
 9 **office?**  
 10 A. No.  
 11 **Q. And you didn't review any documents with**  
 12 **Mr. Bostwick or any of the lawyers working for him prior**  
 13 **to that counterclaim being filed?**  
 14 A. No.  
 15 **Q. And you don't know of anyone who did?**  
 16 A. No.  
 17 **Q. Do you know of anyone who met with**  
 18 **Mr. Bostwick prior to this counterclaim being filed?**  
 19 A. No.  
 20 **Q. Do you know of anyone attempting to talk to**  
 21 **Mike Bradle or any of the AAG personnel prior to the**  
 22 **lawsuit being filed by the City?**  
 23 A. No.  
 24 **Q. Not aware of Mr. Bradle or anyone at AAG**  
 25 **interfering with the due diligence that went into filing**

1 **critically, was there anything in there you didn't**  
 2 **understand?**  
 3 A. To be honest, I did not read it that  
 4 carefully.  
 5 **Q. It was filed, to the best of your knowledge;**  
 6 **is that correct?**  
 7 A. Yes.  
 8 **Q. And to the best of your knowledge, it's been**  
 9 **on file for nearly two years; is that right?**  
 10 A. Yes.  
 11 **Q. It hasn't been changed or altered or retracted**  
 12 **to the best of your knowledge; is that right?**  
 13 A. According -- I don't know. I have no  
 14 knowledge of that.  
 15 **Q. You were going to say according to**  
 16 **something?**  
 17 A. And I'm not sure what I was going to say.  
 18 **Q. You're not aware of this counterclaim ever**  
 19 **being changed since it was filed in October '08?**  
 20 A. No, I am not aware of it.  
 21 **Q. And you would have assumed that somebody with**  
 22 **the City and the lawyers would have made sure it was**  
 23 **accurate; is that correct?**  
 24 A. I would assume so, yes.  
 25 **Q. You understood the importance of a**

1 counterclaim being filed against AAG; is that right?  
 2 A. Yes.  
 3 Q. And you knew that it got a lot of publicity?  
 4 A. Yes.  
 5 Q. And you knew it was an important matter for  
 6 AAG to be sued; is that right?  
 7 A. I knew the City thought so, yes.  
 8 Q. And you're not aware of AAG ever being sued  
 9 prior to this time; is that right?  
 10 A. No.  
 11 Q. And so it was important, in your mind, that  
 12 this counterclaim be absolutely accurate; is that  
 13 correct?  
 14 MS. JURGENSEN: Objection, form.  
 15 A. I would hope, yes, that it would be accurate.  
 16 Q. You're not aware of any other claims against  
 17 AAG other than the ones set forth in Exhibit 1; is that  
 18 correct?  
 19 A. Yes, that's correct.  
 20 Q. Could you turn to page 3 of the counterclaim.  
 21 And if you'll look at that first paragraph at the top,  
 22 do you see that, ma'am?  
 23 A. Yes.  
 24 Q. And it states that due to this fact, before  
 25 construction began on the expansion in 2007, City

1 officials and museum staff out of an abundance of  
 2 caution hired American Archaeological Group --  
 3 Archaeology Group to conduct an archaeological survey of  
 4 the 8,000 square foot area where the buildings'  
 5 foundations were to be laid. Did I read that  
 6 correctly?  
 7 A. Yes.  
 8 Q. And that's true, is it not?  
 9 A. Yes.  
 10 Q. That the employment of AAG was limited to an  
 11 8,000 square foot survey; is that correct?  
 12 A. Correct.  
 13 Q. And that 8,000 square foot area was supposed  
 14 to be where the buildings' foundations were to be laid;  
 15 is that correct?  
 16 A. Correct.  
 17 Q. Then the report was done, completed for this  
 18 8,000 square foot survey sometime in October '06; is  
 19 that right?  
 20 A. Yes.  
 21 Q. Now, if you'll go to the third paragraph,  
 22 second line, it states, quote, Within days of mobilizing  
 23 the construction crew, on or about May 11, 2007, a  
 24 construction worker performing the dirt work for the  
 25 buildings' foundation discovered a portion of human

1 skull as he was digging. The skull was discovered  
 2 within the area previously surveyed by AAG, period,  
 3 closed quote; is that correct?  
 4 A. Correct.  
 5 Q. So the allegation, the first allegation in the  
 6 counterclaim that was filed is that on or about May 11,  
 7 2007, remains were found within the area previously  
 8 surveyed by AAG; is that correct?  
 9 A. Correct.  
 10 Q. That's not a true statement, is it, ma'am?  
 11 MS. JURGENSEN: Objection, form.  
 12 A. As far as I know, it is a true statement.  
 13 (Exhibit No. 2 marked)  
 14 Q. Let me hand you what's been marked as Exhibit  
 15 2, if you would, ma'am. Tell me if you can identify  
 16 that for me.  
 17 A. Yes.  
 18 Q. What is that document?  
 19 A. It was a letter to James Bruseth at the  
 20 Historical Commission regarding the relocation of the  
 21 electrical line.  
 22 Q. Have you seen this document before?  
 23 A. Yes.  
 24 Q. When was the last time you looked at it?  
 25 A. When we got the concurrence back or when it

1 was sent.  
 2 Q. So in 2008?  
 3 A. Yes.  
 4 Q. And is there anything inaccurate in this  
 5 letter that you can recall?  
 6 A. I would have to read it.  
 7 Q. You can't recall anything now?  
 8 A. I can't recall.  
 9 Q. Would you look at page 2? And if you look at  
 10 the second to the bottom paragraph, do you see that,  
 11 ma'am?  
 12 A. Yes.  
 13 Q. Now, this is a letter that was written by  
 14 Byron Johnson, correct?  
 15 A. Correct.  
 16 Q. Who works for the City of Waco?  
 17 A. Correct.  
 18 Q. Who you know very well?  
 19 A. Yes.  
 20 Q. And in that first sentence of that second to  
 21 last paragraph, he states, quote, Four days later on  
 22 Friday, May 11, 2007, the first remains were uncovered  
 23 by construction workers excavating for the foundation of  
 24 the education center when they went outside the survey  
 25 footprint. Isn't that what that says?



1 A. That's what he says, yes.  
 2 **Q. Do you disagree with him?**  
 3 A. I don't know that I agree with him totally,  
 4 no.  
 5 **Q. Are you aware of anything that would give you**  
 6 **the impression that he does not know what he's talking**  
 7 **about when he says that those remains were found outside**  
 8 **the survey area?**  
 9 A. He was not out there.  
 10 **Q. He got his information from someone else?**  
 11 A. I'm assuming so, yes.  
 12 **Q. My question to you very specifically is do you**  
 13 **think that this statement in this letter is false?**  
 14 A. I do not believe that it is totally false.  
 15 **Q. Who would Mr. Johnson have received his**  
 16 **information from that would have been faulty?**  
 17 A. I have no idea who all he was gathering  
 18 information from.  
 19 **Q. He gathered some of it from you though, didn't**  
 20 **he?**  
 21 A. Yes.  
 22 **Q. All right. And You got a copy of this letter,**  
 23 **didn't you, right at the time he sent it out or**  
 24 **thereabouts?**  
 25 A. Probably, yes.

1 **Q. And you didn't correct it, did you?**  
 2 A. I don't remember if I did or not.  
 3 **Q. To the best of your knowledge, Exhibit 2 has**  
 4 **never been corrected; is that right?**  
 5 A. As far as I know, no.  
 6 **Q. It's a public record that was sent, reviewed**  
 7 **by everyone, makes a statement that's inconsistent with**  
 8 **the counterclaim, correct?**  
 9 A. If you tell me that, yes.  
 10 **Q. What do you disagree with?**  
 11 A. I don't believe that the statement is totally  
 12 false so I'm not sure that it does actually totally  
 13 contradict what's in the counterclaim.  
 14 **Q. It does contradict what's in the counterclaim,**  
 15 **doesn't it?**  
 16 A. If you believe the statement is completely  
 17 false, yes.  
 18 (Exhibit No. 3 marked)  
 19 **Q. Let me hand you, ma'am, what's been marked as**  
 20 **Exhibit 3 and I'll ask if you can identify that for me,**  
 21 **please.**  
 22 **MS. JURGENSEN:** Are these my copies, Joe?  
 23 **MR. MASTROGIOVANNI:** Pardon?  
 24 **MS. JURGENSEN:** Can I keep these copies?  
 25 **MR. MASTROGIOVANNI:** Sure, of course,

1 yes.  
 2 **MS. JURGENSEN:** Thank you.  
 3 **Q. Can you identify that document for me?**  
 4 A. Yes. It's a letter written to Mr. Martin. We  
 5 had been asked to -- the City had been asked to look at  
 6 some different proposals for the utility lines and this  
 7 was a reply made back.  
 8 **Q. Did you review this document when it was sent**  
 9 **out?**  
 10 A. I know that I got several drafts of it. I'm  
 11 not sure that I actually reviewed it critically.  
 12 **Q. And the reason you got several drafts of it is**  
 13 **because primarily it was written by Ms. Jones; is that**  
 14 **correct?**  
 15 **MS. JURGENSEN:** Objection, form.  
 16 A. I guess so. I have no idea.  
 17 **Q. All right. Is it your recollection that many**  
 18 **City of Waco employees worked on this document and**  
 19 **drafts of it?**  
 20 A. That, again, I -- it depends on what you mean  
 21 by several. I know that it went out to several people  
 22 including Mr. Bradle to review.  
 23 **Q. Well, my question is a little bit different.**  
 24 **Do you recollect City of Waco employees working on**  
 25 **Exhibit 3?**

1 A. I'm not sure what you mean by working on. I  
 2 mean, reviewing, yes.  
 3 **Q. You saw, I think you said, several drafts; is**  
 4 **that correct?**  
 5 A. Yes.  
 6 **Q. And some of those drafts came from City of**  
 7 **Waco employees; is that right?**  
 8 A. Yes.  
 9 **Q. All right. Do you dispute that Ms. Jones**  
 10 **wrote much of this exhibit?**  
 11 A. No.  
 12 **Q. Could you turn to page 2 of that document,**  
 13 **please?**  
 14 A. (Witness complies.)  
 15 **Q. Do you see that, ma'am?**  
 16 A. Where?  
 17 **Q. Just page 2?**  
 18 A. Yes.  
 19 **Q. Again, the second paragraph towards the end,**  
 20 **you'll see "On May 11, 2007," do you see that, ma'am?**  
 21 A. Yes.  
 22 **Q. And it states, quote, On May 11, 2007, human**  
 23 **remains were found in an extended excavation for the**  
 24 **foundation of the building outside the original survey**  
 25 **area. Did I read that correctly?**

1 A. Yes, you did.  
 2 **Q. That's inconsistent with your counterclaim**  
 3 **too, isn't it?**  
 4 A. Yes.  
 5 **Q. And this document was reviewed by City of Waco**  
 6 **employees including yourself, isn't that correct?**  
 7 A. Correct.  
 8 **Q. And in fact, this document was drafted in July**  
 9 **2007 fairly close to the event that's described in your**  
 10 **counterclaim --**  
 11 A. Correct.  
 12 **Q. -- is that right? And you didn't, in**  
 13 **reviewing this, change that statement that's**  
 14 **inconsistent with your counterclaim, did you?**  
 15 A. I may have changed it.  
 16 **Q. You're not aware that you did though, are**  
 17 **you?**  
 18 A. I would have to review back.  
 19 **Q. So I want to make sure that we understand each**  
 20 **other, Ms. Stopka. You are under oath, correct?**  
 21 A. Correct.  
 22 **Q. And your position under oath is that you**  
 23 **believed that the bones or the remains were found inside**  
 24 **the original survey area?**  
 25 A. Yes, I do.

1 **Q. That's what you want us to believe?**  
 2 A. Yes.  
 3 **Q. And you're positive about that?**  
 4 A. I believe that there were bones found inside  
 5 the original survey area. I am not saying that there  
 6 weren't bones found outside the original survey but  
 7 there were bones found inside.  
 8 **Q. There's no reference in any of those documents**  
 9 **that I've shown you other than the counterclaim about**  
 10 **bones being found inside the survey area --**  
 11 A. Yeah.  
 12 **Q. -- is that correct?**  
 13 A. From these documents, correct.  
 14 **Q. You're not aware of any documents that show**  
 15 **that, are you?**  
 16 **MS. JURGENSEN:** Objection, form.  
 17 A. Off the top of my head, I would not know.  
 18 **Q. Is it important that the City report to the**  
 19 **City Council information that's accurate?**  
 20 A. Yes.  
 21 **Q. Are you aware of the City reporting**  
 22 **information to the City Council of Waco regarding where**  
 23 **these remains were found that's inaccurate?**  
 24 A. I am not aware.  
 25 **Q. Now, when something is reported to the City**

1 **Council, is a lot of thought and work put into that**  
 2 **report?**  
 3 A. I am assuming so, yes.  
 4 **Q. All right. You're not aware that there's any**  
 5 **haphazard efforts of reporting things to the City**  
 6 **Council, are you?**  
 7 A. Correct.  
 8 **Q. And, in fact, with regard to this project, you**  
 9 **were responsible in some fashion for making sure that**  
 10 **the City Council was apprised accurately; is that**  
 11 **right?**  
 12 A. When I was asked for information, I gave it.  
 13 **Q. And you made sure it was accurate?**  
 14 A. I made sure the information I gave was  
 15 accurate.  
 16 **Q. And if you reviewed something that was being**  
 17 **presented to the City Council that was inaccurate, you**  
 18 **would have raised your hand and tried to get that**  
 19 **changed; is that right?**  
 20 A. Correct.  
 21 **MR. MASTROGIOVANNI:** Did I give you one  
 22 that's highlighted? If I did, I didn't mean to. No?  
 23 (Exhibit No. 4 marked)  
 24 **Q. Let me hand you, ma'am, what I'm going to mark**  
 25 **as Exhibit 4 and ask if you can identify that for me,**

1 **please, ma'am. Do you recognize any of that, ma'am?**  
 2 A. They look like draft greensheets.  
 3 **Q. Okay. Do you know where the original**  
 4 **greensheet would be?**  
 5 A. I'm assuming with the City secretary's office.  
 6 **Q. And have you reviewed the greensheets or any**  
 7 **drafts of them in connection with this report to the**  
 8 **City Council that you're aware of?**  
 9 A. Not that I'm aware of.  
 10 **Q. Is there anything in that greensheet or that**  
 11 **draft of greensheet that you believe is inaccurate?**  
 12 **MS. JURGENSEN:** Joe, I've got two. Are  
 13 they the same?  
 14 **MR. MASTROGIOVANNI:** Yeah.  
 15 **THE WITNESS:** That's what I was trying  
 16 to...  
 17 **MS. JURGENSEN:** Which one --  
 18 **MR. MASTROGIOVANNI:** Well, if we could  
 19 look at page 2, which is the third page back --  
 20 **MS. JURGENSEN:** Of the first greensheet?  
 21 **MR. MASTROGIOVANNI:** Yes.  
 22 **Q. Do you see a paragraph in the middle of the**  
 23 **page that begins with "American Archaeology obtained**  
 24 **Archaeology Permit 4255"?**  
 25 A. Yes.

1 Q. And then the next sentence it says, "During  
 2 that survey, the archaeologist discovered brickwork and  
 3 other materials indicating where graves had been located  
 4 but no human remains were located in the area of the  
 5 footprint for the building." Did I read that  
 6 correctly?

7 A. Yes.

8 Q. And then it states, quote, After the  
 9 construction work on the new Ranger office building  
 10 began, human remains were found in the extended  
 11 excavation for the foundation of the building which was  
 12 outside the original survey area, period, closed quote.  
 13 Did I read that correctly?

14 A. Yes.

15 Q. This is part of the drafts of and perhaps the  
 16 original of the greensheet that was presented to the  
 17 City of Waco City Council; is that right?

18 A. Yes, that's what appears to be, yes.

19 Q. And that statement is entirely inconsistent  
 20 with what your counterclaim says about where those  
 21 remains were found, isn't that right?

22 A. Yes.

23 Q. And to the best of your knowledge, the City  
 24 Council has never been corrected in that view; is that  
 25 right?

1 A. I have no knowledge of it.

2 Q. And you reviewed this greensheet or the drafts  
 3 thereof?

4 A. I may have.

5 Q. All right. And you don't recall making any  
 6 objection to it?

7 A. I don't recall.

8 (Exhibit No. 5 marked)

9 Q. Let me hand you, ma'am, what I've marked as  
 10 Exhibit 5 and I'll ask if you can identify that for me,  
 11 please, ma'am.

12 A. It is a sheet out of a diary, out of a  
 13 calendar. It looks like mine.

14 Q. That appears to be a sheet out of your own  
 15 diary; is that correct?

16 A. Correct.

17 Q. And it's May '07; is that right?

18 A. Correct.

19 Q. And that's your handwriting, is it not?

20 A. Yes.

21 Q. Doesn't it say, ma'am, quote, remains found  
 22 outside building footprint, period, closed quote?

23 A. Yes, it does.

24 Q. And you wrote that contemporaneously with the  
 25 knowledge that you were receiving; is that correct?

1 A. Yes, I did.

2 Q. And you're not aware of any other document in  
 3 your files that says bone was found inside the footprint  
 4 area in '07?

5 A. Documents, no; photographs, yes.

6 MR. MASTROGIOVANNI: Move to strike,  
 7 nonresponsive.

8 Q. My question is are you aware of anything in  
 9 writing --

10 A. No.

11 Q. Let me finish my question. Are you aware of  
 12 anything in writing that indicates that remains were  
 13 found inside the survey area in 2007 May?

14 A. Off the top of my head, no. But there may be  
 15 emails that refer to it, yes.

16 Q. There may be a lot of things --

17 A. Yes.

18 Q. -- correct?

19 A. Correct.

20 Q. But you can't think of any, can you?

21 A. Off the top of my head, no.

22 Q. All right. You've had plenty of time to  
 23 prepare for this deposition, haven't you?

24 MS. JURGENSEN: Objection, form.

25 A. Yes.

1 Q. And your counterclaim has been pending for  
 2 almost two years; is that right?

3 A. Correct.

4 Q. There's nothing I've done or AAG has done that  
 5 would keep you from knowing whether or not there was  
 6 anything in writing that supported the contention that  
 7 bone was found inside the survey area in May '07; is  
 8 that correct?

9 A. Correct.

10 Q. Ms. Stopka, you actually were out on-site when  
 11 the original surveying of the 8,000 square feet was  
 12 taking place; is that right?

13 A. A couple of times, yes.

14 Q. And did you make any complaints about how the  
 15 surveying was being done?

16 A. No.

17 Q. Do you know of anyone who did?

18 A. I am not aware of anyone who did.

19 Q. Was everybody on time and working diligently  
 20 to the best of your satisfaction?

21 A. Best of my knowledge, yes.

22 Q. Was there anything that was done in connection  
 23 with that 8,000 square foot survey that you believe was  
 24 inappropriate?

25 A. No.

1 Q. How far did the survey area -- what's the word  
2 I'm looking for? -- strike that.

3 How deep did the excavation go?

4 A. It depended on where on the excavation you  
5 were.

6 Q. And did you have any complaints that it did  
7 not go deep enough in any areas?

8 A. We assumed it was being done to the specs.

9 Q. What specs?

10 A. There was a scope presented by Mr. Bradle  
11 that's attached to the contract.

12 Q. I understand.

13 A. And we assumed he was following those.

14 Q. To the best of your knowledge, did he?

15 A. At that time, with the knowledge I had at that  
16 time, I assumed so.

17 Q. All right. Do you think that he should have  
18 gone deeper?

19 A. Yes.

20 Q. All right. How much deeper?

21 A. Well, according to his own scope, he should  
22 have gone down to sterile soil. I, at this point back  
23 then, I didn't have the knowledge to know one way or the  
24 other. Again, we had to assume he was doing what he was  
25 supposed to have been doing according to his scope and

1 doesn't mean that it didn't move; is that right?

2 A. Correct.

3 Q. All right. So is it true that the building  
4 footprint moved from the original 8,000 square foot  
5 area?

6 A. Not --

7 MS. JURGENSEN: Objection, form. Go  
8 ahead.

9 A. Not to my knowledge.

10 Q. Has anyone at the City ever surveyed the  
11 original survey area and overlaid on top of it where the  
12 buildings actually are located?

13 A. I do not know if they have or not.

14 Q. In fact, the original survey area was only  
15 8,000 square feet; is that correct?

16 A. That's what was staked out, yes.

17 Q. And, in fact, that's all you asked AAG to do,  
18 is that correct, that was its project; is that right?

19 A. Correct.

20 Q. And to the best of your knowledge, the City or  
21 anyone working for the City has never done an overlay of  
22 the original survey area and compared that original  
23 survey area with where the buildings are actually  
24 located?

25 MS. JURGENSEN: Objection, form.

1 purpose.

2 Q. How far should he have gone that he didn't go,  
3 to the best of your knowledge?

4 A. I have no idea.

5 Q. You just think he should have gone farther?

6 A. Well, apparently since we found remains that,  
7 yes, we may not have gone deep enough.

8 Q. Your contention in this lawsuit is that there  
9 were remains found under the footprint?

10 A. Correct.

11 Q. All right. What I'm talking about right now  
12 is the survey area that was --

13 A. Yes.

14 Q. -- designated early on in the project --

15 A. Yes.

16 Q. -- correct? And in fact, the building  
17 footprint moved from the original survey area, did it  
18 not?

19 A. Not that I'm aware of, no.

20 Q. Is it your sworn testimony that did not  
21 occur?

22 A. I am not aware that it occurred.

23 Q. Has --

24 A. We had no control over that.

25 Q. The fact that you didn't have control over it

1 A. I believe that has been done.

2 Q. All right. Where are those documents?

3 A. I'm assuming with the City attorney or with  
4 the City engineer's office.

5 Q. Don't you think that's an important set of  
6 documents to see where the building is actually  
7 located --

8 A. Yes.

9 Q. -- as opposed to where the original survey  
10 area was?

11 A. Yes.

12 Q. And if there were bones found in the extended  
13 area where the buildings weren't supposed to be, that  
14 wouldn't be Mike Bradle's fault, would it?

15 A. In the extended area, no.

16 Q. Okay. So we've asked for those maps and  
17 overlays and we haven't had those produced. Do you know  
18 why not?

19 MS. JURGENSEN: Objection, form.

20 A. No.

21 Q. Have they been destroyed?

22 A. I have no knowledge of them.

23 Q. Who did those overlays?

24 A. Again, I am assuming that they would have been  
25 done through the City's engineering and GIS.

1 Q. Who would that be?

2 A. I believe Jake Krall is the GIS person. And  
3 I'm assuming. Again, I have no direct knowledge of  
4 that, that it would have been asked for through the City  
5 Attorney's Office.

6 Q. In fact, Ms. Stopka, the building footprints  
7 are more than 8,000 square feet, aren't they?

8 A. I would have to look at the footprint -- I  
9 would have to look at the plans to know. I don't -- you  
10 know, I cannot visually --

11 Q. Would you agree --

12 A. -- tell you if it was 8,000 square feet.

13 Q. Sorry. Would you agree with me that if a  
14 building is greater than 8,000 square feet at the  
15 footprint, the areas that extend beyond the 8,000 square  
16 feet that AAG was supposed to survey would not be an  
17 area that you would have made him responsible for?

18 A. Correct.

19 Q. So if there's bone or fragments or remains  
20 under the area of the footprint that extends beyond  
21 8,000 square feet, that's not a complaint that you would  
22 have against AAG --

23 A. Correct.

24 Q. -- is that correct? Now, have you seen these  
25 overlays?

1 A. I think I have. I have seen a lot of  
2 different aerials, I have seen a lot of different maps.

3 Q. Now, the fragments that you say were under the  
4 building's foundation, where were those located?

5 A. There were remains that came up during the  
6 pier drilling that were in the center of the survey area  
7 that would be towards the breezeway of the education  
8 center to the headquarters building. There were in fact  
9 two or three of the pier holes brought up remains.

10 Q. Any others?

11 A. I -- you know, without looking again at a map  
12 showing where all of the remains have been found, I  
13 wouldn't be able to say.

14 Q. All right. There was a remain under the north  
15 -- on the north side of the building; is that correct?

16 A. Yes.

17 Q. All right. And now what you're saying is in  
18 addition to that, there were fragments that were brought  
19 up through the pier drilling; is that right?

20 A. Large fragments, yes.

21 Q. All right. Did Mr. Bradle's company go 7 or 8  
22 feet down in the survey area?

23 A. On the south side they did because they hit a  
24 water pipe and so we had to dig deeper on that side.  
25 There was also a crypt on that side that they dug deeper

1 in.

2 (Exhibit No. 6 marked)

3 Q. Let me hand you, ma'am, what I've marked as  
4 Exhibit 6 and ask if you can identify that for me,  
5 please?

6 A. It looks like an article by J.B. Smith.

7 Q. Did you speak to J.B. Smith about this  
8 project?

9 A. I do not recall speaking to J.B. Smith. It's  
10 been a long time.

11 Q. Do you deny that you spoke to Mr. Smith or do  
12 you just not recall?

13 A. I just don't recall.

14 Q. Do you recall ever reading in the paper any  
15 statement that was attributed to you that you did not  
16 make?

17 A. I do not recall. I don't get the paper so I  
18 don't always read the articles.

19 Q. You don't get the Waco Tribune?

20 A. No, I do not.

21 Q. Have you -- did you get it back then in '07?

22 A. No.

23 Q. Have you ever gotten it?

24 A. No.

25 Q. You don't read it?

1 A. Usually only if it's pointed out to me.

2 Q. And what about these -- isn't there another  
3 paper called the Baylor --

4 A. Lariat.

5 MS. JURGENSEN: Lariat.

6 Q. Lariat, correct.

7 A. Yes.

8 Q. Do you read that one?

9 A. Only when I'm given a copy.

10 Q. If you look at the ninth line down, maybe the  
11 tenth, in the middle of that page, it states, quote,  
12 There's a rumor going around that we built over bones  
13 but that's not true, Stopka says. We went down 7 or 8  
14 feet and didn't find any.

15 A. And on part of the survey we did.

16 Q. But you didn't say that to the press. You  
17 simply said we went down 7 or 8 feet; is that right?

18 A. I have -- I don't recall ever having said  
19 that.

20 Q. You don't recall qualifying the 7 or 8 feet  
21 with any statements that you made?

22 A. I don't recall saying the 7 or 8 feet.

23 Q. Now, is it true though that however far you  
24 went down, you did not find any bone in that survey  
25 area?

1 A. Correct, during the survey.

2 **Q. So, Ms. Stopka, assuming that the building's**

3 **footprint is greater than 8,000 square feet, we know for**

4 **a fact that the building was built on top of an area**

5 **that wasn't surveyed at least to the extent that it's**

6 **bigger than 8,000 square feet, correct?**

7 A. Correct.

8 **Q. And to the best of your knowledge as we sit**

9 **here today, has anyone at the City of Waco or anyone on**

10 **its behalf done anything to compare where bone was found**

11 **and where the building extended beyond 8,000 square**

12 **feet?**

13 A. I believe they have. I did not do it.

14 **Q. And none of that information has been turned**

15 **over to me to the best of your knowledge; is that**

16 **correct?**

17 **MS. JURGENSEN: Objection, form.**

18 A. I have no knowledge of that.

19 **Q. Do you have a recollection of what that**

20 **information conveyed?**

21 A. No.

22 **Q. No one has told you, based on that**

23 **information, that any of the bone or the fragments were**

24 **found within the original survey area; is that**

25 **correct?**

1 A. No one has told me that.

2 **Q. Okay.**

3 A. I have direct knowledge that bone was found

4 within that area.

5 **Q. All right. When you say that you have direct**

6 **knowledge, are we back to the pier drillings?**

7 A. Yes.

8 **Q. All right. Anything else?**

9 A. Well, when Mr. Bradle came up on May 11, there

10 was not only bone on the edge of the foundation but

11 there was bone scattered throughout that foundation

12 excavation.

13 **Q. You don't know --**

14 A. Where it came from, we don't know.

15 **Q. All right. I'm just worried about complaints**

16 **that you're making against AAG. After he had finished**

17 **his survey area and after many, many months had passed,**

18 **Mr. Bradle came out there at your call; is that**

19 **correct?**

20 A. Correct.

21 **Q. What you're saying is that bone was scattered**

22 **back into the survey area?**

23 **MS. JURGENSEN: Objection, form.**

24 A. There was bone throughout that Ed Center

25 excavation area.

1 **Q. But you had already looked back in '06 with**

2 **him and said you didn't find any bone; is that correct?**

3 **MS. JURGENSEN: Objection, form.**

4 A. We did not find bone where he dug or to the

5 depth that he dug.

6 **Q. Correct.**

7 A. Yes.

8 **Q. So any bone that may have been there months**

9 **later, you don't really know where that came from, do**

10 **you?**

11 A. Well, we know that it came out of that area.

12 **Q. Well, it could have been thrown back into the**

13 **area; it could have been backfilled into the area. What**

14 **I'm trying to get to is what complaints that you have**

15 **about AAG that you can provide evidence other than**

16 **simply a possible kind of a response. Do you**

17 **understand?**

18 **MS. JURGENSEN: Objection, form.**

19 A. No.

20 **Q. All right. When Mike Bradle and you left the**

21 **survey area in 2006, you reported to the newspaper and**

22 **other places that there was no bone that you saw in that**

23 **area, correct?**

24 A. Correct.

25 **Q. All right. Many months later, you called Mike**

1 **Bradle back and we've discussed what you found --**

2 A. Correct.

3 **Q. -- and what was reported; is that correct?**

4 A. Correct.

5 **Q. And then you also said there were some**

6 **fragments that were scattered throughout the area,**

7 **correct?**

8 A. Correct.

9 **Q. But you don't know how they got there is what**

10 **I thought you said. Am I understanding you correctly?**

11 A. We don't know where they came from within the

12 excavated area.

13 **Q. You don't know that they came from the**

14 **excavated area, do you?**

15 A. I don't know where else they would have come

16 from.

17 **Q. Now we're into the guessing part?**

18 A. Yes.

19 **Q. You don't know that any of those fragments**

20 **that you saw in May '07 came from the survey area for a**

21 **fact, do you?**

22 A. That would be the assumption made because

23 that's where they were found.

24 **Q. That's not my question.**

25 **MR. MASTROGIOVANNI: Move to strike.**

1 Nonresponsive.  
 2 A. Yes.  
 3 **Q. I need to only know what you know for a fact.**  
 4 A. All I know is that we found fragments  
 5 scattered throughout the excavation area as well as bone  
 6 inside the edge of the excavation area.  
 7 **Q. But you don't know where they came from for a**  
 8 **fact, do you?**  
 9 A. No.  
 10 **Q. And in fact when Mr. Bradle left the project**  
 11 **in '06, a lot of things went on from when he left to all**  
 12 **the way into May '07 in the project; is that right?**  
 13 **MS. JURGENSEN:** Objection, form.  
 14 A. What do you mean?  
 15 **Q. Were other construction workers out there**  
 16 **during that time frame?**  
 17 A. Yes.  
 18 **Q. Were they out there with heavy equipment?**  
 19 A. They were digging a line for an electric line.  
 20 **Q. That was Imperial, correct?**  
 21 A. I am assuming it was somebody hired by  
 22 Imperial to do that. I'm not sure.  
 23 **Q. And then we saw several documents that talked**  
 24 **about an expanded survey area, correct?**  
 25 A. You showed me several, yes.

1 **Q. All right. And to the extent the survey area**  
 2 **was expanded after Mike left, who would have done**  
 3 **that?**  
 4 A. I'm assuming Imperial would have done that.  
 5 **Q. And in fact, they needed some filler to put**  
 6 **back onto the pad, didn't they?**  
 7 A. They used select fill.  
 8 **Q. Are you positive that they didn't use some of**  
 9 **the dirt from the site itself?**  
 10 A. Yes.  
 11 **Q. How is it that you're positive?**  
 12 A. I watched them hauling it away, I watched them  
 13 bring the select fill in and fill in that foundation  
 14 area.  
 15 **Q. And what did they do with the trench cuttings,**  
 16 **if you will?**  
 17 A. Which trench?  
 18 **Q. The dirt that came out of the trench you said**  
 19 **they were --**  
 20 A. For the electric line?  
 21 **Q. Yes, ma'am.**  
 22 A. That was put right back into the trench.  
 23 **Q. Do you have or would the City have the**  
 24 **documents that would show how much select fill was**  
 25 **purchased?**

1 A. I don't know if the City would have that or if  
 2 Imperial would have that.  
 3 **THE VIDEOGRAPHER:** We have about five  
 4 minutes left on the tape.  
 5 **MR. MASTROGIOVANNI:** Let's go five  
 6 minutes. Then you want to take a break?  
 7 **MS. JURGENSEN:** Yeah, it's been about an  
 8 hour.  
 9 **Q. Why did Imperial excavate the extended area?**  
 10 A. You would have to ask them.  
 11 **Q. Did you see it with your own eyes, this**  
 12 **extended area that they excavated?**  
 13 A. I watched them excavate for the foundation.  
 14 **Q. All right. And they went out farther than the**  
 15 **original survey area?**  
 16 A. I couldn't say that for a fact.  
 17 **Q. Okay. Would there be pictures that would show**  
 18 **that that you've seen?**  
 19 A. There may be. I have seen no photographs from  
 20 Imperial. Well, one or two photos but not for that.  
 21 (Exhibit No. 7 marked)  
 22 **Q. I'm going to hand you, ma'am, what I've marked**  
 23 **as Exhibit 7 and I'll ask you if you can identify that**  
 24 **for me, please.**  
 25 A. It appears to be the proposed agreement

1 between AAG and the City for the survey.  
 2 **Q. All right. Did you have any role in drafting**  
 3 **that document?**  
 4 A. No.  
 5 **Q. Did you read the document once it was**  
 6 **signed?**  
 7 A. I have no recollection of it. I am assuming I  
 8 probably did.  
 9 **Q. And if you'll look at the first page of that**  
 10 **memorandum agreement under scope of services --**  
 11 A. Yes.  
 12 **Q. -- it states that the services that AAG is**  
 13 **going to provide is to provide an archeological survey**  
 14 **on the proposed 8,000 square foot expansion site for the**  
 15 **Texas Ranger's offices, et cetera. Did I read that**  
 16 **correctly?**  
 17 A. Correct.  
 18 **Q. And that's what you understood that AAG was to**  
 19 **do was to provide archeological survey on 8,000 square**  
 20 **feet?**  
 21 A. Correct.  
 22 **Q. There was no extension of that job to the best**  
 23 **of your knowledge --**  
 24 A. Not --  
 25 **Q. -- until farther on in '07; is that right?**

1 A. Not that I'm aware of.  
 2 **Q. There was no requirement that he go one foot**  
 3 **or that AAG go one foot beyond 8,000 square feet; is**  
 4 **that correct?**  
 5 A. Correct.  
 6 **Q. You didn't expect them to do that; is that**  
 7 **correct?**  
 8 A. Correct.  
 9 **Q. And you can't complain that they didn't do**  
 10 **that; is that correct?**  
 11 A. Correct.  
 12 **Q. And you're not aware of anybody who's saying,**  
 13 **well, Bradle or AAG should have gone beyond the 8,000**  
 14 **square feet?**  
 15 A. No.  
 16 **Q. That was in fact his project; is that right?**  
 17 A. Correct.  
 18 **Q. AAG meaning "his," correct?**  
 19 A. (Moving head up and down)  
 20 **THE VIDEOGRAPHER:** We need to change the  
 21 tape.  
 22 **MR. MASTROGIOVANNI:** Okay. Let's -- you  
 23 want to take 10 minutes?  
 24 **MS. JURGENSEN:** Uh-huh, sure.  
 25 **THE VIDEOGRAPHER:** Off the record at

1 **what's called a custodian of records deposition notice**  
 2 **and I'll want the person who was the most responsible**  
 3 **for making sure that at the end of the day all the**  
 4 **documents were retrieved. Who would that person be?**  
 5 A. My guess would be Annette Jones.  
 6 **Q. Okay. Looking at the contract between AAG and**  
 7 **the City, are you aware of any requirement that a**  
 8 **certain depth be achieved in the survey?**  
 9 A. I believe there was something in the scope  
 10 document provided by Mr. Bradle.  
 11 **Q. That may have been three pages from the back.**  
 12 **It says scope of work.**  
 13 A. Under survey methods on page 2, research  
 14 design, it talks about shovel testing and backhoe  
 15 trenching to meet and exceed the minimum survey  
 16 standards established by THC, shovel tests will be  
 17 manually excavated to sterile clay or bedrock when  
 18 possible. That's really -- I believe that's the only  
 19 place, not having read the whole thing through really  
 20 quickly.  
 21 **Q. So based on your understanding with regard to**  
 22 **this original contract for the survey, there's nothing**  
 23 **that requires a certain measurement to be achieved, is**  
 24 **that correct, in terms of how deep to go?**  
 25 A. Well, yeah, there's nothing that says 6 feet,

1 11:18 a.m., ending tape 1.  
 2 (Recess from 11:18 a.m. to 11:36 a.m.)  
 3 **THE VIDEOGRAPHER:** On the record at 11:36  
 4 a.m., beginning tape 2.  
 5 **BY MR. MASTROGIOVANNI:**  
 6 **Q. Ms. Stopka, if you were going to identify the**  
 7 **person or persons who were the most responsible for**  
 8 **gathering documents for us in this lawsuit, who would**  
 9 **that person be?**  
 10 A. I guess it depends on what kind of documents.  
 11 **Q. If you need to delineate, that's fine.**  
 12 A. Yeah, I mean, for the -- for the City, it  
 13 would have, I mean, obviously, I had documents; I  
 14 believe Mr. Johnson, Mr. Tobola, City Legal.  
 15 **Q. But you said earlier that someone sent an**  
 16 **email to --**  
 17 A. The City --  
 18 **Q. -- employees.**  
 19 A. The City Legal usually would contact us and  
 20 say go through and find up to this point or --  
 21 **Q. And who sent that email, do you know?**  
 22 A. I'm not sure. I'm assuming it was one of the  
 23 secretaries over there. I'm not sure which one.  
 24 **Q. Well, normally what I do in a case -- well,**  
 25 **not -- sometimes I don't but sometimes I do -- I'll have**

1 8 feet.  
 2 **Q. And it does state that the backhoe trenching**  
 3 **and shovel testing will meet and exceed the minimum**  
 4 **survey standards for THC; is that right?**  
 5 A. That's what it says, yes.  
 6 **Q. Did THC review the survey work and approve**  
 7 **it?**  
 8 A. I have no idea.  
 9 **Q. You're not aware of THC disapproving of the**  
 10 **work; is that correct?**  
 11 A. I'm not aware of them approving or  
 12 disapproving.  
 13 **Q. All right. Do you believe that the THC had**  
 14 **any complaints about the survey work after it was**  
 15 **completed?**  
 16 A. I am not aware of any.  
 17 **Q. It also states that the excavated fill will be**  
 18 **screened through a one-fourth-inch hardware cloth. Did**  
 19 **I read that correctly?**  
 20 A. Correct.  
 21 **Q. Was that done?**  
 22 A. I have no idea.  
 23 **Q. Do you deny that it was done?**  
 24 A. I have no knowledge whether it was done or  
 25 not.



1 Q. Did the THC, to the best of your knowledge,  
2 approve AAG's report on this survey work?  
3 A. Yes.  
4 Q. And, again, the report was limited to the  
5 8,000 square feet; is that correct?  
6 A. Correct.  
7 Q. And you didn't rely on it for anything other  
8 than a recommendation with regard to the 8,000 square  
9 feet; is that correct?  
10 A. I am assuming that, yes.  
11 Q. You're not aware of anyone who says they were  
12 relying on it for any reason other than the 8,000 square  
13 feet --  
14 A. No.  
15 Q. -- is that correct? At the time that  
16 Mr. Bradle and his group went out to do the survey in  
17 mid to early '06, do you have any idea what the status  
18 of the contractor documents were?  
19 A. No.  
20 Q. All right. Do you know whether there were  
21 plans and specifications that had been approved to build  
22 the buildings and lay the utilities, et cetera?  
23 A. I believe the plans for the building had been.  
24 I'm not sure exactly when they went out for bid or  
25 anything -- at least I can't recall.

1 specifications for the project in '06?  
2 A. I am not aware of that.  
3 Q. You're not aware of AAG having any knowledge  
4 as to where the landscaping would go; is that correct?  
5 MS. JURGENSEN: Objection, form.  
6 A. I don't know what documents he would have had  
7 or AAG would have had before the survey.  
8 Q. And my question is what you know. Are you  
9 aware of AAG having any knowledge with regard to where  
10 the parking lots were going to be, landscaping was going  
11 to be, the utility lines were going to be --  
12 A. I --  
13 Q. -- in '06?  
14 A. And I don't know.  
15 Q. And you're not aware of anybody who provided  
16 AAG any of that information?  
17 A. I have no personal knowledge of that.  
18 Q. And you're not aware of anyone at AAG  
19 representing that they had any of that information; is  
20 that correct?  
21 A. Correct.  
22 Q. Now, there were some camp sites and maybe an  
23 old shower on the City's property at some point in time  
24 --  
25 A. Correct.

1 Q. All right. The bid for the project actually  
2 went out in July to mid-August '06; is that right?  
3 MS. JURGENSEN: Objection, form.  
4 Q. If you know.  
5 A. I -- yeah, that's very possible.  
6 Q. Did Mr. Bradle or anyone at AAG have access to  
7 the bid documents prior to them going out?  
8 A. I have no idea.  
9 Q. All right. You didn't provide him any, did  
10 you?  
11 A. I didn't have them.  
12 Q. All right. And you didn't provide AAG with  
13 any of the plans, specifications or drawings, et cetera,  
14 for the project at the time they were doing the original  
15 survey area; is that correct?  
16 A. Again, I didn't have them.  
17 Q. And no one at the City, to the best of your  
18 knowledge, did provide him any such things; is that  
19 correct?  
20 A. I am not aware of any.  
21 Q. To the best of your knowledge, when performing  
22 the survey in '06, AAG did not have any of the plans for  
23 the project, written plans; is that correct?  
24 A. I have no idea if they did or not.  
25 Q. You're not aware of AAG having any

1 Q. -- is that right? When were those  
2 demolished?  
3 A. I'm not sure exactly when. It would have been  
4 early -- it would have been after 2000 at some time.  
5 I'm not sure exactly when those were done off the top of  
6 my head.  
7 Q. Did you have any role or responsibility with  
8 regard to the demolition of those --  
9 A. No.  
10 Q. -- camp sites and that shower?  
11 A. No.  
12 Q. Do you recall it happening?  
13 A. I remember it happening but...  
14 Q. Who would have spearheaded that for the  
15 City?  
16 A. I am assuming either Facilities or Parks.  
17 Q. Is there a person whose name you can think of  
18 that would have been responsible for that?  
19 A. Again, Vince Tobola or Rusty Black.  
20 Q. Do you remember who the contractor was that  
21 did the demolition?  
22 A. No.  
23 Q. Do you know whether an archaeologist was hired  
24 in connection with that demolition of those buildings?  
25 A. I have no idea.

1 Q. Have you heard that --

2 A. No.

3 Q. -- to be the case? Do you think one should  
4 have been hired?

5 A. I have no idea.

6 Q. Where would the files be located to the extent  
7 they exist regarding the demolition of those  
8 buildings?

9 A. I have no idea.

10 Q. Who would you ask if you needed to find out  
11 the answer to that question?

12 A. I would probably start with City secretary's  
13 office or Facilities.

14 Q. And the -- the buildings had foundations, did  
15 they not?

16 A. I honestly had never been in them. I'm  
17 assuming the shower probably had something.

18 Q. And the files that we spoke about that may or  
19 may not exist with regard to that demolition, would  
20 there be photographs or do you know?

21 A. I have no idea.

22 Q. And through '06 and up until May '07, the City  
23 did not require that AAG do any work outside that  
24 original 8,000 square feet; is that correct?

25 A. Correct.

1 Q. Nor did they expect them to?

2 A. Correct.

3 Q. Nor did they expect them to provide any  
4 recommendations or opinions with regard to anything  
5 outside the 8,000 square feet?

6 A. Correct.

7 Q. In fact, when identifying for AAG where this  
8 8,000 square foot survey area would be, that was  
9 something that the City undertook, is that correct, to  
10 identify?

11 A. I am not sure who actually laid out the site.  
12 (Exhibit No. 8 marked)

13 Q. Let me hand you, ma'am, what's been marked as  
14 Exhibit 8 and I'll ask if you can identify that for me,  
15 please.

16 A. Yes, it's an email from me to Vince Tobola.

17 Q. And in it, you state or ask him to stake out  
18 the site; is that correct?

19 A. I asked him to get somebody over to stake out  
20 the site.

21 Q. You didn't have any plans or specifications or  
22 drawings or anything at that point in '06; is that  
23 right?

24 A. I believe we had the outline of the building.  
25 We had the basic. I'm not sure what Vince may have had.

1 Q. But you're not aware of having any  
2 professional survey as to exactly where to stake that  
3 out; is that correct?

4 A. I have no idea how they did it.

5 Q. So you just told Vince to go out there and  
6 have somebody stake it out; is that right?

7 A. Yes. Well, I asked him to have somebody go  
8 out.

9 Q. What, if anything, did you do to make sure he  
10 got that accomplished for you?

11 A. I honestly cannot remember.

12 Q. Do you recall seeing any surveyors out there  
13 with their equipment identifying exactly and precisely  
14 where that 8,000 square feet should be?

15 A. No.

16 Q. In fact, how did they stake that 8,000 square  
17 feet?

18 A. They used stakes. I don't know how they  
19 determined where they were going to go.

20 Q. Just wooden stakes; is that right?

21 A. Yes.

22 Q. And that 8,000 square feet area was staked as  
23 a rectangle, was it not, more or less?

24 A. I believe so.

25 Q. The buildings aren't rectangular, are they?

1 A. No.

2 Q. And the wings of the building changed  
3 direction at least on one occasion from the time they  
4 were originally drafted to how they exist now; is that  
5 right?

6 A. Yeah, the plan changed quite a bit actually.

7 Q. And those changes occurred for the most part  
8 after AAG had done its survey work; is that right?

9 A. Not that I'm aware of, no.

10 Q. You're not aware of them changing  
11 afterwards?

12 A. No.

13 Q. Are you aware of any satellite positioning of  
14 that survey that was done for AAG by Mr. Tobola or  
15 anyone at the City?

16 A. I have no idea how they staked out the survey  
17 area.

18 Q. You don't know whether they had plans and  
19 specs or did it professionally or just went out there  
20 and --

21 A. I don't know.

22 Q. -- dug some stakes?

23 THE REPORTER: You need to let him  
24 finish.

25 THE WITNESS: Sorry.

1 **Q. You have no idea how Mr. Tobola staked out**  
2 **that area; is that right?**

3 **MS. JURGENSEN:** Objection, form.

4 A. Correct.

5 **Q. But AAG didn't stake out that area; is that**  
6 **correct?**

7 A. Correct.

8 **Q. AAG didn't have any decision making with**  
9 **regard to where that area would be located; is that**  
10 **correct?**

11 A. Correct.

12 **Q. And it's -- you're not criticizing AAG for**  
13 **anything to do with the staking of that area; is that**  
14 **right?**

15 A. Correct.

16 **Q. And you're not criticizing AAG for limiting**  
17 **its work to the 8,000 square feet survey; is that**  
18 **right?**

19 A. Correct.

20 **Q. And you're not complaining about AAG in**  
21 **connection with the building being located off of that**  
22 **original 8,000 square feet or being bigger than the**  
23 **original 8,000 square feet; is that right?**

24 A. Correct.

25 **Q. After AAG surveyed the area and prior to it**

1 **fragments scattered or any kind of remains anywhere on**  
2 **that site?**

3 A. No.

4 (Exhibit No. 9 marked)

5 **Q. Let me hand you what we'll mark as Exhibit 9**  
6 **and ask if you can identify that for me, please?**

7 A. Yes, it's an email from me to Mr. Bradle.

8 **Q. That's dated October 30, 2006 --**

9 A. Correct.

10 **Q. -- is that correct? And you asked Mike when**  
11 **he can provide the final report on the survey; is that**  
12 **correct?**

13 A. Correct.

14 **Q. So actually the final report on the survey**  
15 **wasn't done until after October; is that right?**

16 A. I am not exactly sure when we got it, but,  
17 yes, it was towards the end of October, first of  
18 November.

19 **Q. All right. If you could, turn to page 3 of**  
20 **Exhibit 1. And on page 3, it states in that second**  
21 **paragraph, second line, "On or about October 22, 2006,**  
22 **AAG submitted a report to the THC which detailed its**  
23 **findings and recommendations." Did I read that**  
24 **correctly?**

25 A. Correct.

1 **completing its report, was the pad prepared by the**  
2 **contractor, to the best of your knowledge?**

3 A. No.

4 **Q. What was done out there, if anything, that**  
5 **you're aware of?**

6 A. A water pipe was repaired and basically the  
7 site was just left.

8 **Q. Okay. And where did the water pipe run?**

9 A. I'm not exactly sure from where to where but  
10 all I know is that they hit it when they were digging  
11 for the survey towards the south --

12 **Q. It's a --**

13 A. -- side of it.

14 **Q. It's a white, looks like a PVC pipe?**

15 A. I believe it was, yes. I believe it was an  
16 irrigation line.

17 **Q. And that's all that was done?**

18 A. Between the time he finished the survey and  
19 the time the report was written?

20 **Q. Yes, ma'am.**

21 A. As far as I am aware.

22 **Q. During that time frame, did anybody complain**  
23 **about AAG's work?**

24 A. No.

25 **Q. Did anyone allege that there were bone**

1 **Q. All right. Is that true?**

2 A. I believe we have a letter from Mr. Bradle --  
3 either from Mr. Bradle to THC or from THC that I believe  
4 is dated October 22.

5 **Q. I guess my question is do you know whether the**  
6 **final report was provided to THC --**

7 A. I have no idea --

8 **Q. -- on October 22nd?**

9 A. -- when he provided the final report to THC.

10 **Q. You don't know whether it was October or**  
11 **November; is that right?**

12 A. Correct.

13 **Q. Now, at that point, Mike references --**  
14 **Mr. Bradle references a map that was discovered. I**  
15 **think he calls it a bomb shell or "a bomb dropped on**  
16 **us." Did I read that correctly?**

17 A. Yes.

18 **Q. What is that map that he's referring to, to**  
19 **the best of your knowledge?**

20 A. I believe it's the map that was discovered  
21 that showed locations of graves from a 1968 survey.

22 **Q. Was that map just limited to the 8,000 square**  
23 **feet?**

24 A. No, it showed the whole cemetery area.

25 **Q. And did it show a lot of variance?**

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1 A. In some places, yes; some places, no.

2 **Q. What was your take on that map?**

3 MS. JURGENSEN: Objection, form.

4 A. I'm not sure what you mean.

5 **Q. Was it new information to you?**

6 A. Yes.

7 **Q. Were you surprised by it?**

8 A. Not overly, no.

9 **Q. Why weren't you overly surprised by it, if you**

10 **-- I guess it's because you must have thought there were**

11 **those graves out there?**

12 A. Well --

13 MS. JURGENSEN: Objection, form.

14 THE WITNESS: Sorry.

15 A. When we had found it, we knew that there had

16 been graves out there, we just didn't know where and we

17 didn't know the extent.

18 **Q. So you knew that there were graves out there**

19 **prior to October '06, correct?**

20 A. Yes, we had -- we had been told that.

21 **Q. You just didn't know where they were or the**

22 **extent of them?**

23 A. Correct.

24 **Q. Did you believe at that point in time that the**

25 **City had moved all of those graves in 1968 --**

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1 A. I had --

2 **Q. -- or around then?**

3 A. I had been told that graves had been moved,

4 but there again, we did not have any documentation to

5 show.

6 **Q. And did this map surprise you in terms of the**

7 **extent of the graves that were noted on that map?**

8 A. I'm not sure that I had any real reaction to

9 it. I was happy that we found it.

10 **Q. Okay. What I'm trying to get at, Ms. Stopka,**

11 **is as of October '06, you knew that there were a**

12 **substantial number of graves out there on the area that**

13 **you proposed a project; is that right?**

14 A. We knew that there had been. We didn't know

15 what was or might have still remained out there.

16 **Q. So what that map told you in October '06 was**

17 **that there were -- there was a map that showed a lot of**

18 **graves had been there and perhaps could still be there;**

19 **is that right?**

20 A. Yes.

21 **Q. And at that point in time, no buildings had**

22 **been constructed on the project, correct?**

23 A. Correct.

24 **Q. At that point in time, only a waterline that**

25 **had been broken previously had been repaired; is that**

1 **correct?**

2 A. Correct.

3 **Q. No foundations had been laid?**

4 A. Correct.

5 **Q. No utilities had been drawn?**

6 A. Correct.

7 **Q. No utilities had been laid; is that correct?**

8 A. Correct.

9 **Q. No landscaping?**

10 A. Correct.

11 **Q. No sidewalks or parking lots had been drawn,**

12 **correct?**

13 A. Correct.

14 **Q. And just a fraction of the money that you had**

15 **budgeted for that project had been spent; is that**

16 **right?**

17 A. For what project?

18 **Q. For the entire project for the center and for**

19 **the headquarters?**

20 A. I have no idea what had been --

21 **Q. What you did know --**

22 A. -- spent.

23 **Q. What you did know, however, is that there were**

24 **no buildings built yet?**

25 A. Correct.

1 **Q. All right. So the map that was provided to**

2 **Mike, who gave him that map?**

3 A. I believe it was found by Annette Jones who

4 brought it down to the site and we provided him with

5 copies.

6 **Q. You had that map in October '06; is that**

7 **right?**

8 A. We found it about the same time the survey

9 started.

10 **Q. And you did not ask AAG or any other**

11 **archeologist at that point in time to extend the survey**

12 **or the monitoring beyond the 8,000 square feet; is that**

13 **right?**

14 A. I did not, no.

15 **Q. You're not aware of anybody who did?**

16 A. Correct.

17 **Q. And in fact, you did have some knowledge at**

18 **that point in time that there may still be existing**

19 **graves out on the project area that you were proposing**

20 **to build; is that right?**

21 A. No.

22 **Q. You had a map, didn't you?**

23 A. But we didn't know that there were actually

24 graves, remains still there.

25 **Q. I thought you told me that you didn't know if**

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1 there were or not. Did I misunderstand you?  
2 A. We didn't know. We had been told that a  
3 relocation had happened. We had to assume that a  
4 relocation had happened. The survey had started.  
5 Mr. Bradle had found some crypts that had no remains  
6 left.  
7 Q. All right. So to clarify for me, in October  
8 '07, you had a map that showed where burials had been at  
9 some point in time, correct?  
10 A. In '07?  
11 Q. I'm sorry, in '06.  
12 A. Yes.  
13 Q. October '06. And at that point in time, you  
14 assumed those had all been moved?  
15 MS. JURGENSEN: Objection, form.  
16 Q. Or not?  
17 A. We didn't know.  
18 Q. So in October '06, you found a map that showed  
19 that there were burials on the project area that you  
20 proposed to build; is that right?  
21 MS. JURGENSEN: Objection, form.  
22 A. Actually -- actually most of the maps showed  
23 no burials in the area that we were proposing to expand  
24 into.  
25 Q. Okay. Did it show some burials?

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1 A. It showed two or three and some off to the  
2 side.  
3 Q. So in October of '06, Ms. Jones found a map  
4 that showed some burials in the area in which your  
5 project was proposed, correct?  
6 A. Correct.  
7 Q. And you did not know whether they had been  
8 moved or not; is that correct?  
9 A. Correct.  
10 Q. Yet no one, to the best of your knowledge,  
11 employed AAG or any archeologist to go out and do a  
12 survey to check the accuracy of the map and the present  
13 status of those burials; is that correct?  
14 MS. JURGENSEN: Objection, form.  
15 A. Outside the survey area, no.  
16 Q. So my question is no one -- no one employed an  
17 archeologist in October '06 to go out and check the  
18 accuracy and status of that map at least outside the  
19 survey area; is that right?  
20 A. Correct.  
21 Q. Did anyone at the City, to the best of your  
22 knowledge, suggest stopping or terminating the project  
23 to investigate the status of that map that had been  
24 recently discovered?  
25 A. Not that I am aware of.

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1 Q. Did anyone at THC or any of the State agencies  
2 including the State suggest that at that point in time  
3 maybe the project should be put on hold or abated in  
4 some fashion?  
5 A. Not that I'm aware of.  
6 Q. Did Mike Bradle or AAG do anything to  
7 encourage the City to ignore that map?  
8 A. No.  
9 (Exhibit No. 10 marked)  
10 Q. Ms. Stopka, let me hand you what's been marked  
11 Exhibit 10 and I'll ask if you can identify that for me,  
12 please?  
13 A. It appears to be a copy of the report filed by  
14 AAG with THC --  
15 Q. Have you seen --  
16 A. -- for the survey.  
17 Q. Have you seen that document before?  
18 A. Yes.  
19 Q. Do you have any criticisms of it?  
20 MS. JURGENSEN: Objection, form.  
21 A. I don't know that I have any feeling one way  
22 or the other for it.  
23 Q. If you look at page small two -- it's just ii,  
24 it says "Abstract." Do you see that?  
25 A. Yes.

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1 Q. And the abstract states that the survey will  
2 be on the 8,000 square foot expansion project, is that  
3 correct, the very first sentence?  
4 A. Yes.  
5 Q. Okay. And then in the middle of that  
6 paragraph in the middle of the -- there's a sentence  
7 that states, quote, The entire proposed expansion area  
8 was scraped with the use of a grader and backhoe.  
9 A. Yes.  
10 Q. No burials were encountered during this  
11 project, correct?  
12 A. Correct.  
13 Q. So the project that they are speaking about  
14 that you understood Mike to be reporting on and AAG to  
15 be reporting on was the 8,000 square foot expansion,  
16 correct?  
17 A. Correct.  
18 Q. Now, is it the City's contention, to the best  
19 of your knowledge, that AAG in this October report  
20 advised that no further archeological monitoring was  
21 required on areas outside the 8,000 square feet?  
22 A. I don't know what the City's position is. I  
23 can't speak for the City.  
24 Q. That's not your position, is it?  
25 A. I -- that was my understanding from the --

1 but, again, I don't speak for the City so...

2 Q. Well, did your understanding come from this  
3 document?

4 A. Yes.

5 Q. All right. But this document is limited to  
6 the 8,000 square foot project, is it not?

7 A. Yes.

8 Q. All right. And if you look at page 32 which  
9 says "Recommendations" --

10 A. Correct.

11 Q. -- it states very last sentence, It is  
12 recommended that the City of Waco be allowed to proceed  
13 with the current proposed project and archaeological  
14 monitoring is not necessary, period, closed quote. Did  
15 I read that correctly?

16 A. Correct.

17 Q. Is it your understanding that that sentence  
18 expands the 8,000 square foot project to include  
19 something beyond that?

20 A. I guess my interpretation of current proposed  
21 project was the building of those buildings.

22 Q. All right. Mike Bradle had never been  
23 provided with what your project was, had he?

24 A. I don't know if he had or not.

25 Q. And to the best of your knowledge, AAG had

1 Q. And in fact, in this paragraph, it starts  
2 with, "The current survey of 8,000 square feet did not  
3 identify any historical graves in the project area."  
4 That's the very first sentence, correct?

5 A. Correct.

6 Q. And the project area is the 8,000 square feet  
7 if you read that sentence, isn't that correct?

8 A. Correct.

9 Q. So when he says the current proposed project,  
10 you think that means something different than the 8,000  
11 square feet?

12 A. To me, it was the building of the buildings.

13 Q. Now, did you ever tell anyone that that was  
14 your thought?

15 A. I don't know if I did or not.

16 Q. So had Mr. Bradle told you that there were  
17 over 100 burial remains that you would encounter in  
18 going forward with your project, what would the  
19 difference have been?

20 A. I can only speak for myself. I cannot speak  
21 for the City.

22 Q. Okay.

23 A. It is my understanding had a statement like  
24 that come from the archaeologist, serious thought would  
25 have been given to moving the project.

1 never been provided with any documents relating to the  
2 project plan specifications, the location of things,  
3 what equipment was going to go in, where the  
4 construction project was going to begin and end; is that  
5 correct?

6 MS. JURGENSEN: Objection, form.

7 A. I don't know what he was provided.

8 Q. You didn't provide him --

9 A. I did not provide him.

10 Q. You're not aware of anybody who did?

11 A. No.

12 Q. All right. And this statement here, is that  
13 the sole basis upon which you contend that AAG somehow  
14 endorsed your entire project free from any architectural  
15 monitoring?

16 MS. JURGENSEN: Objection, form.

17 A. I can't tell you how the City interpreted it.

18 Q. I just said you.

19 A. Yes.

20 Q. All right. There's no other written or oral  
21 statement that embellishes, augments or supports your  
22 conclusion other than this one single statement; is that  
23 correct?

24 MS. JURGENSEN: Objection, form.

25 A. Not that I'm aware of.

1 Q. So once the City discovered that there were  
2 multiple burials out there, then you think that that  
3 would have caused maybe perhaps a different tact?

4 MS. JURGENSEN: Objection, form.

5 A. I can only speculate that, yes, it may have.

6 We were relying on the expertise of our contractor,  
7 Mr. Bradle, and THC to provide guidance.

8 Q. We've established that Mike Bradle and AAG  
9 only had an obligation with regard to the 8,000 square  
10 feet, isn't that correct?

11 A. Correct.

12 Q. So you're saying that this 8,000 square foot  
13 report somehow gave you clearance to go forward without  
14 any architectural -- archaeological monitoring. Is that  
15 what you're saying?

16 A. Again, I didn't make that decision.

17 Q. And it's just pure speculation as to what they  
18 would have done had they known what they know now; is  
19 that correct?

20 A. Again, I can only speak for myself, but that  
21 was my understanding, that had the survey found multiple  
22 grave sites with human remains.

23 Q. How did you expect AAG to find these grave  
24 sites with multiple remains if they were limited to  
25 8,000 square feet?

**MS. JURGENSEN:** Objection, form.

A. Our thought was that within that 8,000 square feet was a pretty good chunk of ground, that it would have been a good representation of the rest of the area. Again, we were not the experts; we were -- we were -- we hired an expert to give us advice.

**Q. So you believed at the beginning of the project that the 8,000 square feet that you designated would be a sample representation of what you would find on your expanded project; is that right?**

A. We believed the 8,000 square feet would be a representation of what might be found on the rest of the site.

**Q. But that's not based on anything Mike Bradle told you or AAG told you, is it?**

A. No.

**Q. So that's what the City thought but it ended up being wrong, isn't that right?**

**MS. JURGENSEN:** Objection, form.

A. Correct.

**Q. Mike Bradle didn't designate the 8,000 square feet, correct?**

A. Correct.

**Q. Mike Bradle didn't say it was a representation of the rest of the project, did he?**

A. Correct.

**Q. Nobody at AAG did; is that correct?**

A. Correct.

**Q. And he didn't say what you'd find outside the 8,000 square feet, did he?**

A. Correct.

**Q. He didn't make any recommendations with regard to the 8,000 -- or the amount in excess of 8,000 square feet?**

A. Not to me, he did not.

**Q. To anybody --**

A. I don't --

**Q. -- to the best of your knowledge?**

A. I don't know.

**Q. So no one made any representations from AAG's standpoint as to what would be found or what needed to be done with any of the property outside that 8,000 square feet, isn't that correct?**

A. Correct.

**Q. In fact, ma'am, the City -- the City specifically did not want any archeological monitoring outside the 8,000 square feet, isn't that true?**

**MS. JURGENSEN:** Objection, form.

A. I have no idea what the City wanted.

**Q. I mean, would it surprise you to know that the**

**City specifically stated that it did not want any architectural monitoring outside the 8,000 square feet?**

A. Archeological monitoring?

**Q. Archeological, I'm sorry.**

A. Again, I don't know.

**Q. If the City specifically stated that it did not want any archeological monitoring outside the 8,000 square feet, then it wouldn't be AAG's fault that it didn't happen, would it?**

A. I can only answer for myself. I cannot answer for the City.

**Q. I'm asking you.**

A. I don't know.

**Q. I want you to look at Exhibit 3, ma'am, and turn to page 2, if you will. Do you see on page 2 the very last paragraph?**

A. Yes.

**Q. And it states, quote, Initially, the City did not plan an archeological survey along the routes of certain proposed utility lines since 1968 survey map showed no human remains in those areas. Is that correct?**

A. Correct.

**Q. So specifically based on this document, the**

**City did not want any archeological surveying done outside the 8,000 square feet?**

**MS. JURGENSEN:** Objection, form.

**Q. Is that correct?**

A. That's not my interpretation of that sentence.

**Q. How do you interpret that sentence?**

A. It doesn't say the City did not want; the City did not plan.

**Q. All right. So the City didn't plan for any archeological surveying at the time that Mike Bradle and AAG did their survey in '06; is that correct?**

A. As far as I am aware, yes.

**Q. All right. So Mike Bradle didn't have the authorization to do any archeological surveying outside the 8,000 square feet, did he?**

A. Correct.

**Q. In fact, to the best of your knowledge, that very same representation about the City not planning on an archeological survey was put in the greensheet to the City Council, isn't that right?**

A. I would have to look at the greensheet.

**Q. Do you doubt that it was?**

A. No.

**Q. You're not aware of any contractual references based on your understanding to any areas outside the**

1 **8,000 square feet from Mike Bradle in '06; is that**  
 2 **right?**  
 3 A. Correct.  
 4 **Q. In fact, if there were any work to be done**  
 5 **outside the 8,000 square feet, it would have added to**  
 6 **the 8,000 square feet, correct?**  
 7 A. Correct.  
 8 **Q. Let's go to the moment that Mr. Bradle and AAG**  
 9 **provided their report. And that's either late October**  
 10 **or probably November?**  
 11 A. Uh-huh.  
 12 **Q. From that point in time when the report was**  
 13 **provided through May, early May when bone was**  
 14 **discovered, what was taking place specifically that you**  
 15 **can remember at your site?**  
 16 A. The main thing I remember is the moving of the  
 17 electric line.  
 18 **Q. Okay. Anything else?**  
 19 A. Not that I can remember.  
 20 **Q. Where was the electric line before it was**  
 21 **moved and then where was it after it was moved?**  
 22 A. It basically cut diagonally through the survey  
 23 area. It was moved to the south along the drainage  
 24 route.  
 25 **Q. There is -- was an old asphalt road there.**

1 **Was it south of that asphalt road?**  
 2 A. I believe it may have been. It was pretty  
 3 close to that asphalt road. I'm not sure exactly.  
 4 **Q. Were any burials or fragments found when they**  
 5 **-- well, strike that.**  
 6 **Did they actually pull the electric line**  
 7 **up?**  
 8 A. I have no idea. I believe it was abandoned  
 9 but I don't know.  
 10 **Q. Okay. Assuming the electric line that ran**  
 11 **diagonally was not abandoned, are you aware of anyone**  
 12 **stating that they found any burials or remains in**  
 13 **connection with digging up the old electric line?**  
 14 A. No.  
 15 **Q. When the new electric line was placed to the**  
 16 **south of the site, was there any archeological**  
 17 **monitoring of that done?**  
 18 A. No.  
 19 **Q. Was any bone or burial or any fragments**  
 20 **encountered then?**  
 21 A. No.  
 22 **Q. And what your understanding is, that whatever**  
 23 **was trenched was simply replaced with the same dirt, no**  
 24 **new dirt was brought in for those lines; is that**  
 25 **correct?**

1 A. I have -- I have no knowledge of what was  
 2 done.  
 3 **Q. What was happening with regard to the contract**  
 4 **documents, if anything?**  
 5 A. You would have to ask TFC at that point.  
 6 **Q. Did you not --**  
 7 A. We were not involved in the bid process.  
 8 **Q. Do you know whether the contract had been**  
 9 **awarded by then?**  
 10 A. I believe it had been.  
 11 **Q. Was there any resurveying of the survey**  
 12 **area?**  
 13 A. Again, you would have to ask TFC.  
 14 **Q. You're not aware of any?**  
 15 A. I am not aware of any.  
 16 **Q. We're going to call this from October to May;**  
 17 **is that fine -- is that acceptable?**  
 18 A. Yes.  
 19 **Q. And that time frame, AAG had completed their**  
 20 **reporting and was not on-site?**  
 21 A. Correct.  
 22 **Q. That's the area I'm talking. Okay. So during**  
 23 **that October to May period, you believe an electric line**  
 24 **was placed and you're not familiar with what was**  
 25 **happening with regard to the contract documents or the**

1 **contract or the various agencies; is that right?**  
 2 A. I believe the contract had been let. I know  
 3 sometime -- I'm thinking it was in late April -- we had  
 4 a pre-construction meeting which would have happened  
 5 before that electric move but I can't remember exactly  
 6 when.  
 7 **Q. By the time that you called Mr. Bradle in May,**  
 8 **had the project stayed on schedule?**  
 9 A. Again, you'd have to ask TFC.  
 10 **Q. Had you heard that it was already off**  
 11 **schedule?**  
 12 A. I had not heard.  
 13 **Q. When did the project first depart from its**  
 14 **schedule, to the best of your knowledge?**  
 15 A. Again, I'm not sure. I know it was a very wet  
 16 spring. I believe that was -- we had a couple of delays  
 17 with the electric line because of rain. But the actual  
 18 construction on the building, I'm not sure.  
 19 **Q. When was the first time you recall the project**  
 20 **being delayed or behind schedule?**  
 21 **MS. JURGENSEN:** Objection, form.  
 22 **Q. If you have any recollection.**  
 23 A. I have no recollection.  
 24 **Q. You have no recollection of the project ever**  
 25 **being behind schedule?**



**MS. JURGENSEN:** Objection, form.

A. No, I know that it got behind schedule. I don't know when. I was not keeping track of their calendar.

**Q. So what I need to know is based on your recollection, when is the first time that you recall that the project was off schedule?**

A. It would have been during the -- like I said, during the rain, but, again, I'm not sure what their schedule was. I'm not sure how off they were on their schedule.

**Q. I'm probably making this too complicated. But it may be that you don't know that the project was ever off schedule. If that's the case, that's fine. So my first question is do you recall the project ever being off schedule?**

A. I don't recall ever being told that it was severely off schedule.

**Q. And that's something you would have known?**

A. Maybe.

**Q. I mean, in your position, you would have known whether the project was progressing like it should?**

**MS. JURGENSEN:** Objection, form.

**Q. Is that right?**

A. No.

**Q. Nobody ever told you it was significantly off schedule; is that right?**

A. Towards the end of summer, yes, we were getting those kinds of reports in the progress meetings.

**Q. In '07?**

A. Yes.

**Q. All right. So by the summer of '07, you believe that the project was getting off of schedule in a significant way?**

A. I don't know if it was significant or not. Again, I did not have access to their calendar.

**Q. And just to -- I don't want to retrain this, but my understanding is you're not aware of the project ever being substantially off schedule, you personally; is that right?**

A. Not -- not until fall of '07.

**Q. Okay. All right. Well, that's a different answer.**

A. Yes.

**Q. Okay. So in fall '07, you believe that the project began to be significantly behind?**

A. Yes.

**Q. All right. And who told you that and what do you base that conclusion on?**

A. That was from comments being made from the

contractor in progress meetings, that utilities were not getting to the building so they were having to slow down.

**Q. Do you remember what month in '07 that was?**

A. I don't.

**Q. All right. Well, tell me why Mr. Bradle was called out in May '07 after his report had been completed and the time had elapsed that had elapsed?**

A. When Imperial was clearing, excavating for the foundation for the education center, they uncovered human remains at which time I called Mr. Bradle.

**Q. What were you told and by whom about these remains that were encountered in May?**

A. Basically I was called and said that a skull had been found, what should they do? And I said let me call the archeologist and see what we need to do.

**Q. And the skull, was it on the surface?**

A. It was at that point in the bucket of a Bobcat.

**Q. Oh, I see. All right. So clearly Imperial had been doing some excavation work; is that right?**

A. Correct.

**Q. Do you know where their excavation work was being done?**

A. Within the footprint of the education center.

**Q. And you understand there was a contention that they were in the expanded footprint area?**

A. They were doing the entire education center footprint.

**Q. Okay. So they were doing some excavation. Did you see where they were doing their excavation?**

A. Yes.

**Q. Okay. Had anything been done to the pad prior to that excavation, to the best of your knowledge? For example, they typically compact it?**

A. They were taking soil -- old soil out to bring new soil in to compact.

**Q. Okay. So they were taking old soil out of the already surveyed area --**

A. Correct.

**Q. -- is that your position? All right. And somehow they encountered a skull; is that right?**

A. Yes.

**Q. And you went back to your office and notated that in your notes; is that right?**

A. Correct.

**Q. So you called Mr. Bradle at AAG; is that right?**

A. Correct.

**Q. And you told them what they'd found; is that**

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1 right?  
2 A. Yes.  
3 Q. Did he have any contractual obligation, to the  
4 best of your knowledge, to respond to you?  
5 A. No, he did not.  
6 Q. Was he getting paid to respond to you?  
7 A. No, he was not.  
8 Q. Did you find him difficult to deal with or  
9 apprehensive about coming to your aid?  
10 A. No.  
11 Q. Was he professional in his conduct?  
12 A. Yes.  
13 Q. You're not aware of any obligation that he had  
14 to respond to you at all; is that right?  
15 A. Correct.  
16 Q. And, in fact, he stayed out there and worked  
17 out there for a significant amount of time before he got  
18 another contract from the City; is that right?  
19 A. He was out there for a day.  
20 Q. Oh, is it only a day?  
21 A. And two or three of his people were on-site  
22 for a couple of days after that.  
23 Q. And then you believe a subsequent contract was  
24 executed?  
25 A. Not at that point. The subsequent contract

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1 came after remains were found in the beginning of the  
2 excavation for the sewer line.  
3 Q. Okay. Well, with regard to this skull, what  
4 was done? Do you know? I mean, what did Mr. Bradle and  
5 his staff do?  
6 A. They came out to the site. They used -- I'm  
7 not sure -- I don't think they brought their own Bobcat  
8 up. They may have been using the Bobcat that was there  
9 to sift through dirt within the excavation area as well  
10 as along the perimeter of the excavation area looking  
11 and collecting bones.  
12 Q. Okay. And then what happened? What was the  
13 next step?  
14 A. Basically, they were collected and a decision  
15 was going to be made on re-interring those remains.  
16 Q. Is that what happened?  
17 A. No. Those remains have not been re-interred  
18 yet. I believe also a new permit was pulled, an  
19 emergency permit was pulled from THC.  
20 Q. Now, at that point, did anyone, to the best of  
21 your knowledge, accuse AAG of not discovering those  
22 bones when they should have earlier?  
23 A. Not to my knowledge.  
24 Q. Did anyone say to Mr. Bradle or to AAG that  
25 those bones should have been part of his original survey

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1 and discovered in connection with that?  
2 A. I am not aware of anybody saying that.  
3 Q. It's not the position that you took; is that  
4 right?  
5 A. Correct.  
6 Q. And to the best of your knowledge, no one has  
7 taken the position or no one took the position that AAG  
8 should have anticipated that those bones were out there?  
9 MS. JURGENSEN: Objection, form.  
10 A. Again, I can only speak for myself and I did  
11 not.  
12 Q. You're not aware of anybody who did; is that  
13 right?  
14 A. Correct.  
15 Q. How many days after the skull was found were  
16 these other remains found?  
17 A. The skull and other remains in the foundation  
18 excavation were found on a Friday. It was either  
19 Tuesday or Wednesday of the next week.  
20 Q. And where were they found?  
21 A. They were found at the beginning of the sewer  
22 line construction.  
23 Q. Some people call that the waste waterline, is  
24 that the same thing --  
25 A. Yes.

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1 Q. -- in your mind? All right. And that's to  
2 the east of the project; is that right?  
3 A. Yes, to the Baylor side of the project.  
4 Q. Okay. The remains that were discovered in  
5 connection with the waste waterline were far outside of  
6 the survey area; is that right?  
7 A. Correct.  
8 Q. And you did not expect AAG to have ever gone  
9 over there and made any recommendations with regard to  
10 that area that --  
11 A. Correct.  
12 Q. Is that right?  
13 A. Yes, correct.  
14 Q. And to the best of your knowledge, no one at  
15 the City has ever taken the position that Mike Bradle or  
16 AAG should have alerted the City that there could be  
17 burials out that far out there on the waste waterline  
18 or --  
19 A. Correct.  
20 Q. -- or anywhere near it; is that right?  
21 A. Correct.  
22 THE VIDEOGRAPHER: About five minutes  
23 left.  
24 Q. All right. So Ms. Stopka, in May when these  
25 waste water remains -- waste waterline remains had been

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1 found, there still weren't any buildings that had been  
2 built; is that right?  
3 A. Correct.  
4 Q. No utilities laid?  
5 A. Correct.  
6 Q. You don't know how much cost of the budget had  
7 been spent; is that right?  
8 A. That's correct.  
9 (Exhibit No. 11 marked)  
10 Q. What is Mr. Johnson's relationship to you at  
11 the business?  
12 A. He is --  
13 Q. Well, not the business -- the City. I'm  
14 sorry.  
15 A. He is my direct supervisor.  
16 Q. And did you keep him apprised of what was  
17 happening at the project?  
18 A. Yes.  
19 Q. Do you take the position that he's misstated  
20 anything in connection with this project?  
21 A. I have no idea.  
22 Q. You're not aware of any, are you, any  
23 misstatements?  
24 MS. JURGENSEN: Objection, form.  
25 A. I don't have recall of all of his statements

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1 so I don't know.  
2 Q. Okay. Well, I'm just asking you, do you  
3 remember anything that you believe he stated that was  
4 incorrect?  
5 A. Off the top --  
6 MS. JURGENSEN: Objection, form.  
7 A. Off the top of my head, I can't.  
8 Q. Let me hand you what's been marked as Exhibit  
9 11. Could you tell me what that is, please?  
10 A. It looks like a series of emails between  
11 Mr. Johnson, AAG, Terry Casper.  
12 Q. If you look at the email that starts on the  
13 bottom of the first page from Byron A. Johnson to Terry  
14 Casper, do you see that, ma'am?  
15 A. Yes.  
16 Q. And it shows that you were copied, do you see  
17 that?  
18 A. Yes.  
19 Q. Do you recall receiving a copy of this  
20 email?  
21 A. I don't recall receiving it, but...  
22 Q. You don't deny that this was an email that was  
23 sent by Mr. Johnson, do you?  
24 A. No.  
25 Q. All right. It's dated May 31, 2007; is that

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1 correct?  
2 A. Correct.  
3 Q. So that's a couple of weeks, I suppose, after  
4 the waste waterline remains were found; is that right?  
5 A. Yes.  
6 Q. And so do you recall Mr. Bradle and  
7 Mr. Johnson proposing these six points to be made that  
8 are in this email?  
9 A. Vaguely, yes.  
10 Q. All right. And if you look at No. 3 on the  
11 second page, it says "Trenching Method." Do you see  
12 that?  
13 A. Yes.  
14 Q. And it talks about the trenching method that  
15 was proposed; is that correct?  
16 A. Yes.  
17 Q. So in May '07 after the waste waterline  
18 remains had been encountered, Mr. Johnson, your  
19 supervisor, is identifying a trenching method to be used  
20 on the project; is that right?  
21 A. I believe he is proposing a trenching method  
22 to be used, yes.  
23 Q. And then it says at the very last sentence of  
24 3, "I know this is not ideal but neither is a museum in  
25 a graveyard." Did I read that correctly?

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1 A. Yes.  
2 Q. So at that point in time, Mr. Johnson believed  
3 that you were putting the museum in a graveyard?  
4 MS. JURGENSEN: Objection, form.  
5 Q. Is that what your understanding is?  
6 A. You would have to ask Mr. Johnson.  
7 Q. Does that appear like what he's saying to  
8 you?  
9 A. That it's not an ideal situation.  
10 Q. Was it a graveyard?  
11 A. I have -- yeah, it's now been designated as  
12 one.  
13 Q. Okay. So it's been designated as a graveyard  
14 now and Mr. Johnson was referring to it as a graveyard  
15 back in May '07; is that correct?  
16 A. That's what it appears to be, yes.  
17 Q. And no buildings had been built at that point  
18 in time?  
19 A. No.  
20 Q. No utilities laid?  
21 A. No.  
22 Q. Why didn't you stop?  
23 A. Again, we were relying on the advice of the  
24 professionals in the field to tell us how to proceed and  
25 THC was telling us it was fine to proceed.

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1 **Q. Well, you knew it was a graveyard. What did**  
 2 **you need expertise to decipher what that meant?**  
 3 **MS. JURGENSEN:** Objection.  
 4 **Q. Why would you need expertise on that?**  
 5 **MS. JURGENSEN:** Objection, form.  
 6 **Q. You knew it was a graveyard?**  
 7 **MS. JURGENSEN:** Objection, form.  
 8 A. Mr. Johnson was referring to it as a  
 9 graveyard.  
 10 **Q. And it is a graveyard, is it not?**  
 11 A. It has been designated now as graveyard.  
 12 **Q. And you knew it was a graveyard or at least**  
 13 **Mr. Johnson appears to have known it was a graveyard**  
 14 **before you put any buildings on it, isn't that right?**  
 15 **MS. JURGENSEN:** Objection, form.  
 16 A. We did not know the extent of the graves in  
 17 the back.  
 18 **Q. It was a graveyard. That means more than one**  
 19 **or two, doesn't it?**  
 20 **MS. JURGENSEN:** Objection, form.  
 21 A. It would depend on, again, where you're at.  
 22 **Q. What is it that AAG told you in May '07 or any**  
 23 **time thereafter that caused you to continue to build**  
 24 **this project in a graveyard if anything?**  
 25 A. I believe it was the fact that nobody was

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1 telling us not to.  
 2 **Q. So if it wasn't -- I'm sorry.**  
 3 A. Sorry. But, again, you would have to ask the  
 4 people who were making those decisions.  
 5 **Q. So he didn't tell you not to, that's your only**  
 6 **real complaint; is that right?**  
 7 **MS. JURGENSEN:** Objection, form.  
 8 A. I don't know what the City's real --  
 9 **Q. Yours.**  
 10 A. -- complaint against him is.  
 11 **Q. Yours.**  
 12 A. I personally have no complaint about that.  
 13 **Q. Okay. I mean, just being a reasonable person,**  
 14 **it appears that people knew in May '07 that this was a**  
 15 **graveyard, correct?**  
 16 A. Correct.  
 17 **Q. And in fact it's been dedicated as a**  
 18 **graveyard, correct?**  
 19 A. You need to --  
 20 **Q. I'm sorry, a cemetery.**  
 21 A. Well, you used the word "dedicated" and it has  
 22 not been --  
 23 **Q. Oh, okay.**  
 24 A. -- at this point in time dedicated.  
 25 **Q. All right. Can we say designated as a**

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1 **graveyard?**  
 2 A. Correct.  
 3 **Q. All right. And so --**  
 4 **THE VIDEOGRAPHER:** We need to go ahead  
 5 and change the tape.  
 6 **MR. MASTROGIOVANNI:** Okay. Fair enough.  
 7 **THE VIDEOGRAPHER:** Off the record at  
 8 12:37 p.m., ending tape 2.  
 9 (Recess from 12:37 p.m. to 1:31 p.m.)  
 10 **THE VIDEOGRAPHER:** On the record at 1:31  
 11 p.m., beginning tape 3.  
 12 **BY MR. MASTROGIOVANNI:**  
 13 **Q. Ms. Stopka, could you find the exhibit that we**  
 14 **used previously that was the greensheet, the agenda item**  
 15 **for the City Council?**  
 16 **MS. JURGENSEN:** It may have been 4.  
 17 A. Yes.  
 18 **Q. What exhibit number is that, ma'am?**  
 19 A. 4.  
 20 **Q. 4. Okay. Looking on page 2, numbered page 2**  
 21 **of Exhibit 4, the third paragraph up, it states, quote,**  
 22 **Initially the City did not have the archeologist survey**  
 23 **the area where certain utility lines were to be laid,**  
 24 **period, closed quote; is that right?**  
 25 A. Correct.

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1 **Q. And that's a true statement; is that**  
 2 **correct?**  
 3 A. Correct.  
 4 **Q. And then it states further on in that**  
 5 **paragraph that after that sewer line began and bones**  
 6 **were discovered, that's when you asked for a geological**  
 7 **survey, is that correct as well?**  
 8 A. Yes.  
 9 **Q. And that's a true statement too; is that**  
 10 **right?**  
 11 A. Yes.  
 12 **Q. So when Mr. Johnson was referring in '07 to**  
 13 **the site as being a graveyard, to use his word, your**  
 14 **complaint about AAG is that it didn't or that AAG's**  
 15 **representatives did not tell you that you could not go**  
 16 **forward; is that right?**  
 17 **MS. JURGENSEN:** Objection, form.  
 18 A. I'm not understanding what you're...  
 19 **Q. Sure. In 2007, I believe it was July when**  
 20 **Mr. Johnson referred to the project site as a graveyard,**  
 21 **do you recall that?**  
 22 A. Yes.  
 23 **Q. Your complaint against AAG is that they did**  
 24 **not tell you that you could go forward but they did not**  
 25 **tell you that you could not go forward with the project;**

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1 is that right?

2 A. I don't know what the City's complaint might

3 be --

4 Q. What was --

5 A. -- on that point.

6 Q. What was your complaint?

7 A. I had no complaint at that point in time.

8 Q. All right. So you do not recall once

9 Mr. Johnson referred to the project as a gravesite, AAG

10 saying don't worry about it, go forward, do you?

11 A. Not to me they didn't make that

12 representation.

13 Q. Did they make that representation to anyone

14 that you're aware of?

15 A. I have no idea.

16 Q. Once Mr. Johnson referred to the site as a

17 graveyard, are you aware of any representations that AAG

18 made with regard to whether the City should go forward

19 or not?

20 A. No.

21 Q. Have you heard anybody allege that AAG made

22 any such representation?

23 A. I have not heard that, no.

24 Q. Is it your recollection that Mr. Bruseth

25 encouraged the City to go forward with its project?

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1 A. "Encourage" would not be a word I would use.

2 Q. How would you characterize what you viewed as

3 his thought process in that regard?

4 A. I can only speak to what I remember him

5 saying. He asked that the City stop and look at

6 different possibilities for the utility lines and then

7 present those to THC for review.

8 Q. And that was in July, August of 2007?

9 A. That was in June.

10 Q. June of 2007. All right. So in June 2007,

11 Mr. Bruseth asked the City to stop its progression on

12 the project; is that right?

13 A. On the utility lines.

14 Q. Okay. And did you follow that instruction?

15 A. Yes.

16 Q. And he wanted a plan for the utility lines?

17 A. He wanted -- he asked that the City look at

18 possible -- various possible routes for the utility

19 lines.

20 Q. And what, if anything, did the City ask AAG to

21 do in that connection?

22 A. I do not know what the City asked AAG to do.

23 Q. What did AAG do, to the best of your

24 knowledge?

25 A. To the best of my knowledge, he, Mr. Bradle

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1 for AAG, reviewed the documents being prepared to

2 present to THC.

3 Q. Who was preparing those documents?

4 A. For the most part, Ms. Jones.

5 Q. Who was helping her, if you know?

6 A. I believe that drafts were sent out to several

7 of us, myself included.

8 Q. And who was the professional, if anyone, who

9 was assisting Ms. Jones in deciding which way to go and

10 how to lay these utility lines, if anyone?

11 A. I believe engineering was probably working

12 with her.

13 Q. So if I understand correctly, in around June

14 2007, Mr. Bruseth asked for a plan for the utilities; is

15 that right?

16 A. Correct.

17 Q. And then in response to that, Ms. Jones, with

18 the City's engineering, devised a plan; is that right?

19 A. Came up with scenarios, yes.

20 Q. And that was provided to Mr. Bruseth in

21 writing to the best of your knowledge?

22 A. Yes.

23 Q. And then what happened after that?

24 A. To the best of my knowledge, THC came back to

25 the City I think agreeing with what the City was

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1 proposing to go forward.

2 (Exhibit No. 13 marked)

3 Q. Let me hand you what's been marked as Stopka

4 Exhibit 13 and I'll ask if you can identify that for me,

5 please.

6 THE REPORTER: You know what, I skipped

7 12.

8 MS. JURGENSEN: Yeah, I don't have 12.

9 MR. MASTROGIOVANNI: That's all right.

10 I'll do it the next one.

11 A. This looks like the application for another

12 antiquities permit from THC and the response back from

13 THC on that permit.

14 Q. Did you get copies of this exhibit, ma'am?

15 A. I believe so, yes.

16 Q. All right. And this is dated June 4th, 2007,

17 the first page; is that right?

18 A. Correct.

19 Q. And based on your understanding, was AAG under

20 any contract with the City at that point in time?

21 A. I don't know.

22 Q. Are you aware of any?

23 MS. JURGENSEN: Objection, form.

24 A. I am not. Without reviewing stuff, no, I am

25 not.

1 **Q. Fair enough. And if you look at the second**  
 2 **page of Exhibit 13, the very bottom of that page, it**  
 3 **says "Scope of work under this permit shall consist of:**  
 4 **Monitoring, excavation of human skeleton found in**  
 5 **historic trash debris." Did I read that correctly?**

6 A. Yes.

7 **Q. Do you have any idea to what that's**  
 8 **referring?**

9 A. Given the date on the permit on the next page  
 10 over, I am assuming that it is referring to the remains  
 11 found in the excavation of the footprint of the  
 12 building.

13 **Q. Okay. And was that remain found in a historic**  
 14 **trash pit, so to speak, pile?**

15 A. I don't have the expertise to comment on that.

16 **Q. Okay. Do you have a recollection that the**  
 17 **second contract that the City executed with AAG related**  
 18 **to I think what you called geotech imaging?**

19 A. I know that it included that.

20 **Q. What did you understand the second contract**  
 21 **scope of work to be based on your understanding?**

22 A. Without looking at the contract, I know that  
 23 it included the geophysical. What else it included, I'm  
 24 not sure.

25 **Q. And when you say geophysical, you're talking**

1 **about the mapping?**

2 A. Correct.

3 **Q. Okay. And was that mapping done?**

4 A. Yes, AAG came out on the site with equipment.

5 **Q. And what is your recollection of what that**  
 6 **mapping showed, if anything?**

7 A. I don't recall. I know that we got -- at  
 8 least I got one image that I was not sure exactly what  
 9 it showed. I didn't know enough to interpret what was  
 10 on there.

11 **Q. Was the final conclusion that the geotech**  
 12 **imaging was not particularly helpful because of the**  
 13 **nature of the site?**

14 A. That's my recollection.

15 **Q. Now, you mentioned earlier that you believe**  
 16 **that there were remains brought up in connection with**  
 17 **the digging of piers; is that correct?**

18 A. Correct.

19 **Q. I don't know if you call it digging or**  
 20 **drilling, but the piers; is that right?**

21 A. Correct.

22 **Q. And you expected there to be fragments brought**  
 23 **up with those pier drillings, did you not?**

24 A. I'm not sure that I would expect them to come  
 25 up, no.

1 **Q. And did you write the drilling contractor a**  
 2 **letter telling them that it was not of any consequence**  
 3 **that they were finding fragments?**

4 A. After talking to Mr. Bradle and in  
 5 consultation with Mr. Bradle, a letter was written.

6 **Q. And what did you convey to the contractor who**  
 7 **was drilling the piers about fragments that were being**  
 8 **brought up?**

9 A. I would have to look at the letter.

10 **Q. Do you recall as you sit here now believing**  
 11 **that there was an expectation that there would be some**  
 12 **fragments that would come up in the drilling?**

13 A. Yes, from leftovers from the original remains  
 14 being found.

15 **Q. And the drilling of the piers were mostly on**  
 16 **the periphery, on the edges of the building; is that**  
 17 **right?**

18 A. No.

19 **Q. Were they in the middle of the building?**

20 A. Yes.

21 **Q. So were there any on the periphery of the**  
 22 **building?**

23 A. Yes.

24 **Q. Do you have a count? That's probably a lot to**  
 25 **ask.**

1 A. I believe there were 70.

2 **Q. 70 piers? All right. And how many of those**  
 3 **70 piers brought up fragments and that sort of thing?**

4 A. I would have to look at the map.

5 **Q. More than one or two?**

6 A. More than one.

7 **Q. More than two?**

8 A. Again, I would have to look at the map.

9 **Q. Was it a small number?**

10 A. Yes.

11 **Q. All right. And do you criticize AAG for not**  
 12 **finding those bone fragments that came up through those**  
 13 **pier drillings?**

14 A. No.

15 **Q. Based on the work that AAG was hired to do,**  
 16 **you didn't expect them to be able to identify and find**  
 17 **all those fragments that would come up through the pier**  
 18 **drillings, is that fair?**

19 A. Yes.

20 (Exhibit No. 12 marked)

21 **Q. Let me hand you what's been marked Exhibit 12**  
 22 **and I'll ask if you can identify that for me, please.**

23 A. Yes. This was the letter that was written to  
 24 the drilling contractor.

25 **Q. All right. And you had AAG's assistance in**

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1 **writing this letter?**  
2 A. Yes, I did.  
3 **Q. Did anyone else review the letter before you**  
4 **sent it out?**  
5 A. Probably Mr. Johnson and Ms. Jones but I  
6 couldn't say for sure.  
7 **Q. And you state that the area had been heavily**  
8 **disturbed by flooding, used as a dump site, for fill,**  
9 **and generally neglected for years; is that right?**  
10 A. Correct.  
11 **Q. And all that was true; is that correct?**  
12 A. Correct.  
13 **Q. And even though every precaution was taken to**  
14 **excavate and relocate all known burials in '68, some**  
15 **skeletal remains were overlooked; is that right?**  
16 A. Yes.  
17 **Q. What I was driving at is to make certain that**  
18 **you weren't -- it's not one of the City's complaints**  
19 **that there were remains found in connection with these**  
20 **drilling piers, am I right about that?**  
21 A. I do not know what the City's stand on that  
22 is.  
23 **Q. What about you personally?**  
24 A. Repeat the --  
25 **Q. Sure.**

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1 A. -- question.  
2 **Q. Do you have any criticisms about anything that**  
3 **AAG did or didn't do in connection with the remains that**  
4 **were brought up as a result of pier drilling?**  
5 A. At the time, I did not.  
6 **Q. Why do you now?**  
7 A. I've had a little more time to look into the  
8 situation.  
9 **Q. What do you -- what do you know now?**  
10 A. That we may not have been getting the best  
11 advice.  
12 **Q. What is it about those pier drillings that**  
13 **causes you to think that AAG did something wrong when it**  
14 **did the work?**  
15 A. That they were in the center of the survey  
16 area, they were not on the periphery where some of those  
17 remains were coming up. They were coming up from fairly  
18 deep, not necessarily something that would have been  
19 found close to the surface.  
20 **Q. Okay. So if I understand correctly, the**  
21 **remains that came up through the drilling of piers were**  
22 **fairly deep; is that right?**  
23 A. Correct.  
24 **Q. All right. And were they past that**  
25 **demarcation that you talked about when you referred to**

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1 **clean soil?**  
2 A. Which clean soil?  
3 **Q. Where you said earlier that you thought that**  
4 **AAG would have surveyed to the clean soil strata. Do**  
5 **you recall that?**  
6 A. They were deeper than we know that AAG  
7 surveyed.  
8 **Q. Okay. Do you know whether those fragments**  
9 **were deeper than the clean soil area?**  
10 A. I'm not sure what you mean by clean soil area.  
11 **Q. Well, if AAG was supposed to go down to the**  
12 **sterile soil?**  
13 A. I don't know. I don't have the expertise to  
14 know if they were below sterile soil or not.  
15 **Q. Okay. So just so I clarify the record, you**  
16 **don't know that the remains that came up through drill**  
17 **-- the drilling of piers came from an area below the**  
18 **sterile soil area, do you?**  
19 A. I don't know exactly where they came from.  
20 **Q. Okay. Do you know generally?**  
21 A. I was told by the drillers at what level they  
22 thought they hit them.  
23 **Q. What did they say?**  
24 A. They were talking between 8 and 12 feet.  
25 **Q. And do you know whether that was below the**

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1 **sterile soil area?**  
2 A. If there's a burial there, it's not going to  
3 be sterile soil.  
4 **Q. No, no, that's not true.**  
5 A. That's my understanding. I'm not an expert.  
6 I can't say that. I'm not an archeologist.  
7 **Q. Okay. That's your answer. You don't know.**  
8 A. I don't know.  
9 **Q. Let me make sure.**  
10 **MR. MASTROGIOVANNI:** Let me object to  
11 your answer as nonresponsive.  
12 **MS. JURGENSEN:** I object to the form of  
13 the question.  
14 **Q. Do you know whether the remains that were**  
15 **brought up through pier drilling came from an area**  
16 **beyond the sterile soil level?**  
17 A. No.  
18 **MS. JURGENSEN:** Objection, form.  
19 **MR. MASTROGIOVANNI:** What's the basis of  
20 the objection?  
21 **MS. JURGENSEN:** Asked and answered. She  
22 said she didn't know.  
23 **Q. Okay. This looks like it's taking longer but**  
24 **I'm trying to actually speed some stuff up. When**  
25 **Mr. Bruseth asked the City to stop work in June on the**

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3:50 1 utilities, it did so, correct?  
3:50 2 A. Yes.  
3:50 3 **Q. And how long was it before that work stoppage  
3:50 4 was un -- was lifted?**  
3:50 5 A. I know that the letter was sent to THC  
3:50 6 sometime in July; and then I believe it was in August,  
3:50 7 mid to late August '07 before AAG was back on the site.  
4:00 8 **Q. So you think the work stoppage was for a  
4:00 9 couple of months --**  
4:00 10 A. Yes.  
4:00 11 **Q. -- more or less? Do you recall speaking with  
4:00 12 or hearing about Mr. Bradle's position on a public  
4:00 13 component to the plans for the project?**  
4:00 14 A. Yes.  
4:00 15 **Q. What do you recall Mr. Bradle's position being  
4:00 16 on that?**  
4:00 17 A. I actually can't remember.  
4:00 18 **Q. Do you recall Mr. Bradle making clear that  
4:00 19 Mr. Bruseth always wanted a public component vis-a-vis  
4:00 20 any plans on the project?**  
4:00 21 A. I just remember that something was discussed  
4:00 22 on a public component.  
4:00 23 **Q. And who did you hear that from?**  
4:00 24 A. I can't remember.  
4:00 25 **Q. All right. And do you remember Ms. Jones**

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4:00 1 **taking the position that she did not want the public to  
4:00 2 know what was going on?**  
4:00 3 A. No, I do not remember that.  
4:00 4 **Q. What do you remember about the discussion?**  
4:00 5 A. I just remember that a discussion happened. I  
4:00 6 was not in that decision-making process.  
4:00 7 **Q. Do you believe that the public component  
4:00 8 should have been part of the proposal?**  
4:00 9 A. I believe that part of the public component  
4:00 10 had already been addressed through the newspaper  
4:00 11 articles regarding the stealing of bones off the site.  
4:00 12 **Q. So you thought a newspaper article was  
4:00 13 sufficient to exercise the City's obligation for a  
4:00 14 public component?**  
4:00 15 A. I believe it was a start.  
4:00 16 **Q. But not the -- not the end?**  
4:00 17 A. Again, that was not my decision to make. That  
4:00 18 was the City's decision to make.  
4:00 19 **Q. My question to you is did you agree with it?**  
4:00 20 A. I don't know that I had an opinion one way or  
4:00 21 the other.  
4:00 22 **Q. Okay. That's something we should ask Ms.  
4:00 23 Jones about; is that right?**  
4:00 24 A. Correct.  
4:00 25 **Q. When the waste waterline was being excavated,**

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1 **how many bodies did they originally find in that waste  
2 waterline that you can recall?**  
3 A. I believe the number was in the 50s someplace.  
4 **Q. And initially when Mr. Bradle went out there  
5 and started to monitor the waste waterline excavation,  
6 did they find those bodies lined up in any type of  
7 sequence or what was the methodology for burial that you  
8 could see, if any?**  
9 A. I have no expertise to answer that question.  
10 I can only go with what I was being told by the  
11 archeologist on-site.  
12 **Q. Did AAG ever tell you or anyone at the City  
13 that they expected to find a certain number of burials  
14 or was it just based on what they found as they dug?**  
15 A. I believe it was based on what they found as  
16 they dug.  
17 **Q. So AAG never represented that you would only  
18 find a certain number of burials wherever you were  
19 digging; is that right?**  
20 A. Correct.  
21 **Q. You didn't rely on AAG for any forecast of  
22 what you were going to find out there; is that  
23 correct?**  
24 A. Again, I don't know what the City was relying  
25 on Mr. Bradle to provide.

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1 **Q. I'm just asking about you now.**  
2 A. I think the expectation was that he could give  
3 an educated guess based on what was being found.  
4 **Q. And a lot was being found; is that correct?**  
5 A. Again, I guess that depends on what you're  
6 comparing it to.  
7 **Q. The waste waterline was the first excavation  
8 trench; is that correct?**  
9 A. Correct.  
10 **Q. And you found over 50 in that one?**  
11 A. Correct.  
12 **Q. Isn't that a lot to you?**  
13 A. To me, yes.  
14 **Q. And he wasn't forecasting how many he would  
15 find on the waste waterline, was he?**  
16 A. No.  
17 **Q. I believe we marked this already, Ms. Stopka.  
18 Let me make sure. Just ignore my highlights but tell me  
19 if you have that exhibit. If not, we'll make another  
20 one.**  
21 A. Yes.  
22 **Q. We have that exhibit. Could you pull that one  
23 out for me?**  
24 A. I believe it's No. 3.  
25 **Q. Okay. And look at page 2 just for a moment,**



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1 if you would. And this is a July '07 document that we  
2 talked about before, correct?  
3 A. Yes.  
4 Q. And the second paragraph from the bottom, the  
5 first sentence refers to an extended excavation outside  
6 the original survey area, correct?  
7 A. Correct.  
8 Q. And you're saying that you don't recall any  
9 extended excavations outside the original survey area as  
10 of May 11, 2007?  
11 A. No.  
12 Q. You don't?  
13 A. I'm saying that there were remains found  
14 within the -- the surveyed area as well.  
15 MR. MASTROGIOVANNI: Let me object as  
16 nonresponsive.  
17 A. Yeah.  
18 Q. I just wanted to make sure that I understood  
19 your previous testimony. Was there extended excavation  
20 outside the original survey area or not?  
21 A. Without looking at plans and documents, I  
22 could not state for sure if there were.  
23 Q. You don't deny that there was an extended  
24 excavation outside the original survey area by May  
25 '07 --

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1 MS. JURGENSEN: Objection, form.  
2 Q. -- correct?  
3 A. I cannot make that statement one way or the  
4 other.  
5 Q. All right. And then it states second  
6 sentence, I contacted Bill Martin at THC for emergency  
7 permit, et cetera, for removal of human remains from the  
8 expanded footprint of the building. Do you see that,  
9 ma'am?  
10 A. Yes.  
11 Q. And, again, you don't know whether the  
12 footprint was expanded or not, do you?  
13 A. No.  
14 Q. Now, if we go to page 3, we look at that  
15 second paragraph and in the middle of the paragraph, it  
16 references, quote, several possible gravesites, perhaps  
17 as many as 18 or more were detected. Do you see that?  
18 A. Yes.  
19 Q. So as of July 17, '07, you had a map that was  
20 discovered sometime in October '06 showing burials in  
21 your projected site area, correct?  
22 A. Correct.  
23 Q. You had identified as many as 18 or more in  
24 one single waterline route; is that correct?  
25 A. Mr. Bradle had identified 18 or more.

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1 Q. And the City was aware of that, correct?  
2 A. Correct.  
3 Q. Mr. Johnson was referring to the site as a  
4 graveyard; is that correct?  
5 A. Correct.  
6 Q. Yet the City continued to go forward with its  
7 project; is that right?  
8 A. Correct.  
9 Q. Even though Mr. Bruseth said to stop at least  
10 for the time being; is that right?  
11 MS. JURGENSEN: Objection, form.  
12 A. Dr. Bruseth said to stop on the utility lines  
13 which was done.  
14 Q. Was there no discussion by any of the City  
15 officials about canceling the project at this point?  
16 A. I have no idea.  
17 Q. You weren't made aware of that?  
18 A. I would not have been involved in those  
19 discussions.  
20 Q. And nothing that Mike Bradle or anyone at AAG  
21 said at that point in time or any time encouraged you to  
22 go forward with your project, isn't that right?  
23 A. I don't know what Mr. Bradle may have been  
24 talking to the City about.  
25 Q. You don't recall that though, do you?

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1 A. He never said anything to me.  
2 Q. And he spoke to you mostly, didn't he?  
3 A. He spoke to me. I don't know who else he  
4 would have been contacting.  
5 Q. No one to this date has told you that Mike  
6 Bradle or anyone at AAG encouraged the City to continue  
7 with this project after the discovery in July of 18  
8 potential gravesites, et cetera; is that right?  
9 A. Nobody has said that to me.  
10 Q. Okay. Staying with that exhibit, ma'am, just  
11 so I'm clear, which exhibit number is that?  
12 A. 3.  
13 Q. Staying with Exhibit 3, if you look at I  
14 believe the first map which is on page 4, do you see  
15 that, ma'am?  
16 A. Yes.  
17 Q. It shows what appears to be the survey area;  
18 is that correct?  
19 A. Yes.  
20 Q. Do you know who drafted this map?  
21 A. No.  
22 Q. And do you know whether any overlays were  
23 placed over this map or this photograph to determine  
24 where the building actually is in comparison to this  
25 survey?

	133		135
4 : 08	1 A. No.	1 comment on that.	
4 : 08	2 (Exhibit No. 14 marked)	2 <b>Q. Do you see the buildings that you located</b>	
4 : 08	3 <b>Q. Ms. Stopka, let me hand you what's been marked</b>	3 <b>earlier?</b>	
4 : 08	4 <b>as Exhibit 14. I'll ask if you can identify that for</b>	4 A. Yes.	
4 : 08	5 <b>me, please?</b>	5 <b>Q. All right. Do you see a red line that's</b>	
4 : 08	6 A. It appears to be an aerial photograph showing	6 <b>marked across as a -- as a standard on Exhibit 15?</b>	
4 : 02	7 the survey site.	7 A. Yes.	
4 : 02	8 <b>Q. Do you know who took that picture?</b>	8 <b>Q. All right. And do you see that that appears</b>	
4 : 02	9 A. I do not.	9 <b>to be going across the front of the building, the north</b>	
4 : 02	10 <b>Q. Do you have an idea of who may have taken that</b>	10 <b>end of the building?</b>	
4 : 02	11 <b>picture?</b>	11 A. Yes.	
4 : 02	12 A. It may have been Ms. Jones but I'm not sure.	12 <b>Q. Were there any GPS located markings made at</b>	
4 : 02	13 <b>Q. How -- what would make you think that Ms.</b>	13 <b>the survey area, do you know?</b>	
4 : 02	14 <b>Jones may have taken that picture? Does she have an</b>	14 A. I don't know.	
4 : 02	15 <b>airplane or does she take aerial photos occasionally?</b>	15 <b>Q. Do you know whether the -- I think you called</b>	
4 : 02	16 A. She occasionally takes aerial photos for the	16 <b>them crypts -- were GPS located?</b>	
4 : 02	17 City.	17 A. I don't know.	
4 : 02	18 <b>Q. In that photograph, do you see some buildings</b>	18 <b>Q. Have you heard that before?</b>	
4 : 02	19 <b>to the top left? There's three buildings.</b>	19 A. I have not heard that. You would have to ask	
4 : 02	20 A. Yes.	20 the archeologist what they did.	
4 : 02	21 <b>Q. Okay. What are those buildings?</b>	21 (Exhibit No. 16 marked)	
4 : 02	22 A. The very top is Knox Center; then the two	22 <b>Q. Let me hand you Exhibit 16.</b>	
4 : 02	23 adjacent or the -- sort of the L-shaped one next to that	23 <b>MS. JURGENSEN:</b> Joe, can I ask you where	
4 : 10	24 would be other museum buildings.	24 these photographs came from? I don't recognize them.	
4 : 10	25 <b>Q. Okay. And, again, this picture appears to</b>	25 <b>MR. MASTROGIOVANNI:</b> Well, some of these	
	134		136
# : 10	1 <b>depict the actual survey scraped area; is that right?</b>	1 came from -- well, all of these came from the files that	
# : 10	2 A. Correct.	2 were given to me by my side. I didn't get any of these	
# : 10	3 <b>Q. On the edges, was there a repose area? In</b>	3 from you.	
# : 10	4 <b>other words, did it slope down like starting at zero</b>	4 <b>MS. JURGENSEN:</b> Okay. We haven't gotten	
# : 10	5 <b>inches and then going down towards the bottom, so to</b>	5 --	
# : 10	6 <b>speak?</b>	6 <b>MR. MASTROGIOVANNI:</b> That I know of. I	
# : 10	7 A. I can't recall.	7 mean, I may have gotten some but I don't think so.	
# : 10	8 <b>Q. Okay. There was no edge though, was there?</b>	8 <b>MR. BRADLE:</b> I didn't have them.	
# : 10	9 A. Not that I am remembering.	9 <b>MR. MASTROGIOVANNI:</b> Okay. Well, these	
# : 10	10 <b>Q. So there should have been a slope; is that</b>	10 were in my file.	
# : 10	11 <b>right?</b>	11 <b>MR. BRADLE:</b> They were just made.	
# : 10	12 A. I don't remember.	12 <b>MS. JURGENSEN:</b> Recently?	
# : 10	13 <b>Q. Does that sound logical to you?</b>	13 <b>MR. MASTROGIOVANNI:</b> She's not -- that's	
# : 10	14 A. It sounds logical but I don't know that that	14 not what she's talking about, I don't think. You're	
# : 10	15 was necessarily the case.	15 just talking about the photographs?	
# : 14	16 (Exhibit No. 15 marked)	16 <b>MS. JURGENSEN:</b> I'm just saying we	
# : 14	17 <b>Q. Let me hand you what's been marked as Exhibit</b>	17 haven't gotten them.	
# : 14	18 <b>15. Do you recognize that document?</b>	18 <b>MR. MASTROGIOVANNI:</b> Yeah, you're talking	
# : 14	19 A. I recognize the aerial.	19 about the photographs?	
# : 14	20 <b>Q. What is that?</b>	20 <b>MS. JURGENSEN:</b> Yeah, the actual	
# : 14	21 A. It's an aerial photograph showing the new	21 photographs.	
# : 14	22 buildings.	22 <b>MR. MASTROGIOVANNI:</b> Right, right.	
# : 14	23 <b>Q. And is that of relatively the same location as</b>	23 <b>MS. JURGENSEN:</b> I don't have all the	
# : 14	24 <b>we've shown on Exhibit 14?</b>	24 markings on them.	
# : 14	25 A. I don't know that I have the expertise to	25 <b>MR. MASTROGIOVANNI:</b> Yeah, yeah, we did	

1 that.

2 MS. JURGENSEN: I'm just saying the

3 photographs.

4 MR. MASTROGIOVANNI: No, the

5 photographs --

6 MS. JURGENSEN: -- haven't been produced

7 to us I don't think. They didn't look like they came

8 from our production.

9 MR. MASTROGIOVANNI: Yeah, for example,

10 this I made, these we made.

11 MS. JURGENSEN: The insets?

12 MR. MASTROGIOVANNI: Yeah, yeah.

13 MS. JURGENSEN: Okay.

14 MR. MASTROGIOVANNI: Okay. Let's go

15 ahead and mark this one too.

16 (Exhibit No. 17 marked)

17 MR. MASTROGIOVANNI: But you don't have

18 any photographs?

19 MS. JURGENSEN: We have them from our

20 side. We haven't gotten them from y'all.

21 MR. MASTROGIOVANNI: Okay. Aren't they

22 the same --

23 MS. JURGENSEN: I'm assuming those are in

24 there.

25 MR. MASTROGIOVANNI: Aren't they the same

1 I guess you really call it an inset, is the body that

2 was discussed or the remains that was discussed that was

3 under the foundation; is that right?

4 A. It looks like in the right area.

5 Q. Okay. And, again, if that human remain was

6 found outside of the survey area, that's not something

7 that you would blame on Mike Bradle and his company,

8 would you?

9 A. No.

10 Q. Now, can you think of any reason why the City,

11 its overlays that it had done wouldn't show the same

12 thing?

13 A. I don't know. I don't have the expertise to

14 know what they would have been doing.

15 Q. But we know they did them, correct?

16 A. I don't know that they did them; I'm assuming

17 that they did.

18 Q. Okay.

19 MS. JURGENSEN: Joe, I'm sorry, I

20 don't -- I don't want to belabor the point but like on

21 Exhibit 17, I guess I'm just -- like where it says

22 "remains," was that a notation that you made?

23 MR. MASTROGIOVANNI: Yes, yes, yes.

24 MS. JURGENSEN: Okay.

25 MR. MASTROGIOVANNI: Well, I didn't make

1 ones? No?

2 MS. JURGENSEN: I don't know. I just

3 know these aren't what we gave you so I was just

4 wondering where they came from.

5 MR. MASTROGIOVANNI: Okay.

6 Q. Okay. Let me hand you what's been marked as

7 Exhibit 17 and ask if you can identify that for me,

8 please?

9 A. Again, it looks like an aerial photograph with

10 the map from '68 imposed over the top of it.

11 Q. Okay. Does it appear on that map that the

12 north side of the building extends beyond even the

13 sloped part of the original survey?

14 A. From this it does look like that.

15 Q. Okay. And if you see the word "remains" that

16 are pointed down by that red arrow, is that an accurate

17 description or depiction, rather, of where the skeletal

18 remains were found?

19 A. If the outline of the building is in the

20 correct location, it is in the general area.

21 Q. But it appears at least based on this map that

22 it's outside the original 8,000 square feet; is that

23 correct?

24 A. Based on this, yes.

25 Q. Okay. And the picture in the insert or inset,

1 them myself, but, yes, that's our notation, sure.

2 MS. JURGENSEN: Yeah, okay.

3 Q. Ms. Stopka, how many bodies, human remains did

4 AAG identify and/or exhume before they were terminated?

5 Do you recall?

6 A. I don't recall.

7 Q. Was it in excess of 160?

8 A. I believe so.

9 Q. And how many did PBS&J identify and/or

10 exhume?

11 A. I don't know.

12 Q. Less than 50?

13 A. I honestly don't know. We haven't gotten that

14 report from them yet.

15 Q. What do you think?

16 A. I'm guessing it would be 50 or more.

17 Q. Less than 60?

18 A. There again, I don't know.

19 Q. Significantly less than what Mr. Bradle's

20 company identified; is that correct?

21 A. Correct.

22 Q. All right. And how much money was paid to AAG

23 to exhume and identify those bodies plus the other work

24 it did?

25 A. I have no idea.

1 Q. Was it less than \$500,000?

2 A. I believe so.

3 Q. And how much did the City pay PBS&J for  
4 exhuming much less?

5 A. I have no idea what the final cost is.

6 Q. More than a million dollars?

7 A. I believe so.

8 Q. And with regard to PBS&J's identification of  
9 human remains, has anyone compared what they identified  
10 with what AAG identified and expressly and intentionally  
11 left in situ?

12 A. I'm not sure what you're asking.

13 Q. Well, certainly PBS&J identified some of --  
14 some remains that aren't even identified by AAG; is that  
15 correct?

16 A. I don't know.

17 Q. Is it your understanding that all of the  
18 remains that PBS&J identified were supposed to be  
19 remains that AAG did not identify?

20 A. Restate, please.

21 Q. Sure. What I'm trying to do is find the  
22 overlap. So let me see if I can ask it this way: Is it  
23 your understanding that PBS&J's position is that all of  
24 the remains that they've identified should have been  
25 identified by AAG previously?

1 the bodies when it's a known fact that they had not  
2 completed their work yet?

3 A. I would agree with that.

4 Q. All right. And so my next question is with  
5 regard to what PBS&J has attempted to assign as a  
6 project cost against AAG, you would exclude any bodies  
7 that AAG was going to go back and finish its work on,  
8 wouldn't you?

9 A. I wouldn't -- again, that wouldn't be a  
10 decision I would be making.

11 Q. Doesn't that sound reasonable?

12 A. It may sound reasonable. I don't know that it  
13 would be correct.

14 Q. Can you find any fault in it?

15 A. Off the top, no.

16 THE WITNESS: I don't think we got a 16.

17 MR. MASTROGIOVANNI: Did we miss 16?

18 THE WITNESS: We seem to go from 14, 15,  
19 to 17.

20 MR. MASTROGIOVANNI: The court reporter  
21 is -- I'm going to blame that on her.

22 THE REPORTER: It would be my fault.

23 MR. MASTROGIOVANNI: That's all right.

24 Just mark this one -- let's go back and mark this one  
25 16.

1 A. You would have to ask PBS&J what their state  
2 is -- statement. I have never heard that from them.

3 Q. Is it your understanding that PBS&J has  
4 identified remains that were already identified by  
5 AAG?

6 A. I believe so.

7 Q. All right. And it was your understanding and  
8 you knew that when AAG was terminated, that they had not  
9 completed their job; is that correct?

10 A. Correct.

11 Q. And you understand that had they been allowed  
12 to complete their job, they would have most likely gone  
13 back and done whatever needed to be done with those  
14 bodies; is that right?

15 MS. JURGENSEN: Objection, form.

16 A. I don't know.

17 Q. You don't know that they wouldn't have, do  
18 you?

19 A. I don't know.

20 Q. So it's unfair, wouldn't you agree, that AAG  
21 should be blamed for not exhuming bodies or identifying  
22 them if they were terminated and unable to do that?

23 A. Can you restate, please.

24 Q. Sure. You would agree that it would be unfair  
25 to allege that AAG did not identify and exhume all of

1 THE REPORTER: I don't have a missing 16.

2 MR. MASTROGIOVANNI: Maybe I marked it  
3 and forgot.

4 THE REPORTER: I hope it doesn't turn up.  
5 You don't have a 16 either?

6 MS. JURGENSEN: Huh-uh.

7 (Exhibit No. 16 marked)

8 Q. Let me hand you what we've marked as Exhibit  
9 16. This is a site plan. I'll ask if you can identify  
10 that for me, please?

11 A. It looks like a fairly early site plan. I'm  
12 not sure exactly from when.

13 Q. But that is a site plan that was related to  
14 your project; is that correct?

15 A. At some point, yes.

16 Q. And it looks like one of the buildings has  
17 significantly changed shape; is that correct?

18 A. Yeah.

19 Q. All right. How many times did the buildings  
20 change shape, if you know?

21 A. I couldn't tell you that.

22 Q. And do you know when they changed shape?

23 A. There were several times during several years  
24 of discussion.

25 Q. Any in 2006 that you're aware of?

1 A. Not that I remember.  
2 **Q. Any in 2007?**  
3 A. Not that I remember.  
4 **Q. So you think that the building changed shape**  
5 **before 2006 on several occasions or maybe just once?**  
6 A. Yeah.  
7 **Q. Okay. All right. Let's talk about Yellow**  
8 **Bow. When did you find that someone had trespassed on**  
9 **the property and reported it to the newspaper and taken**  
10 **bone off the property?**  
11 A. I believe when I saw the newspaper --  
12 **Q. Give me a --**  
13 A. -- article.  
14 **Q. Give me a date time frame if you could.**  
15 A. It would have been in July at some point of  
16 '07.  
17 **Q. What was your understanding as to how that**  
18 **happened?**  
19 A. From the newspaper article, it sounded like he  
20 basically walked onto the site and found bone and called  
21 the newspaper to come over and document it all for him.  
22 **Q. Now, as part of the investigation that**  
23 **followed from what we'll call the Yellow Bow incident is**  
24 **that you went and walked the site with one of your --**  
25 **one of your colleagues; is that right?**

1 A. Correct.  
2 **Q. And you guys found no bone anywhere; is that**  
3 **right?**  
4 A. Correct.  
5 **Q. And that was in July around '07; is that**  
6 **right?**  
7 A. Yes.  
8 **Q. All right. And so did Mike Bradle assist the**  
9 **City in responding to the Yellow Bow incident?**  
10 A. Yes.  
11 **Q. And how did he do so, if you can recall?**  
12 A. I remember several emails going back and  
13 forth. I believe he contacted one of the reporters  
14 involved in it to try to get a different viewpoint out  
15 on it.  
16 **Q. All right.**  
17 A. I believe he may have also talked to THC.  
18 **Q. Prior to Yellow Bow coming out, did Jim**  
19 **Bruseth come onto the site?**  
20 A. He was on the site in June.  
21 **Q. When he came onto the site, did he commandeer**  
22 **one of the backhoes?**  
23 A. I don't know if he did or not.  
24 **Q. Were you there?**  
25 A. I was not there until later in the morning.

1 **Q. Did you hear that he'd commandeered one?**  
2 A. No, I did not.  
3 **Q. Did you hear that he had asked that a certain**  
4 **trench be dug while he was there?**  
5 A. I had heard that, yes.  
6 **Q. All right. "Comandeered" is probably not a**  
7 **good word. What did you hear about him asking that a**  
8 **trench be dug?**  
9 A. Just that, that he wanted to I think prove a  
10 point.  
11 **Q. What was the point he was trying to prove**  
12 **based on your understanding?**  
13 A. Based on my understanding was that grave shaft  
14 should be visible.  
15 **Q. That's confusing to me.**  
16 A. It's confusing to me.  
17 **Q. Okay. So Mr. Bruseth with the THC was on-site**  
18 **sometime in June, correct?**  
19 A. Correct.  
20 **Q. And Mr. Bradle was there; is that right?**  
21 A. As far as I know, yes.  
22 **Q. Who else did you understand to be there?**  
23 A. Since I was not there until later, I'm not  
24 sure who all was there. I'm assuming there would have  
25 been an operator for the backhoe, I'm assuming Imperial

1 had their people on-site.  
2 **Q. And did you find it unusual that Mr. Bruseth**  
3 **would want to direct the digging on your property?**  
4 A. I don't know Mr. Bruseth well enough to know  
5 if that was usual for him or not.  
6 **Q. I mean unusual for you.**  
7 A. We had been told he was going to come up and  
8 wanted to watch digging being done.  
9 **Q. But this was a little different from watching.**  
10 **He was telling you where to dig; is that right?**  
11 A. I have no idea. I was not present.  
12 **Q. And so the point that he wanted to make was to**  
13 **show that there was grave shafts?**  
14 A. My understanding is that a statement had been  
15 made that given the soil conditions, it was very  
16 difficult to identify where grave shafts were at. I  
17 think his argument was that regardless of the soil  
18 conditions, you should be able to find a grave shaft  
19 without impacting a grave to find it. I don't know all  
20 the technical stuff. Again, I'm not an archeologist. I  
21 don't know what all.  
22 **Q. And who relayed the information to you as to**  
23 **what happened when Mr. Bruseth was out there trying to**  
24 **make --**  
25 A. Mr. Bradle.

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1 **Q. -- his point? Okay. Do you doubt anything**  
2 **that Mr. Bradle said about what happened when**  
3 **Mr. Bruseth was out there that day?**  
4 A. No.  
5 **Q. And when Mr. Bruseth directed the digging,**  
6 **what did you understand happened?**  
7 A. That he actually found -- hit a grave without  
8 seeing a grave shaft at the time at least in that one  
9 area.  
10 **Q. Didn't make his point very well, I guess?**  
11 A. I don't know.  
12 **Q. And so assuming that Mr. Bruseth directed this**  
13 **backhoe and it in fact disturbed a grave, then what**  
14 **happened to those remnants that could have been**  
15 **coffinwood, it could have been human remains, what did**  
16 **you understand happened then?**  
17 A. I don't know. I don't know that I was ever  
18 told if they were removed, if they were marked. Again,  
19 I wasn't there when it happened.  
20 **Q. When Mr. Bradle told you about this event, did**  
21 **he seem upset to you?**  
22 A. No.  
23 **Q. All right. Did it upset you that Mr. Bruseth**  
24 **had done that?**  
25 A. I don't recall feeling upset about it.

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1 **Q. Did anyone ever find out where the bone that**  
2 **Yellow Bow allegedly took from the site came from?**  
3 A. It was speculated that it came from that area  
4 where Mr. Bruseth had.  
5 **Q. You walked the site and didn't see any bone**  
6 **anywhere else, correct?**  
7 A. Correct.  
8 **Q. And to the best of your knowledge, the only**  
9 **bone that had been exposed would have been that that was**  
10 **exposed by Mr. Bruseth's, I guess, experiment; is that**  
11 **right?**  
12 A. Yes.  
13 **Q. But otherwise, no one really knows where that**  
14 **bone came from; is that right?**  
15 A. Correct.  
16 **Q. And did the City praise Mr. Bradle for his**  
17 **reaction to the Yellow Bow incident?**  
18 A. What do you mean by praise?  
19 **Q. Congratulated him for assisting, or thanking**  
20 **him, however you want to put it?**  
21 A. I believe they thanked him.  
22 **Q. Did you think he did a good job?**  
23 A. Again, I don't know that I was thinking in  
24 those terms at the time. It's been three years and I  
25 really can't recall too much.

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1 (Exhibit No. 18 marked)  
2 **Q. Let me hand you what we've marked as Exhibit**  
3 **18 and I'll ask you if you can identify that for me?**  
4 A. Yes, it's an email from me to Mr. Bradle.  
5 **Q. And in it, you say that the police were**  
6 **impressed that you were so prepared; is that right?**  
7 A. Yes.  
8 **Q. Is that true?**  
9 A. Yes.  
10 **Q. And was Mike Bradle and his group included in**  
11 **the people who were prepared?**  
12 A. Yes.  
13 **Q. All right. And you thanked him for helping;**  
14 **is that right?**  
15 A. Yes.  
16 (Exhibit No. 19 marked)  
17 **Q. Let me hand you what we've marked as Exhibit**  
18 **19 and I'll ask if you can identify that for me,**  
19 **please?**  
20 A. It appears to be an email from Mr. Johnson to  
21 Mr. Bradle.  
22 **Q. And have you ever seen this email before?**  
23 A. I may have, yes.  
24 **Q. Okay. And Mr. Johnson in commenting on**  
25 **Mr. Bradle's performance says, quote, We are pleased**

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1 **with your professionalism, dedication and approach to**  
2 **the project, period, closed quote; is that right?**  
3 A. Yes, that's what it says.  
4 **Q. So it's fair to say that as of July 19, 2007,**  
5 **the City of Waco's representatives were pleased with**  
6 **Mr. Bradle's professionalism, dedication and approach to**  
7 **the project?**  
8 A. Yes.  
9 **Q. Were you included in that, Ms. Stopka, in that**  
10 **assessment?**  
11 A. I don't know that my opinion was ever asked,  
12 but, yes, at that point in time, probably.  
13 **THE VIDEOGRAPHER:** About two minutes  
14 left.  
15 **Q. Do you know who owns the artifacts that have**  
16 **been recovered from the site?**  
17 A. Who owns them?  
18 **Q. Yes, ma'am.**  
19 A. I can assume but I don't know legally.  
20 **Q. Let me -- let me -- I don't want to trick you.**  
21 **Let me see if I can help you.**  
22 (Exhibit No. 20 marked)  
23 **Q. Let me hand you what's been marked as Exhibit**  
24 **20 and ask if you can identify that for me, please?**  
25 A. It looks like emails from Annette Jones to

1 various people including myself, I was copied in on.

2 **Q. Okay. If you look at the first page in the**  
3 **email from Annette Jones to Texas Rangers Hall of Fame**  
4 --

5 A. Yes.

6 **Q. -- the second paragraph says, quote, Since**  
7 **artifacts found on publicly owned lands are considered**  
8 **by the Antiquities Act to be the custody of the Texas**  
9 **Historical Commission, I asked Mike Bradle to get with**  
10 **THC about getting a letter or directive from THC to the**  
11 **PD to have the bones returned to the possession of the**  
12 **Museum.**

13 A. That's what it says.

14 **Q. Okay. Do you have an opinion as to who owns**  
15 **the artifacts?**

16 A. I am of the opinion that Annette knows what  
17 she's talking about so that, yes, they are probably  
18 technically the custody or the property of the  
19 Historical Commission.

20 **Q. Okay. THC?**

21 A. Yes.

22 **Q. Okay.**

23 **THE VIDEOGRAPHER:** Off the record at 2:31  
24 p.m., ending tape 3.

25 (Recess from 2:31 p.m. to 2:46 p.m.)

1 **but told us to leave things as they were." Do you**  
2 **recall that?**

3 A. Again, it's here, but without reading it, no,  
4 I would not have recalled that.

5 **Q. Was the City concerned about this publicity**  
6 **regarding the Yellow Bow incident?**

7 A. You would have to ask the City.

8 **Q. Were you?**

9 A. A little, yes.

10 **Q. Did you feel like he was depicting you**  
11 **unfairly in the press?**

12 A. Yes.

13 **Q. And did you feel like Mr. Bruseth was doing**  
14 **his best to make himself look good as opposed to the**  
15 **City in connection with how those bones got there in the**  
16 **first place?**

17 A. I don't know that at the time I had an opinion  
18 one way or the other.

19 **Q. Do you have one now?**

20 A. It's possible.

21 **Q. The reason that Mr. Bruseth asked that work on**  
22 **the utility stop related to his expressed desire to have**  
23 **some type of plan for the utilities; is that right?**

24 A. It is my understanding that he wanted the City  
25 to look at options for the route of the utility lines.

1 **THE VIDEOGRAPHER:** On the record at 2:46  
2 p.m., beginning tape 4.

3 (Exhibit No. 21 marked)

4 **BY MR. MASTROGIOVANNI:**

5 **Q. Ms. Stopka, let me hand you Exhibit 21. I'll**  
6 **ask if you can identify that for me, please?**

7 A. It looks like a series of emails between  
8 various parties including Byron Johnson, Mike Bradle,  
9 Annette Jones, myself, Jim Bruseth regarding the -- I'm  
10 assuming Yellow Bow incident.

11 **Q. So at the end of July of '07, a gentleman came**  
12 **on the site, took some bones off the site and then it**  
13 **garnered some publicity; is that correct?**

14 A. Correct.

15 **Q. And this -- Jones, in her email to you on the**  
16 **very first page states, quote, It would not surprise me**  
17 **if Bruseth changed his story and is now telling the news**  
18 **media he would never leave bones on-site, period, closed**  
19 **quote. Do you recall her saying that?**

20 A. Where are you reading from? Oh, there it is.

21 **Q. The very second paragraph, yes, ma'am.**

22 A. Well, I mean obviously she said it in the  
23 email. I don't recall.

24 **Q. Then she states, "My impression is that**  
25 **Bruseth should have been aware of the box in the trench**

1 **Q. All right. And then that -- a proposal was**  
2 **sent to Mr. Bruseth, correct?**

3 A. Correct.

4 **Q. And who is Mark Denton?**

5 A. He works at THC.

6 (Exhibit No. 22 marked)

7 **Q. Let me hand you what we're going to mark as**  
8 **Exhibit 22. I'll ask if you can identify Exhibit 22 for**  
9 **me, ma'am?**

10 A. It looks like a series of emails between  
11 Mr. Bradle, Mr. Johnson, Mark Denton, Jim Bruseth  
12 regarding the proposal that was sent in July.

13 **Q. And it appears that Mr. Denton of THC sent an**  
14 **email accepting the proposal in August '07; is that**  
15 **correct?**

16 A. Yes.

17 **Q. And if you look at his acceptance, it states**  
18 **in the second sentence, "Your proposal is acceptable and**  
19 **the Option 1 waterline route is approved with the**  
20 **understanding that any graves that will be affected by**  
21 **the waterline trenching will be completely exposed and**  
22 **excavated as a single feature." Did I read that**  
23 **correctly?**

24 A. Yes.

25 **Q. And did you understand that to be a change in**

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1 what was proposed originally in Option 1?  
 2 A. I have no idea.  
 3 Q. Do you recall inquiring to the THC as to --  
 4 well, inquiring on some clarification from the THC on  
 5 whether entire burials had to be removed, whether when  
 6 they were identified, they had to be removed, or whether  
 7 they could stay in place as long as they weren't  
 8 impacting the utility lines? Do you recall a discussion  
 9 about that?  
 10 A. I believe there was discussion like that. I  
 11 don't know that I was the instigator of that discussion.  
 12 Q. Do you recall sending Mr. Bruseth an email  
 13 notifying him that Mr. Bradle interpreted Mr. Bruseth as  
 14 requiring that any exposed remain be completely exhumed  
 15 and your need for clarification that that's not what you  
 16 thought needed to happen?  
 17 A. I would have to see that email.  
 18 Q. Now, as of August 2, 2007, Mr. Bruseth had  
 19 stopped work on the utilities, correct?  
 20 A. Correct.  
 21 Q. How far behind schedule was the project, if  
 22 you know, at that point in time?  
 23 A. I don't know how far behind they were.  
 24 Q. Were they behind?  
 25 A. I can't remember if they ever said they were

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1 or not at that point.  
 2 Q. Do you believe that Mr. Bruseth's requirement  
 3 that the project stop vis-a-vis the utilities delayed  
 4 the project?  
 5 A. We thought that it might.  
 6 Q. Did it?  
 7 A. Yes.  
 8 Q. Has anyone done a calculation to determine how  
 9 much it took you off schedule?  
 10 A. I don't know.  
 11 Q. And Mr. Bruseth's stopping work on the  
 12 utilities in the summer of '07 wasn't AAG's fault, was  
 13 it?  
 14 A. No.  
 15 Q. Now, you talked about Mr. Bruseth being out  
 16 there that day and you heard from Mike that he had  
 17 trenched or caused to be trenched an area to make a  
 18 point. Do you recall that testimony?  
 19 A. Yes.  
 20 Q. Now, were you out there later on in the day  
 21 where he directed the trenching of another area?  
 22 A. By the time I got on the site, that other area  
 23 had already been trenched.  
 24 Q. So he did it again the same day?  
 25 A. I'm assuming so since there were two trenches

1 there when I got on-site.  
 2 Q. Did anybody comment to you about that behavior  
 3 other than Mr. Bradle?  
 4 A. No.  
 5 Q. Now, with regard to the areas that he had  
 6 trenched, we're talking about Mr. Bruseth, those  
 7 resulted in back piles, did they not?  
 8 A. Yes.  
 9 Q. And were those back piles ever sifted,  
 10 screened, to the best of your knowledge?  
 11 A. Not at that time.  
 12 Q. Were they ever?  
 13 A. I believe they were later.  
 14 Q. By PBS&J?  
 15 A. I'm not sure.  
 16 Q. Okay. Did Mr. Bruseth say that they did not  
 17 need to be screened?  
 18 A. I don't know that he ever made a comment about  
 19 them. Not to me anyway.  
 20 Q. Was it your understanding that he said that  
 21 they didn't need to be screened, just put it back in,  
 22 put the dirt back in the trench?  
 23 A. No.  
 24 Q. Did anybody ever complain to Mr. Bradle or any  
 25 of his staff that those back piles caused by

1 Mr. Bruseth's activities needed to be back-screened at  
 2 any particular time -- or needed to be screened at any  
 3 particular time?  
 4 A. I don't know if somebody did or not.  
 5 Q. And you don't know when they were -- when they  
 6 were screened, if they were at all?  
 7 A. I don't know.  
 8 Q. Those back piles are gone now, aren't they?  
 9 A. Yes.  
 10 Q. You don't know what happened to them?  
 11 A. I know that some were screened. You would  
 12 have to check with PBS&J but I believe the one along the  
 13 waterline along the road was not screened because  
 14 excavation was not going to be continued in that area.  
 15 Q. So just to make clear for the record, there  
 16 was an area that was trenched that was not -- that the  
 17 back dirt was not screened, correct?  
 18 A. I can't say that 100 percent.  
 19 Q. But you believe that to be the case; is that  
 20 right?  
 21 A. I think that's the case, but I don't know for  
 22 sure.  
 23 Q. And then one of the other areas that Bruseth  
 24 was responsible for, you believe that that back pile was  
 25 screened sometime later on in the project?



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1 A. Yes.  
2 **Q. And you think that was done by PBS&J?**  
3 A. I couldn't say for sure.  
4 **Q. You don't know if PBS&J did it or if AAG did**  
5 **it?**  
6 A. Or a combination of the two.  
7 **Q. And to the extent that AAG did it, you're not**  
8 **alleging that they should have before they were**  
9 **terminated; you're just alleging that it didn't get done**  
10 **until sometime later if later?**  
11 A. I can't remember when it got done so...  
12 **Q. Are you complaining or criticizing AAG for not**  
13 **back -- for not screening that back dirt?**  
14 A. I don't know what the City is complaining on  
15 that.  
16 **Q. Have you heard any complaints like that?**  
17 A. Not personally, no.  
18 **Q. To follow the progression of the contracts,**  
19 **there was the contract with AAG in '06 for the 8,000**  
20 **square foot survey is the first contract; is that**  
21 **right?**  
22 A. Yes.  
23 **Q. And then there was a second contract that**  
24 **we'll call the geotech imaging contract; is that**  
25 **right?**

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1 A. Yes.  
2 **Q. And what was your understanding as to the**  
3 **purpose of the third contract that was signed between**  
4 **AAG and the City of Waco?**  
5 A. The continued excavation of the utility lines.  
6 **Q. When was that contract signed, to the best of**  
7 **your knowledge?**  
8 A. I'm thinking mid to late August of '07.  
9 **Q. And was that a third contract designed to have**  
10 **architectural monitoring of the --**  
11 A. Archeological.  
12 **Q. What am I saying?**  
13 A. Architectural.  
14 **Q. I've got to switch cases.**  
15 A. That's okay.  
16 **Q. Was the purpose of the third contract to**  
17 **provide archeological monitoring for the utility**  
18 **lines?**  
19 A. Yes.  
20 **Q. And was there a rate also provided to AAG if**  
21 **it had to excavate or exhume remains?**  
22 A. It's my understanding there was.  
23 **Q. So as of August '07 when the third contract**  
24 **was signed, you didn't have any complaints about AAG's**  
25 **performance; is that correct?**

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1 A. Correct.  
2 **Q. And no one at the City did, to the best of**  
3 **your knowledge; is that correct?**  
4 A. Yes.  
5 **Q. Do you believe that the Yellow Bow incident**  
6 **accelerated the media's attention on this project?**  
7 A. Not really.  
8 **Q. At some point, the project started to garner**  
9 **quite a bit of media attention; is that right?**  
10 A. After the termination, there was, yes.  
11 **Q. So you think it increased after the**  
12 **termination?**  
13 A. Yes.  
14 **Q. Do you believe that the THC should have told**  
15 **the City of Waco to cease its plans to build the**  
16 **headquarters of the center?**  
17 A. In retrospect, I think we could have been  
18 given better instructions.  
19 **Q. From the THC?**  
20 A. From THC.  
21 **Q. In fact, isn't it true that at one point the**  
22 **THC, Mr. Bruseth in particular, told you what was**  
23 **expected in exhuming bones and then later on said, well,**  
24 **it's just sort of a common sense thing and then changed**  
25 **his mind even a third time?**

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1 A. It's possible.  
2 **Q. Do you remember him changing his mind or**  
3 **giving inconsistent instructions, at least that's the**  
4 **way you interpreted them, during the project?**  
5 A. Yes.  
6 **Q. Do you believe that delayed the project?**  
7 A. I'm not sure that it did.  
8 **Q. Certainly shutting the project down for a**  
9 **while did?**  
10 A. Yes.  
11 **Q. Well, and requiring that bodies be completely**  
12 **exhumed versus leaving them intact if they didn't impact**  
13 **the actual utility line would slow the project down,**  
14 **would it not?**  
15 A. Not necessarily.  
16 **Q. You were worried about instructions being**  
17 **interpreted as sort of a daisy chain reaction, do you**  
18 **recall that?**  
19 A. On impact, yes.  
20 **Q. Would you explain to us what you meant by the**  
21 **daisy chain impact?**  
22 A. We had no problem with entire grades being  
23 removed from the area of potential effect. Our concern  
24 was that if they thought there was a burial next to  
25 that, if no bone had been impacted, to leave that in

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1 place. And it was not clear at that time whether he was  
 2 saying that or that, no, if we know a burial is there,  
 3 we have to take it out. And that's the daisy chain  
 4 that, fine, we know -- when do we finally stop?  
 5 **Q. If Mr. Bruseth was being interpreted as if you**  
 6 **know there's a burial there, you have to take it out,**  
 7 **that would significantly slow down the project; is that**  
 8 **right?**  
 9 A. Correct.  
 10 **Q. And at some point in time Mr. Bradle**  
 11 **interpreted Mr. Bruseth to be saying exactly that; is**  
 12 **that right?**  
 13 A. You would have to ask Mr. Bradle how he  
 14 interpreted it.  
 15 **Q. He told you that's how he interpreted it,**  
 16 **didn't he?**  
 17 A. I saw an email that seemed to say that.  
 18 **Q. And Mr. Bradle kept his position that that's**  
 19 **what Mr. Bruseth had said and if he needed to -- if that**  
 20 **wasn't what he meant, that he needed to clarify; isn't**  
 21 **that correct?**  
 22 A. I don't recall.  
 23 (Exhibit No. 23 marked)  
 24 **Q. Ms. Stopka, let me hand you what I've marked**  
 25 **Exhibit 23 and I'll ask you if you can identify that for**

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1 **me, please?**  
 2 A. It appears to be the August '07 contract.  
 3 **Q. Have you seen this document before, ma'am?**  
 4 A. Yes.  
 5 **Q. And if you look at the scope of services on**  
 6 **the second to the last page, does that appear to be the**  
 7 **scope of services as you understood it for the third**  
 8 **contract executed between AAG and the City of Waco?**  
 9 A. Yes.  
 10 **Q. All right. And where it says that AAG was to**  
 11 **monitor and examine where various utilities as**  
 12 **identified to by the City of Waco will be placed, was it**  
 13 **true that the City of Waco identified where the utility**  
 14 **services and the lines would be placed?**  
 15 A. Yes.  
 16 **Q. And so monitoring would be to identify remains**  
 17 **in those areas; is that correct?**  
 18 A. Correct.  
 19 **Q. And the same thing was true for the other**  
 20 **areas such as the waterline trench and the waterline**  
 21 **feeder line to the new offices, manhole construction**  
 22 **areas and other utility lines identified by the City of**  
 23 **Waco; is that right?**  
 24 A. Correct.  
 25 **Q. You didn't expect AAG to identify what the**

1 **most appropriate route was; is that correct?**  
 2 A. Correct.  
 3 **Q. Nor were they to dig those trenches,**  
 4 **correct?**  
 5 A. Correct.  
 6 **Q. They weren't operating the backhoes; is that**  
 7 **correct?**  
 8 A. Correct.  
 9 **Q. And did they have the -- well, the City had**  
 10 **the authority to clear a line, is that correct, for**  
 11 **digging?**  
 12 A. What do you mean?  
 13 **Q. Well, authorize the continuation of the**  
 14 **utility work?**  
 15 A. Again, I'm not sure.  
 16 **Q. Sure. It seems to me that the contract allows**  
 17 **AAG to monitor the work; is that correct?**  
 18 A. Correct.  
 19 **Q. But it doesn't -- but AAG did not have the**  
 20 **authority to direct anybody contractually to do**  
 21 **anything; is that correct?**  
 22 A. I guess technically that's correct.  
 23 **Q. And do you have archeological training?**  
 24 A. Formal, no.  
 25 **Q. What's the informal training?**

1 A. I've had two anthropology classes; I had one  
 2 Biblical archaeology class; and it's a personal interest  
 3 of mine.  
 4 **Q. Anybody else on staff who is working out there**  
 5 **have any archeological training from the City?**  
 6 A. What do you mean by working out there?  
 7 **Q. Oh, anybody on staff with you, for example?**  
 8 A. I believe Byron Johnson has a background. I  
 9 believe there were one or two others on staff that at  
 10 least had had some class work.  
 11 **Q. Anybody with a degree in archaeology that**  
 12 **you're aware of?**  
 13 A. I believe Byron Johnson has a degree in  
 14 anthropology; beyond that, I'm not sure.  
 15 **Q. I saw somewhere in writing where the City was**  
 16 **pointing out that it had several people working on the**  
 17 **project as City staff who had archaeological**  
 18 **backgrounds. Do you know who those people would have**  
 19 **been other than you?**  
 20 A. Byron --  
 21 **Q. Byron.**  
 22 A. -- would have been one.  
 23 **Q. Anyone else?**  
 24 A. Again, I think several other people on staff  
 25 had course work.

5:13 1 Q. When this contract was signed in August '07,  
5:13 2 there was no allegation that AAG made any false or  
5:13 3 negligent misrepresentations about anything regarding  
5:13 4 the project; is that right?  
5:13 5 A. Not that I'm aware of.  
5:13 6 Q. There were no allegations that he should have  
5:13 7 found something that he didn't find; is that right?  
5:13 8 A. Not that I'm aware of.  
5:13 9 Q. There was no allegation that he was now being  
5:13 10 contracted to work in areas that he had already said  
5:13 11 didn't need archeological monitoring; is that right?  
5:14 12 A. I believe so, yes.  
5:14 13 Q. You believe that I'm correct?  
5:14 14 A. Yes.  
5:14 15 Q. There was no claim that Mike Bradle or his  
5:14 16 company had delayed the project?  
5:14 17 A. Not that I'm aware of.  
5:14 18 Q. In August '07, there was no claim that any of  
5:14 19 the representations made by AAG or recommendations were  
5:18 20 negligent; is that correct?  
5:18 21 A. To my understanding, yes.  
5:18 22 Q. In August '07, no one alleged that they had  
5:18 23 done -- AAG had done any below performance work; is that  
5:18 24 right?  
5:18 25 A. Not that I'm aware of.

5:18 1 Q. Now, Mr. Bradle and his crew had not started  
5:18 2 back to work on the project by August 31, 2007; is that  
5:18 3 correct?  
5:18 4 A. I think so, yes.  
5:18 5 Q. But they were working with the bodies that  
5:18 6 they had already exhumed; is that right?  
5:18 7 A. Yes.  
5:18 8 Q. In fact, as of mid-September, the  
5:18 9 archeologists had not restarted on the site; is that  
5:18 10 right?  
5:18 11 A. To the best of my recollection, that's  
5:18 12 correct.  
5:18 13 Q. And there was no complaints about them not  
5:18 14 starting as of September 17; is that correct?  
5:18 15 A. I believe there were at that point some  
5:18 16 rumblings being heard from the contractor.  
5:18 17 Q. But not from the City; is that right?  
5:18 18 A. Not that I'm aware of.  
5:18 19 Q. The contractor was already, based on the  
5:18 20 schedule that it had with the City of Waco, already  
5:18 21 severely behind schedule; is that right?  
5:19 22 MS. JURGENSEN: Objection, form.  
5:19 23 A. I don't know.  
5:19 24 Q. You don't know?  
5:19 25 A. I don't know.

1 Q. You don't recall the contractor providing the  
2 City with a notification of when certain things were to  
3 have been done that went as far back as the summer of  
4 '07?  
5 A. I don't recall.  
6 Q. Do you remember deadlines being set for  
7 certain thresholds to have been met by the summer by the  
8 contractor?  
9 A. I know that they had a calendar up in the  
10 trailer, but I don't know...  
11 Q. And wasn't it true that in order to do the  
12 work that was set forth in the third contract that was  
13 signed in August, a new permit had to be issued?  
14 A. I believe so, yes.  
15 Q. And that permit had not been issued by August  
16 '07, correct?  
17 A. Correct.  
18 Q. Had it been issued by September?  
19 A. Sometime in September is when it was signed.  
20 Q. Was there anything that you are aware of that  
21 would give you support for the proposition that AAG was  
22 lax in getting the permit?  
23 A. Not that I'm aware of.  
24 Q. And there's nothing that AAG could have done,  
25 to the best of your knowledge, to have accelerated the

1 issuance of that permit?  
2 A. I don't know if they could have or not.  
3 Q. But there was no complaints that AAG should  
4 have worked before it had a permit, correct?  
5 A. Not that I recall.  
6 Q. And so even if the contractor were complaining  
7 in September, you understood that AAG could not start  
8 work until they had that permit; is that right?  
9 A. That was my understanding.  
10 Q. So you weren't critical of AAG for not having  
11 that permit at that point in time, were you?  
12 A. Not that I remember, no.  
13 Q. You don't know anybody who was other than  
14 maybe the contractor?  
15 A. Not that I recall.  
16 Q. We don't know if the contractor had any  
17 complaints about AAG and its acquisition of the permit,  
18 do we?  
19 A. Not that I'm aware of.  
20 Q. Do you have a calendar that you keep, ma'am,  
21 that would go back to '06, '07, '08?  
22 A. Yes.  
23 Q. All right. And do you still have all those  
24 calendars?  
25 A. Yes.

1 Q. Did you produce those to Julia or Mr. Bostwick  
2 in connection with this case?

3 A. I think I did.

4 MR. MASTROGIOVANNI: Did I get those?

5 MS. JURGENSEN: Pages from it, not the  
6 whole calendar.

7 MR. MASTROGIOVANNI: Not the whole thing?

8 MS. JURGENSEN: Yeah.

9 A. Yeah, you had the one in here.

10 Q. Yeah, I saw the one. Okay. And that's what I  
11 was driving at, to see if I -- to see if I had a copy of  
12 that calendar. That's the same thing as the calendar, I  
13 assume?

14 MS. JURGENSEN: Uh-huh, that was the  
15 calendar.

16 A. Yeah, it's my little desk...

17 Q. Would you have been able -- I'll ask Julia  
18 this.

19 MR. MASTROGIOVANNI: What I'd like to  
20 know is if she looks at a calendar and sees when AAG  
21 actually showed up in September. I think I know but I'm  
22 not positive.

23 Q. Do you have any idea, ma'am, when AAG got its  
24 permit in September?

25 A. I want to say it was like mid-September but

1 about the speed of the project maybe in September '07;  
2 is that right?

3 A. Perhaps.

4 Q. And was he -- what were the nature of his  
5 complaints? Do you recall?

6 A. Off the top of my head, my guess is the  
7 ability to get the utilities to the building, that they  
8 were -- they were coming up to a point where without  
9 those utilities connected, they were at a standstill.

10 Q. So the contractor was complaining that he  
11 needed to get those utilities in, correct?

12 A. Correct.

13 Q. But did the contractor know, to the best of  
14 your knowledge, any of the reasons why the archeologist  
15 was moving at the speed that they were moving?

16 MS. JURGENSEN: Objection, form.

17 A. I'm not sure.

18 Q. All right. Was the contractor, to the best of  
19 your knowledge, apprised of the stoppage by Bruseth?

20 A. Back in June, yes.

21 Q. Okay. So they knew that, correct?

22 A. Yes.

23 Q. Now, were they apprised about the delay in  
24 getting the permit?

25 A. Not by me. I don't know if somebody else

1 exact date, I don't know.

2 Q. And did AAG start its work promptly after  
3 getting that permit to the best of your knowledge?

4 A. Since I can't recall exactly when they  
5 started, I don't feel comfortable answering that.

6 Q. Do you remember any criticisms that AAG did  
7 not start promptly on the job after they got their  
8 permit?

9 A. I believe there were some from the contractor.

10 Q. Do you know if the City had any complaints?

11 A. That, I don't recall.

12 Q. So you believe that the contractor may have  
13 complained about AAG not promptly starting after it got  
14 its permit but you don't remember any complaints from  
15 the City?

16 A. Yeah, off the top of my head, I don't recall.

17 Q. Do you -- are you sure that the contractor  
18 complained at that point in time?

19 A. No.

20 Q. Did you ever speak to the contractor?

21 A. Well, on many occasions, yes.

22 Q. And did you speak to Bob Clark in  
23 particular?

24 A. Yes.

25 Q. All right. And Bob Clark started to complain

1 might have.

2 Q. Was the contractor made aware of the rules and  
3 regulations and protocols for monitoring and excavating  
4 the bodies to the best of your knowledge?

5 A. I believe so, yes.

6 Q. So did you feel like his complaints were  
7 simply complaints that the project was not moving  
8 quickly enough or did he have a complaint that someone  
9 could be moving faster and wasn't?

10 A. I think maybe a combination.

11 Q. What were his particular complaints about  
12 Mr. Bradle's company, if you can recall?

13 A. Again, off the top of my head, I think mainly  
14 just because they weren't seeing them out there working  
15 on the site.

16 Q. But the work on the site wasn't the only work  
17 that Mr. Bradle and his crew were doing; is that  
18 correct?

19 A. He had a forensic anthropologist working on  
20 the bones.

21 (Exhibit No. 24 marked)

22 Q. Let me hand you what's been marked Exhibit 24  
23 and I'll ask, Ms. Stopka, if you can identify Exhibit 24  
24 for me?

25 A. It's an email trying to bring TFC and Imperial

1 up to date on what was happening on the site and then  
 2 couple of emails between Bob Clark and Jimmy Tuley from  
 3 Imperial Construction.  
 4 **Q. Now, if we go down to the emails that are**  
 5 **dated September 25th, '07, do you see that?**  
 6 A. Yes.  
 7 **Q. One of them is from the Texas Ranger Hall of**  
 8 **Fame. Do you know who sent that?**  
 9 A. I did.  
 10 **Q. All right. And you state that digging had**  
 11 **started late last week meaning that the digging had**  
 12 **started sometime around, I don't know, the 20th of**  
 13 **September?**  
 14 A. Yes.  
 15 **Q. Is that right?**  
 16 A. Correct.  
 17 **Q. We were hoping we didn't hit anything but we**  
 18 **weren't that lucky, we have eight or nine burials,**  
 19 **correct?**  
 20 A. Correct.  
 21 **Q. So in effect what you're saying is that in**  
 22 **September '07, you didn't know what you were going to**  
 23 **hit; is that right?**  
 24 A. Correct.  
 25 **Q. And the speed of the job depended on what you**

1 **weekends; is that correct?**  
 2 A. Yes.  
 3 **MS. JURGENSEN: Objection, form.**  
 4 A. Yes.  
 5 **Q. And they were working on the weekends in**  
 6 **September '07; is that correct?**  
 7 A. Well, they worked on that weekend.  
 8 **Q. You didn't say they didn't work on the other**  
 9 **weekends, did you?**  
 10 **MS. JURGENSEN: Objection, form.**  
 11 A. I didn't say they did work on any other  
 12 weekend either.  
 13 **Q. Well, I don't want to --**  
 14 A. I can only -- I can only talk to this weekend.  
 15 **Q. No, I'm not taking offense to that. I just**  
 16 **want to make sure we're on the same page and I**  
 17 **understand your testimony. At this point in September**  
 18 **'07, you're not complaining about the number of**  
 19 **personnel that AAG has on-site?**  
 20 A. No.  
 21 **Q. In fact, you're mentioning that they're**  
 22 **working at least on one weekend, correct?**  
 23 A. Correct.  
 24 **Q. And you also point out what seems to be**  
 25 **obvious, that hitting bodies slows the progress down,**

1 **hit, isn't that right?**  
 2 A. Yes.  
 3 **Q. And that wasn't your fault, was it, that you'd**  
 4 **hit bodies that were out there?**  
 5 A. No.  
 6 **Q. And it wasn't AAG's fault that bodies were**  
 7 **being discovered out there --**  
 8 A. No.  
 9 **Q. -- correct? And hence the speed of the job**  
 10 **was a function of what was found, isn't that correct?**  
 11 A. What was found and how many people were  
 12 working the site.  
 13 **Q. And you didn't complain that there weren't**  
 14 **enough people out there, did you?**  
 15 A. Not at this time, no.  
 16 **Q. We're at the end of September '07, correct?**  
 17 A. Yes.  
 18 **Q. And in fact, you say, "Obviously hitting**  
 19 **bodies has slowed down the progress but the archeologist**  
 20 **worked through the weekend and yesterday John and Gib**  
 21 **were" -- and I can't make out the rest of it.**  
 22 A. I can't read it either. "...were making  
 23 progress," I think.  
 24 **Q. So in fact, what you're saying at the end of**  
 25 **September is that these archeologists are working on the**

1 **correct?**  
 2 A. Correct.  
 3 **Q. And we get a contrasting email from Bob Clark**  
 4 **to Jim Tuley on the very same day; is that right?**  
 5 A. Yes.  
 6 **Q. And he says, "The latest. This is becoming a**  
 7 **problem. If the archeologist shows up today, I will try**  
 8 **to speed him up a bit." Did I read that correctly?**  
 9 A. Yes.  
 10 **Q. So you state at the end of your email, "I**  
 11 **hope" -- or "I want to thank everyone for their**  
 12 **patience. Daryl has been very cooperative and Bob has**  
 13 **been brought up to date on where we are. I will let him**  
 14 **know we held off on the digging just for him." Did I**  
 15 **read that correctly?**  
 16 A. Yes.  
 17 **Q. Who is Daryl?**  
 18 A. Daryl was the site manager while Bob was on  
 19 vacation.  
 20 **Q. So you were trying in September '07 to explain**  
 21 **to the contractor what was taking so long; is that**  
 22 **right?**  
 23 A. Yes.  
 24 **Q. All right. And you weren't blaming Mike**  
 25 **Bradle for it; is that right?**

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1 A. Correct.

2 **Q. In reality, Ms. Stopka, you never knew how**

3 **long it was going to take to identify and exhume and**

4 **categorize all of the remains on that site until after**

5 **you'd done it, isn't that right?**

6 A. To a point, yes.

7 **Q. I mean, you could give some kind of an**

8 **estimate, I suppose, but it would be a very rough one,**

9 **would it not?**

10 A. We were given an estimate on what it would

11 take -- how long it would take normally to exhume a body

12 and you can extrapolate from there.

13 **Q. All right. But you didn't know how many**

14 **bodies there were?**

15 A. No.

16 **Q. So in reality never on this project did anyone**

17 **know how long it was going to take to identify, catalog,**

18 **and exhume if necessary all of the bodies and artifacts**

19 **on that project; is that right?**

20 A. Yes.

21 **Q. And there was no set contract date for Mike**

22 **Bradle to complete his project; is that correct?**

23 A. To my knowledge, no, there was not.

24 **Q. All right. So in the end, you felt like AAG**

25 **wasn't moving quickly enough, correct?**

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1 A. The City felt that, yes.

2 **Q. All right. And you exercised a termination**

3 **procedure to try to speed things up?**

4 A. The City --

5 **MS. JURGENSEN:** Objection, form.

6 A. The City did, yes.

7 **Q. The City. All right. There were delays based**

8 **on rain; is that correct?**

9 A. Yes.

10 **Q. There was water in the trenches, correct?**

11 A. Yes.

12 **Q. We talked about Bruseth's delay, correct?**

13 A. Correct.

14 **Q. We talked about the possibility of identifying**

15 **how long it would take until you found -- found the**

16 **bodies, correct?**

17 A. Correct.

18 **Q. And Mr. Bradle never promised anyone that it**

19 **would take a certain amount of time to finish this job,**

20 **did he?**

21 A. He would give estimates.

22 **Q. Do you remember any of them?**

23 A. I think there was a document that was produced

24 in October while I was on vacation that gave some

25 guesstimates.

1 **Q. They were guesstimates, you said?**

2 A. I believe so, yes.

3 **Q. So he gave some estimates after he had already**

4 **signed the contract and working, correct?**

5 A. Yes.

6 **Q. And that was in response to a request for a**

7 **schedule?**

8 A. I believe so, yes.

9 **Q. And it was clear to you that those were just**

10 **guesstimates?**

11 A. Yes.

12 **Q. And that that would not overcome the burden of**

13 **not knowing exactly how much to do until you found the**

14 **bodies, correct?**

15 A. Correct.

16 **Q. So otherwise, Mr. Bradle never said I promise**

17 **to be finished by a certain date, did he?**

18 A. Not to me, he did not.

19 **Q. To anyone that you're aware of?**

20 A. I don't know.

21 **Q. You haven't heard that, have you?**

22 A. I have not heard that.

23 **Q. So we believe that the archeologists, AAG,**

24 **started working in mid-September, correct?**

25 A. Correct.

1 **Q. And then you reference the second week that**

2 **they were working at least last weekend, which is the**

3 **only weekend since they'd started working, correct?**

4 A. Correct.

5 **Q. And you were trying to explain to Bob Clark**

6 **the progress of the program; is that right?**

7 A. Yes.

8 **Q. And then by the end of the month, the**

9 **archeologists were actually working very long hours,**

10 **isn't that right?**

11 A. I was not there at the end of the month so I

12 can't speak totally to that.

13 **Q. All right. Is it your understanding that they**

14 **were working very long hours through September?**

15 A. It's my understanding they were working.

16 (Exhibit No. 25 marked)

17 **Q. Let me hand you what's been marked Exhibit No.**

18 **25.**

19 A. Yes, this is an email from Rachel to Larry

20 Simms, who is the head of the City Park Rangers.

21 **Q. And who is Rachel Barnett, ma'am?**

22 A. At the time, she was the research librarian.

23 **Q. Was she taking over your spot while you were**

24 **gone?**

25 A. Well, she was sort of liaison while I was

1 gone.

2 **Q. It says, "As Tina is away on vacation..."**

3 **That's not you, is it?**

4 A. Yes.

5 **Q. Oh, they call you Tina?**

6 A. Yes.

7 **Q. Oh, I'm sorry. Okay. And it states, quote,**

8 **The archeologists are beginning to work long hours on**

9 **the dig site and I wanted to let you know that they may**

10 **be out back late into the evening using spot lighting to**

11 **assist, period, closed quote. Is that correct?**

12 A. That's what it says, yes.

13 **Q. Did you get a copy of this email?**

14 A. I'm not sure if I did or not.

15 **Q. Is this consistent with your understanding as**

16 **to how hard those archeologists were working in**

17 **September '07?**

18 A. It is consistent with our belief that they

19 would be out back working long hours.

20 **Q. And that's what they were doing?**

21 A. I can't speak to that. I was not on site at

22 that time.

23 **Q. Do you believe that Rachel was accurate in**

24 **what she was saying?**

25 A. I believe she was accurate in saying that they

1 may be out back late.

2 **Q. On that particular night. But she's stating a**

3 **fact that they were beginning to work long hours. Do**

4 **you believe that to be true?**

5 A. You would have to ask her.

6 **Q. Is she typically truthful?**

7 A. Yes.

8 **Q. Now, do you contend or are you aware of anyone**

9 **at the City who contends that the archeologists were not**

10 **working their very hardest in September '07 when they**

11 **started the job?**

12 A. I am not aware of anyone, but you would have

13 to ask them individually.

14 **Q. Well, Bob Clark still needed to speed up his**

15 **job even though the archeologists were working very**

16 **hard, to the best of your knowledge, is that right?**

17 A. To the best of my knowledge.

18 **Q. All right. So he kept complaining, did he**

19 **not?**

20 A. It is my understanding he did, yes.

21 **Q. All right. And you kept trying to explain to**

22 **him that this was a job that no one knew how long it**

23 **would last until all the bodies were identified, isn't**

24 **that right?**

25 A. I believe so.

1 (Exhibit No. 26 marked)

2 **Q. Ms. Stopka, let me hand you what we've marked**

3 **as Exhibit 26 and I'll ask if you can identify that for**

4 **me, please?**

5 A. It appears to be a series of emails between

6 Byron Johnson and Mr. Bradle. It looks like Rachel was

7 copied in on it.

8 **Q. Okay. If you look at what I think is the**

9 **oldest email that begins on the second to last page**

10 **dated October 4, 2007, that appears to be from**

11 **Mr. Bradle to Mr. Johnson. Do you see that?**

12 A. Yes, yes.

13 **Q. And it states second line, we worked until**

14 **7:00 p.m. tonight. I scraped the waterline inside the**

15 **construction, found no burials, talks about what they're**

16 **doing, the gas line, the waterline to the north, et**

17 **cetera. Do you see that?**

18 A. Yes.

19 **Q. So as of the beginning of October, it appears**

20 **that they are -- the archeologists are continuing to**

21 **work very hard, am I right?**

22 A. From this, yes.

23 **Q. All right. From anything else do you take a**

24 **contrary position?**

25 A. Again, I wasn't on-site so I can't speak

1 directly to it.

2 **Q. But you were on-site more than anyone at the**

3 **City of Waco, correct?**

4 A. Not during this time period.

5 **Q. All right. Who was on-site more than you**

6 **were?**

7 A. If anyone would have been out back, it would

8 have been probably Rachel or Paul Torres.

9 **Q. Were you still out of the office at that point**

10 **in time?**

11 A. Yes.

12 **Q. All right. But no one to the best of your**

13 **knowledge from the City of Waco was complaining about**

14 **AAG not working real hard at the beginning of October;**

15 **is that correct?**

16 A. Not that I'm aware of.

17 **Q. Yet the contractor continued to push for the**

18 **job to speed up; is that right?**

19 A. Yes.

20 **Q. And when did Mr. Clark or someone from**

21 **Imperial indicate to the City that they would demobilize**

22 **unless things sped up?**

23 A. I'm not sure exactly when that happened.

24 **Q. But that did in fact happen?**

25 A. Yes.

1 **Q. And Imperial started making threats to the**  
 2 **City that they would be -- the City would be incurring**  
 3 **costs for this delay; is that correct?**  
 4 A. I am not completely sure on that.  
 5 **Q. And then the contractor, to the best of your**  
 6 **knowledge, got the TFC involved; is that right?**  
 7 A. TFC had been involved from the beginning.  
 8 **Q. Well, I'm talking about TFC involved in terms**  
 9 **of how long a project was taking.**  
 10 A. TFC was in charge of the project so...  
 11 **Q. Well, TFC wasn't complaining about the speed**  
 12 **of the project up to October '07, were they?**  
 13 A. I don't know if they were or not. That would  
 14 have been between them and their contractor.  
 15 **Q. At some point, however, did the TFC contact**  
 16 **the City of Waco and notify it that it would be, the**  
 17 **City of Waco, would be responsible for delay damages and**  
 18 **costs associated with delaying the project?**  
 19 A. I believe so.  
 20 **Q. All right. When did that happen?**  
 21 A. I have no idea.  
 22 **Q. And do you recall in October Mr. Johnson**  
 23 **asking Mike for some type of schedule?**  
 24 A. It's my understanding that happened while I  
 25 was still off-site.

1 **Q. And if you look at Mr. Johnson's email to**  
 2 **Mr. Bradle which is your first page, he lists out four**  
 3 **things that might make communications go more smoothly;**  
 4 **is that right?**  
 5 A. Yes.  
 6 **Q. And he says that although Bruseth is**  
 7 **apparently satisfied with the work, it's my**  
 8 **understanding that TFC plans to contact THC to inform**  
 9 **that the work must be expedited and further changes of**  
 10 **methodology are not acceptable to TFC. Did I read that**  
 11 **correctly on No. 4?**  
 12 A. Yes.  
 13 **Q. Then it says something, quote, Should Dr.**  
 14 **Bruseth request further changes in methodology or seek**  
 15 **to impose additional conditions, please inform me**  
 16 **immediately so that we may confer and seek resolution**  
 17 **with the TFC, period, closed quote. Did I read that**  
 18 **correctly?**  
 19 A. Yes.  
 20 **Q. Now, what do you recall, if anything, about**  
 21 **the Texas Facilities Commission being concerned about**  
 22 **Dr. Bruseth and the THC and its methodologies and**  
 23 **changing methodologies and conditions?**  
 24 A. They may have talked to Byron about it. I  
 25 don't recall them talking to me directly about this.

1 **Q. What do you recall hearing about it?**  
 2 A. That they were concerned about the speed of  
 3 the project and I know at one point talked about whether  
 4 or not they could contact THC to see if there were  
 5 alternates that could -- alternative methods that could  
 6 be used.  
 7 **Q. So did you believe that maybe the THC's**  
 8 **methodology for this project was a little burdensome and**  
 9 **needed to be relaxed in order to speed the project up?**  
 10 A. Not necessarily, no.  
 11 **Q. Okay. Was that the feeling of Mr. Johnson as**  
 12 **expressed to you?**  
 13 A. Not that I recall, no.  
 14 **Q. What did you think about the methodology that**  
 15 **could be loosened up in order to speed the project up,**  
 16 **if anything?**  
 17 A. I am not an expert so I don't know what they  
 18 could have done to change the methodology.  
 19 **Q. It said, talked about conditional impositions**  
 20 **are not acceptable to TFC. Had there been conditional**  
 21 **impositions by the THC that you're aware of?**  
 22 A. I am not aware. You would have to ask  
 23 somebody at TFC.  
 24 **Q. Now, Mr. Bradle responded to this email from**  
 25 **Mr. Johnson and said everything listed below is great**

1 **and we will abide by that; is that right?**  
 2 A. Where are you reading?  
 3 **Q. In the middle of the very first page.**  
 4 A. Oh, okay. Yes. That's what it says.  
 5 (Exhibit No. 27 marked)  
 6 **Q. Let me hand you what we're marking as Exhibit**  
 7 **27 and I'll ask if you can identify that for me,**  
 8 **please?**  
 9 A. It looks like a memo from Jimmy Tuley of  
 10 Imperial to John Schietinger from TFC.  
 11 **Q. And Mr. Tuley works for Imperial, the**  
 12 **contractor, correct?**  
 13 A. Correct.  
 14 **Q. And TFC, Texas Facilities Commission, is the**  
 15 **owner of the buildings and all improvements including**  
 16 **the utilities, correct?**  
 17 A. Correct.  
 18 **Q. So Mr. Tuley is writing to TFC and he states**  
 19 **in the second paragraph, "According to our original**  
 20 **schedule, we should have completed the waterline**  
 21 **installation on 6/25/07, gas on 7/2/07, and sewer,**  
 22 **7/9/07." Is that correct?**  
 23 A. I am assuming it's correct.  
 24 **Q. That's way back in the summer of '07,**  
 25 **correct?**



5:44 1 A. Yes.

5:46 2 **Q. So by the time Mike Bradle had his second**  
5:47 3 **contract, Mr. Tuley is alleging that all these deadlines**  
5:47 4 **had already been busted, isn't that right?**

5:47 5 A. Yes.

5:47 6 **Q. So nobody can possibly claim that AAG delayed**  
5:47 7 **the project past its original deadlines; is that right?**

5:47 8 **MS. JURGENSEN:** Objection, form.

5:47 9 A. I'm assuming people could make that  
5:47 10 allegation.

5:47 11 **Q. It wouldn't make sense though, would it?**

5:47 12 A. It depends on the person, I guess.

5:47 13 **Q. It wouldn't make sense --**

5:47 14 A. It wouldn't make sense to me.

5:47 15 **Q. Yeah, I mean, 6/25/07, Mike hadn't -- or AAG**  
5:48 16 **didn't have a second contract at that point in time, did**  
5:48 17 **they?**

5:48 18 A. Yes, they did.

5:48 19 **Q. 6/25/07, you're talking about the geotech**  
5:48 20 **monitoring contract?**

5:48 21 A. Yes.

5:48 22 **Q. They didn't have the contract to go out and**  
5:48 23 **look at the utilities; is that right?**

5:48 24 A. Correct.

5:48 25 **Q. What delayed the project so that the waterline**

5:48 1 **installation didn't happen on 6/25 and the gas on 7/2**  
5:48 2 **and the sewer on 7/9? What happened?**

5:48 3 A. You would have to ask Imperial.

5:48 4 **Q. You were out there. You don't know?**

5:48 5 A. Well, they weren't telling me everything  
5:48 6 on-site.

5:49 7 **Q. What have you heard that caused such a**  
5:49 8 **delay?**

5:49 9 A. I can speculate.

5:49 10 **Q. Can you tell me what that is?**

5:49 11 A. The fact that probably when they put their  
5:49 12 original schedule together human remains had not been  
5:49 13 found on the site. They were expecting to have those  
5:49 14 utilities already in place. Obviously that didn't  
5:49 15 happen because human remains were found. That by 6/25  
5:49 16 THC had put us on hold for the utility lines although  
5:49 17 construction on the buildings were going forward.

5:49 18 **Q. But AAG didn't know what their deadlines were,**  
5:49 19 **did it, to the best of your knowledge?**

5:49 20 A. Not that I'm aware of.

5:49 21 **Q. And AAG had nothing to be faulted for, for**  
5:49 22 **discovering the remains or monitoring the discovery of**  
5:49 23 **the remains or replacement of the remains?**

5:49 24 A. No.

5:49 25 **MS. JURGENSEN:** Objection, form.

1 **THE VIDEOGRAPHER:** Four minutes left on  
2 this tape.

3 (Exhibit No. 28 marked)

4 **Q. Let me hand you what's been marked as Exhibit**  
5 **28 and I'll ask if you can identify that for me,**  
6 **please?**

7 A. It appears to be a memo to Mr. Bradle from  
8 Mr. Johnson on scheduling of the remaining archeological  
9 work.

10 **Q. Do you recall seeing this document, ma'am?**

11 A. After the fact, yes.

12 **Q. To the best of your knowledge, is this the**  
13 **first time that Mike Bradle or AAG was provided with any**  
14 **type of schedule for the progression of the work?**

15 A. That I am aware of.

16 **Q. Okay. And do you recall what Mike Bradle's**  
17 **response to these proposed deadlines or timetable was?**

18 A. It's my understanding he wrote a response  
19 giving what he saw as reasonable.

20 **Q. And for the most part, he said this was not**  
21 **reasonable, isn't that right?**

22 A. I can't recall, but all I know is that he  
23 provided a response. Again, I wasn't on-site when this  
24 was taking place so everything was sort of after the  
25 fact for me.

1 **Q. Let's look at the sewer line. How many bodies**  
2 **were found along that sewer line to the best of your**  
3 **knowledge?**

4 A. When it was open back in June of '07, I  
5 believe it was in the 50s.

6 **Q. What about the gas line?**

7 A. I have -- I don't recall.

8 **Q. Should there be records that would show how**  
9 **many bodies were ultimately found in all of these**  
10 **locations?**

11 A. Yes, there should.

12 **Q. And, again, no one knew how many bodies were**  
13 **going to be found until they were actually found, isn't**  
14 **that correct?**

15 A. Correct.

16 **Q. Wasn't it a little bit unreasonable for**  
17 **Mr. Johnson to suggest that there was a timetable for**  
18 **finishing because you couldn't tell how many bodies you**  
19 **were going to find in any of those lines?**

20 A. I don't think it was unreasonable to ask for a  
21 guess on --

22 **Q. A guess?**

23 A. -- on what they had already found.

24 **Q. Based on what they had already found, a guess**  
25 **as to future finds; is that right?**

1 A. No, a guess on what they already knew was in  
2 the ground and how long it would take them to get those  
3 bodies out of the ground.

4 **Q. So in reading this proposed schedule, you're**  
5 **assuming that it only would relate to things that had**  
6 **already been identified; that the schedule would be**  
7 **adjusted if there were new bodies identified. Is that**  
8 **correct?**

9 A. I would have to re-read the response to see if  
10 that's how it was interpreted or not.

11 **Q. Is that the way you interpreted it?**

12 A. Again, I wasn't there during the discussions  
13 so I'm not sure what the original intent was.

14 **Q. Well, just as common sense, doesn't it appear**  
15 **to you that it would be very difficult to have a time**  
16 **line for bodies you hadn't identified yet?**

17 A. Yes.

18 **Q. Okay.**

19 **MR. MASTROGIOVANNI:** Oh, are we out of  
20 time? Okay. Take a break.

21 **THE VIDEOGRAPHER:** Off the record at 3:45  
22 p.m., ending tape 4.

23 (Recess from 3:45 p.m. to 4:05 p.m.)

24 **THE VIDEOGRAPHER:** On the record at 4:05  
25 p.m., beginning tape 5.

1 (Exhibit No. 29 marked)

2 **BY MR. MASTROGIOVANNI:**

3 **Q. Ms. Stopka, let me hand you what's been marked**  
4 **as Exhibit 29 and I'll ask if you can identify that for**  
5 **me, please?**

6 A. It appears to be Mr. Bradle's memo to  
7 Mr. Johnson regarding construction schedules.

8 **Q. Does it appear to you that Mr. Bradle promptly**  
9 **responded to Mr. Byron's email or letter correspondence**  
10 **concerning proposed schedule and deadlines?**

11 A. Yes.

12 **Q. Did you review Mr. Bradle's response?**

13 A. After the fact, yes.

14 **Q. All right. Did you have any criticisms of**  
15 **it?**

16 A. Not that I recall.

17 **Q. All right. And do you think Mr. Bradle was**  
18 **honest and forthright in describing his inability to**  
19 **meet some of those deadlines?**

20 A. I believe so, yes.

21 **Q. Okay. And it seems that the impetus for this**  
22 **push in deadlines is coming from the contractor; is that**  
23 **correct?**

24 A. That's my understanding, yes, at this point.

25 (Exhibit No. 30 marked)

1 **Q. Let me hand you, Ms. Stopka, what's been**  
2 **marked as Exhibit 30 and I'll ask if you can identify**  
3 **that for me, please?**

4 A. It looks like an email from Rachel to Byron  
5 regarding an email from Bob Clark to Jimmy Tuley and  
6 others at TFC.

7 **Q. All right. Does it appear that in October, on**  
8 **October 11, 2007, Mr. Clark, the contractor's**  
9 **representative, is responding to the schedule that we**  
10 **just reviewed that was provided by Mr. Bradle?**

11 A. That's what it appears to be.

12 **Q. And it says -- he says, It looks to me like**  
13 **this schedule will seriously impact the completion of**  
14 **this project per the construction schedule, period,**  
15 **closed quote. Did I read that correctly?**

16 A. Yes.

17 **Q. And you didn't find anything unreasonable**  
18 **about what Mr. Bradle said in his proposed response to**  
19 **the schedule or his proposed schedule in response to**  
20 **Mr. Johnson; is that right?**

21 A. I don't remember.

22 **Q. And you don't remember anybody criticizing**  
23 **Mr. Bradle for being unrealistic or being too**  
24 **conservative or anything else; is that right?**

25 A. Not that I can remember.

1 **Q. All we have is Bob Clark saying hurry up and**  
2 **everybody seems to be trying to accommodate him; is that**  
3 **right?**

4 A. It could be interpreted that way, yes.

5 **Q. Is that the way you interpret it?**

6 A. I think it was not just Bob Clark's concern; I  
7 think it was a concern from TFC and from Imperial as a  
8 whole.

9 **Q. Okay. Well, and I meant Imperial. So and of**  
10 **course TFC was the owner of the buildings and the**  
11 **improvements including utilities, correct?**

12 A. Correct.

13 **Q. Ms. Stopka, are there rules that are**  
14 **applicable to City employees for discussing topics with**  
15 **the press?**

16 A. Yes.

17 **Q. What are those rules as you understand them**  
18 **generally?**

19 A. In general, it's usually discretion of the  
20 supervisor of the department as to who can and cannot  
21 speak to the press.

22 **Q. And in your case, who is the supervisor over**  
23 **the department?**

24 A. Byron Johnson.

25 **Q. Did Mr. Johnson and you discuss your**

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1 communications with media relating to this project?  
 2 A. We probably did, yes.  
 3 **Q. Do you recall Mr. Johnson giving you any**  
 4 **instructions with regard to whether you could speak with**  
 5 **the press?**  
 6 A. Any time a request would come through from the  
 7 media, I would contact him before.  
 8 **Q. So as a policy, you would not on your own**  
 9 **contact the press, you would simply respond to a contact**  
 10 **by them?**  
 11 A. Correct.  
 12 **Q. And with regard to this project, did you**  
 13 **follow that policy?**  
 14 A. Yes.  
 15 **Q. Is it your sworn testimony that you did not**  
 16 **contact the press without them contacting you first?**  
 17 A. I do not recall contacting the press before  
 18 they contacted me.  
 19 **Q. Is it allowable for you to contact the press**  
 20 **anonymously?**  
 21 A. I would assume it would be if I am not  
 22 speaking for the City.  
 23 **Q. Did you do that in this case?**  
 24 A. Not that I can recall.  
 25 **Q. Ms. Stopka, we subpoenaed the local media.**

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1 **And you gave me earlier an email description for your**  
 2 **personal email, do you recall that, ma'am?**  
 3 A. Yes.  
 4 **Q. And in particular, it was tuna54 -- I'm**  
 5 **sorry -- tuna51459@yahoo.com; is that correct?**  
 6 A. No.  
 7 **Q. That's not correct?**  
 8 A. It's @aol.com.  
 9 **Q. Do you use or have you ever used**  
 10 **tuna51459@yahoo.com?**  
 11 A. I did before it was hacked. It's been several  
 12 years.  
 13 **Q. Did you communicate with the media using the**  
 14 **email address tuna51459@yahoo.com?**  
 15 A. I do not recall having done so, no.  
 16 **Q. Are you denying that you sent messages to the**  
 17 **media using that email address?**  
 18 A. I am saying that I don't recall ever having  
 19 sent messages to the media using that email address.  
 20 **Q. Did you send any messages to the media using**  
 21 **any email address?**  
 22 A. Not that I recall.  
 23 **Q. Did you post with the media under the**  
 24 **pseudonym "Amazed" or some variation of that name?**  
 25 A. Not that I can recall.

1 **Q. And you said that that email address that I**  
 2 **just recited was your email address, but it was, quote,**  
 3 **hacked. Do you remember that?**  
 4 A. Yes. I started to get not only a lot of spam  
 5 but also being told that emails were being sent from it  
 6 that I was not sending. It was basically a genealogy  
 7 email that I had.  
 8 **Q. And do you have a copy of what was sent to you**  
 9 **alleging that that email address had been hacked?**  
 10 A. Not at this point, no.  
 11 **Q. How was that communicated to you, if you can**  
 12 **recall?**  
 13 A. I made that decision on my own and decided to  
 14 close the account.  
 15 **Q. Do you have any suspicion as to who may have**  
 16 **hacked your account?**  
 17 A. No. It was -- I mean, that address was known  
 18 by a lot of people.  
 19 **Q. Did Ms. Jones have a personal email account**  
 20 **too that you're aware of?**  
 21 A. I believe she does.  
 22 **Q. All right. Do you know the address for**  
 23 **that?**  
 24 A. Not off the top of my head, I don't, no.  
 25 **Q. Do you know whether she communicated to the**

1 **press anonymously about this case?**  
 2 A. I have no idea. You would have to ask her.  
 3 **Q. Do you know of any regulation that would allow**  
 4 **that if she did so?**  
 5 A. I have no idea.  
 6 **Q. Have you worked with PBS&J on the project?**  
 7 A. Yes.  
 8 **Q. What have you done with them? What's your**  
 9 **role consist of?**  
 10 A. Same role as I had with the other project, I'm  
 11 basically the staff liaison.  
 12 **Q. Has PBS&J been critical of any of the work**  
 13 **that AAG did?**  
 14 A. Yes.  
 15 **Q. Tell me in what -- in what way.**  
 16 A. I don't know that I can give specifics. They  
 17 would be able to better...  
 18 **Q. Can you tell me in general what they've**  
 19 **said?**  
 20 A. They were surprised at some of what they were  
 21 finding in areas that had been declared clear. They  
 22 were surprised that after -- sifting had not been  
 23 carried on along with the excavations at the time.  
 24 Beyond that, you'd have to talk to them.  
 25 **Q. So the only two complaints that you can recall**

1 that PBS&J had was that there were remains in areas that  
2 were declared clear by AAG; and secondly, that the back  
3 dirt had not been sifted at the -- at a time in close  
4 proximity to the trenching?

5 A. That's what I remember at this point.

6 Q. Anything else?

7 A. Without giving it some real serious thought,  
8 you know, off the top of my head, I can't really.

9 Q. Two questions: One, what documents indicate  
10 what was declared, quote, clear, closed quote, by AAG?

11 A. Actually, I have -- there were some emails by  
12 Mr. Bradle. That's mainly what. And I believe on some  
13 of his invoices he may have made a statement or two, but  
14 without reviewing stuff, I couldn't tell you for sure.

15 Q. So you believe that at least in some emails  
16 and some invoices, you thought that certain areas were  
17 declared clear by AAG; is that right?

18 A. Yes.

19 Q. And would that have been clear in the sense  
20 that it was cleared to lay the utilities?

21 A. Yes.

22 Q. And so why would PBS&J have gone back over  
23 those areas?

24 A. They were requested to by THC, that there were  
25 only a few areas that THC told us we didn't have to

1 still had not been covered up by AAG; is that correct?

2 A. Correct.

3 Q. All right. So they weren't cleared either,  
4 were they?

5 A. A couple of them we had been led to believe  
6 were cleared. They just had not been back-filled  
7 because the utilities had not been put into them yet.

8 Q. So in that category, there were certain areas  
9 that had not been back-filled that were cleared and  
10 certain areas that had not been back-filled that clearly  
11 were not cleared; is that right?

12 A. Correct.

13 Q. And of the areas that you believe were not  
14 back-filled and cleared, what were those?

15 A. I believe there were two of the manholes,  
16 there was an area in front of the Ed Center. I'm not --  
17 beyond that, again, without looking at the documents, I  
18 couldn't tell you.

19 Q. So as we sit here today, the only areas that  
20 you believe that PBS&J had complaints about being  
21 cleared that weren't really cleared were two manholes  
22 and a front entrance of the center; is that correct?

23 MS. JURGENSEN: Objection, form.

24 A. I believe there may have been other areas but  
25 like I said, without reviewing, I'm not going to be able

1 re-excavate after AAG left the site.

2 Q. Okay. I'm a little confused. After AAG left  
3 the site, THC required that certain areas be gone back  
4 over --

5 A. Yes.

6 Q. -- for lack of a better way of putting it?

7 A. Yes.

8 Q. And what were those areas?

9 A. Well, some of the areas were areas that had  
10 not been finished yet.

11 Q. Okay.

12 A. There was also -- boy, off the top of my head  
13 again...

14 Q. So those weren't clear?

15 A. No. Things like the gas line were not clear.

16 Q. Okay.

17 A. There were a couple of areas that they  
18 requested that we take a closer look at before we  
19 back-filled. I believe there's a memo or an email or  
20 something from THC regarding that.

21 Q. All right. So THC, when AAG left, asked that  
22 you go over areas that were not completed and hence not  
23 cleared by AAG, correct?

24 A. Correct.

25 Q. And then a second category were areas that

1 to --

2 Q. You can't think of any today?

3 A. No.

4 Q. All right. Now, the only, quote, clearance  
5 evidence that you have would be some emails and maybe  
6 some invoices, correct?

7 A. I believe so.

8 Q. All right. And do you know what the dates of  
9 those are?

10 A. No.

11 Q. Do you know who authored them and to whom they  
12 were sent?

13 A. They would have been authored by Mr. Bradle.  
14 And then after AAG was off the site, I put together a  
15 memo to THC with copies of those emails saying this is  
16 what we believe was cleared and getting their reading on  
17 whether or not we needed to re-excavate.

18 Q. Okay. So just so I'm understanding what the  
19 scope of PBS&J's remedial work was, it related solely to  
20 areas that had been designated, at least you thought,  
21 designated as cleared by AAG; is that right?

22 MS. JURGENSEN: Objection, form.

23 A. That was part of their responsibility, yes.

24 MR. MASTROGIOVANNI: All right. What's  
25 -- what's the basis of the objection?

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1 MS. JURGENSEN: Pardon me?  
 2 MR. MASTROGIOVANNI: What was the basis  
 3 of the objection?  
 4 MS. JURGENSEN: I think you're  
 5 misinterpreting what she testified to earlier.  
 6 MR. MASTROGIOVANNI: All right. I want  
 7 to make --  
 8 MS. JURGENSEN: You said solely and she  
 9 said there were others.  
 10 MR. MASTROGIOVANNI: I want to make sure  
 11 I'm absolutely on top of this.  
 12 Q. PBS&J alleges to have done remedial work,  
 13 correct?  
 14 A. You would have to ask PBS&J if that's what  
 15 they are alleging.  
 16 Q. All right. That's what the City is alleging,  
 17 to the best of your knowledge, isn't that right?  
 18 A. Again, you would have to ask the City  
 19 representative for that. I don't...  
 20 Q. All right. We were talking about criticisms  
 21 that you were aware of that PBS&J made, right?  
 22 A. Yes.  
 23 Q. All right. So the criticisms that you heard  
 24 that PBS&J were making related to areas that you  
 25 believed were designated clear --

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1 A. Correct.  
 2 Q. -- that were not --  
 3 A. Correct.  
 4 Q. -- is that right? And the ones that you can  
 5 remember today were two manholes and a front entrance of  
 6 the center?  
 7 A. I believe so.  
 8 Q. All right. Have you ever determined whether  
 9 those areas were in fact designated as clear by AAG?  
 10 A. I would have to go back and look at the  
 11 documentation.  
 12 Q. So as of today, you're not sure?  
 13 A. Right.  
 14 Q. Now, you're not criticizing AAG for not doing  
 15 work that you terminated -- that it didn't get to before  
 16 you terminated it, correct?  
 17 A. I am not criticizing them for that, no.  
 18 Q. And neither is the City, to the best of your  
 19 knowledge?  
 20 A. To my knowledge, no.  
 21 Q. All right. So if in fact those two areas were  
 22 not indeed cleared, you wouldn't be criticizing AAG for  
 23 not having gotten to them; is that correct?  
 24 A. If they had been told -- had we been told they  
 25 were cleared and they were in fact not cleared, yes, we

1 would complain about that.  
 2 Q. No, I'm asking the converse. If they had not  
 3 in fact been cleared, then you wouldn't be criticizing  
 4 them for --  
 5 A. Correct.  
 6 Q. -- for what you're criticizing for today?  
 7 Okay. And the issue, the second issue that you believe  
 8 PBS&J may be criticizing is the back dirt. And I  
 9 thought what you said was that their criticism related  
 10 to the timing, that they believe that it should have  
 11 been done earlier than it was done?  
 12 A. Yes.  
 13 Q. So, again --  
 14 A. That's my understanding.  
 15 Q. Okay. So, again, to the extent that AAG did  
 16 not get to it before they were terminated, that's not a  
 17 criticism, is it?  
 18 A. No.  
 19 Q. From you?  
 20 A. Not from me, no.  
 21 Q. Okay. Or from the City, to the best of your  
 22 knowledge?  
 23 A. Again, I don't know what the City is alleging  
 24 so...  
 25 Q. Okay. Well, who is --

1 A. At that point.  
 2 Q. Who is the City -- and when you say I don't  
 3 know who the City is alleging, who would that be?  
 4 A. Somebody higher up the food chain than I am.  
 5 Q. All right. Who would that be, do you think?  
 6 A. I am guessing it would be either Byron  
 7 Johnson, Larry Groth. I have -- I really have no idea.  
 8 Q. Do you believe that the THC allowed you to  
 9 build on top of full bodies?  
 10 A. I don't know.  
 11 Q. I want to know what you believe.  
 12 A. I don't know.  
 13 Q. Do you believe that the THC allowed the  
 14 construction of utilities over skeletal complete  
 15 bodies?  
 16 A. No.  
 17 Q. Do you believe -- strike that.  
 18 I might be able to shortcut this a little  
 19 bit. If I understand correctly, the City only owns the  
 20 dirt out at the project; is that right?  
 21 A. I am not completely sure on what the City owns  
 22 or does not own given that site.  
 23 Q. Right. Is it your understanding that the  
 24 Texas Facilities Commission owns the buildings, the  
 25 improvements including the utilities?



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1 **Q. All right. Are you aware of AAG damaging any**  
2 **of the property of the City of Waco while it was working**  
3 **on the project?**  
4 A. What do you mean by property?  
5 **Q. Trucks, cars, anything that the City owned.**  
6 **Dirt.**  
7 A. A generator was stolen that they were using  
8 while they were on-site.  
9 **Q. Anything other than that?**  
10 A. Not that I am aware of.  
11 **Q. So to clarify, you're not aware of AAG causing**  
12 **any property damage to the City?**  
13 A. Not that I have been told.  
14 **Q. You're not aware of AAG or any of its**  
15 **representatives injuring anybody bodily?**  
16 A. Not that I am aware of.  
17 **Q. And no one has made those claims?**  
18 A. Not that I am aware of.  
19 **Q. So if I understand correctly, the damage to**  
20 **the City that it seeks to recover in this lawsuit**  
21 **relates to the contract and its performance and the**  
22 **allegation that it was not performed within the time**  
23 **constraints that it was supposed to be?**  
24 MS. JURGENSEN: Objection, form.  
25 **Q. Is that right?**

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1 A. Again, I don't know that I can speak --  
2 **Q. What do you --**  
3 A. -- to that.  
4 **Q. What do you understand the damages to be in**  
5 **this case?**  
6 A. I'm not really sure.  
7 **Q. Are you aware of any damages that the City has**  
8 **suffered in this case by reason of anything that AAG did**  
9 **or didn't do?**  
10 A. I know the City has claimed some stuff, but,  
11 again, I'm not -- I was not in on the loop of any of  
12 that.  
13 **Q. But you're the one who's worked mostly with**  
14 **PBS&J; is that right?**  
15 A. Again, I am the liaison.  
16 **Q. You're the liaison, correct?**  
17 A. Yes.  
18 **Q. And is it true that the complaints that PBS&J**  
19 **has with regard to AAG relate to work that it had to**  
20 **redo that AAG should have done?**  
21 A. You would have to ask PBS&J on that.  
22 **Q. Is that your understanding?**  
23 A. I'm not sure that it is totally my  
24 understanding, no.  
25 **Q. I want to make very clear something on the**

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1 **record, if I can. You're not aware of any property**  
2 **damage that anyone at the City believes AAG is**  
3 **responsible for nor any personal injury?**  
4 A. Not that I have heard.  
5 **Q. Are you familiar with the interlocal agreement**  
6 **at all?**  
7 A. No.  
8 **Q. Okay. Just to make clear for the record,**  
9 **you're not able to tell us whether the City has been**  
10 **damaged at all by anything that AAG did or didn't do; is**  
11 **that right?**  
12 A. Correct.  
13 (Exhibit No. 32 marked)  
14 **Q. Ms. Stopka, let me hand you what I've marked**  
15 **as Exhibit 32 and ask you if you can identify that for**  
16 **me, please?**  
17 A. It looks like a response from Byron Johnson to  
18 Mike Bradle with me copied in on it regarding what looks  
19 like a report by Mike on what's happening on the side.  
20 **Q. And in October and precisely October 15, 2007,**  
21 **Byron Johnson sends an email to Mike Bradle saying,**  
22 **Mike, thanks for the update and the work everyone is**  
23 **doing to keep us on schedule; is that right?**  
24 A. Correct.  
25 **Q. So as of October 15, 2007, your supervisor was**

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1 **thanking Mike for at least doing his part to keep**  
2 **everyone on schedule; is that correct?**  
3 A. Yeah, that's what it appears to be.  
4 **Q. Were you back yet from --**  
5 A. I think I was just back.  
6 (Exhibit No. 33 marked)  
7 **Q. Let me hand you what's been marked as Stopka**  
8 **Exhibit 33 and I'll ask you if you can identify that for**  
9 **us, please?**  
10 A. It's a series of emails between myself and  
11 Mr. Bradle as well as Byron and Vince regarding the fact  
12 that we were coming up towards the end of the amount  
13 originally approved for the contract.  
14 **Q. So in the middle of October, you were**  
15 **concerned that you were coming up on reaching the**  
16 **budget; is that correct?**  
17 A. Correct.  
18 **Q. And you asked Mike if there was anything that**  
19 **could be done to get THC to outline the minimum required**  
20 **work for the project, correct?**  
21 A. Yeah, basically asking what was being  
22 required.  
23 **Q. All right. In other words, you wanted to make**  
24 **sure that you were only doing what was minimally**  
25 **required; is that right?**

1 A. That we were meeting the minimum requirements  
2 by THC.

3 **Q. All right. And the reason for that is because  
4 you wanted to save money and speed up; is that right?**

5 A. I am assuming to save money more than...

6 **Q. And then you point out to Mike that you can  
7 find nothing in the protocol from THC that says anything  
8 about required analysis of the remains; is that right?**

9 A. Correct.

10 **Q. And you point out that it is important that  
11 City Council understand that you are not engaged in  
12 salvage operation; is that right?**

13 A. Yes.

14 **Q. What did you mean by that?**

15 A. I was writing this under instructions from my  
16 supervisor and that this was -- my understanding from  
17 him was that this was a project that we needed to get  
18 the burials out respectfully and in a timely manner,  
19 that this was not a complete historical cemetery survey,  
20 that we were not doing in-depth research on all the  
21 graves and things like that.

22 **Q. Did you feel like that had been done prior to  
23 this email?**

24 A. We felt that it was starting to be done.

25 **Q. And you felt like you needed some**

1 **clarification on the minimal standards so that you  
2 weren't engaged in a giant project of historical --**

3 A. Correct.

4 **Q. -- magnitude; is that right?**

5 A. That's my understanding, yes.

6 **Q. Okay. And then Mr. Bradle responded to you;  
7 is that right?**

8 A. Yes.

9 **Q. And what do you recall his response being in  
10 general?**

11 A. He had pointed out that July 17 letter that I  
12 had forgotten about which laid out a lot of the  
13 methodology that was being followed that THC had  
14 approved; also that they would provide us with some  
15 information on costing on what -- what he was looking at  
16 for the cost on things.

17 **Q. Okay. So as of October 19, 2007, AAG had its  
18 permit on this third contract for about a month; is that  
19 right?**

20 A. Correct.

21 **Q. And what we can see is that there's no  
22 complaints about the staffing that AAG has or the amount  
23 of time that they're spending up through October 19; is  
24 that correct?**

25 A. At this point, yes, that's correct.

1 **Q. Yet there seems to be steam building on  
2 speeding up the project, is that a correct assessment?**

3 A. I think that would be correct, yes.

4 **Q. So what you're trying to do is balance the  
5 contractor wanting to go very quickly and the THC having  
6 some methodology that may be a little bit strenuous; is  
7 that correct?**

8 A. Frankly, what I remember from writing this was  
9 that because we were going to have to go back to Council  
10 to ask for more money, we wanted to make sure that we  
11 were following what we needed to be following but that  
12 the project was not getting out of hand in terms of  
13 requirements that we may not have been totally aware of.

14 **Q. So since you thought you were going to have to  
15 go back to the City Council around October 19, 2007, you  
16 wanted to make sure that the job would be compliant with  
17 the minimal standards but compliant nonetheless?**

18 A. Correct.

19 **Q. And then you respond to Mr. Bradle, quote, We  
20 keep emphasizing that until we actually start excavation  
21 on the main waterline, we won't know how many bodies we  
22 will find. We certainly did not expect to find them  
23 stacked three deep on the hillside so... What was your  
24 point in making that comment?**

25 A. We had provided -- I think by this time, we

1 had provided a document to Mr. Bradle saying this is  
2 what we're seeing upcoming as expenses that we need to  
3 go back for more money. We had sort of a guesstimate  
4 from Mr. Bradle on how many bodies might be found in the  
5 waterline but we weren't sure exactly how many and we  
6 wanted to make sure that we weren't underestimating  
7 realizing that because we didn't expect to find so many  
8 stacked graves, we weren't sure.

9 **Q. So as of October, is it fair to say, Ms.  
10 Stopka, you didn't have any complaints and you're not  
11 aware that the City had any complaints that Mike Bradle  
12 and AAG were moving slower than they should be; is that  
13 correct?**

14 A. I can only speak for myself and I did not.

15 **Q. Did you hear anyone at the City make those  
16 kinds of complaints?**

17 A. I was starting to hear some grumbling  
18 especially about the staffing on-site.

19 **Q. Was that in November or was that in October?**

20 A. Late October into November.

21 **Q. And in fact in October and even before that,  
22 you -- they were counting bodies that were stacked on  
23 top of each other, correct?**

24 A. That's what we were told, yes.

25 **Q. Did you see -- did you see that with your own**



1 eyes?  
 2 A. On at least one occasion, yes.  
 3 **Q. And they were crisscrossed on top of each**  
 4 **other in some cases, correct?**  
 5 A. Yes.  
 6 **Q. And in fact, you found -- or bodies were found**  
 7 **in the sewers; is that right?**  
 8 A. What do you mean?  
 9 **Q. Let's see. I'll have to find that in a**  
 10 **second. It's not that exhibit.**  
 11 A. On this exhibit --  
 12 **Q. Yes, ma'am.**  
 13 A. -- I do make a comment about bodies in the  
 14 line by the Ed Center are actually in the sewer  
 15 connecting line. That is saying that in that list of  
 16 estimates that we gave him to review to see if it was  
 17 reasonable, we had put that connecting line in with the  
 18 manholes as a -- instead of a separate. So not actually  
 19 in the sewer but in that connecting line.  
 20 **Q. Okay. Okay. Thank you very much. And all**  
 21 **this time, Mr. Clark is continuing to push that the**  
 22 **schedule be accelerated; is that right?**  
 23 A. To the best of my knowledge, yes.  
 24 **Q. And all the while AAG continues to find more**  
 25 **and more remains; is that right?**

1 A. Right, excuse me, correct.  
 2 **Q. And it would be fairly easy to just look at**  
 3 **the burial forms or the schedules and find out how many**  
 4 **bodies were being brought out at what time; is that**  
 5 **right?**  
 6 A. Correct.  
 7 **Q. And your recollection is that in October,**  
 8 **notwithstanding Imperial's complaints, that bodies were**  
 9 **continuing to be discovered, logged, cataloged and**  
 10 **removed in some cases; is that right?**  
 11 A. It's my understanding, yes.  
 12 **Q. And it's true, isn't it, that you can only get**  
 13 **so many individuals into a trench in order to do**  
 14 **whatever archeologists do when they find remains, I**  
 15 **assume it's to identify them and try to get them out if**  
 16 **they need to be removed; is that right?**  
 17 A. I am assuming so.  
 18 **Q. I mean, you couldn't get 30 people in one**  
 19 **trench, could you?**  
 20 A. It would depend on the size of the trench.  
 21 **Q. Would you just leave that to the**  
 22 **archeologists --**  
 23 A. Yes.  
 24 **Q. -- to determine? All right. And so if**  
 25 **Mr. Bradle felt like only two people could work safely**

1 **in a trench, would you contest that?**  
 2 A. No.  
 3 **Q. If it was Mr. Bradle's position that a trench**  
 4 **was unsafe, would you defer to him in keeping his people**  
 5 **out of it?**  
 6 A. Yes.  
 7 **Q. All right. And so do you recall any event in**  
 8 **which you believe that Mike Bradle should have had more**  
 9 **people working on this site and didn't?**  
 10 A. I think when we had several trenches open but  
 11 only had people working in one trench, I think that's  
 12 when things started to become a little more contentious.  
 13 **Q. Was that in December '07?**  
 14 A. It would have been I think starting probably  
 15 in November.  
 16 **Q. Was Mr. Stewart on-site every day?**  
 17 A. I would not know that.  
 18 **Q. I assume that there's records that would show**  
 19 **where he was on any particular day, is that your**  
 20 **assumption?**  
 21 A. I would not know. He's not in our department  
 22 so...  
 23 **Q. Was there a safety officer from the City**  
 24 **on-site every day?**  
 25 A. Not every day.

1 **Q. So if the safety officer were not on-site to**  
 2 **clear a trench for work, would they just have to wait?**  
 3 A. We did not have to have the safety officer  
 4 on-site every day. Mr. Stewart was aware of OSHA  
 5 requirements and I'm assuming those were being followed.  
 6 Obviously Imperial would have noticed had OSHA not been  
 7 followed.  
 8 **Q. I guess my question is if a question arose**  
 9 **regarding a trench and its safety and Mr. Stewart**  
 10 **weren't there and the safety officer weren't there,**  
 11 **would AAG have any option that you're aware of other**  
 12 **than to wait for them to get there?**  
 13 A. They would have the option to ask us to make  
 14 sure somebody got there.  
 15 **Q. And in fact, at one point in time, Ms. Bradle**  
 16 **reminded the City that OSHA and the safety of the**  
 17 **trenches was its obligation; is that right?**  
 18 A. He may have done so, yes.  
 19 **Q. Now, beginning in November, do you recall the**  
 20 **weather turning bad?**  
 21 A. I'm sure there probably was bad weather. I  
 22 couldn't recall when.  
 23 **Q. And in November, do you recall speaking to**  
 24 **Mr. Bradle about perhaps doing some work on the facility**  
 25 **next door, the Baylor -- I think it's called the Baylor**

1 **Sports Hall, something like that?**  
 2 A. The Sports Hall of Fame?  
 3 **Q. Yeah.**  
 4 A. I know we talked about it on occasion. I  
 5 couldn't recall exactly when.  
 6 **Q. And do you remember recommending that Jim**  
 7 **Bush, who was in some position of authority at that**  
 8 **Sports Hall of Fame, do you remember recommending that**  
 9 **he consider using Mike Bradle's company for any**  
 10 **archaeological work that they had?**  
 11 A. I never talked to Jim Bush that I recall. I  
 12 believe Byron may have. I don't recall.  
 13 (Exhibit No. 34 marked)  
 14 **Q. Let me hand you, Ms. Stopka, what's been**  
 15 **marked as Exhibit 34 and I'll ask if you can identify**  
 16 **that for me?**  
 17 A. Yes.  
 18 **Q. All right. And in your email to Mike**  
 19 **Bradle -- do you recognize that?**  
 20 A. Yes.  
 21 **Q. -- it states, Thanks, Mike, I may talk to you**  
 22 **before you get this email but Jim Bush, who is on City**  
 23 **Council, who is working with Baylor and Sports Hall on**  
 24 **their cemetery survey project, needs to talk to you**  
 25 **about their plans in getting a meeting together with**

1 **Baylor. Did I read that correctly?**  
 2 A. Yes.  
 3 **Q. Does that refresh your recollection that you**  
 4 **may have spoken to Mr. Bush?**  
 5 A. I believe Mr. Johnson asked me to convey this  
 6 information to Mr. Bradle.  
 7 **Q. And it just so happens there were six burials**  
 8 **over the weekend taken out prior to your email, is that**  
 9 **right, according to this email?**  
 10 A. According to this email, yes.  
 11 **Q. So did you think it was a good idea for Mike**  
 12 **Bradle to be considered for the Sports Hall of Fame**  
 13 **archeological work?**  
 14 A. I had no opinion on it, that it was really up  
 15 to Mr. Bradle and Mr. Bush to decide whether or not they  
 16 would work together.  
 17 **Q. But you didn't have any information that would**  
 18 **have compelled you to tell Mr. Bush and the Hall of Fame**  
 19 **people, hey, he's not a good archeologist, don't use**  
 20 **him?**  
 21 A. I would not have, no.  
 22 **MS. JURGENSEN:** Jim, can we take like a  
 23 two-minute break?  
 24 **MR. MASTROGIOVANNI:** Of course.  
 25 **MS. JURGENSEN:** I just noticed it's 5:00

1 and I need to --  
 2 **MR. MASTROGIOVANNI:** Oh, yes.  
 3 **MS. JURGENSEN:** I need to just arrange  
 4 for --  
 5 **MR. MASTROGIOVANNI:** Sure.  
 6 **THE VIDEOGRAPHER:** Off the record at 4:55  
 7 p.m., ending tape 5.  
 8 (Recess from 4:55 p.m. to 5:05 p.m.)  
 9 **THE VIDEOGRAPHER:** On the record at 5:05  
 10 p.m., beginning tape 6.  
 11 (Exhibit No. 35 marked)  
 12 **BY MR. MASTROGIOVANNI:**  
 13 **Q. Ms. Stopka, let me hand you what's marked as**  
 14 **Exhibit 35 and I'll ask if you can identify that for me,**  
 15 **please?**  
 16 A. It appears to be the amendment to the  
 17 agreement from August 2007, the amendment, it looks like  
 18 it's dated in November 2007.  
 19 **Q. So the City of Waco signed yet a fourth**  
 20 **contract with AAG in November of '07; is that right?**  
 21 A. Well, an amendment to the contract, yes.  
 22 **Q. And at that point in time, there was no**  
 23 **complaints from the City that you're aware of that Mike**  
 24 **was causing the project to get behind of any serious**  
 25 **nature and in fact signed the contract?**

1 A. Not that I'm aware of, no.  
 2 **Q. And you believe that had there been any**  
 3 **serious complaints, that the City would not have signed**  
 4 **a contract with him, don't you believe, in November?**  
 5 A. I would think that, yes.  
 6 **Q. At some point, did you actually work on the**  
 7 **project?**  
 8 A. During the sewer line excavation in June of  
 9 '07, I was out on-site occasionally, yes.  
 10 **Q. Did Rachel actually work on-site too as a**  
 11 **volunteer?**  
 12 A. I believe -- I believe, yes.  
 13 **Q. Was it your understanding Mr. Bradle was**  
 14 **trying to bring in volunteers to speed the work up?**  
 15 A. Well, staff were out volunteering.  
 16 **Q. And didn't he bring in some other people that**  
 17 **were not staff to volunteer?**  
 18 A. At that point, I'm assuming they were all  
 19 employees but I wouldn't know for sure.  
 20 **Q. Okay.**  
 21 A. Again, that was in that June '07 period.  
 22 **Q. Now, at some point in December, Imperial,**  
 23 **quote, demobilized; is that right?**  
 24 A. Yes.  
 25 **Q. What did you hear about that before it**

1 **happened if anything?**

2 A. Basically we were told that they were to a  
3 point where they could not do anything else without  
4 utilities and that they would have to demobilize.

5 **Q. And did you -- how did you feel about that?**

6 A. Was not happy about it but realized that there  
7 was probably no choice in the matter.

8 **Q. What were you not happy about?**

9 A. Well, the fact that the buildings were not  
10 going to get completed.

11 **Q. And you didn't blame that demobilization on  
12 AAG, did you?**

13 A. I did not, no.

14 **Q. Did anybody at the City, to the best of the  
15 your knowledge?**

16 A. I have no idea.

17 **Q. You haven't heard that, have you?**

18 A. Not directly, no.

19 **Q. How about indirectly? I'm not talking about  
20 just this lawsuit; I'm talking about back then.**

21 A. Back then? I can't remember.

22 **Q. Now let's speed it up. Is it your position  
23 that anyone at the City is taking the position now that  
24 the demobilization of Imperial was somehow AAG's  
25 responsibility?**

1 A. I'm not sure that it would be their  
2 responsibility.

3 **Q. Or their fault?**

4 A. I think maybe some blame was assigned, but  
5 there again, I don't have any direct knowledge of that.

6 **Q. Who did you hear that from, if you can  
7 recall?**

8 A. Again, I just don't -- I don't know. I  
9 couldn't -- I couldn't state unequivocally who it might  
10 have been.

11 **Q. And AAG continued to work all the way through  
12 December up until the holidays, is that correct, to the  
13 best of your knowledge?**

14 A. There were occasionally people out on the  
15 site, yes.

16 **Q. Okay. In fact, they were working all the way  
17 up to December 23, isn't that correct?**

18 A. It's possible. Again, I don't recall exact  
19 dates.

20 **Q. And were you communicating with Jim Bruseth on  
21 a regular basis in December?**

22 A. Not that I recall on a regular basis.  
23 Usually --

24 **Q. That's probably poorly phrased on my part.  
25 Did you talk to Jim Bruseth during the course of the**

1 **project yourself?**

2 A. Yes, on occasion.

3 **Q. And did Mr. Johnson, to the best of your  
4 knowledge?**

5 A. I am assuming he probably did.

6 **Q. And did you speak freely with Mr. Bruseth when  
7 you spoke to him?**

8 A. Yes.

9 **Q. And did you tell him everything you felt like  
10 you needed to tell him?**

11 A. Well, that I needed to tell him, yes.

12 **Q. All right. Do you recall receiving a  
13 notification from Mr. Bruseth in February '08 stating  
14 that, quote, Mike is doing a very conscientious job for  
15 you and I know that you and Byron agree with this,  
16 period, closed quote.**

17 A. If you're reading that then -- I don't recall  
18 that, but I don't recall a lot of those specifics.

19 **Q. Well, he says that in February '08, quote,  
20 Mike is doing a very conscientious job for you. Did you  
21 agree with that?**

22 A. In February '08?

23 **Q. Yes, ma'am.**

24 A. Not necessarily, no.

25 **Q. All right. When did you stop thinking that**

1 **Mike was doing a very conscientious job for you?**

2 A. Probably towards the end of December is when I  
3 started to get most frustrated.

4 **Q. And what is it that frustrated you at the end  
5 of December '07 with AAG?**

6 A. From a personal standpoint was communication.  
7 I had communication from several parties and I felt like  
8 I was being put in the middle of these parties trying to  
9 get everybody to talk to each other.

10 **Q. And why was that Mike's fault?**

11 A. Well, because some of it was noncommunication  
12 from him with these other parties, at least that was my  
13 impression.

14 **Q. Did you get aggravated at the other parties  
15 too?**

16 A. Sometimes, yes.

17 **Q. So it wasn't that you were just upset with  
18 Mr. Bradle, it was that you were upset with the various  
19 parties who weren't communicating, is that correct?**

20 A. With probably by that time the whole process.

21 **Q. All right. And that would have included AAG.  
22 Would it have also included Imperial?**

23 A. Not Imperial directly. TFC on occasion.

24 **Q. What about Mr. Bruseth?**

25 A. You know, I don't remember. I know

1 that -- and I don't know if it was January or February,  
2 there was some frustration on interpretation but...

3 **Q. And we're going to get to that if we have time  
4 but I'm not sure I will. To clarify for the record,  
5 towards the end of December '07, you started getting a  
6 little upset with Mike Bradle but not just him  
7 individually but with several people who were not  
8 communicating the way that you felt like they should be;  
9 is that right?**

10 A. I think that's a fair assessment, yes.

11 **Q. But in terms of the job that AAG was doing,  
12 did you have any complaints about that aside from the  
13 communication --**

14 A. Yes.

15 **Q. -- part? What were those complaints?**

16 A. A lot of it was lack of visible staffing on  
17 the site on a regular basis. That was the biggest.

18 **Q. Okay. Anything else?**

19 A. I think that arose out of the fact that we had  
20 had meetings talking about the need to get this project  
21 moving along. We had been given verbal promises by  
22 Mr. Bradle that he would be bringing in dozens of  
23 volunteers and that people would be on-site 24/7 if  
24 necessary and, you know, finding day after day with  
25 maybe one, two, three people on-site, there may have

1 **communication problems that Mike was part of but other  
2 people were involved as well?**

3 A. Correct.

4 **Q. All right. So when did you first hear from  
5 anyone at the City that they were thinking about  
6 terminating AAG?**

7 A. I think the first time it was really talked  
8 about in my hearing would have been into the end of  
9 February, mid-February.

10 **Q. So if people were talking about terminating  
11 AAG prior to February '08, you didn't know about it; is  
12 that right?**

13 A. I couldn't give you a date for sure when I  
14 first started hearing that that might be a possibility.

15 **Q. Now, in January, there was a meeting about  
16 AAG's progress; is that right?**

17 A. I believe so, yes.

(Exhibit No. 36 marked)

19 **Q. Let me hand you what's been marked as Exhibit  
20 36 and ask if you can identify that for me, please?**

21 A. It's an agenda. Given the number attached to  
22 it, it would have been a TFC meeting on updates.

23 **Q. All right. And it states, "Update of where we  
24 are, see drawing attached." I don't have the drawing  
25 but I think we could probably get that. And then it**

1 been more on the weekends, but it was very difficult to  
2 see increased staffing which then again slows the  
3 process down, feeling the frustration of everybody  
4 around me.

5 **Q. So the primary complaint about AAG was that  
6 they weren't staffing it adequately; is that correct?**

7 A. That was my primary complaint.

8 **Q. And is that still your primary complaint?**

9 A. I would say yes, that's...

10 **Q. And were you aware that Mr. Bradle was in fact  
11 trying to bring more people in?**

12 A. We occasionally heard that. We weren't seeing  
13 much result from it.

14 **Q. But he was trying, to the best of your  
15 knowledge?**

16 A. He said he was.

17 **Q. Okay. Do you deny he was? Do you doubt that  
18 he was?**

19 A. I have no way of assessing that. You would  
20 have to ask him.

21 **Q. So it appeared to you that AAG was having a  
22 hard time getting enough people out there to staff the  
23 project in December?**

24 A. On a regular basis, yes.

25 **Q. On a regular basis. And there were**

1 **talks about critical dates, it talks about archaeology  
2 difficulties. Do you see that?**

3 A. Yes.

4 **Q. And it says, "Nonresponsive to requests for  
5 information." Do you see that?**

6 A. Yes.

7 **Q. Now, isn't it true that the very next day you  
8 emailed Mr. Bruseth and you asked him for a recitation  
9 of or an explanation of the complaints that he had for  
10 lack of communication from Mr. Bradle; is that right?**

11 A. If you say so.

(Exhibit No. 37 marked)

13 **Q. Let me hand you what I've marked and these are  
14 a collection of emails, Exhibit 37, and ask you to  
15 identify that for me, please?**

16 A. Yes, I did send this under instructions from  
17 Mr. Johnson who I believe at some point in time had been  
18 contacted by Mr. Bruseth in regards to reports.

19 **Q. And you say, I'm just doing some follow-up  
20 work in regards to the cemetery project here at the  
21 Texas Rangers Museum in Waco. I know last fall we were  
22 having problems getting Mike to provide you with regular  
23 updates on work getting done. At that time he assured  
24 us he was keeping you up to date on a regular basis.  
25 I'm just checking to make sure that was actually done.**

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1 **Any information you can provide me on this matter would**  
2 **be appreciated. Thank you. Did I read that correctly?**  
3 A. Yes.  
4 **Q. Why were you doing that?**  
5 A. I was instructed to do so.  
6 **Q. Did you think that needed to be done?**  
7 A. It wasn't my question to make.  
8 **Q. I know that. But did you think it needed to**  
9 **be done?**  
10 A. Yes.  
11 **Q. All right. Well, Mr. Bruseth sends you back**  
12 **an email, doesn't he? If you look at the very last**  
13 **page, you'll see his email string. Second to the last**  
14 **page, it begins at the bottom.**  
15 A. Yes.  
16 **Q. Do you see that?**  
17 A. Yes.  
18 **Q. And he says, Christina, thank you for your**  
19 **email. Yes, Mike is keeping me informed on a regular**  
20 **basis about work going on at the cemetery project. It**  
21 **seems that the archeological work is proceeding well**  
22 **although weather is a factor that's slowing the efforts**  
23 **somewhat. In fact, he called me yesterday to report on**  
24 **the latest findings, et cetera.**  
25 A. Yes.

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1 **Q. Did I read that correctly?**  
2 A. Yes.  
3 **Q. So was that stated in any of your agenda**  
4 **meetings that Mr. Bruseth was happy with the reports**  
5 **that he was getting?**  
6 A. I don't know.  
7 **Q. Did anybody report to the TFC that Mike Bradle**  
8 **was making the Texas Historical Commission chairman or**  
9 **authoritative figure happy with his reporting?**  
10 A. I did not make that report.  
11 **Q. Don't you think that should have been done?**  
12 A. I don't know if it was or not.  
13 **Q. All right. But it doesn't appear on this**  
14 **January 16 agenda, does it? I realize it was a day**  
15 **later but I think that meeting was moved. So do you**  
16 **know whether anybody stood up and said AAG is actually**  
17 **doing a pretty good job with THC?**  
18 A. I believe this meeting happened before this  
19 email string.  
20 **Q. Do you think that meeting got moved?**  
21 A. Not --  
22 **Q. I'm not sure if it did or not.**  
23 A. Not this meeting, no.  
24 **Q. Was there a subsequent meeting?**  
25 A. There was another meeting with AAG towards the

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1 end of the month.  
2 **Q. And did Mr. Bradle appear?**  
3 A. Yes.  
4 **Q. Did the TFC appear?**  
5 A. Not at that later meeting, no.  
6 **Q. So AAG had a responsibility to communicate to**  
7 **the THC; is that right?**  
8 A. That's my understanding.  
9 **Q. And as far as you know based on what you were**  
10 **told, he did so in a way that pleased the THC's**  
11 **representative; is that correct?**  
12 A. Going by Mr. Bruseth's email, yes.  
13 **Q. And if you look further into that email,**  
14 **you'll see that he sent you another email that says**  
15 **Mike's updates have been verbal mostly by phone?**  
16 A. Yes.  
17 **Q. "And they are fine and minimize the time Mike**  
18 **has to spend on updates. From what I see, everything**  
19 **seems to be going fine other than there are a lot of**  
20 **burials at the cemetery"; is that right?**  
21 A. That's what it says, yes.  
22 **Q. All right. So you had a problem with the way**  
23 **Mike was communicating but apparently THC did not?**  
24 A. We had a problem with the way Mike was  
25 communicating with the City.

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1 **Q. Correct. I understand.**  
2 A. Yes.  
3 **Q. All right. Why do you think AAG was unable to**  
4 **staff the project in December or starting in December?**  
5 A. I don't know.  
6 **Q. All right. Do you have any suspicion?**  
7 A. No.  
8 (Exhibit No. 38 marked)  
9 **Q. Let me hand you what's been marked as Exhibit**  
10 **38. Do you recognize that document, ma'am?**  
11 A. Yes.  
12 **Q. And what is that document?**  
13 A. It appears to be an email from Annette Jones  
14 to Mr. Eckerson regarding AAG.  
15 **Q. And at the last paragraph, Ms. Jones says the**  
16 **City is encouraged by the fact that additional workers**  
17 **have appeared on-site today and sincerely hope that this**  
18 **effort will continue. Did I read that correctly?**  
19 A. Yes.  
20 **Q. Do you recall that after your concern about**  
21 **staffing that started at the end of December, that**  
22 **Mr. Bradle was making an effort to get more people on**  
23 **the site in January?**  
24 A. I don't know what kind of effort Mr. Bradle  
25 was making. On occasion, there would be people on the

1 site but not on a regular basis.

2 **Q. Okay. So did you see any improvement, I guess**

3 **is my question, after December '07 in terms of how many**

4 **people were coming up -- coming up to the site?**

5 A. Not regularly, no.

6 **Q. Did you talk to Mr. Bradle about that?**

7 A. I don't recall if I did or not. I may have.

8 **Q. And do you recall what he said if you talked**

9 **to him?**

10 A. I don't recall.

11 **Q. Did you get the impression that Mr. Bradle was**

12 **not trying to get people to come on the site and help?**

13 MS. JURGENSEN: Objection, form.

14 A. Since I didn't -- don't recall talking to him

15 about it, I just really don't know.

16 **Q. Was there anything that gave you the**

17 **impression that Mr. Bradle was not making an effort to**

18 **get more people to help on the site?**

19 MS. JURGENSEN: Objection, form.

20 MR. MASTROGIOVANNI: What's the basis?

21 MS. JURGENSEN: Asked and answered.

22 A. No.

23 (Exhibit No. 39 marked)

24 **Q. Let me hand you what I've marked as Exhibit 39**

25 **and I'll ask you if you can identify that for me,**

1 please?

2 A. It looks to be a letter to the City secretary

3 from TFC regarding the headquarters and education center

4 dealing with the demobilization and I'm assuming ongoing

5 costs to Imperial during the demobilization.

6 **Q. Do you remember receiving a copy of that**

7 **letter?**

8 A. It's possible that I got a copy of it.

9 **Q. Do you have any recollection of it at all?**

10 A. I vaguely remember seeing it before.

11 **Q. So in January '08, the TFC is essentially**

12 **telling the City that it will be responsible for the**

13 **costs associated with the delay and remobilization; is**

14 **that right?**

15 A. From what I can tell me from these specifics

16 that they laid out and remobilization costs.

17 **Q. All right. Now, AAG didn't have a contract**

18 **with Imperial, did it?**

19 A. Not that I'm aware of.

20 **Q. And AAG did not have a contract with the Texas**

21 **Facilities Commission, did it?**

22 A. Not that I'm aware.

23 **Q. AAG didn't have any schedules whatsoever with**

24 **regard to Imperial's work, correct?**

25 A. Not that I'm aware of.

1 **Q. And they didn't agree to pay any penalty,**

2 **costs, assessments, or expenses relating to**

3 **demobilization or mobilization, did they?**

4 A. Not that I'm aware of.

5 **Q. That was all the City; is that right?**

6 A. I'm assuming so, yes.

7 (Exhibit No. 40 marked)

8 **Q. Let me hand you what's been marked as Exhibit**

9 **40. Do you recognize that document?**

10 A. No.

11 **Q. Have you ever seen that document before?**

12 A. I may have.

13 **Q. All right. As of January 29, it appears that**

14 **Mr. Bradle has contacted Baylor and has 35 students**

15 **signed up to start training and shifting. Did I read**

16 **that correctly --**

17 A. That's what he's stating, yes.

18 **Q. -- summarize it correctly? All right. Was it**

19 **your impression, Ms. Stopka, that Mr. Bradle wanted to**

20 **stay on the job and complete it?**

21 A. Yes.

22 (Exhibit No. 41 marked)

23 **Q. May be some duplicates in here, Ms. Stopka,**

24 **but I'll ask you if you recognize any part of that**

25 **document?**

1 A. Yes.

2 **Q. What is that, ma'am?**

3 A. Some of it is emails between Mr. Bruseth and

4 Mr. Bradle.

5 **Q. All right. And would you agree with me that**

6 **as far along as February '08, Mr. Bradle is asking the**

7 **THC whether they have to excavate a burial if there's**

8 **any coffinwood, coffinware, or bone is encountered or**

9 **exposed. He's asking that question bottom of page 1.**

10 A. That's what he's asking, yes.

11 **Q. And Mr. Bruseth says in February '08, you must**

12 **excavate all burials, is that what he says?**

13 A. He seems to be saying that to the statement

14 made by Mr. Bradle, yes.

15 **Q. Okay. And is Mr. Bradle required to follow**

16 **the directions of THC and Mr. Bruseth?**

17 A. I am assuming so.

18 **Q. All right. And isn't excavating the entire**

19 **burial more time-consuming than simply designating it,**

20 **identifying it, and leaving it in situ?**

21 A. Yes.

22 **Q. So isn't part of the problem for delay that**

23 **Mr. Bruseth is requiring the excavation of those burials**

24 **as opposed to something short of that?**

25 A. Except this is not talking about burials

1 within the APE.  
 2 **Q. No. It's talking about --**  
 3 A. Any burial.  
 4 **Q. -- any burial, right?**  
 5 A. Yes.  
 6 **Q. So that's even worse, isn't it?**  
 7 A. Worse in what way?  
 8 **Q. Well, worse in terms of being more**  
 9 **time-consuming?**  
 10 A. Perhaps, yes.  
 11 **Q. More than perhaps. I mean, that's just**  
 12 **logical, isn't it?**  
 13 A. Yes.  
 14 (Exhibit No. 42 marked)  
 15 **Q. Let me hand you what's been marked as Exhibit**  
 16 **42 and I'll ask if you can identify that for me?**  
 17 A. Yes.  
 18 **Q. Did you write the email to Mr. Bruseth on,**  
 19 **what, February 11, 2008?**  
 20 A. Yes, under the instructions from our City  
 21 attorney, assistant City attorney.  
 22 **Q. Is this in response to Mr. Bruseth stating**  
 23 **that the burial had to be removed if it was partially or**  
 24 **wholly within the construction impact area?**  
 25 A. This is about a grave that is outside the

1 impact area.  
 2 **Q. And as of this date, Mr. Bruseth seems to be**  
 3 **stating that if you find a burial even outside the**  
 4 **impact area, you have to exhume it; is that correct?**  
 5 A. If it was impacted.  
 6 **Q. Well, prior to this though in the email that**  
 7 **we just --**  
 8 A. Correct.  
 9 **Q. -- showed, he's saying take them all out,**  
 10 **isn't that right?**  
 11 A. Which is why we needed the clarification.  
 12 **Q. All right. Well, he was pretty clear, wasn't**  
 13 **he, he said take them all out?**  
 14 A. Which is why we needed the clarification  
 15 because it was not what our original understanding was.  
 16 **Q. So but that's what had been happening all the**  
 17 **way up through February '08?**  
 18 A. I don't know. You would have to ask the  
 19 archeologist.  
 20 **Q. So there was a question about whether if it**  
 21 **weren't in the impact area but it -- but it had been,**  
 22 **did it have to be taken out; is that right?**  
 23 A. There was a question that if it were outside  
 24 the impact area and not disturbed other than the fact  
 25 that wood or something was visible, did it need to be

1 taken out.  
 2 **Q. And prior to February '08, AAG was**  
 3 **interpreting Mr. Bruseth and the THC as saying it had to**  
 4 **be taken out?**  
 5 A. You would have to ask Mr. Bradle on that.  
 6 **Q. Well, Mr. Bradle clearly asked for**  
 7 **clarification and he said, yes, take it out, correct?**  
 8 A. Well, on this occasion, yes, he did ask that.  
 9 **Q. Was he changing his mind a lot?**  
 10 A. I don't know.  
 11 **Q. Do you think he was changing his mind?**  
 12 A. I don't know.  
 13 **Q. Well, he said in response to your attempt to**  
 14 **get clarification, then I'll check and let you know**  
 15 **later today; is that right?**  
 16 A. Yes, that's basically what Mr. Bruseth was  
 17 saying, yes.  
 18 **Q. And then later on, not that day but the next**  
 19 **day, Mr. Bruseth again responded to your email; is that**  
 20 **right. It's on the second page.**  
 21 A. Yes.  
 22 **Q. And he says, Christina, I'm out of town and**  
 23 **have not been able to talk to Mike. Mike is doing a**  
 24 **very conscientious job for you and I know that you and**  
 25 **Byron agree with this, period, closed quote, correct?**

1 A. That's what he says, yes.  
 2 **Q. You had been talking to Mr. Bruseth throughout**  
 3 **the project, correct?**  
 4 A. On occasion we would talk to him but not on a  
 5 regular basis, no.  
 6 **Q. Well, you were talking to him whenever it was**  
 7 **necessary; is that right?**  
 8 A. Yes.  
 9 **Q. And he knew what you needed for him to know;**  
 10 **is that correct?**  
 11 A. Yes.  
 12 **Q. And he said I know that you know that Mike is**  
 13 **doing a very conscientious job for you?**  
 14 A. That's his opinion.  
 15 **Q. Did you respond back and say, no, he's not?**  
 16 A. I did not, no.  
 17 **Q. Do you know if Byron did?**  
 18 A. I have no idea. You would have to ask Byron.  
 19 **Q. Do you know if anyone responded back to**  
 20 **Mr. Bruseth and challenged Mr. Bruseth's assessment that**  
 21 **Mike was doing a conscientious job?**  
 22 A. I do not know of anybody who did.  
 23 **Q. All right. Now, he says in response to your**  
 24 **very important question, common sense -- common sense**  
 25 **needs to come into play here, is that what he says?**

7:48 1 A. Basically, yes.

7:48 2 **Q. All right. Do you have any idea what that**

7:48 3 **means?**

7:48 4 A. No. You would have to ask him what that

7:48 5 means.

7:43 6 **Q. So that wasn't really the specific response**

7:43 7 **that you were looking for, was it?**

7:43 8 A. Not necessarily, no.

7:44 9 (Exhibit No. 43 marked)

7:44 10 **Q. Let me hand you what's been marked Stopka 43.**

7:44 11 **Do you recognize that document, ma'am?**

7:44 12 A. I believe I have seen it, yes.

7:44 13 **Q. And what did you understand this email to be**

7:44 14 **conveying?**

7:44 15 A. Mr. Bradle seemed upset that I would contact

7:44 16 Mr. Bruseth directly without going through him.

7:45 17 **Q. And he says this is the third time I've had to**

7:45 18 **spend time dealing with Ms. Stopka's statements on yet**

7:45 19 **the same issues. Do you see that very first**

7:45 20 **statement?**

7:45 21 A. Yes.

7:45 22 **Q. Was that offensive to you?**

7:45 23 A. Not necessarily, no.

7:48 24 **Q. Okay. Had you guys talked about this issue at**

7:48 25 **least three times?**

7:48 1 A. We may have. I don't know.

7:48 2 **Q. All right. And then he states further on in**

7:48 3 **the paragraph, I think you will agree that your**

7:48 4 **statement to take out all burials is not in agreement**

7:48 5 **with the scope as we discussed today and it appears that**

7:48 6 **you were in agreement, meaning if burials are impacted,**

7:48 7 **then take them out but on face value. Your email**

7:48 8 **appears to state that all burials should come out and**

7:48 9 **that's why we held up pending clarification of your**

7:48 10 **email. Do you agree with that statement that Mr. Bradle**

7:48 11 **made?**

7:48 12 A. I think it is in agreement with the emails he

7:48 13 received.

7:48 14 **Q. Okay. And then he states a few more lines**

7:48 15 **down, previously we have been advised that if the**

7:48 16 **coffinwood was hit, then the burial should be exhumed.**

7:48 17 **Did you understand that to be the advice that Mr. Bradle**

7:48 18 **had been given previously?**

7:49 19 A. No.

7:49 20 **Q. All right. Do you know whether or not**

7:49 21 **Mr. Bruseth respond to this email?**

7:49 22 A. I don't know if he did or not. He may have.

7:49 23 **Q. And you mentioned that PBS&J, one of their**

7:49 24 **complaints related to the manholes; is that right?**

7:49 25 A. Yes.

1 **Q. This email is February 13, '08, correct?**

2 A. Yes.

3 **Q. And in that second paragraph, last -- second**

4 **to the last sentence, four lines up, it begins,**

5 **"Additionally the City plans to leave the manholes area**

6 **open just like the trenches until utility construction**

7 **can start back up again. So if erosion sets in, which**

8 **it will, we anticipate the need to excavate more burials**

9 **as they become eroded. I believe that No. 4 below sets**

10 **forth the standards as we all know and agree upon." Did**

11 **I read that correctly?**

12 A. Yes.

13 **Q. Was it accurate that the City wanted to keep**

14 **those areas open?**

15 A. I couldn't speak to that. That would have

16 been a different department making those decisions.

17 **Q. You don't deny that that was the case**

18 **though?**

19 A. I don't know if it was the case or not.

20 **MR. MASTROGIOVANNI:**How much time do I

21 have left?

22 **THE VIDEOGRAPHER:**23 minutes.

23 **Q. Ms. Stopka, who is Tobin Armstrong, Jr.?**

24 A. He is -- he was, I think he still is a member

25 of the advisory board for the museum as well as I think

1 the grandson or great-grandson of John R. Armstrong who

2 was a Texas Ranger.

3 **Q. What does Ambassador Ann Armstrong have to do**

4 **with this project, if anything, to the best of your**

5 **knowledge?**

6 A. She was allowing, through her son, the City,

7 the museum to use their name for fund-raising for the

8 new research center.

9 **Q. Was she invited up for a luncheon a few years**

10 **ago --**

11 A. Yes.

12 **Q. -- at the museum? What was the purpose of**

13 **that?**

14 A. To talk about the research center expansion.

15 **Q. Okay. And when you say lending their name, I**

16 **don't understand that.**

17 A. They were going to help with the fund-raising

18 to have -- and then agree to a certain amount to be

19 raised to have their name attached to the building.

20 **Q. Okay. So this fund-raising had a string**

21 **attached to it and that was that the research center**

22 **would be named after them; is that right?**

23 A. Correct, yes.

24 **Q. Okay. So who is Sarita Hixon?**

25 A. I believe she's a daughter of Ms. Armstrong.



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1 **Q. And is she on the Texas Historical Commission**  
 2 **board to the best of your knowledge?**  
 3 A. I could not speak to that.  
 4 **Q. All right. Do you know whether she is? Have**  
 5 **you heard that?**  
 6 A. I really don't know.  
 7 **Q. Did she ever visit the cemetery excavation?**  
 8 A. I have no idea if she did or not.  
 9 **Q. Do you know what impact or influence she had**  
 10 **on pushing the project through --**  
 11 A. No.  
 12 **Q. -- if any? We were talking about the sewer**  
 13 **line. Did the City pay an engineer to prepare safety**  
 14 **procedures for the installation of the sewer line?**  
 15 A. You would have to ask somebody in engineering.  
 16 **Q. Your complaints about AAG that you're**  
 17 **personally aware of are that they didn't staff the**  
 18 **project sufficiently; is that right?**  
 19 A. That was one of them, yes.  
 20 **Q. Okay. And the other one was lack of**  
 21 **communication towards the end of the project?**  
 22 A. From my point of view, yes.  
 23 **Q. Any other complaints?**  
 24 A. The City may have had other complaints. I  
 25 think there may have been other complaints outlined in

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1 the termination letter. I'm not really sure.  
 2 **Q. But you don't have any knowledge of any of**  
 3 **those?**  
 4 A. No.  
 5 **Q. How often was Ms. Jones on the site, if**  
 6 **ever?**  
 7 A. Occasionally. You know, I couldn't say  
 8 whether it was once a month, once a week.  
 9 **Q. How long would she be out there when she was**  
 10 **out there?**  
 11 A. You would have to ask her on that. I wasn't  
 12 out there constantly so I was not keeping track of  
 13 everybody who was on-site all the time.  
 14 **Q. But you were the liaison, so to speak; is that**  
 15 **right?**  
 16 A. Yes.  
 17 **Q. All right. And so when she went out, Ms.**  
 18 **Jones I'm talking about, was she doing anything other**  
 19 **than just observing, to the best of your knowledge?**  
 20 A. To the best of my knowledge, she would only be  
 21 observing.  
 22 **Q. All right. Did she make any comments on her**  
 23 **site visits that you're aware of?**  
 24 A. Not that I can recall.  
 25 **Q. How about Mr. Johnson, how often was he out**

1 **there if at all?**  
 2 A. There again, you would have to ask him. I  
 3 know he occasionally would walk out to keep track of  
 4 both the construction on the business and the  
 5 archaeology but I don't know how often.  
 6 **Q. You would have been out there much more than**  
 7 **both of them?**  
 8 A. I usually went out to the work site once a  
 9 day.  
 10 **Q. You're not aware of PBS&J discovering any**  
 11 **remains that were missed by AAG, are you?**  
 12 A. You would have to ask them.  
 13 **Q. You're not aware of any?**  
 14 A. No.  
 15 **Q. And you're not aware of any discoveries made**  
 16 **by PBS&J in any of the back piles of dirt; is that**  
 17 **correct?**  
 18 A. No. I do know that they found remains in the  
 19 back piles.  
 20 **Q. My question is do you know whether AAG had**  
 21 **purported to have sifted those or not?**  
 22 A. I don't know.  
 23 **Q. All right. So if there were remains found in**  
 24 **back piles left by AAG, it may be that AAG just had not**  
 25 **gotten to them by the time they were terminated; is that**

1 **right?**  
 2 A. Possibly, yes.  
 3 **Q. Were there some utility lines abandoned and**  
 4 **redug somewhere else on this project? Are you aware of**  
 5 **that?**  
 6 A. The electric line was I'm assuming abandoned,  
 7 I don't know for sure what they did with that, and a new  
 8 line put in.  
 9 **Q. Any others than that?**  
 10 A. There was also a gas line that was dug at the  
 11 same time that connected to an existing service.  
 12 **Q. Okay. You said electric line and gas line; is**  
 13 **that right?**  
 14 A. I believe so, yes.  
 15 **Q. Well, the gas line that was worked on by AAG,**  
 16 **that gas line wasn't abandoned, was it?**  
 17 A. No, that was a new -- that would have been a  
 18 new trench.  
 19 **Q. Okay. So the new gas line that you were**  
 20 **talking about that PBS&J may have excavated, that wasn't**  
 21 **something that AAG was supposed to do, was it?**  
 22 A. Explain. I'm not sure which gas line you're  
 23 talking about.  
 24 **Q. Okay. How many gas lines were there?**  
 25 A. Okay. There was a gas line that was coming

1 from an existing service on the I guess it would be the  
 2 west side of the road closest to the museum. That was  
 3 dug I believe at the same time that the electric service  
 4 was put in, the new electric service was put in. It was  
 5 brought across the road and terminated at that point  
 6 awaiting excavation of the gas line to the buildings  
 7 which was part of AAG's monitoring of utilities.

8 **Q. Did AAG do it, do that monitoring?**

9 A. They did some digging on that.

10 **Q. Is that one that they hadn't completed at the**  
 11 **time they were terminated?**

12 A. I would have to look to see whether they claim  
 13 that was finished or not. It was still open when they  
 14 terminated.

15 **Q. It was still open. All right.**

16 A. Two sections of it were still open.

17 **Q. So what I want to know is are you aware of any**  
 18 **trenches that had to be re-excavated because of**  
 19 **incomplete work done by AAG?**

20 A. I believe in connection with the manholes,  
 21 parts of the original sewer line excavation were  
 22 reopened, but you would have to clarify that with PBS&J.

23 **Q. You're not aware of any lines having to be**  
 24 **abandoned because of AAG's poor performance on those**  
 25 **trenches; is that right?**

1 A. Not that I'm aware of.

2 **Q. But it seems to me that in looking over the**  
 3 **documents, it may have been that at some point in time**  
 4 **somebody else later on decided that they wanted to**  
 5 **reroute some of the utilities, is that true?**

6 A. Yes.

7 **Q. Tell me what that was about.**

8 A. Basically we revisited what we had started in  
 9 July 2007 trying to see if there was any way possible to  
 10 get those utilities to the building with the least  
 11 amount of disturbance. And as is wonderful with  
 12 hindsight, engineering came up with a couple of ideas  
 13 that were agreeable to THC. So then those trenches,  
 14 they still had -- the back piles still had to be dealt  
 15 with. They had to make sure there were no partial  
 16 burials left in those trenches that were not going to be  
 17 not used now and they then refilled in those trenches.

18 **Q. Okay. So the rerouting of utilities didn't**  
 19 **have anything to do with AAG's performance or**  
 20 **nonperformance, is that correct, that was an engineering**  
 21 **decision based upon I suppose efficiency?**

22 A. I believe so, yes.

23 **Q. All right. So they did in fact abandon some**  
 24 **of the work that had already been done by AAG because of**  
 25 **this rerouting?**

1 A. Yes.

2 **Q. All right. And so why did they -- why didn't**  
 3 **they just abandon it and leave it alone? Why did they**  
 4 **have to go back in?**

5 A. THC requested to make sure that there were no  
 6 partial burials left in those trenches and that there  
 7 were no remains left in the back dirt piles.

8 **Q. So with regard to any remains found in these**  
 9 **rerouted utilities based on the engineer's decisions,**  
 10 **that's not a cost that you believe has anything to do**  
 11 **with AAG; is that correct?**

12 A. Unless it was an area that they had told us  
 13 was already cleared.

14 **Q. All right.**

15 A. That's my understanding.

16 **Q. And you're not aware that that's the case?**

17 A. I'm not aware.

18 **Q. So there should be a map somewhere that shows**  
 19 **the new rerouting of the utilities; is that right?**

20 A. I believe there were plans drawn up.

21 **Q. Okay. And are you aware of anything that AAG**  
 22 **represented that you do not believe was true regarding**  
 23 **anything about the project?**

24 **MS. JURGENSEN:** Objection, form.

25 A. You know, from what I can recollect and giving

1 you an immediate answer, no.

2 **Q. Have you heard anyone from the City state that**  
 3 **anything was misrepresented by AAG as we sit here**  
 4 **today?**

5 A. I'm assuming they believe that because of the  
 6 countersuit that was filed.

7 **Q. But have you heard it prior to me telling you**  
 8 **about the countersuit today?**

9 A. Well, when the countersuit was filed, I'm sure  
 10 I was probably in conversation, but I can't tell you for  
 11 sure --

12 **Q. Can you remember -- --**

13 A. -- when that may have happened.

14 **Q. Can you remember even one single alleged**  
 15 **misrepresentation that the City attributes to AAG?**

16 A. Off the top of my head, no.

17 **Q. But personally you are not aware of any**  
 18 **misrepresentations by AAG?**

19 A. Not that I can speak on, no.

20 **MR. MASTROGIOVANNI:** Okay. Can we have  
 21 five minutes? How much time do I have left?

22 **THE VIDEOGRAPHER:** 10.

23 **MR. MASTROGIOVANNI:** Can I have five  
 24 minutes?

25 **MS. JURGENSEN:** Yes.

1 THE VIDEOGRAPHER: Off the record at 5:55  
2 p.m.

3 (Recess from 5:55 p.m. to 6:04 p.m.)

4 THE VIDEOGRAPHER: On the record at 6:04  
5 p.m.

6 BY MR. MASTROGIOVANNI:

7 Q. Ms. Stopka, on the manholes, was AAG  
8 instructed to stop at the first level of burials and  
9 that included the portions of the sewer line too?

10 A. I did not instruct him to do that, no.

11 Q. All right. Do you know if they were  
12 instructed?

13 A. I have no idea if they were or not.

14 Q. Did PBS&J send update maps and weekly reports  
15 to show what they were doing during the project?

16 A. They sent weekly reports, yes.

17 Q. Do you still have those?

18 A. Yes.

19 Q. When was the first time that you were made  
20 aware -- when was the first time you had any  
21 communication with PBS&J?

22 A. I knew that they were being contacted I think  
23 probably in January '08 regarding the Knox Center work  
24 that we were anticipating having start, they along with  
25 two or three other archaeology companies, to see if they

1 said that they couldn't, yet ended up on the site, isn't  
2 that correct?

3 A. Yes.

4 Q. And now are you saying that you did not know  
5 that Mike Bradle was trying to get them on the site?

6 A. No. Mr. Foster called me and said that he had  
7 called. He did not go into detail. I assumed it was to  
8 see if they could get onto the site.

9 Q. Don't you think it might have been fair for  
10 you or the City to have suggested a merger between the  
11 two companies so that Mike wouldn't have to be  
12 terminated and he could work alongside with PBS&J?

13 A. That would have been a decision made above my  
14 level.

15 Q. Do you think that would have been a bad idea  
16 personally?

17 A. I personally don't think it would have been a  
18 bad idea.

19 Q. Did you ever hear any discussion about that  
20 prospect with anybody at the City?

21 A. In a meeting with Mr. Jay Beatty who was  
22 representing Mr. Bradle, that was brought up in that  
23 meeting and Mr. Beatty basically said that Mr. Bradle  
24 would not agree to splitting the site.

25 Q. Okay. You were -- you think you heard -- did

1 would have any interest in putting in an RFP. I  
2 contacted them again on behalf of -- under instruction  
3 from -- I can't remember if it was Annette Jones or  
4 Byron Johnson -- towards the end of February to see if  
5 they would be interested in coming in on the site to  
6 work the site, at first to work the site with AAG; and  
7 then obviously after termination, if they would be  
8 willing to put in a proposal to take over the site.

9 Q. Were you aware that Mike Bradle had contacted  
10 PBS&J to help him on the site?

11 A. I had a -- I believe a phone call from Eugene  
12 Foster at PBS&J telling me that Mr. Bradle had been in  
13 touch with Clell Bond.

14 Q. So did you interpret that as being Mr. Bradle  
15 attempting to get more people on-site?

16 A. I just interpreted it as Mr. Bradle had  
17 contacted Clell Bond. I'm not sure that Eugene gave me  
18 any great description over what had been going on.

19 Q. Were you aware that PBS&J, in response to  
20 Mike's effort to get them to help on the site, said that  
21 they were way too busy and didn't have time for it?

22 A. I have no idea what PBS&J's response might  
23 have been.

24 Q. So at some point in time, at least PBS&J knew  
25 that Mike Bradle was trying to get them on the site and

1 you hear that conversation?

2 A. Yes, I was in on that meeting, yes.

3 Q. All right. That must have been in February?

4 A. Towards the end of February, yes.

5 Q. Okay. Were you aware of any -- you talked  
6 about communication problems with Mike and others in  
7 December. Were you aware of any emails or any  
8 correspondence or anything that Mike Bradle simply did  
9 not respond to that you wanted him to?

10 A. Not off the top of my head, no.

11 Q. Did you want any more kind of updates provided  
12 to the City -- well, strike that.

13 Did you want more updates and more maps  
14 than Mike Bradle provided to THC? Did the City want  
15 more than that provided to it?

16 A. Since we didn't know what he was providing to  
17 THC, I'm not sure that we could have requested more. I  
18 know that in the December meeting when the construction  
19 site was closed down, a meeting that Mr. Bradle was at,  
20 TFC requested regular updates and Mr. Bradle agreed to  
21 that.

22 Q. That was in December?

23 A. Yes.

24 Q. Of '07?

25 A. Yes.



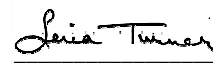

1 CAUSE NO. 2008-2173-4  
 2 AMERICAN ARCHAEOLOGY ) IN THE DISTRICT COURT OF  
 3 GROUP, LLC., )  
 4 PLAINTIFF, )  
 5 VS. )  
 6 CITY OF WACO, TEXAS, )  
 7 DEFENDANT, ) MCLENNAN COUNTY, TEXAS  
 8 VS. )  
 9 TEXAS HISTORICAL COMMISSION )  
 AND PBS&J, INC. )  
 10 DECLARATORY JUDGMENT )  
 DEFENDANTS. ) 170TH JUDICIAL DISTRICT

11 REPORTER'S CERTIFICATION  
 12 VIDEOTAPE DEPOSITION  
 13 OF  
 14 CHRISTINA STOPKA  
 SEPTEMBER 7, 2010  
 15 VOLUME 1

16 I, LEICA TURNER, Certified Shorthand Reporter in  
 17 and for the State of Texas, hereby certify to the  
 18 following:  
 19 That the witness, CHRISTINA STOPKA, was duly sworn  
 20 by the officer and that the transcript of the oral  
 21 deposition is a true record of the testimony given by  
 22 the witness;  
 23 That the deposition transcript was submitted on  
 24 \_\_\_\_\_ to the witness or to the attorney  
 25 for the witness for examination, signature and return to

1 me by \_\_\_\_\_.  
 2 That the amount of time used by each party at the  
 3 deposition is as follows:  
 4 **MR. MASTROGIOVANNI:** 5 hours, 47 minutes  
 5 **MS. JURGENSEN:** 0 hours, 0 minutes  
 6 That pursuant to information given to the  
 7 deposition officer at the time said testimony was taken,  
 8 the following includes counsel for all parties of  
 9 record:  
 10 FOR THE PLAINTIFFS AMERICAN ARCHAEOLOGY GROUP, LLC:  
 11 MR. JOSEPH J. MASTROGIOVANNI, JR.  
 MASTROGIOVANNI SCHORSCH & MERSKY  
 12 2001 Bryan Street  
 Suite 1250  
 13 Dallas, Texas 75201  
 Phone: 214.922.8800  
 Fax: 214.922.8801  
 14 FOR THE DEFENDANT CITY OF WACO, TEXAS:  
 15 MS. JULIA B. JURGENSEN  
 BEARD KULTGEN BROPHY BOSTWICK & DICKSON  
 16 & SQUIRES, LLP  
 5400 Bosque Boulevard  
 Suite 301  
 17 Waco, Texas 76710  
 Phone: 254.776.5500  
 Fax: 254.776.3591  
 18 jurgensen@thetexasfirm.com  
 19  
 20 I further certify that I am neither counsel for,  
 21 related to, nor employed by any of the parties or  
 22 attorneys in the action in which this proceeding was  
 23 taken, and further that I am not financially or  
 24  
 25

1 otherwise interested in the outcome of this action.  
 2 Further certification requirements pursuant to Rule  
 3 203 of TRCP will be certified to after they have  
 4 occurred.  
 5 Certified to by me this \_\_\_\_\_ day of  
 6 \_\_\_\_\_, 2010.

7  
 8   
 9 

10 LEICA TURNER, Texas CSR No. 5622  
 11 Expiration Date: 12/31/11  
 Firm Registration No. 223  
 12 WORLDWIDE COURT REPORTERS, INC.  
 3000 Wesleyan  
 Suite 235  
 Houston, Texas 77027  
 Phone: 713.572.2000  
 Fax: 713.572.2009

1 FURTHER CERTIFICATION UNDER RULE 203 TRCP  
 2 The original deposition was/was not returned to  
 3 the deposition officer on \_\_\_\_\_;  
 4 If returned, the attached Changes and Signature  
 5 page contains any changes and the reasons therefore;  
 6 If returned, the original deposition was delivered  
 7 to MR. JOSEPH MASTROGIOVANNI, JR., Custodial Attorney;  
 8 That \$\_\_\_\_\_ is the deposition officer's charge to  
 9 the PLAINTIFF, AMERICAN ARCHAEOLOGY GROUP, LLC, for  
 10 preparing the original deposition transcript and any  
 11 copies of exhibits;  
 12 That the deposition was delivered in accordance  
 13 with Rule 203.3, and that a copy of this certificate was  
 14 served on all parties shown herein on and filed with the  
 15 Clerk.  
 16 Certified to by me this \_\_\_\_\_ day of  
 17 \_\_\_\_\_, 2010.  
 18  
 19  
 20  
 21 LEICA TURNER, Texas CSR #5622  
 Expiration Date: 12/31/11  
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