

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

SAN ANTONIO BAY ESTUARINE)	
WATERKEEPER, et al,)	
)	
Plaintiffs,)	
)	CIVIL ACTION
VS.)	
)	NO. 6:17-cv-00047
FORMOSA PLASTICS CORP.,)	
TEXAS, et al,)	
)	
Defendants.)	

ORAL DEPOSITION OF
PORFIRIO ARGUELLEZ III
November 8, 2018
Volume 1

THE ORAL DEPOSITION OF PORFIRIO ARGUELLEZ III,
Volume 1, produced as a witness at the instance of the
Plaintiffs, and duly sworn, was taken in the
above-styled and numbered cause on the 8th of November,
2018, from 8:56 a.m. to 11:44 a.m., before
Julie A. Jordan, CSR, RPR, in and for the State of
Texas, reported by machine shorthand, at the Formosa
Plastics Training and Development Center, 87 Wood
Street, Point Comfort, Texas 77978, pursuant to the
Federal Rules of Civil Procedure and any provisions
stated on the record or attached hereto.

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

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Ms. Diane Wilson

Mr. Bob Lindsey

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PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 PORFIRIO ARGUELLEZ, III,
2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 BY MS. JOHNSON:

5 Q. Good morning, Mr. Arguellez. My name is
6 Amy Johnson and I'm an attorney for Ms. Wilson in a
7 lawsuit against Formosa Texas and Formosa USA and we've
8 asked you to come here to take a deposition.

9 Do you understand that?

10 A. Yes, ma'am.

11 Q. And I assume you've met with counsel. I don't
12 want you to tell me anything that they told you, but
13 you've had an opportunity to have it explained to you
14 what a deposition is, is that true?

15 A. Yes.

16 Q. Okay. Have you ever been deposed before?

17 A. No.

18 Q. Okay. So I'm going to do my best to talk as
19 clearly and -- as I can when I ask questions. Okay?

20 A. Uh-huh.

21 Q. And that was a great example of one of the
22 things that happens is people say "uh-huh."

23 A. Okay.

24 Q. So if you say "uh-huh," I'm going to say, Is
25 that a yes or a no?

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1 A. Okay.

08:57AM

2 Q. And please don't think I'm being rude.

08:57AM

3 A. No. I understand.

08:57AM

4 Q. And the other thing that's really tricky for
5 the court reporter is you are smart enough to figure out
6 where my question is going sometimes, so you're just
7 going to have to wait and let me finish my question and
8 then answer. Okay?

08:57AM

08:57AM

08:57AM

08:57AM

08:57AM

9 A. Yes.

08:58AM

10 Q. And I will do my best not to trample on your
11 words. Okay?

08:58AM

08:58AM

12 A. Okay.

08:58AM

13 Q. So if I ask anything that you don't
14 understand, just tell me to rephrase it.

08:58AM

08:58AM

15 A. I can do that.

08:58AM

16 Q. Today were you asked to review any e-mails
17 that you had for this deposition?

08:58AM

08:58AM

18 A. Yes.

08:58AM

19 Q. Could you tell me how you keep track of your
20 e-mails? Do you have folders? Do you save them in
21 certain places?

08:58AM

08:58AM

08:58AM

22 A. Just through my Outlook e-mail and then we
23 have -- I have folders set up.

08:58AM

08:58AM

24 Q. Can you tell me what folders you have in your
25 Outlook that you think are relevant to this lawsuit?

08:58AM

08:58AM

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1 A. I think I have -- I have a folder called
2 "Pellet Investigation." 08:58AM

3 Q. Do you have a folder at the cleanup? 08:58AM

4 A. Yes. 08:58AM

5 Q. Is that separate from pellet investigation? 08:58AM

6 A. Yes, ma'am. 08:58AM

7 Q. Do you have any other folders about the
8 outfalls? 08:59AM

9 A. Yes. 08:59AM

10 Q. Is that separate from -- 08:59AM

11 A. It's going to be separate, yes. 08:59AM

12 Q. Okay. Do you have a separate folder about
13 Lavaca Bay? 08:59AM

14 A. Yes. 08:59AM

15 Q. Did you look at all those folders to produce
16 documents for me? 08:59AM

17 A. Yes, ma'am. 08:59AM

18 Q. Okay. And how far back in time do you save
19 e-mails? 08:59AM

20 A. Since I started in my position. 08:59AM

21 Q. And when was that? 08:59AM

22 A. 2013, February. 08:59AM

23 Q. Okay. And do you also keep documents on your
24 computer? 08:59AM

25 A. Yes, ma'am. 08:59AM

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1 Q. And do you keep those in folders?

08:59AM

2 A. Yes.

08:59AM

3 Q. And can you tell me -- well, let me go back to
4 the e-mails.

08:59AM

08:59AM

5 Are there any other folders that you
6 searched for today's deposition?

08:59AM

08:59AM

7 A. No.

08:59AM

8 Q. Did you search all the ones we talked about
9 outfills -- outfalls, pellet investigation, Lavaca Bay,
10 cleanup?

09:00AM

09:00AM

09:00AM

11 A. Yes. I've gone through those, yes.

09:00AM

12 Q. And are there any of those e-mails that you
13 didn't give us?

09:00AM

09:00AM

14 A. I've supplied everything.

09:00AM

15 Q. So there were no e-mails that you didn't give
16 to us in those folders?

09:00AM

09:00AM

17 A. Correct.

09:00AM

18 Q. Okay. And tell me about documents that you
19 have on your computer.

09:00AM

09:00AM

20 How do you keep track of those? In
21 folders?

09:00AM

09:00AM

22 A. They're -- they're tracked in folders. We're
23 filing them away on a K drive that we have for the
24 department.

09:00AM

09:00AM

09:00AM

25 Q. Tell me what K drive is.

09:00AM

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1 A. It's just a storage file for -- you know, for
2 your files and so forth.

3 Q. Does that mean anybody -- other people in
4 Formosa can look at the K drive?

5 A. Only within our department.

6 Q. And what folders do you have on your computer
7 that are stored in the K drive that are relevant to this
8 lawsuit?

9 A. It will be the same. Everything -- everything
10 is the same.

11 Q. Okay. Do you have any folders or files on the
12 what's called the south pond project?

13 A. Yes.

14 Q. Is that a separate folder?

15 A. Yes, ma'am.

16 Q. Did you search that?

17 A. Yes.

18 Q. And do you have any folders or files on the
19 lazy river project?

20 A. No.

21 Q. Okay. Do you have any folders or files about
22 trace amounts?

23 A. I -- no.

24 Q. Okay. I want to -- thanks.

25 A. Yes.

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1 Q. Where -- 09:01AM

2 MS. JOHNSON: I'm sorry? 09:01AM

3 MS. NICHOLS: Off the record for one 09:01AM

4 second? 09:01AM

5 MS. JOHNSON: Sure. 09:01AM

6 (Discussion off the record 9:01 a.m. to 09:01AM

7 9:02 a.m.) 09:02AM

8 Q. (BY MS. JOHNSON) Mr. Arguellez, where are you 09:02AM

9 from? 09:02AM

10 A. I'm originally from Yorktown, Texas. 09:02AM

11 Q. Where is Yorktown? 09:02AM

12 A. It's about 40 miles west of Victoria. 09:02AM

13 Q. Okay. And did you graduate from high school 09:02AM

14 there? 09:02AM

15 A. Yes, ma'am. 09:02AM

16 Q. And did you go to any school beyond that? 09:02AM

17 A. Yes. 09:02AM

18 Q. Where did you go? 09:02AM

19 A. I attended Coastal Bend College in Beeville 09:02AM

20 and I did my basics and then transferred to Texas A&M 09:02AM

21 University in Corpus Christi. 09:02AM

22 Q. And did you graduate from Texas A&M Corpus? 09:02AM

23 A. Yes, ma'am. 09:02AM

24 Q. When was that? 09:02AM

25 A. May of 2009. 09:02AM

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1 Q. (Indicating.)

09:02AM

2 A. May of 2009.

09:02AM

3 Q. Okay. And what did you do after you
4 graduated?

09:02AM

09:02AM

5 A. I was employed with H.E.B. Grocery Company as
6 a day stocker, stocking grocery shelves.

09:02AM

09:02AM

7 Q. For how long?

09:02AM

8 A. From high school till July of 2009.

09:03AM

9 Q. What did you get your degree in?

09:03AM

10 A. Bachelor's of Science chemistry.

09:03AM

11 Q. And then in 2009, what kind of employment did
12 you get?

09:03AM

09:03AM

13 A. I was hired in as a process operator for
14 Formosa Plastics.

09:03AM

09:03AM

15 Q. What does that mean? What does a process
16 operator do?

09:03AM

09:03AM

17 A. A process operator is an individual who works
18 within a process unit, monitors equipment, operates --
19 operates and monitors equipment.

09:03AM

09:03AM

09:03AM

20 Q. So that was in 2009?

09:03AM

21 A. Yes, ma'am.

09:03AM

22 Q. And what unit were you working in?

09:03AM

23 A. Utilities wastewater.

09:03AM

24 Q. So you weren't making a product --

09:03AM

25 A. No.

09:03AM

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1 Q. -- or pellets?

09:03AM

2 A. No, ma'am.

09:03AM

3 Q. Okay. So tell me what you did at your initial
4 job.

09:03AM

09:03AM

5 What were your general responsibilities?

09:03AM

6 A. For utilities?

09:04AM

7 Q. Yes.

09:04AM

8 A. Okay. As a -- I hired in as a field operator,
9 so I worked outside within our process unit monitoring
10 all the equipment, making adjustments as necessary based
11 off of what our board operator would ask.

09:04AM

09:04AM

09:04AM

09:04AM

12 We maintained -- had to make sure that we
13 were maintaining compliance with our permit regulations
14 and requirements. We also -- I also monitored our
15 permitted stormwater outfalls and conducted sampling any
16 time we needed to open those gates.

09:04AM

09:04AM

09:04AM

09:04AM

09:04AM

17 Q. When you say you checked the equipment did
18 that include screens on the stormwater system?

09:04AM

09:04AM

19 A. Yes. Inspections.

09:04AM

20 Q. How often did you do that? How often did you
21 check the screens on the stormwater when you were a
22 process operator in the utilities department?

09:04AM

09:04AM

09:05AM

23 A. Every time prior to opening our gates.

09:05AM

24 Q. So every time that you opened the gates, you
25 would check the screens?

09:05AM

09:05AM

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1 A. Yes, ma'am.

2 Q. When you say "opening the gates," do you mean
3 internal or external?

4 A. The permitted stormwater outfall. That's --
5 you're referring to the external correct? That's
6 permitting, yes.

7 Q. Okay. And so when you say you checked the
8 screens every time you opened an outfall, you checked
9 the screens at the external outfall, is that right?

10 A. Yes.

11 Q. Okay. So how long did you have that position
12 where you were checking screens in outfalls?

13 A. I worked for utilities from July of 2009 till
14 May of 2012.

15 Q. Okay. So for three years?

16 A. Yeah. Just a little shy of three years.

17 Q. Can you just describe to me what happens when
18 you open an outfall gate?

19 A. When you open an outfall gate, of course
20 you're going to have water upstream. So you just open
21 up the gate.

22 Prior to opening up the gate, we also have
23 to make sure that, you know, we conduct all the proper
24 sampling and make sure that we're meeting permit
25 requirements. We open the gate and discharge the water.

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1 Q. Physically how do you open the gate? Do you
2 turn a round --

3 A. Yes.

4 Q. -- valve?

5 A. There's a valve. We have to turn that.

6 Q. Is it like a steering wheel?

7 A. Yes.

8 Q. And when you turn the valve, a big door opens?
9 Is that fair to say?

10 A. Yes.

11 Q. And how big is that door, approximately?

12 A. I don't know. I don't know how big that is.

13 Q. Is it as big as a garage door?

14 A. No.

15 Q. Smaller than that?

16 A. Smaller.

17 Q. Okay. Is it solid, the gate?

18 A. Yes.

19 Q. What's it made of?

20 A. I don't know.

21 Q. It's not wood, is it?

22 A. No.

23 Q. Is it some kind of concrete kind of substance?

24 A. It's going to be different than that, like
25 metal.

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1 Q. And tell me, how did you know when to open a
2 gate?

3 A. Once we received an analytical on the water
4 sample and then conducted a visible -- a visual
5 inspection to make sure there was no debris, then we
6 would open up our gate to discharge.

7 Q. Who told you to go down to prepare the gate to
8 open?

9 A. Our supervisor.

10 Q. Who was that?

11 A. Shift supervisor we had on shift.

12 Q. So that's a supervisor in the utilities
13 department?

14 A. Yes.

15 Q. And were the gates -- could the gates be open
16 any time of day? Like if you had a shift in the night,
17 could they be open at night?

18 A. Yes.

19 Q. Okay. And do you know what prompted the shift
20 supervisor to tell you to open the gate?

21 A. It could be for various reasons. If there
22 was -- if we were going to do any type -- if there was
23 going to be any type of maintenance on the gate itself
24 or if we anticipated weather or if we were already --
25 you know, if it was already raining and we needed to

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1 open up the gates.

2 Q. Did the ditches ever fill enough at other
3 times when it wasn't raining that sometimes you would
4 have to open them?

5 A. Sometimes, yes.

6 Q. Can you tell me just an estimate how many
7 times a month would you open an outfall gate?

8 A. I don't -- honestly to tell you I don't
9 remember since it's been almost six years.

10 Q. Okay. When you opened -- I -- when you open
11 an outfall gate in the rain --

12 A. Yes.

13 Q. -- were you usually opening all the outfall
14 gates in the rain?

15 A. Yes.

16 Q. Okay. And so let's just talk about a rain
17 event. Okay?

18 A. Okay.

19 Q. So it started to rain and you go to the
20 outfall.

21 Which outfall gate would you go to first?

22 A. It would depend on which -- which outfall was
23 full or most full.

24 Q. And how would you know of that?

25 A. We'd have to drive around and visibly inspect.

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1 Q. So it starts raining and then you get in a
2 car? A truck?

3 A. A vehicle, yes.

4 Q. And you drive -- which way do you start, from
5 the north to the -- where do you start?

6 A. We start from south to north, north to south.

7 Q. There's no standard way that you would go?

8 A. No, ma'am.

9 Q. Okay. And so when you went from -- let's say
10 you went from north to south.

11 Would you start at Outfall 12?

12 A. At the time when I was working there Outfall
13 12 was not built yet.

14 Q. So where did you start?

15 A. So started at Outfall 009.

16 Q. Okay. So you started at 009, and you go all
17 the way down to 002?

18 A. Yes, ma'am.

19 Q. Okay. And you -- let's say you were at
20 Outfall 9. Okay?

21 A. Uh-huh.

22 Q. You're at Outfall 9 and it's raining and you
23 take a sample, is that right?

24 A. Uh-huh. Yes.

25 Q. What do you -- how do you take the sample?

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1 A. With three glass jars, and we would take -- we
2 had a sample dipper set up where we grab water from
3 three different spots upstream of the gate and then we'd
4 drive up to the control room and we would run a PH on --
5 on those -- on that sample.

6 And then once we got our PH, we had a
7 little printout that we would attach with some paperwork
8 that we had to fill out because we had to -- on the PH
9 meter we had to calibrate that PH meter prior to running
10 PH on a permitted -- on -- on our outfalls.

11 We'd print out all that information and we
12 would send that to the lab along with the sample.

13 Q. Did you look for oil and grease?

14 A. Yes.

15 Q. How did you --

16 A. That's -- that's done at the lab.

17 Q. So the lab would look in the sample?

18 A. The lab -- the lab provides that analytical,
19 and then we would do a visual inspection.

20 Q. So would you -- so did you have more than just
21 you who would be going to these gates or was it just one
22 person who would go?

23 A. It was normally either myself or a coworker.

24 Q. So it was one person?

25 A. It could be one person or it could be two.

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1 Q. Okay.

2 A. Just depending on, you know, the workload.

3 Q. And after you took the three samples at --
4 prior to the external gate, would you then drive back to
5 the lab to take the samples or would you keep going down
6 the creek to take other samples at other gates?

7 A. We would grab the sample and run to the
8 control room to run the PH because you have to have that
9 done within 15 minutes of gathering -- of catching that
10 sample.

11 Q. And then did you wait at the lab for the PH
12 results to come back or did you just go back to the
13 outfall?

14 A. We would run the PH over in our control room.
15 And then like I told you earlier, we would print out
16 those results and we would take that to the lab and come
17 back and grab samples and do the same thing.

18 Q. So how long did that take? Like just give me
19 one -- I mean, it sounds kind of time-consuming.

20 A. It could be time-consuming. It could take you
21 at least an hour, over an hour.

22 Q. Per outfall gate, right?

23 A. Pretty much.

24 Q. Yeah. When -- when it was raining, it's hard
25 to distinguish between rains, but the difference between

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1 a sprinkle and a hard rainfall.

09:13AM

2 Can you go with me kind of to a hard
3 rainfall where it's raining hard?

09:13AM

4 A. Uh-huh.

09:13AM

5 Q. How do you look at the surface of the water
6 when it's raining hard to see what's on top of the
7 surface?

09:13AM

09:13AM

09:13AM

09:13AM

8 A. Depending on the situation, if we had a
9 really, really hard rain, we couldn't be out because we
10 had to follow safety protocols, which are weather
11 phases. So until they lifted those weather phases, then
12 we could actually get out to those actual -- to those
13 outfalls.

09:13AM

09:13AM

09:13AM

09:13AM

09:13AM

09:13AM

14 Q. Could you tell me what the -- what you
15 understand about when they don't let you out in a big
16 rainfall?

09:13AM

09:13AM

09:13AM

17 A. There's three different weather phases. You
18 have the Weather Phase 1, 2, and 3. At a weather --
19 excuse me.

09:13AM

09:13AM

09:14AM

20 Q. That's okay.

09:14AM

21 A. At a Weather Phase 3 is when we have to -- is
22 per se like saying Weather Phase 3 is where you kind of
23 have to stand down. You know, they don't want anybody
24 out in the area. There's imminent danger with excessive
25 rain and also lightning.

09:14AM

09:14AM

09:14AM

09:14AM

09:14AM

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1 Q. Who makes the decision that it's a
2 Weather Phase 3?

3 A. That is at the decision of the shift safety
4 supervisor.

5 Q. For utilities, for instance?

6 A. For the -- for the site.

7 Q. Okay. So there's a shift safety supervisor --

8 A. Yes.

9 Q. -- for the entire plant?

10 A. Yes, ma'am.

11 Q. Okay. And that person if, there's a big
12 rainfall with thunder and lightning, might say, This is
13 a Weather Phase 3?

14 A. Yes.

15 Q. And how would you find that out?

16 A. We have a PA system in each process area and
17 they would send a -- it's like a call out or call them
18 all and that's how we would hear it.

19 Q. Okay. And so if there's a Weather Phase 3,
20 you wouldn't go to the external outfalls, is that right?

21 A. Yes.

22 Q. And how -- tell me what a Weather Phase 2 is
23 like.

24 A. Weather Phase 2 would be more on the sense of
25 like excessive, like, you know, you have heavy rains.

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1 You might hear thunder and so forth, but there's no
2 actual, like, lightning in the area. It's kind of like
3 in a sense of saying the weather is starting to build
4 up. It's getting close to the area.

5 Q. Or maybe it had just gone away and settled
6 down from a Phase 3?

7 A. Yes.

8 Q. And could you go out in a Weather Phase 2 to
9 an external outfall?

10 A. Yes.

11 Q. So let's say you're at an external outfall.
12 Let's say you're at Outfall 9, because that's what we're
13 talking about, in a Weather Phase 2.

14 Can you tell me -- describe how fast the
15 water would be flowing?

16 A. If water was flowing, depending -- it would be
17 depending on the level --

18 Q. Okay.

19 A. -- in the ditch.

20 Q. Okay. But it -- the water wouldn't be still,
21 would it?

22 A. If it wasn't overflowing, no. It would be on
23 the upstream of the gate.

24 Q. Okay. So it would be held in by the gate,
25 right?

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1 A. Yes.

2 Q. But the rain would be coming on the surface,
3 so the surface would be speckled with the rain, is that
4 fair?

5 A. Yes.

6 Q. And when you're looking at that speckled
7 surface, how can you tell if there are pellets on it?

8 A. Pellets would float. Debris would float. You
9 would see it.

10 Q. You can --

11 A. You can see it on the -- on the top of the
12 water.

13 Q. And you can distinguish pellets from like foam
14 in a rainfall?

15 A. Yes.

16 Q. Can you tell the Court -- can you tell Judge
17 Hoyt that you can count how many pellets there are on
18 top of the water in a rainfall event?

19 A. Oh, count, no.

20 Q. Okay. Can you distinguish -- do you know what
21 flakes are, plastic flakes? Do you call them flakes?

22 A. I don't call them flakes.

23 Q. What do you call things that aren't pellets?

24 MS. NICHOLS: Objection, form.

25 Q. (BY MS. JOHNSON) You can answer the question.

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1 A. I'm a little confused. 09:17AM

2 Q. Okay. Sure. 09:17AM

3 A. Can you rephrase that? 09:17AM

4 Q. Sure. Okay. If there are -- you know in the
5 pellet units they use powder to make pellets. 09:17AM

6 Do you know that? 09:17AM

7 A. Yes. 09:17AM

8 Q. Okay. And have you seen plastic powder
9 before, powder that's -- 09:17AM

10 A. Yes, I've seen powder. 09:17AM

11 Q. Okay. Have you seen powder that floats? 09:17AM

12 A. Yes. 09:17AM

13 Q. Okay. What do -- do you call it powder? 09:17AM

14 A. Yes. 09:18AM

15 Q. Is there anything bigger than powder that
16 you've seen that floats that's plastic? 09:18AM

17 A. A pellet. 09:18AM

18 Q. So you've seen nothing in between a powder and
19 a pellet that you would call anything any different? 09:18AM

20 A. No. 09:18AM

21 Q. Okay. That's fine. It's fine. 09:18AM

22 A. Okay. 09:18AM

23 Q. I just want to understand because there have
24 been different terms that different people have used and
25 that's why I'm asking you powder and pellet. 09:18AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 A. Okay.

09:18AM

2 Q. So there's not a right answer.

09:18AM

3 A. Okay.

09:18AM

4 Q. I'm just trying to understand what you call
5 it.

09:18AM

09:18AM

6 A. All right.

09:18AM

7 Q. So can you tell the Court how you could look
8 at the surface of the water and distinguish powder
9 floating on the water from pollen floating on the water?

09:18AM

09:18AM

09:18AM

10 A. No.

09:18AM

11 Q. It's hard to do, isn't it?

09:18AM

12 A. It's -- yes.

09:18AM

13 Q. You've seen powder floating at an external
14 gate not in the rain, right?

09:18AM

09:19AM

15 A. At an internal gate, yes.

09:19AM

16 Q. Have you never seen powder at an external
17 gate?

09:19AM

09:19AM

18 A. No, ma'am.

09:19AM

19 Q. It's your testimony you've never seen any
20 powder floating at an external gate?

09:19AM

09:19AM

21 A. No.

09:19AM

22 Q. Have you ever seen pellets floating at an
23 external gate?

09:19AM

09:19AM

24 A. Upstream.

09:19AM

25 Q. Have you ever seen pellets downstream of any

09:19AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 external gate?

09:19AM

2 A. On the screens.

09:19AM

3 Q. Okay. So on the outside of all the external
4 gates on Cox's Creek, you've never seen any pellets
5 outside?

09:19AM

09:19AM

09:19AM

6 A. At Cox's Creek at the mouth of the outfall,
7 yes.

09:19AM

09:19AM

8 Q. You have seen them?

09:19AM

9 A. Yes.

09:19AM

10 Q. Okay. When was the first time you ever saw
11 any pellets or powder on the shores of Cox's Creek?

09:19AM

09:19AM

12 A. After a TCEQ audit.

09:19AM

13 Q. So that would have been in 2016, you think?

09:20AM

14 A. Yes, ma'am.

09:20AM

15 Q. Okay. So you'd never been up and down Cox's
16 Creek before then?

09:20AM

09:20AM

17 A. Prior to that, no.

09:20AM

18 Q. Okay. Had you ever seen pellets or powder on
19 Lavaca Bay before that on the shores?

09:20AM

09:20AM

20 A. I had never been out there prior to that.

09:20AM

21 Q. Okay. Have you ever skimmed pellets at an
22 external gate?

09:20AM

09:20AM

23 A. Working at -- for utilities, yes.

09:20AM

24 Q. Okay. Can you -- are you okay?

09:20AM

25 A. Yeah, I'm just burping.

09:20AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. Okay.

2 A. Sorry.

3 Q. That's okay. You don't need to be sorry. If
4 you need to take a break at any time, I want you to tell
5 me. Okay?

6 A. Okay.

7 Q. Because it's kind of nerve-racking to be asked
8 questions. I understand. Okay?

9 It's my understanding that you use what I
10 would describe as like a swimming pool skimmer.

11 Is that fair to say?

12 A. A dip net.

13 Q. Does it look like a swimming pool -- what I'd
14 call a swimming pool skimmer?

15 MS. NICHOLS: Objection, form.

16 Q. (BY MS. JOHNSON) Can you describe what that
17 net looks like?

18 A. Net -- it's basically a pole and then it has
19 like a -- how do I say it? It's real -- it's real, real
20 fine. It's like -- I don't know. I'm going to say it's
21 a dip net, but it's kind of like a net like if you're
22 using to catch fish, but it's got fine -- it's a lot
23 finer so that that way it catches like smaller or
24 particles pellets per se in our -- you know, for our
25 outfalls.

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. How big would you say the -- is it circular at
2 the end of the net where the net is? Is it rectangular?

3 A. Yes.

4 Q. It's rectangular?

5 A. No, no. Circular.

6 Q. Okay. Can you compare it to a size like the
7 top of a garbage can lid or smaller? How big would you
8 say that net is?

9 A. I don't know. It's been so long since I've
10 used one.

11 Q. Okay. And do you know how long the pole is,
12 approximately? Is it more than -- is it more than a
13 person's height, is that right?

14 A. Yes.

15 Q. Is it like 10 feet long, 12 feet long?

16 A. I don't know. I'd have to measure that.

17 Q. Okay. Could the net -- could the pole reach
18 all the way across the ditch?

19 A. I don't know if it could.

20 Q. Okay. Could you walk on both sides of the
21 ditch when you were trying to skim?

22 A. Yes.

23 Q. You would walk over the outfall gate, is that
24 right?

25 A. Yes.

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. And when you were skimming with that dipping
2 net, is it your testimony that you could get all the
3 pellets that you were trying to get?

4 A. Can you rephrase that?

5 Q. Sure. How easy was it to get all the pellets
6 when you were trying to dip them out?

7 A. Most -- a lot -- all your pellets were
8 normally right up against the structure by the gate
9 upstream. So it was fairly easy to get to them and get
10 them out of the water.

11 Q. Okay. Is it your testimony you could get them
12 all or sometimes you'd have to leave some in?

13 A. We made -- I made sure that I got everything.

14 Q. Your testimony is that every time you skimmed,
15 you're telling the Court you got out every single
16 pellet?

17 A. Yes, ma'am. What I saw.

18 Q. Okay. And do those dip nets remove the
19 floating powder?

20 A. I don't know.

21 Q. Do you remember trying to get powder out ever?

22 A. Again, it's been six years. Some of it I
23 remember. Some of it I don't.

24 Q. That's okay.

25 When you were looking at those external

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 gates --

09:24AM

2 A. Uh-huh.

09:24AM

3 Q. -- from -- I'm sorry, I'm going to forget the
4 year -- until 2012, right?

09:24AM

09:24AM

5 A. Yes.

09:24AM

6 Q. That's when you stopped doing it?

09:24AM

7 A. Yes.

09:24AM

8 Q. Did you ever -- were you ever asked to report
9 back about issues with the gates, problems with the
10 gates?

09:24AM

09:24AM

09:24AM

11 A. If we had issues or problems with the gates,
12 yes, we would let supervisors and management know.

09:24AM

09:24AM

13 Q. What kind of issues were you reporting back?

09:24AM

14 A. If there was anything, the maintenance of
15 the -- or the equipment or like the gate, if it was --
16 you know, we were having problems trying to open the
17 gate or if a gate leaked, we had to -- we would let our
18 supervisors and management know.

09:24AM

09:24AM

09:24AM

09:24AM

09:24AM

19 Q. How would you know if the gate was leaking in
20 a rainfall event?

09:24AM

09:24AM

21 A. In a rainfall event, you might see water
22 leaking on the downstream side.

09:25AM

09:25AM

23 Q. And when you say "leaking," you mean it would
24 be coming through a part of the closed gate?

09:25AM

09:25AM

25 A. Yes.

09:25AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. Did you ever see water flowing around the
2 edges of the closed gate?

3 A. Yes.

4 Q. And did you ever see water flowing over a
5 closed gate?

6 A. Yes.

7 Q. Could you tell me about how many times you saw
8 it floating? Let's start around. You know, like --

9 A. It's -- again, it's been six years. I -- I
10 don't remember, you know.

11 Q. Was in a big rainfall event?

12 A. Yes.

13 Q. And the same with flowing over the gate, it
14 would be a big rainfall event?

15 A. Yes.

16 Q. But it would be a Type 2, because that's the
17 only time you could go down there, right?

18 A. Yes.

19 Q. Okay. And since 20- -- in 2012 --

20 A. Yes, ma'am.

21 Q. -- you got promoted I take it?

22 A. Yes. I applied for a job, interviewed, and so
23 forth.

24 Q. So you applied -- in water utilities you
25 applied for a job?

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 A. I applied for -- for the environmental -- for 09:26AM
2 EH&S as an air specialist. 09:26AM

3 Q. What is EH -- EH&S? 09:26AM

4 A. Yeah. EHS, Environmental Health and Safety. 09:26AM

5 Q. And you applied for a job as an air specialist 09:26AM
6 in 2012? 09:26AM

7 A. Yes, ma'am. 09:26AM

8 Q. And you got that job? 09:26AM

9 A. Yes. 09:26AM

10 Q. Congratulations. 09:26AM

11 A. Thank you. 09:26AM

12 Q. And what was the title there? 09:26AM

13 A. Environmental specialist. 09:26AM

14 Q. And for that -- is that the job you still 09:26AM
15 have? 09:26AM

16 A. No. I am now a water and waste specialist. 09:26AM

17 Q. When did you get that job? 09:26AM

18 A. February of 2013. 09:26AM

19 Q. So you didn't last very long at air, huh? 09:27AM

20 A. Given an opportunity. 09:27AM

21 Q. So the water specialist is a promotion from 09:27AM
22 the air specialist? 09:27AM

23 A. It's the same thing. 09:27AM

24 Q. Okay. 09:27AM

25 A. Same -- it's a lateral move. 09:27AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. Why did you move from air to water?

2 A. Understanding with utilities department,
3 their -- the understanding of like the TPDES permit,
4 their op- -- like the operation.

5 Q. You understood it better, is that what you're
6 saying?

7 A. Yes.

8 Q. Did they ask you to apply? Did the water
9 utilities ask you to apply?

10 A. Utilities didn't ask me to apply. I -- I
11 actually -- I communicated with, you know, management
12 asking.

13 Q. When you say "communicated with management,"
14 are you talking about who in management?

15 A. Like a manager.

16 Q. Do you remember the name?

17 A. Yes.

18 Q. Who was that?

19 A. Matt Brogger.

20 Q. Did Mr. Brogger ask you to apply for the job?

21 A. No.

22 Q. Okay. Did you talk to him about applying for
23 the job?

24 A. Yes. Yes.

25 Q. Okay. Is Matt Brogger in charge of the EHS?

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 A. He's the manager for water and waste. 09:28AM

2 Q. Is he your boss? 09:28AM

3 A. Yes. 09:28AM

4 Q. Okay. And so since 2013, have you had any
5 promotions? 09:28AM

6 A. No. 09:28AM

7 Q. So tell me your title. 09:28AM

8 A. Environmental specialist. 09:28AM

9 Q. Is it like Environmental Specialist 1, 2, or 3
10 or anything like that? 09:28AM

11 A. Environmental Specialist 2. 09:28AM

12 Q. Okay. Is 2 above 3? 09:28AM

13 A. No. No. 09:28AM

14 Q. How does it go, 1, 2, 3? 09:28AM

15 A. 1, 2, 3, yes. 09:28AM

16 Q. Okay. So 1 is entry, 2 is above 2, and 3 is
17 the highest? 09:28AM

18 A. Yes. 09:28AM

19 Q. Okay. Do you work with anybody in New Jersey
20 on this -- at any time? 09:28AM

21 A. We -- I communicate with them from time to
22 time if needed. 09:29AM

23 Q. Okay. Who do you communicate with in
24 New Jersey? 09:29AM

25 A. John Pastuck. 09:29AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. What's his position?

09:29AM

2 A. He is division head for Environmental Health
3 and Safety corporate.

09:29AM

09:29AM

4 Q. And what kinds of things do you communicate
5 with Mr. Pastuck?

09:29AM

09:29AM

6 A. Regular questions, concerns on regulation for
7 guidance or assistance if needed, you know, to help kind
8 of clarify, again, regulation.

09:29AM

09:29AM

09:29AM

9 Q. So if you have a question, you can ask
10 Mr. Pastuck?

09:29AM

09:29AM

11 A. Yes.

09:29AM

12 Q. Do you have to go through, like, Mr. Brogger,
13 do you have to ask permission to communicate with
14 New Mexico or is it just an open communication?

09:29AM

09:29AM

09:29AM

15 A. It can be open, but most times I
16 communicate -- you know, all the time I communicate with
17 Matt, and then we'll discuss, and then if we need to,
18 we'll -- we'll talk to John.

09:29AM

09:29AM

09:29AM

09:30AM

19 Q. What's the most common way you communicate
20 with Mr. Pastuck? Is it phone calls or e-mails?

09:30AM

09:30AM

21 A. It could be either.

09:30AM

22 Q. Do you get a lot of e-mails in a day?

09:30AM

23 A. Yes.

09:30AM

24 Q. Like do you get e-mails from New Jersey in a
25 day?

09:30AM

09:30AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 A. No.

2 Q. Okay. It's more unusual to get e-mails from
3 New Jersey?

4 A. Yeah, very seldomly. It's only if we're
5 having discussions with him.

6 Q. And do you work -- do you communicate with
7 anybody in Taiwan?

8 A. No.

9 Q. Does -- okay. So tell me the name of your
10 department. EHS?

11 A. Yes.

12 Q. Does EHS have regular staff meetings?

13 A. No.

14 Q. And does EHS meet with other -- meet with any
15 units at any time? Do you have meetings?

16 A. Yes.

17 Q. Okay. Tell me about those meetings.

18 A. Any -- any questions or concerns that the
19 operating units might have and they want to discuss,
20 whether it's upcoming maintenance activities or if
21 they're going to have a shutdown, if there's a process
22 upset, they'll want to discuss and have a meeting with
23 EH&S.

24 Q. Can you tell me just what's an average day for
25 you now?

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1 A. Average day for me right now is coordinating
2 shipment of nonhazardous waste.

3 Q. So nonhazardous waste that is from what?

4 A. That's generated within the facility.

5 Q. So the entire facility?

6 A. Yes, ma'am.

7 Q. Does that include the pellets and the powder
8 that are being cleaned up now?

9 A. Yes, ma'am.

10 Q. When did you take on this -- these
11 responsibilities for coordinating the disposal of
12 nonhazardous waste?

13 A. Just this past month. So I would say towards
14 middle of September of this year.

15 Q. Is the primary reason you took that over to
16 coordinate the disposal of these pellets and powder
17 that's being cleaned up?

18 A. No.

19 Q. Okay. What's the other -- it's just -- is it
20 just trash that you're disposing of?

21 A. Nonhazardous -- any nonhazardous waste within
22 the -- the facility.

23 Q. Okay. I want to just talk about that for a
24 minute, because at the units --

25 A. Yes.

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. -- at the producing units, they try to reuse
2 their scraps from production, is that right?

3 A. Yes.

4 Q. Okay. So if scraps of the -- if little
5 plastic scraps fall on the ground, they try to contain
6 those and resell them as scraps, is that right?

7 A. I believe so.

8 Q. What kind of waste do you have generally at
9 the production units?

10 A. On the process end or generated through
11 maintenance activities.

12 Q. So what is that? What is that? What kind of
13 trash? Just tell me generally.

14 A. It's Class 2 nonhazardous waste. So, for
15 example, maintenance activities, if they're
16 sandblasting, blasting media is Class 2, nonhazardous --

17 THE REPORTER: Blasting -- I'm sorry, I
18 can't hear you.

19 THE WITNESS: Blasting media.

20 Q. (BY MS. JOHNSON) So how much blasting is
21 going on right now?

22 A. I don't know.

23 Q. Okay. I'm just curious, where does the
24 waste -- the nonhazardous -- this is solid waste, right?

25 A. Yes.

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. Where does it go?

09:33AM

2 A. In the roll-off box.

09:33AM

3 Q. And where is it disposed of?

09:33AM

4 A. At a landfill.

09:33AM

5 Q. Where?

09:33AM

6 A. Wherever the waste is profiled at, so it could
7 be a landfill in one area or another landfill, depending
8 on where it's profiled at.

09:33AM

09:34AM

09:34AM

9 Q. Do you know what town it's going to?

09:34AM

10 A. Angleton.

09:34AM

11 Q. So it's not a traditional solid waste landfill
12 because it's one class up because it's industrial, is
13 that right?

09:34AM

09:34AM

09:34AM

14 A. That I'm not sure of.

09:34AM

15 Q. Okay. Do you know what -- how many bags of
16 waste you get a day from a cleanup?

09:34AM

09:34AM

17 A. That's going to be reflected in the IAP.

09:34AM

18 Q. The IEP?

09:34AM

19 A. IAP --

09:34AM

20 Q. IA --

09:34AM

21 A. -- Instant Action Plan.

09:34AM

22 Q. So those were by Horizon, is that right?

09:34AM

23 A. Yes.

09:34AM

24 Q. Okay. And so they would write down how many
25 trash bags or bags a day that they collect?

09:34AM

09:34AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 A. Yes.

2 Q. Okay. When you've met with -- I'm going to go
3 back. You were talking to me about meeting with the
4 units.

5 A. Yes.

6 Q. When you met with the units, have you ever met
7 with them about any concerns they have about pellets or
8 powder going into the stormwater system?

9 A. No. Everything -- meetingwise it's always
10 been about maintenance activities or projects or, you
11 know, whatever they're looking at doing on their
12 processing.

13 Q. Have you had any meetings with anybody about
14 concerns about the internal stormwater system?

15 A. Just like small discussion, nothing in a
16 meeting setting.

17 Q. Can you describe that -- any small discussions
18 you've had?

19 A. Process units or Matt would talk to me about,
20 you know, discussions that he had with the process unit
21 or individuals regarding pellets.

22 Q. Okay. So when you had small discussions with
23 process units, can you tell me who you've had
24 discussions with?

25 A. Day staff, staff personnel.

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. Can you give me some names? Sorry. Or what
2 unit they're with?

3 A. Like PE1.

4 Q. Any other units?

5 A. That's the last that I can recall.

6 Q. Okay. Tell me about the discussion you had
7 with somebody in the PE unit about the stormwater
8 system.

9 A. With -- you know, again, that all fell back
10 with the excessive rainfall. We had a -- we had a
11 heavy, heavy rainfall. So they just let us know, Hey,
12 this is what we're doing. This is what we're -- you
13 know, this is how we're handling the situation on their
14 end.

15 Q. Okay. What did they tell you they were doing
16 in an excessive rainfall event at PE1?

17 A. After -- basically they were cleaning like
18 after -- after the rainfall.

19 Q. What were they cleaning?

20 A. The in- -- the internal outfall.

21 Q. When you say "the internal outfall," do you
22 mean the gate or do you mean the ditch or both?

23 A. It's -- the internal outfall is the ditch.

24 Q. So why were they having to clean the ditch?

25 A. They had noticed that there were pellets in

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 the ditch.

2 Q. Are you aware of any of the stormwater ditches
3 internal to the facility overflowing in a rainfall
4 event?

5 A. Yes.

6 Q. Can you tell me where it over -- where it
7 flows and overflows?

8 A. From what I remember is between PE1 and
9 chlor-alkali.

10 Q. Anyplace else?

11 A. That's the only one I can think of that I
12 remember.

13 Q. That's okay.

14 When you were talking to PE1 about the
15 excessive rainfall event, do you remember when that was?

16 A. I don't remember specific date.

17 Q. Well, like is it the summer, the spring?

18 A. Sometime last year.

19 Q. In 2017?

20 A. Yes, ma'am.

21 Q. Okay. And have you -- so they told you that
22 they were going to clean the pellets out -- at PE1 they
23 told you they were going to clean the pellets out of the
24 ditch, is that right?

25 A. Yes.

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1 Q. How are they going to do that?

09:38AM

2 A. They had a THM crew on hand that was cleaning.

09:38AM

3 Q. And THM is total --

09:38AM

4 A. Housekeeping Management.

09:38AM

5 Q. And how did that team clean?

09:38AM

6 A. That, I don't know. I wasn't actually out
7 there. It was just through discussion. They had told
8 us they were cleaning.

09:38AM

09:38AM

09:38AM

9 Q. So when there's a big amount to clean, do you
10 know that -- whether the units do it themselves or they
11 call THM?

09:38AM

09:38AM

09:39AM

12 A. That's going to be dependent on the unit.

09:39AM

13 Q. Do you know whether it was enough pellets that
14 THM had to use a vacuum truck?

09:39AM

09:39AM

15 A. I don't know.

09:39AM

09:39AM

16 Q. Okay. Have you seen the vacuum trucks being
17 used?

09:39AM

09:39AM

09:39AM

18 A. Yes. Well, I've seen -- I mean, I've seen the
19 vacuum trucks on site in the area, but never seen
20 them -- I mean, inside the plant?

09:39AM

09:39AM

09:39AM

21 Q. (Nods affirmatively.)

09:39AM

22 A. Yes, yes, I've seen them inside the plant.

09:39AM

09:39AM

23 Q. Where have you seen them use the vacuum
24 trucks?

09:39AM

09:39AM

09:39AM

25 A. I've seen the vacuum truck at the -- at the

09:39AM

09:39AM

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1 fence line of the permitted outfall, and then I've seen
2 it parked by the PE1 unit.

3 Q. Anywhere else?

4 A. No.

5 Q. Okay. And so when you've seen the vacuum
6 trucks at the fence line of the permitted outfalls, can
7 you tell me what the vacuum trucks are doing?

8 A. The trucks were staged there when I saw them.

9 Q. What does that mean?

10 A. The truck was just parked there.

11 Q. And so you've never seen the trucks suck up
12 water at an external outfall gate?

13 A. No.

14 Q. You've seen recently the booms placed outside
15 of the external outfall gates?

16 A. Yes.

17 Q. You know what a boom is, right?

18 A. Yes, ma'am.

19 Q. Okay. Have you seen -- tell me what external
20 outfall gates the booms are at?

21 A. Outfalls 9, 8, 6, and 5.

22 Q. So not at 12?

23 A. No.

24 Q. And not at -- when you say 5, do 2, 4, 5 come
25 together and --

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 A. Yes. Yes. So it's --

09:40AM

2 Q. So 5 -- sorry.

09:40AM

3 A. Yes, it's going to be at the mouth of the
4 outfall.

09:40AM

09:40AM

5 Q. So the mouth of the outfall, when you say 5,
6 it includes 2 and 4 and 5 all coming together?

09:40AM

09:41AM

7 A. Yes, ma'am.

09:41AM

8 Q. Okay. That's what I thought.

09:41AM

9 Have you seen pellets inside those booms
10 at all the external outfalls?

09:41AM

09:41AM

11 A. Yes.

09:41AM

12 Q. Do you remember when the booms were put out
13 there, approximately?

09:41AM

09:41AM

14 A. April 2017.

09:41AM

15 Q. And have -- did you see the booms in
16 April 2017?

09:41AM

09:41AM

17 A. Yes.

09:41AM

18 Q. So were you -- did you watch Horizon put the
19 booms out?

09:41AM

09:41AM

20 A. No. I didn't see them put it out, but they
21 had -- they had installed them.

09:41AM

09:41AM

22 Q. And from April 2017 until now, have you seen
23 pellets pretty regularly caught in those booms?

09:41AM

09:41AM

24 A. From discussions with Horizon, yes, they've
25 seen pellets upstream of the -- the boom.

09:41AM

09:41AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. Have you seen any?

09:41AM

2 A. When I've been out there and looked, I've seen
3 some.

09:41AM

09:42AM

4 Q. Okay. And how often do you -- when we're
5 talking about booms, we're talking about on Cox's Creek,
6 right?

09:42AM

09:42AM

09:42AM

7 A. Yes.

09:42AM

8 Q. How often do you go down to Cox's Creek?

09:42AM

9 A. Not very often. Normally it's if there's --
10 if there was a big or some serious situation, something
11 that happened, that's when I would be out on site.

09:42AM

09:42AM

09:42AM

12 Q. Okay. What kind of serious situation?

09:42AM

13 A. For example, if there was -- if Horizon's
14 supervisor contacted me for any questions, concerns, or
15 asked me to come out, I would -- I would be out there.

09:42AM

09:42AM

09:42AM

16 Q. Can you tell me since 2016 about how many
17 times you think you've been down to Cox's Creek?

09:42AM

09:42AM

18 A. In 2016 I can remember being down there after
19 the audit with TCEQ.

09:42AM

09:42AM

20 2017, I can't give you an exact number,
21 but I was out there off and on.

09:42AM

09:43AM

22 Q. When you say "off and on," once every couple
23 of months? Once a season?

09:43AM

09:43AM

24 A. What do you mean by "season"?

09:43AM

25 Q. Winter, fall -- four times a year.

09:43AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 A. Oh, no.

09:43AM

2 Q. Sorry.

09:43AM

3 A. No. Again, it was off and on as Horizon
4 needed me out there, if they had a question or wanted me
5 to look at something, so forth.

09:43AM

09:43AM

09:43AM

6 Q. And is the person who would call you from
7 Horizon Mr. Barrier?

09:43AM

09:43AM

8 A. Yes.

09:43AM

9 Q. Anybody else from Horizon?

09:43AM

10 A. If they had another supervisor filling in,
11 that supervisor would contact me.

09:43AM

09:43AM

12 Q. Do you know who that would be?

09:43AM

13 A. There was one individual. I can't remember
14 his name.

09:43AM

09:43AM

15 Q. Are there any other -- when you say "serious
16 situations," any other serious situations that you know
17 of on Cox's Creek since 2016?

09:43AM

09:43AM

09:44AM

18 A. Nothing else.

09:44AM

19 THE REPORTER: I'm sorry?

09:44AM

20 THE WITNESS: Nothing else.

09:44AM

21 Q. (BY MS. JOHNSON) Did you go out to Cox's
22 Creek after the hurricane?

09:44AM

09:44AM

23 A. No.

09:44AM

24 Q. Okay. Have you ever seen powder caught in the
25 booms on Cox's Creek?

09:44AM

09:44AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 A. I haven't seen it.

09:44AM

2 Q. Have you ever looked to see whether the booms
3 are totally connected or whether there are places where
4 pellets and powder might be able to escape?

09:44AM

09:44AM

09:44AM

5 A. I haven't seen that.

09:44AM

6 Q. You haven't looked?

09:44AM

7 A. No. I haven't looked at that. That would be
8 the responsibility of Horizon.

09:44AM

09:44AM

9 Q. If you -- you know, in your past job, if you
10 saw pellets or powder going around an external outfall
11 gate, is there anything you're supposed to do?

09:44AM

09:44AM

09:45AM

12 A. We'd have to -- if that happened, we would
13 have to notify our shift supervisor, and at that point,
14 you know, they would have to make the decision on what
15 needed to be done.

09:45AM

09:45AM

09:45AM

09:45AM

16 Q. Are you supposed to take pictures?

09:45AM

17 A. No.

09:45AM

18 Q. Were you supposed to count pellets or anything
19 going out?

09:45AM

09:45AM

20 A. No.

09:45AM

21 Q. Okay. And were there forms that you were
22 supposed to notify your shift supervisor on?

09:45AM

09:45AM

23 A. Outfall log sheet.

09:45AM

24 Q. And it had a place that said water going
25 around the edge? I don't remember that.

09:45AM

09:45AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 A. No.

2 Q. Okay. Have you ever gone to the -- do you
3 know what the causeway is?

4 A. Yes.

5 Q. Okay. And you know where the Holiday Inn is?

6 A. Yes, ma'am.

7 Q. Okay. Have you ever walked down beside the
8 causeway at the Holiday Inn to look for pellets or
9 powder?

10 A. No.

11 Q. Nobody has ever asked you to do that?

12 A. No.

13 Q. And when you were looking at those external
14 outfall gates in your previous job, how often would you
15 say they got clogged with debris?

16 A. After a heavy rain -- after a rainfall.

17 Q. Have you ever heard of the Formosa Report It
18 problem -- program? Sorry.

19 A. Yes.

20 Q. What is that?

21 A. That's a online anonymous submittal program
22 where you can submit, like, your own concerns to --

23 Q. I know it's anonymous, but do you know of
24 anybody who's ever reported to it?

25 A. No.

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. Okay. You were talking about being familiar
2 with the stormwater permit?

3 A. Yes, ma'am.

4 MS. JOHNSON: Let me check on our time.

5 Q. (BY MS. JOHNSON) And you would call it an
6 NPDES permit?

7 A. TPDES permit.

8 Q. TPDES permit. I'm sorry. Texas, not
9 National.

10 Are you familiar with a permit term in
11 that TPDES permit that uses a word "trace amounts" of
12 floating solids?

13 A. I've seen it. I just don't know what it --
14 what actually a trace amount is.

15 Q. Okay. Have you discussed with anybody at
16 Formosa Texas or Formosa USA what a trace amount is?

17 A. I've talked to my manager, Matt, but they've
18 discussed further with TCEQ. That's as far -- what I
19 know.

20 Q. What has Matt told you is a trace amount?

21 A. He doesn't even have the answer either.

22 Q. Okay. Are you doing okay? Because I -- I'm
23 going to switch topics, and if you want to take a break,
24 I want you to tell me.

25 A. Sure. We can take a break.

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. Okay. Okay.

2 A. Need to get a little bit of water.

3 Q. That's okay.

4 MS. JOHNSON: Let's take like a quick
5 break. Okay.

6 (Recess from 9:48 a.m. to 9:54 a.m.)

7 Q. (BY MS. JOHNSON) Okay. Mr. Arguellez, I
8 didn't ask you, when those weather events 1, 2, and 3,
9 remember we were talking about that?

10 A. Yes, ma'am.

11 Q. Are there any written records of when those
12 weather events occurred that you know of?

13 A. I don't know if there are.

14 Q. If they were, they would be with the safety
15 unit?

16 A. Probably, but again, I don't know who handles
17 that.

18 Q. Okay. But it's called the safety unit?

19 A. Safety department.

20 Q. Okay. Okay. I just need to ask the right
21 people.

22 And who is Nancy Koch, K-O-C-H?

23 A. Nancy Koch, she's a consultant that helps us
24 with our water permit.

25 Q. Who does she work for?

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 A. Weston Solutions.

09:55AM

2 Q. Where is she physically?

09:55AM

3 A. Austin, Texas.

09:55AM

4 Q. Okay. And so if you have questions about the
5 TPDES permit --

09:55AM

09:55AM

6 A. The water permit, I can -- I can reach out to
7 her and ask her questions.

09:55AM

09:55AM

8 Q. Have you asked Ms. Koch any questions about
9 the pellet discharge issues?

09:55AM

09:55AM

10 A. I don't remember. So much has happened, I
11 don't remember if I've reached out to her on that.

09:55AM

09:55AM

12 Q. Do you ever get on the phone with Ms. Koch?

09:55AM

13 A. Yes.

09:56AM

14 Q. Are you on phone calls with other people
15 with her? Do you ever get on a conference call with
16 Ms. Koch?

09:56AM

09:56AM

17 A. No. Most times it's me and her.

09:56AM

18 Q. And do you -- if you have a phone call, do you
19 write down the content of it for Matt Brogger, for
20 instance?

09:56AM

09:56AM

21 A. Yes.

09:56AM

22 Q. So if you talk to Ms. Koch you would probably
23 send an e-mail to Matt Brogger?

09:56AM

09:56AM

24 A. Yes, or -- or Nancy would send an e-mail.

09:56AM

25 Q. Okay. If you are going around the facility

09:56AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 now and see a bunch of pellets or powder in a ditch, can
2 you call THM and ask them to clean it up?

3 A. I call -- I will call the process units and
4 ask them to -- you know, just to come out to the area as
5 soon as possible, and if there is a THM unit or there's
6 individuals working in the area, I will let them know
7 and have them start cleaning.

8 Q. So if you see pellets or powder in a ditch,
9 it's usually the process unit first that's supposed to
10 clean it?

11 A. Eventually we'll get individuals from the
12 process unit to come and clean.

13 Q. Do you know if people use like power hoses to
14 spray down those ditches?

15 A. Inside the facility, no.

16 Q. You do not know or they don't use --

17 A. I don't know.

18 Q. Okay. And I'm going to talk to you -- you
19 have been working with TCEQ when they have come to
20 inspect at Formosa Texas, is that right?

21 A. Yes.

22 Q. Are you the prime contact for TCEQ?

23 A. They will contact me that they're coming to
24 site.

25 Q. Do they contact -- does TCEQ contact anybody

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 in addition to you?

09:58AM

2 A. In my absence, they contact Matt.

09:58AM

3 Q. Before 2016, generally how many times have you
4 dealt with TCEQ?

09:58AM

09:58AM

5 A. I don't remember.

09:58AM

6 Q. Like did they come for once-a-year inspection?

09:58AM

7 A. Yes. They would come for inspections.

09:58AM

8 Q. Do you remember if there was annual
9 inspection?

09:58AM

09:58AM

10 A. Yes. It was -- they would come for annual
11 inspections.

09:58AM

09:58AM

12 Q. And that was at -- when we're talking
13 inspections, you and I are talking about water
14 inspections, is that right?

09:58AM

09:58AM

09:58AM

15 A. Yes.

09:58AM

16 Q. Okay. And so was the annual inspection at a
17 particular time of year?

09:58AM

09:58AM

18 A. No.

09:58AM

19 Q. And when you were dealing with TCEQ about
20 annual inspections, it was the TCEQ Corpus Christi
21 office, right?

09:58AM

09:59AM

09:59AM

22 A. Yes.

09:59AM

23 Q. Okay. Was there a primary person you would
24 deal with at TCEQ?

09:59AM

09:59AM

25 A. It was always somebody different.

09:59AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. And before March of 2016 when TCEQ came and
2 you walked around Cox's Creek, had you ever talked to
3 TCEQ about pellets or powder outside of the Formosa's
4 outfalls?

5 A. No.

6 Q. Okay. So I'm going to try to put some of the
7 investigations together so we can just talk about them
8 generally, and if we need to break them out, we will.
9 Okay?

10 A. Okay.

11 Q. Just for the sake of trying to be efficient.

12 A. Okay.

13 Q. So there were three inspections in March 2016,
14 September 2016, and March 2017.

15 Do you remember those generally?

16 A. I don't remember exactly what entailed each of
17 them, but I know we had inspections in that time.

18 Q. Okay. And I want to understand what happens
19 before an inspection. So you get a call or an e-mail
20 from TCEQ that there's been a complaint and they're
21 going to come out and inspect.

22 Is that what happens?

23 A. Yes.

24 Q. Do you -- does TCEQ tell you there's been a
25 complaint?

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 A. If they call us and there is complaint,
2 they'll tell us the basis of the complaint.

3 Q. And when you hear about a complaint, do you
4 ask who made the complaint?

5 A. No.

6 Q. Why not?

7 A. According to them, that's confidential.

8 Q. So you've asked before and they told you that
9 or --

10 A. It's brought -- it's been brought up in
11 discussion. They just say, It's a complaint. We can't
12 tell you who it is.

13 Q. And if TCEQ calls you and tells you there's
14 been a complaint that pellets are in Cox's Creek, for
15 instance, what's the first thing you do?

16 A. I'll contact -- I'll contact Matt and let him
17 know about the phone call. And then I would contact
18 Eric and just ask him to go look at specific areas
19 wherever they told us in the creek.

20 Q. So in March 2016, there wasn't much of a
21 cleanup going on, was there?

22 A. I don't think so.

23 Q. Okay. So when you get a call from TCEQ that
24 they're going to come out and inspect, at least in
25 March 2016 they probably gave you at least a couple of

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 weeks lead time on the inspection.

10:01AM

2 Do you remember that?

10:01AM

3 A. I don't remember the specific dates.

10:01AM

4 Q. Okay. Well, the dates will be clear in an
5 e-mail, right?

10:01AM

10:02AM

6 A. They would be in an e-mail, yes.

10:02AM

7 Q. And so TCEQ calls you and you send an e-mail
8 to Matt? Is that what happens?

10:02AM

10:02AM

9 A. Yes.

10:02AM

10 Q. Do you send an e-mail to anybody else?

10:02AM

11 A. If I did, it was, for example, to like
12 utilities, just saying, Hey, there's an inspection that
13 will occur on this date.

10:02AM

10:02AM

14 Q. And do you contact housekeeping?

10:02AM

15 A. No.

10:02AM

16 Q. Do you contact any of the units?

10:02AM

17 A. If units are contacted, management will do
18 that.

10:02AM

10:02AM

19 Q. And when you say "management," what
20 management?

10:02AM

10:02AM

21 A. Matt.

10:02AM

22 Q. Okay. Are you on the e-mails where Matt tells
23 the units that TCEQ is coming?

10:02AM

10:02AM

24 MS. NICHOLS: Objection, form.

10:02AM

25 A. I don't -- I don't remember.

10:02AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. (BY MS. JOHNSON) Okay. Is there anything
2 else that you know of that is done at the facility to
3 get ready for a TCEQ inspection?

4 A. Can you say that --

5 Q. Sure.

6 A. Can you repeat that again?

7 Q. Sure.

8 A. I'm sorry. I just --

9 Q. Sure. I imagine when TCEQ coming to do an
10 inspection, people will go to the external outfalls to
11 make sure they're clean, is that right?

12 A. I don't know because I'm not the one out there
13 making sure that the ditches are clean.

14 Q. So you don't know whether anybody makes any
15 effort to clean them?

16 A. I don't know if anybody does.

17 Q. Okay. Do you know if anybody cleans out the
18 internal ditches before a TCEQ inspection?

19 A. No.

20 Q. Have you ever seen any vacuum trucks before an
21 inspection out there at an external outfall gate?

22 A. No.

23 Q. So do you know who Ms. Trevino is at TCEQ?

24 A. Yes.

25 Q. Okay. And when she came to inspect in

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 March 2016, do you remember if anybody else was with
2 her?

3 A. There was another individual with her. I
4 don't remember a name.

5 Q. And do you remember who else from
6 Formosa Texas went with you on that inspection?

7 A. I don't remember. There was -- there was
8 individuals there, but I just don't remember everybody.

9 Q. Did you tell Mr. Pastuck that TCEQ was going
10 to come and do an inspection in March 2016?

11 A. I don't remember.

12 Q. So when Ms. Trevino from TCEQ came to
13 Formosa Texas in 2016, she would first check in at the
14 gate -- at the entrance, right?

15 A. Yeah. At the admin building, yes.

16 Q. And then do you remember generally where you
17 took Ms. Trevino?

18 A. We came over to our -- our office and she met
19 with me and Matt, and she just -- basically, it's like
20 an open meeting is what we had, discussing what
21 documents she wanted to look at in her layout, her
22 itinerary.

23 Q. Do you remember what her itinerary was
24 generally?

25 A. No.

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. You remember, though, you took her to
2 Cox's Creek, right? 10:05AM

3 A. I don't remember. I don't remember her --
4 taking her there. 10:05AM

5 Q. Okay. If there were photos of Cox's Creek,
6 would you have been with her when she took those? 10:06AM

7 A. No. 10:06AM

8 Q. You weren't with her? 10:06AM

9 A. No. 10:06AM

10 Q. Okay. Would somebody from Formosa have been
11 with her or did she just walk down to the creek by
12 herself? Do you know? 10:06AM

13 A. During that time she said that was the
14 complaint, her and I can't remember who the other
15 individual was with TCEQ, they went down there. 10:06AM

16 Q. You think it was Mr. -- I don't know how to
17 say his name -- Fuqua, F-U-Q-U-A, I believe is how you
18 spell it. 10:06AM

19 A. I don't remember. 10:06AM

20 Q. Okay. 10:06AM

21 A. I don't remember the names. 10:06AM

22 Q. Do you know who Mr. Fuqua is? 10:06AM

23 A. Yes. 10:06AM

24 Q. Is that -- am I saying his name right? 10:06AM

25 A. I think so. 10:06AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. When Ms. Trevino was here in March 2016, do
2 you remember which outfall gate she went to?

3 A. No.

4 Q. So do you remember anything Ms. Trevino told
5 you about what she saw on Cox Creek on that day of the
6 inspection?

7 A. In our closing meeting she just let us know
8 that she had observed pellets at the -- at the creek.
9 That's what I remember.

10 Q. Okay. And did she say it was a permit
11 violation?

12 A. I don't remember.

13 Q. Did she tell you where she saw the pellets?

14 A. Yes.

15 Q. Where was it?

16 A. At the boat ramp.

17 Q. And when you're saying "the boat ramp," that's
18 kind of a dirt -- "road" is the wrong thing to call it,
19 but it's a dirt entranceway into the creek beside SH-35,
20 is that right?

21 A. Yes.

22 Q. Okay. And it's south of SH-35, right?

23 A. Yes.

24 Q. Okay. When Ms. Trevino told you all that she
25 saw pellets at the boat ramp in March 2016, what steps

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 did Formosa Texas take?

10:08AM

2 A. First of all, we discussed -- that matter was
3 discussed with management.

10:08AM

10:08AM

4 Q. Who in management?

10:08AM

5 A. Matt Brogger and --

10:08AM

6 Q. Anybody else?

10:08AM

7 A. From Matt's end on forward, I don't know who
8 else. And they put in some corrective measures, but I
9 don't -- I don't remember exactly what all they did.

10:08AM

10:08AM

10 Q. When you say "corrective measures," what does
11 that mean?

10:08AM

10:08AM

12 A. Corrective actions.

10:08AM

10:08AM

13 Q. To clean it up?

10:08AM

14 A. Yes.

10:08AM

10:08AM

15 Q. Do you know how fast that cleanup happened?

10:08AM

16 A. No, I don't remember.

10:09AM

17 Q. And at that time, it would have been PMI doing
18 the cleanup?

10:09AM

10:09AM

19 A. It might have just been general contractors
20 who we had in the plant, I think.

10:09AM

10:09AM

21 Q. If you had general contractors, who would
22 be -- what unit would be managing them?

10:09AM

10:09AM

23 A. I don't know. It would be like a THM crew.

10:09AM

24 Q. Would there be records of that March 2016
25 cleanup with THM?

10:09AM

10:09AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 A. I don't know. 10:09AM

2 Q. Okay. When Ms. Trevino told -- was there 10:09AM
3 anybody in the meeting besides you, the other TCEQ 10:09AM
4 person, and Mr. Brogger at the exit discussion? 10:09AM

5 A. Yeah. Closing meeting? 10:09AM

6 Q. The closing meeting. Sorry. Thank you. 10:09AM

7 A. I don't remember. 10:09AM

8 Q. Do you remember was Mr. Hyak there? 10:10AM

9 A. I don't remember. 10:10AM

10 Q. Okay. That's okay. 10:10AM

11 A. I don't. 10:10AM

12 Q. That's okay. Don't worry. That's okay. 10:10AM

13 A. Yeah. 10:10AM

14 Q. It's a few years. 10:10AM

15 Did Ms. Trevino tell you about any 10:10AM
16 other concerns she had in addition to the pellets on 10:10AM
17 Cox Creek? 10:10AM

18 A. There might have been some other alleged 10:10AM
19 violations based on their inspection, but I don't 10:10AM
20 remember them off -- off the top of my head. 10:10AM

21 Q. And after TCEQ does an investigation, then 10:10AM
22 they send you what's called an exit form, is that right? 10:10AM

23 A. Yes. 10:10AM

24 Q. Okay. And does that exit form go to you? 10:10AM

25 A. It would be e-mailed to me and/or -- or also 10:10AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Matt.

2 Q. Okay.

3 (Interruption)

4 MS. NICHOLS: Is this stuff you already
5 gave me?

6 MS. JOHNSON: You've seen it.

7 MS. NICHOLS: Is it a new one?

8 MS. JOHNSON: You've seen it. It's just
9 the photos.

10 MS. NICHOLS: I just meant is it one of
11 the existing notebooks?

12 MS. JOHNSON: No. It's a --

13 MS. NICHOLS: Okay. Thank you.

14 MS. JOHNSON: Okay. Can I mark it for
15 the court reporter? So this is going to be --

16 THE REPORTER: 43.

17 MS. JOHNSON: Okay. 43.

18 (Exhibit 43 marked)

19 Q. (BY MS. JOHNSON) Okay. I'm showing you what
20 has been marked as Exhibit 43, which is an e-mail -- let
21 me look at my own so I don't have to look at yours --
22 which is an e-mail from Ms. Trevino to you dated
23 March 15th, 2016.

24 Do you recognize that that e-mail came to
25 you?

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 A. Yes. 10:12AM

2 Q. Just let's go ahead and turn the page. 10:12AM

3 On Page FPC 000105 there are photos of -- 10:12AM
4 the top photo has water next to a bridge. 10:12AM

5 Is that the bridge at SH-35? 10:12AM

6 A. Yes. 10:12AM

7 Q. Okay. In that water -- that area where the 10:12AM
8 water leads into the creek, sometimes that's dry, right? 10:12AM
9 Do you know? 10:12AM

10 A. I don't know. 10:12AM

11 Q. Okay. And so on the bottom you see pictures. 10:12AM

12 Those are pellets in the water, is that 10:12AM
13 right? 10:12AM

14 A. Yes. 10:12AM

15 Q. When you look at that picture, do you have any 10:12AM
16 idea of how many pellets are in that picture? 10:13AM

17 A. No. 10:13AM

18 Q. Can you estimate it? 10:13AM

19 A. No. 10:13AM

20 Q. Okay. Let's look at Photo No. 3 on the next 10:13AM
21 page and Photo No. 4. 10:13AM

22 These are also pictures taken by TCEQ on 10:13AM
23 March 10th, 2016, is that right? 10:13AM

24 A. Yes. 10:13AM

25 Q. Okay. And they're, again, photos of pellets, 10:13AM

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1 is that right?

10:13AM

2 A. Yes.

10:13AM

3 Q. Okay. Sorry. And you can't tell me how many
4 pellets are in those pictures, can you?

10:13AM

10:13AM

5 A. No.

10:13AM

6 Q. Yeah. And I'm going to show you Photo No. 5
7 and Photo No. 6 in the same document.

10:13AM

10:13AM

8 And again, you see pellets floating on the
9 water, is that correct?

10:13AM

10:13AM

10 A. Yes.

10:13AM

11 Q. And again, you can't estimate how many pellets
12 are in those pictures, can you?

10:13AM

10:14AM

13 A. No.

10:14AM

14 Q. Okay. I want to show you -- all right. F --
15 turn to F, just right behind there.

10:14AM

10:14AM

16 A. Oh.

10:14AM

17 (Exhibit 44 marked)

10:14AM

18 Q. (BY MS. JOHNSON) This is going to be
19 Exhibit 44.

10:14AM

10:14AM

20 And Exhibit 44 is an e-mail from you to
21 Ms. Trevino, is that right?

10:14AM

10:14AM

22 A. Yes.

10:14AM

23 Q. Okay. And that was sent in July 2016?

10:14AM

24 A. Yes.

10:14AM

25 Q. And attached to this July e-mail are photos of

10:14AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 the boat ramp off Highway 35, is that right?

10:14AM

2 A. Yes, ma'am.

10:14AM

3 Q. Did you take those photos?

10:14AM

4 A. Yes.

10:14AM

5 Q. Did you -- when did you take those photos?

10:15AM

6 A. I don't remember the specific date.

10:15AM

7 Q. Would it be July or May? Do you remember

10:15AM

8 that?

10:15AM

9 A. I don't remember.

10:15AM

10 Q. Did you take any more photos than the ones

10:15AM

11 that you -- than you attached -- that you attached?

10:15AM

12 Sorry.

10:15AM

13 A. Just what was attached here.

10:15AM

14 Q. So there are no other photos that you took

10:15AM

15 that day when you went out there?

10:15AM

16 A. I don't -- I don't recall.

10:15AM

17 Q. Did you -- would you have put those photos in

10:15AM

18 one of the folders that you keep on your Outlook?

10:15AM

19 A. Yes.

10:15AM

20 Q. What folder would it be in?

10:15AM

21 A. It would have been under the annual water

10:15AM

22 compliance inspection.

10:15AM

23 Q. When -- oh, this was an annual water

10:15AM

24 compliance inspection?

10:15AM

25 A. After that water compliance inspection, they

10:15AM

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1 had told us they -- about the complaint and they came
2 out came out and looked at this. So to keep everything
3 together is how it was filed.

4 Q. When you took these pictures, did you use a
5 camera or phone?

6 A. Camera.

7 Q. A digital camera?

8 A. Yes.

9 Q. I don't think anybody uses film anymore.

10 Did you -- when you took the pictures in
11 Exhibit 44, did you walk to any other parts of the creek
12 to see if you saw any pellets?

13 A. No, ma'am.

14 Q. Did you look outside of any of the outfalls
15 for pellets?

16 A. I don't remember.

17 Q. You just went to the boat ramp?

18 A. Just to the ramp.

19 Q. So who told you that the area had been clean
20 so that you could take these pictures?

21 MS. NICHOLS: Objection, form.

22 Q. (BY MS. JOHNSON) Did anybody tell you they
23 had cleaned the area before you took the pictures?

24 A. I don't remember.

25 Q. Was it your idea to take these pictures?

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 A. I don't remember. 10:17AM

2 Q. Did Mr. Brogger tell you to take these 10:17AM
3 pictures? 10:17AM

4 A. He may have, but I -- again, I don't remember. 10:17AM

5 Q. Have you ever taken pictures in Cox Creek 10:17AM
6 before? 10:17AM

7 A. Before this incident? 10:17AM

8 Q. Yes. 10:17AM

9 A. No. 10:17AM

10 Q. Okay. Did you get any response from 10:17AM
11 Ms. Trevino about the photos that she sent you? 10:17AM

12 MS. NICHOLS: Objection, form. 10:17AM

13 Q. (BY MS. JOHNSON) Sorry. Yeah. 10:17AM

14 Did you get any response from Ms. Trevino 10:17AM
15 about the photos that you sent her? 10:17AM

16 MS. JOHNSON: Thank you. 10:17AM

17 A. I may have, but I don't remember on the 10:17AM
18 correspondence. 10:18AM

19 Q. (BY MS. JOHNSON) Okay. I'm going to skip 10:18AM
20 ahead to September 2016. Okay? That was the next 10:18AM
21 investigation by TCEQ. 10:18AM

22 Do you remember that? 10:18AM

23 A. I know there was one. I just -- I don't 10:18AM
24 remember all the details. 10:18AM

25 Q. So let me ask you this. 10:18AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 After March 2016, did you coordinate with
2 whoever was doing the cleanup on Cox Creek? Was that
3 your job?

4 A. Yes.

5 Q. And tell me what that job entails to
6 coordinate with the cleanup.

7 A. Preparing a scope of work for the cleanup and
8 then submitting that to purchase -- purchasing and
9 contracting, and then they send that out for bids.

10 Q. So what does the scope of work look like?

11 A. A scope of work is just a document that shows
12 the nature of the work which we're requesting to be
13 performed.

14 Q. And what --

15 A. Like the cleanup.

16 Q. Okay. I'm not sure that I've seen that
17 document.

18 So can you tell me what you put in that
19 scope of work?

20 A. I remember it was about cleaning at the
21 outfalls and the boat ramp on the creek.

22 Q. And did you say -- did you ask for any kind of
23 biological survey for that cleanup?

24 A. Biological survey, you mean -- can you
25 rephrase that --

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. Sure.

2 A. -- because I don't understand.

3 Q. So before you asked them to clean, did you ask
4 them to check like are there any nesting birds or any
5 fragile environments on the shores that they might want
6 to consider when they clean it up?

7 A. I don't remember. I don't -- I don't think
8 so, but I don't remember. I'm not sure.

9 Q. And so you drafted a scope of work which was
10 to clean up at the external outfalls --

11 A. Yes.

12 Q. -- and to clean up at the boat ramp, right?

13 A. Yes.

14 Q. When you said the outfalls, did you say which
15 specific outfalls to be cleaned up at?

16 A. That scope of work would identify what it
17 was --

18 Q. Okay.

19 A. -- or those areas.

20 Q. And so do you know, was it like 09 to 06 at
21 that point in 2016?

22 A. I don't remember.

23 Q. And so you did a scope of -- you completed a
24 form called a scope of work. Is it a form?

25 A. It's just like a Word document.

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. That you write where you say you need some
2 work done?

3 A. Yes.

4 Q. Okay. And that went outside of the company
5 for a bid?

6 A. Yes.

7 Q. Okay. And do you remember who bid on it?

8 A. PMI bid on it.

9 Q. Did anybody else bid on it?

10 A. The -- the initial, no. It was just PMI.

11 Q. Did -- how do y'all -- do you know how you
12 give it to people to try to get them to bid on it?

13 A. They have to -- they'll submit their bid with
14 their proposal, and then purchasing and contracts will
15 contact us and let us know basically -- basically giving
16 their proposal to us, and then we move forward on that
17 end.

18 Q. And who in purchasing and contracts worked on
19 the PMI bid? Do you remember?

20 A. I don't know.

21 Q. Who's the head of purchasing and contract?

22 A. I don't know.

23 Q. Okay. Do you know whether this would be what
24 purchasing and contract would consider a big bid or a
25 little bid? Okay.

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 A. I don't know. 10:22AM

2 Q. Do you know if this went to New Jersey for 10:22AM
3 approval? 10:22AM

4 A. I don't know. 10:22AM

5 Q. Okay. 10:22AM

6 A. No. I don't know. 10:22AM

7 Q. That's okay. 10:22AM

8 So do you remember when PMI started doing 10:22AM
9 cleanup on Cox's Creek? 10:22AM

10 A. I think it was the end of 2016. 10:22AM

11 Q. That's okay. The records will -- 10:22AM

12 A. I -- yeah. I don't remember the specific 10:22AM
13 dates. 10:22AM

14 Q. Who was your prime contact at PMI? 10:22AM

15 A. Philip Patek. 10:22AM

16 Q. Is he related to Gary Patek? Do you know? 10:22AM

17 A. I don't know. 10:22AM

18 Q. Okay. 10:22AM

19 A. I don't know. 10:22AM

20 Q. I don't know if that's an unusual name around 10:22AM
21 here or not. 10:22AM

22 A. I don't know. 10:22AM

23 Q. And how big of a crew did Philip normally 10:22AM
24 have -- Mr. Patek normally have -- P-A-T-E-K, sorry -- 10:23AM
25 normally have with him? 10:23AM

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1 A. Three to four individuals. 10:23AM

2 Q. Did Mr. Patek have a boat that he went out in? 10:23AM

3 A. Yes. 10:23AM

4 Q. And he cleaned up eventually beyond just the
5 outfall gates, right? 10:23AM

6 A. Yes. 10:23AM

7 Q. He cleaned up at different parts of Cox Creek,
8 right? 10:23AM

9 A. Yes. 10:23AM

10 Q. Did you meet with him -- how regularly when
11 Mr. Patek was doing this work? 10:23AM

12 A. After their -- after they would clean, he
13 would contact me and we would meet up and discuss what
14 he had seen. 10:23AM

15 Q. Every day? 10:23AM

16 A. In the initial, when they first started, I
17 don't remember that. But after when we did the -- when
18 it was like a monthly cleaning cycle, we would -- we
19 would meet up. He'd come to the office or he would call
20 me and let me know, you know, what -- what they had
21 observed. 10:24AM

22 Q. Okay. And would he bring a map and show you
23 where he was doing his cleaning? 10:24AM

24 A. Yes. 10:24AM

25 Q. Did -- was it his idea where to clean or did 10:24AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 he get direction from you all where to clean? 10:24AM

2 A. We would -- the process for it was wherever he 10:24AM
3 saw pellets visible, to clean. 10:24AM

4 Q. Did -- I'm curious about private landowners on 10:24AM
5 Cox Creek, because there are some private landowners, 10:24AM
6 right? 10:24AM

7 A. I think so. I'm not sure. 10:24AM

8 Q. Okay. Did you make any effort to contact the 10:24AM
9 private landowners to ask to clean up on their property? 10:24AM

10 A. I never made any contact with them. 10:24AM

11 Q. Do you know if anybody in Formosa Texas or 10:24AM
12 Formosa USA ever did? 10:25AM

13 A. I don't -- I don't know. 10:25AM

14 Q. Did anybody ask you to contact private 10:25AM
15 landowners? 10:25AM

16 A. No. 10:25AM

17 Q. Did -- do you know of any interactions with 10:25AM
18 private landowners about pellets or powder on their 10:25AM
19 property? 10:25AM

20 A. No. 10:25AM

21 Q. And when Mr. Patek was cleaning up pellets, he 10:25AM
22 found them in lots of different places. He found them 10:25AM
23 on the surface of the water, is that right? 10:25AM

24 A. Yes. 10:25AM

25 Q. And he found them in the grasses, is that 10:25AM

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1 right?

10:25AM

2 A. Yes.

10:25AM

3 Q. And he found them on the ground, on the
4 shores, is that right?

10:25AM

10:25AM

5 A. Yes.

10:25AM

6 Q. Okay. And Mr. Patek's crew, how were they
7 physically cleaning up those pellets? Do you know were
8 they using rakes? Were they using hoses? Were they
9 using skimmer nets? How were they cleaning them?

10:25AM

10:25AM

10:25AM

10:25AM

10 A. They used equipment. I don't -- I don't
11 remember what specific equipment they used.

10:25AM

10:25AM

12 Q. Did you ever go out in a boat with Mr. Patek
13 to see the pellets?

10:26AM

10:26AM

14 A. After they would clean, they would show me
15 what areas they had gone to.

10:26AM

10:26AM

16 Q. So you saw the areas after cleanup?

10:26AM

17 A. Yes.

10:26AM

18 Q. Okay. So how often did you go out to see the
19 areas they had cleaned?

10:26AM

10:26AM

20 A. Just a few times.

10:26AM

21 Q. Did -- were there -- do you know whether there
22 were more pellets that he would find in the creek after
23 a rain event?

10:26AM

10:26AM

10:26AM

24 A. I don't remember. We'd have -- I'd have to
25 look at like his inspection log that he'd provide.

10:26AM

10:26AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. And you -- you got these inspection logs maybe
2 once a week or every time he would clean?

3 A. Every time they would clean.

4 Q. And you don't have any reason to doubt what's
5 in those inspection logs, do you?

6 A. No.

7 Q. Were -- did Formosa Texas tell PMI what you
8 wanted in the inspection logs?

9 A. No.

10 Q. Mr. Patek just gave you what he thought you
11 would want to know?

12 A. The form -- the form was put together and we
13 handed that to them and just said, Please, you know,
14 update the information.

15 Q. Who put the form together for Mr. Patek?

16 A. I did.

17 Q. Okay. And how did you know what to put in
18 that form?

19 A. At the time, there was basic like -- it was
20 off of the location and we provided a map, and then just
21 any type of -- for them to provide any observations what
22 they saw, something very basic.

23 Q. It got more sophisticated over time, didn't
24 it?

25 A. Yes.

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1 Q. And in 2016, do you remember whether you were
2 asking him to look for powder?

3 A. I don't remember.

4 Q. Okay. His documents would say whether they
5 were looking for powder, is that right?

6 A. It would be on the inspection form if they
7 observed it.

8 Q. Do you know why PMI didn't continue doing the
9 work out on Cox Creek?

10 A. They ran out of money on the PO.

11 Q. Okay. You got to tell me what a PO is.

12 A. Purchase order.

13 Q. So he spent -- so you had a bid for a certain
14 amount of money --

15 A. Yes, ma'am.

16 Q. -- and he spent it all?

17 A. Yes.

18 Q. And how come you didn't just re-up the money
19 for PMI?

20 A. We worked on doing that, but then purchasing
21 and contracting got involved and told us we had to go
22 out to bid.

23 Q. Did PMI bid on the next bid of work?

24 A. Yes.

25 Q. And Horizon did too?

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1 A. Yes. 10:29AM

2 Q. Were you involved in reviewing the bids? 10:29AM

3 A. Bids as in? 10:29AM

4 Q. That Horizon and PMI both put in a bid to do
5 the cleanup work, is that right? 10:29AM

6 A. Yes. Yes. 10:29AM

7 Q. Okay. And so were you -- so somebody reviewed
8 those -- were there any other bids? Do you remember? 10:29AM

9 A. I think there was another bid from
10 Clean Harbors. 10:29AM

11 Q. Were you involved in reviewing those bids? 10:29AM

12 A. Yes. Matt and myself. 10:29AM

13 Q. Okay. And how did you guys -- why did you
14 pick Horizon? 10:29AM

15 A. The proposal that they put together -- the
16 proposal that they put together was very detailed and we
17 knew that they were like an emergency response cleanup
18 company, so that was the direction that we went with. 10:29AM

19 Q. And why do you think an emergency response
20 cleanup company has particular skills for this kind of
21 cleanup? 10:29AM

22 A. I think just in nature there -- again, it all
23 falls back on the proposal, how they -- how they planned
24 on cleaning, their plan of action, and that's -- that's
25 the path we took forward with it. 10:30AM

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1 Q. And how was Horizon's plan of action different
2 from PMI and Oceans Harbor?

3 A. Clean Harbors.

4 Q. I'm sorry?

5 A. Clean Harbors you mean?

6 Q. Sorry. Yeah, that's what I meant. Sorry.

7 A. I'd have to look at the documents again. I
8 can't remember all the specifics. I'd have to look at
9 that.

10 Q. Well, can you tell me two or three things they
11 were doing -- they were proposing different?

12 A. I don't -- I don't remember, like, the
13 specifics.

14 Q. Okay. Do you remember whether the Horizon bid
15 cost more or less than the other two companies?

16 A. I don't remember that.

17 Q. Okay. And who -- do you know whose budget
18 pays for that cleanup?

19 A. I don't know.

20 Q. Okay.

21 A. It's paid. I don't know how.

22 Q. And with Horizon, is your primary contact
23 Mr. Barrier?

24 A. Yes.

25 Q. Is there anybody else?

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1 A. No.

2 Q. Okay. And how often are you in touch with
3 Mr. Barrier about the cleanup?

4 A. Any time -- you know, if anything happens or
5 if he has to step away from the work site or if he
6 needs -- if there's certain things that -- that he's
7 requested.

8 Q. The scope of work for the Horizon cleanup
9 includes Lavaca Bay, is that right?

10 A. Yes, ma'am.

11 Q. Okay. So how did you pick the -- did you pick
12 the places on Lavaca Bay where it needed to be cleaned?

13 A. No. At first we just -- we provided like an
14 aerial of Lavaca Bay.

15 Q. Did you show them where Waterkeepers had found
16 pellets?

17 A. After we received that notification.

18 Q. When you say "that notification," was that
19 the --

20 A. It was a letter for intent to sue.

21 Q. Okay. So Waterkeepers sent you a letter for
22 intent to sue under the Clean Water Act that had a map
23 of where they had seen pellets?

24 A. Yes, ma'am. Yes, ma'am.

25 Q. And then you gave that map to Horizon, is that

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1 right?

2 A. We -- we gave them the locations and told them
3 to go out to those areas, and if they observed pellets,
4 to clean them.

5 Q. Did you ask them to survey like the whole bay,
6 to go to other places to look for pellets?

7 A. Yes. We had told them to go throughout and
8 kind of spot-check areas.

9 Q. Did they report back to you on other parts of
10 the bay that they went to?

11 A. If they did, it would be in the IAP.

12 Q. Okay. And so Mr. Patek would come in fairly
13 regularly to talk to you.

14 Does Mr. Barrier come in pretty regularly
15 to talk to you?

16 A. Every now and then.

17 Q. The Horizon crew is generally bigger than
18 three, is that right?

19 A. Yes. Yes.

20 Q. About how many people are going out for
21 Horizon?

22 A. Like 12 to 14.

23 Q. Okay. And how does -- how do you or Horizon
24 determine which outfall to clean on any particular day?

25 A. It's on the cycle and it's in -- it's

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1 referenced in the IAP.

2 Q. Okay. So when you say it's on a cycle, so
3 they go up and down the outfalls different days a week?

4 A. On a monthly cycle, they work at each mouth of
5 the outfall, so...

6 Q. And does that start at 12 or does it start at
7 9?

8 A. 9.

9 Q. Okay. So nobody is going north of 12?

10 A. They had gone up there to do like an
11 inspection observe, but nothing was noted in those
12 areas -- in that area.

13 Q. Do you know if they went north of 12 to look?

14 A. I don't know.

15 Q. Okay. So they didn't note anything around 12.

16 So they're only starting at 9; that's
17 right?

18 A. Yes.

19 Q. Okay. And do you know when they started going
20 at 5 -- Outfall 5?

21 A. At Outfall 5?

22 Q. Sorry.

23 A. Specific dates, I don't remember.

24 Q. In the past six months or --

25 A. Well, it's all -- it's all on a monthly cycle.

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1 So one month they work at one outfall. The next month
2 they work at the next and so forth.

3 Q. My impression is that the cleanup work has
4 been focused on 9 to 6 until just recently.

5 Is that fair to say?

6 A. Yes.

7 Q. And was the -- and that the cleanup at 5 was
8 after some Waterkeepers sampled out there and found
9 pellets.

10 Do you know if that's true?

11 A. I don't -- I don't remember that.

12 Q. Okay. When -- you know that the -- one of the
13 people in the lawsuit is a group called Waterkeepers?
14 Did you know that?

15 A. Yes.

16 Q. Okay. And are you familiar with volunteers
17 for Waterkeepers, the people who are out there sampling?

18 A. I've heard of one name.

19 Q. Mr. Hamrick?

20 A. Yes.

21 Q. I think he makes his presence known.

22 Have you ever spoken with Mr. Hamrick?

23 A. Firsthand, no.

24 Q. Okay. Well, what have you heard about him
25 secondhand?

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1 A. Sampling. 10:36AM

2 Q. And -- 10:36AM

3 A. Always out -- always out and about. 10:36AM

4 Q. And have you ever went -- have you ever had
5 reason to call the police on Mr. Hamrick? 10:36AM

6 A. I haven't. 10:36AM

7 Q. Do we know if people have? 10:36AM

8 A. I don't know. 10:36AM

9 Q. Okay. Are there daily goals for how much
10 Horizon should clean up? 10:36AM

11 A. No. 10:36AM

12 Q. Okay. Do you ever inspect the bags being
13 collected by Horizon? 10:36AM

14 A. No. 10:36AM

15 Q. Does anybody? 10:36AM

16 A. In the beginning of the cleanup, I think they
17 did. They may have. 10:36AM

18 Q. Do you know who would have? 10:36AM

19 A. Specifically, no. I don't know who would have
20 done that. 10:36AM

21 Q. Did anybody from Formosa review Horizon's
22 proposal to use what I would call fire hoses to clean
23 out, say, Outfall 6? 10:37AM

24 A. Repeat that. 10:37AM

25 Q. Sure. They're using high-pressure hoses for 10:37AM

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1 cleanup, is that right?

10:37AM

2 A. Yes.

10:37AM

3 Q. Okay. And I know they've used them at 06 and
4 probably 09.

10:37AM

10:37AM

5 Do you know any other places they've used
6 those high-pressure hoses?

10:37AM

10:37AM

7 A. I would -- I would say just out the outfalls.

10:37AM

8 Q. Okay. At the outfalls from 6 to 9 and maybe
9 5?

10:37AM

10:37AM

10 A. Yes.

10:37AM

11 Q. Okay. And where they're using those
12 high-pressure hoses, outside of the external gates,
13 right?

10:37AM

10:37AM

14 A. Yes.

10:37AM

15 Q. Okay.

10:37AM

16 A. Outside the fence line.

10:37AM

17 Q. Right. So I think of those fire -- those
18 high-pressure hoses being like fire hoses.

10:37AM

10:37AM

19 Do you know why I would say that? I mean,
20 they -- they're high pressure, right?

10:37AM

10:38AM

21 MS. NICHOLS: Objection, form.

10:38AM

22 Q. (BY MS. JOHNSON) Do the -- are the hoses
23 garden hoses?

10:38AM

10:38AM

24 A. No.

10:38AM

25 Q. They have a high amount of water at a high

10:38AM

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1 pressure that comes out of them, don't those hoses?

10:38AM

2 A. The equipment would tell you what -- what
3 they're rated for.

10:38AM

10:38AM

4 Q. Have you seen those hoses being used?

10:38AM

5 A. Time before, yes.

10:38AM

6 Q. Okay. And why are they using high pressure
7 hoses for the cleanup?

10:38AM

10:38AM

8 A. That was just to break up -- to help loosen up
9 the -- like the pellets that were embedded in the
10 vegetation. And then what they presented to us was
11 the -- those water hoses would be used to -- to skim the
12 surface, to kind of break up whatever pellets were in
13 the sediment as well.

10:38AM

10:38AM

10:38AM

10:38AM

10:38AM

10:38AM

14 Q. In the sediment of the creek or in the
15 sedi- --

10:38AM

10:39AM

16 A. Like the soil. The soil.

10:39AM

17 Q. Okay. In the soil on the shoreline or of the
18 creekbed?

10:39AM

10:39AM

19 A. The -- on the shoreline.

10:39AM

20 Q. Okay. And did Horizon talk to you at all
21 about that they were going to cut down plants to do this
22 cleanup?

10:39AM

10:39AM

10:39AM

23 A. No.

10:39AM

24 Q. So Formosa Texas didn't review any of that, of
25 the cutting down of plants?

10:39AM

10:39AM

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1 A. What kind of plants? 10:39AM

2 Q. Grasses or bushes or trees. 10:39AM

3 A. Trees were trimmed. We were -- we were given 10:39AM
4 direction that we could trim trees. We just couldn't 10:39AM
5 cut trees down completely. 10:39AM

6 Q. Were bushes pulled up? 10:39AM

7 A. I don't know. I have no idea. 10:39AM

8 Q. Okay. Did anybody do any consultation about 10:39AM
9 how the power hoses were going to affect erosion on the 10:39AM
10 shoreline? 10:39AM

11 A. I don't think so. 10:40AM

12 Q. Okay. 10:40AM

13 A. I don't know. 10:40AM

14 Q. Okay. Did anybody do any inspection of what 10:40AM
15 kind of grasses were being disturbed on the shoreline? 10:40AM

16 A. Yes. 10:40AM

17 Q. Who did that? 10:40AM

18 A. A consulting firm out of Austin. 10:40AM

19 Q. Do you know the name of that consulting firm? 10:40AM

20 A. TRC Environmental. 10:40AM

21 Q. Okay. And what did TRC Environmental do for 10:40AM
22 you? 10:40AM

23 A. They looked at the vegetation at the mouths -- 10:40AM
24 at the mouths of the outfalls and they helped us to 10:40AM
25 prepare a vegetation treatment proposal. 10:40AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Q. When was --

10:40AM

2 A. I'm trying to remember.

10:40AM

3 Q. Sorry. That's okay.

10:40AM

4 When was that that TRC looked at this for
5 you?

10:40AM

10:40AM

6 A. Beginning of 2018, I think.

10:40AM

7 Q. Okay. So that -- just recently?

10:40AM

8 A. Yeah, beginning of 2018. I don't -- again, I
9 don't remember the specific dates.

10:41AM

10:41AM

10 Q. Do you remember the conclusions of the TRC
11 report, what they recommended to you?

10:41AM

10:41AM

12 A. They gave -- the proposal was that we could
13 remove vegetation at the mouths of the outfall. That's
14 what they proposed.

10:41AM

10:41AM

10:41AM

15 Q. They said that would be okay environmentally?

10:41AM

16 A. Well, we had to get approval from Texas Parks
17 & Wildlife.

10:41AM

10:41AM

18 Q. Did you get that approval?

10:41AM

19 A. Yes.

10:41AM

20 Q. When did you do that?

10:41AM

21 A. The paperwork was submitted via e-mail
22 February or March of this year.

10:41AM

10:41AM

23 Q. Did TRC say whether there were any species --
24 any animals, any alligators, any snakes, anything that
25 they were worried about?

10:41AM

10:41AM

10:41AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 A. I don't remember.

10:41AM

2 Q. Did you ask them to look for the effect of the
3 cleanup on any species?

10:42AM

10:42AM

4 A. I don't remember that either.

10:42AM

5 Q. Okay. I mean, you -- have you seen critters?
6 Have you seen, like, wildlife out at -- on the creek?

10:42AM

10:42AM

7 A. Snakes, alligators, yes.

10:42AM

8 Q. Do you see fish?

10:42AM

9 A. Catfish.

10:42AM

10 Q. Frogs?

10:42AM

11 A. I've never seen them, but I know others have
12 seen them.

10:42AM

10:42AM

13 Q. Okay. Have you been told about some
14 preliminary findings that there might be mercury on the
15 pellets?

10:42AM

10:42AM

10:42AM

16 A. No.

10:42AM

17 Q. If you were told that, is there anything you
18 would do?

10:42AM

10:43AM

19 A. I would have -- I would talk with management
20 and find out what we needed to do.

10:43AM

10:43AM

21 Q. Is there any -- there -- is there mercury in
22 Formosa's discharge at 001?

10:43AM

10:43AM

23 A. It's a parameter that they monitor.

10:43AM

24 Q. Do you know if there are any special
25 requirements about handling mercury?

10:43AM

10:43AM

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 A. No. 10:43AM

2 Q. Do you talk to any representatives from 10:43AM
3 Calhoun County about the cleanup? 10:43AM

4 A. No. 10:43AM

5 Q. So y'all don't talk to them about cleaning up 10:43AM
6 on Lavaca Bay? 10:43AM

7 A. I haven't -- 10:43AM

8 MS. NICHOLS: Objection, form. 10:43AM

9 A. I haven't talked to them. 10:43AM

10 Q. (BY MS. JOHNSON) Do you know if anybody does? 10:43AM

11 A. I don't know. 10:43AM

12 Q. Okay. Do you talk to anybody with the City of 10:43AM
13 Port Lavaca about the cleanup? 10:43AM

14 A. I haven't. I don't know if anybody does. 10:43AM

15 Q. Saved me a question. Thank you. 10:43AM

16 A. Okay. 10:44AM

17 Q. I want to go back and talk to you just 10:44AM
18 generally about the other inspections that you've been 10:44AM
19 out on. Okay? 10:44AM

20 A. Okay. 10:44AM

21 Q. Okay. So we talked about March 2016, and then 10:44AM
22 there was another inspection in September 2016. And you 10:44AM
23 probably don't remember who was there for TCEQ. 10:44AM

24 Do you remember? 10:44AM

25 A. If I -- if I read like the correspondence -- 10:44AM

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1 or like the letter that they sent, I would -- I would
2 remember.

3 Q. Okay. Do you remember anything in particular
4 about the September 2016 cleanup?

5 MS. NICHOLS: Objection, form.

6 MS. JOHNSON: I'm sorry. Cleanup.

7 You're right. Thank you.

8 Q. (BY MS. JOHNSON) Do you remember anything in
9 particular about the 2016 investigation?

10 A. Right now off the top of my head, I don't
11 remember.

12 Q. Okay. So let me just ask -- I'm going to ask
13 2016 and March 2017 combined just to save time. Okay?

14 A. Okay.

15 Q. So in both of the 2016 and 2017
16 investigations, did you ever go out on a boat with TCEQ?

17 A. No.

18 Q. Okay. Did you ever walk the shores of
19 Cox's Creek with them?

20 A. No.

21 Q. And did you ever -- were you there when they
22 were taking photos on the shorelines?

23 A. No.

24 Q. Okay. Have you ever seen any investigations
25 by EPA about pellets at Formosa?

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 A. I haven't seen any documents on that. 10:45AM

2 Q. Did you read the notice letter that 10:45AM
3 Waterkeepers sent? When you were talking about the 10:45AM
4 notice letter, did you read that it mentioned a 2010 10:45AM
5 investigation? 10:45AM

6 A. It referenced an investigation. 10:45AM

7 Q. Did you look at that investigation? 10:45AM

8 A. No, ma'am. 10:45AM

9 Q. Why not? 10:45AM

10 A. I didn't have the documents there. 10:46AM

11 Q. But you didn't ask anybody to see them? 10:46AM

12 A. I don't remember asking anybody. 10:46AM

13 Q. Okay. What are your goals for the cleanup? 10:46AM

14 MS. NICHOLS: Objection, form. 10:46AM

15 Q. (BY MS. JOHNSON) You can answer it. 10:46AM

16 A. To continue cleaning, make sure that we -- you 10:46AM
17 know, everything eventually is removed. 10:46AM

18 Q. Okay. And how often is Horizon cleaning up 10:46AM
19 these days? 10:46AM

20 A. How often? 10:46AM

21 Q. Yes. 10:46AM

22 A. They work a four -- they work four days a 10:46AM
23 week, ten-hour days in the creek and twice a week in the 10:46AM
24 bay. 10:46AM

25 Q. And when they go to the bay, are they doing 10:46AM

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1 similar to what they're doing in the creek, they just go
2 to different sites around the bay?

3 A. Yes, ma'am.

4 Q. And you've never seen how they're doing the
5 cleanup on the bay, have you?

6 A. That, no, I haven't.

7 Q. Okay. Do you know if they're generally
8 looking for what is washed up with the tide or do you
9 have any idea of what they're looking for when they go
10 to the bay?

11 A. From discussion, it's more of what they see on
12 the shoreline.

13 Q. Okay. When you get -- okay. Let me ask
14 you -- let's go back to September.

15 Do you remember anything about the
16 closing meeting at the September -- after the
17 September 2016 investigation by TCEQ?

18 A. I don't remember anything off the top of my
19 head. I don't remember.

20 Q. Do you remember if they found pellets again?

21 A. If I read the exit interview form in the
22 documents, I could tell you that.

23 Q. Okay. And do you remember that there was a
24 goal that Formosa Texas had to get the pellets cleaned
25 up by a certain date in -- I believe it was in 2016? Do

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 you remember that?

10:48AM

2 MS. NICHOLS: Objection, form.

10:48AM

3 Q. (BY MS. JOHNSON) You can answer it.

10:48AM

4 Do you remember when the goal was to get
5 the pellets cleaned up for TCEQ?

10:48AM

10:48AM

6 A. I don't remember the specific dates.

10:48AM

7 Q. Do you remember that Formosa did not meet a
8 deadline to clean up the pellets?

10:48AM

10:48AM

9 MS. NICHOLS: Objection, form.

10:48AM

10 A. If that was noted, it would be, like, in the
11 notice of violation.

10:48AM

10:48AM

12 Q. (BY MS. JOHNSON) So do you remember anything
13 about a cleanup deadline not being met?

10:48AM

10:48AM

14 A. I don't -- I don't remember.

10:48AM

15 Q. Is it your job to make sure it gets cleaned up
16 or is it somebody else's job?

10:48AM

10:48AM

17 A. The job of cleaning is going to be handled
18 by -- by other department or contractors or whomever is
19 tasked with clean.

10:48AM

10:48AM

10:49AM

20 Q. Okay. And so, like, if you didn't think there
21 were enough Horizon workers out there to get the cleanup
22 done, is it your job to make a recommendation that there
23 be more workers?

10:49AM

10:49AM

10:49AM

10:49AM

24 A. Horizon -- their supervisor, they would --
25 they would communicate with us and then I would discuss

10:49AM

10:49AM

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1 that with -- with management. 10:49AM

2 Q. And does the -- did a number of Horizon 10:49AM
3 workers change like after a big rainfall? 10:49AM

4 A. I don't think so. 10:49AM

5 Q. Does Horizon have a vacuum truck? 10:49AM

6 A. I think they have one, but they -- I've never 10:49AM
7 seen it here on site. 10:49AM

8 Q. After you get an exit interview form from 10:49AM
9 TCEQ, is it your job to respond to it? 10:50AM

10 A. I communicate with management and then 10:50AM
11 they'll -- we'll present a path forward. 10:50AM

12 Q. And when you say "management," you mean 10:50AM
13 Mr. Brogger? 10:50AM

14 A. Matt Brogger and also Rick Crabtree. 10:50AM

15 Q. Okay. So you communicate with Mr. Crabtree 10:50AM
16 about these too? 10:50AM

17 A. Matt -- Matt discusses with him. 10:50AM

18 Q. And they decide -- Mr. Crabtree and 10:50AM
19 Mr. Brogger decide how to respond to the TCEQ request? 10:50AM

20 A. Yes. 10:50AM

21 Q. Okay. And have you been involved in any 10:50AM
22 negotiations about TCEQ's notice of enforcement? 10:50AM

23 A. No. 10:50AM

24 Q. Do you know about it, the notice of 10:50AM
25 enforcement? 10:50AM

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1 A. I know there's -- there was an NOE that was
2 sent to us.

3 Q. Do we know what an NOE is?

4 A. I know it's a notice of enforcement.

5 Q. Okay. Do you know how that's different than a
6 notice of a violation?

7 A. Notice of enforcement goes to the enforcement
8 division in Austin for penalties, fines is what I know.

9 Q. Okay. And have you ever received on behalf of
10 Formosa Texas any other notices of enforcement?

11 A. I have not.

12 Q. Just the one on the pellets?

13 A. Yes.

14 Q. Okay. Did you know in advance that
15 Formosa Texas was going to get a notice of enforcement?

16 A. No.

17 Q. Okay. Did you talk to anybody at Formosa USA
18 about the notice of enforcement or communicate with
19 them?

20 A. I haven't.

21 Q. Okay. In April 2018, pretty recently, there
22 was another inspection by TCEQ, is that correct?

23 A. Yes.

24 Q. Do you remember that one?

25 A. Vaguely, yes.

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1 Q. And you guys, Formosa Texas, did not get any
2 advance notice of that inspection, is that right?

3 A. No.

4 Q. Okay. Do you remember who came?

5 A. Zack Fuqua was here.

6 Q. Anybody -- did anybody come with Mr. Fuqua?

7 A. There was another individual. I can't
8 remember his name.

9 Q. A man?

10 A. Yes.

11 Q. Okay.

12 A. A male. Yes.

13 Q. Okay. When Mr. Fuqua and the other TCEQ
14 representative came in 2018, where did they ask to go?

15 A. They -- they came to the office and we got
16 them badged in and then we went down to wastewater unit.

17 Q. And what happened at the wastewater unit?

18 A. They wanted to sample the sump -- the final
19 effluent sump.

20 Q. And that's the sump after the water comes off
21 the wastewater unit?

22 A. That's the sump that -- that holds all the
23 process -- the treated processed wastewater.

24 Q. So it's been through the wastewater treatment
25 plant?

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1 A. Yes, it's -- it's been through the treatment
2 process.

3 Q. And the sump that holds the water before it
4 goes out to Outfall 001, right?

5 A. Yes, ma'am.

6 Q. Okay. So the water that goes out to 001
7 doesn't get any more treatment after the sump?

8 A. After the sump. I think there's some screens.
9 That may fall as a means of treatment to -- if there are
10 any solids.

11 Q. Okay. And then so TCEQ took some samples at
12 the sump before 001, right?

13 A. Yes.

14 Q. Okay. And did you see what that water looked
15 like, the samples that they took?

16 A. I remember seeing it, yes.

17 Q. What did it look like?

18 A. Like dark, murky color.

19 Q. Like dark brown or white or do you remember?

20 A. Like a darkish brown, kind like a tea-ish
21 color.

22 Q. Could you see any solids in it?

23 A. I didn't see the actual sample, so I don't --
24 I don't remember if there was solids in there.

25 Q. Do you know why the water was tea-colored?

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1 A. No. 10:54AM

2 Q. Did you ask anybody why it was tea-colored? 10:54AM

3 A. I didn't ask. 10:54AM

4 Q. So you don't know to this day why it was
5 tea-colored? 10:54AM

6 A. I don't -- yeah, I don't -- I don't know. 10:54AM

7 Q. Okay. So after they took -- after TCEQ took
8 the sample at the sump at 001, where did you all go
9 next? 10:54AM

10 A. We split samples. So TCEQ grabs their
11 samples. Utilities grabbed their samples. And then we
12 came back up front to the office and they left. 10:54AM

13 Q. Okay. So you didn't go -- you or anybody else
14 from Formosa Texas didn't go down Cox's Creek with them? 10:54AM

15 A. No. 10:55AM

16 Q. Okay. And you didn't go out on Lavaca Bay
17 with them? 10:55AM

18 A. No. 10:55AM

19 Q. Okay. And so you didn't see the areas that
20 Mr. Fuqua photographed? 10:55AM

21 A. I didn't see them physically. I didn't go out
22 there. 10:55AM

23 Q. You just saw the photographs afterward? 10:55AM

24 A. The photographs, yes, ma'am. 10:55AM

25 Q. When did you get the results of the 2018 10:55AM

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1 inspection?

10:55AM

2 A. I don't remember the specific dates. We would
3 have received a notice of violation for the exit
4 interview, but I don't remember the specific date.

10:55AM

10:55AM

10:55AM

5 Q. Was it -- well, did you recently receive a
6 notice of violation from TCEQ --

10:55AM

10:55AM

7 A. Yes.

10:55AM

8 Q. -- from that 2018 inspection?

10:55AM

9 A. I think it was here --

10:56AM

10 Q. You don't have to give me a date. Recently?

10:56AM

11 A. It was here recently. We received something
12 from them.

10:56AM

13 Q. Probably in October 2018?

10:56AM

14 A. In that -- in that time frame, yes.

10:56AM

15 Q. Can you tell me what TCEQ was -- told you were
16 the results of the 2018 inspection?

10:56AM

10:56AM

17 MS. NICHOLS: Objection, form.

10:56AM

18 A. I would have to -- I'd have to look at that --
19 the documentation and refresh my memory, I can tell you.

10:56AM

10:56AM

20 Q. (BY MS. JOHNSON) Do you remember if TCEQ saw
21 more pellets on Cox's Creek?

10:56AM

10:56AM

22 A. I don't remember that.

10:56AM

23 Q. Okay. Do you remember if they saw anything at
24 the -- that they gave you any violations out at 001?

10:56AM

10:56AM

25 A. I'd have to look at the documents to be sure.

10:56AM

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1 Q. Okay. Well, let me ask you this. 10:56AM

2 If they saw more pellets on Cox's Creek 10:56AM
3 and told you that, what would you -- what's your 10:56AM
4 responsibility? 10:56AM

5 A. I would talk to management or let them know 10:56AM
6 and then we would have had -- I would have -- I would 10:56AM
7 have contacted Horizon, had them to go out and do those 10:57AM
8 inspections. 10:57AM

9 And we -- we did do that. I remember that 10:57AM
10 sometime -- I don't remember specific time lines, but 10:57AM
11 that was -- that was something that management had -- 10:57AM
12 had asked. 10:57AM

13 Q. Okay. So after -- so just recently when you 10:57AM
14 got the 2018 results from the TCEQ 2018 investigation, 10:57AM
15 you told Horizon to go clean up in the spots where TCEQ 10:57AM
16 photographed. 10:57AM

17 A. Go -- yeah. Go and observe and see what they 10:57AM
18 saw and then report that to us. 10:57AM

19 Q. Do you remember if the places that TCEQ saw 10:57AM
20 were near the boat ramp or were there any other places? 10:57AM

21 A. I don't remember. 10:57AM

22 Q. Okay. Have you -- is Horizon cleaning up 10:57AM
23 downstream of the SH-35 bridge right now? 10:57AM

24 A. At Outfall 5, yes, they clean in that area. 10:57AM

25 Q. Do they clean up any other place downstream of 10:57AM

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1 that?

10:58AM

2 A. I'd have to reference the IAP.

10:58AM

3 Q. Okay. Because you remember PMI had those maps
4 of their cleanup, right?

10:58AM

10:58AM

5 A. Yes, ma'am.

10:58AM

6 Q. And some of those maps were showing what I
7 would call hot spots downstream on Cox's Creek.

10:58AM

10:58AM

8 Do you remember that?

10:58AM

9 MS. NICHOLS: Objection, form.

10:58AM

10 Q. (BY MS. JOHNSON) Do you know what a hot -- do
11 you know what I mean by "hot spot"?

10:58AM

10:58AM

12 A. Yes. It's a -- it's an area that they
13 identified.

10:58AM

10:58AM

14 Q. Do you remember hot spots that PMI was seeing
15 for pellets?

10:58AM

10:58AM

16 A. I'd have to look at the -- at those inspection
17 forms.

10:58AM

10:58AM

18 Q. If PMI saw some hot spots for pellets, did you
19 tell Horizon to go to those places too?

10:58AM

10:58AM

20 A. When we started, I don't -- I don't remember
21 if I discussed that with them, but I -- I requested them
22 to -- to do an initial survey of the creek.

10:58AM

10:58AM

23 Q. And have you had Horizon do any other bigger
24 surveys of the creek since, say, January 2018?

10:58AM

10:58AM

25 A. No.

10:59AM

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1 Q. Okay. Why not?

10:59AM

2 A. The cleanup operation, we're -- we're just
3 continuing forward with the cleanup operation.

10:59AM

4 Nothing -- Horizon hasn't really said if there's any
5 concern as far as the cleanup operation.

10:59AM

10:59AM

6 Q. So how would you know if there are any pellets
7 downstream if Horizon hadn't gone out there?

10:59AM

10:59AM

10:59AM

8 A. They have done -- originally they had -- they
9 had gone downstream to look. And then occasionally --
10 their supervisor will notify and say that he's gone and
11 down like a preliminary check of the area south of -- of
12 the bridge.

10:59AM

10:59AM

10:59AM

10:59AM

10:59AM

13 Q. Okay. And where do you tell them to go south
14 of the bridge?

10:59AM

10:59AM

15 A. They drive. They're the ones doing it, so...

10:59AM

16 Q. Does their scope of work tell them to look at
17 the entire Cox Creek?

10:59AM

10:59AM

18 A. I think it talks about -- again, I'd have to
19 look at the scope of work so I can tell you, but it
20 revolves around the outfalls.

10:59AM

11:00AM

11:00AM

21 Q. Okay. Do you know if anybody has ever
22 surveyed at the earthen dam? Do you know what I mean by
23 the "earthen dam" on Cox's Creek?

11:00AM

11:00AM

11:00AM

24 A. I don't know what -- what you're referring to.

11:00AM

25 Q. I'll show you a map. Hold on. Let me see if

11:00AM

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1 I can show you.

2 (Interruption)

3 Q. (BY MS. JOHNSON) If you go south from SH-35
4 bridge on Cox's Creek --

5 (Sotto voce discussion between
6 Ms. Johnson and Ms. Gaines)

7 Q. (BY MS. JOHNSON) Is it called the spillway?

8 A. Yes, ma'am.

9 Q. Okay. Okay.

10 A. You confused me there.

11 Q. I'm sorry. I heard -- I think I've heard it
12 called an earthen dam too. But there's a spillway.

13 And have you ever asked Horizon to look
14 for pellets or powder on that spillway?

15 A. They've gone out and done their inspection.

16 Q. Do you know if they've ever found pellets or
17 powder on that spillway?

18 A. If they have, it would be referenced in the
19 IAP.

20 Q. Okay. How long is Horizon's contract for?

21 A. Another year, I think. They have another
22 year.

23 Q. Have they told you why they think it's taken
24 so long to clean up all the pellets?

25 MS. NICHOLS: Objection, form.

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1 A. That hasn't -- I haven't been told on anything
2 about that.

3 Q. (BY MS. JOHNSON) Okay. So after the -- it
4 was only after the March 2016 inspection that you went
5 out and photographed for TCEQ a cleanup, is that right?

6 A. Yes.

7 Q. Those are the only photographs you've ever
8 taken?

9 A. Yeah, these photos.

10 Q. Okay. How come you haven't taken any other
11 photos for them, for TCEQ?

12 A. For TCEQ? They haven't requested anything.

13 Q. Did TCEQ request that you send them those
14 July 2016 photos?

15 A. I don't remember in the correspondence.

16 Q. I'm just curious why you haven't gone out in a
17 boat to look to see what the pellet situation is like on
18 Cox's Creek.

19 A. It's the workload.

20 Q. You just haven't --

21 A. I have other responsibilities.

22 Q. What are your other responsibilities?

23 A. Coordinating the shipment of nonhazardous
24 waste and then, you know, working with the operational
25 units if they have questions, concerns, any -- anything

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1 coming through the office. You know, if I get a phone
2 call or something in regards to work, my days are pretty
3 busy.

4 Q. How many people are in your office? I know
5 there are different shifts, but how many people are
6 there in one shift?

7 A. On our side for water and waste, we have
8 myself and another specialist and three technicians.

9 Q. Okay. So who's the other specialist?

10 A. David Hill.

11 Q. And who are the three technicians?

12 A. Clint Hensley, Ryan McCrae, and
13 Lance Rodriguez.

14 Q. What are the technicians' jobs?

15 A. Technicians do more of the physical labor work
16 like drum removal from within the process units and they
17 also do clerical -- clerical work.

18 Q. And then the other specialist does the same
19 kind of job as you do?

20 A. Yes. He does the hazardous waste
21 coordination.

22 Q. In an average week, what percentage of your
23 time would you say you spend on disposal of nonhazardous
24 waste, roughly?

25 A. In a 40-hour week? Probably about 36 hours,

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1 and that's communicating, coordinating, scheduling back
2 and forth.

3 Q. So most of your week is managing the solid
4 waste?

5 A. Yes. And aside of that, anything else that
6 hits the desk.

7 Q. Do you work four days a week?

8 A. No, ma'am.

9 Q. You work five?

10 A. Yes.

11 Q. Okay. Because some people work four, right?
12 Do you know?

13 A. If they're on shift, yes.

14 Q. Okay. So you're not on a shift?

15 A. No, ma'am.

16 Q. Are there -- is -- are there specialists like
17 you who work at night?

18 A. No.

19 Q. Okay. So if there's a rainfall event at
20 night, is there -- do you know how it gets handled?

21 MS. NICHOLS: Objection to form.

22 A. Shift safety is contacted if there's -- for
23 whatever reason. If there's any type of situation,
24 shift safety is contacted. Then shift safety will
25 contact management and also the on-call.

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1 Q. (BY MS. JOHNSON) The on-call? 11:05AM

2 A. Yes, ma'am. 11:05AM

3 Q. What's that mean? 11:05AM

4 A. That's -- it's an individual who has a com- --
5 we have a company phone and somebody is on on-call for a
6 week, seven days at a time. 11:05AM

7 Q. And who does the on-call person -- what unit
8 or department did they work for? 11:06AM

9 A. Environmental. It's EH&S. 11:06AM

10 Q. Okay. So if there is a big rainfall event,
11 can you tell me -- at night, can you tell me what
12 happens? 11:06AM

13 MS. NICHOLS: Objection, form. 11:06AM

14 A. If there's a -- if there's an excessive rain
15 and there's an exceedance, well, then shift safety is
16 notified by the operational unit wherever the incident
17 occurred. And then shift safety contacts the on-call.
18 If it's just a heavy rain, we won't get a -- we won't
19 get a phone call. 11:06AM

20 Q. (BY MS. JOHNSON) Okay. Do you know if there
21 has ever been a report internally about too many pellets
22 being discharged at any outfall? 11:06AM

23 A. No. 11:07AM

24 Q. When you open the outfall gates, did you ever
25 report that too many pellets were being discharged? 11:07AM

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1 A. No, because I never saw pellets when I opened
2 the gate upstream.

3 Q. Okay. You never saw pellets when you opened
4 the gate?

5 A. After -- well, I cleaned it first and then I
6 never saw a pellet -- never saw a pellet upstream.

7 MS. JOHNSON: You know, I'm going to
8 suggest that we take like a five-minute break. Okay?
9 And I may be about to finish.

10 THE WITNESS: Okay.

11 MS. JOHNSON: I know you're going to be
12 relieved.

13 (Recess from 11:07 a.m. to 11:16 a.m.)

14 Q. (BY MS. JOHNSON) Would you look at Tab I in
15 that notebook.

16 MS. JOHNSON: So this is going to be
17 Exhibit 45.

18 (Exhibit 45 marked)

19 Q. (BY MS. JOHNSON) Do you recognize that
20 e-mail?

21 A. Yes.

22 Q. That's to you from Mr. Fuqua of TCEQ?

23 A. Yes, ma'am.

24 Q. And he asks you about pellet composition, is
25 that right?

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1 A. Yes.

2 Q. Do you remember sending him a response?

3 A. Yes. We sent him the SDSs for the products,
4 for the pellets.

5 Q. And would that have been in an e-mail from
6 you?

7 A. The e-mail was generated -- I think it was --
8 yes, it had to have been me.

9 Q. Do you know if you produced that, if you gave
10 that to us to look at?

11 A. It would -- it had to have been given when
12 they started collecting all the documentation.

13 Q. Okay.

14 MS. NICHOLS: If you want information on
15 that, I can do it off the record.

16 MS. JOHNSON: Okay.

17 Q. (BY MS. JOHNSON) I'm just going to skip
18 around a little bit just to fill in holes --

19 A. Okay.

20 Q. -- where everybody else tells me I didn't
21 quite finish. Okay?

22 A. Okay.

23 Q. So we were talking about that maybe there had
24 been a complaint made to TCEQ and you would ask Mr.
25 Barrier to go out and look at the area where there was a

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1 complaint.

11:17AM

2 Do you remember that --

11:17AM

3 A. Yes.

11:17AM

4 Q. -- discussion?

11:17AM

5 A. Yes.

11:17AM

6 Q. If Mr. Barrier went out to look at an area
7 where there had been a complaint or where TCEQ had been
8 pellets, how did he report back to you about that?

11:17AM

11:18AM

11:18AM

9 A. He would come by the office or contact us and
10 let us know what he had observed.

11:18AM

11:18AM

11 Q. Okay. Did anybody write down what -- the
12 results of that conversation?

11:18AM

11:18AM

13 A. No. I don't -- I don't have anything.

11:18AM

14 Q. Okay. So let's say in the April 2018 when
15 TCEQ did the investigation and saw some pellets on
16 Cox's Creek, did you ask Mr. Barrier to go look where
17 TCEQ saw those pellets?

11:18AM

11:18AM

11:18AM

11:18AM

18 A. At that -- at that point in time, I don't
19 remember, like, specific dates. But if we did discuss,
20 we would -- I would have told him, Look -- go look in
21 this general area, see what you observe.

11:18AM

11:18AM

11:18AM

11:19AM

22 Q. And then what would you ask him to tell you?

11:19AM

23 A. Let me know exactly what he saw out in the
24 field, what his observations were.

11:19AM

11:19AM

25 Q. Well, tell me what kinds of questions --

11:19AM

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1 because there's not a place on the IAF form for this, is
2 there?

3 A. On the IAP?

4 Q. IAP. Sorry.

5 A. There's a section where it details their
6 operational period in which they worked at and it gives
7 a little summary of what they did during the month. It
8 would be in there. If not, it wouldn't have been
9 documented.

10 Q. So what -- tell me what specific questions
11 you're asking Mr. Barrier when you hear about a
12 complaint?

13 A. When I receive a complaint and then we -- we
14 discuss it on our end with management, I'll contact
15 Eric and let him know, Look, we -- there's been a
16 complaint. I need you to go look at this area.

17 Q. And like what do you tell him to look for? Do
18 you tell him to tell you how big of an area he's --

19 A. Specifics on what -- what actually the
20 complaint was, if they saw this or if they saw that.
21 Say, Look -- I would tell him, Okay. We've got a
22 complaint that this has been observed. Can you go to
23 the area and look? If it is, you know, remediate it,
24 take action, and let me know.

25 Q. Do you ask Mr. Barrier to tell you how big of

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1 an area he sees the pellets in?

2 A. I haven't talked about size or anything like
3 that with him. I don't -- I don't remember that.

4 Q. Okay. Why do you not ask him how big of an
5 area the pellets are covering?

6 A. When he -- when I talk to him, he's
7 normally -- if he -- if he does observe something, he's
8 pretty forward on what he's seen.

9 Q. What do you mean by that?

10 A. If he observed -- for example, if he went to
11 the shoreline and observed pellets, he would tell me, It
12 looks like it's a heavy amount. We went ahead and
13 cleaned.

14 Q. And if it wasn't a heavy amount, does he not
15 clean?

16 A. They'll -- to my understanding, they still
17 clean, but they're going to target those areas that
18 are -- that are of like hot spots more -- more per se.

19 Q. What's your understanding of what Mr. Barrier
20 means by "heavy amount of pellets"?

21 A. I'm not real sure. I'm thinking more of heavy
22 as in he's observing pellets there.

23 Q. It means a lot?

24 MS. NICHOLS: Objection, form.

25 A. Again, it's if he sees pellets there and he

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1 says, I think they're heavy. Okay.

11:22AM

2 Q. (BY MS. JOHNSON) You don't -- he doesn't mean
3 weightwise, does he?

11:22AM

11:22AM

4 A. I -- we -- he's never brought exact weights or
5 anything like that to me.

11:22AM

11:22AM

6 Q. Do you have any idea of about how many pellets
7 are in a bag collected by Horizon?

11:22AM

11:22AM

8 A. No.

11:22AM

9 Q. Do you have any idea what it would look like
10 on the surface of a ditch to see 10,000 pellets?

11:22AM

11:22AM

11 A. No.

11:22AM

12 Q. When you began working as an operator when
13 you were doing the lifting of the gates, did you get
14 training in how to look for pellets on the surface
15 water?

11:22AM

11:22AM

11:23AM

11:23AM

16 A. There -- we -- I was trained. I don't
17 remember, like, the specific training, but there was
18 training on how to identify if there was visible solids.

11:23AM

11:23AM

11:23AM

19 Q. Okay. And I know you just said you don't
20 remember the specifics, but do you remember any details
21 of the training you got about visible solids?

11:23AM

11:23AM

11:23AM

22 A. Details I don't remember.

11:23AM

23 Q. Do you remember if there were any papers that
24 were given to you about how to look for visible solids?

11:23AM

11:23AM

25 A. I don't remember that.

11:23AM

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1 Q. Okay. Or any photos? 11:23AM

2 A. I don't remember any photos either. 11:23AM

3 Q. Are you aware of Horizon using something that 11:23AM
4 might be called an amphibious bulldozer? 11:23AM

5 MS. NICHOLS: Objection, form. 11:24AM

6 A. No. 11:24AM

7 Q. (BY MS. JOHNSON) Have you -- are you aware of 11:24AM
8 any -- what heavy equipment has Horizon been using in 11:24AM
9 the cleanup? 11:24AM

10 A. Equipmentwise would be wash pumps, hoses, dip 11:24AM
11 nets, containment boom, boats, little pelican boats that 11:24AM
12 help, you know, so they can store equipment if they're 11:24AM
13 on the water. That's really it that I know of. 11:24AM

14 Q. So if there were a video of somebody using an 11:24AM
15 amphibious -- some kind of backhoe or bulldozer near an 11:24AM
16 outfall, you don't think that would be Horizon? 11:24AM

17 A. I don't think it would be Horizon. 11:24AM

18 Q. Are you aware of any kind of bulldozer being 11:24AM
19 used near Outfall 12? 11:24AM

20 A. A hydro rake that was used. 11:24AM

21 Q. Oh, there we go. I used the wrong word. 11:24AM

22 Well, I don't know what it's called. 11:25AM

23 A. Yeah. Well -- 11:25AM

24 Q. Tell me what's a hydro rake. 11:25AM

25 A. A hydro rake is kind of like if you -- if you 11:25AM

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1 think about like of a pontoon setup and it has tracks on
2 it. So once you hit a certain level in the water, that
3 equipment will float. And on the front end it's kind of
4 like a PTO setup. I don't know if you're familiar with
5 the farming thing.

6 THE WITNESS: Diane, I know you know.

7 MS. WILSON: Yeah.

8 A. Diane knows. So it's like a PTO setup. You
9 can put like a rake or a cutter on it and that's what
10 they used to -- to remove vegetation.

11 Q. (BY MS. JOHNSON) So this hydro rake --

12 A. Yes, ma'am.

13 Q. -- was used by Horizon?

14 A. It was used by another vendor that was
15 approved for the vegetation removal.

16 Q. Okay. Who was that other vendor?

17 A. It should be Sugar Land, Texas. I can't
18 remember the name.

19 THE REPORTER: Did you say Land, Texas?

20 MS. JOHNSON: Sugar Land.

21 THE WITNESS: Sugar Land, Texas.

22 A. I don't remember the name of the company.

23 Q. (BY MS. JOHNSON) Is the -- did you do the
24 scope of work for the vegetation removal project?

25 A. Yes, ma'am.

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1 Q. Okay. And when was that? 11:26AM

2 A. That -- that scope of work was put together 11:26AM
3 February/March of this year, I think. 11:26AM

4 Q. What was the purpose of that scope of work? 11:26AM

5 A. To remove any vegetation at the mouths of the 11:26AM
6 outfalls. 11:26AM

7 Q. Why? 11:26AM

8 A. Because the vegetation was a nuisance to the 11:26AM
9 cleanup. It was hampering the cleanup. 11:26AM

10 Q. I thought y'all weren't doing clean up at 12. 11:26AM

11 A. There was no cleanup at 12. However, in 11:26AM
12 the -- in the proposal, we -- we proposed to -- to 11:26AM
13 remove that vegetation there as well. 11:26AM

14 Q. So is it Formosa Texas's goal to keep those 11:26AM
15 areas clear of vegetation at all the outfalls? 11:27AM

16 MS. NICHOLS: Objection, form. 11:27AM

17 A. At the time it was to -- to see -- it was the 11:27AM
18 first go-round, like the first opportunity. We wanted 11:27AM
19 to see how the -- the cleanup operations would proceed 11:27AM
20 after that. 11:27AM

21 Q. (BY MS. JOHNSON) So the goal of cleaning up 11:27AM
22 the vegetation was to assist in the cleanup, is that 11:27AM
23 right? 11:27AM

24 A. Yes, ma'am. 11:27AM

25 Q. And did you ask the hydro rake company whether 11:27AM

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1 they saw pellets when they were cleaning vegetation? 11:27AM

2 A. No. 11:27AM

3 Q. Did you -- you didn't ask them to report to 11:27AM
4 you any pellets? 11:27AM

5 A. No. Their -- their job was specifically to 11:27AM
6 remove vegetation. 11:27AM

7 Q. And this wasn't a lawnmower. They were 11:27AM
8 getting the roots, is that right? 11:27AM

9 A. They were cutting and then removing the 11:27AM
10 cuttings with a -- with a rake. 11:27AM

11 Q. So were they digging down into the dirt with 11:27AM
12 this hydro rake? 11:27AM

13 A. No. 11:27AM

14 Q. Okay. It was just on the surface? 11:27AM

15 A. On the surface. 11:28AM

16 Q. And before the hydro rake company went out, 11:28AM
17 were they looking for any wildlife in those grasses? 11:28AM

18 A. I don't -- I don't know if they were. 11:28AM

19 Q. Did you -- were you the one who was the 11:28AM
20 contact on the hydro rake contract? 11:28AM

21 A. Yes. 11:28AM

22 Q. Did Horizon ask you where they wanted the 11:28AM
23 hydro rake to be operated? 11:28AM

24 A. No. 11:28AM

25 MS. NICHOLS: Objection, form. 11:28AM

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1 A. No. 11:28AM

2 Q. (BY MS. JOHNSON) Okay. Who chose where the 11:28AM
3 hydro rake went? 11:28AM

4 A. That was put together in the proposal by the 11:28AM
5 consultant. 11:28AM

6 Q. By the Austin consultant? 11:28AM

7 A. Yes. 11:28AM

8 Q. So the TRC -- 11:28AM

9 A. TRC Environmental. 11:28AM

10 Q. Okay. And this hydro rake company, has it 11:28AM
11 gone to all the outfalls? 11:29AM

12 A. It went to -- on the creek to Outfalls 5, 6, 11:29AM
13 8, 9, 12, and the boat ramp. 11:29AM

14 Q. And do you know how long, approximately? 11:29AM
15 Would they go for a day to an area or would it be a 11:29AM
16 week? 11:29AM

17 A. It depended on the location, the size of the 11:29AM
18 area. It would be -- that would more or less tell you 11:29AM
19 how long it would take them, you know, by the operator 11:29AM
20 that was using the equipment. He would look at the area 11:29AM
21 and say, I can be done today. It may take me two days, 11:29AM
22 less, and so forth. 11:29AM

23 Q. Did the -- what did the operator do with 11:29AM
24 grasses and other debris that they collected? 11:29AM

25 A. All the vegetation that was -- was removed was 11:30AM

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1 placed upon land in -- in a -- like a little containment
2 area like for like a roll-off box or a frac tank and we
3 let that material dry and then transferred that with the
4 use of a front-end loader and put it into roll-off
5 boxes.

6 Q. To be disposed of as nonhazardous solid waste?

7 A. Yes.

8 Q. Did you look at those piles of cut grasses and
9 cut shrubs?

10 A. I -- I saw -- I saw some of the piles, yes.

11 Q. Did you see any pellets in them?

12 A. Some pellets, yes.

13 Q. Uh-huh. Are you familiar with this term
14 "Legacy pellets"?

15 A. No.

16 Q. Okay. Can you look at a pellet and tell me
17 what unit it came from?

18 A. No.

19 Q. You know, they look different from different
20 units? Do they?

21 A. They -- they are different, but I -- I can't
22 look at a pellet and tell you where it came from. I
23 don't -- I don't know that.

24 Q. Okay. Some people can, right?

25 A. I'm sure.

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1 Q. What is your involvement in the weekly pellet
2 audits? 11:31AM

3 A. I conducted the weekly pellet audits in the
4 facility. 11:31AM

5 Q. Okay. So tell me about what that means. 11:31AM

6 A. Basically I would go out and take photographs
7 of any pellets or powder that I observed around the
8 process units. I would prepare a PowerPoint
9 presentation, and then I would submit that to -- to
10 upper management. 11:31AM

11 Q. Okay. And the PowerPoint presentation is what
12 you would give to upper management? 11:31AM

13 A. Yes. That was sent by e-mail. 11:32AM

14 Q. Okay. When you -- and you took the photos for
15 those weekly audits? 11:32AM

16 A. Yes, ma'am. 11:32AM

17 Q. Are there any photos that you took that
18 wouldn't end up in a PowerPoint presentation? I assume
19 you wouldn't put all your photos in a PowerPoint
20 presentation? 11:32AM

21 A. I'd have to look back and look at photos in
22 the PowerPoints. 11:32AM

23 Q. When did you start doing those weekly pellet
24 audits? 11:32AM

25 A. At some point in the beginning of 2016 like 11:32AM

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1 February, March, somewhere around there.

11:32AM

2 Q. Okay. Who asked you to take charge of that?

11:32AM

3 A. The request of management, Matt Brogger.

11:32AM

4 Q. And tell me what's the goal of the weekly
5 pellet audits?

11:32AM

11:32AM

6 A. To identify the problematic areas and then by
7 notifying every -- you know, every unit director,
8 manager, and so forth, they were aware of what had been
9 observed, so they needed to take corrective actions on
10 that.

11:32AM

11:32AM

11:32AM

11:33AM

11:33AM

11 Q. And when you say "problematic areas," you mean
12 areas where pellets or powder are found on the ground?

11:33AM

11:33AM

13 A. Yes.

11:33AM

14 Q. And tell me how you chose -- did you go by
15 yourself to do these pellet audits?

11:33AM

11:33AM

16 A. Yes.

11:33AM

17 Q. Okay. And you would go to one unit a week,
18 two units a week?

11:33AM

11:33AM

19 A. Through the whole facility.

11:33AM

20 Q. Every week?

11:33AM

21 A. Yes.

11:33AM

22 Q. Are you still doing those weekly pellet
23 audits?

11:33AM

11:33AM

24 A. No, ma'am.

11:33AM

25 Q. Why not?

11:33AM

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1 A. I haven't been asked by management to continue
2 with those.

3 Q. When did you stop doing them?

4 A. At the end of 2017, I guess. I'd have to look
5 back at e-mails so forth.

6 Q. Do you know why they told you to stop?

7 A. No, ma'am.

8 MS. NICHOLS: Objection, form.

9 Q. (BY MS. JOHNSON) Do you feel like you were
10 making progress with the weekly pellet audits?

11 A. Yes.

12 Q. What kind of progress do you think you were
13 making?

14 A. Communication with the units and, you know,
15 upper management on -- on the operational side. They
16 were aware, so they were -- they were kind of tackling
17 those -- those issues.

18 Q. At the production units for pellets, can you
19 tell me what you thought were the three biggest changes
20 they needed to make to control the pellets that were
21 getting on the ground?

22 A. That I -- that I don't know because I don't
23 fully understand their whole process and how they
24 transfer and all of that. I don't know that.

25 Q. So you were just seeing them and telling them,

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1 I see pellets.

11:34AM

2 A. Yes.

11:35AM

3 Q. You need to fix it?

11:35AM

4 A. Yes. Yes.

11:35AM

5 Q. Did you meet with the units when you -- to
6 tell them the results?

11:35AM

11:35AM

7 A. No.

11:35AM

8 Q. Okay. So you just told Mr. Brogger?

11:35AM

9 A. I prepared a PowerPoint. It went to Matt,
10 Rick, and department managers, and directors.

11:35AM

11:35AM

11 Q. And so then it was somebody else's job to
12 figure out what to do with what you saw?

11:35AM

11:35AM

13 A. Yes.

11:35AM

14 Q. Okay. Did you ever go to the north of the
15 facility, north of the Outfall 12 when you were doing
16 that audit?

11:35AM

11:35AM

17 A. No.

11:35AM

11:35AM

18 Q. Okay. Did anybody ever tell you to look on
19 the railroad tracks going out north of the facility?

11:35AM

11:35AM

20 A. I remember being -- going out to the tracks.

11:35AM

21 Q. Okay. Can you tell me generally where that
22 was?

11:36AM

11:36AM

23 A. It was north of -- north of the Polyethylene 2
24 loading area, north of the plant. They had some hopper
25 cars where they would load into tractor-trailer rigs.

11:36AM

11:36AM

11:36AM

11:36AM

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1 They would offload from the hopper car to the truck. 11:36AM

2 Q. Would that be what's called a shipping area? 11:36AM

3 A. Yes, I believe so. 11:36AM

4 Q. So it was on Formosa's property? 11:36AM

5 A. Yes. 11:36AM

6 Q. Okay. And you saw spills on the tracks in
7 some of those locations? 11:36AM

8 A. Yeah, I'd see pellets on the ground. 11:36AM

9 Q. Okay. And when you were doing the weekly
10 audits, you were also looking for powder, right? 11:36AM

11 A. Yes. 11:36AM

12 Q. When you did those weekly audits, did you also
13 contact THM or did -- were these just for management,
14 the audits? 11:36AM

15 A. My contact was to provide that to management. 11:37AM

16 Q. Okay. Do -- could you tell us what unit you
17 found the most pellets problems at? 11:37AM

18 A. In the poly units. 11:37AM

19 Q. And you say "poly," that's -- 11:37AM

20 A. It could be, you know, LLDPE unit, PP1 unite,
21 PE1 unit, PE2, PP2. 11:37AM

22 Q. Okay. And what were some of the problems that
23 you saw in those poly units? 11:37AM

24 MS. NICHOLS: Objection, form. 11:37AM

25 A. Pellets that were on the ground. 11:37AM

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1 Q. (BY MS. JOHNSON) Okay. Are the poly units 11:37AM
2 open to the air, like they had big doors that open? Are 11:37AM
3 they enclosed? Are the poly units totally enclosed? 11:37AM

4 A. Equipment is -- I'm kind of you're going to 11:37AM
5 have to rephrase it. 11:37AM

6 Q. Okay. 11:37AM

7 A. I'm confused on "enclosed." 11:37AM

8 Q. Okay. 11:37AM

9 A. I don't know what you mean by that. 11:38AM

10 Q. So I'm in an enclosed room right now with a 11:38AM
11 door that's closed. 11:38AM

12 Are the poly units -- can they -- are they 11:38AM
13 totally closed when they're doing production or do they 11:38AM
14 have doors that are open while they're doing production? 11:38AM

15 A. That I don't -- I don't know on the production 11:38AM
16 side. 11:38AM

17 Q. Okay. 11:38AM

18 A. I don't know. 11:38AM

19 Q. And when you were doing these audits, were you 11:38AM
20 inside the units or were you outside the units? 11:38AM

21 A. Outside the battery limits, so just driving 11:38AM
22 around the perimeter. 11:38AM

23 Q. Did you note any problems with any of the -- 11:38AM
24 the battery limits curbs when you were doing those 11:38AM
25 audits? 11:38AM

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1 A. If I did, it would be noted in, you know,
2 those specific PowerPoints.

3 Q. How big is that curb in between the inside and
4 outside battery limits?

5 MS. NICHOLS: Objection, form.

6 A. I don't know. I don't know size. That I
7 don't know.

8 Q. (BY MS. JOHNSON) Okay. Do you know
9 approximate height of the curb --

10 MS. NICHOLS: Objection, form.

11 Q. (BY MS. JOHNSON) -- between inside and
12 outside battery limits?

13 A. No, I don't know.

14 Q. Okay. You know there's a barrier between
15 inside and outside battery limits, right?

16 A. Yes, ma'am.

17 Q. What does --

18 MS. NICHOLS: Objection, form.

19 Q. (BY MS. JOHNSON) What does the barrier look
20 like?

21 MS. NICHOLS: Objection, form.

22 A. It's a gate.

23 Q. (BY MS. JOHNSON) It's a gate?

24 A. A gate that's at the ditch --

25 Q. Okay.

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1 A. -- of the internal -- it's at the internal -- 11:39AM
2 it's at the internal ditch and you have a gate that 11:39AM
3 discharges from that area. 11:39AM

4 Q. So there's no curb around that's kind of like 11:39AM
5 a fence around the inside battery limit? 11:39AM

6 MS. NICHOLS: Objection, form. 11:39AM

7 A. No. There's -- there's curbing -- 11:39AM

8 Q. (BY MS. JOHNSON) Okay. 11:39AM

9 A. -- around the process area. 11:39AM

10 Q. Okay. So is there curbing around every 11:39AM
11 individual unit? 11:39AM

12 A. I don't know of every individual unit. I 11:39AM
13 don't know. 11:40AM

14 Q. Okay. Tell me one unit that has curbing. 11:40AM

15 A. PE1. 11:40AM

16 Q. Okay. So can you describe what the curbing 11:40AM
17 looks like around the PE1? 11:40AM

18 MS. NICHOLS: Objection, form. 11:40AM

19 A. It's like a concrete wall, probably -- again, 11:40AM
20 I don't know the specifics, the depth and height, but I 11:40AM
21 would say maybe 6 to 8 inches tall, 3 inches wide, 11:40AM
22 something like that. 11:40AM

23 Q. (BY MS. JOHNSON) Okay. I'm going to skipping 11:40AM
24 all around. I'm going to go back and talk to you about 11:40AM
25 when you were opening the outfall gates. 11:40AM

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1 A. Uh-huh. 11:40AM

2 Q. Sometimes those gates were continuously open 11:40AM
3 for days, is that right? 11:40AM

4 A. Yes. 11:40AM

5 Q. Do you have any idea why they would be 11:40AM
6 continuously open? 11:41AM

7 A. If we were having -- you know, depending on 11:41AM
8 the weather. If we had excessive rain. Sometimes we'd 11:41AM
9 have rain that was off and on, off and on throughout 11:41AM
10 two, three days. 11:41AM

11 Q. And when the gates were continuously open, 11:41AM
12 did you do any additional samples except for the first 11:41AM
13 sample prior to opening the gate? 11:41AM

14 A. Yes. 11:41AM

15 Q. When did you do those samples? 11:41AM

16 A. From the -- from the time that you perform 11:41AM
17 your first sample and you get good results, make sure 11:41AM
18 that you didn't have any debris and you open your gate, 11:41AM
19 then you have 23 hours and 59 minutes to leave that gate 11:41AM
20 open. 11:41AM

21 So within that time, you could resample 11:41AM
22 and keep that gate open. If your time went past that, 11:41AM
23 past like 23 minutes, 59 seconds (sic), 24 hours, then 11:41AM
24 you had to close the gate and then wait until you had 11:41AM
25 results. 11:41AM

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1 Q. And when you're resampling, you're taking that
2 -- you're doing the PH sampling again?

3 A. Yes. Everything is going to the lab for full
4 analytical.

5 Q. And if the water is flowing out, are you able
6 to clean up any pellets that are in it?

7 A. If there were pellets, we would close the
8 valve. We would close it and we would clean.

9 Q. So your testimony is that in a rainfall event
10 where the water is continuously flowing, you could see
11 the pellets?

12 A. If you saw pellets flowing, then you had to
13 close the valve.

14 Q. But sometimes it would be hard to see pellets
15 in rain, right?

16 MS. NICHOLS: Objection, form.

17 A. Yes.

18 Q. (BY MS. JOHNSON) Do you want to make sure all
19 the pellets get cleaned up?

20 A. I would like to be part of that, would like to
21 clean up and make sure that everything is cleaned up,
22 yes.

23 Q. How do you feel about the pellets being on
24 Lavaca Bay?

25 A. I really don't know how to feel towards that.

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1 You know, it's -- it does look -- it does give a
2 negative impact, you know, to the area.

3 Q. Do you know of any people who have caught fish
4 with pellets in them?

5 A. No.

6 Q. How do you feel about the pellets being on
7 Cox's Creek?

8 A. The same. It's -- you know, just it looks --
9 it's a negative impact. Doesn't look good.

10 Q. Do you have any questions you would like to
11 clarify your answers to? You're going to get a chance
12 to look at it.

13 A. Okay.

14 Q. But if you -- if there's anything you want to
15 tell me right now, I appreciate it so I can ask, if
16 there's something that you're wishing you had said or
17 want to correct.

18 A. Yeah. Off the top of my head, no, ma'am.

19 Q. Okay.

20 MS. JOHNSON: Thank you very much for
21 your time.

22 THE WITNESS: Yes, ma'am. Thank you.

23 MS. JOHNSON: Okay.

24 (Deposition concluded at 11:44 a.m.)

25

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 I, PORFIRIO ARGUELLEZ III, have read the
2 foregoing deposition and hereby affix my signature that
3 same is true and correct, except as noted above.

4
5 _____
6 PORFIRIO ARGUELLEZ III

7
8 THE STATE OF _____)
9 COUNTY OF _____)

10
11 Before me, _____, on this day
12 personally appeared PORFIRIO ARGUELLEZ III, known to me
13 (or proved to me under oath or through
14 _____) (description of identity
15 card or other document)) to be the person whose name is
16 subscribed to the foregoing instrument and acknowledged
17 to me that they executed the same for the purposes and
18 consideration therein expressed.

19 Given under my hand and seal of office this
20 _____ day of _____, _____.

21
22 _____
23 NOTARY PUBLIC IN AND FOR
24 THE STATE OF _____
25 COMMISSION EXPIRES: _____

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

SAN ANTONIO BAY ESTUARINE)
WATERKEEPER, et al,)
Plaintiffs,)
VS.) CIVIL ACTION
FORMOSA PLASTICS CORP.,) NO. 6:17-cv-00047
TEXAS, et al,)
Defendants.)

REPORTER'S CERTIFICATION
THE CONFIDENTIAL AND ATTORNEYS' EYES ONLY
ORAL DEPOSITION OF
PORFIRIO ARGUELLEZ III
November 8, 2018
Volume 1

I, Julie A. Jordan, Certified Shorthand Reporter in
and for the State of Texas, hereby certify to the
following:

That the witness, PORFIRIO ARGUELLEZ III, was duly
sworn by the officer and that the transcript of the oral
deposition is a true record of the testimony given by
the witness;

That the original deposition was delivered to
Ms. Erin L. Gaines, attorney for the Plaintiffs;

That a copy of this certificate was served on all
parties and/or the witness shown herein on _____.

That the amount of time used by each party at the
deposition is as follows:

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Ms. Amy Johnson - 02 HOUR(S):32 MINUTE(S)

2 Ms. Erin L. Gaines - NONE

3 Ms. Diana L. Nichols - NONE

4
5 I further certify that pursuant to FRCP Rule 30 (f)
6 (1) that the signature of the deponent:

7 XXXXX was requested by the deponent or a party
8 before the completion of the deposition and that the
9 signature is to be before any notary public and returned
10 within 30 days from date of receipt of the transcript.
11 If returned, the attached Changes and Signature Pages
12 contain any changes and reasons therefore:

13 _____ was not requested by the deponent or a party
14 before the completion of the deposition.

15 I further certify that I am neither counsel for,
16 related to, nor employed by any of the parties or
17 attorneys in the action in which this proceeding was
18 taken, and further that I am not financially or
19 otherwise interested in the outcome of the action.
20
21
22
23
24
25

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 Certified to by me this 27th of December, 2018.

2 *Julie A. Jordan*
3

4 Julie A. Jordan, Texas CSR 3203
5 Expiration Date: 12/31/19
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25

PORFIRIO ARGUELLEZ III - VOLUME 1 - November 08, 2018

1 COUNTY OF TRAVIS)

2 STATE OF TEXAS)

3
 4 I hereby certify that the witness was notified on
 5 _____ that the witness has 30 days
 6 (or _____ days per agreement of counsel) after being
 7 notified by the officer that the transcript is available
 8 for review by the witness and if there are changes in
 9 the form or substance to be made, then the witness shall
 10 sign a statement reciting such changes and the reasons
 11 given by the witness for making them;

12 That the witness' signature was/was not returned as
 13 of _____.

14 Subscribed and sworn to on this _____ day of
 15 _____, _____.

16
 17
 18 _____
 19 Julie A. Jordan, Texas CSR 3203
 20 Expiration Date: 12/31/19
 21 Firm Registration No. 280
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