

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

CIVIL ACTION NO. 09-6270 SECTION "B"
JUDGE IVAN L. R. LEMELLE MAGISTRATE "4"
MAGISTRATE KAREN WELLS ROBY

CONSOLIDATED GARBAGE DISTRICT NO. 1 OF THE
PARISH OF JEFFERSON AND THE PARISH OF
JEFFERSON THROUGH THE JEFFERSON PARISH COUNCIL
Plaintiff

VERSUS

WASTE MANAGEMENT OF LOUISIANA, L.L.C.
D/B/A WASTE MANAGEMENT OF N.O., TRAVELERS
CASUALTY AND SURETY COMPANY OF AMERICA, AND
EVERGREEN NATIONAL INDEMNITY COMPANY
Defendants

* * * * *

Deposition of JOSEPH RICHARD
BULLER, JR., taken on Friday, November 19,
2010, in the offices of GAUDRY, RANSON,
HIGGINS & GREMILLION, Attorneys at Law, 401
Whitney Avenue, Suite 500, Gretna, Louisiana
70056.

APPEARANCES:

Representing the Plaintiff:

Mr. Michael D. Peytavin
GAUDRY, RANSON, HIGGINS & GREMILLION
Attorneys at Law
401 Whitney Avenue, Suite 500
Gretna, Louisiana 70056

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1 APPEARANCES CONTINUED: 2 3 Representing the Defendant: 4 Mr. Patrick A. Talley, Jr. Mr. Benjamin M. Castoriano 5 FRILOT L.L.C. Attorneys at Law 6 1100 Poydras Street, Suite 3700 New Orleans, Louisiana 70163 7 8 9 Also Present: 10 Mr. Gerard Sonier In-house Counsel, Waste Management 11 Ms. Margaret Winter 12 13 Videographer: Aaron Palmer, CLVS 14 Reported by: CINDI CAMERON, CCR 15 16 17 18 19 20 21 22 23 24 25	1 STIPULATION 2 3 4 It is stipulated and agreed by 5 and between counsel for the parties hereto 6 that the deposition of the aforementioned 7 witness is hereby being taken under the 8 Federal Rules of Civil Procedure, for all 9 purposes, in accordance with law; 10 That the formalities of reading 11 and signing are specifically not waived; 12 That the formalities of sealing, 13 certification, and filing are specifically 14 waived; 15 That all objections, save those 16 as to the form of the question and the 17 responsiveness of the answer, are hereby 18 reserved until such time as this deposition, 19 or any part thereof, may be used or sought to 20 be used in evidence. 21 * * * * * 22 CINDI CAMERON, Certified Court 23 Reporter, in and for the Parish of Orleans, 24 State of Louisiana, officiated in 25 administering the oath to the witness.

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1 INDEX 2 Page 3 Caption 1 4 5 Appearances 1-2 6 7 Agreement of Counsel 4 8 9 Examination 10 PATRICK A. TALLEY, JR., ESQUIRE 6 11 12 Witness' Certificate 293 13 Reporter's Certificate 294 14 15 * * * * * 16 Exhibits: 17 Number 1 292 Re-Notice of Deposition 18 19 Number 2 292 Binder of Documents - Tabs 1-42 20 Number 3 292 E-mail with Attachments 21 22 Number 4 292 Jefferson Parish Landfill Budget Scenarios 2010-2012 23 24 Number 5 292 Jefferson Parish Landfill Budget # 22430 25	1 PROCEEDINGS 2 (The Videographer: This is the 3 videotaped deposition of Joseph Richard 4 Buller. This deposition is being held at 401 5 Whitney Avenue, Suite 400, in Gretna, 6 Louisiana, on November 19th, 2010. The time 7 indicated on the video screen is 10:09. 8 My name is Aaron Palmer, and I'm 9 a certified legal video specialist with 10 Depo-Vue, Inc. The court reporter is Cindi 11 Cameron with Gaudet Kaiser. 12 Would counsel please introduce 13 themselves for the record.) 14 MR. PEYTAVIN: 15 Michael Peytavin for Jefferson 16 Parish and the Consolidated Garbage District 17 of Jefferson Parish. 18 MR. TALLEY: 19 Patrick Talley on behalf of Waste 20 Management. 21 MR. CASTORIANO: 22 Ben Castoriano on behalf of Waste 23 Management, also. 24 (The Videographer: Would the 25 court reporter please swear in the witness.)

<p style="text-align: right;">6</p> <p>1 JOSEPH RICHARD BULLER, JR., 215 2 Crystal Street, New Orleans, Louisiana 70124, 3 after having been first duly sworn, testified 4 on his oath as follows: 5 MR. PEYTAVIN: 6 It's our understanding that all 7 of the objections except for the form of the 8 question are reserved, and we do want to 9 exercise the right to read and sign. 10 MR. TALLEY: 11 Okay. 12 MR. PEYTAVIN: 13 Thank you. 14 MR. TALLEY: 15 That's fine. Are we ready? 16 Okay. Mr. Buller, you want to 17 state your name again, please? 18 THE WITNESS: 19 Yeah. Joseph Richard Buller, Jr. 20 EXAMINATION BY MR. TALLEY: 21 Q. Okay. 22 A. But everybody knows me as Rick. 23 Q. All right. And what is your birth 24 date? 25 A. February 23rd, 1957.</p>	<p style="text-align: right;">8</p> <p>1 companies did you work for, private? 2 A. Prior to that, I worked for Dames & 3 Moore for about seven years. I'd worked for 4 McClelland Engineers for a -- for a year and a 5 small firm, Ken Davis Associates, but now it's 6 called Envirocorp. 7 Q. Envirocorp. Okay. In what capacity 8 did you work in those companies, just 9 generally? As an engineer? 10 A. Yeah. Doing environmental engineer 11 work. 12 Q. Okay. What's your -- what's your 13 degree in? 14 A. I have a bachelor's degree and a 15 master's degree in civil engineering. 16 Q. And what's your bachelor's in? 17 A. Civil. 18 Q. Civil engineering. And then you have 19 a master's in civil engineering? 20 A. Yes. 21 Q. Okay. So how many years would you 22 have studied to get those degrees? 23 A. I was at L.S.U. for about 24 six-and-a-half years. 25 Q. Okay. Six-and-a-half years total?</p>
<p style="text-align: right;">7</p> <p>1 Q. '57. Okay. And you're employed by 2 Jefferson Parish, correct? 3 A. Yes. 4 Q. And what's your title? 5 A. Landfill engineer. 6 Q. Okay. Landfill engineer. Okay. 7 How long have you been in that 8 capacity? 9 A. Since November of 1994. 10 Q. November of '94. Well, that's good 11 'cause you -- you -- that would be the time 12 period that I want to talk about then. 13 A. Okay. 14 Q. Just a little bit of background about 15 you. What was your position before '94? 16 A. I was employed by some private 17 consulting firm. 18 Q. And what firm was that? 19 A. The one immediately before I got this 20 position was a - a company called Ecotech. 21 Q. Okay. 22 A. They're no longer in business. 23 Q. Was that in Jefferson Parish? 24 A. That was in Baton Rouge. 25 Q. Baton Rouge. Okay. What other</p>	<p style="text-align: right;">9</p> <p>1 A. Yes. 2 Q. And that -- at the end of 3 six-and-a-half years, you got a master's? 4 A. I got both degrees, yes. 5 Q. Both degrees. Okay. In civil 6 engineering, did you -- did you have any sort 7 of specialty in terms of what you studied, or 8 did you take just a general civil -- civil 9 engineering credits? 10 A. Well, the undergraduate was a general 11 civil program, and my master's degree was in 12 the water resources engineering -- 13 Q. Okay. 14 A. -- specialty. 15 Q. Okay. Did you take -- did you have 16 any courses that specifically involved 17 landfill, landfill design, landfill 18 operations, management or anything like that? 19 A. No. At that point, they really 20 weren't offered during this course. This was 21 -- and I got my master's in 1981. 22 Q. Okay. Did -- oh, in 1981. Okay, 23 yeah, you probably right about that. 24 The -- since then, have you -- have 25 you been -- have you -- well, let me ask you</p>

<p style="text-align: right;">10</p> <p>1 this: In that program, did you take any 2 courses that -- that would specialize or focus 3 in environmental sciences? 4 A. Not as it's practiced today. Like I 5 said, at that time, environmental engineering 6 was just evolving into a specialty. 7 Q. Uh-huh. 8 A. So there were classes on water 9 treatment and waste water treatment. And 10 there were the geotechnical engineering 11 classes. We learned about soil mechanics and 12 some classes on groundwater hydrology. 13 Q. Okay. Well, since you have -- since 14 you obtained your degree, have you -- have you 15 taken any -- have you had any courses, 16 post-master's work, any courses that 17 specifically involved landfill operations or 18 landfill design or landfill management? 19 A. Yeah. There have been some workshops, 20 seminars offered through the ASCE, the 21 American Society of Civil Engineers, SWANA -- 22 Q. Uh-huh. 23 A. -- Solid Waste Association North 24 America. 25 Q. Uh-huh.</p>	<p style="text-align: right;">12</p> <p>1 worked there for about seven years, lots of 2 the projects that we worked on -- that I've 3 worked on there had to do with inspection work 4 for construction of some landfills for a -- at 5 a Superfund site and at a chemical plant, the 6 Dow Chemical Plant in Plaquemine, and they 7 were to build some hazardous and solid waste 8 landfills built onsite there, and I was 9 involved in the quality assurance work for -- 10 for those facilities. 11 Q. Okay. Did you apply for this job, or 12 were you -- 13 A. Yes. 14 Q. Okay. And so you were interviewed and 15 hired with -- I assume that there are other 16 people who qualified for the job or that 17 applied for the job, too, or do you even know? 18 A. It's my understanding that I think 19 three people applied. I know they interviewed 20 at least two. 21 Q. Yeah. 22 A. Me and at least one other. I'm not 23 sure if the third was interviewed. 24 Q. When you got this job, would you -- I 25 mean, just -- I think we all know if I were to</p>
<p style="text-align: right;">11</p> <p>1 A. No academic classes, if that's what 2 you're asking. 3 Q. Yeah, that's what I'm asking. 4 I know, for example, that they have -- 5 there are some courses that -- in one of the 6 degree programs at Tulane, and it might be the 7 health science program, that -- that are 8 courses specifically on landfill operations 9 and landfill design. You haven't taken 10 anything -- 11 A. No. 12 Q. -- like that? Okay. So when you were 13 -- you were hired with Jefferson Parish in 14 1994? 15 A. Yes. 16 Q. In this position as landfill engineer? 17 A. Yes. 18 Q. Okay. What was the -- what was the -- 19 you had not worked in landfill engineering 20 prior to that time, right? 21 A. Well, in -- 22 Q. How were you qualified for that 23 position? 24 A. In the -- my job in the consulting 25 field, particularly with Dames & Moore, and I</p>	<p style="text-align: right;">13</p> <p>1 say did you get the job because you had 2 friends in Jefferson Parish or -- 3 A. No. 4 Q. -- friends in this department? 5 A. No. 6 Q. Or anyone that went to bat for you? 7 A. No. 8 Q. You basically applied for the job and 9 received the job based on your qualifications? 10 A. Yeah. I was living in Baton Rouge, 11 and I was actually hoping to move back in the 12 New Orleans Area and saw this advertisement 13 and applied. 14 Q. Okay. And specifically, this job is 15 advertised for what, to -- to -- as a landfill 16 engineer for Jefferson Parish, what -- what 17 was it advertised to do? What was the job 18 advertised for? 19 A. I'm not sure if there was much of a 20 description besides landfill engineer. 21 Q. Okay. Did you know that you would be 22 having responsibilities over the Jefferson 23 Parish Landfill -- 24 A. Yes. 25 Q. -- when you applied for the job?</p>

JOSEPH RICHARD BULLER, JR. 11/19/2010
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LOUISIANA, L.L.C.

Reported by: CINDI CAMERON, CCR

<p style="text-align: right;">14</p> <p>1 A. Yes. 2 Q. Okay. 3 A. I think that much was -- I mean, I 4 don't recall exactly what the ad said, but -- 5 Q. Okay. Had you ever done any work in 6 or around the Jefferson Parish Landfill prior 7 to applying for the job? 8 A. When I was with Dames & Moore, we -- I 9 say we, me and another geotechnical engineer 10 came down. We were invited by Waste 11 Management at the time and -- to do some 12 consulting work. We made our presentation. 13 We weren't given -- given the job. 14 Q. Okay. So once you were -- once you 15 were hired by Jefferson Parish as landfill 16 engineer, what were your job responsibilities 17 at that particular time, 1994? Just 18 generally, you don't have to be detailed. 19 A. The main thing was they were -- that 20 was when the regulations were going to come 21 into effect, what's called Subtitle D 22 regulations. And so they were about to embark 23 on -- they had made their application to the 24 DEQ, and receiving that permit was imminent, 25 and they were going to start construction of</p>	<p style="text-align: right;">16</p> <p>1 Q. -- A and B and all construction 2 aspects of that? 3 A. Yes. 4 Q. And what about the operations of the 5 landfill, you were the one in charge of that? 6 A. Yes. 7 Q. Okay. Is there anybody over -- who do 8 you -- who do you report to? 9 A. Well, presently, Marnie Winter. 10 Q. Okay. 11 A. She's director of the department. At 12 that time, it was Deano Bonano. 13 Q. Okay. The director of the Department 14 of Environmental? 15 A. It's Environmental Affairs now. Back 16 then, it was the Department of Citizens 17 Services. 18 Q. Okay. So you've had -- you've had two 19 people that you've reported to since 1994. 20 One of them was -- 21 A. No. There were -- it -- there was a 22 third, and I'm not sure of the year. It was 23 maybe 1989 or so. 24 Q. You weren't there in '89. 25 A. '99, I'm sorry.</p>
<p style="text-align: right;">15</p> <p>1 the new landfill. And so my main task was 2 going to be to make sure that that new 3 landfill was built in accordance with the 4 permit. 5 Q. Now, the new landfill being what? 6 A. The new landfill being Phase 3-A. 7 Q. Okay. So you were -- you were on the 8 ground -- ground floor of the development of 9 Phase 3? 10 A. Correct. 11 Q. Phase 3-A and then later Phase 3-B, 12 right? 13 A. Yes. 14 Q. Okay. Who had the contract for the 15 landfill in 1994 when you first got there; do 16 you recall? 17 A. It was Waste Management. I think it 18 was -- I think they were American Waste back 19 then. 20 Q. Okay. All right. So would it be fair 21 to say that you would have -- you have 22 overseen the -- the development of the 23 landfill since 1994, which would have included 24 the construction of Phase 3 -- 25 A. Yes.</p>	<p style="text-align: right;">17</p> <p>1 Q. Okay. 2 A. Mary Curry for about a year was 3 director, maybe two years, was director of the 4 department. 5 Q. Okay. So when did -- when did 6 Mr. Bonano -- when was he in charge of the 7 department? 8 A. Well, from the time that I was there. 9 Q. '94? 10 A. Yeah. Through about '99 or so. 11 Q. Okay. And then this other -- 12 A. Mary Curry came for maybe two years. 13 Q. Okay. 14 A. And then the department was merged 15 with the environmental department and became 16 the Department of Environmental Affairs. 17 Q. Okay. What was the department called 18 before the merger? 19 A. It was called Environmental Impact 20 before that. And prior to that, when I first 21 started, it was Department of Citizens 22 Services. 23 Q. Okay. Okay. Let me ask you about 24 Mr. Bonano for a minute. He was the chair -- 25 he was the director of the department?</p>

JOSEPH RICHARD BULLER, JR. 11/19/2010
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LOUISIANA, L.L.C.

Reported by: CINDI CAMERON, CCR

<p style="text-align: right;">18</p> <p>1 A. Yes. 2 Q. Of what? 3 A. Citizens Services. 4 Q. Okay. And that was his job, that was 5 his exclusive job? 6 A. Yes. 7 Q. So the landfill operations would have 8 fallen in -- within his department? 9 A. Yes. 10 Q. Okay. Before we go on too much 11 further, just -- also just really quick 12 background. Have you been arrested or 13 convicted of any sort of crimes? 14 A. No. 15 Q. Okay. And have you been -- were you 16 -- were you fired or terminated from any of 17 those employment positions that you had before 18 you came to work for Jefferson Parish? 19 A. Yeah. The first one with Envirocorp. 20 Q. Okay. And what was the reason for 21 that? 22 A. Just me and the boss didn't get along. 23 Q. Okay. That was the first job that you 24 had, or is that -- that was one of 25 the first --</p>	<p style="text-align: right;">20</p> <p>1 A. I -- I don't know that I've seen them. 2 I think they were all good. 3 Q. I mean based on what -- the feedback 4 that you got? 5 A. Yes. They were all good. 6 Q. Okay. 7 MR. TALLEY: 8 By the way, is this -- this is 9 not in the picture, is it? 10 (The Videographer: You can see 11 the edge of her microphone. That's about it.) 12 MR. TALLEY: 13 The edge of what? 14 (The Videographer: She has her 15 microphone in the back. If she wanted to tip 16 it a little bit, she can.) 17 MR. TALLEY: 18 Okay. I think maybe we can do 19 that. 20 BY MR. TALLEY: 21 Q. All right. I'm going to focus a 22 little bit on the late 1999 time period. 23 A. Uh-huh. 24 Q. And specifically, I want to start with 25 the -- the proposed permit modification by</p>
<p style="text-align: right;">19</p> <p>1 A. That was the first one I had out of 2 college, yeah. And I was there like four 3 years. 4 Q. Okay. And when you say you and the 5 boss didn't get along, who was the boss, and 6 why didn't y'all get along? 7 A. John Flanagan. 8 Q. Okay. 9 A. He was -- he was the vice president 10 and part owner. 11 Q. And y'all just didn't see eye to eye? 12 A. Yes. 13 Q. Okay. Okay. Did -- as part of the 14 job responsibilities of -- of Deano Bonano and 15 the others that you've reported to, do they 16 provide evaluations of your job performance -- 17 A. Yes. 18 Q. -- or does somebody else do that? 19 A. The director does. 20 Q. Is it exclusively the director, or is 21 it a committee or what? 22 A. No. Just the director. 23 Q. Okay. Can you tell me -- can you tell 24 me generally what your job performance reviews 25 were in the period before 2000?</p>	<p style="text-align: right;">21</p> <p>1 Waste Management for the vertical -- for 2 vertical expansion of the landfill. 3 When I say that, you know what I'm 4 talking about, correct? I mean, you were 5 there at that time? 6 A. Yes. 7 Q. Okay. The -- it's my understanding 8 that at the time, Tim Coulon was parish 9 president in 1999. Is that your recollection? 10 A. Yes. 11 Q. And it's my understanding that Waste 12 Management proposed to modify the permit that 13 would have included vertical expansion and 14 that would have extended the life of the 15 landfill for approximately ten years and would 16 have increased the capacity of the landfill by 17 ten million cubic yards. Do you recall that? 18 A. Yeah, I recall this proposal. 19 Q. Do you agree that -- that the permit 20 modification sought by Waste Management at 21 that time and that I understand was approved 22 by Mr. Coulon would have accomplished that? 23 MR. PEYTAVIN: 24 I've got to object because it's a 25 two -- it's a two-part question.</p>

<p style="text-align: right;">22</p> <p>1 MR. TALLEY: 2 Okay. 3 MR. PEYTAVIN: 4 You've got whether he knows it's 5 approved by Mr. Coulon in there and you've 6 got -- 7 MR. TALLEY: 8 Okay. That's fair. I'll 9 rephrase it. 10 Do you -- do you agree that the 11 Waste Management proposal that they put 12 forward in that time frame would have 13 increased the life of the landfill by 14 approximately ten years and the capacity by 15 ten million cubic yards? 16 THE WITNESS: 17 Well, it's an expansion that 18 we're going to do in time anyway. 19 BY MR. TALLEY: 20 Q. Okay. 21 A. I mean, they were just -- with their 22 proposal, they were just kind of changing the 23 order in which we would have extended the 24 landfill. 25 Q. All right. Were you involved in</p>	<p style="text-align: right;">24</p> <p>1 proceed with the work that would have been 2 necessary to prepare the permit modification? 3 A. Yeah. 4 Q. Okay. 5 A. I think there's a letter from 6 Mr. Coulon that -- 7 Q. And there is, okay. Thank you. 8 Now, is it also -- is it also correct, 9 Mr. Buller, that this type of expansion of the 10 Jefferson Parish Landfill, I mean, assuming 11 that it were to be approved, this would have 12 not been at any cost to the parish; in other 13 words, Waste Management would have done the 14 construction? The Waste Management would have 15 paid for the cost of the -- of the design and 16 the engineering and the permit preparation, 17 and then ultimately, Waste Management would 18 have paid for the construction? 19 A. Yes. 20 Q. Okay. Now, after this -- after this 21 approval for Waste Management to proceed with 22 the permit modification was approved in '99, 23 or that time period, it's my understanding 24 from looking at the documents that this 25 process stalled, for lack of a better word.</p>
<p style="text-align: right;">23</p> <p>1 evaluating that proposal? 2 A. Yes. 3 Q. Okay. Did you make a recommendation 4 to Mr. Coulon, or did you make a 5 recommendation to someone else that then made 6 a recommendation to Mr. Coulon? 7 A. I believe my recommendation was to 8 accept it in -- if Waste Management were to 9 offer any savings to the parish. 10 Q. Okay. And ultimately, Mr. Coulon did, 11 in fact, approve going forward with that 12 permit modification? 13 A. Well, it's my understanding that when 14 the idea was first broached, Waste Management 15 asked Mr. Coulon for permission to -- to 16 pursue it and that's when he gave them 17 permission to pursue it. 18 Q. Okay. 19 A. At that point, it was just an idea 20 expressed. There was nothing put down, you 21 know, on paper, no plans presented, just a 22 very general description. 23 Q. Okay. You do you agree -- you do 24 agree with me that Waste Management had the -- 25 had the approval of the parish president to</p>	<p style="text-align: right;">25</p> <p>1 And what I'd like to know is why didn't the 2 parish -- why didn't the parish be more 3 aggressive about supporting this permit 4 modification? 5 A. At the time that modification was 6 proposed -- you need to understand a bit about 7 the geography of the landfill. The -- we were 8 reaching the Waggaman Canal, which splits the 9 landfill in half, the property in half. So 10 there was a big expense in building bridges to 11 cross the canal and clearing the property 12 across the canal for Phase 3-B. 13 Waste Management was trying to avoid 14 that expense. We felt that if they were to do 15 the -- delay that -- that portion of it and do 16 the work with the vertical expansion as they 17 proposed, that there would have been a 18 significant reduction in their construction 19 costs. 20 Q. Okay. And why -- I'm still not 21 following you. Why you -- I'm still not 22 following you in terms of why you would not 23 have been -- why the parish would not have 24 been more supportive and more aggressive about 25 -- about the proposal that Waste Management</p>

<p>26</p> <p>1 was -- was putting forward at that time that 2 would have -- by your agreement would have 3 extended the life of the landfill by ten years 4 and increased the capacity by ten million 5 cubic yards? 6 MR. PEYTAVIN: 7 Asked and answered. 8 BY MR. TALLEY: 9 Q. Just the vertical expansion? 10 MR. PEYTAVIN: 11 Objection. It is asked and 12 answered. 13 BY MR. TALLEY: 14 Q. I mean, I understand -- I understand 15 what you're saying, that there were 16 construction issues with respect to the 17 Waggaman Canal and moving forward in that 18 direction. But that's not really my question. 19 MR. PEYTAVIN: 20 He answered your question. He 21 told you that Waste Management was going to 22 have significant savings on construction costs 23 by avoiding building the bridges for Phase 3-B 24 and -- and that's why the parish was 25 concerned, that there was no savings offered</p>	<p>28</p> <p>1 engineers, CDM, do a complete master plan to 2 build out the landfill. 3 Q. Right. 4 A. And there is actually an advantage to 5 crossing the canal and building out all of the 6 -- the entire property horizontally before you 7 go to a vertical expansion. 8 Q. Okay. 9 A. And so that's -- 10 Q. Well, you brought up CDM, and 11 actually, that was going to be my next 12 question. It's my understanding from the 13 documents that I looked at that CDM 14 specifically found that the -- that the 15 proposed vertical expansion concept was not 16 only viable, but was beneficial, and I'm using 17 their words, beneficial to Jefferson Parish 18 and put that information in writing. 19 You don't disagree with that, do you, 20 that it was both -- the vertical expansion -- 21 that CDM supported the fact that the expansion 22 was both viable and beneficial to the parish? 23 A. Well, I know it was viable. 24 Q. Okay. 25 A. I'm not sure about --</p>
<p>27</p> <p>1 to the parish, just savings to Waste 2 Management. It's been asked and answered. 3 MR. TALLEY: 4 Okay. Let him answer, if you 5 don't mind. I didn't appreciate that being 6 his answer. 7 But why would you -- why would it 8 have mattered to you or the parish if Waste 9 Management was going to save some money if in 10 the end the result to the parish was going to 11 be an extension of the life of the -- 12 THE WITNESS: 13 Well, the -- the -- I guess 14 that's where we got to stop. It's not 15 extension of the life of the landfill; it was 16 an extension of that contract. Okay? That -- 17 that expansion that Waste Management proposed 18 was -- is part of the plan. 19 BY MR. TALLEY: 20 Q. Yeah. 21 A. I mean, it's not going away because we 22 haven't agreed to that -- that proposal. 23 Q. But -- 24 A. In fact, we -- after that proposal was 25 offered to us, we had our consulting</p>	<p>29</p> <p>1 Q. Have you seen the -- 2 A. I'm sure -- the CDM report, yeah. 3 Q. Okay. That report goes on to say that 4 the -- that the -- that the permit 5 modification was cost effective, and 6 specifically, the cost measurements or the 7 cost comparisons, if I have my figures right, 8 were, this is from CDM, \$139,000 per acre for 9 the vertical expansion versus \$231,000 an acre 10 for horizontal expansion. Do you recall that? 11 A. Yes. 12 Q. You don't disagree with it? You don't 13 have any information to dispute that? 14 A. I don't disagree with that, but the 15 problem is none of that savings was ever 16 offered to Jefferson Parish. 17 Q. Okay. So it's really all about 18 Jefferson Parish getting -- getting some sort 19 of savings deal out of this permit 20 modification? 21 A. Yes. 22 Q. All right. But you weren't being -- 23 but at the same time, you weren't being 24 charged any more? Waste Management -- 25 A. No.</p>

<p style="text-align: right;">30</p> <p>1 Q. -- wasn't coming back to charge you 2 any more, right? So it was -- you have the 3 same contract in place, just they were saving 4 money; is that right? 5 A. Yes. 6 Q. Okay. 7 A. We felt that if they were saving 8 money, that savings should have been passed 9 on -- 10 Q. Okay. But -- 11 A. -- to us for -- in return for 12 extending the contract. 13 Q. But isn't it true that savings would, 14 in fact, have been passed on -- on to you if 15 Waste Management had been allowed to pursue 16 this aggressively and -- and get it done in 17 the way of being able to receive more waste, 18 okay, and thereby pay out greater royalties to 19 the parish, right? 20 A. Yeah. But that runs contrary to the 21 -- the parish wanted to reserve the capacity 22 for Jefferson Parish residents. I mean, you 23 talk about expanding the royalties, you know, 24 that -- that implies bringing in additional 25 waste from outside the parish.</p>	<p style="text-align: right;">32</p> <p>1 MR. TALLEY: 2 Well, first of all -- no, I don't 3 have to do that. I was doing it as a courtesy 4 to you to show you the document I was talking 5 about. I have not seen this. I'm getting 6 ready to ask him if he's familiar with this. 7 MR. PEYTAVIN: 8 Okay. 9 MR. TALLEY: 10 Just because he's not on a 11 document or wasn't copied on a document 12 doesn't mean he doesn't know what's in the 13 document. 14 MR. PEYTAVIN: 15 That's what I was asking you to 16 do was lay a foundation first -- 17 MR. TALLEY: 18 If you don't want to look at the 19 documents -- 20 MR. PEYTAVIN: 21 -- and ask him if he's ever seen 22 it. 23 MR. TALLEY: 24 -- that's fine, you don't have 25 to. I was just -- I was just telling you that</p>
<p style="text-align: right;">31</p> <p>1 Q. Okay. Who -- who -- when you say the 2 parish wanted, who are you talking about? 3 A. Well, it's only been, you know, in my 4 dealings with, at that time, Mr. Bonano and 5 the administration, any time there was any 6 statements by the council, they were concerned 7 that the -- that the bulk of the capacity of 8 the landfill be preserved for the garbage 9 disposal for Jefferson Parish residents. 10 Q. There's a letter dated January 16th, 11 2002, to Mr. Coulon from Barry Bordelon. 12 By the way, all the documents I'm 13 referring to are in this notebook. This one 14 happens to be under Tab 4. 15 In this document, Mr. Buller, if you 16 want to look at it, your counsel has it, says 17 that specifically -- it specifically -- again, 18 this is approximately two years now after -- 19 after the -- the -- 20 MR. PEYTAVIN: 21 Are you intending to question the 22 witness about a document that was sent from 23 Bordelon to Coulon with no cc to the witness? 24 I think you're going to have to first 25 establish whether he's ever seen it before.</p>	<p style="text-align: right;">33</p> <p>1 there's a copy there for you if you'd like to. 2 And in this document, 3 Mr. Bordelon -- do you know Barry Bordelon? 4 THE WITNESS: 5 Yes. 6 BY MR. TALLEY: 7 Q. Okay. Then you obviously know Tim 8 Coulon. Specifically says in the next to last 9 paragraph, it says, "Waste Management believes 10 that the parish can greatly benefit from the 11 expansion of the facility. The key benefits 12 are increased capacity and the extension of 13 the current low residential tipping fee for up 14 to an additional ten years or more." 15 Do you disagree with that? 16 A. Yeah. Because we have not lost any of 17 the capacity. 18 Q. Okay. But, I mean, specifically -- 19 we're -- we're -- we're already -- I'm already 20 past capacity. 21 A. Uh-huh. 22 Q. I'm talking about here, the extension 23 of the low residential tipping fee for an 24 additional ten years, that would have 25 happened, right? That would have been a</p>

<p style="text-align: right;">34</p> <p>1 benefit to the parish? That would have been a 2 financial benefit to the parish? 3 A. It depends on what -- what offers we 4 get. 5 Q. Well, sir, I'm asking you. Were you 6 asked to evaluate -- let me ask you this: Did 7 you see this letter? 8 A. I don't know. 9 Q. Okay. January 16th, because Waste 10 Management never received a response to this, 11 as far as I know, in all the documents that 12 I've seen and all the documents that I've been 13 provided. And I'd like to know if you're the 14 person in charge of the landfill and you just 15 said, well, it depends on this or it depends 16 on that, why wasn't there a response to this? 17 Why wasn't there ever a response back 18 to -- back to Waste Management to say 19 something like, we want you to renegotiate 20 your contract and -- and -- and give us more 21 of a financial benefit? I mean, where is a 22 document that says that? 23 A. I don't know if there is one. 24 Q. Okay. I don't know if there is one 25 either, but if there is, I'd like to see it.</p>	<p style="text-align: right;">36</p> <p>1 Q. -- government? 2 A. He was still in parish government. 3 They reorganized the administration and set up 4 some position, the deputy CAO position. Then 5 essentially, each CAO was responsible for, you 6 know, six, seven, eight departments, and our 7 department was reporting to Mr. Bonano. 8 Q. Okay. Your counsel has a copy of that 9 letter. Have you -- do you recall seeing the 10 February 17th, 2004, letter, or were you asked 11 to evaluate this or have any input? 12 And specifically, I wanted -- I'm 13 referring to the -- where it says in the 14 second paragraph, "Within weeks, Waste 15 Management plans to submit the modification to 16 the parish president for signature." 17 And who's the -- who was the parish 18 president at that time, 2004? 19 MR. PEYTAVIN: 20 He's still reading the letter, 21 Patrick. You shot a couple of questions at 22 him, and he's trying to see the letter first. 23 MR. TALLEY: 24 That's fine. 25 MR. PEYTAVIN:</p>
<p style="text-align: right;">35</p> <p>1 Okay. It's my understanding -- and 2 let me just take you back -- take you up to -- 3 into the 2004 time period. Would it be 4 correct to say that, now going past that 5 letter, I think, was 2002 going into 2003 and 6 into 2004, that there still had not been a 7 permit modification approved, an approved 8 permit modification for vertical expansion of 9 the landfill, right? 10 A. Correct. 11 Q. Okay. Now, it's my understanding that 12 in approximately 2004 and around the spring of 13 2004, there was a series of meetings that 14 occurred about this, and there was a letter to 15 -- in February of 2004, there was a letter to 16 Mr. Bonano from Mike Lavengco -- do you know 17 Mike Lavengco? 18 A. Yes. 19 Q. -- Waste Management, and obviously 20 Mr. Bonano at the time. 21 Now, at this point, the title of 22 Mr. Bonano, at least on this letter, is deputy 23 CAO. So did he leave -- when he left the 24 department, he stayed in the parish -- 25 A. Yes.</p>	<p style="text-align: right;">37</p> <p>1 I think your first question to 2 him was whether he had ever seen that letter 3 before. 4 THE WITNESS: 5 Yeah. And I'm reading it, and I 6 can't recall specifically that I've ever seen 7 this letter before. 8 BY MR. TALLEY: 9 Q. All right. That's fine. Let's not -- 10 let me get the time period straight here. 11 A. Uh-huh. 12 Q. 2004, you still would have been the 13 landfill -- 14 A. Yes. 15 Q. -- engineer? 16 A. Yes. 17 Q. Okay. I would think that you would be 18 the person that would evaluate information 19 like this? 20 A. Yeah. Well, you know, it says here 21 that I looked at the -- 22 Q. Right. 23 A. -- made comments on the proposed 24 modification. 25 Q. It says that you made permit --</p>

<p style="text-align: right;">38</p> <p>1 comments on the permit modification. He says 2 that the permit modification is now complete 3 in draft form and has been reviewed by 4 environmental department, Rick Buller. So I 5 assume that you agreed with it. 6 And Within weeks -- it goes on to say, 7 within weeks, it's going to be submitted to 8 the parish president for signature. 9 A. Uh-huh. 10 Q. My question to you here is: Who was 11 the parish president? 12 A. In 2000 -- 13 Q. '4. 14 A. -- 4? I'm thinking was that the last 15 year that Mr. Coulon was in office, or was 16 that when Mr. Broussard had took over? 17 Q. I'm thinking that it was Aaron 18 Broussard, but I'll let -- but you -- I need 19 you to respond to that. I tell you what. We 20 can -- 21 A. I can't -- I'm not sure. 22 Q. We can move on because I think I can 23 help you out with that later. 24 A. Yeah. 25 Q. This letter specifically sets forth,</p>	<p style="text-align: right;">40</p> <p>1 articulated advantages to the parish? What 2 did you do? What documents did you generate, 3 or what information did you generate that 4 would have gone ultimately to the parish 5 president to determine whether or not he would 6 sign this to evaluate what Waste Management 7 said? 8 THE WITNESS: 9 I know that we worked with CDM 10 and their evaluation of the proposed 11 modification. And that was the report where 12 you cited the cost savings in the 13 construction. 14 BY MR. TALLEY: 15 Q. Yes, sir. 16 A. And I -- outside of that, I don't know 17 if I submitted any -- any letter or memorandum 18 or anything addressing that. I can say that 19 my -- my recommendation on it was that unless 20 Waste Management were to offer a reduction in 21 the tipping fee, we shouldn't accept it. 22 Q. Okay. Was that -- was that 23 recommendation, your recommendation, was that 24 ever put in writing? 25 A. I don't know. I really don't know.</p>
<p style="text-align: right;">39</p> <p>1 also, and going on in the letter, what is 2 called, quote, unquote, global advantages to 3 Jefferson Parish. And in those global 4 advantages, it lists -- it lists six, what it 5 considered to be by Waste Management, 6 advantages to this contract. 7 Now, I understand from your testimony 8 earlier that you said that the parish wasn't 9 getting anything out of this. 10 A. Uh-huh. 11 Q. Waste Management was saving money, but 12 the parish wasn't getting anything out of 13 this. So what I'd like to know is what did 14 the parish do -- what did you do or what did 15 anyone from the parish do to evaluate -- 16 MR. PEYTAVIN: 17 He can only answer for himself, 18 and it's a multiple phase question again. 19 MR. TALLEY: 20 Okay. He can possibly answer for 21 the parish, but I see your objection, and I'll 22 ask the question accordingly. 23 What did the -- what did you do, 24 if anything, to evaluate what Waste Management 25 said would be the six, at least six,</p>	<p style="text-align: right;">41</p> <p>1 Q. Okay. I'm going to ask you and I'm 2 going to say for the record and ask the parish 3 in this litigation that I will like to have 4 produced to us any information, any 5 documentary information, which recommends -- 6 which sets forth that recommendation, okay, 7 that this not be accepted unless there's a 8 increase in the tipping fee. Is that right? 9 A. A decrease. 10 MR. PEYTAVIN: 11 Decrease. 12 BY MR. TALLEY: 13 Q. I'm sorry. A decrease in the tipping. 14 A. I'll check my files. 15 Q. Thank you. And, you know, 16 specifically why I want to know is because in 17 looking at the records that I have and the 18 documents that I have, it's -- I don't -- I 19 don't see anything that -- where that was ever 20 on the table for negotiation. 21 Do you know -- do you -- were you 22 present in any meetings where that was 23 discussed with -- 24 A. No. 25 Q. -- anybody from Waste Management?</p>

<p style="text-align: right;">42</p> <p>1 A. No. My dealings were pretty much on 2 the technical aspects -- 3 Q. Okay. 4 A. -- of the -- of the modification. 5 Q. So -- so we have -- going back to, and 6 there are others in between, but going back to 7 the first -- first document that I referred 8 you to, which was the letter in 2002 from 9 Mr. Bordelon which set out what was perceived 10 to be the advantage of this contract, and now 11 we're two years later, Waste Management is 12 still moving forward. Waste Management is 13 still saying that the -- the proposed 14 expansion presents advantages to Jefferson 15 Parish. I don't see any response to this 16 letter either. 17 I nev -- I don't see anything that 18 -- that comes back to suggest we agree with 19 you or we -- no, no. I don't see anything 20 that comes back to say we disagree with you on 21 any of these things, nor do I see anything 22 that says, you know, we agree with you, but 23 we're not going to go forward unless you give 24 us a break on the tipping fee. 25 A. Uh-huh.</p>	<p style="text-align: right;">44</p> <p>1 services of River Birch Landfill to operate 2 the Jefferson Parish Landfill. Okay? 3 And that is right around the same time 4 period that this letter that I just referred 5 to, the February 16th letter that your name is 6 mentioned in. Right around that time, it was 7 indicated that Mr. Broussard didn't want to go 8 forward with Waste Management and he wanted to 9 retain the services of River Birch. 10 Did you know anything about that? 11 A. No. 12 Q. Okay. Would it be fair to say that 13 the reason why there was no -- no follow-up on 14 your recommendation -- okay. Your 15 recommendation, as I understand it, would be 16 to go forward with the Waste Management 17 proposal if there was a decrease in the 18 tipping fees, that there was no follow-up on 19 that by the people above you because they were 20 trying to get a deal with River Birch? 21 A. I don't know that. 22 Q. Okay. 23 MR. TALLEY: 24 He can say he doesn't know. 25 MR. PEYTAVIN:</p>
<p style="text-align: right;">43</p> <p>1 Q. Right? Is it -- do you know of any 2 documents that say -- 3 A. I don't know of any. I don't know of 4 any. 5 Q. Okay. You may or may not know 6 anything about this, Mr. Buller, but around 7 this period of time, which has been in the 8 spring of 2004, shortly after this letter, 9 there was a meeting in April. There was a 10 meeting that included John Warren, Mike 11 Lavengco, Steve Cannon, Dutch Connick, Tim 12 Whitmer, and Deano Bonano at the Timberlane 13 Country Club that was discussing this landfill 14 expansion proposal. 15 And the information that I have out of 16 here is that Tim Whitmer informed Dutch 17 Connick at that time that Mr. Broussard -- and 18 I assume Mr. Broussard is Aaron Broussard, and 19 I'm assuming that he was parish president at 20 the time -- Mr. Whitmer advised that 21 Mr. Broussard was not happy with the way that 22 Waste Management treated Bobby Bourgeois, and 23 River Birch was a good partner and known in 24 the community, and further informed me that 25 Mr. Broussard was inclined to retain the</p>	<p style="text-align: right;">45</p> <p>1 Yeah. Well, he already said he 2 didn't know anything about this meeting or the 3 conversation or the topic. 4 MR. TALLEY: 5 It's a little bit of a different 6 question. 7 MR. PEYTAVIN: 8 Okay. I understand. 9 BY MR. TALLEY: 10 Q. Do you know why -- okay. Do you know 11 why people did not move -- parish officials 12 did not move forward more aggressively with 13 your recommendation to go forward with the 14 Waste Management proposal, and at the same 15 time, try to get a better deal on the tipping 16 fee? 17 A. I don't know. 18 Q. You don't know that? 19 A. I assumed that they were -- if there 20 was nothing in writing, I assumed that they 21 were -- 22 Q. You assumed that was being done? 23 A. -- making it -- that they were asking 24 that. 25 Q. Okay. But you don't have -- there are</p>

<p style="text-align: right;">46</p> <p>1 no documents to show that? 2 A. I'll look. 3 Q. Okay. Are you aware that with the 4 change of administrations from the Tim Coulon 5 administration to the -- to the -- to the 6 Aaron Broussard administration, and you may or 7 may not be aware of this, that there was a 8 change in the perspective of who they wanted 9 to -- to be the -- in the new administration 10 who they wanted to be the operator of the 11 landfill? 12 A. No. 13 Q. All right. Now, around -- well, 14 actually, at an earlier point in time, I 15 should have mentioned this earlier, was there 16 ever -- in the years before 2004, was there 17 ever a document that you saw that was prepared 18 by a person by the name of Tim Mader of Mader 19 & Mierson in Lafayette. Do you know Tim 20 Mader? 21 A. Yes, I know -- 22 Q. You know the firm Mader Mierson in 23 Lafayette? 24 A. I knew it as Mader & Miers. 25 Q. Mader -- Mader & Miers, it could be,</p>	<p style="text-align: right;">48</p> <p>1 Q. Sure. 2 A. -- because we don't have to slope back 3 our fills. 4 Q. Right. But the idea -- 5 A. I objected. There was a number of 6 problems with trying to operate it like that. 7 Q. I was just getting ready to ask you 8 what your position was on that. 9 Okay. As part of that -- as part of 10 that presentation or that concept, it -- it -- 11 part of that was that there was going to be 12 one operator, though, right? 13 A. Not the way it was presented to me. 14 Q. Okay. Now, back to the chronological 15 time -- time frame of that April meeting that 16 I was asking you about. Right around that 17 period of time, there was a series of 18 memoranda that were generated by Ms. Winter 19 and by you, and this was in June of 2004. 20 A. Uh-huh. 21 Q. And I'm specifically talking about 22 four reports. And the first one is, which is 23 under Tab 13 -- you see, I don't know where -- 24 do we have these tabbed one, two, three, four 25 like I do?</p>
<p style="text-align: right;">47</p> <p>1 I'm sorry. 2 A. Yeah. 3 Q. Which depicted the River Birch and the 4 Jefferson Parish Landfill as one contiguous 5 landfill. Did you ever see that -- that -- 6 that drawing, rendering? 7 A. Yes. Yes. 8 Q. Okay. And is it your recollection 9 that this document was submitted to you by 10 River Birch? 11 A. Not to me -- 12 Q. Or someone associated with you? 13 A. -- directly, but it was presented to 14 the administration. It was shown to me and 15 kind of asked what do you think about this. 16 Q. Okay. So there was a -- there was an 17 idea by somebody at this point in time that -- 18 that -- that the Jefferson Parish Landfill and 19 the River Birch Landfill could be a contiguous 20 landfill? 21 A. Yes. And it was -- it was presented 22 to me as an idea that both landfills could 23 continue operating side-by-side joining and 24 that increases the capacity of both 25 landfills --</p>	<p style="text-align: right;">49</p> <p>1 A. Uh-huh. 2 Q. Okay. Tab 13 under Tab 1. And this 3 is a -- this is a report from Marnie Winter to 4 Deano Bonano, June 3rd, 2004. And then there 5 were three others. June 29th, 2004, was a 6 report from you to Marnie Winter regarding 7 estimated 2004 landfill professional services. 8 And then there was a report from Marnie Winter 9 to Aaron Broussard, July 14th, 2004, called 10 Landfill Report Addendum, Additional -- 11 Request for Additional Information. And then 12 there was -- the last one is a report from 13 Marnie Winter to D. J. Mumhrey, executive 14 assistant of the parish president's office, 15 regarding projected landfill capital costs. 16 What I'd like to know, Mr. Buller, if 17 you know, and I understand that some of these 18 were generated by Ms. Winter and not by you, 19 but I'd like to know why at this particular 20 period of time you-all were being asked to 21 provide these reports to the parish president? 22 And specifically in the first one, it says, 23 the questions posed in your request, okay? So 24 there are obviously questions that are being 25 posed to this department.</p>

<p style="text-align: right;">50</p> <p>1 Why was this being done? 2 A. I -- I didn't get a specific reason. 3 We were just given the questions to answer. 4 And just to clarify, even though lots of 5 documents are from Marnie, they were -- I 6 generated them. 7 Q. I -- I -- I figured that. 8 A. Yeah. 9 Q. I was going to get to that. 10 A. Yeah. I mean, you can -- if you look 11 at the footer -- 12 Q. Right. 13 A. -- and see it comes from -- 14 Q. Yeah. 15 A. -- from my -- 16 Q. I -- I assumed that you were at least 17 knowledgeable about them. 18 A. Uh-huh. 19 Q. And it's not my intent, really, to go 20 through -- through these chapter and verse, 21 but I really want to know why these were being 22 generated at this particular period of time 23 because it -- it -- it just seems to me, and 24 it could be circumstantial or there could be 25 other reasons, that these reports come very</p>	<p style="text-align: right;">52</p> <p>1 Okay. 2 MR. TALLEY: 3 I'm asking the question in a 4 little bit different way, but -- 5 MR. PEYTAVIN: 6 Well, but you're putting your own 7 speculation as to why it was asked in it, 8 admittedly, because you're saying it was close 9 in time to the other things and then going to 10 ask him to put that in there, too, and he's 11 not going to speculate, Patrick. He already 12 answered the question. 13 BY MR. TALLEY: 14 Q. Okay. It's fair to say, Mr. Buller, 15 that up until this period of time, you were 16 not asked to provide these kind of reports or 17 answer these questions at an earlier point in 18 time, right? 19 A. No. 20 Q. Okay. You don't -- and again, you 21 said you don't know -- you don't know exactly 22 why you were asked to do this. 23 In terms of the information in the 24 reports, would it be better for me -- because 25 I don't want to take up a bunch of time if I</p>
<p style="text-align: right;">51</p> <p>1 close after that meeting in April when it -- 2 it became clear that Aaron Broussard wanted a 3 different operator. And then -- 4 MR. PEYTAVIN: 5 The witness already testified he 6 doesn't -- 7 MR. TALLEY: 8 I'm not finished with my 9 question. I understand that. 10 MR. PEYTAVIN: 11 Let me -- 12 MR. TALLEY: 13 I understand. 14 MR. PEYTAVIN: 15 Let me get my objection in 16 because what you're doing is you're 17 speculating and putting it in his head to say 18 the same thing as speculation. He already 19 testified he doesn't know why these questions 20 were asked. He just responded to it. 21 MR. TALLEY: 22 Okay. He can -- okay. That's -- 23 and that's fair. And he can continue to say I 24 don't know. 25 MR. PEYTAVIN:</p>	<p style="text-align: right;">53</p> <p>1 should be asking the question to someone else. 2 I'm going to be deposing both of you today. 3 Would it be -- would it be fair to ask 4 you questions about these reports, or would it 5 be better to ask the questions of Marnie 6 Winter? You can't look at her and let her 7 tell you. No. I mean, are you familiar with 8 these reports? 9 A. I'm familiar with them, yeah. You 10 should ask -- if it has -- if it regards the 11 content, you should ask -- ask me. 12 Q. Okay. With regard to the content of 13 the June 3rd, 2004, report, which is the 14 landfill report, would you agree with me that 15 it is relevant to a comparison of Waste 16 Management and River Birch? 17 A. Well, it doesn't address River Birch 18 in any -- in any way. 19 Q. I didn't say that. My question is 20 only that it would -- that it would be -- or 21 that it could be relevant to a comparison of 22 Waste Management and River Birch. 23 MR. PEYTAVIN: 24 He -- he already -- 25 MR. TALLEY:</p>

<p style="text-align: right;">54</p> <p>1 It could be used. 2 MR. PEYTAVIN: 3 -- answered the question. 4 MR. TALLEY: 5 His answer was it doesn't 6 reference it. That's not my question. I 7 didn't ask him if it referenced. I'm asking 8 if it could be used in that -- in that 9 context. 10 MR. PEYTAVIN: 11 In your mind? 12 MR. TALLEY: 13 No. In his mind. I'm asking 14 him. He generated the report. 15 (The Videographer: Five minutes of 16 tape left, counsel.) 17 MR. PEYTAVIN: 18 Do you want to ask him if it was 19 his understanding that that's what it was when 20 he was preparing it? 21 MR. TALLEY: 22 Yeah. No. No, no. I'm not 23 asking him that because he's already said he 24 doesn't know why he was preparing it. I'm 25 asking him if it could be used in that</p>	<p style="text-align: right;">56</p> <p>1 No. 2 BY MR. TALLEY: 3 Q. Okay. Who was involved in asking you 4 to make these -- to make the comparisons that 5 are made in here? Who was -- well, who was 6 involved in asking you to -- to -- to make -- 7 give the information regarding the cost of 8 closing the landfill? 9 A. Is that in the June 3rd report? 10 MR. PEYTAVIN: 11 We've switched reports? 12 MR. TALLEY: 13 No. The report talks about 14 post-closure costs and budgeting these costs. 15 MR. PEYTAVIN: 16 In the June 3rd one? 17 MR. TALLEY: 18 Yeah. 19 MR. PEYTAVIN: 20 Back to this one. 21 BY MR. TALLEY: 22 Q. And specifically on this second page 23 where it says, "What was the total revenue 24 received by Jefferson Parish for royalties," 25 and then it's -- it goes on to say, the next</p>
<p style="text-align: right;">55</p> <p>1 context. 2 MR. PEYTAVIN: 3 Well, by who? By you? 4 MR. TALLEY: 5 No. By Deano Bonano, this person 6 who -- 7 MR. PEYTAVIN: 8 All right. So now you want him 9 to speculate what somebody -- 10 MR. TALLEY: 11 Yeah. 12 MR. PEYTAVIN: 13 -- else could do with this -- 14 MR. TALLEY: 15 Yes. 16 MR. PEYTAVIN: 17 -- particular report? 18 MR. TALLEY: 19 Yes. Yes. Or Aaron Broussard. 20 MR. PEYTAVIN: 21 Rick, I'm not -- I'm going to -- 22 we already discussed not speculating. Do you 23 have any idea why anybody was asking for this 24 particular report? 25 THE WITNESS:</p>	<p style="text-align: right;">57</p> <p>1 one, The parish will be liable for 2 post-closure care and maintenance for 3 30 years. Is there an amount being accrued to 4 handle this in the future? Has anyone 5 calculated how much this is? Is the parish 6 liable for final capping? Has the cost been 7 determined and accrued? 8 What I want to know is -- is who was 9 -- who was -- who was asking about -- who was 10 asking to receive this information; do you 11 know? 12 THE WITNESS: 13 I think these questions came from 14 Tim Whitmer. 15 BY MR. TALLEY: 16 Q. Okay. And you've already said you 17 don't know the context, and you've already -- 18 A. No. 19 Q. -- said that River Birch wasn't -- 20 wasn't mentioned? 21 A. No. 22 MR. PEYTAVIN: 23 Okay. 24 MR. TALLEY: 25 Do you want to change tapes?</p>

<p style="text-align: right;">58</p> <p>1 (The Videographer: Yeah.) 2 MR. PEYTAVIN: 3 Okay. 4 MR. TALLEY: 5 Okay. 6 (The Videographer: Going off the 7 record. The time is 11:04. This is the end 8 of Tape 1.) 9 (Recess.) 10 (The Videographer: This is the continued 11 videotape deposition of Joseph Richard Buller. 12 This is the beginning of Tape 2. The time is 13 now 11:10.) 14 BY MR. TALLEY: 15 Q. Okay. Mr. Buller, we're back on the 16 record. I guess why I'm asking you is -- is 17 -- is why this is being done, why these 18 evaluations are being done is because really, 19 pretty much the last paragraph of this -- of 20 this memorandum or report, the question is 21 being asked, "What is the estimated life of 22 the landfill without any vertical or 23 horizontal expansion?" 24 And I'm trying to figure out why 25 someone would ask that question, when just a</p>	<p style="text-align: right;">60</p> <p>1 Now, I asked you earlier about being 2 -- about -- about -- about River Birch and 3 that meeting in April where it was -- where it 4 was first mentioned that the -- that -- that 5 Aaron Broussard had a preference for -- for a 6 different operator, that would be River Birch, 7 and you said you didn't know anything about 8 that. 9 Had you -- let me just ask you in a 10 different context. Outside of your official 11 capacity, had you heard anything about -- 12 about River Birch being involved in either the 13 Waste Management permit modification or 14 efforts to be the operator of the landfill? 15 MR. PEYTAVIN: 16 We need to put a temporal element 17 on that. 18 MR. TALLEY: 19 At that point in time. 20 MR. PEYTAVIN: 21 2004, you mean? 22 MR. TALLEY: 23 2004. 24 MR. PEYTAVIN: 25 Okay.</p>
<p style="text-align: right;">59</p> <p>1 few months before and for years before, at 2 least Waste Management has the impression that 3 everybody is moving forward with the permit 4 modification. 5 So why would somebody be asking the 6 question, what is the estimated life of the 7 landfill without any vertical, which is the 8 Waste Management proposal, or horizontal 9 expansion, which is what I understand was 10 recommended by CDM? The only two things that 11 are out there, why would somebody ask the 12 question, you know, what's the estimated life 13 without going forward with either of these? 14 A. I don't know. 15 Q. You don't have any idea? Okay. 16 I see that Mr. Whitmer's copied on 17 this. So I assume that he got a copy of this, 18 then. 19 A. Yeah. 20 Q. I don't know if you know or not. Did 21 you have any discussions with him 22 personally -- 23 A. No. 24 Q. -- at the time that this e-mail was 25 generated?</p>	<p style="text-align: right;">61</p> <p>1 THE WITNESS: 2 No. 3 BY MR. TALLEY: 4 Q. And this -- this report right here, 5 the 2004, this is not a regular report that 6 you did like on a, you know, annually or 7 something that was done in the regular course 8 of your business for prior administrations? 9 A. That's correct. 10 Q. Okay. Now, the next -- the next 11 document that I want to ask you about, and 12 again, I'm going to try not to go through a 13 lot of detail with these because I think 14 they're self-explanatory, but this one is -- 15 this one is called Estimated Landfill 16 Professional Services, okay? 17 And this one is actually from you, and 18 it says, and specifically, "In response to 19 Mr. Whitmer's request -- 20 A. Uh-huh. 21 Q. -- "to extend the landfill expense 22 estimates through the end of 2004, the 23 Professional Services budget may need an 24 explanation." 25 So what I'd like to know is why, if</p>

<p style="text-align: right;">62</p> <p>1 you know, was Mr. Whitmer involved in this and 2 requesting further information, and in this 3 case, extending the landfill estimates through 4 the end of 2004? Why was he asking for that 5 information? 6 A. I don't know specifically. But in 7 this regard, you know, Mr. Whitmer's 8 involvement in the operating budget, you know, 9 if he sees a large increase in a line item in 10 the budget, it wouldn't be out of the question 11 for him to ask what -- you know, what's it 12 for. 13 Q. Did it -- did it occur to you -- okay. 14 You have said -- you've testified that you 15 don't know why these questions are being asked 16 or why you or Ms. Winter are being asked to 17 generate this information in these reports. 18 Did it occur to you at that point in 19 time to say, especially in response to -- to 20 -- to the -- to the prior report, the question 21 in the prior report which said -- which talks 22 about the estimated life of the landfill 23 without any vertical or horizontal expansion, 24 did it ever occur to you to say, what about my 25 recommendation that we move forward with this</p>	<p style="text-align: right;">64</p> <p>1 Dees? That's it. 2 A. Thank you. 3 Q. Do you know Chuck Dees? 4 A. Know his name. 5 MR. PEYTAVIN: 6 Tab 5 we have is a CDM report. 7 MR. TALLEY: 8 15. 9 MR. PEYTAVIN: 10 15? 11 THE WITNESS: 12 I know who Chuck Dees is. I'm 13 not sure I've ever met him. 14 BY MR. TALLEY: 15 Q. Okay. All right. In this, you see 16 who -- the people that are copied in here are 17 Deano Bonano and Marnie Winter. You were not 18 copied, but I don't -- and I don't know if 19 you've ever seen this document or not. Have 20 you; do you recall? 21 A. I don't recall specifically, but it -- 22 it's possible. 23 Q. Okay. Well, in this letter, basically 24 the Waste Management proposal is reiterated 25 again. So it, in fact, is not dead. And I'd</p>
<p style="text-align: right;">63</p> <p>1 and negotiate the tipping fee with Waste 2 Management? Where is that on the table? Did 3 that conversation ever come up by you? 4 In other words, you've said that you 5 don't understand -- that you didn't know why 6 you were being asked this question. But it 7 would seem to me like in a person in your 8 position that's already made kind of a 9 recommendation, and this is totally different 10 from the recommendation, that you would say, 11 well, you know, what happened to my 12 recommendation? Why are these questions being 13 asked? But you didn't -- you didn't ever 14 raise that either with Ms. Winter or with -- 15 A. No. I thought it was my job to answer 16 the questions. I made my recommendation on 17 the Waste Management proposal. I guess by 18 this point, I assumed that was -- that was a 19 dead issue. 20 Q. Okay. All right. Well, maybe it is 21 and maybe it's not. Let's look at -- in 22 August of 2004, and I have this document under 23 Tab 5. This is a letter that we sent to Tim 24 Whitmer by Waste Management, specifically by 25 Charles Dees? Do you know Charles Dees, Chuck</p>	<p style="text-align: right;">65</p> <p>1 like to know if you were given the opportunity 2 to either evaluate this, respond to this, or 3 -- or provide any information in response to 4 this? 5 A. Again, I don't specifically recall. 6 I'd have to go back and look at -- at my 7 files. 8 Q. Okay. Well, let me ask you to do 9 that, because what's been produ -- what I 10 have, you know, which we got through the 11 public -- public -- what's it called? 12 A. Public record. 13 Q. -- request basically shows the -- the 14 reports that were generated in the June and 15 July time period. But again, this is now the 16 third letter that I've referenced from Waste 17 Management that I find no response to by the 18 parish. 19 But specifically in this -- and if you 20 want to look at Page 2 of the letter under 21 where it says Option 1, it says -- this option 22 -- right in the middle of the paragraph. 23 "This option has been reviewed by the 24 Environmental Department; i.e., Rick Buller, 25 Landfill Engineer. We believe Mr. Buller</p>

<p style="text-align: right;">66</p> <p>1 concurs with the estimated additional capacity 2 as well as the technical feasibility of the -- 3 of this -- this approach." 4 I guess what I'd like to ask is not so 5 much whether or not you do agree or don't 6 agree, but whether you were consulted by the 7 parish, by Mr. Whitmer, when this letter came 8 in, to say, hey, Rick, is this -- do you agree 9 with this, or do you not agree with this, and 10 what information do you have on this? 11 Do you recall -- do you recall having 12 a conversation with Tim Whitmer following the 13 July 19th, 2004, letter about the reference 14 that was made to you in the letter? 15 MR. PEYTAVIN: 16 This is an August 10th letter. 17 THE WITNESS: 18 August 19th letter. 19 MR. PEYTAVIN: 20 August 19th? 21 THE WITNESS: 22 I don't recall anything 23 specifically. 24 BY MR. TALLEY: 25 Q. Do you know anything about the -- the</p>	<p style="text-align: right;">68</p> <p>1 misunderstanding. 2 MR. TALLEY: 3 Well, the -- yeah. And I'm -- I 4 might be just glossing over it 'cause I 5 thought it was pretty much -- that was already 6 covered. But your -- your -- your memoranda 7 -- your report's in June and July, and June 8 and July covered the life of the landfill, 9 right? 10 THE WITNESS: 11 Yes. 12 BY MR. TALLEY: 13 Q. I mean, without -- without any 14 expansion, right? 15 A. Yes. 16 Q. And what was -- what was the -- the 17 anticipated date of the filling of 3-A and 3-B 18 without any vertical expansion, without any 19 horizontal expansion? 20 A. It said approximately five years. 21 Q. So that's 2009? 22 A. Uh-huh. 23 Q. And pretty much that had been the 24 conversation with everybody that started -- 25 that started back in 1999 that we got about</p>
<p style="text-align: right;">67</p> <p>1 -- the -- shortly after that, in September of 2 2004, Tim Whitmer sent a letter to, and this 3 is under Tab 16, sent a letter to -- to 4 Charles Dees in response to your August 19th 5 letter. He says he -- he says, "I offer the 6 following." And basically says that the 7 administration is going to be sending a letter 8 to the council stating its intent to advertise 9 a new operating contract to become effective 10 once Phase A and 3-B are filled. 11 I have several questions about this. 12 First of all, you don't -- based on your prior 13 testimony, you don't recall having any 14 conversations with Tim Whitmer following Waste 15 Management's August 19th, 2004, letter, right? 16 A. I don't have any specific 17 recollection. 18 Q. Okay. And so were you involved in the 19 decision about the administration to advertise 20 for a new operating contract that's referenced 21 in this letter? 22 MR. PEYTAVIN: 23 Well, actually, it says upon the 24 filling of Phase 3-A and 3-B. So we need to 25 make that clarification so there's no</p>	<p style="text-align: right;">69</p> <p>1 nine years' capacity left in -- nine or 2 ten years' capacity left in this, and we need 3 to start moving forward with getting more 4 capacity, right? 5 A. Uh-huh. 6 Q. Back to my question. I just want to 7 know pretty much if you have been asked to 8 participate -- if you had any involvement in 9 the decision to advertise for a new operating 10 contract that's referenced in this? 11 A. Well, over the years, I've written 12 several memos trying to pinpoint when would be 13 the right time to advertise for the -- for the 14 new operating contract, and coincidentally, 15 it's now. It's in the parish journal today. 16 Obviously in June of 2004, I was 17 saying another five years. Looks like it's 18 going on to -- probably going to continue on 19 to about 2012. So you can see it's been a 20 difficult timeline to pin down. 21 Q. Yeah. Well, there's been a lot of 22 diversion of waste in the -- in the interim, 23 too. 24 A. Yes. 25 Q. That could be an explanation. We'll</p>

<p style="text-align: right;">70</p> <p>1 get into that later. But going -- okay. 2 You mentioned several things I need to 3 follow up on. I have not seen any of those 4 reports or those letters or communications 5 that you just referenced where you were 6 referencing communications about what would 7 happen -- I guess what you said is what would 8 happen after -- after we reached capacity in 9 3-A and 3-B. 10 A. Uh-huh. 11 Q. You said you've generated some 12 communications on that? 13 A. Yes. Over the years I've -- 14 Q. Okay. 15 A. -- I've listed a timeline to -- 16 Q. Okay. I guess this would be a good 17 time to ask this question because I haven't 18 received any documents from the parish yet in 19 response to my request for production. But 20 have you been asked to -- to supply the 21 parish's attorney in this case with -- with 22 documents from your files? Are you in the 23 process of doing that? 24 A. Yes. 25 Q. Okay. All right. Let me specifically</p>	<p style="text-align: right;">72</p> <p>1 this was written by Tommy Wilkin -- Thomas 2 Wilkinson, Parish Attorney, otherwise known as 3 Tommy Wilkinson, in the March 2004 time 4 period, and it's -- it's addressed to all the 5 council -- council members at the time, and 6 it's copied to Mr. Broussard, Mr. Whitmer, 7 Mr. Bonano, and Ms. Winter. 8 Do you know what the -- have you ever 9 seen this letter before? Basically, he gives 10 opinions regarding the time, contract term, 11 issues regarding modification, how long the 12 contract can go, so on and so forth. Have you 13 ever seen that before? 14 A. I think so. 15 Q. Okay. Did you have any involvement in 16 the preparation of that letter? 17 A. I don't know. I'd have to go back and 18 check -- check my files. 19 Q. Okay. Now, how would your files help 20 you to know whether you had involvement in 21 this? Do you maintain like some sort of 22 diary? 23 A. Not a diary, but I would have had some 24 kind of memo to Wilkinson if he had asked me 25 any questions on it.</p>
<p style="text-align: right;">71</p> <p>1 say that I -- we've talked about a couple of 2 things, but I'd like to have those documents, 3 too. 4 A. Uh-huh. 5 Q. If you -- what kind of -- how do you 6 maintain your files in the office on the 7 landfill? I mean, is there just -- is it like 8 one landfill file with -- in one file drawer, 9 or are they just -- are they subdivided into 10 all kinds of different categories? 11 A. It's subdivided into a number of 12 topics. 13 Q. Okay. All right. Well, I've asked 14 for certain documents that I'm sure your 15 attorney will get -- or the parish's attorney 16 will get with you. But specifically as things 17 come up here, I'm going to reiterate, and in 18 particular, I'd like to see those 19 communications that you're talking about. 20 A. Uh-huh. 21 Q. All right. Before I move too far past 22 -- past this time period, there was a document 23 that was generated around this 2004 time 24 period that -- and it's under Tab 10 if you 25 want to look at it -- but it's -- it was --</p>	<p style="text-align: right;">73</p> <p>1 Q. Okay. Okay. Can I ask you to look 2 for that, too, then, please, if you have any 3 communications relating to this March 25th, 4 2004 document or around this time period? 5 MR. PEYTAVIN: 6 Well, let me say this -- 7 MR. TALLEY: 8 I want to have -- 9 MR. PEYTAVIN: 10 -- to the extent that any 11 requests are being made for documents that 12 could be subject to attorney/client privilege, 13 we reserve the right to review those documents 14 first -- 15 MR. TALLEY: 16 I understand. 17 MR. PEYTAVIN: 18 -- and do a privilege log with 19 respect to that. Tom Wilkinson is the parish 20 attorney, as everybody knows, and we know he 21 had two hats, one as an attorney and one as an 22 administrative officer, and we intend to fully 23 protect the attorney/client privilege while 24 recognizing that if he was in an 25 administrative capacity, it might not be</p>

<p style="text-align: right;">74</p> <p>1 privileged. 2 MR. TALLEY: 3 Well, and that brings up a good 4 point. I want a privilege log, okay, as to 5 any document that you -- that you withhold -- 6 withhold may be a bad word -- any document 7 that you do not produce on the basis of 8 attorney/client privilege that relates to 9 Mr. Wilkinson. I want a privilege log on that 10 because we -- 11 MR. PEYTAVIN: 12 I understand that. 13 MR. TALLEY: 14 -- will probably contest a lot -- 15 some of that. We may. 16 MR. PEYTAVIN: 17 And we fully intend to provide 18 you with a log as required by the Federal 19 Rules of Civil Procedure of any documents 20 withheld as privileged. 21 MR. TALLEY: 22 That's fine. 23 Let me say this, Mr. Buller: 24 This -- this time period that we're kind of 25 talking about now, which hopefully I can get</p>	<p style="text-align: right;">76</p> <p>1 going on at that time, such as the meeting 2 that was held at Timberlane Country Club? 3 A. No. 4 Q. All right. Later in 2004, when I say 5 later, I mean after -- after September -- let 6 me -- let me -- let me ask you to just wait -- 7 A. Okay. 8 Q. -- to look at those documents -- 9 A. All right. 10 Q. -- until I refer you to something 11 because this doesn't have anything to do with 12 the documents. 13 A. Okay. 14 Q. The week after that September 22nd 15 letter from Tim Whitmer, Jefferson Parish, 16 there was a resolution that was brought up 17 before the council to advertise for a landfill 18 operating contract regarding an RFP that 19 related to obtaining services with respect to 20 woody waste. Do you recall that? 21 A. In 2004? 22 Q. In 2004. 23 A. I don't recall in 2004. 24 Q. You do not, okay. All right. In the 25 fall of 2004, Jefferson Parish issued a RFP</p>
<p style="text-align: right;">75</p> <p>1 off of pretty quickly, is where -- where the 2 documents reflect a change of perspective on 3 -- on -- on the part of the parish around the 4 same time that the administration changes in 5 terms of who's operating the landfill. And by 6 that, I mean from about February of 2004 7 through -- I think where I left off before I 8 flipped back was about September, that letter 9 from Tim Whitmer, September 2004. That period 10 of time, February through September. 11 I would like to have any 12 documents that you have. And we have some of 13 them, obviously, some of those reports, but 14 any communications directed to you asking 15 questions to do any sort of evaluation or 16 analysis or provide any information in that 17 time period, okay? 18 THE WITNESS: 19 Okay. 20 BY MR. TALLEY: 21 Q. Do you know why this document was 22 generated by Mr. Wilkinson? 23 A. No. 24 Q. Do you know whether or not it bears 25 any relationship to the other events that were</p>	<p style="text-align: right;">77</p> <p>1 that was related to woody waste, and River 2 Birch submitted a proposal for that. 3 MR. PEYTAVIN: 4 The witness says he doesn't 5 recall that. 6 BY MR. TALLEY: 7 Q. Okay. Did you have -- so you would 8 not have had any eval -- any -- any -- played 9 any part in the evaluation or analysis? 10 MR. PEYTAVIN: 11 Is that the C&D? 12 MS. WINTER: 13 That's what I'm thinking. 14 MR. PEYTAVIN: 15 Is that the 2000 -- 16 MS. WINTER: 17 May be. 18 THE WITNESS: 19 Was that in 2004? 20 MR. TALLEY: 21 Well -- 22 MS. WINTER: 23 Is it construction/demolition? 24 MR. TALLEY: 25 It could. I think it might be.</p>

<p style="text-align: right;">78</p> <p>1 Well, let me just phrase the 2 question like this. 3 MR. PEYTAVIN: 4 It's Tab Number 21, I believe, 5 Patrick. Well, that's a different year. 6 Sorry. 7 MR. TALLEY: 8 Yeah. No. It's not that. It's 9 Number 6. 10 Well, let's just do it this way. 11 I don't know. I could be wrong. I could 12 possibly be wrong about whether it was woody 13 waste. 14 But let me just ask the question 15 this way: Were you asked to participate in an 16 RFP that related to obtaining services 17 regarding any kind of waste in the fall of 18 2004? 19 THE WITNESS: 20 If we did something, I'm sure I 21 would have been involved in it. I just don't 22 recall any effort at that time period. 23 BY MR. TALLEY: 24 Q. Okay. Do you recall River Birch 25 submitting a -- the -- a proposal for the</p>	<p style="text-align: right;">80</p> <p>1 Q. All right. Mr. Buller, in the -- 2 after -- following the September 22nd letter 3 that we talked about that -- from Tim Whitmer 4 regarding the administration's intent to 5 advertise for a new operating contract, do you 6 recall that in the fall of 2004, and 7 particularly in the October time frame, that 8 there was actually a resolution that was put 9 forward to the council to advertise for the 10 land -- landfill operating contract? Do you 11 recall that? 12 A. I don't. 13 Q. And do you -- okay. So you wouldn't 14 know that it was -- you wouldn't know that it 15 was deferred and sent to a subcommittee for 16 evaluation? You wouldn't know anything about 17 that? 18 A. I'm trying to think. I don't know if 19 I have the right time frame. I know there was 20 at one point a resolution from Councilman Lee 21 and there was a subsequent meeting that we had 22 in his office, but I'm -- nothing came of it, 23 and it never got to the point where any 24 proposals were accepted. 25 Q. Okay. Well, I'm talking about -- I</p>
<p style="text-align: right;">79</p> <p>1 first time in the -- I guess in terms of being 2 able to receive waste from Jefferson Parish in 3 that 2004 time period? 4 A. No. My recollection of the first time 5 was -- was later in 2006 or so. 6 MR. PEYTAVIN: 7 But it wasn't woody waste. 8 THE WITNESS: 9 Yeah. It was 10 construction/demolition waste. 11 MR. TALLEY: 12 I understand. I'm not there. 13 I'm not there yet. 14 THE WITNESS: 15 Would y'all mind if I go to the 16 bathroom while y'all look through? 17 MR. TALLEY: 18 No. Go ahead. We can take a 19 break. 20 (The Videographer: Off the record. 21 The time is 11:37.) 22 (Off the record.) 23 (The Videographer: Back on the record. 24 The time is now 11:41.) 25 BY MR. TALLEY:</p>	<p style="text-align: right;">81</p> <p>1 specifically want to know if you were involved 2 -- if you were involved with the subcommittee 3 of the council in providing information to -- 4 to evaluate a resolution that -- that would 5 have been advertising for the landfill 6 operating contract. Do you recall anything 7 about that? 8 A. Yeah. There was a committee, and I 9 recall meeting with them. Again, I'm a little 10 confused on the time frame of it. 11 Q. Okay. What kind of information did 12 you provide them? 13 MR. PEYTAVIN: 14 He'd like clarification -- 15 THE WITNESS: 16 Yeah. You know, I'm really -- 17 MR. PEYTAVIN: 18 -- on the time frame. 19 THE WITNESS: 20 -- I'm really confused if I got 21 the right -- 22 MR. PEYTAVIN: 23 The year 2004 or -- 24 MR. TALLEY: 25 I'm giving the time period of</p>

<p style="text-align: right;">82</p> <p>1 October 2004. 2 MR. PEYTAVIN: 3 Okay. 4 THE WITNESS: 5 I don't know. I mean, I can't -- 6 I don't recall anything. 7 MR. TALLEY: 8 That's what I'm saying. He 9 doesn't -- he's saying he doesn't recall. I 10 can't make him recall it, but I'm just saying 11 what you recall in terms of what you gave to 12 the committee. I want to know what 13 information you gave to the committee. 14 THE WITNESS: 15 Well, I'm not sure if I'm 16 thinking about the same committee. That's the 17 problem with it. 18 BY MR. TALLEY: 19 Q. Well, I don't -- you know, I'm just 20 asking whatever you're talking about, I want 21 to know what information you gave to the 22 committee. 23 A. I don't recall. I mean, I need to 24 know the specifics of what was going on. I 25 remember there being a committee formed. I</p>	<p style="text-align: right;">84</p> <p>1 Right. 2 MR. PEYTAVIN: 3 And so it's two different things 4 completely and -- 5 MR. TALLEY: 6 Okay. And, well, now I'm giving 7 him the ordinance, October 13th, 2004. 8 MR. PEYTAVIN: 9 But he needs to know whether it 10 was a resolution or an ordinance if we're 11 going to go forward. 12 MR. TALLEY: 13 I don't know that. 14 MR. PEYTAVIN: 15 Okay. 16 BY MR. TALLEY: 17 Q. Do you? 18 A. No, I don't. 19 Q. Okay. 20 A. I need -- 21 Q. Okay. So you -- 22 A. -- some specifics -- 23 Q. You don't -- 24 A. -- to jog my memory and see what 25 you're referring to.</p>
<p style="text-align: right;">83</p> <p>1 just don't recall exactly what the task at 2 hand was. 3 Q. Okay. Well, this was an ordinance 4 that -- that all -- that basically refused to 5 appropriate money for the Waste Management 6 contract. It was voted on by the council. It 7 was voted down by the council, narrowly, and 8 prior to that vote, it had been deferred to a 9 committee for evaluation. And I want to know 10 about that committee, who was on the 11 committee, and what information was provided 12 to the committee. 13 MR. PEYTAVIN: 14 If you have a document he could 15 look at. 16 MR. TALLEY: 17 I don't have a document that I 18 can give to him. 19 THE WITNESS: 20 I know I did. You printed one 21 out. 22 MR. PEYTAVIN: 23 You went from a resolution now to 24 an ordinance. 25 MR. TALLEY:</p>	<p style="text-align: right;">85</p> <p>1 Q. All right. Well, let me ask -- since 2 you don't -- that's all the information I can 3 give you right now. If you have any 4 information in your files relating to a 5 resolution or an ordinance that came before 6 the parish council in October of 2004 that -- 7 that -- that had to do with advertising the 8 landfill operator, a new position, or refusing 9 to appropriate money for the contract, I'd 10 like to have that information, if you have any 11 information as to either who the committee 12 was -- 13 A. Yeah. 14 Q. -- or what information was provided to 15 it or whatever. 16 Okay. Also around this time frame, 17 there is a letter from the parish, and this is 18 specifically from Marnie Winter, but you're 19 copied on it, and I don't think I have a copy 20 of that one. 21 A. Uh-huh. 22 Q. But I'd like to get a copy of it. I 23 just have a reference to it, which basically 24 comes down to allowing -- instructing Waste 25 Management to proceed with the permit</p>

<p style="text-align: right;">86</p> <p>1 modification and go forward. Do you recall 2 that? 3 A. A letter from Marnie Winter -- 4 Q. Yeah. 5 A. -- allowing Waste -- 6 Q. October 12th, 2004. 7 A. And you said that letter allowed them 8 to? 9 Q. Instructing Waste Management to 10 proceed with the originally permitted 11 footprint, including Permit Modification 12 Number 4 and rescinding the request for the 13 setback. 14 A. Rescinding the request for the 15 setback? 16 MR. PEYTAVIN: 17 Do we have a copy of that letter? 18 MR. TALLEY: 19 No. That's what I'm asking him. 20 I'm asking him if he knows about it and if he 21 has a copy of the letter. 22 THE WITNESS: 23 I'm sure I do. 24 MR. TALLEY: 25 I mean, there's certain things</p>	<p style="text-align: right;">88</p> <p>1 what your testimony is? 2 A. Well, I know that at one time that 3 there was a resolution introduced by 4 Councilman Lee and we had a meeting in his 5 office about it. Tom Wilkinson was there 6 discussing the appropriations clause. 7 MR. PEYTAVIN: 8 Don't -- don't provide any 9 information that Tom Wilkinson told you or 10 advised any of the council people. 11 THE WITNESS: 12 Okay. 13 BY MR. TALLEY: 14 Q. All right. This is -- this was 15 reported in the Times-Picayune in 16 December 2004. The current contract with 17 Waste Management worth \$8 million a year does 18 not expire until 2009. A resolution to seek 19 competitive bids, however, is pending before 20 the council. 21 Okay. Do you know anything about 22 that? 23 A. Well, I -- 24 Q. I mean, I've given you -- 25 A. -- I think -- I think that --</p>
<p style="text-align: right;">87</p> <p>1 here I'm a little at a disadvantage. Y'all 2 haven't produced documents yet. So I only 3 have the documents that I have and have been 4 able to get through the Foy request or we have 5 in our files. I do not have that. I just 6 have a reference to it, and I want to know if 7 you have it and if you'll produce it. 8 THE WITNESS: 9 Yeah, I'll produce it. 10 MR. TALLEY: 11 Okay. 12 THE WITNESS: 13 You know, I don't recall the 14 specifics of it. 15 MR. PEYTAVIN: 16 We can see if it's in the file. 17 Line Number 4, do you remember what that had 18 to do with? 19 THE WITNESS: 20 Modification Number 4, not -- 21 BY MR. TALLEY: 22 Q. Do you recall a -- so you don't recall 23 anything about an attempt by the parish to -- 24 to con -- to terminate the Waste Management 25 contract in 2004? Is that accurate? Is that</p>	<p style="text-align: right;">89</p> <p>1 Q. -- the exact time frame that was 2 reported in the Times-Picayune, September -- 3 I'm sorry, December 19th, 2004. Yes or no? 4 A. Well, again, I -- I have recollection 5 of a meeting with -- in Councilman Lee's 6 office. Off the top of my head, I can't name 7 everybody who was there. 8 Q. Okay. 9 A. And I don't know if that is the same 10 one that you're referring to. 11 Q. Okay. In this newspaper article, it's 12 also reported that there was intensive 13 lobbying by Heebe and Ward. Ward has declared 14 that the parish can get a better deal. 15 Did you provide any information to the 16 parish to -- I'm sorry. The parish can get a 17 better deal with River Birch than it has with 18 Waste Management. 19 Did you provide any information to the 20 parish at that point in time, in the late part 21 of 2004, fall through December, evaluating or 22 doing any sort of analysis -- 23 A. No. 24 Q. -- with respect to -- okay. 25 MR. PEYTAVIN:</p>

<p style="text-align: right;">90</p> <p>1 Let him finish his question. 2 THE WITNESS: 3 I'm sorry. 4 MR. PEYTAVIN: 5 That's all right. 6 BY MR. TALLEY: 7 Q. I was going to say with respect to 8 whether or not the parish could get a better 9 deal with River Birch? 10 A. No. 11 Q. Okay. 12 MR. PEYTAVIN: 13 You guessed right that time. 14 THE WITNESS: 15 Yeah. 16 MR. PEYTAVIN: 17 But maybe not on another one. 18 BY MR. TALLEY: 19 Q. You're pretty certain about that? 20 A. Yeah. 21 Q. Okay. This newspaper article goes on 22 to say -- to talk about a plan, or a possible 23 plan, to, quote, unquote, give Waste 24 Management the early heave-ho, and it 25 attributes it to Tom Wilkinson. It says that</p>	<p style="text-align: right;">92</p> <p>1 I guess we could call James Gill 2 as a witness since he quotes these people. 3 Was Jennifer Sneed involved in 4 the -- you were talking about you remember 5 something proposed by Councilman Lee and you 6 were in a meeting where he was involved. Was 7 Jennifer Sneed involved in that? 8 THE WITNESS: 9 No. 10 BY MR. TALLEY: 11 Q. Was she in the meeting? 12 A. No. 13 Q. Now, assuming that this information is 14 correct that I just read to you out of this 15 report from -- or this newspaper report from 16 James Gill that there was a plan to use the 17 non appropriations clause in the contract to 18 terminate the contract, do you know -- well, 19 you said you didn't know anything about that 20 at all? 21 A. Well, like I said -- I -- I had heard 22 from -- some discussion of it. I don't know 23 if it's the same one that you're talking 24 about, same discussion that you're referring 25 to.</p>
<p style="text-align: right;">91</p> <p>1 how they not -- how they may -- how they may 2 go about doing it. It talks about the 3 council, according to Wilkinson, could just 4 neglect to include the Waste Management fees 5 in the budget one year. That may be a 6 brilliant idea, except that Wilkinson concedes 7 the parish might be found liable in court 8 unless he can prove that Waste Management had 9 been stiffed in good faith. 10 Do you know anything about a plan or a 11 concept or a, you know, process that would 12 have -- involving canceling the Waste 13 Management contract before it expires at that 14 time period, December 2000? 15 A. No. 16 Q. Okay. 17 MR. PEYTAVIN: 18 And also, I'd like to note that 19 this is an opinion article by James Gill. 20 It's not a news article reporting news -- 21 factual news, as the Times-Picayune does on 22 occasion. 23 MR. TALLEY: 24 That's a fair statement. That's 25 a fair statement.</p>	<p style="text-align: right;">93</p> <p>1 Q. Okay. You weren't asked to provide 2 any sort of evaluations or analysis at that 3 point? 4 A. No, no. 5 Q. Okay. Do you believe, assuming this 6 information is correct, that this would be a 7 good faith negotiation by the parish with 8 Waste Management at that time? 9 MR. PEYTAVIN: 10 Objection. This witness is not 11 here to testify on behalf of the parish. This 12 witness is here as an individual and cannot 13 tender as an expert in any nature, and 14 basically, you're asking him to give opinions 15 as to whether the parish is acting in good 16 faith and opinions as to whether the parish is 17 properly exercising contractual rights, and 18 he's not here for that purpose. 19 MR. TALLEY: 20 Okay. I'm asking him anyway. 21 MR. PEYTAVIN: 22 Okay. I understand. I made my 23 objection on the record. 24 THE WITNESS: 25 So your question is?</p>

<p style="text-align: right;">94</p> <p>1 BY MR. TALLEY: 2 Q. Yeah. My question is: Do you believe 3 that the parish would be in good faith in 4 negotiating with Waste Management in that 5 manner? 6 A. In the manner of? 7 Q. In the manner of using a non 8 appropriations clause to terminate the 9 contract at that period of time? 10 A. No. 11 Q. The parish would not be in good faith? 12 A. I wouldn't think so. 13 Q. Okay. And again, as far as you know 14 at this particular point in time, no one has 15 moved on your recommendation to the parish to 16 move forward with vertical expansion and try 17 to negotiate a better tipping fee deal? 18 A. I don't know if they did or they 19 didn't. 20 Q. Okay. You don't know that they did, 21 though? 22 A. I was assuming they did. 23 Q. December 2004. 24 A. I don't know that they did. 25 Q. All right. It's fair to say that this</p>	<p style="text-align: right;">96</p> <p>1 Q. Okay. Then you pass it on to 2 Ms. Winter? 3 A. Yeah. 4 Q. And then she passes it on to who? 5 A. It goes up the line through the budget 6 department to the administration and then the 7 council. 8 Q. But I'm trying to figure out who that 9 line is. Who's in charge of the budget 10 department at this particular point in time? 11 A. Oh, boy. I don't recall. 2004, I'm 12 not sure. 13 Q. Is it fair to say that y'all had a 14 budget -- the parish has a budget director? 15 A. Yes. 16 Q. Okay. And the budget director is 17 within the finance department? 18 A. Yes. 19 Q. Okay. So there's a budget director 20 and then there's a director of the finance 21 department, two different people? 22 A. Yes. 23 Q. Do you recall either of those 24 individuals at this point in time? 25 A. May have been Gwen Bolotte.</p>
<p style="text-align: right;">95</p> <p>1 wasn't your recommend -- this wasn't -- it 2 wasn't your recommendation to terminate the 3 contract with Waste Management by using the 4 non appropriations clause? 5 A. That's true. 6 Q. Okay. Was there any particular 7 financial issue with the parish at that point 8 in time, December of 2004, leading up to the 9 2005 budget? Was there any particular 10 financial problem with the budget so that 11 maybe -- well, do you recall that there wasn't 12 any money for the landfill budget? 13 A. No. We were funded. 14 Q. Flush with cash? 15 A. I wouldn't say flush, but we were -- 16 we were okay. 17 Q. Okay. That's what I thought. 18 Who was in charge of the budget at 19 that particular time? This would have been in 20 late 2004. 21 A. Well, the -- I generate the first 22 draft of the budget, pass it on to Marnie. 23 Q. You're talking about the budget for 24 the landfill? 25 A. Yes.</p>	<p style="text-align: right;">97</p> <p>1 Q. Okay. All right. Following this 2004 2 time period, there was a resolution, and I do 3 have this resolution. It's Number 105571. 4 That was -- it was submitted to the council 5 and passed unanimously on June the 28th, 2006, 6 that's under Tab 21, which basically diverts 7 the sewage sludge -- no. I'm sorry. 8 A. No. Construction and demolition. 9 Q. Converts the C&D waste -- 10 A. Yeah. 11 Q. -- from disposal of a Jefferson Parish 12 Landfill. Were you involved in -- was this an 13 RFP prior to -- 14 A. Yes. 15 Q. Were you involved in the formulation 16 of that RFP? 17 A. Yeah. 18 MR. TALLEY: 19 Okay. I do not have that. I'd 20 like to have that produced, please. 21 MR. PEYTAVIN: 22 Sure. But I would note that you 23 said "this diverts," and all it did was 24 authorize a contract. 25 MR. TALLEY:</p>

<p style="text-align: right;">98</p> <p>1 I understand. 2 MR. PEYTAVIN: 3 The document itself didn't -- 4 MR. TALLEY: 5 So you object to the form of my 6 question? 7 MR. PEYTAVIN: 8 Exactly, yeah. 9 MR. TALLEY: 10 All right. I understand. 11 But pursuant to this -- pursuant 12 to this resolution, the parish administration 13 was putting out to bid the C&D waste stream, 14 correct? 15 THE WITNESS: 16 Yes. 17 BY MR. TALLEY: 18 Q. And they were putting out the bid to 19 the C&D waste stream notwithstanding that the 20 operating contract with Waste Management at 21 that time required the C&D waste to be 22 disposed of at the Jefferson Parish Landfill. 23 Fair statement? 24 A. It's my understanding that there was 25 some caveats in the -- in the landfill</p>	<p style="text-align: right;">100</p> <p>1 Q. I'm asking just from your factual 2 perspective if you would have thought that 3 they would have been in breach of contract. 4 You would agree with me, though, that 5 this was waste that was previously going to 6 the landfill? 7 A. Yes. 8 Q. On which the parish was receiving a 9 royalty? 10 A. No. 11 Q. Possibly? 12 A. No. This was all parish-generated 13 waste. 14 Q. Okay. 15 A. By parish, I mean the parish 16 departments. 17 Q. Okay. And it would have resulted in a 18 loss, financial loss, to Waste Management of 19 approximately \$300,000 a year? 20 MR. PEYTAVIN: 21 You're asking him if it did 22 result? 23 MR. TALLEY: 24 I'm asking if he knows that, if 25 he agrees --</p>
<p style="text-align: right;">99</p> <p>1 contract that would allow the parish to -- 2 Q. Who told you that, or what's the basis 3 of your understanding? 4 A. Just the reading of the contract. 5 Q. So it's your understanding from the 6 contract, your understanding from the 7 contract? 8 A. Yes. 9 Q. Okay. You would not agree with me 10 that the parish would have been in breach of 11 contract at that time by allowing the 12 diversion of that waste stream? 13 A. I didn't think so. 14 MR. PEYTAVIN: 15 In there note my objection -- 16 THE WITNESS: 17 I didn't think so. 18 MR. PEYTAVIN: 19 -- that you're asking him for 20 legal opinions -- 21 MR. TALLEY: 22 I understand. 23 MR. PEYTAVIN: 24 -- on matters now. 25 BY MR. TALLEY:</p>	<p style="text-align: right;">101</p> <p>1 MR. PEYTAVIN: 2 They never utilized it, Patrick. 3 MR. TALLEY: 4 But do you agree with me or 5 disagree with me? Just let him answer. 6 MR. PEYTAVIN: 7 Okay. 8 THE WITNESS: 9 There would have been a reduction 10 in Waste Management's revenue. 11 BY MR. TALLEY: 12 Q. Okay. Do you agree that it would have 13 been approximately 300,000? 14 A. Maybe. I'm not sure of that. 15 Q. Did you do any analysis on that? In 16 connection with this RFP or this resolution or 17 anything, did you perform any sort of analysis 18 or evaluation? 19 A. Yeah. I -- 20 Q. Okay. 21 A. I tried to estimate how much tonnage 22 we could, you know, utilize under -- under 23 this cheaper disposal fee. 24 Q. Okay. Did -- okay. Do you have 25 documents on that?</p>

<p style="text-align: right;">102</p> <p>1 A. Yes. 2 Q. Okay. I'd like those to be produced, 3 whatever analysis or evaluation -- 4 A. Uh-huh. 5 Q. -- that you have about the diversion 6 of that waste stream. 7 Is it your -- 8 MR. PEYTAVIN: 9 Object again 'cause you keep 10 saying diversion and nothing was diverted, 11 Patrick. 12 MR. TALLEY: 13 Well, okay, I won't use 14 diversion. 15 MR. PEYTAVIN: 16 It was a proposal. 17 BY MR. TALLEY: 18 Q. The proposal, okay. The proposal that 19 would have resulted in the diversion. 20 Was it your opinion at that time that 21 the -- that this would have been a less 22 expensive route to take for the parish? 23 A. Yes. 24 Q. Was there any attempt to sit down with 25 Waste Management at that time and negotiate --</p>	<p style="text-align: right;">104</p> <p>1 2006. Before this, in 2005, there was also a 2 successful effort to divert the sewage sludge 3 generated from parish facilities from disposal 4 at the Jefferson Parish Landfill and that 5 diversion was also -- then became disposed of 6 at the River Birch facility; is that correct? 7 A. That was a decision made by a private 8 operator of the East Bank Sewerage Plant. 9 Q. Okay. Did you participate -- did you 10 have anything to do with the change or the 11 decision to send that sewage sludge waste to 12 River Birch? 13 A. We didn't send it anywhere. The 14 operator -- 15 Q. I'm just asking if you had -- 16 A. I had nothing -- the private operator 17 made a decision. 18 Q. Okay. But this is sewage sludge 19 generated from the parish-owned facilities, 20 right? 21 A. Yes. 22 Q. Okay. 23 A. From the East Bank plant. 24 Q. Okay. Do you know if there was any 25 political influence by any of the</p>
<p style="text-align: right;">103</p> <p>1 do you know that there's an ordinance in 2 Jefferson Parish's -- on the books of 3 Jefferson Parish that requires -- that 4 requires a negotiation with a current operator 5 in connection with a new RFP; are you aware of 6 that? 7 A. No. 8 Q. Okay. Do you know if there was any 9 negotiations with Waste Management at this 10 point in time prior to the RFP going out to 11 see if you could get the same deal that you 12 thought you were going to get by the RFP, if 13 you could get that same deal with Waste 14 Management? 15 A. I don't know if there was. 16 MR. PEYTAVIN: 17 But besides responding to the 18 RFP, Patrick? 19 MR. TALLEY: 20 Yes. Besides responding to the 21 RFP. 22 MR. PEYTAVIN: 23 Okay. 24 BY MR. TALLEY: 25 Q. Now, right before this -- that was in</p>	<p style="text-align: right;">105</p> <p>1 administration, the same administration that 2 obviously wanted to have a change in the 3 operator? Was there any influence on -- who 4 was that private operator, by the way, that 5 you're talking about? 6 A. Was it American Water; was that the 7 company? 8 Q. I don't know. 9 A. I don't know either. 10 Q. Okay. Do you know if there was any 11 influence on them by the parish officials Tim 12 Whitmer, Aaron Broussard, or people from River 13 Birch to divert that waste stream from the 14 Jefferson Parish Landfill? 15 MR. PEYTAVIN: 16 You got three different -- two 17 persons and an entity in one question. I'm 18 going to have to -- 19 THE WITNESS: 20 Well, the answer's no to all of 21 them. 22 BY MR. TALLEY: 23 Q. Okay. Do you know that this resulted 24 in a approximately \$350,000 financial loss to 25 Waste Management?</p>

<p style="text-align: right;">106</p> <p>1 A. I'm sure there was a reduction in 2 revenue. I'm not sure of the dollar figure. 3 Q. Did you ever participate in any 4 evaluation of the loss of that revenue stream? 5 A. No. 6 Q. Okay. Okay. So up through 2007, 7 okay, that -- the C&D resolution was in 2006. 8 I'm now kind of going up through 2007, 2007 9 time period. Were you involved in producing 10 any kind of reports or analysis or comparison 11 of the River Birch and Waste Management 12 contracts, specifically? 13 And let's put aside right now the -- 14 those June and July reports, which you don't 15 know why they were being used, so let's just 16 put those aside, whether or not they were 17 being used. 18 Were you ever specifically in any -- 19 in this time period now, really, up through -- 20 up to January of 2008, were you asked to 21 provide any kind of information or analysis 22 comparing River Birch and Waste Management 23 contracts? 24 A. No. 25 Q. Operations, I should say?</p>	<p style="text-align: right;">108</p> <p>1 A. If I recall, it was Deano Bonano's 2 initiative. 3 Q. Okay. 4 A. He thought -- 5 Q. But did that initiative -- 6 A. -- if we could save money and -- 7 Q. But did that initiative come from 8 Aaron Broussard or Tim Whitmer? 9 A. I don't know. 10 Q. You don't know, okay. Deano Bonano 11 would be the person to talk to about that? 12 A. Yes. 13 Q. All right. 14 (The Videographer: Five minutes, 15 counsel.) 16 BY MR. TALLEY: 17 Q. Where did the -- at the end of 2007, 18 tell me where the permit modification, the 19 thing that I began talking about in this -- 20 A. Uh-huh. 21 Q. -- the permit modification that Waste 22 Management was proposing for vertical 23 expansion, that I understand was ultimately 24 approved, that would -- it was basically 25 approved for horizontal expansion and vertical</p>
<p style="text-align: right;">107</p> <p>1 A. No. 2 MR. PEYTAVIN: 3 Other than the C&D, correct? 4 MR. TALLEY: 5 Other than the C&D. 6 MR. PEYTAVIN: 7 Okay. 8 BY MR. TALLEY: 9 Q. Yeah, because you did say you were 10 involved in the C&D. I guess I would really 11 ask in terms of proposals to operate the 12 Jefferson Parish Landfill? 13 A. No. 14 Q. All right. Do you have any knowledge 15 about whether or not River Birch was involved 16 in issuing the RFP with respect to the C&D 17 waste? 18 A. No. 19 Q. No, they didn't, or, no, you don't 20 have any knowledge? 21 A. My understanding, no. 22 Q. Well, do you know whether or not there 23 had been any -- let me just ask you this: Why 24 was that RFP -- why was there a decision to do 25 an RFP on that? Whose idea was it?</p>	<p style="text-align: right;">109</p> <p>1 expansion, right? No? 2 A. No. 3 Q. Okay. Where does this permit -- where 4 does this permit -- 5 A. Are you asking about the permit 6 modification that Waste Management suggested? 7 Q. Yes. Where is that -- where would 8 that have stood at the end of 2007? 9 A. I thought it was a dead issue. 10 Q. Dead in the water. Okay. 11 What permit modification was being 12 pursued at that time, the one that was 13 supported by CDM? 14 A. No. We were working on our, 15 essentially our re-permitting. Our -- our 16 original plan for permit was reaching its 17 ten-year expiration, and we had to submit a -- 18 Q. Right. 19 A. -- permit application to re-permit the 20 landfill. And at that point, it included a 21 horizontal expansion. 22 Q. Okay. And that was basically what had 23 been supported by CDM -- 24 A. Yes. 25 Q. -- the horizontal expansion?</p>

<p style="text-align: right;">110</p> <p>1 And so that's kind of what I want to 2 know is what was the basis of the permit 3 modifications that were being -- that were on 4 the table at the end of 2007? 5 A. That wouldn't have been a 6 modification. That was a re-permitting. 7 Q. Re-permitting? 8 A. Right. 9 Q. Okay. Okay. So the Waste Management 10 proposal's dead in the water, and you're 11 basically going with the CDM proposal of 12 horizontal expansion. Would have included 13 some vertical expansion, too, right? 14 A. Yes. Because portions of this new 15 phase do go up on top of portions of the 16 existing phases. 17 Q. Okay. Would that result in -- 18 re-permitting result in any loss of air -- 19 loss of previously permitted airspace? 20 A. No. 21 Q. Okay. At one time, though, you 22 understand that the proposal that was 23 advocated by the parish would have resulted in 24 a loss of 600,000 something cubic yards of 25 previously permitted airspace, right?</p>	<p style="text-align: right;">112</p> <p>1 MR. TALLEY: 2 I'd like for him to answer. 3 MR. PEYTAVIN: 4 -- talking about the CDM one. I 5 don't know if you're talking about the Waste 6 Management one. 7 MR. TALLEY: 8 He knows what I'm talking about, 9 but I'll just ask him your question, which is 10 what was being pursued? He knows what I'm 11 talking about. 12 THE WITNESS: 13 Regarding the offset issue? 14 BY MR. TALLEY: 15 Q. Right. 16 A. It's a -- it's a engineering issue. 17 We have one continuous set of cells and -- to 18 be filled with waste. If we were to excavate 19 immediately adjacent to that to continue the 20 next set of cells, we may have an issue with 21 the slope stability. So to solve that, you 22 need to offset the -- the fill. 23 And the first suggestion, I'm not sure 24 where it came from, I think it was a timing 25 issue. We were asking to offset the filling</p>
<p style="text-align: right;">111</p> <p>1 A. That's the offset issue. 2 Q. Okay. 3 A. Okay. And -- 4 Q. We brought that up earlier. 5 A. Right. 6 Q. There was a letter from Marnie -- 7 A. And instead, the -- instead, the 8 offset occurs in the newly permitted areas, 9 not in the -- 10 Q. Okay. So as a result of what's being 11 pursued now, there's no loss of previously 12 permitted airspace? 13 A. No. 14 Q. At one point in time, though, that was 15 being pursued? 16 MR. PEYTAVIN: 17 What was being pursued? 18 THE WITNESS: 19 Well, the committee -- 20 MR. TALLEY: 21 That there was -- 22 THE WITNESS: 23 I'm sorry. 24 MR. PEYTAVIN: 25 I don't know if you're --</p>	<p style="text-align: right;">113</p> <p>1 process that Waste Management had, to leave an 2 open space that would allow us to excavate. 3 Well, after all the issues came up, the best 4 solution is to let them fill their permitted 5 area and we just offset the next phase to give 6 us the proper stability. 7 Q. Yeah. But I guess what I'm asking is 8 that at one point in time, there was -- the 9 parish was pursuing a plan that would have 10 resulted in previously permitted airspace? 11 A. I think it -- it was -- it was an 12 inadvertent -- we asked them to -- 13 Q. How was it inadvertent? 14 A. -- offset, and then when it was 15 pointed out that, no, it was going to wind up 16 in this loss of phase and then -- 17 Q. And that was pointed out by Waste 18 Management, right? 19 A. Yeah. And I think at one point, we 20 even considered, well, what's the -- what's 21 the cost of that offset? Maybe it's best just 22 to, you know, essentially buy it out. And I 23 think that's where that other issue evolved. 24 Q. But the original proposal by Waste 25 Management that was for vertical expansion</p>

<p style="text-align: right;">114</p> <p>1 that would have increased the life of the 2 landfill, or as you say, the contract, and 3 increased the capacity by some ten million 4 cubic yards would not have included any sort 5 of loss of previously permitted airspace, 6 right? 7 A. Right. 8 Q. Okay. 9 (The Videographer: One minute, 10 counsel.) 11 MR. TALLEY: 12 All right. You can go ahead and 13 change the tape. 14 (The Videographer: Going off the 15 record. The time is now 12:12. This is the 16 end of Tape 2.) 17 (Recess.) 18 (The Videographer: This is the 19 continued videotaped deposition of Joseph 20 Richard Buller. This is the beginning of 21 Tape 3. The time is now 1:16.) 22 BY MR. TALLEY: 23 Q. Okay. Mr. Buller, back on the record 24 here. Before we move forward into different a 25 time frame, I wanted to just ask you a couple</p>	<p style="text-align: right;">116</p> <p>1 responsive bid of River Birch for C&D debris 2 and wood waste in the amount of \$14.00 in 3 response to Proposal Number 576767 -- I can't 4 read what the next number is, 39? 5 A. 39, I think, yeah. 6 Q. That would be the proposal number -- 7 A. Yes. 8 Q. -- for the Department of Environmental 9 Affairs. So this proposal would have come 10 from the Department of Environmental Affairs, 11 which was your department? 12 A. Yes. 13 Q. Did Ms. Winter have any participation 14 in that RFP? 15 A. Yeah. All the documents that I 16 prepare go through her before they're passed 17 on. 18 Q. Okay. You prepared them and then she 19 approved it? 20 A. Yes. 21 Q. She has an approval -- 22 A. Yes. 23 Q. Okay. Do you know if she had any 24 involvement other than simply approving it? 25 A. We discussed it. I don't think she</p>
<p style="text-align: right;">115</p> <p>1 of other questions with regard to the RFP that 2 we were talking about before we took a lunch 3 break. This is the RFP to divert the C&D 4 waste, and actually, it was a proposal to 5 potentially divert the C&D waste based on what 6 your counsel said. Actually, that RFP was for 7 C&D debris and wood waste, correct? 8 A. Yes, uh-huh. 9 Q. Okay. And as I understood it, you 10 were the one who formulated or drew up this 11 RFP? 12 A. Yes. 13 Q. And you're going to get me a copy of 14 that? 15 A. Yeah. 16 Q. Okay. And it was for a two-year 17 period. It was advertised for a two-year 18 contract, right? 19 A. Yeah. 20 Q. Okay. Was there a particular reason 21 for that? 22 A. I don't know offhand. I'm sure there 23 was some reason for it. I'm not sure. 24 Q. You don't recall? 25 And so when it talks about the</p>	<p style="text-align: right;">117</p> <p>1 changed anything. 2 Q. All right. In January of 2008, 3 January of 2008, January the 4th, there is an 4 interoffice communication to Marnie Winter 5 from you, and it's regarding funding landfill 6 post-closure costs. And you can find that 7 under Item 22. Do you recall this document? 8 A. Yeah. 9 Q. And do you recall why this was being 10 done? Why was this prepared? 11 A. Obviously, it's an important topic 12 that hadn't been addressed in the parish, and 13 I was trying to -- I don't know what specific 14 issue brought it up at this time. 15 Q. You do not? It's fair to say, though, 16 that this -- you said this all relates to 17 closure of the Jefferson Parish Landfill? 18 A. Yes. 19 Q. And in particular, this relates to 20 considerations that have to do with what 21 happens after the landfill is closed? 22 A. Right. 23 Q. And the cost of that, right? 24 A. Yes. 25 Q. And heretofore, and when I say</p>

<p style="text-align: right;">118</p> <p>1 heretofore, I mean up till January 2008, and 2 specifically back in that 2004 time period 3 when you were asked questions from the 4 administration, Tim Whitmer and some others, 5 this post-closure aspect had not specifically 6 been addressed in terms of costs? 7 A. Well, every time we prepare a permit 8 for the landfill, we need to include closure 9 costs. So there are estimates of closure 10 costs. This -- this really was directed 11 towards funding of those closure costs. 12 Q. Okay. So I want you to look at the 13 bottom of Page 2, the second page of this, and 14 specifically, it says, "Thus the 15 administration should consider other 16 post-closure funding strategies such as 17 amending the contract to allow Waste 18 Management to haul commercial waste as well as 19 industrial waste from outside of Jefferson 20 Parish up to the contract limit because this 21 would increase -- or to increase royalty 22 revenues," right? 23 A. Yes. 24 Q. And obviously that's -- obviously 25 that's not just your opinion, but it's</p>	<p style="text-align: right;">120</p> <p>1 with this recommendation, right? 2 A. Correct. 3 Q. Okay. To you, though, you considered 4 it a viable recommendation? 5 A. Yes. 6 Q. All right. At the end of 2008, 7 Jefferson Parish issued another RFP. This one 8 is numbered 0176, again, for C&D waste and the 9 wood waste, correct? 10 A. Yes. 11 Q. Now, did you participate -- do I have 12 a correct number on that, RP0176? 13 A. There were two RFPs, 0176 and 0177. 14 And, yeah, I think -- yeah, 176 was -- 15 Q. What was the difference between them? 16 A. One was a -- for a curbside recycling 17 program for, you know, plastic and paper and 18 such. And this was -- the 176 for a woody 19 waste program. 20 Q. 176 was? Okay. Why was this RFP 21 issued? 22 A. Parish was looking for any means of 23 reducing the waste stream. We had a recycling 24 program before Katrina. 25 Q. I'm not talking about the recycling.</p>
<p style="text-align: right;">119</p> <p>1 factual. If the contract was amended to allow 2 that, then there would be increased royalty, 3 right? 4 A. Yes. 5 Q. Okay. So this was a consideration of 6 amending the Waste Management contract. This 7 is a recommendation that you had? 8 A. Yes. 9 Q. And so this, as far as I can see, is 10 the second time that you've made a 11 recommendation that would involve the current 12 contract and the current owner about amending 13 their contract, and the other one being with 14 respect to the permit modification to allow 15 them to do the vertical permit modification 16 that they wanted to do, but at the same time, 17 maybe getting a better deal on the tipping 18 fee. Do you recall that recommendation? 19 A. Yes. 20 Q. So in terms of this recommendation 21 that you made in January, do you know if 22 anyone in the administration moved forward 23 with this recommendation? 24 A. No. 25 Q. In fact, they did not move forward</p>	<p style="text-align: right;">121</p> <p>1 I'm talking about 176. 2 A. The parish formed a committee, some 3 residents, to look at various options for 4 recycling and -- 5 Q. I'm not talking about recycling. I'm 6 talking about C&D and wood waste, 176. 7 A. That was a recommendation of the 8 recycling committee. 9 Q. What was the recommendation of the 10 recycling committee? 11 A. To pursue a yard and woody waste 12 program to reduce -- take that waste stream 13 out of the landfill waste stream and -- 14 Q. You had already taken that out of the 15 waste stream by the proposal two years 16 earlier. 17 MR. PEYTAVIN: 18 Patrick, again -- 19 THE WITNESS: 20 There was never anything diverted 21 in that previous -- prior proposal. 22 BY MR. TALLEY: 23 Q. Well, the prior proposal -- the prior 24 proposal that was acted on was for C&D debris 25 and wood waste that was approved by the parish</p>

<p style="text-align: right;">122</p> <p>1 council to send that waste to River Birch. 2 MR. PEYTAVIN: 3 Patrick, ask him one question 4 that will clarify it. Was a contract ever 5 executed pursuant to that request for 6 proposal? Ask him that. 7 BY MR. TALLEY: 8 Q. Was a contract ever executed pursuant 9 to this Proposal Number 76739 and Resolution 10 105571? 11 MR. PEYTAVIN: 12 What's the tab number again? 13 MR. TALLEY: 14 21. 15 MR. PEYTAVIN: 16 He needs to make sure he's got 17 the right one. 18 THE WITNESS: 19 Yeah, make sure I got the right 20 one. 21 No. There was never a contract 22 executed for that. 23 BY MR. TALLEY: 24 Q. And why not? 25 A. One of the stipulations was that we</p>	<p style="text-align: right;">124</p> <p>1 Now, did you have a role in the 2 formulation of that RFP? 3 A. Only after the committee made the 4 recommendation. A consultant was hired to 5 draw up -- draw up the RFP, and my only 6 involvement was a final review -- 7 Q. Who was the committee? 8 A. -- to comment. I don't know that 9 committee. It was the recycling committee 10 that some residents had been appointed by -- 11 by the council. 12 Q. By the council as opposed to the 13 administration? 14 A. It may have been a combination of 15 both. 16 Q. Okay. Do you have any documents that 17 reflect the makeup of the committee or any 18 communications involving the committee? 19 A. I personally don't. I know our 20 department does. 21 Q. Okay. Okay. Then I'm going to call 22 for production of those, you know, any kind of 23 documents that -- that relate to this -- what 24 do you call it, recycling committee? 25 A. I don't know what the formal word was,</p>
<p style="text-align: right;">123</p> <p>1 required the contractor to install scales to 2 accurately measure the waste going in, and 3 they barked at that, so there was never any 4 contract finalized. 5 Q. Okay. So two years later, then, as a 6 recommendation of a recycling committee, this 7 second RFP is formulated -- 8 A. And -- and -- 9 Q. -- but it looks like the first one, 10 right? 11 A. Big difference, big difference. The 12 previous one was just for waste generated by 13 Jefferson Parish departments, you know, the 14 streets departments, parkways, recreation 15 department. This was for all residential 16 units. 17 Q. But it was wood waste and C&D waste? 18 A. The prior one was. This new one was 19 just woody waste. 20 MS. WINTER: 21 And yard. 22 THE WITNESS: 23 Yard and woody waste, yeah. 24 BY MR. TALLEY: 25 Q. Yard and woody waste, okay.</p>	<p style="text-align: right;">125</p> <p>1 but -- 2 Q. Okay. 3 A. -- that's close enough. And I think 4 that's already been requested in your -- 5 Q. I'm sure -- yeah. No. Everything I'm 6 asking is -- comes under some response -- 7 A. Yeah. 8 Q. -- but they may not be -- some of them 9 are more generic. 10 A. Right. 11 Q. And so I just want to specifically say 12 that this would be communications that I would 13 be interested in seeing. 14 MR. PEYTAVIN: 15 And whatever you ask -- I'm not 16 saying anything, but my response would be, 17 yes, we'll be happy to produce the documents 18 to the extent we have them. If I have any 19 objection to producing any particular one, 20 I'll let you know when you ask about it and 21 certainly explain the reason. 22 MR. TALLEY: 23 Well, I mean, I'm already asking 24 about it. 25 MR. PEYTAVIN:</p>

<p style="text-align: right;">126</p> <p>1 I understand. I said I didn't 2 have any objection. I just wanted it clear 3 that I, as council for the parish, am agreeing 4 that the parish will produce those documents 5 to the extent that we have them. 6 BY MR. TALLEY: 7 Q. Okay. And who was the consultant that 8 you referred to? 9 A. The yard and woody waste RFP was 10 written by Jordan, Jones & Goulding. 11 Q. Okay. 12 A. Goulding is spelled G-O-U-L-D-I-N-G. 13 Q. Were you in favor of this RFP? 14 A. I wasn't even asked about it, to be 15 honest with you. I just -- I just -- when the 16 final draft was ready to go, they asked me to 17 look at it. 18 Q. I mean, it just sounds to me like a 19 little bit of a strange procedure that you, as 20 the landfill engineer, that this is coming 21 from some sort of, essentially from a 22 recycling committee, then to a consultant and 23 that you only see it after it's -- 24 A. Lots of people were looking at it. 25 Q. I know. But you were the one who made</p>	<p style="text-align: right;">128</p> <p>1 parish, right, commercial waste and industrial 2 waste from outside Jefferson Parish? 3 A. Right. 4 Q. But at this point in time, there's not 5 any kind of RFP that's moving forward on this 6 recommendation -- 7 A. No. 8 Q. -- your recommendation? 9 A. No. 10 Q. Was there any involvement in -- well, 11 let me just ask you this: Was that committee 12 put together as a result of requests or 13 assistance -- or insistence by Aaron Broussard 14 or Tim Whitmer? 15 A. No. And, I mean, if you look back on 16 it, like I said, we had a recycling program 17 before Hurricane Katrina. It was nearing the 18 end of that contract term, and I think there 19 was actually a recycling committee formed way 20 back then in 2004 to look at alternatives for 21 the recycling program. That committee's work 22 obviously got interrupted by Hurricane 23 Katrina. 24 After a couple of years, they reformed 25 the committee and picked up that work, and at</p>
<p style="text-align: right;">127</p> <p>1 a recommendation just, you know, a few months 2 before, where you said the administration 3 should consider other post-closure funding 4 strategies such as amending the contract with 5 Waste Management to allow it to haul 6 commercial waste as well as industrial waste 7 from outside the parish. And so now there's 8 this RFP out there that's -- that's going to 9 divert even more waste from the landfill. 10 I mean, it seems to me like they're 11 inconsistent. 12 A. Well, no. The waste stream that would 13 be reduced by this RFP through any recycling 14 program would be taking waste out of the 15 landfill, but it's the waste that we pay for. 16 So, I mean, this would hopefully provide a 17 reduction overall in parish costs and then we 18 would hope that the collection cost would be 19 outweighed by the reduction in disposal costs. 20 Q. Because it's a different waste stream? 21 MR. PEYAVIN: 22 Explain the other one that -- 23 your recommendation. 24 BY MR. TALLEY: 25 Q. I know the other one. It's out of</p>	<p style="text-align: right;">129</p> <p>1 this point, like I said, the recycling program 2 was completely washed out. The contract had 3 expired. The facility that they had used to 4 process the recyclables had been damaged by 5 the storm. So they were completely trying to 6 reformulate what to do for a recycling 7 program. 8 Q. Okay. The -- that RFP, the RFP that 9 we're talking about, 176, there were several 10 documents where the chief administrative 11 officer, at the time, Tim Whitmer, 12 characterized the RFP as a, quote, unquote, 13 fishing expedition. 14 A. Uh-huh. 15 Q. Have you ever seen that, the RFP 16 referred to as this? 17 A. I've heard the term, yes. 18 Q. And so what was that all about? What 19 is meant by that? 20 A. The original RFP that was generated 21 was directed towards yard -- yard and woody 22 waste when -- 23 Q. Now, when you say the original, you 24 mean the one that was -- 25 A. I mean the one that was generated</p>

<p style="text-align: right;">130</p> <p>1 by -- 2 Q. The contractor? 3 A. -- by Jordan, Jones & Goulding and 4 edited by the people in our office and sent to 5 the administration. They returned it to us 6 with some edits that expanded some of the 7 scope, and at that point, they told us they 8 were looking for a fishing expedition for any 9 ideas. 10 Q. Okay. And when you say "they," who is 11 they? 12 A. Aaron Broussard. 13 Q. Okay. And what came back from that 14 was the response -- a response that came back 15 from that was the response by River Birch to 16 basically take 100 percent of the waste? 17 A. Uh-huh. 18 Q. Is that correct? 19 A. Yes. 20 Q. Okay. Now, let me ask you this: When 21 you -- when the RFP went out -- and this came 22 out from your department, right? 23 A. Yes. 24 Q. Was it your expectation that it would 25 be an RFP that would result in diverting a</p>	<p style="text-align: right;">132</p> <p>1 believed that the landfill, the Jefferson 2 Parish Landfill is a valuable asset to the 3 parish and should be continued to be used as 4 such? 5 A. It should be. And, I mean, if there 6 is a better alternative, you know, to the 7 landfill, then I'm open to it. But I 8 certainly wasn't expecting this. 9 Q. Did you consider this to be a better 10 alternative? 11 A. Not on face value. 12 Q. So once this proposal was -- once this 13 response was received, what happened to it? 14 How was it evaluated? 15 A. There was a committee appointed to 16 review proposals, and we only had two 17 responses, River Birch and another one, I 18 think, from Concrete Busters. And the 19 committee met and compared the two proposals, 20 and the Concrete Busters' proposal was a 21 proposal to take the woody waste that came 22 into the landfill and burn it in a device 23 called a air curtain destructor and that would 24 reduce the volume that would then be landfill. 25 I guess the committee, in looking at</p>
<p style="text-align: right;">131</p> <p>1 hundred percent of the waste from the 2 landfill? 3 A. No. 4 Q. Would it be fair to say that you were 5 surprised by the response? 6 A. Very surprised. 7 Q. Okay. And why is that? Because it 8 wasn't a response to the RFP, correct? 9 A. It was a complete overreach of what I 10 expected. 11 Q. You expected to get a response back 12 that was consistent with the RFP. Once you 13 got something back -- what you got back was 14 basically to discontinue use of the landfill? 15 A. Correct. 16 Q. Okay. So were you in favor of that 17 response? Did you support that response, the 18 response to the RFP? 19 A. Once I overcame the shock, to say I 20 was in favor of it, I mean, I looked at it -- 21 no, I wasn't. 22 Q. You were not in favor of it? 23 A. No. 24 Q. Okay. And part of the reason you 25 weren't in favor of that is because you</p>	<p style="text-align: right;">133</p> <p>1 both -- the two proposals they had, the 2 Concrete Busters proposal was just a very 3 small change in operation. The River Birch 4 proposal was considered to be superior to that 5 one. 6 Q. Okay. But when you're talking about 7 the other proposal, that was just a proposal 8 from Concrete Busters. That was just a 9 proposal that was in direct response to the 10 RFP for yard and wood waste? 11 A. Yes. 12 Q. This other proposal was -- it also 13 included solid -- the other response from 14 River Birch had also included solid waste, 15 construction debris, sewage sludge, other -- 16 A. Yes. 17 Q. Okay. Do you have any information 18 that there was any collusion between River 19 Birch and Concrete Busters in terms of 20 Concrete Busters making the proposal that it 21 made? 22 A. No. 23 Q. Okay. The committee that you referred 24 to, who was that committee? 25 A. Tom Wilkinson, David Fos, who is also</p>

<p style="text-align: right;">134</p> <p>1 in the parish attorney's office. Fos is 2 F-O-S. And Alan Gandolfi and he's with the 3 Council of Research and Budget Office. 4 Q. Okay. So that committee did not 5 include Ms. Winter? 6 A. No. 7 Q. What information did you provide that 8 committee in terms of evaluating the response 9 from River Birch? 10 A. Well, Marnie and I were allowed to 11 review the proposals and make -- make some 12 comments to the committee. There was also -- 13 Q. Let me stop you there. 14 A. Okay. 15 Q. 'Cause I -- the way you phrase that, 16 you were allowed, I'm kind of interested in 17 that because that kind of tells me that you 18 were -- you were allowed to do that but not 19 necessarily everything else that you normally 20 would have done. Am I reading too much into 21 your statement, or is that a fair reading? 22 A. Well, we were considered technical 23 advisors to the committee. 24 Q. Okay. But normally, Ms. Winter would 25 have been one of the people on the committee,</p>	<p style="text-align: right;">136</p> <p>1 Q. Well, I guess I'm more interested in 2 an evaluation from an economic perspective. 3 A. The only thing that I gave to the 4 committee on that regard was the previous 5 reports that you had referred to in 2008 -- 6 Q. Uh-huh. 7 A. -- that I had forwarded that 8 information to Tom Wilkinson. 9 Q. Okay. And going back to those 10 reports, the -- there is an e-mail transmittal 11 from Marnie Winter to C. Roth. Who is C. 12 Roth, by the way? 13 A. Is that Cindy Roth? 14 Q. Okay. And it's -- 15 A. What tab you have? 16 Q. I'm going back to Tab 13, and it's 17 copied to T. A. Whitmer and R. Buller. 18 I note -- and at this point now, we're 19 talking about their -- this River Birch RFP 20 was at the end of 2008. But in the beginning 21 of 2008, in the beginning, in January of 2008, 22 Marnie Winter corresponds with C. Roth with 23 copies to those -- to the two people saying, 24 Mr. Broussard called me yesterday and said 25 that the information I provided him on</p>
<p style="text-align: right;">135</p> <p>1 right? 2 A. Yes. 3 Q. So that was a little different? 4 A. Different. 5 Q. Okay. Did you ask any questions about 6 that? 7 A. No. 8 Q. There were two people from the parish 9 attorney's office on there. That was a little 10 different, right? 11 A. Yes. 12 Q. Okay. So you were -- you said you 13 were allowed to review the proposal and make 14 some comments. And did you, in fact, do that? 15 A. Yes. 16 Q. Okay. What kind of comments did you 17 make and how did you make them? 18 A. It was a -- just a comparison of their 19 proposal based against the evaluation criteria 20 that was in the RFP. 21 Q. Okay. And -- 22 A. And, you know, on the qualifications 23 -- such as the company's qualifications and 24 experience and what they've done and whether 25 their plans were practical.</p>	<p style="text-align: right;">137</p> <p>1 January 4th was part of what he was looking 2 for, but he was still looking for a report we 3 did. 4 So then she attaches these four memos 5 again. 6 A. Right. 7 Q. Why was Mr. Broussard involved in 8 January of 2008 in terms of going back, I 9 guess, to look at -- why was he asking for 10 whatever information he was asking for on 11 January the 4th, if you know? 12 A. I -- I don't know. 13 Q. You didn't have any conversations 14 with -- 15 A. No. 16 Q. -- Ms. Winter at that time about why 17 he was calling? 18 A. We speculated, you know, that he had 19 -- you know, later on he called it a fishing 20 expedition. In my own mind, I thought he had 21 some idea of a waste energy plant or a big 22 composting facility. I don't have any 23 specifics, but that was just my own guesswork. 24 Q. I'm just curious as to the 25 relationship of all of you folks working</p>

<p style="text-align: right;">138</p> <p>1 together, you know, the parish president and 2 the CAA, you know, Whitmer, and Ms. Winter, 3 who had been in the position for, you know, 4 several years at that point, almost eight 5 years, and you and this request for 6 information. Nobody says, why is -- why are 7 you asking for this? I mean, I don't 8 understand that. 9 MR. PEYTAVIN: 10 Is that a question, Patrick? 11 MR. TALLEY: 12 Yes, that's a question. 13 Why? Why did nobody -- why 14 didn't you ask and why -- I can't ask you to 15 speak for her unless you had conversations 16 with Ms. Winter. But I'm asking why wasn't 17 somebody asking, well, why do you want this 18 information? You had already submitted the 19 information four years before. So why is it 20 being asked for again? 21 THE WITNESS: 22 I don't know. But when the 23 parish president asks for information, you 24 give it to him. 25 BY MR. TALLEY:</p>	<p style="text-align: right;">140</p> <p>1 in or Ms. Winter was involved in, where 2 someone was asking for information about the 3 landfill, you know, comparative aspects or 4 anything like that? 5 A. No. 6 Q. Okay. So then in December of 2008 -- 7 okay. Again, the first e-mail was 8 January 8th, but then in December the 30th, 9 then to Tom Wilkinson, Marnie Winter sends the 10 e-mail to Tom Wilkinson with a copy to Whitmer 11 again and you basically saying, As agreed to 12 at the RFP evaluation committee meeting. 13 Okay. Now, the RFP evaluation 14 committee meeting are the three people that 15 you just named, correct? 16 A. Yes. 17 Q. "I am forwarding whatever documents we 18 have that may be useful in evaluating the 19 overall financial impact of closing the parish 20 landfill per River Birch's proposal." 21 Okay. "The attached information was 22 provided per request from Mr. Broussard and 23 D. J. Mumphrey earlier this year." 24 So is this the first time that you 25 would have been asked to, not just you but</p>
<p style="text-align: right;">139</p> <p>1 Q. Okay. So what happened? Did anything 2 happen between January when Ms. Winter sent 3 those e-mails to Aaron Broussard, sent the 4 documents, did anything happen between that 5 point in time and the RFP that went out in 6 November, later that year? Did anything 7 happen with respect to work, comparing River 8 Birch and Waste Management or analysis of the 9 landfill or anything? 10 A. Nothing -- nothing directly comparing 11 the landfill and Waste Management to River 12 Birch. 13 Q. Do you recall -- 14 A. I think in -- you know, updated the 15 2004 information in -- sometime in 2008. 16 Q. Right. 17 A. And again, there was no -- at that 18 time, no direct correlation between River 19 Birch. 20 Q. Okay. Aside from -- just aside from 21 these documents, not limiting it to these 22 documents, do you recall anything between 23 January 2008 and November 2008, either in the 24 way of meetings or phone calls or 25 communications, that either you were involved</p>	<p style="text-align: right;">141</p> <p>1 your department, would have been asked to 2 provide information evaluating the financial 3 impact of closing the parish landfill? 4 A. Yes. 5 Q. Okay. And you believe that these four 6 reports accurately evaluate the financial 7 impact of closing the parish landfill? 8 A. Not directly. I think that's the 9 information you would use to -- to do that. 10 Q. That's part of the information that 11 you needed, correct? 12 A. Uh-huh. 13 Q. Okay. Do you think that by looking at 14 the -- reading those documents and looking at 15 those documents, an evaluation -- a reasonable 16 evaluation would cause people to ask for more 17 information -- 18 A. Yes. 19 Q. -- and other documents, don't you? 20 A. Yes. 21 Q. Okay. That didn't happen, did it? 22 A. No. 23 Q. Do you know what this evaluation 24 committee did with these documents when they 25 were sent to them?</p>

<p style="text-align: right;">142</p> <p>1 A. I don't know. 2 Q. Do you know if they were ever even 3 reviewed or discussed in any way? 4 A. I don't know. 5 Q. You were not part of any of the 6 meetings? 7 A. Well, I was part of the meeting, like 8 I said, when we reviewed the proposals. 9 Q. That was earlier, though? 10 A. Right. After that, I wasn't. 11 Q. I'm talking about after December the 12 30th when the information was sent to them. 13 Were you -- 14 A. No. 15 Q. -- part of any meetings where they 16 reviewed these documents or discussed the 17 financial impact of closing the parish 18 landfill? 19 A. No. 20 Q. Okay. All right. After that e-mail 21 was sent, the December 30th e-mail from Marnie 22 Winter, in January of 2009, okay, that's where 23 I am now, okay, January 2009, there's some 24 reports from you to Tom Wilkinson. They were 25 all to Tom Wilkinson.</p>	<p style="text-align: right;">144</p> <p>1 just -- 2 Q. The attached table? 3 A. Right. Those -- the big factor is 4 those unit costs. And there's a lot of 5 guesswork on my part there. I mean, so that's 6 where a lot of variability can come in when 7 you're trying to guess, you know, the actual 8 closure costs. 9 Q. What did you mean when you said, if we 10 end their contract early, we'll have to 11 negotiate some shared closure cost? 12 A. Well, the way our contract is 13 structured, there was an initial -- way back 14 when in 1996, whenever the contract was first 15 signed, additional payment of some \$2.3 16 million. And after that, all of the cell 17 construction, operations, and closure cost was 18 paid by the parish through the tipping fee. 19 So I reasoned that, well, if we don't 20 allow Waste Management to fill up the area 21 that was originally contracted, then they're 22 obviously not collecting, you know, the money 23 they expected, and so maybe they wouldn't have 24 made enough to pay for the final cover. 25 Q. Okay.</p>
<p style="text-align: right;">143</p> <p>1 For example, there's the -- this 2 starts under Tab 24 -- there's a landfill 3 proposal, Waste Management royalties showing 4 tonnage history and royalty summary. That was 5 on January the 8th? 6 And then January 13th, there is a 7 evaluation of a landfill proposal. Here's 8 more estimates requesting for consideration of 9 the landfill proposal. And again, to Tom 10 Wilkinson with some copies. Then there's a 11 January 14th e-mail where you did some 12 spreadsheets estimating the landfill closure 13 cost at \$14 million. And I want you to look 14 at that one real quickly. This is under 15 Tab 20 -- 16 A. 26. 17 Q. 26. "This is currently a 18 responsibility of Waste Management under their 19 contract. But if we end their contract early, 20 we'll have to negotiate some shared closure 21 cost." 22 Okay. First of all, how do you 23 estimate the landfill closure cost at 14 24 million? And that's on that table? 25 A. Yeah, on that table. And again, I was</p>	<p style="text-align: right;">145</p> <p>1 A. That's my layman's reasoning. 2 Q. All right. It would be fair to say, 3 though, that this is a situation of it is what 4 it is. It's not -- it's not in the nature of 5 a penalty that would be suffered by the parish 6 if there was a early termination of the 7 contract. In other words, there's nothing in 8 the contract that says if you terminate this 9 thing early, then you get this penalty, right? 10 A. Correct. 11 Q. And so this is just your 12 interpretation of the contract based on the 13 obligations of both parties at a certain point 14 in time? 15 A. Correct. 16 Q. And if it's terminated before the 17 landfill is filled or the permitted areas are 18 filled, then the parish bears some 19 responsibility for the closure costs? 20 A. That's what I thought. 21 Q. Okay. So again, that's not -- that's 22 not designated in your mind in terms of a 23 penalty or a liquidated damage or anything 24 like that? 25 A. No.</p>

<p style="text-align: right;">146</p> <p>1 Q. Correct? 2 A. Correct. 3 Q. Okay. Next thing I want to direct 4 your attention to is under Tab 29, which is 5 the May 5th, 2009, landfill budget scenarios. 6 And again, this is directed to Tom Wilkinson. 7 And you say, I prepared the attached 8 2010-12 budget estimates for the Jefferson 9 Parish Landfill under two scenarios: Continue 10 with the landfill operation under the contract 11 with Waste Management, and closing the 12 landfill and accepting the proposal from River 13 Birch. 14 Were you asked to do this? 15 A. Yes. 16 Q. By whom? 17 A. By Tom Wilkinson. 18 Q. Okay. Would it be fair to say that 19 this would be the first actual analysis, 20 budgetary analysis, of comparing the River 21 Birch proposal to the current contract with 22 Waste Management? 23 A. I started doing -- this one is dated 24 in May. I think I went through a couple of 25 iterations starting in April.</p>	<p style="text-align: right;">148</p> <p>1 like -- I'd like you to produce the Excel 2 spreadsheet with the metadata that goes with 3 this document. You have that -- 4 A. Yeah. 5 Q. -- I'm sure? 6 A. Sure, uh-huh. 7 Q. Okay. So you know what I'm talking 8 about when I ask for that, correct? 9 A. I don't know what you mean by 10 metadata, but I just have -- 11 Q. Well, it's basically everything that's 12 with it and the history, meta format. 13 A. Okay. 14 Q. Okay. Can you just -- and again, I 15 don't necessarily want to make the sausage 16 here, but I need to understand what kind of 17 sausage I'm getting. 18 A. Okay. 19 Q. Can you just walk me through these 20 documents and tell me how to read them? 21 'Cause -- 22 A. Okay. 23 Q. -- a lot of this stuff I've been able 24 to interpret before, but this is really a 25 pretty sophisticated document.</p>
<p style="text-align: right;">147</p> <p>1 Q. Okay. Well, I don't have these 2 iterations. 3 A. Yeah. If you -- 4 Q. I'd like to -- 5 A. If you're looking at this spreadsheet, 6 if you look at the bottom left, that's the 7 file name, and I have the date, 05/04/09. The 8 date on the top right is just when it was 9 printed. 10 MR. PEYTAVIN: 11 He's talking about the path down 12 at the bottom. 13 BY MR. TALLEY: 14 Q. 05/04/09, I see it. 05/04/09. So 15 that would have been April, about a month 16 earlier? 17 A. Right. 18 Q. Okay. So just to rephrase my 19 question, your work with this, including 20 earlier iterations, would be the first -- 21 A. Starting in April was the first time I 22 looked at comparing the cost of the two. 23 Q. Okay. Now, I need to just ask you 24 some questions about this because -- well, 25 first of all, I want to know -- and I would</p>	<p style="text-align: right;">149</p> <p>1 A. Yeah. Because when you see it printed 2 like this, you got to see where the different 3 cells do calculations and where they -- where 4 they show up. 5 But the way I have the spreadsheet set 6 up, this first page is really where I do all 7 the data entry, all the -- up at the top, the 8 unit counts, that's how many houses we pick up 9 garbage from or recycling and -- 10 Q. Okay. Well, does this document relate 11 to the current contract with Waste Management 12 or to River Birch, or do they do both? 13 A. Okay. Let's see. If you look at the 14 file name at the bottom, budget, this is the 15 year 2010. RB stands for River Birch, with 16 two percent CPI. So in other words, for all 17 the -- year to year, I assume the cost would 18 be increasing by two percent a year. 19 Q. Okay. Well, all the documents have 20 that designated -- that nomenclature 21 designated at the bottom. 22 A. No. 'Cause when you flip through, 23 then it goes to budget 2011. 24 Q. Okay. 25 A. It's, what, four pages for each year,</p>

<p style="text-align: right;">150</p> <p>1 I think. 2 Q. Well, I guess what I'm asking is, 3 before you get into a lot of detail, I'm 4 trying to figure out just as a overall broad 5 picture. You said two scenarios? 6 A. Uh-huh. 7 Q. You were doing this under two 8 scenarios. First scenario, you continue with 9 the landfill operation, and then the second 10 scenario, closing and accepting the River 11 Birch proposal. So how do I read the -- where 12 are the two scenarios? 13 A. Let me make sure I got it right. 14 Q. And it's possible, like I said, I got 15 this from the Foy request. It's possible I 16 may not have all the documents. 17 A. This just seems to present the River 18 Birch -- 19 Q. Yeah, it does. 20 A. -- cost -- cost estimates. 21 Q. Exactly. That's my problem with it. 22 A. Uh-huh. 23 MR. PEYTAVIN: 24 Patrick, do you have any other 25 ones besides that one?</p>	<p style="text-align: right;">152</p> <p>1 A. Yeah. It would've been the -- the 2 spreadsheet would've been the same but with WM 3 instead of RB. 4 Q. Okay. 5 (The Videographer: Off the record. 6 The time is now 2:01. This is the end of Tape 7 3.) 8 (Off the record.) 9 (The Videographer: This is the 10 continued videotaped deposition of Joseph 11 Richard Buller. This is the beginning of 12 Tape 4. The time is now 2:11.) 13 BY MR. TALLEY: 14 Q. Okay. Mr. Buller, your counsel with 15 the parish has given me this document entitled 16 Jefferson Parish Landfill Budget Scenarios. 17 And you have a copy of that, too, correct? 18 A. Yes. 19 Q. Did you prepare this document -- 20 A. Yeah. 21 Q. -- or is this something prepared by 22 someone else? 23 A. Yeah. 24 Q. Okay. What was the purpose of you 25 preparing this document?</p>
<p style="text-align: right;">151</p> <p>1 MR. TALLEY: 2 No. This is all we got. 3 MR. PEYTAVIN: 4 If you go off the record a 5 second, I can get the one from May that 6 compared them side-by-side. We certainly are 7 going to produce with the records that the 8 department has. It might speed that up and 9 make it a little bit clearer and prevent 10 having to come back with Rick on a later date, 11 if you want me to do that. 12 MR. TALLEY: 13 Sure. I mean, I'd like to have 14 it. You know, there's -- before you go off 15 the record, though, let me just ask this. 16 I was reading this to say, okay, 17 there was really not a scenario, another 18 scenario. Did you, in fact, have a scenario 19 that included Scenario Number 1, continuing 20 with the landfill operation under the contract 21 with Waste Management? 22 THE WITNESS: 23 Yes, yes. 24 BY MR. TALLEY: 25 Q. Okay. It's just not here?</p>	<p style="text-align: right;">153</p> <p>1 A. This was to make a comparison between 2 the cost of continuing to operate our landfill 3 under the Waste Management contract or to 4 close the landfill and begin sending all the 5 waste to the River Birch Landfill. 6 Q. Okay. I know what it does, I guess. 7 But what I'm really asking is why were you 8 doing it? Did somebody ask you to do this? 9 A. Yes. They asked to see if there 10 actually was any cost savings. 11 Q. Okay. And so would this be done in 12 connection with your May 5th, 2009, landfill 13 budget scenarios work in the end of prior 14 iterations? 15 A. Yes. And this is apparently one of 16 the prior iterations. You can see that the 17 date's April 27. 18 Q. Yeah. So ultimately, you're going to 19 produce -- or you're going to make sure you 20 give your attorney all of the documents that 21 have anything to do with prior iterations, you 22 know, spreadsheets in meta format and all that 23 information. This document would be in there? 24 A. Yes. 25 Q. As well as maybe some other --</p>

<p style="text-align: right;">154</p> <p>1 A. Right. 2 Q. -- documents like this? Okay. 3 At the end of the day, the -- let me 4 ask you a couple of questions that I can see 5 off the top of my head. 6 When you say this portion to transfer 7 account -- underneath the Waste Management 8 portion, the portion to transfer to capital 9 account? 10 A. Yes. 11 Q. That Phase 4 cell construction? 12 A. Yes. 13 Q. That wasn't included in the Waste 14 Management contract? 15 A. No. 16 Q. So if you take those numbers out, then 17 there really wouldn't be any savings; is that 18 correct? 19 A. That's correct. But those -- those 20 are costs that we would -- we would incur if 21 we had continued the landfill operation. I 22 mean, not necessarily costs that are 23 attributable to Waste Management. 24 Q. Yeah. But they're a subcontractor 25 because -- yeah, okay. All right. You said</p>	<p style="text-align: right;">156</p> <p>1 yet, I know under both these scenarios that's 2 what you need. 3 Q. Well, I was going to ask you about 4 that. 5 A. And that's what it costs. Like those 6 cell construction costs for Phase 4, they 7 should come into play. 8 Q. Okay. And the other thing I was going 9 to ask you is that it stops at 212, and 212, I 10 notice that there's only projected to be a 11 \$371,000 savings? 12 A. Correct. 13 Q. Okay. I mean, I know it's relative 14 terms, and you say tomato and I say tomato. 15 But I'm not sure that I would agree that that 16 would be characterized as significant. I 17 guess it depends on whose money it is? 18 A. It depends, yeah. 19 Q. But this analysis includes only -- 20 well, this analysis only includes \$700,000 in 21 royalty, right? 22 A. Yes. 23 Q. If as an assumption there had been -- 24 if there had been a -- well, I want to ask you 25 a couple of questions about this.</p>
<p style="text-align: right;">155</p> <p>1 it the way I was asking. It's not costs that 2 would necessarily be attributable to Waste 3 Management? 4 A. Right. 5 Q. But in the introduction to this, the 6 May 5th, 2009, page, it says two scenarios, 7 continuing with landfill operation under the 8 contract with Waste Management? 9 A. Uh-huh. 10 Q. Okay. So that's what I've really been 11 trying to get at. This particular document 12 right here doesn't really represent continuing 13 the contract with Waste Management. It really 14 represents continuing to use the Jefferson 15 Parish Landfill. Fair? 16 A. Fair. 17 Q. Okay. So if you take that -- again, 18 if you take that Phase 4 cell construction out 19 and you're just comparing the two contracts, 20 the River Birch contract and the Waste 21 Management contract, there wouldn't be any 22 savings, right? 23 A. Right. And that brings us to the 24 problem with our analysis, in that I didn't 25 feel comfortable projecting costs past 2012;</p>	<p style="text-align: right;">157</p> <p>1 First of all -- I have to find my 2 documents here. 3 Where is the document that he has, the 4 one that shows the royalties? 5 MR. CASTORIANO: 6 Tab 24. 7 MR. TALLEY: 8 I can't really find the document 9 that I'm looking for right now. 10 MR. PEYTAVIN: 11 I think it's 24, the second page. 12 MR. TALLEY: 13 Well, 24 is not the one I was 14 talking about, that I was thinking of. But 15 because -- 24 is not really the one I'm 16 talking about. 17 You probably know these figures. 18 Up through 2008, as I recall the information 19 that I've seen, there was never an occasion 20 where the royalty was not below a million 21 dollars. 22 THE WITNESS: 23 I think so. 24 MR. PEYTAVIN: 25 You can check the record.</p>

<p style="text-align: right;">158</p> <p>1 THE WITNESS: 2 Correct. 3 BY MR. TALLEY: 4 Q. Is that correct? 5 A. Yes. 6 Q. Okay. And, in fact -- and again, I 7 can't really put my fingers on the specific 8 document that I'm looking for. It was for 9 several years up until the diversion of the 10 C&D waste. It was -- the number was like 11 1.6 million and then it dropped down to like 12 maybe 1.2, and your explanation of that was it 13 was probably due to the diversion of the C&D 14 waste. 15 MR. PEYTAVIN: 16 Objection. The witness never 17 testified to that. As a matter of fact, he 18 said that no C&D waste had ever been diverted. 19 I don't know what factual background you're 20 referring to here on diversion of C&D waste. 21 BY MR. TALLEY: 22 Q. Okay. Well, never mind. It's 23 digressing anyway. The point is, is that why 24 are you assuming only \$700,000 in royalty when 25 historically the number had been well over a</p>	<p style="text-align: right;">160</p> <p>1 and 2009. But, well, yeah, while I understand 2 it was trending downward, there was never a 3 point where it was well below a million 4 dollars. In fact, you said averaging over 5 \$2 million between 2002 and 2005. 6 A. Uh-huh. 7 Q. So you also had a recommendation at 8 this point in time that -- that by considering 9 -- if the administration would consider 10 strategy such as amending the contract to 11 allow Waste Management to haul commercial 12 waste, then that could increase the royalty 13 revenues, right? 14 A. Right. 15 Q. So in all fairness, in terms of 16 comparing the two contracts, wouldn't you have 17 to compare -- first of all, wouldn't you have 18 to use a higher royalty number and then 19 wouldn't you have to compare scenarios that 20 would allow Waste Management to increase the 21 royalties? I mean, because that's what you 22 have under that contract, the ability to 23 increase royalties, right? That's not being 24 considered here. 25 MR. PEYTAVIN:</p>
<p style="text-align: right;">159</p> <p>1 million? 2 A. I want to say we need the 2009 3 numbers. I think -- I think it really dipped 4 in 2009, the royalties, and they have since 5 rebounded onto pushing a million again this 6 year. 7 Q. Yeah, well, the budget numbers show 8 the 2009 at 908, the royalties at \$908,000. 9 Do you have any information to disagree with 10 that? 11 A. No. 12 Q. This is from the budget. So -- and it 13 may be slightly below a million. But, I mean, 14 I'm just -- 15 A. I guess I just seen the trend with the 16 royalties decreasing and thought maybe 17 \$700,000 was where it was going to bottom out. 18 Q. Yeah. But once again, if we had gone 19 -- going back to your -- this is the document 20 I was looking for, yeah. 2000 -- going back 21 to 2000, 1.9 million; 2001, 1.9 million; 2002, 22 2.1; 1.9; 2004, 2 million; 2005, 2.1; 2006, 23 1.7; 2007, 1.3. 24 A. Uh-huh. 25 Q. This document doesn't have the 2008</p>	<p style="text-align: right;">161</p> <p>1 Objection. What you need to 2 increase royalties is an amendment to the 3 contract, and there's no requirement that the 4 parish allow an amendment to the contract. 5 MR. TALLEY: 6 There's no requirement that they 7 do anything other than to try to get the best 8 deal for Jefferson Parish. 9 MR. PEYTAVIN: 10 You're asking this witness, who 11 is a fact witness and not an expert, to 12 speculate as to what a political subdivision 13 should do in the political subdivisions 14 governing authority's decision -- 15 MR. TALLEY: 16 The parish -- 17 MR. PEYTAVIN: 18 -- in terms of amending a 19 contract to allow you to do -- 20 MR. TALLEY: 21 No. 22 MR. PEYTAVIN: 23 -- more work than the contract -- 24 MR. TALLEY: 25 No.</p>

<p style="text-align: right;">162</p> <p>1 MR. PEYTAVIN: 2 -- allows you to do. 3 MR. TALLEY: 4 No. 5 MR. PEYTAVIN: 6 This witness is not an expert 7 witness and he's not a 30(b)6 witness on 8 behalf of the parish. 9 MR. TALLEY: 10 Well, I disagree. 11 MR. PEYTAVIN: 12 You're going to have to notice a 13 30(b)6 deposition if you want the answer to 14 who made the political decision as to whether 15 to amend the contract when it was within the 16 discretion of the governing authority to 17 authorize an amendment or not to authorize an 18 amendment. 19 MR. TALLEY: 20 No. You're way off base. The 21 parish has taken the position in this 22 litigation, and I can cite to you numerous 23 occasions where it is in judicial pleadings 24 that there is a, quote, unquote, substantial 25 savings between these two contracts.</p>	<p style="text-align: right;">164</p> <p>1 cross-examine that issue and that's what I'm 2 doing now, okay. 3 MR. PEYTAVIN: 4 And -- 5 MR. TALLEY: 6 And I'm entitled to know what he 7 thinks 'cause he's the man who did this. 8 MR. PEYTAVIN: 9 The position with respect to 10 substantial savings was with respect to the 11 existing contract with Waste Management versus 12 a proposal by River Birch, not a pie in the 13 sky proposal by Waste Management to get an 14 extension of their contract to do a vertical 15 expansion that basically is going to extend 16 their contract beyond the time authorized by 17 law to begin with and put the parish in the 18 situation where they got half of a vertical 19 expansion done and they have to terminate a 20 contract and get somebody else to finish it. 21 So that again -- 22 MR. TALLEY: 23 I'm not talking about that. I'm 24 talking about the witness' recommendation that 25 the Waste Management contract be amended. It</p>
<p style="text-align: right;">163</p> <p>1 What I'm looking for -- what I'm 2 asking this witness for now, who is an expert, 3 by the way, he might not be designated as 4 such, but he is definitely an expert. He's 5 got more expertise than most people in this 6 area. 7 MR. PEYTAVIN: 8 This witness was noticed as a lay 9 witness -- 10 MR. TALLEY: 11 I understand. 12 MR. PEYTAVIN: 13 -- and he's testifying as a lay 14 witness. 15 MR. TALLEY: 16 He wasn't noticed as a lay 17 witness. He was noticed in his individual 18 capacity, and that includes the experience and 19 knowledge that he brings into the room. And 20 he is very knowledgeable about this, and it is 21 fair for me to ask him questions that are 22 within that expertise. 23 But my point here is, is that 24 when you take a position that there's 25 substantial savings, I'm entitled to</p>	<p style="text-align: right;">165</p> <p>1 has nothing to do with anything to do with 2 construction of the landfill. It just has to 3 do with amending the contract to allow them to 4 haul commercial waste that would increase the 5 royalty. 6 And if you're looking for -- if, 7 in all fairness, if the people that are doing 8 this are looking for ways to save the citizens 9 of Jefferson Parish money while looking at the 10 River Birch contract, why aren't they also 11 looking at amending the Waste Management 12 contract to allow the royalties to increase? 13 That's all I'm asking. 14 MR. PEYTAVIN: 15 And again, counsel -- 16 MR. TALLEY: 17 It's a fair question. 18 MR. PEYTAVIN: 19 -- that's a decision for the 20 parish council to make -- 21 MR. TALLEY: 22 It's a decision -- 23 MR. PEYTAVIN: 24 -- not this witness. 25 MR. TALLEY:</p>

<p style="text-align: right;">166</p> <p>1 I understand. 2 MR. PEYTAVIN: 3 And if you want to do a 30(b)6 4 deposition -- 5 MR. TALLEY: 6 No. 7 MR. PEYTAVIN: 8 -- and ask the parish -- 9 MR. TALLEY: 10 We're on the same page. 11 MR. PEYTAVIN: 12 -- why that decision was made. 13 MR. TALLEY: 14 Look, I'm not asking him the 15 question that you're trying to get me to ask 16 him. The only thing I'm asking him is just 17 the basics of why that wasn't considered. He 18 can say I don't know, okay? 19 MR. PEYTAVIN: 20 And he can also say 'cause the 21 parish council in this discussion decided not 22 to amend the contract. 23 You're asking him now about 24 savings under a proposed amendment that never 25 happened, that was not in a scenario at the</p>	<p style="text-align: right;">168</p> <p>1 Q. And so the information that the 2 committee had would be based on the royalties 3 in the existing contract and, in fact, a lower 4 number than had ever historically been 5 experienced -- that would have ever been paid 6 to the parish, right? 7 A. Yes. 8 Q. Okay. 9 A. And that \$700,000 estimate was my 10 estimate. 11 Q. I understand. 12 A. I looked at the trend of the royalties 13 and that's where I assumed they were going to 14 bottom out for those years. 15 Q. Okay. But my point is, is that if the 16 purpose of -- if somebody is looking at this 17 document and saying estimated savings down 18 here, then why wasn't somebody asking you the 19 question, well, could we get more savings by 20 increasing the royalties under the Waste 21 Management contract and then we don't have to 22 go with River Birch? Did anybody ever ask you 23 that? 24 A. No. 25 Q. You had made that recommendation --</p>
<p style="text-align: right;">167</p> <p>1 time that he was preparing these reports, 2 counsel. 3 MR. TALLEY: 4 Well, it's our position it should 5 have been in the scenario. 6 MR. PEYTAVIN: 7 Well, you'll have to do a 30(b)6 8 notice for the parish and the parish will 9 produce somebody to testify as to why the 10 parish in its discretion decided not to 11 consider those proposals, and instead, to go 12 out and request proposals as it did and 13 compare the River Birch proposal versus the 14 Waste Management contract as exists, not how 15 Waste Management wishes it existed. 16 MR. TALLEY: 17 Okay. I understand what you're 18 saying. 19 Mr. Buller, you were not asked to 20 do any sort of evaluation and provide 21 information to this committee that would have 22 -- based on increased royalties, correct? 23 THE WITNESS: 24 Correct. 25 BY MR. TALLEY:</p>	<p style="text-align: right;">169</p> <p>1 A. Sure. 2 Q. -- just a year earlier? 3 A. Sure. 4 Q. Not even a year earlier -- well, a 5 year earlier, right? 6 A. I had. 7 Q. All right. Looking at the contracts, 8 why are you -- let me just ask you this: Why 9 are you including in this document costs for 10 odor control, gas collection, O&M, bird 11 management, when these are all 12 responsibilities under the existing contract 13 with Waste Management? The parish doesn't pay 14 for this? 15 MR. PEYTAVIN: 16 It's professional services. 17 THE WITNESS: 18 Professional services, yeah. 19 It's all -- 20 BY MR. TALLEY: 21 Q. Because you're evaluating the cost of 22 the landfill and not the Waste Management 23 contract? 24 A. Right. 25 Q. So, in fact, there really is no</p>

<p style="text-align: right;">170</p> <p>1 evaluation and comparison of the Waste 2 Management contract to the River Birch. It's 3 a comparison of the cost of the landfill -- 4 A. Right. 5 Q. -- to River Birch? 6 A. Right. It's the landfill cost using 7 -- continuing with Waste Management operating 8 the landfill as our operations contractor, or 9 closing and sending the waste next door to 10 River Birch. That's why you see under the 11 River Birch scenario we pick up all kind of 12 contracted services to do the site maintenance 13 activities. 14 Q. Under this new RFP that's come out -- 15 A. Uh-huh. 16 Q. You're familiar with that? 17 A. Yes. 18 Q. -- who pays for the cell construction 19 of 4-A? It's 4-A? 20 A. Yeah. It's going to be Phase 4. 21 Q. Phase 4? 22 A. The contractor? Oh, I'm sorry. 23 Q. And so, you know, if -- that's what I 24 would think was the point I was making 25 earlier. If the contractor's paying for it,</p>	<p style="text-align: right;">172</p> <p>1 proposals? 2 A. None. 3 Q. None? 4 A. Well, I think David Fos and Alan 5 Gandolfi had been involved in the committees 6 for the garbage collection contract. 7 Q. Now, this is what I really want to get 8 at is that it just -- it seems to me to be a 9 little odd. This RFP that's being evaluated, 10 Mr. Buller, in all fairness, it was submitted 11 by River Birch. This was submitted in 12 response to -- I'm sorry, this response -- 13 this response was submitted to an RFP that was 14 put out for yard waste and for wood waste and 15 for C&D waste, okay? 16 A. Not C&D. Yard and woody waste. 17 Q. Yard and woody waste? 18 A. Yes, sir. 19 Q. And this proposal came back much 20 broader, covered everything. 21 A. Uh-huh. 22 Q. Waste Management didn't respond to the 23 RFP, correct? 24 A. Correct. 25 Q. Okay. So what opportunity did Waste</p>
<p style="text-align: right;">171</p> <p>1 then this Phase 4 cell construction doesn't 2 belong in this document. You're not comparing 3 apples to apples, right? 4 A. Well, the way we fund our capital 5 account is we transfer money each year to try 6 to cover upcoming projects. 7 Q. But these aren't costs to the -- this 8 is not a cost to the parish, and if you take 9 that out, there's no estimated savings. 10 Well, you would agree with me, that's 11 just math. If you take it out -- 12 A. Right, yeah. 13 Q. -- there's no estimated savings? 14 A. If you do that, if you take it out, 15 obviously, yeah. But that's why eventually we 16 hired a company to do a 25-year estimate, 17 because that's going to encompass, you know, 18 globally all the costs involved. 19 Q. I understand. I'm just trying to find 20 the information that was before, you know, 21 this, quote, unquote, committee, okay, when 22 they did their evaluation. 23 And by the way, going back to that 24 committee, what experience did those committee 25 members have in evaluating environmental</p>	<p style="text-align: right;">173</p> <p>1 Management have to respond to the response 2 that River Birch put out? 3 A. I don't know if they communicated 4 anything with the administration after this. 5 Q. Okay. In other words, I guess what 6 I'm asking -- 7 A. There was no formal response, as far 8 as I know. 9 Q. In other words, I guess what I'm 10 asking is when this -- when this River Birch 11 response came out that was much broader than 12 the RFP, and there is a committee that's 13 evaluating this to see if there's any savings, 14 you're being asked questions about it. 15 It would be true to say that no one 16 went to Waste Management and said, what would 17 your response be, Waste Management, to an RFP 18 that would be -- that would broadly include a 19 hundred percent of the waste to Jefferson 20 Parish -- I mean, a hundred percent of the 21 waste to the Jefferson Parish Landfill? 22 Nobody did that? 23 A. No. 24 Q. There's an ordinance, 2-915, Jefferson 25 Parish, which says, a bid should be rejected</p>

<p style="text-align: right;">174</p> <p>1 if the current operator is not given 2 opportunity to bid. Was that done in this 3 case? 4 A. I'm not familiar with that. 5 Q. I'm not asking you that. I'm asking 6 you if the current operator was given the 7 opportunity -- 8 A. No. 9 Q. -- to bid? Okay. 10 A. Well, not the opportunity to bid. 11 They could have responded to that RFP. 12 Q. Yeah. But they would've -- but in all 13 fairness, the response to the RFP was for wood 14 waste and C&D waste, yard waste, right? 15 MR. PEYTAVIN: 16 Objection. And you're 17 characterizing it as for wood waste and yard 18 waste. The RFP was not limited to wood waste 19 and yard waste when it came back from the 20 administration, and that's where the 21 disconnect is here. It was an RFP for 22 proposals to save space at the landfill that 23 invited, invited any proposals that would 24 result in the saving of space at the Jefferson 25 Parish Landfill.</p>	<p style="text-align: right;">176</p> <p>1 went out. 2 MR. PEYTAVIN: 3 Well, this witness is not the one 4 who prepared the RFP that actually went out. 5 So you'd have to ask the person -- 6 MR. TALLEY: 7 That actually prepared the RFP. 8 MR. PEYTAVIN: 9 -- who prepared the RFP that 10 actually went out -- 11 MR. TALLEY: 12 But all I can do today is -- 13 MR. PEYTAVIN: 14 -- what their intent was. 15 MR. TALLEY: 16 -- to deal with the witness that 17 I have. 18 MR. PEYTAVIN: 19 Right. And the witness testified 20 that he was familiar with an RFP for woody 21 waste that went out through a consultant who 22 prepared it and they sent it to the Tenth 23 Ward. 24 MR. TALLEY: 25 Well, the witness also said he</p>
<p style="text-align: right;">175</p> <p>1 And that's the problem, counsel, 2 is that you're the one characterizing the RFP 3 as limited to that, when the RFP that was put 4 out on the street didn't say limited to wood 5 waste, yard waste. It said any proposals to 6 save space at the Jefferson Parish Landfill. 7 MR. TALLEY: 8 And so I guess the proposal to 9 save space at the Jefferson Parish Landfill is 10 diverting 100 percent of the waste away from 11 the landfill, right? 12 MR. PEYTAVIN: 13 That's correct. 14 MR. TALLEY: 15 Okay. So that means that Waste 16 Management is out of business at the Jefferson 17 Parish Landfill. 18 MR. PEYTAVIN: 19 Once -- 20 MR. TALLEY: 21 How does Waste Management, the 22 current operator, respond to a proposal when 23 that proposal is to divert 100 percent of the 24 waste? That was not the intent of the RFP 25 based on the testimony of this witness when it</p>	<p style="text-align: right;">177</p> <p>1 was very surprised when the response came back 2 in. 3 MR. PEYTAVIN: 4 Okay. 5 MR. TALLEY: 6 Okay. Which means it wasn't in 7 response to the RFP. 8 MR. PEYTAVIN: 9 That's your characterizations, 10 counsel, so. 11 MR. TALLEY: 12 He said what he said. 13 MR. PEYTAVIN: 14 You're free to testify on the 15 record all you want, but -- 16 MR. TALLEY: 17 I'm only testifying on the record 18 because you are. I'm just asking questions, 19 okay. I'm just trying to get information. 20 Mr. Buller, after this May 5th, 21 2009, document came out which says budget 22 estimates of two scenarios, continuing with 23 landfill operation under the contract with 24 Waste Management, which actually it's not, 25 right?</p>

<p style="text-align: right;">178</p> <p>1 THE WITNESS: 2 It should've been worded more 3 differently. It should've been total landfill 4 cost under the Waste Management operation or 5 the -- 6 BY MR. TALLEY: 7 Q. So was the committee -- and I think we 8 can move on after this. But was the -- I 9 don't see anything to show that the committee 10 was actually provided with information that's 11 strictly related to the Waste Management 12 contract, comparing the two contracts, right? 13 A. The committee wasn't even meeting at 14 this point. 15 Q. Okay. All right. So the committee 16 wasn't even meeting. So this was just a 17 document to Tom Wilkinson? 18 A. Yes. 19 Q. Had the committee already finished its 20 work? 21 A. Yes. 22 Q. Okay. Did the committee finish its 23 work before you even sent this information? 24 A. Yes. I mean, at this point, the 25 counsel had already passed a resolution</p>	<p style="text-align: right;">180</p> <p>1 the month of December. 2 Q. So all of this work that you did that 3 would have, and I say all of this work, but 4 the work that you did in January that we 5 talked about earlier, they selected River 6 Birch and directed that the contract be 7 negotiated. That was on January 14th, 2009. 8 That was Resolution 111491. 9 All of your works after that point in 10 time where you talked about the closure costs, 11 that January 14th document, and then this -- 12 and the April work that you're doing and the 13 May work that you were doing would have been 14 after the contract was approved? 15 A. Yes. 16 Q. Right? So what pre-approval analysis 17 was done in terms of comparing the costs? 18 MR. PEYTAVIN: 19 By him? 20 MR. TALLEY: 21 Yeah. 22 THE WITNESS: 23 Nothing. Nothing. We talked 24 about the data that I presented to the 25 committee, but there was nothing done to put</p>
<p style="text-align: right;">179</p> <p>1 accepting the River Birch proposal. 2 Q. Well, the council accept -- yeah, the 3 council had accepted the resolution to -- I 4 don't think that that's correct. 5 MR. PEYTAVIN: 6 January of 2009. 7 MS. WINTER: 8 January of 2009 they selected 9 River Birch. 10 MR. PEYTAVIN: 11 January 14th, 2009. 12 BY MR. TALLEY: 13 Q. You're right. You're right. You're 14 right. It's January 14th, 2009, and this was 15 May of -- okay. 16 Let me go back to the committee. When 17 exactly did the committee meet, and what did 18 they do? They could have only met between 19 December -- 20 A. Uh-huh. 21 Q. They could have only met for about a 22 two-week period, right? 23 A. Yes, yes. I'm trying to look at the 24 date. That River Birch submittal was 25 December 9th. And so I guess it was through</p>	<p style="text-align: right;">181</p> <p>1 all that together and come up with a bottom 2 line. 3 BY MR. TALLEY: 4 Q. Okay. Back to this committee real 5 quick. Do you agree with me that the Parish 6 Ordinance -- and I forget exactly which one it 7 is, but I've got it here somewhere -- 2-895, 8 regarding RFP process, would require the 9 director of the department that was issuing 10 the RFP to be on the RFP committee? 11 A. Yes. 12 Q. Yes. Okay. And again, Ms. Marnie was 13 not a voting member of that committee, right? 14 A. Correct. 15 Q. Okay. Do you know if she provided any 16 information to the committee regarding any 17 sort of analysis or evaluation of the -- of 18 comparing the -- well, regarding the cost of 19 -- let me ask you specifically this: Did 20 either you or Ms. Winter provide the committee 21 with any information, cost analysis type 22 information, regarding the cost of expanding 23 the current landfill facility, the Jefferson 24 Parish Landfill, either vertical expansion or 25 horizontal expansion? Did you provide any</p>

<p style="text-align: right;">182</p> <p>1 information to the committee of that cost 2 versus closing the landfill and diverting a 3 hundred percent of the waste to River Birch 4 before -- 5 A. Not -- I'm sorry. 6 Q. -- before January 14th, 2009? 7 A. No. 8 Q. At any point in time -- let's see. 9 The contract, as I understand it, was actually 10 executed in June of 2009. After that contract 11 was executed, do you know -- any time in the 12 2009 period, did you come to the conclusion 13 that Jefferson Parish was not really going to 14 save any money by moving forward with the 15 River Birch contract? 16 A. I wasn't sure. 17 Q. And what do you mean by you weren't 18 sure? 19 A. Well, because just the comparison that 20 I did went through 2012. 21 Q. Right. 22 A. And that's when I'm estimating that 23 the Waste Management contract would reach its 24 termination. They would fill up the areas 25 that they have, you know, under their contract</p>	<p style="text-align: right;">184</p> <p>1 Q. That was done with the new parish 2 president? 3 A. Right. 4 Q. Okay. I know what you're talking 5 about now. But until that point in time, what 6 you're talking about was never done, right? 7 A. Right. 8 Q. Would you be in a position to say, as 9 a matter of sworn testimony under oath, that 10 the -- that Jefferson Parish would save money, 11 before seeing that, the results of that 12 report, that Jefferson Parish would be able to 13 have a substantial savings with the River 14 Birch contract as compared to the current 15 contract with Waste Management? 16 A. No. 17 Q. You would not be able to say that? 18 A. No. 19 Q. Is there anybody with -- in a better 20 position than you, with more expertise than 21 you in terms of knowledge of the landfill, 22 that will be able to say that? 23 A. No. 24 Q. What about Ms. Winter, what would she 25 say to that question?</p>
<p style="text-align: right;">183</p> <p>1 and they'd be done. So I felt comfortable 2 estimating costs through that point. Beyond 3 that point, I don't feel comfortable. And so 4 that's why -- that's why I stopped at 2012. 5 Q. Would anybody -- 6 A. Obviously, you need to go beyond that 7 to really find out if there is a cost savings. 8 Q. Would anyone else be in a better 9 position than you to make that determination? 10 A. Well, that's why we were suggesting 11 that they get a consultant. 12 Q. But they didn't do that? 13 A. Well, they finally did. 14 Q. What consultant are you talking about? 15 A. The current -- Postlethwaite & 16 Netterville. 17 Q. Oh, okay. Well, yeah, what's going on 18 now, the audit to determine -- okay. That was 19 done after the resignations of Aaron -- 20 A. Right. 21 Q. -- Broussard and -- 22 A. Yes. 23 Q. -- Tim Whitmer and Tom Wilkinson, 24 right? 25 A. Yes.</p>	<p style="text-align: right;">185</p> <p>1 A. I think she'd give the same answer. 2 Q. So neither you nor Ms. Winter would be 3 able to say as definitively, as a matter of 4 sworn testimony, that you believe that there 5 will be a substantial savings with the River 6 Birch contract, true? 7 A. That's correct. 8 Q. Did you ever give that opinion to 9 Aaron Broussard? 10 A. No. 11 Q. Did you ever give that opinion to Tim 12 Whitmer? 13 A. Not in those exact words. I mean, I 14 told him that -- the limitations of what I 15 could do and suggested that we, you know, get, 16 you know, the consultant to look at it more 17 closely. I told him that it was premature to 18 proceed with this. 19 Q. Before they proceeded with it? 20 A. Yes. 21 Q. Did you ever give that opinion to Tom 22 Wilkinson? 23 A. Yes. 24 Q. Basically saying the same thing? 25 A. Yes.</p>

<p style="text-align: right;">186</p> <p>1 Q. And they proceeded anyway? 2 A. Yes. 3 Q. What was their reason for continuing 4 to proceed, if you know? 5 A. What was their reason? 6 Q. Yes, sir. 7 A. I don't know. 8 Q. You really don't know? You don't know 9 why they continued to -- I mean, you're the 10 landfill director, okay. You're telling them 11 to do one thing, and I'm going to assume that 12 probably Ms. Winter's also on the same page 13 with you. Why do they continue to proceed 14 with the execution of the contract? 15 A. I don't know. I was never given a 16 reason. 17 Q. What's your speculation to that? 18 MR. PEYTAVIN: 19 He can't speculate to that, 20 Patrick. He doesn't know. He really doesn't. 21 BY MR. TALLEY: 22 Q. Do you have any information that there 23 was any sort of financial benefit to any of 24 those individuals, Aaron Broussard, Tim 25 Whitmer, Tom Wilkinson, to move forward with</p>	<p style="text-align: right;">188</p> <p>1 I'll have to look at that. I 2 don't know to what degree they might have 3 produced documents that are really 4 attorney/client or work product. So I'll have 5 to look and see, Number 1, if they have them 6 segregated in that matter; Number 2 -- 7 MR. TALLEY: 8 He said they did. 9 MR. PEYTAVIN: 10 Well, did you keep -- the 11 documents that you produced, did you keep a 12 copy of them separate that is exactly what you 13 produced? 14 THE WITNESS: 15 I think we have a copy. 16 MR. PEYTAVIN: 17 Okay. I need more than thinking, 18 though. 19 THE WITNESS: 20 I know. I need to make sure. 21 MR. PEYTAVIN: 22 All right. See, he's not, okay? 23 Like if he had -- 24 THE WITNESS: 25 I'm just hoping no one dug</p>
<p style="text-align: right;">187</p> <p>1 the River Birch contract? 2 A. I didn't know about anything until the 3 news stories came out about Lagniappe 4 Insurance and -- 5 Q. Other than just knowing anything, did 6 you hear anything -- 7 A. No. 8 Q. -- in gossip or hearsay -- 9 A. No. 10 Q. -- conversation? 11 Have you been asked to provide any of 12 your files to the U.S. Attorney or the FBI? 13 A. Yes. 14 Q. And have you done that? 15 A. Yes. 16 Q. Okay. Do you know what documents 17 you've provided? 18 A. Yeah. I think we kept a copy of 19 everything we provided. 20 Q. Okay. 21 MR. TALLEY: 22 I'd like to call for production, 23 specifically of the same production that was 24 made to the -- 25 MR. PEYTAVIN:</p>	<p style="text-align: right;">189</p> <p>1 through the box since I -- 2 MR. PEYTAVIN: 3 Okay. 4 MR. TALLEY: 5 But it would be fair to say that 6 at one time, you had a complete copy of what 7 you gave to them? 8 THE WITNESS: 9 Yes. 10 MR. TALLEY: 11 Okay. So I'm just asking for 12 that copy. I understand it might not still be 13 in the same format. 14 MR. PEYTAVIN: 15 Right, Patrick. And just out of 16 fairness, I've asked him the question, too, 17 and I know what he told me. And that's why 18 I'm saying we're looking for it. If it's 19 there, I need to go through it and make sure 20 there's nothing that's privileged or work 21 product that might have had to have been 22 produced in response to a federal subpoena 23 that might not have to be produced in 24 connection with civil litigation. 25 MR. TALLEY:</p>

<p style="text-align: right;">190</p> <p>1 Okay. And I understand that, and 2 that's fine. 3 MR. PEYTAVIN: 4 And after I do that, I will give 5 you the privilege log on anything that's 6 withheld. 7 MR. TALLEY: 8 And I understand that. I just 9 want to make sure and -- in addition -- I want 10 to make it clear that in addition to the 11 document request that we made in this case 12 that you might produce in certain formats to 13 certain questions, I would like to have either 14 all the documents or an index of the documents 15 as they were given to the U.S. Attorney's 16 Office, subject to whatever privileges you 17 might have. 18 MR. PEYTAVIN: 19 Right. And, Patrick, that was 20 the subject of one of your specific requests 21 for production of documents. 22 MR. TALLEY: 23 I thought it was. 24 MR. PEYTAVIN: 25 It was.</p>	<p style="text-align: right;">192</p> <p>1 projected out through the term of the 25-year 2 term. 3 Q. Okay. Would it be fair to say that 4 neither he nor the committee employed any 5 outside consultants or accountants to do that, 6 right? 7 A. Right. 8 Q. Okay. So basically, just -- if you do 9 the math on what you put here and multiply it 10 out over 25 years, you could possibly get 18 11 to 21 million? 12 A. You're in that range. 13 Q. Okay. You don't know of anything else 14 that he might have to support that? 15 A. No. 16 MR. PEYTAVIN: 17 Just one point of clarification. 18 This is one scenario dated a certain date. I 19 believe there were multiple ones. 20 MR. TALLEY: 21 Okay. That's the only one I 22 have. 23 MR. PEYTAVIN: 24 We'll produce all of those. I 25 don't know if I have copies of them here. I</p>
<p style="text-align: right;">191</p> <p>1 MR. TALLEY: 2 Sometimes I think of those 3 things, but I'm not sure if I thought of it 4 earlier, so that's the only reason. 5 MR. PEYTAVIN: 6 Believe me, we went through the 7 interrogatories and request for production. 8 There's nothing you forgot to ask for, two or 9 three times most of the time. Two or three 10 times most of the time. 11 BY MR. TALLEY: 12 Q. Okay. There is a -- there's a 13 quotation -- there's a -- well, Tom Wilkinson 14 is quoted in the paper, in the newspaper, as 15 developing a figure for savings of 18 to 16 \$21 million to be realized by the parish as a 17 result of the River Parish -- the River Birch 18 deal. Now, I'm not asking you whether or not 19 that information is accurate. The only thing 20 I'm asking is do you know what the basis of 21 that information is? 22 A. I think he took the savings I had 23 projected there. They average about a million 24 dollars a year, a little bit short of a 25 million a year, and I think that's what he</p>	<p style="text-align: right;">193</p> <p>1 just happen to have that one as an example in 2 my file. 3 BY MR. TALLEY: 4 Q. I wanted to ask you about this. In 5 terms of looking at the values of these 6 various assets, in the CDM -- one of the CDM 7 documents, the statement is made -- in fact, 8 this was quoted by Tim Whitmer, adopted by Tim 9 Whitmer in a letter to Waste Management 10 December 10th, 2004, Tab 18. 11 Jefferson Parish is one of the most 12 valuable facilities owned by Jefferson Parish, 13 and as such, should be maximized for long-term 14 use by the citizens who pay for it and benefit 15 from it. Jefferson Parish has protected the 16 capacity of the Jefferson Parish Landfill in 17 the past by restricting its use to waste 18 generated within the parish. This policy 19 helps assure the inexpensive disposal capacity 20 will remain available for many years to come. 21 Moving forward with a sensible long-term plan 22 utilizing the entire landfill site will ensure 23 that future generations can continue to rely 24 on the Jefferson Parish Landfill for solid 25 waste disposal.</p>

<p style="text-align: right;">194</p> <p>1 What I want to ask you is this: Do 2 you agree that the Jefferson Parish Landfill 3 is one of the most valuable facilities owned 4 by Jefferson Parish? 5 A. Yes. 6 Q. Did you believe that it should be 7 maximized for long-term use? 8 A. Yes. 9 Q. The River Birch proposal does not do 10 that, does it? 11 A. No. It just kind of puts it off. 12 Q. Well, more than putting it off, it 13 basically mothballs the facility for 25 years, 14 right? 15 A. Right. 16 Q. That means no use at all? 17 A. Right. 18 Q. That means no value from it? 19 A. Right. 20 Q. Now, also, what confidence do you have 21 or what information do you have that in 22 25 years the parish would even be able to use 23 that facility at all? 24 A. Don't have any information. 25 Q. It's possible with the development of</p>	<p style="text-align: right;">196</p> <p>1 an advantage. I mean, I'm waiting to see what 2 the results of the current study by 3 Postlethwaite & Netterville will show. But 4 until I see something from them, I don't -- 5 Q. You don't have any information 6 yourself. And I think you testified earlier 7 that there would be a substantial cost savings 8 with the River Birch contract, at least beyond 9 2012? 10 A. I said there would not be. 11 Q. No. I didn't say that you said there 12 would not be. I said that you said that you 13 don't know that there would be? 14 A. Right. I don't know that there would 15 be. 16 Q. So at this point, until that report 17 comes out, you can't -- you don't know of any 18 benefit in closing the landfill for the next 19 25 years? 20 A. No. 21 Q. Going back to that RFP that was for 22 the yard and the wood waste in 2008 that was 23 ultimately maybe broadened to be more of the 24 fishing expedition, how many pages was that 25 RFP?</p>
<p style="text-align: right;">195</p> <p>1 environmental regulations as we've seen over 2 the last 20 years that you might not be able 3 to use landfills at all in 25 years, correct? 4 A. I've made that point myself. 5 Q. You have? 6 A. Uh-huh. 7 Q. Okay. I thought you might have. 8 Ms. Winters probably made it, too, right? 9 MR. PEYTAVIN: 10 If you heard her. I think he 11 asked you a question. 12 THE WITNESS: 13 Oh, he asked me if she has? 14 MR. PEYTAVIN: 15 Yeah. 16 THE WITNESS: 17 Oh, okay, I'm sorry. Yeah. I 18 thought you were making a statement. 19 BY MR. TALLEY: 20 Q. If you heard her make a fairly 21 rhetorical statement. 22 So what would be the benefits to 23 Jefferson Parish, the citizens of Jefferson 24 Parish, to close the landfill for 25 years? 25 A. At this point, I don't -- I don't see</p>	<p style="text-align: right;">197</p> <p>1 A. I don't know. 60, 70 pages. I don't 2 know. 3 Q. Okay. And did you -- you reviewed all 4 of that before it went out? 5 A. Yes. 6 Q. But you did not -- as of the time it 7 went out, you didn't interpret that or have in 8 your mind if that was an RFP that would result 9 in diversion of one hundred percent of the 10 waste from Jefferson Parish Landfill? 11 A. No, I didn't. 12 (The Videographer: Five minutes, 13 counsel.) 14 BY MR. TALLEY: 15 Q. What about the RFP that was issued -- 16 that was issued -- I'm not saying it was 17 issued today, but that came out today with 18 respect to the Phase 4, how many -- what size 19 is that in terms of number of pages? 20 A. Oh, it's probably a couple of hundred 21 because we have a lot of technical 22 specifications that go with it for the 23 building of new cells. 24 Q. Okay. 435, possibly? 25 A. Possibly, yeah.</p>

<p style="text-align: right;">198</p> <p>1 Q. Let me ask you about that -- the one 2 that I'm referring to as the audit or the 3 consultants that are doing the current 4 evaluation of the River Birch contract. 5 Are they specifically looking at a 6 comparison of the Waste Management contracts 7 and the River Birch contracts? 8 A. They're looking at overall landfill 9 costs. 10 Q. Okay. Have you met with them? 11 A. Yes, to give them the information to 12 -- to do the analysis. 13 Q. What information have you given them? 14 A. Updates of the information that you've 15 seen here. I mean, there was -- 16 Q. Did you give it to them in written 17 format? 18 A. Yeah. Or e-mails. 19 Q. Okay. You have copies of all that? 20 A. Yes. 21 MR. TALLEY: 22 Okay. I'd like to call for 23 production of all the information and 24 documents that have been provided by the 25 parish to the consultants that are doing the</p>	<p style="text-align: right;">200</p> <p>1 MR. TALLEY: 2 All the more reason I should have 3 it. 4 MR. PEYTAVIN: 5 It's an expert retained by the 6 parish. 7 MR. TALLEY: 8 Correct. 9 MR. PEYTAVIN: 10 So that I need to consult with 11 the parish attorney to see what their position 12 is on whether they have to produce it or not. 13 I cannot make that call myself. And all I'm 14 telling you is I will consult with them, ask 15 what their position is and relay it back. And 16 if they tell me they have no objections to 17 producing it, we will produce it. That's all 18 I can tell you. 19 MR. TALLEY: 20 Okay. That's fine. And you're 21 clear on what I'm asking for. So that's all I 22 really need at this point. 23 What information was provided to 24 the consultant in terms of the cost and 25 benefit of vertical expansion of the original</p>
<p style="text-align: right;">199</p> <p>1 audit on the contracts. 2 MR. PEYTAVIN: 3 I will check with the parish 4 attorney's office and see what their position 5 is as to whether they have to produce that or 6 not, or whether they have an objection to it, 7 and I'll let you know what their response is. 8 MR. TALLEY: 9 Right now I'm just calling for 10 production. We can deal with that later. 11 MR. PEYTAVIN: 12 I understand that. 13 MR. TALLEY: 14 I think if it's information that 15 you're giving to an auditor or someone who's 16 evaluating this contract that's in litigation, 17 with a position that the reason why it's in 18 litigation is because you say you're saving 19 money, we're entitled to have the information 20 that you're providing to the evaluator. 21 MR. PEYTAVIN: 22 I understand what your position 23 is, but that's not an expert that was retained 24 by me in connection with this litigation. It 25 was an expert --</p>	<p style="text-align: right;">201</p> <p>1 permit modification that was proposed by Waste 2 Management ten years ago? 3 THE WITNESS: 4 Are you asking me if they're 5 going to evaluate the -- 6 BY MR. TALLEY: 7 Q. I'm asking you -- I don't know what 8 they're going to evaluate. I'm asking you 9 what information was provided to this 10 committee about that proposal. 11 A. Nothing. 12 Q. Nothing. Okay. So as the committee 13 -- as the committee is meeting and looking 14 today in terms of -- 15 MR. PEYTAVIN: 16 Wait, wait, wait. 17 MR. TALLEY: 18 Let me finish my question. 19 MR. PEYTAVIN: 20 But you're saying committee. I'm 21 trying to figure out what's in the committee. 22 MR. TALLEY: 23 I'm sorry, consultant. You're 24 right. 25 MR. PEYTAVIN:</p>

<p style="text-align: right;">202</p> <p>1 Okay. 2 BY MR. TALLEY: 3 Q. The consultant is meeting and 4 evaluating today. They don't have any 5 information from you or from the parish in 6 terms of the original permit modification 7 sought by Waste Management, vertical 8 expansion? 9 A. The -- the landfill plan they're 10 looking at is a master plan that we had CDM -- 11 Q. CDM? 12 A. -- develop for us. 13 Q. Okay. 14 (The Videographer: One minute, 15 counsel.) 16 BY MR. TALLEY: 17 Q. I guess I want to know is the 18 consultant looking at all three options. And 19 by three options, I mean the Waste Management 20 proposal, the CD -- what was ultimately kind 21 of agreed to by the parish that was the CDM 22 horizontal -- combination horizontal/vertical, 23 as well as the River Birch. Are they looking 24 at all three of those options? 25 A. No. I mean, at this point, the</p>	<p style="text-align: right;">204</p> <p>1 evaluate the cost of operating a landfill, 2 that that option still is -- because it was at 3 one time viable and cost-effective and 4 presented benefits, that it's still something 5 that ought to be evaluated. But I guess what 6 you're saying is that you're already too far 7 along with the horizontal expansion at this 8 point? 9 A. Yeah, exactly. We've already crossed 10 the Waggaman Canal. We've cleared the land. 11 Q. Okay. 12 A. We've got cells going out there. So 13 it's kind of a moot point. 14 Q. Yeah, okay. Now, do you -- this 15 consultant -- the consultants, 16 Postlethwaite -- 17 A. Postlethwaite. 18 Q. -- Postlethwaite & Netterville -- 19 A. Netterville. 20 Q. -- they're basically accountants, 21 right? 22 A. Yes. 23 Q. Do they have any information or 24 expertise in evaluating whether Jefferson 25 Parish will benefit from closing its landfill</p>
<p style="text-align: right;">203</p> <p>1 proposal that Waste Management made, you know, 2 2000, what, 2, I mean, that's -- 3 Q. I understand. 4 A. -- that's past now. We can't go back 5 and do that now. We're past that point. 6 Q. Okay. 7 (The Videographer: I need to change 8 tapes. Going off the record. The time is now 9 3:09. It's the end of Tape 4.) 10 (Off the record.) 11 (The Videographer: This is the 12 continuing videotape deposition of Joseph 13 Richard Buller. This is the beginning of 14 Tape 5. The time is now 3:17.) 15 BY MR. TALLEY: 16 Q. Okay. Back on the record. 17 When we took a break, we were talking 18 about the consultants, the consultants that 19 are reviewing the contract. And I think I was 20 asking you about the vertical expansion 21 proposal that was proposed by Waste 22 Management. 23 And I know you say it's off the table 24 and it's dead in the water, but it seems to me 25 like if you want to sit back and truly</p>	<p style="text-align: right;">205</p> <p>1 for 25 years? 2 A. Do they have any -- 3 Q. Expertise. 4 A. -- expertise? 5 Q. Or knowledge? 6 A. Not -- not specifically with 7 landfills. 8 Q. Okay. 9 A. They're CPAs. But they have a 10 sub-consultant who's working with them. 11 Q. Right. They have what? 12 A. A sub-consultant. 13 Q. They have a sub-consultant working 14 with them? 15 A. Or an engineering firm, Providence 16 Engineering. 17 Q. Okay. Providence? 18 A. Providence. 19 Q. All right. And so Providence 20 Engineering is able to give them the landfill 21 expertise? 22 A. Yes. 23 Q. All right. When you met with them or 24 in the information that you provided to them, 25 have you been asked, from your perspective or</p>

<p style="text-align: right;">206</p> <p>1 the parish's perspective, to provide 2 information or expertise in terms of the 3 benefits or non-benefits of closing the 4 landfill for 25 years? Is that something that 5 you've been asked to provide? 6 A. No. We're asking them to evaluate 7 that for us. 8 Q. Okay. But you have information on 9 that yourself. You have expertise about that. 10 Why would you have to ask somebody else about 11 that? 12 A. Well, I have my opinion I consider, 13 you know, but I guess they're looking for 14 someone independent to -- to evaluate it and 15 make an independent recommendation. 16 Q. Okay. Well, you know, as the parish 17 landfill engineer, the capacity that you've 18 been in, what was the response of the -- of 19 Tim Whitmer and Aaron Broussard? I don't 20 think you said you specifically talked to him. 21 But Tim Whitmer and Tom Wilkinson, what was 22 their response when you were telling them that 23 you didn't think that they should move forward 24 at that point in time without having, you 25 know, whatever evaluations you thought needed</p>	<p style="text-align: right;">208</p> <p>1 not to answer any questions about what he 2 might have been told by Parish Attorney Tom 3 Wilkinson. 4 MR. TALLEY: 5 Okay. Well, I'm going to ask the 6 question anyway because I don't think this 7 particular question would be privileged. 8 I want to know what his response 9 was when you would have told him, I think 10 you're moving too fast. I think we need to do 11 these evaluations or whatever. What did he 12 say in reply to that? 13 MR. PEYTAVIN: 14 You can go ahead and answer. 15 THE WITNESS: 16 Okay. With Tom, it was in one of 17 the meetings when we had presented that 18 information to him and he had been 19 extrapolated through 25 years, and I told him 20 that that wasn't a valid extrapolation. It 21 was really limited to just those couple of 22 years. We didn't know what was going to 23 happen. 24 And he argued that, you know, in 25 future years that if we continued to contract</p>
<p style="text-align: right;">207</p> <p>1 to be done and that the landfill was a 2 valuable asset and that you clearly did not 3 agree that it should be closed? What was 4 their response to that? 5 A. Well, with Tim Whitmer, I know it was 6 before the council meeting in January when 7 they were going to accept the River Birch 8 proposal. I was even surprised that that 9 resolution was on the agenda. And before the 10 meeting, I told him they were moving way too 11 fast and we didn't -- hadn't done enough of an 12 evaluation. His response was something to the 13 effect that, well, we'll see what happens. 14 Q. I mean, were you surprised with that 15 response? 16 A. Not really, only because it was such a 17 brief, you know, discussion right before the 18 council meeting. 19 Q. Do you have any idea why it was moving 20 so fast? 21 A. No. 22 Q. Now, what about with Tom Wilkinson 23 when you told him the same thing? 24 MR. PEYTAVIN: 25 I'm going to instruct the witness</p>	<p style="text-align: right;">209</p> <p>1 landfill operations at considering annual cost 2 adjustments, that those costs would be -- 3 would be rising. So in his mind, he reasoned 4 a way to determine that -- that it was valid 5 to extrapolate it. 6 BY MR. TALLEY: 7 Q. Okay. So it looks to me like their 8 response to what you were seeing is basically 9 result-oriented. In other words, they wanted 10 to move forward with getting this contract 11 done with or without the -- or without the 12 information you thought was necessary to get 13 the result? 14 A. Well, I don't know about what they 15 were -- what their desires were, but they did 16 move on despite my -- 17 Q. Okay. When I was asking you earlier 18 in the very beginning of the deposition, and 19 you probably can't even remember that far, but 20 back there this morning, you were talking 21 about your responsibilities. 22 Describe your responsibilities in 23 terms of supervising and monitoring Waste 24 Management's compliance with the landfill 25 operating agreement. Is that part of your</p>

<p style="text-align: right;">210</p> <p>1 responsibility? 2 A. Yes, yes. 3 Q. Okay. Can you describe that briefly? 4 A. Sure. I try to go to the landfill 5 every -- every day. I don't always make it, 6 depending on whether things come up, like 7 depositions. But, you know, I try to go there 8 and spend at least part of the day there, just 9 observe what's going on, see if there's any -- 10 any aspects that need to be improved. I stay 11 in touch with all the environmental monitoring 12 that -- like the groundwater monitoring, I 13 take care of those -- approve their monthly 14 invoices, communicate with the landfill 15 manager. 16 Q. Okay. And -- 17 A. And there are other contractors out 18 there, also. There's a different contractor 19 running the landfill gas system, and CDM has 20 an inspector out there on a daily basis doing 21 some -- making some observations for us. 22 Q. Historically, there have been -- I 23 understand -- I know that there have been some 24 instances where you've had to address issues 25 where maybe Waste Management was not</p>	<p style="text-align: right;">212</p> <p>1 MR. PEYTAVIN: 2 No. You got to clarify it here. 3 MR. TALLEY: 4 I'm just asking if he knows or 5 not. 6 THE WITNESS: 7 I don't know anyone that would 8 say it's superior. 9 BY MR. TALLEY: 10 Q. Okay. As part of your 11 responsibilities, would you -- 12 (The Videographer: Mr. Talley, did 13 your microphone fall out?) 14 MR. TALLEY: 15 Oh, I'm sorry. Yeah. 16 BY MR. TALLEY: 17 Q. As part of your responsibilities, 18 would it be fair to say that you monitor the 19 invoices and the payments and -- 20 A. Yes. 21 Q. -- all of that? The payments by the 22 parish for Waste Management would be -- are 23 net of royalties, correct? In other words, 24 you deduct the royalties from what's paid to 25 them?</p>
<p style="text-align: right;">211</p> <p>1 performing in terms of -- 2 A. Yes. 3 Q. -- the way you thought that they 4 should be. Would it also be fair to say that 5 there have been times where -- in fact, 6 there's a correspondence on this, 7 acknowledging the company's superior -- and 8 I'm using those words in quotes, "superior 9 performance of contract obligations." Would 10 you agree with that? 11 MR. PEYTAVIN: 12 Is that something you're 13 representing he said? 14 MR. TALLEY: 15 No. 16 MR. PEYTAVIN: 17 Okay. 18 THE WITNESS: 19 I don't understand the question. 20 BY MR. TALLEY: 21 Q. I'm just saying that in -- as a -- in 22 terms of the company's performance of its 23 contract obligations, that they have been 24 characterized as being superior by the parish, 25 whether it's you or --</p>	<p style="text-align: right;">213</p> <p>1 A. Yes. 2 Q. Okay. Would you agree with me that 3 Jefferson Parish has never compensated Waste 4 Management more than 240,000 times the tipping 5 fee, net or less the royalty, once you take 6 out the royalty? 7 A. I'm not sure. I'd have to look at the 8 figures to make sure. 9 Q. Okay. Well, you don't have a rough 10 idea about that? 11 A. Well, I know Gerald Walters had sent a 12 letter, something to that effect, but I don't 13 -- I didn't sit down and look at the numbers 14 side-by-side and see if that was true. 15 Q. Okay. Well, would it be fair to say 16 that as you sit here today, you don't know of 17 any instance where Jefferson Parish 18 compensated Waste Management more than 240,000 19 times the tipping fee once you deduct the 20 royalty? You don't know -- you don't know -- 21 you wouldn't be able to say that that 22 happened? 23 A. Again, I'd have to look at the figures 24 to make sure. 25 Q. Okay. What figures are you talking</p>

<p style="text-align: right;">214</p> <p>1 about? 2 A. The -- compare the tonnage and the 3 tipping fees versus the actual payments. 4 Q. Okay. You have documents on that? 5 A. Yes. 6 Q. Okay. Is that -- is there a name to 7 that document or documents, a title? 8 A. No. I think I just have a -- I'd have 9 to go get a spreadsheet on it. 10 Q. Okay. I'd like to ask you to produce 11 that spreadsheet. 12 MR. PEYTAVIN: 13 Well, he said he would have to 14 put one together. 15 MR. TALLEY: 16 I don't think he said that. 17 THE WITNESS: 18 I'm not sure if I did that or 19 not. I have to look in my files. I know -- I 20 know this became an issue. I've done some 21 work on it, but -- but -- 22 BY MR. TALLEY: 23 Q. Do you have any information that would 24 support a contention that Jefferson Parish -- 25 that Waste Management has been compensated</p>	<p style="text-align: right;">216</p> <p>1 out that it looked like we were going to 2 exceed the 200 and -- I think it's 240,000 3 plus a ten percent -- 4 Q. Right. 5 A. -- margin or something, 264. 6 Q. Maximum, ten percent over, yeah. 7 That was one occasion -- 8 A. She pointed it out to me, and I looked 9 at it and flipped through the contract and 10 said, well, y'all can do the work anyway. So 11 I didn't see it as an issue. 12 Q. Okay. Well, you're the person who is 13 -- who would be responsible to insure 14 compliance with the contract, right -- 15 A. Uh-huh. 16 Q. -- by Waste Management? 17 You've never felt that the payments -- 18 the compensation to Waste Management would be 19 not in compliance with the contract? 20 MR. PEYTAVIN: 21 Objection. That's not what he 22 said. He said he didn't see it as an issue. 23 MR. TALLEY: 24 I'm just asking him. He didn't 25 see it as an issue?</p>
<p style="text-align: right;">215</p> <p>1 more than 250,000 times the tipping fee? 2 A. Yeah. I know I put together a 3 spreadsheet on that for tip -- 4 Q. Okay. He just said he's put together 5 one. It's already put together? 6 A. It was a spreadsheet that compared the 7 tonnage and the tipping fee and the total -- 8 total cost. It didn't net out the royalties. 9 Q. Okay. Well, let's produce that. 10 A. Okay. 11 Q. If you don't mind. You have monitored 12 and reviewed and approved the invoices, right? 13 A. Yes. 14 Q. Okay. And any occasion that you've 15 approved -- you're the one who approves the 16 payment? 17 A. Yes. 18 Q. And any occasion that you've approved 19 payment, have you approved payment for more 20 than 250,000 -- 240,000 times the tipping fee? 21 A. Amanda Olson with Waste Management -- 22 and I'm not sure of the year. It was several 23 years ago, maybe one of the early years of the 24 contract -- pointed that out to me. It was 25 getting on to November or so and she pointed</p>	<p style="text-align: right;">217</p> <p>1 MR. PEYTAVIN: 2 He said he didn't see it as an 3 issue, but I think since then he's gone back 4 and looked at the contract. 5 MR. TALLEY: 6 Okay. I appreciate your 7 answering for him. But what's your answer to 8 that? 9 THE WITNESS: 10 Well, like I said, at the time, I 11 didn't think it was an issue to worry about. 12 I've since been told by the parish attorney 13 that it is. 14 BY MR. TALLEY: 15 Q. Okay. That's what I want to get to. 16 The parish attorney at the time was Tom 17 Wilkinson, right? 18 A. Yes. 19 Q. Okay. So until you were told by Tom 20 Wilkinson, you didn't think it was an issue? 21 A. Correct. 22 Q. And you looked at this every month? 23 A. Uh-huh. 24 Q. You approved it every month? 25 A. Yeah.</p>

<p style="text-align: right;">218</p> <p>1 Q. Okay. Now, you would agree with me 2 that the effective -- the effective tipping 3 fee, once you get -- once you -- I forget what 4 it is. I forget what the number is. 20 -- 5 A. \$20.66. 6 Q. \$20.66. That's the tipping fee. 7 A. Yeah. 8 Q. But the effective tipping fee, once 9 you deduct the royalties, would be more in the 10 order of \$16 and something cents? 11 MR. PEYTAVIN: 12 Again, you're calling for legal 13 conclusions. 14 MR. TALLEY: 15 No, that's not a legal 16 conclusion. 17 MR. PEYTAVIN: 18 It is 'cause it's two separate 19 parts of the contract and you're asking this 20 witness -- 21 MR. TALLEY: 22 That's math. Forget the 23 contract. I'm just asking as a matter of 24 math. 25 MR. PEYTAVIN:</p>	<p style="text-align: right;">220</p> <p>1 THE WITNESS: 2 That sounds about right, about 25 3 percent. 4 BY MR. TALLEY: 5 Q. Okay. What is the tipping fee in the 6 River Birch contract? 7 A. 21.50. 8 Q. And there are no royalties, correct? 9 A. No. No. 10 Q. Do you know at this point in time how 11 much money the parish has spent to dispose of 12 any kind of waste at River Birch? Do you have 13 that information? 14 A. We haven't disposed any. 15 Q. Okay. I guess that's where I'm going. 16 I was under the impression earlier, before the 17 deposition, that there was a C&D waste stream 18 that was going to River Birch. That's not 19 correct? 20 A. No. And let me -- there was one 21 emergency incident when there was a fire at 22 our landfill, and for about four hours the 23 garbage trucks were diverted to River Birch 24 and we paid them, and they accepted the same 25 tipping fee.</p>
<p style="text-align: right;">219</p> <p>1 No. But you can't forget the 2 contract because the part on the tipping fee 3 and the limitation's in one section, the part 4 on royalties is in another section, and the 5 tipping fee part doesn't say anything about 6 taking royalties in account when considering 7 the tonnage. 8 So you are asking him to legally 9 interpret a contract and make an assumption 10 that you're supposed to deduct the royalties 11 from the 240,000 tons before you do the math, 12 and that's not what the contract says. 13 MR. TALLEY: 14 Okay. 15 MR. PEYTAVIN: 16 That's my objection. 17 MR. TALLEY: 18 Okay. That's your position and 19 that's your objection. 20 My question to you is: The 21 effective tipping fee, once you deduct the 22 royalties, irrespective of whether you're 23 supposed to and what the contract says, would 24 be more in the order of \$16 and some cents, 25 correct?</p>	<p style="text-align: right;">221</p> <p>1 Q. Okay. Other than that instance and 2 other than -- 3 A. Other than that, no. 4 Q. -- and the sewage sludge that's going 5 there, that again, is coming from a private 6 contractor, not from the parish -- 7 MR. PEYTAVIN: 8 Good clarification. 9 THE WITNESS: 10 And just to clarify that further, 11 that sewage plant has gone back to Public 12 Works, Parish Public Works operation, and that 13 sewage sludge is now going to the Jefferson 14 Parish Landfill. 15 BY MR. TALLEY: 16 Q. And when did that begin? 17 A. Within the last week or so. 18 THE WITNESS: 19 I guess, what, the first of the 20 month, huh? 21 MS. WINTER: 22 Yeah, about a month ago. 23 THE WITNESS: 24 Yeah. 25 BY MR. TALLEY:</p>

<p style="text-align: right;">222</p> <p>1 Q. Okay. So it would be correct to say 2 that at this point that the parish has not 3 really spent anything in terms of disposing 4 waste with River Birch, either with C&D, woody 5 waste, industrial, whatever, other than the 6 emergency incident that you talked about? 7 A. Right. 8 Q. Okay. There is a statement in this 9 River Birch proposal in the last paragraph on 10 Page 2. It says, It is submitted that the 11 proposal as set forth in this response will 12 fully satisfy the goals of Jefferson Parish as 13 outlined in the RFP. It will not only save 14 the parish millions of dollars in fees and 15 costs -- let's stop there. 16 You don't -- you do not -- you have 17 not done anything personally that would 18 evaluate that conclusion, right? 19 A. Right. 20 Q. And then the second statement, It will 21 also result in the 100 percent reduction in 22 the airspace, which would have otherwise been 23 used in the Kelvin Landfill, for a period of 24 25 years. 25 Has anyone done any sort of analysis</p>	<p style="text-align: right;">224</p> <p>1 A. Well -- 2 Q. Just what you described earlier? 3 A. Yeah, just what I said. And at the 4 time, because we had the uncertainty of just 5 having the contract with River Birch signed, 6 still having Waste Management continuing 7 operations, we needed direction on which -- 8 you know, how do we develop a budget. Do we 9 -- which -- which scenario do we, you know, 10 work with for the next year. 11 Q. Uh-huh. Well, what would it matter to 12 you which scenario you would work with because 13 the resolution that authorized the River Birch 14 contract specifically stated that the cost of 15 that would be paid out of the same account, 16 22430, the numbers ending 22430, the landfill 17 account, would be paid out of this same 18 account, which is the same account that the 19 Waste Management contract's paid out of? 20 A. Uh-huh. 21 Q. So why would it make any difference to 22 you as to which contract was ultimately paid 23 out of that? 24 A. Because it would affect the 25 professional services, the other contracted</p>
<p style="text-align: right;">223</p> <p>1 to show that the reduction of 100 percent of 2 airspace for a 25-year period would be of some 3 value to Jefferson Parish? 4 A. No. 5 Q. Okay. I want to move now into 2009, 6 the period in developing the 2010 budget. 7 A. Uh-huh. 8 Q. Okay. Do you have responsibilities 9 for developing the budget for the landfill? 10 A. Yeah. The way -- the way we work it, 11 I start the first draft of the budget and try 12 to estimate all the costs for the landfill and 13 the other budgets that we handle, and then we 14 get together with Marnie and go through them 15 and make whatever adjustments we need to make 16 from there and then submit it to the budget 17 department. 18 Q. Okay. Once the contract pass -- well, 19 once the contract with River Birch was 20 executed on June 29th, 2009, there were 21 certain efforts to try to implement that 22 contract. Were you involved in any of that? 23 A. No. 24 Q. Okay. What role did you play in the 25 budget proposals for 2010?</p>	<p style="text-align: right;">225</p> <p>1 services that we'd have to pick up. We were 2 considering whether to try to get another 3 parish position approved for the landfill, 4 someone to handle a lot of the mechanical 5 maintenance onsite. So there were a lot of 6 questions that we needed answered to prepare 7 the budget. 8 Q. Who were you asking these questions 9 to? 10 A. I was asking Marnie. 11 Q. All right. I guess I want to know who 12 told you or who made the determination to -- 13 in the budget that was proposed last November 14 in 2009, that was originally proposed for 15 2010, whose idea was it to place the money 16 into the professional services account as 17 opposed to the landfill account? 18 A. I've only recently seen a note from 19 someone that says it was under the direction 20 of Tim Whitmer. And that -- that revision was 21 actually done after we had submitted our 22 budget to the budget department. 23 Q. Okay. Let's -- okay. Thank you for 24 that. Let's start with that. 25 When you submitted the budget to the</p>

<p style="text-align: right;">226</p> <p>1 budget department, 2009 -- 2 Is this what he's talking about? 3 MR. PEYTAVIN: 4 Yeah. I have the 2010 budget 5 information because I figured -- 6 MR. TALLEY: 7 Okay. 8 MR. PEYTAVIN: 9 -- it was specific to what you 10 certainly wanted to address here today. 11 BY MR. TALLEY: 12 Q. Okay. When you submitted the budget 13 in 2009, when you submitted it for 2010, tell 14 me what was submitted. 15 MR. PEYTAVIN: 16 I think you're going to see it 17 attached in -- I'm about to show you. 18 THE WITNESS: 19 Yeah. If you see like the third 20 sheet, that's a listing of all of our budget 21 line items. If you go down the list where it 22 says 73425, landfill disposal fees, that's the 23 account that we pay Waste Management for 24 disposal out of. 25 BY MR. TALLEY:</p>	<p style="text-align: right;">228</p> <p>1 you'll see the budget that he's talking that 2 he submitted. 3 BY MR. TALLEY: 4 Q. Okay. So that's the number, 5 \$7,338,981, and that's the same that you in 6 the 2010 proposed budget for the landfill 7 contra -- for the 7342 account, right? 8 A. Yeah. 9 Q. Okay. Now, so it was your impression 10 that the Waste Management account was going to 11 be funded at that point in time, in August of 12 2009? 13 A. Yes, uh-huh. 14 Q. Okay. Now, how did it change to where 15 the bulk of the money -- I don't know exactly 16 the figure -- and that was actually put in the 17 professional services account as opposed to 18 the landfill account? 19 A. I don't know exactly when it was done. 20 If you flip to the second page, there's a 21 handwritten note here, and this is a note that 22 Gwen Bolotte made. 23 Q. Reduce landfill to one month of 24 charges, add difference to professional 25 services per Tim Whitmer.</p>
<p style="text-align: right;">227</p> <p>1 Q. 73 what? 2 A. 73425. 3 Q. Okay. 4 A. Landfill disposal fees. 5 Q. Yeah. 6 A. Okay. And again, this was when we 7 were still in deliberation was, okay, if we 8 close the landfill and initiate the River 9 Birch contract, it's the column on the left; 10 if we continue operating with Waste 11 Management, it's the column on the right. 12 What wound up finally being decided 13 was to continue with the Waste Management 14 column. That's what we submitted. 15 Q. And so you would have submitted this 16 Number 6448 -- I'm sorry, 733891? 17 A. Yes. 18 Q. Okay. And what point in time was 19 that, Mr. Buller? 20 A. Our budgets are usually submitted in 21 August and it goes through review with the 22 budget department and then the parish 23 president. 24 MR. PEYTAVIN: 25 If you flip over two pages,</p>	<p style="text-align: right;">229</p> <p>1 Do you know why that was done? 2 A. No. 3 Q. Okay. Gwen Bolotte is the finance 4 director? 5 A. Yes. 6 Q. Now, you had previously prepared, 7 going back to the June 2004 documents, 8 memoranda. You had previously prepared a 9 document that involved professional services 10 and, you know, where you said professional 11 services -- you made an explanation, and you 12 went through -- you went through the items 13 that would be on there, right? 14 A. Yes. 15 Q. And, in fact, there's a -- and the 16 professional services account would include 17 basically expenses that involve professional 18 services? 19 A. Right. 20 Q. Okay. So the -- it has always 21 included, I mean, whatever amounts it's 22 included. It's never included the landfill 23 budget, I mean, 11 months of the landfill 24 budget, right? 25 A. No.</p>

<p style="text-align: right;">230</p> <p>1 Q. Okay. Did you see the budget -- did 2 you see what went to the council to be 3 approved? In other words, did you know that 4 11 months were placed into the professional 5 services account before it went to the 6 council? 7 A. I didn't. After the budget is 8 proposed to the council, I mean, we get a copy 9 of it. Without any notification, I was 10 assuming it was just what we had submitted to 11 them. 12 Q. But it wasn't? 13 A. No. 14 Q. Okay. Did that raise any concerns 15 with you at that time? Did you say anything 16 or do anything? 17 A. Well, I raised it to Marnie. 18 Q. What did you tell her; what did you 19 say? 20 A. I said this is screwy. 21 Q. Okay. What did you mean by that? 22 A. I was just mystified as to why they 23 would budget it like that. 24 Q. Okay. And do you now know why it was 25 budgeted like that?</p>	<p style="text-align: right;">232</p> <p>1 We can note your objection. 2 MR. PEYTAVIN: 3 -- but I'm going to let the 4 witness answer the question. 5 THE WITNESS: 6 Well, I would -- I'd speculate 7 that they did this to be able to make a claim 8 of non appropriation. 9 BY MR. TALLEY: 10 Q. Okay. That's what I speculated when I 11 saw it, too. 12 A. Uh-huh, uh-huh. 13 Q. I just wondered if we speculated the 14 same thing. 15 And so if that, in fact, is accurate 16 and that's why it was done, would you -- you 17 wouldn't agree that that would be a good faith 18 implementation of that clause? 19 MR. PEYTAVIN: 20 That calls for a legal 21 conclusion. Whether it's a breach of 22 contract, whether it's good faith or bad 23 faith, it's a legal issue. 24 MR. TALLEY: 25 Okay. Subject to that objection.</p>
<p style="text-align: right;">231</p> <p>1 A. I don't know why, but -- 2 Q. You have a pretty good idea why, 3 though, don't you? 4 A. I could guess. 5 Q. Okay. What would that be? 6 MR. PEYTAVIN: 7 He's not going to speculate. 8 MR. TALLEY: 9 I think this is more than just 10 speculation. I'm going to ask the question. 11 I'm not asking you to speculate, but I'm just 12 saying what is -- why -- what information do 13 you have about why that was done? 14 THE WITNESS: 15 Well, I don't have any 16 information. I mean, I just know it was done 17 like this. I mean, anything beyond this would 18 be speculation. 19 BY MR. TALLEY: 20 Q. Okay. Well, I'm going to ask you to 21 speculate. 22 A. Uh-huh. 23 MR. PEYTAVIN: 24 I'll note my objection -- 25 MR. TALLEY:</p>	<p style="text-align: right;">233</p> <p>1 THE WITNESS: 2 No. I wouldn't have done it. 3 BY MR. TALLEY: 4 Q. All right. And as far as you know, 5 this was -- this would have come from Tim 6 Whitmer? 7 A. Yes. 8 Q. Okay. Now, ultimately, this was 9 changed. Well, let me just say this: When 10 the budget was introduced, I happened to have 11 been there. When the budget was introduced, 12 they made a note that's -- it was offered by 13 Mr. Broussard. 14 When he offered it, he said, Subject 15 to rededication of funds that already exist. 16 Is it your impression that -- have you 17 ever seen -- have you ever seen this done 18 before, where 11 months of the landfill budget 19 was placed in a different account and then 20 redesignated later on? 21 A. Well, it wasn't 11 months, but 22 actually, they had done it in 2009. They had 23 budgeted three months, and I'm -- I don't 24 think the other nine months were part of that 25 term in professional services.</p>

JOSEPH RICHARD BULLER, JR. 11/19/2010
CONSOLIDATED GARBAGE DISTRICT NO. 1 OF THE PARISH OF JEFFERSON vs. WASTE MANAGEMENT OF
LOUISIANA, L.L.C.

Reported by: CINDI CAMERON, CCR

<p style="text-align: right;">234</p> <p>1 Q. Okay. 2 A. But -- but at that time, for the 2009 3 budget year, we had -- after the first -- and 4 we found out that was done when -- in April 5 when I submitted the landfill invoice for 6 payment, I was told there was no funds for it. 7 Q. Okay. 8 A. And that's when I investigated that 9 and there was just a transfer made month to 10 month throughout 2009 after that to pay the 11 landfill invoice. 12 Q. Okay. How much was transferred month 13 to month? 14 A. Just enough to pay the invoice. 15 Q. Which would have been how much, 16 approximately? 17 A. 300,000 or so a year -- a month. 18 Q. Wouldn't that have been in violation 19 of Jefferson Parish ordinances in terms of 20 transfer of funds? 21 MR. PEYTAVIN: 22 It calls for a legal conclusion. 23 BY MR. TALLEY: 24 Q. If you know. 25 A. I think it was done through the budget</p>	<p style="text-align: right;">236</p> <p>1 A. It was done through the -- I'm not 2 sure exactly when, but it was done through the 3 budget -- is that a budget ordinance or a 4 resolution? I'm not sure. But at every -- on 5 every council agenda, there's either a 6 resolution or an ordinance that revises the 7 operating budget. 8 Q. Okay. 9 A. And it was done through that 10 mechanism. 11 Q. So ultimately, the money was put back 12 into the -- 13 A. In the landfill disposal. 14 Q. Yeah. And we received a letter from 15 Mr. Peytavin in January 2010 saying that the 16 parish council adopted a budget for 2010 which 17 includes funding for the Waste Management 18 landfill contract. And that would be an 19 accurate statement. I mean, at least as of 20 January 2010, the Waste Management landfill 21 contract was funded? 22 A. In January of 2010? 23 MS. WINTER: 24 That's the budget they adopted. 25 THE WITNESS:</p>
<p style="text-align: right;">235</p> <p>1 ordinance. 2 Q. Well, specifically, there is a 3 ordinance, if I'm not mistaken, which 4 specifically states that any transfer that 5 exceeds \$20,000, any transfer of funds that 6 exceeds \$20,000, 2-879, any line item transfer 7 or establishment or deletion of \$20,000 or 8 more shall be presented to the council for 9 approval as council resolution. 10 A. And on every council meeting agenda, 11 there's an ordinance that revises the 12 operating budget, and every month, lots of 13 items are revised in that manner. 14 Q. Okay. So going back to -- I'm really 15 interested in this 2009 -- I mean, the 2010 16 budget, when it was ultimately -- when the -- 17 it wasn't done month to month. The money was 18 ultimately moved -- 19 A. Yeah. 20 Q. -- in professional services? 21 A. Yeah, yeah. It was moved back in one 22 transfer, correct. 23 Q. Right. And was that done -- was that 24 authorized by a parish ordinance -- I mean, a 25 resolution?</p>	<p style="text-align: right;">237</p> <p>1 What's the date of his letter? 2 BY MR. TALLEY: 3 Q. January 14th, 2010. I'm not so much 4 concerned about the date. My point is, is 5 that the council adopted a budget for 2010 6 that included funding of the Waste Management 7 landfill contract? 8 A. That included funding? 9 Q. Yes, sir. 10 A. Yes. By the time it was revised. It 11 may have been revised in the first January 12 meeting. 13 Q. Okay. Why was it revised? 14 A. Well, I guess it was resignation to 15 the fact that it was continuing operation with 16 Waste Management. 17 Q. Okay. Tim Whitmer had resigned by the 18 time that that was done, right? 19 A. I'm not sure of the date. I'm not 20 sure what day he resigned. 21 Q. Okay. All right. Now, do you have 22 any kind of analysis to -- because originally 23 the intent was to have the River Birch 24 contract go into effect in January. 25 MR. TALLEY:</p>

JOSEPH RICHARD BULLER, JR. 11/19/2010
CONSOLIDATED GARBAGE DISTRICT NO. 1 OF THE PARISH OF JEFFERSON vs. WASTE MANAGEMENT OF
LOUISIANA, L.L.C.

Reported by: CINDI CAMERON, CCR

<p style="text-align: right;">238</p> <p>1 What are you looking for? 2 MR. PEYTAVIN: 3 Nothing. 4 MR. TALLEY: 5 You making me nervous over there. 6 MR. PEYTAVIN: 7 You had my letter in there. I 8 just -- 9 MR. TALLEY: 10 That's not a production, by the 11 way, so. Your letter's not going to be in 12 there. 13 MR. PEYTAVIN: 14 Well, wait a second. You told me 15 this book had everything that you had in 16 there. 17 MR. TALLEY: 18 I didn't say it was the document 19 production. That's for the deposition. 20 MR. PEYTAVIN: 21 Okay. So your book doesn't have 22 everything. 23 MR. TALLEY: 24 That's exactly right. My book 25 has more than this in there.</p>	<p style="text-align: right;">240</p> <p>1 A. No one that I know of. 2 Q. You haven't done that -- 3 A. No. 4 Q. -- and you don't know that it's been 5 done? Okay. Let me talk to you about the 6 2011 budget briefly. 7 The 2011 budget, the proposed budget, 8 has the number 7342.5, landfill disposal fees, 9 \$5,221,815. Is that correct based on your -- 10 A. Yeah. 11 Q. Okay. And so -- and that would have 12 come from you? 13 A. Yes. 14 Q. Ultimately been approved by 15 Ms. Winter -- 16 A. Uh-huh. 17 Q. -- and then had gone up to the budget 18 people? And so this time the money stayed in 19 that particular account; it was not 20 transferred to professional services, correct? 21 A. Correct. 22 Q. Okay. And so this is the money that's 23 budgeted for the operation of the landfill for 24 2011? 25 A. And that particular item is just the</p>
<p style="text-align: right;">239</p> <p>1 Okay. Have you done any sort of 2 analysis -- originally, the River Birch 3 contract was supposed to go into effect -- it 4 was designed to go into effect January 1st, 5 2010. 6 THE WITNESS: 7 Uh-huh, yeah. 8 BY MR. TALLEY: 9 Q. Okay. So has anybody done any type of 10 analysis to say -- using the tonnage -- and I 11 understand 2010 isn't over yet, but as of now, 12 has anybody done an analysis of the tonnage of 13 disposal in the Jefferson Parish Landfill and 14 the cost of that and the payments to Waste 15 Management under the contract in comparison to 16 what it would have been had the River Birch 17 contract been implemented January 1st? 18 A. No. 19 MR. PEYTAVIN: 20 I just note that you said 21 anybody. The witness can only testify as far 22 as himself and his knowledge and so -- 23 BY MR. TALLEY: 24 Q. Well, I mean anybody that you know -- 25 do you know if that's been done?</p>	<p style="text-align: right;">241</p> <p>1 payments to Waste Management. 2 Q. Right. 3 A. There are a lot of other landfills 4 that -- 5 Q. Yeah. I understand the number is 6 actually -- 7 A. Seven million something. 8 Q. Exactly. It's more like seven 9 million. This is the payment to Waste 10 Management? 11 A. Uh-huh. 12 Q. You would agree with me that at this 13 point -- and this budget was presented to the 14 council earlier this month. I think on 15 November the 2nd it was approved by the 16 council, correct? 17 A. Yes. 18 Q. So you would agree with me that there 19 is money in the landfill account that's been 20 budgeted for 2011 to pay for the operation of 21 the landfill and the contract to Waste 22 Management for 2011? 23 A. Yes. 24 Q. There is no problem with the funding 25 of this account?</p>

<p style="text-align: right;">242</p> <p>1 A. No. 2 Q. Just as kind of an aside, I guess -- 3 not as an aside, but just to cover this now, 4 what are the sources of revenue for the -- for 5 the, I guess, the landfill budget? You have 6 the millage? 7 A. Well, if you need to get technical, 8 the consolidated garbage district collects the 9 millage, and they also collect a service 10 charge, but that is a direct pass-through for 11 the garbage collection contractor. 12 The landfill has two main sources of 13 revenues: The royalties that we get from 14 Waste Management, now we're getting a smaller 15 royalty from landfill gas sales that we made; 16 and the bulk of it is a transfer from the 17 garbage district account. 18 Q. And the transfer from the garbage 19 district account is based on the millage? 20 A. Well, it's based on what we need to 21 balance the landfill budget, but, yeah, 22 basically it comes from the millage that's 23 collected in the garbage district. 24 Q. The source of what's collected by the 25 garbage district is from the millage?</p>	<p style="text-align: right;">244</p> <p>1 MR. PEYTAVIN: 2 Yeah, this is the 2011 he 3 proposed. 4 MR. TALLEY: 5 It's all under Tab 38. But if 6 you can point to it on this document, that's 7 fine, too. 8 THE WITNESS: 9 Yeah. Under the -- under the 10 revenues, you see the other financing sources? 11 BY MR. TALLEY: 12 Q. Yeah. 13 A. 5,927,000. 14 Q. Yeah, that's what I was looking at. 15 A. Yeah. 16 Q. In 2010, it was -- yeah, it's under 17 other financial -- 18 A. Financing uses. 19 Q. Financing sources, that's what I 20 thought. 21 A. Yeah. 22 Q. So that's from the garbage district? 23 A. Correct. 24 Q. Okay. The charges for services, what 25 is that?</p>
<p style="text-align: right;">243</p> <p>1 A. Right. 2 Q. Correct? 3 A. Right. 4 Q. That's a dedicated fund? 5 A. Yes. 6 Q. Correct? 7 A. Yes. 8 Q. And so that's always going to be 9 there? 10 A. Unless -- 11 Q. Unless it's undedicated? 12 A. Correct. 13 Q. Okay. And so how -- it says the major 14 source of revenue for the landfill is the 15 transfer for the garbage district. How much 16 is transferred from the garbage district? 17 A. What was it, like \$5 million. 5 to 18 \$6 million. 19 Q. Is that under -- 20 A. Is that in here? 21 Q. Is that under -- yeah. 22 A. Which tab? 23 Q. I'm looking at the 2010 budget because 24 I don't think I have that material. I might 25 have it for --</p>	<p style="text-align: right;">245</p> <p>1 A. That's the royalties we receive from 2 Waste Management. 3 Q. Okay. Now, I notice that you have 4 that at \$9 million? 5 MR. PEYTAVIN: 6 900,000. 7 THE WITNESS: 8 900,000. Yeah. 9 BY MR. TALLEY: 10 Q. I'm sorry. \$900,000, right? But on 11 that projection that was used -- 12 A. It was 700,000. 13 Q. 700,000. I guess I just want to ask 14 you again why you didn't use 900,000, 15 something more approaching a million when you 16 did this? 17 A. Well, like I said, I think that's what 18 I was expecting at that time. 19 Q. Okay. 20 A. I'm happy to say I was wrong. 21 Q. Yeah. Has the consultant that's -- 22 P&N, that are evaluating the contracts now, 23 have they been provided with this information 24 that the anticipated royalty is \$9 million -- 25 \$900,000?</p>

<p style="text-align: right;">246</p> <p>1 A. I don't know if they were given the 2 2011 proposed budget, but I would say they 3 know what was in the 2010 amended budget. 4 Q. Okay. And so that really accounts for 5 the bulk of the revenue, is the royalties and 6 what you get from the -- 7 A. Garbage district. 8 Q. Garbage district, okay. 9 A. Initially, this 150,000 is the 10 royalties from the landfill gas sales. 11 Q. Yeah. And so because the amount comes 12 from the garbage district -- and again, that's 13 a dedicated millage, right? 14 A. Yes. 15 Q. That funding is going to be there -- 16 you anticipate that funding to be there for 17 2000 -- well, you're obviously anticipating it 18 to be there for 2011. 19 A. Uh-huh. 20 Q. You would anticipate it to be there 21 for 2012? 22 MR. PEYTAVIN: 23 It's calling for him to speculate 24 because they can rededicate millages at any 25 point in time. It's going to be up to the</p>	<p style="text-align: right;">248</p> <p>1 closing the landfill and going to River Birch, 2 that if the savings would result in a reduced 3 need to transfer money from the garbage 4 district, and with that in mind, could they 5 then rededicate a portion of that millage 6 that's collected by the garbage district to 7 the drainage department. 8 Q. You didn't agree with that, though? 9 A. No. Because I -- 10 Q. The document I saw specifically says 11 that you don't -- you wouldn't agree with that 12 recommendation? 13 A. Right. I think they were 14 underestimating the needs for closing the 15 landfill. 16 Q. Okay. And I'm probably not going to 17 be able to point exactly to that document 18 right this second, but you agree with that, 19 that that money would be needed for 20 post-closure? 21 A. Right. For post-closure, right. 22 MR. PEYTAVIN: 23 In his opinion. 24 MR. TALLEY: 25 In his opinion. I understand.</p>
<p style="text-align: right;">247</p> <p>1 public authority's decision as to whether to 2 attempt to rededicate millages from garbage to 3 anywhere else. 4 MR. TALLEY: 5 I don't think you can do that 6 without a referendum. 7 MR. PEYTAVIN: 8 That might be true, but it's up 9 to the public authorities to decide whether to 10 call it. And as a matter of fact, if you ask 11 him about it, you might see that they 12 discussed it with respect to this particular 13 account. 14 BY MR. TALLEY: 15 Q. Okay. Tell me about that. Has that 16 been discussed with respect to this account? 17 A. Yes. I'm trying to think of the time 18 frame. It may have been June or so. 19 Q. Of this year? 20 A. Of -- 21 Q. 2010? 22 A. '9. 23 Q. 2009, okay. 24 A. Yeah. There was some discussions 25 about in light of the anticipated savings from</p>	<p style="text-align: right;">249</p> <p>1 Okay. It's the October 12th 2 memorandum that you did to Marnie Winter 3 regarding garbage district landfill capital 4 account. You specifically said in that when 5 -- Tim Whitmer was asking about whether you 6 could allow the rededication of a portion of 7 the property tax for better use and you 8 concluded that that's not possible because of 9 the post-closure cost? 10 THE WITNESS: 11 Right. 12 BY MR. TALLEY: 13 Q. So as far as you're concerned, anyway, 14 the -- you don't have any information that the 15 landfill -- that funding for the landfill 16 account, the major funding for the landfill 17 account coming from the garbage district is 18 going to change any time soon? 19 A. No. 20 (The Videographer: Five minutes, 21 counsel.) 22 MR. TALLEY: 23 Why don't you change the tape, 24 then. 25 (The Videographer: Going off the</p>

<p style="text-align: right;">250</p> <p>1 record. The time is now 4:10. This is the 2 end of Tape No. 5.) 3 (Recess.) 4 (The Videographer: This is the 5 continued videotaped deposition of Joseph 6 Richard Buller. This is the beginning of 7 Tape 6. The time is now 4:22.) 8 BY MR. TALLEY: 9 Q. Have you ever -- well, let's go back 10 to the Waste Management contract, which was 11 actually the Sexton contract that I think came 12 into effect in 1998. 13 A. Yeah. 14 Q. Did you have any role in the 15 negotiation of that contract? 16 A. Yes. 17 Q. Okay. Did you have any involvement in 18 the insertion or the -- putting into the 19 document the appropriations dependency clause? 20 A. No. 21 Q. Okay. You know what the 22 appropriations dependency clause is, though, 23 right? 24 A. Yes. 25 Q. Okay. What about with respect to the</p>	<p style="text-align: right;">252</p> <p>1 objected to was their tipping fee and the term 2 of the contract. 3 Q. Okay. And so tell me about -- let's 4 start with the tipping fee. What was your 5 objection to the tipping fee? 6 A. I said it ought to be lower. 7 Q. Okay. Why did you think it ought to 8 be lower? 9 A. Well, because our current tipping fee 10 is 20.66, and I didn't see the point of going 11 up to 21.50. 12 Q. Okay. And that would be without 13 reduction -- and that 21.50 is without 14 reduction with respect to any kind of royalty 15 payments? 16 A. Correct. 17 Q. And that's just 21.50 straight? 18 A. Uh-huh. 19 Q. So you objected to that. What was the 20 response to that? 21 A. The response was they wouldn't -- they 22 won't sign the contract without it. Or I take 23 it back. In that regard, they said that 24 because the parish council had already 25 accepted their terms.</p>
<p style="text-align: right;">251</p> <p>1 River Birch contract that was executed in June 2 of 2009, did you have any involvement in that? 3 A. Yeah. I got a chance to review it and 4 make comments. 5 Q. Okay. What was your involvement in 6 the Sexton contract? 7 A. I was more involved in that one. 8 There had been a couple of draft contracts 9 mailed back and forth. It was decided that 10 the thing to do was to have a big meeting with 11 everyone involved and hash it out at one time, 12 and it wound up being a real long night. But 13 there was, you know, like a dozen people in 14 the room from both parties making -- making 15 comments, you know, suggestions and 16 debating -- 17 Q. So you were -- 18 A. -- all the issues. Yeah, I was there. 19 Q. But you didn't have that extent of 20 involvement in the River Birch contract? 21 A. No. 22 Q. Is there -- was there anything that 23 you objected to in the River Birch contract 24 that was ultimately put in anyway? 25 A. Yeah. Two things that I definitely</p>	<p style="text-align: right;">253</p> <p>1 Q. That that was not negotiable? 2 A. Right. 3 Q. Okay. Is this recommendation in 4 writing, or was this just in discussions or 5 what? 6 A. I know it was in discussions. I don't 7 know if I wrote anything on it or not, if 8 there was an e-mail or a memo, but I'll look 9 and see. 10 Q. Yeah. I'd like to call for production 11 of that, any kind of comments or 12 communications regarding the negotiation of 13 the River Birch contract. 14 A. Uh-huh. 15 Q. Okay. Now, when you said the 16 discussions, who would the discussions have 17 been with? 18 A. That would've been Tom Wilkinson. 19 Q. All right. What was your other 20 objection? 21 A. The length of term. 25 years is too 22 long, I said. 23 Q. What was the response to that? 24 A. Same thing. 25 Q. Done deal, just part of the deal?</p>

<p style="text-align: right;">254</p> <p>1 A. Yeah. 2 MR. PEYTAVIN: 3 I think the witness testified 4 that the proposal submitted was 25 years and 5 that it had been reviewed and council had 6 accepted and authorized the contract in 7 accordance with it. 8 BY MR. TALLEY: 9 Q. Well, the resolution, as I understand 10 it, that was passed in January 2009, 11 Mr. Buller, authorized the administration to 12 negotiate a contract. So was it your 13 impression after being involved in this that 14 there were certain aspects of the contract 15 that were not negotiable? 16 A. Well, I didn't think anything was 17 nonnegotiable. I thought when they selected 18 someone to negotiate a contract, that's 19 exactly what you do. 20 Q. Okay. Yeah. But -- and so -- but you 21 were told with respect to these two objections 22 that those two objections were not negotiable? 23 A. Uh-huh. (Witness nods head 24 affirmatively.) 25 Q. Okay. So I guess I'm trying to find</p>	<p style="text-align: right;">256</p> <p>1 Is there a question mark behind 2 it? 3 BY MR. TALLEY: 4 Q. Do you agree with that statement? 5 MR. PEYTAVIN: 6 Object to the extent it calls for 7 him to make a legal conclusion as to whether 8 when the proposal price is given and other 9 terms remain to be negotiated, whether the 10 price can be negotiated as well as the other 11 items. 12 MR. TALLEY: 13 Counsel, the resolution doesn't 14 say that. The resolution doesn't say that the 15 price is given and other items are to be 16 negotiated. It authorizes the administration 17 to negotiate a contract. 18 And so I guess what I'm asking 19 the witness is, is that what you understood 20 when you got involved in it is that the price 21 was not negotiable? 22 MR. PEYTAVIN: 23 The witness testified that it was 24 his understanding an attempt was made to 25 negotiate a price and was told it was</p>
<p style="text-align: right;">255</p> <p>1 out, is that -- is that really what the 2 council was -- is that really what the council 3 was looking for when it went out with the 4 resolution; was it saying that there were 5 certain items that was nonnegotiable, or was 6 that just the administration's position? 7 A. Well, I got the impression that was 8 River Birch's response to Tom Wilkinson's 9 negotiation. 10 Q. All right. Just doesn't sound to me 11 to be much of a negotiation if you say we're 12 going to charge 21.50 and then that's not 13 negotiated -- not negotiable when people 14 object to that. 15 MR. PEYTAVIN: 16 Is that a question, counsel? 17 MR. TALLEY: 18 Yes, that's a question. 19 MR. PEYTAVIN: 20 Can you rephrase it 'cause I 21 don't -- 22 MR. TALLEY: 23 I don't know. Just put a 24 question mark at the end of it. 25 MR. PEYTAVIN:</p>	<p style="text-align: right;">257</p> <p>1 nonnegotiable. The contract was presented to 2 the council, and the council made its own 3 determination as to whether it's acceptable or 4 not. 5 And just off the record, Patrick, 6 I'd like to see a single proposal that was 7 ever submitted by Waste Management where they 8 quoted a price and then in negotiating other 9 terms reduced the price for any particular 10 reason in response to a governmental request 11 for proposals. 12 MR. TALLEY: 13 Okay. I can get you that. 14 MR. PEYTAVIN: 15 Not garbage collection. 16 MR. SONIER: 17 Be careful what you ask for. 18 MR. PEYTAVIN: 19 Not garbage collection. 20 MR. SONIER: 21 Be careful what you ask for. 22 MR. PEYTAVIN: 23 I don't want it for garbage 24 collection. 25 BY MR. TALLEY:</p>

<p style="text-align: right;">258</p> <p>1 Q. All right. When I was asking you 2 about your involvement in this, do you know 3 why the River Birch contract does not have an 4 appropriations dependency clause? 5 A. No. 6 Q. Did you say anything about that when 7 you saw it? 8 A. I honestly didn't catch that. Someone 9 else pointed it out to me. 10 Q. Who pointed that out to you? 11 A. I'm not sure. I'm not sure. 12 Q. Okay. Was that ever a subject of 13 conversation about why there's no -- there was 14 no appropriations dependency clause in the 15 contract? 16 A. We were surprised. 17 Q. Okay. And the -- but the 18 administration submitted that contract anyway, 19 without an appropriations dependency clause? 20 A. Yes. 21 Q. Okay. I want to ask you, have you 22 seen the lawsuit that was filed by Jefferson 23 Parish that we're here today about? 24 A. Yes. 25 Q. Okay. Have you seen the amended</p>	<p style="text-align: right;">260</p> <p>1 funds to fund this contract through 2011. 2 Would that be a correct statement? 3 A. Yes. 4 Q. Okay. Now, Paragraph 50, the next 5 paragraph, says that the parish received in 6 response to a request for proposals a proposal 7 for River Birch, Inc. to provide disposal 8 services at River Birch's facility. 9 And again, the proposal that was 10 received from River Birch -- I just want to 11 make -- I think we have the same one, is that 12 same December -- 13 A. December 9 letter? 14 Q. December 9 letter -- 15 A. Uh-huh. 16 Q. -- that was received from -- 17 A. Yes. 18 Q. That's the proposal; is that correct? 19 A. Yes. 20 Q. Okay. And neither you nor Ms. Winter 21 had a position on the evaluation committee for 22 that? 23 A. Correct. 24 Q. Okay. The next paragraph says, The 25 parish committee which reviewed the response</p>
<p style="text-align: right;">259</p> <p>1 lawsuit, the amended petition -- the amended 2 complaint? 3 A. I think so. 4 Q. Okay. I just want to ask you a couple 5 of questions about that, about some factual 6 information about what's in there. 7 And I'm going -- I'm starting out with 8 Paragraph 49, which is basically -- quotes the 9 annual appropriation dependency clause. And 10 it says, "If the council fails to appropriate 11 sufficient monies to provide for the 12 continuation of this agreement, the agreement 13 shall terminate on the last of the fiscal year 14 for which the funds were appropriated." 15 Based on what I -- based on your 16 earlier testimony when we went through the 17 budget, it's my understanding that the council 18 has, in fact, appropriated sufficient monies 19 to provide for the continuation of the Waste 20 Management agreement through 2011 -- 21 A. Yes. 22 Q. -- is that correct? 23 A. Yes. 24 Q. Okay. This would indicate to me that 25 the parish has -- has -- in fact, has the</p>	<p style="text-align: right;">261</p> <p>1 determined that the proposal by River Birch 2 would result in substantial annual savings to 3 the parish over a 25 period -- 25-year period 4 when compared to the costs to continue and 5 operate the parish-owned landfill. And so on 6 and so on, it goes on. 7 You would not agree with the statement 8 that the River Birch contract would result in 9 a substantial savings over a 25-year period? 10 A. I don't think we can say that right 11 now. 12 Q. And you don't know anybody that can 13 say that right now? 14 A. No. 15 Q. Did you ever do any sort of -- I 16 talked to you about what you did in terms of 17 analysis and evaluations. Did you ever do any 18 sort of analysis that came up with a 19 conclusion that there would be no savings? 20 A. No. 21 (The Videographer: Mr. Talley, your 22 microphone.) 23 BY MR. TALLEY: 24 Q. But the one that you did that was 25 presented to me today that's dated 4/27/09,</p>

<p style="text-align: right;">262</p> <p>1 again, if you take out the Phase 4 cell 2 construction, would basically have the 3 conclusion that there would be no savings? 4 A. Yeah. But I really think the cell 5 construction is a valid cost to consider in 6 that because we'd have to pay for that in the 7 next phase of operation. So while it's not a 8 direct cost to the Waste Management contract, 9 it is a cost for continuing landfill 10 operations. 11 Q. Okay. 12 A. And -- but, you know, again, that 13 analysis is very limited and I consider it 14 incomplete. 15 Q. Okay. And so you would agree that in 16 term -- to be able to make this statement that 17 there would be a substantial savings to the 18 parish over a 25-year period when compared to 19 the cost to operate the parish landfill, we 20 will, at this point, have to -- need to wait 21 on the report that's being done by the 22 consultant? 23 A. Yeah. 24 Q. There's nothing that's been done by 25 the parish that would support this statement?</p>	<p style="text-align: right;">264</p> <p>1 MR. TALLEY: 2 -- and he said he's unaware of 3 any that's been done. 4 MR. PEYTAVIN: 5 I understand. But the fact that 6 he's unaware of any does not mean that none 7 have been done, Patrick, and that's the point. 8 MR. TALLEY: 9 Okay. Well, I think that goes 10 without saying. 11 You're not aware of any analysis 12 that would support this statement? 13 THE WITNESS: 14 Correct. 15 BY MR. TALLEY: 16 Q. Okay. I would think that you and/or 17 Ms. Winter, as the director of the department 18 and the director of the landfill, the landfill 19 engineer, that you would have been asked to be 20 either involved or to evaluate any kind of 21 analysis that would have been done by someone 22 else. Would that be the normal course of 23 things? 24 A. Yes, uh-huh. 25 Q. And you haven't been?</p>
<p style="text-align: right;">263</p> <p>1 MR. PEYTAVIN: 2 To your knowledge. 3 THE WITNESS: 4 To my knowledge. 5 BY MR. TALLEY: 6 Q. To your knowledge. Do you know of 7 anyone that would have more knowledge or 8 expertise than either you or Ms. Winter to be 9 able to determine whether there was a 10 substantial annual savings to the parish with 11 this contract? 12 A. No. 13 MR. PEYTAVIN: 14 My point is the witness can't 15 possibly know what analysis was undertaken by 16 the parish president's office, by the chief 17 administrative officer's office or by any 18 other officers other than his own. 19 MR. TALLEY: 20 Well, that's not true. He could 21 know. And I asked him earlier whether he knew 22 of any analysis -- 23 MR. PEYTAVIN: 24 He doesn't know, but the fact 25 that he doesn't know --</p>	<p style="text-align: right;">265</p> <p>1 A. I haven't been. 2 Q. Do you know what the procedure is with 3 respect to the report that -- first of all, do 4 y'all know when the report -- I've heard all 5 kind of different dates on this thing for a 6 while. Do you know when the report is 7 supposed to come out? 8 A. Actually, we're meeting with them 9 Monday, the 22nd, for a -- he'll make a draft 10 presentation to us. 11 Q. Okay. Is that open to the public? 12 A. No. 13 Q. Okay. Why wouldn't that be open to 14 the public? Why wouldn't that be open to 15 people who would have information that would 16 be relevant to the consideration? 17 A. I don't know. 18 Q. Who's being invited to that meeting? 19 A. Marnie and I and the consultant. 20 Q. Okay. Is there anyone else from the 21 parish that's supposed to be going to that? 22 A. No. 23 Q. Is Mr. Peytavin going to that? 24 A. No. 25 MS. WINTER:</p>

<p style="text-align: right;">266</p> <p>1 I was thinking about asking other 2 people. I haven't gotten to that point yet. 3 MR. TALLEY: 4 Okay. 5 MS. WINTER: 6 Like talking with Mr. Young. 7 MR. TALLEY: 8 Okay. 9 MS. WINTER: 10 It's really just an internal look 11 at the draft and see if, you know, we want to 12 input anything else into it. 13 BY MR. TALLEY: 14 Q. And when is this meeting again? 15 A. Monday. 16 Q. Monday. All right. Do you know if 17 either -- do you know if River Birch has had 18 any involvement in submitting information to 19 this? 20 A. I don't know. 21 Q. Okay. The draft that's going to be 22 presented or that's going to be discussed at 23 this meeting, is that draft going to be 24 preserved? Is it going to be a draft document 25 presented?</p>	<p style="text-align: right;">268</p> <p>1 BY MR. TALLEY: 2 Q. Okay. Is there any plan to take this 3 draft report and then submit it to Waste 4 Management for any kind of comment, as far as 5 you know? 6 A. I don't believe. I think they were 7 just going to take our comments and we were 8 just going to see if they're going completely 9 in the wrong direction with something. 10 Q. Okay. So when do you think they're 11 going to have a final report? 12 A. We were hope -- hopefully by the end 13 of November, but if they're giving us the 14 draft Monday, with Thanksgiving coming up, I 15 would probably say we're into the first week 16 of December. 17 Q. All right. And do you know if that 18 report's going to be presented in -- to the 19 parish president or the parish council in an 20 open meeting or what? 21 A. I don't know if they planned that far 22 ahead. 23 Q. Okay. 24 A. I don't know if they're just going to 25 issue a document or if they planned on making</p>
<p style="text-align: right;">267</p> <p>1 A. I don't know that either. I think 2 that's their working document. 3 MR. TALLEY: 4 Okay. Well, I'm just going to -- 5 I'm going to say this on the record, and your 6 counsel may or may not agree with me. But I 7 would take the position that as a consultant 8 -- with a consultant for the parish, if there 9 are any documents that are generated by one of 10 your consultants that are relevant to issues 11 in the lawsuit, that those documents should be 12 preserved. 13 And so, you know, I'm just going 14 to say that because if I find out that there's 15 a draft document and the draft document 16 doesn't exist at the time that we call for 17 production, it could be an issue. I'm just 18 saying that on the record. 19 MR. PEYTAVIN: 20 Duly noted on the record. 21 MR. TALLEY: 22 So that nobody's surprised later. 23 MR. PEYTAVIN: 24 It's one of your requests for 25 production of documents, Patrick.</p>	<p style="text-align: right;">269</p> <p>1 a formal presentation. 2 Q. All right. Continuing on with the 3 last part of the lawsuit I wanted to ask you 4 about is in Paragraph 58 and 59. I'm not 5 going to quote this word-for-word, but it 6 basically says that the parish seeks a 7 declaratory judgement. That upon termination 8 of the contract, that the parish -- that the 9 contract is terminated without penalty or 10 expense to the parish except for the tipping 11 fees. 12 And then the next paragraph goes on to 13 say, would be -- the parish would not be 14 liable for lost profits, overhead, unrecovered 15 expenses, or other claims of any nature by 16 Waste Management. 17 And if I go back to the closure 18 obligations and ask you again, you would not 19 consider the -- and I think you said this when 20 I talked to you earlier. You would not 21 consider the closure obligations to be any 22 sort of penalty under the contract? 23 A. No. 24 Q. Do you believe or is it your position 25 based on the information that you have --</p>

JOSEPH RICHARD BULLER, JR. 11/19/2010
CONSOLIDATED GARBAGE DISTRICT NO. 1 OF THE PARISH OF JEFFERSON vs. WASTE MANAGEMENT OF
LOUISIANA, L.L.C.

Reported by: CINDI CAMERON, CCR

<p style="text-align: right;">270</p> <p>1 let's assume that the contract at this point 2 cannot be terminated under the appropriations 3 dependency clause in the year 2011, but that 4 it potentially could be terminated for 2012. 5 Is it your opinion -- is it your 6 opinion personally, let me ask you this, that 7 the landfill capacity -- well, basically, the 8 Waste Management contract is going to be over, 9 essentially, in 2012? 10 A. Yeah. I think they'll be filled up, 11 the areas that they were contracted to do. 12 Q. Is that kind of -- is that the 13 position of the parish? 14 MR. PEYTAVIN: 15 Objection. He can't testify as 16 to the position of the parish. He's here as a 17 witness, as an individual, not as a 30(b)6 18 deponent to testify on behalf of the parish. 19 BY MR. TALLEY: 20 Q. Is that the position of the Department 21 of Environmental Affairs? 22 A. Well, that's my opinion. 23 Q. I know. But that's your department, 24 right? 25 A. Yes.</p>	<p style="text-align: right;">272</p> <p>1 Right. 2 BY MR. TALLEY: 3 Q. All right. And at that point, Waste 4 Management would have the closure obligations 5 that it has under the contract; the parish 6 wouldn't have those obligations, correct? 7 A. Correct. 8 Q. All right. Now, this probably -- I 9 think this has to do with the RFP that came 10 out today, but there is now a plan to seek 11 proposals for the operation of the landfill -- 12 A. Uh-huh. 13 Q. -- this is the parish landfill, to 14 continue operations after the Waste Management 15 contract runs, which in the news reports said 16 2012, which we discussed. Is that what the 17 RFP does? 18 A. Yes. 19 Q. Okay. So at least under consideration 20 at this point is the possibility that the 21 landfill would be continued to be operated? 22 A. Correct. 23 Q. Okay. Now, how does that -- is that 24 based on the assumption that the River Birch 25 contract will not go into effect?</p>
<p style="text-align: right;">271</p> <p>1 Q. Okay. It's y'all's opinion in the 2 department that the airspace -- 3 MR. PEYTAVIN: 4 Objection, Patrick. And again, 5 I'm going to have to ask him not to answer 6 this time because we discussed before that 7 these are individual depositions, not 30(b)6 8 depositions. If you want a response 9 officially from the parish or from a 10 department, you notice a 30(b)6 deposition and 11 we'll produce an appropriate person. 12 MR. TALLEY: 13 All right. I just don't know who 14 would be better qualified to give the response 15 than either Mr. Buller or Ms. Winter. 16 MR. PEYTAVIN: 17 And he might be, but this is not 18 a 30(b)6 deposition. 19 MR. TALLEY: 20 All right. Well, I got what I 21 needed to get from him anyway. 22 So the length of the contract 23 without early termination is, based on your 24 understanding, would end in 2012? 25 THE WITNESS:</p>	<p style="text-align: right;">273</p> <p>1 A. Correct. 2 Q. Is that what the RFP says? 3 A. I don't think the RFP addresses that 4 directly. But yeah, that's our -- our train 5 of thought is that there's a chance the River 6 Birch contract will never be initiated, and if 7 that happens, then we need to have the 8 alternative of continuing the landfill 9 operation. 10 Q. Okay. And continuing the landfill 11 operations, I mean, you, I assume, were the 12 one who drafted the RFP or were extensively 13 involved in it? 14 A. Yes. 15 Q. Okay. So you do believe that that's a 16 viable economic option to the parish at this 17 point? 18 A. Yes. 19 Q. And it would be beneficial to the 20 citizens of the parish to continue to do that? 21 A. And I hope the proposals we get will 22 show that. 23 Q. Will show that, okay. But it's an 24 either/or proposition. In other words, that's 25 contingent on the River Birch contract not</p>

<p style="text-align: right;">274</p> <p>1 going into effect? 2 A. True. 3 Q. And so why does the parish think that 4 there's a possibility that the River Birch 5 contract won't be executed or won't be going 6 into effect at this point? 7 MR. PEYTAVIN: 8 The witness can't answer for the 9 parish. 10 BY MR. TALLEY: 11 Q. Okay. Why do you think? 12 A. Well, if the -- 13 MR. TALLEY: 14 He was asked to do an RFP. Your 15 objections are getting a little -- 16 MR. PEYTAVIN: 17 He was asked to do an RFP. 18 MR. TALLEY: 19 -- to some extent, frivolous if 20 he's asked to do an RFP. 21 MR. PEYTAVIN: 22 He was asked to do an RFP. 23 MR. TALLEY: 24 So he's got to know what the 25 parish thinks about it.</p>	<p style="text-align: right;">276</p> <p>1 A. Yes. 2 Q. And in large part, that's going to be 3 determined by what comes out in this report? 4 A. Yes. 5 MR. TALLEY: 6 All right. Can we take just a 7 few minutes' break and let me to talk to my 8 folks? 9 (The Videographer: Off the 10 record. The time is 4:51.) 11 (Recess.) 12 (The Videographer: Back the 13 record. The time is now 4:57.) 14 BY MR. TALLEY: 15 Q. Okay. I want to ask you about some 16 people here, see if you can give me some 17 information. Most of these I think I know. 18 But who would be the individual that 19 would be most familiar with questions that I 20 would want to ask or Waste Management would 21 want to ask regarding the collection contract? 22 I assume your -- as the landfill 23 engineer, you probably didn't have a lot to do 24 with the collection contract? 25 A. Well, I get involved in the selection</p>
<p style="text-align: right;">275</p> <p>1 MR. PEYTAVIN: 2 Well, he was asked to do an RFP, 3 okay. So if you want an official position of 4 somebody with the parish as to why they asked 5 for the RFP -- why the parish asked for the 6 RFP, do a 30(b)6 notice. 7 BY MR. TALLEY: 8 Q. Let me just ask you why the parish 9 asked for the RFP, if you know? Who from the 10 parish asked for the RFP? 11 A. Well, I initiated the process. I 12 mean, I brought it up to Marnie and said, 13 looking up at the calendar, looking ahead, 14 that if we -- in the event the River Birch 15 contract craters for any reason, that we need 16 to have someone ready to go in September of 17 2012 or thereabouts, so. 18 Q. Has anybody come to you, any parish 19 official come to you and said, we, you know, 20 fully expect this River Birch contract, it's 21 not going to go forward? Has anybody said 22 that? 23 A. No. 24 Q. Okay. And in your mind, that's a 25 possibility?</p>	<p style="text-align: right;">277</p> <p>1 and the process, usually, but once it's in the 2 day-to-day operation, no, I'm not really 3 involved in it. 4 Q. I'm really talking about whether Waste 5 Management was performing its duties properly 6 under the collection contract and the 7 communications about that, any kind of 8 defaults under the agreement or remedying the 9 defaults, and particularly the period after 10 the hurricane, that period of time? I assume 11 that that probably would not be you as the 12 best person to -- 13 A. No. 14 Q. Would that be -- 15 A. Marnie would be better. 16 Q. Okay. What about Deano Bonano, would 17 he be an individual that would be 18 knowledgeable about that? 19 A. Yes. 20 Q. Okay. But Ms. Winter would be 21 somebody we could ask those questions to? 22 A. Yes. 23 Q. What about the -- well, Scott Dusang, 24 who is he, and what involvement does he have 25 in this issue?</p>

<p style="text-align: right;">278</p> <p>1 A. Scott's in the parish attorney's 2 office and -- 3 MS. WINTER: 4 Is he still? 5 THE WITNESS: 6 Or is he gone now? I don't know. 7 MS. WINTER: 8 I thought he had been gone for 9 years. 10 BY MR. TALLEY: 11 Q. Do you know what involvement he would 12 have had in any of the -- the time period 13 between 1999 and now in terms of the Waste 14 Management -- the landfill or the Waste 15 Management contract or the River Birch 16 contract? 17 A. I'm trying -- I think he was involved 18 in -- there was a property trade, some 19 parish -- old parish property that was 20 adjacent to River Birch, and we made a trade 21 with them to get some property that was 22 adjacent to our landfill. 23 Q. Okay. 24 A. And I think Scott was the parish 25 attorney for that.</p>	<p style="text-align: right;">280</p> <p>1 information, and he normally didn't get 2 involved in landfill issues. 3 Q. Was it your impression that he did 4 that on behalf of Aaron Broussard, or he was 5 doing it -- 6 A. Yes. He was getting it for Aaron, 7 that was my impression. 8 Q. Okay. Bob Batherson? 9 A. Bob Batherson works for CDM, and he 10 was involved in -- 11 Q. He's CDM? 12 A. Yeah. 13 Q. Okay. What about Jennifer Sneed? I 14 know who Jennifer Sneed is. But have you ever 15 had any discussions or correspondence with 16 Jennifer Sneed about the Jefferson Parish 17 Landfill, ever, about anything? 18 A. No, not really. As far as I know, she 19 was always very careful to recuse herself from 20 any landfill issues. 21 Q. Specifically, the meeting -- well, any 22 of the meetings that would have been in 23 connection with the -- I'm assuming that she 24 would not have been involved in any of the 25 meetings involving the evaluation of the River</p>
<p style="text-align: right;">279</p> <p>1 Q. The Waggaman Canal property exchange? 2 A. Yes. 3 Q. Around the Waggaman Canal? 4 A. Yes. 5 Q. Yeah, you're right. Scott Dusang. 6 A. But Scott really didn't have any 7 involvement beyond that. 8 Q. Okay. Ms. Winter would have also had 9 some involvement in that, too? 10 A. Yes. 11 Q. Okay. What about Reda Youssef or 12 Youssef? 13 A. Reda is the director of capital 14 projects, and I think he was only involved in 15 that because of the canal relocation project. 16 Q. Okay. D. J. Mumphrey? 17 A. He was one of the executive assistants 18 to Aaron Broussard. 19 Q. Yeah. I kind of -- I know his title 20 because I remember him on the documents. But 21 what I'd like to know is what involvement, if 22 any, he would have had. He specifically was 23 one of the people where -- one of those June, 24 July -- 25 A. Yeah. He made a request for some</p>	<p style="text-align: right;">281</p> <p>1 Birch contract? 2 A. She was never involved in it. 3 Q. But going back to the meeting that you 4 had or you attended, I can't remember exactly 5 what you said, that involved Byron Lee? 6 A. Uh-huh. 7 Q. Do you recall that? 8 A. Yes. 9 Q. Questions I was asking you about that? 10 Was Jennifer Sneed involved in that at all? 11 A. No. No. 12 Q. Okay. And why was Byron Lee -- why 13 were you meeting with him; why was he meeting 14 with you at that time? 15 A. Well, if I recall, he was the one who 16 initiated the resolution that led to that 17 meeting. 18 Q. Okay. There was an attorney that kind 19 of worked with him or had involvement with him 20 by the name of Ron Austin. Do you know Ron 21 Austin? 22 A. I know his name. I've never met him. 23 Q. Did you have any meetings with him? 24 A. No. 25 Q. Were you ever told to have direct</p>

<p style="text-align: right;">282</p> <p>1 correspondence -- well, if you didn't have any 2 meetings with him, you -- did you have any 3 communications with him at all? 4 A. No. 5 Q. Okay. What about Dutch Connick, did 6 you have any meetings with him regarding the 7 landfill? 8 A. On and off. He's been representative 9 for a number of different companies over the 10 years. 11 Q. Okay. Have you met with him as being 12 representative of Waste Management? 13 A. Yes. 14 Q. And have you met with him as being 15 representative of River Birch? 16 A. Yes. Actually, there were no formal 17 meetings for -- you know, that we had any 18 particular items to discuss. 19 Q. Okay. 20 MR. TALLEY: 21 Okay. I think that's it. Before 22 we go off the record, though, I need to do 23 some exhibits. Let me have -- may I have that 24 notebook, please? 25 MR. PEYTAVIN:</p>	<p style="text-align: right;">284</p> <p>1 kept track of which ones he didn't question 2 him about, and now counsel's objecting to 3 attaching the binder to the deposition. 4 And I would note that since the 5 binder was used extensively in connection with 6 the witness' testimony and nobody kept track 7 of which particular documents were referred 8 to, looked at, questions were asked from, the 9 only fair thing to do is attach the whole 10 binder to the deposition. 11 MR. TALLEY: 12 Okay. My response to that is 13 this: I presented -- I gave you these 14 documents basically as a courtesy so that you 15 would have a copy of the documents. I wasn't 16 intending to give you the binder, per se. I'm 17 not trying to hold back the documents, but it 18 was just easier to do that. 19 My position would be is that the 20 binder itself would be attorney work product 21 because it's organized in a fashion that I 22 wanted to proceed in this deposition. And 23 then with this binder, you can certainly sit 24 down with the next witness and basically -- 25 not that she hasn't heard the whole</p>
<p style="text-align: right;">283</p> <p>1 I know you're going to be upset 2 about losing your notebook here. 3 MR. TALLEY: 4 Do you have any preference about 5 how this is done? 6 MR. PEYTAVIN: 7 Just introduce the whole 8 notebook. 9 MR. TALLEY: 10 Yeah, you'd love that, wouldn't 11 you? 12 Let's go off the record. 13 (The Videographer: Off the 14 record. The time now 5:04.) 15 (Off the record.) 16 MR. TALLEY: 17 We don't need to have this on the 18 video portion. 19 MR. PEYTAVIN: 20 When we started the deposition, 21 counsel gave us a binder of his exhibits. He 22 represented them as exhibits that were going 23 to be utilized in questioning the witness. He 24 questioned the witness about most of the 25 documents in this binder. We never really</p>	<p style="text-align: right;">285</p> <p>1 deposition. I think she knows where I'm 2 going. But it does reflect attorney work 3 product. I'm going to just -- I'll tell you 4 what I'll do. I will keep a binder just the 5 way it was. 6 MR. PEYTAVIN: 7 Okay. 8 MR. TALLEY: 9 If you want to take it to court 10 and get a copy of it and -- or I tell you 11 what, I'll think about it, too, and see what 12 happens. But as far as this deposition goes, 13 I am only going to take out and attach to the 14 deposition documents that we specifically 15 referenced. 16 MR. PEYTAVIN: 17 Did you keep track of every 18 single document that you quoted from, read to 19 the witness, referred to the witness? 20 MR. CASTORIANO: 21 Counsel, we'll look at the 22 transcript from the deposition and if there's 23 an exhibit reference in there that we -- that 24 for some reason we leave those here and we 25 think we haven't added that as an exhibit,</p>

<p style="text-align: right;">286</p> <p>1 that can -- can that be added as an exhibit at 2 that time? 3 We have no problem with every, 4 Pat, correct me if I'm wrong, documents that 5 were looked at by the witness today as being 6 attached as exhibits. And we will try and get 7 those all in now, and if for some reason the 8 transcript shows that there was something that 9 the witness looked at that hasn't been 10 attached as an exhibit, it will be attached as 11 an exhibit. 12 MR. PEYTAVIN: 13 But the problem is he also went 14 to documents, quoted from sections of them and 15 asked the witness questions about them. And 16 in all fairness, the witness, as well as the 17 parish, is certainly entitled to the entire 18 document so that we can go back and see if 19 there's other sections of the documents that 20 are relevant to anything here and that we 21 don't just have a little piece of one document 22 taken out of context that counsel read from on 23 the record that he's going to then represent 24 as an accurate reflection of a statement which 25 might well have been taken out of context</p>	<p style="text-align: right;">288</p> <p>1 back your binder and going home. 2 MR. TALLEY: 3 I'm going to give you a copy of 4 the ones that we used. 5 I tell you what. Let me think 6 about this for one second. Can we do that? 7 MR. PEYTAVIN: 8 Sure. 9 MR. TALLEY: 10 We're not going to -- obviously, 11 we -- it's too late to proceed. 12 MR. PEYTAVIN: 13 We understand that. 14 MR. TALLEY: 15 Okay. So we can just get another 16 date for that? 17 MR. PEYTAVIN: 18 We understand that. 19 MR. TALLEY: 20 You don't have a problem with 21 that? Sorry to make you sit through that. 22 MS. WINTER: 23 I don't think I have a choice. 24 MR. TALLEY: 25 Okay. We're going to give you</p>
<p style="text-align: right;">287</p> <p>1 because counsel was reading portions of the 2 document. We weren't given the document. We 3 weren't allowed to read the whole document. 4 We were referred to a specific little section 5 that counsel wanted to read. 6 MR. TALLEY: 7 And, you know, that's all true. 8 That's the way all depositions are. You don't 9 necessarily attach every document that's used 10 in the deposition. 11 MR. PEYTAVIN: 12 Patrick, I've never been to a 13 deposition yet where you were given a binder 14 of exhibits for use with a witness and then 15 counsel picked it up at the end of the 16 deposition and said, I don't want you to have 17 the binder. 18 MR. TALLEY: 19 No. But you have been in many 20 depositions where documents were used and you 21 were given a copy of them and they weren't 22 ultimately attached as an exhibit. 23 MR. PEYTAVIN: 24 But you won't even give me a copy 25 of them, Patrick. You're saying you're taking</p>	<p style="text-align: right;">289</p> <p>1 this. I want to just note for the record that 2 when I gave it to you, there was nothing in 3 Tab 1. 4 MR. PEYTAVIN: 5 Okay. 6 MR. TALLEY: 7 And there was nothing in Tab 40. 8 MR. PEYTAVIN: 9 I appreciate your cooperation, 10 Patrick, and believe me, I'm not going to 11 figure out your whole master scheme just by 12 looking at a binder. But I really feel that 13 the witness went and talked about a lot of 14 those documents. 15 MR. TALLEY: 16 Yeah. And you need the 17 documents, and so I don't have a problem doing 18 this. And then there were a couple other 19 things that I took out that were introductions 20 to these newspaper articles that were e-mails 21 to me, a lot of them from him, and I just 22 removed the cover page. But I didn't even 23 refer to it. Everything that the witness was 24 referred to or that I referred to just in 25 snip-its is in here.</p>

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1 MR. PEYTAVIN: 2 Thank you. 3 MR. TALLEY: 4 And so we'll give the court 5 reporter the binder, if you don't mind. 6 MR. PEYTAVIN: 7 Okay. 8 MR. TALLEY: 9 And then she can just attach it 10 to the exhibit so that we'll all -- I mean, to 11 the deposition as Buller in globo 1 through 12 42, and we'll all get a copy of it. 13 MR. PEYTAVIN: 14 All right. You doing any of 15 those other ones, too? 16 MR. TALLEY: 17 Oh, I'm sorry. That's good. 18 Yeah, absolutely. Do you recall what order 19 you gave me these in? 20 MR. PEYTAVIN: 21 I can sort of put them in. I 22 believe this one, this one, and this one. 23 MR. TALLEY: 24 You have a notice? Why don't you 25 hand me the notice. Let's do this. Let's do	1 Jefferson Parish Louisiana Landfill Budget 2 Number 22430. 3 MR. PEYTAVIN: 4 That's for 2011. 5 MR. TALLEY: 6 For 2011. And that will be 7 Number 5. And that's it. 8 (Whereupon, the documents 9 referred to were marked for identification as 10 Exhibit Nos. 1 through 5.) 11 (The Videographer: This concludes the 12 videotaped deposition of Joseph Richard 13 Buller. We're going off the record. The time 14 is now 5:24.) 15 (End of deposition.) 16 17 18 19 20 21 22 23 24 25

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1 the notice as 1, the notebook as 2. And then 2 you want me to go and do exhibit labels on 3 these so we don't get confused? 4 MR. PEYTAVIN: 5 Sure. 6 MR. TALLEY: 7 So 3 will be an e-mail -- 8 MR. PEYTAVIN: 9 The notes on 010. 10 MR. TALLEY: 11 E-mail dated Thursday, March 4th, 12 2010, from G. Bolotte to M. Winter. That will 13 be Number 3. 14 MR. PEYTAVIN: 15 That's just the cover letter on 16 when they were sent. That's actually the 17 notes on the 2010 budget in globo. 18 MR. TALLEY: 19 And then 4 -- I don't want to 20 cover up that date right there, okay, so just 21 wherever you put the label -- let's put it up 22 here -- is the Jefferson Parish Landfill 23 Scenarios 2010-2012 with the date of 4/27/09. 24 And then 5 will be the document 25 called Jefferson Parish Landfill Louisiana --	1 2 3 WITNESS' CERTIFICATE 4 5 6 I have read or have had the 7 foregoing testimony read to me and hereby 8 certify that it is a true and correct 9 transcript of my testimony, with the 10 exception of any attached corrections or 11 changes. 12 13 14 15 16 17 18 19 20 21 _____ 22 Joseph Richard Buller, Jr. 23 24 25

Reported by: CINDI CAMERON, CCR

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1 CERTIFICATE

2
3

4 I, Cindi Cameron, Certified Court
5 Reporter, State of Louisiana, do hereby
6 certify that the above-mentioned witness,
7 after having been first duly sworn by me to
8 testify to the truth, did testify as
9 hereinabove set forth;

10

11 That the testimony was reported
12 by me in shorthand and transcribed under my
13 personal direction and supervision, and is a
14 true and correct transcript, to the best of my
15 ability and understanding;

16

17 That I am not of counsel, not
18 related to counsel or the parties hereto, and
19 not in any way interested in the outcome of
20 this matter.

21

22

23 _____
Cindi Cameron, CCR
24 Certified Court Reporter
State of Louisiana
Certificate No. 91356

25

JOSEPH RICHARD BULLER, JR. 11/19/2010
 CONSOLIDATED GARBAGE DISTRICT NO. 1 OF THE PARISH OF JEFFERSON vs. WASTE
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