

RTC EXHIBIT 3

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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UPPER SOUTH EAST COMMUNITIES Case No. 3:13-cv-00403-LRH-WGC
COALITION,

Plaintiff,

vs.
U.S. ARMY CORPS OF ENGINEERS,
et al.,

Defendants.

DEPOSITION OF
KIM RHODEMYRE
August 23, 2013
Reno, Nevada

JOB NO. 188927
REPORTED BY: DEBORAH MIDDLETON GRECO, CCR #113, RDR, CRR

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I N D E X

EXAMINATION

PAGE

Examination by Mr. Cohen

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E X H I B I T S

NUMBER

DESCRIPTION

PAGE

EXHIBIT 1 Deposition Notice Pursuant To FRCP 30(b)(6)

14

EXHIBIT 2 Color Map of Area

16

(Original Exhibits Attached to Original Deposition)

1 IT REMEMBERED that on Friday, August 23, 2013, at the
2 hour of 10:05 a.m. of said day, at the law offices of WOODBURN
3 AND WEDGE, 6100 Neil Road, Suite 500, Reno, Nevada, before me,
4 DEBORAH MIDDLETON GRECO, a Certified Court Reporter, personally
5 appeared KIM RHODEMYRE, who was by me first duly sworn and was
6 examined as a witness in said cause.

7 -o0o-

8 **KIM RHODEMYRE**

9 called as a witness, having been duly sworn,

10 testified as follows:

11 **EXAMINATION**

12 BY MR. COHEN:

13 **Q** State your full name, please.

14 **A** Do I have to include the middle name?

15 Kimberly Lucille Rhodemyre.

16 **Q** And just for the record, can you spell your last name,
17 please?

18 **A** It's R-H-O-D-E-M-Y-R-E.

19 **Q** And your current address?

20 **A** 4313 Leeward Lane, Reno, Nevada, 89502.

21 **Q** Thank you, ma'am.

22 My name is Ed Cohen, and I introduced myself to you
23 before we got on the record here.

24 And as you may be aware, I'll be asking you questions
25 this morning, and my law firm represents the RTC in regard to

1 the lawsuit brought by the Upper South East Communities
2 Coalition.

3 In any event, because we have a question-and-answer
4 format, it's important that you let me ask my questions, and
5 then we'll let you give your answers, and we not talk over each
6 other, okay?

7 A Yes.

8 Q And also, if your attorney starts to talk, you should
9 also let him talk, so that we don't talk over each other.

10 We let him finish, and then we can go from there,
11 okay?

12 A Okay.

13 Q And also, as you can see, we have a court reporter
14 here, and she will be taking down what we say.

15 And even though I understand you when you nod your
16 head yes, or shake your head no, it won't work very well on our
17 transcript.

18 So it's very important to answer the questions out
19 loud, okay?

20 A Yes.

21 Q And if you don't understand one of my questions, and I
22 could almost predict with certainty that some will get wordy and
23 cumbersome, and when I read them, I'll probably cringe.

24 But if I ask a question, and you don't understand it,
25 and you want me to rephrase it or reword it, please tell me, and

1 I'll be glad to repeat it or try to word it in a better way,
2 okay?

3 A Okay.

4 Q And if you do answer my question, I'm going to go
5 ahead and assume, then, that you understood it.

6 Fair enough?

7 A Yes.

8 Q If you need to take a break at any point this morning
9 for personal comfort, for a drink or whatever, just let us know,
10 and we're glad to stop.

11 Very easy to do, okay?

12 A Yes.

13 Q But if you do want to take a break, I would appreciate
14 if we finish the question and the answer before we break.

15 But then other than that, we can break whenever you
16 like.

17 A Okay.

18 Q Because of any medicines, medical condition, or any
19 personal things in your life, is there anything that would be
20 preventing you today from being able to listen to my questions
21 and provide appropriate answers?

22 A No.

23 Q Okay. So you are ready to proceed?

24 A Yes.

25 Q Okay. And you understand you are under oath today?

1 A Yes.

2 Q What is your position with the Upper South East
3 Communities Coalition?

4 A I'm on the board of directors.

5 Q Did you have a specific officer-type position, as
6 well?

7 A Right now I'm the chair.

8 Q And how long have you been the chair?

9 A About three weeks.

10 Q And who was the chair before you?

11 A It was co-chairs between me and another officer by the
12 name of Rick Odynski.

13 Q And did Mr. Odynski resign?

14 A No.

15 Q How is it that he is no longer a co-chair with you?

16 A He became president of the corporation.

17 Q And by corporation, do you mean the Coalition?

18 A (Nods affirmatively).

19 Q You need to answer out loud.

20 A Yes.

21 Q And also I think for convenience today, I'll probably
22 say Coalition a lot.

23 If it's okay with you, what I would like that to mean
24 is, instead of Upper South East Communities Coalition, we'll
25 just use the term Coalition to refer to that organization.

1 Fair enough?

2 A Yes.

3 Q When was the Coalition founded or created?

4 A Can you be more specific?

5 Q Yes. When was it incorporated?

6 A In March.

7 Q Of?

8 A 2013.

9 Q And was the primary purpose of the Coalition when it
10 was incorporated -- strike that.

11 Were you involved in the decision to incorporate and
12 create the Coalition?

13 A So the Coalition was a loosely-based group before we
14 became incorporated.

15 The decision to incorporate was the decision of one of
16 the board members.

17 Q Okay. And were you involved in that decision-making
18 process?

19 A Not at first.

20 Q At some point were you involved in the decision-making
21 process?

22 A Yes.

23 Q Was the purpose of the Coalition when it was
24 incorporated to have a community group striving in an effort to
25 stop the SEC, or was it to focus on protecting the environment?

1 **A** Both.

2 **Q** And I don't want to go into names, but can you tell me
3 approximately how many members are in the Coalition?

4 **A** Well, active, or people who are just interested?

5 **Q** That's a great question. Thank you for asking. I'll
6 take it as a clarification.

7 How many people are active in the Coalition?

8 **A** Last time I checked, it was upwards of 250 active.

9 **Q** And you also have an email list that you distribute to
10 a larger amount of people?

11 **A** The email list is distributed to the active people,
12 and they in turn distribute it to their lists, and I have no
13 idea how many additional people receive the updates.

14 **Q** Do you know the total number of people who have made
15 contributions to the Coalition or the approximate number?

16 **A** No.

17 **Q** And does the Coalition have an address?

18 **A** The Coalition is using one of our members' address
19 right now as their primary address to send any kind of
20 information to.

21 **Q** Okay. And what address is that?

22 **A** It's on the website. It's 4885 Sinelio,
23 S-I-N-E-L-I-O, Drive, Reno, Nevada, 89502.

24 **Q** And I take it that's a home address of one of the
25 members?

1 **A** Yes.

2 **Q** And is there -- strike that.

3 Does the Coalition have its own computer?

4 **A** No.

5 **Q** I take it just various active members use their
6 computer to circulate information on behalf of the Coalition?

7 **A** Yes.

8 **Q** Who is -- strike that.

9 From what you have seen with your involvement in the
10 Coalition, whose computer would have the most information about
11 Coalition communications?

12 **A** That would be --

13 MR. PETTA: I'm going to object only because it
14 possibly asks for a member who might be a protected member of
15 their organization.

16 BY MR. COHEN:

17 **Q** If the person is you, you can say so.

18 If it's somebody else's name --

19 **A** That would be me.

20 **Q** Okay. So your personal computer also serves as one of
21 the primary computers for use in disseminating Coalition
22 communications?

23 **A** Yes.

24 **Q** And I assume that computer is at your home?

25 **A** Yes.

1 **Q** And are you aware at this time of an obligation to
2 refrain from deleting any communications on the computer related
3 to the SEC?

4 **A** Yes.

5 **Q** So I assume you haven't deleted any communications
6 regarding the SEC?

7 **A** No.

8 **Q** Okay. And I referred to the SEC several times.

9 As you will see throughout the course of this morning,
10 there will be several terms that I know you and I both know the
11 meaning of, but for the record I need to go ahead and clarify.

12 When I say SEC, I was referring to the Southeast
13 Connector.

14 Is that how you understood it?

15 **A** Yes.

16 **Q** Are you okay with me referring to it as the SEC?

17 **A** Yes.

18 **Q** Okay. So if we wanted to get -- and I don't know that
19 we will -- but if we wanted to get all of the SEC-related
20 Coalition emails that are on your computer, you have saved those
21 for us so we can do that, correct?

22 **A** Yes.

23 MR. PETTA: That's fine.

24 BY MR. COHEN:

25 **Q** And, ma'am, just so we're clear, I don't know that we

1 will or won't do that.

2 But I do appreciate the fact that you have been
3 preserving your emails, and I would ask you to continue doing
4 that.

5 Fair enough?

6 **A** Yes.

7 **Q** And, obviously, I'm not referring to any personal
8 emails that have nothing to do with the SEC because you use the
9 computer for both.

10 But anything related to SEC I ask you, and I
11 appreciate your cooperation in continuing to preserve. So thank
12 you.

13 **A** Okay.

14 **Q** Just very briefly, can you tell me your -- strike
15 that.

16 Can you tell me how far you went in school?

17 **A** Just past -- just short of junior in high school. I
18 made it through junior in high school.

19 **Q** I take it, then, you don't have any special training,
20 either through education or job-related activities in regard to
21 any environmental, geology, hydrogeology type of fields?

22 **A** No.

23 **Q** In other words, you don't offer any special expertise
24 in any of those fields such as chemistry, geology, engineering,
25 hydrogeology, environmental studies, things such as that,

1 correct?

2 A Correct.

3 Q Did you speak with any nonlawyers about this
4 deposition?

5 A Yes.

6 Q Can you tell me about those conversations?

7 And to be very clear, only conversations where no
8 lawyers were present.

9 A Basically --

10 Q If you had any?

11 A I talked to my husband.

12 Q Okay. Anyone else?

13 A I talked to a few community groups, just to impart the
14 information about being deposed.

15 And some of the board members, all of the board
16 members. And a few interested residents, and that was about it.

17 Q And you -- and I'm trying to thing of a way to ask
18 these questions to not belabor the point.

19 Did you speak to them just to let them know you were
20 being deposed, or did you speak to any nonlawyers about the
21 deposition to try to obtain information that you might
22 communicate today to make you more informed?

23 A No. It was just to let them know we're being deposed.

24 Q And did you review any documents in preparation for
25 this deposition?

1 **A** The complaint, the motion, and that's about all I have
2 had time to look at.

3 **Q** Okay. Fair enough.

4 **(Exhibit 1 marked for identification)**

5 BY MR. COHEN:

6 **Q** Ma'am, let me hand you what we have marked as Exhibit
7 Number 1, and it's the deposition notice for today's deposition.
8 Do you have that in front of you?

9 **A** Yes.

10 **Q** Have you --

11 MR. PETTA: Do you have an extra copy for me, by the
12 way?

13 Thank you.

14 BY MR. COHEN:

15 **Q** And have you seen this document before?

16 **A** Yes.

17 **Q** By the way, I think in this deposition we may
18 sometimes refer to the Corps, C-O-R-P-S, and when I do that,
19 what I am referring to in shorthand is the US Army Corps of
20 Engineers.

21 Is that fair?

22 **A** Yes.

23 **Q** And also I may, and I think I already did, refer to
24 the RTC, which is shorthand for the Regional Transportation
25 Commission of Washoe County.

1 Fair enough?

2 A Yes.

3 Q And you are okay with me using those shorthands?

4 A Yes.

5 Q Do you understand today, ma'am, that you are being
6 deposed in a capacity as the corporate designee for the
7 Coalition?

8 A Yes.

9 Q And you understand, therefore, you are speaking on
10 behalf of the Coalition?

11 A Yes.

12 Q And you are okay with doing that today?

13 A Yes.

14 Q And do you understand that your responses today bind
15 the Coalition because you are speaking on behalf of the
16 Coalition?

17 A Yes.

18 MR. PETTA: If I may clarify, I believe she is only
19 bound -- the Coalition, that is, is only bound to the extent
20 your questions fall within the scope of this notice.

21 MR. COHEN: Agreed.

22 BY MR. COHEN:

23 Q And that's your understanding, as well, right, ma'am?

24 A Yes.

25 Q Okay. On Exhibit A of the deposition -- strike that.

1 On Exhibit A of Deposition Exhibit 1 which is the page
2 you have in front of you, we start with some definitions.

3 We have already talked about the SEC, correct?

4 **A** Yes.

5 **Q** And there's also a reference, and in our discussion
6 today, I'm sure we'll be talking about Phase I and Phase II
7 construction projects.

8 When I talk about the Phase I construction project,
9 you have heard that term used before, correct?

10 **A** Yes.

11 **Q** And you realize I'm referring to the part of the SEC
12 that pertains to the work from Sparks Boulevard to just south of
13 the Clean Water Way?

14 **A** Yes.

15 **Q** That's your basic understanding of Phase I?

16 **A** Yes.

17 **Q** And then Phase II is from some point south of Clean
18 Water Way extended about 4.5 miles to Veterans Parkway, correct?

19 **A** 800 feet south of Clean Water Way, yes.

20 **Q** To Veterans Parkway?

21 **A** Yes.

22 **(Exhibit 2 marked for identification)**

23 BY MR. COHEN:

24 **Q** Ma'am, let me hand you this map that we have marked as
25 Exhibit Number 2, and take a minute and review it, if you would.

1 It's intended to be a fairly bare bones simplistic
2 drawing of Phase I.

3 Is that what it appears to be to you?

4 **A** Yes.

5 **Q** And does it pretty much delineate what your
6 understanding is of the Phase I construction project?

7 **A** The detention areas aren't clearly defined, but, yes.

8 **Q** Part of the actual roadway comports with your
9 understanding of where the roadway is supposed to be for the
10 Phase I construction project?

11 **A** Yes.

12 **Q** Do you know as you sit here today whether any
13 Coalition members, and again, we're, it was important -- let's
14 just say this on the record.

15 Your counsel and I have had some communications prior
16 to the deposition, and we have agreed that we're not going to go
17 into members' names, and so I'm trying to phrase my questions
18 intentionally, though they might sound awkward, to avoid asking
19 names of members.

20 So I think they will appreciate if you didn't throw
21 names out there, because I'm not trying to elicit those at this
22 point in time.

23 But I do want to ask you this:

24 Do you know as you sit here today whether or not any
25 members of the Coalition reside in the area involved with the

1 Phase I construction project?

2 MR. PETTA: Objection. Not clear as to what involved
3 in Phase I exactly means.

4 You can answer if you understand the question.

5 THE WITNESS: So around here, you have to clarify
6 reside. Everybody is in the area.

7 So I'm, you know, you can get there by walking. So
8 how, what are you talking about?

9 BY MR. COHEN:

10 Q Okay. Fair enough. And that's an excellent point,
11 and I thank you for bringing that to my attention.

12 How close would you say the closest member of the
13 Coalition resides to any part of the roadway intended to be the
14 Phase I construction project?

15 A Without actually pacing it off, I would say probably
16 within couple thousand feet.

17 Q And can you just tell me in terms of directions, do
18 you -- which direction the Coalition members that would be
19 closest to the roadway of Phase I would reside?

20 A To the south.

21 Q Do you know whether any Coalition members reside in an
22 area that physically touches where the construction of Phase I,
23 of the Phase I project is occurring?

24 Does anybody's house abut right up to that
25 construction?

1 **A** No.

2 **Q** Do you know what I mean when I refer to TMWRF?

3 **A** Yes.

4 **Q** Do any of the Coalition members reside to your
5 knowledge on TMWRF property?

6 **A** No.

7 **Q** Do any of your Coalition members to your knowledge
8 reside on UNR property?

9 **A** No.

10 **Q** In the motion for preliminary injunction filed by the
11 Coalition, you write, and I'll quote, and it's paragraph two --
12 I'm not trying to surprise you.

13 Paragraph two of Exhibit A of Deposition Exhibit 1.

14 And I'll just quote, given its limited resources, the
15 Coalition or individual members of the Coalition would be unable
16 to post anything more than a nominal bond during the period of
17 any preliminary injunction.

18 What is your understanding of what that sentence
19 means?

20 **A** My understanding is that there are, it, we could be
21 required to post money by the Court on, post a bond by the
22 Court.

23 **Q** And by nominal, what are you thinking when you say
24 nominal?

25 **A** I had this conversation with Winter.

1 MR. PETTA: You can't talk about what you talked about
2 with Winter.

3 BY MR. COHEN:

4 Q I'll phrase it this way.

5 How much money does the Coalition -- strike that.

6 Does the Coalition have a checking account?

7 A Yes.

8 Q Does it have any other accounts?

9 A No.

10 Q So all of its money is in the checking account?

11 A Yes.

12 Q Approximately how much money is in the checking
13 account?

14 A Today?

15 Q Yes.

16 A Somewhere around \$1,800.

17 Q And can you tell me approximately how much money the
18 Coalition has raised total since it incorporated earlier this
19 year?

20 A Exactly? No.

21 Q Can you tell me approximately?

22 A Somewhere between 25 and 30,000.

23 Q Do you know whether the Coalition under its
24 corporation papers has the power to take a loan?

25 A I don't know.

1 **Q** Do you know whether the Coalition has taken any loans
2 of any money to date?

3 **A** No, they do not, they have not.

4 **Q** Thank you.

5 Can you tell me what, if any, recreational activities
6 members of the Coalition may engage in in the Phase I
7 construction project area?

8 **A** Basically, people hike over there, walk over there,
9 take their dogs over there, go watch horses over there, bird
10 watch.

11 You know, it's just an area that people like to go
12 visit or used to.

13 **Q** And you are talking about, again just to be clear,
14 within the Phase I area?

15 **A** Yes.

16 **Q** Miss Rhodemyre, as the spokesperson today for the
17 Coalition, can you tell me, does the Coalition contend that the
18 Phase I construction project will increase flooding?

19 **A** Well, since there's been no environmental impact study
20 on that, we don't know.

21 **Q** Okay. So you have no -- strike that.

22 You have no affirmative evidence based on studies or
23 anything of the sort that would indicate whether there is or
24 there is not flooding created, or that flooding is increased by
25 the Phase I construction project.

1 You are just saying you just don't know one way or the
2 other, correct?

3 MR. PETTA: Our objection to the question is it is
4 phrased in a leading manner.

5 But you can answer if you understand it.

6 THE WITNESS: Again, since there has been no study,
7 that's one of the reasons why we would like to have an
8 environmental impact study.

9 BY MR. COHEN:

10 **Q** Okay. So you don't know of anything that's evidence,
11 that's proof positive, that there is flooding.

12 Your point is you would just like that to have been
13 studied, correct?

14 **A** There is flooding in that area. It floods there.

15 **Q** And I apologize. I didn't ask my question well.

16 Is it fair to say that you have no affirmative
17 evidence that the Phase I construction project increases
18 flooding in that area?

19 **A** That's why we want a study.

20 **Q** And do you know as you sit here today whether flooding
21 would be one of the issues addressed in an environmental impact
22 study, or whether that is an issue that's addressed through some
23 form of local ordinance, flood-related flood management
24 procedures?

25 **A** Since the Corps is required to permit both projects,

1 it would seem to me that someone should have to do a study on
2 whether or not massive infrastructure is going to effect the
3 flooding.

4 Q And at this point in time, has the Coalition had
5 anybody with a technical or scientific background look at any of
6 the flood-related modeling that was submitted to the city of
7 Sparks to establish the no net rise certification that Sparks
8 provided in regard to the Phase I project?

9 A I'm sorry. Can you repeat that?

10 Q Yeah. And I apologize, and that was a mouthful.

11 Has the Coalition retained or hired anybody to analyze
12 the flood-related analysis of modeling that was provided to the
13 city of Sparks as part of the RTC's effort to have obtained a no
14 net rise certification from Sparks?

15 A No.

16 Q Does the Coalition contend that the Phase I
17 construction project will direct the flow of contaminated water
18 and soil towards the members of the Coalition?

19 A We don't know.

20 Q So you don't know one way or the other at this time;
21 is that correct?

22 A Yes.

23 Q And by you, I mean, the Coalition, correct?

24 A Yes.

25 Q Does the Coalition contend that the Phase I

1 construction project will pollute the air that the members of
2 the Coalition breathe?

3 A We don't know.

4 Q Don't know one way or the other, correct?

5 A There's been no study.

6 Q And so, therefore, from your point of view, there's no
7 evidence that you know of one way or the other, correct?

8 A Yes.

9 Q Does the Coalition contend that the Phase I
10 construction project destroys wildlife and habitat?

11 A I would say that that would be an obvious conclusion,
12 but there's been no study.

13 Q So as far as a scientific basis or study, you are not
14 aware of any evidence one way or the other on that issue in
15 regard to the Phase I construction project?

16 A Because there's been no study.

17 Q Right.

18 A Right.

19 Q And I assume, therefore, and my question was a little
20 awkward.

21 Just to make sure we're clear on the record, the
22 Coalition has engaged no one to perform any studies in regard to
23 wildlife or habitat impacted or affected by the Phase I
24 construction project, correct?

25 A So right before they began construction, the

1 Department of Ag was out there rounding up horses to send them
2 to auction.

3 And our assumption was that it was because they were
4 getting ready to start the construction. So we have hired no
5 experts, but we do visually see what is going on out there.

6 Q Understood.

7 MR. PETTA: Interject for a second.

8 Remember that you're fine to answer yes or no or I
9 don't know, but your answer is fine.

10 BY MR. COHEN:

11 Q That's fine, and I appreciate that.

12 And I appreciate Seph's clarification, as well.

13 Just so the record is clear, the Coalition has not
14 retained any person with a scientific or geology, hydrogeology,
15 environment consulting background to assist it on any analysis
16 in regard to the issues of the impacts from the Phase I
17 construction; is that correct?

18 A That's correct.

19 Q I have a few more similar questions. I think I know
20 where the answers are going, but we're going to go ahead and ask
21 them on the record, and we'll get through this.

22 Fair enough?

23 A Fair enough.

24 Q Does the Coalition contend that the Phase I
25 construction project will negatively affect aquatic habitat

1 values for fish and other aquatic wildlife?

2 A We don't know. There's been no study.

3 Q And so what you are saying is, as the spokesperson for
4 the Coalition, is, that the Coalition doesn't know one way or
5 the other as to whether the Phase I construction project may or
6 may not negatively affect aquatic habitat values for fish,
7 correct?

8 A Correct.

9 Q And same for aquatic wildlife and birds, correct?

10 A Correct.

11 Q And does the Coalition -- strike that.

12 Do you know whether the Phase I construction project
13 will have any impact on any endangered species?

14 A We don't. There hasn't been a study yet.

15 Q A few minutes ago when I was asking you about the
16 destruction or -- strike that.

17 When I was asking about the evidence related to
18 destruction of wildlife, excuse me, or habitat, you mentioned
19 that visually you, I assume that you were talking about, you
20 were talking about something you see visually, you are talking
21 about the construction that's taking place?

22 Taking down trees and grass, and shrubbery, taking
23 down the vegetation?

24 MR. PETTA: Objection. Question unclear.

25 If you understand the question, you can answer.

1 THE WITNESS: Yeah. Yes, they are out there doing
2 that.

3 BY MR. COHEN:

4 Q The Coalition in the injunction wants the clearing of
5 vegetation to be stopped in the Phase I construction project; is
6 that correct?

7 A Yes.

8 Q And I assume just, again just because of what you said
9 earlier about this, based on your own visual, you see that
10 there's not grass, I assume what you are trying to say, there
11 are not animals, there is not grass or -- strike that.

12 To your understanding is it an important part of the
13 injunctive relief that the Coalition is seeking in this lawsuit
14 is to stop the clearing of vegetation in the Phase I
15 construction project until there can be a study?

16 A It's my understanding that they probably pretty much
17 already cleared most of the vegetation they need to clear.

18 Q And so does the Coalition -- strike that.

19 Then what does the Coalition want if you have observed
20 that the vegetation has already been cleared in the Phase I
21 construction project?

22 A That the Phase I is halted until the entire road has
23 had an environmental impact study.

24 Q But from your own observations, from what you have
25 personally seen, has it appeared to you that the vegetation that

1 would pertain to where the Phase I construction project roadway
2 was going to be has already been cleared?

3 A It's my understanding that most of it is done.

4 Q Does the Coalition contend that the Phase I
5 construction project itself lacks independent utility?

6 A That's what they advertise. RTC has gone on the
7 record in the press stating that they have started the Southeast
8 Connector over and over and over.

9 Q And I guess my question is more specific.
10 As you sit here today, do you have any
11 reason -- strike that.

12 Do you know what I mean when I say independent
13 utility?

14 A Yes.

15 Q Okay. So you have heard some discussion about Phase I
16 having or not having an independent utility?

17 A Yes.

18 Q Do you know as you sit here today whether Phase I
19 could be connected to an extension of Mill Street?

20 A Yes.

21 Q Yes, it could be?

22 A Yes.

23 Q Okay. You know of no impediment to that, do you?

24 A That's not what they are advertising.

25 Q I understand that.

1 My question is, do you know of any impediment that
2 would keep the Phase I project from being able to be connected
3 to an extension from Mill Street?

4 A No.

5 Q As you sit here today, do you know of any reason why
6 the Phase I project could not also be connected to Pembroke?

7 A No. Except there hasn't been a study.

8 Q Understood.

9 As to timing, can you tell me why, if you know, the
10 Coalition waited until the end of July to file its lawsuit to
11 try to enjoin the Phase I construction project?

12 A Because nobody knew they were going to be segmenting
13 it out until the winter of 2012-2013, and once we found out it
14 was going to be segmented, we had to scramble to figure out what
15 we could do.

16 And then once we did that, we decided to retain legal
17 counsel. Then that took a little while. Then we had to bring
18 them up to speed.

19 And then we started from there.

20 Q Does the Coalition contend that any endangered species
21 are affected specifically by the Phase I construction project?

22 MR. PETTA: Objection. Asked and answered.

23 THE WITNESS: So we don't know, there hasn't been any
24 study.

25 But the Army Corps of Engineers did a draft

1 environmental study which is referred to in our motion, talking
2 about those issues.

3 BY MR. COHEN:

4 Q Are you talking about in the flood-related paperwork,
5 there was an environmental study?

6 A Pardon me?

7 Q The flood management project-related proceedings?

8 A In the draft environmental study for the flood
9 project, they talked extensively about any change in any kind of
10 water temperature or anything like that can effect some of the
11 endangered species downstream or in the Truckee River.

12 Q Other than that -- strike that.

13 Are you familiar with any other studies of endangered
14 species performed by the Coalition or anyone else regarding the
15 Phase I construction project?

16 A No.

17 Q And a few minutes ago you were giving me a timeline in
18 regard to topic number seven on Exhibit A.

19 Can you tell me as best you recall when was counsel
20 first retained by the Coalition?

21 A I want to say somewhere around the end of March or
22 beginning of April of 2013.

23 Q Thank you.

24 A Is my recollection.

25 Q Miss Rhodemyre, if I used the term waters of the

1 United States or jurisdictional waters or navigable waters of
2 the United States, have you heard those terms before?

3 A Yes.

4 Q Do you have some working understanding of those terms?

5 A Yes.

6 Q Okay. You shake your hand. I understand that.

7 I will do the same.

8 MR. PETTA: Objection. Perhaps -- the question is
9 unclear only in the sense that it might be helpful if you ask
10 the client whether she knows that those terms have a legal
11 significance as opposed to their superficial English language
12 significance.

13 MR. COHEN: Understood. I'm not sure it was a
14 question. More just chitchat, but fair point.

15 MR. PETTA: Okay.

16 BY MR. COHEN:

17 Q What is your understanding when we refer to waters of
18 the United States?

19 A Waters that are not under local control. They are
20 under the control of the Army Corps of Engineers.

21 Q Okay. Does the Coalition contend that any waters of
22 the United States have been impacted by the Phase I construction
23 project?

24 A We don't know. There hasn't been a study yet.

25 Q So you don't know one way or the other?

1 **A** No.

2 **Q** Does the Coalition contend that the Phase I
3 construction project has caused any discharges of any dredge,
4 fill or pollutant into any waters of the United States?

5 **A** We don't know. There hasn't been a study yet.

6 **Q** Again, just so the record is clear, the Coalition
7 doesn't know one way or the other whether there has been any
8 discharge of any dredge, fill or pollutant into the waters of
9 the United States as a result of the Phase I construction
10 project?

11 **A** Correct.

12 **Q** And same question in future tense:

13 Does the Coalition contend that the Phase I
14 construction project will cause any discharges of any dredge,
15 fill or pollutant into waters of the United States?

16 **A** We don't know. There hasn't been a study yet.

17 **Q** Thank you.

18 As the corporate designee of the Coalition, then, I
19 take it you will agree that the Coalition is not aware of any
20 specific incident or occurrence where an actual discharge into
21 waters of the United States has, in fact, occurred from the
22 Phase I construction project, correct?

23 **A** Correct.

24 **Q** Have you had an opportunity to review the RTC's
25 July 19, 2013, Section 404 permit submission to the Corps?

1 **A** Very peripherally.

2 **Q** Does the Coalition contend that any statements,
3 reports, studies or conclusions in that July 19, 2013, Section
4 404 permit application of RTC for Phase II
5 construction -- strike that.

6 Sorry. Start that one over.

7 Does the Coalition contend that any
8 statements -- strike that.

9 Does the Coalition contend that anything in RTC's
10 July 19, 2013, Section 404 submission for the Phase II
11 construction project is false, inaccurate or based on bad
12 science or --

13 MR. PETTA: Objection. It's a multi-hundred page
14 document, and perhaps as a result, the question is vague, and
15 could be directed to a specific phrase or studies within that
16 document.

17 MR. COHEN: Understood. And I know that was getting
18 wordy, but I hadn't finished my question.

19 MR. PETTA: Okay. I'm sorry.

20 MR. COHEN: It's okay. It will just be a lot cleaner
21 if it's on the record.

22 MR. PETTA: Sure.

23 MR. COHEN: And I understand the objection, and we can
24 talk about a way to figure out if she has any, or the Coalition
25 has issues with it or not, but let me try to rough through it

1 again.

2 MR. PETTA: By all means.

3 MR. COHEN: And then we'll let him object, and then
4 we'll ask some more questions to follow up and get this pinned
5 down a little bit.

6 BY MR. COHEN:

7 Q Does the Coalition contend that anything in RTC's
8 July 19, 2013, Section 404 submission for the Phase II
9 construction project is false or inaccurate in any way?

10 MR. PETTA: Objection for the reason previously
11 stated.

12 THE WITNESS: Again, I haven't had a chance to look at
13 it. We're in the process of reading it, studying it and trying
14 to make our public comment to submit to the Corps.

15 BY MR. COHEN:

16 Q And in that regard, the public comment to submit to
17 the Corps as you know is part of the Corps' administrative
18 process to vet and address the issues presented with a 404
19 permit application, correct?

20 A I'm sorry.

21 Q The Corps' process for obtaining public comment and
22 analyzing and deliberating on the 404 permit application is
23 pending and underway, correct?

24 A Yes.

25 Q And you plan to participate in that process?

1 **A** Yes.

2 **Q** As you sit here today as the spokesperson for the
3 Coalition, can you tell me if there is anything that you know of
4 as of this time in RTC's July 19, 2013, Section 404 submission
5 that is inaccurate?

6 **A** Yes.

7 **Q** What's that?

8 **A** There's a map in there where they are talking about
9 where Sparks and Wingfield Springs is, and where it circled
10 Sparks and Wingfield Springs, and then it circles what they have
11 written down as Double Diamond, Damonte Ranch, and they actually
12 circled the UNR main station farm.

13 And there are some inconsistencies in their timeline,
14 but that's all I have had a chance to review so far.

15 **Q** Okay. And just -- thank you.

16 Just so the record is clear, as of this time you have
17 seen and pointed out to us two issues to date that you have
18 observed regarding the July 2013 404 application.

19 One deals with the map that you referred to about
20 Wingfield Springs?

21 **A** And Double Diamond.

22 **Q** And Double Diamond.

23 And then the other is some inconsistencies you saw in
24 the timeline at one part of the 404 application, correct?

25 **A** Correct.

1 **Q** Anything else that you have seen as of this time that
2 the Coalition believes is an inaccurate statement within the
3 404?

4 **A** We haven't reviewed anything else.

5 **Q** And does the Coalition at this time have a technical
6 person with environmental or endangered species act or geology
7 or hydrogeology background reviewing the Phase II permit
8 application?

9 **A** Actively working or retired?

10 **Q** Either.

11 **A** Not right this minute, no.

12 **Q** So no one for the Coalition is currently reviewing the
13 404 application?

14 **A** It's under review. We just haven't had a lot of time
15 to get into it in depth.

16 **Q** Okay. And I apologize. I didn't ask my last question
17 very well.

18 Has the Coalition as of this time had anybody with a
19 technical background review the July 2013 404 application?

20 **A** No.

21 **Q** Has the Coalition retained anybody with a plan or
22 otherwise made arrangements for somebody with a technical
23 background to read the July 2013 404 permit application?

24 **A** That's something that I have discussed with the
25 attorneys, so I think that that's privileged.

1 Q Understood.

2 So irrespective of conversations with attorneys, and I
3 don't want to go into those, okay, so don't go into those.

4 Can you tell me whether the Coalition at this time has
5 actually affirmatively hired or retained somebody with a
6 technical background to read the 404 permit?

7 A No.

8 Q No, they have not?

9 A No, we have not.

10 Q You mentioned a retired person.

11 Is there someone in the community that you are
12 attempting to line up who you want to hire or retain or ask as a
13 favor to review the 404 permit for you?

14 A Several.

15 Q But that hasn't commenced yet?

16 A No.

17 Q Exhibit B to Deposition Exhibit 1 is the July 24
18 letter from RTC to the Coalition's counsel, correct?

19 A Correct.

20 Q And you have Exhibit B, that July 24th letter in front
21 of you, correct?

22 A Yes.

23 Q And have you seen that letter before?

24 A I have skimmed it, yes.

25 Q Does the Coalition disagree or dispute any statements

1 made in that July 24, 2013, letter by the RTC to your counsel?

2 MR. PETTA: Objection. Unclear question.

3 It's a 12-page single-spaced document with many
4 factual complexities in it.

5 But you may answer if you understand.

6 THE WITNESS: We found a few things that we disagree
7 with.

8 BY MR. COHEN:

9 Q Do you remember what those are?

10 A I don't have my notes, no, I don't.

11 Q Okay. And where are your notes?

12 A At home.

13 Q Okay. And do you understand that today is my one day
14 to get to ask you as the corporate designee anything in regard
15 to topic number 12, correct, which is whether you take issue
16 with anything in this July 24th letter?

17 A I know that now.

18 Q Do you think if we took a short break, because I need
19 to take a short break anyway, you could peruse the letter, try
20 to refresh your recollection so while we're here you could tell
21 us which parts of this letter you took issue with?

22 Is that fair?

23 A Yeah.

24 Q Okay. Why don't we go off the record briefly, and
25 we'll come back in a few minutes.

1 **A** Okay.

2 **(A recess was taken)**

3 BY MR. COHEN:

4 **Q** Go back on the record.

5 Miss Rhodemyre, we're back on the record, and we'll
6 continue now.

7 Have you had an opportunity to review Exhibit B, that
8 is the July 24 RTC letter to your counsel?

9 **A** As much as I could in the amount of time I had, I
10 looked at it.

11 **Q** All right. And I believe the question that we started
12 with was does the Coalition take issue with any statements made
13 in that July 24 RTC letter?

14 **A** Yes.

15 **Q** And can you tell me as you sit here today which items
16 do you take issue with?

17 **A** I apologize. I marked up your exhibit. I was trying
18 to make sure that I remember where to look.

19 But in the limited time that I had, I didn't get a
20 chance to look at everything, but I found a few things.

21 Should I just go ahead and start?

22 **Q** Yes, please.

23 **A** Okay. On the first page, paragraph two, in the middle
24 of the paragraph, it says as currently configured.

25 So the original permit that was filed in May of 2011,