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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA - CENTRAL DIVISION  
THE HONORABLE DAVID O. CARTER, U.S. DISTRICT JUDGE

JEFFREY POWERS, et al,

Plaintiffs,

Case No. LACV22-8357

vs.

DENIS RICHARD MCDONOUGH,

Defendants.

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REPORTER'S TRANSCRIPT OF TRIAL PROCEEDINGS  
TRIAL DAY 14  
Thursday, August 29, 2024  
1:15 p.m.  
LOS ANGELES, CALIFORNIA

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ALSO PRESENT: Renee Jensen, Counsel

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**LOS ANGELES, CALIFORNIA; THURSDAY, AUGUST 29, 2024**

**1:15 P.M.**

**--OOO--**

THE COURT: Thank you very much. Please be seated.  
That is awfully kind of you.

Then, we are on the record. All parties are present.  
Counsel are present. And counsel, Barbara Ferrer has been  
waiting as the Chief Public Health Officer all morning.

Could we call her next?

Would you step forward, please. And if you have counsel  
or anybody with you that you would like to bring -- it's not  
necessary, but you are more than welcome to stand beside her if  
she needs any advice or there's any concern.

Would you be kind enough to raise your right hand.

THE COURTROOM DEPUTY: Do you solemnly swear that  
the testimony you are about to give in the cause now pending  
before this Court shall be the truth, the whole truth, and  
nothing but the truth, so help you God?

THE WITNESS: I do.

BARBARA FERRER,

having been duly sworn,

testified as follows:

THE COURT: Thank you very much.

Would you please be seated. And, Counsel, if you like

1 to, you can stand beside her, if would you like to, but I would  
2 like her on the witness stand, please.

3 If you'd could come up just a moment.

4 Counsel, if you could clear off the witness stand.

5 Counsel, if you could clear this for me, please.

6 And if you would be seated.

7 Would you be kind enough to state your full name,  
8 please, and we will pull that microphone closer to you.

9 THE WITNESS: I'm Barbara Ferrer.

10 And I'm the Director of LA County's Department of Public  
11 Health.

12 THE COURT: Let me, first of all, publicly express  
13 to you my appreciation for you responding -- I doubted the  
14 subpoena was ever needed -- and, second, for your patience with  
15 the Court and all of the parties this morning.

16 You have been waiting a long time.

17 Now, Counsel, I'm going to actually turn this over to  
18 you for questioning initially.

19 Obviously, I have got some questions, but it may not be  
20 necessary.

21 So, Counsel, if you would like to proceed.

22 MS. WELLS: If I may, Your Honor. I'm not sure  
23 whether Dr. Ferrer's counsel would like to make a statement --

24 THE COURT: I don't know.

25 MS. WELLS: -- or not, but I'd like to give them the

1 opportunity, if they would so like.

2 THE COURT: I have no idea.

3 MS. JENSEN: Renee Jensen for the County of Los  
4 Angeles.

5 So we haven't been participating in this trial, so we're  
6 not sure exactly the issues.

7 We understand that it's the applicability of certain  
8 laws and whether they apply to this landfill property.

9 I might suggest, Your Honor, we could brief the issue,  
10 if that would be helpful.

11 THE COURT: No. I don't want you to be  
12 uncomfortable, but we need some decisions, if it's possible to  
13 make, because the case has the potential of concluding tomorrow  
14 or being in session for quite a period of time.

15 And it makes a difference, potentially -- although, I'm  
16 not certain as to what space is available or not available --  
17 when the parties argue whether the VA has additional land or no  
18 land available.

19 And so let me do my best to try to summarize what  
20 occurred. And Chelsea Black, I believe, is present. Come on  
21 up for just a moment. Why don't you be seated anyplace that is  
22 comfortable.

23 It was called to the Court's attention by counsel  
24 earlier, just before the trial started, that there was a new or  
25 potential complication in the case, but it wasn't defined to



1 me. All I got is that there's a developing issue.

2 When the case started, partway through the case and,  
3 really, with clarity when Mr. Black testified, this issue of  
4 1,000-foot radius, which you will see on a diagram, came before  
5 the Court.

6 And let me summarize from my notes.

7 Ms. Black is the acting chief of planning for the master  
8 plan or -- and I think GLA. She has been employed 17 years.  
9 She has supervised or supported four medical centers. She's  
10 director of contracting for 15 years. And in 2022, she came to  
11 the West Los Angeles VA as the deputy chief of planning at that  
12 time. And she oversees what we are going to call the master  
13 plan.

14 In Exhibit 144 -- I'm sorry, 1442, an issue concerning  
15 the landfill came up.

16 And that was a 50-year-old landfill. And the Court was  
17 informed at that time about a hold by LA County Public Health  
18 on what was initially represented to be the entire campus, all  
19 of the buildings.

20 And that will be substantiated in Document 1639 and  
21 1442. And I will put those on the ledge for you, but counsel  
22 will give you copies. There are two letters.

23 I got an initial answer concerning this landfill of the  
24 time for this to be resolved were days to years.

25 And it left all of the parties in somewhat of a

1 quandary.

2 I was told that it could take two, three, or four years.  
3 There was a concern about the landfill because it potentially  
4 or could contain methane. And it wasn't defined with the Court  
5 about whether it actually was in existence other than some type  
6 of monitoring that occurred in one location, which the VA  
7 represented or testified had brought negative results.

8 There needs to be a post-closure report at some times.  
9 But, supposedly, the 1,000 feet pertains to building -- and,  
10 Counsel, you are going to help the Court by someone coming and  
11 getting up from their chair and pointing out Building 401,  
12 which I believe is slated to open in -- September 3rd.

13 MR. SILBERFELD: Here it is.

14 THE COURT: It's going to be easier in the long run  
15 if you turn it the other way. It really is.

16 MR. SILBERFELD: Okay.

17 THE COURT: Yeah. So we're all going to read  
18 sideways. Okay?

19 And, from memory, 402, which was purportedly going to  
20 open in January of 2025.

21 The Court had asked if an EIR report had been prepared.  
22 And I'm not certain still in this testimony if one was  
23 prepared.

24 And I was told at the time, before the 1442 and 1639  
25 were presented, that there was literally discussion about

1 Ms. Black believing that she had been told that there was a  
2 hold on the entire campus, even outside the 1,000-foot radius  
3 of the three purple areas, which are the landfills.

4 In a letter that the VA claimed that they did not  
5 receive -- and I don't know if they did or not -- addressed on  
6 May 18th, 2024 -- and if you don't have that, let's get that to  
7 you.

8 On page 2, in the first sentence, you will see the  
9 reference to ceasing construction in other projects when this  
10 type of issue was put before the Public Health Officer and  
11 basically, what I would surmise as a stop order, including the  
12 last paragraph, "Please understand that work cannot commence on  
13 any proposed development on the CIA disposal site until the  
14 PCLUP is approved by the LAE. Please note that approvals from  
15 other state or local regulatory agencies do not exempt or take  
16 the place of required approvals by the LEA of these CIA  
17 disposal sites. The LEA must ensure compliance with state laws  
18 and regulations for the protection of public health and  
19 safety."

20 Now, after that, I was told that there were some  
21 meetings that took place. But the only other documented form  
22 that came to the Court was Exhibit 1639, if you have that. And  
23 that is dated August 21st.

24 Let me go on with the testimony that I have heard in  
25 Court that you may not have a transcript about.

1 I was told that in Phase 1, if there was a sampling that  
2 the sampling alone could take one to two years. And that this  
3 methane was potentially, quote, explosive and, therefore, any  
4 type of ignition could cause some issue or some damage. And  
5 either the Court or -- I believe it was the Court, maybe  
6 counsel, but I think it was the Court that raised if 401 and  
7 402 are within the radius that we're concerned about, we have  
8 already moved 233 veterans. And counsel will point that out to  
9 you in Building 209, 208, and 205.

10 And for my record, you are the Public Health Officer.  
11 You make the decision. The Court is not pressing you to open  
12 or to close.

13 But what seemed of concern was that if we have a methane  
14 issue in 401 and 402 and we can't move veterans in, then what  
15 is our position concerning the 233 veterans that we have  
16 already moved in to that same radius and should we be,  
17 literally, I mean, evacuating them? Should they remain?

18 Second, if we have got construction equipment, any one  
19 of which may be capable of emitting a spark, do we have a  
20 problem? Or is this just of such de minimis nature -- but what  
21 can't happen is, I don't think the VA or the plaintiffs can  
22 exercise -- or can operate without knowing what your position  
23 is. And the Court may find this to be an interesting piece of  
24 evidence that I need to write about because I don't know what  
25 is left and what is not.

1           And let me go further. In other related testimony --  
2 Counsel, we're going to need you or both of you -- some of the  
3 acreage that might be considered for temporary or supportive  
4 housing is, for instance, a park. We're going to call it  
5 Barrington Park. I have called it gopher gold. I'm just  
6 kidding you. But it's not really very well maintained.

7           And it's got two baseball diamonds up there and a  
8 parking lot. If that is within that 1,000-foot radius, I --  
9 and we're concerned about 401 and 402 or 205, 208, and 209,  
10 should I even be considering this as temporary or permanent  
11 housing?

12           Now, over veering all this, apparently Steve Peck from  
13 VA -- I mean US Vets went down and spoke to somebody in the  
14 County or City explaining that his building --

15           Counsel, come up on here. We need your -- both of you.  
16 Come on. You are not going anyplace.

17           -- about Building 210. And you will point out 210.

18           It's just down there, yeah.

19           And somehow got an exemption after the blanket,  
20 supposedly, you know, don't construct anymore. And my question  
21 was, then, would each developer outside of these radiuses need  
22 to come back to the county? Do we have a blanket over the  
23 whole project? Part of the project? What can go ahead? What  
24 is the Court dealing with?

25           And I have got some of the developers here also who -- I

1 hope I do anyway. Do I have Steve Peck of US Vets here? Do I  
2 have any of you folks who are developers on 401 and 402?

3 Come on up for just a moment and introduce yourself.

4 MS. WELLS: Yes, Your Honor.

5 THE COURT: They can stand up. Come on up here.

6 It's nice to meet all of you folks.

7 MR. MONROE: Good afternoon, Your Honor. I'm Tyler  
8 Monroe with Thomas Safran & Associates, a member of the  
9 principal developer working on Building 402.

10 THE COURT: 402. Pleasure to meet you. I may have  
11 met you out in Long Beach. I'm not sure but --

12 MR. MONROE: It may have been my colleague right  
13 behind me, Brian D'Andrea.

14 THE COURT: I think I did out -- Long Beach at the  
15 Century and -- with Safar and some of the other folks, about  
16 three years ago.

17 Okay. Come on up for just a moment.

18 MR. NEALE: Good afternoon, Your Honor. Chris  
19 Neale, president of The Core Companies. We're the developer of  
20 401.

21 THE COURT: 401. Thank you very much.

22 MR. BARGER: Also, good afternoon, Your Honor.  
23 Aaron Barger of The Core Companies. Project manager for 401.

24 THE COURT: Okay. Now, they are in kind of what I  
25 call a skinny profit margin because they have to raise tax

1 credits. And so any time these buildings are ready -- which  
2 has nothing to do with you by permit process -- they are trying  
3 to move veterans in, or they are losing money.

4 And I'm going to now turn it over to counsel. I think  
5 that is about the best background I can give you at the present  
6 time. And if you have got any questions of me, please. But  
7 those are my notes. I have got a transcript, but --

8 Okay. Okay. So, Counsel, now turn back to the  
9 adversarial process.

10 MS. WELLS: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY MS. WELLS:

13 Q I guess, Dr. Ferrer, why don't we just start -- to make  
14 sure the record is clear, what is your position?

15 A I'm the Director of the Department of Public Health for  
16 the County of LA.

17 Q And just in broad strokes, what duties or activities come  
18 under your purview in that role?

19 A You know, I support the entire department.

20 One unit in the department is the LEA, the Local  
21 Enforcement Agency. You know, the Local Enforcement Agency is  
22 an agent of the state. They are subject to being certified as  
23 the LEA by CalRecycle. And, therefore, for issues that come  
24 before the LEA, we also work closely with CalRecycle for  
25 technical assistance.

1           The local LEA, obviously, exists independently of  
2 governance bodies at the county level.

3 Q       Okay. So let's tease that out a little bit more so we  
4 understand the relationship.

5           So it's -- the county acting as this Local Enforcement  
6 Agency or LEA is different from the county acting on behalf  
7 of -- on its own behalf?

8 A       Yes. The county -- this is really the county's Public  
9 Health Department acting as the Local Enforcement Agency as  
10 certified by the state. And that's by CalRecycle.

11 Q       So the policies that were identified in the two letters  
12 that you have before you, Exhibit 1442 and 1639, those are  
13 policies that are state policies?

14 A       Those are state regulations under -- I mean, most of it  
15 that is cited is under Title 27.

16 Q       Okay. And that's through the California Code of  
17 Regulations; is that right?

18 A       Yes.

19 Q       Okay.

20 A       And the definition of what is covered is also laid out in  
21 state regulation. So it's not -- there is not -- there is not,  
22 like, county code that we're using here or county health  
23 officer orders that are coming into play.

24           This is really meant, as an agent of the state, to  
25 enforce the state code.



1 Q And what discretion, if any, does the county have in this  
2 LEA role with respect to the state laws that it's -- you know,  
3 it's supposed to be enforcing?

4 A I mean, I think discretion is not a word I would probably  
5 pick here.

6 I would say that there is some flexibility in setting,  
7 for example, the timelines, the responses, the activities that  
8 are laid out, and the order that they are laid out in.

9 I think you will see in the -- a good example of that in  
10 the August 21st letter, which was really trying to create a  
11 pathway for the project to be able to move forward  
12 expeditiously.

13 You know, new construction on these sites -- and I want  
14 to clarify, the circles there really represent that you have  
15 got a waste disposal site and then you are going out  
16 1,000 feet. That is also in the regulation.

17 You know, when you are repurposing that property or you  
18 are using it to develop, in this case, housing, you are subject  
19 to these regulations.

20 This site is considered a legacy site that's a CIA, a  
21 closed illegal abandoned site. It was closed prior to the  
22 regulations coming into effect under Title 27, but it is still  
23 governed by Title 27 in terms of what you are going to be using  
24 that property for.

25 And I want to distinguish between the recreational use

1 for the fields, which involve no buildings, and what happens in  
2 buildings.

3 THE COURT: Let's just assume that that might  
4 potentially be a building site.

5 THE WITNESS: Right. The issue, in particular, in  
6 the pathway that was laid forward is the concern is about  
7 methane, the off-gassing from these abandoned sites.

8 In order to address that concern, the proposal actually  
9 lays out some steps that could be taken very quickly to put in  
10 methane monitoring. And that would allow us to be secure that  
11 in indoor spaces -- because methane gas is a big issue indoors,  
12 not outdoors. It's -- indoors, it's combustible, as you said.  
13 So if you had high methane levels and there was a spark, you  
14 could have a fire. And at very high levels, it can actually  
15 cause people to, for example, pass out indoors.

16 So you want to create a methane monitoring plan, and you  
17 want to put the monitors in place.

18 And in terms of the existing buildings that fall within  
19 that 1,000 parameter ring and the construction that is already  
20 almost completed, the requirement to finish that construction  
21 and move people in is to actually do those -- I think it's  
22 three steps that were laid out in the letter and begin working  
23 on the post-closure land use plan, which is a more detailed  
24 plan.

25 You would not be able to do new construction anywhere on

1 this site within this 1,000 feet without having that plan  
2 completed and approved.

3 But the sites that are there, the apartment buildings  
4 that are there and occupied, and the site that is almost  
5 completed -- I think it's 73 units, could have that number  
6 wrong, but it's a certain number of units that you are trying  
7 to finish -- I think the effort here was to allow that work to  
8 move forward expeditiously, to put the safety measures in place  
9 that are required by state law, for a good reason; make sure  
10 that there is not a methane issue; and because you are not  
11 building directly on the site, those activities can go forward.

12 THE COURT: Counsel, you might ask then, just to be  
13 certain, so we have specifics, if veterans can move in to 401  
14 on September 3rd?

15 MS. WELLS: Yeah. That's one of the questions I  
16 had, because from what I just understood you to say -- and  
17 maybe -- just to make sure I have this right, it would be  
18 possible for the county to issue the temporary certificate of  
19 occupancy for people to move in on September 3rd, assuming that  
20 they put these measuring -- methane measuring -- I don't know  
21 what you call them -- in place, whatever the -- whatever would  
22 be necessary?

23 THE COURT: Or another way of asking it is this. Do  
24 the monitoring or measurement devices need to be in place  
25 first -- and, if so, how long -- so veterans can move in to 401

1 on or after September 3rd, or can they move in subject to the  
2 measurement devices?

3 THE WITNESS: So, I'm not the expert on going  
4 through the entire approval process. I think the letter laid  
5 out a pathway. I'm not sure what the dates are because there  
6 is actually three parts to what actually has to be in place.

7 And I think I also don't want to preclude the fact that  
8 the team, the environmental health specialists need to review  
9 that plan and make sure it's actually okay and that those  
10 monitoring devices are actually working.

11 So I don't know what that timeline would be. I just  
12 know it's not a year. I know we're talking weeks. And it  
13 really depends on the VA being able to come into compliance  
14 with both the plan and the monitoring system.

15 THE COURT: We were told before, though, in  
16 discussions taking place between Ms. Black and -- I will get  
17 her name in just a moment.

18 THE WITNESS: Ms. Gork, Your Honor.

19 THE COURT: Thank you. Yeah. Ms. Gork. That  
20 basically it -- what they call Phase 1 would be six months.

21 And if there needed to be any additional sites that it  
22 would minimally be a year. And it could be up to two or  
23 three years.

24 So I don't want to put you in a box when you have got  
25 experts that you are relying upon.

1           And the simple question is eventually going to be, how  
2 do we find out if all of the permitting is in place for  
3 certificate of occupancy on the permit side, not a guess, not  
4 your best faith, but can they move in September 3rd? And, if  
5 not, that is fine. You are the health officer.

6           A       I mean, I, again -- I'm going to separate the two issues.  
7 The new construction cannot move forward for a while because in  
8 order to do the new construction, you actually have to complete  
9 that much larger planning document.

10                   And that does take a significant amount of time.

11                   In terms of the units that are already occupied and the  
12 units you would like to occupy as quickly as possible, finish  
13 the construction, move people in, we have laid out a much  
14 shorter time frame. But, again, I can't commit to dates  
15 because the documents needs to be reviewed and approved.

16                   THE COURT:   Okay.

17           BY MS. WELLS:

18           Q       And what about the documents that are undergoing -- or the  
19 buildings that are undergoing construction right now for which  
20 this plan was not in place when the construction began, but the  
21 buildings are in the process of being constructed?

22           A       I mean, the only buildings I was aware of were occupied  
23 buildings and 73 units that are still under construction but  
24 almost completed with construction.

25           Q       But just earlier, we were talking about Building 402,

1 which is scheduled to open later this year.

2 A And already is in process and -- the construction has  
3 already started on that.

4 THE COURT: Almost completed.

5 MS. WELLS: Almost completed.

6 THE WITNESS: I think that falls in the same  
7 category. It's the monitoring issue for the -- the sites that  
8 are under construction already and/or occupied, I think this  
9 pathway is the pathway that is going to move forward -- you  
10 know, assuming the VA can comply with this pathway and is  
11 interested in complying with this pathway.

12 That seems like the path that was offered after  
13 consultation with CalRecycle about a way to actually allow  
14 units to be safely occupied, where they are already occupied,  
15 making sure that that safety is there. And for the new units  
16 to be occupied, again, assuming that the safety measures are in  
17 place and that there is no safety issues.

18 BY MS. WELLS:

19 Q Now, if a temporary certificate of occupancy is issued,  
20 and if, in fact, these monitoring -- you know, the ability to  
21 monitor for methane levels is in place, at that point, can a  
22 permanent certificate of occupancy be issued?

23 A I'm not the right person to answer that question.

24 Q Well, do you know who would be? Because, obviously, I  
25 think that could affect --

1 A Yeah. Uh-huh.

2 Q -- some of the financing issues for the developers if they  
3 can't get --

4 A Right.

5 Q -- the permanent certificate of occupancies soon?

6 A Right. So the permit for occupancy is not ours. It's a  
7 different department that does the permits for occupancy. We  
8 have a hold until the requirements -- the LEA requirements are  
9 met. That's why I can't answer that question.

10 Q I know. But if -- so if the hold is on the property, can  
11 a permanent certificate of occupancy be issued when a hold is  
12 on -- is in place?

13 A Well, my understanding is that the hold for those -- for  
14 those parts of this project that are already under construction  
15 will be removed when there is compliance with what was laid out  
16 in the letter, starting with --

17 Q In other words, the permanent certificate of occupancy  
18 will not be issued until after the steps that you have outlined  
19 in the August 21st letter have been --

20 A Yes.

21 Q -- complied with?

22 A Have been complied with.

23 Q Is that right?

24 A That is my understanding.

25 Q Okay. And to the extent that that takes six months, a

1 year, two years, that would continue throughout that entire  
2 period of time?

3 A That would be my understanding. But, again, I think the  
4 pathway here was -- the intent here is to work closely to  
5 ensure that the safety issues that are established by state  
6 regulations are, in fact, present on the property that has  
7 already been developed that falls within this 1,000-foot  
8 radius.

9 I think if you are asking me about the new construction,  
10 the new construction cannot move forward until you have  
11 actually completed the more detailed post-closure land use  
12 plan.

13 Q And do you have any sense of how long those plans take to  
14 complete, in the normal course?

15 A The post-closure land use plan?

16 Q Yes.

17 A That is an extensive plan.

18 Q So three years? Four years?

19 A Oh, no. I -- my team has not indicated that it's years  
20 and years, but it could be one to two years, depending on the  
21 circumstances at the site.

22 So, again, I don't want to -- I don't know the  
23 circumstances on the site. We don't have all the information  
24 we would need to make that assessment.

25 But that planning document does, in fact, require a lot



1 of thoughtful work and effort. And there may be some data  
2 pieces that are missing to complete that plan that then would  
3 have to also happen in order for the plan to be completed.

4 THE COURT: I'm going to inconvenience you after  
5 your testimony today and ask you to remain. And we're going to  
6 recall Chelsea Black for a moment. I would like you to hear  
7 what she has been talking about.

8 THE WITNESS: Okay.

9 THE COURT: Okay. Counsel.

10 MS. WELLS: Okay. Would you like me to ask  
11 Ms. Black to come to the stand?

12 THE COURT: Continue.

13 BY MS. WELLS:

14 Q Oh. I have been reminded that, in fact, the VA has --  
15 well, the VA has done historical environmental impact surveys  
16 on the property, none of which identified unhealthy levels of  
17 methane?

18 And I understand that with respect to Building 402, the  
19 developer had commissioned an environmental impact survey,  
20 which also identified no unhealthy -- not above whatever the  
21 level is at which it becomes unhealthy for methane.

22 Does that at all affect the need for the permit to have  
23 been issued on the property if there have been -- since these  
24 landfills were closed, as early as 1968, and as recently as  
25 1974 -- absolutely no indication of a methane gas emission

1 problem? Does that somehow affect the position that the county  
2 would take with respect to this property?

3 A I think the issue on waste disposal sites in general is  
4 that things could be fine and then they are not fine.

5 So that's why the request here -- or the requirement by  
6 the state is for this constant monitoring is because if you do  
7 an assessment in, let's just say, 1990 or 2010 and the  
8 assessment says, you know, there is not off-gassing, it doesn't  
9 mean that there is not off-gassing in 2024.

10 THE COURT: I was told that methane is explosive.  
11 That was the word used to the Court.

12 THE WITNESS: It's -- it's explosive if ignited and  
13 that would happen in high concentrations and you would  
14 generally see that in an enclosed space.

15 MS. WELLS: Okay. Your Honor, I would just note, in  
16 addition to Ms. Black who I can put back the stand to address  
17 issues, we have an environmental expert from the VA here as  
18 well who has actually given --

19 THE COURT: You can take that testimony, but she  
20 will remain for the time and listen and see if there is any  
21 issues.

22 Could you put up 1616 for just a moment on the Elmo and  
23 would somebody -- it's the phasing chart.

24 I would like you to look at this phasing chart, Doctor,  
25 and we see that 209, 207, 205, and 208 are open, and they

1 presently contain 233 veterans.

2 We also know that's within the 1,000 foot radius of one  
3 or more of these landfills.

4 If we're not opening 401 and 402, can those veterans  
5 remain safely in those locations or should they be evacuated?

6 THE WITNESS: I don't think there is any cause that  
7 has been identified by the LEA for evacuating. I think we'd  
8 like the monitoring system in place to make sure that, in fact,  
9 there are no issues.

10 THE COURT: So let me be clear. If a monitoring  
11 system were in place, would it be your position that the  
12 veterans can remain safely in those buildings?

13 THE WITNESS: Yes, because the monitoring system  
14 would tell us what those methane gas levels were.

15 THE COURT: How long would it take, that monitoring  
16 system do you know?

17 THE WITNESS: To get put in place? I don't know the  
18 answer to that.

19 I mean, the developers probably know.

20 THE COURT: If you look down at MacArthur Phase 1,  
21 404, 402, 156, 157, MacArthur, Phase Field 2, 158, a number of  
22 the developers are here.

23 And as to those 233 -- up to 730, roughly about 500.  
24 About 500 under construction, do they continue with the  
25 construction at the present time?

1 MS. JENSEN: Your Honor, if I may, are those within  
2 the thousand radius?

3 THE COURT: Counsel, come on up here and help. I'm  
4 going to need one of you or both of you here --

5 MR. SILBERFELD: I will be here.

6 THE COURT: -- to join in this responsibility.

7 Would you point out MacArthur Field?

8 Would you point out 404?

9 THE WITNESS: Outside the area.

10 THE COURT: That was always a question mark.

11 THE WITNESS: Yes. That is outside the area.

12 THE COURT: But there were concerns because there  
13 was conversation about a blanket.

14 THE WITNESS: There is not a blanket, the law is the  
15 law. The regulation is very clear about what parcels are, in  
16 fact, included and what parcels are not.

17 THE COURT: 402 comes on January 2025. 156 and 157,  
18 that is within the radius, by the way. All of the others are  
19 definitely within the radius, MacArthur Field Phase 2, 158.

20 Now I'm going to subtract 402, which is about -- it's  
21 118 units, so we're still left with give or take 400 veterans  
22 or housing units.

23 So we're going to take out 404, but all of the rest are  
24 within the thousand foot, and my question is very simple, can  
25 the developers continue construction?

1 THE WITNESS: I think the developers have to work  
2 with the LEA and go through all of the plans that are in  
3 construction sites. I think we're -- our definition is no new  
4 construction can proceed. I'm not sure when you are noting  
5 that it's in construction exactly what that refers to, Your  
6 Honor, so I don't want to commit to an answer until the LEA  
7 team has an opportunity to look at those documents.

8 THE COURT: How does the developer know what to do  
9 on Monday concerning these sites? In other words, there are  
10 the developers, they're out their working I assume today. They  
11 have to be a little bit concerned that they might get tagged in  
12 some way or be criticized. And they simply want to know the  
13 following and so does the Court: Can they go to work on  
14 Monday?

15 THE WITNESS: My response would be the LEA team has  
16 been in touch with the VA and the team at the VA for months and  
17 months now to work out a way for these projects to move forward  
18 with a was shared goal, obviously, of being able to house  
19 veterans, so I think --

20 THE COURT: I know all of that, but that's not going  
21 to help me.

22 THE WITNESS: Well, I mean, I think the letter is  
23 very clear about what is needed to remove the hold, which is  
24 those very short steps I outlined around the monitoring.

25 THE COURT: Uh-huh.

1 THE WITNESS: And what is needed to complete -- I  
2 mean, to engage in new construction, which is a more detailed  
3 plan.

4 These regulations are not new regulations, Your Honor.

5 The developers had an opportunity to know what these  
6 regulations were, the VA had an opportunity to know what these  
7 regulations were. We did outreach to -- there's about 150 CIA  
8 sites, those legacy sites. We did outreach last year in May to  
9 about 70 of those sites. Those were sites that were on  
10 Government property, universities, schools, I think some cities  
11 letting them know that they needed to make sure they understood  
12 what the regulations were here.

13 But it's not like this is a new regulation. These are  
14 existing regulations. They are State regulations, they are not  
15 the County's regulations, but they do need to be followed to  
16 protect people from what has already been established by  
17 science as to potential dangers when you are developing on a  
18 waste disposal site or nearby in these adjacent parameter.

19 THE COURT: Counsel for the VA and for you, as the  
20 health officer, was an environment impact report taken before  
21 402 and 404?

22 MS. WELLS: Definitely before 402. I don't know  
23 about 404 right now, Your Honor. We actually have the 402 one  
24 available on the methane issue in particular.

25 THE COURT: Well, the point is how did we get to the

1 point if there was an environmental impact report and these  
2 buildings were, in fact, being constructed when the letter of  
3 May 18th, 2023, is sent to the VA?

4 And the VA has complained, by the way, that they didn't  
5 receive it because it was generally addressed to the Veterans  
6 Affairs, U.S. Government, 11301 Wilshire Boulevard, and their  
7 statement to the Court is, We didn't get it.

8 Why would a letter be sent in 2023 when these buildings  
9 were under construction earlier than that date?

10 What is happening here?

11 THE WITNESS: I think the letter was sent in an  
12 effort by the LEA to be more proactive because we were coming  
13 up with example after example of folks building on these sites  
14 without actually pulling the permits, without complying with  
15 the requirements of the LEA.

16 So in order to actually do outreach -- extra outreach,  
17 make sure people are aware, the effort was made to actually get  
18 out in front and make sure people understood what these  
19 regulations were.

20 BY MS. WELLS:

21 Q So you are saying there were a lot of other developers of  
22 other construction projects who also were not aware of this  
23 particular regulation?

24 A I know that right now we have 19 sites where we're working  
25 with them, similar issues, that they are not in compliance with

1 the LEA requirements.

2 Q And, again, can you just please confirm one way or  
3 another, if the developers do the monitoring plan, can they get  
4 a final certificate of occupancy?

5 A I cannot confirm that, because I'm not the person issuing  
6 that, not because I'm trying to be argumentative.

7 THE COURT: Nor can you confirm the time really, can  
8 you?

9 You can't tell us if it's six months or four years, can  
10 you?

11 THE WITNESS: I could tell you that our best  
12 estimates on what needs to get accomplished in order for the  
13 existing construction site and to take care of the people that  
14 are already in the occupied sites, that could happen relatively  
15 quickly.

16 I mean, relatively quickly assumes -- well, I don't  
17 control what gets submitted.

18 The regulation is very clear about what we need to see  
19 and review, so my sense is if we get those documents, my team  
20 has already agreed and I think spoken with the VA, we would  
21 expedite the review, I think they promised a 30-day turnaround  
22 time, but it all depends on what we get and how much back and  
23 forth there is about making sure we have the documents that are  
24 needed to actually go ahead and approve the plans that are  
25 submitted.



1 BY MS. WELLS:

2 Q But would you agree coming up with those plans and going  
3 through the steps to where you even get a preliminary plan is  
4 itself a very lengthy involved time-consuming process, right?

5 A I would agree that the State regulations set forth safety  
6 requirements that need to get met in order for there to be  
7 actual repurposing of property that is on the sort of legacy  
8 landfill sites.

9 Q Is there -- again, I think I might have asked you this  
10 already, but is there any opportunity to seek a waiver of these  
11 requirements, because obviously, if these buildings were  
12 somehow to be imperiled and people can't move into them, that  
13 means veterans are going to be remaining on the streets, which  
14 is also a public health issue, right?

15 A Absolutely. And that's why I'm saying we share your goal  
16 to move as expeditiously as possible, but the State has safety  
17 regulations in place and we need everybody to work towards  
18 meeting those safety regulations.

19 Our team has come forward with what we think is a path  
20 that allows this to happen relatively quickly.

21 The only reason I can't commit to timelines is it really  
22 depends on the documents that are submitted by the VA. And we  
23 will review those documents.

24 We can't change the State requirements.

25 There is an exemption clause, but the exemption clause

1 requires the owner of the site to go through a very extensive  
2 process that I actually think is longer. It could take up to  
3 two years to grant that exemption.

4 So I would suggest that the plan that was laid out is  
5 the fastest way to actually do what we're all here to do, which  
6 is make sure that that housing gets built, the sites are safe  
7 and people can move in as quickly as possible.

8 MS. WELLS: I have no further questions at this  
9 time, Your Honor.

10 THE COURT: Counsel?

11 MR. SILBERFELD: I do have a few.

12 CROSS-EXAMINATION

13 BY MR. SILBERFELD:

14 Q Doctor, what if the issuance of these two letters that we  
15 have been talking about was simply a mistake?

16 By that, I mean that they never should have been sent to  
17 begin with, because this particular piece of property doesn't  
18 fall under whatever the rules and regulations may be.

19 Is there a method by which the letters can be withdrawn?

20 A I mean, I'm not a lawyer, so I can't determine, you know,  
21 whether this -- whether there's a case to be made that these  
22 rules don't apply.

23 I can say that CalRecycle and LEA agree that these rules  
24 do apply.

25 I would have to turn to my counsel and say, you know,

1 for them to comment on sort what the legal path forward is in  
2 on this, I would assume -- I'm not going to comment because I  
3 don't really know what would happen if it was determined that  
4 these rules didn't apply.

5 As far as I know, we have been told by both CalRecycle  
6 and the LEA that these rules reply.

7 THE COURT: Whatever you would like.

8 MS. JENSEN: That is where briefing would come in if  
9 you want that issue briefed.

10 THE COURT: I'm leaving this to the parties. I'm  
11 leaving this to the parties. I'm just trying -- the whole  
12 issue before me is if the Court rules in any way, shape, or  
13 form that there should be an expansion of either temporary or  
14 permanent supportive housing, I need to be reasonable in terms  
15 of where that housing should go, what that housing should look  
16 like, and I'm trying to figure out what might be available if I  
17 got to that point.

18 And right now, I'm a little bit uneasy about what I'm  
19 going to called gopher gulch, and I'm just kidding you, but  
20 Barrington Park up here.

21 I'm a little bit uneasy now about some other sites that  
22 we had examined, and so now I'm going to turn to the UCLA  
23 baseball diamond.

24 Do I have any issues concerning landfill, EIR reports,  
25 et cetera?

1 THE WITNESS: From the LEA's perspective it's  
2 outside of the thousand feet radius, there's no issues.

3 THE COURT: Now, I'm going to turn to the Brentwood  
4 School.

5 I see a track, which is semi-permanent. Don't know how  
6 you move that, but let's look at the field, about seven acres  
7 above that with two -- I'm going to call them baseball  
8 diamonds, but they're defined as baseball and softball  
9 diamonds. There are two diamonds out there.

10 Any issue concerning that?

11 THE WITNESS: Outdoor recreational use as far as I  
12 have been told, there are not issues.

13 THE COURT: No, this isn't --

14 THE WITNESS: Building.

15 THE COURT: Building.

16 THE WITNESS: Any new buildings within that entire  
17 perimeter, those circles, those yellow circles, could not  
18 happen without the completion of the post-closure land use  
19 Plan.

20 THE COURT: Well, I know that. But before we start  
21 that I don't know if I want to start post-closure language in  
22 Barrington until the landfill issues are filled up. If I'm  
23 going to expend resources in terms of the future, and if  
24 there's some immediacy needed, my proposed sites are starting  
25 to get narrowed.

1           What I might have taken into account before is starting  
2 to, let's say, diminish into fewer and fewer opportunities.

3           So now let's go down to the Great Lawn. Would you point  
4 to the Great Lawn.

5           I'm going to be very specific, do you know of any EIR  
6 report or methane issues or landfill issues concerning that  
7 area?

8           THE WITNESS: That is outside the perimeter of the  
9 1,000 feet, so in terms of the LEA and Solid Waste Management,  
10 not an issue.

11           THE COURT: I just want that on the record. I agree  
12 with you, but.

13           Now, I want to go to South Campus. We can just start  
14 pointing out different areas and let's start with 6A and 6B,  
15 those are the solar lots, counsel.

16           No, it's on the other side, right there. Those two  
17 lots, and then I think it's 150, I forget, but the two lots on  
18 the other sides of the street.

19           Any issues concerning methane, landfill, any EIR report  
20 that you know about?

21           THE WITNESS: Not that I know about.

22           THE COURT: It's obvious, but you need to state  
23 that, I don't.

24           We're going to move down to what I'm going to call an  
25 area down towards the bottom.

1 We're going to call it Safe Parking, and it's about an  
2 acre and a half down here.

3 Any issue you know about concerning methane, landfill or  
4 any --

5 THE WITNESS: Not that I know about.

6 THE COURT: We're going to move to the other side  
7 right behind Patriot Hall, it's about seven acres, beautiful  
8 trees, by the way, but any issues concerning methane, landfill,  
9 anything that you know about?

10 THE WITNESS: Not that I know anything about.

11 BY MR. SILBERFELD:

12 Q Now, there are a number of other locations, but the point  
13 is, if we use this -- it's only the area where those radiuses  
14 are drawn that are of concern?

15 A In terms of this landfill, yes.

16 THE COURT: Yes. I don't know if this is a mountain  
17 out a molehill or not, I don't know what to make out of this.

18 When I first started here I thought, come on, that's --  
19 but I understand your position and you're the health officer,  
20 you bear the ultimate responsibility, so I'm respectful of  
21 that.

22 But when I ask the following: Should the VA or Court  
23 order an immediate evacuation of the veterans in 205, 208 and  
24 209.

25 THE WITNESS: I see no evidence that that's needed.

1 THE COURT: Okay, great. But if they stay, then we  
2 should get monitors in?

3 THE WITNESS: Yes.

4 THE COURT: And will you bear with the VA and the  
5 Court if it took a month to three months to get those in? I  
6 mean, some period of time, would that be acceptable?

7 THE WITNESS: I'm not sure I understand.

8 THE COURT: Well, I don't know how long it takes  
9 monitors to get in.

10 THE WITNESS: Yes.

11 THE COURT: And sometimes things get slow-walked.

12 THE WITNESS: Yes.

13 THE COURT: Let's say it took a month to three  
14 months to get those monitors in.

15 If it took that period of time, would we get a letter  
16 back from you saying, reasonable?

17 THE WITNESS: I think we'd be pleased that we're  
18 making progress to meeting these requirements.

19 THE COURT: Okay. I am baffled at how 401 and 402  
20 got so far in this process with an EIR.

21 And then in good faith, probably because of the landfill  
22 issues and in compliance with law, we get a May 2023 letter  
23 generally addressed to the VA, from their perspective, and we  
24 don't get any follow-up for almost year.

25 In other words, it looks like to me that the letter went

1 out pro forma, somebody just kind of dropped it and left it  
2 with no follow-up and the VA, if they received it, didn't know  
3 what to do with it or if they didn't receive it because it was  
4 generally addressed, their claim is they didn't get it, how in  
5 the world did this sit for year without any follow-up if this  
6 is that important?

7 THE WITNESS: The way we followed up is all of the  
8 entities that received the letter, that list was then sent to  
9 our County departments that are part of a permitting process.

10 So that if, in fact, any of those entities were doing  
11 developments and were pulling permits, there would be a hold  
12 placed on those permits until the LEA determined that the site,  
13 in fact, was in compliance with the LEA rules.

14 So that's why you see these letters go out.

15 We also then inform the County that these are sites that  
16 have received notification and to please go ahead and put holds  
17 while -- if there's going to be a pulling of any permits.

18 Because the permit that they requested is not a permit  
19 from the Department of Public Health, I hope that that was  
20 clear.

21 It's a permit that is given by a different County  
22 department.

23 But there is a hold on it until they meet the  
24 requirements of the LEA.

25 Does that make sense?



1 I hope it makes sense.

2 THE COURT: I want you to put out -- or get the  
3 May 18th, 2023, letter in front of you, which is 1442 for a  
4 moment.

5 I'm going to read parts of it, because the VA construed  
6 this letter basically to be a stop order, and they construed it  
7 to be an order over the entire campus, which then caused, I  
8 think, an August 6 meeting that I don't have records of and  
9 then this August 21st letter.

10 I just want to turn for a moment to -- well, the bottom  
11 paragraph. "Recently the Los Angeles County LEA has  
12 experienced multiple occasions where the owners or operators of  
13 CIA disposal sites have instituted development of and land use  
14 changes to a property with a CIA disposal site without prior  
15 LEA review and approval."

16 Now, these don't sound like the sneaky folks doing that  
17 to you, okay.

18 In response, the LEA required these owners and operators  
19 to "cease construction on these parcels until such time that  
20 the LEA determined that the plan development and land use  
21 changes are in compliance with the State law and regulations."

22 Now, if I was receiving that, I might say they're  
23 telling me to stop, but not directly telling me to stop,  
24 they're telling me what they've done in the past, in other  
25 words, it's kind of a "watch out."

1           Then we go down four paragraphs it starts: "To ensure a  
2 timely review and approval of any proposed post-closure land  
3 use change or development of a CIA disposal site, owners and  
4 operators must submit" -- now that's definite language that's  
5 like "shall" -- "must submit a post-closure land use plan,  
6 PCLUP, that meets the requirements of 27 CCR Section 21190 to  
7 the LEA prior to beginning any work at a CIA site."

8           So you've seen those properties now in jeopardy.

9           "Failure to submit a timely PCLUP to the LEA will result  
10 in significant delays to the development project on the  
11 property."

12           So from that, if I was a developer, I might think if I  
13 hadn't started construction, I might be able to go ahead with  
14 design, but I better not put a nail in the wall or cement in  
15 the ground.

16           The next paragraph: "Depending the site conditions and  
17 the available historical records, both a Phase 1 office  
18 investigation" -- and I believe Phase 1 was told to Ms. Black  
19 that it would take six months and that was relayed to her, I  
20 believe, by your office.

21           "A field 2 investigation may be required to first  
22 quantify and understand CIA disposal site conditions to develop  
23 an appropriate PCLUP."

24           I believe, but I'm going to hear again, Phase 2 and I  
25 was told that would take a year or maybe two years.

1 "The Los Angeles County LEA's review and approval  
2 process routinely requires the submission of the following  
3 reports and work plans to LEA: 1, Phase 1 office investigative  
4 report," which is Phase 1 and I was told about six months.

5 "Phase 2, field investigation work plan if Phase 1  
6 report indicates any data gap in quantifying the site  
7 conditions with respect to State minimum standards.

8 Phase 2 field investigation report with the result and  
9 analysis after LEA approval of the Phase 2 field investigation  
10 work plan."

11 And then in the next paragraph, "Cal Recycle's guidance  
12 document is available at" and then we give a website. "The Los  
13 Angeles County LEA wants owners and operators of CIA parcels to  
14 be aware of the existence of and understand these  
15 predevelopment land use change requirements so that property  
16 development projects on CIA disposal sites are not unduly  
17 delayed by the failure to comply with solid waste regulations."

18 This is the important part to me: "Please understand  
19 that work cannot commence on any proposed development on a CIA  
20 disposal site until the PCLUP is approved by the LEA. Please  
21 note that approvals from other State or local regulatory  
22 agencies do not exempt or take the place of required approvals  
23 by the LEA for the CIA disposal sites. The LEA must ensure  
24 compliance with State laws and regulations for protection of  
25 public health and safety and in the environment."

1           So if I look at this exhibit, if you go back, counsel,  
2 to 1616, and put it up on the board.

3           From reading that, it would appear that if it's not in  
4 construction, beginning with 300 down to lot 407, that we can't  
5 start construction in the present situation?

6           THE WITNESS: Yes. If it's not already in  
7 construction.

8           In other words, I think I remember you had asked me a  
9 question earlier about sort of the flexibility issue.

10          This is the flexibility.

11          In other words, the construction already started and in  
12 some places completed and people are occupying buildings.

13          We're going to try to do the best we can to have as much  
14 compliance with the State regulations, understanding that  
15 already we are not going to vacate, we're not going to be  
16 asking people to be moving out, because the real issue for the  
17 people there is going to be this monitoring.

18          But we're also asking that they start working on this  
19 longer plan, because we know that longer plan addresses many  
20 other issues that are important under State regulation to be  
21 addressed.

22          THE COURT: Why can't veterans move into 401 and 402  
23 with monitoring?

24          Why can't we move them in on September 3rd, under the  
25 same conditions that we have with 205, 208, and 209, because

1 we're kind of giving that a pass for a while, we put in  
2 monitoring in a week or three months.

3 Why can't we move these veterans into those locations  
4 and undertake the monitoring, so they're not on the streets?

5 THE WITNESS: I think the intent here is to not  
6 displace people who are already on the site, but to ensure that  
7 as you are moving a new group of people on the site, the safety  
8 monitoring is already happening.

9 THE COURT: Okay. Would you turn to 1639 and I then  
10 will turn this back to counsel.

11 And do you have that document? It's in front of  
12 Barbara.

13 Okay, I want you to go down to halfway through the first  
14 paragraph and it says, "The project" -- it basically -- well,  
15 let me read the first portion:

16 "The Los Angeles County Department of Public Health  
17 Solid Waste Management Program, acting as the local enforcement  
18 agency, LEA, received an inquiry regarding holds on County of  
19 Los Angeles permits associated with 11301 Wilshire Boulevard,  
20 Los Angeles, located on the Veterans Administration medical  
21 site, and identified in the Solid Waste Information System,  
22 SWIS, as No. 19-AA5108, and owned by the U.S. Department of  
23 Veterans Affairs, owner.

24 The project involves developing housing for veterans by  
25 either remodeling existing buildings or constructing new ones.

1 Based on the project location and description, the LEA directed  
2 the owner to submit a post-closure land use plan, PCLUP, to  
3 demonstrate how the project meets the requirements of Title 27  
4 of the California Code of Regulations 27 CCR, Section 21190.

5 Since the project involves structures located within  
6 1,000 feet of the disposal area, but not directly on top of the  
7 waste, compliance with 27, CCR, 21190(g) is also required.

8 The owner is currently in violation of 27 CCR,  
9 Section 21190, which mandates the submission of a PCLUP to the  
10 LEA and other relevant regulatory agencies for approval before  
11 any work on the site can commence."

12 Does that mean that the owners of 401 and 402 are in  
13 violation?

14 THE WITNESS: I think it does.

15 THE COURT: I think it does too.

16 Why aren't the owners, once again, of 205, 208, and 209  
17 in violation, because they have already moved in?

18 THE WITNESS: Well, I would say that there -- all of  
19 that property that got developed that was not actually  
20 developed according to the state regulations is in violation of  
21 the state regulations.

22 I think the big issue in front of us is the issue of,  
23 sort of, what are the remedies.

24 THE COURT: Why -- I happen to know, unfortunately,  
25 that in 205 and 208, there were still move-ins taking place in

1 May of 2023, when this initial letter was sent. 209 was  
2 already moved into. I visited this years ago.

3 Why were veterans allowed to continue to move in to 205  
4 and 208 when this May letter is sent to the VA?

5 In other words, why didn't we just clamp down on the VA  
6 right then and stop that move-in at whatever stage it was at  
7 that time?

8 THE WITNESS: From our perspective, we are not  
9 staffed to go to all of the sites, nor are we necessarily  
10 notified of all of the projects.

11 I mean, that was what we were trying to fix with this  
12 new system where we make these lists.

13 We turn them over to the other county departments that  
14 are doing a lot of permitting on projects so that, in fact, we  
15 can close that gap, Your Honor.

16 THE COURT: Okay. Now, watch the next page because  
17 this is what I call "a can't continue," a stop order.

18 Deadline, August 20th, 2025.

19 PCLUP submission.

20 And it says, To comply with 27 CCR 21190, a PCLUP must  
21 be submitted for the LEA review and approval before initiating  
22 any new development at the site.

23 The PCLUP should include methane monitoring for all  
24 structures, including preexisting structures within 1,000 feet  
25 of the disposal site boundary but still within the parcel

1 boundary.

2 Continuation of construction that has already commenced  
3 is contingent on the timely submission of the PCLUP by  
4 August 20th.

5 Well, we know that they haven't submitted a PCLUP. And  
6 if you are constructing, I would be terrified of you -- I don't  
7 mean you, personally, but these regulations and being in  
8 violation.

9 What are my options?

10 I think my option is to stop because the next paragraph  
11 says: The owner is not allowed to begin any new construction.

12 Well, does that mean if I'm partway through the present  
13 construction, I stop? Or does that just mean that I can't  
14 start a new building?

15 How do I read that, if I'm a developer?

16 THE WITNESS: I think you read it that you cannot  
17 start any new construction.

18 And then the rest of the letter tells you what needs to  
19 happen in order to complete construction on projects that were  
20 already started or to address issues on projects that have been  
21 completed and that are now occupied. I think that is the  
22 intent here is --

23 THE COURT: So if the present developers understand  
24 that from MacArthur Field Phase 1 through 158, which are these  
25 orange areas, can they continue construction?



1 THE WITNESS: Because I'm not familiar with exactly  
2 what was submitted to our team and what -- how we were defining  
3 in construction, I have got to hold off on answering that.

4 But I think the intent, as we wrote it in this letter,  
5 is where construction has already started, so provided that  
6 there is compliance with what is in this letter, which is that  
7 you start working on the PCLUP, but you don't have to complete  
8 that --

9 THE COURT: Now, look at the next paragraph.

10 THE WITNESS: -- for the existing construction, I  
11 think that's the intent of this letter, Your Honor.

12 THE COURT: Well, look at the next paragraph. It  
13 has a compliance date by August 5th.

14 They are trying to sequence here.

15 And there basically is what I call a stop because it  
16 says: On-Site construction within 1,000 feet of the boundary  
17 of any disposal area shall be designed and constructed in  
18 accordance with 27 CCR 21190(g) or in accordance with the  
19 equivalent design which will prevent gas mitigation in the  
20 building. The owner must submit a plan for equivalent design  
21 as detailed in 21190(g) to prevent gas mitigation into the --  
22 or migration, I'm sorry, into the building for both the  
23 buildings under construction and any completed buildings.

24 Now, there I see completed buildings for the first time.

25 And, finally: No work may begin on plans submitted to

1 the LEA without LEA approval.

2 In other words, as of October 5th, if you haven't gotten  
3 in these plans, you better stop. That's the way I read this.

4 THE WITNESS: I think these deadlines are given to  
5 set our expectations.

6 We work a lot with developers and with project managers  
7 who, for very reasonable reasons, need extension on the  
8 deadlines.

9 So I would just urge everybody to note we're here to  
10 work with folks. If there is a need for extensions, I think  
11 the LEA, when there is reasonable cause for extensions -- I  
12 mean, I think -- I think these deadlines are really meant to  
13 say the faster these plans come to us, the faster we approve  
14 them, the faster these units can be completed and occupied.

15 THE COURT: Okay. Now, I want you to remain, if you  
16 would be so kind, because I would like you to hear from Chelsea  
17 Black for a moment.

18 And the reason for that is besides these letters, there  
19 is apparently conversations going on --

20 THE WITNESS: Yes, there are.

21 THE COURT: -- between middle management, in a  
22 sense.

23 And those conversations, I think from her perspective,  
24 as she reports back to her superior, are really being taken to,  
25 hey, you better stop.

1 And, initially, this was construed as a campus-wide  
2 stop, which is what caused Steve Peck, from US Vets, to go down  
3 and say, by the way, I'm outside this thousand feet.

4 I'm in building 210. Do I have permission to go ahead?  
5 And he gets permission.

6 Are developers clear that if it's outside this  
7 1,000 feet that none of this applies?

8 THE WITNESS: Yes. I mean, that is the statement.

9 THE COURT: You developers -- we need to get that on  
10 the record, so at least we have some base guidelines wherever  
11 we are on this because, initially, this was being read as you  
12 are stopping campus-wide.

13 That was the fear that went out. And that is why Steve  
14 ran down there to get -- I'm outside of 210, please, give me a  
15 dispensation.

16 Would you just remain for a moment? We're going to put  
17 Chelsea Black on, and you are going to start all over again,  
18 Counsel.

19 And then you can come back because she's going to be  
20 recalled.

21 All right. Ms. Black, would you retake the stand.

22 And, Counsel, you are going to start all over again.

23 You are going to pretend that we have never had her on  
24 the stand before.

25 And I want Barbara Ferrer to be able to hear what the

1 Court heard the other day, so she's present and not having to  
2 go through a transcript.

3 You recall we administered a prior oath to you,  
4 Ms. Black? Same oath applies. If you would be seated.

5 And, Counsel, you can pretend she never testified  
6 before. And particularly into the conversations between  
7 Ms. Gork and her that aren't part of these letters and  
8 interchange.

9 State your name again.

10 THE WITNESS: Chelsea Black.

11 THE COURT: Okay. Counsel.

12 MS. WELLS: Thank you.

13 CHELSEA BLACK,

14 having been previously sworn,

15 testified as follows:

16 FURTHER DIRECT EXAMINATION

17 BY MS. WELLS:

18 Q Good afternoon, Ms. Black.

19 A Good afternoon.

20 Q Why don't we get right to the heart of the issue.

21 Just to confirm, you are the Acting Chief of Planning at  
22 the GLA VA?

23 A That is correct.

24 Q Right?

25 THE COURT: Tell us your background first. Ms.

1 Barbara Ferrer needs to hear who you are.

2 THE WITNESS: Sure. Absolutely.

3 I worked for VA for 17 years, 15 years in procurement  
4 contracting, two years in GLA in the planning department. And  
5 educational background, MBA.

6 THE COURT: And the positions you held in the past,  
7 17 years with VA. You came to the West LA in 2022. Assume I  
8 have heard nothing of this before.

9 THE WITNESS: Okay.

10 THE COURT: I want your background.

11 BY MS. WELLS:

12 Q All right. When did you start working at the VA?

13 A Started working at VA in 2007.

14 Q And in what capacity?

15 A I came in as a procurement intern.

16 Q And after that, what position did you move to?

17 A I moved steadily up into supervisory positions. I ended  
18 contracting as a division chief.

19 Q And who does the contracting office report to?

20 A They report to the VISN as of in '22. At the beginning,  
21 we supported four medical centers in Southern California. And  
22 as I ended my career in procurements, we supported eight.

23 Q And is one of the medical centers that you just referred  
24 to the one here in Los Angeles?

25 A That is correct.

1 Q And as division chief in your prior position in the  
2 contracting office, to what extent did you cover contracts for  
3 services or healthcare?

4 A I did both. So I did general services for the facilities.  
5 I did healthcare resources, which included clinics, healthcare  
6 staffing, and homeless initiative contracts as well.

7 Q And to what extent did you interact with or have anything  
8 to do with the HUD-VASH program in that position?

9 A I always a lot of involvement with HUD-VASH. Actually, I  
10 did the first HUD-VASH contract in 2012 for GLA.

11 Q So I believe you just stated a little bit ago that you  
12 came to Los Angeles in 2022?

13 A That is correct.

14 Q And into what position at that time?

15 A I came in as the Deputy Chief of Planning.

16 Q And can you just, in a nutshell, describe what that role  
17 requires and entails?

18 A Absolutely. The majority of the position oversees  
19 projects related to our EUL implementation, so any type of  
20 parcel turnover or relocation or renovations to relocate staff.  
21 Large part is the implementation of the master plan.

22 Q How long have you been in your current position as Acting  
23 Chief of Planning?

24 A Since May of 2023.

25 Q And how are your duties different in your current position

1 than from your previous one?

2 A I would say my current position is little bit more macro,  
3 more facing -- forward facing, engaging more in our leadership  
4 boards, those type of duties.

5 Q And in your current position, to what extent are you  
6 involved with or overseeing the current development on the  
7 campus?

8 A Our office works really closely with another VA entity  
9 called OAEM.

10 Q Is that the Office of Asset Executive Management.

11 A Office of Asset Enterprise Management. Correct.

12 Q Enterprise. Okay. I always get these acronyms wrong.

13 Thank you.

14 Okay. And how do you interact with OAEM?

15 A So we really partner with them to oversee the  
16 implementation. Overseeing the execution of leases, making  
17 sure that the documents included, we review them, make sure  
18 that they are accurate, appropriate. Overseeing once the lease  
19 goes into construction. We oversee -- our staff oversees the  
20 construction of the sites. Kind of a local boots on the ground  
21 construction.

22 And once the building goes in to -- once completes  
23 construction goes into operation, we have staff that, again,  
24 provide that local on-site presence to oversee the property  
25 management aspect of it, et cetera.

1 Q This is the question I did not ask you the other day.

2 But to what extent does the VA get involved with the  
3 permit side of the construction on the campus?

4 A Usually, we do not.

5 Q And who is responsible for that piece of it?

6 A Those would be developers.

7 Q Okay. Now, we're here to talk about the landfill issue.

8 So can you tell us when you first learned about this?

9 A We first learned about this in the end of May, May 29th to  
10 be exact.

11 Q And how did it come to your attention?

12 THE COURT: Of 2023; is that correct?

13 THE WITNESS: No. 2024.

14 THE COURT: Just a moment. You first learned about  
15 it -- so you weren't aware then -- just to make certain, you  
16 are not aware of the May 18th, 2023, letter?

17 THE WITNESS: We found out about that after the  
18 fact.

19 THE COURT: All right. Then, counsel, reask in  
20 those areas.

21 MS. WELLS: Okay.

22 BY MS. WELLS:

23 Q So with respect to the May 18th, 2023, letter, do you  
24 recall when that was brought to your attention?

25 A That was -- I don't recall an exact date, but it was, I



1 would say, about two weeks after we started to investigate the  
2 issue, started to look into, you know, what the situation was.  
3 And one of those documents was produced. That document was  
4 produced.

5 Q Okay. And do you recall how you found out about the  
6 existence of this letter?

7 A It was -- I want to say the safety department was the one  
8 who produced it, and also OAEM as well.

9 Q Okay. And do you know if any of the developers had  
10 anything to do with making sure that this letter surfaced?

11 A So, at the very beginning, I think concurrently -- wait.  
12 Maybe I don't understand your question.

13 Q That's okay. It probably wasn't clear enough anyway.

14 A Sorry.

15 Q Do you -- after you learned about the May 18th, 2023,  
16 letter, did you take steps to determine what had happened to it  
17 at the date -- on the date that it was sent or around the time  
18 that it had been sent to the VA?

19 A I did. So I -- when this letter was produced, I did ask  
20 the different departments that usually this letter would be  
21 received to, so engineering, planning, safety, asking around to  
22 see if any of the VA departments had received this, and nobody  
23 had.

24 THE COURT: Who's the letter addressed to generally?  
25 Is it addressed to any department? Or is it addressed to --

1 who is it addressed to?

2 THE WITNESS: It's addressed to the Veterans  
3 Affairs, US Government, 11301 Wilshire Boulevard. And, again,  
4 US Government, 11301 Wilshire Boulevard.

5 THE COURT: How were you able to find it then? In  
6 other words, if the VA didn't receive this or claims they  
7 didn't receive it, how was this letter, then, produced to you.

8 THE WITNESS: It was -- it was sent by the county  
9 after the fact to our safety department and OAEM.

10 THE COURT: So after this came --

11 THE WITNESS: Correct.

12 THE COURT: -- to your attention, then you get this  
13 letter from the county that they say that they sent to this  
14 address because you didn't have it in any file?

15 THE WITNESS: No.

16 THE COURT: Okay. Counsel.

17 MS. WELLS: Okay. Thank you for clarifying that.

18 BY MS. WELLS:

19 Q Can you tell us what happened to trigger your becoming  
20 aware of this issue in late May or early June?

21 A We were first notified of this issue, basically, because  
22 of a permit hold placed on Building 210.

23 Q And who alerted you about the hold on 210?

24 A It was OAEM.

25 Q And do you know how they found out about it?

1 (Court reporter clarification.)

2 BY MS. WELLS:

3 Q And do you know how OAEM learned about it?

4 A They learned about it through the developer US Vets.

5 THE COURT: Just a moment. We're going to slow down  
6 just a little bit.

7 All right, Counsel. Now your next question.

8 BY MS. WELLS:

9 Q Okay. I know when you were here before, we walked through  
10 the map that your staff had provided, which has now been blown  
11 up into larger form.

12 And we can go back through, if the Court wants us to,  
13 which buildings are affected.

14 THE COURT: I'm going to pretend she's never  
15 testified before.

16 BY MS. WELLS:

17 Q Okay. So can you please tell us on the map -- and we can  
18 pull it up on the screen as well so you can look at it.

19 THE COURT: Including the subsequent conversations  
20 you had in these other meetings where we don't have a letter.

21 THE WITNESS: Sure.

22 THE COURT: Okay. But let's go through this map  
23 again.

24 BY MS. WELLS:

25 Q Okay. So can you identify the purple spots that are

1 appearing on this map?

2 A Yes. The purple spots are the landfill.

3 Q Okay. And the yellow lines that appear there?

4 A The yellow lines represent the 1,000-foot radius,  
5 2,000-foot diameter around the landfill.

6 Q And why is the 1,000-foot radius significant?

7 A That is significant because that is what is identified in  
8 that regulation. I don't have it in front of me. But it's  
9 21190, which signifies that any development within that 1,000  
10 feet of the landfill is impacted --

11 Q Okay.

12 A -- by the regulation. Yes.

13 Q And do you understand what it is this regulation is  
14 designed to accomplish? What is the purpose of it, as far as  
15 you understand?

16 A In reading it, number one objective is health and safety.

17 Q Okay. And is it fair to say it relates to methane levels  
18 relating to landfills?

19 A That is correct.

20 Q Do you know when these landfills that are represented by  
21 these purple spots were closed?

22 A In 1968 and then in 1974.

23 Q Okay. And do you know which ones in 1968 and 1974?

24 A I think it was what was buried in the site. I think in  
25 1968, the low level, like, radioactive material. And then I

1 think in 1974, they were -- there was, I think, the debris from  
2 the hospital when it collapsed in the earthquake, a lot of that  
3 construction debris was put in that landfill, from my  
4 understanding.

5 THE COURT: Just one minute.

6 Thank you. Please continue, Counsel.

7 BY MS. WELLS:

8 Q Looking back at the map, can you identify what building  
9 401 A is?

10 A 401 A is in the red circle. It is the next building that  
11 will be opened. 74 units. And it's within the 1,000-foot  
12 radius.

13 Q Do you know when the building is expected to open?

14 A The latest we're tracking is September 3rd for TCO.

15 Q And TCO is temporary certificate of occupancy?

16 A Correct.

17 THE COURT: That's September 3rd of this year; is  
18 that correct? 2024?

19 THE WITNESS: '24. Correct.

20 THE COURT: Thank you.

21 BY MS. WELLS:

22 Q And do you know what the status is of the inspections  
23 leading up to the issuance of the temporary certificate of  
24 occupancy?

25 A As far as our communication with the developer, the

1 inspections are tracking along, ready to get to TCO on  
2 September 3rd.

3 Q Can you give us some examples of what these inspections  
4 involve?

5 A Sure. There is fire inspections. I think there is  
6 elevator inspections. There is a variety of different  
7 inspections that occur.

8 Q And do you know which office in the County of Los Angeles  
9 is undertaking these inspections?

10 A The LA County Public Works.

11 Q And do you know if there has been any indication from the  
12 inspectors from the Department of Public Works that the  
13 issuance of the temporary certificate of occupancy may be  
14 delayed because of the hold on the campus that was issued by  
15 the Department of Public Health?

16 A From my understanding and communication with the  
17 developer, the TCO will not -- I mean the TCO will be issued,  
18 but the hold will remain on the permits. And it's the hold on  
19 the permits that may affect the final certificate of occupancy.

20 Q And do you know generally how long the period is between  
21 the issuance of a temporary certificate of occupancy and a  
22 final?

23 A I don't know that answer.

24 Q Okay. So is there another building on this map that's  
25 also getting close to being completed?

1 A Correct. That is Building 402 and it's the bungalows --  
2 yeah, within the red circle, 118 units.

3 Q And do you know when that building is expected to open or  
4 be allowed -- having residents move in?

5 A I believe the completion is January of 2025.

6 Q Do you know whether or not some of these inspections by  
7 the Department of Public Works are ongoing with respect to  
8 Building 402?

9 A That's -- I understand that, yes, inspections are ongoing.

10 Q Again, has there been any indication that as a result of  
11 the hold from the Department of Public Health that the progress  
12 on Building 402 needs to be delayed or stopped?

13 A No indication at this time.

14 Q Switching gears a little bit.

15 In your involvement with this issue that's, you know,  
16 been taking up your time to some extent, if not a large extent  
17 over the last several months, do you have a preliminary  
18 understanding of what the methane levels are in these areas  
19 included in these circles in the thousand foot radius?

20 A Yes. So Building 402, we have a methane testing report  
21 that was conducted recently, I don't know the date of that  
22 offhand.

23 But the levels shown on the report were very, very low.  
24 I want to say it was .8. But, again, I'm going off of memory.  
25 So it was very, very low, you know, nothing to be concerned

1 about.

2 Q Do you know the level at which a concern does start to be  
3 evident?

4 A Again, I'm going from memory but I think it's around  
5 5 percent.

6 THE COURT: So .8 and you believe the level of  
7 concern might be 5 percent?

8 THE WITNESS: 5 percent, correct.

9 BY MS. WELLS:

10 Q Do you know if any other studies of the environmental  
11 impact or other studies have been done with respect to the  
12 landfills?

13 A There's been several studies over the last several years,  
14 yeah.

15 Q Okay. And any indication as far as you are aware of any  
16 concerns with respect to methane levels?

17 A No concerns of the documentation that we reviewed.

18 Q Now, we talked a little bit ago about the fact that you  
19 found out about this issue in late May of this year, 2024; is  
20 that right?

21 A Correct.

22 Q And you first learned about it from OAEM?

23 A Correct.

24 Q Can you tell us who initially took the lead in looking  
25 into this issue for the VA?



1 A So we have a safety department at GLA that usually deals  
2 with these issues, they have environmental specialists on the  
3 team that work with the inspectors, public health, regularly.  
4 So that safety team took the initiative to start to have  
5 communication, and start to kind of untangle what was going on.  
6 They didn't know at the time either.

7 So that's initially who took the lead.

8 Q And at what point were you brought into the loop, if you  
9 can recall?

10 A I was always in the loop. Just because of my position in  
11 dealing with OAEM, dealing with developers, just to make sure  
12 everybody had the same communication. Obviously, this was a  
13 very concerning issue that came up, so I maintained -- I was in  
14 the loop just so we could all be on the same page.

15 Q Is it fair say you were sort of a liaison among everybody?

16 A Yes.

17 Q So can you describe what steps VA has taken to address  
18 this issue?

19 A So I think the first few weeks it was trying to  
20 understand, you know, what are we facing, what is this  
21 regulation, going through some investigation. It was clear  
22 upfront during the beginning that this thousand-foot situation  
23 existed so we started to map out our parcels and the most  
24 urgent situation at the time was Building 210 because --

25 Q What was the urgency there?

1 A Building 210 was -- they were applying for the building  
2 permits, they were due to go into construction in August of  
3 2024.

4 So it was urgent that we untangle that situation so  
5 there wouldn't be any delays, any delays in their financing.  
6 This could have really caused a lot of mess if they couldn't  
7 have gone into construction.

8 Q So just to clarify, they wanted to start construction on  
9 210 in September I believe you said?

10 A August.

11 Q And so it was in May or June that they were putting in for  
12 the construction permit?

13 A It was -- I don't know when they first put it in, but we  
14 were aware of the situation the end of May because they found  
15 out that they had a hold on the permit.

16 Q Okay. Was there any effort done to start the process of  
17 actually doing an environmental study or survey of the land?

18 A So we did.

19 So we understood one of the requirements of this  
20 regulation was the VA to commence efforts on this post-closure  
21 report.

22 So we put an emergency contract in place to begin that  
23 work, very preliminary Phase 1 investigation.

24 So we put that together I believe executed the end -- I  
25 don't remember the exact date, but it was in I believe either

1 late June or July. Yeah.

2 Q Okay. Do you have any idea of how long Phase 1 is  
3 supposed to take?

4 A So the Phase 1 under our current contract is more of a  
5 document review. A true Phase 1 ESA, environmental survey, you  
6 know, coupled with the Phase 2 -- and we certainly have an  
7 expert that deals in landfill matters advised us that it could  
8 be one or two years to complete the full, you know, Phase 1,  
9 plus the Phase 2.

10 THE COURT: So one to two years of Phase 1 and  
11 Phase 2?

12 THE WITNESS: And Phase 2.

13 THE COURT: Explain to me what Phase 1 is again.

14 THE WITNESS: So Phase 1, from my understanding, is  
15 a review of, again, the documents, the data associated with,  
16 you know, the site, the conditions and certainly our expert can  
17 tell you more about the scientific I guess research that goes  
18 into it, but out of that you have a bunch of data that will  
19 then influence the Phase 2 work plan to do sampling.

20 THE COURT: And is phase 2 what I'm going to think  
21 of as a work plan?

22 THE WITNESS: Work plan. From my understanding,  
23 yes.

24 THE COURT: And depending on what that work plan is,  
25 we don't have a necessary time frame, that work plan could be

1 simply monitoring or it could be drilling additional sites or  
2 it could be remediation work.

3 THE WITNESS: Correct. From my understanding  
4 there's several different results of that.

5 THE COURT: That's why I got an answer that it could  
6 be literally weeks, which I know it's not weeks, but it could  
7 be up to three or four years, that's what I initially heard.

8 THE WITNESS: Right.

9 THE COURT: Could it be that long?

10 THE WITNESS: That's what I've heard, correct.

11 THE COURT: Okay.

12 BY MS. WELLS:

13 Q Just to clarify, the three or four years would be the  
14 entire process -- am I right that Phase 2 is you come up with  
15 the plan that then will be implemented in a later phase?

16 A That's correct. The later phase is the sampling. It  
17 could be three to four years to just complete that prior to  
18 even being in a position to then complete the report or start  
19 generate that report.

20 Q Then is it fair to say that at the time you start  
21 generating the report that would be Phase 4?

22 A I don't know if I recall a Phase 4.

23 Q It will be the phase that comes under the actual work of  
24 collecting the samples? You have to analyze them and then  
25 generate a report?

1 A Right.

2 Q Anyway, okay.

3 To what extent did you start on the process of exploring  
4 whether or not waivers or getting out from under these  
5 requirements is possible?

6 A So I think after we got the Building 210 situation  
7 resolved and, you know, with the County, saying -- they lifted  
8 the hold, they were able to get the building permit, we wanted  
9 to sit down and meet with the County and discuss -- again, we  
10 have six buildings that are in construction. They've been  
11 issued building permits and they were issued building permits a  
12 couple of years, back so it was important for us to start to  
13 understand what does this look like for these buildings? What  
14 can we implement, what kind of waivers, what kinds of  
15 exemptions exist for the buildings on campus now to allow us to  
16 remove the holds and for them to complete the process.

17 Q Did you have a sit-down meeting with the people from the  
18 County?

19 A Yes. So we eventually had a meeting August 6th and  
20 discussed some of those scenarios.

21 Q Who from the County was at this August 6th meeting?

22 A There was Karen Gork, she's the main POC we have been  
23 working with.

24 Q Is she in the Department of Public Health?

25 A Correct.

1 Q Who else you can recall?

2 A Beverly Tway. There's -- I don't have last names, I have  
3 first name, Felicia, Ken, that's all I can recall at this time.

4 Q Do you know if all of them were in the Department of  
5 Public Health or were there people from other organizations  
6 within the County there as well?

7 A Those were the individuals from Public Health and I  
8 believe there was another individual online from CalRecycle.

9 Q Can you give us a description of what the conversation was  
10 or the communications during this meeting?

11 A The main goal of the meeting was to, again, find out some  
12 kind of way forward with these buildings. The meeting -- I  
13 think there was a reiteration of -- we understood kind of,  
14 again, we got a rehashing of the regulation and what we were  
15 supposed to do in terms of a post-closure report.

16 At one point of the conversation it did go into Public  
17 Health acted kind of surprised that construction hadn't stopped  
18 on campus and when I asked about what does that mean --

19 THE COURT: Just a moment. Who was kind of  
20 surprised construction hadn't stopped?

21 THE WITNESS: Public Health.

22 THE COURT: So Public Health is surprised it hasn't  
23 stopped.

24 THE WITNESS: Correct.

25 I think I asked a follow on question about, you know,

1 when discussions like that took place.

2 And at that point I said, If there's any expectation  
3 that construction needs to stop, that needs to be in a formal  
4 -- in writing in a formal letter to us.

5 And that's when Public Health mentioned that, you know,  
6 sometimes they do issue cease and desist on these types of  
7 matters.

8 BY MS. WELLS:

9 Q And during the course of the meeting on August 6th did you  
10 raise the imminent opening of Building 401?

11 A I did.

12 Q And what was the reaction from the County to that?

13 A I don't think there was a lot of solutions to that  
14 situation, 401, 402. I did mention the impact on, again, we're  
15 building housing for homeless veterans and these units are  
16 going to -- there is an expectation that these units are  
17 opening in the next few weeks. So no solution at that meeting.

18 (Reporter Clarification.)

19 THE WITNESS: No solution.

20 BY MS. WELLS:

21 Q So, after the August 6th meeting is that -- what happened?  
22 The August -- is that when the August 21st letter was received?

23 A Correct. At the request of, again, finding some kind of  
24 solution on the way forward, the County did send us a letter  
25 response with some -- so I would say some options. It's more

1 of a corrective action plan on August 21st.

2 Q Okay. Do you recall what it is that the August 21st  
3 letter was asking the VA to do?

4 A There is multiple parts with multiple timelines.

5 The first part of it had more of a requirement for the  
6 post-closure land report to be done within one year, so  
7 basically it needed to be completed by August of 2025.

8 Q And based on what you know, to what extent is that a  
9 realistic deadline?

10 A That is not a realistic deadline.

11 Q Have you had any further conversations with the County  
12 since receiving this letter?

13 A I did. So we received this letter on August 21st. I  
14 talked to the County on August 26th, I think that's just this  
15 past Monday.

16 Again, the most -- now most urgent situation is 401 and  
17 402 and a way forward.

18 It wasn't necessarily this section, but there is -- I  
19 think it's Section 3 that goes into the County -- I think it  
20 says the County may lift -- yeah, the LEA may release holds to  
21 allow for completion of these buildings if -- you know, if the  
22 owner, which is the VA, makes progress towards submitting a  
23 post-closure report, but then there is also a compliance with  
24 27 CCR 21190(g) for both buildings. That's concerning. If you  
25 pull up Section 21190(g) there is seven different subsections.



1 1 through 5 are design specifications.

2 So my concern was how do we move forward with completed  
3 buildings if they have to meet some designs or redesigning the  
4 foundation of the building. How do they go forward?

5 So I wanted that clarification from the County so I  
6 could better understand.

7 Q When you asked that question, what was the response you  
8 got?

9 A So the response I got was basically we should ignore 1  
10 through 5 and that really focus on 6 and 7.

11 And 6 and 7 are the requirements for these methane  
12 monitors that can be installed in some fashion around the  
13 building.

14 Q So is it fair to say that your takeaway is that the County  
15 was saying for the buildings that are either already occupied  
16 or these new ones coming online, all that would be required  
17 would be the monitoring pieces of it?

18 A That was from the conversation. I did not receive any  
19 follow-up in writing.

20 THE COURT: That's what I was going to ask you. In  
21 other words, if those kinds of commitments are going to be made  
22 they should be in writing. You should be able to rely upon  
23 them both from the County's perspective and VA's. Do you have  
24 that in writing?

25 THE WITNESS: I do not. They followed up with a --

1 it was like a spec sheet, specification sheet, for methane  
2 monitoring equipment that they were supposed to send with this  
3 initial response letter.

4 So they followed up and sent me that, but never revised  
5 this memo to reflect our developer for 401 and 402 to ignore,  
6 you know, 1 through 5 on Section G, and only focus on 6 and 7.  
7 There is no follow-up with that.

8 BY MS. WELLS:

9 Q Have you had any further communications with the County  
10 since the 26th?

11 A No.

12 Q Okay.

13 THE COURT: Will they supply, to your knowledge, a  
14 letter so that we can rely upon this concerning 6 and 7? Have  
15 you asked them to give you something in writing?

16 THE WITNESS: I followed up in an e-mail and I said,  
17 "Per our conversation, 1 through 5 is not -- just so I  
18 understand, 1 through 5 does not apply and that we are to focus  
19 on 6 and 7." I didn't get a response.

20 BY MS. WELLS:

21 Q Do you know if the current hold on the construction would  
22 also apply to temporary supportive housing?

23 A I do not know.

24 Q And I know you are aware of the placement for the  
25 schedule.

1 MS. WELLS: Maybe if we can pull up 1616, briefly.

2 BY MS. WELLS:

3 Q Do you know, Ms. Black, looking at this, we have a  
4 construction start date in I believe the fifth column, the  
5 middle column.

6 A Correct.

7 Q Do you have any sense of when the building permits would  
8 have been requested for those buildings that were -- you have  
9 start construction dates, for example, for MacArthur Field  
10 Phase 2 in November of 2023?

11 A I don't know exact dates for these buildings, but I would  
12 assume the permits are applied for before construction can  
13 begin.

14 Q Do you know if it's possible whether or not the  
15 construction permit would have been requested after May  
16 of 2023?

17 A I did review -- during this process the developers did  
18 send in their list of permits and I don't know, I think it's  
19 Public Works that has an online system that you can review  
20 permits.

21 So we had all of the developers pull kind of like a  
22 screenshot within the system to look at when permits are first  
23 pulled and then the status.

24 At that point you could see that all of the permits --  
25 their status is either in hold, active, and inactive, et

1 cetera.

2 Q My question though is do you know whether or not any  
3 building permits were requested after the May 2023 letter was  
4 sent?

5 A I would say I don't know which ones, but I would say they  
6 were pulled after 2023. And to be a little bit more specific,  
7 I do know that the County placed holds on all permits starting  
8 April of 2024.

9 THE COURT: Just a moment. So let me summarize, so  
10 I'm certain I understand. That is for all of these six  
11 buildings in construction, obviously permitting had to take  
12 place before 2022 and 2023, because that is the range of the  
13 six buildings under consideration.

14 But also, of course, in construction additional permits  
15 are pulled. And you have been able to find some number of  
16 permits, whatever those are, that were pulled after the  
17 May 2023 letter?

18 THE WITNESS: I would say so, yes.

19 BY MS. WELLS:

20 Q Whether you say "pulled," what do you mean?

21 A Requested.

22 THE COURT: Now, are their holds on permits at the  
23 present time on any of these six buildings under construction?

24 THE WITNESS: From my understanding all of them on  
25 hold. Except for 404. 404 is not on hold due to the fact they

1 are outside of the thousand foot radius.

2 THE COURT: I'm going to write this down. So holds  
3 are on all permits except Building 404. Which means they can't  
4 proceed, can they? Well, strike that.

5 They may be able to proceed on the prior permits, but  
6 they can't proceed towards completion on any new permit they  
7 are pulling, like for plumbing, et cetera?

8 THE WITNESS: I'm not really clear how that  
9 interfaces. If they pull another permit, will it just have  
10 that hold status and they can continue? That's what it seems  
11 like.

12 I'm not really that sure.

13 THE COURT: I'm not sure anybody know. We will find  
14 out.

15 Counsel?

16 MS. WELLS: I have no further questions.

17 THE COURT: Cross-examination?

18 And then we will call Barbara Ferrer back so she's not  
19 inconvenienced.

20 CROSS-EXAMINATION

21 BY MR. SILBERFELD:

22 Q Ms. Black, you first learned about this around May 29th  
23 and you described the circumstances of that.

24 Was the first meeting between anyone at VA and the  
25 County on August 6th?

1 A Correct.

2 Q Okay. And tell us what happened between May 29th and  
3 August 6th, would you?

4 A So between that time we were -- during the -- I would say  
5 the month of June, trying to, again, have a look into what the  
6 situation pertained to. We had not understood the situation --  
7 we had never been through the situation before, so starting to  
8 look into the regulation, starting to look at what is affected.

9 So having that communication, looking at some of those  
10 situations, like I said, Building 210 was the number one urgent  
11 matter, and communications regarding that was primary,  
12 understanding that we needed a post-closure report, started the  
13 procurement process to put that together.

14 The discussion with the County was primarily with the  
15 Building 210 and trying to get that hold released.

16 Q And you accomplished that?

17 A We accomplished that.

18 Q When was that exactly?

19 A I don't have the date off -- I would say prior to --

20 Q What month?

21 A I would say in July.

22 Q All right. And so the month of June was spent largely  
23 studying the problem, trying to catch up with what the issue  
24 was; is that a fair characterization?

25 A That's correct.

1 Q Then in July you solved the Building 210 issue?

2 A Uh-huh.

3 Q Was there any outreach by anyone on the VA side to the  
4 County at any time before the outreach that resulted in this  
5 August 6th meeting?

6 A Yes.

7 Q Okay. When was that done for the first time?

8 A That was done I want to say in late June, so June 20th or  
9 so.

10 Q Tell us about that, would you.

11 A That was done by the GLA Safety Department. They had a  
12 meeting with LEA and talked through kind of, again, giving the  
13 LEA a history of the campus, and you know what we're doing in  
14 terms of veteran housing and laid the groundwork to have them  
15 understand. That was the number one discussion.

16 Then the follow-up discussions with me with the LEA was  
17 regarding Building 210.

18 Q That was in July?

19 A That was in -- yeah, in July.

20 Q And the person at the safety department that met with the  
21 LEA is who?

22 A That is Joe Olson.

23 Q Sorry?

24 A Joe Olson.

25 Q What is Mr. Olson's position?

1 A He is an environmental -- I don't know his exact position,  
2 but it's an environmental specialist.

3 Q So he has some technical knowledge about these subjects, I  
4 gather?

5 A Correct.

6 Q All right. Who did Mr. Olson meet with in June?

7 A Karen Gork.

8 Q And was there some output from that meeting that was  
9 relayed to you or anybody else at the VA?

10 A It was. It was basically the same as they put in the  
11 letter, that the VA is responsible for putting together this  
12 post-closure report and this was the expectation.

13 Q So, in other words, the letter you received around  
14 August 21st, which is hard to believe it's only a week ago, the  
15 information in that letter about all of the requirements that  
16 the VA would have to meet were communicated at least orally by  
17 Ms. Gork to Mr. Olson in late June; is that right?

18 A If the question is if the contents of the letter on  
19 August 21st was communicated to Joe in June, that is not  
20 correct.

21 Q Okay. So when was the content of the August letter first  
22 communicated to anyone at VA orally or in writing for the first  
23 time?

24 A August 21st.

25 Q That's the first time you heard of that?



1 A That was the first time that the County provided some sort  
2 of I would say flexibility.

3 Again, we were looking for options to open buildings and  
4 remove these holds concurrently with the understanding that we  
5 are commencing on a process to do a post-closure report.

6 Q Did Mr. Olson give you or anybody else at the VA any  
7 report of his conversations with Ms. Gork in late June?

8 A He gave me a summary of just a dialogue of it.

9 Q Share with us what that summary was, would you please.

10 A I just -- I just mentioned that she reiterated the  
11 requirement for the VA to produce a post-closure report.

12 Q Okay. So the stance of the County that a post-closure  
13 report, which might take years, was required was first  
14 communicated by Ms. Gork to Mr. Olson in that late June  
15 meeting; is that right?

16 A I would say that was not first, it was a -- we found out  
17 about this issue in late May. And that was collectively, VA  
18 found out about it late May and so that discussion with  
19 Ms. Gork was a follow-on to that discussion to understand,  
20 again, what the situation -- what the stance of the County was.

21 Q So put another way, when you all found out about the  
22 letter that was actually sent a year before, sort of like a  
23 letter to Santa, right, addressed to the U.S. Government, when  
24 you finally got that letter, that letter notified the VA that a  
25 post closure plan or report would be required?

1 A That's correct.

2 Q And that happened in early June of this year?

3 A Correct.

4 Q And then a few weeks later Ms. Olson -- Mr. Olson, and  
5 Ms. Gork have a conversation where Ms. Gork repeats the same  
6 thing, she says, "You are going to have to do a post-closure  
7 report."

8 A Correct.

9 Q And then the next thing that happens is you meet with  
10 folks from the County on August 6th, they tell you  
11 fundamentally the same thing, right?

12 A Correct.

13 Q Then the letter comes on August 21st?

14 A That is correct.

15 Q Do you happen to know why it is that the Court and the  
16 parties here first found out about this on August 2nd?

17 A I don't.

18 MR. SILBERFELD: Thank you that is all I have.

19 THE COURT: Counsel, do you have additional  
20 questions?

21 MS. WELLS: Nothing further.

22 THE COURT: Counsel, any questions?

23 MR. SILBERFELD: No.

24 THE COURT: For the record, the Court's notification  
25 of this was simply from the parties that there might be some

1 kind of impending development. There was no statement to this  
2 Court about this issue.

3 MR. SILBERFELD: There actually is an ECF filing on  
4 August 2nd, No. 231.

5 THE COURT: On August 2nd, right. Pull up that up  
6 for just a moment, would you.

7 MR. SILBERFELD: I can't.

8 THE COURT: Well, he can. Pull it up and let's see  
9 what that says, because that is I think on a Thursday before  
10 the trial started. I was out of the state, I think I read it  
11 on Friday -- let's just read what that says for a moment.

12 MR. ROSENBERG: It's Docket 231.

13 THE COURT: Pull it up on the screen.

14 MR. ROSENBERG: I'm trying to.

15 THE COURT: There we go. Now, let's go down and  
16 look at this for a moment. Hold on. It says the Court isn't  
17 being informed of the thousand feet, let me read this.

18 "Defendants Dennis Richard McDonough in his official  
19 capacity as Secretary of Veterans Affairs, Adrienne Todman, in  
20 her official capacity as acting Secretary of Housing and Urban  
21 Development, Robert Merchant in his official capacity as Acting  
22 VA Greater Los Angeles Healthcare System, and Keith Harris in  
23 his official capacity as Senior Executive Homelessness Agent,  
24 VA Greater Los Angeles Healthcare System (collectively  
25 defendants) hereby provide notice to the Court of a recent

1 development.

2 On Wednesday, July 24th, 2024, undersigned counsel at  
3 Department of Justice first learned of an issue regarding  
4 landfill post-closure requirements that may impact the timeline  
5 for the opening of housing on the VA's West Los Angeles Campus.  
6 The Veterans of Affairs is still evaluating the issue and its  
7 anticipated impact on development on the campus. In the  
8 interest of transparency and because this development is  
9 relevant to the issues likely be go raised at trial, earlier  
10 today federal defendants produced documents regarding this  
11 issue to plaintiffs and intervenor."

12 And during the trial this starts to develop into the  
13 present situation.

14 Thank you very much. Could she be excused, counsel?

15 MS. WELLS: Yes. As far as we're concerned, Your  
16 Honor.

17 THE COURT: Thank you very much your courtesy in  
18 coming back the last couple days and if you'd call the Public  
19 Health Officer, Barbara Ferrer, back so if you have additional  
20 questions, let's get her on her way.

21 And this would be continued cross-examination. Thank  
22 you.

23 MR. SILBERFELD: Thank you, Your Honor.

24 CROSS-EXAMINATION (continued)

25 BY MR. SILBERFELD:

1 Q So, Dr. Ferrer, I asked you a hypothetical question about  
2 what if a mistake had been made. Has that ever happened in  
3 your experience, that a letter of the kind we have been talking  
4 about here, the first sort of blast letter from May of 2023,  
5 was sent out in error?

6 A I don't know that -- that letter of May of 2023, was, you  
7 know, the equivalent of a form letter sent to -- I sent --  
8 using information from at assessor's office about who owned  
9 those properties to try to make sure that they had the  
10 information they should have had about what they needed to do  
11 if they were going to repurpose or develop on that property.

12 I think there is certainly going to be instances where  
13 we identify something through a record, an assessor's office,  
14 et cetera, and it actually is not accurate information.

15 I don't have -- I don't know of any instances, but I  
16 would venture to say that because we're pulling information off  
17 of other records, that there can be some inaccuracy, yes.

18 Q When that happens, what happens to the hold that a letter  
19 of that kind otherwise initiates?

20 A Well, the hold would come when the entity that is  
21 identified as being the owner of that property applies for a  
22 permit.

23 And I'm assuming that, should that situation arise where  
24 somebody receives a hold because they are not in compliance  
25 with an LEA requirement, the State laws around solid waste

1 management, that they would, in fact, notify -- let's just say  
2 hypothetically they got the notice, but there is no disposal  
3 site on their property.

4 So they are being misidentified as having a disposal  
5 site, they don't have a disposal site. I'm sure that within  
6 days of verifying that, in fact, the information is wrong, the  
7 hold would be removed.

8 I mean, again, the process for us placing the hold,  
9 we've asked those holds to be placed. The process for removing  
10 them sits with other departments.

11 Q All right. So the blast letter -- I don't mean it  
12 demeaning --

13 A No, no, no.

14 Q -- it was sent out to a number of people?

15 A 70 entities.

16 Q Right. Including the VA?

17 A Including the VA.

18 Q And that, if I understand it, really shifted the burden  
19 onto the VA to respond and say either we don't have a disposal  
20 site, or here is how we're going to address these issues.

21 Is that how it works?

22 A I think that the obligation to know what the law is if you  
23 have a disposal site on your property is on the person who owns  
24 the property or the entity that owns the property, that is not  
25 on the Department of Public Health.

1           The entity that owns the property has an obligation to  
2 know what the laws are.

3           We were being proactive, noticing that some people were  
4 not following the law, whether they didn't know it about it or  
5 they just chose not to follow it, I don't know, but we were  
6 being proactive in sending that letter.

7           But the obligation to know what the rules are around  
8 developing property that has a landfill or disposal site on it  
9 really falls with the owner of that property.

10 Q       So, are we all to understand that the mailing of the  
11 letter in May of '23, the blast letter, that went to the VA,  
12 even though they didn't receive it, that that blast letter was  
13 a statement by Public Health as the administrator for the LEA  
14 -- or as the LEA I guess, that a violation of law existed on  
15 the VA property?

16 A       No. It was an information -- we had no idea whether there  
17 were any circumstances on any of those properties that were in  
18 violation. There is nothing in that letter that speaks to a  
19 known violation.

20           It says, "If you choose to do activities, repurpose,  
21 build, et cetera you must follow the law. Here are the  
22 relevant laws that must be followed."

23           We would have no idea whether or not at any particular  
24 property they were repurposing in order for us to send that  
25 letter.

1 Q So coming forward from that original mailing to this  
2 summer when there were meetings and letter sent and so forth,  
3 is it now the case as we speak today, that Public Health as the  
4 LEA for CalRecycle, I'm not even sure what that, but we can  
5 talk about that. That Public Health as the LEA for CalRecycle  
6 is of the view that the VA property as it relates to these  
7 sites is in violation of the law unless that violation is  
8 corrected?

9 A Yes. The October -- I mean, the August letter that spells  
10 out the pathway for continuing to meet the goal of being able  
11 to house people on that property is, in fact, noticing the VA  
12 that they are, in fact, in violation, and that this is called a  
13 compliance letter, here is the pathway to become compliant.  
14 That is the intent.

15 The intent isn't to hold up construction. The intent is  
16 to meet the obligations under State law of assuring the safety  
17 on sites where you have a disposal site.

18 In this case those legacy sites that were closed without  
19 going through any proper processes.

20 Q So having spent a little time with certain people from the  
21 VA in the last 24 hours about this, I think I understand that  
22 they have a different view, which is that there is no hazard  
23 out there, that there is no problem out there, and they have  
24 documentation to establish that.

25 Is there not an expedited way of doing that that doesn't



1 take years?

2 A There are two processes that have been laid out.

3 The one process is that you have to go through and  
4 complete a planning document that is required by the State that  
5 actually checks all of the boxes to make sure that there really  
6 are no problems at the site.

7 Q Right.

8 A It's a rigorous process on purpose because everybody knows  
9 that given the waste -- that we don't know exactly what waste  
10 was disposed of and we don't know under what circumstances that  
11 waste was disposed, like how did they build out that site, that  
12 is probably a very appropriate requirement that the State asks  
13 when people are going to be developing on those sites.

14 I think if we were -- in hindsight, we would have wished  
15 that when those sites closed they closed appropriately, so that  
16 we wouldn't have to go through this long planning process.

17 And long is really dependent. The length of that  
18 planning process is dependant on what you find at that site.

19 So that is why I know people have said, oh, it could be  
20 four years, it could be six years it, could be one year, it  
21 really depends on what's on that site as to what kind of  
22 mitigation you are going to have to put in the plan to address  
23 any of the potential safety issues that might be raised if you  
24 are going to develop on that property.

25 Q And there is no expedited means of doing that?

1 A Well, I believe we have set forth the process that adheres  
2 to the State regulations and allows for us to move quickly  
3 pending, of course, the submission of plans.

4 I want to note that even on the compliance with  
5 Section 27 CCR, 21190 that 1 to 5 that was noted, it was not do  
6 the mitigation, it was submit a plan to make sure that that  
7 building, in fact, is going to be a safer building if it needs  
8 to be a safer building.

9 All of these are just documents that need to be reviewed  
10 so that, in fact, they can be approved and we can go ahead,  
11 put in place the essential mitigation on doing the monitoring  
12 for methane, and then you would be able to move forward. On  
13 the existing construction sites, the sites where construction  
14 has already started.

15 Q I think we've already talked about no new construction --

16 A No new construction.

17 Q -- can begin inside the circles in the diagram?

18 A Inside the circle until you complete the larger plan.

19 Q Right. But the rest of the campus is unaffected by this?

20 A Exactly, exactly. I mean, there are other obligations on  
21 the rest of the campus, but not an LEA obligation.

22 Q Right. And from the time a package of documents arrives  
23 at your offices, roughly how long would it take for your  
24 offices to review and decide whether, in fact, there is not a  
25 problem out there and everybody can move forward?

1 A Yeah. I think it depends on the documents and which  
2 section of the requests we're going to be asked to review.

3 You know, obviously when we talk about the post-closure  
4 land use plans, those are very extensive and require more time  
5 to review. On the monitoring for methane, those would be much  
6 quicker reviews.

7 Again, usually what happens when plans are submitted is  
8 the time -- the time that is most unpredictable is how much  
9 back and forth we have to do.

10 We request things, we get documents, they're often --  
11 they may not be complete, we have to go back, the site manager  
12 has to go back, has to come back again, there has to be a  
13 subsequent review.

14 I think we have laid forward a pretty straightforward  
15 plan on what is required. It is in State regulation, our  
16 folks, as you've noted, have been meeting since May to try to  
17 figure out how we can, in fact, help make sure that we are able  
18 to move forward putting in place the safety requirements under  
19 State law.

20 Q I think you said earlier that you as the LEA are not in a  
21 position to waive these requirements?

22 A We're not.

23 Q Is CalRecycle in a position to waive these requirements if  
24 we were to ask them?

25 A I don't know that CalRecycle is in a position to waive the

1 requirements. My understanding is CalRecycle certifies the  
2 Local Enforcement Agency.

3           Once we are recertified, CalRecycle can advise us, they  
4 can give us technical assistance, but the ultimate decision  
5 rests with the Local Enforcement Agency.

6           There is a process set forth to apply for that  
7 exemption, but as I have noted -- again, anybody is allowed to  
8 go ahead with that exemption, that exemption process looks to  
9 me to be a fairly lengthy process.

10 Q       If I wanted to go on a fool's errand and ask CalRecycle  
11 for a waiver, who would I ask?

12 A       I would imagine you would go to the administrator at  
13 CalRecycle and make that request.

14 Q       Do you know who that is?

15 A       I don't.

16           MR. SILBERFELD: Thank You. No further questions.

17           THE COURT: Counsel, do you have additional  
18 questions?

19           Bridgeland, do you have any questions? At any time of  
20 course, for my record, Bridgeland's remained silent, but has  
21 been here on all occasions though, so the record reflects that.

22           Take your time.

23           REDIRECT EXAMINATION (continued)

24           BY MS. WELLS:

25 Q       Dr. Ferrer, I think we're a little bit confused by

1 something you just recently said.

2 A Okay, sorry.

3 Q So it's unclear to us who actually -- where the authority  
4 to waive any of these requirements would lie, because on the  
5 one hand you said it would have to be up to CalRecycle, but  
6 then you also seem to imply that they would then give you, the  
7 LEA, the ultimate authority to do so. So which one is it, is  
8 it CalRecycle or LEA?

9 A Well, CalRecycle certifies the LEA and we get audited  
10 every year by CalRecycle to make sure we're performing our  
11 duties as an LEA.

12 The way CalRecycle could, in fact, weigh in on the role  
13 of the LEA would be to not certify us and then there would have  
14 to be a different local enforcement agency that got certified  
15 by CalRecycle, but we are certified by CalRecycle.

16 My understanding, but I can ask counsel to verify, my  
17 understanding is that because we are now certified as the Local  
18 Enforcement Agency, we have the ultimate authority as the Local  
19 Enforcement Agency, but in having that authority we have to  
20 adhere to State law.

21 So, like the question about can you waive State law, I  
22 will ask counsel to answer. My understanding as the LEA is no,  
23 we cannot waive State law.

24 Q Doesn't the law allow for some exemptions?

25 A There is a process to request the exemption and you would

1 have to turn in the documentation that is required to go  
2 through the exemption process. So, yes, there is an exemption  
3 clause, but there is a process to review and then grant the  
4 exemption.

5 Q The ultimate authority to grant the waiver would lie with  
6 the County as the LEA, right?

7 MS. JENSEN: So we're talking about State law. The  
8 LEA can't, you know, go against State law. You would have to  
9 ask the legislature to change the law.

10 So you're asking if we can waive State law? The LEA  
11 can't waive State law.

12 Q But assuming --

13 (Inaudible whisper.)

14 MS. WELLS: Actually, the question was to Dr. Ferrer  
15 because she's the one who has been sworn in.

16 THE WITNESS: This seems like a legal question that  
17 counsel --

18 BY MS. WELLS:

19 Q No, but it's what's your understanding of what you can do  
20 in your role here?

21 A Yes.

22 Q So I understand there is State law and that the LA has to  
23 comply with State law, but if State law allows for an exemption  
24 and allows the LEA to make the final determination of whether  
25 or not an exemption applies, it would seem to me, I mean, how

1 is it wrong then that you don't have the ultimate authority,  
2 assuming all of the process is followed, to actually issue the  
3 exemption?

4 A I do have that authority, but you have to go through the  
5 process to request the exemption.

6 So what I think our team suggested was that's a  
7 lengthier process than the path we've laid forward, but  
8 obviously there is an exemption process and the VA could make a  
9 decision to actually go through that exemption process and we  
10 would then honor your request to review those documents and  
11 comply with that process to request the exemption.

12 So I'm sorry if I messed that up, but you are absolutely  
13 right, there is an exemption clause, there is a process that  
14 goes along with it.

15 If that is something the VA wanted to pursue, you are  
16 welcome to pursue that.

17 Q Thanks for clarifying that.

18 You stated a while ago that the landfills were not  
19 properly closed.

20 Am I repeating that right?

21 A That there was no verification on the, you know, like the  
22 process for closing the landfills was not in place at the point  
23 that these landfills were closed.

24 Q Right. So my question to you, so how when the landfills  
25 were closed in 1968 and 1974, is it fair to say that they were

1 not properly closed pursuant to a State law that did not come  
2 into effect until many years later?

3 A We just would assume without that documentation, that they  
4 went ahead with that entire process, that they may not have  
5 been --

6 Q What --

7 A -- that they may not have been properly closed.

8 So the way the regulation is set up, is if they were one  
9 of these legacy sites, would you have to then go through and  
10 complete that post-closure land use plan, which allows to you,  
11 in fact, then go ahead and verify that the safety concerns that  
12 might have come about because they were not necessarily covered  
13 by those regulations because the regulations weren't there,  
14 have, in fact, been addressed.

15 Q And --

16 A But, again, this is State law, so. And that process was  
17 set up by the State.

18 Q And this requirement is in effect even if at the time the  
19 landfills were closed in accordance with all appropriate laws?

20 A Whatever the laws were in place at that point in time.  
21 Yes. This is the State law.

22 Q And even if there had been studies between that time and  
23 the present to indicate that there's no concerns with respect  
24 to methane levels in particular?

25 A Right. I think the State law sets out the path to



1 actually ensure the safety of any reuse on that property,  
2 subsequent to the passage of Title 27.

3 Q Now, can you just remind me again of what the date is of  
4 when this law went into effect?

5 A I believe it was in 1988, but I don't know the exact date.  
6 But I know -- I'm pretty sure the year is 1988.

7 Q So then with respect to all of the construction that has  
8 happened on that West LA Campus between 1988 and the time that  
9 the hold went into effect in April, all of that was approved  
10 notwithstanding the existence of this law?

11 A I wouldn't know what approvals were granted prior to the  
12 projects that are in front of us now. So we would have to go  
13 back and look at our records about whether or not there was any  
14 involvement with the LEA before. I couldn't answer that  
15 question without going back.

16 Q Do you know the extent to which there have been any  
17 construction permits that were issued between the time that the  
18 May 2023 letter was sent and when the hold went into effect in  
19 April of 2024?

20 A I would not have that information either.

21 Q And to the extent that there might have been such  
22 approvals granted, how would you explain that?

23 A I would -- I mean, the -- many of the places -- many the  
24 departments where you are going to get the approvals did not  
25 have a mechanism for verifying whether or not there was

1 compliance with the LEA -- with the LEA and the regulations  
2 that are set forth by the State.

3           So we're trying to close that gap and identify those  
4 sites where there may be confusion about the obligations. So  
5 that when permits are pulled, then there is this hold while we  
6 all can look at whether or not this is site that needs to be in  
7 compliance with LEA.

8 Q       It sounds like the County is just as confused as everybody  
9 else about what their requirements are based on that current  
10 explanation.

11 A       I don't think the County is confused at all about the  
12 requirements. I think the County is working really hard to  
13 make sure that those requirements, in fact, can get met and  
14 that we're identifying sites where there may be a safety risk  
15 and working with the owners of those sites to mitigate the  
16 risks.

17 Q       Then do you know if the hold on the new construction  
18 affects construction of temporary housing?

19 A       I do not know the answer to that. I mean, I don't know  
20 how you are defining temporary housing.

21 Q       Temporary housing is housing that's not meant to be lived  
22 in permanently.

23 A       So, like what we would call interim housing, like  
24 shelters?

25 Q       Not quite shelters, something more than shelters something

1 that --

2 THE COURT: Let's say 400-foot --

3 THE WITNESS: Yes. I think that would count as new  
4 construction, so I think that would, in fact, be covered.

5 MS. WELLS: Nothing further, thank you.

6 MR. SILBERFELD: One last gasp, Dr. Ferrer.

7 RECROSS-EXAMINATION (continued)

8 BY MR. SILBERFELD:

9 Q Is there any dispute resolution mechanism in your process  
10 that would allow a property owner to come in and say, This is a  
11 big mistake, that doesn't requirement compliance with all those  
12 very technical processes. Does anything like that exist?

13 A I don't know of what the legal recourse would be in terms  
14 of challenging either a requirement that the LEA is imposing.

15 I do know that in this situation what we would hope to  
16 be able to do is if there are concerns we would hope that we  
17 would be able to address those concerns.

18 And by just continuing our conversations, because as I  
19 said when I started this, there is not a single person on our  
20 team and not a single person on your team that doesn't want to  
21 see this housing built and occupied.

22 And there's not a single person I believe that doesn't  
23 want this to be done safely. So I think it's in all of our  
24 interests to figure out how, in fact, we're going to work  
25 together and get this done.

1 MR. SILBERFELD: Thank you.

2 THE COURT: Thank you. I want to thank you for your  
3 courtesy, you've been here most of the day and I apologize for  
4 that. You may step down.

5 Counsel, why don't we take a recess and then call your  
6 next witness in 15 or 20s minutes. Thank you.

7 (Afternoon recess.)

8 THE COURT: Let's go back on the record.

9 Counsel, if you're comfortable, we're back on the  
10 record, all counsel and the parties are present.

11 Counsel, if would you like to call your next witness,  
12 please.

13 MR. ROSENBAUM: We call Tony DeFrancesco.

14 THE COURT: It's nice to see you again, sir. The  
15 same oath applies that was previously administered.

16 Do you recall that oath, sir?

17 THE WITNESS: Yes.

18 THE COURT: Thank you. You may retake the stand,  
19 please.

20 Sir, once again, would you state your name?

21 THE WITNESS: Anthony DeFrancesco.

22 THE COURT: Thank you.

23 Counsel, examination, please.

24 ANTHONY DEFRANCESCO,  
25 having been previously sworn,

1 testified as follows:

2 FURTHER DIRECT EXAMINATION

3 BY MR. ROSENBAUM:

4 Q Nice to see you again. How are you, Mr. DeFrancesco?

5 A I'm doing okay.

6 Q I know you've been here all day, I think, and nobody wants  
7 you to have to spend a great deal more time here. Thank you  
8 very much for your patience.

9 I just have a question or two. You remember talking to  
10 us when you were in court last about receiving a calling from  
11 Mr. McKenrick regarding the tape?

12 A Yes.

13 Q And then you told us that you spoke to someone in the  
14 athletic department at UCLA?

15 A Yes. I -- yes.

16 Q And roughly when was that, was that in January of 2021?

17 A Yeah. That was generally the week of January 25th of  
18 2021.

19 Q And can you tell us, please, with whom you spoke?

20 A There was a -- in the athletic department or in general?

21 Q Let's start with the athletic department?

22 A It would be Matt Elliott.

23 Q Anyone else?

24 A Derek Doolittle.

25 Q Can you spell Mr. Doolittle's first name?

1 A D-E-R-E-K.

2 Q And can you spell Matt's last name?

3 A E-L-L-I-O-T. [Sic]

4 Q Anyone else in the athletic department?

5 A Not that I'm aware of.

6 Q Help us out a little bit here, who is Mr. Doolittle?

7 A He was the associate athletic director for facilities.

8 Q And who is Mr. Elliott?

9 A He was the senior associate athletic director who had  
10 oversight for the baseball program.

11 Q Anyone else in the athletic department about this matter,  
12 even if it's a little bit later than the calls -- strike that.

13 You made your calls immediately to both Mr. Elliott and  
14 Mr. Doolittle?

15 A During the Friday before the January 25th, so it would be  
16 the 21st or -- no, that Friday, there had been some social  
17 media posts with the video and some e-mails sent out, so the  
18 strategic leadership -- I'm sorry, the leadership of strategic  
19 communications office put together a call on that Friday with  
20 various members from the athletics, myself, the Chancellor  
21 office, and the Government community relations office to review  
22 the situation of what was being publicized.

23 Q When you say "the video," you mean relating to the tape?

24 A Yes.

25 Q Okay. And so the call takes place on a Friday afternoon,

1 do I have that right?

2 A Yes.

3 Q And Mr. Elliott is on the call?

4 A Yes.

5 Q And Mr. Doolittle is on the call?

6 A I don't know for sure but -- about Derrick, no.

7 Q Anyone else on the call from UCLA you can remember from  
8 the athletic department?

9 A No.

10 Q Was Coach Savage on the call?

11 A No.

12 Q Now you mentioned -- that's Chancellor Block, was he the  
13 Chancellor at the time?

14 A Yes.

15 Q Was he on the call?

16 A No.

17 Q No, you said?

18 A No.

19 Q Was there anyone from his office on the call?

20 A Yes.

21 Q Who was that?

22 A Yolanda Gorman.

23 Q Can you spell that, please?

24 A Y-O-L-A-N-D-A G-O-R-M-A-N.

25 Q You knew Ms. Gorman prior to this call?

1 A Yes.

2 Q Who's Mr. Gorman?

3 A She's my supervisor.

4 Q At UCLA?

5 A Yes.

6 Q Anyone else on the call?

7 THE COURT: Wait a minute. She's your supervisor  
8 within the athletic department?

9 THE WITNESS: No.

10 THE COURT: With the Chancellor's office.

11 THE WITNESS: Yes. She's the Chancellor's chief of  
12 staff.

13 THE COURT: Just a moment, Chancellor's chief of  
14 staff. Okay. Thank you.

15 BY MR. ROSENBAUM:

16 Q And so far you know what is the organizational tree  
17 between Ms. Gorman and Chancellor Block?

18 A Direct line.

19 Q And anyone else on the call from UCLA?

20 A Mary Osako is the Vice Chancellor for strategic  
21 communications.

22 Q For the athletic department or generally?

23 A For the university.

24 Q And had you prior conversations -- strike that.

25 Had you had prior involvement with Ms. Osako?



1 A No.

2 Q Is this the first time you had ever been in conversation  
3 with her?

4 A Yes.

5 Q Anyone else on that call?

6 A There were representatives from the office of external  
7 affairs, government and community relations, and also from  
8 strategic communications.

9 Q Do you know the names of those persons?

10 A Not off the top of my head at the moment.

11 Q Do you know how many other people were there from UCLA?

12 A Probably -- from my recollection there was probably half  
13 dozen folks, maybe eight.

14 THE COURT: Other folks or total?

15 THE WITNESS: Other UCLA staff.

16 THE COURT: So how many on the phone call? 18, 14,  
17 12?

18 THE WITNESS: I would say eight.

19 THE COURT: Eight, thank you.

20 BY MR. ROSENBAUM:

21 Q How long did that call take?

22 A I don't remember.

23 Q And did you understand your role as to mainly get  
24 directions from them as to what to do next?

25 A Yeah, I believe -- the intent of the call was for everyone

1 to understand what the situation was, to assess what the risks  
2 were, if there had been any other inquiries from the media  
3 about the tape, and also what the engagement would be with the  
4 VA.

5 Q Was anyone from the VA on the phone?

6 A Not that call, no.

7 Q Then there was -- did you get a memo as to what to do  
8 next?

9 A No.

10 Q Did you have any further conversations with any of the  
11 persons from UCLA who you just mentioned about this matter?

12 A Yeah. We had a flurry of e-mails, conversations, the  
13 following week working on an announcement to announce the  
14 infields after I was made aware of earlier in the week that the  
15 VA would be looking to get the announcement about the Second  
16 Amendment for the infield out.

17 Q And the plan was within the context of that video; is that  
18 right?

19 A The video brought forth the issue of needing to make an a  
20 announcement.

21 Q Who made a decision to call the first phone call, this  
22 first UCLA phone call? Do you know who said let's have a phone  
23 call about this?

24 A I don't know.

25 Q It wasn't you?

1 A No. I made sure everyone was aware of it, the video.

2 Q So, you -- orally or in writing or both?

3 THE COURT: Counsel, I'm sorry, once again, describe  
4 this video to me. I've heard the audio, I want to make sure  
5 I'm not confused. The video, what are we talking about?

6 BY MR. ROSENBAUM:

7 Q You can answer the question.

8 A As I recollect, the week preceding there was social media  
9 posts and e-mails distributing a video clip of a meeting that  
10 it took -- that made mention of the infield and the Second  
11 Amendment.

12 Q Okay. And just to complete the story, the Court had asked  
13 questions as to who at UCLA you contacted or knew about it.  
14 You've given us a number of names. Is there anyone else at  
15 UCLA who you reported to about this matter or whom you have an  
16 understanding knew about this matter?

17 A Not that I recall.

18 Q Okay. And then did you subsequently have conversations  
19 with anyone at the VA about this matter?

20 A Yes.

21 Q With whom did you have those conversations?

22 A I did have a meeting with Mr. McKenrick on Thursday the  
23 28th in the afternoon.

24 He explained to me that the intent of getting the VA  
25 publishing an announcement about the Second Amendment and

1 infield with the target date of the week of February 8th  
2 through the 12th, pursuant to two FOIA requests, one of which  
3 was going to be also returned or published that week also.

4 Q Did you have an understanding as to who made that FOIA  
5 request?

6 A No.

7 Q Okay.

8 A I believe -- I'm sorry. I believe one of the FOIA  
9 requests was from a gentlemen named Ryan Thompson.

10 Q Anyone else?

11 A Not that -- no, I don't recall the other one.

12 Q Okay. And did you meet in person with Mr. McKenrick or  
13 was it over telephone or Zoom?

14 A It was a Zoom call. I was working remotely from Arizona  
15 at the time.

16 Q Was anyone else on that Zoom call besides you and Mr.  
17 McKenrick?

18 A No.

19 MR. ROSENBAUM: Your Honor, I wanted to do  
20 everything we could to elicit the response that you sought in  
21 terms of who knew about this.

22 I don't have any further questions beyond that unless  
23 the Court has specific.

24 THE COURT: Only that I'm not certain what this  
25 video is again.

1 BY MR. ROSENBAUM:

2 Q Can you describe the video in more detail, sir?

3 Let me break it down. The audio that we have  
4 heard, did that audio -- was that the audio accompanied the  
5 video?

6 A I believe so, but I can't say for certain. You know, that  
7 was two and a half years ago.

8 THE COURT: Just a moment. I assumed that this was  
9 a separate entity, so I need to go back.

10 Is it your belief that this is -- the conversation that  
11 I heard, that this is also on video?

12 MR. ROSENBAUM: Yes. I didn't know that, but that's  
13 what I'm learning right now.

14 THE COURT: I'm learning it also. It's as simple as  
15 this: If this was a Zoom or something, somebody may have  
16 recorded it, I don't know. But this isn't a separate video on  
17 social media, this is a video, it sounds like, linked to the  
18 audio that I heard, but you need to ask that question.

19 BY MR. ROSENBAUM:

20 Q Is that your understanding, sir?

21 A I believe it is, but I'm not one hundred percent certain  
22 it is without having it in front of me.

23 Q Okay. And around this time, there are media -- there's  
24 media interest about what is going on?

25 A Yes.

1 Q Okay. And that media interest was going to the  
2 communications department at UCLA?

3 A Yes.

4 Q Okay. And so far as you know, did the Chancellor,  
5 Chancellor Block, ever learn about this matter?

6 A I can't say for -- that he did at that time, no.

7 Q But there was a reporting relationship between Ms. Gorman  
8 and the Chancellor?

9 A Yes.

10 THE COURT: What's her title again?

11 THE WITNESS: She's the Chief of Staff for the  
12 Chancellor.

13 THE COURT: Does he have other chiefs of staff, I  
14 don't know, two or three?

15 THE WITNESS: Oh, no, just the one.

16 THE COURT: Just the one. Okay.

17 MR. ROSENBAUM: I don't have any further questions.

18 MS. PETTY: No questions from the Government, Your  
19 Honor.

20 THE COURT: So we don't want to call you back, let  
21 me look at my notes for a moment.

22 So, once again, strategic communications for the  
23 university, what is that?

24 THE WITNESS: Media relations, communications public  
25 affairs.

1 THE COURT: And representative of external affairs,  
2 what is that?

3 THE WITNESS: Government relations, Federal  
4 community relations, Federal relations. But also it's  
5 development, you know, fundraising.

6 THE COURT: I want to thank you, sir.

7 Counsel, anybody have any other questions?

8 MR. ROSENBAUM: No, Your Honor.

9 MS. PETTY: No questions.

10 THE COURT: Thank you sir, thank you very much.  
11 Counsel, your next witness, please?

12 MS. WELLS: The Federal defendants called James  
13 Lenzen.

14 THE COURT: Lenden?

15 MS. WELLS: Lenzen, L-E-N --

16 THE COURT: Thank you. Sir, if you would come  
17 forward, please, and be kind enough to raise your right hand.

18 THE COURTROOM DEPUTY: Do you solemnly swear that  
19 the testimony you are about to give in the cause now pending  
20 before this Court shall be truth, the whole truth, and nothing  
21 but the truth, so help you God?

22 THE WITNESS: I do.

23 THE COURT: Thank you, sir. If you would please be  
24 seated. Then after being seated, would you state your full  
25 name?

1 THE WITNESS: My full name is James Donald Lenzen,  
2 the third.

3 THE COURT: Sir, would you spell your last name,  
4 please?

5 THE WITNESS: My last name is L-E-N-Z-E-N.

6 THE COURT: And is it James Donald?

7 THE WITNESS: Correct.

8 THE COURT: The third?

9 THE WITNESS: The third.

10 THE COURT: Thank you very much, sir.

11 JAMES DONALD LENZEN, III,

12 having been duly sworn,

13 testified as follows:

14 THE COURT: Counsel?

15 DIRECT EXAMINATION

16 MS. WELLS: Good afternoon, Mr. Lenzen. Carlotta  
17 Wells on behalf of the federal defendants.

18 BY MS. WELLS:

19 Q Can you please tell us what your current position is?

20 A I am an environmental compliance specialist for Veterans  
21 Affairs.

22 I work for the department referred to as the  
23 Environmental Projects Office or under CFM, Construction  
24 Facilities Management.

25 Q Where is your office located?



1 A I work a telecommute, if you will, and I work out of San  
2 Francisco.

3 Q How long have you been working for the VA?

4 A In October, October 25th, it will be three years.

5 Q Where did you work prior to coming to work at the VA?

6 A I worked in what I refer to like civilian corp, which is  
7 fundamentally working for environmental consulting firms.

8 My jobs mostly entailed management of landfills, both  
9 preliminary assessments, site inspections, feasibility studies,  
10 post-foreclosure land use plans and the post-operations  
11 monitoring maintenance of landfills throughout mostly the Bay  
12 area.

13 Q And for how long you were doing that kind of work?

14 A Specifically that type of work, I would say about 15 to  
15 16 years in a management capacity, and then prior to that I  
16 worked as an environmental chemist performing vapor sampling,  
17 monitoring, groundwater monitoring, some mobile laboratory work  
18 as well, in support of landfill maintenance, monitoring.

19 Q So how many years total have you been --

20 A Collectively at least 20 of my 27 years.

21 Q Have been related to issues relating to landfills?

22 A Correct. I always had one or more of my projects, because  
23 I usually managed and operated different project sites, were  
24 associated with landfills.

25 Q And what experience have you had with either enforcing or

1 implementing Section 21190 of the California Code of  
2 Regulations?

3 A Not in --

4 (Reporter Clarification.)

5 A Not in an enforcement capacity, but in a compliance  
6 capacity.

7 I am familiar with the post-closure land use  
8 requirements associated with that particular Title 27 CCR and  
9 its association with the proper post operations monitoring and  
10 maintenance of landfills specific to the contaminants  
11 associated with that landfill.

12 BY MS. WELLS:

13 Q What do you mean by "specific to the contaminants  
14 associated with the landfill"?

15 A So, a post-closure land use plan is the goal line of a  
16 long run.

17 It's been referred to today as sort of provide this and  
18 you are good to go, but it is just -- it's the final planning  
19 stage of what is a longer process.

20 Phase 1, for example, has been referenced, which is an  
21 environmental site assessment. And Phase 1 assessment involves  
22 a research level effort of all information associated with a  
23 landfill, what materials were buried there, when were they  
24 buried, how were they buried, what is the condition of  
25 landfill, are there any individuals that were present at the

1 time of operations, what kind of information could they  
2 provide.

3 This information all comes into a summary statement at  
4 the end of that document that is referred to as RECs, R-E-C-S,  
5 and that is for Recognizable Environmental Concerns.

6 Q This is all part of what you are calling Phase 1 of --

7 A Phase 1, yeah.

8 Q -- environmental assessment?

9 In your experience, generally, long does that phase  
10 take?

11 A It takes from -- avoiding discussions of procurement,  
12 funding, and such, it would be about 120 days. And that is  
13 contingent upon how smoothly the different versions of that  
14 document go as it pertains to regulatory review.

15 So you could have a draft version that is submitted to  
16 the regulator, and they could have 30 days to review, but at  
17 the end of those 30 days, they have comments. Those comments  
18 then go into a response to comments table where the contractor  
19 or agency or State government agency would respond in  
20 accordance to those comments and questions.

21 Then they go back to the regulators saying: Do these  
22 meet your expectations and your needs?

23 That is what is referred to as a draft final version of  
24 that document.

25 Then they say yes or no, there could be additional

1 comments, and then eventually you make it to final. And then  
2 once it's finalized, then the document is over.

3 So 150 days is ambitious, because it's suggesting that  
4 the regulator's approved it in the first round in 30 days.

5 But usually it's a little more.

6 Following a Phase 1, if you have any recognizable  
7 environmental concerns, that becomes the starting point for a  
8 Phase 2.

9 Q What happens if there are no identifiable environmental  
10 concerns?

11 A Then the conclusion of the Phase 1 is not to pursue a  
12 Phase 2, because in the absence of RECs there is no concerns.

13 So if I do a literature check and I see no organic  
14 materials that could produce methane. I see nothing in the  
15 timeline for the documents in this case at this landfill, so  
16 50 years, that would cause anything to be investigated.

17 Then I would say there are no RECs, there's no standards  
18 to compare the concerns against, therefore, there's no  
19 investigation to be performed.

20 Q Okay. Assuming you were to get to a Phase 2, can you tell  
21 us briefly what would be involved in that phase and how long  
22 that would take?

23 A Once you establish the RECs, then Phase 2 appropriately  
24 would have a work plan.

25 So the work plan for a Phase 2 would describe where are

1 you going to sample, how are you going to sample, what are the  
2 applicable standards that you are going to compare the data to.

3 So if you are doing vapor monitoring, for example, there  
4 are standards that you compare them to.

5 If there is groundwater interactions there are standards  
6 that you compare it to and soil standards.

7 There could be residential standards, it could be  
8 industrial standards, it depends on what the future land use  
9 is.

10 In the case of methane, for example, which is the  
11 primary question that comes up, standards are for a landfill  
12 the 5 percent criteria as was stated earlier is for the  
13 perimeter of the landfill, meaning that ambient methane  
14 concentrations shall not exceed 5 percent per volume, and  
15 that's what's called an LEL, or Lower Explosive Level.

16 So methane gas is typically explosive between 5 percent  
17 and 15 percent.

18 Anything lower than 5 percent is not an explosive  
19 hazard, anything above 15 percent is typically not an explosive  
20 hazard.

21 And so that is one of the criteria to determine the  
22 starting point for concern, 5 percent per volume of air along  
23 the boundary.

24 The other criteria that is -- if there's any building --  
25 for CCR Title 27, it's applicable primarily to buildings that

1 are located on top of the landfill.

2 And these -- that concentration, the air within a  
3 confined area, like a building, is -- that criteria, the  
4 greatest is 1.25 percent per volume.

5 THE COURT: Enclosed?

6 THE WITNESS: Enclosed, correct.

7 THE COURT: 1.25.

8 THE WITNESS: 1.25, and that is CCR 2921, Title 27  
9 per California Code of Regulations.

10 And then, for example, as a sidebar, we have a study  
11 that took place underneath the footprint of what was then  
12 referred to as Lot 38, which is now referred to as the 402  
13 building footprint area.

14 That study took place in April of 2021, and the findings  
15 of that study involved -- or I should say the sample design  
16 involved 19 sample locations pervasively spread beneath the  
17 footprint of what became the future construction area.

18 Of the 19 samples that were collected, some were ambient  
19 some were subsurface, at multiple depths, by the way, so I  
20 think it was like 2, 5, and 10 if my recollection is correct.

21 Q Actually --

22 A Do you want me to stop?

23 Q Just because --

24 MS. WELLS: Let me approach the witness, I think we  
25 have a copy of the study that you are referring to.

1 We have identified it or marked it as Exhibit 1643.

2 THE COURT: 1643. Counsel, if you like I will  
3 simply receive it.

4 MS. WELLS: Thank you.

5 THE COURT: Received.

6 (Exhibit 1643 received into evidence.)

7 THE WITNESS: Thank you.

8 BY MS. WELLS:

9 Q Is this the report you were just referring to?

10 A It is.

11 Q Okay. And you were mentioning some of the findings in  
12 that.

13 Can you please point us in this report to the findings  
14 you were just referring to?

15 A Yes. Let's see. So the design for the study, it's kind  
16 of summarized on --

17 THE COURT: Page 10?

18 THE WITNESS: Yeah, page 10 is a good one, it shows  
19 a picture.

20 You can see the sample locations, they are in red and  
21 green.

22 And that is fundamentally the footprint of what became  
23 the 402 building area. Now, if you look --

24 BY MS. WELLS:

25 Q Let me stop you for a second. If you look at the map that

1 is to your right --

2 A Uh-huh.

3 Q -- the big one over there.

4 A Oh, yeah.

5 Q Can you identify for us where on the --

6 A Sure.

7 Q -- map is the building that you are referring to where  
8 these red and green dots are?

9 A Oh, fantastic. The cat loves this.

10 THE COURT: Just point to it. Just point it right  
11 there.

12 THE WITNESS: The big button? Okay.

13 So we are -- let me orientate myself.

14 So you see this area right here? This is what was  
15 referred to as Lot 38.

16 THE COURT: Somebody move that. I don't think  
17 counsel -- would one of you come up here and move this back.

18 THE WITNESS: Yeah, it's kind of angled towards me.

19 THE COURT: Counsel -- I want counsel to see.

20 THE WITNESS: So this area right here is the same  
21 area that you are seeing in -- on the monitor, and in those who  
22 have copies right here.

23 Now, this study, this methane -- this subsurface soil  
24 and gas study was performed by the developers to determine if  
25 there was any potential impact to a gas well that was located



1 within 300 feet of that area.

2 Now, ironically they kind of accidentally did an awesome  
3 thing, because in their effort to determine if gas well had any  
4 impact on this facility site, they inadvertently took samples  
5 along this area right here, and that area right there is the  
6 perimeter of our landfill.

7 It just happens to be west of the site in question.

8 And so the data from that area, as well as the  
9 subsurface samples that were collected beneath that Lot 38,  
10 which is associated with Building 42, the highest concentration  
11 that was detected was .875 percent per volume, which is about  
12 8,750 parts per million.

13 THE COURT: That's along the landfill?

14 THE WITNESS: That is beneath the surface of the  
15 area that the -- I have to look at the exact location, but it's  
16 associated with that footprint.

17 I have to read through and remind myself which one of  
18 these samples.

19 But the highest concentration in one of these samples  
20 was .875 percent, that is below the regulatory screening  
21 criteria for the 5 percent along the boundary, and it's also  
22 below the regulatory screening criteria for indoor air.

23 The way methane gas works is when you detect it in  
24 subsurface in concentration that low, it reduces in  
25 concentration as you rise up, it attenuates as it rises through

1 the vadose zone, which is the dry soil, and then into the  
2 atmosphere.

3 So by the time it made its way even into ambient space  
4 it would be probably be nondetectable.

5 So one of the things that a Phase 2 addresses is if you  
6 have a concern it has to be present for you to evaluate it.

7 So if you are going out you are getting zeros and zeros  
8 and zeros, and there's no standards in which it is exceeding,  
9 it leads to you believe it's not an environmental concern or a  
10 concern to human health or the environment.

11 After you write in work plan, deciding where you are  
12 going to study and then you go out and do samples, like in a  
13 way we've already done for this area here, then at the end of  
14 that, those conclusions between the Phase 1 and Phase 2 go into  
15 the post-closure land use plan.

16 (Reporter Clarification.)

17 THE WITNESS: The post-closure land use plan, the  
18 PCLUP.

19 That plan is based on the results of a Phase 1 and  
20 Phase 2.

21 It's very -- it's different, I have never experienced a  
22 circumstance where a plan like that, the conclusions are laid  
23 out before the investigation has taken place, and, in the face  
24 of data, that contradicts the conclusions that are being  
25 suggested.

1           So, for example, if there is no methane -- if there is  
2 no methane generation issue, it's confusing to me why we would  
3 be seeking it.

4           Another thing -- I will give you another example.

5           If you have metals concentrations that are in the soil,  
6 you have to look at background concentration, because there is  
7 natural geologic deposits of metals associated with  
8 naturally-occurring minerals.

9           So, if your concentrations are lower than background,  
10 then it doesn't necessitate you doing anything about it because  
11 you would have to excavate the entire hillside.

12           So there's a certain logical structure to this process  
13 and we don't jump, typically, to a planning document that  
14 dictates certain actions without scientific evidence to support  
15 that.

16           That said, it's just a planning document. It's a  
17 starting point. It's literally putting your feet in the  
18 starter box, the gun hasn't even gone off yet.

19           Because as soon as that document is approved, you have  
20 30 years to implement it, then you have five-year review plans  
21 that you have to provide as well.

22           So it's not just you finish the post-closure land use  
23 plan, and you are done, it's a process that goes forward  
24 legislatively.

25           So it's a very long process to get to that point,

1 approximately, really realistically with the review, I would  
2 say four to five years, to be honest, and then you are looking  
3 at a lifetime commitment.

4 It's a career situation once you have that in place.

5 BY MS. WELLS:

6 Q So can you tell us if Phase 1 is underway the current  
7 time?

8 A I don't know specifically, you would have to ask Chelsea  
9 that question as far as that.

10 But my understanding is that it's not, that there's some  
11 preliminary data investigation going on, but the Phase 1 is a  
12 very specific protocol that is dictated by ASTM methods, which  
13 is American Society of Testing and Methods, and it's currently  
14 now referred to as ASTM International, because they want to  
15 sell their methodology to the international audience.

16 Q Is it fair to say that, if at the end of Phase 1 once it's  
17 completed, if there are no -- none of these concerns are  
18 triggered --

19 A Uh-huh.

20 Q -- that there would be a report to the County saying  
21 there's no need to -- the recommendation would be there's no  
22 need to get to a Phase 2?

23 A Yeah, they would have -- the document they would be  
24 reviewing would say there are no RECs, there are no  
25 recognizable environmental concerns.

1 Q And based on -- well, let me back up a little bit.

2 In addition to this 2021 report that was prepared in  
3 relationship to the development of Building 402, have you  
4 looked at any -- you, yourself, looked at any other studies  
5 relating to environmental contaminant issues on the property.

6 A Yeah, there are studies going back into the early '80s.  
7 Some of the materials that are associated with the site were  
8 referenced as radiological, but it's important to note what  
9 type of radiological material.

10 So tritium is the primary source of that radiological  
11 material. Tritium is an isotope of hydrogen.

12 Just for a little background, generally hydrogen atoms  
13 have one proton and one electron circling it.

14 Deuterium, which you may have heard about, it's usually  
15 heavy water for reactors, that has a neutron and a proton and a  
16 circling electron.

17 And tritium, which is sometimes called hydrogen 3, has  
18 two neutrons, a proton and electron so it's highly unstable.

19 Typically, it's just radioactive and stable enough that  
20 you can put a tracer in a person's body so if you are studying,  
21 like, someone who has a heart condition, and you want to see  
22 how their valves are functioning and if there's blocking of  
23 flow of blood, any clogging, then tritium is utilized.

24 So something that people knowingly ingest for scientific  
25 reasons to determine health determinations.

1           The presence of tritium in vials, like minutia amounts,  
2 we're talking, like, less than a CC less than --

3           THE COURT: You've got to slow down.

4           THE WITNESS: I will.

5           THE COURT: Say that again.

6           THE WITNESS: The presence of tritium in a vial that  
7 had already been utilized for its purpose is properly what we  
8 would refer to as trace amounts, which is really like smears.

9                           (Reporter Clarification.)

10          THE WITNESS: Smears. Like smearing.

11           And that amount is so nominal that it would probably  
12 react with moisture and just become water, just become bound up  
13 in water.

14           Tritium itself has a half life of approximately  
15 12 years. And when it decays, because that's what a half life  
16 represents, the amount of time it takes to stabilize, it decays  
17 into helium.

18           And helium is an inert, noble gas. It causes no  
19 problem, it's not an environment hazard.

20           So this material was more than significantly dumped or  
21 laden into trenches during the 1960s.

22           So we have well over 56 years between that time and this  
23 time, and so tritium, for example, has gone through probably  
24 four half life reductions into helium.

25           So, I would be surprised if you could detect it today.

1 Well, just so happens in 1981, the Nuclear Regulatory  
2 Commission went out and sampled and found that there are trace  
3 levels un concerning to human health or the environment in 1981.

4 In 1983, they backed that decision up again. And in  
5 1999, there was a closure report that was for a portion of the  
6 property associated with the Brentwood athletic fields. They  
7 had discovered some buried materials, so they went out again  
8 and they said, not an issue.

9 And then in 2000, that report became final.

10 Most of that material is actually transported off site  
11 so it's no longer there.

12 Then in 2010, there was a study that was performed by  
13 ALLWEST Geotechnical, the findings for that found that both the  
14 radiological and something called volatile organic compounds,  
15 VOCs, were all below what are referred to as PRGs, Preliminary  
16 Remediation Goals for Region 9, which is California, region for  
17 EPA standards.

18 That means that for both drinking water -- I'm sorry,  
19 yeah, for drinking water standards of the EPA standards and for  
20 soil, it was below screening criteria that would be concerning  
21 to human health and the environment.

22 I think it was for unrestricted use as well. That means  
23 residential, primarily.

24 (Reporter Clarification.)

25 THE WITNESS: That means residential primarily.

1 It's the most strictest, you know, criteria.

2 There's one stricter, but that's basically what they  
3 were meaning.

4 BY MS. WELLS:

5 Q Do you know if the 2010 ALLWEST Geotechnical report  
6 addressed methane levels at all?

7 A It did not. At the time it was not a requirement and it  
8 was not a concern.

9 I do believe that -- I would have to get back with the  
10 information, I do believe there was some ambient samples that  
11 were collected, but I have not found that document  
12 specifically, just by word of mouth.

13 Q Based on your assessment of these materials and what you  
14 know based on your experience, do you think there is a health  
15 risk to veterans being posed by the property --

16 A I do not.

17 Q -- in those three circles?

18 A I do not, not at all. I do not.

19 Methane does not produce itself in perpetuity. Material  
20 breaks down over time.

21 And this methane is buried under -- or I should say this  
22 refuse, excuse me, is buried under 20 to 30 feet of soil, and  
23 probably some saturated soil.

24 And this material was nominal when it was buried, it  
25 wasn't a lot of it is what I mean, a very small amount. And



1 so, if you bury an apple, for example, and you come back  
2 60 years later, good luck finding it.

3 So this stuff has mostly been degraded. I would imagine  
4 that whatever would be produced has been produced and is gone.

5 I don't consider the facility or the site or 1,000 feet  
6 around it an explosive hazard.

7 And that's defensible by data.

8 MS. WELLS: Let's pull up Exhibit 1639, which is the  
9 August 21st, 2024, letter from the County of Public Health --  
10 County of Los Angeles Public Health Department to Chelsea  
11 Black.

12 THE WITNESS: Okay. Thank you so much.

13 BY MS. WELLS:

14 Q Have you had a chance to review this letter before today?

15 A I have, yeah.

16 Q Can you just tell me, looking at it, do you have -- having  
17 taken a look at it in some detail, I understand, do you have  
18 any issues the way the letter is framed overall?

19 A As far as going from 10,000 feet down, the timelines  
20 aren't reflective of the processing that leads up to the  
21 documents that they are referring to.

22 You know, one year, for a peak hold would really presume  
23 that we have a draft ready to go and that it's about to be  
24 submitted for review so that by the end of this year the back  
25 and forth is completed.

1 So, all of the time --

2 Q The one year is that the first bullet?

3 A Yeah, exactly. Yeah.

4 The first timeline it says, "Submission deadline  
5 August 20th, 2025, must be submitted."

6 There you go. That is not reflective of the time.

7 And I will be clear that legislatively required elements  
8 by State and Federal law to lead up to the PCLEP, you don't  
9 generate this from air, you have a lot of lead-up documents  
10 that go into it, as I already explained.

11 So that was the first thing that stood out to me.

12 MS. WELLS: Could we back up maybe even to the first  
13 page.

14 BY MS. WELLS:

15 Q Let's keep going under the timeline, I'm sorry.

16 A You're good. So moving forward from there, the second  
17 timeline, again this is coming from 10,000 down, I'll drill in  
18 more in a moment.

19 The second deadline is September 20th, that is  
20 approximately a month.

21 Compliant perimeter monitoring probes, and they cite the  
22 2925 CCR.

23 In order to have a compliant perimeter monitoring  
24 program, you have to have a definition of where the perimeter  
25 is, because one of the stipulations in Title 27 CCR is that no

1 gas probe is to be inserted into the refuse, it has to be  
2 outside the refuse.

3 And so that would take a delineation effort or some kind  
4 of negotiation as to where that boundary would reasonably be  
5 held.

6 So, although the statement is easy to make, the actual  
7 science to get to that conclusion is much more extensive.

8 And I might add, aside from State and Federal law, the  
9 agency that oversees landfill regulations, which is CalRecycle,  
10 and the one that empowers the Department of Human Health to  
11 become what we refer to as the LEA or the Local Enforcement  
12 Agency, that agency itself has four sheets that detail the  
13 check-off and the must-have accomplished.

14 There's a preliminary sheet for different phases of the  
15 initial post-closure land use plan and then the final sheet.

16 In checking that off, it sounds easy, all you've got to  
17 do is check that off, but the questions are big.

18 So did you install this methane or this perimeter  
19 monitoring system properly?

20 I have got to do a huge study to determine the  
21 boundaries or negotiate the boundaries because we can cheat  
22 away if they allow us, so that's, like, an example.

23 Q Looking at the last bullet on the screen, the "no work may  
24 begin on plans submitted to the LEA without LEA approval," so  
25 that means that -- is that implying the plans themselves can't

1 even be initiated?

2 A That is correct. Yeah, so, well, I think this is a little  
3 bit of a typo, but what this means -- that's a funny one, I  
4 didn't catch that.

5 What I think they mean is that implementation of the  
6 plans could not occur without LEA approval.

7 Because starting the plans is, you know, you could just  
8 say, hey, we're moving on to the next phase.

9 The internal draft version of the document does not  
10 require approval.

11 It's the draft version that is submitted to the  
12 regulatory agencies.

13 Q If we could go back up to the second bullet under number  
14 1, PCLUP submission.

15 A Uh-huh.

16 Q You can see there it says, "To comply with 27 CCR a PCLUP  
17 must be submitted for the LEA review and approval before  
18 initiating any new development at the site. The PCLUP should  
19 include methane monitoring for all structures, including  
20 preexisting structures, within 1,000 feet of the disposal site  
21 boundary but still within the parcel boundary.

22 Continuation of construction that has already commenced  
23 is contingent of the timely submission of PCLUP by August 20th,  
24 2025."

25 Is it fair to read that as making an assumption there

1 is, in fact, a problem with methane on this site?

2 A Yes. This is, you know, we always say we don't patch  
3 tires that don't have holes.

4 So if there isn't an issue with the landfill regarding  
5 methane, like, for example, the Phase 1 determines that  
6 negligible to no methane-producing materials were placed in the  
7 site, it begs the question why it's a concern.

8 You know, to use the tire analogy, I would be asking  
9 where did you drive the tire, how often did you drive it, where  
10 did it go, how did you drive it, all of that sort of stuff.  
11 And if they say, yeah, it's been sitting in the garage for the  
12 last three years, I probably wouldn't expect, you know, a  
13 series of punctures inside that tire.

14 So, in this particular case, this is a little cart  
15 before the horse suggesting there is a problem that needs to be  
16 mitigated and managed before determining that it even exists,  
17 or even reflecting upon the data that we have to the contrary.

18 Q Let's look under Section 3, Compliance, that is also to  
19 page 2.

20 And I think the second bullet says, "The LEA may release  
21 holds to allow for the completion of the buildings currently  
22 under construction if the owner demonstrates to the  
23 satisfaction of the LEA diligent progress towards submittal of  
24 the PCLUP."

25 A Uh-huh.

1 Q How do you interpret that? What is going to be required  
2 there for the VA?

3 A This was a curious one, because there is a logical  
4 incongruency, a logical inconsistency with this statement and  
5 other statements in the same letter and previous letters, which  
6 state that no building and no occupancy can occur until the  
7 post-closure land use plan is included.

8 And so I was a little confused by this. I'm not sure if  
9 they are suggesting the implementation of this methane gas  
10 monitoring system is in itself enough for them to remove the  
11 holds that LEA has on the Department of Public Works permits.

12 And so, I was a little confused by this.

13 The feedback I gave the individuals who seek this  
14 information from me, I was a little bit confused. I'm not  
15 sure, because in one breath, they say the PCLUP --

16 THE COURT: Just slower.

17 THE WITNESS: I will.

18 In one breath they say the post-closure land use plan  
19 needs to be completed before any future construction takes  
20 place or occupancy can take place, because they are holding on  
21 permits.

22 And then in this breath they're saying install a methane  
23 gas monitoring system before, you know -- let me see, to comply  
24 with this statute, the CCR statute, but I'm not sure if this  
25 means that they'll relieve the permit holds.

1 I think this is just -- the way it reads to me, it just  
2 says this is something we want, but I don't know if it's  
3 directly related to relieving the permit holds.

4 That's how I read it. I was confused.

5 BY MS. WELLS:

6 Q In your experience dealing with post-closure land use  
7 plans, and post-land use plan, or whatever.

8 A I understand.

9 Q This PCLUP, whatever that means, and with respect to other  
10 sites during your years, have you ever seen anything like this  
11 letter from an LEA that the -- you know, similar to the  
12 August 21st letter?

13 A No. To their admission, you know, the May 23 letter was  
14 more of a form letter, and I smelt that, I kind of sensed that  
15 when I saw it.

16 This one, again, is assuming a problem. Kind of a  
17 solution looking for a problem.

18 In my experience, I worked mostly on base realignment  
19 enclosure sites, which is BRAC in military circles, and we  
20 follow -- this is kind of what we call circle of light, if you  
21 will, and CERCLA, is a Comprehensive Environmental Response and  
22 Compensation and Liability Act, that's a 1980 act.

23 That sets forth the process by which you evaluate a  
24 site.

25 And in CERCLA, the first stage is a PA, or a preliminary

1 assessment, and that is roughly equivalent to a Phase 1.

2 The second is a site investigation, and that's roughly  
3 equivalent of a Phase 2.

4 These are called pre-CERCLA activities. The reason why  
5 they call it that, is because if the second part, which is  
6 similar to a Phase 2, results in no findings, then you don't  
7 enter the CERCLA program.

8 That's really key. Because not every site that's  
9 investigated has a problem.

10 So at that point, if it's not -- it's basically  
11 absolved. It's taken out of the program. They say thank you  
12 very much and you are done.

13 If it was entered, it would enter into what's called the  
14 National Priorities List, and then it goes forward into how do  
15 we remediate this site?

16 How do we manage the costs associated with remediating  
17 or a remedy for the site?

18 Are we going to put a clay cover on it, or are we going  
19 to do a multi-layer soil cover?

20 How are we going to manage this site?

21 In the case I was just referencing two ways of managing  
22 landfills.

23 Then you get into records of decision, interaction with  
24 the public, and that would then lead to a post-closure land use  
25 plan, and then a work plan that people would use to know what



1 to check, how to monitor, how often to monitor, and what to  
2 sample for and why, and set the stage for the next 30 years.

3 Q But that is not what we're facing?

4 A That's not what we're facing today, but I'm just saying  
5 the process is -- in our phase, we would kick off, if nothing  
6 was found, before it entered our system.

7 So the fact they are already at the post-closure phase  
8 is confusing to me. It implies they have data that we don't  
9 have access to.

10 MS. WELLS: May I have a moment, Your Honor?

11 THE COURT: Certainly.

12 MS. WELLS: I have no further questions at this  
13 time.

14 THE COURT: Cross-examination?

15 CROSS-EXAMINATION

16 BY MR. SILBERFELD:

17 Q Mr. Lenzen, you said Phase 1 of this process would take  
18 roughly 150 days on average?

19 A That is ambitious, yeah.

20 Q What if we really jetted it up, how short could it be?

21 If you had all of the help you needed?

22 A Well, it's all contingent upon other people. I can do  
23 what I can do. I can get the plan generated within 60 days  
24 draft, once we have the award for that contract in place.

25 Then typically it takes about 60 days for a contractor.

1 And then we'd have an internal review process, but once we hand  
2 it to the LEA, it depends on how long it takes.

3 Q Sure.

4 A It could take 30 days, they could ask for 60. And how  
5 many back and forths, as was referenced earlier.

6 Q But the area of work that you could control in a Phase 1,  
7 having to do with this particular site, if you had all of the  
8 help you needed, money was no object, but time was, and we  
9 wanted it done as quickly as possible --

10 A Uh-huh.

11 Q -- how quickly could your aspect of the work, you and your  
12 team, get done?

13 A Well, I'm not the person who generates this for VA. I  
14 would subcontract it. I used to do it commercially. But, that  
15 said, it could be done in 30, but I will caution you that speed  
16 does not always result in quality.

17 Q Yeah, I'm not looking to cut corners.

18 A Yeah, exactly. I want to make sure the document searches  
19 are full and thorough and not pressed by time.

20 Q You have done some looking recently, I gather, into this  
21 property, and you are satisfied that a well-done Phase 1  
22 assessment ends this process, are you not?

23 A I wouldn't make that conclusion just single-handedly.

24 I have not seen any data that leads me to be concerned.

25 But, you know, there is an extensive amount of

1 information about this site, you know, that was generated both  
2 historically prior to development and then by the developers.

3 So everything I have seen doesn't cause an alarm, but I  
4 would want to see it summarized and I would want to see it  
5 evaluated by a team, other than myself.

6 But yeah, me, cursory, no concern.

7 Q So methane monitoring systems, which you have heard, I  
8 think you were in the courtroom --

9 A I was all day.

10 Q -- heard described, and I realize you have to figure out  
11 what the boundaries of that are, I get that.

12 A Yes.

13 Q But once you figure out what the boundaries are, you agree  
14 with the County on what the boundaries are --

15 A Yeah.

16 Q -- how long does a system like that take to install?

17 A Well, the LEA, the County, is requesting the installation  
18 of that system in the footprint of the buildings.

19 They are not yet requiring, as I have read, the  
20 perimeter monitoring I referenced. That is a part of a  
21 post-closure land use plan.

22 So there would have to be some serious discussions with  
23 the developers, it's a design/build effort.

24 We would have to penetrate the subslab and we don't want  
25 to jeopardize the safety of the integrity of the building in

1 our efforts to install monitoring for methane.

2 But there is a lot of design/build. There is a lot of  
3 description of how would you approach that.

4 Like, for example, if I have to have someone install  
5 piping below the subfloor, is it a basement? Is it a crawl  
6 space? Do I have to get a confined space permit?

7 Is it safe to even install it. I have to look at those  
8 things.

9 So it's involved, and it would be modifying already  
10 completed design documents.

11 That is something to consider.

12 Q Those conditions could vary depending upon whether there  
13 was a slab being used to build these buildings or something  
14 else?

15 A Yeah is it reinforced? I've got to do ground penetrating  
16 radar to find out where the rebar is, so I don't hit a rebar  
17 and just keep bouncing. You know, if I'm doing like coring,  
18 concrete coring, there is more factors.

19 I know it's a sentence, but it's -- there's more  
20 involved.

21 MR. SILBERFELD: That's all of the questions I have.

22 THE WITNESS: Okay.

23 THE COURT: Recross?

24 MS. WELLS: Nothing further.

25 THE COURT: Any other questions of the gentleman?

1 Sir, thank you very much.

2 THE WITNESS: You are welcome.

3 THE COURT: Counsel, would you like to call another  
4 witness this evening?

5 MS. PETTY: Your Honor, Federal defendants call  
6 Mr. Aaron Barger.

7 THE COURT: Thank you.

8 Sir, would you raise your right hand.

9 Do you swear the testimony you are about to give, shall  
10 be the truth, the whole truth, nothing but the truth, so help  
11 you God?

12 THE WITNESS: I do.

13 THE COURT: Thank you, sir.

14 Would you please be seated, it's just to my right.  
15 Watch this step.

16 So would you state your full name, please, after you are  
17 seated?

18 THE WITNESS: Aaron David Barger.

19 THE COURT: Spell your first name.

20 THE WITNESS: A-A-R-O-N.

21 THE COURT: Your last name, sir?

22 THE WITNESS: B-A-R-G-E-R.

23 THE COURT: Thank you. This would be direct  
24 examination by the defense.

25 AARON DAVID BARGER,

1 having been duly sworn,

2 testified as follows:

3 DIRECT EXAMINATION

4 BY MS. PETTY:

5 Q Good afternoon, Mr. Barger.

6 A Thank you.

7 Q Thank you for being here today.

8 So we have spoken a lot today about the technical and  
9 scientific aspect of this landfill.

10 But I want to now focus on the real world implications  
11 for the opening of housing for homeless veterans.

12 Am I correct you are one of the developers of permanent  
13 housing on the West LA Campus?

14 A Yes.

15 Q What developer are you associated with?

16 A The Core Companies and the ownership title is there  
17 McArthur A LP and MacArthur B LP.

18 Q Does that correspond to Building 401?

19 A Yes. MacArthur ALP is 401A and McArthur BLP is 401B.

20 Q What's your current position within Core?

21 A Development project manager.

22 Q What are your responsibilities?

23 A I'm in charge of the day-to-day project management,  
24 overseeing the design and construction teams, leading to  
25 getting final building occupancy.

1 Q Approximately, how long have you been involved with this  
2 specific project as it relates to Building 401?

3 A Since July of 2023, July 1.

4 Q And just as a friendly reminder, just to speak slowly,  
5 because Terri, the court reporter, has one of the most  
6 difficult jobs.

7 You are doing good, though.

8 A I apologize, I will work on that.

9 Q Where are you currently in the development stage for  
10 Building 401?

11 A So with 401A, we have received our building permits to  
12 construct the building.

13 We are about 95 percent complete with construction going  
14 through final inspections as of this week and next anticipating  
15 TCO next Tuesday, September 3rd.

16 THE COURT: Expecting what?

17 THE WITNESS: Expecting temporary certificate of  
18 occupancy.

19 THE COURT: There we go. Thank you.

20 BY MS. PETTY:

21 Q Can you explain what the purpose of a TCO is?

22 A Yes. It signifies that the project is substantially  
23 complete with construction, that the regulatory agencies,  
24 whether it's the County or city, or the project resides in this  
25 case, it's the County of Los Angeles, Public Works Department,

1 has approved that substantial completion of the project is  
2 complete with certain punch lists items still remaining.

3 Q With a TCO, does that allow veterans to start moving from  
4 to the building or is another step required in the process for  
5 that to take place?

6 A Typically, if TCO allows residents to move in to a  
7 building.

8 Q And is it correct with the TCO, it's temporary?

9 A Yeah, temporary certificate of occupancy.

10 Q So what is the next step in the process to get a final  
11 certificate of occupancy?

12 A When you get your TCO, there is typically a list of  
13 conditions to complete for the building inspector to come back  
14 out, check that you have completed those list of items, which  
15 is typically a short list of items, and so that process takes  
16 roughly a month, maybe two.

17 Then once those items are complete, you call in for your  
18 final another inspection or a final inspection again for the  
19 building inspector to issue your final certificate of  
20 occupancy.

21 Q And so once you have that final certificate of occupancy,  
22 are there any other steps in the process that need to take  
23 place with respect to the building?

24 A No.

25 Q So you have been here today for the testimony with respect



1 to the landfill issue, correct?

2 A Correct.

3 Q And you are familiar with this issue, correct?

4 A As much as I can be. I have learned about it for the last  
5 month, month or so.

6 Q Can you just briefly describe for us what your  
7 understanding is of the landfill issue?

8 A My understanding is that an area west of our project is  
9 now being defined as a landfill area and that state regulation  
10 has taken hold where the County Public Health agency is  
11 enforcing certain measures to be taken to address this now  
12 defined landfill.

13 Q Can you explain a little bit what the impact of this  
14 landfill will have on the development of Building 401 at this  
15 stage of the process?

16 A Yes. So throughout the completion of construction as we  
17 have been getting close here, we have spoken to our county  
18 building inspector and brought up what we learned about this  
19 issue, raised it as it relates to TCO, if they would have an  
20 impact on receiving TCO.

21 The feedback we received was that the TCO could still be  
22 achieved and obtained with conditions of removing the hold in  
23 order to get final CFO.

24 However, as we have heard today, and over the last few  
25 weeks, just speaking openly, I'm confused as to whether or not

1 folks are going to be allowed to move in, based on the  
2 testimony we heard from the Public Health LEA today.

3 Q And can you explain the impacts, and you went into this a  
4 little bit with respect to move-in date, if you are not able to  
5 get that final certificate of occupancy, if there is a hold?

6 A Chris Neale, who is here from Core Companies can speak  
7 more to the financing side of this.

8 But as far as on the move-ins, and like I just  
9 mentioned, right now with TCO and move-ins being in question on  
10 my part, we have for the last six months been working with the  
11 Veterans Affairs office, our property management team, the LA  
12 County Housing Authority and New Direction Veterans in  
13 assembling 74 residents to be assigned to the units we are  
14 going to be providing.

15 As of today we have 74 units assigned. We have 43  
16 homeless veterans that are ready to sign a lease.

17 THE COURT: 43, right now?

18 THE WITNESS: 43, currently.

19 Today, if a lease was provided, they could sign it. If  
20 we had TCO, they could move in.

21 BY MS. PETTY:

22 Q And for that remaining number to get up to the 74 number,  
23 are people currently waiting in line?

24 A Yeah, from the 43 to 74, we have those units, those  
25 applicants are finalizing their process with the Housing

1 Authority, to be able to sign a lease.

2 So as of right now, roughly 26 of those are neither  
3 there or close to being able to complete their Housing  
4 Authority --

5 THE COURT: So another 26 on top of the 43. You are  
6 already at 69 folks out of 73, aren't you?

7 THE WITNESS: 74, yeah.

8 THE COURT: Well.

9 BY MS. PETTY:

10 Q You were present for Dr. Ferrer's testimony, correct?

11 A That's correct.

12 Q Did you have any reaction to the testimony she gave today?

13 A Yes.

14 Q Would you mind explaining some of your reactions?

15 A Sure. And I'm not an environmental expert, but I have  
16 been in real estate development for 29 years, so I have dealt  
17 with projects that have had environmental issues.

18 So, but from her comments today, and just from the Core  
19 side, we had our Phase 1 for our project for MacArthur A  
20 completed in 2022.

21 We had a Phase 1 completed for MacArthur Field B,  
22 Phase 2, completed in 2023.

23 And in both of those instances, where records research  
24 was done, and the last gentleman that was up was talking about  
25 records research, there was -- our sites were not found to have

1 any recognized environmental concerns.

2 In addition, for MacArthur Field, Phase B, we submitted  
3 our building permit plan check documents, so plans documents.

4 We submitted that in roughly May, April/May of 2023.

5 And in December of 2023, we received our building  
6 permit.

7 So, during that process, plan check goes through the --  
8 in this case, it's through the County, and it goes through the  
9 Public Works Department. They have their building and planning  
10 divisions, they review all of our documents.

11 And based on Ms. Ferrer's or Dr. Ferrer's comments  
12 today, being that the letter was submitted from them in May  
13 of '23, I was a little surprised that, you know, us getting our  
14 permit in December of '23, did not recognize that letter or at  
15 least, it was never brought to our attention that there was a  
16 potential issue.

17 Q So is it fair to say that at no point the County flagged  
18 any issues for Core with respect to Building 401?

19 A They did.

20 For our grading permit on 401 -- 401 B, our stormwater  
21 management system reached just to the west of our site and  
22 because of that, the County Public Works officer questioned if  
23 we were going to have an impact on the Arroyo, which is where  
24 this supposed landfill is located.

25 And so, we went through a number of e-mail

1 correspondence and phone calls and documentation, we provided a  
2 letter from the NRC that stated that our project would not have  
3 an impact on the Arroyo.

4 So, that process took us through public review from the  
5 County, you know, to get to an approval our grading permit,  
6 which we received the letter from the NRC in -- it was  
7 September 26th of 2023.

8 And we got our grading permit approval in October.

9 Q Is there anything else you would like to flag today that  
10 we haven't otherwise touched on?

11 A Well, there was a lot of talk about 401 A, and we're close  
12 to opening the building and ready to house veterans.

13 401 B has been under construction since December of last  
14 year of '23.

15 We have got our foundation already installed. We have  
16 the walls already installed, our roof structure has been  
17 installed.

18 We're ready to start installing windows, and we're  
19 planning on that -- receiving TCO at this time next year, so  
20 between July and August of 2025.

21 Secondly, not only did we receive our building permit  
22 for 401 B, we received -- we submitted additional revisions to  
23 our permit documents that went through review with the County  
24 that those had been approved as well.

25 So, there has been a number of opportunities where this

1 issue with the landfill could have been raised, and it never  
2 was.

3 I think I can speak for most development companies, when  
4 I say when you go through that plan check process, or when you  
5 have a Phase 1 done, and that Phase 1 recognizes you might have  
6 an environmental problem, you do go through a Phase 2 process,  
7 which does take quite a long time, because you are not only  
8 documenting what is going to be entailed or what the cost might  
9 be, then you have to come up with a plan.

10 Then that plan has to be reviewed by the regulatory  
11 agency, like the County, and that does take years.

12 And --

13 THE COURT: When you get Phase 2, it's a  
14 considerable amount of time?

15 THE WITNESS: Right.

16 THE COURT: You just hope you never get there,  
17 Phase 1.

18 THE WITNESS: I think it was stated also, in the  
19 Phase 1, if you are found to not have any recognized  
20 environmental concerns, you don't do anything for that.

21 There is data research that goes into that, and nothing  
22 was found on this site.

23 THE COURT: So the County never flagged you, in  
24 other words, from this May 2023, you are applying for permits  
25 et cetera, no flagging?

1 THE WITNESS: No flagging, whatsoever.

2 MS. PETTY: Your Honor, no further questions at this  
3 point with this witness.

4 THE COURT: Counsel, cross-examination?

5 MR. SILBERFELD: No questions.

6 THE COURT: Any questions by anyone?

7 So thank you for your attendance.

8 Thank you for coming down so hurriedly. I wanted you  
9 and the developers to hear what I didn't know I was going to  
10 hear today, so you are more knowledgeable.

11 Just one question, can you continue construction from  
12 what you have heard today on B?

13 Never mind.

14 THE WITNESS: We are continuing, though.

15 THE COURT: Let's hope and pray, okay, we get these  
16 veterans in.

17 Thank you very much, sir.

18 MS. PETTY: Your Honor, federal defendants would  
19 like to call Mr. Chris Neale.

20 THE COURT: Thank you. Mr. Neale.

21 Sir, would you raise your right hand, please?

22 THE COURTROOM DEPUTY: Do you solemnly swear that  
23 the testimony you are about to give in the cause now pending  
24 before this Court, shall be the truth, the whole truth, and  
25 nothing but the truth, so help up God?

1 THE WITNESS: Yes.

2 THE COURT: Thank you for your courtesy.

3 Would you be seated. We're going to try our best to get  
4 to you tonight.

5 Watch your step.

6 So state your full name for the parties, please?

7 THE WITNESS: Chris Neale.

8 THE COURT: Would you spell your last name, sir?

9 THE WITNESS: N-E-A-L-E.

10 THE COURT: Thank you.

11 CHRIS NEALE,

12 having been duly sworn,

13 testified as follows:

14 THE COURT: Direct examination, please.

15 DIRECT EXAMINATION

16 BY MS. PETTY:

17 Q Good afternoon, Mr. Neale. Thank you for being here  
18 today.

19 Am I correct you are one of the developers of permanent  
20 supportive housing on the West LA Campus?

21 A Correct.

22 Q What company are you associated with?

23 A The Core Companies.

24 Q What is your current position?

25 A President of the Core Companies.



1 Q What are your responsibilities as president?

2 A I'm responsible from beginning to end.

3 So from identifying sites, all the way to completed them  
4 safely, to occupy our tenants, all the way through the end.

5 So for this project, for example, we will be involved  
6 for 15 years, if not 55 years, after completion.

7 THE COURT: Okay.

8 BY MS. PETTY:

9 Q I want to focus a bit on the financial implications  
10 associated with this landfill issue.

11 Are you familiar with the financing with respect to  
12 Building 401?

13 A Yes, I am.

14 Q Can you speak a bit about the financial implications of  
15 this landfill issue?

16 A Yes. The financing for affordable housing is very  
17 complicated.

18 We rely on federal tax credits, tax exempt bonds, a the  
19 very large construction loan.

20 We have money from the State of California, VHHP, funds  
21 in the project, and most of the money comes in upon completion  
22 and CFO.

23 So our biggest challenge, we have about 28 and a half  
24 million dollars, sorry, \$34.5 million in construction loans.  
25 Those are the resources we are using to build the project.

1           The construction lenders want those funds in just to  
2 build the project. And when it gets down, they want to get  
3 paid back quickly, because it's not their business to be in a  
4 permanent building.

5           So our completion conversion, when we say conversion,  
6 it's going from your construction financing converting to your  
7 permanent financing, was to occur about March or April of this  
8 year.

9           I think we're on track to be there around February or  
10 March this year.

11           If it were delayed, we have a few extra months in our  
12 loan documents with our lender so it could go out a few months  
13 through July.

14           But any time beyond that, is the extension and any  
15 extension beyond July, is at the discretion of the construction  
16 lender.

17           THE COURT: Are your -- in conventional financing as  
18 a construction loan, your rates are little bit higher, then you  
19 try to convert that to a more long-term loan.

20           Here, do you have a portion of this in what I call  
21 construction loans that have a higher interest rate you can  
22 lower when you go into permanent?

23 A       Yes.

24           It was financed with tax exempt and taxable bonds, so  
25 these rates are around seven -- we're paying about seven and a

1 half to little over 8 percent interest on our construction  
2 loan.

3 So when we are fully drawn down on our 34.5 million, we  
4 should be when we are completed, our monthly interest expense  
5 is about to be \$225,000 plus or minus.

6 Our permanent loan is supposed to be only 6 million.

7 So we're planning to bring in -- what is that  
8 \$28 million to an eight and a half million dollars between our  
9 investor, and the monies from the state of California through  
10 the VHHP program, that money is intended to come in and pay  
11 down the construction loan.

12 Those funds don't require an interest payment.

13 So our permanent loan, not only is much smaller, 6  
14 million versus 34.5 million, our interest rates is about  
15 5 percent compared to 8 percent.

16 So the difference is \$225,000 a month in interest versus  
17 \$43,000 a month in interest.

18 THE COURT: I understand that. Thank you.

19 BY MS. PETTY:

20 Q What happens if you don't get an extension on the  
21 conversion as you are waiting for that final CFO?

22 A We're at the discretion of the construction lender.

23 So if you go to a point, you can't pay your down  
24 construction lender, you end up at the end of that rope is  
25 foreclosure. They would foreclose on the property, with the

1 ultimate risk of being taken over the properties, and it  
2 displace the residents.

3 So I think while goal 1A, is absolutely can we get these  
4 veterans moved in in September, is we want to move them in and  
5 keep them in.

6 And to keep them in part is we need the CFO within that  
7 timeline.

8 And I think as Aaron said, the expectation, given all of  
9 the information we have had up to date is we're complying with  
10 all of the requirements from the County, all on our building  
11 permits, we would expect to get that within one to two months  
12 after our September TCO.

13 One more thing to add to Aaron's comments, you know, we  
14 have 74 veteran households identified and they have identified  
15 which units they want to move to.

16 We have been working with them for six months, they have  
17 picked their unit, they know the window what it is going to  
18 look at.

19 We're going through the paperwork process. But, yes we  
20 have 43 that are ready to sign contracts, the rest have been  
21 identified, and they are ready to move in.

22 The risk of the delay of CFO, is it delays some  
23 paperwork, and, you know, it's very hard to keep new tenants  
24 engaged in your typical affordable housing project.

25 If someone is homeless, it's even more risky.

1           They have to go get more paperwork, delay affects them  
2 differently, so we have been trying to be very careful to  
3 identify when we think it will be ready.

4           Any movement in that date causes great risk to  
5 maintaining those tenants who are ready to move in.

6 Q       Is there anything else you would like to add to your  
7 testimony today that we haven't otherwise touched on or that  
8 Aaron hasn't touched on?

9 A       I would just like to add there is a lot of -- I'm  
10 wrestling with confusion.

11           Confusion in the fact that we have been involved in this  
12 project since 2016, and there was an extensive CEQA process and  
13 NEPA process that was gone through and development was begin to  
14 thinking about, until that was completed.

15           Then at Phase 1 was done to, you know, the first  
16 project. And a Phase 1 on McArthur B.

17           And we have complied with everything that was set forth,  
18 issues come up. We're used to dealing with these types of  
19 issues.

20           We're in the business of actually recycling land, most  
21 of the land we build on was previously used for something.

22           Many times it's been a gas station, and so we're  
23 accustomed to issues with the land, going through regulatory  
24 process, designing the building appropriately, monitoring when  
25 needed, so we're accustomed to that.

1           What I'm wrestling with, we went through all of those  
2 processes, nothing was identified, then all of a sudden  
3 something has come up to find it as a landfill in August, for a  
4 piece of law in '88 that we have done several rounds of Phase  
5 1s or researched to identify things.

6           So I don't think there was a lack of effort.

7           I'm trying to ask what happens now, like, it's been  
8 50 years, so there is a lot of confusion, and the risk could be  
9 catastrophic.

10           If there is time and added to time, I think there is  
11 hopefully a desire to move them in.

12           But my concern is we need to keep them in.

13           We need a TCO, we need a CFO, we need a clean CFO,  
14 because we also have permit lenders, who are committed to the  
15 cause, being a permanent lender on the VA campus, our  
16 investors. It was a very difficult process going through the  
17 closing, working with all of these different federal and state  
18 agencies.

19           So there was a lot of faith placed in this team,  
20 including the VA, Core, and just any uncertainty that comes up  
21 at the last minute is just, you know, not good for the project.

22           So our goal to move them in September, which is healthy  
23 for the veterans, but keep them in, by addressing this issue in  
24 a timely fashion.

25           MS. PETTY: No further questions, Your Honor.

1 MR. SILBERFELD: No questions.

2 THE COURT: Sir, thank you very much.

3 Thank you for attending today and coming down and I  
4 didn't know what I expected to hear, but you are hearing the  
5 same thing I am hearing.

6 MS. PETTY: Federal defendants call Mr. Tyler  
7 Monroe.

8 THE COURT: Sir, would you raise your right hand.  
9 Thank you.

10 THE COURTROOM DEPUTY: Do you solemnly swear that  
11 the testimony you are about to give in the cause now pending  
12 before this Court, shall be the truth, the whole truth, and  
13 nothing but the truth show help you God?

14 THE WITNESS: Yes, I do.

15 THE COURT: Thank you, sir. Would you please take  
16 the witness stand.

17 The stairs are closest to the wall, I'm just worried  
18 about this small ledge here.

19 THE WITNESS: Yes, Your Honor.

20 THE COURT: Sir, would you state your full name for  
21 the record, please?

22 THE WITNESS: My name is Tyler Monroe.

23 THE COURT: How do you spell your first name, sir?

24 THE WITNESS: T-Y-L-E-R.

25 THE COURT: Monroe, M-O-N-R-O-E.

1 THE WITNESS: Yes, Your Honor.

2 TYLER MONROE,

3 having been duly sworn,

4 testified as follows:

5 THE COURT: Thank you, sir.

6 Direct examination.

7 DIRECT EXAMINATION

8 MS. PETTY: Thank you, Mr. Monroe. Thank you for  
9 being here today.

10 THE WITNESS: My pleasure.

11 BY MS. PETTY:

12 Q You are one of the developers of permanent supportive  
13 housing on the West LA Campus, correct?

14 A Yes, that's correct.

15 Q Which developer are you associated with?

16 A I am will Thomas Safran and Associates.

17 Q Am I correct you are part of the principal developer  
18 group?

19 A Yes, that's correct.

20 Q What is your current position within TSA?

21 A I'm the senior vice president of development.

22 Q What you are your responsibilities?

23 A I oversee the development of our projects, new  
24 construction within or pipeline so from start to finish from  
25 land acquisition, design construction, land use, CEQA,



1 financing, and new construction.

2 Q Am I correct that Building 402 falls within the purview of  
3 TSA?

4 A Yes, that's correct.

5 Q And that essentially means you all are doing the  
6 development for that building, correct?

7 A That's right.

8 Q Where are you in the development stage for Building 402?

9 A We're nearly complete. We're expecting to be complete by  
10 end of this year or early January of next year.

11 Q And if you can briefly describe some of the work that has  
12 gone into getting to the current stage that you are at today?

13 A Sure. Principal developer was selected in 2018.

14 As it relates to VA 402, and the broader environmental  
15 study, the NEPA and then subsequent California Environmental  
16 Quality Act, CEQA clearance for the master plan that was  
17 actually completed through the County of Los Angeles so the  
18 County of Los Angeles was itself the CEQA oversight agency.

19 This issue did not come up with the County during the  
20 CEQA EIR process.

21 Subsequent to that as part of due diligence on 402, the  
22 County of Los Angeles was our plan check oversight agencies, so  
23 all of our permits, much like Core are issued from the County.

24 When processing those permits, we submitted in 2022, and  
25 received permits in late 2022, to start construction in January

1 of 2023.

2 This issue did not come up, but we noticed on ZEMAS, I  
3 don't know off the top of my head what it stands for, but the  
4 site was in a methane zone under the City of Los Angeles.

5 However, the County of Los Angeles doesn't look to ZEMAS  
6 so they weren't asking us for anything pertaining to methane,  
7 but as a precautionary measure, we did the methane study, which  
8 has been shown previously on the screen, where we actually went  
9 out and did 30 vapor probes on the site to identify where that  
10 truly did exist.

11 It was a voluntary measure that we took, not requested  
12 or required by County.

13 As you saw earlier, there were negligible hits of  
14 methane, well below regulatory standards.

15 THE COURT: Uh-huh.

16 BY MS. PETTY:

17 Q Just for clarification purposes, what is ZEMAS?

18 A ZEMAS is the database that the City of Los Angeles  
19 maintains with all kinds of code-related information, basically  
20 a data set for all kinds of land-use related material  
21 information.

22 Q Can you describe what the impact of this landfill issue  
23 presents for Building 402?

24 A Much like Core, we have ready to move in 118 homeless  
25 veterans here, hopefully at the end of this year, if not,

1 January of next year, and this puts a major wrench or fear of  
2 delay in our ability to be able to complete the housing and  
3 move people in, complete the mission of what we were asked to  
4 do.

5           There is a lot of uncertainty when you have been under  
6 construction for 18 months with permits issued by the very  
7 agency who subsequently shows up and says, oh by the way, this  
8 is a new issue and you haven't been able to contemplate that  
9 and deal with it quickly, without understanding it was  
10 happening before, it causes some challenge.

11 Q       Is there anything else you would like to raise today you  
12 haven't been able to touch on with your testimony just now?

13 A       No, I don't think so.

14           MS. PETTY: No further questions, Your Honor.

15           THE COURT: Counsel, cross?

16           MR. SILBERFELD: No questions.

17           THE COURT: Do you have some of the same financing  
18 issues that the prior gentleman testified to?

19           THE WITNESS: Yes, sir. The exact same.

20           THE COURT: And with 118, do you have these folks,  
21 in a sense, either signed up or you are in the process of  
22 approval.

23           THE WITNESS: We are in the process of doing so.  
24 There is a lot of coordination that happens the first project  
25 that comes on, which Core has worked on first and we're next up

1 in line and that process is ongoing right now, absolutely.

2 THE COURT: Sir, I want to thank you for your  
3 attendance today.

4 MS. PETTY: No further questions.

5 THE COURT: Would you like to call another witness?

6 MS. PETTY: Just a moment, Your Honor.

7 THE COURT: Certainly.

8 MS. PETTY: Nothing further from the government,  
9 Your Honor.

10 THE COURT: All right. Are you resting your case at  
11 this time?

12 MR. ROSENBERG: No. Yes, we are, Your Honor.

13 THE COURT: Okay. That subject to going over  
14 documents with Kerlan to make certain, along with the  
15 plaintiffs, that those are received.

16 MR. ROSENBERG: Actually, you are pointing to the  
17 large exhibit and I actually have a tag that I will put on it,  
18 which will be 1642.

19 THE COURT: 1642. Then, tentatively, the plaintiff  
20 has rested. The defense, VA, and HUD also rested?

21 (Exhibit 1642 received into evidence.)

22 MS. WELLS: Yes.

23 THE COURT: All right. Then let me turn to  
24 Bridgeland, are there any witnesses that have previously been  
25 called that you would like to recall at this time?

1 Do you have a witness this evening you would like to  
2 call, or would you like to start tomorrow? Your call

3 MR. GUADIANA: I think we should probably start  
4 tomorrow.

5 Let's take this issue concerning the approval of the  
6 settlement and, counsel, your arguments on this matter?

7 MR. SILBERFELD: Your Honor, we are in further  
8 discussions such that we are actually going to withdraw the  
9 motion at this time and may pursue it later.

10 THE COURT: Thank you very much.

11 Is that acceptable to Bridgeland as well?

12 MR. GUADIANA: Yes, Your Honor.

13 THE COURT: Then what time would you like to resume  
14 tomorrow?

15 Counsel, for your information, I don't think that the  
16 Court is going to inquire any further.

17 It's clear to the Court through Tony DeFrancesco that  
18 this went all the way over to the Chancellor's office to the  
19 chief of staff over there.

20 I'm not going to pursue it further with the university.  
21 But now that linkage is somewhat indelible and concrete.

22 MR. SILBERFELD: May we have just one second, Your  
23 Honor?

24 THE COURT: Certainly.

25 MR. SILBERFELD: So the status of things remaining,

1 is Bridgeland, as I understand it, has two witnesses.

2 We have one rebuttal witness which should last no more  
3 than a half our.

4 At that point we would like to argue tomorrow and close  
5 up the case.

6 Can we start at 8:00 a.m.?

7 THE COURT: 8:00 is fine. You could start at 6:00  
8 if you want to.

9 MR. ROSENBERG: We prefer 8:00.

10 MR. SILBERFELD: I was going to suggest 4:30.

11 THE COURT: It's our usual gathering time as a  
12 dysfunctional family with all of us. Just joking.

13 Go home and get some rest. Tomorrow you have got a lot  
14 of thought to put in your final argument.

15 We will see you at 8 o'clock.

16 (The proceedings concluded at 5:31 p.m.)

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**CERTIFICATE OF OFFICIAL REPORTER**

COUNTY OF LOS ANGELES    )  
  )  
STATE OF CALIFORNIA        )

I, TERRI A. HOURIGAN, Federal Official Realtime Court Reporter, in and for the United States District Court for the Central District of California, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the judicial conference of the United States.

Date: 29th day of August, 2024.

/s/ TERRI A. HOURIGAN

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TERRI A. HOURIGAN, CSR NO. 3838, RPR, CRR  
Federal Court Reporter

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