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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HONORABLE DAVID O. CARTER, JUDGE PRESIDING

UNITED STATES OF AMERICA,)	
)	
)	
)	
Plaintiff,)	
)	
)	
Vs.)	No. LACV90-03122-DOC
)	
)	
MONTROSE CHEMICAL, ET AL., ,)	
)	
)	
Defendants.)	
)	
_____)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS
STATUS CONFERENCE
LOS ANGELES, CALIFORNIA
THURSDAY, JUNE 6, 2024

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A P P E A R A N C E S

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1 LOS ANGELES, CALIFORNIA; THURSDAY, JUNE 6, 2024; 9:11 A.M.

2 ---

3
4 THE COURT: Why don't we go on the record in the
5 matter of United States versus Montrose Chemical. It's
6 LACV90-03122.

7 Counsel, just remain seated. I know each of you
8 now. But just make your appearances, beginning with the
9 plaintiff, please.

10 MS. HURST: Good morning, Your Honor. My name is
11 Patricia Hurst. I'm here on behalf of the United States of
12 America.

13 THE COURT: Pleasure.

14 MS. WIEMAN: Good morning, Your Honor. Catherine
15 Wieman here on behalf of the State of California by and
16 through -- or on behalf of the Department of Toxic Substances
17 Control.

18 THE COURT: Nice seeing you.

19 MR. ALLEN: Good morning, Your Honor. Jose Allen
20 here on behalf of TFCF America, Inc.

21 THE COURT: Pleasure.

22 MR. RICHARDSON: Good morning, Your Honor. Kelly
23 Richardson with Latham on behalf of Montrose.

24 THE COURT: Thank you.

25 MR. GIBSON: Good morning, Your Honor. Ben Gibson

1 also for Montrose.

2 THE COURT: Do any of you go back -- you may,
3 Counsel -- to the litigation with Judge Real and the initial
4 settlement, you know, in early two thousands? I think you
5 did, didn't you?

6 MR. ALLEN: I did, Your Honor.

7 THE COURT: I don't mean to insult you. You both
8 look so young. I needed to check.

9 MR. ALLEN: I try not to admit it.

10 THE COURT: I don't even want to ask. I know you
11 weren't there.

12 MS. WIEMAN: I did not, Your Honor.

13 MS. HURST: My co-workers did go back.

14 THE COURT: Eventually you raise a lot of issues
15 that I really appreciate your bringing to my attention. I'll
16 get to those on the backside with no decision or inference on
17 the Court's part.

18 Let's walk through the initial report. To begin
19 with, I want to compliment on the record all counsel for
20 their efforts in getting a report to the Court that is
21 meaningful and timely.

22 Obviously, there are three consent decrees. I'd
23 like to begin with the statement that there are no formal
24 disputes raised by any party under any of the consent
25 decrees, as stated on page 5, line 16 through 17.

1 I'm humbling asking counsel to bear with the Court
2 as I walk through what Judge Real and John were so familiar
3 with, which I hope I'm getting to be more familiar with.
4 Just beg your indulgence.

5 To date, the groundwater treatment system
6 concerning the O&M consent decree has treated 276 million
7 gallons of groundwater and removed approximately
8 68,138 pounds of contaminants.

9 To me, that sounds like a tremendous undertaking
10 with a lot effort. The poundage of contaminants from my
11 perspective seem large. Therefore, it meets your medium of
12 success.

13 Montrose is preparing to initiate a final
14 functional test in May 2024, which will begin in
15 approximately June 2024. I'd like to know more about what a
16 functional test is. Help me.

17 MR. RICHARDSON: Your Honor, I'm happy to explain
18 it for Montrose.

19 THE COURT: Sure.

20 MR. RICHARDSON: At the completion of instruction
21 of really any complicated system, there's usually a
22 shake-down in testing process. Effectively that's what this
23 is. This is shaking down a complete sort of remodel of the
24 system to ensure that it functions the way that we all hope
25 it does and with those recent modifications. We are in day

1 two or three of that now, and it's been very successful. I
2 think we're operating at 500 gallons per minute, which is --

3 THE COURT: How much?

4 MR. RICHARDSON: 500 gallons per minute. It's a
5 very, very large --

6 THE COURT: So in other words, we already have a
7 functioning system. This is an enhancement of that in some
8 way?

9 MR. RICHARDSON: Correct. Over the last year, we
10 made major modifications to the system.

11 THE COURT: I don't need to know the particulars of
12 that. Okay.

13 When you say "final functional testing" in line 26,
14 the word "final," in other words, is this the last
15 modification that we are making and continuing to draw down
16 the groundwater and remove the contaminant?

17 MR. RICHARDSON: Yes, Your Honor. This is the
18 final modification that we're making under the construction
19 consent decree to say that the system is fully operational.

20 Though I'm sure --

21 THE COURT: But translate that into what we're
22 doing. The construction, does that meet the groundwater
23 treatment system?

24 MR. RICHARDSON: Yes, Your Honor.

25 THE COURT: Okay. Simple as that. I got it.

1 On page 2, "The TGRS O&M manual and Montrose
2 conducted a coordination study to ensure proper adjustment,
3 documentation, and updated labeling of electrical components.
4 The manual was revised and submitted for EPA review on
5 April 19th."

6 Tell me a little bit more about what occurred.

7 MR. RICHARDSON: Because we made major
8 modifications to the system last year, we had to go back and
9 modify essentially the operating manual for the system.
10 That's all. This is a paperwork exercise.

11 THE COURT: Okay.

12 MR. RICHARDSON: Yeah.

13 THE COURT: So the compliance report is submitted
14 in February 28th of 2024, and a "Dissolved Oxygen Pilot Study
15 Work Plan was submitted and approved by EPA in March 21st.

16 "Testing of the ability of the TGRS, which is the
17 Torrance Groundwater Response System, to meet operational
18 objectives without the use of DO removal technology is
19 expected to be completed in 2024."

20 Explain that to me.

21 MR. RICHARDSON: The DO system is a dissolved
22 oxygen removal system to remove oxygen from the groundwater,
23 so that when we reinject it into the aquifer it does not
24 cause fouling. So this is just one of the many components of
25 the groundwater treatment system.

1 THE COURT: Okay.

2 MR. RICHARDSON: So we're testing that.

3 THE COURT: Hold on for a minute.

4 My law clerks are over here. They'll come out and
5 work with you in just a moment. They've changed our
6 courtrooms around. So we were supposed to be in 8 -- they
7 moved me to 9 yesterday. So if you see some of the people
8 coming in, just make sure that they get up here to court.

9 We want to make certain that I've got the pictures
10 of the children. The 2 o'clock in the morning. I need to
11 bear down a little bit about the woman in the car with the
12 five children where we've got some gunshots at 2:00 a.m.
13 Thank God none of those kids got killed out there. Okay.

14 So Don's here. My law clerks are here. I may be
15 calling you to the stand, if you don't mind, just to talk a
16 little bit about what we're seeing out in the community.
17 That has nothing to do with DO and groundwater.

18 I apologize.

19 MR. RICHARDSON: No worries, Your Honor.

20 This DO system has nothing to do with the actual
21 treatment of hazardous substances. That's still all
22 occurring.

23 THE COURT: What is --

24 MR. RICHARDSON: I'm sorry.

25 THE COURT: What does this system do?

1 MR. RICHARDSON: It removes oxygen from the water.
2 If too much oxygen gets into the water before it gets
3 reinjected, so to preserve the resource, we're extracting
4 water, treating it, and we're putting it back in the aquifer
5 so we're not losing the water.

6 THE COURT: Kind of like fracking -- I'm just
7 kidding you.

8 MR. RICHARDSON: To preserve that water, we have to
9 be able to reinject it. If there's too much oxygen in it, we
10 can't reinject it. It plugs.

11 THE COURT: It's a reinjection process, and it
12 allows us to undertake that reinjection.

13 MR. RICHARDSON: Exactly.

14 THE COURT: By removing excess oxygen.

15 MR. RICHARDSON: We're testing that system this
16 year.

17 THE COURT: All right. The DNAPL consent decree,
18 which is the dense non-aqueous phase liquid contamination
19 that rests primarily under the footprint of the former
20 Montrose plant.

21 And I've looked at those diagrams again. I left
22 them in Santa Ana, I apologize. I've got some charts.

23 (Noise interruption)

24 THE COURT: We're not going to be on Zoom today.
25 We can negate that.

1 "Montrose has removed more than 43,500 gallons of
2 DNAPL and 410,300 pounds of volatile organic compounds."

3 I don't conceptually know what that looks like.
4 But to me, that sounds like an incredible undertaking and a
5 real success story.

6 You go on to say that, "A full scale SVE system has
7 been operational. That's our soil vapor extraction."

8 I want you to describe to me what that looks like
9 on the Montrose property and how that differs from the
10 reduction of contamination that we've spoken about on page 5,
11 lines 21 through 25.

12 MR. RICHARDSON: Thank you, Your Honor.

13 For the DNAPL, it's above the water table. So
14 we're talking about within the soil.

15 And the way that we're removing that mass of
16 contaminants is effectively taking what you can think of as a
17 straw, a slotted straw, massive number of wells, I think we
18 have more than a hundred of these wells that are installed
19 into the soil. We apply a vacuum to that. So we suck on the
20 straws. That removes the volatile contaminants that are
21 within the soil.

22 When it comes out, we then take that air, treat the
23 air to remove all of that contamination and then emit the
24 clean air to the environment.

25 THE COURT: When you do this, are you actually

1 removing soil, or are you removing air from the soil?

2 MR. RICHARDSON: We're removing the contaminants
3 from the soil but not the soil. The clean soil stays behind.

4 THE COURT: So it comes in a -- not atmospheric,
5 but it comes in a non-solid extraction?

6 MR. RICHARDSON: Exactly. So think about a straw
7 in a cup of ice. Just ice. It's very similar. You're
8 pulling the vapors from around the ice cubes if the ice cubes
9 are the soil and taking the contamination out.

10 THE COURT: Online 24 it says, "Completion of
11 construction of the ERH component, which is the electrical
12 resistance heating component, will occur following
13 modification of recently installed equipment in concert with
14 the Los Angeles Department of Water and Power."

15 Explain to me what's happening.

16 MR. RICHARDSON: So the straws -- the wells
17 themselves on the SVE system will remove a lot of mass. To
18 get the most mass out, we need to heat the subsurface.

19 THE COURT: Heat it?

20 MR. RICHARDSON: Yep. We heat the subsurface using
21 electrical resistance heating, very similar to your home,
22 portable electric heater, just massive scale. It heats the
23 contaminants, volatilizes them, and then our straws can pull
24 the contaminants out.

25 THE COURT: That heat then really is an expansion

1 technique of what I'm going to call atmospheric, which is the
2 wrong word. Don't worry about that. That's going to allow
3 us to, because of that heating and expansion, extract more...

4 MR. RICHARDSON: Exactly.

5 THE COURT: All right. How are we doing with the
6 Los Angeles Department of Water and Power?

7 MR. RICHARDSON: The process is continuing,
8 Your Honor.

9 We were able to locate a very rare part for our
10 electrical system that we thought we would not get until the
11 end of this year. So the good news is, it's moving quite a
12 bit faster than the last time we appeared before you or
13 anticipated when we appeared before you.

14 THE COURT: That's on page 7, which was my next
15 question. And now you've answered it: What was that rare
16 part?

17 I don't need to know the particulars of that. Just
18 that it was hard to get. You got it. Okay.

19 When EPA states in April of this year you have
20 formally confirmed the receipt of this ERH baseline sampling
21 data memorandum, does that mean -- strike that.

22 What does that mean? In other words, I'm on
23 line -- page 4, lines 5 through 7. I'll read it.

24 As of April 2024, EPA has formally confirmed that
25 it has no further comments.

1 Is that a way of saying that they're in compliance;
2 that you're satisfied with this submission?

3 MS. HURST: Your Honor, it means that EPA is
4 satisfied with Montrose's proposal outlined in its
5 October 23rd, ERH baseline sampling data submittal --

6 THE COURT: Okay.

7 MS. HURST: -- for the placement of these
8 confirmation boring locations. We're in agreement that that
9 plan is a good plan.

10 THE COURT: And when it says on the final ERH
11 "confirmation boring locations." You mentioned you have over
12 a hundred, let's call them bore holes.

13 Are there more boring locations that are going to
14 commence in the future?

15 MR. RICHARDSON: I do not believe there are any
16 more needed.

17 THE COURT: So right now whatever we see is
18 hopefully -- so when it says "recommendation" on the final
19 ERH confirmation boring locations, that's not future looking,
20 we're satisfied right now between the parties that we have
21 the bore holes we need?

22 MR. RICHARDSON: Yes.

23 THE COURT: Okay. I don't know what a BFOG
24 contingency plan is. But it states, "It defines how the
25 potential vertical migration of the DNAPL during

1 implementation of the ERH remedy will be monitored and
2 actions requires should migration occur."

3 My question is: Do we know of any migration at the
4 present time?

5 MR. RICHARDSON: No, Your Honor.

6 THE COURT: Okay. Excellent. Excellent. I'll
7 tell you why, in Saipan, we have basically receivership
8 over all of the facilities. So we had oil coming from tank
9 104, which was a million-gallon oil tank. We had migration
10 towards the ocean. We eventually took out, I think, the last
11 40,000 gallons by hand. But when it rained, we continued to
12 have migration.

13 What we couldn't figure out is if we had that the
14 right tank or we simply had oil in the soil that was
15 continuing to migrate.

16 And over the last five or six years, that's
17 decreased so significantly that we believe we have the
18 source, that this is what I call the residue that we are now
19 stopping with a barrier 15, 30 feet down.

20 So you don't know of any migration at the present
21 time?

22 MS. HURST: No, Your Honor. But we wanted to be
23 prepared if there is any. That's what the contingency plan
24 is for.

25 THE COURT: "Montrose submitted its revised ERH and

1 unsaturated zone SVE O&M plan manual in August 2023. The
2 second revision was submitted in December 2023. EPA provided
3 comments in February 2024, which are connected to EPA's
4 comments to the revised BF09 contingency plan.

5 "Montrose is preparing a response to EPA's comments
6 and will prepare a revised plan manual upon resolution of the
7 revised BF-09 contingency plan comments. Remediation efforts
8 will not be -- will not be delayed by finalization of the
9 plan manual as Montrose continues to remove DNAPL."

10 So here's what I've absorbed, then correct me.
11 Look, folks, we're going ahead with what I call the hard
12 work. We're extracting the contaminants. We're simply
13 catching up with our manuals.

14 MS. HURST: Correct, Your Honor.

15 THE COURT: Good enough?

16 MR. RICHARDSON: Correct.

17 THE COURT: Good enough for me too. Okay. Thank
18 you.

19 "The Southern Pathway Consent Decree." When I
20 first got the case and I tried to catch up with your
21 knowledge, I was most concerned with anything that had
22 "pathway" on it.

23 And Montrose was EPA. And DTSC conducted the soil
24 sampling investigation of the Southern Pathway as required by
25 the Southern Pathway Consent Decree -- which of course I'm

1 familiar with -- in October to November of 2022.

2 "The results of this investigation did not raise
3 any significant concerns and will be formally evaluated in
4 the human health risk assessment that is required 60 days
5 after EPA approves the remedial investigation report."

6 Would you unpack that for me, what's being said
7 there?

8 MS. HURST: Yes, Your Honor.

9 THE COURT: Pull that mic just a little closer.
10 It's my hearing. You've got a quiet voice. It's my hearing.

11 MS. HURST: Yes. I will get way closer.

12 We talked about the results of this investigation a
13 little bit the last time you had us before you, Your Honor.

14 The results showed in very broad terms that there
15 were no contaminants that were of concern above 15 feet below
16 the ground surface; that the contamination that we found was
17 buried. We talked about how that likely happened during
18 development efforts when there was in-fill to move the --

19 THE COURT: Let me repeat that back just so I
20 remember. I'm carrying 250 cases. I know you told me some
21 of this last time. But it's like the Rocky Horror Picture
22 Show, I have to hear it multiple times.

23 Judge, the explanation for the lack of
24 contamination in some amount of footage towards the surface
25 is because we've had landfill?

1 MS. HURST: During development of the communities
2 that have come into that space over time, correct.

3 THE COURT: 15 feet of landfill?

4 MS. HURST: That -- apparently so. Yes,
5 Your Honor.

6 THE COURT: Well, they'll be safe from climate
7 change. I'm just joking with you.

8 "EPA sent a letter to each resident and property
9 owner providing them with the DTT soil test results from
10 beneath their property on November 2023. EPA also provided
11 updates to the community in its semi-annual public meeting of
12 the Montrose site."

13 Let me focus on just the public for a moment. It's
14 critical that the folks in this area feel a part of this
15 process. It's critical whether they have an objection or
16 concern that they have a voice to bring that. It may be
17 well-placed; it may not be well-placed.

18 How active are we in terms of the community at the
19 present time? I don't know how to define present time. I
20 know as of November 2023, letters went out.

21 But I also know that initially when I got the case,
22 there was some concern in the community. I had gotten some
23 initial input when I just received the case initially that
24 there was a feeling that there wasn't enough communication, a
25 concern; and over the years that seems to have gone away, but

1 I'm not certain of that. I'm not certain what's really out
2 there in terms of the community. I don't want to drive out
3 there and have a public forum. But they need to be involved;
4 they need to be knowledgeable; they need to have a voice.

5 So how are we doing with our community out there?

6 MS. HURST: Your Honor, EPA is very much dedicated
7 to making sure that the community surrounding --

8 THE COURT: I know that.

9 MS. HURST: -- is involved and informed.

10 THE COURT: I want to know what we're doing.

11 MS. HURST: Sure.

12 THE COURT: I take that as the gospel. I know it's
13 well-intentioned.

14 Is this letter concerning the test soils in
15 November of 2023 our last communication?

16 MS. HURST: I don't believe so. They've had a
17 public -- at least one public meeting since that time to
18 explain the results and the process. And --

19 THE COURT: Tell me how that -- tell me who was
20 there, when that occurred.

21 MS. HURST: I'm afraid I don't have the specifics
22 of that information.

23 Do you, Mr. Richardson?

24 MR. RICHARDSON: I do, Your Honor.

25 It was actually very well attended. It was about

1 six months ago. I think even more importantly, there's one
2 in less than three weeks --

3 THE COURT: Oh.

4 MR. RICHARDSON: -- that will be held out there.
5 They will have a booth on this specific pathway at that
6 community meeting to be held on July -- June 26th.

7 THE COURT: June 26th.

8 MR. RICHARDSON: Yeah.

9 THE COURT: Excellent. So we've got a meeting set
10 up. If people are concerned, they can ask questions. You
11 can give them data.

12 I want to compliment you on that. It's just
13 critical from my perspective that I don't hear later on that
14 there's a concern. Or if there is a concern, we're able to
15 discuss that, you know, as we go. So once again, my
16 compliments.

17 MS. HURST: Thank you, Your Honor.

18 THE COURT: Defendants submitted a draft of the
19 remedial investigation report in July of 2023. "EPA DTSC
20 have reviewed the draft remedial investigation report. And
21 meeting with DTSC to coordinate agency comments on this draft
22 report. It's anticipated in the second quarter of 2024. The
23 remedial investigation report will be due 45 after the agency
24 comments."

25 How does that report reflect in the community if

1 there are -- how does that report affect any questions that
2 you might anticipate coming up on June 26th? Or does it?

3 In other words, I don't understand the report. So
4 I get paid a lot to think about the parade of horrors that
5 could occur. I don't know if this report is relevant to the
6 community, or they feel that it's not timely and we're here
7 for this meeting and...

8 MS. HURST: The report is out there in draft form.
9 The information from the report, whether it's finalized or
10 not, will be presented to the community at the meeting.

11 THE COURT: Is it presented at the meeting?
12 Because normally when I get something filed like I did last
13 night on the homeless case at 6 o'clock, I was up until 12:30
14 reading. I'll thank the city for that today. But I can't
15 absorb it quickly enough.

16 Is there some way that these folks are
17 knowledgeable -- or then there will be a subsequent meeting
18 at some point where -- in some period of time that hasn't
19 been set so they can absorb this information.

20 MS. HURST: Correct, Your Honor. This is a very
21 mature site with a very mature relationship with the
22 community. We meet regularly with the community every six
23 months or so.

24 THE COURT: About every six months.

25 MS. HURST: Exactly. So we keep them involved in

1 every step of the process.

2 THE COURT: Okay. Thank you.

3 "Montrose also submitted for EPA and DTSC's review
4 a proposal for remedy, treatability study to evaluate the
5 bioavailability DDT in aged soils.

6 "In January 2024, EPA provided a letter stating
7 that Montrose may elect to conduct a bioavailability study
8 which noted that one method development study on the
9 bioavailability of the aged DDT using a mouse model assay
10 cannot determine the relative bioavailability of DDT in
11 humans."

12 Unpack that for me. What is being said here?

13 MR. RICHARDSON: So, Your Honor, the nature of the
14 study is to assess what time does to the availability of an
15 organism to up take the contaminant.

16 THE COURT: Say that again.

17 MR. RICHARDSON: So when a pollutant has been in
18 the environment for a long time, it tends to adhere very
19 strongly to soil particles, particularly chemicals like DDT.
20 So what the study wants to assess is how much the
21 contaminants in the soil are actually available to an
22 organism to uptake.

23 THE COURT: So is the organism eating the DDT?
24 Simple as that?

25 MR. RICHARDSON: I'm sorry.

1 THE COURT: Is the organism eating the DDT?

2 MR. RICHARDSON: In the study, yes.

3 THE COURT: Okay. Now, hold on. No different than
4 oil.

5 MR. RICHARDSON: Exactly.

6 THE COURT: I understand oil well. I don't
7 understand DDT as well. How is it consumed by an organism?
8 And is this organism induced by us or enhanced by us? Or is
9 it an organism that already exists in the soil that naturally
10 through nature eats my DDT?

11 MR. RICHARDSON: That's a great question, Your
12 Honor.

13 This study is theoretical. In the sense that the
14 contamination is 15 feet below ground surface, there are no
15 organisms at that depth.

16 THE COURT: Let me repeat that back. On my 15 feet
17 of fill, that's where we are going to have the consumption --
18 I'm going to say eating the DDT. But 15 feet below, why
19 aren't the organisms able to eat the DDT if it's 15 feet
20 below the landfill?

21 MR. RICHARDSON: There's just not an ecosystem
22 there, Your Honor. There's not a pathway into the ecosystem
23 there.

24 THE COURT: Got it.

25 What's a mouse model assay?

1 MR. RICHARDSON: That's toxicological speak,
2 Your Honor. It's a study of the absorption of the
3 contaminant by the mouse.

4 THE COURT: By the mouse?

5 MR. RICHARDSON: By the mouse.

6 So this study will actually feed lab --

7 THE COURT: It says, m-o-u-s-e. Using a mouse
8 model assay. It's line 24. That caught my eye, and I didn't
9 know what a mouse was.

10 MS. HURST: It's an actual animal, Your Honor.
11 They're using a mouse or a group of mice --

12 THE COURT: A group of mice?

13 MS. HURST: -- in their study. They're feeding
14 these mice --

15 THE COURT: DDT?

16 MS. HURST: -- soil contaminated with DDT.

17 THE COURT: They're feeding mice DDT?

18 MS. HURST: As part of their study, yes.

19 MR. RICHARDSON: Just in a lab context, Your Honor.

20 THE COURT: I'm not concerned whether it's out in
21 nature or whatever. I'm joking about that. I'm not too
22 concerned about the mouse. I'm more concerned about human
23 beings so...

24 MR. RICHARDSON: That's what this study is intended
25 to assess. We want to know that too. What is the impact of

1 the digestion of DDT-contaminated soil.

2 THE COURT: Are these -- pioneering studies. Are
3 these studies that in the future if we had, you know, other
4 sites unconnected with this litigation with DDT --

5 Kevin, come on in. You can move around informally
6 if you want to. The law clerks are over here, you know.

7 So is what you're doing, what I'm going to call
8 pioneering, is this study that you're undertaking something
9 that we can use in Connecticut if there was DDT? Or is this
10 standard?

11 MR. RICHARDSON: I think the answer is, Your Honor,
12 both. This is a fairly documented technique.

13 As to DDT, this is fairly pioneering. So the
14 University of Florida researchers that are doing this study
15 I'm sure will use this study to do future studies of DDT at
16 other locations; highly likely.

17 THE COURT: I'm not sure I understand that yet but
18 I'm going to pass it by. I don't think I have to be
19 knowledgeable in each portion. I don't think it's as
20 relevant or of great concern to me -- or any concern right
21 now.

22 "In February 2024 Montrose submitted a
23 bioavailability study work plan to EPA detailing Montrose's
24 approach using a mouse study and presented this activity as
25 part of an all-hands meeting with EPA and DTSA in March 2024.

1 "Finally, Montrose submitted a letter to EPA in
2 April 2024 responding further to EPA's comments raised in its
3 January 2024 letter, as well as those raised verbally during
4 the March 2024 all-hands meeting, requesting a meeting with
5 EPA's technical review work group bioavailability committee.
6 Montrose and EPA will continue working towards a resolution
7 of the proposed bioavailability study."

8 Explain that to me again.

9 MS. HURST: Your Honor, may I just summarize the
10 nut of the issue here. EPA very conservatively assumes and
11 has assumed that 100 percent of the DDT in soils is
12 bioavailable to humans when humans come into contact with
13 that contaminated soil. It must do so until it has evidence
14 otherwise.

15 THE COURT: I see.

16 MS. HURST: Until now, there have been no studies
17 of bioavailability in humans.

18 THE COURT: So this is pioneering?

19 MS. HURST: Montrose has proposed to do this
20 bioavailability study. Under this particular consent decree
21 EPA does not oppose its proposal to do this bioavailability
22 study. They are free to incorporate the results of their
23 study into the risk assessment that is required under this
24 consent decree as part of their uncertainty analysis. But
25 EPA's position is that based on one study, we cannot revise

1 EPA's guidance with respect to the assumption that
2 100 percent of the DDT is bioavailable to humans. That's the
3 crux of the issue here.

4 MR. GRONBORG: The reference, Your Honor, to the
5 technical review work group are these sort of experts in the
6 world on this issue. And we both -- EPA in a recent letter a
7 few weeks ago -- said we should reach out to that group.
8 We're reaching out to that group. I think the letter went
9 out last night to that group.

10 So in other words, there's a technical issue that
11 we're still working out with EPA.

12 THE COURT: Explain that technical issue again. I
13 didn't understand. I apologize.

14 MR. RICHARDSON: The issue is how you use the
15 information from the study. And that's unresolved.

16 THE COURT: How to use the information what?

17 MR. RICHARDSON: From the study. At the conclusion
18 of the study, what does that data really mean.

19 That's something that the technical teams are
20 working out, Your Honor. It's still in the works,
21 Your Honor. There's no issue yet to bring to the Court.

22 THE COURT: Depending upon eventually an agreement
23 or disagreement, if there's a disagreement on how that would
24 be used, who decides that?

25 MR. RICHARDSON: We would have the formal dispute

1 resolution process under the consent decree, Your Honor.

2 THE COURT: Okay.

3 MS. HURST: That's correct, Your Honor. Although
4 in this particular case, it's very likely that because the
5 contamination that we found in the pathway is 15 feet down,
6 the risk assessment will say there's no exposure pathway. So
7 there's no risk to apply this -- this particular study to.
8 So we -- we, the United States, believe -- I think the
9 defendants would acknowledge that at this point the issue is
10 premature and --

11 THE COURT: Exactly.

12 MS. HURST: -- we'd like to just sit back and wait
13 and see what the study results are and how they propose to
14 use them --

15 THE COURT: I have the same conclusion.

16 MS. HURST: -- then we'll come to you.

17 THE COURT: In other words, I understand it much
18 better now. But there's no action I'm suggesting.

19 Because down on line 25 on page 9, "the timing of
20 the feasibility study revision does not delay remedial action
21 on the soils operable unit."

22 In other words, I read that as, You can go ahead
23 removing this contamination. And whatever this
24 bioavailability study or whatever is, and the agreement or
25 disagreement, it's not on my table right now.

1 MR. RICHARDSON: Correct.

2 THE COURT: It may be in the future. But it's not
3 right now.

4 MS. HURST: That's correct, Your Honor. It's not
5 ripe, Your Honor.

6 THE COURT: Now, is there a higher health issue in
7 this area of cancer or other kinds of imaginable health
8 issues? Or do we know? In other words, another way of
9 asking that is: We know for a long time because of the air
10 quality down in Wilmington because of the oil plants, that if
11 I took the folks living down in the Wilmington area, you
12 would see a much higher cancer rate than you would if you
13 move up the 110 freeway towards downtown Los Angeles. And
14 UCLA's done a lot of studies.

15 Do we have any studies concerning this DDT in these
16 residential areas involving human beings in terms of any
17 increased health risks? Or are we just in a place where we
18 just don't know.

19 MR. RICHARDSON: Your Honor, there were massive
20 studies done --

21 THE COURT: Tell me about that.

22 MR. RICHARDSON: -- in the '80s and '90s.

23 There were extensive studies done in the '80s and
24 90's, including looking at lots of residential areas miles
25 away from the property to see if there were any impacts in

1 any of those areas.

2 THE COURT: So we didn't have a higher cancer rate
3 at least at that time?

4 MR. RICHARDSON: Correct. Nor was there actually
5 DDT in all of the yards that were studied during that time.

6 THE COURT: Okay.

7 "Elected officials are aware of the status of
8 offshore issues."

9 Now, I caused this problem last time so I own it.

10 In 2024, I questioned whether elected officials
11 were aware of these offshore issues. The reason for that is
12 that the Los Angeles Times -- do you have copies of these
13 that we can put up on the board or do we have to use ELMO --
14 started publishing way back in 2020. This initial article of
15 "Los Angeles Coast was once a DDT dumping ground."

16 So let's pull that up for a moment. Because you're
17 going to get into a disagreement about what I call your
18 belief that it's not 300- to 500,000 barrels of DDT. It may
19 be 25,000; that there's a lot of dumping going on; that first
20 of all this is resolved in the settlement agreement from your
21 perspective. The government disagrees with that. That's not
22 on my table today to decide.

23 This had to cause more than a concern especially if
24 it's on the front page --

25 Folks, come on in. Have a seat for a moment. You

1 might find it interesting; you might not find it interesting.
2 The City might find it interesting. The County might find
3 this interesting. Mira, and the City, just kind of listen
4 for a while.

5 Okay. Now, I'm going to retrace what I know about
6 this. Look, we've got a settlement. We've got the Palos
7 Verdes shelf. You've done an excellent job getting the DDT
8 off the Palos Verdes shelf. You're making significant
9 progress with the Court's compliments on the pathway. We've
10 got the Montrose site that we're extracting, you know, tens
11 of thousands of pounds of contaminants from. We've got fill
12 on the top from my perspective admirable.

13 What caught my attention was that this case has
14 been pending 30 years with Judge Real. His demise and his
15 special master's demise, John, leaves me as the absorbing
16 judge -- that's a bad word. But the next judge in succession
17 of trying to figure out what happened in your settlement way
18 back when.

19 Your contention is that there's still potential
20 liability on Montrose's part. Montrose's part is, No, we've
21 got a clause that absolves of us liability. And what was
22 that, the largest settlement I think in the country's history
23 concerning our environment.

24 But would you go to this page. "The robot made its
25 way 3,000 feet down to the bottom. Beaming bright lights in

1 the camera slowly skim the sea floor, et cetera."

2 And then if you flip over to these pages. Yeah, go
3 to page 9 of 50. You've got a bunch of advertising in
4 between.

5 Now, this had to cause quite a sensation back in
6 2020. "As many as a half million of these barrels could" --
7 didn't say are, but "could still be under water right now.
8 According to interviews and a Times review of historical
9 records, manifests, undigested research from 1947 to 1982,
10 the nation's largest manufacturer of DDT, a pesticide so
11 powerful that it poisoned birds and fish was based in
12 Los Angeles.

13 "An epic Superfund battle later exposed the
14 company's disposal of toxic waste through sewer pipes that
15 poured into the ocean. But all the DDT that was barged out
16 to sea drew comparatively little attention.

17 "Shipping logs show that every month in the years
18 after World War II thousands of barrels of acid sludge laced
19 with a synthetic chemical were boated out to a site near
20 Catalina and dumped into the ocean, so vast that according to
21 common wisdom at the time, it would dilute even the most
22 dangerous poisons."

23 Now let me stop.

24 You have a disagreement about whether it's as
25 little as 25,000 barrels or less other munitions. What's out

1 there? Because if we've got 300- to 500,000 barrels, we may
2 not be buying fish if this deteriorates for a long time.

3 In other words, Scripps goes down. Do we -- we
4 don't know, do we?

5 Now, I'm going to get to the next L.A. Times
6 article in a moment because these apparently hit the front
7 page. So, you know, here it is.

8 We don't know, do we?

9 MS. HURST: We don't know yet, Your Honor. We're
10 beginning to ask the question that you're asking now.

11 THE COURT: I'm going to keep asking. If we don't
12 know yet, what methodology do we undertake to find out if
13 we've got 3- to 500,000 of deteriorating DDT barrels or
14 25,000?

15 Is Scripps still actively involved? Or have we
16 simply noted the problem and moved on until these barrels
17 decompose?

18 MR. RICHARDSON: Yeah. This --

19 THE COURT: Then if Montrose is not liable, so be
20 it. But if you are, we want to make certain that the
21 Superfund is gearing up now because Montrose can't finance
22 this kind of cleanup. The government is going to have to
23 come in.

24 What are we doing?

25 MS. HURST: Your Honor, our description of the path

1 that the work group that we are participating in -- "we"
2 meaning the United States, and I believe I speak for the
3 Department of Toxic Substance Control as well -- includes
4 many members, from academia, from non-profit communities --

5 THE COURT: I'm going to stop you. Excellent.

6 That's where we were last time. Now I'm going to
7 kid you a little bit.

8 So we just had an unrelated case, a homeless case.
9 So apparently a board up in Sacramento that was looking for
10 years at funding, et cetera, and the board didn't even meet.

11 I just tell that you story because I've got another
12 audience in a moment in another case.

13 MS. HURST: Sure.

14 THE COURT: Now, I want you to tell me about this
15 board, because I know Feinstein was actively involved. We
16 have a new senator, Padilla, and we've got an interim senator
17 who probably isn't going to be there long enough to
18 undertake.

19 Before I ask you who that board was, who is the
20 board? Who sits on it? Where are they located? When is the
21 last meeting?

22 MS. HURST: I have a list of the members of the
23 board that I can provide to you or read to you if you wish.

24 Would you like me to do that first or describe the
25 steps that the work group has developed?

1 THE COURT: I want to hear who the board is. Where
2 they are.

3 MS. HURST: Okay. I can provide this list to you.

4 THE COURT: If you want to, so you don't have to
5 read it into the record, I'll make it an exhibit number.

6 Where are they located, though? Who are these
7 folks generally?

8 MS. HURST: I'll give you a summary of some of the
9 offices that are represented on the work group, Your Honor:
10 The California Department of Fish and Wildlife, Marine Region
11 Marine Environmental Review and Water Quality Project; the
12 California Department of Toxic Substances Control.

13 THE COURT: Good enough. And on and on.

14 When did they last meet? It was Padilla's office
15 involved in this. In other words, is the senator involved
16 who can carry some weight to D.C. and say we've got anywhere
17 from, you know, 25,000 to 500,000 barrels of DDT in barrels?

18 MS. HURST: I can't speak for Senator Padilla, Your
19 Honor. I don't know.

20 THE COURT: We have no political power in a sense.

21 MS. HURST: We have three branches of government.

22 THE COURT: One sediment sample showed DDT
23 concentrations 40 times greater than the highest
24 contamination recorded at the Superfund site.

25 Then if you flip the page for just a moment to this

1 diagram. This allegedly is the Superfund site that was being
2 discussed. I think Superfund Site Number 2. I am doing that
3 from memory.

4 But later on, other sites are located. And records
5 are apparently obtained -- flip it one more. And one more.

6 That's our October 2020 article. Whether Montrose
7 contends that this is accurate or not, whatever the amount of
8 barrels are, there's a significant amount apparently.

9 We get now to August 4th, 2022. Could you put that
10 up.

11 Now, this is a headline that would grab any reader.
12 It says, "History of DDT ocean dumping off L.A. coast even
13 worse than expected."

14 So this is a follow-up. It is the same writer.
15 It's Rosanna Xia, Z-i-a, [sic] from the Los Angeles Times.

16 It basically states that it's far worse than
17 initially was believed, at least in her first article.

18 And here on this page, in the bottom paragraph they
19 note that it also is far greater than any alleged activity by
20 Montrose at the time. But we've got a lot of what I'm going
21 to call chemicals from oil drilling waste.

22 Then it goes on to say, "Also have been dumped
23 decades ago, more than a dozen areas off the Southern
24 California site."

25 So if we started with site 2, how many other sites

1 have we identified where you believe records may show that
2 Montrose was allegedly involved in dumping, whether it's
3 25,000 or 500,000 barrels?

4 MS. HURST: Your Honor, I want to clarify something
5 that I had said the last time that we were before you. Our
6 research shows that Montrose was involved in bulk dumping of
7 DDT.

8 THE COURT: Right.

9 MS. HURST: But do not have evidence that it dumped
10 DDT in barrels. That's the first thing.

11 THE COURT: All right. Now, bulk meaning what?

12 MS. HURST: It took its DDT waste out in bulk --

13 THE COURT: But is it in a container?

14 MS. HURST: It was contained in bulk, not in
15 barrels.

16 THE COURT: Hold on. Wait. Wait. No. No.

17 There's a difference to me between, I've got a pile
18 of DDT and I take a shovel and throw it into the water. That
19 then gets dissolved between 1947 and 1955. The public
20 doesn't even know about it. We've got some kind of
21 deterioration rate. Versus barrels, which is a technical
22 term. We get it. But bulk. Is it in a some kind of
23 container? The reason I'm asking that is it doesn't matter
24 to me if I define it as a barrel or bulk if it's a container
25 because I've got a deterioration rate. And you know my next

1 question is: When does this deteriorate? When do I stop
2 buying fish?

3 MS. HURST: My understanding, based on the
4 historical records -- and Mr. Richardson can correct me if I
5 am wrong about this.

6 THE COURT: You might want to listen to this.

7 MS. HURST: The vessels contained areas of storage
8 where the liquid, acidic waste with DDT in it, was loaded
9 onto the vessel.

10 THE COURT: Okay.

11 MS. HURST: It was transported out to --

12 THE COURT: No, I get that.

13 MS. HURST: -- site 2 and then --

14 THE COURT: Is it in a container of some type; yes
15 or no?

16 MS. HURST: It was contained within the vessel. A
17 storage area within the vessel.

18 THE COURT: We're going to be here all day. I'm
19 going to ask it again. There's a barrel. We know what a
20 barrel is. I'm not going to let you redefine this.

21 Was it contained inside some kind of --

22 MS. HURST: Not when it was released over the
23 vessel.

24 THE COURT: So when it was released it was simply
25 released into the ocean --

1 MS. HURST: Correct.

2 THE COURT: -- so that DDT dissipates in some form,
3 I mean at that time?

4 In other words, it gets dumped. I'm not concerned
5 about the deterioration of 500,000 barrels of DDT, because
6 whatever happened back then, we've already consumed that, if
7 it's in bulk, right?

8 MS. HURST: I don't know, Your Honor. I don't have
9 that expertise.

10 THE COURT: Wow. Okay. Are we doing anything to
11 find out?

12 MS. HURST: As I said -- and I want to be clear
13 also about the fact --

14 THE COURT: Are we doing anything to find out?

15 MS. HURST: -- the United States has not --

16 THE COURT: Hear my question. Are we doing
17 anything to find out that you know about?

18 MS. HURST: To find out what, Your Honor?

19 THE COURT: If in fact this bulk that you referred
20 to in volume was dumped in a finite period of time, like,
21 say, 1947 to 1954, and all I have to be concerned about, and
22 the city and the county have to be concerned about, is
23 anywhere from 25,000 to 500,000 barrels of DDT. And those
24 are barrels.

25 MS. HURST: The United States is taking this

1 problem to be a far more universal problem than just
2 Montrose's --

3 THE COURT: I understand that.

4 MS. HURST: We are reviewing the records that we
5 have on Montrose's dumping.

6 We can provide the dates on which we have records
7 of Montrose dumping.

8 However, there were so many other people dumping
9 all sorts of things in vessel site 2.

10 THE COURT: I just said that.

11 MS. HURST: Yeah.

12 THE COURT: I just said that.

13 MS. HURST: Yeah.

14 THE COURT: I'm going to come back and ask again.
15 I've got 300- to 500,000 barrels of DDT allegedly, according
16 to the Los Angeles Times. I don't know if they're accurate
17 or not.

18 MS. HURST: They were not accurate.

19 THE COURT: Okay. How inaccurate are they? In
20 other words, do I have 25,000 barrels? Do I have
21 50,000 barrels? What do I have out there?

22 MS. HURST: The later observations by Scripps as it
23 develops its technology and which L.A. Times reported, showed
24 that a lot of those objects probably are not barrels but
25 munitions. So we -- we're still looking at whether or not

1 those objects are barrels.

2 THE COURT: I can read this entire article. I
3 don't know if it's accurate or not. I understand that
4 there's oil. I understand that there's munitions dumped.

5 But also repeatedly now in three occasions at least
6 there's a belief that we've got anywhere from 300,000 to
7 500,000 barrels, which we may be accurate or not. And what I
8 want to know is the degree of inaccuracy. Or we don't know.
9 And that's fine.

10 MS. HURST: We don't know, Your Honor.

11 THE COURT: That's fair enough.

12 MS. HURST: At this point, Your Honor.

13 THE COURT: The next article.

14 Article comes out on January 5th of 2024. Here,
15 this is the expansion as you just noted of all of these
16 different -- let's put this one up, first page.

17 Because now we've got munitions out here that
18 Montrose has nothing to do with it. We've got oil out there
19 that Montrose has nothing to do with. We still don't know if
20 we've got 300- to 500,000 barrels of DDT or 25,000 barrels.

21 MS. HURST: We don't even know if they are barrels.
22 Of what? I don't know.

23 THE COURT: Scripps goes down and takes a picture
24 of the barrels. Just a minute.

25 MS. HURST: They may be munitions.

1 THE COURT: Well, hold on. The records from
2 Montrose itself show dumping in what you're going to call
3 bulk.

4 Do they show barrels?

5 MS. HURST: No, Your Honor. Not for Montrose.

6 THE COURT: Okay. This is allegedly taken by
7 Scripps. We can't tell if that's a barrel, can we, or
8 munitions? We don't know what that is, do we?

9 MS. HURST: We don't know.

10 THE COURT: Okay. We're almost done. I don't want
11 to bring you back.

12 So let me ask this: The county, you noted
13 someplace in this reading, so I don't hold you any longer,
14 sent a letter -- here it is. It's on page 11, line 3. What
15 it says, "Local officials are also aware of the offshore
16 issues and seek to prioritize addressing the offshore
17 contamination." It's line 2. I'm not so sure of that.

18 It says, "For example, in May 2021, the County of
19 Los Angeles Board of Supervisors sent a letter to EPA urging
20 it to expedite cleanup of the offshore areas."

21 I take that that's from supervisors to Reagan.

22 But the articles that are after the initial article
23 occur in 2022 and 2024. So do I have a prior board of
24 supervisors knowledgeable about the initial article that the
25 L.A. Times writes claiming 300- to 500,000 barrels of DDT?

1 I mean, that's a headline grabber. The board
2 writes a letter concerned about this DDT barrel dumpage off
3 the coast of California. And that's the last communication
4 by the board of supervisors, because I've changed board of
5 supervisors during that period of time.

6 MS. HURST: I can't represent that it's the last --

7 THE COURT: You don't know this answer, but maybe
8 you could go back to the board and just inquire about --
9 unrelated to your case -- if there are knowledgeable, and
10 local officials are aware of the offshore issues concerning
11 the alleged 300- to 500,000 barrels of DDT off of our coast.
12 They may be. This may be the effort of local government to
13 communicate one letter. And that's the end of it.

14 Matt, is the city of aware of this?

15 Now what I'm encouraging this is, is Padilla aware
16 of it? In other words, I know I've got a board meeting
17 that's in good faith. I'm not calling you on that.

18 But when we say our local officials are aware of
19 this, you know, potential of DDT sitting in barrels that are
20 deteriorating, what I'm worried about is that a letter is
21 written by the board in good faith in 2021; that it stops at
22 that point. That I've got an interim senator after Feinstein
23 passed away. I've got Padilla who may or may not be
24 knowledgeable.

25 I don't think that the city is aware of it. I'll

1 share with you why. I asked Garcetti when this case began if
2 he was aware of this when he was the mayor. He said no.

3 What I'm doing is encouraging you to communicate
4 with local officials. Now, that's not in Montrose's interest
5 especially. But in the government's interest, it is because
6 it's -- we're back to the local folks if this deteriorates,
7 you're going to have one heck of a health problem.

8 I'm going to excuse you for a moment. And just
9 thank you with just a couple more questions.

10 On page 12 of line 9, you say, "These early news
11 articles are now regarded as inaccurate."

12 These were the news articles that initially came
13 out with the shocking headline of the 300,000 to
14 500,000 barrels of DDT dumped in the Catalina channel.

15 How inaccurate? What are we dealing with? Or do
16 we know?

17 MR. RICHARDSON: Your Honor, from Montrose's
18 perspective, the most significant inaccuracy is that we did
19 not dispose of waste in drums, period.

20 THE COURT: Okay.

21 MR. RICHARDSON: When there are pictures of drums,
22 they're not Montrose's waste. There could be a whole host of
23 other waste --

24 THE COURT: From my perspective, I don't care. In
25 other words, I don't care who is involved, whether it's

1 Montrose or somebody else.

2 I care that this isn't being defined. I care that
3 the local officials may or may not know. I care that if we
4 do have an ecological disaster that we're all aware of it,
5 and chose to sit on our hands and do nothing about it.

6 Or that we took some kind of action in terms of
7 coordinating through your good offices, back to the federal
8 government. And we tie in the local people here so they're
9 aware that we may have a real issue.

10 That may not be Montrose's responsibility at all.
11 So I don't care if Montrose.

12 I just care, What do we have down there? So far
13 I've heard, We don't know.

14 MR. GIBSON: But not DDT, Your Honor. I think
15 that's the critical component.

16 In the '40s and '50s, that disposal in bulk would
17 have dissipated.

18 THE COURT: You're the Court and you're going to
19 tell me it's not my concern. But I've inherited the case
20 from Judge Real who passed away. Why shouldn't I be
21 concerned?

22 We've got 300- to 500,000 barrels of DDT sitting on
23 the ocean floor deteriorating, and the local folks here are
24 going to eat fish.

25 MR. RICHARDSON: Your Honor, I think that's the

1 point is it's not the barrel -- EPA can correct me if I'm
2 wrong, but every study they've done has shown there are not
3 barrels of DDT --

4 THE COURT: No barrels?

5 MR. RICHARDSON: -- placed on floor. They're not
6 there.

7 Was there disposal? Certainly, there was.

8 THE COURT: You're willing to stipulate both in
9 writing, so that eventually if this blows up, the government
10 can say we didn't think it was barrels of DDT?

11 MS. HURST: I don't know what those images are --

12 THE COURT: I know you don't.

13 MS. HURST: -- whether barrels or not.

14 What I do know is that EPA has determined through
15 its record review that Montrose disposed of its DDT in bulk,
16 not in barrels or drums. That is the case that is before
17 you, Your Honor.

18 THE COURT: I get worried about the technical term.
19 Let me say this: If this was just dumped overboard in a
20 shovel, tens of thousands of pounds went over, it's probably
21 been absorbed, eaten by the public without knowledge, and
22 there we are. But if this is in what you call bulk, which I
23 keep asking is some kind of container, or a barrel, or any
24 type of containment, and it's deteriorating, then my next
25 question would be: How long? And what are we doing about

1 it? Because the only thing I know about is Scripps so far.

2 MR. RICHARDSON: There's no containment,
3 Your Honor. There were no barrels; there were no drums;
4 there were no -- it was just a valve that was opened over the
5 top of the sea that dissipated the DDT.

6 THE COURT: On page 11, we have on disposal site 2,
7 line 12, in response to US EPA, NOAA, US Department of
8 Interior, California Natural Resources Agency, Department of
9 Wildlife and Fish, et cetera, et cetera, et cetera, formed a
10 multi-agency work group.

11 And that's where I left you last time. And I'm
12 going to ask it again: When did this multi-agency work group
13 last meet and where?

14 MS. HURST: I don't know when it last met,
15 Your Honor.

16 I do know that they meet on a regular basis. As we
17 reported in our status report, they are working on the first
18 two of the four objectives that the work group has worked
19 out.

20 THE COURT: Let's go to those four objectives
21 because we're only on the first two so far.

22 MS. HURST: Correct.

23 THE COURT: But if you turn to page 15. Look at
24 lines 1 through 4. "We're going to document the operational
25 and regulatory history of disposal site 2." So allegedly

1 they're involved in that. Some group. Someplace.

2 "We're going to determine the nature of
3 contamination and disposal site 2." But remember where I
4 started, and that is, we have more than disposal site 2 now,
5 according to our records. So why are we just focused on
6 disposal site 2?

7 We haven't even gotten to number 3, "Evaluate the
8 environmental conditions and trends of the Southern
9 California bite.

10 And 4, which is really my concern, "If conditions
11 at disposal site 2," which we now know are greater than
12 disposal site 2, "we're supposed to determine the threat to
13 human health or the environment."

14 We haven't even gotten that far.

15 MS. HURST: That's right, Your Honor.

16 The reason the focus is on disposal site 2 is
17 because Scripps is taking pictures of disposal site 2.

18 THE COURT: Is doing what?

19 MS. HURST: Scripps, the research institution that
20 has the submarine that can go down and photograph the base of
21 the ocean --

22 THE COURT: We'll show you a picture of that if you
23 want.

24 MS. HURST: Yeah, that. Those photos. We have
25 those photos for disposal site 2. And we do not have them

1 for the remaining 13 disposal sites.

2 THE COURT: Then on line 14, I keep asking the
3 question redundantly. "The work group has requested records
4 from the City of Los Angeles Sanitation Department, County of
5 L.A. Department of Public Works, and Los Angeles County
6 Sanitation District to supplement its research of historic
7 waste disposal at or near disposal site number 2."

8 Have those records been supplied by the city?

9 MS. HURST: I don't know, Your Honor. I don't
10 believe that --

11 THE COURT: Matt, do you have any knowledge of this
12 at all? This is unrelated, but it might be of concern to the
13 City and County of Los Angeles.

14 Karlen, I want copies of this made for the CAO Matt
15 Szabo and for Mira who are on behalf of the county. So at
16 least I know that you're getting information. And what you
17 choose to do with it...

18 So line 18, task 2. "The work group plans to
19 conduct further sonar surveys to identify areas of
20 significant waste disposal."

21 Of course, I'm going to ask this question: When?

22 MS. HURST: The grants have been given to Scripps
23 and to the Sea Grant programs. They are the ones that have
24 the technology to go down and do those studies.

25 And so --

1 THE COURT: I'm sorry? When?

2 MS. HURST: I don't know when --

3 THE COURT: I don't know.

4 MS. HURST: We've been -- we've made the money
5 available.

6 THE COURT: Who is going to determine -- so we
7 finally get to the critical question. And it's not the
8 continued definition that's number 4. From this disposal
9 site 2 or these other disposal sites, whether barrels or not,
10 what is the threat to human health? That's where we need to
11 get. Are we slow walking this?

12 MS. HURST: Your Honor, I --

13 THE COURT: I'm raising -- I'm not accusing. I
14 can't get enough information about who this committee is,
15 when they've met or what they're doing.

16 I don't think that the local people here are even
17 aware of that, frankly, other than the L.A. Times putting a
18 front page article out from Rosanna Xiu.

19 MS. HURST: I will supplement the record with the
20 list of the committee members that I have here on my laptop,
21 Your Honor. I'm happy to find out when the last meeting
22 occurred.

23 THE COURT: I'm going to do this. I'm going to put
24 a little pressure on you, because if we don't know, then we
25 should make every effort to find out.

1 I certainly like as a court, now after Judge Real
2 passed away, having this case to know that at least the local
3 officials are knowledgeable about this. So you're going to
4 come back and see me.

5 I want you to check your calendar because I'll
6 never hurt you in terms of, you know, children, vacations, et
7 cetera. Are you available sometime the second week of
8 August? If you are -- are you?

9 MR. ALLEN: Your Honor, I have a prepaid vacation.

10 THE COURT: You're going on it.

11 MR. ALLEN: Starting the second week --

12 THE COURT: You're going on it.

13 MR. ALLEN: The last two weeks of August.

14 THE COURT: Are you the last two weeks of August?

15 MR. ALLEN: Anything before that, I'm okay.

16 THE COURT: How about Thursday or a Friday, et
17 cetera? Why don't you pick the time.

18 Mr. Szabo -- or, Mira, if you choose to make this
19 knowledgeable to the council or the mayor or the board,
20 that's your call.

21 But at least I'll know that the information is out
22 there. And you're invited -- you're not ordered. So if you
23 want to attend, allegedly you can read these L.A. Times
24 articles from the past and determine how important you think
25 it is from the local perspective.

1 That way I'm comfortable to know that the local
2 folks have been communicated with, that they're
3 knowledgeable; and that hopefully the senators are
4 communicated with also so we don't have what I call "this"
5 later on.

6 MS. HURST: Your Honor, I, of course, will appear
7 before you whenever you say I need to appear before you.

8 I would like to you issue an order, if you would
9 indulge me, specifying the information that you would need
10 from me when I do appear.

11 THE COURT: What I'd really like, and you don't
12 want me to do it, I'd like the board -- or the head of the
13 board to appear in my court and give me the information that
14 both of you are not knowledgeable about. I'd like to know
15 what they're meeting and what they're doing. I'd love to
16 know that the United States senator is aware of this. I'd
17 love to know that the Board of Supervisors is aware of it.

18 I'd like to get further clarification about what
19 Scripps is doing. I'd like to know if I've got
20 25,000 barrels or non-barrels down there of DDT, or 300- to
21 500,000.

22 And if you're going to discount the L.A. Times, so
23 be it, but I'd like to get the writer in here also.

24 In other words, it's the same place we started when
25 I asked you about the local community being involved in the

1 meetings that we're having and paying you the compliment that
2 they're engaged and knowledgeable and are involved in our
3 case. It's the same thing that I think should be happening
4 here.

5 And but for the L.A. Times writing the front-page
6 article and stirring this up, I think everybody has gone to
7 sleep, quite frankly. This Court doesn't want to be in that
8 position if this is truly a public health issue. It sure
9 seems to be of some concern.

10 MS. HURST: Your Honor, are you ordering me to
11 produce the head of the work group?

12 THE COURT: You know, to protect you, I may. Then
13 you can push back and tell me I don't have the authority.
14 Okay? Let's take that chance then. And if you want to, I'll
15 certainly put that in writing for you.

16 MS. HURST: I would appreciate it, Your Honor.

17 THE COURT: That way that protects you as counsel
18 having to go to them and saying, some judge ordered me to do
19 the following or requested. Because you're going to get push
20 back. That's not fair to you.

21 MS. HURST: Thank you, Your Honor.

22 And also any communications you would want me to
23 have with Congress would also be very important to --

24 THE COURT: I'm going to request your congressional
25 representatives be in attendance. But I want to consult with

1 the city first. And I want to consult with the county first,
2 and see what Lindsey Horvath thinks and Mayor Bass thinks
3 about this. That's their call.

4 MS. HURST: If you order me to communicate with
5 Congress, I would need to involve the Office of Legislative
6 Affairs of United States Department of Justice.

7 THE COURT: Sure. Have them come right in here.
8 Be a pleasure to meet them.

9 Remember, I'm only requesting. I won't order
10 Congress to come in. I won't order the board. I won't order
11 the mayor, et cetera.

12 But I will send out an order that makes certain
13 that everybody is knowledgeable. So in case this is a
14 deterioration, in case we can't buy fish for the next
15 20 years.

16 MS. HURST: I certainly understand.

17 THE COURT: I'll protect all of you. Okay.

18 Let me finish this. I want to compliment you. I
19 think that other than my concerns about where we're going in
20 the future, this has been an excellent report. I think
21 you've truly made substantial progress on this in all three
22 areas of the consent decree.

23 Whether this absolves you in terms of clause you
24 referred to or not, whether this is still liability on
25 Montrose's part, that's for the future. I have no opinion

1 about that. It's not in front of me. I just care that the
2 public is knowledgeable about this.

3 And frankly, what I don't believe is I don't
4 believe your local officials are tied into your federal
5 officials at the present time. And I can't get enough
6 information about many some board that's meeting someplace,
7 doing something that is -- anyway. Enough.

8 I want to thank you. Why don't you go home.

9 MS. HURST: Thank you, Your Honor.

10 THE COURT: You have a good flight back.

11 I will pick the date then. It will be the second
12 week in August. Give me the latitude of either a Thursday,
13 Wednesday, or Friday. Okay? It may -- we may be in session
14 on a trial that day. If so, I'll schedule you in the
15 afternoon. I'll put that in writing and protect you.

16 Thank you very much.

17 (Proceedings concluded adjourned at 10:25 a.m.)

18 CERTIFICATE

19 I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT
20 TRANSCRIPT OF THE STENOGRAPHICALLY RECORDED PROCEEDINGS IN
21 THE ABOVE MATTER.

22 FEES CHARGED FOR THIS TRANSCRIPT, LESS ANY CIRCUIT FEE
23 REDUCTION AND/OR DEPOSIT, ARE IN CONFORMANCE WITH THE
24 REGULATIONS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES.

25

1 /s/ Miriam V. Baird

06/11/2024

2 MIRIAM V. BAIRD
3 OFFICIAL REPORTER

DATE

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