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BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

)
)
IN RE BENTONITE PERFORMANCE) DOCKET 18-1601
MINERALS LLC,)
)
_____)

TELEPHONIC DEPOSITION OF RONALD ERICSSON
Wednesday, December 12, 2018
Volume I

Reported by:
KATHY PABICH
CSR No. 5021
Job No. 3171485
PAGES 1 - 117

<p>1 BEFORE THE ENVIRONMENTAL QUALITY COUNCIL 2 STATE OF WYOMING 3 4 _____) 5) 6 IN RE BENTONITE PERFORMANCE) DOCKET 18-1601 7 MINERALS LLC,) 8 _____) 9 10 11 12 13 14 Telephonic deposition of RONALD ERICSSON, 15 Volume I, taken on behalf of Bentonite Performance 16 Minerals, LLC, beginning at 8:00 a.m. and ending at 17 10:41 a.m. on Wednesday, December 12, 2018, before KATHY 18 PABICH, Certified Shorthand Reporter No. 5021. 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 2</p>	<p>1 INDEX 2 3 WITNESS EXAMINATION 4 RONALD ERICSSON 5 VOLUME I 6 7 BY MR. YEMINGTON 5 8 9 10 11 12 13 EXHIBITS 14 (None) 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 4</p>
<p>1 APPEARANCES: 2 3 For Bentonite Performance Minerals, LLC ("BPM"): 4 HOLLAND & HART LLP 5 BY: SAMUEL R. YEMINGTON 6 2515 Warren Avenue, Suite 450 7 Cheyenne, Wyoming 82001 8 sryemington@hollandhart.com 9 (Telephonic appearance.) 10 11 Also Present: 12 ROLAND ERICSSON, ESQ. 13 (Telephonic appearance.) 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 3</p>	<p>1 Wednesday, December 12, 2018 2 8:00 a.m. 3 4 RONALD ERICSSON, 5 having been administered an oath telephonically by the 6 Certified Shorthand Reporter, was examined and testified 7 telephonically as follows: 8 9 EXAMINATION 10 BY MR. YEMINGTON: 11 Q Mr. Ericsson, Ronald -- would you prefer that I 12 call you Ronald or Mr. Ericsson, or do you have any 13 preference? 14 A Ronald. 15 Q Ronald, okay. Ronald, we're going to go on the 16 record now and begin this deposition and try to get 17 through this as smoothly as we can. 18 My name is Samuel Yemington. I'm an attorney for 19 Bentonite Performance Minerals, and you've been noticed 20 to provide oral deposition testimony today on behalf of 21 2U Ranch in the Environmental Quality Council proceeding 22 that is ongoing in the State of Wyoming. 23 Do you understand your role in this deposition? 24 A Yes. 25 Q And I understand that you're joined by Roland</p> <p style="text-align: right;">Page 5</p>

1 Ericsson on the phone as well?
 2 A Yes.
 3 Q I'd just like to remind both of you that this
 4 deposition is of Ronald Ericsson as opposed to Roland
 5 Ericsson, and because of that, I would just ask that
 6 Roland refrain from interjecting throughout the course
 7 of this deposition and the testimony just stay with
 8 Roland -- or excuse me, with Ronald. So moving forward,
 9 just a few initial instructions.
 10 Have you previously sat for a deposition, Ronald?
 11 A Have I previously done what?
 12 Q Sat for a deposition?
 13 A Yes, I have.
 14 Q And when was that?
 15 A Decades ago.
 16 Q Ballpark?
 17 A Pardon?
 18 Q Could you be a little more specific?
 19 A Like what?
 20 Q When the deposition was.
 21 A Probably the early 1980s.
 22 Q And is that the only other deposition that you've
 23 sat for?
 24 A No. I sat for another one.
 25 Q And when was that?

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1 A Probably in the late 1970s.
 2 Q And what was the nature of those two depositions
 3 if I can ask?
 4 A Nothing to do with Bentonite.
 5 Q Nonetheless, if you would please answer the
 6 question.
 7 A It says here "Beyond the scope of the proceedings
 8 as ordered by the hearing examiner."
 9 Q Mr. Ericsson, I think just to make this as short
 10 and as sweet as possible, I just ask that you answer the
 11 questions. I'm certainly allowed to depose you --
 12 A Asked and answered.
 13 Q -- on any number of information.
 14 A I asked and answered.
 15 Q What were the -- what was the nature of the two
 16 depositions that you sat for in the late '70s and early
 17 '80s?
 18 A It had nothing to do with 2U Ranch or Bentonite.
 19 Q I understand that, Mr. Ericsson. I'm just asking
 20 what the nature of those depositions was?
 21 A One had to do with a patent. Another one had to
 22 do with a business (unintelligible) --
 23 THE REPORTER: A business of what?
 24 BY MR. YEMINGTON:
 25 Q Ronald, can you please repeat your answer. The

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1 court reporter didn't understand.
 2 A One had to do with a patent infringement. The
 3 other one had to do with a business association
 4 disagreement.
 5 Q Okay. Thank you. And so just to follow up on
 6 that, the court reporter is taking down your testimony.
 7 It will be somewhat difficult given that this is going
 8 to be conducted over a telephone. We may run into
 9 issues, and you may have to repeat answers so that she
 10 can get an accurate transcript of what you say.
 11 And so for purposes of that, I would ask that you
 12 avoid, for example, nonverbal responses, any response
 13 where the hearing -- excuse me, the court reporter is
 14 unable to fully and appreciate or understand what your
 15 answer is. And on occasion I may ask you to repeat or
 16 rephrase your answer just so that the record is clear.
 17 Is that fair?
 18 A I don't know.
 19 Q Well, Mr. Ericsson, do you understand that
 20 instruction?
 21 A I understand it, but you said if it's all right,
 22 and I said, "I don't know."
 23 Q A few more instructions I think just so we get
 24 off on the right foot. If I ask a question, I just ask
 25 that you let me finish asking the question in its

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1 entirety before you answer, and in the same interest, I
 2 will refrain from asking any questions or follow-up
 3 questions until you completely respond to the previous
 4 question to the extent that you want to.
 5 If you don't understand a question I ask, I just
 6 ask that you ask for an explanation or clarification,
 7 and if you don't ask for an explanation or a
 8 clarification, it's going to be my assumption that you
 9 understood the question.
 10 Do you understand that?
 11 A Yes.
 12 Q And at any time during this deposition, because I
 13 anticipate it will take some time, we have a lot of
 14 material to go over, please just let me know if you'd
 15 like to take a break, step away from the phone, use the
 16 restroom, get something to drink, whatever that may be.
 17 I only ask that you finish answering any outstanding
 18 question, and then at that point we'll all adjourn.
 19 Do you understand all of those instructions?
 20 A Yes.
 21 Q And do you have any questions regarding those
 22 instructions?
 23 A No.
 24 Q What have you done to prepare for this
 25 deposition?

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1 A I'm here.
2 Q Have you done anything to prepare for this
3 deposition, Mr. Ericsson?
4 A I've looked over the documents.
5 Q What documents have you looked at?
6 A The documents that I have.
7 Q And Mr. Ericsson, what documents are those?
8 A You sent 380 pages in one file, 45 in the other.
9 I scanned those.
10 Q So you reviewed the documents that I provided on
11 a flash drive?
12 A I scanned them.
13 Q Okay. Have you reviewed any other documents?
14 A Only some of the documents that we sent in the
15 Interrogatories.
16 Q Okay. Nothing beyond that?
17 A No.
18 Q Have you spoken with anyone, an attorney, your
19 brother, anything like that in preparing for this
20 deposition?
21 A I told him I wanted him to be in on the
22 conference call.
23 Q And "him," is that Roland Ericsson?
24 A Yes, it is.
25 Q And did you speak with anyone else about the

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1 deposition in preparation?
2 A I talked to my son in reference to a map.
3 Q And who is your son?
4 A Scott Ericsson.
5 Q And which map were you speaking to him about?
6 A The one you sent.
7 Q All right. And I would just identify that as
8 Bates stamped as BPM 000381.
9 Is that a -- is that the map you're referring to,
10 Mr. Ericsson?
11 A Yes.
12 Q Okay. And just quickly, the last instruction.
13 All of the documents that I've sent to you we have
14 affixed with a Bates stamp, and so during the course of
15 this deposition, I will be referring to the documents by
16 that number. And you just mentioned that you did
17 receive that flash drive.
18 Do you have access to those documents during this
19 deposition?
20 A I've got the flash drive.
21 Q And are you able to access them?
22 A No.
23 Q Do you have a computer, Mr. Ericsson?
24 A Yes, I have a computer. You sent me e-mails.
25 Q Yes. So are you able to access the flash drive

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1 during this deposition? It's important that you be able
2 to review the documents as we walk through them.
3 A No.
4 Q And why is that?
5 A Because I'm on the conference call.
6 Q Mr. Ericsson, in developing this deposition,
7 there's been a lot of conversation about the importance
8 of reviewing documents during the course of this
9 deposition.
10 Do you remember those conversations?
11 A This hearing is about reclamation, only
12 reclamation, not all the documents in there.
13 Q Mr. Ericsson --
14 A I will respond to -- I will respond to questions
15 on reclamation. That's what the hearing is about.
16 Q Mr. Ericsson, it's important --
17 A That won't take six hours. That won't take six
18 hours.
19 Q It's important that we walk through some of these
20 documents with you, and regardless of whether or not you
21 think they're relevant for this hearing, I have the
22 opportunity, on behalf of BPM, to ask you questions
23 about some of these documents and further understand
24 what your position is, and to facilitate that, it's
25 important that these documents are in front of you. So

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1 to the extent you can --
2 A Let me read to you, "Beyond the scope of the
3 proceedings as ordered by the hearing examiner." This
4 is about reclamation.
5 Q Mr. Ericsson, I fully understand --
6 A There's a whole pile of documents that are not
7 relevant. Only one thing is involved here, reclamation
8 is not complete.
9 Q Mr. Ericsson, I understand --
10 A I thought you were going to call me Ronald.
11 Q -- that you -- Ronald --
12 THE REPORTER: Excuse me. I can't take you both
13 down.
14 MR. YEMINGTON: I'm sorry, Kathy. Go ahead.
15 THE REPORTER: I couldn't take you both down, so
16 I missed his answer.
17 THE WITNESS: He wants me to review all the
18 documents. I said there's only one issue involved in
19 this hearing, and that's reclamation. It's beyond the
20 scope of the hearing, and I will respond to any
21 questions on reclamation.
22 BY MR. YEMINGTON:
23 Q Mr. Ericsson, I understand --
24 A Ronald. Ronald.
25 Q Ronald.

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1 A Ronald.

2 Q Ronald, I understand your position, but the fact
3 of the matter is that we're entitled to conduct your
4 deposition of you and to go over these documents, and we
5 believe that they are relevant, and we believe that they
6 will be used at hearing. We intend to use --

7 A I will respond -- I will respond again and again
8 and again if you want to take six hours. It's beyond
9 the scope of the proceedings as ordered by the hearing
10 examiner.

11 This is about reclamation, so if you want to
12 spend six hours of me reading that, then go ahead. If
13 you want to talk about reclamation, I'm here, and I'm on
14 record, and I will answer.

15 Q Ronald, I very much want to speak to you about
16 any number of aspects of reclamation for the subject
17 lands, and to do that, we need to look at some of these
18 documents so that we can --

19 A The only thing that we are concerned about are
20 the trees. We're not going to fight on the soil
21 conservation, not all of that. That's not a concern of
22 ours. We won't object to that.

23 We have one objection, restoring and not taking
24 10,936 trees, which BPM said they will not restore
25 unless the landowner puts it in writing that they want

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1 them restored, which we did.

2 Q So if I understand your last statement, you have
3 no issues with the proposed development beyond trees, is
4 that a correct statement?

5 A No. The permit hasn't been issued. It's an
6 unknown.

7 Q Correct. And let's take a step back. We're
8 going to be able to talk about all of these things, and
9 you're going to have an opportunity to provide testimony
10 and to be able to clarify any positions that you might
11 have taken.

12 To the extent that you do not have those
13 documents in front of you or you do not want them in
14 front of you, it may just take a little bit more time,
15 but I do have the documents in front of me, and I intend
16 to use them and to read them into the record.

17 To the extent you want them in front of you, I
18 encourage you to. I think it would facilitate this
19 deposition, and it would make it easier on all parties.
20 Having said that, we can move forward.

21 A Start moving.

22 Q Mr. Ericsson, do you have the deposition notice
23 that was sent to you on November 7th -- I mean November
24 5th, that you received on November 8th by mail?

25 A Do I have it here in front of me?

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1 Q Yes.

2 A No.

3 Q All right. For purposes of the record, it's the
4 Notice of Deposition Duces Tecum of Mr. Ronald Ericsson
5 which has been marked as BPM 000376.

6 Mr. Ericsson, do you remember receiving this
7 deposition notice?

8 A Yes.

9 Q And did you read this deposition notice?

10 A Yes.

11 Q And attached to the deposition notice was an
12 Exhibit A. Do you remember that Exhibit A?

13 A Yes.

14 Q And as part of the Exhibit A, there was
15 instructions and definitions. Do you remember that
16 portion?

17 A Not in detail.

18 Q Okay. Well, what I would like to do then is
19 remind you by reading into the record what those
20 instructions and definitions were, because through the
21 course of this deposition, I would like to use these
22 definitions, and I want to make sure you understand when
23 I say something like the "subject lands" what I'm
24 referring to. Do you understand?

25 A Yes.

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1 Q All right. So if I use the term "you" or "your,"
2 I mean 2U Ranch, LLC and its predecessor-in-interest,
3 Lonesome Country Limited. I also mean you, Ronald.
4 Okay?

5 A Okay.

6 Q And when I use "BPM," I mean Bentonite
7 Performance Minerals, LLC.

8 Now, you have a map that I sent you that has been
9 marked as BPM 000381. Do you have that in front of you?

10 A Yes.

11 Q Good. Through the course of this deposition, I'm
12 going to refer to that docket -- that document either by
13 that Bates stamp number, or more specifically, I'd like
14 to refer to the leased land which are identified
15 primarily in Section 31 as the "subject lands."

16 Are you familiar with the leased lands and the
17 subject lands if I refer to them that way?

18 A No.

19 Q I'm sorry. Could you please repeat your answer.

20 A No.

21 Q Okay. Well, let's walk through that quickly.
22 You said you have that map in front of you, is that
23 right?

24 A Yes.

25 Q And do you see Section 31?

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1 A Is it on the map?
2 Q It is on the map. Do you recognize any of these
3 lands, Mr. Ericsson?
4 A I recognize the ranch, yes.
5 Q Okay. And do you see Section 31? It's in the
6 top left corner --
7 A Yes.
8 Q -- of the map.
9 A Yes.
10 Q And do you see where those lands in Section 31
11 are identified by WSL-42804?
12 Were you able to find that, Mr. Ericsson?
13 A No.
14 Q You've located Section 31. It will be about an
15 inch above that on the map next to the township and
16 range.
17 A Yes.
18 Q Okay. And do you see a black outline that
19 encircles that WSL-42804?
20 A A black outline?
21 Q There's a black boundary outline that --
22 A Yes, yes.
23 Q Okay. And I'll represent to you that that black
24 outline is the lease outline for Wyoming State Lease
25 42804, which is the subject of this matter. Would you

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1 agree with that?
2 A Yes.
3 Q Okay. And are you familiar with those lands?
4 A Yes.
5 Q And are those lands owned by 2U Ranch, LLC?
6 A Yes.
7 Q All right. And so for purposes of this
8 deposition, I will refer to that as the "subject lands"
9 or the "leased lands" just so we're on the same page.
10 If I refer to 2U Ranch more broadly, I'm referring to
11 lands outside those boundaries. But for purposes of the
12 subject lands, I'll refer specifically to those leased
13 lands and the bentonite deposits underneath them. Is
14 that okay?
15 A Yes.
16 Q All right. And so if I use the term or the
17 phrase "proposed mining operations" during this
18 deposition, I'm going to be referring to what BPM has
19 proposed for both the mining and the reclamation
20 operations for the subject lands, so specific to the
21 Wyoming State leased land and the proposed mining
22 operations to be conducted on them.
23 Now, returning to the Notice of Deposition,
24 Exhibit A, there was a request for production, correct?
25 Did you understand the question, Mr. Ericsson?

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1 A I didn't hear it.
2 Q Attached to the Notice of Deposition in Exhibit A
3 was a request for production of documents.
4 A Yes.
5 Q And do you remember receiving that?
6 A Yes.
7 Q And did you review that?
8 A Yes.
9 Q And you provided responsive documents on
10 Saturday, December 1st, is that right, or the following
11 week, sometime in that time frame?
12 A Yes.
13 Q Okay. And were those production responses
14 exhausted? Is there anything else that's out there that
15 would be responsive to these eight requests for
16 production?
17 A No.
18 Q Okay. And so what I'd like to do now is -- when
19 we received those documents that you produced, they were
20 in no particular order, and they weren't identified as
21 being responsive to one question or another. So what
22 I'd like to do is walk through each of those responses
23 and have you help me connect those to one of the eight
24 requests for production so we better understand why you
25 produced those and why you think they were responsive.

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1 And so what I'd like to begin with is a document
2 that you provided that's entitled Order Approving Final
3 Report, Accounting, and Petition for Distribution.
4 Are you familiar with that document?
5 A No.
6 Q All right. For purposes of the record, this has
7 been marked as 2U-0001. This is an Order approving the
8 distribution of the estate of Edna Robinson, I believe,
9 and it is dated January 30th of 2013 it appears.
10 Why did you produce this document, Mr. Ericsson?
11 A Beyond the scope of the proceedings as ordered by
12 the hearing examiner is my answer.
13 Q Mr. Ericsson, you've produced this as being
14 responsive to our discovery request. I'm only ask why?
15 A And I gave you an answer.
16 Q Mr. Ericsson, I'm really trying to make this as
17 easy as possible on you.
18 A No, you're not. It has nothing to do with the
19 reason for the hearing.
20 Q Then why did --
21 A The hearing is about the -- is about reclamation,
22 period.
23 Q Why did you produce it?
24 A Well, I'll respond again. Beyond the scope of
25 the proceedings as ordered by the hearing examiner.

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1 Q Mr. Ericsson, I'm only trying to understand why
2 you thought this was a responsive document and why
3 you --
4 A Asked and answered.
5 Q Moving on to the next document --
6 A You're going to get a lot of those answers until
7 you get to reclamation, because you're wasting
8 everybody's time.
9 Q Well, I'm sorry you feel that way, Mr. Ericsson,
10 but we feel obligated to walk through these discovery
11 responses that you provided us.
12 A Yes, and we feel that BPM is trying to destroy
13 our ranch.
14 Q Okay. Well, I understand, and we'll get to
15 those --
16 A No, you don't understand.
17 Q And what don't I understand?
18 A You keep telling me that you understand all this
19 stuff. You're an attorney for BPM. You're biased.
20 Q And what don't I understand?
21 A Next question.
22 Q Back to your discovery responses. Because you
23 don't have these documents in front of you, I'll
24 continue to read them into the document. The second
25 document has been marked 2U-0003. I'll represent that

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1 this is a letter dated October 18th, 2017 from Bentonite
2 Performance Minerals to 2U Ranch, LLC, GLAM, LLC and
3 Sextus, LLC concerning surface access.
4 Mr. Ericsson, are you familiar with this letter?
5 A My answer is going to be, I will repeat this many
6 times, beyond the scope of the proceedings as ordered by
7 the hearing examiner. And this --
8 Q Mr. Ericsson, I understand that you don't want to
9 participate in this proceeding or I get that impression.
10 With that being said --
11 A I get the impression that you're not focusing on
12 the -- what the hearing is about. It's about
13 reclamation. The reclamation is not complete, there's
14 no permit, so all of this other stuff is irrelevant. It
15 has nothing to do with the hearing.
16 Q Mr. Ericsson, this is discovery responses that
17 you produced --
18 A That's right --
19 Q -- and you sent --
20 A -- and I'll give you the same answer, so come up
21 with the next one. When you get to reclamation, then
22 we'll get serious.
23 Q Are you familiar with this document?
24 A The rest of it's not relevant, it's not relevant.
25 Q Mr. --

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1 A That's what we got back from you page after page.
2 It's not relevant.
3 Q Mr. Ericsson, I --
4 A We sent depositions, Interrogatories, and what
5 did we get back signed by Tyler Tetrault, who did not
6 write them, the same thing page after page after page.
7 Not relevant. And you want to waste six hours?
8 Q Mr. Ericsson, I would again respectfully --
9 A I know you understand.
10 Q I would respectfully ask that you do not
11 interrupt when I'm talking, and I'll do my best not to
12 interrupt you when you are talking.
13 A And I have a request. Shorten this deposition.
14 It does not take six hours to talk about reclamation,
15 and you know it.
16 Q It may take much longer than that the way this is
17 going.
18 A Not with me.
19 Q Again, Mr. Ericsson, please refrain from
20 interjecting while I'm speaking, and I'll do the same
21 for you. Please remember we have a court reporter on
22 the line who is doing her best to keep up and maintain
23 an accurate record of this conversation, so please --
24 A Speed it up.
25 Q Back to 2U-0003, the October 18, 2017 letter.

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1 Again, Mr. Ericsson, can you remind me why you produced
2 this?
3 A What is it?
4 Q It's a letter from Bentonite Performance Minerals
5 to you, to 2U, GLAM, Sextus dated October 18th, 2017,
6 and to contextualize it, BPM sent you this letter after
7 they met with you on October 10th of 2017 to discuss the
8 dispute.
9 Do you remember this letter?
10 A I will give you -- yes. I will give you my
11 answer. Beyond the scope of the proceedings as ordered
12 by the hearing examiner.
13 Q Is it your testimony that it's not relevant in
14 this proceeding?
15 A I'll repeat. It's beyond the scope of the
16 proceedings as ordered by the hearing examiner.
17 Q All right.
18 A Asked and answered.
19 Q Let's move on to the next one. We have what is
20 marked as 2U-0005. This is a letter from 2U Ranch
21 signed by you, Mr. Ericsson, and dated November 13th,
22 2017.
23 Are you familiar with this letter?
24 A What's the question?
25 Q Are you familiar with this letter? Again, this

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1 is a document that you produced responsive to our
2 discovery request. I'm only asking if you're familiar
3 with this letter?
4 A Yes.
5 Q And can you remind, for purposes of the record,
6 remind us what the nature of this letter is?
7 A I don't know.
8 Q I understood you just to say that you were
9 familiar with this letter?
10 A Yes, I was, but I haven't read it recently.
11 Q Would you like me to read it into the record to
12 familiarize yourself?
13 A Which one is it?
14 Q Again, this would be an easier process if you
15 would open these documents up on your computer and we
16 could walk through them simultaneously.
17 A Here's my answer. Beyond the scope of the
18 proceedings as ordered by the hearing examiner. Next
19 question.
20 Q Just for clarification, Mr. Ericsson, are you
21 testifying that document 2U-0005 is beyond the scope of
22 the hearing and irrelevant?
23 A Asked and answered.
24 Q All right. And so for purposes of the record,
25 I'd like to read this letter in. This is a letter from

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1 Ronald Ericsson addressed to Joel Severin at Bentonite
2 Performance Minerals, November 13, 2017. I'll represent
3 that in this letter, Mr. Ericsson noted to Bentonite
4 Performance Minerals of his request that trees disturbed
5 on the subject lands be replaced with the same acreage,
6 density, composition, size, number, age and height --
7 THE REPORTER: Can you go a little slower,
8 please. I'm not familiar with the terminology, so you
9 need to go a little slower. Thank you.
10 MR. YEMINGTON: Yes, absolutely. My apology.
11 Kathy, can you let me know where you were at on that and
12 where you need me to pick up.
13 THE REPORTER: Just start with where you were
14 reading into the record.
15 BY MR. YEMINGTON:
16 Q Sure. I'll just represent that this document,
17 2U-0005, is a letter from Ronald Ericsson addressed to
18 Joel Severin of Bentonite Performance Minerals regarding
19 the permit amendment and tree restoration. My
20 understanding, based on Mr. Ericsson's testimony, is
21 that this is not relevant to the proceeding and beyond
22 the scope.
23 A It is relevant.
24 Q Mr. Ericsson, you just testified that it was not.
25 Are you changing your testimony?

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1 A No. I said it is relevant.
2 Q And why is it relevant?
3 A "Section 2.11.8.6, Postponing Tree Restoration.
4 The permittee will not replant the destroyed trees
5 unless the surface owner specifically requests
6 restoration in writing." That's the letter. "If a
7 surface owner wants trees replanted, the permittee will
8 include specific Reclamation Plan text which details the
9 replanting methods and locations," which BPM has not
10 provided, I repeat, has not provided. And it is
11 relevant. It's very relevant. It's the only relevance
12 when it comes to reclamation.
13 Q And Mr. Ericsson, can you identify the document
14 that you're reading from for the record?
15 A Yes. It came from you.
16 Q Please be more specific. It's a document
17 received --
18 A I told you. I told you. It says "Permit 267C,
19 Bentonite Performance Minerals, Reclamation Plan 2.11."
20 That's what this hearing's about.
21 Q Moving forward, the next document I'd like to
22 enter into the record is 2U-0017. I'll represent that
23 this is a Lease Agreement that we received from Ronald
24 Ericsson in response to BPM's request for production of
25 documents.

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1 Mr. Ericsson, are you familiar with this Lease
2 Agreement?
3 A You're talking about the grazing lease?
4 Q It appears to be a grazing lease with Mule Shoe.
5 A It isn't appearing to. It is.
6 Q And what's the --
7 A Yes, I'm familiar with it.
8 Q Mr. Ericsson, are you familiar with that grazing
9 lease?
10 A Yes. I want to make sure the previous -- what I
11 just wrote you is on the record. We responded because
12 that's the law. We did it in writing. We sent it
13 certified. We want the trees replaced. And BPM has not
14 come back, I repeat, I repeat, has not come back with
15 any way they plan on restoring the trees. Why? Because
16 they can't do it. BPM knows it, DEQ knows it, you know
17 it, and 2U Ranch knows it. I want that on the record
18 because that's what this is all about.
19 Q Well, rest assured everything you say will be on
20 the record.
21 And now returning to the grazing lease which has
22 been marked as 2U-0017. Mr. Ericsson, is this lease in
23 force and effect?
24 A Is this lease what?
25 Q Is it in force and effect? Have you

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1 contractually leased your -- the subject lands to Mule
 2 Shoe for purposes of grazing?
 3 A You read the lease, didn't you?
 4 Q Can you please answer the question.
 5 A I did. Read the lease.
 6 Q Mr. Ericsson, we have read the lease, and the
 7 reason I ask is because it's not signed.
 8 A We sent it to you.
 9 Q I understand that. What I'm trying to understand
 10 is whether or not the subject lands are leased for
 11 grazing at the moment?
 12 A Yes.
 13 Q And is it this lease?
 14 A Yes.
 15 Q And do you have an executed version of this lease
 16 that would confirm that?
 17 A Yes.
 18 Q And did you send that to us in response to our
 19 discovery request?
 20 A It was on my computer.
 21 Q What was on your computer?
 22 A The one I sent you.
 23 Q Where is the signed lease?
 24 A It's a paper document.
 25 Q And are you capable of sending paper documents?
 Page 30

1 A I'm in Texas. The documents are in Wyoming.
 2 Q And when did you receive the Notice of
 3 Deposition?
 4 A Which deposition?
 5 Q When did you receive the Notice of Deposition?
 6 A Which one?
 7 Q The first one that we've been talking about this
 8 morning that's been marked as BPM 000 --
 9 A You know the answer to that because you sent it
 10 certified with a return. It's in your records.
 11 Q And I will represent for the record that you
 12 received it by e-mail on November 5th of 2018, and you
 13 received it by certified mail on November 8th, 2018
 14 and --
 15 A You have the records.
 16 Q Mr. Ericsson, again, I would request that you
 17 refrain from interjecting while I'm speaking for
 18 purposes of the court reporter maintaining an accurate
 19 record.
 20 A I heard you before.
 21 Q And I understand that you may have heard me, but
 22 you continue to do it.
 23 A And you're continuing to pad this for no purpose.
 24 You've going way beyond the scope of the hearing.
 25 Q Mr. Ericsson, you received this Notice of
 Page 31

1 Deposition --
 2 A Mr. Ericsson, Mr. Ericsson. It's Ronald, Ronald,
 3 Ronald, Ronald.
 4 Q Ronald, you received this Notice of Deposition
 5 before you left Wyoming, is that correct?
 6 A Yes.
 7 Q And last week you participated in a conference
 8 call with the hearing examiner on the 3rd of December,
 9 is that correct?
 10 A You know it's correct. You were on the line.
 11 Q Yes, Ronald, but I need to make this -- make
 12 this -- reflect it in the record.
 13 A Asked and answered.
 14 Q Ronald, in that hearing, do you recall testifying
 15 to the hearing examiner that you collected all
 16 responsive documents in Wyoming and took them with you
 17 to Texas?
 18 A Not all. That would take a pickup load.
 19 Q So there's a pickup load of responsive documents
 20 in Wyoming?
 21 A This is beyond the hearing. It's beyond the
 22 scope of the proceedings ordered by the hearing
 23 examiner.
 24 Q Mr. -- Ronald, what I'm trying to establish is
 25 whether or not you complied with our discovery request.
 Page 32

1 A Asked and answered.
 2 Q In this -- earlier this morning you said that you
 3 provided all responsive documents. You now just
 4 testified that there was a pickup truck load of
 5 documents in Wyoming that you did not take with you to
 6 Texas or produce.
 7 What I'm trying to understand is how to remedy
 8 those two statements.
 9 A This business is ranch business, not bentonite
 10 business, and I have other companies, and I have a lot
 11 of documents.
 12 Q Very well. And -- and I need to --
 13 A Asked and answered. Asked and answered.
 14 Q Mr. Ericsson, I'm going to take a step back here.
 15 And it may be worthwhile that you take a five-minute
 16 break and collect yourself, but --
 17 A Oh, no. I want this over with. I'm not going to
 18 be here for six hours, whether you like it or not.
 19 Q Ronald, it's important that you participate in
 20 this process, that you allow us to --
 21 A It's important -- it's important that you ask
 22 questions that are relevant to the hearing. This has to
 23 do with reclamation. It has nothing to do with anything
 24 else. And you keep asking questions that are not
 25 relevant.
 Page 33

<p>1 Q Would you like us to attempt to get the hearing 2 examiner on the phone? 3 A Say that again. 4 Q Would you like us to get the hearing examiner on 5 the phone so that he can make decisions on this 6 relevancy issue that you have? 7 A No. 8 Q Because if this deposition continues this way, 9 we'll be forced to have the hearing examiner join us and 10 participate. 11 A That's your decision. I don't necessarily agree 12 with that. 13 Q You're right, it is our decision, and we prefer 14 that we just move forward with this, but it's 15 frustrating when you refuse to answer questions. 16 A I answered them. I answered the questions. You 17 may not like the answers, but I answered them. You're 18 way, way beyond what's going on here. 19 Q Let's walk through this Notice of Deposition. In 20 Exhibit A, which has been marked as BPM 000380 and 21 0003 -- excuse me, 379, we identify eight topics or 22 requests for production. 23 Do you remember reviewing these eight requests, 24 Ronald? 25 A The ones you sent us?</p> <p style="text-align: right;">Page 34</p>	<p>1 hearing you, Roland, so to the extent it's just an echo, 2 I apologize. If it's you providing answers to Ronald, I 3 would request that you stop. 4 Kathy, could you read back the last question, 5 please. 6 (Record read as follows: 7 "Q So it's been established that you received 8 the Notice of Deposition. Attached to the Notice 9 of Deposition were eight requests. Do you 10 remember reviewing those eight requests? 11 "A I don't remember. 12 "Q And I'm going to interject there. I 13 continue to hear Roland.") 14 And then the colloquy. 15 MR. YEMINGTON: Thank you. 16 BY MR. YEMINGTON: 17 Q Ronald, because you don't remember, I think what 18 would be helpful at this point is to read these requests 19 into the record, and we'll have a few questions on them, 20 and then hopefully we can move forward past this Notice 21 of Deposition. 22 The first request asks for documentation 23 evidencing any existing surface uses. Do you remember 24 that request? 25 A No, not completely. My answer is going to be to</p> <p style="text-align: right;">Page 36</p>
<p>1 Q Yes. 2 A That my brother Roland responded to? 3 Q There's documents that we requested for 4 production that were attached to -- 5 A And did he respond to them? 6 Q Ronald, again, please limit your response to the 7 question asked. 8 A That is a question asked. You asked me if I 9 remembered, and I said -- I'm asking for information. 10 Are those the documents that Roland sent back to you? 11 Q I'm not talking about the specific documents, 12 Ronald. I'm talking about the requests. 13 A That's what I'm talking about. 14 Q So it's been established that you received the 15 Notice of Deposition. Attached to the Notice of 16 Deposition were eight requests. Do you remember 17 reviewing those eight requests? 18 A I don't remember. 19 Q And I'm going to interject there. I -- I 20 continue to hear Roland in the background, and I would 21 remind all the parties that this deposition is of Ronald 22 Ericsson, and to the extent Roland -- 23 MR. ROLAND ERICSSON: You haven't heard me. I 24 haven't said a word. 25 MR. YEMINGTON: I'm either hearing an echo or</p> <p style="text-align: right;">Page 35</p>	<p>1 all of them, it's beyond the scope of the proceedings as 2 ordered by the hearing examiner. That's going to be my 3 answer to all eight of them. 4 Q Ronald, is it your testimony that all eight 5 requests are irrelevant and beyond the scope? 6 A Asked and answered. 7 Q Is it your position that you will not be 8 providing any testimony here on any of these issues? 9 A I don't know. 10 Q What don't you know? 11 A I don't know. 12 Q Can you please elaborate. 13 A Asked and answered. 14 Q Mr. Ericsson, we are trying to do this as quickly 15 and painlessly as possible, and this is not helpful. 16 A And I don't agree with you at all that you're 17 doing this. You're trying to get as much worthless 18 information as you can which is not relevant to the 19 hearing. There's only one issue here, and that doesn't 20 take six hours. 21 BPM wants to mine where there's 10,936 trees, 22 which it is unclear, I repeat, it is unclear what's the 23 area where the 10,936 trees are located, and you sent me 24 a map which shows where the trees are, but BPM can't 25 find the trees?</p> <p style="text-align: right;">Page 37</p>

<p>1 Q Ronald, do you remember participating in the 2 August 21st, 2018 scheduling conference with the hearing 3 examiner? 4 A Yes. 5 Q And do you remember -- or did you receive and 6 review the Order of Schedule from the hearing examiner 7 with relation to that hearing? 8 A A schedule for what? 9 Q After that hearing, the hearing examiner issued 10 an Order. Do you remember that? 11 A Order for what? 12 Q It's called an Order of Schedule, and it's dated 13 August 21st of 2018. Would you like me to read it to 14 you? 15 A No, I don't want you to -- I don't recall. I 16 don't know. 17 Q Okay. Well, for purposes of the record, I'll 18 read it in. And this hasn't been marked -- Bates 19 stamped because it is a pleading. 20 Pursuant to the Order, "The parties appeared for 21 a pre-hearing conference in this matter on Tuesday, 22 August 21 at 10:30 a.m. Appearing in person on behalf 23 of the Petitioner, Bentonite Performance Minerals were 24 Matt Micheli and Samuel Yemington. Appearing on behalf 25 of the Respondent, 2U Ranch were Ronald Ericsson, Scott Page 38</p>	<p>1 A I will tell you my position again and again and 2 again. We do not accept that BPM can comply with the 3 DEQ regulation, with the Wyoming statutes which requires 4 that the trees, the land be restored to the value equal 5 or better than prior to being mined. That's what the 6 issue's all about. 7 Q I understand, Mr. Ericsson, and what I'd like to 8 do -- 9 A I'm not through. You're interrupting me. 10 "The highest previous use of the affected lands, the 11 surrounding terrain and natural vegetation, surface and 12 subsurface flowing or stationary water bodies, wildlife 13 and aquatic habitat and resources." 14 Reclamation, this is DEQ, Non Coal, Chapter 3, 15 "Reclamation shall restore the land to a condition equal 16 to or greater than the "highest previous use." 17 DEQ knows it can't be done, BPM knows it can't be 18 done, the attorneys know it can't be done, 2U Ranch 19 knows it can't be done, and that's what this Council 20 hearing is all about. And that doesn't take six hours. 21 Because we have notified BPM we want the restorage 22 requested, and they haven't responded. That's what the 23 hearing is. Nothing more, nothing less. 24 We will not -- if you sign the surface agreement, 25 then we no longer have any authority, and restoring the Page 40</p>
<p>1 Ericsson and Roland Ericsson. Also appearing were 2 Brandi O'Brien and Kyle Wendtland from the DEQ, James 3 Ruby from the EQC and Steve Lenz from the Council. The 4 Respondent had filed a Motion to Continue the 5 pre-hearing conference since the parties were attempting 6 to mediate this dispute. After hearing oral argument by 7 the Parties and review of the pleadings, the Motion is 8 Denied." 9 And now this is a part of the Order I'd like you 10 to focus on. "The Petitioner has filed a Petition for 11 Order in Lieu of Consent. A hearing on this matter only 12 looks to identify whether four statutory elements have 13 been met. Those elements are," and the hearing examiner 14 proceeds to identify the four statutory elements. 15 Do you remember this now? 16 A I remember the four. 17 Q Okay. And what do you remember the four to be? 18 And I'm happy to read them into the record if you 19 prefer. 20 A I know what they -- I know what they are. The 21 one that we don't agree with is reclamation is not 22 complete. 23 Q Right, and that's what I'm -- that's what I'm 24 trying to get at here is where you're at and what your 25 position is, and so what I would like -- Page 39</p>	<p>1 land going in there and ruining a ranch for rogued 2 bentonite is not acceptable, and that doesn't take six 3 hours. 4 Q Are you finished? 5 A (No answer.) 6 Q All right. Well, back to that Order. What I'd 7 just like to clarify, and this may give us an 8 opportunity to shorten up this deposition, and that's 9 why I'm trying to do this, so please bear with me, but 10 it has to be on the record or else we're going to go 11 through every single element. 12 Based on what you just said, I understand your 13 position to be that BPM takes issue with the fourth 14 element of the statutory requirements. And to be clear, 15 the first element requires that a mining plan and a 16 reclamation plan be submitted to you. 17 Do you contest that? 18 A No. 19 Q And the second element requires that the mining 20 plan and the reclamation plan be detailed to illustrate 21 the full proposed surface use, including the proposed 22 routes of ingress and egress. 23 Do you dispute that? 24 A No. 25 Q The third element requires that the use not Page 41</p>

1 substantially prohibit the operations of the surface
 2 owner.
 3 Do you dispute that?
 4 A Yes.
 5 Q And what do you dispute about that?
 6 A The permit has not been issued. It's an unknown.
 7 Q And just to focus on this element, the question
 8 is is whether there's surface uses -- existing surface
 9 uses that might be disrupted by the proposed mining.
 10 And to put this in a context, that's why I want to talk
 11 about things like grazing leases, because I want to
 12 understand how you use this land, and I want to
 13 understand how that -- how those uses might be
 14 disrupted.
 15 Do you understand that?
 16 A Yes.
 17 Q And so when I ask questions about the grazing
 18 lease, that's why.
 19 A And the answer is going to be unknown because a
 20 permit has not been issued, we do not know what's going
 21 to be in the permit, so therefore, we -- I cannot
 22 answer. It's an unknown, an unknown, an unknown.
 23 Q Well, Mr. Ericsson, I'd volunteer that the
 24 analysis is -- is moot in light of the proposed mining
 25 operations, which we defined at the beginning of this

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1 deposition and which are illustrated in both the mining
 2 plan and the reclamation plan, and what we're trying to
 3 understand is as they're proposed, and we're not saying
 4 permitted, as those are proposed, how they might impact
 5 you, and that's what we're trying to get to here and
 6 better understand how you use your ranch and how you use
 7 those lands.
 8 A I don't know.
 9 Q The lands --
 10 A I don't know the impact.
 11 Q And that's okay. That's not the -- that's not at
 12 the heart of the inquiry.
 13 The real thing that we're interested in is
 14 understanding how you use your land. And are you
 15 willing and able to talk about this?
 16 A Beyond the scope of the proceedings as ordered by
 17 the hearing examiner.
 18 Q So returning to the four elements. We'll set
 19 aside the first two. We don't believe that those are in
 20 dispute.
 21 It's your position that it's the third element of
 22 this analysis that is in dispute?
 23 A Asked and answered.
 24 Q And what about the fourth element that the
 25 proposed plan reclaims the surface to its approved

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1 future use?
 2 A We do not agree.
 3 Q Okay. And so for the purposes of this
 4 deposition, what we'll try to do is focus on those two
 5 elements and better understand what it is that, first,
 6 2U uses those lands for, and second, how those lands
 7 might not be reclaimed, in your opinion, to accommodate
 8 for those future uses. Okay?
 9 A And my answer is going to be unknown because the
 10 permit has not been issued. I cannot respond to
 11 unknowns. We've already discussed the reclamation. We
 12 don't have to discuss it anymore. You know our
 13 position. We've stated it. We sent it certified. I
 14 have sent it to you now. It's not an unknown to you.
 15 It doesn't need to be discussed anymore.
 16 Q Okay. And so returning to the Notice of
 17 Deposition, BPM 000380, again, I'd just like to run
 18 through these quickly.
 19 Have you provided all documentation, and this is
 20 in regard to Request No. 1, of any existing uses of the
 21 subject lands?
 22 A I don't understand the question.
 23 Q Well, we requested all documentation of existing
 24 uses of the subject lands that may be impacted by the
 25 proposed mining operation.

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1 A And we sent those -- we sent those documents.
 2 Q Okay. And so you've identified all existing uses
 3 of the subject lands in your responses?
 4 A No. You asked for documents.
 5 Q Okay. And what I'd like to do now is have you
 6 tell me what the existing uses are.
 7 A Beyond the scope of the proceedings ordered by
 8 the hearing examiner.
 9 Q Again, Mr. Ericsson --
 10 A Asked and answered.
 11 Q -- I would direct you to the third element of the
 12 analysis which specifically analyzes the impacts on
 13 existing uses.
 14 A And my answer was we don't know because a permit
 15 has not been issued.
 16 Q Mr. Ericsson, do you use the subject lands for
 17 grazing?
 18 A I've already answered that question.
 19 Q Please re-answer it if you have. I don't recall
 20 you answering it.
 21 A You asked me about the grazing lease.
 22 Q And if -- Mr. Ericsson --
 23 A The grazing lease is the grazing lease. That's
 24 what you do on a ranch. You don't sell grass. You sell
 25 grass through livestock.

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1 Q Mr. Ericsson, some of these questions may sound
2 redundant to you, but they're important for us, so just
3 please bear with us.
4 A I'm not bearing with you.
5 Q I agree. What we're trying to understand is how
6 much of the subject lands you use and how you use them.
7 And so we understand that you've entered into a grazing
8 lease with Mule Shoe that covers, in part, the subject
9 lands. Is that correct?
10 A Here, Wyoming Statute 35-11-402, establish of
11 standard states that the reclamation should be to "The
12 highest previous use of the affected lands, the
13 surrounding terrain and natural vegetation, surface and
14 subsurface flowing or stationary water bodies, wildlife
15 and aquatic habitat and resources, and acceptable uses
16 after reclamation including the utility and capacity of
17 the reclaimed lands to support such uses." Is that
18 clear?
19 Q Mr. Ericsson, I'm familiar with the law. I
20 would --
21 A You asked a question. That's my answer.
22 Q My question was whether you use this land for
23 grazing, that's it?
24 A And you've asked it more times, and I've answered
25 it. You've got a grazing lease. Isn't that clear

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1 enough?
2 Q How long have you grazed the subject lands?
3 A You want to know how long we've owned the ranch?
4 Q No. I asked how long you've grazed the subject
5 lands?
6 A What do you mean "how long"?
7 Q How many years have you grazed the subject lands?
8 A Do you understand Wyoming ranches? What do you
9 think they do with land? What is a ranch? That's a --
10 that's an irrelevant question.
11 Q Mr. Ericsson, approximately how many years have
12 you used the subject lands for grazing?
13 A Beyond the scope of the proceedings as ordered by
14 the hearing examiner. Next question.
15 Q All right. We're going to take a -- Kathy, we're
16 going to take a -- go off the record and take a
17 ten-minute break. We'll reconvene at 10:08 --
18 A No, no. I'm being deposed. I'm not taking a
19 break. It's not your choice.
20 Q 10:08. Thank you.
21 (Break.)
22 BY MR. YEMINGTON:
23 Q Ronald, are you still with us?
24 A Yes.
25 Q Very good. Let's revisit the issue of existing

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1 uses, and to the extent I haven't been clear for some
2 reason or you don't understand why this interests us,
3 again, I'd direct you to the third element of the Order
4 in Lieu analysis that does require the EQC to take into
5 consideration the existing uses of the subject lands,
6 and in that effort, we would like to better understand
7 how you use these lands. And we understand that there's
8 an existing grazing lease with Mule Shoe that covers
9 these lands and covers other lands of 2U's.
10 And my first question would be does the lease
11 cover all of 2U's lands?
12 A Yes.
13 Q And how long has Mule Shoe leased those lands
14 from 2U?
15 A Four years.
16 Q Okay. And so the record is clear, if I go back
17 four years, would that be the summer of 2014? Is that
18 the leasing period that would have initiated the
19 agreement with Mule Shoe?
20 A '15.
21 Q 2015, okay. And has that lease always covered
22 all of 2U's lands or just part of 2U's lands?
23 A All.
24 Q All. And so since 2015, the subject lands, which
25 are the subject to this proceeding, have been covered by

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1 a lease to Mule Shoe?
2 A Yes.
3 Q And approximately how many acres is 2U?
4 A 1517.
5 Q 1517. Thank you. And what time of year do they
6 usually run those cows?
7 A You read the lease. It's stated in the lease.
8 Q Yes, and I understand that. And again, one issue
9 we have is that that is an unsigned lease, and so it's
10 not clear to us if that's the same lease that's been in
11 force and effect, and if it is --
12 A I will confirm it is an accurate lease.
13 Q Okay. And is it the same lease that would have
14 been used in 2015, 2016 and 2017?
15 A No.
16 Q Well, and that's what I'm trying to establish is
17 how you've used this and if it deviates from that lease,
18 that will --
19 A It doesn't deviate. We had a three-year lease.
20 We're now on a second three-year lease.
21 Q Okay. That's great. I appreciate that answer.
22 That clarifies it for me.
23 A And the land is also used for hunting, and for
24 wildlife, and for recreation.
25 Q Okay.

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1 A Multiple uses, and that includes turkeys,
2 antelope, mule deer, white-tailed deer, mountain lions,
3 and in the future, if BPM doesn't get what they want or
4 does and reclamates the land, we're going to lose habitat
5 to include elk and wetlands. The habitat will be
6 irrevocably changed to the negative.
7 Q Okay. And just so I understand your testimony,
8 you currently use that land for grazing, for hunting and
9 for wildlife and recreation, is that correct?
10 A Yes.
11 Q Okay. Well, let's walk through those. We've
12 touched on a few things. Grazing-wise, I'd like to
13 revisit the time of year. I know that the lease says a
14 six-month grazing period, but in my experience in
15 Northeastern Wyoming, that's not always the case, and
16 it's highly contingent on the amount of rainfall.
17 Is that true with your -- with the subject lands?
18 A Of course grazing is dependant on rainfall. And
19 there's a petition in there if there's a draught, then
20 they have to remove the cattle.
21 Q Exactly, and that's what I'm getting at. Since
22 2015 when Mule Shoe has leased that land from you, have
23 they used it for six months out of the year, five months
24 out of the year? Has it varied? I'm just trying to get
25 a better understanding of how they've used your land.

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1 A This is beyond the scope of the hearing.
2 Q Could you --
3 A You have the grazing lease. Asked and answered.
4 Q And do you own any cattle?
5 A Beyond the scope of the proceedings as ordered by
6 the hearing examiner.
7 Q Ronald, I'm trying to get through this as quickly
8 as possible.
9 A No, you're not.
10 Q It's going to take far longer if you don't answer
11 simple questions like that.
12 A They're not simple questions.
13 Q Have you ever owned cattle?
14 A Beyond the scope of the proceedings as ordered by
15 the hearing examiner.
16 Q Prior to 2015, were the lands leased to anyone
17 else for purposes of grazing?
18 A Beyond the scope of the proceedings ordered by
19 the hearing examiner.
20 Q Prior to 2015, did you use the lands for grazing?
21 A Beyond the scope of the proceedings as ordered by
22 the hearing examiner.
23 Q Mr. Ericsson, have you ever owned cattle?
24 A Beyond the scope of the proceedings as ordered by
25 the hearing examiner.

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1 Q Horses?
2 A Beyond the scope of the proceedings as ordered by
3 the hearing examiner.
4 Q All right. Let's move forward to the next use
5 that you identified. You said that you use the subject
6 lands for hunting. Do you hunt?
7 A Beyond the scope of the proceedings as ordered by
8 the hearing examiner.
9 Q Mr. Ericsson, you just testified that you use the
10 subject lands for grazing, hunting, recreation and
11 wildlife. I'm only try to figure out --
12 A You asked me if I hunted.
13 Q Do you hunt on the subject lands?
14 A Beyond the scope of the proceedings as ordered by
15 the hearing examiner.
16 Q Do you outfit the subject lands, that is do you
17 have a contractual lease agreement with an outfitter for
18 purposes of hunting?
19 A Beyond the scope of the proceedings as ordered by
20 the hearing examiner.
21 Q Ronald, you just testified that you use those
22 subject lands for hunting, mule deer --
23 A You asked if we had an outfitter.
24 Q I'm trying to understand how you --
25 A I testified that we do hunting on the ranch.

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1 Q Do you do hunting on the subject lands?
2 A I personally?
3 Q Yeah, let's start there. Do you personally hunt
4 on the subject lands?
5 A Beyond the scope of the proceedings as ordered by
6 the hearing examiner. It has nothing do with
7 reclamation.
8 Q And again, Ronald, what we're trying to
9 understand is how the proposed mining operations might
10 impact existing uses, and based on your testimony, I
11 understand that you do use the subject lands for
12 grazing, hunting, recreation and wildlife, and to that
13 extent, it's important for this proceeding that we
14 understand just how you do use those lands, and that's
15 why I'm asking these questions. It's not meant to
16 badger you or to unnecessarily --
17 A We use it for grazing. We use it for hunting.
18 We use it for recreation.
19 Q And what I'm trying to establish is who uses it
20 for hunting and when they use it for hunting?
21 A Hunting is in during hunting season. It depends
22 on the species.
23 Q Okay. Well, you mentioned turkey, mule deer,
24 white-tailed deer, elk --
25 A Christ. It's beyond the scope of the proceedings

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1 as ordered by the hearing examiner.
 2 Q Again, Ronald, we're just trying to understand --
 3 A Asked and answered. Asked and answered.
 4 Q Let's move on to recreation. How do you use the
 5 subject lands to recreate?
 6 A Beyond the scope of the proceedings as ordered by
 7 the hearing examiner.
 8 Q Ronald, do you use the lands, the subject lands
 9 to recreate? Would you please answer the question.
 10 A Repeat the question.
 11 Q Are you not answering?
 12 A It's unanswerable.
 13 Q And why is that? Could I clarify that question
 14 for you?
 15 A It's too broad.
 16 Q Do you or your family use that land to recreate?
 17 I'm not sure how I can make it less straightforward.
 18 A Let's put it this way. My trust is a part owner.
 19 Q Could you clarify that answer. I didn't quite
 20 understand you.
 21 A My trust is a part owner of the 2U Ranch.
 22 Q And I guess I'm just not clear how that is
 23 responsive to my question.
 24 A I live there part of the year in the area, not on
 25 the 2U Ranch, but on the Lonesome -- on the 4 Horsemen
 Page 54

1 Ranch.
 2 Q Okay. And when you live on the 4 Horsemen Ranch,
 3 do you use the subject lands for recreation? Do you
 4 ride horses on them? Do you -- we've covered hunting.
 5 How do you use those subject lands that --
 6 A Beyond the scope of the proceedings as ordered by
 7 the hearing examiner.
 8 Q All right. So you just mentioned that you live
 9 on -- is it 4 Horsemen, is that correct?
 10 A Yes.
 11 Q And that's different from 2U, is that right?
 12 A Yes.
 13 Q And you also mentioned that you only live there
 14 part-time. When do you usually live up there?
 15 A You know where I am now, don't you?
 16 Q I understand that you're in Alpine, Texas.
 17 A Well, there's your answer.
 18 Q Well, I'd like to be a little more specific.
 19 When do you usually arrive in Wyoming?
 20 A You were there when we had the mediation, weren't
 21 you?
 22 Q No, I was not.
 23 A Well, your partner was.
 24 Q And did you arrive in Wyoming on the date of the
 25 mediation?
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1 A No.
 2 Q When did you arrive in Wyoming in 2018?
 3 A Beyond the scope of the proceedings of the -- as
 4 ordered by the hearing examiner.
 5 Q Do you live in Wyoming or Texas more?
 6 A Beyond the scope of the proceedings as ordered by
 7 the hearing examiner.
 8 Q On what date did you leave Wyoming this year?
 9 A Beyond the scope of the proceedings as ordered by
 10 the hearing examiner.
 11 Q Ronald, did you vote in Wyoming this year?
 12 A Beyond the scope of the proceedings as ordered by
 13 the hearing examiner.
 14 Q Ronald, what I'm really trying to understand is
 15 how you use this land, and to the extent you're using --
 16 A No. You're trying to get as much information
 17 that's irrelevant as possible. We know what you're
 18 trying to do.
 19 Q Ronald, with all due respect, what I'm trying to
 20 do is understand how you use --
 21 A It doesn't have anything to do with respect. Let
 22 me give you what it says that Taylor Tetrault wrote. He
 23 wrote this, certified, June 29th, 2018. He says,
 24 "Notwithstanding, BPM remains unwilling," I repeat,
 25 "unwilling to agree to your demands that disturbed trees
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1 be replaced with like trees of the same species and of
 2 similar age and size."
 3 And I want this to be on record, I repeat, I want
 4 this to be on record. All materials and documents
 5 involving tree reclamation is required.
 6 Q Okay. And again, just so we're clear, everything
 7 you say during the course of this deposition will
 8 be transcribed.
 9 A What I don't understand from you is you're trying
 10 to throw out some stuff saying that our letters are not
 11 relevant. We want reclamation. We've sent certified
 12 letters. We've requested for almost two years to get
 13 BPM to explain how they're going to restore the trees,
 14 and we've received an answer no, no, no. Why? It's not
 15 possible. And the law requires it, the DEQ regulations
 16 require it. BPM knows it, the attorneys know it, and we
 17 know it, and everybody's trying to avoid it. And that's
 18 what the Council hearing's about, and that's why we
 19 didn't sign the landowner's surface agreement. And
 20 there's not a permit. And I can't answer with accuracy
 21 on a lot of the questions you want to ask because there
 22 is no permit.
 23 Q Okay. Well, thank you. But again, returning to
 24 how you use the subject lands, I think we can talk about
 25 that because that's how you've used the lands in the
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1 past and how you use the lands today, and that's what
2 we're trying to really understand. And so to the extent
3 you can't answer --
4 A Let me explain. How are we going to -- how am I
5 going to answer it? It's not answerable if they come in
6 and tear up all that land and take down the trees and --
7 and some of that Bentonite is 69 feet below the surface.
8 That's four and a half stories high.
9 So how are we going to answer the question on
10 reclamation and hunting until we know what's going to
11 happen with the mining. It remains unknown.
12 Q Okay. And I think I understand what you're
13 saying, but again, what we're really trying to do is
14 just -- is to develop that sort of baseline data of how
15 you --
16 A No. You're trying to develop a basic and use at
17 the hearing. I know what you're trying to do. You're
18 not the first lawyer.
19 Q And so based on your testimony, I understand that
20 you use the subject lands for grazing and for hunting
21 and for recreation and wildlife.
22 Beyond the grazing lease from Mule Shoe, do you
23 have any agreements or contracts or documentation with
24 respect to any of those uses, hunting, recreation,
25 wildlife?

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1 A No.
2 Q Okay. And so no contracts with an outfitter, you
3 know --
4 A Asked and answered.
5 Q All right. Let's move forward.
6 A Let's move forward quickly. You're wasting our
7 time.
8 Q Ronald, where were you born?
9 A Beyond the scope of the proceedings as ordered of
10 the hearing examiner. I'm going to keep repeating that
11 when you ask irrelevant questions. It has nothing to do
12 with the hearing.
13 Q When were you born?
14 A Do you want me to repeat that again?
15 Q Yes, please.
16 A Beyond the scope of the proceedings as ordered by
17 the hearing examiner. You wrote it, you wrote it on the
18 Interrogatories. I'm just quoting from something you
19 wrote.
20 Q And --
21 A BPM didn't want to answer anything, so they threw
22 that out at us. Not relevant. Not relevant. Not
23 relevant. Where I was born and when I was born is not
24 relevant to a hearing.
25 Q Well, with all due respect, Mr. Ericsson, what

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1 we're trying to establish --
2 A Asked and answered.
3 Q Where are you a resident?
4 A What?
5 Q Where are you a resident?
6 A Beyond the scope of the proceedings as ordered by
7 the hearing examiner.
8 Q I understand you operate a business in Texas?
9 A Beyond the scope of the proceedings as ordered by
10 the hearing examiner.
11 Q How long have you operated that business?
12 A Beyond the scope of the proceedings as ordered by
13 the hearing examiner.
14 Q Do you continue to operate that business in the
15 summer when you are in Wyoming?
16 A Beyond the scope of the proceedings as ordered by
17 the hearing examiner.
18 Q Are you married?
19 A Beyond the scope of the proceedings as ordered by
20 the hearing examiner.
21 Q Ronald, please, you can -- we can get through
22 this a lot quicker if you --
23 A Then quit asking questions that are not relevant,
24 and we'll get through it a damn lot quicker.
25 Q Well, what I'm trying to establish, Ronald, is --

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1 A No. You're trying to get as much information as
2 you can use is what you're trying to do. I didn't fall
3 off the turnip truck.
4 Q Well, what I'd like to know is you previously
5 testified that you spend some of your time in Wyoming at
6 a house on 4 Horsemen Ranch, which I understand
7 neighbors 2U Ranch, and what I'm trying to understand is
8 if you have a family who joins you in Wyoming when you
9 visit, if they use the lands as well --
10 A Beyond the scope of the proceedings as ordered by
11 the hearing examiner or confidential business
12 information. I'll put that in now.
13 Q Do you have an education?
14 A Have you followed any of the documents that
15 you've been sent?
16 Q Please just elaborate on your --
17 A Have you seen any of the documents?
18 Q Which documents? I'm not sure. If you just
19 answer the question, it might be easier.
20 A Well, let me put it this way. We sent you
21 e-mails.
22 Q I understand. I've received a number of e-mails
23 from you.
24 What the question was if you have an education --
25 A No, no, no. What does it say after Ronald J.

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1 Ericsson? What does it say?
 2 Q Ronald, if you could just please --
 3 A What answer -- what does it say after my name?
 4 Q I'm not sure.
 5 A Of course you're sure if you know how to read.
 6 Q So I understand that you have some form of
 7 education --
 8 A That's an insult to ask me about my education
 9 when you already damn well know that I do.
 10 Q Ronald, what education do you have, please,
 11 and --
 12 A Read your e-mails and see what it says after my
 13 name. Asked and answered. Asked and answered.
 14 Q When did you receive your education?
 15 A Beyond the scope of the proceedings as ordered by
 16 the hearing examiner or confidential business
 17 information.
 18 Q And do you have any degrees, a degree, degrees?
 19 A You know why people don't like lawyers when you
 20 know damn good and well the answer and you ask the
 21 question anyway. Beyond the scope of the proceedings as
 22 ordered by the hearing examiner or confidential business
 23 information. That's an insult to me asking me those
 24 questions when you already know the answer. And I think
 25 it's unethical.

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1 Q Are you currently employed?
 2 A How many times are we going to have to go through
 3 this? Beyond the scope of the proceedings as ordered by
 4 the hearing examiner or confidential business
 5 information.
 6 Q And are you retired?
 7 A Beyond the scope of the proceedings as ordered by
 8 the hearing examiner or confidential business
 9 information.
 10 Q Let's talk a little bit about 2U Ranch, LLC. Can
 11 you describe to me the ownership structure of 2U Ranch.
 12 A Beyond the scope of the proceedings as ordered by
 13 the hearing examiner or confidential business
 14 information.
 15 Q And Ronald, I'm just trying to understand if
 16 there maybe are --
 17 A No, you're not trying to understand. You're
 18 trying to get at information that's not relevant.
 19 Q I'm trying to understand, just like my question
 20 regarding your family, whether there's other owners or
 21 members or managers of 2U Ranch that might be impacted
 22 by the proposed mining?
 23 A Everybody will be impacted, not just owners, the
 24 whole landscape. The County of Crook. The environment,
 25 the CEO [sic], the wildlife, the habitat, the water,

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1 long term, years and decades. Beyond the scope of the
 2 proceedings as ordered by the hearing examiner or
 3 confidential business information.
 4 Q Who manages 2U Ranch?
 5 A Beyond the scope of the proceedings as ordered by
 6 the hearing examiner or confidential business
 7 information.
 8 Q And let's focus just on the subject lands for a
 9 minute.
 10 When did you purchase the subject lands?
 11 A Beyond the scope of the proceedings as ordered by
 12 the hearing examiner or confidential business
 13 information.
 14 Q And what's your understanding of the mineral
 15 ownership under the subject lands?
 16 A Unknown.
 17 Q And why do you say "unknown"?
 18 A Asked and answered.
 19 Q I don't believe it was.
 20 A I don't know.
 21 Q Through the course of this proceeding, you've
 22 made several allegations that Bentonite Performance
 23 Minerals is an improper lessee because the State of
 24 Wyoming doesn't own the mineral estate.
 25 Is that still your position?

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1 A Beyond the scope of the proceedings as ordered by
 2 the hearing examiner or confidential business
 3 information.
 4 Q Just generally speaking, what's your
 5 understanding of the relationship between, in your
 6 instance, a surface estate, which is owned by 2U Ranch,
 7 and a mineral estate, which is owned by the State of
 8 Wyoming? How do those two estates interact?
 9 A I don't understand the question.
 10 Q That is when you purchased 2U Ranch, you
 11 purchased the surface estate, right?
 12 A Yes.
 13 Q That is you purchased the surface lands, but
 14 there's a different property owner, an owner of the
 15 mineral lands, which is the State of Wyoming, correct?
 16 A Yes.
 17 Q And what's your understanding about how those two
 18 estates, the surface lands on one hand and then the
 19 minerals on the other, how those interact?
 20 A I don't know.
 21 Q Okay. That's fine. When you bought the lands,
 22 and I understand that you and a group of individuals
 23 purchased the lands in 1979, and certainly correct the
 24 record if I'm wrong, did you understand that you weren't
 25 purchasing the mineral estate, that you were only

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1 purchasing the surface lands?
2 A We bought it in 1969.
3 Q Okay. Thanks. Would you like me to repeat that
4 question or did you understand it?
5 A The minerals are complex. It depends where you
6 are and who the owners are.
7 Q Right. But my question is when you purchased the
8 subject lands in 1969, did you understand that you
9 weren't purchasing the mineral estate?
10 A That's not -- we did purchase some of the mineral
11 estate.
12 Q Again, specific to the subject lands that are
13 covered by the Wyoming State bentonite lease.
14 A Yes.
15 Q And did you understand how that may impact the
16 surface estate in the future?
17 A Yes.
18 Q And what was your understanding?
19 A That is why we're having the hearing.
20 Q Again, what was your understanding about how that
21 might impact the surface lands?
22 A That's an unknown.
23 Q Well, I think just looking perspectively, in 1969
24 when you purchased those lands, you understood that the
25 mineral estate could be developed, is that fair?

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1 A Yes.
2 Q And did you understand that courts have
3 interpreted for a long time the law to establish that
4 the mineral estate is dominant over the surface estate?
5 A No, that's not correct.
6 Q And what's your understanding?
7 A My understanding is the land has to be restored
8 to an equal or greater value.
9 Q Right, but --
10 A We're not denying they have the right to mine.
11 We're challenging that they can't restore it to equal or
12 greater value, which they cannot.
13 Q Okay. And just to elaborate on that, that's
14 specific to the trees, is that right?
15 A No, it's not the trees. There's a spring,
16 there's wetlands, there's habitat, the whole
17 environment. You don't go in there and take 10,936
18 trees and 86.26 acres and expect it to be the same.
19 Q Well, let's talk about that for a minute. Where
20 do you get that number from?
21 A BPM.
22 Q And elaborate on that.
23 A Because they did it, they counted them, they
24 determined 126 trees per acre, 86.23 acres of woodlands,
25 72 percent are ponderosa pine, 22.5 percent are bur oak,

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1 and 5 percent are juniper, a total of 10,936.55 trees,
2 7,928.99 ponderosa pine, 2460.72 bur oak, and 546.82
3 juniper. And we've asked they be restored back to their
4 equal value. Bur oak don't mature until they're 200,
5 and they live to be 400, and ponderosa pines can live to
6 be 600.
7 Q And what's the basis for that statement?
8 A Pardon?
9 Q I said what's the basis for that statement? Are
10 you -- well, you wouldn't -- you refused to talk about
11 your education before, so I'm trying to understand where
12 you get these numbers from.
13 Do you have some sort of knowledge of how long a
14 tree lives? You seem fairly specific.
15 A I read books.
16 Q And which books did you read to arrive at those
17 conclusions?
18 A Beyond the scope of the proceedings --
19 Q Ronald, I'm just trying to understand --
20 A -- as ordered by the hearing officer -- you're
21 interrupting me -- or confidential business. If you
22 don't think that's accurate, challenge it.
23 Q Challenge what?
24 A Well, you said what do I know, and I said if you
25 don't believe what I said, then challenge it. You're an

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1 attorney. I assume you can read books.
2 Q I'd like to direct your attention to what's been
3 marked as BPM 000014.
4 And I understand you still don't have the
5 documents in front of you, is that correct, Ronald?
6 A That's correct. How much longer is this going to
7 last?
8 Q It's going to last quite a while, I believe,
9 because --
10 A No, it isn't, because I won't be here.
11 Q Well, if you would bear with me and answer
12 questions --
13 A I'm a diabetic, and I have blood sugar and
14 getting low, and we need to speed this up.
15 Q Well, as I mentioned at the beginning of the
16 deposition, to the extent you need to take a break,
17 we'll accommodate that.
18 A No. I want it over with. You're asking a lot of
19 stuff that has nothing to do, and you know my answers.
20 Ask something about reclamation and end this thing.
21 Q So you're --
22 A You're not doing this -- you're not doing this
23 for any favor, and BPM is certainly not cooperating,
24 when they won't even admit where they know the 10,936
25 trees. That's ridiculous. And telling us they're going

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1 to cooperate and then saying they won't replace the
2 trees. That's why we're having a hearing.
3 Q Okay. And are you finished?
4 A I hope you are. Just speed this up and one more
5 hour, because after an hour, I won't be here. I've done
6 my duty. And if it gets up there, I'll say that you've
7 asked nothing but irrelevant questions.
8 Q Again, I'll direct your attention to what's been
9 marked as BPM 000014, and because you don't have these
10 documents in front of you, I'll represent to you that
11 this is a letter that appears to have been written by
12 Scott Ericsson in February of 2015 in response to BPM's
13 initiation of discussions regarding the proposed mining
14 operations.
15 And to provide further context, this was a
16 response that was provided after BPM requested that the
17 surface use agreement be extended. And I'll read into
18 the record one sentence that is in the third paragraph
19 of this document.
20 "We understand the need for the mining, but we
21 are also aware of the potentially negative effects on
22 our livestock, hunting and logging operations."
23 Would you be kind enough to tell me who -- who
24 Scott is talking about there when he refers to "we"?
25 Does that include you, Ronald?

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1 A When it refers to who?
2 Q It says "We understand" the impacts of our
3 operations, and then I was just curious if by "we" he
4 meant you as well or if he's talking about someone else?
5 A Did you see who signed the document?
6 Q Yes. It was Scott, and I'm trying to
7 understand --
8 A By only Scott?
9 Q I'm sorry?
10 A It's only signed by Scott?
11 Q That's correct, and that's why I'm trying to
12 figure out if in fact he was referring to you as well
13 when he -- when he said "we" or if it was someone else.
14 If it was someone else, we can move on, and if it
15 doesn't have anything to do with you --
16 A Yes, someone else.
17 Q Okay. So you had -- it wasn't you who had
18 concerns about negative effects on livestock, hunting or
19 logging operations, okay.
20 A We all are concerned about that.
21 Q Well, Ronald, that's what I was just trying to
22 get to. I'm not trying to catch you in a trap. I'm
23 trying to understand what those concerns were. If you
24 were a part of that conversation with Scott and that's
25 what he's referring to, I would like to discuss those

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1 issues with you. If it wasn't you, we can move forward.
2 Would you like me to --
3 A Move forward. I read the document. He sent it
4 on to the governor and the Board of Land Commissioners
5 and other people.
6 Q On the second page of that, which has been marked
7 as BPM 00015, Scott writes "Marketable ponderosa pine
8 that will be disturbed by mining activity will need to
9 be assessed and harvested prior to mining activity."
10 A Uh-huh.
11 Q Do you agree with that statement?
12 A We've already mined and logged, and it wasn't --
13 the logging on 2U is done. We have no need to log again
14 for many, many -- we've -- at least two decades.
15 Q Okay. And let's talk about that. When did you
16 mine -- or excuse me. When did you log 2U?
17 A We logged part of the 2U in 2017.
18 Q And did you log any other part of the 2U at any
19 other time?
20 A Yes. No, because the 2U didn't exist before
21 that.
22 Q Okay. Well, let's limit this to, for purposes of
23 this conversation, the subject lands. And just to
24 remind you, the subject lands are those lands that are
25 encapsulated in the boundaries of the Wyoming State

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1 bentonite lease.
2 Have you ever mined -- excuse me. Have you ever
3 logged the subject lands?
4 A I don't know.
5 Q And who would know that?
6 A It was logged back in the late 70s, but I don't
7 know -- remember exactly where it was logged.
8 Q And to your knowledge, is that the last time it
9 was logged?
10 A No. You mean the subject land?
11 Q Yes, the lands that are covered by the bentonite
12 lease.
13 A I don't recall.
14 Q Could you approximate?
15 A I doubt -- I don't think it was.
16 Q In the last decade or two decades or last year or
17 two?
18 A No.
19 Q No. The subject lands -- and just -- and this is
20 just for clarification of the record. I understand that
21 the subject lands may have been logged in the 1970s, but
22 to your knowledge, they haven't been logged since, is
23 that correct?
24 A You're talking about the subject land?
25 Q Correct, the lands that are covered by the

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1 Wyoming bentonite lease.
 2 A You're talking -- and I'm referring to the area
 3 where they want to mine and remove the trees.
 4 Q And clarify for me where that is.
 5 A Well, where those 10,936 trees, 86.26 acres.
 6 They haven't been logged there.
 7 Q And I think we're on the same page, but I'm just
 8 trying to clarify. So when I refer to the subject
 9 lands, again, you have the map in front of you that's
 10 been marked --
 11 A Yes.
 12 Q -- BPM 000381.
 13 A Yes.
 14 Q And you have identified where those lands exist
 15 that are covered by the Wyoming State lease?
 16 A Yes. And in my recollection, they haven't been
 17 logged. They don't require logging.
 18 Q And why don't they require logging?
 19 A You only have trees that are -- that are
 20 sufficient for the logger to come in and log, they're
 21 loggable. Size.
 22 Q Okay. And so I -- and again, this is -- we're
 23 separated by telephones and distance, so I'm just trying
 24 to understand.
 25 We've identified the subject lands, there are

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1 trees on the subject lands, but in your opinion, those
 2 trees aren't ready to be logged or aren't right to be
 3 logged?
 4 A I don't know that.
 5 Q Okay.
 6 A I'm not a logger. We are not -- we have no plans
 7 to log it.
 8 Q Okay. And in your conversations with 2U, I
 9 understand that in 2014 and the beginning of 2015, you
 10 began to have conversations with 2U about what it might
 11 look like to develop those subject lands.
 12 Does that time frame sound right to you?
 13 A Probably.
 14 Q Okay. And in the course of those conversations,
 15 did you -- did you discuss -- did you discuss logging
 16 those trees on the subject lands?
 17 A No.
 18 Q There were no conversations about harvesting
 19 those trees prior to the mining operation?
 20 A I'm not a logger. We sent loggers in there, and
 21 it does not have to be logged.
 22 Q What do you mean you sent loggers in there? I'm
 23 again just trying to understand.
 24 A Loggers, people who are knowledgeable who log
 25 trees, they're the ones who determine whether it's

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1 economically feasible to log or not.
 2 Q Right. And I understand your testimony is that
 3 the subject lands have trees on them, but they're not --
 4 they're not loggable trees, and you know that based on
 5 someone you sent in told you that, is that correct?
 6 A I did not know they're going to cut the 11,000
 7 trees that are loggable.
 8 Q Can you please repeat your answer. There's some
 9 background noise.
 10 A Say again?
 11 Q Can you just repeat your answer. There's some
 12 background noise.
 13 A I said I did not know going in to cut 11,000
 14 trees. BPM did not know it was going to -- that we were
 15 going to cut trees.
 16 Q And I guess I'm just not following. BPM didn't
 17 know that you were going to cut trees, is that what you
 18 said?
 19 A We did not know BPM was going to cut 11,000
 20 trees. They were going to destroy 11,000 -- 10,936
 21 trees.
 22 Q Right. And --
 23 A We weren't informed of that.
 24 Q Okay. Returning to let's say the loggability of
 25 the subject lands. You mentioned that someone went onto

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1 the subject lands and informed you that they weren't
 2 loggable trees, is that your testimony?
 3 A No. We had more than one ranch, and we had a
 4 logger out here, and this is where we told them we
 5 wanted to log.
 6 Q Okay. And where did --
 7 A I repeat, we do not want to log where they're
 8 going to mine.
 9 Q Okay. And just to be sure that there's been
 10 logging operations on the subject lands let's just say
 11 in the past five years, is that fair?
 12 A No, not on the subject land.
 13 Q Okay. And so --
 14 A On the 2U, yes, but not on the subject land.
 15 Q Okay.
 16 A And there's been no mention -- BPM said they will
 17 take the trees down, but there's no mention on how we're
 18 going to be compensated for that or how they're going to
 19 get rid of them. It's an environmental impact, which
 20 incidentally is not going to happen.
 21 Q And returning to the record, I direct your
 22 attention to what's been marked as BPM 00016, and
 23 because you don't have, again, the documents in front of
 24 you, I will represent to you that this is a letter that
 25 was sent by Tyler Tetrault to you and Scott Ericsson,

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1 and it appears it's directly in response to the letter
 2 that I just -- I just read one sentence into the record.
 3 In this letter, Mr. Tetrault responds to that
 4 comment, and again, I'll remind you what Scott wrote in
 5 the initial letter. Scott wrote "Marketable ponderosa
 6 pine that will be disturbed by mining activity will need
 7 to be assessed and harvested prior to mining activity."
 8 And again, this relates to the proposed development,
 9 proposed mining operations on the subject lands.
 10 Mr. Tetrault responded that "Do you have an idea
 11 on how we would determine market value of ponderosa
 12 pines on the property? Is there a certain size of tree
 13 (diameter breast height DBA)," something like that,
 14 "that we would consider marketable? BPM is open to
 15 ideas you might have in mind. BPM can try to avoid
 16 removing large trees that are considered marketable for
 17 timber harvesting if you intend to log the area in the
 18 future."
 19 Do you recall that conversation or that letter?
 20 A In general terms.
 21 Q Okay. And so you understand that as BPM
 22 approached you regarding the proposed mining operations,
 23 there were some conversations about the trees and how
 24 they could be logged?
 25 A At that time we did not know about the 10,936

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1 trees.
 2 Q Okay. Okay. And that's fine. I'm not -- I'm
 3 not trying to read that into it. I'm just walking
 4 through some of the correspondence.
 5 Next I direct you to what's been marked as BPM
 6 000019, and I'll represent that that is a May 2015
 7 letter from Scott back to Tyler Tetrault providing
 8 answers or follow-up to those same -- those same issues
 9 and questions that were brought up.
 10 And again, with respect to the issue of the
 11 trees, Scott Ericsson writes, quote, "We have scheduled
 12 Bill Coburn, procurement forester with Neiman Timber
 13 Co., to assess the commercial value of the Ponderosa
 14 pines this summer."
 15 And presumably that is the summer of 2015, as
 16 this letter was written in May of 2015.
 17 "We will need detailed maps of all the ground
 18 that will be disturbed for mining purposes in order to
 19 accurately evaluate the costs of the trees. The value
 20 of trees will greatly exceed any additional revenue
 21 gained through increased AUMs."
 22 Do you recall any of that conversation?
 23 A In general terms.
 24 Q And did you have any interactions with Bill
 25 Coburn who's mentioned in that?

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1 A Yes.
 2 Q And what were your interactions with Bill?
 3 A I know him.
 4 Q And how do you know him?
 5 A He is the forester for Neiman.
 6 Q Okay. And that would be Neiman Timber Company,
 7 is that correct?
 8 A In Spearfish.
 9 Q Okay. And so you know him through the various
 10 logging operations on 2U over the years, is that fair to
 11 say?
 12 A Yes.
 13 Q Okay. And I'll refer you to BPM 000021 which
 14 is -- I'll represent to you it's a response from
 15 Mr. Tetrault and Joel Severin, the mine manager for BPM,
 16 regarding that last statement that I read into the
 17 record.
 18 Mr. Tetrault says, "We can make a map that will
 19 identify our proposed disturbance area and send that to
 20 you and/or Bill Coburn to identify timber value. This
 21 is something that we can try to get done this summer if
 22 Bill has time available."
 23 Do you recall any conversations with Mr. Tetrault
 24 about that?
 25 A No.

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1 Q Okay. And I'll direct you to what's been marked
 2 as BPM 000022. This is a July 14th e-mail, July 14th of
 3 2015 e-mail from Scott Ericsson to Joel Severin and
 4 Tyler Tetrault, and Scott writes, "I think that we had a
 5 productive meeting today. Bill Coburn the Certified
 6 Forester, Procurement Forester for Neiman Timber Company
 7 requested that you send the ArcGIS shapefiles," which is
 8 A-r-c-G-I-S, "shapefiles of where you will be mining and
 9 the trees that will need to be removed in order for him
 10 to calculate the logging."
 11 Does that ring any bells for you, Ronald?
 12 A Yeah. But all of this discussion pertaining to
 13 logging was prior to our discovery that BPM intended to
 14 destroy 10,936 trees. That was prior to.
 15 Q And that's -- again --
 16 A We had no knowledge that they were going to take
 17 the 10,936 trees. It's one thing to log marketable
 18 ponderosa pine, it's another thing to destroy every
 19 tree.
 20 Q And again, we will get to that, and I'm not
 21 insinuating in any way that you knew that at -- you
 22 know, when this e-mail was sent in July of 2015.
 23 All I'm trying develop is your interactions with
 24 BPM and Neiman regarding logging of the subject lands
 25 prior to the mining operations. That's all I'm looking

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1 at. And so --

2 A This has nothing to do with -- it's not relevant

3 to the mining plan.

4 Q Well, please just give me an opportunity to

5 develop this, I think. You've emphasized the desire to

6 discuss the trees, and I think this is highly relevant,

7 so --

8 A I don't agree. It's not relevant because we had

9 no knowledge before, and we are strongly opposed,

10 vehemently opposed for BPM to come in and destroy all

11 the trees. That's why we would not sign the permit.

12 And they shouldn't even have the hearing because the

13 reclamation isn't complete.

14 Q Okay.

15 A It's not complete. I think the Council hearing

16 is invalid.

17 Q Okay.

18 A And we will bring that up.

19 Q Okay. And that's fine. I'm not trying to

20 prevent you from doing anything like that, but --

21 A You would prevent me from doing anything like

22 that.

23 Q And I wouldn't try, Ronald.

24 A I'm not so sure about that.

25 Q So the first sentence in Scott's e-mails says

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1 that "we had a productive meeting today," and I was just

2 curious if you were involved in that meeting, and if so,

3 if you had any memories or recollections of what you --

4 A No, I do not.

5 Q Do you believe that you participated in that

6 meeting?

7 A No, I don't. I don't recall. No, I don't think

8 I participated in it.

9 Q Okay. Well, the following day, and I'll direct

10 you again to BPM 000023, this is an e-mail from Tyler

11 Tetrault the following day on July 15th of 2015, and he

12 writes to Scott Ericsson, and he cc's Joel Severin. And

13 so you're not included on this, but I wanted to run this

14 by you and see if you had any comments. And I will add

15 that Mr. Coburn, the forester from Neiman, was included

16 in the e-mail chain as well.

17 And Tyler writes, "I think that yesterday's

18 meeting went well for the initial phases of planning. I

19 will send Bill Coburn a shapefile of our disturbance

20 area for our mining sequence. Bill is there," and this

21 is a question, "Bill is there a certain projection that

22 you would like the shapefile in? Please let me know

23 what will work best for you."

24 And again, you weren't cc'ed on this e-mail, but

25 I was just curious if you were a part of that

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1 conversation with Scott Ericsson and Tyler Tetrault and

2 Bill Coburn?

3 A I don't remember, but I don't think so. But it's

4 not relevant anyway. We're not mining in that area. We

5 don't plan on mining. We didn't want to mine.

6 Q Okay. And moving forward, and I'll direct you

7 to --

8 A I want to wrap this up in about 30 minutes.

9 Q Well, we're trying our best.

10 So referring to BPM 000024, again, this is an

11 e-mail from Bill Coburn on July 15th, 2015 to Tyler

12 Tetrault --

13 A These things aren't relevant. These are not

14 relevant. Beyond the scope of the proceedings.

15 Q Mr. -- Ronald --

16 A He did not know, Bill Coburn did not know, I did

17 not know, Scott Ericsson did not know that they were

18 going to destroy 10,936 trees. And only ponderosa pine

19 have a marketable value. There's no market for bur oak

20 or junipers, so this is not relevant.

21 Q Okay. Just quickly, I'm trying to jump through

22 this as quickly as we can to accommodate you and your

23 schedule, so I'll just represent in the document that I

24 just identified that Bill Coburn requests a specific

25 shapefile, and then in the following document, which has

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1 been identified as BPM 000025, Mr. Tetrault provides the

2 shapefile to Mr. Coburn.

3 A The -- the -- I'll get back what you wrote.

4 Beyond the scope of the proceedings as ordered by the

5 hearing officer, the hearing examiner or confidential

6 information. This has no relevance, no relevance to the

7 hearing.

8 Q Okay. And moving forward, I'll direct you to BPM

9 document 000026. This is a December 30th, 2015 e-mail.

10 And so just to put it in context, this is approximately

11 five or six months after the e-mails that we just walked

12 through, and this is an e-mail from Bill Coburn to Tyler

13 Tetrault regarding the logging of the subject lands, and

14 this is what -- I'll read it into the record.

15 "Tyler, we appeared to have worked out an

16 agreement with the Ericsson's on their timber. I have

17 your proposed pit layout on our timber sale map. We

18 plan whole tree harvesting all of the commercial trees

19 within the boundary of the proposed pit. Hopefully we

20 will have a contractor get started in late January. If

21 you need anything or having anything to add that we

22 should know about," let me know.

23 Do you recall being a part of that conversation?

24 And again, I'll represent to you that you weren't

25 included on that e-mail chain initially.

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1 A No, and it has no relevance. We -- Tyler
2 Tetrault suggests that we log. He isn't managing the 2U
3 Ranch. It's not up to him.
4 Q Is it your testimony that Tyler engaged Neiman to
5 log the subject lands?
6 A No, but he wrote a letter, he wrote a letter
7 dated 29 June, 2018 where he said they would not replace
8 the trees.
9 Q Okay. Well, again, I'm trying to move through
10 these e-mails quickly. I'll direct you to what has been
11 identified as BPM 000027 which is an e-mail, the same
12 day of the e-mail I just read between Mr. Coburn and
13 Mr. Tetrault, where Bill Coburn forwards you that
14 e-mail, and he sent it only to you, regarding the
15 agreement to start logging the subject lands in January.
16 Do you remember receiving that e-mail?
17 A Yes.
18 Q Okay.
19 A But let's be going to the point. The point where
20 they're going to mine we had no plans, I repeat, there
21 were no plans to log.
22 Q Right. And I think for purposes of this, we're
23 just trying to get an understanding of your interactions
24 with BPM and what's just taken place on the subject
25 lands.

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1 A Well, in this letter from Tyler Tetrault, 29
2 June, 2018, on the second page he writes, "We encourage
3 you to reengage the timber contractor prior to the
4 initiation of the proposed operations. Should you do
5 so, BPM intends to work with you and your timber
6 contractor to accommodate the removal and monetization
7 of trees prior to the initiation of surface distribution
8 activities." In other words, he's telling us how to run
9 our ranch.
10 Q Okay. Moving forward so just to remind you where
11 we're at, you had received an e-mail on December 30th of
12 2015 from Bill Coburn regarding mining -- or excuse me,
13 logging of the subject lands, and I'll direct you to
14 what's been marked as BPM 000028 which is an e-mail the
15 following day from you to Tyler Tetrault and Roland
16 Ericsson, and I'll read a -- I'll read a portion of this
17 into the record and have a follow-up question.
18 "Tyler, in addition to what Bill wrote in his
19 e-mail below," referencing the previous e-mail that I
20 read into the record, "please provide him with the areas
21 to be mined in the upcoming new agreement with
22 Halliburton, as we want timber trees there to be logged
23 (100%). Either these timber trees get logged or
24 destroyed when the mines are opened."
25 Do you recall writing that e-mail?

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1 A No. And let me repeat. What Tyler wrote and the
2 one I just told you, "We encourage you to reengage the
3 timber contractor prior to the initiation," this is not
4 relevant.
5 Q And Ronald, I --
6 A We did not know, I repeat, we did not know.
7 Q I understand that.
8 A Then hear me out. BPM never told us that they
9 were going to go in there and count 10,936 trees.
10 Destroying all trees is one thing, logging is something
11 else, so what -- Bill Coburn and all the loggers has
12 nothing to do with this Council hearing.
13 Q Okay. But just for our clarification --
14 A You're wasting a lot of time on it.
15 Q In that e-mail I just read into the record, you
16 asked that, quote, "we want timber trees there to be
17 logged (100%)." What did you mean by that?
18 A Beyond the scope of the proceeding as ordered by
19 the hearing examiner or confidential business
20 information. This is not relevant.
21 Q Did you write that e-mail, Ronald?
22 A Asked and answered.
23 Q All right. Moving forward. I'll direct you to
24 what's been marked as BPM 000029. This is an e-mail
25 that same day on December 31st of 2015. It's from Tyler

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1 Tetrault addressed to you and cc'ing Scott Ericsson,
2 Bill Coburn and Roland Ericsson and Joel Severin, and
3 I'll read this portion into the record.
4 A Skip it. Skip it. Here's my answer. Beyond the
5 scope of the proceedings as ordered by the hearing
6 examiner or confidential business information. It has
7 no relevancy.
8 Q Okay. Here's -- here's the e-mail just quickly.
9 "Ronald, I sent Bill," presumably Bill Coburn, "a
10 shapefile earlier this year that included the areas to
11 be mined in the new agreement and it sounds like that
12 will be the areas that will begin logging in January."
13 Now, based on your prior testimony today, you
14 said that there has been no logging of the subject lands
15 in your -- in your mind since the 1970s. Does this
16 change your testimony?
17 A I said that the 2U Ranch had been mined, part of
18 it in 2017, but not the area in which they want to take
19 the trees.
20 Q And that's what I'm trying to understand. Based
21 on this e-mail from --
22 A It's pretty clear to understand we didn't log
23 there and have no intentions to log there. That's
24 clear.
25 Q What does Tyler mean when he says "the new

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1 agreement"?

2 A He wants us to log it. He told us they won't

3 reclaim it when we found out. They didn't tell us that

4 direct. We had to find that out.

5 Q What I'm trying to --

6 A That's not cooperating. Mining companies have --

7 let me explain something to you. In the past, ranchers

8 were broke, and they weren't educated. You asked about

9 my education. They have a new a number of ranchers.

10 They're not broke like they were, and they have access

11 to the Internet, and we now have access to the surface

12 owner's rights, and we're exercising them, and that's

13 what we're doing. The old days are over with.

14 American Colloid, your competitor, they

15 understand that. BPM has shown no evidence that they

16 understand that the surface owner has rights. And we

17 have rights.

18 Yes, the state owns the bentonite, yes, they have

19 the right to get it out, but they have to restore the

20 land to an equal or greater value, and that's what the

21 Council hearing is all about. Nothing more and nothing

22 less.

23 And you can't get around it because they know

24 damn -- and I'm -- damn good and well they can't do it.

25 I can't, you can't, they can't. And DEQ knows it can't

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1 be done. And they don't like the fact that the surface

2 owners now realize they have rights.

3 We have rights on when they come in, the fencing,

4 the speed limit, whether they pollute, all sorts of

5 things that we have rights, and we're demanding them.

6 And if BPM -- if Halliburton thinks that they've got

7 some dumb ranchers out there and they're big

8 Halliburton, they picked the wrong one to fight with.

9 We're not opposed to mining. We're opposed to

10 destroying our land. Is that clear? You got 20 more

11 minutes and then I'm off.

12 Q And so I would next direct your attention to

13 what's been marked as BPM 000030.

14 A Oh, god.

15 Q Again, Ronald, please, I've tried to treat you

16 with respect. I would appreciate the same. Again --

17 A This hearing is not -- is not to get information.

18 This hearing is to use against us at the Council

19 hearing, that's what this is about, to throw it out

20 against us.

21 Q Ronald, what I'm trying to understand is that on

22 the 31st of December --

23 A You've had all the documents. You've had 380

24 pages you sent on to us. Why are you asking me again

25 when you already know the answers?

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1 Q Well, because there seems to be some confusion.

2 I'm looking at a document --

3 A Not in my mind.

4 Q Okay. Well, clarify it for me. I'm looking at a

5 document that says on December 31st, 2015, there was a

6 logging agreement between 2U and Neiman --

7 A Beyond the scope of the proceedings as ordered by

8 the hearing examiner or confidential information. Asked

9 and answered. Asked and answered. Asked and answered.

10 Q Are you finished?

11 A Only if you get off this thing with the logging

12 because it's not relevant.

13 Q Ronald, all morning you've asked that we get to

14 the issue of trees. We have jumped past any other

15 issue --

16 A I'm telling you that we're not going to log, so

17 why do you keep asking the questions for? It has

18 nothing to do with Bill Coburn. It has nothing to do

19 with Neiman. It has to do with where the trees are if

20 they're mined, and we don't want them all gone. We're

21 not going to log them. Is that clear?

22 Q And the -- just --

23 A And Tyler Tetrault has no business of telling us

24 how to run our ranch. They're doing a piss-poor job of

25 running BPM.

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1 Q All right. And then back to the document I last

2 referenced. This is an e-mail from you to Tyler

3 Tetrault, Scott Ericsson on the 4th of January, 2016,

4 and in this e-mail you write "Now with timber sales -

5 mining income - and hunting these three sources of

6 income are greater than income from grazing. It is nice

7 to have land with diversity so as not to be totally

8 dependent on grass."

9 Do you remember writing that e-mail?

10 A Beyond the scope of the proceedings as ordered by

11 the hearing examiner or confidential business

12 information. Asked and answered.

13 Q Next I direct you to what's been marked as BPM

14 000031. I'll represent to you that this is an e-mail on

15 January 8th of 2016. It's from Tyler Tetrault to you,

16 Scott Ericsson, cc'ing Jennifer Hartman and Joel

17 Severin. I'll read the first sentence.

18 "Ron and Scott, Attached is the mine plan map for

19 your review. This includes the total disturbance for

20 the new area, which would be the most disturbance that

21 would occur due to mining." And it goes on from that to

22 describe the proposed operations.

23 Do you remember receiving that e-mail and the

24 attached mine plan?

25 A No.

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<p>1 Q Any reason to think that you didn't receive it?</p> <p>2 A (No answer.)</p> <p>3 Q And that same day in a follow-up e-mail, this has</p> <p>4 been marked as BPM 000032, Mr. Tetrault, again to you</p> <p>5 and Scott and Joel and to Jennifer, addresses an e-mail</p> <p>6 and attaches the reclamation plan for the proposed</p> <p>7 mining operations.</p> <p>8 Do you recall receiving that?</p> <p>9 A No.</p> <p>10 Q Any reason to believe you didn't?</p> <p>11 A No.</p> <p>12 Q Do you recall in the first month, the first and</p> <p>13 second month of 2016 reviewing the mine and reclamation</p> <p>14 plans that BPM provided for the proposed mining</p> <p>15 operations on the subject lands?</p> <p>16 A No.</p> <p>17 Q Any reason to think you wouldn't have reviewed</p> <p>18 them?</p> <p>19 A No.</p> <p>20 Q I'll direct you to an e-mail from you that's</p> <p>21 marked as BPM 000034, and you have addressed this e-mail</p> <p>22 to Tyler Tetrault and cc'ed Scott and Roland Ericsson</p> <p>23 and Joel Severin, and the subject line is "Logging on</p> <p>24 BMP mining areas," and you begin the e-mail "Tyler, Bill</p> <p>25 Coburn informed me Neiman would start logging next</p> <p style="text-align: right;">Page 94</p>	<p>1 A No.</p> <p>2 Q -- in or around the 1st of February?</p> <p>3 A No.</p> <p>4 Q Any reason to think that you did not?</p> <p>5 A I don't recall.</p> <p>6 Q You don't recall reviewing it or discussing it</p> <p>7 with Scott, is that your answer?</p> <p>8 A That's right. It was a long time ago. There's</p> <p>9 been a lot -- it has nothing to do, I keep repeating, it</p> <p>10 has nothing do with the 10,936 -- you keep hammering</p> <p>11 away with the loggers. We're not logging. It has</p> <p>12 nothing to do with -- we do not, I repeat, we do not</p> <p>13 want BPM to remove all those trees because they cannot</p> <p>14 restore them to an equal or greater value.</p> <p>15 The State of Wyoming, when they're public land,</p> <p>16 they say the same thing, you cannot mine, you cannot</p> <p>17 mine if you can't restore the land to equal or greater</p> <p>18 conditions. That's the law. And you people are doing</p> <p>19 whatever you can to get around it, and it isn't -- you</p> <p>20 can't get around it.</p> <p>21 You keep asking me these irrelevant questions</p> <p>22 that have nothing to do with Bill Coburn, it has nothing</p> <p>23 to do with the logging. And you've got about 15 minutes</p> <p>24 left.</p> <p>25 Q I'll direct you to what's been marked as BPM</p> <p style="text-align: right;">Page 96</p>
<p>1 week." Do you recall writing this e-mail?</p> <p>2 A Beyond the scope of the proceedings as ordered by</p> <p>3 the hearing examiner or confidential business</p> <p>4 information. It's not relevant to the hearing.</p> <p>5 Q Do you recall if Neiman conducted --</p> <p>6 A Asked and answered.</p> <p>7 Q Do you recall if Neiman conducted logging</p> <p>8 operations the following week which --</p> <p>9 A Asked and answered.</p> <p>10 Q Ronald, were there any mine -- excuse me, logging</p> <p>11 operations conducted in February 2016 on the subject</p> <p>12 lands?</p> <p>13 A Beyond the scope of the proceedings as ordered by</p> <p>14 the hearing examiner or confidential business</p> <p>15 information.</p> <p>16 Q Now I'll direct you to what's been marked as BPM</p> <p>17 000036. This is an e-mail from Scott Ericsson on</p> <p>18 February 1st of 2016 addressed to Tyler Tetrault. And</p> <p>19 you're not on this e-mail, but I wanted to ask you</p> <p>20 something quickly.</p> <p>21 In the second sentence of this e-mail, Scott</p> <p>22 writes, "I will review the mining plan and get back to</p> <p>23 you tomorrow after I have discussed it with Ronald."</p> <p>24 Do you recall reviewing and discussing the mining</p> <p>25 plan with Scott --</p> <p style="text-align: right;">Page 95</p>	<p>1 000037, and this is, I'll represent, a chain of e-mails</p> <p>2 that all appear to have been sent on February 2nd, 2015</p> <p>3 from Scott Ericsson.</p> <p>4 To summarize, it appears that there's three or</p> <p>5 four e-mails that include revisions to both the mine map</p> <p>6 plans and some follow-up inquiries regarding the</p> <p>7 proposed mining operation, and attached to that e-mail</p> <p>8 is a letter that identifies certain issues, seven issues</p> <p>9 that Scott identifies with regard to the proposed mining</p> <p>10 operations, and he begins that letter, "We have reviewed</p> <p>11 the mining and reclamation maps and have the following</p> <p>12 questions and comments."</p> <p>13 When he says "We have reviewed," does he mean you</p> <p>14 and Scott, Ronald?</p> <p>15 A I can't answer that.</p> <p>16 Q Any reason to believe that there would be someone</p> <p>17 else who may have reviewed those with Scott?</p> <p>18 A I don't know.</p> <p>19 Q Given the --</p> <p>20 A This is one thing I want. We want a copy of the</p> <p>21 recording of today's deposition proceedings.</p> <p>22 Q Well, there will be transcripts made, and you'll</p> <p>23 have the opportunity to review them. They will cost you</p> <p>24 money, but we can help facilitate that.</p> <p>25 But returning to -- returning to the document, I</p> <p style="text-align: right;">Page 97</p>

1 would just like to walk through those seven issues that
2 Scott identified regarding the mining and rec plan. I
3 understand that those haven't come up today, but what
4 I'd like you to focus on, and I know it's difficult for
5 you not having these documents in front of you, but I
6 don't see anything with respect to trees, and I was
7 curious, if the trees were a concern, why you or Scott
8 wouldn't have identified those on February 2nd of 2016?
9 A Ask BPM. They're the ones who did this survey,
10 who did the counting and didn't inform us.
11 Q Let's take a step back. How did you learn of --
12 I think you keep saying 10,900 --
13 A 36. I've told you again and again and again, BPM
14 went out and did it. They never asked us. They didn't
15 tell us. They went out there, and they surveyed the
16 land, they did the counting, and they identified them by
17 species, by numbers, by density and the total number,
18 and only then did we find out what they were up to, and
19 that is not negotiating with the landowner in good
20 faith, it is not.
21 Q And how did you find out specifically?
22 A The reclamation they put that in. They didn't
23 tell us. And we had no idea what they were doing out
24 there. We weren't out doing bird watching. We didn't
25 know this.

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1 Q Well, Ronald, I'll represent for the record that
2 the vegetation survey which identifies the number of
3 trees that may or may not be disturbed by the proposed
4 mining operations includes that number, and the
5 vegetation --
6 A They did -- they did it. You asked where I got
7 it. We got it from them.
8 Q And that's what I'm getting at. Isn't it true
9 that BPM provided you with a vegetation survey?
10 A Not before. We didn't know they were doing it.
11 Q Not before what?
12 A Before they did it. They didn't tell us what
13 they were going to do, and all these things about
14 logging was before we had that knowledge, before we had
15 that knowledge.
16 Q So is it your testimony that if you had the
17 vegetation survey before January of 2016, you would not
18 have engaged the logging company?
19 A Do you want me to read that again? Beyond the
20 scope of the proceedings as ordered by the hearing
21 examiner or confidential business information.
22 Q Again, I'll direct you to what's been marked as
23 BPM 000037, which again is that chain of e-mails from
24 Scott where he lists in an attachment both the concerns
25 that he has with respect to the proposed mining

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1 operations and identifies in two maps that he's drawn on
2 reclamation operations that he would like included in
3 the reclamation plan, and again, I don't see trees being
4 identified. Is there -- am I missing something?
5 A Yes. You're missing two certified letters. One
6 of them was November 13th, 2017, certified with a
7 return. "This letter shall serve as written notice that
8 the surface owners of 2U Ranch want all trees disturbed
9 by WSL 42804, Permit 267C amendment mining," amendment
10 mining, "to be replanted."
11 The second letter, 26 June, 2018, again addressed
12 to Joel Severin, certified with return, "Why does not
13 the reclamation plan that accompanied your letter
14 'Bentonite Performance Minerals, LLC Surface Owner
15 Consent' not include tree reclamation as requested by us
16 in certified letter." That's what you're missing.
17 Q And now I direct your attention to what's been
18 marked as BPM 000194. And I'll represent again, because
19 you don't have the documents in front of you, that this
20 is -- this document includes two e-mails. One e-mail at
21 the top of the first page is from a Michael Mazzone.
22 Do you know who Michael Mazzone is?
23 A No.
24 Q All right. This e-mail's addressed to you --
25 excuse me, to Roland and includes as cc Ronald Ericsson,

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1 Scott Ericsson, Meredith and Anthony, I apologize if I
2 mispronounce it, Tavaglione, and Leslie Cody, and it's
3 entitled "BPM," and it's in response to an e-mail that
4 Mr. Mazzone received that day from Roland Ericsson.
5 A Who is he?
6 Q And in the e-mail, Mr. Mazzone --
7 A Wait a minute. Who's Michael Mazzone?
8 Q I'll represent that he is counsel for BPM.
9 A Oh, is he the one in Houston?
10 Q In the e-mail --
11 A Is he an attorney from Houston?
12 Q Mr. Mazzone, I believe, is an attorney in
13 Houston, but I can't say for certain.
14 A What do you mean you can't say for certain?
15 Q In the e-mail, he responds to your brother
16 Roland, and he discusses a meeting in August of 2017
17 with you and the other individuals and BPM to discuss
18 the surface use agreement.
19 Do you recall any of these negotiations and a
20 proposed meeting in Las Vegas --
21 A Yes, I do.
22 Q -- for August? And --
23 A And Roland Ericsson said he would set up the
24 meeting, but there would -- no attorneys would be
25 allowed, and they came back and said there were going to

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1 be attorneys, and Roland said you weren't paying
 2 attention, no meeting. They didn't comply with the
 3 terms.
 4 Q And I will direct your attention to BPM 000196.
 5 Again, this an e-mail from Mr. Mazzone who is again
 6 responding to Roland and you, Scott and Meredith and
 7 Anthony and Leslie regarding this proposed meeting and
 8 the logistics and the subject matter, and in that -- in
 9 that letter, Mr. Mazzone identifies four areas that BPM
 10 was not negotiable regarding lawyers being present, the
 11 haulage fee, the term of the agreement and the incentive
 12 payment. And again, this all relates to the negotiated
 13 surface use agreement that was being negotiated at that
 14 time.
 15 Do you remember any of this conversation?
 16 A Beyond the scope of the proceedings as ordered by
 17 the hearing examiner or confidential business
 18 information. Asked and answered.
 19 Q And what I'm trying to get at here, Ronald, is it
 20 appears that, if we set aside the issue of whether or
 21 not lawyers would be present, that as of August 14th of
 22 2017, the date of this e-mail, the only issues on the
 23 table preventing BPM and 2U to coming to a resolution
 24 and a surface use agreement was the haulage fee, the
 25 incentive payment and the term of the lease -- excuse
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1 me, the term of the -- the term of the proposed surface
 2 use agreement. Does that --
 3 A Beyond the scope of the proceedings as ordered by
 4 the hearing examiner or confidential business
 5 information. The Council hearing is about reclamation,
 6 period.
 7 Q Right. And I think that -- I think that gets to
 8 the heart of my point because it --
 9 A Asked and answered.
 10 Q -- it appears to me that as of --
 11 A Asked and answered.
 12 Q Again, I would ask that you don't interject, and
 13 I will do the same, to the best I can, just for purposes
 14 of making a record.
 15 I would -- I would volunteer, Ronald, and correct
 16 me if I'm wrong, but it appears to me that the real
 17 issue preventing the proposed mining operation wasn't in
 18 fact the proposed disturbance or reclamation of the
 19 subject lands but was money, that you and Roland wanted
 20 money. Is that fair?
 21 A Beyond the scope of the proceedings as ordered by
 22 the hearing examiner or confidential business
 23 information.
 24 Q And confidential to who?
 25 A Asked and answered. The hearing is about
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1 reclamation. That's what this deposition is about,
 2 reclamation at the Council. Let's stay on subject.
 3 Q Let's talk about that for a minute.
 4 A You've got five minutes.
 5 Q What's your -- what's your understanding of what
 6 BPM has requested from the Environmental Quality
 7 Council?
 8 A Unknown.
 9 Q Have you read any or all of the pleadings that
 10 have been submitted on behalf of BPM?
 11 A I don't remember.
 12 Q Any reason to think you haven't?
 13 A What?
 14 Q Is there any reason to believe that you haven't
 15 read, for example, the petition that BPM filed on July
 16 5th of this year?
 17 A Beyond the scope of the proceedings as ordered by
 18 the hearing examiner or confidential business
 19 information.
 20 Q And what do you understand the relief that BPM
 21 has requested from the EQC?
 22 A Repeat the question.
 23 Q I'm just trying to understand, with respect to
 24 this hearing that is scheduled for January, what do you
 25 understand the relief that BPM has requested from the
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1 EQC?
 2 A BPM wants the surface owner to sign a consent.
 3 We have refused to do it because the reclamation has not
 4 been submitted. It's incorrect and inadequate.
 5 Q And again, that's the lone basis for refusing?
 6 A You know what this hearing is about. It says
 7 reclamation. Reclamation. It doesn't have anything to
 8 do with the bond. It doesn't have anything to do with
 9 trespass. It has nothing to do with the cultural
 10 survey. It has nothing to do with money. We don't have
 11 an agreement. There is no permit. There's not a permit
 12 until the surface owner signs. It's about reclamation.
 13 You know it, and you've asked all these questions over
 14 these countless hours that had nothing to do with the
 15 Council hearing.
 16 Q All right. I'd like for you --
 17 A You've got one more question and then I'm hanging
 18 up.
 19 Q Ronald, I'd ask that you don't. We certainly
 20 have the right to conduct discovery. We've been trying
 21 the best we can to get through this.
 22 A No, you have not. I disagree with that. You
 23 haven't. You're trying to get as much information you
 24 can use against us at the hearing. That's the purpose
 25 of this deposition. The deposition isn't to get
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1 information because you have all the information, 380
2 pages. And that's on the record.
3 Q So I'd like to direct your attention to --
4 A You've got two minutes.
5 Q -- what's marked as BPM 000242, and I'll
6 represent that this is a September 22nd, 2017 letter
7 that was sent from BPM to 2U Ranch, GLAM and Sextus, and
8 it concerns surface owner consent for purposes of the
9 proposed mining operation.
10 On the third page, which has been marked as BPM
11 000244, in the second full paragraph, I'd like to read
12 that into the record.
13 "For more than two years, you have had the
14 opportunity to review the mining and reclamation plan
15 and have provided significant input into the plan. In
16 the event that you have misplaced the plan or have
17 forgotten any detail of the plan, I am once again
18 enclosing for your review the complete mining and
19 reclamation plan as submitted to the DEQ, together with
20 all associated permit documentation, enclosed in
21 electronic format as Exhibit F. Given its prodigious
22 size, Exhibit F has only been provided to 2U Ranch,
23 Sextus, and GLAM and not the cc'd parties."
24 Do you have recall receiving the entire permit
25 from BPM --

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1 A No.
2 Q -- in electronic format?
3 A No, I don't.
4 Q Is there any reason to think you wouldn't have
5 received it?
6 A I don't recall.
7 Q Do you still have it? Do you still have the
8 permit?
9 A I don't know.
10 Q Do you recall requesting the entire --
11 A This is your -- your time's up.
12 Q Please bear with me, Ronald. We are --
13 A Your time is up.
14 Q Do you recall requesting --
15 A This woman, are you hearing? We've answered his
16 questions again and again and again and again, and a lot
17 of them are not relevant. Most of them are not
18 relevant. I have been more than willing to put up with
19 this on this end.
20 Q Ronald, continuing in --
21 A Bye.
22 Q Ronald, please. Ronald, are you still on the
23 call?
24 And Roland Ericsson, are you still on the call?
25 MR. ROLAND ERICSSON: Yes, I am.

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1 MR. YEMINGTON: And Roland, I know this isn't
2 your deposition. Are you -- are you located with Ronald
3 or are you in Las Vegas?
4 THE WITNESS: I'm in Henderson, Nevada sitting
5 out on the patio getting ready to clean the pool.
6 MR. YEMINGTON: Well, that sounds far more
7 pleasant than the weather in Wyoming.
8 MR. ROLAND ERICSSON: No, I'm not with Ronald,
9 and I haven't said a word during the --
10 MR. YEMINGTON: Okay.
11 MR. ROLAND ERICSSON: -- deposition, as you
12 requested.
13 MR. YEMINGTON: Yes, I appreciate that, and
14 apologies if earlier when I mentioned that. That was
15 only a -- only an echo. It's a little difficult on
16 telephone to do this, as I'm sure you're aware.
17 MR. ROLAND ERICSSON: Apology accepted.
18 MR. YEMINGTON: All right. Well, you're welcome
19 to stay on if you'd like. I'm going to run through a
20 number of questions that we wanted to bring up with
21 Ronald. I'm not obviously going to ask you to answer
22 them, you're not being deposed today, but for purposes
23 of the record, we're going to continue on and get this
24 on the record. So the extent you'd like to stay on,
25 please feel free, but we're going to move forward.

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1 MR. ROLAND ERICSSON: Do you have an estimate on
2 the amount of time that you're going to put these items
3 on the record?
4 MR. YEMINGTON: I think given that there won't be
5 any responses, it will go quite quickly.
6 MR. ROLAND ERICSSON: That's not an answer.
7 MR. YEMINGTON: Well, likely less than 30
8 minutes, how about that? And I'll do my best to move
9 quickly.
10 MR. ROLAND ERICSSON: All right.
11 MR. YEMINGTON: All right. Kathy, I think we're
12 still on the record, but if not, let's just move
13 forward.
14 I'd like to note for the record that Ronald is no
15 longer on phone, that he has hung up and is no longer
16 participating in the deposition, and with that, I would
17 like to move forward with a few notes and questions that
18 I would have hoped.
19 First, I would direct the record to what's been
20 marked as BPM 000244 and read into the record.
21 "The mining and reclamation plan illustrates the full
22 proposed surface use, including proposed routes of
23 ingress and egress, temporary roads, and all areas of
24 associated disturbance, overburden, water, powerlines,
25 and culverts. The mining and reclamation plan details

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<p>1 the proposed mining plan, including the mining 2 operation, mining progression and time schedule, as well 3 as the anticipated life of the mine." 4 Had Ronald stayed on the line, I would have asked 5 Ronald if he disputed this statement, and if yes, what 6 issues he disputed regarding that statement. 7 Back to what's been marked as BPM 000380. These 8 are Documents to be Produced at Deposition. I attempted 9 to ask several times, but was not able to, regarding the 10 totality of the production. I would like to quickly 11 read through the requests for production that were 12 included in the initial Notice of Deposition. 13 No. 1, "All documentation evidencing existing 14 uses of the Subject Lands that you allege will be 15 adversely impacted by the Proposed Mining Operations, 16 including but not limited to grazing, hunting, planting 17 and harvesting of crops, haying, ranching operations, 18 logging operations, and use of water resources." 19 My questioning would have involved Mr. Ericsson's 20 use, or more specifically, 2U's use of the subject lands 21 for any of those identified areas or any of them that 22 are not identified that you would identify. 23 The second question or the second request was for 24 "All documentation evidencing existing uses by third 25 parties of the Subject Lands, including but not limited</p> <p style="text-align: right;">Page 110</p>	<p>1 limited to the types, varieties, and numbers of 2 livestock utilizing the Subject Lands." 3 Again, I would have liked to ask Mr. Ericsson, or 4 I did attempt, but to receive answers better identifying 5 the uses by 2U or third parties of the subject lands for 6 ranching operations and what those operations looked 7 like. 8 No. 6, all documentation evidencing the use of 9 the subject lands for logging operations, including but 10 not limited to the types of trees that were logged, the 11 varieties, numbers, et cetera, harvested from the 12 subject lands. 13 We touched on that, but I would have liked to 14 have an opportunity to further discuss the logging 15 operations that we understand were conducted on the 16 subject lands in the spring of 2016, including follow-up 17 conversation between 2U and Neiman regarding compliance 18 with the logging agreement. 19 No. 7, all documentation evidencing existing 20 improvements to the subject lands, including but not 21 limited to fences, roads, rebuilding that 2U or Mr. 22 Ericsson might allege will be impacted by the proposed 23 mining operation. 24 Again, I would have liked to have asked Mr. 25 Ericsson whether any improvements exist, and if they do</p> <p style="text-align: right;">Page 112</p>
<p>1 to grazing leases, hunting leases, road use agreements, 2 right of way agreements, and haying agreements." 3 Again, I would have liked to ask Mr. Ericsson 4 about those existing uses by third parties, whatever 5 they may be, and to explore those uses. 6 The third request was for "All documentation 7 evidencing the type and yield of any vegetation utilized 8 for livestock grazing on the Subject Lands by 2U or a 9 third party." 10 Again, I would have liked to have a better 11 understanding of if the subject lands are used for 12 haying or other livestock operations by 2U or third 13 parties, and specifically how they're used. 14 No. 4, "All documentation evidencing the type and 15 yield of crops planted and harvested from the Subject 16 Lands by you or a third party, including but not limited 17 to grasses, legumes, and other herbaceous plants planted 18 and harvested for purposes of haying operations." 19 Again, I would have liked to ask Mr. Ericsson 20 about 2U's uses of the subject lands with respect to 21 harvesting of crops or putting up hay and haying 22 operations. 23 The fifth request was for "documentation 24 evidencing the use of the Subject Lands for ranching 25 operations by 2U or a third party, including but not</p> <p style="text-align: right;">Page 111</p>	<p>1 exist, how they might be impacted by the mining 2 operations. 3 I made an effort to speak with Mr. Ericsson 4 regarding his residency, the time of year that he spends 5 in Texas and Wyoming, how he splits that up versus work 6 and whatnot, including whether or not he has a family 7 who travels with him and maybe lives and utilizes the 2U 8 Ranch and the subject lands. We tried to discuss in 9 detail what those existing uses might be and who might 10 be those users. 11 In addition, we made an effort to discuss 12 Mr. Ericsson's education and employment history and his 13 past use of the 2U Ranch. 14 With respect to 2U Ranch specifically, I would 15 have liked to speak with Mr. Ericsson regarding the 16 ownership structure and the owners, members and managers 17 for the purposes of further understanding who uses those 18 lands, who has the right to use those lands, and how 19 those lands are used. 20 Furthermore, there was an effort to speak with 21 Mr. Ericsson regarding the purchase by him and I 22 understand it would be Lonesome Country in 1969 of the 23 subject lands and a better understanding of how it's 24 been owned throughout the years and how those subject 25 lands have been utilized throughout the years.</p> <p style="text-align: right;">Page 113</p>

1 We were unable to discuss prior bentonite mining
 2 on 2U Ranch. We were interested in discussing whether
 3 there had been prior bentonite mining on 2U Ranch, which
 4 companies had mined on 2U Ranch, the location of the
 5 mining, whether there's any current mining, the status
 6 of BPM mining on 2U lands, the time frame of that
 7 mining, compensation received for that mining, and the
 8 status of reclamation.

9 In that vein, we would like to discuss with Mr.
 10 Ericsson how he's interacted with those mining
 11 companies, including BPM in the past, regarding the
 12 proposed mining and reclamation plan, his sign-off of
 13 surface owner consent and how those the mining and
 14 reclamation plans compare to the mining and reclamation
 15 plans for the proposed lands.

16 We were curious whether or not those
 17 differentiated or Mr. Ericsson believed they
 18 differentiated in a way that he would, on the one hand,
 19 provide surface owner consent, on the other refuse it.

20 Next, and we touched on this, but we would have
 21 liked to visit it in more detail, but a better
 22 understanding of the nature of the dispute and the --
 23 Mr. Ericsson's understanding of the EQC proceedings, the
 24 desired outcomes and really generally just his
 25 understanding of the nature of the dispute.

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1 Again, we would like to review with Mr. Ericsson
 2 and ask questions regarding the proposal initiated in
 3 2014 by BPM to develop the subject lands and how those
 4 proposals entered into negotiations regarding the
 5 surface use agreement before those negotiations
 6 ultimately stalled in 2017 to get a better understanding
 7 of why those negotiations stalled and why we're at where
 8 we're at today.

9 And I think with that, those are the topics that
 10 we wanted to cover today. Unfortunately we were not
 11 able to get to a number of those, but appreciate
 12 everyone's time this morning. So with that, I think we
 13 can go off the record. There's nothing further from
 14 BPM.

15 (Time noted: 10:41 a.m.)
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 2
 3
 4 I, RONALD ERICSSON, do hereby declare under
 5 penalty of perjury that I have read the foregoing
 6 transcript; that I have made any corrections as appear
 7 noted, in ink, initialed by me, or attached hereto; that
 8 my testimony as contained herein, as corrected, is true
 9 and correct.

10 EXECUTED this ____ day of _____,
 11 20____, at _____,
 (City) (State)

12
 13
 14
 15 _____
 RONALD ERICSSON
 Volume I

16
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1 I, the undersigned, a Certified Shorthand
 2 Reporter of the State of California, do hereby certify:
 3 That the foregoing proceedings were taken
 4 before me at the time and place herein set forth; that
 5 any witnesses in the foregoing proceedings, prior to
 6 testifying, were administered an oath; that a record of
 7 the proceedings was made by me using machine shorthand
 8 which was thereafter transcribed under my direction;
 9 that the foregoing transcript is a true record of the
 10 testimony given.

11 Further, that if the foregoing pertains to the
 12 original transcript of a deposition in a Federal Case,
 13 before completion of the proceedings, review of the
 14 transcript [] was [] was not requested.

15 I further certify that I am neither financially
 16 interested in the action nor a relative or employee or
 17 any attorney or party to this action.

18 IN WITNESS WHEREOF, I have this date subscribed
 19 my name.
 20
 21 Dated: 12/15/18
 22
 23
 24 <%signature%>
 KATHY PABICH
 25 CSR No. 5021

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Wyoming Rules of Civil Procedure
Part V. Depositions and Discovery

Rule 30

(e) Review By Witness; Changes; Signing.

If requested by the deponent or a party before completion of the deposition, the deponent shall have 30 days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by subdivision (f)(1) whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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