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2 ARIZONA GAME AND FISH DEPARTMENT
5000 WEST CAREFREE HIGHWAY
3 PHOENIX, ARIZONA 85086

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TRANSCRIPT OF INTERVIEW
5 DEAN TREADWELL
July 10, 2009

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8 Individuals present at the Interview on

9 Gary R. Hovatter, Arizona Game and Fish Department,
Deputy Director, Interviewer
10 Marty Fabritz, Arizona Game and Fish Department,
Ombudsman, Interviewer
11 Craig McMullen, Arizona Game and Fish Department,
Wildlife Manager, Interviewer
12 Dean Treadwell, Employee

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15 CONFIDENTIAL

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(ORIGINAL)
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1 P R O C E E D I N G S

2 MR. HOVATTER: We're convinced then and, frankly,
3 we remain of the same mindset that this was what we
4 believed it to be in the beginning. It was an incidental
5 take and we have then and we have now the permitting
6 necessary to cover what we wanted to -- what was done and
7 to, in fact, cover an intentional take if we -- if that had
8 been what we were going to decide to do.

9 The challenge was, as you may or may not know or
10 remember, that there started to be -- you know, when the
11 media got stuck into this there started to be these
12 allegations this were being presented not by Department
13 folks, but by people who were involved in this or purport
14 to have been involved in this effort that they were working
15 under other auspices, working under other entities or other
16 organizations and that was going to the press and then
17 that's how we were hearing about it.

18 We finally got to a point pretty quickly where it
19 was clear that if we dealt with this -- tried to deal with
20 this just internally there was no way with Congressman
21 Grijalva and the Center for Biological Diversity that
22 anybody was going to believe that that was a completely
23 objective and thorough investigation.

24 THE WITNESS: Sure.

25 MR. HOVATTER: So we asked for an outside

1 investigation, and we got it very quickly. As a part of
2 that, we made a commitment to not doing anything that we
3 thought might compromise that investigation and, of course,
4 one of those things would have very clearly been bring
5 everybody in to say, "What really happened? Let's figure
6 this whole thing out," because we would have generated all
7 this cross-talk and all between people who were probably
8 going to be subject to interviews by the investigators.
9 So, you know, we made some moves towards kind of
10 doing some lessens learned things. We talked about the
11 satellite phone didn't work. We talked about other things,
12 about coms. We talked about how we got dogs for the
13 recapture and things like that. We even stopped that thing
14 pretty quickly because we couldn't bring the people
15 together to do that without bringing the folks that were
16 going to be a part of that interview.
17 So what it all came down to is we never dug into
18 this in detail, and we still don't have a real good sense,
19 a real good feel for how all of this came together and this
20 in my -- most of what I'm interested in, the vast majority
21 of my focus on this is on that initial capture.
22 I have some interest in all about the recapture;
23 but, frankly, if everything about the initial capture is as
24 we believed it to be at the time, then all of the quibbling
25 about should the animal have been euthanized and all those

1 other things are really kind of dueling veterinarians and
2 dueling -- everybody's going to have their own opinions
3 about that.
4 [redacted]
5 [redacted]
6 [redacted]
7 [redacted]
8 [redacted]
9 [redacted]
10 [redacted]
11 [redacted]
12 I had purposely not asked the Feds, "When are you
13 going to get done?" I've wanted to a dozen times, but I
14 really did want to be able to look folks in the eye and be
15 able to say, "I don't know when they're going to get done.
16 They're going to get done when they're done," and I don't
17 want to -- didn't want to do anything that might create a
18 perception that we had tried to bring pressure on them to
19 bear to finish it fast as opposed to finish it good.
20 [redacted]
21 [redacted]
22 [redacted]
23 [redacted]
24 [redacted]
25 [redacted]

1 [redacted]

2 [redacted]

3 So we decided to do that. We're doing this under
4 a Garrity Warning to all of the folks that we're talking
5 to. Again, while we expect -- we're approaching this as we
6 have from the beginning that there is not employee
7 misconduct involved in this, we have to remain open to the
8 fact that we could find out something that we don't know.
9 Not knowing what we don't know makes it a little
10 uncomfortable. So it seems that the best way to protect
11 the rights of our employees and still get at what we need
12 to get was to do this under Garrity.
13 So I'm going to read you the Garrity statement.
14 We are -- we're taping all of this and I'm going to read
15 the Garrity statement and then we'll go on from there.
16 (Reading) Employee Dean Treadwell, date 7/10/09.
17 Interviewer Gary Hovatter, Marty Fabritz and Craig
18 McMullen. We are conducting an internal investigation
19 involving matters that will be discussed shortly. This is
20 an administrative investigation. You do not have the right
21 to have legal counsel present during the interview, nor
22 will you be advised of Constitutional rights. You are
23 ordered to cooperate fully with this investigation. You
24 are ordered to respond completely and truthfully to all
25 questions posed to you during the investigation. Failure

1 to respond completely and truthfully to all questions will
2 be considered misconduct.
3 As set forth in Garrity vs. New Jersey, 385 US 493
4 and the lion of cases which follow, any responses given
5 during the administrative -- this administrative
6 investigation cannot be used against you in a subsequent
7 criminal investigation. You are instructed not to discuss
8 your interview or this investigation with any Arizona Game
9 and Fish Department employees while the investigation is
10 pending.
11 And then the statement you and I are going to sign
12 reads (reading) I have read the above statements and I
13 understand the orders given me about this investigation. I
14 understand my obligation to cooperate fully with the
15 investigation. I understand my obligation to completely
16 and truthfully answer every question. I further understand
17 that I have been ordered not to discuss this investigation
18 with any Arizona Game and Fish Department employees while
19 this investigation is pending.
20 Do you have any questions about that?
21 THE WITNESS: No, I do not.
22 MR. HOVATTER: The only other thing I was going to
23 say is a lot of the questions I've been asking folks, too,
24 are really also focused on process and procedure from the
25 standpoint of I don't want to end up -- come back and have

1 to do all this interviewing again for a different -- for
2 process and procedure issues.
3 There is undoubtedly things that we need to know
4 about ourselves that ought to adjust the way we do process
5 in the future related to things like this or things similar
6 to it. So I'm asking a lot of the questions that my focus
7 of the question is to get at some of that process and
8 procedure stuff.
9 Let's see -- and we'll make a copy of this for
10 you, too. Sir, there you go. The part of the difficulty
11 of doing this is we got a whole lot of hindsight now. So
12 some of these questions -- we're going to try and go back
13 in time on some of this, "What was your perception at the
14 time?" Do the best you can of trying to put yourself back
15 in that, but it is difficult to do with all of the things
16 we've gone through and know about ourselves now after all
17 this.
18
19 DEAN TREADWELL,
20 pursuant to Garrity Warning, was examined and testified as
21 follows:
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23
24
25

1 EXAMINATION

2 BY MR. HOVATTER:

3 Q. Dean, what is your -- from the standpoint of the
4 original capture -- and we had Thorry Smith, we had
5 Michelle out there for the Department and all. What, if
6 any, role or relationship did you have to that, that event?
7 A. Little to the event, per se. My role in research
8 during that period as kind of de facto administrative
9 manager was I was overseeing the terrestrial -- the federal
10 terrestrial budgets in the absence of Rock and before Ester
11 Rubin arrived. There was about a year plus there. This
12 fell right in the middle of it.
13 So I was just tracking budgets. I was doing
14 administrative chores, making sure that, you know, if they
15 needed a vehicle, they had a vehicle, vehicle repairs got
16 made. Equipment, you know, during that period Thorry, for
17 instance, needed some capture drugs. Clint normally
18 handles those as our wildlife health specialist; but if he
19 wasn't there or Thorry's just processing a (inaudible) he
20 might have come in and said, "Do we have money to do
21 this?" So I would check and say, "Yes."
22 I had no, you know, project management role, per
23 se, saying, you know, "You should or shouldn't have these
24 things." I would just say there's money there.
25 Q. It almost sounds like you kind of had the logistic

1 support role for a lot of what was going on down range?
2 A. I think that's -- you know, that's kind of my role
3 in the whole branch.
4 Q. Yeah.
5 A. Whether it's -- you know, Kirby had some money
6 from WCF, some donation money to buy collars. So I would,
7 you know, track that and make sure that, you know, he
8 spends some how much he had left. That's my role for
9 almost any of the projects -- any of our 90 projects in
10 research.
11 He says how many PCA codes we have.
12 MR. McMULLEN: Is it 90?
13 THE WITNESS: Yeah, something -- it runs around
14 there.
15 Q. BY MR. HOVATTER: You know, we all have kind of
16 gotten in the habit of shorthanding the one study that
17 we're really interested in is the Bear and Lion Study. I
18 guess it was actually the Large Carnivore Habitat
19 Conductivity Study?
20 A. That is correct.
21 Q. I guess -- because it may be the answer that your
22 role with that may be the same as with Thorry and Michelle,
23 but what was your understanding and knowledge and role in
24 that -- in the evolution of that study?
25 A. The evolution in that study -- I probably don't

1 have all the details. As you know, we've been doing -- we
2 started with the quote "urban lion" that Ted did up in
3 Prescott/Payson. We had a bunch of money to spend a few
4 years ago that Jim Devoss funneled down to University of
5 Arizona so we had kind of an urban lion study down there
6 through the co-op unit. So we had our lions kind of
7 scattered around.
8 We hired for the northern Payson/Prescott Tim
9 Anderson, a lion hunter, as you know. I basically kind of
10 ran his budget and he was supervised by Ted, but Ted wasn't
11 much of a -- kind of a budget kind of guy. In addition, we
12 had -- Tim had dog and horse allotments, and I had the
13 pleasure on a monthly basis of trying to convince Bruce
14 Taubert this was a good thing and we're supposed to pay
15 this and, basically, just track the budget for Tim.
16 At the same time Stan Cunningham had been doing
17 bears in the White Mountain. I'm not sure with Stan
18 whether we were doing much in the Huachuca, the southern
19 Sky Island at the time.
20 Todd Atwood came on. Why he got involved in the
21 south I'm not exactly sure.
22 Q. You said Todd you mean?
23 A. Todd Atwood --
24 Q. Yeah.
25 A. -- but he did. Wildlife Conservation Fund had

1 some interest. I think Todd had some broad genetic
2 interest in general. He still does with Fish and
3 Wildlife. So he's talking to Mexico there's some stuff.
4 Devo used to go into Mexico a lot on pronghorn and
5 everything else.
6 Q. Yeah, I remember that.
7 A. There's some interesting stories on that one. So
8 we were doing large carnivore work. At the program level,
9 you know, this is the project I really didn't have much
10 say. Beginning of last fiscal year we submitted and
11 launched -- you know, with the way we run terrestrial
12 budget is we got a chunk of money and we do a bunch of
13 projects, and after two or three years a project will wind
14 down and so we launch a new one. These are usually in
15 response to some questions -- I mean, the lion stuff -- the
16 urban lion started out because of the lion protocol and all
17 those types of things, you know, the urban lion issues.
18 Chasa submitted, you know, these have to go
19 through the Commission for approval so we had the Large
20 Carnivore Habitat Conductivity blah, blah, blah. We had
21 the OHV. What was our third one? We had three new
22 projects.
23 MR. McMULLEN: Sheep and Lion Interaction.
24 THE WITNESS: You got it, yeah, and that was again
25 the response, you know, Sheep Society, Kofa Alliance, that

1 whole issue. That's kinda how we evolved projects. So the
2 projects got approved by the Commission. I was the own who
3 coined that HCCP name, which I can't even remember because
4 the name was too long. I still can't remember it.
5 MR. HOVATTER: Yeah, it doesn't roll off the
6 tongue real well.
7 THE WITNESS: It does not, and I can't remember
8 it.
9 MR. HOVATTER: But it's very descriptive, but it
10 doesn't roll off the tongue real well.
11 THE WITNESS: So then I would -- again, in Rock's
12 absence I sat down with Chasa. You know, we have our chunk
13 of Federal money. We start splitting it into all the
14 projects and, you know, that's -- that was my role,
15 basically.
16 Q. BY MR. HOVATTER: Let me -- you know, this -- and
17 I'm just going to call it bear and lion because --
18 A. Sure, it's faster.
19 Q. My understanding, the Bear Alliance, we took that
20 to the Commission in May of '08, I think --
21 A. That's about right, yeah.
22 Q. -- for them to approve a number of projects and
23 that was one of them, and then Todd left the Department
24 right about that same time, and then my understanding is
25 this tran -- we moved forward. About October, November is

1 my understanding when we actually started putting snares on
2 the ground out there. Is that your memory of the time lion
3 on that?
4 A. My guess is -- you know, that's reasonable. You
5 know, we got -- we started in May with the money approved.
6 Fiscal year started the 1st of July. I remember Kirby was
7 real new to it because he was actually coding off of Ted's
8 old mountain lion project and I had to back out money. So,
9 I mean, it's really starting in July.
10 I'm guessing during the summer we weren't doing
11 much because of the heat.
12 Q. Yeah.
13 A. So that October time frame for --
14 Q. Would be about right.
15 A. -- snares. That also evolved -- I mean, the hare
16 snag thing, which started up in the White Mountains, again,
17 is a new genetic tool, interesting in the -- you know, the
18 conductivity of the population. Are they viable, are they
19 isolated? You know, that was the evolution of that.
20 Q. As I look at a lot of -- we had -- as you know
21 better than I, I mean, the complexity of the way that we
22 have to manage our money with all the PCAs and the various
23 contracts that we do, I know a number of the contracts I
24 saw, I know one related the Kofa study because, of course,
25 I was down in the region then when we were working that.

1 A lot of the paperwork seems to be Ron Thompson
2 was getting those contracts run I think Clark Richens,
3 Clark's Guide Service had a contract that a lot of lion
4 work was done under, and I know Emil McCain pops up and
5 that he was doing some of that lion work when Ron came back
6 to the Department and had to transition and he could no
7 longer do that contract work anymore as a conflict of
8 interest issue.
9 It's seeming that the contract work that supported
10 some of this to include some of the early work on the Bear
11 and Lion Study was under those Ron Thompson generated
12 contracts. Is my memory right on that or --
13 A. Ron Thompson -- when I came on board, which is
14 August '05, one of the early things I did -- and this
15 was -- you know, the urban lion had been going with Ted.
16 Previous to that Devo, I think, had talked with trying to
17 get the lion hunters involved because we need to get the
18 critters. My understanding, my recollection of that was
19 they really weren't -- if they got involved they were going
20 to make some pretty hefty fees.
21 They weren't saying, "Oh, we like to chase lions
22 we'll give you a deal. If I'm not mistaken, it was like
23 $4500 to collar a kitty. So that switched into, "Damn it,
24 we'll get our own lion hunter." So we hired Tim Anderson.
25 We put out an announcement. "We want a lion hunter who's

1 going to be a wildlife technician," and Tim was one of the
2 -- I don't know how many people competed. He got the nod.
3 That was about the time I came on. I think Tim joined us
4 two, three months later.
5 Ron Thompson was also involved because Ron had a
6 unique skill, which was the snares. That was kind of his
7 thing. He wasn't a dog man as well as he was a snare man.
8 So certain times of the year we can't run the dogs, certain
9 terrains they don't work as well. We can't run the dogs
10 right through the heart of downtown Tucson so we were kind
11 of looking at these are some tools we have. I know that
12 well because I was the one who called Ron at Jim's behest
13 and set up a contact, which is kind of interesting because
14 I went to school with Ron. So after 20 years I pick up the
15 phone and, you know, that kind of thing.
16 Q. Where did you guys go to school?
17 A. U of A.
18 MR. McMULLEN: And did you guys -- where did you
19 -- where did you work between '05 and when you worked with
20 -- went to school with Ron at U of A?
21 THE WITNESS: When I got out of school, which was
22 19 what, '75 when I got my BS and at the time I was hanging
23 around like lots of you folks.
24 MR. HOVATTER: I got mine at ASU in '76. So,
25 yeah, I remember those days.

1 THE WITNESS: Well, I mean, I was coming up. That
2 was the Jerry Day days here.
3 MR. HOVATTER: Yeah, uh-huh.
4 THE WITNESS: That was Harley Shaw.
5 MR. HOVATTER: Harley Shaw, all those guys.
6 THE WITNESS: A lot of us went to school -- and
7 I'm sure you guys did the same thing -- on the weekends
8 when we could we'd go out with these biologists.
9 MR. HOVATTER: Yep.
10 THE WITNESS: They were doing the fun stuff. So I
11 sent my -- served my time at Three Bar and so on. My route
12 was a little different. When I got out of school, I got a
13 job with Air Land Studies down there doing --
14 MR. HOVATTER: Oh, yeah, yeah, the U of A Air Land
15 -- that office there?
16 THE WITNESS: Yeah. I worked for them for four
17 years doing satellite aerial photography stuff, actually
18 got a contact with Game and Fish. We did some Three Bar,
19 you know, (inaudible) for account mapping.
20 MR. HORVATTER: Uh-huh.
21 THE WITNESS: I wasn't quite as interested -- I
22 wanted to work for the Game and Fish, but my thing was
23 more biology than law enforcement. At the time, you know,
24 you --
25 MR. HOVATTER: Yep, if you wanted honor in those

1 days you pretty much had to come (inaudible.)

2 THE WITNESS: I just had a lucky chain of events.

3 Someone came into Air Lands and said, "Do you want to do

4 the same thing in West Africa and make twice as much

5 money?"

6 MR. HOVATTER: Okay, all right.

7 THE WITNESS: So I spent the last -- you know,

8 before I came back to the States with a young'n 19 years

9 later I worked overseas.

10 MR. HOVATTER: Gotcha.

11 MR. McMULLEN: So you didn't have a lot of contact

12 with all?

13 THE WITNESS: So I came in -- remember Richard

14 Aukenfeld? He gave me -- he was another old contact at

15 North Dod.

16 MR. HOVATTER: Devo did most of his master's work

17 in the Three Bar area.

18 THE WITNESS: All of a sudden I come in and I

19 know, you know, the Tim Anderson thing because I was

20 involved in -- not in the hire, but in running him. Ron

21 was the snare man.

22 MR. McMULLEN: Gotcha.

23 THE WITNESS: And that's why we did it.

24 Subsequent to that -- or I should say following -- yeah,

25 subsequent, after, yeah, that's the right word.

1 MR. HOVATTER: It works.

2 THE WITNESS: I don't know that much about the
3 Kofas. What happened over a couple years is I guess it was
4 decided Tim Anderson having an in-house lion hunter was a
5 little bit expensive. So that's when they decided to let a
6 statewide contract for lion hunters and that's where the
7 other name you mentioned.

8 MR. McMULLEN: Richens.

9 THE WITNESS: Richens.

10 MR. HOVATTER: Clark Richens.

11 THE WITNESS: There's three or four of them that
12 got it and then the game was we wanted -- we would have
13 liked to have seen Tim Anderson get it because he was
14 great, but he had worked for us or he was working for us at
15 the time, conflict of interest.

16 So what really happened was the three or four -- I
17 don't know, you know, who got the contract, then they would
18 sub out to other people and so that's where -- I don't
19 know -- I mean, Tim never got back on, as far as I know.
20 That's where Emil McCain came in.

21 Q. BY MR. HOVATTER: Yeah, because I see him pop up
22 as a subcontractor, essentially, under Richens is what it
23 looks like.

24 A. That's how you did it and you strike a deal with,
25 you know, one of the official ones and in point of fact I

1 know they would -- sometimes he would take a little cut off
2 the top. So I was told that Emil was going to come on for
3 $200 a day, and when we got the bill it was -- I did the
4 math. It was 225. We figured, you know, that went to the
5 primary contractor.
6 MR. McMULLEN: And that's what you'd expect
7 really.
8 THE WITNESS: Yeah.
9 MR. HOVATTER: Because Emil's access to any of
10 that funding was probably through the primary contractor.
11 THE WITNESS: You know, Miacopa -- I don't know
12 the origin of Emil McCain and why he came on outside of he
13 was in the southern area, he was a lion hunter. He had a
14 lot of experience down there, but when Kirby was -- I
15 couldn't tell you the date -- I could tell you the dates
16 because I could go back and look at the paperwork and I
17 think I gave it to the Feds.
18 Probably around Novemberish in addition to Thorry,
19 who was -- that was about the time Ted died so Thorry was
20 not so much on the project. He'd help out, but he was
21 mostly --
22 MR. HOVATTER: He was working with Ted.
23 THE WITNESS: -- working with Ted. Michelle was
24 not much of a, you know, cat hunter at the time. She was
25 more kind of sheep. Kirby's on a little bit of everything,

1 but I got a request we'd like to hire this guy because he's
2 got something. So we looked at the budget and we came up
3 with -- well, Chasa did. I said, "This is the amount of
4 money we have." We looked at other pools of money we have,
5 like the admin budget, which is kind of our catch-all, and
6 decided we could throw, you know, about $4,000.
7 Kirby had a bunch of collars and it was -- he was
8 -- the odd thing is that project was written a little bit
9 more for bears and it also mentioned large carnivores and
10 the reason that was done was kind of a catch-all. It was
11 also written primarily for southern Arizona. I think
12 almost more -- not exclusively, but to me it was southern
13 Arizona. We're also using it to run the White Mountain
14 side of things.
15 MR. McMULLEN: Who's the primary author of the
16 project?
17 THE WITNESS: Well, you know, the Commission
18 statement, if you will, would be Chasa. I mean, what
19 actually went before the Commission would be Chasa, but one
20 of the things we've done over the years -- and this is both
21 with the W-78 funding but, also, the way we run that
22 Pittman-Robinson budget --
23 MR. HOVATTER: Yep.
24 THE WITNESS: -- rather than a very detailed
25 project, we're getting very broad.

1 MR. HOVATTER: Yeah, yeah, and we noticed that.
2 MR. McMULLEN: We saw that.
3 THE WITNESS: And the reason for that is to give
4 us flexibility because -- in this case whether it was
5 extended even broader than the intent, Chasa's comfortable
6 it handles basically carnivores --
7 MR. HOVATTER: Yeah.
8 THE WITNESS: -- in the state and she's right, but
9 it started out kind of to replace the Huachuca, you know,
10 the Sky Island thing. Then we kind of ran out of money for
11 the White Mountain bears. We still want to do that. The
12 lions started. You know, they were in there, too.
13 Obviously we had interest in lions so the project really
14 became kind of a double.
15 Q. BY MR. HOVATTER: Let me ask the -- if Todd had
16 not left, would he have -- would this probably have been
17 his project to oversee?
18 A. Yes, definitely.
19 Q. We got -- Emil McCain was doing the original --
20 set the original snares and all at the start of this thing
21 because I think Thorry was still working a different
22 project at that time?
23 A. I kinda think that's right. Thorry could have
24 been on for a weekend, but pretty much I agree.
25 Q. Did that -- when Emil was doing that, would that

1 have been under that Clark's Guide Service that statewide
2 or what --
3 A. No, we picked up Emil -- oh, yeah, yeah, Emil was
4 definitely picked up under Clark.
5 Q. Okay.
6 A. I mean, I didn't write the contract for that, but
7 I pay Emil. We had to figure out a mechanism to pay him.
8 So we actually got something in from Clark that says, "I'm
9 subbing out to Emil," and yeah.
10 MR. McMULLEN: And that was in the fall?
11 THE WITNESS: Yeah.
12 Q. BY MR. McMULLEN: Was Clark -- again, you didn't
13 write that contract and I'm just wondering on Clark
14 Richens' contract -- and I've read though that thing, but
15 I got to tell you, I got to read it about 12 more times
16 before I understand contractese as it's written in
17 Arizona --
18 A. You mean the Federal -- the actual contract the
19 statewide (inaudible.)
20 Q. Yeah, the contract with Clark's on that, and as I
21 think through that now, that contract could have been used
22 for going after lions, was that just for research or would
23 that have been able -- we would have been able to use that
24 to go after lions for any reason?
25 A. It's a statewide contract, anything. In fact,

1 going back to your original question, the Kofas, we wanted
2 -- and this was more Ron Thompson. He had some whatever
3 down there interest.
4 Q. Well, he was the guy that -- he was originally the
5 contractor that did that and -- that was doing the trapping
6 and all and then when he came back on with the Department
7 we stopped -- we had to stop everything because he couldn't
8 do it.
9 A. Yeah, those were just written because we didn't
10 have an in-house hunter. We still had an interest in
11 whether it was the urban projects or the Kofa projects or
12 something unforeseen or the Huachucas. We needed that
13 service. We could not -- because of the cost involved, you
14 know, we had to have a bidded -- you know, the procurement
15 rule thing.
16 Q. Yeah.
17 A. These were over 5,000, $10,000. So it had to go
18 through a formal bid process and then that's --
19 Q. See, because I was thinking and it's really --
20 it's not especially germane to this jaguar thing but, you
21 know, obviously, I could see that a number of different
22 work units could have written that contract and it -- I
23 mean, as we were talking about it, I mean, research could
24 have written a contract for lion work specifically for
25 research. Ron could have written one with the hat he wears

1 now for the Department. That's a logical place for that
2 now, and it strikes me thinking about that contract that it
3 is broader -- it doesn't say in there that the only reason
4 you're going to catch lions for us. It only says you'll
5 catch lions for us.
6 A. Yeah, because we had to have a mechanism. We
7 could not go out and say -- whether it was a need to, you
8 know, get this lion and put him down because he was eating
9 kids or something. We had to have a mechanism, and under
10 procurement -- I don't know really -- it was probably
11 initiated about the time and it could have been Devo. It
12 could have been just a question, "How do we do this since
13 we're not going to keep Tim Anderson on?"
14 Q. And you're right, we needed that tool.
15 A. Yeah, and you go over and Barbara Drua says this
16 is the way you have to do it.
17 Q. During the course of your support of that project
18 before we had put it on hold after the jaguar, did we ever
19 buy any -- to your memory, did we ever buy any jaguar scent
20 or any jaguar material?
21 A. No, no.
22 Q. And in this -- some of these are boilerplate that
23 we've been everybody, but in your opinion in looking at
24 that, at that study, did the Department have all of the
25 permit -- required permits that it needed for intentional

1 or unintentional take of that jaguar when that occurred?
2 A. I have -- I'll tell you the knowledge I have on
3 that, and I couldn't tell you the exact date. Probably
4 around sometime in December it became known -- and I don't
5 know exactly who initiated it, but we're trapping down
6 there, we're catching lions, it became a distinct
7 possibility that because there was a jaguar in the area
8 that we could end up with him or her, whatever.
9 Sometime, I think it was early in December, Chasa
10 was in and out, [redacted]
11 [redacted]
12 [redacted]
13 [redacted]
14 [redacted]
15 [redacted]
16 [redacted]
17 [redacted]
18 [redacted]
19 Q. Yeah, yeah.
20 A. [redacted]
21 [redacted]
22 MR. McMULLEN: "Yes" that we should pursue
23 knowledge of whether the permit is good or "yes" the permit
24 is good?
25 THE WITNESS: Yes, we had a permit if we

1 incidentally took. I mean, that was a very quick
2 definitive answer.
3 MR. HOVATTER: Yep.
4 THE WITNESS: Bill Van Pelt was also mentioned and
5 I'm not -- you know, by Ron in a way that I decided -- I
6 tend to be a fairly meticulous, thorough little critter.
7 So there was something that told me Bill had something to
8 do with it. I knew the permit was, you know, non-game. I
9 know Bill's got this kind of over-reaching role.
10 So I went and talked to Bill, and two things came
11 out of that. One was, "Yeah, we have (inaudible). Don't
12 take permit. If the guy gets in one of our snares, we're
13 covered." He also, as Bill was willing to do, kind of
14 rambled on a little bit about Duane Schruff (phonetic) and
15 apparently -- I don't know the name -- but the Fish and
16 Wildlife Director in Albuquerque --
17 MR. HOVATTER: Tuggle.
18 THE WITNESS: -- had talked about actually getting
19 a permit to take the critter. Background details I don't
20 know, but obviously two different things. One is covering
21 yourself for endangered species if, you know, something
22 happens accidentally and the other is, you know, for
23 whatever reason, you know, we should probably try and track
24 this and catch this guy and do something.
25 My understanding from Bill was that Duane and

1 Sutton had agreed. I mean, this was something like yeah
2 this would probably make sense.
3 Q. BY MR. HOVATTER: Oh, you're talking about the New
4 Mexico Fish and Game guy or --
5 MR. McMULLEN: Are you talking about Tuggle or
6 the --
7 THE WITNESS: I'm talking about the Fish and
8 Wildlife Service.
9 MR. HOVATTER: Oh, Fish and Wildlife, okay, that
10 would have been Tuggle, okay, got it.
11 THE WITNESS: That this had been discussed and,
12 you know, this probably could be done.
13 Apparently, you know, as Duane retired and got out
14 it just never happened. I took that information back -- I
15 mean, it was fairly convoluted talking with, you know, Bill
16 Van Pelt. I mean, there's a lot of -- you know, he -- more
17 than I could grasp. I didn't really read documents.
18 What struck me is, "Wow, this maybe should be
19 picked up." Duane had left, Larry had come on, obviously
20 lots of other things going on. Maybe not top of, you know,
21 the priority list. Maybe I'm not even that aware of it.
22 Seemed to me that this would be an obvious answer to -- you
23 know, if that was an option, get the permit, whether he
24 falls in a trap or whether we go after him, we're covered.
25 MR. HOVATTER: Yeah.

1 THE WITNESS: So maybe it was a week or so, Chasa
2 might have been on some travel, might have been on
3 vacation, I don't know, but when she got back I said, [redacted]
4 [redacted]
5 [redacted]
6 [redacted]
7 [redacted]
8 To me way back then it seemed like if there's any
9 chance and we had the real permit rather than an incidental
10 permit we'd just be, you know, in a lot better shape.
11 MR. McMULLEN: By "real permit" you're referring
12 to --
13 THE WITNESS: A real permit to --
14 MR. McMULLEN: Go get him --
15 THE WITNESS: To go get him, yeah.
16 You know, the decisions made, we've got a permit
17 in hand.
18 Q. BY MR. HOVATTER: Now, was that -- do you know if
19 Chasa ever sat -- actually ever sat down --
20 A. I not know that for a fact.
21 Q. Now, that's about the time there was a discussion
22 should we do a checklist?
23 A. Yes, and that's also -- thank you for pointing
24 that out because I think that was the original question --
25 maybe there's both, but yeah. The EA came up back then and

1 Kirby said, [redacted]

2 [redacted]

3 [redacted]

4 [redacted]

5 [redacted]

6 [redacted]

7 [redacted]

8 [redacted]

9 Q. Now, ultimately we didn't do one and I was

10 wondering if you had any insight into why we didn't but you

11 may -- (inaudible, multiple speakers.)

12 A. I don't have any insight. I think it probably

13 just fell off the -- you know, wasn't identified, you know,

14 as number one priority.

15 Q. Let me ask you -- this is one of those process

16 questions. We've got 90 projects and we could do a -- you

17 know, we could drive ourselves into the -- bury ourselves

18 under paper on that.

19 A. We do.

20 Q. Yeah, tell me about it. Do we have a criteria --

21 in your mind, do we have an effective criteria for looking

22 at a new -- and I want to keep it to research branch

23 because that's your -- that's your lane, that's your

24 bailey, for looking at a new research project and deciding

25 whether we do a EA checklist or not?

1 A. A little bit outside my -- my realm. My opinion
2 would probably be --
3 Q. And that's what I'm looking for, I understand.
4 A. -- not as formal as it could be. I think most of
5 the biologists and certainly Devo and Chasa are aware of
6 these things. I've heard them mention we need to do --
7 Candy Warren is doing the EA checklist for OHV.
8 I think the start-up of any project could be more
9 formalized in terms of these are things we need to do. Yes
10 or no is it EA? Yes or no is it -- I think we could do
11 better on budgets.
12 Q. Uh-huh.
13 A. I'm working with -- you know, in the last year
14 with one -- somebody on a new budget. This is not
15 something they've done -- you know, they've done -- you
16 know, they're working on it. They're getting better. I
17 think in some of the contracts I don't think -- I mean, I
18 think there's a number of things when you start a project
19 it could be a little more formalized as a process.
20 Q. Yeah, understood. Hey, let me go -- because I
21 want to make sure I understand this because you kind of
22 make -- you know a lot -- every one of these things you
23 know how every time you're doing it -- these kinds of
24 interviews on something like this you've got, you know,
25 little pieces of the jigsaw puzzle that suddenly you'll fit

1 into place on this thing.

2 I want to go on December -- your memory then of

3 how of that E -- that discussion about looking at the

4 permanent and the EA checklist stuff, that started with a

5 conversation you had with Chasa --

6 A. Yes.

7 Q. -- or with Kirby?

8 A. [redacted]

9 Q. Okay. To see what the status was?

10 A. I did. [redacted]

11 [redacted]

12 [redacted] So, again, he's down there and I just start nosing

13 around to help him out.

14 Q. The question I -- because you're not the only

15 person who did it this way. Why -- can you remember why

16 your inclination was to start with Ron as opposed to say,

17 for example, going to Eric, because Eric actually has the

18 10-A permit and all?

19 A. You know, at the time I did not know that but,

20 obviously, not only because he worked for us on the lion

21 project, but I've known him, I know he's a cat guy, I know

22 he goes into Mexico. So I went to him, but I wasn't fully

23 satisfied with that answer.

24 Q. No, it's clear. I mean, you went on and kept

25 digging on that. Let me ask you this: From the standpoint

1 of training and education, have we done enough to get our
2 folks appropriately trained on ESA and NEPA?
3 A. I couldn't really answer that.
4 Q. Let me ask you, do you feel that you have as much
5 training as you'd like on ESA and NEPA?
6 A. No, from a biological standpoint. Yes, 'cause
7 it's not my role in the branch.
8 Q. Understood.
9 A. I'm not -- I don't run projects, but when I was at
10 U of A we did a lot of environmental assessments and impact
11 statements. So I'm familiar with the process. One of my
12 jobs in Africa was essentially EIS for the games and
13 rivers.
14 Q. Yeah.
15 A. So, you know, from that standpoint "yes." Whether
16 the average spent three, two or one in the department or
17 the research branch is adequately trained, I couldn't
18 address that. I don't know.
19 Q. This comes -- this is not just this. I mean, this
20 comes up in conversation we've had about blacktail prairie
21 dog reintroduction, about eagle program, about a bunch --
22 and, you know, we -- part of the challenge is if we wanted
23 to make everybody a NESA expert, we don't have enough time.
24 I mean, that could probably take weeks of training.
25 The question is is whether or not, you know,

1 potentially we should get at more kind of sensitivity
2 training, I mean, awareness-type training of the types of
3 cases (inaudible).
4 A. I agree a hundred percent because, I mean, as I'm
5 understanding it Jamie Warren's now doing a lot of OHV
6 stuff. I guess if we kick up too much dust --
7 MR. McMULLEN: Yeah, FEMA and Maricopa County --
8 THE WITNESS: Yep, you got it. It's that kind of
9 thing. I mean, you can't even build a road out here
10 without having the trucks go up and down.
11 Kirby was not that aware. I think out attitude
12 is, you know, kind of -- and don't quote me on this because
13 I'm not speaking for the branch.
14 MR. HOVATTER: No, understood.
15 THE WITNESS: My gut feeling is it's one of these
16 administrative paperwork things that if we don't -- if
17 someone isn't telling me I don't have to do it, I'm hoping
18 I don't.
19 MR. McMULLEN: That is very, very believable.
20 THE WITNESS: And I think --
21 MR. McMULLEN: From a human nature perspective.
22 THE WITNESS: Yeah, I mean -- I do -- I mean --
23 and Kirby's a great example. Kirby's a great guy. He's
24 done a lot of good work. He's a biologist. He likes to be
25 out there. I manage his budgets for him and now Ester will

1 and that's true of a lot -- I mean, we've got a lot of
2 others in research and particularly the research side of
3 it, I mean, if you're not doing biology and hard core
4 research, nothing else is as important as that.
5 So -- I mean, even the stuff I do in the branch I
6 have some resistance because I'm getting in the way of
7 their biology.
8 MR. HOVATTER: Yeah
9 MR. McMULLEN: Yeah.
10 THE WITNESS: You know, so Kirby was not
11 particularly familiar. I put him in contact with Dan when
12 he came up, and I know that, you know, over there they have
13 their, you know, little ES --
14 MR. FABRITZ: Who's Dan?
15 MR. HOVATTER: Did you say Stan or Dan?
16 THE WITNESS: Dan -- who's the guy -- Dan not Cox,
17 Daniel --
18 MR. McMULLEN: (inaudible) no?
19 THE WITNESS: In habitat.
20 UNIDENTIFIED SPEAKER: Yeah, oh God.
21 MR. McMULLEN: Are you thinking of Reuben Turrant?
22 THE WITNESS: No, he's another one that works on
23 it, but the one who sits right in front of him in the
24 hallway.
25 MR. McMULLEN: I don't even know that name.

1 MR. FABRITZ: I was just curious who the name
2 was.
3 MR. HOVATTER: Yeah, we'll figure it out. We'll
4 figure that out.
5 THE WITNESS: I mean, I know 'cause I went over to
6 see the person I always see dragging those little yellow
7 things around is Ginger and she always brings him over to
8 me, "Oh, you know," you're going to do this with fish. You
9 got to do an EA." So I, you know, kind of take him to Tony
10 Robinson or someone like that and then they -- he does his
11 stuff to sign. They go to Chasa and they go back.
12 So I went to see Ginger with Kirby and she wasn't
13 in that day. We're walking out and -- I think this guy's
14 name is Dan. I mean, I see him, I just don't know his
15 name -- my fault -- and he says, "Can I help you with
16 this?" He says, "I'm here on the U drive and here's this
17 little hand out."
18 Q. BY MR. HOVATTER: That's the UA checklist?
19 A. Yeah, and that's where I left it. The obvious
20 thing is relative to training, it could be enhanced or it
21 could be -- whether or not everyone gets it and knows how
22 to do it or whether they know they need to do it and they
23 go -- it could be a role -- I could do it in resource. I
24 could be the paper pusher for the EAs. You know, I get to
25 the biologist, you give me this feedback, I fill in these

1 blanks, I take it to the next step.

2 I mean, they need to know where to go to do it.

3 That would probably be beneficial. I think it's -- I've

4 heard Chasa many times say, "We're going to need to do an

5 EA on this or that."

6 Q. Yeah.

7 A. So maybe at that level it is covered, but I still

8 think it's a bit of an ad hoc process.

9 Q. Let me ask you based on what you know about all of

10 this now do you have -- what's your personal opinion about

11 whether or not that jaguar capture was intentional or

12 unintentional?

13 A. I'm going to have a biased answer because from

14 what I subsequently read in the, you know, news accounts

15 about -- you know, getting the scent and putting it out, I

16 mean, I was shocked at that. True or false, I don't know.

17 My opinion is there were some individuals who would really

18 liked to have had it.

19 Q. Who would you think?

20 A. I would say Ron.

21 Q. Uh-huh.

22 A. That's what his professional life -- you know,

23 he's interested in that.

24 MR. McMULLEN: Earlier you said it became know

25 that -- and we'll get back to whether or not you think it

1 was intentional or unintentional.

2 Earlier you said it became known in December that

3 in all likelihood catching a jaguar was high or increased

4 or something. How did it become known and what event

5 caused it to be known and who brought it to your attention

6 I guess is what I'm curious about?

7 THE WITNESS: Um -- oh, gosh. Well, certainly

8 Chasa's, you know, suggestion or, you know, request to

9 check with Kirby on the EA, check on the permit, you know,

10 the incidental permit.

11 MR. McMULLEN: Okay. So Chasa came to you, you

12 didn't go to her?

13 MR. HOVATTER: Yeah, we had -- by the way, while

14 you were out we talked about a little of that.

15 MR. McMULLEN: Sorry, I apologize.

16 MR. HOVATTER: No, no, no, no, no, no, but that's

17 -- maybe another way to get it, do you have -- and I should

18 have thought of that at the time.

19 Q. BY MR. HOVATTER: Do you have any idea what

20 prompted Chasa to --

21 A. No.

22 Q. -- to ask that question?

23 A. No, no, I really don't. You know, she meets with

24 all kinds of people all the time and, you know, whether it

25 was with Mike or -- I really don't know. I just kind of --

1 I put out any kind of little, you know, fires.
2 Q. Well, you kind of explained it.
3 A. I'm kind of her right hand.
4 Q. I mean, you explained that. Total side question.
5 I know you'd probably love to. Did you ever get a
6 chance to go down and participate in any of that study --
7 A. No.
8 Q. -- that bear and lion study?
9 A. No. I'm kind of landlocked up there.
10 Q. Oh, well, probably a good thing. I mean, that
11 ground beat the hell out of the Department. We lost a lot
12 of folks --
13 MR. McMULLEN: (Inaudible) got injured.
14 MR. HOVATTER: We lost a lot of people in that
15 ground out there during that time frame.
16 Q. BY MR. HOVATTER: Again, getting back to the --
17 so, I mean, understand this is really asking your personal
18 opinion it seems to me. Factoring in everything you think
19 you know about that, do you think we did -- that that was
20 an intentional or an unintentional take?
21 A. I -- I can tell you -- I can tell you Kirby was
22 not -- I know almost for a fact -- you know, he'd be in the
23 unintentional category, but I think Kirby was not directly
24 involved. I think it was an interest in trying to get it
25 -- I mean, the hope and the desire was there. I have

1 absolutely no -- from any conversations, any comments,
2 anything else, no material fact that someone decided to do
3 it.
4 MR. McMULLEN: We recognize that.
5 THE WITNESS: I mean, that -- the only exception
6 to that -- and, obviously, one of the -- you know, the
7 focus -- I don't know, you know, McCain. I don't --
8 obviously, he has -- you know, a lot of pieces were in
9 place for him. Whether he kept his nose clean or he
10 crossed the line, I have no knowledge of that.
11 Q. BY MR. HOVATTER: Any sense of where Rick Thorry
12 was on that, where you think his head was on that?
13 A. My opinion, Thorry is a good trooper. He's, you
14 know, good and likes his field work. I also tend to
15 think -- my opinion is he's -- he's a technician, but he's
16 been around for a long time. I think he's a pretty sharp,
17 straight guy. I would be surprised if he -- for any
18 reason, whether it was enticement or anything, would
19 actually cross it. Obviously, it sounds like maybe he
20 did. I'm just -- I'd be surprised.
21 Q. Yeah, but that's -- yeah, and I'm more interested
22 in your perception of him from your knowledge of him as
23 opposed to all the reports and stuff.
24 A. It just doesn't sound -- Thorry, you know, he's a
25 pretty straight arrow kind of guy and, you know, it doesn't

1 mean a straight arrow guy didn't make a wrong decision but
2 I'd just be very surprised and I -- you know, therefore, I
3 not only feel sorry, I'm kind of concerned because I think,
4 you know, if something did -- was done on the wrong side, I
5 think he might be implicated in it one way or the other and
6 I think that's --
7 Q. Let me ask you what was -- and this kind of goes
8 to -- what was your understanding of the supervisory chain
9 for that project, for the Bear and Lion Study?
10 A. Well, Chasa, branch chief. Thorry -- sorry,
11 Kirby. Kirby had -- he had his interns beating the bush.
12 He had a couple of them. Michelle, I guess she had already
13 relocated on to Tucson, whether she was more bear or lions,
14 whether the interns were more bears or lions, I don't know
15 the day-to-day side of it.
16 Thorry was -- became available after Ted died.
17 So he -- he went down there and, you know, outside of Emil,
18 trying to -- you know, being the snare guy and going out,
19 that's -- you know, Kirby was running those people.
20 Q. Yeah.
21 A. You know how much day-to-day, how much, you know,
22 "You work this hill," I mean, I don't know.
23 Q. Yeah, and I wouldn't expect that, Dean, from you
24 on that; but given how the techs were -- because I know the
25 techs migrate from project to project to project and they

1 may fall under a number of different supervisory chains
2 during the course of any given year --
3 A. Yeah.
4 Q. -- do you know how the decision -- I know Thorry,
5 I guess, had been working most directly for Ted?
6 A. Absolutely (inaudible).
7 Q. And so when Ted died when -- do you know how
8 Thorry -- because he was also -- he was not available when
9 -- at the beginning of this thing in October, November.
10 That's when Emil was doing the trapping.
11 A. I think that was one of the reasons -- Thorry
12 might have been down for a weekend or so.
13 Q. Yeah.
14 A. I mean, that I -- I guess I could look at his time
15 sheets and find out and his travel stuff, but I think that
16 was the reason to bring Emil on because Thorry wasn't
17 available.
18 Q. Do you know -- do you have any -- do you know who
19 made the decision -- because, I mean, there's probably a
20 number of places Thorry could have gone after Ted's --
21 Ted's death.
22 A. Uh-huh.
23 Q. Do you know how the decision was made or who made
24 the decision, "That's the project you're going to go on"?
25 I know Thorry didn't make it, but I'm just --

1 A. No, it would have to be Chasa --
2 Q. Yeah.
3 A. -- and it was -- technically Ted was -- this was
4 one of the weird histories I've researched. Ted was
5 actually supervised by Bill Persons.
6 MR. McMULLEN: Who's the (inaudible) research guy.
7 THE WITNESS: Yes, and the reason for that I've
8 learned from Devo because I'm sitting here doing word
9 charts and it doesn't make any sense to me, but the reason
10 was Ted and Richard Aukenfelds didn't always see eye to
11 eye, and so I guess Ted being, you know, his senior kind of
12 guy went to Devo and said, you know, Rock (inaudible) on me
13 and Ted was his biologist. I mean, he was not a paperwork
14 type of guy and Rock was, you know, very meticulous and I
15 think it just -- he just got assigned, you know, to a 22 or
16 program manager, you know, personality wise with Bill.
17 Bill had, you know -- that's why I say when Tim
18 Anderson resigned, I ran his budget because that was
19 something that just Bill wasn't interested in. So it had
20 to be, you know, "What we going to do with Thorry?" and,
21 obviously, it was peak season to capture, you know,
22 anything --
23 Q. Yep.
24 A. -- so, you know, sitting down in Tucson I don't
25 know for a fact but I'm -- within the hierarchy there, you

1 know, it had to be Chasa. Whether Kirby requested or
2 whether, you know, it was just an assignment so we have
3 one of our --
4 Q. Yeah.
5 A. -- personnel doing work, I don't know.
6 Q. Oh, it's interesting work so, I mean, I can
7 understand.
8 A. Oh, and it was the kind of thing, I mean, that --
9 Thorry, he -- I think he probably learned from Thompson. I
10 mean, he became the snare man, too.
11 Q. Yeah.
12 A. He would -- you know, he didn't have his own dog
13 so I guess he liked to capture the thing so he -- and I
14 guess he -- I know he went down once or twice and helped
15 out at U of A I'm pretty sure with --
16 MR. McMULLEN: Thorry?
17 THE WITNESS: Yeah. (Inaudible) needed a
18 technician so we needed to capture something someplace.
19 I'm surprised -- he was going to end up at the Kofas
20 because that's what Ted was going to be doing. So, you
21 know, he's one of our capture guys.
22 Q. BY MR. HOVATTER: Let me -- were you aware of
23 any -- you know, moving forward from December, do you know
24 if there was any guidance given to Kirby or through Kirby,
25 Thorry or directly to Thorry about, "Okay" -- about how to

1 do that study with the possibility that there's a jaguar in
2 the area?
3 A. The only guidance that I specifically heard and
4 was aware of was Chasa's position and I think Thorry took
5 it, Kirby took it very much to heart was, [redacted]
6 [redacted]
7 [redacted]
8 [redacted]
9 Q. Was that in the summer time frame?
10 A. I think it was probably -- could have even been a
11 little bit before that, and it could have -- thinking back,
12 you know, the -- picking up McCain and I could -- I don't
13 know if you have the contract in all your papers here but,
14 I mean, there's a specific date that we, you know, launched
15 that and we could look at the pay records and stuff.
16 Q. Yeah, yeah.
17 A. It could have been when Kirby said, you know, "I
18 need more manpower," you know. "I've got these collars,"
19 you know. "We want to get these things. Here's this guy
20 who would be really helpful. He knows the trade. He
21 knows, you know, the techniques."
22 My kind of guess if -- my recollection's not
23 perfect -- probably that's when Chasa started saying, you
24 know, "Fine, but..."
25 MR. McMULLEN: We ain't catching no jaguar.

1 THE WITNESS: We ain't catching a jaguar.
2 MR. FABRITZ: So Kirby initiated that whole we
3 need help, that, that -- specifically was that asking for
4 MaCain?
5 THE WITNESS: I think so. I think so.
6 MR. HOVATTER: Wait a minute. Did you just ask
7 did he specifically ask for McCain?
8 MR. FABRITZ: Yeah, because I think he mentioned
9 something before. You mentioned about the request and then
10 I was going to get back to that but this is a good segue
11 into that because I don't know where it came from. How do
12 we know about this?
13 THE WITNESS: Yeah, I'm pretty sure -- I would say
14 he did because, you know, I think he called me up one day
15 and said, you know, "Do we have, you know, some money
16 to" --
17 MR. McMULLEN: This is where we found the $4,000
18 you mentioned before?
19 THE WITNESS: Yeah, yeah, and that was -- I would
20 say I'd look at the budgets -- and, of course, last year as
21 you know in research we had quite a bit of vacancy
22 savings. So I knew we would have money available and that
23 was early enough in the year that we still had our lot of
24 our AOO. I also -- normally we did the previous year, we
25 moved PS down to AOO.

1 This year was a little different because we were
2 trying to save money in the event of worst-case budget; but
3 so, yeah, the money was there and Chasa said "okay," you
4 know. So then she allocated so many person days.
5 Q. BY MR. HOVATTER: So your memory on that, Dean, is
6 that it sounds like the issue about Chasa giving her
7 guidance on that probably preceded the (inaudible),
8 probably goes back to the earlier beginning of -- in that
9 fall of that study?
10 A. Yeah, I would think so and I don't know quite when
11 the -- it became a possibility or, you know, again that
12 (inaudible) jaguar but certainly somewhere between, I'd
13 say, September, Octoberish.
14 Q. Again, Emil was doing that trapping under the
15 Clark Guide Service contract.
16 A. Correct.
17 Q. And just to kind of go back to something Marty
18 said, is your memory of that that Kirby was asking -- just
19 saying, "I need some money," to get some lion and bear
20 trapping done and did that include bringing up Emil
21 specifically or was that just I need it and add the money
22 and we had this existing contract?
23 I'm trying -- I'm interested, you know, if --if --
24 in whether that was sending Emil down there seeing if we
25 can figure out having Emil show up in there was Clark

1 Richens' decision because it's his contract or did we have
2 a beat on Emil and ask Clark if he could -- if we could use
3 Emil?
4 A. Okay, I'm going to ask you to pose that one more
5 time.
6 Q. Okay. We had -- Emil was working under Clark's
7 contract?
8 A. No, I don't really think he was -- when we hired
9 him he was, but I think prior to that he was not.
10 Q. No, 'cause he was doing a lot -- I mean, you look
11 at like a lot of the guys that are non-department folks.
12 They kind of pick up some money for a project here and pick
13 up some money for a project 'cause he's got this -- the
14 Border Lands Jaguar Detection Project he was working on
15 some of that, kind of on and off and on and off and of and
16 off and he wasn't -- yeah, he flits in and out of this
17 thing like a lot of folks along -- you know, in the biology
18 business. You don't have a full-time organization job.
19 So I'm just wondering because I think -- see, he
20 was already on Clark's Guide Service list. He'd already
21 been working for them under that contract for the Kofa --
22 A. Okay, I didn't -- I wasn't aware of that.
23 Q. -- and -- you know, when you look at all the
24 paperwork. So, I mean, he was already on their -- you
25 know, Clark's -- Clark Richens', you know, payroll. When

1 you look at that contract, it's that thick. It's kind of a
2 -- because it wasn't you're on every day. It was kind of
3 an on-call thing with so many days during the year and then
4 you can do job orders to modify the contract.
5 So, you know, he already had -- Clark Richens
6 already had a relationship with Emil McCain. So I'm just
7 -- I'm kind of interested in whether Clark's just looked
8 around and said, "Well, the guide -- you know, Emil's down
9 there. I already have him -- you know, I've already used
10 him. That's -- you know, you want -- you're telling me you
11 want us to do some work. There's my guy," or the other
12 thing was is knowing that Emil's -- you know, we know
13 Emil's -- a lot of folks knew that Emil was down there.
14 He's been working in that border area for, you know, seven,
15 eight years and could just as easily said, you know, "We
16 need somebody to catch lions. Emil's a good guy. Can we
17 use him?"
18 Do you have any -- that's where I'm trying is
19 whether you have any sense of how that might have gone done
20 (inaudible)?
21 A. No, I really don't except -- I mean, when Kirby
22 brought it up to me Emil had already been identified, and I
23 know that because the question then came up is he under
24 Richens? If so, we need a letter saying he is.
25 MR. McMULLEN: Well, the contractual side boards

had changed recently because you said it before. So it makes sense that even if Emil was the target, we had to have set it up that way because earlier we were able to do piecemeal contracts and then the decision was made at some point we need to let a statewide contract. So once the statewide contract was let, only those people who were part of that contract could do lion capture work.

THE WITNESS: Yeah, it's just like the new hardware contract.

MR. McMULLEN: Yeah. So even if he had been identified as the guy for this, the right man for this project, he had to be subcontracted through.

THE WITNESS: He had to be paired up with one of the statewide contractors.

MR. McMULLEN: Right, right.

THE WITNESS: And whether there was -- this is the first time that I heard he had already worked for Richens. I'm not surprised.

MR. McMULLEN: Yeah.

THE WITNESS: There's three or four that had the contracts. There's another X dozen lion hunters. Some of them like each other and work together, some of them don't.

MR. McMULLEN: Standard regulation. People interactions, you know.

THE WITNESS: Yep.

1 MR. McMULLEN: That's the way it goes.
2 THE WITNESS: And so at some point, I guess, Emil
3 was one of Richens' men or vice versa. You know, it could
4 have been -- even if they didn't have a relationship the
5 way it would have worked, you know, "Emil, if you want to
6 get on, you got to talk to Richens, you got to talk to
7 Mr. B, Mr. C and see if we can strike a deal."
8 MR. McMULLEN: Yeah.
9 THE WITNESS: I distinctly remember that because
10 that's how we left it with Tim Anderson. I think even
11 because he had worked for us he could not work for us in
12 the next two years.
13 MR. McMULLEN: Yeah, I remember you said that.
14 Q. BY MR. HOVATTER: But you do remember that when
15 Emil came up that there was the question, "Okay, we need to
16 see the letter saying that you're on under the Richens
17 contract"?
18 A. Right.
19 Q. Yeah.
20 A. And we actually -- the payment we made was to
21 Richens.
22 Q. And it was Kirby that you think brought that?
23 A. It definitely was.
24 Q. Yeah, got it. Um, knowing about how clear Chasa
25 was on that, do you have any personal knowledge that Thorry

1 ever got that word? Know that Kirby did.

2 A. I don't have personal knowledge, but I'm sure he

3 did either from, you know, Chasa or from Kirby.

4 Q. What makes you -- what makes you sure on that,

5 Dean, just to the --

6 A. Chasa, you know, the way she came to me and said

7 checking it. It was on her radar and she's thorough enough

8 to make sure, you know, knowing whether before and after

9 she assigned Thorry down there. I have little -- I don't

10 think it would have been an oversight not to tell him, and

11 I think the way Kirby was being, you know, fairly

12 meticulous about it as well I'm sure -- I don't know that

13 Michelle was told yea or nay, but I'm sure Kirby, you know,

14 passed it on because that's the kind of guy he is. I mean,

15 if he had, you know, information. I do not know personally

16 that the interns, Michelle or Thorry, were told but I'm

17 just --

18 MR. McMULLEN: Strong suspicion based on how

19 know --

20 MR. HOVATTER: Well, based on the way they

21 operate, makes sense.

22 MR. McMULLEN: Can I ask a follow-up, Gary?

23 MR. HOVATTER: Sure.

24 MR. McMULLEN: So there's -- you understood

25 clearly there was unambiguous direction from Chasa, "We're

1 not going to try to catch a jaguar"?
2 THE WITNESS: Yes.
3 MR. McMULLEN: But that's a little different from
4 any sort of direction that there might have been, "In case
5 we accidentally caught a jaguar"? I mean, there was
6 unambiguous direction where "we're not going after a
7 jaguar," but so are you aware of any general orders on what
8 we were supposed to do if we caught a jaguar on accident?
9 In other words, were we supposed to collar it?
10 Were we supposed to release it? I mean, what was the
11 general orders, if you knew?
12 THE WITNESS: I did not. (Inaudible).
13 Q. BY MR. HOVATTER: I know we didn't --
14 through us didn't ever purchase any jaguar scent, but did
15 you ever hear any discussion or conversation about the use
16 of lure, jaguar scent or other lures for that project?
17 A. No -- well, Kirby bought -- I believe it was some
18 smelly bear shit lure. I mean, it was some lure.
19 Q. But for the hair snare (inaudible)?
20 A. Yeah, something like that and I think he got it
21 out of, you know, Tennessee. It's kind of a unique
22 vendor. I'm aware of a lure, but there was nothing
23 whatsoever on big cats or specifically jag.
24 Q. Did you have any knowledge of the Jaguar
25 Conservation Team or what was your level of knowledge of

1 that organization?

2 A. Not a whole lot. Unfortunately, in the role I

3 have I don't do a lot of, you know, technical stuff.

4 Q. Uh-huh.

5 A. I mean, like to. I'm interested. I'm aware of

6 the Border Detection Program simply because -- I mean, this

7 is a couple, three years ago. I got, I think, funds

8 planning. I'm not even sure -- bless you. I'm not even

9 sure of who -- a BLM grant -- I think it was BLM, some

10 money came in and it was, you know, for -- we get a lot of

11 stuff in research that no one knows where it belongs so

12 they come to us, and I just kind of track some of this

13 stuff down. So I think BLM was donating $6,000 for cameras

14 or whatever it was and it wasn't even Van Pelt.

15 There was somebody down in Region 5 that was going

16 to, you know, spearhead that. The name, I might remember

17 it if I heard it. So I knew we had something going on down

18 there. I never seen, you know, the pictures or anything

19 like that. So the whole detection program, the Jaguar, you

20 know, Conservation Team, it wasn't something that I was

21 familiar with.

22 Q. So you had just that kind of peripheral knowledge

23 about the camera program?

24 A. I just remember that's when I knew we had some

25 cameras set up down there, yeah.

1 Q. Did Emil McCain's name come up then.
2 A. No. First time I ever heard it was when, you
3 know, Kirby called, "This is, you know, the guy. We need
4 to figure out how to get him on board."
5 Q. You know, once we captured that jaguar -- now,
6 granted, everything -- the whole truth, of course, was that
7 jaguar had run on for years with that collar on. Of
8 course, everything kind of came to a head very quickly in
9 that two-week period. You know, we went from the initial
10 capture to recapture and all.
11 Once that animal was captured, were you aware of
12 any new guidance to -- since it was -- research guys were
13 in the field on that, we weren't going to swap them out
14 with other folks -- but of any new guidance or additional
15 guidance that came from Chasa or somewhere else in the
16 branch, to Kirby and Thorry about "now what"?
17 A. No. My -- my only knowledge was kind of a, you
18 know, daily, "What's he up to now?" and it was pretty cool
19 and there was a lot of excitement --
20 Q. Yeah.
21 A. -- and, you know, what an amazing set of data they
22 were going to get. It was kind of that level and I don't
23 think -- I mean, honestly, anyone was thinking of a
24 downside. I mean, I could be wrong. There was just too
25 much euphoria that this is going to be really cool stuff

1 and then the kind of shit hit the fan.

2 Q. Did you ever come across Janay Bruns' name? She's

3 this gal that --

4 A. Is that the one who -- you know, from the

5 newspaper article said (inaudible)?

6 Q. Yeah.

7 A. No, never heard of her.

8 Q. Yeah.

9 A. I didn't even know they had, you know, volunteers

10 and other people involved. I didn't know the details of

11 the border detection.

12 Q. Did you come across -- now, Emil worked for us

13 October, November time frame and then he went on -- and

14 even during that time frame he was on kind of a day-by-day

15 basis and he was doing some other things also, right?

16 A. He had a -- I think it was more -- I'm guessing

17 more November/December rather than October/November.

18 Q. Okay, November/December. I mean, for my purposes

19 that's close enough. The question then is my memory or my

20 -- no, my understanding is that kind of ran out of money

21 for that -- for him to continue doing that work under the

22 contract he was under?

23 A. That's correct. He had a certain -- I think it

24 was twenty days.

25 Q. Yeah.

1 A. I think he started at -- I think maybe initially
2 it was ten and then they expanded to twenty or it was ten
3 to twenty and he was doing things down there -- so he got
4 his twenty days.
5 Q. Now, he becomes involved in the effort again --
6 not on our payroll then in that January/February time
7 frame. Were you aware that he was helping out or working
8 on that?
9 A. No. My only knowledge of Emil -- he actually --
10 his check was cut somewhere around either -- check was cut
11 or mailed on or about December 20th because I know Kirby
12 had called and he wanted to know where his check was, and I
13 said I processed it and it turned out that Richens was -- I
14 said he's gotta, you know, call Richens. Richens was, I
15 think, maybe he was out of town but he had it for a week or
16 so, and I know it was right before Christmas and I went
17 over to accounts payable and I tracked the warrant. So
18 there's the date. That's the date it was mailed, and I
19 think I even knew -- I guess it hadn't been checked --
20 cleared yet -- maybe it had. I don't remember the details.
21 Q. Yeah, yeah.
22 A. But as of -- which means his last day of -- and,
23 again, the fact's there -- but end of November, early
24 December because it would take us a week or so to get the
25 paperwork in and cut the check and after that he was

1 definitely not on our payroll and, therefore, I assumed,
2 you know, Kirby or anyone else wasn't telling him what to
3 do or anything because, you know, we really can't tell
4 somebody what to do and not pay them.
5 Q. And, you know, in a lot of these I know it's very
6 clear to me what your role -- or pretty clear to me what
7 your role was in this and that logistics --
8 A. Let me know sometime, I'm trying to figure it out.
9 Q. Well, as clear as anything in the way that we
10 mingle money and plans and responsibilities and all is in
11 this department but -- so a lot of this is just kind of
12 asking if you, because you were part of that part of the
13 project role, if some of this is just whether through your
14 peripheral knowledge or just brushing up against folks, but
15 did you have -- had you heard anything -- do you have any
16 memory of having heard anything about that there had been
17 some fairly recent jaguar confirmation from the area that
18 we were doing this Bear and Lion study in the January time
19 frame?
20 A. No. My only knowledge of that was when I took
21 notes at that session we had down the hall.
22 Q. Yeah, when we did that little after action thing?
23 A. Yeah, that.
24 Q. We asked that and we asked that and we asked
25 that. We asked that. Um -- we asked that.

1 Have you ever met Emil?
2 A. No.
3 Q. All right. I was just kind of wondering if you
4 had any sense of what kind of a person he is?
5 A. Outside of the letter he wrote, you know, that
6 thing, no. That was kind of interesting or not.
7 MR. McMULLEN: I thought very much (inaudible).
8 Q. BY MR. HOVATTER: The collar that was put on
9 Macho B wasn't our collar. Do you have any -- did you get
10 involved in any aspect of how that thing got sorted out?
11 A. Not at all. It belonged to the Jaguar Detection
12 Program, is that --
13 Q. Yeah, I think that's where that was donated --
14 A. -- and that -- I mean, from my non-knowledgeable
15 state, to me that's a question of why would they have a
16 collar if no one's supposed to catch this guy.
17 Q. Yeah.
18 A. Maybe someone just donated it to them and said,
19 you know, "If he knocks on your door, put it on him." That
20 to me was kind of an open-ended thing, why is there a
21 collar?
22 Q. Now, we had a collar we bought -- because the
23 pre-dates you and I's arrival in the Department.
24 Apparently, there had been a collar bought in 2000 that had
25 been stashed in the -- that Tim Snow was riding herd on?

1 A. Tim Snow was a guy that BLM money went to. That
2 was (inaudible).
3 Q. Yeah, okay. Was that two to three years ago time
4 frame?
5 A. Yeah, yeah.
6 Q. Now, that collar had been sitting there, battery
7 was very suspect and all and it never came into play in
8 this thing, but the question was: It was going to cost a
9 couple of thousand dollars to refurbish it. Did anybody
10 come to the research branch about trying to get money to
11 get that thing done?
12 A. No, and that would have been -- we would have been
13 the likely targets to get that done because we refurbish
14 collars.
15 Q. Now, Todd left in May but he -- there's -- he gets
16 -- apparently is somewhat still interested in that Bear and
17 Lion Study.
18 A. Uh-huh.
19 Q. Do you remember him -- any contact we may have had
20 with him or with the research branch in that
21 December/January time frame on that Bear and Lion Study?
22 A. No. I had an e-mail from him, but I think it was
23 quite a bit before that and I think it was something about
24 Mexico or maybe could have been just giving me his new
25 address up in Colorado. I know he's got kind of a more

1 regional bigger focus on his genetics, but I know, you
2 know, nothing of -- I don't think I heard anything about
3 him in that December/January time frame.
4 Q. We had con -- we were using North Star's collars
5 on those lions and bears in that study.
6 A. Uh-huh.
7 Q. Was that contract -- that was -- was that a
8 contract that we were running out of research branch for
9 that?
10 A. Oh, yeah.
11 Q. What was your -- what was your -- in your dealings
12 with North Star what's your impression of the company and
13 their -- I know we had some trouble with their collars, but
14 what's your sense of that company?
15 A. Um, the history of North Star is Todd identified
16 and got the first collars from North Star. Um, why -- I
17 don't exactly know -- as long as we've dealt with Telonics
18 -- and that goes back to my school days.
19 Q. Yeah.
20 A. And I remember when they were the only game in
21 town. Then when somebody out of (inaudible). We -- I
22 guess the easiest thing to say is the quality control of
23 Telonics has, you know, gone downhill.
24 Q. Yep.
25 A. And there's just -- I mean, the buffalo incident

1 up there and -- I mean, we have a ton of collars.
2 Q. Yeah, we had a collar blow off our lines in the
3 Kofa, a Telonics collar.
4 A. So I think there was interest in Todd being the
5 new guy, maybe he had some previous knowledge, he looks
6 into this, it was certainly new technology, whether they're
7 still on board or spread spectrum there are issues.
8 There's a lot of flying time, a lot of this, that and the
9 other waiting for data when people like Norris and Jeff
10 needed kind of realtime.
11 So someone looked for a different kind of collar.
12 Todd was the first one to buy North Star. We since then --
13 Steve Rosenstock got a few for his --
14 Q. Yeah.
15 A. -- I think, sheep. Jeff Gagnon's buying on
16 board. I mean, we have several hundred collars on research
17 mostly with Gagnon because he collars every elk north of
18 the El Dorado Rim.
19 Their reliability is about the same as Telonic I
20 think. We have a lot of issues with them. Whether it's --
21 and I think North Star is an assembler. Telonics was a --
22 you know, researcher. They -- you know, they did their own
23 stuff. They -- you know, developed technology. I think --
24 my impression is North Star kind of -- don't quote me --
25 works out of his garage. Buys components, puts them

1 together, you know, and --

2 MR. McMULLEN: Hence the five collars that failed

3 in the first go-around.

4 THE WITNESS: Yeah, I can tell you very

5 specifically because I was just dealing with Kirby's

6 billing on his collars, and we get these bills in, we set a

7 requisition or PO aside and I know for a fact Kirby was

8 saying, you know, "I thought we were getting overbilled."

9 So I actually contacted Blake and I said, you

10 know, I -- can we get more information, you know, because I

11 don't think you know we're getting our -- I kind of came on

12 as, you know, "Hey, my job is to pay these things. I need

13 documentation to show that we're paying you." I kind of

14 played the bad guy because Kirby and Jeff and all these

15 people were --

16 MR. HOVATTER: Yep.

17 THE WITNESS: Actually, Blake got right back to me

18 and he sent me a very detailed e-mail saying, you know,

19 "You started in October, you had ten collars, and we

20 charged you 30 bucks." He could see one start failing and

21 when they would fail he would either prorate it or we

22 had -- there was a three dollar monthly charge to keep the

23 channel open. Otherwise, we had to reactive --

24 MR. HOVATTER: Right.

25 THE WITNESS: -- which was $75. So he sent me --

1 I mean, month by month -- then Kirby bought -- we bought
2 the original ten collars and then he bought another --
3 Q. And that was a mix of bear and lion collars,
4 right?
5 A. Yes -- well, the original ones were all bear.
6 Q. Yeah.
7 A. The first ten were all bear, and then he got -- I
8 guess maybe the other five were all lion. I don't know
9 that for a fact. The bottom line was the average cost per
10 collar per month instead of thirty some dollars, meaning
11 it's fully operational, was $17.59 which means it was
12 slightly over 50 percent operational. So I --
13 Q. Yeah.
14 A. Again, you know, I could tell Steve or anyone else
15 that North Star's going to be about 50 percent reliable.
16 Q. Do you have any -- that Bear and Lion Study, do
17 you know why that particular area ended up being where we
18 went to try and collar lion?
19 A. No -- maybe I should. Maybe -- that goes back to
20 Todd Atwood and, you know, rock was here. Rock hired
21 Todd. I know Wild Life Conservation fund had some
22 interest/involvement. I think they actually went down and
23 worked with us in the field a little bit.
24 Q. That's Julie Young?
25 A. I believe so yeah, yep. Whether Todd brought her

on, whether she convinced, you know, Todd and Rock to go down there, I don't know the quite origins, but it goes back to Atwood was the Sky Island (inaudible).

Q. Yeah. There was --

A. He designed the project. I think it was something with Devo and Rock, I'm guessing.

Q. Yeah.

A. I'm guessing. I don't know the origin there.

Q. Do you know -- there was a border land large carnivore meeting in Tucson in December of '08.

Do you have any knowledge about that meeting?

A. Zero.

Q. [redacted]

A. [redacted]

1 Q. Uh-huh, yeah.

2 A. -- [redacted]

3 [redacted]

4 MR. HOVATTER: Do you got any other questions you

5 want to ask? Go ahead.

6 MR. McMULLEN: Okay. I really respect your

7 position in this whole thing, and I think it's come clear

8 what role that you played within the Department and there

9 was definitely a peripheral and a support role for this

10 project.

11 One thing I wanted to ask -- it's our job to

12 figure out what happened with this and you can see from

13 what Gary's been asking large extent has been process and

14 understanding what happened in the process is important for

15 preventing similar sorts of things in the future in terms

16 of, you know, poor communication and things like that; but

17 the one thing I wanted that might help provide insight for

18 us is during an earlier interview I'd like to see what --

19 if you would agree with this or disagree with this.

20 We were left the impression at some point where

21 you made a rather definitive statement about your belief

22 that that was an intentional capture.

23 I just -- would you agree with somebody that said

24 that or disagree with at one point you made a rather

25 definitive statement that you believe that it was an

1 intentional capture.

2 THE WITNESS: I would tend to probably agree with

3 that without --

4 MR. McMULLEN: Without knowing exactly what it was

5 that you said.

6 THE WITNESS: Exactly. I think the possibility

7 became high hope and whether that crossed a line into, you

8 know, let's try that I do not know.

9 MR. McMULLEN: Okay. And something that can help

10 us maybe is what were the factors you think you might have

11 been considering at the time you might have said, you know,

12 "I think it probably was an intentional effort"?

13 Can you remember maybe what those factors were?

14 THE WITNESS: [redacted]

15 [redacted]

16 [redacted]

17 [redacted]

18 [redacted]

19 MR. McMULLEN: Sure, I understand.

20 THE WITNESS: Whether there was scent purchased or

21 using known data, targeting known valleys I know nothing

22 about that but I think there was -- I mean, I would back

23 that statement I made.

24 MR. McMULLEN: Yeah. And we all understand,

25 everybody understands in large part it's tough with

1 hindsight to know what you knew and what you didn't know
2 before and after and that certainly, to a large extent,
3 these sorts of situations are just a matter of figuring out
4 what you thought and why and I and so -- we understand, you
5 know, people come to conclusions that may or may not be
6 accurate based on incomplete information, based on
7 incomplete data sets and so that kind of sounds where you
8 are.
9 THE WITNESS: Yeah, I would agree with that. I
10 believe I made that comment to Chasa. This is, I think,
11 before, you know, the gag order kind of hit.
12 MR. McMULLEN: Yeah.
13 THE WITNESS: [redacted]
14 [redacted] --
15 [redacted]
16 MR. McMULLEN: [redacted]
17 THE WITNESS: Yes. I mean, there's no doubt that
18 happened. Whether -- I don't want to say, you know, as
19 much it wasn't a wink and a nod but it was definitive, but
20 sitting in that meeting -- the reason I volunteered to take
21 notes is I was as interested in the process.
22 MR. McMULLEN: Yeah.
23 THE WITNESS: My -- you know, my role here is
24 basically administration.
25 MR. McMULLEN: Uh-huh.

1 THE WITNESS: My previous life, you know, I dealt
2 with a lot of different program, underground, you know, get
3 things done management level overseas. Something in that
4 process that jumped out with me in that meeting was the
5 communications between the original capture and the
6 recapture.
7 I'm sitting here taking notes. You are very
8 definitive about a chain of command and given your
9 background, I think when you identify a chain of command,
10 it's not very ambiguous.
11 UNIDENTIFIED SPEAKER: Clear understanding
12 (inaudible).
13 THE WITNESS: Yet, it wasn't followed and, I mean,
14 by a lot of notable, you know, top people. My question,
15 process wise is: Why the hell not? And how much of that,
16 you know, permeated the -- this is what we're -- I'm
17 exaggerating here. This is what we're saying we're going
18 to do and this is what we're doing.
19 I mean, I don't think there was any doubt in the
20 agency there was interest it would be really cool if we got
21 him. I think when we got him that became evident. You
22 know, did someone take that a step further than they should
23 have? That I don't know, but the whole process in the
24 thing, that really stuck out at me. Some people weren't
25 necessarily listening to what they were told. Otherwise,

1 that whole recapture thing and how it, you know --

2 MR. HOVATTER: Yeah.

3 THE WITNESS: -- wouldn't happen.

4 MR. McMULLEN: Can we go back to something I

5 didn't understand quite what you said. I think it was just

6 a minute ago, and I probably wasn't paying close enough

7 attention, but it was just a second ago or a few minutes

8 ago and we were talking about the direction that Chasa was

9 making, I think, and maybe I'm confused but you said

10 something about maybe it was taken with a wink and a nod or

11 I don't think -- what was that about?

12 Were you following that?

13 MR. HOVATTER: Yeah, what I heard was it wasn't a

14 wink and a nod. It was very clear.

15 MR. McMULLEN: I figured that I was confused on

16 that one.

17 THE WITNESS: But the -- you know, what happened

18 after that has to make you wonder whether, you know --

19 [redacted]

20 [redacted]

21 [redacted]

22 [redacted]

23 MR. McMULLEN: Yeah.

24 THE WITNESS: Because, obviously, there was either

25 a huge amount of luck or someone wasn't quite taking that

1 to heart.

2 Q. BY MR. HOVATTER: Dean, you came -- you were at

3 that meeting we did right after the original capture and

4 then -- did you also take -- we did that little after

5 action meeting we did -- we had also then after the

6 recapture. The euthanization was about a week after that.

7 Chasa came to that. I don't think -- it was a very small

8 group of folks on that.

9 A. No, I didn't --

10 Q. Let me ask you this -- and, again, this is

11 understanding -- really understanding your role in all of

12 this. Looking back at this, if we had to do this over

13 again, if we were in a similar situation, what do we need

14 to do different than what we did?

15 A. Specifically relative to the jaguar or anything in

16 any --

17 Q. Well, you know, you could almost put it in any

18 situation -- I mean, if we were running -- we could be

19 running a program to do some research that was adjacent to,

20 like, Blackhill prairie dog, that potentially might have

21 carried with it an incidental take. Nothing like a jaguar

22 but, I mean, you know, something similar.

23 Is there -- in your mind what do you think what

24 have you learned about this that if you were working on one

25 of your other research projects, that something like --

1 some of this peripheral thing emerged, what have you
2 learned about this process that you might do something
3 different in the future on?
4 A. Covering all the bases and the example on this one
5 is whether or not we could have gotten the take permit,
6 whether or not that was, you know, pursued and maybe it was
7 and, you know, Larry said, "We don't want to go there," but
8 certainly there was an avenue open that had been -- I mean,
9 it was -- existed.
10 Q. Uh-huh.
11 A. Was that fully pursued? So, basically, any --
12 pursue all possible options and make sure you've covered
13 the bases and, you know, let me expand this to endangered
14 species or sensitive issues. It could apply to some of
15 the -- you know, the fish in Section 7 (inaudible).
16 Q. Yeah.
17 A. Just make sure -- and I think the Native Fish
18 Team, that's their purpose. They're getting all the
19 feedback, they're juggling it and coming up with things.
20 Number two, protocols, which obviously, we're
21 doing. That makes a lot of sense. I think in the past
22 things have evolved. We certainly had a lion protocol. We
23 didn't have a lion capture protocol, you know, that covered
24 at the level of detail we're going into now; and then the
25 third thing is once you get to protocol -- and I like

1 multiple -- I like brainstorming.

2 MR. McMULLEN: Having more than one person

3 thinking on it?

4 THE WITNESS: Yeah, and particularly addressing

5 all the contingencies, the what if's. You know, did anyone

6 say, "What the hell happens if we do get this guy?"

7 MR. HOVATTER: Yeah, war gaming the protocols.

8 THE WITNESS: Good analogy, Gary, yeah. But, I

9 mean, and that is not just -- I mean, not just kind of exec

10 staff and upper people. I mean, the same way we do teams

11 -- one of the powerful things here that I learned here

12 about total quality in a department -- and I came from

13 outside, very outside.

14 MR. McMULLEN: Right.

15 THE WITNESS: And, you know, I'm sitting here, you

16 know, thinking about the ten years that, you know, Duane

17 and Steve and a lot of other people worked on the total

18 quality stuff, everyone hates to go to those meetings and

19 stuff, I don't know if people who were involved in that

20 realize how immensely successful it's been. I mean, it's a

21 very unique department. I've worked with UN. I've worked

22 with, you know, USID.

23 I've worked with those countries and there's

24 a very unique program here and the best example is how

25 these teams work. You know, we don't hire outside

1 consultants to do our rules and things like this, you know.
2 We do it in-house and what makes it work -- because I was
3 just on that Article Three team and being -- you know,
4 Larry Riley, Brian Wakeling, you know, these are experts. I
5 was on there as kind of the naive point of view.
6 MR. McMULLEN: Which is very valuable, priceless.
7 THE WITNESS: Extraordinarily valuable because you
8 raise these questions and, you know, no one out there is
9 saying, "Well, that's a stupid question," but it raises all
10 these things, and if you do that with these protocols and
11 then carry it one step further, you know, "What if we catch
12 him?" What if -- okay, we catch him. Do we have a plan?
13 "What if something goes wrong?" Then anyone asks -- and
14 this could be true for, you know, eagles or something.
15 "What if something that we're handling dies?" I think --
16 well, the answer would have been we'd probably face a
17 lawsuit, because there are organizations out there that
18 that's what they do.
19 MR. McMULLEN: Period, without a doubt.
20 THE WITNESS: And that's their role. I think we
21 know that, but did someone ask that question to the point
22 that -- and actually carry it out? We know if we touch
23 Macho B or any jag there would be a lawsuit. Are we
24 prepared to justify our position or -- I mean, we might be.
25 We might say (inaudible) fine and we know we're going to

1 have a lawsuit we know we will defend.

2 MR. McMULLEN: That's our risk analysis that you

3 have to do.

4 THE WITNESS: Exactly.

5 MR. McMULLEN: At least we would do it.

6 THE WITNESS: Yeah, and I think there's a lot of

7 issues and, you know -- we have a lot of issues here, but

8 there are a lot of subjects that I think that kind of --

9 you know, kind of process if you go through it the agency

10 could really grow. Once you do a few of them a lot of the

11 questions are going to be there for others. I mean, it's

12 not always the same, you know, level of effort. You're

13 going to learn a lot from these things.

14 Q. BY MR. HOVATTER: Well, yeah. I mean, once you go

15 through these formally you kind of queue people's head

16 space to kind of build that into their mental process and

17 what you're really looking for is kind of a sensitivity to

18 kind of a quick mental war game.

19 You know what, this is more complicated and

20 probably we ought to kind of do a cease fire for just a

21 second, pull some folks together and let's run a couple

22 scenarios through this mill. A lot of others you'd go,

23 "Naw, the risk factor, the risk analysis, this is pretty

24 minor. I'm pretty comfortable with where I am," but it all

25 starts with having that sensitivity idea that you may

1 intend to be doing something. You may, in fact, end up
2 with something else.
3 A. A good example of that is I just looked at the --
4 I guess it's the new lion protocol and, again, this is --
5 I'm not technically involved in these things but, you know,
6 I have a background and interest so I read it.
7 The thing that's coming there is, you know, do we
8 use a collar to, you know, go after a bad lion and use a
9 collar. I mean, we got nailed in Kofa for that one; but
10 like, you know, we have collars on lions in Tucson. If
11 this lion is seen six times, you know, stalking a kid at
12 the school and we decide he's got to go, do we use the
13 collar to find him and put him down and I guess the answer,
14 you know, with all those scenarios was "no" because the
15 impact of that would be, you know, we might not put any
16 collars on anything.
17 You know, that's the kind of thinking I think
18 that, you know, I didn't read it to analyze. I just read
19 it and that was one of the recommendations at the end.
20 That's the kind of thinking, I think, handles these.
21 Q. And it was one of those things, too, Dean, on that
22 one, too. It's interesting you mention that one. We kind
23 of woke up to we have a protocol that's based essentially
24 on lion/human interaction.
25 A. Right.

1 Q. Person sees lion, how does lion interact and where
2 is that lion when they see it and what then happens next?
3 But you realize we have collars on lions that we know that
4 that lion is in certain places. How do we factor that into
5 a program when, in fact -- you know, because inherent to
6 the way protocols are written when we're not seeing the
7 lion it's okay.
8 A. Uh-huh, huh-uh.
9 Q. But with the collar on it we can quote "see the
10 lion." There's not that human/lion interaction, and so
11 part of the question was do we, in fact, still gauge our
12 decision to remove or not on behavior based on actual
13 human/lion interaction and is a lion that we know is moving
14 in areas that are inhabited but is not being seen is that,
15 in fact, appropriate lion behavior?
16 But my problem was we hadn't written that in and I
17 could just see us getting into situations where we were
18 going to have to answer that question. I said, "We ought
19 to know the answer now."
20 A. I think it was Ron C. made the comment that you
21 think -- even if we say, you know, the no hypothesis, we're
22 not going to use that, if we're naive to assume there's an
23 incident that won't come back to bite us because we had the
24 technology to see this lion sneaking up behind somebody.
25 Q. Yeah.

1 A. But, nonetheless, the thinking involved in that
2 protocol is the point, you know.
3 MR. HOVATTER: That's the point.
4 You got any other questions?
5 MR. McMULLEN: No, I'm good.
6 You got any questions, Marty?
7 Dean, what is it we have failed to ask you about
8 that you think we ought to factor in to what we're trying
9 to learn about this jaguar thing?
10 THE WITNESS: Nothing comes to mind. I think your
11 question -- I appreciated whether or not I own up to the
12 comment I made about I thought someone had some interest.
13 I think, you know, we could -- because that came up with
14 the Feds and, you know, their question was did I have any
15 material knowledge and I said "no" and the guys basically
16 thought I was lying. You know, I stand by the statement in
17 which I reiterated, you know, without material background.
18 MR. HOVATTER: Sure.
19 THE WITNESS: So I was pleased you brought that
20 up.
21 MR. McMULLEN: We do that every day, all of us in
22 terms of we gather what information is available, material
23 or not, and come to a conclusion; and I appreciate where
24 you were with that and you articulated it well so...
25 MR. HOVATTER: Well, look, if you don't have

1 anything for us on that question and we don't have anything
2 new for you, Dean, appreciate it, really do. It was really
3 helpful to get that perspective on it and to get that
4 better understanding for how that logistics aspect of this
5 thing pulled together.
6 THE WITNESS: I guess I do have one question. The
7 purpose of this -- this round of interviews is because once
8 the Feds came in, you know, the Game and Fish kind of
9 stepped out?
10 MR. HOVATTER: We clammed up. We muzzled
11 ourselves and we stopped any interaction between ourselves
12 about this issue.
13 THE WITNESS: Okay. So this would have happened
14 without the Feds?
15 MR. HOVATTER: If we hadn't had -- if we had not
16 had the Fed -- or if we -- 'cause we asked for the
17 investigation, but if we had not had those allegations pop
18 up and drive us to say -- you know, we were not going to be
19 able to build a credible, internal investigation that
20 people are going to accept. If that hadn't occurred, we
21 would have done this. This is the kind of conversation we
22 would have had.
23 THE WITNESS: This is just on hold because of that
24 involvement?
25 MR. HOVATTER: [redacted]

1 [redacted]

2 [redacted]

3 [redacted]

4 THE WITNESS: Okay (inaudible).

5 MR. McMULLEN: Pleasure to meet you, Dean.

6 THE WITNESS: Yeah. I see your names, now I know

7 you.

8 MR. HOVATTER: Dean, thanks much. Appreciate it.

9 (End of transcription.)

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6 C E R T I F I C A T E
7
8 I HEREBY CERTIFY that the foregoing 79 pages
9 constitute a full, true and accurate transcript of all the
10 taped proceedings had in the above matter, all done to the
11 best of my skill and ability.
12 DATED at Phoenix, Arizona this 11th day of August,
13 2009.
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15 Jeri Veres
16 Certified Court Reporter
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