

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

TRANSCRIPT OF INTERVIEW
BILL VAN PELT
JULY 8, 2009
VOLUME I

Individuals present at the Interview on 7/8/09:

Gary R. Hovatter, Arizona Game and Fish Department, Deputy
Director, Interviewer
Marty Fabritz, Arizona Game and Fish Department, Ombudsman,
Interviewer
Craig McMullen, Arizona Game and Fish Department, Wildlife
Manager, Interviewer
Bill Van Pelt, Employee

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PROCEEDINGS

1
2 MR. HOVATTER: What we are trying to accomplish is
3 the recapture and the euthanization, frankly, the original
4 capture was fine. You know, all of those other things, you
5 know, the Star has its opinion, we have ours. You saw that
6 latest story, I think, you know, and it struck me that we
7 knew about that infection that day, but I never put it my
8 notes because it was just kind of an anecdote when we got
9 together. I don't think you put it in your notes. So they
10 never saw anything that we sent them, which is why -- since
11 we weren't going to talk about that, still aren't going to
12 talk about that necropsy, or I presume that is
13 going to end up being in the report.

14 MR. VAN PELT: The thing is, is that the Phoenix
15 Zoo was brought back here after the results to determine
16 what the infection was caused by. That is why it wasn't
17 sent to you.

18 MR. HOVATTER: And, also, see, they couldn't --
19 the reason why that came out that way is, in a way, I am
20 kind of happy that they did it that way, because we can go
21 back and say, the hell we didn't know, because, you know,
22 the way they wrote that story, they try and make it sound
23 like --

24 MR. VAN PELT: We are hiding something.

25 MR. HOVATTER: We are hiding something or we

1 didn't know about it --

2 MR. VAN PELT: Right.

3 MR. HOVATTER: -- because of the cosmetic
4 necropsy. I know about it. I said, I had it described very
5 graphically to me that day.

6 MR. FABRITZ: By Bill.

7 MR. HOVATTER: Anyhow, so what we are doing is we
8 are -- we still, you know, this is our sense and our
9 going-in position on this that there was no misconduct on
10 the part of our folks on this thing. And so that remains
11 our going-in position on all this.

12 So having said that, we are doing Garrity Warnings
13 for everybody that we talk to on this because we have to
14 remain open to the possibility that we may, in fact, come
15 across some issues that we have to go back and look at some
16 misconduct issue. The best way to protect the rights of our
17 folks on this and also for us to have the kind of
18 conversation with you because of the Federal investigation
19 is to have the Garrity Warning.

20 So I am going to read you that, and we will go
21 from there. Employee Bill Van Pelt, Date 7-8-09,
22 Interviewer, Gary Hovatter. We are taping?

23 MR. FABRITZ: Yes, we are taping this.

24 MR. HOVATTER: Gary Hovatter, Marty Fabritz, and
25 Craig McMullen. We are conducting an internal investigation

1 involving matters that will be discussed shortly. This is
2 an administrative investigation. You do not have the right
3 to have legal counsel present during the interview, nor will
4 you be advised of constitutional rights. You are ordered to
5 cooperate fully with this investigation. You are ordered to
6 respond completely and truthfully to all questions posed to
7 you during the investigation.

8 Failure to respond completely and truthfully to
9 all questions will be considered misconduct as set forth in
10 Garrity versus New Jersey 385 U.S. 493 and the line of cases
11 which follow. Any responses given during this
12 administrative investigation cannot be used against you in a
13 subsequent criminal investigation.

14 You are instructed not to discuss your interview
15 or this investigation with any Arizona Game and Fish
16 employees while the investigation is pending.

17 The statement you are going to sign on this, Bill,
18 says I have read the above statements. I understand the
19 orders given to me about this investigation. I understand
20 my obligation to cooperate fully with the investigation. I
21 understand my obligation to completely and truthfully answer
22 every question. I further understand that I have been
23 ordered not to discuss this investigation with any Arizona
24 Game and Fish employees while this investigation is pending.

25 Any questions on that?

1 MR. VAN PELT: No, that is just standard language
2 through personnel.

3 MR. HOVATTER: Just like everything else we do
4 these days has been looked at by a bazillion lawyers, too.

5 MR. FABRITZ: When we are done, I will get you a
6 copy.

7 BILL VAN PELT,
8 pursuant to Garrity Warning, was examined and testified as
9 follows:

10 EXAMINATION

11 BY MR. HOVATTER:

12 Q. Bill, you know, part of what we spent quite a bit
13 of time doing yesterday was getting educated about how all
14 the paperwork latched up and the issue on kind of the
15 permits.

16 A. Uh-huh.

17 Q. You know, based on everything you know now and
18 then looking at all this, did the Department have the
19 current and applicable and appropriate permits required for
20 an intentional and incidental taking of the jaguar in your
21 opinion?

22 A. Yes.

23 Q. And you know, we revisited that several times with
24 Fish and Wildlife Service, and that remains their position,
25 too. So I think -- I think how some of this is becoming an

1 issue with other permits is because of the fact of the bear
2 and lion -- well, I guess the Large Carnivore
3 Conductivity -- Habitat Conductivity wasn't done in the same
4 degree of detail that the job states for the endangered
5 species habitat. I think that is part of what has got them
6 looking at that.

7 And, again, this is -- it is really going to be
8 almost impossible for any of us to divorce ourselves from
9 the hindsight aspects of this thing. Based on what you know
10 now, was that capture -- do you think that capture was
11 incidental or intentional?

12 A. I think it was intentional. You know, based upon
13 information that has been derived since first hearing about
14 the capture to now, I believe that the situation was
15 manipulated to where they were intending to catch the
16 jaguar.

17 MR. MCMULLEN: Who is "they"?

18 THE WITNESS: Well, that's the question I don't
19 know, Craig. I definitely believe that Emil McCain was one
20 of the primary individuals involved. Reasons for that is
21 Emil has been tracking that animal for years now. And if
22 anybody knew that animal's movement patterns, location of
23 the animal, Emil McCain knew that, and I think that bares
24 out in subsequent e-mails.

25 If you look at the e-mail chain from Emil, the

1 reporting of Macho B --

2 MR. MCMULLEN: Before the capture?

3 THE WITNESS: Before the capture. He identified,
4 oh, Macho B is in this location. Okay.

5 MR. MCMULLEN: Do you know where that was?

6 THE WITNESS: It was what we have been reporting
7 12 miles north/northeast, northeast of where he was
8 captured. The camera was about four miles to the northeast.
9 Okay.

10 MR. MCMULLEN: You have got one that is in the
11 Pajarita -- north end of the Pajarita Wilderness on January
12 12.

13 MR. FABRITZ: So are you familiar with that
14 country?

15 THE WITNESS: Well, I am not real familiar.

16 MR. FABRITZ: Prior to this?

17 THE WITNESS: No, but yes, I went in hiking and
18 stuff. But the point, I guess, for me, Craig, is there
19 was -- he sent out the one e-mail. It was February 3rd, I
20 think it was.

21 MR. HOVATTER: The 3rd or 4th, I think it was.

22 THE WITNESS: It was all around the Lucero deal,
23 and that is how I am trying to keep this in my mind because
24 I got the e-mail when we were doing the public unveiling of
25 Lucero at the Phoenix Zoo. I wrote back, hey, this is great

1 timing. We are doing this, you know, and then it was a
2 couple of days later, he sends an e-mail, and it was after
3 he left for Spain, oh, and by the way, here is some more
4 information on jaguars.

5 MR. FABRITZ: Is that the photos?

6 THE WITNESS: Yeah, and in other locations, but he
7 didn't attach photos with it. He just sent a subsequent
8 e-mail from a first notification, hey, Macho B is back into
9 the country. Here is a picture. Yeah, the February 9th
10 because he had already left to go to Spain by then.

11 MR. MCMULLEN: Okay.

12 THE WITNESS: So in my mind, why didn't he do it
13 all at once, you know, he had all the information. And to
14 me, it was --

15 MR. HOVATTER: That is a damn good point.

16 THE WITNESS: Anyhow, so to me, his actions as of
17 that time, I believe Emil McCain was very involved. In
18 addition to that, he had sent some e-mails to, and "they" in
19 the sense, it was, if I remember correctly, it was part --
20 it was Emil, I believe Thorry was part of it, and they had
21 sent an e-mail to Roberto Aguilar.

22 MR. HOVATTER: This is on the drug -- when they
23 were pursuing that drug stuff?

24 THE WITNESS: Right. Right. They were checking
25 dosages. And Roberto Aguilar actually had mailed it to

1 Chasa, copied myself and Aaron Fernandez, and essentially,
2 the e-mail from Roberto to Chasa was, hey, I just want to
3 give you a heads up of what your people are doing. Okay.

4 MR. MCMULLEN: Did you see that?

5 THE WITNESS: Yes, I saw the e-mail.

6 MR. MCMULLEN: Is this before the capture?

7 THE WITNESS: This was before the capture. It was
8 like February 3rd. It was all -- and, see, that's where, to
9 me, after the fact, after getting all this public
10 relation -- or public information stuff, it clicked to me
11 that, hey, wait a second, this e-mail came in on the 3rd.
12 This e-mail came in on the 3rd, but different times during
13 the day, but essentially, on the 3rd, a whole crapload of
14 information came in. But in my mind when I had gotten that
15 e-mail is I thought, oh, Roberto is telling Chasa. It's
16 Chasa's people. She will look into it, you know, and then I
17 was off to the Phoenix Zoo, and then I went to --

18 Q. BY MR. HOVATTER: You had the Jaguar Conservation
19 Team stuff coming up then, too?

20 A. But, see, I wasn't part of that. That is Terry's
21 thing because I was only filling in. Again, I was only
22 filling in on the Lucero thing because Paco couldn't do it.
23 Terry couldn't do it. Nobody knew the history of the Jaguar
24 Conservation Team, and so Linda asked me, hey, could I go
25 down there to, you know --

1 MR. MCMULLEN: Fill in.

2 THE WITNESS: -- fill in. Because after that, I
3 went to Texas for the Lesser Prairie Chicken Meeting, and I
4 was doing the WAFWA stuff. And so, to me, I saw the e-mail.
5 It was to Chasa. It was about her people and her project
6 and that Chasa would look into it. And it wasn't -- and so
7 for me it was like, okay, file it later, delete it, you
8 know, it is taken care of.

9 Q. BY MR. HOVATTER: Well, it is just information?

10 A. Right. I was copied in it, as was Aaron
11 Fernandez, who is the Fish and Wildlife Service lead for
12 jaguars. Okay. And so Roberto was just, hey, I wanted to
13 let you know what your people are doing. So, now, in
14 hindsight looking at all this information, and because in
15 part, Emil was the one sending it, I truly believe he was in
16 a situation to where he was manipulating things. He has in
17 the past been very disgruntled that we have not pursued
18 capturing the jaguar.

19 Q. And done a deliberate tag?

20 A. But he also recognized -- okay. You asked me a
21 question did we have the legal authority in our permits? We
22 do have the legal authority, but there was the unwritten
23 agreement that the two Directors would talk before an actual
24 capture would occur. And that had not occurred, and
25 everybody, and you could look at subsequent e-mails,

1 including ones from Emil, recognized before we could go out
2 and capture a jaguar a discussion between the Directors had
3 to occur.

4 Q. That's the way the protocol -- the actual protocol
5 is written.

6 A. And so everybody knew that including him.

7 MR. FABRITZ: At that point, they would kick in
8 whatever protocol was so that had to happen first?

9 THE WITNESS: Right, and that was for a direct
10 capture. It was always assumed that there was always a
11 possibility for an incidental capture of a jaguar. We had a
12 radio collar that we purchased back in 2000, I think it was,
13 as a result of an actual capture attempt in 1997. It was
14 housed down at the region. The problem with that collar,
15 the batteries, the life span of the collar was not, you
16 know, it was out of date.

17 Q. BY MR. HOVATTER: Is that a GPS?

18 A. Yes. Yes.

19 Q. Do you remember which company?

20 A. Argos.

21 Q. Argos, okay.

22 A. The collar was built by Telonics with Argos' stuff
23 on it. We needed to get it refurbished, but, you know, as
24 far as budgets and stuff, you know, we were aware of this
25 collar that was donated to the Northern Jaguar -- or not the

1 Northern Jaguar, the Jaguar Borderlands Detection Project.
2 So there wasn't -- there wasn't a -- we had a backup, I
3 guess is the way it was, you know, okay, because it was
4 going to cost about two grand to refurbish the collar we had
5 in place. But we got this backup here, so, you know, there
6 is not a strong need to get it refurbished right away
7 because we have a backup ready to go, and we also were aware
8 of lion work that was going on.

9 Q. What was the backup?

10 A. The one collar that was donated to the Borderlands
11 Detection Project that was placed on some jaguar.

12 Q. So that is the one that was donated by North Star?

13 A. Right.

14 Q. So the one that we had 2000 in, because this gets
15 kind of interesting, the one we had in 2000, that was one we
16 bought?

17 A. Yes.

18 Q. And who actually kept that? Was it in the Tempe
19 Center?

20 A. It was in the regional office. Either Tim or Bob
21 Fink, I am not sure.

22 Q. But what you know is that it was meant -- and we
23 had that collar available at the time, but it had to be
24 refurbished --

25 A. Right.

1 Q. -- at the time of the actual capture?

2 MR. MCMULLEN: Do you know the timing that the
3 collar was donated, the new one?

4 THE WITNESS: It was right after the Wildlife
5 Society Meeting, which was hosted in Tucson, so September of
6 '07.

7 MR. MCMULLEN: The new one came?

8 THE WITNESS: The North Star collar.

9 Q. BY MR. HOVATTER: The donated North Star collar?

10 A. He presented it at the Wildlife Society Meeting,
11 the national meeting.

12 MR. MCMULLEN: Who is he?

13 THE WITNESS: Emil McCain. The North Star guy saw
14 it, and he said, hey, I want to donate a collar. From my
15 understanding, it was sent to him and --

16 Q. BY MR. HOVATTER: That was Hinkey, probably the
17 guy from North Star?

18 A. Yeah.

19 Q. Let me just -- just a real side before I forget to
20 do this. One name that doesn't really pop in this with any,
21 you know, much association with this, although he clearly
22 was the founder of that Border Jaguar or Jaguar Borderlands
23 Detection Project, is Jack Childs. What is your sense of
24 Jack in all of this?

25 A. Jack I think is -- Jack started with the Jaguar

1 Conservation Team in '97. He was one of their original --
2 well, he wasn't a founder. He was an original member of the
3 Depredation Committee. He was sent to South America to
4 collect information on jaguar and jaguar depredations to
5 help him with the investigations of possible depredations.
6 And I think for him, he's a retired surveyor, so this kind
7 of turned into a retirement hobby sort of thing for him.

8 He has been, in my opinion, very cooperative, very
9 supportive of the Department's position all along. I think
10 that he in the end, because he is older, he has
11 grandchildren, he goes fishing a lot, you know, he relied
12 upon Emil a lot to do the field work. I think he's the
13 figure head of the Detection Project, because there's a lot
14 of trust associated with him because he has been around for
15 a while with the entire effort.

16 There's a lot of trust, and Emil was actually
17 doing a lot of the field work. And so I do not think as far
18 as making a decision to capture Macho B he was probably part
19 of it, because I don't see -- I don't see Jack trying to
20 make a name for himself. I mean, this was a hobby for him
21 in a way, what I describe as a hobby. Whereas, Emil was
22 trying to make a name for himself. And Emil has a lot more
23 to gain for capturing a jaguar than what Jack did, you know.

24 Q. Yeah.

25 A. And interactions with Emil over the last few

1 years, too, though, demonstrates to me that he also -- Emil
2 has an ego. And I remember when the first picture of a
3 jaguar was taken and Emil was helping Jack at that time --
4 actually, it was the second one, Emil wanted all this credit
5 and everything. And I went back and forth with him, and
6 eventually, he got his college professor involved, which is
7 a Craighead, and, you know, there was an agreed upon
8 mutual --

9 Q. Was Craighead his professor, one of the
10 Craigheads?

11 A. Yes, or Craighead related. Okay. And, then, even
12 after the collar -- even after the jaguar, if you look at
13 Emil's tones in his e-mails, he's like, now, I am going to
14 start investigation on food habits, blah, blah, blah, blah.
15 And, I mean, it is like I, I, I, I, you know, so even his
16 tones in the e-mails is indicative to me of someone who is
17 trying to make a name, ego-centered person.

18 Actually, after getting that e-mail, I called
19 Terry because I was ticked because of this same sort of
20 pattern is what I observed with the whole photo thing. I
21 said, we are going to have to nip this in the bud. And
22 that's why I think if you see the whole e-mail chain and
23 review it, you know, Terry is talking about, well, we need
24 to get together and talk when Emil gets back from Spain,
25 because, you know, the way Emil was portraying it, it was my

1 collar. I am going to do what I want with it and not the
2 collaborative process that we had in the beginning.

3 So in a roundabout way, I think Jack was a
4 figurehead in the whole thing. I don't think he was
5 directly involved with it.

6 Q. Yeah.

7 MR. FABRITZ: Does Emil have a really charismatic
8 personality?

9 THE WITNESS: No.

10 MR. FABRITZ: He doesn't?

11 THE WITNESS: No. First of all --

12 MR. FABRITZ: Does he bully his way around? You
13 are talking about him manipulating. How does he do it?

14 THE WITNESS: I think Emil is very personable.

15 MR. FABRITZ: That's a better way to put it.

16 THE WITNESS: I wouldn't say he's charismatic, but
17 he is very personable, very good one on one.

18 MR. FABRITZ: Is he brash?

19 THE WITNESS: No, no. He is not brash. He's not,
20 you know, so, you know, he's very pleasant to talk to, I
21 mean, and he is very knowledgeable. I mean, the fact of the
22 matter is, he is a good naturalist. He is a good tracker.
23 He knows cats. And so if you are into that stuff, very
24 personable sort of guy, you know.

25 Q. BY MR. HOVATTER: You know, because that gets --

1 you are right about kind of the tone of his e-mail, you
2 know, you read that thing, and you can see, damn, this guy
3 sounds like he is in charge, but I think that is part of the
4 reason why Arizona Daily Star got so -- got into the mode of
5 thinking that Emil McCain was a Game and Fish guy, because
6 you read some of that, and I can see how you could draw that
7 kind of inference from the tone of this stuff.

8 A. Uh-huh.

9 Q. Would you -- now, would you -- you are -- you were
10 also over there early on in the beginning of the Jaguar
11 Conservation Team?

12 A. Yes.

13 Q. Let me wait on that. I know you saw Thorry's --
14 Thorry's input on those e-mails and Roberto Aguilar's
15 e-mail. Did you know that there, in fact, was a trapping
16 effort in that area going on at that time?

17 A. No. No. I was, you know, I was cursorily aware
18 of a bear and jaguar or Bear and Lion Conductivity Project,
19 okay, because of the hair snaring, and just even though I
20 was doing the -- I still am doing the WAFWA deal, what was
21 agreed upon was I would still -- I wouldn't be removed from
22 the e-mail chains because when I came back from this
23 assignment, I would still need to be kept up on what was
24 going on.

25 Q. Yeah. Yeah.

1 A. There was an e-mail chain late in '08, I think it
2 was, if I remember correctly between Todd Atwood and Terry
3 Johnson and stuff because that's what goes back to the
4 Borderlands Fence Project and possible money available. And
5 the Service had a meeting in regards to perhaps, you know,
6 using bear and lions as surrogates for jaguars, and they
7 called a meeting and we weren't aware of it. And there was
8 an e-mail exchange.

9 So, I mean, I was aware of the project going on.
10 I was aware that things were going on in the Huachucas, but
11 I was not aware, cognizantly aware, that when they were
12 talking about tracking and so forth, they were doing it
13 there in the Pajarita, in the specific area where the jaguar
14 had been.

15 And that's where, to me, again, why I think the
16 thing was manipulated. Emil McCain, I learned afterwards, I
17 didn't know Emil had been contracted to help with the bear
18 and lion project until after the fact, okay, and which had
19 occurred that fall, his involvement at least.

20 MR. FABRITZ: Do you know how that happened?

21 MR. HOVATTER: Well, I think that --

22 MR. FABRITZ: Because it was the other guys's
23 contract.

24 THE WITNESS: What do you mean?

25 Q. BY MR. HOVATTER: Well, there was a Craig --

1 MR. MCMULLEN: Clark Richards.

2 MR. HOVATTER: Clark Guide Service was the overall
3 contractor, and then he was subcontracted under them.

4 MR. FABRITZ: You are not aware of how he wiggled
5 into that.

6 THE WITNESS: No, I have no -- I was unaware that
7 he was even involved until after the fact, which to me,
8 okay, he's trapping down in the area where he has been doing
9 all the camera work. And, then, you know, come January, an
10 animal shows up again. He is aware of that. And he helps
11 show where all the snares were going to be set. I mean, and
12 he knows the movement pattern. One end of the telephone
13 conversations that, you know, he is going to show up in any
14 of the things was it had to do when Macho B wasn't moving as
15 much --

16 Q. BY MR. HOVATTER: Yeah.

17 A. -- and I wanted to go in and see it, and Emil's
18 comment to me on the phone was, look, you know, that was one
19 of his hunting holes back in 2006. He hung out in this
20 area, and he was describing it to me on the map. So if we
21 go in there, you know, we will be pushing him out of an area
22 that he already knows and is very comfortable with. Well,
23 that tells me that he was very familiar with the movement
24 patterns and how that animal moved within that range.

25 MR. MCMULLEN: That was -- the jaguar, if I

1 remember after he was caught, I am just asking, because I am
2 just trying to get it clear in my head, after he was caught,
3 I think he moved three kilometers, and we thought, cool,
4 then he holed up.

5 THE WITNESS: Uh-huh.

6 MR. MCMULLEN: That is where he eventually was
7 recaptured.

8 THE WITNESS: In that canyon complex?

9 MR. MCMULLEN: North side of Manzanita Mountain.

10 THE WITNESS: Well, he was actually further south
11 originally.

12 MR. MCULLEN: Can you show us on the map?

13 MR. HOVATTER: You are the first guy, quite
14 honestly, Bill that we have talked to. We are kind of
15 starting with the bigger end of it going down, that I know
16 knows physically on the ground some of this stuff.

17 THE WITNESS: Yeah. I was looking for -- okay.
18 Here's the ranch. Because he was kind of here. He was
19 hanging out over in here.

20 MR. MCULLEN: He was originally caught here?

21 THE WITNESS: No, he was actually caught closer to
22 the ranch.

23 MR. MCMULLEN: Oh, he was?

24 THE WITNESS: Yes. Someplace down in here. Then
25 he moved over to here, and this is the area that he was

1 hanging out in this complex right here, and he was over on
2 this side, and, then, eventually went up to here and that
3 day when I went in, and so February 28th and March 1st was
4 up in this area, and then he was pushed up over to here, and
5 that's where he was captured.

6 MR. HOVATTER: Yeah. Yeah.

7 MR. MCMULLEN: So I want to know about the Big
8 Whitetail sheds you found in the area. I am just kidding
9 you.

10 THE WITNESS: Actually, we were so focused on
11 this. To me, you know, those sort of comments, he knew the
12 movement pattern of that animal, he knew the likelihood, I
13 guess, you know, and everybody was aware of it, because we
14 had said it for years and years and years, that if a jaguar
15 was incidentally captured, we are covered, because we are
16 allowed it in our permit, I mean, as long as we are not
17 trying to go out and capture an animal.

18 MR. HOVATTER: Yeah.

19 THE WITNESS: And that is repeated even with
20 research, one of the e-mails that I pointed --

21 MR. MCMULLEN: Just real quick, I want to go back
22 to something, one of the first questions, I just want to get
23 an idea of what in your mind you thought, because the very
24 first question, one of them that we had for you and the
25 other people who we are talking to this week --

1 THE WITNESS: Okay.

2 MR. MCULLEN: -- do you think the permit that we
3 had covered intentional and deliberate attempts to capture
4 the jaguar? And maybe you misunderstood it or something,
5 and originally, you had answered yes. Now, what I am
6 hearing you say, and this may be more reflective of your
7 understanding, is we had it if it was unintentional, but we
8 were not covered if it was an intentional?

9 THE WITNESS: No, we are covered. We are covered
10 in both cases.

11 MR. MCMULLEN: Okay.

12 THE WITNESS: That's our permit.

13 MR. MCMULLEN: That is what I thought, yeah.

14 THE WITNESS: But we did not, because the
15 discussion hadn't occurred between the two Directors --

16 MR. MCMULLEN: That is what I thought.

17 THE WITNESS: -- direct capture was off the table.

18 MR. MCMULLEN: Got you.

19 THE WITNESS: Until that happened, we didn't have
20 the authority to go out and capture one. Technically, we
21 did, but we weren't going to do it.

22 MR. MCMULLEN: That is what I thought you were
23 talking about.

24 MR. HOVATTER: It always seemed that -- we always
25 believed, because I am the one that had to engage Fish and

1 Wildlife Service in those teleconferences on the issue was
2 that while we technically had a permit coverage for an
3 intentional take, the separate, the Jaguar Conservation Team
4 entity, had made and developed the protocol jointly with New
5 Mexico that certainly Fish and Wildlife Service was privy
6 to, that we would not do a deliberate take without going
7 through that process, which wasn't a requirement of the 10-A
8 permit, it was just a requirement internally to the
9 organization.

10 MR. MCULLEN: It makes sense. That is why he said
11 that. It makes sense. Thanks for clarifying that.

12 THE WITNESS: Yeah. And, so it goes back, you
13 know, to the capture of February 18th. Okay. The other
14 piece of the puzzle that I am not sure how this all fits in,
15 was the last week of January, last couple of weeks in
16 January, three people came up to me from Research and Game
17 Branch, and asked, hey, what are the -- what are -- how are
18 we covered for jaguar capture, you know, and those three
19 people were Ray Schweinsburg, Dean Treadwell, and Ron
20 Thompson. Okay.

21 And to me, I found it amusing in a way, because
22 within a short period of time, here is three people asking
23 the same question but in different ways. Dean Treadwell, I
24 am pretty sure was the one who asked me, you know, where is
25 the EA checklist for capturing a jaguar?

1 I was like, we don't have an EA checklist because
2 we are not intentionally going out to catch jaguar. We are
3 covered for incidental capture, but until which time we
4 decide to do it, we don't have an EA checklist. The
5 Conservation Team doesn't have an EA checklist because it is
6 not a project.

7 And, then, Ray -- but see, that is just it, with
8 Ray, you know, he's been asking me for the last five years,
9 hey, when we are going to out and catch a jaguar, you know?
10 His question was, hey, has the discussions occurred yet with
11 the Director, the new Director, on whether or not we are
12 going to be able to go out and catch that jaguar?

13 MR. MCMULLEN: Who was that?

14 THE WITNESS: Ray Schweinsburg. And do we still
15 have, you know the cover of the permit? And, then, a couple
16 of days later, you know, a few days later, end of January,
17 beginning of February time frame, Ron Thompson stops into
18 the office. He is like, hey, are we covered for, you know,
19 catching a jaguar? And I am like, well, yeah, we still have
20 the incidental capture stuff. He goes, because you know
21 they are trapping down in the area? I was like, well, I
22 mean, we are covered. And, then, I started to leave and
23 stuff, and I said, hey, I will send you a copy of the
24 permit, you know.

25 Q. By MR. HOVATTER: I saw your e-mail where you sent

1 it.

2 A. Right, it was like, I don't remember, it was the
3 end of January sometime, maybe beginning of February.

4 Q. Yeah, it was right in that time period.

5 A. I was saying this because I was leaving because I
6 was going someplace and he was following me out. He goes,
7 now, you know they are going to be trapping this weekend,
8 and there is a chance that they can catch an animal. I
9 said, well, as long as we have someone who knows how to
10 handle cats, we should be covered.

11 And that is when I heard Thorry Smith's name for
12 the first time. I mean, I was unaware of Thorry Smith until
13 he made that. He goes, well, Thorry is a good guy. He has
14 had a lot of handling experience. I was like, great, you
15 know, and then I left.

16 Q. Now, when they said in that area, did they get
17 any more specific than that?

18 A. No, no. A mountain range was not named. You
19 know, to me the project was Southern Arizona. I mean, like
20 I said, I knew enough about the conductivity study that I
21 knew it was in Southern Arizona, but jaguars have
22 occurred --

23 MR. MCMULLEN: In Southern Arizona.

24 THE WITNESS: Yeah, from New Mexico border all the
25 over to the Boboquivaris. So in my mind, it didn't throw up

1 any red flags that they are talking specifically, you know,
2 it was like, you know --

3 Q. BY MR. HOVATTER: What was Ray's -- how did Ray
4 get into this because he didn't pop up very much in the
5 traffic on this?

6 A. Again, I just -- I think to some extent, you know,
7 he has always been interested in the jaguar thing, and, you
8 know, he is a researcher, I mean.

9 Q. Yeah.

10 A. And so, I mean, to me -- so anyhow, the whole
11 amusing thing why I finally did send the work plan to Ron
12 was it is like these guys are talking, you know, who else is
13 going to be coming to ask me the same question? Here, Ron,
14 here is the permit. If you have any questions, and that's
15 when I had first gotten my cell phone, I said, give me a
16 call. He never called, never thought of it again, didn't
17 even think of jaguars again until February 19th when I got
18 handed a note from Bob Miles saying, you are needed in the
19 Cardinal Room now, because I was on the phone talking to
20 somebody. I don't know who I was talking to.

21 So I hung up with them, was walking out. Chasa
22 was walking out at the same time, and that is when I heard
23 we caught a jaguar. They wanted to know what the protocol
24 was.

25 Q. I think I know the answer to this, but of all the

1 people involved in this thing that we know about now, who
2 was the most knowledgeable about Macho B and his feeding
3 areas?

4 A. Oh, yeah, Emil. Emil.

5 Q. Going back on the jaguar, the question I was going
6 to ask or get to was the Jaguar Conservation Team, and this
7 is probably more to educate me than anything else, but you
8 and Terry were both pretty early involved in that -- in
9 that -- the founding of that thing getting started. My
10 memory from when I was having to do some of the stuff
11 getting ready for the media, and I was going and looking at
12 the deliberate-take protocol statute, you know, it has a lot
13 of details, pretty darn laid out as far as all the
14 expectations, and the thing is, it would be hard for anybody
15 to accidentally misunderstand that whole thing.

16 But when did the actual Jaguar Conservation Team
17 actually get started? It seemed like in '96, there was that
18 effort, put some dogs on what they thought might be a
19 jaguar, turned out to be a lion, and then it was -- that
20 kind of seemed to be the genesis of a lot of the discussion
21 and conversation about how we would do a deliberate take, if
22 we were ever going to do a deliberate.

23 A. The Jaguar Conservation Team was convened in March
24 of '97. We held our first meeting in April of '97. The
25 first capture attempt on the jaguar was in October of '97.

1 Q. Okay.

2 A. And it was after that experience of those who were
3 involved, there was the recognition that maybe we weren't as
4 prepared as we thought we were, because, you know, we got
5 the notification, had to scramble, and we had to make sure
6 we had authorization, and that was, again, a phone call to
7 the, you know, Regional Director at the time.

8 Q. Did you confirm any at that time?

9 A. Yes, we still had the work plan and stuff in
10 place. And, you know, we went out. I had to drag up a vet
11 from the Phoenix Zoo. We had to get a capture pack
12 together. And, you know, we went out and didn't catch it,
13 but after that, that was where the recognition was, hey, we
14 need like a phone tree, you know, we need to have a capture
15 team pre-identified, you know. And so that was actually the
16 genesis of the start of the development of a capture
17 protocol for jaguars was after that.

18 Q. What was the genesis, the original reason why in
19 March of '97 is when we decided to start that effort? Was
20 there some proximate cause, some event or activity, that
21 caused us to do that then?

22 A. Yeah. Yeah. There was a filing for the listing
23 of the jaguar. We were trying to include the need to list a
24 jaguar. We thought with the establishment of the
25 Conservation Team and Conservation Agreement, we would be

1 able to include that need. And so we started it, because if
2 you look at the history of Conservation Agreements, they
3 have been in the court not accepted if they hadn't been
4 implemented because the conservation actions hadn't had time
5 to demonstrate conservation for that endangered species.

6 So they were, you know, we were losing court
7 cases, because, you know, hey, we have got the Conservation
8 Agreement in place, and then the judge would come back and
9 say, yeah, you may have it in place on paper, but you
10 haven't done anything.

11 Q. You haven't implemented it?

12 A. So what we were trying to do was we knew the
13 listing, determination was coming out later in the year,
14 which actually came out in August, and we were trying to
15 demonstrate that, you know, we had it, implemented it, and
16 we were going through conservation actions.

17 The problem was with at least the jaguar and
18 actually some other species, but nothing has been done with
19 that, is back in 1980, '79, you know, there was a filing
20 that, hey, you know, you didn't list this list of species
21 which actually do occur in the United States, jaguar,
22 ocelot, thick-billed parrots, and then some other species
23 that don't occur. And the surveyor's determination was,
24 yeah, you are right, and we will correct that in the most
25 expeditious fashion as we can, and nothing was done.

1 Q. Almost 20 years later --

2 A. Right. And so that was the reason why despite
3 even having the Conservation Agreement in place, they
4 already acknowledged back in 1980 that the thing should have
5 been listed, so -- but that's the reason why.

6 Q. So, and part of this what I am trying to get to on
7 this, too, is that how long -- because you still, you are
8 still aware, I think you are still in the loop on the Jaguar
9 Conservation Team, but it is kind of Terry's lane primarily
10 these days is my sense anyway?

11 A. It always has been. I mean, he has been the chair
12 from the very beginning. I have been chairs of different --
13 we have different subcommittees and stuff.

14 Q. A different set of crews?

15 A. So I was chair of the habitat committee and stuff,
16 so --

17 Q. Now, when -- so we had the two, the two co-leads
18 in this thing, it was the Mexico and Arizona State Wildlife
19 Agencies?

20 A. Yes.

21 Q. We had all the collaborators --

22 A. Yes.

23 Q. -- you know, and once you became a collaborator,
24 you had voting status on the Jaguar Conservation Team?

25 A. Yes.

1 Q. Fish and Wildlife Service was a collaborator?

2 A. Yeah.

3 Q. And my sense is that the Borderlands Jaguar
4 Detection Project got into this through Jack Childs?

5 A. Yes and no.

6 Q. Jack Childs had been there -- explain to me how
7 that came -- the Borderlands Jaguar Detection Project
8 doesn't exist at this time that the Conservation Team got
9 started?

10 A. It does, but not -- see, what happened was is we
11 have what is called the Depredation Committee, which was
12 originally chaired by Warner Blaine, and then it was
13 transferred to Jack. The purpose of that Depredation
14 Committee, there is two, one to investigate possible
15 depredations of jaguars, and then two, monitoring for the
16 presence of jaguars so then we can notify our partners, hey,
17 there is a jaguar in the area. You may want to change your
18 herding methods or whatever, you know.

19 And so that committee has always ran cameras, you
20 know. Well, subsequent to that, you know, we funded it
21 wholly and everything, but once we started getting a picture
22 of jaguar, there was entities who wanted to donate money and
23 help out with the monitoring and stuff. And so Jack, you
24 know, by then, Emil got involved in it. So they decided,
25 then, to create this 501(c)(3), so they could get these

1 monies donated to them so they can get more cameras and so
2 forth.

3 MR. FABRITZ: That is an actual --

4 THE WITNESS: So the Borderlands, so the Jaguar
5 Detection Project is actually the offshoot of the work that
6 the Depredation Committee was doing for us.

7 Q. MR. HOVATTER: So did Jack get lead? So, now,
8 Emil doesn't join that until later on?

9 A. 2001 or so.

10 Q. But Jack, then, because he was already in that
11 depredation group, did he just raise his hand and say I will
12 do the 501(c)(3), because there is some work that goes into
13 putting one of those together?

14 A. You know, I don't remember. I mean, it was
15 discussed at the meetings and stuff. It was like, yeah,
16 hey, that is a great idea, you know, but, you know, it
17 wasn't, you know, part of the reason is if they wanted to do
18 the paperwork and establish it, you know, go do it, because
19 then we don't have to do it then.

20 So, I mean, to me, it is, again, just one new
21 avenue. Our collaborators were trying to help out with this
22 overall effort, you know, and they were taking initiatives
23 themselves, you know, and, you know, trying to find
24 financial support for the project because basically the only
25 people who were putting money into it was us.

1 Fish and wildlife Service gave us a thousand bucks one time.
2 Forest Service, you know, but essentially, it was being
3 bankrolled handled by us.

4 Q. So if the money went into the 501(c)(3), they just
5 went out and purchased as they cared to. They didn't go
6 through either ours or Mexico's purchasing process? They
7 didn't have to anyway.

8 A. Exactly.

9 Q. Yeah. Gosh, I wouldn't opt into our process if I
10 didn't have to?

11 A. Yeah.

12 Q. Because part of what I have wondered on this
13 thing, you know, in one sense, the Jaguar Conservation Team
14 doesn't exist without New Mexico and Arizona Game and Fish.
15 And so when you look at how the money flows in this thing,
16 what does it mean to say, the Jaguar Conservation Team funds
17 something. Because it is really, by and large, it is either
18 the State funding, one of those states funding it, or
19 somebody on their own initiative is going out and getting
20 grant money and things?

21 A. Right.

22 Q. Does the Jaguar Conservation Team have any
23 expectation or is there anything that requires somebody
24 before they are collaborator to go through the Jaguar
25 Conservation Team for approval before they would pursue

1 money?

2 A. No.

3 Q. I mean, I hadn't seen anything like that, but
4 that's --

5 A. Yeah. Yeah. But, you know, at the same time,
6 though, Gary, it is not like it is not discussed. I
7 shouldn't say we bankrolled the whole thing. I think it was
8 two years ago BLM had some year-end money that, you know, it
9 was about 12 grand, and they threw in that camera
10 monitoring, you know. And so, you know, I shouldn't say we.
11 It has been active, you know, easily 80 percent funded by
12 the Department, but, you know, we have gotten monies, you
13 know, and the Jaguar Detection Project I know got donations,
14 you know.

15 Q. Well, I mean, you could see that through all the
16 e-mails you have seen going through this stuff, too, the
17 stuff that you have seen on it is -- there is a lot of
18 coddling together of a few thousand here, a few thousand
19 there in putting this all together.

20 So the Borderlands Jaguar Detection Project, this
21 501(c)(3), and the original purpose was to detect for the
22 purpose not of what clearly would inform the Jaguar
23 Conservation Team to do, so that they have would information
24 that might cause other things to happen.

25 A. Right.

1 Q. The primary purpose was so that we could inform
2 the very stakeholders in that area so that they could take
3 any action that might be, you know, if they were a livestock
4 raiser, they can decide to pen up their sheep or they could
5 do something like that?

6 A. Right.

7 Q. In your sense, is that still the purpose -- is
8 that still how the Borderlands Jaguars Detection Project
9 sees itself?

10 A. You know, in talking, or my sense with Jack, I
11 think so. But, see, there's another subcommittee which is a
12 research subcommittee which Emil is part of it, and there's
13 a lot of blending because of that, that I, you know, because
14 of Emil's tight association now with the detection project,
15 I think he has the impression, or, you know, we have had the
16 discussions back and forth that, you know, research needs to
17 occur. And in his mind, I think he always had it that he
18 would be part of that because he's part of the Research
19 Committee.

20 Q. I think, I mean, within the way that the team is
21 structured, is there anything that would require to be
22 either/or as opposed to both?

23 A. No.

24 Q. I mean, it wouldn't make a lot of sense, because,
25 I mean, you are not tied to money. That money came in

1 through here, so we can only -- only this guy could spend it
2 the way we would?

3 A. Yeah. I mean, we don't have to even use those
4 guys, but the thing is, is structurally, I mean, because of
5 how it is -- you got to remember, we have been in place now
6 since -- we started doing camera work in '97. Blaine ran
7 the three cameras that we had, you know, up until it was
8 transferred over to Jack, and then Jack was able to -- once
9 he got the picture of the jaguar was able to get, I think
10 there's now 50 cameras and stuff. So, structurally, and
11 they are in place, they got the equipment in place, you
12 know, sole source, you know, because they have everything in
13 place and they can deliver.

14 Q. They have got the expertise?

15 A. They deliver. I mean, every time they got a
16 picture or location, they called it in, you know. And so as
17 far as up until --

18 MR. MCMULLEN: That we know of.

19 THE WITNESS: I believe they have, though. I
20 really do believe, and that's what makes this whole thing in
21 January of this year so curious and so weird to me and why I
22 do believe there has been manipulation. In the past,
23 because, I mean, you can see where all the locations are. I
24 mean, we have the data where all the things were. And I bet
25 you if you would trace back notification of all those

1 locations, you would find a notification from the Jaguar
2 Detection Project. And they disclosed, I guess you could
3 say, all the information up front, and it was this time
4 where it was, oh, and by the way, here is some more
5 information after the initial notification.

6 And so to me, this is different, and that's why I
7 really believe that there -- there was at some point a
8 conscious decision, you know what, we could catch this and
9 we could make it look like it was incidental, you know, and
10 that is why -- but the thing for me is I don't know who all
11 the players are. I do think that the Department was played.

12 I think there were people in this Department
13 played. I am not sure who is doing the playing. I mean,
14 there could be some Department people who are playing along.

15 Q. BY MR. HOVATTER: Looking at that a little bit
16 more, too, tactically, by believing that information, how in
17 your mind does that set up to help Emil build an opportunity
18 to catch this jaguar as opposed to -- if we were to posit
19 that Emil had all the information at one time, but only
20 packets it out over a period of time, how does that in your
21 mind help him shape the situation to his benefit for
22 capturing the jaguar?

23 A. Well, I think it helps portray him as being
24 innocent in portraying the incidental capture, because by
25 giving us the information February 9th, it looks like you

1 have the e-mail there, he's in Spain. So how could he be
2 conceivably involved with catching a jaguar if he's in
3 Spain? He's not even in the country. So to me, that is how
4 it, you know, like I said, I didn't realize until I started
5 getting all this information together that there was a whole
6 slew of information that was given on February 3rd. And
7 that was right after the snares had been set or were
8 going -- they were going out to the field to set the snares.

9 Q. Are you familiar enough with that camera project
10 to know how often those cameras should have been being
11 checked?

12 A. Every four to six weeks. That has always been
13 standard protocol.

14 Q. Yeah. Do you know, because there is an
15 interesting chain in there? Eric, it is in October,
16 November, Eric is getting ready to do his -- the Director's
17 Goals and Addendum, his report to the Commission, his
18 non-game.

19 A. Uh-huh.

20 Q. And part of it is he wants to put in a thing about
21 the jaguar?

22 A. Uh-huh.

23 Q. And he has in it -- and so he goes with something
24 from the minutes of the Jaguar Conservation Team, and it is
25 stipulated that the last confirmed location information for

1 a jaguar confirmed was sometime in 2007?

2 A. July or August.

3 Q. Now, the thing that sounded interesting in
4 blending this is that he sends it to Terry to ask Terry,
5 Terry sends it then to Emil, and says, you know, my memory
6 is, is that in 2007? Emil comes back and says, yep, your
7 memory is correct, 2007. Yet, a couple weeks later, Emil
8 comes back, and says, oh, I have got photos of Macho B from
9 July 29th of 2008 and August 4th of 2008.

10 So that is, you know, in October those pictures,
11 theoretically, if you look at this, you know, have been in
12 those cameras since before August. And yet in October,
13 August, September, October -- late October, about three
14 months later, McCain is saying, no, the last confirmation of
15 the jaguar is 2007. So either he hasn't checked those
16 cameras in three months or he had checked, had the info --

17 MR. MCMULLEN: And was deciding when people needed
18 it.

19 MR. FABRITZ: Kind of like that.

20 THE WITNESS: I don't know. I guess, to me,
21 though, I mean, I guess I would look at and see when Emil
22 was doing his lion trapping.

23 Q. BY MR. HOVATTER: He was doing it right at that
24 time.

25 A. Because, see, the thing was, is, you know, the

1 Jaguar Detection Project is kind of like a boom and bust
2 sort of deal. He was hurting for money, I know, during that
3 time. That is part of the reason why, I am assuming, he got
4 hired on, or he was looking for other work, because he
5 wasn't making any money with the Jaguar Detection Project,
6 although there was money that was supposed to be coming and
7 stuff and he was aware of that. So, you know, you are
8 supposed to run four to six weeks, eight weeks. I mean, to
9 me, that time lapse, again, isn't a red flag.

10 Q. So that fits in your mind?

11 A. No, that doesn't -- to me, what triggers me is the
12 last one in January, hey, happy to report, he's back in the
13 country blah, blah, blah. Here is the picture. Okay. And
14 then six days later when he would have had to have run the
15 cameras at the same time when he got that photograph, he
16 bleeds out, hey, oh, and by the way, here is some more
17 information that is relative, but, you know, even if you
18 read the e-mail, he kind of dismisses it in a way, the way I
19 kind of concluded from it.

20 And so to me, that is not what had been typically
21 been done process wise in the past where we get all the
22 information from the camera checks, you know, and if a
23 jaguar was present, there it is. If not, hey, you know, we
24 didn't get anything. And so to me that's why I am like,
25 this is different.

1 Q. Once we got report on a jaguar like that --

2 A. Uh-huh.

3 Q. -- how was the notification process, because there
4 is a description in the Jaguar Conservation Team Guidelines
5 and all about there needs to be a notification process? It
6 kind of outlines the types of folks and stakeholders. Was
7 someone -- do you know if someone was designated with that
8 being their responsibility to disseminate?

9 A. Historically, it was me. And, then, when I took
10 the WAFWA project, then it was to the region.

11 Q. How does -- so describe for me, then, how that --
12 how that worked while you were the point, and then how that
13 might -- or when you became the WAFWA guy, how did that
14 migrate?

15 A. Well, historically, if I would have got a call,
16 you know, we would have gotten the location, you know, lat,
17 long, map it, try to find out, you know, find out where it
18 was, Forest Service land or whatever. Then we would call
19 our Forest Service contact, who at the time was Tom Skinner,
20 but he has retired since, and, you know, I guess we would
21 have to check with Tim to see who his point of contact is
22 now with the Forest Service.

23 Then we would ask the Forest Service, do you want
24 to contact grazing lessee or do you want us to do it?
25 Sometimes they would do it, say they would take care of it,

1 and sometimes we would. I would call Tim, and then Tim
2 would check to see if we knew who the grazing lessee would
3 be, you know, if it was on BLM or Forest Service.
4 Typically, I would always make a courtesy call to Wildlife
5 Services because of their depredation activities, you know,
6 they could get a call in regards to, hey, we have got
7 something killing our calves out here. Can you help us out?

8 Q. So connecting the dots?

9 A. So I would notify them typically. That was, you
10 know, depending on the jurisdiction of who owned the land.
11 If it was a private land owner, we would work the regions to
12 try to identify that, and let them know, you know, through
13 WLS and that notify the land owner. But that typically was
14 what was done.

15 And then when I was approved to take over the
16 WAFWA position, Terry sent out an e-mail to let everybody
17 know, and said that he was going to be working with the
18 region and stuff, and I know there was -- when we did get
19 the January sighting, I was included in it, and I sent an
20 e-mail to Tim just to verify that, you know, hey, to make
21 sure protocol is followed for notification.

22 Q. Yeah, I saw your note on that.

23 A. So, I mean, that's to me, it was officially handed
24 off at that point in time.

25 Q. Now, because it kind of -- I also, you know,

1 Terry, I have seen an e-mail where he had done a similar
2 thing to him about that, you know, since you were that
3 guy --

4 MR. FABRITZ: I just wanted to take advantage of
5 educating myself.

6 Q. BY MR. HOVATTER: Let me ask you this now. The
7 other part of this thing, you know, anticipating, it is
8 clear from the guidelines, anticipating that all sightings,
9 however bogus they might be, would be fed into the Jaguar
10 Conservation Team?

11 A. Uh-huh.

12 Q. Of course, to some extent that would seem to
13 presuppose that everybody who thought they saw a jaguar knew
14 that there was such a thing as the Jaguar Conservation Team?

15 A. Right.

16 Q. How did we try to get at trying to establish some
17 sort of net broad enough so that when a sighting finally got
18 to someone who had the Jaguar Conservation Team awareness,
19 it would then be fed into the Jaguar Conservation Team?

20 A. Geez, Gary, through the Jaguar Conservation Team,
21 we actually had an outreach effort, I can't remember, in the
22 2000s. We have a report and stuff on it. We held
23 presentations in local communities, like Patagonia,
24 Tombstone and stuff. There was like eight different places.
25 We also had a sighting brochure that was printed up,

1 distributed to all of our partners, Forest Service, so they
2 had, supposedly, you know, for the public to pick up, you
3 know, at all their Forest Service, you know, sites and
4 everything.

5 And so the Border Patrol, I mean, they
6 participated in it, and now, the conservation team, and we
7 have gotten sightings and reports from them. And so, you
8 know, in our hunting manual, you know, our hunting
9 notification thing, that has been there since '97 or '98.
10 So there is, you know, a lot of passive ways that we have
11 put out the notification, hey, if you have seen a jaguar,
12 give us a call. In fact, the '97 sighting was from deer
13 hunters because they had seen the information, they called
14 it in, and eventually got to Wendy Blaine and Wendy called
15 it in.

16 Q. Do you have a sense, because I am thinking about
17 it, also, a big part of this, what we are trying to get at,
18 of course, all those things that led up to the actual
19 capture. We are also thinking about the procedural process
20 because we kind of stopped a lot of progress on that when
21 we -- because there is no way we could get into a lot of
22 that without triggering that concern that we had about not
23 wanting to have all these conversations with folks who would
24 be interviewed by the Fish and Wildlife Service, but we are
25 going to need to gin that back up again and start talking a

1 little about process and procedures from the standpoint to
2 improve.

3 A. Absolutely.

4 Q. Is your sense of the outreach effort, is that --
5 is that being sustained or is it adequate in your mind right
6 now?

7 A. Oh, no. I think, you know, and we actually had
8 started the discussions again there at the conservation team
9 about redoing that, I mean, because that had been five or
10 six years, you know, a lot more people had moved into that
11 part of the country, you know. There was going to be a need
12 to do another outreach type of effort to get the
13 notification out there. Plus, we moved -- we moved
14 locations. The phone numbers that are in our sighting
15 brochure are no longer valid, you know. It was when we were
16 down on Greenway. So, I mean, there was a recognition that
17 there was going to have to be something done again, but it
18 hadn't been.

19 Q. Now, let me ask you this, too, because, clearly,
20 you know, there are other activities down in that area,
21 Department activities, that just essentially either
22 generated a jaguar sighting or even potentially might have
23 had some potential for an incidental take?

24 A. Yeah.

25 Q. We were down there working on a lion depredation

1 or something like that. Were you -- were you from your
2 perspective of the Jaguar Conservation Team, and also your
3 position in the Department, were you confident that there
4 was enough cross talk within the Department for you to be
5 aware, for example, and the Jaguar Conservation Team that
6 there is some Region 5 WM effort out there, something like
7 that? What was your sense of that?

8 A. It was weak at best. The thing is that Region 1,
9 the other things we did was there was Wildlife Manager
10 Training on identifying jaguar sightings, and actually, Jack
11 conducted the workshop.

12 Q. Is it still being done?

13 A. I don't know when the last one was done, but I
14 mean, all those guys at one time actually had a little
15 tracking book that they were given in how to record
16 sightings and stuff. And so that was another element. And,
17 I mean, I think WM wise, if a sighting got to WM, then they
18 knew what -- I am confident in that. But as far as, you
19 know, is there enough cross talk, that, I think, I would go
20 back to my amusement in January when I had two different
21 branches coming to ask me, hey, how are we covered with
22 jaguars.

23 Okay. Here, you have the predator guy wanting to
24 know how we are covered. Here, you have the research guys
25 wanting to know how we are covered. I would think that the

1 research guys are talking to the predator guy because they
2 are doing the research for them, you know, and here nobody
3 knows what is going on. So to me, I mean, that, you know,
4 that has been naturally one of my frustrations about
5 research in general is I really don't know all the projects
6 that they are working unless somebody comes and talks to me,
7 you know.

8 I know that there is an interest in Swift Fox, for
9 example, and doing some work on Swift Fox because the one
10 gal came and asked me about Swift Fox. I know there is some
11 interest about badgers because Ray came and talked to me
12 about badgers. Are we actually doing a study on that? I
13 don't know.

14 Q. Let me ask you, because one of the things -- you
15 are hitting on one of the things that I was thinking about
16 is whether or not, we have so much activity, and there is,
17 you know, quite a bit of legitimate reasons to have a lot of
18 meetings on there because there a lot of interesting things
19 going on down there. It almost seems like we almost need,
20 God knows we don't need a bunch of new meetings, but it
21 almost seems like we need an annual sort of Border Projects
22 Conference for us in-house to talk through what everybody is
23 doing on the border or something that at least gives us
24 some -- what we need the WM -- I mean, we already have the
25 conservation team. That would be a large part of pure

1 awareness and having us not have something bad happen by
2 accident, but all the research projects, you know, the other
3 part of this thing, what do you think the solution to having
4 enough awareness of everybody's activities where we didn't
5 have --

6 A. To be honest with you, Gary, I would back up. I
7 wouldn't say a separate thing for the border. I mean, we
8 have all these planning and operations planning things. My
9 understanding how structure wise, the research branch is
10 supposed to be a support function to the subprograms, which
11 is game, non-game. We actually should be directing their
12 work from my opinion, not them going out and getting
13 contracts wherever they can get contracts. To me, they are
14 functioning right now as -- I mean, you are asking my
15 opinion.

16 Q. I kind of figured I might get that.

17 A. They are functioning like a university. Hey, this
18 person wants this work done. Hey, we can get half a million
19 dollars, we are going to go do that. They are not
20 functioning as a support branch or support to the
21 subprograms. Operationally at our cross programs meeting
22 twice a year that are already occurring, if we lined out our
23 desires and everything, I think we would have a better
24 awareness as far as what is being done.

25 Q. Let me ask this. Would it be right to -- would

1 you agree or disagree with the statement to the effect that
2 there is a certain -- a sense that there's a certain part of
3 our research that is being driven not by the Department's
4 needs, but by what people are successfully getting money to
5 do?

6 A. Absolutely. Absolutely. No doubt about it. No
7 doubt about it. And I want to say, there is at one point
8 when Rick Ocavelles before leaving had attempted to try to
9 meet with non-game branch to identify priorities and so
10 forth. And that is in part how we got the -- there was some
11 back and forth that was being planned for the bear project
12 because we were interested in that.

13 So I am assuming now, because Ray had asked me
14 about it, that maybe he has found some old notes or
15 whatever, and it is coming out in follow up on that, but
16 that was the first attempt in my career that research branch
17 ever came and talked, trying to find out what our priorities
18 were.

19 Q. So, you know, it is a meaningful distinction if
20 someone is doing badger research in the research branch
21 because we have a need to do badger research or they are
22 doing badger research because they are interested in
23 badgers, and they happened to find some badger money?

24 A. Correct. To me, it is dependent on what the
25 question is. I mean, for me one of the things that has been

1 talked about now for a few years now at the Western is that
2 there's a concern with the decline of badger populations
3 across the west.

4 Q. Yeah.

5 A. Do we have an idea of what our population is
6 here in Arizona? I don't think so. But the problem is --
7 the problem is --

8 Q. Go ahead.

9 A. -- we don't have a means by which to easily sample
10 for them. So maybe research branch can look into and come
11 up with a sampling design that we could use, and then use
12 the wildlife managers or whomever else to collect the
13 information.

14 Q. But I see your distinction, I mean, it ought to be
15 if we are going to do it, because there is almost literally
16 an infinite number of things we could choose to research.
17 What we do choose to research and what might we choose to
18 pursue ought to be driven by what are the Department's most
19 pressing needs?

20 A. Exactly.

21 Q. And to some extent you can build it, if you were
22 spending time pursuing money for something that is not on
23 that list, that should be time being put into pursuit of the
24 money for something that is in on the list?

25 A. Right. Yeah. But we digress.

1 Q. Well, yes and no. Yes and no. Because it does go
2 to some of the interesting dynamic between non-game branch,
3 research branch, and game branch, and the jaguar and wolf
4 studies, which is kind of that separate entity?

5 A. Uh-huh. Uh-huh.

6 Q. I think, again, I know the answer because I am
7 going to ask you anyways. So given what we discussed about
8 that Large Carnivore Habitat Conductivity Study, which the
9 shorthand is kind of the bear and lion study. That is
10 actually the term for it.

11 A. Yeah.

12 Q. Were you aware of any discussions about that
13 project between research, non-game, and the jaguar
14 conservation side of this about how that study should be
15 conducted or about how the fact that study was going to be
16 in jaguar country, such as it is, what the implications for
17 that study were albeit the jaguar?

18 A. I did not know the specifics of it. I mean, I
19 knew there was some hair snare stuff that was going on and
20 that there was a discussion about trapping animals and that
21 there was a desire to try to use that as a surrogate for
22 jaguars, and that goes back to the Todd Atwood e-mail.

23 And, you know, this kind of gets to the turfism,
24 because I think what had happened was there was a meeting
25 with the Borderland Securities. I want to say it was in

1 November of '07. I saw a Program Manager at the time. I
2 hadn't converted over yet to WAFWA. I attended that
3 meeting, and essentially, the Homeland Security people are
4 saying, okay, how much is it going to cost us, you know,
5 brass tacks, how much is it going to cost us?

6 And so we went out of that meeting identifying
7 about \$2 million worth of stuff that they were going to have
8 to do to help with this, and that's when they went back to
9 D.C., balked, and then they got it cad-exed(ph.), okay. But
10 it was after that time, people were learning, hey, there
11 could be big dollars associated with that. And, again,
12 without close coordination between the branches, you get
13 wind of, okay, now, all of a sudden, there's these
14 discussions between research branch and Fish and Wildlife
15 Service about possibly using bear and lion as surrogates for
16 jaguar movements.

17 And so there is a meeting called that nobody heard
18 of except for within the Department research people and game
19 branch, Ron Thompson, you know, Terry sent out inquiries.

20 Q. This is the December meeting?

21 A. Yeah. And, then, Terry sent out inquiries as far
22 as, hey, what is going on? How come we are not hearing
23 anything. We are having to hear it through the
24 Fish and Wildlife Service that these meetings are going on.
25 Todd sent a response, you know, and that's, you know, I

1 mean -- that's the extent of all the bear and lion stuff
2 that I know of. That is how come I stumbled so bad in the
3 news conference on March 5th. I mean, I really didn't know
4 a lot about it.

5 Q. Again, I think we have already covered part of
6 this. Maybe we covered it all. Now, Dean Treadwell
7 approached -- when he talked to you, that was late December,
8 early January, about, you know, the --

9 A. EA checklist.

10 Q. -- the EA checklist. Again, your response to his
11 question on that was that one was probably not done because
12 it was an incidental take?

13 A. We do not have -- my response for him was is we do
14 not have an EA checklist because it is not a project. We
15 are not intentionally trying to go out and catch jaguar.
16 The Jaguar Conservation Team is -- I think I said a governed
17 body or a body that facilitates discussions and stuff, but
18 there is no decision-making or no actions that the team
19 itself takes. So we don't need an EA checklist for that and
20 there is none.

21 Q. And Dean, was it -- did he put that in the context
22 that Large Carnivore Habitat Study?

23 A. No, his question was, I was walking by, and he
24 goes, hey, I got a question for you. Do you got -- where is
25 the EA checklist for the jaguar project?

1 MR. FABRITZ: Okay. The jaguar project?

2 THE WITNESS: Yeah. Because in his mind,
3 everything that we were doing for jaguars had to be a
4 project of some sort.

5 MR. FABRITZ: Oh.

6 THE WITNESS: The way I interpreted that. That is
7 the way I interpreted that. I didn't go into a big
8 discussion with him.

9 MR. MCMULLEN: Can we back up one here real quick
10 and just on -- we talked about your understanding of where
11 our permitting process was, but what was your understanding
12 at the Department's like general orders, for example,
13 general direction on what we were supposed to do if a jaguar
14 accidentally stepped in our snare and was caught. What was
15 the -- what were the Department's general orders, or at
16 least your understanding of them?

17 THE WITNESS: General understanding, I guess,
18 would be that if we could safely collar the animal, we would
19 do it. That's part of the reason why we had collars in the
20 region because if a capture was going to occur, it was going
21 to be in Region 5. It wasn't -- I mean, there was no way we
22 could -- that's what we learned from '97.

23 I mean, essentially, it took us about eight hours
24 to get everything mobilized here in Phoenix to go down and
25 try to capture, so the idea was, okay, there should be a

1 capture pack in Tucson and a collar in Tucson. Then if we
2 could safely collar an animal if we were notified of it,
3 then we would try to do it.

4 MR. FABRITZ: What do you mean by notified of it?

5 THE WITNESS: Well, because it may be somebody
6 trees an jaguar.

7 MR. HOVATTER: Oh, yeah, yeah, yeah.

8 THE WITNESS: You know, there is no way they are
9 going to be able to keep that jaguar in a tree for eight
10 hours, or even four hours for, you know, somebody from
11 Tucson to get to the area. So if it was called in, you
12 know, there would probably be a series of phone calls.

13 MR. MCMULLEN: See if we can get it.

14 THE WITNESS: See if we can do it. And, then,
15 because, you know, there is that one time, historically,
16 there was a jaguar that was caught in a mine, holed up in a
17 mine. Well, it was our belief if that happened again, that
18 animal could probably be held there long enough for us to be
19 able to go down and dart it.

20 MR. MCMULLEN: Yeah.

21 THE WITNESS: So it was going to circumstantial,
22 and it was going to be determined circumstantially whether
23 or not we would do it or not.

24 MR. MCMULLEN: Do you remember where that -- kind
25 of what the genesis for that general, for lack of any other

1 terms, kind of general orders, I guess, but do you remember
2 the genesis of those general orders? Did it come through
3 the Jag CT, or did it come through Terry or did it come
4 through the Detection Project?

5 THE WITNESS: It was --

6 MR. MCMULLEN: From the Director's office?

7 THE WITNESS: No, it wasn't really from the
8 Director's office. It was more in regards to lack of term,
9 you know, order of business. Tim Snow and I, you know, Tim
10 is not on the game stuff, even Mike Pruss before that,
11 recognized, you know, that linkage between Phoenix and the
12 region and that there was discussions all the time about
13 that. So, I mean, there's a recognition that there would
14 have to be a decision point, and that probably the non-game
15 specialist would be involved in that to some extent, if not
16 the program manager, but there wasn't any a specific written
17 order or anything like that.

18 Q. BY MR. HOVATTER: Yeah, let me ask on that then.
19 That would be deliberate takes, though. Would it be your
20 perspective, then, that would have been accelerated, but the
21 process would still be done within the jaguar conservation
22 guidelines for a deliberate take but it would have to be
23 that deliberate decision to do it?

24 A. Oh, yeah. But, see, at the same time, it would
25 be -- it is kind of that gray area in a way. I mean, if a

1 member of the public calls in and said, hey, you know what,
2 I have got a jaguar trapped in this mine. What do you want
3 me to do about it? I have heard about them. What do you
4 want me to do about it? A call comes in OGT or something,
5 you know, it would come in. Somebody would be called in the
6 region, and so to me, that is still an incidental take even
7 though we make the decision to collar it because it came in.

8 Q. Yeah, because in the sense, it is taken already.

9 MR. MCMULLEN: It is a deliberate decision to
10 collar on an incidental take.

11 THE WITNESS: Right. Right. That's how -- and
12 Terry and I have talked about this, you know, we always
13 figured, you know, in the sense of even the incidental take,
14 you know, we would have some sort of decision or
15 notification that this had occurred. Yeah, now, you know,
16 February 18th, a jaguar is captured. We don't even get
17 notification within our own agency. The attempts don't even
18 occur until the 19th.

19 Thorry caught the animal on the 18th. From my
20 understanding, the person in the Department who was the
21 first notified was Ron Thompson. Ron Thompson said, run it
22 up the chain. That didn't occur until the next day. We
23 learned about the actual capture walking into the Jaguar
24 Conservation Team meeting.

25 MR. MCMULLEN: You and Terry?

1 THE WITNESS: I wasn't there. I was actually up
2 here doing --

3 Q. BY MR. HOVATTER: You were still in Texas?

4 A. No, I was back, but I was just getting back into
5 the thing. So that is when I got handed the note from Bob
6 Miles we need you in the Cardinal Room and so forth. So
7 there was either -- I guess this is my question that I have
8 not been able to ask. Ron Thompson clearly recognized who
9 the lead is for this -- for jaguars. You look at the
10 historical e-mails and so forth, you know, he does a lot of
11 work down in Mexico. He sent this information on jaguars.
12 I don't understand to this day why Ron didn't say, hey,
13 Thorry, you better called Terry Johnson now.

14 MR. FABRITZ: You know for sure Ron didn't or just
15 we are not sure?

16 THE WITNESS: I am 99.9 percent sure.

17 Q. BY MR. HOVATTER: What makes you so certain on
18 that, Bill?

19 A. Talking to Thorry.

20 Q. Talking to Thorry about that?

21 A. And I am pretty sure he had said that he called
22 him the day he caught the jaguar.

23 Q. Assuming that that is, in fact, the case, what
24 would be your -- what would be your opinion about why Ron
25 would do that?

1 A. I don't know. I really -- that's the question I
2 would like to ask. I mean, he knows Terry was the lead for
3 the Department in this. He had always historically kept him
4 apprised of everything, and instead of telling him, well,
5 call Terry Johnson because he knows the most about jaguars
6 and where we are at on all this, he tells him to run it up
7 the chain. And, then, Kirby was out of contact. Chasa was
8 out of contact. Chasa doesn't get the information until
9 10:00 a.m.

10 Q. When Ron talked to you about you sending that
11 paperwork, was there a reason why he came to you as opposed
12 to Terry on that? Any ideas on that?

13 A. Well, yeah, and I would look at it as the same as
14 even Dean or even anybody else, you know, although everybody
15 knows I am doing the WAFWA stuff, they all know I still know
16 the answers. Terry is in and out of the office to do the
17 wolf stuff, jaguar stuff, or whatever.

18 Q. You just happen to be more available in that
19 regard then?

20 A. Yeah. So, again, I have been asked that question
21 before, and again, I see no red flags whatsoever having
22 someone come to me and ask me, I mean --

23 Q. No, no. It is a logical question to ask you on
24 that.

25 A. Yeah, uh-huh.

1 Q. Hey, and again, we kind of touched on this, but
2 what would we have done if -- now, McCain had the collar
3 donated?

4 A. Yeah.

5 Q. And I guess, actually, was it donated to him or to
6 the Borderlands Jaguar?

7 A. Well, they are one in the same.

8 Q. Yeah, one in the same?

9 MR. FABRITZ: Is that the same one from '07?

10 THE WITNESS: Yes.

11 Q. BY MR. HOVATTER: So we fast forward to this
12 event. So he has got the access to the North Star web site?

13 A. Yeah.

14 Q. The GPS collar?

15 A. Yeah.

16 Q. What if he said -- what if you had said, I am not
17 going to give you the information?

18 A. Well, we would have been in a pickle, but at the
19 same time, I guess, I wouldn't even think that would cross
20 his mind because he knew we were in the works of possibly
21 getting \$2 million worth of jaguar money to do work. So why
22 would you cut your own throat as far as cooperating with
23 essentially your cash cow.

24 Q. Yeah.

25 A. So I don't even think that would have crossed his

1 mind to be honest with you, Gary.

2 Q. Yeah.

3 A. And up until this point, I have, as far as a
4 contractor and stuff, I have no complaints with those guys.
5 They turned the reports in on time. They are usually very
6 detailed and very thorough. And, you know, and I have gone
7 back and looked at reports in regards to the historical
8 information, and, you know, like I said, they disclosed
9 everything in my opinion as far as what was there.

10 So to me, they have been great to work with, you
11 know, you didn't have to worry about, you know, not getting
12 your report within a week of when it was due. They were
13 great. So, you know --

14 Q. Because, you know, we, of course, had our own
15 North Star relationship at that point because we were using
16 North Star collars on the bears and lions for that Large
17 Carnivore Habitat Conductivity Study?

18 MR. FABRITZ: Do you want to take a break?

19 MR. HOVATTER: Oh, you both have to pee?

20 MR. McCULLEN: We are like high school girls. We
21 have to go run to the bathroom together.

22 THE WITNESS: Yeah, no kidding. I feed you some
23 water.

24 MR. HOVATTER: He is still taping. He is afraid
25 to turn that thing off.

1 THE WITNESS: Why? Is it continuously running
2 or --

3 MR. HOVATTER: Well, I think maybe when Marty
4 was -- because we just bought that thing.

5 THE WITNESS: Uh-huh.

6 MR. HOVATTER: I think when he tried it, there was
7 something when he turned it on, it kind of backtracked on
8 him and started, and, you know, it kind of overrun on
9 something.

10 THE WITNESS: Uh-huh.

11 MR. HOVATTER: I think he's sorted it out, but I
12 am not sure. That's a lot of that, you know, because you go
13 through this, you do get these, yeah, okay, now, that makes
14 perfect sense. It has been kind of interesting to go
15 through this.

16 THE WITNESS: Well, I mean, on March 5th when I
17 did this news conference --

18 MR. HOVATTER: Uh-huh.

19 THE WITNESS: I still had it in my mind that this
20 was an incidental capture. Subsequent to that, I just
21 cannot come to the same conclusion. I really can't. Now,
22 whether or not our people were consciously involved, that's
23 why I have been waiting for this whole investigation. I
24 mean, because there has been some intrigues in my mind,
25 and --

1 MR. HOVATTER: It is just hard to know whose
2 fingerprints are on these parts of these things.

3 THE WITNESS: Right, so I am --

4 MR. HOVATTER: All of these interviews, we are
5 touching on some issues that we are going to deal with
6 bigger process stuff down the road.

7 THE WITNESS: Oh, yeah. I mean, it was even
8 recognized the day after the capture and stuff that there
9 was going to have to be modifications to protocol. And so,
10 I mean, that was the whole, I guess, nexus in my mind when
11 we started doing those debriefings, what we were calling
12 debriefings.

13 MR. HOVATTER: We are going to get into more
14 detail on that.

15 THE WITNESS: So, I mean --

16 Q. BY MR. HOVATTER: I want to go ahead, and that
17 collar, that North Star collar, was that September meeting,
18 the meeting of September '08 or September '07?

19 A. The September of '07, I am almost sure. But he
20 didn't hand him a collar over right there at the meeting.

21 Q. He just said I am going to donate?

22 A. Right. It was sometime in '08 that the collar was
23 actually shipped. I think it was announced at one of the
24 Jaguar Conservation Team meetings. You would have to look
25 at the notes. I couldn't tell you which date.

1 Q. But it was a September, you are sure about that?

2 A. It was a September commitment that a collar was
3 going to be delivered.

4 MR. FABRITZ: But that stemmed from -- after the
5 Wildlife Society at the end of '06, first part of '07, where
6 he said, hey --

7 THE WITNESS: I think the meeting was September of
8 '07 was the Wildlife Society Meeting in Tucson.

9 MR. MCMULLEN: Now, did you know -- did you know
10 if the collar -- did you know that the majority of the North
11 Star collars that were put out in the summer of '08 failed?

12 THE WITNESS: No.

13 MR. MCULLEN: So you had no idea?

14 THE WITNESS: No.

15 MR. MCMULLEN: Gary, can I ask a question or two
16 about the collar?

17 MR. HOVATTER: Yes, sure.

18 MR. MCULLEN: Pardon me for standing up. If I
19 don't get to stretch out a little bit, I am just going to
20 shrivel up into an avocado or something.

21 Did you know that or were you aware that or do you
22 know the process for how North Star collars were being used,
23 monitored, the whole thing?

24 THE WITNESS: For the jaguar?

25 MR. MCULLEN: The collars that were being used for

1 bear and lion.

2 THE WITNESS: No.

3 MR. MCULLEN: Did you know if there was a limited
4 access to the web site because these collars, North Star
5 collars, from what I understand, you may know more about
6 them than I do, almost certainly you do, but some of them
7 are VHF and GPS, but they can be configured just for GPS?

8 THE WITNESS: Right.

9 MR. MCULLEN: And so, I guess, you have to go to a
10 web site to do real-time monitoring?

11 THE WITNESS: Right.

12 MR. MCULLEN: Is there free access to that or do
13 you have to have a password?

14 THE WITNESS: You have to have a password or a
15 code.

16 MR. MCULLEN: Do you know who had the password or
17 code for the jaguar collars?

18 THE WITNESS: Jack and Emil.

19 MR. MCULLEN: Who?

20 THE WITNESS: Emil. Jack and Emil.

21 MR. MCULLEN: No one from the Department did?

22 THE WITNESS: No, but that was a conscious
23 decision. When we had our meeting after the first collar,
24 we were unsure if we would be able to protect that
25 information --

1 MR. HOVATTER: Protect it from who?

2 THE WITNESS: -- if we had a public records
3 request. And so at the meeting that we had the day after,
4 it was a conscious decision that we would not ask for that
5 information until we got the answer from the lawyers, and
6 then we never went back.

7 Q. MR. HOVATTER: Well, by the time they did -- yeah,
8 and I remember that now, because that was -- the issue was
9 is we have had issues where we have had to release almost
10 real-time location data to the public under open record.

11 MR. MCMULLEN: From the radio marked channels.

12 Q. BY MR. HOVATTER: From the radio marked channels.
13 And, of course, the concern was somebody goes and poaches
14 the animal.

15 A. Yeah.

16 Q. So by having it in their hands, which is where it
17 started --

18 A. Yeah.

19 Q. -- would probably be a violation of the Open
20 Records Act of what we had done had we had control delivered
21 to someone?

22 MR. MCMULLEN: That explains a lot of what we were
23 wondering about, so --

24 Q. BY MR. HOVATTER: So the reason that was -- we had
25 a suspicion, it was our belief, because it was an endangered

1 species, that we would have -- that the State would decide
2 that -- well, it was open records protection, because it
3 would be FOIA protected pretty clearly, but open records is
4 a lot more forthcoming than FOIA tends to be. So we can --
5 due to that lack of certainty, we wanted to make sure we
6 knew what the status was on that.

7 A. Craig, they had offered to give it to us if we
8 wanted it, but we had we denied it until further notice. I
9 think one of the earlier e-mails, I think -- I don't think I
10 said it -- I don't think I put it in an e-mail because we
11 didn't want it recorded as such. I think I basically told
12 those guys that we were fine with it. That is part of the
13 reason why they were giving us, you know, routine updates as
14 far as movements and stuff.

15 Q. The thing is, when we say real time, too, how many
16 times -- that is usually four to six hours a day?

17 A. Four.

18 MR. FABRITZ: Typically, three hours, isn't it?

19 Q. BY MR. HOVATTER: Well, it is not four to six
20 times a day. Normally, it is however many times it uploads
21 to the satellite, and it will upload the last four, five, or
22 six locations is the way most of those collars work is my
23 memory.

24 A. Yeah.

25 Q. Do you remember how that one was set, by any

1 chance?

2 A. I want to say it was every three hours, but I
3 don't remember now at the time. I mean, I did know at the
4 time because everybody waited with the baited breath on
5 where were the reports? It is every maybe six hours even.
6 I don't remember. I don't remember. I don't --

7 Q. Well, it is not standard because it depends on the
8 satellite array of the company that is doing it --

9 A. Right.

10 Q. -- because they all use the same satellites, don't
11 they? Did you know before the capture that Emil and Thorry
12 were in the field working or putting in those snares --

13 A. No.

14 Q. -- at that location? Can you give us some -- how
15 does Roberto Aguilar play into all of this? Where did he
16 come from in this jaguar effort?

17 A. Roberto originally was the conservation whatever
18 for the Phoenix Zoo, Conservation Coordinator or whatever.
19 I don't remember. I don't know. Stuart Wells now has the
20 position. And so I want to say the Phoenix Zoo hired him in
21 '05 or '06. So he started attending the Jaguar Conservation
22 Team meetings.

23 He actually also attended some of the jaguar
24 meetings down in Mexico. You know, the Mexican government
25 were holding what they were calling Jaguar Congresses, and

1 he attended down there as well. He, also, subsequently had
2 resigned his position at the zoo due to multiple bosses
3 giving him multiple directions, and he was becoming very
4 frustrated with that. So he had resigned his position.

5 He had cooperated with the Department on a variety
6 of different projects, jaguar only being one of them. I
7 mean, he was actually helping out with the badger stuff that
8 we were trying to get going up on the Ferret Project. He
9 helped out with some Bighorn Sheep stuff, Masked Bobwhite
10 stuff. He's a veterinarian, you know, licensed veterinarian
11 by training and stuff. So he had a lot of knowledge in
12 regards to that.

13 In fact, he did his doctorate or whatever on
14 anesthetizing big cats, you know, in captive situations. So
15 he was viewed as a resource, you know, in multiple, multiple
16 arenas. To me, he was -- one of his earlier jobs, because
17 his parents are American born, but his dad did work down in
18 Mexico. He actually has dual citizenship. One of the
19 things that he can do is simultaneous translation in
20 Spanish.

21 So when I went to the jaguar meeting in '06, they
22 were talking in Spanish and everything, man, I was
23 getting -- he was just whispering in my ear the entire time
24 translating, I mean, he is amazing in that sense. So,
25 anyhow, he resigned from the zoo. He applied for the vet

1 position or the --

2 MR. MCMULLEN: Lisa Schender's job.

3 THE WITNESS: Yes. So I think as far as how it
4 came in, ironically enough, he was a source of information
5 for the jaguar stuff because of his past, and I think he was
6 trying to, you know, good graces in regards to a possible
7 job, he was keeping Chasa informed of, hey, I just want to
8 let you know some of your people are doing this and sent the
9 e-mail there in early February.

10 Q. BY MR. HOVATTER: Switching gears a little bit.
11 Did North Star donation of that collar include free access
12 to that web site to get the information from the collar?

13 A. I don't know. I don't know. Okay. So how
14 does -- you know, the next logical question, I think, would
15 be how does Roberto then link up with Emil through the
16 Phoenix Zoo? You know, Phoenix Zoo had donated money for
17 some of the camera work and everything. And so it was
18 Roberto's job to monitor that for the zoo because that was
19 one of his projects.

20 The other thing that Roberto does or did a lot is
21 cross training of Mexican nationals. So he would get
22 visiting Mexican or Latin American nationals, you know, and
23 he would, you know, they would have like internships go
24 through the zoo. And so he would routinely have those
25 interns, you know, go on the jaguar project to, you know,

1 check cameras and stuff.

2 And so, you know, he would -- you know, so that is
3 how involvement got with Emil, and I am sure the discussions
4 and stuff and his expertise and why Emil inquired him in
5 regards to the dosages and stuff.

6 Q. Do you know about when the zoo got involved in
7 providing financial support for the camera project?

8 A. No, not specifically the cameras, but see, the zoo
9 has been a long time partner on the conservation team.

10 Q. They have been in collaboration?

11 A. They actually footed the bill to send the people
12 to South America to get the training for identifying jaguar
13 depredation.

14 Q. So Jack Childs was a part of that?

15 A. Yep. Uh-huh.

16 Q. Do you know -- did you know how this all popped in
17 this thing? Do you know if jaguar scat was actually used as
18 an attractant on this project?

19 A. Well, subsequently, I have been told it has been.
20 I know at one time, there was a gal, I think her name was
21 Shiloh, who worked for the Reid Park Zoo in Tucson, had
22 talked about -- there was a discussion at a Jaguar
23 Conservation Team about, again, the jaguar scat or urine to
24 use to see if we can attract, but it was only discussed.
25 And I was unaware of that it was actually being used quite

1 routinely. They did get jaguar scat from the Phoenix Zoo.

2 MR. MCULLEN: Who is they?

3 THE WITNESS: It was Emil and them, the Jaguar
4 Borderlands Detection Project got scat from the Phoenix Zoo
5 confirmed by Stuart Wells who is the conservation person
6 down there.

7 Q. MR. HOVATTER: How was that confirmed?

8 A. I asked him.

9 Q. Yeah?

10 A. And what I thought was intriguing is that was
11 about the same time Lucero, the whole Lucero thing was going
12 on. What I thought was intriguing about that, when I was
13 down there that day for the unveiling, I was talking with
14 Dean Rice, and Dean had talked about how Lucero had kicked
15 their female into estrus. So the scat that they would have
16 got or the urine or whatever they would have got, I am
17 pretty sure it was -- I know it was scat, because Stuart
18 told me, would have been from a female in estrus, which
19 would have --

20 MR. FABRITZ: That was right around that --

21 THE WITNESS: January, January and February.

22 MR. FABRITZ: Do we know if we were still
23 obtaining stuff at that time, scat?

24 THE WITNESS: Pardon?

25 MR. FABRITZ: Do we know if those folks, Emil and

1 them were still obtaining scat?

2 THE WITNESS: Yes.

3 MR. FABRITZ: We know that; right?

4 THE WITNESS: Yes.

5 Q. BY MR. HOVATTER: Was that Stewart -- was that his
6 memory that was the first time they were collecting or had
7 they been collecting jaguar scat --

8 A. I never asked Stuart that question. I asked him
9 after the report came out, because we had hadn't been shut
10 down yet, I asked him, and he said, yes, we had given it to
11 him.

12 Q. And the female was the one at the Reid Park Zoo or
13 the one --

14 A. No, at the Phoenix Zoo.

15 Q. At the Phoenix Zoo. Do you they have a female
16 there now?

17 A. Yes.

18 Q. The only one I saw was Lucero?

19 A. They -- they --

20 Q. Alternate them?

21 A. Alternate them in and out. They only had the
22 female, brought in Lucero, had the tooth work and stuff
23 done, and like I said, the day I was there, which I think
24 was February 4th for the unveiling, Dean had made the
25 comment about how Lucero had kicked their female into

1 estrus.

2 Q. Dean Rice?

3 A. Yeah.

4 MR. MCMULLEN: That was around February 4th?

5 THE WITNESS: Yes.

6 MR. MCULLEN: How do you remember that date?

7 THE WITNESS: Because I looked back when I did all
8 my public record stuff.

9 Q. BY MR. HOVATTER: Did you have any chance to ask
10 what -- did they specify what they were going to use it for
11 because they didn't have -- they had their permits for the
12 Forest Service included jaguar hair, snack stations --

13 A. Uh-huh.

14 Q. -- and the photo stations --

15 A. Uh-huh.

16 Q. -- did you have any chance or did the discussion
17 give you any insight into what they actually intended to do
18 with it?

19 A. I guess the assumption was that they were going to
20 use it for the camera stations. I mean, that would be the
21 only reasons they would. I mean, that is the only thing
22 that they had been working on is the camera work and the
23 hair snares, and -- so.

24 Q. The interesting thing is the Forest Service permit
25 only permitted -- only specifies use of scent in the hair

1 snares?

2 A. Yes, right. Well, this is the other intriguing
3 thing that we have looked at, I have looked at since this
4 whole thing, too, and the accusations of this thing. If you
5 look at the paper that Emil and them wrote up for the
6 Journal of Wildlife Management, and they talk about methods,
7 they don't talk about using jaguar scent, which would be a
8 critical component in a scientific paper, because here in
9 that paper, they are interjecting that this animal was
10 territorial in his scent marking.

11 Well, are they actually causing that because of
12 the use of jaguar scents or is it doing it on its own
13 anyhow, you know, and that's -- I mean, to me in a
14 scientific paper, that would be something that you would
15 undoubtedly put in as a method.

16 MR. MCMULLEN: Was it published?

17 THE WITNESS: Yeah.

18 Q. MR. HOVATTER: How else would you tell how to
19 assess the description or behavior of the animal unless you
20 knew whether or not it was behaving wholly within the
21 context of its established territory or if it had -- was, in
22 fact, being induced to behave differently than it might
23 otherwise have done? You know, your sense of this, just
24 your personal opinion, if the use of scent caused that
25 animal to go an extra five miles farther than it was going

1 to go because it picked up that female scent, would that
2 constitute a take?

3 A. You mean direct take? Then, yes. But at the same
4 time, like I mentioned about that call that I had with
5 Emil --

6 Q. Uh-huh.

7 A. -- in my opinion, Emil had in his mind the
8 likely travel corridor for that animal. So it wasn't like
9 placing it five miles or it wouldn't be like placing it five
10 miles out of the way. I mean, he would be putting it
11 someplace where there was a higher likelihood that that
12 animal would detect that than just placing it at random.

13 Q. So is it accurate for me, kind of read that back
14 to you, Emil said, he relating to this our earlier
15 conversation, that he had appeared to have enough of a depth
16 of knowledge about that specific piece of ground to where he
17 would have been able to be focused in his luring efforts --

18 A. Yeah.

19 Q. -- if he had done that?

20 A. As I mentioned about that conversation, that call
21 that I had with him, he called it a hunting spot back in
22 '06. He hung out here, blah, blah, blah. So, yeah, once
23 that animal showed back up in that area, I think he had
24 enough knowledge about previous movements of that animal, he
25 knew the likely travel corridors that that animal was going

1 to be using, that you could have a more focused effort in
2 regards to placing attractants that would have a higher
3 likelihood of attracting the animal.

4 Q. There is an implication there, but do we know that
5 he then had camera stations in that Manzanita mountain area?

6 A. Well, we knew he had cameras in that area, I mean,
7 because he reports it, you know. As far as the Manzanita
8 Mountain itself, I don't know, but we know from his reports
9 and stuff that he had more than one camera because he talks
10 about more than one camera.

11 Q. Now, given the nature of this type of work, you
12 know, it would be ridiculous to use some sort of random
13 generation system of trying to determine camera locations.
14 There would be no reason to do that. Was there any, you
15 know, as far how far the camera locations were chosen, was
16 that wholly at the discretion of the Borderlands Jaguar
17 Detection?

18 A. Yes. Yes. And the reason for that, Gary, is,
19 again, their directive is detecting the presence of the
20 jaguar.

21 Q. Yeah.

22 A. We need to know when the jaguar is here, so we can
23 act upon that. So to have, you know, cameras every half
24 mile, I mean, it would be cost prohibitive and manpower
25 prohibitive with as small as a group as it is, so, you know,

1 now, we can do another possible question is do we know where
2 all those 50 cameras are located? No.

3 Historically, when there wasn't as many cameras
4 and when we were having problem with our certain
5 commissioner in the Arivaca area, we did ask them, and they
6 gave it to us freely, where the locations of all the
7 cameras, and they gave it to us, you know. But we did not
8 routinely ask them, well, hey, where is your 50 cameras, you
9 know.

10 It was, you know, like kind of at that trust
11 level, okay, your job is to detect jaguars. You place them
12 where you think you are going to detect them so we know
13 where they are going to be.

14 Q. Given the data collected could be used for a whole
15 wide variety of purposes, was the primary purpose of the
16 camera network that was established scientific or monitoring
17 for the purpose of providing information to stakeholders
18 about the presence of jaguars?

19 A. Presence of jaguars. Now, if they did it in such
20 a manner that they could get some scientific matter out of
21 it --

22 Q. The more the better?

23 A. -- hey, the more the better, but the primary
24 purpose was jaguar detection.

25 Q. Now, I am glad you brought me back to that because

1 if you were doing this as a scientifically designed,
2 reproducible study, it is a lot different than you could
3 station cameras where you are most likely, if an animal is
4 moving in the area, find it?

5 A. Yeah. There is different camera configurations
6 even that I am aware of, that if you were doing this from a
7 scientific perspective, you would do it totally different.

8 Q. Because if you wanted to -- here is something
9 where you wanted to determine relative numbers or relative
10 abundance, you would have to have a certain randomness to
11 the way that you approach it, otherwise you skew it?

12 A. Yes.

13 Q. This is deliberately skewed with intent because
14 that was what we needed for them to accomplish its goal?

15 A. That was the main objective for us was to know
16 where the jaguars were so we could cooperate with the public
17 and modify management activities, if necessary, to reduce
18 the likelihood of depredation, long and short of it.

19 Q. Do you think there's other jaguars in that area?

20 A. Historically, we documented at least one other
21 jaguar, Macho A.

22 Q. I hadn't noticed until I bought Jack Childs' book
23 this week, the book he and Anna put out last week.

24 A. Uh-huh.

25 Q. Did you see the picture -- have you looked at that

1 book?

2 A. No, I have not.

3 Q. There is a picture. He has got two pictures. One
4 is Macho A, and four hours later, the same camera is Macho B
5 following right behind him.

6 A. That was the last time we photographed Macho A.

7 MR. MCULLEN: Macho A is probably in Macho B's
8 turd.

9 THE WITNESS: Uh-huh.

10 MR. MCULLEN: Ran him off.

11 Q. BY MR. HOVATTER: Hey, I forgot to ask you at the
12 time. That December meeting, December '08 meeting, that
13 Terry was trying to track down, you know, who, what, when.
14 Who ultimately, because it wasn't you, it wasn't Terry that
15 called that meeting, it was -- who ultimately called that
16 meeting?

17 A. That meeting was called actually by the
18 Fish and Wildlife Service, and Terry sent inquiries out and
19 eventually got the answer back. And, then, Todd Atwood also
20 responded as well. And I believe it was Aaron Fernandez who
21 had called the meeting.

22 Q. Okay. There is reference in some -- a couple
23 e-mails, I think Roberto Aguilar is one of them, these are
24 from early this year, talking about a range wide jaguar
25 meeting in '09?

1 A. Uh-huh.

2 Q. Do you know if there was such a meeting?

3 A. It hadn't occurred yet.

4 Q. When the planning was?

5 A. Yeah. What the planning was, it was in the
6 process of being planned as a follow-up to the 1999 meeting
7 that we did participate in, you know, and ten years later
8 what has been done with jaguars? That was the meeting.
9 That was being coordinated out of Mexico. We are actually
10 very supportive of it, because, in part, Mexico has really
11 stepped up to the ball on conservation efforts in that.
12 And, you know, to have a ten-year later evaluation, you
13 know, I think it would be very beneficial for jaguar
14 conservation. And so we were -- I know Rodrigo Medina, who
15 is a professor there at UNOM(ph.).

16 Q. I saw that.

17 A. He is like one of the top people in Mexico. They
18 are kind of structured differently, and actually, University
19 professors have a lot of power. He's a very powerful person
20 in Mexico. That is you don't do any back work unless you go
21 through Rodrigo, period. And he has students who work on
22 jaguars as well. He was working with us to help try to get
23 some funding because we have actually funded some things,
24 you know, the first Jaguar Congress in '05, we helped, you
25 know, fund to get people there, not only ourselves, but

1 other people, and paid for it and that because we feel it is
2 critical for jaguars to be covered.

3 Q. So is this range wide meeting, as far as you know,
4 is that still -- still somebody trying to make that come
5 together? That's something from the Mexican side primarily?

6 A. Yes. Yes, it is not from the U.S.

7 Q. At the September 25th, '08, Jaguar Conservation
8 Team meeting in Lordsburg, reference was made to recent
9 jaguar photos. So this had to be the July, August '08
10 photos. The next scheduled meeting was planned for late
11 January, but I think it got pushed back to February?

12 A. February.

13 Q. And at the February meeting, was there any more
14 discussion?

15 A. I wasn't there. I can't tell you.

16 Q. Okay.

17 MR. MCMULLEN: So no meeting occurred in January
18 or late January?

19 THE WITNESS: No.

20 MR. MCULLEN: That is what we were trying to
21 determine. We were trying to dig that out when we were out
22 of the room. So, yeah, we are covered there. We already
23 did that next one.

24 Q. BY MR. HOVATTER: Yeah, we did. Do you have --
25 and, again, I think I know the answer to this, but I am

1 going to ask it anyway just on the off chance that I am
2 wrong on this, the reason given for reopening that snare
3 where we caught Macho B was to replace a lion that had been
4 captured there earlier that had later been harnessed. Did
5 you have any -- did you have any visibility on that aspect
6 of this, this, again, that Large Carnivore Habitat or
7 Habitat Conductivity Study?

8 A. I mean, I wasn't -- like I said, I mean, I was
9 unaware of any of the details in everything. So, you know,
10 the reasons given seemed plausible to me. That is why I
11 repeated them at the news conference.

12 MR. HOVATTER: And really that is kind of the end
13 of the stuff that I listed out here. What other questions
14 do you guys have?

15 MR. MCULLEN: I had some notes there. Okay. Do
16 you remember when -- I am trying to nail down the time frame
17 when you said you were leaving somewhere, and this is about
18 the time that you had the discussion with Thompson about are
19 we covered on a jaguar, incidental jaguar capture, or where
20 is the EA checklist? And as you were leaving, he said,
21 well, we need to be up to speed because we are going to be
22 doing some trapping this weekend? Do you remember when that
23 occurred? You said you were leaving somewhere. I don't
24 know if it was to WAFWA or something? Do you remember what
25 time frame that was?

1 THE WITNESS: That was, again, the same day,
2 whatever, you can look in the e-mail, whatever date I sent
3 the permit to Ron.

4 MR. MCULLEN: Okay. So January -- February

5 6? MR. FABRITZ: So it would have been
6 the following weekend.

7 MR. HOVATTER: I thought it was February 3rd or
8 4th.

9 THE WITNESS: It was that day, that specific date.

10 MR. HOVATTER: That is what I took you to mean on
11 that. That is kind of an interesting time frame. Is there
12 anything -- oh, go ahead. You have got another one?

13 MR. MCULLEN: No, nothing.

14 Q. BY MR. HOVATTER: Is there anything that I have
15 not asked you about that you think we ought to be thinking
16 about?

17 A. Well, there's a couple other things that I find
18 intriguing, you know, why I do believe that there was some
19 deliberation in this. There was a phone call that Terry
20 Johnson received from Emil McCain after we had euthanized
21 Macho B. And the way it was described to me from Terry was,
22 you know, Emil was talking about, you know, what kind of
23 trouble or what is the liability in regards to catching a
24 jaguar, you know.

25 He was still in Spain at this time. Okay. And so

1 it was -- it was a late night call for us, and Terry just
2 kept talking to him about, you know, you know, there's no
3 liabilities, you know, we are covered, incidental take, and
4 Terry told me that, you know, he phrased a response to Emil
5 from Emil's badgering, you know, liability, liability, blah,
6 blah, blah, you know, you know, assuming that every -- and
7 Terry's response back was in the sense of assuming that
8 everything that you have said or the capture of Macho B was
9 incidental, you are covered. And Emil's response back to
10 Terry in that conversation was that is not a safe assumption
11 to make.

12 Then at that point in time, Terry told me he got
13 really uncomfortable, told Emil that, you know, you know, he
14 may need to, you know, get a lawyer, you know, depends on
15 the circumstances, hung up, called me right away. And,
16 again, now, I have a cell phone so he's able to do that, and
17 told me this story. And that was, like I said, in the 4th
18 or 5th, and that is part of the reason why we --

19 Q. Of April?

20 A. March. Of March.

21 MR. MCMULLEN: Oh, okay.

22 THE WITNESS: Okay. And that is part of the
23 reason why we came back and why we were so insistent on
24 wanting to talk to Thorry in regards to the original capture
25 because we didn't know -- sorry about that. We did not know

1 enough about the original capture that we wanted to
2 interview Thorry, and we ended up calling him on vacation.

3 MR. MCMULLEN: That's the reason why?

4 THE WITNESS: Yeah. Okay. Now, one of the things
5 that you are going to have look into, in my opinion, was
6 because in that interview, I specifically asked Thorry, did
7 you see any tracks or sign of the jaguar -- of jaguar? And
8 having been out in the field with Thorry, I have no doubt in
9 my mind he knew the track of Macho B. Okay. In that
10 interview --

11 MR. FABRITZ: That was the phone interview?

12 THE WITNESS: Yes, the phone interview, which was
13 myself, Chasa, Mike Senn, and Terry Johnson. Thorry's
14 response was no, there was no sign. Now, subsequent to that
15 and I haven't seen this, that is why I said you have to
16 check into it, when Michelle Crabb was interviewed, from my
17 understanding, she said that there was old sign that was
18 seen when they were doing the snare stuff, opening the
19 snares.

20 MR. MCMULLEN: See, because I didn't see that
21 from -- in the notes.

22 MR. HOVATTER: Well, it has got to be in the
23 fields notes that -- from his field notes, from Thorry's
24 field notes.

25 MR. MCMULLEN: I am talking about Chasa's notes.

1 MR. HOVATTER: Well, no, she talks there is
2 mention of the track. I think there's mention of -- no,
3 I think you are right. Well, I will go back and take a
4 look. Well, in his field notes, which we already had at the
5 time he was getting the interview done, he talks about
6 seeing that large track, and he puts, you know, he has got
7 that note, it is a jaguar note in there, or was this a large
8 lion or a double register, you know, of the track, or -- and
9 it was an old track, and so he doesn't seem to have --

10 MR. MCMULLEN: He wasn't sure.

11 MR. HOVATTER: In his notes, he doesn't express
12 any confidence that it was a jaguar track, but it was
13 noticeable because of its size, and it was one track.

14 MR. MCMULLEN: Multiple, too.

15 MR. HOVATTER: So that is something -- I mean,
16 that is something we have got, too.

17 MR. FABRITZ: So when you said subsequent, you
18 were talking about Michelle, what was -- in what context was
19 that? Was that an interview with her as well?

20 THE WITNESS: We did not do -- I did not do --
21 from my understanding, Chasa did talk with Michelle.

22 Q. BY MR. HOVATTER: Chasa talked to Michelle?

23 A. Yeah. The other thing that was of interest to me
24 was the actual presence of this Janay Brun during this
25 whole --

1 Q. I am sorry. I forgot to ask you about that.

2 A. This whole going through and opening up the snares
3 and everything, and there was multiple times the question
4 was asked was there other people present? Her name never
5 came up once during any of these interviews. I mean, it was
6 a complete surprise when all of a sudden, it comes out in
7 the newspaper, heck, she was present.

8 Q. So in Thorry's interview that you guys did, did
9 you ask if there were any other people present? And who did
10 he identify as being present?

11 A. Michelle. Now, I will give Thorry the benefit of
12 the doubt, maybe he just thought we were asking in regards
13 to the actual capture, but even, I mean --

14 MR. FABRITZ: He went through the whole interview?

15 THE WITNESS: Yeah. I mean, I thought that, geez,
16 I think you would mention, oh, yeah, we had, you know, he
17 talked about Emil showing him at the trap locations. He
18 doesn't even mention Janay Brun being present whatsoever.
19 And, you know, I mean, then, to hear -- see Emil just say
20 she was a disgruntled employee and so forth. Heck, she has
21 been around since 2002, I think.

22 They always talked about how great she was in the
23 field and everything. So, I mean, to me, there's some
24 validity at least to some extent to what this gal is saying,
25 not having -- now, she could walk into this room, I wouldn't

1 even know who she was. I might have recognized her and say,
2 oh, yeah, she's been at some jaguar meetings, but for me to
3 point her out in a line-up, I couldn't do it.

4 Q. BY MR. HOVATTER: I finally found a picture of her
5 in the Alter Valley Newsletter.

6 A. Okay.

7 Q. But, yeah, it is kind of interesting, of course,
8 it is in -- it is in Thorry's field notes. He mentions
9 Janay. So, I mean, clearly, in the record that we have, I
10 mean, he produced and all, she shows up, so --

11 A. Yeah.

12 Q. That's interesting. What else?

13 A. The only other thing I could say is I still think
14 to some extent that the Department could be innocent in all
15 of this in the sense Emil is a linchpin in all this. Thorry
16 could be out there in the field with him flirting about all
17 this trap locations and everything. You have now Janay that
18 I know about, she could be going and doing the stuff that
19 she was directed to do. Thorry is focused talking with Emil
20 not paying attention to what this gal is doing, throwing
21 scat out or whatever, and it could still be the Department
22 was played.

23 Q. I have had that same -- that's the same
24 scenario -- the same kind of scenario I came up with.

25 A. But at the same time, I don't know.

1 Q. There are other alternative explanations.

2 MR. FABRITZ: No, we appreciate that insight, you
3 know, because we just have got to sort it out.

4 MR. MCMULLEN: We are trying hard not to develop
5 any conclusions as we go through this, because at the end of
6 day, we have got to look at the entire suite of information
7 that we have gathered, and then let that guide a conclusion
8 and not develop as we go. So it is just a process that we
9 have got to go through, unfortunately, and we are just
10 trying to figure it is out, just like Gary said earlier.

11 THE WITNESS: The only other thing that I would
12 add that was an irritant to me the entire time, that, you
13 know, I think needs to be pressed to some extent, we had the
14 meeting, what, February 20th --

15 Q. BY MR. HOVATTER: Yeah.

16 A. -- in the Eagle room that identified --

17 Q. Who has got the lead?

18 A. -- who has the lead. When the decision process
19 was going in place as to going in to look at Macho B, there
20 was alternative discussions going on Thorry was having with
21 Emil, and that is how Ole Alcumbrac originally brought into
22 this.

23 Q. Was through Thorry?

24 A. Thorry.

25 Q. Through Emil and Thorry. Damn, I am glad you -- I

1 am glad I asked you that.

2 MR. FABRITZ: I don't even know what you guys are
3 talking about.

4 MR. HOVATTER: When we had the meeting on the
5 20th, it was a fun meeting in the sense we had a bunch of
6 folks in the room saying, now, that we have caught this
7 jaguar, who is in charge?

8 MR. FABRITZ: I don't remember being there.

9 THE WITNESS: There was a lot of people.

10 MR. HOVATTER: Who was -- who is in charge of
11 monitoring what is going on and is going to keep us apprised
12 and as to when they report? And my memory is also that I
13 said, so you are going to make sure everything gets to
14 Terry, and you were his backup on this?

15 THE WITNESS: Right.

16 MR. HOVATTER: So it was Terry and Bill. And
17 everybody in this room, you are going to make sure the
18 information gets to him?

19 MR. MCMULLEN: Who all was at that meeting?

20 THE WITNESS: Me and Chasa.

21 MR. HOVATTER: I have got it my notes.

22 THE WITNESS: Thorry was not, but I am almost
23 positive Chasa was.

24 Q. BY MR. HOVATTER: Yeah, Chasa was. I have got it
25 in my notes who was there. Well, I should have, because

1 routinely when I have a meeting that is that important I
2 usually note who was all at the table, because I am glad you
3 mentioned that because I meant to ask about that, and that
4 was how was the decision made to go back and check on that,
5 physically go and track that animal down and look at it?

6 A. I mean, I wanted to do it earlier. Then I was
7 talked out of it, and in part, this goes back to Ron
8 Thompson. He was having side discussions with Emil. Emil
9 was calling him or he was calling Emil. I suspect Emil was
10 calling him. Emil didn't want us to go in, because, again,
11 from my perspective, he wanted the glory. So he was trying
12 to delay.

13 I was setting up a team to go in. It was going to
14 be originally myself, Ron Thompson, and Thorry. And then
15 Ron talked me out of it. And then a few days, a couple days
16 later, then, you will have to look at the whole e-mail
17 trail, oh-oh, hey, guys, we have got problems. It is not
18 moving again. It is like, okay, here just a day or so ago,
19 you are like, everything is fine, don't worry about it.

20 Well, in that meantime, they have already
21 contacted Ole about going in. They have talked to this
22 Janay Brun to go in and put some meat out. There was a
23 whole heck of a lot of stuff going on.

24 Q. They being in this case --

25 A. Thorry, Emil, to some extent Ron Thompson, Ole

1 Alcumbrac. Ole wasn't there by chance. He was called. I
2 didn't call him. Ole wouldn't have been my first choice.
3 And the only reason is I feel Ole sometimes is overly
4 aggressive. I would have chosen somebody else, to be honest
5 with you.

6 Q. No. Understood.

7 A. And so, but at the time, February 28th, March 1st,
8 he's there, we will go with it, but that wasn't --

9 Q. That's too bad we hadn't --

10 A. Right. So there was a lot of discussion between
11 like February, I want to say 26th and then 28th, that was
12 going outside, in my opinion, the direction of the
13 Department.

14 Q. The way that should have gone in my mind is that
15 it would have merged -- you guys would have been
16 collecting -- you and Terry would have been collecting the
17 information, and if it was -- if we are going to go back in
18 and again intervene with that animal, that it would have
19 been merged, then, through you guys to the Director that we
20 think we need to do this.

21 A. Right, and that's kind of --

22 Q. Or something along those lines?

23 A. That's actually what ended up happening. I
24 finally said, enough of this bullshit, call Thorry, call
25 Leonard. We got Kirk Bahti instead, because actually Ron

1 was heading to the Kofas, I believe.

2 MR. FABRITZ: That started what? Saturday, the
3 28th?

4 THE WITNESS: 28th was when myself, Kirk Bahti,
5 and Thorry went in.

6 Q. BY MR. HOVATTER: Sunday, is when we actually were
7 pulling everything together. You had already had your
8 encounter with the mountain --

9 A. Right, right.

10 Q. Ron Thompson was in Kofas?

11 A. Right. So to me, there was a whole lot of other
12 stuff going on behind the scene. That is why, to me, this
13 goes -- there is something stinky going on.

14 MR. FABRITZ: There was a lot of stuff going on
15 around the 28th and that earlier time.

16 THE WITNESS: Right. Thorry and Emil, you know,
17 working on it, and I don't, you know, if Thorry was working
18 underneath Emil's direction, my question is why? He is not
19 a Department employee. And, supposedly, the direction would
20 have gone down, hey, here is the leads for the Department.
21 Maybe it did. Maybe it stopped, you know, and then Thorry
22 was just working with who he had been working with, but
23 I think that needs to be ferreted out.

24 Q. BY MR. HOVATTER: Yeah, I am sure you are right.
25 I mean, ultimately, we did make the decision to go do that

1 in a manner that was in keeping with where we started, but
2 what you are portraying is a hell of a lot of activities had
3 already been put in place without -- without the folks we
4 designated as lead on this?

5 A. Emil in one of his e-mails even says, I have
6 already talked with Thorry and Ole, and they are ready to go
7 in. So they are -- I mean, to me, there was -- to me, that
8 is like, huh, are they trying to cover things up because
9 he's trying to orchestrate who goes in as compared to an
10 outsider?

11 MR. FABRITZ: Do you have a sense for Kirby's
12 involvement in all this?

13 THE WITNESS: Kirby doesn't come into this in my
14 eyes except that he's supposedly Thorry's supervisor, and
15 that was eventually the second call he placed was after
16 talking with Ron was he tried to call Kirby. The reason why
17 Michelle was out in the field with Thorry was because Kirby
18 had hurt his leg quail hunting or something.

19 MR. HOVATTER: That's right. I remember that.

20 THE WITNESS: So that was the thing.

21 MR. HOVATTER: Anything else? Any questions as
22 far as you guys? Bill, it is -- it is quite possible this
23 is -- this is all we are going to need to discuss on what we
24 are trying to get at with this with you, but we may have
25 another -- we may give you a shout and want to sit down and

1 talk about some of the other stuff that pops up, too, but we
2 really appreciate it. This was exactly what we needed to
3 get on this was to get your perspective on this.

4 MR. MCMULLEN: It is not fun for anybody. It is
5 just something we have got to do. Appreciate your time.

6 THE WITNESS: Question: Do you guys or did you
7 guys receive my Affidavit that I had given to the Feds?

8 MR. HOVATTER: Don't think so.

9 MR. MCMULLEN: No, the Federal investigation and
10 ours are completely separate. They don't know what we have
11 asked, and we don't know what they ask.

12 THE WITNESS: So the question, then, would it be
13 appropriate for me to give it to you? The reason I bring it
14 up is I kind of -- I wrote that a lot earlier.

15 MR. HOVATTER: So your memory at that time was a
16 lot fresher. I tell you what, would you make a note?
17 We will just ask Frank. If Frank has no objection, we will
18 give you a shout. If we call you, it would be because we
19 cleared it them on that.

20 THE WITNESS: Because what I did with that
21 Affidavit, though, was I had like 25 attachments which were
22 things that in my mind stuck out in regards to -- in getting
23 the public records stuff, for example, you know, the whole
24 flurry of information on February 3rd. I had really not
25 even thought about it or even, oh, wow, until I started

1 collecting all that information, I am like, Holy Crap, look
2 at this, this, and this. No wonder everybody is saying --

3 MR. HOVATTER: If you were plotting this across a
4 calendar from, say, end of 2007 to April 1st of 2009, there
5 would be several obvious bright spikes sticking out. One of
6 those would be that 3, 4 February time frame.

7 THE WITNESS: It does in my mind now. I mean,
8 that is how come I was actually kind of concerned about
9 coming into the interview because I wasn't sure what you are
10 looking for, but I am definitely jaded now in regards to my
11 perception of things, you know, before --

12 MR. HOVATTER: Yeah.

13 THE WITNESS: -- the Federal investigation began,
14 and now because I have gone through and started looking at
15 all the records and stuff now, and it is like my conclusion
16 is totally different. I mean, I can honestly say when I was
17 doing that news interview on March 5th or whenever it was,
18 that was my belief. I don't think I could do the same
19 interview today.

20 MR. HOVATTER: Well, we all talked -- when we
21 talked, of course, I haven't been able -- I have refrained
22 from wanting to talk to you. I have wanted to talk to you
23 and Terry and a bunch of other folks, but I have refrained
24 from doing that because of my commitment to the Feds, but,
25 you know, it really -- it is a very distinct difference

1 between when you and I talked about this a few days after
2 the recapture and everything, we were going on kind of a
3 close forum, and the meeting we had right after the capture,
4 we were all pretty confident in what we knew at that time.

5 THE WITNESS: Right. Right.

6 MR. MCMULLEN: Well, let me ask one question, and
7 this is -- no, I won't ask it. I just won't ask it because
8 it is between the Federal and this one investigation, so
9 we will just leave that out. In the course of doing an
10 administrative investigation, it is important to keep it
11 separate from them. So that is why we --

12 MR. HOVATTER: There is a potentially criminal
13 violation of these investigations.

14 MR. MCMULLEN: We will just keep them completely
15 separate, and here is the challenge that we all face, Bill,
16 and I think you have been really, really up front with us,
17 and it seems to me like you have a desire for the Department
18 to come to a clear understanding of what the facts are, but
19 the big challenge for all of us, those who are investigating
20 and those who are parts of the investigation, is to maintain
21 an open mind, to let the facts speak for themselves. And we
22 are partway through, and there is still a good, very strong
23 chance, like you said there at the end, the Department is
24 crystal clear on this one. And so we have just got to let
25 the facts, and the Department is innocent on this one.

1 THE WITNESS: No. I mean, to me, I have shared my
2 thoughts on intrigues.

3 MR. HOVATTER: Yeah, uh-huh.

4 MR. MCMULLEN: You were pretty right on the mark
5 for the things that we wanted to look into.

6 THE WITNESS: Because I think that I know enough,
7 I guess, about investigations that you have to have all the
8 information to be able to see, because I have only seen
9 snapshots of different things.

10 MR. MCMULLEN: Yeah.

11 THE WITNESS: I don't know how they all fit
12 together. And there could be an explanation as to, you
13 know, why Thorry called Ron instead of, you know, whomever
14 first, you know, or why Ron told him to go up the chain.
15 You know, I don't know, you know, there could be, you
16 know --

17 MR. HOVATTER: Yeah.

18 THE WITNESS: You know, from watching enough
19 movies, the most recent Mystic River, you know, where, I
20 don't know if you have seen that movie.

21 MR. HOVATTER: The cops murder --

22 THE WITNESS: The daughter. And, essentially, the
23 cops are doing an investigation and the girl's father is
24 doing an investigation, and they came to a different
25 conclusion, and because only partial information was being

1 obtained. And, thus, in the end, the gal's father killed
2 the wrong guy, you know, he was going out, you know, and so
3 I fully understand that I am only getting or I only see part
4 of the picture. That's why from my perspective as a
5 manager, but also personally involved in this, I want to
6 know what the real story is. And, you know, that's why, you
7 know, I am willing to give you everything I have, so we can
8 get the whole picture because I think it is important.

9 MR. HOVATTER: Well, one way, no matter what we
10 do, Macho B remains dead, he is going to stay dead. So what
11 we certainly got to know, and it is not just so we can
12 defend ourselves, because, frankly, we are going to continue
13 to be a pinata for the Arizona Daily Star until the Feds are
14 done.

15 THE WITNESS: Oh, yeah.

16 MR. HOVATTER: But it is because more importantly,
17 you know, how do we -- what did we learn about ourselves so
18 we can make the change so that -- we will never 100 percent
19 eliminate the possibility of something like this happening
20 because we will always be tainted by somebody who
21 intentionally does the wrong thing. But, certainly, we have
22 learned enough already to know that there are things we not
23 only could have done and should have done, probably could
24 have done fairly easily --

25 THE WITNESS: Uh-huh.

1 MR. HOVATTER: -- that wouldn't have
2 bullet-proofed us, but would have probably made it much more
3 likely that we were not going to have this kind of outcome
4 in all of this. It might have been -- it might be that the
5 policy that we establish might have been that we had done it
6 in a way -- we might have decided that maybe this is an
7 opportunity that we want to take advantage of. We might
8 have decided that we were going to do this. We didn't get
9 that opportunity, at least not this way.

10 THE WITNESS: Right.

11 MR. HOVATTER: Anything else, guys?

12 MR. MCMULLEN: No, just thanks.

13 MR. HOVATTER: Thanks a lot. We appreciate it.

14 THE WITNESS: No problem.

15 MR. FABRITZ: Thanks, Bill. I appreciate it.

16 (Conclusion of Interview.)

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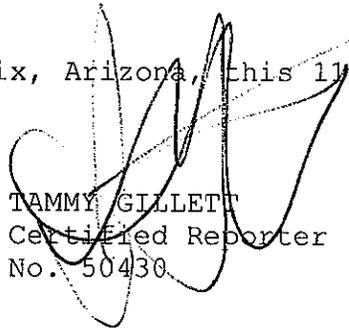
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CERTIFICATE

I, Tammy Gillett, do hereby certify that the foregoing 101 pages were transcribed by me; that I was then and there a Certified Reporter in and for the County of Maricopa, State of Arizona, and that the foregoing pages contain a full, true, and accurate transcript of all the digitally recorded and/or taped proceedings, all to the best of my skill and ability.

I FURTHER CERTIFY that I am not related to nor employed by any of the parties hereto, and have no interest in the outcome.

DATED at Phoenix, Arizona, this 11th day of August, 2009.



TAMMY GILLETT
Certified Reporter
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TRANSCRIPT OF INTERVIEW
BILL VAN PELT
JULY 8, 2009
VOLUME I

Individuals present at the Interview on 7/8/09:

Gary R. Hovatter, Arizona Game and Fish Department, Deputy
Director, Interviewer
Marty Fabritz, Arizona Game and Fish Department, Ombudsman,
Interviewer
Craig McMullen, Arizona Game and Fish Department, Wildlife
Manager, Interviewer
Bill Van Pelt, Employee

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PROCEEDINGS

1
2 MR. HOVATTER: What we are trying to accomplish is
3 the recapture and the euthanization, frankly, the original
4 capture was fine. You know, all of those other things, you
5 know, the Star has its opinion, we have ours. You saw that
6 latest story, I think, you know, and it struck me that we
7 knew about that infection that day, but I never put it my
8 notes because it was just kind of an anecdote when we got
9 together. I don't think you put it in your notes. So they
10 never saw anything that we sent them, which is why -- since
11 we weren't going to talk about that, still aren't going to
12 talk about that necropsy, or I presume that is
13 going to end up being in the report.

14 MR. VAN PELT: The thing is, is that the Phoenix
15 Zoo was brought back here after the results to determine
16 what the infection was caused by. That is why it wasn't
17 sent to you.

18 MR. HOVATTER: And, also, see, they couldn't --
19 the reason why that came out that way is, in a way, I am
20 kind of happy that they did it that way, because we can go
21 back and say, the hell we didn't know, because, you know,
22 the way they wrote that story, they try and make it sound
23 like --

24 MR. VAN PELT: We are hiding something.

25 MR. HOVATTER: We are hiding something or we

1 didn't know about it --

2 MR. VAN PELT: Right.

3 MR. HOVATTER: -- because of the cosmetic
4 necropsy. I know about it. I said, I had it described very
5 graphically to me that day.

6 MR. FABRITZ: By Bill.

7 MR. HOVATTER: Anyhow, so what we are doing is we
8 are -- we still, you know, this is our sense and our
9 going-in position on this that there was no misconduct on
10 the part of our folks on this thing. And so that remains
11 our going-in position on all this.

12 So having said that, we are doing Garrity Warnings
13 for everybody that we talk to on this because we have to
14 remain open to the possibility that we may, in fact, come
15 across some issues that we have to go back and look at some
16 misconduct issue. The best way to protect the rights of our
17 folks on this and also for us to have the kind of
18 conversation with you because of the Federal investigation
19 is to have the Garrity Warning.

20 So I am going to read you that, and we will go
21 from there. Employee Bill Van Pelt, Date 7-8-09,
22 Interviewer, Gary Hovatter. We are taping?

23 MR. FABRITZ: Yes, we are taping this.

24 MR. HOVATTER: Gary Hovatter, Marty Fabritz, and
25 Craig McMullen. We are conducting an internal investigation

1 involving matters that will be discussed shortly. This is
2 an administrative investigation. You do not have the right
3 to have legal counsel present during the interview, nor will
4 you be advised of constitutional rights. You are ordered to
5 cooperate fully with this investigation. You are ordered to
6 respond completely and truthfully to all questions posed to
7 you during the investigation.

8 Failure to respond completely and truthfully to
9 all questions will be considered misconduct as set forth in
10 Garrity versus New Jersey 385 U.S. 493 and the line of cases
11 which follow. Any responses given during this
12 administrative investigation cannot be used against you in a
13 subsequent criminal investigation.

14 You are instructed not to discuss your interview
15 or this investigation with any Arizona Game and Fish
16 employees while the investigation is pending.

17 The statement you are going to sign on this, Bill,
18 says I have read the above statements. I understand the
19 orders given to me about this investigation. I understand
20 my obligation to cooperate fully with the investigation. I
21 understand my obligation to completely and truthfully answer
22 every question. I further understand that I have been
23 ordered not to discuss this investigation with any Arizona
24 Game and Fish employees while this investigation is pending.

25 Any questions on that?

1 MR. VAN PELT: No, that is just standard language
2 through personnel.

3 MR. HOVATTER: Just like everything else we do
4 these days has been looked at by a bazillion lawyers, too.

5 MR. FABRITZ: When we are done, I will get you a
6 copy.

7 BILL VAN PELT,
8 pursuant to Garrity Warning, was examined and testified as
9 follows:

10 EXAMINATION

11 BY MR. HOVATTER:

12 Q. Bill, you know, part of what we spent quite a bit
13 of time doing yesterday was getting educated about how all
14 the paperwork latched up and the issue on kind of the
15 permits.

16 A. Uh-huh.

17 Q. You know, based on everything you know now and
18 then looking at all this, did the Department have the
19 current and applicable and appropriate permits required for
20 an intentional and incidental taking of the jaguar in your
21 opinion?

22 A. Yes.

23 Q. And you know, we revisited that several times with
24 Fish and Wildlife Service, and that remains their position,
25 too. So I think -- I think how some of this is becoming an

1 issue with other permits is because of the fact of the bear
2 and lion -- well, I guess the Large Carnivore
3 Conductivity -- Habitat Conductivity wasn't done in the same
4 degree of detail that the job states for the endangered
5 species habitat. I think that is part of what has got them
6 looking at that.

7 And, again, this is -- it is really going to be
8 almost impossible for any of us to divorce ourselves from
9 the hindsight aspects of this thing. Based on what you know
10 now, was that capture -- do you think that capture was
11 incidental or intentional?

12 A. I think it was intentional. You know, based upon
13 information that has been derived since first hearing about
14 the capture to now, I believe that the situation was
15 manipulated to where they were intending to catch the
16 jaguar.

17 MR. MCMULLEN: Who is "they"?

18 THE WITNESS: Well, that's the question I don't
19 know, Craig. I definitely believe that Emil McCain was one
20 of the primary individuals involved. Reasons for that is
21 Emil has been tracking that animal for years now. And if
22 anybody knew that animal's movement patterns, location of
23 the animal, Emil McCain knew that, and I think that bares
24 out in subsequent e-mails.

25 If you look at the e-mail chain from Emil, the

1 reporting of Macho B --

2 MR. MCMULLEN: Before the capture?

3 THE WITNESS: Before the capture. He identified,
4 oh, Macho B is in this location. Okay.

5 MR. MCMULLEN: Do you know where that was?

6 THE WITNESS: It was what we have been reporting
7 12 miles north/northeast, northeast of where he was
8 captured. The camera was about four miles to the northeast.
9 Okay.

10 MR. MCMULLEN: You have got one that is in the
11 Pajarita -- north end of the Pajarita Wilderness on January
12 12.

13 MR. FABRITZ: So are you familiar with that
14 country?

15 THE WITNESS: Well, I am not real familiar.

16 MR. FABRITZ: Prior to this?

17 THE WITNESS: No, but yes, I went in hiking and
18 stuff. But the point, I guess, for me, Craig, is there
19 was -- he sent out the one e-mail. It was February 3rd, I
20 think it was.

21 MR. HOVATTER: The 3rd or 4th, I think it was.

22 THE WITNESS: It was all around the Lucero deal,
23 and that is how I am trying to keep this in my mind because
24 I got the e-mail when we were doing the public unveiling of
25 Lucero at the Phoenix Zoo. I wrote back, hey, this is great

1 timing. We are doing this, you know, and then it was a
2 couple of days later, he sends an e-mail, and it was after
3 he left for Spain, oh, and by the way, here is some more
4 information on jaguars.

5 MR. FABRITZ: Is that the photos?

6 THE WITNESS: Yeah, and in other locations, but he
7 didn't attach photos with it. He just sent a subsequent
8 e-mail from a first notification, hey, Macho B is back into
9 the country. Here is a picture. Yeah, the February 9th
10 because he had already left to go to Spain by then.

11 MR. MCMULLEN: Okay.

12 THE WITNESS: So in my mind, why didn't he do it
13 all at once, you know, he had all the information. And to
14 me, it was --

15 MR. HOVATTER: That is a damn good point.

16 THE WITNESS: Anyhow, so to me, his actions as of
17 that time, I believe Emil McCain was very involved. In
18 addition to that, he had sent some e-mails to, and "they" in
19 the sense, it was, if I remember correctly, it was part --
20 it was Emil, I believe Thorry was part of it, and they had
21 sent an e-mail to Roberto Aguilar.

22 MR. HOVATTER: This is on the drug -- when they
23 were pursuing that drug stuff?

24 THE WITNESS: Right. Right. They were checking
25 dosages. And Roberto Aguilar actually had mailed it to

1 Chasa, copied myself and Aaron Fernandez, and essentially,
2 the e-mail from Roberto to Chasa was, hey, I just want to
3 give you a heads up of what your people are doing. Okay.

4 MR. MCMULLEN: Did you see that?

5 THE WITNESS: Yes, I saw the e-mail.

6 MR. MCMULLEN: Is this before the capture?

7 THE WITNESS: This was before the capture. It was
8 like February 3rd. It was all -- and, see, that's where, to
9 me, after the fact, after getting all this public
10 relation -- or public information stuff, it clicked to me
11 that, hey, wait a second, this e-mail came in on the 3rd.
12 This e-mail came in on the 3rd, but different times during
13 the day, but essentially, on the 3rd, a whole crapload of
14 information came in. But in my mind when I had gotten that
15 e-mail is I thought, oh, Roberto is telling Chasa. It's
16 Chasa's people. She will look into it, you know, and then I
17 was off to the Phoenix Zoo, and then I went to --

18 Q. BY MR. HOVATTER: You had the Jaguar Conservation
19 Team stuff coming up then, too?

20 A. But, see, I wasn't part of that. That is Terry's
21 thing because I was only filling in. Again, I was only
22 filling in on the Lucero thing because Paco couldn't do it.
23 Terry couldn't do it. Nobody knew the history of the Jaguar
24 Conservation Team, and so Linda asked me, hey, could I go
25 down there to, you know --

1 MR. MCMULLEN: Fill in.

2 THE WITNESS: -- fill in. Because after that, I
3 went to Texas for the Lesser Prairie Chicken Meeting, and I
4 was doing the WAFWA stuff. And so, to me, I saw the e-mail.
5 It was to Chasa. It was about her people and her project
6 and that Chasa would look into it. And it wasn't -- and so
7 for me it was like, okay, file it later, delete it, you
8 know, it is taken care of.

9 Q. BY MR. HOVATTER: Well, it is just information?

10 A. Right. I was copied in it, as was Aaron
11 Fernandez, who is the Fish and Wildlife Service lead for
12 jaguars. Okay. And so Roberto was just, hey, I wanted to
13 let you know what your people are doing. So, now, in
14 hindsight looking at all this information, and because in
15 part, Emil was the one sending it, I truly believe he was in
16 a situation to where he was manipulating things. He has in
17 the past been very disgruntled that we have not pursued
18 capturing the jaguar.

19 Q. And done a deliberate tag?

20 A. But he also recognized -- okay. You asked me a
21 question did we have the legal authority in our permits? We
22 do have the legal authority, but there was the unwritten
23 agreement that the two Directors would talk before an actual
24 capture would occur. And that had not occurred, and
25 everybody, and you could look at subsequent e-mails,

1 including ones from Emil, recognized before we could go out
2 and capture a jaguar a discussion between the Directors had
3 to occur.

4 Q. That's the way the protocol -- the actual protocol
5 is written.

6 A. And so everybody knew that including him.

7 MR. FABRITZ: At that point, they would kick in
8 whatever protocol was so that had to happen first?

9 THE WITNESS: Right, and that was for a direct
10 capture. It was always assumed that there was always a
11 possibility for an incidental capture of a jaguar. We had a
12 radio collar that we purchased back in 2000, I think it was,
13 as a result of an actual capture attempt in 1997. It was
14 housed down at the region. The problem with that collar,
15 the batteries, the life span of the collar was not, you
16 know, it was out of date.

17 Q. BY MR. HOVATTER: Is that a GPS?

18 A. Yes. Yes.

19 Q. Do you remember which company?

20 A. Argos.

21 Q. Argos, okay.

22 A. The collar was built by Telonics with Argos' stuff
23 on it. We needed to get it refurbished, but, you know, as
24 far as budgets and stuff, you know, we were aware of this
25 collar that was donated to the Northern Jaguar -- or not the

1 Northern Jaguar, the Jaguar Borderlands Detection Project.
2 So there wasn't -- there wasn't a -- we had a backup, I
3 guess is the way it was, you know, okay, because it was
4 going to cost about two grand to refurbish the collar we had
5 in place. But we got this backup here, so, you know, there
6 is not a strong need to get it refurbished right away
7 because we have a backup ready to go, and we also were aware
8 of lion work that was going on.

9 Q. What was the backup?

10 A. The one collar that was donated to the Borderlands
11 Detection Project that was placed on some jaguar.

12 Q. So that is the one that was donated by North Star?

13 A. Right.

14 Q. So the one that we had 2000 in, because this gets
15 kind of interesting, the one we had in 2000, that was one we
16 bought?

17 A. Yes.

18 Q. And who actually kept that? Was it in the Tempe
19 Center?

20 A. It was in the regional office. Either Tim or Bob
21 Fink, I am not sure.

22 Q. But what you know is that it was meant -- and we
23 had that collar available at the time, but it had to be
24 refurbished --

25 A. Right.

1 Q. -- at the time of the actual capture?

2 MR. MCMULLEN: Do you know the timing that the
3 collar was donated, the new one?

4 THE WITNESS: It was right after the Wildlife
5 Society Meeting, which was hosted in Tucson, so September of
6 '07.

7 MR. MCMULLEN: The new one came?

8 THE WITNESS: The North Star collar.

9 Q. BY MR. HOVATTER: The donated North Star collar?

10 A. He presented it at the Wildlife Society Meeting,
11 the national meeting.

12 MR. MCMULLEN: Who is he?

13 THE WITNESS: Emil McCain. The North Star guy saw
14 it, and he said, hey, I want to donate a collar. From my
15 understanding, it was sent to him and --

16 Q. BY MR. HOVATTER: That was Hinkey, probably the
17 guy from North Star?

18 A. Yeah.

19 Q. Let me just -- just a real side before I forget to
20 do this. One name that doesn't really pop in this with any,
21 you know, much association with this, although he clearly
22 was the founder of that Border Jaguar or Jaguar Borderlands
23 Detection Project, is Jack Childs. What is your sense of
24 Jack in all of this?

25 A. Jack I think is -- Jack started with the Jaguar

1 Conservation Team in '97. He was one of their original --
2 well, he wasn't a founder. He was an original member of the
3 Depredation Committee. He was sent to South America to
4 collect information on jaguar and jaguar depredations to
5 help him with the investigations of possible depredations.
6 And I think for him, he's a retired surveyor, so this kind
7 of turned into a retirement hobby sort of thing for him.

8 He has been, in my opinion, very cooperative, very
9 supportive of the Department's position all along. I think
10 that he in the end, because he is older, he has
11 grandchildren, he goes fishing a lot, you know, he relied
12 upon Emil a lot to do the field work. I think he's the
13 figure head of the Detection Project, because there's a lot
14 of trust associated with him because he has been around for
15 a while with the entire effort.

16 There's a lot of trust, and Emil was actually
17 doing a lot of the field work. And so I do not think as far
18 as making a decision to capture Macho B he was probably part
19 of it, because I don't see -- I don't see Jack trying to
20 make a name for himself. I mean, this was a hobby for him
21 in a way, what I describe as a hobby. Whereas, Emil was
22 trying to make a name for himself. And Emil has a lot more
23 to gain for capturing a jaguar than what Jack did, you know.

24 Q. Yeah.

25 A. And interactions with Emil over the last few

1 years, too, though, demonstrates to me that he also -- Emil
2 has an ego. And I remember when the first picture of a
3 jaguar was taken and Emil was helping Jack at that time --
4 actually, it was the second one, Emil wanted all this credit
5 and everything. And I went back and forth with him, and
6 eventually, he got his college professor involved, which is
7 a Craighead, and, you know, there was an agreed upon
8 mutual --

9 Q. Was Craighead his professor, one of the
10 Craigheads?

11 A. Yes, or Craighead related. Okay. And, then, even
12 after the collar -- even after the jaguar, if you look at
13 Emil's tones in his e-mails, he's like, now, I am going to
14 start investigation on food habits, blah, blah, blah, blah.
15 And, I mean, it is like I, I, I, I, you know, so even his
16 tones in the e-mails is indicative to me of someone who is
17 trying to make a name, ego-centered person.

18 Actually, after getting that e-mail, I called
19 Terry because I was ticked because of this same sort of
20 pattern is what I observed with the whole photo thing. I
21 said, we are going to have to nip this in the bud. And
22 that's why I think if you see the whole e-mail chain and
23 review it, you know, Terry is talking about, well, we need
24 to get together and talk when Emil gets back from Spain,
25 because, you know, the way Emil was portraying it, it was my

1 collar. I am going to do what I want with it and not the
2 collaborative process that we had in the beginning.

3 So in a roundabout way, I think Jack was a
4 figurehead in the whole thing. I don't think he was
5 directly involved with it.

6 Q. Yeah.

7 MR. FABRITZ: Does Emil have a really charismatic
8 personality?

9 THE WITNESS: No.

10 MR. FABRITZ: He doesn't?

11 THE WITNESS: No. First of all --

12 MR. FABRITZ: Does he bully his way around? You
13 are talking about him manipulating. How does he do it?

14 THE WITNESS: I think Emil is very personable.

15 MR. FABRITZ: That's a better way to put it.

16 THE WITNESS: I wouldn't say he's charismatic, but
17 he is very personable, very good one on one.

18 MR. FABRITZ: Is he brash?

19 THE WITNESS: No, no. He is not brash. He's not,
20 you know, so, you know, he's very pleasant to talk to, I
21 mean, and he is very knowledgeable. I mean, the fact of the
22 matter is, he is a good naturalist. He is a good tracker.
23 He knows cats. And so if you are into that stuff, very
24 personable sort of guy, you know.

25 Q. BY MR. HOVATTER: You know, because that gets --

1 you are right about kind of the tone of his e-mail, you
2 know, you read that thing, and you can see, damn, this guy
3 sounds like he is in charge, but I think that is part of the
4 reason why Arizona Daily Star got so -- got into the mode of
5 thinking that Emil McCain was a Game and Fish guy, because
6 you read some of that, and I can see how you could draw that
7 kind of inference from the tone of this stuff.

8 A. Uh-huh.

9 Q. Would you -- now, would you -- you are -- you were
10 also over there early on in the beginning of the Jaguar
11 Conservation Team?

12 A. Yes.

13 Q. Let me wait on that. I know you saw Thorry's --
14 Thorry's input on those e-mails and Roberto Aguilar's
15 e-mail. Did you know that there, in fact, was a trapping
16 effort in that area going on at that time?

17 A. No. No. I was, you know, I was cursorily aware
18 of a bear and jaguar or Bear and Lion Conductivity Project,
19 okay, because of the hair snaring, and just even though I
20 was doing the -- I still am doing the WAFWA deal, what was
21 agreed upon was I would still -- I wouldn't be removed from
22 the e-mail chains because when I came back from this
23 assignment, I would still need to be kept up on what was
24 going on.

25 Q. Yeah. Yeah.

1 A. There was an e-mail chain late in '08, I think it
2 was, if I remember correctly between Todd Atwood and Terry
3 Johnson and stuff because that's what goes back to the
4 Borderlands Fence Project and possible money available. And
5 the Service had a meeting in regards to perhaps, you know,
6 using bear and lions as surrogates for jaguars, and they
7 called a meeting and we weren't aware of it. And there was
8 an e-mail exchange.

9 So, I mean, I was aware of the project going on.
10 I was aware that things were going on in the Huachucas, but
11 I was not aware, cognizantly aware, that when they were
12 talking about tracking and so forth, they were doing it
13 there in the Pajarita, in the specific area where the jaguar
14 had been.

15 And that's where, to me, again, why I think the
16 thing was manipulated. Emil McCain, I learned afterwards, I
17 didn't know Emil had been contracted to help with the bear
18 and lion project until after the fact, okay, and which had
19 occurred that fall, his involvement at least.

20 MR. FABRITZ: Do you know how that happened?

21 MR. HOVATTER: Well, I think that --

22 MR. FABRITZ: Because it was the other guys's
23 contract.

24 THE WITNESS: What do you mean?

25 Q. BY MR. HOVATTER: Well, there was a Craig --

1 MR. MCMULLEN: Clark Richards.

2 MR. HOVATTER: Clark Guide Service was the overall
3 contractor, and then he was subcontracted under them.

4 MR. FABRITZ: You are not aware of how he wiggled
5 into that.

6 THE WITNESS: No, I have no -- I was unaware that
7 he was even involved until after the fact, which to me,
8 okay, he's trapping down in the area where he has been doing
9 all the camera work. And, then, you know, come January, an
10 animal shows up again. He is aware of that. And he helps
11 show where all the snares were going to be set. I mean, and
12 he knows the movement pattern. One end of the telephone
13 conversations that, you know, he is going to show up in any
14 of the things was it had to do when Macho B wasn't moving as
15 much --

16 Q. BY MR. HOVATTER: Yeah.

17 A. -- and I wanted to go in and see it, and Emil's
18 comment to me on the phone was, look, you know, that was one
19 of his hunting holes back in 2006. He hung out in this
20 area, and he was describing it to me on the map. So if we
21 go in there, you know, we will be pushing him out of an area
22 that he already knows and is very comfortable with. Well,
23 that tells me that he was very familiar with the movement
24 patterns and how that animal moved within that range.

25 MR. MCMULLEN: That was -- the jaguar, if I

1 remember after he was caught, I am just asking, because I am
2 just trying to get it clear in my head, after he was caught,
3 I think he moved three kilometers, and we thought, cool,
4 then he holed up.

5 THE WITNESS: Uh-huh.

6 MR. MCMULLEN: That is where he eventually was
7 recaptured.

8 THE WITNESS: In that canyon complex?

9 MR. MCMULLEN: North side of Manzanita Mountain.

10 THE WITNESS: Well, he was actually further south
11 originally.

12 MR. MCULLEN: Can you show us on the map?

13 MR. HOVATTER: You are the first guy, quite
14 honestly, Bill that we have talked to. We are kind of
15 starting with the bigger end of it going down, that I know
16 knows physically on the ground some of this stuff.

17 THE WITNESS: Yeah. I was looking for -- okay.
18 Here's the ranch. Because he was kind of here. He was
19 hanging out over in here.

20 MR. MCULLEN: He was originally caught here?

21 THE WITNESS: No, he was actually caught closer to
22 the ranch.

23 MR. MCMULLEN: Oh, he was?

24 THE WITNESS: Yes. Someplace down in here. Then
25 he moved over to here, and this is the area that he was

1 hanging out in this complex right here, and he was over on
2 this side, and, then, eventually went up to here and that
3 day when I went in, and so February 28th and March 1st was
4 up in this area, and then he was pushed up over to here, and
5 that's where he was captured.

6 MR. HOVATTER: Yeah. Yeah.

7 MR. MCMULLEN: So I want to know about the Big
8 Whitetail sheds you found in the area. I am just kidding
9 you.

10 THE WITNESS: Actually, we were so focused on
11 this. To me, you know, those sort of comments, he knew the
12 movement pattern of that animal, he knew the likelihood, I
13 guess, you know, and everybody was aware of it, because we
14 had said it for years and years and years, that if a jaguar
15 was incidentally captured, we are covered, because we are
16 allowed it in our permit, I mean, as long as we are not
17 trying to go out and capture an animal.

18 MR. HOVATTER: Yeah.

19 THE WITNESS: And that is repeated even with
20 research, one of the e-mails that I pointed --

21 MR. MCMULLEN: Just real quick, I want to go back
22 to something, one of the first questions, I just want to get
23 an idea of what in your mind you thought, because the very
24 first question, one of them that we had for you and the
25 other people who we are talking to this week --

1 THE WITNESS: Okay.

2 MR. MCULLEN: -- do you think the permit that we
3 had covered intentional and deliberate attempts to capture
4 the jaguar? And maybe you misunderstood it or something,
5 and originally, you had answered yes. Now, what I am
6 hearing you say, and this may be more reflective of your
7 understanding, is we had it if it was unintentional, but we
8 were not covered if it was an intentional?

9 THE WITNESS: No, we are covered. We are covered
10 in both cases.

11 MR. MCMULLEN: Okay.

12 THE WITNESS: That's our permit.

13 MR. MCMULLEN: That is what I thought, yeah.

14 THE WITNESS: But we did not, because the
15 discussion hadn't occurred between the two Directors --

16 MR. MCMULLEN: That is what I thought.

17 THE WITNESS: -- direct capture was off the table.

18 MR. MCMULLEN: Got you.

19 THE WITNESS: Until that happened, we didn't have
20 the authority to go out and capture one. Technically, we
21 did, but we weren't going to do it.

22 MR. MCMULLEN: That is what I thought you were
23 talking about.

24 MR. HOVATTER: It always seemed that -- we always
25 believed, because I am the one that had to engage Fish and

1 Wildlife Service in those teleconferences on the issue was
2 that while we technically had a permit coverage for an
3 intentional take, the separate, the Jaguar Conservation Team
4 entity, had made and developed the protocol jointly with New
5 Mexico that certainly Fish and Wildlife Service was privy
6 to, that we would not do a deliberate take without going
7 through that process, which wasn't a requirement of the 10-A
8 permit, it was just a requirement internally to the
9 organization.

10 MR. MCULLEN: It makes sense. That is why he said
11 that. It makes sense. Thanks for clarifying that.

12 THE WITNESS: Yeah. And, so it goes back, you
13 know, to the capture of February 18th. Okay. The other
14 piece of the puzzle that I am not sure how this all fits in,
15 was the last week of January, last couple of weeks in
16 January, three people came up to me from Research and Game
17 Branch, and asked, hey, what are the -- what are -- how are
18 we covered for jaguar capture, you know, and those three
19 people were Ray Schweinsburg, Dean Treadwell, and Ron
20 Thompson. Okay.

21 And to me, I found it amusing in a way, because
22 within a short period of time, here is three people asking
23 the same question but in different ways. Dean Treadwell, I
24 am pretty sure was the one who asked me, you know, where is
25 the EA checklist for capturing a jaguar?

1 I was like, we don't have an EA checklist because
2 we are not intentionally going out to catch jaguar. We are
3 covered for incidental capture, but until which time we
4 decide to do it, we don't have an EA checklist. The
5 Conservation Team doesn't have an EA checklist because it is
6 not a project.

7 And, then, Ray -- but see, that is just it, with
8 Ray, you know, he's been asking me for the last five years,
9 hey, when we are going to out and catch a jaguar, you know?
10 His question was, hey, has the discussions occurred yet with
11 the Director, the new Director, on whether or not we are
12 going to be able to go out and catch that jaguar?

13 MR. MCMULLEN: Who was that?

14 THE WITNESS: Ray Schweinsburg. And do we still
15 have, you know the cover of the permit? And, then, a couple
16 of days later, you know, a few days later, end of January,
17 beginning of February time frame, Ron Thompson stops into
18 the office. He is like, hey, are we covered for, you know,
19 catching a jaguar? And I am like, well, yeah, we still have
20 the incidental capture stuff. He goes, because you know
21 they are trapping down in the area? I was like, well, I
22 mean, we are covered. And, then, I started to leave and
23 stuff, and I said, hey, I will send you a copy of the
24 permit, you know.

25 Q. By MR. HOVATTER: I saw your e-mail where you sent

1 it.

2 A. Right, it was like, I don't remember, it was the
3 end of January sometime, maybe beginning of February.

4 Q. Yeah, it was right in that time period.

5 A. I was saying this because I was leaving because I
6 was going someplace and he was following me out. He goes,
7 now, you know they are going to be trapping this weekend,
8 and there is a chance that they can catch an animal. I
9 said, well, as long as we have someone who knows how to
10 handle cats, we should be covered.

11 And that is when I heard Thorry Smith's name for
12 the first time. I mean, I was unaware of Thorry Smith until
13 he made that. He goes, well, Thorry is a good guy. He has
14 had a lot of handling experience. I was like, great, you
15 know, and then I left.

16 Q. Now, when they said in that area, did they get
17 any more specific than that?

18 A. No, no. A mountain range was not named. You
19 know, to me the project was Southern Arizona. I mean, like
20 I said, I knew enough about the conductivity study that I
21 knew it was in Southern Arizona, but jaguars have
22 occurred --

23 MR. MCMULLEN: In Southern Arizona.

24 THE WITNESS: Yeah, from New Mexico border all the
25 over to the Boboquivaris. So in my mind, it didn't throw up

1 any red flags that they are talking specifically, you know,
2 it was like, you know --

3 Q. BY MR. HOVATTER: What was Ray's -- how did Ray
4 get into this because he didn't pop up very much in the
5 traffic on this?

6 A. Again, I just -- I think to some extent, you know,
7 he has always been interested in the jaguar thing, and, you
8 know, he is a researcher, I mean.

9 Q. Yeah.

10 A. And so, I mean, to me -- so anyhow, the whole
11 amusing thing why I finally did send the work plan to Ron
12 was it is like these guys are talking, you know, who else is
13 going to be coming to ask me the same question? Here, Ron,
14 here is the permit. If you have any questions, and that's
15 when I had first gotten my cell phone, I said, give me a
16 call. He never called, never thought of it again, didn't
17 even think of jaguars again until February 19th when I got
18 handed a note from Bob Miles saying, you are needed in the
19 Cardinal Room now, because I was on the phone talking to
20 somebody. I don't know who I was talking to.

21 So I hung up with them, was walking out. Chasa
22 was walking out at the same time, and that is when I heard
23 we caught a jaguar. They wanted to know what the protocol
24 was.

25 Q. I think I know the answer to this, but of all the

1 people involved in this thing that we know about now, who
2 was the most knowledgeable about Macho B and his feeding
3 areas?

4 A. Oh, yeah, Emil. Emil.

5 Q. Going back on the jaguar, the question I was going
6 to ask or get to was the Jaguar Conservation Team, and this
7 is probably more to educate me than anything else, but you
8 and Terry were both pretty early involved in that -- in
9 that -- the founding of that thing getting started. My
10 memory from when I was having to do some of the stuff
11 getting ready for the media, and I was going and looking at
12 the deliberate-take protocol statute, you know, it has a lot
13 of details, pretty darn laid out as far as all the
14 expectations, and the thing is, it would be hard for anybody
15 to accidentally misunderstand that whole thing.

16 But when did the actual Jaguar Conservation Team
17 actually get started? It seemed like in '96, there was that
18 effort, put some dogs on what they thought might be a
19 jaguar, turned out to be a lion, and then it was -- that
20 kind of seemed to be the genesis of a lot of the discussion
21 and conversation about how we would do a deliberate take, if
22 we were ever going to do a deliberate.

23 A. The Jaguar Conservation Team was convened in March
24 of '97. We held our first meeting in April of '97. The
25 first capture attempt on the jaguar was in October of '97.

1 Q. Okay.

2 A. And it was after that experience of those who were
3 involved, there was the recognition that maybe we weren't as
4 prepared as we thought we were, because, you know, we got
5 the notification, had to scramble, and we had to make sure
6 we had authorization, and that was, again, a phone call to
7 the, you know, Regional Director at the time.

8 Q. Did you confirm any at that time?

9 A. Yes, we still had the work plan and stuff in
10 place. And, you know, we went out. I had to drag up a vet
11 from the Phoenix Zoo. We had to get a capture pack
12 together. And, you know, we went out and didn't catch it,
13 but after that, that was where the recognition was, hey, we
14 need like a phone tree, you know, we need to have a capture
15 team pre-identified, you know. And so that was actually the
16 genesis of the start of the development of a capture
17 protocol for jaguars was after that.

18 Q. What was the genesis, the original reason why in
19 March of '97 is when we decided to start that effort? Was
20 there some proximate cause, some event or activity, that
21 caused us to do that then?

22 A. Yeah. Yeah. There was a filing for the listing
23 of the jaguar. We were trying to include the need to list a
24 jaguar. We thought with the establishment of the
25 Conservation Team and Conservation Agreement, we would be

1 able to include that need. And so we started it, because if
2 you look at the history of Conservation Agreements, they
3 have been in the court not accepted if they hadn't been
4 implemented because the conservation actions hadn't had time
5 to demonstrate conservation for that endangered species.

6 So they were, you know, we were losing court
7 cases, because, you know, hey, we have got the Conservation
8 Agreement in place, and then the judge would come back and
9 say, yeah, you may have it in place on paper, but you
10 haven't done anything.

11 Q. You haven't implemented it?

12 A. So what we were trying to do was we knew the
13 listing, determination was coming out later in the year,
14 which actually came out in August, and we were trying to
15 demonstrate that, you know, we had it, implemented it, and
16 we were going through conservation actions.

17 The problem was with at least the jaguar and
18 actually some other species, but nothing has been done with
19 that, is back in 1980, '79, you know, there was a filing
20 that, hey, you know, you didn't list this list of species
21 which actually do occur in the United States, jaguar,
22 ocelot, thick-billed parrots, and then some other species
23 that don't occur. And the surveyor's determination was,
24 yeah, you are right, and we will correct that in the most
25 expeditious fashion as we can, and nothing was done.

1 Q. Almost 20 years later --

2 A. Right. And so that was the reason why despite
3 even having the Conservation Agreement in place, they
4 already acknowledged back in 1980 that the thing should have
5 been listed, so -- but that's the reason why.

6 Q. So, and part of this what I am trying to get to on
7 this, too, is that how long -- because you still, you are
8 still aware, I think you are still in the loop on the Jaguar
9 Conservation Team, but it is kind of Terry's lane primarily
10 these days is my sense anyway?

11 A. It always has been. I mean, he has been the chair
12 from the very beginning. I have been chairs of different --
13 we have different subcommittees and stuff.

14 Q. A different set of crews?

15 A. So I was chair of the habitat committee and stuff,
16 so --

17 Q. Now, when -- so we had the two, the two co-leads
18 in this thing, it was the Mexico and Arizona State Wildlife
19 Agencies?

20 A. Yes.

21 Q. We had all the collaborators --

22 A. Yes.

23 Q. -- you know, and once you became a collaborator,
24 you had voting status on the Jaguar Conservation Team?

25 A. Yes.

1 Q. Fish and Wildlife Service was a collaborator?

2 A. Yeah.

3 Q. And my sense is that the Borderlands Jaguar
4 Detection Project got into this through Jack Childs?

5 A. Yes and no.

6 Q. Jack Childs had been there -- explain to me how
7 that came -- the Borderlands Jaguar Detection Project
8 doesn't exist at this time that the Conservation Team got
9 started?

10 A. It does, but not -- see, what happened was is we
11 have what is called the Depredation Committee, which was
12 originally chaired by Warner Blaine, and then it was
13 transferred to Jack. The purpose of that Depredation
14 Committee, there is two, one to investigate possible
15 depredations of jaguars, and then two, monitoring for the
16 presence of jaguars so then we can notify our partners, hey,
17 there is a jaguar in the area. You may want to change your
18 herding methods or whatever, you know.

19 And so that committee has always ran cameras, you
20 know. Well, subsequent to that, you know, we funded it
21 wholly and everything, but once we started getting a picture
22 of jaguar, there was entities who wanted to donate money and
23 help out with the monitoring and stuff. And so Jack, you
24 know, by then, Emil got involved in it. So they decided,
25 then, to create this 501(c)(3), so they could get these

1 monies donated to them so they can get more cameras and so
2 forth.

3 MR. FABRITZ: That is an actual --

4 THE WITNESS: So the Borderlands, so the Jaguar
5 Detection Project is actually the offshoot of the work that
6 the Depredation Committee was doing for us.

7 Q. MR. HOVATTER: So did Jack get lead? So, now,
8 Emil doesn't join that until later on?

9 A. 2001 or so.

10 Q. But Jack, then, because he was already in that
11 depredation group, did he just raise his hand and say I will
12 do the 501(c)(3), because there is some work that goes into
13 putting one of those together?

14 A. You know, I don't remember. I mean, it was
15 discussed at the meetings and stuff. It was like, yeah,
16 hey, that is a great idea, you know, but, you know, it
17 wasn't, you know, part of the reason is if they wanted to do
18 the paperwork and establish it, you know, go do it, because
19 then we don't have to do it then.

20 So, I mean, to me, it is, again, just one new
21 avenue. Our collaborators were trying to help out with this
22 overall effort, you know, and they were taking initiatives
23 themselves, you know, and, you know, trying to find
24 financial support for the project because basically the only
25 people who were putting money into it was us.

1 Fish and wildlife Service gave us a thousand bucks one time.
2 Forest Service, you know, but essentially, it was being
3 bankrolled handled by us.

4 Q. So if the money went into the 501(c)(3), they just
5 went out and purchased as they cared to. They didn't go
6 through either ours or Mexico's purchasing process? They
7 didn't have to anyway.

8 A. Exactly.

9 Q. Yeah. Gosh, I wouldn't opt into our process if I
10 didn't have to?

11 A. Yeah.

12 Q. Because part of what I have wondered on this
13 thing, you know, in one sense, the Jaguar Conservation Team
14 doesn't exist without New Mexico and Arizona Game and Fish.
15 And so when you look at how the money flows in this thing,
16 what does it mean to say, the Jaguar Conservation Team funds
17 something. Because it is really, by and large, it is either
18 the State funding, one of those states funding it, or
19 somebody on their own initiative is going out and getting
20 grant money and things?

21 A. Right.

22 Q. Does the Jaguar Conservation Team have any
23 expectation or is there anything that requires somebody
24 before they are collaborator to go through the Jaguar
25 Conservation Team for approval before they would pursue

1 money?

2 A. No.

3 Q. I mean, I hadn't seen anything like that, but
4 that's --

5 A. Yeah. Yeah. But, you know, at the same time,
6 though, Gary, it is not like it is not discussed. I
7 shouldn't say we bankrolled the whole thing. I think it was
8 two years ago BLM had some year-end money that, you know, it
9 was about 12 grand, and they threw in that camera
10 monitoring, you know. And so, you know, I shouldn't say we.
11 It has been active, you know, easily 80 percent funded by
12 the Department, but, you know, we have gotten monies, you
13 know, and the Jaguar Detection Project I know got donations,
14 you know.

15 Q. Well, I mean, you could see that through all the
16 e-mails you have seen going through this stuff, too, the
17 stuff that you have seen on it is -- there is a lot of
18 coddling together of a few thousand here, a few thousand
19 there in putting this all together.

20 So the Borderlands Jaguar Detection Project, this
21 501(c)(3), and the original purpose was to detect for the
22 purpose not of what clearly would inform the Jaguar
23 Conservation Team to do, so that they have would information
24 that might cause other things to happen.

25 A. Right.

1 Q. The primary purpose was so that we could inform
2 the very stakeholders in that area so that they could take
3 any action that might be, you know, if they were a livestock
4 raiser, they can decide to pen up their sheep or they could
5 do something like that?

6 A. Right.

7 Q. In your sense, is that still the purpose -- is
8 that still how the Borderlands Jaguars Detection Project
9 sees itself?

10 A. You know, in talking, or my sense with Jack, I
11 think so. But, see, there's another subcommittee which is a
12 research subcommittee which Emil is part of it, and there's
13 a lot of blending because of that, that I, you know, because
14 of Emil's tight association now with the detection project,
15 I think he has the impression, or, you know, we have had the
16 discussions back and forth that, you know, research needs to
17 occur. And in his mind, I think he always had it that he
18 would be part of that because he's part of the Research
19 Committee.

20 Q. I think, I mean, within the way that the team is
21 structured, is there anything that would require to be
22 either/or as opposed to both?

23 A. No.

24 Q. I mean, it wouldn't make a lot of sense, because,
25 I mean, you are not tied to money. That money came in

1 through here, so we can only -- only this guy could spend it
2 the way we would?

3 A. Yeah. I mean, we don't have to even use those
4 guys, but the thing is, is structurally, I mean, because of
5 how it is -- you got to remember, we have been in place now
6 since -- we started doing camera work in '97. Blaine ran
7 the three cameras that we had, you know, up until it was
8 transferred over to Jack, and then Jack was able to -- once
9 he got the picture of the jaguar was able to get, I think
10 there's now 50 cameras and stuff. So, structurally, and
11 they are in place, they got the equipment in place, you
12 know, sole source, you know, because they have everything in
13 place and they can deliver.

14 Q. They have got the expertise?

15 A. They deliver. I mean, every time they got a
16 picture or location, they called it in, you know. And so as
17 far as up until --

18 MR. MCMULLEN: That we know of.

19 THE WITNESS: I believe they have, though. I
20 really do believe, and that's what makes this whole thing in
21 January of this year so curious and so weird to me and why I
22 do believe there has been manipulation. In the past,
23 because, I mean, you can see where all the locations are. I
24 mean, we have the data where all the things were. And I bet
25 you if you would trace back notification of all those

1 locations, you would find a notification from the Jaguar
2 Detection Project. And they disclosed, I guess you could
3 say, all the information up front, and it was this time
4 where it was, oh, and by the way, here is some more
5 information after the initial notification.

6 And so to me, this is different, and that's why I
7 really believe that there -- there was at some point a
8 conscious decision, you know what, we could catch this and
9 we could make it look like it was incidental, you know, and
10 that is why -- but the thing for me is I don't know who all
11 the players are. I do think that the Department was played.

12 I think there were people in this Department
13 played. I am not sure who is doing the playing. I mean,
14 there could be some Department people who are playing along.

15 Q. BY MR. HOVATTER: Looking at that a little bit
16 more, too, tactically, by believing that information, how in
17 your mind does that set up to help Emil build an opportunity
18 to catch this jaguar as opposed to -- if we were to posit
19 that Emil had all the information at one time, but only
20 packets it out over a period of time, how does that in your
21 mind help him shape the situation to his benefit for
22 capturing the jaguar?

23 A. Well, I think it helps portray him as being
24 innocent in portraying the incidental capture, because by
25 giving us the information February 9th, it looks like you

1 have the e-mail there, he's in Spain. So how could he be
2 conceivably involved with catching a jaguar if he's in
3 Spain? He's not even in the country. So to me, that is how
4 it, you know, like I said, I didn't realize until I started
5 getting all this information together that there was a whole
6 slew of information that was given on February 3rd. And
7 that was right after the snares had been set or were
8 going -- they were going out to the field to set the snares.

9 Q. Are you familiar enough with that camera project
10 to know how often those cameras should have been being
11 checked?

12 A. Every four to six weeks. That has always been
13 standard protocol.

14 Q. Yeah. Do you know, because there is an
15 interesting chain in there? Eric, it is in October,
16 November, Eric is getting ready to do his -- the Director's
17 Goals and Addendum, his report to the Commission, his
18 non-game.

19 A. Uh-huh.

20 Q. And part of it is he wants to put in a thing about
21 the jaguar?

22 A. Uh-huh.

23 Q. And he has in it -- and so he goes with something
24 from the minutes of the Jaguar Conservation Team, and it is
25 stipulated that the last confirmed location information for

1 a jaguar confirmed was sometime in 2007?

2 A. July or August.

3 Q. Now, the thing that sounded interesting in
4 blending this is that he sends it to Terry to ask Terry,
5 Terry sends it then to Emil, and says, you know, my memory
6 is, is that in 2007? Emil comes back and says, yep, your
7 memory is correct, 2007. Yet, a couple weeks later, Emil
8 comes back, and says, oh, I have got photos of Macho B from
9 July 29th of 2008 and August 4th of 2008.

10 So that is, you know, in October those pictures,
11 theoretically, if you look at this, you know, have been in
12 those cameras since before August. And yet in October,
13 August, September, October -- late October, about three
14 months later, McCain is saying, no, the last confirmation of
15 the jaguar is 2007. So either he hasn't checked those
16 cameras in three months or he had checked, had the info --

17 MR. MCMULLEN: And was deciding when people needed
18 it.

19 MR. FABRITZ: Kind of like that.

20 THE WITNESS: I don't know. I guess, to me,
21 though, I mean, I guess I would look at and see when Emil
22 was doing his lion trapping.

23 Q. BY MR. HOVATTER: He was doing it right at that
24 time.

25 A. Because, see, the thing was, is, you know, the

1 Jaguar Detection Project is kind of like a boom and bust
2 sort of deal. He was hurting for money, I know, during that
3 time. That is part of the reason why, I am assuming, he got
4 hired on, or he was looking for other work, because he
5 wasn't making any money with the Jaguar Detection Project,
6 although there was money that was supposed to be coming and
7 stuff and he was aware of that. So, you know, you are
8 supposed to run four to six weeks, eight weeks. I mean, to
9 me, that time lapse, again, isn't a red flag.

10 Q. So that fits in your mind?

11 A. No, that doesn't -- to me, what triggers me is the
12 last one in January, hey, happy to report, he's back in the
13 country blah, blah, blah. Here is the picture. Okay. And
14 then six days later when he would have had to have run the
15 cameras at the same time when he got that photograph, he
16 bleeds out, hey, oh, and by the way, here is some more
17 information that is relative, but, you know, even if you
18 read the e-mail, he kind of dismisses it in a way, the way I
19 kind of concluded from it.

20 And so to me, that is not what had been typically
21 been done process wise in the past where we get all the
22 information from the camera checks, you know, and if a
23 jaguar was present, there it is. If not, hey, you know, we
24 didn't get anything. And so to me that's why I am like,
25 this is different.

1 Q. Once we got report on a jaguar like that --

2 A. Uh-huh.

3 Q. -- how was the notification process, because there
4 is a description in the Jaguar Conservation Team Guidelines
5 and all about there needs to be a notification process? It
6 kind of outlines the types of folks and stakeholders. Was
7 someone -- do you know if someone was designated with that
8 being their responsibility to disseminate?

9 A. Historically, it was me. And, then, when I took
10 the WAFWA project, then it was to the region.

11 Q. How does -- so describe for me, then, how that --
12 how that worked while you were the point, and then how that
13 might -- or when you became the WAFWA guy, how did that
14 migrate?

15 A. Well, historically, if I would have got a call,
16 you know, we would have gotten the location, you know, lat,
17 long, map it, try to find out, you know, find out where it
18 was, Forest Service land or whatever. Then we would call
19 our Forest Service contact, who at the time was Tom Skinner,
20 but he has retired since, and, you know, I guess we would
21 have to check with Tim to see who his point of contact is
22 now with the Forest Service.

23 Then we would ask the Forest Service, do you want
24 to contact grazing lessee or do you want us to do it?
25 Sometimes they would do it, say they would take care of it,

1 and sometimes we would. I would call Tim, and then Tim
2 would check to see if we knew who the grazing lessee would
3 be, you know, if it was on BLM or Forest Service.
4 Typically, I would always make a courtesy call to Wildlife
5 Services because of their depredation activities, you know,
6 they could get a call in regards to, hey, we have got
7 something killing our calves out here. Can you help us out?

8 Q. So connecting the dots?

9 A. So I would notify them typically. That was, you
10 know, depending on the jurisdiction of who owned the land.
11 If it was a private land owner, we would work the regions to
12 try to identify that, and let them know, you know, through
13 WLS and that notify the land owner. But that typically was
14 what was done.

15 And then when I was approved to take over the
16 WAFWA position, Terry sent out an e-mail to let everybody
17 know, and said that he was going to be working with the
18 region and stuff, and I know there was -- when we did get
19 the January sighting, I was included in it, and I sent an
20 e-mail to Tim just to verify that, you know, hey, to make
21 sure protocol is followed for notification.

22 Q. Yeah, I saw your note on that.

23 A. So, I mean, that's to me, it was officially handed
24 off at that point in time.

25 Q. Now, because it kind of -- I also, you know,

1 Terry, I have seen an e-mail where he had done a similar
2 thing to him about that, you know, since you were that
3 guy --

4 MR. FABRITZ: I just wanted to take advantage of
5 educating myself.

6 Q. BY MR. HOVATTER: Let me ask you this now. The
7 other part of this thing, you know, anticipating, it is
8 clear from the guidelines, anticipating that all sightings,
9 however bogus they might be, would be fed into the Jaguar
10 Conservation Team?

11 A. Uh-huh.

12 Q. Of course, to some extent that would seem to
13 presuppose that everybody who thought they saw a jaguar knew
14 that there was such a thing as the Jaguar Conservation Team?

15 A. Right.

16 Q. How did we try to get at trying to establish some
17 sort of net broad enough so that when a sighting finally got
18 to someone who had the Jaguar Conservation Team awareness,
19 it would then be fed into the Jaguar Conservation Team?

20 A. Geez, Gary, through the Jaguar Conservation Team,
21 we actually had an outreach effort, I can't remember, in the
22 2000s. We have a report and stuff on it. We held
23 presentations in local communities, like Patagonia,
24 Tombstone and stuff. There was like eight different places.
25 We also had a sighting brochure that was printed up,

1 distributed to all of our partners, Forest Service, so they
2 had, supposedly, you know, for the public to pick up, you
3 know, at all their Forest Service, you know, sites and
4 everything.

5 And so the Border Patrol, I mean, they
6 participated in it, and now, the conservation team, and we
7 have gotten sightings and reports from them. And so, you
8 know, in our hunting manual, you know, our hunting
9 notification thing, that has been there since '97 or '98.
10 So there is, you know, a lot of passive ways that we have
11 put out the notification, hey, if you have seen a jaguar,
12 give us a call. In fact, the '97 sighting was from deer
13 hunters because they had seen the information, they called
14 it in, and eventually got to Wendy Blaine and Wendy called
15 it in.

16 Q. Do you have a sense, because I am thinking about
17 it, also, a big part of this, what we are trying to get at,
18 of course, all those things that led up to the actual
19 capture. We are also thinking about the procedural process
20 because we kind of stopped a lot of progress on that when
21 we -- because there is no way we could get into a lot of
22 that without triggering that concern that we had about not
23 wanting to have all these conversations with folks who would
24 be interviewed by the Fish and Wildlife Service, but we are
25 going to need to gin that back up again and start talking a

1 little about process and procedures from the standpoint to
2 improve.

3 A. Absolutely.

4 Q. Is your sense of the outreach effort, is that --
5 is that being sustained or is it adequate in your mind right
6 now?

7 A. Oh, no. I think, you know, and we actually had
8 started the discussions again there at the conservation team
9 about redoing that, I mean, because that had been five or
10 six years, you know, a lot more people had moved into that
11 part of the country, you know. There was going to be a need
12 to do another outreach type of effort to get the
13 notification out there. Plus, we moved -- we moved
14 locations. The phone numbers that are in our sighting
15 brochure are no longer valid, you know. It was when we were
16 down on Greenway. So, I mean, there was a recognition that
17 there was going to have to be something done again, but it
18 hadn't been.

19 Q. Now, let me ask you this, too, because, clearly,
20 you know, there are other activities down in that area,
21 Department activities, that just essentially either
22 generated a jaguar sighting or even potentially might have
23 had some potential for an incidental take?

24 A. Yeah.

25 Q. We were down there working on a lion depredation

1 or something like that. Were you -- were you from your
2 perspective of the Jaguar Conservation Team, and also your
3 position in the Department, were you confident that there
4 was enough cross talk within the Department for you to be
5 aware, for example, and the Jaguar Conservation Team that
6 there is some Region 5 WM effort out there, something like
7 that? What was your sense of that?

8 A. It was weak at best. The thing is that Region 1,
9 the other things we did was there was Wildlife Manager
10 Training on identifying jaguar sightings, and actually, Jack
11 conducted the workshop.

12 Q. Is it still being done?

13 A. I don't know when the last one was done, but I
14 mean, all those guys at one time actually had a little
15 tracking book that they were given in how to record
16 sightings and stuff. And so that was another element. And,
17 I mean, I think WM wise, if a sighting got to WM, then they
18 knew what -- I am confident in that. But as far as, you
19 know, is there enough cross talk, that, I think, I would go
20 back to my amusement in January when I had two different
21 branches coming to ask me, hey, how are we covered with
22 jaguars.

23 Okay. Here, you have the predator guy wanting to
24 know how we are covered. Here, you have the research guys
25 wanting to know how we are covered. I would think that the

1 research guys are talking to the predator guy because they
2 are doing the research for them, you know, and here nobody
3 knows what is going on. So to me, I mean, that, you know,
4 that has been naturally one of my frustrations about
5 research in general is I really don't know all the projects
6 that they are working unless somebody comes and talks to me,
7 you know.

8 I know that there is an interest in Swift Fox, for
9 example, and doing some work on Swift Fox because the one
10 gal came and asked me about Swift Fox. I know there is some
11 interest about badgers because Ray came and talked to me
12 about badgers. Are we actually doing a study on that? I
13 don't know.

14 Q. Let me ask you, because one of the things -- you
15 are hitting on one of the things that I was thinking about
16 is whether or not, we have so much activity, and there is,
17 you know, quite a bit of legitimate reasons to have a lot of
18 meetings on there because there a lot of interesting things
19 going on down there. It almost seems like we almost need,
20 God knows we don't need a bunch of new meetings, but it
21 almost seems like we need an annual sort of Border Projects
22 Conference for us in-house to talk through what everybody is
23 doing on the border or something that at least gives us
24 some -- what we need the WM -- I mean, we already have the
25 conservation team. That would be a large part of pure

1 awareness and having us not have something bad happen by
2 accident, but all the research projects, you know, the other
3 part of this thing, what do you think the solution to having
4 enough awareness of everybody's activities where we didn't
5 have --

6 A. To be honest with you, Gary, I would back up. I
7 wouldn't say a separate thing for the border. I mean, we
8 have all these planning and operations planning things. My
9 understanding how structure wise, the research branch is
10 supposed to be a support function to the subprograms, which
11 is game, non-game. We actually should be directing their
12 work from my opinion, not them going out and getting
13 contracts wherever they can get contracts. To me, they are
14 functioning right now as -- I mean, you are asking my
15 opinion.

16 Q. I kind of figured I might get that.

17 A. They are functioning like a university. Hey, this
18 person wants this work done. Hey, we can get half a million
19 dollars, we are going to go do that. They are not
20 functioning as a support branch or support to the
21 subprograms. Operationally at our cross programs meeting
22 twice a year that are already occurring, if we lined out our
23 desires and everything, I think we would have a better
24 awareness as far as what is being done.

25 Q. Let me ask this. Would it be right to -- would

1 you agree or disagree with the statement to the effect that
2 there is a certain -- a sense that there's a certain part of
3 our research that is being driven not by the Department's
4 needs, but by what people are successfully getting money to
5 do?

6 A. Absolutely. Absolutely. No doubt about it. No
7 doubt about it. And I want to say, there is at one point
8 when Rick Ocavelles before leaving had attempted to try to
9 meet with non-game branch to identify priorities and so
10 forth. And that is in part how we got the -- there was some
11 back and forth that was being planned for the bear project
12 because we were interested in that.

13 So I am assuming now, because Ray had asked me
14 about it, that maybe he has found some old notes or
15 whatever, and it is coming out in follow up on that, but
16 that was the first attempt in my career that research branch
17 ever came and talked, trying to find out what our priorities
18 were.

19 Q. So, you know, it is a meaningful distinction if
20 someone is doing badger research in the research branch
21 because we have a need to do badger research or they are
22 doing badger research because they are interested in
23 badgers, and they happened to find some badger money?

24 A. Correct. To me, it is dependent on what the
25 question is. I mean, for me one of the things that has been

1 talked about now for a few years now at the Western is that
2 there's a concern with the decline of badger populations
3 across the west.

4 Q. Yeah.

5 A. Do we have an idea of what our population is
6 here in Arizona? I don't think so. But the problem is --
7 the problem is --

8 Q. Go ahead.

9 A. -- we don't have a means by which to easily sample
10 for them. So maybe research branch can look into and come
11 up with a sampling design that we could use, and then use
12 the wildlife managers or whomever else to collect the
13 information.

14 Q. But I see your distinction, I mean, it ought to be
15 if we are going to do it, because there is almost literally
16 an infinite number of things we could choose to research.
17 What we do choose to research and what might we choose to
18 pursue ought to be driven by what are the Department's most
19 pressing needs?

20 A. Exactly.

21 Q. And to some extent you can build it, if you were
22 spending time pursuing money for something that is not on
23 that list, that should be time being put into pursuit of the
24 money for something that is in on the list?

25 A. Right. Yeah. But we digress.

1 Q. Well, yes and no. Yes and no. Because it does go
2 to some of the interesting dynamic between non-game branch,
3 research branch, and game branch, and the jaguar and wolf
4 studies, which is kind of that separate entity?

5 A. Uh-huh. Uh-huh.

6 Q. I think, again, I know the answer because I am
7 going to ask you anyways. So given what we discussed about
8 that Large Carnivore Habitat Conductivity Study, which the
9 shorthand is kind of the bear and lion study. That is
10 actually the term for it.

11 A. Yeah.

12 Q. Were you aware of any discussions about that
13 project between research, non-game, and the jaguar
14 conservation side of this about how that study should be
15 conducted or about how the fact that study was going to be
16 in jaguar country, such as it is, what the implications for
17 that study were albeit the jaguar?

18 A. I did not know the specifics of it. I mean, I
19 knew there was some hair snare stuff that was going on and
20 that there was a discussion about trapping animals and that
21 there was a desire to try to use that as a surrogate for
22 jaguars, and that goes back to the Todd Atwood e-mail.

23 And, you know, this kind of gets to the turfism,
24 because I think what had happened was there was a meeting
25 with the Borderland Securities. I want to say it was in

1 November of '07. I saw a Program Manager at the time. I
2 hadn't converted over yet to WAFWA. I attended that
3 meeting, and essentially, the Homeland Security people are
4 saying, okay, how much is it going to cost us, you know,
5 brass tacks, how much is it going to cost us?

6 And so we went out of that meeting identifying
7 about \$2 million worth of stuff that they were going to have
8 to do to help with this, and that's when they went back to
9 D.C., balked, and then they got it cad-exed(ph.), okay. But
10 it was after that time, people were learning, hey, there
11 could be big dollars associated with that. And, again,
12 without close coordination between the branches, you get
13 wind of, okay, now, all of a sudden, there's these
14 discussions between research branch and Fish and Wildlife
15 Service about possibly using bear and lion as surrogates for
16 jaguar movements.

17 And so there is a meeting called that nobody heard
18 of except for within the Department research people and game
19 branch, Ron Thompson, you know, Terry sent out inquiries.

20 Q. This is the December meeting?

21 A. Yeah. And, then, Terry sent out inquiries as far
22 as, hey, what is going on? How come we are not hearing
23 anything. We are having to hear it through the
24 Fish and Wildlife Service that these meetings are going on.
25 Todd sent a response, you know, and that's, you know, I

1 mean -- that's the extent of all the bear and lion stuff
2 that I know of. That is how come I stumbled so bad in the
3 news conference on March 5th. I mean, I really didn't know
4 a lot about it.

5 Q. Again, I think we have already covered part of
6 this. Maybe we covered it all. Now, Dean Treadwell
7 approached -- when he talked to you, that was late December,
8 early January, about, you know, the --

9 A. EA checklist.

10 Q. -- the EA checklist. Again, your response to his
11 question on that was that one was probably not done because
12 it was an incidental take?

13 A. We do not have -- my response for him was is we do
14 not have an EA checklist because it is not a project. We
15 are not intentionally trying to go out and catch jaguar.
16 The Jaguar Conservation Team is -- I think I said a governed
17 body or a body that facilitates discussions and stuff, but
18 there is no decision-making or no actions that the team
19 itself takes. So we don't need an EA checklist for that and
20 there is none.

21 Q. And Dean, was it -- did he put that in the context
22 that Large Carnivore Habitat Study?

23 A. No, his question was, I was walking by, and he
24 goes, hey, I got a question for you. Do you got -- where is
25 the EA checklist for the jaguar project?

1 MR. FABRITZ: Okay. The jaguar project?

2 THE WITNESS: Yeah. Because in his mind,
3 everything that we were doing for jaguars had to be a
4 project of some sort.

5 MR. FABRITZ: Oh.

6 THE WITNESS: The way I interpreted that. That is
7 the way I interpreted that. I didn't go into a big
8 discussion with him.

9 MR. MCMULLEN: Can we back up one here real quick
10 and just on -- we talked about your understanding of where
11 our permitting process was, but what was your understanding
12 at the Department's like general orders, for example,
13 general direction on what we were supposed to do if a jaguar
14 accidentally stepped in our snare and was caught. What was
15 the -- what were the Department's general orders, or at
16 least your understanding of them?

17 THE WITNESS: General understanding, I guess,
18 would be that if we could safely collar the animal, we would
19 do it. That's part of the reason why we had collars in the
20 region because if a capture was going to occur, it was going
21 to be in Region 5. It wasn't -- I mean, there was no way we
22 could -- that's what we learned from '97.

23 I mean, essentially, it took us about eight hours
24 to get everything mobilized here in Phoenix to go down and
25 try to capture, so the idea was, okay, there should be a

1 capture pack in Tucson and a collar in Tucson. Then if we
2 could safely collar an animal if we were notified of it,
3 then we would try to do it.

4 MR. FABRITZ: What do you mean by notified of it?

5 THE WITNESS: Well, because it may be somebody
6 trees an jaguar.

7 MR. HOVATTER: Oh, yeah, yeah, yeah.

8 THE WITNESS: You know, there is no way they are
9 going to be able to keep that jaguar in a tree for eight
10 hours, or even four hours for, you know, somebody from
11 Tucson to get to the area. So if it was called in, you
12 know, there would probably be a series of phone calls.

13 MR. MCMULLEN: See if we can get it.

14 THE WITNESS: See if we can do it. And, then,
15 because, you know, there is that one time, historically,
16 there was a jaguar that was caught in a mine, holed up in a
17 mine. Well, it was our belief if that happened again, that
18 animal could probably be held there long enough for us to be
19 able to go down and dart it.

20 MR. MCMULLEN: Yeah.

21 THE WITNESS: So it was going to circumstantial,
22 and it was going to be determined circumstantially whether
23 or not we would do it or not.

24 MR. MCMULLEN: Do you remember where that -- kind
25 of what the genesis for that general, for lack of any other

1 terms, kind of general orders, I guess, but do you remember
2 the genesis of those general orders? Did it come through
3 the Jag CT, or did it come through Terry or did it come
4 through the Detection Project?

5 THE WITNESS: It was --

6 MR. MCMULLEN: From the Director's office?

7 THE WITNESS: No, it wasn't really from the
8 Director's office. It was more in regards to lack of term,
9 you know, order of business. Tim Snow and I, you know, Tim
10 is not on the game stuff, even Mike Pruss before that,
11 recognized, you know, that linkage between Phoenix and the
12 region and that there was discussions all the time about
13 that. So, I mean, there's a recognition that there would
14 have to be a decision point, and that probably the non-game
15 specialist would be involved in that to some extent, if not
16 the program manager, but there wasn't any a specific written
17 order or anything like that.

18 Q. BY MR. HOVATTER: Yeah, let me ask on that then.
19 That would be deliberate takes, though. Would it be your
20 perspective, then, that would have been accelerated, but the
21 process would still be done within the jaguar conservation
22 guidelines for a deliberate take but it would have to be
23 that deliberate decision to do it?

24 A. Oh, yeah. But, see, at the same time, it would
25 be -- it is kind of that gray area in a way. I mean, if a

1 member of the public calls in and said, hey, you know what,
2 I have got a jaguar trapped in this mine. What do you want
3 me to do about it? I have heard about them. What do you
4 want me to do about it? A call comes in OGT or something,
5 you know, it would come in. Somebody would be called in the
6 region, and so to me, that is still an incidental take even
7 though we make the decision to collar it because it came in.

8 Q. Yeah, because in the sense, it is taken already.

9 MR. MCMULLEN: It is a deliberate decision to
10 collar on an incidental take.

11 THE WITNESS: Right. Right. That's how -- and
12 Terry and I have talked about this, you know, we always
13 figured, you know, in the sense of even the incidental take,
14 you know, we would have some sort of decision or
15 notification that this had occurred. Yeah, now, you know,
16 February 18th, a jaguar is captured. We don't even get
17 notification within our own agency. The attempts don't even
18 occur until the 19th.

19 Thorry caught the animal on the 18th. From my
20 understanding, the person in the Department who was the
21 first notified was Ron Thompson. Ron Thompson said, run it
22 up the chain. That didn't occur until the next day. We
23 learned about the actual capture walking into the Jaguar
24 Conservation Team meeting.

25 MR. MCMULLEN: You and Terry?

1 THE WITNESS: I wasn't there. I was actually up
2 here doing --

3 Q. BY MR. HOVATTER: You were still in Texas?

4 A. No, I was back, but I was just getting back into
5 the thing. So that is when I got handed the note from Bob
6 Miles we need you in the Cardinal Room and so forth. So
7 there was either -- I guess this is my question that I have
8 not been able to ask. Ron Thompson clearly recognized who
9 the lead is for this -- for jaguars. You look at the
10 historical e-mails and so forth, you know, he does a lot of
11 work down in Mexico. He sent this information on jaguars.
12 I don't understand to this day why Ron didn't say, hey,
13 Thorry, you better called Terry Johnson now.

14 MR. FABRITZ: You know for sure Ron didn't or just
15 we are not sure?

16 THE WITNESS: I am 99.9 percent sure.

17 Q. BY MR. HOVATTER: What makes you so certain on
18 that, Bill?

19 A. Talking to Thorry.

20 Q. Talking to Thorry about that?

21 A. And I am pretty sure he had said that he called
22 him the day he caught the jaguar.

23 Q. Assuming that that is, in fact, the case, what
24 would be your -- what would be your opinion about why Ron
25 would do that?

1 A. I don't know. I really -- that's the question I
2 would like to ask. I mean, he knows Terry was the lead for
3 the Department in this. He had always historically kept him
4 apprised of everything, and instead of telling him, well,
5 call Terry Johnson because he knows the most about jaguars
6 and where we are at on all this, he tells him to run it up
7 the chain. And, then, Kirby was out of contact. Chasa was
8 out of contact. Chasa doesn't get the information until
9 10:00 a.m.

10 Q. When Ron talked to you about you sending that
11 paperwork, was there a reason why he came to you as opposed
12 to Terry on that? Any ideas on that?

13 A. Well, yeah, and I would look at it as the same as
14 even Dean or even anybody else, you know, although everybody
15 knows I am doing the WAFWA stuff, they all know I still know
16 the answers. Terry is in and out of the office to do the
17 wolf stuff, jaguar stuff, or whatever.

18 Q. You just happen to be more available in that
19 regard then?

20 A. Yeah. So, again, I have been asked that question
21 before, and again, I see no red flags whatsoever having
22 someone come to me and ask me, I mean --

23 Q. No, no. It is a logical question to ask you on
24 that.

25 A. Yeah, uh-huh.

1 Q. Hey, and again, we kind of touched on this, but
2 what would we have done if -- now, McCain had the collar
3 donated?

4 A. Yeah.

5 Q. And I guess, actually, was it donated to him or to
6 the Borderlands Jaguar?

7 A. Well, they are one in the same.

8 Q. Yeah, one in the same?

9 MR. FABRITZ: Is that the same one from '07?

10 THE WITNESS: Yes.

11 Q. BY MR. HOVATTER: So we fast forward to this
12 event. So he has got the access to the North Star web site?

13 A. Yeah.

14 Q. The GPS collar?

15 A. Yeah.

16 Q. What if he said -- what if you had said, I am not
17 going to give you the information?

18 A. Well, we would have been in a pickle, but at the
19 same time, I guess, I wouldn't even think that would cross
20 his mind because he knew we were in the works of possibly
21 getting \$2 million worth of jaguar money to do work. So why
22 would you cut your own throat as far as cooperating with
23 essentially your cash cow.

24 Q. Yeah.

25 A. So I don't even think that would have crossed his

1 mind to be honest with you, Gary.

2 Q. Yeah.

3 A. And up until this point, I have, as far as a
4 contractor and stuff, I have no complaints with those guys.
5 They turned the reports in on time. They are usually very
6 detailed and very thorough. And, you know, and I have gone
7 back and looked at reports in regards to the historical
8 information, and, you know, like I said, they disclosed
9 everything in my opinion as far as what was there.

10 So to me, they have been great to work with, you
11 know, you didn't have to worry about, you know, not getting
12 your report within a week of when it was due. They were
13 great. So, you know --

14 Q. Because, you know, we, of course, had our own
15 North Star relationship at that point because we were using
16 North Star collars on the bears and lions for that Large
17 Carnivore Habitat Conductivity Study?

18 MR. FABRITZ: Do you want to take a break?

19 MR. HOVATTER: Oh, you both have to pee?

20 MR. MCULLEN: We are like high school girls. We
21 have to go run to the bathroom together.

22 THE WITNESS: Yeah, no kidding. I feed you some
23 water.

24 MR. HOVATTER: He is still taping. He is afraid
25 to turn that thing off.

1 THE WITNESS: Why? Is it continuously running
2 or --

3 MR. HOVATTER: Well, I think maybe when Marty
4 was -- because we just bought that thing.

5 THE WITNESS: Uh-huh.

6 MR. HOVATTER: I think when he tried it, there was
7 something when he turned it on, it kind of backtracked on
8 him and started, and, you know, it kind of overrun on
9 something.

10 THE WITNESS: Uh-huh.

11 MR. HOVATTER: I think he's sorted it out, but I
12 am not sure. That's a lot of that, you know, because you go
13 through this, you do get these, yeah, okay, now, that makes
14 perfect sense. It has been kind of interesting to go
15 through this.

16 THE WITNESS: Well, I mean, on March 5th when I
17 did this news conference --

18 MR. HOVATTER: Uh-huh.

19 THE WITNESS: I still had it in my mind that this
20 was an incidental capture. Subsequent to that, I just
21 cannot come to the same conclusion. I really can't. Now,
22 whether or not our people were consciously involved, that's
23 why I have been waiting for this whole investigation. I
24 mean, because there has been some intrigues in my mind,
25 and --

1 MR. HOVATTER: It is just hard to know whose
2 fingerprints are on these parts of these things.

3 THE WITNESS: Right, so I am --

4 MR. HOVATTER: All of these interviews, we are
5 touching on some issues that we are going to deal with
6 bigger process stuff down the road.

7 THE WITNESS: Oh, yeah. I mean, it was even
8 recognized the day after the capture and stuff that there
9 was going to have to be modifications to protocol. And so,
10 I mean, that was the whole, I guess, nexus in my mind when
11 we started doing those debriefings, what we were calling
12 debriefings.

13 MR. HOVATTER: We are going to get into more
14 detail on that.

15 THE WITNESS: So, I mean --

16 Q. BY MR. HOVATTER: I want to go ahead, and that
17 collar, that North Star collar, was that September meeting,
18 the meeting of September '08 or September '07?

19 A. The September of '07, I am almost sure. But he
20 didn't hand him a collar over right there at the meeting.

21 Q. He just said I am going to donate?

22 A. Right. It was sometime in '08 that the collar was
23 actually shipped. I think it was announced at one of the
24 Jaguar Conservation Team meetings. You would have to look
25 at the notes. I couldn't tell you which date.

1 Q. But it was a September, you are sure about that?

2 A. It was a September commitment that a collar was
3 going to be delivered.

4 MR. FABRITZ: But that stemmed from -- after the
5 Wildlife Society at the end of '06, first part of '07, where
6 he said, hey --

7 THE WITNESS: I think the meeting was September of
8 '07 was the Wildlife Society Meeting in Tucson.

9 MR. MCMULLEN: Now, did you know -- did you know
10 if the collar -- did you know that the majority of the North
11 Star collars that were put out in the summer of '08 failed?

12 THE WITNESS: No.

13 MR. MCULLEN: So you had no idea?

14 THE WITNESS: No.

15 MR. MCMULLEN: Gary, can I ask a question or two
16 about the collar?

17 MR. HOVATTER: Yes, sure.

18 MR. MCULLEN: Pardon me for standing up. If I
19 don't get to stretch out a little bit, I am just going to
20 shrivel up into an avocado or something.

21 Did you know that or were you aware that or do you
22 know the process for how North Star collars were being used,
23 monitored, the whole thing?

24 THE WITNESS: For the jaguar?

25 MR. MCULLEN: The collars that were being used for

1 bear and lion.

2 THE WITNESS: No.

3 MR. MCULLEN: Did you know if there was a limited
4 access to the web site because these collars, North Star
5 collars, from what I understand, you may know more about
6 them than I do, almost certainly you do, but some of them
7 are VHF and GPS, but they can be configured just for GPS?

8 THE WITNESS: Right.

9 MR. MCULLEN: And so, I guess, you have to go to a
10 web site to do real-time monitoring?

11 THE WITNESS: Right.

12 MR. MCULLEN: Is there free access to that or do
13 you have to have a password?

14 THE WITNESS: You have to have a password or a
15 code.

16 MR. MCULLEN: Do you know who had the password or
17 code for the jaguar collars?

18 THE WITNESS: Jack and Emil.

19 MR. MCULLEN: Who?

20 THE WITNESS: Emil. Jack and Emil.

21 MR. MCULLEN: No one from the Department did?

22 THE WITNESS: No, but that was a conscious
23 decision. When we had our meeting after the first collar,
24 we were unsure if we would be able to protect that
25 information --

1 MR. HOVATTER: Protect it from who?

2 THE WITNESS: -- if we had a public records
3 request. And so at the meeting that we had the day after,
4 it was a conscious decision that we would not ask for that
5 information until we got the answer from the lawyers, and
6 then we never went back.

7 Q. MR. HOVATTER: Well, by the time they did -- yeah,
8 and I remember that now, because that was -- the issue was
9 is we have had issues where we have had to release almost
10 real-time location data to the public under open record.

11 MR. MCMULLEN: From the radio marked channels.

12 Q. BY MR. HOVATTER: From the radio marked channels.
13 And, of course, the concern was somebody goes and poaches
14 the animal.

15 A. Yeah.

16 Q. So by having it in their hands, which is where it
17 started --

18 A. Yeah.

19 Q. -- would probably be a violation of the Open
20 Records Act of what we had done had we had control delivered
21 to someone?

22 MR. MCMULLEN: That explains a lot of what we were
23 wondering about, so --

24 Q. BY MR. HOVATTER: So the reason that was -- we had
25 a suspicion, it was our belief, because it was an endangered

1 species, that we would have -- that the State would decide
2 that -- well, it was open records protection, because it
3 would be FOIA protected pretty clearly, but open records is
4 a lot more forthcoming than FOIA tends to be. So we can --
5 due to that lack of certainty, we wanted to make sure we
6 knew what the status was on that.

7 A. Craig, they had offered to give it to us if we
8 wanted it, but we had we denied it until further notice. I
9 think one of the earlier e-mails, I think -- I don't think I
10 said it -- I don't think I put it in an e-mail because we
11 didn't want it recorded as such. I think I basically told
12 those guys that we were fine with it. That is part of the
13 reason why they were giving us, you know, routine updates as
14 far as movements and stuff.

15 Q. The thing is, when we say real time, too, how many
16 times -- that is usually four to six hours a day?

17 A. Four.

18 MR. FABRITZ: Typically, three hours, isn't it?

19 Q. BY MR. HOVATTER: Well, it is not four to six
20 times a day. Normally, it is however many times it uploads
21 to the satellite, and it will upload the last four, five, or
22 six locations is the way most of those collars work is my
23 memory.

24 A. Yeah.

25 Q. Do you remember how that one was set, by any

1 chance?

2 A. I want to say it was every three hours, but I
3 don't remember now at the time. I mean, I did know at the
4 time because everybody waited with the baited breath on
5 where were the reports? It is every maybe six hours even.
6 I don't remember. I don't remember. I don't --

7 Q. Well, it is not standard because it depends on the
8 satellite array of the company that is doing it --

9 A. Right.

10 Q. -- because they all use the same satellites, don't
11 they? Did you know before the capture that Emil and Thorry
12 were in the field working or putting in those snares --

13 A. No.

14 Q. -- at that location? Can you give us some -- how
15 does Roberto Aguilar play into all of this? Where did he
16 come from in this jaguar effort?

17 A. Roberto originally was the conservation whatever
18 for the Phoenix Zoo, Conservation Coordinator or whatever.
19 I don't remember. I don't know. Stuart Wells now has the
20 position. And so I want to say the Phoenix Zoo hired him in
21 '05 or '06. So he started attending the Jaguar Conservation
22 Team meetings.

23 He actually also attended some of the jaguar
24 meetings down in Mexico. You know, the Mexican government
25 were holding what they were calling Jaguar Congresses, and

1 he attended down there as well. He, also, subsequently had
2 resigned his position at the zoo due to multiple bosses
3 giving him multiple directions, and he was becoming very
4 frustrated with that. So he had resigned his position.

5 He had cooperated with the Department on a variety
6 of different projects, jaguar only being one of them. I
7 mean, he was actually helping out with the badger stuff that
8 we were trying to get going up on the Ferret Project. He
9 helped out with some Bighorn Sheep stuff, Masked Bobwhite
10 stuff. He's a veterinarian, you know, licensed veterinarian
11 by training and stuff. So he had a lot of knowledge in
12 regards to that.

13 In fact, he did his doctorate or whatever on
14 anesthetizing big cats, you know, in captive situations. So
15 he was viewed as a resource, you know, in multiple, multiple
16 arenas. To me, he was -- one of his earlier jobs, because
17 his parents are American born, but his dad did work down in
18 Mexico. He actually has dual citizenship. One of the
19 things that he can do is simultaneous translation in
20 Spanish.

21 So when I went to the jaguar meeting in '06, they
22 were talking in Spanish and everything, man, I was
23 getting -- he was just whispering in my ear the entire time
24 translating, I mean, he is amazing in that sense. So,
25 anyhow, he resigned from the zoo. He applied for the vet

1 position or the --

2 MR. MCMULLEN: Lisa Schender's job.

3 THE WITNESS: Yes. So I think as far as how it
4 came in, ironically enough, he was a source of information
5 for the jaguar stuff because of his past, and I think he was
6 trying to, you know, good graces in regards to a possible
7 job, he was keeping Chasa informed of, hey, I just want to
8 let you know some of your people are doing this and sent the
9 e-mail there in early February.

10 Q. BY MR. HOVATTER: Switching gears a little bit.
11 Did North Star donation of that collar include free access
12 to that web site to get the information from the collar?

13 A. I don't know. I don't know. Okay. So how
14 does -- you know, the next logical question, I think, would
15 be how does Roberto then link up with Emil through the
16 Phoenix Zoo? You know, Phoenix Zoo had donated money for
17 some of the camera work and everything. And so it was
18 Roberto's job to monitor that for the zoo because that was
19 one of his projects.

20 The other thing that Roberto does or did a lot is
21 cross training of Mexican nationals. So he would get
22 visiting Mexican or Latin American nationals, you know, and
23 he would, you know, they would have like internships go
24 through the zoo. And so he would routinely have those
25 interns, you know, go on the jaguar project to, you know,

1 check cameras and stuff.

2 And so, you know, he would -- you know, so that is
3 how involvement got with Emil, and I am sure the discussions
4 and stuff and his expertise and why Emil inquired him in
5 regards to the dosages and stuff.

6 Q. Do you know about when the zoo got involved in
7 providing financial support for the camera project?

8 A. No, not specifically the cameras, but see, the zoo
9 has been a long time partner on the conservation team.

10 Q. They have been in collaboration?

11 A. They actually footed the bill to send the people
12 to South America to get the training for identifying jaguar
13 depredation.

14 Q. So Jack Childs was a part of that?

15 A. Yep. Uh-huh.

16 Q. Do you know -- did you know how this all popped in
17 this thing? Do you know if jaguar scat was actually used as
18 an attractant on this project?

19 A. Well, subsequently, I have been told it has been.
20 I know at one time, there was a gal, I think her name was
21 Shiloh, who worked for the Reid Park Zoo in Tucson, had
22 talked about -- there was a discussion at a Jaguar
23 Conservation Team about, again, the jaguar scat or urine to
24 use to see if we can attract, but it was only discussed.
25 And I was unaware of that it was actually being used quite

1 routinely. They did get jaguar scat from the Phoenix Zoo.

2 MR. MCULLEN: Who is they?

3 THE WITNESS: It was Emil and them, the Jaguar
4 Borderlands Detection Project got scat from the Phoenix Zoo
5 confirmed by Stuart Wells who is the conservation person
6 down there.

7 Q. MR. HOVATTER: How was that confirmed?

8 A. I asked him.

9 Q. Yeah?

10 A. And what I thought was intriguing is that was
11 about the same time Lucero, the whole Lucero thing was going
12 on. What I thought was intriguing about that, when I was
13 down there that day for the unveiling, I was talking with
14 Dean Rice, and Dean had talked about how Lucero had kicked
15 their female into estrus. So the scat that they would have
16 got or the urine or whatever they would have got, I am
17 pretty sure it was -- I know it was scat, because Stuart
18 told me, would have been from a female in estrus, which
19 would have --

20 MR. FABRITZ: That was right around that --

21 THE WITNESS: January, January and February.

22 MR. FABRITZ: Do we know if we were still
23 obtaining stuff at that time, scat?

24 THE WITNESS: Pardon?

25 MR. FABRITZ: Do we know if those folks, Emil and

1 them were still obtaining scat?

2 THE WITNESS: Yes.

3 MR. FABRITZ: We know that; right?

4 THE WITNESS: Yes.

5 Q. BY MR. HOVATTER: Was that Stewart -- was that his
6 memory that was the first time they were collecting or had
7 they been collecting jaguar scat --

8 A. I never asked Stuart that question. I asked him
9 after the report came out, because we had hadn't been shut
10 down yet, I asked him, and he said, yes, we had given it to
11 him.

12 Q. And the female was the one at the Reid Park Zoo or
13 the one --

14 A. No, at the Phoenix Zoo.

15 Q. At the Phoenix Zoo. Do you they have a female
16 there now?

17 A. Yes.

18 Q. The only one I saw was Lucero?

19 A. They -- they --

20 Q. Alternate them?

21 A. Alternate them in and out. They only had the
22 female, brought in Lucero, had the tooth work and stuff
23 done, and like I said, the day I was there, which I think
24 was February 4th for the unveiling, Dean had made the
25 comment about how Lucero had kicked their female into

1 estrus.

2 Q. Dean Rice?

3 A. Yeah.

4 MR. MCMULLEN: That was around February 4th?

5 THE WITNESS: Yes.

6 MR. MCULLEN: How do you remember that date?

7 THE WITNESS: Because I looked back when I did all
8 my public record stuff.

9 Q. BY MR. HOVATTER: Did you have any chance to ask
10 what -- did they specify what they were going to use it for
11 because they didn't have -- they had their permits for the
12 Forest Service included jaguar hair, snack stations --

13 A. Uh-huh.

14 Q. -- and the photo stations --

15 A. Uh-huh.

16 Q. -- did you have any chance or did the discussion
17 give you any insight into what they actually intended to do
18 with it?

19 A. I guess the assumption was that they were going to
20 use it for the camera stations. I mean, that would be the
21 only reasons they would. I mean, that is the only thing
22 that they had been working on is the camera work and the
23 hair snares, and -- so.

24 Q. The interesting thing is the Forest Service permit
25 only permitted -- only specifies use of scent in the hair

1 snares?

2 A. Yes, right. Well, this is the other intriguing
3 thing that we have looked at, I have looked at since this
4 whole thing, too, and the accusations of this thing. If you
5 look at the paper that Emil and them wrote up for the
6 Journal of Wildlife Management, and they talk about methods,
7 they don't talk about using jaguar scent, which would be a
8 critical component in a scientific paper, because here in
9 that paper, they are interjecting that this animal was
10 territorial in his scent marking.

11 Well, are they actually causing that because of
12 the use of jaguar scents or is it doing it on its own
13 anyhow, you know, and that's -- I mean, to me in a
14 scientific paper, that would be something that you would
15 undoubtedly put in as a method.

16 MR. MCMULLEN: Was it published?

17 THE WITNESS: Yeah.

18 Q. MR. HOVATTER: How else would you tell how to
19 assess the description or behavior of the animal unless you
20 knew whether or not it was behaving wholly within the
21 context of its established territory or if it had -- was, in
22 fact, being induced to behave differently than it might
23 otherwise have done? You know, your sense of this, just
24 your personal opinion, if the use of scent caused that
25 animal to go an extra five miles farther than it was going

1 to go because it picked up that female scent, would that
2 constitute a take?

3 A. You mean direct take? Then, yes. But at the same
4 time, like I mentioned about that call that I had with
5 Emil --

6 Q. Uh-huh.

7 A. -- in my opinion, Emil had in his mind the
8 likely travel corridor for that animal. So it wasn't like
9 placing it five miles or it wouldn't be like placing it five
10 miles out of the way. I mean, he would be putting it
11 someplace where there was a higher likelihood that that
12 animal would detect that than just placing it at random.

13 Q. So is it accurate for me, kind of read that back
14 to you, Emil said, he relating to this our earlier
15 conversation, that he had appeared to have enough of a depth
16 of knowledge about that specific piece of ground to where he
17 would have been able to be focused in his luring efforts --

18 A. Yeah.

19 Q. -- if he had done that?

20 A. As I mentioned about that conversation, that call
21 that I had with him, he called it a hunting spot back in
22 '06. He hung out here, blah, blah, blah. So, yeah, once
23 that animal showed back up in that area, I think he had
24 enough knowledge about previous movements of that animal, he
25 knew the likely travel corridors that that animal was going

1 to be using, that you could have a more focused effort in
2 regards to placing attractants that would have a higher
3 likelihood of attracting the animal.

4 Q. There is an implication there, but do we know that
5 he then had camera stations in that Manzanita mountain area?

6 A. Well, we knew he had cameras in that area, I mean,
7 because he reports it, you know. As far as the Manzanita
8 Mountain itself, I don't know, but we know from his reports
9 and stuff that he had more than one camera because he talks
10 about more than one camera.

11 Q. Now, given the nature of this type of work, you
12 know, it would be ridiculous to use some sort of random
13 generation system of trying to determine camera locations.
14 There would be no reason to do that. Was there any, you
15 know, as far how far the camera locations were chosen, was
16 that wholly at the discretion of the Borderlands Jaguar
17 Detection?

18 A. Yes. Yes. And the reason for that, Gary, is,
19 again, their directive is detecting the presence of the
20 jaguar.

21 Q. Yeah.

22 A. We need to know when the jaguar is here, so we can
23 act upon that. So to have, you know, cameras every half
24 mile, I mean, it would be cost prohibitive and manpower
25 prohibitive with as small as a group as it is, so, you know,

1 now, we can do another possible question is do we know where
2 all those 50 cameras are located? No.

3 Historically, when there wasn't as many cameras
4 and when we were having problem with our certain
5 commissioner in the Arivaca area, we did ask them, and they
6 gave it to us freely, where the locations of all the
7 cameras, and they gave it to us, you know. But we did not
8 routinely ask them, well, hey, where is your 50 cameras, you
9 know.

10 It was, you know, like kind of at that trust
11 level, okay, your job is to detect jaguars. You place them
12 where you think you are going to detect them so we know
13 where they are going to be.

14 Q. Given the data collected could be used for a whole
15 wide variety of purposes, was the primary purpose of the
16 camera network that was established scientific or monitoring
17 for the purpose of providing information to stakeholders
18 about the presence of jaguars?

19 A. Presence of jaguars. Now, if they did it in such
20 a manner that they could get some scientific matter out of
21 it --

22 Q. The more the better?

23 A. -- hey, the more the better, but the primary
24 purpose was jaguar detection.

25 Q. Now, I am glad you brought me back to that because

1 if you were doing this as a scientifically designed,
2 reproducible study, it is a lot different than you could
3 station cameras where you are most likely, if an animal is
4 moving in the area, find it?

5 A. Yeah. There is different camera configurations
6 even that I am aware of, that if you were doing this from a
7 scientific perspective, you would do it totally different.

8 Q. Because if you wanted to -- here is something
9 where you wanted to determine relative numbers or relative
10 abundance, you would have to have a certain randomness to
11 the way that you approach it, otherwise you skew it?

12 A. Yes.

13 Q. This is deliberately skewed with intent because
14 that was what we needed for them to accomplish its goal?

15 A. That was the main objective for us was to know
16 where the jaguars were so we could cooperate with the public
17 and modify management activities, if necessary, to reduce
18 the likelihood of depredation, long and short of it.

19 Q. Do you think there's other jaguars in that area?

20 A. Historically, we documented at least one other
21 jaguar, Macho A.

22 Q. I hadn't noticed until I bought Jack Childs' book
23 this week, the book he and Anna put out last week.

24 A. Uh-huh.

25 Q. Did you see the picture -- have you looked at that

1 book?

2 A. No, I have not.

3 Q. There is a picture. He has got two pictures. One
4 is Macho A, and four hours later, the same camera is Macho B
5 following right behind him.

6 A. That was the last time we photographed Macho A.

7 MR. MCULLEN: Macho A is probably in Macho B's
8 turd.

9 THE WITNESS: Uh-huh.

10 MR. MCULLEN: Ran him off.

11 Q. BY MR. HOVATTER: Hey, I forgot to ask you at the
12 time. That December meeting, December '08 meeting, that
13 Terry was trying to track down, you know, who, what, when.
14 Who ultimately, because it wasn't you, it wasn't Terry that
15 called that meeting, it was -- who ultimately called that
16 meeting?

17 A. That meeting was called actually by the
18 Fish and Wildlife Service, and Terry sent inquiries out and
19 eventually got the answer back. And, then, Todd Atwood also
20 responded as well. And I believe it was Aaron Fernandez who
21 had called the meeting.

22 Q. Okay. There is reference in some -- a couple
23 e-mails, I think Roberto Aguilar is one of them, these are
24 from early this year, talking about a range wide jaguar
25 meeting in '09?

1 A. Uh-huh.

2 Q. Do you know if there was such a meeting?

3 A. It hadn't occurred yet.

4 Q. When the planning was?

5 A. Yeah. What the planning was, it was in the
6 process of being planned as a follow-up to the 1999 meeting
7 that we did participate in, you know, and ten years later
8 what has been done with jaguars? That was the meeting.
9 That was being coordinated out of Mexico. We are actually
10 very supportive of it, because, in part, Mexico has really
11 stepped up to the ball on conservation efforts in that.
12 And, you know, to have a ten-year later evaluation, you
13 know, I think it would be very beneficial for jaguar
14 conservation. And so we were -- I know Rodrigo Medina, who
15 is a professor there at UNOM(ph.).

16 Q. I saw that.

17 A. He is like one of the top people in Mexico. They
18 are kind of structured differently, and actually, University
19 professors have a lot of power. He's a very powerful person
20 in Mexico. That is you don't do any back work unless you go
21 through Rodrigo, period. And he has students who work on
22 jaguars as well. He was working with us to help try to get
23 some funding because we have actually funded some things,
24 you know, the first Jaguar Congress in '05, we helped, you
25 know, fund to get people there, not only ourselves, but

1 other people, and paid for it and that because we feel it is
2 critical for jaguars to be covered.

3 Q. So is this range wide meeting, as far as you know,
4 is that still -- still somebody trying to make that come
5 together? That's something from the Mexican side primarily?

6 A. Yes. Yes, it is not from the U.S.

7 Q. At the September 25th, '08, Jaguar Conservation
8 Team meeting in Lordsburg, reference was made to recent
9 jaguar photos. So this had to be the July, August '08
10 photos. The next scheduled meeting was planned for late
11 January, but I think it got pushed back to February?

12 A. February.

13 Q. And at the February meeting, was there any more
14 discussion?

15 A. I wasn't there. I can't tell you.

16 Q. Okay.

17 MR. MCMULLEN: So no meeting occurred in January
18 or late January?

19 THE WITNESS: No.

20 MR. MCULLEN: That is what we were trying to
21 determine. We were trying to dig that out when we were out
22 of the room. So, yeah, we are covered there. We already
23 did that next one.

24 Q. BY MR. HOVATTER: Yeah, we did. Do you have --
25 and, again, I think I know the answer to this, but I am

1 going to ask it anyway just on the off chance that I am
2 wrong on this, the reason given for reopening that snare
3 where we caught Macho B was to replace a lion that had been
4 captured there earlier that had later been harnessed. Did
5 you have any -- did you have any visibility on that aspect
6 of this, this, again, that Large Carnivore Habitat or
7 Habitat Conductivity Study?

8 A. I mean, I wasn't -- like I said, I mean, I was
9 unaware of any of the details in everything. So, you know,
10 the reasons given seemed plausible to me. That is why I
11 repeated them at the news conference.

12 MR. HOVATTER: And really that is kind of the end
13 of the stuff that I listed out here. What other questions
14 do you guys have?

15 MR. MCULLEN: I had some notes there. Okay. Do
16 you remember when -- I am trying to nail down the time frame
17 when you said you were leaving somewhere, and this is about
18 the time that you had the discussion with Thompson about are
19 we covered on a jaguar, incidental jaguar capture, or where
20 is the EA checklist? And as you were leaving, he said,
21 well, we need to be up to speed because we are going to be
22 doing some trapping this weekend? Do you remember when that
23 occurred? You said you were leaving somewhere. I don't
24 know if it was to WAFWA or something? Do you remember what
25 time frame that was?

1 THE WITNESS: That was, again, the same day,
2 whatever, you can look in the e-mail, whatever date I sent
3 the permit to Ron.

4 MR. MCULLEN: Okay. So January -- February

5 6? MR. FABRITZ: So it would have been
6 the following weekend.

7 MR. HOVATTER: I thought it was February 3rd or
8 4th.

9 THE WITNESS: It was that day, that specific date.

10 MR. HOVATTER: That is what I took you to mean on
11 that. That is kind of an interesting time frame. Is there
12 anything -- oh, go ahead. You have got another one?

13 MR. MCULLEN: No, nothing.

14 Q. BY MR. HOVATTER: Is there anything that I have
15 not asked you about that you think we ought to be thinking
16 about?

17 A. Well, there's a couple other things that I find
18 intriguing, you know, why I do believe that there was some
19 deliberation in this. There was a phone call that Terry
20 Johnson received from Emil McCain after we had euthanized
21 Macho B. And the way it was described to me from Terry was,
22 you know, Emil was talking about, you know, what kind of
23 trouble or what is the liability in regards to catching a
24 jaguar, you know.

25 He was still in Spain at this time. Okay. And so

1 it was -- it was a late night call for us, and Terry just
2 kept talking to him about, you know, you know, there's no
3 liabilities, you know, we are covered, incidental take, and
4 Terry told me that, you know, he phrased a response to Emil
5 from Emil's badgering, you know, liability, liability, blah,
6 blah, blah, you know, you know, assuming that every -- and
7 Terry's response back was in the sense of assuming that
8 everything that you have said or the capture of Macho B was
9 incidental, you are covered. And Emil's response back to
10 Terry in that conversation was that is not a safe assumption
11 to make.

12 Then at that point in time, Terry told me he got
13 really uncomfortable, told Emil that, you know, you know, he
14 may need to, you know, get a lawyer, you know, depends on
15 the circumstances, hung up, called me right away. And,
16 again, now, I have a cell phone so he's able to do that, and
17 told me this story. And that was, like I said, in the 4th
18 or 5th, and that is part of the reason why we --

19 Q. Of April?

20 A. March. Of March.

21 MR. MCMULLEN: Oh, okay.

22 THE WITNESS: Okay. And that is part of the
23 reason why we came back and why we were so insistent on
24 wanting to talk to Thorry in regards to the original capture
25 because we didn't know -- sorry about that. We did not know

1 enough about the original capture that we wanted to
2 interview Thorry, and we ended up calling him on vacation.

3 MR. MCMULLEN: That's the reason why?

4 THE WITNESS: Yeah. Okay. Now, one of the things
5 that you are going to have look into, in my opinion, was
6 because in that interview, I specifically asked Thorry, did
7 you see any tracks or sign of the jaguar -- of jaguar? And
8 having been out in the field with Thorry, I have no doubt in
9 my mind he knew the track of Macho B. Okay. In that
10 interview --

11 MR. FABRITZ: That was the phone interview?

12 THE WITNESS: Yes, the phone interview, which was
13 myself, Chasa, Mike Senn, and Terry Johnson. Thorry's
14 response was no, there was no sign. Now, subsequent to that
15 and I haven't seen this, that is why I said you have to
16 check into it, when Michelle Crabb was interviewed, from my
17 understanding, she said that there was old sign that was
18 seen when they were doing the snare stuff, opening the
19 snares.

20 MR. MCMULLEN: See, because I didn't see that
21 from -- in the notes.

22 MR. HOVATTER: Well, it has got to be in the
23 fields notes that -- from his field notes, from Thorry's
24 field notes.

25 MR. MCMULLEN: I am talking about Chasa's notes.

1 MR. HOVATTER: Well, no, she talks there is
2 mention of the track. I think there's mention of -- no,
3 I think you are right. Well, I will go back and take a
4 look. Well, in his field notes, which we already had at the
5 time he was getting the interview done, he talks about
6 seeing that large track, and he puts, you know, he has got
7 that note, it is a jaguar note in there, or was this a large
8 lion or a double register, you know, of the track, or -- and
9 it was an old track, and so he doesn't seem to have --

10 MR. MCMULLEN: He wasn't sure.

11 MR. HOVATTER: In his notes, he doesn't express
12 any confidence that it was a jaguar track, but it was
13 noticeable because of its size, and it was one track.

14 MR. MCMULLEN: Multiple, too.

15 MR. HOVATTER: So that is something -- I mean,
16 that is something we have got, too.

17 MR. FABRITZ: So when you said subsequent, you
18 were talking about Michelle, what was -- in what context was
19 that? Was that an interview with her as well?

20 THE WITNESS: We did not do -- I did not do --
21 from my understanding, Chasa did talk with Michelle.

22 Q. BY MR. HOVATTER: Chasa talked to Michelle?

23 A. Yeah. The other thing that was of interest to me
24 was the actual presence of this Janay Brun during this
25 whole --

1 Q. I am sorry. I forgot to ask you about that.

2 A. This whole going through and opening up the snares
3 and everything, and there was multiple times the question
4 was asked was there other people present? Her name never
5 came up once during any of these interviews. I mean, it was
6 a complete surprise when all of a sudden, it comes out in
7 the newspaper, heck, she was present.

8 Q. So in Thorry's interview that you guys did, did
9 you ask if there were any other people present? And who did
10 he identify as being present?

11 A. Michelle. Now, I will give Thorry the benefit of
12 the doubt, maybe he just thought we were asking in regards
13 to the actual capture, but even, I mean --

14 MR. FABRITZ: He went through the whole interview?

15 THE WITNESS: Yeah. I mean, I thought that, geez,
16 I think you would mention, oh, yeah, we had, you know, he
17 talked about Emil showing him at the trap locations. He
18 doesn't even mention Janay Brun being present whatsoever.
19 And, you know, I mean, then, to hear -- see Emil just say
20 she was a disgruntled employee and so forth. Heck, she has
21 been around since 2002, I think.

22 They always talked about how great she was in the
23 field and everything. So, I mean, to me, there's some
24 validity at least to some extent to what this gal is saying,
25 not having -- now, she could walk into this room, I wouldn't

1 even know who she was. I might have recognized her and say,
2 oh, yeah, she's been at some jaguar meetings, but for me to
3 point her out in a line-up, I couldn't do it.

4 Q. BY MR. HOVATTER: I finally found a picture of her
5 in the Alter Valley Newsletter.

6 A. Okay.

7 Q. But, yeah, it is kind of interesting, of course,
8 it is in -- it is in Thorry's field notes. He mentions
9 Janay. So, I mean, clearly, in the record that we have, I
10 mean, he produced and all, she shows up, so --

11 A. Yeah.

12 Q. That's interesting. What else?

13 A. The only other thing I could say is I still think
14 to some extent that the Department could be innocent in all
15 of this in the sense Emil is a linchpin in all this. Thorry
16 could be out there in the field with him flirting about all
17 this trap locations and everything. You have now Janay that
18 I know about, she could be going and doing the stuff that
19 she was directed to do. Thorry is focused talking with Emil
20 not paying attention to what this gal is doing, throwing
21 scat out or whatever, and it could still be the Department
22 was played.

23 Q. I have had that same -- that's the same
24 scenario -- the same kind of scenario I came up with.

25 A. But at the same time, I don't know.

1 Q. There are other alternative explanations.

2 MR. FABRITZ: No, we appreciate that insight, you
3 know, because we just have got to sort it out.

4 MR. MCMULLEN: We are trying hard not to develop
5 any conclusions as we go through this, because at the end of
6 day, we have got to look at the entire suite of information
7 that we have gathered, and then let that guide a conclusion
8 and not develop as we go. So it is just a process that we
9 have got to go through, unfortunately, and we are just
10 trying to figure it is out, just like Gary said earlier.

11 THE WITNESS: The only other thing that I would
12 add that was an irritant to me the entire time, that, you
13 know, I think needs to be pressed to some extent, we had the
14 meeting, what, February 20th --

15 Q. BY MR. HOVATTER: Yeah.

16 A. -- in the Eagle room that identified --

17 Q. Who has got the lead?

18 A. -- who has the lead. When the decision process
19 was going in place as to going in to look at Macho B, there
20 was alternative discussions going on Thorry was having with
21 Emil, and that is how Ole Alcumbrac originally brought into
22 this.

23 Q. Was through Thorry?

24 A. Thorry.

25 Q. Through Emil and Thorry. Damn, I am glad you -- I

1 am glad I asked you that.

2 MR. FABRITZ: I don't even know what you guys are
3 talking about.

4 MR. HOVATTER: When we had the meeting on the
5 20th, it was a fun meeting in the sense we had a bunch of
6 folks in the room saying, now, that we have caught this
7 jaguar, who is in charge?

8 MR. FABRITZ: I don't remember being there.

9 THE WITNESS: There was a lot of people.

10 MR. HOVATTER: Who was -- who is in charge of
11 monitoring what is going on and is going to keep us apprised
12 and as to when they report? And my memory is also that I
13 said, so you are going to make sure everything gets to
14 Terry, and you were his backup on this?

15 THE WITNESS: Right.

16 MR. HOVATTER: So it was Terry and Bill. And
17 everybody in this room, you are going to make sure the
18 information gets to him?

19 MR. MCMULLEN: Who all was at that meeting?

20 THE WITNESS: Me and Chasa.

21 MR. HOVATTER: I have got it my notes.

22 THE WITNESS: Thorry was not, but I am almost
23 positive Chasa was.

24 Q. BY MR. HOVATTER: Yeah, Chasa was. I have got it
25 in my notes who was there. Well, I should have, because

1 routinely when I have a meeting that is that important I
2 usually note who was all at the table, because I am glad you
3 mentioned that because I meant to ask about that, and that
4 was how was the decision made to go back and check on that,
5 physically go and track that animal down and look at it?

6 A. I mean, I wanted to do it earlier. Then I was
7 talked out of it, and in part, this goes back to Ron
8 Thompson. He was having side discussions with Emil. Emil
9 was calling him or he was calling Emil. I suspect Emil was
10 calling him. Emil didn't want us to go in, because, again,
11 from my perspective, he wanted the glory. So he was trying
12 to delay.

13 I was setting up a team to go in. It was going to
14 be originally myself, Ron Thompson, and Thorry. And then
15 Ron talked me out of it. And then a few days, a couple days
16 later, then, you will have to look at the whole e-mail
17 trail, oh-oh, hey, guys, we have got problems. It is not
18 moving again. It is like, okay, here just a day or so ago,
19 you are like, everything is fine, don't worry about it.

20 Well, in that meantime, they have already
21 contacted Ole about going in. They have talked to this
22 Janay Brun to go in and put some meat out. There was a
23 whole heck of a lot of stuff going on.

24 Q. They being in this case --

25 A. Thorry, Emil, to some extent Ron Thompson, Ole

1 Alcumbrac. Ole wasn't there by chance. He was called. I
2 didn't call him. Ole wouldn't have been my first choice.
3 And the only reason is I feel Ole sometimes is overly
4 aggressive. I would have chosen somebody else, to be honest
5 with you.

6 Q. No. Understood.

7 A. And so, but at the time, February 28th, March 1st,
8 he's there, we will go with it, but that wasn't --

9 Q. That's too bad we hadn't --

10 A. Right. So there was a lot of discussion between
11 like February, I want to say 26th and then 28th, that was
12 going outside, in my opinion, the direction of the
13 Department.

14 Q. The way that should have gone in my mind is that
15 it would have merged -- you guys would have been
16 collecting -- you and Terry would have been collecting the
17 information, and if it was -- if we are going to go back in
18 and again intervene with that animal, that it would have
19 been merged, then, through you guys to the Director that we
20 think we need to do this.

21 A. Right, and that's kind of --

22 Q. Or something along those lines?

23 A. That's actually what ended up happening. I
24 finally said, enough of this bullshit, call Thorry, call
25 Leonard. We got Kirk Bahti instead, because actually Ron

1 was heading to the Kofas, I believe.

2 MR. FABRITZ: That started what? Saturday, the
3 28th?

4 THE WITNESS: 28th was when myself, Kirk Bahti,
5 and Thorry went in.

6 Q. BY MR. HOVATTER: Sunday, is when we actually were
7 pulling everything together. You had already had your
8 encounter with the mountain --

9 A. Right, right.

10 Q. Ron Thompson was in Kofas?

11 A. Right. So to me, there was a whole lot of other
12 stuff going on behind the scene. That is why, to me, this
13 goes -- there is something stinky going on.

14 MR. FABRITZ: There was a lot of stuff going on
15 around the 28th and that earlier time.

16 THE WITNESS: Right. Thorry and Emil, you know,
17 working on it, and I don't, you know, if Thorry was working
18 underneath Emil's direction, my question is why? He is not
19 a Department employee. And, supposedly, the direction would
20 have gone down, hey, here is the leads for the Department.
21 Maybe it did. Maybe it stopped, you know, and then Thorry
22 was just working with who he had been working with, but
23 I think that needs to be ferreted out.

24 Q. BY MR. HOVATTER: Yeah, I am sure you are right.
25 I mean, ultimately, we did make the decision to go do that

1 in a manner that was in keeping with where we started, but
2 what you are portraying is a hell of a lot of activities had
3 already been put in place without -- without the folks we
4 designated as lead on this?

5 A. Emil in one of his e-mails even says, I have
6 already talked with Thorry and Ole, and they are ready to go
7 in. So they are -- I mean, to me, there was -- to me, that
8 is like, huh, are they trying to cover things up because
9 he's trying to orchestrate who goes in as compared to an
10 outsider?

11 MR. FABRITZ: Do you have a sense for Kirby's
12 involvement in all this?

13 THE WITNESS: Kirby doesn't come into this in my
14 eyes except that he's supposedly Thorry's supervisor, and
15 that was eventually the second call he placed was after
16 talking with Ron was he tried to call Kirby. The reason why
17 Michelle was out in the field with Thorry was because Kirby
18 had hurt his leg quail hunting or something.

19 MR. HOVATTER: That's right. I remember that.

20 THE WITNESS: So that was the thing.

21 MR. HOVATTER: Anything else? Any questions as
22 far as you guys? Bill, it is -- it is quite possible this
23 is -- this is all we are going to need to discuss on what we
24 are trying to get at with this with you, but we may have
25 another -- we may give you a shout and want to sit down and

1 talk about some of the other stuff that pops up, too, but we
2 really appreciate it. This was exactly what we needed to
3 get on this was to get your perspective on this.

4 MR. MCMULLEN: It is not fun for anybody. It is
5 just something we have got to do. Appreciate your time.

6 THE WITNESS: Question: Do you guys or did you
7 guys receive my Affidavit that I had given to the Feds?

8 MR. HOVATTER: Don't think so.

9 MR. MCMULLEN: No, the Federal investigation and
10 ours are completely separate. They don't know what we have
11 asked, and we don't know what they ask.

12 THE WITNESS: So the question, then, would it be
13 appropriate for me to give it to you? The reason I bring it
14 up is I kind of -- I wrote that a lot earlier.

15 MR. HOVATTER: So your memory at that time was a
16 lot fresher. I tell you what, would you make a note?
17 We will just ask Frank. If Frank has no objection, we will
18 give you a shout. If we call you, it would be because we
19 cleared it them on that.

20 THE WITNESS: Because what I did with that
21 Affidavit, though, was I had like 25 attachments which were
22 things that in my mind stuck out in regards to -- in getting
23 the public records stuff, for example, you know, the whole
24 flurry of information on February 3rd. I had really not
25 even thought about it or even, oh, wow, until I started

1 collecting all that information, I am like, Holy Crap, look
2 at this, this, and this. No wonder everybody is saying --

3 MR. HOVATTER: If you were plotting this across a
4 calendar from, say, end of 2007 to April 1st of 2009, there
5 would be several obvious bright spikes sticking out. One of
6 those would be that 3, 4 February time frame.

7 THE WITNESS: It does in my mind now. I mean,
8 that is how come I was actually kind of concerned about
9 coming into the interview because I wasn't sure what you are
10 looking for, but I am definitely jaded now in regards to my
11 perception of things, you know, before --

12 MR. HOVATTER: Yeah.

13 THE WITNESS: -- the Federal investigation began,
14 and now because I have gone through and started looking at
15 all the records and stuff now, and it is like my conclusion
16 is totally different. I mean, I can honestly say when I was
17 doing that news interview on March 5th or whenever it was,
18 that was my belief. I don't think I could do the same
19 interview today.

20 MR. HOVATTER: Well, we all talked -- when we
21 talked, of course, I haven't been able -- I have refrained
22 from wanting to talk to you. I have wanted to talk to you
23 and Terry and a bunch of other folks, but I have refrained
24 from doing that because of my commitment to the Feds, but,
25 you know, it really -- it is a very distinct difference

1 between when you and I talked about this a few days after
2 the recapture and everything, we were going on kind of a
3 close forum, and the meeting we had right after the capture,
4 we were all pretty confident in what we knew at that time.

5 THE WITNESS: Right. Right.

6 MR. MCMULLEN: Well, let me ask one question, and
7 this is -- no, I won't ask it. I just won't ask it because
8 it is between the Federal and this one investigation, so
9 we will just leave that out. In the course of doing an
10 administrative investigation, it is important to keep it
11 separate from them. So that is why we --

12 MR. HOVATTER: There is a potentially criminal
13 violation of these investigations.

14 MR. MCMULLEN: We will just keep them completely
15 separate, and here is the challenge that we all face, Bill,
16 and I think you have been really, really up front with us,
17 and it seems to me like you have a desire for the Department
18 to come to a clear understanding of what the facts are, but
19 the big challenge for all of us, those who are investigating
20 and those who are parts of the investigation, is to maintain
21 an open mind, to let the facts speak for themselves. And we
22 are partway through, and there is still a good, very strong
23 chance, like you said there at the end, the Department is
24 crystal clear on this one. And so we have just got to let
25 the facts, and the Department is innocent on this one.

1 THE WITNESS: No. I mean, to me, I have shared my
2 thoughts on intrigues.

3 MR. HOVATTER: Yeah, uh-huh.

4 MR. MCMULLEN: You were pretty right on the mark
5 for the things that we wanted to look into.

6 THE WITNESS: Because I think that I know enough,
7 I guess, about investigations that you have to have all the
8 information to be able to see, because I have only seen
9 snapshots of different things.

10 MR. MCMULLEN: Yeah.

11 THE WITNESS: I don't know how they all fit
12 together. And there could be an explanation as to, you
13 know, why Thorry called Ron instead of, you know, whomever
14 first, you know, or why Ron told him to go up the chain.
15 You know, I don't know, you know, there could be, you
16 know --

17 MR. HOVATTER: Yeah.

18 THE WITNESS: You know, from watching enough
19 movies, the most recent Mystic River, you know, where, I
20 don't know if you have seen that movie.

21 MR. HOVATTER: The cops murder --

22 THE WITNESS: The daughter. And, essentially, the
23 cops are doing an investigation and the girl's father is
24 doing an investigation, and they came to a different
25 conclusion, and because only partial information was being

1 obtained. And, thus, in the end, the gal's father killed
2 the wrong guy, you know, he was going out, you know, and so
3 I fully understand that I am only getting or I only see part
4 of the picture. That's why from my perspective as a
5 manager, but also personally involved in this, I want to
6 know what the real story is. And, you know, that's why, you
7 know, I am willing to give you everything I have, so we can
8 get the whole picture because I think it is important.

9 MR. HOVATTER: Well, one way, no matter what we
10 do, Macho B remains dead, he is going to stay dead. So what
11 we certainly got to know, and it is not just so we can
12 defend ourselves, because, frankly, we are going to continue
13 to be a pinata for the Arizona Daily Star until the Feds are
14 done.

15 THE WITNESS: Oh, yeah.

16 MR. HOVATTER: But it is because more importantly,
17 you know, how do we -- what did we learn about ourselves so
18 we can make the change so that -- we will never 100 percent
19 eliminate the possibility of something like this happening
20 because we will always be tainted by somebody who
21 intentionally does the wrong thing. But, certainly, we have
22 learned enough already to know that there are things we not
23 only could have done and should have done, probably could
24 have done fairly easily --

25 THE WITNESS: Uh-huh.

1 MR. HOVATTER: -- that wouldn't have
2 bullet-proofed us, but would have probably made it much more
3 likely that we were not going to have this kind of outcome
4 in all of this. It might have been -- it might be that the
5 policy that we establish might have been that we had done it
6 in a way -- we might have decided that maybe this is an
7 opportunity that we want to take advantage of. We might
8 have decided that we were going to do this. We didn't get
9 that opportunity, at least not this way.

10 THE WITNESS: Right.

11 MR. HOVATTER: Anything else, guys?

12 MR. MCMULLEN: No, just thanks.

13 MR. HOVATTER: Thanks a lot. We appreciate it.

14 THE WITNESS: No problem.

15 MR. FABRITZ: Thanks, Bill. I appreciate it.

16 (Conclusion of Interview.)

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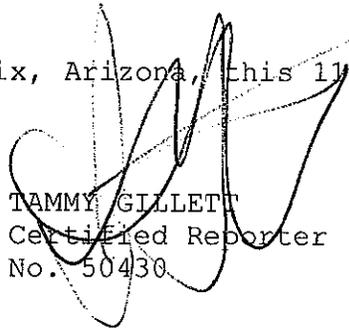
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CERTIFICATE

I, Tammy Gillett, do hereby certify that the foregoing 101 pages were transcribed by me; that I was then and there a Certified Reporter in and for the County of Maricopa, State of Arizona, and that the foregoing pages contain a full, true, and accurate transcript of all the digitally recorded and/or taped proceedings, all to the best of my skill and ability.

I FURTHER CERTIFY that I am not related to nor employed by any of the parties hereto, and have no interest in the outcome.

DATED at Phoenix, Arizona, this 11th day of August, 2009.



TAMMY GILLETT
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TRANSCRIPT OF INTERVIEW
BILL VAN PELT
AUGUST 10, 2009

Individuals present at the Interview on 8/10/09:

Gary R. Hovatter, Arizona Game and Fish Department, Deputy
Director, Interviewer
Marty Fabritz, Arizona Game and Fish Department, Ombudsman,
Interviewer
Craig McMullen, Arizona Game and Fish Department, Wildlife
Manager, Interviewer
Bill Van Pelt, Employee

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EXAMINATION

1

2 BY MR. HOVATTER:

3 Q. We are still doing this under Garrity conditions,
4 and do you need me read those again?

5 A. No.

6 Q. Thank you. What I am doing now, we have gone
7 through a lot of -- we have done so many of the interviews
8 now, we actually have some better questions we can ask about
9 process stuff. And we have got a real short list of
10 questions we wanted to ask you in this.

11 A. Okay.

12 Q. Some of this you already addressed, but I didn't
13 nail it down as tight as I want, so this is the process.
14 Did you know Emil from the Northern Jaguar Project from
15 those early days when he was working that, Emil McCain?

16 A. Yeah, I know.

17 Q. I mean, did you know him just from knowing that he
18 was part of the project or did you meet him at that time?

19 A. Oh, that is when I met him was when he started
20 with Jack Childs. Originally, he started as a college
21 student helping out on the project, and then afterwards Jack
22 hired him on, and that is when I met him.

23 Q. That is the Borderlands Jaguar Project. I was
24 thinking about that Northern -- it is called the NJP?

25 A. Northern Jaguar Project which is different.

1 Q. Did you know of him when he was working in that
2 project?

3 A. You mean down in Mexico?

4 Q. Yeah.

5 A. No. No.

6 Q. That's how I read it, but I just wanted to make
7 sure on that. Did we -- pardon me for doing this -- did we
8 have -- I think the NJP is still going on is my
9 understanding or some form of it is?

10 A. Yes.

11 Q. Have we ever had a formal relationship with them
12 support wise?

13 A. You mean as financial and stuff?

14 Q. Yeah.

15 A. No.

16 Q. There was -- this is an old, old e-mail, and I was
17 wondering -- it seems old. There's a time when you -- Ron
18 was retired, and he was doing, I think this is some of this
19 UMA work he was trying to get going.

20 A. Uh-huh.

21 Q. And so he had -- he was looking for some contacts
22 down in Mexico, and he come to you, and, I think, some other
23 folks to get some people he could talk to. And I think you
24 had linked him up with Carlos on this or you had given him
25 Carlos' name. And at the end of this, I guess it did not --

1 what I am wondering in that was he said, I did learn who I
2 could share information with regarding jaguar, and I am
3 wondering what that -- what insight that was into that
4 project?

5 A. This wasn't -- what this had to be --

6 Q. See, I don't know exactly what that relates to.
7 There is no other context to that.

8 A. Yeah. What this is in regards to was that we had
9 learned, actually, from Ron that there was a rancher who had
10 trapped two jaguars down in Mexico, and he was trained to --

11 Q. Is this the "give me money, I will let these
12 jaguars go" thing?

13 A. Yeah.

14 Q. Okay.

15 A. And so what happened, though, was is they
16 needed -- they needed permits to be able to do that. And so
17 we were working on trying to grease the skids for getting
18 the permits. Well, Colleen, Carlos, and Erin, Erin
19 Fernandez, who works for the Fish and Wildlife Service,
20 okay --

21 Q. It was actually her name was what got me most
22 interested in this because of how she shows up later on, on
23 the Border Carnivore Project.

24 A. Uh-huh. Okay. Well, she's in charge of the
25 Mexico border and for the Fish and Wildlife Service. So,

1 anyhow, Paco wasn't around. So we were asking her who the
2 contacts would be, most appropriate contacts would be in
3 Mexico, to be able to do this. And we were trying to get
4 the skids greased. So when Ron's guy showed up to get the
5 permit, he would be able to get --

6 Q. He would get the permit?

7 A. No problem.

8 Q. Yeah.

9 A. Well, come to find out, then, that information got
10 back to Carlos, and Carlos was trying to corner the market.
11 And it was some person that was underneath the main guy who
12 cut the first permit, and he didn't have the authority to do
13 it. And so, then, when they were going to get the second
14 permit for the second jaguar, they felt as though they were
15 laying a trap for this guy. And so the guy never showed up
16 for the meeting from my understanding.

17 Q. It sounds like a drug deal.

18 A. So that is all this has to do with was we were
19 working trying to grease the skids, and, then -- so that's
20 Ron's comment, well, now, I know who I can trust, because
21 now --

22 Q. Yeah.

23 A. -- I can't trust Carlos or Erin in that matter in
24 regards to jaguars there. See, I never thought Ronny and
25 Carlos were friends.

1 Q. No. I picked up on that, too. This question is
2 specific to Greta Winder or Wenger in the Integral Ecology
3 Research Center, but it is actually -- there's a number of
4 different types of contracts that the Branch has had with
5 Borderlands Jaguar Detection Project, and it seems most of
6 the money we end up having to pass through a third party to
7 them. And I am wondering is there a reason why -- this is
8 education for me -- is there a reason why we can't just give
9 the money straight to the Borderlands Jaguar Detection
10 Project?

11 A. Well, yes. Initially, when we first started
12 giving money or contracted them to do the work, initially,
13 it was just with Jack Childs, and all we were doing was
14 covering his expenses for running the camera. Okay. And
15 for tax reasons, he was able to handle that, but once he
16 started hiring people out and paying salaries --

17 Q. Yeah.

18 A. -- then that became an issue with taxes and stuff.
19 And with Jack being retired, that shows up as income or
20 whatever, and so what we ended up doing, then, is running it
21 through this 501(c)(3) because they deal with that stuff,
22 and then they get the money.

23 Q. Okay. Yeah. I just wondered because I saw that
24 happening, and it seemed like early on, there was -- that we
25 were kind of having a more direct day-to-day relationship

1 with them that way. I mean, we kept the operational
2 day-to-day relationship. I was just wondering why we made
3 that transition.

4 In November, Emil is working on the Borderlands
5 Jaguar Detection Project. He's also working, but I think
6 they are out of money, I think at that point in November of
7 '08, I think they are out of money, and he is also then a
8 subcontractor to Park Rich's (phonetic) contracting to do
9 lion work. And so he gets on, he's working Research Branch
10 in November, and he's getting paid a daily rate when he is
11 working lion snaring.

12 During that same time, he's still checking cameras
13 down in that area. So he checks cameras in the middle of
14 November, and he finds some pictures from -- finds first the
15 pictures from August, and then later on a few days after
16 that, he finds another camera that has got pictures from
17 July and only a few days apart.

18 I don't see -- did he, in that mid to early
19 November or that mid November time frame, I can't find any
20 record where he sent -- if I -- I think he informed you and
21 Terry because he informed the Jaguar Conservation Team, and
22 I think you were still kind of peripherally on his screen
23 because I don't think you were running the -- you weren't on
24 the Jaguar Conservation Team at that time?

25 A. No.

1 Q. But I think he was sending stuff to you, but at
2 the same time, he didn't send anything to -- or it doesn't
3 look -- it doesn't appear that he sent anything to Kirby and
4 those guys, and he is drawing a check from them for that
5 Research Branch Study. What I am trying to figure out is it
6 almost appears that Emil doesn't have any sense of any
7 proximity in time and space to the work he's doing down in
8 that area, which he knew real well, and the idea that there
9 might be a jaguar running around. And I guess the question
10 I had is this: I am just wondering if that's really
11 possible based on his experience down in this area?

12 A. What is possible?

13 Q. Well, when he did that paper for the Journal of
14 Mammalogy, his study area was that Atascosa area?

15 A. From the Baboquivaris east.

16 Q. And when he gets back now, he gets back to this
17 area, he's working the snare line, and he installs the snare
18 line in that same area there in the Atascosas.

19 A. Uh-huh.

20 Q. And I am just -- I am trying to figure out -- I
21 guess, I am just trying to get at is that just wholly
22 coincidental? I mean, because we know, I mean, that is a
23 good lion area. There's a lot of lions running around down
24 there, and when he comes across these photos while he is in
25 the middle of doing all that, it just doesn't seem like he

1 connects the dots to the study. In other words, there's
2 nothing, you know, other than doing his required
3 notification of the Jaguar Conservation Team, because
4 I think he is required -- I mean, he doesn't connect the
5 dots between his trapping work he's doing --

6 A. Uh-huh.

7 Q. -- and the jaguar photographs he's seeing?

8 A. I don't think he connects the dots on paper. I
9 guess my question would be, because I don't ever remember
10 him even notifying the Jaguar Conservation Team that he is
11 doing the snaring work for the Bear and Lion Project. I
12 don't ever remember any notification of that.

13 Q. That is what started this. He didn't tell the
14 guys he is doing the trapping for about the jaguar photos.
15 And he didn't tell the folks that he sends the jaguar photos
16 to, oh, by the way, I am trapping down in this area.

17 A. Yeah, but yet at the same time, and I don't know
18 where the linkage is for -- how did the Research Branch know
19 to get a hold of Emil to do the snaring to begin with?

20 MR. MCMULLEN: Yeah, we have done all that much
21 now.

22 THE WITNESS: Okay. But, see, as someone sitting
23 on the outside, I don't know how that all happened.

24 Q. BY MR. HOVATTER: Yeah.

25 A. And so, you know, from my perspective, you know,

1 connect the dots, I think he has connected the dots. It is
2 just not written down on paper anywhere, because he knew
3 damn well, I told you guys before, if anyone knew where
4 Macho B was it was Emil McCain as far as time frames and
5 everything. You know, as far as any given moment, he
6 may not know, but with as much time as that man spends down
7 in the field in there, he knew the presence or absence of
8 that animal.

9 So to be naive as far as setting those snares, I
10 don't think he's naive. I think he knows what he was doing.
11 The question is, okay, who did he talk to by means of who is
12 knowing about it, because I don't know how that was -- how
13 the connection was done. You know, I was surprised to learn
14 that he was on the project.

15 Q. When did you find out that he was working on the
16 project?

17 A. Definitely, was after Macho B was being
18 captured. You know, back in, like you were saying, October
19 and November, you know, Jack Childs had called and said
20 that, you know, they are running out of money. And I think
21 it was a phone call with Jack about that time because it was
22 right around the holidays that they were running out of
23 money, and that, you know, Emil was going to -- and it was
24 more he was going to be doing some work for the Department
25 on snaring. But, really, it wasn't -- it didn't sound

1 definitive at that time, but, you know, I didn't know
2 definitively until after Macho B was trapped, you know.

3 Q. Yeah.

4 A. Like I said, I don't remember of any e-mails from
5 Emil or Jack or anybody saying, hey, Emil is hired by the
6 Bear and Lion Project. He is working down there setting
7 snares.

8 Q. Because he did do some snaring in other parts of
9 Arizona as part of that subcontract?

10 A. Yeah. And I couldn't tell you where that is or
11 where he did the snaring. I mean, that was just -- that was
12 never shared with us.

13 Q. You finally got me to where, you know, I kept
14 pulling back and forth with this. This group of folks that
15 he knows about and this group of folks that he knows about,
16 and he has got this information, he shares it with one
17 group, but not the other. He shares the information about
18 what he has got by working with this group.

19 MR. MCMULLEN: He parses it out.

20 Q. BY MR. HOVATTER: And either one, because here is
21 the thing, my thought was, granted this is a hindsight
22 question, but if he had called when he let the Jaguar
23 Conservation Team know in November that he found those
24 photos, if he had said, and, you know, by the way, I am
25 trapping for lions and bears in that area? Again, hindsight

1 is perfect, but would that have raised -- in your mind, do
2 you think that would have raised some flags, and the Jaguar
3 Conservation Team would be interested in what he was doing
4 down there?

5 A. If he had put that in an e-mail, I think Terry
6 Johnson would have written back with why in the hell are you
7 trapping for bears and lions is what would have been the
8 question. As was the e-mail when we learned about that
9 there was some meeting going on to discuss the Bear and
10 Lion --

11 Q. The meeting to discuss the Bear and Lion Study?

12 A. We hadn't heard anything about it. We heard
13 rumors. You could see by Terry's reaction, the first thing
14 he did is, what meeting? You know, what the hell?

15 Q. Yeah.

16 A. So if something would have come through, I have
17 pretty good confidence that an e-mail would have been sent
18 out asking what the hell is going on.

19 Q. Everything I have seen on that tells me that, and
20 that's why I just -- that is, you know, I mean, he is the
21 one guy who knew everybody involved.

22 A. Well, you know --

23 Q. Well, I mean, it was that he knew all of these
24 pieces, and he knew everybody?

25 A. Outside of the Department.

1 Q. Yeah. This is asking for -- this is a very
2 subjective question, but why do you think with as long as
3 they have working with jaguar conservation, that Research
4 did embark on this study and never thought to have a
5 conversation with you or Terry about this?

6 A. Well, I really don't know. The only -- my only
7 thoughts on that is the fear -- the fear of possibly
8 stalling the project after, you know, getting the collars
9 and being ready to go, the fear of stalling the project
10 because of the purpose -- because of the jaguar.

11 I mean, because as I had mentioned, you know, they
12 were asking for EA checklists, which tells me that they
13 recognized that there was a potential NEPA issue involved
14 here. With NEPA, as you know, could be something that,
15 especially if it is a positive thing, more long and drawn
16 out because you have to try to mitigate those issues if
17 something is identified. And here, they just got these
18 collars, and they didn't want to delay it.

19 Q. Because they never did the EA checklist either?

20 A. So, I mean, that is the only reason I could think
21 of, but yet at the same time, I also told all you guys, I
22 mean, the Research Branch for years has just been chasing
23 money and doing what they want, and I think they should have
24 been doing a whole hell of a lot more coordination in the EA
25 checklist than what has been going on.

1 There is bad stuff that is going on that we have
2 no clue with, which could impact the rest of our -- another
3 federally listed species. I mean, there's -- I mean, for a
4 long time, there just seems to be this entity out there that
5 is chasing money doing research projects like researchers,
6 and there is not a whole lot of coordination back to the
7 programs to which they are supposed to be benefiting.

8 And that is where, I mean, that is the only thing.
9 I mean, there has been a level of independence for a period
10 of time, and they maybe initially thought, well, we don't
11 need nothing from them. We are not tracking jaguars. We
12 are tracking bears and lions. Those questions, I don't
13 know, but --

14 Q. I think we know a lot of the answers. Although
15 that's where this J work, quote, unquote, came from.

16 MR. MCMULLEN: That brings up a point. Can you
17 refresh my memory, because we haven't got your transcript
18 back yet. We probably asked you this before, but how did we
19 end up not doing the EA checklist? When the question came
20 out in the field and wormed its way up to Research Branch
21 and you about whether we should do a checklist, EA
22 checklist, how did we end up not doing one?

23 THE WITNESS: That wasn't the question, Craig.

24 MR. MCMULLEN: Yeah.

25 THE WITNESS: Okay.

1 MR. MCMULLEN: Well, I am not trying to trick you.

2 THE WITNESS: No, no, no.

3 MR. MCMULLEN: I don't remember.

4 THE WITNESS: Yeah. Yeah. No, that is why I am
5 saying, the question was, hey, we are getting ready to open
6 the snares again for the Bear and Lion Project. There's a
7 potential for catching a jaguar. Do we have the EA
8 checklist or can I see a copy of the EA checklist for the
9 Jaguar Project? Then that is where I started, and Dean was
10 the one who asked it, and my thoughts there was, well, Dean
11 is maybe new enough that he doesn't know the whole history.

12 So I explained the whole history. The Jaguar
13 Conservation Team Project is a managerial, you know,
14 project. You don't do an EA checklist for it, but at the
15 same time, the Jaguar Conservation Team is not intending to
16 go out and capture a jaguar. There's a recommendation that
17 has been brought forth, but the Director hasn't did the
18 call. When we decide to go catch a jaguar, we will end up
19 doing an EA checklist.

20 MR. MCMULLEN: Okay. All right. That answers it.

21 THE WITNESS: So I don't even know if it even came
22 up out in the field, do we need an EA checklist? I just
23 think Dean was just was doing his due diligence or
24 something.

25 Q. BY MR. HOVATTER: There was some conversation that

1 cropped up from time to time about -- you can tell it was
2 nagging at several people about should we do an EA
3 checklist? It is all within the Research Branch piece of
4 this thing.

5 A. Uh-huh.

6 Q. It never got to where anybody pulled the trigger
7 on it?

8 A. Well, it never came across, at least when I was
9 Program Manager, nobody ever came to me and asked from
10 Research Branch, hey, do you think we should do an EA
11 checklist on this? That question was never asked of me.

12 MR. MCMULLEN: There is a big difference between
13 what I asked and what you had received. So, yeah, I am glad
14 you clarified that. Thank you.

15 Q. BY MR. HOVATTER: When you -- when we caught Macho
16 B and we tagged -- and you and Terry was having the lead on
17 that, and you went out to the field when we started to get
18 some concerns about that, did you see -- were you -- in my
19 mind, you had every authority if you needed it to say, you
20 are the guy on the ground and the Department says you are in
21 charge. Is that how you operated with Thorry and the other
22 folks that we had there until you blew your Achilles out?

23 A. Yes. I mean, that's how, you know, I assumed
24 going away from that meeting which was the Friday --

25 Q. Yeah, it was the day after.

1 A. -- you know, because Chasa was there.

2 Q. Yeah.

3 A. And we had everybody there.

4 Q. Yeah.

5 A. We said, okay, these guys are the lead. My
6 assumption was that everybody Department wise went down and
7 portrayed that to everybody and that --

8 Q. That was the clear indication.

9 A. -- was the chain of command. In addition to that,
10 there was an e-mail that was sent out to Jack and Emil, and
11 I believe Terry was the one who sent it saying this is what
12 is going on.

13 Q. Yeah.

14 A. Okay.

15 Q. Because they had access to the location?

16 A. Right. And that, you know, I would be providing
17 the updates until Terry got back, and I was the lead, and
18 so --

19 Q. Yeah.

20 A. So that was my expectation. So, then, when stuff
21 started deteriorating, I had said, okay, we are going to go
22 out in the field on this day. And, then, there was some
23 more discussions, and then when we decided to delay it
24 until -- actually, it would have been March 3rd. But, then,
25 all of a sudden where everybody was in agreement, hey, he

1 moved. Perhaps he was just feeding on a carcass and he has
2 drugged it now. That was like Tuesday and Wednesday because
3 we were going to go out on Thursday.

4 And so that is, like, okay, yeah. Actually, what
5 it was, was Emil had called Ron because Ron was one of the
6 people I had identified since he was familiar with the area.
7 He had worked down there before --

8 Q. Yeah.

9 A. -- as one of the people besides Thorry to go in.
10 Well, then, come to find out, he had been having
11 conversations with Ron and Thorry, and they have all
12 decided, hey, now, isn't the time to go in. So at that
13 point in time, I decided we will defer to that because they
14 actually do have more experience, especially with lions,
15 than what I do. But, then, all of a sudden, two days later,
16 the same concerns are cropping up, and that is when I said
17 enough of the crap. I am going to go in, because he had
18 actually already -- Emil actually had already started
19 assembling a team to go in, Thorry and Ole Alcumbrac, and he
20 wasn't calling the shots.

21 And so that's when I sent out my e-mail saying,
22 no, this is what we are going to do, and that is when I took
23 in Kurt Bahti and Thorry to go in. So, yeah, I acted --

24 Q. That is how I saw it. Everything I saw you do and
25 everything I saw the way that you worked was in accordance

1 with what we intended to come out of that meeting.

2 A. Uh-huh.

3 Q. Why do you think -- is that -- is that Emil's
4 normal -- is he a take-charge kind of guy, that sort of
5 thing?

6 A. No, no. My experience is Emil, if he doesn't get
7 his way, he starts trying to build a coalition to support
8 his view and try to -- I mean, that's -- I don't know if you
9 guys saw all the e-mail stuff in regards to the capture of
10 the jaguars down in Mexico, but, you know, him and Sergio
11 both wrote letters saying it wasn't their fault.

12 Q. Yeah, I read those, yeah.

13 A. Then they got a letter from Emil's mother, you
14 know, claiming that he's a great guy who would never do that
15 and all these letters. And that's in my mind how Emil
16 works. When we first photographed the jaguar, Macho A, Jack
17 was the lead, Emil was helping out, but Emil was the one who
18 got the camera. So they were making a big deal about it.

19 And we were giving credit to the Jaguar
20 Conservation Team and not to Emil McCain specifically
21 because he was there helping the team. Well, he didn't like
22 that, so he went back to the professor to try to get him to
23 sway our efforts. And so we had, like, two or three, like,
24 teleconferences, you know, back and forth on what was going
25 to be in the news release and who was going to get credit

1 for what.

2 So the way I saw Emil operating, even on this
3 issue, he started talking with people and doing things
4 behind the scene. Now, why people in the Department were
5 following his direction, that is what I don't understand,
6 because it was my assumption, they were directed to, as the
7 lead, with me.

8 Q. Yeah.

9 A. During all of these exchanges with Emil, or with
10 Emil and Ron, Emil with Thorry, never got a call from any of
11 those guys saying, hey, just got a call from Emil, and this
12 is going on. And that's when I finally got ticked off
13 enough there on that Thursday night, Friday, and said, okay,
14 this is what we were going to do because nobody was telling
15 the supposed leads on what was going on. It was obvious
16 through some of the e-mails that there were discussions
17 going on between those individuals --

18 Q. Yeah.

19 A. -- outside of the ring, and that was never brought
20 back to the Department.

21 Q. Yeah. I didn't see that until we got all the way
22 through this, and we started collecting all the stuff.
23 Well, in looking back now at all of this, what do you think
24 happened?

25 A. My turn now?

1 Q. Yeah.

2 A. All right. This is my theory on what happened.
3 There was a meeting back in November, maybe even before
4 that, but I think it was the November meeting where the idea
5 of using bears and surrogates as surrogates for jaguar on
6 jaguar across-the-border movement. There was a decision
7 that they would try to pursue those funds that were going to
8 be made available through Homeland Security, and at some
9 point, the decision was made we were going to try to make
10 that happen by catching a jaguar to demonstrate that the
11 jaguar is used in the same corridors, movement corridors, as
12 bears and lions.

13 Q. MD?

14 MR. MCMULLEN: Well, I mean, it was in that
15 meeting.

16 THE WITNESS: The December meeting?

17 MR. MCMULLEN: This occurred at that December
18 meeting?

19 THE WITNESS: No, no, no. I didn't -- that
20 precipitated it. It was in the meeting who made the
21 decision to do this, I think that Emil obviously was part of
22 it. I think that there was some individuals, other
23 individuals outside the meeting, and I think that Janay --
24 that Janay person.

25 Q. BY MR. HOVATTER: Janay Brun?

1 A. Yeah, was part of it. I think Thorry was part of
2 it. I think Lisa Haines would have been part of that
3 meeting. I think Ron Thompson would be part of that
4 meeting.

5 Q. This is the November meeting?

6 A. No, this is a meeting outside.

7 MR. FABRITZ: That would have precipitated it?

8 THE WITNESS: Yeah. I think there was recognition
9 that funding for a project that could, and they needed
10 funding, could be obtained if they could make a linkage to
11 jaguars. Emil was playing both sides of the game. I think
12 he precipitated it, and there was enough linkage between
13 those other people, I think they were all involved in the
14 decision, and maybe they came up with a plan to do it.

15 Q. BY MR. HOVATTER: Now, is this the meeting, then,
16 your philosophy of the meeting that would have been outside
17 the scheduled December meeting that they had on the 9th of
18 December?

19 A. Yes. Yes. I think this was a planning meeting of
20 some sort.

21 MR. MCMULLEN: Is this conjecture on your part?

22 THE WITNESS: Yeah. Yeah. I mean, you asked me
23 to give you --

24 Q. BY MR. HOVATTER: You ask a subjective question.
25 You get the answer. Okay. All right. But you are not

1 aware --

2 A. No, I am not aware of anything.

3 Q. But, you know, because the thing that is most
4 interesting about that to me is that, as you look back on
5 this and you connect up the dots, and it connects that that
6 is the logical connection of dots, and what would have been,
7 if this had gone off the way -- if such a meeting had
8 occurred, and if this had gone off the way that that meeting
9 would have planned, and Macho B was still running healthy
10 and we weren't pulling the -- what do you think was in it
11 for the folks that were in that meeting?

12 A. They would be able to demonstrate, then, that
13 there are close linkages for bear and lion, and thus, you
14 could pursue the funding from Homeland Security to fund, you
15 know, all the bear and lion stuff that was needed. I mean,
16 you know, as we pointed out to you, there has been a gob of
17 proposals thrown out to various funding mechanisms by that
18 same group of people to get money.

19 And I think that, you know, they saw a cash cow,
20 and that if they could make that linkage with the jaguar,
21 then they would be funded for -- they would have more secure
22 funding is what they would have. That's my theory. So
23 whether or not it is true or not, I don't know, but I just
24 think with all the e-mails and stuff that has gone on,
25 linkages, I mean, Ole Alcumbrac, he wouldn't have been my

1 first choice to have gone in with the jaguar. I told you
2 that before.

3 Q. Yeah.

4 A. I think Ole is too aggressive for me. There are
5 other people that I have worked with, I feel comfortable
6 with, that I would have taken in on a capture, but that was
7 already a done deal before I had already -- I had already
8 even gotten in that. I still think I was played that day
9 when I went in. The only way we could have found that
10 animal was with a GPS unit, and if it wasn't for Kurt Bahti
11 who happened to have one in his pack, we would have been two
12 miles in hiking in on this animal without a GPS unit.

13 Thorry left it at the truck. The only way we
14 could have found that animal was with GPS units. The next
15 day they walk right to the animal. So I think, I mean, to
16 some extent, I am angry because I think I was played on
17 different levels here.

18 Q. Well, and, Bill, on that, if that is true about
19 that, what would have been gained by playing you that first
20 day?

21 A. Ole would have been there, more secure people who
22 were part of the conspiracy. I don't understand why Ole was
23 called in on this. He hasn't been involved with the jaguar
24 ever in any of this stuff. I asked Thorry why he called
25 him. Oh, well, I have worked with him before. And, then,

1 come to find out, it is Ole and Ron Thompson and Thorry
2 Smith down in Mexico catching jaguars. Too coincidental for
3 me. Now, maybe I am cynical and whatever, but, boy, that
4 trip would have been -- I heard about that trip a long time
5 ago, so I just --

6 Q. Now, was that the trip -- because there has been
7 several that I understand?

8 A. The one where they caught the ones with the broken
9 teeth and stuff, so --

10 Q. Yeah.

11 A. That was the most recent one, and that has been in
12 the works for a while.

13 Q. Yeah. This is that one, the captured ones
14 that they are trying to remove or put in either --

15 A. False teeth.

16 Q. -- false canines or implants. Theoretically, they
17 could be successfully released in the wild and be able to
18 defend themselves if they wanted.

19 A. Uh-huh. That has been in the works for a while.
20 So how all those guys ended up on that same trip, like I
21 said, it is too coincidental, because they are the same ones
22 who were involved with Macho B. So that is my theory.

23 Q. I am glad I gave you the opportunity to lay that
24 out. Is there anything else about this that we haven't
25 discussed that you think is something we ought to deal with

1 or know about?

2 A. Nothing is popping to mind. I just think, you
3 know, that the jaguar monitoring project in the infancy, at
4 the very beginning, you know, wasn't like how it ended up,
5 you know, it was more of a collaborative, hey, let's see
6 what we can do for conservation on this species and stuff.
7 To me, it is just unfortunate that what it comes down to,
8 egos got involved in it and that has ruined it.

9 Q. It is kind of tough to see what happens next with
10 some of the folks involved?

11 A. But, you know, as far as -- well, I think I have
12 been frank and everything on all my feelings and stuff on
13 this, I just -- I just hope that we do come to a resolution.
14 I mean, things that could have been done better, obviously,
15 the coordination, I mean, but I go back and I play back in
16 my mind over and over again with -- at the time when
17 information was coming available and stuff, you know, I
18 think we made the right decisions at that time --

19 Q. I do, too.

20 A. -- in moving forward. You know, we recognized
21 shortly after the capture, there were things that needed to
22 be tweaked for the capture protocol. I mean, that was
23 recognized and I still believe that.

24 Q. I would just second that, I think, for everything
25 we have learned about this.

1 A. But as far as the decisions that were made at the
2 time and everything, with the information that was being
3 made available, I think we made the right decisions, and,
4 you know, I wouldn't change anything as a result.

5 Q. I would agree with that. Let me ask you -- all
6 right. Granted, there can't be many jaguars running around
7 down there, but is it -- is it your opinion that we should
8 some day restart that Bear and Lion Study down there?

9 A. Yeah.

10 Q. What do you think we need to do or put in place in
11 order for us to do that down there without running the risk
12 of having another situation like this? Granted, I mean,
13 there is not a whole lot of 15-year-old jaguars around.

14 A. Yeah.

15 Q. That's neither here nor there.

16 A. Yeah, because you never really know the age of the
17 animals anyhow. Well, I think that, one, we need to
18 continue with the monitoring project. I mean, part of the
19 reason why they knew where to go trap the animal was the
20 animal was there, and they knew about it because they were
21 monitoring it.

22 I think if we have a robust enough monitoring
23 program, I guess I feel confident, you know, depending on
24 who we get for a contractor now or if we do it ourselves,
25 you know, the detection of the animal or at least the

1 general area as being used, and then we could take the
2 necessary precautions of either closing snares if we need to
3 or have our people adequately prepared to be able to handle
4 it.

5 I mean, everything that I saw in the handling form
6 didn't raise any flags. I think we handled the animal fine.
7 You are talking about a 15-year-old animal. The only thing
8 I would have done different, and sometimes we do it,
9 sometimes we don't, would be give him a shot of penicillin,
10 and we hadn't been doing that. Thorry didn't have anything.
11 But as far as handling the animal, it wouldn't have been any
12 different than if we had tried to do it ourselves.

13 Q. Yeah.

14 A. Of course, we probably would have had a vet with
15 us, but, you know -- you know, so there is some tweaking,
16 but that is really about it. And so we need to make sure
17 our person is adequately trained to where if it did happen,
18 they could handle the situation.

19 Q. Are we going to need to establish some kind of
20 protocol for how close in time or space is too close to keep
21 a snare?

22 A. I think that is really difficult -- would be real
23 difficult, Gary, because, I mean, we even saw with some of
24 the camera stuff, a jaguar in an established territory can
25 go 30 miles in a day. So you are going to shut down

1 everything, you know, 30 miles around. I just think people
2 need to be aware of it if it is detected.

3 Q. Yeah.

4 A. You know, because that animal could be in a
5 different mountain range down there in 30 days.

6 Q. Well, the other part of that, too, is you don't
7 know what you don't know. You can't have a camera on every
8 potential way that a jaguar could come into your snare
9 areas.

10 A. That is absolutely right. But, you know, I guess
11 I look at, okay, that animal transverses that country for 15
12 years, all right, I actually say it is longer. We only, at
13 best, looking back at all the records, we might have had
14 two, maybe three public sightings of that animal. Okay. We
15 had done other work down in that area during that time frame
16 as was other trapping efforts and stuff down in that area,
17 private as well as the Federal.

18 Q. Donations and stuff going on?

19 A. Yeah. That animal wasn't caught during that
20 entire time. I mean, we probably don't even know all the
21 trapping, private trapping efforts that were going on.

22 MR. MCMULLEN: No, we don't.

23 THE WITNESS: And that animal transversed that
24 country for 13 years. So, to me, that tells me, one, they
25 are smart, but, two, you can continue with wildlife

1 management actions that we carry out and do it in such a way
2 to not catch the animal, but be at least, I don't know, I
3 mean, I just -- that animal made it a long time with a lot
4 of stuff. So it doesn't mean just because you set a snare
5 there, you are going to catch it.

6 Q. BY MR. HOVATTER: Well, you know, that is the -- I
7 started thinking, at one point I was thinking, we probably
8 need to establish some kind of protocol for if it is this
9 many miles away and this many days, you shut down. But with
10 the ground they cover and with the fact that you are not
11 going to have a system that is going to insure that he
12 doesn't get through into the snare area without being seen
13 or noticed, I think your thoughts on it make more sense
14 functionally.

15 A. I think, you know, if you really want to be
16 cautious, make them true blind sets to where you are not
17 using scents, you know. It is just a true blind set, and
18 you are setting in a, you know, or a scent that they are not
19 normally attracted to. You know, like bears, you use some
20 God awful smelling stuff that I don't know if a cat would
21 come to it, you know, a fox might, you know, or a coyote,
22 but, you know, I just, you know, I think if you give that
23 sort of direction, I still think that that Bear and Lion
24 Study can go on.

25 MR. HOVATTER: Well, guys, you got anything?

1 MR. MCMULLEN: No, I don't.

2 THE WITNESS: Okay. Good. Now, my question.
3 When are you guys going to be done?

4 MR. HOVATTER: Bill, the problem is going to be I
5 don't think we are going to be in a point where we can make
6 an announcement until the Feds are done.

7 THE WITNESS: Okay.

8 MR. HOVATTER: The problem is that since we only
9 have access to the Department folks --

10 THE WITNESS: Right.

11 MR. HOVATTER: -- you know, we are coming out -- I
12 can just see us coming out with our findings, and then the
13 Feds go, you know, that is all perfect except for that
14 Cayman Island bank account we found, you know. We won't
15 know about that. So I don't want to put us out there as we
16 know what happened --

17 THE WITNESS: Uh-huh.

18 MR. HOVATTER: -- and then come to find out that
19 because of access to sources we don't have that there is a
20 piece of this we don't know.

21 THE WITNESS: Uh-huh.

22 MR. HOVATTER: I have a pretty good sense that
23 we -- if we don't know all of it, we know most of what the
24 Feds know.

25 THE WITNESS: Uh-huh.

1 MR. HOVATTER: I mean, I kept the investigation
2 separate. I have not asked you guys -- I have not asked
3 anybody what they told the Feds. I haven't asked what the
4 Feds asked them. We have had folks offer copies of their
5 statements, and I have said no, I'd love to have them, but I
6 am not going to mix the investigation. But I don't see a
7 way for us to make our announcement on this until we --
8 until we have got the Feds done.

9 Now, I think we will be cocked and locked, and we
10 will have our findings and our report done before that,
11 before they are, but I don't know when they are going to get
12 them done.

13 THE WITNESS: So after today, I mean, after you
14 guys do this set of interviews, you guys are done?

15 MR. HOVATTER: There's about four or five. I
16 mean, I got like a couple of one-question interviews which
17 is just kind of, you know, tightening up a few little bits
18 and pieces. I got some things I want to ask Funds Planning,
19 for example, just about the CMS process that gets used, that
20 is used by the Research Branch.

21 But I think we are pretty much done with these --
22 with these pieces, and I think we have a fairly good bead on
23 the things that -- I think we have got a pretty good bead on
24 the major pieces of what happened. There is going to be
25 some parts where if there's, you know, I just don't have any

1 physical evidence, you know, it is going -- there is some
2 very educated surmising that is going to be a part of this,
3 too.

4 And that part is just going to be our, you know,
5 it is going to be somewhat speculative in the sense that
6 this is what seems to be an explanation that fits the facts
7 that we have. Some things I think we will know fairly
8 definitively.

9 THE WITNESS: When was the last time you guys
10 talked with the Feds or got a briefing with the Feds, or
11 have you?

12 MR. HOVATTER: We never have gotten a briefing,
13 and we have specifically not asked for that. And, frankly,
14 part of that, they wouldn't have done it.

15 THE WITNESS: Yeah.

16 MR. HOVATTER: They wouldn't have done it. The
17 last time I talked to them was last week. So I don't know,
18 you know, I just -- I know we have -- I know from what we
19 know that there will be -- it is possible the Feds may not
20 be able to come to a final determination.

21 THE WITNESS: Uh-huh.

22 MR. HOVATTER: And it may just be -- and I am
23 hoping that is not what is going to happen because the worst
24 case for us would be for the Feds to say, well, we think
25 something bad happened, but we can't prove it. Therefore,

1 we are not going to do anything about it.

2 THE WITNESS: Uh-huh.

3 MR. HOVATTER: We are going to always be pregnant.

4 THE WITNESS: Right.

5 MR. HOVATTER: I think we have got a pretty good
6 bead on it.

7 THE WITNESS: Fair enough.

8 MR. HOVATTER: And when, you know, and when we are
9 at that point, then when they are done, like I said, we will
10 be cocked and locked. We are going to have to -- it is our
11 intent to brief E Staff. We want to build this into where
12 we can brief the management team. And when we are doing
13 that, when it gets to where we are briefing management team,
14 we can make our announcements about what our findings are.

15 THE WITNESS: But isn't this being done sort of as
16 a C-110?

17 MR. HOVATTER: You know, it has been done under
18 Garrity --

19 THE WITNESS: Right.

20 MR. HOVATTER: -- which does permit us, should we
21 find evidence to indicate that there was inappropriate
22 behavior, we can take administrative action. Can't take
23 criminal action.

24 THE WITNESS: Right.

25 MR. HOVATTER: But we can take administrative

1 action.

2 THE WITNESS: Now, could the Feds take criminal
3 action still?

4 MR. HOVATTER: Oh, yeah.

5 MR. MCMULLEN: Their investigation is a criminal
6 investigation.

7 MR. HOVATTER: Yeah, their investigation is a
8 criminal investigation.

9 MR. FABRITZ: Theirs is solely criminal. Ours is
10 strictly administrative.

11 THE WITNESS: Okay.

12 MR. HOVATTER: And the thing is, we could -- if it
13 was so indicated, we could -- the State could take criminal
14 action. They would have to do it using evidence other than
15 what we collected as part of Garrity?

16 THE WITNESS: But if you could take administrative
17 action, isn't that like a C-110?

18 MR. HOVATTER: I think it has the same -- it could
19 have an equivalent effect. It is just I think the C-110,
20 you could give Garrity in the Department as a C-110.

21 MR. MCMULLEN: C-110 starts as a result of an
22 allegation of misconduct by an employee.

23 THE WITNESS: Right.

24 MR. MCMULLEN: We went into this investigation
25 really without a concrete allegation of misconduct. So we

1 just began trying to be able to answer questions as to what
2 role our Department played.

3 THE WITNESS: Uh-huh.

4 MR. MCMULLEN: As a result of digging into that,
5 was it possible that we could come across misconduct? I am
6 not saying that we have or we haven't, but it is possible.
7 So I guess the question is what is your starting point?

8 THE WITNESS: Uh-huh.

9 MR. HOVATTER: I think they can have essentially
10 the same result administratively, but you make the most
11 important distinction. One starts with an allegation of
12 misconduct. On the other hand, we don't have, you know,
13 anything that we knew that was credible --

14 THE WITNESS: Right.

15 MR. HOVATTER: -- as an allegation. All we had
16 was something that we knew that we were never going to be
17 able to convince the public --

18 THE WITNESS: Right.

19 MR. HOVATTER: -- that our say was is that is bull
20 shit was going to be good enough. So that is why we
21 initiated the request for the investigation. So on this,
22 you know, when we went into that lawsuit, we were
23 essentially sitting here going to wait for the Feds to be
24 done.

25 THE WITNESS: Right.

1 MR. HOVATTER: The lawsuit, while the Center has
2 up to six years now to file their suit after the 60-day
3 Notice of Intent, we weren't sure when they were going to do
4 it. So since we were going to have to file it, and the
5 filing might be required before the Feds are done with their
6 investigation, we couldn't sit and wait to get --

7 THE WITNESS: Right.

8 MR. HOVATTER: -- educated enough in order to do
9 these filings, and say, no, that is all bull shit because we
10 say this happened instead.

11 THE WITNESS: Right.

12 MR. HOVATTER: So like Craig said, again, we are
13 not at liberty to discuss whether we did or did not find any
14 evidence of misconduct, but --

15 THE WITNESS: I guess, you know, because Mike had
16 sent that one memo out to people, you know, about a Federal
17 investigation, cooperate, and I am pretty sure he said treat
18 this as a C-110. That is where I was trying to -- so we are
19 supposed to treat the Feds as a C-110, but this as just an
20 investigation.

21 MR. HOVATTER: Yeah, I don't remember him saying
22 it was a C-110, but --

23 THE WITNESS: I mean, I haven't looked at it since
24 getting it. I thought he said we were supposed to treat it
25 like a C-110. No?

1 MR. MCMULLEN: Well, the first one here is April
2 2nd, then there is March 31st.

3 MR. HOVATTER: Yeah, we had two different ones.
4 Then he sent out this last one when we started this one.

5 MR. MCMULLEN: There's implementation of snaring
6 activities in Southeastern Arizona occurring prior to the
7 date of capture. It just calls it an investigation.

8 THE WITNESS: Okay.

9 MR. MCMULLEN: It doesn't --

10 THE WITNESS: Like I said, I haven't read it since
11 he sent it out, so I was just -- that's fine.

12 MR. MCMULLEN: I guess it is kind of semantics.
13 The end result is the same.

14 MR. HOVATTER: Potentially, you can have the same
15 result in the administrative and the C-110. I don't know,
16 is the C-110 -- can the C-110 findings go into criminal
17 misconduct?

18 MR. MCMULLEN: No, because it is employee -- it is
19 an administrative investigation.

20 THE WITNESS: I guess the reason I am asking,
21 because in a lot of cases with the C-110's, you know,
22 essentially, the investigation is concluded, and you are
23 absolved from the charges or you are not, but whatever
24 happens happens.

25 MR. HOVATTER: Bill, at the end of this, at the

1 end of this, what we will do is everybody that we have
2 discussed will know definitively whether there is any issue,
3 and we will not leave folks hanging there and wondering if
4 there was anything that we have dug into in this thing that
5 is going to come back and bite them.

6 THE WITNESS: Well, I am just wondering, like
7 C-110's, because I have had them done before, you get a note
8 in your file that says of any investigations, you have been
9 absolved of those accusations or whatever it is. So that's
10 part of the reason why I am asking the question.

11 MR. HOVATTER: I'd like to ask Diane at the end of
12 this if it wouldn't be appropriate for us to note that we
13 conducted an investigation, this individual was a part of
14 our interview, and there was no finding of misconduct on
15 this individual's part. I think if we could do that, I'd
16 like to have the ability to do that in their file.

17 MR. FABRITZ: Right, just close their file.

18 MR. MCMULLEN: It could go with this one, yeah,
19 yeah.

20 MR. HOVATTER: I'd like -- because I just think,
21 you know, this is one of those things, this is going to
22 become like a myth three or four, five years down the road.

23 MR. FABRITZ: Just nip it in the bud.

24 MR. HOVATTER: It would be kind of nice to be able
25 to put that in there so there will be something definitive

1 in there.

2 MR. MCMULLEN: There would be closure for those
3 then.

4 THE WITNESS: Exactly.

5 MR. MCMULLEN: They wouldn't have to wonder. I
6 see what Bill is getting at. He is wondering about the
7 release that we are going to make, the briefing we are going
8 to make, and a C-110, it is specific, you know, even the
9 people involved in the complaint can't be told what the
10 results of the investigation are.

11 MR. HOVATTER: Yeah, we are going to have to --
12 see, that is one of the things that the Garrity is going to
13 kind of sort out --

14 THE WITNESS: Yeah. Absolutely.

15 MR. HOVATTER: -- is the, you know, should we take
16 action against someone in the Department? Are we going to
17 be able to say -- see, what I think we would be able to say,
18 should we do that, is that there was evidence of misconduct
19 found. Whether we can say, and this is the person, you
20 know, that I think is different.

21 Now, what makes this a little different is, is
22 that open records laws recently decided that some issues,
23 adverse personnel action information is, in fact,
24 releasable.

25 MR. MCMULLEN: I tell you what, the body of

1 knowledge on that deal is migrating, because the entire
2 length of my career as a supervisor, my understanding has
3 been that the result of a misconduct investigation is with
4 the employee and the employer, and even the complainant
5 externally doesn't get to know.

6 MR. HOVATTER: I think that that came under case
7 law, the Judge who made that call.

8 MR. MCMULLEN: Yeah. Yeah.

9 MR. HOVATTER: I mean, it is hard enough to do
10 some of this.

11 MR. MCMULLEN: It affects some people even down
12 the road, you know.

13 MR. HOVATTER: Well, I appreciate the questions.
14 I wouldn't have thought my way through to that necessarily,
15 but if we can, I'd like to be able to do that.

16 THE WITNESS: Well, I mean, I have been around
17 long enough, too, you hear about C-110s being conducted,
18 then nobody is there. Then, okay, you come here, and you
19 see a person being led out with a box, you know, and so, I
20 mean, that's how it happens, so --

21 MR. HOVATTER: I suppose we could get a big stack
22 of boxes over the corner or something just to ratchet up the
23 adrenaline level.

24 MR. MCMULLEN: Sorry, Bill. We are not going to
25 spill any beans.

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MR. HOVATTER: I don't think you need to have any empty boxes anywhere nearby.

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I, Tammy Gillett, do hereby certify that the foregoing 42 pages were transcribed by me; that I was then and there a Certified Reporter in and for the County of Maricopa, State of Arizona, and that the foregoing pages contain a full, true, and accurate transcript of all the digitally recorded and/or taped proceedings, all to the best of my skill and ability.

I FURTHER CERTIFY that I am not related to nor employed by any of the parties hereto, and have no interest in the outcome.

DATED at Phoenix, Arizona this 15th day of September, 2009.

TAMMY GILLETT
Certified Reporter
No. 30430