

38TH JUDICIAL DISTRICT  
PARISH OF CAMERON  
STATE OF LOUISIANA

\*\*\*\*\*

THE PARISH OF CAMERON

VS.

NO. 10-19582

DIVISION "A"

AUSTER OIL AND GAS, INC., ET  
AL.

\*\*\*\*\*

**COPY**

VIDEOTAPE/ZOOM DEPOSITION OF  
SECRETARY THOMAS F. HARRIS

Taken on Thursday, April 20, 2023  
In the Griffon Room of  
LOUISIANA DEPARTMENT OF NATURAL RESOURCES  
617 North Third Street  
Baton Rouge, Louisiana 70802

REPORTED BY: LORI COBB, CCR, RPR, RSA

\*\*\*\*\*

JUST LEGAL LITIGATION  
(225) 291-6595  
setdepo@just-legal.net

DEPOSITIONS AND LEGAL SERVICES  
PHONE: 225.291.6595 FAX: 225.291.6596  
9618 JEFFERSON HIGHWAY SUITE D-386  
BATON ROUGE, LA 70809  
justlegallitigation.com  
SCHEDULE A DEPOSITION AT  
setdepo@just-legal.net



JUST  
LEGAL



SECRETARY THOMAS F. HARRIS

38TH JUDICIAL DISTRICT  
PARISH OF CAMERON  
STATE OF LOUISIANA

\*\*\*\*\*

THE PARISH OF CAMERON

VS.

NO. 10-19582

DIVISION "A"

AUSTER OIL AND GAS, INC., ET  
AL.

\*\*\*\*\*

VIDEOTAPE/ZOOM DEPOSITION OF  
SECRETARY THOMAS F. HARRIS

Taken on Thursday, April 20, 2023  
In the Griffon Room of  
LOUISIANA DEPARTMENT OF NATURAL RESOURCES  
617 North Third Street  
Baton Rouge, Louisiana 70802

REPORTED BY: LORI COBB, CCR, RPR, RSA

\*\*\*\*\*

JUST LEGAL LITIGATION  
(225) 291-6595  
setdepo@just-legal.net

## SECRETARY THOMAS F. HARRIS

## 1 APPEARANCES :

## 3 REPRESENTING THE PARISH OF CAMERON:

4 JOHN CARMOUCHE, ESQUIRE

5 Email: jcarmouche@tcmlawfirm.net

6 Phone: (225) 400-9991

7 BRIAN T. CARMOUCHE, ESQUIRE (BY ZOOM)

8 Email: bcarmouche@tcmlawfirm.net

9 Phone: (225) 400-9991

10 DON CARMOUCHE, ESQUIRE (BY ZOOM)

11 Email: dcarmouche@tcmlawfirm.net

12 Phone: (225) 644-7777

13 CHRISTOPHER D. MARTIN, ESQUIRE (BY ZOOM)

14 Email: chrismartin@tcmlawfirm.net

15 Phone: (225) 603-3811

16 TODD J. WIMBERLEY, ESQUIRE (BY ZOOM)

17 Email: twimberley@tcmlawfirm.net

18 Phone: (225) 400-9991

19 MICHAEL HEATON, ESQUIRE (BY ZOOM)

20 Email: mheaton@tcmlawfirm.net

21 Phone: (225) 400-9991

22 TALBOT, CARMOUCHE &amp; MARCELLO

23 17405 Perkins Road

24 Baton Rouge, Louisiana 70810

25 MATTHEW P. KEATING, ESQUIRE (BY ZOOM)

26 Email: mkeating@mbklaw.net

27 Phone: (337) 562-2327

28 CHAD E. MUDD, ESQUIRE (BY ZOOM)

29 Email: cmudd@mbklaw.net

30 Phone: (337) 562-2327

31 JAMIE C. GARY, ESQUIRE (BY ZOOM)

32 Email: jgary@mbklaw.net

33 Phone: (337) 562-2327

34 MUDD BRUCHHAUS &amp; KEATING

35 410 E. College Street

Lake Charles, Louisiana 70605

## SECRETARY THOMAS F. HARRIS

1 APPEARANCES CONTINUED:

2  
3 REPRESENTING BP AMERICA PRODUCTION COMPANY:

4 GEORGE ARCENEUX, III, ESQUIRE

5 Email: garceneaux@liskow.com

6 Phone: (337) 232-7424

7 JAMES E. LAPEZE, ESQUIRE (BY ZOOM)

8 Email: jelapeze@liskow.com

9 Phone: (504) 556-4187

10 JAMIE D. RHYMES, ESQUIRE

11 Email: jdrhymes@liskow.com

12 Phone: (337) 232-7424

13 BRIAN W. CAPELL, ESQUIRE (BY ZOOM)

14 Email: bwcapell@liskow.com

15 Phone: (337) 232-7424

16 CALEB J. MADERE, ESQUIRE (BY ZOOM)

17 Email: cjmadere@liskow.com

18 Phone: (337) 267-2326

19 HUNTER A. CHAUVIN, ESQUIRE (BY ZOOM)

20 Email: hachauvin@liskow.com

21 Phone: (504) 299-6119

22 LISKOW & LEWIS

23 1200 Camellia Drive, Suite 300

24 Lafayette, Louisiana 70508

25  
26 KATIE A. CAMPBELL, ESQUIRE

27 Email: katie.campbell@arnoldporter.com

28 Phone: (212) 836-8383

29 NANCY G. MILBURN, ESQUIRE (BY ZOOM)

30 Email: nancy.milburn@arnoldporter.com

31 Phone: (212) 836-8383

32 JENNIFER KWAPISZ, ESQUIRE (BY ZOOM)

33 Email: jennifer.kwapisz@arnoldporter.com

34 Phone: (212) 836-8383

35 ARNOLD & PORTER

36 250 West 55th Street

37 New York, New York 10019-9710

## SECRETARY THOMAS F. HARRIS

1 APPEARANCES CONTINUED:

2  
3 REPRESENTING CHEVRON ENTITIES:

4 JOHN C. FUNDERBURK, ESQUIRE (BY ZOOM)  
Email: john.funderburk@keanmiller.com  
5 Phone: (225) 382-4698

6 CHARLES "TREY" MCCOWAN, III, ESQUIRE (BY ZOOM)  
Email: trey.mccowan@keanmiller.com  
7 Phone: (225) 387-0999

8 KEAN MILLER  
400 Convention Street, Suite 700  
Baton Rouge, Louisiana 70802

9  
10 MICHAEL R. PHILLIPS, ESQUIRE  
Email: mike.phillips@keanmiller.com  
Phone: (504) 620-3343

11 KEAN MILLER  
909 Poydras Street, Suite 3600  
12 New Orleans, Louisiana 70112

13  
14 LARANDA MOFFETT WALKER, ESQUIRE (BY ZOOM)  
Email: LWalker@susmangodfrey.com  
Phone: (713) 653-7842

15 ERIC J. MAYER, ESQUIRE (BY ZOOM)  
Email: emayer@susmangodfrey.com  
16 Phone: (713) 653-7853

17 SUSMAN GODFREY  
1000 Louisiana Street, Suite 5100  
Houston, Texas 77002

18  
19  
20 REPRESENTING HILCORP ENERGY COMPANY:

21 CRAIG R. ISENBERG, ESQUIRE  
Email: cisenberg@barrassousdin.com  
22 Phone: (504) 589-9753

23 BARRASSO USDIN KUPPERMAN FREEMAN & SARVER  
909 Poydras Street, Suite 2400  
24 New Orleans, Louisiana 70112  
25

## SECRETARY THOMAS F. HARRIS

1 APPEARANCES CONTINUED:

2  
3 REPRESENTING HONEYWELL INTERNATIONAL, INC.:

4 ROLAND VANDENWEGHE, JR., ESQUIRE (BY ZOOM)

5 Email: roland.vandenweghe@arlaw.com

6 Phone: (504) 581-3234

7 CHARLES A. CERISE, JR., ESQUIRE (BY ZOOM)

8 Email: Charles.cerise@arlaw.com

9 Phone: (504) 585-0418

ADAMS & REESE

4500 One Shell Square

New Orleans, Louisiana 70139

10 REPRESENTING KERR-MCGEE OIL AND GAS ONSHORE:

11 JEFFREY J. ZEIGER, ESQUIRE

12 Email: jzeiger@kirkland.com

13 Phone: (312) 862-3237

KIRKLAND & ELLIS

300 North LaSalle

Chicago, IL 60654

15 SARAH E. IIAMS, ESQUIRE (BY ZOOM)

16 Email: siiams@kuchlerpolk.com

17 Phone: (504) 592-0691

KUCHLER POLK WEINER

1615 Poydras Street, Suite 1300

New Orleans, Louisiana 70112

20 REPRESENTING TAYLOR ENERGY COMPANY:

21 JONATHAN R. COOK, ESQUIRE (BY ZOOM)

22 Email: jcook@wallbulling.com

23 Phone: (504) 736-0347

WALL BULLINGTON & COOK

540 Elmwood Park Boulevard

New Orleans, Louisiana 70123

## SECRETARY THOMAS F. HARRIS

1 APPEARANCES CONTINUED:

2  
3 REPRESENTING SHELL OIL COMPANY:

4 LAURA SPRINGER BROWN, ESQUIRE (BY ZOOM)

Email: lespringer@liskow.com

5 Phone: (504) 556-4021

6 R. KEITH JARRETT, ESQUIRE

Email: rkjarrett@liskow.com

7 Phone: (504) 556-4133

8 MARK L. MCNAMARA, ESQUIRE (BY ZOOM)

Email: mlmcnamara@liskow.com

9 Phone: (504) 581-7979

10 AMY ELIZABETH ALLUMS LEE, ESQUIRE (BY ZOOM)

Email: alee@liskow.com

11 Phone: (337) 232-7424

12 HAYLEY M. LANDRY, ESQUIRE (BY ZOOM)

Email: hlandry@liskow.com

13 Phone: (504) 556-4140

14 JACLYN E. HICKMAN, ESQUIRE (BY ZOOM)

Email: jhickman@liskow.com

15 Phone: (504) 556-4084

16 LISKOW & LEWIS

17 701 Poydras Street, Suite 5000

18 New Orleans, Louisiana 70139

19  
20  
21 MICHAEL MAZZONE, ESQUIRE (BY ZOOM)

Email: michael.mazzone@haynesboone.com

22 Phone: (713) 547-2000

23 HAYNES & BOONE

24 1221 McKinney Street, Suite 4000

25 Houston, Texas 77010

26 REPRESENTING TEXAS PACIFIC OIL COMPANY:

27 ERIC W. SELLA, ESQUIRE (BY ZOOM)

Email: esella@pmpllp.com

28 Phone: (504) 582-1142

29 PLAUCHE MASELLI PARKERSON

30 701 Poydras Street, Suite 3800

31 New Orleans, Louisiana 70139



## SECRETARY THOMAS F. HARRIS

1 APPEARANCES CONTINUED:

2  
3 REPRESENTING TEXAS PETROLEUM INVESTMENT CO.:

4 DAVID K. MCCRORY, ESQUIRE (BY ZOOM)

5 Email: dkmccrory@ohllc.com

6 Phone: (337) 232-2606

7 PAUL J. HEBERT, ESQUIRE (BY ZOOM)

8 Email: pjhebert@ohllc.com

9 Phone: (337) 232-2606

10 OTTINGER HEBERT

11 1313 West Pinhook Road

12 Lafayette, Louisiana 70505

13  
14 REPRESENTING VERNON E. FAULCONER, INC.:

15 CHARLES M. JARRELL, ESQUIRE

16 Email: cjarrell@glthj.com

17 Phone: (337) 948-8201

18 GUGLIELMO, LOPEZ, TUTTLE, HUNTER & JARRELL

19 306 East North Street

20 Opelousas, Louisiana 70570

21  
22 REPRESENTING LOUISIANA DEPARTMENT OF NATURAL  
23 RESOURCES:

24 DONALD W. PRICE, ESQUIRE

25 Email: donald.price@la.gov

Phone: (225) 342-4274

LOUISIANA DEPARTMENT OF NATURAL RESOURCES

SPECIAL COUNSEL'S OFFICE

617 North Third Street

Baton Rouge, Louisiana 70802

26  
27 REPRESENTING STATE OF LOUISIANA:

28 MORGAN ROGERS, ESQUIRE (BY ZOOM)

29 Email: rogersm@ag.louisiana.gov

30 Phone: (225) 326-6000

31 LOUISIANA OFFICE OF THE ATTORNEY GENERAL

32 1885 North 3rd St. 6th Floor

33 Baton Rouge, Louisiana 70802

SECRETARY THOMAS F. HARRIS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES CONTINUED:

ALSO PRESENT: HENRY COBB, VIDEOGRAPHER  
PATRICK GRAY, ATTORNEY  
JASON TOMLINSON, ATTORNEY  
UNIDENTIFIED: (646) 331-5473  
\* \* \*

SECRETARY THOMAS F. HARRIS

DEPOSITION INDEX

1		
2		PAGE
3	APPEARANCES .....	2
4	STIPULATION .....	13
5	EXAMINATION	
6	BY MR. ARCENEUX .....	14
7	BY MR. JARRETT .....	181
8	BY MR. PHILLIPS .....	226
9	BY MR. ZEIGER .....	292
10	BY MR. ISENBERG .....	301
11	BY MR. JOHN CARMOUCHE .....	308
12	FURTHER EXAMINATION	
13	BY MR. ARCENEUX .....	331
14	BY MR. PHILLIPS .....	336
15	REPORTER'S PAGE .....	338
16	REPORTER'S CERTIFICATE .....	339
17	ACKNOWLEDGEMENT OF WITNESS .....	341
18	ERRATA SHEET .....	342

\* \* \*

E X H I B I T I N D E X

21		PAGE
22	T. HARRIS #1	Paper written by Kerry .....
23		St. Pe entitled "An Assessment
24		of Produced Water Impacts To
25		Low-Energy, Brackish Water
		Systems in Southeast
		Louisiana: A Project Summary;
		12 pages

## SECRETARY THOMAS F. HARRIS

## EXHIBIT INDEX CONTINUED

		PAGE
1		
2		
3	T. HARRIS #2	Printout from the LDNR .....39 Website; 101 pages
4		
5	T. HARRIS #3	State and Local Coastal .....45 Resources Management Act of 1978 printed from Westlaw; 58 pages
6		
7	T. HARRIS #4	Printout of Title 43, .....47 Part I, Subpart 1, Chapter 7 on Coastal Management from the Louisiana Administrative Code; 99 pages
8		
9		
10	T. HARRIS #5	Appendix n, Memorandum of .....56 Understanding Between the Coastal Management Section of The Department of Natural Resources and The Office of Conservation of The Department of Natural Resources; 8 pages
11		
12		
13		
14	T. HARRIS #6	Excerpt from 1997 .....61 Louisiana Register, Declaration of Emergency, DEQ, Office of Water Resources, Produced Water Extension [Adoption of Emergency Rule] (WP023E-B); 4 pages
15		
16		
17		
18	T. HARRIS #7	Memorandum of Agreement .....64 Between The Coastal Management Section of The Department of Transportation and Development and The Environmental Control Commission and The Office of Environmental Affairs of The Department of Natural Resources, dated 5/30/80; 4 pages
19		
20		
21		
22		
23	T. HARRIS #8	Video clip of 5/21/2014 .....79 Blake Canfield Testimony; 1 media file
24		
25		

## SECRETARY THOMAS F. HARRIS

		PAGE
1	EXHIBIT INDEX CONTINUED	
2		
3	T. HARRIS #9 5/21/2014 Full Video of .....	80
4	House Committee on Natural Resources; 1 media	
5	T. HARRIS #10 Video clip of Secretary .....	88
6	Harris on 10/19/2016; 1 media	
7	T. HARRIS #11 Full video of House of .....	88
8	Representatives Committee Hearing on Natural Resources & Environment on 10/19/2016; 1 media	
9		
10	T. HARRIS #12 Stenographic Transcription .....	89
11	of House of Representatives Committee Hearing on Natural Resources & Environment on 10/19/2016; 584 pages	
12		
13	T. HARRIS #13 7/7/2022 Deposition of .....	96
14	LDNR and Thomas Harris in the matter of Terrebonne Parish vs. LDNR, et al; 337 pages	
15		
16	T. HARRIS #14 Clip of Mr. Harris` .....	104
17	testimony to legislature in 2016; 1 media	
18	T. HARRIS #15 10/21/2016 Affidavit of .....	130
19	Thomas F. Harris with attachments; 74 pages	
20	T. HARRIS #16 Petition for Writ of .....	140
21	Mandamus in the matter of Devon Energy vs. LDNR and Thomas Harris, with attachments; 49 pages	
22		
23	T. HARRIS #17 LDNR Declaratory Order, .....	142
24	in re: Writ of Mandamus issued by 19th JDC; 4 pages	
25		

SECRETARY THOMAS F. HARRIS

EXHIBIT INDEX CONTINUED

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

PAGE

T. HARRIS #18 Video clip of Mr. Blake .....154  
 Canfield describing coastal  
 use permitting application  
 process during legislative  
 hearing; 1 media

T. HARRIS #19 Petition for Damages to .....216  
 the Cameron Parish Coastal  
 Zone; 74 pages

T. HARRIS #20 10/26/2020 Senate .....223  
 Resolution No. 31 By Senator  
 Johns; 2 pages

T. HARRIS #21 Response of Louisiana .....284  
 Department of Natural  
 Resources to Chevron  
 Defendants' First Request  
 For Admissions; 13 pages

\* \* \*

## SECRETARY THOMAS F. HARRIS

## S T I P U L A T I O N

1  
2  
3 It is stipulated and agreed by and  
4 between all Counsel that the VIDEOTAPE/ZOOM  
5 DEPOSITION OF SECRETARY THOMAS F. HARRIS, on  
6 Thursday, April 20, 2023, is hereby being taken  
7 pursuant to Notice under the Louisiana Code of  
8 Civil Procedure, Article 1421, et seq., for all  
9 purposes permitted under law.

10 The witness reserves the right to read  
11 and sign the deposition. The original is to be  
12 delivered to and retained by LISKOW & LEWIS for  
13 proper filing with the Clerk of Court.

14 All objections, except those as to the  
15 form of the question and/or the responsiveness of  
16 the answer, are hereby reserved until the time of  
17 the trial of this cause.

18 \* \* \*

19 Lori Cobb, Certified Court Reporter in  
20 and for the State of Louisiana, (CCR #87248),  
21 Registered Professional Reporter (RPR #815782), and  
22 Realtime Systems Administrator, officiated in  
23 administering the oath to the witness.  
24  
25

## SECRETARY THOMAS F. HARRIS

(On record at 9:19 a.m.)

VIDEOGRAPHER:

All right. We are now on the record. My name is Henry Cobb. Today's date is April 20, 2023. Time now is 9:19 a.m.

This is the deposition of Mr. Thomas Harris in the matter of the Parish of Cameron versus Auster Oil and Gas incorporated.

Counsel will be noted on stenographic record, and the court reporter is Lori Cobb, and will now wear in this witness.

SECRETARY THOMAS F. HARRIS,  
having been first duly sworn, was examined and testified as follows:

## EXAMINATION

BY MR. ARCENEUX:

Q Good morning, Secretary Harris.

A Good morning.

Q My name is George Arceneaux. I represent BP America Production Company, one of the defendants in the Auster lawsuit, and I'm here today to ask you some questions about things that relate to that case.

I understand you've given testimony in a deposition before?



## SECRETARY THOMAS F. HARRIS

1 A I have.

2 Q Okay. And so, you know, of course, I'll  
3 ask questions and ask you to articulate your  
4 answers clearly. If you don't understand a  
5 question I'm asking, please ask me to clarify it.

6 A Very good.

7 Q If at some point you want to take a  
8 break, I know that just in the room we will suggest  
9 breaks at some time or another, but you're really  
10 the master of that process. If you feel like you  
11 need a break at some point, say so and we'll be  
12 happy to accommodate you.

13 A Thank you.

14 Q Can you give me your name and your  
15 professional address, please?

16 A Certainly. Thomas F. Harris. My address  
17 is 36498 Manchac Crossing Avenue, Prairieville,  
18 Louisiana 70769.

19 Q Okay. And as -- you are Secretary of the  
20 Department of Natural Resources. Is that right?

21 A That is correct.

22 Q And your office is here in this building?

23 A Yes.

24 Q Okay. How long have you been Secretary  
25 of DNR?

SECRETARY THOMAS F. HARRIS

1           A       Since January 29, 2016.

2           Q       Okay. I'm going to catch up on your  
3 history at DNR, and elsewhere in government, but I  
4 wanted to go back and get a little bit of your  
5 background. First of all, born and raised in  
6 Louisiana?

7           A       Born in New Orleans; lived there a good  
8 portion of my life before I moved to Baton Rouge.

9           Q       Okay. And I understand you got an  
10 undergraduate degree at LSU. Is that right?

11          A       LSU, yes, sir. That's correct.

12          Q       What was the degree in, and when did you  
13 get that?

14          A       Biochemistry. I believe it was 1991.

15          Q       Okay. And did you then do post-graduate  
16 work?

17          A       I did. Tulane School of Public Health  
18 and Tropical Medicine. I received a Master of  
19 Science in Public Health in '93.

20          Q       Okay. Did you do any kind of thesis or  
21 research work while you were engaged in that  
22 graduate program?

23          A       I did. My thesis was on chemical  
24 contaminants in the Mississippi River.

25          Q       Okay. Was that involving any sampling or

## SECRETARY THOMAS F. HARRIS

1 assessment of those contaminants?

2 A It was not original research. It was a  
3 compilation of work performed, studies performed,  
4 by other people, and drew some conclusions from  
5 that.

6 Q Okay. Once you got that degree in 1992,  
7 what did you do next?

8 A I worked in sales for a couple of years  
9 before coming to work for the Department of  
10 Environmental Quality in 1995.

11 Q Okay. What kind of sales work did you  
12 do?

13 A I did -- sold -- actually did some  
14 telemarketing --

15 Q Okay.

16 A -- for a couple of years.

17 Q So it was no environmental related?

18 A No, it was not.

19 Q Okay. And then you went to work with the  
20 DEQ -- when did you say?

21 A 19 -- August of 1995.

22 Q And I understand that you had a long and  
23 distinguished career at DEQ. Is that right?

24 A I worked there for almost 20 years, yes,  
25 sir.

SECRETARY THOMAS F. HARRIS

1 Q Okay. Can you walk me through and tell  
2 me what positions you held, as well as you can  
3 remember --

4 A Certainly.

5 Q -- I know people sometimes have  
6 difficulty with precise titles, but --

7 A Yes --

8 Q -- I'd just like to know what you did at  
9 DEQ.

10 A I started as an Environmental Scientist 1  
11 in 1995, progressed up through Environmental  
12 Scientist 2 and 3. I believe it was in -- I don't  
13 remember the year. I ultimately became -- well,  
14 became an Environmental Scientist Supervisor, and  
15 then a Division Administrator in 2005, if I  
16 remember correctly.

17 Q Okay. So you started in --

18 A '95.

19 Q '95. Okay. And you were a Division  
20 Administrator. Is that right?

21 A Yes, sir. That's correct.

22 Q What division, or divisions, did you  
23 administer?

24 A The DEQ at the time underwent repeated  
25 reorganizations. I was the Administrator of the

## SECRETARY THOMAS F. HARRIS

1 Environmental Assessment -- there were at least  
2 five different divisions. I was over Remediation,  
3 Underground Storage Tank and Remediation, Waste  
4 Permits, and a couple other names that I can't  
5 recall.

6 Q Did you ever have any duties at DEQ  
7 associated with surface water discharges?

8 A No.

9 Q I asked you a little bit about your  
10 personal background. I understand you're a  
11 fisherman?

12 A I am.

13 Q Where do you fish?

14 A Primarily in the Delacroix area, although  
15 I did, when I had a little more time, fish down in  
16 Venice and Grand Isle, as well.

17 Q Okay. And have you done that all your  
18 life?

19 A I have.

20 Q So you've spent a lot of time in the  
21 actual coastal wetlands area?

22 A Quite on a bit.

23 Q Okay.

24 A Not as the much as I'd like, but --

25 Q That's true --

## SECRETARY THOMAS F. HARRIS

1 A -- quite a bit.

2 Q -- for a lot of people.

3 And fish -- did you ever fish around the  
4 oilfield installations?

5 A Quite often.

6 Q Fish around weirs in the marsh?

7 A When -- yes. When I could find them.

8 Q Sometimes -- sometimes they're, like,  
9 shell embankments, where there are canals that  
10 cross the waterways?

11 A That would be a good spot when you can  
12 find one, yes.

13 Q Okay. Have you ever fished around flares  
14 or lights around oilfield installations?

15 A Yes.

16 Q Do you eat what you catch?

17 A Mostly speckled trout and redbfish, and  
18 flounder.

19 Q And do you eat those?

20 A Yes.

21 Q Okay.

22 Now, your training coming out of Tulane  
23 involved matters of environmental toxicology. Is  
24 that right?

25 A That's correct.

## SECRETARY THOMAS F. HARRIS

1 Q Okay. Do you consider yourself an  
2 environmental toxicologist?

3 A I haven't practiced that in a few years,  
4 but I still remember some of it.

5 Q Okay. So you're familiar with those  
6 principles, but you're not actively engaged in that  
7 discipline?

8 A That's correct.

9 Q Okay. Do you belong to any professional  
10 associations?

11 A No.

12 Q To become an environmental toxicologist,  
13 what did you do?

14 A I took classes on the subject. And then  
15 while at DEQ, helped develop Louisiana's Risk Based  
16 Corrective Action Program, or RECAP.

17 Q So I understand you were very involved in  
18 that process?

19 A I was.

20 Q Okay. I'm going to ask you some about  
21 that in a minute. I wanted to see, have you ever  
22 taught anything having to do with environmental  
23 toxicology?

24 A I've done -- I used to go back to Tulane  
25 and do guest lectures every year, but not

SECRETARY THOMAS F. HARRIS

1 professionally teach.

2 Q Okay. When you lectured, what would it  
3 have to do with?

4 A Sometimes it was RECAP, Louisiana's Risk  
5 Evaluation Corrective Action Program; other times,  
6 it was how we evaluated data at post-Hurricane  
7 Katrina.

8 Q Okay. So we talked about RECAP. That  
9 was adopted by DEQ in 2000. Is that right?

10 A It was originally promulgated  
11 December 20, 1998.

12 Q Okay. And is RECAP what is known as a  
13 risk-based evaluation and remediation protocol?

14 A It's risk evaluation corrective action  
15 program, yes.

16 Q Okay. That was derived based on work  
17 that was done by the US EPA. Is that right?

18 A And other sources, that's correct.

19 Q Okay. And EPA -- RECAP contains  
20 numerical scientific standards for the assessment  
21 of toxins or contaminants in the environment. Is  
22 that right?

23 A Yes.

24 Q And it contains a protocol for assessment  
25 of those -- of areas of interest that may contain



## SECRETARY THOMAS F. HARRIS

1 those kinds of substances. Is that right?

2 A It looks at what is an acceptable  
3 concentration of various contaminants in  
4 environmental media based on some assumptions  
5 regarding exposure and back calculates what is an  
6 acceptable level to remain in place.

7 Q Right. And that all, fundamentally, is  
8 the -- is developed from an analogy of toxicology  
9 and principles of toxicology. Is that right?

10 A Yes, sir. That's correct.

11 Q Okay. So when you talk about what  
12 constitute acceptable levels within the  
13 environment, what you're doing is -- well, those  
14 standards look, first of all, at the substance and  
15 what its toxicity profile is; correct?

16 A Yes. It looks at what concentrations a  
17 person could be exposed to, and receive no adverse  
18 effect. It assumes that a person breathes 20 cubic  
19 meters of air per day, drinks two liters of water  
20 per day, assumes that they get soil in on their  
21 skin and some is incidentally ingested.

22 Q Okay. And there is guidance for a number  
23 of specified substances that can be found in the  
24 environment; right?

25 A That's correct.

## SECRETARY THOMAS F. HARRIS

1 Q And those standards are based on -- if  
2 you traced them back, they would go back to  
3 scientific research about what levels of those  
4 substances actually have any kind of effects on  
5 people; right?

6 A That's correct.

7 Q Okay. And so you've -- to develop the  
8 standards that are used under RECAP, the program  
9 begins with that kind of basic science, and then  
10 makes certain assumptions about exposure pathways;  
11 right?

12 A That is correct.

13 Q Because part of toxicology is that a  
14 substance is not toxic, or there's not -- if  
15 there's not a pathway for the substance to present  
16 itself, and for a person to be exposed to it, then  
17 the toxicity risk is, essentially, eliminated?

18 A In some circumstances, that's correct,  
19 yes.

20 Q Right.

21 If there's no pathway, that may be true.  
22 What RECAP talks about is what is that pathway and  
23 what is the reasonable expectation for exposure;  
24 correct?

25 A That's -- that's accurate, yes.

## SECRETARY THOMAS F. HARRIS

1 Q Okay. And then RECAP then uses what's  
2 called a tiered approach to assessing a particular  
3 site. Is that right?

4 A Yes.

5 Q Which means that you start with what's  
6 called a screening standard, which is the most  
7 conservative standard; right?

8 A The screening standard uses all of the  
9 conservative default assumptions that are standard  
10 in risk assessment, with no provisions for  
11 including site-specific information. As you  
12 progress through the tiers, there are more  
13 opportunities to provide site-specific information  
14 in place of those default assumptions.

15 Q Right. So if you had a scenario where  
16 the amount of exposure to the substance is less  
17 than the amount of exposure that is assumed for the  
18 creation of the screening standard, then that  
19 standard may be modified to create a different  
20 management option?

21 A Yes.

22 Q Okay. And one -- and if a management  
23 option beyond the screening standard is developed  
24 and acceptable under RECAP, then the levels --  
25 well, if they're acceptable under RECAP through an

## SECRETARY THOMAS F. HARRIS

1 MO-1 or MO-2, MO-3 analysis -- those are the  
2 management option tiers -- then that analysis  
3 guides whether remediation is necessary. Is that  
4 right?

5 A That's -- that's accurate, yes.

6 Q Okay. And in order to implement RECAP,  
7 it has an entire series of rules and regulations  
8 having to do with how you sample, where you sample,  
9 that kind of thing; correct?

10 A There in -- there's an appendix in RECAP  
11 that talks about sampling methodology, where and  
12 how you should collect samples, yes.

13 Q Okay. And there are provisions in --  
14 well, there are regulations from DEQ that  
15 particular kinds of laboratory analyses are to be  
16 run -- you may use this method or that method --  
17 fairly technical standards; correct?

18 A Yes.

19 Q Okay. And, in fact, there -- you're  
20 supposed to have your samples analyzed by a  
21 DEQ-approved laboratory?

22 A A certified lab, that's correct.

23 Q Okay. So RECAP establishes legal limits  
24 for substances and pollutants in the environment.  
25 Is that right?

## SECRETARY THOMAS F. HARRIS

1 A And environmental media, that's correct.

2 Q Okay. And is it correct that RECAP is  
3 the principal regulation in Louisiana that  
4 establishes those kind of standards?

5 A For sites subject to RCRA, CERCLA, and  
6 the Environmental Quality Act, yes, sir.

7 Q That would be the Louisiana Environmental  
8 Quality Act; correct?

9 A Yes, sir, that's correct.

10 Q Okay. Now, is it correct that the Office  
11 of Conservation, which is part of the Department of  
12 Natural Resources, also has environmental standards  
13 and practices with respect to oilfield E&P sites?

14 A That's correct.

15 Q Okay. And those are principally embodied  
16 in Statewide Order 29-B of the Office of  
17 Conservation?

18 A Yes.

19 Q And like RECAP, 29-B contains scientific  
20 standards for the assessment and potential  
21 remediation of oilfield sites. Is that right?

22 A That's correct.

23 Q Okay. 29-B -- those standards in 29-B  
24 have existed since the 1980s. Is that right?

25 A They predate -- I don't know. I don't

## SECRETARY THOMAS F. HARRIS

1 know the answer to the date of origin.

2 Q Are you aware that the Office of  
3 Conservation, when appropriate, utilizes RECAP as a  
4 means for assessment and site management under  
5 Statewide Order 29-B?

6 A 29-B provides for alternate standards  
7 when approved by the Commissioner.

8 Q Okay. And you've known the Commissioner  
9 and the Department to utilize RECAP as the  
10 alternate standard. Is that right?

11 A That's my understanding. It has been  
12 approved. I don't have any details for which  
13 sites, but it's my understanding it has been used  
14 as an alternative standard to 29-B.

15 Q Okay. Are you aware of any other  
16 alternative standards that have been used under  
17 29-B other than standards derived through RECAP?

18 A I can't think of one off the top of my  
19 head.

20 Q Okay. Is -- RECAP is a more recent  
21 regulation than 29-B. Is that right?

22 A That's correct.

23 Q And would it be fair to say that RECAP is  
24 a more modern iteration of contamination regulation  
25 and evaluation than is 29-B?

SECRETARY THOMAS F. HARRIS

1 A You're correct; 29-B does predate RECAP.

2 Q Okay. And 29-B, essentially, establishes  
3 set numerical limits where -- and does not engage  
4 in a risk-based evaluation, does it?

5 A I can't speak to the origin of where  
6 those 29-B standards originally came from.

7 Q Are you aware that the Office of  
8 Conservation has an Environmental Division?

9 A Yes.

10 Q And that Environmental Division has  
11 technical staff who oversee the assessment and  
12 remediation of oil and gas exploration and  
13 production sites?

14 A Yes.

15 Q Under Statewide Order 29-B, the Office of  
16 Conservation approves laboratories and defines  
17 laboratory methods and protocols. Is that right?

18 A I don't have personal knowledge of that.

19 Q Do you know -- okay. So is it your  
20 understanding that Statewide Order 29-B is the  
21 principal regulation governing the evaluation and  
22 remediation of environmental impacts with  
23 contamination or pollution at oilfield sites?

24 A Yes.

25 Q Okay. And outside of those kinds of

## SECRETARY THOMAS F. HARRIS

1 sites governed by 29-B, is it your understanding  
2 that the State regulation applying to assessment  
3 and remediation of impacts is RECAP, administered  
4 by the LDEQ?

5 A For sites subject to RCRA, CERCLA, and  
6 Louisiana Environmental Quality Act, yes, sir.

7 Q Okay. Are you aware of any instances of  
8 potential pollution or contamination that are  
9 not -- in Louisiana that are not covered either by  
10 those laws, to which RECAP applies, or that are  
11 exploration and production oil and gas sites that  
12 are overseen by the Office of Conservation under  
13 Statewide Order 29-B?

14 A I can't think of any other standards for  
15 environmental media, no, sir.

16 Q Okay. Let me ask you about the Office of  
17 Coastal Management. Does the Office of Coastal  
18 Management have any staff who are engaged in the  
19 assessment and remediation of environmental sites  
20 similar to the way RECAP or 29-B are used?

21 A For remediation of environmental  
22 contamination?

23 Q Correct.

24 A No.

25 Q Okay. While you were at DEQ, did you



## SECRETARY THOMAS F. HARRIS

1 have any involvement in permitting or issuing  
2 permits for produced water discharges?

3 A No.

4 Q While you were there, were you aware that  
5 produced water was discharged in coastal areas as  
6 part of oil and gas production?

7 A Well, when I was at DEQ?

8 Q Yes, sir.

9 A No.

10 Q You weren't at all aware of that?

11 A No. We did -- did not typically regulate  
12 oil and gas sites, so it was outside my area of  
13 expertise at the time.

14 MR. ARCENEUX:

15 Okay. I'm going -- let's go to Tab 4.

16 I'm going to show you a document, and I'm  
17 going to ask if you are -- I'll ask you a  
18 question about it.

19 (Discussion relating to document  
20 presentation.)

21 BY MR. ARCENEUX:

22 Q All right. This is a paper entitled "An  
23 Assessment of Produced Water Impacts To Low-Energy,  
24 Brackish Water Systems in Southeast Louisiana: A  
25 Project Summary." And its first listed author is a

## SECRETARY THOMAS F. HARRIS

1 man named Kerry St. Pe at the Louisiana Department  
2 of Environmental Quality. Have you -- are you  
3 aware of this paper; have you seen or known about  
4 this paper prior to today?

5 A I have heard of this. I've never read  
6 the document.

7 Q Okay. Do you --

8 A I was aware of its existence.

9 Q Okay. Do you know when you became aware  
10 of its existence?

11 A No, I do not.

12 Q Do you know Kerry St. Pe?

13 A I've met Kerry. Never worked with him  
14 professionally.

15 Q So at some point, you became aware that  
16 some assessment of produced water impacts to the  
17 Louisiana environment was done by people who were  
18 engaged with the Louisiana Department of  
19 Environmental Quality?

20 A I was aware of the existence of this  
21 document; not why it was produced, or how.

22 Q Okay. If I can turn your attention to  
23 the top of the second page of the document. If  
24 you'll look at the first paragraph, the first  
25 statement is that: Within the State of Louisiana,

## SECRETARY THOMAS F. HARRIS

1 the Louisiana Department of Environmental Quality  
2 (LDEQ), Water Pollution Control Division governs  
3 all discharges to surface waters.

4 Was that your understanding when you were  
5 at DEQ?

6 A Although I never worked in that division,  
7 it was my understanding that LDEQ permitted all  
8 discharges to surface water bodies. Or, if I may  
9 rephrase that, permitted discharges to surface  
10 water bodies.

11 Q Were you aware, then, or are you aware  
12 now that the regulations, historic -- the current  
13 regulations -- this is in 1998 -- 1990, I'm  
14 sorry -- the current regulations which specifically  
15 apply to produced water date back to 1953. Are you  
16 aware of that fact?

17 A I was not aware that they dated back to  
18 1953, no.

19 Q Okay. And when you say you were not  
20 aware, before today, have you been aware of that?

21 A I did not know the date at which the  
22 State started regulating surface water discharges  
23 at DEQ.

24 Q These authors state: The 1953 rule  
25 basically allowed produced water effluents into any

SECRETARY THOMAS F. HARRIS

1 stream not used for drinking water purposes.

2 Were you aware of that?

3 A I'm sorry. Would you repeat that  
4 question, please?

5 Q Yes, sir. Yes, sir.

6 The third sentence says: The 1953 rule  
7 basically allowed produced water effluents into any  
8 stream not used for drinking water purposes.

9 Are you aware that that was the rule?

10 A I was not before reading this document,  
11 no.

12 Q All right. In -- the next sentence says:  
13 In 1968, an additional rule was promulgated which  
14 prohibited the discharge of oilfield brines into  
15 fresh water areas, but allowed for their release  
16 into normally saline waters, tidally affected  
17 waters, brackish waters, or other waters unsuitable  
18 for human consumption or agricultural purposes.

19 Were you aware of that rule?

20 A Not before today.

21 Q Okay. Do you have any basis to disagree  
22 with those statements?

23 A I do not.

24 Q Have you ever had any discussions within  
25 the Office of Coastal Management about produced

## SECRETARY THOMAS F. HARRIS

1 water discharges?

2 A I can't think of a specific conversation  
3 on that topic, no.

4 Q Do you know of any instance of the Office  
5 of Coastal Management issuing a Coastal Use Permit  
6 for the discharge of produced water separately from  
7 a DEQ permit?

8 A No, I'm not.

9 Q While you were -- change topics a little  
10 bit.

11 While you were at LDEQ, were you involved  
12 at all in development or issuance of warnings or  
13 guidance to the public with respect to areas that  
14 were contaminated or impacted?

15 A I'm sorry. Repeat that one more time,  
16 please?

17 Q Sure.

18 When you were at DEQ, were you involved  
19 at all with the process of public warning or  
20 guidance with respect to areas or ecosystems that  
21 were impacted by contamination?

22 A The Louisiana Department of Health and  
23 Hospitals would have that responsibility. We did  
24 consult with DHH on fish advisories. Fish  
25 consumption advisories is the one that comes to

## SECRETARY THOMAS F. HARRIS

1 mind.

2 Q Okay. And how was it that DEQ would have  
3 occasion to consult with DHH about fish consumption  
4 advisories?

5 A It was specific to what levels DHH wanted  
6 to see before they would consider removing the fish  
7 advisory. Because that was often one of the  
8 targets we were trying to reach in remediation of,  
9 you know, what levels in subsurface sediments would  
10 potentially result in acceptable concentrations in  
11 fish tissue.

12 Q Okay. In the first instance, how is a  
13 determination made that some sort of a warning  
14 needed to be made, whether issued from DHH or  
15 otherwise?

16 A Well, you'd start with some assumptions  
17 of how much fish tissue a person was likely to eat  
18 on an ongoing basis, what fraction of that would  
19 come from a particular water body, and what that  
20 consumption of fish from the water body would be,  
21 and what the risk would be from -- from that  
22 consumption.

23 And then working backwards to what would  
24 be an acceptable level in fish tissue and, from  
25 there, extrapolating to what would be our target

## SECRETARY THOMAS F. HARRIS

1 for sediment concentrations that would result in  
2 the acceptable fish tissue concentrations.

3 Q But at some point, somebody identified  
4 that there was an issue, whether there was a  
5 presence in fish or whether there was a release of  
6 some kind that created this. Somebody did an  
7 initial evaluation that would cause the --

8 A Correct. And DHH, in this case, issued  
9 the fish consumption advisory for a couple of sites  
10 across the state.

11 Q Okay. What are the sites that you're  
12 familiar with?

13 A I was thinking Bayou Verdine, Bayou  
14 d'Inde over in Calcasieu Parish, and Capitol Lake  
15 here in Baton Rouge.

16 Q Okay. And Bayou d'Inde and Bayou  
17 Verdine, those are areas up near the city of Lake  
18 Charles?

19 A In that general area, yes.

20 Q Up in the industrialized area?

21 A Correct.

22 Q Okay.

23 Do you know whether those -- whether the  
24 information about those impacts was derived  
25 initially through DEQ or through DHH?

## SECRETARY THOMAS F. HARRIS

1           A       Either -- the DHH did not collect data;  
2 they used data collected elsewhere. It would have  
3 been a combination of fish tissue data collected by  
4 DEQ and collected by US Environmental Protection  
5 Agency.

6           Q       Okay. So if DEQ or EPA had data  
7 suggestive of a possible public health issue, they  
8 would notify DHH?

9           A       DHH. And DHH had the authority and  
10 responsibility of issuing fish consumption  
11 advisories.

12          Q       Okay. And would that also be true if  
13 DNR, or any of its agencies, came into possession  
14 of information suggesting that kind of a risk?

15          A       Correct.

16          Q       They would, if they had such information,  
17 communicate that to DHH, who would further  
18 investigate?

19          A       DHH would be the proper authority.

20          Q       Okay. I want to ask you a few things  
21 about DNR itself. You actually oversee several  
22 offices or divisions. Is that right?

23          A       Yes.

24          Q       Okay. And for ease, I guess -- do we  
25 have -- I think I've got a print from part of your



SECRETARY THOMAS F. HARRIS

1 website to summarize that. Okay --

2 A I have that by memory, if it would help.

3 Q Well, to make the record clear, we may --  
4 I want to go ahead and attach this, just to make  
5 sure I get them all and can look at them in one  
6 place.

7 MR. ARCENEUX:

8 I don't want -- can I get just the  
9 overview page?

10 (Court Reporter requested clarification.)

11 MR. ARCENEUX:

12 In fact, if I may, I'll go ahead and let  
13 you mark that.

14 (Document marked as T. HARRIS #1 for  
15 identification.)

16 MR. ARCENEUX:

17 I'll just show you what we will mark as  
18 Exhibit #2.

19 (Document marked as T. HARRIS #2 for  
20 identification.)

21 BY MR. ARCENEUX:

22 Q And I know you know these, because  
23 they're your -- they are your department. But  
24 these are -- this page does summarize the various  
25 offices and divisions. Is that right?

## SECRETARY THOMAS F. HARRIS

1 A That's correct.

2 Q Okay. The Office of the Secretary,  
3 that's the chief administrative office of the  
4 Department; correct?

5 A Yes.

6 Q Okay. And there's a Legal Department  
7 within that that reports to you?

8 A Legal, HR, Accounting.

9 Q Okay.

10 Are there lawyers who work on your  
11 satisfy?

12 A Yes.

13 Q And who -- how many lawyers work on your  
14 staff?

15 A In the Office of the Secretary?

16 Q Sure. If we can break it out, sure.

17 A Sure. Four in the Office of the  
18 Secretary.

19 Q Well, I'm familiar with Mr. Canfield and  
20 Mr. Price. Who are the others?

21 A William Iturralde.

22 Q Okay.

23 A And James Devitt.

24 Q Okay. Then are there other lawyers who  
25 work within your department, other than in the

SECRETARY THOMAS F. HARRIS

1 Office of the Secretary?

2 A Yes. The Office of Conservation has  
3 two attorneys -- actually, three attorneys.

4 Q Okay. Any others?

5 A There is a -- O.C .Smith is in the Office  
6 of Coastal Management, and there are other people  
7 with law degrees who work in other jobs.

8 Q Okay.

9 A Not counting those.

10 Q In all, how many employees does the  
11 Department of Natural Resources have?

12 A 311.

13 Q Okay. And if we look at this as, sort  
14 of, an organization outline, there's the Office of  
15 the Secretary, and then listed here is the Office  
16 of Conservation; correct?

17 A Yes.

18 Q Okay. Now, historically, am I correct  
19 that the Office of Conservation was an actual  
20 department of the state?

21 A The Office of Conservation dates back to,  
22 if memory serves me correctly, 1912.

23 Q Okay. And that has historically been  
24 charged with regulation and oversight of, among  
25 other things, oil and gas exploration and

## SECRETARY THOMAS F. HARRIS

1 production activities?

2 A Yes.

3 Q Okay. And it has its own divisions; they  
4 include, as we've discussed, the Environmental  
5 Division?

6 A Yes.

7 Q They also have a Geological Division. Is  
8 that right?

9 A Yes.

10 Q Do you know what the Geological Division  
11 does?

12 A There is a firewall -- no, I don't.  
13 There's actually a firewall, regulatory --  
14 statutory firewall between the Office of  
15 Conservation and the Secretary, so my day-to-day  
16 interactions in the running of the Office of  
17 Conservation are somewhat limited.

18 Q Okay. When you say there's a firewall,  
19 can you explain that a little bit?

20 A Yeah. Revised Statute 36:806 provides  
21 that neither the Secretary nor the Undersecretary  
22 shall provide review or oversight of the  
23 Commissioner's permitting, enforcement, rulemaking,  
24 or regulatory decisions.

25 Q And the Commissioner is the Commissioner

## SECRETARY THOMAS F. HARRIS

1 of Conservation, who is the head of that office;  
2 correct?

3 A Correct. He's an Undersecretary within  
4 the Department; however, there is that statutory  
5 firewall that basically gives me only budgetary  
6 authority over that office.

7 Q Okay. Do you know whether the  
8 Commissioner of Conservation serves at the pleasure  
9 of the Governor?

10 A That is correct.

11 Q And, sadly, we lost our Commissioner  
12 recently.

13 A Very recently, yes.

14 Q Has any successor been named?

15 A Yes. On Monday, Governor Edwards  
16 appointed Monique Edwards. No relation.

17 Q Okay. One of the things that the Office  
18 of Conservation does is unitization. Is that  
19 right?

20 A Yes.

21 Q Are you familiar with the fact that  
22 involves assessment of geological issues and  
23 concerns around production of oil and gas  
24 operations?

25 A Yes.

## SECRETARY THOMAS F. HARRIS

1 Q Then there's the Office of Coastal  
2 Management, and that's the agency that was created  
3 under the State and Local SCLRMA Act of 1978;  
4 correct?

5 A Yes.

6 Q Okay. Wait, how do you refer to that  
7 Act?

8 A SCLRMA. I don't very often on a  
9 day-to-day basis.

10 Q Because we've been in these cases a long  
11 time. I don't think anybody's thought of a better  
12 way to shorthand it, so I just -- I thought maybe  
13 you might. So, okay.

14 All right. And that office, in one form  
15 or another, has been in existence since its --  
16 since the program went into effect in, I believe it  
17 was, September of 1980. Is that right?

18 A That's consistent with my understanding,  
19 as well.

20 Q And I've actually seen it as going  
21 through different names at different times; Coastal  
22 Management Division, Office of Coastal Management.  
23 Are you familiar that there have been some name  
24 changes, but, essentially, that office has existed  
25 in its same basic configuration since the late --

SECRETARY THOMAS F. HARRIS

1 since the early '80s?

2 A I was not previously aware of those name  
3 changes, but have no reason to doubt that.

4 Q Okay. Are you familiar with the State  
5 and Local Coastal Resources Management Act of  
6 1978 --

7 A Yes.

8 Q -- we call SCLRMA?

9 Okay. Have you ever had occasion to read  
10 it?

11 A Yes. I can't claim to remember very much  
12 of it, but, yes, I have read it.

13 MR. ARCENEUX:

14 Okay. Just for reference, I'm going to  
15 show you a copy, if I can -- Tab 8 -- of that  
16 Act, as I have printed it out from Westlaw.

17 We'll mark it as Exhibit #3.

18 (Document marked as T. HARRIS #3 for  
19 identification.)

20 MR. ARCENEUX:

21 And that's Exhibit #2.

22 (Discussion off the record.)

23 MR. ARCENEUX:

24 Yours has the actual exhibit sticker, so  
25 that's the one we're going to attach.

SECRETARY THOMAS F. HARRIS

1 THE WITNESS:

2 Okay.

3 BY MR. ARCENEUX:

4 Q And I'm not going to ask you to read it  
5 word for word --

6 A Thank you.

7 Q -- but if I represent to you that this is  
8 the Act as it was printed recently from Westlaw,  
9 which is an online database of laws, you don't have  
10 any reason to disagree with that?

11 A No, I do not.

12 Q Okay. And is it your understanding that  
13 that Act was originally passed by the legislature  
14 in 1978, and that it was -- it's been amended, in  
15 some way or another, a few times since then?

16 A I'll agree with that.

17 Q Okay. So that was the act that was  
18 actually passed by the legislature. Okay.

19 And I want to show you, as well, a copy  
20 of a portion of the Louisiana Administrative Code.

21 MR. ARCENEUX:

22 That is Exhibit 9 -- Tab 9, I'm sorry.

23 It's going to be Exhibit #4.

24 If you can pass those down.

25 ///



SECRETARY THOMAS F. HARRIS

1 (Document marked as T. HARRIS #4 for  
2 identification.)

3 BY MR. ARCENEUX:

4 Q And again, this is a multi-page document,  
5 but I'll represent to you that this is a copy of  
6 Title 43, Part I, Subpart 1, Chapter 7 on Coastal  
7 Management from the Louisiana Administrative Code.  
8 And are you generally familiar that those are the  
9 regulations that exist pertaining to coastal  
10 management?

11 A Yes.

12 MR. ARCENEUX:

13 And that's Exhibit #4.

14 BY MR. ARCENEUX:

15 Q Okay. And are you familiar -- let me  
16 back up.

17 Okay. Those regulations have been  
18 promulgated and revised from time to time under the  
19 Administrative Procedure Act for the State. Is  
20 that right?

21 A Yes.

22 Q Okay. Are you familiar with the  
23 Administrative Procedure Act and it's requirements  
24 about rulemaking?

25 A Yes, I am.

SECRETARY THOMAS F. HARRIS

1 Q Okay. And so these are the actual rules  
2 that are adopted in the Louisiana Administrative  
3 Code; right?

4 A Yes.

5 Q Okay. And those were adopted through  
6 this procedure that requires publication, public  
7 notice, public comment and, ultimately, gets  
8 submitted for the legislature to say yea or nay  
9 about. Is that right?

10 A Yes. The legislature has oversight of  
11 our rulemaking, yes.

12 Q Okay. To your knowledge are there any  
13 other laws or regulations that define the Coastal  
14 Program and its requirements, other than those  
15 found in the statute and in this -- these  
16 provisions of the Louisiana Administrative Code?

17 A I'm sorry, would you repeat that one more  
18 time, please?

19 Q Yes, sir.

20 To your knowledge -- first of all, I'll  
21 break it up.

22 To your knowledge is there any other  
23 statute, other than SCLRMA, that defines the  
24 Louisiana Coastal Management Program?

25 A Not aware of any other.

## SECRETARY THOMAS F. HARRIS

1 Q Okay. And, likewise, for the regulations  
2 to administer that program, are those all found in  
3 the adopted regulations contained in the Louisiana  
4 Administrative Code?

5 A Yes.

6 Q And so if I want to know what the rules  
7 and regulations are that apply to coastal use  
8 permits, those are the two places I would look. Is  
9 that right?

10 A Yes, I would agree with that.

11 Q Only those -- only the Statute has been  
12 actually passed by the legislature and signed by  
13 the Governor; right, and only these regulations  
14 have been published, commented upon, and  
15 promulgated under the Administrative Procedure Act?

16 A Yes. We get the authority to promulgate  
17 regs. That authority is granted to us by the  
18 legislature, by the statutes.

19 Q Right. Through the process that we  
20 talked about; right?

21 A Correct.

22 Q Okay. Now, before 1980, there was not a  
23 Coastal Management Program; correct?

24 A That's correct.

25 Q Okay. And before 1980, the Office of

## SECRETARY THOMAS F. HARRIS

1 Conservation, I think you said, had existed for  
2 many years and regulated the oil and gas industry.  
3 Is that right?

4 A That's correct.

5 Q Okay. For example, the Office of  
6 Conservation historically issued, and still issues  
7 today, drilling permits?

8 A Yes.

9 Q And those prescribe where a well is  
10 drilled, it is a permit -- there are permit  
11 requirements about the spacing of wells; correct?

12 A Yes.

13 Q There are permits passed to be granted to  
14 drill to a particular depth; when you get a  
15 drilling permit, you have to say I'm going to this  
16 depth, and this is what I'm going to do?

17 A That's correct.

18 Q The Office of Conservation issues work  
19 permits for things, like, reworking or workovers of  
20 wells?

21 A Yes, that's accurate.

22 Q Okay. And if you want -- when you're  
23 ready to perforate a producing interval, you have  
24 to get a work permit from the Office of  
25 Conservation to do those perforations, and then you

SECRETARY THOMAS F. HARRIS

1 have to report when the work is done?

2 A I have no reason to disagree with that.

3 Q Okay. Once a well is completed, are you  
4 aware that there's a report of initial production  
5 that includes what's being produced, the volume  
6 being produced, and the pressure of the well?

7 A Again, I have no reason to disagree with  
8 that, but you're getting into an area I'm not --

9 Q Okay.

10 A -- involved in the Office of  
11 Conservation's workings at that level of detail.

12 Q Right. Okay. I understand the  
13 distinction.

14 Similarly, are you familiar with the fact  
15 that the Office of Conservation requires periodic  
16 well tests?

17 A Yes.

18 Q And those would include things, like,  
19 what the well is producing and the pressure of the  
20 well? Is that --

21 A That's correct. That's reported to the  
22 Office of Conservation.

23 Q Okay. Of course, all of production has  
24 to be reported monthly?

25 A Of course.

SECRETARY THOMAS F. HARRIS

1 Q Okay. And then I think we talked about  
2 the Geologic Section -- I don't know if they're the  
3 ones who do this, but the Office of Conservation  
4 also engages in unitization. Is that right?

5 A Yes, that is correct. The Commissioner  
6 holds unitization hearings.

7 Q And that focuses on how and where to  
8 place wells to most appropriately drain a  
9 particular reservoir. Is that right?

10 A Would you repeat that, please?

11 Q That process focuses on review by the  
12 Commissioner's Office of the most appropriate place  
13 to locate and complete and produce wells for the  
14 efficient development and conservation of the  
15 resource?

16 A I really can't speak to that part of the  
17 unitization process.

18 Q Okay. Do you know whether, as part of  
19 that process, the Department oversees and evaluates  
20 reservoir characteristics?

21 A Yes. That's accurate.

22 Q Okay. And are you aware of the fact that  
23 the Office of Conservation issues allowables for  
24 wells, saying how much production is allowed from a  
25 given well?

## SECRETARY THOMAS F. HARRIS

1 A I was not aware of that --

2 Q Okay.

3 A -- detail.

4 Q Okay. Of all these operations that we --  
5 these matters that I asked you about -- some of  
6 which you knew about, some of which you didn't  
7 disagree with, but didn't really know about -- are  
8 you familiar with the Office of Coastal Management  
9 ever gathering or utilizing that kind of  
10 information about wells and their downhole  
11 operation that we've discussed for the Office of  
12 Conservation?

13 A Not to my knowledge.

14 MR. ARCENEUX:

15 If we can go to Tab 8 -- actually, we're  
16 back on Exhibit -- which exhibit is the Act?

17 Do you have Exhibit #3?

18 (Discussion off the record.)

19 MR. PHILLIPS:

20 Could you identify the exhibit numbers  
21 for the SCLRMA statute and the Coastal regs,  
22 please?

23 MR. ARCENEUX:

24 SCLRMA is Exhibit #3, and the regs are  
25 Exhibit #4.

## SECRETARY THOMAS F. HARRIS

1 BY MR. ARCENEUX:

2 Q Okay. If you can thumb through there to  
3 49:214 --

4 A Exhibit #3?

5 Q Yes, yes. Title 49, Section 214.31.

6 A Okay.

7 Q Okay. And if you look at Subsection B,  
8 it provides that: Permits issued pursuant to the  
9 existing statutory authority of the Office of  
10 Conservation and the Department of Natural  
11 Resources for the location, drilling, exploration,  
12 and production of oil, gas, sulphur, or other  
13 minerals, shall be used in lieu of coastal use  
14 permits, provided that the Office of Conservation  
15 shall coordinate such permitting actions pursuant  
16 to 49 214.32B and D, and shall ensure that all  
17 activities so permitted are consistent with the  
18 guidelines, the state program and any affected  
19 local program.

20 I read that correctly; right?

21 A Yeah. I didn't see any --

22 Q Okay. And do you understand that to  
23 create a distinction between matters covered by  
24 permits issued by the Office of Conservation and  
25 those for which a coastal use permit is required?



## SECRETARY THOMAS F. HARRIS

1           A     That's what it says. That's not -- that  
2 never actually happened in reality. The Office --  
3 to my knowledge, the Office of Conservation never  
4 evaluated, in any manner, impacts to coastal  
5 resources as part of their permitting program.

6           Q     Has the Office of Conservation -- I'm  
7 sorry -- isn't it correct that the Office of  
8 Coastal Management has not historically, and does  
9 not, issue permits for the drilling location and  
10 operation of oil and gas wells as covered by the  
11 regulations of the Office of Conservation?

12          A     They do not issue permits to drill, if  
13 that's what you're asking, no. They do issue  
14 coastal use permits for activities in the coastal  
15 zone.

16          Q     Right.

17                 And there's actually a Memorandum of  
18 Understanding that has existed between the agencies  
19 about how they're going to operate under those  
20 terms. Is that right?

21          A     I understand there have been, over  
22 the years, a couple of MOUs, or at least one I'm  
23 aware of.

24          Q     Okay.

25                 (Discussion off the record.)

SECRETARY THOMAS F. HARRIS

1 (Document marked as T. HARRIS #5 for  
2 identification.)

3 BY MR. ARCENEUX:

4 Q I'm going to show you a copy of something  
5 called -- that I've labeled as Exhibit #5,  
6 Appendix n -- Memoranda of Understanding is what  
7 the cover sheet says -- and ask you if you  
8 recognize that document.

9 A Yes, I have -- this looks familiar.

10 Q All right. And am I correct that this  
11 Memorandum of Understanding remained in place until  
12 2013, when a new MOU was executed?

13 A I was not at the Department of Natural  
14 Resources, but I have no reason to disagree.

15 Q If you look under Provision 1, it  
16 provides that: In-lieu permits are to be  
17 implemented by the Office of Conservation/DNR. OCR  
18 shall have responsibility for permitting activities  
19 within the boundary of the coastal zone, as set  
20 forth in the Act for which OC/DNR issued permits as  
21 of 1979 for the location, drilling, exploration,  
22 and production of oil, gas, sulfur, and other  
23 minerals.

24 Is that correct?

25 A Wait. I'm sorry. Will you repeat that,

## SECRETARY THOMAS F. HARRIS

1 please.

2 Q Yes, sir. And I'm just reading to you.  
3 On the second page of that document, paragraph 1  
4 under "General."

5 A Okay.

6 Q Provides that: In-lieu permits are to be  
7 implemented by the OC/DNR. OC/DNR shall have  
8 responsibility for permitting activities occurring  
9 within the boundary of the coastal zone as set  
10 forth in the Act for which Office of  
11 Conservation -- OC/DNR issued permits as of  
12 January 1, 1979, for the location, drilling,  
13 exploration, and production of oil, gas, sulphur,  
14 and other minerals.

15 Is that correct?

16 A That's what it says, yes.

17 Q Okay. And I think, as we just discussed,  
18 the matters covered in the drilling permits  
19 included things, like -- we can go back through  
20 them all -- but location of the well, spacing of  
21 wells, the depth, the perforated interval, and the  
22 allowable production from the well?

23 A That is correct. But did not include any  
24 information regarding potential impacts to coastal  
25 resources.

## SECRETARY THOMAS F. HARRIS

1 Q Okay. Does this say anything that would  
2 suggest that if a permit were granted for those  
3 operations by the Office of Conservation, that  
4 somehow the Office of Coastal Management, or its  
5 predecessors, would have an additional permitting  
6 authority?

7 A Well, they have -- the Office of Coastal  
8 Management, after 1980, clearly had the permitting  
9 authority.

10 Q Do you know whether the agency, itself,  
11 expressed that position historically?

12 A I believe when Department of Natural  
13 Resources applied for, and was granted, primary  
14 permitting and enforcement authority, it was with  
15 the assumption that they would -- that we had the  
16 authority to permit and enforce activities in the  
17 coastal zone under the Office of Coastal  
18 Management.

19 Q Okay. Do you know whether the Office of  
20 Coastal Management, or by whatever name it ever  
21 went, ever issued a permit for those activities?

22 A Not permits to drill. The actual -- the  
23 actual activity of drilling a well falls under the  
24 Office of Conservation, and their responsibility  
25 there is dealing with the efficient and safe

## SECRETARY THOMAS F. HARRIS

1 production of the oil, not impacts to coastal  
2 resources.

3 Q Okay. Well, in terms of where the well  
4 is drilled, to what depth it is drilled, where it  
5 is perforated, and from what reservoir it produces,  
6 those are not matters for which the Office of  
7 Coastal Management issues coastal use permits?

8 A Correct. That is the Office of  
9 Conservation's responsibility and duty.

10 Q And the information and data associated  
11 with those characteristics are not things that the  
12 Office of Coastal Management regulates or inquires  
13 upon. Is that right?

14 A The activity of the -- the matters of  
15 interest in regulation by Office -- by the Office  
16 of Conservation do not directly overlap with those  
17 of the Office of Coastal Management.

18 Q Well, and you just told us what those  
19 Office of Conservation --

20 A Depths, where the interval that it's  
21 screened, the casing, the spacing, those are the  
22 issues that the Office of Conservation regulates.

23 Q Okay. Things, like, the allowable, the  
24 rate of production --

25 A Yes.

SECRETARY THOMAS F. HARRIS

1 Q -- the reporting of that information,  
2 those things are Office of Conservation matters;  
3 correct?

4 A Yes, sir. That's correct.

5 Q Okay. Office of Conservation conducts  
6 well tests and gathers the information pertaining  
7 to the performance of the well and the reservoir.  
8 Is that right?

9 A That's correct.

10 Q Okay. And that's not something that  
11 Office of Coastal Management is involved with?

12 A That's accurate, yes.

13 Q What information do you have --

14 MR. ARCENEUX:

15 Go ahead -- I'll come back to it.

16 BY MR. ARCENEUX:

17 Q I showed you some -- the St. Pe Memo  
18 earlier, and asked you some about produced water  
19 discharges. So are you aware that produced water  
20 discharges were allowed and legal until sometime in  
21 the -- at least sometime in the 1990s?

22 Let me strike the question.

23 A Okay.

24 Q Are you aware that discharges of produced  
25 water to tidally-affected or brackish waters in the

SECRETARY THOMAS F. HARRIS

1 coastal zone were legal, sometimes with permits,  
2 until at least the mid-1990s?

3 A I am now. I read that in something you  
4 gave me earlier.

5 MR. ARCENEUX:

6 Okay. Let me show you something related  
7 to that. It's Tab 41.

8 I'm going to mark as Exhibit #6 pages  
9 from the Louisiana Register in 1997.

10 (Document marked as T. HARRIS #6 for  
11 identification.)

12 BY MR. ARCENEUX:

13 Q And I'll ask you first whether you've  
14 ever seen this before.

15 A No, I have not.

16 Q Do you recognize these as pages from the  
17 Louisiana Register?

18 A I do.

19 Q Okay. And this references a Declaration  
20 of Emergency, Department of Environmental Quality  
21 Office of Water Resources, Produced Water Discharge  
22 Extension. And it is submitted by Dale Givens. Do  
23 you know who Dale Givens is?

24 A He was the Secretary of The Department of  
25 Environmental Quality when I first started.

## SECRETARY THOMAS F. HARRIS

1 Q Okay. Are you familiar with Mr. Givens'  
2 background in water regulation in Louisiana?

3 A I understand that was where he came from,  
4 yes.

5 Q And if you look through -- and you're  
6 certainly welcome to look through as much of this  
7 as you like -- but in the right-hand column of the  
8 first page, there's a section called Regulatory  
9 History of Produced Water. Is that right?

10 A Yes. That's what it says.

11 Q And the first three or four of those are,  
12 essentially, similar to the St. Pe points: The  
13 discharges of produced water have existed since the  
14 1940s, a 1953 rule allowed produced water  
15 discharges to streams not used for drinking water  
16 purposes, by 1968, discharge to most fresh water  
17 area was banned -- I don't know if the St. Pe  
18 article said that -- and then many permits have  
19 prohibited --

20 At least those first two were encompassed  
21 in the St. Pe article. Is that right?

22 A I did not read the St. Pe article in  
23 full, so I can't state that.

24 Q If this publication in the Louisiana  
25 Register, sponsored by Secretary Givens, was



## SECRETARY THOMAS F. HARRIS

1 issued, would you have any reason to disagree with  
2 the history of produced water that it sets forth?

3 A I don't have any specific knowledge  
4 contrary to this.

5 Q Okay. And do you know that there came a  
6 time when DEQ did issue permits in connection with  
7 discharges of produced water in the coastal zone?

8 A I'm not aware of that.

9 Q Okay. So, which is to say, you don't  
10 know one way or the other; correct?

11 A That's correct. I have no knowledge on  
12 that subject.

13 Q Okay.

14 So in terms of when and how produced  
15 water regulation may have been done by the DEQ,  
16 that's not something that you're familiar with?

17 A No. I've never really worked in that --  
18 in the Surface Water Program at DEQ.

19 Q To your knowledge did the Office of  
20 Coastal Management ever require coastal use permits  
21 for produced water discharges?

22 A I'm not aware of that ever -- of a permit  
23 ever being issued for that activity.

24 Q Are you aware of a consistent practice  
25 within the Office of Coastal Management to defer

SECRETARY THOMAS F. HARRIS

1 all permitting and regulation of produced water  
2 discharges to the Surface Water authorities at DEQ?

3 A It's always been my understanding that  
4 the Department of Natural Resources always referred  
5 any discharges to a surface water body to DEQ.

6 Q Okay. And you haven't seen any coastal  
7 use permits issued with respect to surface water  
8 discharges?

9 A I have not.

10 MR. ARCENEUX:

11 Can -- do you have the MOU, Tab 43?

12 BY MR. ARCENEUX:

13 Q Secretary Harris, this responsibility  
14 with DEQ and the practice you described, is that  
15 still the practice?

16 A Yes, that DEQ is the State authority --  
17 the State agency with authority to permit  
18 discharges to surface water bodies.

19 MR. ARCENEUX:

20 Okay. Let me show you what I'm going to  
21 mark as Exhibit #7.

22 (Document marked as T. HARRIS #7 for  
23 identification.)

24 BY MR. ARCENEUX:

25 Q It's a document dated May 30, 1980,

## SECRETARY THOMAS F. HARRIS

1 between -- titled Memorandum of Agreement Between  
2 The Coastal Management Section of The Department of  
3 Transportation and Development and The  
4 Environmental Control Commission and The Office of  
5 Environmental Affairs of The Department of Natural  
6 Resources.

7 Have you ever seen that before?

8 A I have not.

9 Q Okay. Are you familiar with the  
10 Environmental Control Commission and the Office of  
11 Environmental Affairs of the Department of Natural  
12 Resources?

13 A No.

14 Q Okay. If it turns out that those  
15 environmental departments within the Department of  
16 Natural Resources ultimately became the components  
17 of the Department of Environmental Quality, if the  
18 DEQ was formed from those, would you have any  
19 reason to disagree with that?

20 A No. That's consistent with my  
21 understanding, that DEQ originated within part of  
22 DNR.

23 Q Right.

24 And so if you can look at this briefly,  
25 this outlines how the two agencies -- that is, the

## SECRETARY THOMAS F. HARRIS

1 Coastal Management Section, which was initially  
2 envisioned at part of DOTD. Were you familiar with  
3 that?

4 A No, I was not.

5 Q Okay. So this is about how the  
6 relationship between the Coastal Management Section  
7 and the Environmental Affairs people in DNR were  
8 going to be coordinated. Does that look to be what  
9 this is?

10 A I have not had a chance to read it. I  
11 can, if you like. Would you --

12 Q If you could take a minute to look over  
13 it. I'm not asking you to give opinions about  
14 things you haven't seen before, but I am going to  
15 ask you about how this would work.

16 A (Reviewing Exhibit #7.)

17 Okay.

18 Q Thank you.

19 I just want to ask about some of the  
20 mechanics of this, I think, are pretty  
21 straightforward. First, in the section on Permit  
22 Procedures, Number 1 says that: The Coastal  
23 Management Section will provide -- are you with me?

24 A Uh-huh.

25 Q Coastal Management Section will provide

## SECRETARY THOMAS F. HARRIS

1 the Environmental Control Commission -- the folks  
2 at DNR -- notice of all coastal use permit  
3 applications and decisions within the coastal zone.

4 So the Coastal people are going to notify  
5 the Environmental people of the permits?

6 A Uh-huh.

7 Q Second: The Environmental -- the  
8 ECC-OEA/DNR -- that's the Environmental folks at  
9 DNR -- on a regular basis, will provide the Coastal  
10 Management Section with notice of the permit  
11 applications, decisions, and so forth, for a  
12 variety of activities.

13 Is that right?

14 A I'll agree with that.

15 Q One of those would be the -- on page 2,  
16 middle of the page: Activities requiring water  
17 quality permits pursuant to provisions of the  
18 Revised Statute -- Statutes?

19 A Yes. That's what it says.

20 Q Okay.

21 Then on the top of page 3: The Coastal  
22 Management Section will condition the approval of  
23 coastal use permits in all consistency decisions on  
24 compliance with rules and regulations of ECC and  
25 the applicant obtaining all permits required by ECC

## SECRETARY THOMAS F. HARRIS

1 and complying with the terms and conditions  
2 thereof.

3           You understand that?

4           A     Yes.

5           Q     So what I read that to mean, and I want  
6 to know if you agree, is that essentially the  
7 Office of Coastal Management and the Environmental  
8 authorities will report on what each other are  
9 doing, and the Coastal Management Section is going  
10 to condition the coastal use permit on getting any  
11 permit that the Environmental folks need, and  
12 that's going to be their requirement; correct?

13          A     That's apparently what this MOA  
14 contemplated. I can't speak to whether that  
15 actually took place or not.

16          Q     Okay.

17                But as you described to us before, your  
18 understanding is generally that Office of Coastal  
19 Management relies upon DEQ and its discharge  
20 permitting as the principal authority to ensure the  
21 safety and propriety of discharges and any permits  
22 that need to be granted?

23          A     Yes, with the caveat that DEQ often does  
24 not inspect -- or I don't believe they have the  
25 authority to regulate oil and gas activities, that

## SECRETARY THOMAS F. HARRIS

1 they -- they typically defer to the Office of  
2 Conservation on those matters, defer to DNR.

3 And DNR Office of Conservation does not  
4 believe it has the authority to authorize or even  
5 regulate, or require cleanup of discharges to a  
6 surface water body. They believe that falls to  
7 DEQ.

8 Q I'm not sure I understand your answer,  
9 but --

10 A I'm sorry.

11 Q So you mentioned earlier that you were  
12 not familiar with the permitting history around  
13 produced water?

14 A Not going back as far as the Stream  
15 Commission, no, sir.

16 Q Well, we've seen a couple of documents --  
17 well, first of all, do you -- you have told us that  
18 you aren't aware of the fact that the Department of  
19 Environmental Quality actually had permitting  
20 requirements and issued permits for the discharge  
21 of produced water in the coastal zone historically.  
22 You're not familiar with that fact?

23 A No.

24 Q Okay. You have seen the report from  
25 Mr. St. Pe, and others at the Department of

## SECRETARY THOMAS F. HARRIS

1 Environmental Quality assessing produced water  
2 impacts; correct?

3 A Yes. That was Exhibit -- whatever, yes.  
4 You showed me that document that I had  
5 never actually -- still have not read it.

6 Q Right. And you -- I also showed you  
7 Secretary Givens' emergency rule and his relation  
8 of the DEQ's history of regulation produced water;  
9 correct?

10 A Yes.

11 Q And you don't have a basis to disagree  
12 with that?

13 A No, I don't.

14 Q And if the record shows that permits  
15 were, in fact, required and obtained, you're not  
16 going to disagree with that?

17 A No, I have no reason to disagree with  
18 that.

19 Q Okay. And you're familiar with the  
20 existence of the Stream Control Commission  
21 historically?

22 A I've heard it referenced and spoken of,  
23 yes.

24 Q And so, for example, if Secretary Givens  
25 and the -- and the St. Pe paper, and other



## SECRETARY THOMAS F. HARRIS

1 material, shows the existence of those regulations  
2 and the legality of produced water discharges  
3 historically, you're not in a position to disagree  
4 with that?

5 MR. JOHN CARMOUCHE:

6 Object to the form.

7 Go ahead.

8 THE WITNESS:

9 A No, I don't have any specific information  
10 to disagree with that.

11 MR. ARCENEUX:

12 All right. Thank you.

13 I think we're done with that, so we can  
14 go ahead and give it to the court reporter.

15 BY MR. ARCENEUX:

16 Q Before I go on, I meant to ask you. This  
17 case involves the Hackberry Field. Have you ever  
18 been to the Hackberry Field?

19 A I don't believe I have, no.

20 Q Okay. Do you know where Hackberry is?

21 A I know where -- generally where Hackberry  
22 is. I'm not familiar with the limits of the  
23 Hackberry Field.

24 Q Okay. Have you ever fished in the area  
25 of Black Lake around the Hackberry Field?

SECRETARY THOMAS F. HARRIS

1 A Unfortunately not.

2 Q Have you fished in Calcasieu Lake?

3 A Unfortunately not. Looking forward to  
4 doing that maybe when I retire.

5 Q Okay.

6 Have you worked on any remediation  
7 projects in Cameron Parish?

8 A Yes, I have.

9 Q Can you give me some information about  
10 what those where, how numerous, or where they might  
11 have been?

12 A Oh, gee. The biggest of which would have  
13 been Bayou d'Inde. There have been others in  
14 Calcasieu and Cameron, probably too many to count.  
15 I can't really remember all of them.

16 Q Okay. Bayou d'Inde was up near Lake  
17 Charles?

18 A Correct.

19 Q And what was involved in that project?

20 A There were historical discharges to Bayou  
21 d'Inde from a number of sources -- really all the  
22 industries that line Bayou d'Inde; PPG, Firestone,  
23 a number of others. They all -- there were PCBs,  
24 dioxins, metals, organics, semi-organics, all in  
25 the sediment in Bayou d'Inde. And there was a

## SECRETARY THOMAS F. HARRIS

1 project where we got some of the industries to work  
2 together to evaluate -- ultimately remediate the  
3 bayou, the sediment contamination.

4 Q How long did that project go on?

5 A Years.

6 Q All right. Two years? Twenty years?

7 Any idea?

8 A More than 10?

9 Q Okay.

10 Do you know how much of that period was  
11 the period for assessment versus implementation of  
12 a remedy?

13 A I know the assessment took longer than  
14 the remedy.

15 Q Any idea in terms of years?

16 A I don't. The remediation didn't actually  
17 begin until after I left DEQ, so...

18 Q Okay. Do you know whether that's been  
19 completed?

20 A My understanding is yes. I don't know  
21 that for a fact.

22 Q Was the assessment and remediation  
23 designed and implemented using RECAP?

24 A Yes. RECAP is the regulation, but it  
25 was -- you mentioned earlier the management

## SECRETARY THOMAS F. HARRIS

1 options, that was certainly Management Option 3 due  
2 to the complex nature of fish tissue consumption,  
3 recreational exposure, and the ecological concerns.

4 Q But RECAP was the defining standard?

5 A Was the regulation that was, and is,  
6 applicable.

7 Q Okay. Was any coastal management  
8 regulation used to set the standards for assessment  
9 or remediation of impacts?

10 MR. JOHN CARMOUCHE:

11 Objection to the form.

12 THE WITNESS:

13 A The -- Coastal Management would not have  
14 been involved in the evaluation. I don't know for  
15 a fact -- well, I know that any activity of that  
16 nature in the coastal zone would require a coastal  
17 use permit. But that would be to implement the  
18 remedy, not to evaluate the site or decide whether  
19 or not remediation was necessary, or what type of  
20 remediation would be most appropriate.

21 Q So, for example, if there was going to be  
22 sediment removal, RECAP would determine what  
23 sediment needed to be removed to meet the standard,  
24 and then OCM would issue a permit or be asked to  
25 permit the actual --

SECRETARY THOMAS F. HARRIS

1 A The actual --

2 Q -- dredging?

3 A -- dredging. That's correct.

4 Q Okay.

5 (Discussion off the record.)

6 MR. PRICE:

7 Probably not a bad break time.

8 MR. ARCENEUX:

9 Yeah, we can do that.

10 VIDEOGRAPHER:

11 Time now is 10:41 a.m. We're taking a  
12 break.

13 (Recess taken at 10:41 a.m. Back on  
14 record at 11:00 a.m.)

15 VIDEOGRAPHER:

16 Time now is 11:00 a.m. We're back on the  
17 record.

18 BY MR. ARCENEUX:

19 Q Secretary Harris, I wanted to pick up and  
20 ask you some questions about the background of this  
21 and related lawsuits. You're aware that this is  
22 one of 42 lawsuits filed by coastal parishes?

23 A Yes.

24 Q Okay. And the Louisiana Department of  
25 Natural Resources intervened in those cases in

SECRETARY THOMAS F. HARRIS

1 2016. Is that right?

2 A That is correct.

3 Q Okay. The first of those cases were  
4 brought in 2013 in Plaquemines and Jefferson  
5 Parishes. Is that correct?

6 A I have no reason to disagree with that.

7 Q To your knowledge -- well, to your  
8 knowledge was the State involved in bringing those  
9 cases in 2013?

10 A It's my understanding they were brought  
11 by the parishes. I intervened in Spring of 2016.

12 Q Was the State consulted in connection  
13 with the initiation of those lawsuits?

14 A Would you repeat the question?

15 Q Do you know if the State was consulted in  
16 connection with the bringing of those lawsuits?

17 A I do -- I don't have any information  
18 relevant to that question. I don't know.

19 Q So you haven't seen any information to  
20 suggest that the State was consulted, have you?

21 A I have no information one way or the  
22 other.

23 Q To your knowledge did the State receive  
24 any notices from the parishes before the suits were  
25 filed?

SECRETARY THOMAS F. HARRIS

1 MR. JOHN CARMOUCHE:

2 I'll object to the form. Maybe you can  
3 clarify for the record what you mean by  
4 "State". The DNR, or?

5 MR. ARCENEUX:

6 So let me clarify.

7 BY MR. ARCENEUX:

8 Q Well, do you know whether the Office of  
9 Coastal Management, or DNR, received notice of  
10 either the intent to bring those cases, or of the  
11 actual bringing of those cases, at the time they  
12 were filed?

13 A I don't. I was at the DEQ in 2013.

14 Q Okay. So you don't know one way or  
15 another whether the parishes made any effort to  
16 involve the Office of Coastal Management or the  
17 Department of Natural Resources before the actions  
18 were commenced. Is that right?

19 A I do not. I do not know.

20 Q Or whether any effort to seek any relief  
21 or assistance through your Department or the Office  
22 of Coastal Management was made?

23 A I have no knowledge of that.

24 Q Do you know who would know that?

25 A Would you repeat the question? Not "do

SECRETARY THOMAS F. HARRIS

1 you know that", but the information?

2 Q Correct. I understand that you don't  
3 know -- you're telling me that you don't know about  
4 any contact --

5 A Or communication prior to my arrival in  
6 DNR in 2014.

7 Q Right. And so my question is, who would  
8 know that?

9 A I would suspect that DNR Legal staff --

10 Q Okay.

11 A -- might know.

12 Q Anybody else?

13 A Possibly Keith Lovell, but I don't know  
14 that for a fact either way.

15 Q Are you aware that DNR did a review of  
16 the claims that were being made in 2013 or 2014?

17 A They did a review of the claims?

18 Q Yes, sir.

19 A In what year?

20 Q 2013 or 2014.

21 A I have heard of that, yes.

22 Q Okay. I want to show you some testimony  
23 that was given to the legislature and ask you about  
24 it.

25 MR. ARCENEUX:



SECRETARY THOMAS F. HARRIS

1 Can you play it?

2 (Discussion off the record relating to  
3 video presentation.)

4 (Video marked as T. HARRIS #8 for  
5 identification.)

6 MR. ARCENEUX:

7 And this should display on this screen.

8 THE WITNESS:

9 I can see it fine.

10 MR. ARCENEUX:

11 Can you go ahead and play it when you're  
12 ready?

13 John, can you see it?

14 MR. JOHN CARMOUCHE:

15 What's the question; has he ever seen it?

16 MR. ARCENEUX:

17 I will ask him that after I've played it.

18 (Video/Exhibit #8 played and reviewed.)

19 MR. ARCENEUX:

20 In connection with that, I would also  
21 like just to mark for the record the complete  
22 2014. I don't want there to be any question  
23 about other context, or anything.

24 BY MR. ARCENEUX:

25 Q While she's marking that, Secretary

SECRETARY THOMAS F. HARRIS

1 Harris, have you seen that testimony before?

2 A No, I have not. That's the first time  
3 I've seen it.

4 MS. CAMPBELL:

5 So this is Tab 12 and Exhibit #9.

6 (Video marked as T. HARRIS #9 for  
7 identification.)

8 BY MR. ARCENEUX:

9 Q Were you aware that the DNR had done a  
10 review of the permits identified in one or more of  
11 the 2013 lawsuits to evaluate for permit  
12 violations?

13 A I had heard of that, but not in great  
14 detail.

15 Q Do you know anything about who did that  
16 review, or how it was done?

17 A Do not.

18 Q Okay. Have you ever asked anybody within  
19 your Department about that review?

20 A No, I have not.

21 Q At any time have you asked any of the  
22 staff of the Office of Coastal Management to review  
23 permits at issue in the 42 lawsuits with respect to  
24 whether there was a violation?

25 A I have not asked anyone that specific

## SECRETARY THOMAS F. HARRIS

1 question, no.

2 Q Now, a couple of years later after this  
3 testimony was given in 2014, you became Secretary  
4 of DNR, and you intervened in this Auster case and  
5 in the other cases; correct?

6 A A couple of years later, yes.

7 Q Okay. When and under what circumstances  
8 did you first learn of the lawsuits?

9 A I had heard of the lawsuits back in 2013  
10 in the -- through the local news.

11 Q Okay. Before you became Secretary of  
12 DNR, did you engage in any investigation or  
13 research having to do with the lawsuits?

14 A No. I did not.

15 Q Did you have any discussions with anybody  
16 about the Coastal lawsuits, including the  
17 government or anybody in the transition team, about  
18 the Coastal lawsuits?

19 A Would you repeat that question, please?

20 Q Yes, sir.

21 Did you have any discussions with anybody  
22 about the lawsuits prior to becoming Secretary of  
23 DNR, including the Governor, or any official or  
24 unofficial representatives of the transition team  
25 of the Governor's office?

## SECRETARY THOMAS F. HARRIS

1           A       I did not have any conversation with the  
2 Governor or any members of the transition team  
3 before becoming governor -- before being appointed  
4 Secretary. I'm sure I discussed it with friends  
5 and co-workers at the time I first learned about  
6 it.

7           Q       And once you became Secretary, how did  
8 you address -- how did you have occasion to address  
9 the possible intervention in the lawsuits?

10          A       There were discussions with my executive  
11 counsel regarding the Coastal lawsuits.

12          Q       What was your role in the decision to  
13 intervene?

14          A       I was the one who intervened after the  
15 Attorney General did so.

16          Q       Who else was involved in the decision to  
17 intervene?

18          A       There were discussions with my executive  
19 counsel.

20          Q       Anybody else involved in that decision,  
21 other than your counsel?

22          A       Blake Canfield, who is my executive  
23 counsel, had discussions with the Governor's  
24 executive counsel.

25          Q       Did Governor Edwards -- did Governor

## SECRETARY THOMAS F. HARRIS

1 Edwards initiate the inquiry into intervention?

2 A Did he initiate it?

3 Q Yes, sir.

4 A I don't know. I did not have any direct  
5 conversations with Governor Edwards regarding the  
6 lawsuits.

7 Q Everything was done through the lawyers?

8 A That's correct.

9 Q Do you know whether Governor Edwards  
10 approved the decision to intervene?

11 A I don't know that for a fact.

12 Q What information did you review in making  
13 the decision to intervene?

14 A I looked at the resources we had  
15 available to us as a department, our manpower  
16 status regarding current workload and being able --  
17 and our ability to review previous decades  
18 concurrently with our current workload.

19 Q Did the -- did you, or anybody in your  
20 department, other than what Mr. Canfield has  
21 already described, do any evaluation of the actual  
22 permits and activities with respect to possible  
23 violations of coastal use permitting requirements?

24 A I hate to keep doing this, but would you  
25 repeat that question?

SECRETARY THOMAS F. HARRIS

1 Q If I can.

2 (Discussion off the record.)

3 BY MR. ARCENEUX:

4 Q Did you or anybody in your department,  
5 other than what Mr. Canfield described in the  
6 testimony we saw, do any evaluation of the actual  
7 permits and activities with respect to possible  
8 violations of coastal use permitting requirements  
9 before deciding to intervene?

10 A I did not -- not to my knowledge, no.

11 Q Did you meet with any representatives of  
12 the plaintiff parishes before intervening?

13 A I did not.

14 Q Have you met with them since then with  
15 respect to the lawsuits?

16 A No, I have not.

17 Q I take it from your answer, you didn't  
18 review any materials, maps, any kind of  
19 documentation prior to intervening?

20 A No. No maps or specific documents, no.

21 Q And this particular case pertains to  
22 operations in the East and West Hackberry Fields.  
23 Do you know whether you or anybody in your Office  
24 of Coastal Management has ever actually reviewed  
25 and evaluated permits in the East or West Hackberry

## SECRETARY THOMAS F. HARRIS

1 Fields for coastal use permit violations?

2 A I can't speak to that specific activity.  
3 I know in general they looked for permit  
4 violations.

5 Q Right. I should have been clearer. I  
6 meant in connection with this lawsuit.

7 A No.

8 Q So, in general, they would do their job  
9 and look for violations, and if they found  
10 violations they would enforce them; right?

11 A That's correct.

12 Q And it wouldn't surprise you to find that  
13 in the East and West Hackberry Field there were  
14 occasions where there were, what were described as,  
15 minor violations that were addressed with your  
16 office. That wouldn't surprise you, would it?

17 A That would not surprise me, no.

18 Q Same question with regard to unpermitted  
19 activities. Did you or anybody in the Office of  
20 Coastal Management evaluate the claims in the  
21 lawsuit to evaluate whether there had been  
22 unpermitted activities for which permits should  
23 have been issued?

24 A I'm sorry, I lost you there. Would you  
25 repeat the question, please?

## SECRETARY THOMAS F. HARRIS

1 Q Sure. Sure.

2 First of all, do you understand generally  
3 that the contentions in the lawsuits -- do you  
4 understand generally that the contentions in the  
5 lawsuits are exclusively based on SCLRMA and the  
6 permitting requirements in it?

7 A Yes.

8 Q And as I appreciate it, I'll see if you  
9 have the same understanding, there are claims,  
10 number one, that there were permits that were  
11 issued and whose terms were not met.

12 A Yes.

13 Q Okay. And I think you told me that your  
14 department has not done a review of any of those  
15 permits to determine whether there are violations;  
16 correct?

17 A I am not aware of specific reviews, no.

18 Q And so the other thing that is asserted,  
19 as I appreciate it, is that there have been  
20 unpermitted activities for which companies should  
21 have gotten permits and that those are being sued  
22 upon. And so I'm going to ask you the same  
23 question about unpermitted activities as for  
24 permits, which is, has anybody in the Office of  
25 Coastal Management undertaken a review of



## SECRETARY THOMAS F. HARRIS

1 activities in the Hackberry Fields, for example, to  
2 determine whether there were unpermitted activities  
3 that took place without permits?

4 A No. And, really, we're not staffed at  
5 levels that would allow us to continue our current  
6 workload and go back and review activities that  
7 took place decades ago.

8 Q Okay.

9 A So the answer is no.

10 Q I understand that there's a large volume  
11 of claims, but, am I correct, that that evaluation  
12 hasn't been done on even a single permit or  
13 activity that is the subject of the claims. Is  
14 that right?

15 A I'm not aware of that -- of any review of  
16 that description.

17 Q Okay. Thank you.

18 Do you know if anybody from the  
19 Department has gone out to any of the locations,  
20 whether in the East or West Hackberry Fields, or  
21 otherwise, to determine the conditions as part of  
22 the decision to intervene?

23 A I know we -- not as part of the decision  
24 to intervene, no.

25 MR. ARCENEUX:

SECRETARY THOMAS F. HARRIS

1 I now wanted to ask you about some  
2 testimony that you gave to the legislature in  
3 2016. If we can bring up that clip, I'd like  
4 to watch it with you.

5 MS. CAMPBELL:

6 Tab 13A.

7 MR. ARCENEUX:

8 13A is going to be 4-and-a-half minutes  
9 that is the Secretary's opening statement.

10 (Video marked as T. HARRIS #10 for  
11 identification.)

12 MR. ARCENEUX:

13 And what I'd like to attach as 13B is the  
14 entirety of the 2016 hearing.

15 (Video marked as T. HARRIS #11 for  
16 identification.)

17 (Discussion off the record.)

18 MR. ARCENEUX:

19 If you'll clarify the record, please.

20 MS. CAMPBELL:

21 13A and 14 are the tab numbers. These  
22 will be Exhibits #10 and #11.

23 (Discussion relating to video  
24 presentation.)

25 ///

## SECRETARY THOMAS F. HARRIS

1 (Document marked as T. HARRIS #12 for  
2 identification.)

3 BY MR. ARCENEUX:

4 Q What we've marked as Exhibit #12 is a  
5 transcription that we had prepared of the hearing.  
6 And this is, I think, the whole hearing.

7 A Yes, it is the entire hearing.

8 Q And what I'm going to ask you about is  
9 just the first part, and some of your description.  
10 So let's just walk through that, unless the  
11 transcript is working.

12 MR. ARCENEUX:

13 We're going to Plan B, Henry?

14 (Discussion relating to video  
15 presentation.)

16 MR. ARCENEUX:

17 We can proceed on paper.

18 BY MR. ARCENEUX:

19 Q Okay. So this was 2016, and you appeared  
20 before the legislature to talk about the decision  
21 to intervene. Is that right?

22 A Yes.

23 Q Okay. And, first of all, on page 6, you  
24 say that DNR was not -- well, at line 6: DNR was  
25 not involved in these lawsuits and did not have

## SECRETARY THOMAS F. HARRIS

1 access to evidence the parishes were basing their  
2 actions on.

3 And, I guess, let just me ask you there.  
4 What evidence did you not have access to, or did  
5 the Department not have access to, that you  
6 acquired in order to decide to intervene?

7 A There was evidence gathered by several  
8 law firms regarding activities in these fields that  
9 included, but certainly was not limited to,  
10 discharges of produced water with impacts to  
11 coastal marshes.

12 Q Okay. And then you say that since  
13 intervening in those suits, we've come to recognize  
14 there may have been some systemic issues,  
15 particularly in the years of the program in the  
16 1980s, that could have created regulatory blind  
17 spots.

18 A Uh-huh.

19 Q These were primarily found in cases where  
20 sites were permitted in the early '80s, and then  
21 closed years or even decades later. Is that  
22 correct?

23 A I said that. Yes, that's correct.

24 Q And that's your understanding of what the  
25 lawsuits pertained to and upon which you decided to

## SECRETARY THOMAS F. HARRIS

1 intervene?

2 A That's accurate, yes.

3 Q And you testified about the scope of the  
4 violations, some of which you said this morning,  
5 about what it would take to investigate those;  
6 correct?

7 A Yes. There were cases that activities  
8 took place that we were not aware of, that the  
9 companies had a duty to report, and we weren't  
10 there to see it, be aware of it. It came to our  
11 attention, and we acted upon that information.

12 Q I asked you a minute about -- well, let  
13 me see something.

14 Okay. If you turn to page 14, and this  
15 is actually testimony that Mr. Canfield gave while  
16 you were at the table with him. He said that:  
17 Once DNR had intervened in the cases, the agency  
18 began to see some of the information that was being  
19 developed by the parishes and upon review, DNR  
20 began to recognize two broad patterns of  
21 potentially -- of potential previously unreported  
22 or unaddressed violations.

23 First off, you have activities that were  
24 conducted without a coastal use permit, which  
25 otherwise would have required a coastal use permit,

## SECRETARY THOMAS F. HARRIS

1 or at least a coastal use permit decision. An  
2 example of this may be E&P waste pits that were  
3 constructed.

4 It goes on and talks -- and then I think  
5 the other type he identifies is the unpermitted  
6 activities.

7 A Uh-huh.

8 Q Would that be consistent with your  
9 understanding?

10 A Yes.

11 Q Okay. So to go back to this question of  
12 what information you didn't have, but then  
13 acquired, you mentioned some information about  
14 produced water discharges?

15 A Yes.

16 Q Is that right?

17 A Yes.

18 Q I think Mr. Canfield mentioned something  
19 about pits?

20 A (Nods head up and down.)

21 Q Okay. Can you tell me what information  
22 you got about those things that played into the  
23 decision to intervene and pursue intervention in  
24 the case?

25 A Well, what Mr. Canfield mentioned -- what

## SECRETARY THOMAS F. HARRIS

1 he said specifically was once DNR had intervened in  
2 the cases, the agency began to see some of the  
3 information. And you're asking how that played  
4 into the decision to intervene.

5 Q Or to continue -- or to pursue the  
6 intervention. I didn't -- I didn't want to play a  
7 game about whether you saw it before or after --

8 A Yeah. No, that's --

9 Q -- you intervened.

10 A -- that's what I was simply pointing out  
11 here.

12 Q Right.

13 A So we became aware of more information,  
14 certainly, after we had intervened. I --

15 Q And my question is, what information did  
16 you become aware of, that you're aware of now, in  
17 connection with the claims, the intervention, that  
18 you didn't have prior to 2016?

19 A I was able to read some of the reports  
20 prepared by the experts in these lawsuits, and was  
21 able to sit down and read them for myself.

22 Q Okay. Can you tell me what expert  
23 reports you've read?

24 A There was one that I read regarding a  
25 different field than the matter we're discussing

SECRETARY THOMAS F. HARRIS

1 today.

2 Q Is that in the Rozel case?

3 A Yes.

4 Q Okay. Did you meet with any experts  
5 about the claims?

6 A I did not. I did discuss the matter with  
7 Mr. Carmouche. I went over to his office, and we  
8 sat down and talked about some of the issues  
9 related to these violations.

10 Q Can you say whether that was before or  
11 after the intervention was actually filed?

12 A It was after.

13 Q Now, these claims are brought under  
14 SCLRMA, the State Local Coastal Resources  
15 Management Act. That law was passed in 1978, and  
16 was actually implemented with its permitting  
17 program in 1980; correct?

18 A Correct.

19 Q It was no law, no requirement for a  
20 coastal use permit to be gotten before 1980; there  
21 was no place to go get a coastal use permit?

22 A That's correct.

23 Q Okay. And I understand you are not  
24 seeking or pursuing enforcement for activities that  
25 occurred prior to the effective date of SCLRMA?



## SECRETARY THOMAS F. HARRIS

1           A       I do not know if the claims are solely  
2 limited to activities that took place after 1980,  
3 or not. I don't know the answer to that question.

4           Q       Today, do you agree or disagree with the  
5 premise that you are seeking pursuing enforcement  
6 for activities that occurred prior to the effective  
7 date of SCLRMA?

8           A       Again, would you repeat the question?

9           Q       Sure.

10                   Do you agree or disagree with the premise  
11 that you are seeking and pursuing enforcement for  
12 activities that occurred prior to the effective  
13 date of SCLRMA?

14           MR. JOHN CARMOUCHE:

15                   Objection to the form.

16           THE WITNESS:

17           A       Some of the activities may have  
18 begun prior -- begun prior to that date, but may  
19 have continued afterwards.

20           BY MR. ARCENEUX:

21           Q       Do you recall litigation between the  
22 Department of Natural Resources and Terrebonne  
23 Parish regarding the -- whether the District  
24 Attorney, Mr. Waitz, should investigate and  
25 possibly bring any claims of the sort that are

SECRETARY THOMAS F. HARRIS

1 presented in this lawsuit?

2 A And what is your question regarding  
3 Mr. Waitz?

4 Sorry to keep doing that.

5 MR. ARCENEUX:

6 It's okay.

7 (Discussion off the record.)

8 MS. CAMPBELL:

9 Tab 16. This will be Exhibit #13.

10 (Document marked as T. HARRIS #13 for  
11 identification.)

12 (Discussion off the record.)

13 BY MR. ARCENEUX:

14 Q First of all, do you recognize this  
15 lawsuit, Terrebonne Parish Consolidated Government  
16 versus Louisiana Department of Natural Resources in  
17 Terrebonne Parish?

18 A Yes.

19 Q Okay. And that was an action brought by  
20 the Consolidated Government against the Department  
21 in response to -- I don't want to be technical  
22 about it because I don't know the technicalities --  
23 but, essentially, in response to an effort to have  
24 the District Attorney for Terrebonne Parish  
25 investigate possible claims of coastal use permit

## SECRETARY THOMAS F. HARRIS

1 violations?

2 A Yes.

3 Q And you gave your deposition in  
4 connection with that lawsuit?

5 A I did.

6 Q And if I can direct your attention to  
7 page 90, line 13, where Mr. Hebert, counsel for the  
8 Parish, says: Okay. I'm talking about pre-1980,  
9 pre-the law. Are there any other persons or  
10 industries that have been targeted for unpermitted  
11 activity besides the oil and gas industry by your  
12 Department or the Governor's office?

13 To which you begin: Actually -- and then  
14 is it correct that you said: Actually, I disagree  
15 with the premise that we are seeking pursuing  
16 enforcement for activities that occurred prior to  
17 the effective date of SCLRMA?

18 Was that was your testimony?

19 A Yes. Yes, it was.

20 Q Do you still disagree with the premise  
21 that you are seeking pursuing enforcement for  
22 activities that occurred prior to the effective  
23 date of SCLRMA?

24 MR. PRICE:

25 Object to the form of the question.

SECRETARY THOMAS F. HARRIS

1           You can answer.

2           THE WITNESS:

3           A     I -- there are activities that may have  
4 begun prior to the effective date of SCLRMA and  
5 continued past that date. And that's what I was, I  
6 believe, pointing out here.

7 BY MR. ARCENEUX:

8           Q     Does that say anything about continuing  
9 operations after 1980, or words to that effect?

10          A     (Reviewing Exhibit #13).

11                   No, it does not.

12          Q     Okay. What about activities that were  
13 completed before 1980?

14          A     What about activities that were completed  
15 prior --

16          Q     Do you understand, or are you making a  
17 claim with respect to activities that were  
18 completed before 1980?

19          MR. JOHN CARMOUCHE:

20                   Objection to the form.

21          THE WITNESS:

22          A     Not that I'm aware of.

23 BY MR. ARCENEUX:

24          Q     So, for example, if a canal were dredged  
25 and completed before 1980, that would not be

SECRETARY THOMAS F. HARRIS

1 something for which you are making a claim?

2 MR. JOHN CARMOUCHE:

3 Objection to the form.

4 THE WITNESS:

5 A As we established earlier, as an avid  
6 fisherman in the coastal marshes, I've watched a  
7 lot of these canals widen dramatically between the  
8 time they were constructed and today. So that  
9 would may be an example of an activity that  
10 continued throughout the -- across the 1980 --  
11 prior to 1980 and post-1980.

12 BY MR. ARCENEUX:

13 Q Are you saying that's a claim that's  
14 being made?

15 MR. JOHN CARMOUCHE:

16 Objection to the form.

17 THE WITNESS:

18 A I don't know that for a fact. But that  
19 is an example of an activity that the completion  
20 date falls into question.

21 BY MR. ARCENEUX:

22 Q So if a canal is authorized in 1960 and  
23 is dredged in 1960, and goes into service in 1960,  
24 is that project complete?

25 MR. JOHN CARMOUCHE:

SECRETARY THOMAS F. HARRIS

1           Objection to the form; calls for legal  
2           conclusion.

3           THE WITNESS:

4           A     I believe that's a matter to be decided  
5           by the courts.

6           BY MR. ARCENEUX:

7           Q     Do you know whether there's -- do you  
8           know whether it has ever been the position of the  
9           Office of Coastal Management that those -- that a  
10          canal or an activity like that, that was completed  
11          before 1980, would be somehow subject to some kind  
12          of a permitting requirement after 1980?

13          A     I don't know.

14          Q     Do you know whether the Department had  
15          ever articulated that kind of position?

16          A     I do not.

17          Q     Do you know whether the Department has  
18          ever enforced or required a permit with respect to  
19          an activity that was begun and completed before  
20          1980?

21          MR. JOHN CARMOUCHE:

22                 Object to the form.

23          THE WITNESS:

24          A     I question the definition of "completed".  
25          Completed may mean two different things to two

SECRETARY THOMAS F. HARRIS

1 different people, again, with the example of the  
2 dredging activity was finished, but the canal  
3 continued to widen over the decades.

4 BY MR. ARCENEUX:

5 Q And to your knowledge has the Department  
6 ever taken a position that the continued widening  
7 of a canal after 1980 required a permit?

8 A Not -- I've never seen that -- I don't  
9 know the answer.

10 Q Has the Department ever issued a permit  
11 for that situation?

12 A Not to my knowledge.

13 Q Has the Department ever issued a notice  
14 of violation or an enforcement action, other than  
15 these lawsuits, for that kind of situation?

16 A Not to my knowledge.

17 Q Has the Department ever notified industry  
18 of a requirement to get a permit for that kind of  
19 situation?

20 A Not to my knowledge.

21 MR. JOHN CARMOUCHE:

22 Objection to the form.

23 BY MR. ARCENEUX:

24 Q Do you know whether companies are  
25 continuing to use canals in the coastal zone for

SECRETARY THOMAS F. HARRIS

1 oil and gas, and other activities, today?

2 A Some of the -- some of the canals are  
3 used, some are not but they're still there.

4 Q Not all the canals in the coastal zone  
5 are oil and gas related canals, are they?

6 A Not all, no.

7 Q There are a variety of canals established  
8 by a variety of enterprises; right?

9 A MRGO's an example.

10 Q Right.

11 There are state and federal navigation  
12 channels; right?

13 A Right.

14 Q There are other private canals dredged  
15 and maintained historically for other purposes;  
16 right?

17 A That's correct.

18 Q Okay. Has coastal use -- has the coastal  
19 management authority or the Office of Coastal  
20 Management ever taken the position that any of  
21 those historic canals requires a coastal use permit  
22 post-1980?

23 MR. JOHN CARMOUCHE:

24 Objection to the form.

25



SECRETARY THOMAS F. HARRIS

1 BY MR. ARCENEUX:

2 Q If it was dredged prior to 1980?

3 A I can't think of an example off the top  
4 of my head, no.

5 Q Where those are still being used today,  
6 has the Office of Coastal Management, in its  
7 day-to-day business, ever required a coastal use  
8 permit for the ongoing use of those historically  
9 established canals?

10 A Not to my --

11 MR. JOHN CARMOUCHE:

12 Objection to form.

13 THE WITNESS:

14 A Not to my knowledge.

15 BY MR. ARCENEUX:

16 Q Let me ask you. One of the things you  
17 mentioned was produced water discharges.

18 A Uh-huh.

19 Q Are you aware of any produced water  
20 discharges that are ongoing today in Louisiana's  
21 coastal zone?

22 A Discharges directly into the environment?

23 Q Yes.

24 A I'm not aware of any.

25 Q Okay. Have you given any -- have you

SECRETARY THOMAS F. HARRIS

1 notified -- strike the question.

2 In your testimony to the legislature, and  
3 of course we have it all here, but do you recall  
4 ever saying anything to the legislature about  
5 looking at activities before 1980?

6 A I don't have any specific recollection of  
7 that.

8 Q Okay.

9 MR. ARCENEUX:

10 Let me ask Mr. Cobb, if you can play the  
11 second Harris clip, the shorter one.

12 And, Katie, you may have --

13 MS. CAMPBELL:

14 That will be Exhibit #14.

15 (Video marked as T. HARRIS #14 for  
16 identification.)

17 (Discussion off the record.)

18 (Video/Exhibit #13 played and reviewed.)

19 BY MR. ARCENEUX:

20 Q In that testimony, the things you are  
21 describing are all things that happened post-1980.  
22 Is that right?

23 A Yes. That's what it sounds like I was  
24 talking about.

25 Q And would it surprise you if we went

SECRETARY THOMAS F. HARRIS

1 through the testimony, and you'll see a number of  
2 references to the problems with investigating  
3 things that happened 25, 30, 35 years ago?

4 A Yes.

5 Q Okay. And again, I don't want to warrant  
6 everything that's in there, but do you have any  
7 recollection of saying anything to the legislature  
8 about matters that -- activities or actions that  
9 were commenced prior to 1980?

10 A I don't remember testifying about those  
11 activities.

12 Q Okay. Do you recall Mr. Canfield's  
13 testimony that we played earlier today?

14 A Yes. Yes.

15 Q And you recall him saying that the agency  
16 did not address matters that were initiated before  
17 1980?

18 A That's --

19 MR. JOHN CARMOUCHE:

20 Objection to the form.

21 THE WITNESS:

22 A That's what it sounded like he testified,  
23 yes.

24 BY MR. ARCENEUX:

25 Q Do you disagree with that point of view?

SECRETARY THOMAS F. HARRIS

1 A Specific to?

2 Q Specific to the claims that are being  
3 made in this lawsuit, and those like it, with  
4 respect to activities predating 1980.

5 MR. JOHN CARMOUCHE:

6 Objection to the form.

7 THE WITNESS:

8 A Again, I think what is in question here  
9 is the completion date of those activities.

10 BY MR. ARCENEUX:

11 Q Did Mr. Canfield say anything about  
12 "completion date"?

13 A I do not recall him saying that, no.

14 Q Do you recall saying anything about  
15 "completion date" as a factor in your testimony in  
16 2016?

17 A Not that I recall, no.

18 Q You don't disagree with Mr. Canfield's  
19 testimony that, in fact, the program was not  
20 looking at things that happened before 1980?

21 MR. JOHN CARMOUCHE:

22 Objection to the form.

23 THE WITNESS:

24 A I know -- so, are you asking about  
25 Mr. Canfield's testimony?

SECRETARY THOMAS F. HARRIS

1 BY MR. ARCENEUX:

2 Q Yes. He testified to the effect that  
3 there weren't violations because the agency didn't  
4 address matters that occurred before 1980.

5 MR. JOHN CARMOUCHE:

6 Object to the form.

7 BY MR. ARCENEUX:

8 Q And do you disagree with that?

9 A No, I don't. With the only caveat of the  
10 completion date of those activities.

11 Q That being the caveat that you've added  
12 in your testimony today; correct?

13 A Yes.

14 Q Do you know if we looked at every coastal  
15 use permit filed that was issued historically,  
16 whether we would see any requirements for permits  
17 for activities that commenced before 1980?

18 A Would you repeat the question?

19 Q Sure.

20 A I'm sorry.

21 (Discussion off the record.)

22 (Court Reporter reads back requested  
23 portion.)

24 MR. JOHN CARMOUCHE:

25 I'm just going to object to the form,

SECRETARY THOMAS F. HARRIS

1 that you're -- there's hundreds of thousands  
2 of permits that you're asking him to recall  
3 today. I'd object to the form.

4 THE WITNESS:

5 A I will say that if we look through, you  
6 will not find any permit applications or permits  
7 for activities that were begun prior to 1980.

8 BY MR. ARCENEUX:

9 Q In point of fact, are you aware that  
10 there are instances where permits were applied for,  
11 or permit -- so are you saying that there would not  
12 be instances where permits were sought for things  
13 that began before 1980 and, in reply to which, the  
14 agency said no permit was needed because it began  
15 before 1980?

16 MR. JOHN CARMOUCHE:

17 Object to the form.

18 THE WITNESS:

19 A What -- I'd like to amend my answer  
20 because I've never looked -- I've never looked in  
21 the files to see whether there are or not. I would  
22 suspect you would not find any, but I've never done  
23 that search myself, so...

24 BY MR. ARCENEUX:

25 Q So if I were to ask, you know, can the

## SECRETARY THOMAS F. HARRIS

1 Department show a single instance where a permit  
2 was actually required for an activity that began  
3 before 1980, you couldn't direct me to a particular  
4 instance?

5 A I could not.

6 Q In addition to Mr. Canfield, are you  
7 aware that witnesses who were administering the  
8 program in the early 1980s have testified that it  
9 was the practice not to require permits before  
10 1980 -- for activities commenced prior to 1980?

11 A So you're asking if I'm aware of his  
12 testimony.

13 Q Are you aware of that testimony?

14 A Yes, I am.

15 Q Okay. Do you disagree with that as a  
16 factual matter?

17 A No, I don't.

18 Q Under the State and Local Coastal  
19 Resources Management Act of 1978, if a party wants  
20 to engage in dredging of a canal, or otherwise, in  
21 the Louisiana coastal zone, they're required to get  
22 a coastal use permit; correct?

23 A Yes.

24 Q Prior to 1980, did any agency of the  
25 State regulate or supervise dredging activities?

SECRETARY THOMAS F. HARRIS

1           A       I'm not aware of any agency regulating  
2 that activity.

3           Q       Do you know of any -- okay.

4                    You're not aware of any permit that was  
5 required if dredging was to take place -- any State  
6 permit that was required if dredging was to take  
7 place before 1980?

8           MR. JOHN CARMOUCHE:

9                    Objection to the form.

10          THE WITNESS:

11          A       Not to my knowledge.

12          BY MR. ARCENEUX:

13          Q       Do you know if there's anything in your  
14 regulations that says that there is a continuing  
15 duty with respect to a project to do additional  
16 work once the project is complete?

17          MR. JOHN CARMOUCHE:

18                    I'm going to object to the form.

19          THE WITNESS:

20          A       Not unless it is specified as a permit  
21 condition.

22          BY MR. ARCENEUX:

23          Q       So if there's going to be that kind of  
24 requirement, that would be a special condition of  
25 the permit?



SECRETARY THOMAS F. HARRIS

1 A Generally, yes.

2 Q So with respect to any coastal permitting  
3 pertaining to activities done before 1980, are you  
4 aware of any enforcement action relating to any use  
5 that began before 1980, other than in this lawsuit?

6 A I can't think of one, no.

7 Q Have you seen any evidence that any oil  
8 company, or any other member of the regulated  
9 community, believed that such an obligation would  
10 exist?

11 MR. JOHN CARMOUCHE:

12 Object to the form.

13 THE WITNESS:

14 A So are you asking me -- I'm sorry, I do  
15 not understand the question.

16 BY MR. ARCENEUX:

17 Q The question is, have you seen any  
18 evidence that any company thought that it had a  
19 duty to get a coastal use permit for something that  
20 had begun before 1980?

21 MR. JOHN CARMOUCHE:

22 Objection to form.

23 THE WITNESS:

24 A I cannot speak to what someone may have  
25 thought.

SECRETARY THOMAS F. HARRIS

1 BY MR. ARCENEUX:

2 Q I'm only asking what you know.

3 A I'm not aware of anyone's particular  
4 thoughts on the subject.

5 Q Have you seen any publication, guidance,  
6 magazine, newspaper article, that said a coastal  
7 use permit obligation existed for activities that  
8 commenced before 1980?

9 A I can't think of a particular instance.

10 Q Did you ever receive or hear of any  
11 guidance within the agency that would suggest that  
12 a permit would be required for a pre-1980 project  
13 if it had post-1980 effects?

14 MR. JOHN CARMOUCHE:

15 Objection to the form.

16 THE WITNESS:

17 A I can't -- not aware of any document  
18 fitting that -- meeting that description, no.

19 BY MR. ARCENEUX:

20 Q Okay. You testified -- I want to make  
21 sure I get this right. You testified that: Since  
22 intervening in the suits we have come to recognize  
23 there may have been some systemic issues,  
24 particularly in the early years of the program, in  
25 the 1980s, that could have created regulatory blind

## SECRETARY THOMAS F. HARRIS

1 spots.

2                   What do you mean by "regulatory blind  
3 spots"?

4           A     A lot of oil and gas wells are out in the  
5 marsh, they're miles from land or roads. If an  
6 activity took place that we were not aware of  
7 because the company didn't apply for a permit, or  
8 inform the Department of the activity, that's a  
9 blind spot. It's hard to -- for after-the-fact our  
10 enforcement staff to go back and be aware that an  
11 activity took place last week or last month, or  
12 two years ago, or five years ago. So, yeah, that's  
13 a blind spot.

14                   Like most regulatory agencies, DNR, as do  
15 all regulatory agencies, depend on the regulated  
16 community to report activities. Otherwise, we  
17 would require staff much, much, much larger than a  
18 level at which we're currently funded.

19           Q     So when you talk about a blind spot,  
20 you're talking about factual unawareness of things  
21 that were actually going on in the fields?

22           A     In some cases, yes.

23           Q     Well, what about in other cases? I mean,  
24 I want to understand -- I want to understand fully  
25 what you mean when you say "blind spots".

## SECRETARY THOMAS F. HARRIS

1           A       Well, we can't be aware of unreported  
2 activities unless they're reported to us; unless  
3 we're extremely lucky to have someone in the right  
4 place at the right time. That's a blind spot.

5           Q       Okay. So what you're talking about is  
6 unless it comes to your attention somehow, then  
7 it's a blind spot?

8           A       Well, there's basically three ways we can  
9 be aware of an activity; it can be reported by the  
10 company performing the activity, one of our  
11 regulators could stumble upon it, or it could be  
12 reported by a third party. Those are really the  
13 only three ways we can become aware of an activity.

14          Q       Okay. So when you talk about -- okay,  
15 and you say "systemic issues" that led -- in the  
16 early days of the program that led to regulatory  
17 blind spots; correct?

18          A       Yes.

19          Q       Okay. Have you spoken with anybody about  
20 the systems used by the Office of Coastal  
21 Management, or its predecessors, in administering  
22 the program in the 1980s?

23          A       Have I talked to anyone about -- is that  
24 what you're asking?

25          Q       Yes.

## SECRETARY THOMAS F. HARRIS

1           A       Certainly I've discussed those issues  
2 with the Assistant Secretary of Coastal Management,  
3 I've discussed them with Mr. Canfield and  
4 Mr. Price.

5           Q       Okay. Well, what I'm asking about is  
6 whether you talked to anybody who was around in the  
7 1980s --

8           A       Oh, I misunderstood the question. I'm  
9 sorry. No, I have not.

10          Q       Did you do any historical investigation  
11 of the resources or practices of the Office of  
12 Coastal Management, or its predecessors, in the  
13 1980s?

14          A       Well, I know for a fact that in the 1980s  
15 they did not have Google Earth, they didn't have  
16 online aerial and satellite photography that we  
17 have available to us now. Those are tools that we  
18 regularly now use in the Office of Coastal  
19 Management to monitor activities without leaving  
20 the office.

21                   In 1980, that resource was certainly not  
22 available to us. I didn't need to talk to staff  
23 here at the time to know that wasn't a tool that  
24 they had available to them.

25          Q       Did you gather any information from that

SECRETARY THOMAS F. HARRIS

1 period to ascertain what tools they did have  
2 available to them and did use to monitor field  
3 activity?

4 A I've spoken to, certainly, Assistant  
5 Secretary Lovell about what tools are available to  
6 us now that were not available back in the  
7 early days of the program.

8 Q For example, aerial photography, infrared  
9 aerial photography, do you know whether that was  
10 available back then?

11 A Not specifically, no.

12 MR. RHYMES:

13 You don't know if it was available, or it  
14 was not available?

15 THE WITNESS:

16 I did not ask -- specifically ask the  
17 question about infrared photography.

18 BY MR. ARCENEUX:

19 Q Okay. When you say "blind spots", I  
20 think you've explained to me these -- essentially,  
21 you're -- if I understand what you're saying, that  
22 there were activities that may have required  
23 permits, but that your agency wouldn't have been  
24 aware of?

25 A Yes.

SECRETARY THOMAS F. HARRIS

1 Q Okay. Do you know whether there was any  
2 misunderstanding within the program about what the  
3 program itself required?

4 A I'm not sure I understand the question.

5 Q Do you understand -- was there any  
6 misunderstanding by the program about what it was  
7 supposed to be requiring permits to do, or what it  
8 was required to be enforcing?

9 MR. JOHN CARMOUCHE:

10 Object to form. You're not -- what  
11 timeframe?

12 BY MR. ARCENEUX:

13 Q In the early years of the program.

14 A I wasn't here, so I don't know.

15 Q So you aren't -- you aren't saying that  
16 the people in the program just didn't understand  
17 what they were doing from a regulatory standpoint?

18 A No, I'm not making that statement.

19 Q Do you have any reason to think that they  
20 didn't know what they were doing from a regulatory  
21 standpoint?

22 MR. JOHN CARMOUCHE:

23 Objection to the form.

24 THE WITNESS:

25 A I have no reason to suspect that.

SECRETARY THOMAS F. HARRIS

1 MR. PRICE:

2 Whenever you get to a good stopping time.

3 MR. ARCENEUX:

4 Is it -- oh, it's after 12:00. Okay. I  
5 think this is an okay time.

6 VIDEOGRAPHER:

7 Time now is 12:11 p.m. We're off the  
8 record.

9 (Recess taken at 12:11 p.m. Back on  
10 record at 1:09 p.m.)

11 VIDEOGRAPHER:

12 Time now is 1:09 p.m. We're back on the  
13 record.

14 BY MR. ARCENEUX:

15 Q Good afternoon. Just to follow-up a  
16 little bit on some of what we spoke about before  
17 lunch, and I wanted to confirm that over the  
18 last -- well, since you've been Secretary, and  
19 since you've intervened in these lawsuits, have you  
20 ever told an operator, or operators, in industry,  
21 generally, that they need to get a permit for canal  
22 widening that may happen prospectively or that may  
23 have occurred in the past?

24 MR. JOHN CARMOUCHE:

25 Object to the form.



SECRETARY THOMAS F. HARRIS

1 THE WITNESS:

2 A Not to my knowledge.

3 BY MR. ARCENEUX:

4 Q Have you ever communicated to a  
5 particular operator, or to the regulated community  
6 in general, that there was a need to submit a  
7 permit or to revise a permit in contemplation of  
8 cumulative impacts that may arise prospectively or  
9 that may have occurred in the past?

10 A Not to my knowledge.

11 MR. JOHN CARMOUCHE:

12 Object to the form.

13 BY MR. ARCENEUX:

14 Q Have you required any restoration of a  
15 site to a pre-1980 condition for anything?

16 A Not to my knowledge.

17 Q Do you know whether the agency has ever  
18 required restoration to a pre-1980 condition for  
19 anything?

20 A Not that I'm aware of.

21 Q I wanted to ask you a little bit -- in  
22 this Auster lawsuit, and in the others, the State  
23 appears as the State of Louisiana through the  
24 Department of Natural Resources with you in your  
25 official capacity. Is that correct?

## SECRETARY THOMAS F. HARRIS

1 A Yes.

2 Q Okay. Now, and I know I looked at the  
3 organizational information for the DNR. I just  
4 want to try to understand what State entities have  
5 any role or focus on coastal issues. The Coastal  
6 Management Division does permitting and permit  
7 enforcement. Is that right?

8 A Wait. The Coastal Management Division?

9 Q I'm sorry, the Office of Coastal  
10 Management.

11 A Okay, yeah. Yes. Okay.

12 Would you finish the question? I'm  
13 sorry.

14 Q My understanding is that the Office of  
15 Coastal Management does coastal use permitting and  
16 enforcement. Is that right?

17 A Correct.

18 Q Okay. Then there is, okay, CPRA, Coastal  
19 Protection Restoration Authority. Is that right?

20 A Yes.

21 Q Are they part of the office of the  
22 Governor?

23 A They are a separate -- completely  
24 separate agency that was once under the umbrella of  
25 DNR. They're a cabinet level agency now.

SECRETARY THOMAS F. HARRIS

1 Q Okay. So they have a Secretary?

2 A It's -- no, I take that back. It's --  
3 what is -- Chip Kline is the --

4 MR. PRICE:

5 Governor designed Coastal Program --  
6 (Court Reporter requested clarification.)

7 MR. PRICE:

8 I'm sorry.

9 Chip Kline is the head of CPRA, is the  
10 ex-officio. He is the Governor's adviser on  
11 coastal matters -- that's what his job title  
12 is -- and he runs CPRA.

13 BY MR. ARCENEUX:

14 Q Okay. So that agency reports directly in  
15 to the Governor?

16 A Yes.

17 Q And what do they do?

18 A CPRA performs coastal restoration  
19 activities.

20 Q Okay. They actually design and execute  
21 projects?

22 A That's correct.

23 Q Is that the authority who develops, for  
24 example, the Master Plan?

25 A Yes. That's correct.

SECRETARY THOMAS F. HARRIS

1 Q Do you have any familiarity with the  
2 Master Plan process?

3 A I watch it from the sidelines; I'm not an  
4 active participant.

5 Q Okay. Do you know anything about how it  
6 utilizes advisory committees or other input?

7 A Really -- no, I'm not aware.

8 Q Okay. Do you know if there -- well,  
9 strike that.

10 Other than the Office of Coastal  
11 Management, and to the extent it relates to oil and  
12 gas activities, the Office of Conservation, are  
13 there any offices or departments, or branches, of  
14 the DNR that deal with coastal issues?

15 A Other than the Office of Coastal  
16 Management?

17 Q Other than the Office of Coastal  
18 Management or Conservation to the extent they  
19 address coastal matters.

20 A Offices of Mineral Resources performs  
21 leasing of State water bottoms for mineral  
22 production.

23 Q Okay. But they wouldn't be dealing with  
24 issues of land loss or restoration?

25 A No.

## SECRETARY THOMAS F. HARRIS

1 Q Okay. What is -- what is the Water  
2 Institute?

3 A The Water Institute is under -- somewhere  
4 under the umbrella of CPRA. I'm not aware -- I  
5 don't know the details of the arrangement  
6 between -- how that works.

7 Q Do you know what it does?

8 A Not enough to testify.

9 Q Okay. Are you aware that LSU is what's  
10 called a Sea Grant university?

11 A Yes, I am. I don't know what that means,  
12 however.

13 Q Okay. Are you aware that LSU's Sea Grant  
14 program has been involved in research and writing  
15 having to do with Louisiana coastal issues?

16 A I don't have any information contrary to  
17 that.

18 Q Okay. Do you know if there's a center  
19 for wetlands studies at LSU?

20 A I have seen the building. That's about  
21 all I know about it.

22 Q Okay. Do you know whether -- do you know  
23 whether the center for wetlands studies or if Sea  
24 Grant have done any consulting with any part of  
25 DNR?

SECRETARY THOMAS F. HARRIS

1 A Not with DNR since I've been Secretary.

2 Q You wouldn't be able to say about before  
3 then?

4 A No, I'm not aware.

5 Q It wouldn't surprise you to know that the  
6 Louisiana Center for Wetlands is heavily engaged in  
7 investigation and science surrounding the Louisiana  
8 coast?

9 A I'm not aware one way or the other.

10 Q What is LUMCON?

11 A Louisiana Universities Marine Consortium.

12 Q And is LUMCON a place or an enterprise,  
13 or both?

14 A It's both. I actually spent a summer  
15 down there in 1988.

16 Q That's a -- I suspect as its name  
17 implies, it is a group effort of Louisiana  
18 universities who are doing wetlands research --

19 A Research.

20 Q -- down at Cocodrie?

21 A Yes.

22 Q Do you know how long LUMCON has been  
23 there?

24 A No, I don't. Prior to 1988.

25 Q Because that's when you were there?

## SECRETARY THOMAS F. HARRIS

1 A Yes.

2 Q What did you do at LUMCON in '88?

3 A I actually took two 4000 level science  
4 electives; a marine biology class, and a marine  
5 estuarian ecology class.

6 Q Do you know what the Louisiana Oil Spill  
7 Coordinator's Office is?

8 A Yes.

9 Q What is that?

10 A They are -- report under the executive  
11 branch, and they respond to, as the name suggests,  
12 oil spills.

13 Q To what degree are you familiar with  
14 research studies that have been done about the  
15 Louisiana coast and the issues it faces?

16 A I'm sorry. Would you repeat the  
17 question?

18 Q Sure.

19 To what degree are you familiar with  
20 research and scientific publications that have been  
21 done addressing coastal issues in Louisiana?

22 A I have read as much as I could about the  
23 subject, but I do not consider myself an expert.

24 Q Have you seen studies that address the  
25 loss of wetlands in Louisiana generally?

SECRETARY THOMAS F. HARRIS

1           A       I've seen several. I can't remember the  
2 titles of a single one.

3           Q       Okay. Do you have any idea how many  
4 studies of coastal issues you have read over time?  
5 And when I say that, I mean Louisiana studies or  
6 publications specifically addressing the Louisiana  
7 coastal issues.

8           A       Studies or publications?

9           Q       Yes.

10          A       Six or eight.

11          Q       Okay. Do you have -- so you haven't made  
12 any systemic inquiry into that?

13          A       No. It's a subject I'm very interested  
14 in both in a professional capacity and as a  
15 resident of Louisiana.

16          Q       Are you aware that Louisiana coastal  
17 issues have been the subject of significant  
18 scientific studies since at least the 1970s?

19          A       That doesn't surprise me at all.

20          Q       Okay. Do you know any more detail about  
21 what dynamics have been studied or what scholars  
22 have undertaken that work?

23          A       I'm not sure -- what are you asking me?

24          Q       I'm really trying to get an understanding  
25 of what depth of knowledge you have -- you know, I



## SECRETARY THOMAS F. HARRIS

1 know that you know that there's been some research  
2 and you've only looked at six or eight, or whatever  
3 you said --

4 A Uh-huh.

5 Q -- number of papers.

6 In between that, what I'm trying to get  
7 an understanding of is the degree to which you're  
8 aware of the scope and depth of scientific research  
9 that has been done with respect to the Louisiana  
10 coast.

11 A I don't consider myself an expert on the  
12 subject.

13 Q Do you have any sense for the scope and  
14 depth of the studies that have been done?

15 A No.

16 Q Are you aware that some studies of  
17 Louisiana coastal issues have been sponsored in  
18 whole, or in part, by the Louisiana Department of  
19 Natural Resources?

20 A No.

21 Q And not knowing that, I assume you would  
22 not have reviewed any of the studies to which the  
23 Department of Natural Resources may have been a  
24 contributor?

25 A I have not.

SECRETARY THOMAS F. HARRIS

1 Q Do you know -- you had not seen the  
2 St. Pe article that we looked at earlier this  
3 morning until I showed it to you?

4 A I had heard of its existence; I had not  
5 seen it until today.

6 Q Had you heard of or seen any other  
7 studies regarding produced water discharges in the  
8 Louisiana coastal area, other than the St. Pe  
9 article?

10 A No.

11 Q Same question with respect to canals of  
12 any type, and their significance in the Louisiana  
13 coastal zone?

14 A No.

15 Q Okay. Have you seen any such study with  
16 respect to pits, oilfield pits or waste pits, in  
17 the Louisiana coastal zone?

18 A No.

19 Q So you've intervened in the 42 lawsuits  
20 that have been filed by the parishes. Is that  
21 right?

22 A That's correct.

23 Q Before intervening, did you contact or  
24 notify any of the defendants about potential  
25 violations with respect to those matters?

SECRETARY THOMAS F. HARRIS

1 A Did not.

2 Q And these lawsuits claim that the  
3 defendants collectively have large scale  
4 obligations to restore or somehow pay for damages  
5 for the loss of large areas of marsh?

6 A That's my understanding, yes.

7 Q Has the State ever before taken that  
8 position in any enforcement or regulatory or other  
9 statement before?

10 A I don't know.

11 Q To your knowledge?

12 A Not to my knowledge.

13 Q Of course the idea that the permit  
14 violations existed that would give rise to this  
15 kind of a claim for damages did not originate with  
16 the State. Is that right?

17 A Would you repeat the question --

18 Q Yes.

19 A -- please?

20 Q The idea expressed in the lawsuits that  
21 permit violations existed and would -- and gave  
22 rise to a claim for damages of the type asserted,  
23 did not originate with the State?

24 MR. JOHN CARMOUCHE:

25 Objection to form.

SECRETARY THOMAS F. HARRIS

1 THE WITNESS:

2 A I don't know.

3 BY MR. ARCENEUX:

4 Q Have you seen any evidence that the State  
5 was involved in determining that there were  
6 violations to be sued upon?

7 A I have not.

8 Q And you have intervened, but the State  
9 has not itself brought a lawsuit. Is that right?

10 A That's correct.

11 Q Do you understand that mineral activities  
12 are matters of State concern under the Coastal Zone  
13 Management Act, SCLRMA?

14 A That is -- I believe that you're asking  
15 for a legal interpretation.

16 Q Well, let me ask you, then.

17 (Discussion off the record.)

18 MS. CAMPBELL:

19 So Exhibit #15, Tab 19.

20 (Document marked as T. HARRIS #15 for  
21 identification.)

22 MR. ARCENEUX:

23 I'll hand the witness Exhibit #15, and a  
24 couple of copies of it.

25 BY MR. ARCENEUX:

## SECRETARY THOMAS F. HARRIS

1 Q And do you recall executing an affidavit  
2 in connection with one or more of the lawsuits that  
3 we see as this exhibit?

4 A I do.

5 Q And one of the things you did was to  
6 present the OCM's Standard Operating Procedure for  
7 Enforcement of Unauthorized Activities. Is that  
8 correct?

9 A It's been a couple of years since I  
10 looked at this, but, yes.

11 Q Okay. And if I direct your attention on  
12 page 2, paragraph number 4, you attested that the  
13 parish lawsuits -- that we've been discussing  
14 about -- referred to above, in which I have  
15 intervened, generally involve allegations of SCLRMA  
16 arising from past uses of State concern, involving  
17 operations that were conducted or completed during  
18 the period of over 30 years before the suits were  
19 filed. Correct?

20 A Yes.

21 Q And again, that's talking about conducted  
22 or completed during that post-1980 period; correct?

23 A Doesn't make that distinction.

24 Q Well, if the suits were filed in 2013,  
25 the 30 years prior would take us back to, what,

SECRETARY THOMAS F. HARRIS

1 '73, '83?

2 MR. PRICE:

3 That would be 40 years, '83.

4 BY MR. ARCENEUX:

5 Q So that would go back to '83?

6 A Yes.

7 Q Post the implementation of the program;  
8 right?

9 A I agree.

10 Q Okay. First of all, you're acknowledging  
11 in this statement that these are matters of State  
12 concern. Is that right?

13 A Yes.

14 Q And we talked about conducted or  
15 completed during that period of over 30 years, and  
16 I know we've discussed in some detail about  
17 construction. And you talked about the idea that a  
18 canal might not complete?

19 A That was an example, yes.

20 Q Okay. Well, are there other activities  
21 that you understand to be the subject of the  
22 lawsuit in which you've intervened, other than  
23 canals, that were commenced prior to 1980 but not  
24 completed, in some sense, until afterward?

25 MR. JOHN CARMOUCHE:

SECRETARY THOMAS F. HARRIS

1           Objection to form.

2           THE WITNESS:

3           A     Is there a question? I don't hear the  
4 question in there.

5 BY MR. ARCENEUX:

6           Q     Yeah. The question is, I know we've  
7 talked about canals, and we've had some discussion  
8 about, you know, if a canal was drilled in 1960 and  
9 the dredging stopped in 1960 -- and I think I  
10 understand your testimony about that, I'm not going  
11 to reopen -- rehash that. But are there other  
12 activities that were in these blind spots that you  
13 believe, likewise, commenced before 1980, but were  
14 not completed until afterward, and that are the  
15 subject of the lawsuit?

16           MR. JOHN CARMOUCHE:

17                     Same objection.

18           THE WITNESS:

19           A     Activities that were lawfully commenced  
20 prior to 1980, I do not believe would be subject to  
21 these lawsuits.

22 BY MR. ARCENEUX:

23           Q     Okay. And do you understand the  
24 contention has to do with whether certain  
25 activities were lawfully commenced?

SECRETARY THOMAS F. HARRIS

1 MR. JOHN CARMOUCHE:

2 Object to the form.

3 THE WITNESS:

4 A Yes. But I don't understand -- would you  
5 repeat that question?

6 MR. ARCENEUX:

7 I'll strike the question. I'll strike  
8 the question.

9 BY MR. ARCENEUX:

10 Q So with respect to a canal -- strike  
11 that. Strike that.

12 So if these are matters of State concern,  
13 the permitting requirements for those activities  
14 would be -- would be those of the State, and the  
15 State would administer those permits; correct?

16 A That's correct.

17 Q Okay. There are issues of local concern  
18 that can be controlled by local governments; right?

19 A That's correct.

20 MR. JOHN CARMOUCHE:

21 Objection to form.

22 BY MR. ARCENEUX:

23 Q But matters of State concern are subject  
24 to what the State does, and the local parish does  
25 not issue permits for those things. Is that right?



SECRETARY THOMAS F. HARRIS

1 MR. JOHN CARMOUCHE:

2 Objection to the form.

3 THE WITNESS:

4 A That's correct.

5 BY MR. ARCENEUX:

6 Q I want to ask you some questions about  
7 the standard operating procedure that you've  
8 attached here. That was adopted in 2011, if I'm  
9 correct?

10 A That's the date on the signatures.

11 Q Okay. If we look to page -- well,  
12 Section 1, page 5 of the document.

13 A Okay.

14 Q The purpose of this protocol is to ensure  
15 that unauthorized activities are evaluated for  
16 recommendations of remediation, compensatory  
17 mitigation, fines, or combinations of all three, in  
18 order to conform to the Louisiana Coastal Resources  
19 Program. Correct?

20 A I don't see that on page 5. On page 5 of  
21 16?

22 Q On page -- yes. Page 5 of 16, the last  
23 paragraph under 1.1, just before 1.2.

24 (Discussion off the record.)

25 THE WITNESS:

SECRETARY THOMAS F. HARRIS

1           A       Yes.

2 BY MR. ARCENEUX:

3           Q       Okay. And as the name implies, it is --  
4 it sets up a standard practice for enforcement with  
5 respect to unauthorized activities; correct?

6           A       That's what is it says.

7           Q       And then on page 10 of the document  
8 begins a section on Enforcement Procedures;  
9 correct?

10          A       Section 6, Enforcement Procedures.

11          Q       Now, this case is brought as an  
12 enforcement action. Is that right?

13          A       Yes.

14          Q       It's a species of enforcement.

15                 This talks about, and mentions earlier in  
16 the document, the opening of an Enforcement file.  
17 The DNR Office of Coastal Management never opened  
18 an Enforcement file with respect to these matters?

19          A       I don't know.

20          Q       It notes that the assigned Enforcement  
21 CRS will correspond to possible violators by mail  
22 to verify and -- verify activity and inquire  
23 reasons why activity has taken place and/or request  
24 submittal of an ATF CUP application.

25                 That would be an after-the-fact CUP

## SECRETARY THOMAS F. HARRIS

1 application; correct?

2 A Yes.

3 Q And I won't read through all of this  
4 except to look at there's a provision about  
5 compliance correspondence and actions; correct?

6 A Section 6.3.

7 Q About enforcement letters in 6.3.1?

8 A Yes. There's that section in this  
9 document.

10 Q Okay. The Office of Coastal Management  
11 has not issued any kind of compliance  
12 correspondence or enforcement letters to any of the  
13 defendants in connection with these cases, has it?

14 A I don't know.

15 Q You have no knowledge that that has  
16 occurred?

17 A I have no knowledge of such letters.

18 Q One of the things referenced in here as a  
19 possible action is the issuance of cease and desist  
20 or compliance orders. Does the Office of Coastal  
21 Management have that authority?

22 A Yes.

23 Q To your knowledge has that been done with  
24 respect to any of the matters at issue in these  
25 cases; in the Auster case in particular?

SECRETARY THOMAS F. HARRIS

1 A Not to my knowledge.

2 Q And I know that -- do you recall  
3 testifying in Plaquemines Parish about this  
4 procedure and affidavit?

5 A In Belle Chasse?

6 Q It wasn't in Belle Chasse proper, I don't  
7 think.

8 A Okay. But it was in Plaquemines Parish?

9 Q Yes.

10 A Yes, I do.

11 MR. JOHN CARMOUCHE:

12 I think it was in Belle Chasse.

13 (Discussion off the record.)

14 BY MR. ARCENEUX:

15 Q Well, okay. I'm just looking at your  
16 testimony from then. One of the things you said,  
17 was that ordinarily the first step in enforcement  
18 would be a notice of the violation -- issue a  
19 notice of violation?

20 A That's typical, yes.

21 Q You haven't seen any evidence that that  
22 was done with respect to the claims in the East and  
23 West Hackberry Fields in this case?

24 A Not to my knowledge.

25 Q When that happens, the process is the

## SECRETARY THOMAS F. HARRIS

1 party who has received the notice of violation can  
2 request a hearing, can have that heard before an  
3 administrative law judge, and have a determination  
4 made about the violation; right?

5 A Under the administrative process, yes.

6 Q I think you testified earlier that one of  
7 the administrative challenges that your office  
8 would have is that it doesn't have the capacity to  
9 go look at each activity and each permit to address  
10 them specifically to see whether they were in  
11 violation or not. Is that correct?

12 A Are you referring to all cases, cases  
13 during a certain time period, or these in  
14 particular?

15 Q I'm referring particularly to the cases  
16 that had been filed by 2016, when you testified to  
17 the legislature, and whether -- whether the  
18 administrative challenge, that you spoke to the  
19 legislature about, had in part to do with the lack  
20 of staff and bandwidth in your office to go look at  
21 each activity and each permit?

22 A It -- absolutely, that's the case. You  
23 know, we're barely staffed at a level to keep up  
24 with current workload, current permit applications,  
25 current enforcement actions, and don't have the

SECRETARY THOMAS F. HARRIS

1 staff to go back through banker boxes full of old  
2 dusty documents.

3 Q Right. And that's what is necessary in  
4 order to properly assess permit violations for  
5 these cases. Is that correct?

6 A That's correct.

7 MS. CAMPBELL:

8 Tab 21, Exhibit #16.

9 (Document marked as T. HARRIS #16 for  
10 identification.)

11 BY MR. ARCENEUX:

12 Q I'm going to attach as Exhibit #16 a copy  
13 of a Petition for Writ of Mandamus brought by Devon  
14 Energy Production Company against the LDNR, you in  
15 your official capacity. Are you familiar with this  
16 matter?

17 A Yes.

18 Q And that had to do with letters that  
19 Devon sent in connection with three different  
20 fields asking for certain information and  
21 determinations from the DNR. Is that right?

22 A Yes.

23 Q Those included, if I look at -- you can  
24 see there were as attachments, as exhibits toward  
25 the end, there were the letters that Devon sent?

SECRETARY THOMAS F. HARRIS

1 A Yes.

2 Q And those requested that the DNR identify  
3 with specificity the specific violations of  
4 statutes, regulations that DNR alleges Devon  
5 committed, and sought a compliance schedule from  
6 DNR that identifies with particularity the actions  
7 that Devon must take to come into compliance with  
8 those statutes and regulations. Is that a fair  
9 statement?

10 A That's my understanding of their request.

11 Q And the position of -- that you took for  
12 the Department was that these issues were the  
13 subject of litigation and you, therefore, declined  
14 to answer those questions. Is that right?

15 A As a non-attorney, that's my -- I believe  
16 that's a fair characterization.

17 Q Okay. And that ultimately went up on  
18 appeal, and there was an order that some kind of  
19 action be taken by your Department. Is that right?

20 A Yes.

21 MR. ARCENEUX:

22 And I'm going to show you what I'm  
23 marking as Exhibit #17.

24 MS. CAMPBELL:

25 Tab 22.

SECRETARY THOMAS F. HARRIS

1 (Document marked as T. HARRIS #17 for  
2 identification.)

3 BY MR. ARCENEUX:

4 Q And that was issued by you in December of  
5 2022; correct?

6 A Yes.

7 Q And it sets forth extensive reasons, but  
8 concludes that for those reasons, you declared that  
9 you cannot exonerate Devon from responsibility and  
10 cannot determine effective compliance schedules.  
11 Is that right?

12 A Yes.

13 Q But you did not specify the particular  
14 violations that occurred. Is that right?

15 A That's correct.

16 Q Did you articulate anything about what  
17 activities were in violation in the three fields  
18 that were at issue?

19 A Not in this document. No, we didn't.

20 Q For example, was there any explanation of  
21 why activities commenced before 1980 might require  
22 a coastal use permit?

23 MR. JOHN CARMOUCHE:

24 Object to the form.

25 THE WITNESS:



SECRETARY THOMAS F. HARRIS

1 A We did not discuss that in this document.

2 BY MR. ARCENEUX:

3 Q So to date, you have not answered the  
4 actual questions that Devon presented. Is that  
5 right?

6 MR. JOHN CARMOUCHE:

7 Objection to the form.

8 THE WITNESS:

9 A I believe that is a legal interpretation,  
10 and I'm not qualified to answer.

11 BY MR. ARCENEUX:

12 Q Your response is set forth in this  
13 document?

14 A I think it speaks for itself, yes.

15 Q Okay.

16 I don't know if I ever got clarification  
17 on whether there were activities, other than the  
18 placement of canals prior to 1980, that you  
19 contended took place before 1980, but that required  
20 companies to come in and get coastal use permits  
21 after 1980.

22 A Are you looking for examples or --

23 Q What types of activities. Canals is one,  
24 and we talked about that --

25 A Another might be exploration and

## SECRETARY THOMAS F. HARRIS

1 production wastes that were placed in  
2 pre-regulatory pits which -- in which the -- before  
3 the effective date of pit regulation, the berms  
4 were pushed in and the companies failed to remove  
5 and decontaminate as required by law.

6 Q Okay. Let me ask for other examples.  
7 I'll come back to that. Any other examples?

8 A That's all I can think of off the top of  
9 my head.

10 Q Okay. And I want to make sure I  
11 understand what you're telling me with respect to  
12 pits. First of all, there were no -- of course, no  
13 coastal management regulations regarding anything  
14 prior to September 1980; correct?

15 A Correct.

16 Q Okay. Are you aware that oilfield pits  
17 were legal prior to 1980?

18 A They were. The operation of them were  
19 absolutely legal prior to that date.

20 Q Okay. And are you aware that in 1986,  
21 the Office of Conservation Revised Statewide Order  
22 29-B to establish practices and procedures for  
23 registration and, ultimately, for closure of  
24 oilfield pits?

25 A That's my understanding, yes.

## SECRETARY THOMAS F. HARRIS

1 Q Do you have any knowledge of what role,  
2 if any, the -- strike that.

3 So that requirement was issued pursuant  
4 to the authority of the Office of Conservation  
5 through its rulemaking process as ultimately  
6 expressed in Statewide Order 29-B?

7 A That's my understanding, yes.

8 (Discussion off the record.)

9 BY MR. ARCENEUX:

10 Q Now, do you know of any practice of the  
11 Office of Coastal Management, or its predecessor  
12 entities, that required a coastal use permit for  
13 the actual closure and environmental compliance of  
14 an oilfield pit and the pit itself?

15 A Are you asking whether the Office of  
16 Coastal Management required that, or did the -- or  
17 are you asking if the law required that?

18 Q Well, let me ask some predicate  
19 questions.

20 After 1980, if my -- my understanding is  
21 that if anybody was going to dredge in the marsh --  
22 there were some sort of de minimis exceptions,  
23 right, that might be subject to a local program?  
24 But, in general, if a company was going to dredge  
25 in the coastal zone, they had to get a permit;

SECRETARY THOMAS F. HARRIS

1 correct?

2 A Right.

3 Q And so if they were going to -- whether  
4 it was to close a pit or to do anything else, put  
5 in a board road to access a location, they had to  
6 get a permit to do that; right?

7 A Correct.

8 Q Okay. So as of 1980, and until 1986,  
9 you've told us that the operations for oilfield  
10 pits was legal; correct?

11 A Yes.

12 Q Okay. And in 1986 --

13 MR. JOHN CARMOUCHE:

14 I'm going to object to the form.

15 BY MR. ARCENEUX:

16 Q -- a requirement was imposed under 29-B  
17 to register and ultimately to close pits?

18 A Yes. I was not at DNR at the time, but I  
19 was aware of that activity.

20 Q Okay. If -- okay. As of 1980, there was  
21 no obligation to close pits?

22 MR. JOHN CARMOUCHE:

23 Objection to the form.

24 THE WITNESS:

25 A Not as of -- not that I'm aware of.

SECRETARY THOMAS F. HARRIS

1 BY MR. ARCENEUX:

2 Q Okay. After 1980, outside of Statewide  
3 Order 29-B, is it your contention that a coastal  
4 use permit was required with respect to the closure  
5 of a pit pursuant to 29-B?

6 MR. JOHN CARMOUCHE:

7 Objection to the form.

8 THE WITNESS:

9 A If there were impacts to coastal  
10 resources, yes.

11 BY MR. ARCENEUX:

12 Q And when you say "if there were impacts  
13 to coastal resources", what is your understanding  
14 of that?

15 A Things that had the potential to  
16 adversely affect coastal resources; marshes,  
17 wetlands.

18 Q You understand that the actual chemical  
19 standards for closure were set by the Office of  
20 Conservation through implementation of 29-B?

21 A 29-B is the remedial standard for the  
22 Office of Conservation and exploration and  
23 production waste.

24 Q The Office of Coastal Management, its  
25 predecessors, didn't have analytical standards,

SECRETARY THOMAS F. HARRIS

1 laboratory standards, closure standards defined,  
2 did it?

3 A No.

4 MR. JOHN CARMOUCHE:

5 Objection to the form.

6 (Cell phone ringing.)

7 MR. ARCENEUX:

8 Sorry. I thought I had my phone off.

9 BY MR. ARCENEUX:

10 Q So if a pit was in existence in the  
11 coastal zone prior to 1980, once it was -- strike  
12 that question.

13 Outside of -- I'm going to strike that  
14 question.

15 The standards for the closure of the pit  
16 would be as established under 29-B; correct?

17 MR. JOHN CARMOUCHE:

18 Objection to the form.

19 THE WITNESS:

20 A That's my understanding.

21 BY MR. ARCENEUX:

22 Q Okay. Do you know what the practice of  
23 the Office of Coastal Management was with respect  
24 to any coordination or permitting required --  
25 coastal use permitting required for the closure of

SECRETARY THOMAS F. HARRIS

1 oilfield pits?

2 A I do not know. I wasn't here at the  
3 time.

4 Q Are you aware that the legislature  
5 ultimately passed a law that said the closure of  
6 oilfield pits did not require any permits other  
7 than what the Office of Conservation might require?

8 MR. JOHN CARMOUCHE:

9 Objection to the form.

10 THE WITNESS:

11 A I was -- no, I was not following it  
12 closely at that time.

13 BY MR. ARCENEUX:

14 Q Has the Office of Coastal Management ever  
15 issued a requirement for closure of a pit outside  
16 of a closure that was being executed pursuant to  
17 the Office of Conservation's requirements?

18 A I don't know.

19 MR. JOHN CARMOUCHE:

20 Objection to the form.

21 BY MR. ARCENEUX:

22 Q You can't tell me of any instance that  
23 you're aware of?

24 A I cannot.

25 Q Do you know whether DNR has now or -- has

SECRETARY THOMAS F. HARRIS

1 during your tenure, or at any time in the past,  
2 communicated to the regulated community a need to  
3 secure a coastal use permit for the closure of pits  
4 beyond getting a closure through the Office of  
5 Conservation?

6 A I do not know.

7 Q You're not aware of any such?

8 A I am not.

9 Q Are you familiar with the coastal use  
10 permitting process?

11 A Yes.

12 Q Can you tell me how that process  
13 operates; can you give me a brief overview?

14 A The applicant applies for a permit, we  
15 public notice it and issue a permit decision. I'm  
16 not sure what level of detail you're looking for.

17 Q The permit application comes to the  
18 Office of Conservation on --

19 A Wait, I'm sorry --

20 Q I'm sorry. Comes to the Office of  
21 Coastal Management?

22 A Okay. Thank you.

23 Q Right.

24 A Yeah.

25 Q And there's a process that requires



## SECRETARY THOMAS F. HARRIS

1 public notice; correct?

2 A Yes.

3 Q It also involves coordination with the US  
4 Army Corps of Engineers. Is that right?

5 A Yes. We have a Joint Permit Application  
6 online.

7 Q So typically when a permit is sought,  
8 there's going to be a corresponding permit issued  
9 by the Army Corps of Engineers. Is that right?

10 A Typically, yes.

11 Q Okay. Now, is the permit application  
12 submitted to other governmental entities by the  
13 Office of Coastal Management and by The Corps of  
14 Engineers?

15 A Yes. And I believe that's specific to  
16 the type of activity.

17 Q What would be specific about the activity  
18 that would entail that?

19 A I don't know that level of detail. I  
20 know we do solicit input from our sister agencies  
21 where appropriate.

22 Q In every instance is notice given to the  
23 parish?

24 A In every instance? I do not know that  
25 answer. I don't know.

SECRETARY THOMAS F. HARRIS

1 Q Do you know whether that's the ordinary  
2 practice?

3 A I believe so.

4 Q Okay. And do you know whether an actual  
5 response from the Parish is ordinarily received in  
6 that process?

7 A I know we solicit input. I don't --  
8 can't say whether we always receive it or not. I  
9 suspect not.

10 Q Is the information provided to the  
11 Department of Wildlife & Fisheries?

12 A Yes.

13 Q Provided to the Department of Health and  
14 Hospitals?

15 A I do not know.

16 Q Do you know whether through OCM or  
17 through the Corps, the US Fish and Wildlife Service  
18 is involved?

19 A I know at least in some instances, yes.  
20 Additionally, where appropriate, it's sent to the  
21 Office of State Lands. If it's not on State lands,  
22 I don't know whether it's sent to them or not.

23 Q Okay. And all of those who get notice  
24 have -- are asked for their views or provide an  
25 opportunity to comment?

## SECRETARY THOMAS F. HARRIS

1 A They have an opportunity to comment.

2 Q Okay. And then there's a public notice  
3 as well?

4 A Correct.

5 Q And members of the public can comment;  
6 correct?

7 A That is correct.

8 Q Can members of the public request a  
9 hearing if they wish?

10 A Yes.

11 Q Is there a public hearing routinely?

12 A It depends on the level of public  
13 interest. You know, I -- in discussions with the  
14 Assistant Secretary, it's always been my  
15 recommendation when in doubt to hold a public  
16 hearing.

17 Q And so that has taken place in connection  
18 with permit applications; right?

19 A When appropriate, yes.

20 MR. ARCENEUX:

21 Okay. I'd like to take a quick break to  
22 see if I can organize myself a little bit.  
23 I've been skipping around a lot trying to  
24 avoid what may be unnecessary.

25 VIDEOGRAPHER:

SECRETARY THOMAS F. HARRIS

1 Time now is 2:01 p.m. and we're off the  
2 record.

3 (Recess taken at 2:01 p.m. Back on  
4 record at 2:26 p.m.)

5 VIDEOGRAPHER:

6 Time now is 2:26 p.m. We're back on the  
7 record.

8 BY MR. ARCENEUX:

9 Q Secretary Harris, before we took a little  
10 break, we were talking about the permitting  
11 application process and what it entailed.

12 A Yes.

13 MR. ARCENEUX:

14 Okay. I'm going to show you some  
15 testimony from Mr. Canfield, and ask you about  
16 it, having to do with that process. And we're  
17 introducing or attaching that clip as an  
18 exhibit; correct?

19 MS. CAMPBELL:

20 Exhibit #18.

21 (Video marked as T. HARRIS #18 for  
22 identification.)

23 (Video/Exhibit #18 played and reviewed.)

24 BY MR. ARCENEUX:

25 Q Secretary Harris, do you think that

## SECRETARY THOMAS F. HARRIS

1 fairly summarizes the way the process works?

2 A Yes. I agree with everything that Blake  
3 said there.

4 Q Okay. That's a public process that isn't  
5 just handled by one coastal permit analyst, but it  
6 involves numerous governmental agencies on the  
7 state, local and federal levels; correct?

8 A I agree.

9 Q All of whom have an opportunity to  
10 comment and to have input into the issuance of a  
11 coastal use permit, or any requirements that permit  
12 might include. Is that right?

13 A Yes. Yes.

14 Q Okay. Including the possibility for a  
15 public hearing; right?

16 A Correct.

17 Q And then the actual permit is prepared  
18 within the Office of Coastal Management, or its  
19 predecessor division, and issued in the name of the  
20 Secretary. Is that right?

21 A That's correct. That permitting  
22 authority rests with the Secretary of the  
23 Department. I have delegated that to Assistant  
24 Secretary Lovell.

25 Q One question. Mr. Canfield mentioned,

SECRETARY THOMAS F. HARRIS

1 mitigation requirements. Are you aware that are  
2 the requirements for mitigation were not added to  
3 the statute until the 1990s?

4 A I was not aware of that.

5 Q Okay.

6 So the mitigation considerations that he  
7 described, whatever they might have been before any  
8 changes in the law, are under the existing form of  
9 the law; correct?

10 MR. JOHN CARMOUCHE:

11 Objection to the form.

12 MR. ARCENEUX:

13 Let me restate the question.

14 BY MR. ARCENEUX:

15 Q Your familiarity with mitigation is under  
16 the law as it has existed during your tenure as  
17 Secretary?

18 A That's correct.

19 Q Okay. Now, are you familiar with the  
20 Coastal Use Guidelines?

21 A Yes.

22 Q And I understand those are actually  
23 adopted pursuant to the legislation and the Act;  
24 correct?

25 A That's my understanding.

SECRETARY THOMAS F. HARRIS

1 Q Okay. And I'll read to you from the  
2 Act -- it's Exhibit #3 if you would like to look,  
3 but let me just ask you and then you can --

4 A Sure.

5 Q -- look at it, if you'd like.

6 It says that: The adopted guidelines  
7 shall be followed in the development of the state  
8 program and local programs and shall serve as  
9 criteria for the granting, conditioning, denying,  
10 revoking, or modifying of coastal use permits.

11 Is that correct?

12 MR. JOHN CARMOUCHE:

13 For the record, George, what page and  
14 section?

15 MR. ARCENEUX:

16 It is Title 49, Section 214.27,  
17 Subparagraph B2.

18 MR. JOHN CARMOUCHE:

19 Thank you.

20 MR. ARCENEUX:

21 Do you want a minute to open it up?

22 MR. JOHN CARMOUCHE:

23 No. I just wanted it for the record.

24 MR. ARCENEUX:

25 Okay.

## SECRETARY THOMAS F. HARRIS

1 BY MR. ARCENEUX:

2 Q So to get back to it, it provides for the  
3 adoption of guidelines and that they shall serve as  
4 criteria for granting, conditioning, denying,  
5 revoking or modifying of coastal use permits.

6 A That's consistent with my memory of what  
7 it says, yes.

8 Q Okay. I think we know what the granting  
9 of a permit is. One thing it says is  
10 "conditioning"; it's criteria for conditioning of  
11 coastal use permits. That's terminology under  
12 which a special condition would be placed on the  
13 permit; correct?

14 A That is correct, yes.

15 Q And that's often done; right?

16 A Yes.

17 Q Okay. And that's based on the particular  
18 project, particular considerations that the permit  
19 analyst, with all of this input that he or she  
20 receives, brings to bear in that decision; right?

21 A That's quite often the case, based on  
22 comments submitted by our sister agencies.

23 Q Okay. And the description from the  
24 legislation about the guidelines talks about their  
25 goals. The first one stated is that it is: To



## SECRETARY THOMAS F. HARRIS

1 encourage full use of coastal resources while  
2 recognizing it is in the public interest of the  
3 people of Louisiana to establish a proper balance  
4 between development and conservation.

5 Do you understand that the establishment  
6 of a proper balance between development and  
7 conservation is at the heart of the guidelines?

8 A Heart of the guidelines, and the heart of  
9 a lot of our permitting decisions.

10 Q Okay. Probably true at DEQ, too?

11 A As well, yes.

12 Q Okay. And then let me ask you, have you  
13 reviewed the guidelines themselves?

14 A Yes. But it's been a number of years.

15 Q Okay.

16 A Not recently.

17 Q Okay. We can pull that out if we need  
18 to, but one of the questions I've got has to do  
19 with the terminology "maximum extent practicable".  
20 Are you familiar with that terminology?

21 A Yes. Yes.

22 Q That's a modifier that's used frequently  
23 in the guidelines. Is that right?

24 A Yes.

25 Q And there are a number of values that

SECRETARY THOMAS F. HARRIS

1 have to be accommodated under the guidelines for a  
2 particular project, many of which are to be applied  
3 and addressed to the maximum extent practicable;  
4 right?

5 A Yes.

6 Q Okay. And then that term, "maximum  
7 extent practicable", is, itself, defined in some  
8 detail in the guidelines; correct?

9 A Yes. Again, it's been a little while  
10 since I read that section, but, yes.

11 MR. ARCENEUX:

12 Let's go ahead. If I can get a copy of  
13 the guidelines, I might want to look at that  
14 with you. It's Exhibit #4.

15 (Discussion off the record.)

16 BY MR. ARCENEUX:

17 Q Okay. I'll show you it's in Section 701,  
18 it looks like, H.

19 A Yes.

20 Q H.1. That defines how maximum extent  
21 practicable works; correct?

22 A Yes.

23 Q Okay. And it says that if used is --  
24 essentially, it says: If the guidelines in which  
25 the modifier maximum extent practicable is used,

## SECRETARY THOMAS F. HARRIS

1 the proposed use is in compliance with the  
2 guideline if the standard modified by the term is  
3 complied with. Correct?

4 A Yes.

5 Q Okay. So if you're looking at a standard  
6 that says to the maximum extent practicable, you  
7 have to employ the calculus that's described here.  
8 Is that correct?

9 A Yes, that's accurate.

10 Q Okay. And if we look further in that  
11 definition, it says: If the modified standard is  
12 not complied with, the use will be in compliance.

13 So even if you don't meet the standard  
14 that is being referenced with that modifier the use  
15 will be in compliance with the guideline: If the  
16 permitting authority finds, after a systematic  
17 consideration of all pertinent information  
18 regarding the use, the site and the impacts of the  
19 use, as set forth in Subsection F above, and the  
20 balancing of their relative significance, but the  
21 benefits resulting from the proposed use would  
22 clearly outweigh the adverse impacts resulting from  
23 non-compliance with the modified standard, and  
24 there are no feasible and practicable alternative  
25 locations, methods and practices for the use.

SECRETARY THOMAS F. HARRIS

1 Is that --

2 A Yes.

3 Q So what that means is that the permitting  
4 authority -- and that is the Office of Coastal  
5 Management; right?

6 A Correct.

7 Q Okay. And it's consulting all these  
8 other stakeholders, but they're the permitting  
9 authority. And then these factors in Section F,  
10 which is the section of the regulations just above  
11 that, is a listing of, looks like, 19 different  
12 factors that get weighed?

13 A Different considerations, yes.

14 Q So it's a balancing process; correct?

15 A Yes.

16 Q And results in determination that the  
17 benefits of the activity clearly outweigh the  
18 adverse impacts under the standard provided that  
19 these three other conditions are met; right?

20 A Yes.

21 Q Okay. And they are -- so you do the  
22 balancing, and you also have to find that there are  
23 significant public benefits or that the use would  
24 serve important regional or national interests,  
25 including the interest in resources and the siting

## SECRETARY THOMAS F. HARRIS

1 of facilities in the coastal zone identified in the  
2 Coastal Resources Program, or the use is water  
3 dependent; right?

4 A Yes.

5 Q Now, would you agree that the  
6 construction and operation of oil and gas  
7 exploration and production facilities in the  
8 coastal zone would be the siting of facilities --  
9 would be the -- I'm sorry -- would pertain to the  
10 national interest and resources and the siting of  
11 facilities in the coastal zone?

12 A Certainly that weighs into the decision  
13 process, yes.

14 Q Okay. And, in fact, it has been the  
15 practice of the Office of Coastal Management to  
16 recognize that oil and gas producing activities are  
17 matters of national interest under the program?

18 A Yes.

19 Q So again, if there's a standard that  
20 applies to a particular operation, if this modifier  
21 "maximum extent practicable" is used, you have to  
22 look to that balancing process that we just  
23 discussed?

24 A That's correct.

25 Q And is that, in fact, what the agency

## SECRETARY THOMAS F. HARRIS

1 does in its work?

2 A Yes.

3 Q Okay. I wanted to ask a couple of  
4 questions to follow up. We're talking about the  
5 kinds of facilities that were in existence in 1980,  
6 and we talked about pits that were lawful as of  
7 1980. And my question is, if a pit has been  
8 established prior to 1980 for oilfield operations,  
9 that as of 1980 that is a use that is lawfully  
10 commenced; correct?

11 A What activity triggered the commencement?  
12 In other words, are you saying for pits that were  
13 dug before 19 -- or used before 1980, or closed  
14 before 1980?

15 Q If a company has a pit that it  
16 establishes for a producing operation before 1980,  
17 didn't require a coastal use permit, was legal  
18 under the rules of the Office of Conservation;  
19 correct?

20 A Yes.

21 Q Okay. Come 1980, the program comes into  
22 effect. What basis would there be -- that is  
23 something that was lawfully commenced as of 1980;  
24 correct?

25 A Correct.

SECRETARY THOMAS F. HARRIS

1 MR. CARMOUCHE:

2 Objection to form; calls for a legal  
3 conclusion.

4 BY MR. ARCENEUX:

5 Q And do you understand that -- I think you  
6 talked about it earlier -- that activities lawfully  
7 commenced prior to the effective date of the  
8 program would not require a coastal use permit?

9 MR. JOHN CARMOUCHE:

10 Objection to the form.

11 THE WITNESS:

12 A Correct.

13 BY MR. ARCENEUX:

14 Q Okay. So what basis, if any, would there  
15 be for such a pit to require a coastal use permit  
16 post-1980 if no work is done in, on, or around the  
17 pit itself?

18 MR. JOHN CARMOUCHE:

19 Objection to form.

20 THE WITNESS:

21 A So are you talking about a pit that was  
22 closed prior to the effective date of SCLRMA, is  
23 that what you're asking?

24 BY MR. ARCENEUX:

25 Q No. I'm asking about a pit that is in

## SECRETARY THOMAS F. HARRIS

1 existence as of the effective date of SCLRMA; it  
2 might be in existence, but not in use because the  
3 activity ended sometime before, or --

4 A I can certainly argue that a pit that was  
5 closed -- the closure -- the activity of closing  
6 the pit without removing the contaminants, without  
7 decontamination, would require a permit.

8 Q Say that again?

9 A Closure of the pit, the pushing in of the  
10 berm.

11 Q That would require a permit?

12 A Depending on the circumstances, I could  
13 see where it would.

14 Q Okay. So if the pit -- the pits there,  
15 it's in existence September of 1980. At some point  
16 in '86, the Office of Conservation starts to  
17 require closure of pits; correct?

18 A Yes.

19 Q So you're saying that in some  
20 circumstances, that closure work may require a  
21 permit?

22 MR. JOHN CARMOUCHE:

23 Objection to the form.

24 THE WITNESS:

25 A Yes.



SECRETARY THOMAS F. HARRIS

1 BY MR. ARCENEUX:

2 Q Okay. But prior to the execution of work  
3 to close the pit, which involves moving dirt, that  
4 might involve some dredge or bringing in some  
5 additional -- before that work is commenced,  
6 because that pit was lawfully in existence in 1980,  
7 was there any obligation to get a coastal use  
8 permit for the pit prior to undertaking the closure  
9 operation?

10 MR. JOHN CARMOUCHE:

11 Objection to the form.

12 THE WITNESS:

13 A I don't have enough information to make a  
14 blanket statement -- to make that blanket  
15 statement.

16 BY MR. ARCENEUX:

17 Q Do you know of any circumstances in that  
18 situation that would require a coastal use permit  
19 merely for the continued existence of a pit without  
20 change prior to 1980 -- post-1980?

21 MR. JOHN CARMOUCHE:

22 Objection to the form.

23 THE WITNESS:

24 A The closure of the pit itself could very  
25 well, and I believe would, require a coastal use

## SECRETARY THOMAS F. HARRIS

1 permit.

2 BY MR. ARCENEUX:

3 Q Okay. But outside of the actual closure  
4 operation, the mere presence of that pit after  
5 1980, would not in and of itself require -- for  
6 example, in 1981, there was no requirement, that  
7 you're aware of, that a company that had a pit,  
8 that had been on the property, you know, for  
9 decades, needed to come and get a coastal use  
10 permit just because the pit was there?

11 MR. JOHN CARMOUCHE:

12 Objection to the form.

13 THE WITNESS:

14 A No. I don't believe so.

15 BY MR. ARCENEUX:

16 Q Okay. And if the pit was not closed  
17 after 1986 or 1992, or '93, or whatever the  
18 applicable date was, that would be a violation of  
19 29-B and the rules of the Office of Conservation;  
20 correct?

21 A I am not an expert on those rules.

22 Q Okay. Whether it was or not, the mere  
23 continued existence of that pit, which when  
24 instituted was lawfully commenced, would not  
25 trigger a permit requirement for a coastal use

## SECRETARY THOMAS F. HARRIS

1 permit?

2 A I don't believe so, no.

3 Q Okay. Thanks.

4 Okay. I want to ask you about the expert  
5 report in the Rozel case. Are you familiar with  
6 that?

7 A I have read it.

8 Q Okay.

9 A Or, at least, portions of it.

10 Q Okay. Did you or your staff provide any  
11 information that was used in the issuance of those  
12 reports?

13 A I did not. I cannot speak to whether or  
14 not my staff provided any information used in that  
15 report. I don't know.

16 Q Okay. Do you know whether you or any of  
17 your staff conferred -- met or conferred with any  
18 of the authors of that report?

19 A I do not know.

20 Q Do you know whether -- I have to check my  
21 chronology. Did you or anybody in your staff  
22 review the report prior to its issuance?

23 A Not to my knowledge.

24 Q Let me ask you with respect to the East  
25 and West Hackberry Fields that are at issue in the

SECRETARY THOMAS F. HARRIS

1 Auster case, do you have any information  
2 yourself -- do you have any information yourself  
3 about any violations of coastal use permit laws  
4 that occurred in those fields?

5 MR. JOHN CARMOUCHE:

6 Objection to the form.

7 THE WITNESS:

8 A No, I do not.

9 BY MR. ARCENEUX:

10 Q I think you told us earlier that so far  
11 as you know, your Office of Coastal Management has  
12 not been involved in investigating or documenting  
13 whether any of the -- whether there are any actual  
14 violations that are the subject of the lawsuit?

15 A Not to my knowledge.

16 Q Do you have any information about the  
17 causes of land loss in the East and West Hackberry  
18 Fields?

19 A Do I have any knowledge regarding?

20 Q Yes, sir.

21 A I know that land loss in general is  
22 typically from multiple factors. I don't know what  
23 the specifics are on that field.

24 Q Okay. So the extent to which any oil and  
25 gas activities versus any other activities, or

## SECRETARY THOMAS F. HARRIS

1 circumstances, contributed or caused land loss is  
2 not something you are able to say?

3 A No. I have no knowledge specific to that  
4 field at all.

5 Q Back on the Rozel report, an explanation  
6 of violations in that report is set forth by a  
7 group of experts that were retained by the lawyers  
8 for the parish. Is that correct?

9 A As far as I know.

10 Q None of these were the result of any  
11 independent analysis by any State regulator?

12 A I don't know.

13 Q So far as you know, they were not;  
14 correct?

15 A I have no knowledge of specific work done  
16 by any State agency.

17 Q Did you meet with any of the experts who  
18 contributed to that report?

19 A To - are we speaking of the report for  
20 this field?

21 Q No, no. The Rozel report.

22 A No.

23 Q Have you met with experts working on the  
24 report for the Hackberry Field?

25 A Can we go back to the previous question?

SECRETARY THOMAS F. HARRIS

1 Q Sure.

2 A I have not met with any of the authors,  
3 to my knowledge, because I don't know who the  
4 authors are. So it's difficult for me to say  
5 whether I've met with them or not.

6 Q I understand.

7 I guess, what -- you haven't talked to  
8 any experts -- you may have met experts out in the  
9 world somewhere who happened to be working on this  
10 case, but you have not met with any of the experts  
11 for the purpose of the opinions or matters set  
12 forth --

13 A Not to my knowledge.

14 Q Is that also true with respect to the  
15 Auster/Hackberry matter?

16 A Yes.

17 Q In this case there is a claim for  
18 damages. Is that right?

19 A That's my understanding, yes.

20 Q Do you know whether any relief, other  
21 than the payment of damages, is being sought?

22 MR. JOHN CARMOUCHE:

23 Objection to the form.

24 THE WITNESS:

25 A Not that I'm aware of, no.

SECRETARY THOMAS F. HARRIS

1 BY MR. ARCENEUX:

2 Q Your office hasn't prescribed any  
3 remedial action for the East and West Hackberry  
4 Fields, has it?

5 A Not that I'm aware.

6 Q To the extent that remedial action may be  
7 required with respect to contamination or  
8 pollution, or assertions about that, are those  
9 things that would be addressed by the DEQ or the  
10 Office of Conservation within their respective  
11 realms?

12 A I know this is about the 20th time I've  
13 done this. Would you repeat the question, please?

14 Q Sure.

15 To the extent that there are any findings  
16 of contamination, or impact of that sort in the  
17 field, those would be addressed under the standards  
18 of the Office of Conservation or the DEQ. Is that  
19 right?

20 MR. JOHN CARMOUCHE:

21 Objection to the form.

22 THE WITNESS:

23 A I agree with that statement, yes.

24 BY MR. ARCENEUX:

25 Q In terms of damages, do you have any idea

SECRETARY THOMAS F. HARRIS

1 what damages have been suffered as a result of any  
2 activities in the East or West Hackberry Field?

3 A I've seen no specific information  
4 regarding that field.

5 MR. ARCENEUX:

6 Just a minute.

7 (Discussion off the record.)

8 BY MR. ARCENEUX:

9 Q Do you have any understanding about what  
10 will be done with any money that is awarded in a  
11 claim in this lawsuit?

12 MR. JOHN CARMOUCHE:

13 Objection to the form.

14 THE WITNESS:

15 A Well, one of the reasons that I  
16 intervened in these lawsuits was to ensure that the  
17 money was used to rebuild some of the land that was  
18 lost, and used for coastal restoration projects.

19 BY MR. ARCENEUX:

20 Q Okay. And you understand that -- strike  
21 that.

22 Would that include use of any recovery  
23 pursuant to the Master Plan?

24 A Recovery pursuant to the Master Plan?  
25 I'm not sure I understand what -- what you're



SECRETARY THOMAS F. HARRIS

1 asking.

2 Q Well, are you --

3 A I would hope the money was spent in  
4 accordance with the Master Plan, if that answers  
5 your question.

6 Q Well, the issues sued upon here are  
7 matters of State concern; correct?

8 A Yes, that's correct.

9 Q Okay. And so these are matters that the  
10 State controls; correct?

11 MR. JOHN CARMOUCHE:

12 Object to the form.

13 THE WITNESS:

14 A I think that is a legal question that I'm  
15 not qualified to answer.

16 BY MR. ARCENEUX:

17 Q Okay. Are you aware of recent  
18 legislation that provides that money recovered in  
19 lawsuits is allocated in a particular manner?

20 A Yes. Yes, I am.

21 Q And that statute provides where money  
22 goes; correct?

23 A That's correct.

24 MR. JOHN CARMOUCHE:

25 Object to the form.

SECRETARY THOMAS F. HARRIS

1 BY MR. ARCENEUX:

2 Q And in intervening, is it your  
3 understanding that the State's interest in the  
4 coastal use permitting process is being protected?

5 MR. JOHN CARMOUCHE:

6 Object to the form.

7 THE WITNESS:

8 A Are you asking regarding the bill that  
9 was passed in the last couple of years?

10 BY MR. ARCENEUX:

11 Q I'm asking more generally, but if you  
12 want to answer it in those terms, that's --

13 A Well, that bill was not even filed, much  
14 less passed, at the time that DNR intervened in the  
15 lawsuits, but I would certainly hope that money was  
16 spent consistent with the Master Plan.

17 Q And do you know if that's required under  
18 the law?

19 MR. JOHN CARMOUCHE:

20 Object to the form.

21 THE WITNESS:

22 A I'm not an attorney.

23 BY MR. ARCENEUX:

24 Q So the answer is you don't know?

25 A I don't know.

## SECRETARY THOMAS F. HARRIS

1 MR. ARCENEUX:

2 Let me just look at a couple of notes.

3 (Discussion off the record.)

4 BY MR. ARCENEUX:

5 Q Do you recall we talked earlier about the  
6 Memorandum of Understanding between the Office of  
7 Conservation and the -- what is now the Office of  
8 Coastal Management?

9 A Yes.

10 Q Do you have any knowledge as to how the  
11 Office of Conservation evaluated any impacts to  
12 coastal resources as part of their permitting?

13 A To my knowledge they've never  
14 evaluated -- regardless of what the Memorandum of  
15 Agreement says, they've never evaluated impacts to  
16 coastal resources as part of their permitting  
17 process.

18 Q They had the Coastal Use Guidelines  
19 always available to them; correct?

20 A As far as I know.

21 Q And what basis do you have for saying  
22 that they never -- whatever you just said?

23 A I have -- I'll rephrase it slightly. I  
24 have never seen any evidence that that was a  
25 consideration that factored into their permitting

## SECRETARY THOMAS F. HARRIS

1 decision process.

2 Q You are aware that it was their practice,  
3 where permits were being sought within the Office  
4 of Conservation, to require that the Office of  
5 Coastal Management first be consulted and then any  
6 of the permits needed for access and related  
7 activities be secured; correct?

8 A That they required that of the applicant  
9 or of the permit writer? I'm asking you to clarify  
10 your question.

11 Q Administratively, honestly, I can't  
12 assure you how it was done. But do you know -- are  
13 you aware that there was some requirement at the  
14 Office of Conservation that people confirm -- that  
15 applicants confirmed that they had also complied  
16 with the coastal use permit process?

17 MR. JOHN CARMOUCHE:

18 Object to the form.

19 THE WITNESS:

20 A I have never seen evidence of that.

21 MR. ARCENEUX:

22 Let's pull that Memorandum of  
23 Understanding, Exhibit #5.

24 (Discussion off the record.)

25

## SECRETARY THOMAS F. HARRIS

1 BY MR. ARCENEUX:

2 Q If you look at page n-6. Part of the  
3 Agreement was that the Coastal Management Section  
4 of the DNR and Office of Conservation of DNR will  
5 assist each other in notifying the oil and gas  
6 industry and mineral industry of the permit process  
7 established by this agreement, and of which the oil  
8 and gas -- and of which oil and gas activities  
9 require coastal use and in-lieu permits; correct?

10 A Yes.

11 Q Do you know what action those  
12 departments, respectively, took to notify the oil  
13 and gas industry and mineral industry of which oil  
14 and gas activities require coastal use and in-lieu  
15 permits?

16 A None that I've ever seen. I can't -- I  
17 wasn't at DNR at the time, so I can't say that it  
18 didn't happen, but I have never been able to find  
19 evidence of that kind of communication in the file.  
20 Certainly nothing is part of application to drill a  
21 well, any discussion of coastal impacts.

22 Q More broadly, there hasn't been  
23 communication to the regulated community about what  
24 they are expected to get permits for?

25 A I can't speak to what communication there

SECRETARY THOMAS F. HARRIS

1 was back in this time period, no.

2 Q Well, for example, I think you talked  
3 about this earlier. When RECAP got adopted, DEQ  
4 sponsored workshops, and so forth, to explain the  
5 system and what was required and how it worked;  
6 right?

7 A We did.

8 Q Do you know whether that was done by the  
9 Coastal Management Section or by the Office of  
10 Conservation?

11 A I wasn't here.

12 Q So you don't know --

13 A I don't know.

14 Q But none of that has taken place during  
15 your tenure, has it?

16 A Not that I'm aware of, no.

17 Q You talked about some of the studies that  
18 you're familiar with, and you said only a few.  
19 Have you read any studies having to do with the  
20 causes of land loss in Cameron Parish?

21 A No. Nothing specific to Cameron.

22 MR. ARCENEUX:

23 Secretary Harris, I appreciate your  
24 courtesy in enduring the questioning, and I'll  
25 pass you to others for questioning.

SECRETARY THOMAS F. HARRIS

1 THE WITNESS:

2 My pleasure.

3 (Discussion off the record.)

4 VIDEOGRAPHER:

5 Time now is 3:06 p.m. and we're off the  
6 record.

7 (Recess taken at 3:06 p.m. Back on  
8 record at 3:07 p.m.)

9 VIDEOGRAPHER:

10 Time now is 3:07 p.m. We're back on the  
11 record.

12 EXAMINATION

13 BY MR. JARRETT:

14 Q Secretary Harris, my name is Keith  
15 Jarrett. I introduced myself earlier. I'm a  
16 lawyer for Shell in these cases. And, like others,  
17 I appreciate your time today.

18 A Thank you.

19 Q So my colleague, Mr. Arceneaux, has been  
20 very thorough, so I'm just going to move around a  
21 little bit and kind of cats-and-dogs questions.

22 But I want to start by confirming how, I  
23 think, the deposition began is that the Office of  
24 Coastal Management is within your Department?

25 A Correct.

SECRETARY THOMAS F. HARRIS

1 Q And it reports to you?

2 A Correct.

3 Q And I went to the website and I looked,  
4 and it said: That the Office of the Secretary  
5 serves as the Department's Executive Management  
6 Office. Is that so?

7 A That's correct.

8 Q And that, quote: The Secretary is the  
9 Chief Officer of the Department in charge of its  
10 policy, administration, and operations. Close  
11 quote. Is that also true?

12 A Yes. I'm the Chief Executive Officer.

13 Q And that would apply to the Office of  
14 Coastal Management?

15 A Yes, it does.

16 Q You know, where I come from, they might  
17 say the buck stops with you. Is that fair?

18 A That's fair. Thank you.

19 Q So in your role as Secretary of the  
20 department, is it true that your boss is the  
21 Governor of the state?

22 A That is accurate.

23 Q He's the one who nominated you and  
24 appointed you to the position. Is that true?

25 A That is correct.



## SECRETARY THOMAS F. HARRIS

1 Q And I saw document earlier that said he  
2 is the person who directed DNR to intervene in  
3 these lawsuits; correct?

4 A Yes.

5 Q Has the Governor asked you to give him  
6 any reports or analyses of the lawsuits?

7 A No.

8 Q Have you submitted anything in writing to  
9 the Governor to discuss your assessment of  
10 strengths or weaknesses of the cases?

11 A No.

12 Q We saw earlier where you signed an  
13 affidavit previously saying that these lawsuits  
14 involve matters of state concern. Do you remember  
15 that?

16 A Yes.

17 Q And the way that the Coastal Management  
18 Statute is set up, is it differentiates between  
19 matters of state concern and matters of local  
20 concern. Is that true?

21 A Yes, it does.

22 Q And insofar as -- I'll cut to the  
23 chase -- all oil and gas activities are considered  
24 to be matters of state concern; true?

25 A Yes.

SECRETARY THOMAS F. HARRIS

1 MR. JOHN CARMOUCHE:

2 Object to the form.

3 BY MR. JARRETT:

4 Q And it is correct that the way the  
5 statute is written, your department is responsible  
6 for evaluating and issuing coastal use permits for  
7 matters of state concern?

8 A Yes.

9 Q And that the parish governments, if they  
10 have an approved plan -- and I think Cameron Parish  
11 does -- do you know whether they do or don't?

12 A Yes, they do.

13 Q So parishes with an approved plan, they  
14 can evaluate applications for coastal use permits  
15 for issues of local concern. Is that fair?

16 A That's fair.

17 MR. JOHN CARMOUCHE:

18 Object to the form.

19 THE WITNESS:

20 A Yes.

21 BY MR. JARRETT:

22 Q So is it correct, then, to say that the  
23 individuals who have the expertise and experience  
24 in evaluating whether or not to issue pit permits  
25 for uses of state concern were individuals that

## SECRETARY THOMAS F. HARRIS

1 were employed by your department, not by the  
2 Parish?

3 MR. JOHN CARMOUCHE:

4 Object to the form.

5 THE WITNESS:

6 A Yes.

7 BY MR. JARRETT:

8 Q Mr. Arceneaux asked you some questions  
9 about the Rozel report, which was a report  
10 generated by certain experts in connection with a  
11 different lawsuit than we're here to talk about  
12 today, and you said that you were familiar with it,  
13 generally and that you had at least reviewed it;  
14 fair?

15 A I read significant portions of it.

16 Q And I don't know whether you were asked  
17 whether your department contributed to the drafting  
18 of that report?

19 A Not to my knowledge.

20 Q Okay. You did not direct anybody on your  
21 team, your staff, to do so?

22 A That's correct.

23 Q So back when you -- I've read your  
24 testimony in the Senate, I've read your testimony  
25 in a couple of places you've given testimony before

## SECRETARY THOMAS F. HARRIS

1 about this -- one of the -- one of the bases that  
2 you have testified about was that you were  
3 motivated, in part, to get involved in these  
4 lawsuits to learn more about them?

5 A I wouldn't say that was the motivation.  
6 It was certainly since we've become involved,  
7 we've -- I've seen more information.

8 Q Well, didn't -- didn't you testify to the  
9 Senate and say you wanted to get involved to make  
10 sure any money, if awarded, was spent right --

11 A That's correct.

12 Q -- so that you could look further and  
13 investigate into these allegations and see if they  
14 did or did not have merit?

15 A Yes.

16 Q All right. So before joining this  
17 lawsuit against these defendants, including my  
18 client Shell, did you yourself, or your department,  
19 identify any permit violations by Shell?

20 A In regards to the Cameron --

21 Q Yes, sir.

22 A -- field?

23 Q Yeah. Before you joined the lawsuit.

24 A No, did not.

25 Q Did you assign anyone within your

## SECRETARY THOMAS F. HARRIS

1 department to investigate the allegations in the  
2 parish lawsuit to see if they did or did not have  
3 merit?

4 A Did not.

5 Q Do you understand -- I know you're not a  
6 lawyer, so that's why I'm asking the question -- do  
7 you understand that a Petition for Damages is a  
8 document that includes a lawyer's allegations  
9 against a defendant?

10 A In general terms, yes.

11 Q Do you know that allegations in the  
12 lawsuit are not evidence, they're just allegations;  
13 fair?

14 A That's fair.

15 MR. JOHN CARMOUCHE:

16 Objection to the form.

17 BY MR. JARRETT:

18 Q So I saw that when you filed your  
19 intervention in this lawsuit, you did not make any  
20 allegations against Shell in your Petition of  
21 Intervention.

22 A No.

23 Q Why not?

24 A Well, we intervened in all the coastal  
25 lawsuits, as did the Attorney General, to have a

## SECRETARY THOMAS F. HARRIS

1 seat at the table as we move forward through the  
2 process.

3 Q Another way of saying that is when you  
4 intervened, you didn't know whether Shell had or  
5 had not done anything wrong; fair?

6 A We had not done an evaluation on a  
7 case-by-case basis, no.

8 Q And so did you not know whether Shell had  
9 or had not done anything wrong; true?

10 A That's fair.

11 Q Thank you.

12 In your role as the Secretary of the  
13 Department of Natural Resources, would you have  
14 access to the records, historical records, of the  
15 Office of Coastal Management?

16 A Yes. Some of those are in banker's boxes  
17 probably over at the State archives. But, yes, we  
18 have access to them.

19 Q Right. And who better to know how to go  
20 search them than your team; fair?

21 A We have the knowledge, just not the  
22 manpower.

23 Q Yes, sir. But you have the knowledge;  
24 you know how to do it if you want to?

25 A And if we had the resources, yes.

## SECRETARY THOMAS F. HARRIS

1 Q If you want to, you could do it?

2 A Correct.

3 Q Okay. And what about the historical  
4 records of the Office of Conservation, could you go  
5 and investigate those if you chose to?

6 A Again, given sufficient time and  
7 manpower, yes, we could.

8 Q Okay. In connection with any of these  
9 lawsuits we're here to talk about, did you or your  
10 staff go back and look at the historical records of  
11 the Office of Conservation or the Office of Coastal  
12 Management to see if there were any historical  
13 complaints about Shell and the area for which suit  
14 had been brought?

15 A Did we stop our current activities to go  
16 back and do that? No, we did not.

17 Q And so you did not look to see whether  
18 there were records of Shell's violations or records  
19 of Shell's -- whether their activities had been  
20 inspected and approved, you didn't do either one?

21 A Did not. Again, because of manpower  
22 issues.

23 Q I know you keep saying because of  
24 manpower, and I get it. I understand the point.  
25 But my point is only that you haven't done it; even

SECRETARY THOMAS F. HARRIS

1 up to today you haven't done it. Right?

2 A I'm very willing to agree with that.

3 Q Okay.

4 A But again, every time you ask, I'm going  
5 to add the caveat of why we were not able to do  
6 that.

7 Q So I hear you, but you intervened back in  
8 2016 --

9 A Correct.

10 Q -- it's 2023 today, seven years later.

11 A Yes.

12 Q In that whole seven-year period, have you  
13 done any internal investigation to determine  
14 whether Shell was or was not guilty of the  
15 allegations in the Parish's Petition?

16 A We have not.

17 Q So when you testified to the Senate to  
18 say that you had intervened in order to get  
19 familiar with the lawsuit and the allegations,  
20 you -- have you really done anything to fulfill  
21 that commitment?

22 A No. And there's been no evidence  
23 provided in court because, I believe, we're still  
24 discussing venue issues and other details. Looking  
25 forward to seeing some of the facts come out.



## SECRETARY THOMAS F. HARRIS

1 Q Yes, sir.

2 When you intervened in the suit, and you  
3 just testified you didn't know one way or the other  
4 whether Shell was or wasn't guilty of the  
5 obligations, does that mean that your role in the  
6 suit -- are you on the side of the plaintiff, or  
7 are you just standing by to see what develops?

8 A We are looking forward to getting more  
9 information and seeing the facts come out.

10 Q But my question was, are you supporting  
11 the position of the parishes, or are you standing  
12 by to observe?

13 A We're observing. We really have not been  
14 active.

15 Q I saw your testimony to the legislature  
16 back in 2016, I think it was.

17 A Yeah, the --

18 Q October of 2016.

19 A Yes.

20 Q And I think you gave testimony to the  
21 effect that never before, that you're familiar  
22 with, has the Department of Natural Resources  
23 brought a lawsuit to enforce permit violations.  
24 True?

25 A That's accurate.

## SECRETARY THOMAS F. HARRIS

1 Q So is this lawsuit, that you're involved  
2 today, consistent or inconsistent with the  
3 historical practices of the Department of Natural  
4 Resources insofar as permit enforcement is  
5 concerned?

6 A I believe that option's always been in  
7 the law. This is the first time I'm aware of that  
8 we've taken advantage of that option.

9 Q Yes, sir. So is it consistent or  
10 inconsistent with historical practices?

11 A Given those options, I'd have to say  
12 inconsistent.

13 Q Yes, sir.

14 So I saw that Mr. Canfield testified in  
15 the Senate that the historical enforcement  
16 practices of the agency called for the agency to do  
17 a field investigation when they had an inkling that  
18 there might be a violation as the first step in the  
19 enforcement process; true?

20 A Yes. That's our typical procedure.

21 Q And in this case you have not done any  
22 such field investigation, have you?

23 A No, we have not.

24 Q So is it fair to say -- would you say  
25 that this practice of not doing a field

## SECRETARY THOMAS F. HARRIS

1 investigation before initiating an enforcement  
2 action is consistent or inconsistent with  
3 historical agency practice?

4 A Given the manpower issues we've discussed  
5 repeatedly, it's inconsistent. We simply don't  
6 have the manpower to go back in time --

7 Q Yes, sir.

8 A -- and review all of these cases.

9 Q Yes, sir.

10 And I also saw from Mr. Canfield's  
11 testimony that historically in enforcement actions,  
12 the Department of Natural Resources, after doing  
13 its field investigation, would then send a letter  
14 to the offender advising them of the violation and  
15 offering them an opportunity to cure. Isn't that  
16 the standard protocol?

17 A Under the administrative process, yes,  
18 that's the process.

19 Q And I understood you to testify earlier  
20 that in this case, no such letter was sent to any  
21 of the defendants offering them a chance to cure.  
22 Is that fair?

23 A Yes.

24 Q And so to the degree that historical  
25 practice included an opportunity for defendants to

## SECRETARY THOMAS F. HARRIS

1 cure before taking an enforcement -- initiating an  
2 enforcement proceeding, would you say that this  
3 lawsuit is consistent or inconsistent with  
4 historical practices of the agency?

5 A Well, we're not -- I'd say inconsistent  
6 because we're not following the administrative  
7 process at all.

8 Q So when I -- changing subjects.

9 A Sure.

10 Q So when I looked at the Petition of  
11 Intervention, I saw that you intervened in your  
12 name -- in your own name. Why was that?

13 A That was not a -- I can't speak. That's  
14 a legal question.

15 Q You don't know?

16 A I honestly don't -- I can't answer that.

17 Q Okay. I saw in the Petition of  
18 Intervention it says that you represented the State  
19 of Louisiana through the Department of Natural  
20 Resources in the name of its Secretary yourself.

21 A Uh-huh.

22 Q So the party that's actually intervened  
23 is the State of Louisiana; true?

24 A Again, that's a legal question. I'm --

25 Q Because the reason I ask is I looked --

SECRETARY THOMAS F. HARRIS

1 A I'm not able to answer.

2 Q -- is I looked in the Parish's Petition  
3 and they say they, too, represent the State of  
4 Louisiana. Are you right, or are they right?

5 MR. JOHN CARMOUCHE:

6 Object to the form.

7 THE WITNESS:

8 A That is a legal question. I really can't  
9 answer.

10 BY MR. JARRETT:

11 Q Okay. Just a few minutes ago you  
12 testified that antidotally -- I'll put it that  
13 way -- you are familiar that land lost in coastal  
14 Louisiana has lots of causes historically. Fair?

15 A Yes.

16 Q Some of them deal with leveeing of the  
17 river. We all know that --

18 A Yes.

19 Q -- that's a subject of great debate.  
20 Fair?

21 A Yes.

22 Q Some of it deals with navigation canals.  
23 You've heard that, too. Fair?

24 A Yes.

25 Q Have you given any instructions to your

SECRETARY THOMAS F. HARRIS

1 team handling the lawsuits to ensure that they do  
2 not -- that they take account of those causes in  
3 coming up with how they evaluate the conduct of the  
4 defendants?

5 A I have not given any instruction of that  
6 nature.

7 Q But you did testify to the State Senate  
8 that you are not asking the oil and gas industry to  
9 pay for damages caused by any other causes other  
10 than their own; true?

11 A No, not for sea level rise, not for  
12 compaction.

13 Q Or navigation canals, or from leveeing,  
14 any of that?

15 A Correct.

16 Q When you testified in court in  
17 Plaquemines Parish a number of years ago, you said  
18 that you are a fan of having a transparent process.

19 A I am.

20 Q And that was -- the reason for that was  
21 not only for your employees, but also for  
22 outsiders. Is that true?

23 A I still stand by that, yes.

24 Q And the reason that you favor that, I  
25 presume, is that you want all users of agency

## SECRETARY THOMAS F. HARRIS

1 services to know what their rights and what their  
2 obligations are?

3 A That's fair.

4 Q Since intervening in these lawsuits  
5 seven years ago, have you issued any guidance to  
6 industry, or other potential users of your agent's  
7 services, about how the agency is currently  
8 interpreting the coastal management regime?

9 A I haven't -- no, we haven't.

10 Q You realize that by intervening in these  
11 lawsuits, your Department of Natural Resources is  
12 suing over 200 different defendants?

13 A Didn't have a total number, but that  
14 sounds consistent with what I've seen.

15 Q And the allegation, as you appreciate it,  
16 is that all 200 of these companies, all separate  
17 companies, somehow interpreted the statute wrong  
18 years ago?

19 A Well, I will say that there have been --  
20 I don't have the most recent numbers, but 200 is a  
21 pretty small percentage of all the operators that  
22 have done business in the State of Louisiana during  
23 that time period.

24 Q Well, of course, you haven't sued all of  
25 them for all the property yet, either, have you?

SECRETARY THOMAS F. HARRIS

1           A     I don't know if there will be more  
2 lawsuits or not.

3           Q     My point is, if 200 -- if the allegation  
4 are that 200 or more companies got it wrong, you  
5 haven't seen a need to issue any guidance to  
6 industry?

7           A     Well, I point to the thousands that got  
8 it right.

9           Q     Has your agency changed its enforcement  
10 policies since the filing of the lawsuit?

11          A     I can't name any specific changes in  
12 enforcement, no.

13          Q     Who is the best person to speak with in  
14 your agency concerning enforce -- current  
15 enforcement policies?

16          A     Assistant Secretary Keith Lovell and  
17 Director Charles Reulet. He's over the Enforcement  
18 side of Coastal Management.

19          Q     Can you spell his last name for me,  
20 please?

21               MR. PRICE:

22                     R-E-U-L-E-T.

23               THE WITNESS:

24                     Thank you.

25



## SECRETARY THOMAS F. HARRIS

1 BY MR. JARRETT:

2 Q I don't mean to embarrass you, but no one  
3 asked you how old you are?

4 A I am 64.

5 Q 64.

6 So I can do that math because I am, too.

7 A Class of '76.

8 Q Yes, indeed.

9 So what that means is, you know, let me  
10 do the math, we were -- we were in college when  
11 this Coastal Management Statute was enacted; right?

12 A You were, actually. I didn't start  
13 college until later.

14 Q You took a break?

15 A Yeah, like, 10 years.

16 Q So, but, the point is, we weren't -- I  
17 wasn't, you weren't, around doing anything that  
18 would have caused you to be familiar with that  
19 statute at the time --

20 A I was oblivious at the time it was  
21 enacted.

22 Q So how have you gone about educating  
23 yourself about how the Coastal Management Statute  
24 was interpreted and enforced in the early '80s  
25 during the time period when the activities that are

SECRETARY THOMAS F. HARRIS

1 being sued upon were being evaluated; what have you  
2 done?

3 A Listened.

4 Q Listened to whom?

5 A Staff who were -- even if they weren't  
6 here in 1980, they started at a time when they  
7 talked to people who were trained by people who  
8 were here in 1980.

9 Q You anticipated my next question.

10 Is there anyone within your department  
11 now who was working in the Department of Office of  
12 Coastal Management -- I know it had a different  
13 name in the early '80s, but is there anyone in the  
14 department now who was around back then?

15 A I've got most of my information from  
16 the -- Assistant Secretary Lovell.

17 Q Mr. Lovell. Was he around then?

18 MR. PRICE:

19 No.

20 THE WITNESS:

21 A No. But, again, he was trained by people  
22 who were.

23 BY MR. JARRETT:

24 Q In fact, we deposed some people who were  
25 around, just last week. Were you aware of that?

SECRETARY THOMAS F. HARRIS

1 A No, I was not.

2 Q Have you seen their testimony?

3 A I have not.

4 Q Mr. Clark and Mr. Holcombe?

5 A (Shakes head side to side.)

6 Q Do you even know those gentlemen?

7 A No, I do not.

8 Q Would you agree with me that Department  
9 personnel who were around at the time the statute  
10 was enacted knew best how they intended the statute  
11 to be applied?

12 A Wait, I'm sorry. Would you repeat that?

13 MR. PRICE:

14 I object to the form of the question.

15 BY MR. JARRETT:

16 Q Sure. I think it's called; a tautology,  
17 I think it's obvious by the question. But isn't it  
18 true that the people who would know best how to  
19 apply the statute in the 1980s, and how it was  
20 applied, were the people who were around in those  
21 times actually doing it?

22 MR. PRICE:

23 Object to the form.

24 THE WITNESS:

25 A Yeah. You would think so.

SECRETARY THOMAS F. HARRIS

1 BY MR. JARRETT:

2 Q Yes, I would. Yes, I would. Okay.

3 So I want to talk about the same subject  
4 that was talked about earlier, which is this MOU.  
5 I think it's Exhibit --

6 A Yes.

7 Q -- #4, or #5?

8 A Exhibit #5.

9 Q So if you would, please -- I know it's  
10 got a cover page on yours -- if you go to the  
11 second page of the document.

12 A Uh-huh.

13 Q And a "Memorandum of Understanding",  
14 let's start with that phrase. That is a document  
15 sometimes generated in government settings so that  
16 agencies can cooperate to accomplish a goal. Is  
17 that fair?

18 A Yes.

19 Q And in this case the Memorandum of  
20 Understanding was between two different offices,  
21 both within the Department of Natural Resources;  
22 fair?

23 A Yes.

24 Q One of those departments -- one of those  
25 offices was the Coastal Management Section; true?

## SECRETARY THOMAS F. HARRIS

1 A Yes.

2 Q That's the same -- how do you want to  
3 call that? It's the same --

4 A Organization.

5 Q -- same organization that we called the  
6 Office of Coastal Management today?

7 A I believe this was signed by Frank Ashby,  
8 who was the Secretary of the Department of Natural  
9 Resources. So I'm assuming he was representing the  
10 Office of Coastal Management, or whatever it was  
11 called at the time.

12 Q That's certainly what the preamble says  
13 up here?

14 A Okay. Yes.

15 Q And so that was one signor, was the  
16 Coastal Management Section of the Department of  
17 Natural Resources. You see that?

18 A Yes.

19 Q And the other office -- the other party  
20 to the agreement was the Office of Conservation,  
21 also within the Department of Natural Resources?

22 A Through the Commissioner of Conservation,  
23 yes.

24 Q Yes, sir.

25 And if you look at the first paragraph

## SECRETARY THOMAS F. HARRIS

1 here, it actually tells us why they were doing it;  
2 why they did this Memorandum of Understanding. Do  
3 you see that?

4 A I do.

5 Q It says, quote: To establish an  
6 agreement on the issues and procedures involved in  
7 implementing the Coastal Management Program. True  
8 enough?

9 A That's what it says.

10 Q And then part of what was -- so that's  
11 two separate offices within the Department of  
12 Natural Resources who were allocating between  
13 themselves the responsibilities for implementing  
14 the program; true?

15 A That's what it purports to do. I agree.

16 Q Yes, sir.

17 And then on that same page -- well, we're  
18 going to go through all of it.

19 A Okay.

20 Q So on the same page at the bottom of the  
21 second page, where it says "General". Do you see  
22 that?

23 A Yes.

24 Q This was a discussion that we went into  
25 earlier, and it's a discussion of this whole

## SECRETARY THOMAS F. HARRIS

1 in-lieu permitting process. Do you see that?

2 A I do.

3 Q We can read it if you want, but I think  
4 if you'll bear with me, this first paragraph is  
5 simply a confirmation that the Department of  
6 Conservation is going to issue their own permits  
7 for certain kinds of activities that won't require  
8 a coastal use permit. Fair enough?

9 A That's what it purports to do. I agree.

10 Q And, in fact, the last sentence of that  
11 paragraph makes that clear. It says, quote: It is  
12 the intent of Section 213.12B of Louisiana Revised  
13 Statutes 49 that coastal use permits are not  
14 required for these activities. Close quote. Do  
15 you see that?

16 A I agree that's what it says.

17 Q And those activities are the oil and gas  
18 activities. Fair enough?

19 A Yes.

20 Q Okay. And so then we go to the top of  
21 the next page -- and this is really where I was to  
22 focus. This paragraph 2, do you see that?

23 A I do.

24 Q And it says, quote: The following list  
25 delineates those activities subject to an in-lieu

SECRETARY THOMAS F. HARRIS

1 permit issued by the Office of Conservation. Do  
2 you see that?

3 A I do.

4 Q And if its subject to an in-lieu permit,  
5 by definition from the prior page, it means it  
6 doesn't need a CUP, a coastal use permit. True?

7 A That's what it says.

8 Q Yes, sir.

9 And I'm interested in only the first  
10 bullet, which it says, quote: Oil and gas  
11 activities subject to regulation pursuant to  
12 Louisiana Revised Statute 30:1-36, et cetera, et  
13 cetera, and as provided for in Statewide  
14 Orders 29-B. Do you see that?

15 A I do.

16 Q So what this is telling -- what this is  
17 telling the public, because this was a published  
18 document, wasn't it? We're going to see that  
19 later, it was a published document?

20 A I'll take your word for it.

21 Q So what that's telling the public is that  
22 oil and gas activities that are covered by statute  
23 or by Statewide Order 29-B don't need a coastal use  
24 permit. Fair enough?

25 MR. JOHN CARMOUCHE:



SECRETARY THOMAS F. HARRIS

1 Object to the form.

2 MR. JARRELL:

3 What's the basis?

4 THE WITNESS:

5 A That's what this document purports --

6 MR. JARRETT:

7 Basis?

8 MR. JOHN CARMOUCHE:

9 Well, first, I could just say I object to  
10 the form, but I'll give you the basis.

11 MR. JARRETT:

12 It's a form objection, I want a chance to  
13 correct it, is my point.

14 MR. JOHN CARMOUCHE:

15 It calls for a legal conclusion, it calls  
16 for interpretation of regulations as a lawyer.  
17 I mean...

18 MR. JARRETT:

19 He's the head of the Department.

20 MR. JOHN CARMOUCHE:

21 I understand. He's not a lawyer.

22 BY MR. JARRETT:

23 Q Okay. So what this is telling the reader  
24 is that matters that are regulated by Statewide  
25 Order 29-B do not need a coastal use permit; fair?

SECRETARY THOMAS F. HARRIS

1 MR. JOHN CARMOUCHE:

2 Object to the form.

3 THE WITNESS:

4 A That's fair.

5 And the reality is, I've asked to see any  
6 permit application to drill, any permit condition  
7 issued by the Office of Conservation. I've never  
8 found any evidence that Management of Coastal  
9 Resources or impacts to those resources were part  
10 of any Office of Conservation permit decision.  
11 There's no evidence of that, that I've ever seen.

12 MR. JARRETT:

13 Note my objection to the responsiveness.

14 BY MR. JARRETT:

15 Q My question was, isn't it fair reading of  
16 this provision that matters that are subject to  
17 regulation under Statewide Order 29-B do not  
18 require a coastal use permit?

19 A I agree completely. That's what this  
20 document says.

21 Q And so if it is true that pit usage was  
22 regulated by 29-B, it would not require a coastal  
23 use permit; fair?

24 MR. JOHN CARMOUCHE:

25 Object to the form.

SECRETARY THOMAS F. HARRIS

1 THE WITNESS:

2 A That's fair. But that would also result  
3 in neither the federal or state laws and  
4 regulations for coastal management being followed.

5 BY MR. JARRETT:

6 Q I know that you want to advocate, but I'm  
7 just asking you about the document.

8 A I'm not advocating, I'm just stating a  
9 fact.

10 Q Well, certainly at the time this document  
11 was executed, we know that the Department of  
12 Natural Resources, under one of your predecessors,  
13 was dividing responsibility such that matters  
14 regulated by 29-B did not require a coastal use  
15 permit. Isn't that fair?

16 A That's what this document says. I agree.

17 Q And so if pit closure was regulated by  
18 29-B, a reader would assume that it didn't need a  
19 coastal use permit; fair?

20 MR. JOHN CARMOUCHE:

21 Object to form.

22 THE WITNESS:

23 A I could see how someone reading this  
24 document would draw that conclusion.

25

SECRETARY THOMAS F. HARRIS

1 BY MR. JARRETT:

2 Q And if produced water discharges were  
3 covered by 29-B, a reader would say, well, we don't  
4 need a coastal use permit for those either; right?

5 MR. JOHN CARMOUCHE:

6 Object to form.

7 THE WITNESS:

8 A I agree with that.

9 BY MR. JARRETT:

10 Q All right. So go to the next page, would  
11 you, please, sir? It's page -- it's got n-3 on the  
12 bottom --

13 A Got it.

14 Q -- and it's number 3 at the top of the  
15 page. Do you see that?

16 A Yes.

17 Q And this talks about what the Coastal  
18 Management Division, now the Office of Coastal  
19 Management, what they would issue coastal permits  
20 for. Do you see that?

21 A I'm sorry, you're on page n-3 at the  
22 bottom?

23 Q It's n-3, and I believe it's number 3.

24 A I didn't see the 3 there.

25 Q I think it was just covered up.

## SECRETARY THOMAS F. HARRIS

1           There's a list of things for which they  
2 would issue coastal use permits. Do you see that?

3           A     Yes.

4           Q     And would you acknowledge for me, please,  
5 that pits, or pit closure, is not mentioned in the  
6 list; fair?

7           A     It is not mentioned on this page. I  
8 agree.

9           Q     And produced water discharges are not  
10 mentioned in the list; fair?

11          A     It is not.

12          Q     And skip over if you would, please, to  
13 the next page. And I think you touched upon this,  
14 this paragraph 4. This paragraph 4 says that: The  
15 Office of Conservation and the Coastal Management  
16 Section will coordinate closely in establishing  
17 typical permit conditions for activities requiring  
18 an in-lieu permit in the coastal zone in order to  
19 ensure those activities are conducted consistently  
20 with the Coastal Resources Program and guidelines.

21                 That would be an appropriate objective  
22 for them. Would you agree with that?

23          A     When you say "appropriate" --

24          Q     Well, I think earlier, when you gave part  
25 of your answer that I've objected to, you said you

## SECRETARY THOMAS F. HARRIS

1 hadn't seen evidence that they were taking into  
2 account the coastal program in their permit  
3 decisions. Wasn't that your point?

4 A Yes.

5 Q And my point is, here, they're supposed  
6 to be; it says they're supposed to do it. And my  
7 question to you is, if they're supposed to do it,  
8 that's a good idea; right?

9 A If they had, it would have been, yes.

10 Q Okay. But you told me earlier, or told  
11 Mr. Arceneaux earlier, you didn't even know about  
12 this statute in 1980; you weren't here in 1980.

13 A I was not.

14 Q And you haven't talked to anybody who was  
15 here in 1980, and so you're not in a position to  
16 say whether they did or didn't do what's in  
17 paragraph 4?

18 A Well, fortunately, in State government,  
19 we're pretty good about documenting what's actually  
20 done, and there are files --

21 Q Why do you think I asked whether you went  
22 and looked at any documents, why do you think I did  
23 that before I asked this question? Because I did  
24 it so that you wouldn't tell me now that you went  
25 and looked at documents, when you didn't.

## SECRETARY THOMAS F. HARRIS

1           A     I have not personally, but certainly  
2 asked those questions.

3           Q     Fair enough.

4           A     You know, what evidence is there in the  
5 files that this evaluation occurred, that -- and I  
6 have not seen a single shred of evidence that this  
7 procedure was ever followed.

8           Q     If this procedure wasn't followed, if it  
9 wasn't, who would you blame for that; your own  
10 department?

11          A     I don't know.

12          Q     Well, they're both within the Department  
13 of Natural Resources; right?

14          A     Certainly.

15          Q     Okay. All right.

16                 So what about -- look at the next page,  
17 if you would, please. I think it's number 5. And  
18 paragraph number 1, here, do you see that?

19          A     Uh-huh.

20          Q     And it says that back in the day -- this  
21 was, again, a document from 1980. It says: Back  
22 in the day the Office of Conservation and the  
23 Coastal Management Section were going to establish  
24 procedures for coordinating enforcement activities.  
25 Do you see that?

SECRETARY THOMAS F. HARRIS

1 A I do.

2 Q Do you know whether they did or didn't do  
3 that?

4 A I never have seen any evidence that this  
5 occurred.

6 Q Well, you do know that there were field  
7 inspections back in the day. Fair enough?

8 A By Coastal Management and by  
9 Conservation, yes.

10 Q Yeah.

11 A And they still are.

12 Q So there were inspections going on. And  
13 do you know whether they were or were not  
14 coordinating? You weren't here.

15 A I wasn't here.

16 Q Okay. Fair enough. So you don't know.  
17 Is that fair?

18 A That's fair. I don't know.

19 Q Finally, look at page 6 of the document,  
20 if you would, sir. And it says -- I like this  
21 public education piece. Do you see that?

22 A I do.

23 Q It says that: The Coastal Management  
24 Section and the Office of Conservation will assist  
25 each other in notifying the oil and gas industry



## SECRETARY THOMAS F. HARRIS

1 and the mineral industry of the permit process  
2 established by this agreement, and of which oil and  
3 gas activities require a coastal use and in-lieu  
4 permits. Do you see that?

5 A I do.

6 Q This paragraph is entirely consistent  
7 with your goal of public education, true, and  
8 transparency?

9 A I'd say that was the goal here, yes.

10 Q And if they did provide this document to  
11 the public, as they said they were going to do,  
12 then the comments we had earlier about what fair  
13 inferences to draw from the document would hold  
14 true. True enough?

15 A I don't understand. Is there a question  
16 in there?

17 Q It was a bad question.

18 So I said if they did what they said they  
19 were going to do, and provide this education and  
20 information to the industry, to the users, it would  
21 be fair for the users to draw the conclusions that  
22 you and I drew from reading the document together.  
23 Fair enough?

24 A Yes.

25 MR. JARRETT:

SECRETARY THOMAS F. HARRIS

1           Has the Petition been made an exhibit?

2           MR. JOHN CARMOUCHE:

3           No.

4           MS. CAMPBELL:

5           It will be #19.

6           (Document marked as T. HARRIS #19 for  
7           identification.)

8           BY MR. JARRETT:

9           Q       Secretary Harris, I've put in front of  
10          you a copy of the Petition for Damages in this  
11          lawsuit in Cameron Parish. And I know you're  
12          familiar with it, because you testified that you  
13          are. And so -- you are familiar with it; right?

14          A       This is the first time I've seen these  
15          words on paper.

16          Q       I'm sorry. You testified to the Senate  
17          that you were familiar with the lawsuits, and you  
18          testified in Plaquemines Parish that you were  
19          familiar with the lawsuits.

20          A       Yeah. It doesn't mean I've read every  
21          filing --

22          Q       Okay.

23          A       -- on each of the lawsuits.

24          Q       Okay. Fair enough. I'm not -- this is  
25          not a gotcha anyway.

## SECRETARY THOMAS F. HARRIS

1 I'm going to ask you to look, if you  
2 would, please -- I'm marking on the document, as  
3 you can see, just for ease of --

4 A I appreciate it, thank you.

5 Q I'm looking at the Petition that we've  
6 marked as Exhibit #19, and specifically at  
7 Paragraph 21. And I've highlighted two different  
8 sentences.

9 And the first sentence reads this, this  
10 is the allegation in the lawsuit, quote: The use  
11 of waste pits in the operational area has a direct  
12 and significant impact on State coastal waters  
13 located within Cameron Parish and, thus, each such  
14 pit required a coastal use permit after the  
15 enactment of the Coastal Zone Management Act of  
16 1978. Close quote. Do you see that?

17 A Yes.

18 Q You have already testified, have you not,  
19 in response to Mr. Arceneaux's questions, that that  
20 is not a correct allegation. You told us that the  
21 mere presence of a pit after 1980 did not  
22 constitute, not generate, a need for permitting;  
23 fair?

24 A Hold on. I'm still reading this.

25 Q Yes, sir. Please do.

## SECRETARY THOMAS F. HARRIS

1 A (Reviewing Exhibit #19.)

2 I think the only difference here is  
3 difference in interpretation. I would interpret  
4 the law as the actual closure of the pit would  
5 trigger coastal use permitting requirements,  
6 including removal and decontamination. This pretty  
7 clearly says that the existence would constitute  
8 the need for a permit.

9 Q A proposition with which you disagree?

10 A As far as timing, yes.

11 Q Yes, sir.

12 And, indeed, that first sentence is also  
13 contrary to the MOU that we recently read together?

14 A The one that was never implemented? I  
15 would say so.

16 Q Never implemented. That's funny.

17 Is it contrary to the MOU, sir?

18 A Yes, it is.

19 Q Thank you.

20 Let's read the second sentence there,  
21 which says, quote: To the extent that, contrary to  
22 Plaintiff's allegations, the use of any such waste  
23 pit was legally commenced prior to the enactment of  
24 the Coastal Zone Management Act of 1978, the  
25 continued existence of such waste pit, following

SECRETARY THOMAS F. HARRIS

1 succession of the operations supported by it,  
2 constituted a new use for which a coastal use  
3 permit was required. Close quote. Do you see  
4 that?

5 A Yes, I do.

6 Q Isn't that a proposition with which you  
7 also disagree?

8 A Again, as a matter of timing, when the  
9 need for a coastal use permit would be triggered,  
10 yes.

11 Q And, indeed, isn't that also contrary to  
12 the MOU?

13 A It is.

14 MR. JARRETT:

15 Would you take my pen and initial next to  
16 that, right here, so we can make sure we have  
17 the same document?

18 THE WITNESS:

19 He wants me to initial this document?

20 MR. JARRETT:

21 Yes. I want to be able to show it to the  
22 jury later to show that you agree that those  
23 were incorrect allegations.

24 THE WITNESS:

25 I don't feel so inclined.

SECRETARY THOMAS F. HARRIS

1 MR. JARRETT:

2 Okay.

3 MR. PRICE:

4 I mean, we'll have the document.

5 MR. JARRETT:

6 Fair enough.

7 BY MR. JARRETT:

8 Q Look at Paragraph 23, if you would,  
9 please, Secretary Harris. And at the sentence  
10 beginning -- I want to make it easier again.

11 (Marking on document in red ink.)

12 And the allegation in Paragraph 23 of the  
13 Parish's Petition is that, quote: Each incident  
14 involving the discharge of oilfield wastes,  
15 including without limitation oilfield brines -- by  
16 the way, oilfield brines you know to be the same as  
17 produced water?

18 A Oilfield brine, in my understanding, is a  
19 component of produced water.

20 Q Thank you.

21 And continuing with the quote: Has a  
22 direct and significant impact on state coastal  
23 water located in Cameron Parish and constitutes a  
24 use for which a state and/or local coastal use  
25 permit was required after the enactment of the

## SECRETARY THOMAS F. HARRIS

1 Coastal Zones Management Act of 1978.

2 A Yes. That's what this says.

3 Q And is that allegation consistent or  
4 inconsistent with the MOU that we read together?

5 MR. JOHN CARMOUCHE:

6 Object to the form.

7 THE WITNESS:

8 A (Reviewing Exhibit #5.)

9 Does it say in the MOU that it is  
10 allowable to discharge oilfield wastes?

11 BY MR. JARRETT:

12 Q What it says in the MOU, if you recall --  
13 we can look back at it -- is that activities  
14 governed by Statewide Order 29-B don't require a  
15 coastal use permit. And if, I believe, a discharge  
16 of oilfield brine in coastal and brackish water in  
17 coastal parishes is governed by Statewide Order  
18 29-B.

19 A I do know Conservation has always denied  
20 that they had the authority to regulate discharges  
21 to surface water bodies.

22 Q Certainly during your tenure that's true,  
23 but we're talking about back in the '80s.

24 A I can't speak to --

25 Q If, indeed, Statewide Order 29-B

SECRETARY THOMAS F. HARRIS

1 addressed the discharges of oilfield brine under  
2 these fact pattern in Cameron Parish, you would  
3 agree with me that this allegation is inconsistent  
4 with the MOU?

5 MR. JOHN CARMOUCHE:

6 Object to the form.

7 THE WITNESS:

8 A That is not clear to me.

9 BY MR. JARRETT:

10 Q You don't know one way or the other, is  
11 that what you're telling me?

12 A Allow me to look back at the MOU.

13 Q Yes, sir. I believe the paragraph you  
14 need is on the top of the next page.

15 A Thank you.

16 Q Right here.

17 A (Reviewing Exhibit #5.)

18 I am not aware of 29-B authorizing  
19 discharges to surface water.

20 Q I understand that. But if I'm correct  
21 that it did, in 1980, authorize the discharge of  
22 produced water in circumstances such as these, that  
23 is 29-B, you would agree with me that the  
24 allegation in the Petition in Paragraph 23 is  
25 contrary to the MOU?



## SECRETARY THOMAS F. HARRIS

1           A     Subject -- yeah.  If you're correct,  
2 then, yes, it is not consistent with this other  
3 document --

4           Q     Thank you, sir.

5           A     -- with Exhibit #5.

6           Q     Thank you, sir.

7                     Changing subjects.  You can put that up.  
8 I'm done.

9                     Do you know -- do you know a former  
10 employee of the Department of Conservation named  
11 Jackie DeVall?

12          A     Yes.

13          Q     Is it -- are you aware that he was  
14 commended by the State Senate for his service?

15          A     I was not aware of that.  Good for him.

16          MR. JARRETT:

17                     Let me mark as Exhibit #20.

18                     (Document marked as T. HARRIS #20 for  
19 identification.)

20 BY MR. JARRETT:

21          Q     Exhibit #20, I've just marked, is a  
22 Senate Resolution from October 26 of 2020, in which  
23 it commends Mr. DeVall, a long-time employee of the  
24 Department of Natural Resources, for his service.  
25 And he was described -- he had 54 years of service

## SECRETARY THOMAS F. HARRIS

1 with the Department of Natural Resources -- that's  
2 in the second paragraph up here, Mr. Secretary --  
3 and he was considered an icon in the Office of  
4 Conservation, highly respected by both the public  
5 and the industry, and always helpful.

6 Do you know Mr. DeVall well enough to  
7 know whether that's a fair description of him?

8 A It's consistent with my encounters with  
9 him, yes.

10 Q So earlier, in response to some of the  
11 questions -- changing subjects, by the way --

12 A Okay.

13 Q You indicated that your department  
14 sometimes lacked the information it needed to make  
15 a proper evaluation of conduct.

16 A Well, certainly we do depend on the  
17 regulated community to report their activities. We  
18 can't be everywhere all the time.

19 Q Since the commencement of these lawsuits,  
20 and the allegations that have been made, have you  
21 changed the form of information that the Department  
22 requires the industry to fill out in order to  
23 obtain or approval for activity in the coastal  
24 zone?

25 A I'm not aware of specific changes, no.

## SECRETARY THOMAS F. HARRIS

1 Q And it's true that the information that  
2 is to be provided by industry is dictated by the  
3 Department?

4 A One more time?

5 Q Yeah.

6 Y'all have -- the Department, the  
7 Department of Natural Resources, through the Office  
8 of Coastal Management has created a form --

9 A Yes.

10 Q -- that applicants need to fill out?

11 A Yes.

12 Q And you tell applicants what information  
13 you want and need in order to evaluate their  
14 request --

15 A That's correct.

16 Q -- and their performance?

17 A Correct.

18 Q And the point is, you haven't changed the  
19 form in the last seven years?

20 A I'm not aware of any changes during that  
21 time period.

22 Q Okay.

23 MR. JARRETT:

24 Thanks, Secretary Harris.

25 THE WITNESS:

SECRETARY THOMAS F. HARRIS

1 Tom's fine.

2 MR. JARRETT:

3 I appreciate your help today.

4 (Discussion off the record.)

5 VIDEOGRAPHER:

6 Time now is 3:57. We're off the record.

7 (Recess taken at 3:57 p.m. Back on  
8 record at 4:08 p.m.)

9 VIDEOGRAPHER:

10 All right. The time now is 4:08 p.m.

11 We're back on the record.

12 EXAMINATION

13 BY MR. PHILLIPS:

14 Q Good afternoon, Secretary Harris. We met  
15 earlier. My name is Mike Phillips, and I represent  
16 Chevron, and the related companies to Chevron.

17 A Very good.

18 Q Counsel -- the questions you've already  
19 been asked by counsel have covered most of what I  
20 want to cover, but there are still some holes that  
21 I want to fill in for our jury. And I'd like to  
22 start with the questions Mr. Jarrett, previous  
23 counsel, asked you about your position.

24 You're the Secretary, and you described  
25 it as you're the CEO of this organization; right?

## SECRETARY THOMAS F. HARRIS

1 A Correct.

2 Q How many employees does this organization  
3 have?

4 A 311.

5 Q And what is your current budget?

6 A The fiscal year we are currently in is  
7 60 -- I believe, 62 million.

8 Q And you have been the Secretary since  
9 what year?

10 A 2016.

11 Q And since 2016, what's been the range of  
12 the budget of this office?

13 A In the 60 to \$70 million range.

14 Q So that's seven years -- so in the six or  
15 seven years that you've been Secretary, you've  
16 roughly overseen 4 to \$500 million of the State  
17 taxpayer's money; correct?

18 A That's fair.

19 Q Now, Counsel asked you earlier, and you  
20 said that you report to the Governor.

21 A Yes.

22 Q You recall that?

23 And you report to the Governor, am I  
24 correct, because you were appointed by the  
25 Governor; correct?

SECRETARY THOMAS F. HARRIS

1 A Yes.

2 Q The Governor appoints you. Are you  
3 considered a cabinet-level position?

4 A Yes.

5 Q You hold a very high position, a very  
6 important position in our state government. You  
7 would agree with that?

8 A Yes.

9 Q And you serve at the pleasure of the  
10 Governor?

11 A I do.

12 Q The Governor -- you don't have any  
13 contract with the State; right?

14 A He can fire me any time he wants.

15 Q If the Governor's not happy with you  
16 tomorrow, he can call and say, "Tom, I appreciate  
17 everything you did, but we're going to have to ask  
18 you it leave"; right?

19 A Yes.

20 Q And I want to go back and talk a little  
21 bit about how you got this position.

22 A Uh-huh.

23 Q You testified earlier you were formerly  
24 at DEQ; correct?

25 A I was at DEQ from '95 through 2014.

## SECRETARY THOMAS F. HARRIS

1 Q Okay. And you had never served in a  
2 Secretary-level position at any point in State  
3 government; correct?

4 A That's correct.

5 Q The position becomes available. So the  
6 jury knows, when we have a new governor, the new  
7 governor gets to nominate all these positions;  
8 right?

9 A Correct.

10 Q So there was someone who held the  
11 position before you under the previous  
12 administration, and when the administrations  
13 change, those positions change; correct?

14 A Correct.

15 Q And tell us, if you will, how it was that  
16 you came about to get the office of Secretary of  
17 the Department of Natural Resources.

18 A I applied for it, the Governor  
19 interviewed me, and then appointed me.

20 Q Okay. Tell me about the interview  
21 process.

22 A Went over to -- no. Actually, the  
23 governor -- I was expecting to go over to Kirby  
24 Smith, but the Governor had already taken office  
25 and was in the fourth floor -- his office on the

SECRETARY THOMAS F. HARRIS

1 fourth floor when he interviewed me in January of  
2 2016.

3 Q When was the first time that you had met  
4 Governor Edwards?

5 A January of 2016.

6 Q Okay. Had you worked on his campaign in  
7 any way?

8 A First time I met the man is when he  
9 interviewed me for the job.

10 Q I appreciate that, but the question was,  
11 did you work on his campaign in any way?

12 A Did not.

13 Q Did you or any of your family members  
14 contribute to or support Governor Edwards'  
15 campaign?

16 A In 2016? No.

17 Q Yes, sir.

18 When he nominated you, what was your  
19 understanding of the independence, if any, that you  
20 had in operating this department.

21 A Would you repeat that question, please?

22 Q Sure.

23 When you took over the position as  
24 Secretary of Department of Natural Resources, what  
25 was your understanding of whether or not you had



## SECRETARY THOMAS F. HARRIS

1 the independent right to operate this department as  
2 you saw fit?

3 A That was my understanding, that I had --  
4 I was to run the Department; also understanding  
5 that the Governor had the right to fire me any time  
6 he wanted to.

7 Q Okay. Now, I want to talk just a little  
8 bit about some of the employees who you mentioned  
9 earlier, and I want to talk about their  
10 relationship with these lawsuits. You mentioned  
11 Mr. Canfield, Blake Canfield?

12 A Yes.

13 Q He's a lawyer in your office; correct?

14 A He is Executive Counsel.

15 Q He's the highest counsel-level position  
16 within your office. Is that correct?

17 A That's correct.

18 Q And Mr. Canfield has been a lawyer at DNR  
19 for some time, has he not?

20 A Yes.

21 Q He was here long before you were here?

22 A That's correct.

23 Q Did you put him in the position of  
24 Executive Counsel?

25 A He was Executive Counsel for my

## SECRETARY THOMAS F. HARRIS

1 predecessor, and I left him. It was my decision to  
2 leave him in that position.

3 Q And what responsibility does Mr. Canfield  
4 have in the Department?

5 A He's Executive Counsel, and his duties  
6 are more than -- longer than I could -- it would  
7 take me a while. He does a lot.

8 Q He's the chief legal officer of your  
9 department?

10 A Yes.

11 Q Okay. But you also saw testimony that  
12 was given earlier by Mr. Canfield in the  
13 legislature; correct?

14 A Yes.

15 Q In connection with these lawsuits, did  
16 you give Mr. Canfield some responsibility to  
17 undertake an investigation into the facts of these  
18 lawsuits and whether or not the Department was  
19 going to intervene?

20 A Mr. Canfield had discussions with the  
21 fourth floor, with the Governor's Office, regarding  
22 these lawsuits. And after consultation with Blake  
23 Canfield, I intervened.

24 Q Okay. I appreciate that, but I want to  
25 go back to my question.

## SECRETARY THOMAS F. HARRIS

1           Did you assign Mr. Canfield some specific  
2 responsibility leading up to the investigation and  
3 the determination as to whether or not your  
4 department was going to intervene in these  
5 lawsuits?

6           A     No, I did not.

7           Q     Okay. Did Mr. Canfield just take it on  
8 his own to go talk to the Governor?

9           A     I believe he was asked by the Governor's  
10 Executive Counsel to come discuss these issues with  
11 them.

12          Q     And did Mr. Canfield not report that to  
13 you?

14          A     Yes, he did.

15          Q     Okay. Now, I want to know what  
16 communications you have had between yourself and  
17 the Governor's Office concerning these lawsuits.

18          A     Absolutely none.

19          Q     So all the communications, if I get this  
20 straight, have been between Mr. Canfield and the  
21 Governor's Office.

22          A     Correct.

23          Q     And so if we wanted to understand what  
24 those communications were, we'd have to ask either  
25 Mr. Canfield or the Governor's Office?

SECRETARY THOMAS F. HARRIS

1           A       Correct.

2           Q       When Mr. Canfield was having these  
3 discussions with the Governor's Office, which  
4 ultimately led to the Governor dictating that the  
5 Department intervene, did you undertake discussions  
6 with anyone else about whether or not the State  
7 should intervene in these lawsuits, anyone else in  
8 State government?

9           A       No.

10          Q       You would agree with me that  
11 Mr. Canfield's a very competent lawyer, would you  
12 not?

13          A       Yes.

14          Q       And he's very knowledgeable about state  
15 law?

16          A       Yes.

17          Q       Let me ask you this question: What is  
18 the role that Mr. Keith Lovell, the Assistant  
19 Secretary of Coastal Management, has played in  
20 connection with the decision to intervene in these  
21 lawsuits?

22          A       He's had not any role that I'm aware of.

23          Q       Okay. So I want to go back, prior to the  
24 time that you intervened in the lawsuits at the  
25 directive of the Governor. Did you sit down at any

## SECRETARY THOMAS F. HARRIS

1 point in time prior to that and have communications  
2 with Mr. Lovell about whether or not the State,  
3 this Department, should intervene in the lawsuits?

4 A Did not.

5 Q So Mr. Lovell, you testified earlier, is  
6 the very guy, the gentleman who is the Assistant  
7 Secretary of the Office of Coastal Management, who  
8 you have put in charge of the entire Coastal  
9 Management Program; correct?

10 A Correct.

11 Q Yet despite the fact he's in charge of  
12 the entire program, once the Governor told you to  
13 intervene in these lawsuits, you had no discussions  
14 with him concerning whether or not the allegations  
15 in the lawsuit were accurate or not accurate?

16 A I did not have those discussions.

17 Q Sitting to your right is Mr. Price, Don  
18 Price. He's your counsel here. What role did he  
19 play in the investigation or the decision to  
20 intervene in these lawsuits?

21 A I did not meet Mr. Price for another  
22 several months after that.

23 Q Okay. What is Mr. Price's role in your  
24 office?

25 A He is -- has the title of Special

SECRETARY THOMAS F. HARRIS

1 Counsel.

2 Q Okay. What is the responsibility of  
3 Special Counsel within the Department of Natural  
4 Resources?

5 A Herding cats on the coastal lawsuits.

6 Q Okay. So is Mr. Price's only  
7 responsibility within your office the coastal  
8 lawsuits --

9 A No. I depend on him for other general  
10 legal advice as well.

11 Q Okay. Is Mr. Price in charge of your  
12 office of running these lawsuits?

13 A He coordinates with the Governor's Office  
14 and other attorneys.

15 Q Now, when did Mr. Price come to your  
16 office, the Department of Natural Resources?

17 A I can -- the 2016 floods. He was  
18 actually hired before the floods and had to wait  
19 until the floodwaters receded to come to work.

20 Q And by that time, you had already made  
21 the decision to intervene?

22 A I believe that was in, maybe, April of  
23 2016, so -- May, June, July -- five months later.

24 Q Who hired Mr. Price?

25 A I did.

## SECRETARY THOMAS F. HARRIS

1 Q And how did you know Mr. Price?

2 A Matthew Block called and asked me if we  
3 had a vacant position.

4 Q And Mr. Block was with the Governor's  
5 Office?

6 A Mr. Block was the Governor's Executive  
7 Counsel at the time.

8 Q So the Governor, through his counsel,  
9 recommended to your department that they hire  
10 Mr. Price?

11 A Yes.

12 Q And you specifically hired him and put  
13 him in charge of these lawsuits?

14 A Yes.

15 Q Did you do any background investigation  
16 of Mr. Price to know what he did in his private  
17 practice before he worked with the State?

18 A I spoke with him. I certainly -- we had  
19 a long conversation before -- before he was hired.

20 Q And what was your understanding of  
21 Mr. Price's relationship with the Governor?

22 A They knew each other.

23 Q How did they know each other?

24 A I don't know.

25 Q I mean, it's not every day that the

## SECRETARY THOMAS F. HARRIS

1 Governor's Office picks up the phone and calls your  
2 office and says, "Hey, do you have an opening for  
3 somebody?" I mean, that's not every day, is it?

4 A No, it's not.

5 Q So would it be -- it would be accurate,  
6 to me, to imply that there was some relationship  
7 between the Governor and Mr. Price for the Governor  
8 to have his Executive Counsel call your office to  
9 inquire about --

10 A I suggest you ask either the Governor or  
11 Executive Counsel, or Mr. Price.

12 Q Well, you talk about all of the budget  
13 constraints that you have. I'm trying to figure  
14 out why in 2016 you had a position that apparently  
15 was not filled. There was nobody here doing the  
16 job of Mr. Price before Mr. Price, was there?

17 A No, there wasn't.

18 Q You have all these budget constraints,  
19 you're concerned about how you spend money and the  
20 people you hire, and the constraints you have on  
21 your office. But when the Governor called, you  
22 hired the guy?

23 A Yes, I did.

24 Q Okay. Is that part of the fact that you  
25 report to the Governor, and you knew that if the



## SECRETARY THOMAS F. HARRIS

1 Governor ain't happy, then he can fire you any day?

2 A I did not speak with Governor. I spoke  
3 with Matthew Block. Matthew suggested that we  
4 needed somebody to coordinate the coastal lawsuits;  
5 I agreed with that. And he suggested that  
6 Mr. Price would be an excellent choice to fill that  
7 need.

8 Q What was it about the qualifications of  
9 Mr. Price that made him excellent for this  
10 position; had he ever sued under the Coastal Zone  
11 Management Act before?

12 A I don't know. I -- I valued the  
13 Governor's Executive Counsel's recommendation.

14 Q So you really -- much like these  
15 lawsuits, you didn't do an independent factual  
16 investigation to determine Mr. Price's  
17 qualifications to run this program, did you?

18 A I combined the recommendation of Matthew  
19 Block along with my own conversations with  
20 Mr. Price.

21 Q And Mr. Price now, as I understand it, is  
22 a paid employee of your office; right?

23 A He is an unclassified employee, yes.

24 Q Right. And so --

25 A Full-time.

SECRETARY THOMAS F. HARRIS

1 Q But he is a full-time employee of your  
2 office --

3 A Correct.

4 Q So you're not paying him on an hourly  
5 basis for working on this lawsuit?

6 A No. He has a salary, just like every  
7 other DNR employee, and he reports directly to me.

8 Q Did you -- did you have to fire or lay  
9 off or get rid of anybody in order to retain  
10 Mr. Price?

11 A I did not. Actually, I had -- I'm  
12 allotted so many -- a certain number of  
13 unclassified positions, and I had one unfilled  
14 position.

15 Q Is the State -- other than Mr. Price and  
16 Mr. Canfield, is the State using any other lawyers  
17 to prosecute this intervention this lawsuit?

18 MR. PRICE:

19 Object to the form. By "State", I assume  
20 you mean DNR?

21 MR. PHILLIPS:

22 Yes, sir. I appreciate that.

23 BY MR. PHILLIPS:

24 Q Is the Department of Natural Resources  
25 utilizing any other lawyers other than Mr. Price

## SECRETARY THOMAS F. HARRIS

1 and Mr. Canfield to prosecute the intervention in  
2 this lawsuit?

3 A No.

4 Q Is the State paying any legal fees  
5 separate from Mr. Price and Mr. Canfield's  
6 salaries?

7 A No.

8 Q And --

9 A Oh, regarding the -- we do have, I  
10 believe, a legal contract, but that has not ever  
11 been utilized for this lawsuit.

12 Q What money has the State paid in order to  
13 prosecute these lawsuits?

14 A I believe Mr. Price's salary is the only  
15 thing that would qualify, unless you include mine.

16 Q Has the State paid for any of the experts  
17 doing the investigation or work on behalf of the  
18 plaintiffs in this case?

19 A No.

20 Q Have you ever met any of the experts?

21 A No. Not to my knowledge.

22 Q Do you know any of them?

23 A Not -- not to my knowledge.

24 Q Do you know their qualifications?

25 A I don't know their names.

SECRETARY THOMAS F. HARRIS

1 Q Do you know their qualifications?

2 A No.

3 Q Do you know if they're capable of doing  
4 the work they were proposed to do?

5 A I didn't hire them nor pay them.

6 Q Do you feel like there are experts that  
7 have been retained in this suit that are working on  
8 behalf of the Department of Natural Resources?

9 A I'm sorry, would you repeat the question?

10 Q Yes, sir.

11 Are there experts who have been retained  
12 on behalf of the plaintiffs that are working for  
13 the Department of Natural Resources?

14 A We are not -- there's no one working  
15 directly for the Department of Natural Resources in  
16 that capacity.

17 Q So as far as you know, any expert that  
18 has been retained in this case is working for  
19 another plaintiff, either the parishes or maybe the  
20 Attorney General, but not for your office?

21 A That's correct.

22 Q Since the suit has been filed, what role  
23 has the Governor played in -- I'm sorry.

24 Since the intervention has been filed by  
25 your department, what role has the Governor's

## SECRETARY THOMAS F. HARRIS

1 Office played in prosecuting this intervention or  
2 these lawsuits?

3 A I don't know.

4 Q Well, you do know the Governor called a  
5 meeting in his office back in -- what was it --  
6 2016?

7 A That was actually prior to the  
8 intervention.

9 Q Okay. Is your office having any  
10 communications with the Governor's Office, whether  
11 through you or any other employee of your  
12 department, about these lawsuits?

13 A Through Mr. Price.

14 Q So through your legal counsel is  
15 consulting with the Governor's legal counsel about  
16 these lawsuits?

17 A That's to the best of my knowledge, yes.

18 Q Have you or your office coordinated in  
19 any way with the Attorney General's Office  
20 regarding the interventions filed in this lawsuit?

21 A I believe there have been, at least,  
22 discussions regarding approval of the contracts.

23 Q Approval of what contracts?

24 A Of the contracts that, I believe, there  
25 was back in 2017 --

SECRETARY THOMAS F. HARRIS

1 THE WITNESS:

2 Didn't we send --

3 THE WITNESS:

4 A I know we sent something over to the  
5 Attorney General's Office for approval of  
6 contracts, and I don't know the details there.

7 BY MR. PHILLIPS:

8 Q Well, what -- I mean, you're the head of  
9 this department.

10 A Yes, I am.

11 Q What did the Attorney General have to  
12 approve for your office to continue in these  
13 lawsuits?

14 A I -- it's my understanding that state law  
15 requires, before we can hire any attorneys, that  
16 the Attorney General approve those contracts.

17 Q And who's, was that Mr. Prices' contract?

18 A No. Yeah, we do not -- he does not have  
19 a contract with --

20 Q I just asked you a moment ago what  
21 lawyers are working on behalf of your agency, and  
22 you said only Mr. Price and Mr. Canfield.

23 A Correct. Yes.

24 Q What lawyers were you trying to get  
25 approved to represent your agency?

## SECRETARY THOMAS F. HARRIS

1 A I don't -- I don't recall the specifics.

2 Q Why were you trying to get lawyers  
3 approved to represent your agency?

4 A I do not recall the details of that. I  
5 know there were discussions. I need to go back and  
6 look at -- at the records.

7 Q What records?

8 A I know there were contracts that we were  
9 trying to get signed with the -- and I don't recall  
10 the details. I'm sorry.

11 Q Did the Attorney General approve hiring  
12 some lawyers on behalf of your agency?

13 A Apparently not.

14 Q Well, do you know, did he not approve it,  
15 or did he approve it and you decided not to do it?

16 A I don't recall.

17 Q Okay. You've been in state government  
18 long enough to understand that the Attorney General  
19 holds the role as the chief legal officer for the  
20 state; correct?

21 A Yes.

22 Q And in this case, the Attorney General  
23 had intervened in the lawsuit before your office  
24 did; correct?

25 A That's correct.

SECRETARY THOMAS F. HARRIS

1 Q And you understand the -- you've read his  
2 intervention?

3 A No, I have not.

4 Q You've not read the State of Louisiana  
5 Attorney General's intervention this case?

6 A I have not.

7 Q Do you understand why the Attorney  
8 General intervened in this case?

9 A I understand the Attorney General  
10 intervened in the case.

11 Q Okay. Do you understand what  
12 differences, if any, there are between the  
13 intervention of the Attorney General and the  
14 intervention of your department?

15 A I know that the Attorney General and I  
16 are the only two entities specified in the law as  
17 having standing to intervene.

18 Q Well, I ask because you had testified  
19 earlier that, in your Senate testimony, I think,  
20 you were concerned about money being spent  
21 correctly and the State's rights being protected.

22 A Yes.

23 Q You recall that?

24 Well, if the Attorney General is already  
25 doing that, wouldn't that be something important



## SECRETARY THOMAS F. HARRIS

1 for you to know before you take the State's  
2 resources and put it towards another intervention?

3 A I was aware that the Attorney General had  
4 intervened.

5 Q Yes, sir. I understand, but I'm asking a  
6 different question.

7 Wasn't it important to you, before you  
8 spent the State's resources on intervening on  
9 behalf of this department, to know why the Attorney  
10 General had intervened and, therefore, whether it  
11 was necessary for you to spend State money for your  
12 department to intervene?

13 A I did not.

14 Q You did not do that?

15 A I did not.

16 Q Has anybody in your office had any  
17 coordination with the Attorney General regarding  
18 these lawsuits, other than you trying to hire some  
19 other lawyers?

20 A Not to my knowledge.

21 Q Do you know the Attorney General,  
22 Mr. Jeff Landry?

23 A I've met -- I've met Mr. Landry.

24 Q Have you not, at any point in time in the  
25 multiple years -- however many now it's been --

SECRETARY THOMAS F. HARRIS

1 since these lawsuits have been filed, thought it a  
2 good idea to pick up the phone and call Mr. Landry  
3 and say, "Since we're both working for the State of  
4 Louisiana, maybe we ought to coordinate on this?"

5 A I have not, and neither has he.

6 Q So it's kind of like a schoolyard  
7 standoff; you're going to wait until the other one  
8 decides they're going to call?

9 A No. I apparently don't find it as  
10 important as you to have to have that conversation,  
11 and neither has he.

12 Q Have you asked your team to -- you  
13 understand the role, again, as the Attorney  
14 General, as the chief legal officer, to sometimes  
15 give opinions on what State law is?

16 A Yes.

17 Q Have you asked your team to look back and  
18 see if there are any Attorney General opinions that  
19 cover any of the issues that are being sued about  
20 in this case?

21 A I have not asked them to do that, no.

22 Q Do you know has anyone done that?

23 A Not to my knowledge.

24 Q Now, I want to go back and get a little  
25 more detail on something you talked about earlier.

## SECRETARY THOMAS F. HARRIS

1 Again, referring you back to Mr. Canfield's  
2 original testimony in front of the legislature  
3 where -- and I'm paraphrasing -- he said that:  
4 We've investigated, we haven't filed a lawsuit, we  
5 haven't found any violations.

6 Do you recall that?

7 A Yes.

8 Q You were shown that earlier?

9 A Yes.

10 Q But eventually at some point, you  
11 obviously intervened in this lawsuit; correct?

12 A That's correct.

13 Q I want to get a little more detail about  
14 what happened between those two points. We know  
15 from your testimony earlier that none -- you have  
16 conducted no internal investigation into the facts  
17 of these cases. You testified that to Mr. Jarrett.  
18 Do you recall that?

19 A Yes.

20 Q All right. You haven't asked the  
21 employees to do anything, et cetera; correct?

22 A Correct.

23 Q But you have testified that you have  
24 learned of additional information. Do you recall  
25 that?

SECRETARY THOMAS F. HARRIS

1           A     Yes.

2           Q     Tell me specifically what additional  
3 information you learned after counsel for this  
4 agency sat in front of the legislative subcommittee  
5 and said: We found no violations, and we've done  
6 an investigation, and we've not filed suit?

7           A     My understanding -- and by the way,  
8 Mr. Canfield's testimony was prior to my becoming  
9 Secretary, just for the record.

10          Q     Do you -- but you don't disagree with  
11 anything he said; right?

12          A     No. My understanding of that, the review  
13 that was done under the previous administration,  
14 was simply a file search for enforcement actions  
15 and potential violations. It would not cover the  
16 failure to report discharges of produced water, for  
17 example, to waters of the State.

18          Q     Okay. So tell me, if you will, the  
19 specific facts that you have learned since  
20 Mr. Canfield's testimony that support the  
21 Governor's decision for this agency to intervene in  
22 the lawsuit?

23          A     Well, one was, just for example, would be  
24 the quantities of produced water that the  
25 companies, themselves, acknowledge producing, and

## SECRETARY THOMAS F. HARRIS

1 yet no records of disposal in accordance with law  
2 of that produced water. So the only place they  
3 could have gone were to the surface waters of the  
4 State.

5 Q Okay.

6 A They came to the surface; they weren't  
7 disposed of.

8 Q Well, keep going. What other facts did  
9 you learn?

10 A That's -- that's enough for starters.

11 Q Well, it's not enough for me. I want to  
12 learn -- I'm asking you, an opportunity under oath  
13 here --

14 A Uh-huh.

15 Q -- so that when we go to trial, I've got  
16 your complete testimony --

17 A Yes.

18 Q -- all the facts that you and your agency  
19 learned after Mr. Canfield testified in front of  
20 the agency that there were no violations. You've  
21 given me one.

22 A Yes.

23 Q Quantities of produced water.

24 A Yes.

25 Q Okay. Two, what's second?

## SECRETARY THOMAS F. HARRIS

1           A       That's the only one that comes to mind.  
2 It's been five years since I reviewed that -- those  
3 facts.

4           Q       Okay. So you mentioned earlier that you  
5 went to a meeting at Mr. Carmouche's office.

6           A       Correct.

7           Q       Is it customary for the Secretary of the  
8 Department of Natural Resources to have meetings in  
9 private lawyers' offices?

10          A       I see no problem with that. I had  
11 questions; I was looking for information, and  
12 that's who I wanted to speak with to get some more  
13 information --

14          Q       And I don't mean to cut you off. Go  
15 ahead.

16          A       Oh, I wanted to know what the allegations  
17 were.

18          Q       Okay. So when was this meeting?

19          A       I don't have a date. It was, I would  
20 guess, September or October of 2016.

21          Q       So it was after the intervention?

22          A       It was after the intervention.

23          Q       So before the intervention, did you or  
24 this Department -- anyone on your behalf -- have  
25 any communications with anyone from any of the

## SECRETARY THOMAS F. HARRIS

1 parishes, including Cameron Parish, about these  
2 lawsuits?

3 A Would you repeat that question?

4 Q Yes, sir.

5 Before the intervention, did you or  
6 anyone on your behalf in this department have any  
7 communications with anyone from any of the parishes  
8 who've sued, including Cameron Parish?

9 A Regarding the -- regarding the suits?

10 Q Yes, sir.

11 A No. No.

12 Q So when you intervened, where did you get  
13 the fact, that you've just stated, that said --  
14 that compelled the decision which was that there  
15 were quantities of produced water that had come up  
16 during production?

17 A I did not have that information on the  
18 date that -- on the day that I intervened. As the  
19 Governor said publicly, and I do want to credit him  
20 for this, "Today, I have instructed the Secretary  
21 of DNR to intervene in the coastal lawsuits."

22 Q So the facts are that between the time  
23 that Executive Counsel, Mr. Canfield, testified in  
24 front of the legislature that there were no  
25 violations and the time that the Governor

SECRETARY THOMAS F. HARRIS

1 instructed you to intervene, this agency learned of  
2 no additional facts to support violations; correct?

3 A I can't -- I can't speak to discussions  
4 that were -- had taken place between the Governor's  
5 Executive Counsel and mine.

6 Q Okay. And that would be Mr. Canfield?

7 A Yes.

8 Q So if there were facts available that  
9 supported this, don't you think Mr. Canfield would  
10 have reported those to you?

11 A I don't -- I would suppose so, but I  
12 can't say that for a fact.

13 Q But, sir, if you're -- we're talking  
14 about a lawsuit -- and you understand this -- that  
15 has never before been filed in the State of  
16 Louisiana. You understand that?

17 A Well, most lawsuits -- yes, I'll agree to  
18 that.

19 Q A suit on permitting under the Coastal  
20 Zone Management Act has never before been filed;  
21 correct?

22 A Correct.

23 Q And we talked earlier, Mr. Jarrett talked  
24 about there were 200 defendants. This was a big  
25 deal; right?



## SECRETARY THOMAS F. HARRIS

1 A Yes.

2 Q Okay. So if Mr. Canfield is learning of  
3 facts that could affect whether or not this agency  
4 is going to spend taxpayer dollars to intervene in  
5 lawsuit, clearly you and I can agree, as your  
6 Executive Counsel, he would have reported those  
7 facts to you.

8 A And I agree. I just couldn't state that  
9 as fact without having been party to the  
10 conversations.

11 Q Well, you weren't party to the  
12 conversations he had with the Governor's counsel.

13 A Correct.

14 Q Right.

15 So as you sit here today under oath, you  
16 can't identify a single fact that you, or anyone in  
17 this agency, learned between the time Mr. Canfield  
18 testified to the legislature and between the time  
19 that your agency intervened, that you learned to  
20 support these lawsuits?

21 A No.

22 Q So the only thing that changed between  
23 Mr. Canfield testifying in front of the legislature  
24 that there were no violations and the intervention,  
25 was the Governor told you to intervene?

## SECRETARY THOMAS F. HARRIS

1           A       Well, I did not have a conversation  
2 directly with the Governor. The Governor stated  
3 that he instructed me to intervene in the lawsuits,  
4 but I -- it was my understanding from conversations  
5 with my Executive Counsel that that's what the  
6 Governor's Office wanted.

7           Q       And I appreciate that clarification. I  
8 don't mean to try to change the facts.

9                    The only thing that had changed between  
10 the time Mr. Canfield testified and this agency  
11 intervening in the lawsuit was that the Governor's  
12 lawyer told your lawyer, "The Governor's  
13 instructing you to intervene?"

14          A       Correct.

15          Q       All right. So going back, you then  
16 intervened; you go to Mr. Carmouche's office. Tell  
17 me what you learned or what you were shown at  
18 Mr. Carmouche's office.

19          A       About some of the things that their  
20 investigation had uncovered regarding discharges to  
21 surface water, pictures of the before and after  
22 land loss. Those are the ones that come to mind  
23 first.

24          Q       Who was at this meeting you had with Mr.  
25 Carmouche?

## SECRETARY THOMAS F. HARRIS

1           A     John Carmouche and myself. I don't  
2 recall anyone else -- there was someone else there,  
3 but I don't remember his name.

4           Q     Were you given any documents to take with  
5 you?

6           A     No. No.

7           Q     What other communications, if any, have  
8 you or your agency had with Cameron Parish  
9 regarding this lawsuit?

10          A     None.

11          Q     You haven't spoken to any of the -- the  
12 government officials in Cameron Parish about this  
13 lawsuit?

14          A     No.

15          Q     So when Mr. Jarrett asked you earlier  
16 about not -- about what, if any, investigation you  
17 conducted, and you testified none, correct,  
18 internally?

19          A     Repeat that?

20          Q     When Mr. Jarrett, counsel for Shell,  
21 asked you earlier about conducting an  
22 investigation, you said none; correct?

23          A     Correct.

24          Q     And since the intervention has happened,  
25 you and your agency have not done any investigation

## SECRETARY THOMAS F. HARRIS

1 about the facts of these cases?

2 A We still don't have the manpower to do  
3 that.

4 Q So would it be accurate for me to say  
5 that what you have decided to do is farm out your  
6 responsibility for the Department of Natural  
7 Resources to private counsel, who isn't even  
8 retained by your office?

9 A That is an option provided for by law.

10 Q What is an option?

11 A The lead to take legal action, basically  
12 file lawsuit, as opposed to the administrative  
13 option.

14 Q Okay. I'm not asking about that.

15 I'm saying that you've made a choice,  
16 rather than the agency taking on responsibility for  
17 enforcing permits under the applicable laws and  
18 regulations, you have farmed out that  
19 responsibility to private lawyers representing the  
20 parishes?

21 A Yes. And really don't have the option  
22 of -- basically, I'm faced with the choice of not  
23 issuing any new permits and -- or taking new  
24 enforcement action and dedicating our entire staff  
25 to doing this review, or farming it out. And the

## SECRETARY THOMAS F. HARRIS

1 decision made was the latter.

2 Q Okay. And let's -- I'm glad you brought  
3 that up. Let's talk about this. Numerous times --  
4 in affidavits and testimony to the legislature,  
5 here today -- you consistently say we don't have  
6 the personnel to do the work; right?

7 A Correct.

8 Q But having 60 to \$70 million a year in  
9 your budget, and the ability to hire private  
10 lawyers in-house to look after these lawsuits, the  
11 fact is, you haven't done anything to support your  
12 intervention this lawsuit, have you?

13 A Really -- really have not.

14 Q Okay. So there's two things I want to  
15 talk about. One is the factual investigation. You  
16 keep saying, "We don't have time to hire the  
17 people," and you keep talking about bankers boxes  
18 of documents; right? That's one thing.

19 But there's a second part of that, too,  
20 isn't there? And that is to investigate whether or  
21 not the legal theory and interpretation that the  
22 lawyers for the Parish are giving this, whether or  
23 not that's accurate. That's the second thing you  
24 could have done; correct?

25 A Or the courts could make that

## SECRETARY THOMAS F. HARRIS

1 determination.

2 Q Well, but -- and you're not lawyer, but  
3 there's a rule called 863, in Louisiana, that says  
4 you can't file anything in court unless you have a  
5 good faith belief that it's true. We don't just  
6 file things and let courts figure it out. You  
7 understand that?

8 A Yes, I do --

9 Q And you'd agree with that; right?

10 A Yes.

11 Q So I guess what I'm asking is, even if I  
12 accept your theory that you don't have the staff to  
13 look through boxes of documents, could you, at  
14 least, take an hour or two hours -- Mr. Price is  
15 already on staff, you're paying for him -- and  
16 maybe just pick up the phone and call a former  
17 employee who worked back in the 1980s and say, "We  
18 got this potential of this lawsuit. Let me ask you  
19 how the actual operations ran back then." Did you  
20 ever think of doing that?

21 A I believe Mr. Price has interviewed a  
22 number of Office of Coastal Management employees.

23 Q And have you found employees who are in  
24 disagreement with the theory that you're pursuing  
25 in this lawsuit?

## SECRETARY THOMAS F. HARRIS

1           A       I guess you'd have to ask Mr. Price that.  
2 I'm not aware of employees disagreeing with it.

3           Q       Well, if the employees disagree, former  
4 employees disagree with your theory of the lawsuit,  
5 are you saying they're -- they don't know what  
6 they're talking about?

7           A       I said that I have not spoken to any  
8 former employees who have expressed disagreement  
9 with these lawsuits --

10          Q       I get that. But if former employees, who  
11 actually worked back in 1980, testify under oath  
12 that the plan as implemented was actually contrary  
13 to what you believe it should have been and what  
14 the lawsuit is about, would you tend to believe  
15 those employees?

16          A       I'm sure they're employees who are  
17 current employees who don't disagree with every  
18 decision that I make as Secretary.

19          Q       That's not what I asked.

20          A       Okay. What is your question?

21          Q       The question is, if there are former  
22 employees who don't agree with your interpretation  
23 of how the Act and the policy was implemented back  
24 in 1980, do you disagree with them?

25          A       I --

SECRETARY THOMAS F. HARRIS

1 MR. PRICE:

2 I'm going to object to the form because  
3 this is not, you know, 1980 as opposed to now,  
4 but anyway...

5 MR. PHILLIPS:

6 Yeah, I'm with you. There's two  
7 different stories; 1980 verses now.

8 THE WITNESS:

9 A I'm still trying to understand the  
10 question.

11 BY MR. PHILLIPS:

12 Q Let me reask it --

13 A Excuse me if I'm being obtuse --

14 Q No, no, no --

15 A -- but you're asking me what I think  
16 about what a former employee thinks?

17 Q Yeah, let me ask it a different way.

18 A Please.

19 Q We've already established, you weren't  
20 around in 1980 and nobody here was around in 1980;  
21 correct?

22 A That was -- I agree with that, yes.

23 Q Don't you think a reasonable thing to do,  
24 as the head of this agency, was to find out from  
25 somebody who was around how it worked in 1980?



## SECRETARY THOMAS F. HARRIS

1           A     And I know that there have been -- there  
2 have been discussions with people who were trained  
3 by folks who were here back at that time.

4           Q     Okay. But that's somebody who told  
5 somebody.

6           A     Yes.

7           Q     I'm saying, didn't you take the time --  
8 don't you think, before you go file or intervene in  
9 this lawsuit -- in many lawsuits, on this novel  
10 theory that's never before been espoused in any  
11 lawsuit, that it was reasonable to take a few hours  
12 to go back and find somebody who was actually here  
13 in 1980, and ask them how it was implemented?

14          A     I did not do that.

15          Q     I understand that. But don't you think  
16 that was an important thing you should have done.

17          A     No, I don't agree with that.

18          Q     Well, then, going back to Mr. Jarrett's  
19 questions about transparency, which you agreed  
20 with; correct?

21          A     Yes.

22          Q     Don't you think it's important to know  
23 what they told the operators, like my client,  
24 Chevron, who were out in the field about when a  
25 permit was and was not required?

SECRETARY THOMAS F. HARRIS

1           A       That's your opinion.

2           Q       No, I'm asking you. Don't you think it's  
3 important in this lawsuit that we know what the  
4 operators who were in the field in the early '80s  
5 were actually told by this agency about when  
6 permits were and were not required?

7           A       I'm sure you will pursue that in the --  
8 in the lawsuits. I did not feel the need to do so.

9           Q       I understand that, but you're not  
10 answering my question, sir.

11          A       I'm doing my best.

12          Q       Here's my question. It's very simple.  
13 Don't you think it's important?

14          A       No.

15          Q       Okay. It's not important what the people  
16 who actually implement the policy of this state say  
17 about what actually occurred?

18          A       It's not important that I personally  
19 interview them.

20          Q       That's not my question. And I'm trying  
21 to move on, but listen to me. It's a very simple  
22 question. I'm not asking about your personal  
23 interviews.

24          A       Okay.

25          Q       I don't expect the Secretary of the

## SECRETARY THOMAS F. HARRIS

1 agency to do that. I'm asking you a different  
2 question.

3 Don't you think it's important in the  
4 resolution of this lawsuit that we hear from the  
5 employees who actually worked back in the '80s  
6 about what the operators were told about when a  
7 permit was and was not required?

8 A I'm sure --

9 MR. PRICE:

10 I'll object to the form of the question.

11 THE WITNESS:

12 A And I'm sure that will come out in court.

13 BY MR. PHILLIPS:

14 Q Do you think it's important, yes or no?

15 A I'm sure you'll have the opportunity to  
16 pursue that in court.

17 Q And I will. And I'm a lawyer and I know  
18 that. Why won't you answer my question?

19 A I've tried.

20 Q You can't answer whether or not you think  
21 it's important?

22 MR. PRICE:

23 Asked and answered. I'm sorry, he  
24 already said he thought it was not important.

25 THE WITNESS:

SECRETARY THOMAS F. HARRIS

1           A       It was not important pertaining to the  
2 decision I had to make at the time, whether or not  
3 to intervene.

4 BY MR. PHILLIPS:

5           Q       Okay.

6           A       I do not think it was important it make  
7 that decision.

8           Q       All right. Let's move forward.

9           A       Good.

10          Q       Before this case is ultimately resolved,  
11 don't you think it's important we hear from these  
12 employees?

13          A       I'm sure you will in court.

14          Q       And so you say, yes, you think it is  
15 important?

16          A       Yes.

17          Q       Thank you.

18                   Now, you know -- you've been -- even  
19 though you're not a lawyer, you've been around long  
20 enough to know, as was discussed earlier, the  
21 lawsuit is allegations, and there's two sites to  
22 every story; right?

23          A       Yes.

24          Q       And this agency took absolutely zero  
25 effort to find out what the story was on behalf of

## SECRETARY THOMAS F. HARRIS

1 any of the operators that you were going to sue;  
2 correct?

3 A Repeat that one more time?

4 Q Yes, sir.

5 This agency, before you intervened, took  
6 absolutely zero effort -- under took zero effort --  
7 to find out what the position was of all of the  
8 defendants that were being sued?

9 A I can't think of a specific attempt, no.

10 Q And this agency certainly has a long list  
11 of phone numbers from all these companies that you  
12 could call any time you want; right?

13 A And most -- that's correct. Most of the  
14 employees at the companies have moved on, just like  
15 the DNR employees have.

16 Q Okay. But, sir, given a company -- and  
17 I'll take -- the Chevron company is the one that's  
18 been doing business in this state for over  
19 100 years. Before you intervened in a lawsuit  
20 that's making allegations that they violated laws  
21 over 30 years, again, as a responsible public  
22 servant, don't you think it was important to get  
23 the other side of the story; to say, "Hey, is this  
24 lawsuit really the right way to go?"

25 A I'm sure those details will come out in

SECRETARY THOMAS F. HARRIS

1 court, sir.

2 Q But, obviously, since you didn't  
3 undertake or ask anyone in your department to  
4 undertake to make at least one single phone call to  
5 a defendant, you didn't think it was important?

6 A Not for the decision I had to make that  
7 day.

8 Q You merely accepted the position of the  
9 Parish's lawyers about what this lawsuit -- about  
10 what the laws were and were not; correct?

11 A I accepted the recommendations from the  
12 Governor's Office and my Executive Counsel.

13 Q Now, you talked -- and I think we  
14 mentioned earlier, you talked about not having  
15 enough people to inspect all of these sites, but  
16 you do know that there were inspections made of  
17 Chevron's operations, do you not?

18 A Not specifically, no.

19 Q So before you intervened in these  
20 allegations, you didn't look and see what your own  
21 inspectors said about Chevron's operations?

22 A Are you asking if I perused Department  
23 files? I did not.

24 Q Do you know if Chevron has a history of  
25 permit violations in its operations in the state?

## SECRETARY THOMAS F. HARRIS

1 A I don't know the answer to that.

2 Q Do you know if the Chevron entities have  
3 a history of permit violations in its operations in  
4 Cameron Parish?

5 A I do not know the answer to that.

6 Q Are you aware of other demands that have  
7 been made on Chevron to comply with permit  
8 obligations or to seek permits?

9 A I don't have that information, no.

10 Q Do you know if Chevron ever refused to  
11 comply with the Agency's demands regarding coastal  
12 use permits?

13 A I don't know.

14 Q Do you know, are there currently any  
15 enforcement actions, other than this lawsuit,  
16 against Chevron, or any of its related entities,  
17 regarding coastal use permits?

18 A I don't know.

19 Q Who can I ask in this agency that would  
20 give me all those answers?

21 A If you're referring to coastal use permit  
22 violations, that would be Mr. Charles Reulet, who's  
23 the head of the Enforcement Division.

24 Q So if I depose Mr. Roulet, is he going to  
25 be able to tell me for this lawsuit what Chevron's

## SECRETARY THOMAS F. HARRIS

1 alleged to have done wrong?

2 A I don't know what Mr. Reulet will  
3 testify.

4 Q Well, so, my question to you, though,  
5 was -- look, I'm trying to -- let's say that I'm a  
6 good faith operator and I want to be in compliance  
7 with the law, and you've sued me. And now I want  
8 to come in to you, and I want to say, "Look, tell  
9 me what I did wrong." Who do I talk to in this  
10 agency? In this agency of 300 employees,  
11 \$70 million a year, surely, sir, isn't there one  
12 person I could come talk to to try and get in  
13 compliance, or am I going to have to go through  
14 this lawsuit?

15 A The matters alleged in the lawsuits are  
16 being handled in court. The day-to-day current  
17 permitting and enforcement issues are being handled  
18 by the Office of Coastal Management staff.

19 Q So whether I'm a company the size of  
20 Chevron, or I'm a small mom-and-pop who maybe has  
21 one well, there's nobody I can come to in the State  
22 of Louisiana to say, "I want to be in compliance;  
23 let's sit down and you show me what I did and I'll  
24 be in compliance." There's nobody who can tell me  
25 that?



## SECRETARY THOMAS F. HARRIS

1           A     I believe we can state for a fact the  
2 companies named in this lawsuit are subject to  
3 enforcement action in the opinion of the  
4 Department.

5           Q     Well, I know that. I've been sued.

6           A     Yeah.

7           Q     But I'm asking a different question. I'm  
8 asking the question of, if I want to come -- you  
9 want us to be in compliance; right?

10          A     Yes.

11          Q     If these operators are out of compliance  
12 and have violated permit obligations, you want them  
13 to be in compliance?

14          A     Yes.

15          Q     Okay. So normally under a system, if  
16 somebody has -- is out of compliance, as you  
17 described earlier, you give them a notice, they  
18 come in --

19          A     Yes.

20          Q     -- you tell them what they did wrong, and  
21 they have an opportunity to correct it; right?

22          A     Correct.

23          Q     So if I want to do that now, if I want to  
24 come in now and say, "Look, I don't want to go  
25 through a lawsuit and spend all this money and do

## SECRETARY THOMAS F. HARRIS

1 all these things, and take up all the resources;  
2 tell me what I did wrong," who can tell me that?

3 A Well, in this case, regarding Chevron, I  
4 think it's clear the matter is being handled --  
5 enforcement is being handled through the legal  
6 process. As far as operators not otherwise named  
7 in a lawsuit, they can come in and we can go  
8 through the file.

9 Q So you're definitely treating us  
10 differently than other operators?

11 A Well, I'd certainly --

12 Q Yes or no, please.

13 A I'd certainly say Chevron had the  
14 opportunity to come forward with this over the last  
15 30 years, and didn't do so.

16 Q With regard to compliance with CUPs,  
17 you're treating these defendants differently than  
18 you're treating operators in the ordinary course of  
19 business; correct?

20 A We're not aware of any permit violations  
21 of the other operators that are still unaddressed  
22 years later.

23 Q So if I want it know what I've done  
24 wrong, that's alleged in these lawsuits, you're  
25 telling me that I've got to go talk to the lawyers

## SECRETARY THOMAS F. HARRIS

1 for the Parish, the outside counsel?

2 A Well, you can -- specific to Chevron?

3 Q Any -- any operator, any defendant.

4 A Any defendant can come in to the Office  
5 of Coastal Management, and we'll go through the  
6 file. The case of these specific issues, these  
7 specific violations, they're being handled through  
8 the legal process.

9 Q That's my question. So in this -- for  
10 violations that are part of this lawsuit, if I want  
11 to get in compliance, I can't come to the  
12 Department of Natural Resources, with 300  
13 employees; I have to go to outside counsel for the  
14 Parish?

15 A After the suit's have been filed, yes.

16 Q So sitting here today, you can't answer  
17 what operations of Chevron are alleged to need a  
18 permit where Chevron did not request a permit?

19 A I don't have those specifics.

20 Q And nobody in your office does; correct?

21 A That's, I believe, all laid out in the  
22 lawsuit filings.

23 Q And you can't say what permits Chevron  
24 violated; correct?

25 A Not sitting here, no.

SECRETARY THOMAS F. HARRIS

1 Q And neither can anyone in this office;  
2 correct?

3 A Well, in some cases they were -- it was  
4 the failure to obtain the permit.

5 Q But I'm talking about specific permits.  
6 Are you aware of any specific permit violations  
7 that Chevron has?

8 A Not sitting here today.

9 Q Is there anyone in this office who can  
10 tell me that?

11 A I don't believe so.

12 Q What role are you playing in enforcing  
13 parishes who have not sued to try to be part of  
14 these lawsuits?

15 A I'm sorry. Could you repeat that?

16 Q Yes. What role are you playing in trying  
17 to force parishes who have decided not to sue to be  
18 part of these lawsuits?

19 A I'm not aware of forcing anyone to do  
20 anything.

21 Q Well, you gave a deposition down in  
22 Terrebonne Parish; right?

23 A Yes.

24 Q And you know Terrebonne Parish is being  
25 forced to be part of this by the Governor, and they

## SECRETARY THOMAS F. HARRIS

1 don't want to be; right?

2 MR. JOHN CARMOUCHE:

3 Object to the form.

4 THE WITNESS:

5 A I'd say that, acting as Secretary, that I  
6 acted on behalf of the citizens of the State and  
7 the residents of Terrebonne Parish.

8 BY MR. PHILLIPS:

9 Q Well, what if the residents of Terrebonne  
10 Parish, and their elected officials, don't want to  
11 be part of these lawsuits? Do you think they  
12 should be forced to?

13 A No. But I also think that the law  
14 provides me with the authority to do what I did.

15 Q Counsel asked you earlier about all the  
16 other causes of land loss.

17 A Uh-huh.

18 Q All the natural causes and other causes,  
19 and you agree that the agency is not seeking to  
20 hold any of the defendants responsible for any of  
21 those causes; correct?

22 A That's correct.

23 Q So if the evidence in this case comes up  
24 that parties -- experts in this case are trying to  
25 blame the defendants for causes that aren't their

SECRETARY THOMAS F. HARRIS

1 fault, you would certainly speak up against that,  
2 would you not?

3 A Repeat that question?

4 Q Sure.

5 If during the course of this case, if  
6 anybody tried to blame the defendants, cause the  
7 defendants to pay for land loss that wasn't caused  
8 by them, you would certainly speak up against that,  
9 would you not?

10 A If I did not believe it was caused by  
11 them, yes, I would.

12 Q You would agree, as a head of this  
13 regulatory agency, that the parties being regulated  
14 need fair notice, correct, of what the regulations  
15 of the state are?

16 A Yes.

17 Q And historically, over the 30 years that  
18 you've been involved in both the Department of  
19 Environmental Quality and this Department, the  
20 agencies strive to give fair notice to the  
21 regulated parties as to what is required; correct?

22 A Correct.

23 Q And you think, you would agree with me,  
24 it would not be fair to cast someone in judgment  
25 about a violation of a law or regulation without

SECRETARY THOMAS F. HARRIS

1 giving them fair notice?

2 A I agree.

3 Q And you understand that regulated parties  
4 often rely upon agencies to help guide them on what  
5 the regulations do and do not require?

6 A Yes.

7 Q And this Department does that for the oil  
8 and gas industry; correct?

9 A Correct.

10 Q On a daily basis -- and this goes way  
11 back, way before you were here -- this agency  
12 interacts on a daily basis with the regulated oil  
13 and gas industry to help explain what the  
14 regulations mean and how to comply with them?

15 A Yes.

16 Q And that's an important function of this  
17 agency?

18 A Correct.

19 Q Now, do you know who owns the land that  
20 is at issue in this lawsuits?

21 A I imagine there is a lot of different  
22 landowners.

23 Q Have you made any effort or asked any  
24 questions about who the landowners are?

25 A No, I haven't. I know some of the --

## SECRETARY THOMAS F. HARRIS

1 some of it was State land, and some's privately  
2 owned.

3 Q What is the position of this agency, and  
4 you as the head of this agency, for a private  
5 landowner who may not want some remediation that  
6 you're arguing for in this litigation?

7 A I'm trying to understand -- what --

8 Q Sure.

9 A -- are you asking again?

10 Q If there is some remediation that is  
11 being asked for in this -- let's just take an  
12 example. Let's say there's a canal, and you're  
13 arguing in this case that the canal should be  
14 filled in and the defendants pay for it. If it's  
15 on private land and the landowner doesn't want that  
16 canal filled in because he may use it for some  
17 purpose, maybe a business purpose, what is the  
18 position of this agency; are you going to force  
19 those landowners to accept these remedies?

20 A I can speak to what the Office of Coastal  
21 Management currently does regarding the filling of  
22 canals. We -- we certainly solicit the input of  
23 the property owners to what their wishes are.

24 Q Have you done that yet?

25 A On the -- on the lawsuits?



SECRETARY THOMAS F. HARRIS

1 Q In these lawsuits --

2 A Well --

3 Q -- have you submitted or requested the  
4 input of private landowners?

5 A That will -- that would be done when  
6 there is a specific activity proposed where -- it  
7 would be a little premature at this point.

8 Q So you're going to go try to get a jury  
9 to give you a bunch of money, and then you'll  
10 decide if you're actually going to use it for what  
11 you told them you're going to go use it for?

12 MR. JOHN CARMOUCHE:

13 Objection to form.

14 THE WITNESS:

15 A I believe ultimately the legislature will  
16 decide how the monies will be -- any potential  
17 proceeds would be distributed.

18 BY MR. PHILLIPS:

19 Q I'm just trying to see what this agency's  
20 policy is. If the State has money and it decides  
21 to use it for some remedy, and the landowner  
22 objects, is it this agency's position that you  
23 should force the remedy on that landowner?

24 A It wouldn't this be agency, anyway. It  
25 would be Coastal Restoration Projects under the

SECRETARY THOMAS F. HARRIS

1 Coastal Protection Restoration Authority.

2 Q I want to ask you about your  
3 understanding -- you said you were familiar with  
4 the SCLRMA?

5 A Yes.

6 Q When did you become familiar with it?

7 A Shortly after taking this job. I mean, I  
8 had heard of SCLRMA, I knew it was out there in my  
9 previous duties. I had no need to actually read  
10 that law.

11 Q What did you do to become familiar with  
12 it?

13 A Talk, read.

14 Q Okay. Talked to who?

15 A Attorneys.

16 Q What attorneys?

17 A Oh, Blake Canfield.

18 Q Okay. What did you read?

19 A He provided me with reading material.

20 Q Okay. What is your level of knowledge of  
21 SCLRMA?

22 A Moderate.

23 Q Did you undertake this effort to learn  
24 SCLRMA before or after the intervention?

25 A Some of both.

## SECRETARY THOMAS F. HARRIS

1 Q So let me ask you some questions about  
2 your understanding. If I'm a company, I'm  
3 operating in the field prior to 1980 -- and we  
4 talked about canals earlier, so let's use a canal  
5 as an example.

6 Let's say I dredge a canal in 1950. And  
7 the company -- whatever, my production doesn't work  
8 out, I've shut down; I didn't do any more  
9 operations. I shut down in 1960. I leave the  
10 site; I never come back, I never drill another well  
11 in the State of Louisiana, I'm never back again in  
12 Cameron Parish after 1960.

13 If that canal continues to exist after  
14 1980, are you saying that that operator who left  
15 the field in 1960 has to monitor that canal and  
16 then come back in 1980, when a new law is passed,  
17 to get a CUP?

18 A I typically ask attorneys for their  
19 interpretation of what the law says.

20 Q I'm trying to get an understanding of  
21 what you're suing for, because this is very  
22 important. You understand that the activities in  
23 these fields have some that are before 1980, some  
24 that are before and after, some that are after;  
25 correct?

SECRETARY THOMAS F. HARRIS

1           A     Yes.

2           Q     Okay.  So I'm trying to understand this  
3 agency, who is in charge of the permitting process  
4 for CUPs, if the factual scenario I just gave you  
5 where all the activity occurs before 1980, and the  
6 person leaves the field but a canal sits there for  
7 another 30 years, is it this agency's position that  
8 that company now has to come back in after 1980 and  
9 get a CUP?

10          A     I'm not --

11          MR. JOHN CARMOUCHE:

12                 Objection to the form, and the same exact  
13 question was asked by George about five hours  
14 ago.

15                 But subject to that.

16          MR. PHILLIPS:

17                 Go ahead.  You can answer.

18          THE WITNESS:

19           A     Typically, I depend on both legal and  
20 technical staff before making any decisions or  
21 statements on the position of the Department.  
22 That's not one that I came in here today having  
23 recently spent a whole lot of time looking in to.

24          BY MR. PHILLIPS:

25           Q     But you saw from the allegations earlier

## SECRETARY THOMAS F. HARRIS

1 you're intervening in a lawsuit that has those very  
2 allegations?

3 A Yes.

4 Q Okay. Well, do you believe that's a  
5 correct interpretation of SCLRMA or not?

6 MR. JOHN CARMOUCHE:

7 Object to the form.

8 THE WITNESS:

9 A I think the lawsuits, in general, cover a  
10 multitude of issues. I'm not prepared to delve  
11 deep into one specific hypothetical.

12 BY MR. PHILLIPS:

13 Q If I want to take a deposition of this  
14 agency and find out what the official position of  
15 this agency is regarding interpretations of when  
16 CUPs are and are not needed under different factual  
17 scenarios, who do I depose? It's not you,  
18 apparently.

19 A I would -- I would -- I would depend on  
20 Blake Canfield and Keith Lovell.

21 Q Okay. So if I ask you, sitting here  
22 today, a number of scenarios like I just asked you,  
23 you're not going to be able to answer?

24 A I run the Department; that doesn't make  
25 me an expert in every legal and technical field

SECRETARY THOMAS F. HARRIS

1 that we regulate.

2 Q Is it your understanding that remediation  
3 required under the Coastal -- under the -- under  
4 SCLRMA is required at the end of operations?

5 A Could you be more specific?

6 Q Yes, sir.

7 So if an operator is operating out there,  
8 and he needs to comply with SCLRMA or with a  
9 permit, that that is done at the end of operations;  
10 correct?

11 A That's -- that's my understanding, yes.

12 Q Has there been any coordination between  
13 your agency and CPRA regarding these lawsuits?

14 A No.

15 MR. PHILLIPS:

16 I want to attach as Exhibit #21 to the  
17 deposition what is entitled Response of  
18 Louisiana Department of Natural Resources to  
19 Chevron Defendants' First Request For  
20 Admissions.

21 (Document marked as T. HARRIS #21 for  
22 identification.)

23 BY MR. PHILLIPS:

24 Q I'll ask you, have you ever seen this  
25 before?

## SECRETARY THOMAS F. HARRIS

1 A Let me look at it, first.

2 Q This is a discovery response that's given  
3 in the lawsuit in response to request for  
4 admissions sent by Chevron and it's affiliated  
5 entities.

6 A I remember speaking with Mr. Price in  
7 general terms regarding some of these issues; first  
8 time I've seen the document itself.

9 Q Okay. If you would go to page 5 to  
10 Request for Admission Number 4. And what a request  
11 for admission does, a request is made, and you can  
12 either admit it or deny it. Okay?

13 A Uh-huh.

14 Q And see the request that is made is:  
15 Admit that you -- which is your agency -- did not  
16 perform any environmental testing or studies  
17 related to the activities that you allege in the  
18 lawsuit before filing your Petition.

19 You see that?

20 A Okay.

21 Q So it's asking, admit you didn't perform  
22 any testing before you intervened; right?

23 A Okay.

24 Q Now, you can read all of the response.  
25 It's a bunch of lawyer garble at the beginning,

## SECRETARY THOMAS F. HARRIS

1 there's lots of objections, and you can feel free  
2 to read through it. I want to ask you about the  
3 last paragraph where it says: Subject to and  
4 without waiving the foregoing objections, LDNR  
5 denies the request as written. And it goes on.  
6 Okay?

7           So when we say, "Admit you didn't do any  
8 testing," you deny it. Do you see that?

9           A     Yes.

10          Q     What testing has been done? If you deny  
11 it, that means some testing has been done; right?

12          A     Well, it goes on to state: DNR still  
13 further differs to the reports of its experts,  
14 which will be provided timely and in accordance  
15 with any deadlines imposed by the court or the Code  
16 of Civil Procedure.

17          Q     I got that. But go back to the request.  
18 It says: Admit that you did not perform any  
19 environmental testing or studies related to the  
20 activities that you allege in this lawsuit before  
21 filing your Petition.

22                Okay? So "this lawsuit" is the Cameron  
23 Parish versus Austerer lawsuit?

24          A     Yes.

25          Q     All right?



## SECRETARY THOMAS F. HARRIS

1           And it says specifically "before your  
2 filing your Petition", which is your Petition for  
3 Intervention. You understand that?

4           A     Yes.

5           Q     Okay. What testing did your agency do  
6 before filing your Petition for Intervention?

7           A     We did not perform any testing.

8           Q     So when in this -- in response to this  
9 when it's denied, that would not be accurate, would  
10 it?

11          A     Well --

12          Q     You should have -- if answered correctly,  
13 you should have admitted that you did not do any  
14 testing; correct?

15          A     Well, here -- which one is this,  
16 Number --

17          Q     Number 4.

18          A     "Subject to and without waiving foregoing  
19 objections, DNR denies and refers defendant to" --  
20 oh, excuse me -- "DNR still further defers to the  
21 report of its experts." I believe that's  
22 self-explanatory.

23          Q     Okay. But let me stop and ask you,  
24 there. I asked you 20 minutes ago, do you have any  
25 experts, and you said you have not retained any

SECRETARY THOMAS F. HARRIS

1 experts.

2 A We have --

3 Q Correct?

4 A We have not hired -- directly hired any  
5 experts. Yes, I stand by that.

6 Q So you have no experts. And there have  
7 been no expert reports issued in this case --

8 A We have not directly hired any experts.

9 Q Okay. So I agree with you.

10 So again, I go back to the request:  
11 Admit you did not perform environmental testing.

12 It doesn't say anything about hiring  
13 experts, does it?

14 A Uh-huh.

15 Q It's true that before filing your  
16 intervention, LDNR did not do any environmental  
17 test, did it?

18 MR. PRICE:

19 Excuse. I want object to the form. It's  
20 not what the request asks for.

21 MR. PHILLIPS:

22 Okay. I'll read it in full, then.

23 BY MR. PHILLIPS:

24 Q Is it true that you did not perform any  
25 environmental testing or studies related to the

## SECRETARY THOMAS F. HARRIS

1 activities that you allege in this lawsuit before  
2 filing your Petition?

3 That's the question.

4 A And our responses was we defer to the  
5 expert --

6 Q But you're -- you're leaving out the  
7 earlier sentence. You denied it. Just answer me  
8 this. Isn't it true that before filing your  
9 Petition you did not perform any environmental  
10 testing or studies related to the activities in  
11 this lawsuit?

12 A We defer to the reports.

13 Q Sir, I'm going to sit here and ask this  
14 question all day long. I'm asking you a question.  
15 Isn't it true that before filing your Petition,  
16 this agency did not perform any environmental  
17 testing or studies related to the activities in the  
18 lawsuit?

19 A We, ourselves, did not.

20 Q Okay. If you could you go to Number 6,  
21 please. And you've admitted to earlier questioning  
22 that no one in the Agency provided any notice of  
23 these lawsuits; correct?

24 A I'm sorry, that no one in the Agency,  
25 what?

SECRETARY THOMAS F. HARRIS

1 Q Provided any notice of these lawsuits.

2 A To who?

3 Q To any of the defendants before they were  
4 filed.

5 A Not that I'm aware of.

6 Q And no one in this -- no one from the  
7 Agency ever informed anyone that conducting  
8 activity prior were to 1980 required a coastal use  
9 permit. We've already covered that; correct?

10 A Yes.

11 Q Do you have any evidence that any of the  
12 alleged failures of the defendants, either to get a  
13 permit or to comply with permits, was done  
14 intentionally or in bad faith by any of the  
15 defendants?

16 A I can't speak to that.

17 Q So you have no evidence on that?

18 A No.

19 Q Sir, do you believe lawsuits are the best  
20 way to resolve issues?

21 MR. JOHN CARMOUCHE:

22 Objection to the form.

23 MR. PRICE:

24 Yeah, likewise.

25 THE WITNESS:

## SECRETARY THOMAS F. HARRIS

1           A     Like many things, the answer is, it  
2 depends.

3 BY MR. PHILLIPS:

4           Q     So do you think, from a regulatory  
5 standpoint, that lawsuits should be the last  
6 resort?

7           A     It's an option.

8           Q     Okay. But do you think it should be the  
9 last resort of all your options?

10          A     I wouldn't go as far as to say that.

11          Q     Do you understand that there's a trial  
12 currently scheduled in Cameron Parish in November  
13 of this year?

14          A     I didn't -- I knew that there was a date  
15 scheduled. I didn't -- I'm sure Mr. Price told me,  
16 but I did not remember that it was in November.

17          Q     Can you look in that camera there and  
18 tell the people of Cameron Parish that you will  
19 absolutely intend to be -- you will be at that  
20 trial in November?

21          A     I hadn't really thought about it.

22          Q     So you intervened in a big lawsuit with  
23 lots of defendants, never been done before; you  
24 send your lawyers down there, and they tell the  
25 judge down there, "We've got to have an immediate

## SECRETARY THOMAS F. HARRIS

1 trial, we've got to have an immediate trial. It's  
2 got to be this year," is what they told the judge.  
3 And you never sat there and thought about whether  
4 you -- the CEO, as you've described, of this \$70  
5 million agency -- whether you should actually go to  
6 trial?

7 A I'm not sure what role I would play  
8 sitting in the courtroom.

9 Q Okay. So looking into that camera there,  
10 you cannot look into that camera and tell the  
11 people of Cameron Parish, "I will be at that  
12 trial?"

13 A No, I can't.

14 MR. PHILLIPS:

15 Okay. Thank you, sir. I appreciate it.  
16 That's all the questions I have.

17 (Discussion off the record.)

18 EXAMINATION

19 BY MR. ZEIGER:

20 Q Good afternoon, Secretary Harris.

21 A Good afternoon.

22 Q As I mentioned earlier, I'm Jeff Zeiger  
23 from Kirkland and Ellis, and I represent Kerr-McGee  
24 Oil and Gas Onshore, LP. Kerr-McGee has been named  
25 as a successor in this action to Sun Oil Company

## SECRETARY THOMAS F. HARRIS

1 and Sun Texas Company.

2 A Okay.

3 Q Prior to intervening in this case, did  
4 you, or anyone on your staff, identify any activity  
5 that Kerr-McGee undertook in Hackberry -- in the  
6 Hackberry Field without a coastal use permit where  
7 you, or somebody on your staff, concluded that  
8 Kerr-McGee should have had a coastal use permit?

9 A I can't speak to any specific permit  
10 violations.

11 Q Okay. So the answer to my question is  
12 that prior to intervening, you, personally, did not  
13 identify anything that Kerr-McGee did in Hackberry  
14 where you personally contend that it should have  
15 had a coastal use permit before it undertook that  
16 activity; right?

17 A That's correct.

18 Q And to the best of your knowledge, has  
19 anybody on your staff identified anything that  
20 Kerr-McGee did in the Hackberry Field without a  
21 coastal use permit that they concluded that  
22 Kerr-McGee should have had a coastal use permit?

23 A I'm not aware of any specifics, no.

24 Q Same questions with respect to the Sun  
25 entities. Prior to intervening, did you or anybody

## SECRETARY THOMAS F. HARRIS

1 on your staff identify any activity that Sun Oil  
2 Company or Sun Texas Company undertook in the  
3 Hackberry Field without a coastal use permit that  
4 you contend they should have had a coastal use  
5 permit before doing?

6 A I cannot speak to any specifics, no.

7 Q So to answer my question, it's true that  
8 prior to intervening, you didn't identify any  
9 activity by a Sun entity without a coastal use  
10 permit for which you believe they should have had  
11 one; correct?

12 A That's correct.

13 Q Okay.

14 As of today have you or anybody on your  
15 staff, to the best of your knowledge, identified  
16 any activity by Kerr-McGee in Hackberry that you  
17 believe violated any permit?

18 A No. I'm not -- I have no specific  
19 knowledge of any such violation.

20 Q And as of today, have you or anybody on  
21 your staff identified any activity that Kerr-McGee  
22 did in the Hackberry Field that violated any law?

23 A No. I'm not aware of any such specifics.

24 Q And as of today, have you or anybody on  
25 your staff identified anything that Kerr-McGee did



## SECRETARY THOMAS F. HARRIS

1 in the Hackberry Field that violated any permit?

2 A I'm not aware of any specific permit  
3 violations, no.

4 Q Same questions with respect to Sun. As  
5 of today, have you or anybody on your staff  
6 identified anything that Sun did in the Hackberry  
7 Field that violated any law, regulation, or permit?

8 A I'm not aware of any specific violations,  
9 no.

10 Q Are you familiar with the concept of an  
11 After-the-fact Permit?

12 A Yes.

13 Q That's one of the regulatory tools that  
14 LDNR has as part of its compliance tool kit; right?

15 A That's correct.

16 Q To the best of your knowledge, has LDNR  
17 ever requested that either Kerr-McGee or Sun obtain  
18 an After-the-fact Permit with respect to any issues  
19 in the Hackberry Field?

20 A Not to my knowledge.

21 Q Earlier, Mr. Arceneaux asked you some  
22 questions about your personal knowledge regarding  
23 whether there had been any coastal use permit  
24 violations in the Hackberry Field. Do you recall  
25 that several hours ago?

## SECRETARY THOMAS F. HARRIS

1 A We've been here a while --

2 Q Okay.

3 A -- but I sort of remember that.

4 Q All right. And you said that you don't  
5 have any personal knowledge of any CUP violations  
6 in the Hackberry Field by any defendant; right?

7 A I don't have any specifics, no.

8 Q Okay. I want to ask you the same  
9 question with respect to unpermitted activity.

10 A Uh-huh.

11 Q Do you personally have any information  
12 regarding any activity by any defendant in the  
13 Hackberry Field that was done without a coastal use  
14 permit where you, or your staff, have concluded  
15 that it should have first obtained a coastal use  
16 permit?

17 A I'm not aware of any specific permit  
18 violations.

19 Q All right. Switching topics quickly.  
20 Has the Office of Coastal Management approved a  
21 coastal use permit application while you have been  
22 Secretary that you believe should not have been  
23 approved?

24 A No.

25 Q Are you aware of any coastal use permit

## SECRETARY THOMAS F. HARRIS

1 that the Office of Coastal Management approved for  
2 an oil and gas company that did not satisfy the  
3 necessary standard?

4 A Not to my knowledge.

5 Q Are you aware of any coastal use permit  
6 that the Office of Coastal Management approved for  
7 an oil and gas company that did not follow the  
8 required process?

9 A I certainly hope not. The answer is no.

10 Q Are you aware of any coastal use permit  
11 that the Office of Coastal Management approved for  
12 any oil and gas company that you believe was the  
13 result of any undue influence?

14 A No.

15 Q If a coastal use permit was approved for  
16 an oil and gas company as a result of improper  
17 influence, as Secretary of the LDNR, I assume you  
18 would take some steps and do something about it;  
19 right?

20 A I would.

21 Q And to the best of your recollection,  
22 have you ever been in that scenario where you  
23 concluded something, with respect to a coastal use  
24 permit, was improper and you took steps to remedy  
25 it?

## SECRETARY THOMAS F. HARRIS

1           A     I have not.

2           Q     All right. Mr. Phillips asked you a  
3 question about dredging -- let me see if I got this  
4 right -- that the operator completed dredging a  
5 canal in 1950, left in 1960. And then he asked  
6 you, in that scenario, would that operator whose  
7 long gone from Louisiana need to come back and get  
8 a coastal use permit after September 1980 for that  
9 canal to the extent it continued widening. Do you  
10 recall those questions?

11          A     Yes.

12          Q     And as I heard it, you said: I don't  
13 know the answer to that. I would need to go and  
14 ask my lawyers or my other staff member. Do you  
15 recall that?

16          A     I do. I do.

17          Q     Now, sir, if you don't know the answer to  
18 that question whether or an operator, long gone,  
19 would need to come back once the SCLRMA law was  
20 passed and get a coastal use permit for a  
21 preexisting canal, how would my client know,  
22 Kerr-McGee, if it had that obligation?

23          A     I don't know.

24          Q     Is there anybody -- strike that.  
25                 Was there ever any notice given to

## SECRETARY THOMAS F. HARRIS

1 Kerr-McGee, to Mr. Phillips' client Chevron, to Mr.  
2 Jarrett's client Shell, or anybody else in the  
3 industry, that in that scenario they would need to  
4 come back and get a coastal use permit even if they  
5 were long gone from the State of Louisiana?

6 A I don't know.

7 Q You're not aware of any; right?

8 A Not aware of any.

9 Q Finally, Mr. Phillips asked you some  
10 questions about discovery responses that you just  
11 worked through. Do you recall that?

12 A Yes.

13 Q Are you aware, sir, that Kerr-McGee  
14 served discovery responses on the LDNR on  
15 February 16, 2023?

16 A I'm sorry. Repeat that?

17 Q Yeah, I will.

18 A Please.

19 Q My client's Kerr-McGee; right?

20 A Uh-huh.

21 Q He just asked you about discovery --

22 A Yes.

23 Q -- that was served by Chevron and that  
24 LDNR responded to; right?

25 A Yes.

SECRETARY THOMAS F. HARRIS

1 Q You recall those questions?

2 A Yes.

3 Q Okay. My client, Kerr-McGee, has served  
4 discovery on LDNR, as well. Are you aware of that?

5 A No, I'm not.

6 Q Do you know -- and I'll represent to  
7 you that we have not received -- unlike  
8 Mr. Phillips, we have not received responses to  
9 certain of the discovery that we've served, even  
10 though it was served in mid-February; it's now more  
11 than two months later. Do you have any idea why  
12 LDNR won't respond to Kerr-McGee's discovery in  
13 this case?

14 A I do not.

15 Q All right. Who should I follow up with  
16 to figure that out?

17 MR. PRICE:

18 (Waving hand.)

19 BY MR. ZEIGER:

20 Q You're designating Mr. Price?

21 A Yes.

22 MR. ZEIGER:

23 All right. I have nothing further, in  
24 the spirit of getting done today. Thank you.

25 THE WITNESS:

SECRETARY THOMAS F. HARRIS

1 Thank you.

2 (Discussion off the record.)

3 EXAMINATION

4 BY MR. ISENBERG:

5 Q Good afternoon, Mr. Harris. My name is  
6 Craig Isenberg. I represent Hilcorp Energy Company.

7 Are you aware that Hilcorp operated in  
8 Hackberry Field?

9 A Yes.

10 Q Are you aware that Hilcorp operated  
11 in years 2000 to 2007?

12 A Wasn't specifically aware of that, but it  
13 would not surprise me in the least.

14 Q Okay. All right. You have no reason to  
15 disagree with that?

16 A Yes.

17 Q Are you also aware that another Hilcorp  
18 company actually owns the surface of most of the  
19 Operational Area in the Hackberry Field?

20 A I have no reason to disagree with that.

21 Q Were you aware of that before now?

22 A No, I was not.

23 Q All right. Now, before you, as the head  
24 of the LDNR, intervened in this suit, had you seen  
25 any evidence that Hilcorp had violated any coastal

## SECRETARY THOMAS F. HARRIS

1 use permits during its years of operations in the  
2 Hackberry Field?

3 A I had not.

4 Q And what about since the Petition was  
5 filed; so, in the last 7 years, have you seen any  
6 evidence that Hilcorp violated a coastal use permit  
7 during its years of operation?

8 A I have not seen any specific information  
9 to that effect.

10 Q Okay. Same questions with respect to  
11 activities that may have required a coastal use  
12 permit, but for which one was not obtained. Have  
13 you seen any evidence that Hilcorp engaged in that  
14 type of behavior?

15 A I have not seen any specific information  
16 to that effect.

17 Q Okay. Have you seen any evidence that  
18 Hilcorp has done anything wrong in terms of its  
19 management of the property as an owner?

20 A No, I'm not aware of any specific  
21 information.

22 Q Okay. Are you aware of a project that  
23 has occurred -- I think it started in the  
24 mid-2000s -- to actually build back land in the  
25 Hackberry Field?



## SECRETARY THOMAS F. HARRIS

1 A No, I was not aware of that.

2 Q Okay. So you were not aware that Cameron  
3 LNG began a project to take dredge material, and  
4 they actually entered into an agreement with  
5 Hilcorp, to build back land on the eastern side of  
6 the field in Hackberry?

7 A That's starting to -- that's starting to  
8 ring some bells. I don't remember any of the  
9 specifics, but I do remember the issue of dredge  
10 material --

11 Q Okay.

12 A -- and its ultimate disposition.

13 Q Did you know about that before you  
14 intervened in this lawsuit?

15 A No.

16 Q Before you intervened in the lawsuit, did  
17 you do any type of evaluation -- and not you  
18 personally, but did you do any investigation, or  
19 have someone do some investigation, to figure out  
20 if since the year 2000, when Hilcorp came onto the  
21 scene, whether there was more land loss or more  
22 land gain in the Hackberry Field?

23 A I had not seen any specific analysis like  
24 that, no.

25 Q And sitting here today, seven years after

## SECRETARY THOMAS F. HARRIS

1 you intervened, have you seen any analysis of that?

2 A No, I have not.

3 Q And you would imagine, though, that that  
4 information is out there to be had; correct?

5 A Yes. It's just a lot of Louisiana -- the  
6 only place I was previously aware of land being  
7 gained was at the mouth of the Atchafalaya.

8 Q Okay. So if land has been gained in the  
9 Hackberry Field over the last 20 years since  
10 Hilcorp has been the owner of the property, that  
11 would actually be an unusual thing?

12 A Yes, it would. I wanted to say, I can  
13 think of a Mardi Gras pass and a couple other  
14 places --

15 Q Right.

16 A -- but, yeah, it's pretty unusual to see  
17 land gain in coastal Louisiana.

18 Q Okay. Also very good thing; correct?

19 A It's a good thing, yes.

20 Q Now, one of the things that you said in  
21 response to questions -- and I believe you  
22 testified to this before the Senate -- was that the  
23 oil and gas operator should not be responsible for  
24 any land loss that was caused by other things;  
25 correct, by natural causes, by ship channels that

SECRETARY THOMAS F. HARRIS

1 aren't related to oil and gas?

2 MR. JOHN CARMOUCHE:

3 Object to the form.

4 BY MR. ISENBERG:

5 Q You agree with me on that, sir?

6 A Yeah. And I testified to that effect, as  
7 well, already.

8 Q And I'm assuming you would also agree  
9 that an individual oil and gas operator should not  
10 be penalized for damages that it didn't have  
11 anything to do with causing; correct?

12 A I would agree with that.

13 Q So, for example, if Hilcorp came onto the  
14 scene in the year 2000 and began operating, you  
15 don't think that Hilcorp is responsible for any  
16 land loss that occurred before it ever got there,  
17 do you?

18 MR. JOHN CARMOUCHE:

19 Objection to form.

20 THE WITNESS:

21 A Not unless they acquired a company who  
22 already had that liability.

23 BY MR. ISENBERG:

24 Q But under the -- under the coastal zone  
25 laws and under the coastal zone regulations, is

SECRETARY THOMAS F. HARRIS

1 there any basis for penalizing Hilcorp for things  
2 that happened before it ever began operating on the  
3 property?

4 MR. JOHN CARMOUCHE:

5 Object to the form.

6 THE WITNESS:

7 A I would consult with our attorneys on  
8 that kind of issue.

9 BY MR. ISENBERG:

10 Q You don't know?

11 A I don't know.

12 Q One thing that you've told us is, in your  
13 position -- which is obviously head of the  
14 Department of Natural Resources -- you think it's  
15 important to be fair to everyone that you deal  
16 with; correct?

17 A Yes, I agree with that.

18 Q Fair to owners; true?

19 A Fair to owners, fair to the public, fair  
20 to the residents, yes.

21 Q Okay. Fair to the oil and gas operators?

22 A Yes.

23 Q Okay.

24 And do you think it would be fair to have  
25 an oil and gas operator be held responsible for

SECRETARY THOMAS F. HARRIS

1 land loss that it did not cause?

2 MR. JOHN CARMOUCHE:

3 Object to the form.

4 MR. PRICE:

5 Object to form.

6 THE WITNESS:

7 A I would agree that would be fair.

8 Unfortunately, the law isn't always fair.

9 BY MR. ISENBERG:

10 Q You would agree it would be unfair?

11 A Yes.

12 MR. ISENBERG:

13 Okay. I think that's all I have. I  
14 promised I'd be short.

15 THE WITNESS:

16 You were.

17 (Discussion off the record.)

18 VIDEOGRAPHER:

19 Time now is 5:36 p.m. We're off the  
20 record.

21 (Recess taken at 5:36 p.m. Back on  
22 record at 5:47 p.m.)

23 VIDEOGRAPHER:

24 Time now is 5:47 p.m. We're back on the  
25 record.

## SECRETARY THOMAS F. HARRIS

## EXAMINATION

1  
2 BY MR. JOHN CARMOUCHE:

3 Q Secretary Harris, my name's John  
4 Carmouche, and I represent Cameron Parish, along  
5 with the Mudd Law Firm in Cameron. Good afternoon.

6 A Good afternoon.

7 Q Late, long day. Thank you for hanging in  
8 there.

9 You talked about a meeting you had with  
10 me. Since that meeting, there hasn't been another  
11 occasion prior to this deposition where I've sat  
12 with you and prepared you in any way, or gone over  
13 questions I was going to ask you. Is that correct?

14 A No. That is correct.

15 Q Okay. You were also asked, as CEO of the  
16 Office of Conservation, if you were going to go  
17 down and look the jury in the eye in Cameron  
18 Parish. Do you remember that question?

19 A Yes.

20 Q Okay. And they said you're a \$60  
21 million, basically, company. Do you remember that?

22 A Uh-huh.

23 Q Did anyone for these oil companies -- who  
24 are not million, billion dollar companies -- I  
25 don't know if you've looked at their profits for

## SECRETARY THOMAS F. HARRIS

1 over the last months, but they're billion, billion,  
2 billion, billion dollar companies -- did anyone at  
3 any of these major oil companies tell you that  
4 their CEO would care enough to go look and stare a  
5 jury of Cameron down and tell them that they didn't  
6 violate the law. Did anybody ever tell you that?

7 A No.

8 Q Sir, you -- you were shown a document and  
9 they make a big deal out of it -- not only here,  
10 but in a court of law -- a Memorandum of  
11 Understanding. Do you remember being shown that  
12 document?

13 A Yes.

14 Q And they went through it in detail,  
15 brutal detail. The only page I don't think they  
16 went over was the last, so I want to go over the  
17 last page, if you can pull that document out.

18 A I actually think it's close to the top.  
19 Yes.

20 Q Okay.

21 On the last page, sir, there's only  
22 really one sentence; the date it was signed July 8,  
23 1980?

24 A Yes.

25 Q That's a significant year, isn't it not?

## SECRETARY THOMAS F. HARRIS

1 A Yes, it is.

2 Q I mean, that's -- that's when the Coastal  
3 Zone Management of Louisiana decided to adopt a  
4 plan and enact a plan to make sure that the coast  
5 of Louisiana was protected and restored. Is that  
6 fair?

7 A That is.

8 Q You were also asked that isn't it true  
9 that the people who know -- that people know best  
10 if they were involved in the implementation of the  
11 plan. Do you remember that question?

12 A Uh-huh.

13 Q I'll ask the same question. Isn't it  
14 also important, sir, to rely upon the people who  
15 were involved in writing the Coastal Zone  
16 Management Plan of Louisiana?

17 A Yes.

18 Q Did anybody tell you, or do you know if  
19 Paul Templet was a person involved in writing the  
20 Coastal Zone Management Plan?

21 A No.

22 Q Do you know what happened at the  
23 legislature when Paul Templet tried to pass the  
24 first draft of the Coastal Zone Management?

25 A I have no idea.



## SECRETARY THOMAS F. HARRIS

1 Q You don't you know how many lobbyists  
2 these oil company's hired to fight him? Nobody  
3 ever told you that?

4 A I have no information regarding that at  
5 all.

6 Q Do you know if the first plan adopted by  
7 the Louisiana legislature lobbied by these oil  
8 companies was actually rejected by the federal  
9 government? Did anybody ever tell you that?

10 A I actually had heard that, that the  
11 first -- the first version was rejected, and they  
12 had to go back to the drawing board.

13 Q And then it came back to Paul Templet's  
14 version. You remember that?

15 A I wasn't aware --

16 Q Wasn't aware of that.

17 A -- there was a Paul Templet version.

18 Q Okay. So in 1980, it's coming into play.  
19 And so I want to direct your attention to the last  
20 page. Two names appear. Apparently, the oil  
21 companies -- the Governor at the time appointed Mr.  
22 Frank Ashby as the Secretary of Natural Resources.  
23 Do you know who Mr. Frank Ashby is?

24 A I do not.

25 Q Do you know that he was an independent --

## SECRETARY THOMAS F. HARRIS

1 since 1956, was an independent in the oil industry?

2 A No. I really know nothing about  
3 Mr. Ashby.

4 Q Do you know he was a board member and  
5 president of the Petroleum Landman's Association in  
6 1967 for the oil industry?

7 A I was not aware of that.

8 Q Do you know a man by the name of Ray  
9 Sutton?

10 A No. It says here he was the Commissioner  
11 of Conservation.

12 Q Did you know, or did any of these lawyers  
13 for these oil companies tell you, why Mr. Sutton  
14 was appointed as Office of Conservation, who they  
15 say in the '80s had the right to make the decision?  
16 You heard him say that, over and over. Did they  
17 tell you who Ray Sutton was and why he was  
18 appointed?

19 A Still have no idea.

20 Q Did you know that Ray Sutton worked for a  
21 company called Gulf Coast Premix Trucking, Inc.,  
22 who was a service company for all of these oil  
23 companies at this table today? Did you know that?

24 A No, I did not.

25 Q Did you know it was -- Gulf Coast Pre-Mix

## SECRETARY THOMAS F. HARRIS

1 Trucking, Inc. was owned by Francis "Benny"  
2 Benezette (sic), a brother of Governor Edwin  
3 Edwards, who was running at the time, campaign  
4 pilot at the time?

5 A No, I was not aware of that.

6 Q Do you know that after Edwin Edwards won  
7 governor, he named a former salesman of the waste  
8 hauler for the oil industry, Raymond Sutton, as the  
9 State Conservation Commissioner during this  
10 important part in history in Louisiana?

11 A No, I was not aware of that.

12 Q Do you know Mr. Clyde Vidrine?

13 A I've heard the name, but, no, I never met  
14 him.

15 Q He was an Edwin Edwards aide. Did you  
16 know that?

17 A I did.

18 Q Did you know that he wrote a book?

19 A I actually did not.

20 Q Did you know in his book, he says that  
21 the appointment of Raymond Sutton was secured  
22 through a \$125,000 campaign contribution from  
23 Mr. Benezette, given in the form of a -- given in  
24 the form of a shoe box full of cash. Did you know  
25 that?

SECRETARY THOMAS F. HARRIS

1           A     I had never heard that, no.

2           Q     Did you know Mr. Governor Edwin Edwards,  
3 when he was asked, says it wasn't nearly that  
4 amount of money. Did you know that?

5           A     I did not.

6           Q     So during this historical time of  
7 Louisiana's history in protecting the coast,  
8 Raymond Sutton, who's owner of a company -- he  
9 worked for's a salesman -- not an environmental  
10 person, no environmental history -- was a salesman  
11 for a trucking company who worked for the industry  
12 was appointed as the State Conservation  
13 Commissioner. That's this man right here on this  
14 document; correct?

15          A     I was not aware of that.

16          DEFENSE COUNSEL:

17                 Objection leading.

18 BY MR. JOHN CARMOUCHE:

19          Q     Did you know, sir, another important time  
20 that they brought up in the history of Louisiana  
21 was when 29-B was enacted in 1985/'86. Did you  
22 know that? I mean, they told you that.

23          A     Yes.

24          Q     And I -- I can tell you that the  
25 Commissioner appointed -- let me back up.

## SECRETARY THOMAS F. HARRIS

1           There's been publications that there were  
2 over 20,000 pits in the State of Louisiana where  
3 waste was dumped in the coastal zone of the State  
4 of Louisiana. Are you aware of those publications?

5           A     I had heard of it and forgotten the exact  
6 number, yeah.

7           Q     And during that time in 1985/'86, all of  
8 these pits were going to be closed, ignored, or  
9 that "blind spot" you talked about earlier. That's  
10 a critical time in Louisiana --

11          A     Uh-huh.

12          Q     -- correct?

13          A     It is, or was.

14          Q     Did you know that the Governor appointed  
15 Mr. Pat Batchelor as Commissioner of Conservation  
16 to take Mr. Ray Sutton's position in -- sometime in  
17 1985/'86 during this critical time?

18          A     I was not aware.

19          Q     Were you aware of Mr. Pat Batchelor's  
20 history and who he worked for?

21          A     No.

22          Q     I was fortunate to take his deposition,  
23 sir, before he passed. And he told me he worked  
24 for BP for 30 years in operating, in these fields,  
25 including Hackberry. Did you know that?

SECRETARY THOMAS F. HARRIS

1           A     No, I did not.

2           Q     Did any of these lawyers tell you that  
3 today before they started waving this Memorandum of  
4 Understanding around?

5           A     Didn't come up.

6           Q     Did they ever tell you that Mr. Pat  
7 Batchelor testified under oath that he did not  
8 know, nor -- and he was surprised to get a call to  
9 be Commissioner of Conservation?

10          MR. PHILLIPS:

11                 Leading. And ask -- can I say on the  
12 record this should be continuing?

13          MR. JOHN CARMOUCHE:

14                 Yes.

15          MR. ARCENEUX:

16                 And I'll make an objection to the form,  
17 insofar as talks about Mr. Batchelor's  
18 testimony, and make it continuing on any of  
19 the characterizations of what he said.

20          THE WITNESS:

21           A     No, I was not aware of that.

22          BY MR. JOHN CARMOUCHE:

23           Q     Did you know that he testified under oath  
24 that he did not require the oil companies to take  
25 one groundwater sample during the closure of those

SECRETARY THOMAS F. HARRIS

1 pits?

2 A Was not aware of that.

3 Q Were you aware that he testified under  
4 oath that closing these 20,000 pits in Louisiana,  
5 that he did not require the oil companies to turn  
6 in any samples?

7 A Was not aware of that.

8 Q Were you aware that he testified under  
9 oath that he relied upon his oil companies, people  
10 he worked for for 30 years, to tell him the truth?

11 A Did not know that.

12 MR. ARCENEUX:

13 Object to the form.

14 BY MR. JOHN CARMOUCHE:

15 Q Do you know how many pits have been  
16 sampled in Louisiana after Mr. Batchelor allowed  
17 them to close the pits the way they did?

18 A I don't.

19 Q Do you know how many pits that  
20 Mr. Batchelor allowed them to close are  
21 contaminated today?

22 A I do not have that number.

23 Q Did you see during Ray Sutton's term or  
24 Mr. Batchelor's term, have anybody given -- has  
25 anybody given you a permit, an in-lieu permit or

## SECRETARY THOMAS F. HARRIS

1 permit itself, where these commissioners required  
2 these oil companies to go back to these oilfields  
3 to get a permit to restore -- detoxify and restore  
4 our coast of Louisiana?

5 A Never seen such a document.

6 Q You were asked how many employees you  
7 had, and you said 311, and you had a \$60 million  
8 budget. We've gone over it. Have any these oil  
9 companies ever come to you, or have you ever seen  
10 any document of this agency or any agency, where  
11 the oil companies came and shared their research  
12 and their knowledge that they had of what they  
13 dumped in the marshes of Louisiana?

14 A Never.

15 MR. RHYMES:

16 Object to the form.

17 BY MR. JOHN CARMOUCHE:

18 Q Have you seen any documents or any  
19 letter, when the Coastal Zone Management or 29-B, a  
20 letter from these oil companies these, these major  
21 oil companies worth billions of dollars, to tell  
22 the agencies, "We have researchers all over the  
23 world who have investigated what we dumped, what  
24 causes and effects it will have on the coast of  
25 Louisiana?"



## SECRETARY THOMAS F. HARRIS

1 A I have not seen that.

2 Q Prior to intervening, Mr. Phillips sat in  
3 that chair right there, and he said why you didn't  
4 do something. My question is this: The lawsuit  
5 was filed under Bobby -- during Bobby Jindal's term  
6 by the parishes.

7 A Uh-huh.

8 Q You aware of that?

9 A Yes.

10 Q Okay. Not under John Bel -- Governor  
11 John Bel's term. Are you aware of that?

12 A Yes.

13 Q And then the AG, the Attorney General,  
14 intervened prior to DNR.

15 A I was aware that the AG, that Attorney  
16 General Jeff Landry had intervened before I had.

17 Q Now, after the lawsuits were filed, after  
18 the intervention by the Attorney General, I'm  
19 certain all of these big oil companies, and all of  
20 their lawyers, and all of their researchers around  
21 the world, came to you and talked to you about what  
22 they did was not wrong. Did that happen?

23 A No.

24 MR. ZEIGER:

25 Object to the form.

## SECRETARY THOMAS F. HARRIS

1 BY MR. JOHN CARMOUCHE:

2 Q So as we sit here after nine years of  
3 fighting the lawsuit, you get a question today why  
4 you didn't call them. You heard that?

5 A I did.

6 Q Sir, they told you, I think, and you  
7 admitted, that this is the first time in Louisiana  
8 history that a parish or the state, or state  
9 agency, has filed a lawsuit for violations for the  
10 Coastal Zone Management Act, and you said yes?

11 A Yes, that's correct.

12 Q And I think I agree with one thing they  
13 said today; it is a monumental decision, and it's a  
14 decision that will go down in history in the State  
15 of Louisiana. My question to you is, do you know  
16 how long Cameron waited to file a lawsuit?

17 A I don't.

18 Q Because that's why we're here; we're here  
19 for Cameron Parish.

20 A Uh-huh.

21 Q Do you know that Cameron Parish Police  
22 Jury had their Parish President call the industry  
23 prior to filing a lawsuit and invited them to come  
24 meet with them. Are you aware of that?

25 A No, I was not.

SECRETARY THOMAS F. HARRIS

1 Q Are you aware that the industry came to  
2 the meeting, and they said, "What do you want us to  
3 do, we don't want you to file a lawsuit." Cameron  
4 said, "We don't want to file a lawsuit. We want  
5 you to go look and research and come back with plan  
6 to solve the problems you solved (sic) in Cameron."  
7 Are you aware of that?

8 MR. ZEIGER:

9 Objection to form.

10 THE WITNESS:

11 A No, I was not.

12 BY MR. JOHN CARMOUCHE:

13 Q Are you aware that the industry never  
14 came back?

15 A No.

16 Q Not a call. Were you aware that they  
17 ever called?

18 A I was not aware of that.

19 Q Were you aware that after that meeting,  
20 or during that time, Cameron Parish waited  
21 two years -- two years -- to file a lawsuit?

22 MR. RHYMES:

23 Object to the form.

24 THE WITNESS:

25 A Was not aware of that either.

SECRETARY THOMAS F. HARRIS

1 BY MR. JOHN CARMOUCHE:

2 Q After that meeting with Cameron Parish,  
3 did any of these oil companies, and any of their  
4 lawyers, and any of their CEOs, come sit down with  
5 you and say, "We want to solve Cameron Parish's  
6 problems, Mr. Secretary Harris. Can we work with  
7 you?"

8 DEFENSE COUNSEL:

9 Object to the form.

10 THE WITNESS:

11 A No one's come with that proposal.

12 BY MR. JOHN CARMOUCHE:

13 Q And I just want to run through quickly,  
14 because it says what it says, but I've got to clear  
15 up the record. On page 2, you would not disagree  
16 that the Office of Conservation, DNR, will issue  
17 in-lieu permits only if the proposed activity is  
18 consistent with the Coastal Use Guidelines and the  
19 Louisiana Coastal Resources Program, and affected  
20 approved local programs. On page n-2.

21 MR. RHYMES:

22 Object to the form.

23 BY MR. JOHN CARMOUCHE:

24 Q This is the Memorandum of Understanding.

25 A Page n-2? Yes, I see that.

## SECRETARY THOMAS F. HARRIS

1 Q I read the last sentence.

2 A Yes.

3 Q Did I read that correctly?

4 A I believe so.

5 OC/DNR will issue in-lieu permits only if  
6 the proposed activities consistent with the Coastal  
7 Use Guidelines, the Louisiana Coastal Resources  
8 Program, and affected approved local programs.

9 Q If you turn to page 4, number 5, I'm  
10 going to ask if I read it correctly: Office of  
11 Conservation will notify CMS of any work permits or  
12 abandonments and will assure that such activities  
13 are in compliance with the Coastal Resource  
14 Program, the Guidelines, and affected local  
15 approved programs.

16 Did I read that correctly?

17 A Yes, that is correct.

18 Q Have you seen any documents, or has any  
19 of these oil companies today, showed you that  
20 Mr. Ray Sutton and Mr. Frank Ashby ever  
21 transpired -- transferred documentation to show  
22 that that actually happened?

23 A I've never seen any evidence of that ever  
24 occurring.

25 Q Page 5, it talks about field monitoring.

## SECRETARY THOMAS F. HARRIS

1 You were asked about enforcement, and I think you  
2 testified today is a lot different than it was in  
3 the past.

4 A (Nods head up and down.)

5 Q Are you aware that Patrick Batchelor, who  
6 was Commissioner of Conservation, testified under  
7 oath that under his term, he had only three  
8 inspectors for the entire State of Louisiana when  
9 he was Office of Conservation Commissioner?

10 A I was not aware of that.

11 Q Are you aware that he agreed -- and I'm  
12 going to ask you -- this is a self-reporting  
13 process; correct?

14 MR. RHYMES:

15 Object to the form.

16 THE WITNESS:

17 A Yes. As I testified earlier, we depend  
18 on the regulated communities to report their  
19 activities to us.

20 BY THE WITNESS:

21 Q I'll turn to page 6 and I think Mr.  
22 Jarrett said it correctly. He loves this public  
23 education part; I do, too.

24 I just went over who Ray Sutton and Frank  
25 Ashby were. They have an Office of Conservation

## SECRETARY THOMAS F. HARRIS

1 been working for BP for 30 years. Did anybody --  
2 did any oil company, that you've ever known or ever  
3 seen documents of, ever write to the Office of  
4 Conservation or DNR and say, "Oh, we read it. We  
5 just don't understand it?"

6 MR. RHYMES:

7 Object to the form.

8 BY MR. JOHN CARMOUCHE:

9 Q Have you seen any documents to that  
10 effect?

11 A No evidence of that.

12 Q Are you aware of people in their own  
13 industry who worked for these companies for  
14 30 years not educating them?

15 MR. ARCENEUX:

16 Objection; form.

17 THE WITNESS:

18 A I've -- I've never seen that.

19 BY MR. JOHN CARMOUCHE:

20 Q If you can pull out the Guidelines.

21 (Discussion off the record.)

22 BY MR. JOHN CARMOUCHE:

23 Q Before I get to that, sir, I want to ask  
24 you one more question. I mean, I want to ask you a  
25 question on the former DNR secretaries, who -- you

## SECRETARY THOMAS F. HARRIS

1 heard these people know the best; they know  
2 everything -- you've heard that constantly  
3 throughout this process today.

4 Did you know of a Mr. William Huls,  
5 H-U-L-S?

6 A No, I have -- I have never heard of him.

7 Q Do you know that he was a former DNR  
8 Secretary from 1977 to 1988, when Mr. Frank Ashby  
9 took over?

10 A No.

11 Q Did anybody ever tell you today that  
12 William Huls, former DNR Secretary, was sentenced  
13 to ten years for taking kickbacks?

14 A No, I was not aware of that.

15 Q Okay. Let's go to the Guidelines. This  
16 is 701B. It says: Conformance with applicable  
17 water/air quality laws, standards, and regulations,  
18 and with those other laws, standards and  
19 regulations which have been incorporated into the  
20 Coastal Resources Program, shall be deemed in  
21 conformance with the program except to the extent  
22 that these guidelines would oppose -- impose  
23 additional requirements.

24 I read B. Do you have any reason to  
25 disagree that I read that correctly?



## SECRETARY THOMAS F. HARRIS

1           A     I just got to 7071B. That is what it  
2 says.

3           Q     Thank you.

4                     If you go to 701H2. I think they covered  
5 H1.

6           A     I'm there.

7           Q     The systemic consideration process --  
8 which is the process they keep talking about --  
9 shall also result in a determination of those  
10 conditions necessary for the use to be in  
11 compliance with the guideline.

12                     Did I read that correctly?

13          A     Yes.

14          Q     If you go to the statute, 214.27.

15                     (Discussion off the record.)

16 BY MR. JOHN CARMOUCHE:

17          Q     So 214.27D --

18          A     Yes.

19          Q     -- the question is, I'm going read the  
20 first sentence and ask you if I read that  
21 correctly: The adopted guidelines shall be  
22 followed in the development of the state program  
23 and local program, and shall serve as criteria for  
24 the granting, conditioning, denying, revoking, or  
25 modifying of coastal use permits.

SECRETARY THOMAS F. HARRIS

1 Did I read that correctly?

2 A Yes, that's correct.

3 Q Turn to the next page, please, 9. It  
4 says: Minimize detrimental effects of foreseeable  
5 cumulative impacts on coastal resources from  
6 proposed or authorized uses.

7 Did I read that correctly?

8 MR. RHYMES:

9 Object to the form.

10 John, where are you reading from?

11 MR. JOHN CARMOUCHE:

12 From 9 on the next page, 214.27.9,  
13 "Minimize".

14 MR. RHYMES:

15 It's C.

16 MR. JOHN CARMOUCHE:

17 C, I'm sorry. C9.

18 THE WITNESS:

19 A Yes, that's correct.

20 BY MR. JOHN CARMOUCHE:

21 Q You were asked a lot about these  
22 lawsuits. Are you aware that every -- for  
23 nine years, every district court in the State of  
24 Louisiana, and every federal court, has ruled in  
25 favor of the parishes in the State of Louisiana?

## SECRETARY THOMAS F. HARRIS

1 MR. ARCENEUX:

2 Objection; form.

3 THE WITNESS:

4 A I was not aware.

5 BY MR. JOHN CARMOUCHE:

6 Q Are you aware -- you were asked about the  
7 Attorney General. Were you aware of the Attorney  
8 General ever objecting to anything filed by the  
9 State of Louisiana or the Parish?

10 A No.

11 Q You were asked also general questions  
12 today about specific permits. To be fair to you,  
13 you didn't go back prior to this deposition and  
14 read all the permits that were issued historically  
15 in the Hackberry Field. Is that correct?

16 A I haven't done any preparation at all for  
17 this deposition.

18 Q Thank you.

19 Sir, they also showed you, May of 1980, a  
20 Memorandum of Agreement between the Coastal  
21 Management Section of the Department of  
22 Transportation and the Department -- the  
23 Environmental Control Commission and Office of  
24 Environmental Affairs of the Department of Natural  
25 Resources. I'd ask again that you turn to the last

SECRETARY THOMAS F. HARRIS

1 page.

2 A Thank you.

3 Q Again --

4 A Yes.

5 Q -- Mr. Frank Ashby was not only the  
6 Department Secretary, he was also -- he signed this  
7 document as the Environmental Control Commission,  
8 Department of Natural Resources; correct?

9 A Yes, that's correct.

10 Q And Mr. Jim Porter -- do you know Mr. Jim  
11 Porter?

12 A I never had the pleasure of meeting him  
13 in person, but I've certainly heard the name.

14 Q And he signed this document as Office of  
15 Environmental Affairs, Department of Natural  
16 Resources?

17 A That's correct.

18 Q Do you know if, after Mr. Porter left his  
19 position, he became a lobbyist and the head of the  
20 oil and gas organizations of Louisiana?

21 A I had heard that.

22 MR. RHYMES:

23 Object to the form.

24 BY MR. JOHN CARMOUCHE:

25 Q Last question, sir. Have you ordered or

## SECRETARY THOMAS F. HARRIS

1 told anyone in your office to -- that you  
2 instructed them to violate the Coastal Zone  
3 Management Statute and the guidelines of this  
4 state?

5 A I've never done anything of the sort.

6 Q You didn't work for the industry for  
7 30 years, did you?

8 A No. Ever.

9 MR. JOHN CARMOUCHE:

10 That's all the questions I have, sir.  
11 Thank you.

12 THE WITNESS:

13 Thank you.

14 MR. ARCENEUX:

15 I've got a handful of follow-up  
16 questions.

17 (Discussion off the record.)

18 FURTHER EXAMINATION

19 BY MR. ARCENEUX:

20 Q Okay. In some of the earlier  
21 questioning, you responded -- I think it was when  
22 Mr. Jarrett was asking you questions, it may have  
23 been Mr. Phillips -- about the 200 oil companies  
24 who -- 200, plus or minus, I don't know the exact  
25 number -- oil companies who are named in the

## SECRETARY THOMAS F. HARRIS

1 lawsuits.

2 A Uh-huh.

3 Q And your testimony was that you saw 200  
4 as a small number, and you said: I point to the  
5 thousands who got it right.

6 Do you recall that testimony?

7 A Well, I asked the question when I first  
8 heard the number 200 companies were named in the  
9 lawsuit, I asked, to me, what was the obvious  
10 question, well, how many operators have there been?

11 And I don't remember the exact number.  
12 That was, you know, seven years ago, but the number  
13 was in the thousands. There had been thousands and  
14 thousands of -- I'd say tens of thousands of  
15 operators over the years in Louisiana.

16 Q Okay. Of all of those companies, do you  
17 know -- when you talk about those who got it right,  
18 do you know of any company who got a coastal use  
19 permit for the matters that are asserted as  
20 unpermitted -- impermissible, unpermitted  
21 activities in this case?

22 A I don't have that information.

23 Q Okay. And I think you told us earlier  
24 you're not aware of any company who got a permit or  
25 for whom the agency required a permit for

## SECRETARY THOMAS F. HARRIS

1 activities commenced before 1980; correct?

2 A No. And I wasn't here. But, no, I'm not  
3 aware of any specific companies.

4 Q You're not aware of any companies who got  
5 coastal use permits for pits other than in  
6 connection with closure activities that would  
7 require a coastal use permit?

8 A I'm not aware of any specifics, no.

9 Q Okay. Have you seen the map -- have you  
10 seen a map of the operational areas in the Auster  
11 case and in other lawsuits?

12 A Only the -- Bayou Gentilly Field is the  
13 only one I've seen that kind of specifics on.

14 Q Well, to look at Auster, for example,  
15 that's an area of some 5,000 acres that encompasses  
16 two entire oil and gas fields. Is that right?

17 A I -- I will take your word for that.

18 Q Okay. And I don't know that the Bayou  
19 Gentilly lawsuit -- are you aware of the fact that  
20 the lawsuit that includes the Bayou Gentilly Field  
21 actually includes at least three oilfields within  
22 it?

23 A I was not aware of that detail, no, sir.

24 Q Okay. Are you aware of any company who  
25 was getting permits in those fields for the

## SECRETARY THOMAS F. HARRIS

1 activities that the defendants in this room are  
2 alleged not to have gotten permits that were  
3 required?

4 A Not that I'm aware of.

5 Q You were asked some questions about these  
6 MOUs that we've talked about, the one with the  
7 Office of Conservation and the one with the  
8 Environmental Control Commission. Do you know what  
9 I'm talking about?

10 A Yes.

11 Q Okay. Do you know that both of those  
12 MOUs were part of the entire program submittal that  
13 was approved by NOAA in the federal government?

14 A I was not aware of that.

15 Q Okay. Are you aware of the fact that the  
16 program, as designed -- as designed and documented  
17 in the guidelines and in the statute, has been  
18 approved by the federal government for purposes of  
19 the Federal Coastal Zone Management Act?

20 A Wait, I'm sorry. It's late in the day,  
21 but would you please repeat that question?

22 Q And I'm probably a second behind you in  
23 terms of wants to get out of here, although it's a  
24 close race.

25 Are you aware that the Louisiana Coastal



## SECRETARY THOMAS F. HARRIS

1 Zone Management Plan -- Program, including its --  
2 the statute and the regulations that we saw earlier  
3 today, were approved by the federal government  
4 under the Federal Coastal Zone Management Act?

5 A Yes.

6 Q And it's pursuant to that that the State  
7 gets federal funding; correct?

8 A Correct.

9 Q And the State over -- I'm sorry -- NOAA  
10 requires periodic reviews of the program to ensure  
11 that the program is meeting the objectives and  
12 satisfying the federal obligations of coastal  
13 protection?

14 A That's periodic and recurring, yes.

15 Q Okay. And from time to time, your  
16 agency -- DNR, Office of Coastal Management, and  
17 its predecessors -- has provided responsive  
18 information to document how the program is being  
19 administered. Is that right?

20 A We have.

21 Q And over time, the program has constantly  
22 been deemed in compliance with the federal  
23 requirements?

24 A We have.

25 Q Do you know -- are you aware of the

## SECRETARY THOMAS F. HARRIS

1 process that was involved in the adoption of the  
2 1986 amendment to Statewide Order 29-B?

3 A I really am not aware of those details.

4 Q Okay. You wouldn't be familiar with the  
5 public hearings, the comment that was solicited?  
6 That was -- you had to reason to think that it  
7 wasn't duly promulgated under the applicable  
8 Louisiana laws?

9 A I can't imagine that it could have been,  
10 but, no, I'm certainly not -- have no reason to  
11 believe that.

12 MR. ARCENEUX:

13 I don't think I have any other questions.

14 MR. PHILLIPS:

15 I've got, hopefully, one question.

16 FURTHER EXAMINATION

17 BY MR. PHILLIPS:

18 Q Secretary Harris, Mr. Carmouche asked you  
19 during his questioning about several former  
20 employees of this agency and the State of  
21 Louisiana, and discussed their historic employment.  
22 Do you recall that?

23 A Uh-huh. Yes, I do.

24 Q Do you have any knowledge or information  
25 that any former executive or employee of the State

SECRETARY THOMAS F. HARRIS

1 of Louisiana did anything unlawful, unethical, or  
2 improper in carrying out their duties of enforcing  
3 the laws of the State of Louisiana?

4 A I have no specific information to support  
5 that.

6 Q Any general information?

7 A No.

8 Q Any information that any former or  
9 current employee of the State of Louisiana did  
10 anything unlawful, illegal, or improper in carrying  
11 out the duties of enforcing the Coastal Use Program  
12 for the State of Louisiana?

13 A I don't.

14 MR. PHILLIPS:

15 That's all the questions I have. Thank  
16 you.

17 MR. PRICE:

18 Last chance guys.

19 VIDEOGRAPHER:

20 The time now is 6:24 p.m. We're off the  
21 record.

22 (Testimony was concluded at 6:24 p.m.)

23 \* \* \*

24

25

## SECRETARY THOMAS F. HARRIS

## REPORTER'S PAGE

1  
2 I, LORI COBB, Certified Court Reporter in  
3 and for the State of Louisiana, (CCR #87248),  
4 Registered Professional Reporter (RPR #815782), as  
5 defined in Rule 28 of the Federal Rules of Civil  
6 Procedure and/or Article 1434(B) of the Louisiana  
7 Code of Civil Procedure, do hereby state on the  
8 Record:

9 That due to the interaction in the  
10 spontaneous discourse of this proceeding, dashes  
11 (--) have been used to indicate pauses, changes in  
12 thought, and/or talkovers; that same is the proper  
13 method for a transcription of proceedings, and that  
14 the dashes (--) do not indicate that words or  
15 phrases have been left out of this transcript;

16 That any spelling of words and/or names  
17 which could not be verified through reference  
18 material have been denoted with the parenthetical  
19 "(phonetic)";

20 That the parenthetical "(sic)" is used to  
21 denote when a witness/attorney stated a word or  
22 phrase that appears odd or erroneous to show that  
23 it was quoted exactly as it stands.

24  
25 LORI COBB, CCR, RPR, RSA

## SECRETARY THOMAS F. HARRIS

## 1 REPORTER'S CERTIFICATE

2  
3 This certification is valid only for a  
4 transcript accompanied by my original signature and  
5 original required seal on this page.

6 I, Lori Cobb, Certified Court Reporter in  
7 and for the State of Louisiana, (CCR #87248),  
8 Registered Professional Reporter (RPR #815782), do  
9 hereby certify that on Thursday, April 20, 2023,  
10 the VIDEOTAPE/ZOOM DEPOSITION OF SECRETARY THOMAS  
11 F. HARRIS was reported by me in stenographic  
12 shorthand, prepared and transcribed under my  
13 personal direction and supervision, and is a true  
14 and correct transcript to the best of my ability  
15 and understanding; that after having been duly  
16 sworn by me upon authority of R.S. 37:2554, the  
17 named witness did testify as hereinbefore set forth  
18 in the foregoing 338 pages; and that the transcript  
19 has been prepared in compliance with transcript  
20 format guidelines required by statute or by Rules  
21 of the Board;

22 That I am informed about the complete  
23 arrangement, financial or otherwise, with the  
24 person or entity making arrangements for deposition  
25 services and I have acted in compliance with the

## SECRETARY THOMAS F. HARRIS

1 prohibition on contractual relationships, as  
2 defined by Louisiana Code of Civil Procedure  
3 Article 1434 and in Rules and Advisory Opinions of  
4 the Board; and that I have no actual knowledge of  
5 any prohibited employment or contractual  
6 relationship, direct or indirect, between a court  
7 reporting firm and any party litigant in this  
8 matter, nor is there any such relationship between  
9 myself and a party litigant in this matter;

10           That I am not related to counsel or to  
11 the parties herein, nor am I otherwise interested  
12 in the outcome of this matter.

13           SIGNED THIS THE 9TH DAY OF MAY, 2023.

14  
15  
16                           LORI COBB, CCR, RPR, RSA  
17  
18  
19  
20  
21  
22  
23  
24  
25

SECRETARY THOMAS F. HARRIS

ACKNOWLEDGMENT OF WITNESS

I, SECRETARY THOMAS F. HARRIS, do hereby certify that I have read the foregoing pages and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet below:

SECRETARY THOMAS F. HARRIS DATE

Subscribed and sworn to before me this the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

My commission expires: \_\_\_\_\_

Notary Public

SECRETARY THOMAS F. HARRIS

1 ERRATA SHEET FOR THE  
 2 VIDEOTAPE/ZOOM DEPOSITION OF  
 3 SECRETARY THOMAS F. HARRIS  
 Taken on Thursday, April 20, 2023

4	PAGE	LINE	CHANGE
5	_____	_____	_____
6	_____	_____	_____
7	_____	_____	_____
8	_____	_____	_____
9	_____	_____	_____
10	_____	_____	_____
11	_____	_____	_____
12	_____	_____	_____
13	_____	_____	_____
14	_____	_____	_____
15	_____	_____	_____
16	_____	_____	_____
17	_____	_____	_____
18	_____	_____	_____
19	_____	_____	_____
20	_____	_____	_____
21	_____	_____	_____
22	_____	_____	_____
23	_____	_____	_____
24	_____	_____	_____
25	SECRETARY THOMAS F. HARRIS		DATE