

No. S-224947
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
(BEFORE THE EXAMINER)

Vancouver, BC
June 1, 2023

BETWEEN:

MARY REYNOLDS

Plaintiff

AND:

**DEEPWATER RECOVERY LTD., MARK JURISICH, JOHN DOE #1,
JOHN DOE #2, JOHN DOE #3, and JOHN DOE #4**

Defendants

**CROSS-EXAMINATION ON AFFIDAVIT
OF
MARK JURISICH
(By Cns1 J. Grat1)**

COPY



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**CROSS-EXAMINATION ON AFFIDAVIT
OF
MARK JURISICH
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June 1, 2023

Vancouver, BC

(PROCEEDINGS COMMENCED AT 10:00 A.M.)

MARK JURISICH, duly affirmed.

CROSS-EXAMINATION BY CNSL J. GRATL:

1 Q Sir, could you spell your name, please, for the
record?

A Mark, M-a-r-k.

2 Q Yes.

A Last name Jurisich, J-u-r-i-s-i-c-h.

3 Q And I see you've got a bit of an accent. What's
your accent?

A Australian.

4 Q Oh, okay. Are you a citizen, then, of Australia?

A Yeah.

5 Q Okay. Now, you're the owner, then, are you of
Deep Water Recovery?

A I'm one of the shareholders.

6 Q Not the -- not the sole shareholder?

A No. No.

7 Q Okay. And then are you the majority shareholder?

A Yeah.

8 Q And then are you also a majority shareholder of
the other Deep Water Recovery company?

A I'm not familiar with another Deep Water Recovery

1 company.

2 9 Q Well, the one that owns the property.

3 A Union Bay Industries?

4 10 Q Yes. Are you the owner of Union Bay Industries?

5 A Yes. Myself and the two shareholders.

6 11 Q Oh, okay. And you're a majority owner of Union

7 Bay Industries as well?

8 A M'mm-hmm.

9 12 Q You've got to articulate the -- your response in

10 the affirmative --

11 A Yes.

12 13 Q -- rather than saying "m'mm-hmm." It's translated

13 as a series of Ms or Hs --

14 A Okay.

15 14 Q -- onto the transcript.

16 A Right.

17 15 Q So you need to say "yes" or at least "yeah" or

18 "sure" or something like that.

19 A Right. Right.

20 16 Q I'm showing you a letter dated May 26th, 2022,

21 signed by your counsel, Matthew Swanson.

22 A M'mm-hmm.

23 17 Q Do you recognize this letter?

24 A Possibly if I read through it. Yes, I believe so.

25 18 Q Okay. This letter was sent on your direction;

1 right?

2 A Correct.

3 19 Q On behalf of Deep Water Recovery Ltd.?

4 A That would be correct.

5 20 Q And it's directed to Carla Conkin of Conkin
6 Reynolds. You appreciate she's a lawyer; right?

7 A That's my understanding, yes.

8 21 Q And also it's directed to West Coast Environmental
9 Law?

10 A Correct.

11 22 Q Okay. And you know that's a nonprofit
12 organization, the purpose of which is to protect
13 the environment by using legal means; right?

14 A I'm not familiar with what they do.

15 23 Q Oh, you never went on their website?

16 A No.

17 24 Q But you directed your lawyer to send them a
18 letter?

19 A It's possible, yes, because of maybe information
20 we received that they were representing somebody.

21 25 Q Oh, I see.

22 A What is CCOBS.

23 26 Q Okay. Did you do any research into West Coast
24 Environmental Law?

25 A Not that I recall.

1 27 Q Okay. So there you sent a letter to a Carla
2 Conkin, to the attention of Carla Conkin. It says
3 on the second paragraph:

4 "We understand you are counsel for a group
5 called the Concerned Citizens of Baynes
6 Sound."

7 Do you see that?

8 A No, I don't.

9 28 Q At the --

10 A You said second paragraph?

11 29 Q -- second paragraph of the letter.

12 A Page 1?

13 30 Q Yeah.

14 A Okay. Okay.

15 31 Q Okay. So the Concerned Citizens of Baynes Sound,
16 that's a nonprofit group; right?

17 A I don't know what they are. I don't know if
18 they're a registered group. I don't know if
19 they're a nonprofit. I don't -- I don't know what
20 their legal status is.

21 32 Q You don't know anything about them?

22 A No. Their legal status, I do not.

23 33 Q Okay. Well, what do you know about them?

24 A That it's two or three people.

25 34 Q Okay. There it says some of its members including

1 Ashlee Anne and Marilynne Manning.

2 A M'mm-hmm.

3 35 Q Are those the two people?

4 A Oh, I think there is probably a couple more.

5 36 Q Oh, and who are they?

6 A Ray Rewcastle.

7 37 Q Anyone else?

8 A Robert Kerr.

9 38 Q Okay. And anybody aside from those four?

10 A Not that I'm aware of.

11 39 Q Okay. And so you've done some research into that

12 group?

13 A Well, we see them on the television.

14 40 Q Okay. Anything else?

15 A Not that I can think of right now, no.

16 41 Q How about the internet? Have you been on the

17 internet to find out information about --

18 A No.

19 42 Q -- this group, CCOBS?

20 A No. I have not, no.

21 43 Q Okay. Now, this letter concerns comments made by

22 CCOBS that have been repeated and republished on a

23 website called "All Things Union Bay" and various

24 media outlets; right?

25 A I presume so.

1 44 Q Well, don't presume so. This is your letter sent
2 on your behalf, right, at your direction?

3 A Okay.

4 45 Q Yes? Is it?

5 A Let me read the letter here because we're going
6 back some time.

7 46 Q Sure.

8 A Okay.

9 47 Q Could you repeat the question again?

10 A Yes. The letter concerns comments made by CCOBS
11 that were repeated and republished on a website
12 called "All Things Union Bay" and by various news
13 outlets; right?

14 A Okay.

15 48 Q Yes? You agree with that?

16 A Confirm, yes.

17 49 Q Okay. And then it lists a number of news outlets
18 and provides some website addresses; right?

19 A Correct.

20 50 Q On which the comments were repeated and re -- and
21 published?

22 A Okay.

23 51 Q Yes? You see there's a list of websites that goes
24 over to page 2? I'm counting eight websites with
25 which this letter takes issue.

1 A Okay.

2 52 Q You agree with that?

3 A Could you repeat the statement again?

4 53 Q Well, there are eight websites listed there with

5 which this letter takes issue.

6 A If these are the references here, I'm seeing one,

7 two, three, four, five, six.

8 54 Q Yes, and then two on page 1, makes eight.

9 A Okay. Okay.

10 55 Q You'll agree with my arithmetic?

11 A Yes.

12 56 Q Okay. So there are eight websites listed --

13 A M'mm-hmm.

14 57 Q -- with which this letter takes issue.

15 A Okay.

16 58 Q Do you agree?

17 A Yes.

18 59 Q Okay. And then the letter proceeds on pages 2, 3,

19 4, 5, and 6 to set out some specific comments

20 published on those websites that you find

21 objectionable, and by "you," I mean Deep Water

22 Recovery Ltd.; isn't that correct?

23 A Correct.

24 60 Q Okay. Now, if I can ask you to turn to page 6 --

25 A Okay.

1 61 Q -- your letter here makes some statements of fact,
2 and I'm just going to read this out to you so you
3 can confirm whether I've read it accurately.

4 A Okay.

5 62 Q "Contrary to the statements --"
6 that is to say, all of the enumerated passages
7 from those eight websites.

8 "Contrary to the statements, Deep Water is not
9 a 'pop-up shipbreaking operation' that is
10 performing work on 'toxic ships' containing
11 'hazardous materials.' Deep Water is not
12 'threatening Baynes Sound' and there's no
13 'risk to human and environmental health'
14 either due to 'asbestos,' 'heavy metals,'
15 'PCBs,' or 'other materials on old vessels.'

16 The CCOBS statement that Deep Water is
17 'leaching asbestos and other hazardous
18 materials into the ocean' is entirely
19 unfounded. Further, Deep Water has not and
20 is not conducting its operations on raw land,
21 nor is it using 'hay bales for environmental
22 spill containment.' There are no 'vessels
23 resting on the ocean bed scraping lead
24 paint,' and Deep Water is not 'killing any
25 ocean vegetation.'"

1 Did I read that correctly?

2 A Yes.

3 63 Q And then over the page, it says:

4 "Finally Deep Water has not conducted any
5 'excavation without permits,' nor has it
6 diverted a creek. It is not undertaking
7 non-compliant activities on the foreshore
8 lease, and it is Deep Water's position that
9 it does not contravene the Comox Valley
10 Regional District's bylaws."

11 Now, those are all statements that you instructed
12 your counsel to communicate to others on your
13 behalf; right?

14 A Correct.

15 64 Q Right. To CCOBS and all of its members; correct?

16 A Correct.

17 65 Q And then the letter carries on at page 7 to demand
18 that CCOBS and anyone else and everyone else who:

19 "Contributed to publish or republish the
20 defamatory comments immediately cease and
21 desist from making further defamatory,
22 libellous, false, and/or disparaging remarks
23 about Deep Water and its operations and
24 demands a complete retraction of the
25 defamatory comments CCOBS has made to third

1 parties and that CCOBS take immediate steps
2 with the parties to whom the statements were
3 made as well as any and all internet service
4 providers, news databases, and standard
5 search engines to have all archived and
6 cached copies of the statements either
7 deleted, corrected, or made no longer
8 accessible via the internet.

9 Deep Water requires evidence that these
10 requests have been -- all been completed and
11 complied with. And if CCOBS fails to take
12 the above noted steps by 12:00 P.M. on
13 May 31st, 2022, we expect to receive
14 instructions from Deep Water to immediately
15 take all necessary steps to protect Deep
16 Water's interests and to prevent further
17 harmful conduct which would include but not
18 be limited to pursuing injunctive relief and
19 commencing legal proceedings against CCOBS --
20 against CCOBS seeking general, aggravated,
21 punitive, and special damages."

22 Have I got that correct?

23 A Yes.

24 66 Q And so that's a letter that you instructed your
25 counsel to send; right?

1 A M'mm-hmm.

2 67 Q Threatening to sue CCOBS and its members for
3 defamation; right?

4 A No.

5 68 Q No? What is that threat then?

6 A I think our intention is to stop the spreading of
7 misinformation. It doesn't have anything to do
8 with defamation.

9 69 Q It says the word "defamation" in there, doesn't
10 it?

11 A Well, it may do. I don't know where you read
12 that, but if that's the case --

13 70 Q Oh, it says here "As a result --" this is on
14 page 7, sir.

15 A Okay.

16 71 Q Third full paragraph.

17 A Which paragraph?

18 72 Q Page 7, third full paragraph.

19 A Third full paragraph?

20 73 Q Yes.

21 "All of the statements as outlined above are
22 untrue and unequivocally denied. Those
23 statements have and will continue to cause
24 damage to Deep Water's reputation. As a
25 result, the CCOBS statements are defamatory."

1 You see that?

2 A M'mm-hmm.

3 74 Q Yes? You see that?

4 A Yes.

5 75 Q All right. So you're saying that these statements
6 are defamatory and that you're threatening to sue?

7 A Not for defamation.

8 76 Q Oh, you're saying not for defamation?

9 A Well, what we are -- the intention of this
10 document was to stop the spreading of
11 misinformation.

12 77 Q To stop the spreading of information that --

13 A Misinformation.

14 78 Q -- you say is untrue?

15 A That is correct.

16 79 Q Okay. Right. So that is threatening to take a
17 legal action against expressive activity; right?

18 A I wouldn't agree with that statement.

19 80 Q Which part of it don't you agree with?

20 A I would interpret defamation as being something
21 else.

22 81 Q You're threatening in this letter to take legal
23 action; right?

24 A Potentially.

25 82 Q Well, doesn't it say, we expect to receive

1 instructions if you don't take -- immediately take
2 all the steps that we're demanding you take?

3 A I don't know if we have.

4 83 Q Sir, doesn't the letter say "We expect to receive
5 instructions from Deep Water to immediately take
6 all necessarily steps to protect Deep Water's
7 interests by taking legal action"; right?

8 A The letter states that, yes.

9 84 Q Yes. Now, you're saying that was a -- that was a
10 bluff? You didn't actually intend to take legal
11 action?

12 A No, I'm not saying that.

13 85 Q Was it an empty threat, or was it a real threat?

14 A I wouldn't use the word "threat." I don't think
15 it was a threat.

16 86 Q You don't think that was a threat? What word
17 would you use to describe that? A promise?

18 A No. I would refer to it as an advisory letter.

19 87 Q Oh, no --

20 A This is our position.

21 88 Q Okay. The advice is --

22 A A threat is strong language I would suggest.

23 89 Q The advice is if you -- here's the advice we're
24 giving you: If you don't stop making these --
25 giving these -- making these statements, we will

1 sue you. That's the advice, is it?

2 A I wouldn't call it advice. I would say it's a
3 notice.

4 90 Q Oh, yes. And the notice is: Take notice that if
5 you don't stop making these remarks, we will sue
6 you. Is that the notice?

7 A I would phrase it differently.

8 91 Q How would you phrase it, sir? I would like your
9 assistance in characterizing this letter.

10 A Well, I would suggest that it keeps our options
11 open --

12 92 Q Is that --

13 A -- to pursue the matter.

14 93 Q You're writing this letter in order to keep your
15 options open?

16 A Well, I think this is a first step in requesting
17 that these people stop spreading misinformation.

18 94 Q I just want to get a sense of how you use language
19 to describe your own conduct. You're saying this
20 is not a threat, it's advice and notice. And when
21 I ask you is it advice or notice that we'll
22 threat -- we'll sue you if you don't stop making
23 these remarks, you say, no, I don't agree with
24 that characterization?

25 A I would maybe characterize it differently as I

1 think I just have.

2 95 Q Okay. I just want to make sure that you're given
3 a full opportunity to provide your
4 characterization of your own conduct.

5 A M'mm-hmm.

6 96 Q Do you feel as though you've had a full
7 opportunity now to characterize what this letter
8 means?

9 A I would -- I would say that this letter was
10 designed to express our position with regard to
11 the misinformation.

12 97 Q Yes. And what I want to get at here is this
13 business about:

14 "We expect to receive instructions to take all
15 necessary steps which would include but not
16 be limited to pursuing injunctive relief and
17 commencing legal proceedings."

18 Do you see that?

19 A Right. That's a statement.

20 98 Q That's a statement?

21 A It's not an instruction.

22 99 Q Okay. And I want to know what you were thinking
23 in your mind when you instructed your lawyer to
24 send this. That this wasn't a threat:

25 "We will immediately pursue injunctive relief

1 and commence legal proceedings against
2 CCOBS."

3 You're saying that's not a threat?

4 A I wouldn't interpret that as a threat, no.

5 100 Q Okay. And you're saying it's not advice or a
6 notice that you will take legal action if the
7 remarks don't stop and the retractions aren't
8 made?

9 A Well, I think it suggests we could.

10 101 Q Oh, okay. So you agree, then, that it's advice or
11 a notice that you're going to take legal action if
12 the remarks don't stop?

13 A No.

14 102 Q Okay.

15 A It suggests we could.

16 CNSL J. GRATL: Now, I want to mark that document as the next
17 exhibit, please. This letter here. The advisory
18 letter dated May 26th. We can describe it for the
19 record as a letter setting out Deep Water
20 Recovery's position.

21 **EXHIBIT 1: Letter dated May 26, 2022, setting out**
22 **Deep Water Recovery's position**

23 CNSL J. GRATL:

24 103 Q Now, I'm showing you -- if you could pass that
25 back. Thank you.

1 Now, I'm showing you another letter dated
2 May 26th, 2022, also sent by your legal counsel.
3 This one's to Ray Rewcastle. Do you see that?
4 A Okay.
5 104 Q Do you agree that's what it is?
6 A Yes.
7 105 Q All right. Now, the subject line is "Defamatory
8 comments made by Ray Rewcastle"; right?
9 A Correct.
10 106 Q Okay. So, now, you appreciate defamation is a
11 cause of action in law? You can sue for
12 defamation?
13 A Yes, I presume you can.
14 107 Q Yeah. Okay. So that's --
15 A I'm not an attorney, but...
16 108 Q So that's the subject of the letter; right?
17 A Well, okay.
18 109 Q Isn't it?
19 A It relates to defamatory comments. I wouldn't say
20 that it's -- it's the initiation of a defamation
21 legal proceeding.
22 110 Q Oh, okay. Because you'll see on page -- on page 5
23 of the letter --
24 A M'mm-hmm.
25 111 Q -- it's the same -- it's the same sort of

1 business. It's the same sort of advice or notice
2 that you're giving there to Ray Rewcastle that you
3 immediately cease and desist for making further
4 defamatory, libellous, false, and/or disparaging
5 remarks about Deep Water, its operations, and
6 Mr. Jurisich. And then it says:

7 "We also demand a complete retraction of
8 defamatory comments made to third parties."

9 And then it says:

10 "If you fail to take the above noted steps by
11 12:00 P.M. on May 31st, 2022, we expect to
12 receive instructions from Deep Water to take
13 all necessary steps to protect Deep Water's
14 interests and prevent further harmful conduct
15 which would include but not be limited to
16 pursuing injunctive relief and commencing
17 legal proceedings against you seeking
18 general, aggravated, punitive, and special
19 damages."

20 See that?

21 A What page were you --

22 112 Q Oh, page 6. Page 5 over to page 6.

23 A Sorry, where were you reading from? The top of
24 the page?

25 113 Q The bottom of page 5 and the top of page 6.

1 A Okay.

2 114 Q Do you want to take a moment?

3 A I'm just reading it.

4 115 Q Yes, very good.

5 A Okay.

6 116 Q Yes. Are you finished reading it now?

7 A Yes.

8 117 Q So you'll agree with me that that provided the
9 same type of notice or advice or warning to Ray
10 Rewcastle as you've sent to CCOBS; right?

11 A In a general context, yes.

12 118 Q Yes. And you've instructed your lawyer to send
13 this letter to Ray Rewcastle; correct?

14 A Yes.

15 119 Q So why did you single out Ray Rewcastle from
16 CCOBS?

17 A I'm not sure if he was the only person that
18 received the letter.

19 CNSL J. GRATL: Oh, was there anybody else aside from this --
20 could we mark this letter at Exhibit 2, please?

21 **EXHIBIT 2: Letter entitled "Defamatory Comments**
22 **Made By Ray Rewcastle"**

23 CNSL J. GRATL:

24 120 Q So why did you send that letter to Ray Rewcastle
25 separately from CCOBS?

1 A I don't recall if there was a distinction made
2 between the two. I think this could have been
3 sent to him as a member of CCOBS.

4 121 Q Oh, well, you -- because your first letter,
5 Exhibit 1, is directed at CCOBS and its members.

6 A M'mm-hmm.

7 122 Q Right? Correct?

8 A I believe so.

9 123 Q And then that one that you're holding in your
10 hand, Exhibit 2, is directed to Ray Rewcastle;
11 correct?

12 A Correct.

13 124 Q And why did you separate those out?

14 A Oh, I don't recall.

15 125 Q No recollection?

16 A No.

17 126 Q But you thought that each needed separate letters,
18 did you?

19 A I don't recall if that was the case either.

20 127 Q You don't remember your motivation?

21 A No. I don't recall even if there was a
22 distinction between the two.

23 128 Q Okay. Now, I notice it's a lawyer's letter, not
24 your letter sent on Union -- on Union Bay
25 Industries' letterhead or Deep Water Recovery

1 letterhead; right?

2 A M'mm-hmm.

3 129 Q Correct?

4 A Correct.

5 130 Q Okay. So why did you choose to send that letter
6 through a lawyer rather than on your own
7 letterhead?

8 A Well, considering the attitude that we saw in the
9 media of Ray Rewcastle and others, we don't
10 believe they would have paid any attention to
11 anything that we would -- that we would write.

12 131 Q Yeah. So if you had set out your position just on
13 your own letterhead, they wouldn't have paid
14 attention? You need to go in a lawyer's letter;
15 right? That's what you're saying?

16 A I wouldn't say that, no. I think, you know, there
17 is methods.

18 132 Q Sorry?

19 A I think there is protocol in sending a
20 communication like this.

21 133 Q Protocol?

22 A I would suggest.

23 134 Q What does that mean?

24 A Well, I think -- I think we would -- we would use
25 an attorney to be specific about the message that

1 we are requesting.

2 135 Q Sorry, the lawyer's letterhead assists you in
3 being specific?

4 A Well, with respect, I think their ability to write
5 correctly is going to be far better than what mine
6 is.

7 136 Q Okay. So you felt as though you lacked the
8 capacity to write a clear letter setting --
9 setting out Deep Water's position?

10 A I wouldn't suggest.

11 137 Q Okay. Now, I'm going to suggest to you that this
12 letter, these letters, cost a pretty penny, didn't
13 they?

14 CNSL M. SWANSON: Objection.

15 CNSL J. GRATL:

16 138 Q Are you refusing to answer the question?

17 CNSL M. SWANSON: I object.

18 CNSL J. GRATL: He could just say "On the advice of my
19 counsel --"

20 CNSL M. SWANSON: I object.

21 CNSL J. GRATL: "--- I'm not answering the question."

22 CNSL M. SWANSON: I've made an objection, counsel. Please
23 move on.

24 CNSL J. GRATL: All right.

25 139 Q And what is the annual revenue of Deep Water

1 Recovery?

2 CNSL M. SWANSON: I object.

3 CNSL J. GRATL: Financial means are relevant.

4 140 Q What are the -- are you refusing to answer the
5 question?

6 CNSL M. SWANSON: Counsel, in what way do you actually assume
7 financial means are relevant?

8 CNSL J. GRATL: Well, because one of the hallmarks of this
9 lawsuit is a deep-pocketed incorporation using the
10 legal system to threaten and intimidate people
11 from exercising their right for expression.
12 Surely you've read deep enough into the case law
13 to recognize that. In fact, you set it out in
14 your own legal argument, sir. Don't you?

15 CNSL M. SWANSON: In what way, counsel, do you say that the
16 revenue of this company is relevant?

17 CNSL J. GRATL: Well, revenue is one way of expressing the
18 legal means of a company.

19 141 Q What is the annual revenue of the company Deep
20 Water Recovery Inc.?

21 A I couldn't answer that specifically. But in --
22 for -- you would -- you asked -- for example, 2022
23 are you asking?

24 142 Q Sure. Let's start with 2021.

25 A 2021? Again, for the record, I'm not being

1 specific. I'd have to -- to look into that, but I
2 would suggest around a million dollars.

3 143 Q Okay. And how about 2022?

4 A I would say south of half a million dollars.

5 144 Q Is that because you were away for half a year in
6 2022?

7 A No.

8 145 Q You didn't leave the country for six months in
9 2022?

10 A No.

11 146 Q I understood that you left the country for
12 extended period of time.

13 A I was in and out of the country.

14 147 Q Oh, okay. And while you were out of the country,
15 the business operations slowed down?

16 A Well, we are only three or four people in the
17 yard. There is not a lot to slow down.

18 148 Q Okay. So -- and what did the property cost, Union
19 Bay Industries?

20 A 2 -- \$2.3 million I think.

21 149 Q Okay. And then what is -- what is the rent paid
22 by Deep Water Recovery to Union Bay Industries?

23 A I would have to look into that. I don't know.

24 150 Q Okay. Well, there's no mortgage registered on
25 that property.

1 A Correct.

2 151 Q It was all purchased with cash?

3 A Borrowed funds.

4 152 Q Okay. But unsecured?

5 A Unsecured I think. I'd need to look into that.

6 153 Q All right. Now, I'm going to ask you to return to

7 Exhibit No. 2 for me, please.

8 A Okay.

9 154 Q And I'm showing you a letter dated July 14th,

10 2022. This is a letter addressed to myself as

11 legal counsel for Mary Reynolds; right?

12 A Okay.

13 155 Q Is that correct?

14 A I'm not sure I'm seeing Mary Reynolds' name here

15 but...

16 156 Q Yeah, I'm not sure I see it either. It might have

17 been an oversight. But it's pretty -- pretty

18 clear there's a reference to "your client

19 physically entering onto the property, the drone

20 your client has used is equipped with

21 high-resolution camera."

22 A Could I -- can I read the letter? Can you give me

23 a minute to read it?

24 157 Q Sure. Yeah.

25 A Okay.

1 158 Q All right. You've taken four minutes to read the
2 letter?

3 A Okay.

4 159 Q And in this letter, you -- you take issue with
5 Mary Reynolds using a drone to film Deep Water
6 Recovery's yard; right?

7 A We have an issue with the distraction that it
8 causes us, the safety issues that it presents.

9 160 Q Yes. Let me draw your attention back to the
10 question that I asked.

11 A M'mm-hmm.

12 161 Q In this letter, you take issue with Mary Reynolds
13 recording what's going on in Deep Water Recovery's
14 yard; right?

15 A This letter references the intrusion of the drone
16 into our private space. It's a distraction when
17 we are working, the drone is flying over our head.

18 162 Q Okay. Now --

19 A We are trying --

20 163 Q I'll read this. I mean, you just read this. You
21 just spent four minutes reading this letter, but
22 I'll read this out loud to you --

23 A Okay.

24 164 Q -- to assist you in --

25 A Okay.

1 165 Q -- interpreting this letter.

2 A Okay.

3 166 Q At the bottom of page 1, it says:

4 "We understand the drone your client has used
5 is equipped with a high-resolution camera
6 which she has directed upon our clients,
7 their employees, and their property while
8 conducting these intrusions, with the result
9 that our clients' business activities,
10 operations, employees, and property are
11 repeatedly surveilled and recorded by your
12 client without permission."

13 So you're taking issue with the recording of the
14 goings-on in your yard; right?

15 A It's an intrusion into our personal space.

16 167 Q Yes, by recording; right?

17 A Correct.

18 168 Q Yeah, so the recording is the intrusion with which
19 you take issue; right?

20 A That is correct.

21 169 Q Okay. And when you say "personal space," I take
22 it this is a business; right?

23 A It is.

24 170 Q You're not conducting sensitive, private
25 activities, are you, in the yard in the middle of

1 the day?

2 A Well, on that note, we have staff that live on the
3 site, and the drone is flying over them in their
4 personal time. They could be, after work, sitting
5 there having a glass of wine, and here comes the
6 drone 25 feet above your head.

7 171 Q All right. And that's what you're complaining
8 about here?

9 A We are complaining about the intrusion of the
10 drone.

11 172 Q Because you have an employee living at the site?

12 A Not only. It's a safety issue when we are
13 working.

14 173 Q Who lives at the site?

15 A We have three staff on the site.

16 174 Q And they live there? They reside there?

17 A When they're working there, m'mm-hmm.

18 175 Q You're saying, yes, we have three employees who
19 reside at this industrial site; is that correct?

20 A One couple resides. The other person, only when
21 he's working.

22 176 Q Okay.

23 A He resides elsewhere.

24 177 Q That's Mr. Rattan [phonetic] you're saying resides
25 elsewhere?

1 A That is correct.

2 178 Q You're saying he doesn't live there basically

3 seven days a week except for the odd time when he

4 returns to his place?

5 A If he's not working.

6 179 Q Okay. But he works a lot; right?

7 A He does.

8 180 Q He works long, long shifts? He resides there at

9 the -- on that industrial site; right?

10 A He works --

11 181 Q And then you --

12 A -- long hours and many days of the week, if not

13 all of the days of the week.

14 182 Q And then you've got another couple living there in

15 addition to Mr. Rattan?

16 A That is correct.

17 183 Q And who is that now?

18 A Mr. and Mrs. Balla.

19 184 Q Pardon me?

20 A Mr. And Mrs. Balla.

21 185 Q Could you spell the last name, please?

22 A B-a-l-l-a.

23 186 Q Okay. And the first names are...?

24 A Andras and Dena.

25 187 Q Okay. Could you spell those names, please?

1 A A-n-d-r-a-s and Dena, D-e-n-a.

2 188 Q All right.

3 A They're there for security purposes.

4 189 Q Lovely. And then we'll go on with the letter. It
5 says:

6 "We understand your client has disseminated
7 and made the images and recordings of our
8 clients, their business activities,
9 operations, employees, and the property
10 available to the public and third parties on
11 the web including, but not limited to, on
12 your client's YouTube channel."

13 That's the complaint; right?

14 A We take exception to that.

15 190 Q Pardon me? What do you take exception to?

16 A Posting our staff on the YouTube channel.

17 191 Q Posting what?

18 A Our staff.

19 192 Q Oh, okay. Because it doesn't limit it to that.
20 It doesn't limit it to staff. It says, "The
21 recording of our client's business activities";
22 right?

23 A Okay.

24 193 Q That's what your letter says here; right?

25 A Okay.

25 200 Q That's what you're taking issue with,

1 dissemination of images of business activities;
2 right?

3 A In addition to the harassment from the drone.

4 201 Q Okay. And then it says -- it also goes on to say
5 that the operations -- dissemination and making
6 available images and recordings of our client's
7 operations is a problem for you?

8 A Okay.

9 202 Q Right? Is that correct?

10 A In addition to the harassment we feel from the
11 drone.

12 203 Q So that's a yes, we took issue with the
13 dissemination of images of our operations?

14 A In addition to the harassment from the drone.

15 204 Q Okay. So you're saying yes, are you? Yes, in
16 addition to?

17 A I'm saying in addition to the harassment we feel
18 from the presence of the drone.

19 205 Q I want you to leave the harassment part out
20 because I just want to get a clear answer so I can
21 read it to the judge.

22 A The harassment's very important for us because
23 that's what we are feeling. We are -- we are
24 working in the yard, the drone is flying over us,
25 it's a safety issue for us. I mean, can you

1 imagine if we are sitting here at the table now
2 with a drone sitting above the table here? Once
3 you might ignore it, but if almost every day at
4 different periods of time there, it's very
5 disturbing, it's very distracting.

6 206 Q Yes, but that's not what it says in your letter.
7 It says -- it says you're taking issue with
8 disseminations of images and recordings of your
9 operations; right?

10 A Okay.

11 207 Q Doesn't it?

12 A That is correct.

13 208 Q Okay. And then you say again --

14 A Sorry, what paragraph are you looking at here?

15 209 Q This is page 2.

16 A Okay.

17 210 Q You say you want -- you have a list of four things
18 you want Mary Reynolds to do. You see? Do you
19 see that?

20 A Yes.

21 211 Q And then at the bottom of the four things, it
22 says:

23 "If your client fails to do these four things,
24 we expect to receive instructions from our
25 client to immediately take all necessary

1 steps to protect their interests and prevent
2 further harmful conduct which would include,
3 but not be limited to, pursuing injunctive
4 relief."

5 Right?

6 A That is correct.

7 212 Q Yes. Okay. So -- and item 3 there is:

8 "Immediately cease and desist any further
9 violations of our client's privacy rights,
10 including by recording, collecting, and
11 publishing images and recordings of our
12 clients, their operations and activities,
13 their employees and the property obtained by
14 way of your client's illegal drone
15 operations."

16 Do you see that?

17 A Yes.

18 213 Q Okay. So that's one of the things -- you're
19 saying if you don't stop that, we're going to sue
20 you, we're seeking injunctive relief; right?

21 A Sorry, could you repeat the question?

22 214 Q That's one of those things -- item 3 is if you
23 don't stop doing what's set out in item 3, we're
24 going to sue you and seek injunctive relief;
25 right?

1 A That's what is stated here.

2 215 Q Yes. And then 4 requires Ms. Reynolds to:

3 "Remove all images, recordings, and data which
4 your client has published in respect of our
5 clients, their operations and activities,
6 their employees and the property and provide
7 written confirmation of the steps taken
8 within 15 days."

9 You see that?

10 A Yes.

11 216 Q And, again, if she doesn't fulfill that demand,
12 you say you're going to start a lawsuit and pursue
13 injunctive relief; right?

14 A Well, the drone is an intrusion in our work
15 environment every day. It's a distraction for us.
16 It's -- it causes a dangerous working environment
17 for us.

18 217 Q Okay. And then how about item 4: In respect of
19 images taken as of July 14th, 2022, you're
20 demanding that she take down --

21 A Sorry, could you repeat that again? You
22 mentioned --

23 218 Q Well, I hadn't even finished yet.

24 A No, the date. You'd -- sorry, you --

25 219 Q July 14th --

1 A Okay.

2 220 Q -- 2022, as of the date the letter was sent.

3 A M'mm-hmm.

4 221 Q Item 4 says:

5 "Take off all the images and recordings that

6 your client has published in respect of our

7 clients, their operations and activities,

8 their employees and the property."

9 Right?

10 A Correct.

11 222 Q Now, surely you're not saying that the images and

12 recordings and data that Mary Reynolds already has

13 up on her website and her YouTube channel are a

14 safety issue, are you?

15 A We're not suggesting that.

16 223 Q Surely they're not a distraction of your -- for

17 your employees, are they?

18 A Her postings you mean?

19 224 Q Yes. The things that are already up as of this

20 date, July 14th, 2022; right? I'm trying to focus

21 your attention on the things that she's already

22 published --

23 A M'mm-hmm.

24 225 Q -- the videos that are up on the web about your

25 operations. Those aren't a safety issue, are

1 they?

2 A Well, they would have been at the time, yes.

3 226 Q You're saying that --

4 A When she was flying the drone, it would definitely
5 have been a safety issue.

6 227 Q You're saying that the ones that are already
7 posted are a safety issue? They have to be
8 removed from the web because they present safety
9 issues as of June -- July 14th, 2022?

10 A I'm saying when she was flying the drone in her
11 effort to record us or whatever she's doing, it
12 poses a safety issue for us.

13 228 Q Yes. But it's not a retroactive one, is it?

14 A Well, it wouldn't be retroactive once she's posted
15 it, no.

16 229 Q Are you pretending not to understand the
17 distinction I'm making here? You understand what
18 distinction I'm drawing; right?

19 A No, I don't think I am.

20 230 Q Okay. I'm saying it's one thing for you to say --
21 however accurate it might be, and we'll get into
22 that later. It's one thing for you to say, oh,
23 we're scared of the drone, or the drone's a safety
24 issue. And it's another thing for you to say, oh,
25 we're scared of videos that are already posted to

1 the web, and those are a safety issue. Do you
2 appreciate the distinction there?

3 A Yes.

4 231 Q Okay. So I'm suggesting to you that your item 4
5 requiring the removal of the images and videos
6 that have already been taken, that's not a safety
7 issue, is it?

8 A No, no longer.

9 232 Q No. And that's not an issue that will distract
10 your -- you from working at the yard, is it?

11 A Well, if it's in the past tense, no.

12 CNSL J. GRATL: Right. May I have that document back, please?
13 Could we mark this as Exhibit 3 if we haven't
14 already?

15 **EXHIBIT 3: Letter addressed to Jason Gratl dated**
16 **July 14, 2022**

17 CNSL J. GRATL:

18 233 Q Now, while we're on the subject of safety, you say
19 that you were concerned about Mary Reynolds' drone
20 being a distraction; is that right?

21 A That is correct.

22 234 Q And your affidavit states that starting in or
23 around early April 2022 you noticed a drone flying
24 over and around the industrial zone of the
25 property; is that right?

1 A Correct.

2 235 Q Before then you hadn't noticed a drone flying
3 around, had you?

4 A Well, we may have.

5 236 Q Okay. So then item 4, is -- your paragraph 4 is
6 false?

7 A No.

8 237 Q It didn't start in or around April 2022 that you
9 noticed a drone flying over and around the
10 industrial zone of the property; you noticed it
11 earlier than that?

12 A Well, I've said in or around.

13 238 Q Oh, by "in or around," what do you mean? By in or
14 around early April, what time span did you intend
15 to incorporate?

16 A It could be --

17 239 Q Could be the end of April?

18 A Could be the end of April, could be the beginning
19 of --

20 240 Q So by -- by saying --

21 A Beginning of -- beginning of March.

22 241 Q Okay. So you're saying "starting in and around
23 early April 2022" could include the end of April?

24 A Possibly.

25 242 Q Okay. So by "in or around early April," you also

1 mean in and around late April; is that right?

2 A No.

3 243 Q I just want to understand how you're using words
4 in this affidavit.

5 A I think this statement is clear stating in or
6 around early April.

7 244 Q Yes, but you say could include late April?

8 A Possibly.

9 245 Q All right. And then it could include March?

10 A Possibly.

11 246 Q Okay. Could it include February then too?

12 A Possibly.

13 247 Q Well, how about January of 2022?

14 A I don't know.

15 248 Q Well, they're your words. You say "starting in or
16 around early April 2022" includes February 2022,
17 but does is it include January?

18 A I said possibly.

19 249 Q Well, possibly? What did you intend to -- you
20 appreciate that with this affidavit you're
21 communicating directly to a judge under oath;
22 right?

23 A That is correct.

24 250 Q Okay.

25 A And I think I've been reasonable in my explanation

1 here. I'm not specifying a date here.

2 251 Q Okay. By -- by the words "starting in or around

3 early April 2022," you mean possibly February?

4 That's what you mean to include?

5 A I don't mean to include anything. I've made a

6 statement here which I'm sticking to.

7 252 Q Okay. What's the first date on which you noticed

8 the drone flying above the industrial zone of the

9 property?

10 A I couldn't tell you.

11 253 Q Did you take any note?

12 A Possibly.

13 254 Q All right. You wrote that down somewhere?

14 A Possibly.

15 255 Q Did you send an email or a text to someone?

16 A Not that I'm aware of.

17 256 Q Did you go and review those notes or text messages

18 or anything before completing your affidavit?

19 A Possibly.

20 257 Q Okay.

21 A Video.

22 258 Q You might have?

23 A Video.

24 259 Q Oh.

25 A We may have looked at the -- I would suggest we

1 looked at the videos --

2 260 Q Okay. So you --

3 A -- that we record.

4 261 Q You recorded videos of the drone flying?

5 A M'mm-hmm.

6 262 Q Is that correct?

7 A M'mm-hmm.

8 263 Q You've got to articulate your answers.

9 A Yes. Yes. When we can, we record the drone

10 flying.

11 264 Q Every time?

12 A Usually.

13 265 Q All right. And so that -- when you say "we," you

14 mean yourself; right?

15 A And the other staff.

16 266 Q And the other staff. So that's a total of four

17 people?

18 A Yes, four.

19 267 Q And they're taking --

20 A Five, depends.

21 268 Q They're taking videos of the drone whenever they

22 can; is that right?

23 A Yes.

24 269 Q Okay. So you have as part of your -- in your

25 possession approximately how many videos of the

1 drone flying?

2 A I wouldn't know.

3 270 Q Estimate.

4 A I couldn't estimate because I'd have to see who
5 else has the drone saved on their phones.

6 271 Q Okay. Well, don't you ask your employees to send
7 you the videos?

8 A Not necessarily, no.

9 272 Q Well, do they send you the videos?

10 A Sometimes.

11 273 Q Yes. And so you collect them; right?

12 A Sometimes. I mean, they're stored on their
13 phones, so for us that is an acceptable reference.

14 274 Q Okay. And they're stored and collected in one
15 central location, right, by you?

16 A No.

17 275 Q And they're forwarded along, aren't they?

18 A No.

19 276 Q You haven't -- and did you -- did you review those
20 videos before preparing your affidavit?

21 A I would -- I would say yes. We've gone back to
22 see how far back our recordings go.

23 277 Q Okay. You appreciate that there's -- there's some
24 advantage and clarity of presenting a video to a
25 judge of exactly what it is you're complaining

1 about; right?

2 A Sorry, could you repeat that question?

3 278 Q Well, in your affidavit, sir, you say, for
4 example, that the -- that the drone's a safety
5 issue for you and your employees; right?

6 A That's correct.

7 279 Q Okay. And that -- and how close do you say that
8 the drone has come to you?

9 A 20 feet.

10 280 Q Okay. And did you take a video of the drone
11 20 feet away?

12 A Possibly.

13 281 Q All right.

14 A I mean --

15 282 Q Well, why didn't you include that in your
16 affidavit?

17 A We didn't include it. We have other things to do,
18 Mr. Gratl. This is not the only thing that we are
19 working on.

20 283 Q You had other priorities? That's why you didn't
21 include the videos of the drone flying; is that
22 right?

23 A Excuse me?

24 284 Q You have other priorities, more pressing, urgent
25 priorities rather than preparing affidavits with

1 videos in them; is that right?

2 A Not necessarily. But I'm sure we have the videos
3 recorded.

4 285 Q I'm asking why you didn't include those videos of
5 the threatening drone 20 feet away, or
6 approximate, to you or your employees in your
7 affidavit?

8 A I don't -- I don't have a reason for not including
9 them. We can review our -- our videos at any time
10 so...

11 CNSL J. GRATL: Well, I'm going to ask for production of all
12 the videos.

13 THE WITNESS: Okay.

14 **REQUEST 1: Provide production of all videos**
15 **Mr. Jurisich has in his possession of the drone 20**
16 **feet away from Mr. Jurisich or his employees**

17 CNSL J. GRATL:

18 286 Q Now, do you -- I take it you just prepared this
19 affidavit on May the 26th, 2023?

20 A That's correct.

21 287 Q Last Friday? Six days ago; right?

22 A M'mm-hmm.

23 288 Q And in preparing this affidavit, you reviewed the
24 videos; right?

25 A Yes.

1 289 Q Okay. And how many videos are there in your
2 possession?
3 A I don't know.
4 290 Q Estimate, please, for me.
5 A Well, I couldn't.
6 291 Q More than 10?
7 A I would suggest.
8 292 Q I'm not asking you to suggest. I'm asking you
9 just to answer the question clearly. Do you have
10 more than 10? Yes or no?
11 A I don't know. I don't know how many videos we
12 have. There would -- there -- excuse me. There
13 would be more than 10.
14 293 Q There are more than 10; is that correct?
15 A I would suggest, yes. I would need to get the
16 videos from all the staff together.
17 294 Q You're not sure how many videos there are but
18 probably more than 10?
19 A I would suggest, yes.
20 295 Q And did you review them all before preparing your
21 affidavit?
22 A No, I don't think so.
23 296 Q Didn't you leave instructions to your employees to
24 log each time they saw the drone?
25 A No, I don't recall.

1 297 Q All right.

2 A We -- we record the -- we record the drone

3 whenever we can.

4 298 Q You're saying --

5 A So --

6 299 Q -- you didn't -- you didn't leave instructions to

7 your employees to log the drone sightings?

8 A I don't recall that.

9 300 Q Okay. Did you -- did any of your --

10 A It's possible.

11 301 Q Did any of your employees provide logs?

12 A I don't think we requested them. I don't -- I

13 don't recall requesting logs.

14 302 Q But you did request for your employees to film the

15 drones every time they saw the drones?

16 A We tried to.

17 303 Q And so you have 10 recordings approximately?

18 A I don't know, but I would suggest more than 10.

19 304 Q Do you have 20?

20 A I don't know.

21 305 Q Well -- and did you make any effort to combine the

22 videos in one place?

23 A No.

24 306 Q Okay. And even the videos that you have, how many

25 did you yourself take?

1 A I couldn't tell you. I'd have to go back through
2 my phone.

3 307 Q More than five?

4 A I would think.

5 308 Q Okay. But you haven't provided any of those in
6 your affidavit?

7 A No.

8 309 Q Right. I'm going to suggest to you that the
9 videos you have show a drone very high up in the
10 sky, don't they?

11 A Mr. Gratl, I would need to see them. So --

12 310 Q You did --

13 A -- when --

14 311 Q -- see them six days ago --

15 A When --

16 312 Q -- didn't you?

17 A When the drone is flying over us and we take our
18 gloves off and we pull our phones out, the drone
19 quickly goes up to elevation. So I would suggest,
20 most of the time, that the drone is going to get
21 up there quicker than we can get a video of it.

22 313 Q You're saying the drone --

23 A For the record --

24 314 Q -- sneaks up on you and then --

25 A For the record --

1 315 Q -- goes up --

2 A For the record, I have not left out any video for

3 the purposes of you disseminating the height of

4 the drone.

5 316 Q Well, did you look at the height of the drone in

6 the videos that you have?

7 A No. No, because it's -- it's not here nor there

8 for me.

9 317 Q It doesn't --

10 A It doesn't make any difference to me.

11 318 Q It doesn't matter how high the drone flies, it's

12 always going to be a safety issue?

13 A It is a safety issue because we -- we will hear

14 the drone before we see the drone.

15 319 Q Okay.

16 A The drone makes -- you have four rotor blades

17 there, you will hear it above your head, then you

18 will see somebody look up in the air, then

19 everybody else looks up in the air, now

20 everybody's stopped work, and there's everyone --

21 you'll see people start to get their phones out --

22 320 Q Yes.

23 A -- and try and record what they -- what they've

24 seen.

25 321 Q Okay. You know that we've filed an affidavit with

1 all of the drone videos?

2 A That's correct, yes.

3 322 Q Right. And they don't show people getting phones
4 out, those videos?

5 A I haven't seen all of those videos.

6 323 Q Okay. I'm going to suggest to you those videos
7 don't show people getting phones out.

8 A Okay.

9 324 Q You know that's not true, that Ms. Reynolds flies
10 her drone low and then goes to higher elevation
11 when she sees you getting your telephones out;
12 isn't that correct?

13 A No. I would suggest to the contrary.

14 325 Q Okay. So that would be -- I'm going suggest to
15 you if that were true --

16 A M'mm-hmm.

17 326 Q -- we can cross-reference the videos you have with
18 the videos that Mary Reynolds has provided to the
19 court to see whether it's accurate, what you're
20 saying.

21 A Yes. You can see in the videos that are in Mary
22 Reynolds' affidavit that she does fly down to
23 20 feet, 25 feet.

24 327 Q Oh, yeah? And on what dates?

25 A I would have to go back and look at them.

1 328 Q You've seen those videos, have you?

2 A Yes.

3 329 Q All right. And --

4 A That were included in Miss Reynolds' affidavit?

5 330 Q Yeah, her latest affidavit.

6 A Yeah.

7 331 Q Yeah.

8 A We've seen those.

9 332 Q You've seen those? You've reviewed them?

10 A A few.

11 333 Q And you've identified dates on which she flies

12 down to 20 feet?

13 A Those videos, if there is dates there, then yes.

14 I don't recall of those dates, but it was part of

15 her affidavit. So in her affidavit the videos

16 provided show the drone flying at a low elevation.

17 334 Q Okay. And you've seen that with your own eyes,

18 have you?

19 A Yes.

20 335 Q And that's -- how -- on how many dates?

21 A To the best of my recollection, at least five or

22 six times.

23 CNSL J. GRATL: Okay. I'm going to ask you to identify those

24 dates.

25 THE WITNESS: Okay.

1 **REQUEST 2: Provide the videos and dates as to**
2 **when Mary Reynolds flies her drone down to 20 to**
3 **25 feet**

4 CNSL J. GRATL:

5 336 Q All right. Maybe you can do that over the break
6 if you've got access to that material. Do you
7 have it with you here today?

8 A I don't think so.

9 337 Q Did you make little notes to yourself about what
10 dates she was flying low?

11 A I'd have -- I'd have to come back to that.

12 338 Q No, but did you make notes on the dates that
13 she --

14 A I --

15 339 Q -- was flying low?

16 A Sorry, can you repeat the question?

17 340 Q Did you make notes as you were reviewing the
18 videos on Mary Reynolds' affidavit of the dates on
19 which you say she was flying low?

20 A I don't recall. I don't recall.

21 341 Q When did you review them?

22 A Yesterday.

23 342 Q And you don't recall whether you made little notes
24 about what dates she was flying low?

25 A No, I don't think I did.

1 343 Q Oh, okay.

2 A I don't think I did.

3 344 Q Now, at paragraph 11 you say there was a date on

4 which you were working on a -- top of a high

5 structure, and the sound of a drone operating

6 overhead distracted you and caused you to lose

7 your balance.

8 A M'mm-hmm.

9 345 Q What date was that?

10 A I don't recall.

11 346 Q Oh, okay. And what structure were you working on

12 top of?

13 A A barge.

14 347 Q And what's the height of that structure?

15 A 15, 17 feet.

16 348 Q Okay. And how high was the drone operating?

17 A I would suggest 40 or 50 feet.

18 349 Q So it was then that was, what'd you say, 23 or so

19 feet away from you?

20 A Above me.

21 350 Q You say it was flying, then, at approximately --

22 A That would -- that would --

23 351 Q -- 60 feet in elevation?

24 A That would be my guess.

25 352 Q Okay. And what date was that?

1 A I don't recall. I just recall it being an
2 incident.
3 353 Q Okay. Well, what month did it occur in?
4 A Oh, I don't recall. It was --
5 354 Q Okay.
6 A -- early part of last year.
7 355 Q And you lost your balance you say?
8 A Well, at most I was -- I did lose my balance. I
9 didn't fall, but I lost my balance, yeah.
10 356 Q And -- well, how did that manifest itself? I just
11 want to know --
12 A Just the -- the distraction of the noise from
13 the -- from the drone.
14 357 Q So you didn't fall over?
15 A No, I didn't fall.
16 358 Q And were you using any kind of equipment at the
17 time?
18 A A torch.
19 359 Q Okay. And the torch makes a bunch of noise,
20 doesn't it?
21 A M'mm-hmm.
22 360 Q Yes?
23 A Yes.
24 361 Q It makes a lot of noise, doesn't it, a cutting
25 torch?

1 A Well, it can. Depends. It may not be on, but --

2 362 Q It could --

3 A -- I may have been alerted to the drone by

4 somebody else too.

5 363 Q Oh, I see. So you didn't yourself hear the drone?

6 A I don't -- I don't recall. I recall the drone

7 being present, and I looked up and lost my

8 balance.

9 364 Q So you might have not been distracted by the drone

10 directly? It could have been a coworker that

11 distracted you?

12 A It's possible.

13 365 Q Right. So does that -- does that happen that when

14 the drone is spotted by one of the coworkers, they

15 alert each other, and everybody stares at the

16 drone? Is that what happens?

17 A I would say that somebody will bring it to

18 everybody else's attention.

19 366 Q Okay. Is that under your direction?

20 A No. I think it's just a -- it's a reaction. It's

21 an intrusion, you know, in your -- in your work

22 space if you were doing something and the drone is

23 present. It's -- it's just a -- it's a

24 distraction.

25 367 Q Let's say I'm cutting some metal using a -- what

1 do you -- Oxy-Acetylene torches?

2 A Similar.

3 368 Q Yeah. And then you're -- you're cutting the metal

4 and so your head's down?

5 A Well, not necessarily, but anyway.

6 369 Q And you're wearing a big mask; right?

7 A Yes.

8 370 Q And you're -- you're wearing hearing protection;

9 right?

10 A No, I don't wear hearing --

11 371 Q Aren't you supposed to be wearing hearing

12 protection?

13 A No.

14 372 Q Okay. But you're wearing a mask so your face is

15 covered?

16 A Your nose and mouth are covered.

17 373 Q Right. And your face is covered?

18 A Define your interpretation of space. I wouldn't

19 say --

20 374 Q Your face is covered by the welding -- it's like a

21 welding mask you've got on?

22 A No. No, it's different than a welding mask.

23 375 Q Oh, okay. And sometimes you're looking down,

24 cutting metal looking down; right?

25 A Correct.

1 376 Q And you're like, oh, it's a big distraction, I
2 don't want anybody seeing me weld or seeing me cut
3 some metal with a torch?

4 A No.

5 377 Q Well, what's the distraction?

6 A The distraction is an intrusion. It's a safety
7 issue. Somebody else will see it, they will stop
8 everybody else, and now everybody's stopped,
9 everybody's looking for the drone. It's a
10 distraction on our work.

11 378 Q Oh, yeah. And if somebody's operating an
12 excavator --

13 A M'mm-hmm.

14 379 Q -- they're in a cab; right?

15 A M'mm-hmm.

16 380 Q All the excavators you have are enclosed-cab
17 excavators; right?

18 A The excavators are.

19 381 Q Yes. And that that means that if the drone is
20 overhead, the operator cannot be seen; is that
21 correct?

22 A The operator cannot be seen?

23 382 Q Well, yes, the operator of the excavator cannot be
24 seen by an overhead drone; correct?

25 A I would -- I would disagree with that statement.

1 383 Q Well, how can they be seen? They're covered.
2 They're inside a vehicle.
3 A Well, the excavator door is usually open, and the
4 drone could be at 45 degrees to the cab of the
5 excavator, and the operator will see the drone.
6 384 Q Oh, I see. And has that occurred?
7 A Oh, yes.
8 385 Q Like, you've been on Mary Reynolds' blog, "All
9 Things Union Bay"; right?
10 A It's been presented to me.
11 386 Q Who's presented it to you?
12 A Our office, our administrator.
13 387 Q Your administrator has presented the website to
14 you?
15 A M'mm-hmm.
16 388 Q Yes, you're saying?
17 A Yes.
18 389 Q You've never gone yourself to look at it?
19 A I don't believe so.
20 390 Q All right. So --
21 A I'm not particularly interested in -- I have no
22 particular interest in the blog.
23 391 Q All right. So as of June -- July 14th, 2022, you
24 hadn't reviewed her videos yourself?
25 A Oh, I'm sure I would be aware of them.

1 392 Q Well, had you or had you not reviewed the videos
2 yourself, sir?

3 A Which videos are you referring to? All of them?
4 All of the videos on Ms. Reynolds' blog?

5 393 Q Well, you've sent a letter -- this is Exhibit 3.
6 You've sent a letter threatening to sue the woman
7 if she doesn't take the videos off her website;
8 right? Yes?

9 A Correct.

10 394 Q Surely you've reviewed those videos, haven't you?

11 A Well, I'm sure we would have seen some of them. I
12 don't know if we saw all of them.

13 395 Q You didn't look at all of them?

14 A Well, I wouldn't know the full content of what
15 Mary Reynolds has.

16 396 Q Well, did you look at the ones that were available
17 on her website?

18 A At that time?

19 397 Q As of July 14th, 2022, did you review all of those
20 that are on her website?

21 A I don't know if we -- if we reviewed all of them.

22 398 Q You reviewed some of them?

23 A Well, I would imagine, yes.

24 399 Q And I'm not asking you to imagine again, sir.

25 A M'mm-hmm.

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1 You say that the videos record your employees;
2 right?

3 A M'mm-hmm.

4 407 Q Yes?

5 A Can I see the letter? So, yes, the videos do
6 record the employees.

7 408 Q Right. You would have gone and verified that;
8 right?

9 A Yes, I can confirm that the videos have recorded
10 the employees.

11 409 Q The videos that were posted to Mary Reynolds'
12 website or YouTube channel recorded the employees,
13 did it -- did they, as of July 14th, 2022?

14 A I can't be certain on the dates, but I believe so.
15 We would have to go back through our records.

16 410 Q Okay. What kind of records do you have that would
17 verify that?

18 A I would need to check what we have saved.

19 411 Q Well, what kind of records would that be? You
20 just said you wanted to go back through your
21 records. What records would you review to clarify
22 that question?

23 A Well, I would have to check with our staff.

24 412 Q Well, I'm asking you about your experience. What
25 records would you have?

1 A I don't -- I don't save any records.

2 413 Q Okay. So you say, well, there might be some

3 records, but I don't know what they are?

4 A Well, I would have to go back and check with our

5 staff.

6 414 Q Well, did you ask your staff to review the

7 website?

8 A I don't recall.

9 415 Q Did you ask your staff to check whether any

10 employees were depicted in the videos?

11 A I don't recall.

12 416 Q I'm going to suggest to you -- and these videos

13 will all be before the judge.

14 A M'mm-hmm.

15 417 Q I'm going to suggest to you that the videos are

16 taken at too high an altitude to make out any

17 features of any employees.

18 A Okay.

19 418 Q You agree with that, don't you?

20 A No. I don't know.

21 419 Q You're saying you've seen videos where you can

22 make out which employees are which; is that right?

23 A Well, I can -- I could identify them, yes.

24 420 Q Yes? You have seen videos taken by drone, posted

25 by Mary Reynolds, where you can identify the

1 employee?

2 A Yes.

3 421 Q All right.

4 A I want to confirm that to be -- to be the case.

5 422 Q You're --

6 A I believe that to be the case.

7 423 Q You're not sure?

8 A I believe I'm certain.

9 424 Q You are sure?

10 A I believe so.

11 CNSL J. GRATL: Okay. So I'm going to ask you to identify

12 those specific videos.

13 A Okay.

14 **REQUEST 3: Provide the specific videos taken by**

15 **drone, posted by Mary Reynolds, in which you can**

16 **identify employees**

17 THE REPORTER: Counsel, just to let you know we've been going

18 for an hour and 20.

19 CNSL J. GRATL: Okay. Great. Do you want to take a break?

20 THE REPORTER: Yes, please.

21 **(PROCEEDINGS RECESSED AT 11:17 A.M.)**

22 **(PROCEEDINGS RECONVENED AT 11:33 A.M.)**

23 CNSL J. GRATL:

24 425 Q Sir, I'm showing you a Ministry of Environment

25 warning letter dated April 29th, 2022. You've

1 seen that before, haven't you?

2 A I believe so.

3 426 Q This -- this report refers to a site visit by
4 Ministry of Environment inspectors on April
5 the 5th, 2022.

6 A Okay. You said inspectors or inspector?

7 427 Q Well, I'm not sure. It doesn't actually say how
8 many attended.

9 A Okay.

10 428 Q You were there for that inspection though; right?

11 A I'm not sure. That's why I asked the question.

12 429 Q Oh, I see. Well, this report says that -- that
13 you're out of compliance with some regulatory
14 requirements; isn't that correct?

15 A You're saying the report says that?

16 430 Q Yes.

17 A It's possible. Could I take a look -- a minute to
18 read it? Is that okay?

19 431 Q Have you had an opportunity to review the report?

20 A A little bit, yes.

21 432 Q All right. And surely it refreshes your
22 recollection that the Ministry of Environment
23 finds that you are engaged in a -- the activity of
24 commercial waste management or waste disposal, but
25 you don't have an authorization to do so; right?

1 A Is -- is that a question or a statement? I'm
2 sorry.
3 433 Q That's a question.
4 A Okay.
5 434 Q The Ministry of Environment confirms --
6 A M'mm-hmm.
7 435 Q -- states, finds, that your company --
8 A M'mm-hmm.
9 436 Q -- is engaged in a commercial waste management or
10 waste disposal industry without any authorization
11 to do so; right?
12 A I would not agree with that statement.
13 437 Q Okay. Here. I'll just read it to you.
14 A Could it -- sorry, could you just show me where
15 you're reading from?
16 438 Q Sure. It's the third page.
17 A Okay. Just bear with me.
18 439 Q Under "Details and Findings." It's in a little
19 chart there.
20 A Okay.
21 440 Q It says --
22 A First paragraph or second paragraph?
23 441 Q Second paragraph says:
24 "Therefore the facility is operating as a
25 prescribed industry and has no authorization

1 on file."

2 Do you see that?

3 A Okay. Can I just read the writing before that?

4 Okay. Sorry, could you -- could you ask your

5 question again?

6 442 Q The emergency --

7 "The Ministry of Environment finds that Deep

8 Water Recovery is operating as a prescribed

9 industry and has no authorization on file."

10 Correct?

11 A That's what the ministry is stating here?

12 443 Q Yes.

13 A Okay.

14 444 Q You agree with that?

15 A I don't necessarily agree with it. But --

16 445 Q You did have an authorization to operate a

17 commercial waste management or waste disposal

18 industry operation under the emergency -- under

19 the *Environmental Management Act*? Is that what

20 you're saying?

21 A This is something we are working on. I don't --

22 we are not sure that we require one.

23 446 Q Oh, you're saying you don't require one?

24 A We don't know that. That's what we're exploring

25 now.

1 447 Q Well -- well, this is a finding made by the
2 Ministry of Environment that you need an
3 authorization to conduct this business, and you
4 don't have one; correct?

5 A This was the initial finding.

6 448 Q Right. And now you're saying you don't actually
7 need such an authorization?

8 A We don't know. We are -- we are looking into
9 that.

10 449 Q Oh, I see. But you don't actually have an
11 authorization; right?

12 A For waste disposal?

13 450 Q Yeah, you don't have an authorization to engage in
14 a waste disposal --

15 A Waste discharge?

16 451 Q No. Discharge is separated -- separate from
17 authorization to engage in the
18 prescribed industry.

19 A They refer to it here as a "waste discharge
20 regulation."

21 452 Q Right. But you need an authorization to engage in
22 it. And then it says --

23 A We don't know that we do. That's being debated.

24 453 Q Oh, I see. Okay. Now -- and then it says that
25 there were basins, collection basins, that drained

1 directly into the marine environment; is that
2 true?
3 A Yes.
4 454 Q There are -- there were, in fact, as of this
5 date --
6 A M'mm-hmm.
7 455 Q -- April 5th, 2022, three basins that drain
8 directly into the marine environment; is that
9 right?
10 A Settling -- settling ponds.
11 456 Q Yes. They collected water, run-off water; right?
12 A From...?
13 457 Q Did they collect run-off water?
14 A From where?
15 458 Q From anywhere.
16 A One of them does. One of them does. Two, you
17 could say two.
18 459 Q Okay. This says --
19 A One of them receives ground water. It doesn't --
20 it doesn't come from the work area.
21 460 Q And no treatment systems are connected to the
22 basins; right?
23 A The one at the bottom of the work area does have
24 a -- a -- of separating, yes.
25 461 Q Okay. So you disagree with the Ministry of

1 Environment finding that:

2 "No treatment systems were observed connected
3 to the basins which drained directly into the
4 marine environment"?

5 A I'm not sure how they define "treatment," but in
6 response to your question, the primary basin on
7 the work area does have a -- a, you could say,
8 series of baffles. It's called a -- an oily water
9 separator.

10 462 Q And when were those installed?

11 A They were historically there when we purchased the
12 property, so I presume the previous owner had to
13 put those in.

14 CNSL J. GRATL: Okay. Could we mark this document as the next
15 exhibit, please?

16 **EXHIBIT 4: Ministry of Environment report dated**
17 **April 29, 2022**

18 CNSL J. GRATL:

19 463 Q You might as well take a little while to read this
20 one.

21 A Okay. Sorry, can I just request the date off this
22 one?

23 464 Q Sure. April 29th, I think, 2022.

24 A Okay. Okay. Just for the record, the reason I
25 was questioning those details, because the report

1 is signed by one individual, but it referenced
2 more than one person from the Ministry being
3 there. And there was a number of visits, so I was
4 just trying to understand which report you were
5 referring to. So...

6 465 Q Now, April 5th, 2022, was that the first time a
7 Ministry of Environment inspector attended at your
8 facility?

9 A I don't recall. I don't recall.

10 466 Q There might have been earlier visits, but you
11 can't recall?

12 A It's possible.

13 467 Q Okay. I'm going to suggest to you it was the
14 first visit.

15 A Okay. I can't confirm that to be the case.

16 468 Q Okay.

17 A We were engaged with -- our business is engaged
18 with various government agencies.

19 469 Q Now, I'm going to suggest to you that the visit
20 was prompted by a complaint. You know that;
21 right?

22 A I -- I would refer to that as harassment.

23 470 Q The complaint about the environmental condition on
24 your facility is a harassment?

25 A I would suggest, yes.

1 471 Q Oh, okay. But you agree that the Ministry of
2 Environment inspector came -- arrived on April
3 the 5th, 2022, because of a complaint from a
4 member of the public; right?

5 A I don't know. I don't know what prompted them to
6 come to us.

7 472 Q And the complaint referred to drone footage;
8 right?

9 A Not that I'm aware of.

10 473 Q You're not aware of that?

11 A No.

12 474 Q Okay. Because they came, and they were interested
13 in you disassembling ships on the raw land rather
14 than the asphalt; right?

15 A No, I don't think so.

16 475 Q You don't think that's the case?

17 A No.

18 476 Q All right. All right. I'm showing you a second
19 report dated September 6th, 2022?

20 A Okay.

21 477 Q Again, it's a Ministry of Environment report.

22 A Okay.

23 478 Q Is that correct?

24 A Yes.

25 479 Q You've seen this before; right? Have you seen

1 this report before?

2 A I'm trying to familiarize myself with it. Okay.

3 Sorry, what was the question?

4 480 Q You've seen this report before, haven't you?

5 A Possibly.

6 481 Q You don't remember?

7 A No.

8 482 Q Okay.

9 A But I'm not negated that I haven't.

10 483 Q Now, I'm going to suggest that the findings of

11 this report include that your operation, Deep

12 Water Recovery, was dismantling a barge on the

13 unpaved gravel section of the site.

14 A Okay.

15 484 Q Correct? Isn't that correct?

16 A Yes. Yes.

17 485 Q Yes. In fact, that's -- that's true, isn't it?

18 That's an accurate finding?

19 A I think so.

20 486 Q You are -- you were engaged in dismantling barges

21 on the unpaved gravel section of the site;

22 correct?

23 A Two large barges were partially dismantled and

24 taken for processing to the asphalt area.

25 487 Q Yes. But they were partially dismantled on the

1 unpaved gravel section of the site; correct?

2 A I believe so, yes.

3 488 Q All right. And I'm going to suggest to you
4 there's more than just two barges.

5 A Okay.

6 489 Q Isn't that true?

7 A I don't believe so. There's two large barges.

8 490 Q I'm going to suggest to you, again, that it's
9 captured on video.

10 A Okay.

11 491 Q It's not just two barges, is it?

12 A I believe so.

13 492 Q Okay. So -- and that's as of -- and then it's
14 also found by the Ministry of Environment
15 inspectors that:

16 "Surface water diversionary works had been
17 constructed at the road entrance to the
18 facility including culverts and ditches
19 directing surface water away from the working
20 area of the facility, as well as straw bale
21 and silt containment fencing along the edge
22 of the marine environment."

23 Do you see that?

24 A Where are you reading that, sorry?

25 493 Q Oh, it's the third page there, sir.

1 A Third page? Okay. Whereabouts on the third page?

2 494 Q Well, it's the third paragraph.

3 A Okay.

4 495 Q It refers to these three effluent collection
5 basins. And then it says --

6 A And, sorry, what was your question?

7 496 Q Well, it relates to this finding. The Ministry of
8 Environment found this:

9 "During the inspection, it was observed that
10 surface water diversionary works had been
11 constructed at the road entrance to the
12 facility including culverts and ditches
13 directing surface water away from the working
14 area of the facility, as well as straw bale
15 and silt containment fencing along the edge
16 of the marine environment."

17 Correct?

18 A Yes.

19 497 Q That's what the Ministry of Environment found, and
20 that's an accurate finding, isn't it? That
21 reflects reality; correct?

22 A I would -- I would disagree with that statement.

23 498 Q Which -- do you disagree with the portion of the
24 statement that says that you were using straw bale
25 fencing?

1 A No.

2 499 Q That's accurate; right? Correct?

3 A Straw -- yes, I would -- I would agree with that

4 statement.

5 500 Q Yeah, straw bale fencing. It's there. It's

6 depicted in --

7 A M'mm-hmm.

8 501 Q -- photograph 7.

9 A Silt containment.

10 502 Q Yes. But it's particularly bales of straw that

11 you're using; right?

12 A That's standard procedure for silt.

13 503 Q Oh, yeah. Okay. Now --

14 A Not only straw bale, but there is also silt cloth.

15 504 Q M'mm-hmm. Then it says, "Waste material composed

16 of the mixed detritus --"

17 A Sorry.

18 505 Q "-- of unusable --"

19 A Where are you reading that?

20 506 Q Same page, page 3.

21 A Which paragraph?

22 507 Q The one beginning "Waste material."

23 A The last paragraph? Okay.

24 508 Q "Waste material composed of the mixed

25 detritus of unusable rust, paint, and

1 sediment from the dismantling operation was
2 collected on the site."

3 Do you see that?

4 A M'mm-hmm. Yes.

5 509 Q And then there's a photo, right, photo 1, and
6 that's, again, stored on the unpaved section;
7 right?

8 A I'm -- what is your question?

9 510 Q Well, that's the finding that waste material was
10 collected on the site by the Ministry of
11 Environment; right? Your operation generated
12 waste material; right?

13 A We generate steel, correct.

14 511 Q Yes. But also you generate a mixed detritus of
15 unusable rust, paint, and sediment; right?

16 A I'm not aware of any paint and other nonferrous
17 material on the ground.

18 512 Q Well, that's what the Ministry of Environment
19 found, right, that there was a mixed detritus of
20 unusable rust, paint, and sediment?

21 A Okay. I'm not aware of that. I wasn't there when
22 they arrived so -- when they came for this
23 inspection.

24 513 Q Okay. Well, there's a photograph of it,
25 photograph 1.

1 A And I'm -- I'm assuming this photograph is the
2 one?

3 514 Q You're not aware of it, but you're -- and you're
4 the manager of the operation, are you?

5 A I'm the manager of the operation, yes.

6 515 Q Okay. So you're not disagreeing, then, if you
7 weren't aware, you're saying I have no reason,
8 then, to doubt the Ministry of Environment
9 finding; right?

10 A I'm not suggesting that at all.

11 516 Q Oh, you are taking issue with the Ministry of
12 Environment finding?

13 A Well, I don't -- I don't see evidence of the
14 paint. I don't know.

15 517 Q Okay. But you have no reason to doubt what the
16 Ministry of Environment found to be the case?

17 A I don't have any reason not to doubt it. If there
18 is evidence of that, then I would like to see it.
19 If there is detail here referencing paint and
20 nonferrous material, then I'm not aware of that.
21 I don't see it in the photograph obviously.
22 It's --

23 518 Q Yes. But your lack of awareness doesn't mean it
24 didn't happen.

25 A Well --

1 519 Q Paint, rust, and sediment.

2 A Barges coming to us are at their end of life. By
3 the time they get to us, there is typically no
4 paint left on them. These are -- these are --
5 these are hulks of steel that have been out of
6 service for a long time by the time they come to
7 our facility. In many cases they've already sunk
8 and been retrieved so...

9 520 Q Oh, yes. Okay. So you're disagreeing with that
10 finding, are you?

11 A I'm not disagreeing. You're asking me if it is
12 there. I can't confirm or deny. I haven't seen
13 it.

14 521 Q Okay. And then the Ministry also finds that your
15 facility is discharging human waste onto the
16 ground; right?

17 A Correct. We refute that statement.

18 522 Q You refute it?

19 A Yes.

20 523 Q Okay. And there's -- and there's a photograph,
21 photograph 9. It says, "Discharged to ground from
22 a recreational vehicle."

23 A What photograph, sorry?

24 524 Q Photograph 9. You're disputing that photo?

25 A I am disputing the fact that that is sewage as I

1 think you referred to.

2 CNSL J. GRATL: Okay. Now, I'd like to mark this document,
3 the September 6th, 2022, Ministry of Environment
4 report as the next exhibit, please.

5 **EXHIBIT 5: Ministry of Environment report dated**
6 **September 6, 2022**

7 CNSL J. GRATL:

8 525 Q All right. I'm showing you a -- a third Ministry
9 of Environment report dated December 8th, 2022.

10 A M'mm-hmm.

11 526 Q You've seen this report before, have you?

12 A I just need to familiarize myself. I'm trying to
13 do this quickly to assist you. Okay. I won't
14 hold you up, but if I need to familiarize myself
15 with the findings here, we can address it.

16 527 Q Sure. The report refers to effluent sampling by
17 officers on April 5th, 2022.

18 A Could you just indicate where that -- what
19 paragraph and page you're looking at?

20 528 Q Sure. That's at page 3. It says:

21 "On October 27th, 2022, Officer Lynch
22 conducted sampling of effluent from two
23 unlined basins at the facility."

24 A Okay.

25 529 Q "At the time of the inspection, there was an

1 active discharge of effluent overflowing from
2 the north and central unlined basins into the
3 marine environment and tidal foreshore."

4 A I'm trying to follow you here. If I can --

5 "At the time of sampling, there was a
6 significant precipitation event occurring in
7 excess of 20 millimetres."

8 530 Q Yes, and then the next sentence --

9 A "At the time of inspection, there was an active
10 discharge of effluent overflowing --" I'm not sure
11 about the "DWN" and "DWC."

12 531 Q Sure you do because it's defined in the first
13 sentence.

14 A Okay. Okay.

15 532 Q The north and central basins; right?

16 A Just bear with me here, sorry. So it -- to return
17 to your comment there, you said at the beginning
18 of the paragraph it says these are defined as DWR
19 North and DWR Central. So the central basin is a
20 lined basin. He has stated here that it is not,
21 but it is.

22 533 Q The finding is that:

23 "There was an active discharge of effluent
24 overflowing from the DWN North and DWC
25 Central unlined basins and into the marine

1 environment and tidal foreshore."

2 Do you see that?

3 A Yes.

4 534 Q And that -- and I'm going to -- I take it that
5 that's not just a finding of the Ministry of
6 Environment, that's an accurate reflection of
7 reality as of that date?

8 A Sorry, could you repeat that?

9 535 Q It's accurate, the finding is accurate?

10 A I would disagree with the finding.

11 536 Q Oh, okay. In what way?

12 A Well, the central basin, which is the primary
13 basin for the worksite, is a lined basin. It's a
14 concrete basin.

15 537 Q Okay. Was it -- was it --

16 A The one to the north --

17 538 Q -- actively discharging effluent into the marine
18 environment and tidal foreshore?

19 A My understanding of effluent is no.

20 539 Q Okay. What's that? What's your understanding of
21 effluent? Was it overflowing and putting water
22 into the marine environment and tidal foreshore?

23 A Well, looking at the report here that says there
24 was a significant precipitation event occurring in
25 excess of 20 millimetres, I would suggest the rain

1 water was running down through the basins and into
2 the foreshore.

3 540 Q Okay. So the water was coming out of the basins
4 onto the foreshore; right?

5 A M'mm-hmm.

6 541 Q Yes?

7 A Yes, I would suggest.

8 542 Q Okay. So you agree, then, with the finding of the
9 Ministry of Environment employees on that front
10 that there was a discharge from the basins into
11 the marine environment and tidal foreshore; right?

12 A I would not agree that it was a discharge of
13 effluent.

14 543 Q Oh, I see.

15 A And I would not agree that there was an unlined
16 basin there.

17 544 Q All right.

18 A And it has never been modified, for the record,
19 certainly not since our issue.

20 545 Q All right. Now, you'll see the finding there
21 where it says --

22 A Sorry, what paragraph are you on?

23 546 Q It's the fifth paragraph on the -- on the third
24 page says:

25 "On October 27th, 2022, the effluent

1 overflowing from the DWN unlined basin into
2 the marine environment and tidal foreshore
3 exceeded BC Water Quality Guidelines for
4 total Copper, Zinc, and Cadmium."

5 Right?

6 A Are you asking me if that's what's written here
7 or --

8 547 Q That's what the finding is. That's the finding.

9 A I would disagree with that statement.

10 548 Q Yes, but that's -- that's the finding that the
11 effluent exceeded Water Quality Guidelines for
12 Copper, Zinc, and Cadmium; right? For the north
13 basin; right?

14 A Hang on. Could you -- your language is specific.
15 Could you just repeat that for me?

16 549 Q The effluent --

17 A Yes.

18 550 Q -- flowing from the north basin --

19 A Yes.

20 551 Q -- exceeded BC Water Quality Guidelines for total
21 Copper, Zinc, and Cadmium; right?

22 A I don't want to agree with that statement because
23 this is the rain water or the water coming from
24 out of the ground, and I believe in these
25 circumstances it's not defined or required -- or

1 it's not that it's not defined or it's not
2 required, it's not subject to the BC Water
3 Guidelines.

4 552 Q Oh, yeah. Okay. But do you agree that's the
5 finding the Ministry of Environment makes?

6 A No, I would not agree with that statement.

7 553 Q Okay. Now -- and then it goes on to say in
8 respect of the central basin it says, "On
9 October 27th --"

10 A Sorry, same paragraph?

11 554 Q Same paragraph, next sentence.

12 A Okay.

13 555 Q It refers to the central basin.

14 A Yes.

15 556 Q It says, "On October 27th, 2022, the effluent
16 overflowing from the DWC --" that is the
17 central --

18 A Yes.

19 557 Q "-- unlined basin --"

20 A M'mm-hmm.

21 558 Q "-- into the marine environment and tidal
22 foreshore exceeded BC Water Quality Guidelines for
23 total Copper, Lead, Zinc, and Cadmium"; right?

24 A M'mm-hmm.

25 559 Q Yes?

1 A They're making the statement, but I -- again, I
2 don't agree with that because, for the record, the
3 water sampling at the top of the property where
4 the water's coming from the other side of the
5 highway has the same results. The results are
6 consistent. So it appears that water has those --
7 those levels of those metals naturally occurring,
8 and it needs to be understood that there is a --
9 or was a copper mine under Mount Washington.

10 560 Q Was there also a lead mine?

11 A I don't know if there was a lead mine. But we are
12 directly below Cumberland which, as you may be
13 aware, was historically a coal mining town, and
14 coal contains often high levels of metals.

15 561 Q Okay. And it's not a zinc mine, is it, either?

16 A Well, those metals are obviously prevalent in
17 the -- in the water source through that -- through
18 that area.

19 562 Q Now, copper, lead, and zinc are also prevalent in
20 marine paint, aren't they?

21 A They can be.

22 563 Q They can be, yeah. Now -- and then it goes on in
23 the next paragraph to say:

24 "On April 5th, 2022, the effluent in the north
25 basin exceeded BC Water Quality Guidelines

1 for Copper, Zinc, and Cadmium."
2 Right?
3 A Sorry, same -- same paragraph again?
4 564 Q Next paragraph. For April 5th, 2022, right, the
5 effluent --
6 A Sorry, excuse me. I'm not following. What
7 paragraph are you on?
8 565 Q The following paragraph.
9 A Okay. That would be the one that starts --
10 566 Q It starts with --
11 A -- with "Management --"
12 567 Q -- the words "On April 5th, 2022."
13 A Okay. Sorry, go ahead. That's the one we were on
14 before. Okay.
15 568 Q It's not the one we were on before. This is the
16 paragraph dealing with April water sampling.
17 A Okay.
18 569 Q For the north basin:
19 "The unlined basin exceeded Water Quality
20 Guidelines for Copper, Zinc, and Cadmium."
21 Right?
22 A Well, that's what's stated here.
23 570 Q Yes. That's the finding of the Ministry of
24 Environment; right?
25 A They've made that statement here, but I don't --

1 I'm not agreeing with this statement.

2 571 Q Oh, yeah. Okay. And then for the central
3 basis -- basin on April 5th, 2022, their
4 exceedance is for copper, lead, and zinc; right?

5 A That's what's stated here, yes.

6 572 Q Yes. And then on April 5th, 2022, the effluent in
7 the south unlined basin exceeded quality
8 guidelines for copper, lead, and zinc; right?

9 A That's -- that's what's stated here.

10 573 Q And then there's a chart called "Table 1."

11 A Okay.

12 574 Q Showing the amounts of copper, lead, zinc, and
13 cadmium on the different dates at the different
14 basins. Do you see that?

15 A Yes.

16 575 Q So, for example, for October 2022, DWC, the
17 central basin --

18 A Okay.

19 576 Q -- for copper, the exceedance is by a factor of
20 40, so it's 40 times higher than the Water Quality
21 Guideline; right?

22 A I'm not following you there. You are looking at
23 this table here? Is that correct?

24 577 Q I'm looking at the table for copper.

25 A Okay.

3 A Okay.

6 A Oh, I don't know that to be the case.

8 A Okay.

11 A I don't know that.

14 A Okay.

17 A Okay.

20 A So --

22 A -- if we -- we're not working predominantly
23 through the year of 2022, this would further
24 confirm high elevations of these materials in the
25 water coming from the upland portion of the

1 property.

2 586 Q That's the finding of the Ministry of Environment,
3 that they're elevated levels of, what could be
4 described as, metals; right?

5 A Well, there's no suggestion that they've come from
6 us.

7 587 Q Oh. It's the effluent coming from your --

8 A No, that's incorrect.

9 588 Q -- drainage, unlined drainage basins, isn't it?

10 A No, that would be incorrect.

11 CNSL J. GRATL: All right. Could we mark this document as the
12 next exhibit, please?

13 **EXHIBIT 6: Ministry of Environment report dated**
14 **December 8, 2022**

15 CNSL J. GRATL:

16 589 Q Now, I want to return to the Exhibit 1.

17 A Thank you.

18 590 Q If you remember earlier, I took you to the issues
19 that you found to be defamatory in your letter
20 there at page 6.

21 A Okay. I have page 6.

22 591 Q You say "Deep Water has not and is not conducting
23 its operations on raw land."

24 A Which paragraph, sorry?

25 592 Q It's the second from the bottom. Says, "Deep

1 Water has not and is not conducting its operations
2 on raw land"; right?

3 A M'mm-hmm. Okay.

4 593 Q But I take it you agree that, in fact, Deep Water
5 was disassembling barges on raw land. Wasn't it?

6 A Two barges were partially dismantled for
7 processing.

8 594 Q Yes. And so that means part of its operations are
9 conducted on raw land; right?

10 A Not typically, no.

11 595 Q All right. So what you're doing in your letter of
12 May --

13 A There was an exception made because the barges
14 that were pulled out, one was in the process of
15 sinking. It was brought to us under an emergency
16 circumstance, and it was 350 feet long.

17 596 Q Yes. Sir, when you say "Deep Water has not and is
18 not conducting its operations on raw land," well,
19 that's false, isn't it? In fact, Deep Water did
20 conduct part of its operations on raw land, didn't
21 it?

22 A There was some of -- in two instances in emergency
23 circumstances, there were two vessels that were
24 partially dismantled.

25 597 Q Right. So there you are in your letter, marked as

1 Exhibit 1, instructing your legal counsel to
2 threaten to sue a group called the Concerned
3 Citizens of Baynes Sound for saying that your
4 operations are conducted on raw land, aren't you?

5 A Sorry, could you repeat that?

6 598 Q Did you not understand the question?

7 A No, I was distracted, sorry.

8 599 Q Oh, I see. Here you are in this letter marked as
9 Exhibit 1 --

10 A M'mm-hmm.

11 600 Q -- dated May 26th, 2022, threatening to sue the
12 non-profit organization CCOBS --

13 A Okay.

14 601 Q -- for saying that you were conducting your
15 operations on raw land; right?

16 A Included in that are other statements that we are
17 discharging heavy metals, PCBs.

18 602 Q Yeah. Sir, I just want to narrow your attention
19 on this raw land business. Can we focus on that
20 for a second?

21 A Okay.

22 603 Q Are you with me? Yes? Okay. We're talking about
23 raw land now.

24 A M'mm-hmm.

25 604 Q Conducting the operations on raw land.

1 A M'mm-hmm.

2 605 Q We agree that's the topic of conversation?

3 A M'mm-hmm. Yes.

4 606 Q All right. Now, in fact, you were conducting part
5 of your operations on raw land; right?

6 A As I said before, two barges were partially
7 dismantled.

8 607 Q Right. So -- so --

9 A Those were brought in under emergency
10 circumstances with the knowledge of the
11 government, and they were partially dismantled.

12 608 Q On raw land; right?

13 A That's correct.

14 609 Q Okay. So there over the page, you say -- and this
15 is the third paragraph -- third full paragraph:
16 "All the statements as outlined above are
17 untrue and are unequivocally denied."
18 That's what you say or you instructed your lawyer
19 to say; right?

20 A Where are you reading that, sorry?

21 610 Q The third full paragraph, the first sentence.
22 "All the statements as outlined above are
23 untrue and are unequivocally denied."
24 Do you see that?

25 A Yes.

1 611 Q Right. So what you're doing there is you're --
2 you're lying?

3 CNSL M. SWANSON: Objection.

4 CNSL J. GRATL:

5 612 Q Aren't you?

6 CNSL M. SWANSON: Objection.

7 CNSL J. GRATL:

8 613 Q You're denying something that's true, that you
9 were conducting part of your operations on raw
10 land; right? Right? It's been about a minute now
11 since I asked the question, and --

12 CNSL M. SWANSON: That's not accurate, counsel.

13 CNSL J. GRATL:

14 614 Q It's been about a minute --

15 CNSL M. SWANSON: That's not accurate, counsel.

16 CNSL J. GRATL: How long has it been there, counsel?

17 CNSL M. SWANSON: I think you could say 30 seconds.

18 CNSL J. GRATL:

19 615 Q Yeah, and I'd like an answer please, sir.

20 A Sorry, could you repeat the question again?

21 616 Q You forgot the question, did you?

22 A I don't recall the question. If you could repeat
23 it, please.

24 617 Q Okay. You were lost in thought I take it?

25 CNSL M. SWANSON: Counsel...

1 CNSL J. GRATL:

2 618 Q Now, there you are threatening to sue CCOBS for
3 saying something that's true that you were
4 conducting your operations on raw land.

5 A I disagree with your analogy.

6 619 Q It's not an analogy. It's just a question.

7 A No, I disagree with your analogy.

8 620 Q Well, isn't it true that part of your operations
9 were conducted on raw land?

10 A I would interpret that statement to mean that part
11 of our operations, as a regular course of
12 business, are conducted on raw land, and I would
13 disagree with that.

14 621 Q Right. And you say it's untrue and unequivocally
15 denied that your operations -- or that you conduct
16 operations on raw land?

17 A Well, typically we don't.

18 622 Q I see. Sometimes you do though?

19 A As I've indicated before, two -- two barges that
20 were brought in under emergency circumstances were
21 partially dismantled. I would not call that
22 operations.

23 623 Q Oh, you don't consider dismantling barges to be
24 part of your operations?

25 A Well, in the context that you're suggesting, I

1 would say -- I would say no.

2 624 Q Oh, I see. Now, I'm going to suggest to you that
3 your denial, your unequivocal denial, that you
4 conduct your operations on raw land is false.

5 A Okay.

6 625 Q Your denial is false, isn't it? Isn't it?

7 A I don't agree with you.

8 626 Q Oh, I see. So you're insisting today that it's
9 true --

10 A I think I've stated --

11 627 Q -- that you don't conduct your operations on raw
12 land? That's what you're saying?

13 A Yeah, I -- I think I've stated clearly that the
14 dismantling of barges is not performed on raw
15 land. We did partial dismantling of two barges.

16 628 Q Right.

17 A And I think I've been clear in stating that.

18 629 Q Now, how about that --

19 A Is it a normal course of what we do? No.

20 630 Q Or let's say the next thing that you say is
21 defamatory is that it's defamatory to say that
22 Deep Water is "using hay bales for environmental
23 spill containment."

24 A M'mm-hmm.

25 631 Q That's what you say; right?

1 A Sorry, where did you read that?

2 632 Q Well, that's the next thing after "raw land."

3 A What paragraph?

4 633 Q It's the same paragraph after "raw land."

5 A If you could help me here. We were on

6 paragraph 4. What paragraph are you looking at?

7 634 Q Page 6 begins -- paragraph beginning "Contrary to

8 the statements."

9 A Okay. Back to page 6. Okay. Sorry.

10 635 Q It says, "nor is it using hay bales for

11 environmental spill containment."

12 A That is correct. We don't use it for

13 environmental spill containment.

14 636 Q But you do use hay bales?

15 A For silt containment.

16 637 Q Okay. And -- and why do you have to prevent silt

17 from going into the ocean?

18 A It's good practice.

19 638 Q Because it's an environmental problem; right?

20 A No.

21 639 Q Silt discharge is an environmental problem?

22 A I'm not -- I'm not sure that it is. I don't --

23 640 Q Well, then, why do you do it? Why is it a good

24 practice to prevent siltation if it's not an

25 environmental problem?

1 A Well, any time you can contain silt from flying
2 into any water environment whether it be a lake or
3 the ocean, it's good practice to do so.

4 641 Q Yeah, because otherwise it would be -- it'd be bad
5 practice, wouldn't it?

6 A No. No. I mean, when every time it rains, if you
7 look up and down the coastline, you will see large
8 areas where silt has discoloured the water. It's
9 entered into lakes and the marine environment.
10 It's a natural course of nature, but if you can
11 prevent it, take action to prevent it.

12 642 Q Okay. So it says you're using hay bales for --

13 A We're not obliged to do it.

14 643 Q You're not obliged to do it?

15 A To the best of my understanding, no.

16 644 Q Okay. Well, I'm going to suggest to you that --

17 A We do it out of best management practices.

18 645 Q You -- You, in fact, were using hay bales; right?

19 A Excuse me?

20 646 Q You were using hay bales; right?

21 A For silt containment?

22 647 Q Yeah. And silt -- silt spilling into the ocean is
23 a bad thing; right?

24 A I don't know that it is.

25 648 Q Oh, okay. I just wanted to understand what your

1 evidence is. You say it's a neutral thing? Silt
2 spilling into the ocean is a neutral thing from an
3 environmental point of view?

4 A I don't think silt spills.

5 649 Q Oh, you're saying silt doesn't spill?

6 A I don't know that it does.

7 650 Q What does it do?

8 A Well, I would suggest that it travels with the
9 rain water.

10 651 Q Okay. It's just travelling; right? Now, then the
11 next thing you say is that it's defamatory to
12 assert that there are vessels resting on the ocean
13 bed.

14 A M'mm-hmm.

15 652 Q But, in fact, there were vessels resting on the
16 ocean bed; right?

17 A No.

18 653 Q No vessels resting on the ocean bed?

19 A No. They're sitting on the, we believe, 8 to 10
20 feet of rotting bark from the logs.

21 654 Q It's -- pardon me? It's what?

22 A Rotting bark. The vessels were placed where they
23 are because that's where the log discharge was,
24 and that area was historically dredged. So today
25 there is, we don't know, could be 10, 12 feet of

1 rotting bark.

2 655 Q All right. Well, I'm going to suggest that it's
3 on the ocean bed.

4 A Okay. I'm going to --

5 656 Q You disagree? I'm going to say they're half in
6 and half out of the water.

7 A M'mm-hmm.

8 657 Q And they straddle the high -- the space between
9 the high and low tide marks; right?

10 A They -- they are sitting in the dumping ground for
11 the logs, so that is an area that is a
12 contaminated area.

13 658 Q You call that a "dumping ground," do you?

14 A That's what the logs -- used to do. They would
15 dump logs there. The site was historically a log
16 zone.

17 659 Q Okay. So you're of the view that because the logs
18 are contaminating it, you too can contaminate it?

19 A I don't believe we are contaminating it.

20 660 Q Okay. But there's a -- but there are two vessels
21 sitting half in, half out, along the high tide
22 mark; right?

23 A Today there's one, but anyway.

24 661 Q Right. And there was another one sitting there
25 for like a year.

1 A There were two. M'mm-hmm.

2 662 Q Yes? Correct?

3 A M'mm-hmm.

4 663 Q Yes? Two vessels were sitting there for like a

5 year?

6 A In a contaminated area.

7 664 Q Yes, of the foreshore; right?

8 A The old log dump is what it was. Where the logs

9 used to be dumped, there is --

10 665 Q Which is on the foreshore, isn't it?

11 A Yes, it does go up to the foreshore I think.

12 666 Q Right. And so the vessels are sitting on the

13 foreshore; right?

14 A I'm not quite sure I would agree with that

15 statement.

16 667 Q Okay. Well, in this letter you say that it's

17 untrue and unequivocally denied that there are

18 vessels resting on the ocean bed.

19 A M'mm-hmm.

20 668 Q Don't you?

21 A Where are you reading that, sorry?

22 669 Q I just read it to you.

23 A And where did you see that?

24 670 Q You know on page 7 you said the comments made by

25 CCOBS and its members have no foundation, are

1 misleading, and you say "All of the statements --"

2 A Sorry, Mr. Gratl. You move a little bit quicker

3 than I can.

4 671 Q I'm moving that quickly because we've been over

5 this now three, four times.

6 A Well, I'm trying to follow you. Page 7?

7 Whereabouts on page 7?

8 672 Q Well, in the -- where it says, "All of the

9 statements as outlined above are untrue and

10 unequivocally denied." You were --

11 A Excuse me. Have patience with me, please. What

12 paragraph number? If you can just identify the

13 paragraph, I can keep up with you.

14 673 Q It's the third full paragraph.

15 A One, two, three -- okay.

16 674 Q Yeah, you were involved in -- your counsel says 30

17 seconds, I say a minute, of contemplation of that

18 very sentence.

19 A Okay.

20 675 Q I'm just taking you right back to it.

21 A Okay. Could you repeat your question?

22 676 Q Okay. Reading those paragraphs together, you're

23 denying, unequivocally denying, that there are

24 vessels resting on the ocean bed?

25 A I would suggest that the vessels are sitting on

1 bark debris that is probably 10 feet deep.

2 677 Q On the foreshore?

3 A I wouldn't agree that it is the foreshore.

4 678 Q Okay. It's a good thing we have video.

5 A Right.

6 679 Q Yes. You agree that when there are disputes of
7 this nature, it's a good thing to have video so
8 people can make up their own minds about where the
9 vessels are sitting; right?

10 CNSL M. SWANSON: Objection.

11 CNSL J. GRATL:

12 680 Q Do you agree from a public --

13 CNSL M. SWANSON: Objection.

14 CNSL J. GRATL: What's the objection? What's the basis of the
15 objection, sir?

16 CNSL M. SWANSON: There's no relevance to this on the context
17 of the PPPA application, counsel.

18 CNSL J. GRATL: What's the -- you're saying it's not relevant
19 where there's disagreement about the facts and
20 whether there's video? Is that really your
21 objection?

22 CNSL M. SWANSON: My objection, counsel, is you've been
23 dancing around issues that don't actually relate
24 to your PPPA application.

25 CNSL J. GRATL: Oh, it most certainly --

1 CNSL M. SWANSON: Your cross-examination is limited to the
2 matters in the affidavit, to the PPPA application.

3 I've given you wide berth. You're abusing it.

4 CNSL J. GRATL: You think it's abusive to ask whether a video
5 stabilizes a fact pattern?

6 CNSL M. SWANSON: But it's an irrelevant fact, counsel.

7 CNSL J. GRATL: It's irrelevant to the public interest to
8 assist in resolving factual debates about
9 environmental spills, locations of ships, whether
10 they're on the foreshore or not? That's your
11 objection?

12 CNSL M. SWANSON: My objection is, counsel, that we have a
13 counterclaim here.

14 CNSL J. GRATL: You sent a defamation letter, Mr. Swanson, to
15 some people about --

16 CNSL M. SWANSON: That are not your client.

17 CNSL J. GRATL: -- about a --

18 CNSL M. SWANSON: That are not even your client, counsel.

19 That are not part of this proceeding, counsel.

20 CNSL J. GRATL: Well, according to my information here, what
21 the objection is in that letter is that there was
22 some publications on my client's website. They're
23 not part of the proceeding? You say that's not
24 part of the proceeding?

25 CNSL M. SWANSON: I'm saying that the individuals that you're

1 referring to are not part of the proceeding. They
2 haven't been sued for defamation.

3 CNSL J. GRATL: Okay.

4 681 Q Now, do you have your copy of your affidavit with
5 you, then?

6 A Yes.

7 682 Q I'm going to take you to Exhibit F.

8 A Okay.

9 683 Q This is a printout from Mary Reynolds' blog;
10 right? Page 24 of the exhibit. Top right-hand
11 hand corner, page 24.

12 A Could you -- of course, I don't think my page
13 references correspond with yours. Could you --

14 684 Q Top right-hand corner of the exhibits. Page 24.

15 A Yeah.

16 685 Q It's an excerpt from Mary Reynolds' blog; right?

17 A Are we looking at the same thing just for the
18 record?

19 686 Q Yes. It's entitled -- there's a heading
20 "Shipbreaking Deep Water Recovery Style."

21 A This here?

22 687 Q Yes. It says "Show Us You Don't Care." Do you
23 see that?

24 A Okay.

25 688 Q Okay. And then over the page, on page 2 of this

1 excerpt or printout, at page 25 of the exhibits,
2 there's an overhead picture, looks like a drone
3 photo --
4 A M'mm-hmm.
5 689 Q -- of some vessels; right?
6 A Correct.
7 690 Q One of them is half in and half out of the water,
8 and the other one is all the way in the water;
9 right?
10 A Correct.
11 691 Q And those are sitting on the ocean bed; right?
12 A I would suggest not.
13 692 Q Oh, okay.
14 A My definition of an ocean bed would not constitute
15 the bark, the 10 feet of bark at a discharge
16 location for logs.
17 693 Q Okay. You're saying according to the way I define
18 ocean bed, neither of these vessels are sitting on
19 one?
20 A Well, I would suggest not.
21 694 Q Not? Yeah. You're saying nope, not the way I
22 define ocean bed?
23 A Well, in this photograph I would suggest not.
24 695 Q All right. Now, between the little spit there --
25 A M'mm-hmm.

1 696 Q -- and one of those vessels is a little
2 sailboat --
3 A M'mm-hmm.
4 697 Q -- correct?
5 A M'mm-hmm.
6 698 Q And then that same sailboat is depicted right
7 below it?
8 A M'mm-hmm.
9 699 Q Now, there are dates attached to these videos.
10 One is -- or stills. One is December 31st, 2022?
11 A M'mm-hmm.
12 700 Q The next is January 10th, 2023; right?
13 A M'mm-hmm.
14 701 Q Looks like those were taken on different dates?
15 A M'mm-hmm.
16 702 Q Yes?
17 A Yes.
18 703 Q And then over the page, there's another and it's
19 taken January 14th, 2023, and the little sailboat
20 is still there; right?
21 A M'mm-hmm.
22 704 Q Yes?
23 A Correct.
24 705 Q And then over the page, January 15th, 2023,
25 there's an excavator on the spit right beside the

1 sailboat; right?

2 A M'mm-hmm.

3 706 Q Yes?

4 A Correct.

5 707 Q All right. Now, the excavator is a covered

6 excavator; right?

7 A The operator station do you mean?

8 708 Q Yeah, the operator station --

9 A M'mm-hmm.

10 709 Q -- in the excavator is covered; right?

11 A M'mm-hmm.

12 710 Q So the operator can't be seen if there is an

13 operator?

14 A In this photograph?

15 711 Q Yes, in this photograph.

16 A That's correct. I would agree with that

17 statement.

18 712 Q Okay. And then you'll see there's a pile of

19 debris there right at the bucket of the excavator;

20 right?

21 A M'mm-hmm.

22 713 Q Yes?

23 A Correct.

24 714 Q And then the sailboat is still there; right?

25 A Yes.

1 715 Q And then the next page is January 17th, two days
2 later, and the excavator is still there and
3 there's still a pile of debris there; right?
4 A M'mm-hmm.
5 716 Q And this -- and there are two lines. This looks
6 like an image that's a bit more of a close-up;
7 right?
8 A Sorry, which photograph are you referring to?
9 717 Q We're now on page 28.
10 A M'mm-hmm.
11 718 Q Yes?
12 A Yes.
13 719 Q All right. And then there are two lines attached
14 to the sailboat, attaching the sailboat to the
15 little spit?
16 A Yes.
17 720 Q Yes?
18 A Yes.
19 721 Q It's moored to the spit, isn't it?
20 A I believe so. The sailboat was delivered by a
21 contractor for Transport Canada. It had nothing
22 to do with us.
23 722 Q And then the next -- the next image at the bottom
24 of page 28, it looks like that sailboat has been
25 smashed into pieces?

1 A I can confirm that a storm came through and
2 destroyed that sailboat.

3 723 Q Right, because of its mooring location?

4 A Well, because of weather.

5 724 Q Yeah. So the weather came in and smashed the boat
6 up probably against what looks like a metal piling
7 sitting there; right?

8 A I believe, as I indicated earlier, we had nothing
9 to do with it. So I believe the sailboat, if we
10 look at the original photograph here, had no
11 capacity. I believe that's the sailboat being
12 towed by the contractor.

13 725 Q That's at page --

14 A Page 24.

15 726 Q -- 24. December 15th, there's a contractor --

16 A Yeah.

17 727 Q -- looks like a nice Hewescraft there is pulling
18 the sailboat in?

19 A I don't know what kind of vessel he has.

20 728 Q Okay, sure.

21 A But anyway, that's the contractor and I believe
22 that's the sailboat, so I believe --

23 729 Q And then it was put into your responsibility;
24 right?

25 A No. No, it was not. No, it was never given to

1 us. We had nothing to do with this.

2 730 Q It was just moored on your property?

3 A They requested -- they had to salvage this. I
4 don't know quite the details. It was between the
5 contractor and Transport Canada -- and said could
6 they bring it to our facility to take it out of
7 the water, and I said sure.

8 731 Q Yeah. You said sure, we'll take it out of the
9 water for you?

10 A No. No. We never agreed to take it out of the
11 water.

12 732 Q You agreed to salvage it; right?

13 A No. No.

14 733 Q You didn't agree to dispose of it?

15 A No. No.

16 734 Q You just agreed to let it be moored there at your
17 facility there on the foreshore?

18 A Well, it was going to be there for a short, short
19 time.

20 735 Q Well, it wasn't there for a short time, it was
21 there for -- let's see -- from December 15th to
22 January 17th?

23 A Right.

24 736 Q Right?

25 A It should have been there for a short time.

1 737 Q Yeah, but it wasn't?

2 A No, it was not.

3 738 Q No. And in fact you allowed it to be moored there
4 in a way that destroyed that sailboat?

5 A Well, we would have hoped the contractor did the
6 responsible thing and moved quicker than he did.
7 But he did not.

8 739 Q Is that just your role to hope that things go
9 well, or do you have a responsibility to make sure
10 vessels moored to your property are safely moored?

11 A We knew that the vessel didn't contain any fuels,
12 any hydrocarbons or that had been removed prior
13 according to the contractor and Transport Canada
14 so...

15 740 Q But this is an environmental problem what happened
16 here with the sailboat; right?

17 A Excuse me?

18 741 Q It's an environmental problem what happened here
19 to this sailboat while it was in your possession?

20 A I wouldn't suggest it's an environmental problem.
21 I would suggest it's a very ugly problem.

22 742 Q All right. I just wanted to understand what
23 you're saying there.

24 Now, if you turn to page 32, this is again
25 taken from Mary Reynolds' blog?

1 A Okay.

2 743 Q She says this at the top:

3 "Watch as this blue piece of heavy equipment

4 goes back and forth dragging a chain under

5 the Miller Freeman on the shoreline below the

6 high tide mark with the orange piece of

7 equipment pulling the chain back with a

8 cable, and then it's repeated over and over."

9 Do you see that?

10 A Yes.

11 744 Q And then it looks like there's a link to a YouTube

12 video but no image associated with that; right?

13 A Okay.

14 745 Q Have you watched that video?

15 A No. I'm not sure --

16 746 Q You agree that's what depicted, though? You know

17 that happened; right?

18 A Sorry?

19 747 Q Well, below that you can see an overhead

20 photograph?

21 A M'mm-hmm.

22 748 Q It's taken from a vantage point that seems to be

23 very high up, doesn't it?

24 A In this case?

25 749 Q Yes.

1 A M'mm-hmm.

2 750 Q All right. And there's a blue piece of equipment
3 to the left of the ship; right?

4 A M'mm-hmm.

5 751 Q That's the Miller Freeman; right?

6 A That's correct.

7 752 Q And then there's an excavator, right, on the
8 right-hand side of the picture? You can just see
9 the boom of the excavator; right?

10 A On the -- okay.

11 753 Q Yeah, there's a chain that's running under the
12 Miller Freeman with a blue vehicle. What kind of
13 vehicle is that, that blue vehicle?

14 A An all-terrain forklift.

15 754 Q Right. That's one of your vehicles; right?

16 A M'mm-hmm.

17 755 Q Yes?

18 A Yes.

19 756 Q And the excavator on the right-hand side, that's
20 one of your vehicles too; right?

21 A Correct.

22 757 Q Are you in one of these vehicles?

23 A No. I don't know.

24 758 Q You might be? You could be? You don't know?

25 A Could be. I don't recall.

1 Freeman on the shoreline."
2 Right?
3 A Okay.
4 766 Q Yes?
5 A Where does she say that?
6 767 Q Just at the top. We just went through that.
7 A Okay.
8 768 Q Yeah. Below the high tide mark; right?
9 A Okay. I see it now.
10 769 Q Right. And there's paint on the Miller Freeman;
11 right?
12 A There could be.
13 770 Q There could be?
14 A M'mm-hmm.
15 771 Q You're not sure? You've been up to it; right?
16 A M'mm-hmm.
17 772 Q When did the Miller Freeman arrive on your
18 property?
19 A Oh, I don't recall exactly.
20 773 Q Well, was it this year, 2023?
21 A No. No. No, I would say a year and a half ago.
22 774 Q A year and a half ago. So you know there's paint
23 on the Miller Freeman; right?
24 A Where?
25 775 Q On the hull.

1 A Well, there -- there should be, yes.

2 776 Q And so when the chain drags under the Miller
3 Freeman, it's probably scraping paint off the
4 hull; right?

5 A Well, I don't know if there's a -- the chain would
6 be under the keel, not under the hull. It would
7 be under the keel.

8 777 Q M'mm-hmm?

9 A Because this vessel has a very specific keel
10 shape --

11 778 Q Right.

12 A -- for a very specific reason.

13 779 Q And you're saying there's no risk at all of paint
14 coming off using this operation?

15 A I don't -- I don't know.

16 780 Q You don't know? Okay. And you're dragging the
17 chain under there to loosen up some of the soil so
18 you can -- basically you're kind of digging a
19 tunnel under the Miller Freeman so you can slide
20 an airbag under there to later inflate; right?

21 A We want to pull a rope under there.

22 781 Q Yes. But before you can do that, you basically
23 have to tunnel underneath it; right?

24 A No. No. If we pull an airbag, the airbag may not
25 go underneath the vessel all the way.

1 782 Q Yeah, that's why you had to free up the ground
2 underneath it; right? It's kind of a digging
3 operation?

4 A Not necessarily.

5 783 Q Are you trying to cut up the hull or are you
6 trying to dig up the foreshore using that chain
7 operation?

8 A No, we're trying to place an airbag.

9 784 Q Well, then why are you going back and forth over
10 and over again? The video depicts, like, this
11 activity going on for a long time.

12 A To get the rope through.

13 785 Q It goes back and forth many, many times.

14 A Okay. I would need to see the video.

15 786 Q Oh, you haven't seen the video?

16 A Well, I'd have to go back and study the video.

17 787 Q So it would be helpful to have the video so that
18 you know what happened?

19 A Possibly.

20 788 Q All right. I'm going to suggest to you that this
21 kind of operation would dig up the foreshore,
22 wouldn't it, under the high tide mark?

23 A It might -- I wouldn't suggest it would dig up the
24 foreshore, no. It would move some sand on the
25 surface.

1 789 Q And then the --

2 A About 3 inches deep, 4 inches deep.

3 790 Q -- the blue equipment will be creating tracks on

4 the foreshore?

5 A It's a rubber-tired machine, so nothing that the

6 tide will not change in the next tide cycle.

7 791 Q Oh, I see. Okay. But it's a piece of heavy

8 equipment --

9 A There's no marine life in this area.

10 792 Q It's a piece of heavy equipment operating under

11 the high tide mark; right?

12 A I would say it's at the high tide mark.

13 793 Q All right. Do you see all the -- do you see all

14 the tire tracks there that look like they're under

15 the high tide mark?

16 A M'mm-hmm.

17 794 Q Yes?

18 A Correct.

19 795 Q I mean, you routinely operate heavy equipment

20 under the high tide mark; right?

21 A Only wheeled equipment, and not routinely, no. In

22 the case of this vessel, yes, but not routinely.

23 796 Q All right. And then this chain-dragging operation

24 could strip out paint?

25 A Could.

1 797 Q Right? And the paint, of course, is toxic marine
2 paint; right?

3 A I don't know what the composition is without doing
4 an analysis on it.

5 798 Q Okay. You wouldn't have any concerns about that
6 from an environmental point of view without doing
7 analysis?

8 A We would. We would.

9 799 Q Okay. So you'd have some environmental concerns
10 then about scraping old marine paint off the
11 Miller Freeman ship there?

12 A Our concern here is to get the vessel out of the
13 water as quickly as we can. There is a series of
14 old pilings in that area, so we prioritize the
15 removal of the vessel.

16 800 Q I'm going to suggest to you that you've struggled
17 for a year and a half to get the Miller Freeman on
18 shore and you failed; is that right?

19 A No, I would disagree with that statement.

20 801 Q Okay.

21 A The Miller Freeman is out of the water.

22 802 Q It's been just sitting there on the foreshore for
23 a year and a half?

24 A That's incorrect.

25 803 Q Okay. And the Miller Freeman, did you buy it?

1 A We purchased that vessel some years ago.

2 804 Q You own it; right?

3 A That is correct.

4 805 Q Right. And it does have asbestos on board,

5 doesn't it?

6 A I don't know that to be the case. The vessel was

7 remediated.

8 806 Q Okay. Now, when you bought it, didn't the bill of

9 sale contain a warning that it contains asbestos

10 and maybe other hazardous substances?

11 A The remediation documents were extensive on this

12 vessel. And asbestos when it is encapsulated is

13 not a hazard. Asbestos is -- it's in talcum

14 powder. I mean --

15 807 Q And then if you turn to page 36, there's a

16 photograph on Mary Reynolds' blog. And the

17 photograph itself was taken by your employee,

18 Mr. Rattan; right?

19 A M'mm-hmm.

20 808 Q Yes?

21 A It seems.

22 809 Q And that depicts the hull of the Miller Freeman;

23 right?

24 A Okay.

25 810 Q Yes?

1 A Yes.

2 811 Q Okay. In August of 2022?

3 A Okay.

4 812 Q Yes?

5 A I'm not seeing the -- okay, here it is.

6 813 Q Okay. And it's obviously flaking paint there --

7 A I see it here.

8 814 Q There's obviously flaking paint there; right?

9 A No, I would not agree with that statement.

10 815 Q Okay. And then you would be cutting holes into

11 the hull of the Miller Freeman; right?

12 A M'mm-hmm.

13 816 Q Yes?

14 A Yes.

15 817 Q While it's on the foreshore; right?

16 A That's correct.

17 818 Q Okay. So part of the work that you're doing isn't

18 just on the gravel portion of your property, it's

19 actually on the foreshore. You're doing cutting

20 on the foreshore; right?

21 A I wouldn't agree with that statement.

22 819 Q Okay. Where then was the -- where then did you

23 cut into the hull of the Miller Freeman?

24 A Oh, it was setting rigging -- I think it -- that

25 needs to be used in context when you say we are

1 working.

2 820 Q Oh, setting Freeman -- for setting rigging not

3 work?

4 A It's part of the hole-out process.

5 821 Q Part of the operation?

6 A Part of the hole-out process.

7 822 Q Yes. And part of the operation is happening on

8 the foreshore; right?

9 A It's part of the hole-out process. You have to

10 tie rigging to something.

11 823 Q Yeah.

12 A It doesn't mean that you're putting this material

13 on the ground.

14 824 Q Well, particularly what you're doing is you're

15 cutting metal on the foreshore; right?

16 A I'm not really following your suggestion there.

17 825 Q You cut into the hull of the ship with torches;

18 right?

19 A From which direction?

20 826 Q While the Miller Freeman was on the foreshore, you

21 cut into the hull of the ship; right?

22 A From which direction?

23 827 Q What do you mean "from which direction"? Any

24 direction. While the Miller Freeman --

25 A Well, that's a very significant practice. Which

1 direction is very important to be noted. From the
2 outside in, this photograph clearly depicts that
3 this cut was done from the outside in.

4 828 Q Okay. So you were cutting the hull of the Miller
5 Freeman with torches while it was on the
6 foreshore; right?

7 A Rigging has to be attached to the vessel.

8 829 Q So that's a yes; right?

9 A Sorry?

10 830 Q It's a yes to the question were you cutting the
11 hull of the Miller Freeman using torches while the
12 Miller Freeman was on the foreshore.

13 A To attach rigging to the vessel? To attach
14 rigging to the vessel we need attachment points so
15 --

16 831 Q So that's a yes, you were cutting --

17 A -- rigging.

18 832 Q You were cutting the Miller Freeman hull while it
19 was on the foreshore, yes.

20 A We have cut a hole to put the rigging into the
21 vessel.

22 833 Q Well, not just one hole?

23 A Well, multiple holes.

24 834 Q How many?

25 A How many?

1 835 Q Yeah.

2 A I would suggest here four. The photograph depicts
3 two, but I would suggest four.

4 THE REPORTER: I'm just wondering if we're going to be taking
5 a lunch break.

6 CNSL J. GRATL: Yes.

7 (PROCEEDINGS RECESSED AT 12:51 P.M.)

8 (PROCEEDINGS RECONVENED AT 1:55 P.M.)

9 CNSL J. GRATL:

10 836 Q Over on page 42 of the exhibits of your affidavit
11 is a photograph of Mary Reynolds. That's her;
12 right? Mary Reynolds?

13 A I believe so.

14 837 Q And she's holding her DJI Mini 2 drone?

15 A Okay.

16 838 Q Is that correct?

17 A It would seem so.

18 839 Q That's the drone that you're complaining about in
19 the counterclaim; right?

20 A Well, I don't know if it's that particular drone.
21 I can't --

22 840 Q It's the same model of drone?

23 A Okay.

24 841 Q Isn't it?

25 A Well, I can't see that writing on the drone, but

1 I'm going to --

2 842 Q Well, you've had an opportunity to inspect this

3 drone close up; right?

4 A This drone?

5 843 Q Yes. You stole it from her; right?

6 A No.

7 844 Q You never stole it from her?

8 A This drone?

9 845 Q Or a drone that looked like it?

10 A I didn't steal anything, no.

11 846 Q You didn't admit to Mr. Rattan that you stole her

12 drone?

13 A No.

14 847 Q He didn't return that drone to her three days

15 later?

16 A Yes.

17 848 Q You didn't steal the drone, you just took it?

18 A I snatched it out of the air.

19 849 Q Yes. And you knew it wasn't yours?

20 A Correct.

21 850 Q You knew it belonged to Mary Reynolds; right?

22 A Correct.

23 851 Q And you didn't have Mary Reynolds' permission to

24 take it; right?

25 A No.

1 852 Q And so that is what constitutes a theft, sir,
2 isn't it?

3 CNSL M. SWANSON: I'm going to object.

4 CNSL J. GRATL: What's the basis for the objection?

5 CNSL M. SWANSON: You're asking him to make a legal
6 conclusion.

7 CNSL J. GRATL: You said we can't discuss stealing?

8 CNSL M. SWANSON: You're asking him to make a legal
9 conclusion, counsel.

10 CNSL J. GRATL: Oh, okay. Well, I'm not asking him to make a
11 legal conclusion. Theft and stealing are obvious
12 words in the English language that don't
13 necessarily have a --

14 853 Q I'm not asking you to formulate a legal opinion,
15 sir. But when you say that you didn't steal the
16 drone, on what basis do you say that if you took
17 it from her without her permission knowing that it
18 didn't belong to you?

19 A I don't believe my action constituted theft.

20 854 Q Yes. Why, though? I'm asking you what's the
21 basis for your view --

22 CNSL M. SWANSON: Counsel, again, I'm going to object. Now
23 you're going too far out of field. This really
24 has no relevance to the PPPA application.

25 CNSL J. GRATL: Oh, it sure does.

1 CNSL M. SWANSON: Well, I think we disagree on that.

2 CNSL J. GRATL: Oh, okay.

3 855 Q And then you returned the drone to her after
4 having stolen it; right?

5 A I don't agree with your suggestion that I stole
6 it.

7 856 Q Okay. You came and returned the drone to her,
8 right, three days later?

9 A Correct.

10 857 Q In the evening; right?

11 A Correct.

12 858 Q And that's because the police told you to give it
13 back; right?

14 A Oh, I don't recall. I think they did, yes.

15 859 Q Yes, because -- and they -- and on what basis did
16 they say you should be giving it back?

17 A Oh, I don't recall.

18 860 Q You can't remember?

19 A No.

20 861 Q It could have been that it wasn't yours?

21 A I don't -- honestly I don't recall.

22 862 Q No recollection at all? No?

23 A No.

24 863 Q So did you -- while you had it in your possession
25 for three days, did you have a chance to inspect

1 the drone?

2 A No, I didn't inspect the drone, no. I just put it
3 in a container.

4 864 Q Did you look at it?

5 A Not particularly.

6 865 Q Did you show it to anyone?

7 A I don't recall.

8 866 Q You didn't show it to Mr. Rattan and say, hey,
9 look, I got it?

10 A They may have seen the drone. That could well
11 have been the case, yeah.

12 867 Q And you admitted to him that you stole the drone;
13 right?

14 A No. No, I don't believe so. I don't consider
15 that I stole the drone.

16 868 Q Okay. And how would you characterize what you did
17 with the drone, then? Your possession of the
18 drone for three days without permission, how would
19 you characterize that?

20 CNSL M. SWANSON: I'm going to object, counsel. That's
21 irrelevant.

22 CNSL J. GRATL: Uh-huh.

23 869 Q Now, you contacted Transport Canada complaining
24 about Ms. Reynolds' drone; right?

25 A Yes, I believe so.

1 870 Q Yeah. And they told you that there are no
2 regulations that apply to her drone because it's
3 too small; right?

4 A No. No, they didn't say that.

5 871 Q They didn't say that?

6 A No.

7 872 Q Well, what did they tell you?

8 A They referred us to another agent, I believe they
9 said who was responsible for Vancouver Island, in
10 Nanaimo.

11 873 Q Yes. Who's that now?

12 A Oh, I don't recall his name. We never spoke with
13 him.

14 874 Q Well, when did you contact Transport Canada?

15 A Oh, I don't recall. Quite some time. I don't
16 recall if it was at this time or not.

17 875 Q When did you contact the agent?

18 A We never managed to get a hold of him.

19 876 Q Okay. Now, did you look online for drone
20 regulations?

21 A I don't recall.

22 877 Q Did you -- did you ever research drone regulations
23 to see if drone regulations apply to drones that
24 are less than 250 grams?

25 A The RCMP advised us that the operator of the drone

1 had to be in the line of sight of a drone at all
2 given times.

3 878 Q Yes. Did you, sir, ever do any research to figure
4 out whether drone regulations apply to drones that
5 weigh less than 250 grams?

6 CNSL M. SWANSON: I'm going to object. Again, counsel, this
7 is matter of legal implication, legal opinion,
8 legal conclusion.

9 CNSL J. GRATL: Well, I'm just looking at the counterclaim
10 which includes a reference to -- do you have a
11 copy of the notice of civil claim with you -- or
12 the response to civil claim?

13 CNSL M. SWANSON: I don't. I have the counterclaim.

14 CNSL J. GRATL:

15 879 Q You appreciate your counterclaim makes reference
16 to and incorporates some of the wording from the
17 response to civil claim?

18 A Could you repeat that.

19 880 Q Your counterclaim -- did you read the counterclaim
20 before it was filed?

21 A Yes, the counterclaim. Go ahead.

22 881 Q Did you read the counterclaim before it was filed?

23 A My claim against Mary Reynolds?

24 882 Q Did you read it before it was filed --

25 A Are you referring to my claim against Mary

1 Reynolds?

2 883 Q Yes, the counterclaim.

3 A Yes.

4 884 Q Did you read it before it was filed?

5 A Yes, I would have.

6 885 Q And did you read the response to civil claim
7 before that was filed?

8 A I should I imagine I did.

9 886 Q All right. Now, I'm going to suggest to you that
10 there is no requirement, to your knowledge, to
11 register a drone that weighs less than 250 grams,
12 is there?

13 CNSL M. SWANSON: I'm going to object. You're getting into,
14 again, matters of legal conclusion and opinion.
15 If you want to stick to the facts, please do so,
16 but you're getting into matters of legal
17 conclusion, counsel. Please move on.

18 CNSL J. GRATL:

19 887 Q Didn't the police tell you -- didn't the RCMP tell
20 you that there is no requirement to register a
21 drone if it weighs less than 250 grams?

22 A Not that I recall.

23 888 Q Did Transport Canada tell you that there's no
24 requirement to register a drone if it weighs less
25 than 250 grams?

1 A Not that I recall.

2 889 Q Did you --

3 CNSL J. GRATL: The problem here, counsel, is you pled some
4 information here. I don't know if you pled it
5 knowing that it's not accurate, but there's an
6 allegation that it's a violation of a legal
7 requirement to operate an unmarked drone as part
8 of the counterclaim.

9 890 Q Sir, you contacted Transport Canada and found out
10 that there's no legal requirement to mark a drone
11 if it weighs less than 250 grams; correct?

12 A No.

13 891 Q All right.

14 A I don't recall.

15 892 Q Did the RCMP tell you that?

16 A No. No, I don't believe so.

17 893 Q Didn't the RCMP tell you that failing to maintain
18 a drone in a visual line of sight at all times
19 during flight is a guideline, not a legal
20 requirement?

21 A No.

22 894 Q You never heard of that?

23 A No.

24 895 Q You never went online to look at this?

25 A No, I don't believe we did.

1 896 Q Well, it's a safety issue; right? You say, I was
2 really concerned about the safety of my employees
3 and my own safety, I was losing my balance and
4 things like this. You say that in your affidavit;
5 right?

6 A I'm not sure how that, with respect, is relevant
7 to me researching the use of the drone, the
8 requirements of a drone. The drone for us is a
9 safety issue, it's a nuisance.

10 897 Q Yeah, but you put in your counterclaim that it's
11 unlawful.

12 A If you're asking me if I have gone online to study
13 the rules of flying a drone, I don't believe I
14 have. To me, frankly, that is irrelevant what the
15 rules are.

16 898 Q But why did you contact Transport Canada, sir, if
17 the rules are irrelevant?

18 A Well, we would like to know if there are any
19 rules, but --

20 899 Q Yeah, because they're relevant; right?

21 A -- the person we spoke with at the -- Transport
22 Canada didn't know.

23 900 Q Yeah, because the rules are relevant; right?

24 That's why you called Transport Canada?

25 A Well, the -- whether Mary Reynolds is allowed to

1 fly the drone or not, it doesn't stop her from
2 doing it. So she persists with this aggravation,
3 she persists with flying the drone over us
4 regularly. So whether the rules --

5 901 Q But, you called --

6 A -- are going to apply or not, they're certainly
7 not being respected if there are rules. We
8 believe --

9 902 Q If there are rules?

10 A We believe that an operator of a drone needs to be
11 in the line of sight of the drone, which is
12 clearly not the case with Ms. Reynolds.

13 903 Q On what basis do you say that?

14 A That she's not in the line of sight of the drone?

15 904 Q No. On what basis do you say that she -- there's
16 a rule that requires her to do that?

17 A No, it is our understanding that that is the rule.

18 905 Q Yes. What's the basis for your understanding?
19 Where'd you hear that?

20 A From the RCMP.

21 906 Q Okay. Who at the RCMP told you that?

22 A Oh, I don't remember the officer's name.

23 907 Q When were you told that?

24 A When he came to our site.

25 908 Q Pardon me?

1 A When he came to our site.

2 909 Q How many times have you called the RCMP on the

3 drone?

4 A Oh, many.

5 910 Q How many?

6 A I couldn't tell you.

7 911 Q Why couldn't you tell me? You're the person who

8 called.

9 A Oh, I don't know. I'm not making a record of how

10 many times I've called.

11 912 Q Okay. Is it more than 5?

12 A I would definitely say more than 5.

13 913 Q More than 10?

14 A I would say more than 10.

15 914 Q All right. More than 15?

16 A I don't know. Could be.

17 915 Q You called 15 times or more possibly?

18 A Possible.

19 916 Q And the RCMP told you that it wasn't unlawful for

20 Mary Reynolds to fly her drone, didn't they?

21 A No. No, they didn't say that at all.

22 917 Q And who did you hear from that it was unlawful for

23 her to fly her drone?

24 A I don't recall the officer's name.

25 918 Q Okay. And you don't remember when that was said?

1 A No, not exactly. It was at the time of the first
2 incident with Mary Reynolds.

3 919 Q Was that in writing or was it just orally?

4 A Verbal response.

5 920 Q Okay. But you say that you were repeatedly told?

6 A Yes.

7 921 Q That she was instructed to stop flying the drone
8 onto your air space?

9 A It is our understanding, yes, that the RCMP --
10 obviously we weren't there, but we were told that
11 they had asked her not to fly the drone.

12 922 Q Yes. Who told you that?

13 A The RCMP officer.

14 923 Q Yes. Which one?

15 A Oh, I don't know his name.

16 924 Q Well, how old was he?

17 A How old was he?

18 925 Q Yes.

19 A I don't know how old he was.

20 926 Q What was his rank?

21 A I don't know.

22 927 Q What was his hair colour?

23 A I would suggest dark.

24 928 Q Was he a Caucasian guy? What was his description?

25 A I would suggest no.

1 929 Q Pardon me?

2 A No, I would say he was not.

3 930 Q Okay. But you don't remember the name?

4 A I don't remember the name.

5 931 Q Because you put it here that the RCMP have

6 instructed the plaintiff to stop flying the drone

7 into the property's air space, but you can't

8 remember who said that?

9 A I can't remember, no.

10 932 Q And you were just told that once?

11 A Excuse me?

12 933 Q You were told that once by an officer, you can't

13 remember their name, you can't really remember

14 their description?

15 A Well, I have his card, so ...

16 934 Q Oh. Well, did you retain that card?

17 A I believe so.

18 935 Q You still have that?

19 A I believe so.

20 936 Q Okay. So you could find out the name?

21 A Yes, I think so.

22 CNSL J. GRATL: All right. So I'll just request a copy of

23 that card.

24 **REQUEST 4: Provide a copy of the RCMP officer's**

25 **business card**

1 CNSL J. GRATL:

2 937 Q Now, did you read the Canadian aviation
3 regulations?

4 A I don't believe so.

5 938 Q Did you ever look it up?

6 A I don't think so.

7 939 Q Did you ever go online and find anything like --
8 that said drone law in Canada, what you need to
9 know? Or anything like that? A little
10 backgrounder? No? You're shaking your head?

11 A I don't believe so.

12 940 Q Did you ever hear of a mini drone classification?

13 A Well, inasmuch as it's a distraction for us, we're
14 not researching the details of drone sizes and
15 other things that you're referring to.

16 941 Q Well, you did some research. You called Transport
17 Canada to find out what the rules were.

18 A Well, I don't think that we found any rules from
19 Transport Canada. They said to us that it
20 shouldn't be happening and they've referred us to
21 somebody else.

22 942 Q Okay. And then you decided not to follow up on
23 that?

24 A Well, we tried a few times but they never return
25 your phone calls. The RCMP were doing more,

1 so ...

2 943 Q So you gave up on that?

3 A Our complaints took a different direction.

4 944 Q What direction did they take?

5 A The RCMP.

6 945 Q Okay. So you gave up on the Transport Canada
7 angle?

8 A I wouldn't suggest that. You have to understand,
9 Mr. Gratl, we have lots of things to do, not just
10 deal with Mary Reynolds.

11 946 Q Okay. Well, I had understood from your affidavit
12 that there was a significant safety problem, that
13 it was scary enough that your employees were
14 doubling up and working together. Yes? Is that
15 right?

16 A True story.

17 947 Q And who were the employees who doubled up for
18 safety?

19 A I'm not following your question.

20 948 Q Well, who are they? They went into a buddy system
21 according to your affidavit; right? They're in a
22 buddy system?

23 A Well, they work in pairs.

24 949 Q Yeah, they work in pairs because of the drone.
25 Like, the drone started flying and they're like,

1 oh, we have to work together now because then
2 we'll be more safe from the drone if there's two
3 of us?

4 A We tried to, yeah.

5 950 Q You're saying that's what happened, we work in
6 pairs because that enhances our safety from the
7 drone?

8 A Well, the distraction of the drone is -- is
9 certainly a cause of concern for us.

10 951 Q No, no, but here it says to address -- this is
11 paragraph 12 of your affidavit. It said:

12 "To address the safety concerns caused by the
13 repeated operation of the drone over the
14 property, some employees of Deep Water
15 Recovery have worked in pairs to look out for
16 one another's safety."

17 A M'mm-hmm.

18 952 Q That's in your affidavit?

19 A That's correct.

20 953 Q Well, who are they, the "some employees who have
21 worked in pairs to look out for one another's
22 safety" from the drone? Who is that?

23 A Well, it's myself and Terry and Andras and Dena.

24 954 Q Okay. So -- but you've done this, the four of you
25 were working separately as individuals, and then

1 after the drone showed up, you started working,
2 you, sir, Mr. Jurisich, started working in pairs
3 --

4 A We try to. We try to where possible.

5 955 Q -- to address the safety concerns caused by the
6 operation of the drone; is that right?

7 A We try to.

8 956 Q Okay. Now, help me with this realm. How is it
9 that working in pairs improves your drone safety?

10 A Awareness.

11 957 Q Is it because you outnumber the drone? Is it two
12 of you and just one drone?

13 A Well, it's awareness, right?

14 958 Q So that you can take it out if it comes too close?

15 A Well, I don't think we've tried to take it out.

16 959 Q Oh, you have tried to take it out. You and Andras
17 drove up one day and stole the drone; right? You
18 tried to take it out?

19 A I refute that statement, Mr. Gratl.

20 960 Q Well, it's on video. You've seen the video;
21 right?

22 A Okay. I would respectfully disagree.

23 961 Q You've seen the video; right?

24 A Of?

25 962 Q You stealing the drone?

1 A No.

2 963 Q Where you drive up in a vehicle in the little mini

3 --

4 A I'm not in agreement with your insinuation.

5 964 Q Have you seen the video where -- it's a dash cam

6 video. Have you seen that one?

7 A Well, I don't know if I have.

8 965 Q You haven't been on Mary Reynolds' blog to see the

9 dash cam video of you --

10 A I don't recall seeing --

11 966 Q -- crossing the field and then you come back with

12 the drone and then you cross back again, you've

13 got the drone in your hand and you're shaking it

14 and you're --

15 A I don't recall seeing that.

16 967 Q You didn't see that at all?

17 A I might have, but --

18 968 Q You might have, but you don't remember? You don't

19 remember?

20 A I don't recall seeing it, but I could well have

21 seen. I mean, there is, as you know, lots of

22 these things circulating, so ...

23 969 Q Okay. Let's try this again. How does working in

24 pairs improve your safety from the drone?

25 A Awareness.

1 970 Q What does that mean, "awareness"? What does that
2 mean, "awareness"?

3 A It's a distraction.

4 971 Q Yes?

5 A It's a distraction from what we're doing. So if
6 one person becomes aware, and they are only aware
7 because it's a distraction, then they will advise
8 the person that they're working with.

9 972 Q That what?

10 A That the drone is hovering over us.

11 973 Q Okay. So how does that improve your safety?

12 A Well, if we're aware of it, we're not going to be
13 startled by it.

14 974 Q Oh, I see. And so that's been a big problem,
15 that's startling?

16 A I think any distraction, doing the kind of work we
17 do, presents a danger.

18 975 Q Okay. I'm going to suggest that when you've got a
19 torch lit, the torch makes a lot of noise, you
20 can't hear a drone.

21 A Okay.

22 976 Q Isn't that true?

23 A That's a broad statement. I mean, maybe the
24 person standing ten feet away doesn't have a torch
25 lit.

25 A I would disagree with your analogy of comparing a

1 bird to a drone.

2 985 Q Oh, in what way? Why? What's the difference?

3 A I wouldn't consider a bird an invasion of my

4 space.

5 986 Q Right, because you don't want to be watched?

6 A I perceive it as harassment.

7 987 Q You don't want to be watched?

8 A It's harassment. I consider it to be harassment.

9 988 Q But not --

10 A That would be my -- that's my interpretation of

11 being a victim of this behaviour.

12 989 Q You're a victim; is that correct?

13 A M'mm-hmm.

14 990 Q Yes? You're saying yes, I'm a victim?

15 A For sure.

16 991 Q Okay. I'm going to suggest that -- have you read

17 Mary Reynolds' affidavit?

18 A I don't know that I have.

19 992 Q Pardon me?

20 A I don't know that I have. Certain aspects of it,

21 I think.

22 993 Q Do you remember when you were contacted by a

23 reporter from *The Tyee* newspaper, Michelle Gamage?

24 A She's called me multiple times. I don't know

25 which particular occasion. She would call me

1 frequently.

2 994 Q Sure. She asked you a bunch of questions; right?

3 A Well, typically that's what reporters would do,
4 yes.

5 995 Q Yes. And you remember you answered some of her
6 questions; right?

7 A Not necessarily.

8 996 Q Didn't you tell her that -- that some shipbreaking
9 happens over a permeable surface but that any work
10 on the lower part of the vessel or the hull
11 happens over asphalt with spill mitigation
12 measures in place?

13 A I don't recall what I've said -- what I said to
14 her.

15 997 Q Okay. And then -- would it help if you reviewed
16 the article?

17 A Not particularly, no, because I don't know if what
18 she's reporting is a correct --

19 998 Q Oh. You don't have any reason to think that it's
20 incorrect?

21 A Yes, I could think of a number of reasons to think
22 that her reporting could be incorrect.

23 999 Q Did -- aside from these three letters that you
24 instructed your counsel to send, that are marked
25 as Exhibits 1, 2, and 3, did you instruct your

1 counsel to send any other letters?

2 CNSL M. SWANSON: Objection.

3 CNSL J. GRATL:

4 1000 Q Did you send -- did you instruct your counsel to
5 send letters to The Tyee or any other media
6 organization?

7 CNSL M. SWANSON: Objection.

8 CNSL J. GRATL: What's the basis for the objection?

9 CNSL M. SWANSON: Subject to privilege.

10 CNSL J. GRATL: You say it's privileged that you sent letters
11 threatening people to cease their expressive
12 activity?

13 CNSL M. SWANSON: That wasn't your question, counsel.

14 CNSL J. GRATL:

15 1001 Q Well, did you send any letters to any person,
16 Mr. Jurisich, to cease any other expressive
17 activity?

18 A Not that I can recall.

19 1002 Q No? Nobody other than CCOBS, Ray Rewcastle, and
20 Mary Reynolds?

21 A Possibly Robert Kerr.

22 1003 Q Robert Kerr as well?

23 A Possibly. I don't recall.

24 1004 Q You might have? Why would you send a letter to
25 Rob Kerr?

1 A Well, he's our understanding part of CCOBS, so ...

2 1005 Q Oh, I see. Now, neither Robert Kerr nor Ray

3 Rewcastle ever operated a drone to your knowledge;

4 right?

5 A Are you asking me the question?

6 1006 Q Yeah.

7 A I would suggest Robert Kerr has also operated a

8 drone.

9 1007 Q Do you know that?

10 A I believe that to be true.

11 1008 Q Oh. When did he operate a drone? Like, over your

12 property you mean?

13 A I believe through *Freedom of Information* we've

14 seen a document where he has made that statement

15 where he was flying a drone over our property.

16 1009 Q What kind of *FOI* request? What kind of document

17 was it where you saw that statement?

18 A I'm not following the question. When you say

19 "what kind of document" --

20 1010 Q You said you found out from an *FOI* request; right?

21 A M'mm-hmm.

22 1011 Q That Rob Kerr said he was operating a drone over

23 your property?

24 A That's correct.

25 1012 Q Okay. *FOI* requests are made to government; right?

1 A That's correct.

2 1013 Q Which branch of government did you ask?

3 A Regional district, CVRD.

4 1014 Q CVRD. And then you got a document that was
5 authored by Rob Kerr?

6 A Yes.

7 1015 Q Was a complaint letter?

8 A I don't recall the contents of the letter now. I
9 mean, we're going some time back. I would have to
10 pull the letter up.

11 1016 Q So when you say there's a drone flying low on your
12 property, you don't know if it was Mary Reynolds
13 operating that drone or not; is that right?

14 A In each occasion?

15 1017 Q Yeah. You said you couldn't identify what the
16 drone was because it was too high up; right?

17 A With respect, I couldn't identify the writing on
18 the drone if it was on the wall there. I mean,
19 it's very small; right?

20 1018 Q Yeah, sure. So when you say a drone was flying
21 low over you, you don't know whether it was Mary
22 Reynolds flying that drone or not, do you?

23 A Well, I don't think we can be certain of that, no.

24 1019 Q No, you can't be certain of it. In fact, you
25 don't have any basis to know who's operating the

1 drone at that time; right?

2 A Which time?

3 1020 Q Well, when they were flying low.

4 A I'm not sure I'm following your question.

5 1021 Q Well, on what --

6 A I mean, you asked me about Robert Kerr and if he

7 was flying a drone; and now you're asking me about

8 a drone flying low and --

9 1022 Q You still don't understand? You're saying I don't

10 get it? I'm asking you --

11 A Well, I'm not following the question.

12 1023 Q Yeah. So someone's flying -- according to you

13 somebody is flying a drone low --

14 A Excuse my low IQ here. We were talking about

15 Robert Kerr. I'm trying to follow your train of

16 thought here. You were asking me about Robert

17 Kerr and whether he flew a drone. And we're now

18 referring to somebody else. Sorry, I'm trying to

19 follow --

20 1024 Q You're trying to say that you didn't understand

21 that whole line of questioning; that's your

22 evidence? I don't get it, what are you talking

23 about, Gratl? That's what you're saying?

24 A I think you're trying to put words in my mouth.

25 1025 Q All right. Well, I'll go again --

1 A You asked me about Robert Kerr and you lost me
2 after that.

3 1026 Q Yeah. Yeah. Okay. You're looking for a do-over,
4 are you?

5 A Excuse me?

6 1027 Q Yeah. So when the drone flies low, you're not
7 able to identify what drone it is; correct?

8 A The make and model and other numbers on the drone?

9 1028 Q Yes, correct.

10 A No, we cannot identify that.

11 1029 Q All right. So the drones that fly low, on what
12 dates did they fly low?

13 A On what dates? Oh, I don't know.

14 1030 Q All right.

15 A We don't sit there and take notes in a book of the
16 dates.

17 1031 Q Well, actually Mr. Rattan took notes of the dates
18 on which the drones flew?

19 A He may have done.

20 1032 Q Okay. So you do take --

21 A I don't but he may have.

22 1033 Q So --

23 A I'm not aware of that. But if he said that, then
24 that's something I'm not aware of.

25 1034 Q All right. So on those dates that you can't

1 identify when drones flew low, you're not sure who
2 was operating them, are you?

3 A We have no reason to believe it is anybody else.

4 1035 Q Other than who?

5 A Than Mary Reynolds.

6 1036 Q Well, you just said you think that Rob Kerr might
7 have been operating a drone.

8 A I don't think I said that.

9 1037 Q Okay.

10 A I think you asked me the question.

11 1038 Q I think that will be on the record about whether
12 you said that or not.

13 A I think it would be on the record. I think you
14 asked me the question --

15 1039 Q Right, because I asked you whether you had a
16 problem, any reason to believe that either Ray
17 Rewcastle or Rob Kerr had flown a drone, and you
18 said oh, actually I do. And now you're changing
19 your evidence and saying I have no reason to
20 believe it was anybody other than Mary Reynolds;
21 right?

22 A You asked me do I believe or am I aware if Robert
23 Kerr has flown a drone, and I said based on his
24 correspondence that we received through *Freedom of*
25 *Information*, I believe he has flown a drone.

1 1040 Q Yes. So you know that Mary Reynolds has flown a
2 drone because you've seen some of the images on
3 her website; right?

4 A Okay.

5 1041 Q Yes?

6 A Correct.

7 1042 Q And then you know Mary Reynolds has flown a drone
8 because on a couple of occasions you saw her
9 operating the drone; right?

10 A Well, amongst other people, not just us.

11 1043 Q Well, on two occasions you saw Mary Reynolds
12 operating the drone; right? On one occasion you
13 took her drone; right? And on the other occasion
14 you stuck your head into her car; right? That's
15 the day you followed her home to her house. You
16 remember that day you followed her home to her
17 house?

18 A We were waiting for the RCMP.

19 1044 Q Yeah. And then you called some of your employees
20 to come with another truck; right? Said oh, I
21 found her, come to Mary Reynolds' house. You
22 called them over; right?

23 A I don't believe that was the case at all, no.

24 1045 Q Oh, you didn't call them and say I found her?

25 A I don't believe so, no.

1 1046 Q Like, you didn't both leave the property, looking
2 for her, in two white trucks, and then when you
3 found her, you called them and said come to Mary
4 Reynolds' house?

5 A I don't recall that. We were both parked at Mary
6 Reynolds' house.

7 1047 Q You don't recall that?

8 A Recall?

9 1048 Q You remember that there are two trucks parked at
10 Mary Reynolds' house?

11 A That's correct.

12 1049 Q You were in one; right?

13 A That's correct.

14 1050 Q And Andras and Mr. Rattan were in the other?

15 A I believe so.

16 1051 Q Yeah, you had pointed them so they were facing
17 Mary Reynolds' house; right?

18 A Well, the parking on the street there is either
19 nose in or back in. That's how the other vehicles
20 I believe that they were parked.

21 1052 Q Yeah. So that's something you did, you followed
22 her home that day; right?

23 A We were following the drone.

24 1053 Q No, the drone had landed at the community centre
25 there. You followed her home in her car?

1 A The drone had not landed at the community centre.
2 She landed the drone in her back yard.

3 1054 Q You're saying that she landed the drone in her
4 back yard?

5 A M'mm-hmm.

6 1055 Q You didn't follow her car home? You weren't
7 following the drone, sir, you were following her
8 car?

9 A Okay.

10 1056 Q You found her parked. You parked in front of her
11 vehicle making her -- diminishing her ability to
12 leave; right? You stuck your head in her window,
13 didn't you?

14 A I don't recall that at her home. I remember she
15 was in the back yard of her home. I believe she
16 parked in her driveway and then proceeded to go to
17 her back yard to land the drone. And with respect
18 to Ms. Reynolds, we moved to make sure that we
19 were not in her space or causing her any
20 aggravation, and we went -- we parked across the
21 street and waited for the RCMP.

22 1057 Q Oh, yeah. There's a good video of all of that.

23 A Excuse me?

24 1058 Q There's good video of all of that.

25 A Okay.

1 1059 Q So aside from those two occasions, you've never
2 actually seen Mary Reynolds operate the drone;
3 right?

4 A We've seen her operate it out of --

5 1060 Q Not we. You, sir, you as an individual.

6 A Oh. We have seen her operate it out of Kathy
7 Kalder's residence before.

8 1061 Q Okay. And on how many occasions?

9 A Oh, I can't recall, but I would say on a couple of
10 occasions.

11 1062 Q Okay. So there's four occasions. And all the
12 other drone flights that you've seen, you haven't
13 seen the operator; right?

14 A No.

15 1063 Q Correct. So on those other occasions, you can't
16 be sure who was operating the drone?

17 A No.

18 1064 Q Right. Now, speaking of the Kalder residence,
19 there's a right of way from the road to the Kalder
20 residence, isn't there?

21 A I wouldn't refer to it as a right of way. But
22 anyway.

23 1065 Q Have you seen the *Land Title Act* form C setting
24 out a -- setting out a document entitled
25 "Statutory Right of Way"?

1 A I may have. I may have.

2 1066 Q Yeah. It goes over your property; right? That
3 statutory right of way on the west side of the
4 highway; correct?

5 A I believe so.

6 1067 Q Right. And that statutory right of way allows the
7 public on the statutory right of way, doesn't it?

8 A I don't believe it does, no. I think it is
9 limited to Hancock Forest Management and BC Hydro.

10 1068 Q Oh, doesn't it say -- doesn't it say the grantor
11 grants in perpetuity to the grantee and its
12 employees, servants, agents, invitees, and every
13 member of the public the full, free and
14 uninterrupted right, licence, easement, and right
15 of way on or over the lands at all times by day
16 and night?

17 A I'm not sure if that was -- if that became null
18 and void when we purchased the property.

19 1069 Q Oh, you might have got -- it might have become
20 null and void you're saying, but that's what it
21 says, members of the public; right?

22 A My interpretation is that it's not available to
23 the public.

24 1070 Q Well, doesn't it say it's available to the public?

25 A I have reason to believe differently.

1 1071 Q Didn't you read it? Doesn't it actually say to
2 members of the public?

3 A With respect, I have reason to believe
4 differently.

5 1072 Q Yes, but what the wording says, "available to
6 members of the public," doesn't it?

7 A With reason I believe differently.

8 1073 Q You believe the wording is different?

9 A I don't believe it is public access.

10 1074 Q Okay. But does the wording say it's public
11 access?

12 A I don't know.

13 1075 Q Have you read the wording?

14 A I haven't read -- I don't recall reading it.

15 1076 Q Well, I asked you if you've read the document and
16 you said you have read the document.

17 A Well, I don't recall the details of the document.

18 1077 Q Okay. Well, I'm going to suggest to you -- I just
19 put a document in front of you right there. If
20 you look at paragraph 1, doesn't it say the
21 grantor grants in perpetuity to the grantee and
22 every member of the public? Doesn't it say that?

23 A That's what it says here.

24 1078 Q Yeah, okay. And then, of course, this is the
25 document that deals with your property on the west

1 side of the highway, right, where the Kalders'
2 residence is found?

3 A I don't know that to be -- I don't know that to be
4 the case without looking at this. I would have to
5 have this document looked at by somebody else.

6 1079 Q Okay. You're not saying -- you're saying I don't
7 know, maybe?

8 A Well, without doing some research, I can't --
9 these numbers and things I can't tell you sitting
10 here if they represent --

11 1080 Q Okay. Well, then, Mary Reynolds, she's a member
12 of the public; right?

13 A Correct.

14 1081 Q Yeah. And when she's on the Kalder property,
15 she's allowed to be on the Kalder property; right?

16 A On the Kalder property? Yes.

17 1082 Q Yeah.

18 A I would presume so. That's between her and
19 Ms. Kalder.

20 1083 Q Yeah. And then there's a road leading to the
21 Kalder property; right?

22 A Our interpretation is different than that. We
23 believe --

24 1084 Q You believe what, that it's not a road?

25 A That Ms. Kalder does not have access, should not

1 be using that road to access her property.

2 1085 Q Isn't that road the only way to access her
3 property?

4 A It is our understanding that she should be
5 accessing her property from the highway like all
6 the other homes along the --

7 1086 Q Yeah, but there's no driveway for her to do that,
8 is there?

9 A Well, maybe she hasn't put one in. Everybody else
10 has.

11 1087 Q Oh, you think that she has a legal obligation to
12 put one in because she can't be on that road?

13 A I believe so.

14 1088 Q Oh, okay. And what's your basis for that belief?

15 A That it's private land, that she's using it
16 without permission.

17 1089 Q Yes, but what's your basis for that belief?

18 A Documentation that we've seen that would indicate
19 differently.

20 1090 Q Isn't that the document right there, this
21 statutory right-of-way document that you're
22 looking at?

23 A I would disagree.

24 1091 Q Isn't that the document that you're looking at to
25 interpret whether or not it's a road from which

1 you can exclude people?

2 A No.

3 1092 Q Well, isn't there an industry there that uses that
4 road? A bunch of trucks pass along that road;
5 right?

6 A Right.

7 1093 Q Right? And what business do they have using the
8 road?

9 A Logging presumably.

10 1094 Q So you acknowledge they have the right to use that
11 road; right?

12 A We allow them to use the road. We own the gate
13 and we allow them to use the road.

14 1095 Q They're entitled to according to this easement, or
15 this statutory right of way; isn't that correct?

16 A If that's your interpretation. I disagree with
17 that statement.

18 1096 Q Okay. And what's your basis for the disagreement?
19 Is it anything other than this document?

20 A We have other reason to believe differently.

21 1097 Q What is that?

22 A Other discussion and things that we've read.

23 1098 Q Like what?

24 A Oh, I can't recall right now.

25 1099 Q Okay. Something, you don't know what?

1 A Previous owners -- discussions with the previous
2 owners.

3 1100 Q What kind of discussions?

4 A When you say "what kind of discussions" --

5 1101 Q Yeah. Well, what have you heard that makes you
6 think that this statutory right of way doesn't
7 apply to what looks like a road?

8 A They indicated to us that legally the only people
9 that can use that road is Hancock Forest
10 Management.

11 1102 Q Okay. So that's just somebody telling you
12 something? Some real estate agent?

13 A Previous owner or somebody who's obviously well
14 informed about his real estate.

15 1103 Q Okay. Who was that?

16 A Mike Hamilton.

17 1104 Q Okay. Mike Hamilton told you that this statutory
18 right of way doesn't apply?

19 A No, I'm not saying that. He -- his conversation
20 with me indicated that the only people that had
21 legal access to the road was Hancock Forest
22 Management because they were the previous owners
23 before him, and they had grandfathered themselves
24 in when they sold the property.

25 1105 Q Yeah, but you know that this statutory right of

1 way is registered on title to your property;
2 right?
3 A No, I'm not aware of that.
4 1106 Q You're not aware of that?
5 A No.
6 1107 Q You didn't research that?
7 A I don't recall.
8 1108 Q You're just like, oh, I trust Mike Hamilton. He
9 says there's no right of way there, that's good
10 enough for me. I don't need to search title?
11 A We have other reason to believe differently.
12 1109 Q Well, anything other than what Mike Hamilton told
13 you?
14 A We may have documentation that --
15 1110 Q Like what? What kind of documentation?
16 A Oh, I don't recall. We would have to go back and
17 look at it. But for some reason I have reason to
18 believe that document may have been superseded by
19 the sale of the property.
20 1111 Q Oh, I see. Now, I'm going to suggest that
21 there's -- in your counter part of your
22 counterclaim against Mary Reynolds is that she
23 trespassed on what looks like a road leading to
24 the Kalder property.
25 A M'mm-hmm.

1 1112 Q Right? That's part of your counterclaim; right?
2 You understand that?
3 A We believe that she's trespassed, yes.
4 1113 Q Physically --
5 A M'mm-hmm.
6 1114 Q -- onto the property?
7 A M'mm-hmm.
8 1115 Q And when you say "the property," you mean that
9 little section of the road leading to the Kalder
10 property; right? That's the trespass --
11 A But it doesn't lead to the Kalder property. It
12 leads further into the interior.
13 1116 Q Well, it leads to the Kalder property. In fact,
14 Mary Reynolds parked out front of the Kalder
15 property; right? That's when you say she's
16 trespassing, it's really you're saying her vehicle
17 was on --
18 A I would interpret leads to the Kalder property
19 which suggests that that is the final destination
20 of the road. So I wouldn't interpret it as
21 leading to the -- I would suggest that
22 Ms. Kalder --
23 1117 Q What are you saying now?
24 A I think you've said that the road leads to the
25 Kalder property --

1 1118 Q Yeah, because Mary Reynolds --

2 A -- and I said I don't agree with that statement.

3 1119 Q When you say that Mary Reynolds was trespassing on

4 your property, what you mean is that you saw her

5 car parked outside of the Kalder place, right, on

6 that road?

7 A No, no. What I mean is that Mary Reynolds was

8 parked on property that belongs to us.

9 1120 Q Yeah, on what looks like a road?

10 A Doesn't matter what it looks like. To me she's on

11 property that belongs to us.

12 1121 Q Okay. There's no sign leading to that road saying

13 that no trespassing, is there?

14 A There may be.

15 1122 Q No, there isn't, sir, is there?

16 A I don't know. There may be up at the gate there.

17 1123 Q Yeah, that gate is further up past the Kalder

18 property; right?

19 A That's correct.

20 1124 Q Yeah. But there's nothing at the highway saying

21 this is private property, no trespassing, private

22 road. It doesn't say anything like that --

23 A Okay.

24 1125 Q -- does it?

25 A Oh, I don't know. I'd have to walk up there and

1 take a look.

2 1126 Q Yeah, you might have to one day.

3 A Okay.

4 1127 Q When you're interested.

5 A Okay.

6 1128 Q But it looks like for somebody who's driving by,
7 no reason to believe that's a private road. Just
8 looks like an ordinary gravel road; right?

9 A Okay.

10 1129 Q Correct?

11 A Well, it has a locked gate, so to me that would
12 suggest that it's private property.

13 1130 Q It has a lock --

14 A If you're suggesting something differently --

15 1131 Q I am. I am. I'm suggesting something
16 differently. It has a locked gate past the Kalder
17 property; right?

18 A There's a reason why it is where it is, and it's
19 to allow a safe area for trucks to stop; otherwise
20 they would be stopped further down closer to the
21 highway. So there's a reason that the gate is
22 where it is, but it could be moved down close to
23 the highway.

24 1132 Q Yeah, it could be moved a lot closer to the
25 highway?

1 A Could be moved to the highway.

2 1133 Q Could be moved to the highway, but it's not there,
3 is it?

4 A No, we are not trying to create safety hazards on
5 the highway. I mean, what would our motivation be
6 to do -- to create problems there?

7 CNSL J. GRATL: I'm going to ask for the statutory right of
8 way to be marked as the next exhibit, please.

9 **EXHIBIT 7: Statutory right of way**

10 CNSL J. GRATL:

11 1134 Q I'm showing you an overhead photo of the Deep
12 Water Recovery property. Do you recognize this?

13 A Yes.

14 1135 Q Now, there's a highway depicted, and on the right
15 side, that is to say, the east side of the
16 highway, is the Deep Water Recovery facility;
17 right?

18 A Sorry, could you repeat that.

19 1136 Q On the --

20 A You said on the right side or the east side --

21 1137 Q Yeah, it's printed out --

22 A Okay. Yes, yes.

23 1138 Q -- in a horizontal aspect; right?

24 A Yeah.

25 1139 Q On the right side of the highway is the Deep Water

1 Recovery facility. It's labelled "Deep Water
2 Recovery"; right?

3 A Okay.

4 1140 Q And you can see there's a Miller Thomson -- or a
5 Miller Freeman there and a bunch of other barges
6 and things like that; right?

7 A Okay.

8 1141 Q And then on the left side or, say, the west side
9 of the highway, that's the Kalder property that's
10 depicted there?

11 A Okay.

12 1142 Q Do you see that?

13 A M'mm-hmm.

14 1143 Q And you'll see there are a bunch of little labels
15 there. One says "Kalder property." That's
16 accurately labelled; right? That's where the
17 Kalder property is?

18 A Yes.

19 1144 Q And then -- and then there -- then there's
20 another -- then there's another label that says,
21 "Where my car was parked." Do you see that?

22 A Okay.

23 1145 Q That's -- that accurately depicts where her car
24 was parked; right?

25 A By and large.

1 1146 Q Yeah. And that -- so that looks like a road
2 there, that she's parked at the side of a road.
3 A Okay.
4 1147 Q Isn't that what it is, is a road? A gravel road?
5 A It's private property.
6 1148 Q Yeah. And then you can see to the left of that
7 "Where my car was parked," you can see a little
8 line across the road. That's the gate; right?
9 A No. I think the gate -- that is the rail line.
10 1149 Q The rail line?
11 A Yeah.
12 1150 Q The gate's further up, isn't it, past the --
13 A No.
14 1151 Q -- to the east of the rail line or the west of the
15 rail line?
16 A It's further down towards the Kalders' house,
17 towards the east.
18 1152 Q Oh, yeah. Okay. So it's somewhere between --
19 it's -- there's -- but there's a little notch
20 there. It looks like a gate. Can you see that
21 depicted there? It's a little bit to the left of
22 or the west of --
23 A Okay.
24 1153 Q -- where Mary Reynolds' car is parked; right?
25 A Okay.

1 1154 Q Is that right?

2 A I don't know. I mean, you're asking me to verify
3 something with -- but for the sake of the
4 argument, please continue.

5 1155 Q It's not an argument, sir. This is a
6 cross-examination. You're under oath.

7 A Okay.

8 1156 Q We're not just quarrelling here.

9 A Okay.

10 1157 Q It's more serious than that.

11 A Okay. If I can correct myself, for sake of the
12 discussion.

13 CNSL J. GRATL: Sure. Could we mark this document as the next
14 exhibit, please? Thanks.

15 **EXHIBIT 8: Overhead photo of the Deep Water**
16 **Recovery property**

17 CNSL J. GRATL:

18 1158 Q And just for the sake of clarity, you're not
19 alleging that Mary Reynolds ever stepped foot
20 inside of the Deep Water Recovery facility, are
21 you?

22 A You mean in the work area?

23 1159 Q Yeah, the actual facility part. Any place --

24 A No, I'm not alleging that.

25 1160 Q -- east of the highway, you're not --

1 A I'm not alleging that.

2 1161 Q All right. Now, at paragraph 24 of the response
3 to civil claim, which you've incorporated in the
4 counterclaim, it says:

5 "Deep Water Recovery has demanded that the
6 plaintiff cease entering onto the property."

7 That's not true, is it?

8 A I would suggest that it is.

9 1162 Q Like, you didn't actually ask that she cease
10 entering onto the property until July 14th, the
11 day after you filed the response to civil claim;
12 right?

13 A Sorry, what's your question?

14 1163 Q You didn't say to Mary Reynolds, don't come on the
15 property until July 14th in your letter marked as
16 Exhibit 3. It's in front of you there.

17 A In this letter here?

18 1164 Q Yeah, what's the date of that letter?

19 A July 14th.

20 1165 Q Right. And then you filed the response to civil
21 claim on July 13th, the day before; right?

22 A Okay.

23 1166 Q And in paragraph 24, you say:

24 "Deep Water Recovery demanded that the
25 plaintiff cease entering onto the property

1 and cease flying the drone in the property's
2 airspace."

3 But you never actually did that until the day
4 after you filed the response to civil claim;
5 right?

6 A I'm sorry. You've lost me again. Could you say
7 that more slowly?

8 1167 Q Did you ever demand from Mary Reynolds before
9 sending that letter, July 14th, that she cease
10 entering onto the property?

11 A I don't know. I don't know if we had sent her
12 other correspondence asking her not to through our
13 attorneys. I'd have to research that.

14 1168 Q You're just speculating now?

15 A Sorry?

16 1169 Q You're speculating now that you might have done
17 that, but you can't point to any document?

18 A That's correct.

19 1170 Q All right. And then in terms of ceasing flying
20 the drone into the property's airspace, you never
21 actually asked her to stop doing it, did you?

22 A I don't believe there's been an -- an occasion for
23 me personally to engage with Mary Reynolds to ask
24 her, but I probably would rely on a written
25 document asking her not to do that.

1 1171 Q Yeah, you didn't actually do that. This letter
2 that you hold in your right hand there dated
3 July 14th, 2022, is the first time you ever even
4 asked her to stop flying the drone.

5 A Okay.

6 1172 Q Isn't it?

7 A I don't know. I mean, I'd have to research this.
8 But, I mean, to me, she continues to fly it.
9 We've asked her not to. I think it's clear to her
10 that we find it a nuisance. We find it
11 distracting but, you know, she continues to do it.
12 So I'm not -- with respect, I'm not convinced if I
13 asked her not to I don't think she would stop.
14 So...

15 1173 Q Yes. But I'm just saying it's just not true to
16 say that as of July the 13th, 2022, you never
17 asked her to stop; right?

18 A Again, I don't know. If we have not sent her
19 correspondence asking her to stop, then that
20 assumption would be correct.

21 1174 Q All right. Now, at paragraph 10 of your response
22 to civil claim, which is also incorporated in the
23 counterclaim, you say that:

24 "The plaintiff, in coordination with others,
25 has engaged in a malicious campaign against

1 Deep Water Recovery."

2 Right? You say that she's behaving maliciously?

3 A M'mm-hmm.

4 1175 Q There are all sorts of other language like that

5 she's driven by conduct that is wrongful,

6 highhanded, and deserving of rebuke --

7 A M'mm-hmm.

8 1176 Q -- so you say; right?

9 A Okay.

10 1177 Q Now -- and then you -- then you allege that she is

11 obtaining some personal benefit. You remember

12 that allegation, that she's obtaining a personal

13 benefit?

14 A I don't recall. I'd need to see that document.

15 1178 Q Okay. Well, why do you think she's flying this

16 drone?

17 CNSL M. SWANSON: Objection. That's irrelevant.

18 CNSL J. GRATL: Oh, it's perfectly relevant. You've pled

19 malice, sir.

20 1179 Q Why do you think she's flying the drone?

21 A I don't know what her agenda is. I just don't

22 know.

23 1180 Q Well, you see her blog posts; right? They --

24 A Speculating --

25 1181 Q -- concern -- they concern the environment; right?

1 A I'm not convinced that's her motivation at all.

2 1182 Q Well, what reason do you have to believe that

3 that's not her motivation?

4 A What reason do I have to think that it is her

5 motivation? I just don't know.

6 1183 Q Did you -- for example, did you see the blog post

7 that she has where she says, hey, look, it looks

8 like there's an oil slick or an oil spill coming

9 from the Miller Freeman? Did you see that one?

10 A I -- I don't -- I don't recall seeing that.

11 1184 Q Okay. But you --

12 A There's been no oil slicks from our vessels.

13 So...

14 1185 Q Well, didn't you have a little boom around the --

15 A Safety precaution.

16 1186 Q Yes, you had a little boom out around --

17 A Safety precaution for a vessel.

18 1187 Q Yes.

19 A We've never hauled vessels out of the water

20 before.

21 1188 Q Yeah. Okay. But didn't you have like a little --

22 A With any -- with any vessel you would always have

23 a safety boom.

24 1189 Q Didn't you have a shiny oil slick around the

25 Miller Freeman?

1 A Not that I'm aware of.

2 1190 Q Or any other ship?

3 A Not that I'm aware of.

4 1191 Q Oh, okay. Well, doesn't Mary Reynolds write on

5 her blog that she's concerned about the

6 environment? Did you ever read that?

7 A I'm not -- I'm not sure what Mary Reynolds writes.

8 I mean she -- yes, she may well have said that.

9 1192 Q Okay.

10 A I'm not convinced that she's a crusader for the

11 environment.

12 1193 Q What do you think she's doing?

13 A I don't know. I don't know what her motivation

14 is.

15 1194 Q Okay. So you're saying, I don't really have any

16 evidence of her motivation, I don't know what

17 drives her?

18 A I don't know what drives her.

19 1195 Q Oh, okay. Now, have you ever tried to have a

20 conversation with her?

21 A I don't think so.

22 1196 Q Now, you don't have any cranes or anything on your

23 facility, do you?

24 A There's one crane.

25 1197 Q What's the height of that crane?

1 A I don't know.

2 1198 Q Okay. Well, these barges that you're

3 disassembling, they're 40 feet or so high?

4 A The barges?

5 1199 Q Yes.

6 A No. No.

7 1200 Q How high are they?

8 A The deck of a barge is -- well, a small barge can

9 be 10 feet, and a larger barge can be up to 20,

10 22 feet maybe for a really large barge.

11 1201 Q Okay. So then the guy who's working there on the

12 top of the barge, he's maybe 25 feet off the

13 ground at most?

14 A Yeah.

15 1202 Q Okay.

16 A That'd be a fair statement.

17 1203 Q Are there any vessels that are taller than the

18 barges that you're disassembling?

19 A No.

20 1204 Q Okay.

21 A We have never dismantled vessels. We've only

22 dismantled barges.

23 1205 Q So there's nobody whose head, say, goes above the

24 30-foot mark in terms of using up the airspace?

25 A Sorry, could you repeat that?

1 1206 Q In terms of using up the airspace, there's nobody
2 whose head goes above the 30-foot mark?

3 A Generally speaking, yeah. Unless somebody's up on
4 one of the barges that has a house on it.

5 1207 Q Okay. So sometimes there could be a little house
6 on the barge?

7 A In some instances.

8 1208 Q What's the maximum height, then, that anybody
9 would get to on your facility?

10 A 40 feet.

11 1209 Q 40 feet? Okay.

12 A 50 if you want.

13 1210 Q Okay. So then on how many occasions do you say
14 Mary Reynolds dipped below 100 feet from a person?

15 A Just so I understand your question correctly,
16 dipped below 100 feet from a person?

17 1211 Q Correct. That's the question.

18 A Okay.

19 1212 Q On how many occasions --

20 A Just so I understand correctly, so if this is the
21 ground and this is the barge and this is 20 feet,
22 are you measuring from the ground or from the
23 person? Are you --

24 1213 Q I'm measuring from any person.

25 A From a person to the drone below 100 feet how

1 often have we witnessed that? Is that your
2 question?

3 1214 Q Yes. Whether they're on the ground or whether
4 they're standing on a barge or they're standing on
5 a house on a barge --

6 A Okay.

7 1215 Q -- or wherever they are --

8 A Okay.

9 1216 Q -- how many times has a drone gotten within
10 100 feet of any person?

11 A I would say very frequently.

12 1217 Q And how frequently?

13 A I would say 50 to 70 percent of the time.

14 1218 Q Okay. So if there are, as Mary Reynolds seems to
15 indicate with her affidavit, 296 videos, at least
16 half of them should show the drone below, say,
17 140 feet?

18 A Not necessarily.

19 1219 Q Why wouldn't they?

20 A Well, does the video show the drone leaving and
21 doing its full circuit and coming back without
22 interruption? I mean, I don't know what -- when
23 the camera has been turned on or off or what's
24 been recorded or what's been disregarded. I
25 could -- you've asked me the question --

1 1220 Q Well, you --

2 A -- what is -- what's my observation.

3 1221 Q You're thinking that Mary Reynolds, what she did

4 is she -- she went up really high and then turned

5 the camera off and then came really close and then

6 backed off and started the camera again?

7 A I don't know what Mary Reynolds does. You asked

8 me before how frequently would I suggest the drone

9 is below 100 feet.

10 1222 Q M'mm-hmm.

11 A And I said to you very frequently.

12 1223 Q Yeah, at least half the time you said.

13 A I would suggest at least half the time. Every

14 time --

15 1224 Q Maybe three quarters of the time?

16 A Every time that we see the drone, she immediately

17 changes elevation. It's -- once the drone has --

18 is aware that we have taken notice of it, it

19 immediately moves to higher elevation.

20 1225 Q I see. And so have you read Mary Reynolds'

21 affidavit where she says, "I don't fly below 50

22 metres"?

23 A M'mm-hmm, yes. I did read that, yes.

24 1226 Q Yes. And do you have any reason to believe that's

25 not true?

1 A Yes, I do.

2 1227 Q What's your reason for believing that?

3 A Well, my own observation and her -- the video in
4 her own affidavit is -- the video in her own
5 affidavit shows the drone at 20 feet.

6 1228 Q Isn't that one video? That -- the April 22nd,
7 2022, video?

8 A Oh, I don't recall the dates. But, no, there was
9 more than one video. There's multiple videos.

10 1229 Q She says in her affidavit that she once flew the
11 video -- she flew the drone low to -- I'm going to
12 be showing this to the judge.

13 A Okay.

14 1230 Q She once flew the drone low on April 22nd, 2022,
15 on a Saturday when she didn't think anybody was
16 working. Do you remember reading that in her
17 affidavit?

18 A I don't recall that detail.

19 1231 Q And then what she did is she discovered that some
20 people had been throwing rocks at her drone. Do
21 you remember that?

22 A No, I don't recall. But I did see the video.

23 1232 Q You did see that video?

24 A I did see that video.

25 1233 Q Oh, okay. And you know who threw the rocks;

1 right?

2 A I don't know, no. I didn't -- I couldn't see
3 anybody in the video.

4 1234 Q You didn't discuss it? Somebody didn't come to
5 you and say, hey, a drone was flying really low,
6 so I threw rocks at it?

7 A I wasn't aware of it until I saw it a few days ago
8 or Friday, whenever she --

9 1235 Q And I'm going to suggest to you, though, there
10 hadn't been anybody throwing rocks at that drone
11 since; right? There's only one occasion where
12 rocks were thrown at that drone, right, to your
13 knowledge?

14 A I don't know. I don't know.

15 1236 Q And the reason nobody throws rocks at the drone is
16 because it's too far out of range, it's too high;
17 right?

18 CNSL M. SWANSON: Objection.

19 THE WITNESS: Objection.

20 CNSL M. SWANSON: He can't know the reason why people are
21 doing something or not. He doesn't know what's in
22 their head, counsel.

23 CNSL J. GRATL:

24 1237 Q But did you instruct anybody to throw rocks at the
25 drone --

1 A No.

2 1238 Q -- to knock it out of the sky?

3 A No.

4 1239 Q No?

5 A No.

6 1240 Q And you yourself took videos of the drone?

7 A Some.

8 1241 Q I'm going to suggest to you that the videos you

9 have of the drone show the drone high up in the

10 sky, don't they?

11 A I would have to go back and look at them.

12 1242 Q You did look at them six days ago to prepare your

13 affidavit --

14 A I would --

15 1243 Q -- didn't you?

16 A I would have to study all of the material to -- to

17 make that conclusion.

18 1244 Q Yeah, you were looking around for the best

19 material to include in your affidavit, weren't

20 you?

21 A No, not necessarily.

22 1245 Q You weren't looking for the best information to

23 give to the judge to show what a danger it was,

24 this drone, to your --

25 A It's a distraction, Mr. Gratl. It's a

1 distraction. Every time that the drone flies over
2 us and we hear it, it's a distraction, isn't it?

3 1246 Q Sure. So what I'm saying is --

4 A It distracts us from what we are there to be
5 doing, right?

6 1247 Q Yes. What I'm suggesting, sir, is that you
7 went -- in the course of preparing your affidavit,
8 you went to look for the best evidence that the
9 drone is a nuisance or that it's flying too close
10 or that it's a safety issue, right, and you looked
11 at the videos that you have; right? Correct?

12 A How thoroughly that was done, I would --

13 1248 Q Did you look at the --

14 A -- question that.

15 1249 Q Did you look at the videos?

16 A Yeah, but I don't know that I've looked at all the
17 videos that I might have. I mean, I -- this goes
18 back quite some time, right?

19 1250 Q And you decided not to include them because the
20 drone's so small in the sky, it's totally --

21 A Mr. Gratl, there is lots of video. I mean, all of
22 our staff have videos. I mean, if we were to sit
23 down and go through all of the film that we have,
24 there's -- there's lots of material to go and look
25 at. And I would suggest that we do have videos

1 depicting the drone at --

2 1251 Q At?

3 A Below this 100 feet.

4 1252 Q Oh, yeah. Okay. So -- well, why don't you
5 produce those to the judge?

6 A Well, maybe we need to do our work more
7 thoroughly.

8 1253 Q Well, you've had -- you've had 10 months now;
9 right?

10 A We have other things to do also.

11 1254 Q Okay. So it's not enough about priority for you
12 to put your best foot forward in terms of your
13 evidence?

14 CNSL M. SWANSON: Objection.

15 CNSL J. GRATL:

16 1255 Q Okay. So did you ask the other -- did you ask
17 your employees for those videos?

18 A I believe we have all the -- or we had a
19 correlation [sic] of videos saved.

20 1256 Q Right. And that's on a hard drive somewhere;
21 right? A laptop computer? Where is it?

22 A Oh, I don't know. I'd have to check with somebody
23 in the yard. I don't deal with those things. I'm
24 not particularly --

25 1257 Q It's saved on a computer somewhere, is it?

1 A I would presume on a computer, yeah.

2 1258 Q Yeah. And I'm guessing it's Dena? Dena's got it

3 somewhere; right?

4 A I don't know if it is Dena.

5 1259 Q Well, who would it be?

6 A Could be our controller.

7 1260 Q And who's that?

8 A Michelle.

9 1261 Q Michelle, last name?

10 A Dggorotov.

11 1262 Q Could you spell that, please? Do your best.

12 A Might get us into trouble here.

13 1263 Q That's fine. Go ahead. Do your best.

14 A I'll do my best. D-g-j-o-r-o-t-o-v I think it is.

15 1264 Q Okay. And then Michelle, you say, might have this

16 information saved to a file?

17 A Possibly.

18 1265 Q And did you review that file in preparing your

19 affidavit?

20 A I don't recall. I don't recall. If it was

21 specifically that file, I would have asked her to

22 pull up a --

23 1266 Q It wouldn't take long to go through it, would it?

24 A Well, it depends on what I have going on at the

25 time. It -- it's one of those things I can

1 delegate to somebody else.

2 1267 Q Oh, I see. Well, they've got to be relatively
3 short videos. You've seen some of these videos;
4 right?

5 A M'mm-hmm.

6 1268 Q Yes? Yes?

7 A That's correct.

8 1269 Q Okay. And there's cell phone video of depicting
9 the drone in the sky; right?

10 A Sorry, say that again.

11 1270 Q These are just cell phone videos depicting a drone
12 in the sky?

13 A Correct.

14 1271 Q Now, I'm going to suggest to you you decided
15 specifically not to include those videos in your
16 affidavit because they don't look particularly
17 threatening. They look like a small drone far
18 away, don't they?

19 A I'm not agreeing with that statement. You've
20 asked me multiple times if the drone is below
21 100 feet, and I've said yes.

22 1272 Q Okay. And --

23 A And I stand firmly behind that statement.

24 1273 Q Is there -- is there anything you can point to
25 that would indicate the elevation of the drone?

1 A Ms. Reynolds' testimony -- her affidavit, sorry.
2 Her affidavit has a number of videos there.

3 1274 Q Okay. But -- so that's Mary Reynolds'
4 affidavit --

5 A M'mm-hmm. M'mm-hmm.

6 1275 Q -- that you would rely on? Yes?

7 A Not necessarily.

8 1276 Q Is there anything other than Mary Reynolds'
9 affidavit?

10 A Oh, we may have things of our own.

11 1277 Q Okay. Anything aside from the cell phone videos
12 of the drone?

13 A I don't know. I'd need to speak with everybody.
14 There's some other people who have been in the
15 yard when the drone's been flying there. There
16 are other people who have photographed the drone.

17 CNSL J. GRATL: Okay. I'm going to ask for production of all
18 videos and photographs of the drone.

19 **REQUEST 5: Provide all videos and photographs of**
20 **the drone**

21 THE REPORTER: Can we take the afternoon break?

22 CNSL J. GRATL: Oh, yes.

23 THE REPORTER: Thanks.

24 **(PROCEEDINGS RECESSED AT 3:09 P.M.)**

25 **(PROCEEDINGS RECONVENED AT 3:22 P.M.)**

1 CNSL J. GRATL:

2 1278 Q Now, you don't have any reason to believe Ray
3 Rewcastle ever flew a drone above your property?

4 A I wouldn't know.

5 1279 Q No, you don't have any reason to believe, do you?

6 A I wouldn't know. I wouldn't have a reason to
7 believe or disbelieve.

8 1280 Q Right. So the letter you sent to Ray Rewcastle
9 was just about his expressive activity, wasn't it?

10 A Can I see that document again to Ray Rewcastle?

11 1281 Q It's Exhibit 2. I think it's -- oh, there it is.

12 A Thank you. Can you give me a sec just to
13 quickly --

14 1282 Q Oh, you've already read it today in detail.

15 A Okay. Okay.

16 1283 Q So your letter to Ray Rewcastle just concerns his
17 expressive activity, not any drone flying; right?

18 A Okay.

19 1284 Q So your desire is to shut down Ray Rewcastle's
20 expressive activity; right?

21 A No.

22 1285 Q All right. Now, didn't you chase Ray Rewcastle
23 down the road in your vehicle?

24 A For the record, Mr. Rewcastle was following me
25 from Union Bay, and this has been reported with

1 the police.

2 1286 Q Yeah, didn't you follow him down the road?

3 A He followed me.

4 1287 Q And then you followed him onto his street?

5 A No, that's incorrect.

6 1288 Q Did you attend his residence on February 10th,
7 2022?

8 A I don't recall the date. Possibly.

9 1289 Q And then you got out of his -- you got out of your
10 white pickup truck and went to -- went to
11 Rewcastle's back door and started pounding on it?
12 That was you; right?

13 A Front door, and I wouldn't suggest "pounding on
14 it."

15 1290 Q Yeah, and then you took a photo of his car licence
16 plate; right?

17 A Yes. It was confirmed this was the vehicle that
18 followed me from -- from Royston to Union Bay.

19 1291 Q Yes. And as a consequence of your belief that he
20 had followed you from Royston to Union Bay, that's
21 why you went to --

22 A Excuse me. You said my belief?

23 1292 Q Yeah, as a consequence of your belief that it was
24 him, you went to his house, pounded on his door;
25 right?

1 A I know that to be fact.

2 1293 Q Is that right?

3 A Yes.

4 1294 Q Yeah, you went to his house and pounded on his
5 door?

6 A That he followed me from Royston to Union Bay.

7 1295 Q Uh-huh. And then is it true that you spat at Ray
8 Rewcastle's vehicle from your white pickup truck?

9 A Oh, I don't recall that.

10 1296 Q You don't recall that?

11 A No.

12 1297 Q Oh, yeah. You're not denying it, are you?

13 A I don't recall spitting on Mr. Rewcastle's
14 vehicle.

15 1298 Q Yeah, he says you did. You said -- you saw his
16 affidavit where he says that you spat at him from
17 his -- from your pickup truck; right? Made eye
18 contact --

19 A Well --

20 1299 Q -- and spat at him?

21 A -- I haven't seen his affidavit.

22 1300 Q Well, okay. You're saying, I can't recall that;
23 is that right?

24 A Yeah, I don't recall spitting on Mr. Rewcastle's
25 vehicle.

1 1301 Q Now, did you or any of your employees remove signs
2 from the Union Bay area that contained criticisms
3 of shipbreaking at Baynes Sound?

4 A Yes, I believe -- I believe we did.

5 1302 Q Yeah. And when you say "we," who was it? You
6 personally, of course?

7 A No. No, I personally did not.

8 1303 Q Who was it then?

9 A I don't know. Might have been Andras -- Andras I
10 think.

11 1304 Q Okay. Now, in a counter -- in your response to
12 civil claim, you say that that Mary Reynolds'
13 drone flying has aggravated the DWR defendants;
14 right? You got aggravated by the drone flying; is
15 that right?

16 A That would be -- yes.

17 1305 Q Yeah. Okay.

18 A Yeah.

19 1306 Q And then -- and then it says:

20 "The drone flying has heightened tensions
21 between the DWR defendants and the
22 community."

23 How is that? How did that happen?

24 A Could -- could you repeat that question?

25 1307 Q Well, your response to civil claim says this:

1 "The drone flying has aggravated the DWR
2 defendants and heightened tensions between
3 the DWR defendants and the community
4 including the plaintiff."

5 What I'm asking is: What does that mean, it's --
6 "The drone flying has heightened tensions between
7 the DWR defendants and the community"? You mean
8 people have seen the video, and they're not happy
9 with what's going on there, don't you?

10 A No. I think the harassment that we voicefully
11 disagree with the drone.

12 1308 Q How has that heightened tensions between yourself
13 and the community, sir?

14 A I think the -- the spreading of misinformation.

15 1309 Q How -- what misinformation has been spread by the
16 drone flying? I mean, the videos just depict what
17 they depict; right? What's misinformation about
18 that?

19 A I think the collaborated effort between Mr. Kerr
20 and Ms. Reynolds and others. The spreading of
21 misinformation has --

22 1310 Q What -- no, the -- how does the drone flying and
23 recording contribute to misinformation? It
24 doesn't, does it? The videos accurately depict
25 what they depict; right?

1 A I'm not sure that people are looking at the
2 videos. I'm not sure that's an accurate
3 statement.

4 1311 Q Okay. Then how --

5 A I wouldn't agree with the statement.

6 1312 Q Then how has the drone flying heightened tensions
7 between the DWR defendants and the community?

8 A I think it's a cumulative --

9 1313 Q Or does it just make you so aggravated that you're
10 disagreeable, and you're not able to get along
11 with members of the community anymore? Is that
12 what you mean?

13 A No. There's lots of people in the community that
14 don't agree with what Mary Reynolds is doing.
15 There's lots of people that don't agree with what
16 Robert Kerr is doing. We have the neighbours come
17 to our property regularly and express their
18 discontent.

19 1314 Q Right. Because it's part of the discussion of
20 what's happening in the community, what's depicted
21 on the videos and so forth?

22 A No, I wouldn't say that. I think that people
23 genuinely see us as victims here of harassment. I
24 mean, at the end of --

25 1315 Q If that's true, then why --

1 CNSL M. SWANSON: Can you let him finish, counsel?

2 THE WITNESS: At the end of the day, we are four people. I
3 don't disagree that what we do is ugly. It's not
4 attractive. We're not Lulumlemon, we're not
5 Christian Dior. But at the same time, we are four
6 people. I -- I think that there is a genuine
7 misconception being portrayed as to who we are.
8 We are four people working, trying to make a
9 living. We are effectively recycling. That's
10 what we're doing.

11 CNSL J. GRATL:

12 1316 Q You're saying the videos are heightening tensions
13 between the DWR defendants and the community.

14 A Yeah.

15 1317 Q But now you say people see you as victims? Isn't
16 that bringing you together with the community
17 then?

18 A There is definitely people within the community
19 that -- that are supporters of us.

20 1318 Q So this business about heightening tensions
21 between the DWR defendants and the community,
22 that's just false, then, is it?

23 A No. No. Because --

24 1319 Q Or is it true?

25 A I believe it is true.

1 1320 Q Then what does it mean? In what way are the
2 tensions being heightened by the drone videos?

3 A It's this collaborative effort of spreading
4 misinformation of --

5 1321 Q You don't know Mary Reynolds. She's not a joiner.
6 She doesn't collaborate with people. She's an
7 individual. She's, like, as individual as
8 Kierkegaard.

9 CNSL M. SWANSON: Are you asking him a question, or are you
10 making a statement, counsel?

11 CNSL J. GRATL:

12 1322 Q You don't know Mary Reynolds, do you?

13 A I would -- if it -- if it's okay, I would like to
14 ask the same question. Is that a question or a
15 statement?

16 1323 Q Yeah, you don't know Mary Reynolds.

17 A Is that a question or a statement?

18 1324 Q The question is: You don't know Mary Reynolds, do
19 you?

20 A You asked another question before, and I would
21 like to refute what you've said.

22 1325 Q Do you -- you do not know Mary Reynolds, do you?

23 A Marilynne Manning's husband said that Mary
24 Reynolds is collaborating with these people.

25 1326 Q All right. Well, is that your best evidence of

1 the collaboration?

2 A I mean, I think it's here in the photograph of
3 Mary Reynolds. She mentions Robert Kerr's name.
4 It's right there.

5 1327 Q Where? That she's collaborating with people?

6 A Mary -- quote from this CVC I think it is:
7 "Mary Reynolds flew her drone over the
8 shipbreaking site for a friend gathering
9 footage of the operation (Robert Kerr)."

10 1328 Q All right. That's your -- that's what you read
11 there; is that right?

12 A I believe that's what was reported.

13 1329 Q And that's on what page of your affidavit
14 exhibits? What page is that? Upper right-hand
15 corner?

16 A 42.

17 1330 Q All right. Very good. Anything else aside from
18 that about a collaboration with anybody?

19 A There are members of the community that have made
20 it vocally clear that -- pardon me, that
21 Ms. Reynolds is working in collaboration with
22 Robert Kerr and Marilynne Manning.

23 1331 Q Oh, yeah. Unnamed people?

24 A I would have to look into that.

25 1332 Q Oh, yeah. Okay. Great. Now -- so at paragraph 5

1 of the counterclaim on page 4, you say that
2 Ms. Reynolds has disseminated the images and
3 recordings collected to third parties; right?

4 A M'mm-hmm.

5 1333 Q Is that correct?

6 A I believe that to be.

7 1334 Q So part of your claim is about the dissemination
8 of the video footage; right?

9 A M'mm-hmm.

10 1335 Q Yes? Yes?

11 A I'd need to read that and --

12 1336 Q Well, that's what your counterclaim says, that --
13 it repeatedly says that Ms. Reynolds is sharing
14 the video footage or disseminating the video
15 footage; right?

16 CNSL M. SWANSON: Here's the counterclaim.

17 THE WITNESS: Thank you. Could you refer to the paragraph and
18 page that you're --

19 CNSL J. GRATL:

20 1337 Q Page 4.

21 A Okay. Okay.

22 1338 Q You say that she disseminated the images and
23 recordings collected --

24 A Oh, sorry.

25 1339 Q -- to third parties?

1 A What -- what paragraph?

2 1340 Q Page -- paragraph 5.

3 A 5? Okay.

4 1341 Q The counterclaim is in respect of this

5 dissemination of the images and recordings

6 collected by drone; correct?

7 A Okay. Just bear with me one minute if you -- if

8 you could. Okay. Sorry, sir. Proceed.

9 1342 Q Part of this lawsuit -- part of this counterclaim

10 is in respect of the dissemination of the images

11 and videos --

12 A M'mm-hmm.

13 1343 Q -- right, to members of the public; right?

14 A Public, the media.

15 1344 Q Yes.

16 A Okay.

17 1345 Q You don't like that? That's part of the -- of

18 this counterclaim, is to stop her from

19 disseminating images and videos; right?

20 A At this point in time, it's the harassment that is

21 the biggest concern for us.

22 1346 Q Yes. But what you have in your counterclaim

23 there --

24 A It's part of it, m'mm-hmm.

25 1347 Q -- is dissemination of videos and images; right?

1 A Okay.

2 1348 Q Yes? Is that correct?

3 A Would be part of the claim.

4 1349 Q Yeah. All right. And then at paragraph 6 over
5 the page --

6 A Okay.

7 1350 Q -- you're saying that Mary Reynolds is flying her
8 drone, and it's done for the purpose of personal
9 gain. You say that in paragraph 6.

10 A M'mm-hmm.

11 1351 Q And then you say at paragraph 7:

12 "The plaintiff's unlawful conduct is
13 calculated to disrupt, interfere with, and
14 ultimately shut down Deep Water Recovery's
15 business activities and operations."

16 A Sorry, where are you reading this now?

17 1352 Q From paragraph 7.

18 A 7? Okay.

19 1353 Q Yes. It says:

20 "The plaintiff's unlawful conduct is
21 calculated to disrupt, interfere with, and
22 ultimately shut down Deep Water Recovery's
23 business activities and operations for the
24 plaintiff's own personal gain."

25 Do you see that?

1 A M'mm-hmm.

2 1354 Q Yes?

3 A Yes.

4 1355 Q What personal gain does the plaintiff stand to get
5 from her operation of a drone?

6 A I think Ms. Reynolds enjoys the attention that
7 this brings to her.

8 1356 Q That's it? She gets attention from this? That's
9 the malicious conduct you're talking about that --

10 A I -- I think --

11 1357 Q -- she maliciously seeks to get attention?

12 A I think that she enjoys this kind of thing. When
13 I look at evidence of her and her behaviour with
14 the developer next door, what -- what was the
15 motivation there? Why would somebody pick on
16 those people for -- any more than you pick on us?
17 Why are you picking on us?

18 1358 Q Well, have you read her blog?

19 A We are four people trying to make a living. We
20 are recycling. We are doing a constructive and
21 positive thing for the environment.

22 1359 Q Oh, yeah.

23 A And I think reading the rest of this paragraph
24 here, it's been told to us that she's working in
25 collaboration with Ray Rewcastle, Robert Kerr, and

1 Marilynne Manning. And Marilynne Manning's
2 husband has said to us that Robert Kerr's obsessed
3 with getting us shut down. He's obsessed. And
4 Marilynne Manning's husband said to us that the
5 whole concern here began with their real estate
6 values, being concerned about their real estate
7 values.

8 1360 Q Mary Reynolds doesn't live anywhere close to your
9 property, does she?

10 A I would suggest she lives maybe one kilometre
11 away.

12 1361 Q Yeah, she's not interested in the real estate
13 values. That's utter nonsense, isn't it?

14 A I don't know. I would --

15 1362 Q You don't know exactly --

16 A -- suggest one kilometre is very close. I would
17 consider that to be very close if -- if you would
18 consider that differently --

19 1363 Q That -- that's what --

20 A -- subject to interpretation for me. One
21 kilometre is close.

22 1364 Q You're saying Mary Reynolds is trying to take
23 drone footage to increase her property value?
24 That's your -- that's your evidence under oath?
25 That's what you want to tell a judge today?

1 A I don't think I made that statement. I think I've
2 been very clear that the issue for us is the
3 harassment.

4 1365 Q I guess you --

5 A It's --

6 1366 Q I guess you --

7 A It's invasion of privacy.

8 1367 Q I guess you'd take the same issue with David
9 Suzuki, then, if -- that he's an environmentalist
10 because he wants to get personal attention for
11 himself; is that right?

12 CNSL M. SWANSON: Objection.

13 CNSL J. GRATL:

14 1368 Q Do you take issue with all environmentalists on
15 the basis that they are just attention seekers?

16 CNSL M. SWANSON: Objection.

17 CNSL J. GRATL:

18 1369 Q Aside from attention seeking, is there any other
19 kind of personal gain that you're asserting that
20 Mary Reynolds is getting from taking drone footage
21 and putting it on her website?

22 A I don't know what her agenda is.

23 1370 Q Yes.

24 A I don't know.

25 1371 Q I think that's a fair statement: You don't know

1 what her agenda is; right?

2 A She's collaborating with oil executives. We're
3 tied to oil executives. So if you're proposing to
4 me that she's become an ambassador for the -- an
5 environmental concerned in conjunction with these
6 oil executives, I would find that difficult to
7 comprehend.

8 1372 Q Wait, are you saying now that she's taking drone
9 footage of your property because she wants to
10 advance the interests of, like, petroleum
11 concerns? That's your evidence?

12 A I don't think I said that.

13 1373 Q I mean, you were mentioning -- you were mentioning
14 that these are retired oil executives because
15 you're -- you were thinking that guys like Ray
16 Rewcastle are just big hypocrites; right? That's
17 what you're saying? Rewcastle's a big hypocrite,
18 he made all sorts of money from oil, and now
19 he's -- now he doesn't want a shipbreaking
20 operation next door; right? That's what you're
21 saying?

22 A Well, I didn't say that.

23 1374 Q Well, then why did you mention oil executives?

24 A Well, you've just referenced the David Suzuki
25 Foundation and other environmental concerns.

1 1375 Q Yeah. But I'm just asking why you're bringing up
2 these details about oil --

3 A These people --

4 1376 Q -- executives --

5 A -- are from the oil industry. I'm not sure how a
6 correlation between oil executives and
7 environmental groups come together.

8 1377 Q You're saying, well, Ray Rewcastle's a retired oil
9 executive, so Mary --

10 A I don't know he's --

11 1378 Q So Mary --

12 A I don't know he's retired.

13 1379 Q Oh, okay. You think he's not a retired oil
14 executive, he's actually currently --

15 A I don't -- I don't know what he does.

16 1380 Q Well, then who are you talking about being an oil
17 executive? Who's that?

18 A Marilynne Manning.

19 1381 Q Okay. So you said Marilynne Manning --

20 A Robert Kerr, according to Marilynne Manning's
21 husband, or Jane Kerr or...

22 1382 Q Okay. You say -- so these are -- these are people
23 who used to work in the oil industry or currently
24 do?

25 A I believe they did. I don't know what they do

1 today.

2 1383 Q Okay. So --

3 A Marilynne Manning's husband --

4 1384 Q I just want to understand what you're saying here

5 that --

6 A -- shared those details.

7 1385 Q -- that the plaintiff's own personal gain, when

8 you're alleging that Mary Reynolds is engaged in a

9 malicious campaign --

10 A M'mm-hmm.

11 1386 Q -- you're saying, well, that campaign is not

12 legitimate because some of the people with whom

13 she is working together with are retired oil

14 executives? I'm just trying to understand your

15 evidence now.

16 A Could you repeat the question?

17 1387 Q Well, you're saying that, well, Mary Reynolds

18 engaged in malicious activity for her own personal

19 gain because she's working with some people who

20 used to be oil executives? That's your evidence?

21 A I don't think I'm supplying evidence. You're

22 asking me a question. I'm a little bit confused

23 here.

24 1388 Q Well, you instructed your lawyer to file a

25 counterclaim here that alleges that Mary Reynolds'

1 conduct is so malicious --

2 A M'mm-hmm.

3 1389 Q -- that it deserves a punishment, punitive

4 damages; right?

5 A M'mm-hmm.

6 1390 Q And I'm asking you, well, what's she done that's

7 so bad, and you're saying, well, it's not actually

8 her, it's this -- some other oil executives are a

9 bunch of hypocrites?

10 A No. No, I didn't say that.

11 1391 Q Well, what is it that she's --

12 A She -- she's --

13 1392 Q -- done though?

14 A She's flying--

15 1393 Q I'm giving you an opportunity --

16 A She -- she is invading our privacy every day,

17 she's making incursions into our airspace while we

18 are working. For us, it's a -- it's a safety

19 issue, it's an invasion of privacy issue, it's a

20 harassment issue.

21 1394 Q What's the personal gain?

22 A I don't know what her agenda is. I don't know.

23 1395 Q Okay. So when you put in the -- when you put in

24 this counterclaim that her flying drones is for

25 the purpose of personal gain, you don't have any

1 evidence to support that? You just said -- you
2 just decided that should go in the counterclaim
3 even though you have no evidence of personal gain;
4 is that right?

5 A I cannot imagine that somebody is investing this
6 much energy in something without there being some
7 gain.

8 1396 Q Did you tell Gavin MacRae of the Watershed
9 Sentinel that you didn't come up to Union Bay to
10 set up a shipbreaking business?

11 A I don't know who he is, sorry. I don't know who
12 Gavin -- you said MacRae?

13 1397 Q You'll look at an article called "Shipbreaking
14 Bad" --

15 A And that's --

16 1398 Q -- published by the Watershed Sentinel, and --

17 A I don't -- I'm not familiar with -- with --

18 1399 Q -- it -- you said that "There's a lot of
19 misinformation out there. We didn't come here to
20 set up a shipbreaking business." Do you remember
21 saying that?

22 A I don't recall.

23 1400 Q All right. Now, do you remember the The Tyee
24 published an article, a couple of articles long
25 form?

1 A I've -- I've heard. I don't believe I've seen
2 those articles.

3 1401 Q You never even read the articles?

4 A I don't believe so.

5 1402 Q Wait a minute. You -- may I have --

6 A I don't -- I may have. I don't recall.

7 1403 Q -- Exhibits 1 and 2 back, please? Can I have
8 Exhibit 1, please?

9 CNSL M. SWANSON: On your right side.

10 THE WITNESS: This one? Okay.

11 CNSL J. GRATL:

12 1404 Q Are you saying you never even reviewed The Tye
13 article?

14 A I may have.

15 1405 Q Oh, okay. Now, did you tell Michelle Gamage that
16 you made a deal with Seaspan to break as many of
17 their barges as you could in 36 months and that
18 the plan after that was to move on?

19 A I don't recall what I discussed with her.

20 1406 Q All right. Did you tell her "We're not here to
21 set up a business"?

22 A I don't recall.

23 1407 Q Is that true that you're not intending to set up a
24 business?

25 A Well, we have set up a business.

1 1408 Q No, but as of -- as of sometime around the 17th of
2 March 2022, were you there to set up a business,
3 or are you just planning on leaving?

4 A No. We had a -- we have two vessels that we
5 needed to recycle. There was nobody available to
6 do the work, so we ended up purchasing a property
7 to take care of that.

8 1409 Q Wait, you bought the vessels first, and then
9 bought the property?

10 A We owned the vessels. And the vessels were going
11 to be recycled by somebody else, and they didn't
12 have the competence. So we decided that the best
13 course of action was for us to do the right thing
14 and purchase the property.

15 1410 Q So you'd had no experience with shipbreaking at
16 that point?

17 A We've recycled vessels before.

18 1411 Q All right. And you didn't have -- you weren't a
19 shipbreaker?

20 A Well, define a "shipbreaker." We are operators of
21 marine equipment.

22 1412 Q Okay. Now, did you tell Michelle Gamage that your
23 plan was to move on after breaking up the Seaspan
24 vessels?

25 A I don't recall my discussions with her.

1 1413 Q All right. Did you -- did you tell her, we're not
2 here to --
3 A With respect, she's not -- not somebody on my list
4 of priorities.
5 1414 Q Okay. Did you tell her, we're not here to set up
6 a business?
7 A I don't recall.
8 1415 Q All right. Did you tell Michelle Gamage that any
9 work on the lower part of any vessel or a hull
10 happens over asphalt with spill mitigation
11 measures in place?
12 A Again, I don't recall what I discussed with her.
13 1416 Q All right. I'm going to suggest to you that --
14 that Michelle Gamage published an article in which
15 she exhibited images and videos that contradicted
16 what you told her.
17 A Okay.
18 1417 Q Do you remember that?
19 A No.
20 1418 Q So that, for example --
21 A You're suggesting --
22 1419 Q -- the videos --
23 A -- that she presented these videos to me and --
24 1420 Q No, she presented them to the public, sir. She --
25 you told her, well, we don't dismantle hulls over

1 permeable ground, and then she showed a video or
2 still images of you dismantling a hull over
3 permeable ground. Do you remember that?

4 A The hull of a vessel.

5 1421 Q The hull of a barge.

6 A Okay. It could be one of the two barges we
7 discussed earlier, but those were partially
8 dismantled, so as they could be moved.

9 1422 Q Yeah, including the hull, right, of those barges?

10 A Well, all pieces of the barge have to be
11 removed --

12 1423 Q Yeah. Yeah.

13 A -- in order to be processed.

14 1424 Q So what happened is that The Tyee article showed
15 you up to be telling her things that weren't true?

16 A I wouldn't agree with that statement.

17 1425 Q Like, you were saying things that were
18 contradicted by video drone footage; right?

19 A That's your opinion.

20 1426 Q Well, I'm suggesting that's in March, right,
21 that's in late March, The Tyee article comes out?

22 A I don't know, Mr. Gratl. You're asking me things
23 I -- you have the papers in front of you, I don't.

24 1427 Q Okay. Well, I'm going to suggest to you that you
25 were probably, well, embarrassed about that.

1 A No.

2 1428 Q Here comes some reporters, they're starting to ask
3 you questions, and you give them answers that are
4 blatantly contradicted by the videos taken by Mary
5 Reynolds. Makes you look like a liar, a person of
6 low integrity --

7 A I think --

8 1429 Q -- doesn't it?

9 A I think there is -- I think there is a
10 misunderstanding here that we have an interest in
11 what Mary Reynolds says or what The Tyee says or
12 any of these other people. It doesn't make any
13 difference to us.

14 1430 Q Well, you -- I'm going to suggest to you that you
15 were actually embarrassed. There you were --

16 A You're entitled to that opinion. Like, what can I
17 say?

18 1431 Q Well, you're talking to people in the community,
19 right, and people in the community are forming an
20 opinion about you; right?

21 A Okay.

22 1432 Q Yeah. You -- of course, you care about your
23 reputation, and then there's articles coming out
24 suggesting that you're dishonest.

25 A If I -- if I can say this to you, I would say that

1 the larger part of the community appreciates what
2 we are doing. These -- this accumulation of these
3 old barges needs to be dealt with, and we are
4 recycling these in a responsible manner.

5 1433 Q Okay. So then -- and then you also told The Tye
6 that your company spent \$3,500 diverting a
7 waterway that ran through Glover Park, didn't you?

8 A No, that's incorrect.

9 1434 Q In fact, you did divert a waterway that ran
10 through Glover Park, didn't you?

11 CNSL M. SWANSON: Objection. There's just no relevance,
12 counsel.

13 CNSL J. GRATL: Well, there is relevance. It's one of the
14 items that -- that your client claimed was
15 defamatory.

16 CNSL M. SWANSON: In respect to Mary Reynolds, counsel?

17 CNSL J. GRATL: In respect of expressive conduct, trying to
18 shut down expressive conduct that is true.

19 CNSL M. SWANSON: With Mary Reynolds, counsel? No? Okay.
20 Please move on.

21 CNSL J. GRATL: Well, I think your client is asserting some
22 kind of conspiracy theory between CCOBS and my
23 client, so I think it does have to do with my
24 client. Trying to link in other people and their
25 motivations about property values and oil

1 executives, all this talk. You sent the letter,
2 sir.

3 CNSL M. SWANSON: I've objected, counsel.

4 CNSL J. GRATL: Yeah. All right.

5 1435 Q But you did divert a waterway then, didn't you, in
6 a public park?

7 CNSL M. SWANSON: I'm going to object.

8 CNSL J. GRATL: All right.

9 1436 Q And then you sent a defamation letter threatening
10 to sue people for saying that you diverted a
11 waterway in a public park, didn't you?

12 CNSL M. SWANSON: I'll object again.

13 CNSL J. GRATL: Oh, okay.

14 CNSL M. SWANSON: If you want to keep it tied to the PPPA
15 application, that would be nice.

16 CNSL J. GRATL: Well, the PPPA application asks what's really
17 going on, and your client --

18 CNSL M. SWANSON: No, it doesn't.

19 CNSL J. GRATL: All right.

20 1437 Q Now, The Tyee article also referred to the hay
21 bales being used in spill containment over
22 permeable ground; right?

23 A Could you repeat that?

24 1438 Q The Tyee article --

25 A M'mm-hmm.

1 1439 Q -- also referred to the use of hay bales being
2 used in spill containment over permeable ground;
3 right?
4 A No.
5 1440 Q That's one of the things that you threaten to sue
6 CCOBS about is, asserting that hay bales are being
7 used in spill containment over permeable grounds?
8 A They're not being used for spill containment.
9 1441 Q Oh, yeah. Well, that's what The Tyee published --
10 A Maybe --
11 1442 Q -- that the drone --
12 A -- The Tyee was incorrect.
13 1443 Q The Tyee published --
14 A Maybe The Tyee was very incorrect.
15 1444 Q The Tyee published this, it said:
16 "But drone footage has captured images of
17 barges being dragged across the foreshore and
18 barges being dismantled over permeable ground
19 and hay bales being used in spill containment
20 over permeable ground, all of which should
21 not be allowed according to the NGO
22 shipbreaking platform."
23 Right?
24 A Some wild assumptions there, Mr. Gratl, but
25 anyway.

1 1445 Q Which part is an assumption? That The Tyee
2 published that? I just read a portion of an
3 article.

4 A Are you asking me if that is a correct statement
5 or an incorrect statement or my opinion? I'm
6 confused what your question is.

7 1446 Q You know that The Tyee published that, right,
8 because that's part of what you sued -- or
9 threatened to sue CCOBS about is these exact
10 statements; right?

11 A I'm confused what the relevance is here.

12 1447 Q What's the relevance?

13 A You're asking me about --

14 1448 Q What's the relevance?

15 A -- bay -- hay -- bay -- sorry, bales of hay and
16 spill containment. I --

17 1449 Q Okay.

18 A I'm struggling to keep up with you.

19 1450 Q Now -- and then The Tyee said that:
20 "Deep Water's emergency management plan says
21 it will use inflatable rollers to pull
22 vessels out of the water without damaging the
23 seafloor and then will transfer the vessels
24 onto the site's paved area for dismantling,
25 but an aerial photo taken by a drone

1 contradicts this and shows vessels being
2 dismantled while on the foreshore touching
3 the water."

4 Did you read that?

5 A No.

6 1451 Q That makes your operation out to be an operation
7 of low integrity violating the terms of its
8 emergency management plan, doesn't it?

9 A I would not agree with that statement, but anyway.

10 1452 Q But you don't care about it? You're saying,
11 that's not something I care about? There's --

12 A I didn't say that.

13 1453 Q Well, do you care about it? Obviously it bothers
14 you; right?

15 A What bothers me?

16 1454 Q Well, that somebody's publishing articles
17 criticizing your operation and saying that you're
18 not living up to your emergency management plan
19 and that you're disseminating statements that are
20 untrue about how your operation functions. That
21 bothers you, doesn't it?

22 A Not particularly.

23 1455 Q It doesn't bother you. And then it bothers you
24 that the Ministry of Environment is coming to
25 inspect your facility and taking water samples;

1 right?

2 A Doesn't bother us. We work with government
3 agencies all the time. You can't do what we do
4 without working with government agencies.
5 That's -- that's part of -- of what we -- what we
6 do every day.

7 1456 Q Right. And then they're finding you out of
8 compliance with regulation. That bothers you,
9 that's an aggravation; right?

10 A No.

11 1457 Q There --

12 A No, because I'm -- I don't agree with that
13 statement, Mr. Gratl.

14 1458 Q Well, they're imposing conditions on you that
15 require you to hire an environmental monitor;
16 right? You don't like that. That's an extra
17 expense and aggravation; right?

18 A It's okay.

19 1459 Q That's perfectly --

20 A We -- it doesn't -- we have no issue with that
21 whatsoever.

22 1460 Q Well, you didn't hire an environmental monitor
23 until you were required to by MOE; right?

24 A We did have a marine biologist employed before,
25 yes.

1 1461 Q And who was that?

2 A I'd have to ask Michelle to dig his name up.

3 1462 Q As an environmental monitor -- you had hired a
4 biologist as an environmental monitor? That's
5 your evidence?

6 A We -- we employed a marine -- we engaged with a
7 marine biologist since we purchased the property.

8 1463 Q Yeah, but you didn't hire an environmental
9 monitor; right?

10 A Could you define what you mean by "environmental
11 monitor"?

12 1464 Q The same kind of job description that MOE required
13 you to fill. That's what I mean by "environmental
14 monitor."

15 A Sorry, could you repeat that?

16 1465 Q MOE required you to hire an environmental monitor;
17 right?

18 A I don't believe so.

19 1466 Q Okay.

20 A No. That was something that we chose to do.

21 1467 Q Oh, I see. Oh, I see. It wasn't a requirement?

22 A I don't believe so.

23 1468 Q All right. Now -- and then the Comox Valley
24 Regional District started seeking an injunction to
25 shut down your business operations, prohibit

1 people from living at the industrial site, and
2 repair damage done to a stream in a provincial
3 park; right?

4 A Is that a question?

5 1469 Q Yes, that was a question.

6 A Could you -- could you repeat the question?

7 1470 Q Did the Comox Valley Regional District start a
8 lawsuit seeking an injunction to shut down your
9 business operations, prohibit people from living
10 at the industrial site, and repair damage done to
11 a stream in a provincial park?

12 A Your question is they applied for an injunction?
13 Is that -- have I understood correctly the
14 question?

15 1471 Q Yes.

16 A I don't know that they haven't applied for an
17 injunction. I don't know that.

18 1472 Q They started a -- they started a civil claim to
19 seek an injunction; right?

20 A I don't know what they -- whether they've applied
21 for an injunction or not. I don't know what
22 they -- they've applied for.

23 1473 Q You don't know? You have no idea it did some --
24 did the Comox Valley Regional District start a
25 lawsuit against me, I have no idea, that's what

1 you're saying?

2 A Well, you've -- you've used the word "injunction"
3 to have us stopped I think you said.

4 1474 Q Yeah, but they filed a notice of civil claim
5 seeking these three things to have you shut down
6 because you don't -- you don't comply with the --
7 to stop people from living at the industrial site.
8 Those are your employees who live there in
9 trailers; right? And then to repair the damage
10 done to the stream in a provincial park; right?
11 All of that's an aggravation?

12 A No. No, we -- I wouldn't say it is an
13 aggravation.

14 1475 Q Oh, okay. Because here's what I'm going to
15 suggest to you: That it's not the drone flying
16 above that is irritating, it's the videos that
17 have been disseminated that have then been turned
18 into articles by organizations like The Tyee or
19 The Globe and Mail that show what your operation's
20 doing, that has inspired regulatory attention,
21 that has led to lawsuits being filed by the
22 regional district against your company. All of
23 that, the enforcement of the existing regulations,
24 the enforcement of bylaws, the enforcement of
25 restrictions on your property rights, all of

1 that's what's irritating you about the drone
2 flights, not the little buzzing in the sky
3 150 feet above you but all this other stuff that
4 results from people figuring out what you're
5 doing; isn't that true?

6 A No.

7 1476 Q No? You're saying, oh, it's just the drone;
8 everything else, I don't care about it; it's
9 totally neutral; this lawsuit --

10 A No, let me --

11 1477 Q -- [overspeaking], I don't care, that's neutral;
12 MOE involvement finding me out of compliance and
13 opposing restrictions, totally neutral; all
14 articles saying that I'm not telling the truth
15 about how I'm conducting my business affairs,
16 that's all totally neutral? The real thing that's
17 annoying is the little buzzing sound that requires
18 you to buddy up with people when you work, you
19 have to work together, two of you? That's what
20 you're saying? I just want to understand your
21 evidence.

22 A Mr. Gratl, you've made a long statement. Are you
23 implying that that is words that I have said?
24 Or -- I'm confused.

25 1478 Q You're saying that's not true, that's not what

1 I've said?

2 A That's what I'm saying.

3 1479 Q Okay.

4 A The drone for me is a disturbance. It's a
5 distraction. It's a safety issue. Things that
6 The Tyee writes -- you've made mention of a change
7 to a fish-bearing stream or a creek or something,
8 that is just blatantly false information. If it's
9 coming from the CVRD, that's fine. I refute that.
10 So there is no stream there, but am I here to
11 debate with you the stream or the case with Mary
12 Reynolds? I mean, that -- that --

13 1480 Q What the drone did.

14 A -- allegation about the --

15 1481 Q What the drone did, sir, is that -- is that --

16 A Mr. Gratl, the drone -- the drone didn't do
17 anything --

18 1482 Q It caught you.

19 A -- with regard -- no.

20 1483 Q You got caught on video.

21 A No, you're incorrect. That is an incorrect
22 statement.

23 1484 Q You don't like the drone because it shows you as
24 you are --

25 A Okay. I --

1 1485 Q -- rather than as you want to --
2 A -- refute --
3 1486 Q -- portray yourself.
4 A I refute the statement and -- anyway.
5 1487 Q You don't like the drone because it shows you as
6 you are rather than as you'd like to portray
7 yourself; right?
8 A No.
9 1488 Q That's why you consider the drone video to be
10 misinformation, because it's different than how
11 you see yourself or how you want to portray
12 yourself; right?
13 A I disagree with your assumptions.
14 1489 Q Okay. Now, you say that you are -- you were
15 entitled to take the drone because you were
16 provoked by Mary Reynolds with the drone. Is that
17 what you're saying?
18 A I don't recall if -- is that what I said?
19 1490 Q Well, it's in your response to civil claim. You
20 say --
21 A Okay.
22 1491 Q Firstly, you deny stealing and/or damaging the
23 drone; right? That's in your response to civil
24 claim. And then you say, if I did steal the
25 drone, then I -- and it was only temporary and I

1 returned it and I didn't break it. And then --
2 and then you say, if I did break it, that probably
3 happened after while Mary Reynolds had it. And
4 then you say, in the alternative if I did steal
5 the drone and I did damage the drone, then I was
6 provoked by Mary Reynolds. Do you remember
7 reading that in your response to civil claim?

8 CNSL M. SWANSON: Do you want to put the document to him,
9 counsel?

10 THE WITNESS: Can I see the document?

11 CNSL J. GRATL: I'm just asking if he remembers it.

12 THE WITNESS: I'd like to see the document if I can.

13 CNSL J. GRATL:

14 1492 Q Sure.

15 A Okay. What paragraph is it?

16 1493 Q Well, it's -- there's a whole -- you should read
17 that whole page there.

18 A Okay.

19 1494 Q It's kind of funny. It's best read together for
20 the full effect. Have you had a chance to read it
21 now?

22 A Just two paragraphs.

23 CNSL M. SWANSON: May I see that, please?

24 CNSL J. GRATL:

25 1495 Q Do you agree with that response to civil claim

1 that -- that you feel that because Mary Reynolds
2 provoked you with the drone flying you were
3 entitled to take her drone?

4 A Sorry, could you say that again?

5 1496 Q Do you agree with the response to civil claim that
6 because Mary Reynolds provoked you with her drone
7 flying you were entitled to take her drone?

8 CNSL M. SWANSON: Counsel, these questions relate to matters
9 that haven't been incorporated by reference into
10 the counterclaim. I'm going to object.

11 CNSL J. GRATL: All right.

12 1497 Q Now, you sent -- you directed your counsel to send
13 a letter to Rob Kerr, right, threatening him with
14 a defamation lawsuit if he persisted in speaking
15 to the news, didn't you?

16 A I don't recall. I'd have to --

17 1498 Q You might have?

18 A -- see evidence of that.

19 1499 Q You might have; is that right?

20 A I don't recall what the contents of any writing to
21 Mr. Kerr was.

22 1500 Q Do you remember saying that it's defamatory to say
23 that Deep Water Recovery is engaged in a hazardous
24 industry?

25 A Sorry, could you repeat that again?

1 1501 Q Do you remember asserting that it is defamatory
2 for Rob Kerr to say that Deep Water Recovery is
3 engaged in a hazardous industry?

4 A I don't recall.

5 1502 Q All right. Now, Rob Kerr attended Mary Reynolds'
6 residence on June the 15th. That's the date when
7 you followed her home and had another pickup
8 truck --

9 A Okay.

10 1503 Q -- attend facing her house?

11 A Okay.

12 1504 Q Yes? Rob Kerr attended, didn't he?

13 A He arrived. He presented himself.

14 1505 Q Yes. And you --

15 A Not sure for what purpose, but he did.

16 1506 Q And you left your vehicle and went to his vehicle,
17 didn't you?

18 A That's correct.

19 1507 Q And you said -- you said "You must be Robert. We
20 are coming for you next." Didn't you?

21 A Oh, I don't recall what I said to him at the time.

22 1508 Q Okay. You said something to him?

23 A I don't recall. I just don't recall. I know he
24 arrived and then quickly left. He seemed to be
25 more concerned about the drone landing in her back

1 yard, so I -- I don't know.

2 1509 Q All right. And then you told Marilynne Manning
3 and Kirk Manning that you know that Rob Kerr has
4 been sending letters to government?

5 A Okay.

6 1510 Q It's true you figured out that Rob Kerr was
7 sending letters to government? Isn't that true?

8 A I don't recall saying that to Marilynne Manning
9 and Kirk Manning. I may have said it to Kirk, but
10 I don't recall speaking with Marilynne about that.

11 1511 Q But you -- you learned that Rob Kerr was sending
12 letters to federal government officials and
13 provincial government officials; right?

14 A We are aware of that is the question?

15 1512 Q You learned that Rob Kerr was sending letters to
16 federal and provincial government officials --

17 A That's correct.

18 1513 Q -- right? Yes. And that irritated you?

19 A No, I wouldn't say it irritated us.

20 1514 Q You told Marilynne Manning and Kirk Manning that
21 you would bankrupt Rob Kerr if he persists in
22 sending such letters?

23 A I don't recall that, but anyway.

24 1515 Q All right. Now, on July the 2nd -- or July
25 the 12th, 2022, Rob Kerr's -- you drove past Rob

1 Kerr's wife; right?

2 A Sorry, can you repeat that?

3 1516 Q You drove past Rob Kerr's wife and spat at Rob
4 Kerr's wife's car out of your car window, didn't
5 you?

6 A Don't recall that, no. I think that's the second
7 time you've mentioned this.

8 1517 Q Well, no, there's spitting at Ray Rewcastle, and
9 then there's spitting at Rob Kerr's wife.

10 A M'mm-hmm. Okay.

11 1518 Q You did both of those, didn't you?

12 A No, I don't recall that.

13 1519 Q You don't remember? You might have, but you don't
14 remember?

15 A I don't recall doing that. It's not my behaviour,
16 Mr. Gratl.

17 1520 Q Oh, okay. I'm going to suggest to you that you
18 have a behaviour -- you have an impulse control
19 problem.

20 A Okay.

21 1521 Q That -- that you act precipitously the way you
22 stole Mary Reynolds' drone.

23 CNSL M. SWANSON: Again, I'm going to object to that.

24 CNSL J. GRATL:

25 1522 Q Well, you appreciate that when you drove up --

1 when you drove up in -- in the Mini, I take it it
2 was Andras who was driving the Mini; right?
3 Talking about when you took Mary Reynolds' drone.
4 Do you remember that day when you took Mary
5 Reynolds' drone?

6 CNSL M. SWANSON: I'm going to object again, counsel.

7 CNSL J. GRATL: On what basis?

8 CNSL M. SWANSON: It's not relevant.

9 CNSL J. GRATL: It's relevant to the pattern of intimidation
10 which we have set out in our application that
11 there's a pattern of intimidation, and this
12 counterclaim is just part of the pattern of
13 intimidation.

14 CNSL M. SWANSON: I'm objecting to it.

15 CNSL J. GRATL:

16 1523 Q Do you remember getting out of the Mini before it
17 had come to a stop?

18 CNSL M. SWANSON: I object.

19 CNSL J. GRATL:

20 1524 Q Do you remember rushing across in front of Mary
21 Reynolds' vehicle?

22 CNSL M. SWANSON: Again, counsel, I object. If you want to
23 keep it to the matters in issue, we would
24 appreciate that. Thank you.

25 CNSL J. GRATL:

1 1525 Q Do you remember grabbing the drone out of the air?

2 CNSL M. SWANSON: I object.

3 CNSL J. GRATL:

4 1526 Q Do you remember crossing back towards the Mini,

5 but then turning around again with the drone in

6 hand --

7 CNSL M. SWANSON: Again, I object, counsel.

8 CNSL J. GRATL:

9 1527 Q -- and yelling at Mary Reynolds?

10 CNSL M. SWANSON: I object.

11 CNSL J. GRATL:

12 1528 Q Now, you say that starting in and around early

13 April 2022 you noticed a drone flying over and

14 around the industrial zone of the property; right?

15 But you learned about that drone before then

16 because you had dealt with the reporter from The

17 Tyee; right?

18 A Sorry, could you repeat that again?

19 1529 Q You learned about the drone footage before you

20 noticed the drone; right?

21 A Sorry, we learned about the drone before we saw

22 the drone?

23 1530 Q You learned about the drone footage --

24 A From whom?

25 1531 Q Well, it was published.

1 A Are you suggesting that's how I learned about the
2 drone?

3 1532 Q Yes. First you saw the footage, and then you
4 started looking for the drone; right?

5 A No.

6 1533 Q Okay. You're saying you didn't read The Tyee
7 article?

8 A You just asked me something else. You --

9 1534 Q Didn't Michelle Gamage ask you --

10 A You said to me that we became aware of the drone
11 as a result of The Tyee article. That was your
12 question to me.

13 1535 Q As -- probably as a result of talking to Michelle
14 Gamage because she told you about the drone
15 footage; right?

16 A Mr. Gratl, I'm confused. Is your question -- are
17 you asking me did we become aware of the drone
18 because of The Tyee article?

19 1536 Q Yes. Yes.

20 A That is incorrect.

21 1537 Q Okay.

22 A We did not become aware of the drone because of
23 The Tyee article.

24 1538 Q Yes. But you became aware of the drone footage
25 before you ever noticed the drone in the sky,

1 didn't you?

2 A No. No.

3 1539 Q All right. Now, I'm going to suggest to you
4 that --

5 A We became aware of the drone because a neighbour
6 brought it to our attention.

7 1540 Q Which neighbour?

8 A I don't know his name.

9 1541 Q In what context did he bring it to your attention?

10 A He walked over and told us that Mary Reynolds was
11 parked on the other side of the berm on Spence
12 Road and was flying a drone over us. He
13 confronted her, and she was hostile to him.

14 1542 Q Oh, and who was that?

15 A I don't know his name.

16 1543 Q And on what date was -- did that occur?

17 A Early last year.

18 1544 Q In April?

19 A I think it was before April. Sometime around
20 April.

21 1545 Q Oh, okay. Because your affidavit then says:

22 "In and around late May 2022, I learned that
23 the drone was operated by Mary Reynolds."

24 A M'mm-hmm.

25 1546 Q Suggesting that you learned that the drone was

1 operated by Mary Reynolds after you noticed the
2 drone flying over; right? In fact --

3 A Excuse me, how --

4 1547 Q -- a month and a half later.

5 A Sorry, could you repeat that?

6 1548 Q Your paragraphs 4 and 5 --

7 A M'mm-hmm.

8 1549 Q -- of your affidavit. Do you have that right
9 there?

10 A M'mm-hmm.

11 1550 Q It's on the first page. You can read it with me.

12 A Okay.

13 1551 Q It says:

14 "Starting in or around early April 2022, I
15 noticed a drone flying over and around the
16 industrial zone of the property."

17 A Okay.

18 1552 Q And then it says:

19 "In or around late May 2022, I learned that
20 the drone was operated by Mary Reynolds, the
21 plaintiff in this proceeding."

22 A That's correct.

23 1553 Q Now, what you just told me is that there was a
24 neighbour, whose name you purport you can't
25 remember, who told you about Mary Reynolds

1 operating the drone, and that's how you found out
2 about the drone?

3 A That's correct.

4 1554 Q Well, that's inconsistent with your paragraphs 4
5 and 5, isn't it?

6 A No, I wouldn't say it is inconsistent.

7 1555 Q Well, you just said you learned about the drone by
8 hearing from a neighbour that Mary Reynolds was
9 operating a drone across the berm; right?

10 A We were aware of the drone, and the neighbour
11 confirmed to us who was flying the drone.

12 1556 Q All right. So then you didn't learn of the drone
13 from the neighbour?

14 A You suggested that we had learned about it from
15 The Tyee article and some publishing on The Tyee I
16 think you said.

17 1557 Q Do you remember just saying that you learned about
18 the drone from the neighbour?

19 A We became aware who was flying the drone from the
20 neighbour.

21 1558 Q Okay. This has a slightly different story.

22 A Okay.

23 1559 Q You're changing that? You're saying, it's not
24 true that I learned about the drone from the
25 neighbour?

1 A Well, we became aware that Mary Reynolds was
2 flying the drone from the neighbour, and we may
3 have seen the drone prior to that.

4 1560 Q Right. And you saw the video even prior to that?

5 A No, we did not. I don't believe that we did.

6 1561 Q Okay. So you learned about the drone at or around
7 the same time the first MOE inspector shows up; is
8 that right?

9 A No, I wouldn't -- I would say well before then I
10 think.

11 1562 Q Oh, okay. Because we have a good date for the MOE
12 inspector showing up, that's April the 5th, 2022.

13 A Okay.

14 1563 Q You're saying you learned about the drone before
15 the MOE inspector showed up?

16 A Yes, I would suggest so.

17 1564 Q Right. And you're -- and you learned about the
18 drone footage before ever seeing the drone, didn't
19 you?

20 A No, I don't believe so.

21 1565 Q So the -- I'm going to suggest to you that
22 throughout November, December, January and
23 February and March of 2022, the drone was flying,
24 but you didn't notice it?

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

1 1566 Q I'm going to suggest to you that the drone was
2 flying, but you didn't notice it during that time.
3 A I don't recall.
4 1567 Q All right. Oh, the drone flights, they're about
5 five minutes long, are they?
6 A I don't know how long Mary Reynolds flies her
7 drone for.
8 1568 Q Did you take the memory stick out of the drone
9 when you took it from Mary Reynolds?
10 A Yes.
11 1569 Q And then did you put it in your computer and
12 access the memory stick?
13 A I don't recall.
14 1570 Q Why did you take the memory stick out of the
15 drone?
16 A I think we feel it's an invasion of privacy.
17 1571 Q Right. Because you were interested in the images
18 on the memory stick; right?
19 A Not necessarily. It's an invasion of our privacy,
20 and I think that we find it intrusive.
21 1572 Q Well, why did you take the --
22 A We are -- we are private -- private citizens on a
23 private property doing our work.
24 1573 Q Right.
25 A It's -- it is definitely an intrusion, I think as

1 it would be for you or for anybody else.

2 1574 Q So --

3 A On occasion I don't think it's necessarily going
4 to be as disruptive as it's become, but it's a
5 regular event. As you are aware, your client has
6 supplied -- I think it's 296 videos.

7 1575 Q Yes. And you took the memory stick out of the
8 drone, right, because you were interested in the
9 images and the videos on that memory stick?

10 A We wouldn't be particularly interested, Mr. Gratl.
11 We --

12 1576 Q Then why would you take --

13 A -- investigated into what Mary Reynolds is
14 filming, it's us. That's -- we're not learning
15 anything.

16 1577 Q Then why did you take the memory stick out of the
17 drone?

18 A I think probably because I find it intrusive.

19 1578 Q Oh, okay.

20 A I find it offensive.

21 1579 Q And then you plugged that memory stick into a
22 computer and accessed the images; right?

23 A I don't recall.

24 1580 Q You might have done that because you --

25 A I don't recall.

1 1581 Q Because you were interested in what was depicted;
2 right?

3 A Not particularly because we already know what is
4 going to be predict -- predicted [sic], right?
5 The drone's flying over us, so if that's what it's
6 filming, then we find that an intrusion in our
7 personal -- personal space.

8 1582 Q Sure. And then you reviewed those images; right?

9 A I don't recall if we did or not.

10 1583 Q And you copied them; right?

11 A I don't recall.

12 1584 Q All right. What computer did you use to access
13 them?

14 A I just said to you I don't recall. I don't use a
15 computer, Mr. Gratl, very often, so I don't recall
16 doing that.

17 1585 Q Well, didn't -- didn't you take the drone into one
18 of the trailers and look at the images right away?

19 A I don't recall. I don't recall what I did. I
20 know that I put the drone in a container, and it
21 sat there.

22 1586 Q Yeah. Yeah. But before you did that, you took
23 the memory card out; right?

24 A I don't -- I did take the memory card out -- card
25 out. I don't recall when.

1 1587 Q The only reason to take the memory card out is to
2 access the images on the memory card; right?

3 A No.

4 1588 Q Well, what other possible reason could there be
5 for taking the memory card out?

6 A Well, I find it offensive that I'm working in my
7 place of work, and somebody's recording me. I
8 mean, it's -- I find that intrusive.

9 1589 Q Yeah, so you took out the memory card, and you
10 decided to investigate what's on the memory card?

11 A Again, I don't recall.

12 1590 Q Okay. But why would you take the memory card out
13 aside from to --

14 A Because I find it -- I find it intrusive. It's
15 intrusive in my -- in my space. I find it
16 offensive. I think any -- any person would find
17 being harassed by a drone every day to be
18 offensive. It's -- I think anybody would feel
19 that.

20 1591 Q All right. And particularly if it led to
21 regulatory action against you, then you'd be
22 particularly upset?

23 A No. No, we deal with regulatory bodies every day.
24 It is the business that we are in. I mean, you
25 can't not deal with regulatory bodies in our

1 activity. It doesn't matter who you are.

2 1592 Q Right. So --

3 A Regulatory bodies are wide and various from Coast
4 Guard to Transport Canada, Ministry of
5 Environment. It goes on and on and on. I mean,
6 that is the nature of what we do. Regulatory
7 bodies are a part of our -- of our activity.

8 CNSL J. GRATL: M'mm-hmm. And -- all right. Those are my
9 questions.

10 (PROCEEDINGS ADJOURNED AT 4:28 P.M.)

11 **REPORTER CERTIFICATION**

12 I, Caprice Albert, Official Reporter in the
13 Province of British Columbia, Canada, BCSRA, do
hereby certify:

14 That the proceedings were taken down by me in
15 shorthand at the time herein set forth, and
16 thereafter transcribed, and the same is a true and
correct and complete transcript of said
proceedings to the best of my skill and ability.

17 IN WITNESS WHEREOF, I have hereunto
18 subscribed my name on this day, the 6th day of
June, 2023.

19 

20
21 **Caprice Albert**
22 **Official Reporter**

23

24

25

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