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NORTH CAROLINA  
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

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STATE OF NORTH CAROLINA *ex rel.* )  
NORTH CAROLINA DEPARTMENT OF )  
ENVIRONMENT AND NATURAL RESOURCES, )

Plaintiff, )

V. )

13-CVS-11032

SIERRA CLUB, WATERKEEPER ALLIANCE, )  
NEUSE RIVERKEEPER FOUNDATION, )  
WINYAH RIVERS FOUNDATION, ROANOKE )  
RIVER BASIN ASSOCIATION, and CAPE )  
FEAR RIVER WATCH, INC., )

Plaintiff-Intervenors, )

DEPOSITION OF  
KENDRA ELDRIDGE  
GERLACH

v. )

DUKE ENERGY CAROLINAS, LLC, )

Defendant. )

---

and

---

NORTH CAROLINA  
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

---

STATE OF NORTH CAROLINA *ex rel.* )  
NORTH CAROLINA DEPARTMENT OF )  
ENVIRONMENT AND NATURAL RESOURCES, )

Plaintiff, )

V. )

13-CVS-14661

CATAWBA RIVERKEEPERS FOUNDATION, )  
INC., APPALACHIAN VOICES, YADKIN )  
RIVERKEEPER, MOUNTAINTRUE, DAN )  
RIVER BASIN ASSOCIATION, ROANOKE )  
RIVER BASIN ASSOCIATION, SOUTHERN )  
ALLIANCE FOR CLEAN ENERGY, and )

WATERKEEPER ALLIANCE, )  
 )  
 Plaintiff-Intervenors, )  
 )  
 v. )  
 )  
 DUKE ENERGY CAROLINAS, LLC, )  
 )  
 Defendant. )

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TUESDAY, SEPTEMBER 20, 2016

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CONFERENCE ROOM 401  
NORTH CAROLINA DEPARTMENT OF JUSTICE  
114 WEST EDENTON STREET  
RALEIGH, NORTH CAROLINA  
9:58 A.M.

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VOLUME 1 OF 1  
PAGES 1 THROUGH 82

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T A B L E O F C O N T E N T S

<u>WITNESS</u>	<u>DIRECT</u>
<u>KENDRA ELDRIDGE GERLACH</u>	
BY MR. HOLLEMAN	6-79
BY MR. NASH	79

EXHIBITS

NONE

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P R O C E E D I N G S

9:58 A.M.

(WHEREUPON,

KENDRA ELDRIDGE GERLACH

WAS CALLED AS A WITNESS, DULY SWORN, AND TESTIFIED AS  
FOLLOWS:)

D I R E C T E X A M I N A T I O N 9:58 A.M.

BY MR. HOLLEMAN:

Q. Ms. Gerlach, my name is Frank Holleman. We  
met earlier. I represent the conservation groups, along  
with Myra Blake here and I both represent the  
conservation groups in these cases. Have you ever been  
in a deposition before?

A. No.

Q. Okay. I am sure you have talked with your  
attorneys about it, but let me just tell you some basic  
points. I will be asking you a series of questions. If  
for any reason you can't understand me or I drop my voice  
and you can't hear me, let me know and I will try to make  
the question clear. So ask me -- if you have any  
questions about the questions, ask me and I will try to  
clear them up.

Of course, we are in a conference room here  
today. And your attorneys are present. But you are  
under oath and do you understand your testimony is as  
though you were in a courtroom and might be used in court

1 at some point in the future?

2 A. Yes.

3 Q. Good. Would you tell me where you work today?

4 A. For the Department of Health and Human  
5 Services.

6 Q. And what is your role there?

7 A. I am the Director of the Office of  
8 Communications and Public Affairs.

9 Q. Where did you go to college?

10 A. Campbell University.

11 Q. And when did you graduate?

12 A. December of 1993.

13 Q. And what was your major?

14 A. Business Administration.

15 Q. Did you go to graduate school, or what did you  
16 do after college?

17 A. I went to work.

18 Q. And where did you go to work?

19 A. I had a couple of very short jobs right out of  
20 college, and ended up at the Sampson *Independent* in  
21 Clinton, North Carolina, as a reporter.

22 Q. And when did you start there?

23 A. Best I can recall, it was early 1995.

24 Q. And how long did you remain a reporter there?

25 A. Between five and six years.

1 Q. So that takes us to 2000, 2001?

2 A. Yes.

3 Q. And what did you do next?

4 A. Went to Wilmington, North Carolina, and took a  
5 job at the Wilmington Chamber of Commerce.

6 Q. And what did you do for the Chamber?

7 A. I was a Communications Coordinator.

8 Q. How long were you there?

9 A. Less than a year.

10 Q. So then I guess we are at 2001 or 2002?

11 A. Correct.

12 Q. Is that right? And where did you go from  
13 there?

14 A. New Hanover Regional Medical Center in  
15 Wilmington.

16 Q. And what did you do there?

17 A. I was Communications Coordinator.

18 Q. And how long were you there?

19 A. Between six and seven years.

20 Q. And do you remember when you left -- what  
21 year?

22 A. I left in 2000 -- and the end of -- in January  
23 of 2007.

24 Q. And where did you go next?

25 A. To Atlanta Medical Center, in Atlanta,



1 Georgia.

2 Q. What did you do there?

3 A. Director of Marketing and Public Relations.

4 Q. And how long were you there?

5 A. Three and a half years.

6 Q. And when did you leave there, if you remember?

7 A. The middle of 2010, somewhere in the summer.

8 Q. And where did you go then?

9 A. Emory Health Care, in Atlanta, Georgia.

10 Q. And what did you do there?

11 A. I was Director of Marketing and Public  
12 Relations for Emory Johns Creek Hospital -- one of the  
13 hospitals in the Emory Health Care system.

14 Q. And how long were you with them?

15 A. I was with Emory Health Care three and a half  
16 years. I was assigned to the Johns Creek Hospital for  
17 about two years. And for the last year and a half I was  
18 assigned to another place in Emory Health Care.

19 Q. Did you leave -- when did you leave Emory  
20 Health Care?

21 A. In October of 2014.

22 Q. And where did you go then?

23 A. To the Department of Health and Human Services  
24 in North Carolina.

25 Q. In your current position?

1 A. In my current position.

2 Q. And how did you -- why did you make that  
3 change?

4 A. I wanted -- my husband and I wanted to get  
5 back to North Carolina where our families are, and I also  
6 -- the only piece of health care experience I was missing  
7 at that time in my -- in my body of work was government  
8 health care. So I wanted an opportunity to be part of  
9 government health care.

10 Q. Were you recruited to come here? Did you --  
11 how did you learn of the position?

12 A. I learned of the position through my mom, who  
13 knew of openings as -- during the administration change.

14 Q. And was your mother involved in the  
15 administration?

16 A. She works for the General Assembly.

17 Q. And what does she do?

18 A. She is a legislative assistant for Senator  
19 Burger.

20 Q. And what is her name?

21 A. Barbara Eldridge.

22 Q. And when you -- do you remember -- I believe  
23 you said you joined in October of 2014, is that correct?

24 A. I joined DHHS in early November of 2014.

25 Q. Early November? And did you assume, when you

1       came here, the same position you have today, or has your  
2       position changed?

3             A.    No, it is the same position.

4             Q.    What are your duties?

5             A.    To run the Office of Communications, to -- to  
6       build a strong functioning team to manage the  
7       communications of the Department.

8             Q.    Are you familiar with the Health Screening  
9       Level for hexavalent chromium that the State Government  
10      established?

11            A.    Yes.

12            Q.    And what is that?  What is the level?

13            A.    .07

14            Q.    And who established it?

15            A.    It was a collective decision arrived at  
16      between scientists in DHHS and scientists in DEQ.

17            Q.    Do you know who made the initial determination  
18      of .07?

19            A.    No, I don't.

20            Q.    Do you know which scientists in DEQ were  
21      involved?

22            A.    No.

23            Q.    And do you know which scientists in DHHS were  
24      involved?

25            A.    I know some.  I don't know that I know all.

1 Q. And which ones?

2 A. The Occupational and Environmental  
3 Epidemiology Branch.

4 Q. And who -- which people in that branch?

5 A. Megan Davies, Mina Shehee, Ken Rudo, Sandy  
6 Mort. That is all that I know.

7 Q. And to your knowledge, they were all involved  
8 in setting the .07 standard?

9 A. To the best of my knowledge.

10 Q. Now, when -- do you remember when it was set?

11 A. No.

12 Q. Do you remember when you got there in November  
13 of 2014, whether a Health Screening Level had been set  
14 for hexavalent chromium yet?

15 A. I don't know that.

16 Q. You don't know one way or the other?

17 A. No.

18 Q. Do you remember an effort to set a standard  
19 for hexavalent chromium that was stopped?

20 A. No.

21 Q. You don't have any memory of that?

22 A. No.

23 Q. Do you remember the issuance of letters by DEQ  
24 that had attached to them a Health Screening Advisory  
25 from HHS?

1 A. The Health Risk Evaluation?

2 Q. Yes.

3 A. Yes.

4 Q. Okay. And do you -- you know, we sometimes  
5 refer to those as the "do not drink" letters. Have you  
6 heard them referred to that way?

7 A. Yes.

8 Q. And do you remember those being issued?

9 A. Yes.

10 Q. Were you part of that?

11 A. Yes.

12 Q. And what was your role?

13 A. To try to help communicate to the public in a  
14 way they would understand.

15 Q. Did you play any role in drafting the letters  
16 or the content of the letters?

17 A. No.

18 Q. So you -- were you involved in the process by  
19 which the letters were written or the content of the  
20 letters were determined?

21 MR. PHILLIPS: Objection to the form,  
22 compound question.

23 BY MR. HOLLEMAN:

24 Q. Okay. I tried to state the same thing twice  
25 in a somewhat different way, but tried to get the same

1 thing across, so let me try again. Were you involved in  
2 drafting either the letter or the Health Screening form  
3 from HHS?

4 A. No.

5 Q. Were you involved in any of the discussions  
6 about what the letter -- the content of the letter would  
7 contain or the content the Health Screening form from HHS  
8 would contain?

9 A. Yes.

10 Q. And what -- how were you involved?

11 A. As those were being developed, there were  
12 multiple versions. At some point, I received a draft.  
13 There were additional conversations about what, if any,  
14 additional language to add to those drafts.

15 Q. And you said there were conversations. Who  
16 conversed? Who were the parties to the conversations?

17 A. To the best of my recollection, there -- there  
18 were multiple conversations happening between many people  
19 during that period. The piece that I was involved in  
20 specifically that I recall was a discussion that I had  
21 with Josh Ellis.

22 Q. Now, when you say, "a discussion with Josh  
23 Ellis," was this on the phone, or was this in person?

24 A. In person.

25 Q. Is this the meeting that Dr. Rudo attended

1 that you are referring to?

2 A. Yes.

3 Q. All right. Well, let's put that meeting to  
4 the side for a moment. Were there any other  
5 conversations that you were a party to involving the  
6 drafting of the 2015 "do not drink" letters?

7 A. There were so many conversations taking place  
8 during that period -- probably, I was involved in  
9 internal conversations. I don't recall specifics of  
10 those meetings or conversations.

11 Q. Do you remember who participated in the  
12 meetings or conversations?

13 A. No.

14 Q. Do you remember anyone from DEQ participating  
15 in them?

16 A. Not that I was involved in.

17 Q. Do you remember anyone from the Governor's  
18 Office being involved, other than the one meeting we will  
19 talk about later?

20 A. No.

21 Q. Did you ever discuss the 2015 "do not drink"  
22 letters with anyone from Duke Energy?

23 A. No.

24 Q. And anyone from Duke Energy's communications  
25 staff?

1 A. No.

2 Q. Do you still have the drafts that were  
3 prepared of that letter?

4 A. I don't know.

5 Q. Where would they be? Where would those drafts  
6 be if you had them?

7 A. In my files.

8 Q. When you -- in your files? Do you mean paper  
9 files or computer files?

10 A. Potentially both.

11 Q. And do you remember a -- what was called a "do  
12 drink" letter being developed ---

13 A. (Interposing) Yes.

14 Q. --- in 2016?

15 A. Yes.

16 Q. Were you part of drafting that letter?

17 A. No.

18 Q. Did you know about it until after it had been  
19 drafted?

20 A. I don't recall specifically.

21 Q. How did you learn of it?

22 A. From Dr. Williams.

23 Q. Okay. And what did he tell you?

24 A. That the Department was making this decision,  
25 and we would issue a letter to the well owners.



1 Q. Did he explain why?

2 A. Yes.

3 Q. And what was his explanation?

4 A. Over the year that had elapsed between the --  
5 basically a year between the previous letter --  
6 additional information, additional knowledge, learning  
7 from other states had led the Department to make this  
8 decision.

9 Q. What was the additional information and  
10 additional knowledge?

11 A. To -- to the best of my recollection, that  
12 this was a positioning that no other state had taken.  
13 California is the only other state in the United States  
14 that has set a level -- a standard for hexavalent  
15 chromium. And essentially, these several hundred well  
16 owners in North Carolina were being held to a standard  
17 that no one else in the country was.

18 Q. Was there any other information he provided  
19 you or conveyed to you to justify the issuance of the "do  
20 drink letter"?

21 A. There had been additional learning that much  
22 of the levels of hexavalent chromium being seen were also  
23 occurring naturally, being seen in background levels  
24 throughout North Carolina. So there was some  
25 understanding that there is a level of hexavalent

1 chromium that occurs naturally throughout parts of North  
2 Carolina.

3 Q. Now, whether it occurs naturally or from some  
4 human intervention doesn't really bear on whether it  
5 harms your health, is that correct? It is the level of  
6 hexavalent chromium that harms you health, is that right?

7 MR. PHILLIPS: Objection to form.

8 MR. NASH: Object to the form.

9 BY MR. HOLLEMAN:

10 Q. You can answer the question.

11 A. I am not a scientist.

12 Q. You don't -- you don't understand one way or  
13 another whether that statement is true?

14 A. I understand the discussion about varying  
15 levels and potential risk being greater at higher  
16 concentrations.

17 Q. Is it your understanding that hexavalent  
18 chromium is less dangerous to human health if it is  
19 naturally occurring than if it comes from a human source?

20 A. I don't know the answer to that.

21 Q. You don't know one way or the other?

22 A. No.

23 Q. Did Dr. Williams give you an other  
24 explanations for the change?

25 A. He may have, but that is what I am recalling

1 right now.

2 Q. Did he give you any written materials related  
3 to the change or why it was being made?

4 A. I don't believe so.

5 Q. Did this change come as a surprise to you?

6 A. I know that it is something the Department was  
7 taking a careful look and a careful approach, so I knew  
8 that it was being evaluated.

9 Q. So when Dr. Williams told you -- do you  
10 remember when he told you that the "do drink" letter was  
11 going to be issued?

12 A. Not specifically.

13 Q. Approximately?

14 A. It was not very far in advance of when it  
15 actually was issued.

16 Q. So was it in 2016?

17 A. Yes.

18 Q. Prior to Dr. Williams telling you he was going  
19 to issue the "do drink" letter -- prior to that  
20 conversation with Dr. Williams, had you heard any  
21 discussions or had any information that the Department  
22 was considering rescinding the 2015 "do not drink"  
23 letters?

24 A. No.

25 Q. So Dr. Williams' notification of you was the

1 first time you had had any indication the Department was  
2 going to rescind those letters and issue a "do drink"  
3 letter?

4 A. To the best of my recollection, yes.

5 Q. Now, did you -- once Dr. Williams told you  
6 that, did you discuss the "do drink" letters with anyone  
7 else?

8 A. There was discussion before they were sent,  
9 yes.

10 Q. And who did you have discussions with?

11 A. I notified my counterparts at DEQ, and also in  
12 the Governor's Communications Office.

13 Q. And who did you notify at DEQ?

14 A. I believe it was Crystal Feldman.

15 Q. Anyone else?

16 A. It -- our teams work as teams, so potentially,  
17 I spoke to others on her team.

18 Q. And do you know who those were?

19 A. Potentially, Stephanie Hawco.

20 Q. Anyone else?

21 A. Not that I recall.

22 Q. And who did you speak to at the Governor's  
23 Office?

24 A. I believe I spoke to Josh Ellis.

25 Q. Did you speak to anyone else in the Governor's

1 Office about the "do drink" letters?

2 A. It is possible, but I don't recall  
3 specifically.

4 Q. And who -- who ---

5 A. (Interposing) I don't ---

6 Q. --- might you have spoken to, other than Josh  
7 Ellis?

8 A. I don't recall.

9 Q. Were you involved in putting together the  
10 language in the "do drink" letter?

11 A. Yes, I had a limited role in the language of  
12 that letter.

13 Q. And what was your role?

14 A. Mostly to facilitate edits and try to get it  
15 to completion.

16 Q. What does it mean, to "facilitate edits"?

17 A. I didn't draft the letter, but many folks were  
18 involved in reviewing it and getting it to a final state.  
19 So I helped manage those reviews and the edits that come  
20 from them, and try to facilitate getting this all to  
21 conclusion.

22 Q. Do you mean you coordinated the editing of the  
23 letter; is that what you mean?

24 A. Yes.

25 Q. Did you make any edits yourself?

1 A. Maybe. I don't recall specifically.

2 Q. Do you recall generally the content you  
3 edited?

4 A. No.

5 Q. And who was involved in drafting and editing  
6 the letter?

7 A. Dr. Williams provided the initial draft. I  
8 reviewed it. Crystal Feldman reviewed it and provided  
9 edits.

10 (Pause.)

11 There was a conversation when Josh Ellis was  
12 on the phone and Crystal was in my office and Dr.  
13 Williams was in my office, and we were going over edits.

14 Q. Okay. And what were Josh Ellis' concerns  
15 about the letter?

16 MR. PHILLIPS: Objection to form.

17 BY MR. HOLLEMAN:

18 Q. Why were you talking to him about the letter?

19 A. As more notification, keeping him in the loop  
20 of where we were.

21 Q. And what did he say, or what was the substance  
22 of his input in the conversation?

23 A. I don't -- I don't recall that he had any  
24 specific input.

25 Q. So he was just listening in?

1           A. I don't remember him taking an active role in  
2 edits, but it was more that we were keeping him abreast  
3 of where we were in the process.

4           Q. Do you remember anything he said?

5           A. No.

6           Q. Did you take notes of that conversation, or  
7 any of the process of drafting the "do drink" letter in  
8 2016?

9           A. There were mark-ups on the letter.

10          Q. And do you still have those drafts or  
11 mark-ups?

12          A. I don't know.

13          Q. And where would they be if you had them?

14          A. In my files.

15          Q. And by that, again, you mean either paper or  
16 computer files, or both?

17          A. That is correct.

18          Q. Did you talk to anyone at Duke Energy about  
19 the "do drink" letters?

20          A. No.

21          Q. Have you ever talked to anyone at Duke Energy  
22 about hexavalent chromium?

23          A. I have not.

24          Q. Have you talked to anyone at Duke Energy about  
25 vanadium?

1 A. No.

2 Q. Have you talked to anyone at Duke Energy about  
3 the drinking water wells around coal ash sites in North  
4 Carolina?

5 A. No.

6 Q. Now, were you involved in sending out the "do  
7 drink" letters?

8 A. Yes.

9 Q. And how were you involved in that?

10 A. My office -- the Office of Communications  
11 facilitated the mailing.

12 Q. And what does that mean, "facilitated the  
13 mailing"? What did you do?

14 A. We actually sent the letters out.

15 Q. All right. So who provided you the names and  
16 addresses of the people to mail them to?

17 A. We worked in coordination with the  
18 Occupational and Environmental Epidemiology Branch.

19 Q. So did the Branch provide you a list of names  
20 and addresses, or where did they come from?

21 A. I don't recall where the -- where they came  
22 from. I know that we worked together to ensure we were  
23 getting the letter to the right people.

24 Q. So you don't know where the names and  
25 addresses came from, is that correct?



1 A. I don't remember.

2 Q. Right. And then you all, I guess, took the  
3 names and addresses and put them on envelopes, put the  
4 letters in the envelope, and mailed the envelopes; is  
5 that what you mean by "facilitating the mailing"?

6 A. Yes.

7 Q. Who in the Branch did your office work with in  
8 handling the mailing?

9 A. We worked with Megan Davies and we worked with  
10 Kennedy Holt.

11 Q. Now did you work with anyone else at HHS in  
12 sending out the letters?

13 A. We worked with Dr. Williams and Danny Staley.

14 Q. Now, were there any people you decided not to  
15 mail the letters to -- well owners?

16 A. Yes.

17 Q. And who were -- how were they selected?

18 A. Some wells had exceedances of other  
19 constituents, therefore these letters wouldn't apply to  
20 them. Some wells had exceedances of Federal Standards,  
21 and these letters would not have applied to them.

22 Q. And who made those decisions of which well  
23 owners fell in which category?

24 A. Working with the Branch.

25 Q. I am saying, who made the decision?

1           A.    Megan Davies and Dr. Williams.

2           Q.    Now, are you aware that since that time, we  
3    had a "do not drink" letter, we had a rescision of the "do  
4    not drink" letter -- something called the "do drink"  
5    letter for some people -- and subsequently, there has  
6    been a rescision of the rescision, and some well owners  
7    have now been told not to drink their water after they  
8    received the "do drink" letter. Are you familiar with  
9    that?

10          A.    Yes.

11          Q.    And who was this second -- this other group  
12    who were told, "Now, don't drink your water"?

13          A.    To the best of my recollection, there were  
14    four well owners whose levels of hexavalent chromium  
15    exceeded 10. And that was a standard that Dr. Williams  
16    did not feel comfortable allowing those folks to return  
17    to drinking their water.

18                There -- actually, there were -- I don't  
19    remember the total number of people who fell into that  
20    category. Some of those people did not receive the "do  
21    drink" letter; some of those people did receive the "do  
22    drink" letter. And those are the ones that had to then  
23    later receive an additional letter saying "Your level  
24    exceeds the State 2L standard, and therefore the  
25    recommendation is that you don't drink your letter --

1 your water," excuse me.

2 Q. So this third round of notification was by  
3 letter also?

4 A. I believe -- it was by letter and phone call.

5 Q. Okay. Who made the phone calls?

6 A. Dr. Williams.

7 Q. And who sent out the letters?

8 A. I don't recall.

9 Q. Have you seen the letters?

10 (Pause.)

11 A. I don't recall that specifically.

12 Q. Did HHS send out a press release about the  
13 third round of notifications telling people above 10 not  
14 to drink their water?

15 A. No.

16 Q. Now, the 10 parts per billion standard was in  
17 effect when the original "do drink" letter was sent, is  
18 that correct?

19 A. 10 parts per billion is the State 2L  
20 Groundwater Standard for total chromium.

21 Q. And that was in place when the "do drink"  
22 letter was sent, correct?

23 A. Yes.

24 Q. So nothing changed between the "do drink"  
25 letter and the third round of notifications, is that

1 right?

2 A. I am not sure.

3 Q. Nothing changed in the 10 parts per billion  
4 Standard, is that correct, between those two events?

5 A. That Standard did not change.

6 Q. So why were people with -- why wasn't it true  
7 that when the "do drink" letter was sent, why were people  
8 with more than 10 parts per billion told then it was okay  
9 to drink their water?

10 A. I don't know.

11 Q. Was that ever discussed internally at HHS why  
12 this third change happened -- why it was necessary to do  
13 a third notification?

14 A. I don't know the answer to that.

15 Q. During your time at HHS, have there been any  
16 other rescissions of "do not drink" letters issued to well  
17 owners in North Carolina?

18 A. Not that I am aware of.

19 Q. Have you ever discussed letters to well owners  
20 with the Governor's Office, apart from these around the  
21 Duke coal ash sites?

22 (Pause.)

23 A. A situation arose in Lee County, where the  
24 county was trying to apply the same standards to wells  
25 that -- as the Coal Ash Management Act. And Dr. Williams

1 was involved in that. And I know it generated a lot of  
2 media. And my office was involved because of the media.

3 Q. And Lee County is one of the counties where  
4 Duke Energy is building a coal ash landfill, is that  
5 correct?

6 A. I don't know the answer to that.

7 Q. You don't know that a coal ash landfill is  
8 being built in Lee County?

9 A. No.

10 Q. You do not know that?

11 MR. PHILLIPS: Objection.

12 MR. HOLLEMAN: I just want to make sure we  
13 are clear. I mean ---

14 BY MR. HOLLEMAN:

15 Q. You have never heard that a coal ash landfill  
16 is being built in Lee County?

17 A. If I have heard it, it didn't stay with me.

18 Q. So in the Lee County instance, there was a  
19 hexavalent chromium issue with the County Government, is  
20 that correct? Have I got that right?

21 A. That is my understanding.

22 Q. Yes. And the way we started this line of  
23 questioning, I asked you if you had ever discussed  
24 letters to well owners with the Governor's Office, apart  
25 from the letters to well owners around Duke Energy's coal

1 ash sites, correct? So did you discuss the Lee County  
2 situation with Duke Energy?

3 A. We -- yeah -- well, we made them aware of what  
4 was going on in Lee County.

5 Q. You made who aware?

6 A. The Governor's Communications Office.

7 Q. All right. And who there?

8 A. I -- I spoke to Josh.

9 Q. Did you speak to anybody at Duke Energy about  
10 what was going on in Lee County?

11 A. No.

12 Q. Now, just so I will know, there are a lot of  
13 lawyers in the room. Who is representing you today?

14 A. Mr. Phillips is.

15 Q. Anyone else?

16 A. Erik, who is behind me.

17 Q. Is anyone else representing you?

18 A. No, sir.

19 Q. Okay. Now, let's turn to the meeting that Dr.  
20 Rudo attended with you and Josh Ellis. Do you remember  
21 when that was?

22 A. It was April 2<sup>nd</sup>.

23 Q. Of 2015?

24 A. Of 2015.

25 Q. Right. And how did -- how long did the

1 meeting last?

2 A. To the best of my recollection, I was there a  
3 couple of hours.

4 Q. How long -- and was Josh Ellis there the whole  
5 time?

6 A. Yes.

7 Q. And was Dr. Rudo there the whole time?

8 A. No.

9 Q. How long was Dr. Rudo there, approximately?

10 A. Approximately 30 minutes, not -- not more than  
11 an hour.

12 Q. Do you have any notes of the meeting?

13 A. No. No.

14 Q. Do you have any other documents that relate to  
15 the meeting?

16 (Pause.)

17 A. Yes.

18 Q. And what are those?

19 A. I brought documents over that we were  
20 intending to communicate.

21 Q. And what were those documents?

22 A. Two versions of a Health Risk Evaluation, some  
23 fact sheets about different constituents, a fact sheet  
24 about different remediation options for well treatments.  
25 I believe there was a fact sheet about the Federal

1 Standards, the State Standards, things like that.

2 Q. Where are those documents now?

3 A. I have copies of drafts.

4 Q. And where do you have those?

5 A. In my files.

6 Q. In your office at HHS?

7 A. Yes.

8 Q. And when you say files, do you mean paper  
9 files or electronic files?

10 A. Both.

11 Q. What was the difference between the two  
12 versions of the Health Risk Evaluation forms?

13 A. One was a version for if the well had  
14 exceedances of certain constituents, and the other  
15 version was if the well had no exceedances.

16 Q. Now, how did this meeting come about? Well,  
17 first of all tell me this, where was the meeting?

18 A. It was in the Capitol Building in the  
19 Communications Offices.

20 Q. And that is, of course, in Raleigh, correct?

21 A. Yes.

22 Q. How did the meeting come about? Who requested  
23 the meeting?

24 A. I did.

25 Q. And how did you -- why did you request it?



1           A.    Because I wanted to bring these drafts over  
2    and leave them there.

3           Q.    With whom?

4           A.    With the communications team.

5           Q.    Well, with whom in the communications team?

6           A.    With Josh Ellis.

7           Q.    Okay.  And so you requested a meeting with  
8    Josh Ellis, is that correct?

9           A.    I don't recall specifically.  I believe I  
10   called and said, "I want to bring this over, so I am  
11   going to come over."  I -- I know I didn't just show up,  
12   so I believe I called and said, "Hey, I want to bring  
13   these documents over."

14          Q.    And so what did you do in preparation for the  
15   meeting?

16          A.    Put together what we had as final, at that  
17   point.  That would be the communication documents coming  
18   from DHHS that would be included with other documents DEQ  
19   would then -- coming from DEQ's office, and then DEQ  
20   would compile and send to the well owner.

21          Q.    So what you did was compile the documents that  
22   you described earlier, is that right?

23          A.    Yes.

24          Q.    Okay.  Did you talk to anyone in preparation  
25   for this meeting?

1           A. I put our documents in a blue folder, showed  
2 it to Secretary Wos, and said, "This is what I have put  
3 together." And she said to put together another --  
4 another set, and when I take it down to Josh, to leave  
5 the other set for Thomas.

6           Q. For Thomas?

7           A. Yes.

8           Q. Who is Thomas?

9           A. Thomas Stith.

10          Q. Okay. So did you go to Mr. Stith's office  
11 after you met with Mr. Ellis, or beforehand, or what?

12          A. I didn't go to his office at all. I had left  
13 everything I had with Josh.

14          Q. And did you ask him to leave it -- provide a  
15 copy to Mr. Stith?

16          A. I told him it was intended for Mr. Stith, but  
17 I don't know where it went from there.

18          Q. So you gathered the documents, you spoke with  
19 the Secretary. What else did you do before you went to  
20 the meeting to prepare for the meeting?

21                   (Pause.)

22          A. I don't believe I did anything.

23          Q. And how did you get to the meeting?

24          A. Drove.

25          Q. And once you got there, was Mr. Ellis present?

1 A. Yes.

2 Q. And was he the first person you met with?

3 A. Yes.

4 Q. Was anyone else there?

5 A. There are many people in that office. And as  
6 I -- as I walked through to Josh's office, I am sure  
7 there were other people present. And I am sure I  
8 probably greeted those people. But the meeting was with  
9 Josh.

10 Q. And it was in his office?

11 A. Yes.

12 Q. Was anyone else in his office?

13 A. Ryan Tronovitch stopped in briefly and then  
14 left quickly.

15 Q. And who is Ryan?

16 A. A person who worked in that office.

17 Q. Do you know what his role is?

18 A. He is no longer there.

19 Q. Do you know what his role was?

20 A. One of -- a press assistant. I am not sure of  
21 his specific title.

22 Q. All right. So what did you and Josh discuss  
23 when he arrived?

24 A. That these were the documents that we had  
25 prepared.

1 Q. What else?

2 A. It is hard to recall specifics of the  
3 conversation. There were scientific questions being  
4 asked.

5 Q. By whom?

6 A. By Josh. I was not able to answer those  
7 questions. I am not a scientist. So during the course  
8 of the meeting, I called Dr. Megan Davies, and was  
9 getting her help with some of those questions. At one  
10 point, I called -- I called our General Counsel, Emery  
11 Milliken, to ask questions of her, as well.

12 Q. Okay. Let's go back. What were the  
13 scientific questions that Josh Ellis was asking?

14 A. I don't recall specifically.

15 Q. Generally?

16 A. It -- I think it had to do with the  
17 one-in-a-million lifetime cancer risk.

18 Q. And what was the content of his questioning?

19 A. I don't recall.

20 Q. What was he asking about, in other words? Not  
21 his exact words, but what was the substance of his  
22 question?

23 A. I don't recall. Just that it was around  
24 the cancer risk.

25 Q. Okay. Do you remember any other question he

1 was asking, other than questions relating to the  
2 one-in-a-million cancer risk?

3 (Pause.)

4 A. No, I don't.

5 Q. So you first -- I gather, you first called Dr.  
6 Davies before you called Emit [sic]-- what is Emit's name  
7 -- or Merrill? What is the lawyer's name you called?

8 A. Emery Milliken.

9 Q. Emery. Before you called, is it a -- is that  
10 a man or a woman?

11 A. Woman.

12 Q. Before you called Ms. Milliken, I guess you  
13 called Dr. Davies, is that right?

14 A. I believe so.

15 Q. Okay. And why did you call Dr. Davies?

16 A. Because I am not a scientist, and there were  
17 questions I couldn't answer.

18 Q. So you called Dr. Davies to ask her questions,  
19 is that right?

20 A. Yes.

21 Q. And what questions did you ask her?

22 A. I don't remember.

23 Q. Now, did you ask her about the  
24 one-in-a-million risk?

25 A. To the best of my recollection, that was the

1 discussion, and so -- and because I am not a scientist, I  
2 would have needed her help. So, to the -- to the best I  
3 can recall, that was the nature of the discussion.

4 Q. Did you -- what did Dr. Davies say?

5 A. I don't recall.

6 Q. Now, was Dr. Davies -- how did you call Dr.  
7 Davies? Was it on your cell phone, was it on a hard line  
8 in the office or how?

9 A. I called her on my cell phone.

10 Q. Was she on speaker phone?

11 A. Yes.

12 Q. So Josh could hear her?

13 A. Yes.

14 Q. Did he ask her any questions?

15 A. I don't remember.

16 Q. And do you remember anything she said in the  
17 course of the conversation?

18 A. Other than trying to be helpful, no, not  
19 specifically.

20 Q. How long did you all speak with Dr. Davies in  
21 the meeting?

22 A. I don't recall that, either.

23 Q. Well, how did the conversation with Dr. Davies  
24 conclude?

25 A. I think it just ended. I don't remember

1 specifically.

2 Q. And after you spoke with Dr. Davies, then  
3 what?

4 A. The discussion continued. There -- there was  
5 a point when I was on the phone with Dr. Rudo -- and I  
6 don't recall if he called me or I called him. But during  
7 the course of that conversation on the phone, he  
8 indicated he was available to come over. And I said  
9 something to the effect of, "Great, come on over."

10 Q. Now, before we get to that, you said you  
11 called Ms. Milliken, is that correct?

12 A. At some point during -- during this meeting.

13 Q. Right. And why did you call Ms. Milliken?

14 A. I don't remember specifically.

15 Q. Did you call her on your cell phone or on a  
16 hard line?

17 A. Yes, on my cell phone.

18 Q. And was she on speaker phone?

19 A. Yes.

20 Q. And did Josh Ellis ask her questions?

21 A. I don't remember.

22 Q. Now, when you spoke with Megan Davies, did you  
23 and she -- or she mention Dr. Rudo?

24 A. I don't remember.

25 Q. You don't remember one way or the other?

1 A. No.

2 Q. Okay. So you called Dr. Rudo, is that  
3 correct?

4 A. I don't know if I -- I don't remember if I  
5 called him or he called me, but at one point I was on the  
6 phone with him.

7 Q. Okay. So you don't remember who called who?

8 A. Correct.

9 Q. And when you say there was a conversation, was  
10 it on your cell phone?

11 A. Yes.

12 Q. Was it on speaker phone?

13 A. I don't believe so.

14 Q. And what was -- describe that conversation,  
15 please.

16 A. The best I can recall, Dr. Rudo indicated he  
17 was available to come over, that he was on his way to  
18 vacation and could stop by. And that he was wearing  
19 vacation clothes -- he was in shorts. And I said  
20 something to the effect of, "Great, come on by," and "It  
21 is okay that you are in shorts, it doesn't matter."

22 Q. Do you know where, physically, he was when you  
23 communicated with him?

24 A. No.

25 Q. But your understanding was he was on -- going



1 to vacation, is that right?

2 A. Leaving for vacation, right.

3 Q. Did he indicated to you that Dr. Davies had  
4 spoken to him about coming to the meeting?

5 A. I don't remember that.

6 Q. Do you remember if he didn't say that, or you  
7 just don't -- you don't remember one way or another?

8 A. I don't remember.

9 Q. All right. Going back to the conversation  
10 with Dr. Davies, do you remember whether you or she  
11 suggested that Dr. Rudo come to the meeting to explain  
12 things to you or Mr. Ellis?

13 A. I don't remember.

14 Q. So you don't remember one way or the other?

15 A. No.

16 Q. When Dr. Rudo talked with you, did he ask for  
17 directions to the office -- Mr. Ellis' office?

18 A. I don't recall.

19 Q. Did he ask where to park?

20 A. I don't recall that, either.

21 Q. Where was Dr. Rudo going to vacation?

22 A. He -- I believe he told me later he was going  
23 to a beach. I don't know the specifics.

24 Q. A North Carolina beach?

25 A. I don't know that.

1 Q. And where does Dr. Rudo live?

2 A. I don't know.

3 Q. How long did it take Dr. Rudo to get to the  
4 meeting?

5 A. I don't recall specifically.

6 Q. Well, how long had you and Josh Ellis been  
7 meeting before Dr. Rudo arrived?

8 A. To the best of my recollection, in the  
9 neighborhood of about an hour, maybe.

10 Q. You had been meeting about an hour, and then  
11 you called Dr. Rudo; is that correct?

12 A. I don't recall if I called Dr. Rudo.

13 Q. I am sorry. Then you spoke with Dr. Rudo?  
14 Let me start again. You and Mr. Ellis had been meeting  
15 for about an hour, and then you spoke with Dr. Rudo; is  
16 that correct?

17 A. To the best of my recollection, yes.

18 Q. And then how long did it take Dr. Rudo to get  
19 there to the meeting?

20 A. I don't recall.

21 Q. And when Dr. Rudo arrived, what happened?

22 A. He came in and sat down, and we started  
23 talking.

24 Q. About what?

25 (Pause.)

1           A.    Just trying to answer questions.

2           Q.    About what?

3           A.    The best recollection I have of what Dr. Rudo  
4 talked about is the importance of his role, and the other  
5 toxicologists', in talking with individual well owners  
6 about their specific results. And he emphasized that  
7 these consultations would -- that during these  
8 consultations, he is able to offer more specific advice  
9 based on the -- advice based on the make-up of that  
10 individual family: meaning, if there are elderly folks in  
11 the home, if there are young children in the home, if  
12 there is an expectant mother in the home; and also,  
13 discussing with those well owners potential remediation  
14 options for them. So that is the general thrust of what  
15 I remember most about his discussion.

16           Q.    Is there anything else you remember -- the  
17 substance?

18                   (Pause.)

19           A.    We talked about some draft language to  
20 potentially be included on the cover letter.

21           Q.    And what was the draft language that you  
22 talked about?

23           A.    I don't remember.

24           Q.    Do you remember the nature of the language or  
25 the content of it?

1 A. No.

2 Q. Do you remember whether the letter was edited  
3 during the course of this meeting with Dr. Rudo?

4 A. We penned in that draft language.

5 Q. And when you say "we," do you mean you?

6 A. I did.

7 Q. And is that on a document you still have?

8 A. No.

9 Q. What happened to that document?

10 A. I don't know.

11 Q. And do you remember what the draft language  
12 was?

13 A. No.

14 Q. What did Mr. Ellis ask Dr. Rudo?

15 A. I don't recall.

16 Q. Do you recall any substance of what -- even if  
17 you don't recall the exact question?

18 MR. PHILLIPS: Objection. I believe you have  
19 asked this question already.

20 MR. HOLLEMAN: Well, I don't think so.

21 BY MR. HOLLEMAN:

22 Q. So if you could please answer?

23 (Pause.)

24 A. I don't remember a specific discussion with  
25 Dr. Rudo, except what I have already stated.

1 Q. So you don't remember any questions that Mr.  
2 Ellis asked, is that correct?

3 A. There was discussion about the  
4 one-in-a-million lifetime cancer risk. And there --  
5 there was discussion about potential language that had to  
6 do with the Safe Drinking Water Act.

7 Q. And do you remember Mr. Ellis asking questions  
8 about those two topics?

9 A. Not specific questions.

10 Q. But you remember -- do you remember him  
11 discussing those two topics with Dr. Rudo?

12 A. I remember a discussion about potentially  
13 adding language to the HRE -- to the Health Risk  
14 Evaluation.

15 Q. And what language was that?

16 A. It wasn't specific language that would have  
17 pertained to the Safe Drinking Water Act.

18 Q. And who was suggesting adding the language?

19 A. There was discussion -- Josh was discussing  
20 adding some language to that effect as additional  
21 information.

22 Q. And did Dr. Rudo object to that?

23 A. Dr. Rudo was not in favor of adding language  
24 to the Health Risk Evaluation.

25 Q. And how did the meeting conclude on that

1 point?

2 A. We drafted possible -- we drafted language to  
3 be included in the cover letter.

4 Q. But not in the Health Evaluation form?

5 A. That is correct.

6 Q. And when you say "language," you mean language  
7 related to the Safe Drinking Water Act?

8 A. I don't recall what the specifics of what that  
9 language was for the cover letter.

10 Q. But did it relate to the Safe Drinking Water  
11 Act?

12 A. I don't remember.

13 Q. And at the conclusion of the meeting, was the  
14 understanding of the participants that the Health  
15 Evaluation form would not refer to the Federal Safe  
16 Drinking Water Act?

17 A. I can't speak for what they -- for a  
18 conclusion anyone else drew.

19 Q. What was your conclusion?

20 A. I left hoping that we would make additions to  
21 the cover letter and not the Health Risk Evaluation.

22 Q. Now, ultimately, the Health Risk Evaluation  
23 did contain a sentence about the Federal Safe Drinking  
24 Water Act, is that correct?

25 A. Yes.

1 Q. And how did that get into the Health  
2 Evaluation Forms that was sent to the well owners?

3 A. It was -- it was put there by DHHS.

4 Q. Why?

5 A. I received a fax with a sentence to be  
6 included.

7 Q. Who sent you the fax?

8 A. It came from the Capitol building.

9 Q. And who at the Capital Building?

10 A. I don't know specifically.

11 Q. And when you say "from the Capitol building,"  
12 you mean the Governor's Office?

13 A. The Communications Office.

14 Q. Of the Governor?

15 A. Yes.

16 Q. All right. And then who put it -- do you  
17 remember if it came from Josh Ellis or Mr. Stith or whom?

18 A. It came from the Communications Office, but I  
19 don't know the individual.

20 Q. And do you still have that fax?

21 A. Yes.

22 Q. And where is it?

23 A. It is in my documents.

24 Q. It is in your documents? Now, did you receive  
25 that fax after Dr. Rudo went on vacation or while he was

1 on vacation?

2 A. I don't remember the dates Dr. Rudo was on  
3 vacation.

4 Q. Well, was it after the meeting with Dr. Rudo  
5 and Josh Ellis?

6 A. Yes.

7 Q. And was it before the letter went out?

8 A. Yes.

9 Q. So it was sometime between that meeting on  
10 April 2<sup>nd</sup> ---

11 A. (Interposing) Yes.

12 Q. --- and the date the letter went out?

13 A. Yes.

14 Q. Now, was Dr. Rudo consulted before that  
15 language was put into the letter?

16 A. I don't know.

17 Q. Was he consulted by you before it went in the  
18 letter?

19 A. No.

20 Q. Did you consult him?

21 A. No.

22 Q. Who physically put that language in the letter  
23 once you got the fax from the Governor's Communications  
24 Office?

25 A. I don't recall.



1 Q. It was someone at HHS, though ---

2 A. (Interposing) Yes.

3 Q. --- edited the letter with that language --  
4 put that language in the Health Evaluation Form, is that  
5 right?

6 A. Yes.

7 Q. When you spoke with Dr. Davies, did you ask  
8 her to request that Dr. Rudo come to the meeting with Mr.  
9 Ellis?

10 A. I don't recall that.

11 Q. Now, are you saying you don't recall whether  
12 you did or you didn't?

13 (Pause.)

14 A. I don't remember how -- how we got to the  
15 discussion of Ken coming over.

16 Q. But Ken coming over was discussed in the  
17 conversation with Dr. Davies, is that right?

18 A. I don't recall that specifically, either.

19 Q. Did Mr. Ellis ask that Ken Rudo come to the  
20 meeting -- ask Dr. Davies to ask --- let me start over  
21 again. Did Mr. Ellis ask Dr. Davies to ask Dr. Rudo to  
22 come to the meeting?

23 A. I don't think so.

24 Q. Did Dr. Davies indicate in the phone call that  
25 she would ask Dr. Rudo to come to the meeting?

1 A. I don't remember.

2 Q. When you talked to Dr. Rudo, did he -- on the  
3 telephone -- did he indicate he was on the way to the  
4 Capitol building?

5 A. No.

6 Q. How long did it take Dr. Rudo to get to the  
7 meeting after you spoke with him?

8 MR. PHILLIPS: Asked and -- I think you have  
9 already asked that question, objection.

10 BY MR. HOLLEMAN:

11 Q. You can answer.

12 A. I don't remember how long it took.

13 Q. Well, how long did you say you thought the  
14 overall meeting lasted?

15 A. With Dr. Rudo?

16 Q. No, with you and Mr. Ellis.

17 A. To the best of my recollection, I believe I  
18 was there about a total of two hours.

19 Q. Got you. And you had spoken with Mr. Ellis  
20 for about an hour before you called Dr. Rudo, is that  
21 right?

22 A. To the best I recall.

23 Q. And I believe you said Dr. Rudo was there  
24 about 30 minutes, is that right?

25 A. Roughly, to the best I recall.

1 Q. Did he leave before you left or did you and he  
2 leave together?

3 A. He left before I did.

4 Q. And how long did you stay after he left?

5 A. I think it was brief. Not very long.

6 Q. Approximately how long?

7 A. I don't remember specifically.

8 Q. Do you know generally approximately how long  
9 you stayed?

10 A. Less than 30 minutes.

11 Q. So would it be fair to say Dr. Rudo got there  
12 in a fairly short period of time after you talked to him?

13 A. I don't recall it being an extended period.

14 Q. Have you learned since that Dr. Rudo was on  
15 his way to the Capitol when you spoke with him?

16 A. No.

17 Q. Have you spoken to Dr. Davies about this  
18 meeting since it happened?

19 A. Not that I recall.

20 Q. Have you asked Dr. Davies whether she asked  
21 Dr. Rudo to come to this meeting at the Capitol with you  
22 and Mr. Ellis?

23 A. No.

24 Q. You have never inquired of her?

25 A. No.

1           Q.    Let me ask you this: why was the Governor's  
2   Office involved in drafting the Health Advisory Form or  
3   the letter to the well owners?

4           A.    They were not involved in drafting the Health  
5   Risk Evaluation or the letter.

6           Q.    Well, I thought you just said they sent you a  
7   fax about a sentence to be included in the Health  
8   Advisory Form?

9           A.    They reviewed and made edits.

10          Q.    Okay. Why was the Governor's Office involved  
11   in editing the letters to be sent by DEQ and HHS to well  
12   owners about the safety of their well water?

13          A.    This is pretty routine operation, when an  
14   agency -- when we are communicating about something, we  
15   make sure our partners are involved. When multiple  
16   agencies are involved, we absolutely make sure we are  
17   keeping the Governor's communications team in the loop  
18   with what we are doing.

19          Q.    Well, now I am not asking you about keeping  
20   them in the loop, I am asking you about editing the  
21   content of the letter from the agency concerning health  
22   risks. Why was the Governor's Office involved with that?

23          A.    Because as communicators, we were working  
24   together to try to create a communication that would be  
25   clear and easily understood by the well owners.

1           Q.    Have you ever had another situation where the  
2    Governor's Office was involved in editing letters to well  
3    owners?

4                   (Pause.)

5           A.    They certainly were involved from an awareness  
6    and -- with an opportunity to have input if they chose to  
7    when we sent the follow-up letters in March of the  
8    following year.

9           Q.    To the same well owners around Duke Energy  
10   sites, correct?

11          A.    Many of the same.

12          Q.    Yes.  I am asking you, has the Governor's  
13   Office been involved in editing the content of letters to  
14   well owners other than those who live around Duke Energy  
15   coal ash sites during your experience?

16          A.    I don't know the answer to that.

17          Q.    But you are not aware of any other examples?

18          A.    No.

19          Q.    To your knowledge, has anyone at HHS met with  
20   Duke concerning hexavalent chromium?

21          A.    I am aware of a conference call where someone  
22   -- or persons from Duke were on the phone that involved  
23   our scientists from OEEB.

24          Q.    And who was on that call?

25          A.    I sat in on that call.  I did not participate

1 in the call. I was in the room. There were folks on the  
2 telephone from Duke, and I don't know who they were, and  
3 Dr. Davies and Dr. Shehee, and I am not sure who else.

4 Q. When did the call take place?

5 A. I don't remember.

6 Q. Was it before the "do drink" letter?

7 A. Yes.

8 Q. Was it before the "do not drink" letter?

9 A. It is possible. I don't recall a specific  
10 time.

11 Q. What was discussed in that call?

12 A. I don't remember.

13 Q. Did you keep notes of the conversation?

14 A. No, I don't believe so.

15 Q. And why were you sitting in on the call?

16 A. To the best of my recollection, this was --  
17 this was early in this process. But it was at a point  
18 where I had been brought in because it was getting close  
19 to time to communicate to the public. So that is really  
20 when I came in. And that was my only reason for being  
21 there, as the communicator for the Department.

22 Q. Do you know of any other meetings between  
23 anyone at Duke and anyone at HHS about hexavalent  
24 chromium?

25 A. I am not aware.

1 Q. Are you aware of any other meetings between  
2 anyone at Duke and anyone at HHS about the well water of  
3 well owners around Duke Energy coal ash sites?

4 A. No.

5 Q. To your knowledge -- back up for just a  
6 minute. Who has been the Secretary of HHS during your  
7 tenure?

8 A. Secretary Aldona Wos and Secretary Rick  
9 Brajer.

10 Q. To your knowledge, has either of the  
11 Secretaries of HHS met with Duke Energy about hexavalent  
12 chromium or about drinking water wells around Duke  
13 Energy's coal ash sites?

14 A. I don't know.

15 Q. Did you attend a dinner at the Governor's  
16 Mansion in June of 2015 with Duke Energy?

17 A. No.

18 Q. Do you know if anyone from HHS did?

19 A. No.

20 Q. I am sorry, you don't know or you know that no  
21 one from HHS attended?

22 A. I don't know who was there.

23 Q. Did Dr. Rudo lie under oath in his deposition?

24 A. That is a judgment call that I can't make.

25 Q. So do you believe that Dr. Rudo lied under

1 oath in his deposition?

2 A. I can't say one way or another, because I have  
3 no way to determine his intent or the motivations of his  
4 heart.

5 Q. Now, have you ever read the transcript of his  
6 deposition?

7 A. Yes.

8 Q. When did you read it?

9 A. I read it on -- after I received it.

10 Q. When did you receive it?

11 A. I don't recall the specific date.

12 Q. Well, generally, what time frame did you  
13 receive it in?

14 A. I guess it would have been a week or two,  
15 maybe a couple of weeks after his deposition. I don't  
16 know specifically.

17 Q. Who provided it to you?

18 A. I received it from Dr. Williams.

19 Q. And where did Dr. Williams get it from?

20 A. I don't know specifically.

21 Q. Generally?

22 A. He got it -- I believe he got it from one of  
23 the AG's attorneys.

24 Q. Do you know which one?

25 A. No.



1 Q. Who else at HHS has a copy of the transcript  
2 of Dr. Rudo's deposition?

3 A. I sent it to Danny Staley, at his request. I  
4 don't know who else has it.

5 Q. What, if anything, did Dr. Williams tell you  
6 about the deposition?

7 A. I don't remember.

8 Q. Did the copy that Dr. Williams provided you  
9 have any markings on it or notes?

10 A. No.

11 Q. Was it highlighted?

12 A. No.

13 Q. And you read -- I believe you said you read  
14 what Dr. Williams gave you?

15 A. Yes.

16 Q. Now, did you read the transcript before you  
17 commented about it in the newspaper -- about the  
18 deposition in the newspaper?

19 A. Yes.

20 Q. So you had the transcript before you commented  
21 in the newspaper?

22 A. Yes.

23 Q. Was there anything in the deposition -- Dr.  
24 Rudo's deposition that you read that was not accurate, to  
25 your knowledge?

1 A. Yes.

2 Q. What?

3 A. The characterization of being summoned by the  
4 Governor to a meeting in which the Governor participated.

5 Q. Did Dr. Rudo say in his deposition that he had  
6 been summoned by the Governor to the meeting?

7 A. I believe he was led in that direction and  
8 answered in the affirmative.

9 Q. You do? Do you know where in the transcript  
10 that happened?

11 A. I don't.

12 Q. Do you remember if Dr. Rudo said that Dr.  
13 Davies had called him and asked him to come to the  
14 Governor's Office?

15 A. I remember him saying that.

16 Q. Do you disagree with that statement?

17 A. I don't know the truth of that statement.

18 Q. So you don't know whether it is correct or not  
19 correct?

20 A. That is correct.

21 Q. Have you ever asked Dr. Rudo personally  
22 whether that statement is correct?

23 A. No.

24 Q. And I believe you said before you haven't  
25 asked Dr. Davies about it, either, is that right?

1 A. That is correct.

2 Q. During the meeting you had with Mr. Ellis and  
3 Dr. Rudo, did the Governor call into the meeting?

4 A. I don't know.

5 Q. Do you remember Mr. Ellis taking a call on his  
6 cell phone during the meeting?

7 A. Yes.

8 Q. And do you know whether or not the Governor  
9 was the person who called in?

10 A. No.

11 Q. You don't know one way or the other?

12 A. I don't know that.

13 Q. And is that because you don't remember, or you  
14 didn't know at the time?

15 A. I don't know who was on the phone. I didn't  
16 know at the time.

17 Q. Do you know now who was on the phone?

18 A. No.

19 Q. Still don't, correct?

20 A. Correct.

21 Q. And did Mr. Ellis talk to that person on the  
22 phone in your presence, or what did he do when he got the  
23 call?

24 A. To the best of my recollection, he opened up  
25 the call, said some form of a greeting, and got up and

1 left the room.

2 Q. How long was he gone?

3 A. I don't know.

4 Q. Was Dr. Rudo there when the call arrived?

5 A. I don't remember.

6 Q. And you don't know how long Mr. Ellis was out  
7 of the room?

8 A. No.

9 Q. When he came back in, did Mr. Ellis report  
10 anything about the call?

11 A. No.

12 Q. Do you know where he went -- where Mr. Ellis  
13 went when he stepped out of the room?

14 A. No.

15 Q. Have you talked to Mr. Ellis about this  
16 meeting since it happened?

17 A. I asked him briefly, was Rick Martinez in the  
18 meeting, because I -- I couldn't recall.

19 Q. And what was his answer?

20 A. No.

21 Q. And did you remember Mr. Martinez being in the  
22 meeting?

23 A. I think, in my mind, I am confusing it with  
24 other meetings.

25 Q. Well, let me ask the question again. Is it

1 your recollection that Mr. Martinez was at the meeting  
2 with Mr. Ellis and Dr. Rudo?

3 A. No.

4 Q. Was anyone else in the meeting, other than  
5 Ryan, who came and left briefly?

6 A. Not that I recall.

7 Q. Is there a reason why you didn't speak to Mr.  
8 -- Dr. Rudo about this meeting after it became a  
9 controversy in the press?

10 (Pause.)

11 A. No.

12 Q. Well, let me ask this question this way; you  
13 are the Communications Director for HHS. Dr. Rudo works  
14 at HHS. And there was an issue in the newspaper about  
15 this meeting. So why didn't you just call Dr. Rudo and  
16 talk to him about it?

17 A. My focus was on doing or preparing a statement  
18 that met the needs of the Department. And that was where  
19 I focused.

20 Q. Did you consider talking to the other  
21 participant in the meeting who worked at HHS, Dr. Rudo,  
22 other than yourself?

23 A. No.

24 Q. You didn't? I believe you said you talked to  
25 Mr. Ellis about the meeting to see if Rick Martinez was

1 in it. Did you talk -- did you ask him anything else  
2 about the meeting, or did you all discuss anything else  
3 about the meeting?

4 A. No.

5 Q. Did you ever ask him about the phone call and  
6 whether the Governor was on the phone?

7 A. No.

8 Q. Have you talked to anyone else about the  
9 meeting, other than Mr. Ellis and your attorneys?

10 A. I have explained my recollection of that  
11 meeting to the Secretary.

12 Q. And which Secretary?

13 A. Secretary Brajer.

14 Q. Anyone else you discussed the meeting with?

15 A. I don't believe so.

16 Q. Had you -- how did you come to discuss the  
17 meeting with the Secretary?

18 A. This had become -- this was becoming a media  
19 story, and we were making preparations as a Department.

20 Q. So has the Secretary made a statement about  
21 the meeting?

22 A. No.

23 Q. Do you remember being asked by a reporter  
24 whether Dr. Rudo had lied under oath, and you responded  
25 "absolutely not"?

1 A. I remember my response.

2 Q. Okay.

3 A. The reporter's question was different.

4 Q. What was the question?

5 A. The reporter had asked me, "So can I say that  
6 you are saying Dr. Rudo lied under oath?" That may not  
7 be the exact wording, but that is the gist of it. And my  
8 response was "Absolutely not." And my "Absolutely not"  
9 was an answer to his question, "So can I say," and I am  
10 saying, "No, you can't say."

11 Q. And why couldn't the reporter not say that?

12 A. Because that is not a statement I was prepared  
13 to make.

14 Q. And you are still not prepared to make that  
15 statement, is that correct?

16 A. That is correct.

17 Q. In preparing for the deposition and reading  
18 Dr. Rudo's deposition -- either one -- have you read his  
19 notes of the meeting that we discussed on April 2<sup>nd</sup>?

20 A. Yes.

21 Q. And was there anything in his handwritten  
22 notes you disagreed with?

23 MR. PHILLIPS: You know, Frank -- objection.  
24 I am going to object to your asking her about a document  
25 that she is not given an opportunity to look at.

1 MR. HOLLEMAN: She said she had read it.

2 That is why I asked her, just like the deposition.

3 MR. PHILLIPS: How many pages is it?

4 MR. HOLLEMAN: Well, two.

5 MR. PHILLIPS: But I object on that -- on  
6 that ---

7 BY MR. HOLLEMAN:

8 Q. Do you remember disagreeing with anything of  
9 what you read in those notes?

10 A. I would need to see it again to recall it,  
11 since ---

12 Q. So you don't currently remember any objection  
13 you had -- any disagreement you had with what you read in  
14 those notes?

15 A. I would need to see it.

16 Q. This was Exhibit 500 to Dr. Rudo's deposition.  
17 Oh, let me ask you this question. I asked you about Dr.  
18 Rudo. Why didn't you ever call Dr. Davies and ask her  
19 about her version of the conversation with you and Mr.  
20 Ellis and Dr. Rudo?

21 A. As this all began to unfold, we knew there was  
22 a possibility that I would end up being deposed. So I  
23 focused on doing my job on behalf of the Department. And  
24 I didn't feel it was necessary to go back and question  
25 anyone else on their testimony.



1 Q. But Dr. Davies, of course, was then an  
2 official at HHS, is that correct?

3 A. Yes.

4 Q. And you were -- you are the Communications  
5 Director for HHS?

6 A. Yes.

7 Q. But you saw no need to ask her about whether  
8 she had asked Dr. Rudo to go the meeting at the  
9 Governor's Office?

10 MR. PHILLIPS: Objection, asked and answered.

11 BY MR. HOLLEMAN:

12 Q. What is your answer?

13 A. No.

14 Q. All right. Do you want a break? I mean,  
15 anytime you want a break you can have one.

16 MR. PHILLIPS: I was just asking her if she  
17 needed a break.

18 MR. HOLLEMAN: Of course.

19 BY MR. HOLLEMAN:

20 Q. I will show you Dr. Rudo's notes that are  
21 marked as Exhibit 50 [sic], and ask you -- and these are  
22 his notes of that April 2<sup>nd</sup> meeting.

23 MR. LONG: It is 500, Frank.

24 MR. PHILLIPS: 500.

25 MR. HOLLEMAN: 500. Did I say something

1 different?

2 MR. CALLOWAY: You said 50.

3 MR. HOLLEMAN: I am sorry, 500. Exhibit 500.

4 MR. LONG: 50 was a long time ago.

5 BY MR. HOLLEMAN:

6 Q. You ready? When did you first review these  
7 notes?

8 A. May I just take a minute and look at this?

9 Q. You can, but I am not going to necessarily  
10 going to ask you about every sentence. I am just -- my  
11 first question is, when did you first review them?

12 (Witness peruses document.)

13 MR. PHILLIPS: Frank, I am going to -- I need  
14 to consult with Ms. Corbett about whether there is a  
15 necessity of asserting a privilege here.

16 MR. HOLLEMAN: Who is Ms. Corbett?

17 MR. PHILLIPS: She is General Counsel of  
18 DHHS.

19 MR. HOLLEMAN: Okay.

20 MS. CORBETT: Do you want to step out?

21 MR. PHILLIPS: Yes, let's step out.

22 MR. CALLOWAY: Can we take a five minute  
23 break?

24 MR. HOLLEMAN: Sure.

25 MR. HOLLEMAN: OFF THE RECORD. 11:28 A.M.

1 (A BRIEF RECESS WAS TAKEN.)

2 MR. HOLLEMAN: ON THE RECORD. 11:39 A.M.

3 MR. HOLLEMAN: Ready?

4 MR. PHILLIPS: Yeah. There is no basis -- no  
5 need to assert a privilege.

6 MR. HOLLEMAN: Okay.

7 BY MR. HOLLEMAN:

8 Q. I believe my original question was, when did  
9 you first review these notes?

10 A. I don't recall.

11 Q. Was it in preparation for this deposition, or  
12 was it some time ago?

13 A. No.

14 Q. Which is it? Was it ---

15 A. (Interposing) It was not in preparation for  
16 this deposition.

17 Q. Okay. It was before ---

18 A. (Interposing) Yes.

19 Q. --- this?

20 A. Yes.

21 Q. But it was after Dr. Rudo was deposed?

22 A. Yes.

23 Q. I want to ask you about some of the sentences  
24 in his notes. There is a sentence about a third of the  
25 way down that begins "Mr. Ellis," so I will just read it

1 for you. "Mr. Ellis wanted me to put specific health  
2 risk information individually for each person so we could  
3 play down the health risk." Do you remember Mr. Ellis  
4 saying that or saying the substance of that during the  
5 meeting?

6 A. No.

7 Q. Do you remember one way or another whether he  
8 said it or he didn't say it?

9 A. I don't remember discussion about that.

10 Q. Then the notes say, "I" -- and this is Dr.  
11 Rudo speaking -- "I explained in detail how we did our  
12 risk assessments and the approach based on cancer and  
13 non-cancer risk and, as a result, we could not predict  
14 specific risks for non-cancer end points." Do you see  
15 that?

16 A. Yes.

17 Q. Do you remember that discussion by Dr. Rudo in  
18 the meeting?

19 A. I remember him explaining how they do the risk  
20 assessments.

21 Q. Is that -- that is all you remember?

22 A. Yes.

23 Q. "He then wanted us to add the statement about  
24 how the risk is the maximum risk and not over --- and not  
25 over MCL's. And I told him we could not ethically do

1 this on our HRE form because it would not be true and  
2 correct, and it would be misleading." Do you remember  
3 that discussion by Dr. Rudo and Mr. Ellis?

4 A. No.

5 Q. The next sentence says, "We discussed our  
6 concerns with DENR" -- D-E-N-R -- "and their fighting  
7 with us about vanadium and chromium VI and trying to  
8 ethically compromise our risk assessment process." Do  
9 you remember Dr. Rudo talking about those topics in the  
10 meeting?

11 A. No.

12 Q. Do you remember conflicts between DENR -- or  
13 D-E-N-R -- and HHS personnel over the contents of the  
14 Health Risk form?

15 A. I don't -- I don't recall, but -- but I  
16 recently saw and was made aware of some e-mails that had  
17 been exchanged between our scientists and DENR's  
18 scientists.

19 Q. Okay. So you have recently seen emails that  
20 laid that out. Were you aware of that -- of this  
21 conflict before you saw those e-mails?

22 MR. CALLOWAY: Objection to the form of the  
23 question. She has not testified to a conflict.

24 BY MR. HOLLEMAN:

25 Q. Oh. Well, let me just put it this way. Were

1       you aware -- before you read these emails recently, were  
2       you aware of any disagreements or fights between DENR and  
3       HHS about vanadium and chromium VI or the Health Risk  
4       Evaluation form?

5             A.    I was aware, in general, that there was back  
6       and forth between the two -- the scientists of the two  
7       departments.

8             Q.    And how did you know that?

9             A.    Through our scientists.

10            Q.    And "through our scientists" -- who are you  
11       referring to?

12            A.    Primarily through Dr. Davies.

13            Q.    And what did she tell you?

14            A.    I don't recall specifics.

15            Q.    But you know there were disagreements between  
16       the two agencies?

17            A.    Yes.

18            Q.    The next sentence says, "He asked if we could  
19       come up with language to suggest to put on the DENR form  
20       about their and his view of the degree of risk and the  
21       MCL issue. And we all came up with some language for  
22       suggestion to DENR." Do you agree with that sentence?

23            A.    We did draft language for suggestion to DENR.

24            Q.    And is that the language you discussed earlier  
25       in your deposition?

1 A. Yes, to my recollection, it is.

2 Q. And then the next sentence says, "I" -- that  
3 is Dr. Rudo speaking -- "I also warned him very clearly  
4 about documentation of e-mails, meeting notes, et cetera,  
5 about what DENR has tried to do to compromise the HRE  
6 process, and protecting the residents' water around these  
7 sites." Do you remember Dr. Rudo saying things  
8 equivalent to that sentence?

9 A. I don't remember him discussing that.

10 Q. He says, "I was there about one and a half  
11 hours." Is that correct? "I" being Dr. Rudo.

12 A. I don't recall him being there that long.

13 Q. Just to be clear, do you have any notes or  
14 e-mails or memos or any records of the meeting that you  
15 attended with Mr. Ellis and Dr. Rudo?

16 A. I am not aware of any, but I have not done a  
17 thorough review and search of all of my files.

18 Q. Are you aware of anyone who has any notes of  
19 this meeting, other than Dr. Rudo's notes?

20 A. No.

21 Q. Have you provided a copy of the transcript of  
22 Dr. Rudo's deposition to anyone in the Governor's office?

23 A. Yes.

24 Q. Who?

25 A. I -- to Josh Ellis.

1 Q. Did he ask you for it?

2 A. I don't recall specifically.

3 Q. Why did you provide him a copy?

4 A. Because as one Communicator to another, I knew  
5 it would impact his shop.

6 Q. How? How would it impact his job?

7 A. His shop.

8 Q. How would it impact his shop?

9 A. Because there was discussion about him, and it  
10 was likely this would go to media.

11 Q. And did you provide it to anyone else in the  
12 Governor's Office, other than Mr. Ellis?

13 A. No.

14 Q. Did you provide it to anyone else at DEQ?

15 A. I don't recall that.

16 Q. When Mr. Ellis stepped out of the meeting with  
17 the phone call he had received, do you remember if he  
18 left the door open or not?

19 A. I don't remember.

20 Q. Have you received any public records request  
21 for the transcript of Dr. Rudo's deposition?

22 A. Yes.

23 Q. Have you responded to them?

24 A. Yes.

25 Q. How?



1           A.    Acknowledged receipt of the request and have  
2   provided updates.

3           Q.    Have you provided the transcript to anyone who  
4   requested it?

5           A.    Not to my knowledge.

6           Q.    And why not?

7           A.    Because those requests haven't been fulfilled  
8   yet.

9           Q.    But you have provided the transcript to Mr.  
10   Ellis, so why couldn't you provide it to the public  
11   records requests?

12           MR. PHILLIPS:    Objection to the form.

13           BY MR. HOLLEMAN:

14           Q.    What is preventing you from doing that?

15           MR. PHILLIPS:    I am objecting to the implied  
16   assertions in that question.

17           BY MR. HOLLEMAN:

18           Q.    What is preventing you from providing the  
19   transcript to others who have requested it?

20           A.    I am short staffed in that area of my  
21   Department.  And we process requests, generally, in the  
22   order in which they are received.  And they are -- there  
23   is an incredible amount of requests ahead of those.

24           Q.    But you were able to provide it to Mr. Ellis,  
25   is that correct?

1 A. Yes.

2 Q. Do you consider the transcript of Dr. Rudo's  
3 deposition to be a public record?

4 MR. LONG: Object to the form.

5 THE WITNESS: No, I am not certain that it  
6 is at this point.

7 BY MR. HOLLEMAN:

8 Q. And why not?

9 A. Because I know that there is additional legal  
10 action taking place to withhold it.

11 Q. And that legal action is what, that you are  
12 aware of?

13 A. That Duke is asking that it not be released,  
14 because it wasn't complete.

15 Q. The Government is not asking that it not be  
16 released, is that correct -- the state government? Or is  
17 it?

18 A. I am not aware. I don't know the answer to  
19 that.

20 Q. So your doubts about it being a public record  
21 is the fact that Duke has taken some legal action about  
22 it, is that right?

23 A. It is that the document is caught up in legal  
24 action, and therefore I would be careful before I take  
25 action.

1 Q. So you don't know one way or the other, is  
2 that what you are saying?

3 A. Yes.

4 Q. During the meeting, do you remember Mr. Ellis  
5 ever saying that the Governor would be calling in?

6 A. No.

7 Q. Do you remember one way or the other whether  
8 he said that?

9 A. I don't recall that being said.

10 Q. Do you know if Dr. Williams ever met with  
11 anyone at Duke Energy about the "do drink" letter?

12 A. I don't know.

13 Q. Have you ever talked with Tom Reeder about  
14 coal ash?

15 A. I have been in conversations with Mr. Reeder.

16 Q. About coal ash?

17 A. Yes.

18 Q. When?

19 A. Media interviews.

20 Q. That you attended with him?

21 A. Yes, with others.

22 Q. Apart from media interviews, have you ever  
23 talked with Mr. Reeder about coal ash?

24 A. No.

25 Q. Are you aware Mr. Stith held a nighttime press

1 conference about Dr. Rudo's deposition?

2 A. Yes.

3 Q. Were you aware that press conference was going  
4 to happen before it happened?

5 A. Yes.

6 Q. How did you find out?

7 A. I received a call.

8 Q. From?

9 A. Graham Wilson.

10 Q. Who is Graham Wilson?

11 A. He is in the Governor's Communications Office.

12 Q. And what did he tell you?

13 A. He wanted to let me know, give me a heads-up  
14 that shortly they would be holding a press conference.

15 Q. Did he tell you what they were going to say?

16 A. The call was after his office had already  
17 released a statement. And he said the press conference  
18 would be about that same statement.

19 Q. Did you have the statement before he called  
20 you?

21 A. Yes.

22 Q. And how did you get the statement?

23 A. By e-mail.

24 Q. I am sorry, how?

25 A. By e-mail.

1 Q. And who sent it to you?

2 A. I believe I got it through the regular e-mail  
3 distribution list.

4 Q. Did you see any draft of the statement before  
5 you received the e-mail?

6 A. No.

7 Q. Before you received the e-mail, did you know a  
8 statement was going to be issued?

9 A. No.

10 Q. And I gather before you saw the e-mail, you  
11 didn't know there was going to be any press conference,  
12 either, is that correct?

13 A. That is correct.

14 Q. When Mr. -- Williams?

15 A. Wilson.

16 Q. When Mr. Wilson called you, did you say  
17 anything in response?

18 A. I asked if he needed help from my team. It  
19 was late at night.

20 Q. Were you still at work when he called?

21 A. Yes.

22 Q. Do you remember what time he called?

23 A. In the 8:30 area.

24 Q. And what did he say in response?

25 A. No.

1 Q. Did you say anything else in the conversation?

2 A. Not that I recall.

3 Q. Did you attend the press conference?

4 A. No.

5 Q. Did you help contact any media outlets about  
6 the press conference?

7 A. No.

8 Q. Did he tell you who was going to be invited to  
9 the press conference?

10 A. No.

11 Q. And to your knowledge, did anyone at HHS  
12 participate in helping to draft this statement for the  
13 press conference?

14 A. No.

15 Q. Earlier, you mentioned there was a meeting  
16 with Rick Martinez involving something. What did it  
17 involve?

18 A. I have had many meetings with Rick Martinez.

19 Q. But did any of them involve coal ash?

20 A. I don't recall.

21 Q. Did any of them involve hexavalent chromium?

22 A. Throughout the course of all of this, which  
23 went on for many, many months, we -- there were many  
24 meetings and many conversations.

25 Q. And for the record, who is Rick Martinez?

1           A.    He was a press assistant, and I don't know his  
2 exact title, in the Governor's Communications Office.

3           Q.    And when did he leave government?

4           A.    I don't recall that.

5           Q.    But he was working in government during a  
6 period of time after you started at HHS, is that right?

7           A.    That is correct.

8           MR. HOLLEMAN:    That is all I have.  Thank  
9 you.

10          MR. CALLOWAY:    Can we take a short break?

11          MR. HOLLEMAN:    Sure, absolutely.

12          MR. HOLLEMAN:    OFF THE RECORD.           12:01 P.M.

13          (A BRIEF RECESS WAS TAKEN.)

14          MR. LONG:           ON THE RECORD.           12:06 P.M.

15          D I R E C T   E X A M I N A T I O N           12:06 P.M.

16          BY MR. LONG:

17          Q.    Ms. Gerlach, my name is Nash Long.  And I am  
18 with Hunton and Williams representing Duke Energy.  I  
19 wanted to go back to the meeting in April with you and  
20 Mr. Ellis and Dr. Rudo, if we could go back to that.  Was  
21 Dr. Rudo taking notes during that meeting?

22          A.    I don't recall seeing him taking notes.

23          Q.    Thank you, that is all I have.

24          MR. HOLLEMAN:    Anyone else?

25          (No response.)

1                   Does anyone object to the transcript to this  
2 deposition being released?

3                   (No response.)

4                   No objections?

5                   MR. LONG:           Not down here.

6                   MR. HOLLEMAN:       What about from Ms. Gerlach?

7                   (No response.)

8                   Does DEQ?

9                   MR. CALLOWAY:       No objection.

10                  MR. PHILLIPS:       I am not aware that we have an  
11 objection.

12                  MR. HOLLEMAN:       Thank you.

13                  (THE DEPOSITION WAS CLOSED AT 12:07 P.M.)



S I G N A T U R E

I HAVE READ THE FOREGOING PAGES 6 TO 80 WHICH CONTAIN A CORRECT TRANSCRIPT OF THE ANSWERS MADE TO THE QUESTIONS HEREIN RECORDED. MY SIGNATURE IS SUBJECT TO CORRECTIONS ON ATTACHED ERRATA SHEET, IF ANY.

\_\_\_\_\_  
(SIGNATURE OF KENDRA E. GERLACH)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I CERTIFY THAT THE FOLLOWING PERSON PERSONALLY APPEARED BEFORE ME THIS DAY, AND I HAVE PERSONAL KNOWLEDGE OF THE IDENTITY OF THE PRINCIPAL OR HAVE SEEN SATISFACTORY EVIDENCE OF THE PRINCIPAL'S IDENTITY, OR A CREDIBLE WITNESS KNOWN TO ME HAS SWORN TO THE IDENTITY OF THE PRINCIPAL, ACKNOWLEDGING TO ME THAT HE OR SHE VOLUNTARILY SIGNED THE FOREGOING DOCUMENT FOR THE PURPOSE STATED HEREIN AND IN THE CAPACITY INDICATED:

\_\_\_\_\_  
(NAME OF PRINCIPAL)

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(SIGNATURE OF NOTARY)

(OFFICIAL SEAL)

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(NOTARY'S PRINTED NAME)

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(DATE)

\_\_\_\_\_  
MICHAEL B. CARTER, NOTARY/REPORTER  
NOTARY NUMBER 19960030065  
MY COMMISSION EXPIRES FEBRUARY 15, 2021

STATE OF NORTH CAROLINA

COUNTY OF NASH

C E R T I F I C A T E

I, MICHAEL B. CARTER, NOTARY PUBLIC-REPORTER, DO  
HEREBY CERTIFY THAT KENDRA E. GERLACH WAS DULY SWORN BY ME  
PRIOR TO THE TAKING OF THE FOREGOING DEPOSITION, THAT THE  
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I DO FURTHER CERTIFY THAT I AM NOT COUNSEL FOR  
OR IN THE EMPLOYMENT OF ANY OF THE PARTIES TO THIS ACTION,  
NOR AM I INTERESTED IN THE RESULTS OF THIS ACTION.

I DO FURTHER CERTIFY THAT THE STIPULATIONS  
CONTAINED HEREIN WERE ENTERED INTO BY COUNSEL IN MY  
PRESENCE.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND  
THIS 24TH DAY OF SEPTEMBER, 2016.

---

MICHAEL B. CARTER  
NOTARY PUBLIC FOR THE  
STATE OF NORTH CAROLINA  
NOTARY NUMBER 19960030065  
MY COMMISSION EXPIRES  
FEBRUARY 15, 2021