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MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT GALLATIN COUNTY		I N D E X	
COTTONWOOD ENVIRONMENTAL LAW CENTER; CRAIG MATHEWS; QUINN O'CONNOR; STEVE ATENCIO; ISAAC CHEEK, Plaintiffs, vs. Case No. DV-22-1121A THE STATE OF MONTANA by and Through the MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY, Defendants.		Witness: Page: RON EDWARDS 30(b)(6) Examination by Mr. Meyer.....5, 44 Examination by Mr. Pettis.....43 E X H I B I T S Exhibit 1 Closure Letter to Ron Edwards from DEQ dated March 5, 2024.....17	
DEPOSITION OF RON EDWARDS 30(b)(6)		Exhibit 2 EPA Report regarding the investigation of the Big Sky Water and Sewer District's holding ponds.....32-33	
Taken via Zoom: Bridge Court Reporters, Inc. 210 Henderson Street Bozeman, Montana April 4, 2024 10:00 a.m.		10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	
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1 APPEARANCES 2 ATTORNEY APPEARING ON BEHALF OF THE 3 PLAINTIFFS, COTTONWOOD ENVIRONMENTAL LAW 4 CENTER; CRAIG MATHEWS; QUINN O'CONNOR; STEVE 5 ATENCIO; ISAAC CHEEK: 6 7 Mr. John Meyer, Esq. 8 Cottonwood Environmental Law Center 9 P.O. Box 412 10 Bozeman, Montana 59771 11 (406)546-0149 12 john@cottonwoodlaw.org 13 14 ATTORNEY APPEARING ON BEHALF OF THE 15 DEFENDANTS, THE STATE OF MONTANA by and 16 through the MONTANA DEPARTMENT OF 17 ENVIRONMENTAL QUALITY: 18 Mr. Aaron Pettis, Esq. 19 Staff Attorney 20 Department of Environmental Quality 21 P.O. Box 200901 22 1520 East Sixth Avenue 23 Helena, Montana 596020-0901 24 (406)444-1422 25 apettis@mt.gov 26 27 ATTORNEYS APPEARING ON BEHALF OF THE BIG SKY 28 WATER & SEWER DISTRICT: 29 30 Ms. Andrea M. Bronson, Esq. 31 Mr. Michael Golz, Esq. 32 DAVIS GRAHAM & STUBBS LLP 33 1550 17th Street, Suite 500 34 Denver, Colorado 80202 35 (303)892-7495 36 andrea.bronson@dgslaw.com 37 michael.golz@dgslaw.com 38 39 Ms. Susan B. Swimley, Esq. 40 Swimley Law 41 1807 W. Dickerson Street, Suite B 42 Bozeman, Montana 59715 43 (406)586-5544 44 swimley@swimleylaw.com		RON EDWARDS 30(b)(6) April 4, 2024; BOZEMAN, MONTANA * * * * * BE IT REMEMBERED THAT, pursuant to Notice, the Deposition of RON EDWARDS 30(b)(6) was taken at the time and place and with the appearances of counsel hereinbefore noted before Marla Jeske, Court Reporter, CSR - Notary Public, for the State of Montana. It is further stipulated and agreed by and between counsel for the respective parties that this deposition was taken pursuant to the Montana Rules of Civil Procedure. The following proceedings were had: RON EDWARDS 30(b)(6), having been called as a witness by the Plaintiffs, being first duly sworn, was examined and testified as follows: MR. MEYER: The deposition is beginning. I'm going to identify everyone in the room. I have	

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<p>1 Ron Edwards, the 30(b)(6) representative for Big  2 Sky Water and Sewer District. Aaron Pettis for the  3 Montana DEQ. Andrea Bronson for Big Sky Water and  4 Sewer District. Michael Golz for Big Sky Water and  5 Sewer District. Susan Swimley for Big Sky Water  6 and Sewer District.</p> <p>7 Is there anyone else I'm missing?</p> <p>8</p> <p>9 EXAMINATION</p> <p>10 BY MR. MEYER:</p> <p>11 Q. Mr. Edwards, can you please state your  12 name and spell it out, please?</p> <p>13 A. My name is Ron Edwards, R-O-N,  14 E-D-W-A-R-D-S.</p> <p>15 Q. Mr. Edwards, I'm going to explain some  16 of the basic procedures and ground rules for the  17 deposition.</p> <p>18 This is a 30(b)(6) deposition of  19 defendant Big Sky Water and Sewer District. My  20 name is John Meyer. I'm an attorney representing  21 the plaintiffs in this case.</p> <p>22 This is a deposition in which I will ask  23 you questions and you must answer them truthfully  24 unless your attorney tells you clearly and directly  25 not to answer.</p>	<p>1 A. Yes.</p> <p>2 Q. Will you let me know if I ask you a  3 question you do not understand?</p> <p>4 A. Yes.</p> <p>5 Q. Will you agree not to answer a question  6 you do not understand?</p> <p>7 A. Yes.</p> <p>8 Q. Is there any reason you believe that you  9 cannot give accurate and truthful testimony today?</p> <p>10 A. No.</p> <p>11 Q. Your attorney or the attorney for the  12 DEQ may object to my questions, you still answer my  13 question unless you are expressly directed not to  14 answer. Do you understand that?</p> <p>15 A. Yes.</p> <p>16 Q. Have you reviewed the topics to be  17 discussed today in the deposition notice?</p> <p>18 A. Yes.</p> <p>19 Q. What did you do to prepare for this  20 deposition?</p> <p>21 MS. BRONSON: I will object to the witness  22 answering anything that is privileged. So he can  23 tell you what he did except for any communication  24 that we had.</p> <p>25 THE WITNESS: I reread the subpoena, reread</p>
<p style="text-align: center;">Page 6</p> <p>1 Although, no judge is present, this is a  2 formal legal proceeding just like testifying in  3 court, and you are under the same legal obligation  4 to tell the truth, the whole truth, and nothing but  5 the truth.</p> <p>6 If you do not understand any of my  7 questions, feel free to say so and I will rephrase  8 them.</p> <p>9 Before the deposition can be used in  10 court, you will have an opportunity to read it and  11 correct any mistakes. Do you understand this?</p> <p>12 A. Yes. Thank you.</p> <p>13 Q. When you answer you need to say "yes" or  14 "no" or whatever the answer is instead of shaking  15 your head. Do you understand that?</p> <p>16 A. Yes.</p> <p>17 Q. We need to speak one at a time for the  18 court reporter's benefit. So even if you know what  19 I'm going to ask, will you let me finish the  20 question before you start answering?</p> <p>21 A. Yes.</p> <p>22 Q. And if you've not finishing your  23 answering, I cut you off with a new question, will  24 you let me know that you have not finished  25 answering your question?</p>	<p style="text-align: center;">Page 8</p> <p>1 the EPA letter, reread the DEQ letter and read the  2 report from Northwest Lining.</p> <p>3 BY MR. MEYER:</p> <p>4 Q. Mr. Edwards, you said that you read a  5 DEQ letter?</p> <p>6 A. Yes.</p> <p>7 Q. What letter are you referring to?</p> <p>8 A. The March 5th, 2024 letter I received  9 from Susan Bawden.</p> <p>10 Q. When was the last time that the water  11 and sewer district spoke with the DEQ about the  12 holding ponds or this case?</p> <p>13 A. The last conversation I had with Mike  14 Abrahamson, about a month ago.</p> <p>15 Q. No one at the water and sewer district  16 has communicated with the Montana DEQ in the last  17 month regarding this lawsuit or the holding ponds?</p> <p>18 A. I have not.</p> <p>19 Q. Has anyone at the water and sewer  20 district?</p> <p>21 A. I don't believe so, no.</p> <p>22 Q. Mr. Edwards, did the Montana DEQ  23 investigate the water and sewer district about  24 whether you provided false testimony regarding the  25 volume of leakage from the holding ponds during the</p>

<p style="text-align: right;">Page 9</p> <p>1      <b>previous federal Clean Water Act trial against</b>    2      <b>sewer district?</b></p> <p>3      MR. PETTIS: Object to the form --    4      MS. BRONSON: Object to form.    5      MR. PETTIS: -- and object to foundation.    6      MR. MEYER: Mr. Edwards, you can answer.    7      I can reask the question.    8      THE WITNESS: They addressed a complaint you    9      filed with DEQ and that was the scope of my    10     conversation with Mike.    11     BY MR. MEYER:    12     <b>Q. Mr. Edwards, before we go any farther,</b>    13     <b>I'm going to ask you to turn off any cellphones,</b>    14     <b>any devices. Can you do that for me, please?</b>    15     A. I don't have my phone in the room.    16     <b>Q. Can you receive -- can you turn off any</b>    17     <b>Teams or any messaging or any communications on</b>    18     <b>your computer?</b>    19     A. If you want me to turn off my    20     computer -- this makes no sense.    21     <b>Q. Well --</b>    22     MS. BRONSON: What are you trying to have    23     happen here?    24     MR. MEYER: I'm trying to ensure that    25     Mr. Edwards does not communicate with anyone else</p>	<p style="text-align: right;">Page 11</p> <p>1      A. I don't know if they did or what they    2      investigated on the federal case.    3      <b>Q. Okay. After the federal trial, did you</b>    4      <b>discuss your testimony with the Montana DEQ?</b>    5      A. No.    6      <b>Q. Did the DEQ ask the sewer district to</b>    7      <b>explain the water balance that you and Mr. Rauchway</b>    8      <b>presented to the jury during the federal trial?</b>    9      A. The department requested I believe the    10     last five years of data that we have concerning    11     flows into the ponds and out of the ponds.    12     <b>Q. When was that request?</b>    13     A. Oh, I guess six months ago.    14     <b>Q. Was it information requested before the</b>    15     <b>jury trial?</b>    16     A. No, well after.    17     <b>Q. Okay. Did the DEQ request the sewer</b>    18     <b>district to provide any of the slides or exhibits</b>    19     <b>that were provided to the jury during the federal</b>    20     <b>jury trial?</b>    21     A. Not from me.    22     <b>Q. Did they request them from the sewer</b>    23     <b>district?</b>    24     A. No.    25     <b>Q. Did the DEQ ask about the volume of</b></p>
<p style="text-align: right;">Page 10</p> <p>1      during this deposition.    2      THE WITNESS: Understood.    3      BY MR. MEYER:    4      <b>Q. Okay. So you'll tell me if anyone tries</b>    5      <b>to communicate with you?</b>    6      A. Yes, sir.    7      <b>Q. Thank you.</b>    8      <b>Mr. Edwards, I'm going to ask my</b>    9      <b>question again because we got a little sidetracked</b>    10     <b>there.</b>    11     <b>Did the Montana DEQ investigate the</b>    12     <b>sewer district about whether you provided false</b>    13     <b>testimony regarding the volume of leakage from the</b>    14     <b>holding ponds during the previous federal Clean</b>    15     <b>Water Act trial against the sewer district?</b>    16     MS. BRONSON: Object to form, foundation.    17     MR. PETTIS: Same objections.    18     MR. MEYER: You can answer that question,    19     Mr. Edwards.    20     THE WITNESS: I don't know what DEQ    21     investigated on the federal case.    22     BY MR. MEYER:    23     <b>Q. So you don't know if the -- I'm not -- I</b>    24     <b>want to make sure I heard you. You don't know if</b>    25     <b>the DEQ investigated, is that what I heard you say?</b></p>	<p style="text-align: right;">Page 12</p> <p>1      <b>export to Spanish Peaks or the Yellowstone Club</b>    2      <b>during the non-irrigation season after the trial?</b>    3      A. That would have been in the data we sent    4      them in the spreadsheets, which you're familiar    5      with.    6      <b>Q. Did the Big Sky Water and Sewer District</b>    7      <b>communicate with U.S. EPA about the holding ponds</b>    8      <b>after the federal Clean Water Act trial against</b>    9      <b>sewer district?</b>    10     A. Yes, in response to a complaint you    11     filed with EPA Region 8.    12     <b>Q. What was communicated?</b>    13     A. Lisa-Kay Prideaux out of the Helena    14     office reached out to schedule a meeting to do an    15     investigation by e-mail.    16     <b>Q. When did Lisa-Kay Prideaux reach out to</b>    17     <b>schedule an investigation?</b>    18     A. I don't recall the exact date. The    19     investigation happened in July of 2023.    20     <b>Q. And how did the EPA investigate?</b>    21     MS. BRONSON: Object to form, foundation.    22     MR. PETTIS: Same.    23     THE WITNESS: I think Lisa's report covered    24     how they investigated. They sent staff up here,    25     including herself, met with me and spent the better</p>

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<p>1 part of a day up here.  2 BY MR. MEYER:  3     <b>Q. Did the sewer district and the EPA</b>  4     <b>discuss the testimony that you provided during the</b>  5     <b>trial?</b>  6     A. No, not with me.  7     <b>Q. Did the EPA discuss the testimony</b>  8     <b>provided with anyone else at the sewer district?</b>  9     A. Not that I know of.  10    <b>Q. Did the sewer district review the water</b>  11    <b>balance for the years 2015 through 2020 with US EPA</b>  12    <b>when they completed or investigated the sewer</b>  13    <b>district?</b>  14    MR. PETTIS: Object to form.  15    MS. BRONSON: Same.  16    THE WITNESS: Lisa had questions about the  17    same spreadsheet. So I looked at that with her,  18    yes, to help explain to her.  19    BY MR. MEYER:  20    <b>Q. I'm sorry, you did explain the -- your</b>  21    <b>jury trial testimony? You discussed that or no?</b>  22    A. I did not talk about my testimony in our  23    trial.  24    <b>Q. Have you reviewed your trial testimony?</b>  25    MS. BRONSON: Object to form. This is</p>	<p>1 information for any of my board that would care to  2 read it.  3 BY MR. MEYER:  4     <b>Q. Mr. Edwards, how did you come to the</b>  5     <b>conclusion that the Big Sky Water and Sewer</b>  6     <b>District was exporting treated effluent to the</b>  7     <b>Yellowstone Club and Spanish Peaks during the</b>  8     <b>non-irrigation season?</b>  9     MS. BRONSON: Object to form. We're not  10    going to keep going down this line of questioning,  11    rehashing the trial. This is not within the scope  12    of the deposition and it's not relevant. This  13    is -- we -- you asked three topics and it has to do  14    with investigations that we don't know very much  15    about. So we're not going to rehash the trial.  16    We're not going to have him continue answering  17    these questions.  18    MR. MEYER: So you're instructing your client  19    not to answer?  20    MS. BRONSON: If it's outside the scope of  21    your deposition.  22    MR. MEYER: I think this is relevant.  23    MS. BRONSON: Tell me which topic you're  24    asking about.  25    MR. MEYER: The investigation.</p>
<p style="text-align: center;">Page 14</p> <p>1 outside of the scope of this deposition.  2     MR. PETTIS: Same.  3     MR. MEYER: Mr. Edwards, you can answer the  4     question?  5     THE WITNESS: No I have not.  6    BY MR. MEYER:  7     <b>Q. You have never reviewed your trial</b>  8     <b>testimony?</b>  9     MS. BRONSON: Object to form. You've  10    designated three topics and it doesn't have to deal  11    with the trial.  12    MR. PETTIS: Same objections.  13    MR. MEYER: Mr. Edwards, you can answer.  14    THE WITNESS: No, I have not.  15    BY MR. MEYER:  16     <b>Q. Have you spoken with anybody about your</b>  17     <b>trial testimony?</b>  18     MS. BRONSON: Object to form. Same, again,  19     it's outside the scope.  20     MR. PETTIS: Same objections.  21     MS. BRONSON: Also object to the extent  22     you're seeking privileged communications.  23     MR. MEYER: Mr. Edwards, you can answer.  24     THE WITNESS: No, but I gave the board a copy  25     of the court transcript once it was public just as</p>	<p style="text-align: center;">Page 16</p> <p>1     MS. BRONSON: What about that has to do with  2     these investigations? What about your topic of how  3     Mr. Edwards determined something in his trial  4     testimony two years ago has to do with these  5     investigations?  6     MR. MEYER: Whether or not the EPA or DEQ  7     should have or could have looked at that them.  8     MS. BRONSON: He doesn't know that. That's  9     foundation. If you want to know what they looked  10    at, you can depose somebody from DEQ and EPA.  11    MR. MEYER: We're doing that next week.  12    MS. BRONSON: What Mr. Edwards testified to  13    at trial is not related to -- it's not within the  14    scope of EPA or DEQ's investigations.  15    BY MR. MEYER:  16     <b>Q. Mr. Edwards, have you reviewed the DEQ</b>  17     <b>letter from 2024 regarding the investigation?</b>  18     A. Yes.  19     <b>Q. And what does that letter say?</b>  20     A. It concluded with their closing the file  21     on their investigation.  22     <b>Q. Why are they closing the file?</b>  23     MR. PETTIS: Object to foundation.  24     MS. BRONSON: Same.  25     MR. MEYER: You can answer, Mr. Edwards.</p>

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<p>1        THE WITNESS: That was their decision.  2        BY MR. MEYER:  3        <b>Q. I'm going to take a three-minute break</b>  4        <b>here. I'm going to find the closure letter and</b>  5        <b>then I'll mark that as Exhibit 1, if we don't mind.</b>  6        (Whereupon, a brief  7        recess was taken.)  8        MR. MEYER: So I would like to mark this as  9        Exhibit 1, please.  10       (Whereupon, Deposition  11       Exhibit Number 1 was  12       marked for identification.)  13       BY MR. MEYER:  14       <b>Q. Mr. Edwards, you recognize this as the</b>  15       <b>March 5th, 2024 DEQ closure letter?</b>  16       A. Yes.  17       <b>Q. And you've reviewed this?</b>  18       A. Yes.  19       <b>Q. And you see where it says that DEQ's</b>  20       <b>investigation of the allegations regarding</b>  21       <b>excessive pond leaking found there is no credible</b>  22       <b>evidence the ponds are leaking?</b>  23       A. Yeah.  24       MR. PETTIS: I'm going to object to  25       mischaracterizing what it says.</p>	<p>1        <b>Q. I'm going to move us on to the Big Sky</b>  2        <b>Water and Sewer District's maintenance and repair</b>  3        <b>of its holding ponds after the trial.</b>  4        <b>Mr. Edwards, has the Big Sky Water and</b>  5        <b>Sewer District repaired or replaced any of the</b>  6        <b>liners in the holding ponds after the trial?</b>  7        A. Repaired, yes.  8        <b>Q. Which ponds were repaired?</b>  9        A. Storage pond 1 and storage pond 3, also  10       known as the irrigation pond.  11       <b>Q. When were those ponds repaired?</b>  12       A. Fall of 2023.  13       <b>Q. When did the Big Sky Water and Sewer</b>  14       <b>District first learn that the ponds needed to be</b>  15       <b>repaired?</b>  16       A. We've done this as a matter of course  17       over the years. It's maintenance.  18       <b>Q. Before the 2023 repairs, when was the</b>  19       <b>last time that the ponds were repaired?</b>  20       A. 2016.  21       <b>Q. Which pond was repaired in 2016?</b>  22       A. Pond 1, pond 3.  23       <b>Q. Has pond 2 ever been repaired?</b>  24       A. The aeration pond, no.  25       <b>Q. Is pond 2 connected to the underdrain</b></p>
<p style="text-align: center;">Page 18</p> <p>1        BY MR. MEYER:  2        <b>Q. Mr. Edwards, can I have you read that,</b>  3        <b>please, that highlighted section?</b>  4        A. "DEQ's investigation of the allegations  5        regarding excessive pond leakage found that there  6        is no credible evidence that the ponds are leaking  7        in excess of state design standards."  8        <b>Q. Okay. That's plenty.</b>  9        <b>And you said that the DEQ did not</b>  10       <b>contact you after regarding the water balance?</b>  11       MS. BRONSON: Object to form.  12       MR. PETTIS: Same.  13       THE WITNESS: The department, after our  14       trial, asked for the spreadsheet data so they could  15       investigate the same information that was used in  16       the federal case.  17       BY MR. MEYER:  18       <b>Q. Did the EPA contact you after the</b>  19       <b>federal trial?</b>  20       MS. BRONSON: Object to form. You've already  21       asked that question.  22       BY MR. MEYER:  23       <b>Q. And the answer was yes, correct,</b>  24       <b>Mr. Edwards?</b>  25       A. Yes.</p>	<p style="text-align: center;">Page 20</p> <p>1        <b>pipe?</b>  2        A. No, the underdrain runs under pond 1,  3        pond 3.  4        <b>Q. What year was the liner in pond 2</b>  5        <b>installed?</b>  6        A. I believe that was 2002.  7        <b>Q. How does the Big Sky Water and Sewer</b>  8        <b>District inspect the integrity or whether pond 2</b>  9        <b>needs to be replaced or repaired?</b>  10       A. It's fully rip-rapped. If you mean the  11       aeration pond when you say pond 2?  12       <b>Q. Yes, I do.</b>  13       A. Yeah, it's fully rip-rapped.  14       <b>Q. Does that mean that the pond will never</b>  15       <b>need to be -- the liner will never need to be</b>  16       <b>repaired or replaced?</b>  17       A. No. Some day it will.  18       <b>Q. How will the Big Sky Water and Sewer</b>  19       <b>District know that?</b>  20       A. Well, with the new plant which we're  21       starting up as we speak, we'll have the ability to  22       sidestream water directly from the plant to put us  23       in position where maybe it will take some ponds  24       offline.  25       <b>Q. Is the Big Sky Water and Sewer District</b></p>

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<p>1      <b>going to take pond 2 offline to inspect it?</b></p> <p>2      A. There's no current plan to do that at</p> <p>3      this time.</p> <p>4      <b>Q. Has the Big Sky Water and Sewer District</b></p> <p>5      <b>ever inspected the pond 2 liner?</b></p> <p>6      A. We have not drained pond 2 down to the</p> <p>7      bottom to inspect the liner that was put in</p> <p>8      originally.</p> <p>9      <b>Q. So again, how would the Big Sky Water</b></p> <p>10     <b>and Sewer District know if any of the -- if the</b></p> <p>11     <b>liner in pond 2 was torn or ripped or needed to be</b></p> <p>12     <b>repaired?</b></p> <p>13     A. In the same water balance data that</p> <p>14     we've looked at at length for the trial and just</p> <p>15     operational. If we had major failure in that pond</p> <p>16     or any other pond, we would see that.</p> <p>17     <b>Q. So you're basing that decision on an</b></p> <p>18     <b>eyeball you see it with your eyes?</b></p> <p>19     MS. BRONSON: Object to form.</p> <p>20     THE WITNESS: No.</p> <p>21     BY MR. MEYER:</p> <p>22     <b>Q. Did I hear you say no?</b></p> <p>23     A. Yes, you heard me say no.</p> <p>24     <b>Q. Did you say that you would see it?</b></p> <p>25     A. We would see it in the data that we</p>	<p>1      <b>it's not leaking?</b></p> <p>2      MS. BRONSON: Same objections.</p> <p>3      MR. PETTIS: Same.</p> <p>4      MR. MEYER: You can answer the question,</p> <p>5      Mr. Edwards.</p> <p>6      THE WITNESS: There was this pipe in the</p> <p>7      pond that the water flows into and flows over into</p> <p>8      pond 1 at levels fixed.</p> <p>9      BY MR. MEYER:</p> <p>10     <b>Q. It's fixed because the Big Sky Water and</b></p> <p>11     <b>Sewer District's constantly moving effluent into</b></p> <p>12     <b>it; is that correct?</b></p> <p>13     A. We're moving effluent to that pond, in</p> <p>14     it flows from that pond into storage pond 1.</p> <p>15     MR. MEYER: Okay.</p> <p>16     THE REPORTER: I'm sorry, did you object?</p> <p>17     MS. BRONSON: Yeah, I want to have the same</p> <p>18     objections.</p> <p>19     MR. PETTIS: And I'll join in those.</p> <p>20     THE WITNESS: And there's a booster station</p> <p>21     below the aeration pond that goes from there up to</p> <p>22     our filter building where it's filtered and goes</p> <p>23     through that plant into pond 3 and into pond 1?</p> <p>24     BY MR. MEYER:</p> <p>25     <b>Q. Does the Big Sky Water and Sewer</b></p>
<p style="text-align: center;">Page 22</p> <p>1      maintained with pond levels, water being pumped to</p> <p>2      golf courses and up the hill.</p> <p>3      <b>Q. Does the water balance account for each</b></p> <p>4      <b>individual pond?</b></p> <p>5      A. We measure the level in pond 1 and pond</p> <p>6      3.</p> <p>7      <b>Q. You don't measure the level in pond 2?</b></p> <p>8      A. No, because it's static.</p> <p>9      <b>Q. And if there was a rip and it was</b></p> <p>10     <b>leaking through the liner, you could continue to</b></p> <p>11     <b>add effluent to that pond to make it look like it</b></p> <p>12     <b>would still static level; is that correct?</b></p> <p>13     MS. BRONSON: Object --</p> <p>14     MR. PETTIS: Object --</p> <p>15     MS. BRONSON: -- form. And this is also</p> <p>16     getting outside of the scope of your topics.</p> <p>17     MR. PETTIS: Same objections.</p> <p>18     THE REPORTER: I'm sorry, did the witness</p> <p>19     answer?</p> <p>20     THE WITNESS: I did. Water moves from the</p> <p>21     plant to the aeration pond every day.</p> <p>22     BY MR. MEYER:</p> <p>23     <b>Q. So as it's moving the aeration pond</b></p> <p>24     <b>every day, what prevents that from overflowing or</b></p> <p>25     <b>what prevents it from what allows you to ensure</b></p>	<p style="text-align: center;">Page 24</p> <p>1      <b>District dredge or clean the aeration pond?</b></p> <p>2      A. Yes.</p> <p>3      <b>Q. How often does that happen?</b></p> <p>4      A. We did it when the liner was installed</p> <p>5      in 2002 and we did it in 2023.</p> <p>6      <b>Q. What does that entail?</b></p> <p>7      A. We hired Synagro. They're a national</p> <p>8      company that comes in with dredge equipment, sets</p> <p>9      up a portable centrifuge press, big compressors.</p> <p>10     And they set up cable guides on the pond and run</p> <p>11     their dredge belt back and forth, which acts like a</p> <p>12     big vacuum cleaner to suck up the bottom.</p> <p>13     <b>Q. Is that pond lowered at all during that</b></p> <p>14     <b>period?</b></p> <p>15     A. No.</p> <p>16     <b>Q. What happens if the sewer district does</b></p> <p>17     <b>not perform that activity you just described?</b></p> <p>18     A. You'll get a buildup of sludge to the</p> <p>19     point where you need to maintain that and remove</p> <p>20     it.</p> <p>21     <b>Q. And if it's not removed, what happens?</b></p> <p>22     MS. BRONSON: I'm going to object. We're</p> <p>23     really continuing to get out of scope of your</p> <p>24     topics. This is not related to any pond liner</p> <p>25     replacement or repair.</p>

Page 25	Page 27
<p>1 BY MR. MEYER:</p> <p>2       <b>Q. If there is sludge buildup, does that</b></p> <p>3       <b>impact the need for replacement or repair of that</b></p> <p>4       <b>liner?</b></p> <p>5       A. No.</p> <p>6       <b>Q. What happens if there's sludge buildup?</b></p> <p>7       MS. BRONSON: Object to form. Same thing. I</p> <p>8       kind of let you go a little bit. But it's again,</p> <p>9       like there are three topics here and you're going</p> <p>10      afield.</p> <p>11     MR. MEYER: You can answer the question,</p> <p>12     Mr. Edwards.</p> <p>13     THE WITNESS: If you don't remove sludge over</p> <p>14     time, you lose capacity in your pond and it starts</p> <p>15     filling up with sludge solids.</p> <p>16     BY MR. MEYER:</p> <p>17     <b>Q. And that can compromise integrity of the</b></p> <p>18     <b>liners or no?</b></p> <p>19     A. No.</p> <p>20     <b>Q. You said that the pond 1 and pond 3</b></p> <p>21     <b>liners were repaired in 2023; is that correct?</b></p> <p>22     A. Yes.</p> <p>23     <b>Q. When did you first learn that the liners</b></p> <p>24     <b>need to be repaired?</b></p> <p>25     A. As I said earlier, we'd done this</p>	<p>1       <b>Q. Okay. And how big were those beads?</b></p> <p>2       A. Don't know.</p> <p>3       <b>Q. Does it say?</b></p> <p>4       A. It does not.</p> <p>5       <b>Q. I'm going to have you -- did your</b></p> <p>6       <b>attorneys give you a copy of the documents that</b></p> <p>7       <b>were shared with me before this deposition this</b></p> <p>8       <b>morning from the repair company?</b></p> <p>9       MS. BRONSON: Objection. What -- I'm not</p> <p>10      entirely sure what you're asking.</p> <p>11     MR. MEYER: You guys provided me with maybe</p> <p>12     ten documents regarding the repairs and I'm asking</p> <p>13     Mr. Edwards if he has those.</p> <p>14     THE WITNESS: I provided the report to our</p> <p>15     attorneys that would have come from our office.</p> <p>16     BY MR. MEYER:</p> <p>17     <b>Q. Okay. So I'd like to share my screen if</b></p> <p>18     <b>possible here. Mr. Edwards, can you see this here?</b></p> <p>19     A. Yeah. Yes.</p> <p>20     <b>Q. Do you recognize this as one of the</b></p> <p>21     <b>receipts for the repairs?</b></p> <p>22     A. Yes.</p> <p>23     <b>Q. Do you see the bottom here where the X</b></p> <p>24     <b>is?</b></p> <p>25     A. Yes.</p>
<p style="text-align: center;">Page 26</p> <p>1 before, my operators will at Northwest Lining</p> <p>2 inspect the liners to do spot repairs. It's just</p> <p>3 maintenance.</p> <p>4       <b>Q. Just maintenance.</b></p> <p>5       <b>And so you said that the pond 1 and pond</b></p> <p>6       <b>3 liners were repaired in 2016; is that correct?</b></p> <p>7       A. Yes.</p> <p>8       <b>Q. Was that part of the spot maintenance as</b></p> <p>9       <b>well?</b></p> <p>10      A. Yes.</p> <p>11      <b>Q. Has the Big Sky Water and Sewer District</b></p> <p>12      <b>ever done spot maintenance and determined that the</b></p> <p>13      <b>liners do not need to be repaired?</b></p> <p>14      A. Not that I'm aware of, no.</p> <p>15      <b>Q. Can you tell me about the repairs of the</b></p> <p>16      <b>pond 1 and pond 3 liners in 2023?</b></p> <p>17      A. I believe you have a copy of the report</p> <p>18      from Northwest Lining. It has an index of the</p> <p>19      repairs they did and a match on the location.</p> <p>20      <b>Q. What repairs were completed?</b></p> <p>21      A. Let me pull the report up. Their repair</p> <p>22      report, it looks like it was all bead type repairs,</p> <p>23      which is kind of like a glue gun, knot glue gun</p> <p>24      where you put a bead on a -- what is either through</p> <p>25      the liner or a small hole in the liner.</p>	<p style="text-align: center;">Page 28</p> <p>1       <b>Q. It says this proposal is based on repair</b></p> <p>2       <b>of one of approximately ten foot tear cut in</b></p> <p>3       <b>existing liner?</b></p> <p>4       A. Yes.</p> <p>5       <b>Q. So does that mean that there was an</b></p> <p>6       <b>approximate ten foot tear in the liner?</b></p> <p>7       A. Yes.</p> <p>8       <b>Q. Do you know exactly where in liner this</b></p> <p>9       <b>was located?</b></p> <p>10      A. Yes.</p> <p>11      <b>Q. Where?</b></p> <p>12      A. I don't know if I can share the screen</p> <p>13      but we had a Jon boat that's up along the top of</p> <p>14      the irrigation pond and I believe in moving that</p> <p>15      somebody tore the liner, moving that boat around.</p> <p>16      That tear required a patch which Northwest Lining</p> <p>17      put in, but it's also right at the top, way above</p> <p>18      the waterline of the operating level of that pond.</p> <p>19      <b>Q. Which pond are we referring to?</b></p> <p>20      A. Pond 3, the irrigation pond.</p> <p>21      <b>Q. I asked you just a minute ago about the</b></p> <p>22      <b>repairs that were necessary, you seemed to indicate</b></p> <p>23      <b>that you weren't sure, and now you're describing</b></p> <p>24      <b>them very precisely, the tears and rips in the</b></p> <p>25      <b>liner.</b></p>

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<p>1       A. This tear we had repaired prior to the 2       work, they came in and did in the fall. The reason 3       is because it was high and dry so the guys could 4       come in and repair that. And then once the ponds 5       were lowered at the end of irrigation season, that 6       puts us in a position to inspect the liners and do 7       the repairs in October.</p> <p>8       <b>Q. But if this tear was high, you wouldn't 9       need to wait until October, you could have done 10      this tear much sooner?</b></p> <p>11      A. And we did, yes. So they did this 12      repair independent of the work that was done in 13      October.</p> <p>14      <b>Q. What work was done in October?</b></p> <p>15      A. They sent a crew out to look at the 16      liners and make what they call bead repairs to the 17      liner.</p> <p>18      <b>Q. How many bead repairs were done on the 19      other liner -- liners?</b></p> <p>20      A. I didn't count how many are listed in 21      the report.</p> <p>22      <b>Q. Did you notice the length of the tears?</b></p> <p>23      A. The bead repair is not made vertical or 24      a horizontal tear of length. They're very small.</p> <p>25      <b>Q. When you say very small, how small?</b></p>	<p>1       given the location that they're documenting, those 2       are above the operating level of the pond.</p> <p>3       <b>Q. Has the Big Sky Water and Sewer District 4       made any repairs to the liners after the trial 5       below the holding pond level, operating level?</b></p> <p>6       A. It doesn't look like it from the report 7       that Northwest Lining provided.</p> <p>8       <b>Q. But that wasn't quite my question. 9       Do you know if there have been any 10      repairs made at all besides what Northwest Lining 11      has done?</b></p> <p>12      A. No, there have not been any additional 13      repair work done besides the work they did.</p> <p>14      <b>Q. The EPA issued a report in this case; is 15      that correct?</b></p> <p>16      A. Yes.</p> <p>17      <b>Q. Have you reviewed that report?</b></p> <p>18      A. Yes.</p> <p>19      <b>Q. Did that report -- well, what did that 20      report say?</b></p> <p>21      A. It's rather long, but kind of the same 22      conclusion that DEQ came to, that they were closing 23      their investigation on the matter.</p> <p>24      <b>Q. And did the EPA address gaps in the 25      water balance?</b></p>
<p style="text-align: center;">Page 30</p> <p>1       A. Small enough to repair it as a bead 2       repair. There were no patch repairs documented in 3       the report that were done in October of '23.</p> <p>4       <b>Q. You don't know the size of the bead 5       repairs?</b></p> <p>6       A. No.</p> <p>7       <b>Q. Does one foot by one foot sound 8       approximately correct?</b></p> <p>9       A. No.</p> <p>10      <b>Q. Bigger or smaller?</b></p> <p>11      A. Smaller.</p> <p>12      <b>Q. How much effluent can leak through a 13      bead repair?</b></p> <p>14      MS. BRONSON: Object to form, foundation.</p> <p>15      MR. PETTIS: Same.</p> <p>16      MR. MEYER: You can answer that, Mr. Edwards.</p> <p>17      THE WITNESS: When you look at the map that 18      they provided showing where they made these 19      repairs, they are all very high in the liner.</p> <p>20      Those are all above the operating level of the 21      water in that pond. So I don't think any leakage 22      occurred in any of them.</p> <p>23      BY MR. MEYER:</p> <p>24      <b>Q. So no leakage occurs in the ponds?</b></p> <p>25      A. No, I didn't say that. I don't think</p>	<p style="text-align: center;">Page 32</p> <p>1       MS. BRONSON: Object to form.</p> <p>2       MR. PETTIS: Same.</p> <p>3       MS. BRONSON: Foundation. If you have 4       something specific you want to ask him about the 5       document, then you can do that.</p> <p>6       BY MR. MEYER:</p> <p>7       <b>Q. Is anyone opposed to me taking a 8       five-minute break to pull up the document and point 9       to the exact space we're talking about?</b></p> <p>10      MS. BRONSON: No.</p> <p>11      BY MR. MEYER:</p> <p>12      <b>Q. Mr. Edwards, you okay with that, taking 13      a five-minute break?</b></p> <p>14      A. I'm fine.</p> <p>15      <b>Q. Okay. Thank you.</b></p> <p>16      (Whereupon, a brief 17      recess was taken.)</p> <p>18      MR. MEYER: Back on record.</p> <p>19      BY MR. MEYER:</p> <p>20      <b>Q. Mr. Edwards, do you recognize this as 21      the EPA report regarding the investigation of the 22      Big Sky Sewer District's holding ponds?</b></p> <p>23      A. Yes.</p> <p>24      <b>Q. Have you seen this before?</b></p> <p>25      A. Yes.</p>

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<p>1       <b>Q. I'd like to mark this as our next</b>  2       <b>exhibit, please.</b>  3           (Whereupon, Deposition  4           Exhibit Number 2 was  5           marked for identification.)  6       BY MR. MEYER:  7           <b>Q. Mr. Edwards, do you see this highlighted</b>  8           <b>part here? It says "The facility has stated</b>  9           <b>because they do not have a NPDES discharge permit,</b>  10           <b>keeping meticulous records of flows and pond</b>  11           <b>volumes is not required, and acknowledges there are</b>  12           <b>gaps in their records"?</b>  13           A. I see it.  14           <b>Q. Do you agree with that? Is that</b>  15           <b>something that the sewer district indicated?</b>  16           A. That's what Lisa-Kay concluded after  17           reviewing the records that we gave her.  18           <b>Q. This says the facility stated that</b>  19           <b>because it doesn't have a permit. So did the sewer</b>  20           <b>district state that?</b>  21           A. I think it's a matter of record that  22           there's no discharge permit associated with the Big  23           Sky system.  24           <b>Q. And has the sewer district stated that</b>  25           <b>because it does not have a NPDES permit it does not</b></p>	<p>1       <b>year?</b>  2           A. I see it.  3           <b>Q. That says the difference is total out</b>  4           <b>170 million gallons, total in 129.88 million</b>  5           <b>gallons in; is that correct?</b>  6           A. That's what the report says.  7           <b>Q. So this report says that Big Sky Water</b>  8           <b>and Sewer District in theory exported more than 40</b>  9           <b>million gallons out of the facility than it brought</b>  10           <b>in in the year 2015; is that correct?</b>  11           MR. PETTIS: I'm going to object to your  12           characterization of this report, John.  13           MR. MEYER: Okay.  14           MS. BRONSON: I'll join.  15           MR. MEYER: You can answer the question,  16           Mr. Edwards.  17           THE WITNESS: That's what's in their report,  18           EPA's report. How they got to those numbers, I  19           don't know.  20       BY MR. MEYERS:  21           <b>Q. Did you provide numbers to the EPA?</b>  22           A. We gave them the same spreadsheet that  23           we had at the federal trial.  24           <b>Q. In 2016, here it says that the sewer</b>  25           <b>district exported 37 million -- more than 37</b></p>
<p style="text-align: center;">Page 34</p> <p>1       <b>need to keep accurate or meticulous records of</b>  2       <b>flows and pond volumes?</b>  3           MS. BRONSON: Object to form. It says  4           meticulous, nothing about accurate.  5           MR. MEYER: Mr. Edwards, you can answer the  6           question.  7           THE WITNESS: We do keep records.  8       BY MR. MEYER:  9           <b>Q. What are the quality of your records,</b>  10           <b>Mr. Edwards?</b>  11           MS. BRONSON: Object to form.  12           THE WITNESS: I think they cover a lot of  13           history with pond levels, pumping capacities,  14           irrigation pumps.  15       BY MR. MEYER:  16           <b>Q. Are they accurate?</b>  17           A. It's a very relative term when you talk  18           about pump efficiencies and metering. There's  19           always some in here, discrepancy and the accuracy  20           of meters.  21           <b>Q. Do you see here in table 1, do you see</b>  22           <b>this table here?</b>  23           A. Yes.  24           <b>Q. Do you see in 2015 here it says that</b>  25           <b>there's a difference of 40.171 million gallons per</b></p>	<p style="text-align: center;">Page 36</p> <p>1       <b>million gallons more than it brought in; is that</b>  2       <b>correct?</b>  3           MR. PETTIS: I'm also going to object to  4           characterization of this, you know. We all know  5           that these aren't EPA's numbers.  6           MS. BRONSON: Same objection.  7           MR. MEYER: Mr. Edwards, you can answer the  8           question.  9           THE WITNESS: This is -- in the copy I've  10           got, these numbers came from your expert where  11           you've got privacy there. So they -- it looks to  12           me like they used what your expert had concluded in  13           the district court trial.  14       BY MR. MEYER:  15           <b>Q. So you disagree with these numbers?</b>  16           A. I think it was shown in court  17           that -- and the court disagreed with the  18           conclusions that your expert came up with. So I  19           don't think EPA came up with these calculations as  20           I look at them.  21           <b>Q. Do you see here where it says there are</b>  22           <b>significantly more variation with each year?</b>  23           MR. PETTIS: Again, I'm going to object to  24           your characterization of this report.  25           MS. BRONSON: Same. And you're not reading</p>

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<p>1 the entire sentence or the entire report. So  2 you're cherry picking things from information you  3 provided to EPA. I'm not sure what you want this  4 witness to testify about.</p> <p>5 BY MR. MEYER:</p> <p>6     <b>Q. Mr. Edwards, have you reviewed the mass  7     balance of the Big Sky Water and Sewer District for  8     the years 2015 through 2020?</b></p> <p>9     MR. PETTIS: Object to form.</p> <p>10    MS. BRONSON: Join. And I also think that's  11    outside the scope.</p> <p>12    MR. MEYER: You can answer the question.</p> <p>13    THE WITNESS: We provided data to both DEQ  14    and EPA from the spreadsheet that looks at total  15    flows, total irrigation out, total water pumped up  16    the hill in Spanish Peaks and Yellowstone Club.</p> <p>17    BY MR. MEYER:</p> <p>18    <b>Q. And using your own numbers that you  19    provided the EPA and DEQ, don't those numbers show  20    that in 2015 and 2016 Big Sky Water and Sewer  21    District exported millions of gallons more of  22    treated effluent than it actually brought into the  23    plant?</b></p> <p>24    MS. BRONSON: Object to form, foundation and  25    again, mischaracterizing.</p>	<p>1 and DEQ – is not true, that in 2015 and 2016 the  2 sewer district exported more effluent than it  3 brought in? Now I understand that the defendants  4 and the DEQ are going to object. That's fine. We  5 can -- we'll do that on the record. No problem.  6 But, Mr. Edwards, isn't it true in 2015 and 2016,  7 the sewer district exported millions of gallons  8 more than it brought in according to the water  9 balance?</p> <p>10    MS. BRONSON: Object to form. Same  11    objections as before. And also, I'd like to  12    clarify that you said defendants and the district  13    is no longer a defendant in this case.</p> <p>14    MR. PETTIS: Same objections.</p> <p>15    MR. MEYER: Please answer, Mr. Edwards.</p> <p>16    THE WITNESS: I don't have the spreadsheet  17    up, so I don't know.</p> <p>18    MR. MEYER: I'm going to take about two  19    minutes and find the spreadsheet and then we can do  20    the calculations.</p> <p>21    MS. BRONSON: John, we're not going to  22    testify about calculations or about the  23    spreadsheet. Again, this is outside of the scope.  24    It says the topics that you have asked about are  25    EPA and DEQ's investigations in the last five</p>
<p style="text-align: center;">Page 38</p> <p>1     MR. PETTIS: Same objections.</p> <p>2     MS. BRONSON: And outside the scope of EPA  3     and DEQ's investigation.</p> <p>4     MR. MEYER: Mr. Edwards, please answer the  5     question.</p> <p>6     THE WITNESS: Restate the question.</p> <p>7     MR. MEYER: Can I have the reporter please  8     reread the question.</p> <p>9        (Whereupon, the last  10        question was read back.)</p> <p>11    MS. BRONSON: Same objections.</p> <p>12    MR. PETTIS: Same.</p> <p>13    THE WITNESS: Am I supposed to answer?</p> <p>14    MS. BRONSON: You can answer.</p> <p>15    John, we are going to cut this off  16    because it's just -- again, this is not about the  17    investigation. You're asking him to interpret  18    data. What EPA did with it is not -- he has no  19    knowledge.</p> <p>20    THE WITNESS: That's correct.</p> <p>21    BY MR. MEYER:</p> <p>22    <b>Q. What's correct, Mr. Edwards?</b></p> <p>23    A. We provided data to EPA and DEQ for  24    their investigations.</p> <p>25    <b>Q. So using the data that you provided EPA</b></p>	<p style="text-align: center;">Page 40</p> <p>1     years. Everything about those is in -- that we  2     know -- that this witness knows is in these  3     reports. We're not going to start rehashing what  4     happened at the trial two years ago.</p> <p>5     MR. MEYER: Okay. So --</p> <p>6     MS. BRONSON: I'm not going to let the  7     witness testify to that. That is outside the scope  8     of this deposition.</p> <p>9     BY MR. MEYER:</p> <p>10    <b>Q. Mr. Edwards, you did not provide a water  11    balance to the EPA or DEQ; is that correct?</b></p> <p>12    A. I provided the same spreadsheet that was  13    in both trials, federal and district court.</p> <p>14    <b>Q. And does the EPA or DEQ report have any  15    of your water balance, any of your data?</b></p> <p>16    MR. PETTIS: Object to form.</p> <p>17    MR. MEYER: You can answer.</p> <p>18    THE WITNESS: I assume they used the data we  19    gave them in the course of their investigations.</p> <p>20    BY MR. MEYER:</p> <p>21    <b>Q. And you see table 1 here in the EPA  22    report?</b></p> <p>23    A. Yes.</p> <p>24    <b>Q. You see where it says "privacy"?</b></p> <p>25    A. Yes.</p>



<p style="text-align: center;">Page 45</p> <p>1           MR. PETTIS: Same objection to form and 2           foundation.</p> <p>3           MR. MEYER: Are you instructing your client 4           not to answer?</p> <p>5           MS. BRONSON: Yes. I think that we've given 6           you a lot of leeway to --</p> <p>7           MR. MEYER: Okay.</p> <p>8           MS. BRONSON: -- ask -- you've asked many 9           questions that are outside the scope of the 10           designated topics and we're not going to continue.</p> <p>11           MR. MEYER: Okay. I think the deposition is 12           done.</p> <p>13</p> <p>14           (Whereupon, the taking 15           of this Zoom deposition 16           was concluded at 11:15 a.m.)</p> <p>17</p> <p>18</p> <p>19           SIGNATURE RESERVED</p> <p>20</p> <p>21</p> <p>22           * * * * *</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">Page 47</p> <p>1           C E R T I F I C A T E 2           STATE OF MONTANA ) 3                           ) ss. 4           COUNTY OF GALLATIN ) 5           I, Marla Jeske, Court Reporter - Notary 6           Public, CSR, in and for the County of Gallatin, 7           State of Montana, do hereby certify: 8           That the witness in the foregoing 9           deposition was by me first duly sworn to testify 10           the truth, the whole truth and nothing but the 11           truth in the foregoing cause; that the deposition 12           was then taken before me at the time and place 13           herein named; that the deposition was reported by 14           me in shorthand and later transcribed into 15           typewriting under my direction, and the foregoing 16           pages contain a true record of the testimony of the 17           witness, all done to the best of my skill and 18           ability.</p> <p>19           IN WITNESS WHEREOF, I have hereunto set 20           my hand and affixed my notarial seal this ____ day 21           of _____, 2024.</p> <p>22</p> <p>23           _____ 24           Notary Public for the State of Montana 25           residing at: Bozeman                  My commission expires: February 04, 2027</p>
<p style="text-align: center;">Page 46</p> <p>1           DEPONENT'S CERTIFICATE 2           PAGE     LINE     CORRECTION 3 4 5 6 7 8 9 10 11 12 13</p> <p>14           I, RON EDWARDS, the deponent in the 15           foregoing deposition, DO HEREBY CERTIFY, that I 16           have read the foregoing -46- pages of typewritten 17           material and that the same is, with any corrections 18           thereon made in ink on the correction sheet and 19           signed by me, a full, true and correct transcript 20           of my oral deposition given at the time and place 21           hereinbefore mentioned.</p> <p>22           DATED this _____ day of _____, 2024.</p> <p>23 24 25           _____                  RON EDWARDS</p>	

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