

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

	.	Chapter 11
IN RE:	.	
	.	Case No. 18-12378 (LSS)
WELDED CONSTRUCTION, LP,	.	
et al,	.	
	.	824 Market Street
	.	Wilmington, Delaware 19801
Debtors.	.	
.	Friday, August 25, 2023
WELDED CONSTRUCTION, LP,	.	
	.	Adv. Proc. No. 19-50194 (LSS)
vs.	.	
	.	
THE WILLIAMS COMPANIES,	.	
INC., WILLIAMS PARTNERS	.	
OPERATING, LLC, and	.	
TRANSCONTINENTAL GAS PIPE	.	
LINE COMPANY, LLC.	.	
.	

TRANSCRIPT OF TRIAL - DAY FOUR
BEFORE THE HONORABLE LAURIE SELBER SILVERSTEIN
CHIEF UNITED STATES BANKRUPTCY JUDGE

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1 (Proceedings commence at 9:44 a.m.)

2 (Call to order of the Court)

3 THE COURT: Please be seated.

4 Okay. Counsel.

5 MS. EWALD: Thank you.

6 Good morning, Your Honor.

7 THE COURT: Good morning.

8 MS. EWALD: May I proceed --

9 THE COURT: You may.

10 MS. EWALD: -- with my examination? Thank you.

11 MARCUS HOOD, WITNESS FOR THE DEBTORS/PLAINTIFF, PREVIOUSLY

12 AFFIRMED, RESUMES STAND

13 CONTINUED CROSS-EXAMINATION

14 BY MS. EWALD:

15 Q Good morning, Mr. Hood.

16 A Good morning.

17 Q Mr. Hood, you understand that, in this proceeding,
18 Welded is claiming a schedule bonus entitlement from Transco,
19 correct?

20 A I understand.

21 Q You understand that there is a series of schedule
22 bonuses being claimed up to \$12 million. Is that right?

23 A If that's the case, then I agree.

24 Q And during the project, Welded never requested time
25 extensions related to the issues that are being sought, that

1 the schedule bonus is being sought for, correct?

2 A We -- we made notification to the trends, but the final
3 EWR was -- was not processed.

4 Q And at the time that you submitted the letter seeking or
5 the invoice seeking the final fixed-fee payment in 2019,
6 there was no request for a schedule bonus in that letter,
7 either, correct?

8 A That letter did not request it.

9 Q And the schedule bonus that Welded is seeking is based
10 in part assoc -- with regard to delays to water body
11 crossings. Is that right?

12 A I'm -- I'm not familiar with the -- the calculation of -
13 - of the delay -- what we're -- we're seeking for the delay.
14 I'm -- I'm not familiar with how those are calculated.

15 Q And Mr. Hood, I'm not asking you -- I appreciate that.
16 I'm not asking you about the calculation.

17 I'm asking you about the causes for these delays. The
18 alleged per -- the alleged delays are related to permit
19 delays, correct?

20 A I -- again, I -- I am not familiar with that claim.

21 Q And with -- so with -- you're not familiar that it's an
22 alleged delay with regard to the Pequea Creek crossing?

23 A There was a -- there were delays, yes. I'm -- what I'm
24 saying is I'm not familiar with the -- the claim.

25 Q And Mr. Hood, prior to the start of construction, the --

1 all of the permits for the road and water body crossings were
2 in place, correct?

3 A No. No, they were not.

4 Q Well, let's turn to my Exhibit 394 in your book.

5 And Mr. Hood, we're looking at Exhibit 394. It's an
6 email from you to various people on the project. It
7 indicates in the top -- or the middle email indicates "NTP
8 has arrived." Do you see that? On September 25th.

9 A On the first page?

10 Q Yes. Yes, sir.

11 (Pause in proceedings)

12 A Okay. I see that. Yes, I see the -- the email.

13 Q And do you see at the top it says, "See Attachment 2,
14 FERC NTP"?

15 A Yes.

16 Q And "FERC NTP," that refers to the Federal Energy
17 Regulation -- Regulatory Commission notice to proceed?

18 A That's correct.

19 Q And if we look through the information that is provided
20 here -- for example, we see -- at Page 47, we see the
21 crossing schedule for the water body crossings. Do you see
22 that?

23 A (No verbal response)

24 Q Turn to Exhibit D-394 at Page 48. We see the water body
25 crossing schedule.

1 (Pause in proceedings)

2 A Yes, I see that.

3 Q And the water -- and the information provided by FERC in
4 the notice to proceed indicated the exact water bodies, it
5 indicated where they were located. It advised the crossing
6 methodology. Is that correct, Mr. Hood?

7 A The -- yeah, it indicated -- it indicated the
8 methodology for each, yes.

9 Q So the -- the method for crossing these water bodies was
10 included in the original permit that was issued prior to the
11 start of construction, to your knowledge, correct?

12 A It -- it -- a proposed method was -- was included. It
13 may not have been the -- the exact method that was used at
14 the end of the day, but a proposed method was -- was
15 included.

16 Q And the proposed method was the permitted method,
17 correct? Or the -- let me restate that, Mr. Hood. I'm
18 sorry.

19 The information we see here in Exhibit 394 was the
20 methodology for crossing these water bodies that had been
21 approved in connection with the permit issued by FERC and the
22 Commonwealth of Pennsylvania, correct?

23 (Pause in proceedings)

24 A I can -- I can say that the -- the proposed method was
25 there. I -- I don't know that they were all approved at --

1 at the time. But I know there was an anticipated method
2 associated with each crossing.

3 Q And sitting here today, you just don't know whether or
4 not they had been approved?

5 A I -- I don't recall, from six years ago, what -- what
6 had been approved or what had not at that -- at this point in
7 time.

8 Q Okay. Well, Welded was a co-permittee on the permit,
9 correct?

10 A On a permit from Pennsylvania, yes.

11 Q And if we turn to Page 99 of Exhibit 394, we see that
12 co-permittee agreement where Welded assumed joint and several
13 responsibility under the erosion and sedimentation control
14 permit.

15 A That's correct.

16 Q And Mr. McDowell signed that on behalf of Welded
17 Construction, correct?

18 A Mr. McDowell did sign, yes.

19 Q And at this time, in 2017, Mr. Hood, Welded had some
20 significant experience in constructing pipelines in the
21 Commonwealth of Pennsylvania, correct?

22 A Quite a number of years, yes.

23 Q And ultimately, do you recall how many notices of
24 violation Welded received in conjunction with the various
25 permits on the job?

1 A I do not know the number, no.

2 Q Do you -- would you be surprised to hear it was more
3 than 100 notices of violation?

4 A I -- I -- I don't recall the number. I -- it wouldn't
5 surprise me one way or another, I -- but I don't -- I just
6 don't recall the number.

7 Q And Mr. Hood, in connection with the building that
8 Welded submitted to Transco, there was not a single labor
9 hour that was deducted by Welded related to these notices of
10 -- any notices of violation of the permits, correct?

11 A No deductions were made.

12 Q And in fact, no deductions were made to any of the labor
13 charges for environmental issues, correct?

14 A No deductions were made for environmental issues? I
15 don't -- I don't recall a necessity to -- to make deductions.

16 Q And no deductions were made for any nonconforming work
17 that Welded identified, correct?

18 A Again, there were no -- there were no reasons for
19 deductions.

20 Q And no deductions were made by Welded in connection with
21 any safety work stoppages.

22 A Also, again, there were no reasons for any deductions
23 for those accounts.

24 Q And you would agree with me that every dollar of -- for
25 every labor hour that was recorded on the project by Welded

1 was charged to Transco, correct?

2 A All work performed on -- on the project was charged to
3 Transco in -- in accordance with the -- Section 8. There
4 were no -- no deductions.

5 Q And I'm just going to turn back briefly, Mr. Hood, to
6 the issue of standby equipment for NTP delay.

7 As the person on behalf of Welded who was responsible
8 for ensuring invoice backup for the A -- for this particular
9 equipment from third parties, what did you do to go out and
10 find rental invoices or backup for the rented equipment in
11 that -- in those charges?

12 A For the pre-NTP --

13 Q Yes, sir.

14 A -- equipment? I -- I relied on our equipment team in --
15 in Perrysburg to -- to provide the -- the equipment counts,
16 the days that they were on and/or off rent.

17 Q And was Mr. Andy Mack the equipment manager in
18 Perrysburg?

19 A Yes.

20 Q And Mr. Hood, if you would turn to Exhibit D-414.

21 (Pause in proceedings)

22 Q And Exhibit D-414 is an exchange between Mr. McDowell
23 and Mr. Mack.

24 Mr. McDowell is the CFO, correct?

25 A That is correct.

1 Q And he's asking Mr. Mack, in October of 2017:

2 "Also, if we are audited by Williams, how do we
3 substantiate the charges for non-Welded-owned
4 standby charges. Does your group have the
5 invoices?"

6 Do you see that?

7 A I see that.

8 Q And in response, Mr. Mack said:

9 "We need to discuss in the morning."

10 Were you involved in any conversations with regard to
11 this invoice exercise?

12 A I was not involved in this discussion, no.

13 Q And ultimately, there are no invoices for these rental
14 charges provided to Transco, correct?

15 A I -- I don't believe that backup was requested. The --
16 the backup for the pre-NTP that was provided was that Excel
17 sheet that, again, provided the number of pieces of equipment
18 and -- and the dates on and off rent.

19 Q Well, and we saw yesterday in a letter that there was a
20 request for backup from Transco, correct?

21 A Yes, we saw that.

22 Q And in response -- the only thing that was submitted in
23 response was the Excel spreadsheet, to your knowledge.

24 A To my knowledge, that -- the Excel spreadsheet was
25 submitted.

1 Q And one more issue on the topic of this standby
2 equipment.

3 Mr. Hood, I think approximately \$4.7 million of the
4 standby equipment were for the Caterpillar 594 pipe-layers,
5 correct?

6 A If -- if that's the number on the sheet, then that is
7 correct.

8 Q And approx -- and there were some additional pipe-
9 layers, 587s. Does that sound familiar?

10 A There were some other pipe-layers, yes.

11 Q And in November of 2017, were there -- were delays in
12 getting these pipe-layers to the ASR job identified as a
13 critical issue by Welded?

14 A Not those particular pipe-layers. Those -- those had
15 already been committed to -- to the project.

16 Q And of the pipe-layers that Welded owned, 24 of them, 24
17 of the 29 had been committed to the project according to the
18 standby delay invoice, correct?

19 A Did you say 24 of 29?

20 Q Twenty-four of twenty-nine.

21 A What's the question? I'm --

22 Q I said, of the pipe -- the five ninety-five -- four
23 pipe-layers that Welded owned --

24 A Uh-huh.

25 Q -- the Excel spreadsheet that we have looked at

1 identified 24 of them that were committed to the ASR project,
2 correct?

3 A Okay.

4 Q And I think five of them were rented to Precision. Is
5 that right?

6 A Five of the twenty-four or five additional ones?

7 Q Five additional were rented to Precision, correct?

8 A I don't -- there were -- there were some tractors that
9 were rented to Precision. They're -- they're shown on that
10 list where -- when -- you know, for a period of time, they go
11 off of the pre-NTP list while they're -- while they're on
12 rent to others.

13 Q And if we turn to -- if we could turn to Exhibit D-566
14 and D-566A. We're going to look at the critical issues
15 meeting.

16 Do you recall, on 11/26/2017, that there was a critical
17 issues meeting, Mr. Hood?

18 A I -- I -- I don't recall the meeting, no.

19 Q And at this point, the NTP had been issued about two
20 months earlier for the ASR project, correct?

21 A That's correct.

22 Q And attached to 566 is D-566A, is the attachment that
23 went along with that critical issues list that you were
24 copied on. Do you see that?

25 A Yes.

1 Q And I'd like to turn to Page 4 of the critical issue
2 list. And at the bottom of Page 4, there is a critical
3 issues that have been ascribed to Mark. Is that Mark Van
4 Sciver?

5 A Mark Van Sciver, our -- our equipment superintendent.

6 Q And is the equipment superintendent on ASR?

7 A He was the equipment superintendent for Welded.

8 Q Welded writ large?

9 A For -- he had responsibilities for all -- all Welded
10 equipment.

11 Q And in the -- under critical issues, it indicates:

12 "594 repairs in Kidder are behind schedule."

13 So some of the 594 at lease, these Caterpillar 594 pipe-
14 layers, are still in the repair shop, correct?

15 A I don't know what "Kidder" is, but ...

16 (Pause in proceedings)

17 Q And the critical issues list identifies:

18 "594 repairs in Kidder are behind schedule and
19 continues to be behind schedule at this time."

20 Correct?

21 A I see that, yes.

22 Q And sitting here today, you don't know who Kidder is and
23 how many of the five -- let me ask that in a non-compound
24 way.

25 You don't know who Kidder is, correct?

1 A I don't -- I -- I don't recognize the name Kidder at
2 all.

3 Q And you don't know how many of the 594 pipe-layers were
4 still in the repair shop --

5 A I don't --

6 Q -- at this time, correct?

7 A I do not. I -- I know a number of them had been
8 delivered to the job site back in September. I -- there may
9 have been some that -- that had not yet been delivered.

10 Q And when they were delivered to the job site in
11 September, that was part of the pre-mobilization process,
12 correct?

13 A Part of the mobilization process, yes.

14 Q I -- thank you for that, Mr. Hood. I appreciate that it
15 is "mobilization," not "pre-mobilization."

16 And underneath that, it says:

17 "New 87s to be delivered are now behind schedule."

18 Do you see that?

19 A I see that.

20 Q And are these some of the new 587s that were being
21 identified in August to the Mr. Sztroin?

22 A I think those were excavators we were discussing at that
23 time -- or was it sidebooms that we were discussing back in
24 August?

25 Q The document is in the record, Mr. Hood. I will submit

1 to you that I believe it was 587s, but your recollection is
2 what I'm more interested in.

3 A Well, if we can -- if you don't mind taking a look at
4 that, and then that will -- that will confirm that -- if it
5 was excavators or sidebooms we were talking about at the
6 time.

7 Q And at least as of November 26th, 2017, nine units in
8 November, two being built in December. That indicates that,
9 of these new 587s, that some of them were coming in November,
10 some of them were being built in December. Do you see that?

11 A I see that.

12 Q And so, as far as pipe-layers that were coming to ASR,
13 at this time, the pipe-layers are coming from the TransCanada
14 Leach project, according to this document, correct?

15 A Some of them. The last item reflects moving from Leach.
16 The second-to-last is -- it looks like new equipment on -- on
17 leases.

18 Q And so the pipe-layers that were moving from Leach to
19 ASR, they hadn't yet arrived on the project, correct?

20 A They -- I mean, there could have been some that arrived.
21 This -- this is -- this is talking about some number of pipe-
22 layers, it doesn't specify how many, but --

23 Q Well, it --

24 A -- it talks --

25 Q -- first --

1 A -- about -- it talks about ten of them coming the next
2 week -- or this week.

3 Q In fact, it says the first ten should move this week,
4 correct?

5 A Okay. Yes.

6 Q And so, prior to November of '26 [sic], pipe-layers, at
7 least those coming from Leach to ASR, were not available for
8 doing work on the ASR project, correct?

9 A The ones that were on Leach at the time were -- yeah,
10 they were still in transit to the -- to the project.

11 (Pause in proceedings)

12 MS. EWALD: Your Honor, at this time I apologize.
13 I'd like to move to admit Exhibits D-394, D-418, and 566 and
14 566A, which is the meeting notes.

15 MR. GUERKE: We object to admitting 414 into
16 evidence. The witness said he wasn't on this email and he
17 wasn't familiar with the discussion, so on that ground, we
18 object.

19 On the -- was the other one 566?

20 THE COURT: Well, let's do one at a time.

21 MR. GUERKE: Yes, okay.

22 MS. EWALD: Your Honor, with --

23 THE COURT: Any response?

24 MS. EWALD: Your Honor, with regard to 414, Mr.
25 Hood has testified that he was the person responsible on

1 behalf of Welded to collect all invoices, to ensure that all
2 backup documentation was -- that he could find was produced
3 to Transco in support of the charges. And this document is
4 part of the Welded team looking for invoices and not finding
5 them.

6 THE COURT: I don't know that that characterization
7 of D -- let me make sure I'm looking at the right thing.

8 MS. EWALD: It is D-414, Your Honor. And Mr.
9 McDowell is saying:

10 "If we are audited by Williams, how do we
11 substantiate" --

12 THE COURT: It's a question.

13 MS. EWALD: "-- the charges."

14 THE COURT: I don't know the answer to the
15 question, so I sustain the objection. It's not his email and
16 he wasn't in the conversation. Sustained.

17 Okay. What about -- there was no objection -- what
18 about 394? That was the first one I heard.

19 MS. EWALD: Yes. 394, Your Honor, was the --

20 THE COURT: I'm sorry. I don't know that it's
21 objected to yet.

22 MR. GUERKE: 394, no objection, Your Honor.

23 THE COURT: Okay. That one is admitted.

24 (DX-394 received in evidence)

25 THE COURT: And now we're at 566 and 566A.

1 MR. GUERKE: No objection, Your Honor.

2 THE COURT: Okay. Then those are admitted.

3 (DX-566 and DX-566A received in evidence)

4 THE COURT: I think that was all of them.

5 MS. EWALD: Yes.

6 THE COURT: Okay.

7 MS. EWALD: Thank you, Your Honor.

8 BY MS. EWALD:

9 Q Mr. Hood, you're aware that, in this proceeding, there
10 is a dispute between the parties regarding the propriety of
11 the specialty versus bill -- specialty equipment that was
12 billed to Transco, correct?

13 A I understand that, yes.

14 Q And as part of your job, you had a team of people
15 working together to identify what specialty equipment, what
16 was billable equipment, correct?

17 A Correct.

18 Q And there were lists of specialty equipment that were
19 circulated to the Welded personnel to assist in that
20 exercise, correct?

21 A Well, I don't know that they were circulated. The --
22 the cost engineers created lists based on what -- what they
23 were seeing to -- to guide them in their decision-making.

24 Q And if you had -- and if there were any unresolved
25 issues, you were the final arbiter of what was specialty

1 equipment and what was non-billable, correct?

2 A Yeah. The -- the cost engineers would -- would first
3 consult the superintendent and figure out what it was, what
4 the -- what the purpose of the equipment was and -- and which
5 -- which category it belonged in. If there were questions,
6 they would come to the -- the Mount Joy office and to the --
7 either the project controls manager or myself for additional
8 guidance.

9 Q And if we could turn to Exhibit D-456. And I appreciate
10 I'm skipping several documents within my binder, Mr. Hood.
11 So, if you need any help in finding it, please let me know.

12 And what is identified as Exhibit D-456 is an email from
13 Mr. Pangemanan to a group of personnel at Welded, dated
14 October 13, 2017.

15 And is this the group of people that you just described
16 that was looking at what constituted specialty equipment?

17 A Mr. Pangemanan was a cost engineer on Spread 7.

18 Q And Mr. Pangemanan attaches:

19 "The ASR project specialty equipment list for your
20 reference."

21 Do you see that?

22 A Yes. He -- he attaches definitions and some -- some
23 equipment that could be considered specialty.

24 Q And to clarify, the specialty equipment is what was
25 allowed to be billed to Transco under the contract, correct?

1 A It was -- all specialty equipment was -- was allowed to
2 be billed to Transco.

3 Q And in October 13, 2017, the list that we see attached
4 at D-456 is the list of specialty equipment that was provided
5 for reference to the cost engineers, the superintendents, and
6 Mr. Van Sciver, the equipment manager, correct?

7 A Are we talking about Page 2, is that what we're talking
8 about?

9 Q Yes. Yes, sir.

10 A Okay. That's -- okay. Yeah, page -- Page 2 is --
11 provides the definition of "specialty" and then some examples
12 of -- of items that could fall into that category.

13 Q And this is a list that was provided for reference to
14 the team that was determining what was specialty equipment at
15 this time, correct?

16 A Yes. It was provided from Mr. Pangemanan.

17 MS. EWALD: And Your Honor, I'd like to move for
18 the admission of D-456.

19 MR. GUERKE: We object, Your Honor. Mr. Hood is
20 not on this email and it appears this is a preliminary list.

21 MS. EWALD: Your Honor, the -- this is the list of
22 specialty equipment that Mr. Hood test -- and the people that
23 Mr. Hood testified were making the decisions with regard to
24 what was specialty equipment that could be billed to Transco
25 under the project.

1 THE COURT: It's sort of a different question. Are
2 you just asking him if this email was sent to these people?

3 MS. EWALD: This is the -- this is the list --

4 THE COURT: Is that all you're asking him?

5 MS. EWALD: The -- what I'm asking is whether this
6 was the list in October of 2017 that Welded was using to
7 determine what was specialty equipment.

8 THE COURT: That's a different -- there's a whole
9 bunch of different questions going on in there.

10 With respect to this document. Okay? Are you
11 asking him -- first, I did hear you ask him is this your
12 team.

13 MS. EWALD: Yes.

14 THE COURT: Okay. That's one question. I guess he
15 can answer that. And if that's what you want this document
16 to go in for, that that's this team, fine.

17 But what's your next question then? Does he know
18 if this was sent?

19 MS. EWALD: Well, I don't think there's any
20 question of authenticity, Your Honor, or that it was -- I
21 don't think the objection is that it was or wasn't sent to
22 the team. It is relevant evidence with regard to Welded's
23 view of the list of specialty equipment for the team that was
24 charging Transco for it.

25 THE COURT: Okay. Give me the objection again.

1 MR. GUERKE: Two-part objection, Your Honor:
2 Mr. Hood is not a part of this communication
3 string.

4 THE COURT: Uh-huh.

5 MR. GUERKE: And second, it's a preliminary list
6 and it's been characterized as like the list.

7 THE COURT: Well, isn't that something that should
8 be explored on cross --

9 MR. GUERKE: Sure, I --

10 THE COURT: -- if this is a preliminary list.

11 Yeah, I don't -- this is the trouble I'm having
12 with some of the questions that are being asked about
13 documents, but okay.

14 I'm going to permit to be admitted for purposes of
15 how he testified about it, and that's -- whether it's the way
16 you're characterizing it or not is a whole different issue.
17 So I'll admit it for that purpose, so you can ask -- Welded
18 can ask any questions on it -- they want on redirect.

19 (DX-456 received in evidence)

20 MS. EWALD: Thank you, Your Honor.

21 BY MS. EWALD:

22 Q And Mr. Hood, it indicates in the -- Mr. Pangemanan's
23 email that there was a code of account set up for specialty
24 equipment. Are you aware of any code of account set up for
25 specialty equipment?

1 A There was a code of accounts for the entire project.
2 That -- I mean, that's how cost engineering is -- is done.
3 You need -- you segregate costs into the -- the different
4 categories for reporting purposes.

5 Q And did you rely upon this code of accounts when you
6 made final determinations with regard to the specialty
7 equipment charged to Transco?

8 A I mean, a code of accounts is just a numbering system,
9 so it -- a numbering system was used for the reporting of --
10 of costs on the project.

11 Q And did you use the code of accounts to determine what
12 specialty equipment should be charged to Transco?

13 A Well, the entire project used the code of accounts. I
14 mean, it was -- it's a -- it's a system -- it's just a
15 numbering system, that's all it is.

16 Q And my question was a little more specific to you, Mr.
17 Hood. Did you ever look at the code of accounts?

18 A I mean, at -- we looked at -- at cost reports that --
19 that contained the -- the coding, so I mean, that -- yes.

20 Q And Mr. Hood, during this time in October of twenty
21 eight -- or 2017 -- excuse me -- the issue of the
22 profitability associated with equipment fee was being
23 monitored by Welded, correct?

24 A The -- what was the timing? And what was the question
25 again?

1 Q In October of 2017, the profitability of the equipment
2 fee multiplier was being monitored by Welded, correct?

3 A What's your -- is there a reference document that we're
4 -- that we're talking about? What are we --

5 Q Certainly. I can direct your attention, Mr. Hood, to
6 Exhibit D-493.

7 And this is an email chain, Mr. Hood, between yourself,
8 Grindinger, Mr. McDowell at Welded. And the subject is
9 equipment fee ratio. Do you see that?

10 A Yeah, I see the email. Yes.

11 Q And at -- we'll start with Page 2, at the top of Page 2
12 of the Exhibit 493. Mr. Grindinger is reporting to you and
13 others that:

14 "Spread 5 fee-to-cost ratio went positive
15 yesterday."

16 Do you see that?

17 A I see the email, yes.

18 Q And would that indicate that -- the fee-to-cost ratio
19 would be whether there was any profitability associated with
20 the provision of the included equipment, correct?

21 A No, that is not correct.

22 Q So that doesn't address -- the fee-to-cost ratio being
23 positive doesn't indicate that the revenue from the equipment
24 fee is more than the cost of the equipment?

25 A The -- at -- at that particular snapshot day and time,

1 that -- that may have been the case.

2 Q And that was something that was being reported to you on
3 the project, correct?

4 A I'm -- I'm copied on the email here.

5 Q And that was being reported from Mr. Grindinger, who
6 was, at the time, the project controls manager, correct?

7 A That is correct.

8 MS. EWALD: And Your Honor, I'd move to admit
9 Exhibit 493, please.

10 MR. GUERKE: No objection.

11 THE COURT: It's admitted.

12 (DX-493 received in evidence)

13 BY MS. EWALD:

14 Q Mr. Hood, you were one of the Bechtel seconded employees
15 that were charged to Transco, correct?

16 A That's correct.

17 Q And you would agree with me that Bechtel is not an
18 agency that provides temporary hires to contractors in the
19 construction industry, correct?

20 A I don't necessarily think that's correct. We --

21 Q Well, Bechtel is not an agency like the Professional
22 Talent Acquisition Group, correct?

23 A We -- we have, in the past, had those -- that ability to
24 do -- to do exactly that.

25 Q And the ability to do exactly that is to act as --

1 A Provide personnel.

2 Q And -- but do you provide -- but is Bechtel in the
3 business of providing personnel to the group of general
4 contractors in the industry?

5 A I -- I wouldn't say they could not do that.

6 Q And here, Bechtel was only providing seconded employees
7 to Welded, correct?

8 A In the -- in this case, with the -- the agreement
9 between Welded and -- and Bechtel, it was to provide
10 personnel to -- to Welded.

11 Q And with regard to the Bechtel multiplier that we have
12 heard about, the 50 percent multiplier, that amount was not
13 paid to you, Mr. Hood, on your wages and payroll additives,
14 correct?

15 A In a -- in a roundabout way, some of it could have been
16 through -- you know, because that -- that multiplier, again,
17 covers a lot of -- a lot of things like -- like vacation
18 time, like, you know, paid time off, holidays, 401(k)
19 benefits, so -- so that -- they're not paid directly in a --
20 in a -- in a weekly paycheck, but they are employee benefits.
21 And that's -- that's -- that's -- the multiplier is how that
22 is recouped.

23 Q Well, the multiplier is on both wages paid to the
24 employee, correct? The multiplier was applied to the wages
25 that were paid to the Bechtel employees, correct?

1 A That's what I understand, yes.

2 Q And the multiplier was also applied to all Bechtel
3 payroll additives, correct?

4 A That -- can we -- can we look at it and see what it
5 says?

6 Q Certainly, Mr. Hood.

7 If we could turn to Exhibit D-517, 005. Sorry, the 005
8 is incorrect. D-517. This is a copy of an ASR Bechtel
9 October 2017 invoice. Do you see that?

10 A Yes.

11 Q And as -- in your role as the project manager, this
12 would have been one of the invoices you were responsible for
13 ensuring -- or let me step back, Mr. Hood.

14 These Bechtel invoices, at some point, were charged to
15 Transco during the project, correct?

16 A Yes, they were.

17 Q And as the project manager, you were responsible for
18 ensuring that they were included in the invoicing to Transco,
19 correct?

20 A They -- as backup documentation, they would -- they
21 would be included.

22 Q And if we would turn to Page 6 within -- or I apologize
23 -- Page 4 within this Bechtel invoice.

24 And I'd like to focus in, Mr. Hood, on -- on your
25 information that's set forth here in this spreadsheet. If

1 you -- and I appreciate it may be a little hard to read. But
2 it indicates that you -- for the pay period 8 October 2017, I
3 believe it indicates that you have recorded 80 standard hours
4 and 40 overtime hours to the ASR project. Is that right?

5 A That looks right.

6 Q And so, for standard wages billed to the ASR project, it
7 was \$7,400, and for overtime wages it was \$3,700. Is that
8 right?

9 A That looks -- that looks correct.

10 Q And then we see the item under Column 5, which is "pay
11 adds." Do you see that?

12 A Yes.

13 Q And those pay adds are 4,184.77?

14 A I -- I see that, yes.

15 Q And those pay adds, according to the double asterisk
16 under Item 5 in the bottom of the page, are the "Bechtel
17 payroll additives detailed on Schedule 2(a)(2)." Do you see
18 that?

19 A I see the note, yes.

20 Q And if you turn to Page 6 within the invoice, you see,
21 for that week, October 8th, 2017, that there were standard
22 additions to your payroll and overtime additions to your
23 payroll, correct?

24 A I see that, yes.

25 Q And that's for the items that you mentioned: Vacation,

1 401(k), health insurance, et cetera, correct?

2 A I -- I mean, I -- it doesn't say that here. That's --
3 that's generally what payroll adds is -- is covering.

4 Q And if you go back to Page 4 of Exhibit D-517, we see
5 that, under Item 6, the multiplier amount has been applied to
6 both the -- both -- to all of standard wages, overtime wages,
7 and the pay adds, correct?

8 (Pause in proceedings)

9 A The multiplier amount being which --

10 Q The multiplier --

11 A -- which number?

12 Q -- amount being the 7,696.99. And that is the 50
13 percent multiplier. And based on the math, it's been applied
14 to standard wages, overtime wages, and the pay adds, correct?

15 A If -- if -- if that's the math calculation, I -- I
16 believe you.

17 Q And as project manager, you're aware that then there was
18 an additional equipment fee charged -- or applied to all of
19 the items in the Bechtel invoice, including the Bechtel
20 multiplier, correct?

21 A The equipment fee applied to all labor costs, which
22 would include this, yes.

23 Q And we see Mr. Bruce is being charged for ASR. Was Mr.
24 Bruce located in the field office at Mount Joy at this time?

25 A I believe -- Mr. Smith?

1 Q I'm sorry. Mr. Smith. I apologize. Robert Bruce
2 Smith.

3 A Robert Smith was our project manager for Spread 6, yes.

4 Q And Mr. Timothy Miller, was he at the -- stationed in
5 Pennsylvania on the project?

6 A Yes, he was.

7 Q And I don't know if it's a Ms. or Mr. Gosh?

8 A I think yeah, was stationed there, as well.

9 Q Mr. Hood, were the Bechtel invoices that were charged to
10 ASR and then Transco, did they all follow the same format
11 that we looked it in Exhibit D-517?

12 A I -- I -- I can't confirm that they were the same format
13 for the life of the job. I -- I don't know the answer to
14 that.

15 Q And you reviewed the Bechtel invoices before they were
16 charged to Transco, correct?

17 A I did not review -- I didn't review this invoice. This
18 -- this invoice was -- was reviewed by the Perrysburg
19 accounting personnel.

20 Q And sitting here today, you have no reason to believe
21 that the invoiced amounts were not charged to Transco as
22 reflected in D-517, correct?

23 A I have no reason to believe that they were not --

24 Q Yes.

25 A -- invoiced? That's correct. I have no reason to

1 believe they were not invoiced.

2 MS. EWALD: Your Honor, I'd like to move for the
3 admission of D-517.

4 MR. GUERKE: No objection, Your Honor.

5 THE COURT: Then it's admitted.

6 MR. GUERKE: I'm sorry, Your Honor. We do object
7 based on lack of personal knowledge, based on the fact that
8 he was not copied on this email, and then the exchange, the
9 question and answer at the end about whether he reviewed it
10 or not.

11 MS. EWALD: Mr. Hood was responsible for reviewing
12 and approving the entirety of the invoices. And he testified
13 that he did so and reviewed the backup and it was part of his
14 job responsibility.

15 THE COURT: Just because it's part of his job
16 responsibilities doesn't know that he -- mean he knows every
17 document. I'm going to sustain the objection. His testimony
18 is in for what it's in for. But I'm going to sustain the
19 objection. He's not on this. You guys decided how you were
20 going to handle this case. He said he did not -- I forget
21 exactly, but he didn't review the invoice. Sustained.

22 MS. EWALD: Well, his time and wages and his
23 overtime work are all set forth in --

24 THE COURT: A document he didn't see. Those are
25 different questions, those are different questions. Did he

1 receive money to go -- those are different questions. And
2 his testimony is in, but this document is not.

3 MS. EWALD: And I -- if -- Your Honor, I believe
4 that this document or the invoice itself is part of the
5 reconciliation invoices, so it -- I think it is in. I'm just
6 saying, for the record, I believe the document itself, the
7 invoice itself is in part of those reconciliation invoices.

8 THE COURT: Then, if you all agreed it's in some
9 other way, then it's in some other way --

10 MS. EWALD: I just want to --

11 THE COURT: -- but not through --

12 MS. EWALD: -- note that.

13 THE COURT: -- this witness.

14 MR. GUERKE: I don't agree with that, Your Honor.

15 I mean --

16 THE COURT: Well, it may not be.

17 MR. GUERKE: Okay.

18 THE COURT: It -- I don't know if it is, I don't
19 know if it's not.

20 BY MS. EWALD:

21 Q And Mr. Hood, during the project, do you recall that
22 there was weekly -- or do you recall that there was reporting
23 that was provided to Transco from Welded?

24 A Recording?

25 Q Reporting.

1 A Reporting. That was provided from Transco to Welded?

2 Q I'm sorry. From Welded to Transco. I apologize.

3 A There were -- there were a set of weekly cost reports
4 that were provided.

5 Q And did you also, at some time, see the information that
6 Mr. Sztroin was reporting to the executives at Transco?

7 A No, I don't believe we saw Mr. Sztroin's reports.

8 MS. EWALD: I'd like to pull up Exhibit D-539.

9 Q And Exhibit D-539, Mr. Hood, you see that you're copied
10 -- or you sent this email, it appears, to Mr. Grindinger on
11 November 14th, 2017.

12 A I'm sorry. Which exhibit are we looking at?

13 Q It is D-539. I apologize.

14 A Five three nine?

15 Q Yes.

16 (Pause in proceedings)

17 Q And at this time, you're identifying to Mr. Grindinger
18 that -- you say:

19 "This is David's report used in the monthly
20 executive meeting this morning."

21 Do you see that?

22 A Yes, I see that.

23 Q And "David," that refers to Mr. Sztroin, correct?

24 A That is correct.

25 Q And you note that:

1 "Most of it is cut and paste from your weekly
2 report."

3 And that's referring to Mr. Grindinger's weekly report,
4 correct?

5 A It would be -- be our projects team meeting report, yes.

6 Q And that's -- you weren't surprised to see that Mr.
7 Sztroin was relying on the weekly reports that Welded was
8 preparing in order to report to his executive management,
9 correct?

10 A No, I'm not surprised at all.

11 Q No. That would be -- that would typical to rely on the
12 contractor's reporting to report up the chain, correct?

13 A I -- I don't -- I don't know what -- what Williams'
14 reporting channels were, but I -- it doesn't surprise me that
15 he used data from our report, no.

16 MS. EWALD: And Your Honor, I'd like to move for
17 the admission of Exhibit 539.

18 MR. GUERKE: No objection, Your Honor.

19 THE COURT: It's admitted.

20 (DX-539 received in evidence)

21 BY MS. EWALD:

22 Q And Mr. Hood, in November of 2017, you were aware that
23 there were issues with finding backup for the reconciliation
24 invoices. Do you recall that?

25 A Issues with finding backup?

1 Q Finding backup for the reconciliation invoices to be
2 submitted to Transco.

3 A I -- I -- I don't recall specific cases. I mean, it --
4 it's possible.

5 Q And let's turn to Exhibit D-549. And in Exhibit D-549,
6 Mr. Grindinger reports -- it doesn't indicate who he is
7 reporting to, but it's certainly going to Mr. McDowell, and
8 then Mr. McDowell copies you. Do you see that?

9 A I see that, yes.

10 Q And Mr. Grindinger indicates:

11 "We're having some serious issues with finding
12 invoice backup."

13 Do you recall that circumstance?

14 A I -- I see it described on the email, yes.

15 Q And at that time, did you agree that there were serious
16 issues with the invoice backup process?

17 A I -- I don't see that I made a comment to the -- to the
18 email either way.

19 Q Mr. Hood, was the invoice -- the reconciliation invoice
20 process ever taken over by the home office people at
21 Perrysburg?

22 A It was not, no.

23 Q And it was always done in the field. Is that right?

24 A That's right.

25 MS. EWALD: Your Honor, I'd move for the admission

1 of Exhibit D-549.

2 MR. GUERKE: No objection, Your Honor.

3 THE COURT: It's admitted.

4 (DX-549 received in evidence)

5 BY MS. EWALD:

6 Q And Mr. Hood, you're aware that, in this proceeding,
7 Transco has claims in the amount of about \$5.8 million
8 related to some of the early mobilization costs that Welded
9 incurred, correct?

10 A I'm aware of a claim. I'm not aware of the details of
11 it.

12 Q Are you aware that it involves three trends that you
13 signed, Trend 61 and 62?

14 A I'm -- I'm not aware of the details of -- of the details
15 of it, no.

16 Q Okay. You signed every trend on the project, correct?

17 A I don't know that I -- I have signed every one of them.
18 I -- I was probably aware of all of them, but I don't know
19 that my signature is on every one of them.

20 Q Well, let's turn to Exhibit D-559, Mr. Hood.

21 And Exhibit D-559 is an email dated 11/22/2017, from Ms.
22 Mary Lynn Murphy to Mr. David Sztroin and she copies you. Do
23 you see that?

24 A Yes.

25 Q And I'll draw your attention first to Page 3 of the

1 exhibit. This is Trend Number 60. Do you see that?

2 A Page number which?

3 Q It's Page Number 3, Mr. Hood.

4 A 3. Yes, I see that.

5 Q And that's your signature at the -- in the signature
6 block for November 22nd, 2017, correct?

7 A That's -- that's correct.

8 Q And Trend Number 60 was in the amount of \$3.9 million
9 for various reasons, including the NTP coming on September
10 25th instead of October 22nd. Do you see that?

11 A I see that, yes.

12 Q And the fact that the NTP came a week earlier than
13 anticipated was -- didn't change the scope of the contract,
14 correct?

15 A It could have changed some -- some methods, but it did
16 not change the -- the scope, in terms of length of the
17 pipeline. It could have changed the same work methods.

18 Q And according to this trend, it added 36,000 direct man
19 hours to the project, correct?

20 A That's the -- that's the trend estimate, yes.

21 Q Yes.

22 And that estimate was prepared by the Welded personnel
23 familiar with the impact of this trend, correct?

24 A That's correct.

25 Q And you signed it because you believed it was accurate,

1 correct?

2 A Right.

3 Q And if we turn to the -- Page 4, Trend Number 61, this
4 is manpower increases during project mobilization startup.

5 Do you see that?

6 A (No verbal response)

7 Q And again, this Item Number 1, under this trend,
8 indicates that it was for early NTP coming on September 25th,
9 instead of October 2nd. Do you see that?

10 A Yeah, that's one of the items.

11 There's a second item for -- the majority of the trend
12 is for the additional environmental crews that were
13 requested.

14 Q And the trend indicated that it was adding 59,300 man
15 hours, correct?

16 A Yeah. Again, that's the majority of the -- of the work
17 for the additional environmental crews. There were -- it was
18 a specific request from -- from the company, and so that was
19 -- it was three crews for the duration of the project, or
20 whatever duration, whatever was assumed in the estimate.

21 Q And that was for starting the one week early?

22 A No, not at all. This -- this was for work throughout
23 the project.

24 Q And Mr. Hood, with regard to the environmental crews, do
25 you recall how many man hours for environmental crews were

1 added to the final construction cost estimate of \$454 million
2 by Welded?

3 A I -- I do not have that number, no.

4 MS. EWALD: If we could pull up ...

5 Q You can look in your binder at, I believe it is Exhibit
6 Number 400 and 400A.

7 MS. EWALD: Oh, Your Honor, before I do that, I'd
8 like to move for admission of D-559.

9 MR. GUERKE: No objection, Your Honor.

10 THE COURT: It's admitted.

11 (DX-559 received in evidence)

12 BY MS. EWALD:

13 Q And I apologize, Mr. Hood. I'm taking you backwards
14 into the -- backwards into the binder.

15 THE COURT: And what are we looking for?

16 MS. EWALD: D-400 and 400A, Your Honor.

17 (Pause in proceedings)

18 BY MS. EWALD:

19 Q And just briefly, Mr. Hood, I wanted to draw your
20 attention to D-400, which is a September 28, 2017 email from
21 Mr. Grindinger to Ms. Priya Doraiswamy. And do you see
22 you're copied on this email, Mr. Hood?

23 A I see that, yes.

24 Q And this is part of the details that were provided by
25 Mr. Grindinger for the revised estimate for \$454 million,

1 correct?

2 A I believe that to be the case. It looks like he's
3 submitting man hour details.

4 Q And in D-400A, we see the -- that Welded has added, I
5 believe over 250,000 hours related to right-of-way
6 maintenance for the ECD slope drains that Mr. Grindinger was
7 describing, correct?

8 (Pause in proceedings)

9 A I don't -- I don't follow the -- your question.

10 Q So we see in the email that Mr. Grindinger is saying:

11 "The previous version didn't include the hours for
12 the EDC slope drains, which are now included in the
13 ROW maintenance as environmental."

14 Do you see that?

15 A I see that, yes.

16 Q And then, if you turn to Exhibit D-400A, you will see,
17 in right-of-way maintenance, the March 2017 control estimate
18 had 58,000 man hours, correct?

19 A (No verbal response)

20 Q Do you see that, Mr. Hood?

21 A The -- with -- okay. With the original, the -- the --
22 yeah, I see the 58,000. That was kind of from the original
23 two thirty-five estimate.

24 Q Yes.

25 And you see then that the July 2017 estimate has direct

1 hours for right-of-way maintenance of 344,453, correct?

2 A I see that, yes.

3 Q And that was point of the 2.1 million direct man hours
4 that we saw in the control estimate for the final contract
5 price, correct?

6 A If -- if that's the total, if it totals the 2.1, yeah.

7 Q So, with regard to the man hours, as reported by Mr.
8 Grindinger at this time, the most man hours that were
9 identified in the estimate were the tie-in crews, correct?

10 A (No verbal response)

11 Q At 608,000 man hours.

12 A That's the -- the largest number on the sheet, yes.

13 Q And then we see the next largest is the 344,000 man
14 hours for the environmental crews, correct?

15 A That's right.

16 MS. EWALD: Your Honor, I'd like to move for the
17 admission of D-400 and D-400A.

18 MR. GUERKE: No objection, Your Honor.

19 THE COURT: They're admitted.

20 (DX-400 and DX-400A received in evidence)

21 BY MS. EWALD:

22 Q And Mr. Hood, I'd like to go to JX-29 in your binder.
23 And it is behind the trend forms that we just looked at.

24 (Pause in proceedings)

25 Q And do you recognize JX-29 as the email attaching Trend

1 62 that was being provided from Welded to Transco?

2 A I'm sorry. Where is 29 in the binder?

3 Q It is right after D-559.

4 A Thank you.

5 (Pause in proceedings)

6 A Okay. Yeah.

7 Q And do you see that it is Trend 62?

8 A Yes.

9 Q And Trend 62 was for Spread 7. And again, you signed
10 this trend on November 22, 2017?

11 A (No verbal response)

12 Q And is that right, Mr. Hood?

13 A Did I sign it? Yes, I signed it.

14 Q And that indicates you believed it was accurate when you
15 sent it to Mr. Sztroin?

16 A Yeah, I believe the -- the estimate to be accurate as we
17 knew it at the time.

18 Q And in the -- at least a portion of the \$6.2 million
19 that Welded was identifying to Transco was related to the
20 early NTP, correct?

21 (Pause in proceedings)

22 A A portion was related to the NTP, yes.

23 Q And a portion you identify here is related to the
24 environmental crews.

25 At this time, Mr. Hood, in November of 2017, had the

1 entirety of the 344,000 man hours for the environmental crews
2 been exhausted by Welded?

3 A I -- I don't believe it, by this time.

4 MS. EWALD: Your Honor, I'd move for the admission
5 of JX-29.

6 MR. GUERKE: No objection, Your Honor.

7 THE COURT: It's admitted.

8 (JX-29 received in evidence)

9 (Pause in proceedings)

10 BY MS. EWALD:

11 Q And Mr. Hood, I'd like to turn to -- well, before we
12 turn to the exhibit.

13 I think you mentioned yesterday that there was a group
14 of people in the Mount Joy office that were responsible for
15 tracking job cost, correct?

16 A That's correct.

17 Q And I believe that Mary Lynn Murphy was the person who
18 was charged with reporting the job costs incurred by Welded
19 for the project. Is that right?

20 A Mary Lynn Murphy was our lead cost engineer.

21 Q And part of her responsibilities were recording the
22 internal costs that Welded was incurring on the project,
23 correct?

24 A She -- she recorded -- yeah, she recorded all costs for
25 the -- for the project.

1 Q And she recorded all costs.

2 She also evaluated the extent to which Welded was
3 realizing an equipment fee profit on the equipment fee
4 multiplier, correct?

5 A She was measuring the -- the amount ahead or behind. I
6 -- the categorization of "profit" is incorrect in -- in that
7 statement. But she was -- she was monitoring the numbers.

8 Q And when you say she was measuring whether it was "ahead
9 or behind," she was measuring whether the revenue that Welded
10 was getting from the equipment fee was more than the cost
11 that it was incurring for the equipment, correct?

12 A She was -- she was -- yeah, that's the numbers that she
13 was monitoring, yes.

14 Q And that was something that you were monitoring, as
15 well, correct?

16 A The project was monitoring it, yes.

17 Q And you were also monitoring it, correct?

18 A All of us on the project were monitoring it.

19 Q And in fact, it was a concern of -- one of your concerns
20 on the project, correct?

21 A It was a concern of -- of mine of others and one of many
22 concerns on the project.

23 Q And I'd like to turn to Exhibit 575.

24 And Mr. Hood, Exhibit 575 are the -- is an email from
25 Ms. Murphy to Mr. Grindinger and others on the project. And

1 it identifies final cost reports, 26 November. Do you see
2 that?

3 A Yes.

4 Q And do you recognize these -- final cost reports would
5 be the -- and Ms. Murphy was preparing cost reports for ASR,
6 correct?

7 A (No verbal response)

8 Q No other project.

9 A Yes, it -- I -- what was the question? I ...

10 Q Ms. Murphy was preparing cost reports for the ASR
11 project.

12 A Yes, she was.

13 Q And if we -- I think we can do part of this exercise,
14 Mr. Hood, using the PDF in the binder. And then maybe part
15 of the exercise we may need to look at on the Excel
16 spreadsheet.

17 But I think we can see, if we turn to D-575A within the
18 binder, it's the next sheet, this is the Welded calculation
19 entitled "Spread 7 Equipment Cost Analysis." Do you see
20 that?

21 A Yes.

22 Q And this shows that the -- there is a current budget for
23 the total equipment cost of \$30.9 million. Do you see that?

24 A Yes.

25 Q And made up of the equipment cost total are all those

1 categories above, correct? The equipment, the small
2 equipment, tools, consumables, temporary facilities, home
3 office support. Do you see that?

4 A Yes.

5 Q And the equipment fee revenue, that was the revenue
6 generated by the equipment fee charged to Transco, correct?

7 A That's correct.

8 Q And so, at this time, the current budget showed a
9 variance of \$3.3 million in Welded's favor, right? The
10 revenue would be more than the equipment cost.

11 A That -- yeah, I see that. Yes.

12 Q And the amounts incurred to date show that the variance
13 is a positive 1.7 million of revenue over cost, correct?

14 A I -- I see that column, yes.

15 MS. EWALD: And I think we'll have to turn to the
16 Excel at this point, so I'll have to ask Ms. Bair if she can
17 display on the screen -- and she is displaying on the screen
18 the Excel format of the cost report.

19 And if you could turn, Ms. Bair, to the tab that's
20 identified as "3-4 Equipment," please.

21 BY MS. EWALD:

22 Q And Mr. Hood, we see here at the 3-4 equipment --

23 MS. EWALD: If we could just slide down the Excel
24 spreadsheet a little.

25 BY MS. EWALD:

1 Q We see the incurred to date is -- for the equipment item
2 2,184,157, right?

3 A (No verbal response)

4 Q It is Row 35 --

5 A Yes.

6 Q -- Column --

7 A Okay.

8 Q Incurred --

9 A I --

10 Q -- to date.

11 A I see the number there, yes.

12 Q And that's the same number that's on the first page of
13 D-575A, the PDF, correct? For the equipment line item.

14 A Yes.

15 Q And we see --

16 MS. EWALD: Ms. Bair, if you will scroll up.

17 Q We see, within that equipment line item, at the very top
18 of the page, we see mobilization and hauling is included,
19 correct?

20 A I see that, yes.

21 Q And we also see that truck rental is included, as well.
22 Do you see that?

23 A I see that, yes.

24 Q And we also see, under "crafted-owned equipment" welding
25 rig rental, vehicle rent, and mechanic rig rental. Do you

1 see that?

2 A I see all those, yes.

3 Q And we --

4 MS. EWALD: If you could scroll down, Ms. Bair.

5 Q And all of those things roll up into the 2,184,157. Do
6 you see that?

7 A I -- I see all that, yes.

8 Q And the --

9 MS. EWALD: If you could turn, Ms. Bair to the Tab
10 5, "Temporary Facilities."

11 BY MS. EWALD:

12 Q The temporary facilities, those are also included in the
13 equipment cost total that is being calculated at D-575A,
14 correct?

15 (Pause in proceedings)

16 A I'm sorry. What was the -- what was the question about
17 temporary facilities.

18 Q Yes, the -- we see here in incurred to date for
19 temporary facilities is 193,235. Do you see that?

20 A I -- I see the number, yes.

21 Q And that's also the number that's recorded in the first
22 page of D-575A for small -- for temporary facilities,
23 correct?

24 A I -- I see the carryover there, yes.

25 Q So the temporary facilities that went into the included

1 equipment cost, as reflected in the job cost reports of
2 Welded, included --

3 MS. EWALD: And if we could go back to the Tab 5,
4 "Temporary Facilities."

5 BY MS. EWALD:

6 Q It included such things as safety training, right-of-way
7 disposal, office rentals, field yard setups, field office
8 expenses, cell phone rental, computer supplies, use tax
9 expenses, freight, overnight and second-day, and then
10 operator qualification training. Do you see that?

11 A Yeah, I see it. Yes. Yes.

12 Q And all of those things, at the time, were included in
13 the included equipment cost, as reflected in the job cost
14 report?

15 A As -- on -- on this report, they're included there,
16 yeah. I see the -- I see the numbers, I see the carryover.

17 Q And the trends --

18 MS. EWALD: If -- Ms. Bair, if you could just turn
19 to the trends tab, please.

20 Q And at this time, I believe --

21 MS. EWALD: If you scroll down.

22 Q You'll find the trends on the job totaled about \$37
23 million. Do you see that \$37 million in estimated cost
24 impact for all the trends, correct?

25 A Correct.

1 Q And at this time, had Welded -- had you seen any written
2 mitigation plans for any of these trends?

3 A Mitigations for the trend?

4 Q Mitigation plans to address these trends on the job.

5 A No. A trend is a -- is a notice of -- of a change or of
6 -- of -- a change in method, a change in cost, a change in
7 some future of the project.

8 Q And so, Mr. Hood, the question: Had -- did you see, at
9 this time, any written mitigation plans to address this \$37
10 million of trends identified by Welded?

11 A I don't -- I mean, the -- the impacts are all listed on
12 the -- on the trends and -- and whatever the resolution is,
13 is -- is part of that trend.

14 Q So the resolution would be listed on the face of the
15 trend if there was a resolution.

16 A Yes. The -- the activity is described on the trend and
17 the resolutions and the estimates should all be included on
18 the -- on the trend.

19 Q So is it your testimony, Mr. Hood, that the entirety of
20 the resolution, mitigation plan with respect to any of the
21 trends that were identified by Welded are reflected solely on
22 the face of the trend itself?

23 A You know, if there were ongoing concerns, they would --
24 they would be brought up in the meetings, they would be, you
25 know, listed as -- as weekly concerns or -- or listed as --

1 as critical action items on our -- on our weekly meetings.
2 That's where concerns were handled.

3 MS. EWALD: And Your Honor, I'd move for the
4 admission of D-575 and 575A.

5 MR. GUERKE: We object, Your Honor. The testimony
6 -- he's not copied on this. But the testimony made it pretty
7 clear that there's no evidence that he saw this particular
8 November 26th, 2017 spreadsheet. It was just a series of
9 reading -- having him read numbers that appear on the screen,
10 which anyone could do.

11 THE COURT: Sustained.

12 BY MS. EWALD:

13 Q And Mr. Hood, you reviewed cost reports such as 575A
14 during your tenure as the project manager, correct?

15 A Correct.

16 Q So this is just one example of the job cost reports you
17 reviewed?

18 A This is one -- it's one month out of the -- the life of
19 the project.

20 MS. EWALD: Your Honor, I would move for admission.
21 This is the project manager for the ASR project. These are
22 the job cost reports. They're the most fundamental
23 reflection of what Welded's costs were on this job.

24 THE COURT: Okay. But all you had to do was read
25 numbers off a report. So you want the report to go in for

1 what purpose?

2 MS. EWALD: I want the report to go in for the
3 purpose of exactly what I asked Mr. Hood: The costs that
4 Welded was recorded as its included equipment cost, the cost
5 that they were identifying at this point in the job that went
6 into included equipment that they were not charging Transco.

7 THE COURT: Okay. So you want this to go in for
8 the truth of what's being asserted in this document.

9 MS. EWALD: I want it to go in for the purpose of
10 the categories that were reflected in the job cost report as
11 being part of the reports and records of --

12 THE COURT: Okay.

13 MS. EWALD: -- of Welded.

14 THE COURT: But you didn't ask him any of those
15 questions.

16 MS. EWALD: And he --

17 THE COURT: You didn't --

18 MS. EWALD: -- just test --

19 THE COURT: -- ask him one question like that.

20 MS. EWALD: I asked if him if those -- if these
21 costs were the ones that were included in the included
22 equipment --

23 THE COURT: No.

24 MS. EWALD: -- and he --

25 THE COURT: You asked --

1 MS. EWALD: -- said yes.

2 THE COURT: -- him if it was -- is this number
3 twenty-three million zero forty-two, whatever was on that
4 page, and he said yes.

5 MS. EWALD: And that it reflected that those items
6 were part of equipment cost, and he agreed.

7 THE COURT: He said it was on the page.

8 MS. EWALD: And any cost report is going to -- I
9 mean, that's going to be the question for any cost report,
10 are these the costs that Welded was reflecting in its books
11 and records at the time. It's a business record, a
12 fundamental business record, in my view. And he said --

13 THE COURT: It is.

14 MS. EWALD: He's testified --

15 THE COURT: But why didn't you get it in through
16 the person who keeps the business records then? If that's
17 what you want and you all wouldn't agree up front that you
18 could use deposition to get records in, you guys have created
19 this problem.

20 MS. EWALD: And Your Honor, I would submit that it
21 is a record that Mr. Hood has reviewed in the past, he --

22 THE COURT: He did not testify to that.

23 MS. EWALD: He testified that he did review cost
24 reports on the project.

25 THE COURT: Finally, when you finally asked him

1 that question.

2 Why don't you start over and ask him some
3 questions?

4 MS. EWALD: I will do that, Your Honor.

5 BY MS. EWALD:

6 Q Mr. Hood, the cost report that we see here at Exhibit D-
7 575A is a cost report that was maintained by Welded for the
8 ASR project, correct?

9 A That is correct.

10 Q And this cost report is the type of cost report that you
11 looked at and reviewed during the job?

12 A These types of reports, I -- I did look at through the
13 life of the job, yes.

14 Q And there were provisions in the -- in Welded's cost
15 reporting to ensure the accuracy of these reports, correct?

16 A Say that again. What --

17 Q Yes. There were provisions made within Welded's
18 management team to review and ensure the accuracy of these
19 reports, correct?

20 A I -- I don't know what you mean -- mean by that.

21 Q Well, Ms. Murphy, who was the cost engineer that
22 prepared these reports, you're familiar with the work that
23 she did, correct?

24 A Yeah. I'm familiar with -- with Mary Lynne Murphy and -
25 - and her activities.

1 Q And she would prepare these reports on a weekly basis.
2 Is that right?

3 A Weekly or monthly. I -- I don't recall this particular
4 -- what the cycle was.

5 Q And at any time, did you identify anything that was
6 incorrect in your review of these reports?

7 A I'm -- I'm sure we did, at times, yes.

8 Q And they would be reflected then in the reports
9 themselves, correct?

10 A They would be reflected then in the -- in subsequent
11 reports, they would -- any corrections that needed to be made
12 would be -- would be made and then corrected later.

13 MS. EWALD: Your Honor, I again move for the
14 admission of the job cost report as a business record of
15 Welded. And they're reports that Mr. Hood has testified that
16 he reviewed during the time frame of the project and they
17 were maintained by the lead cost engineer for the project.

18 And have -- and there's been no objection on the
19 other side as to authenticity of the reports themselves. The
20 only object, I believe, is one of foundation.

21 THE COURT: Mr. Guerke.

22 MR. GUERKE: Same objection, Your Honor.

23 And as far as the business records exception to the
24 hearsay rule, I think you'd have to establish it through the
25 record keeper, not necessarily somebody who's aware of how

1 the records are kept generally.

2 MS. EWALD: And Your Honor, it is a -- it is a --
3 in addition to being a business record, it is a statement of
4 a party with regard to the costs that they incurred on the
5 project, under 803(d).

6 THE COURT: Do you have a response to that, Mr.
7 Guerke?

8 MR. GUERKE: I think I'd have a hard time saying
9 it's not a statement of a party, Your Honor, so I don't have
10 a response to that.

11 THE COURT: Are we going to hear from Ms. Murphy?

12 MR. GUERKE: Her deposition was taken, Your Honor,
13 but you won't hear from her live, only through deposition
14 designations.

15 THE COURT: Are we going to go through more of
16 these documents?

17 MS. EWALD: There are one or two of these cost
18 reports, Your Honor, that I will show Mr. Hood.

19 THE COURT: I'm going to take this objection under
20 advisement. I will again note that, with respect to the
21 video that we showed yesterday, you objected on the grounds
22 that we didn't have the videographer, even though he
23 testified extensively and had -- clearly had knowledge that
24 this was the spreads that we were looking at. So, here, we
25 don't have the bookkeeper, either. I think it's pretty

1 equivalent. I'm going to take this under advisement.

2 MS. EWALD: I appreciate that, Your Honor. And I
3 will ask Mr. Hood ...

4 THE COURT: Ethan, please make a note of this, that
5 I'm taking this under advisement. I think I have a list of
6 what I've done so far, but make sure.

7 (Pause in proceedings)

8 MR. NEIBERG: Your Honor, I'm sorry, but before we
9 move on, a little bit of housekeeping.

10 THE COURT: Yes.

11 MR. NEIBERG: Each day, the parties have been
12 exchanging kind of information about trial time, what
13 exhibits went in. Would it be helpful, after this week,
14 where we group and agree on like a spreadsheet, as to what's
15 in after the first week, then we can send it to chambers with
16 whatever --

17 THE COURT: Yes.

18 MR. NEIBERG: -- commentary?

19 THE COURT: You can do it weekly or at the end. I
20 would appreciate that. I keep my own list, but I do also
21 appreciate when counsel does it, as well.

22 MR. NEIBERG: Okay. We'll confer over the weekend
23 and plan on sending something first -- early Monday morning?

24 THE COURT: Thank you.

25 MR. NEIBERG: Okay.

1 THE COURT: That's fine.

2 MS. EWALD: And mister -- I'm -- Your Honor, I
3 apologize. May I proceed?

4 THE COURT: You may.

5 MS. EWALD: Thank you.

6 BY MS. EWALD:

7 Q And Mr. Hood, with regard to environmental compliance
8 issues, who was the environmental compliance manager for ASR?

9 A James Feller.

10 Q And was -- Mr. Feller was a seconded Bechtel employee,
11 correct?

12 A Yes.

13 Q And he was not assigned full time to ASR throughout the
14 entirety of the project, was he?

15 A I don't know the entirety. He -- he was there for a
16 good portion of the job. I don't know exactly the date he
17 left.

18 Q And Mr. Feller had -- was he stationed in Mount Joy?

19 A Primarily.

20 Q And where else was he working?

21 A He would roam between the spreads, but he had -- he had
22 an office in Mount Joy.

23 Q And was he working on any of the other ongoing projects
24 that Welded had in Pennsylvania at the time?

25 A Later on, I know he went over to Mariner East, but I --

1 or -- or -- either that or NXP. But I know, for the majority
2 of the time that -- that I was there, he was -- he was
3 working on ASR.

4 Q And do you recall that there was an environmental
5 shutdown on the job in November of 2017?

6 A I -- I recall that. I don't recall the particulars of -
7 - of which one or where or what the location was.

8 Q And I'd like to pull up -- or have you turn to Exhibit
9 D-582, Mr. Hood.

10 And D-582 is an email exchange. At the top, we see it's
11 an exchange between you and Mr. Feller in December of 2017,
12 correct?

13 A Yes, I see that.

14 Q And at the second page of this email, starting with the
15 first email, to orient to you to what is going on, Mr. Bone
16 is a construction manager with Transco, correct?

17 A Mr. Bone was a construction manager for Spreads 5 and 6,
18 yes.

19 Q And he was indicating, in November 30, 2017, that:

20 "We talked earlier. We will be shutting down at 12
21 noon today to get caught up on our ECDs and
22 stabilization. It has been brought to me this
23 morning that we are close to getting a
24 noncompliance."

25 Do you see that?

1 A I see that, yes.

2 Q And the "EI," there's a reference to "EI." Is that an
3 environmental inspector?

4 A Yes.

5 Q And did you consult then with Mr. Feller regarding the
6 issues that had been identified in this environmental
7 shutdown?

8 A I -- I may have. I don't recall the discussion with --
9 with Mr. Feller.

10 Q And Mr. Feller advised you, as we see in the top email
11 that:

12 "Although I have questions on how this was
13 communicated, both internal and externally from the
14 EI client, these are predominantly fundamental
15 environmental controls that are clearly spelled out
16 in the E&S plans and BMPs."

17 Do you see that?

18 A I see it, yes.

19 Q And "E&S plans," erosion and sedimentation control
20 plans?

21 A That's correct.

22 Q And is that part of the PADECP or Pennsylvania
23 Department of Environmental Compliance permit?

24 A That's correct.

25 Q And that's part of the permit that Welded executed?

1 A That's correct.

2 Q And "BMPs" refer to "best management practices"?

3 A Correct.

4 Q And do you know how long the shutdown was ongoing, Mr.
5 Hood?

6 A I -- I -- no, I do not recall.

7 Q And for any of these environmental shutdowns, were all
8 the costs that were incurred related to getting into --
9 maintaining compliance with the environmental permit, those
10 were all charged to Transco, correct?

11 A All work on the project was -- was charged to Transco.

12 Q And ...

13 (Pause in proceedings)

14 Q Do you recall being concerned in December of 2017, or do
15 you recall concerns around the preparation of the first true-
16 up invoice?

17 A Do I recall -- no, I don't recall. The -- the timing
18 would have been -- for the first true-up invoice, would have
19 been in December.

20 Q And do you recall that, when it was being put together
21 by Welded, that Mr. McDowell, the CFO, was concerned that it
22 could be a credit back to Transco?

23 A I -- I don't -- I mean, that's -- the purpose of the
24 true-up estimate is to determine whether it's -- it's a
25 credit or a debit for the next month. That's -- that's the

1 whole purpose of it.

2 Q And I'd like to turn to Exhibit D-601.

3 MS. EWALD: Oh, I'm sorry, Your Honor. I'd like to
4 move D-582 for admission.

5 MR. GUERKE: No objection to D-582, Your Honor.
6 But would now be a short time to take a short
7 break?

8 THE COURT: Is that okay with you?

9 MS. EWALD: Oh, certainly, Your Honor.

10 THE COURT: Yeah, that -- I don't want to kick you
11 off of your stride.

12 MR. GUERKE: Or the next section --

13 THE COURT: Yeah, whichever --

14 MS. EWALD: No, that's fine.

15 THE COURT: This is good?

16 MS. EWALD: That's fine, Your Honor.

17 THE COURT: Okay. Why don't we take ten minutes?

18 MR. GUERKE: Thank you, Your Honor.

19 THE COURT: Thank you. We're in recess.

20 That 582 is admitted.

21 (DX-582 received in evidence)

22 (Recess taken at 11:02 a.m.)

23 (Proceedings resume at 11:17 a.m.)

24 (Call to order of the Court)

25 (Witness resumes stand)

1 THE COURT: Please be seated.

2 MS. EWALD: Your Honor, may I proceed?

3 THE COURT: You may.

4 MS. EWALD: Thank you.

5 BY MS. EWALD:

6 Q Mr. Hood, before the break, we were speaking about the -
7 - Welded's preparation of the December true-up invoice for
8 the October charges. Do you recall that?

9 A I recall our discussion, yes.

10 Q And the first reconciliation invoice that you submitted
11 to Transco for October 2017 charges was submitted in December
12 of 2017. Do you recall that?

13 A October's -- okay, yep. It would have been two months
14 later.

15 Q And I'd like you to turn in your binder to Exhibit D-
16 601, please.

17 And I'd like to draw your attention to the email from
18 Mr. McDowell to Mr. Grindinger, you and Mr. Schoenherr are
19 copied. Do you see that? On December 7th.

20 A I see it, yes.

21 Q And at this time, Mr. McDowell, the CFO was
22 communicating:

23 "I continue to have a lot of questions around ASR
24 and the profitability."

25 Do you recall that was a topic of discussion in December

1 of '17?

2 A I see it listed here in -- in the email, yes.

3 Q And Mr. McDowell indicated:

4 "The true-up invoice to Williams is a credit back
5 to them."

6 Correct?

7 A Which line are we looking at?

8 Q Yeah, I apologize, sir.

9 It's the last sentence of the first paragraph.

10 "The true-up invoice to Williams is a credit back
11 to them."

12 Do you see that?

13 A Oh, yes, I see that.

14 Q And he goes on to ask Mr. Grindinger how they --

15 "-- how we are capturing the cost in the 50 percent
16 multiplier."

17 Do you see that?

18 A Yes.

19 Q And in response, Mr. Grindinger indicated in the sixth
20 line:

21 "We include all" -- "included items against the 50
22 percent fee that we find in job cost."

23 Do you see that?

24 A Yes.

25 Q And that exercise was being done by the superintendents

1 on the job. Is that right?

2 A The cost engineers.

3 Q The cost engineers.

4 And Ms. Murphy was the lead cost engineer?

5 A Ms. Murphy was the lead cost engineer, yes.

6 Q And Mr. Grindinger, at this point, is the project

7 controls manager, correct?

8 A That is correct.

9 Q And he left the project sometime in December or January.

10 Is that right?

11 A In that time frame, yes.

12 Q Do you recall -- and I apologize, Mr. Hood. I don't

13 recall when he left. Do you recall when he left?

14 A I'd -- it was in the time frame we just discussed, but I

15 don't -- no, the date I don't recall.

16 Q And I believe you --

17 MS. EWALD: Your Honor, I'd move for the admission

18 of D-601.

19 MR. GUERKE: No objection, Your Honor.

20 THE COURT: It's admitted.

21 (DX-601 received in evidence)

22 BY MS. EWALD:

23 Q And I believe you testified yesterday, Mr. Hood, that,

24 after the first reconciliation invoice was sent to Transco,

25 that you did not receive any questions from Transco, correct?

1 A I don't recall questions, correct.

2 Q And I'd like to turn to Exhibit D-611.

3 And in Exhibit D-611, at the bottom of the page, Mr.
4 Grindinger sends to the Transco team the January 2018 cash
5 call and the reconciliation invoice for October of 2017. Do
6 you see that? And it goes over to the second page of the
7 document, Mr. Hood.

8 A I see that, yes.

9 Q And Mr. Grindinger, I don't believe he copied you on
10 this email, correct?

11 A I do not see my name listed there.

12 Q And in response, Mr. Card at Transco had two questions
13 regarding the reconciliation, correct?

14 A (No verbal response)

15 Q Do you see that in the --

16 A I see that in the middle -- middle of the page, yes.

17 Q And one of the questions is:

18 "Where is the detailed support?"

19 When the reconciliation invoices went over to Transco,
20 the details of all of the backup support did not necessarily
21 get transmitted with the reconciliation invoice at that time,
22 correct?

23 A It may not have gone the exact time.

24 Q Do you recall when the detailed support backup for the
25 October reconciliation was delivered to Transco?

1 A I do not know that date.

2 Q And then he goes on to say:

3 "The reconciliation page shows October cash calls
4 totaling \$30.9 million. How did you arrive at that
5 value?"

6 And he describes the invoice amounts. And he says that:

7 "The invoiced amounts total \$24,418,00."

8 Do you see that?

9 A I see that, yes.

10 Q And are you aware that, in this matter, Welded's expert
11 has recently identified a mistake in the October invoice?

12 Were you aware of that, Mr. Hood?

13 A That I'm not aware of, no.

14 Q And so I would then take it that you're not aware that
15 the mistake that Mr. Gray has identified is \$6.5 million.

16 A I -- I am not aware of that number.

17 Q And before I mentioned that to you, Mr. Hood, did you
18 have -- had you previously heard that Mr. Gray's second
19 expert report identified a six-and-a-half-million-dollar
20 mistake in that invoice?

21 A I -- I'm not aware of a mistake in the invoice. I know
22 -- and I'm told that we did -- we had a supplemental invoice,
23 but I'm not -- not aware of a mistake.

24 Q And Mr. Hood, I'd like to ask you about the items of
25 equipment that are in dispute between the parties with regard

1 to specialty equipment.

2 You're aware that Marookas are one of the items of
3 dispute, correct?

4 A I'm aware of that, yes.

5 Q And you're aware that pickup truck and vehicle amounts
6 being charged -- pickup truck rental and vehicle amounts
7 being charged are an item of dispute between the parties?

8 A I'm aware of the dispute, yes.

9 Q And are you aware that, throughout the project, Welded
10 invoiced Transco for over \$14 million associated with pickup
11 trucks?

12 A I -- I don't know what the value is, no.

13 Q And I'd like you to turn, please, in your binder to
14 Exhibit 624.

15 And this is an email exchange dated December 14th of
16 2017.

17 First, just to get a sense of the players here, Sue
18 Hallowell is the Welded person responsible for doing all of
19 the ASR invoicing, right?

20 A She was the -- the lead invoicing cost engineer, yes.

21 Q And Amanda Hittson was the field office manager who was
22 also involved in identifying items that were billable,
23 correct?

24 A Yeah. I -- I don't recall where exactly Amanda was, but
25 she was -- she was part of the team.

1 Q And we see that Amanda, on December 14th, is asking Sue
2 Hallowell and others for:

3 "-- the internal log of invoice data you have, as
4 well as the sheet you collected from the
5 presentation pertaining to the billable items."

6 Do you see that?

7 A I see her email, yes.

8 Q And at this time, Ms. Hittson was having issues
9 determining why things are and are not billable; for example,
10 truck rentals and Marookas, correct?

11 A I see her email stating that, yes.

12 Q And so was that issue elevated to you at the time, this
13 -- the difficulty that the field was having determining why
14 Marookas and truck rentals were either billable or not
15 billable?

16 A I -- I don't see my name copied on the email anywhere.

17 Q I appreciate that and I'm not going to seek to admit
18 this exhibit.

19 I just want to know if this issue was raised to you at
20 the time, Mr. Hood?

21 A I -- I know we -- we discussed the -- the method of --
22 of determining costs, and I can recall that.

23 Q And did you discuss it with the -- did you advise the
24 field team that Marookas with straw-blowers were billable
25 items?

1 A I -- I don't know if we -- we discussed that particular
2 item. We -- we discussed the -- the -- you know, that --
3 that training session we had put together we -- that we had
4 just discussed earlier, we discussed, you know, how to make
5 determination of what's included and what's specialty. So, I
6 mean, we -- we continued to have that discussion, as I
7 recall.

8 Q And if we could -- and at this time, given the concerns
9 that we saw that Mr. McDowell was raising about what is
10 billable, what's not billable, was there an effort on the
11 project to try to figure that issue out?

12 A To figure out which again?

13 Q To figure out the -- to figure out what was billable and
14 what was not.

15 A Yeah. As -- as I recall, we -- we actually had brought
16 over Ms. Hernandez from -- from Perrysburg that did some
17 training on -- on how to use that SmartSearch system, so --
18 so everybody would -- you know, you could sort and find and -
19 - and analyze the data in SmartSearch and -- where the
20 invoices were all kept. So, as I recall, she came and -- and
21 led some training for all the field engineers.

22 Q And the training was on the SmartSearch database?

23 A That's correct.

24 Q And SmartSearch -- the SmartSearch database collects the
25 expenses of Welded related to the project. Is that right?

1 A It's a repository for -- for invoices, yes.

2 Q And does it include the labor invoices?

3 A I -- I don't recall. I think it was materials and
4 subcontracts. I don't believe labor was in that system.

5 Q And at -- I'd like to turn to Exhibit D-639.

6 And D-639 is an email from Ms. Murphy to Ms. Hallowell.

7 And it attaches an Excel spreadsheet that indicates it is:

8 "Spread 7, special equipment list, in case you
9 don't have it."

10 Do you see that?

11 A I see that, yes.

12 Q And I'd like to turn to D-639A, which was the Excel
13 spreadsheet attached to it. And if -- this is one that we
14 will have to pull up on the screen, it's an Excel sheet, Mr.
15 Hood.

16 A Uh-huh.

17 Q And I'll just have a few questions about items here.

18 But first I'll ask you: This is identified as the:

19 "Equipment Tracker for ASR Spread 7, September 7,
20 2017."

21 Did you review this document as your -- in your position
22 as project manager for ASR?

23 A This is -- this is the -- this is the attachment to this
24 email?

25 Q It is, Mr. Hood.

1 A This ASR Spread, updated, V2. Is that what we're
2 looking at?

3 Q It is 639A. It is the Excel spreadsheet. I don't --
4 and it's the tab that's called "Master Tracker Working." Do
5 you see that?

6 A Oh, okay. I see the document, yeah.

7 Q And we see that -- so my question to you, Mr. Hood, was:
8 Are you familiar with this master tracker working sheet of
9 the equipment on ASR project -- the ASR project?

10 A I'm -- I'm aware of it. I'm not completely familiar
11 with it. I -- I know our -- our equipment team kept this
12 tracker for each spread.

13 Q And so it was maintained by your equipment team for the
14 project. Is that correct?

15 A That's correct.

16 Q And who was the equipment team?

17 A There was an equipment person on each spread. I -- I
18 can't tell you their -- their names.

19 Q And was this regularly -- was this a document that was
20 kept in the regular course of Welded's business by the
21 equipment manager?

22 A It was kept for ASR.

23 Q And you are familiar with this document, correct?

24 A Like I said, I -- I'm aware of it. I'm not familiar
25 with -- with every piece of equipment and the location of it,

1 but I'm -- I'm aware that it was kept, yes.

2 Q And you've previously reviewed this document, correct?

3 A No.

4 Q And so you're aware that it was kept. And it was
5 maintained for ASR --

6 A Uh-huh.

7 Q -- correct?

8 A Correct.

9 Q And we see that there is a column entitled, Column Q,
10 "Specialty Equipment." Do you see that?

11 A I see that, yes.

12 Q And so we see on this list, beginning at Page 21, under
13 "bid equipment," Column H, we see "company pickups." Do you
14 see that?

15 A I see that, yes.

16 Q And company pickups are being provided, it seems by
17 Express 4x4. But you don't know that, correct?

18 A I don't know.

19 Q Do you know if company pickups that were identified as
20 bid equipment, do you know how they were being provided to
21 the job?

22 A Well, in this particular case, they were provided
23 through a third-party lease company called Express 4x4, for
24 this particular item.

25 Q And according to the column here at Column Q, those

1 company pickups provided by Express 4x4 are not identified as
2 speciality equipment, correct?

3 A In -- on this spreadsheet, they're not. But like --
4 like we said yesterday, the -- it depends on the -- the
5 driver of -- of the pickup. There -- there are items of
6 pickups that -- that fall under the -- that living and travel
7 allowance clause and there are pickup items that fall under
8 included equipment. So it's -- it just depends on the use
9 and -- and who has the vehicle.

10 Q And the vehicle allowance is an amount of money that's
11 paid to a person for use of their vehicle, correct?

12 A Not necessarily. It can, that's one mechanism.

13 Q And it was -- and I'll strike that and move on.

14 I'd also like to show you a -- Row 614 within this
15 document 639A. And Row 617 is a Marooka with a straw-blower.
16 Do you see that?

17 A I -- I see the line there, yes.

18 Q And in the equipment tracker, master tracker working
19 equipment tracker, as of December of '17, a Marooka with a
20 straw-blower was not identified as specialty equipment,
21 correct?

22 A It's -- it's not tagged that way in the list here. But
23 I -- I would suggest that the -- that the purpose of this
24 spreadsheet is not to identify specialty versus included
25 versus, you know, any type of equipment. This is more of a -

1 - just an inventory list. Like we -- like I said before, the
2 cost engineers had the invoicing time, had the responsibility
3 to determine which was specialty and which was included.

4 Q And as we saw in the email, the cost engineers that were
5 communicating about this list of special -- this special
6 equipment list were Ms. Murphy and Ms. Hallowell. They were
7 the two people chiefly responsible for determining what was
8 special and included equipment, correct?

9 A They were the -- they were the two that compiled the
10 invoices. The persons responsible for making that
11 determination were the field cost engineers and the
12 superintendents.

13 Q And Ms. Murphy was the lead cost engineer who supervised
14 the field cost engineers, correct?

15 A That's right. She oversaw that operation.

16 MS. EWALD: And Ms. Bair, I don't know if you can
17 do this with the Excel version that you have. If you filter
18 on the special equipment column and just select yes -- thank
19 you.

20 BY MS. EWALD:

21 Q And so, at this time in December of 2017, we can see
22 that the special equipment list that Ms. Murphy shared with
23 Ms. Hallowell had about 20 special equipment items listed,
24 correct?

25 A Yeah. That's --

1 Q I think it --

2 A That's --

3 Q -- may be about 28.

4 A Right. The numbers that are -- that are tagged in this
5 list.

6 MS. EWALD: And Your Honor, I'd move for the
7 admission of Exhibit 369 and 369A.

8 MR. GUERKE: Objection, Your Honor. The same
9 general basis as before. Mr. Hood testified he's aware
10 generally of this but not familiar with it.

11 And I'll also note that Ms. Murphy was deposed in
12 this case and she is the one that sent the email.

13 MS. EWALD: And Your Honor, I would submit again
14 that it is a statement of a party and it is not been -- it
15 has not been objected to with regard to authenticity.

16 THE COURT: He said he didn't -- he wasn't familiar
17 with it, he hadn't reviewed it and he was just reading off of
18 it.

19 I'll put this in the same category as the other
20 document, take it under advisement.

21 BY MS. EWALD:

22 Q And Mr. Hood, in December of 2017, I believe just a few
23 days -- two days after Ms. Murphy sent the special equipment
24 list to Sue Hallowell, she also sent to you an equipment
25 analysis. Do you remember that?

1 A I -- I don't recall the -- the date and email, but it
2 may have happened.

3 Q And I'd like to turn exhibit -- if you could turn to,
4 please, Exhibit D-650.

5 And do you recall receiving this equipment analysis from
6 Ms. Murphy on December 20th?

7 A Yes, I -- in the email.

8 Q And I think we might be able to -- we might be able to
9 use the PDF version of this, Mr. Hood.

10 Do you recall reviewing the equipment analysis that Ms.
11 Murphy sent to you?

12 A I -- I -- no, I don't recall specifically reviewing the
13 document.

14 Q Well, you don't have any -- there -- you don't have any
15 question that you received this document, correct?

16 A I -- I would have received it, yes.

17 Q And according to the attached analysis that we see at
18 651, the -- there is now a negative variance between the
19 equipment fee revenue and the equipment fee cost of \$6.2
20 million. Do you see that?

21 A Yeah, I -- I see the number there. Yes.

22 Q And that is for all spreads, now the equipment fee is a
23 negative number, correct?

24 A The equipment fee is a --

25 Q I'm --

1 A The equipment fee is a positive number in the second-to-
2 last line.

3 Q I apologize, Mr. Hood.

4 The variance between the equipment fee revenue and the
5 equipment fee cost is now a loss to Welded, correct?

6 A At -- at this current period or current time, yes.

7 Q And if we turn to the -- I think the tab -- we can use
8 the PFD to take a look at 651/9. This is the equipment cost
9 -- this is the spreadsheet cost that shows the equipment cost
10 totals. Do you see that?

11 (Pause in proceedings)

12 A I -- I see the page, yes.

13 Q And we see, again, these are the items that are -- have
14 been incurred to date that Welded has identified as included
15 equipment, correct?

16 A Yeah, I -- I -- yeah, I'm -- I've got the list here in
17 front of me.

18 Q And Ms. Murphy has reported to you that, at this time,
19 the -- in the equipment cost calculation that she's doing to
20 identify the variance, that the truck rental is identified as
21 part of that equipment cost, correct?

22 A There's a -- there -- there's a -- there's a line on
23 the sheet for truck rental. I don't know what she's telling
24 me at this point. Yeah, there's a line there for truck
25 rental.

1 Q And mobilization and hauling is included, as well?

2 A I see a line for that at the top.

3 Q And the craft-owned equipment, the welding rigs, the
4 mechanic rigs are included here in this cost report as
5 included equipment, correct?

6 A I -- I see that it's on the list, yeah.

7 Q And there is -- we can see in the very -- the cover page
8 to 651 that Ms. Murphy provided to you that home office
9 support is also included in the equipment cost total.

10 (Pause in proceedings)

11 A I see that on the sum page.

12 Q And was this part of a request that you had made
13 following up the issues identified in the earlier emails with
14 Mr. McDowell, that the equip -- about the equipment fee
15 profitability issues?

16 A I'm sorry. Can you repeat that?

17 Q Yes. Was this part of the process of following up on
18 the emails about the equipment loss profitability issues --
19 or equipment fee profitability issues?

20 A I don't -- this -- I'm not -- I'm not sure where -- what
21 -- what we're tying it to. This is -- this is the attachment
22 to the -- the Mary Lynn Murphy that she sent to me.

23 Q Yes, this is an equipment analysis.

24 A That's correct.

25 Q Was this part of the followup from the emails that we

1 saw previously?

2 A I -- I mean, I think it's an independent document, but

3 ...

4 Q Well, let's turn to Exhibit 685.

5 MS. EWALD: And I apologize, Your Honor. That's in
6 the next binder.

7 Your Honor, may I approach with Binder Number 2?

8 THE COURT: Yes.

9 MS. EWALD: Thank you.

10 THE COURT: Thank you.

11 MS. EWALD: May I approach the witness, Your Honor?

12 THE WITNESS: Thank you.

13 MS. EWALD: Oh, sorry, Kevin.

14 MR. GUERKE: Thank you.

15 (Pause in proceedings)

16 BY MS. EWALD:

17 Q And Mr. Hood, I'll just -- I'd like to draw your
18 attention to Exhibit D-685 in Binder Number 2. It's an
19 exchange between you and Ms. Murphy on January 8th of 2018
20 and the subject is Rock change order. Do you see that?

21 A I see it, yes.

22 Q And you indicate to Ms. Murphy:

23 "I know everyone is working on the numbers for
24 Thursday, but tomorrow we have to take a look at
25 what's going on with the 50 percent equipment fee.

1 Everybody in Perrysburg and Houston is concerned."

2 Do you see that?

3 A I see it, yes.

4 Q And the 50 percent equipment fee, that is the equipment
5 fee multiplier, correct?

6 A That -- yes, the -- the -- yes, that's correct, 50
7 percent multiplier calculates the equipment fee. Yes.

8 Q And you say "everybody in Perrysburg," and that would be
9 Mr. Hawkins and Mr. McDowell, the CFO and the President of
10 Welded?

11 A They -- they were two of the people in Perrysburg. I
12 mean, I -- I don't know who I might -- I'm referring to here,
13 but I would assume Dean, being the CFO.

14 Q And Houston was concerned, as well. Would that be
15 Bechtel was concerned?

16 A I mean, it -- it could have been. It could have been --
17 yeah, I don't -- I don't know who in particular, but ...

18 Q And so, at -- you indicate to Ms. Murphy that:

19 "We have to take a look at what's going on with the
20 50 percent equipment fee."

21 And that was a -- that was a subject that you were
22 involved in, in December and January of 2018, correct?

23 A Yeah. This is -- this is January 8th of -- of '18.

24 MS. EWALD: Your Honor, I'd like to move for the
25 admission both of D-650, the email from Ms. Murphy to Mr.

1 Hood, and D-685, the email from Mr. Hood to Ms. Murphy.

2 MR. GUERKE: No objection.

3 THE COURT: Those are admitted.

4 (DX-650 received in evidence)

5 (DX-685 received in evidence)

6 BY MS. EWALD:

7 Q And do you recall that, shortly after your email to Ms.
8 Murphy, about a week later, that Mr. McNabb prepared a
9 presentation regarding the equipment fee losses?

10 A I -- I'm -- I recall that -- that something was -- was
11 prepared. I don't recall the exact document or ...

12 Q And Mr. McNabb, at this point, was the project controls
13 manager for Welded at the home office. Is that right?

14 A That is correct.

15 Q And when he prepared his presentation in January, had
16 Mr. Grindinger left at the time that -- left the project at
17 the time that presentation was given by Mr. McNabb?

18 A I -- I don't know the exact dates, but in -- in that
19 range of time, yes.

20 Q And I apologize, I'm not sure -- oh, I have it. I
21 believe it may be out of order, Mr. Hood. It is Exhibit D-
22 701. And it's about a third of the way in the binder, the
23 document right before it is D-721C.

24 (Pause in proceedings)

25 Q And Mr. McNabb, on January 15, we see the cover page, D-

1 701, emailed you with a subject line "ASR Equipment
2 Reimbursement PowerPoint." Do you see that?

3 A I see it, yes.

4 Q And you had -- did -- you had a meeting about it after
5 the present -- after he emailed it to you, correct?

6 A I -- I -- I don't know if I did or not, but it says
7 "four our meeting," so I'm assuming there's a meeting coming
8 up.

9 Q And do you recall that you had a meeting with Mr. McNabb
10 on this issue?

11 A I -- I don't recall the day or time of a -- of a
12 meeting, but -- you know.

13 Q Well, you remember the presentation, correct?

14 A I -- I was copied on the presentation, yes.

15 Q And if we turn to Page 3 of D-701, at Page 3, there's a
16 table -- or a PowerPoint slide, excuse me, that is entitled
17 "Equipment and Consumables Reimbursement." Do you see that?

18 A I see that, yes.

19 Q And in this slide, the presentation indicates that the
20 loss -- that the loss to date for the equipment cost is \$6.8
21 million. Do you see that?

22 A I see that, yes.

23 Q And this would be with regard to the loss, this is based
24 -- loss based on the equipment fee multiplier revenue versus
25 the cost of equipment and consumables that Welded had

1 incurred at this point, correct?

2 A At -- yeah, a snapshot at that -- at that current time,
3 yes.

4 Q And at that time, the reasons for loss that Mr. McNabb
5 identified were that equipment was being mobilized too early.
6 Do you see that?

7 A I see his reasons, yes.

8 Q He also identified things not being billed, home office
9 and other. Do you see that?

10 A Yes.

11 Q And did you understand that "home office" would refer to
12 the office in Perrysburg, Ohio, Welded's home office?

13 A I'm sure that's what he's referring to here is the
14 Perrysburg office.

15 Q And he also notes:

16 "Review other reimbursable items, small tools, and
17 consumables."

18 Do you see that?

19 A I see it on -- listed below, yes.

20 Q And we looked at the definition of "included equipment"
21 in the contract yesterday. Small tools and consumables are
22 part of included equipment, correct?

23 A Small tools and -- and consumables, again, depending on
24 what they are, but in general, that category is part of
25 included.

1 Q And home office is covered by the fixed fee, which
2 addresses profit and home office overhead, correct?

3 A Home office for those executive managers and -- and
4 corporate leads are covered by the -- by the fixed fee, yes.

5 Q Well, the other home office personnel for -- that you
6 talked about yesterday, were they being charged to Transco at
7 this time?

8 A I -- I -- they were being charged to the -- the project,
9 but I can't confirm if -- if they were being billed that way,
10 but they -- they should have been.

11 Q And the bottom bullet is:

12 "Conclusion, it can be rectified."

13 Do you see that?

14 A I do.

15 Q And did you speak with Mr. McNabb about ways to rectify
16 it?

17 A Well, I spoke to Mr. McNabb about -- about the entire
18 presentation. I --

19 Q And after this presentation, did -- after that time, did
20 Welded start billing the home office personnel to Transco?

21 A I -- I don't know what -- what period it -- it started.
22 It -- I mean, it -- I mean, we -- like I say, we -- we went
23 thought and -- and had the training from -- from Ms.
24 Hernandez on -- on SmartSearch to make sure we categorized
25 things correctly. And if things were not being categorized

1 correctly, they were corrected.

2 Q And so, after this time, you -- strike that. I'll move
3 on.

4 And after this time, do you recall that small tools and
5 consumables began being charged to Transco?

6 A I don't recall that, no.

7 MS. EWALD: Your Honor, I'd move for the admission
8 of D-701.

9 MR. GUERKE: No objection, Your Honor.

10 THE COURT: It's admitted.

11 (DX-701 received in evidence)

12 BY MS. EWALD:

13 Q And do you recall, Mr. Hood, that, after receiving Mr.
14 McNabb's presentation on January 15, that the next day, that
15 you went into the SmartSearch database system yourself? Do
16 you recall that?

17 A I -- I don't recall the timing, but it's possible.

18 Q And going into the SmartSearch database to look at
19 invoices was not something you typically did in your role as
20 project manager.

21 A Not up until the -- the point that -- that CC gave
22 training on how to -- how to get access to it and -- and how
23 to -- how to sort things, how to -- and how to look through
24 the system. No, I -- I didn't have access before.

25 Q And the next day, the -- take a look at D-713 in your

1 binder.

2 And the next day, Mr. Hood, you sent an email on January
3 16th, at 3:22 p.m., to -- and I think these are the cost --
4 field cost accountants. Is that right?

5 A Say that again.

6 Q Yes. The email that you sent at 3:22 the next day, you
7 sent it to the cost accountants in the field, correct?

8 A No, I'm sending that to the project managers. That's
9 the three spreads.

10 Q And Ms. Brann, Mr. Pangemanan, what are their roles?

11 A I -- I copied the -- the email is to the three project
12 managers. The -- Mr. Hines, Ms. Brann, and Mr. Pangemanan
13 are the three cost engineers.

14 Q And Ms. Hallowell is the person responsible for
15 invoicing?

16 A Correct.

17 Q And Ms. Murphy is the person -- the cost engineer
18 responsible for keeping track of the project costs, correct?

19 A That's correct.

20 Q And according to Exhibit D-713, in -- on that day, when
21 you went into SmartSearch, you identified \$600,000 of vendor
22 invoices that were mis-tagged as non-billable. Do you see
23 that?

24 A Yes.

25 Q And you say:

1 "This directly impacts Welded's profitability on
2 ASR."

3 Correct?

4 A Yes.

5 Q And that was correct, right?

6 A Well, it -- it impacts the -- the invoicing, so I'm --
7 I'm ...

8 Q And you ask that:

9 "Please ensure you and your cost engineers are
10 scrubbing the SmartSearch data weekly for necessary
11 corrections."

12 Do you see that?

13 A Yes.

14 Q And you did not attach to your email any instructions as
15 to how they were making -- to make those corrections,
16 correct?

17 A I don't -- I don't believe there's any attachments to
18 the email, no.

19 MS. EWALD: And Your Honor, I'd move to admit D-
20 713.

21 MR. GUERKE: No objection.

22 THE COURT: Admitted.

23 (DX-713 received in evidence)

24 (Pause in proceedings)

25 BY MS. EWALD:

1 Q And Mr. Hood, I'd like to draw your attention to D-729,
2 please, in the binder. And it's an email from Mr. Joe Hines
3 at Welded. Mr. Hines was a project control person, correct?

4 A Spread 5 project controls engineer, yes.

5 Q And he's indicated that he is making changes in accounts
6 payable, correct? For rental equipment.

7 A He is not making changes in -- in accounts payable. He
8 -- he's -- as I read it, he's making notifications of -- of -
9 - yeah, he's correcting costs from one spread to another that
10 got tagged for the incorrect spread.

11 Q Understood. Understood.

12 And Mr. Hood, about this time, Mr. Grindinger has left
13 the project as the project controls manager. Was there a
14 period when Mr. McNabb was acting as the interim project
15 controls manager for Welded?

16 A During the -- the time between Mr. Grindinger's
17 departure and Mr. Singleton's mobilization to the project,
18 yes, John McNabb was our interim PCM.

19 Q And you mentioned Mr. Singleton's name. Mr. Singleton
20 was a -- was he a Bechtel employee?

21 A Yes.

22 Q And do you recall when he joined the project controls
23 team?

24 A I believe was late January. The exact date, I don't
25 recall.

1 Q And I'd like you to turn to Exhibit D-740.

2 MS. EWALD: Oh, I'm -- that's okay.

3 Q And Mr. Hood, Exhibit D-740 is an email exchange on
4 January 24th of 2018. And you provided Mr. Singleton with
5 the August 17th PowerPoint that had been presented to you
6 Transco in Houston, correct?

7 A That's correct.

8 Q And do you know, at that time, Mr. Hood, do you provide
9 Mr. Singleton with the project controls plan?

10 A I don't -- I don't know if I provided it. I mean, he --
11 I don't know -- I don't know if I provided it in an email to
12 him.

13 Q And you provided the -- this PowerPoint to Mr. Singleton
14 for some history on the estimate basis is what -- is that
15 what you said?

16 A Correct.

17 Q And you -- what wasn't attached to this document is the
18 bid estimate plan that we reviewed earlier, correct?

19 A The only -- only attachment to this email is that --
20 that presentation.

21 Q And according to this email, Mr. Singleton then asked
22 Mr. Dubreuil -- was Mr. Dubreuil the scheduler at this time?

23 A He was -- yes, he was one of our project controls
24 engineers. He had a multitude of tasks; scheduling was one
25 of them.

1 Q And the email indicates that he asked Mr. Dubreuil:
2 "Can you incorporate the data from this to
3 calculate the planed" --

4 I would assume planned.

5 "-- lost days."

6 Did you see that?

7 A I see that, yes.

8 Q And after this time, after Mr. Singleton arrived on the
9 project, did Welded start reporting the planned lost weather
10 days per week as 1.2 days to Transco?

11 A Say that again.

12 Q Sure.

13 After Mr. Singleton arrived on the project, did Welded
14 begin reporting to Transco that the planned lost weather days
15 were 1.2 days per week?

16 A I -- I don't recall that exact number, but whatever the
17 number was. That -- that I don't recall.

18 Q And did you review the weekly reports where the lost
19 weather days were provided to Transco?

20 A The -- the weekly reports were reviewed, yeah, every
21 week. The weekly reports were reviewed.

22 MS. EWALD: Your Honor, I'd move for the admission
23 of D-740.

24 MR. GUERKE: No objection, Your Honor.

25 THE COURT: It's admitted.

1 (DX-740 received in evidence)

2 (Pause in proceedings)

3 BY MS. EWALD:

4 Q And Mr. Hood, at this time, was the project team going
5 about preparing an updated forecast to Transco, both from a
6 schedule and cost perspective?

7 A Yes, we were.

8 Q And I'd like to turn to Exhibit D-751.

9 And at D-751, do you see that you've been copied on a
10 January 25, 2018 email from Mr. Singleton?

11 A Yes.

12 Q And the -- his -- the subject of his email is the ASR
13 forecast update. Do you see that?

14 A Yes.

15 Q And I think we can do this primarily from the attached
16 documents.

17 Mr. Hood, you recall the exercise of preparing that
18 updated forecast to Transco, correct?

19 A Yes.

20 Q And we look at 751B. And I think we can take a look at
21 the -- first at the PDF version.

22 The first page of 751B is a -- again, the equipment fee
23 variance analysis. Do you see that?

24 A Yes.

25 Q And one of the things we see at 751B is that home office

1 support now shows a deduct for the incurred costs. Do you
2 see that?

3 A Specifically, which cell are we talking about?

4 Q Yes. I apologize.

5 Do you see the first page, 751B? And we see -- under
6 "equipment costs" we see equipment, small equipment, tools
7 and consumables, temporary facilities, and then home office
8 support.

9 A Yes.

10 Q And these go into the items of equipment costs total
11 that are the included equipment for -- on the job, correct?

12 A Yeah, the sum at the bottom. Yes.

13 Q And they are -- they're the equipment cost total that
14 compares to the equipment fee revenue, correct?

15 A Yes.

16 Q And at this time, in January of 2018, amounts have been
17 deducted from the home office support column. Do you see
18 that, the 343,000?

19 A I see that.

20 Q And there -- the columns for incurred to date in current
21 forecast for home office support are now blank. Do you see
22 that?

23 A Yes.

24 Q And we see here -- this is the Spread 5 equipment cost
25 analysis -- that there is a -- incurred to date, there's a

1 variance of a little over \$2 million, correct?

2 A Correct.

3 Q And I think we may have to do this from the spreadsheet.

4 MS. EWALD: Ms. Bair, if we could turn to the --
5 Tabs 3, 4 for equipment.

6 BY MS. EWALD:

7 Q And we see now that the spreadsheet for craft-owned
8 equipment has no entries at this time, correct?

9 A What cell is that?

10 Q We're looking at Rows 16 through 19, under "craft-owned
11 equipment."

12 A Yeah, I see that. Yes.

13 Q And the -- there are no entries currently in that field,
14 correct?

15 A Correct.

16 Q And if we turn to the labor tabs, we see that the craft-
17 owned equipment, the one two labor, that the welding rig
18 rental and the mechanic rig rental are now moved to labor.
19 Do you see that?

20 A I see that.

21 MS. EWALD: Your Honor, I'd move for the admission
22 of Exhibit 751 and the Excel attachments.

23 MR. GUERKE: No objection.

24 THE COURT: Okay. They are admitted.

25 Is that 751B?

1 MS. EWALD: Yes, Your Honor. It's 751 and 751B is
2 the document that I used with Mr. Hood.

3 THE COURT: Okay. They're both admitted.

4 (DX-751 and DX-751B received in evidence)

5 (Pause in proceedings)

6 BY MS. EWALD:

7 Q And Mr. Hood, we talked a little bit about schedule.

8 I believe that the original scheduling -- original
9 scheduler for the ASR project was a gentleman named Jim
10 Ambler (phonetic). Is that correct?

11 A Yes.

12 Q And Mr. Ambler was a temporary hire from the PTAG
13 agency?

14 A He was -- he was one of the agency employees from PTAG.

15 Q And do you recall he left the project in or about
16 February of 2018?

17 A I -- he left at some point. I'd -- he had some health
18 concerns and -- and could not stay with the project, but I --
19 I don't know the exact date.

20 Q And I'd like to draw your attention to Exhibit D-835.
21 It is an email from Mr. Wheeler dated February 19, 2018 to
22 yourself and others. And the subject is "Hill and Tie-In
23 Project, Spread 5." Do you see that?

24 A I see it, yes.

25 Q And Mr. Wheeler is now tasked with the job of updating

1 the schedule. Is that correct?

2 A Mr. Wheeler and there's a John Cooper had joined us, he
3 was a scheduler as well.

4 Q And Mr. Wheeler was a Welded employee. Is that right?
5 Do you know?

6 A I believe Mr. Wheeler was PTAG.

7 Q And the other gentleman you just mentioned, where was he
8 from?

9 A Mr. Cooper I believe was PTAG.

10 Q And according to Mr. Wheeler's email, in the second
11 paragraph, he is saying:

12 "We should not be promising all of these changes
13 until they are completed and reviewed. I know we
14 are trying to give Williams some good news, but we
15 should make sure we can accomplish what we are
16 promising. And without more detail, as we have
17 done in Spread 7, we are only making up overall
18 summary dates without the detail to make sure it
19 can be accomplished."

20 Is that what the new scheduler was reporting to you at
21 the time?

22 A Yes. This is from Mr. Wheeler to myself.

23 Q And this was specifically related to Spread 5, according
24 to his subject line, correct?

25 A Yes, I believe that's the subject here.

1 MS. EWALD: Your Honor, I'd move for the admission
2 of D-835.

3 MR. GUERKE: No objection, Your Honor.

4 THE COURT: It's admitted.

5 (DX-835 received in evidence)

6 BY MS. EWALD:

7 Q And Mr. Hood, were you aware that, in February of '18,
8 that the cost -- the field job cost team moved the rental
9 trucks from a non-billable category to the subcontracting
10 category?

11 A I'm -- I'm not aware of specific moves in the -- in the
12 cost report, no.

13 Q I'd like to turn your attention to D-867.

14 A I'm sorry. The number again, please?

15 Q D-867.

16 A Eight six seven?

17 Q Yes, sir.

18 And I'll first draw your attention to an email from Ms.
19 Brann, as a project controls person, to Ms. Murphy, Mr.
20 Pangemanan, and Mr. Hines, the -- an email dated February 27,
21 2018. Do you see that?

22 A Yes, I do.

23 Q And the subject is ASR invoice to Williams. And she
24 says:

25 "As I look through this invoice, I notice the

1 company trucks are reimbursable. Company trucks
2 are a big part of the daily equipment cost that we
3 report and accrue on our daily progress/cost
4 reporting. If they are reimbursable, shouldn't
5 they be removed from the equipment tracking
6 spreadsheet."

7 Do you know, at that time, Mr. Hood, that the company
8 trucks got moved from -- got moved within the cost reporting
9 system?

10 A I -- I don't -- I don't believe that was on -- on this
11 particular email.

12 Q Do you -- you were not aware of this circumstance,
13 correct?

14 A (No verbal response)

15 Q And Ms. Murphy, at the top of the page, at Page 1,
16 advised Ms. Brann and others:

17 "Yes, make the costs zero. Also, I guess it's the
18 next one we have to deal with, in terms of making
19 the client cost report correct. Please move the
20 category trucks from temporary" -- "temp
21 facilities, I think, to subcontracts, where all
22 leases should be tracked."

23 Do you see that?

24 A Yes, I do.

25 Q And so you were unaware at this time that the company

1 trucks were moving within the cost report from a non-billable
2 to billable category?

3 A Well, the cost -- the cost report, it looks like she's -
4 - she's making corrections, is what she's doing. She's
5 moving it from one category to the other, so -- no, I wasn't
6 aware of the -- the -- this email and then the specific moves
7 she was making, no.

8 (Pause in proceedings)

9 Q Mr. Hood --

10 (Off the record at 12:15:54 to 12:16:00 p.m.)

11 MS. EWALD: May I proceed, Your Honor? Thank you.
12 I was planning to go until 12:30, unless you have a different
13 preference.

14 THE COURT: It's fine. It's not my meeting. I can
15 show up when I show up.

16 BY MS. EWALD:

17 Q Mr. Hood, I am drawing your attention to Exhibit D915.

18 And this is -- the subject of this email is the "True-up
19 for January and February," correct?

20 A Yes.

21 Q And Ms. Peters, she is at the Perrysburg office. Is
22 that right?

23 A Yes, that's correct.

24 Q And Mr. Patterson, where is he located?

25 A In Perrysburg, as well.

1 Q And Mr. McDowell was also in the Perrysburg office?

2 A Yes.

3 Q And Ms. Peters, what was Ms. Peters' title?

4 A Ms. Peters was payroll manager.

5 Q And it appears that she's asking Mr. Patterson to dive
6 into the reconciliation process on Monday.

7 Were you aware that Ms. Peters and Mr. Patterson were
8 reviewing the true-up invoices for the ASR project in March
9 of 2018?

10 A No. I was not copied on this string
11 at all.

12 Q She goes on to indicate:

13 "Sue should go back \$9 million for February."

14 Do you see that?

15 A Yes, I do.

16 Q And were you aware that the original true-up invoice for
17 January and February was a credit back to Transco of \$9
18 million?

19 A You said the "original invoice"?

20 Q Or the invoice that existed as of March 4, 2018.

21 A No, I would not have been involved in that. She called
22 that a work in progress here. So, no, I would not have seen
23 it.

24 Q And do you recall ultimately whether there was a credit
25 owed back to Transco on those reconciliation invoices?

1 A No. I can't recall those particular months. But as I
2 said before, the whole purpose of the true-up reconciliations
3 was to determine whether there was a plus or a minus from a
4 cash call.

5 Q And Mr. Hood, do you recall that at some time in March
6 of 2018 mobilization and hauling was moved within the Welded
7 cost reports?

8 A I don't recall specific item moves, no.

9 Q And are you aware that the mobilization and hauling
10 costs are one of the issues that were in dispute between
11 Transco and Welded? Correct?

12 A I've heard that, yes.

13 Q And that's specifically the mobilization and hauling of
14 included equipment, correct?

15 A I'm not familiar with the whole claim, but ...

16 Q And I believe you testified yesterday you're not
17 familiar with the amount of mobilization and hauling that was
18 charged to Transco in total?

19 A I'm not familiar with the number. It would have been
20 charged as specified in -- by Section 8. I don't know what
21 the numbers are. I'm not familiar with them.

22 Q Mr. Hood, I'd like to take a look at D-916, please.

23 And again, this is an email exchange between Ms. Murphy,
24 Mr. Hines, and then ultimately Mr. Singleton.

25 Mr. Hines was the project controls gentleman on Spread

1 5, correct?

2 A Correct.

3 Q And as we see at the top of D-916, Page 2, Ms. Murphy is
4 advising Mr. Hines that truck rentals are billable.

5 Do you see that?

6 A I see that, yes.

7 Q And were you also -- strike that.

8 I'd like to turn -- within the attached Excel
9 spreadsheet, the first page we can take a look at is the --
10 the same equipment summary that we've been seeing before,
11 right, Mr. Hood?

12 A It appears to be, yes.

13 Q And this is showing that -- this is for Spread 5, the
14 equipment cost analysis, the variance between equipment fee
15 revenue and equipment cost are \$3 million. Do you see that?

16 A Okay. I see that.

17 MS. EWALD: And, Ms. Bair, if you could turn to Tab
18 3 for equipment.

19 BY MS. EWALD:

20 Q Do you see that mobilization and hauling now is --
21 there's -- committed to date and incurred to date is blank in
22 this spreadsheet. Do you see that?

23 A I do see that.

24 Q Oh, I'm sorry. It is 916A.

25 MS. EWALD: And, Ms. Bair, if you could turn to the

1 subcontracts tab, please.

2 BY MS. EWALD:

3 Q And do you see there, Mr. Hood, at the bottom, that
4 mobilization and hauling, the cost code 5820-3 is now in the
5 subcontracts tab of the cost report?

6 A I see that, yes.

7 Q And do you recall whether Ms. Murphy reported that to
8 you at the time?

9 A No. It would have been part of our, you know, weekly
10 and monthly reports. But I don't know specifically if she
11 reported a single item.

12 MS. EWALD: Your Honor, this would be a good
13 breaking point. I appreciate that you have a meeting.

14 THE COURT: Okay. Thank you.

15 Then we're in recess. Let's come back at 1:30.

16 MR. GUERKE: Thank you, Your Honor.

17 (Luncheon Recess taken at 12:23 p.m.)

18 AFTERNOON SESSION

19 (Proceedings resume at 1:33 p.m.)

20 (Call to order of the Court)

21 MARCUS HOOD, WITNESS FOR THE DEBTOR/PLAINTIFF, PREVIOUSLY
22 AFFIRMED, RESUMES STAND

23 THE COURT: Please be seated.

24 Ms. Ewald.

25 MS. EWALD: Thank you, Your Honor. May I proceed?

1 THE COURT: You may.

2 MS. EWALD: Thank you.

3 Your Honor, I have one housekeeping matter from the
4 examination of Mr. Hawkins, and I have to confess I don't
5 recall what day that was.

6 But Mr. Burwood and Mr. Guerke have conferred.
7 Exhibit D-1371 was discussed with Mr. Hawkins, but we failed
8 to move for admission. And there is -- as I understand it,
9 there is no objection from counsel.

10 MR. GUERKE: No objection, Your Honor.

11 THE COURT: Okay. Then D-1371 is admitted.

12 MS. EWALD: Thank you, Your Honor.

13 (DX-1371 received in evidence)

14 CONTINUED CROSS-EXAMINATION

15 BY MS. EWALD:

16 Q Good afternoon, Mr. Hood.

17 Mr. Hood, do you recall, in March of 2018, that there --
18 the -- there was a notice of violation received by Welded and
19 Transco related to the -- what's called a "frack-out" or an
20 inadvertent return of drilling fluids at the I-81 crossing?

21 A I'm -- I'm aware of the event, yes.

22 Q And are you -- and are you aware that a notice of
23 violation was received by both Welded and Transco related to
24 that event?

25 A That's correct.

1 Q And if you could turn to Exhibit D-1015 in your binder.

2 A Is that in Number 3?

3 Q It is in Binder Number 3.

4 MS. EWALD: Your Honor, I apologize. I have good
5 news, in that I'm moving to binder --

6 THE COURT: Last binder?

7 MS. EWALD: -- to Binder Number 3 of 3. May I
8 approach?

9 THE COURT: You may. Thank you.

10 BY MS. EWALD:

11 Q Mr. Hood, I'm drawing your attention to D-1015.

12 And at the top of the very --

13 MS. EWALD: And I'll wait, Your Honor. I
14 apologize.

15 THE COURT: I'm sorry. I just have to mark them or
16 I get all mixed up.

17 (Pause in proceedings)

18 THE COURT: And I'm with you. We're on D-1015.

19 MS. EWALD: Yes. Thank you, Your Honor.

20 BY MS. EWALD:

21 Q Mr. Hood, the -- you sent an email at March 30th, 2018
22 to Messrs. Duncan, Smith, and Schoenherr. And I believe you
23 forwarded this notice of violation that had been received,
24 correct?

25 A That's right.

1 Q And if we turn to Page 3 of Exhibit D-1015, we see the
2 notice of violation being sent both to Mr. Dean and Mr.
3 McDowell, correct?

4 A Correct.

5 Q And there were two issues involved with the I-81 board
6 crossing at this point, as referenced in this letter,
7 correct?

8 A I'm -- I'm not familiar with the letter. But what are
9 the issues, which two issues?

10 Q Certainly.

11 In the first paragraph, Mr. Hood, there is the second --
12 or third sentence from the bottom of the paragraph. It
13 indicates:

14 "During the inspection, the Department documented
15 that pipeline installation activities were underway
16 at the site using horizontal directional drill,
17 HDD, construction methods. The Department did you
18 authorize the use of any HDD methodology in this
19 area."

20 Do you see that?

21 A I see that, yes.

22 Q And that indicates that the approved methodology for
23 crossing I-81 was not an HDD, correct?

24 A That's correct.

25 Q And it indicates that the approved method of pipeline

1 installation at this -- at its crossing with Interstate 81
2 was a conventional bore, correct?

3 A Correct.

4 Q And so the Department discovered that Welded was using
5 HDD methodology, not a conventional bore, when they
6 inspected, correct?

7 A Well, we were -- we were not using HDD methodology. We
8 were -- it's -- this bore was converted to what's -- to a
9 hybrid called a -- called a "guided bore," whereby a pilot
10 hole is made with the HDD equipment, but it's -- it's
11 definitely not -- the bore was not made with HDD technology
12 within -- within an open hole.

13 Q But HDD equipment was being used by Welded, correct?

14 A The -- the rig to make the pilot hole was the same type
15 of rig that you would use on an HDD, but it was used in a --
16 in a different method.

17 Q And the permitted method for I-80 -- the I-81 crossing
18 was a conventional bore, correct?

19 A And a bore -- a hybrid conventional bore is -- is what
20 was being attempted.

21 Q A hybrid conventional bore?

22 A That's correct. We were -- we were going to use a
23 typical -- the conventional boring machine after we had a
24 pilot hole done.

25 Q And the pilot hole is what you were using HDD

1 technology.

2 A HDD -- HDD equipment was used to -- to make a pilot
3 hole.

4 Q And also, during that operation, there was a -- what's
5 called a "frack-out," right, Mr. Hood?

6 A A frack-out or inadvertent return, yes.

7 Q And "inadvertent return" refers to the situation when
8 drilling fluids used by that HDD equipment for the guided
9 bore returned to the surface.

10 A That is correct.

11 Q And that is an environmental violation, correct?

12 A I -- I don't know that it's a violation. It's a -- it's
13 a common occurrence. Whether it's a violation or not, I
14 don't know the -- the definition of that, but ...

15 Q Well, do you understand that the Department of
16 Environmental Protection issued a notice of violation because
17 of it?

18 A Okay.

19 Q And this circumstance -- well, first of all, let me --
20 and the Welded -- Welded was the entity that was responsible
21 for that inadvertent return, correct?

22 A One of our subcontractors was -- was performing that
23 work, but ...

24 Q Which subcontractor was that?

25 A I believe it was Maxx, but I -- I can't be certain about

1 that.

2 Q And is -- was Maxx an HDD subcontractor?

3 A They were a boring contractor that we -- we hired for
4 the project.

5 Q But it was work that Welded was performing through its
6 subcontractor at the site, correct?

7 A Correct.

8 Q And Mr. Hood, do you understand that this caused a delay
9 on the project?

10 A I understand -- I understand the work was delayed, yes.

11 Q And are you aware that Welded's scheduling expert has
12 opined that, in fact, this issue caused 91 days of delay to
13 the project?

14 A I -- I'm not completely familiar with that report, but
15 okay.

16 Q And are you also aware that your -- that Welded's
17 expert, scheduling expert, has contended that Welded is
18 entitled to a 4.5-million-dollar scheduling bonus due to this
19 issue?

20 A I'm -- I'm aware of that -- that fact, yes.

21 Q And do you agree with him that Welded is entitled to a
22 4.5-million-dollar schedule bonus due to this violation?

23 A I don't think a bonus is -- is tied to the violation in
24 any way.

25 Q So my question is: Do you agree with his conclusion

1 that Welded is entitled to a scheduling bonus of four and a
2 half million dollars for this violation --

3 A Again, I don't --

4 Q -- or for this issue?

5 A I don't -- I don't think the -- the claim of 4 million
6 is related directly to this issue.

7 Q Well, you don't know of any other issues, other than the
8 use of the hybrid HDD methodology and the frack-out that
9 occurred, that contributed to the ninety-one-day delay in
10 crossing I-81, correct?

11 A There were -- I know there were numerous delays in
12 getting the -- you know, getting a permit to work in the --
13 in the center of the -- in the median of -- of I-81 to be
14 able to -- to continue the work. I know there was a lot of
15 delays to -- to receive those permits to be able to go back
16 to work.

17 Q And that was delays that were caused by what the
18 Department found when they did the inspection in March of
19 2018, correct?

20 A Well, not -- not necessarily. I mean, there were -- we
21 were -- we were ready to go back to work, but they -- there
22 were -- there were permits that had to be reapplied for to --
23 to change the method to -- to work in the center of the -- in
24 the median of I-81. That's what we were waiting on, if I
25 recall.

1 Q Well, after the -- the Department did this
2 investigation, did -- identified this violation, it was 91
3 days before the issue due to this violation was resolved,
4 correct?

5 A Before it was eventually resolved, yes.

6 Q And Mr. I'd like to turn to Exhibit D-1022.

7 MS. EWALD: Oh, I apologize, Your Honor. I'd move
8 for the admission of Exhibit D-1015.

9 MR. GUERKE: No objection.

10 THE COURT: It's admitted.

11 (DX-1015 received in evidence)

12 BY MS. EWALD:

13 Q Mr. Hood, do you recall that there were concerns in
14 April of 2018 regarding the March reconciliation invoice?

15 A I -- I don't recall a specific concern, no.

16 Q Do you recall that -- and I think it was introduced
17 through your direct examination yesterday -- the March 2018
18 reconciliation was along the lines of a sixteen-million-
19 dollar credit back to Transco? Do you recall that?

20 A Yes.

21 Q And some of the reconciliation invoices showed
22 significant credits back to Transco, such as the \$16 million,
23 correct?

24 A There were several that had negative reconciliations,
25 yes.

1 Q And with regard to the sixteen-million-dollar
2 reconciliation, was that the highest credit back to Transco?
3 Do you recall?

4 A I -- no, I don't recall --

5 Q And --

6 A -- the values.

7 Q -- in March of -- or excuse me -- April of 2018, again,
8 Ms. Peters and Mr. McDowell at the Perrysburg home office --
9 as we can see in the top two emails, Ms. Hallowell, the site
10 accountant, has emailed Ms. Peters with the draft
11 reconciliation for March. Do you see that?

12 A Yeah, I do see that.

13 Q And she says:

14 "Here you go. Not a true picture of reconciliation
15 because the invoice was through 4/1."

16 Do you see that?

17 A Yes.

18 Q And it appears that Welded was cutting off the month a
19 week early at March 25th. Do you recall that circumstance?

20 A I -- no, I don't -- I don't recall the particulars
21 around the -- the monthly cutoff dates and -- and this email,
22 no.

23 Q And do you recall reviewing the March reconciliation
24 invoice before it went out?

25 A I would have reviewed it and -- and signed it before it

1 went out, yes.

2 Q And if we look at Tab 1022A, we see that the current
3 variance that Ms. Hallowell has sent to the home office in
4 Perrysburg shows that the variance is a little over \$34
5 million between the March cash call of ninety-five and the
6 actual reconciliation numbers of \$60 million. Do you see
7 that?

8 A I -- I see that, yes.

9 Q And we know that part of -- so -- and I believe, as you
10 just testified, the final reconciliation was \$16 million.

11 Do you recall any other discussion as to how the March
12 reconciliation, the initial draft, went from thirty-four to
13 sixteen?

14 A I -- I don't recall any discussion about the March cash
15 call and reconciliation.

16 (Pause in proceedings)

17 Q And did Ms. Peters and Mr. McDowell have any involvement
18 in preparing the final reconciliation or was it all --

19 A It was --

20 Q -- your responsibility?

21 A It was -- it was -- Sue Hallowell was responsible for
22 the -- the preparation.

23 Q And so it was information only for Perrysburg, they
24 weren't involved in it?

25 A Well, they were the -- they were the accountants. Well,

1 Dean was -- was CFO, so he was, you know, involved in the --
2 you know, in the receipt and -- and sending the invoice, but
3 not in -- in preparation of, no.

4 Q Thank you, Mr. Hood.

5 Mr. Hood, I'd like to talk a little bit about the
6 weather reporting on the project after Mr. Singleton arrived.

7 Do you recall that the weather days, the lost weather
8 days were reported to Transco as 1.2 weather days per week,
9 after Mr. Singleton arrived?

10 A I mean, I -- I believe the reporting would have been
11 whatever the actual weather events were. I -- I recall the
12 reporting, you know, in the -- in the weekly progress report,
13 we would -- we reported days lost.

14 Q And so Mr. Singleton arrived in January of 2018,
15 correct?

16 A Correct.

17 Q And I believe you testified yesterday the weather turned
18 sharply for the worse in January of 2018, correct?

19 A It turned very cold in January of '18.

20 Q And if you could turn your attention, please, to Exhibit
21 D-1098.

22 Do you recall that Transco had requested information in
23 April of 2018 regarding the weather days experienced on the
24 project? And I'll turn your attention to the second page,
25 where Mr. Ash -- no, I'm sorry. That's mister -- Mr. Afshin

1 -- that's his first name. Mr. Pourmir of Transco had
2 requested of Mr. Dubreuil the rain/snow-out days?

3 A I see the email, yes.

4 Q And Ms. Mary Eve Peltier follows up:

5 "Yes, if we could have this information as soon as
6 possible, it would be much appreciated."

7 Did you understand that she was the scheduler for
8 Transco?

9 A Yes.

10 Q And at the top email, Mr. Singleton says to Mr. Dubreuil
11 he's looking at the information that's been provided. And he
12 says:

13 "I don't like it, says that weather isn't as much
14 as an impact as we always say."

15 Do you see that?

16 A I see that.

17 Q And one of the -- and if we look at the attached table
18 at 1098, we see that the information that has been assembled
19 by Welded shows planned rain/snow days of 1.2 per day. Do
20 you see that?

21 A I -- yes, I see that.

22 Q And do you have any reason to disagree that 1.2 days of
23 planned rain and snow were what was being reported by Welded
24 to Transco at that time?

25 A Reported as planned.

1 Q Yes.

2 A I -- that -- that appears to be the way the report is
3 set up.

4 Q And we see that on Page 5, as well?

5 A (No verbal response)

6 Q The plan days were 1.2 lost days due to weather?

7 A I see that, yes.

8 Q And with regard to the reporting to Transco, did you
9 ever have any discussions with Mr. Sztroin regarding these
10 planned weather days?

11 A We -- we had a discussion every week about the -- the
12 weather days.

13 Q And did --

14 A We --

15 Q -- you advise him at the time that the plan was that
16 only 1.2 weather days had been planned per week?

17 A Well, whatever -- I mean, whatever the plan was, it was.
18 We also discussed the -- the actual days and -- and the
19 impacts, so we -- we did discuss them.

20 Q And did you compare those to the 2.5 days that we saw in
21 the bid -- or in the estimate and report those to Transco?

22 A I -- I believe the -- the estimated showed a 20 percent
23 figure, as I recall.

24 Q You don't recall that the estimate showed a 35 percent
25 figure?

1 A I think the -- the ending estimate, I believe, was 20
2 percent, as I recall, 1 -- 1 day or 1.2 days per week.

3 Q And Mr. Hood, in the Summer of 2018, were efforts being
4 made by -- were efforts being made by Welded to work on the
5 cleanup and restoration of the right-of-way?

6 A In which time period?

7 Q In the Summer of 2018.

8 A Well, I'm sure those activities had started by then,
9 yes.

10 Q And that was work that Welded had subcontracted out,
11 correct?

12 A It was -- some spreads, we did. I believe we -- we were
13 doing a portion direct hire and then some of that work was
14 subcontracted.

15 Q And if we could turn to Exhibit D-1147.

16 There's an email at the top of the chain with regard to
17 the cleanup and restoration efforts dated May 14, 2018,
18 between yourself and Ms. Mitton.

19 Who was Ms. Mitton?

20 A She was a project controls engineer on Spread 7.

21 Q And you asked her, on May 14th, you asked her:

22 "How about restoration and cleanup? We've been
23 stuck at" -- "on 4820 for a while."

24 Do you see that?

25 A I see that.

1 Q And what did you mean by that, "we've been stuck on
2 4820"?

3 A The -- the data report had -- had shown the same thing
4 days in a row, so -- so the question was why is it -- why is
5 it still 4820, why hasn't it changed.

6 Q And the restoration and cleanup, per the original
7 schedule, was anticipated to be completed within
8 approximately two months after mechanical completion. Do you
9 recall that?

10 A It's in a schedule. I -- I don't recall the exact
11 dates, but it -- it's -- it would be reflected on the
12 schedule.

13 Q And Ms. Mitton replies that:

14 "Restoration and cleanup is as bad as it looks.

15 Our cleanup crew is having to redo the majority of
16 the work the first cleanup crew did."

17 Do you see that?

18 A I do see that.

19 Q And do you recall that the restoration and cleanup
20 process was not going as scheduled by Welded at that time?

21 A It was not going as scheduled due to -- to the weather
22 events and -- and the restrictions from -- on the right-of-
23 way, due to conditions.

24 Q And did you update Transco with regard to the
25 restoration and cleanup status during the job?

1 A Yeah. Status was reported every -- every day through
2 the daily reports, every week through the weekly progress
3 reports.

4 Q And I'd like to ask you a little bit about the de-
5 mobilizations that were being planned for the ASR project.

6 Do you recall that, in the Summer of 2018, there were
7 some people that were being de-mobilized from -- or that a
8 de-mobilization plan was being requested by Transco?

9 A Yes.

10 Q And do you recall that there was review of the ASR
11 personnel who could be moved from ASR to other projects?

12 A There would have -- there would have been de-staffing
13 plan prepared, yes.

14 Q And I'd like to turn your attention to Exhibit D-1169.

15 And we see that, at the bottom of the page, Mr. Hawkins
16 has sent an email to yourself and others, on May 22nd, 2018,
17 entitled "PMT Resources." Do you see that?

18 A Yes, I do see that.

19 Q And "PMT resources" are project management team
20 resources?

21 A Correct.

22 Q And the project management team for ASR was sitting at
23 the Mount Joy office, correct?

24 A I'm sorry. Say that again.

25 Q The project management team was sitting in the Mount Joy

1 office, correct?

2 A Primarily in -- in Mount Joy, yes.

3 Q And miss -- I can't pronounce her name, miss -- I'll
4 call her "Jackie K," has put together a list of the people on
5 ASR. Do you see that?

6 A (No verbal response)

7 Q At 12:44 p.m.

8 A I do see that, uh-huh. Yes.

9 Q And she follows up with an email to Mr. Singleton the
10 next day, indicating that, on that sheet she sent over:

11 "The ones in red are Welded hires/long-term hires,
12 everyone else is a project hire."

13 Do you see that?

14 A Yes.

15 Q And we see that, at the bottom of the page you are
16 copied on this plan for ASR resources going to other jobs,
17 correct?

18 A (No verbal response)

19 Q Were you -- do you see yourself listed, Mr. Hood, at
20 4:39 p.m. and at 12:44 p.m.?

21 A Yes. I was -- I was on -- I was on the first -- the
22 string for the first couple, but then not on the other two.

23 Q And you were one of the ASR project management team
24 people that went to MXP, correct?

25 A I did go to MXP, yes.

1 Q And that was in -- what month was that?

2 A It was August/September. I want to say the August time
3 frame, maybe. I don't recall the exact date, but it was -- I
4 want to say August.

5 Q And if we could turn to the attachment at 1169A -- and I
6 think we have a color version of it potentially -- at Page
7 55, and look to see the list of the ASR personnel at Page 55
8 of the document. And I think it's up on the screen in color,
9 which might be more helpful to you, Mr. Hood.

10 So we see at the top there are the PMT folks, the --
11 that's the project management team, correct?

12 A Yeah, those are -- yes.

13 Q And that includes you at the top, correct?

14 A Correct.

15 Q And then, as -- we see that the two people that have a -
16 - are designated in red, which refers to Welded hires and
17 long-term hires. On this sheet, the only people that fall
18 into that category are Mr. Singleton, Mr. Wheeler, and Mr.
19 Lahart, correct?

20 A I don't believe that red indication is the same red as
21 what we're talking about. The red -- red here, I would -- I
22 would take as a change to or revision or change to the
23 spreadsheet. That -- these are not -- those are not -- I
24 think that's a different red reference she's making.

25 Q Well, her email says:

1 "The ones in red are Welded hires/long-term hires.
2 Everyone else is a project hire."

3 That's what her email said, correct?

4 A But that -- that's not -- no, that -- the people that
5 are in red that -- only one is a Welded person, Mr. Lahart.

6 Q Only one is a Welded person. All right.

7 All right. Well, let -- everyone in -- So Mr. Singleton
8 is not a Welded person, correct?

9 A Correct.

10 Q And are you saying Mr. Wheeler is not a Welded person?

11 A Mr. Wheeler is not a welded person.

12 Q And so everybody above the box with -- ending with
13 Andrew Fell, is -- you'd say everybody there is not a Welded
14 person, right?

15 A Right. The -- there's -- none of those first -- in the
16 -- in the first set -- I don't know whether there's eight or
17 ten -- there -- none -- none of those are Welded hires.

18 Q And Mr. Feiler, we know he's not a Welded person,
19 either?

20 A Correct.

21 Q And Mr. Lupi (phonetic), not a Welded person?

22 A Mr. Lupi is a Welded person.

23 Q He is a Welded person.

24 And it doesn't appear that he is planned to be on the
25 job after May, correct?

1 A Right. They -- they actually indicate, yeah, his -- his
2 last week or the -- the forecast of his tenure, so that's the
3 way I read this.

4 Q And Mr. Morgan was not a Welded person, correct?

5 A Mr. Morgan is not a Welded person.

6 Q And mister -- Ms. Gutierrez is not a Welded person?

7 A Correct.

8 Q Kenny, the subcontracts manager, not a Welded person.

9 A Correct.

10 Q Mr. Waltzinger, DOT compliance, not Welded?

11 A He is Welded.

12 Q He -- Mr. Waltzinger was a Welded person.

13 Mr. Laffoon, not a Welded person, correct?

14 A Mr. Laffoon was a Welded person.

15 Q Mr. Laffoon was not -- didn't he start off at least
16 being a PTAG person?

17 A He did start off that way. I believe he transferred
18 over.

19 Q Do you know when that occurred?

20 A I -- no, I do not know.

21 Q So, with regard to the other superintendents, do you
22 know, sitting here today, whether they were Welded people?

23 A The others -- there's mister -- Mr. Bradford was a --
24 was a Welded person.

25 Q Is that Jerry or Adam?

1 A Adam Bradford.

2 This list is a -- is a mix. There's -- there's Welded -
3 - Welded people, PTAG people, Bechtel people. It's a -- it's
4 a mix of personnel here.

5 Q Okay. And so, at least from the -- I think we have
6 identified from Mr. Waltzinger up, there are no Welded
7 people, correct? Is that right?

8 A No. Mr. Lupi is a --

9 Q Mr. Lupi.

10 A -- Welded person.

11 Q Ah, he would be the exception. Okay.

12 And then the others are a mix of Welded and PTAG people?

13 A And Bechtel people.

14 Q And you mentioned that, during the job, Mr. Laffoon was
15 transferred from the PTAG organization to Welded. Is that
16 right?

17 A I -- I believe he was.

18 Q And so his name would no longer show up on the PTAG
19 invoices?

20 A If -- if he was transferred over to Welded, there would
21 -- there would be a point where he would not be invoiced as
22 PTAG any longer.

23 Q And if he stayed with PTAG, you would expect to see his
24 name on the PTAG invoice, correct?

25 A If he remained PTAG, he would remain on the invoice.

1 Q Thank you.

2 MS. EWALD: And Your Honor, I'd move for the
3 admission of Exhibit D-1169 and 1169A.

4 MR. GUERKE: We object, Your Honor. Similar
5 reasons as before. While Mr. Hood is copied on the lower
6 emails, he's not copied for the relevant part and it doesn't
7 appear that he was copied on the attachment. And I believe
8 he testified he wasn't involved with whatever the spreadsheet
9 is.

10 MS. EWALD: Your Honor, I believe he has personal
11 knowledge of the information that's shown on the spreadsheet
12 and testified with regard to it. To the extent it different
13 than what's in the document, it's reflected on the
14 transcript.

15 THE COURT: Okay. Well, I'm sustaining this
16 objection because I'm not sure you're reading the email
17 correctly. And he didn't have knowledge of this, he was
18 simply reading it and disagreeing with it. So I'm not going
19 to admit the document. He has information.

20 MS. EWALD: All right. Thank you, Your Honor.

21 Mister -- oh, I am being told, Your Honor, that I
22 did fail to admit D-1147, and I would move for admission on
23 D-1147 at this time. This was the email regarding the
24 restoration and cleanup status between Mr. Hood and Ms.
25 Mitton.

1 MR. GORDON: No objection, Your Honor.

2 THE COURT: It's admitted.

3 (DX-1147 received in evidence)

4 BY MS. EWALD:

5 Q Mr. Hood, do you recall discussing with Mr. Singleton,
6 the project controls manager, the -- a review of the
7 profitability of ASR, the planned fixed-fee profitability, i
8 the Summer of 2018?

9 A Is there a particular document to review that -- I mean,
10 I'm sure we had discussions.

11 Q And you would have had those discussions with the
12 project controls manager, Mr. Singleton. Do you recall that?

13 A Mr. Singleton, I would -- yes.

14 Q And so, if we could turn to Document D-1314.

15 And I apologize, I might have -- in my description of
16 the document. It's a reconciliation from the original
17 estimate to the current cost.

18 Do you recall reviewing that with Mr. Singleton at the
19 time?

20 A Yes.

21 Q And if we turn to the attachment, were you working with
22 Mr. Singleton to try to put the overruns into different
23 buckets, Mr. Hood?

24 A Yes. We were working on a forecast of the project and
25 identifying impacts and changes from -- from previous.

1 Q And we see that you have on the attachment 1314A.
2 There's the original budget associated with the four-hundred-
3 and-fifty-four-million-dollar estimate. Do you see that? Or
4 construction -- "final construction cost," I think is what it
5 was called in the contract.

6 A I see that, yes.

7 Q And there are different buckets that have been
8 identified as the reasons for the overruns on the job,
9 correct?

10 A Yes, they're identified as key costs, increased drivers.

11 Q And "right-of-way condition," would that refer to the
12 weather, mister -- and the weather impacts on the right-of-
13 way?

14 A Weather would have an impact on -- on right-of-way
15 conditions, yes.

16 Q And then you had identified "other productivity" and
17 "other" for a total of \$85 million. Do you see that?

18 A I do see that.

19 Q And the other category is simply a general category that
20 was identified by Welded at the time?

21 A Well, it was -- it was probably a summation of other
22 impacts, you know, from the -- from the trends and from other
23 -- other identified changes, but it was -- they were -- they
24 were lumped together rather than, you know, individually
25 shown, smaller changes.

1 Q And the two big items in that category were specialty
2 equipment, which had gone from \$2 million in the original
3 budget to -- at least here it indicates eleven, correct?

4 A That's correct.

5 Q And similarly, subcontract costs have increased by --
6 significantly, from 59 million to 134 million, correct?

7 A That is correct.

8 MS. EWALD: Your Honor, I'd move to admit D-1314
9 and 1314A.

10 MR. GUERKE: No objection, Your Honor.

11 MS. EWALD: Mister --

12 THE COURT: Okay.

13 MS. EWALD: Oh --

14 THE COURT: Those are admitted.

15 (DX-1314 received in evidence)

16 (DX-1314A received in evidence)

17 THE COURT: Let me expound a bit on the one I just
18 -- on sixteen -- no. What was it? 1169 and 1169A, which I
19 did not admit, where I said that I thought Ms. Ewald was
20 reading the email incorrectly.

21 MS. EWALD: Uh-huh.

22 THE COURT: The reason I say that is because the
23 email from Ms. Krzyszofik says that:

24 "The ones in red are on the sheet that I sent over
25 yesterday."

1 Which I think is the one sheet in the front and not
2 the spreadsheets in the back that we were looking at. But I
3 may be wrong on that. That's the problem with not having Ms.
4 Krzyszofik, who sent the email, here to testify about it, and
5 that's why I'm not admitting it.

6 MS. EWALD: I understand, Your Honor. I have spent
7 some time looking at that document and I appreciate it's a --
8 there's a lot of pages. The only red that I can find is in
9 those last four.

10 THE COURT: I can't tell because I only have a
11 black-and-white copy of the first thing. So I may be wrong,
12 but that's the problem.

13 MS. EWALD: I apologize --

14 THE COURT: And that's --

15 MS. EWALD: -- for that.

16 THE COURT: -- why I'm not admitting it,
17 particularly given the testimony, which doesn't line up with
18 that.

19 Okay. We're back. You may continue.

20 BY MS. EWALD:

21 Q Mr. Hood, do you recall that, during the project, Welded
22 maintained a -- what's called an "NCR log"?

23 A Yes.

24 Q And "NCR" stands for nonconformance reports, correct?

25 A That is correct.

1 Q And I'd like to turn to D-1320 in the binder.

2 (Pause in proceedings)

3 Q And on August -- or sorry -- July 10, 2018, Ms.
4 Gutierrez at the job sent to you and Mr. Morgan the total
5 numbers of NCRs per spread for ASR. Do you see that?

6 A I do.

7 Q And was that the total number of nonconformance reports
8 on the ASR project?

9 A Yes.

10 Q And attached to it is an ASR nonconformance log, 2018.
11 Do you see that?

12 A Yes.

13 Q And I'd like to turn to the -- D-1320B within the second
14 attachment.

15 And do you recognize -- and I'll point your attention
16 specifically to Page 6 within the nonconformance log.

17 And this indicates that on that day you received the ASR
18 project nonconformance -- this ASR project nonconformance
19 log. Do you recognize it?

20 A Yes, that was the report for the project.

21 Q And if we turn to the -- Page 18 within the
22 nonconformance log attachment -- and I think we can do this
23 without resorting to the Excel version of it. Mr. Hood, do
24 you see that there has been an estimate cost prepared in
25 connection with this nonconformance log of -- and I'll direct

1 your attention to the list of nonconformance -- of the
2 nonconformance, the crew, and the estimated cost that total
3 one million three seven five. Do you see that?

4 A I see that, yes.

5 Q And this was something that Welded maintained on the
6 project and I believe they published it weekly, correct?

7 A It was included in the weekly progress reports.

8 Q And the Welded team estimated that the nonconformances
9 on the project included -- or ultimately had an estimated
10 cost of 1,375,000 at this point in the project, which was, I
11 believe, July of 2018, correct?

12 A That is their estimation on this -- on this date and
13 time, yes.

14 Q And I'll turn to the very last page of D-1320B. And
15 there's information, the title is "Brittig Thoughts" at Page
16 20. It's the very last page.

17 Who is Mr. Brittig?

18 A Brad Brittig was Welded's quality manager --

19 Q And --

20 A -- corporate quality manager.

21 Q So was Mr. Brittig stationed on the ASR project?

22 A No, he was not.

23 Q And this comment was Mr. Brittig reflects that:

24 "Twenty-six percent of the nonconformances are
25 reported by foremen, quality safety; seventy-four

1 percent of the nonconformance are reported to us by
2 our client, their inspectors, or third party."

3 Do you see that?

4 A Yes.

5 Q And is that -- does that indicate that the majority of
6 nonconformances were being reported not by Welded, but by
7 others?

8 A That's what he indicates here.

9 MS. EWALD: Your Honor, I'd move to admit Exhibit
10 D-1320, 1320B, the one that we reviewed.

11 MR. GUERKE: No objection, Your Honor.

12 THE COURT: It's admitted.

13 (DX-1320 and DX-1320B received in evidence)

14 BY MS. EWALD:

15 Q And Mr. Hood, I'd like you to turn to the next document
16 in the binder, D-1361. It's an email from Mr. Singleton to
17 yourself and others dated July 24, 2018.

18 And Mr. Singleton is asking the recipients, saying:

19 "I need of you to identify cost savings, avoidance
20 opportunities that we have given Williams that has
21 not been implemented and rough estimate if you have
22 it. At this point, I'll take bullet points."

23 Do you see that?

24 A I see that, yes.

25 Q And do you recall Mr. Singleton receiving any responses

1 to this email?

2 A I -- I don't recall what they sent back to him, no. I
3 mean, I don't -- I mean, if I was copied on them, I would
4 have received them. If they sent them directly back to him,
5 I would -- I would not have.

6 MS. EWALD: Your Honor, I'd move to admit D-1361.

7 MR. GUERKE: No objection, Your Honor.

8 THE COURT: It's admitted.

9 (DX-1361 received in evidence)

10 BY MS. EWALD:

11 Q I'd like to move to Exhibit 1451, Mr. Hood.

12 And this exhibit is a -- it's a -- the cover email is
13 between Ms. Hallowell and Mr. Hines.

14 Now we know Ms. Hallowell was in charge of the invoicing
15 for the job, correct?

16 A I'm sorry. Four -- you said 1451?

17 THE COURT: I don't see that.

18 MS. EWALD: I apologize. It may not -- it may not
19 be in the binder, Your Honor, because it's a one-page email
20 with an Excel spreadsheet that could not be printed.

21 (Participants confer)

22 THE COURT: Is it 1415? No.

23 (Participants confer)

24 THE COURT: Okay.

25 (Participants confer)

1 THE COURT: Okay. It's not in the binder. We can
2 --

3 MS. EWALD: And the only part that was going to be
4 visible in the binder -- I apologize -- would have been the
5 cover email. The attached Excel is too large to print.

6 THE COURT: That's fine.

7 BY MS. EWALD:

8 Q Mr. Hood, I'm going to show you the spreadsheet that Ms.
9 Hallowell had sent to mister -- had sent to Mr. Hines in
10 August, I believe, of 2018.

11 And again, this is a cost report that was maintained by
12 the ASR project personnel, correct?

13 A Yes.

14 Q And I'd like to draw your attention -- we've opened the
15 document -- or the tab of the Excel that is identified as
16 "curve." And I want to draw your attention to the graph that
17 was shown in that curve. It indicates it is a report date
18 ending August 8th, 2018. Do you see that?

19 A (No verbal response)

20 Q And at this point -- and the purpose of this curve is to
21 identify the cash called to date from Transco, correct?

22 A It would be brown line we're looking at, right?

23 Q Yes. The one that's called "cash called to date." Do
24 you see that?

25 A Yes. That would -- that would be the cash calls and --

1 and reconciliations combined.

2 Q So that would be the total of the cash calls and
3 reconciliation invoices that you had signed and sent to
4 Transco as of this date, July 8th, 2018. Is that your
5 understanding?

6 A That's my -- that's my understanding of what "cash
7 called to date" means.

8 MS. EWALD: And that, if you'd hover on the ...

9 Q The data below is a little obscured, but it indicates
10 that, as of this date, the cash called was \$687 million. Do
11 you see that?

12 A Yes.

13 Q And you compare to the job cost to date. The job cost
14 to date was --

15 MS. EWALD: And Ms. Bair can show us.

16 Q Was five hundred and sixty. Do you see that?

17 A Okay. And so, within the books and records of Welded,
18 as of the time this report was prepared, there was \$127
19 million of cash called beyond the job costs that Welded had
20 recorded, correct?

21 A (No verbal response)

22 Q The difference between the six eighty-seven and the five
23 hundred and sixty, correct?

24 A That's the different between the two numbers, the --
25 yeah, the difference between the two numbers --

1 Q And also --

2 A -- would be that.

3 Q -- within this report in the "to date client" tab, we
4 see that Welded is continuing to calculate what they call the
5 "win/loss" on the equipment fee. Do you see that? In Rows
6 95 to 98.

7 A I see that, yes.

8 Q And that indicates that, as of -- the win/loss on
9 equipment totals 13,215,146 as of August 12th. Do you see
10 that?

11 A I see that.

12 Q And that would represent the revenue on equipment fee
13 minus the cost, correct?

14 A Yes. Yes, that's the -- that should represent equipment
15 fee less the -- the cost.

16 Q And that would reflect that, at least as of August 12th,
17 2018, that Welded had realized a profit on the equipment fee
18 of \$13.2 million, correct?

19 A Again, you've characterized -- the characterization as
20 "profit" is incorrect. I -- I mean, the -- the job has -- is
21 not finished yet. This is a snapshot in time and on -- on
22 this particular date, that's the -- the comparison of the two
23 numbers. But to characterize that as "profit," I would not.

24 Q So the -- but the comparison of the two numbers, the
25 equipment fee revenue and the equipment fee cost, as of

1 August 12 is a positive \$13.2 million on this date, correct?

2 A That's what the report indicates on this date.

3 MS. EWALD: And Your Honor, I'd move to admit
4 Exhibit 1451 and 1451A.

5 MR. GUERKE: We object, Your Honor. Same grounds
6 as some of the other ones. He's not copied on this email.
7 There's no testimony that he prepared this, that it's a final
8 number, that it's an accurate number. I mean, I recognize
9 that he's reading what's on the screen, the same way any
10 witness would read the numbers on a screen when being
11 instructed to. So, for those reasons, we're objecting.

12 MS. EWALD: Mister -- Your Honor, Mr. Hood
13 testified that he recognized the document and he recognized
14 it as a job cost report that was maintained by the project.

15 THE COURT: Okay. I'm going to put it in the same
16 bucket that I have the other two or three in at this point.

17 BY MS. EWALD:

18 Q Mr. Hood, I'd like to ask you just a few more questions.

19 One is about the analysis that I was discussing with you
20 earlier regarding the review of the fixed fee with Mr.

21 Singleton in the Summer of 2018. Do you recall looking at
22 the review of the fixed fee with Mr. Singleton?

23 A We would have had discussions. I don't recall a
24 specific date or discussion, but there -- there would have.

25 Q And I'll draw your attention to D-1526, which is a

1 September 26th, 2018 email from Mr. Singleton to you. Do you
2 see that? It is almost at the end of your binder.

3 A Yes, I see the email.

4 Q And Mr. Singleton sends you an email with the subject
5 "ASR Summary Financials." Do you see that?

6 A Yes, I do.

7 Q And he indicates:

8 "Joe is out this week, so it will be only me and
9 you looking at this."

10 And was "Joe" a Mr. Hines?

11 A Joe would be Joe Hines, yes.

12 Q And if we look at the attachment at D-1526A, we see the
13 financial summary for ASR in million -- or in hundreds of
14 thousands of dollars, correct?

15 A Yes.

16 Q And we see that -- and this is part of the financial
17 analysis that you, as the project manager, responsible for --
18 you know, responsible for profit and loss on the project,
19 would have reviewed regularly?

20 A I don't know -- I don't believe we reviewed it
21 regularly, but we were -- we were reviewing it on this date.

22 Q And I'd like to draw your attention to the second box on
23 this attachment that shows the fee margin. Do you see that?

24 A Yes, I can see it.

25 Q And we see that the -- in current cost forecast, we see

1 the amount of the fixed fee on the job, right? Fifty
2 million, five hundred thousand.

3 A Yes.

4 Q And at this time, in your -- during your review, for the
5 purpose of your review, Mr. Singleton had identified deducts
6 to that forecast, the forecasted margin on the job, correct?

7 A Yes, he's identified a range of -- of items.

8 Q And under the minimum range, this would be not the
9 minimum deducts, but this would be the minimum fee
10 anticipated, correct? Or the minimum margin on the job for
11 the fixed fee.

12 A I -- the bottom line, yes.

13 Q And he has identified the cost incentive penalty,
14 correct? The \$10 million.

15 A That's the first item.

16 Q And the rework weld repair he has identified for \$1.5
17 million. Is this associated with the weld repair and cutout
18 provision in the contract?

19 A Yes, that's what this item is referring to.

20 Q And he's identified a deduct for the equipment
21 multiplier. Do you see that?

22 A Yes.

23 Q And what was the \$3 million based on?

24 A I think it was just an estimate that he had made.

25 Q And under that, the non-reimbursable number is

1 4,500,000. Would "non-reimbursable" indicate a deduct based
2 on revising what had been previously billed as reimbursable
3 to a non-reimbursable item?

4 A Yes, these were the -- these would be -- reversals or
5 changes in -- in reimbursable items, you know, based on --
6 you know, we had -- we had previously, you know, had some
7 discussions with OGCS on auditing the books and that sort of
8 thing, and there were, I think, some outstanding audit items
9 at that time, so he's making estimates of -- of what that may
10 be.

11 Q And these are estimates that Mr. Singleton made for you?

12 A That's correct.

13 Q And schedule, he identified -- in both cases, I guess he
14 identified in the minimum and forecast a one-million-dollar
15 schedule penalty. Is that right?

16 A That's -- that's correct.

17 Q And there was no schedule bonus identified by Mr.
18 Singleton in this document, correct?

19 A Not on this analysis, no.

20 Q And at this point, the mechanical completion had already
21 occurred, correct?

22 A Which --

23 Q It's September 26th, at this time.

24 A Mechanical completion had occurred the week prior.

25 MS. EWALD: Your Honor, I'd like to move to admit

1 D-1526.

2 MR. GUERKE: No objection, Your Honor.

3 THE COURT: Okay. And 1526A, as well?

4 MS. EWALD: Yes, Your Honor. Yes. Thank you, I
5 appreciate that. D-1526A.

6 THE COURT: They're both admitted.

7 (DX-1526 and DX-1526A received in evidence)

8 BY MS. EWALD:

9 Q And then, Mr. Hood, I believe you testified that you
10 left the ASR project to go to MXP in September of 2018 or
11 August? I can't recall.

12 A I believe it was around the end of August, but the exact
13 date, I don't recall.

14 Q Do you recall that you were not on the ASR project when
15 mechanical completion was achieved?

16 A I'm -- I don't know the date I moved. Yeah, I moved
17 over to West Virginia, but that -- when that date occurred, I
18 don't know. It was in that -- it was in that range, but I
19 don't know exactly.

20 Q And after you left the ASR project, we saw that you
21 submitted the final fixed fee invoice in 2019, correct?

22 A That is correct.

23 Q And did you also work on some of the reconciliation
24 invoices for October and -- September and October of 2018?

25 A I -- I submitted them in an email, but I -- I believe

1 those were prepared by -- by Mr. Hines or Ms. Hallowell. I
2 did not -- I did not prepare the documents.

3 Q And those documents weren't turned over to Transco until
4 March of '19. Do you recall that?

5 A Which ones now?

6 Q The last two reconciliation invoices for September and
7 October of 2018 were not submitted to Transco until March of
8 2019, correct?

9 A I believe that's correct.

10 Q And during the process of preparation of those final
11 reconciliation invoices, did you recall getting emails from
12 people on the project asking you about whether items should
13 be billed or not to Transco in them?

14 A I don't -- I don't recall specifics, no.

15 Q I show you the last document in the binder, D-1747.
16 It's an email from Ms. Brann dated October 20th, 2018 -- or
17 I'm sorry -- November 20th, 2018 to you. And she's ending
18 you some information with regard to United Rentals and it
19 looks like some twelve-inch pumps. Do you see that?

20 A I see that, yes.

21 Q And she's indicating that there -- were you aware, Mr.
22 Hood, that these last two reconciliation invoices included
23 information from previous billing periods?

24 A They -- they could have. Any of the invoices could have
25 had previous information. It's just the way cost engineers

1 were seeing invoices and the way they -- they handled the
2 billing.

3 Q And Ms. Brann indicates:

4 "I'm working my way through major equipment rentals
5 and I'm finding a few things that were missed on
6 Williams invoicing."

7 Do you see that?

8 A Yes.

9 Q And she also indicates:

10 "I have also found equipment that was charged to
11 ASR in error. I'll make a list by category once I
12 get through all of the categories for you to
13 review."

14 Do you ever recall getting that list from Ms. Brann?

15 A No, I don't -- I don't recall specifically. No.

16 Q And do you recall that, in those last reconciliation
17 invoices, were there any -- were there any charges that were
18 reversed from prior invoices?

19 A There -- there very well could have been. I mean, she
20 seems to indicate there were things that she was going to
21 correct. So, if -- if that was indeed the case ...

22 Q And sitting here, do you know if that occurred or not?

23 A I -- I -- that I do not know.

24 Q And the person responsible for the final review of that
25 invoice would be you, sir, correct?

1 A I've reviewed and signed invoices.

2 MS. EWALD: Your Honor, I have no more questions of
3 Mr. Hood.

4 Thank you very much, sir.

5 THE COURT: Thank you.

6 Okay. Why don't we take ten minutes and then we
7 can start redirect.

8 MR. GUERKE: Thank you, Your Honor.

9 THE COURT: Thank you.

10 We're in recess.

11 (Recess taken at 2:37 p.m.)

12 (Proceedings resume at 2:51 p.m.)

13 (Call to order of the Court)

14 (Witness resumes stand)

15 THE COURT: Thank you. Please be seated.

16 Mr. Guerke.

17 MR. GUERKE: Thank you, Your Honor. For the
18 record, Kevin Guerke for Welded Construction.

19 Do you want to handle your exhibit?

20 MS. EWALD: Your Honor, I spoke with Attorney
21 Guerke over the break and I failed to move for admission of
22 D-1747, and Mr. Guerke indicated he had no objections. That
23 was the last document I had introduced with Mr. Hood.

24 THE COURT: Yes.

25 MR. GUERKE: That's correct, Your Honor.

1 THE COURT: Okay.

2 MS. EWALD: Thank you.

3 THE COURT: Then 1747 is admitted.

4 (DX-1747 received in evidence)

5 REDIRECT EXAMINATION

6 BY MR. GUERKE:

7 Q Good afternoon, Mr. Hood.

8 A Mr. Guerke.

9 Q We're getting close

10 MR. GUERKE: Could you pull up D-1987, please?

11 Actually, could you pull up D-1987A, please.

12 BY MR. GUERKE:

13 Q Mr. Hood, do you recall yesterday and also today
14 discussing trends?

15 A Yes.

16 Q How is it that Welded submitted trends to Transco?

17 A How were they submitted?

18 Q Yes.

19 A Well, they were -- they were filled out by, generally,
20 the -- the project manager or -- or one of the engineers on
21 site with the -- with the project control guys, then reviewed
22 by my office in Mount Joy with -- with the project controls
23 manager and -- and signed off and submitted to Williams.

24 Q And what is the intent of submitting a trend to Williams
25 or Transco?

1 A A trend is a notification of a -- of a change or
2 deviation in -- in, you know, cost, schedule, method from the
3 assumption or the -- or the previous estimate.

4 Q Do you recall our discussion and your discussion with
5 Transco's counsel about Amtrak?

6 A Yes.

7 Q Is D-1987A a trend related to Amtrak?

8 A That's -- that's correct.

9 Q What is the date of this, this trend?

10 A June 26th, '18.

11 Q And what's the total amount?

12 A 1.9 million.

13 Q In the area about three inches down, it says "category
14 of change." What are -- what's indicated in that row, as far
15 as what type of change is being requested here?

16 A This is -- so they -- the changes can fall into -- into
17 many buckets, right? There's -- there's scope changes, where
18 -- where scope is -- is added, changed, deleted from -- from
19 our scope of services; execution method, as I said earlier,
20 is one; schedule change is another; budget transfer, where
21 we're just moving amounts from, say, one category to another,
22 for whatever reason; forecast would be a -- you know,
23 something that -- that was -- was in -- might be forecasted,
24 but not necessary the -- the budget. You have a -- and then
25 there's -- the top of the box indicated whether it's internal

1 to -- to Welded or if it's -- if it's external and it needs
2 to go to Williams.

3 Q And why would something be external that needs to go to
4 Williams?

5 A Well, that's to -- to make notice that -- that this is
6 occurring or this -- that we've got this impact.

7 Q And does this indicate that the three categories that
8 are -- the boxes are checked are scope, execution, and
9 schedule?

10 A On those particular trend, those are the three -- three
11 items being impacted.

12 Q Could you read the description of the change below,
13 please, just the first sentence?

14 A Where is it:

15 "To include delays, move-arounds, scope changes,
16 and subcontractor chances relating to Amtrak delays
17 and permits."

18 Q Does that also indicate that it includes Trends 152,
19 188, 200, and 213?

20 A That's correct.

21 Q Is this the Amtrak scheduling issue, permit issue that
22 you and I discussed early in your testimony?

23 A Yes. There was a -- only a single Amtrak among the
24 project, it's the same.

25 Q And what problem is being described here that you are

1 sending to Transco?

2 A It -- well, it's numerous things.

3 So, you know, the 152 was additional -- additional
4 flaggers. Flaggers, you have to have specialized flaggers
5 for the -- for the railroad. So this is including their
6 services.

7 For 188, monitoring survey. So this, as I recall, was
8 like a -- either a vibration or a movement survey that had to
9 take place on the -- on the Amtrak tracks themselves.

10 Spacers. This may have been -- I know this was a
11 crossing that used -- used a casing. So we drilled the --
12 the casing pipe bigger than the forty-two-inch carrier pipe,
13 and then -- then you have spacers that goes in between, you
14 have the -- a spacer that goes in between the -- the casing
15 and the carrier pipe.

16 I'm trying to remember. 213, coating thickness. I --
17 there was a -- this is about a different type of coating that
18 needed to be put on the pipe, evidently because it was -- as
19 I recall it.

20 Q Is this Trend 231?

21 A Number 231, yes.

22 Q And what's the title of this trend?

23 A "Amtrak."

24 Q What spread is affected by this trend?

25 A Spread Number 7.

1 Q You indicated that it's dated June 26th, 2018.

2 What was the mechanical completion date?

3 A July -- June 14. Sorry.

4 Q And what -- how does that compare to this June 26th,
5 2018 date?

6 A Well, we're 12 days after -- after the date.

7 Q What does that mean to Welded's ability to reach the
8 mechanical completion date by June 14th?

9 A Well, it's an indication that -- that it's going to be a
10 several-week to the -- to MC because, if -- if -- this work
11 has not yet been completed.

12 MR. GUERKE: Could you pull up D-1985, please?

13 Q Mr. Hood, what is D-1985 that's on your screen?

14 A This is Trend Number 163.

15 Q What's the title of this trend?

16 A "Pequea Creek."

17 Q What spread is it on?

18 A That was also Spread 7.

19 Q Can you tell us the date, please?

20 A The 1st of March, '18.

21 Q And we discussed the category of change in the last
22 trend.

23 Could you describe for us, please, the categories of
24 change that are checked for this one?

25 A Well, this one indicates it's an execution method change

1 and a -- and a schedule change.

2 Q Could you read the first sentence of the description of
3 change, please?

4 A Yes.

5 "Welded was awaiting updated and corrected creek
6 crossing, flume design requested by PADEP after
7 previous engineered crossing washed out multiple
8 times."

9 Q Is that the permitting -- part of the permitting problem
10 that you described during your testimony previously?

11 A Yes. These are -- these are permits that we were
12 waiting on. This -- this indicates that a crossing had been
13 installed previously and, due to, again, a flood event that a
14 crossing had been washed out, so it was -- it was no longer
15 in service for her, so we were -- we needed to reinstall it,
16 which needed another permit.

17 Q Well, the -- does the next sentence indicate or state
18 that Welded was:

19 "-- waiting for an emergency approved portage plan
20 from Williams that allowed for crossing success."

21 Is that -- am I reading that correctly?

22 A Yes. So this had to do with -- with portage, so -- you
23 know, for kayakers, hikers, you know, whoever is using that
24 stream. They needed a way to get from one side to the other
25 while it was under construction.

1 Q And the next sentence:

2 "Welded was awaiting 24/7 worker variance filled
3 out by Williams."

4 Did I read that sentence correctly?

5 A That is correct.

6 Q And what is being indicated there?

7 A Well, that's -- that's to be able to work around the
8 clock, a special permit is needed to -- for nighttime work.

9 Q And the last sentence says:

10 "Welded was awaiting approval for blasting at the
11 creek due to eagles within a mile of the crossing."

12 Did I read that correctly?

13 A That is correct.

14 Q What's being indicated there?

15 A Well, there was an eagles nest within one mile of the
16 crossing and -- and so that required special disposition. It
17 may have been a timing issue, you know, for that eagle to --
18 to go away. Whatever -- you know, whatever the issue was
19 around the eagle, they -- it needed a permit to -- to be able
20 to work there.

21 Q I don't know if I asked you this. But what's the date
22 of this trend?

23 A The 1st of March, '18.

24 Q Going back to the description of change, that first
25 sentence, it says:

1 "Welded was awaiting updated and corrected creek
2 crossing flume design requested by PADEP after
3 previously engineered crossing washed out multiple
4 times."

5 Was Transco responsible for that engineered crossing?

6 A Transco provided -- provided all engineering for the --
7 for the project, as I recall, Transco or one of their
8 subcontractors.

9 Q So would that make the responsibility for the engineered
10 crossing on Transco?

11 A That's right. Transco had applied for the permit.

12 Q Is this a trend that you approved and signed?

13 MR. GUERKE: Could you scroll down, please?

14 A Yeah. Can we go down to the bottom?

15 Yes, I signed it.

16 MR. GUERKE: Could we go to PX-593, please?

17 (Pause in proceedings)

18 MR. GUERKE: Is there a spreadsheet attached to
19 this?

20 May I have a moment, Your Honor?

21 THE COURT: Yes.

22 (Pause in proceedings)

23 BY MR. GUERKE:

24 Q Okay. This is the native file for PX-593.

25 MR. GUERKE: Could you scroll down, please, to

1 where it indicates "163." A little farther. Right there.
2 Oh, no, down a little farther. I'm sorry. Line -- it's like
3 Line 30. Can you go up a little bit? Could you go up a
4 little farther, please? I'm looking for Trend 163, if you
5 could -- is there a way to target that one? There it is,
6 right there. Line 14. Thank you.

7 BY MR. GUERKE:

8 Q Mr. Hood, first let me ask you: What is this document
9 on the screen?

10 A This is the trend log that we kept on the project.

11 Q Does this indicate or record trends like the two we just
12 went through?

13 A Yeah, all -- all trends were numbered and would -- would
14 be on there, on the -- on the log.

15 Q Does Trend 163 -- is that the Trend 163 that we just
16 discussed in the separate form?

17 A It should be the same, same item, yes.

18 Q And under "description," what is -- what's being
19 indicated here?

20 A Pequea Creek variance delays.

21 Q And what's the -- what's being indicated on whether it's
22 billable or not?

23 A It says "yes" in that column.

24 Q And what does that mean?

25 A What it meant, it would have components of cost that --

1 that were billable per the contract terms.

2 Q Is that billable to Transco?

3 A Yes.

4 Q And the status. What does the status say on this one?

5 A It is -- this indicates it's been submitted and it's
6 with client for review.

7 Q Go -- if you go two down, it's Line 16, this is Trend
8 231.

9 Is this the trend we just discussed related to Amtrak?

10 A That is correct.

11 Q What is the status of that Amtrak trend?

12 A The status indicates "client review," so it has been
13 submitted and it's with the client for review.

14 Q Mr. Hood, as Welded neared the end of the project, did
15 it plan to consolidate its crews to finish the work?

16 A Yes, that's -- that's how we -- we ended up closing the
17 project out. So, as -- as one spread would finish and there
18 was remaining work, you know, elsewhere, if there was -- if
19 there was available work locations, we would -- we would move
20 tie-in crews and -- and the labor to that location to -- to
21 supplement.

22 Q Is that standard pipeline practice?

23 A Yes, especially on these -- these multi-spread jobs,
24 where we -- we've got, you know, adjacent spreads and -- and
25 we can move equipment from one to the other. That's --

1 that's very typical.

2 Q And does that mean, if one spread finishes, you would
3 send the crew from that spread to another spread to help
4 finish that part of the work?

5 A That is correct.

6 Q Did -- for this case -- I'm sorry.

7 For this project, did Welded plan to consolidate its
8 crews working on Spread 6 and 7 into the crews on Spread 5?

9 A Yes. Those crews finished their work a little bit
10 earlier than Spread 5. Spread 5 was the -- the last to -- to
11 meet MC. So there would have been some availability from 6
12 and 7 to -- to go supplement.

13 Q And when crews from 6 -- Spread 6 and Spread 7 are moved
14 and consolidated into Spread 5, what does that do to the work
15 that's being performed on Spread 5?

16 A Well, it would accelerate -- in theory, it would
17 accelerate in any remaining work because of the additional --
18 additional work crews performing that work.

19 Q Based on the permitting problems that you described on
20 Spread 6 and Spread 7, was Welded able to consolidate its
21 crews in 6 and 7 and put them on 5 as this job neared its
22 completion?

23 A Not until very late because these -- you know, we -- we
24 had delays in 6 and 7 that impacted, you know, down near
25 south. So we -- we could not move crews as early as we -- we

1 could have without the delays down south.

2 Q And what was the end result of not being able to move
3 crews from 6 and 7, consolidating them with -- with Spread 5?

4 A Well, the -- the Spread 5 date, you know, became
5 September 19th, or whatever -- whatever their MC date. It
6 was -- it was the 19th. If -- if crews could have moved
7 earlier, you know, in theory, that -- that date would move to
8 the left.

9 Q And what does that mean, "move to the left"?

10 A Accelerated and -- and be able to finish faster.

11 MR. GUERKE: Your Honor, I move D-1985, D-1987A,
12 and PX-593 into evidence.

13 MS. EWALD: No objection, Your Honor.

14 THE COURT: Okay. They are admitted.

15 (PX-593 received in evidence)

16 (DX-1985 received in evidence)

17 (DX-1987A received in evidence)

18 BY MR. GUERKE:

19 Q Mr. Hood, do you remember discussing in your testimony
20 with Transco's counsel the 2014 NPLAs that were still
21 attached to the complaint -- I mean the contract and
22 Amendment 1?

23 A Yes.

24 Q Was Welded permitted to pay 2014 union rates and
25 benefits to union members for work they performed in 2017 and

1 2018?

2 A Oh, not at all. That -- that simply wouldn't have
3 happened.

4 (Pause in proceedings)

5 Q I want to ask you about subcontracts and subcontractors.

6 When Welded billed for subcontractors, did it provide
7 Transco with backup invoices from the vendors?

8 A Yes.

9 Q Is that part of the reconciliation, invoicing, and
10 backup process?

11 A The reconciliation included third-party invoices
12 submitted.

13 Q Would the amount of the invoice for a subcontractor be
14 on the Welded reconciliation invoice and also contained in
15 the backup invoice from the vendor?

16 A That is correct.

17 Q Did Transco ever dispute the amount of a subcontractor
18 charge that was part of its reconciliation invoices?

19 A They -- in -- most amounts were not disputed. They were
20 -- they were paid as submitted and not disputed.

21 Q Did Transco ever take the position that the
22 subcontractor invoices needed prior approval before they
23 would pay it?

24 A The invoices did not need prior approval before they
25 were paid, no. That was -- that was not an indication.

1 Q Did Transco ever take the position that the invoices
2 should have been competitively bid for subcontractors?

3 A As -- the large ones, you -- for the -- you know, like --
4 -- like we talked about yesterday, the HDD and the -- the
5 automatic welding and the coating, those were -- those were --
6 -- were bid out and -- and approval was -- was received for
7 those large subcontracts.

8 Q I want to ask you about weather productivity.

9 On this project, did weather affect productivity beyond
10 the date of the weather event?

11 A Yes, it did.

12 Q Could you explain that, please?

13 A Yeah, so, just for example, you know, a two-inch
14 rainfall, you know, we receive on a -- on a Tuesday, right?
15 So, in all likelihood, you're going to -- you're going to
16 rain out that day, if it -- if it started, you know, the
17 night before. In the morning, that crew is going to be
18 rained out. And then the -- the next day, it -- it may or
19 may not be dry enough to go to work.

20 Some crews may be able to go to work, like environmental
21 crews would typically go out and -- and maintain ECDs. But
22 you know, a welding crew may not be able to -- to get out and
23 -- and operate on the -- on the right-of-way. You know, same
24 thing with -- with snow days.

25 So -- and it would just depend on severity and location

1 and, you know, if you had to cross, you know, wetland areas
2 or -- you know, depending on topography, location, and
3 severity, you -- the impact could be several days, even just
4 depending on -- depending on how bad it was.

5 MR. GUERKE: That's all have.

6 Thank you very much for your time, Mr. Guerke.

7 THE WITNESS: Thank you, Mr. Guerke.

8 THE COURT: Thank you.

9 Oh, Mr. Hood, apparently, we have a few more
10 questions.

11 THE WITNESS: Okay.

12 MS. EWALD: It's like Mr. Hood, you expected me --

13 THE WITNESS: Sorry.

14 MS. EWALD: -- the last ...

15 (Laughter)

16 THE COURT: He was bolting there. Okay.

17 RECROSS-EXAMINATION

18 BY MS. EWALD:

19 Q Mr. Hood, I just have a few questions for you.

20 With regard to PX-593, the spreadsheet that we looked at
21 for the trends, do you recall that?

22 A The one we looked at just a couple of minutes ago?

23 Q Yes.

24 A Okay.

25 Q Yes.

1 MS. EWALD: And I think we need to switch the input
2 from the plaintiff's counsel to the defense counsel.

3 BY MS. EWALD:

4 Q And I believe the first one was Trend 163.

5 Now, in the trend that was provided to you by your
6 counsel, I didn't see that you had signed it, Mr. Hood. Do
7 you have any recollection of signing it?

8 A I -- I don't have a recollection of signing it. If it -
9 - if the copy we have wasn't signed, I don't -- I'm not sure.
10 But there would have been a transmittal associated with it.

11 Q And it indicates here on the trend log, as of October
12 14th, 2018, the schedule impact is blank, correct?

13 A It's blank on the log here, yes.

14 Q And in fact, after the Pequea Creek variances with
15 respect to the eagle and the blasting and the aids to
16 navigation for the kayakers, after those were all approved,
17 Welded didn't go to work on the Pequea Creek crossing for
18 over two weeks, correct?

19 A I'm not familiar with the -- the exact schedule, but
20 it's possible.

21 Q And with regard to the Amtrak variance, which I think is
22 Trend 231 on the list, there's no schedule impact identified
23 here on your trend log, correct?

24 A The -- the column is -- is blank there, but not
25 necessarily no impact from the trend, but the -- the column

1 is not filled out.

2 Q And Amtrak was on Spread 7, correct?

3 A That is correct.

4 Q And after the Amtrak crossing was completed, there were
5 still other tie-ins that were being performed by the Welded
6 tie-in crews on Spread 7, correct?

7 A I believe there were others following Amtrak, yes.

8 Q So Amtrak wasn't the final tie-in on Spread 7, correct?

9 A I'd -- I don't recall where the exact -- the final tie-
10 in would have been on one of the -- the test sections, I
11 would assume.

12 Q And with regard to weather, you were not the person
13 recording the impact of the weather on the project records,
14 correct?

15 A I personally did not record that, no.

16 Q And that would have been the superintendents that would
17 record that information?

18 A The foreman would indicate on their -- on their data
19 reports what -- what impacts they had occurred on their
20 section of work.

21 Q So that information was recorded on a daily basis
22 contemporaneously on the record by the Welded foreman,
23 correct?

24 A That's correct. It would be on -- on each daily report.

25 MS. EWALD: Thank you, Your Honor. I have no more

1 questions.

2 Your Honor, Mr. Hood.

3 THE COURT: Thank you.

4 Now, Mr. Hood, you may step down.

5 THE WITNESS: Thank you.

6 THE COURT: Thank you for your testimony.

7 (Witness excused)

8 MR. GUERKE: Your Honor, Welded's next witness is
9 Scott Gray, he's one of our experts on damages and
10 quantification. Could we have a few minutes to grab him.
11 He's in the other part of --

12 THE COURT: Yes.

13 MR. GUERKE: -- the floor.

14 THE COURT: That's fine. We'll start back at 3:30.

15 MR. GUERKE: Thank you, Your Honor.

16 THE COURT: Thank you.

17 (Recess taken at 3:20 p.m.)

18 (Proceedings resume at 3:38 p.m.)

19 (Call to order of the Court)

20 THE COURT: Please be seated. I apologize for my
21 delay. Okay.

22 MR. GUERKE: Thank you, Your Honor. Kevin Guerke
23 again for Welded Construction.

24 Our next witness is Scott Gray from Ankura.

25 THE COURT: Mr. Gray.

1 MR. GUERKE: Your Honor, I have a witness binder
2 for the witness and also I'm going to hand up his report,
3 although I'm not going to enter it.

4 THE COURT: Okay.

5 MR. GUERKE: (Indiscernible) I'll just give him a
6 copy of the report, Your Honor.

7 THE COURT: Thank you.

8 Mr. Gray, you're over here.

9 THE WITNESS: Thank you.

10 THE COURT: Thank you.

11 THE ECRO: Please stand to be sworn. Raise your
12 right hand.

13 SCOTT GRAY, WITNESS FOR THE DEBTOR/PLAINTIFF, AFFIRMED

14 THE ECRO: Please state your full name and spell
15 your last name for the record.

16 THE WITNESS: Scott Douglas Gray, G-r-a-y.

17 THE ECRO: Thank you. You may be seated.

18 MR. GUERKE: Your Honor, today we have a PowerPoint
19 that's going to guide us through Mr. Gray's testimony. May I
20 approach and hand you a hard copy, but also do it on the
21 screen?

22 THE COURT: Yes. Thank you.

23 (Participants confer)

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DIRECT EXAMINATION

BY MR. GUERKE:

Q Good afternoon, Mr. Gray.

A Good afternoon.

Q Have you prepared a presentation to help guide us through your testimony today?

A Yes. The cover sheet is up here on the screen now.

Q Okay. Could you please describe your educational background?

A Yes. I got my undergraduate degree from Colgate University in -- in Economics in 1981 and my MBA from Georgetown in 1983.

Q What's your primary area of expertise?

A The analysis of costs and economic damages on construction projects.

Q How long have you been doing that type of work and analysis?

A Over 40 years.

Q In that forty-year career, how many projects have you analyzed costs and damages?

A Over 350.

Q And those 350 projects, do you normally work on the owner's side of a project or on the contractor's side of a project?

A Over the years, it's probably close to 50/50. I do --

1 part of my work is defending/working for owners and receiving
2 claims and analyzing claims that they've received from
3 contractors, and about half of my work is working for
4 contractors, preparing claims and presenting them to owners.

5 Q Have you worked on oil and gas pipeline projects?

6 A Yes, I've worked on, including this one, ten pipeline
7 projects and about a dozen other gas projects that had
8 pipelines connected to them.

9 Q Have you testified as an expert before?

10 A Yes, I have.

11 Q Have you been accepted as an expert in your field by
12 courts around the country?

13 A Yes, I have.

14 Q Has your testimony ever been excluded?

15 A No, it has not.

16 Q Did you prepare two reports in this case?

17 A Yes. I prepared one in May of 2022 and then a -- that
18 was the -- my affirmative report, and then a rebuttal report
19 to the expert report of FTI in July of 2022.

20 Q Attached to those two reports -- or are your work papers
21 and your CV attached to those reports?

22 A My CV is attached to the first report, the May report,
23 and to both reports I have attached my -- my calculation
24 sheets, which we refer to as "ACG attachments," "ACG" being
25 an acronym for "Ankura Consulting Group," and so we identify

1 those as "ACG Attachment 1" and up, that show my -- the
2 calculations that I've done of the different damages issues.

3 Q Mr. Gray, your --

4 MR. GUERKE: May I approach, Your Honor?

5 THE COURT: You may.

6 BY MR. GUERKE:

7 Q All right. I'm going to hand you this. Mr. Gray, I'm
8 handing you what has been marked, it is PX-542, Page 54.
9 It's part of your report. Could you identify that document?

10 A Yes. This is the CV that was appended to my first
11 expert report in this matter in May of 2022.

12 Q Does that CV accurately reflect your experience and your
13 education as of the date of your report?

14 A Yes, it does.

15 MR. GUERKE: Your Honor, I move into evidence PX-
16 542, specifically Page 54 through 58.

17 MS. EWALD: No objection, Your Honor.

18 THE COURT: It's admitted.

19 (PX-542, Pages 54-58, received in evidence)

20 BY MR. GUERKE:

21 Q Mr. Gray, what was the -- what was your assignment in
22 this case?

23 A To -- to analyze the invoicing from Welded to Transco on
24 the project during the -- really, during the performance
25 period, beginning with notice to proceed and running up

1 through the -- the bankruptcy petition; and then analyze the
2 payments made by Transco to Welded; and, based on those, come
3 up with my opinion, come up with my opinion on the correct
4 unpaid invoice amount that would be owed to Welded.

5 I was also asked to look at and analyze the report of
6 FTI and respond to points that were included in there on
7 damages issues.

8 Q Did you form opinions on those subjects?

9 A Yes.

10 Q In summary, what are your opinions?

11 A Well, first, that, in total, Welded invoiced Transco the
12 gross amount of \$769,572,514 for the work in -- in that
13 period I mentioned, from NTP to date of the bankruptcy
14 petition;

15 That Transco paid welded a total of \$69,3120,596;

16 So that the gross, unadjusted, unpaid invoice amount is
17 \$76,451,918.

18 I -- based upon my analysis and also some of the -- the
19 rulings on summary judgment motions that have been made in
20 this matter, it's necessary to make adjustments to the gross
21 invoiced amount and the gross unpaid amount. And after
22 making my adjustments to that, it's my opinion that the
23 unpaid invoice amount that's owed to Welded is \$56,191,324
24 before interest.

25 Q Before we get into the details of your process, could

1 you describe, please the documents and the information that
2 you reviewed in reaching those opinions?

3 A The most important documents were -- well, we used the
4 contract to understand what the -- the provisions were in the
5 contract with respect to what costs were allowable and -- and
6 recoverable.

7 The most important documents were in the invoice
8 documents. There are cash call invoices, which are advance
9 invoices, and -- and as well as reconciliation invoices,
10 which are the actual costs, the build-up for the actual
11 costs. And so those were probably the most important
12 documents that we used, Welded's invoices that were submitted
13 to Transco.

14 We also looked at the evidence of payments to understand
15 how much was paid.

16 And we looked at various accounting documents, time
17 sheets and Paylocity reports and things like that, to help
18 understand the actual costs and some of the data behind the
19 amounts that were invoiced.

20 Q Did you also review some of the depositions in this
21 case?

22 A Yes, I reviewed -- and I think I -- I think I identified
23 in my reports all the depositions that I reviewed. I
24 reviewed some -- some of the Welded personnel that were
25 deposited, as well as some of the Transco personnel and -- and

1 experts and their auditor OGCS, that were also deposition --
2 deposited.

3 Q I want to discuss the process that you went through to
4 reach your opinions.

5 Could you describe the work steps that you took,
6 generally, in that process? And then we can get into the
7 details.

8 A So, generally, we -- we started out looking at the
9 invoices and -- to understand what was the nature of the
10 costs, what kind of costs were being invoiced, what kind of
11 supporting documentation was included to support and -- and
12 demonstrate the amounts that were invoiced.

13 And after that, we, again, looked at the amounts that
14 were repaid to understand, as I have here, what was the gross
15 amount of unpaid invoices.

16 And then we -- we made adjustments for amounts that --
17 that, either we determined were errors in the invoices or
18 were amounts that have been determined not to be reimbursable
19 to -- to Welded. That was our general process.

20 And then we also did an audit of a sample of the
21 invoices, so that we could make sure -- or -- or to verify
22 whether or not the amounts that were invoiced were supported
23 and -- and were accurate, according to the supporting
24 documentation that was included in the invoices.

25 Q Was part of your focus the amount invoiced to Transco on

1 the project?

2 A That was one of our primary focuses, yes.

3 Q Could you please describe the invoicing procedures that
4 are called for here in the contract?

5 A Yes. So -- so it's a -- it's a two-step process for
6 invoicing:

7 The first step is an advance invoice, which, on this
8 project, were called "cash call" invoices. And that is --
9 that is an estimate prior to the month in which work is
10 performed where -- where Welded forecast, estimated the
11 amount it was going to spend in that month. They submitted
12 an invoice at the beginning of the month, before the month
13 began, to Transco. Transco would pay that amount early in
14 the month. And so, essentially, Transco was paying in
15 advance, in the beginning of the month, the costs that were
16 estimated to be spent in that month.

17 At the end of that month, what was called a
18 "reconciliation" invoice, or the second step of the process,
19 took place. Welded would prepare a reconciliation invoice
20 that -- that documented all the actual costs that were
21 incurred in that month and compared that to the original
22 estimate of the cash call.

23 And the reason it's called "reconciliation" is it did a
24 true-up and compared to what was estimated what was going
25 into that month. And if -- if the cash call was higher than

1 what was actually spent, then there was a negative adjustment
2 that would be made; and, if the cash call amount was lower
3 than the actual costs, there would be a positive adjustment.
4 But essentially, there would be a reconciliation to -- to
5 take the original pre-estimated cash call amount and -- and
6 true it up to what was actually spent for that month.

7 Q For the cash call, can you show us one of the cash call
8 invoices?

9 A Yes, that's the next slide I have here.

10 And in several of these instances, it's very hard to see
11 the document because I tried to get the whole document on.
12 So what I've done is I show the entire document, then I
13 highlight the section I'm going to blow up, and I blow up the
14 section.

15 So, if -- if people are using the hard copy, it kind of
16 jumps three slides ahead. And I'll -- I'll try to identify
17 the -- the slide that I'm talking -- that I'm speaking from
18 when I do that, so we're not behind.

19 So here I am on -- on Slide 8, and this is a blowup of -
20 - of the important section, for lack of a better term, of the
21 -- of the cash call invoice. And what we see here is a cash
22 call invoice for November of 2017, and this is the estimate
23 that Welded provided to Transco for what it expected to
24 expend in November of 2017 to do the work.

25 Q What was Welded's next step for the reconciliation

1 invoice for that same month, showing the actual costs that
2 were incurred?

3 A Okay. So -- so here -- first just let me say, here,
4 this cash call was in the amount of \$43,839,000, so that's
5 what was invoiced by Welded before the month began and what
6 was paid by Transco.

7 The next step would be -- was to do the reconciliation
8 invoice. And again, as I -- as I blow it up here, it's Slide
9 11 in -- in the hard copy.

10 So the next step was to do -- to determine the actual
11 costs that were expended by Welded for the month. And so
12 that's the middle column of numbers here, which says "current
13 invoice." And -- and as you see down in the -- in the part
14 that I've -- I've highlighted in -- in a red box, the number
15 is 44,925,000.

16 To the left of that is -- is the amount that was of the
17 cash call, which was 43,839,00.

18 So what that means is, in this month, the actual costs
19 were about 1.1 million higher than what had been estimated
20 going into the month and what had been paid.

21 Q How is that increase of \$1.1 million in excess of the
22 estimated amount treated under the contract invoicing
23 provisions?

24 A So what happens is that amount, either positive or
25 negative, gets added or subtracted to the following cash call

1 invoice.

2 So let me show -- this is -- this is the cash call
3 invoice for February.

4 And what we see is the first column of numbers shows
5 that the estimate by Welded going into that month was
6 72,865,000, which is right here at the bottom of the first --
7 of the first column.

8 Then the amount of the -- the underpayment, for lack of
9 a better term -- and it wasn't -- it wasn't -- not an
10 intentional underpayment, it's part of the -- it's part of
11 the -- process. The additional amount above what had been in
12 the -- in the November cash call of 1.1 million gets added to
13 that -- that cash call amount for the following month.

14 And -- and so, rather -- the amount that's the cash call
15 is the 72.865 that was estimated plus the reconciliation
16 amount of 1.1 million gets 73 million. And I show that in
17 the box to the right here. And -- and so you'll see that the
18 cash call invoice for February 2018 was seventy-three million
19 nine hundred and fifty one, which was a combination of the
20 estimated amount for that month, plus the reconciliation
21 amount for the -- for the earlier month that had not been
22 paid.

23 Q And what kind of information was included in the
24 reconciliation invoices to support the incurred cost amounts
25 that were invoiced to Transco?

1 A Well, again, let me -- I -- I jump here to show a blowup
2 of -- this -- this is a reconciliation invoice for July of
3 2018. So these are the actual costs incurred for July 18.
4 And -- and the amounts of the reconciliation are -- invoice,
5 again, are in that -- the center column here.

6 And so the first page of the reconciliation invoice here
7 is the costs for all three spreads. There are -- I'm sure
8 there's been discussion of the fact that -- that the contract
9 involved Spreads 5, 6, and 7. And so the combination of all
10 3 of those spreads together, the total costs incurred was
11 \$59,432,000. And I show a box to the right here, how that
12 broke out between Spread 5, 6, and 7.

13 So the first page is the aggregate amount for all 3
14 spreads, and it's broken out by type of cost. So the 59
15 million that -- that related to all 3 spreads is -- is broken
16 out into the labor costs, the equipment costs, specialty
17 equipment, materials, et cetera, so into the type of -- of
18 costs that were considered allowable and -- and that could be
19 invoiced on the project.

20 Q What's the next level of detail, next level of cost
21 detail provided in the reconciliation invoices?

22 A Well, there's a similar sheet to this for each of the
23 three spreads.

24 So, as I show here at the right, Spread 5 -- of the
25 59.432 million, Spread 5 made up 18,782,000. So -- so there

1 was a similar sheet. And -- and the blowup here is on Page
2 21. And it -- it shows the buildup for that 18,782,000 for
3 just -- for just Spread 5.

4 So let me just go back a page here. And you can see on
5 this sheet here, in -- in red, it shows that this is just for
6 Spread 5. And so it -- it shows the Spread 5 costs, again,
7 by type of cost; by labor, the equipment fee, speciality
8 equipment, et cetera.

9 Q We shared Spread 5.

10 Did Welded's invoices include similar sheets for Spread
11 6 and Spread 7?

12 A Yes. Every -- every invoice would have two additional
13 sheets like this, one for 6 and one for 7. And if you add
14 those three sheets together, they come to that total amount
15 that was on the original sheet.

16 Q I want to ask you about the kind of supporting
17 documentation that was provided in the reconciliation invoice
18 for each type of cost?

19 For example, here on the screen, I see labor costs on
20 Spread 5 of about \$8.9 million. What are the two amounts
21 that make up that number?

22 A Yeah. So -- so, actually, as -- as we're looking at
23 this, the -- the -- that amount is the cash call amount for
24 the month. The -- the amounts of the actual costs from the -
25 - from the reconciliation invoice are the ones in the -- in

1 the middle column of numbers.

2 So -- so this reconciliation invoice said there was a
3 total of \$9.4 million of -- of actual labor costs for the --
4 for this month. And that was made up of \$8,007,000 of direct
5 union labor and 1,393,000 of field supervisory labor.

6 Q For the union labor, what type of supporting documents
7 were provided for union labor costs?

8 A There was -- you know, there's kind of a -- like a
9 cascading set of documents that -- that go down in increasing
10 detail.

11 So, first, we're talking here about, say, the -- the
12 union labor, which is \$8,007,000 for this month.

13 And the first information that was provided was a
14 breakout of that by week. So it's by payroll week out of the
15 -- out of the payroll system and identifies how much of the --
16 - it basically builds up to the \$8,007,000 of union labor and
17 shows the different components.

18 So it shows, first, the hours.

19 And then, for the amounts, it shows the benefits, the
20 gross pay, vehicle pay, per diem, welding rig pay, mechanical
21 rig pay, and taxes.

22 So it shows by week and then by element of cost. Then --
23 - and you can see the four weeks add up the \$8,007,000.

24 Then there's another level of detail, which each of
25 these weekly amounts has a buildup of -- of what went into

1 that total week's, payroll week's costs.

2 And this -- this first week -- or --

3 Q Mr. Gray, could I ask you to -- I see that the Judge is
4 following along with a paper copy. Could you --

5 A Yes.

6 Q Would you mind calling out the page you're on --

7 A Will do.

8 Q -- in the event she wants to follow along on the paper
9 copy?

10 A Yes.

11 Q Thank you.

12 A So -- so the first week -- I'm on Page 24 now. And in
13 the first week, the first payroll week, the amount that was
14 incurred was 2,166,000.

15 And so, on the next sheet, this -- this shows the
16 buildup to that 2,166,000. I've, again, kind of superimposed
17 the headers from this sheet on Page 25 and the totals at the
18 bottom because it's -- it's just difficult to see. But what
19 the sheet lists is every crew on the project, which ties back
20 to the -- to the time sheets, and again, the various types of
21 costs, the gross pay, the benefits, the per diems, the
22 vehicle allowances, et cetera, and the amounts for each crew.
23 And -- and across, you know, all of those 40 different crews,
24 the amount adds up for this one payroll week to 2,166,000.

25 And then there's a similar -- similar sheets to that for

1 each payroll week that support the total \$8 million.

2 Q What about the field supervision? Are similar labor
3 detail sheets provided for field supervision labor?

4 A Yes, yes.

5 So, going back to the summary sheet for Spread 5, we can
6 see on the summary the amount that was invoiced was 1,393,000
7 here on Page 26. That's the field supervision labor invoice
8 for the month of -- or actually incurred for the month of
9 July 2018.

10 And then -- and then the supporting information for that
11 -- for that field labor -- or let me just point out one
12 additional issue here is:

13 The first level of support for the field supervision
14 labor breaks the costs down into the -- the different parties
15 that provided the field supervision labor. So it's got
16 Welded, Welded employees. And this is in the second column
17 from the left here on Page 27. You can see it lists Welded,
18 PTAG -- which was an agency that provided professional
19 personnel -- and then seconded personnel from Bechtel.

20 So it lists the Welded people, the PTAG people, the
21 Bechtel people for the first payroll week and then,
22 similarly, for the other payroll weeks down. So you can --
23 so -- and there are separate supporting sheets for each of
24 those.

25 So, as we -- as we go to the next page, Page 28 here, we

1 see that, in the first payroll week, the Bechtel amount was
2 \$27,495,000.

3 And that was supported by a worksheet that I show here
4 on Page 29, which shows who were the Bechtel personnel that
5 were on the project. Here, we've got James Feiler, Marcus
6 Hood, and Sean Singleton. So it shows who the people were,
7 it shows what their hours and wages were and other things,
8 their payroll adds, multiplier, et cetera. So the total
9 amount for those Bechtel people in that week was the twenty-
10 seven million four ninety-five, and that's the amount that
11 appeared on the summary.

12 So, for each of those different field supervision cost
13 amounts that were on the summary, there's a sheet such as
14 this to show what was the buildup to that cost.

15 Q Is that number -- excuse me. Is that number 27 million
16 or 27,000 that you're --

17 A Twenty -- I'm sorry, \$27,495.

18 Q And that's on Page 29?

19 A Correct.

20 THE COURT: Uh-huh.

21 Q What's the next level -- or I should say: What's the
22 next category of cost on the invoice after labor?

23 A So, moving here to -- to Slide 30, underneath the labor,
24 you see it's the equipment fee. And as the contract calls
25 for, the equipment fee is calculated as 50 percent of the

1 labor amount.

2 So, when you look above at the labor amount, that --
3 I've got the equipment fee circled on this page. You look
4 above at the labor amount, its 9.4 million, and that
5 multiplied times .5 gets the 4.7 million that was invoiced
6 for the equipment fee.

7 Q Is there a -- is there a separate section of this
8 invoice, this reconciliation invoice, for special equipment?

9 A Yes, special equipment still here on this Page 30 or --
10 or jumping ahead one to 31 with the circle here is the
11 special equipment. So it's directly underneath, it's the
12 next category after the equipment fee.

13 And in this month, July 2018, the actual costs that were
14 incurred and invoiced were \$971,126 for special equipment.

15 Q What type of supporting documentation was provided in
16 the Welded invoice to Transco to support and demonstrate the
17 special equipment costs?

18 A Well, there are two -- kind of two levels I would say of
19 -- of supporting information:

20 The first I show here on -- on Page 32, is a recap sheet
21 which lists all of the special equipment costs that were
22 incurred for that month and are included in the invoice. You
23 can see here it's a -- it's a recap for special equipment.

24 And on here it lists the purchase order that each
25 transaction related to.

1 It lists who is the vendor from whom it was -- from whom
2 it was rented.

3 It lists what is being rented in the third column over.

4 Then it lists the invoice date, the invoice number, and
5 then the amounts that were incurred, both with and without
6 taxes.

7 So, basically, it's a buildup, it's a -- it's
8 transaction listing of every item of special equipment that
9 was invoiced for this month.

10 Q And what does your next slide show?

11 A So -- so then, for each of those line items, there's the
12 -- the detailed documentation that -- that supports this
13 amount, the invoice, essentially.

14 So, for instance, we've got here, near the bottom of --
15 of Slide 33, I've highlighted one subcontract amount -- or
16 I'm sorry -- one special equipment amount and it's a Marooka
17 with a Finn hydroseeder attachment in -- and the amount that
18 was incurred and invoiced was fourteen million three hundred
19 and ten -- \$14,310. And in the package, in the invoice
20 package is that invoice for Newman Tractor for that
21 particular rental of this Marooka with the attachment. In
22 the bottom right, you see it's the fourteen million three
23 hundred and ten -- \$14,310.

24 Q You must be used to working with big numbers.

25 A I am, I am. Yes, sir.

1 And then -- and they're -- each one of those rows has a
2 similar invoice.

3 So here's another, here's a Marooka with a -- with a
4 straw blower, again from Newman Tractor, in the amount of
5 \$9,010. And -- and that invoice was also surprise --
6 provided in the package, again, for \$9,010 for this rental of
7 the Marooka with the attachment.

8 Here, I show the frack tanks, the setup and -- and
9 rental of the frack tanks and the invoice for that.

10 So every line item that's on here has an invoice that's
11 provided that shows what it is that's being rented and how
12 much was incurred for this rental.

13 Q And that's found on your presentation Page 32 to -- it
14 looks like 38?

15 A Correct.

16 Q Is the next category of costs materials?

17 A Yes, it is.

18 So here, again, back to the summary sheet for -- for
19 Spread 5 for the July 2018 reconciliation invoice. And you
20 can see the amount that was invoices is \$1,028,000 for
21 materials that were obtained in that -- for the project in
22 that month.

23 Q What backup documentation did Welded provide to support
24 those invoices for material costs?

25 A Very similar to the ones I just showed for the -- for

1 the special equipment.

2 So it starts out with, again, a list of all of the
3 materials that were -- for which costs were incurred and were
4 invoiced for this month of July 2018. And then, for each of
5 these line items, there's the invoice that -- that supports
6 the amount that's -- that's being invoiced.

7 So the first one I have here is straw bales. And -- and
8 on Page 42 is the invoice for those, for the purchase of
9 thousands of -- of bales of hay to be used on the project for
10 \$26,000.

11 And then I think I've also got an invoice here for
12 welding rod and the invoice for the welding rod showing that
13 \$4,771 was incurred.

14 So, again, very similar. There's a recap sheet. And
15 then, for each item, each line item on the recap sheet, there
16 is an invoices that's provided showing what was purchased and
17 what the amount was.

18 Q Is the next category of costs broken out on the
19 reconciliation invoice for mats?

20 A Yes, that's correct.

21 Mats are a certain product that are used heavily on --
22 on pipeline projects, well, and on other projects that --
23 that are -- that have a soft surface. You're not working on
24 a road, you're working on a -- over a -- over a grass or
25 oftentimes a muddy soft surface. And so, for your vehicles

1 to move along, a lot of times you need -- they're basically
2 wooden mats that are placed on the ground and create a
3 surface for moving and -- a work surface and also a surface
4 for being able to -- to pass in your vehicles. And so it's -
5 - it's such a common category for pipeline projects that it's
6 a separate category here in -- in the costs.

7 And the invoicing support is very similar. There's a
8 recap sheet that lists every transaction in the month for
9 mats.

10 The first one here from Viking Mat, rentals from Viking
11 Mat for \$29,771, that's supported by an invoice from Viking
12 Mat for the lease of 94 mats for \$29,771.

13 Q Let's move to subcontractors.

14 Can you please show us what was provided to support
15 subcontractor costs in Welded's invoices?

16 A Yes. Going back here on Page 49 to the summary sheet
17 for the July 2018 reconciliation, it shows that Welded
18 invoiced for actual costs of 1,845,000 for subcontractors.
19 And there's similar backup for -- for that, as -- as shown
20 for the others.

21 First, there's a recap sheet that lists every
22 transaction that was incurred and invoiced.

23 And then, behind that -- so here -- here, I'm
24 identifying one for hauling services, which are in the amount
25 of \$1,045. So these are dump trucks to haul dirt. And --

1 and we've got the -- the invoice for \$1,045,000 for -- for
2 trucking and hauling.

3 Similarly, there's truck rental as another subcontractor
4 cost, and they include here the invoice from the truck rental
5 company for -- for rental of a pickup.

6 So similar to -- you know, each of these categories has
7 the recap list of what's being invoiced and each row is
8 supported by the invoice from the vendor, supplier, or
9 service provider, showing what was -- was being purchased and
10 what the amount was.

11 Q What's the final component of the amounts Welded
12 invoiced?

13 A The final component is -- is the fixed fee. And -- and
14 the way the contract had it, the -- 90 percent of the fixed
15 fee was divided up into equal installments and billed
16 throughout the project on a monthly basis. And then the last
17 10 percent was to paid at the end of the project. And -- and
18 so the fixed fee amount is -- is the final amount that's --
19 that's included in the invoice.

20 Q Mr. Gray, did you form an opinion on the adequacy of the
21 supporting documentation that Welded supplied with its
22 invoices?

23 A Yes. You know, my opinions are that -- that it's the
24 type of information that -- that I commonly see on -- on
25 cost-plus or cost-reimbursable contracts. It's basically

1 payroll information building up for the labor costs and
2 invoices building up for the costs that are attained from
3 vendors or subcontractors. And then that -- that's the type
4 that -- that I'm accustomed to seeing on all -- all these
5 kind of projects.

6 Q As the next step in your analysis, did you perform audit
7 work to test and trace Welded's invoices?

8 A Yes. So -- so that, you know, the -- the first step, as
9 I said, was understanding what are the types of costs that
10 are invoiced, what are the -- what are the -- what are the
11 types of support that are included, et cetera.

12 The second part is -- was -- was this audit part, was to
13 say were the amounts accurate. Are the amounts that were
14 invoiced and included on those summary sheets and invoice
15 adequately supported by the supporting documents and
16 accurate?

17 So -- so we did, basically, audit steps to trace from
18 the invoice sheets back to the supporting documentation to
19 test whether the amounts were accurate.

20 And -- we looked at -- you know, when we looked at the
21 detail, we said was -- was the amount for this project, for
22 this -- for the Atlantic Sunrise project, was the amount
23 correctly identified for the spread, was 5, 6, or 7 correctly
24 identified. Did it correctly identify who -- who the --
25 which vendor was involved and -- and did it correctly

1 identify what the -- what the service or product that was
2 being purchased or rented was and was the amount correct?

3 So it was checking all of those to make sure that --
4 that what was on the summary sheets of the invoice saying
5 here are all my transactions, were those accurate, according
6 to the supporting documentation?

7 Q How much of the invoiced amount did you review in that
8 process?

9 A So we selected a sample of nine invoices and they made
10 up a little less than -- well, it's \$472.85, which was 62
11 percent of the total amount that was invoiced on the project,
12 excluding the final fixed fee invoice.

13 Q Could you explain your process, please?

14 A Sure.

15 So, again, we -- we kind of went to these -- these
16 detailed recap sheets. You know, this is one for special
17 equipment, but we -- we did it for -- for each and every
18 sheet, as well as labor. And again, we looked at the
19 supporting documentation, the invoices in this instance, and
20 we -- and we determined is the amount that's listed on the
21 sheet and which was carried up to the -- to the invoice
22 amount that was presented to Transco, is the amount accurate
23 according to the supporting documentation?

24 Q Did you locate all of the documentation for the sample
25 transactions that you selected?

1 A When -- so my analysis was limited to the packages that
2 were -- the documentation that was provided with the invoices
3 that were submitted to Transco. And -- and what I found is,
4 of the \$472.8 million worth of transactions that I reviewed
5 in these 9 invoices, there was 2.38 million that the invoice
6 documents were not included in the -- the vendor invoice
7 documents were not included in the invoice from Welded to
8 Transco. So 99.5 percent of the costs were supported by
9 vendor and subcontractor invoices and payroll data, but .5
10 percent was not.

11 Q What did you do in response to those missing documents?

12 A I asked -- I asked counsel to -- to approach Welded and
13 see if they could locate them.

14 Q And when did you do that?

15 A I did that after -- I did that after I -- I read and --
16 and signed my errata for -- for my deposition, so it was
17 probably in February.

18 Q In the end --

19 A February of this year.

20 Q In the end, did you review and test the full 9,500 plus
21 transactions and the full \$473 million in your audit sample?

22 A Yes. Welded -- Welded provided -- or -- or working
23 here, shown here on Page 60, you can see the -- the column of
24 numbers in the middle here. This is what was not included in
25 the original Welded invoice to Transco, and so it wasn't in -

1 - in what I was reviewing. But -- but Welded located all of
2 those transactions and -- and provided them to me for my
3 review, so that, ultimately, those were reviewed, as well.
4 And so I reviewed a hundred percent of the costs that were in
5 the sample.

6 Q What was the result of your audit review?

7 A We -- we identified three instances in which the amounts
8 that were included in the -- in these invoices were
9 incorrect.

10 There was one instance in which there was a formula bust
11 in one of the spreadsheets for labor which double-counted a
12 certain labor transactions. And -- and because labor gets
13 the equipment fee -- and there was about four hundred and --
14 I'm going to say \$415,000 that was overstated or double-
15 counted for labor.

16 Because labor gets the 50 percent equipment fee on it,
17 the -- the effect of that double-counted labor had a 50 -- an
18 additional 50 percent impact. And so the total that we
19 identified was 621,000 that was included in the invoice
20 amount that was incorrect because there was a math error in
21 the invoice and it overstated the amount by \$621,000.

22 There were two other transactions which -- I call it a
23 "keypunch error," where somebody had an invoice for nine
24 thousand and -- \$9,200 and -- and put an extra zero on the
25 end, so it came out to \$92,000, that kind of -- that's not

1 the -- that's not the exact example, but that's the -- that's
2 the type of thing that happened.

3 That happened in two instances. And for those
4 instances, the total was \$371,000. And they were both served
5 to overstate the invoiced amount. So that's an additional
6 371,000 that -- that was included in the invoice amounts that
7 was overstated and incorrect.

8 So the -- the sum of those two was close to a million
9 dollars of amounts that were invoiced, but -- but based on
10 either math errors or clerical errors, were -- were
11 overstated, and the correct amount was -- is a million
12 dollars less.

13 Q And in the end, does that million dollars come out of
14 your number?

15 A Yes.

16 Q Mr. Gray, was the 62 percent of the total amount
17 invoiced for your audit within the acceptable range of a
18 sample size to do an audit exercise like this in the field in
19 which you practice?

20 A Actually, it's significantly higher than -- than the
21 normal or the recommended percentage, but we -- we were able
22 to do it, so we -- we did it.

23 Q Did you make adjustments? We were just talking about
24 this. But did you make adjustments in your analysis of
25 unpaid amounts to correct for those clerical errors and other

1 errors that you just described?

2 A Yes. For those, as well as -- as well as some other --
3 other adjustment items, yes.

4 Q Okay. I'll circle back to that.

5 But for now, can you tell me what the gross amount
6 Welded invoiced Transco before consideration of those
7 adjustments, gross amount?

8 A Okay. So the gross amount, the -- you know, the actual
9 face amount of -- of all the invoices, for the reconciliation
10 invoices was \$764,522,514.

11 Q And is that shown on Slide 64 of your presentation?

12 A That's correct.

13 Q Is that the first component in the step in the process
14 of determining the gross amount Welded invoiced to Transco?

15 A Yes, it is because there -- there was one other invoice
16 that I show here on -- on Slide 66. There was a final
17 invoice for the -- the retention of the 10 percent fixed fee
18 for \$5,050,000.

19 So, when you add the total from the reconciliation
20 invoices of 764.5 million to that 5 million amount invoiced
21 for the fixed fee, you get the total amount, gross invoiced
22 before any adjustment, 769,572,514.

23 Q And is that the figure that's found on Page 65 of the
24 presentation?

25 A That's correct, yes.

1 Q Does the other expert in this case, FTI, agree on that
2 amount?

3 A It's my understanding that -- that we agree that that's
4 the gross amount before any adjustments that was invoiced by
5 Welded.

6 And -- and also, as I recall, it's the same number that
7 was identified by Transco's auditor OGCS when they did their
8 audit of the costs -- or of the invoices.

9 Q What period of time did you examine to reach that total
10 gross amount invoiced?

11 A Okay. So this is just beginning in -- with notice to
12 proceed and it ends at the date of the bankruptcy petition.

13 Q So what about --

14 A So it's the performance period from notice to proceed to
15 bankruptcy petition.

16 Q So what about the pre notice to proceed period, was that
17 included?

18 A Those are not included here. There -- there were
19 invoiced amounts in that period, also, but they're not
20 included here. My -- my analysis is just focused on the
21 performance period starting with notice to proceed and
22 excludes the pre-NTP period.

23 Q How about the post-petition period, is that included?

24 A That is not here, either, no.

25 Q Let's net talk about Transco's payments to Welded.

1 What was the amount Transco paid Welded for the work in
2 the same period of time you were describing?

3 A Okay. So, on Slide 66, we show here a build-up of -- of
4 all of the payments that were made on the project by Transco
5 to Welded and the amount \$693,120,596 in payments.

6 Q Do the experts in this case agree on that amount?

7 A It's my understanding that, again, for this period,
8 notice to proceed to the bankruptcy petition date, that, yes,
9 we agree, FTI and I -- FTI and I agree that this is the
10 amount paid.

11 Q How about OGCS, does that number align with the OGC
12 [sic] amount -- the OGC amount paid in the rec --

13 A Yes. It's my understanding that, according to the
14 deposition, yes.

15 Q How did you determine the unpaid amounts before making
16 adjustments?

17 A So -- so the gross unpaid amount is -- is simply the
18 comparison of the gross invoice amount, which I show here on
19 Slide 67, in the first column of numbers, where it says
20 "invoiced amounts." And as I showed earlier, the total
21 amount including the -- the final fixed fee invoice,
22 \$769,572,000.

23 And subtracted from that, the amount that was paid, was
24 six hundred and ninety-three one twenty.

25 And that gets the gross unpaid amount, before any other

1 adjustments, of \$76,451,000.

2 Q Is that the figure in the bottom, righthand side of
3 Slide 67?

4 A Yes, it is.

5 Q Is that the -- that amount, that \$76 million, the amount
6 of Welded's claim that you quantified?

7 A No. As I said, this is the gross amount, the invoice --
8 the face amount that was invoiced versus the amount that was
9 paid. I made several adjustments to this to get to my amount
10 that I think is the correct unpaid invoice amount.

11 Q So why did you make those adjustments?

12 A A couple of different reasons:

13 I spoke earlier about errors that we found in the
14 invoice that were three different errors that added up to
15 close to a million dollars.

16 There was one issue that was raised in the FTI report,
17 where they identified there was an amount that was -- that
18 was invoiced both in the pre-NTP period and paid and invoiced
19 again in -- in this period. And -- and so it was, you know -
20 - and incorrectly -- it was a duplicate invoice, essentially,
21 and -- and shouldn't have been there, so I adjusted it to
22 exclude that amount.

23 And -- and there were two items that -- on which, on
24 summary judgment, were ruled by the Court, identified as
25 amounts that -- that were not -- would not correctly be

1 payable to -- to welded, and so I adjusted those out, as
2 well.

3 Q Can you walk us through those adjustments?

4 A Yes. So here on Slide 68, I start -- you know, so the
5 top amount is that gross unpaid amount that I identified
6 earlier. That's just the difference between the face value
7 of all the invoices and the amount that was paid before any
8 adjustments.

9 And I pull out the \$621,000 that I had identified, which
10 was a math error in one of the invoices that overstated the
11 labor and equipment fee amount, you know, which is the second
12 row here, \$621,000.

13 Then the fourth row down is the adjustment for the pre-
14 NTP equipment costs and bond costs, which -- which were
15 invoiced and paid in the pre-NTP period and so weren't
16 correctly -- and were invoiced a second time during this
17 performance period and so needed to be adjusted out because
18 that's not an amount that ought to be paid to Welded, of \$6.5
19 million.

20 The next two items under the second yellow row, starting
21 with the white row under there, is payment of the withheld
22 cost disincentive, which was one of the Court's ruling on
23 summary -- on Transco's summary judgment motion for the \$10
24 million.

25 And then the row below that is the summary judgment

1 ruling on the union dues that were paid directly by Transco.

2 And then the bottom correction item there is the
3 \$371,000 that I mentioned that were invoice errors that I
4 identified in my audit.

5 So that comes to the adjusted amount of \$56,191,324
6 before interest.

7 Q Is that on Page 68 of your slide deck?

8 A Yes, it is.

9 Q So what was your ultimate opinion on Welded's damages?

10 A My opinion is that the -- the correct unpaid invoice
11 amount that's owed to Welded is \$56,191,324.

12 Q Were you also asked to calculate interest associated
13 with the claim -- claims amount of invoices under CASPA?

14 A Yes. I was asked to analyze what the interest and
15 penalty amounts would be under CASPA under -- under two
16 different scenarios.

17 The first scenario is using compound interest and
18 penalty amounts. And the second scenario is at the bottom of
19 -- so I'm on -- I'm on Slide 69 here.

20 At the top of -- the table at the top of the page is
21 based upon CASPA at -- using compound interest and penalties,
22 and the bottom table is using simple interest and penalties.

23 And I broke it out separately because there are --
24 there two potential components to CASPA, there's the interest
25 and the penalties. And so this shows the different amounts

1 in the event a determination is made as to -- to what is --
2 what is recoverable and what isn't.

3 Q What period of time did you use for your interest
4 calculations?

5 A Well, for both of these calculations, the -- the
6 interest starts on the date -- 30 days after an amount was
7 unpaid. So we were -- we were analyzing each invoice, and we
8 could see what amounts were paid and what amounts were not
9 paid.

10 And so from -- from the date of 30 days after not being
11 paid, we started the interest running and we ran it right up
12 to -- to the date of the start of this -- the trial, 22
13 August of 2023.

14 Q I should have asked you this before. But what were the
15 -- what were the interest percentages that you used?

16 A We were instructed to use 12 percent annual rate.

17 Q Is that for each one of the components, one for interest
18 and one for penalties?

19 A That's correct.

20 Q What was the end date you used for interest?

21 A Start of -- the start of the trial. Tuesday, last
22 Tuesday.

23 Q Did you also review certain disputed invoice amounts
24 presented in the FTI reports?

25 A Yes, we reviewed all of them.\q You mentioned the

1 Court's summary judgment ruling and making some downward
2 adjustments for the cost penalty and the union dues. And
3 that's what you just described a moment ago, right?

4 A Correct.

5 Q Did you also quantify the amounts at issue for some of
6 the summary judgment rulings on Welded's summary judgment
7 motion?

8 A Yes.

9 Q Did you quantify the amounts at issue for equipment on
10 maintenance and repairs in connection with the Court's
11 summary judgment ruling?

12 A Yes. So -- so here -- and I'm on Slide 71. And there's
13 a table at the top that shows the amounts that are -- that
14 were disputed by FTI related to the issue of equipment
15 maintenance and repair costs and then the equipment fee on
16 per diems.

17 And so the equipment maintenance and repair costs, the
18 amount that's disputed was \$9,395,998.

19 Q And how did you reach the conclusions that are listed on
20 Page 71?

21 A It -- it comes right out of the FTI report.

22 So -- so here, what I show here is the -- is an extract
23 from -- from the FTI report where they show what they
24 identified as being unallowable equipment maintenance and
25 repair costs where for the mechanics' labor of \$6.263

1 million, and then the equipment fee component, that's the 50
2 percent marked up on that of 3,131,000, for a total of
3 \$9,395,000.

4 So that's the amount that they were disputing for the
5 issue that was -- was ruled upon in -- in the summary
6 judgment ruling.

7 Q Did you also quantify the amounts at issue related to
8 per diem?

9 A Yes, same way.

10 And here on Page 73 is, again, the table. And
11 underneath the equipment maintenance and repair costs, the
12 next item was equipment fee on per diems. And the amount
13 that was disputed there was \$7,909,000.

14 Q Did you reach the conclusion on Page 73 in the same way
15 you did with the equipment maintenance and repair costs?

16 A Yes. That's -- that's the amount that was -- was
17 disputed in the FTI report for equipment fee on per diems.

18 Q Did you look at whether there were items that FTI
19 challenged that are also included in the definition of "labor
20 costs" in the contract similar to per diem and maintenance?

21 A Yes. Well, here, sticking with 73, you see at the
22 bottom is the section of the contract that-- that provides
23 the definition of "labor costs."

24 And this part of the ruling was -- was focused on NPLA
25 personnel and are -- were the mechanics, NPLA personnel, and

1 were they covered here in the definitions of "labor costs"
2 and then also travel pay and per diem.

3 So I looked at the other items that are -- that are in
4 this same definition of "labor costs" and identified employee
5 vehicle rental -- employee vehicle rental -- employee vehicle
6 rental/pay and payroll taxes. And then, based upon those,
7 identified what I believe to be other components of -- that
8 are --

9 MS. EWALD: Your Honor, I'll -- excuse me. I'll
10 object to the testimony with respect to Mr. Gray's evaluation
11 of what the contract means for -- meaning of the contract
12 with regard to labor costs and its coverage to these items.

13 MR. GUERKE: I'm not asking him to interpret the
14 contract, if that's the issue. And if that's how it's coming
15 across, that's not what we're asking.

16 THE COURT: Okay. I'm not accepting it for his
17 interpretation -- the legal interpretation of the contract.
18 But for the calculations that he's made, with respect to
19 certain categories of items, I'm going to hear that
20 testimony.

21 I'll decide, as a legal matter, whether or not
22 these should be included or excluded. But I'm going to take
23 the math and the calculation from -- and the opinion on that
24 from the witness.

25 MS. EWALD: I appreciate that, Your Honor. Thank

1 you.

2 THE WITNESS: So -- so the ones we identified --
3 and, again, you know, this part was -- was identifying
4 amounts relate to employee rig rental costs, vehicle
5 allowances, per diem tax, et cetera, for these -- for these
6 five items and -- and identifying the amount that FTI had
7 disallowed for those particular items.

8 BY MR. GUERKE:

9 Q And what amount was identified for rig rental costs?

10 A That's the largest of the items, that's \$8.828 million.

11 Q And what about the amount you identified for equipment
12 fee on vehicle allowance?

13 A So that's \$3.6 million, as -- as disputed in the FTI
14 report.

15 Q How about for the amounts you identified for disputed
16 vehicle allowance costs and associated equipment fee?

17 A Eight hundred and sixty-seven thousand, four hundred and
18 forty-seven.

19 Q And per diem tax?

20 A Per diem tax, the disallowed amount was \$183,178.

21 Q And what was the amount you identified for rented trucks
22 provided to employees?

23 A That's the -- the bottom amount below the total here on
24 -- on Page 75 of \$3,107,000.

25 Q And of those five categories, what's the total amount

1 for those additional challenged labor costs?

2 A It's -- it's what are showing right here at the -- at
3 the bottom right.

4 So for those five, it's \$16,586,000 in -- in addition to
5 the items that are at the top, the seventeen million three
6 hundred and five.

7 Q Is that on Page 75 of your presentation?

8 A Yes.

9 Q Did you prepare calculation worksheets that were
10 attached to your two reports setting forth the
11 quantifications that supported your opinions?

12 A Yes. In my first report, I had, again, what we call
13 "ACG attachments." I had ACG Attachments 1 through 13. And
14 each of -- you know, each of those numbered 1, 2, 3, 4, 5.
15 Each of those has a summary sheet which has various
16 supporting sheets behind it. So it's actually a stack of
17 several inches deep for all of them.

18 But the summary sheets that would show the kind of final
19 numbers for each of the issues we were looking at were on
20 attachments -- ACG Attachments 1 through 13 in -- in the
21 first report.

22 Then in the second report, there were three additional
23 ACG Attachments, 14, 15, and 16.

24 And also, some of my numbers from the first report
25 changed to the second report. And so, for those, I used the

1 same numbering system but called them Rev 1. So, if ACG 1
2 changed between Report and one two -- and Report 2, then in
3 Report 2, I identified ACG 1, Revision 1.

4 Q Did I hand you a copy of trial exhibits that says "2 of
5 2"? If I didn't, I'll need to.

6 A I have 1 of 2.

7 MR. GUERKE: Okay. May I approach, Your Honor?

8 THE COURT: You may.

9 (Pause in proceedings)

10 BY MR. GUERKE:

11 Q Mr. Gray, I've handed you a binder of trial exhibits
12 that are identified as Scott Gray Trial Exhibits. And it's 2
13 of 2; 1 of 2 being your two reports, which I'm not talking
14 about right now.

15 But does this exhibit binder include the attachments,
16 the ACG attachments with the revisions that you just
17 described?

18 A Yes, it does.

19 Q And are there 14 separate exhibits that make up your
20 worksheet calculations that were attached to your two
21 reports?

22 A Actually, across the two reports, there are 16. There's
23 --

24 Q But is this a calculation of 14 of them? I think there
25 are two that we didn't include that relate to your rebuttal

1 report.

2 A Actually, you're correct. So -- so 14 and 15 are not
3 here. So this is 1 through 13, plus 16. Yes, so there are
4 14 here.

5 Q And again, could you describe in summary what's included
6 in the calculation worksheets that you prepared that are in
7 the binder of exhibits that I just handed up to you?

8 A These are my calculations that -- that underlie my
9 opinions. So, in my report, when I'm talking about a certain
10 number that I say is correct, then -- then these are the
11 calculations that I did to determine that number.

12 A lot of them are the -- are the -- the detailed audit
13 steps where we identify all the transactions and -- and show
14 what we looked at and what we -- we verified, et cetera. So
15 these are -- these are the sheets that -- that -- this is my
16 work that -- that -- upon which my opinions are based.

17 MR. GUERKE: Your Honor, I move into evidence PX-
18 565, PX-566, PX-567, PX-568, PX-569, PX-570, PX-571, PX-572,
19 PX-573, PX-574, PX-575, PX-576, PX-577, and PX-580, which is
20 every one of the exhibits in the Gray Trial Exhibits Binder 2
21 of 2.

22 MS. EWALD: Your Honor, I have no objection.

23 I think both parties have included what I would
24 describe as Rule 1006 summaries of their audit and expert
25 work papers, so I have no objection. We have done the same

1 thing.

2 THE COURT: Okay. Thank you. Then they're
3 admitted.

4 MR. GUERKE: Thank you, Your Honor.

5 (PX-565 through PX-577 received in evidence)

6 (PX-580 received in evidence)

7 BY MR. GUERKE:

8 Q Mr. Gray, early in your testimony, you described
9 preparing a first report and a second report. I think your
10 first report was May 2022, and your second report, June or
11 July 2022.

12 A July.

13 Q Do the exhibits that we just discussed and that have
14 been admitted into evidence include the adjustments that we
15 -- the adjustments for the ten-million-dollar cost penalty?

16 A No.

17 Q Does it include the adjustment for 2.7-million-dollar
18 union dues?

19 A No.

20 Q Do those work papers include the additional three-
21 hundred-and-seventy-one-thousand-dollar adjustment you made
22 for the typographical errors?

23 A No.

24 Q So, to add the appropriate context, would those three
25 adjustments still need to be made to the final numbers that

1 are included in your worksheets and your calculations that
2 were from 2022?

3 A Yes, that's correct.

4 Q Thank you, Mr. Gray.

5 MR. GUERKE: Those are all my questions, Your
6 Honor.

7 THE COURT: Okay. Cross.

8 (Pause in proceedings)

9 CROSS-EXAMINATION

10 BY MS. EWALD:

11 Q Good afternoon --

12 MS. EWALD: Or Your Honor, may I proceed.

13 THE COURT: You may.

14 MS. EWALD: Thank you.

15 BY MS. EWALD:

16 Q Good afternoon, Mr. Gray. My name is Shelley Ewald and
17 I represent Transcontinental Gas Pipe Line Company and I have
18 a few questions for you this afternoon.

19 First of all, by way of background, Mr. Gray, I believe
20 that, in your work in connection with your expert report,
21 that you worked with Mr. Marcus Hood to prepare your reports,
22 correct?

23 A I -- I spoke with Mr. Hood on -- on certain occasions,
24 yes. I wouldn't say I "worked with" him, but -- but we did
25 speak.

1 Q And he is the person that you relied upon primarily at
2 Welded for any information you needed, correct?

3 A I would say Mr. Hood, Mr. Singleton, and Mr. Hawkins.

4 Q And with regard to your past experience with Welded and
5 Bechtel, I believe you've been retained by Welded at least
6 twice before. Is that right?

7 A Before this matter, yes. Yes, I believe it's three
8 times.

9 Q Oh, thank you for that, Mr. Gray.
10 And I believe you have been retained previously by
11 Bechtel at least 20 times as well. Is that correct?

12 A I believe that's correct, yes.

13 Q And just to -- so that I understand your background, you
14 are not a certified public accountant. I did not see that on
15 your resume, correct?

16 A That's correct.

17 Q And --

18 A I am not a certified public accountant.

19 Q And your work is primarily in the field of claim
20 preparation. Is that correct?

21 A I -- I wouldn't say "claim preparation."

22 And if I -- if I could make just a clarification, I
23 would say part of the time -- I mean, it -- it can be claims,
24 it can be change orders, it can be requests for equitable
25 adjustments. So it's -- and sometimes it's not a claim in a

1 litigation environment. Sometimes it's a change order or --
2 or a change to the contract, cost for the change to the
3 contract.

4 And -- and quite often, it's not preparation. Quite
5 often, it's working for the owner, analyzing claims that have
6 been prepared by others and -- and presented to my client.

7 Q And you had access -- prior to creating your first
8 report, you had full access to all of Welded's books and
9 records, correct?

10 A Yeah. I -- I would say, yes. Although -- you know,
11 what -- what I asked for, I had -- I had access to.

12 Now, you know, Welded was -- was not a going concern
13 anymore, so there were -- there times where it would take a
14 while to get something. But -- but I certainly was not
15 limited to asking for things.

16 Q And you had access to Mr. Hood, Mr. Singleton, and Mr.
17 Hawkins for answering questions before your first report. Is
18 that correct?

19 A Yes, that's correct.

20 Q And between the time of providing your first report and
21 your second report, as I understand it, you identified
22 additional errors in the invoicing that Welded had prepared,
23 correct?

24 A I identified, between the first and second report, one
25 additional error that was raised in the FTI report.

1 Q And that's the six and a half million dollars in the
2 October reconciliation invoice. Is that right?

3 A That's correct.

4 Q And I'll turn to -- I'll first look at your PowerPoint
5 presentation.

6 MS. EWALD: We may have to switch the tech from the
7 plaintiff side to the -- it looks like we have it.

8 BY MS. EWALD:

9 Q I'd just like to turn to Slide Number 14 in your
10 presentation, Mr. Gray.

11 A Yeah. And I'm not driving, right? Okay.

12 Q You're not. You're not.

13 A Okay.

14 Q We'll help you.

15 A Thank you.

16 Q We'll help you get there.

17 MS. EWALD: So turning to Slide Number 14.

18 Q It's a little hard to read, but it appears that this is
19 the February 2018 cash call. Is that right?

20 A Correct.

21 Q And the reconciliation is for November of 2017. Is that
22 right?

23 A That is correct.

24 Q So, by February -- for the February 2018 cash call, at
25 that point in the project, Welded had only provided two

1 reconciliation invoices, correct?

2 A (No verbal response)

3 Q October and November?

4 A That's -- I believe that's correct, yes.

5 Q And did you review the timing of the provision of
6 support for those reconciliation invoices?

7 A When you say "review," I mean, I -- I can see what the
8 timing was. I -- I wouldn't say I reviewed it.

9 Q And what date was the October reconciliation backup
10 provided to Transco?

11 A I -- I don't recall.

12 Q Are you aware it was not provided with the
13 reconciliation invoice on December 11th?

14 A It was not provided with that?

15 Q It was not provided. Are you aware of that?

16 A I -- I don't recall when it was.

17 Q And I'd like to turn to Slide 29 in your slide deck,
18 please.

19 And this is the invoicing for reconciliation invoices
20 July 2018, reconciliation Spread 5. Do you see that?

21 A Yes, I do.

22 Q And you found this type of backup in the -- was this in
23 the reconciliation invoice itself, Mr. Gray?

24 A Yes.

25 Q It was attached to the reconciliation as opposed to the

1 backup?

2 A Well, the -- the backup is what attached to the
3 reconciliation. Well, I'm not sure what you're --

4 Q Yeah.

5 A -- what differentiation you're making between what's
6 attached and what's considered --

7 Q Let me --

8 A -- backup.

9 Q Let me try to explain that.

10 So the reconciliation invoice would be transmitted to
11 Transco in an email. Do you recall that --

12 A Yes.

13 Q -- typically?

14 And the backup was too large to email. Do you recall
15 that?

16 A That's correct, yes.

17 Q And do you know how it was provided to Transco?

18 A I -- actually, I don't remember. I -- I know how I got
19 it, which was in -- in PDF versions of -- of the support.
20 But I don't know how it was provided to Transco.

21 Q And with regard to this information from Bechtel, this
22 backup information identifies the Bechtel multiplier that was
23 added to both wages and pay additives. Is that right?

24 A Among other things, yes. There's are a series of
25 columns, and one of them is for the multiplier amount.

1 Q And that multiplier was applied both to wages and to pay
2 additives, correct?

3 A I -- I guess we'd have to see the math. I -- I don't
4 recall if it was applied to both.

5 (Pause in proceedings)

6 Q And with regard to your testimony with respect to
7 specialty equipment, which we see at Page 35, your analysis
8 did not extend to an evaluation of whether the equipment
9 identified as specialty equipment met any contract definition
10 of "specialty equipment," correct?

11 A Correct. I did not -- I did not make an interpretation
12 of -- of the contract on that.

13 I did discuss with -- with Welded personnel what their
14 rationale was for -- for considering something specialty
15 equipment, but I didn't make an independent expert
16 determination of -- of how that fit with the contract.

17 Q And you have no opinion that you're going -- you have no
18 opinion that you're going to express in that regard, correct?
19 In these proceedings?

20 A I -- I mean, I can -- I can opine that it's consistent
21 with what they told me their process was, but not what it --
22 not compared to the contract, no.

23 Q And in looking at your slide, with regard to your
24 invoice review and results, I believe you testified that you
25 did a sample of nine invoices. Is that correct, Mr. Gray?

1 A Yes, ma'am.

2 Q And in your -- if you could turn to page -- if you could
3 turn to Page 60 of your report.

4 You identified that the amount of backup that you could
5 not locate or supporting documents you could not locate
6 totaled two million, three hundred and eighty-four dollars
7 and seven hundred and eight, correct? Seven hundred and
8 eight dollars.

9 A Correct. Those were not in the invoice package that was
10 submitted to Transco, at least the versions that -- that I
11 obtained.

12 (Pause in proceedings)

13 Q And if we can turn to Page 68 of your PowerPoint
14 presentation.

15 I believe you indicated the -- you have here your
16 adjusted correct amount -- corrected amount due Welded of
17 \$56.1 million. That includes the final fixed-fee amount,
18 correct?

19 A Yes, it does.

20 Q And you have offered no analysis or opinion with regard
21 to whether Welded completed its work in connection with the
22 contract in order to earn that fee, correct?

23 A That's correct. I don't have an opinion on that.

24 Q And if we turn to the last page of your PowerPoint
25 presentation, which is Slide Number 75, just looking at the

1 amounts for rig rental cost.

2 I believe you testified that it is your opinion that rig
3 rental costs are labor costs. Is that right?

4 A I -- I believe that -- I believe that the -- the
5 definition of -- of "labor" in the contract -- again, I'm not
6 interpreting it. But as I look at what the words are there,
7 that this appears to be an item that's -- that's addressed
8 there, yes.

9 Q And pickup trucks as well? These are rental pickup
10 trucks?

11 A Yes. Rented trucks that were -- were provided to the
12 employees.

13 Q And you would agree with me that those are both items of
14 equipment, correct?

15 A (No verbal response)

16 Q A welding rig --

17 A Well --

18 Q -- is an item of equipment, correct?

19 A Well, are you -- are you talking about a definition in
20 the contract or just saying --

21 Q Just as a general understanding of what a welding rig
22 rental is, you understand it's a piece of equipment.

23 A But this -- this is an allowance that's paid to a person
24 for that, so -- so it's -- it's not -- I'm not talking about
25 a piece of equipment. I'm talking about an allowance that's

1 paid to a person for providing the rig rental or -- or a
2 benefit that's provided to a person by giving them a truck.

3 Q And you -- do you understand that under the union
4 agreement, that welding rigs are addressed as rental payments
5 to the labor -- the union labor employees?

6 A I don't recall that either way.

7 (Pause in proceedings)

8 Q And with regard to the items -- the amounts that were
9 paid to the field personnel for the PTAG individuals, the
10 Bechtel, the Welded individuals, did you determine that they
11 were compliant with the rates that are seen on Exhibit 1 to
12 Section 8 of the contract?

13 A When you say "compliant," can you tell me what you mean
14 by "compliant" to the rates?

15 Q Did you review -- let me ask it this way, Mr. Gray.

16 Did you review Exhibit 1 to Section 8 of the contract in
17 order to evaluate the rates that were paid to -- the
18 propriety of the rates paid to field personnel under the
19 contract?

20 A Yes, I did. I did it primarily from the perspective of
21 reviewing the analysis that FTI did on that.

22 FTI had an adjustment for which they said that amounts
23 were paid in excess of 7.5 percent higher than the amounts
24 that were in Exhibit 1. And -- and so, as doing part of that
25 -- my assessment of adjustment that they did, I -- I reviewed

1 the rates that were actually paid and reviewed the rates that
2 were in Exhibit 1.

3 Q And I believe, with regard to the 7.5 percent, you did
4 not see any evidence that Welded submitted any notice to
5 Transco prior to increasing those rates above 7.5 percent,
6 correct?

7 A I think I have seen evidence of that.

8 Q Do you recall that -- you believe you've seen evidence
9 that trans -- that Welded requested increases in advance
10 before billing rates over seven and a half percent of those
11 listed on Exhibit 1?

12 A Yes. Now I'm not -- I'm not ruling on that
13 contractually, but -- but you're asking me if I've seen
14 anything. And what I saw was Welded submitted detail for the
15 increase in costs on the project from three hundred some-odd
16 million to 450 million. And -- and in that package was a
17 buildup of -- of the rates that were going to be paid to
18 people, and I -- and those were provided to -- to Transco.

19 So, to me -- to me, just upon the face of it, that was
20 providing here are the rates we -- we're going to charge.
21 And if those are higher than the -- than those -- what's in
22 Exhibit 1, then that was -- that was providing -- I'm not
23 going to say it was a notice letter, that's for someone else
24 to interpret. But -- but that information was provided.

25 Q And do you recall that I took your deposition, Mr. Gray,

1 in November of 2022?

2 A Yes, I do.

3 Q And do you recall that I asked you about this issue?

4 A I -- I don't recall specifically, but I -- I don't doubt
5 that you did.

6 MS. EWALD: Your Honor, may I approach?

7 THE COURT: You may. Thank you.

8 THE WITNESS: Thank you.

9 BY MS. EWALD:

10 Q And, Mr. Gray, I'm going to draw your attention to Page
11 219 of the deposition transcript of November 8th of 2022.
12 And I'll draw your attention to the second line of Page 219
13 through the seventh line of -- or the eleventh line of Page
14 220.

15 And we can see that we were -- from Page 218, we were
16 talking about the provision on Exhibit 1 regarding cost for
17 labor and benefits in excess of 7.5 percent of the amounts
18 listed in Exhibit 1. And the contract expressly --
19 expressively requires notice in -- which increases for any
20 field personnel member -- I'm looking -- I guess I was
21 looking at your report at the time.

22 And at Page 219, my question was:

23 "The sentence before that, which says 'contractor
24 shall issue notification to company before submitting an
25 invoice for work performed by field personnel which exceeds

1 the rate or ranges herein,' and your view is that only
2 applies to raises, that notification requirement?"

3 And you say:

4 "No. I'm talking about the approval requirement
5 here, right."

6 Do you see that?

7 A I do.

8 Q And I go on to -- on Page 220 to ask you:

9 "Do you see any evidence that Welded submitted such
10 notice to Transco?"

11 And your answer was:

12 "I didn't look at that, so I haven't -- I don't
13 know that it doesn't exist, but I haven't seen it."

14 Do you see that testimony?

15 A I do.

16 Q And then I went on to ask:

17 "Did you ask Mr. Hood if notice was provided as
18 described in the Exhibit 1 sentence we just discussed?"

19 And you said:

20 "We did not speak about that."

21 Do you see that?

22 A I do.

23 Q And so, at least at the time I took your deposition, you
24 had not determined -- you had not seen any evidence that
25 there had been such a request by Welded, correct?

1 A That's correct.

2 (Pause in proceedings)

3 Q And I believe that you did not -- you testified earlier
4 today that you reviewed certain time sheets. Is that
5 correct?

6 A Yes.

7 Q And are -- the time sheets that you reviewed, are they
8 the Paylocity database?

9 A No. These were actual time sheets that were -- I also
10 reviewed -- reviewed the Paylocity database, but the -- the
11 time sheets were -- were actual time sheets that had been
12 provided to OGCS during -- that they had requested during
13 their audit process, and I reviewed those.

14 Q And at the time you reviewed those time -- the when you
15 reviewed those time sheets and formed your opinions for your
16 first report, you did not verify whether those -- the
17 employees reflected on those time sheets were assigned full
18 time to the field in ASR, correct?

19 A That wasn't -- correct. That's not -- that's part of
20 what -- what I could tell from a time sheet, correct.

21 Q And you analyzed the PTAG invoices, I believe, in your
22 presentation.

23 The PTAG invoices we saw in your presentation, they are
24 not broken down by person. Is that right?

25 A On -- on that particular summary sheet, they're not.

1 There -- there is detail where they are broken down by
2 person.

3 Q And the amounts that were paid to the PTAG personnel
4 included an agency fee. Do you understand that to be true?

5 A Yes.

6 Q And you also understand that that agency fee was not
7 paid to the personnel, correct?

8 A Correct. It was paid to the agency.

9 Q And you also are aware that Welded charged an equipment
10 fee markup on the amounts that were paid to the agency,
11 correct?

12 A They charged an equipment markup on all labor charges.

13 Q And that included the agency fees paid to PTAG, correct?

14 A Yes.

15 Q And it included the Bechtel multiplier for the Bechtel
16 seconded employees as well?

17 A Correct.

18 Q I'd like to ask a few questions with regard to your --
19 in line with your analysis on Page 75 regarding the rig
20 rental costs and the pickup trucks.

21 With regard to items that were paid to the -- that were
22 paid to the union labor personnel, there were charges for
23 cell phones that were included in labor costs. Do you recall
24 that?

25 A Based on my review, the amounts for cell phones were not

1 included in the invoice.

2 Q The -- that's a good point. Let me clarify that, Mr.
3 Gray.

4 Cell phones were a benefit or expense that were paid to
5 the union labor people by Welded, right?

6 A To -- to certain people, correct.

7 Q And was that based on the people on Exhibit 1 entitled
8 to a cell phone or pre-job report? What was that based on,
9 do you know?

10 A I -- I don't know because I -- the one thing I did is
11 look and see and -- and adjustments were made to pull out
12 those amounts. And since they weren't invoiced, I didn't
13 review them any further.

14 Q And Welded -- and is it your understanding that Welded
15 didn't charge the cell phones that were paid to -- the cell
16 phone charges that were paid for the union people to Transco
17 because they were considered included equipment?

18 A I think it was a mistake. I -- I don't know why they
19 didn't do it.

20 Q So you don't know why cell phones were not charged to
21 ...

22 A To?

23 Q To Transco. Sorry.

24 A No. Again, if it's -- if it's something that wasn't
25 invoiced, I didn't spend any time on it.

1 Q And do you recall that I asked you at your deposition
2 how Welded treated the cell phone reimbursement cost that it
3 incurred on the project?

4 A I -- I don't remember it, but I -- I imagine that was a
5 topic we spoke of.

6 Q And if you could turn to Page 106 of your deposition,
7 Mr. Gray.

8 (Pause in proceedings)

9 Q And I'll draw your attention to Lines 4 through 8. I
10 asked you:

11 "How did Welded treat the cell phone reimbursement
12 cost that it incurred on the project?"

13 Do you see that?

14 A I do.

15 Q And at that time you testified:

16 "It treated it as included equipment."

17 Do you see that?

18 A I do.

19 (Pause in proceedings)

20 Q And I believe that with regard to the materials and
21 supplies, you did no analysis to determine whether any of the
22 materials and supplies that Welded charged Transco were part
23 of the "included equipment" definition, correct?

24 A Correct.

25 Q And with regard to your review of the subcontracts, did

1 you review the provisions of the contract relating to the
2 subcontract requirements to ensure that Welded had complied
3 with them?

4 A I'm sure I reviewed the contract. I didn't make a
5 specific review of the subcontract costs to -- to make any
6 kind of contractual interpretation on them.

7 Q You didn't do any analysis to say do the subcontract
8 costs that were invoiced to Transco meet the requirements for
9 the subcontracts as shown -- subcontractors as shown in
10 Section 8 of the contract.

11 And I can turn your attention to that provision if it
12 would be helpful.

13 A Sure.

14 Q Certainly. I don't know if we have JX-1 up there for
15 you, Mr. Gray, but we can get one, I am sure.

16 A JX Exhibit 1?

17 Q Yes.

18 A There is one right here.

19 Q That's excellent.

20 And I will turn your attention -- Mr. Gray, I'd like to
21 turn your attention to JX-1. And at the top of the page is
22 where you'll see the specific number. It is JX-1, 491. A
23 JX-00001.

24 Q Yes.

25 A Okay.

1 Q JX-001, 491.

2 And I'm going to turn your attention to the -- Paragraph
3 5, subcontractors.

4 A Okay. I see that.

5 Q Thank you.

6 And there's a section in the subcontracting -- the
7 subcontractor section in the contract that addresses, I would
8 say, the true-up of subcontractor work performed and how:

9 "To the extent an original invoice amount exceeds
10 an amount paid by company to contractor pursuant to
11 purchase orders or good faith estimates, either
12 contractor shall be entitled to an equitable
13 adjustment equal to the amount underpaid for such
14 work performed or, to the extent the original
15 invoice amount is less than the amount paid by
16 company to contractor, that company shall be
17 entitled to a refund equal to the amount overpaid
18 for such work performed."

19 Did you see whether that process was followed in the
20 monthly reconciliations?

21 A No, no. I determined whether it was a subcontract
22 amount and whether it was supported by the invoices that came
23 from the subcontractor.

24 Q And so, with regard to the requirement that
25 subcontractor invoices for work related to this, contractor

1 shall not be commingled with other work that the sub may have
2 performed, did you look at that at all, Mr. Gray?

3 A Yes. We -- we made sure that all the amounts were
4 performed for this -- the ASR project and -- and that they
5 all comported with the particular spread which -- for which
6 the work was invoiced.

7 Q And at Page 492, at the first full paragraph, there's a
8 provision for obtaining competitive bids for subcontracts
9 which exceed \$3 million.

10 Did you do any review in that regard?

11 MR. GUERKE: Objection.

12 A I did not.

13 MR. GUERKE: Objection, Your Honor. This is the
14 issue that we objected on, I think it was yesterday, as not
15 being part of the case, the competitive bid issue that we
16 learned about for the first time in openings. So we object
17 to the extent that Transco is seeking evidence on that
18 subject.

19 I know the Court has already ruled and reserved,
20 but I wanted to --

21 THE COURT: I've reserved --

22 MR. GUERKE: Thank you.

23 THE COURT: -- and you've objected. So you've
24 reserved your objection now.

25

1 And I believe Mr. Gray answered no.

2 MS. EWALD: I believe that's the case, Your Honor.

3 BY MS. EWALD:

4 Q And Mr. Gray, I also believe that you did not confirm
5 payment to the specific subcontractors. Is that right?

6 A That is correct.

7 MS. EWALD: Your Honor, I have no further questions
8 for Mr. Gray. I believe we'll see him again in the rebuttal
9 case, as I understand it. But at the moment, I have no
10 further questions.

11 THE COURT: Thank you.

12 MS. EWALD: Thank you.

13 THE COURT: Any redirect?

14 MR. GUERKE: No. Thank you, Your Honor.

15 THE COURT: Okay. Thank you, Mr. Gray.

16 THE WITNESS: Thank you very much.

17 THE COURT: Maybe I will see you again.

18 THE WITNESS: Yes.

19 (Witness excused)

20 (Pause in proceedings)

21 THE COURT: Okay.

22 MR. GUERKE: Your Honor, I think that does it for
23 today.

24 THE COURT: I agree.

25 (Laughter)

1 THE COURT: What's the plan? What's the -- we're
2 back Monday, right?

3 MR. GUERKE: We're back Monday.

4 My first question is scheduling just generally next
5 week. Are there any issues that the Court has that we have
6 to schedule around?

7 THE COURT: No. Next week, at least right now, I
8 don't believe I have any other matters that I'm hearing. So
9 we'll be just straight 9:30 to 5:30 or so, and we can take
10 lunch as appropriate.

11 MR. GUERKE: With that, then, Your Honor, I think
12 we'll just call our next witness at 9:30 on Monday morning.

13 THE COURT: Okay. Very good.

14 Thank you, everyone.

15 MR. GUERKE: Thank you, Your Honor.

16 MS. EWALD: Thank you, Your Honor.

17 THE COURT: We're adjourned. Have a good weekend.

18 COUNSEL: Thank you, Your Honor. Thank you.

19 (Proceedings adjourned to 8/28/23 at 9:30 a.m.)

20 (Concluded at 5:22 p.m.)

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CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter to the best of my knowledge and ability.



September 3, 2023

Coleen Rand, AAERT Cert. No. 341
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