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**Response to Public Meeting
Comments and Questions
Concerning the Deletion
of
Aztec Ceramics
from the
Texas Superfund Registry**

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RESPONSIVENESS SUMMARY



Aztec Ceramics
State Superfund Site
San Antonio, Bexar County, Texas

October 2003

Includes comments received at the public meeting held
7:00 p.m., Tuesday, June 17, 2003,
at the Pfeiffer Elementary School Library, 4551 Dietrich, San Antonio, Texas

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
SUPERFUND CLEANUP SECTION
REMEDATION DIVISION

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INTRODUCTION

During a public meeting on June 17, 2003, the Texas Commission on Environmental Quality (TCEQ) proposed to delete the Aztec Ceramics State Superfund Site, 4735 Emil Road, San Antonio, Bexar County, Texas from the state Superfund registry in accordance with 30 TAC §335.344(c), and invited public comment on the proposed deletion.

Legal notices announcing the meeting were published in the *Texas Register* and in the *San Antonio Express News* on May 16, 2003. The public comment period began on May 16, 2003, and ran through June 17, 2003, at the close of the public meeting.

During the meeting, the public was invited to ask questions or make comments on the proposed deletion and on the determination that the site no longer presented an imminent and substantial endangerment to the public and the environment. Most of the questions or comments were addressed by the TCEQ staff present during the meeting. This document includes a summary of, and a response to, those questions or comments which were not fully addressed during the public meeting. Questions or comments which the TCEQ believes were adequately addressed during the meeting are not reiterated in the text of this document, but may be found in the attached transcript of the public meeting.

RESPONSE TO COMMENTS AND QUESTIONS

INTENT TO DELETE: AZTEC CERAMICS STATE SUPERFUND SITE

June 17, 2003 Public Meeting

Question/Comment:

Several persons questioned if the TCEQ had considered prior public comment requesting that the site be remediated to meet residential land use criteria.

Response:

The Aztec Ceramics Site Property is zoned "I2 - Heavy Industrial District" according to maps maintained by the City of San Antonio Planning Department. Therefore, consistent with Texas Administrative Code §335.557, the site land use is determined to be non-residential because it is located within the jurisdiction of a zoning authority and is zoned for non-residential use.

The TCEQ held a public land use meeting in San Antonio on August 17, 1999, to present its proposal to develop remedial alternatives for the site that would be based on non-residential land use. The commission received no comments which indicated that the zoning interpretation by the TCEQ was incorrect or that the requirement of the Texas Administrative Code was being misapplied; therefore, the remedial alternatives developed by the commission were intended to meet non-residential land use criteria.

Question/Comment:

One person asked for the specific costs estimated for the different alternatives considered by the TCEQ to remediate the site, and questioned why the TCEQ had selected the cheapest remedy.

Response:

The TCEQ presented four remedial alternatives during the public remedy selection meeting held on October 7, 1999, with a variation of each type. All of the alternatives presented would make the site safe for non-residential land use only. The following table presents the estimated costs for each of the remedies discussed at that meeting.

Remedial Alternatives Evaluated to Meet Non-residential Land Use Criteria	Estimated Cost (as of 10/7/99)
Option 1 - Consolidate waste and cap onsite	\$563,073
Option 2 - Cap the waste in place onsite	\$540,794
Option 3 - Stabilize the waste onsite and dispose offsite	\$2,801,231
Option 4 - Stabilize and dispose of the waste offsite	\$2,704,931

§361.193 of the Texas Health and Safety Code requires that the TCEQ select the remedial alternative "that the commission determines is the **lowest cost alternative** that is technologically feasible and reliable and that effectively mitigates and minimizes damage to and provides adequate protection of the public health and safety or the environment." (emphasis added)

The commission proposed Option 2 from the table above as meeting the requirements of the Health and Safety Code for remedy selection. No comments were received at the public meeting which, in the opinion of the commission, showed how the requirements of the Health and Safety Code would not be met by the proposed remedy, therefore that remedy has been implemented at the site.

Question/Comment:

Several persons suggested that the TCEQ should have a role in facilitating a reuse plan for the site and asked if the TCEQ had a program to do that.

Response:

The primary duty of the TCEQ in addressing public and environmental threats at Superfund sites is to provide for protection of public health and the environment. While the TCEQ, as a matter of practice, will work with local government and private entities to facilitate redevelopment of Superfund sites, the TCEQ must still adhere to the applicable statutory requirements for the selection of remedies and the use of public funds, some of which are discussed in response to the preceding question.

At this time, the TCEQ is not authorized by law or the General Appropriations Act to spend Superfund monies to specifically promote or facilitate redevelopment of Superfund sites. Such programs do exist at the federal level but are currently limited to use for federal Superfund sites (the Aztec Ceramics Site is not a federal Superfund site). There are programs within the TCEQ which allow and facilitate private or other public parties to conduct cleanups of sites with their own money to meet specific redevelopment needs or goals (the Voluntary Cleanup Program and the Brownfields Program). However, no private party came forward to conduct the cleanup of the Aztec Ceramics site under any of those programs.

The action to delist this site from the state Superfund registry will in no way preclude or hinder efforts by any local entity that may desire to redevelop the property in the future. In fact, the delisting may be beneficial to redevelopment efforts by assuring any future interest holder in the property that past environmental problems at the site have been addressed.

Questions/Comment:

One person asked if the TCEQ had given adequate notice to the community of the June 17, 2003 meeting.

Response:

The TCEQ is required to provide for the publication, at least 30 days prior to the meeting date, of a notification in a newspaper of general circulation in the city where the facility is located. The TCEQ published the notice of this meeting on May 16, 2003, in the *San Antonio Express News* and in the *Texas Register*. In addition, 25 meeting announcement flyers were mailed on May 28, 2003, to all attendees who registered at the previous land use and proposed remedy public meetings.

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Transcript
of
Public Meeting
Concerning the Deletion
of
Aztec Ceramics
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Texas Superfund Registry

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0001

1 TRANSCRIPT OF PROCEEDINGS BEFORE THE
2 TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
3 AUSTIN, TEXAS

4 IN THE MATTER OF:)
5)
6 AZTEC CERAMICS STATE)
7 SUPERFUND PUBLIC MEETING)
8 FOR PROPOSED DELETION)

9

10

11

12 PUBLIC MEETING
13 TUESDAY, JUNE 17, 2003

14

15

16 BE IT REMEMBERED THAT at 7:00 p.m., on
17 Tuesday, the 17th day of June 2003, the
18 above-entitled matter came on for hearing at
19 Pfeiffer Elementary School, 4551 Dietrich,
20 San Antonio, Texas, before JANIE MONTEMAYOR and
21 ALAN ETHEREDGE; and the following proceedings
22 were reported by Patricia Gonzalez, a Certified
23 Shorthand Reporter of:

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1 P R O C E E D I N G S
2 TUESDAY, JUNE 17, 2003
3 (7:00 P.M.)

4 MS. MONTEMAYOR: Well, good
5 evening, ladies and gentlemen. Thank you for
6 coming tonight. My name is Janie Montemayor and
7 I'm with the Community Relations Team with the
8 Texas Commission on Environmental Quality.

9 You are here at a Texas Commission on
10 Environmental Quality public meeting to take
11 comments on the proposed delisting of the Aztec
12 Ceramics State Superfund Site from the Superfund
13 Registry. The site is approximately eight acres
14 in size and is located at 4735 Emil Road in
15 Bexar County, Texas.

16 The Executive Director of TCEQ has
17 issued a notice to -- a notice of intent to
18 delete the Aztec Ceramics State Superfund Site
19 from the Superfund Registry. The Superfund
20 Registry is a list of State Superfund Sites
21 which may constitute endangerment to public
22 health and safety or the environment due to a
23 release.

24 The Commission is proposing this
25 deletion because the Executive Director has
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1 determined that the site no longer presents an
2 endangerment due to the remedial action that was
3 performed at the site.

4 With me this evening is Mr. Alan
5 Etheredge, the TCEQ project manager.
6 Mr. Etheredge. And then we also have Mr. Auburn
7 Mitchell, who is our attorney -- Superfund
8 attorney.

9 Also, I'd like to welcome each one of
10 you here tonight and also see if we have any
11 elected officials, which I see we don't. We
12 have someone from the City of San Antonio,
13 Abigail Kinnison, and we're glad that you're
14 here.

15 Delisting means that the site will be
16 removed from the State Superfund Registry. The
17 TCEQ State Superfund program has overseen the
18 remediation activities at the Aztec Ceramics
19 site. The remediation performed has addressed
20 the threat to public health, safety and the
21 environment; and, therefore, the site is
22 eligible for delisting.

23 This meeting will consist of a brief
24 presentation that Mr. Alan Etheredge will, in a
25 minute, be presenting on what remedial action
0004

1 was taken at the site. At the end of his
2 presentation, I will come back up and we will
3 take your comments.

4 The public notice for this meeting was
5 printed in the legal notice section on May 16th,
6 2003 in the San Antonio Express. On May 16th,
7 also, in the edition of the Texas Register.

8 We also have a court reporter here
9 tonight making a transcript of the meeting, and

10 if you wish to have a copy or have any comments
11 later, you know, feel free to talk to me.

12 We also wanted to let you know that
13 TCEQ has established a repository at the Carver
14 Branch Library, which is located at 3350
15 Commerce Street here in San Antonio. You can go
16 there at any time and look at the records or any
17 information that's there that you might need and
18 make copies.

19 We also have the same type of
20 information on this site at the Records
21 Management Center in Building E, in Austin, at
22 12100 Park 35 Circle, which is where our
23 building is -- our offices are. The repository
24 just basically has public information.

25 At this time, I'm going to go ahead and
0005

1 turn it over to Mr. Etheredge and he's going to
2 come in and just give us a brief presentation.
3 And then we'll have comments. Thank you.

4 MS. ETHEREDGE: Thanks, Janie.

5 I'm Alan Etheredge. I'm a project
6 manager in the Superfund Cleanup Section at
7 the -- I'm going to call it the TCEQ, the Texas
8 Commission on Environmental Quality. I was
9 assigned to this site after the remedy was
10 selected to get the remedy implemented.

11 I'm going to talk a little bit about
12 the history of the site. I think a lot of
13 you-all are familiar with it, but I'm going to
14 go through that. And then I'll talk about the
15 remedy that's been implemented out there.

16 The site's about eight acres of land,
17 4735 Emil Road. That's near the intersection of
18 I-10 and Loop 410. The site was at a location
19 of a ceramics tile manufacturing operation for
20 about 50 years. That ended in the 1980s --
21 started in the '30s and ended in the 1980s.

22 The tile glazing process involved the
23 use of materials containing metals. Those
24 provided the color in the glaze in the tiles.
25 And over the years, the handling of those liquid
0006

1 glaze and tile materials caused those metals to
2 be spilled on the ground, and some of those were
3 intentionally placed in ponds on the backside of

4 the site, the north side of the site back here
5 (indicating).

6 We now know that those metals can
7 present a health hazard to people who come in
8 contact with them, and particularly if they're
9 ingested, as a dust, inhaled, that sort of
10 thing. And we also know that if these metals
11 migrate to groundwater, they could present a
12 risk to the groundwater quality.

13 I'm going to hold off for a
14 minute. We have another guest.

15 MR. VALDIVIA: Go on ahead. Don't
16 worry about me.

17 MR. ETHEREDGE: Okay. I'll do a
18 quick overview of, kind of, the regulatory
19 actions that have been taken at the site. And
20 this has been discussed in detail at some of the
21 previous public meetings that I think some of
22 you-all may have attended.

23 From the late 1980s to the late '90s,
24 our agency -- and it's gone through several name
25 changes. I'm going to just keep referring to it
0007

1 as the TCEQ -- became aware of problems at the
2 site and tried to force the owners of the
3 company to correct those problems. Those
4 efforts have included imposing fines, directing
5 the owners to conduct cleanups, and finally the
6 Attorney General filing suit and actually
7 getting some judgments against the owners. And
8 the outcome of those judgments was, finally,
9 that the owners remove the buildings that were
10 out there. That occurred in 1999. And the
11 Attorney General is still in pursuit of the
12 owners that are not in Texas now.

13 The Superfund process that I'm involved
14 with, the site was proposed to the Superfund
15 program in 1995 and a public meeting was held at
16 that time that proposed the site for listing on
17 the registry. A public meeting was held here in
18 San Antonio to receive comment on that proposed
19 listing. The listing did occur, and that
20 allowed us to proceed to use state funds to try
21 to address the problem.

22 From 1996 to 1999, several phases of
23 investigation were conducted to assess the type

24 and location of contamination at the site.
25 Those investigations included taking several
0008

1 hundreds of soil samples, both on the site and
2 off of the site, distances up to several hundred
3 feet away. Soil samples were collected at the
4 surface and down to depths to about 50 feet
5 below the ground. Seven monitor wells were
6 installed at the site and groundwater samples
7 were collected. Also, during that time, in
8 1998, about 200 drums of waste that were on the
9 site were removed and taken to a licensed
10 disposal facility by the agency.

11 The investigation showed the
12 contamination that might present a health or
13 environmental risk was limited to the upper two
14 feet of soil which was contaminated with nine
15 different metals at risk that could present risk
16 to people if they were exposed to the soil.
17 Again, primarily this ingestion risk.

18 One of the impoundments on the north
19 side of the site, which was about 10 feet deep
20 below the adjacent natural ground was full of a
21 dried slurry, which was also a contaminate. The
22 area contaminated included most of the north
23 side of the site, farthest away from Emil Road,
24 and a small area of the railroad right of way
25 that's on the west side of the site.

0009

1 The shallow groundwater zone, which was
2 found to exist from about 35 feet below ground
3 surface to about 47 feet below ground surface, a
4 total thickness of about 12 feet, was sampled,
5 and contamination was not found in groundwater
6 at levels that presented health risk.

7 These investigation results were
8 presented to the public in two meetings in 1999.
9 A meeting was held in August of '99 to discuss
10 the land use of the property, and at that time,
11 the agency explained that state law required
12 that the site be cleaned up to a standard that
13 would allow for nonresidential use in the
14 future, because that was the last use of the
15 land. That's dictated by statute.

16 In October of '99, a meeting was held
17 to describe how the state intended to make the

18 site safe for future and nonresidential use.
19 The state proposed to either consolidate the
20 waste on the site in one location and put a cap
21 over that to prevent human contact or ingestion,
22 or, to, alternatively, place a cap where the
23 waste might be in place. Again, state law
24 requires us to implement -- because we're using
25 public funds for this, state law requires us to
0010

1 do the cleanup in the most cost-effective manner
2 that provides for protection of public health
3 and the environment.

4 From 2000 to 2002, we went through the
5 process of issuing an order, again, to the
6 owners, demanding that they do the cleanup.
7 We're required to do that by statute, to try to
8 get them to act without spending public funds.
9 And after we got no response or refusal to
10 cooperate with that order, we, the state, hired
11 contractors to do a final engineering design and
12 to implement the cleanup.

13 During the design, we found that, if we
14 consolidated the waste in one place, it would
15 have resulted in a mound about 150 feet wide by
16 350 feet long by 8 feet high above the adjacent
17 native ground. That would have resulted in an
18 area that would be impossible to use in the
19 future, because of that elevation bump, and it's
20 also difficult to maintain a cap on those kinds
21 of slopes relative to the other option that we
22 looked at, and so instead elected to use the
23 option that had been presented at the public
24 meeting back in '99 of capping the material in
25 place. We chose to do that with asphalt. And
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1 that left us with a flat site that we hope is
2 more compatible with beneficial reuse of the
3 property, getting that back into a tax revenue
4 generating situation for the city and county,
5 school district, et cetera.

6 We left six of the seven monitor wells
7 in place to allow us to continue to check the
8 groundwater and verify that it hasn't been
9 impacted at unacceptable levels. That
10 monitoring is scheduled to occur annually.

11 So with completion of this remedy,

12 which provides for protection of human health
13 and the environment, it makes the site eligible
14 for deletion from the registry. I just want to,
15 again, point out that even after deletion, the
16 state would continue to conduct the groundwater
17 monitoring and continue to do inspections
18 annually to make sure that the cap is still
19 there and properly maintained.

20 I just want to point out on the figure
21 right quick -- I think most of you are familiar
22 with the site. This is Emil Road out here.
23 This is the side where the railroad right of way
24 is. This area in here that has the diagonal
25 hatching on it like this is an existing concrete
0012

1 slab that was on the site and cores were taken
2 through that and shown that there was
3 contamination under that slab. So that slab is
4 considered a part of the cap. And that's
5 documented in the deed notice that requires it
6 to stay in place.

7 This area with the hatching going the
8 other way is the extent of the road base and
9 asphalt cap that we added after leveling off the
10 ponds in the back. And so that, too, is a part
11 of the environmental cap that has to be
12 maintained.

13 So with that, I'm going to hand it back
14 to Janie.

15 MS. MONTEMAYOR: Thank you, Alan.
16 Now we're going to go ahead and open up for
17 questions, if you have any questions or
18 comments. Since we do have a court reporter,
19 I'm going to ask that you stand and try to face
20 her a little so she can hear you better.

21 Do we have any questions? Comments?

22 MR. VALDIVIA: I have some.

23 MS. MONTEMAYOR: Would you like to
24 stand up identify yourself, please.

25 MR. VALDIVIA: My name is Enrique

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1 Valdivia, and I was at the meeting -- I forgot
2 what year it was. It's been a while -- but the
3 meeting where we talked about the remedy in
4 terms of what kind of remedy -- how the site was
5 going to be cleaned up. At that time, there was

6 consideration given to clean up to residential
7 levels. I mean, that was presented as an
8 option. There was -- there were four or five
9 options presented, and residential was one of
10 them.

11 In hearing your comments, it sounds
12 like, well, that was never an option, to go to
13 residential, because state law mandated
14 otherwise, but if that was the case, you know,
15 we really wasted a lot of time at that meeting,
16 because it was very clear, you know, that some
17 of us wanted to see a residential level cleanup.
18 But I think there was an even stronger sentiment
19 that a cap, you know, was not going to do the
20 trick, that the overwhelming preference was to
21 actually remove all of the soil from the site
22 and dispose of it.

23 And I understand, again, in your
24 statement, that, you know -- you're saying state
25 law didn't allow for that. Again, that really

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1 made the meeting -- there were a lot more people
2 at that meeting than there are tonight --
3 meaningless, and, you know, it wasn't made clear
4 at that meeting that removal of the soil
5 couldn't be an option. And so I question both
6 of those assertions.

7 I think -- you know, the Superfund law
8 talks about, you know, contaminated -- trying to
9 clean up a contaminated site. What you have
10 left here is a site that's still going to be
11 perceived as contaminated by the community, and,
12 in fact, you have -- you've left it in place and
13 just put asphalt on top of it. I thought -- my
14 recollection was that the consolidation was
15 going to be attempted, at least, and a cap, that
16 that was -- you know, if we couldn't have
17 anything else, that that was what was going to
18 happen.

19 Now -- I mean, I understand what the
20 problem was, that it was going to create a
21 mound, but, you know, I don't think the public
22 was told that. At least I didn't -- don't
23 remember that at the meeting, that that
24 wasn't -- you know, one of the things that we
25 discussed.

0015

1 So, you know, I'm glad that the process
2 is moving forward, but I really question, you
3 know, what you have left, whether that's
4 something that's going to be, you know,
5 developed in a way that's appropriate. And I
6 don't think the community was heard very
7 meaningfully in the last meeting. And I'm
8 hearing information tonight that makes me feel
9 like they weren't told everything at that
10 meeting either.

11 MS. MONTEMAYOR: Enrique, what I
12 hear you saying is that, basically, you know,
13 you came to the meeting last time in the
14 remedial --

15 MR. ETHEREDGE: August was -- just
16 from the records I've seen, August was the land
17 use meeting, and that would have been where,
18 presumably, the land use would have been
19 discussed. And even though statute defines the
20 land use determination that we have to make, it
21 also says we have to have that meeting -- or
22 that may be a rule that says we have to have the
23 meeting. I may be in error there.

24 And then the September meeting, based
25 on my review of the history, was where the

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1 formal remedy selection --

2 MS. MONTEMAYOR: The remedy
3 selection meeting. And I think that's when --
4 that's the one you're talking about.

5 MR. VALDIVIA: That's the one,
6 yeah.

7 MS. MONTEMAYOR: And we understand
8 there was a lot of discussion on the
9 residential. The community did request and
10 wanted the residential cleanup. And then
11 Mr. Etheredge, in his process of the remediation
12 process, you know, he explained some of that.

13 So I don't know, Alan, if -- he had a
14 lot of questions in between there -- actually,
15 they were comments. For the record, I'm trying
16 to find out: What is your question?

17 MR. VALDIVIA: Okay. For example,
18 at that meeting, we discussed to great detail
19 what the overall character of the neighborhood

20 was, whether it's residential or commercial.
21 The issue was, you know, in selecting the
22 remedy, you know, how clean does it have to be.
23 And what I'm hearing today is "Well, that was a
24 commercial site; so, therefore, it's going to be
25 cleaned up to commercial." Well, that wasn't
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1 the conversation we had back then.

2 There was discussion about what the
3 appropriate cleanup level was, and it wasn't at
4 all clear -- I mean, otherwise we wasted a lot
5 of time. It seemed to me there was an issue of
6 what the character of that -- of the
7 neighborhood -- not just the site, but the
8 neighborhood itself, whether it was commercial
9 or residential.

10 MS. MONTEMAYOR: And I think
11 that's how Mr. Alan Etheredge could explain to
12 you, how he selected the residential -- I mean,
13 selected --

14 MR. ETHEREDGE: I didn't select
15 the residential, first.

16 MS. MONTEMAYOR: I don't mean
17 "select."

18 MR. ETHEREDGE: I want to make
19 that clear.

20 MS. MONTEMAYOR: Right.

21 MR. ETHEREDGE: After the proposed
22 remedial action meeting, and, of course, this
23 predates me, but my assumption is, the way we
24 normally do it, comments are received -- well,
25 I'm sorry. Let me back up.

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1 The proposed remedial action document,
2 which I'm familiar with, shows that at that
3 meeting all of the remedies that were proposed
4 by the state were for nonresidential use. None
5 for residential as -- because I have copies of
6 that document. I had to study that, and that's
7 the one I had to follow.

8 I understand that very shortly before
9 that, in August, was when the land use meeting
10 was held, but there were three alternatives
11 presented in the -- what we call the PRAD, the
12 proposed remedial action document. Those were
13 off-site disposal to the level to meet the

14 commercial/industrial standard; treatment of
15 soil to meet a commercial/industrial standard.
16 And then the third option was, cap to meet the
17 commercial/industrial standard. And within that
18 was the option to either consolidate or cap in
19 place. None of those were presented in the PRAD
20 as being to meet a residential standard.

21 Those three alternatives were put out.
22 The state proposed, at that time, the capping
23 option. Again, the statute requires us to
24 select the most cost effective, and that remedy
25 at that time was estimated to cost approximately
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1 \$2 million less than the off-site disposal or
2 the treatment alternatives.

3 And is it correct that after that
4 meeting, then, the final remedy is -- how is
5 that posted at that point? Janie, remind me.

6 MS. MONTEMAYOR: Which point?

7 MR. ETHEREDGE: After the
8 Commission selects the remedy after the proposed
9 remedial action document.

10 MS. MONTEMAYOR: Well, actually,
11 we just go through the process. I mean, we did
12 the meeting and then you-all start working on
13 the action --

14 MR. ETHEREDGE: Then the order is
15 issued.

16 MS. MONTEMAYOR: Right.

17 MR. ETHEREDGE: That shows the
18 Commission selecting. And that's where it is,
19 it's in the issuance of the final order to the
20 respondents that the Commission picks which
21 remedy they're going to implement, and that was
22 the cap option as opposed to the off-site
23 disposal or the treatment option.

24 MS. MONTEMAYOR: So it did go to
25 the Commission.

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1 MR. ETHEREDGE: Yeah. It went to
2 the Commission at that point. And so, then,
3 that's the only alternative I'm given to cause
4 to be implemented at that point.

5 MR. VALDIVIA: There was a
6 discussion at the meeting about cleaning up to
7 residential level. I mean, whether the state

8 responded to that or not -- it doesn't surprise
9 me that that was not considered.

10 One of the conversations we had at that
11 time was that there was -- since removal of the
12 soil, which is what people wanted, was not an
13 option, because it was so expensive, if you were
14 to consider a capping -- capping as the only
15 remedy that the state would even look at, it was
16 still possible -- only a few hundred thousand
17 dollars more, it was possible to cap and clean
18 up at residential level. There was a number
19 that came out of that meeting that was
20 discussed, but it wasn't -- you're right. It
21 was not formally entertained, and I guess now
22 the reason is that it wasn't allowed for by law,
23 but the fact was, it was discussed at the
24 meeting and it was
25 not -- you know, we even talked about why this
0021

1 other option wasn't presented, and it was
2 possible to go with cleanup that would reach
3 residential levels.

4 As long as we're still doing a cap -- I
5 mean, that was the rub there, that you still had
6 to cap the contaminants, but if it was possible
7 to do it to residential levels -- and it did not
8 cost substantially more than a commercial level
9 cap from what I recall. Again, I don't have
10 those figures, but it was something that -- I'll
11 say this. The overwhelming majority of the
12 people that I recall talking wanted the stuff
13 removed, and, you know, the response -- your
14 response to that, "Well, that's too expensive,"
15 and what we're left with is a parking lot.

16 MS. MONTEMAYOR: And if you
17 really -- I know that we just went through the
18 site. It's all pretty well
19 industrial/commercial. There's one road that
20 had a couple of residential houses right there.
21 And I guess, Alan, if you could just discuss,
22 you know, how you came about selecting the
23 industrial/commercial --

24 MR. CALVERT: You already told us.

25 MR. ETHEREDGE: Yeah. I already
0022

1 told. That's the --

2 MS. MONTEMAYOR: And that's --

3 MR. ETHEREDGE: -- process that
4 the program goes through.

5 MS. MONTEMAYOR: Okay. And that's
6 as far as we can go.

7 MR. ETHEREDGE: And it's the
8 process that the agency goes through.

9 MS. LAUREL: My name is Estella
10 Laurel. And you said that there would be annual
11 check-ups.

12 MR. ETHEREDGE: Yeah. The annual
13 inspections are to cover two things. One is to
14 make sure that the cap itself is in place and
15 maintained. The other is to collect samples of
16 the groundwater to ensure that that continues to
17 show no impact from the project.

18 Now, the groundwater monitoring --
19 right now, we have an O&M plan in place that
20 calls for annual monitoring. And we're allowed
21 to look at the results of that over time and
22 perhaps adjust the frequency of that monitoring.
23 In other words, if after some period of time --
24 and the program, we usually run it at least five
25 years on the initial monitoring period. And if
0023

1 that continues to show no impact or no change,
2 then we may consider reducing the frequency
3 somewhat on that. It's just -- because again,
4 we have no reason to expect groundwater impact
5 to start, but that's just a very conservative
6 protective step.

7 MS. LAUREL: Okay. Who is "we"?

8 MR. ETHEREDGE: We, being the
9 State of Texas, the agency that I work for.

10 MS. LAUREL: Okay. Who will pay
11 for these inspections?

12 MR. ETHEREDGE: That's funded out
13 of the same funds that funded the cleanup, which
14 is out of what's called Fund 550, which is a
15 fund composed of the fees that are collected on
16 the disposal of hazardous waste, the hazardous
17 waste landfills, and I think that's the primary
18 source of revenue for that fund, actually.
19 Every time hazardous waste is disposed at a
20 landfill, a fee is paid associated with that.
21 It's not general revenue. It's not property

22 taxes or anything like that.

23 MS. LAUREL: Okay. And if this is
24 sold, how long will these inspections have to
25 continue?

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1 MR. ETHEREDGE: The inspections of
2 the cap will continue in perpetuity. Okay? The
3 groundwater monitoring, again, we'll continue
4 that, and there's an opportunity to evaluate
5 that and perhaps reduce the frequency over
6 some -- afterwards, showing for quite some time
7 that, as expected, there is no impact.

8 MS. LAUREL: Okay. Say it stays
9 there or say it's sold, and you said they would
10 check to see that there's no breaks in the
11 asphalt.

12 MR. ETHEREDGE: Right.

13 MS. LAUREL: With our type of
14 terrain around here, I'm sure the ground is
15 going to shift or whatever, and if it shifts and
16 it cracks, who's going to maintain this? Who
17 will make sure that the cracks are repaired
18 or --

19 MR. ETHEREDGE: Okay. Let me talk
20 about this cap for a minute. The purpose of the
21 cap is to prevent people from coming in contact
22 with the underlying soil. It's not to prevent
23 water from migrating through. Okay?

24 Again, before the cap was put there,
25 for the entire operating life of the facility

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1 and for all the time since that until the cap
2 was put in place, water has been able to fall on
3 that contaminated soil and percolate down into
4 the groundwater. The metals have not been --
5 they don't move through the soil column, the
6 vertical. They just don't get pushed down.
7 Metals don't tend to migrate very rapidly.

8 So water -- there's no evidence that
9 that has a tendency to get down to the
10 groundwater. So water migration through that is
11 not a primary concern. That's one reason.
12 We'll continue to monitor, but we just don't
13 expect it to go any deeper.

14 We fully expect that, as you point out,
15 any asphalt, cracks, temperature heaving, that

16 sort of thing. What we're mainly concerned
17 about is not having this -- the cap be removed
18 and somebody expose the ground, put -- expose
19 the underlying soil, that sort of thing, or
20 gross damage to it.

21 The deed restriction that's in place --
22 I'm sorry. Deed notice is the correct term.
23 The deed notice that's in place requires that
24 any property owner contact us to coordinate
25 changes of use in the property. The way we see
0026

1 that working is, if someone wants to buy the
2 property and put it into a reuse that would
3 involve using the asphalt where it is now --
4 let's say for a parking lot or something like
5 that, we would use our authority to work with
6 that party. And if their use tends to cause
7 damage or accelerate damage to that asphalt,
8 then we would expect them to take care of the
9 maintenance of that, just like they would if
10 they had built their own parking lot for the
11 purpose of parking. Okay?

12 MS. LAUREL: I would tend to think
13 they don't migrate to it, because you said
14 2 feet --

15 MR. ETHEREDGE: Yeah. 2 feet --

16 MS. LAUREL: -- but not 12 feet.

17 MR. ETHEREDGE: -- in the 80
18 years.

19 MS. LAUREL: You said not 12 feet
20 but 2 feet.

21 MR. ETHEREDGE: The 2 feet is the
22 depth that the soil was contaminated. Right.
23 The groundwater is -- let me make sure I state
24 it correctly. I believe I said 20.

25 The groundwater zone is about 12 feet
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1 thick, but the top of that, the shallowest part
2 of the groundwater is still 35 feet below
3 ground. So in other words, from the ground
4 surface, we found metals down 2 feet in the
5 soil. There would be another 33 feet before you
6 get to groundwater. And we didn't find
7 contamination at levels that presented a risk
8 below that 2 feet. So that's why we just really
9 don't think -- if it hasn't made its way down

10 there in that period of time, we just don't
11 expect it's going to get there.

12 MS. LAUREL: And you said you had
13 some wells back there?

14 MR. ETHEREDGE: Right.

15 MS. LAUREL: How long will they
16 stay there? Who's going to maintain those wells
17 and what's the purpose of it?

18 MR. ETHEREDGE: The purpose of the
19 wells, even though we have no reason to expect
20 the groundwater to be contaminated, as a very
21 conservative approach to these, we put wells in
22 there -- well, we first put them in for the
23 purpose of testing the groundwater to see if it
24 had been impacted. Upon finding it hadn't, we
25 left those wells in place, and those wells will
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1 stay as we continue to do -- about once a year,
2 annually, we'll do groundwater sampling to
3 continue to verify that there's been no impact
4 to the groundwater. We have latitude, under
5 the rules of the program, to reconsider that
6 sampling frequency over time.

7 Typically what the program has done on
8 a site like this is, we monitor for five years.
9 If we don't see any change in the groundwater,
10 which would indicate that there's still no
11 reason to expect the metals to get there, then
12 we would drop the frequency to less frequent.
13 Maybe once every two or three years. Continue
14 on that kind of interval for another period of
15 time, another three years of sampling round, and
16 look at it again. Perhaps at some point in time
17 decide that there's no risk associated with that
18 and perhaps pull the wells, but, frankly, no
19 site has existed long enough to get to that
20 point. So I can't really predict how long it
21 might -- you know, the people on the program in
22 the future might continue to go through that
23 process.

24 MS. LAUREL: The same people will
25 pay for that funding?

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1 MR. ETHEREDGE: Again, that would
2 be done by the state through the Environmental
3 Agency, and the funds that are used on a site

4 like this -- Superfund site, even after
5 delisting, comes from that hazardous waste
6 disposal fee fund, Fund 550.

7 MS. LAUREL: And I would assume
8 that they are capped and safety -- there's no
9 problem for children or anybody else getting
10 hurt in those things.

11 MR. ETHEREDGE: The wells that are
12 out there now are above ground. They have a
13 metal case around the well stem itself with a
14 hinged top that has a lock on them.

15 And please understand, again, what
16 I'm -- if a commercial user wants to come in and
17 put the site back into beneficial reuse of some
18 sort, we have latitude under the rules to allow
19 them to make changes to this, as long as those
20 changes are still compatible with the cap
21 concept.

22 And let me just talk about that real
23 quickly. For example, if the wells sticking up
24 out here presented an obstruction to some
25 beneficial reuse, many wells exist that have a
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1 flush cover installed that puts them down flush
2 with the concrete and a lock and cap on top of
3 that. That can be done. That can be converted.

4 Now, that conversion like that would be
5 at the expense of this purchaser who's going to
6 put whatever use out of it. The state is not
7 going to fund that sort of thing for their
8 reuse, but we will allow that to happen. We
9 would oversee it to make sure that the way the
10 well was brought down to grade is done correctly
11 so there's no leakage or problems like that.

12 Similarly, if somebody needed to --
13 again, for beneficial reuse, wanted to demolish
14 this concrete slab that's out there, just like
15 if this had not been a contaminated site at
16 all -- but Aztec Ceramics decided that they went
17 out of business and left this stuff out there --
18 if someone else wanted to come out and put
19 something else there and demolish their
20 building, again, a future user would have that
21 right as long as, where they remove that slab,
22 they take correct care to not spread waste in
23 the process of doing it and they put another cap

24 back on top of that to keep people from coming
25 in contact. A building foundation is perfectly
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1 compatible with that purpose. In other words,
2 put a building foundation down. Nobody is going
3 to get into contact with the dirt under it.
4 That's how you can get things back into totally
5 different land uses over time.

6 The same thing with the asphalt. As
7 long as the underlying waste is not exposed to
8 an uncontrolled access by the public, that's
9 fine. They can change that. There's nothing in
10 the law that says they can't redo this in a
11 different way. That's one of the reasons that
12 we -- after looking at the volume of material
13 that would result if we consolidated and looked
14 at the lie of this site and the other things
15 around there, a truck company. There's some
16 warehousing across the railroad right of way
17 that has railroad frontage. They're all things
18 that use large areas of flat land, either for
19 warehouse-type buildings or parking areas, that
20 sort of thing.

21 We wanted to allow that to happen.
22 That's why we didn't build this elevated cell
23 back here, and that can be done in the future.

24 MS. LAUREL: How are you going to
25 put a building there? Where would you put the
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1 sewers and the water lines and all of this stuff
2 without breaking up this cap?

3 MR. ETHEREDGE: That's a good
4 question. Again, it is done in beneficial
5 reuse, where contractors that come and put in
6 the utilities, the material that they excavate
7 might either have to be replaced under a part of
8 the cap that they restore or they might elect to
9 haul that off site to dispose of it. Those are
10 the sorts of options that are allowed under the
11 law and are available to a person who's
12 redeveloping the place for profit. Okay?

13 It's not -- those sorts of beneficial
14 reuses and those sorts of steps occur now,
15 particularly at -- we see it more in the federal
16 Superfund level, frankly. And, sure, it's not
17 likely that anyone is going to undertake that

18 sort of expense until this area of San Antonio
19 grows up to the point that the economics of land
20 development make it reasonable to do that, but
21 if you've been in any place a long time, you
22 know that cities grow, land values go up. It
23 has frontage on the highway and that sort of
24 thing. It's possible that that may occur in the
25 future, and that's allowed to happen. That's
0033

1 all. I'm not saying that that's something that
2 is likely to occur right now.

3 MS. LAUREL: I don't think I would
4 want any water coming through there, if I was
5 going to drink it. I mean, if you're going to
6 put water pipes there, you know, I wouldn't
7 want -- that wouldn't sound very safe to me.
8 Sewer maybe, but --

9 MR. LAUREL: Well, basically, this
10 land is zoned commercial now.

11 MR. ETHEREDGE: I do not know --

12 MR. LAUREL: And more than likely
13 will never be residential. It can't be, because
14 the state won't allow that.

15 MR. ETHEREDGE: Now, let me
16 correct that. The state -- again, if someone
17 wants to come out here and continue the
18 remediation to a level that would meet the
19 residential occupancy criteria, it is their
20 right to do so, but us --

21 MR. LAUREL: Nobody is going to
22 spend that kind of money to do that.

23 MR. ETHEREDGE: -- using public
24 funds to do a cleanup, we're not to do that.

25 Okay? If a private party thinks they can make
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1 money putting houses or apartments out there,
2 they are perfectly welcome to come apply for the
3 permits to do further remediation and undertake
4 to do that at their expense, but using public
5 funds, it's under the rules of the State
6 Superfund program, which is a program that
7 involves using public monies to clean these up
8 where someone else has abandoned them, we're not
9 allowed to do that with the public money.

10 MR. CALVERT: First of all, let me
11 just -- you're the reporter?

12 THE REPORTER: Uh-huh.

13 MR. CALVERT: I want to go on
14 record as the president of Neighborhood First
15 Alliance objecting to the way the State of Texas
16 notifies people to attend these meetings,
17 through the legal notice, and I know that's part
18 of the statute that they use, but I want to go
19 on notice tonight and on the record opposing the
20 way people were notified to this meeting.

21 I'm T.C. Calvert, president of the
22 Neighborhood First Alliance, and I attended all
23 these meetings -- been a part of this process
24 from the very beginning. And I am appalled and
25 very disturbed to how the state staff has
0035

1 ignored, Mr. Attorney, everything that the
2 public and the citizens asked for.

3 When we requested that this site be
4 used and cleaned up to residential proportion,
5 it was because, ladies and gentlemen, we were
6 looking at a hotel or a motel coming into this
7 site. What banker is going to give money to a
8 developer, Mr. Attorney, to develop to put a
9 hotel on this site, like the Holiday Inn Express
10 or a Howard Johnson? Nobody. The community is
11 already redlined enough.

12 And we looked at that from a strategic
13 point and we made it clear to the people from
14 the state in every meeting. I mean, in every
15 meeting, but somehow it went for naught.

16 This site will have a hard time
17 developing when you take it off the registry as
18 it stands now. And we want to go on record as
19 Neighborhood First Alliance opposing it being
20 taken off the registry. We are asking for a
21 full cleanup of this particular site. Because I
22 don't know -- and maybe you can explain to us,
23 if you sat down with the City of San Antonio --
24 I understand somebody from the city is here from
25 the Department of Economic Development. What

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1 plan of action do you have to make this into a
2 Brownfields site? Is there a plan of action?
3 Nobody has ever told us that, if there's a
4 Brownfields site that's going to be put on this
5 particular site.

6 Then you need to explain to the
7 citizens why a site like this that you put a cap
8 on, how many have you developed around the state
9 of Texas?

10 The TNRCC, Water Commission and all the
11 names you-all changed -- you-all have changed
12 names about three of four times during this
13 process.

14 I just see where you failed to really
15 let your light shine in this community, because
16 of the community that already has a
17 communicative effect of contamination and
18 pollution around it. And so what you did is,
19 you put a Band-Aid approach to this site. You
20 made a Band-Aid approach to this site. And we
21 will have, for years, try to get this site
22 developed, you know.

23 You know, we got BFI right up the road.
24 We got 60 percent of fuel storage tanks within
25 this community. We have, you know -- what was
0037

1 the little place across the street, Enrique, the
2 little stinky place that they shut down?

3 MR. VALDIVIA: Tanner.

4 MR. CALVERT: Tanner. You know,
5 all these places, Citgo, Chevron, all these -- a
6 cold tar within the community and then you want
7 to come in and give us a Band-Aid approach. The
8 citizens deserve better.

9 This cap will only stymie economic
10 growth in this particular community. It will
11 only stymie economic growth. It just isn't
12 going to happen.

13 So you stood a chance to go in here and
14 clean this site up, and you basically have
15 failed. And you ignored the citizens. You
16 ignored us. And I'm upset about it. It's a
17 disgrace. Then you hold the meeting out here
18 and nobody shows up.

19 MS. MONTEMAYOR: Okay.
20 Mr. Calvert, I guess, for the record, from what
21 I heard you saying, that you want to go down for
22 the record as opposing to what we are
23 presenting?

24 MR. CALVERT: Taking it off the
25 Superfund. Yeah, absolutely. I want to go on

0038

1 record -- let me tell you something. I've been
2 doing this business 30 years and we stay
3 consistent. We stay focused. You think I'm
4 going to come in here tonight and we're going to
5 change our tune because you want to take it off
6 the list? We want it to stay the same.

7 The same position we took back in '95,
8 '96, or whenever we started this, is the same
9 position we have today. It hasn't changed. And
10 we'll let Senator Madla know that and we'll let
11 State Representative McClendon know that as
12 well.

13 But I remember very clearly, because
14 he -- it was deja vu when he started talking.
15 The money thing was the thing that came out and
16 rang loud and clear in that last meeting that we
17 had. It was all about the money, because
18 you-all kept saying you-all didn't have the
19 money to clean it up. And I can't recall the
20 figures, but I think it was \$400,000 or a
21 million, somewhere in that range. It should be
22 in the record. But it was a dollar figure. And
23 you all kept saying, "We don't have the money.
24 We don't have the money. We don't have the
25 money to do that." It all boiled down to the

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1 money.

2 So I guess with these state budget cuts
3 and what the governor and what the speaker of
4 the house have done, I guess we fall victim to
5 the budget. So I can't blame you. I can't
6 blame this gentleman. I can't blame the
7 attorney that's here. I guess we have to blame
8 it on the legislative situation of the politics
9 at the time, but that's the way the cookie
10 crumbles when it comes to our community. It's
11 environmental racism. It's environmental
12 racism. It's environmental racism.

13 If this would have been up in Hollywood
14 Park, up on the north side, Dallas somewhere or
15 out in the Dominion, you-all would have come in
16 and cleaned this thing up all the way, but, you
17 know, it's over here on the east side. You
18 know, we have poor Hispanics and we have poor
19 blacks, poor white folks, and they're not

20 organized, so we just put a cap on it and go on
21 about our business.

22 And I hope that's in the record. Make
23 sure Governor Perry gets a copy of it. He don't
24 scare me.

25 MS. MONTEMAYOR: We've gone ahead
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1 and we are taking your comments and it is going
2 down for the record.

3 Yes.

4 MR. VALDIVIA: This is another
5 comment about funding and -- well, and
6 enforcement as well. I mean, I understand the
7 state, you know, has limited funding and they
8 have to be careful on how they spend their
9 money, but -- and maybe I'm wrong about this.

10 My understanding is you can also go
11 after the people who polluted this site to
12 contribute for the cleanup. And one of the
13 issues was, "We can't find these people." Well,
14 come to find out --

15 MR. CALVERT: We found them.

16 MR. VALDIVIA: We found -- and
17 maybe you went into that before I got here, but
18 has there been a contribution from any of the
19 owners of Aztec Ceramics?

20 MR. ETHEREDGE: I didn't speak
21 about that before you came in, but I'll try to
22 answer your question.

23 MR. CALVERT: Well, the attorney
24 is here.

25 MR. ETHEREDGE: None of the
0041

1 identified PRPs, three individuals, have been
2 identified -- I'm sorry. PRP, potentially
3 responsible parties -- that were named in the
4 order that the Commission issued demanding them
5 to fund or perform, none of those people stepped
6 forward to contribute to this cleanup.

7 MR. CALVERT: Do they still own
8 the property or does the state own the property?

9 MR. ETHEREDGE: No. The state
10 does not own the property. The property is
11 actually in the -- I believe the record at the
12 county records shows it as Aztec Ceramics
13 Corporation, and the property is way

14 significantly -- taxes in arrears. Nobody has
15 paid taxes on it or anything like that.

16 MR. CALVERT: So in other words,
17 what you're telling us here tonight is that this
18 piece of property is in the ward of the city,
19 county, state? Who owns it?

20 MR. ETHEREDGE: Again, it's owned,
21 still, by the people whose names is on the
22 title. Now, it's our understanding -- I'm
23 trying to answer your question, if you'll allow
24 me to, please.

25 MR. CALVERT: Okay. Sure.

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1 MR. ETHEREDGE: We've been
2 contacted by the law firm that is retained by
3 the county on behalf of the other tax entities,
4 the city and the school district, and I believe
5 there's a couple of other tax entities that have
6 jurisdiction on this property. And it's our
7 understanding that their intent is to follow
8 through with the foreclosure process following
9 delisting, if the Commission were to, after
10 receiving all of these comments, elect to go
11 ahead with the delisting.

12 It's our understanding from the law
13 firm that's retained, actually, by the county
14 commissioner's court that the commissioners
15 don't want to effect the foreclosure, which is
16 calling the taxes due and going through the
17 auction process, until it's delisted. That's
18 their choice. That's their choice. And that
19 would be the process whereby some party could
20 purchase the property, get a clear title and
21 proceed to put it back into reuse.

22 Now -- I'm sorry. I don't think I
23 finished answering your question. The three
24 gentlemen are not given up on. Yes, there are
25 leads on where at least two of them are for

0043

1 sure, and, in fact, as a part of our process, we
2 placed an action -- we're working with the
3 Attorney General's Office to add another -- the
4 total cost expended on this through the
5 investigation and the remedy is about \$1.2
6 million -- pile that on to what the Attorney
7 General is still pursuing those individuals for.

8 I don't have any way of knowing how
9 that succeeds, fails or plays out through that
10 process, but --

11 MR. CALVERT: Well, could the
12 lawyer from the state respond to that?

13 MR. ETHEREDGE: Well, Auburn will
14 tell you -- and he can speak if he needs to, but
15 our agency is required to refer that action to
16 the Attorney General's Office and the Attorney
17 General's Office pursues that.

18 Do you have anything you'd like to add?

19 MR. MITCHELL: Right. I'm Auburn
20 Mitchell, and I agree with what Alan has said.
21 That's the process. The land is privately owned
22 by -- Aztec Ceramics is the one that's shown to
23 have their names on the deed. There are over
24 half a million dollars worth of tax liens by the
25 taxing authorities. As Alan indicated,
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1 presumably, with delisting, they'll go ahead and
2 try to collect some portion of those by
3 foreclosing and selling the property.

4 MR. CALVERT: So how have you-all
5 been pursuing them over the years that we've
6 been on this project? It just seems to me --

7 MR. MITCHELL: The Attorney
8 General sued them for the penalties back that
9 came -- was filed in -- maybe '97, '98, '99 is
10 when that -- that was resolved. Two out of the
11 three gentlemen participated -- took the
12 buildings down on the site. The third guy has
13 never responded.

14 What we will do, once this process is
15 completed at the agency, is that we will do a
16 referral, under the statute, to the Attorney
17 General, and they will bring suit against the
18 PRPs. Now, there's only two of them that have
19 been located, but they'll try to locate all
20 three.

21 MR. CALVERT: You can understand
22 our frustration in the process that has taken
23 place. If that would have been me or someone or
24 if that would have been Ruth, we probably would
25 have been put in jail. These guys have gotten
0045

1 away with contaminating our community and

2 leaving this in our community. And it's a piece
3 of land that now you want to take off the
4 registry, which will probably never have any
5 sort of economic impact.

6 What banker -- you tell me. Would you
7 think Frost Bank or any of these banks around
8 here are going to finance a hotel on that site?
9 That's why we basically pushed for residential
10 cleanup. That was our strategy.

11 It just seems to me that the state
12 staff basically ignored everything we said. Of
13 course, this meeting is like *deja vu*. I mean,
14 I've been at every one of these meetings. This
15 is like *deja vu*, to me, that we're going over
16 this process.

17 MR. MITCHELL: But, you know, the
18 agency's actions are governed by statute.

19 MR. CALVERT: I understand that.

20 MR. MITCHELL: That was passed and
21 we implement. And that statute has got the
22 standard that says that you will clean up to a
23 protective standard, but you'll do it in the
24 most cost effective way.

25 MR. ETHEREDGE: Sir, I'd like to

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1 comment. You know, you're talking about, "Would
2 a bank lend to build a hotel or whatever on this
3 site?" Now, I don't know -- and won't even get
4 into guessing what the economic viability of a
5 hotel would be here with or without the
6 contamination, but I will tell you that if you
7 look at beneficial reuse things that have
8 occurred across this country, it's clearly
9 demonstrated that sophisticated lenders and
10 sophisticated developers that have elected to
11 involve themselves in looking at waste sites
12 are, in fact, now -- and it took a long time to
13 get there, as people developed understandings
14 and comfort, particularly with the really scary
15 liability laws relating to waste management, but
16 there are lots of cases now occurring across
17 this country where shopping centers, malls, very
18 high intensity uses are occurring, not on sites
19 where waste was removed but on sites where waste
20 has been capped in place. That is occurring
21 now.

22 It certainly is a function of economic
23 viability and demand for that type of thing to
24 occur. And I have no idea if this particular
25 piece of property today, in San Antonio, where
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1 there are other vacant lands that may not
2 require the level of care that that takes, that
3 may not exist today, but that certainly can
4 happen within the market of financing.

5 So I would suggest that the answer to
6 your question is, yes, there are lenders who
7 lend for high intensity commercial development
8 on sites that are still contaminated or capped
9 and contain hazardous waste.

10 MR. CALVERT: Well, I --

11 MR. ETHEREDGE: And I'd invite
12 you -- I'm sorry. Just in case you're not
13 familiar with the particulars, in particular, if
14 you go to the US EPA's Web site and look -- not
15 at the Brownfields program but at the beneficial
16 reuse program, that's where I read a number of
17 case studies where that's occurred.

18 MR. CALVERT: I hear you and I
19 respect what you're saying. And I'm very
20 familiar with what you're talking about. The
21 thing is that, has your staff engaged in that
22 sort of conversation with members of the city
23 staff to partnership with a commercial developer
24 to make sure that happens? I mean, we've been
25 talking about this for quite some time, and I
0048

1 don't know. I don't know. We don't see that
2 happening.

3 MR. ETHEREDGE: And the answer to
4 that question is, no, we have not. I have no
5 idea what -- well, our mission, again, is to
6 implement the cleanups. We're in -- I'm not
7 aware of any initiative to provide funds for
8 that to occur. We don't own the property, but I
9 do know that, no, in the context of this
10 specific site, there has been no targeted
11 dialogue at us fostering beneficial reuse on
12 this property.

13 MR. CALVERT: And for the record,
14 could you tell us how much money was spent to
15 cap this site?

16 MR. ETHEREDGE: The total cost,
17 since investigation, was \$1.2 million. The --
18 pardon me. Just a moment. And that was from
19 the start of the immediate removal action up
20 through the completion of the remedial action.
21 The remedial action, the construction of the cap
22 itself was \$260,000.

23 MR. CALVERT: Okay. And for the
24 record, could you tell us, again, what it would
25 have cost to take out all the contaminants?

0049

1 MR. ETHEREDGE: I can tell you
2 that in the proposed remedial action document,
3 which is where the feasibility study was
4 presented, it estimated that the cost for --

5 MR. CALVERT: Total cleanup.

6 MR. ETHEREDGE: -- off-site -- and
7 I may need to follow up with you on this. I'm
8 going to try to recall. The numbers I had seen
9 in the proposed remedial action document were, I
10 believe, presented as the cost to engineer and
11 implement each of three different remedies that
12 were compared. The off-site disposal option and
13 the treat option, as I recall -- and as you
14 pointed out, this is in public record and this
15 document is in the repository. So you can go
16 look at the exact figure, but I believe it was
17 on the order of \$2.3 million or \$2.4 million,
18 about the same for those two.

19 Now, for comparison's sake, in that
20 document, the estimated cost that they presented
21 for the cap alternative, I believe, was about
22 \$400,000. Okay? And that's the one that ended
23 up being about \$260,000.

24 MS. MONTEMAYOR: I would like to,
25 first of all, introduce Representative McClendon
0050

1 that is here with us tonight, and I see that she
2 has a question or a comment.

3 REP. McCLENDON: I appreciate
4 that. I apologize for being late. I had
5 another meeting.

6 Could you please tell me where we are
7 with this site? Have you put the cap on it and
8 where we are in the -- well, I guess, we'll be
9 working with the city.

10 MR. ETHEREDGE: That's correct.

11 REP. McCLENDON: Where are we with
12 the remediation at this point and where do we
13 have to go?

14 MR. ETHEREDGE: The remedy that
15 the Commission selected to cap the waste in
16 place has been implemented. That was completed
17 before August 30th of last calendar year and we
18 are here tonight to solicit comment on the
19 proposal to delist the site from the State
20 Superfund Registry, because the Commission has
21 determined that it is now protective of human
22 health and the environment and --

23 REP. McCLENDON: Okay. I think I
24 kind of understand now. Is it your process to
25 delist a site without working with the city to
0051

1 see if it can be marketable or not? Is that
2 what you do?

3 MR. ETHEREDGE: We do not, in the
4 State Superfund program, have, as a standard
5 part of that program, working with the city, if
6 you will. Now, we've -- in the last year, I,
7 myself, have received a number of calls from
8 three particular individuals that have expressed
9 an interest in reuse of the property, and I've
10 been in contact with the law firm that was
11 retained by the county commissioner's court on
12 behalf of all of the taxing entities. That law
13 firm is the one that reviews their properties,
14 where there are taxes in significant arrears and
15 makes recommendations to the tax entities about
16 proceeding with foreclosure processes.

17 That firm contacted me starting last
18 fall to ask about when we would be going through
19 this delisting process, explaining that the
20 commissioners, upon review in this case,
21 indicated that they would like to proceed with
22 the foreclosure process but they did not want to
23 proceed with that until the site had been
24 delisted from the State Superfund Registry.

25 REP. McCLENDON: And when they
0052

1 proceed with the foreclosure process, if they
2 do, what is the intention of the commission?
3 What do they intend to do with this property?

4 You're talking about commissioner's court --
5 Bexar County Commissioners' Court?

6 MR. ETHEREDGE: Yes, ma'am.
7 That's the process whereby a property that has
8 significant taxes in arrears is auctioned to try
9 to recover those taxes in the future. Whoever
10 buys it at the auction owns it and effects the
11 development. Not the county. I'm not
12 describing it all. I'm not trying to describe a
13 process where the county itself undertakes the
14 development or any of those tax entities.
15 That's a process whereby, since this property
16 has not --

17 REP. McCLENDON: So the only
18 reason the county wants it is so they can
19 foreclose and get the -- they have no plans to
20 try to work with anybody to do any kind of new
21 development. They just want to foreclose to try
22 to recoup taxes. Is that --

23 MR. ETHEREDGE: That's the process
24 whereby they both recoup tax -- they and the
25 other tax entities, like school district. I
0053

1 think there are maybe four or five different
2 authorities that receive property taxes in this
3 area -- and that's the process whereby then the
4 successful purchaser, through that foreclosure
5 process, then gets a clear title that allows
6 them -- and presumably the reason a person would
7 buy the property, is, in order that they could
8 either themselves put it in beneficial reuse or
9 sell it for that purpose, but that, then, starts
10 to generate ongoing revenue on the taxes.
11 Correct.

12 REP. McCLENDON: Let me ask you
13 this then: Is there any department or division
14 within your agency that works with Superfund
15 sites or potential Superfund sites, Superfund
16 sites that are getting ready to be -- what are
17 you going to do?

18 MR. ETHEREDGE: Delist it.

19 REP. McCLENDON: -- delist it
20 to -- in order to try to bring beneficial use to
21 a particular site, especially one with a
22 history?

23 MR. ETHEREDGE: I'm not aware of

24 that. I'm not aware --

25 MS. MONTEMAYOR: I'm not aware
0054

1 either.

2 MR. ETHEREDGE: -- that we have
3 any program or enabling legislation to undertake
4 that. No.

5 MR. VALDIVIA: You don't have a
6 Brownfields program?

7 MS. MONTEMAYOR: No, because --
8 EPA does.

9 MR. ETHEREDGE: EPA does at the
10 federal level, but I'm not familiar with one
11 that has been created for the state level sites.

12 REP. McCLENDON: Okay. Can I ask
13 you that --

14 MS. MONTEMAYOR: I can look into
15 that --

16 MR. ETHEREDGE: Yeah. We can look
17 into that, but I'm not familiar with it.

18 MS. MONTEMAYOR: -- and see if
19 there are -- you know, what options we can have
20 for you -- I mean, to give you some information.

21 I would like to add, though, earlier
22 Mr. Calvert asked a question, if we, TCEQ, had
23 in any way been involved with the city on
24 redevelopment. And Mr. Etheredge is a project
25 manager that has just come aboard, but I would

0055

1 like to say that three years -- like three years
2 or whenever the -- actually, it might be longer.
3 When we did the proposed remedial action, the
4 City of San Antonio, Brownfields Department that
5 is run by Kimberly Coleman, she came forward and
6 had an interest in stating that they were going
7 to be working with the community at that time.

8 MR. CALVERT: It was never a
9 priority.

10 MS. MONTEMAYOR: We knew it was
11 there, the interest was there. The City of
12 San Antonio had information.

13 MR. CALVERT: Had other
14 priorities.

15 MS. MONTEMAYOR: I understand that
16 there's a lady here that is representing
17 Ms. Coleman. She is from the City, but -- you

18 know, I guess we could ask her some questions.
19 MS. KINNISON: I'm just here to
20 listen. Basically, the Brownfields program that
21 the city has has been in place for several
22 years. It's an application program. We ask
23 that the property owners apply to be partner
24 with the city and we work together, and the
25 money is not available for cleanup. As you may
0056

1 know, it's for an assessment of the site. I
2 mean, we weren't against working with this site.

3 REP. McCLENDON: Well, that
4 wouldn't work with you, then, because there is
5 no property owner that wants to work with
6 anybody.

7 MS. KINNISON: Right. And it
8 sounds like you can't find the owner.

9 MR. CALVERT: We found two of
10 them. We just --

11 (Simultaneous discussion)

12 MR. CALVERT: -- can't find one.

13 THE REPORTER: I can only get down
14 one at a time.

15 MS. KINNISON: Sorry. That was
16 basically my two points. I can answer -- try to
17 answer any questions. I'm new to the city and
18 new to the program, but I'll do my best.

19 MR. ETHEREDGE: Okay. If I could
20 address part of what you just said in terms of
21 finding the owners. Again, we know that three
22 of these -- three people are identified with the
23 Aztec Ceramics Corporation. Two of those, I
24 think, are found. Okay?

25 They're not in the State of Texas.

0057

1 They're certainly resisting voluntarily coming
2 back here to address this, because, obviously,
3 it has a very significant impact on them to do
4 that, but that's what the Attorney General's
5 pursuing.

6 Now, separate from that, I think, given
7 that situation is why there are laws that allow
8 tax entities -- I mean, these guys have skipped
9 and not paid property taxes, and that's why
10 there is a process that allows tax entities to
11 go through a foreclosure process that basically

12 allows -- and I don't know the technical legal
13 parts of it, but the bottom line is, once the
14 tax authorities go through foreclosure, the
15 successful bidder in that process receives,
16 then, a free and clear title to that property.
17 They then become the new property owner. And
18 that's the party who presumably would -- and the
19 reason they would bid is in anticipation of
20 generating income.

21 REP. McCLENDON: I understand
22 that. I have no problem with the foreclosure.
23 We've gone through that when I was in city
24 council, in foreclosing with the whole
25 subdivision as a result of people not taking
0058

1 care of property and walking away. So I have no
2 problem with the foreclosure.

3 I do have a problem with a plan not
4 being in place to address the property once it's
5 been foreclosed on, because I don't want that
6 property being foreclosed on and sitting there
7 because no one has taken the care to work
8 through the process at least to go through in
9 order to say, "This was or is or was -- is a
10 contained contaminated property and it can be
11 developed," because I know that there are
12 somewhere -- in one of these governments -- it's
13 either the city, the state or the federal
14 government that has a program that will allow
15 for the fact that you have resistant owners.
16 And since you have resistant owners, if you can
17 foreclose and take that property over, but you
18 have to have a plan in place in order to put the
19 property back on the rolls in a viable manner.

20 So my position is, is that I have -- I
21 will welcome the foreclosure, but not until we
22 have a plan in place with the way to be able to
23 dispose of that property once it's -- people,
24 the city and the county and the school district
25 and Edwards Aquifer and everybody.

0059

1 MS. MONTEMAYOR: So Representative
2 McClendon, do I hear you saying that you are
3 opposed in us going through the process of the
4 deletion?

5 REP. McCLENDON: I don't want you

6 to delete it until you have a plan in place as
7 to how we're going to move this property,
8 because I don't want -- I'm afraid, once you --
9 what did you call it?

10 MR. CALVERT: Delist it.

11 REP. McCLENDON: Once you delist
12 it, it's going to sit there and --

13 MR. CALVERT: Well, like it's
14 sitting there now.

15 REP. McCLENDON: -- the city and
16 county will foreclose on the property and it
17 will just sit there and be just another huge
18 hazard and folks going over there and
19 vandalizing, because it's just an attraction,
20 because it's by the freeway, and, you know,
21 transients go there and, you know, hang out and
22 burn up the neighborhood. I've seen that
23 happen.

24 MR. ETHEREDGE: Representative, I
25 just want to make sure that we all understand
0060

1 that the state, the TCEQ, the environmental
2 agency, does not play a role in the decision to
3 foreclose or that process.

4 REP. McCLENDON: I understand.
5 That's why I do not want you to unlist it or
6 delist it until we have a plan in place.

7 MR. CALVERT: Representative
8 McClendon, at all the hearings they they've had
9 previously before -- Enrique talked about it
10 before you came in. We told them that we wanted
11 them to clearly clean this property up all the
12 way, so a banker or whoever wanted to do some
13 economic development will come in and develop
14 that property. And the way it's capped now,
15 nobody is going to come in and develop that
16 property. You know that. No banker.

17 REP. McCLENDON: No. I think they
18 will. I think they will if there is a plan in
19 place, but there has to be a plan -- because
20 they will do it. They do it all over the
21 country with the cap like that, but there has to
22 be a plan in place so that the person who comes
23 in knows that they have support of local
24 government as they develop that property.

25 MR. CALVERT: Well, the last

0061

1 meeting we had, it all boiled down to a dollar
2 figure. And they took it back to the state
3 commission and the state commission went along
4 with this cap, but the citizens wanted total
5 cleanup.

6 REP. McCLENDON: I got you. I got
7 you. The point we are at now, I still --
8 what -- I understand the county's part. They're
9 trying to get their money.

10 MR. CALVERT: They're trying to
11 get their money.

12 REP. McCLENDON: You know, and
13 they -- first of all, you can't get blood out of
14 a turnip. These people are gone to -- wherever,
15 and the Attorney General's Office has been
16 working with this -- I don't know how long --
17 trying to -- they finally found two people.
18 They can't find the one. We've been working
19 with this a long time.

20 MS. LAUREL: What would be the
21 next step that anybody could possibly take if
22 it's not delisted?

23 MS. MONTEMAYOR: Okay. At this
24 time, I would say that we're taking your
25 comments, which we've done. We are honoring

0062

1 your request at this time that you're requesting
2 that we do not delist the site. So we will
3 proceed with these questions that you-all have,
4 and the request, and take it to our
5 Commissioners and see what's the process, you
6 know, because at this time --

7 REP. McCLENDON: It's got to do --
8 you know, it's got to do with all of this
9 environmental stuff. It's got to be -- I mean,
10 this is not anything that's unique.

11 MS. MONTEMAYOR: Right. Well,
12 because the normal --

13 REP. McCLENDON: People would
14 ignore it, though.

15 MS. MONTEMAYOR: The normal thing
16 that we would have done is, we accept your
17 comments. And if you didn't have any questions
18 that we needed to follow up with, we would then
19 say, "This site will be delisted." Then we

20 would say, "A notice will be published and it
21 will be delisted." And that's how the process
22 is. But because there are still questions up in
23 the air, we will get --

24 MR. MITCHELL: Let me ask. I'm
25 Auburn Mitchell, Representative, and I actually
0063

1 work for the agency rather than the Attorney
2 General's Office. And the agency doesn't own
3 the land. We went on, pursuant to statute, and
4 cleaned it up. And we think we've met our code
5 standard.

6 Now, we have had conversations with the
7 taxing authorities -- the local taxing
8 authorities, and they've got over half a million
9 dollars worth of liens. And it's kind of a
10 chicken and egg. If we don't delist, then they
11 may or may not -- they don't have to have it
12 delisted in order to foreclose, but they would
13 like to have our, in essence, certificate that
14 we cleaned it up to the standards.

15 But, you know, the process of tax
16 foreclosure is an auction held on the courthouse
17 steps, and that means that if you sell that
18 property, that somebody came forward and said,
19 "I'm going to invest my money in it and do
20 something with that property," presumably. I
21 mean, that's the way a lot of -- that's the way
22 the market system works, and we have an
23 action-forcing device called a foreclosure that
24 gives an opportunity to see what's out there.
25 Perhaps these couple here on the front row.

0064

1 We've had other inquiries that would like to get
2 that back into active use, start generating
3 taxes and jobs and that sort of thing.

4 REP. McCLENDON: That's all --
5 what we all want.

6 MR. MITCHELL: And that's what
7 we're all for. We certainly endorse all that.
8 That's not our role. Our role was to take the
9 site, pursuant to the legislature's directive --

10 REP. McCLENDON: I understand.

11 MR. MITCHELL -- expend the funds,
12 take these steps. And now --

13 REP. McCLENDON: I understand

14 that, but there is -- in all of this
15 bureaucracy, there is a component somewhere -- I
16 don't know where it is, but there is a component
17 somewhere, that after you do what you have done
18 and you've done what you said you were going to
19 do and you voted -- the commission voted to
20 clean it up to this level -- that was a
21 commission vote.

22 MR. MITCHELL: Right.

23 REP. McCLENDON: And they've done
24 that.

25 MR. MITCHELL: Right.

0065

1 REP. McCLENDON: That's done.

2 MR. MITCHELL: Right.

3 REP. McCLENDON: Now, the next
4 thing is for you to come into the community and
5 ask us, "What do we think about delisting it?"
6 And we are saying, "No." And the reason we are
7 saying no, because we are afraid -- I'm afraid
8 that that site is going to sit -- I don't care
9 if county does foreclose and sell it for \$1 on
10 the auction --

11 MR. MITCHELL: Well, but there's
12 certain limits. The tax foreclosure process,
13 they will -- the statute -- you may want to
14 examine that and talk with the county
15 authorities, but there's an appraised value on
16 the site. The tax appraisal district has it as
17 \$216,000 that I believe that -- ordinarily, in
18 order to move ahead with the foreclosure, they
19 have to have a bid somewhere around that
20 minimum, but you can talk to the firm that's --
21 that has great expertise. I'm not a -- I've
22 never been involved in one of those, but I can
23 read statutes.

24 So somebody comes forward to buy this
25 as a serious purchaser, and that would mean, you

0066

1 know, that you get that money into your tax
2 system, and, presumably, they would use it for
3 economic processes and get that rolling.

4 So we can certainly work with you and
5 tell you -- give you suggestions in terms of the
6 local taxing authorities, how they would be --

7 MR. CALVERT: There was a big law

8 firm that you said that contacted one of
9 you-all. You said there was a big law firm.

10 MR. MITCHELL: Bexar County. They
11 represent Bexar --

12 MR. ETHEREDGE: I'm referring to
13 the law firm that the commissioners retained to
14 review their foreclosure process.

15 MR. CALVERT: Oh, okay. So they
16 wanted to see this delisting take place?

17 MR. ETHEREDGE: The attorney
18 indicated to me that the commissioners had a
19 preference to not effect the foreclosure until
20 the delisting had occurred. I don't see the
21 linkage. I don't think Mr. Mitchell saw the
22 linkage. But that was just -- she expressed,
23 "We're interested in knowing when you're going
24 to delist because the county would like to
25 proceed and they've indicated they don't want to
0067

1 do that until" --

2 REP. McCLENDON: And I don't blame
3 the county. If I were county, I would feel that
4 way, too.

5 MR. MITCHELL: We've had several
6 inquiries about people who would like to acquire
7 that property, and our standard response is that
8 tax liens have priority, and so you need to talk
9 with the tax authorities.

10 MR. ETHEREDGE: Yeah. That's --

11 MR. MITCHELL: And there's
12 something over a half a million dollars worth of
13 liens.

14 MR. CALVERT: Enrique had another
15 question.

16 MS. MONTEMAYOR: Okay. Go ahead.

17 MR. VALDIVIA: Well, I'd like to
18 get back to the issue of the potentially
19 responsible parties. I mean, I get the feeling
20 that not enough has been done to get a
21 contribution from them, and I'm concerned about
22 delisting this until there's a clarification
23 about what that contribution is going to be,
24 and, you know, I -- I mean, this site, it's been
25 a problem for a number of years, and the state
0068

1 not only failed to enforce the laws so that it

2 didn't get polluted in the first place, but they
3 failed to track these people down after they
4 abandoned the site. Years went by, and the word
5 was, you know, "We can't find these people."
6 Well, it turns out one guy is in L.A. Another
7 guy is in Paris.

8 MR. CALVERT: And one's in
9 New Jersey.

10 MR. VALDIVIA: And one's in
11 New Jersey. You know, if any action had been
12 taken in a timely manner at the time when that
13 place was operating -- I mean, in the first
14 place, there was a failure of enforcement while
15 the place was operating. There was a failure of
16 enforcement after it was abandoned. It was
17 only, you know, very recently -- and I think
18 '98, '99, when it came out that these people
19 could be found fairly easily, and now there's
20 legal wrangling over, you know, what, if any,
21 contribution they'll ever have. You know,
22 that's really not a good answer, because, I
23 mean, there's been a consistent failure here to
24 get off the mark. And for the state to delist
25 this, you know, and try to absolve itself of
0069

1 responsibility, I think, is real -- it's wrong
2 because there's been -- not enough has been done
3 with respect to the PRPs.

4 MR. ETHEREDGE: Let me please
5 point out that nothing that's in the delisting
6 process stops the process of the environmental
7 agency referring the cost recovery action to the
8 Attorney General. Nothing in the step of
9 delisting stops the Attorney General's pursuit
10 of trying to cost recover. There's no
11 connection between the two actions.

12 I understand you said that you've been
13 told in the past that nobody could find them,
14 but it sounds like we -- and I'm working from
15 history; you were living it. They did find them
16 and effect an action and a judgment that
17 resulted in getting those buildings removed.

18 And I agree with you, we -- last
19 information I saw, from looking at the record,
20 was New Jersey, California, for two of the
21 individuals. Third one, not sure. Heard Paris.

22 But there's still potential for action there.
23 The Attorney General has an attorney assigned to
24 this case. He's working with Auburn to receive
25 our data on the cost sunk, \$1.2 million I

0070

1 referred to. We issued a last demand letter for
2 payment within about the last -- it's been about
3 30 days now, I believe, which is the last step
4 that TCEQ must do before we can make the final
5 formal referral to the AG. We send these
6 certified demand payment letters. We've got --
7 and we sent those to six possible addresses for
8 those individuals. We've gotten -- got the last
9 one from Mr. Bogatz today.

10 I might add --

11 MR. VALDIVIA: Okay. I understand
12 that the state is going to go ahead and go after
13 these people. And if they recover money from
14 them, what happens? Does that money go back to
15 the site?

16 MR. ETHEREDGE: That money would
17 go back to Fund 550, which was the source of the
18 funds that were expended to effect remediation.

19 MR. VALDIVIA: So that money would
20 just go out into the general fund of the
21 Superfund program?

22 MR. ETHEREDGE: It goes to the
23 fund that the money was taken from. It's to
24 replenish the funds that public funds was spent
25 from to clean the site.

0071

1 MR. VALDIVIA: I think we're
2 getting towards what my problem is. I mean, we
3 need to go after these guys and what you recover
4 from them should go back to that site, because
5 that's the site they polluted.

6 You know, what -- you're leaving behind
7 a site that's not cleaned up to the level that
8 it ought to be, in the community's eyes. You've
9 let the bad guys get away. And now you're
10 saying, "We're going to take it off the listing.
11 And if we ever get any money from these guys,
12 we're going to keep it so that we can pay our
13 budget," pay you and Janie, and keep the
14 Superfund program going. And that's being done
15 on the back of the community that's still going

16 to have to live with this site.

17 MR. CALVERT: It's not fair.

18 MR. ETHEREDGE: That's all in

19 accordance with the enabling legislation

20 relating to the program. Correct. And that is

21 the process that it would go through. Correct.

22 MS. MONTEMAYOR: I would like to

23 thank each one of you for coming tonight. We

24 really appreciate your comments. We will take

25 your comments to our Director.

0072

1 MR. CALVERT: I hope they listen

2 to us, because, apparently, they're not.

3 MS. MONTEMAYOR: This ends the

4 comment period. That concludes our meeting

5 tonight.

6 (Proceedings concluded at

7 8:20 p.m.)

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1 C E R T I F I C A T E

2 S T A T E O F T E X A S)

3 C O U N T Y O F T R A V I S)

4 I, Patricia Gonzalez, a Certified

5 Shorthand Reporter in and for the State of

6 Texas, do hereby certify that the

7 above-mentioned matter occurred as hereinbefore

8 set out.

9 I FURTHER CERTIFY THAT the proceedings

10 of such were reported by me or under my
11 supervision, later reduced to typewritten form
12 under my supervision and control and that the
13 foregoing pages are a full, true and correct
14 transcription of the original notes.

15 IN WITNESS WHEREOF, I have hereunto set
16 my hand and seal this 1st day of July 2003.

17
18
19
20
21

22 PATRICIA GONZALEZ
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