

INVESTIGATIVE REPORT TO JOINT COMMITTEE TO INVESTIGATE THE I-35W BRIDGE COLLAPSE

APPENDIX: Volume I

MAY 2008

APPENDIX Volume I

Recorded Interviews by Special Counsel

<i>Tab Number</i>	<i>Recorded Interviews</i>	<i>Date of Interview</i>
1	Adams, Jerome (MN/DOT)	3/21/2008
2	Arnebeck, Richard (MN/DOT)	3/20/2008
3	Desens, Vance (MN/DOT)	4/18/2008
4	Dombroske, Dale (MN/DOT)	3/20/2008
5	Dorgan, Daniel (MN/DOT)	2/29/2008; 4/22/2008; 5/2/2008
6	Embacher, Eric (MN/DOT)	4/14/2008
7	Farraher, Beverly (MN/DOT)	3/24/2008
8	Freese, Lisa (MN/DOT)	4/21/2008
9	Fuhrman, Kurt (MN/DOT)	3/24/2008
10	Gray, Kevin (MN/DOT)	4/10/2008
11	Johnson, Lowell (MN/DOT)	4/21/2008
12	Kivisto, Paul (MN/DOT)	3/27/2008
13	Lilly, James (MN/DOT)	3/28/2008
14	McFarlin, Robert (MN/DOT)	4/18/2008
15	McKenzie, Abigail (MN/DOT)	5/2/2008
16	Nelson, Barry (MN/DOT)	4/14/2008
17	Nelson, Bill (MN/DOT)	4/21/2008
18	Niemann, Todd (MN/DOT)	3/31/2008
19	Ottman, Arlen (MN/DOT)	3/26/2008
20	Peterson, Gary (MN/DOT)	4/2/2008
21	Pierce, James (MN/DOT)	4/25/2008
22	Pierson, Scott (MN/DOT)	4/15/2008
23	Pirkl, Jack (MN/DOT)	3/25/2008
24	Prelgo, Geoffrey (MN/DOT)	4/15/2008
25	Pribula, Mark (MN/DOT)	3/28/2008
26	Sahebjam, Khani (MN/DOT)	3/14/2008
27	Schultz, Roger (MN/DOT)	3/21/2008
28	Western, Kevin (MN/DOT)	3/28/2008
29	Winter, Robert (MN/DOT)	4/3/2008
30	Flemming, Donald J. (URS)	4/30/2008
31	Long, David (URS)	4/30/2008
32	McElwain, Brett (URS)	4/29/2008
33	Zhou, Edward (URS)	4/29/2008

<p style="text-align: right;">1</p> <p>1 INTERVIEW OF JEROME ADAMS - MARCH 21, 2008</p> <p>2</p> <p>3</p> <p>4 In the Matter of Conducting an Independent Investigation</p> <p>5 Into the Collapse of the I-35W Bridge</p> <p>6</p> <p>7 Department of Transportation</p> <p>8 395 John Ireland Boulevard</p> <p>9 Room G-13</p> <p>10 St. Paul, Minnesota</p> <p>11</p> <p>12 Met, pursuant to notice, at 8:00 in the</p> <p>13 morning on March 21, 2008.</p> <p>14</p> <p>15 INTERVIEWER:</p> <p>16</p> <p>17 Thomas Johnson, Attorney at Law with the</p> <p>18 Gray Plant Mooty Law Firm.</p> <p>19 ALSO PRESENT:</p> <p>20 Barbara E. Forsland, MnDOT Data Practices</p> <p>21 Compliance & Policy Analyst.</p> <p>22 COURT REPORTER:</p> <p>23 Angie D. Threlkeld, RPR CRR</p> <p>24</p> <p>25</p>	<p style="text-align: right;">3</p> <p>1 (Whereupon, Exhibit 1 was</p> <p>2 marked for identification by the</p> <p>3 court reporter.)</p> <p>4 BY MS. BERGSTROM:</p> <p>5 Q Jerome -- And may I call you Jerome?</p> <p>6 A Yes.</p> <p>7 Q I'm going to show you Exhibit Number 1. I have read</p> <p>8 through this with every witness that we've talked</p> <p>9 to, and hopefully Tom did yesterday --</p> <p>10 MS. FORSLAND: Yes.</p> <p>11 BY MS. BERGSTROM:</p> <p>12 Q -- as well.</p> <p>13 MS. FORSLAND: Yes.</p> <p>14 BY MS. BERGSTROM:</p> <p>15 Q And so I'm just going to run through this. This is</p> <p>16 the protocol we're using with these witness</p> <p>17 interviews.</p> <p>18 The first paragraph, authority. We are</p> <p>19 the Gray Plant Mooty law firm. And Gray Plant Mooty</p> <p>20 has been retained by the Minnesota legislature to</p> <p>21 conduct an independent investigation into the</p> <p>22 collapse of the I-35W bridge. The Minnesota</p> <p>23 legislature has asked us to provide a report of our</p> <p>24 investigation by May 1st, 2008. We will be asking</p> <p>25 you questions concerning the bridge collapse and</p>
<p style="text-align: right;">2</p> <p>1 Q Jerome, my name is Katie Bergstrom. We met briefly.</p> <p>2 I am one of the lawyers at Gray Plant Mooty, and we</p> <p>3 have been doing a few interviews. Let me tell you a</p> <p>4 few ground rules.</p> <p>5 The court reporter here is taking down</p> <p>6 everything we say. I don't know if you've ever</p> <p>7 worked with a court reporter before, but she can't</p> <p>8 take down both of our voices at the same time. So</p> <p>9 I'm going to ask you some questions; and if you</p> <p>10 could wait until I ask my question and if I can wait</p> <p>11 until you give your full answer and we don't talk on</p> <p>12 top of one another, she'll be able to get everything</p> <p>13 that we say.</p> <p>14 And she also can't take down nods of the</p> <p>15 heads or huh-uhs or uh-huhs. And so if you give me</p> <p>16 audible responses, that would be helpful.</p> <p>17 Why don't we go around the room. I've</p> <p>18 done my introduction. Barbara, do you want to...</p> <p>19 MS. FORSLAND: My name is Barbara</p> <p>20 Forsland. I'm the data practices attorney for the</p> <p>21 agency.</p> <p>22 MR. ADAMS: My name is Jerome Adams. I'm</p> <p>23 working on the St. Anthony Falls 35W project. I am</p> <p>24 the roadway engineer.</p> <p>25 MS. BERGSTROM: All right.</p>	<p style="text-align: right;">4</p> <p>1 related policies, practices, and legislative</p> <p>2 oversight issues.</p> <p>3 Two, the purpose of this interview is to</p> <p>4 determine what you might know about the matters that</p> <p>5 we are investigating.</p> <p>6 Three, confidentiality. During the time</p> <p>7 our investigation is active, the information that</p> <p>8 interviewees provide to us is not public</p> <p>9 information. The information you provide may no</p> <p>10 longer be confidential once we submit our report to</p> <p>11 the legislature.</p> <p>12 Process. You are required to answer our</p> <p>13 questions truthfully. And a court reporter is</p> <p>14 present to record our conversation. Either during</p> <p>15 this interview or later in our investigation we may</p> <p>16 determine that we need to verify certain</p> <p>17 information. If that occurs we may ask you for a</p> <p>18 further recorded statement, a signed affirmation, or</p> <p>19 an oath statement.</p> <p>20 Post-interview contact, finally. We view</p> <p>21 this process as an ongoing dialogue. If you think</p> <p>22 of anything after this interview that you want to</p> <p>23 tell us about, please call or e-mail us. Likewise,</p> <p>24 we hope that you will respond to us if we e-mail you</p> <p>25 or call you with follow-up questions or</p>

<p style="text-align: right;">5</p> <p>1 clarifications. Is that clear?</p> <p>2 A Yes.</p> <p>3 Q Okay. Thank you. Jerome, you obviously work for</p> <p>4 MnDOT; right?</p> <p>5 A Yes.</p> <p>6 Q And how long have you worked with MnDOT?</p> <p>7 A April 2000.</p> <p>8 Q And when you started in April of 2000, what was your</p> <p>9 job title?</p> <p>10 A Graduate engineer.</p> <p>11 Q And what -- What area of MnDOT did you work in as a</p> <p>12 graduate engineer?</p> <p>13 A As a graduate engineer you rotate through several</p> <p>14 areas at MnDOT. Each rotation is from three months</p> <p>15 to six months. The purpose is that you're an</p> <p>16 engineer in training, and so they're rotating you</p> <p>17 around MnDOT to get exposure to everything that</p> <p>18 MnDOT does.</p> <p>19 So places that I went to include project</p> <p>20 coordination here at CO, which is a -- is a</p> <p>21 right-of-way acquisition function of MnDOT. I</p> <p>22 worked at the traffic management center for a while.</p> <p>23 I worked in Golden Valley construction for a while.</p> <p>24 I worked in metro design for a while. And I did</p> <p>25 work at the Maplewood research lab for a while.</p>	<p style="text-align: right;">7</p> <p>1 collapse?</p> <p>2 A No. I mean, there were different bridge 9340</p> <p>3 projects. Okay?</p> <p>4 Q Okay.</p> <p>5 A But when I say St. Anthony Falls bridge project,</p> <p>6 that's specifically the reconstruction of the</p> <p>7 collapsed bridge.</p> <p>8 Q Okay. The people who are working on the</p> <p>9 reconstruction of the collapsed bridge, where do</p> <p>10 they office? Do you have separate offices or...</p> <p>11 A The St. Anthony Falls verification team is located</p> <p>12 in downtown Minneapolis. Do you want me to give you</p> <p>13 the address?</p> <p>14 Q Well, I'm just -- No. Just generally --</p> <p>15 A Okay.</p> <p>16 Q -- curious.</p> <p>17 A We're located in downtown Minneapolis. We're</p> <p>18 cohoused with the contractor, Flat Iron Manson. So</p> <p>19 it's kind of a, you know, field construction, design</p> <p>20 office, you know, design/build office.</p> <p>21 Q When you were with metro design, were you in the</p> <p>22 Roseville office?</p> <p>23 A Correct. Waters Edge.</p> <p>24 Q Okay. When you were at Waters Edge in metro design,</p> <p>25 who did you report to?</p>
<p style="text-align: right;">6</p> <p>1 Q So you've touched a lot of spots?</p> <p>2 A Right. And that's the purpose of the grad engineer</p> <p>3 rotation. All grads kind of do the same thing.</p> <p>4 Q Okay. So how long -- How long do you do that</p> <p>5 rotation? How long were you a graduate engineer?</p> <p>6 A The standard is for two years. I did it for about a</p> <p>7 year and a half.</p> <p>8 Q Okay. And then after a year and a half, where did</p> <p>9 you go?</p> <p>10 A I was permanently hired to metro design.</p> <p>11 Q And is that where you still work?</p> <p>12 A Up until August 2nd, yeah, I worked at metro design,</p> <p>13 August 2nd, 2007. And then when the bridge</p> <p>14 collapsed, I started working on the bridge. And so</p> <p>15 I've been reassigned to the St. Anthony Falls</p> <p>16 project; but my billet, as it were, is still at</p> <p>17 metro design.</p> <p>18 Q The St. Anthony Falls project, that comes under</p> <p>19 metro, right, or not?</p> <p>20 A I can't answer that.</p> <p>21 Q Okay. You don't know?</p> <p>22 A I don't know.</p> <p>23 Q Okay.</p> <p>24 A Yeah. Let me say that. It's a little confusing.</p> <p>25 Q Was there a St. Anthony Falls project before the</p>	<p style="text-align: right;">8</p> <p>1 A Mike Herman.</p> <p>2 Q I'm not going to mark this because I only have this</p> <p>3 one. But maybe you can show me, Jerome, where on</p> <p>4 this maintenance operations org chart --</p> <p>5 A I am not on the maintenance operations org chart.</p> <p>6 Q Okay. Let's back up then, and let's mark a</p> <p>7 different exhibit.</p> <p>8 (Whereupon, Exhibit 2 was</p> <p>9 marked for identification by the</p> <p>10 court reporter.)</p> <p>11 BY MS. BERGSTROM:</p> <p>12 Q All right. I'll have you look at -- these are --</p> <p>13 Exhibit Number 2. These are various org charts.</p> <p>14 And if you'll go with me back to the third page,</p> <p>15 this is a metro management team org chart from</p> <p>16 October 3rd, '07. Would your job fall under one of</p> <p>17 these boxes?</p> <p>18 A Correct. You'll see a box, design engineer Glen</p> <p>19 Ellis.</p> <p>20 Q Oh, right.</p> <p>21 A I work underneath that person.</p> <p>22 Q Okay. And Mike Herman reports to Glen Ellis?</p> <p>23 A Correct.</p> <p>24 Q Okay. And did you have anybody at that time</p> <p>25 reporting to you?</p>

9	11
1 A Yes. I have AFSME technicians reporting to me.	1 Minneapolis as opposed to Roseville?
2 Q Now, as part of the St. Anthony Falls project, who	2 A Correct. I go to downtown Minneapolis. That's
3 do you report to?	3 where my office is.
4 A I report to Mary Lacho.	4 Q And is anybody -- Do you have any people reporting
5 Q And help me, using this org chart, where is Mary --	5 to you?
6 what's her last name?	6 A Yes. I have a consultant engineer from SRF
7 A Lacho, L-A-C-H-O.	7 reporting to me.
8 Q Where does Mary Lacho fall on the MnDOT org chart,	8 Q What's SRF?
9 do you know?	9 A SRF is a consulting firm.
10 A No.	10 Q Okay. Are you a certified bridge inspector?
11 Q You just have no idea?	11 A No.
12 A No.	12 Q So you've never been involved in the inspection
13 Q Okay.	13 side?
14 A It -- You have to realize the verification team	14 A No. I have been in a snooper truck underneath the
15 was -- it pulled people from different places --	15 35W bridge as a -- what would you call it -- field
16 Q Okay. Why --	16 trip.
17 A -- to create --	17 Q Okay. Did you go -- Who did you go along with on
18 Q Why don't --	18 that field trip?
19 A -- this team.	19 A Kurt.
20 Q Why don't you tell me about the verification team.	20 Q Fuhrman?
21 Who's on it?	21 A Yes.
22 A John Chiglow (phonetic) is the project manager.	22 Q Okay.
23 Q Okay.	23 A And there is one other person. But I was in the
24 A The boss.	24 bucket with Kurt Fuhrman.
25 Q So the bridge collapses. We know there's going to	25 Q Okay. When you were at -- When you were doing metro
10	12
1 be a reconstruction. Is what I'm understanding is	1 design before the -- before the St. Anthony Falls
2 that they -- John Chiglow is put in charge, and he	2 project, what would you generally say your job
3 grabs people from various spots of MnDOT to put	3 description was?
4 together the St. Anthony Falls verification team?	4 A Project manager.
5 A Put very simply, yes. But he's not the only one	5 Q Okay. What does that mean?
6 making the decision.	6 A Metro assigns a construction project to a design
7 Q Okay. Who else is?	7 project manager. That project manager has to -- is
8 A I don't know.	8 ultimately responsible for the entire project,
9 Q Okay. I take it from your early title that you are	9 responsible for cost estimates, for schedule, for
10 an engineer?	10 identifying the scope of the project, for
11 A Correct.	11 identifying the tasks that need to be done, for
12 Q What kind of an engineer are you, Jerome?	12 making sure that people are getting done what needs
13 A I'm a civil engineer professionally licensed in the	13 to be done. It's -- I'm being very general here
14 State of Minnesota.	14 because it's like hundreds of things.
15 Q Where did you get your degree from?	15 Q Okay. And working for the design unit, that was
16 A University of Minnesota, bachelor's of civil	16 primarily your job to be a project manager?
17 engineering.	17 A Right.
18 Q And Mary Lacho, is she an engineer as well?	18 Q Okay. What -- I assume that you managed numerous
19 A Yes.	19 projects then over the years?
20 Q I'm -- I am curious about the term verification	20 A Right.
21 team. What -- What does that mean?	21 Q Are they specific to bridges or could they be
22 A I guess it's one name we use for us. It means that	22 anything?
23 we are verifying the contractor is building the	23 A They could be anything, yes.
24 project according to contract.	24 Q So have you done -- Have you super -- Have you been
25 Q So when you report for work now, do you go downtown	25 a project manager for some bridge projects?

<p>13</p> <p>1 A Yes. But realize that I'm the roadway engineer.</p> <p>2 I'm not the bridge engineer.</p> <p>3 Q Okay. Tell me the difference.</p> <p>4 A The difference is that the bridge office does the</p> <p>5 bridge plans, and they have a bridge project manager</p> <p>6 for any specific project or any specific bridge.</p> <p>7 Okay? I'm the roadway engineer. So I put together</p> <p>8 all the nonbridge plans. So grading, traffic</p> <p>9 control, striping. And then I also do all the</p> <p>10 environmental documentation, all the NEPA process</p> <p>11 stuff, permitting, things like that.</p> <p>12 Q Okay. So if you were managing a project that</p> <p>13 included a bridge, then there would also be a bridge</p> <p>14 project manager involved to work side by side with</p> <p>15 you?</p> <p>16 A Yes.</p> <p>17 Q Okay. And does that person come out of central</p> <p>18 bridge or does it come out of metro?</p> <p>19 A No, the bridge offices out of Oakdale, and they're</p> <p>20 listed as a CO function.</p> <p>21 Q Okay. So did you work with the metro bridge people</p> <p>22 as well?</p> <p>23 A Yes. The people at metro are listed as bridge</p> <p>24 maintenance. Okay?</p> <p>25 Q Okay.</p>	<p>15</p> <p>1 project; right?</p> <p>2 A Right.</p> <p>3 Q Are there any documents at MnDOT that describe the</p> <p>4 duties of a project manager?</p> <p>5 A Yes.</p> <p>6 Q Okay. What are those documents?</p> <p>7 A What I can do is refer you to the metro design web</p> <p>8 page.</p> <p>9 Q And what's on there?</p> <p>10 A And what's on there is lots of documentation. And</p> <p>11 if you read through it, you will find -- I think</p> <p>12 there is a -- you know, a document that says Guide</p> <p>13 to Project Managers. And if you read that, you</p> <p>14 should get a real quick understanding of, oh, this</p> <p>15 is what these guys are doing.</p> <p>16 Q Okay.</p> <p>17 A So there -- It's a very good web page. It has very</p> <p>18 useful information on it. I, of course, don't have</p> <p>19 the web address here. I would -- What I'll probably</p> <p>20 do is I'll forward it to Barbara, and Barbara can</p> <p>21 get it to you.</p> <p>22 MS. FORSLAND: Yes, that's terrific.</p> <p>23 MS. BERGSTROM: That would be helpful.</p> <p>24 Good.</p> <p>25 MS. FORSLAND: As a question, Jerome, is</p>
<p>14</p> <p>1 A That's the distinction.</p> <p>2 Q Okay. So there aren't bridge project managers at</p> <p>3 the metro level?</p> <p>4 A Right. The metro function is bridge maintenance,</p> <p>5 whereas the CO bridge is the office that would have</p> <p>6 the project managers.</p> <p>7 Q Got it. Okay. That's actually very helpful.</p> <p>8 MS. FORSLAND: Yeah.</p> <p>9 BY MS. BERGSTROM:</p> <p>10 Q And I would imagine, depending on the project, as a</p> <p>11 project manager you might have maintenance people on</p> <p>12 your projects; right?</p> <p>13 A Right.</p> <p>14 Q And inspectors on your projects?</p> <p>15 A Well, are they producing something? Are they</p> <p>16 producing a plan? No. Metro maintenance doesn't</p> <p>17 produce a plan for me. But in doing a project I ask</p> <p>18 hundreds of people hundreds of questions.</p> <p>19 Q Depending on the project?</p> <p>20 A Depending on the project. So, yes, I could involve</p> <p>21 a bridge inspector or metro bridge maintenance to</p> <p>22 ask them questions about which direction the project</p> <p>23 should go.</p> <p>24 Q Okay. And I would imagine that the size of your</p> <p>25 project team really depends on the size of your</p>	<p>16</p> <p>1 that on our internal website, do you think, or is it</p> <p>2 on our public website also? Do you have any idea of</p> <p>3 that?</p> <p>4 MR. ADAMS: Internal website.</p> <p>5 MS. FORSLAND: Okay. I can reproduce</p> <p>6 those documents from the internal website and</p> <p>7 provide those to you --</p> <p>8 MS. BERGSTROM: That would be great.</p> <p>9 MS. FORSLAND: -- this afternoon.</p> <p>10 BY MS. BERGSTROM:</p> <p>11 Q All right. Let's talk specifically about the I-35W</p> <p>12 bridge. What was your -- What projects were you the</p> <p>13 project manager on for the bridge?</p> <p>14 A Okay. There was a project SP 2783-102. Then</p> <p>15 SP 2783-116. You can put down that I scoped</p> <p>16 SP 2783-107. So the first two I was the project</p> <p>17 manager. On the last one I just scoped the project.</p> <p>18 Q Okay. On a time line what was the order of these</p> <p>19 projects?</p> <p>20 A Let's add one more project.</p> <p>21 Q Okay.</p> <p>22 A SP 8825-204. That's right. The order of the</p> <p>23 projects. I was assigned to the dash 102 project</p> <p>24 first.</p> <p>25 Q And what was that project? Let's just take that</p>

<p>17</p> <p>1 project first.</p> <p>2 A That project was the replacement of bridge 9340.</p> <p>3 Q And when were you assigned to that?</p> <p>4 A Approximately April 2004, give or take a couple</p> <p>5 months.</p> <p>6 Q Who was the project manager from central bridge who</p> <p>7 was working with you on that?</p> <p>8 A I don't know that they officially assigned one at</p> <p>9 that point because it wasn't a programmed project.</p> <p>10 This was mainly the scoping phase. People I worked</p> <p>11 with in central office bridge were Ray Cekalla, who</p> <p>12 I believe is retired, and Paul Kivisto.</p> <p>13 Q You've used this term a couple of times now, the</p> <p>14 scoping phase. Explain to me what that means.</p> <p>15 A In broadbrush strokes a project has a couple phases;</p> <p>16 scoping, predesign, final design, and construction.</p> <p>17 Q And what's involved in the scoping phase?</p> <p>18 A The scoping phase is very much -- we use the term</p> <p>19 discovery. It's a lot like detective work. So an</p> <p>20 engineer or project manager will start studying a</p> <p>21 project, start identifying all of the issues which,</p> <p>22 you know, there are hundreds. Just, for example, is</p> <p>23 there a bridge on the project, is there right-of-way</p> <p>24 acquisitions, is there a permit from the Army Corps</p> <p>25 of Engineers, and on and on and on and on.</p>	<p>19</p> <p>1 Do you get an e-mail? Do you get an arm twisting?</p> <p>2 A No, it's -- it's much more informal.</p> <p>3 Q Okay.</p> <p>4 A It's we need someone to work on this project; anyone</p> <p>5 want to volunteer. And I'm like, yeah, sounds good</p> <p>6 to me.</p> <p>7 Q Okay. And then when the project -- Presumably this</p> <p>8 project stopped before you even finished the scoping</p> <p>9 phase?</p> <p>10 A Stopped? No, it was ongoing.</p> <p>11 Q Okay.</p> <p>12 A It was ongoing right up until the day the bridge</p> <p>13 collapsed.</p> <p>14 Q Okay. So explain to me, who sets the time line for</p> <p>15 a project like that?</p> <p>16 A All of MnDOT. It's -- You've got a project</p> <p>17 management team at metro, okay, a group of managers</p> <p>18 that are looking at all the needs of metro and --</p> <p>19 and looking at each specific need and then looking</p> <p>20 at the entire program. And they sit down and they</p> <p>21 try to figure out when do we do what. Then, of</p> <p>22 course, that all gets to central office and it all</p> <p>23 gets to the legislature with funding, what can we</p> <p>24 fund. So it's a very involved process of many</p> <p>25 people.</p>
<p>18</p> <p>1 Q The replacement -- Well, let's back up a second.</p> <p>2 Most of these projects dealing with the bridge have</p> <p>3 the number 2783. What does that pertain to?</p> <p>4 A That is the control section of I-35W.</p> <p>5 Q Okay. And then the rest of the numbers, the 102,</p> <p>6 the 116, is the specific project?</p> <p>7 A Right.</p> <p>8 Q Okay.</p> <p>9 A And it's just a numerical number.</p> <p>10 Q Randomly picked?</p> <p>11 A Well, picked in order.</p> <p>12 Q Order. Okay. So the 102 project, the replacement,</p> <p>13 of the four phases of the project, how far did you</p> <p>14 go with it?</p> <p>15 A No farther than scoping. And even then the scoping</p> <p>16 wasn't complete.</p> <p>17 Q Okay. Who assigned you to that -- that project?</p> <p>18 A I'll go with I don't know. It's a process, you</p> <p>19 know. Somehow, you know, someone says we got a</p> <p>20 project, and it trickles on down to the various</p> <p>21 project managers and the entire group headed by Glen</p> <p>22 Ellis.</p> <p>23 Q Okay.</p> <p>24 A And somehow this landed in my lap.</p> <p>25 Q And is it -- Do you get a memo? Do you get a call?</p>	<p>20</p> <p>1 Q I guess I'm trying to understand is that you -- in</p> <p>2 April of 2004 you are assigned the project manager</p> <p>3 for the replacement. Do you have a work plan then?</p> <p>4 Is there --</p> <p>5 A That's what I'm developing. So -- So I get assigned</p> <p>6 the project; and they go, we know we have to replace</p> <p>7 this bridge sometime; we don't know when yet. Okay?</p> <p>8 So the bridge office, they need to say when the</p> <p>9 bridge needs to be replaced, not me. Okay?</p> <p>10 Q Okay.</p> <p>11 A But what I do is I go, okay, we're replacing the</p> <p>12 bridge some time. Okay. I need to figure out</p> <p>13 everything that needs to be done to make that</p> <p>14 happen. So, like I said, right-of-way issues, how</p> <p>15 do you design the roadway, what are my limits, can I</p> <p>16 just tie down at the approaches to the bridge and</p> <p>17 call it a day or do I have to go a mile down the</p> <p>18 road and rebuild the road, do I have to rebuild</p> <p>19 interchanges on either side beyond the bridge, and</p> <p>20 on and on and on. It's discovery; it's research;</p> <p>21 what do we got to do; who do we need to get</p> <p>22 permission from.</p> <p>23 Q And I would imagine -- Tell me if I'm wrong about</p> <p>24 this, but I would imagine that your getting all of</p> <p>25 those things done and in place depends in part on</p>

<p style="text-align: right;">21</p> <p>1 what bridge is telling you is the end date; right?</p> <p>2 A Right.</p> <p>3 Q So if they say, yeah, we're going to replace this in</p> <p>4 2025, then you're not going to start Monday morning</p> <p>5 with the environmental permitting for 2025?</p> <p>6 A No. But what I -- I mean, you're correct. I mean,</p> <p>7 everything is time dependent, when are we actually</p> <p>8 going to do the work. But what I can do is discover</p> <p>9 what the needs are. And that's why Barbara is going</p> <p>10 to get you this scoping report for 2783-102 dated</p> <p>11 April 29th, 2004. I think if you read through this,</p> <p>12 you'll really understand what it was I was doing and</p> <p>13 see that I'm explaining these are the problems we</p> <p>14 need to address --</p> <p>15 Q That scoping --</p> <p>16 A -- this is why we're doing stuff.</p> <p>17 Q Okay. And this scoping report, what's the date on</p> <p>18 that?</p> <p>19 A April 29th, 2004.</p> <p>20 Q Okay.</p> <p>21 MS. FORSLAND: And you could share that</p> <p>22 with her right now, if it would be helpful to the</p> <p>23 interview, certainly. We believe this document has</p> <p>24 likely been provided publicly before. Some of these</p> <p>25 documents that he has provided to us have been</p>	<p style="text-align: right;">23</p> <p>1 in here somewhere?</p> <p>2 A Yeah. I -- I wrote down that it would be</p> <p>3 \$68 million to replace the bridge only. And that's</p> <p>4 doing absolutely nothing else. That's just removing</p> <p>5 the bridge that was there and putting in a bridge</p> <p>6 that fit the exact same dimensions. No enhancements</p> <p>7 whatsoever, which is -- And then I have two other</p> <p>8 scenarios with question marks in the cost of</p> <p>9 expanded projects because, in general, MnDOT doesn't</p> <p>10 ever get to just replace a bridge; we have to go</p> <p>11 down the road and do more enhancements. And before</p> <p>12 you know it, the project is much more expensive. So</p> <p>13 this is just kind of the preliminary volley, and</p> <p>14 it's known that that cost will go up.</p> <p>15 Q Okay. There's a couple of other coauthors. Jim</p> <p>16 Aswegan?</p> <p>17 A Um-hum.</p> <p>18 Q A-S-W-E-G-A-N. Who's he?</p> <p>19 A Jim Aswegan is one of the traffic engineers in metro</p> <p>20 traffic.</p> <p>21 Q Okay. And Paul?</p> <p>22 A Paul Kachelmyer. And that's spelled</p> <p>23 K-A-C-H-E-L-M-Y-E-R.</p> <p>24 Q And who is he?</p> <p>25 A He would be another project manager in metro design.</p>
<p style="text-align: right;">22</p> <p>1 quoted in the newspapers, and copies of them will be</p> <p>2 on the disk of documents that we provided to you;</p> <p>3 but we're happy to provide them for your ready</p> <p>4 accessibility.</p> <p>5 MS. BERGSTROM: Okay. I don't recognize</p> <p>6 it, but that's not to say in the thousands and</p> <p>7 thousands of pages of documents that we don't have</p> <p>8 it. Oh, this would be great.</p> <p>9 BY MS. BERGSTROM:</p> <p>10 Q At the time that you were drafting this, Jerome,</p> <p>11 what was your understanding -- and maybe it's in</p> <p>12 here somewhere -- of when the replacement was going</p> <p>13 to occur?</p> <p>14 A Very much up in the air. That was part of the</p> <p>15 scoping process of when does it need to be done.</p> <p>16 And bridge at that time did not have a solid answer.</p> <p>17 But I was told to start working on it because we</p> <p>18 don't know if bridge is going to say it needs to be</p> <p>19 replaced now versus 40 years from now.</p> <p>20 Q Okay.</p> <p>21 A So they said start working on it and tell us what</p> <p>22 the issues are and -- a preliminary cost estimate is</p> <p>23 always, you know, one of the things that goes into a</p> <p>24 scoping report.</p> <p>25 Q And what was the preliminary cost estimate? Is it</p>	<p style="text-align: right;">24</p> <p>1 Q After this preliminary scoping report in April 2004,</p> <p>2 did you generate any other reports on this 102</p> <p>3 project?</p> <p>4 A Not a formal report. I did lots of work.</p> <p>5 Q To continue to explore the issues that are raised in</p> <p>6 the scoping report?</p> <p>7 A Correct.</p> <p>8 Q Okay.</p> <p>9 MS. FORSLAND: And, Jim (sic), the</p> <p>10 minutes that you provided to me previously were an</p> <p>11 outgrowth of this job responsibility. Did I</p> <p>12 understand that correctly?</p> <p>13 MR. ADAMS: Correct.</p> <p>14 MS. FORSLAND: So there are I think four</p> <p>15 series of minutes from periodic meetings that were</p> <p>16 held that I will be providing to you.</p> <p>17 MS. BERGSTROM: Okay.</p> <p>18 MS. FORSLAND: Which you may have with</p> <p>19 you today.</p> <p>20 MS. BERGSTROM: Okay.</p> <p>21 BY MS. BERGSTROM:</p> <p>22 Q All right. Obviously project 102 has since gone by</p> <p>23 the wayside. What was project 116?</p> <p>24 A That project is specifically the reinforcement of</p> <p>25 the steel structure of bridge 9340, and that is an</p>

<p>25</p> <p>1 outgrowth of the dash 102 project. So as Barb was</p> <p>2 alluding to, as I'm working on the dash 102 project,</p> <p>3 as central office bridge and metro bridge</p> <p>4 maintenance are doing more and more investigation</p> <p>5 into bridge 9340, they said, well, let's look at,</p> <p>6 instead of replacing the bridge right now, doing</p> <p>7 some reinforcement to it. And so that was the</p> <p>8 dash 116 project.</p> <p>9 Q Okay. And when were you assigned to the 116</p> <p>10 project?</p> <p>11 A I'll say approximately April 2006. And, again, give</p> <p>12 or take months.</p> <p>13 Q And how far -- Using your very broadbrush, scoping,</p> <p>14 predesign, final design, construction, how far did</p> <p>15 the 116 project get?</p> <p>16 A I'll say scoping. The reason I'm thinking so hard</p> <p>17 is because I don't know how far bridge got. Okay?</p> <p>18 So, remember, the bridge office is figuring out what</p> <p>19 to do with the bridge itself. Okay? So when you're</p> <p>20 asking how far did bridge design or scoping get, I</p> <p>21 don't know.</p> <p>22 Q Okay.</p> <p>23 A But what I can tell you that in the work I did as,</p> <p>24 again, a roadway project manager, I was again</p> <p>25 researching all those issues I tell you about; if we</p>	<p>27</p> <p>1 specific to project 102?</p> <p>2 A No.</p> <p>3 Q Okay. Is project 116 the project that gets put on</p> <p>4 hold in January of 2007?</p> <p>5 A I think you may be right. I'm not going to answer</p> <p>6 it definitively. There is an e-mail that I can</p> <p>7 pull, which of course has been given to you where --</p> <p>8 Q And I might have it here today, so we'll look at it.</p> <p>9 A Yeah -- where Gary Peterson says what you're saying,</p> <p>10 Jerome, it looks like we're not proceeding with</p> <p>11 this; I'm sorry you had to do so much work --</p> <p>12 Q Right. Right.</p> <p>13 A -- he essentially said. So is that January of 2007?</p> <p>14 I'm not sure. I'd have to reread the e-mail.</p> <p>15 Q And we'll look at that after I kind of get this high</p> <p>16 view. Okay. Let's talk about project 107.</p> <p>17 A Um-hum.</p> <p>18 Q And you said you just scoped that.</p> <p>19 A Um-hum. Yes.</p> <p>20 Q That means were you not the project manager?</p> <p>21 A What is typical with a MnDOT project is that it can</p> <p>22 change hands as to who's project managing it. Okay?</p> <p>23 So on the dash 107 project, you can say I was the</p> <p>24 project manager of scoping. When scoping was</p> <p>25 complete, it was assigned to a different project</p>
<p>26</p> <p>1 were to do this project, what permits would we need,</p> <p>2 what right-of-way issues do we need to resolve. So</p> <p>3 I was doing the scoping of that and no farther.</p> <p>4 Q Okay. The -- Who was the project manager out of</p> <p>5 bridge for 116?</p> <p>6 A I would say that Gary Peterson was in charge. I</p> <p>7 don't know if you can call him the project manager,</p> <p>8 but I would say he was in charge. He might have</p> <p>9 assigned a project manager underneath him to that</p> <p>10 project, but Gary Peterson was in charge. Does that</p> <p>11 make sense?</p> <p>12 Q Um-hum. And who was your -- most of your contact</p> <p>13 with, do you remember?</p> <p>14 A If you -- Well, most -- If you read these meeting</p> <p>15 minutes, you will see an attendees list.</p> <p>16 Q Okay.</p> <p>17 A Do you want me to verbally say those or --</p> <p>18 Q Well, we'll go into that in a minute.</p> <p>19 A Okay.</p> <p>20 Q Let me ask you this then: Those minutes as we refer</p> <p>21 to as kind of coming out of 102, do they encompass</p> <p>22 project 116 too or are these minutes specific to</p> <p>23 project 116?</p> <p>24 A The meeting minutes are specific to project 116.</p> <p>25 Q Okay. And are there meeting minutes that are</p>	<p>28</p> <p>1 manager for actual design.</p> <p>2 Q What was the 107 project?</p> <p>3 A The 107 project was an I-35W pavement rehabilitation</p> <p>4 project. Its limits were from the LRT bridge</p> <p>5 crossing 35W in the south in Minneapolis to</p> <p>6 Industrial Boulevard in New Brighton.</p> <p>7 Q Is this -- I'm just kind of going from things that</p> <p>8 I've read as well, but is this essentially the</p> <p>9 pavement work from what they call like 94 to Stinson</p> <p>10 Boulevard?</p> <p>11 A Yes.</p> <p>12 Q Okay.</p> <p>13 A Yeah, you can -- It's the same thing, right.</p> <p>14 Q Okay.</p> <p>15 A So the dash 107 project was pavement rehabilitation</p> <p>16 of the I-35W roadway, which included the deck</p> <p>17 rehabilitation of bridge 9340. And that is the</p> <p>18 project that was occurring when the bridge collapsed</p> <p>19 on --</p> <p>20 Q Right.</p> <p>21 A -- August --</p> <p>22 Q Okay.</p> <p>23 A -- 1st or 2nd?</p> <p>24 MS. FORSLAND: August 1st.</p> <p>25 BY MS. BERGSTROM:</p>

<p>29</p> <p>1 Q 1st.</p> <p>2 A August 1st.</p> <p>3 Q So did you prepare a scoping report?</p> <p>4 A Correct.</p> <p>5 Q Okay. And it would be similar to this 102 scoping report?</p> <p>6 report?</p> <p>7 A It's a different format; but, yes, it's a scoping report.</p> <p>8 report.</p> <p>9 Q Who took over the project after you did the scoping?</p> <p>10 A The metro design project manager was Geoff Prelgo.</p> <p>11 And Prelgo -- Well, I'll spell the whole thing.</p> <p>12 Geoff is G-E-O-F-F, and Prelgo is P-R-E-L-G-O.</p> <p>13 Q And obviously that project got through the predesign, the final design, was in actual construction?</p> <p>14 predesign, the final design, was in actual construction?</p> <p>15 construction?</p> <p>16 A Right, it was in construction. So final plans were turned in and it was let, right.</p> <p>17 turned in and it was let, right.</p> <p>18 Q At some point was Geoff replaced as the project manager as well?</p> <p>19 manager as well?</p> <p>20 A Well, again, in a typical MnDOT project, a metro design project manager does scoping, predesign, final design; and final design is completing the actual final plans and submitting it for letting.</p> <p>21 design project manager does scoping, predesign, final design; and final design is completing the actual final plans and submitting it for letting.</p> <p>22 final design; and final design is completing the actual final plans and submitting it for letting.</p> <p>23 actual final plans and submitting it for letting.</p> <p>24 Once a project is let, then a construction engineer is assigned to actually construct the project. So</p> <p>25 is assigned to actually construct the project. So</p>	<p>31</p> <p>1 MS. FORSLAND: I honestly don't know if</p> <p>2 I've seen those, but I've made a note that we --</p> <p>3 MS. BERGSTROM: Okay.</p> <p>4 MS. FORSLAND: -- want to --</p> <p>5 MS. BERGSTROM: Because I --</p> <p>6 MS. FORSLAND: -- find those --</p> <p>7 MS. BERGSTROM: -- don't remember seeing</p> <p>8 them either.</p> <p>9 MS. FORSLAND: -- and provide them.</p> <p>10 MS. BERGSTROM: And I know that certainly</p> <p>11 Eric has -- I've seen all of his files. So I've</p> <p>12 seen the end of that, but I haven't seen the early</p> <p>13 parts of that.</p> <p>14 MR. ADAMS: I didn't personally provide</p> <p>15 it. It can easily be provided. It's out there.</p> <p>16 BY MS. BERGSTROM:</p> <p>17 Q Yeah. And would there be minutes, meeting minutes like this as well?</p> <p>18 like this as well?</p> <p>19 A No, not the same thing. It would have just been the</p> <p>20 scoping report.</p> <p>21 Q Okay.</p> <p>22 A You also have to realize that the scoping report I</p> <p>23 created was, again, grading and roadway. So when</p> <p>24 you read it, you will find nothing about bridge 9340</p> <p>25 in there.</p>
<p>30</p> <p>1 then Geoff in this case was done with the project.</p> <p>2 Q Okay.</p> <p>3 A He had nothing to do with it.</p> <p>4 Q Okay. And the construction engineer takes over. I think his name is Eric. Do you know him?</p> <p>5 think his name is Eric. Do you know him?</p> <p>6 A I do know Eric Embocher (phonetic), yes.</p> <p>7 Q Okay.</p> <p>8 A I can't remember if he was the actual construction engineer.</p> <p>9 engineer.</p> <p>10 Q I think he was and out of the Mendota office. And I kind of figured out yesterday through Dale that there's no construction office in Roseville; is that right?</p> <p>11 kind of figured out yesterday through Dale that there's no construction office in Roseville; is that right?</p> <p>12 there's no construction office in Roseville; is that right?</p> <p>13 right?</p> <p>14 A Correct.</p> <p>15 Q Okay. Do you know who, if anyone, was the project manager out of central bridge for 107?</p> <p>16 manager out of central bridge for 107?</p> <p>17 A No.</p> <p>18 Q Do you know whether there was one or not?</p> <p>19 A Someone had to develop the bridge plans for the rehabilitation of bridge 9340, yes. So, therefore, someone was assigned to do that out of central office bridge.</p> <p>20 rehabilitation of bridge 9340, yes. So, therefore, someone was assigned to do that out of central office bridge.</p> <p>21 someone was assigned to do that out of central office bridge.</p> <p>22 office bridge.</p> <p>23 Q And in responding to the various data requests, have you produced to Barbara or others the scoping reports for 107 as well?</p> <p>24 you produced to Barbara or others the scoping reports for 107 as well?</p> <p>25 reports for 107 as well?</p>	<p>32</p> <p>1 Q Right. Would -- Would Geoff Prelgo, he might have meeting minutes for the predesign and the final design?</p> <p>2 meeting minutes for the predesign and the final design?</p> <p>3 design?</p> <p>4 A He might, yeah.</p> <p>5 Q When -- When were you assigned to that project, Jerome?</p> <p>6 Jerome?</p> <p>7 A Let's say summer 2006 --</p> <p>8 Q Okay.</p> <p>9 A -- is when the scoping report was done. I might have been assigned to it spring 2006. But the scoping report gets done summer 2006. I probably presented the scoping report September 2006. And I'm kind of guessing.</p> <p>10 have been assigned to it spring 2006. But the scoping report gets done summer 2006. I probably presented the scoping report September 2006. And I'm kind of guessing.</p> <p>11 scoping report gets done summer 2006. I probably presented the scoping report September 2006. And I'm kind of guessing.</p> <p>12 presented the scoping report September 2006. And I'm kind of guessing.</p> <p>13 I'm kind of guessing.</p> <p>14 Q Okay.</p> <p>15 A I don't know if it pushed back into 2005. I mean, Geoff had to create the plans. And, you know, I can't remember when the project was let. So...</p> <p>16 I don't know if it pushed back into 2005. I mean, Geoff had to create the plans. And, you know, I can't remember when the project was let. So...</p> <p>17 Geoff had to create the plans. And, you know, I can't remember when the project was let. So...</p> <p>18 Q Well, the documents will --</p> <p>19 A Yeah.</p> <p>20 Q -- speak to that. That's fair. You know, when you were talking about 116, you said 116 kind of emanated out of 102. What about 107, does that emanate out of the others or was that a separate project that was kind of ongoing because it was a bigger stretch of I-35?</p> <p>21 were talking about 116, you said 116 kind of emanated out of 102. What about 107, does that emanate out of the others or was that a separate project that was kind of ongoing because it was a bigger stretch of I-35?</p> <p>22 emanated out of 102. What about 107, does that emanate out of the others or was that a separate project that was kind of ongoing because it was a bigger stretch of I-35?</p> <p>23 emanate out of the others or was that a separate project that was kind of ongoing because it was a bigger stretch of I-35?</p> <p>24 project that was kind of ongoing because it was a bigger stretch of I-35?</p> <p>25 bigger stretch of I-35?</p>

<p>33</p> <p>1 A I'm probably slightly misdirecting you when I'm</p> <p>2 saying that either 116 or 107 emanated out of 102.</p> <p>3 You have to realize that all of this is connected.</p> <p>4 Right? And what's happening is central office</p> <p>5 bridge is studying bridge 9340 like crazy, and</p> <p>6 they're trying to figure out what they can do.</p> <p>7 Okay? And, again, we have this big project</p> <p>8 management team at metro; and, you know, we're</p> <p>9 coordinating everything. So someone says we have to</p> <p>10 rehabilitate the concrete pavement on the land in</p> <p>11 this section of highway, okay, and that's going to</p> <p>12 happen in this year. So 2007. And then the bridge</p> <p>13 office goes, oh, well, while you're doing that,</p> <p>14 let's do some bridge repair on some bridges in the</p> <p>15 area. So they actually did bridge rehabilitation on</p> <p>16 several bridges in the area. Bridge 9340 was just</p> <p>17 one of them.</p> <p>18 Q That stretch of I-35 has a lot of bridges; right?</p> <p>19 A Correct.</p> <p>20 Q Yeah.</p> <p>21 A So what happens then is that the management team is</p> <p>22 doing their job in, you know, combining separate</p> <p>23 issues that need work into one project and letting</p> <p>24 it as one project as obviously an efficient use of</p> <p>25 taxpayer dollars.</p>	<p>35</p> <p>1 seen parts of it. But isn't it the case that at</p> <p>2 kind of the outset of that study it says when we</p> <p>3 started this project we assumed that the I-35W</p> <p>4 bridge needed to be replaced, but by the time we</p> <p>5 ended the project we determined that it didn't need</p> <p>6 to be replaced? Does it say something like that?</p> <p>7 A I would say it differently. What -- The study said</p> <p>8 there were several catalysts for the study --</p> <p>9 Q That's right. Okay.</p> <p>10 A -- meaning there are several things happening in</p> <p>11 this area that all say we need to figure out what to</p> <p>12 do with the 94/35W commons because they're all</p> <p>13 feeding into this. So the fact that bridge 9340</p> <p>14 would need to be replaced sometime in the future was</p> <p>15 a catalyst, and it was a catalyst at the beginning</p> <p>16 of the project and a catalyst at the end. You know,</p> <p>17 it still needed to be replaced at some time, whether</p> <p>18 it was soon or later. And then there were, you</p> <p>19 know, three or four other catalysts.</p> <p>20 Q Okay. That project then came to a conclusion</p> <p>21 because the study was issued; right?</p> <p>22 A Right. The study was actually completed. We -- We</p> <p>23 started and completed it on time. In July 2007 we</p> <p>24 were actually in the process of making the report</p> <p>25 public. We were completely done.</p>
<p>34</p> <p>1 Q Okay. And tell me about 8825-204. First of all</p> <p>2 8825 is what?</p> <p>3 A The project is called the Minneap -- the downtown</p> <p>4 Minneapolis freeway study 94/35W commons. The 8825</p> <p>5 is a generic number. It's not tied to a control</p> <p>6 section because we just needed to assign a project</p> <p>7 number to it. We actually have a couple control</p> <p>8 sections converging here. So we just gave it a</p> <p>9 generic number.</p> <p>10 The project was a study, and you could</p> <p>11 actually call it prescoping. And its purpose was to</p> <p>12 figure out, if we were to reconstruct the 94/35W</p> <p>13 commons, what are the possibilities and potential</p> <p>14 impacts and costs.</p> <p>15 Q So you were one of the people who worked on that</p> <p>16 study?</p> <p>17 A Right. I was the project manager executing the</p> <p>18 contract. This was a consultant contract. A</p> <p>19 consultant actually did the work, and I executed the</p> <p>20 contract and worked with the consultant.</p> <p>21 Q Who was the consultant who worked on that?</p> <p>22 A CH2M Hill.</p> <p>23 Q And that study came out in July of 2007; right?</p> <p>24 A Yep.</p> <p>25 Q Okay. And I'm going from memory here because I've</p>	<p>36</p> <p>1 Q Right. It's a fairly substantial piece of work.</p> <p>2 A Yeah, it was a year-and-a-half report. It was a</p> <p>3 very big study.</p> <p>4 MS. BERGSTROM: Why don't we take a</p> <p>5 little break, and I'm going to look through some of</p> <p>6 these things and figure out what we need to go over.</p> <p>7 (Whereupon, Exhibits 3 and 4 were</p> <p>8 marked for identification by the</p> <p>9 court reporter.)</p> <p>10 BY MS. BERGSTROM:</p> <p>11 Q Okay. I'm going to go through a few documents that</p> <p>12 I brought along, some of -- one of which is one of</p> <p>13 these meeting minutes. But this one is an e-mail.</p> <p>14 I have a couple of questions about this. At the</p> <p>15 very top it says Daniel Dorgan. And so I'm assuming</p> <p>16 that this might have come from Dan Dorgan's e-mail</p> <p>17 files. I don't see him copied on here, so I'm not</p> <p>18 quite sure.</p> <p>19 MS. FORSLAND: It could have been</p> <p>20 attached in a string of e-mails that someone else</p> <p>21 forwarded to Dan.</p> <p>22 MS. BERGSTROM: Okay.</p> <p>23 MS. FORSLAND: In other words, this might</p> <p>24 have been sent to Ray, is it, Cekalla; and he might</p> <p>25 have attached something and sent it on to Dan,</p>

37

1 and --

2 MS. BERGSTROM: Okay.

3 MS. FORSLAND: -- therefore --

4 MS. BERGSTROM: Okay.

5 MS. FORSLAND: -- it got cycled through

6 that way.

7 BY MS. BERGSTROM:

8 Q All right. Looking at this, Jerome, you'll see the

9 date of this is December of '02; and the first line

10 is, I have been assigned as the project manager.

11 And so I guess, looking at this e-mail, I can't

12 figure out which project this is.

13 A Um-hum. I can tell you.

14 Q Okay.

15 A Wow. Okay. You will see in the e-mail subject, it

16 says SP 2783 draft. Okay?

17 Q Okay.

18 A So this is the project that developed into 2783-102.

19 Q Okay.

20 A So as I told you, I am -- I told you I was assigned

21 to the 2783-102 project around April 2004, give or

22 take a couple of months. Apparently I meant 24

23 months. Now the actual SP number was pulled later

24 than December '02. As you can see it was draft.

25 This project was 2783 draft for a while.

38

1 Q Okay.

2 A And then we finally actually pulled out the dash 102

3 number. There's an actual process, you know, to

4 pull out a real number. So, you know, like I said,

5 I supplied -- You know, that's in my e-mails too

6 because it's from me. So, you know, when they asked

7 for that, I'm sure I supplied it.

8 Q Okay.

9 A So it just shows that, you know, I was assigned to

10 this in December 2002.

11 Q In December 2002 -- Well, let me ask you this: Have

12 you ever worked with a corporation called HNTB?

13 A No.

14 Q Okay. Do you know who they are?

15 A I do.

16 Q Okay. And how do you know about them?

17 A Well, they're just one of the consultants MnDOT

18 uses.

19 Q Okay.

20 A So I in general know the consultants MnDOT uses.

21 But I've never worked with a specific person from

22 HNTB.

23 Q Okay. Do you know, does MnDOT currently use HNTB on

24 projects?

25 A I don't know.

39

1 Q Okay. In any event, in connection with project 102,

2 you never worked with HNTB?

3 A No.

4 Q Okay. Did you, back at the time of this e-mail in

5 December '02 or any time on project 102, work with

6 anybody from the University of Minnesota?

7 A I'm going to say no. And I'll just caveat that

8 with, if I was in a meeting with a person from the

9 U of M or something, I'm not including that as

10 working with them, you know.

11 Q Okay.

12 A I never, you know, worked with someone to --

13 Q Where you would regularly --

14 A -- do something.

15 Q -- call them or something like that?

16 A Yeah.

17 Q Okay.

18 A You know, if they were in a meeting or something,

19 okay. But...

20 Q I don't know if you're aware of this or not, but

21 the -- obviously the U of M did one study on the

22 I-35W bridge right around 1999, 2000, and the

23 primary author was Professor Dexter. Was he

24 somebody you had at the U?

25 A I don't think he was a professor that taught me.

40

1 Q Okay. Are you generally aware of who he is?

2 A Not really.

3 Q Okay. I don't have a copy to hand you of these

4 April 3rd, 2006 minutes. These are what you just

5 gave me. But I'm going to ask you a couple of

6 questions from the content of it. When I look

7 through these April 3rd minutes, it seems like this

8 covers the variety of projects that you were

9 involved in with the bridge; is that a fair

10 statement?

11 A Yes.

12 Q On the one hand it talks about the freeway study, it

13 talks about fatigue studies, it talks about the

14 rehabilitation, and then it talks about investment

15 strategies for replacement and things like that.

16 A Yes.

17 Q So would a meeting like this have covered kind of

18 all of the ongoing projects with the bridge?

19 A Right. That was kind of the point with these four

20 meeting minutes I provided is, you know, the group

21 of people listed in the attendees list got together

22 and were all really strategizing what do we do with

23 this bridge and when and what are the full gamut of

24 possibilities.

25 Q On about the third page it talks about investment.

<p style="text-align: right;">41</p> <p>1 strategies. And it says to perform the deck</p> <p>2 overlay, which is project 107, the cost is about</p> <p>3 3.5 million. Who -- Who does those cost studies,</p> <p>4 estimates?</p> <p>5 A Let's see. On the dash 107 project, let me --</p> <p>6 Q You want to look at that?</p> <p>7 A All right. The costs listed in Section 4.1 of those</p> <p>8 minutes are costs just for bridge 9340. It's not</p> <p>9 the entire cost for like project 107, okay --</p> <p>10 Q Okay.</p> <p>11 A -- because there's other roadway costs associated</p> <p>12 with that project. So, therefore, those numbers</p> <p>13 that are shown there in Section 4.1 were given to me</p> <p>14 by the bridge office.</p> <p>15 Q Okay. And maybe just go back a step. Are you -- It</p> <p>16 says here the minutes recorder. So you're listening</p> <p>17 in to all of the discussions that happen at this</p> <p>18 meeting, and then you collapse them into a memo; is</p> <p>19 that what you do --</p> <p>20 A Yeah.</p> <p>21 Q -- or these meeting minutes?</p> <p>22 A Right. I also arranged the meeting and kind of</p> <p>23 thought up the agenda, what needed to be addressed.</p> <p>24 Of course, what I'm doing in doing that is I'm</p> <p>25 calling Gary Peterson and going what do you want to</p>	<p style="text-align: right;">43</p> <p>1 later, in July. Paragraph 2 talks about base</p> <p>2 15-year bridge investment strategy. And the way</p> <p>3 that it's drafted, the second sentence says, I call</p> <p>4 it the base investment strategy because blah, blah,</p> <p>5 blah. But who would have been reporting on these</p> <p>6 dollars at this meeting?</p> <p>7 A When it's specifically a bridge cost, the central</p> <p>8 office bridge people are coming up with the dollars.</p> <p>9 If any of those estimates have some approach grading</p> <p>10 work, I would have created those.</p> <p>11 Q Okay. In paragraph 3 it talks about the structural</p> <p>12 steel reinforcement. Is that the same as project</p> <p>13 one zero -- or, excuse me, 116?</p> <p>14 A Right.</p> <p>15 Q Okay. And the estimate work for that is \$2 million.</p> <p>16 Again, those come from central bridge?</p> <p>17 A Correct.</p> <p>18 Q When you were working on these various projects in</p> <p>19 this time frame, did you work directly with anybody</p> <p>20 from URS?</p> <p>21 A No, I never worked directly with anyone for URS.</p> <p>22 I've read their report. I was aware what they were</p> <p>23 doing. But I never worked with them or communicated</p> <p>24 directly with them.</p> <p>25 Q Okay. I don't have copies of this, but this --</p>
<p style="text-align: right;">42</p> <p>1 talk about.</p> <p>2 Q Okay.</p> <p>3 A And, again, it's kind of that detective work; what</p> <p>4 are the issues we need to talk about here.</p> <p>5 Q Okay. The second part of that investment strategy</p> <p>6 piece is perform deck replacement and steel</p> <p>7 strengthening, and that's at 15 million. Again, and</p> <p>8 where are those numbers coming from?</p> <p>9 A Bridge office.</p> <p>10 Q Okay. And then replacement of the bridge,</p> <p>11 75 million?</p> <p>12 A Right. And, again, that's -- You know, the actual</p> <p>13 bridge cost comes from the bridge office; and then I</p> <p>14 might have thrown in some grading costs, because you</p> <p>15 always have to do a little bit of grading on a major</p> <p>16 bridge like that to get that number. And, again,</p> <p>17 that number reflects the replace the bridge only; do</p> <p>18 absolutely nothing else. And when MnDOT develops a</p> <p>19 project, it -- a number like that is going to go up,</p> <p>20 once you start considering NEPA impacts, what the</p> <p>21 community wants, if they want to expand the freeway.</p> <p>22 Again, is the limits just from abutment to abutment</p> <p>23 or do you have to go a mile down the road?</p> <p>24 Q Okay. Let's go to this exhibit, which are the</p> <p>25 minutes I did have. And these are a couple months</p>	<p style="text-align: right;">44</p> <p>1 excuse me, I'm going to sneeze -- the November 1,</p> <p>2 2006 minutes. The second paragraph, steel</p> <p>3 reinforcement presentation, it says Gary Peterson</p> <p>4 presented the cost of reinforcing the steel. Gary</p> <p>5 restated that not performing the reinforcing work is</p> <p>6 not acceptable. The consequences of a structural</p> <p>7 failure are too great. Do you remember that</p> <p>8 conversation?</p> <p>9 A Yes.</p> <p>10 Q Was he pretty adamant about it?</p> <p>11 A I wrote it down.</p> <p>12 Q I mean, do you -- other than looking at the words on</p> <p>13 the paper, do you recall the presentation on that</p> <p>14 issue?</p> <p>15 A Sure, I recall the presentation. It was -- Are you</p> <p>16 talking about emotions? It was -- Everything was</p> <p>17 levelheaded, you know.</p> <p>18 Q It's just this has to be done?</p> <p>19 A Yeah.</p> <p>20 Q Okay. So were you surprised a couple months later</p> <p>21 when it was like, no, it doesn't have to be done?</p> <p>22 A No.</p> <p>23 Q Why not?</p> <p>24 A Because I understood what they were saying in that</p> <p>25 doing the work may, in fact, be bad.</p>

<p style="text-align: right;">45</p> <p>1 Q Explain that to me a little bit.</p> <p>2 A If I explain it to you, I'm going to be explaining</p> <p>3 hearsay. I'm going to be explaining what they told</p> <p>4 me and what my understanding of it was.</p> <p>5 Q Okay. That's fair.</p> <p>6 A And so if you want me to --</p> <p>7 Q Sure.</p> <p>8 A -- I will.</p> <p>9 Q Yeah, I do. With that caveat, I understand.</p> <p>10 A Okay. The way you install these plates is you bolt</p> <p>11 them to the girders. Okay? So you have to drill</p> <p>12 holes in the girders first. That may not be a good</p> <p>13 thing, drilling lots and lots and lots of holes and</p> <p>14 then bolting plates to those holes. So the act of</p> <p>15 drilling the holes, you're actually making the steel</p> <p>16 weaker in the short term until you can actually get</p> <p>17 the plates bolted on the bridge to actually</p> <p>18 strengthen it.</p> <p>19 Q And is it your understanding that it was that</p> <p>20 concern that caused them to put off the project?</p> <p>21 A I'll say it was my understanding, but I'm going to</p> <p>22 caveat that with I don't know if I'm right.</p> <p>23 Q Okay. That's fair.</p> <p>24 A Because in the end it's a bridge decision what they</p> <p>25 want to do with the bridge, and I have nothing to do</p>	<p style="text-align: right;">47</p> <p>1 year. So I -- So I then changed the letting to</p> <p>2 October 2008.</p> <p>3 Q Okay.</p> <p>4 A Okay? And I'm sure that's in an e-mail that I</p> <p>5 forwarded to your document search.</p> <p>6 (Whereupon, Exhibit 5 was</p> <p>7 marked for identification by the</p> <p>8 court reporter.)</p> <p>9 BY MS. BERGSTROM:</p> <p>10 Q Now I'll have you look at this Exhibit Number 5.</p> <p>11 And this is the e-mail we were talking about</p> <p>12 earlier. This is the e-mail where it appears down</p> <p>13 below that Gary Peterson sends you an e-mail January</p> <p>14 2007 that says hold off on this project. And then</p> <p>15 you send out the e-mail to the various teams of</p> <p>16 people that you have working on your various issues;</p> <p>17 right?</p> <p>18 A Um-hum.</p> <p>19 Q Did you -- Do you remember having conversations with</p> <p>20 Gary about -- after you got this?</p> <p>21 A Sure.</p> <p>22 Q Okay. And -- And what were those about?</p> <p>23 A Not much. You know, he says let's delay it. I say</p> <p>24 okay. And I tell him this is what I got to do.</p> <p>25 And, really, that e-mail I wrote above here on</p>
<p style="text-align: right;">46</p> <p>1 with that. I just do what they tell me needs to be</p> <p>2 done.</p> <p>3 Q Why don't you take a look at these December 4th,</p> <p>4 2006 minutes, that's about a month later, and tell</p> <p>5 me what those -- those pertain to?</p> <p>6 A This really starts pertaining to the work that I do,</p> <p>7 which is that if we were to move forward with the</p> <p>8 steel reinforcement project, these are the items</p> <p>9 that we need to address that are nonbridge related.</p> <p>10 We need to address environmental documentation;</p> <p>11 contaminated properties; lead; right-of-way access;</p> <p>12 funding; you know, there's a section contractor</p> <p>13 advice on prosecution of work, how do we actually do</p> <p>14 it. Traffic control is a big deal. We need to</p> <p>15 coordinate and get permits from the Coast Guard and</p> <p>16 Army Corps of Engineers.</p> <p>17 Q Okay. If that plating project would have occurred,</p> <p>18 it was on -- based on these minutes was going to</p> <p>19 enter the construction phase in January '08, right,</p> <p>20 or sometime in '08?</p> <p>21 A Okay. These December 4th, 2006 minutes say that the</p> <p>22 letting date is October 2007, okay, under Section 1.</p> <p>23 And somewhere, whether it's in an e-mail or if it's</p> <p>24 in these minutes, I don't know -- it's probably in</p> <p>25 an e-mail -- Gary Peterson said let's delay it a</p>	<p style="text-align: right;">48</p> <p>1 January 22nd, you know, explains it, this is what we</p> <p>2 have to do, to those people. So there's not much</p> <p>3 conversation. I'm not asking him give me the</p> <p>4 nitty-gritty details.</p> <p>5 Q Okay.</p> <p>6 A I mean, I don't go that deep. It's like I said, if</p> <p>7 the bridge office says we don't need to work on the</p> <p>8 bridge for another year, I say fine, this is what I</p> <p>9 got to do for roadway, grading, and environmental</p> <p>10 docs.</p> <p>11 Q You just have to put the stops on your project</p> <p>12 parts?</p> <p>13 A Right. Or like here, I still -- you know, under</p> <p>14 right-of-way, I still said let's continue with this</p> <p>15 right-of-way stuff because we need to know this at</p> <p>16 some time no matter what. So...</p> <p>17 Q Did you ever have a conversation with anybody who</p> <p>18 had been working on any of these projects about</p> <p>19 whether not doing the steel plating was a good idea?</p> <p>20 A No.</p> <p>21 Q Okay. It never came up?</p> <p>22 A I didn't ask.</p> <p>23 Q Well, that's fair.</p> <p>24 A It's -- You know, they are the bridge engineers.</p> <p>25 They make the decisions. There's really no point in</p>

<p style="text-align: right;">49</p> <p>1 me grilling them.</p> <p>2 Q Well, and -- and not just you asking, but did</p> <p>3 anybody ever kind of spontaneously make any comments</p> <p>4 to you about we think this is a bad idea to put the</p> <p>5 halts on this?</p> <p>6 A No.</p> <p>7 Q Okay.</p> <p>8 A I guarantee you that entire office was thinking</p> <p>9 about what to do everyday very hard, and they were</p> <p>10 working very hard to try to figure out the right</p> <p>11 thing to do.</p> <p>12 Q As I understand this e-mail, there was going to be</p> <p>13 some inspections in the summer of 2007; and then</p> <p>14 based on those inspections, the project was either</p> <p>15 going to be completely taken off or kind of</p> <p>16 resurrected for a year later; is that right?</p> <p>17 A That's my understanding.</p> <p>18 Q Okay. And I understand that the metro inspectors</p> <p>19 were out on the bridge in May in order to do that</p> <p>20 preliminary inspection. Did you hear from them as</p> <p>21 to whether the project was going to be off or not?</p> <p>22 A No. In fact, what I can tell you specifically is,</p> <p>23 again, if you dig into the e-mails that I turned in,</p> <p>24 there's going to be an e-mail, I'm going to guess</p> <p>25 July 2007, okay, literally weeks before the bridge</p>	<p style="text-align: right;">51</p> <p>1 \$95 million and the bridge letting date as 1/1/49.</p> <p>2 Is that supposed to be 1/1/2049 or is that just a</p> <p>3 nonsensical date, do you know?</p> <p>4 A It is actually a nonsensical date. Technically it</p> <p>5 does mean January 1st, 2049. But that is code in</p> <p>6 our PPMS system for a nondate.</p> <p>7 Q Okay.</p> <p>8 A It literally means no letting date.</p> <p>9 Q Okay.</p> <p>10 A But we have to put something into the PPMS system</p> <p>11 because it doesn't understand.</p> <p>12 Q You have to populate the field somehow?</p> <p>13 A Exactly.</p> <p>14 Q Okay. Okay. All right. So then I see the special</p> <p>15 project number is 102. So this is replacement?</p> <p>16 A Um-hum.</p> <p>17 Q And it shows you as the project manager. And at</p> <p>18 this point it's a \$95 million --</p> <p>19 A Um-hum.</p> <p>20 Q -- bridge cost; right? Who's -- Who's actually</p> <p>21 running this report? Is this something you're</p> <p>22 doing?</p> <p>23 A Marv Lunceford.</p> <p>24 Q Who is Marv?</p> <p>25 A He's a metro employee. I don't know his exact</p>
<p style="text-align: right;">50</p> <p>1 collapse where I shot an e-mail to Gary Peterson and</p> <p>2 said where are we with this 116 project; are we</p> <p>3 doing anything; I just need to know. And he said</p> <p>4 just hold off for another couple months. And I said</p> <p>5 okay, I'm done with that. That was just my -- I'll</p> <p>6 do a monthly check; you know, how are you guys doing</p> <p>7 over there. It's like me waving hello. And he says</p> <p>8 things are going good; just hold off another couple</p> <p>9 of months. And I'm like fine, I'll go do other</p> <p>10 work.</p> <p>11 Q Okay.</p> <p>12 (Whereupon, Exhibit 6 was</p> <p>13 marked for identification by the</p> <p>14 court reporter.)</p> <p>15 BY MS. BERGSTROM:</p> <p>16 Q This document I just need some help in understanding</p> <p>17 what this is. And I will tell you that the pages</p> <p>18 are stapled because it was produced as one document,</p> <p>19 I believe. But it contains documents from the '60s</p> <p>20 and from the current time, and then it looks like</p> <p>21 somebody's just playing around with some dates</p> <p>22 because there's nonsensical dates in here. So I'm</p> <p>23 just trying to, in part, figure out what this is.</p> <p>24 At the -- At the top page it talks about</p> <p>25 this being a new bridge and a bridge cost of</p>	<p style="text-align: right;">52</p> <p>1 title, but he is integral in creating these PPMS</p> <p>2 schedules and -- Let's see. He balances the</p> <p>3 checkbook.</p> <p>4 Q Okay.</p> <p>5 A Okay? Granted other people make decisions on what</p> <p>6 projects go and stuff, but he's going to look at all</p> <p>7 the dollar amounts of all the projects and all the</p> <p>8 schedules and everything, and he's going to tell</p> <p>9 you, well, this is how much money you got in this</p> <p>10 fiscal year. Okay? So he's -- he's balancing the</p> <p>11 dollars.</p> <p>12 Q If you look at the date on this bottom, it says</p> <p>13 June 15th, 2007. So in the summer of 2007 the</p> <p>14 replating or the reinforcing is on hold; the re --</p> <p>15 the pavement project, which just includes the</p> <p>16 bridge, is ongoing. Why was he running replacement</p> <p>17 costs in the summer of '07?</p> <p>18 A What do you mean running replacement costs?</p> <p>19 Q I mean, what caused him to do this exercise, if you</p> <p>20 will, in the summer of 2007, do you know? I mean,</p> <p>21 did you ask him to do it?</p> <p>22 A Well, this -- this exists -- You know, when I -- You</p> <p>23 know, I said that, you know, April 2006 or something</p> <p>24 like that -- or was it 2004 -- it started. I said</p> <p>25 April 2004 is when I started working on the dash 102</p>

<p>53</p> <p>1 project.</p> <p>2 Q Right.</p> <p>3 A And then you pointed out that I was working on the</p> <p>4 draft project back in 2002. So what happens is in</p> <p>5 that 2004 time frame, it went from a draft project</p> <p>6 to the dash 102 project.</p> <p>7 Q Right.</p> <p>8 A Okay? They said let's actually put this in PPMS as</p> <p>9 a placeholder. And so I submit paperwork to Marv</p> <p>10 that says give me an SP number, you know, assign the</p> <p>11 dash 102, and let's give it a nondate of 2049 for</p> <p>12 letting, and let's for now say that the bridge</p> <p>13 cost -- in here they've only got it under bridge</p> <p>14 cost as 95 million. They don't have -- They have</p> <p>15 zero dollars under project current cost. And so</p> <p>16 that was done back in 2004. So this report was</p> <p>17 created back in that 2004 time frame. And</p> <p>18 June 15th, 2007 it just means someone printed it.</p> <p>19 Okay? And, again, what we're doing is, by putting</p> <p>20 it into our PPMS system, we're notifying management</p> <p>21 that you've got a multimillion dollar project</p> <p>22 staring you in the face that has to be done</p> <p>23 sometime, and you need to plan for it. So that's</p> <p>24 what this is, it's a placeholder.</p> <p>25 Q So when it says current cost date 4/9/04, that's</p>	<p>55</p> <p>1 75 million. I send it to Marv Lunceford, and he</p> <p>2 probably does a couple more things. And you're</p> <p>3 going to need to ask him this; but, you know, he</p> <p>4 might throw inflation there; you know, he might</p> <p>5 throw a project risk number, let's add 20 percent.</p> <p>6 Okay? Because -- And so he probably inflated the</p> <p>7 cost and threw that in there as a placeholder. Like</p> <p>8 I said, if we -- all of this stuff is super</p> <p>9 preliminary. If we really actually did the</p> <p>10 preliminary design on a roadway layout and a bridge</p> <p>11 type to be done here and a scope and tried to get</p> <p>12 municipal consent, a cost like that is inevitably</p> <p>13 going to escalate. And that's -- The point that the</p> <p>14 project current cost is zero dollars is really</p> <p>15 saying they -- we're not thinking about that right</p> <p>16 now. They know it's going to cost more.</p> <p>17 Q And the cost of the bridge at the St. Anthony Falls</p> <p>18 project right now, what is the cost of the new</p> <p>19 bridge?</p> <p>20 A The letting was \$233 million. And that doesn't</p> <p>21 strike me as unusual at all.</p> <p>22 Q All right. I think that helps me with this exhibit.</p> <p>23 Thank you.</p> <p>24 So you're looking back further into this</p> <p>25 exhibit, and you've got the bridge project manager.</p>
<p>54</p> <p>1 what tells you that this was created in April of</p> <p>2 '04?</p> <p>3 A Yeah, around then, right.</p> <p>4 Q Okay. And it's 95 million. How come then later in</p> <p>5 these minutes and stuff like that there's a --</p> <p>6 there's like a 75 million?</p> <p>7 A Um-hum.</p> <p>8 Q Why are those different? Is that that expanded cost</p> <p>9 that you're talking about?</p> <p>10 A No.</p> <p>11 Q Okay.</p> <p>12 A It's --</p> <p>13 Q Explain -- Explain that to me.</p> <p>14 A Okay. First of all, these numbers are super</p> <p>15 preliminary. Okay? We are literally just throwing</p> <p>16 a number out there. Okay? We haven't done detailed</p> <p>17 cost estimates. We haven't done bid items to come</p> <p>18 up with a detailed accurate estimate. What we're</p> <p>19 doing is we're using tools that in five minutes or</p> <p>20 an hour can give us a number, and we're like we'll</p> <p>21 start with this; it's a starting point. And it</p> <p>22 gives us a magnitude of what we're in for. Okay?</p> <p>23 And so in my minutes I probably called up CO bridge</p> <p>24 and said what's it going to cost to replace a bridge</p> <p>25 like this? They give me a number, 68 million,</p>	<p>56</p> <p>1 It's Kevin Western; right?</p> <p>2 A Right.</p> <p>3 Q And there's your \$95 million cost. Who is Tom</p> <p>4 Strybicki?</p> <p>5 A Just another central office bridge engineer.</p> <p>6 Q So this would be -- This would be project 102;</p> <p>7 right?</p> <p>8 A Correct.</p> <p>9 Q And so Kevin -- And it says that. Okay. And then</p> <p>10 Kevin Western was the bridge project manager?</p> <p>11 A That's what the document says.</p> <p>12 Q Okay. And when it says request to add a project</p> <p>13 or bridge to the PPMS system, that's dated</p> <p>14 January 11th, 2007?</p> <p>15 A That may be when the report was printed. Be careful</p> <p>16 on what that date is. You don't know what the</p> <p>17 computer is doing. I don't know what the computer</p> <p>18 is doing.</p> <p>19 Q Okay.</p> <p>20 A That might be a print date.</p> <p>21 Q Do you remember working with Kevin Western on that</p> <p>22 project 102?</p> <p>23 A I worked with -- I'm not going to say I specifically</p> <p>24 remember working with him. You know, at some point</p> <p>25 between 2004 and now I was calling the bridge office</p>

<p style="text-align: right;">57</p> <p>1 and going what number do you think. So I called</p> <p>2 somebody and somebody responded. If you dug through</p> <p>3 the e-mails, you might be able to dig out I talked</p> <p>4 to this person.</p> <p>5 Q Oh, I see. So in order for you to fill out your</p> <p>6 scoping, the financial piece of your scoping, you</p> <p>7 would have called bridge, maybe gotten hooked up</p> <p>8 with Kevin Western and said tell me the cost of the</p> <p>9 new bridge?</p> <p>10 A Right. Yeah.</p> <p>11 Q Okay.</p> <p>12 A They can only give me that. I have no idea --</p> <p>13 Q Okay.</p> <p>14 A -- how to estimate that.</p> <p>15 Q Got it. Okay. Since the bridge collapse, Jerome,</p> <p>16 have there been any new policies or changes that</p> <p>17 you're aware of in the metro division in response to</p> <p>18 the bridge collapse?</p> <p>19 A There have been changes. Is it directly related to</p> <p>20 the bridge collapse?</p> <p>21 Q Well, why don't you --</p> <p>22 A I don't know I can tell you that.</p> <p>23 Q Why don't you tell me what the change are?</p> <p>24 A Well, metro design has reorganized. But that has --</p> <p>25 that was a -- that was going to happen prior to</p>	<p style="text-align: right;">59</p> <p>1 to kind of be eyeballing what the dollars are and</p> <p>2 everything else. And separate from that obviously</p> <p>3 there's strategy and funding and budgeting that's</p> <p>4 going on in order to make sure that projects happen.</p> <p>5 Do you get involved in that strategy side?</p> <p>6 A No.</p> <p>7 Q Okay.</p> <p>8 A In fact, I should make sure I specifically say that</p> <p>9 the managers will come to me and say give me a cost</p> <p>10 estimate. I'll do the cost estimate. Okay? But --</p> <p>11 And then I give that to a manager. And, yeah, other</p> <p>12 than me doing the cost estimate, the managers have</p> <p>13 to figure out where the money comes from. And I</p> <p>14 have -- I have a concept of how they do that, but</p> <p>15 I'm not involved in the discussions. I don't know</p> <p>16 what they're doing. And so, for example, on --</p> <p>17 Well, you'd have to look in like the dash 102 to see</p> <p>18 who I was actually working for. I think somewhere</p> <p>19 in there it said back in 2004 I was working with</p> <p>20 Chris Roy on the bridge, and he was an area</p> <p>21 engineer. He works for an area manager, and that</p> <p>22 area manager was been -- was Tom O'Keefe and still</p> <p>23 is. So Tom O'Keefe is really the guy thinking about</p> <p>24 programming the money and where is the money coming</p> <p>25 from and things like that.</p>
<p style="text-align: right;">58</p> <p>1 bridge collapse. Has -- Has there been a change</p> <p>2 specifically in policy wise due to the bridge</p> <p>3 collapse at metro? I don't -- I can't think of one</p> <p>4 off the top of my head.</p> <p>5 Q And --</p> <p>6 A I mean, not a policy. You said policy.</p> <p>7 Q Right.</p> <p>8 A I mean, we've done lots of work.</p> <p>9 Q No. I'm just wondering if there's any policies that</p> <p>10 have been either changed or -- or initiated even</p> <p>11 that you're aware of since the bridge collapse,</p> <p>12 whether or not it's related to the bridge collapse,</p> <p>13 just any changes in policy that you're aware of.</p> <p>14 A Nothing more than what you read in the newspapers.</p> <p>15 Like, you know, I read in the newspapers that MnDOT</p> <p>16 did a whole bunch of bridge inspections. I don't</p> <p>17 know if that's a policy. That's work they did.</p> <p>18 They did a bunch of extra bridge inspections.</p> <p>19 Q Are you involved as a project leader or when you</p> <p>20 were working in metro design in any of the strategy</p> <p>21 around setting aside funding to implement your</p> <p>22 projects? I mean, we've talked a little bit about</p> <p>23 it today. Let me give you a little context about</p> <p>24 what I'm asking. We talked a little bit today in</p> <p>25 your scoping reports and things like that you have</p>	<p style="text-align: right;">60</p> <p>1 MS. BERGSTROM: Okay. All right. I</p> <p>2 think that's it for now.</p> <p>3 (Concluded at 9:52 a.m.)</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

1 STATE OF MINNESOTA)
2) ss.
3 COUNTY OF DAKOTA)
4

5 REPORTER'S CERTIFICATE
6
7

8 I, Angie D. Threlkeld, do hereby
9 certify that the above and foregoing transcript,
10 consisting of the preceding 60 pages is a
11 correct transcript of my stenographic notes, and is
12 a full, true and complete transcript of the
13 proceedings to the best of my ability.

14 Dated April 3, 2008.
15
16
17
18

19 ANGIE D. THRELKELD
20 Registered Professional Reporter
21 Certified Realtime Reporter
22
23
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<p>1 INTERVIEW OF RICK ARNEBECK - MARCH 20, 2008</p> <p>2</p> <p>3</p> <p>4 In the Matter of Conducting an Independent Investigation 5 Into the Collapse of the I-35W Bridge</p> <p>6</p> <p>7 Department of Transportation 8 395 John Ireland Boulevard 9 Room 6-13 10 St. Paul, Minnesota</p> <p>11</p> <p>12 Met, pursuant to notice, at 3:00 in the 13 afternoon on March 20, 2008.</p> <p>14</p> <p>15 INTERVIEWER:</p> <p>16</p> <p>17 Thomas Johnson, Attorney at Law with the 18 Gray Plant Mooty Law Firm.</p> <p>19 ALSO PRESENT:</p> <p>20 Barbara E. Forsland, MnDOT Data Practices 21 Compliance & Policy Analyst.</p> <p>22 COURT REPORTER:</p> <p>23 Angie D. Threlkeld, RPR CRR</p> <p>24</p> <p>25</p>	<p>3</p> <p>1 Q I have a few exhibits that I'll be using during the</p> <p>2 course of the interview. I'll bring those up when</p> <p>3 the time is appropriate. But let's start with what</p> <p>4 I'm going to give to the reporter and ask that it be</p> <p>5 recorded as Exhibit 1. And this is protocol for</p> <p>6 we're going to follow this afternoon.</p> <p>7 A Okay.</p> <p>8 MR. JOHNSON: Barbara, you've seen this</p> <p>9 now a number of times. But just so you --</p> <p>10 MS. FORSLAND: Thank you.</p> <p>11 MR. JOHNSON: -- be assured there are no</p> <p>12 changes.</p> <p>13 BY MR. JOHNSON:</p> <p>14 Q I'm going to real quickly go through this. Should I</p> <p>15 call you Richard or --</p> <p>16 A Rick.</p> <p>17 Q -- Rick?</p> <p>18 A Rick.</p> <p>19 Q Rick. Thank you. So this is a document entitled</p> <p>20 Witness Protocol for Interviews. And it starts out</p> <p>21 with the first paragraph dealing with authority.</p> <p>22 I'm Tom Johnson, as I indicated, from the</p> <p>23 Gray Plant Mooty law firm. And the firm has been</p> <p>24 retained by the Minnesota legislature to conduct an</p> <p>25 independent investigation into the collapse of the</p>
<p>2</p> <p>1 (Whereupon, Exhibits 1, 2, and 3 were</p> <p>2 marked for identification by the</p> <p>3 court reporter.)</p> <p>4 MR. JOHNSON: I'm Tom Johnson, Richard,</p> <p>5 with Gray Plant Mooty. And why don't we get the</p> <p>6 names of the other people that are here.</p> <p>7 MS. FORSLAND: I'm Barbara Forsland, and</p> <p>8 I'm the data practices attorney for the agency.</p> <p>9 And for the record, I want to supply two</p> <p>10 documents that were requested in this morning's</p> <p>11 interview; the metro bridge geographic distribution</p> <p>12 of area that was requested and the maintenance</p> <p>13 operations. Each document is a flow chart -- Or one</p> <p>14 document's a flow chart, and the other is a</p> <p>15 geographic map. I just wanted to make sure we had</p> <p>16 those in play.</p> <p>17 MR. JOHNSON: Thank you, Barbara.</p> <p>18 MR. ARNEBECK: My name is Rick Arnebeck,</p> <p>19 division director for the engineering services</p> <p>20 division. And I didn't bring anything because I'm</p> <p>21 coming into this cold. I've been out of town and</p> <p>22 sick for a while.</p> <p>23 MS. FORSLAND: That's fine.</p> <p>24 MR. ARNEBECK: So...</p> <p>25 BY MR. JOHNSON:</p>	<p>4</p> <p>1 I-35W bridge. The legislature has asked us to</p> <p>2 provide a report of our investigation by May 1st of</p> <p>3 this year. We'll be asking you questions regarding</p> <p>4 the bridge collapse and related policies, practices,</p> <p>5 and legislative oversight issues.</p> <p>6 Secondly, the purpose of the interview is</p> <p>7 to determine what you might know about the matters</p> <p>8 we are investigating.</p> <p>9 Thirdly, the information that we obtain</p> <p>10 from you will be confidential during the time that</p> <p>11 the interview is active. Information you provide</p> <p>12 may no longer be confidential once we submit our</p> <p>13 report to the legislature.</p> <p>14 A Okay.</p> <p>15 Q Fourthly, you are required to answer our questions</p> <p>16 truthfully. The recorder -- court reporter is</p> <p>17 present to record our conversation. Either during</p> <p>18 this interview or later in our investigation, we may</p> <p>19 determine that we need to verify certain information</p> <p>20 from you. And if that occurs, we may ask you for a</p> <p>21 further recorded statement or a signed affirmation</p> <p>22 or a statement under oath.</p> <p>23 And then, finally, we view this process</p> <p>24 as ongoing dialogue. And if you have anything after</p> <p>25 this interview that you want to tell us about,</p>

<p style="text-align: right;">5</p> <p>1 please just get in touch with me. And you have my</p> <p>2 card.</p> <p>3 A Sure.</p> <p>4 Q So with that out of the way, let's begin. One</p> <p>5 further thing that you should know though is that</p> <p>6 our client is the Minnesota legislature. So we're</p> <p>7 not here to provide you with any legal advice or</p> <p>8 legal counsel.</p> <p>9 Rick, could you start by talking about</p> <p>10 your educational background?</p> <p>11 A Sure. I have a graduate, civil engineer, bachelor</p> <p>12 of science degree from the University of Minnesota</p> <p>13 and a master's degree in management technology from</p> <p>14 the University of Minnesota. A licensed</p> <p>15 professional engineer.</p> <p>16 Q And your current position is what?</p> <p>17 A Current position is the division director for</p> <p>18 engineering services. So that office within the --</p> <p>19 that division has six major offices; bridge office,</p> <p>20 the construction office, environmental services,</p> <p>21 construction office, technical services office. And</p> <p>22 what did I forget?</p> <p>23 Q I'm going to come back to your present</p> <p>24 responsibility. I just kind of want to walk through</p> <p>25 what your professional experience has been right</p>	<p style="text-align: right;">7</p> <p>1 Q Did you have any positions prior to your employment</p> <p>2 with MnDOT?</p> <p>3 A Yes. So just prior to that I was county engineer at</p> <p>4 Winona County for eight years. Then prior to that I</p> <p>5 was with Minnesota DOT. So I was with the DOT for</p> <p>6 about ten years, then left and came back.</p> <p>7 Q I'm going to go over this --</p> <p>8 A Sure.</p> <p>9 Q -- information really pretty quickly. So -- This is</p> <p>10 not the heart of what we're here for today.</p> <p>11 Let me give you an organizational chart</p> <p>12 for MnDOT. And let's -- The first page we'll</p> <p>13 identify as Exhibit 2. And this is an</p> <p>14 organizational chart that's dated February 2008.</p> <p>15 And can you look at it real quickly and tell me if</p> <p>16 it looks to be current to you?</p> <p>17 A It does.</p> <p>18 Q Now, this position has you identified as the</p> <p>19 division director of engineering services; is that</p> <p>20 correct?</p> <p>21 A Yes.</p> <p>22 Q Could you tell me what your responsibilities are</p> <p>23 there?</p> <p>24 A My responsibilities is to provide overall direction</p> <p>25 for these areas, more on the policy end as opposed</p>
<p style="text-align: right;">6</p> <p>1 now, and then I'll come back to your current</p> <p>2 position.</p> <p>3 A Oh, okay. All right.</p> <p>4 Q So how long have you had the position of director of</p> <p>5 engineering services?</p> <p>6 A That posi -- That has been approximately a year.</p> <p>7 Last March I was appointed to that position.</p> <p>8 Previous to that I was a division director of</p> <p>9 operations, safety and technology.</p> <p>10 Q How long --</p> <p>11 A That division no longer exists. The department went</p> <p>12 through a reorganizational change. That position, I</p> <p>13 was in that for approximately a year.</p> <p>14 Q Prior to that position --</p> <p>15 A Prior to that I was --</p> <p>16 Q -- what were you doing?</p> <p>17 A -- I was the state maintenance engineer for about</p> <p>18 three months. And prior to that I was area manager</p> <p>19 for project management in the metro division. That</p> <p>20 was for approximately three years -- five years.</p> <p>21 Excuse me. Prior to that I was on special</p> <p>22 assignment for activity-based cost management</p> <p>23 project. That was about three years. Prior to that</p> <p>24 I was the maintenance engineer in District 3, up in</p> <p>25 the St. Cloud area, for approximately five years.</p>	<p style="text-align: right;">8</p> <p>1 to the -- Each of the offices under me are expertise</p> <p>2 offices. Those office directors and the people in</p> <p>3 them carry the strong expertise in those areas. And</p> <p>4 my responsibility is to provide general direction to</p> <p>5 that and to make sure that our division, which is</p> <p>6 more of a support division to the operations</p> <p>7 divisions for delivering projects, highway projects,</p> <p>8 we play a support role. We also have some direct</p> <p>9 assignments for contracts and preparational</p> <p>10 administrative things. So we're kind of like a</p> <p>11 consulting agency to the -- our consulting</p> <p>12 organization to the rest of the department in these</p> <p>13 functional areas.</p> <p>14 Q The state bridge office reports to you?</p> <p>15 A Yes.</p> <p>16 Q Tell me about your relationship with that office,</p> <p>17 what your role is kind of on a policy basis first.</p> <p>18 A Okay. If we're -- If we're developing statewide</p> <p>19 policy, department-wide policy and it's new policy,</p> <p>20 it's to help interpret what that policy means to our</p> <p>21 division and to each of those offices. So I'll work</p> <p>22 with the division director or the office director</p> <p>23 for those type of things. If there are issues from</p> <p>24 those offices --</p> <p>25 Q And the office director is Dan Dorgan; is that</p>

<p>9</p> <p>1 correct?</p> <p>2 A Yeah, Dan Dorgan is the state bridge engineer. He's</p> <p>3 the office director for bridges. If there are</p> <p>4 issues going on in those offices that have a broader</p> <p>5 impact than that functional area, we may have</p> <p>6 conversations on that. I will help to make sure</p> <p>7 that, you know, all the different disciplines or</p> <p>8 impacts, if there's policy issues, if there's other</p> <p>9 things that are going on in the department, to make</p> <p>10 sure that those things are coordinated and one thing</p> <p>11 isn't happening in conflict with the other.</p> <p>12 Most of the time my relationship with my</p> <p>13 office directors is more on an exception reporting</p> <p>14 type basis. They have responsibility for their</p> <p>15 areas, for their people, for their staff, for their</p> <p>16 budget. And if there's an issue that pops up that's</p> <p>17 of department-wide importance or something that's a</p> <p>18 question or needs concerns or coordination with the</p> <p>19 other divisions, if they haven't taken care of that</p> <p>20 directly with those divisions, then that may come up</p> <p>21 to me for consultation.</p> <p>22 Generally I meet with my staff on a -- I</p> <p>23 have a staff meeting as a whole group scheduled</p> <p>24 twice a month. Most of the time we're able to make</p> <p>25 those. Sometimes they may get canceled. Then I</p>	<p>11</p> <p>1 know or need to be raised to a higher issue or does</p> <p>2 it have something that may have to do with something</p> <p>3 coming up that, you know, are there adequate</p> <p>4 resources, those type of things. It would be on an</p> <p>5 exception basis.</p> <p>6 Q Okay. Now, this organizational chart shows you</p> <p>7 reporting to the deputy commissioner, Lisa Freese?</p> <p>8 A Yep.</p> <p>9 Q How often do you have meetings with the deputy</p> <p>10 commissioner?</p> <p>11 A We meet -- Well, too we have what we call a division</p> <p>12 director staff meeting. This is weekly we do this.</p> <p>13 And it's the five division directors and the deputy</p> <p>14 commissioner. And then followed -- That meeting is</p> <p>15 followed by commissioner staff meeting, which is the</p> <p>16 same group plus additional people. So that</p> <p>17 generally is every Tuesday. So that's the whole</p> <p>18 morning, four hours weekly on that. And then we</p> <p>19 also try to set up -- try to establish a standing</p> <p>20 meeting with her, just an update type thing for a</p> <p>21 one on one biweekly. And those -- those -- those</p> <p>22 probably happen -- actually occur maybe once a</p> <p>23 month, biweekly. Quite often there's a conflict,</p> <p>24 and this one gets canceled and you just got to...</p> <p>25 Q What's typically discussed during those meetings?</p>
<p>10</p> <p>1 also have a one-on-one, just face-to-face meeting</p> <p>2 with each of my office directors at least once a</p> <p>3 month. That's on a regular scheduled basis. And</p> <p>4 then if there's anything that comes up that's</p> <p>5 pertinent that they need my advice on or to inform</p> <p>6 me on or I need to inform them on, that's done on a</p> <p>7 case-by-case basis.</p> <p>8 Q Can you give me some estimate as to the amount of</p> <p>9 time that you would spend with Mr. Dorgan and</p> <p>10 bridge-related issues? And, Rick, this is very</p> <p>11 approximate. I'm just trying --</p> <p>12 A Yeah.</p> <p>13 Q -- to get a sense for --</p> <p>14 A I would say probably an hour a week of actual</p> <p>15 one-to-one meetings. That might be a series of 15</p> <p>16 meetings. It might be some phone calls. It may be</p> <p>17 a sit down and discussion. You know, those type</p> <p>18 things.</p> <p>19 Q How often during those meetings would safety</p> <p>20 concerns -- bridge safety concerns come up? Is that</p> <p>21 something that you regularly discuss or is that an</p> <p>22 exceptional point of discussion?</p> <p>23 A No, I would say the times that they would come up if</p> <p>24 there's -- if there's a safety concern with the</p> <p>25 bridge that Dan is filling me in and feels I need to</p>	<p>12</p> <p>1 A Well, just with the one on ones it's kind of what's</p> <p>2 happening in the division, what we're doing,</p> <p>3 what's -- It's a matter of just kind of keeping --</p> <p>4 keeping updated or if there's anything that you need</p> <p>5 that the deputy commissioner wants to alert me to or</p> <p>6 something related specifically to an office or an</p> <p>7 area that we're working on. And on the division</p> <p>8 commissioner staff meetings, those are generally on</p> <p>9 top. It's much more of a department-wide basis, the</p> <p>10 share between the divisions, those type of things.</p> <p>11 Q In your current position do you have any direct</p> <p>12 relationship with the metro division?</p> <p>13 A Direct...</p> <p>14 Q Well, do you have any direct contact with the</p> <p>15 director of the metro division, for example?</p> <p>16 A Oh, sure. You know, there again, if it's an issue</p> <p>17 -- if it's something having to do with, you know,</p> <p>18 something related that Dan may have brought to my</p> <p>19 attention or maybe on some projects, some</p> <p>20 initiatives that we're working on that were not --</p> <p>21 not necessarily an operational problem, there may be</p> <p>22 a call out to the district, not only the metro</p> <p>23 district director but also the other districts, you</p> <p>24 know, what do you think -- what do you think of this</p> <p>25 idea or if we were to do this, how might that</p>

<p>13</p> <p>1 impact -- impact you. We look at the districts in</p> <p>2 the metro basically as our customers. So it's a</p> <p>3 matter of how --</p> <p>4 Q If --</p> <p>5 A -- things go.</p> <p>6 Q I'm sorry. If it's an issue that Dan has brought to</p> <p>7 your attention that you referenced, what might that</p> <p>8 be that would involve your having contact with the</p> <p>9 metro director?</p> <p>10 A Well, let's see. That case it has usually been very</p> <p>11 little with Dan's office, because our bridge office</p> <p>12 has a little closer relationship with the districts</p> <p>13 from an operate -- they have certain</p> <p>14 responsibilities, the inspection. They work very</p> <p>15 closely with the bridge personnel that the metro</p> <p>16 has. So there's a lot of -- There's a lot of just</p> <p>17 direct communications there. And it's very seldom</p> <p>18 does there get to be an issue that -- whether they</p> <p>19 have an issue that can't be resolved or a conflict</p> <p>20 that needs to be raised up. That very seldom</p> <p>21 happens. So I can say I haven't had that much of</p> <p>22 a -- issues pop up that way relating to the bridge</p> <p>23 office.</p> <p>24 Q Take the 35W bridge aside. Over the past year that</p> <p>25 you've been the division director, has there been</p>	<p>15</p> <p>1 call more operations -- well, more operations</p> <p>2 oriented as far as my involvement. Spent more time</p> <p>3 working with the traffic office, traffic security</p> <p>4 and operations. A lot of initiatives that we were</p> <p>5 doing were congestion management, intelligent</p> <p>6 transportation systems. And that was where I was</p> <p>7 spending a lot of my time. A lot of my work was</p> <p>8 working on trying to -- trying to secure funding and</p> <p>9 promote programs. Had a lot of involvement on the</p> <p>10 federal -- federal level, both with AASHTO and with</p> <p>11 FHWA.</p> <p>12 Q How much of your responsibilities in the -- as</p> <p>13 division director of the operations division</p> <p>14 involved bridges?</p> <p>15 A Under this section here?</p> <p>16 Q Correct.</p> <p>17 A None.</p> <p>18 Q All right. So when it says -- When the title or</p> <p>19 name of the division is operations, safety and</p> <p>20 technology division, the safety in that -- the word</p> <p>21 safety in that title doesn't reference bridge</p> <p>22 safety?</p> <p>23 A Safety in this case was more focused at the traffic</p> <p>24 safety.</p> <p>25 Q Okay.</p>
<p>14</p> <p>1 any bridge-related safety concern matters that</p> <p>2 you've brought to the deputy commissioner's</p> <p>3 attention?</p> <p>4 A That I have? No.</p> <p>5 Q Okay. Let's turn now to your previous job. And I'm</p> <p>6 going to try to --</p> <p>7 A Okay.</p> <p>8 Q -- just get a sense, Rick, as to what your</p> <p>9 responsibilities were there and then move on.</p> <p>10 A Sure.</p> <p>11 Q When you were -- Now, let's -- I'm going to show you</p> <p>12 now the next exhibit --</p> <p>13 A Sure.</p> <p>14 Q -- which we'll refer to as Exhibit 3. And it's</p> <p>15 entitled Minnesota Department of Transportation and</p> <p>16 dated January 2007. This document shows you as the</p> <p>17 division director for operations, safety and</p> <p>18 technology division; correct?</p> <p>19 A Yep.</p> <p>20 Q Can you tell me what your responsibilities were when</p> <p>21 you had that position?</p> <p>22 A Okay. They were, well, very similar as far as</p> <p>23 related department policy, issue related, those type</p> <p>24 of things, providing general direction to the group.</p> <p>25 This group was a little more -- was what we would</p>	<p>16</p> <p>1 A So it was accidents, death rates, you know, accident</p> <p>2 rates with the traffic office and congestion</p> <p>3 management and actually more on the overall roadway</p> <p>4 system, of which of course the bridge would be a</p> <p>5 portion of it as far as a segment, but...</p> <p>6 Q The office of bridge -- The state bridge office has</p> <p>7 responsibility for bridge safety --</p> <p>8 A Right.</p> <p>9 Q -- issues; correct?</p> <p>10 A Yeah.</p> <p>11 Q And the division of operations, safety and</p> <p>12 technology is concerned more about roadway safety</p> <p>13 and --</p> <p>14 A That's correct.</p> <p>15 Q -- doesn't deal with bridge safety?</p> <p>16 A That's correct. And when we say bridge safety, more</p> <p>17 from -- it's the structural integrity, I mean, with</p> <p>18 the bridge -- the bridge as the bridge, the</p> <p>19 structures, retaining walls, and those type of</p> <p>20 things. They're generally very static. It's a</p> <p>21 matter of either they're performing; or if they</p> <p>22 don't perform, you have a real safety problem.</p> <p>23 And...</p> <p>24 Q You also mention that you were state maintenance</p> <p>25 director?</p>

<p>17</p> <p>1 A State maintenance engineer under this page 2 here, 2 if you look in that one.</p> <p>3 Q So that is under operations, safety and technology 4 division?</p> <p>5 A Right. When I -- This is the organizational 6 structure that was in place when I served as 7 maintenance engineer. And I was appointed to that 8 maintenance engineer in December of '05. And then 9 I -- Then the division director left state service 10 shortly after that, like a matter of a few weeks. 11 So then I was -- served as the maintenance engineer, 12 and I also served as the acting division director 13 for the next three months.</p> <p>14 Q What were your responsibilities as the maintenance 15 engineer?</p> <p>16 A Maintenance engineer is the -- there again, is the 17 advisor of the maintenance districts. The districts 18 all have maintenance engineers. So the central 19 office maintenance provide policies, procedure, best 20 practices. We took care of research activities in 21 maintenance, trying to standardize or at least have 22 some consistency with our maintenance operations; 23 performance measures; the equipment; the snow and 24 ice information systems, operating those.</p> <p>25 Q What would have been your involvement in bridge</p>	<p>19</p> <p>1 Q And what area did you have?</p> <p>2 A The metro area is divided into four -- four areas. 3 And I had the east area, which was Washington and 4 Chisago County.</p> <p>5 Q In that position did you have any involvement with 6 the 35W bridge?</p> <p>7 A No.</p> <p>8 Q As the maintenance director did you have any 9 involvement in the -- well, on bridge inspections?</p> <p>10 A No. Not in that position. And keep in mind I was 11 only in that position for three months.</p> <p>12 Q We'll pass. I think I've covered your positions 13 here. I'm not going to -- You were special project 14 director, but I think I'll let that one pass.</p> <p>15 Oh, one further thing. The operations 16 division gets moved from its own division to a part 17 of the district operations sometime between February 18 two thousand -- sometime between January 2007 and 19 February 2008?</p> <p>20 A You're talking the traffic?</p> <p>21 Q The traffic --</p> <p>22 A Traffic --</p> <p>23 Q Traffic safety and operations.</p> <p>24 A Traffic safety and operations, right. That office, 25 when we -- when we went from this chart on -- org</p>
<p>18</p> <p>1 safety as the maintenance director?</p> <p>2 A The only involvement in bridge safety would be -- it 3 would be the overall safety of the roadway. So in 4 maintenance we've gotten involved in putting in 5 anti-icing systems and those type of things, not 6 only on roadways but also on bridges. So when we 7 would be looking at that, that would -- of course, 8 we would be interacting with the bridge office as 9 far as their advice on how best to do that and what 10 would be things that would work or things that 11 shouldn't work, there again looking to their 12 expertise on bridges.</p> <p>13 Q So I don't forget, let me ask now. Were you 14 involved at all in the installation of the de-icing 15 system on the I-35W bridge?</p> <p>16 A No. No, that had already been installed prior to my 17 coming into that position.</p> <p>18 Q You also mentioned that you were an area manager in 19 the metro division?</p> <p>20 A Right.</p> <p>21 Q But I lost track of what years that would have 22 covered. Do you --</p> <p>23 A That would have been for five years previous to this 24 December 2005. So it would be from 2002 -- or 2000 25 through 2005 roughly.</p>	<p>20</p> <p>1 chart on page 2 to the first one, this division, 2 which I previously headed the operations, safety and 3 technology division, that division was eliminated, 4 and then the positions -- or the offices within 5 those -- within that division were distributed 6 amongst the remaining five. So the traffic 7 operations was assigned over to the operations 8 division.</p> <p>9 Q In the course of realigning these responsibilities, 10 did the traffic safety and operations office pick up 11 any responsibility for bridge safety?</p> <p>12 A Not any different than -- no.</p> <p>13 Q So that responsibility continues --</p> <p>14 A Their responsibilities were the same. The office in 15 its entirety and its responsibilities were just 16 relocated into a different division.</p> <p>17 Q Now I'm going to move on and would like your help in 18 helping me understand the meaning of a number of 19 different terms that get thrown around -- thrown 20 about, and I'm still trying to figure out what 21 people mean by them. And the terms are 22 preservation, maintenance, repair, construction, and 23 oftentimes you'll see the word project put behind 24 each of those term.</p> <p>25 So let's start with preservation.</p>

<p>21</p> <p>1 What -- What is a preservation project?</p> <p>2 A How about if we start with maintenance? And I would</p> <p>3 just ask is it just kind of shows a progression as</p> <p>4 it goes up. If we start with -- we start with</p> <p>5 maintenance, that of course is our crews are just --</p> <p>6 are out there. They are taking care of what is</p> <p>7 there. So if there's -- If there's some cleaning,</p> <p>8 cleaning of debris, removing of snow, patching --</p> <p>9 patching of potholes, restriping the stripes,</p> <p>10 replacing the signs because they got damaged, not</p> <p>11 changing anything, but just keeping -- keeping what</p> <p>12 there is in place, just like taking good repair and</p> <p>13 maintenance of your home. That's the maintenance.</p> <p>14 Now, if we get into -- If we step it up</p> <p>15 one, that's repair. When the damage has gone beyond</p> <p>16 the level of just doing routine maintenance, and now</p> <p>17 we have to do something like residing the house or</p> <p>18 putting new shingles on. That fits in a little bit</p> <p>19 more to a repair category. Now --</p> <p>20 Q Give me some sense for how you distinguish between</p> <p>21 the two. Are they distinguished by magnitude of the</p> <p>22 project as measured by cost or the method of</p> <p>23 construction because you got to have lanes closed?</p> <p>24 How do you -- How does something go from being</p> <p>25 referred to as maintenance to being referred to as a</p>	<p>23</p> <p>1 years we might do a seal coat or a chip seal on that</p> <p>2 highway. So put a surface -- a light surface of oil</p> <p>3 and rock. The purpose for doing that is to put a</p> <p>4 protective layer on that, which protects it from the</p> <p>5 sun, protects it from the moisture, keeps that from</p> <p>6 getting into the surface. So, in essence, by doing</p> <p>7 that early on, it helps preserve the life of that</p> <p>8 pavement and slows -- prevents or slows down its</p> <p>9 deterioration. So that's a preventive maintenance</p> <p>10 type project, as opposed to building a new roadway,</p> <p>11 doing nothing to it for ten years. Water's been</p> <p>12 hitting on it. Sun has been hitting on it. It now</p> <p>13 has cracks, and it has raveling, and it has some</p> <p>14 minor potholes. And now we have to come along and</p> <p>15 we have to take a milling machine and mill some off</p> <p>16 the surface and then put another inch-and-a-half or</p> <p>17 a new layer of bituminous back on top of it and</p> <p>18 reestablish it. That's more because there's</p> <p>19 problems, and there's things that people are</p> <p>20 complaining about. That's a repair-type thing.</p> <p>21 Q When the term construction project or expansion</p> <p>22 project gets used, what are you referring to then,</p> <p>23 and how does that differ from a repair project?</p> <p>24 A A construction project could be anything. I think</p> <p>25 we use that term very loosely. And -- Well, just</p>
<p>22</p> <p>1 repair project?</p> <p>2 A I think that's not real clear because we --</p> <p>3 Q I'm glad to hear that, actually.</p> <p>4 A And it's because --</p> <p>5 Q I've been struggling.</p> <p>6 A Because we have -- we have our people doing both.</p> <p>7 We have our own crews doing both, and we will</p> <p>8 contract work out to do both. So it's very</p> <p>9 difficult. It's, you know, in some cases -- Well,</p> <p>10 no, it wouldn't make any difference whether we call</p> <p>11 it repair -- repair or maintenance. It's -- No,</p> <p>12 there's not a real clear dividing line. And I guess</p> <p>13 I don't know that we've ever -- that we really see</p> <p>14 it -- Have we ever seen a reason to develop a clear</p> <p>15 dividing line? I don't think so.</p> <p>16 Q The term preservation also gets used.</p> <p>17 A Um-hum.</p> <p>18 Q What's its meaning?</p> <p>19 A Preservation is more of an approach of doing -- of</p> <p>20 taking actions early on in the life of the asset so</p> <p>21 that you extend the life. And, you know, probably</p> <p>22 the best example of a preservation versus -- let's</p> <p>23 say a preservation versus a repair. I can take a</p> <p>24 bituminous highway, and to do a preservation project</p> <p>25 on it is the following year or maybe the next two</p>	<p>24</p> <p>1 about anybody you talk to will give you a</p> <p>2 different -- a different definition. But it</p> <p>3 could -- It could involve a repair-type activity.</p> <p>4 It could involve a preservation activity. It could</p> <p>5 involve just about anything that you let out to a</p> <p>6 contract.</p> <p>7 An expansion project would be something</p> <p>8 now if we're actually changing -- changing the</p> <p>9 system and increasing its -- in many cases</p> <p>10 increasing its capacity. We have a two-lane</p> <p>11 roadway, and we now make a four-lane roadway.</p> <p>12 That's an expansion project. If we add additional</p> <p>13 capacity, you know, I think that's -- that becomes</p> <p>14 very clear. Then there's always this area in</p> <p>15 between is when does a project -- when is a project</p> <p>16 an expansion project? When's it a safety project?</p> <p>17 When is it a preservation project? Well, you may</p> <p>18 have a section of roadway that you expand from two</p> <p>19 lane to four lane, but it also had a high accident</p> <p>20 rate. So by doing that you're also doing a safety</p> <p>21 project and doing some other things that's also</p> <p>22 preserving it. So there are oftentimes -- You know,</p> <p>23 one project, one construction project could serve</p> <p>24 several different purposes.</p> <p>25 Q Now, MnDOT's stated philosophy is preservation</p>

<p style="text-align: right;">25</p> <p>1 first; correct?</p> <p>2 A (Witness moved head affirmatively.)</p> <p>3 Q Tell me what the department means by that.</p> <p>4 A Well, I think what that means -- and a lot of this</p> <p>5 is substantiated by coming out of the legislative</p> <p>6 auditor's report that was just completed too. It</p> <p>7 says if we have limited resources we should first be</p> <p>8 putting our resources into preserving what we have</p> <p>9 to make sure what we have doesn't get any worse</p> <p>10 before we start looking at putting money into</p> <p>11 expanding it or improving it or increasing capacity</p> <p>12 or those type of things. I think in a very -- you</p> <p>13 know, in a short description that's what that --</p> <p>14 that's what that means.</p> <p>15 Now, you always -- you always have things</p> <p>16 that are some trade-offs. They're preservation; but</p> <p>17 then if you do an expansion, that accomplishes a</p> <p>18 safety, because safety is another -- another thing</p> <p>19 that is also high priority and that's ingrained in</p> <p>20 our department is the safety element of what we're</p> <p>21 doing. So...</p> <p>22 Q Rick, I've looked through your interview that was</p> <p>23 taken by the Office of Legislative Auditor.</p> <p>24 A Legislative auditor. Um-hum.</p> <p>25 Q And in that report you spoke about the tension</p>	<p style="text-align: right;">27</p> <p>1 always pressure to be expanding the system and to be</p> <p>2 meeting a need. I mean, if you have a -- You know,</p> <p>3 if you have like a very congested roadway here, but</p> <p>4 yet you're saying we really need to put money over</p> <p>5 into this segment of roadway to preserve it or to</p> <p>6 reestablish it so we don't have to spend three times</p> <p>7 as much money four years from now, that's a lot of</p> <p>8 time we're making investment for a future savings as</p> <p>9 opposed to solving an existing problem. There</p> <p>10 always gets to be that balance. And where are the</p> <p>11 priorities? Is it to spend less money to solve the</p> <p>12 problem of tomorrow or to spend money to solve the</p> <p>13 problem of today?</p> <p>14 So I think that's kind of the tension,</p> <p>15 whether you call it tension, whether you call it</p> <p>16 balancing, whether it's setting priorities. Those</p> <p>17 are -- You know, nothing is -- nothing in this world</p> <p>18 is just black and white. There's always that</p> <p>19 blending.</p> <p>20 Q Now, are you speaking generally of both highways and</p> <p>21 bridges or more -- more in the context of highways?</p> <p>22 A I think it's more in the context of highways,</p> <p>23 because the -- with the bridges it's more -- it's</p> <p>24 more of a -- more of an issue -- unless it's a real</p> <p>25 congestion point where very seldom would you have a</p>
<p style="text-align: right;">26</p> <p>1 between preservation and expansion projects.</p> <p>2 A Sure.</p> <p>3 Q I want to ask you probably a series of questions</p> <p>4 about that, but why don't you just start by talking</p> <p>5 generally about how you perceive that tension?</p> <p>6 A Well, I think it's always -- It's been said by</p> <p>7 others, and I think this is probably -- that the</p> <p>8 preservation projects are not the sexy projects, the</p> <p>9 things that you hold, ribbon cuttings over there. A</p> <p>10 lot of times they're not the things that the general</p> <p>11 public notices or takes recognition of. They're</p> <p>12 very necessary to do, but they go unnoticed.</p> <p>13 The expansion projects, when a project is</p> <p>14 shut down entirely and people's lives are made</p> <p>15 miserable for a year or two, those things they</p> <p>16 notice. But it's also -- those are the things that</p> <p>17 they see; oh, we see our money at work. So when</p> <p>18 you're looking at a programming basis, it's a matter</p> <p>19 of preserving, is less noticeable, people -- you</p> <p>20 know, general pressure from the public is we don't</p> <p>21 see as much happening for our dollar, for our</p> <p>22 investment under those type of things, even though</p> <p>23 they may be very expensive. Now we see something</p> <p>24 happening with an expansion project.</p> <p>25 So there always gets to be -- there's</p>	<p style="text-align: right;">28</p> <p>1 four-lane highway and a two-lane bridge and a</p> <p>2 four-lane highway. The bridge is more -- More often</p> <p>3 the bridge is an element of that highway system just</p> <p>4 as a sign post is or a retaining wall is or that</p> <p>5 type of thing.</p> <p>6 So when we look at the bridges, the key</p> <p>7 concern is -- the key concern there is is it</p> <p>8 functioning or is it not functioning. And those</p> <p>9 are -- That's a little more -- It's a little more</p> <p>10 measurable. It's a little more predictable.</p> <p>11 Q And why isn't questions about -- or a question about</p> <p>12 whether to repair a bridge a part of the same</p> <p>13 tension as to whether you repair or go forward with</p> <p>14 an expansion project that will gain more attention</p> <p>15 and more applause?</p> <p>16 A Well, I think we've -- with our -- With our bridge</p> <p>17 programming -- this is a lot through Dan's office --</p> <p>18 look to what are the needs, what are the bridge</p> <p>19 replacement needs, what are the age of them, what</p> <p>20 type of things can be done to extend that life span,</p> <p>21 what are the conditions through our inspection</p> <p>22 program. You know, it's -- it's a pretty thorough</p> <p>23 program that helps identify what those needs are.</p> <p>24 And we'll say from a programming need there needs to</p> <p>25 be rough estimates, so many dollars a year put into</p>

<p>29</p> <p>1 bridges. And of course with the bridge, you want to</p> <p>2 be replacing it before it's fully consumed its life.</p> <p>3 So it's been -- It's been a program that's been</p> <p>4 looked at from a statewide basis and priorities are</p> <p>5 set more from a -- The priorities are set there from</p> <p>6 the -- really from the structural analysis from an</p> <p>7 engineering basis. And then we try to then continue</p> <p>8 to feed those.</p> <p>9 Q Let me just clarify. Which bridges are we talking</p> <p>10 about? Are these state trunk highway bridges?</p> <p>11 A Yes. Anything on our system.</p> <p>12 Q Right. So if I'm hearing you right, the state</p> <p>13 bridge office determines the priority system for --</p> <p>14 A Helps -- Helps establish that. It helps establish</p> <p>15 what the condition of the bridges are, what the</p> <p>16 expected life span, and then -- Then when you went</p> <p>17 into the actual program, the timing of when a</p> <p>18 project would go, that's a joint effort between the</p> <p>19 districts, the actual development of the program is</p> <p>20 done at the district level. The bridge office</p> <p>21 provides, there again, that engineering expertise;</p> <p>22 these are what the conditions of the bridge are,</p> <p>23 this is what we help them out; this is what we</p> <p>24 anticipate the life might be. So they bring that</p> <p>25 information to the district; and the district makes</p>	<p>31</p> <p>1 often that needs to be coordinated with a larger</p> <p>2 construction or reconstruction project or major</p> <p>3 repair project. So that's why a lot of bridge</p> <p>4 decisions, they aren't just made -- they aren't made</p> <p>5 independently in and of themselves. Those are made</p> <p>6 along with the districts because they fit into the</p> <p>7 rest of the -- the other work that has to happen on</p> <p>8 each side of it.</p> <p>9 I think quite often with the bridges, I</p> <p>10 mean, you have a little more -- generally you'll</p> <p>11 have a little more flexibility. We don't want to --</p> <p>12 We don't want to wait to program a bridge for</p> <p>13 replacement when it gets to a certain minimum level</p> <p>14 that it's about to shut it down next year. We try</p> <p>15 to get the max -- We try to optimize the life out of</p> <p>16 the bridge, but you're certainly going to hopefully</p> <p>17 take it out of service and replace it before it's</p> <p>18 got the potential to fall down. So there gets to be</p> <p>19 some flexibility in there. If we say, well, we</p> <p>20 ought to be spending so much -- so many dollars a</p> <p>21 year on bridges; this bridge ought to be replaced;</p> <p>22 it maybe ought to be replaced within the next</p> <p>23 ten-year period or the next five-year period; and</p> <p>24 then that's where the districts get involved is say</p> <p>25 how does everything else fall in. And, okay, it</p>
<p>30</p> <p>1 those final programming decisions, the actual when</p> <p>2 is the year when this particular project will...</p> <p>3 Q Where does the money come from for the bridge work</p> <p>4 that removes it from this tension with -- that</p> <p>5 exists within the highway area between maintenance</p> <p>6 and new project?</p> <p>7 A Well, I don't know that it comes from any different</p> <p>8 location. I mean, it comes through our normal</p> <p>9 federal and state funding. As far as breaking down</p> <p>10 those funding sources, Abby McKenzie could probably</p> <p>11 give a more detailed description at that level.</p> <p>12 Q Does the office of the bridge engineer determine for</p> <p>13 any given year what bridges are going to be worked</p> <p>14 on within the state trunk highway system?</p> <p>15 A No. No. I think those are -- those are set and</p> <p>16 established by the districts. They have input,</p> <p>17 provide input to that and counsel. And one thing</p> <p>18 that happens, you know, you may have -- you may have</p> <p>19 a bridge where it's just on the segment, nothing's</p> <p>20 going to happen with the roadway, and you just</p> <p>21 simply replace what's in place. Those are not so</p> <p>22 much the problem so often as we're looking at now</p> <p>23 because bridge -- the bridge is not just a bridge</p> <p>24 project in itself. It's the bridge. It's the</p> <p>25 approaches. It's the roadway coming up to it so</p>	<p>32</p> <p>1 will go in at that point. And also with bridge, if</p> <p>2 you aren't going to do anything to it and it can't</p> <p>3 be replaced, well, then it's a matter of they can</p> <p>4 say we can come in and we can recommend some</p> <p>5 strengthening or some reconditioning of the bridge</p> <p>6 in order to make that structure last until such time</p> <p>7 as it might be replaced. The bridge office will</p> <p>8 make those recommendations if the -- if the district</p> <p>9 asks them to.</p> <p>10 Q When we interviewed the district -- metro district</p> <p>11 director, he said that, you know, a project, say, in</p> <p>12 the neighborhood of a \$10 million bridge project</p> <p>13 that the metro division could deal with that --</p> <p>14 A Right.</p> <p>15 Q -- level of funding within their own budget.</p> <p>16 A Um-hum.</p> <p>17 Q And you'd agree with that?</p> <p>18 A Sure. Yeah.</p> <p>19 Q Then when he was asked, well, what about a</p> <p>20 hundred-million-dollar repair project, say, how</p> <p>21 would you go about funding that if that was</p> <p>22 necessary, and he said he would come to the fourth</p> <p>23 floor.</p> <p>24 A Okay.</p> <p>25 Q Would you have a role in deciding how a</p>

<p>33</p> <p>1 hundred-million-dollar repair project would be --</p> <p>2 A Yeah, generally that type of thing would come to</p> <p>3 what we call our transportation program committee.</p> <p>4 We have a process for that. So, you know, something</p> <p>5 like that we would say these are one of the unusual</p> <p>6 types. These are the types that could really have</p> <p>7 an impact on your budget. So that comes to our --</p> <p>8 to our program committee, our transporta -- our TPC</p> <p>9 committee is what it's called. I serve on that</p> <p>10 committee, along with the other division directors</p> <p>11 and a few others. So --</p> <p>12 Q I want to stop there. Why don't you tell me who all</p> <p>13 serves on there? So you're on it, and the other</p> <p>14 division directors, and specifically who?</p> <p>15 A Yeah, the five division directors. I have to -- I</p> <p>16 may miss someone here. But the five division</p> <p>17 directors are on that committee. The deputy</p> <p>18 commissioner is on that committee. The metro</p> <p>19 division engineer is on that committee. The</p> <p>20 director of the office of investment management,</p> <p>21 Abby McKenzie, is on that committee. I'm trying to</p> <p>22 think if there's any others.</p> <p>23 Q Is the commissioner a member?</p> <p>24 A I think that committee -- that committee is advisory</p> <p>25 to the commissioner. So there may be times when the</p>	<p>35</p> <p>1 district will be working on to either</p> <p>2 anticipating -- and, there again, through -- with</p> <p>3 bridges. You know, bridge office may be advising</p> <p>4 them that you have a list of bridges here that</p> <p>5 probably will need replacement in the next 20 years.</p> <p>6 And then they'll be looking at that, and here are</p> <p>7 some of your higher priority ones. So as a district</p> <p>8 develops its 20-year plan, as it develops its</p> <p>9 10-year plan, some of those projects will be into</p> <p>10 it. But the real -- Those are projects in the plan.</p> <p>11 Those are understanding those are needs that are</p> <p>12 coming up, and everybody looks at trying to plan</p> <p>13 your budget that way. But the real critical one is</p> <p>14 the STIP, is the three-year STIP, because that's</p> <p>15 when you really have -- that's when you really have</p> <p>16 the dollars committed. That's when we commit</p> <p>17 highway trunk dollars to it. That's when we commit</p> <p>18 federal dollars to it. So things up to that point</p> <p>19 are the planning. But once it moves from the</p> <p>20 ten-year plan to -- I think we have an interim one</p> <p>21 in between now, sometimes two. But the STIP is the</p> <p>22 real -- that's the commitment of the dollars that</p> <p>23 says, yes, we have those dollars, and that project</p> <p>24 will move forward on a certain date. So a hundred</p> <p>25 million, a \$400 million bridge issue will be brought</p>
<p>34</p> <p>1 commissioner may or may not sit in on that</p> <p>2 committee, but that committee's advisory to the</p> <p>3 commissioner. So that's where -- that's where a</p> <p>4 major project like that would get discussed; okay,</p> <p>5 how does that fit into the whole scheme of things</p> <p>6 and what funding do we anticipate coming in, what is</p> <p>7 committed and what's not, and what's out and when</p> <p>8 could something like that be done.</p> <p>9 Q Is there any difference between a</p> <p>10 hundred-million-dollar repair project and, say, a</p> <p>11 \$400-million replacement project?</p> <p>12 A From the impact of coming to that committee, I would</p> <p>13 say no. A hundred million dollars is more than what</p> <p>14 a district can handle under their normal target</p> <p>15 dollars. So they would -- It would need to be</p> <p>16 discussed.</p> <p>17 Q What's the decision-making process within this TPC?</p> <p>18 A Well, you generally have -- you have a</p> <p>19 development -- a number of things that go on. You</p> <p>20 have a state plan, which is a 20-year plan. You</p> <p>21 have our 10-year improvement plan. And we have our</p> <p>22 STIP federal plan. And, generally, I mean, a</p> <p>23 \$100 million bridge for the most part is not going</p> <p>24 to -- need is not going to pop up overnight. So</p> <p>25 it's there. That's the type of thing that a</p>	<p>36</p> <p>1 in to TPC discussions as part of their -- as the</p> <p>2 district develops their plan and their guidelines,</p> <p>3 and they have to make decisions and set priorities</p> <p>4 on we will do this bridge or we will this roadway or</p> <p>5 this one we only have so many dollars a year</p> <p>6 available to us for programming.</p> <p>7 Q In your interview with the Office of Legislative</p> <p>8 Auditor you made a statement something to the effect</p> <p>9 that funding doesn't meet our needs.</p> <p>10 A Our needs exceed our funding.</p> <p>11 Q Either way. Funding -- Needs -- Yeah, right. Is</p> <p>12 that true for bridges?</p> <p>13 A Actually, our -- our money that we've been putting</p> <p>14 to bridges, been committing to bridges for the most</p> <p>15 part has been -- been trying to keep on par. There</p> <p>16 was a -- We had to have a little bit of a dip in</p> <p>17 funding in what we were putting -- on an annual</p> <p>18 basis what we were putting towards bridge repair,</p> <p>19 bridge replacement. But that was a small dip, and</p> <p>20 it's coming --</p> <p>21 Q When did that --</p> <p>22 A -- back up again.</p> <p>23 Q When did that dip occur?</p> <p>24 A Whoo, Dan could -- Dan would have those figures</p> <p>25 exactly. It was several years ago. Within -- It</p>

<p>37</p> <p>1 was less than the last four years.</p> <p>2 Q The process that you've been talking about within</p> <p>3 the TPC, is that the annual budget setting process</p> <p>4 for the department?</p> <p>5 A Well, that -- The TPC meets every other month. So</p> <p>6 we're part -- Sometimes what we're looking at is</p> <p>7 setting up policy, things for development of the</p> <p>8 next day plans. Sometimes we're looking at what has</p> <p>9 come up. We're looking for a project, you know, to</p> <p>10 plan, we anticipate this is going to be a problem</p> <p>11 eight years from now. Something has happened,</p> <p>12 either a bridge -- you know, if it's a bridge, if</p> <p>13 something deteriorates quicker, if it's a roadway,</p> <p>14 if a roadway starts deteriorating quicker, we may</p> <p>15 have to say, well, we may need to -- we may need to</p> <p>16 adjust; this project may need to move up; this</p> <p>17 project may need to move back. So it's a -- it's an</p> <p>18 ongoing basis. It's not just a once a year.</p> <p>19 Q Help me understand when the TPC becomes involved in</p> <p>20 deciding whether a particular project is going to</p> <p>21 move up or move back. What brings that project to</p> <p>22 the TPC, in other words?</p> <p>23 A When the -- It's primarily when the fund -- when the</p> <p>24 funding issue exceeds the capabilities of the</p> <p>25 district, and it now becomes no longer a dist -- I</p>	<p>39</p> <p>1 go forward within the next year or six months?</p> <p>2 A Well, I think if it's one that they can't do within</p> <p>3 their resources, there again, districts will -- You</p> <p>4 have those project that you can plan for. Then you</p> <p>5 have those that, you know, they're moving quickly.</p> <p>6 So they have what we call set-asides. Set aside so</p> <p>7 many dollars for this purpose. And the district may</p> <p>8 be looking at that every year and really deciding</p> <p>9 final projects that go into whether it's a culvert</p> <p>10 replacement, whether it's an overlay, whether it's a</p> <p>11 small bridge. If they have the capability to, there</p> <p>12 again, establish those priorities and do it within</p> <p>13 their funding, that's their decision. If they --</p> <p>14 something comes up and it's an emergency of nature</p> <p>15 that they don't have -- they don't have the</p> <p>16 capability of redirecting any dollars or shifting</p> <p>17 priority -- priorities or adjusting the program,</p> <p>18 then that's the type of thing that would come to TPC</p> <p>19 because we have a need, there's insufficient</p> <p>20 funding, what do we do.</p> <p>21 Q In your interview with the OLA, you referred to</p> <p>22 budget buster bridges.</p> <p>23 A Um-hum.</p> <p>24 Q Would you talk about what you --</p> <p>25 A We're trying not to use buster anymore.</p>
<p>38</p> <p>1 mean, a district can move -- can move projects back</p> <p>2 and forth. If they have -- They've got these</p> <p>3 projects committed. If this one -- Well, we better</p> <p>4 move this one up; we'll move this one back. This</p> <p>5 one's not getting as bad as we thought; this one's</p> <p>6 getting worse. They can do that. But when they've</p> <p>7 got to make -- make an adjustment in priorities</p> <p>8 that's going to make the funding different or --</p> <p>9 And, there again, you're looking several years in</p> <p>10 advance. You're looking at the funding's going</p> <p>11 beyond their capability, then those are the things</p> <p>12 that need to come to TPC and say, well, maybe we</p> <p>13 have to look at shifting priorities on a statewide</p> <p>14 basis in order to -- maybe a project in another</p> <p>15 district has to shift a little bit in order to</p> <p>16 handle that. Those are the discussions that go on</p> <p>17 there.</p> <p>18 Q So that reprioritizing is occurring on an ongoing</p> <p>19 basis?</p> <p>20 A It can, yes.</p> <p>21 Q Does the TPC also deal with -- I don't want to call</p> <p>22 that emergency projects -- but projects that have to</p> <p>23 be done within a short time line; there's an issue</p> <p>24 that's been identified, and the recommendation is</p> <p>25 coming from the district that this project needs to</p>	<p>40</p> <p>1 Q Could you talk about what you meant by that term?</p> <p>2 A Those are -- Those are the large -- Those are the</p> <p>3 large projects that when you're looking under a</p> <p>4 programming process, normally we're -- we're</p> <p>5 distributing dollars out and by target values</p> <p>6 established for our districts. This is on the</p> <p>7 average you should be able to get these things done.</p> <p>8 Now, when you have -- If, say, the metro</p> <p>9 area has a target -- has an annual target value of a</p> <p>10 hundred million dollars but all of the sudden they</p> <p>11 have one of these very rare occurrences that, gee,</p> <p>12 we've got to replace this bridge; this is not a</p> <p>13 recurring thing; it's not the type of thing that</p> <p>14 enters into a distribution formula; it's a 400</p> <p>15 million or a \$700 million project, those are what we</p> <p>16 call budget busters. Those are projects that we say</p> <p>17 we need to -- we need to program those more on a --</p> <p>18 you might say on a more centralized basis rather</p> <p>19 than on a decentralized basis in the district</p> <p>20 program through their target dollars. So we</p> <p>21 could -- we could -- We have budget buster bridges</p> <p>22 is a good example.</p> <p>23 We also now -- with congestion management</p> <p>24 we've also run into major interchanges in other</p> <p>25 projects that are very similar. They're not bridge,</p>

<p style="text-align: right;">41</p> <p>1 but they're road projects that, there again, they're</p> <p>2 just well beyond that district's normal planning</p> <p>3 capacity. It's the type of thing, say, if you put</p> <p>4 in your target formula, you've got to be reserving</p> <p>5 this much out of your target formula for the next 20</p> <p>6 years or to build that project 20 years from now.</p> <p>7 Q Is there a dollar figure that you have in mind when</p> <p>8 you think of a project, whether it's repair or</p> <p>9 replacement, as a budget buster?</p> <p>10 A It will vary by district, there again, because their</p> <p>11 target dollars vary so much.</p> <p>12 Q What might it be in the metro district?</p> <p>13 A Well, let me think back. I would say when you're</p> <p>14 looking at something in the \$100 million, \$50</p> <p>15 million range. When you're looking at the</p> <p>16 unexpected thing that comes up I should say. You</p> <p>17 know, when you have an unexpected thing that is in</p> <p>18 that 50 million to \$100 million range, that's going</p> <p>19 to be a -- that's going to be a major concern,</p> <p>20 because nobody is operating with keeping that big a,</p> <p>21 quote, slush fund or an uncommitted amount of</p> <p>22 dollars available.</p> <p>23 MR. JOHNSON: Let's break for just a</p> <p>24 couple of minutes.</p> <p>25 (Recess.)</p>	<p style="text-align: right;">43</p> <p>1 There again, keep in mind when I say</p> <p>2 budget busters, it's those things that are</p> <p>3 unplanned. So if we've got a bridge that's aging</p> <p>4 and its condition is getting into a certain level</p> <p>5 where we know we need to be doing things, we'll</p> <p>6 generally know that. Our sufficiency ratings and</p> <p>7 those type of things tell us that ahead of time. So</p> <p>8 there might be -- It could possibly be that that</p> <p>9 bridge might require a \$50 million repair job on it,</p> <p>10 but it's not something that would normally -- that</p> <p>11 we would know and be starting to plan for five to</p> <p>12 ten years in advance.</p> <p>13 There again, an important thing is, you</p> <p>14 know, for us both -- I mean, our funding comes</p> <p>15 primarily from two sources; the state trunk highway</p> <p>16 fund and federal highway trust fund. So many</p> <p>17 millions of dollars come into our program for</p> <p>18 capital improvements each year. And, there again,</p> <p>19 as has always been, our needs far exceed the</p> <p>20 resources. So what you're always doing is you're</p> <p>21 always saying with these dollars what do we need to</p> <p>22 -- you know, what projects move ahead. And the</p> <p>23 dollars basically feed that -- that cash demand,</p> <p>24 those dollar demands. So, there again, that's</p> <p>25 what -- budget busters, if it isn't planned for,</p>
<p style="text-align: right;">42</p> <p>1 BY MR. JOHNSON:</p> <p>2 Q Let's finish up on the budget busters.</p> <p>3 A Um-hum. Um-hum.</p> <p>4 Q That term, as I understand it now, is primarily</p> <p>5 referring to a dollar amount that's probably in</p> <p>6 excess of 50 million to the metro division?</p> <p>7 A Yes. Yeah.</p> <p>8 Q And that could be either for a major repair project</p> <p>9 or a major -- or for a replacement?</p> <p>10 A Yeah. Yeah.</p> <p>11 Q Now let me turn now to some questions about the I-35</p> <p>12 bridge. The replacement of the 35W bridge would</p> <p>13 have qualified as a budget buster I'm sure?</p> <p>14 A Yeah, without a doubt. Yeah.</p> <p>15 Q Can you help me understand what kinds of repairs on</p> <p>16 that bridge might have qualified as a budget buster,</p> <p>17 that is, and brought it to the attention of the TPC?</p> <p>18 A I think on that, knowing -- you know, knowing what</p> <p>19 we did know about it and everything else, I think</p> <p>20 for that to fall into a budget buster category would</p> <p>21 probably be the replacement. You know, the type of</p> <p>22 things that we have for repairs, it's going in and</p> <p>23 you're repairing damage. So, I mean, those</p> <p>24 generally are not going to run the 50 million, the</p> <p>25 hundred million.</p>	<p style="text-align: right;">44</p> <p>1 those are the type of things if it's unknown, well,</p> <p>2 you've got a lot of dollars and projects and</p> <p>3 contracts and promises that are out there that are</p> <p>4 committed five years and oftentimes more than that,</p> <p>5 ten years in advance, especially as we moved into</p> <p>6 what we now call advance construction. Kind of</p> <p>7 allows us to borrow on future payments on our</p> <p>8 federal funds. We've got some projects that</p> <p>9 actually, once we move forward with a project, that</p> <p>10 makes a commitment on capital dollars for five to</p> <p>11 ten years out.</p> <p>12 Q This is going to be hypothetical, but don't let that</p> <p>13 frighten you off. If someone had said that this 35W</p> <p>14 bridge has to be replaced -- had said this in early</p> <p>15 2007, it has to be replaced by 2010, where would the</p> <p>16 money for that have come?</p> <p>17 A In 2007? So -- Well, let's just assume it was prior</p> <p>18 to the funding package having been passed.</p> <p>19 Q Right. Yes.</p> <p>20 A So we know we're in a very constrained -- Having</p> <p>21 said that that would need to be replaced, we're</p> <p>22 looking at a budget buster bridge type thing. We</p> <p>23 would have to look at what projects do we have that</p> <p>24 are currently scheduled. Because generally</p> <p>25 throughout that -- from -- yeah, from this time</p>

45

1 period those dollars would basically have been
 2 spoken for. So I'd say what projects do we have out
 3 there that -- do we have a project that can be set
 4 back a few years and not do it? Because, there
 5 again, we were under a very, very constrained
 6 funding -- funding situation, you know, at that time
 7 where actually inflation -- inflation and other
 8 costs were -- We had two things; we had inflation
 9 was eating up costs, and we had revenues were going
 10 down because of what was happening both at the
 11 federal and the state level and gas tax revenues
 12 holding steady or not -- not going up with what we
 13 had projected several years prior.
 14 Q And the decision maker in terms -- Well, who is the
 15 decision maker then in terms of who -- which
 16 projects would have to be set back in order to fund
 17 a replacement bridge?
 18 A For a budget buster like that? That would be the
 19 TPC. It would be that committee.
 20 Q Now, TPC you said was advisory to the commissioner?
 21 A Um-hum.
 22 Q So --
 23 A Well, ultimate --
 24 Q -- tell me how that works.
 25 A Ultimately it's the commissioner. I mean, that's

46

1 the way things are set up statutorily. The
 2 commissioner is responsible for everything. But the
 3 transportation program committee is really the one
 4 to look -- it's the group to look at that and
 5 evaluate it and talk it and say these are the
 6 priorities and this is -- you know, these are the
 7 way -- if we have to -- something has to be moved,
 8 this one is probably more -- is higher priority than
 9 this, and this would be a way to do it and adjust
 10 the program, and it would make that -- would make
 11 that recommendation.
 12 Q When it's a budget buster project involved, is the
 13 commissioner participating in those meetings?
 14 A The commissioner is aware of what's going on.
 15 Whether it's actual -- When you say participate,
 16 actually sitting there at the table, that would
 17 depend on the commissioner's schedule whether or
 18 not. Because those -- those type of things are not
 19 normally just -- You know, that's the type of issue
 20 that doesn't just pop up, and it's there one day and
 21 you make a decision; you move forward. Those are
 22 things that are being looked at; okay, we've got a
 23 problem, and how do we do this and how do we work
 24 that around. So those would go through a series of
 25 meetings. There might be a series of meetings at

47

1 the TPC meeting. There may be a series of meetings
 2 set up separate from that. Certainly something like
 3 that the commissioner would be aware of what's going
 4 on.
 5 Q If there was to be a discussion about whether or not
 6 the bridge needs to be replaced in 2010 or 2012,
 7 say, where would that discussion occur?
 8 A That discussion would occur at TPC. And, you know,
 9 questions would be asked, what would be the
 10 ramifications of that? Would it be safe to do that?
 11 Would it -- By delaying a project for two years,
 12 whether it's this project in lieu of that one, what
 13 might be the -- what might that do to the cost of
 14 the project that we're delaying? All these things
 15 of, you know, they get to a certain condition, if
 16 they are deteriorating fast, especially a roadway,
 17 delaying this roadway two years might increase the
 18 cost of replacing it by 25 percent as opposed to
 19 delaying this project might only have -- no impact
 20 or might only increase it 2 percent.
 21 MS. FORSLAND: Could we take a short
 22 break?
 23 MR. JOHNSON: Sure.
 24 (Recess.)
 25 MS. FORSLAND: Okay. Back on the record?

48

1 Thank you very much for the break. I appreciate it.
 2 BY MR. JOHNSON:
 3 Q During the TPC considerations of a large project,
 4 budget buster project, do you receive any
 5 communication from the commissioner if the
 6 commissioner is not present in terms of what they
 7 think is the proper -- whatever the commissioner
 8 thinks is the proper course?
 9 A Not that -- None in the time that I've been there.
 10 No.
 11 Q In your statement to the OLA, you made reference to
 12 the Lafayette Bridge. And I thought there though
 13 you talked about having some suggestion from the
 14 commissioner as to the possibility of delaying the
 15 replacement of the bridge for a while?
 16 A No, I think the question came up on the Lafayette --
 17 There again, it was looking at priorities and money.
 18 The question there on the Lafayette Bridge -- and
 19 this was when I first came into this position -- was
 20 would it be possible to set that bridge back a year.
 21 And I simply raised -- raised the issue, I says, you
 22 know, our condition reports on the Lafayette Bridge,
 23 the condition of the bridge is -- you know, our
 24 bridge office is very strong this bridge needs to be
 25 replaced; we should not be talking about deferring

<p style="text-align: right;">49</p> <p>1 that project another year at all; if anything, we</p> <p>2 ought to be talking about moving it up.</p> <p>3 So, there again, I mean, those are --</p> <p>4 those are the type of discussions and things that</p> <p>5 get brought to a TPC meeting. There's a lot of</p> <p>6 meetings that occur earlier and well in advance of</p> <p>7 that. Basically issues are there, and you try to</p> <p>8 work those out ahead of type. But when they can't</p> <p>9 be, you know, that's when they're brought to TPC.</p> <p>10 But all that -- all that information is brought up</p> <p>11 to TPC, you know, at that time or brought into those</p> <p>12 discussions.</p> <p>13 So on that one that was simply no,</p> <p>14 that's, you know -- and, there again, that's where</p> <p>15 the process ought to work. You know, there's -- you</p> <p>16 know, that's my bringing in what I knew about the</p> <p>17 bridge technically; no, now that's not one that</p> <p>18 ought to be considered for setting back.</p> <p>19 Q So you were there at the TPC sort of the</p> <p>20 representative of the bridge -- bridge engineer at</p> <p>21 that point or was Dan Dorgan present as well?</p> <p>22 A Dan Dorgan was not there at that particular meeting.</p> <p>23 Now, quite often what we'll try to do at a TPC</p> <p>24 meeting is -- you know, especially if we know there</p> <p>25 are going to be bridge issues discussed, then I'll</p>	<p style="text-align: right;">51</p> <p>1 So...</p> <p>2 Q How does the department distinguish between a major</p> <p>3 interchange project may relieve congestion, which is</p> <p>4 important, but a major bridge project may have more</p> <p>5 of a public safety component to it? How does that</p> <p>6 get factored into the decision making?</p> <p>7 A Ask that question again.</p> <p>8 Q How does the department distinguish between a major</p> <p>9 interchange project --</p> <p>10 A Okay.</p> <p>11 Q -- which would relieve congestion --</p> <p>12 A Um-hum.</p> <p>13 Q -- and a bridge replacement project, which may have</p> <p>14 an element of public safety issue on it; doesn't</p> <p>15 relieve congestion, but it --</p> <p>16 A What is a safety issue? A Lafayette?</p> <p>17 Q May remove a safety issue, yes.</p> <p>18 A The safety issue is going to take priority.</p> <p>19 Q And where do I look at -- What document or who do I</p> <p>20 talk to to know that that's the policy and the</p> <p>21 practice within the department?</p> <p>22 A Well, that's -- I mean, that's the -- You know, are</p> <p>23 we going to have a document that says that? I don't</p> <p>24 think we're going to have a document. Those are</p> <p>25 the -- Those are the things that come into -- Those</p>
<p style="text-align: right;">50</p> <p>1 try to have Dan there as a staff person along with</p> <p>2 me. If we have roadway issues, right now we have a</p> <p>3 lot of things going on, discussion of pavement,</p> <p>4 Keith Shannon, my director of materials, who does</p> <p>5 the pavement modeling, I try to have Keith there.</p> <p>6 Because, there again, those are the individuals that</p> <p>7 have the expertise, that have the in-depth knowledge</p> <p>8 on this. So those are the -- That's the type of</p> <p>9 information that -- that's why Khani sits there and</p> <p>10 others. That information can be brought to that --</p> <p>11 to that committee for discussion and works into the</p> <p>12 prioritizing process. Certainly works a lot better</p> <p>13 for people to ask a question directly to the expert</p> <p>14 than to go through a middleman. So...</p> <p>15 Q Is there any difference in the way that TPC deals</p> <p>16 with a major bridge project from a major interchange</p> <p>17 project?</p> <p>18 A No, I don't think so. And I say that in respect</p> <p>19 that both a major bridge project and a major</p> <p>20 intersection project, they're going to have been</p> <p>21 well researched. They're going to have been</p> <p>22 developed. They've been talked about for a long --</p> <p>23 for a long period of time, for years ahead of time.</p> <p>24 There again, it works into the 20-year schedule, the</p> <p>25 10-year plan, the 6-year plan, the 3-year plan.</p>	<p style="text-align: right;">52</p> <p>1 are the things that come into consideration because</p> <p>2 projects are not clear -- they're not black and</p> <p>3 white. They're not just one benefit or another</p> <p>4 benefit or another one. They're -- They're a</p> <p>5 mixture of benefits. And those come into -- Those</p> <p>6 come into the discussion processes at a district</p> <p>7 level, district staff. They come into a discussion</p> <p>8 process that occur between district staff and my</p> <p>9 expert offices. Those are things that come into a</p> <p>10 discussion level at the ATPs, the area</p> <p>11 transportation planning groups, which help</p> <p>12 develop -- they add that public input into the</p> <p>13 development of the program; Met Council in the case</p> <p>14 of the metropolitan area. Those are the things that</p> <p>15 come into conversation and discussion at the TPC</p> <p>16 level. So you don't have a clear -- clear document,</p> <p>17 because things cannot be nicely put into just this</p> <p>18 category or that category, and this one makes it go</p> <p>19 and this one doesn't. So many projects contain all</p> <p>20 these different elements, which makes -- which makes</p> <p>21 the decision making and the prioritizing very</p> <p>22 complex.</p> <p>23 Q I'm going to be moving off of the TPC here</p> <p>24 momentarily, but I'd like some understanding of how</p> <p>25 the STIP comes together and -- because as I</p>

<p>53</p> <p>1 understand it, you've got recommendations coming</p> <p>2 from each of the -- each of the districts as to what</p> <p>3 they want; correct?</p> <p>4 A Yeah.</p> <p>5 Q And it comes to the TPC for review; is that correct?</p> <p>6 A Um-hum.</p> <p>7 Q If there are changes made to it, what are the</p> <p>8 factors that come into play as to what causes --</p> <p>9 Well, let me back up. You've got to put then the</p> <p>10 recommendations from each district into some overall</p> <p>11 plan; correct?</p> <p>12 A Right. Now, keep in mind when -- for the most part</p> <p>13 when the program was developed, because of the way</p> <p>14 we've set this up with our TPCs, that we've set up</p> <p>15 the dollar distribution to the districts by a</p> <p>16 formula. So we're not -- It's kind of a money goes</p> <p>17 out and projects come back.</p> <p>18 So we've established -- we establish a</p> <p>19 formula for planning purposes that a district has,</p> <p>20 there's your target value. In 2008 you've got a</p> <p>21 target value of \$150 million for programming</p> <p>22 projects. Another district's got 350. Metro's got</p> <p>23 more. And District 2's got 50 million. And it</p> <p>24 varies based on the size of the district and those</p> <p>25 type of things.</p>	<p>55</p> <p>1 Q -- the TPC is likely to say that works for us?</p> <p>2 A Right. Right. Now what always happens is you</p> <p>3 always have -- You always have your list of needs</p> <p>4 still. Needs exceed the funding. Now, it's one</p> <p>5 thing to set the plans. Another thing as things</p> <p>6 move along, well, you base your plan based on what</p> <p>7 projected revenues are going to be. So annually</p> <p>8 we've got to go back and we've got to take a look at</p> <p>9 what those projected revenues is. Is there more</p> <p>10 revenue coming in than we anticipated? Is there</p> <p>11 less revenue coming in than we anticipated? As we</p> <p>12 move a project from a concept to a real -- to a</p> <p>13 design, have we now through that process found out</p> <p>14 more about it that we said, oh, there were a lot of</p> <p>15 things that were not known in the front end that are</p> <p>16 known now; this has driven the cost of the project</p> <p>17 up, or there are some things we can't get agreement</p> <p>18 to of we decided to down scope that brought the</p> <p>19 project down. So annually with these plans you</p> <p>20 always have things that are happening with your</p> <p>21 project estimates and how does that fit into your</p> <p>22 target.</p> <p>23 And that's where TPC really comes in is</p> <p>24 now when things -- when things don't start going</p> <p>25 according to plan, how do we adjust -- how do we</p>
<p>54</p> <p>1 So those target values go out. And</p> <p>2 that's base -- The target is set up based on</p> <p>3 priorities and conditions and some things that we</p> <p>4 see, you know; and it all gets to be a complex</p> <p>5 formula on how you arrive at that. But that goes</p> <p>6 out to the area planning organization, the ATPs.</p> <p>7 They then look at what are their needs specifically,</p> <p>8 projects, and say, within these dollar amounts,</p> <p>9 that's -- here's how we think we need to balance</p> <p>10 these things; we have safety issues, we have</p> <p>11 capacity issues, we have aging pavement issues, we</p> <p>12 have bridge issues, we have traffic signal issues;</p> <p>13 I'm going to balance all those out to say here's</p> <p>14 what we think are the most important projects that</p> <p>15 need to move forward in this year and in this year</p> <p>16 and in this year. So those -- those plans then are</p> <p>17 approved by the local ATPs and then brought together</p> <p>18 into the state plan.</p> <p>19 Q So now those plans come in, which I'm sure they most</p> <p>20 often do within the --</p> <p>21 A And they come in within the target value.</p> <p>22 Q -- within the moneys --</p> <p>23 A Yeah.</p> <p>24 Q -- that have been allocated --</p> <p>25 A Right.</p>	<p>56</p> <p>1 adjust the revenues, how do we adjust the funding</p> <p>2 to, there again, optimize the overall program where</p> <p>3 it's most needed on a statewide basis. It usually</p> <p>4 is tweaking.</p> <p>5 Q It may not be fair to characterize it as fine</p> <p>6 tuning. But it sounds more like fine tuning to me.</p> <p>7 A Right. It is kind of fine tuning. However, when a</p> <p>8 project goes from a \$50 million project to a \$200</p> <p>9 million project, that's more than a fine tune.</p> <p>10 Q I'm sure there can be some heated debate that --</p> <p>11 A Yeah.</p> <p>12 Q -- accompanies that fine tuning. But JPC's role</p> <p>13 becomes --</p> <p>14 A TPC.</p> <p>15 Q TPC's role becomes difficult when you've got a</p> <p>16 district that's reporting that they've got this</p> <p>17 major project that they have to undertake, and</p> <p>18 you -- then the TPC at that point has to decide</p> <p>19 whether to do it and if to do it at the expense of</p> <p>20 what other projects?</p> <p>21 A Right. Or to make the determination that we'll do</p> <p>22 it, but it's got to be done a little further out.</p> <p>23 That's the thing you look at. Do a project now, it</p> <p>24 will cost so much. Do a project, well, we don't</p> <p>25 have the money to do it; we'll do that project five</p>

<p>57</p> <p>1 years from now or ten years from now. Well, the</p> <p>2 condition of the roadway, the condition of whatever</p> <p>3 will deteriorate, that means five years from now</p> <p>4 it's going to cost that much more. Those are the</p> <p>5 things we then have to look at. How do we best</p> <p>6 optimize the taxpayers' money to get the best value</p> <p>7 out of it today as opposed to if we don't take these</p> <p>8 actions.</p> <p>9 Q Tell me what you know about the state bridge</p> <p>10 preservation fund and how available that is to help</p> <p>11 with budget buster bridges.</p> <p>12 A There's -- You know, I tell you Abby McKenzie would</p> <p>13 be a lot better person to explain that. I think</p> <p>14 there the -- whatever happens there has implications</p> <p>15 on other funding sources, and she could explain that</p> <p>16 a lot better than I could.</p> <p>17 Q Let me switch now to bridge inspections. And it may</p> <p>18 be, Rick, that you're not going to be able to</p> <p>19 respond to many of these questions. And that's</p> <p>20 okay. Just say so --</p> <p>21 A Right.</p> <p>22 Q -- and we'll quick get through it. First let me</p> <p>23 know what your role has been in bridge inspections,</p> <p>24 starting with your current position.</p> <p>25 A Really it's just a matter of, I mean, knowing that</p>	<p>59</p> <p>1 is -- what is a critical member and which one is</p> <p>2 there and when does it go from being not a concern</p> <p>3 to being a concern. Those are the specialty areas</p> <p>4 I'm talking about.</p> <p>5 Q With respect to the 35W bridge, were you involved in</p> <p>6 reviewing any of the inspection reports --</p> <p>7 A No.</p> <p>8 Q -- for that bridge? Were you involved in any of the</p> <p>9 studies that were done on the 35W bridge?</p> <p>10 A No.</p> <p>11 Q Were you involved in any of the modifications that</p> <p>12 were made to the bridge, the additional lanes and</p> <p>13 the --</p> <p>14 A No.</p> <p>15 Q -- barriers? Well, I'm going to finish up just with</p> <p>16 some questions about, you know, what your -- your</p> <p>17 mind on what you might think would be some good</p> <p>18 changes that could occur. Let me start by asking</p> <p>19 you this -- and hindsight is always perfect.</p> <p>20 A Yeah, isn't that the truth.</p> <p>21 Q It's always 20/20. But given what we know about the</p> <p>22 35W bridge now, obviously that it collapsed, but</p> <p>23 certain things are starting to surface about what</p> <p>24 may have been the cause of the collapse, what do you</p> <p>25 think could have been done differently?</p>
<p>58</p> <p>1 we have the pro -- that we have a program and seeing</p> <p>2 that it's -- you know, helping to assure that it's</p> <p>3 adequately funded. You know, we have our bridge</p> <p>4 inspection expertise. I mean, that's our expertise</p> <p>5 office is in the bridge office. And then we also</p> <p>6 have bridge inspectors who are located in the</p> <p>7 districts. Part of our role in the bridge office is</p> <p>8 to make sure that those people -- it's to do the</p> <p>9 specialty inspection, but it also is to make sure</p> <p>10 that our district folks are adequately trained and</p> <p>11 we've got some consistency in our training program</p> <p>12 or our inspection program.</p> <p>13 Q What are you referring to when you use the term</p> <p>14 specialty inspection?</p> <p>15 A Oh, our bridge specialists. In other words, our</p> <p>16 bridge inspect -- we have -- You know, you have</p> <p>17 people who are experts in design, and you have</p> <p>18 experts who are -- people who are experts in</p> <p>19 operations or maintenance, and you have people who</p> <p>20 are experts in structural -- structural aspects. So</p> <p>21 our people in the inspection program are much</p> <p>22 more -- are trained more detail, more expert in that</p> <p>23 specialty area of the structural area, structural</p> <p>24 specialties. You know, when is -- when is rust</p> <p>25 critical and when is rust not critical and when</p>	<p>60</p> <p>1 A What do I think could have been done differently?</p> <p>2 Q Yeah.</p> <p>3 A Well, I think it's -- you know, for what we know --</p> <p>4 and I'm going to simply make reference to what has</p> <p>5 come out in the paper. And I think the, you know,</p> <p>6 interim report of the NTSB has released some things.</p> <p>7 The problem was with -- You know, one of the</p> <p>8 problems, the failure was at the gusset plate.</p> <p>9 There appears to be the gusset plate was not the</p> <p>10 thickness that it should have been.</p> <p>11 Now, the question becomes was it a design</p> <p>12 error, was it a construction error, was it a</p> <p>13 transcribing error, whatever, and those are the type</p> <p>14 of things that they're still trying to look at. One</p> <p>15 of the things that in our -- in our inspection</p> <p>16 program, in our design review program, once a design</p> <p>17 is -- you know, when the design is done on that,</p> <p>18 then it's the role of our inspectors to make sure</p> <p>19 that things are consistent with the way it was</p> <p>20 originally designed and constructed, but really with</p> <p>21 the way it was constructed. So in the way that</p> <p>22 gusset plates were -- are handled in the design</p> <p>23 review when we do stress and structural members, the</p> <p>24 gusset plates themselves in the past, there's never</p> <p>25 been an actual recalculation or a verification of</p>

<p style="text-align: right;">61</p> <p>1 the gusset plate; is it the right plate. You assume</p> <p>2 that when the design is done, the design was done</p> <p>3 correctly and that it the right plate. So then you</p> <p>4 evaluate it for that particular condition. You</p> <p>5 know, what came out is where we found that one from</p> <p>6 the NTSB where the plate appears to have been half</p> <p>7 the size or whatever, under -- undersized from what</p> <p>8 it -- from what it should have been for that. That</p> <p>9 prompted -- you know, prompted a notice that went</p> <p>10 out from them. And we're in the process of doing</p> <p>11 that nationwide is to go back -- on these steel</p> <p>12 truss bridges, go back and take a -- take a review</p> <p>13 and check the design calculations and verify that</p> <p>14 there isn't potentially an error on the design of</p> <p>15 your gusset plates. You know, we've been -- We've</p> <p>16 been -- We've been doing that with our bridges. I</p> <p>17 think a lot of states have been doing that</p> <p>18 nationwide.</p> <p>19 That's probably the -- you know, I mean,</p> <p>20 what it really boils down to -- it's a complex</p> <p>21 situation. But if you're going to boil it down just</p> <p>22 simply, we had -- you know, we had a plate that was</p> <p>23 the wrong size. If our program -- And our</p> <p>24 inspection program we learn -- we learn things from</p> <p>25 our inspection program every year. That's why we</p>	<p style="text-align: right;">63</p> <p>1 Q Yeah.</p> <p>2 A Yeah. We've got -- We're working -- We're working</p> <p>3 on that process now. And Dan would be the person to</p> <p>4 speak to that document. I'm aware that there's a</p> <p>5 process that we're --</p> <p>6 Q That's being developed?</p> <p>7 A That there's a process that's being developed.</p> <p>8 Exactly what stage we're at on that, no, I can't</p> <p>9 give you the detail.</p> <p>10 Q Last week the NTSB had their most recent update,</p> <p>11 which talked about the location of the construction</p> <p>12 vehicles and materials on the bridge and that that</p> <p>13 might have also been a contributing factor. Again,</p> <p>14 if you're not the right person to ask, tell me who I</p> <p>15 should ask around -- You know, who's -- who's</p> <p>16 responsible for setting the -- having some control</p> <p>17 over the contractor as to how they go about --</p> <p>18 A Dan -- Dan's the right person to ask, because he can</p> <p>19 tell you specifically what we -- what we have in our</p> <p>20 special provisions and what we are just in the</p> <p>21 process of modifying and making some clarifications.</p> <p>22 So Dan Dorgan is definitely the person to talk to.</p> <p>23 Q I promise this is the last time I'll ask about</p> <p>24 budget buster bridges. But what would you do</p> <p>25 differently with respect to funding those kinds of</p>
<p style="text-align: right;">62</p> <p>1 get together with other states. That's why we work</p> <p>2 through AASHTO and FHWA, and we make refinements to</p> <p>3 our program; you know, things like what happened; if</p> <p>4 something happens there or something happens there,</p> <p>5 what could have -- looking back, what could have</p> <p>6 been done to prevent this from happening. And this</p> <p>7 again it's another one of those situations.</p> <p>8 Q And, Rick, you may not be the right person to ask;</p> <p>9 but the undersizing of the gusset plate, obviously</p> <p>10 in hindsight it would have been wonderful if that</p> <p>11 had been picked up before the bridge got built. Is</p> <p>12 there a procedure in place now within MnDOT to do</p> <p>13 that, to -- and if so --</p> <p>14 A Check the design?</p> <p>15 Q Yeah.</p> <p>16 A Yeah, we've put that -- we've put that effort in</p> <p>17 place to go back, and we are now -- we are in the</p> <p>18 process of reviewing the design -- the design of the</p> <p>19 gusset plates on all of our steel bridges, all our</p> <p>20 steel truss bridges.</p> <p>21 Q But I'm asking when a new project happens, a new</p> <p>22 bridge is built, a bridge that is going up where the</p> <p>23 old one was, is there a process in place to assure</p> <p>24 that --</p> <p>25 A Check the checkers?</p>	<p style="text-align: right;">64</p> <p>1 projects, if anything?</p> <p>2 A What would we do differently? When we -- Four or</p> <p>3 five years ago when we set up our process, we set up</p> <p>4 a process within our planning to set aside some</p> <p>5 dollars for those type of projects. And that worked</p> <p>6 into -- You know, and that was worked into our</p> <p>7 planning process. Now, what we -- Like all the</p> <p>8 states got snapped up to with inflation, especially</p> <p>9 in the construction end, and estimates on major,</p> <p>10 large, large, over \$100 million projects. And the</p> <p>11 shortage of funding and the reduction of revenues,</p> <p>12 those caused a problem all over. And basically they</p> <p>13 kind of ate up those dollars that you had</p> <p>14 anticipated and set aside for budget buster bridges.</p> <p>15 So what we do differently? We'd do --</p> <p>16 Q Over what period of time has that occurred?</p> <p>17 A Well, certainly over the last -- You know, it</p> <p>18 started -- I mean, the big -- I'm trying to think.</p> <p>19 When did our -- When did our projects really --</p> <p>20 We -- Two things happened. We went into the larger</p> <p>21 projects, and I think Wakota and ROC 52 were one of</p> <p>22 the first ones that went into that. Wakota was</p> <p>23 seven years ago. ROC 52 was about the same time</p> <p>24 period. So I would say back in that time period.</p> <p>25 The ironic part is when your revenues are</p>

<p style="text-align: right;">65</p> <p>1 going down, you know, a budget -- when you have a</p> <p>2 large project like a ROC 52 and -- \$250 million, you</p> <p>3 have a project like a Wakota for a total is</p> <p>4 two hundred and -- there's two project for \$500</p> <p>5 million, well, a 10 percent blow on your costs is</p> <p>6 \$50 million. That's a budget buster. Now,</p> <p>7 percentage wise you're all right. But when this</p> <p>8 happens all into one, it's a matter of just -- the</p> <p>9 cost issue's being compounded on a time when</p> <p>10 revenues were going down and, you know, there</p> <p>11 weren't any additional revenues available. You had</p> <p>12 to -- There again, you had to make the cho -- You</p> <p>13 have projects that are halfway through; you can't</p> <p>14 not do that. That itself is a safety and congestion</p> <p>15 issue. So you move things along, and you have to</p> <p>16 start robbing from some of those funds that you had.</p> <p>17 So those things had to go on -- had to go on</p> <p>18 deferrals. That's what prompted questions like,</p> <p>19 well, do we -- do we do something with the</p> <p>20 Lafayette. Well, wait a minute, no, that's not the</p> <p>21 one; we got to look at something else. You know, so</p> <p>22 it's -- All you could do -- The only thing we could</p> <p>23 do is continue to ask for additional funding to meet</p> <p>24 the needs. That's out of our -- out of our hands to</p> <p>25 make that final -- final decision.</p>	<p style="text-align: right;">67</p> <p>1 out the minutes or something like that. I'm not</p> <p>2 intimately involved in the details on that. But</p> <p>3 it's through our -- through our AASHTO association</p> <p>4 is the primary.</p> <p>5 Q So if there is a concern about a bridge of similar</p> <p>6 design to the 35W bridge in some other state --</p> <p>7 A Um-hum.</p> <p>8 Q -- the place that you were going to pick that up is</p> <p>9 within -- within AASHTO?</p> <p>10 A Absolutely. AASHTO and FHWA. I mean, the Federal</p> <p>11 Highway Administration is also in touch. They have</p> <p>12 specialists in bridge that are in tune to those</p> <p>13 things. So between those two organizations, between</p> <p>14 our state organization with AASHTO and, there again,</p> <p>15 like on the bridge subcommittee, that's all the</p> <p>16 bridge -- that's the state bridge engineers from all</p> <p>17 the states are a member of that. So there's a</p> <p>18 communication network that goes on there. And the</p> <p>19 same thing with, as a matter of fact the Federal</p> <p>20 Administration. Federal Highway Administration has</p> <p>21 staff people that are on those committees too.</p> <p>22 So there's -- You know, there's a network</p> <p>23 of information that goes on. If there's something</p> <p>24 that pops up, if there's an alert, you know -- In</p> <p>25 this -- In this case, with the 35W bridge, there was</p>
<p style="text-align: right;">66</p> <p>1 Q And when you say to we have to ask for additional</p> <p>2 funding to meet the needs, who are you talking</p> <p>3 about?</p> <p>4 A We have to make sure that the needs that are there</p> <p>5 are identified to the legislature. The legislature</p> <p>6 has to provide the funds.</p> <p>7 Q Have you had much contact with the legislature?</p> <p>8 A No. It's handled primarily through the</p> <p>9 commissioner's -- through the commissioner's office</p> <p>10 and now through Mr. McFarlan and Betsy Parker.</p> <p>11 Q How involved are you in keeping abreast of what's</p> <p>12 going on within other states or within national</p> <p>13 organizations, particularly as it relates again to</p> <p>14 bridges and bridge safety?</p> <p>15 A Okay. The bridges, I'm less involved in that. Dan</p> <p>16 is -- Dan serves on our AASHTO. AASHTO is a state</p> <p>17 association. And I have a number of -- I mean, all</p> <p>18 of my office directors belong to different</p> <p>19 subcommittees on AASHTO. They stay -- They stay in</p> <p>20 contact with their counterparts on what's going on</p> <p>21 in other states and those type of things.</p> <p>22 I serve on a -- more of a policy level</p> <p>23 committee on AASHTO. So while I'm aware of, you</p> <p>24 know, I kind of keep things -- they keep me</p> <p>25 appraised or I might pull up a committee and check</p>	<p style="text-align: right;">68</p> <p>1 an alert -- some alerts came out from NTSB because</p> <p>2 of findings on this. If there's other things or</p> <p>3 concerns that pop up, there might be, you know, a</p> <p>4 note or a memo or a report or something that will</p> <p>5 come out from the AASHTO committee or from the FHWA</p> <p>6 bridge office or something like that.</p> <p>7 Q If there is a bridge failure in another state, is</p> <p>8 that likely to, you know, find its way into some</p> <p>9 discussion within AASHTO?</p> <p>10 A Yes.</p> <p>11 Q The 35W bridge is being discussed within AASHTO; is</p> <p>12 that what you're saying?</p> <p>13 A Oh, certainly. Now, the details of it, no, I mean,</p> <p>14 the bridge investigation, everything is very -- you</p> <p>15 know, is -- everything there is under the direction</p> <p>16 of the NTSB. But as far as issues coming out of</p> <p>17 that, things like some improvements to the</p> <p>18 inspection program we got to be doing. What are --</p> <p>19 What are some concerns, you know; what have we</p> <p>20 learned from this; what are things that we ought to</p> <p>21 be thinking about or looking about or checking into</p> <p>22 regarding steel truss bridges; those type of things.</p> <p>23 Certainly those type of things are being discussed</p> <p>24 at the AASHTO subcommittees and amongst Dan and his</p> <p>25 peers.</p>

<p>69</p> <p>1 Q And when AASHTO decides that a new inspection policy</p> <p>2 or practice should go into place, how does that get</p> <p>3 communicated to MnDOT?</p> <p>4 A Well, something generally -- I'm trying to think.</p> <p>5 Generally something like that, an inspection</p> <p>6 requirement or whatever, that would more than likely</p> <p>7 come from the Federal Highway Administrative, not</p> <p>8 necessarily from AASHTO. But a lot of the work and</p> <p>9 the discussion and everything going on developing</p> <p>10 that policy and setting that up would have been --</p> <p>11 would have been done jointly by the AASHTO</p> <p>12 committees in the -- in working with the Federal</p> <p>13 Highway Administration. So, I mean, it's done in a</p> <p>14 real team environment amongst the states and with</p> <p>15 the federal.</p> <p>16 Q Does the -- So the Federal Highway Administration</p> <p>17 puts out the -- what comes as a directive or a</p> <p>18 policy statement that you need to do annual bridge</p> <p>19 inspections not biannual?</p> <p>20 A Um-hum. Right.</p> <p>21 Q Does that communication come to the commissioner,</p> <p>22 does it come to you as the division director, or</p> <p>23 does it go directly to the state bridge engineer?</p> <p>24 A Officially -- Officially it would be addressed to</p> <p>25 the commissioner. Now, it will come to the</p>	<p>71</p> <p>1 this there were department policy issues, if there</p> <p>2 were other things that need coordinated with other</p> <p>3 agent -- for other divisions or things like that</p> <p>4 that they needed my assistance in getting somebody</p> <p>5 involved or whatever, you know, I would be</p> <p>6 contacted, there again, on an exception basis type</p> <p>7 thing. This one, you know, I wasn't -- There wasn't</p> <p>8 need for any of that, so this was being developed</p> <p>9 out of the bridge office. It is direction to a lot</p> <p>10 of people not only in our districts, but it's also</p> <p>11 direction to counties and cities because we provide</p> <p>12 that direction to them. My involvement -- This is</p> <p>13 just making -- just really assuring that it's gone</p> <p>14 through -- there's a process that we go through and</p> <p>15 make sure that it's gone through the proper process,</p> <p>16 that the proper people have been involved, that it's</p> <p>17 been reviewed by the proper agencies. And when it's</p> <p>18 all set, I sit down and do -- you know, Dan will sit</p> <p>19 down and do an overview of this, and then it goes</p> <p>20 out under my signature.</p> <p>21 Q Do you know why this update was sent out? I say</p> <p>22 update. I mean, there was another set of guidelines</p> <p>23 that were in place when this was issued; correct?</p> <p>24 A You better let me read this one. It's not the only</p> <p>25 one I've approved. What I'm checking primarily is</p>
<p>70</p> <p>1 commissioner, it will come to me, it will come to</p> <p>2 the state bridge engineer. I mean, there's a</p> <p>3 long -- There's a long distribution list that it</p> <p>4 would have to go to. And generally when those</p> <p>5 things come out, those are things we're already well</p> <p>6 aware of well ahead of time because we've been</p> <p>7 involved in the process of helping to develop those</p> <p>8 in the first place.</p> <p>9 Q Which reminds me, you were involved in at least the</p> <p>10 distribution of a technical memorandum July 19th,</p> <p>11 2007, that's -- the subject of which was Guidelines</p> <p>12 for In-Depth Inspection --</p> <p>13 A Yeah.</p> <p>14 Q -- of Fracture Critical and Other Nonredundant</p> <p>15 Bridges.</p> <p>16 (Whereupon, Exhibit 4 was</p> <p>17 marked for identification by the</p> <p>18 court reporter.)</p> <p>19 BY MR. JOHNSON:</p> <p>20 Q Tell me what your role was in developing this</p> <p>21 memorandum.</p> <p>22 A I was -- The primary role of developing this</p> <p>23 memorandum would be with the bridge office. So I</p> <p>24 wasn't involved in the details of this. What I</p> <p>25 would be involved in is if during the development of</p>	<p>72</p> <p>1 to see whether this is a new one or if this was an</p> <p>2 updated one.</p> <p>3 Q Well, let me -- I have the previous one with me. So</p> <p>4 let me -- let's just mark that as Exhibit 5.</p> <p>5 (Whereupon, is Exhibit 5 was</p> <p>6 marked for identification by the</p> <p>7 court reporter.)</p> <p>8 BY MR. JOHNSON:</p> <p>9 Q And the previous set of guidelines were dated</p> <p>10 July 20th, 2005 and came out --</p> <p>11 A Oh, came out --</p> <p>12 Q -- prior to --</p> <p>13 A Yes.</p> <p>14 Q -- prior to the time that you were heading up --</p> <p>15 A Right.</p> <p>16 Q -- engineering services?</p> <p>17 A Right. Yeah. Yeah. So this is -- This is -- This</p> <p>18 is an upgrading of this one.</p> <p>19 Q Do you have any recollection of what caused it --</p> <p>20 caused you to put this one out as an update?</p> <p>21 A Oh, I think some of this is a result of some of the</p> <p>22 initial findings that came out of the -- out of the</p> <p>23 recommendations for the NTSB. Yeah. I mean, this</p> <p>24 has to do with taking a look at your -- not only</p> <p>25 your hydraulic but your fracture critical and other</p>

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1 nonredundant bridges for underwater inspections.

2 Q This is July 19th, 2007.

3 A Oh, oh, oh.

4 Q This is prior --

5 A I'm sorry.

6 Q -- to August 1st.

7 A I'm sorry.

8 Q Close but prior to August 1st.

9 A So this prob -- There again, probably -- No, I don't

10 remember specifically. But it probably came out,

11 there again, as a result of some of the work with

12 AASHTO and others. This would be looking at,

13 especially with the hydraulic, the scour and those

14 type of things. So this would -- You know, this

15 wouldn't have been -- I'm -- You know, Dan could

16 tell you for sure. I do not believe that this was

17 initiated by anything just solely in Minnesota.

18 It's the result of, there again, the continuous --

19 continuous improvement of our process and things

20 that we ought to be doing, upgrading and improving

21 of our inspection program.

22 MR. JOHNSON: Those are all my questions.

23 If you have other thoughts that come along, let me

24 know. And it may be as we review the documents that

25 are coming our way, there may be a need to sit down

74

1 with you again. If it is, it will be specific to

2 certain documents. It won't be --

3 MR. ARNEBECK: Okay.

4 MR. JOHNSON: -- a general area.

5 Thank you.

6 MR. ARNEBECK: All right. Thank you.

7 (Concluded at 4:43 p.m.)

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1 STATE OF MINNESOTA)

2) ss.
COUNTY OF DAKOTA)

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5 REPORTER'S CERTIFICATE

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8 I, Angie D. Threlkeld, do hereby

9 certify that the above and foregoing transcript,

10 consisting of the preceding 74 pages is a

11 correct transcript of my stenographic notes, and is

12 a full, true and complete transcript of the

13 proceedings to the best of my ability.

14 Dated April 1, 2008.

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19 ANGIE D. THRELKELD
Registered Professional Reporter
Certified Realtime Reporter

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<p style="text-align: right;">1</p> <p>1 INTERVIEW OF VANCE DESENS - APRIL 18, 2008</p> <p>2</p> <p>3</p> <p>4 In the Matter of Conducting an Independent Investigation</p> <p>5 Into the Collapse of the I-35W Bridge</p> <p>6</p> <p>7 Department of Transportation</p> <p>8 395 John Ireland Boulevard</p> <p>9 Room G-13</p> <p>10 St. Paul, Minnesota</p> <p>11</p> <p>12 Met, pursuant to notice, at 2:00 in the</p> <p>13 afternoon on April 18, 2008.</p> <p>14</p> <p>15 INTERVIEWER:</p> <p>16</p> <p>17 Greg Merz, Attorney at Law with the Gray</p> <p>18 Plant Mooty Law Firm.</p> <p>19 ALSO PRESENT:</p> <p>20 Barbara E. Forsland, MnDOT Data Practices</p> <p>21 Compliance & Policy Analyst.</p> <p>22 John Bienieck, Maintenance Operations</p> <p>23 Engineer, Metro District.</p> <p>24 COURT REPORTER:</p> <p>25 Angie D. Threlkeld, RPR CRR</p>	<p style="text-align: right;">3</p> <p>1 Gray Plant Mooty law firm, and our firm has been</p> <p>2 retained by the Minnesota legislature to conduct an</p> <p>3 independent investigation into the collapse of the</p> <p>4 I-35W bridge. The legislature has asked us to</p> <p>5 provide a report of our investigation by May 1st.</p> <p>6 We'll be asking you questions today concerning the</p> <p>7 bridge collapse and related policies and practices</p> <p>8 and legislative oversight issues.</p> <p>9 The purpose of the interview today is to</p> <p>10 determine what you might know about the matters that</p> <p>11 we're investigating. During the time that our</p> <p>12 investigation is active, the information that you</p> <p>13 provide to us and that other interviewees have</p> <p>14 provided to us is not public information, but that</p> <p>15 information may no longer be confidential once we</p> <p>16 have submitted our report to the legislature.</p> <p>17 You're required to answer my questions</p> <p>18 today truthfully. The court reporter is present to</p> <p>19 record our conversation. Either during this</p> <p>20 interview or later on we may determine that we need</p> <p>21 some additional information. And if that occurs, we</p> <p>22 may ask you to give a further recorded statement, a</p> <p>23 signed affirmation, or an oath statement.</p> <p>24 We view this process as an ongoing</p> <p>25 dialogue. And so if you think of anything after</p>
<p style="text-align: right;">2</p> <p>1 (Exhibit 1 was marked for identification</p> <p>2 by the court reporter.)</p> <p>3 BY MR. MERZ:</p> <p>4 Q Good afternoon, sir.</p> <p>5 A Good afternoon.</p> <p>6 Q I think we'll just start by going around the table</p> <p>7 and introducing ourselves. My name is Greg Merz,</p> <p>8 and I'm an attorney with the Gray Plant Mooty law</p> <p>9 firm.</p> <p>10 MR. BIENIECK: I'm John Bienieck,</p> <p>11 maintenance operations engineer from metro district</p> <p>12 of MnDOT.</p> <p>13 MS. FORSLAND: And I'm Barbara Forsland.</p> <p>14 I'm the data practices attorney for the agency.</p> <p>15 MR. DESENS: I'm Vance Desens, and I'm</p> <p>16 from metro bridge. I'm a bridge inspector.</p> <p>17 BY MR. MERZ:</p> <p>18 Q Mr. Desens, you have in front of you there a</p> <p>19 document that's titled Witness Protocol for</p> <p>20 Interviews, and it's Exhibit 1 to your interview</p> <p>21 today. And we've been going through this with all</p> <p>22 the witnesses. This is the way all the interviews</p> <p>23 have started. So I think I'll just take a minute to</p> <p>24 walk through Exhibit 1 with you.</p> <p>25 As I've already mentioned, I'm with the</p>	<p style="text-align: right;">4</p> <p>1 this interview that you think we should know about,</p> <p>2 please call or e-mail us. Likewise, we would hope</p> <p>3 that you would respond if we need to follow up and</p> <p>4 ask for additional information from you.</p> <p>5 Is all that clear?</p> <p>6 A Very much.</p> <p>7 Q And the thing that it doesn't say here, but I want</p> <p>8 to let you know is this is not any sort of endurance</p> <p>9 contest. And so if you want to take a break, you</p> <p>10 let me know. I think we're scheduled for a couple</p> <p>11 of hours today, but we may end up going a little bit</p> <p>12 longer than that because I did have a number of</p> <p>13 issues that I wanted to cover with you.</p> <p>14 And I'll just jump right into it by</p> <p>15 asking you about your employment history at MnDOT.</p> <p>16 When did you come to MnDOT?</p> <p>17 A I started in August of 1978, and I became a bridge</p> <p>18 inspector in 1982. And I started working at metro</p> <p>19 in the bridge inspection program in 19 -- or, no,</p> <p>20 2001.</p> <p>21 Q So what did you do when you first came to MnDOT?</p> <p>22 A Well, I was a bridge maintenance worker.</p> <p>23 Q Then when you became a bridge inspector in 1982,</p> <p>24 where were you working?</p> <p>25 A Out of Golden Valley. At that time it was</p>

<p>5</p> <p>1 District 5.</p> <p>2 Q Describe the training that you got to become a</p> <p>3 bridge inspector.</p> <p>4 A The training. Well, we started with -- out in the</p> <p>5 field as a level I inspector with inspection</p> <p>6 engineers, and that was back in the '80s. And then</p> <p>7 in the early '90s I went to bridge inspection --</p> <p>8 bridge safety inspection schools given by the Baker</p> <p>9 Consultants. I can't think of their full official</p> <p>10 title. But, anyway, it was a two-week class. And</p> <p>11 after that then I went out and did some more</p> <p>12 inspections with another inspection -- well, level</p> <p>13 II inspector, assist a level II. And then after</p> <p>14 five years of that, then I became a level II</p> <p>15 inspector myself. That happened about the middle</p> <p>16 '90s.</p> <p>17 Q And then do you do anything to keep up? Are there</p> <p>18 continuing education requirements?</p> <p>19 A Yes. Went on and I got fracture critical bridge</p> <p>20 inspection training a couple years. And then I just</p> <p>21 got done again this spring some more.</p> <p>22 Q When did you first have fracture critical bridge</p> <p>23 inspector training?</p> <p>24 A I think it was around 1999.</p> <p>25 Q You came to the metro district in 2001; is that</p>	<p>7</p> <p>1 charge or...</p> <p>2 MR. DESENS: Huh?</p> <p>3 MR. BIENIECK: You weren't in charge of</p> <p>4 that. You --</p> <p>5 MR. DESENS: No, I wasn't in charge.</p> <p>6 Just as an inspector.</p> <p>7 MR. BIENIECK: He was one of the</p> <p>8 inspectors.</p> <p>9 BY MR. MERZ:</p> <p>10 Q And that was my understanding as well. No one</p> <p>11 reported to you?</p> <p>12 A No.</p> <p>13 Q Okay. And you work with Mr. Fuhrman; is that right?</p> <p>14 A Yeah.</p> <p>15 Q You prepare fracture critical bridge inspection</p> <p>16 reports; is that correct?</p> <p>17 A We update them from year to year, yes.</p> <p>18 Q Tell me how you do that.</p> <p>19 A Well, we'll take the previous year's report when we</p> <p>20 go out in the field and inspect, and any de --</p> <p>21 structural deficiencies that we find we write in,</p> <p>22 pencil that or pen it in, however you want to do it.</p> <p>23 Then we come back to the office and we update -- you</p> <p>24 know, if it was inspected in 2008, we go into the</p> <p>25 2007 report and update it through -- we use a</p>
<p>6</p> <p>1 right?</p> <p>2 A In 1978 there was a District 5 and a District 9, and</p> <p>3 then they merged together, and I don't remember when</p> <p>4 that happened, and we became the metro decision.</p> <p>5 I've been in this metro division all the while --</p> <p>6 Q Okay.</p> <p>7 A -- I've been working for MnDOT.</p> <p>8 Q And Mark Pribula, when did he come on the scene?</p> <p>9 When did he --</p> <p>10 A 2001 May.</p> <p>11 Q Describe for me how you go about preparing to do an</p> <p>12 inspection of a fracture critical bridge.</p> <p>13 A Well, we -- let's see. First we get the -- as --</p> <p>14 well, in metro we use our inspection reports from</p> <p>15 previous years; and we go through them, review them</p> <p>16 knowing what we know about the bridge and if we have</p> <p>17 anything else we have to look up on the plans and if</p> <p>18 we have any questions about anything or anything.</p> <p>19 And we have to set up the traffic controls and all</p> <p>20 that stuff too with it and get our snoopers -- our</p> <p>21 access equipment lined up.</p> <p>22 Q For how long have you been responsible for</p> <p>23 inspecting the 35W bridge?</p> <p>24 A Since 2001.</p> <p>25 MR. BIENIECK: Were you -- you weren't in</p>	<p>8</p> <p>1 Microsoft Word program.</p> <p>2 Q And do you also prepare PONTIS reports?</p> <p>3 A Kurt pretty much did that a lot.</p> <p>4 Q Have you ever prepared a --</p> <p>5 A Oh, yeah.</p> <p>6 Q -- PONTIS report?</p> <p>7 A Yeah. I know how, yes.</p> <p>8 Q Tell me about that process. How does that work?</p> <p>9 It's a --</p> <p>10 A It's a software that's in the computer made -- I</p> <p>11 assume that's made by the federal government. And</p> <p>12 we work through our MnDOT agency with it and --</p> <p>13 Q So you're just inputting information into a</p> <p>14 computer?</p> <p>15 A Yeah. Um-hum.</p> <p>16 Q When you pull up the PONTIS report, do you have the</p> <p>17 information from the inspection that you'd done the</p> <p>18 previous year?</p> <p>19 A Um-hum.</p> <p>20 Q Yes?</p> <p>21 A Yes, you do.</p> <p>22 Q And is that information already there --</p> <p>23 A Um-hum.</p> <p>24 Q -- and then you just add to it; is that the way it</p> <p>25 works?</p>

<p style="text-align: right;">9</p> <p>1 A That's right. Well, it works -- yeah, 2000 -- like</p> <p>2 we just got done doing a lot of them for 2007. And</p> <p>3 you go in and get the 2006 one up, and then you</p> <p>4 change your dates in the report, and it brings up a</p> <p>5 new one, and then you just edit the notes and</p> <p>6 studies.</p> <p>7 (Exhibit 2 was marked for identification</p> <p>8 by the court reporter.)</p> <p>9 BY MR. MERZ:</p> <p>10 Q Mr. Desens, I've given you what we've marked as</p> <p>11 Exhibit 2. It's a MnDOT technical memorandum number</p> <p>12 02-22-B-01. It's dated September 23rd, 2002, and it</p> <p>13 says that its subject is Guidelines for In-depth</p> <p>14 Inspection of Fracture Critical Bridges and</p> <p>15 Underwater Inspections. Have you seen this</p> <p>16 technical memorandum before?</p> <p>17 A No.</p> <p>18 Q At the top it says To: Distribution 57,612,618,650.</p> <p>19 Do you recognize any of those numbers?</p> <p>20 A No, I don't.</p> <p>21 Q Were you aware that there was any sort of written</p> <p>22 policy relating to guidelines for doing fracture</p> <p>23 critical bridge inspections that MnDOT had?</p> <p>24 A None other than what I learned in school.</p> <p>25 Q Would you go to the third page of the document? And</p>	<p style="text-align: right;">11</p> <p>1 inspection reports?</p> <p>2 A Yes.</p> <p>3 Q And you were aware that one of the things that you</p> <p>4 were to do in preparing fracture critical bridge</p> <p>5 inspection reports was to note the amount of</p> <p>6 corrosion and associated field measurements of loss</p> <p>7 of section?</p> <p>8 A That's right.</p> <p>9 Q What's -- loss of section is sometimes referred to</p> <p>10 as section loss; is that right?</p> <p>11 A That's right.</p> <p>12 Q What is that?</p> <p>13 A Well, it's where metal -- where exposed metal from</p> <p>14 the elements of the weather and road salt, I guess,</p> <p>15 where it comes corroded and rusted up, and then rust</p> <p>16 will -- is a nonstopping agent where it will just</p> <p>17 eat into the steel and corrode away, and then you</p> <p>18 get these -- what we call flaking muss, and that</p> <p>19 chips off, and then you've got loss of section in</p> <p>20 the metal.</p> <p>21 Q Does loss of section have an adverse impact on the</p> <p>22 strength of the metal that it affects?</p> <p>23 A It depends upon how far it goes. Yes.</p> <p>24 Q Is there some amount of section loss that you would</p> <p>25 regard as significant for purposes of determining</p>
<p style="text-align: right;">10</p> <p>1 I'm looking down toward the bottom of the page right</p> <p>2 before the bullets where it says, Report shall</p> <p>3 include such items as. Do you see that?</p> <p>4 A Um-hum.</p> <p>5 Q And you have to answer yes or no.</p> <p>6 A Yes, I do.</p> <p>7 Q Okay. And then there's a list of things that are to</p> <p>8 be included in a fracture critical bridge inspection</p> <p>9 report: Identification of FCMs, fracture critical</p> <p>10 members --</p> <p>11 A Yeah.</p> <p>12 Q -- description of areas visually inspected,</p> <p>13 description of areas NDT -- that's nondestructive</p> <p>14 testing -- inspected; is that right?</p> <p>15 A That's right.</p> <p>16 Q Amount of corrosion and associated field</p> <p>17 measurements of loss of section, description of</p> <p>18 fatigue prone areas, length and extent of cracking</p> <p>19 present, and extent of external damage due to impact</p> <p>20 or external damage due to impact or external</p> <p>21 factors.</p> <p>22 My question is, whether or not you've</p> <p>23 seen these guidelines, was it your understanding</p> <p>24 that that list of things were things that were</p> <p>25 supposed to be on fracture critical bridge</p>	<p style="text-align: right;">12</p> <p>1 whether it might have an adverse impact on the</p> <p>2 strength of the metal?</p> <p>3 A I don't quite understand that question.</p> <p>4 Q That's fair. Either as a percent or any other sort</p> <p>5 of measurement, how much section loss would you need</p> <p>6 to see before you would start to think this is</p> <p>7 something I ought to be concerned about?</p> <p>8 A Well, from my experience, I could kind of get an</p> <p>9 estimated guess -- or an educated guess. And if I</p> <p>10 thought it was bad enough, I would require</p> <p>11 nondestructive testing of this element.</p> <p>12 Q What -- what would you look to to determine whether</p> <p>13 you thought it was bad enough?</p> <p>14 A Well, at the element and see how much pitting and</p> <p>15 how much metal is gone.</p> <p>16 Q What kind of nondestructive testing would be --</p> <p>17 A More than likely would be ultrasonic.</p> <p>18 Q That's UT testing?</p> <p>19 A Yes.</p> <p>20 Q That's something that the MnDOT metro division</p> <p>21 couldn't do in-house; is that right?</p> <p>22 A Not metro division, no. You have to get the CO</p> <p>23 people.</p> <p>24 Q Right. So --</p> <p>25 MR. BIENIECK: I'd like to interject, I</p>

<p>13</p> <p>1 guess, that, you know, the number of years field</p> <p>2 experience Vance has and the number of years that he</p> <p>3 actually put in prior to being designated as a level</p> <p>4 II inspector, he's seen a lot of elements to know</p> <p>5 that, yeah, that's one's very -- you know, that</p> <p>6 one's suspicious or suspect; maybe we should check</p> <p>7 it out with nondestructive testing.</p> <p>8 BY MR. MERZ:</p> <p>9 Q Is there any sort of measurement other than</p> <p>10 nondestructive testing that you could use to</p> <p>11 determine the amount of section loss?</p> <p>12 A Yeah. You can put a straight edge over this --</p> <p>13 what's the word I want to use here -- the pit area,</p> <p>14 if you want to call it that; and then you can just,</p> <p>15 you know, stick another depth gauge in there and get</p> <p>16 an estimate. But it would be a very rough estimate.</p> <p>17 Q Is that something you ever did?</p> <p>18 A Oh, yeah.</p> <p>19 Q Did you ever do that with the 35W bridge?</p> <p>20 A No, because we usually had CO out there when we</p> <p>21 wanted to do some of that stuff.</p> <p>22 Q Did you ever ask anyone to do nondestructive testing</p> <p>23 of any elements of the 35W bridge?</p> <p>24 A Not I. My supervisor, not me.</p> <p>25 Q Oh, your supervisor asked someone to do it?</p>	<p>15</p> <p>1 subject is Guidelines for In-depth Inspection of</p> <p>2 Fracture Critical and Other Nonredundant Bridges and</p> <p>3 for Underwater Inspections. Have you ever seen this</p> <p>4 technical memorandum before?</p> <p>5 A No, I haven't.</p> <p>6 MR. BIENIECK: I'd like to comment too</p> <p>7 about the tech memos is that, as we talk about these</p> <p>8 things, it's clear to me that Vance understands</p> <p>9 these things. They go through this in training,</p> <p>10 plus the -- you know, if you want to call it the</p> <p>11 verbal culture, the verbal passage of this</p> <p>12 information goes from the engineers to the</p> <p>13 inspectors. So this information does get</p> <p>14 transmitted.</p> <p>15 MR. MERZ: And I appreciate</p> <p>16 clarifications, but it's very important for me to</p> <p>17 find out from Mr. Desens what it is he knows and</p> <p>18 what he doesn't know. And so, again, I appreciate</p> <p>19 your clarification, but he's doing a pretty good job</p> <p>20 so far of telling me what he knows.</p> <p>21 (Exhibit 4 was marked for identification</p> <p>22 by the court reporter.)</p> <p>23 BY MR. MERZ:</p> <p>24 Q Before I get to Exhibit 4, which you have in front</p> <p>25 of you there, tell me your understanding of why it's</p>
<p>14</p> <p>1 A Well, we find something, we tell our supervisor, and</p> <p>2 he has to take it from there.</p> <p>3 Q Okay. And you recall telling your supervisor you</p> <p>4 thought something needed to be looked at, and then</p> <p>5 he would ask the CO bridge person to do it; is that</p> <p>6 right?</p> <p>7 A Yeah. Yeah.</p> <p>8 MR. BIENIECK: That's as a general</p> <p>9 procedure. Were you asking him about 35W or were</p> <p>10 you asking him about in general?</p> <p>11 BY MR. MERZ:</p> <p>12 Q Well, I was asking about 35W.</p> <p>13 A Okay.</p> <p>14 Q Do I have it wrong in any respect if we limit the</p> <p>15 question to 35W?</p> <p>16 A I don't recall asking for -- not on that bridge.</p> <p>17 Q Okay. Then I appreciate the clarification.</p> <p>18 (Exhibit 3 was marked for identification</p> <p>19 by the court reporter.)</p> <p>20 BY MR. MERZ:</p> <p>21 Q I'm giving you what we've marked as Exhibit 3. And</p> <p>22 I think I probably know the answer to this, but I</p> <p>23 just want to be complete. Exhibit 3 is a technical</p> <p>24 memorandum -- a MnDOT technical memorandum numbered</p> <p>25 07-10-B-02. It's dated June 19th of 2007. And its</p>	<p>16</p> <p>1 necessary for the inspection report to reflect the</p> <p>2 amount of corrosion and section loss that you're</p> <p>3 looking at.</p> <p>4 A So that whoever reads that report knows about the</p> <p>5 deficiencies of the elements of the structure.</p> <p>6 Q And in describing the amount of corrosion or section</p> <p>7 loss, how -- what was your understanding about how</p> <p>8 that was supposed to be done?</p> <p>9 A Well, if there's -- again, it goes back to if there</p> <p>10 was advance testing to be done as far as section</p> <p>11 loss is concerned, then that is completed; and then</p> <p>12 through mathematical procedures we come up what a</p> <p>13 percentage of section loss, which is recorded in the</p> <p>14 report.</p> <p>15 Q And so if you had -- if nondestructive testing had</p> <p>16 been done to evaluate section loss on the 35W</p> <p>17 bridge, that would be reflected in the report?</p> <p>18 A If it was, yeah.</p> <p>19 Q Exhibit 4, which you've got in front of you there,</p> <p>20 is MnDOT's bridge inspection manual. It's dated</p> <p>21 November 2006. I think there might be a more</p> <p>22 current version, but my question is whether you've</p> <p>23 seen this document before?</p> <p>24 A Yes, I guess I'd have to say I did. Not quite just</p> <p>25 like this one, but...</p>

<p style="text-align: right;">17</p> <p>1 Q You think you saw a different version of it?</p> <p>2 A Yeah, I got it in here.</p> <p>3 Q Okay. Is that something that you would use --</p> <p>4 A Wait a minute now. What -- this is an inspection</p> <p>5 manual. Oh, excuse me. I thought this was a</p> <p>6 section report.</p> <p>7 Q No. We'll come to those.</p> <p>8 A No, no, this is a man -- yeah, I've got one of these</p> <p>9 on my desk in the office. That's right.</p> <p>10 Q Okay. All right. So is this a document that you</p> <p>11 would use in preparing inspection reports?</p> <p>12 A Yeah, I guess so. We'd use it, yeah.</p> <p>13 Q If you would go to page 6 of Exhibit 4, you're</p> <p>14 familiar with the NBI ratings; correct?</p> <p>15 A Yes, sir.</p> <p>16 Q And this bridge, the 35W bridge, had an NBI rating</p> <p>17 of its superstructure of 4. Do you recall that?</p> <p>18 A Yes, I do.</p> <p>19 Q And if you look at page 6, it tells us what a</p> <p>20 superstructure rating of 4 means; is that right?</p> <p>21 A Um-hum.</p> <p>22 Q Yes?</p> <p>23 A Yes.</p> <p>24 Q Okay. And it describes a rating of 4 as involving</p> <p>25 poor condition. Superstructure has advanced</p>	<p style="text-align: right;">19</p> <p>1 anyone within MnDOT about the fact that the</p> <p>2 superstructure rating on the 35W bridge was a 4?</p> <p>3 A Kurt and I talked it over --</p> <p>4 Q What do you --</p> <p>5 A -- along with Mark also.</p> <p>6 Q What do you recall about those discussions?</p> <p>7 A Well, we discussed whether we should leave it at a 5</p> <p>8 or put it to a 4 under what we had found in the</p> <p>9 field.</p> <p>10 Q Do you recall the rating ever being higher than 4</p> <p>11 during the time that you were inspecting the 35W</p> <p>12 bridge?</p> <p>13 A Yeah, I think two years before this we had it at a</p> <p>14 5.</p> <p>15 Q Two years before what?</p> <p>16 A The collapse. Probably 2004. I'm not sure. It was</p> <p>17 in that area. I think we lowered it a year or two</p> <p>18 before this happened.</p> <p>19 Q Do you recall why?</p> <p>20 A Well, because the superstructure was getting worse.</p> <p>21 Q What was getting worse?</p> <p>22 A Hum?</p> <p>23 Q What was getting worse?</p> <p>24 A Well, again, I can't sit here and specifically tell</p> <p>25 you without looking at the report.</p>
<p style="text-align: right;">18</p> <p>1 deterioration. Members may be significantly out of</p> <p>2 alignment. Connection -- connections failure may be</p> <p>3 imminent. Bearings may be severely restricted.</p> <p>4 And then for steel bridges, it describes</p> <p>5 significant section loss at critical stress areas.</p> <p>6 Unarrested fatigue cracks exist that may likely</p> <p>7 propagate into critical stress areas.</p> <p>8 My question is whether that is an</p> <p>9 accurate description of a rating of 4 for the</p> <p>10 superstructure as you understood it?</p> <p>11 A Yes.</p> <p>12 Q What was it about the superstructure of the 35W</p> <p>13 bridge that, in your mind, merited an NBI rating of</p> <p>14 4?</p> <p>15 A The bearings were corroded and locked up. They</p> <p>16 weren't moving properly. We had cracked tack welds</p> <p>17 inside of the bottom chord and top chords of the --</p> <p>18 the diaphragms were welded inside. And also in the</p> <p>19 pro spans there was stress cracks also.</p> <p>20 Q Do you recall any areas of significant section loss?</p> <p>21 A Not at the moment. I'd have to go through my report</p> <p>22 to be able to -- if I could refresh my memory, but I</p> <p>23 don't know right now.</p> <p>24 Q And we'll probably come to the reports here in just</p> <p>25 a bit. Did you ever have any discussions with</p>	<p style="text-align: right;">20</p> <p>1 Q Okay. And that's fair. And we'll come to the --</p> <p>2 come to the report. Go to page 66. This talks --</p> <p>3 the beginning at page 36 (sic) talks about PONTIS</p> <p>4 smart flag elements. Do you see that?</p> <p>5 A Yeah.</p> <p>6 Q And --</p> <p>7 A Yes, sir.</p> <p>8 Q Do you understand smart flags are --</p> <p>9 A Yes, I do.</p> <p>10 Q And they're part of the PONTIS report. They're</p> <p>11 something you're supposed to do every time; is that</p> <p>12 right?</p> <p>13 A If it requires it, yes.</p> <p>14 Q Yes. It's something you're supposed to make sure</p> <p>15 and at least decide whether --</p> <p>16 A Yeah.</p> <p>17 Q -- or not it requires it every time; is that right?</p> <p>18 A That's right.</p> <p>19 Q Okay. Go to -- a little bit further down where it</p> <p>20 talks about the fatigue cracking.</p> <p>21 A Yeah.</p> <p>22 Q Condition State 2: Fatigue cracking exists and has</p> <p>23 not been arrested. Note: This condition state is</p> <p>24 normally used when fatigue cracking is initially</p> <p>25 observed or when additional fatigue cracking is</p>

<p style="text-align: right;">21</p> <p>1 observed after repairs.</p> <p>2 Is that consistent with your</p> <p>3 understanding of a rating of a condition state 2 for</p> <p>4 the fatigue cracking smart flag?</p> <p>5 A Yes, I do (sic).</p> <p>6 Q Then go to the next page, page 67. I'm looking at</p> <p>7 the pack rust smart flag?</p> <p>8 A Yeah.</p> <p>9 Q First I better ask you, what is pack rust?</p> <p>10 A It's a rust that develops between two members that</p> <p>11 are fastened together, either by bolts or rivets.</p> <p>12 And as the time goes on, it just keeps getting</p> <p>13 greater and greater and pushes these pieces apart.</p> <p>14 Q Is that a condition that can adversely impact the</p> <p>15 structural integrity of a bridge?</p> <p>16 A If it's in the correct spot I guess it could.</p> <p>17 Q Do you recall any significant areas of pack rust on</p> <p>18 the 35W bridge? And, again, I know we'll review the</p> <p>19 reports, and it's easy to say I just don't remember.</p> <p>20 A I don't remember.</p> <p>21 Q Okay. Conditions -- I'm looking again at page 67</p> <p>22 under the pack rust smart flag. Condition State 2</p> <p>23 is, Pack rust has started to distress a steel</p> <p>24 element or connection. There may be minor</p> <p>25 spreading, swelling, or scalloping. Do you see</p>	<p style="text-align: right;">23</p> <p>1 A Yes, I agree with that.</p> <p>2 Q Okay. Now, we talked a little bit about section</p> <p>3 loss, and I believe you told me that's something</p> <p>4 that at least has the potential to get worse over</p> <p>5 time --</p> <p>6 A Yes.</p> <p>7 Q -- is that right?</p> <p>8 A That's right.</p> <p>9 Q Can section loss cause a need for a bridge to be</p> <p>10 rerated?</p> <p>11 A Again, if it's in the right spot or right area of</p> <p>12 the bridge.</p> <p>13 Q And what -- what spot or area would you find section</p> <p>14 loss that you believe would make it appropriate to</p> <p>15 at least look at rerating the bridge?</p> <p>16 A Well, in a truss it would be your lower chords and</p> <p>17 all your connections.</p> <p>18 Q Are you aware of any MnDOT standards that relate to</p> <p>19 the amount of section loss that might trigger a</p> <p>20 potential rerating of a bridge?</p> <p>21 A Would you re -- tell me -- ask me that again,</p> <p>22 please.</p> <p>23 Q Sure. Sure. Are you aware of any MnDOT standards</p> <p>24 or policies about the amount of section loss in</p> <p>25 terms of percentage or location that would trigger</p>
<p style="text-align: right;">22</p> <p>1 that?</p> <p>2 A Um-hum.</p> <p>3 Q Is that consistent with your understanding of what a</p> <p>4 condition state 2 would be for pack rust?</p> <p>5 A Yes, I do (sic).</p> <p>6 Q Then Condition State 2: Pack rust has resulted in</p> <p>7 significant distress to a steel element or</p> <p>8 connection. There may be significant spreading,</p> <p>9 swelling, or scalloping. Steel members may be</p> <p>10 significantly deformed or distorted. However, all</p> <p>11 connectors, pins, rivets, or bolts remain intact.</p> <p>12 A Yes.</p> <p>13 Q And that's your understanding of --</p> <p>14 A Yes.</p> <p>15 Q -- what a condition state 3 is for the pack rust</p> <p>16 smart flag; is that right?</p> <p>17 A Yes, that's right.</p> <p>18 Q And then go to page 70. I'm looking now at the</p> <p>19 section loss smart flag.</p> <p>20 A Okay.</p> <p>21 Q And, you know, just so I don't have to take the time</p> <p>22 to read it out loud, I'd like you to look at the</p> <p>23 condition states there and tell me if you believe</p> <p>24 those are consistent with your understanding of</p> <p>25 those condition states for noting section loss?</p>	<p style="text-align: right;">24</p> <p>1 rerating of a bridge?</p> <p>2 A No, I have to say I don't, because when we -- when</p> <p>3 we find section loss, again, I report it to my</p> <p>4 supervisor, and he has to take it from there, and he</p> <p>5 gets it addressed at that point.</p> <p>6 Q And the way it would be addressed would be to do the</p> <p>7 nondestructive testing?</p> <p>8 A Yeah.</p> <p>9 Q Were you aware that -- Well, let me ask a better</p> <p>10 question. Have you ever suggested that a bridge</p> <p>11 that you were inspecting be rerated, not focusing</p> <p>12 now specifically on 35W, but any bridge be --</p> <p>13 A Yes.</p> <p>14 Q -- inspected (sic)?</p> <p>15 A Yes, sir.</p> <p>16 Q And how many -- how frequently have you done that?</p> <p>17 A In -- since 2001, since I've been in my current</p> <p>18 position, one time.</p> <p>19 Q And what was it that caused you to do that?</p> <p>20 A It was a section loss on the lower chord at</p> <p>21 Stillwater.</p> <p>22 Q How did you make that suggestion? Who did you talk</p> <p>23 to?</p> <p>24 A My supervisor.</p> <p>25 Q What happened after that?</p>

<p style="text-align: right;">25</p> <p>1 A Well, they brought the central office fellows out</p> <p>2 there that does the testing, and they -- we went</p> <p>3 ahead and this was -- and checked all these panel</p> <p>4 points that we thought were -- we had a lot of</p> <p>5 section loss, and then they computered it out and</p> <p>6 repairs were made.</p> <p>7 Q Is there any way to repair section loss?</p> <p>8 A That's a matter of a personal opinion, something</p> <p>9 that I don't quite get. But my supervisor is a</p> <p>10 senior engineer, and he's went through schooling,</p> <p>11 and he tells me that when you have an element that's</p> <p>12 got 30 or 40 percent of section loss and then you</p> <p>13 bolt a cover plate over the top, you bring it back</p> <p>14 to its original strength.</p> <p>15 Q Do you not agree or you just don't have a basis to</p> <p>16 agree or disagree?</p> <p>17 A I don't believe it. You're talking to a farm boy</p> <p>18 here. I don't have no education. And my common</p> <p>19 sense tells me that that section loss is still in</p> <p>20 there.</p> <p>21 Q Would you regard section loss of 30 to 40 percent to</p> <p>22 be pretty significant?</p> <p>23 A Yes.</p> <p>24 MR. BIENIECK: That's a lot -- I'd like</p> <p>25 to say, you know, Mr. Desens is in inspection. He's</p>	<p style="text-align: right;">27</p> <p>1 by the court reporter.)</p> <p>2 BY MR. MERZ:</p> <p>3 Q Mr. Desens, I've given you what we've marked as</p> <p>4 Exhibit 5. And I recognize that this is before your</p> <p>5 time at metro; is --</p> <p>6 A That's right.</p> <p>7 Q -- that correct?</p> <p>8 A That's right.</p> <p>9 Q And so you probably don't have any firsthand</p> <p>10 knowledge of this document, but I did have a couple</p> <p>11 of questions that I wanted to follow up. And if you</p> <p>12 don't know, then that's always the appropriate</p> <p>13 answer.</p> <p>14 But I'd like you to go to -- well, let</p> <p>15 me -- maybe I better ask a question before that.</p> <p>16 Have you ever seen this document before?</p> <p>17 A Not this document.</p> <p>18 Q Okay. This would not have been a document that you</p> <p>19 would have referred to in preparing any</p> <p>20 inspection --</p> <p>21 A No.</p> <p>22 Q -- report for the 35W bridge?</p> <p>23 A Not in the current time, no.</p> <p>24 Q Okay. Go to -- it's sheet 5 of 6 --</p> <p>25 A Okay.</p>
<p style="text-align: right;">26</p> <p>1 not maintenance, and he doesn't work directly with</p> <p>2 the people that would restore section loss, which is</p> <p>3 also restorable through a process called plating.</p> <p>4 We're going to be doing some of it this summer at</p> <p>5 another bridge called -- at the Hastings bridge.</p> <p>6 BY MR. MERZ:</p> <p>7 Q How about pack rust, what can you do if you find</p> <p>8 that? Are there ways to fix that?</p> <p>9 A You never stop rust.</p> <p>10 Q Can you sand it out and repaint it? Is that a way</p> <p>11 to go at it?</p> <p>12 A That's what their standard procedure is.</p> <p>13 Q Did the 35W bridge have greater than the usual</p> <p>14 amount of rust or corrosion?</p> <p>15 A Under the open finger joints, yeah, it was very</p> <p>16 busted up.</p> <p>17 Q And so what members would that affect?</p> <p>18 A It would be at the panel points of zero and zero</p> <p>19 prime on both ends of the truss.</p> <p>20 MS. FORSLAND: Could you say that again</p> <p>21 so I can hear it too?</p> <p>22 MR. DESENS: I'm sorry, I had my hand</p> <p>23 over my mouth. Both ends of the truss, at the ends</p> <p>24 of the truss.</p> <p>25 (Exhibit 5 was marked for identification</p>	<p style="text-align: right;">28</p> <p>1 Q -- it says. Do you see the handwritten number 20</p> <p>2 there?</p> <p>3 A Yeah. Okay.</p> <p>4 Q And it says, Downstream truss at L11 inside gusset</p> <p>5 plate has loss of section 18 inches long and up to</p> <p>6 three-sixteenths inches deep, parens, original</p> <p>7 thickness equals one-half inch, closed parens.</p> <p>8 This would be section loss of somewhere</p> <p>9 between 30 and 40 percent; is that right?</p> <p>10 A You bet.</p> <p>11 Q Do you recall seeing section loss at that</p> <p>12 location --</p> <p>13 A No.</p> <p>14 Q -- to that extent?</p> <p>15 A No.</p> <p>16 Q Seeing this report, would that give you concern</p> <p>17 about the amount of section loss relating to that</p> <p>18 element?</p> <p>19 A You bet. I definitely would have went and looked at</p> <p>20 that.</p> <p>21 Q Let's see here. During the time that you were</p> <p>22 involved in inspecting the 35W bridge, are you aware</p> <p>23 of anything that was ever done to address section</p> <p>24 loss on that bridge?</p> <p>25 A No.</p>

29

1 Q Okay. And did you ever, when inspecting the bridge,
2 see any plating that indicated to you that it had
3 been put in place to address a section loss issue on
4 the bridge?

5 A No, I didn't. I can't recall.

6 (Exhibit 6 was marked for identification
7 by the court reporter.)

8 BY MR. MERZ:

9 Q And I've given you Exhibit 6. Before I go to that,
10 the kind of section loss that we saw on the last
11 document is a level of section loss that would cause
12 you to ask for a bridge to be rerated; is that
13 right?

14 A Well, not me. I would -- if I found section loss
15 like that, I'd be reporting that to my supervisor,
16 and he would have to do that.

17 Q Okay. This is a MnDOT bridge inspection report
18 dated April 3rd of 2000, so actually the year before
19 you came to metro; is that right?

20 A Well, it's before I got in the metro office.

21 Q Have you ever seen this report before?

22 A No, I haven't.

23 (Exhibit 7 was marked for identification
24 by the court reporter.)

25 BY MR. MERZ:

30

1 Q Mr. Desens, I've handed you a document we've marked
2 as Exhibit 7, which is a MnDOT bridge inspection
3 report dated May 17th of 2002, which would have been
4 your -- after you started in the metro --

5 A That's right.

6 Q -- office; is that right?

7 A That's right.

8 Q Have you seen this report before?

9 A Again, like I said at the beginning here, Kurt takes
10 care of most of these reports, and I don't really
11 read these. I work with the fracture critical
12 reports more so than with these PONTIS reports.

13 Q And I understood you to be saying that you had
14 prepared these reports. Did you never prepare them
15 for the 35W bridge?

16 A No. Kurt did always -- on all the fracture
17 critical, he did all that stuff.

18 Q Would you ever review the PONTIS report
19 after Mr. Fuhrman --

20 A No.

21 Q -- prepared it?

22 A I'm -- we have other engineers that look this over.

23 Q And who is that?

24 A Our supervisor, Mark.

25 Q Mr. Pribula?

31

1 A Yeah.

2 Q You still may be able to help me out with this. If
3 you go to page 3 of 4, you see the fatigue cracking
4 smart flag there; is that right?

5 A Oh, yeah. Yes, I do.

6 Q Okay. And just so I understand how to read this,
7 you've got the columns across the top that say CS 1,
8 CS 2, CS 3, CS 4?

9 A Those are condition state ratings.

10 Q Okay. And those refer to the condition state
11 ratings that we were looking at --

12 A Yeah.

13 Q -- in Exhibit 4?

14 A Yeah.

15 Q Condition state 2 for fatigue cracking is fatigue
16 cracking exists and has not been arrested.

17 Was there unarrested fatigue cracking on
18 the 35W bridge?

19 A I don't know.

20 Q Do you know why Mr. Fuhrman would have rated the
21 fatigue cracking as a condition state 2?

22 A Oh, maybe we did -- you know, I can't remember back
23 till 2002 and what we were doing there, and I
24 can't -- not without looking. And I can't -- I
25 don't recall that stuff. You're kind of putting me

32

1 on the spot here.

2 Q And I'm only asking what -- to tell me what you can
3 recall. So you shouldn't -- you shouldn't feel like
4 you have to remember things that you don't remember.

5 There are under -- well, next to, I
6 think, all of these elements there's a place for
7 note. Some are blank. Some have something written
8 there. Do you know under what circumstances would
9 you write something in the notes section?

10 A Well, if I found a deficiency in or problem with any
11 one of these elements, I would write something in
12 there.

13 (Exhibit 8 was marked for identification
14 by the court reporter.)

15 BY MR. MERZ:

16 Q I'm going to give you Exhibit 8. And, again, I'm
17 pretty sure that I know what the answer to this
18 question is, but I've got to ask it anyway. This is
19 a MnDOT bridge inspection report dated June 13th of
20 2003; is that right?

21 A That's right.

22 Q You don't recall ever seeing this document before, I
23 take it?

24 A No, I don't.

25 Q If you go to page 3 of 4 again, do you see where it

<p style="text-align: right;">33</p> <p>1 says pack rust there toward the top of the page?</p> <p>2 A See what?</p> <p>3 Q Where it says pack rust.</p> <p>4 A Pack rust.</p> <p>5 Q It's the second element down.</p> <p>6 A Okay. Yes.</p> <p>7 Q Apparently the rating for the previous year was a</p> <p>8 condition state 2, and then in 2003 it became a</p> <p>9 condition state 3 for pack rust; is that right?</p> <p>10 A It appears that way.</p> <p>11 Q Do you know what it was that would have caused the</p> <p>12 change in rating?</p> <p>13 A It must have increased.</p> <p>14 Q Go back to Exhibit 6. There was one point I wanted</p> <p>15 to follow up on. It's the 2002 report.</p> <p>16 A 2002. Okay.</p> <p>17 Q And if you look on the very first page of Exhibit</p> <p>18 6 --</p> <p>19 MS. FORSLAND: Exhibit 6 is the 2000 --</p> <p>20 MR. MERZ: I'm sorry --</p> <p>21 MS. FORSLAND: -- report.</p> <p>22 MR. MERZ: -- 2000 report. Yes. Thank</p> <p>23 you.</p> <p>24 BY MR. MERZ:</p> <p>25 Q Exhibit 6 is the 2000 report. If you look at the</p>	<p style="text-align: right;">35</p> <p>1 haven't done any for the 35W bridge, would it be</p> <p>2 your practice to note when you found section loss</p> <p>3 how much section loss you'd found?</p> <p>4 A In my form of estimating it, yes.</p> <p>5 Q Would you do that as a percentage or a measurement</p> <p>6 or --</p> <p>7 A Percentage.</p> <p>8 Q Do you know whether Mr. Fuhrman had a practice of</p> <p>9 noting the amount of --</p> <p>10 A I'm --</p> <p>11 Q -- section loss?</p> <p>12 A Same thing I would think. He would have done the</p> <p>13 same thing.</p> <p>14 Q And the reports that we were looking at don't note</p> <p>15 any particular amount of section loss. Do you know</p> <p>16 why that would be?</p> <p>17 A No.</p> <p>18 (Exhibit 9 was marked for identification</p> <p>19 by the court reporter.)</p> <p>20 BY MR. MERZ:</p> <p>21 Q I've given you what we've marked as Exhibit 9. This</p> <p>22 is a fracture critical bridge inspection report</p> <p>23 dated September of 2001.</p> <p>24 A Um-hum.</p> <p>25 Q Have you seen this before?</p>
<p style="text-align: right;">34</p> <p>1 first page, at the top of the page there's an NBI:</p> <p>2 Deck, super, sub, chan, and culvert?</p> <p>3 A Yeah.</p> <p>4 Q And those are the NBI ratings --</p> <p>5 A Yes.</p> <p>6 Q -- for each of those parts of the bridge; is that</p> <p>7 right?</p> <p>8 A Yes, they are.</p> <p>9 Q And I see that the superstructure is a 4 in 2000?</p> <p>10 A I see that.</p> <p>11 Q That's surprising to you, apparently?</p> <p>12 A Yes, it is.</p> <p>13 Q Why?</p> <p>14 A Well, I didn't realize it was a 4 back then already.</p> <p>15 Q Okay. In the time that you were inspecting the 35W</p> <p>16 bridge, did you believe that its condition was</p> <p>17 worsening over time?</p> <p>18 A From 2001 to 2006, yes.</p> <p>19 Q The corrosion --</p> <p>20 A But it wasn't probably bad enough to go -- to lower</p> <p>21 the NBI rating any more.</p> <p>22 Q Okay. So you didn't get down to a 3 --</p> <p>23 A No.</p> <p>24 Q -- as you recall it? In the instances when you</p> <p>25 prepared PONTIS reports, understanding that you</p>	<p style="text-align: right;">36</p> <p>1 A Yes, I have.</p> <p>2 Q You were involved in the inspection that this report</p> <p>3 relates to; correct?</p> <p>4 A Yes, that's right.</p> <p>5 Q This talks about an annual inspection. I've also</p> <p>6 seen references to an in-depth inspection. In fact,</p> <p>7 I think we'll come to an in-depth report here pretty</p> <p>8 soon. What's your understanding of the difference</p> <p>9 between the annual inspection and the in-depth</p> <p>10 inspection?</p> <p>11 A The annual inspection consists of eyes on and an</p> <p>12 in-depth you've got to be within 12 inches or arm's</p> <p>13 length.</p> <p>14 Q How frequently did you do an in-depth inspection of</p> <p>15 the --</p> <p>16 A Back then --</p> <p>17 Q -- 35W bridge?</p> <p>18 A -- it was every four years.</p> <p>19 Q During what period of time was it every four years,</p> <p>20 do you recall?</p> <p>21 A What do you mean what period of time?</p> <p>22 Q Well, you say back then. I'm not sure if you're</p> <p>23 talking about from 2001 until it collapsed.</p> <p>24 A I'd have to look at the inspection frequency report</p> <p>25 in order to give you an exact time as to when the</p>

<p style="text-align: right;">37</p> <p>1 in-depths were done. I don't know when they were</p> <p>2 done. But, you know, from 2001 to 2007 there had to</p> <p>3 be at least one in-depth in there, if not two.</p> <p>4 Q Can you describe for me just the inspection process?</p> <p>5 How does it work? I've never inspected a bridge.</p> <p>6 Tell me what you do.</p> <p>7 A Well, you go out there at 9:00 in the morning after</p> <p>8 traffic control is set up, and you get your snoopers</p> <p>9 up on the bridge with your crash trucks behind, and</p> <p>10 then you start going down over the side of the</p> <p>11 bridge, and you start looking at elements and start</p> <p>12 looking for deficiencies.</p> <p>13 Q Two men in a --</p> <p>14 A Yeah.</p> <p>15 Q -- bucket; is that right?</p> <p>16 A That's right.</p> <p>17 Q And one person's really looking, and the other one</p> <p>18 is sort of looking out; is that the way it works?</p> <p>19 A Well, Kurt and I usually go together in the basket.</p> <p>20 And he's the photographer, and I'm the note taker.</p> <p>21 And he takes pictures, and then he writes down</p> <p>22 his -- you know, he records his pictures so he keeps</p> <p>23 them straight. And then I also document what we're</p> <p>24 taking pictures of and what the deficiency is.</p> <p>25 Q And you would take your notes right on the last</p>	<p style="text-align: right;">39</p> <p>1 A No.</p> <p>2 Q If Mr. Pribula had changes that he thought were</p> <p>3 necessary to make to the report, would he make the</p> <p>4 changes himself or would he give you the report and</p> <p>5 say please make these changes?</p> <p>6 A If it was important, he would -- we would all get</p> <p>7 together and talk about it. But some changes are</p> <p>8 made because of misspelled or whatever, you know.</p> <p>9 Q Sure. And I understand there's editing and maybe</p> <p>10 some --</p> <p>11 A Yeah.</p> <p>12 Q -- grammar things that get --</p> <p>13 A Yeah.</p> <p>14 Q -- cleaned up. But in terms of the substance of the</p> <p>15 report --</p> <p>16 A Yeah.</p> <p>17 Q -- If there was some change, that would be a</p> <p>18 discussion?</p> <p>19 A Yeah.</p> <p>20 Q And you don't remember any discussion like that</p> <p>21 relating to the 35W bridge?</p> <p>22 A No.</p> <p>23 Q Would you ever have any interaction with anyone at</p> <p>24 the central bridge office about an inspection</p> <p>25 report?</p>
<p style="text-align: right;">38</p> <p>1 year's report?</p> <p>2 A Yeah. Right. It gets written right in here and</p> <p>3 then updated back in the office.</p> <p>4 Q Do you know whether Mr. Fuhrman would rely on your</p> <p>5 notes in preparing the PONTIS reports?</p> <p>6 A Well, there are times when he would also take notes,</p> <p>7 and he would also -- we would put them together, you</p> <p>8 know. He and I put these reports together, and then</p> <p>9 we send them to Mark, and he does the final editing</p> <p>10 on them.</p> <p>11 Q How long would it take you to put a report together</p> <p>12 for the 35W bridge typically?</p> <p>13 A About a week.</p> <p>14 Q Do you recall ever getting any comments back from</p> <p>15 Mr. Pribula about any report that you did for the</p> <p>16 35W bridge?</p> <p>17 A If we lowered a rating or something, he'd be coming</p> <p>18 back to us and wondering why and -- yeah, well,</p> <p>19 enough said.</p> <p>20 Q Do you recall that ever happening on the 35W bridge?</p> <p>21 A No.</p> <p>22 Q Do you recall Mr. Pribula ever saying that any</p> <p>23 report that you and Mr. Fuhrman had done for the 35W</p> <p>24 bridge was in any way inadequate or incomplete or</p> <p>25 insufficient?</p>	<p style="text-align: right;">40</p> <p>1 A No.</p> <p>2 Q Other than Mr. Fuhrman and Mr. Pribula, did you ever</p> <p>3 have occasion to discuss any inspection report with</p> <p>4 anyone else at MnDOT?</p> <p>5 A No, I can't say that I do (sic).</p> <p>6 Q Go to Exhibit 9.</p> <p>7 A This report.</p> <p>8 MS. FORSLAND: That's this right here</p> <p>9 (indicating).</p> <p>10 BY MR. MERZ:</p> <p>11 Q Go to page 10 of Exhibit 9. One of the things this</p> <p>12 report talks about are the truss bearing assemblies;</p> <p>13 is that right?</p> <p>14 A Okay.</p> <p>15 Q And the report says that the bearings at Pier 6 show</p> <p>16 no obvious sign of movement, parens, difficult to</p> <p>17 reach with snoopers, closed parens.</p> <p>18 My first question is were you able to get</p> <p>19 within arm's distance of every part of the bridge</p> <p>20 that you needed to look at when you did an in-depth</p> <p>21 inspection? And I recognize this isn't in an</p> <p>22 in-depth inspection. I'm talking more generally.</p> <p>23 A What I'm doing is I'm trying to remember when we</p> <p>24 got -- when MnDOT got a new 75-foot snoopers. We --</p> <p>25 I think in 2001 we only could inspect these with</p>

<p style="text-align: right;">41</p> <p>1 50-foot snoopers. And those lower bearings down on</p> <p>2 them piers, you couldn't get to them with a 50-foot</p> <p>3 snooper.</p> <p>4 Q I'm just going to refer you to page 2, and you tell</p> <p>5 me if that gives you any information about what</p> <p>6 equipment --</p> <p>7 A Page 2.</p> <p>8 Q -- you would have had.</p> <p>9 A Okay. Then we did have the 75 there, so we could</p> <p>10 have gotten down there.</p> <p>11 Q Okay. So with the 75 --</p> <p>12 A I didn't recall that then.</p> <p>13 Q With the 75-foot you could see every --</p> <p>14 A Yeah, you could get to the bearings, if you knew how</p> <p>15 to run it and get it down there, yeah.</p> <p>16 Q It's kind of like a maze --</p> <p>17 A Yeah.</p> <p>18 Q -- to get down there?</p> <p>19 A Well, yeah. You had to just about put everything to</p> <p>20 the extreme to get down there, because it was a long</p> <p>21 ways down there.</p> <p>22 Q Then going back to page 10, this issue with the</p> <p>23 bearings, that's something that you were talking</p> <p>24 with me about before; is that right?</p> <p>25 A Bearings. Yeah.</p>	<p style="text-align: right;">43</p> <p>1 Q Did Mr. Pribula ever indicate whether he thought</p> <p>2 something should be done to repair the bearings?</p> <p>3 A No, not to me.</p> <p>4 Q And you may not know, but you may. If the bearings</p> <p>5 need to be repaired, how would you do that?</p> <p>6 A That would be an extensive job on this bridge,</p> <p>7 but --</p> <p>8 Q And why do you say --</p> <p>9 A -- you would have to raise the bridge and release</p> <p>10 the pressure off the bearings; and then, you know,</p> <p>11 depending upon the type of bearing, you would have</p> <p>12 to get things tore apart, clean them up, get them</p> <p>13 going.</p> <p>14 Q Just jumping back to page 6 of the report, that's</p> <p>15 where you find the bridge inspection</p> <p>16 recommendations; is that right?</p> <p>17 A Okay.</p> <p>18 Q And these are the things that you and Mr. Fuhrman</p> <p>19 and Mr. Pribula were recommending be done with this</p> <p>20 bridge; correct?</p> <p>21 A That's right.</p> <p>22 Q There's long-term repair recommendations, immediate</p> <p>23 maintenance recommendations, areas of concern for</p> <p>24 future inspections.</p> <p>25 With respect to the long-term repair</p>
<p style="text-align: right;">42</p> <p>1 Q And what's -- what's the concern here if the</p> <p>2 bearings aren't moving? Why is that a problem?</p> <p>3 A Well, it puts undue stress on the elements of the --</p> <p>4 of this bridge would be the truss. A bridge is</p> <p>5 supposed to move. That's what the bearings are</p> <p>6 there for.</p> <p>7 Q Did you ever talk with anyone about the fact that</p> <p>8 the bearings weren't moving?</p> <p>9 A Well, between Kurt and Mark, yeah.</p> <p>10 Q Anyone else?</p> <p>11 A No. Because, there again, it's Mark's position to</p> <p>12 take that further.</p> <p>13 Q Did you suggest ever to Mr. Pribula that something</p> <p>14 should be done to address that condition?</p> <p>15 A Well, we'd talk about it, yeah, you know.</p> <p>16 Q What do you recall suggesting?</p> <p>17 A Well, the fact that there -- we call it a freeze up.</p> <p>18 When the bearings aren't moving, we just mention,</p> <p>19 you know, these bearings are froze up and that we</p> <p>20 should do what you got to -- you know, if there</p> <p>21 should be some repair to be done or what.</p> <p>22 Q Did you -- do you recall suggesting that something</p> <p>23 be done to repair the bearings?</p> <p>24 A Not other than comments, you know, that -- the fact</p> <p>25 that they were locked up or froze up.</p>	<p style="text-align: right;">44</p> <p>1 recommendations, what was your anticipation about</p> <p>2 how those would be handled? What would happen?</p> <p>3 A Well, the replacement of the bridge.</p> <p>4 Q Did you ever have any discussion with anyone about</p> <p>5 any of the long-term recommendations that you set</p> <p>6 out here?</p> <p>7 A No one other than Kurt or Mark, no.</p> <p>8 Q These recommendations didn't change very much</p> <p>9 over --</p> <p>10 A No.</p> <p>11 Q -- time, did they?</p> <p>12 A Well, because it was -- that's the way it was.</p> <p>13 Q Then you also have some immediate maintenance</p> <p>14 recommendations. Do you see that?</p> <p>15 A Um-hum. Um-hum. Yes, I do.</p> <p>16 Q And what -- when you made immediate recommendations,</p> <p>17 what was your understanding of what immediate meant?</p> <p>18 A Elements that were causing damage to the structure,</p> <p>19 you know, like strip seal joints weren't working</p> <p>20 properly, maybe there's bolts that needed to be</p> <p>21 tightened or replaced or whatever.</p> <p>22 Q You talk about this a little bit in your report, but</p> <p>23 the reason you'd be concerned about the strip seal</p> <p>24 joints is they allow water to leak through?</p> <p>25 A Yeah. They're made to keep -- to vent the water</p>

<p style="text-align: right;">45</p> <p>1 from -- and traffic above loses rocks and bolts</p> <p>2 and -- they get through that rubber membrane and</p> <p>3 poke a hole in it, and then you've got leaking.</p> <p>4 Q And I believe it's the case that this second</p> <p>5 immediate maintenance recommendation about the strip</p> <p>6 seal joint is one that is made in every single</p> <p>7 report from -- at least from 2001 --</p> <p>8 A Yeah.</p> <p>9 Q -- until 2006. Is that your recollection?</p> <p>10 A That's right.</p> <p>11 Q And I would assume that the water just kept leaking</p> <p>12 through those joints throughout the whole time you</p> <p>13 were inspecting the 35W --</p> <p>14 A That's right.</p> <p>15 Q -- bridge? And that caused problems with corrosion?</p> <p>16 A That's right.</p> <p>17 Q Did you ever -- other than what you wrote down here</p> <p>18 as an immediate maintenance recommendation, did you</p> <p>19 ever suggest to anyone, hey, we ought to do</p> <p>20 something to fix this and stop --</p> <p>21 A Well --</p> <p>22 Q -- the water from running through?</p> <p>23 A These reports are written up, and everyone is</p> <p>24 allowed to read them. And, you know, everybody</p> <p>25 should have known about this.</p>	<p style="text-align: right;">47</p> <p>1 A Whenever the department had time to get it done, I</p> <p>2 guess.</p> <p>3 MR. BIENIECK: I'd just like to state</p> <p>4 that, you know, the inspectors can say these things</p> <p>5 and should say these things as they're saying them;</p> <p>6 but they don't control, you know, the maintenance</p> <p>7 side, which are the folks that will actually go and</p> <p>8 perform these things. So...</p> <p>9 MR. MERZ: Yeah. No, I think he's been</p> <p>10 very clear about that.</p> <p>11 BY MR. MERZ:</p> <p>12 Q It wasn't your decision --</p> <p>13 A No.</p> <p>14 Q -- about whether these things are going to be fixed</p> <p>15 or not?</p> <p>16 A No.</p> <p>17 Q But when you write something down that it ought to</p> <p>18 be addressed immediately and you see it year after</p> <p>19 year after year, it strikes me that that might be</p> <p>20 kind of a problem. Did you think that was kind of a</p> <p>21 problem?</p> <p>22 A Well, yeah.</p> <p>23 Q And it was a problem that was, based on your</p> <p>24 observation, causing damage to the bridge; is that</p> <p>25 right?</p>
<p style="text-align: right;">46</p> <p>1 Q And so if it gets acted on, that's for someone else</p> <p>2 to decide?</p> <p>3 A That's right.</p> <p>4 Q Do you know whose decision that was?</p> <p>5 A No, I -- I don't.</p> <p>6 Q Did you have concerns that the leaking strip seal</p> <p>7 joints weren't being fixed?</p> <p>8 A Well, they were just causing advanced corrosion.</p> <p>9 Q And is that something that was --</p> <p>10 A And, you know, that's all we document, what we see.</p> <p>11 Q And was that advanced corrosion something that was</p> <p>12 of concern to you?</p> <p>13 A Maybe personally.</p> <p>14 Q Well, as a professional bridge inspector, was it</p> <p>15 something that was of concern to you?</p> <p>16 A If it was bad enough and it was documented in here,</p> <p>17 then it would have been a concern.</p> <p>18 Q Did you believe that the corrosion that was</p> <p>19 resulting from those leaking joints was negatively</p> <p>20 impacting the structural integrity of the bridge?</p> <p>21 A I don't know.</p> <p>22 Q I asked this, and I'm not sure what the answer was.</p> <p>23 When you wrote that these things should be addressed</p> <p>24 immediately, when did you think that they ought to</p> <p>25 be taken care of?</p>	<p style="text-align: right;">48</p> <p>1 A That's right.</p> <p>2 Q Go to page 11 of Exhibit 9. Here it's talking</p> <p>3 about -- and I'm looking at just the -- I guess</p> <p>4 third paragraph from the bottom where it says</p> <p>5 multispans number 2 -- I'm sorry, in span number 2,</p> <p>6 multibeam approach span.</p> <p>7 A Okay.</p> <p>8 Q Do you see that?</p> <p>9 A Yes, I do.</p> <p>10 Q Do you recognize the condition this is describing?</p> <p>11 Is this something you remember seeing, I guess, is a</p> <p>12 better question?</p> <p>13 A Yeah, I remember seeing that.</p> <p>14 Q Can you just help me understand what's going on</p> <p>15 here, what this is talking about?</p> <p>16 A Well, yeah. The expansion bearings, they slide over</p> <p>17 each other, and they're supposed to be moving. And</p> <p>18 they went over, and the beam ends were even con --</p> <p>19 the beam webs of the pro span beams were up against</p> <p>20 each other in that area.</p> <p>21 Q And was that in any way damaging the bridge?</p> <p>22 A Well, it was causing undue stress down the line.</p> <p>23 Q Do you know whether --</p> <p>24 A I mean, common sense will tell you that.</p> <p>25 Q Do you know whether anything was ever done to</p>

<p style="text-align: right;">49</p> <p>1 address that issue?</p> <p>2 A No.</p> <p>3 Q Did you believe it should have been, recognizing</p> <p>4 that you don't get to make the decision?</p> <p>5 A That's right. My own personal opinion, yeah,</p> <p>6 something should have been done.</p> <p>7 Q Page 13.</p> <p>8 A 13.</p> <p>9 Q Where it says south abutment, again you refer to</p> <p>10 bearings being corroded; is that correct?</p> <p>11 A There you go. Yeah.</p> <p>12 Q And is this, again, an issue involving the leaking</p> <p>13 through the bridge?</p> <p>14 A Of the joint, yeah.</p> <p>15 Q Okay. Go to page 17. I'm looking at the bottom</p> <p>16 where it says panel point number 11.</p> <p>17 A Okay.</p> <p>18 Q It refers there to section loss at gusset plate</p> <p>19 bottom chords. Do you see that?</p> <p>20 A Yes, I do.</p> <p>21 Q And I recall that that's an area where you would be</p> <p>22 concerned about section loss if you saw it; is that</p> <p>23 right?</p> <p>24 A That's right.</p> <p>25 Q Now, you don't note here in the report how much</p>	<p style="text-align: right;">51</p> <p>1 Q -- panel point --</p> <p>2 A Yeah.</p> <p>3 Q -- number 11?</p> <p>4 A It would be.</p> <p>5 Q Something that I haven't really been able to figure</p> <p>6 out and you see it in a lot of places, but at this</p> <p>7 panel point 11 on page 17 --</p> <p>8 A Yes.</p> <p>9 Q -- you see that 2000 in brackets?</p> <p>10 A Yes.</p> <p>11 Q What does that mean? Does that relate to the</p> <p>12 comment that comes before or the comment that comes</p> <p>13 after?</p> <p>14 A All these comments represent a history of that</p> <p>15 element.</p> <p>16 Q Yes.</p> <p>17 A And in 2000 they found stringer 3 had a bolt missing</p> <p>18 at the floorbeam connection.</p> <p>19 Q All right. That clears --</p> <p>20 A That's what that meant.</p> <p>21 Q That clears it up.</p> <p>22 A Section loss was there already, well, back here in</p> <p>23 '93. They just kept that in here as a history.</p> <p>24 Q Do you know -- since we saw in '93 a reflection of</p> <p>25 the amount of section loss, if the report is to be a</p>
<p style="text-align: right;">50</p> <p>1 section loss you were observing, do you?</p> <p>2 A No.</p> <p>3 Q Why not?</p> <p>4 A This is 2001, and I'm just starting -- this is my</p> <p>5 first time inspecting this.</p> <p>6 Q Okay.</p> <p>7 A And so I'm more or less following what my cohort, my</p> <p>8 partner, Kurt, and really isn't -- I guess you want</p> <p>9 to call me negligent, you probably can.</p> <p>10 Q That's not my job, and that's not what I'm calling</p> <p>11 you. That's not what --</p> <p>12 A Because, yeah, I didn't really catch this in 2001.</p> <p>13 Q Okay. If you go back to Exhibit 5, which is this</p> <p>14 one that I know you haven't --</p> <p>15 A Which --</p> <p>16 Q -- seen before. It's the 1993 report.</p> <p>17 A Okay. Yeah.</p> <p>18 Q My question, if you go back to sheet 5 of 6 that we</p> <p>19 talked about, the pretty deep section loss there --</p> <p>20 A Oh, yeah, I remember which one. Yeah.</p> <p>21 Q My question is whether the reference to the</p> <p>22 downstream truss at L11 inside gusset plate, is this</p> <p>23 the same location as the one that you're referring</p> <p>24 to in Exhibit Number 9 --</p> <p>25 A Yeah.</p>	<p style="text-align: right;">52</p> <p>1 history, do you know why that information wasn't</p> <p>2 retained in --</p> <p>3 A No, I don't.</p> <p>4 Q -- the 2001?</p> <p>5 A No, I don't. I did not know about that.</p> <p>6 Q The '93 report?</p> <p>7 A No, that there was an amount of section loss</p> <p>8 recorded.</p> <p>9 Q The reference to the section loss at the gusset</p> <p>10 plate bottom chord, is that a loss of section on the</p> <p>11 gusset plate or the chord connected to the gusset</p> <p>12 plate?</p> <p>13 A It would be the section loss to the gusset plate,</p> <p>14 the way I would read it.</p> <p>15 Q Okay. That's the way I read it. I just wanted to</p> <p>16 make sure that I had it right.</p> <p>17 Go to the next page. Do you see at the</p> <p>18 top where it says panel point 13?</p> <p>19 A Yes, I do.</p> <p>20 Q And it talks about bottom chord gusset plate has</p> <p>21 section loss; is that right?</p> <p>22 A I see that.</p> <p>23 Q Then if you go again to the 1993 report, Exhibit 5,</p> <p>24 the same place we were looking.</p> <p>25 A Okay.</p>

<p style="text-align: right;">53</p> <p>1 Q That refers to the downstream truss at L13; is that 2 right?</p> <p>3 A That's right.</p> <p>4 Q Is that the same location as is being referred to 5 panel point 13 in Exhibit 9?</p> <p>6 A Brace between the trusses. Brace. Bottom chord 7 gusset plate. Well, they're not calling it the 8 same. Here they're calling it a bottom chord gusset 9 plate --</p> <p>10 Q And that's --</p> <p>11 A -- and in this '93 report they're calling it a brace 12 between the trusses.</p> <p>13 Q You don't know what that refers to where it says 14 brace between the trusses?</p> <p>15 A If you read the whole thing, it says, Brace between 16 the trusses at three-sixteenth section loss at the 17 riveted angle. That tell me that's a connection 18 angle for that brace to the gusset plate, the 19 interior gusset plate. And...</p> <p>20 Q So if you go back to Exhibit 9, you see the little 21 brackets, 1993, and then after that it says, Bottom 22 chord gusset plate has section loss. My question is 23 do you know whether that is a reference to the same 24 thing as you see in the 1993 --</p> <p>25 A I wouldn't -- I would say no.</p>	<p style="text-align: right;">55</p> <p>1 Q And you participated in preparing the report; is 2 that correct?</p> <p>3 A Yes, I did.</p> <p>4 Q Go to page 8 where you see the immediate 5 recommendations. I didn't ask you about this when 6 we were looking at the last report, but I see these 7 four stringer connection bolts are apparently still 8 missing; is that right?</p> <p>9 A That's the way it appears.</p> <p>10 Q What is the -- what's the problem with this, these 11 missing bolts? Why in your mind was that something 12 that ought to be attended to immediately?</p> <p>13 A Well, if you don't replace the bolts, it's 14 eventually going to fall apart.</p> <p>15 Q Was there anything about those missing bolts that 16 was causing any sort of damage or other problem or 17 was it just the fact that you shouldn't have missing 18 bolts?</p> <p>19 A Yeah, that's -- it's just the fact that you 20 shouldn't have missing bolts.</p> <p>21 Q Okay. All right. Go to page 23. Again, at panel 22 point 11 you refer to the section loss with the 23 gusset plate bottom chord; is that right?</p> <p>24 A It appears that way, yes.</p> <p>25 Q But you don't indicate how much?</p>
<p style="text-align: right;">54</p> <p>1 Q It's a different --</p> <p>2 A To me it reads differently.</p> <p>3 Q Okay. And I was wondering why apparently 4 information from 1993 was retained at that point in 5 the report but not the previous point that related 6 to panel point 11. You don't know why that would 7 be?</p> <p>8 A No.</p> <p>9 MR. MERZ: Do you want to take just a 10 little bit of a break?</p> <p>11 MR. BIENIECK: I was going to mention 12 that to you, Vance. It's been over an hour.</p> <p>13 MR. MERZ: Yeah, we can take a break. 14 (Recess.) 15 (Exhibit 10 was marked for identification 16 by the court reporter.)</p> <p>17 BY MR. MERZ:</p> <p>18 Q Mr. Desens, I've handed you what we've marked as 19 Exhibit 10, which is the in-depth fracture critical 20 inspection report for the 35W bridge dated June of 21 2003, so a couple years after the one we were just 22 looking at.</p> <p>23 A Yeah.</p> <p>24 Q And you participated in this inspection; correct?</p> <p>25 A That's right.</p>	<p style="text-align: right;">56</p> <p>1 A No, I don't.</p> <p>2 Q Do you know why not?</p> <p>3 A I don't know.</p> <p>4 Q Okay. When something would get fixed on the bridge, 5 when a condition you had noted had been repaired, is 6 that something that you would note in the report?</p> <p>7 A Yes.</p> <p>8 Q And, again, can we assume that because the reference 9 to section loss at panel point 11 gusset plate 10 bottom chord doesn't say anything about 11 nondestructive testing, there was no nondestructive 12 testing there; is that right?</p> <p>13 A Not that I'm aware of.</p> <p>14 Q Panel point 13, you refer again to the bottom chord 15 gusset plate has section loss, flaking and pack 16 rust. You don't say how much; correct?</p> <p>17 A That's correct.</p> <p>18 Q But down on panel point 13 prime, truss bottom chord 19 connection plate has half-inch pack rust. So there 20 you did note the amount; correct?</p> <p>21 A It appears that way.</p> <p>22 Q Do you know how you would have gone about measuring 23 that?</p> <p>24 A Take a little depth ruler and measure between the 25 two members from the separation and you get a</p>

<p style="text-align: right;">57</p> <p>1 half-inch, that's what you record.</p> <p>2 Q I don't have anything to gauge it by. Is a</p> <p>3 half-inch of pack rust a lot of pack rust?</p> <p>4 A It's moderate.</p> <p>5 Q At what point, if you can generalize, does the</p> <p>6 amount of pack rust become a problem?</p> <p>7 A I think that's up to my supervisor to decide as to</p> <p>8 when it becomes a problem.</p> <p>9 Q Okay. Is there some amount of pack rust where you</p> <p>10 would say to your supervisor this is something that</p> <p>11 I think we ought to address?</p> <p>12 A No. I just record it in the report and let him read</p> <p>13 it.</p> <p>14 Q Okay. Go to page 30. I'm looking at panel point 8</p> <p>15 prime.</p> <p>16 A Okay.</p> <p>17 Q You say there that, Below stringer number 13 the</p> <p>18 diagonal brace between top and bottom chord of the</p> <p>19 floorbeam truss is bent from original construction.</p> <p>20 Do you see that?</p> <p>21 A Yes, I do.</p> <p>22 Q How did you know it was bent from original</p> <p>23 construction?</p> <p>24 A First of all, that's a 1998 report -- or note, and</p> <p>25 someone else had wrote that in there.</p>	<p style="text-align: right;">59</p> <p>1 rust is more than just starting, you know. That's</p> <p>2 the next step up from just starting flaking rust.</p> <p>3 We have, you know -- in my way of reporting, there's</p> <p>4 other categories that I would put it in if it got</p> <p>5 worse.</p> <p>6 Q And the flaking rust, once it flakes away, what</p> <p>7 you're left with is section loss?</p> <p>8 A There you go.</p> <p>9 Q And there was no nondestructive testing done</p> <p>10 relating to this condition; correct?</p> <p>11 A That -- Appears that way, no.</p> <p>12 Q Panel point number 9 prime, again you talk about</p> <p>13 section loss and heavy flaking rust on the truss</p> <p>14 bottom chord, L8 prime and L9 prime; correct?</p> <p>15 A That's right.</p> <p>16 Q And I guess here we can sort of see the historical</p> <p>17 record, because in 2001 you note -- well, actually,</p> <p>18 let me ask you this: Why -- why do you add this</p> <p>19 additional note in 2002 after what you noted in</p> <p>20 2001?</p> <p>21 A On panel point 9 prime?</p> <p>22 Q Yeah. Yes.</p> <p>23 A In 2001 the way I read this is that there's section</p> <p>24 loss and heavy flaking rust on the truss bottom</p> <p>25 chord sway/frame connection. And in 2002 they're</p>
<p style="text-align: right;">58</p> <p>1 Q Okay. I mean, if you see a condition --</p> <p>2 A And let me reiterate here.</p> <p>3 Q Sure.</p> <p>4 A You know, it was there and, of course, we read it,</p> <p>5 and we did look at it and -- if it got any worse or</p> <p>6 not, you know --</p> <p>7 Q Right.</p> <p>8 A -- something -- no.</p> <p>9 Q But I guess my question is -- and you're the bridge</p> <p>10 inspector, so you have to tell me if this is even</p> <p>11 possible. But when you see a condition like a bent</p> <p>12 member, how can you tell looking at that condition</p> <p>13 whether it was original construction or something</p> <p>14 that happened after the fact? Are there things that</p> <p>15 you would look for?</p> <p>16 A Yeah, I don't know. I guess I'd have to say I don't</p> <p>17 know.</p> <p>18 Q Okay. Then in 2001 we see also relating to panel</p> <p>19 point 8 prime, truss bottom chord/sway frame</p> <p>20 connection has section loss, heavy flaking rust.</p> <p>21 There's no way to tell from looking at</p> <p>22 this how much section loss or how much flaking rust?</p> <p>23 A No.</p> <p>24 Q What does heavy mean in your mind?</p> <p>25 A Well, that's what I was going to say, heavy flaking</p>	<p style="text-align: right;">60</p> <p>1 talking about just the bottom chord from L8 -- from</p> <p>2 L8 prime to L9 prime.</p> <p>3 Q And how do you put those two things together? That</p> <p>4 doesn't -- that doesn't seem to make sense to me.</p> <p>5 How do you make sense of those two things?</p> <p>6 A Well, there's two different locations.</p> <p>7 Q Okay. And so the rust has progressed; it's gone</p> <p>8 further than it was?</p> <p>9 A Yes.</p> <p>10 Q Look how small the pile is getting.</p> <p>11 A Pardon me?</p> <p>12 Q Look how small the pile is getting.</p> <p>13 A I'm watching that.</p> <p>14 Q I don't blame you.</p> <p>15 (Exhibit 11 was marked for identification</p> <p>16 by the court reporter.)</p> <p>17 BY MR. MERZ:</p> <p>18 Q These reports just get thicker and thicker. Okay.</p> <p>19 You've got in front of you what we've marked as</p> <p>20 Exhibit 11. And this is an in-depth inspection</p> <p>21 report done --</p> <p>22 A In 2006.</p> <p>23 Q -- in 2006 on the 35W bridge; correct?</p> <p>24 A Yep.</p> <p>25 Q And you were involved in this inspection?</p>

<p style="text-align: right;">61</p> <p>1 A Yes, sir.</p> <p>2 Q And you participated in preparing the report?</p> <p>3 A Yes, sir.</p> <p>4 Q This would have been the last inspection report that</p> <p>5 was prepared for the bridge; correct?</p> <p>6 A Before its collapse, yes.</p> <p>7 Q Okay. Go to page 23.</p> <p>8 A 23.</p> <p>9 Q This refers to panel point 11, which, as we've been</p> <p>10 talking about, loss at that location, correct,</p> <p>11 section loss?</p> <p>12 A That's right.</p> <p>13 Q In the -- in the bracket it says 2000/05. Can you</p> <p>14 explain to me what that is meant to indicate?</p> <p>15 A That note is carried forward from 2000 with</p> <p>16 probably -- there might have been a change in the</p> <p>17 note in 2005.</p> <p>18 Q There's a reference 2004 pitting inside gusset plate</p> <p>19 connection at L11 toward L10. Do you see that?</p> <p>20 A Yes, I do.</p> <p>21 Q What's pitting?</p> <p>22 A Pitting is a process of rust causing little</p> <p>23 indentations in the side of metal -- on the side of</p> <p>24 the metal.</p> <p>25 Q Would that reference, section loss at gusset plate</p>	<p style="text-align: right;">63</p> <p>1 into the parent metal, being the element of the</p> <p>2 bridge.</p> <p>3 Q And this was something that was actually inside</p> <p>4 these kind of --</p> <p>5 A Yes.</p> <p>6 Q -- box-shaped girders --</p> <p>7 A Yes.</p> <p>8 Q -- is that right? You had to take off the plates</p> <p>9 and look inside?</p> <p>10 A We had to take off the cover. None of these</p> <p>11 photos -- well, here, that's -- well, that's a poor</p> <p>12 picture. But there was a plastic cover over all</p> <p>13 these portholes to keep the pigeons out, and it</p> <p>14 wasn't very clean inside there either.</p> <p>15 Q How did you inspect the tack welds? Was it --</p> <p>16 A We had to take those cover plates off and stick our</p> <p>17 heads up in there.</p> <p>18 Q So it was just a purely visual inspection?</p> <p>19 A Yeah. Well, yeah. And if we found something, then</p> <p>20 we would get into there with our mag particles and</p> <p>21 check it to make sure it was not advancing.</p> <p>22 Q Okay. And the mag particle is something that you</p> <p>23 used --</p> <p>24 A It's --</p> <p>25 Q -- to detect that?</p>
<p style="text-align: right;">62</p> <p>1 followed by pitting inside gusset plate, suggest to</p> <p>2 you a condition that was continuing to worsen over</p> <p>3 time?</p> <p>4 A Yes.</p> <p>5 Q Again, no nondestructive testing was done there?</p> <p>6 A Not that I know of.</p> <p>7 Q And if it were done, you would have noted it --</p> <p>8 A Yeah.</p> <p>9 Q -- in the report; correct?</p> <p>10 A That's right.</p> <p>11 Q Page 24, at panel point 13, again it notes the</p> <p>12 section loss at the bottom chord gusset plate;</p> <p>13 correct?</p> <p>14 A Yeah, I see that.</p> <p>15 Q It also says -- it talks about cracked tack welds at</p> <p>16 L13 and L14.</p> <p>17 A Yes.</p> <p>18 Q Do you see that?</p> <p>19 A Yes.</p> <p>20 Q What's the significance of that?</p> <p>21 A Well, the -- first of all, in original construction</p> <p>22 a tack weld is placed to hold these pieces in</p> <p>23 position until they're permanently fastened. And</p> <p>24 these tack welds do crack over a period of time; and</p> <p>25 we watch these cracked tack welds so they don't go</p>	<p style="text-align: right;">64</p> <p>1 A -- another nondestructive type of testing.</p> <p>2 Q Go to page 37.</p> <p>3 A 37.</p> <p>4 Q Panel point 8 prime. There in 2001 you talk about</p> <p>5 truss bottom chords/sway frame connection, parens,</p> <p>6 gusset plate -- gusset plates has section loss with</p> <p>7 heavy flaking rust. In 2002 the condition's getting</p> <p>8 worse; is that right?</p> <p>9 A Well, there again, you're talking about two</p> <p>10 different locations.</p> <p>11 Q Okay. It's progressed now to a different location?</p> <p>12 A Yeah -- well, another location has been recorded</p> <p>13 here.</p> <p>14 Q Not necessarily progressed; you're saying it's more</p> <p>15 than it was?</p> <p>16 A Yeah.</p> <p>17 Q And then in 2004-2005 you find severe pitting, and</p> <p>18 you actually have an indication of the size; is that</p> <p>19 right?</p> <p>20 A Yes, that's right.</p> <p>21 Q And then you find a hole. So the rust has eaten</p> <p>22 through the metal all the way through?</p> <p>23 A On that sway bracing.</p> <p>24 Q This is one of the few -- relatively few places in</p> <p>25 the report where I could see that you'd indicated</p>

<p style="text-align: right;">65</p> <p>1 some kind of size of a condition. I mean, what --</p> <p>2 what would have caused you to notice size in some</p> <p>3 places and not others?</p> <p>4 A Well, if it was -- how would we say that? Ask that</p> <p>5 question again.</p> <p>6 Q Sure. I note that some places you will talk about a</p> <p>7 condition, but you don't indicate any size. Here</p> <p>8 you actually do have a size, three inches by eight</p> <p>9 inches of severe pitting. And I just wonder why in</p> <p>10 some places you would indicate a size and other</p> <p>11 places you wouldn't, if there was any, I don't know,</p> <p>12 reasoning behind that?</p> <p>13 A It must have been an area of concern at that -- that</p> <p>14 that was recorded that way.</p> <p>15 (Exhibit 12 was marked for identification</p> <p>16 by the court reporter.)</p> <p>17 BY MR. MERZ:</p> <p>18 Q I've given you what we've marked as Exhibit 12.</p> <p>19 It's actually just a couple of pages. And I'll tell</p> <p>20 you, I'm not sure how much more of this there is.</p> <p>21 But it looks like someone that's beginning to take</p> <p>22 notes to get ready to do the next report. Is that</p> <p>23 what this is?</p> <p>24 A This is what it looks like to me.</p> <p>25 Q And it refers to May 2007; correct?</p>	<p style="text-align: right;">67</p> <p>1 made by a company called URS relative to certain</p> <p>2 repairs on the bridge?</p> <p>3 A URS. No, I guess I can't really honestly say that I</p> <p>4 recall anything like that.</p> <p>5 Q Were you aware of the study that was done by the</p> <p>6 University of Minnesota relating to --</p> <p>7 A No.</p> <p>8 Q -- the bridge? Were you aware of any proposal or</p> <p>9 recommendation that had been made by a company</p> <p>10 called HNTB on the bridge?</p> <p>11 A No.</p> <p>12 MR. MERZ: We'll go with this one.</p> <p>13 (Exhibit 13 was marked for identification</p> <p>14 by the court reporter.)</p> <p>15 BY MR. MERZ:</p> <p>16 Q I've handed you a document we've marked as Exhibit</p> <p>17 13, which is an e-mail to you from Gary Peterson.</p> <p>18 It's dated December 19th of 2006. Do you know</p> <p>19 whether this refers to that inspection that was</p> <p>20 done -- the special inspection in May of 2007?</p> <p>21 A Let's see here. Let me read this, can I?</p> <p>22 Q Sure. Take your time.</p> <p>23 A Now, what was your question regarding this?</p> <p>24 Q My question is -- this is talking about UT testing</p> <p>25 to locate tab plates on certain truss members. And</p>
<p style="text-align: right;">66</p> <p>1 A There you go. Yeah.</p> <p>2 Q And then the next page talks about a special</p> <p>3 inspection that took place -- or I don't know if it</p> <p>4 took place or was going to take place -- April 30th</p> <p>5 to May 4th of 2007?</p> <p>6 A That's correct.</p> <p>7 Q Did you participate in that special inspection?</p> <p>8 A Yes, we did.</p> <p>9 Q What was done?</p> <p>10 A Well, members of CO came out and did some ultrasonic</p> <p>11 testing of those tack welds and then chord members</p> <p>12 on those diaphragms.</p> <p>13 Q Do you know why?</p> <p>14 A To see -- no, I guess I can't actually tell you why.</p> <p>15 It was -- I assume it was -- it was requested by</p> <p>16 central office, and we were out there to remove the</p> <p>17 cover plates for those inspectors or for those UT</p> <p>18 inspections.</p> <p>19 Q Do you know whether any report was ever prepared as</p> <p>20 a result of that inspection?</p> <p>21 A No, I don't.</p> <p>22 Q You don't know why central bridge would have asked</p> <p>23 for this inspection?</p> <p>24 A No, I don't.</p> <p>25 Q Were you aware of recommendations that have been</p>	<p style="text-align: right;">68</p> <p>1 my question is whether this related to the May 2007</p> <p>2 inspection, if you know?</p> <p>3 A No, this is a -- Gary Peterson wanted me to get up</p> <p>4 some sort of a location of those tab plates.</p> <p>5 Q When did he ask you to do that?</p> <p>6 A I guess it was right around -- well, this was sent</p> <p>7 in December, so I imagine it was at that time.</p> <p>8 Q Do you know why he was asking for this?</p> <p>9 A No. I just got this -- I got this laid on my lap</p> <p>10 from Mark, and then I wrote a letter -- wrote an</p> <p>11 e-mail back to Gary asking him about what it was he</p> <p>12 really wanted out of this.</p> <p>13 Q And what did you -- what did you do in response to</p> <p>14 Mr. Peterson's request?</p> <p>15 A Tried to find the shop drawings for this bridge to</p> <p>16 get the locations for these diaphragm tabs.</p> <p>17 Q And I was understanding Mr. Peterson to say we're</p> <p>18 looking for UT testing to locate the tab plates</p> <p>19 where we don't have the shop drawings. You wouldn't</p> <p>20 have been doing that UT testing?</p> <p>21 A Huh-uh.</p> <p>22 Q That would have been someone from central bridge?</p> <p>23 A That's right.</p> <p>24 Q Did you get the shop drawings?</p> <p>25 A No. Could not find them.</p>

69

1 Q You have seen, I suppose, the pictures in the Star
 2 Trib of the bowed gusset plate. Do you know what
 3 I'm talking about?
 4 A Yeah.
 5 Q Do you recall, when you were inspecting the bridge,
 6 ever observing any bowed gusset plates?
 7 A No, I didn't.
 8 Q Did you ever talk with anyone about any bowed gusset
 9 plates?
 10 A No.
 11 Q Did anyone ever tell you that they had seen bowed
 12 gusset plates?
 13 A No.
 14 Q Was that something you checked? Would you have
 15 checked the gusset plates to see whether or not they
 16 were deformed in any way?
 17 A We really aren't taught to look at gusset plates.
 18 Q And I understand from, I think it's Mr. Fuhrman,
 19 that one thing that you could do is line up a
 20 straight edge to see if there was any bending;
 21 correct?
 22 A That's right.
 23 Q And is that something you remember ever doing --
 24 A No.
 25 Q -- with any of the gusset plates? Other than this

70

1 e-mail with Mr. Peterson, had you ever had any
 2 interaction with anyone at central bridge about the
 3 35W bridge?
 4 A No.
 5 Q Since the 35W bridge collapsed -- and I know you're
 6 just starting inspection season now; is that right?
 7 A That's right.
 8 Q Do you -- have you been given any direction about
 9 how you should change the way you've done
 10 your inspect -- the way you're going to do your
 11 inspections?
 12 A Not as of today.
 13 Q Do you anticipate any changes?
 14 A Yes.
 15 Q Why?
 16 A Cause of concern now.
 17 Q No one has told you what those changes --
 18 A No.
 19 Q -- might be?
 20 I don't have anything further. Thank you
 21 for your time this afternoon.
 22 MR. DESENS: Well, thank you for talking
 23 to me.
 24 (Concluded at 3:44 p.m.)

71

1 STATE OF MINNESOTA)
 2) ss.
 3 COUNTY OF DAKOTA)
 4

REPORTER'S CERTIFICATE

5
 6
 7
 8 I, Angie D. Threlkeld, do hereby
 9 certify that the above and foregoing transcript,
 10 consisting of the preceding 70 pages is a
 11 correct transcript of my stenographic notes, and is
 12 a full, true and complete transcript of the
 13 proceedings to the best of my ability.

14 Dated April 24, 2008.
 15
 16
 17
 18

19 ANGIE D. THRELKELD
 20 Registered Professional Reporter
 21 Certified Realtime Reporter
 22
 23
 24
 25

<p>1 2 3 4 In the Matter of Conducting an Independent Investigation 5 Into the Collapse of the I-35W Bridge 6 7 8 Department of Transportation 9 395 John Ireland Boulevard 10 Room G-13 11 St. Paul, Minnesota 12 13 Met, pursuant to notice, at 8:30 in the 14 morning on March 20, 2008. 15 16 INTERVIEWERS: 17 Kathryn Bergstrom and Greg Merz, 18 Attorneys at Law with the Gray Plant Mooty Law Firm. 19 20 ALSO PRESENT: 21 Barbara E. Forsland, MnDOT Data Practices 22 Compliance & Policy Analyst. 23 24 COURT REPORTER: 25 Angie D. Threlkeld, RPR CRR</p>	<p>3 1 BY MS. BERGSTROM: 2 Q Mr. Domdroske, Dale, I don't know if you've ever 3 worked with a court reporter before, but she is 4 taking down everything that we say. And in order 5 for her to do that correctly, you and I can't talk 6 at the same time. So if you wait till I ask my 7 question before you answer and if I wait until you 8 answer before I ask my next question, that will help 9 her out a lot. Okay? 10 A Fine. 11 Q And she can't take down nods of the head or uh-huhs 12 or huh-uhs, and we have to have audible yeses and 13 nos and responses. Okay? 14 A Okay. 15 Q Okay. So looking at the witness protocol, the 16 authority paragraph, we are the Gray Plant Mooty law 17 firm. Gray Plant has been retained by the Minnesota 18 legislature to conduct an independent investigation 19 into the collapse of the I-35W bridge. The 20 Minnesota legislature has asked us to provide a 21 report of our investigation by May 1st, 2008. We 22 will be asking you questions concerning the bridge 23 collapse and related policies, practices, and 24 legislative oversight issues. 25 Two, the purpose of this interview is to</p>
<p>2 1 (Whereupon, Exhibits 1 and 2 were 2 marked for identification by the 3 court reporter.) 4 BY MS. BERGSTROM: 5 Q Mr. Domdroske, is it Dale? 6 A Yes. 7 Q Dale. May I call you Dale? 8 A Yes, please do. 9 Q My name is Katie Bergstrom. I'm one of the lawyers 10 with the Gray Plant Mooty law firm. We are 11 conducting these interviews as special counsel to 12 the Minnesota legislature. And I start every 13 interview by reading through this witness protocol. 14 A Okay. 15 Q So if you see under paragraph 1, we are the Gray 16 Plant Mooty law firm. My colleague, Greg Merz, is 17 here as well. 18 And maybe what we should do is go around 19 the room and do introductions for the record. 20 MR. MERZ: My name is Greg Merz. I'm an 21 attorney with the Gray Plant Mooty law firm. 22 MS. FORSLAND: I'm Barbara Forsland. I'm 23 the data practices attorney for the agency. 24 MR. DOMDROSKE: Dale Domdroske, bridge 25 maintenance supervisor, Minnesota DOT.</p>	<p>4 1 determine what you might know about the matters we 2 are investigating. 3 Three, confidentiality. During the time 4 our investigation is active, the information that 5 interviewees provide to us is not public 6 information. The information you provide may no 7 longer be confidential once we submit a report to 8 the legislature. 9 The process today. You are required to 10 answer our questions truthfully. A court reporter 11 is present to record our conversation. Either 12 during this interview or later in our investigation 13 we may determine that we need to verify certain 14 information. If that occurs, we may ask you for a 15 further recorded statement, a signed affirmation, or 16 an oath statement. 17 Five, post-interview contact. We view 18 this process as an ongoing dialogue. If you think 19 of anything after this interview that you want to 20 tell us about, please call or e-mail us. Likewise, 21 we hope you will respond to us if we call or e-mail 22 you with follow-up questions or clarifications. 23 Okay. Dale, how long have you been 24 employed by MnDOT? 25 A A little over 25 years.</p>

<p>5</p> <p>1 Q And are you an engineer?</p> <p>2 A No.</p> <p>3 Q Okay. In your 25 years at MnDOT, what have your</p> <p>4 various job titles been?</p> <p>5 A Bridge worker. Intermittent supervisor. Bridge</p> <p>6 maintenance supervisor. And they changed that title</p> <p>7 to a TOS 2, which is a transportation operation</p> <p>8 supervisor, level 2. That's what I'm at at the</p> <p>9 present time.</p> <p>10 Q So when you started at MnDOT, you started as a</p> <p>11 bridge worker?</p> <p>12 A Correct.</p> <p>13 Q Okay. And what did you do as a bridge worker?</p> <p>14 A We repaired -- did maintenance on bridges.</p> <p>15 Q Have -- You work in the metro district; correct?</p> <p>16 A Most of the time. I temporarily was in Duluth. I</p> <p>17 was also as a -- I'm also a bridge inspector.</p> <p>18 Q How long have you been a bridge inspector?</p> <p>19 A I would say I was first certified approximately</p> <p>20 1986, somewhere in that area, mid '80s.</p> <p>21 Q Do you inspect fracture critical bridges?</p> <p>22 A No.</p> <p>23 Q Okay. So other than a short stint in Duluth, have</p> <p>24 you primarily been in the metro district?</p> <p>25 A Yes.</p>	<p>7</p> <p>1 Q And then Phil Erickson I see right above you as</p> <p>2 superintendent. That's who you report to?</p> <p>3 A Correct.</p> <p>4 Q And then does he report to Jack Pirkel?</p> <p>5 A Yes.</p> <p>6 Q Okay. If you go back a page to the metro management</p> <p>7 team, where does this metro bridge unit fall under</p> <p>8 this -- under this org chart, if you know?</p> <p>9 A Maintenance operations engineer, John Bieniek.</p> <p>10 Q Bieniek. Okay. And so does Jack Pirkel then report</p> <p>11 to John Bieniek?</p> <p>12 A Yes.</p> <p>13 Q How long has there been this metro bridge unit?</p> <p>14 A You mean as a whole? Long before I started here. I</p> <p>15 don't know when it originally started.</p> <p>16 Q Okay. And I take it, looking again at the metro</p> <p>17 bridge org chart, these other truck stations,</p> <p>18 Plymouth, Mendota, Forest Lake, Eden Prairie, are</p> <p>19 those people in those other -- are those your</p> <p>20 counterparts?</p> <p>21 A Yes, they're the same level as I am.</p> <p>22 Q Okay. And the four people you mentioned are down</p> <p>23 below your box. And then there's a notation that</p> <p>24 Mike Palmer retired on just January 22nd?</p> <p>25 A Yes.</p>
<p>6</p> <p>1 Q Currently who do you report to?</p> <p>2 A Phil Erickson, bridge maintenance superintendent.</p> <p>3 Q And do you have -- I assume as a supervisor you have</p> <p>4 people who report to you?</p> <p>5 A Yes.</p> <p>6 Q And who's that?</p> <p>7 A Right now I have four. I have Darrell Potter; Jon</p> <p>8 Hanson, J-O-N, Jon Hanson; Jerald Odeen, and Mike</p> <p>9 Koffski.</p> <p>10 Q I'm going to have you look at this exhibit, which is</p> <p>11 Exhibit Number 2. And I'll submit to you these are</p> <p>12 various organizational charts from MnDOT. You can</p> <p>13 skip the first and second pages and maybe go to the</p> <p>14 last page, which is metro bridge. Have you seen</p> <p>15 this org chart before?</p> <p>16 A Yes.</p> <p>17 Q Okay. So your name is there in charge of like a</p> <p>18 Spring Lake Park. Is that a division?</p> <p>19 A That's actually a truck station.</p> <p>20 Q Okay.</p> <p>21 A And that's where the location is in Spring Lake</p> <p>22 Park.</p> <p>23 Q Where do you physically office?</p> <p>24 A It's at Spring Lake Park, right near Highway 65 and</p> <p>25 County Road 10.</p>	<p>8</p> <p>1 Q Does that mean you have three vacancies?</p> <p>2 A Correct.</p> <p>3 Q Okay. Are those currently advertised? Are you</p> <p>4 trying to hire?</p> <p>5 A Not at this time.</p> <p>6 Q Okay. As the supervisor in this position, what are</p> <p>7 your job duties?</p> <p>8 A I make up a work plan for the work that's to do and</p> <p>9 make decisions on which jobs the crew will do and</p> <p>10 getting materials and coordinating everything that's</p> <p>11 needed for the job.</p> <p>12 Q Is that work plan something you do on a yearly</p> <p>13 basis?</p> <p>14 A We'll do like a six-month one. We've got one now</p> <p>15 like from April to September. And then occasionally</p> <p>16 we'll do like a winter plan, but with snow and ice</p> <p>17 that pretty much get changed because my people are</p> <p>18 responsible to go plow snow also --</p> <p>19 Q Okay.</p> <p>20 A -- in the winter.</p> <p>21 Q What physical area within the metro district are you</p> <p>22 responsible for?</p> <p>23 A Well, I guess kind of the northwest, northeast</p> <p>24 section. As you can see there's five crews here,</p> <p>25 and we divide the whole metro up into five different</p>

<p style="text-align: right;">9</p> <p>1 areas. There's actually a chart that would show my</p> <p>2 area. I have Trunk Highway 35, sections of that;</p> <p>3 sections of 694; sections of Highway 10, 101, 47,</p> <p>4 94, and others -- probably some other miscellaneous</p> <p>5 small stretches.</p> <p>6 Q But there's a chart that would show each one of</p> <p>7 these --</p> <p>8 A Correct.</p> <p>9 Q -- areas?</p> <p>10 A Yeah. There would be a color chart that will show</p> <p>11 that.</p> <p>12 MS. BERGSTROM: I'll just make a request</p> <p>13 here, Barb, that we get a copy of that. That would</p> <p>14 clear it up.</p> <p>15 MS. FORSLAND: Okay.</p> <p>16 BY MS. BERGSTROM:</p> <p>17 Q And the I-35W bridge is within that -- your</p> <p>18 division?</p> <p>19 A That's within my area, work area, yes.</p> <p>20 Q Are there occasions when crews from one of the other</p> <p>21 divisions would work outside of their area?</p> <p>22 A Occasionally, if we're short and need help, you</p> <p>23 know, we'll help each other out.</p> <p>24 Q When you -- When you have this work plan, in</p> <p>25 developing the work plan, do you rely on funding</p>	<p style="text-align: right;">11</p> <p>1 A July 1 to June 30.</p> <p>2 Q Help me a little bit with the types of projects that</p> <p>3 are on your work plan. There have been some various</p> <p>4 terms about preventative maintenance and reactive</p> <p>5 maintenance. And I don't pretend to know the</p> <p>6 difference between all of those. And so can you</p> <p>7 tell me about what kinds of projects get on to your</p> <p>8 work plan and how you would describe those?</p> <p>9 A Some of the preventative maintenance projects would</p> <p>10 be a poxy crack sealing of decks. We also use a</p> <p>11 rubber crack sealer. We do patching of decks. If</p> <p>12 there's delamination and potholes, we do concrete</p> <p>13 patching. We'll grease bearings, the bearings on</p> <p>14 the bridge. Expansion joints, we'll work with</p> <p>15 those. That would be a lot of the preventative.</p> <p>16 Some of that is reactionary too. If there's a -- If</p> <p>17 there's a large hole in the deck, we've got to run</p> <p>18 out there and get it. So it would be that.</p> <p>19 Reactionary is, you know, what's -- if</p> <p>20 there's a traffic accident or emergency or something</p> <p>21 that may happen out there, then we'll take that.</p> <p>22 We're also responsible for the jersey barriers and</p> <p>23 all of the sound walls and some of the structural</p> <p>24 parts of the overhead signs and stuff. If there</p> <p>25 needs -- something needs to be structurally done on</p>
<p style="text-align: right;">10</p> <p>1 considerations?</p> <p>2 A Generally not. Usually the funding is -- is there.</p> <p>3 I know times are a little tighter now. But it</p> <p>4 always has affect on what supplies are available to</p> <p>5 us and stuff. A little bit. I mean, funding makes</p> <p>6 a difference on what we do, yes.</p> <p>7 Q Are you involved at all in the funding decisions?</p> <p>8 A No.</p> <p>9 Q You're just told here's the amount of money you have</p> <p>10 to work with?</p> <p>11 A They give us a budget to sort of work with, and we</p> <p>12 try and stay within that budget. But if additional</p> <p>13 money is needed, then I would go to my supervisor</p> <p>14 and say that, you know, this is going to be a bigger</p> <p>15 project; we're going to need more funding for it.</p> <p>16 And they locate it someplace.</p> <p>17 Q Okay. When you say you're given a budget, are each</p> <p>18 one of these divisions, if you will, given a budget</p> <p>19 or is the group as a whole given a budget?</p> <p>20 A We each have a chart that shows our budget for the</p> <p>21 year.</p> <p>22 Q And is that a calendar year budget? Is that</p> <p>23 something you get in January or...</p> <p>24 A Fiscal year.</p> <p>25 Q Fiscal year. Okay. And what is that fiscal year?</p>	<p style="text-align: right;">12</p> <p>1 that, then we'll usually be called to do that also.</p> <p>2 Q Are there maintenance projects that are outside of</p> <p>3 your responsibility? For instance, like the</p> <p>4 overlay, replacing an overlay, is that within yours?</p> <p>5 A No, that's not something that I would do. That's --</p> <p>6 There's contracts that are let for larger major</p> <p>7 projects such as that.</p> <p>8 Q What's the distinguishing feature between a project</p> <p>9 that you do within your unit versus one that gets</p> <p>10 let out?</p> <p>11 A Well, I guess it depends upon how bad it's</p> <p>12 deteriorated, you know, if there's a lot -- it's</p> <p>13 beyond our realm, it's going to be a bigger project</p> <p>14 than what we're capable of doing, sometimes because</p> <p>15 of traffic control. We're not allowed to keep a</p> <p>16 lane closed overnight or anything, you know, unless</p> <p>17 it's an emergency. So we basically just go in and</p> <p>18 do some spot repairs. And then if it's anything</p> <p>19 that's going to take more than that, then they'll</p> <p>20 usually call in a -- let a contract for it and have</p> <p>21 a contractor repair it.</p> <p>22 Q What -- What division then or what group, if you</p> <p>23 will, is in charge of doing that?</p> <p>24 A Of deciding whether or not it's a contractual job or</p> <p>25 who does the actual work?</p>

<p style="text-align: right;">13</p> <p>1 Q One, deciding who -- that it needs to be let out;</p> <p>2 and then, two, who's in charge of that process?</p> <p>3 A We would -- If it's a major project, it's usually by</p> <p>4 our central office bridge. Engineers will make a</p> <p>5 determination.</p> <p>6 Q You mentioned if there was a large hole in the deck,</p> <p>7 your group would go out and fix it. How would</p> <p>8 something like that come to your attention?</p> <p>9 A Usually by a call on the radio that something fell</p> <p>10 off a truck, which has happened, or if -- Usually</p> <p>11 it's a traffic accident that would cause something</p> <p>12 like that. Either somebody hit a bridge or</p> <p>13 something fell off a load. You know, they can hit</p> <p>14 the beams underneath, and we'll be called out. It</p> <p>15 could be any time of the day, whenever it happens.</p> <p>16 Q You mentioned the central bridge office. What's</p> <p>17 your interaction with the central bridge office?</p> <p>18 A If we find something on a bridge that may be a major</p> <p>19 problem or something we're not sure of and we feel</p> <p>20 that it needs to be looked at by an engineer, we</p> <p>21 will contact their office, bring it to their</p> <p>22 attention and say we need you to come out and take a</p> <p>23 look at this; this could be serious. Or if it's</p> <p>24 just something that may get serious, we'll call</p> <p>25 them; and then they'll come and give us a -- they'll</p>	<p style="text-align: right;">15</p> <p>1 everybody connected.</p> <p>2 Q Where are those meetings held?</p> <p>3 A This one will be in St. Cloud. They vary.</p> <p>4 Q You mentioned that you were a bridge inspector. And</p> <p>5 I understand there are a couple of different ways</p> <p>6 that you can be certified to be a bridge inspector.</p> <p>7 A Yes.</p> <p>8 Q What did you do to get your bridge certification?</p> <p>9 A Originally you take a one-week class, and then</p> <p>10 within a couple of years you'll take a two-week</p> <p>11 class. You'll be active as what was called at one</p> <p>12 time a level -- at the time I did it it was a level</p> <p>13 1 inspector. And then you basically go with a level</p> <p>14 2 inspector. And you learn on the job. You need to</p> <p>15 do that for five years. After five years, then if</p> <p>16 you are ready, you can test and become a level 2</p> <p>17 inspector. So you actually take a field test; and</p> <p>18 then if you pass that, then you become a level 2.</p> <p>19 Now it's called a team leader. They changed the</p> <p>20 title. Same thing.</p> <p>21 Q And that's what you are, a team leader?</p> <p>22 A Correct.</p> <p>23 Q Okay. What kinds of bridges do you inspect?</p> <p>24 A Basically all I do is the routine annual inspections</p> <p>25 on basic bridges. Do not really get involved on any</p>
<p style="text-align: right;">14</p> <p>1 come and review it and then give us any type of</p> <p>2 repair that may need to be done or determine whether</p> <p>3 it needs to be repaired immediately or if it can</p> <p>4 wait.</p> <p>5 Q Do you have a specific contact within central bridge</p> <p>6 office that you -- that's your contact to call?</p> <p>7 A Generally on that situation, we'll just call their</p> <p>8 office. I think lately Paul Kivisto has been the</p> <p>9 one that would come out and make a determination for</p> <p>10 us.</p> <p>11 Q Now, these other supervisors in these other areas,</p> <p>12 do you get together with them and have any standing</p> <p>13 meetings?</p> <p>14 A Oh, yes, we get together every once in a while.</p> <p>15 Actually, we have meetings next week for everybody,</p> <p>16 CO bridge and us, statewide. We meet twice a year</p> <p>17 for statewide.</p> <p>18 Q And that's a meeting that's between the central</p> <p>19 bridge -- is it all of metro bridge?</p> <p>20 A All -- All bridge supervisors across the state.</p> <p>21 Q Okay. What's the purpose of those meetings?</p> <p>22 A Just to discuss the things that are going on and the</p> <p>23 different types -- and we'll do presentations on the</p> <p>24 different types of repairs that different crews have</p> <p>25 done. And just pass on information and keep</p>	<p style="text-align: right;">16</p> <p>1 fracture critical or anything such as that.</p> <p>2 Q Describe to me generally what you do when you go out</p> <p>3 on a routine annual inspection.</p> <p>4 A We look at every area of the bridge. We'll -- Some</p> <p>5 of that may just be cosmetic. Some of that may be</p> <p>6 structural with that bridge. We'll look at the</p> <p>7 beams, make sure everything is aligned correctly.</p> <p>8 We'll check the bearings, make sure nothing is</p> <p>9 shifted or -- Just make sure the bridge is intact.</p> <p>10 And if there's any traffic damage or deterioration,</p> <p>11 then we'll document that. We will look at the</p> <p>12 existing report from the previous year; we'll read</p> <p>13 through that, see if there's any changes in</p> <p>14 anything. If anything's deteriorated beyond that</p> <p>15 point or if anything's been repaired, then we may</p> <p>16 write down on there so it can be put in the report</p> <p>17 that when it is put into the computer that these</p> <p>18 areas have been repaired. And then just take a</p> <p>19 general overview. And then if there's just</p> <p>20 miscellaneous maintenance items or some maintenance</p> <p>21 items, we'll document them, we'll take pictures of</p> <p>22 them, and we'll keep them in the office; and that</p> <p>23 helps with the work plan. Then we'll fit them into</p> <p>24 the work plan for the next year. Or if it's more</p> <p>25 immediate, we'll get on it quicker.</p>

<p style="text-align: right;">17</p> <p>1 Q So when you get done doing your inspection, as the</p> <p>2 team leader are you the person who's charged with</p> <p>3 putting together a written inspection report?</p> <p>4 A We have a -- When we go out, we have already got the</p> <p>5 report of what was done the previous inspection. So</p> <p>6 we take that and we can review that. And then as we</p> <p>7 go through the inspection of the bridge, we can read</p> <p>8 each line item on there of each member of the bridge</p> <p>9 and see if anything has changed or add anything new.</p> <p>10 So then we will actually write in there what any of</p> <p>11 our comments are. And then we turn that in to the</p> <p>12 office, and then that gets put into the computer</p> <p>13 by -- It gets passed on up the line.</p> <p>14 Q Okay. So then they use these kind of handwritten</p> <p>15 field notes, if you will, to generate a new</p> <p>16 inspection report?</p> <p>17 A To add on to the existing one, yes.</p> <p>18 Q Okay. And what -- after that, if you will, physical</p> <p>19 typing gets done by somebody, where does that</p> <p>20 inspection report go?</p> <p>21 A After we finish our inspection, we'll take a</p> <p>22 section; we'll turn those in to our bridge engineer.</p> <p>23 And then he takes it, and he reviews them; and if he</p> <p>24 sees anything in there, any comments, he may call us</p> <p>25 back and say something. And then he has to sign off</p>	<p style="text-align: right;">19</p> <p>1 A I'm sure there's an org chart that shows them</p> <p>2 someplace; but I'm not sure, you know. I don't know</p> <p>3 that he's on any of these. So -- It would be a</p> <p>4 different org chart. But he falls in there.</p> <p>5 MS. BERGSTROM: Barb, is that something</p> <p>6 that you could check for?</p> <p>7 MS. FORSLAND: I will check on that. I'm</p> <p>8 going to take this as an official request for a copy</p> <p>9 of an org chart outlining the inspection structure</p> <p>10 at the metro division.</p> <p>11 MS. BERGSTROM: Right.</p> <p>12 MS. FORSLAND: Okay.</p> <p>13 MS. BERGSTROM: That's great.</p> <p>14 BY MS. BERGSTROM:</p> <p>15 Q Okay. So after Roger signs off and the report goes</p> <p>16 to central bridge office, how -- does it come back</p> <p>17 to you at some point?</p> <p>18 A It's on the computer, and I have access to it.</p> <p>19 Q I guess what I'm getting at is how do you get</p> <p>20 recommendations and findings from that report into</p> <p>21 your work plan?</p> <p>22 A Well, generally the inspector who inspected the</p> <p>23 bridge, whether it be me or someone else who</p> <p>24 inspected our bridge, would make any comments and</p> <p>25 then pass a note on to me saying -- I'll usually</p>
<p style="text-align: right;">18</p> <p>1 on them. And then he passes them -- or feeds them</p> <p>2 into the computer. And then that all goes to -- I</p> <p>3 believe the central office bridge reviews all of</p> <p>4 that and then sends it on to the Federal Highway</p> <p>5 Commission at the end of the year.</p> <p>6 Q Who is the bridge engineer that you would give your</p> <p>7 reports to?</p> <p>8 A Roger Schultz.</p> <p>9 Q And so then he would sign off on the inspection</p> <p>10 report and send it to central bridge?</p> <p>11 A Correct.</p> <p>12 Q Okay. Where is -- On these org charts, where is</p> <p>13 Roger Schultz?</p> <p>14 A I don't see his name on here, because he's in the</p> <p>15 inspection. This is probably more the maintenance.</p> <p>16 But he would probably fall in somewhere around Jack</p> <p>17 Pirkli's level.</p> <p>18 Q Okay. So --</p> <p>19 A He's above Erickson and below Jim Bieniek. So he's</p> <p>20 somewhere in that area, I guess. I'm not really</p> <p>21 sure.</p> <p>22 Q Okay. And so this -- this metro bridge org chart is</p> <p>23 primarily maintenance?</p> <p>24 A Yes.</p> <p>25 Q And then is there a similar one for inspections?</p>	<p style="text-align: right;">20</p> <p>1 have anyone that works in my area, give them a</p> <p>2 camera. And I'll say if you go out and you find</p> <p>3 anything, take a picture of it, make the notes that</p> <p>4 you put on your inspection reports, make a copy of</p> <p>5 that, staple that picture to that report, and hand</p> <p>6 it to me. And then I've got those in my office, and</p> <p>7 I can review them. Or if they think it's real</p> <p>8 serious or I'm not sure, then I will go out and</p> <p>9 inspect it myself and make a determination on</p> <p>10 whether I need to do a repair or whether I need to</p> <p>11 see an engineer because it may be a more extensive</p> <p>12 repair.</p> <p>13 Q Okay. So let's use -- let's use a circumstance</p> <p>14 where -- Well, let me ask this: Are any of these</p> <p>15 other people team leaders?</p> <p>16 A No.</p> <p>17 Q Okay. Presumably though there are team leaders on</p> <p>18 the inspection side of metro bridge?</p> <p>19 A They all would be a team leader or engineer or</p> <p>20 higher, yes.</p> <p>21 Q Okay. I just want to use a circumstance where</p> <p>22 you're not the team leader --</p> <p>23 A Okay.</p> <p>24 Q -- so that you're dealing with an inspector who is</p> <p>25 not you.</p>

<p style="text-align: right;">21</p> <p>1 A Okay.</p> <p>2 Q Wearing different hats.</p> <p>3 A I have had team leaders on my crew.</p> <p>4 Q Okay.</p> <p>5 A And then when they go out, that's what I would ask</p> <p>6 them to do.</p> <p>7 Q Okay.</p> <p>8 A Sometimes there's other inspectors that will inspect</p> <p>9 my area, and then I will try and get the information</p> <p>10 from them. As long as I have assigned them to go</p> <p>11 out to do that work, then they'll give me -- they'll</p> <p>12 bring all the paperwork back to me.</p> <p>13 Q Okay. So the team leader, the inspector, is the one</p> <p>14 charged with coming back to maintenance and saying</p> <p>15 here are the things that need to be done on this</p> <p>16 bridge?</p> <p>17 A He will say here are the things that I found.</p> <p>18 Q Okay.</p> <p>19 A Okay. And then he'll give it to me, and he'll say</p> <p>20 this is what I found; this is what I think needs</p> <p>21 repair, or this is minor; this could be a major.</p> <p>22 And he'll just pass that information on to me, and</p> <p>23 then I will go review it.</p> <p>24 MR. MERZ: Is this something you get in</p> <p>25 writing from him?</p>	<p style="text-align: right;">23</p> <p>1 itself?</p> <p>2 MR. DOMDROSKE: It's an actual inspection</p> <p>3 report, yes.</p> <p>4 MR. MERZ: Okay.</p> <p>5 BY MS. BERGSTROM:</p> <p>6 Q And then if there is something major in that</p> <p>7 inspection report, meaning something that needs to</p> <p>8 be let out as opposed to your crew responding to it,</p> <p>9 who's attention do you bring that to?</p> <p>10 A I would probably take it to Roger Schultz -- Phil</p> <p>11 Erickson my boss and then Roger Schultz who</p> <p>12 they're -- you know, all sit right together there in</p> <p>13 the office. And I'll take it in and say this is</p> <p>14 something we need to look at. Roger will also ask</p> <p>15 us to -- he does a lot of the planning for next</p> <p>16 year's projects and next year's and next year's, you</p> <p>17 know, five-year plan, or I've got some money here</p> <p>18 that we can do these projects with. And he'll want</p> <p>19 to know what our worst bridges are; what are you</p> <p>20 having problems with; what will probably need to be</p> <p>21 repaired in the future. And then we'll bring him</p> <p>22 that information. Sometimes it's expansion joints</p> <p>23 because of pavement pressure; they start buckling</p> <p>24 and can create problems with the bridge. So we'll</p> <p>25 bring these type of items to him. And then he</p>
<p style="text-align: right;">22</p> <p>1 MR. DOMDROSKE: It's -- It's the -- I'm</p> <p>2 really going off of when I had a team leader on my</p> <p>3 crew.</p> <p>4 MR. MERZ: Okay.</p> <p>5 MR. DOMDROSKE: He would make his</p> <p>6 comments; and we usually have him use red ink so</p> <p>7 that it sticks out on the report, because they're</p> <p>8 typed-out reports like this. So he would write in</p> <p>9 red ink and he'd put what -- And everything is</p> <p>10 itemized on there, whether it's the deck or the</p> <p>11 substructures, wherever it is on there. And then</p> <p>12 he'll write right underneath that line item of what</p> <p>13 it was that he found and then with a photograph,</p> <p>14 usually just a Polaroid photograph; and that's</p> <p>15 stapled to it so I can see what -- I can understand</p> <p>16 better what he wrote just by looking at it, and then</p> <p>17 it will catch my attention whether I need to run out</p> <p>18 and take a better look at it right away. Or if I</p> <p>19 can maybe, okay -- sometimes I'm aware of it</p> <p>20 already, because I just know that there's been a</p> <p>21 problem there, but it's not a major problem. A</p> <p>22 fence down there. Sometimes it's that simple, you</p> <p>23 know.</p> <p>24 MR. MERZ: But the thing that you're</p> <p>25 talking about is the actual inspection report</p>	<p style="text-align: right;">24</p> <p>1 checks funding and decisions and is in meetings to</p> <p>2 determine what we fix I guess on those or what they</p> <p>3 let for contract.</p> <p>4 Q Okay. I think you told me this, but I can't</p> <p>5 remember. How long have you been in charge of</p> <p>6 maintenance in this area?</p> <p>7 A '99 I believe.</p> <p>8 Q And the process that you describe for these</p> <p>9 inspection reports and bringing things to your</p> <p>10 attention or team leaders, is that true for the</p> <p>11 fracture critical bridge inspections too?</p> <p>12 A You'd have to ask, you know, how they run theirs.</p> <p>13 But I'm sure it's -- You know, you're asking what</p> <p>14 they do to their supervisor?</p> <p>15 Q Well, I guess I'm -- in specifically the I-35W</p> <p>16 bridge, would those -- the inspection reports from</p> <p>17 that also land on your desk?</p> <p>18 A Generally in that situation, if they look through</p> <p>19 something and there's something that -- maintenance</p> <p>20 that we would cover, the inspector's there; I will</p> <p>21 usually talk to them when they're inspecting, and</p> <p>22 I'll say is there anything that I need to be</p> <p>23 concerned with or needs repair. Sometimes it's</p> <p>24 verbal right on the bridge during the inspection.</p> <p>25 I'll be in that area. My crew is usually out there</p>

<p>25</p> <p>1 providing traffic control and stuff for them.</p> <p>2 So we're there when they're doing the</p> <p>3 inspection. And so usually if there's something,</p> <p>4 then they'll -- occasionally they'll say there's</p> <p>5 something here. You go right down in the snooper</p> <p>6 and look at it. You know, they may say this is</p> <p>7 something that needs to be fixed. And if it's</p> <p>8 structural, then the engineers determine how we're</p> <p>9 going to fix that. And then they give us the plans</p> <p>10 or whatever, and then we'll go and fix it. If it's</p> <p>11 sacrificial, it's just something if you get to it,</p> <p>12 you know, chipped concrete or something, you know,</p> <p>13 that we need to fix, then they'll just verbally tell</p> <p>14 us usually at that time.</p> <p>15 Q Okay. Is there -- Who makes the determination</p> <p>16 whether it's something that your crew addresses or</p> <p>17 something that somebody else addresses?</p> <p>18 A Well, that would probably be the engineer on the --</p> <p>19 You're talking fracture critical now --</p> <p>20 Q Yeah. Right.</p> <p>21 A -- or you're just talking -- It would be the</p> <p>22 fracture critical engineer, the inspectors out</p> <p>23 there. I'm sure there would be a meeting on who's</p> <p>24 going to fix that, so -- if it's something we can do</p> <p>25 or something that needs to be let by a contract.</p>	<p>27</p> <p>1 Q Okay. All right. Assuming that some maintenance</p> <p>2 work on a fracture critical bridge does make it to</p> <p>3 your work plan --</p> <p>4 A Okay.</p> <p>5 Q -- and your crew goes out and does the maintenance</p> <p>6 that's requested, is there any post-work</p> <p>7 documentation that gets done to say, yeah, we went</p> <p>8 out and did this?</p> <p>9 A Yes, we do a -- we do a completion report on every</p> <p>10 project we do, whether fracture critical or not. We</p> <p>11 have a computer program. We -- We have a work order</p> <p>12 for everything we do.</p> <p>13 Q Okay. So if there is a -- If you're looking at your</p> <p>14 work plan and you've got some work that you're going</p> <p>15 to do that's been on the list, who generates the</p> <p>16 work order when it comes to the day that you're</p> <p>17 actually going to go do it?</p> <p>18 A I do.</p> <p>19 Q And then are you also the person who generates the</p> <p>20 completion report?</p> <p>21 A Yes. The actual work order becomes a completion</p> <p>22 report when you're done. It's all computerized. It</p> <p>23 just feeds in there, and you just print it out when</p> <p>24 you're done.</p> <p>25 Q That completion report, where does that get routed</p>
<p>26</p> <p>1 I'm sure it's a group meeting. It's not just one</p> <p>2 person, I'm sure.</p> <p>3 Q So is it fair to say then that if the fracture</p> <p>4 critical inspection concludes that there's some work</p> <p>5 that your maintenance crews can do on the bridge,</p> <p>6 that's probably a verbal queue to you, not a written</p> <p>7 request?</p> <p>8 A It's usually verbal at first, and then we'll meet.</p> <p>9 I mean, we'll actually get together and meet. It's</p> <p>10 not like a phone call, we'll say. It may start with</p> <p>11 a phone call, but they'll say this is something we</p> <p>12 have to do. Then we'll meet and see what the</p> <p>13 problem is. And then we have to determine the fix.</p> <p>14 And generally if it's something on that order, as I</p> <p>15 said, an engineer will give us blueprints or plans</p> <p>16 of how they want it repaired.</p> <p>17 Q But the actual fracture critical inspection report</p> <p>18 doesn't land on your desk like the other inspection</p> <p>19 reports would?</p> <p>20 A Rarely.</p> <p>21 Q Rarely. Okay. So through that process where they</p> <p>22 first talk to you and then call and maybe get some</p> <p>23 plans, that's how work on a fracture critical bridge</p> <p>24 would make it to your work plan?</p> <p>25 A Yes.</p>	<p>28</p> <p>1 to?</p> <p>2 A It's in the mainframe of our computer. So anybody</p> <p>3 has access to it that would go into that program.</p> <p>4 But we just leave it in the computer basically.</p> <p>5 Q And can those work orders and completion reports be</p> <p>6 sorted by bridge?</p> <p>7 A Yes.</p> <p>8 Q Okay. So there should be work orders and completion</p> <p>9 reports for the I-35 bridge that could be gathered?</p> <p>10 A Yes.</p> <p>11 Q Okay.</p> <p>12 MR. MERZ: Do you know how long that</p> <p>13 computer system has been in place?</p> <p>14 MR. DOMDROSKE: The particular one we</p> <p>15 have now -- we had one prior to it -- I want to say</p> <p>16 five, six years. I'm not sure when it started. And</p> <p>17 there was, you know, a lot of changes and things</p> <p>18 that worked, that didn't work, as with any computer</p> <p>19 program. But I would say it's been running fairly</p> <p>20 active for -- It may even be more. I may be lost in</p> <p>21 time there. But it's been there for a while. We</p> <p>22 have reports generated back at least five years, I'm</p> <p>23 sure, in that program.</p> <p>24 MR. MERZ: And before that you had a</p> <p>25 different computer system?</p>

<p style="text-align: right;">29</p> <p>1 MR. DOMDROSKE: Yeah, an obsolete one. I</p> <p>2 don't even think we can even get into that. In</p> <p>3 fact, the bridge -- a group of bridge supervisors</p> <p>4 kind of worked with a computer person to put that</p> <p>5 together. We did have handwritten documents before</p> <p>6 that. So, I mean, we do have them going way back,</p> <p>7 but a lot of times it was just done by hand.</p> <p>8 MS. BERGSTROM: Barb, do you know whether</p> <p>9 in the -- in the database of produced documents</p> <p>10 there are work orders and completed reports for this</p> <p>11 bridge?</p> <p>12 MS. FORSLAND: I don't know that, but I</p> <p>13 can check and find out for you.</p> <p>14 Dale, do you generate reports from that</p> <p>15 computer program that say these are the work orders</p> <p>16 we performed in a given calendar period or anything</p> <p>17 like that?</p> <p>18 MR. DOMDROSKE: We can go by calendar</p> <p>19 period. We can --</p> <p>20 MS. FORSLAND: Okay.</p> <p>21 MR. DOMDROSKE: -- you know, types of</p> <p>22 repair. There's different ways -- parameters of</p> <p>23 pulling them. But they're there.</p> <p>24 MS. FORSLAND: Who would be a contact who</p> <p>25 could advise me about the details of extracting that</p>	<p style="text-align: right;">31</p> <p>1 Rocky Haider and get some information on this</p> <p>2 system. Would you have staff who might want to come</p> <p>3 in and see that system in use or have access to the</p> <p>4 system itself? Or perhaps we could talk about this</p> <p>5 later --</p> <p>6 MS. BERGSTROM: Let's just talk about</p> <p>7 that --</p> <p>8 MS. FORSLAND: -- and see what kind of --</p> <p>9 MS. BERGSTROM: Yeah. Yeah.</p> <p>10 MS. FORSLAND: -- reports we could get</p> <p>11 printed out of that system.</p> <p>12 MS. BERGSTROM: Yeah. Yeah.</p> <p>13 MS. FORSLAND: Focusing on the I-35</p> <p>14 bridge --</p> <p>15 MS. BERGSTROM: Yeah.</p> <p>16 MS. FORSLAND: -- bridge 9340?</p> <p>17 MS. BERGSTROM: Yeah. Because we just</p> <p>18 have seen kind of a missing subset on the actual</p> <p>19 maintenance work that had been done historically.</p> <p>20 MS. FORSLAND: Okay.</p> <p>21 MS. BERGSTROM: So I don't think anything</p> <p>22 like that has been produced. But why don't you look</p> <p>23 into it, and then we can talk about what makes some</p> <p>24 sense.</p> <p>25 MS. FORSLAND: Should I also then find</p>
<p style="text-align: right;">30</p> <p>1 kind of information?</p> <p>2 MR. DOMDROSKE: Do you work here in this</p> <p>3 building?</p> <p>4 MS. FORSLAND: Yes, I do.</p> <p>5 MR. DOMDROSKE: Rocky.</p> <p>6 MS. FORSLAND: Rocky's name?</p> <p>7 MR. DOMDROSKE: Rocky Haider.</p> <p>8 MS. FORSLAND: Rocky Haider.</p> <p>9 MR. DOMDROSKE: He is our computer expert</p> <p>10 on that particular -- I'm not sure which -- on the</p> <p>11 fourth floor or something, but I'm not sure.</p> <p>12 MS. FORSLAND: Is this the Pontiss system</p> <p>13 we're talking about or --</p> <p>14 MR. DOMDROSKE: No.</p> <p>15 MS. FORSLAND: -- is it something</p> <p>16 different?</p> <p>17 MR. DOMDROSKE: This is different. This</p> <p>18 is WMS and PPMS.</p> <p>19 MS. FORSLAND: Okay. But it's the -- How</p> <p>20 would I -- Do we know a name of it? Is it work</p> <p>21 orders or is it --</p> <p>22 MR. DOMDROSKE: WMS is work maintenance</p> <p>23 systems, and the PPMS is progressive -- I forget.</p> <p>24 I'm not sure what it is.</p> <p>25 MS. FORSLAND: Okay. Let me contact</p>	<p style="text-align: right;">32</p> <p>1 out about this obsolete computer system and the</p> <p>2 paper records that would have been the system prior</p> <p>3 to that? So are you looking for the history --</p> <p>4 MS. BERGSTROM: Yeah. Right. Right.</p> <p>5 MS. FORSLAND: -- of reports on the</p> <p>6 bridge? Okay.</p> <p>7 MS. BERGSTROM: And it might be the case</p> <p>8 that once we take a look at some of that, we can</p> <p>9 limit some years. But let's just figure out what</p> <p>10 there is, and then we'll go from there.</p> <p>11 MS. FORSLAND: The old paper records</p> <p>12 should be in the copies of paper records that we</p> <p>13 have electronically created that you have on the</p> <p>14 disks. That would be my expectation. But we will</p> <p>15 verify that.</p> <p>16 MR. MERZ: And I believe we have some</p> <p>17 records like that.</p> <p>18 MS. FORSLAND: Okay.</p> <p>19 MR. MERZ: It's just difficult to tell</p> <p>20 whether it's a complete set.</p> <p>21 MS. FORSLAND: Yes.</p> <p>22 MR. MERZ: And then one of my questions</p> <p>23 is, to the extent something is now part of this</p> <p>24 either WMS or PPMS system, is the paper backup</p> <p>25 retained? It doesn't seem like there would be any</p>

<p>33</p> <p>1 need to or maybe there isn't any paper backup for</p> <p>2 that stuff.</p> <p>3 MR. DOMDROSKE: I don't know if anyone</p> <p>4 pulls them and files the actual paper on that. Some</p> <p>5 may put it in their file because if the bridge, you</p> <p>6 know, have files. But it's actively on the</p> <p>7 computers all the time, so we can pull it any time.</p> <p>8 So...</p> <p>9 MR. MERZ: Okay.</p> <p>10 BY MS. BERGSTROM:</p> <p>11 Q Dale, when you're looking at the various inspection</p> <p>12 reports that are on your desk with red ink or</p> <p>13 Polaroid photos and then you're looking at any</p> <p>14 requests that would come from fracture critical</p> <p>15 inspectors and you're making your work plan, what --</p> <p>16 how do you prioritize those projects on your work</p> <p>17 plan? What process do you use?</p> <p>18 A Well, we try and prioritize ones that are more</p> <p>19 serious, you know, and do those first. And then,</p> <p>20 you know, we get down into where it would be</p> <p>21 preventative maintenance. You just have to</p> <p>22 prioritize by what the problem is. Sometimes the</p> <p>23 work area there's some projects we have to do at</p> <p>24 night. So we have to schedule when we will work</p> <p>25 nights because of traffic control. What materials</p>	<p>35</p> <p>1 an issue. You know, people funding, equipment, you</p> <p>2 know, materials. Just your basic what you need to</p> <p>3 complete a job.</p> <p>4 BY MS. BERGSTROM:</p> <p>5 Q Are there -- Since the collapse of the bridge, have</p> <p>6 there been new maintenance forms that have been</p> <p>7 developed to track some of your maintenance work?</p> <p>8 A Nothing that I've had to do.</p> <p>9 MS. BERGSTROM: Let's do this. Let's</p> <p>10 take a little break, and I think we're probably in</p> <p>11 pretty good shape to finish up by the time we wanted</p> <p>12 to.</p> <p>13 MS. FORSLAND: Okay.</p> <p>14 MS. BERGSTROM: But we'll take a break</p> <p>15 and come back and talk a little bit about the bridge</p> <p>16 and be done.</p> <p>17 MR. DOMDROSKE: Okay.</p> <p>18 MS. FORSLAND: Okay. Terrific.</p> <p>19 (Recess.)</p> <p>20 BY MS. BERGSTROM:</p> <p>21 Q Let's go back on the record, and let's talk</p> <p>22 specifically about the bridge. I'm assuming that</p> <p>23 your crews have been out on the bridge ever since</p> <p>24 you were supervisor doing maintenance out on the</p> <p>25 bridge?</p>
<p>34</p> <p>1 are on hand. What materials we may have to order.</p> <p>2 How long it will take to get those materials.</p> <p>3 Staffing needs. Just a variety of different -- I</p> <p>4 mean, pretty basic common sense of how you would do</p> <p>5 it.</p> <p>6 Q You said staffing needs. Do you think that your</p> <p>7 maintenance crew for your area is adequately</p> <p>8 staffed?</p> <p>9 A No.</p> <p>10 Q And how many -- How many people would -- do you</p> <p>11 think that you would need to say that you're</p> <p>12 adequately staffed?</p> <p>13 A Normally I have a seven-man crew. I now have four.</p> <p>14 Q Other than the staffing, do you have any</p> <p>15 recommendations on how the maintenance in the metro</p> <p>16 bridge division could be improved?</p> <p>17 A No, not right off the top of my head, I guess.</p> <p>18 It's -- I think we're all doing a pretty good job</p> <p>19 with what there is to work with. So...</p> <p>20 MR. MERZ: I mean, the question I guess</p> <p>21 is other than more bodies are there other things</p> <p>22 that you think you need to do a better job, kind of</p> <p>23 recognizing that you're making the best with what</p> <p>24 you have?</p> <p>25 MR. DOMDROSKE: Well, funding is always</p>	<p>36</p> <p>1 A Yes.</p> <p>2 Q Okay. And the maintenance that you've done</p> <p>3 historically on the bridge, some of those</p> <p>4 maintenance projects would have come from the lead</p> <p>5 inspector, the fracture critical inspector?</p> <p>6 A Yeah, they do. Plus our inspections, yes.</p> <p>7 Q Okay.</p> <p>8 (Whereupon, Exhibit 3 was</p> <p>9 marked for identification by the</p> <p>10 court reporter.)</p> <p>11 BY MS. BERGSTROM:</p> <p>12 Q Dale, I'll have you look at that Exhibit Number 3.</p> <p>13 This is the June 2005 fracture critical bridge</p> <p>14 inspection report. Have you -- Have you ever</p> <p>15 reviewed the fracture critical inspection reports on</p> <p>16 this bridge?</p> <p>17 A No.</p> <p>18 Q Okay. So you had previously said that something</p> <p>19 like this would rarely land on your desk; right?</p> <p>20 A Correct.</p> <p>21 Q Okay. If you go into the -- into the front page,</p> <p>22 you see a bunch of names talk about the inspection</p> <p>23 team on the second page there. Ken Rand, Mark</p> <p>24 Pribula, Kurt Fuhrman, Vance Desens, Pete Wilson,</p> <p>25 and Mike Palmer. Are those all people you know?</p>

<p style="text-align: right;">37</p> <p>1 A Yes.</p> <p>2 Q Okay. And Mike Palmer used to be in your group; right?</p> <p>3 A Yes.</p> <p>4 Q Okay. Would you -- Would one of the people from your maintenance crew often attend these inspections?</p> <p>5 A Mike Palmer is not a fracture critical inspector. He would work with them. Because when we have a snooper inspection on the bridge, they require two people to be in the snooper bucket at one time. And being that he was my team leader inspector, I would ask him to go down there with them so he can learn more working with the other guys. But he was basically just in the bucket with them for safety reasons and learning a little bit more about the bridges.</p> <p>6 Q So of this team of people, who do you -- outside of Mike Palmer who works in your unit, who would you have the most contact with?</p> <p>7 A As far as projects that needed to be done on the bridge, probably Mark Pribula.</p> <p>8 Q Okay. And physically do you office in the same building?</p> <p>9 A His office is at Waters Edge. But I see him on an</p>	<p style="text-align: right;">39</p> <p>1 I think I was in Duluth at that time. I was not in charge of the crew. But I know when I came back from Duluth, there was a project ending up. They did some painting and put some covers over, pigeon covers or whatever they call them. So that project was ending up when I took over the crew.</p> <p>2 Q And then obviously -- Well, let me -- 2001 was when the de-icer was installed?</p> <p>3 A Approximately.</p> <p>4 Q Were you involved in that project?</p> <p>5 A Not with the actual installation. I kept up with it because I had to maintain it. So I would periodically go and see what was going on and try to learn the system a little bit and what I was going to be responsible for to maintain it.</p> <p>6 Q And then there was work being done on the bridge in the summer of 2007. Were you involved with that at all?</p> <p>7 A What work was being done in two thousand -- Oh, you mean the last contract that was let on the bridge?</p> <p>8 Q That's right.</p> <p>9 A No, that was all contractor.</p> <p>10 Q Do you know what was the -- what was that work that was being done on the bridge?</p> <p>11 A Doing an overlay on the deck.</p>
<p style="text-align: right;">38</p> <p>1 on-and-off basis. Usually weekly I'll run in to him anyway.</p> <p>2 Q So if Mark was going to make a request for some maintenance on the bridge, would that be a request made in writing or would he just visit with you orally?</p> <p>3 A Generally him and I will talk when he's on the bridge if anything needs to be done, because he's usually there on the inspections and I'm there. And we will discuss -- I will ask him is there anything that we need to be concerned with or we need to do. And if there is, then we'll probably meet in the office or he'll show me what it is and we'll discuss it. So we do it more of a personal basis, face to face, one to one.</p> <p>4 Q Okay. There were some major modifications done to the bridge in 1977, but that probably predates your time at MnDOT; right?</p> <p>5 A Yes.</p> <p>6 Q Okay. There was also some work done on the bridge in 1998. Were you involved with that at all?</p> <p>7 A I think that was a contractor-let project where they did some -- Say '98?</p> <p>8 Q Yeah.</p> <p>9 A Yeah. I'm not real familiar with what all was done.</p>	<p style="text-align: right;">40</p> <p>1 Q Okay. And an overlay is different than a redecking; right?</p> <p>2 A Yes.</p> <p>3 Q Can you explain the differences to me?</p> <p>4 A Well, if you redeck, you would remove the complete deck. If you're overlaying, you would mill a portion of the top surface off down to where it's solid, and then you would resurface it. They also -- They were replacing expansion joints on that bridge.</p> <p>5 Q Do you know -- Well, it appears that that project, that overlay work, was part of a stretch of work that was being done on I-35 that just happened to include the bridge?</p> <p>6 A Correct.</p> <p>7 Q Okay. And I understand that the project leader for that was an engineer out of the Mendota station; is that right?</p> <p>8 A I believe so, but I don't know him --</p> <p>9 Q Okay.</p> <p>10 A -- you know.</p> <p>11 Q Do you know why the Mendota division would head up that project as opposed to somebody in the Spring Lake Park?</p> <p>12 A We do not have a construction office in Spring Lake</p>

<p style="text-align: right;">41</p> <p>1 Park. It's just maintenance. The construction</p> <p>2 offices would be Golden Valley, Eden Prairie,</p> <p>3 Oakdale, and Mendota I believe are the four.</p> <p>4 Q So a project like that is considered a construction</p> <p>5 project as opposed to a maintenance project?</p> <p>6 A Correct.</p> <p>7 Q So was there somebody from your maintenance crew</p> <p>8 that was involved in that project?</p> <p>9 A Nope.</p> <p>10 MR. MERZ: This will seem like an obvious</p> <p>11 question. But what makes it construction rather</p> <p>12 than maintenance, just the scope of the project?</p> <p>13 MR. DOMDROSKE: It -- Yeah, basically the</p> <p>14 scope of the project. It's much great than what</p> <p>15 we're able to do. I mean, they're closing down</p> <p>16 lanes and traffic control for days on end. I've got</p> <p>17 a four-man crew; and they have how many people out</p> <p>18 there, equipment and everything else. It's just</p> <p>19 time and ease of the job. And the contractors take</p> <p>20 anything that major. They do the major jobs. We do</p> <p>21 the minor ones.</p> <p>22 BY MS. BERGSTROM:</p> <p>23 Q Do you know how long in advance that major work was</p> <p>24 planned?</p> <p>25 A I really don't know an exact date on that, no. You</p>	<p style="text-align: right;">43</p> <p>1 Contracting, Inc., do you know them?</p> <p>2 A PCI?</p> <p>3 Q Yeah.</p> <p>4 A I know who they are. But, no, I don't -- you know,</p> <p>5 I don't work with them at all.</p> <p>6 Q Are there times in your maintenance work where</p> <p>7 you -- Well, are there certain maintenance projects</p> <p>8 that you do that require some engineering kind of</p> <p>9 design work before you can do them?</p> <p>10 A Yes.</p> <p>11 Q Okay. And what do you do when those kinds of</p> <p>12 projects arise? Like if you're going to do a</p> <p>13 project and you think you need to consult with an</p> <p>14 engineer, who do you go talk to?</p> <p>15 A Engineers change throughout the time. But we go to</p> <p>16 CO, our central office bridge, and we discuss the</p> <p>17 change with them. They will give us the plan on</p> <p>18 what they want us to do and how they want us to go</p> <p>19 about it. And they'll give us the details, and then</p> <p>20 we'll go in and make any repairs as per their plans.</p> <p>21 Q Is it the case that you make a determination that</p> <p>22 this needs an engineering overview or does the job</p> <p>23 come to you with an engineering overview already</p> <p>24 done?</p> <p>25 A If something's found, a problem with the bridge,</p>
<p style="text-align: right;">42</p> <p>1 would have to check with somebody in the</p> <p>2 construction department on that.</p> <p>3 Q Is there ever an occasion when they're doing a major</p> <p>4 construction project like that where you take the</p> <p>5 opportunity of the closed lanes and everything to go</p> <p>6 out and do minor maintenance?</p> <p>7 A Yes, we have. Whenever we get the opportunity, we</p> <p>8 do, yeah.</p> <p>9 Q Was there any minor maintenance being done by your</p> <p>10 group in the summer of 2007 on this bridge?</p> <p>11 A Not on the bridge. Yes, yes, there was. We took --</p> <p>12 Actually, it didn't involve us. It was TMC. We</p> <p>13 went and took a tower down for them.</p> <p>14 Q What's TMC?</p> <p>15 A They're the ones that do all the signal lights and</p> <p>16 stuff. Traffic management center.</p> <p>17 Q Have you -- In your role as supervisor of</p> <p>18 maintenance, do you work with outside contractors?</p> <p>19 A No, not really, no.</p> <p>20 Q So you don't know the folks at URS?</p> <p>21 A At where?</p> <p>22 Q URS Corporation.</p> <p>23 A No.</p> <p>24 Q Okay. What about the folks at the contractor that</p> <p>25 was on the bridge that summer, Progressive</p>	<p style="text-align: right;">44</p> <p>1 then either the engineers or somebody found it or,</p> <p>2 if we found it, we'd go to them; and the engineers</p> <p>3 will make the decision on what we need to do with</p> <p>4 that project. It could come from anywhere. It</p> <p>5 could be a traffic accident. A truck could hit a</p> <p>6 bridge, and I could be the first one to respond. I</p> <p>7 mean, I'll look at that and say we need an engineer</p> <p>8 to come and evaluate this and see what we need to do</p> <p>9 with it.</p> <p>10 Q It raises a point I meant to ask you too. Have</p> <p>11 you -- Since you are often the first one to respond,</p> <p>12 you get the call from somebody, have you ever been</p> <p>13 involved in closing a bridge?</p> <p>14 A Yes.</p> <p>15 Q Okay. What -- What bridge is that?</p> <p>16 A Xerxes Avenue over 494.</p> <p>17 Q Tell me about that.</p> <p>18 A Oh, boy, that happened in late '80s, I believe. An</p> <p>19 NSP truck was going on 494. Their boom was up a</p> <p>20 little bit. They clipped the first two beams. And</p> <p>21 then the boom went up, and they ripped through the</p> <p>22 third and the fourth beam. And I was called to</p> <p>23 respond to that. And when I got there, I could see</p> <p>24 that there was traffic on the bridge. I mean, it</p> <p>25 was like 3:30 in the afternoon. And Edina police</p>

<p>45</p> <p>1 and stuff were there. I says -- I asked them if</p> <p>2 they could go up and shut that bridge off because</p> <p>3 there was too much traffic on it. So I asked them</p> <p>4 to close it. I called -- Obviously dispatch</p> <p>5 engineers were already on their way. There's</p> <p>6 just -- You know, it's just pretty much like an</p> <p>7 emergency system when something that big happens.</p> <p>8 So I closed it till the engineers got</p> <p>9 there. And then I just told them I had to close</p> <p>10 that bridge; and if you want it opened, let me know.</p> <p>11 But then we ended up keeping that bridge -- two of</p> <p>12 the lanes closed where the damage was, and then they</p> <p>13 opened up the other side later.</p> <p>14 Q How long ago was that did you say?</p> <p>15 A How long ago?</p> <p>16 Q Yeah.</p> <p>17 A Oh. It had to be '80s --</p> <p>18 Q Oh.</p> <p>19 A -- I'm thinking, or '90. Early '90s I would say.</p> <p>20 Q Were you -- Were you working for MnDOT when the High</p> <p>21 Bridge was closed?</p> <p>22 A That's St. Paul, number District 5 and 9 then. And</p> <p>23 I don't think I was. I don't believe that I was</p> <p>24 here yet.</p> <p>25 Q Okay.</p>	<p>47</p> <p>1 (Concluded at 9:38 a.m.)</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>46</p> <p>1 A I don't remember what year it was. I started in</p> <p>2 '82. So depending upon what year it was would</p> <p>3 depend on whether I was here.</p> <p>4 MS. BERGSTROM: Anything else, Greg?</p> <p>5 MR. MERZ: Just kind of a general maybe</p> <p>6 question. Is there any maintenance project that</p> <p>7 your folks worked on on the bridge that kind of</p> <p>8 stands out in your mind as particularly significant?</p> <p>9 MR. DOMDROSKE: On that bridge?</p> <p>10 MR. MERZ: Yeah.</p> <p>11 MR. DOMDROSKE: Most of the work we did</p> <p>12 on that was the de-icer system and deck patching</p> <p>13 because the deck needed -- we were patching that a</p> <p>14 couple times a year, and we'd have to do it at</p> <p>15 night. So that was kind of something we did there a</p> <p>16 lot. The deck was getting bad in certain areas.</p> <p>17 MR. MERZ: Was the deterioration of that</p> <p>18 deck kind of faster than you saw on maybe other</p> <p>19 bridges that you were involved in?</p> <p>20 MR. DOMDROSKE: Not necessarily. The</p> <p>21 bridge was fairly old and, you know, just concrete</p> <p>22 rots.</p> <p>23 MR. MERZ: That's it.</p> <p>24 MS. BERGSTROM: That's all we have. Look</p> <p>25 at that. Early.</p>	<p>48</p> <p>1 STATE OF MINNESOTA)</p> <p>2) ss.</p> <p>3 COUNTY OF DAKOTA)</p> <p>4</p> <p>5 REPORTER'S CERTIFICATE</p> <p>6</p> <p>7</p> <p>8 I, Angie D. Threlkeld, do hereby</p> <p>9 certify that the above and foregoing transcript,</p> <p>10 consisting of the preceding 47 pages is a</p> <p>11 correct transcript of my stenographic notes, and is</p> <p>12 a full, true and complete transcript of the</p> <p>13 proceedings to the best of my ability.</p> <p>14 Dated March 31, 2008.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19 ANGIE D. THRELKELD</p> <p>20 Registered Professional Reporter</p> <p>21 Certified Realtime Reporter</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

Neal, Claudia

From: Lisa Freese [Lisa.Freese@dot.state.mn.us]
Sent: Thursday, May 01, 2008 5:09 PM
To: Michele Clarizio
Subject: Re: Fwd: Domdroske, Dave - E-Transcript File Delivery

Attachments: Lisa Freese.vcf



Lisa
Freese.vcf (524

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>>> Dale Dombroske 5/1/2008 2:03:44 PM >>>
Hi Lisa,

I have reviewed the transcript.
There are no major changes needed.
At times I am referred to as Dave and not Dale.
If I can be of any more help please let me know.

Thanks
Dale

Dale Dombroske
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>>> Lisa Freese 4/1/2008 8:13 AM >>>

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1 INTERVIEW OF DAN DORGAN - May 2, 2008

4 In the Matter of Conducting an Independent
Investigation into the Collapse of the I-35W Bridge

7 Department of Transportation
395 John Ireland Boulevard
Room G-14
St. Paul, Minnesota

11 Met, pursuant to Notice, at eight
12 o'clock in the morning on May 2, 2008.

16 INTERVIEWERS:

17 Kathryn Bergstrom and Greg Merz,
18 Attorneys at Law with Gray Plant Mooty Law Firm.

19 ALSO PRESENT:

20 Barbara E. Forsland, MnDOT Data
21 Practices Compliance & Policy Analyst.

22 COURT REPORTER:

23 Julie A. Rixc

1 MS. BERGSTROM: All right. Dan, I
2 won't read the Witness Protocol to you again, but
3 we'll state appearances, I think, to be
4 consistent. Katie Bergstrom with Gray Plant
5 Mooty.

6 MR. MERZ: Greg Merz, Gray Plant Mooty.

7 MS. FORSLAND: Barb Forsland, MnDOT
8 Data Practices.

9 MR. DORGAN: Dan Dorgan, MnDOT bridge
10 office.

11 FURTHER EXAMINATION

12 BY MS. BERGSTROM:

13 Q Dan, I'll tell you in advance, I hope I'm not
14 going to repeat too much and just go over the --

15 A Okay.

16 Q -- stuff that we haven't done; but I will admit
17 to you, there's a little bit of a blur on who's
18 said what at this point. So I do have the
19 transcript, but I haven't been through it
20 completely from the last time.

21 A The transcript from our previous interview?

22 Q Right.

23 A Okay.

24 MR. DORGAN: Has that been sent over to
25 us? Because I haven't seen that one.

1 MS. FORSLAND: Yeah. It should have
2 been sent over to you.

3 MR. DORGAN: Well, it could be in my
4 e-mail.

5 MS. FORSLAND: Lisa was sending them
6 out. She sent another copy to everybody and
7 asked for corrections, which we're routing
8 through Michelle Clarizio back to Katie, I
9 understand. So anybody who has clarifications or
10 corrections submits them to Michelle Clarizio and
11 we submit them back to Katie.

12 MR. DORGAN: Oh, okay.

13 BY MS. BERGSTROM:

14 Q Dan, maybe to start today, and I can't remember
15 if I asked you this the very first time we talked
16 or not, but it seems the right time to ask you
17 this now. You know that the Legislature has
18 asked us to make any recommendations to them that
19 might assist MnDOT in functioning the best as it
20 can as an agency, any suggestions that we might
21 be able to make based on our investigation that
22 would help forestalling a tragedy like this
23 happening again.

24 As you have been through the last eight
25 or ten months or so, is there anything that you

1 could recommend that would assist the agency in
2 any of those endeavors?

3 A Well, Katie, we already have taken a number of
4 actions. And, actually, I think Gray Plant Mooty
5 was copied on a memo, I believe, that Acting
6 Commissioner McFarlin sent to Senators Murphy and
7 Representative Leeder.

8 Q Okay.

9 A Is that memo familiar to you? It would have been
10 about --

11 Q I know of its existence. I have not seen it
12 yet.

13 A Okay.

14 Q So why don't you tell me about that memo?

15 A Well, within that memo, we laid out a number of
16 actions that MnDOT has taken recently, all
17 related to either bridge design, inspection or
18 maintenance. And some of those actions are
19 related to I-35, others are just improvements
20 that we've seen as we've looked at our own
21 processes.

22 Several were laid out in the Office
23 of -- And, unfortunately, I didn't bring the memo
24 with me, so I've got to try to remember from
25 memory all the things that were in there. The

<p style="text-align: right;">Page 5</p> <p>1 Office of Legislative Auditor cited that there 2 needs to be better documentation of inspection 3 results and how that translates into maintenance 4 actions. So that process has already begun. 5 Metro has developed some drafts -- Our 6 metro division has developed some drafts 7 themselves, and we're currently working through a 8 process improvement with PB Americas, the company 9 that we hired to not only help us with 10 inspections, but do a review of our program. So 11 we're currently in the process of developing that 12 process. Sorry. It's a repeat of words. So I 13 think there will be better documentation there. 14 The auditor also cited -- And we were 15 in transition to more frequent fracture critical 16 inspections and need to, because of changes to 17 the NBIS. So we do need to add staff for 18 fracture critical inspections. We were doing 19 them on the proper schedule, but that schedule 20 was changing as of 2006, so we are adding staff 21 there. In fact, we've already posted a couple 22 positions, trying to find some additional staff 23 in that area. 24 I think the things that directly 25 probably relate to NTSB findings, as you're</p>	<p style="text-align: right;">Page 7</p> <p>1 loads. That's the loading that we've given in 2 there. It's about equivalent to legal truck 3 loads. If there's a need to do something in 4 excess of that, the contractor has to utilize an 5 engineer and submit that for review and 6 approval. 7 That, by the way, was -- A federal 8 technical advisory came out in August, shortly 9 after the collapse, warning states to review 10 their construction loads. So that action was in 11 response to that memo -- or to that technical 12 advisory. 13 Gusset plate reviews. We are going to 14 complete those by June, of all 25 of our state 15 truss bridges. The counties are also going to be 16 doing theirs. They won't be on quite that short 17 a time line as the state bridges, but I know 18 they're retaining consultants to do those gusset 19 plate reviews too. And we started those in late 20 fall, after obtaining knowledge of the design 21 deficiency in the original structure of 35W. So 22 we're still in process there, of doing those 23 gusset plate reviews. We've completed some of 24 those already. 25 Sorry. I'm a little handicapped not</p>
<p style="text-align: right;">Page 6</p> <p>1 aware, in January NTSB released a finding the 2 original gusset plates in several locations were 3 approximately half the thickness required. 4 Certainly they're not done with their 5 investigation; that still has to be completed, 6 but it does highlight the fact that there was a 7 design error in the original plans. So we have 8 instituted a peer-review process for major 9 plans. 10 In fact, we even mentioned that in 11 hearings at the Legislature last fall, that for 12 future major projects, we will have an 13 independent company review the plan. That's been 14 incorporated into our design manual. That's 15 already posted out on the website. 16 We've added a construction 17 specification to the supplemental -- It was 18 already in the specifications -- regarding 19 contractors' loads during construction. So 20 that's going to be within future projects. And 21 basically what that -- And it's laid out in that 22 memo. 23 Basically what it does is if the 24 contractor is going to store equipment, materials 25 on a bridge, it needs to comply with the legal</p>	<p style="text-align: right;">Page 8</p> <p>1 having that memo. I think there was other things 2 cited in there, but I'm not recalling them at the 3 moment, what they were. 4 Q Are there any organizational changes that you 5 feel should be made, Dan? 6 A I think just mainly the addition of staff that we 7 mentioned in inspection areas. Organizational 8 changes? No, I'm not aware of anything at this 9 moment. You know, I think we've got to all 10 remember where the origins of this begin, and 11 it's 1964 in a St. Louis design shop. 12 Q Are there any changes that should be made at 13 MnDOT on how to handle safety concerns? 14 A I think we have policies in place on critical 15 deficiencies, and our people have always taken 16 action when they were aware of a safety issue. 17 In the case of 35W, we don't expect our 18 inspectors would know that there's a design 19 error. That's not something that's apparent from 20 the inspections. 21 Q If you could change anything related to bridge 22 safety, anything on a wish list, what would it 23 be? 24 A Well, I think I'd go back to those steps we've 25 already taken. I think we have instituted, you</p>

Page 9

Page 11

1 know, several steps, and some of them directly
 2 relate to bridge safety in terms of inspections.
 3 So, you know, I feel we have put in place the
 4 steps that we need to take. I don't -- If there
 5 was something we thought was lacking, we would
 6 take that step.
 7 Q I'm going to jump around a little bit now, Dan,
 8 because I'm just trying to kind of fill in some
 9 holes and get some facts. The TPC, is it
 10 Transportation Planning Committee? Maybe Barb
 11 can help me too.
 12 MS. FORSLAND: I thought it was
 13 Transportation Program Committee.
 14 BY MS. BERGSTROM:
 15 Q Program or Planning. I just don't --
 16 A And I'm sorry, Katie, I'm uncertain. But I know
 17 in our first interview that was discussed, I
 18 believe, and Lisa Freese gave the correct title
 19 of that committee. And I apologize, I can't
 20 remember whether it's Transportation Planning or
 21 Transportation Programming Committee.
 22 Q But you know what I'm referring to?
 23 A Yes, I do.
 24 Q So let's call it the TPC.
 25 A That would be fine.

Page 10

1 Q Tell me again about your involvement in the --
 2 Here it is, Transportation Program Committee --
 3 the TPC?
 4 A Okay. Well, the TPC I attend when there are
 5 bridge issues. So it's probably several meetings
 6 a year that I would attend the TPC when it's
 7 either related to perhaps a major bridge that
 8 we're talking about programming for work or for
 9 replacement, or for, at times, just the bridge
 10 program in general.
 11 Q Have you ever been a member of the TPC?
 12 A No, no, I've not been a member.
 13 Q Do you think --
 14 A My supervisor, though, Rick Arnebeck, is a member
 15 of it. The division directors are members of the
 16 TPC.
 17 Q Do you think that the state bridge engineer ought
 18 to be a member of the TPC?
 19 A I think the general -- No. I guess -- The
 20 answer, I would say, would be no. I don't see
 21 that need. But if the department feels so, I'd
 22 certainly obviously become a member if that's the
 23 desire of the department.
 24 I think the purpose of that committee
 25 overall is to lay out the overall MndOT budget,

1 to make major financial decisions on the part of
 2 the department. When those financial decisions
 3 impact bridges, then I'm invited to the meeting
 4 and asked to provide that perspective or that
 5 guidance.
 6 Q So --
 7 A So I think that's the appropriate role.
 8 Otherwise I would be sitting through a lot of TPC
 9 meetings that do not directly involve bridges.
 10 Q Do you get the agendas for the TPC meeting in
 11 advance?
 12 A I only get the agendas when there's an issue that
 13 I'm going to be there for.
 14 Q How does a major bridge issue get on the agenda?
 15 A Well, we've had -- sometimes I have actually
 16 asked for items to be on the agenda.
 17 Let's see, several years ago, when we
 18 established the statewide bridge preservation
 19 program -- You may have seen documents that
 20 referred to budget-buster bridges. We kind of
 21 got away from using that term and called it
 22 statewide bridge preservation. That would have
 23 been an issue that our office originated and
 24 brought to TPC and then eventually had it worked
 25 through to a policy, to fund the replacement of

Page 12

1 major bridges. When we thought districts' annual
 2 allotments of funds would make it difficult for
 3 them to fund major bridges, we were able to
 4 establish what we call sort of a set-aside
 5 program, where funds are taken off the top and
 6 treating them as sort of a statewide priority
 7 rather than just simply a district
 8 responsibility.
 9 So we have a number of our large
 10 bridges that are -- And I'm just offering that as
 11 an example. And, I'm sorry, Katie. I'm
 12 forgetting where this question started.
 13 Q Well, I was curious how bridge items get on the
 14 TPC agenda, so that was one example you said.
 15 A That would be one example where an item was on
 16 because we originated and felt there was an issue
 17 that we needed to elevate to TPC as a bridge
 18 advocate.
 19 At other times I've been notified that
 20 the next month TPC wants to talk about bridge
 21 funding issues, so then we're told the subject
 22 matters and we come prepared to discuss those.
 23 And probably it would either be a call from our
 24 Office of Investment Management, someone like an
 25 Abbie McKenzie, or Rick Arnebeck, my supervisor,

Page 13

Page 15

1 would call me and let me know that, you know,
 2 Please come to next month's meeting; we'll be on
 3 the agenda.
 4 Q So I'm curious, if the suggestion doesn't come
 5 from the central bridge office, but the TPC wants
 6 to talk about bridge issues, can you give me an
 7 example of why the TPC wants to talk about a
 8 bridge issue that didn't emanate from the central
 9 bridge office?
 10 A Well, we would have -- And I can't recall a
 11 specific meeting, but we annually have reporting
 12 of our bridge measures, along with other
 13 infrastructure measures, to commissioner staff.
 14 And so, you know, there could -- And, again, I
 15 can't recall a specific instance -- incident,
 16 rather. But as part of that reporting process,
 17 they may, in the interim, ask for updates or
 18 follow-ups that -- We start talking about funding
 19 issues as we're reporting our infrastructure
 20 measures, and that isn't necessarily the thrust
 21 of that annual reporting meeting, but we may
 22 decide, Let's come to TPC and discuss that
 23 particular issue further.
 24 You know, I think I have had --
 25 whenever I've had a bridge issue, major bridge

Page 14

1 issues was an example -- Historic bridges we had,
 2 because of the requirements of the state historic
 3 preservation office, we were incurring costs to
 4 preserve historic bridges. That was an issue I
 5 elevated also to TPC.
 6 So I have had no problem getting --
 7 When I've had an issue, I've always been placed
 8 on the agenda promptly to bring that issue to
 9 TPC. So the door has always been open whenever I
 10 felt an issue had to be elevated, and I think it
 11 was the same for my predecessor.
 12 Q When the RFI went out in March of 2003, one of
 13 the things that you asked various consultants to
 14 look into was the redecking of the bridge?
 15 A Yes.
 16 Q Was the redecking option ever brought to the TPC?
 17 A No. The redecking, I do not recall talking about
 18 a redecking option there. That was more an
 19 engineering discussion between, again, between
 20 URS, the consultant studying it, the metro
 21 division and our bridge office.
 22 The 35W bridge, we had planned it for
 23 major work. And I'd have to look up the years,
 24 but it was in the metro program I think around
 25 the year 2020 -- In those years it's not a single

1 year program, it's more a range of years -- for
 2 major work in those years. And it was still
 3 undetermined what the exact nature of that work
 4 was going to be.
 5 Metro had a desire to expand
 6 Interstate 35 to more lanes; and if that was the
 7 case, then it was just going to be bridge
 8 replacement. We were not going to be -- There
 9 was no way to expand that structure.
 10 However, we were on a dual track not
 11 only looking at replacement, but also trying to
 12 prepare in case there was no decision to expand
 13 Interstate 35, to answer the question if the
 14 bridge could remain in service. Because we had
 15 not had any problems with the main truss spans,
 16 which was always our concern, was fatigue at the
 17 main truss spans. And they were proving to be
 18 satisfactory for fatigue resistance.
 19 So we were looking at possible
 20 redecking as an option in the future too. And
 21 the purpose of asking URS to look at that task
 22 was if we were going to do redecking, how would
 23 it be accomplished and how would it be staged.
 24 Q Dan, I'm going to have you looked at Exhibit
 25 Number 9 that we marked before. We talked about

Page 16

1 this. Take a look at that.
 2 A Okay.
 3 Q And just to set the context for you, again, in
 4 October 2001, HNTB had made a proposal to MnDOT
 5 regarding a study of the bridge. And in late
 6 November 2001, you had met with the HNTB folks
 7 about their proposal, and then this appears to be
 8 a subsequent internal meeting where you discussed
 9 what actions were going to occur next. Do you
 10 recall that?
 11 A Well, I recall from reading this. But I think
 12 the first thing to correct is, when you call it
 13 HNTB, they may have termed it a proposal, but
 14 realize it was unsolicited. HNTB had asked to
 15 come in. They had been talking to even my
 16 predecessor about doing a future -- an additional
 17 project beyond the University of Minnesota
 18 study. Other consultants had the same thing. In
 19 fact, I think HDR was interested in this.
 20 So there was an awareness in the
 21 consultant community that MnDOT may be doing a
 22 study beyond the University of Minnesota study.
 23 So we didn't -- I don't want to term a proposal
 24 as if we had a consultant proposal and we chose
 25 not to use it, because that was really never the

Page 17

Page 19

1 context.

2 Q I said the context -- It's called a proposal on
3 the face of it.

4 A Yes. That's what they called it.

5 Q So contextually I'm in December of '01, and
6 that's the notes that you're looking at there in
7 Exhibit Number 9, okay?

8 A Uh-huh.

9 Q You say in that that in 2001, it's doubtful that
10 expansion will occur. Do you see that?

11 A That would be my -- Yeah. This is seven years
12 ago. I'm not sure all the thinking that would be
13 in that statement, doubtfulness expansion will
14 occur...

15 MS. FORSLAND: On schedule.

16 MR. DORGAN: Yeah. But I do recall
17 that given -- We decided to proceed with the
18 study rather than -- because although -- again,
19 although the University of Minnesota study had
20 concluded that fatigue should not be a problem in
21 the structure, because of the high traffic volume
22 on this bridge we were interested in studying
23 further. So rather than wait for possible
24 replacement or some future action on the bridge,
25 we made a decision to proceed with that second

Page 18

1 study.

2 BY MS. BERGSTROM:

3 Q Do you know how the proposal that HNTB gave MndOT
4 in October 2001 differs from the RFI that was
5 sent out by MndOT in March of 2003?

6 A Well, I guess -- No. We'd have to lay them side
7 by side. They're actually quite similar. I
8 think we had other consultants talking to us.

9 And, actually, I think we used some of the
10 information from those discussions to compose our
11 RFI.

12 Q Who was in charge of drafting that RFI?

13 A That would have been Bob Miller, I believe. He
14 was in charge of our consultant program at the
15 time, so I think it would be Bob Miller.

16 Q The October 2001 proposal does not contain --
17 from HNTB does not contain a proposed study of
18 any redecking, and the RFI did, as you said,
19 include a request for the consultant to talk
20 about redecking.

21 A Okay.

22 Q Who at MndOT made that decision, to have the RFI
23 address redecking concerns?

24 A I wouldn't recall what all the discussion leading
25 up to that would be.

1 Q You don't know?

2 A No. I don't recall how it all came to be.

3 Q The RFI goes out in March of 2003. It looks like
4 most of the consultants responded by the end of
5 March 2003. What was the process for picking
6 which proposal would be chosen?

7 A There was -- My recollection was there was a
8 selection committee put together, and those
9 documents should be in the EDMS, a selection
10 committee that evaluated the various responders.
11 I think there was five or six of them, at least.
12 And they ranked them, and URS was the one that
13 ranked the highest.

14 Q Who was on the selection committee?

15 A I'd have to go back to -- We'd have to go back to
16 the records to see that.

17 Q Were you on it?

18 A No, I was not on that. Bob Miller would have
19 been a part of it. Whether he was -- Sometimes
20 he chose to facilitate them rather than be a
21 voting or scoring member, but we'd have to look
22 at the detail to know that. But Bob would have
23 certainly been involved, since he was in charge
24 of our consultant program. I mean, I could
25 guess. I think I would know, but it's best --

Page 20

1 Let's go back to the records. In those documents
2 would be, Katie, in the EDMS, the files you were
3 given.

4 Q Well, just tell me generally. In the selection
5 committee, this is obviously not a bid
6 scenario --

7 A Right.

8 Q -- because it's a consultant. Would you involve
9 somebody from the metro division on it normally?

10 A At times, but I'm not sure if they were involved
11 in this particular selection. Again, I've got
12 some names in mind that I think were part of it.

13 Q Well, why don't you tell me; and then if the
14 record says something different --

15 A Bob Miller would have been a part of it. I
16 believe Gary Peterson was a part of it and I Paul
17 Kivisto was. There were more members; and I'm
18 just not recalling today who they were, but I
19 believe those three were involved.

20 Q Okay.

21 A Scott Pierson, I think Scott Pierson was on it,
22 now that I think about it. Because he was in --
23 We had him manage a lot of day-to-day dealings,
24 which would -- He was going to manage whoever we
25 hired and provide them information, so I think

Page 21

Page 23

1 Scott was a part of that.

2 Q The decision by the selection committee was

3 sometime in -- well, soon after March of 2003.

4 And then I know that URS went out on the bridge

5 along with the MnDOT crew in June 2003 to gather

6 some information.

7 A Yeah. They were participating in the annual --

8 or the inspection that was occurring that year.

9 We wanted the consultant to go out because we

10 knew that would be a task they would desire to do

11 anyways, to go out and look at it. And once we

12 knew we were going to set up traffic control, we

13 asked them to come out in June. That was really

14 in advance of their contract on the project, so I

15 think we wrote a small contract for a limited

16 amount of dollars to cover that inspection

17 service.

18 Q And then URS produced, they called it an

19 inspection report. It was just their information

20 that they had gathered having accompanied the

21 annual inspection crew?

22 A Yes.

23 Q The contract for the actual work that MnDOT

24 signed wasn't signed until December 2003. What's

25 the reason for the delay from the summer of 2003

1 would not be an issue, that it should have -- I

2 believe they said infinite fatigue life. We'd

3 have to actually look at the report. So there

4 was not an urgency. In fact, most owners

5 probably would have stopped there and not even

6 gone on with a further study. So we didn't have

7 an urgency to do this.

8 Q When the contract was signed in December of 2003,

9 URS was supposed to deliver a final report to

10 MnDOT in May of 2005, so about 16 months later.

11 A Okay.

12 Q URS didn't deliver a preliminary final report

13 until July of 2006 --

14 A Uh-huh.

15 Q -- and never delivered a final report. Do you

16 know what that delay -- what caused that delay?

17 A No. I think we'd have to go back to Scott

18 Pierson to try to -- if he recalls why the

19 extensions in time were made. I would just guess

20 it has to do with work load and some -- but I'm

21 uncertain.

22 Q Do you remember having any conversations at MnDOT

23 about the length of delay?

24 A No. I don't recall any specifics, but I think we

25 did have a number of -- there were points through

Page 22

Page 24

1 to December of 2003?

2 A Okay. At our last interview we went over that.

3 If you recall, I showed you kind of a program

4 history of MnDOT's bridge construction program.

5 And in the period starting in, I believe it was

6 either the 2001 or 2002 Legislature had passed,

7 under the Ventura administration, a bonding

8 program with additional funds. So our program

9 expanded tremendously; it tripled in size in a

10 short number of years and remained high for a

11 number of years. In fact, it's still been high

12 up to last year.

13 So our focus -- We had a lot of

14 projects to get out. So this was a study. It

15 had lesser -- As far as our priorities, we had

16 to -- Bob Miller, our consultant staff, we were

17 busy getting projects out to consultants for

18 actual design and delivery the following year for

19 construction projects. So it just did not quite

20 have the priority of the other tasks we were

21 hiring consultants for at that time. So I

22 believe that is why it wasn't expedited any

23 quicker.

24 And I think you need to recall, too, we

25 had the university study that told us fatigue

1 the URS study where they came in to give us

2 updates of where they were. So I believe that

3 probably would have been part of the discussions,

4 but I don't recall any specifics on it.

5 Q As I understand it, when URS made its preliminary

6 final report in the summer of 2006, they had

7 three recommendations for MnDOT. And as I

8 understand it, then, MnDOT got together with URS

9 in September 2006 to talk about those three

10 recommendations. Do you recall that?

11 A Well, there was -- I'm getting -- without looking

12 over the documents, I'm getting a little mixed on

13 that. There were definitely three

14 recommendations in the January of '07 supplement

15 that they put out.

16 Q And we'll talk about those in a minute, but I'm

17 talking about the first recommendations that they

18 made in the summer of 2006. And by those

19 recommendations, I'm talking about the redecking

20 recommendation, the replating retrofit

21 recommendation, and the continued testing

22 recommendation.

23 A Okay. No. I'm more familiar with the January of

24 '07, you know, and more because I probably read

25 that recently. I did not -- I don't recall at

Page 25

Page 27

1 the moment the specifics back on the '06, but no
2 doubt I'm sure there was a meeting at the time.
3 I just don't recall at the moment any details on
4 it.

5 Q Would those preliminary recommendations, Dan,
6 have been brought to the attention of Rick
7 Arnebeck?

8 A No. They would have been discussed between the
9 metro division and between the bridge office.
10 Those were engineering decisions, you know,
11 specific on that project, so there would not have
12 been a reason to elevate it.

13 Q So I assume, then, it never rose to the
14 Commissioner Molnau level either, then?

15 A No, I don't recall it being discussed at that
16 level.

17 Q Do you remember a discussion within the MnDOT
18 group who was responsible for reviewing those
19 recommendations that the redecking was not an
20 option?

21 A I'd have to go back and look at the notes or
22 whatever minutes we had from the meeting. I
23 don't recall saying redecking was not an option.
24 I know it was covered in the report.

25 Q When URS made its revised recommendations in

Page 26

1 January of 2007, those three recommendations were
2 the replating retrofit --

3 A Correct.

4 Q -- or some enhanced testing or a combination of
5 the two; do you recall that?

6 A Correct. The enhanced testing was a combination
7 of both inspection and then non-destructive --
8 they used the term non-destructive evaluation, so
9 it was both inspection and testing.

10 Q The redecking was not part of that
11 recommendation. Do you know why the redecking
12 was left behind?

13 A Well, I think the redecking was still part of
14 their report as to how one would accomplish the
15 redecking if MnDOT ever chose to do that in the
16 future. I think I viewed those -- while they're
17 labeled January of '07, I think we actually
18 received them the last couple weeks of December
19 of '06. Those were more addressing the specific
20 steps that MnDOT could take in the immediate
21 future, meaning over the next year. The
22 redecking would have been something that was
23 going to occur, if it ever occurred, would have
24 occurred probably ten years in the future.

25 So I think the redecking was still

1 going to be part of the report. I mean, they
2 were still covering -- that was part of the '06
3 report and would have been part of the final
4 report so that it would be there for future use
5 if MnDOT wanted to do it. Because it laid out
6 staging and how one would accomplish the
7 redecking in terms of loads, to make sure we
8 didn't unbalance the trusses.

9 Q But there was no money set aside for the
10 redecking option back at the time of 2006 or
11 2007, right?

12 A Correct. It was more planned in that future --
13 you know, from the notes you had there in '01,
14 you know, at one time it was planned -- I think
15 it was -- was it 2016 to 2020 in that note
16 maybe? If I can look at this again. I think the
17 major renovation -- Here in '01 it was 2016 to
18 2020. By, I think, 016 -- or not 016 -- By 2006,
19 I think in 2007 we were talking more about the
20 2020 to 2024 time line.

21 So there was going to be major work
22 somewhere in that time line, you know, 2020 to
23 2024. It could have either been complete bridge
24 replacement, it could have been redecking. It
25 could have been one of those options, but it

Page 28

1 hadn't really been fully determined.

2 Q Who's coming up with those time lines? I mean,
3 sometimes it's 2016, sometimes it's 2020,
4 sometimes it's 2025. Who's making those
5 predictions?

6 A Well, MnDOT every five years looks at its 20-year
7 program. So it would have been part of that --
8 It's either on a five- or six-year schedule.
9 Abbie McKenzie would better know that, and I
10 think you might have an upcoming interview with
11 her. But it's part of setting our 20-year
12 program. So somewhere between '01 and '06 it
13 must have moved in the 20-year program.

14 And that was one of the reasons we were
15 doing the overlay last year, was the expectation
16 that we were going to utilize this bridge for at
17 least another decade, so we were replacing the
18 overlay on it. Because, after all, the rest of
19 the truss did not have a fatigue problem; it was
20 performing well.

21 So our concern was that the deck would
22 deteriorate and was going to be the first major
23 item that the bridge would need work. So we were
24 going to be facing that either replacement or
25 redecking decision in the future.

Page 29

1 Q There were three separate things being discussed
2 about the bridge, though: replacement, redecking
3 or overlay, right?
4 A No. No. Overlay is not a -- is not an option
5 compared to replacement or redecking. Overlay is
6 what is needed from a maintenance standpoint to
7 have ten more years of service, or at least ten
8 more years of service out of the deck, to make
9 sure the deck doesn't deteriorate prematurely.
10 So the overlay had been on there for
11 approximately 30 years. That's about the normal
12 life of an overlay. Actually, we probably had
13 gotten more life out of that overlay than we
14 normally would.

15 So the overlay needed to be replaced.

16 But I think as far as comparing alternatives,
17 replacement versus redecking would be
18 alternatives to compare. Overlay is a
19 maintenance action.

20 Q I think my question was, all three were being
21 discussed regarding the bridge?

22 A Oh, yeah. Sure, sure.

23 Q And, in fact, all three serve different purposes,
24 right?

25 A Well, the overlay certainly serves a different

Page 30

1 purpose. The overlay is a normal contract
2 maintenance action to extend the life of the
3 structure. But then -- I'm sorry. How did you
4 state that question again?

5 Q They all serve a different purpose?

6 A Yes. Well, they serve a different purpose. But
7 now when one compares deck replacement to
8 complete bridge replacement, either way you're
9 making a decision that that bridge is going to
10 stay in service -- If you replace a deck, we
11 would do it on the basis the bridge is going to
12 stay in service for probably another 40 years
13 because that's the life of our decks. So we
14 would have -- in the twenty -- as we approached
15 that 2020 time line, we would make that final
16 decision whether we were confident in the steel
17 structure being able to stay in service for
18 another 40 years and, if so, put a redeck versus
19 replacement. But, again, had metro decided to
20 expand the corridor, the only option was
21 replacement.

22 Q The redecking option would have added redundancy
23 to the bridge, as well, right?

24 A Correct. At the time we were going to redeck, we
25 were going to take out the joints, some of the

Page 31

1 joints in the superstructure. So those would
2 have -- By analysis, those do help the truss.
3 They give somewhat of another load path.

4 Q I asked you before whether URS was consulted
5 regarding the overlay work. Do you remember
6 that?

7 A Okay. I don't recall it, but we talked about a
8 lot of things, so...

9 Q So was URS consulted about the overlay work?

10 A Well, they were certainly aware we were doing the
11 overlay work, yes. Consulted? I don't know
12 if -- It would have been as part of all our
13 discussions on the project they were aware that
14 MnDOT was planning an overlay.

15 Q Did you ask URS's opinion on whether the overlay
16 was a good idea or not?

17 A I don't recall if that was -- They were -- Again,
18 part of the discussions, I don't recall them ever
19 offering an opinion on it. If they did, I just
20 don't recall it.

21 Q Well, I'm curious, you have a consultant out
22 there who knows the bridge probably better than
23 anybody at MnDOT almost; they'd been studying the
24 bridge for almost four years. And a major
25 construction project is done on the bridge and

Page 32

1 they're not consulted, so I'm wondering why that
2 is?

3 A Well, if you're asking did we specifically send
4 them a request to study our decision to overlay,
5 no, I don't recall that that was done. But they
6 were -- Also, as we talked about future actions,
7 and particularly what they recommended in January
8 of '06 or late December of '06, those three
9 different actions, they were well aware that our
10 intention was replacement or redecking would
11 occur a decade in the future; and in the meantime
12 we were going to do an overlay. That was always
13 part of the discussions. You know, had they had
14 anything to offer as advice, they would have
15 offered it.

16 So there wasn't a specific question
17 that I recall being addressed to them as to
18 whether they thought it was a good idea. I mean,
19 I think you'd have to understand the engineering
20 part of those discussions.

21 Q Who made the decision to go forward with the
22 overlay?

23 A That was made between our office and metro. And,
24 again, the overlay needed to be replaced. It had
25 30 years of service.

Page 33

1 Q Are you aware that URS thought the overlay was
 2 not a good idea?
 3 A I don't recall them saying that to us. I'm
 4 puzzled what all this line of questioning, Katie,
 5 has to do with a design error in 1964.
 6 Q When URS and MnDOT met in January of 2007 to
 7 discuss the, as you say, NDE, non-destructive
 8 evaluation, and I understand Todd Niemann was a
 9 part of that discussion, was the conclusion --
 10 And we talked about this a bit before, that Todd
 11 Niemann and his crew would go out and do the
 12 testing in the spring of '07, right?
 13 A Correct, in the spring of '07, prior to the
 14 contract that we were going to let.
 15 Q And was it your understanding that Ed Zhou, from
 16 URS, was supposed to accompany them?
 17 A What the understanding was -- In fact, we even
 18 had a supplement in the contract in case it were
 19 needed -- URS was available to us if there were
 20 issues that we wanted them to come out and take a
 21 look at as we were doing that inspection.
 22 So Bob Miller had a contract in place.
 23 Otherwise, we did not have -- Up to that time we
 24 did not have a contract for that kind of work, so
 25 we just can't call them and tell them to come out

Page 34

1 and look at it. Our contracting procedures don't
 2 allow that. So we put a contract in place that
 3 if we needed them to assist us in those 2007
 4 inspections, they were available to come out.
 5 Q So if URS's understanding was that Ed Zhou was
 6 supposed to be out on the bridge during that
 7 inspection, if that was their understanding at
 8 the conclusion of the January 2007 meeting, that
 9 would be a different understanding than what you
 10 took away from that meeting?
 11 A Well, that was discussed, that they would be
 12 available to us. And we certainly put a contract
 13 in place. So they might have had an expectation
 14 that they'd be utilized. But our folks that were
 15 doing it, work was proceeding well into May of
 16 '07 going through that, so they did not have a
 17 need to call for assistance.
 18 Q So you had a different understanding, that they
 19 were on an on-call basis, as needed, as opposed
 20 to a pre-plan that they would in fact
 21 accompany --
 22 A Well, that was the way it -- that was the way it
 23 turned out. We had set it up, again, assuming
 24 our folks may need some assistance, so the
 25 contract was there.

Page 35

1 Q Did you know that Todd Niemann and his crew were
 2 going out there that May in advance of them
 3 going?
 4 A I don't remember that, you know, they came to me
 5 and told me, Tomorrow we're going out. And it
 6 was actually both metro and Todd's inspection
 7 staff. I don't know that Todd himself was going
 8 out, because his inspectors have the ultrasonic
 9 training that was -- the testing method used
 10 there. No, they didn't notify they, We'll be out
 11 there next week. I was aware they were going to
 12 do that in the spring, though.
 13 Q Do you know how the testing that was recommended
 14 by URS compared to the testing that was done by
 15 Todd Niemann and his group?
 16 A I think it was one and the same, as far as my
 17 knowledge is.
 18 Q In May 2007 did you get a call from Don Flemming
 19 regarding the testing?
 20 A I got a contact at some time. I thought it was
 21 after we had completed it. Don was asking -- If
 22 I recall, I think he was asking if we were needed
 23 or knew we were out on the bridge. And I think
 24 at the time I think I checked with Todd, and Todd
 25 had said -- I believe that was already after the

Page 36

1 May inspections, that Todd said they had already
 2 completed half of it and they hadn't felt a need
 3 for help.
 4 As you're probably aware, we did have a
 5 meeting set up in mid-August of '07, to meet with
 6 URS and go over the results of those May
 7 inspections. So that was going to be the next
 8 step as far as the URS contract. Of course that
 9 meeting did not occur after August 1.
 10 Q I think I asked you this the very first time we
 11 met, Dan, but you've never had -- I mean, other
 12 than -- prior to August 1, 2007, you had never
 13 had any conversations with the Governor about the
 14 bridge?
 15 A Correct.
 16 Q And I think you told me that --
 17 A I never had a conversation with the Governor
 18 prior to August 1st.
 19 Q And I think you told me that after August 1st,
 20 maybe within a day or so after you had one
 21 conversation?
 22 A That would have been the morning of August 2nd.
 23 We were preparing for a 2:00 p.m. -- I think it
 24 was a two o'clock news conference down on -- not
 25 on the bridge site itself, but down by Pracna on

Page 37

1 Main, that area, where we held that news
2 conference. And as the Governor was driving
3 over, I spoke with him by cell phone. He just
4 wanted some background information on the bridge
5 because he -- I believe we started off that news
6 conference with the Governor's statement. So I
7 supplied him some background information on the
8 bridge.

9 Q And have you had any conversations with him about
10 the bridge since then?

11 A The only other conversation I had was sometime in
12 late August, we had a meeting at the Capitol
13 with -- it was Mayor Rybeck, the Governor and a
14 large room full of folks. Federal Highways was
15 there. And it was to discuss the replacement
16 bridge and the schedule that that was on. And
17 after the meeting, the Governor just spoke to me
18 briefly.

19 Q Prior to the collapse of the bridge, Dan, in the
20 years -- say in the ten years preceding, if
21 someone felt that major repairs were needed to be
22 done on the bridge or that the bridge needed some
23 major attention, who at MnDOT would have been the
24 advocate for that bridge?

25 A The advocate for this and any of those bridges

Page 38

1 or, whether major or not, is a combination of
2 both the bridge office and the district that has
3 day-to-day inspection and maintenance
4 responsibility for the bridge. So we jointly
5 advocate at times.

6 You mentioned TPC. I recall going to
7 TPC over the last year-and-a-half or so with our
8 Rochester district regarding the Dresbach bridge,
9 to maintain that bridge in the program where it's
10 currently scheduled for funding on that.

11 So it would be a joint effort, the
12 district saying the need and I, as the bridge
13 professional, providing the technical background
14 and together advocating for it.

15 Q Okay. So on the I-35W bridge, who at the
16 district was saying -- You said the district
17 saying the need. Who at the district would have
18 voice of the need for this bridge?

19 A Well, you know, again, at the time of '07, we are
20 still doing maintenance contracts in the case --
21 This was, I think, less than a \$10 million
22 contract out on I-35. Those kinds of dollars are
23 not difficult to attain. The metro district has
24 annual allotments that allow them to fund those
25 kinds of projects. So we would not have needed

Page 39

1 to go up to a higher level or advocate for any
2 kind of additional funding for that structure to
3 handle those maintenance issues.

4 So it would have been just a decision
5 between our office and bridge. We would have
6 worked with metro's area. It would be Roger
7 Schultz over in their maintenance area. He is
8 the one that often programs bridge repair
9 projects, so we would have worked with him.
10 Jerome Adams was involved as a project manager at
11 that time.

12 Q But let's say that it's a project that is not
13 just routine maintenance and it can't be funded
14 by Roger Schultz's BIP. Then who at the metro
15 district says the need for that bridge; who
16 advocates for it over there?

17 A I'm trying to think of the structure of metro
18 back in the fall of '07. Well, we would have
19 talked to -- At times I call the district
20 engineer directly on some of these major
21 structures; but other times we would work with --
22 Now Pat Bursa is in charge of metro's programming
23 area. Prior to that it was Tim Henkl.

24 So major funding issues we -- it's kind
25 of a combination of people. We talk to that

Page 40

1 group. Maintenance would support the decision
2 out of metro. So, you know, it's not a single
3 entity; it's a collection of people between us
4 and a district.

5 MS. BERGSTROM: Why don't we take a
6 little break.

7 (Break taken.)

8 MS. BERGSTROM: I have nothing
9 further.

10 MR. DORGAN: Sure. I'll just -- As we
11 wrap this up, I just want to say that we've spent
12 a lot of hours going through questions, not only
13 with myself but other employees, about our
14 inspection, our maintenance, our design decisions
15 regarding the 35W bridge. And I think it's
16 important to look at the preliminary information
17 that the NTSB put out in January. It's clearly
18 stated that those gussets were underdesigned,
19 approximately half of what was required.

20 So this whole issue is not about a
21 deteriorated bridge. It's not about our
22 inspection and maintenance staff. And I think
23 those people are very conscientious. They do
24 their jobs, they follow the policies that are set
25 up by MnDOT and also Federal Highways and the

Page 41

1 policies that are approved.

2 So I think you need to consider that as
3 you come to your conclusions, because I think any
4 conclusions that would reflect on that staff
5 would be pure speculation and way premature, in
6 light of the fact that NTSB hasn't even finished
7 their work.

8 BY MS. BERGSTROM:

9 Q So as you look over the life of this bridge and
10 all the records that have been produced regarding
11 it, you don't see anything that MnDOT did that
12 could have forestalled the collapse?

13 A I think anything that our inspectors or the rest
14 of the folks would have done would have been
15 simply just by chance that they came across the
16 design error. Because it's a fair assumption, I
17 think, by all those staff that the bridge was
18 designed correctly in the first place. Once it
19 was -- I think the opportunity to correct this
20 was back in 1964.

21 (Whereupon, the interview was concluded
22 at 9:13 a.m.)
23
24
25

Page 42

1 STATE OF MINNESOTA)

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3

4 COUNTY OF HENNEPIN)

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8 REPORTER'S CERTIFICATE

9

10 I, Julie A. Rixe, do hereby certify
11 that the above and foregoing transcript, consisting of
12 the preceding 41 pages, is a correct transcript of
13 my stenographic notes and is a full, true and complete
14 transcript of the proceedings to the best of my
15 ability.

16 Dated May 3, 2008.
17
18
19
20

21 JULIE A. RIXE
22 Court Reporter
23
24
25

INTERVIEW OF DANIEL DORGAN - FEBRUARY 29, 2008

<p style="text-align: right;">1</p> <p>1 INTERVIEW OF DANIEL DORGAN - FEBRUARY 29, 2008</p> <p>2</p> <p>3</p> <p>4 In the Matter of Conducting an Independent Investigation</p> <p>5 Into the Collapse of the I-35W Bridge</p> <p>6</p> <p>7 Department of Transportation</p> <p>8 395 John Ireland Boulevard</p> <p>9 Room 6-13</p> <p>10 St. Paul, Minnesota</p> <p>11</p> <p>12 Met, pursuant to notice, at 1:00 in the</p> <p>13 afternoon on February 29, 2008.</p> <p>14</p> <p>15 INTERVIEWERS:</p> <p>16</p> <p>17 Kathryn Bergstrom and Thomas Johnson,</p> <p>18 Attorneys at Law with the Gray Plant Mooty Law Firm.</p> <p>19</p> <p>20 ALSO PRESENT:</p> <p>21 Barbara E. Forsland, MnDOT Data Practices</p> <p>22 Compliance & Policy Analyst.</p> <p>23 Lisa Freese, MnDOT Deputy Commissioner.</p> <p>24 COURT REPORTER:</p> <p>25 Angie D. Threlkeld, RPR CRR</p>	<p style="text-align: right;">3</p> <p>1 MR. DORGAN: Dan Dorgan with MnDOT, the</p> <p>2 state bridge engineer.</p> <p>3 BY MS. BERGSTROM:</p> <p>4 Q Dan, I don't know if you -- May I call you Dan?</p> <p>5 A Certainly.</p> <p>6 Q Okay. I don't know if you've ever had your</p> <p>7 deposition taken before or sat in front of a court</p> <p>8 reporter. But if you're familiar with the process</p> <p>9 or unfamiliar, Angie here is taking down everything</p> <p>10 that we say.</p> <p>11 A Sure.</p> <p>12 Q And it's important for a couple of things; that I</p> <p>13 finish my question before you start your answer and</p> <p>14 you finish your answer before I start my next</p> <p>15 question. Is that fair?</p> <p>16 A Certainly.</p> <p>17 Q And that all kind of answers be audible. And it's</p> <p>18 huh-uhs and uh-huhs because they don't show up very</p> <p>19 well on the record. Okay?</p> <p>20 A Okay.</p> <p>21 Q I'm going to hand you -- This one's been kind of</p> <p>22 officially marked Exhibit 1. This is the witness</p> <p>23 protocol. And throughout the investigation that the</p> <p>24 Gray Plant Mooty law firm is doing, we're going to</p> <p>25 use the same little statement for every witness.</p>
<p style="text-align: right;">2</p> <p>1 (Whereupon, Exhibit 1 was</p> <p>2 marked for identification by the</p> <p>3 court reporter.)</p> <p>4 EXAMINATION</p> <p>5 BY MS. BERGSTROM:</p> <p>6 Q Mr. Dorgan, we'll get started. My name is Katie --</p> <p>7 MS. FREESE: Are we going to be then</p> <p>8 given copies of the tape and the --</p> <p>9 MS. BERGSTROM: Sure. We can go over</p> <p>10 that in a second.</p> <p>11 MS. FREESE: -- transcript?</p> <p>12 MS. BERGSTROM: How about that?</p> <p>13 MS. FREESE: Okay.</p> <p>14 BY MS. BERGSTROM:</p> <p>15 Q My name is Katie Bergstrom. I'll say it on the</p> <p>16 record. I'm one of the lawyers at the Gray Plant</p> <p>17 Mooty law firm.</p> <p>18 And maybe before we go through this</p> <p>19 protocol that I've just handed you, we can just go</p> <p>20 around the table and state our appearances?</p> <p>21 MR. JOHNSON: Tom Johnson at Gray Plant</p> <p>22 Mooty.</p> <p>23 MS. FREESE: I'm Lisa Freese with MnDOT.</p> <p>24 MS. FORSLAND: Barbara Forsland with</p> <p>25 MnDOT.</p>	<p style="text-align: right;">4</p> <p>1 And we can just run through it real quickly.</p> <p>2 Paragraph 1 says we are the Gray Plant</p> <p>3 Mooty law firm, and Gray Plant has been retained by</p> <p>4 the Minnesota legislature to conduct an independent</p> <p>5 Investigation into the collapse of the I-35 bridge.</p> <p>6 The Minnesota legislature has asked us to provide a</p> <p>7 report of our investigation by May 1st, 2008. And</p> <p>8 we'll be asking you questions concerning the bridge</p> <p>9 collapse and related policies, practices, and</p> <p>10 legislative oversight issues.</p> <p>11 Two, the purpose of this interview is to</p> <p>12 determine what you might know about the matters we</p> <p>13 are investigating.</p> <p>14 Three, confidentiality. During the time</p> <p>15 our investigation is active, the information that</p> <p>16 interviewees provide to us is not public</p> <p>17 information. The information you may -- you provide</p> <p>18 may no longer be confidential once we submit a</p> <p>19 report to the legislature.</p> <p>20 The process is you're required to answer</p> <p>21 our questions truthfully, and the court reporter is</p> <p>22 present to record our conversation. Either during</p> <p>23 this interview or later in our investigation we may</p> <p>24 determine that we need to verify certain</p> <p>25 information; and if that occurs, we may ask you for</p>

<p style="text-align: right;">5</p> <p>1 a further recorded statement, a signed affirmation, 2 or an oath statement.</p> <p>3 Finally, we view this process as an 4 ongoing dialogue. And if you think of anything 5 after this interview that you want to tell us about, 6 please call or e-mail us, presumably with the 7 consent of your counsel here present. Likewise, we 8 hope that you will respond to us if we call or 9 e-mail with follow-up questions or clarifications.</p> <p>10 And just to be clear, obviously the Gray 11 Plant Mooty law firm is not representing MnDOT. 12 We're not your lawyers. But you have Ms. Forsland 13 here today, and she is representing the agency; 14 correct?</p> <p>15 MS. FREESE: Not in a capacity as an 16 attorney. She's here in her capacity as the data 17 practices coordinator for the department.</p> <p>18 BY MS. BERGSTROM: 19 Q This witness protocol I did send to Ms. Freese 20 earlier this week, so she had a chance to look at 21 that. I will tell you that just last week and this 22 week I have had the opportunity to look at some of 23 the information gathered by the Office of the 24 Legislative Auditor. 25 A Okay.</p>	<p style="text-align: right;">7</p> <p>1 A I was in our metro district. Program -- I was 2 program development engineer. I believe that was 3 the title. It's been a few years.</p> <p>4 Q Were you -- Have you -- Well, let me see how -- Have 5 you -- Were you in the metro district always until 6 you became the bridge engineer?</p> <p>7 A No.</p> <p>8 Q Okay.</p> <p>9 A I was actually the first -- I was in metro for about 10 two-and-a-half years; but prior to that I was in the 11 bridge office, from roughly about 1976 on.</p> <p>12 Q What did you do at the bridge office?</p> <p>13 A Through those years with the bridge office, I had a 14 variety of positions. Working as a design engineer 15 for a number of years. Then I was in charge of our 16 consulting program, retaining consultants and 17 negotiating contracts and directing consultants in 18 their contracts.</p> <p>19 From there I moved to what was known as 20 the bridge planning engineer position where I had 21 about four sections of the office reporting to me at 22 that time. I was also -- I was also the bridge 23 design engineer -- I missed that -- that was for two 24 years there too, in charge of our design section. 25 And then while I was bridge planning engineer, in</p>
<p style="text-align: right;">6</p> <p>1 Q So I've seen that transcript, and I hope I'm not too 2 duplicative of those questions. I will tell you I 3 just got their work papers though yesterday. So 4 some of the information, the answers, might be in 5 those papers. I haven't had a chance to get through 6 that voluminous detail, so there might be some 7 overlap there.</p> <p>8 Dan, can you tell me how long you've been 9 employed by MnDOT?</p> <p>10 A 33 years.</p> <p>11 Q Okay. And what's your current title?</p> <p>12 A I'm the state bridge engineer and also the director 13 of the Office of Bridge.</p> <p>14 Q Do those two titles go hand in hand?</p> <p>15 A Yes.</p> <p>16 Q Okay. So when did you first become the state bridge 17 engineer?</p> <p>18 A December of 2000.</p> <p>19 Q And who did you take over for?</p> <p>20 A Don Fleming was the previous state bridge engineer.</p> <p>21 Q And when you took over in December 2000, is that 22 when you became the director of the bridge office as 23 well?</p> <p>24 A Yes. Yes. It's one and the same job.</p> <p>25 Q Okay. Prior to December 2000 what was your title?</p>	<p style="text-align: right;">8</p> <p>1 1998 I left bridge and went to our metro district.</p> <p>2 Q So you were only at metro then for a couple of 3 years?</p> <p>4 A Yes.</p> <p>5 Q You mentioned reports at various times when you were 6 kind of going over that history. Who reports to you 7 now?</p> <p>8 A Currently the office is divided into -- We have four 9 different sections. One is our bridge design 10 section. Our bridge design engineer is Kevin 11 Western. We also have our bridge planning section. 12 That is -- Nancy Daubenberger is in charge of that 13 section. Then we have our bridge construction and 14 maintenance section. Gary Peterson is in charge of 15 that. And, lastly, our bridge standards area; and 16 Jim Lilly is in charge of that --</p> <p>17 Q Okay.</p> <p>18 A -- section.</p> <p>19 Q I'm going to have this exhibit marked as well, 20 because I think it is an org chart for the bridge 21 office.</p> <p>22 A Is that the current one, Katie? We've got a lot of 23 people on different assignments. So is that 24 consistent with what we just gave you, then...</p> <p>25 Q It is. But we'll go through it, and you can tell me</p>

<p style="text-align: right;">9</p> <p>1 if it's old. How's that?</p> <p>2 A Okay.</p> <p>3 (Whereupon, Exhibit 2 was</p> <p>4 marked for identification by the</p> <p>5 court reporter.)</p> <p>6 BY MS. BERGSTROM:</p> <p>7 Q I'll tell you that I just got this from the</p> <p>8 legislative auditor's work papers just today. And</p> <p>9 so this is something that they originally got from</p> <p>10 MnDOT. And part of my questions for you today, Dan,</p> <p>11 is kind of a high view, is understanding the</p> <p>12 organization, both bridge office and MnDOT</p> <p>13 generally --</p> <p>14 A Okay.</p> <p>15 Q -- and the metro office. And so I see you there at</p> <p>16 the top at the bridge office. And then the four</p> <p>17 individuals you just told me, that's all still</p> <p>18 current; correct?</p> <p>19 A Yes. I think the one exception is there Kevin</p> <p>20 Western, in charge of our design area, is</p> <p>21 temporarily out on the 35W emergency replacement</p> <p>22 bridge with a team of about three of our staff. So</p> <p>23 he has a person acting for him, Manjula Louis. And</p> <p>24 she should be -- Print's getting a little small</p> <p>25 here. Oh, yeah, she's down in one of the boxes.</p>	<p style="text-align: right;">11</p> <p>1 marked for identification by the</p> <p>2 court reporter.)</p> <p>3 BY MS. BERGSTROM:</p> <p>4 Q That will be Exhibit 3. This purports to be a</p> <p>5 November 2007 org chart for MnDOT. So engineering</p> <p>6 services there, Richard Arnebeck, and then bridges</p> <p>7 is right underneath?</p> <p>8 A Correct.</p> <p>9 Q Is that still current?</p> <p>10 A Yes, it is.</p> <p>11 Q Okay. I'll get into this a little more in detail</p> <p>12 later, but operations division way over on the right</p> <p>13 of the MnDOT org chart has the various districts.</p> <p>14 Do you see that?</p> <p>15 A Yes.</p> <p>16 Q Including metro district. Is there a bridge office</p> <p>17 within the metro district as well?</p> <p>18 A Well, let's see. There is a section within their</p> <p>19 maintenance operations where they have bridge</p> <p>20 personnel. And, I'm sorry, I forget the exact title</p> <p>21 of it. But the general responsibilities there would</p> <p>22 be bridge inspection and bridge maintenance for the</p> <p>23 district.</p> <p>24 Q Okay.</p> <p>25 A And each of our districts maintains inspection and</p>
<p style="text-align: right;">10</p> <p>1 There you go.</p> <p>2 Q Okay.</p> <p>3 A She's acting for Kevin until he returns in about --</p> <p>4 roughly about a month he should be back in the</p> <p>5 office. So, you know, I think it generally</p> <p>6 reflects, yes, the structure of the office.</p> <p>7 Q Okay. There's a date on here that says April 17th,</p> <p>8 2007 down at the bottom.</p> <p>9 A Okay.</p> <p>10 Q How often are these org charts kind of redone, do</p> <p>11 you know? Can you generally say?</p> <p>12 A Oh, we probably -- About once a year. It's</p> <p>13 depending on how many changes occur.</p> <p>14 Q Okay. Okay. The pages behind the first page then I</p> <p>15 take it are the breakdown of those four divisions</p> <p>16 that you mentioned?</p> <p>17 A Correct.</p> <p>18 Q Okay. The bridge office then within MnDOT, who do</p> <p>19 you report to?</p> <p>20 A I report to Rick Arnebeck. He's the division</p> <p>21 director for engineering services. You might</p> <p>22 have -- Oh.</p> <p>23 Q I'm trying to find here. Let's see if we get this</p> <p>24 one right.</p> <p>25 (Whereupon, Exhibit 3 was</p>	<p style="text-align: right;">12</p> <p>1 maintenance staff dedicated to bridges and then</p> <p>2 maintenance staff dedicated to roadway also.</p> <p>3 Q Okay. So within each of those districts, including</p> <p>4 the metro, there will be a maintenance and</p> <p>5 inspection department?</p> <p>6 A Well, there will be a maintenance department, but</p> <p>7 within that will be we call them bridge crews like</p> <p>8 out in the districts that are responsible for doing</p> <p>9 maintenance on bridges. And then there would be</p> <p>10 either an engineer or -- an engineer -- actually an</p> <p>11 engineer manager in charge of that whole maintenance</p> <p>12 operations.</p> <p>13 Q Okay. And then what about inspections as opposed to</p> <p>14 maintenance?</p> <p>15 A Inspections are conducted within -- The routine</p> <p>16 inspections -- we'll probably get into that later --</p> <p>17 those are conducted by our districts; and they would</p> <p>18 do that with a variety of personnel, some of them</p> <p>19 being those bridge workers I mentioned that would be</p> <p>20 certified inspectors and then other -- other</p> <p>21 personnel within the district that are also</p> <p>22 certified bridge inspectors.</p> <p>23 Q So they might have some overlapping job duties, both</p> <p>24 maintenance and inspection?</p> <p>25 A Correct. Yeah.</p>

13

1 Q Okay. And is that true in the metro section too?

2 A Yes, I think to some extent. Although metro has

3 roughly almost half of the state's bridges, so some

4 of their bridge inspection staff works primarily on

5 bridge inspection throughout the year. There may be

6 less multitask than some of the outstate districts.

7 Q So one of the things that I'm curious about is

8 how -- say, the bridge inspectors over in the metro

9 district, then how they report kind of cross-system

10 to the bridge office or do they at all?

11 A Well, see, as far as report, reporting mean their

12 supervision in their reporting is within their own

13 organization. But there is a lot of coordination

14 between our district inspection staff and our

15 personnel because the bridge office is relied upon

16 as being -- having -- setting policy and statewide

17 experts to help them in situations where they --

18 where they feel they need expertise that they might

19 not have.

20 Q So --

21 A So that there's kind of con -- I'm sorry. So there

22 is certainly dialogue, but we don't -- my office

23 does not supervise those people in the district, if

24 that's -- if that's your question.

25 Q Right. And I'm just trying to understand the

14

1 channels of communication. So, you know, whether

2 they report to work on time and when they take

3 vacation, everything happens within their district;

4 but setting policy and procedures comes from the

5 bridge office and then gets shared over to the

6 districts?

7 A Correct.

8 Q Okay.

9 A And we have meetings throughout the year with our

10 bridge maintenance supervisors out in the districts.

11 So there's quite a bit of dialogue going on and

12 communication.

13 Q Physically where is the bridge office located?

14 A We're located in Oakdale, Minnesota.

15 Q Okay. So you're not in this building?

16 A Correct.

17 Q Okay. Does the bridge office in Oakdale host, you

18 know, seminars for the various bridge units within

19 the districts?

20 A Yes, we do. We don't necessarily host them in

21 Oakdale. In fact, at the moment we have what we

22 call bridge refresher training that they're

23 conducting throughout the state. So a team of

24 employees from our office are out there giving

25 refresher training not only to our districts, but to

15

1 our counties and to consultants that -- you know,

2 throughout the state that would choose to attend and

3 are certified inspectors and giving them information

4 on whatever the latest updates have been from the

5 National Bridge Inspection Standards. So that's --

6 And that's actually mandatory to maintain your

7 license as a -- or certification I should call it.

8 To maintain your certification as a bridge

9 Inspector, you need to attend occasionally refresher

10 courses.

11 Q And is it fair to say based on your description that

12 you kind of take the refresher courses to them?

13 A Correct.

14 Q Okay.

15 A It's -- Attendance is much better if we go out.

16 So -- And that's just one of the training. Also to

17 become a -- I'm sorry, if I can add on to that.

18 Q Sure.

19 A To become a certified bridge inspector -- and that

20 will be in the documents that you had asked us to

21 bring -- one of the requirements is to take a

22 two-week course approved by Federal Highways, and

23 that's conducted annually. And so we schedule that

24 course with the -- what we call the National Highway

25 Institute that's an arm of Federal Highways that

16

1 schedules these courses. So we set up that training

2 and make those announcements and make that available

3 for people throughout the state, whether you're in

4 government or consulting industry.

5 Q And does the Federal Highway Institute come to us

6 then?

7 A Correct.

8 Q Okay.

9 A They come to Minnesota.

10 Q Then is that operated by the FHWA, the Federal

11 Highway Administration?

12 A Yes, the Federal Highway Administration sets up

13 those contracts. But, Kathryn, I'm not precisely

14 sure what the relationship between the National

15 Highway Institute and Federal Highways is, but they

16 are -- they are attached.

17 Q Okay. What -- Dan, as a state bridge engineer, what

18 do you do to stay current on issues? Do you have

19 continuing bridge education credits or something?

20 A Well, certainly there's seminars I go to. But I'm

21 also involved, because of my position, in a number

22 of national meetings. We have a variety of meetings

23 through the years. One is our -- all the bridge

24 engineers from around the country get together once

25 a year to work on our national specifications that

INTERVIEW OF DANIEL DORGAN - FEBRUARY 29, 2008

<p>17</p> <p>1 are for bridge design nationwide. It's known as the</p> <p>2 AASHTO meeting. And perhaps you've seen that term</p> <p>3 in the documents you've looked through. It's an</p> <p>4 organization that's existed for back since the</p> <p>5 1920s. So we work on the National Design Code. And</p> <p>6 that -- And then there are meetings throughout the</p> <p>7 year working on that. So I'm very much involved in</p> <p>8 those representing the state. And there are</p> <p>9 other -- other national meetings also.</p> <p>10 Q Okay. Do you -- Do you sit then on that -- what is</p> <p>11 the AASHTO highway subcommittee on bridges and</p> <p>12 structures?</p> <p>13 A Correct, I'm a member of that subcommittee.</p> <p>14 Q How often does that subcommittee get together?</p> <p>15 A Well, the full subcommittee gets together once a</p> <p>16 year. But I probably also attend about three to</p> <p>17 four meetings throughout the year that are -- that</p> <p>18 we have technical committees that are part of that</p> <p>19 subcommittee. So I attend a number of meetings a</p> <p>20 year on those technical committees as we work on the</p> <p>21 specifications for the next annual meeting.</p> <p>22 Q Is it -- Is it there's any number of committees</p> <p>23 underneath the organization, and you kind of choose</p> <p>24 which ones you want to participate in?</p> <p>25 A You choose to some extent and the chair also assigns</p>	<p>19</p> <p>1 two years we assemble all our bridge workers</p> <p>2 statewide into -- and have a meeting with our bridge</p> <p>3 workers. We do that on a -- yeah, every two years</p> <p>4 is the cycle for that meeting.</p> <p>5 Q Okay. What do you do at that meeting?</p> <p>6 A There's various training for bridge workers that are</p> <p>7 scheduled. At times it can be safety training.</p> <p>8 Other times it will be a new technology. As an</p> <p>9 example, we had a vendor demonstrating crack sealing</p> <p>10 equipment for cracks in concrete, new technology</p> <p>11 they had to seal cracks. So that's just an example</p> <p>12 of the type of training or demonstrations we'd have</p> <p>13 for our bridge maintenance workers to either try to</p> <p>14 make them aware of either new technologies, as again</p> <p>15 I said, often safety training. Safety training for</p> <p>16 things like confined space is always a concern when</p> <p>17 you have inspection staff going up into an area</p> <p>18 that's confined.</p> <p>19 Q And by safety you mean safety to the workers?</p> <p>20 A Correct.</p> <p>21 Q Looking at the MnDOT org chart, as the director of</p> <p>22 the bridge office, are you on any cross-committees</p> <p>23 across these various divisions?</p> <p>24 A Across...</p> <p>25 Q I mean, for instance, there's finance and</p>
<p>18</p> <p>1 to some extent. There are roughly about 20</p> <p>2 different committees, and the committees would be</p> <p>3 items like -- concrete bridge design would be one</p> <p>4 committee. I'm on that committee. There's a steel</p> <p>5 bridge design committee. I'm chair of the culvert</p> <p>6 committee. We have a committee on welding. I mean,</p> <p>7 there's a whole list of all different aspects of</p> <p>8 bridge design. The code is broken up into sections.</p> <p>9 Q Okay. So you're on the culvert. You're on the</p> <p>10 concrete. Are you on the steel bridge?</p> <p>11 A No, but I'm on the welding committee.</p> <p>12 Q Okay. Any other committees?</p> <p>13 A No. That's plenty at the moment.</p> <p>14 Q Let's go back to the bridge office in Oakdale and</p> <p>15 the various bridge either maintenance or inspector</p> <p>16 people at the district level. Are there any</p> <p>17 committees that you have across the organization</p> <p>18 that -- that bridge workers from the districts would</p> <p>19 participate in with people from the bridge office?</p> <p>20 A Well, we have a what we call the bridge maintenance</p> <p>21 supervisors committee; and we meet two or three</p> <p>22 times a year with the bridge maintenance supervisors</p> <p>23 to discuss bridge maintenance issues, bridge</p> <p>24 inspection issues, and just generally topics related</p> <p>25 to bridge maintenance. Our bridge workers -- Every</p>	<p>20</p> <p>1 administration division, the planning modal and data</p> <p>2 management, engineering services where the bridge</p> <p>3 office is, state aid for local transportation and</p> <p>4 operations. Are there any committees within MnDOT</p> <p>5 where they draw from each one of those divisions</p> <p>6 that you serve on?</p> <p>7 A Well, we -- we annually get together as managers a</p> <p>8 couple times. I don't know that I really call that</p> <p>9 a committee.</p> <p>10 Q Okay.</p> <p>11 A But it's a managers' meeting to share information</p> <p>12 regarding broad issues that affect the whole</p> <p>13 department and at times to discuss issues or provide</p> <p>14 input on issues. But I really don't call it a</p> <p>15 committee. Engineering services we certainly meet</p> <p>16 every two weeks at least with our -- with our</p> <p>17 division director as a group.</p> <p>18 Q So just so I'm clear, so you as the head of bridge</p> <p>19 then, the head of construction and innovative</p> <p>20 contracting, the head of environmental services, all</p> <p>21 of those heads meet with Mr. Arnebeck?</p> <p>22 A Correct.</p> <p>23 Q Okay. You say like every two weeks or so?</p> <p>24 A Yes. We -- As a department we attend -- and, Lisa,</p> <p>25 feel free to correct me -- but we've tended to go</p>

<p>21</p> <p>1 more to working groups. If there's a special topic</p> <p>2 that needs to be addressed by the department, we</p> <p>3 assemble people from different divisions, and they</p> <p>4 will work on that until completed. So...</p> <p>5 Q Are you --</p> <p>6 A I'd have to go back -- Right now we're working --</p> <p>7 we've got a working group working on the new</p> <p>8 legislation, and I'm part of that group. But, you</p> <p>9 know, official committees we've -- we tend to have</p> <p>10 more groups that are tasked with a certain task and</p> <p>11 assemble those.</p> <p>12 MS. FREESE: The other thing that we do</p> <p>13 on a quarterly basis is we have performance</p> <p>14 measures. There's bridge performance measures. And</p> <p>15 so on a quarterly basis those measures are reviewed</p> <p>16 and discussed at a variety of different levels,</p> <p>17 depending -- sometimes we have them, they're</p> <p>18 quarterly at the top staff level; and then sometimes</p> <p>19 they're annually with different functional groups</p> <p>20 within the agency that they're reviewed. And bridge</p> <p>21 office staff usually it's his -- Dan's section</p> <p>22 leaders, but oftentimes Dan's involved in those</p> <p>23 updates as well.</p> <p>24 BY MS. BERGSTROM:</p> <p>25 Q So, Dan, the working group, when you mentioned new</p>	<p>23</p> <p>1 gets together with each of these subdivisions every</p> <p>2 two weeks or so, where do those meetings happen?</p> <p>3 A They would occur in this building.</p> <p>4 Q In this building. Okay. And are there any -- any</p> <p>5 written policies for communication from the -- What</p> <p>6 would you call each of these under here?</p> <p>7 A Well, each of those are an office.</p> <p>8 Q An office. Okay.</p> <p>9 A Within engineering services.</p> <p>10 Q So are there written policies that talk about</p> <p>11 communication from the offices up to Mr. Arnebeck or</p> <p>12 is it...</p> <p>13 A I think -- I'm not aware of written policies. We</p> <p>14 just communicate as needed.</p> <p>15 MS. FREESE: We have a fairly</p> <p>16 sophisticated method of dealing with technical</p> <p>17 documentation and technical reporting; and that</p> <p>18 process is, you know, where a lot of technical</p> <p>19 decision making is handled. And some of those small</p> <p>20 working groups that Dan mentioned oftentimes are</p> <p>21 tasked with preparing technical --</p> <p>22 MR. DORGAN: Technical --</p> <p>23 MS. FREESE: -- technical recommendations</p> <p>24 on issue and vetting them through a process which</p> <p>25 involves communication with the districts and</p>
<p>22</p> <p>1 legislation, are you on any other working groups</p> <p>2 right now?</p> <p>3 A Hum. Let's see. That meet regularly? Probably</p> <p>4 that's the primary one at the moment.</p> <p>5 Q Okay. Various things that I have read always refer</p> <p>6 to the central office. Is this building considered</p> <p>7 the central office?</p> <p>8 A Yes, it would be.</p> <p>9 Q Okay. And so technically you're not part of the</p> <p>10 central office?</p> <p>11 A Well, no. I guess we would consider -- Engineering</p> <p>12 services is considered as central office, part of</p> <p>13 the central office.</p> <p>14 Q Okay.</p> <p>15 A It just happens that, because of the size of the</p> <p>16 building, it can't contain everyone. The bridge</p> <p>17 office is located in Oakdale, and the materials</p> <p>18 office is located in Maplewood.</p> <p>19 Q Okay.</p> <p>20 A And we also -- Both bridge and materials have a lot</p> <p>21 of vehicles for either the inspection or soil boring</p> <p>22 purposes, we have equipment so that that works well</p> <p>23 for us to be located at a site. You just can't park</p> <p>24 a lot of trucks around this building.</p> <p>25 Q Right. Okay. When -- When engineering services</p>	<p>24</p> <p>1 getting feedback prior to implementation.</p> <p>2 BY MS. BERGSTROM:</p> <p>3 Q In order to kind of bring that to a concrete, can</p> <p>4 you just give me an example?</p> <p>5 A Well, I think -- I know you asked for a number of</p> <p>6 documents to be brought. You know, I've got a pile</p> <p>7 of tech memos here. We would assemble -- To develop</p> <p>8 a technical memorandum for a lot of this bridge</p> <p>9 inspection work, we would involve our districts and</p> <p>10 people that have experience or an interest in the</p> <p>11 area to develop new practices and policies. While</p> <p>12 our office for a lot of those is responsible, we</p> <p>13 take that input from the district because you want</p> <p>14 to publish something that's practical and workable</p> <p>15 at the district level also.</p> <p>16 Q Okay.</p> <p>17 A So you would rely on maybe a small group to put</p> <p>18 something like that together.</p> <p>19 I don't know if that's the type of thing,</p> <p>20 Lisa, you were --</p> <p>21 MS. FREESE: Yeah.</p> <p>22 MR. DORGAN: -- thinking of in your mind.</p> <p>23 MS. FREESE: And the technical memorandum</p> <p>24 process is used across the board in the department.</p> <p>25 So to describe the process, it depends on the</p>

<p style="text-align: right;">25</p> <p>1 originating office of the technical expertise that's</p> <p>2 being distributed in the memorandum. But most</p> <p>3 certainly those technical memorandums all become</p> <p>4 coordinated through the engineering services</p> <p>5 division, which is really our expert division for</p> <p>6 providing technical information and documentation</p> <p>7 out to the districts.</p> <p>8 BY MS. BERGSTROM:</p> <p>9 Q Okay. Maybe what we can do next is you can tell me</p> <p>10 what you've gathered here, Dan, and just I'll take a</p> <p>11 look at it.</p> <p>12 A In this -- These documents address what you</p> <p>13 requested in the previous letter.</p> <p>14 Q Okay.</p> <p>15 A This is the most -- The first one is the most</p> <p>16 current guideline for bridge inspection frequency.</p> <p>17 It's a 2004 document.</p> <p>18 Q Okay.</p> <p>19 A That would be -- That lays out generally the two --</p> <p>20 either one or two-year inspection cycles for</p> <p>21 bridges.</p> <p>22 Q Okay.</p> <p>23 A Then this is a -- And you can take these copies with</p> <p>24 you. The second one is the crit -- what we call our</p> <p>25 critical deficiencies. This was -- is a tech memo</p>	<p style="text-align: right;">27</p> <p>1 generally they would cover all of our districts,</p> <p>2 also counties and cities within Minnesota, because</p> <p>3 this is -- all this pertains to bridge inspection.</p> <p>4 And so MnDOT has responsibility to inspect the</p> <p>5 state-owned bridges, counties their county bridges,</p> <p>6 and cities over -- I think it's over 5,000 inspect</p> <p>7 their own bridges.</p> <p>8 Q Okay.</p> <p>9 A These are just the websites for those -- those</p> <p>10 technical memos --</p> <p>11 Q Okay.</p> <p>12 A -- if you have any desire for that. This -- This is</p> <p>13 not a technical memo, but rather it is just the</p> <p>14 requirements that we maintain for bridge safety</p> <p>15 inspector certification. So that lays out the</p> <p>16 requirements to become a certified bridge inspector.</p> <p>17 And the last document is our bridge</p> <p>18 inspection manual. Again, this is available online</p> <p>19 also. And what this lays out for inspectors is -- a</p> <p>20 lot of it contains information as to how to code a</p> <p>21 structure when they see it. We have different what</p> <p>22 we call condition states, depending whether a</p> <p>23 structure is brand new or has deteriorated to some</p> <p>24 state. So this lays out guidelines for them to look</p> <p>25 at a -- look at a member and determine what</p>
<p style="text-align: right;">26</p> <p>1 laying out for our inspectors out in the districts</p> <p>2 or our own staff that may be doing inspections what</p> <p>3 actions to take if they find a critical deficiency.</p> <p>4 Q Okay.</p> <p>5 A This third one is our guidelines for fractured</p> <p>6 critical bridge and underwater inspections. This is</p> <p>7 a 2002 version where actually we're updating -- we</p> <p>8 were updating this in the spring of '07 and through</p> <p>9 the summer, and then we set it aside as of</p> <p>10 August 1st because of -- because we were fully</p> <p>11 embroiled in responding to the 35W disaster. But</p> <p>12 there is a draft new version of that that hasn't</p> <p>13 been published yet that we had developed in early --</p> <p>14 early '07, and it will soon be published. But that</p> <p>15 is the one that's currently in force.</p> <p>16 And I think these last two are just older</p> <p>17 versions of those memos that I've already -- already</p> <p>18 supplied to you.</p> <p>19 Q Okay.</p> <p>20 A You had asked for any predecessor memos.</p> <p>21 Q Just as an aside, these are all distributed to --</p> <p>22 These distribution numbers --</p> <p>23 A Yes.</p> <p>24 Q -- can you tell me what these mean?</p> <p>25 A I cannot tell you what the exact numbers mean. But</p>	<p style="text-align: right;">28</p> <p>1 condition code best fits it from what they're seeing</p> <p>2 or what they found through their inspections. This</p> <p>3 would give a corresponding rating for them to</p> <p>4 utilize.</p> <p>5 Q And what's the date of this inspection manual?</p> <p>6 A That --</p> <p>7 Q This one says February 2008.</p> <p>8 A Okay. Oh, you know, I think they just printed --</p> <p>9 they printed it off line. So it might be -- I would</p> <p>10 have to check. Because I suspect what it did, the</p> <p>11 computer did, was to just take the current month.</p> <p>12 That -- We'd have to check on that for you, Kathryn,</p> <p>13 because I don't -- I'm not aware that it was</p> <p>14 recently updated.</p> <p>15 Q How long -- Well, were you involved in putting</p> <p>16 together this bridge inspection manual?</p> <p>17 A It would be primarily my staff would be involved in</p> <p>18 putting this together, because we have -- our bridge</p> <p>19 construction and maintenance section is -- I</p> <p>20 would -- I would work with them -- Well, actually,</p> <p>21 this manual is mainly down to the level of</p> <p>22 inspections and codings. So this would generally be</p> <p>23 done with my staff. The tech memos, however, are</p> <p>24 more statewide policies; and those I would be</p> <p>25 involved in kind of the overall philosophy and</p>

29

1 working with our staff to set that, and they would

2 actually draft the tech memo.

3 Q Do you know how long MnDOT's had a bridge inspection

4 manual?

5 A I couldn't -- I could not tell you the exact year,

6 no. There are also federal -- a lot of federal

7 documents and publications we use from the National

8 Bridge Inspection system that our inspectors utilize

9 too. But, you know, what year we created the first

10 manual, I'm sorry, I could not tell you offhand. We

11 can look up that if you would -- if you wanted us

12 to.

13 Q Well, we can get into that later if we need to. I

14 was just curious.

15 You mentioned having some training for

16 safety for the workers when they're actually doing

17 work on the bridges and that kind of thing. Is

18 there also some part of the bridge office that is

19 dedicated to public safety issues?

20 A Can you clarify public safety and what --

21 Q Well --

22 A -- aspects, Kathryn?

23 Q Well, let's break it down a little bit. As opposed

24 to safety for workers, say, safety of the highways

25 or the safety -- for motorists, for instance --

30

1 A Okay.

2 Q -- or -- you know, is there a specific place where

3 those issues rest or is it across all of them I

4 guess is my question?

5 A Well, generally for traffic safety, that's handled

6 by our Office of Traffic, if that's what you're

7 referring to.

8 Q Well, bridge specific obviously for...

9 A Okay. And, I'm sorry, your question I'm just not --

10 Q Well, maybe it's not a very good one. So I'll let

11 you break it down a little bit.

12 A Okay.

13 Q Let's assume that somebody out at the district level

14 has done some inspection and has a safety concern --

15 A Okay.

16 Q -- that a bridge is unsafe for whatever reason,

17 either there's a pothole on the deck or cracking or

18 the various things that they find when they do

19 inspections. Is there a place back at the bridge

20 office where they're supposed to be communicating

21 those safety concerns?

22 A Okay. If the safety concern that they had rose to

23 the level of what they would call a critical issue,

24 they would follow -- we have the guidelines within

25 that critical deficiencies tech memo for an

31

1 inspector to follow. But the general guidance there

2 is if an inspector finds an issue that he feels

3 rises to the level of a critical deficiency, in

4 which case the stability of the structure is

5 threatened and it may be a public safety issue,

6 they're empowered to close -- close the road

7 immediately. But there is also -- Following any

8 actions they need to take, there is a reporting

9 structure for them to go through with their district

10 up to the bridge office for resolution of a critical

11 deficiency, which means if it's a critical

12 deficiency, we either have to -- we have to

13 determine how critical it is and what type of

14 corrective action to take or repair action to take

15 with the bridge.

16 So we do track those and have a process

17 for that. But, again, I'd also say as far as public

18 safety is concerned, the first call by the inspector

19 is whether they believe the deficiency is such that

20 they need to close the road immediately. And if

21 they do, then that's the first action they take.

22 Q Okay. So how do they do that?

23 A Well, if you're -- you would -- Depending what

24 equipment you have out there, I mean, trucks with

25 flashing lights, you know, you probably -- if this

32

1 is just a two-person crew with one truck, I imagine

2 they would pull it up on the road and do the best

3 they can. And I'm speculating here. But you'd call

4 for other help. To close a road down, you need to

5 close access. So...

6 Q Does that -- Presumably if that happened, then it

7 would get ultimately reported through first the

8 engineer, this seems to say, and to the bridge

9 office; right?

10 A Correct.

11 Q And so ultimately you would find out about that?

12 A Yes.

13 Q How long would that process take?

14 A Well, it's -- Depending -- Usually -- We have had

15 sometimes inspectors out in the field and give us a

16 call -- a call from their cell phones right out in

17 the field. So it -- And at times it's not quite

18 apparent whether you've got a critical deficiency or

19 not. So, you know, it can be -- Again, we get calls

20 from -- and they're right out on the bridge site at

21 times.

22 Q I think I read somewhere that there is a critical

23 deficiency log or something?

24 A Yes.

25 Q If a critical deficiency is determined by somebody

<p style="text-align: right;">33</p> <p>1 out on the site, I take it it gets logged somewhere?</p> <p>2 A Correct.</p> <p>3 Q Okay. And is that a master log or is that on a</p> <p>4 bridge-by-bridge basis or district-by-district</p> <p>5 basis?</p> <p>6 A Well, it's by incident. So it -- Each incident is a</p> <p>7 different bridge.</p> <p>8 Q Okay.</p> <p>9 A As an example, in fact, we have it published on</p> <p>10 our -- on the Internet site. From the inspections</p> <p>11 last year, there was approximately 15 critical</p> <p>12 deficiencies found throughout the state on --</p> <p>13 primarily on the local road system, but several of</p> <p>14 those were MnDOT bridges. So you get an idea of</p> <p>15 what's -- what a critical deficiency entails if you</p> <p>16 want to look at that. That's right on our MnDOT</p> <p>17 website.</p> <p>18 Q I think let's set aside for a second what a</p> <p>19 substantive critical deficiency is. But I guess</p> <p>20 what I'm trying to understand is does the metro</p> <p>21 division have its own critical deficiency log, the</p> <p>22 first -- District 1 have its own, that kind of</p> <p>23 thing, or is there a master?</p> <p>24 A There's -- No, there is a mast -- There is just one</p> <p>25 log kept by the bridge office. The district may</p>	<p style="text-align: right;">35</p> <p>1 not studied them close, but where does the bridge</p> <p>2 office take its knowledge about the critical</p> <p>3 deficiencies? Do you take it up the reporting</p> <p>4 chain?</p> <p>5 A Well, typically critical deficiencies are -- As far</p> <p>6 as reporting. Now, we would work on an issue with</p> <p>7 our district and resolve it. And often if one finds</p> <p>8 a critical deficiency, there might be some type of</p> <p>9 repair needed, so then our office would develop a</p> <p>10 repair detail for the district to implement. There</p> <p>11 are other times when a district may close down a</p> <p>12 portion or so of a bridge and call one of our people</p> <p>13 to come up and take a look at it to see if they can</p> <p>14 concur on it or to what extent they may -- they may</p> <p>15 feel the structure is -- has deteriorated.</p> <p>16 Q Okay. And is that -- Is their decision to call the</p> <p>17 bridge office and bring somebody out, is that</p> <p>18 documented in any kind of written policy or is that</p> <p>19 their judgment call?</p> <p>20 A Well, at times there -- There are also engineers out</p> <p>21 within the districts, within some of our districts,</p> <p>22 that they may also call for these events. But,</p> <p>23 let's see, if it's -- if it rises to the level of a</p> <p>24 critical deficiency, eventually it should be</p> <p>25 reported, as that process lays out, to the bridge</p>
<p style="text-align: right;">34</p> <p>1 keep one themselves too.</p> <p>2 Q Okay.</p> <p>3 A They keep their own records of the event. But they</p> <p>4 do report them up to the bridge office.</p> <p>5 Q Okay. This technical memo that talks about critical</p> <p>6 deficiencies is from July 2005. Is -- Was there a</p> <p>7 predecessor policy for critical deficiency?</p> <p>8 A Let's see. Let me -- If I can look at that.</p> <p>9 Q Sure.</p> <p>10 A No. I think this was the -- No, this was the first</p> <p>11 critical deficiency tech memo in July of '05.</p> <p>12 Q Okay. So prior to July 2005 there probably won't be</p> <p>13 any critical deficiency logs; is that right?</p> <p>14 A That I'm not sure on, if there would be a previous</p> <p>15 log. Certainly prior to this time inspectors were</p> <p>16 taking actions. This tech memo in 2005 just more</p> <p>17 formalized those procedures.</p> <p>18 Q And presumably -- Going back to our example, if</p> <p>19 somebody's out and they see something that's going</p> <p>20 to cause them to put the flashing trucks across the</p> <p>21 roadway, presumably that would give rise to some</p> <p>22 kind of recording on a critical deficiency log?</p> <p>23 A Yes.</p> <p>24 Q Okay. If the -- The bridge office then has some</p> <p>25 responsibilities under this tech memo too. And I've</p>	<p style="text-align: right;">36</p> <p>1 office.</p> <p>2 Q Okay. And then let's go back. So then the bridge</p> <p>3 office has its responsibilities, which you said is</p> <p>4 in part working back with the district to figure out</p> <p>5 whatever plan is going to be implemented?</p> <p>6 A Correct.</p> <p>7 Q Does it also get reported up to who is now</p> <p>8 Mr. Arnebeck?</p> <p>9 A Not usually because we resolve it with our</p> <p>10 districts. So, you know, we have authority between</p> <p>11 our districts and our office. We -- This is --</p> <p>12 We've got a large road system and bridge system out</p> <p>13 there. We're accustomed to handling these issues.</p> <p>14 So we would handle it between -- between the</p> <p>15 district and between the bridge office. If it's --</p> <p>16 If it's a news event or -- you know, we may report</p> <p>17 up after the fact, after we've taken our actions, to</p> <p>18 let those above us know. But the immediate urgency</p> <p>19 is to deal with the issue rather than a reporting</p> <p>20 structure up above us.</p> <p>21 Q Okay. Let's set aside the news events for a second,</p> <p>22 and let's say that some -- Is there any circumstance</p> <p>23 in which the bridge office would hear of</p> <p>24 something -- critical deficiency or something that</p> <p>25 would give you cause to, say, talk to the deputy</p>

<p style="text-align: right;">37</p> <p>1 commissioner or the commissioner directly? Have you</p> <p>2 ever done that?</p> <p>3 A I think we've only done that after the actions have</p> <p>4 been taken.</p> <p>5 Q Okay.</p> <p>6 A If -- Because I'm -- And I'll go back. August we</p> <p>7 had a bridge up over the Red River in -- on Highway</p> <p>8 11, and our district found a crack in a steel</p> <p>9 member, and they -- it's -- that's several hundred</p> <p>10 miles away. So we can't be there immediately. But</p> <p>11 the reporter -- not the reporter -- the inspector</p> <p>12 called, and they were able I think to send video</p> <p>13 pictures back with their cell phones and, you know,</p> <p>14 deal with it in realtime with our people in the</p> <p>15 office, and a decision was made to close the bridge</p> <p>16 at that point. The district engineer was aware of</p> <p>17 that. But that all happened in a matter of minutes.</p> <p>18 And I think I reported it -- Well, we were dealing</p> <p>19 with that about 3:00. Somewhere probably about</p> <p>20 5:00, after we got the bridge shut down, then I</p> <p>21 reported it up.</p> <p>22 Q Okay.</p> <p>23 A But otherwise we took the action -- We take the</p> <p>24 action first and then report up afterwards.</p> <p>25 Q What about if -- Is that analysis any different if</p>	<p style="text-align: right;">39</p> <p>1 metro district. But certainly as we plan projects</p> <p>2 and talk about what major projects we're going to</p> <p>3 have, those above us would be aware of it through</p> <p>4 those discussions as we plan for that upcoming</p> <p>5 project because that planning's been going on for --</p> <p>6 for the -- the project was programmed about two --</p> <p>7 two years ago, and so those discussions would occur</p> <p>8 during that time period.</p> <p>9 Q Those -- That scale a project doesn't happen</p> <p>10 overnight is what you're saying?</p> <p>11 A Exactly. We've got a four-year construction</p> <p>12 program. So every year we add more projects four</p> <p>13 years out. So discussions occur at that time.</p> <p>14 MS. BERGSTROM: Do you want to take a</p> <p>15 little break?</p> <p>16 (Recess.)</p> <p>17 MS. BERGSTROM: Okay. We'll go back on.</p> <p>18 BY MS. BERGSTROM:</p> <p>19 Q Dan, let's talk a little bit. You were just</p> <p>20 mentioning the Hastings bridge and how that's been</p> <p>21 kind of a four-year thing in the process. And let's</p> <p>22 talk a little bit about planning and help me to</p> <p>23 understand kind of how involved you are in planning</p> <p>24 and what your role is with that. I would imagine</p> <p>25 it's specific to bridges in your case?</p>
<p style="text-align: right;">38</p> <p>1 it's a very, very busy thoroughfare and it would</p> <p>2 result in lane closures? Does that get reported</p> <p>3 either across or up or differently?</p> <p>4 A No, I would say it would be really no different. If</p> <p>5 it's a very, very busy bridge, the urgency is</p> <p>6 certainly as high or higher. So I think it would be</p> <p>7 the same thing. We would take the actions we need</p> <p>8 to take and then report later what we've done.</p> <p>9 Q What if -- Let's say it's not a safety issue. Let's</p> <p>10 say --</p> <p>11 A Okay.</p> <p>12 Q -- you've just got work that needs to be done on a</p> <p>13 kind of a major thoroughfare that's going to result</p> <p>14 in some major kind of traffic pattern changes. Do</p> <p>15 any of these other divisions or up the chain get</p> <p>16 involved then?</p> <p>17 A Well, the type of work you're probably describing is</p> <p>18 either -- you mean like contract work or -- I'll use</p> <p>19 an example. Like Hastings bridge, we're going to</p> <p>20 be -- we have a repair contract that will start out</p> <p>21 there shortly. So the repairs we're doing are based</p> <p>22 on our inspection and findings from this year and</p> <p>23 previous years. There was a need to eventually do</p> <p>24 some repair work. So, you know, those type of</p> <p>25 discussions would have occurred between us and the</p>	<p style="text-align: right;">40</p> <p>1 A Yes.</p> <p>2 Q Okay. Can you kind of explain that process to me?</p> <p>3 A Okay. And I would say as far as my role, it's sort</p> <p>4 of an office role rather in terms of planning.</p> <p>5 Every year districts, as I mentioned earlier, plan</p> <p>6 the next year of their program; and we have a</p> <p>7 four-year program. So like we're -- in this time</p> <p>8 period we're going to be planning the projects four</p> <p>9 years out and adding more projects into the program.</p> <p>10 So we have -- We have a variety of ways we work with</p> <p>11 districts to plan what are the upcoming bridge</p> <p>12 projects. We have three construction engineers that</p> <p>13 each are assigned to different regions of our state,</p> <p>14 and they work with our districts with the</p> <p>15 maintenance forces out there to determine what</p> <p>16 bridges should be programmed for replacement or for</p> <p>17 repair. And it's a variety of tools they use to</p> <p>18 make those decisions. We have a database of all the</p> <p>19 state's bridges. So they have the inspection</p> <p>20 reports. They have their own knowledge from being</p> <p>21 out and working on those bridges. So they would</p> <p>22 help set -- set those priorities for the next</p> <p>23 four-year program.</p> <p>24 We also as a department go through</p> <p>25 longer-term planning for, let's see, I think the</p>

<p style="text-align: right;">41</p> <p>1 work plan is about a 10-year plan and then the</p> <p>2 20-year plan where we also identify projects for</p> <p>3 replacement. And our office participates in that</p> <p>4 with the districts to identify -- help identify the</p> <p>5 bridge projects. And that's a collaborative effort</p> <p>6 between us and each of the districts to set what the</p> <p>7 programs are.</p> <p>8 Q So the 20-year plan is sought there, the 10-year is</p> <p>9 more of a work plan, and then there's a 4-year below</p> <p>10 that?</p> <p>11 A Right. The four-year is down to where now you're</p> <p>12 getting down to saying we're going to do this job</p> <p>13 and it's going to be -- go to contract in March of</p> <p>14 2011.</p> <p>15 Q The three construction engineers that you mentioned,</p> <p>16 are they part of the bridge office?</p> <p>17 A Yes.</p> <p>18 Q Okay.</p> <p>19 A We have other people involved in that planning</p> <p>20 process. Nancy Daubenberger, our planning engineer,</p> <p>21 works with districts on the 20-year plan, along with</p> <p>22 other staffs supporting her in that effort.</p> <p>23 Q So right now who are those three -- Well, I'm going</p> <p>24 to show you the bridge office. You have that in</p> <p>25 front of you. So the construction engineers who</p>	<p style="text-align: right;">43</p> <p>1 on the longer-term --</p> <p>2 Q Okay.</p> <p>3 A -- plans too.</p> <p>4 Q Okay. Who from the metro district would he interact</p> <p>5 with to do that?</p> <p>6 A Typically he would interact with the maintenance</p> <p>7 staff in the districts; and within metro, within</p> <p>8 their maintenance organization, they have personnel</p> <p>9 that helps develop those construction programs. I</p> <p>10 mean, they have personnel that do two things;</p> <p>11 determine what our bridge crews in metro are going</p> <p>12 to go out and repair themselves, and then what</p> <p>13 things are of such a large scale that it really</p> <p>14 doesn't make sense for the bridge crews and we're</p> <p>15 going to have a contract and program a project.</p> <p>16 Q Is anybody else from the bridge office involved in,</p> <p>17 say, just that four-year plan or does Paul, Bruce,</p> <p>18 and Ed kind of run the show for the bridge office?</p> <p>19 A No, I think as they're looking at -- at those</p> <p>20 projects and working with the district, Gary</p> <p>21 Peterson has awareness of what's being programmed,</p> <p>22 Nancy does, and I do at times too.</p> <p>23 Q Okay. All right. If conceptually what we've been</p> <p>24 talking about is how the bridge office works with</p> <p>25 the districts to do planning, can you explain to me</p>
<p style="text-align: right;">42</p> <p>1 would be involved in that planning process?</p> <p>2 A Yes. They're in the sort of leg of the org chart</p> <p>3 that's under Gary Peterson --</p> <p>4 Q Oh, okay.</p> <p>5 A -- construction and maintenance.</p> <p>6 Q Okay.</p> <p>7 A And it's actually those last three names there.</p> <p>8 Q North region, south region, metro region?</p> <p>9 A And metro, yes.</p> <p>10 Q Okay.</p> <p>11 A The north region person, Paul Rowekamp, has taken a</p> <p>12 different position. So now the name is Ed Lutgen.</p> <p>13 That's been an update since April here. So we have</p> <p>14 a different person in that position.</p> <p>15 Q Okay.</p> <p>16 MR. JOHNSON: And that's metro?</p> <p>17 MR. DORGAN: That's for the north region.</p> <p>18 BY MS. BERGSTROM:</p> <p>19 Q Paul Kivisto is metro?</p> <p>20 A Yes, Paul still has metro. And Bruce Iwen has our</p> <p>21 southern districts.</p> <p>22 Q So once -- Once -- So say in the metro area then,</p> <p>23 Paul and some group of people would work on the</p> <p>24 four-year plan?</p> <p>25 A Not only the four, but even at times providing input</p>	<p style="text-align: right;">44</p> <p>1 how you or the bridge office is involved upstream in</p> <p>2 the planning?</p> <p>3 A Okay. The -- Let's see. The statewide improvement</p> <p>4 plan, along with that work plan and the 20-year</p> <p>5 plan, that whole effort is driven by our Office of</p> <p>6 Investment Management or they initiate it and keep</p> <p>7 us informed of the schedules and when we need to</p> <p>8 have a project selected and in. And that investment</p> <p>9 management is under Abigail McKenzie.</p> <p>10 Q Yep.</p> <p>11 A The second box down there.</p> <p>12 Q Okay.</p> <p>13 A So annually when the -- that four-year plan needs to</p> <p>14 be updated, information would come out from the</p> <p>15 Office of Investment Management to the districts and</p> <p>16 to offices that it's time for the update and what</p> <p>17 the deadlines are to get projects in. And so they</p> <p>18 trigger that effort, and then offices like bridge</p> <p>19 working with districts then work on those projects</p> <p>20 and submit them.</p> <p>21 Q Okay. Now --</p> <p>22 A The submittals actually come from the district</p> <p>23 itself, but we supply the district with our advice</p> <p>24 on what needs to be programmed.</p> <p>25 Q Okay. So -- And this might be a little naive, but</p>

45

1 just bear with me as I try to figure this out. So

2 the districts are going to be reporting over here,

3 call for information, if you will; and they're going

4 to be having their various priorities, some of which

5 are bridges and some of which are other things --

6 A Correct.

7 Q -- within their district? Then at what level is

8 there any advocating for, if at all, bridges over

9 something else when it all gets reported over here

10 to investment management?

11 A Well, we have periodic meetings. We call them --

12 Let's see. We call them statewide planning

13 meetings. We get together and talk about the future

14 programs. And there is advocating there for -- I

15 would be attending those meetings at times, Nancy is

16 there or our planning engineer to describe what we

17 feel are the future needs; materials office would be

18 there advocating for pavements; and of course the

19 districts themselves for the projects they need. So

20 there is a discussion as the department sets

21 priorities.

22 Q How often are those statewide planning meetings?

23 MS. FREESE: Dan is really talking about

24 the 20-year planning process there, which is --

25 MR. DORGAN: Yes.

46

1 MS. FREESE: -- more of the broader

2 policy document that we have. And that is updated

3 on roughly a five-year cycle. We try to correspond

4 with the MPOs, or the Metropolitan Planning

5 Organizations, and in particular the Metro Council

6 because they have a federal requirement for updating

7 their plans. And so it's a coordinated process with

8 multiple levels of decision making going on.

9 MS. BERGSTROM: Okay. And I assume that

10 within all of that, whether it's Met Council and

11 federal requirements and all this, bridges are just

12 a slice of it all at the discussion level. I mean,

13 there's other things. There's paving, there's other

14 projects, there's new highways, there's all that.

15 Is that a fair way to say it?

16 MS. FREESE: Well, there's a whole host

17 of projects that are considered. But bridges is one

18 subset that we track at a fairly high level. Plus

19 there's also some dedicated sources of revenue that

20 need to be utilized or can be utilized for those,

21 and we want to make sure that we appropriately

22 expend those moneys on an annual basis.

23 MS. BERGSTROM: Okay. And you said that

24 process is kind of on a five-year cycle?

25 MS. FREESE: Yeah, the larger policy

47

1 document. And maybe, since Dan doesn't coordinate

2 the STIP process as much, it probably would be good,

3 if you feel you need to have additional information,

4 have a conversation with Abby. But since that was

5 an area I was involved in in my previous role, I can

6 probably articulate that process.

7 Generally -- We used to have a three-year

8 STIP. We've now moved, due to federal requirements,

9 to a four-year state -- It's State Transportation

10 Improvement Program. That's what STIP stands for.

11 And that process starts out, just as Dan mentioned,

12 on an annual cycle with the Office of Investment

13 Management developing guidance. That guidance

14 generally gets reviewed and approved by a committee

15 called the Transportation Program Committee, which

16 essentially is all of the division directors with

17 the -- yeah, it is all of the division directors,

18 the deputy commissioner, the metro district

19 engineer, and that -- Let's see. And then there's a

20 FHWA representative on that committee as well.

21 That's generally the membership. There might be,

22 give or take, a couple of people I've forgotten that

23 attend meetings. That's usually staffed by the

24 Office of Investment Management.

25 So they would bring that guidance. After

48

1 it's been developed in consultation generally with

2 expert offices and with -- with the districts, they

3 develop this guidance; and then they bring it

4 forward for kind of a policy decision making at the

5 Transportation Policy Committee -- or Programming

6 Committee. And then it's sent out to the districts,

7 and that initiates their process where they start

8 developing their projects. They've probably already

9 been developing their projects, but they start

10 prioritizing those projects that are under

11 development for the next funding cycle.

12 And then it is a fairly elaborate process

13 because it also involves in -- each district has

14 what they call an area transportation partnership in

15 which their projects go through kind of a public

16 review through that. And in the metropolitan area

17 here it's done in concert with the Met Council's

18 regional state -- or Transportation Improvement

19 Program as well. And then it gets rolled up in the

20 end generally as -- as presented without much

21 adjustments, unless the FHWA requires adjustments,

22 by the central office, by the Office of Investment

23 Management.

24 So it's really a very distributed,

25 delegated process to the districts with the expert

INTERVIEW OF DANIEL DORGAN - FEBRUARY 29, 2008

49	<p>1 offices providing a lot of advice on the front end</p> <p>2 about needs.</p> <p>3 MS. BERGSTROM: And probably more</p> <p>4 complicated in the metro because of the Met Council</p> <p>5 than in the outstate; is that --</p> <p>6 MS. FREESE: Well, they have a parallel</p> <p>7 process that involves local partners just like the</p> <p>8 Met Council Transportation Advisory Board process</p> <p>9 here.</p> <p>10 MS. BERGSTROM: And that process -- That</p> <p>11 entire elaborate process that you've just described,</p> <p>12 Lisa, ultimately --</p> <p>13 MS. FREESE: Takes about eight, nine</p> <p>14 months.</p> <p>15 MS. BERGSTROM: Okay. And then it</p> <p>16 ultimately lands where? I mean, where does that all</p> <p>17 go for final kind of approval? You say it shakes</p> <p>18 out without --</p> <p>19 MS. FREESE: Well, actually, it -- it</p> <p>20 receives final approval by the Transportation Policy</p> <p>21 Committee, and then it's submitted to FHWA for</p> <p>22 approval. And then once it's finally approved by</p> <p>23 the FHWA, then it's considered official and</p> <p>24 distributed out, signed by the commissioner at that</p> <p>25 point.</p>	51	<p>1 Q Okay. But Mr. Arnebeck would be a part of that?</p> <p>2 A Yes, Mr. Arnebeck would be a member.</p> <p>3 MS. BERGSTROM: So then after the FHWA</p> <p>4 approves kind of where you landed, where the TPC</p> <p>5 landed, then it goes up to the commissioner?</p> <p>6 MS. FREESE: Essentially at that point</p> <p>7 it's pretty much a document that then gets printed</p> <p>8 for distribution --</p> <p>9 MS. BERGSTROM: Okay.</p> <p>10 MS. FREESE: -- with a signature sheet by</p> <p>11 the commissioner.</p> <p>12 MS. BERGSTROM: Okay.</p> <p>13 MS. FREESE: So the commissioner's input</p> <p>14 what occur through -- in this case, at least in the</p> <p>15 processes I've been involved in, through the deputy</p> <p>16 commissioner and updates to commissioner staff about</p> <p>17 what the Transportation Program Committee is doing</p> <p>18 and recommending.</p> <p>19 MS. BERGSTROM: And that process all --</p> <p>20 Go ahead.</p> <p>21 MR. JOHNSON: Let me ask. Is a street in</p> <p>22 Minneapolis that is on the municipal state aid</p> <p>23 funding -- receive -- eligible to receive municipal</p> <p>24 funding from the state, is that treat -- is that</p> <p>25 project treated the same as a project involving</p>
50	<p>1 MS. BERGSTROM: Okay. Who is the</p> <p>2 Transportation Policy Committee? Who is --</p> <p>3 MS. FREESE: Well, I meant program</p> <p>4 committee.</p> <p>5 MS. BERGSTROM: Oh, program.</p> <p>6 MS. FREESE: They used to have a</p> <p>7 different name.</p> <p>8 MS. BERGSTROM: Okay.</p> <p>9 MS. FREESE: They're transportation --</p> <p>10 When I say TPC --</p> <p>11 MS. BERGSTROM: Okay.</p> <p>12 MS. FREESE: -- I mean Transportation</p> <p>13 Program Committee.</p> <p>14 MS. BERGSTROM: And who's on that again?</p> <p>15 MS. FREESE: The division directors --</p> <p>16 MS. BERGSTROM: Okay.</p> <p>17 MS. FREESE: -- the deputy commissioner,</p> <p>18 Bob McFarlin sits on it, the FHWA has a</p> <p>19 representative on it, and the metro district has</p> <p>20 both the district engineer and their programming --</p> <p>21 their planning programming director on it.</p> <p>22 BY MS. BERGSTROM:</p> <p>23 Q So, Dan, you don't sit on that? You're --</p> <p>24 A I'm not a member. I at times attend when there are</p> <p>25 bridge issues.</p>	52	<p>1 interstate system that's in this process?</p> <p>2 MS. FREESE: That would not be a part of</p> <p>3 the Statewide Transportation Improvement Program</p> <p>4 unless it received federal funding either through</p> <p>5 the regional process or through earmarked funds, and</p> <p>6 then it would become part of our STIP. Otherwise,</p> <p>7 it would not.</p> <p>8 MR. JOHNSON: So the STIP just deals with</p> <p>9 the trunk highway system and the interstate system</p> <p>10 or just --</p> <p>11 MR. DORGAN: It's within -- projects that</p> <p>12 have federal funding.</p> <p>13 MS. FREESE: Well, it's both -- Any</p> <p>14 projects on the state trunk highway system and the</p> <p>15 interstate system as well as any projects that</p> <p>16 receive federal funding, whether they're on those</p> <p>17 two systems --</p> <p>18 MS. BERGSTROM: Or not.</p> <p>19 MS. FREESE: -- or a local system.</p> <p>20 MS. BERGSTROM: Okay. Which is -- Which</p> <p>21 is why the FHWA is involved?</p> <p>22 MS. FREESE: Correct.</p> <p>23 MS. BERGSTROM: Okay.</p> <p>24 MS. FREESE: Well, and they would be</p> <p>25 involved in their role in oversight with regard to</p>

<p style="text-align: right;">53</p> <p>1 the interstate system and the NHS system in any</p> <p>2 case. So they would -- Not just because they're</p> <p>3 providing funding, but because they have a role in</p> <p>4 those roadways that they have delegated certain</p> <p>5 levels of responsibility to us they would be</p> <p>6 involved in the process.</p> <p>7 MS. BERGSTROM: Okay. Is that FHWA</p> <p>8 representative, is that a local person who just --</p> <p>9 or is it --</p> <p>10 MS. FREESE: There's a Minnesota division</p> <p>11 office, and they have a director and a number of</p> <p>12 staff people who provide assistance for a variety of</p> <p>13 functions. They have a sitting member on that</p> <p>14 Transportation Program Committee meeting that we</p> <p>15 have.</p> <p>16 MS. BERGSTROM: So presumably, based on</p> <p>17 your description, the legislature is not involved in</p> <p>18 that process unless they happen to be involved at</p> <p>19 the local level or, I mean, on an individual basis?</p> <p>20 MS. FREESE: No, they're not involved in</p> <p>21 that process.</p> <p>22 MS. BERGSTROM: And the governor's</p> <p>23 office?</p> <p>24 MS. FREESE: No.</p> <p>25 MS. BERGSTROM: Okay. All right. So</p>	<p style="text-align: right;">55</p> <p>1 that's not happening in a funding vacuum, meaning</p> <p>2 they're not just saying we'd like to do these</p> <p>3 things; they're making those priority decisions in</p> <p>4 conjunction with what kind of money is available;</p> <p>5 right?</p> <p>6 MS. FREESE: And they -- Part of the</p> <p>7 guidance that they're provided up front includes the</p> <p>8 funding level that will be available for each of the</p> <p>9 years that they're programming for. And money is</p> <p>10 allocated out based on a target formula that was</p> <p>11 developed with a committee of people made up of</p> <p>12 people both internally in the organization and</p> <p>13 externally in the -- in the community. And that's</p> <p>14 updated periodically I would say. Not -- But it has</p> <p>15 been recently updated about -- After the last</p> <p>16 reauthorization bill was finalized, a committee was</p> <p>17 set up; and they -- they re -- they did a revised</p> <p>18 distribution. But that distribution formula then is</p> <p>19 applied to the money available, and each district</p> <p>20 has a pot of money to work with in terms of deciding</p> <p>21 what priorities to set.</p> <p>22 MS. BERGSTROM: And who decides those</p> <p>23 pots of money?</p> <p>24 MS. FREESE: It's one pot of money.</p> <p>25 MS. BERGSTROM: Wait. So each district</p>
<p style="text-align: right;">54</p> <p>1 here's -- This is probably too big of a question.</p> <p>2 But the funding decisions are done separately from</p> <p>3 that process or is that all part of it? I mean, we</p> <p>4 started that conversation with a prioritizing of</p> <p>5 projects. But where does it intersect with the</p> <p>6 funding for whatever that end document is? Does</p> <p>7 that happen all the way through?</p> <p>8 MS. FREESE: Well, I'm not exactly sure</p> <p>9 what your question is. See if you can clarify --</p> <p>10 MS. BERGSTROM: I said it --</p> <p>11 MS. FREESE: -- for me.</p> <p>12 MS. BERGSTROM: -- was a really big and</p> <p>13 probably bad question.</p> <p>14 MS. FREESE: I can take it down a number</p> <p>15 of different tangents --</p> <p>16 MS. BERGSTROM: Yes.</p> <p>17 MS. FREESE: -- but I want to make sure I</p> <p>18 understand --</p> <p>19 MS. BERGSTROM: Well, I mean --</p> <p>20 MS. FREESE: -- what you're asking.</p> <p>21 MS. BERGSTROM: -- we've got this</p> <p>22 four-year plan that's happening at the district</p> <p>23 level, they're prioritizing and working and trying</p> <p>24 to come up with the various things they need. Then</p> <p>25 this kind of elaborate process. And presumably</p>	<p style="text-align: right;">56</p> <p>1 you said has a pot of money?</p> <p>2 MS. FREESE: Yep.</p> <p>3 MS. BERGSTROM: Okay. And so who</p> <p>4 decides --</p> <p>5 MS. FREESE: It would be --</p> <p>6 MS. BERGSTROM: -- how much is in each</p> <p>7 district's pot?</p> <p>8 MS. FREESE: The formula decides.</p> <p>9 BY MS. BERGSTROM:</p> <p>10 Q Okay. Okay. And, Dan, are you involved in those</p> <p>11 formula distribution -- or those distribution</p> <p>12 formula projections and everything?</p> <p>13 A Not -- No, not so much. We've had input in past</p> <p>14 years on the formula. There's a variety of factors</p> <p>15 go into that. It has to do with the daily traffic</p> <p>16 in that particular region of the state is one of the</p> <p>17 pieces. But we've only at times provided input when</p> <p>18 the formula was being updated.</p> <p>19 MR. JOHNSON: Does the formula deal at</p> <p>20 all with bridges?</p> <p>21 MR. DORGAN: There is a piece in there.</p> <p>22 And, I'm sorry, Tom, it's been years since we've had</p> <p>23 that discussion, whether it's deficient bridges or</p> <p>24 how bridges are factored into the formula. I think</p> <p>25 pavements are too.</p>

<p>57</p> <p>1 MS. FREESE: I didn't come prepared to</p> <p>2 talk about the formula today. It's not on the top</p> <p>3 of my --</p> <p>4 MR. JOHNSON: That's all right.</p> <p>5 MS. FREESE: -- memory here of the</p> <p>6 different factors. So if you would like that, we</p> <p>7 can get you those factors that go into the target</p> <p>8 formula.</p> <p>9 MS. BERGSTROM: No, that's fair. It</p> <p>10 just --</p> <p>11 MS. FREESE: The one other element I</p> <p>12 would talk about is after -- after the last federal</p> <p>13 reauthorization bill, there was a new revenue that</p> <p>14 we were anticipating receiving over and above what</p> <p>15 we had -- the levels that we had been receiving</p> <p>16 before. And a decision was made by the department,</p> <p>17 probably through the structure -- and I wasn't</p> <p>18 involved with that decision at the level that I'm at</p> <p>19 now -- but a decision was made probably through the</p> <p>20 Transportation Program Committee structure and input</p> <p>21 from the districts to set up two pots of money, a</p> <p>22 statewide corridor fund and a statewide bridge fund,</p> <p>23 with the anticipation that some of these projects --</p> <p>24 That was new money that hadn't been allocated out to</p> <p>25 the districts. The districts were being made whole</p>	<p>59</p> <p>1 that. But we set that up, Lisa, probably in about,</p> <p>2 I want to say, 2004, 2005.</p> <p>3 MS. FREESE: Yeah, it was set that far</p> <p>4 out. But the funds actually -- This is really the</p> <p>5 first year that the funds --</p> <p>6 MR. DORGAN: Right.</p> <p>7 MS. FREESE: -- are being directed.</p> <p>8 MR. JOHNSON: How is it funded?</p> <p>9 MS. FREESE: As I mentioned, it's being</p> <p>10 funded with what was essentially the new money.</p> <p>11 There was a new federal authorization at a higher</p> <p>12 level, and that new money that was received was then</p> <p>13 set aside in these statewide funds to be distributed</p> <p>14 to help move those larger projects more quickly.</p> <p>15 MS. BERGSTROM: And the distribution</p> <p>16 formula -- And I appreciate you didn't come prepared</p> <p>17 to talk about this, and that's fine. It's just our</p> <p>18 conversation kind of headed down that path. But the</p> <p>19 distribution formula then, is it -- will it be</p> <p>20 tweaked so that it too contributes to the statewide</p> <p>21 bridge fund or is the statewide bridge fund going to</p> <p>22 rely on these federal --</p> <p>23 MS. FREESE: The target formula you're</p> <p>24 asking?</p> <p>25 MS. BERGSTROM: Well, the various -- The</p>
<p>58</p> <p>1 from their previous allocations. And that the</p> <p>2 attempt was to try to target some of those needs</p> <p>3 more readily through that process. And in</p> <p>4 particular there were a number of major bridge</p> <p>5 projects that we saw on the horizon that oftentimes</p> <p>6 were very difficult for an individual district to</p> <p>7 put together because it would take two or three</p> <p>8 years of their entire --</p> <p>9 MS. BERGSTROM: Pot.</p> <p>10 MS. FREESE: -- targeted pot to do. And</p> <p>11 it was an attempt to try to help facilitate moving</p> <p>12 those projects on a more timely basis into their</p> <p>13 programs.</p> <p>14 BY MS. BERGSTROM:</p> <p>15 Q Okay. So the statewide bridge fund exists now;</p> <p>16 right?</p> <p>17 A Correct.</p> <p>18 MS. FREESE: Yes.</p> <p>19 MS. BERGSTROM: Okay. And --</p> <p>20 MS. FREESE: And we're really in our</p> <p>21 initial years of its implementation. I think the --</p> <p>22 Isn't it the bridge that's going to be let this</p> <p>23 summer, the Drayton bridge is actually the first</p> <p>24 one?</p> <p>25 MR. DORGAN: The first one funded of</p>	<p>60</p> <p>1 formula that results in the districts having these</p> <p>2 pots of money, you said the formula drives how much</p> <p>3 each pot gets. Will the statewide bridge fund get</p> <p>4 thrown into the mix there so that it too gets some</p> <p>5 pot of money?</p> <p>6 MS. FREESE: Well, the pot of money that</p> <p>7 the statewide bridge fund gets was a set amount over</p> <p>8 and above the base target formula distributions.</p> <p>9 And so it's -- it's a set amount. And then,</p> <p>10 actually, the first priority we set up two funds; a</p> <p>11 statewide corridor fund and a statewide bridge fund.</p> <p>12 And the bridge fund is actually the first priority</p> <p>13 for funding. So if the federal money doesn't come</p> <p>14 in as anticipated, if revenues are down, it will be</p> <p>15 taken first out of the statewide corridor fund; and</p> <p>16 that would be the fund that would have less money to</p> <p>17 be distributed.</p> <p>18 MR. JOHNSON: How much is that on an</p> <p>19 annual basis?</p> <p>20 MS. FREESE: Am I correct, is it 40</p> <p>21 million for the bridge fund and 40 million roughly</p> <p>22 for the corridor fund?</p> <p>23 MR. DORGAN: Yes. But I think in recent</p> <p>24 years it's going 80 million I thought into the</p> <p>25 bridge fund in the next few years.</p>

<p>61</p> <p>1 MS. FREESE: Right. And we had made --</p> <p>2 in a number of the first years we had decided that</p> <p>3 bridge -- bridges should be a higher priority. So</p> <p>4 we had put all the corridor funds into it. And I</p> <p>5 think one year we add -- because our pavement</p> <p>6 numbers had declined, we put the corridor funds</p> <p>7 toward pavements.</p> <p>8 MR. DORGAN: In preservation, yeah.</p> <p>9 MS. FREESE: And then the districts were</p> <p>10 encouraged or asked to submit projects for that</p> <p>11 funds that involved pavement preservation.</p> <p>12 MS. BERGSTROM: Okay. And do -- Those</p> <p>13 projects that the districts come up with to tap into</p> <p>14 those funds are not the same as the four-year lists</p> <p>15 that come over here to the --</p> <p>16 MS. FREESE: They all end up being rolled</p> <p>17 into the same four-year list.</p> <p>18 MS. BERGSTROM: Okay.</p> <p>19 MS. FREESE: It's just kind of how the</p> <p>20 money is set up in terms of the decision-making</p> <p>21 process.</p> <p>22 MS. BERGSTROM: Okay.</p> <p>23 MS. FREESE: And I think the one other</p> <p>24 thing that with the statewide bridge funds, it was</p> <p>25 really the bridge office that took the lead in</p>	<p>63</p> <p>1 It's signed -- I think I already asked this. But at</p> <p>2 the point in time when legislature is in session</p> <p>3 then and the legislature is making funding</p> <p>4 decisions, who's involved in -- is this whole</p> <p>5 planning process, this document that gets signed,</p> <p>6 that gets approved by the FHWA, is there a</p> <p>7 presentation of that then to the legislature at the</p> <p>8 time that it's done and you need money?</p> <p>9 MS. FREESE: The transportation funding</p> <p>10 process from the legislature is on a little bit</p> <p>11 time -- different time frame than the annual</p> <p>12 allocation process --</p> <p>13 MS. BERGSTROM: Okay.</p> <p>14 MS. FREESE: -- that occurs. The</p> <p>15 legislature has to its disposal our in place STIPs</p> <p>16 and what we call HIPs -- highway improvement</p> <p>17 programs, our ten-year highway improvement plans --</p> <p>18 plus our 20-year plans in terms of our needs. And</p> <p>19 those needs are pretty well documented. Usually</p> <p>20 every year we provide upon request updates on</p> <p>21 pavements and bridges to the legislative committees.</p> <p>22 And that material usually involves our similar</p> <p>23 materials that would go to the commissioner's staff</p> <p>24 on those quarterly measure type of reporting. And</p> <p>25 so they have that information to feed into their</p>
<p>62</p> <p>1 deciding which bridges in which order to put them</p> <p>2 in. And there was really no -- Even the districts</p> <p>3 were not -- Other than them having to deal with</p> <p>4 slight programming issues of when they might have</p> <p>5 enough money available for some of the ancillary</p> <p>6 work that was associated with that project, the</p> <p>7 bridge office really set the schedule for those.</p> <p>8 MS. BERGSTROM: Okay.</p> <p>9 MR. JOHNSON: And this is major bridge</p> <p>10 work you're talking about?</p> <p>11 MS. FREESE: Correct.</p> <p>12 MR. DORGAN: Right.</p> <p>13 MR. JOHNSON: Is there a threshold for</p> <p>14 what constitutes major?</p> <p>15 MR. DORGAN: Yes, there is, Tom. And</p> <p>16 I'd --</p> <p>17 MS. FREESE: We can --</p> <p>18 MR. DORGAN: -- have to --</p> <p>19 MS. FREESE: We can get you -- What we</p> <p>20 should do is get you a copy of the guidance on the</p> <p>21 statewide bridge fund --</p> <p>22 MS. BERGSTROM: Okay.</p> <p>23 MS. FREESE: -- so you can see what the</p> <p>24 threshold is.</p> <p>25 MS. BERGSTROM: So this entire package</p>	<p>64</p> <p>1 appropriation process for us.</p> <p>2 BY MS. BERGSTROM:</p> <p>3 Q So, Dan, prior to August 1st of last year and the</p> <p>4 bridge collapsing, had you been over at the</p> <p>5 legislature talking to -- about bridges and things</p> <p>6 like that and how --</p> <p>7 A In past years I have been, yes.</p> <p>8 Q And how often did you do that?</p> <p>9 A It would vary by session. But usually a couple</p> <p>10 times a session, either to the House Transportation</p> <p>11 or the Senate Transportation Committee.</p> <p>12 Q Okay.</p> <p>13 A Sometimes it was on specific legislation.</p> <p>14 Q Okay. And the same prior to August 1st, any</p> <p>15 occasions when you would have an audience with the</p> <p>16 governor on those types of issues?</p> <p>17 A No, not with the governor.</p> <p>18 Q Presumably with the commissioner or not?</p> <p>19 A Only in the context of larger meetings we would hold</p> <p>20 in terms of developing those 20-year plans or -- You</p> <p>21 know, it would depend what meetings the commissioner</p> <p>22 attended. So not a one on one, if that's what</p> <p>23 you're getting at, Katie.</p> <p>24 Q Some --</p> <p>25 A Maybe if I can back up on that --</p>

<p>65</p> <p>1 Q Sure.</p> <p>2 A -- though. We annually have what we call a measures</p> <p>3 reporting where both pavements and bridges and other</p> <p>4 items are reported to division directors and</p> <p>5 commissioner staff.</p> <p>6 Q Yeah. And I think Lisa had just mentioned that --</p> <p>7 A Yes.</p> <p>8 Q -- that there's measures reporting that goes to the</p> <p>9 commission staff. Okay.</p> <p>10 A So there's discussion at kind of a high level of</p> <p>11 what the upcoming program levels are.</p> <p>12 Q I was going to ask you, Dan, about a few people's</p> <p>13 name -- names within MnDOT because I just can't tell</p> <p>14 if they still work there -- I mean, within metro</p> <p>15 and --</p> <p>16 A Okay.</p> <p>17 Q -- the bridge office, because I can't tell if they</p> <p>18 still work there or not. But we're kind of running</p> <p>19 close to the end sometime. So I think I'm going to</p> <p>20 hold off on that for a second and just talk about</p> <p>21 bridge inspections.</p> <p>22 A Okay.</p> <p>23 Q I haven't -- I think I'll stop short until I have</p> <p>24 read through the bridge inspection manual, and maybe</p> <p>25 we can come back to that at some later date and some</p>	<p>67</p> <p>1 work they were going to schedule next -- the</p> <p>2 following year. Or if the inspection occurs early</p> <p>3 in the year, they might schedule work for the bridge</p> <p>4 crew that year on the bridge. But they would use</p> <p>5 the results from the inspection report to determine</p> <p>6 their work plan. That occurs at the district level.</p> <p>7 Q Help me a little bit with the lag. The inspections</p> <p>8 are obviously done in Minnesota probably between May</p> <p>9 and September, October, something like that?</p> <p>10 A Well, they do inspections 12 months a year. But --</p> <p>11 So I don't know whether -- I don't have a bar chart</p> <p>12 that shows each month how many are completed. So</p> <p>13 it's -- They can be inspecting in the winter also.</p> <p>14 Q Okay. But there's a -- there's a -- Is it fair to</p> <p>15 say that there's often a couple month, three,</p> <p>16 four-month lag between the inspection and the</p> <p>17 report?</p> <p>18 A I think that varies --</p> <p>19 Q Okay.</p> <p>20 A -- you know, depending on what the work load is for</p> <p>21 the inspector.</p> <p>22 Q Okay.</p> <p>23 A If -- But, again, going back to if it's a critical</p> <p>24 deficiency, those are acted upon immediately.</p> <p>25 Q Right. And let's --</p>
<p>66</p> <p>1 of the training, because I think the OLA covered a</p> <p>2 lot of that, and a lot of that is both in their</p> <p>3 report and their work papers.</p> <p>4 And I think we've talked a little bit</p> <p>5 about critical deficiencies and how they are</p> <p>6 reported and responded to. I guess one thing that</p> <p>7 is not very clear to me is that if an inspector goes</p> <p>8 out, let's say, in the metro division, inspects a</p> <p>9 bridge let's say with no critical deficiencies,</p> <p>10 because we've got a process for that.</p> <p>11 A Okay.</p> <p>12 Q But what are the responsibilities of that inspector</p> <p>13 for follow-up? What are they supposed to be doing</p> <p>14 other than, you know, writing the report?</p> <p>15 A Well, each of the inspection reports, as an</p> <p>16 inspector completes the inspection report, within</p> <p>17 the district there is an engineer that reviews the</p> <p>18 report and signs off on the report.</p> <p>19 Q And every district has an engineer that --</p> <p>20 A Yes, that does that. And as those inspection</p> <p>21 reports are reviewed, the bridge maintenance people</p> <p>22 would also make -- the inspection -- the information</p> <p>23 in the inspection report is what feeds into next</p> <p>24 year's maintenance program. So they would also take</p> <p>25 the results from that and determine what type of</p>	<p>68</p> <p>1 A And if it's a routine inspection report and nothing</p> <p>2 significant is found, the inspector may be</p> <p>3 completing more field work prior to going back to</p> <p>4 the office and entering the report.</p> <p>5 Q Okay. So at the time then that the inspection</p> <p>6 report is actually drafted, is there -- is the</p> <p>7 inspect -- inspector supposed to hand that over to</p> <p>8 the maintenance people? Is there a policy or a</p> <p>9 written protocol for how that gets from inspections</p> <p>10 to maintenance?</p> <p>11 A Well, I think that the signing off -- and I'd have</p> <p>12 to ask our people on the documentation. Each of</p> <p>13 those gets signed off by an engineer within the</p> <p>14 district. So there is a practice there. Where it</p> <p>15 exactly shows up in those policies, I could not tell</p> <p>16 you offhand. My staff would know that.</p> <p>17 Q Okay. And then maintenance -- maintenance</p> <p>18 ultimately gets the inspection reports, looks --</p> <p>19 supposed to be looking at them and moving on to</p> <p>20 their schedule for that year anything that is</p> <p>21 reported that they can get done or need to get done</p> <p>22 or what is it?</p> <p>23 A Yes, it is. As the -- As the inspection reports are</p> <p>24 completed, when items are found that need to be</p> <p>25 repaired, then -- then the district would schedule</p>

69

1 that maintenance for their bridge crews. And so
 2 that's a collaborative effort between the person
 3 that signs the report, their bridge maintenance
 4 supervisors. And at times those are one -- At times
 5 they're one and the same. But -- And I think that's
 6 pretty well covered in the legislative auditor's
 7 report. I know they interviewed a number of
 8 districts as to how they use that information.
 9 Q And does every district do it the same way?
 10 A Not necessarily.
 11 Q So it's however they've figured out the best system
 12 on a district-by-district basis as opposed to
 13 following some written protocol that says you have
 14 to do it this way?
 15 A Right. There's not necessarily a written protocol
 16 on that. That's one of the items the legislative
 17 auditor cited and we're currently developing.
 18 Q And then what does maintenance -- Maintenance looks
 19 at it, does the work. Is there a way they close the
 20 loop to say, yes, this was done?
 21 A At times you find that information in the next
 22 year's inspection report. You know, the inspection
 23 reports often carry a lot of information from
 24 previous inspections for a couple of purposes; to
 25 sort of have a historical record there and also to

70

1 let inspectors know these are items that you need to
 2 continually look at year after year. But at times
 3 there will be recordings right in the inspection
 4 reports that will show, you know, joints were found
 5 in a certain condition in some year; they were
 6 repaired the following year. And you'll see that
 7 trail within an inspection report.
 8 Q So it's captured in the inspection report. And is
 9 it captured because of an inspection and sees that
 10 it's done or is it captured because maintenance
 11 looped back and said, oh, yeah, we took care of
 12 that?
 13 A Well, you see there isn't a -- I mean, you have to
 14 understand inspection and maintenance is one entity.
 15 You know, there isn't a separate bridge inspection
 16 staff necessarily and a separate maintenance staff.
 17 Often in a lot of the districts, it's people that do
 18 the maintenance are also the certified bridge
 19 inspectors.
 20 Q Okay.
 21 A So there isn't -- There isn't always, you know, the
 22 separate handoffs --
 23 Q Right.
 24 A -- because it's done by one and the same group.
 25 Q And -- But is that the case in metro?

71

1 A In metro it is in some cases, yes. The bridge
 2 maintenance crews in metro are also inspectors too.
 3 Q Okay. Maybe we can spend a little time talking
 4 about a few of these people. Some of these people
 5 we've already mentioned today, so I know that they
 6 are still around.
 7 One is Bob Miller. Is he still with
 8 MnDOT?
 9 A No, Bob is retired.
 10 Q Okay. And what was his title? Who was he?
 11 A He was within the bridge office, and Bob was in
 12 charge of our consultant agreements in probably the
 13 last ten years of his -- of his time with the
 14 department. Prior to that he was a designer.
 15 Q And by consultants do you mean outside -- is that
 16 anybody who contracts to do work with the bridge
 17 office or is it truly in a consultant phase, if you
 18 know? Does that make sense, that distinction?
 19 A Well, the main contracts that we do have from the
 20 bridge office would be with the consultants.
 21 Because if you're thinking of contractors for
 22 construction work, that's done by our Office of
 23 Construction.
 24 Q Okay.
 25 A So -- But we oversee consultants we would hire for

72

1 bridge design. We also hire -- We hire consultants
 2 for a variety of tasks.
 3 Q So under the engineering services, this construction
 4 and innovative contracting --
 5 A Correct.
 6 Q -- that's where the actual contractors...
 7 A That office is in charge of holding the bid lettings
 8 and then developing the contracts with the
 9 contractors.
 10 Q Okay. And --
 11 MS. FREESE: So they serve as a service
 12 bureau for the districts --
 13 MS. BERGSTROM: Okay.
 14 MS. FREESE: -- for those activities.
 15 BY MS. BERGSTROM:
 16 Q And Bob Miller was -- But Bob Miller was not part of
 17 that; he was part of bridges?
 18 A Correct.
 19 Q Okay.
 20 A So if we were hiring, as an example, a consultant to
 21 design a bridge, then Bob Miller -- that would have
 22 been Bob Miller's contract.
 23 Q Okay. What about Jerome Adams, is he --
 24 A He's in the metro district. And I believe he is
 25 still with MnDOT, yes.

73

1 MS. FREESE: He is.

2 MS. BERGSTROM: And do you know what he

3 does in the metro district or who he --

4 MS. FREESE: He's a design engineer.

5 MS. BERGSTROM: Design engineer. Okay.

6 MS. FREESE: I believe his title is

7 senior engineer.

8 BY MS. BERGSTROM:

9 Q Who is the district engineer in metro?

10 A Khani Sahebjam.

11 Q And how long has he been in that position?

12 A I want to say three or four years, but maybe...

13 MS. FREESE: Probably three.

14 MR. DORGAN: Three? Okay.

15 MS. FREESE: I'm just trying --

16 MR. DORGAN: That sounds --

17 MS. FREESE: -- to think --

18 MR. DORGAN: -- about right.

19 MS. FREESE: -- because I...

20 MS. BERGSTROM: Lisa, how long have you

21 been with MnDOT?

22 MS. FREESE: Since 1999.

23 MS. BERGSTROM: And based on what you

24 said earlier, did you come over from the investment

25 management side?

74

1 MS. FREESE: No. I worked in investment

2 management my first couple of years in MnDOT, and

3 then I went to the metro district. And then I

4 worked in metro in the planning area. Then I became

5 the area manager, which was responsible for program

6 delivery for a geographic area in the metro

7 district, before I took my current position.

8 BY MS. BERGSTROM:

9 Q Okay. There's a -- If you look at the org charts

10 over the years, people show up in different little

11 columns here and there.

12 All right. We talked about Mr. Arnebeck.

13 He's here. I'm going to butcher these names. John

14 Bieniek?

15 MS. FREESE: Bieniek.

16 MS. BERGSTROM: Bieniek? B-I-E-N-I-E-K.

17 MR. DORGAN: John's in the metro district

18 in the maintenance area.

19 MS. BERGSTROM: Mark Briese?

20 MS. FREESE: Briese I think. Is it --

21 MR. DORGAN: Mark Briese.

22 MS. FREESE: How do you spell it?

23 MS. BERGSTROM: B-R-I-E-S-E.

24 MS. FREESE: Mark Briese. I don't

25 believe he's with MnDOT any longer. I think he went

75

1 to a local unit of government.

2 BY MS. BERGSTROM:

3 Q Ray Cekalla?

4 A Ray Cekalla is retired. He was part of the bridge

5 office, preliminary plans engineer.

6 Q Vance Desens? D-E-S-E-N-S.

7 A He's with metro -- Vance is with metro maintenance.

8 Q Dale Domdroske.

9 I'll give you these names afterwards.

10 MR. DORGAN: Dale's with metro

11 maintenance.

12 BY MS. BERGSTROM:

13 Q David Ekern?

14 A David Ekern is no longer with the department. He's

15 the commissioner of the Virginia Department of

16 Transportation.

17 Q There was in one historical org chart another Ekern.

18 A Um-hum. Stan?

19 Q Yeah. Is that a relative of his?

20 A Yeah. That was his father.

21 Q Okay. Stephen Ellis?

22 A Yes. Steve's still with MnDOT. He's in the bridge

23 office.

24 Q Phillip Erickson?

25 A Phillip is with metro maintenance.

76

1 Q Brad Astocian (phonetic)?

2 A Brad. Where is Brad?

3 MS. FREESE: Brad's at metro maintenance.

4 BY MS. BERGSTROM:

5 Q Bev Farragher I think?

6 A Metro maintenance.

7 Q Okay.

8 MS. FREESE: She's actually the lead

9 person, the head. She's the metro maintenance

10 engineer.

11 MS. BERGSTROM: Okay. So is she kind of

12 in charge of the other metro maintenance?

13 MS. FREESE: In charge of all these

14 people, yes.

15 BY MS. BERGSTROM:

16 Q Okay. Okay. Todd Niemann?

17 A Todd's with the bridge office.

18 Q Where does he fall in this?

19 A He's our bridge inspections engineer. Should be

20 somewhere down this chain.

21 Q Oh, under Gary Peterson?

22 A Yes.

23 Q Okay. Tom O'Keefe?

24 A Tom's with the metro district. He's an area

25 manager.

<p>77</p> <p>1 MS. BERGSTROM: Kind of what you used to</p> <p>2 do, Lisa?</p> <p>3 MS. FREESE: Yes.</p> <p>4 BY MS. BERGSTROM:</p> <p>5 Q Okay. Arlen Ottman?</p> <p>6 A Arlen's with the bridge office. He's a design --</p> <p>7 design unit leader.</p> <p>8 Q Mike Palmer?</p> <p>9 MS. FREESE: Operating --</p> <p>10 MR. DORGAN: I'm sorry, I can't place</p> <p>11 that.</p> <p>12 BY MS. BERGSTROM:</p> <p>13 Q Okay. Gary Peterson I assume is this Gary Peterson</p> <p>14 in the bridge office?</p> <p>15 A Yes.</p> <p>16 Q Okay. Jeff Praglow (phonetic)?</p> <p>17 MS. FREESE: He was with metro design.</p> <p>18 He now works in the state aid division I believe.</p> <p>19 But he's probably no longer in the role.</p> <p>20 BY MS. BERGSTROM:</p> <p>21 Q Okay. Mark Pribula? And I think --</p> <p>22 A He's with metro maintenance.</p> <p>23 Q Metro maintenance. So he's considered metro</p> <p>24 maintenance even though he was an inspector or the</p> <p>25 lead inspector?</p>	<p>79</p> <p>1 MS. FREESE: Jabr.</p> <p>2 MS. BERGSTROM: Jabr. A-M-R. J-A-B-R.</p> <p>3 BY MS. BERGSTROM:</p> <p>4 Q Who is he?</p> <p>5 A He's with metro.</p> <p>6 Q Okay. And what does he do there?</p> <p>7 MS. FREESE: He's the traffic engineer.</p> <p>8 And I believe he's also involved in maintenance in</p> <p>9 his current capacity.</p> <p>10 BY MS. BERGSTROM:</p> <p>11 Q Okay. Corey Johnson?</p> <p>12 MS. FREESE: He's at metro.</p> <p>13 MR. DORGAN: He used to be metro</p> <p>14 maintenance. I'm not sure if he's still part of</p> <p>15 maintenance or what part of the organization Corey's</p> <p>16 part of.</p> <p>17 BY MS. BERGSTROM:</p> <p>18 Q We talked about Paul Kivisto.</p> <p>19 A He's in the bridge office.</p> <p>20 Q Yeah. Michael Koffski, K-O-F-F-S-K-I?</p> <p>21 A Boy, sorry.</p> <p>22 MS. FREESE: S-I?</p> <p>23 MS. BERGSTROM: S-K-I.</p> <p>24 MS. FREESE: Michael Kowski, is it?</p> <p>25 MS. BERGSTROM: Well, I have it as F-F,</p>
<p>78</p> <p>1 A Yes, he's part of the metro maintenance</p> <p>2 organization.</p> <p>3 Q Okay. Eric Rhode, R-H-O-D-E?</p> <p>4 A Sorry, that --</p> <p>5 MS. FREESE: I think he's in maintenance,</p> <p>6 but let me check.</p> <p>7 BY MS. BERGSTROM:</p> <p>8 Q Chris Roy?</p> <p>9 A He's with metro. He's an area manager.</p> <p>10 Q Khani we talked about, which is K-H-A-N-I. Kurt</p> <p>11 Fuhman?</p> <p>12 A Kurt's with metro maintenance.</p> <p>13 Q John Griffith?</p> <p>14 MS. FREESE: Right now he's temporarily</p> <p>15 working in OIM. He's on a mobility assignment, but</p> <p>16 he was one of the area engineers at metro for a</p> <p>17 number of years.</p> <p>18 BY MS. BERGSTROM:</p> <p>19 Q John Howard?</p> <p>20 A John's with metro maintenance also.</p> <p>21 Q I'm going to butcher this. Amere (phonetic) --</p> <p>22 MS. FREESE: Amr.</p> <p>23 MS. BERGSTROM: What is it?</p> <p>24 MS. FREESE: Amr.</p> <p>25 MS. BERGSTROM: Amr.</p>	<p>80</p> <p>1 but -- K-O-F-F, but...</p> <p>2 MS. FREESE: Well, then I don't know.</p> <p>3 MS. BERGSTROM: I might be wrong too.</p> <p>4 BY MS. BERGSTROM:</p> <p>5 Q Rebecca Lane?</p> <p>6 A Rebecca Lane? The name's familiar; but, I'm sorry,</p> <p>7 I can't place where -- where she might be.</p> <p>8 Q A few more. Calvin Lucas (phonetic)?</p> <p>9 MS. FREESE: Not sure.</p> <p>10 MR. DORGAN: No.</p> <p>11 BY MS. BERGSTROM:</p> <p>12 Q Okay. Marv Luntsford (phonetic)?</p> <p>13 A Marv's in the metro district.</p> <p>14 MS. FREESE: Marv is -- works in their</p> <p>15 planning group, and he's in charge of the metro --</p> <p>16 putting together the metro STIP.</p> <p>17 BY MS. BERGSTROM:</p> <p>18 Q Okay. Al Shankelberg (phonetic)?</p> <p>19 A Al's retired. He was formerly head of the Office of</p> <p>20 Investment Management.</p> <p>21 Q So what -- where Abigail is now?</p> <p>22 A Yes, same position as Abby.</p> <p>23 Q Okay. Roger Schultz?</p> <p>24 A Roger is still with metro maintenance.</p> <p>25 Q Okay. Colette Shoeman (phonetic)?</p>

<p>81</p> <p>1 A Shoeman. No, sorry, I don't know that.</p> <p>2 Q This one I don't know the first name. It starts</p> <p>3 with a T, and the last name looks like Strybicki,</p> <p>4 S-T-R-Y-B-I-C-K-I?</p> <p>5 A Tom.</p> <p>6 Q Tom?</p> <p>7 A Tom Strybicki. He's with the bridge office. He's</p> <p>8 our preliminary design engineer.</p> <p>9 Q Tom Waks, W-A-K-S?</p> <p>10 A No.</p> <p>11 Q Kevin Western we talked about.</p> <p>12 A Um-hum. He's bridge office, design engineer.</p> <p>13 Q Out on a temporary assignment?</p> <p>14 A Right. On 35W.</p> <p>15 Q And then Gary Workman?</p> <p>16 A Gary is now with the Office of Aeronautics. He's in</p> <p>17 charge of that office.</p> <p>18 Q What did --</p> <p>19 A Within MnDOT.</p> <p>20 Q Okay. What did he used to do?</p> <p>21 MS. FREESE: Used to be at metro. And at</p> <p>22 metro traffic and maintenance he was like the lead</p> <p>23 for traffic and maintenance reporting as part of the</p> <p>24 metro leadership to the district engineer.</p> <p>25 BY MS. BERGSTROM:</p>	<p>83</p> <p>1 the last two years changes to federal requirements</p> <p>2 for inspection of fractured critical bridges for a</p> <p>3 two-year inspection cycle. So currently talking to</p> <p>4 our districts, determining how much personnel is</p> <p>5 needed to achieve the two-year cycles for fractured</p> <p>6 critical inspection going forward.</p> <p>7 And I'm trying to remember what the third</p> <p>8 recommendation was as part of that. I think it was</p> <p>9 for staffing of bridge maintenance forces for</p> <p>10 preservation work. And we just had some discussion</p> <p>11 on this this morning and the -- I'm trying to</p> <p>12 remember. Bob Winter --</p> <p>13 MS. FREESE: And it was actually focused</p> <p>14 on preventive maintenance.</p> <p>15 MR. DORGAN: Preventive maintenance, yes.</p> <p>16 So the operations division of our office will be</p> <p>17 working on that.</p> <p>18 MS. FREESE: Which preventive maintenance</p> <p>19 is a subset of maintenance work.</p> <p>20 MS. BERGSTROM: As opposed to reactive?</p> <p>21 MS. FREESE: Right.</p> <p>22 MR. DORGAN: Yes.</p> <p>23 BY MS. BERGSTROM:</p> <p>24 Q Okay. So who is involved in that -- When you say we</p> <p>25 had a discussion this morning, who's involved in</p>
<p>82</p> <p>1 Q Okay. If you have about five more minutes? Do you</p> <p>2 have about five more minutes?</p> <p>3 A Okay.</p> <p>4 Q And we could save this for another day too. And</p> <p>5 tell me -- Actually, let's do it this way. I'll ask</p> <p>6 you the question; and if the answer is too long, you</p> <p>7 say let's save it for another day. Okay?</p> <p>8 A Fair enough.</p> <p>9 Q I'm curious. I know that the legislative auditor</p> <p>10 talked a little bit about some changes in policies</p> <p>11 that MnDOT is making. And I wanted to talk about</p> <p>12 what -- what changes are being made and, you know,</p> <p>13 why, where the decisions are being made to make</p> <p>14 those changes, whether you're contemplating any</p> <p>15 other changes.</p> <p>16 A Well, I think if you look at the legislative</p> <p>17 auditor's report, there was a number of</p> <p>18 recommendations. I recall the three that were on</p> <p>19 bridges.</p> <p>20 One was the follow-up as far as</p> <p>21 documentation on inspection reports. So we're going</p> <p>22 to be working with our districts regarding that</p> <p>23 recommendation from the auditor in developing a</p> <p>24 process there.</p> <p>25 The second one was there's been just in</p>	<p>84</p> <p>1 those discussions?</p> <p>2 A Well, it will involve our districts; Bob Winter,</p> <p>3 who's the head of the operations division, and also</p> <p>4 our office will offer input.</p> <p>5 MR. JOHNSON: Is there a distinction</p> <p>6 between maintenance and repair?</p> <p>7 MR. DORGAN: Well, Tom, as far as a</p> <p>8 distinction, there's different -- I guess we think</p> <p>9 of it as different types of maintenance is what</p> <p>10 Katie -- Kathryn used the term reactive maintenance</p> <p>11 is one sees something and it needs to be addressed,</p> <p>12 addressed quickly.</p> <p>13 An example may be a truck over height --</p> <p>14 a truck with an over-height load hits our bridge, so</p> <p>15 they need to get out there immediately and respond</p> <p>16 to the incident. So that's reactive maintenance.</p> <p>17 What we call preventive maintenance is</p> <p>18 more kind of the long-term things one does;</p> <p>19 repairing joints, repairing other items of the</p> <p>20 bridge that doesn't have to be done this afternoon</p> <p>21 but needs to be done. And so those are -- Our</p> <p>22 bridge crews also do that type of work, preventive</p> <p>23 maintenance.</p> <p>24 We also then have, for large amounts of</p> <p>25 work, like when a bridge needs to -- might be 40</p>

<p>85</p> <p>1 years old and the concrete deck is deteriorated to</p> <p>2 the point we need to replace the deck, then we</p> <p>3 typically would do that by contract. So we'd have a</p> <p>4 construction contract, and we call that repair work</p> <p>5 or bridge improvement work.</p> <p>6 So there's different -- Depending on the</p> <p>7 scope of it, we think of it somewhat differently.</p> <p>8 But I guess in a sense those are all bridge repair,</p> <p>9 you know, bridge repair items.</p> <p>10 MR. JOHNSON: Sure. Is the scope largely</p> <p>11 determined by the amount that it's going to cost or</p> <p>12 is there other factors?</p> <p>13 MR. DORGAN: Are you asking that in terms</p> <p>14 of when it goes to a repair --</p> <p>15 MR. JOHNSON: Yeah.</p> <p>16 MR. DORGAN: -- contract with a</p> <p>17 contractor?</p> <p>18 MR. JOHNSON: Right.</p> <p>19 MR. DORGAN: Part of it's, yes, how much</p> <p>20 cost, how much time it's going to take, and how</p> <p>21 much -- how many people you need to do the repair</p> <p>22 and what type of equipment. Some of our bridge</p> <p>23 crews will undertake redecking of a small bridge. I</p> <p>24 mean, they'll do fairly significant pieces. But the</p> <p>25 crews are five to six people. So if it's redecking</p>	<p>87</p> <p>1 road construction budget. So that, as Lisa says, a</p> <p>2 separate --</p> <p>3 MS. FREESE: We often refer to it as the</p> <p>4 SRC budget. So that's state road construction</p> <p>5 budget. And then there's a couple of different line</p> <p>6 items that are in our transportation appropriations</p> <p>7 bill that pertain to operations. There's one</p> <p>8 specifically for maintenance; and then there's</p> <p>9 another one that addresses program delivery, more</p> <p>10 the design work front end of projects. And so</p> <p>11 bridge work would get funded out of both of those</p> <p>12 pots of money.</p> <p>13 MS. BERGSTROM: Depending on what it was?</p> <p>14 MS. FREESE: Depending on where it was.</p> <p>15 MS. BERGSTROM: Well, that's all I have</p> <p>16 for today. I appreciate your time.</p> <p>17 MR. DORGAN: Okay.</p> <p>18 (Interview concluded at 3:14 p.m.)</p>
<p>86</p> <p>1 the High Bridge in St. Paul, that's not something</p> <p>2 our bridge crews can undertake. I mean, they'd be</p> <p>3 out there for way too long a time to try to</p> <p>4 undertake a job like that. You need heavy equipment</p> <p>5 and large equipment more than they would have at</p> <p>6 hand. They're well equipped; but it's for, you</p> <p>7 know, a certain level of work.</p> <p>8 MR. JOHNSON: Are all types or levels of</p> <p>9 maintenance funded out of the same fund?</p> <p>10 MR. DORGAN: No. They would be -- When</p> <p>11 we let a repair contract with a contractor, that</p> <p>12 comes out of our construction budget. So that's out</p> <p>13 of our construction dollars. That's a specific area</p> <p>14 of the department's funds. The work our bridge</p> <p>15 crews do comes out of what we call our operating</p> <p>16 budget. So that would be again funded from district</p> <p>17 operations.</p> <p>18 MS. FREESE: And those are separate</p> <p>19 appropriations under the way the legislature</p> <p>20 appropriates its money.</p> <p>21 MR. JOHNSON: Operation and maintenance</p> <p>22 is one line item, and your construction projects is</p> <p>23 a separate line item?</p> <p>24 MS. FREESE: Yes.</p> <p>25 MR. DORGAN: Yes. It's called the state</p>	<p>88</p> <p>1 STATE OF MINNESOTA)</p> <p>2) ss.</p> <p>3 COUNTY OF DAKOTA)</p> <p>4</p> <p>5 REPORTER'S CERTIFICATE</p> <p>6</p> <p>7</p> <p>8 I, Angie D. Threlkeld, do hereby</p> <p>9 certify that the above and foregoing transcript,</p> <p>10 consisting of the preceding 87 pages is a</p> <p>11 correct transcript of my stenographic notes, and is</p> <p>12 a full, true and complete transcript of the</p> <p>13 proceedings to the best of my ability.</p> <p>14 Dated March 18, 2008.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19 ANGIE D. THRELKELD</p> <p>20 Registered Professional Reporter</p> <p>21 Certified Realtime Reporter</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

1 INTERVIEW OF DANIEL DORGAN - APRIL 22, 2008
2 Volume 2

3

4 In the Matter of Conducting an Independent Investigation
5 Into the Collapse of the I-35W Bridge

6

7 Department of Transportation
8 395 John Ireland Boulevard
9 Room G-13
10 Saint Paul, Minnesota

11

12 Met, pursuant to notice, at 1:30 in the
13 afternoon on April 22, 2008.

14

15

16 INTERVIEWERS:

17 Kathryn Bergstrom and Tom Johnson, Attorneys at
18 Law with the Gray Plant Mooty Law Firm

19 ALSO PRESENT:

20 Barbara E. Forsland, Attorney at Law, MnDOT Data
21 Practices Compliance & Policy Analyst

22

23

24 COURT REPORTER:

25 Colleen M. Sichko, Registered Professional Reporter

Page 2

1 (WHEREUPON, the following proceedings were duly had
2 and entered of record, to-wit:)

3 MS. BERGSTROM: Let's get started. I think
4 we'll start by getting appearances on the record. I'm
5 Katie Bergstrom with the Gray Plant Mooty Law Firm.

6 MR. JOHNSON: Tom Johnson with Gray Plant
7 Mooty.

8 MS. FORSLAND: I'm Barbara Forsland, data
9 practices for the agency.

10 MR. DORGAN: And I'm Dan Dorgan, it's
11 D-o-r-g-a-n, with MnDOT.

12 BY MS. BERGSTROM:

13 Q Dan, we've met a number of times, and as you know, the
14 first time we met we went through this witness protocol
15 for interviews. I don't feel the need, unless you want me
16 to, to reread it for this volume 2 of your interview.

17 A No, that's okay.

18 Q Okay. But I will hand you that and say that all of those
19 witness protocols still apply in this continued interview.

20 As I was mentioning to you before we went on
21 the record, I feel like I've learned a lot since
22 February 29th, when we first talked, Dan, both about the
23 bridge and about MnDOT as an organization, and I'm going
24 to go over some questions with you today that other people
25 have spoken to, too, and I'm just trying to make sure that

Page 3

1 we have all of our facts correct.

2 I have come to understand, Dan, that the
3 bridge 9340 was considered obsolete in its design fairly
4 soon after it was completed due to some changing in
5 federal standards; and I'm wondering, over the life of the
6 bridge, what special considerations did MnDOT take with
7 respect to the bridge because of its obsolete design?

8 A Okay. Well, first of all, Katie, your statement that it
9 was an obsolete design, I'm not sure where that's coming
10 from. It's -- it was a truss design, and trusses became
11 more seldom used after the 1960s primarily driven, first
12 of all, by economics. It was the cost of fabricating a
13 truss, the cost of steel materials, and the cost of
14 erection that has caused trusses to be used less than they
15 were in the 1960s.

16 So obsolete design is, I would say, an
17 incorrect statement from that standpoint. It's -- in
18 fact, trusses are still -- while we haven't built a truss
19 since -- 1987 was our last truss at Wabasha, Minnesota.
20 Other states have continued to build them and there was
21 just one opened in Missouri, let's see, the Mark Twain
22 Bridge, in about the year 2000. Missouri just opened one
23 on the interstate, so I guess your statement obsolete is,
24 I guess I would say, incorrect from an engineering
25 standpoint.

Page 4

1 Q All right. Well, let's go at it from a different way.

2 The design of the bridge 9340, it was fracture critical,
3 correct?

4 A Correct.

5 Q And nonredundant, correct?

6 A Correct.

7 Q Okay. And did MnDOT take any special considerations with
8 respect to the bridge because of those two factors?

9 A We certainly did because of its fracture critical design,
10 yes.

11 Q Okay. So tell me about that.

12 A Well, we would do what we would call fracture critical
13 inspections in addition to our routine inspections, which
14 were, depending on which -- let's see. Depending on at
15 what point you are in the life of the bridge, we were
16 inspecting on a routine basis either every two years or
17 every year for routine inspections, but we would also do
18 fracture critical inspections on the structure.

19 Q And I don't know if I asked you this before, Dan, but are
20 you a certified bridge inspector?

21 A No, I'm not a certified bridge inspector.

22 Q So have you ever done a fracture critical bridge
23 inspection?

24 A Not myself, no. We have staff that does that.

25 Q Okay. So in addition to doing fracture critical

Page 5

Page 7

1 inspections, what other -- did you take any other special
 2 considerations with respect to this bridge due to its
 3 fracture critical design?
 4 A Well, that would be the primary step, would be the
 5 fracture critical inspection program that we conducted on
 6 the bridge.
 7 Q You've mentioned to me before, Dan, that you were involved
 8 with -- or you were involved in various committees, I
 9 think at AASHTO?
 10 A Mm-hmm.
 11 Q In your work on those committees or your work with other
 12 national organizations, did you ever explore best
 13 practices with fracture critical bridges?
 14 A Best practices? Well, there is a -- I mean, the National
 15 Bridge Inspection System lays out requirements for
 16 fracture critical design, so, you know, as far as on a
 17 national level, that's within both AASHTO and NBIS.
 18 Q And I guess what I am, in part, asking is, in addition to
 19 those national standards, did you ever talk to any other
 20 state bridge engineers or fracture critical experts about
 21 any particular precautions that ought to be taken on
 22 fracture critical bridges?
 23 A I'm sure I had, Kathryn, but I can't -- I couldn't tell
 24 you -- relate a specific. I mean, in the world of
 25 discussion of bridges, certainly that -- different

Page 6

1 subjects like that would come up, but I don't remember any
 2 specifics. I guess I'm uncertain of what you're trying to
 3 get at with that question.
 4 Q Well, you know, I think when we met before, you had told
 5 me, Dan, that right after the collapse, for instance, a
 6 number of DOT representatives were calling to offer
 7 assistance and help from around the country; and I noticed
 8 in some of the documents that you produced that, for
 9 instance, Colorado and Idaho and some others had contacted
 10 you about information about the deicer that went on the
 11 bridge because they were looking at similar things. So
 12 there is a certain level of information sharing that's
 13 happening from DOT to DOT.
 14 A Mm-hmm.
 15 Q I'm just wondering if you had any of that similar type of
 16 information sharing regarding precautions to take with
 17 fracture critical bridges, anything that stands out in
 18 your mind.
 19 A I would say nothing that stands out, but -- nothing that
 20 stands out about specific conversations, but in the realm
 21 of discussing bridges over a number of years, I'm sure
 22 there were conversations.
 23 Q In particular, there's been some information in the media
 24 about the sag of the Ohio bridge that's a fracture
 25 critical bridge in 1996, and I'm wondering, did you know

1 about that before the collapse of the 9340 bridge?
 2 A As we've previously told you, Kathryn, we did not. Okay?
 3 Q Well, I have asked a number of your MNDOT representatives
 4 and I'm asking them all, and a number of them have said
 5 no.
 6 A Yeah, and that was in our responses that -- I think the
 7 third request or so, we responded to that. There was no
 8 information that we received on the Ohio structure.
 9 Q And I don't even think, in 1996, you were the state bridge
 10 engineer, right?
 11 A Correct, I was not.
 12 Q Have you had any personal opportunity, Dan, to go back in
 13 time and review the plans of this bridge since the
 14 collapse?
 15 A I have -- well, yes, I have had occasion to look at the
 16 plans mainly, probably, responding to NTSB investigation
 17 issues.
 18 Q And in assisting MNDOT in pulling together all the
 19 documents about the bridge, which MNDOT has produced
 20 documents way back from the early '60s regarding this
 21 bridge, and I'm wondering if you have had any opportunity
 22 to review any of the documents that relate to the actual
 23 construction of the bridge, as built drawings.
 24 A Well, there are drawings in EDMS that relate to
 25 construction, yes. I mean, there's -- because we had file

Page 8

1 boxes of hard copies of just a variety of documents, and
 2 those were all put on the EDMS system, some of those I
 3 have looked at.
 4 Q You're aware of the media reports that the gusset plates
 5 on the bridge were bowed or bent and that the media put
 6 out some pictures that were taken, apparently, by URS in
 7 2003?
 8 A Mm-hmm, yes. Certainly, I saw those.
 9 Q Had you seen those before?
 10 A Those were part -- no, I had not seen those photos. Those
 11 were part of a URS inspection report. In fact, I brought
 12 just those sheets with me, so I don't know if you have --
 13 have you looked at the inspection report yourself?
 14 Q I have seen it, but why don't we pull out what you
 15 brought.
 16 A I think the -- those are the two photos highlighted as
 17 published by the NTSB and then reprinted by the
 18 Minneapolis paper. I think it was the Minneapolis paper.
 19 Actually, those are on the NTSB website. Now, at the
 20 time, that was among over 200 photos that were part of the
 21 photos URS placed in that report.
 22 MS. BERGSTROM: Can we mark this or do you
 23 want to --
 24 MS. FORSLAND: Sure, yeah.
 25 MS. BERGSTROM: Is this a copy that we can

Page 9	Page 11
<p>1 mark and use?</p> <p>2 MS. FORSLAND: Do you want to take a copy</p> <p>3 back?</p> <p>4 MR. DORGAN: Sure, I'll take a copy back. Go</p> <p>5 ahead if you want to mark it.</p> <p>6 BY MS. BERGSTROM:</p> <p>7 Q Well, let me ask you this first: When the story of these</p> <p>8 bent gusset plates came out in the media, we were</p> <p>9 interviewing some of the -- well, some of the various</p> <p>10 MNDOT representatives, and a few people stated that the</p> <p>11 bending of these gusset plates most likely occurred during</p> <p>12 construction of the bridge. I'm wondering if you have</p> <p>13 reviewed any construction documents, historical</p> <p>14 construction documents that would indicate that that's</p> <p>15 what occurred?</p> <p>16 A I am not aware of any documents related to construction</p> <p>17 that show that, but I have not poured through all the data</p> <p>18 there either. There's others conducting the</p> <p>19 investigation, so I'm leaving that up to them.</p> <p>20 Q If the gusset plates were bent in the fashion that's</p> <p>21 depicted in these pictures from the inception of the</p> <p>22 construction of the bridge, what effect would that have on</p> <p>23 the structural integrity of the bridge?</p> <p>24 A Well, one would have to know the amount of deflection in</p> <p>25 the plates. It's pretty difficult to try to calculate</p>	<p>1 discovered bent gusset plates if they were bent at the</p> <p>2 time?</p> <p>3 A A rating process is not a field inspection. A rating, a</p> <p>4 load rating process is an engineering calculation, so the</p> <p>5 load rating engineer would have -- let's see, at the time,</p> <p>6 it's 1977, the bridge is only ten years old. It was</p> <p>7 mainly working off the bridge plans and bridge data to</p> <p>8 rerate for the additional 2 inches of concrete over that.</p> <p>9 Q And having talked to Lowell Johnson -- and I think you</p> <p>10 were there for part of that informal interview -- I</p> <p>11 understand that reratings are done both because of, one,</p> <p>12 modifications, but also due to damage and deterioration,</p> <p>13 correct?</p> <p>14 A Correct, those are the two main drivers.</p> <p>15 Q Okay. So what I think you just said, and what I think</p> <p>16 Lowell said as well, is that when you are doing a rerating</p> <p>17 based on a modification, the calculations that are used</p> <p>18 come from the plans and the modifications themselves as</p> <p>19 opposed to fieldwork?</p> <p>20 A That would be correct.</p> <p>21 Q Okay.</p> <p>22 A You know, I would say if a bridge is 60 years old -- this</p> <p>23 bridge at the time of the overlay was only ten years old,</p> <p>24 so I don't know what the condition was in '77. I suspect</p> <p>25 there wasn't much. It was fairly new, so I would think</p>
Page 10	Page 12
<p>1 that. A bend in a gusset plate, we're coming to find, is</p> <p>2 not an unusual event.</p> <p>3 Q Bends in the gusset plate, is that something that you</p> <p>4 would expect to have noted in a fracture critical</p> <p>5 inspection report?</p> <p>6 A I don't think prior to all this. Our inspectors were</p> <p>7 generally looking for corrosion on the gussets, looking</p> <p>8 for cracks. I mean, in general, on the members, they were</p> <p>9 looking for corrosion, certainly they were looking for</p> <p>10 fatigue cracks on this bridge. That's the prime focus of</p> <p>11 a fracture critical inspection. So I'm not aware of</p> <p>12 specific instruction, you know, to them to look at that.</p> <p>13 And, you know, once you look at those photos, you have to</p> <p>14 be at a precise point to try to take a look at that to</p> <p>15 gauge whether it would be bent or not.</p> <p>16 Q There was an overlay project on the bridge that was</p> <p>17 completed in 1977. I can't remember from your time line,</p> <p>18 Dan, all the various places you've been around MNDOT, but</p> <p>19 did you have any involvement in the 1977 project at all?</p> <p>20 A No, not in the 1977 project.</p> <p>21 Q I understand from talking with the ratings engineers that</p> <p>22 the bridge was rerated as a result of the modifications</p> <p>23 that were done in 1977.</p> <p>24 A That's correct.</p> <p>25 Q Would the rerating process, in and of itself, have</p>	<p>1 the rater just relied on those plans and did the</p> <p>2 calculation.</p> <p>3 Q And then if there was going to be a rerating done due to</p> <p>4 damage or deterioration, that would involve some sort of</p> <p>5 fieldwork by somebody, correct?</p> <p>6 A Correct, yes. For deterioration, for both of those</p> <p>7 instances, yes.</p> <p>8 Q Because you have to quantify either the damage or the</p> <p>9 deterioration in order to do your calculations, correct?</p> <p>10 A That's correct. We do it -- the term in steel is called</p> <p>11 section loss. You're quantifying how much section it has</p> <p>12 lost from its original condition and then factoring it</p> <p>13 into the rating, and it may or may not control.</p> <p>14 Q Okay. And as I understand, it may or may not have impact</p> <p>15 depending upon which member it is and whether that's a</p> <p>16 critical member and the percentage of section loss, right?</p> <p>17 A All of those, you know, which member, whether it's a</p> <p>18 controlling member on the bridge, and whether the section</p> <p>19 loss occurs in the member because the member is stressed</p> <p>20 differently depending on location.</p> <p>21 Q Lowell Johnson is in the Central Bridge Office, right?</p> <p>22 A Correct.</p> <p>23 Q So how do rerating requests which are being made as a</p> <p>24 result of damage or deterioration find their way to him?</p> <p>25 Who makes those --</p>

1 A Typically, there would be two routes on those rating
 2 requests due to deterioration or damage. One would be
 3 directly from a district. So if a bridge is, let's say,
 4 not a fracture critical bridge, so it receives routine
 5 either annual inspections or inspections every two years,
 6 that's a district responsibility. So they would be the
 7 ones that do the inspection, who would first notice the
 8 deterioration or damage, whatever the case may be. Then
 9 they would notify our office and ask for a rating and a
 10 discussion would occur as to where the deterioration has
 11 occurred, to what extent the deterioration is, the amount
 12 of section loss, and then a decision would be made to
 13 rate.
 14 Q And you said that was for nonfracture critical?
 15 A Yeah. And then for fracture critical bridges, again,
 16 it's -- let's see, we have two districts that do fracture
 17 critical inspections, Metro and District 6, our Rochester
 18 district, so if it was a bridge that they were inspecting
 19 and our own inspectors weren't out, it would be the same
 20 thing. We would need the district to report to us, but we
 21 also have a fracture critical team in our office and, if
 22 it was an inspection that they were doing and they
 23 discovered it, then they would bring back the information
 24 and have the discussion as to whether a rating was needed,
 25 or a rerating.

1 Q Okay. Do you know in the --
 2 A Maybe if I could clarify one other thing?
 3 Q Sure.
 4 A There is one other -- another thing that triggers ratings
 5 and that's when there are changes in state statute. So
 6 just to --
 7 Q And we had talked about that before, I think, about when
 8 they statutorily changed load permitted requirements and
 9 things like that.
 10 A Right. The latest one was for timber haulers and, if I
 11 pondered long enough, maybe I could come up with another
 12 reason to rerate, but I think I've covered it.
 13 Q Do you know, in the inspection training that's provided to
 14 certified bridge inspectors for fracture critical
 15 inspections, do you know whether there is training on the
 16 amount of deterioration that would necessitate a rerating
 17 request?
 18 A Training on the amount -- let's see. Okay. You know, I
 19 think Todd Niemann would be -- he's more familiar with
 20 that inspection training program for fracture critical, so
 21 I think he would be better to answer that.
 22 Q That's fair. I mean, it's fair for you to say, I don't
 23 know.
 24 A Yeah, I think that would be -- no, I have a -- I think I
 25 better let Todd answer that rather than, you know, myself

1 speculate. I think I know the answer, but I'll leave it
 2 to him.
 3 Q In 1996, Dan, there were some cracks that were discovered
 4 on the 9340 bridge and some subsequent remedial measures
 5 made. Were you involved in that project at all?
 6 A I recall just an awareness of it happening, but I was
 7 not -- let's see. I was the planning engineer at the
 8 time, so I don't really recall being involved in those
 9 discussions. Those were in the approach spans, not in the
 10 main truss.
 11 Q Going back to the '77 overlay project, do you know whether
 12 an analysis was done to determine whether the addition of
 13 the overlay would affect the structural integrity of the
 14 bridge?
 15 A Well, there was a load rating done in the '70s, yes, that
 16 Lowell Johnson covered in his interview that reflected the
 17 addition of the 2-inch overlay.
 18 Q And would an analysis of the structural integrity of the
 19 bridge be the same as a load rating or rerating?
 20 A Well, the -- let's see.
 21 Q I mean, Lowell talked about the fact that there are design
 22 ratings and then there are load ratings --
 23 A Oh, okay.
 24 Q -- and he took me through a good process of how they are
 25 different, but what I'm wondering is, is there a design

1 rating analysis that's done at the inception of a
 2 modification like that?
 3 A Oh, I see. I'm not sure what the designer -- I don't have
 4 records of what the designer did or I'm not aware of what
 5 the records are of what the designer did in the 1970s at
 6 the time the overlay was put on, but I do know there was a
 7 load rating done because there's records of that. So,
 8 really, I think the load rating gives you the same result.
 9 You are determining if the bridge can take the additional
 10 weight and, of course, in both cases you begin with the
 11 presumption that the bridge was designed correctly
 12 originally.
 13 MR. JOHNSON: Can I just interject a
 14 question, Katie?
 15 MS. BERGSTROM: Yeah, go ahead.
 16 BY MR. JOHNSON:
 17 Q Dan, if the bridge is an older bridge, would you take into
 18 account the condition of the bridge for both the load
 19 rating and the design rating if you were to do one or both
 20 of them later on in its life?
 21 A Yes, you would, if it was -- if there was significant
 22 deterioration. Yeah, if -- are you asking if you were
 23 making modifications to the bridge?
 24 Q Mm-hmm.
 25 A Yes, you would take that into account if it was something

Page 17

Page 19

1 significant or you thought it affected the capacity of the
 2 bridge.
 3 Q Is there anything significantly different between those
 4 two analyses?
 5 A I'm not -- now, let's see. Katie, you mentioned that
 6 Lowell Johnson already went through the description. I
 7 think they are relatively the same.
 8 BY MS. BERGSTROM:
 9 Q Okay. So following up on this idea that you would take
 10 deterioration into account if there was a certain level of
 11 deterioration in the life of a bridge, what standards do
 12 you use to measure that deterioration so that you know
 13 whether to take it into account?
 14 A Well, there really -- again, it's depending where -- let's
 15 see. It requires a lot of engineering judgment because
 16 there's not one hard rule of thumb there. It's dependent
 17 on where the deterioration has occurred, in what member,
 18 where in the member, and whether that was a controlling
 19 member in terms of the total bridge load capacity; and you
 20 know, on this bridge, the controlling members were on the
 21 approach spans, so deterioration in an approach span would
 22 be a significant item and could affect the load rating.
 23 Q And, again, you would need specific information in order
 24 to gauge the significance of the problem?
 25 A Right. You would have to know the amount of

1 first few years, but then it was always opened the full
 2 width. It was always designed for the lanes on the
 3 bridge. Original design calculations showed that, so, no,
 4 there were no lanes added.
 5 Q They were just opened, the ones that were there?
 6 A Yes, the ones that the bridge was designed for.
 7 Q And the opening of those lanes, did that occur in '77; do
 8 you know?
 9 A That I'm not sure, because there's newspaper articles
 10 from, I think, the late '60s that show it was going to
 11 be -- I think they even reference four lanes in each
 12 direction upon completion, but the interstate system was
 13 being completed at the time, so everything wasn't
 14 immediately opened the full width as it was built.
 15 Q Did you have any involvement in the 1998 modifications?
 16 A I was in the office, so I would have been aware that a
 17 project was occurring because I was bridge planning
 18 engineer, but I don't recall any specifics of -- as far as
 19 I was not involved in the design of it, if that's your
 20 question.
 21 Q Okay. Do you know, in conjunction with that project,
 22 whether a design rating was reanalyzed?
 23 A Well, there was a load rating done of the changes to the
 24 bridge by our rating engineer at the time.
 25 Q And as far as you know, that's the only analysis that was

Page 18

Page 20

1 deterioration, the amount of section loss in order to make
 2 a judgment whether it was significant enough and also at a
 3 location where it was going to affect -- potentially
 4 affect the rating, so you would do a rating of the bridge.
 5 Q All right. Moving on in time on the life of this bridge,
 6 there was a construction project in 1998. Do you know
 7 what was done on that project?
 8 A Let's see. That project in the mid '90s was the railing
 9 had deteriorated, so the railing was -- I believe it was
 10 encased so that the railing loads changed. The median
 11 joint was closed, I think, with a concrete -- there were
 12 some changes in the median area; and right about that time
 13 there was some painting done, too, but I think that was a
 14 separate contract at that time.
 15 Q Were lanes added in -- when?
 16 MR. JOHNSON: '77.
 17 BY MS. BERGSTROM:
 18 Q Was that in the '77 project?
 19 A What was that?
 20 Q Were lanes added in the '77 project?
 21 A No, there were never lanes added. No, the bridge was
 22 always designed for the same lanes in both directions. I
 23 think, when the original freeway opened, there might have
 24 been either a temporary connection to Washington or
 25 University so that they weren't using the full width the

1 done with respect to how the modifications might affect
 2 the bridge?
 3 A Well, I'm aware of that analysis. If there was more
 4 done -- I think you interviewed Arlen Ottman, I believe,
 5 didn't you? I can't remember who the designer was, but I
 6 believe it was Arlen on that. Once again, a load rating
 7 would have been kind of one in the same. If the rating
 8 engineer had gone through and determined that the rating
 9 of a bridge was not affected by it or not ill affected,
 10 you know, that would have been the same as what the design
 11 engineer would have done.
 12 Q Remind me again, Dan, when you became the state bridge
 13 engineer.
 14 A I was -- state bridge engineer was December of 2000.
 15 Q So when you became the state bridge engineer, the
 16 University of Minnesota was well into its study of the
 17 bridge, correct?
 18 A Correct. They had actually, I think, pretty well finished
 19 their study, but the report date is -- it might even be
 20 the spring of 2001, when the final report got published.
 21 I would have to look that up for sure, but it was
 22 complete, yes, their work.
 23 Q And it's not unlike the URS report in that there was a
 24 draft final report that gets disseminated for discussion
 25 and then, ultimately, there is a final, right?

Page 21

Page 23

1 A Well, I know there was a final report. A draft, I don't
 2 recall at this time, but there could well have been. I
 3 just don't recall it.
 4 Q When the University of Minnesota started its study, were
 5 you over at Metro at that time?
 6 A I was -- I went to Metro in May of 1998 and I don't recall
 7 the precise time the University began their study.
 8 Q Okay. But at any rate, when you became the state bridge
 9 engineer, you kind of inherited the U of M study project?
 10 A It was just being completed or it had just been completed
 11 at that time, yes.
 12 Q In your understanding, what was the purpose of that U of M
 13 study?
 14 A Well, okay. Again, I was not involved in the beginnings
 15 of it, so, you know, you're asking a question that
 16 requires some -- let's see. From recalling the
 17 conclusions of Dr. Dexter, the purpose of the study was to
 18 look at the main truss spans, the main arch truss spans
 19 and give an evaluation as to the susceptibility for a
 20 fatigue crack initiating and a fatigue failure.
 21 Q And your understanding of the results of that study is
 22 what?
 23 A Dr. Dexter found that a fatigue failure was not likely in
 24 the life of the bridge. We would have to pull the exact
 25 language out of his study, but that was the general

1 they knew MnDOT had an interest in doing a further study
 2 beyond the University study.
 3 Q If you look at the various pages of this Exhibit Number 2,
 4 there are some handwritten notations in the margins,
 5 "Yes," "Yes," "Future," "No." Is that your handwriting?
 6 A No. Nope, it's not mine.
 7 Q Do you know whether the proposed tasks discussed in this
 8 Exhibit Number 2 were tasks that the University of
 9 Minnesota study thought were important in its 2001 final
 10 report?
 11 A In other words, they proposed tasks in here? Kathryn, I
 12 guess I would have to sit down -- no, offhand, I guess the
 13 answer is no. I would have to sit down with the
 14 University report and see if there is some correlation
 15 between what the University might have stated versus this
 16 proposal.
 17 MS. FORSLAND: Could we note that "proposal"
 18 is a term of art at MnDOT and has a specific meaning?
 19 When we issue a Request for Proposal, we're asking for
 20 something back, and this is not a proposal in that sense,
 21 this is an over the door sill, free, voluntary
 22 presentation --
 23 MS. BERGSTROM: Well, wait a minute, wait a
 24 minute. I don't know that you can testify about this
 25 document because -- or what it is because MnDOT didn't

Page 22

Page 24

1 conclusion. The stress cycles were low enough that he did
 2 not believe a fatigue failure was likely.
 3 Q And were there recommendations that were made for
 4 follow-up after the U of M study?
 5 A I would have to look at the study again. I don't recall
 6 specific recommendations. It was more MnDOT's decision to
 7 pursue a second study.
 8 (Dorgan Exhibits 2 through 9 were marked for
 9 identification by the court reporter and
 10 attached hereto.)
 11 BY MS. BERGSTROM:
 12 Q Dan, I'm going to show you this stack of documents 2
 13 through 9 and I just have some questions about them and
 14 then we can go through them.
 15 Number 2 appears to be a submission from HNTB
 16 Corporation dated May 2000 regarding proposed tasks to
 17 evaluate and increase the redundancy of MnDOT bridge
 18 number 9340, and this would have been five or six months
 19 before you became the state bridge engineer. Do you
 20 remember being involved in any discussions regarding this
 21 proposal?
 22 A Not in May of 2000.
 23 Q Okay.
 24 A After that, though, a number of consultants, including
 25 HNTB, were interested in doing a further study because

1 create it.
 2 MS. FORSLAND: That's true, that's true, but
 3 it is not a MnDOT proposal in the sense of a MnDOT-created
 4 proposal.
 5 MS. BERGSTROM: That was not the intent of my
 6 question.
 7 BY MS. BERGSTROM:
 8 Q Have you ever, Dan, sat down and looked at this next to
 9 the U of M study?
 10 A No, I don't recall doing that.
 11 Q Okay, okay.
 12 A But I recall later HNTB -- I was not there in May of 2000,
 13 but they came in later, after 2000, continuing to have an
 14 interest in doing a study.
 15 Q And some of these other documents will speak to that, so
 16 we'll move on to those.
 17 A Okay.
 18 Q The next document, Exhibit Number 3, it says -- the top
 19 page appears to be some handwriting and, at the bottom,
 20 that either says Don or Dan. I don't know. Do you know,
 21 is that Don Flemming or is that you?
 22 A No, it's Don Flemming -- well, it looks like Don Flemming.
 23 It's not my writing. It appears to be Don Flemming's
 24 writing.
 25 Q And it appears to be dated that there's going to be a

1 meeting November 2nd, 2000, with a few people to discuss
 2 the attachment, which I understand is a further proposal
 3 from HNTB to do some work on the bridge. Have you seen
 4 this document before?
 5 A I've seen it recently. I did not see it at the time,
 6 though. Actually, I think these drawings, what's cut off,
 7 these are 1999 drawings, aren't they? In the copying it
 8 was cut off, but I think these are 1999 drawings.
 9 Q And why do you say that?
 10 A Because I recall seeing this within the last three, four
 11 months as we were producing and copying documents.
 12 Q Did you have any conversations with anybody at MndOT to
 13 try and kind of figure out the history surrounding this
 14 document?
 15 A No. These were just in the files on 9340 from that time.
 16 Well, even the transmittal letter here says March of '99,
 17 conceptual structural schemes.
 18 Q Well, it appears that the date of this transmittal is
 19 September 5th, 2000. Do you see that?
 20 A Mm-hmm, correct.
 21 Q And it kind of goes over what appears to be almost a
 22 history of some conceptual things including conceptual
 23 designs like you are pointing out in March of '99 and then
 24 a May of 2000 proposed task document, which appears to be
 25 Exhibit Number 2, right?

1 A Proposed tasks? Well, they both have the same date, yes.
 2 Q If you would look at the transmittal letter, there's some
 3 handwriting and it says, "Bob," and presumably that's to
 4 Bob Miller. "Don was only interested in the failure
 5 analysis portion of the tasks listed in the" May 2000
 6 "material (parts of Phase 2 and Phase 3)."
 7 Do you ever remember having conversations
 8 with Don Flemming about the failure analysis or the tasks
 9 that were outlined?
 10 A You mean the tasks -- now you're referring to the May
 11 document?
 12 Q Well, I'm referring to this notation that, in fact,
 13 references the May document, and my question is, did you
 14 ever have any conversations with Don Flemming about kind
 15 of what he envisioned for this bridge vis-a-vis these
 16 documents from HNTB?
 17 A I don't recall conversations with Don Flemming on the HNTB
 18 documents, but, you know, subsequent to this, and I would
 19 have to look at the year now, several years later we -- in
 20 2003 URS was the company selected to do a study. So we
 21 would have talked over tasks to do at that time with URS
 22 on the bridge, but I don't recall talking about these
 23 tasks on these documents with Don Flemming.
 24 Q Let me ask this, maybe to put this in context:
 25 Presumably, Don Flemming left before you took over as

1 state bridge engineer?
 2 A Correct, he left in December of 2000.
 3 Q And did you have a sitdown meeting with him about any of
 4 the ongoing projects that he was working on as the state
 5 bridge engineer?
 6 A Yes, in transition I did.
 7 Q And I guess in that context, do you remember discussing
 8 anything about HNTB with him?
 9 A I don't recall it. I don't -- no, that was almost eight
 10 years ago now. There was discussion of transition items,
 11 but I don't recall if this was discussed.
 12 Q I'll have you look at now Exhibit 4 and Exhibit 5.
 13 Exhibit 4 is this document and 5 is this document
 14 (indicating). I will tell you what I know about these two
 15 documents. Exhibit Number 4 Gary Peterson said he
 16 drafted. This is a document that he prepared, and the
 17 purpose of this document is to analyze the proposal for --
 18 which is in Exhibit Number 5. I'm using the word
 19 "proposal" because that's what's on the face of the
 20 document. Okay?
 21 A Okay.
 22 Q So it appears that approximately ten months after you
 23 became the state bridge engineer, HNTB submitted a
 24 proposal for review of structural redundancy to MndOT.
 25 A Mm-hmm.

1 Q And Gary Peterson, in Exhibit 4, did an analysis of that.
 2 Do you see that?
 3 A Yes.
 4 Q Okay. Now, if you would --
 5 A Well, I wasn't -- this analysis is news to me. I don't
 6 recall seeing this beforehand, but I may have at the time.
 7 I just don't recall anything.
 8 Q If you look at Exhibit Number 5, which is the HNTB
 9 document, on about the third page, fourth page back,
 10 there's some handwriting. Is that your handwriting?
 11 A Yes, that is my handwriting.
 12 Q So do you remember, in October of 2001, reviewing this
 13 proposal from HNTB?
 14 A Yeah, I recall HNTB. I think they may have even come into
 15 the office to talk to us about this at the time. As I
 16 said, they were one of several consultants interested in
 17 pursuing another -- a contract with MndOT, knowing that
 18 MndOT was considering doing further study on the bridge.
 19 Q Okay. Do you remember asking Gary Peterson to comment on
 20 this proposal?
 21 A I don't specifically remember doing that, but I may have.
 22 I just don't recall it.
 23 Q You will see down near the bottom it says that "It might
 24 be more worthwhile if we ask HNTB to develop an action
 25 plan and retrofit details to repair various crack types in

Page 29

Page 31

1 case they develop in the future." And then there's a
 2 paragraph that talks about what's next and that it might
 3 make sense to meet with Metro to discuss this proposal and
 4 other options.
 5 A Mm-hmm.
 6 Q Do you see that?
 7 A Yes.
 8 Q Okay. Do you recall that happening?
 9 A Yes. I think there was a discussion with Metro.
 10 Q Let's look at some additional documents. Exhibit Number 6
 11 appears -- first of all, these are handwritten notes. Is
 12 this your handwriting?
 13 A Yes.
 14 Q Okay.
 15 A Yep, that would be mine.
 16 Q This document appears to be about a month later,
 17 November 8th, 2001, and presumably this is a meeting to
 18 further discuss some of the HNTB proposals.
 19 A Yeah. I'm just trying to look at that notation down at
 20 the bottom where it says, Rich, Steve Olson, Dexter. What
 21 I'm struggling with is trying to determine is this a
 22 meeting where we were sitting down with HNTB, or was this
 23 a meeting internally, or are these just my notes that I
 24 was making by myself.
 25 Q Well, and the point that I guess I want to establish is

1 most likely locations where it might occur, and is there
 2 some type of a retrofit one could do to prevent that.
 3 Q Okay. And it's the case, isn't it, that the retrofit is
 4 important because it adds redundancy to the member that
 5 gets retrofitted?
 6 A That would be correct. The retrofit schemes that we were
 7 discussing would have added redundancy to the member
 8 itself.
 9 Q And if you look at Gary's concern, that one paragraph, he
 10 said, "I'm not convinced HNTB's proposal for \$125,000 and
 11 subsequent retrofit project costs gives any greater
 12 assurances that problems won't develop than Dexter's
 13 report currently assures us. Dexter doesn't appear to
 14 hint in his report that further study is needed.
 15 Moreover, even if we were to retrofit the most vulnerable
 16 members, there is no guarantee that cracks won't be left
 17 in the members left to be nonredundant."
 18 A So that was Gary's concern at the time. I'm just having
 19 trouble with the first sentence of that paragraph, trying
 20 to understand what his intent was as the writer.
 21 Okay. Well, was there a question that you
 22 had regarding that paragraph?
 23 Q Well, the question is this: As early as 2001, fall of
 24 2001, there was some discussion that if retrofitting
 25 wasn't done to all of the members, then a partial retrofit

Page 30

Page 32

1 that in November of 2001 you were still talking about the
 2 HNTB proposal --
 3 A Well, that is correct.
 4 Q -- whether externally or internally; is that fair?
 5 A Yes, that's certainly fair, and the HNTB proposal in light
 6 of the fact that we had the desire to do some further work
 7 on the bridge.
 8 Q Okay. And there's a lot of discussion here about retrofit
 9 details and Gary identifying members that could develop
 10 retrofit details. Why was the retrofitting important for
 11 the bridge?
 12 A The discussion at this time, and I think you would have to
 13 go back and look at Gary's proposal -- or not Gary's
 14 proposal, but some of the notes here. You know, what was
 15 cited here is the University proposal or University study,
 16 and I think somewhere Gary said he wasn't -- let's see
 17 here. There is a comment in here that, "Overall, the
 18 report tends to conclude that, as far as fatigue is
 19 concerned, we probably shouldn't be overly concerned."
 20 He's referencing the University's report.
 21 It then goes on to talk about the HNTB
 22 proposal, but while the University study concluded that
 23 fatigue probably would not be an issue, we had the desire
 24 to explore it further and, eventually, the accepted
 25 answered was, if a problem was to occur, what would be the

1 may not help. Isn't that what Gary is concluding in his
 2 final sentence there?
 3 A Well, I think you would really have to ask him.
 4 Q Well, is that a concern of yours?
 5 A I don't recall it. You know, as we went through the URS
 6 study, there was approximately 52 members that were
 7 identified for potential retrofit, so I think by the
 8 time -- you know these are all little snapshots in time
 9 that we've got here, but by the time we concluded the URS
 10 study with 52 members identified, I don't recall that
 11 being a concern, that there may be additional locations.
 12 It was actually 13 members, but because the bridge is
 13 symmetrical, it ends up being 52 members total.
 14 Q Thirteen times four?
 15 A Yes.
 16 Q Okay. Let's look at Exhibit Number 7, and up in the
 17 right-hand corner there's some handwriting. "From Rich
 18 Johnson" it says.
 19 A Mm-hmm.
 20 Q That's your handwriting, correct?
 21 A Correct.
 22 Q And Rich Johnson is the HNTB contact, correct?
 23 A Correct.
 24 Q So this would appear that there is a November 28th, 2001
 25 meeting with HNTB to further discuss the October 2001 HNTB

Page 33

Page 35

1 proposal?

2 A Yes.

3 Q Okay.

4 A I could look back, but this does appear that they came in

5 to see us.

6 Q Okay. You see at the very end of this there's Liability

7 Issues and it says, "Is there an inordinate amount of risk

8 associated with this work?" Do you remember having that

9 conversation with HNTB?

10 A No, I don't recall the specifics of that discussion point.

11 Q Okay. The last two documents that we premarked are

12 Numbers 8 and 9. Eight appears to be a meeting invite to

13 take place on December 14th, 2001, to further discuss

14 HNTB's proposal, and then the second one appears to be

15 your handwritten notes from that meeting. Is that right?

16 A Yes.

17 Q Okay. And it would appear this time -- it says, "Met

18 with," and it's got a number of people. Those are all

19 internal MndOT people, right?

20 A Let's see. Yes, those are all MndOT people.

21 Q There are some meeting notes here, for instance, that

22 bridge 9340 replacement will likely be 2016 to 2020 as

23 part of an expansion of the lanes; and then this

24 concludes, Based on the above and doubtfulness that

25 expansion will occur on schedule, decided to proceed with

Page 34

1 study HNTB and Dexter proposed. Do you see that?

2 A Mm-hmm.

3 Q Is it your recollection that you decided to go forward

4 with HNTB at the conclusion of this meeting?

5 A No. That was -- it was to proceed with the study similar

6 to what HNTB had proposed because we weren't -- we

7 wouldn't have done that because we couldn't direct select

8 HNTB.

9 Q So the HNTB information that's in the October 2001

10 proposal, is that -- when you are saying that we will

11 proceed with the study that HNTB and Dexter proposed, is

12 it this type of study that you are talking about?

13 A Well, it would be a similar study. I see some aspects of

14 the HNTB study that were eventually in the proposal we

15 requested. I mean, one of them was to identify critical

16 members. That was part of our requirements. I guess we

17 would have to kind of compare it line by line, but some of

18 the same tasks that they proposed to do, you know, were

19 likely tasks that we had in the eventual proposal that

20 went out.

21 Q When you talk about the proposal that went out, is that

22 the Request For Interest?

23 A Yes, yes.

24 Q Okay. And I've seen documents that show that the Request

25 For Interest went out in March of 2003.

1 A Okay.

2 Q So between December 14th, 2001, and March 2003, what

3 happened to this project with respect to the bridge?

4 A What happened to this -- oh.

5 Q Why did it take 14 months for the RFI to go out?

6 A Well, they were very busy years for us. We had a huge

7 program we were turning out at the time, so, obviously, it

8 was one of those things we intended to do, but it wasn't

9 in our list of things. It appears that we made a choice

10 not to push it that quickly. We had a big program to

11 deliver in these years because of additional funding that

12 came from the legislature.

13 Q Are there any notes or memos to reflect that this project

14 was going to be on hold?

15 A I'm not aware of any, no.

16 Q Do you know who was in charge of leading the -- when it

17 says we decided to proceed with the study, who was in

18 charge of that proceeding, if you will?

19 A Well, the bridge office would have taken the lead as far

20 as putting out the Request For Interest, and we would have

21 given that to Bob Miller, our consultant engineer. He

22 would have been the one who advertised for it in those

23 years.

24 I think you have to think of the context of

25 the day, too. We had the University study that had

Page 36

1 concluded that fatigue would not be an issue, so there was

2 nothing from the University study that gave us any urgency

3 to pursue this. It was more our own choice.

4 Q Did HNTB respond to the RFI?

5 A Yes, they did.

6 Q But, ultimately, URS was chosen, right?

7 A Correct.

8 MS. BERGSTROM: Why don't we just take a

9 little break and I'm going to go through some of these.

10 (Short break taken.)

11 MR. DORGAN: Katie, earlier you had asked

12 about the gap between -- I think it was whenever HNTB came

13 in, was it October of '01, and then our eventual contract

14 that came out in early '03, the Request For Interest.

15 This is -- as I mentioned, these were busy years in this

16 time period.

17 Here is a chart of all our bridge

18 construction by fiscal year (indicating). Our fiscal year

19 ends in July, so 2001 would be July of '01, but starting

20 up in 2, 3, we had huge programs to deliver, and I forget

21 the exact legislative session, but during the Ventura

22 administration, there was extra money put toward

23 transportation. Light rail was funded. Transportation

24 was funded with some money at the time, so our program

25 expanded tremendously in those years. You can see it went

Page 37

Page 39

1 up by about a factor of three.

2 So during this time period when we're
3 considering this, we've got a big program to deliver not
4 only with our forces, but with consultants. So I think
5 that's part of the reason we didn't pick this up
6 immediately as far as going into the second study on the
7 35W bridge.

8 The other thing that I recall from this time
9 that maybe has some bearing, I think you had asked why we
10 didn't hire HNTB or necessarily -- you know, there were
11 probably two reasons. We couldn't direct select a
12 consultant without putting it out for advertisement, but
13 HNTB was also very busy at this time designing the Wacouta
14 bridge for us. They began that in early 2001. So we had
15 them heavily employed in that effort.

16 BY MS. BERGSTROM:

17 Q Dan, going back to the final meeting notes on this, on
18 December 14th, '01, the final paragraph, you said, "Based
19 on above and doubtfulness expansion will occur on
20 schedule ..." Why were you doubtful? In light of all
21 this, why were you doubtful that expansion would occur on
22 schedule?

23 A In light of the big program you mean? Is that your
24 question?

25 Q No, actually in light of these meeting notes. What in

1 A Correct, they participated in our -- in the inspection
2 that Metro was doing at that time, and part of that was to
3 get familiar with the structure, too. We asked them -- in
4 fact, there was even a small contract in advance of their
5 main contract to pay them to come out, once they had been
6 selected to participate in that inspection.

7 Q This exhibit which we will mark as Exhibit 1 is their
8 report back to MndOT from that initial work, correct?

9 A Correct. It's just three sheets out of that report, yes.

10 Q Okay. At the time that URS prepared this report, they had
11 already been hired to do the follow-on work, right?

12 A Yes, they had been selected. I'm not sure what status
13 their contract was in in June. I don't think it was
14 executed yet for the big study.

15 Q Did you have some meetings with URS to discuss the report
16 that's Exhibit 1?

17 A I don't recall if -- there may have been a meeting. I
18 guess we would have to go back to the records to determine
19 it. I don't recall a meeting specifically.

20 Q Do you recall any specific conversations with URS about
21 the photos attached to the back that showed the bowed
22 gusset plates?

23 A No, there was no discussion that I recall of any of the
24 photos.

25 Q And to your knowledge, URS didn't raise any concerns with

Page 38

Page 40

1 here (indicating) causes you to say "doubtfulness
2 expansion will occur on schedule"? I'm just trying to
3 understand that comment.

4 A Well, let's see. What's listed in these notes is that --
5 let's see, 9340 replacement would likely be in 2016 to
6 2020 as part of expansion. I'm not sure of the exact
7 thinking on, you know, that date, but, yeah, I guess my
8 note is expressing doubtfulness that it's going to occur
9 in that time period.

10 Q Why?

11 A I can't tell you. I don't know what I was thinking seven
12 years ago on that day that caused me to write that.

13 Q All right. So going forward, the RFI is issued and URS is
14 hired. Do you know what the original timetable was for
15 the URS completion of its work?

16 A I don't recall it offhand, no. You would have to go back
17 to the contracts.

18 Q Do you recall that it took URS quite a lot more time than
19 originally contemplated?

20 A I recall the total study took quite a while. Whether --
21 but I don't know how that compares to what we originally
22 had in the schedule.

23 Q As I understand it, URS was out on the bridge in June of
24 2003 in order to do an initial inspection and gather data
25 about the bridge. Right?

1 MndOT based on this initial inspection that it did?

2 A I'm sorry, could you repeat that again?

3 Q Maybe. As far as you know, URS didn't raise any concerns
4 immediately with MndOT based on this initial inspection
5 they did in June of 2003?

6 A Yeah, I do not recall concerns that they raised.

7 Q Okay.

8 A If I can go back to one of your earlier statements, I
9 think a previous question just about two or three
10 questions ago, you referred to photos of bowed gusset
11 plates.

12 Q Right.

13 A Can you tell me where you can see the bows in those
14 photos?

15 Q Well, I'm actually not the person answering questions
16 today. These aren't very good photos, either, and I'm not
17 an engineer. What I was curious about is whether URS
18 raised it to your attention, to MndOT's.

19 A URS did not raise it to our attention, and that is the
20 size of the photo we have, which is a little bigger than a
21 passport photo, so I would question where anyone could see
22 that level of detail from those photos.

23 Q Do you know whether the MndOT inspectors from the Metro
24 region ever noticed the bowed gusset plates in any of
25 their inspections?

Page 41

1 A I'm not aware of any report from our inspection staff on
 2 gusset plates that were bowed.
 3 Q Okay. If the inspectors knew about that, would you expect
 4 that that would be included in the inspection reports?
 5 A If the inspectors -- well, I think they would include what
 6 they thought was significant in an inspection report.
 7 Q And are these bowed gusset plates significant?
 8 A All we have is a photo there, so I really can't tell you.
 9 You know, unfortunately, none of us have the opportunity
 10 to go out and look at them and measure them and take a
 11 look.
 12 Q Stepping back from the URS work for a second, Dan, I take
 13 it you were involved in the decision to close down the
 14 DeSoto bridge in St. Cloud?
 15 A Correct.
 16 Q And what was that decision based on?
 17 A Let's see. The DeSoto bridge is one of our 25 truss
 18 bridges, so as we announced in January, we were doing
 19 gusset plate reviews of all of our 25 truss bridges, and
 20 that involves a load rating, also a calculation of the
 21 gusset plates for adequacy and, at times, field
 22 inspection.
 23 And we had sent the inspection team to
 24 St. Cloud, and I would have to look at the date. I think
 25 it was March 20th, but I can check that for sure if you

Page 42

1 want. We had sent the team up to St. Cloud to look at
 2 specific gusset plates on the bridge that were among the
 3 more heavily loaded connections -- yes, it was March, they
 4 were up there March 20. We asked them to look at those
 5 gusset plates because we were looking for corrosion. What
 6 we wanted to know is -- the gusset plates were checking
 7 adequate by calculation, but there was no extra capacity.
 8 They were meeting requirements, but there was no extra
 9 capacity, so we wanted to make sure there was no corrosion
 10 to where we would have had section loss in the gussets.
 11 So the inspection team went up and began
 12 checking the gussets and reported that there was no
 13 section loss, but then reported that they had measured a
 14 quarter inch of bow in one of the gusset plates.
 15 Q Then what did they do next?
 16 A Well, let's see. The sequence that day, they first
 17 checked one of the -- I think it was the lower chord
 18 number 11 gusset, found the quarter inch bow, and we asked
 19 them then -- that was late morning. We asked them to
 20 proceed down the truss, because the truss, again, is
 21 symmetrical on that same side. We asked them to go down
 22 to the companion L11 gusset on the other end and check
 23 that also. What we're trying to discern is, is this
 24 load-related? Is it due to fit up or erection of the
 25 members? Do you find the same a pattern in the same

Page 43

1 gusset that would be similarly loaded on the other end?
 2 We also asked them to look at all the gussets
 3 on that end, not only L11, but the other ones that we
 4 thought were near capacity. When I say "near capacity,"
 5 it's, again, not overstressed, they are right where they
 6 should be, but there was no excess capacity. So they went
 7 down to the other end of the truss in the afternoon -- it
 8 takes quite a while to get the snooper down, get all set
 9 up and do all the checking; and they called back and --
 10 this was all done pretty much -- well, it was all done by
 11 cell phone, and they reported that, at the next L11, they
 12 also found a bow, but the remainder of the gussets in that
 13 area were what we call plumb, they were flat, there were
 14 no bows. So at that point, we were concerned that this
 15 was a load issue and then we made the decision to close
 16 the bridge.
 17 Q So in the St. Cloud example, then, the bowing of the
 18 gusset plates was significant enough to result in the
 19 closing of the bridge?
 20 A On that day, we thought it was significant enough, yes.
 21 Q And do you still believe that today?
 22 A I think the subsequent study of it determined that it was
 23 due not to a load issue, but due to fit up and erection of
 24 the truss; and I think we included -- I know we did in
 25 that response, a Wiss Janney -- Wiss Janney looked at it

Page 44

1 and gave us about a two- or three-page report. That was
 2 in that set of responses that we sent.
 3 I think one has to understand the context
 4 that we're in on March 20th of this year. You know, our
 5 concern is heightened given the 35W tragedy, given the
 6 NTSB release and information in January, so we took a very
 7 conservative approach on March 20th.
 8 Q Do you know whether the inspection reports from the
 9 St. Cloud bridge had ever reported on the bowed gussets
 10 before?
 11 A I'm not aware that they did, but I -- let's see. Yeah,
 12 I'm not aware that they did.
 13 Q And the --
 14 A I will also say that I didn't sit down and read them, read
 15 them all, either.
 16 Q And the inspectors that would have been inspecting that
 17 bridge would have been out of Todd Niemann's group, right?
 18 A Generally, yes. I guess we would have to go back to the
 19 previous fracture critical reports and see, but, yeah,
 20 typically, we would do the District 3 bridges, we would do
 21 their fracture criticals.
 22 Q And do you know, based on conversation you had, whether
 23 any of the inspectors that had inspected that bridge knew
 24 about the bowed gussets prior to March 20th?
 25 A No, I'm not aware that they did know about the bowed

Page 45	Page 47
<p>1 gussets prior to March 20th.</p> <p>2 Q You mentioned, Dan, in just talking about that, that as</p> <p>3 you reviewed the gusset plates, I think you said they were</p> <p>4 designed to capacity, but not over capacity; is that what</p> <p>5 you said?</p> <p>6 A Correct, there was no additional capacity beyond what was</p> <p>7 needed.</p> <p>8 Q Okay. And so --</p> <p>9 A Maybe if I can clarify that one, Kathryn, as you go</p> <p>10 through a bridge and check, you will find some members</p> <p>11 have excess capacity, some are right at design</p> <p>12 requirements; and these were just right at design</p> <p>13 requirements, so there was nothing inadequate or</p> <p>14 insufficient, but there was nothing extra either. So we</p> <p>15 would call it an efficient design.</p> <p>16 Q And did you do that analysis based on shop drawings?</p> <p>17 A Both plans and shop drawings would have been used for</p> <p>18 that.</p> <p>19 Q And then the reason that it's important to go check for</p> <p>20 corrosion is, if it's efficient like that and corrosion</p> <p>21 has caused section loss, although designed correctly, it</p> <p>22 might not now have the right capacity?</p> <p>23 A That would be correct.</p> <p>24 Q Okay.</p> <p>25 A If it had a significant enough section loss, it would be</p>	<p>1 would mean it just meets requirements, but yet it would</p> <p>2 still have its full safety factor.</p> <p>3 Q Okay.</p> <p>4 A So these particular gussets were down right around 1.0,</p> <p>5 whereas other gussets might be up at 1.3, 1.4, have quite</p> <p>6 a bit of excess capacity.</p> <p>7 Q In a normal rating project, would the gussets get a rating</p> <p>8 factor?</p> <p>9 A Not in a normal truss, no. In the normal rating of a</p> <p>10 truss, you would not look at the gussets, you would not</p> <p>11 rate the gussets. That's a new -- because of the 35W</p> <p>12 incident, that's a new practice in the profession.</p> <p>13 Q All right, I got sidetracked in St. Cloud, so let's go</p> <p>14 back to URS.</p> <p>15 A Okay.</p> <p>16 MR. JOHNSON: A detour.</p> <p>17 BY MS. BERGSTROM:</p> <p>18 Q A detour. Who -- I think I know some of this from</p> <p>19 e-mails, but who really was the team that was meeting and</p> <p>20 interacting with URS?</p> <p>21 A Through the course of their study?</p> <p>22 Q Yes.</p> <p>23 A I was generally part of that. Gary Peterson was part of</p> <p>24 those meetings. Scott Pierson was part of that. At</p> <p>25 times, Kevin Western and also Paul Kivisto, and I would</p>
Page 46	Page 48
<p>1 below capacity. It would be dependent upon how much and</p> <p>2 where the section loss occurred in the gusset, and you</p> <p>3 could have certain areas that could lose section and it</p> <p>4 wouldn't affect the capacity. So it's depending on where</p> <p>5 in the gusset, too, it loses capacity.</p> <p>6 Q Okay. And how much capacity are you concerned about, what</p> <p>7 percentage capacity of section loss.</p> <p>8 A Well, again, it goes back to where it might occur, but I</p> <p>9 think in a member such as that -- let's see. There's a</p> <p>10 safety factor in the design, so it probably -- in addition</p> <p>11 to requirements, in this era the design is at least a</p> <p>12 hundred percent capacity and the safety factor is two to</p> <p>13 one. So you can have a significant amount of corrosion or</p> <p>14 loss of section before it affects it, but if you are</p> <p>15 somewhere on the order of 10, 15 percent, that would cause</p> <p>16 us to take a look at it.</p> <p>17 Q So help me reconcile these two ideas, because I'm just not</p> <p>18 understanding it. On the one hand it's an efficient</p> <p>19 design, meaning it doesn't have any capacity. Does that</p> <p>20 also mean that it encapsulates a safety factor design of</p> <p>21 two to one?</p> <p>22 A Yes. Yes, the safety factor is still present, and what</p> <p>23 the engineer comes up with -- and Lowell Johnson might</p> <p>24 have used this term -- is a rating factor. So you are</p> <p>25 looking for rating factors generally above 1.0. So 1.0</p>	<p>1 have to go back to notes to see how often anyone attended</p> <p>2 from Metro. I just can't recall.</p> <p>3 Q As I understand it, the draft final report came out in the</p> <p>4 summer of 2006?</p> <p>5 A Yes, correct.</p> <p>6 Q Okay. And initially, the recommendation from URS was</p> <p>7 three-fold, correct?</p> <p>8 A See, I would have to go back to the '06 report to see if</p> <p>9 that -- the summer of '06 report to see if it was</p> <p>10 three-fold. I know it definitely was -- when you say</p> <p>11 three-fold, do you mean three different what they called</p> <p>12 equally viable options?</p> <p>13 Q Yeah, and let's go through those and maybe it will help us</p> <p>14 talk about it. As I understand it, they recommended</p> <p>15 retrofitting some of the fracture critical members with</p> <p>16 steel plating, right?</p> <p>17 A Correct.</p> <p>18 Q They recommended inspection of internal diaphragms of the</p> <p>19 fracture critical truss tension chords?</p> <p>20 A That would have been a second recommendation, and I'm --</p> <p>21 I'm getting mixed up, I'm not sure if you are referring</p> <p>22 now to their January of -- let me get the year right now.</p> <p>23 Q Of '07?</p> <p>24 A Yeah, January of '07, where they laid out three equally</p> <p>25 viable alternatives.</p>

Page 49

Page 51

1 Q Yes, and as I understand -- and we'll talk about those in
2 a minute, but as I understand, that's not what they
3 started with.

4 A In '06?

5 Q Right.

6 A Correct. In the summer of '06, it was mainly retrofit,
7 was the alternative I recall.

8 Q Okay. Maybe we'll have to pull it out and look at it, but
9 as I understood it, it was retrofit, inspect and replace
10 with a continuous deck. When they first started their
11 recommendation, it was all of those three?

12 A I'd have to -- okay. I know it definitely was retrofit of
13 the members. The replace with a continuous deck would
14 have been at the time one does a deck replacement, if one
15 decides to do that, to make the deck continuous. I don't
16 believe it was all in the context of all occurring at the
17 same time, the deck replacement and the retrofit, but I'd
18 have to reread that June of '06 report.

19 Q Was it your understanding that the retrofit and the
20 continuous deck were both ways to add redundancy to the
21 bridge?

22 A That -- well, the retro fits definitely added redundancy.
23 The continuous deck would -- that would add capacity to
24 the bridge. Whether it would be redundant, it provides
25 another load path -- well, an assist to the truss. It's

Page 50

1 not normally -- when we think of redundancy, it's usually
2 something that equally can share the load, and the deck
3 would help somewhat in that, but not fully. I mean, the
4 deck by itself could not carry the load, so it's not quite
5 like adding a whole truss would be.

6 Q It would help by reducing the stress on the truss?

7 A Yes, yes.

8 Q And as I understand both the documents and having talked
9 to people, MndOT got some initial estimates of what the
10 retrofit might cost, correct?

11 A Correct.

12 Q And got the retrofit project onto Roger Schultz's Bridge
13 Improvement Plan schedule, correct?

14 A Yes. It actually went further than that.

15 Q How much further did it go than that?

16 A The project was actually funded for -- the retrofit
17 project was funded, and I believe it was for a million and
18 a half dollars, and it was placed in the program. So it
19 was an official project for MndOT for letting in the fall
20 of '07; yeah, fall of '07.

21 Q And as I understand it, Jerome Adams over at Metro was the
22 project manager for that project, correct?

23 A Right.

24 Q And then at some time in late '06, the recommendations
25 changed. Is that your understanding?

1 A Yes. URS changed their recommendations or provided an
2 additional recommendation.

3 Q Do you know why they did that?

4 A Okay. The -- through the fall of -- I'm sorry, I always
5 have to stop and think and make sure I've got the right
6 year. Through the fall of '06, we were pursuing a plan to
7 retrofit the bridge that would have occurred after the
8 overlay contract. They were significantly different
9 pieces of work, doing the work that PCI was out doing on
10 the bridge at the time of collapse versus doing a steel
11 retrofit. It's different contractors, different
12 requirements.

13 So we were going to do that repair contract
14 that was under way last summer and then followed by, in
15 the fall, a retrofit on the steel, and we were pursuing
16 that throughout the fall of '06. In fact, we even had
17 sent out information to Associated General Contractors, to
18 the contractors that normally do our bridge work, asking
19 them to take a look at it in terms of access and how they
20 would accomplish that work.

21 Q Is that part of the constructability review?

22 A Well, it was probably a step unique to this project
23 because it was going to be working -- we weren't sure
24 whether a contractor would want access to get down to the
25 members from up on the deck or get barges in the river and

Page 52

1 try to come up from blow, and we wanted to know what their
2 approach would be. So that was our reason for sending it
3 out to the contractors to look at.

4 So that information was being sent out
5 through -- even in December we were doing that. Then
6 sometime about the third week in December -- and the
7 e-mails certainly should be in the trail -- URS contacted
8 us and let us know that they had completed what they call
9 their fracture -- no, they didn't call it fracture --
10 fracture mechanics analysis of the bridge and they now
11 believed there was an additional option other than
12 retrofitting. So we agreed to meet with them -- well, we
13 discussed that, told them we were interested in hearing
14 about that, and set up a meeting in January of '07 to meet
15 with URS on that.

16 In the meantime, though, we were still having
17 information going to AGC, we were still on track to do the
18 retrofit in the fall of '07. And then the January meeting
19 occurred with URS and they explained this additional
20 option and, at that time, had that supplement that was
21 about a six-page supplement dated in January laying out
22 three different what they called equally viable options,
23 and I know you have that document somewhere. It laid out
24 that MndOT could either pursue a retrofit, that was one of
25 the options; a second option was -- and I don't know if

1 that was the exact order of them, but the second option
2 was to do a nondestructive examination of the truss
3 looking for a critical crack size, so that was really the
4 inspection option; and then a third was a combination of
5 both of those, retrofitting a portion of the members and
6 doing non -- what they call nondestructive examination on
7 the remainder. So that was -- that originated from URS.

8 (Dorgan Exhibit 10 was marked for
9 identification by the court reporter and
10 attached hereto.)

11 BY MS. BERGSTROM:

12 Q Dan, I'm going to show you Exhibit Number 10. I'm just
13 trying to kind of flesh out the story you just told me
14 with some of the documents we have received. It looks
15 like this emanated as an e-mail on November 7, 2006, from
16 Don Flemming to you on the bottom half of the page. Gary
17 Peterson responded to you on the top half of the page, and
18 then you have some written notes about your follow-up
19 phone call with Don Flemming.

20 In this e-mail, it appears that Don and Ed --
21 is it Zhou?

22 A Yes, Ed Zhou.

23 Q Z-h-o-u -- were still talking about placing a monitoring
24 system on the bridge. Gary has some response to that.

25 A Mm-hmm.

1 Q And then it looks like you had a phone call with Don and
2 Ed -- or with Don, saying, No, no, let's not pursue the
3 monitoring, let's pursue the retrofit. Do you recall
4 that?

5 A Yes.

6 Q So --

7 A Yes. That isn't exactly what the note says, but I recall
8 having a conversation on it.

9 Q Okay. So as of this time, on November 14th, 2006, was the
10 plan still to proceed with the retrofit and not just do
11 monitoring?

12 A Correct. Somewhere in the fall of '06 URS raised the
13 issue of the possibility of, in lieu of a retrofit system,
14 installing a monitoring system. We have used monitoring
15 systems ourselves in the past, but we have used them when
16 we have a known -- a known crack in a known location to
17 monitor, and they are effective doing that. We had no
18 fatigue cracks in the 9340 truss, so our concern with the
19 monitoring, we had less confidence in a monitoring system
20 detecting a crack because we had no known location to
21 monitor.

22 So this was a phone conversation with Don
23 Flemming, and the question we raised was -- and I think it
24 was based on some of what Gary also referred to, we were
25 on track to do the plating retrofit and we questioned if

1 they were still confident in it, and my notes, my
2 handwritten notes say that they were, "Don and Ed still
3 confident in plating retrofit. Therefore, decided they do
4 not need to pursue monitoring," that I and Gary wanted the
5 certainty of a reinforced member rather than relying on a
6 monitoring system with -- and what I would add to that,
7 which isn't written here, is that we didn't want to rely
8 on the hope that a monitoring system may catch a problem.
9 We would rather rely on the certainty of reinforcing the
10 minimums. So we were, at this time, still pursuing them
11 doing that retrofitting plating contract in the following
12 year.

13 There is one thing I think you should also
14 realize for the record on all of this discussion on
15 retrofit systems. The retrofit that was proposed was to
16 reinforce 52 members. It was adding plates out in the
17 member. It had nothing to do with the gusset plates. It
18 would have been of no benefit to the gusset plates. So
19 that's important given where we are today on these issues.

20 Q All right.

21 (Dorgan Exhibit 11 was marked for
22 identification by the court reporter and
23 attached hereto.)

24 BY MS. BERGSTROM:

25 Q Dan, I'll have you look at Exhibit Number 11. This is an

1 e-mail string and, if you look at the very end of it on
2 page 2, it appears to be dated December 18th, 2006, so
3 after -- a month or so after Exhibit 10 that we were just
4 looking at. It starts with Don Flemming and it says -- it
5 starts with Ed, excuse me, to Don. "Per our discussions
6 last week, here is the revised retrofit recommendations
7 where we provide three options for them to pick from," and
8 this, I would assume, is the six-page or so document you
9 were talking about that contained the various options?

10 A You know, is there -- yeah. Were there attachments to
11 this e-mail? I guess without seeing it for sure, that's
12 probably a good guess, Kathryn, but I -- yeah, I wonder if
13 there was an attachment.

14 Q If you see up here (indicating), there is a little paper
15 clip and it says "Retrofit Recommendations."

16 A Okay.

17 Q I will just state for the record that, when I click on
18 that, it doesn't click to the document. The way they were
19 produced to me, they were separate.

20 A Oh, okay.

21 Q Let's just assume for the sake of our discussion that, in
22 fact, it's the ultimate three recommendations that we were
23 talking about. I guess my question for you, Dan, is
24 between your conversation with them on November 14th, '06,
25 where you said, Let's retrofit and don't do monitoring,

1 and then a month later, December 18th, why did they give
 2 you revised recommendations which included additional
 3 testing on the bridge, if you know?
 4 A Well, they -- oh. Well, their revised recommendation was
 5 something they generated themselves. Again, it was based
 6 on their fracture analysis; and I think, you know, you
 7 should have another e-mail in the record that's internal
 8 within URS that I think is somewhere prior to
 9 December 18th that we didn't know about at the time, but
 10 has since come to light that just shows some internal
 11 discussion they were having on that, but that's all
 12 knowledge we have gained, you know, since then. We didn't
 13 have any internal URS memos at this time.
 14 Q So you didn't say to URS, go back to the drawing board and
 15 come up with some different recommendations?
 16 A No. No, we never -- and if you look at the record, I
 17 think even after December 19th we're still -- oh, right
 18 about this time we're still sending out information to AGC
 19 to get responses from contractors. So we did not ask for
 20 a different recommendation.
 21 Q Okay. Did you ask URS why they were giving you a
 22 different recommendation? When you get one set of
 23 recommendations in August and now, in December, out of the
 24 blue, you get another set, did you say, Hey, why?
 25 A Well, they explained it at the time that it was based

1 on -- let's see. I'm wondering if this is -- you know, we
 2 would really have to go back to look at the attachment to
 3 make sure we're talking about the same thing here, because
 4 that additional recommendation to do the nondestructive
 5 examination was based on their fracture mechanics study.
 6 Q Tell me what was involved in their recommendation
 7 regarding the testing. What was your understanding of
 8 what they were recommending for testing?
 9 A The nondestructive examination was to look at the critical
 10 members, and what we were always concerned about is out in
 11 the members, generally at about the one-third points, are
 12 internal diaphragms. Those are boxed sections made up of
 13 four plates with an internal plate across, and there were
 14 weld details that were used to construct the bridge back
 15 in '66 that were considered susceptible to fatigue now,
 16 based on knowledge that the industry has gained since that
 17 time. So if there was to be a fatigue crack, that was
 18 where we suspected -- the study suspected it would
 19 originate from. So the whole thrust of the nondestructive
 20 examination was to go in and inspect those locations and
 21 confirm that there were no cracks of what was determined
 22 to be a critical size.
 23 Q How was that inspection supposed to occur?
 24 A That would be done with both visual and ultrasonic testing
 25 methods.

1 Q Did URS specify exactly how to do that testing?
 2 A It was -- that testing was discussed in the January
 3 meeting, and I think there's even -- in this chain of
 4 e-mails at the end of December, I think Todd Niemann is --
 5 let's see. Well, Todd's referring to ultrasonic testing,
 6 but I know it was discussed in the January meeting.
 7 Q Okay. And let's just look at some notes from that meeting
 8 because that will help us get the date and everything.
 9 (Dorgan Exhibit 12 was marked for
 10 identification by the court reporter and
 11 attached hereto.)
 12 BY MS. BERGSTROM:
 13 Q Looking at Exhibit Number 12, Dan, based on the various
 14 documents, it looks like the meeting with URS was held on
 15 January 17th, 2007.
 16 A Mm-hmm.
 17 Q Now, who was at that meeting?
 18 A Well, Don Flemming was present. I think Ed was there by
 19 conference call, so Ed Zhou from URS was present by
 20 conference call. I was present. You know, I see on the
 21 invite list here is Gary Peterson, Todd Niemann, Kevin
 22 Western and myself. I would have to check if all four of
 23 us were there that day. Todd, I recall Todd being there.
 24 Sorry, Katie, but to confirm whether Gary and Kevin were
 25 there I would have to ask them or we would have to ask

1 them.
 2 Q I recall some e-mail where maybe Gary set it up, but was
 3 unable to attend.
 4 A Oh, okay.
 5 Q I don't know whether he was there or not. At any rate,
 6 this is the meeting where you are going to go over the
 7 various options with URS, right?
 8 A Correct. This is where they -- the focus of the
 9 discussion was their new recommendation as a viable
 10 alternative to do the nondestructive examination.
 11 Q All right. Underneath it says, "Decisions," and this is
 12 decisions that MNDOT made or MNDOT made in conjunction
 13 with URS?
 14 A It was MNDOT made in conjunction -- well, URS was present,
 15 yes, so we were discussing that.
 16 Q Okay. Was there a discussion at this meeting, then, about
 17 the specifics of the nondestructive evaluation, the NDE,
 18 and what exactly needed to occur in order for it to be of
 19 the type that URS contemplated?
 20 A Yes. We talked about testing procedures because Todd was
 21 there, and Todd did talk about the ultrasonic testing, and
 22 it was agreed that, given the crack size that they were
 23 looking for, a quarter to one-third the plate thickness,
 24 that ultrasonic testing would be able to locate that.
 25 Q And then on the second page of your notes it says, "URS -

Page 61

Page 63

1 extend contract for time, plus Ed Zhou support during NDE,
 2 plus plating work to be deleted if not used."
 3 A Correct.
 4 Q Okay. So what were you contemplating the URS contract
 5 for?
 6 A Okay. This is -- okay. It's January of '07, so we decide
 7 we're going to go out that year and do the nondestructive
 8 examination, and as it mentions here, we're going to start
 9 with the south span because we thought access was easiest
 10 over the south span, and if we were confident of the
 11 results we were getting, we would proceed on to the north,
 12 the north end of the bridge.

13 In May of '07, we did that. We actually,
 14 instead of going and doing all of the south and going
 15 north, they did all -- they just started at the south end
 16 and did the entire west truss, so they proceeded a little
 17 differently because they had a lane closure set up. In
 18 the end, that was the way they did that.

19 So this discussion was, I think, URS's
 20 contract must have been nearing an expiration date, so we
 21 were going to extend the contract so that we would have --
 22 if we needed Ed Zhou's support during that nondestructive
 23 examination or we had questions, we would have a contract
 24 and they would be available to us. Also, if the
 25 nondestructive examination proceeded to find issues where

1 doing out there?
 2 A If there were -- there well could have been. I'm sure
 3 there had to have been some kind of discussions. You just
 4 don't leap from January to May and then all show up on the
 5 site one day. So there was some planning, but I don't
 6 recall it or may not have been involved in it.
 7 Q You've described a little bit of what they did on the
 8 bridge with that May 2007 testing. Do you know what
 9 conclusion they reached as a result of their work?
 10 A Yeah, I know the general conclusion is they did not find
 11 any defects of the critical crack size that URS had cited.
 12 Q What was the plan for finishing the NDE on the bridge?
 13 A The -- there was a construction contract about to begin
 14 with PCI, who was going to be doing the overlay work, so
 15 the plan was to come back in the fall, after the
 16 construction was over with, and then complete the
 17 nondestructive evaluation of the east truss.
 18 Q Were the conclusions that they reached based on the work
 19 they did in May ever collapsed to a writing?
 20 A Well, they were -- there was field notes from the May
 21 inspections. I don't recall a report ever being written,
 22 because it was not final, you know. We still had the east
 23 truss to complete, but we did schedule an August meeting
 24 with URS to discuss the results of May in preparation for
 25 doing the fall inspections, and that was scheduled -- and

Page 62

Page 64

1 we thought we needed to return to the retrofit option, we
 2 would still be able -- we would return to that and
 3 continue with the plan to retrofit the bridge.

4 So those inspections began in May of '07.
 5 They got the west truss done and just a little bit of the
 6 east truss, which was the south end of it.

7 Q Who was in charge of taking the recommendation from URS on
 8 the nondestructive testing and implementing it?

9 A Implementing it?

10 Q Doing it, making sure the project got done.

11 A Well, we would have given -- to do the examination, we
 12 gave it to our fracture critical group working with Todd
 13 Niemann. So his staff was out there doing that in May,
 14 and I would have to check, I think there might have been
 15 some Metro staff, too, but I don't remember for sure all
 16 the people out there in May.

17 Q And was Todd's understanding of what he was supposed to be
 18 doing out there that day based on this meeting in January
 19 of '07 with URS?

20 A Well, I guess you would have to ask him directly on that.
 21 Certainly, this provided input for him.

22 Q I guess maybe asking it another way, did you have
 23 follow-on meetings between January of '07 and May of '07,
 24 when they actually started doing some of this work, to
 25 kind of further discuss what they were supposed to be

1 we can look up the date, but it was scheduled sometime in
 2 August of '07 and, of course, the meeting never occurred.
 3 Q Do you know whether Todd Niemann and the group of people
 4 that he had out on the bridge in May to do this work ever
 5 relied on any contact with URS in order to make sure that
 6 what they were doing was consistent with what URS had
 7 contemplated?
 8 A I am not aware of -- like I said, you would really have to
 9 check with Todd Niemann, but Todd is a metallurgist by
 10 education and training, so he's very knowledgeable in
 11 doing that type of testing and his people are certified,
 12 so I think they had a fairly clear understanding of what
 13 they needed to do.
 14 Q Was Todd, if you know, familiar with this bridge? Had he
 15 been out there inspecting it before?
 16 A Boy, for that you would have to ask Todd. His staff had
 17 certainly been out inspecting it.
 18 Q Actually, I can answer my own question. If you look at
 19 Exhibit Number 11, there are some comments from Todd
 20 Niemann at the bottom of the first page, where he has
 21 looked at the report, the recommendations given by URS.
 22 A Okay.
 23 Q And he kind of -- he concludes at the bottom, "As I have
 24 not been involved with this study or any of the past
 25 analysis of this structure, I am not completely familiar

Page 65

Page 67

1 with it. I have also never been under this bridge or
 2 involved with an inspection."
 3 A Okay.
 4 Q So I'm wondering, if you know, what did he do between this
 5 kind of January timeframe and May, when he was doing the
 6 work, to bring his knowledge learning curve kind of up to
 7 speed. Do you know?
 8 A Well, I think what he's writing here is, you know, up to
 9 this point he had not been involved in the URS study and,
 10 as he noted, had not done the bridge inspections before.
 11 I guess, you know, the question that you would have to --
 12 you would really have to refer to him, but I don't -- I'm
 13 also not sure what role Todd played in the inspections in
 14 May. You would have to ask him, but I know his staff was
 15 out there and they are all -- the ones that would have
 16 done the ultrasonic testing are certified for ultrasonic
 17 testing.
 18 Q Are you confident, Dan, that they knew what they were
 19 doing when they went out there in May to do the testing
 20 recommended by URS?
 21 A Yes, I'm confident of that group. Yes. They are well
 22 trained, they have done a lot of ultrasonic testing.
 23 Q I guess, asking the question slightly different, putting
 24 aside their ability to do testing, are you confident that
 25 they knew what they were supposed to be doing out there?

Page 66

1 A Yes, because I don't think it was any -- I mean, the
 2 locations that they were to investigate were well-known,
 3 that being the diaphragm connections inside the boxes for
 4 those 52 members. So the locations were known, they were
 5 certainly competent to do the testing, so, you know, I
 6 don't think -- the main challenge was getting out there,
 7 getting the traffic control set up, and maneuvering around
 8 to get to the point of doing your testing and
 9 investigation.
 10 Q Let's go backwards in time to some of the URS original
 11 recommendations and some of the conversations that you had
 12 with URS over the course of their study with respect to
 13 the redecking of the bridge.
 14 A Okay.
 15 Q Do you recall URS having some concerns about how that
 16 redecking would occur so as to not affect the structural
 17 integrity of the bridge?
 18 A Well, yes. Actually, that was one of the points of having
 19 them do a study, was to check, if one was to redeck it in
 20 the future, what would be the sequence of the redecking so
 21 that you wouldn't unbalance the loads on the truss. That
 22 was -- I think I would have to go back to the RFI. That
 23 might have been a task that we specifically put in there.
 24 Q And what do you remember being their concerns?
 25 A Well, I would have to -- I would have to go back and read

1 their reports. I mean, I just recall, as we all knew --
 2 as part of the general discussions as we looked at that,
 3 that issue, we would have had concerns for loading, how
 4 the truss system was unloaded and how it was reloaded with
 5 putting on a new deck and, again, to make sure you didn't
 6 unbalance things to where one truss was supporting more
 7 than it should. So the sequence was something we had
 8 specifically asked them to study.
 9 Q And did they study both sequence and load?
 10 A Well, yes. You would have to look at both the sequence
 11 and the load it causes and, I'm sorry, I don't recall the
 12 specifics on any of those conclusions because it really
 13 hasn't been germane to what all occurred, so I haven't
 14 gone back to look at that recently.
 15 Q You've mentioned once or twice this afternoon the overlay
 16 project that was being done on the bridge last summer,
 17 when the bridge collapsed. What role did the Central
 18 Bridge Office play in that project?
 19 A Well, for the overlay project in '07, the design of the
 20 project of the overlay itself was done by our office.
 21 There was also joint work being done. So the plans were
 22 generated by our office.
 23 Q And that's Arlen Ottman? I think you talked about that
 24 earlier.
 25 A Yes, that was Arlen.

Page 68

1 Q And what else was Central Bridge's role?
 2 A Well, we have a construction support person for the Metro
 3 District, so if there were questions during construction,
 4 that person was available to the district if they needed
 5 help.
 6 Q And who was that?
 7 A That would be Paul Kivisto.
 8 Q Is Paul's role in the overlay project on an as needed
 9 basis as determined by the construction crew that's in
 10 charge of doing the project? I mean, is he a responsive
 11 person?
 12 A Responsive person? I'm -- maybe you can define that.
 13 Q I'm just getting tired. That wasn't a very good question.
 14 I'm wondering, does he have any duties as the
 15 kind of construction support person to kind of
 16 affirmatively go out and be a part of that project, or is
 17 he being used in a consulting responsive role?
 18 A Probably, primarily -- there's a lot of projects going on
 19 within the Metro District, so he is primarily, I would
 20 say, doing consulting, you know. As needed, he's called
 21 out on jobs. He occasionally checks in on projects and
 22 keeps track of status, but -- and was Paul on your
 23 interview list, by the way?
 24 Q I've talked to Paul.
 25 A Okay. So he could better -- I'm sorry, he could better

Page 69

Page 71

1 answer that than I would, but given the volume of all of
 2 the projects at any one time in Metro, I think he's
 3 primarily doing consulting, called out on jobs to help.
 4 Q And I've talked to the people who were in charge of the
 5 project, so I think I know who kind of did what when.
 6 A Okay.
 7 Q I guess what I'm asking is from a Central Bridge kind of
 8 role, what you deem his role as. I mean, is he somebody
 9 who should be affirmatively going out to weekly field
 10 meetings, or is he somebody who should just be responding
 11 when people call to him?
 12 A Well, I don't think he could be at every weekly field
 13 meeting because there's so many projects going on at
 14 Metro, so he would attend some of those weekly field
 15 meetings at times when there were issues on projects, so
 16 it was probably more on an as needed basis or a project he
 17 needed to check in with.
 18 The responsibility for the construction
 19 project, though, the oversight of it on a day-to-day basis
 20 lies with the Metro -- lies with the district, and in this
 21 case it was the Metro District.
 22 Q Do you know whether URS was asked to opine on the effect
 23 the overlay project might have on the bridge?
 24 A I don't recall if they were asked for that.
 25 Q Did you ever have any conversations with URS about that?

Page 70

1 A I don't recall a specific conversation. It may -- through
 2 all this, all the meetings or so, talking about the
 3 plating contract, though, I would have to believe at some
 4 point we would have mentioned it because we were
 5 scheduling the plating contract to come after the overlay
 6 contract, again, because they are different, different
 7 contractors needed for that. And I really would have had
 8 no reason to ask URS for an opinion. The overlay did not
 9 change loads on the bridge. You were taking off an
 10 overlay and putting an overlay back on, so the net effect
 11 was zero on the bridge.
 12 Q Well, the net effect was zero on the bridge theoretically
 13 before and after, but the net effect was not zero during
 14 the construction, right?
 15 A Well, yeah, now you're getting into NTSB's study. Yes, I
 16 would say that it's correct, what you say. The net effect
 17 from before to when the construction was all completed,
 18 the load on the bridge would have been the same as when
 19 the construction began.
 20 Q And so what I'm wondering is, did anybody consult with URS
 21 about the in-between time, about how those loads on the
 22 bridge might affect the structural integrity of the
 23 bridge?
 24 A Not for an overlay. There would be no reason to do that.
 25 Q Does the Central Bridge Office have any policies that

1 govern the placement of construction equipment or
 2 materials on the bridge during a construction project?
 3 A There is a specification that's been in our spec book for
 4 a number of years, I think 1513 is the number, that
 5 addresses loads on construction projects and limits
 6 contractors. It's loads over the whole project, not only
 7 on the roadway, but the bridge portion, limiting loads to
 8 what would be a legal -- to legal loads.
 9 Q And is Section 1530 specific to bridges?
 10 A No. That's -- it addresses the whole construction
 11 project, so not only -- so bridges would fall under that
 12 because it would apply equally to structures within the
 13 project.
 14 Q I've been told by a few people, and I just can't remember
 15 who exactly right now, I think Paul Kivisto and Arlen
 16 Ottman, that there was no analysis done to determine how
 17 the construction being done on the bridge in the summer of
 18 2007 might have affected the structural integrity of the
 19 bridge.
 20 A Well, the -- let's see. I guess maybe two things that I
 21 would question.
 22 Q Well, there's not a question yet. I'm just going to tell
 23 you that they have said that.
 24 A Okay.
 25 Q That structural analysis hadn't been done and, in part,

Page 72

1 they say what you just said, 2 inches coming off and
 2 2 inches going on wouldn't have resulted in us doing that
 3 analysis. Okay?
 4 A Okay.
 5 Q So my question is, is there any policy or specification at
 6 Central Bridge that talks about when that analysis should
 7 be done or shouldn't be done?
 8 A Well, yes, not so much a policy at Central Bridge, it's a
 9 policy that stems from our whole inspection program. You
 10 know, had we been adding weight to the bridge so that,
 11 when the construction was all done, there would have been
 12 more weight on the bridge than there was originally, then
 13 we would have done a load rating, which was what was done
 14 back in the '90s for that project and back in the '70s for
 15 that project. This particular one last year was not
 16 changing the loads on the bridge, so there was no load
 17 rating analysis.
 18 Q And I guess my question was even a little more specific
 19 than that. Putting aside before and after, are there any
 20 policies about doing that analysis for during the
 21 construction itself?
 22 A Only when we -- let's see. We've only had that when we
 23 were aware that the contractors' methods are going to
 24 require special equipment, and that would be like a
 25 segmental bridge where you have an erection traveler that

Page 73

Page 75

1 has a certain amount of weight to it. It's a large piece
 2 of equipment that has to be placed on the bridge in order
 3 to accomplish the erection and construction, so then when
 4 that occurs, then you do an analysis to determine what the
 5 effects of that would be on the bridge during
 6 construction.
 7 Q Is that analysis done at the design phase?
 8 A Yes.
 9 Q And if the work on a bridge requires a false work system,
 10 is that done at the design phase, as well?
 11 A No. For a false work system, that's not done at the
 12 design phase, and the reason being that whatever
 13 contractor who gets the job is going to have his own
 14 stockpiles of material that he would use to bring false
 15 work. So, instead, what the project calls for when false
 16 work is required is that the contractor designs it with a
 17 registered engineer and submits the plan for approval when
 18 they are going to put false work under a bridge.
 19 Q Okay. The initial decision to have false work would come
 20 from MnDOT?
 21 A Well --
 22 Q And then you would leave the design specifications for the
 23 false work system to the contractor; is that right?
 24 A Well, the decision to use false work isn't so much
 25 anyone's decision, it's more dictated by the type of

1 Q -- have their own fracture critical inspectors and that
 2 the Todd Niemann group does most of the other fracture
 3 critical inspections in the state, right?
 4 A Correct and, at times, we assist Metro and District 6 also
 5 when they have large bridges.
 6 Q Okay. My first question for you is, if there is a
 7 recommendation in a fracture critical report, how does
 8 that recommendation move from recommendation to
 9 implementation?
 10 A Well, the inspection groups in Metro and 6, the ones doing
 11 the inspection also are involved in maintenance. They
 12 would -- as they plan their future maintenance programs,
 13 they would take that knowledge from the inspections and
 14 incorporate it into the maintenance. For the other
 15 districts, when we do the fracture critical inspections,
 16 if there was an issue to point out to the district to
 17 repair, we would do that, but we also supply them with the
 18 fracture critical reports.
 19 Q And as you understand it, when Mark Pribula did a fracture
 20 critical inspection and issued a report on a Metro bridge,
 21 who was his fracture critical inspection report supposed
 22 to go to?
 23 A Well, he would supply it to our office, but also within
 24 Metro, I'm uncertain who he supplied it directly to within
 25 Metro, but it is all one group there that -- inspection

Page 74

Page 76

1 bridge. So if you -- like a concrete slab bridge or
 2 something that involves large pours of concrete where
 3 there's no beam system to support it, now you need false
 4 work to hold that up. So it would just be inherent in
 5 certain types of bridge construction that false work has
 6 to be built by the contractor.
 7 So then that's where that specification then
 8 requires them to design it with a registered engineer,
 9 submit the plans for review, and then also that same
 10 person that designs the false work has to come out and
 11 inspect the false work before the contractor can make
 12 their pour.
 13 Q In the summer of '07, were there any discussions with URS
 14 during the overlay project about the work that was being
 15 done on the bridge?
 16 A I don't recall any discussions with URS at that time. I
 17 don't know what reason we would have had to have a
 18 discussion with them on that. I know we scheduled a
 19 meeting for August, but that was to talk about the
 20 nondestructive evaluation.
 21 (Discussion held off the record.)
 22 BY MS. BERGSTROM:
 23 Q Dan, you talked about the fact that the Metro Division and
 24 the Rochester -- is that District 6, I think?
 25 A District 6, mm-hmm.

1 and maintenance within Metro.
 2 Q Who was he supposed to supply it to at Central Bridge?
 3 A He would send it in to Todd Niemann's area.
 4 Q Okay. And I think Paul Kivisto said that he would also
 5 get a copy of it.
 6 A Okay.
 7 (Dorgan Exhibit 13 was marked for
 8 identification by the court reporter and
 9 attached hereto.)
 10 BY MS. BERGSTROM:
 11 Q This is a document that was produced that has a couple of
 12 things attached to it, and I don't know that this is the
 13 final version of this document, but I just want to ask you
 14 some questions about the quality assurance program for the
 15 inspections. I take it there is still existing today a
 16 quality assurance program for inspections?
 17 A Yes and, actually, I think these documents look like they
 18 would have all been superseded -- this one looks like it
 19 was more a draft that would have been laid out in those
 20 tech memos that we would have provided you with early on.
 21 Q There is a tech memo in the back that's attached that's
 22 the guidelines for in-depth inspection of fracture
 23 critical bridges dated July 30th, 2002. Is that what
 24 you're talking about?
 25 A Yes, but that has since been updated. You know, I know

Page 77

Page 79

1 there was -- there has been at least one version since
 2 then, at least one updating of it.
 3 Q And I know that you brought me some of those the first
 4 time we met, right?
 5 A Right. In fact, the first time we met there was also --
 6 there was a version that was developed in -- I've got to
 7 think of the years. It was worked on through the spring
 8 of '07 and about the end of July it was ready to go out on
 9 the signature process and didn't -- with the collapse,
 10 didn't proceed, but that just got issued. The latest
 11 version just got issued in February of this year on this
 12 memo.
 13 Q And I think I have a copy of that, as well.
 14 A Okay.
 15 Q So these top pages, then, would have been the content that
 16 ultimately made it into the tech memo or were discussed as
 17 the tech memo was being developed?
 18 A Yes. I mean, just looking at the format of the page, it's
 19 not in the same format as a final tech memo, so it looks
 20 like early work.
 21 Q Okay.
 22 A And I guess it's marked that way, as a draft.
 23 Q Was it your understanding that if there -- is it your
 24 understanding that Todd Niemann's group or Todd actually
 25 is responsible for reviewing Mark Pribula's fracture

Page 78

1 critical inspection reports?
 2 A You know, I think that one -- I'm trying to remember the
 3 exact relationship there, Katie. I think Gary Peterson
 4 and Todd would be better able to answer that.
 5 Q You don't know either way?
 6 A Yeah, I'm just not recalling if that was the exact process
 7 set up.
 8 Q Okay. And, again, since Metro was doing its own
 9 inspections, it was Metro's responsibility to make sure
 10 that the recommendations contained in those reports were
 11 being placed on a maintenance list?
 12 A Well, yeah, they would be performing the maintenance so,
 13 you know, they would need to translate the inspection
 14 findings to maintenance. Yeah, that would be for them to
 15 do.
 16 Q Okay. Do you ever receive the fracture critical
 17 inspection reports?
 18 A No, not routinely. It would be more by exception if
 19 something was -- if somebody wanted to point out something
 20 that they found.
 21 Q Can you give me any specific examples of when that has
 22 happened?
 23 A Well, probably the most recent would have been last
 24 August. There was an inspection up on a bridge on the Red
 25 River that actually a crack was found during the course of

1 the inspection. So it wasn't so much a report that was
 2 brought, it was -- there really wasn't a report at the
 3 time, it was really more the inspectors calling in with a
 4 field problem, so we gathered a group in the office to
 5 deal with it that day.
 6 Let's see, about a fracture critical report,
 7 huh? Well, you know, in the past we have looked at, I
 8 know, reports for Lafayette bridge when issues have been
 9 found out there that required repair. Yeah, I guess I
 10 would have to sit -- try to remember the various bridges,
 11 but most of it, it would have been when something was
 12 thought to be critical enough that we had to take action
 13 or repair, and then I would say it would be more brought
 14 into the discussion and be shown the information as
 15 opposed to somebody hands you the report. I mean, you are
 16 more brought into that discussion.
 17 Q Well, and there is a technical memorandum on how to
 18 respond to critical deficiencies, correct?
 19 A Correct.
 20 Q Okay. And how is a critical deficiency defined?
 21 A Well, I would have to go right to the wording of it, but
 22 it's more or less a deficiency that the inspector would
 23 believe could compromise the safety of the bridge, but I
 24 think the wording is probably better and more defined than
 25 that.

Page 80

1 Q In any event, it's in that memorandum?
 2 A Right.
 3 Q And as I understand it from talking to some people, if a
 4 critical deficiency is found, the practice in the memo is
 5 to take care of it right away?
 6 A Correct.
 7 Q There is a chain of events that are supposed to unfold
 8 pursuant to the critical deficiency tech memo?
 9 A Correct.
 10 Q Okay. And as I also understand it, the fracture critical
 11 reports are usually drafted approximately six months after
 12 the inspections are done or there's at least a delay?
 13 A Well, there's a delay that can be up to six months. I
 14 think we have put a requirement that it be done within six
 15 months. Part of that is the season, when you are trying
 16 to get everything done before winter comes.
 17 Q Okay. So if that, both with critical deficiencies and the
 18 little bit of a lag between inspections and reporting, is
 19 working correctly, by the time a critical deficiency might
 20 get to the report stage, it would arguably have been taken
 21 care of already?
 22 A Oh, correct, because you would not wait to write the
 23 report to report a critical deficiency.
 24 Q And then, since it would have been addressed, would you
 25 still include it in the inspection report?

Page 81

1 A Well, we have a process for reporting critical findings,
 2 and those are recorded and logged within Todd's unit. So
 3 whether they would have -- yeah, I guess I would have to
 4 check. If it's not in the fracture critical report,
 5 there's a reporting process that would have reported it.
 6 Q Okay. I guess what I'm trying to get to is that all of
 7 the inspection findings that -- all of the inspection
 8 recommendations, if you will, that are in a fracture
 9 critical report and that haven't been addressed, meaning
 10 they haven't been fixed or no maintenance done, would
 11 almost, by definition, then, not be fracture critical
 12 recommendations, right?
 13 A They would not be critical findings.
 14 Q Critical findings, critical deficiencies?
 15 A Yes.
 16 Q They would be everything else?
 17 A Right. Items that were more thought to be -- could be for
 18 planned maintenance in, typically, the following year. So
 19 if it was something that was thought to be -- also
 20 understand that the whole process on critical findings was
 21 just created over the last few years. I would have to go
 22 back to the first tech memo, but it's -- without having it
 23 with me, I think that first tech memo on critical findings
 24 is only a couple -- a few years old.
 25 Q I think it's 2005.

Page 82

1 A Okay. Good memory.
 2 Q But as I understand it, even before the critical
 3 deficiency memo came out, there was a practice that was
 4 similar to that?
 5 A Yes, there would be. I mean, just kind of common sense
 6 would tell you, if you found something that you thought
 7 needed to be addressed immediately, you elevated it.
 8 Q Okay.
 9 A The critical findings tech memo was documents that more
 10 formalized that.
 11 Q Okay. And the fact that the recommendations in an
 12 inspection report are not recommendations relating to
 13 critical deficiencies doesn't mean, does it, that they
 14 shouldn't be addressed?
 15 A Well, see, the thinking of the Metro reports -- and Mark
 16 Pribula could describe better. There are, at times,
 17 things they are citing that are cited for monitoring. I
 18 mean, I think the report would contain two items. One
 19 could be things to actually repair. The other thing would
 20 be findings to continue to monitor for the next
 21 inspection. So you are recording notes that are saying
 22 you found something and you are asking future -- you are
 23 putting it in there so future inspectors are aware of it
 24 and they can continue to look at that same area, but maybe
 25 with no intent to repair if the situation doesn't change.

Page 83

1 Q Okay. It's fair to say that the inspection reports are
 2 there to accurately reflect the condition of the bridge,
 3 correct?
 4 A Correct.
 5 MS. BERGSTROM: Do you want to do some of
 6 these questions?
 7 MR. JOHNSON: Sure.
 8 MS. BERGSTROM: Did you bring some?
 9 MR. JOHNSON: Sure.
 10 (Discussion held off the record.)
 11 BY MR. JOHNSON:
 12 Q Tom, I brought along some inspection reports that will
 13 pick up on what Katie had just been asking you about.
 14 A Okay.
 15 (Dorgan Exhibit 14 was marked for
 16 identification by the court reporter and
 17 attached hereto.)
 18 BY MR. JOHNSON:
 19 Q The first report is an inspection report dated
 20 October 18th, 1993.
 21 A Okay.
 22 Q And it's for bridge number 9340.
 23 A All right.
 24 Q If you would, go to sheet 5 of 6. It's the last page.
 25 A Okay.

Page 84

1 Q And below the dotted line on that page there is a section
 2 entitled "Additional comments from" October 13th through
 3 the 18th, 1993 "snooper inspection." Do you see that?
 4 A Yes, I see that.
 5 Q The first paragraph states, Downstream truss at L11 inside
 6 gusset plate has loss of section 18 inches long and up to
 7 3/16 of an inch deep, and then in parentheses, original
 8 thickness equals one-half inch, close parentheses.
 9 A Okay.
 10 Q What is your reaction as to the significance of this
 11 finding?
 12 A Well, it says it's up to 3/16 inch deep and it's 18 inches
 13 long. L11 is a big gusset plate, so that's a fairly
 14 small, fairly insignificant amount, 18 inches by 3/16. It
 15 doesn't sound like it's a full depth, this 3/16, just up
 16 to 3/16. I assume it's some kind of pitting because --
 17 let's see. Yeah, inside gusset. Yeah, this would be
 18 probably associated with he had -- we had to clear the
 19 pigeon nests out of this bridge. So it's a big gusset
 20 plate, so 18 inches is a pretty -- is a fairly small
 21 dimension on that whole thing.
 22 Q So section loss here of, you know, almost 40 percent
 23 wouldn't be considered critical?
 24 A Oh, it's not a section loss of 40 percent.
 25 Q And explain why that isn't the case.

Page 85

1 A Okay. This is 18 inches long up to 3/16 inch in some
2 places. Okay? It's up to 3/16 inches deep, so I think
3 without having -- well, this is 14 years ago or so, but
4 when it's written like that, up to 3/16, it tells me it's
5 pitting that goes as deep as 3/16, not necessarily the
6 full 18 inches.

7 At any rate, L11 gussets, that's, like, an
8 8-and-a-half-foot-long plate, so over that whole 8 and a
9 half feet you've got a small region of 18 inches long by
10 possibly up to 3/16 inches deep. You've got a section
11 loss that's fairly small.

12 Q Tell me, then, how you define section loss. I thought it
13 had to do with the depth of the corrosion into the
14 plating.

15 A It has both to do with that and the size of your plate,
16 because this would have been along the -- let's see, this
17 is the lower L11, okay, so where this occurred -- because
18 I remember seeing information on this. This is over the
19 top of -- I mean information since. This is the Star
20 Tribune, I think, that was looking at this in
21 September/October.

22 This is on top of the lower chord, and one of
23 your critical sections you're looking at is that full
24 length of the gusset, half inch thick by 8 foot -- it's
25 over 8, it's like 8 and a half feet long. So now you have

Page 86

1 to compare 18 inches at maybe up to 3/16 versus how much
2 did you lose out of 8 and a half feet, half inch thick,
3 and you're down to a pretty small percent here. It's not
4 40 percent, because that's a shear plain that you are
5 looking at.

6 Q And let me explain how I got 40 percent. It's not exactly
7 40 percent, but if it's -- if the plate itself is a half
8 inch thick -- and we know well that this gusset plate was
9 a half inch thick?

10 A Yes.

11 Q And the corrosion is up to 3/16 of an inch --

12 A Right.

13 Q -- leaving 5/16 of the gusset plate remaining at that
14 depth, correct?

15 A Correct.

16 Q And 3/16 of -- it represents about 37, 38 percent of the
17 thickness of that plate?

18 A At that specific location, but the plate is over 8 foot
19 long for a reason. That whole 8 foot -- in excess of 8
20 foot is carrying the load. So it's not whatever that is,
21 a 30 to 40 percent loss of section, you have to look at
22 the full distance along there of that gusset. Do you have
23 a -- is there a -- well, I don't have any photos handy of
24 the gussets, but that would be the plain you would be
25 looking at in this case because it is a long -- it's kind

Page 87

1 of a horizontal line on the top of that lower chord, and
2 it's that full over 8 foot that's what is resisting load
3 for you. So you've only lost a small portion at 18 inches
4 by 3/16 or something less, you've only lost a small
5 portion of that.

6 Q At what point would it be of concern to you?

7 A Well, I think when you are in the 10 to 15 percent loss of
8 section, then you're looking at something that you would
9 want to check into.

10 Remember, your safety factor -- and, again,
11 this is all -- we've got to go back to we're presuming the
12 bridge is designed correctly in '93 when somebody is
13 looking at this, okay, because that's a basic assumption.
14 The inspector isn't out there to check design, you know,
15 they are presuming it was designed correctly, so they are
16 looking at it's supposed to be a half inch plate and how
17 much is left. So you would be looking for losses more on
18 the order of 10 to 15 percent before we start to develop a
19 concern for it because, after all, the plate is supposed
20 to be designed so it's got 100 percent excess capacity for
21 safety factor.

22 Q So if you had a line of corrosion that extended the entire
23 width of the plate and was 1/16th of an inch thick, that
24 would be of concern to you?

25 A I would have to -- now we're talking 1/16, so one -- yeah,

Page 88

1 I guess we're probably approaching the 15 percent, yeah,
2 at that point.

3 Q Okay.

4 A So had the 3/16 been over the full 8 foot of the gusset,
5 you know, back to the 30 percent number, had -- instead of
6 being 18 inches long, it was 8 and a half foot long, 3/16
7 inches deep, then I would agree, now we've got a
8 30 percent section loss.

9 Q Are you saying that you don't have section loss until this
10 line of corrosion extends the entire width of the plate?

11 A Well, it gets back to you have to look at where the
12 section loss has occurred on the member, something I had
13 said earlier.

14 Q And from this description, is this location of the section
15 loss a critical point?

16 A Oh, it's -- yeah, right above the lower chord is an
17 important location, but again, you've got over 8 foot of
18 plate a half inch thick to resist that along that plain,
19 so the 18 inches at 3/16 or up to 3/16 is not large when
20 compared to 8 and a half foot at a half inch.

21 Q So what is the reason, then, that this was recorded if
22 it's not significant?

23 A Well, the inspector recorded it, and I don't know that
24 it's -- it isn't so much the inspector's job to
25 determine -- when they see something that they think is

Page 89

Page 91

1 significant, the inspector or -- or may be significant I
2 should say, then they record it, but we would have to --
3 Mark Pribula or at some point somebody from Metro looks
4 over this, and this predates, I think, Mr. Pribula, but at
5 some point somebody looks at that, and I think later
6 inspection reports -- there was a later inspection report
7 that cited section loss, didn't have the dimension of loss
8 in there, but later noted the same thing at L11 in a
9 report probably ten years after this or something.

10 BY MS. BERGSTROM:

11 Q If the inspector is there to record it and somebody is
12 there to review it after the fact, whoever that might be,
13 isn't it the fact that they can't determine whether it's
14 important or not unless the specificity is in there?

15 A Well, that's true, but I mean, I think it's telling us
16 inside gusset plate has a loss of a section 18 inches long
17 and up to 3/16 deep. Now -- well, later, I know later
18 reports had the photos of this, so this is ninety -- what,
19 '93?

20 MR. JOHNSON: Right, and I'll come to those
21 in just a second.

22 MR. DORGAN: Right. I agree from this,
23 Kathryn, if all I had was this as my information, one
24 would want to know, tell me more about where exactly this
25 is located, because it isn't telling you here that it's in

Page 90

1 a horizontal plain right above that lower chord, but we
2 know that that's, in fact, where it was from later photos
3 of it and later reports.

4 BY MR. JOHNSON:

5 Q And the fact that it's at that location, does it make it
6 more or less critical?

7 A Well, the plain that this is occurring on is significant,
8 but, again, the amount of loss here is not significant,
9 the amount of section loss.

10 Q I will note the next paragraph, which is, Downstream truss
11 at L13, lower horizontal brace between the trusses has
12 3/16 inch section loss at riveted angle. What's your
13 reaction to that finding?

14 A Well, this is a secondary member. It's a lower horizontal
15 brace, so corrosion in secondary members isn't as critical
16 as corrosion in main truss members. You know, that would
17 be one -- I don't know what action was taken in '93 by
18 whoever reviewed the report, but it would be nice to have
19 more description here. But the fact that it's a lower
20 horizontal brace, it's a secondary member, so it's not
21 part of the main truss member, so it's not a member that
22 even gets rated when you rate the bridge.

23 At any rate, that L11, you know, this
24 recording here is not what we would -- I can understand
25 why the inspector writes it down, but it is not

1 significant in the total plate size.

2 Q This is recorded in 1993.

3 A Okay.

4 Q Then there's, as we have discussed previously today,
5 modification of the bridge in '98. Prior to that
6 modification, you said there was a load rating analysis
7 that was done, correct?

8 A Correct, mm-hmm.

9 Q Do you know whether this section loss was taken into
10 account in that analysis?

11 A That I don't. No, I don't know if they took that into
12 account, but, again, it's such a small amount, 18 inches
13 up to 3/16. Heck, we're down around 5 percent here. You
14 know, I doubt that they would have, but I guess we don't
15 have that person here to answer the question.

16 Q I'm curious as to how you calculated the 5 percent. Why
17 don't you tell me how you did that.

18 A Well, I was just thinking -- I'm just kind of doing it
19 quickly in my head, because we've got over 100 inches of
20 plate over 8 foot. At a half, that gives me about
21 50 square inches. If I've got 18 at 3/16, I'm down around
22 not even 3 square inches. By the time I'm all done, that
23 would give me 5, 6, about 6 percent if I had lost the full
24 3/16 inch. Yeah, because I've got roughly about -- I
25 think it was about an 8 foot 6 plate, so I've got 100

Page 92

1 inches at a half inch, so that would give me 50 square
2 inches; and 18 times 3/16 is just a little over 37 inches,
3 so 3 inches versus 50 is about 6 percent.

4 Q So at 5 percent, it's not significant?

5 A Not at -- generally not at 5 because, again, we've got --
6 remember when you design it, you've got extra capacity of
7 100 percent. I mean, your safety factor is at least two
8 to one, so if you think you need a 1 inch -- let's see.
9 If design requires a 1 inch, the way -- at full steel
10 stress, what's applied is a 2-inch plate, so you have
11 100 percent extra plate to start off with. So if you lose
12 5 percent, I mean, you haven't even affected what we call
13 the operating rating on the bridge. There's no need to
14 even load bolster or take any action like that. You would
15 have to have more significant section loss than 5 percent
16 to be --

17 Q Do you recall what the Department's bridge inspection
18 manual says about a 5 percent loss?

19 A I don't know that it's -- I can't recall that there is
20 anything specific on a 5 percent loss. I guess we would
21 have to go back and look through, but I just know
22 generally load rating, when we look, if it's 10 to
23 15 percent loss, then we would take a look at load rating
24 if we think it's a critical issue. Just plates alone,
25 rolling tolerance is 2 percent, so the 5 percent isn't all

Page 93

Page 95

1 that much -- isn't all that great a loss.
 2 Do you understand rolling tolerance?
 3 Q Explain it, please.
 4 A Well, you, as a supplier, supply a steel plate. You can
 5 be off by as much as 2 percent in your thickness. So if I
 6 need a 1 inch plate, it can be as much as 2 percent less
 7 than that and it still meets specification. So, you know,
 8 already -- and that's not to say, you know, most -- that's
 9 not generally a problem, but it's not uncommon to buy what
 10 you think is half inch plate, which would be .5 inches,
 11 and you will get .4 inches, that's what you receive.
 12 That's in normal ASTM requirements.
 13 Q Is this section loss something that should have been --
 14 should have been repaired? some action taken? What should
 15 have happened with this?
 16 A Well, I think they continued to watch it because it showed
 17 up on a later -- I think there's a later report that I
 18 recall on this, too, where it was cited. I don't think it
 19 was measured again. It was an area that they continued to
 20 watch, but it was also at some point in this era that they
 21 cleaned out a lot of the debris and bird nests and kept
 22 those cleared out. So that was the -- I think that was
 23 what was thought to have originally caused it.
 24 (Dorgan Exhibit 15 was marked for
 25 identification by the court reporter and

Page 94

1 attached hereto.)
 2 BY MR. JOHNSON:
 3 Q Now we'll go to the next inspection report, which is
 4 Exhibit 15. Here, Dan, if you would, turn to page 5.
 5 A Page 5, uppers.
 6 Q I want you to look toward the bottom of the page at Panel
 7 Point U11.
 8 A Okay.
 9 Q And there it's recorded, "Section loss at gusset plate,
 10 bottom chord, truss #2." Just to get our locations
 11 confirmed here, this was the same location as we've been
 12 discussing from the 1993 report, correct?
 13 A Okay, I just want to look through. What puzzles me at
 14 first is where it says U11. U11 tells me upper 11, so are
 15 they not -- I was just going through this to make sure
 16 there wasn't L11 entries, meaning lower chord 11. Okay,
 17 maybe they were just doing -- they are starting at the
 18 upper and then discussing the whole panel top to bottom,
 19 it looks like. Sorry, I just had to try to orient myself
 20 in this report.
 21 Okay, page 5, "Section loss at gusset plate,
 22 bottom chord, truss #2." In the previous one, did they
 23 call it truss 2 or did they call it downstream?
 24 Downstream is the east truss. Is there somewhere where
 25 they define truss 1 and truss 2? Sorry, Tom.

1 Q No, this is a totally new format, as you can see.
 2 A I mean, I don't have a reason to think it's different, I
 3 just --
 4 Q And I have -- as you can see, that's my writing in the
 5 margin that says, "northbound lane." That should be the
 6 east truss, and somehow I figured that out at one point,
 7 but I'm not sure how I did.
 8 A Yeah, and I'm sorry, I just don't -- this is numbering
 9 that the inspectors would do, so I'm unsure whether the
 10 downstream east truss is truss 1 or truss 2. So,
 11 hopefully, it got -- I've got to think it's somewhere in
 12 here.
 13 Q So if you go back to page 3 --
 14 A Okay.
 15 Q -- under "Specific Deficiencies," there it lists, as the
 16 heading, "Inspections in the Northbound Lane."
 17 A Okay.
 18 Q Which would mean it's the east truss, I believe?
 19 A Yeah, if it's the northbound lane, it would be the east
 20 truss. Then the next page it says, "Beginning of Deck
 21 Truss." Let's see, is there later where it has
 22 inspections in the southbound lane? Maybe it does.
 23 Q Correct, on page 8.
 24 A Okay, "Inspection in the Southbound Lane." Okay, then I
 25 would agree, the way it looks like this is formatted,

Page 96

1 truss 2 must be the east, the east truss. Sorry, I just
 2 didn't know how they numbered it. Okay.
 3 Q So have we agreed this is the same location?
 4 A Yeah. I'm not trying to be difficult, I'm just trying to
 5 be --
 6 Q No, I understand. I just want to make sure that the
 7 location described as Panel Point U11 is the same location
 8 as we were describing earlier in the '93 report.
 9 A I believe that's so, yes.
 10 Q In the '94 report, however, we have lost the
 11 quantification of the depth of the corrosion, correct?
 12 A Agreed, yes. It just states "section loss."
 13 Q Do you have any idea as to why that might have happened?
 14 A I'm just looking if we've got a different team out here.
 15 Oh, these are annual inspections.
 16 No, I guess I don't know why one inspector
 17 chose to measure it, the other one wrote a note.
 18 Q Which is the preferred way of doing it?
 19 A Well, I think if it's -- if the inspector judges it to be
 20 section loss that they think may be significant, then we
 21 would prefer that they measure it. So, you know, how
 22 we're handicapped here is not knowing. The inspector in
 23 1994 looks at it and notes "section loss at gusset"
 24 without a measurement. Well, I guess, you know, one
 25 would -- all I can do -- well, it would be speculation.

Page 97

Page 99

1 For whatever reason, they decided not to record it. I
 2 mean, that's all I can say for sure.
 3 Q But in your opinion, should it have been measured or
 4 recorded or not?
 5 A Well, I think it -- I don't -- we don't have it in front
 6 of us, so the previous entry from the previous year said
 7 18 inches long up to 3/16 inches deep. How much of that
 8 was 3/16 or how big I can't tell from here, so we would
 9 need to look at it to be able to say that should be
 10 recorded or that isn't. I mean, we're speculating about
 11 something that we don't have available to look at here.
 12 Q Well, we know that in 1993 it was 18 inches long and up to
 13 3/16 of an inch deep, correct?
 14 A Okay.
 15 Q Can you tell from this report whether any work was done to
 16 repair that section loss in the intervening year?
 17 A Oh, okay. Well, there is no entry of that. I'm not aware
 18 that any work was done, but could I tell? No.
 19 Q If work was done, should it have been noted on the report?
 20 A In some of our reports in later years -- this is an older
 21 style of report here, but there are reports, actually, for
 22 this bridge that do record when repairs are done in the
 23 more -- yeah, generally we record when repairs are done.
 24 At times, I mean, inspectors will cite that.
 25 (Short break taken.)

Page 98

1 BY MR. JOHNSON:
 2 Q Just another question or two about the '94 report.
 3 A Okay.
 4 Q And you said earlier that the inspector's job is to record
 5 what they are observing and then -- so that someone else
 6 can make a determination as to whether it's significant
 7 and what work to do based on it. Would you be able to
 8 determine whether or not the section loss here is
 9 significant, in need of repair, or based on this
 10 description?
 11 A No. I would agree, Tom, this measurement would be
 12 desired. The section loss -- simply stating "section loss
 13 at gusset plate" is not enough information to do an
 14 engineering calculation, but I think it's also common as
 15 we look through our inspection reports that at times
 16 inspectors will write "section loss" and they don't give
 17 you a measurement unless they think it's significant. So
 18 I think I have seen this in other reports of bridges where
 19 the words "section loss" are written, but we don't have
 20 measurements provided, and that's something that we have
 21 noted of late and it's kind of one of the areas that we
 22 are addressing in our process improvement exercise that
 23 we've got going on.
 24 Q And then with respect to the '94, I will just draw your
 25 attention to the description further down the page to

1 Panel Point U13.
 2 A Okay.
 3 Q And I believe that's the same location as described as L13
 4 in the '93 report.
 5 A The '93 report, was it L13 or L11? Oh, I see, yeah.
 6 Going back to the '93 report, we mainly focused on the
 7 report where the measurement was, but -- L13, lower
 8 horizontal brace. Okay, I see what you are saying, lower
 9 horizontal brace has -- no, that's unclear to me if these
 10 two inspectors are talking about the same point. One is
 11 talking about section loss at gusset plate, bottom chord,
 12 truss 2, and the previous year they said L13, the lower
 13 horizontal brace between the trusses has 3/16 inch section
 14 loss at riveted angle. I mean, it seems clear in '93 they
 15 are referring to something as a gusset plate and the next
 16 is a horizontal brace, so I think they are talking about
 17 two different members in '93, but this one a year later
 18 says "section loss at gusset plate," so I'm not sure that
 19 those are the same locations that we're talking about.
 20 Q All right. Well, let's just focus, then, on the 1994
 21 report.
 22 A Okay.
 23 Q And from this description at Panel Point U13, "Section
 24 loss at gusset plate, bottom chord, truss #2," can you
 25 tell whether that's significant?

Page 100

1 A Without a measurement, no, but again, you're -- I would
 2 have thought the inspector would have told us if they
 3 thought the section loss was enough that it was
 4 significant.
 5 Q And how would they have done that?
 6 A Through some type of a measurement, if they thought it was
 7 significant enough.
 8 Q Well, it seems like they thought it was significant enough
 9 to record the measurement in '93, but not in '94.
 10 A Well, do we have the same inspector, though? We've got --
 11 it isn't always the same inspector going year to year or
 12 the --
 13 Q I believe there is some overlap. I think Terry Moravec is
 14 listed both on the '93 report and on the '94 report, as I
 15 see it.
 16 A Okay.
 17 Q The other two individuals are new, Fuhrman and Wilson.
 18 A Okay.
 19 Q So whether something is significant or not is in an
 20 inspector's judgment?
 21 A In this -- yeah, in this era, it was. That's something we
 22 have since decided we're going to address, but, you know,
 23 there wasn't -- I'm not aware of any hard and fast rules
 24 that inspectors were given as to when to record or note
 25 it.

Page 101

Page 103

1 Q This is the third and final inspection report.
 2 (Dorgan Exhibit 16 was marked for
 3 identification by the court reporter and
 4 attached hereto.)
 5 BY MR. JOHNSON:
 6 Q Okay. This report is the June 2006 Fracture Critical
 7 In-Depth Report for Bridge 9340, correct?
 8 A Yes.
 9 Q And here, Dan, turn to page 23.
 10 A Okay.
 11 Q I want to point out to you that on that page there is a
 12 reference to Panel Point #11, and then in parentheses,
 13 "East Truss."
 14 A Mm-hmm.
 15 Q And I believe that's the location that we've been talking
 16 about in the '93 and '94 reports, correct?
 17 A I would agree.
 18 Q And here it refers again to "Section loss: At gusset
 19 plate bottom chord."
 20 A Right, and then it goes on to say, "Pitting: Inside
 21 gusset plate connection."
 22 Q And that's "at L11 toward L10," to finish that sentence.
 23 A Mm-hmm.
 24 Q Dan, can you tell the significance of this finding from
 25 this language?

Page 102

1 A Well, here we've got the benefit of a photo, not a good
 2 photo in this reproduction, but it's certainly more
 3 helpful to have the photo. And the word "pitting,"
 4 "pitting" tells us something, too. "Pitting" is a term to
 5 describe, you know, now you've got surface irregularities
 6 because of the corrosion. So, you know, with the pitting
 7 we've also got a visual, so it's more helpful than just
 8 verbiage by itself, certainly.
 9 Q So what can you say about the significance of this finding
 10 given the description and the photo?
 11 A What can I say about the significance -- well, again, it's
 12 back to they -- this is Metro's inspection. Had they
 13 thought it was something highly significant, I would have
 14 thought they would have measured it and put some
 15 dimensions to it if that inspector had thought it was
 16 significant.
 17 Q Now, the language "Section loss: at gusset plate bottom
 18 chord," that sentence is the same sentence that was in the
 19 '94 report?
 20 A Mm-hmm.
 21 Q There's a new finding here that's "Pitting: Inside gusset
 22 plate connection at L11," although it is preceded by the
 23 year 2004 in brackets, and I believe this finding first
 24 occurred in the 2004 report. Is there anything that the
 25 phrase "Pitting: Inside gusset plate connection at L11"

1 adds to the finding?
 2 A Well, I was taking them both to the -- section loss and
 3 the pitting to be one and the same. You know, I think
 4 pitting tells us, again, it's surface, it's surface. Had
 5 it gone clear through, that would be a different issue,
 6 but the inspector is not saying that the section loss has
 7 gone clear through the plate. Pitting is not going clear
 8 through, pitting is more surface, surface section loss.
 9 Q Help me visualize what this language is describing. We
 10 started with section loss of 18 inches long and up to 3/16
 11 of an inch deep in '93. Correct?
 12 A Yes.
 13 Q So, presumably, that section loss still remains or it has
 14 gotten larger, correct?
 15 A One or the other, yes.
 16 Q It could not have gotten smaller?
 17 A Correct. I'm not aware of any action that was taken to
 18 change it.
 19 Q And if action had been taken, how would we know that?
 20 A Well, I think the photo would -- I'm not aware of any
 21 painting that took place down here. I guess we would have
 22 to go back to all the maintenance reports. I'm -- and
 23 it's probably a question better asked of Metro. I'm not
 24 aware that any action -- to my knowledge, I'm not aware of
 25 any action that was taken on this. But, again, if it's

Page 104

1 limited to 18 inches by 3/16 -- and I agree, we don't have
 2 a dimension here. If it's still on that order, it's not
 3 significant in the total gusset plate.
 4 Q From what you can see in this photo, do you have any
 5 opinion as to its significance?
 6 A This photo is not of a quality that can tell me much here.
 7 Q If you were seeing a better quality photo, do you think
 8 you could comment?
 9 A Well, I don't know. You know, I think this is something
 10 that's probably better to talk to -- I assume you have
 11 already talked to the inspection team. Let's see, it's
 12 Fuhrman, Pribula -- yeah, I think these are better
 13 addressed to them that actually saw it and recorded it.
 14 Q Okay, I understand, Dan, and we have talked to them about
 15 this.
 16 A Okay.
 17 Q We're just -- you know, you're the state bridge engineer,
 18 so I'm just looking to you to see what you are thinking
 19 about how this was recorded and whether it's significant,
 20 whether something should have happened. That's all I'm
 21 trying to achieve here and, if you've got something to
 22 offer more than what you've said, please do.
 23 A You know, it's back to had there been a greater concern, I
 24 would have thought they would have expounded on it had
 25 they been seeing something of greater concern there.

Page 105

1 Q And tell me again, how would you have expected them to
2 expound upon that?

3 A Well, had they looked at it and the -- it's a half inch
4 plate, so had they actually been seeing the corrosion go
5 all the way through or something, we would expect that
6 they would start to record some measurements.

7 BY MS. BERGSTROM:

8 Q But isn't it the case, I mean, listening to this, you can
9 tell somewhat back in 1993 that the section loss is maybe
10 about 5 or 6 percent, but isn't it the case that eleven
11 years later you can't tell if it's increased at all or if
12 it's getting closer to the critical 10 percent?

13 A Well, I agree, we don't have a measurement to tell us
14 that. Again, you would have to ask the inspectors if --
15 and, you know, I'm -- to make a comment on it, I've got to
16 try to put myself in the mind of the inspector and
17 speculate that they looked at it and decided it was not
18 significant enough to record more, but that's speculation.
19 I mean, I think you are better off with your interviews
20 with the actual inspectors and relying on that.

21 BY MR. JOHNSON:

22 Q Dan, you're the person we're interviewing today, so let me
23 ask you to flip over to the next page, page 24. Look at
24 the description at Panel Point #13 (East Truss).
25 A See photos, okay.

Page 106

1 Q What is your reaction to the description of this -- the
2 inspection findings regarding this location?

3 A Well, if the tack welds have cracked -- is there a
4 specific piece you want to talk about here?

5 Q I'm curious first just about -- in terms of your reaction
6 generally to it.

7 A Well, I think the cracked tack welds, one thing we would
8 want to know is if the tack welds were cracked entirely
9 through or partially cracked. You know, I think this is
10 the same thing. We've got section loss -- it noted
11 "bottom chord gusset plate has section loss." I'm not
12 even sure what photo is trying to show this here, if there
13 is a photo of that.

14 Q I assume that it's the photo immediately to the right of
15 the description.

16 A Again, our photo is not all that good, but it looks like
17 we have a lateral brace coming in, so one of the things
18 that's absent -- one of the things we don't know is where
19 this bottom chord gusset plate has section loss, whether
20 it's -- there's two gussets here. There's the vertical
21 gusset that's the main chord gusset and then there's this
22 gusset that's connecting the lateral brace. The main
23 chord gusset is the gusset of significance. The lateral
24 brace is the less significant, so I -- you know, it would
25 end up that we would have to check with the inspectors if

Page 107

1 they recall which one, which one they were describing
2 here, because one is --

3 Q Well, I'm not the expert here, you are, but when I look at
4 this, as poor quality of a photo as it is, it looks to me
5 like it's along the main chord.

6 A Are you talking about this area right along here
7 (indicating)?

8 Q Right here (indicating).

9 A Oh, okay. Well, if it's flaking -- yeah, I guess you
10 really can't -- from the photo, it's really tough to
11 discern what's happening here.

12 Q So here you have section loss, flaking and pack rust. And
13 tack welds, what's the significance here of that?

14 A Well, section loss and flaking are somewhat similar, they
15 are both just corrosion. Pack rust is usually a term
16 that's used when it's rust occurring between two plates.
17 So, again, I'm not sure which connection -- they've got a
18 series of plates coming together here -- which one they
19 are referring to with the pack rust.

20 Q Is this a useful description for someone that's reviewing
21 that report, then?

22 A It's -- it may be for the inspector that wrote it that
23 understands what they were looking at. Reviewing, though,
24 if they are not out -- no, I would think it would
25 require -- to know more about it would require more

Page 108

1 questions, but I think the reviewer -- at this time
2 Pribula is the one that's also reviewing the report. So,
3 again, I think the important thing is if he has
4 recollection of what this was, then that's of greater
5 importance. I mean, as a third party who has never been
6 out on the inspection, if I wanted to decide what action
7 to take, I would have to go back to the people and ask
8 them, Give me greater description here.

9 Q Is Mark Pribula the person who is charged with the
10 responsibility of deciding whether action should be taken
11 or not?

12 A Yeah, we would expect if Mark -- he is the engineer in
13 charge of that inspection. If he thinks action is needed,
14 he would raise it. He would raise that issue.

15 Q I thought you had said earlier that inspectors are to
16 inspect; that is, to go record their observations, but
17 others review it for a determination as to the
18 significance of those observations.

19 A Well, but -- okay. You've got to look at the context of
20 the people. Some of these people are -- Mark Pribula is
21 an engineer. Others are inspectors. Mark both does
22 engineering -- is both an engineer and an inspector, so,
23 you know, he's the engineer out on this job, so whereas I
24 think the inspectors, probably their job is more to
25 record, Mark is also able to look at it and give a

Page 109

Page 111

1 judgment on significance.
 2 Q So you are okay with this description?
 3 A No, I would say, as I said earlier, you know, section
 4 loss, as we looked at these reports and on other bridges,
 5 we realize we have this, at times, being recorded where
 6 section loss is recorded without a full description of
 7 what exactly -- what exactly they saw, meaning no
 8 measurement. So I would say, in the future, you know --
 9 and a lot of this goes back to our learnings from 35W and
 10 all the various bridge inspection reports we have looked
 11 through since then. That's part of our learnings, that
 12 we're going to put out more definite instruction to
 13 inspection staff as to, rather than just record section
 14 loss, but to give some parameters when to measure it.
 15 Q Is someone other than Mark Pribula responsible for
 16 reviewing the report to make a decision whether there's
 17 been sufficient deterioration related to the bridge
 18 structure that it should be submitted to a load rating
 19 analysis?
 20 A Well, you know, 2006, as Mark is doing this, he is the
 21 engineer in charge of the inspection. We're relying on
 22 him to make those decisions, whether a load rating -- to
 23 ask for a load rating or to bring it to other -- to bring
 24 it to other people if he thinks it's necessary. Since
 25 that time -- again, that's part of the process we're

1 at times where they are recording by year -- I see one on
 2 previous pages where -- '96, 2003, so they are adding on
 3 to notes as they go.
 4 Q But doesn't it have to be a best practices requirement
 5 that the pictures be shot annually? Doesn't that have to
 6 be the case?
 7 A Well, one could do that. If there's no changes, is there
 8 a reason to take a new photo if there's no change?
 9 Q But if there is no measurement, how do you know if there's
 10 any change?
 11 A Well, part of it goes to now you have spoken to the
 12 inspection team themselves, and I would have to look -- I
 13 don't know who was, the previous year, out here, but often
 14 it was the same group doing these inspections year by
 15 year.
 16 BY MR. JOHNSON:
 17 Q Again, Dan, we're not asking you to comment on what the
 18 inspection team was thinking while they were out there,
 19 we're asking you, as the state bridge engineer, to comment
 20 on whether or not what was recorded here is the way it
 21 should have been recorded.
 22 A Okay. And I think, Tom, I addressed that before. I think
 23 one of the learnings from over the last whatever it's been
 24 now, eight months, is that when we have simple recordings
 25 like section loss, we need to know more information. So,

Page 110

Page 112

1 looking through on fracture critical inspections, to have
 2 a more formalized process there.
 3 BY MS. BERGSTROM:
 4 Q Gary Peterson would say that these reports, once inside of
 5 Central Bridge, were to go to Todd Niemann for review and
 6 to Paul Kivisto to determine whether there was any work
 7 that needed to be done.
 8 A Okay.
 9 Q How could either Todd or Paul make any determinations
 10 about either one of those things based on this
 11 description?
 12 A Well, what did you find out -- you know, they are all more
 13 familiar with the day-to-day inspection process than I am,
 14 so I guess you would have to go back and rely on their
 15 responses to that.
 16 Q You'll also note that the picture taken here appears to be
 17 taken on April 14th of 2004 even though the inspection
 18 report is 2006.
 19 A Okay.
 20 Q So there's an assumption, by using a picture that's two
 21 years old, that the condition remained static.
 22 A You know, I think, again, that would be -- I think Mark
 23 Pribula would have covered -- I think at times they were
 24 starting their inspection findings, often making changes
 25 to past reports, because, you know, there is that pattern

1 you know, that's part of our process review in developing
 2 recommendations for inspectors along those lines.
 3 Q Just one other issue to address in connection with this
 4 inspection report. You're going to have to go back into
 5 it and turn to page 22 this time.
 6 A Okay.
 7 Q And there's a description here of the finding relative to
 8 Pier #6.
 9 A Number 6, okay.
 10 Q And the second sentence in that finding starts with the
 11 year in brackets of 1997.
 12 A Mm-hmm.
 13 Q Which we've been told means that was when the finding
 14 first was made.
 15 A Okay.
 16 Q And the finding is that "Bearings have surface rust,
 17 moderate corrosion, and show no signs of movement." As
 18 the state bridge engineer, can you give me some sense for
 19 how significant that finding is?
 20 A Well, unfortunately, with steel bearings -- and this had
 21 steel roller bearings -- it's not uncommon that over the
 22 years the bearing isn't functioning as it was new. We
 23 would have to go to the URS report, because the roller
 24 bearing at -- where is the truss again? Yeah, I think it
 25 was fixed at 7 and the bearing from -- URS did do some

Page 113

Page 115

1 measurements, and Pier 6, one of these bearings was
2 moving. It would not -- but it would move in -- it took a
3 temperature change. It wasn't responding linearly to
4 temperature change. It would take a certain amount of
5 temperature change and would move all at one time. So,
6 you know, the fact that bearings -- we would really have
7 to go back. It's dependent on the bridge. It often
8 doesn't have -- may not have an effect on the structure or
9 the loads on the members itself, and that was part of what
10 URS studied in their report, too, the effect of the
11 bearings.

12 Q So this is a finding that had remained constant, same
13 language used from 1997 to 2006, so that's something not
14 to be concerned about over ten years?

15 A Well, not to be concerned about? What page are you on
16 again?

17 Q Twenty-two.

18 A Yeah, I think -- I think there was some movement in the
19 URS report from their monitoring of the bearings. You
20 know, the bridge -- well, the other thing I would say is
21 the bridge is 40 years old. This is not uncommon, for a
22 steel roller bearing to have corrosion and to not have its
23 full movement that it had when the bridge was new.

24 BY MS. BERGSTROM:

25 Q And, in fact, doesn't that, the age, add significance to

Page 114

1 the finding?

2 A Age adds significance?

3 Q The age of the bridge, being 40 years old, adds
4 significance to these consistent findings that, in fact,
5 the condition is deteriorating? I mean, slight
6 deterioration in a brand new bridge wouldn't be the same
7 as slight deterioration in a really old bridge.

8 A Okay, okay, but if you are trying to make an overall
9 assessment of the bridge, it's in -- for a 40-year old
10 steel structure, this is the common condition of a
11 40-year-old steel truss. You know, taking away the whole
12 gusset plate issue that, as the NTSB found, was half the
13 size that it's supposed to be, putting that aside, this
14 truss is in about the normal condition for a 40-year-old
15 structure, a steel truss structure.

16 Q And is the condition an NBI standard 4?

17 A Yeah, there was a -- there was an NBI condition 4, but
18 that was for the approach spans, for the approach spans
19 and the previous issues found in the approach spans,
20 because the approach spans had required some repairs
21 because in the multi-girder system, not the fracture
22 critical portion, but we had some cracks previously in
23 approach spans that had to be repaired and the diaphragms
24 changed.

25 BY MR. JOHNSON:

1 Q Dan, is there some document where that's recorded?

2 Because I haven't seen that.

3 A I just recall it -- I recall having to answer that
4 question, I thought, last fall and I thought that's what
5 Metro had told us.

6 BY MS. BERGSTROM:

7 Q All of this area that we have been looking at is the
8 superstructure, correct? It's not --

9 A Yes.

10 Q Okay. And the overall bridge superstructure code is 4,
11 correct?

12 A Right.

13 Q So when you say it's not uncommon for a bridge, a steel
14 truss bridge 40 years old to be in this condition, is that
15 the same way of saying that it's not uncommon that a steel
16 truss bridge 40 years old would have an NBI condition code
17 of 4?

18 A Yeah, 4 or 5. It could be anywhere, 4, 5, 6, in that
19 range.

20 BY MR. JOHNSON:

21 Q Is there any relevance to our discussion here that the
22 rating for this bridge was a 4 for, I don't know, 15-plus
23 years?

24 A Relevance in terms of?

25 Q What inspectors should have been recording and what they

Page 116

1 might have considered to be significant.

2 A I guess I'm not sure on --

3 Q Well, I'm assuming, Dan, you're the state bridge engineer,
4 that there is some aggregate or composite effect that
5 various findings have on the stability and safety of the
6 bridge.

7 A Well, yeah, but there is nothing regarding safety of the
8 bridge -- and realize that we have gusset plates that, as
9 the NTSB found, were half the thickness that was required.
10 As far as safety of the bridge, you know, there isn't a
11 tremendous -- we don't have a critical finding here in the
12 truss spans. There wasn't a -- prior to the collapse,
13 there wasn't a significant safety concern and we were
14 continuing to do maintenance. In fact, you know, we were
15 doing a maintenance project at the time, a maintenance
16 repair project.

17 Q Dan, this is hindsight now, and hindsight is perfect.

18 A Mm-hmm.

19 Q But had you known that there was an issue with the gusset
20 plate thickness, would the section loss on the L11 gusset
21 plate that we've been talking about, the 3/16 inch for
22 18 inches, would that have been a concern?

23 A Not near the concern that the gusset plate is half the
24 thickness it's supposed to be. I mean, that's the
25 concern. I mean, this goes -- you know, this whole issue

Page 117

Page 119

1 goes back to that, which was cited by the NTSB in January.
 2 Q So corrosion is not a factor here?
 3 A Well, not in comparison to the two. I mean, if -- again,
 4 I'm -- you know, the only thing we can relate from NTSB is
 5 what they have already stated. That was clearly stated in
 6 their January report, that the gusset plate thickness was
 7 believed to be half of what it should have been. I mean,
 8 we're talking about the benefit of hindsight here, so when
 9 you have a plate that was half inch and should have been
 10 1 inch, it doesn't matter much about 3/16 inch deep, your
 11 gusset plate is off by a factor of two. I mean, you're
 12 not -- the significant piece is the design, the design
 13 concern and, of course, that's all hindsight, that's
 14 knowledge that we didn't have at the time.

15 Q So corrosion is not a factor is what you're saying?

16 A Not 18 inches over 3/16. I mean, the factor that the
 17 plate is off by a factor of two is the concern here, in
 18 hindsight, as you say.

19 MR. JOHNSON: Do you have anything more?

20 BY MS. BERGSTROM:

21 Q Well, let me just ask you this: This superstructure with
 22 an NBI rating of 4, correct me if I'm wrong, but if the
 23 NBI condition code had gone down to a 3, that would have
 24 been the equivalent of a critical deficiency, correct?

25 A Yeah, I would have to look at the scale. Three is a

Page 118

1 serious issue, correct.
 2 Q Okay. And so the bridge deck has a code of 5 and the
 3 bridge substructure has a code of 6 and then the
 4 superstructure has a code of 4 for 15 years. So my
 5 question is, why, as a matter of policy, aren't you trying
 6 to get the code of the superstructure up a notch or two if
 7 being next to 3 is so critical?

8 A Well, let me -- you've got to understand the codes. At
 9 the time of collapse, and as you run those various codes
 10 through, you get a sufficiency rating, I think, of 50. I
 11 think it was 50 even on this. To even qualify for federal
 12 replacement funds, you have to drop below 50. So at the
 13 point of -- in August of 2007, it's right at the
 14 borderline there, but still doesn't even qualify for
 15 replacement according to federal guidelines with federal
 16 funds for bridge replacement.

17 So I'm trying to put that in the context if
 18 you understand these condition codes. You're looking at
 19 the 4 and seeing the word "poor" and assuming there's a
 20 grave condition, and that's not the case.

21 Q But my question is, putting aside replacement and funding
 22 for it and everything else, there are things that could be
 23 done and that were recommended as part of these bridge
 24 inspection reports year after year after year that
 25 allegedly would have -- that presumably would have

1 addressed some of the problems such that the NBI condition
 2 code would have gone up.
 3 A Well, I think in that question, we would have to go back
 4 to Mark Pribula, and perhaps I'm recalling wrong, but I
 5 thought it was at condition code 4 because of the previous
 6 issues on the approach spans, those girders where we had
 7 had to make repairs in the 1990s on those approach span
 8 girders where we had had cracks in some girders, but I
 9 guess we would have to talk to -- see what the
 10 recollection is of others that actually entered those
 11 codes, you know, what they were -- what the reason for it
 12 was.

13 But, you know, again, back to we were
 14 repairing -- we were continuing to do maintenance on it.
 15 So there is nothing with a bridge in condition code 4,
 16 nothing indicates that it has to be taken out of service
 17 necessarily. More the concern is if it declines further
 18 than that.

19 BY MR. JOHNSON:

20 Q Dan, maybe this question should go to someone else, but
 21 how do you determine the condition code without having
 22 quantification of the findings? How do you plug in
 23 section loss to some determination that a bridge should
 24 have a particular condition code if you don't know the
 25 extent of the section loss?

Page 120

1 A Well, the condition codes that are -- Tom, that goes back
 2 to the NBI -- there's actual tables in the National Bridge
 3 Inspection System that describe all of those codes, codes
 4 0 through 9.

5 Q Correct.

6 A So one needs to look at those descriptors and then apply
 7 those. You know, it isn't set up with a numerical -- a
 8 numerical system where one can put in a certain amount of
 9 section loss and then look across the table and find a
 10 condition code, it's more general descriptions of what a 4
 11 is versus a 5 versus a 6. So it's not uncommon for you to
 12 go out and maybe, if we're both trained inspectors, you
 13 might go out and look at a bridge and you would call it
 14 condition code 5, and I would look at the same thing and
 15 call it condition code 6 or condition code 4, maybe one
 16 off from you. That's fairly common and we accept that.
 17 Of greater concern is if you call it condition code 3 and
 18 I call it condition code 8. Then we know something is
 19 really amiss here, you know, we're looking at something
 20 and seeing two completely different things. So that's
 21 when we have to resolve it.

22 So my point is that there isn't a fine -- a
 23 numerical thing that tells you it's 4, it's based more on
 24 a number of parameters that are cited in NBI.

25 Q So, basically, it's a subjective determination?

Page 121

Page 123

1 A Yeah, it's subjective, but within those codes they talk
2 about section loss and, at times, I think significant
3 section loss. So it's in there and up to the inspector
4 to, knowing those codes, assign the condition rating.
5 Q So what's consistent here over time is the fact that it
6 carried this -- the superstructure carried the condition
7 rating of 4?
8 A Yeah. I would have to look at the table and see how many
9 years it ran -- well, maybe we've got that in some past
10 ones here, but it looks like it was a 4 all through the
11 early '90s. Yeah, that was my recollection, that it was
12 attributed to the approach spans, but we would have to
13 talk to Metro -- or to Mark Pribula to confirm that.
14 Perhaps it was attributed to something else. I thought it
15 was the approach spans.
16 Well, this is interesting, because in the
17 early '90s the trusses are rated as a 7 and the
18 superstructure is a 4, so that is telling me something
19 else is -- must be driving it.
20 Q Right. If you look at the bearings, those are at 4.
21 A Okay, so I would maybe have to take -- I guess that's a
22 question better to Metro as to what caused the 4, you
23 know. It could well be I was incorrect that it was the
24 approach spans, but it looks like in these years it's not
25 the truss that's causing it because the truss is rated a

Page 122

1 7.
2 MS. BERGSTROM: Let's go off the record here.
3 (Dorgan Exhibit 1 was marked for
4 identification by the court reporter and
5 attached hereto.)
6 (Concluded at 5:50 p.m.)
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1 STATE OF MINNESOTA
) ss.

2 COUNTY OF DAKOTA)
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4

REPORTER'S CERTIFICATE

7 I, Colleen M. Sichko, do hereby certify that
8 the above and foregoing transcript, consisting of the preceding
9 122 pages is a correct transcript of my stenograph notes, and is
10 a full, true and complete transcript of the proceedings to the
11 best of my ability.

12 Dated April 28, 2008.
13

14 COLLEEN M. SICHKO

15 Registered Professional Reporter
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**Corrections to Transcript of Gray Plant Mooty Interview of
Daniel Dorgan
April 22, 2008 Volume 2
(042208DD.TXT)**

Page 12, Line 18 - "controlling member on the bridge, and where ~~whether~~ the section"

Page 18, Line 22 - "always designed for four ~~the same~~ lanes in both directions. I"

Page 19, Line 1 - "first few years, but then it was later ~~always~~ opened the full"

Page 30, Line 24 - "to explore it further and, eventually, the expected ~~accepted~~"

Page 30, Line 25 - "answer ~~answered~~ was, if a problem was to occur, what would be the"

Page 52, Line 1 - "try to come up from below ~~blow~~, and we wanted to know what their"

Page 55, Line 10 - "members ~~minimums~~. So we were, at this time, still pursuing them"

Page 86, Line 4 - "40 percent, because that's a shear plane ~~plain~~ that you are"

Page 88, Line 18 - "plate a half inch thick to resist that along that plane ~~plain~~,"

Page 90, Line 1 - "a horizontal plane ~~plain~~ right above that lower chord, but we"

Page 90, Line 7 - "Well, the plane ~~plain~~ that this is occurring on is significant"

Page 92, Line 2 - "inches; and 18 times 3/16 is just a little over 3 ~~37~~ inches,"

Page 92, Line 14 - "even load post ~~bolster~~ or take any action like that. You would"

Page 93, Line 11 - "and you will get .48 ~~.4~~ inches, that's what you receive."

Corrections to Transcript of Gray Plant Mooty Interview of Daniel Dorgan May 2, 2008

On Page 30, line 22-23, the question asked is; "The redecking option would have added redundancy to the bridge, as well, right?"

The response Mr. Dorgan provided beginning on line 24 was; "Correct. At the time we were going to redeck, we were going to take out the joints, some of the joints in the superstructure. So those would have, by analysis, those do help the truss. They give somewhat of another load path."

An addition needs to be provided to this response to clarify. Please add the following at the end of the response.

A continuous deck would provide some assistance to the truss in carrying loads, but it does not make it a redundant structure. The I35W Bridge would still be a fracture critical bridge following a deck replacement with a continuous deck.

The URS recommendations in June 2006 as stated on page 1 of their report were developed; "as a reference for the development of future renovation work to be performed on the bridge", They further stated these measures were a means of "improving the structural redundancy and minimizing tensile stresses in the trusses..". No timeline was assigned by URS to the recommendations provided on page 13 of that report. Following the June 2006 report, Mn/DOT did program a project for the addition of steel plating to selected members for the Fall of 2007. This step was Recommendation 1 from the URS report.

Page 1

1 INTERVIEW OF ERIC EMBACHER - April 14, 2008

2

3

4 In the Matter of Conducting an Independent
Investigation into the Collapse of the I-35W Bridge

5

6

7 Department of Transportation
395 John Ireland Boulevard
8 Room G-13
9 St. Paul, Minnesota

10

11 Met, pursuant to Notice, at eight
12 o'clock in the morning on April 14, 2008.

13

14

15

16 INTERVIEWERS:

17 Kathryn Bergstrom, Attorney at Law with
18 Gray Plant Mooty Law Firm.

19

20 ALSO PRESENT:

21 Barbara E. Forsland, MnDOT Data
Practices Compliance & Policy Analyst.
22 Liz Benjamin, Resident Engineer.

23 COURT REPORTER:

24 Julie A. Rixe

25

Page 2

INDEX	
EMBACHER EXHIBITS:	PAGE
1 - Witness Protocol for Interviews	3
2 - Minutes of Meetings dated 6/6/07	18
3 - Contractor schedule	26
4 - Weekly Meeting Attendance Sheet	33
5 - Memo dated 9/7/06 from E. Embacher to T. Worke	40
6 - Memo dated 6/29/07 from E. Embacher to T. Sloan	40
7 - Southeast Resident Office - 2008	40
8 - Organization chart	40

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Page 3

1 (Embacher Exhibit 1 was marked for
2 identification by the court reporter.)

3 EXAMINATION

4 BY MS. BERGSTROM:

5 Q All right. Let's get started. Eric, again, my
6 name is Katie Bergstrom. Before we get too
7 involved in these questions, let me tell you we
8 have a court reporter here today and she's taking
9 down everything we say.

10 MS. BERGSTROM: Let's go around the
11 table, if we will, and state our appearances. So
12 Katie Bergstrom with Gray Plant Mooty.

13 MS. BENJAMIN: I'm Liz Benjamin,
14 B-E-N-J-A-M-I-N.

15 MS. FORSLAND: And I'm Barb Forsland.
16 I'm the Data Practices attorney for the agency.

17 MR. EMBACHER: And I'm Eric Embacher,
18 E-M-B-A-C-H-E-R, with MnDOT.

19 BY MS. BERGSTROM:

20 Q Eric, we have started every interview here by
21 going through this witness protocol, and so we're
22 going to run through this.

23 Authority. We are the Gray Plant Mooty
24 law firm. Gray Plant Mooty has been retained by
25 the Minnesota Legislature to conduct an

Page 4

1 independent investigation into the collapse of
2 the I-35W bridge. The Minnesota Legislature has
3 asked us to provide a report of our investigation
4 by May 1, 2008. We will be asking you questions
5 concerning the bridge collapse and related
6 policies, practices and legislative oversight
7 issues.

8 Two, the purpose of this interview is
9 to determine what you might know about the
10 matters we are investigating.

11 Three, confidentiality during the time
12 our investigation is active. The information
13 that interviewees provide to us is not public
14 information. The information you provide may no
15 longer be confidential once we submit a report to
16 the Legislature.

17 Four, process. You are required to
18 answer our questions truthfully. A court
19 reporter is present to record our conversation.
20 Either during this interview or later in our
21 investigation, we may determine that we need to
22 verify certain information. If that occurs, we
23 may ask you for a further recorded statement, a
24 signed affirmation or an oath statement.

25 Five, post-interview contact. We view

Page 5

1 this process as an ongoing dialogue. If you
2 think of anything after this interview that you
3 want to tell us about, please call or e-mail us.
4 Likewise, we hope that you will respond to us if
5 we call or e-mail you with follow-up questions or
6 clarifications.

7 Any questions about that?

8 A No.

9 Q Okay. One of the tricks of working with the
10 court reporter is that she can only take down one
11 of our voices at a time. So I'll try not to talk
12 on top of you if you can do the same for me,
13 okay?

14 A Sounds fair.

15 Q And, also, no nods of the head or uh-huhs or
16 uh-uhs, just yeses or nos.

17 A Okay.

18 Q All right. Eric, how long have you worked for
19 MnDOT?

20 A I have worked for MnDOT for a little over ten
21 years.

22 Q Are you an engineer?

23 A Yeah, a registered engineer.

24 Q Your degree is in what?

25 A I have a bachelor of science in engineering and

Page 6

1 then a master's of science as well.

2 Q And when you started working for MnDOT ten years
3 ago, what was your job title?

4 A I started out in the office of materials and road
5 research doing concrete research.

6 Q And how long did you do that?

7 A It was probably a year-and-a-half, two years.

8 Q And after that what did you do?

9 A I went on the grad rotation for one year, which
10 would have involved -- for me involved six
11 months. I worked for Washington County and then
12 six months doing construction at MnDOT.

13 Q Okay.

14 A Then after that I went back to research then,
15 concrete pavement research, and that would have
16 been probably for about another year.

17 Q Okay. And concrete research, where did you
18 physically office?

19 A Maplewood lab.

20 Q And then after that?

21 A After that I worked for the concrete office for,
22 it was probably almost a year.

23 Q And was that in Maplewood too?

24 A That was in Maplewood too.

25 Q And then after that?

Page 7

1 A Then after that I was in construction, the
2 current position I'm in. So that's been since
3 March of 2002.

4 Q And what exactly is your title now, Eric?

5 A Project engineer.

6 Q And that's for the construction unit, is it, or
7 what is it?

8 A For, yeah, metro construction division. And then
9 within that we have our Mendota resident office,
10 and then out of that office is where we work --
11 or I work.

12 Q So you've done that since March of 2002?

13 A Yeah, correct.

14 Q And who do you report to?

15 A I report to Ms. Benjamin.

16 Q And does anybody report to you?

17 A Yeah. We have inspectors that would report to
18 us. Who they are would vary, kind of depending
19 on the projects we're working on.

20 Q When you say inspectors, what kind of inspectors?

21 A Construction inspectors would be technicians.

22 Q Is that an org chart?

23 A Yeah. So Liz would be the resident engineer that
24 I report to, and then here's where I would be
25 (indicating). And then -- Is this current? This

Page 8

1 must be current. These would be inspectors that
2 would potentially report to...

3 Q I see, okay. So there are three project
4 engineers within this subdivision, if you will?

5 A Project engineer and project supervisor, yeah.

6 Q So as the project engineer/supervisor, Eric,
7 what's your job duties?

8 A My duties would be to assist with the
9 administration of construction contracts, making
10 sure that the work contracts are performed in
11 accordance with the plans and specs, to make sure
12 that the materials used meet the requirements,
13 and then to supervise the technicians.

14 Q And those technicians, what's their role in that
15 process; what do they do?

16 A Their role is basically to direct the day-to-day
17 on the field work there, out there with the
18 contractor while they're performing the work,
19 inspecting the work that they're doing,
20 inspecting the materials that are coming in,
21 making sure that all the proper testing of
22 materials and stuff is performed.

23 Q The projects that you assist with, are they all
24 outside contractors outside MnDOT?

25 A Yes.

Page 9

Page 11

1 Q Okay. So you're not involved in assisting with
 2 construction contracts or maintenance contracts
 3 that MnDOT crews themselves are doing?
 4 A No.
 5 Q Do you have any role, Eric, in deciding what
 6 construction contracts are let?
 7 A No, no.
 8 Q Who let's you know that you've been assigned to a
 9 particular construction contract?
 10 A To a particular job that we're doing from our
 11 office?
 12 Q Right, right.
 13 A Liz would assign those.
 14 Q And at any given time how many construction
 15 contracts do you kind of supervise at a time?
 16 A It would vary on the size, but anywhere from,
 17 say, one or two to potentially five or six at
 18 least.
 19 Q So it's only one or two if they're really big;
 20 but if they're smaller ones, five or six?
 21 A Right. And that could be through the whole
 22 construction season and they could be staggered,
 23 too, where we're not doing them all at the same
 24 time. There could be overlap as well.
 25 Q And I take it, based on this history in MnDOT,

1 Q Who was the other person?
 2 A Barry Nelson.
 3 Q I see. He's in this other position here.
 4 A Yeah.
 5 Q How come you both were involved?
 6 A I was handling more the grating stuff and Barry
 7 was handling more of the bridge stuff, but we
 8 overlapped a little bit, depending on what work
 9 was going on.
 10 Q Is it often the case that you would both be on a
 11 project?
 12 A We have. Barry has got a lot of bridge
 13 experience from being an inspector, so it's
 14 helpful to have him on bridge-type work.
 15 Q And as I understand this project, it was kind of
 16 a resurfacing, if you will, of 35W from 94 to
 17 Stinson Boulevard?
 18 A On the -- Yeah. On the bridge it was a
 19 resurfacing, and then the pavement off the bridge
 20 it was a rehab.
 21 Q Okay.
 22 A So it was cutting out bad sections of concrete
 23 and replacing them.
 24 Q When did you first hear about that project?
 25 A Probably would have been sometime in 2005, I

Page 10

Page 12

1 that you're not a bridge inspector?
 2 A Correct.
 3 Q And you've never worked for central bridge
 4 office, right?
 5 A No, I haven't.
 6 Q In performing your job duties in the role that
 7 you are now, do you work with the central bridge
 8 office?
 9 A I do on occasion, yeah. I mean, if we've got a
 10 project that involves bridge work, you know, if
 11 there's any questions that arise out of it, we
 12 would consult them for recommendations on how to
 13 proceed with the work.
 14 Q Who is your contact in central bridge office?
 15 A It would -- For construction stuff is typically
 16 the original bridge engineer, construction --
 17 regional bridge construction engineer, which
 18 would be Paul Kivisto.
 19 Q All right. I understand that you were involved
 20 as the project engineer for the overlay project
 21 in the summer of 2007 on the bridge; is that
 22 right?
 23 A I was one of the project engineers, project
 24 supervisors involved, yeah. There were two of
 25 us.

1 would think. I can't remember if it was let --
 2 Yeah, it would have been 2005.
 3 Q And do you remember how you first heard about how
 4 you would be involved in it?
 5 A I would imagine it was assigned and we were kind
 6 of assisting with looking at some of the staging
 7 of the work or the traffic control of it in
 8 2005. I guess I don't recollect exactly when it
 9 was assigned or how it came about at that point.
 10 Q If you get a project like that from Liz, is that
 11 a verbal assignment or do you get a little memo
 12 that says, Hey, this is what's going to be on
 13 your plate, or how does it come to you?
 14 A Either it would be a verbal or she has a schedule
 15 of projects. And usually we have a list of the
 16 names -- list of projects and who's assigned to
 17 which project.
 18 MS. BERGSTROM: Liz, is this something
 19 that you prepared?
 20 MS. BENJAMIN: Yes.
 21 MS. BERGSTROM: Okay.
 22 MS. BENJAMIN: That's the current one
 23 for the projects. That's this year's.
 24 MS. BERGSTROM: And then how does it
 25 work from -- how do you find out which projects

Page 13

1 you're going to be in charge of?

2 MS. BENJAMIN: There's five resident

3 construction offices in the metro area, just like

4 the one Eric has explained to you. They are

5 typically geographically located, so projects

6 that are in those areas you end up typically

7 getting. The northeast is out of Oakdale,

8 there's a central, there's a northwest and a

9 southwest resident office.

10 This project was actually supposed to

11 be out of the northeast office, Oakdale. Steve

12 Crodowski (phonetic) was going to be the resident

13 engineer. His schedule was too full to do the

14 work. We had some room to do the work, so we

15 picked this project up.

16 MS. BERGSTROM: And when you say you

17 picked the project up, how did it come to your

18 attention?

19 MS. BENJAMIN: Okay. What we have is a

20 project management schedule, so that's all the

21 projects that are in the metro area that are

22 going to be let to contractors. And those --

23 that project management schedule or ARTEMUS, as

24 we call it, has the designers, the

25 pre-designers. It's a schedule of all the work

Page 14

1 that's necessary to get the design ready so that

2 we can get it in construction so that it can be

3 let out to a contractor, and then ultimately the

4 work can be done and then we can inspect it. So

5 the designers and the planners put all that

6 information in as far as the schedule.

7 We have monthly meetings when we sit

8 down and talk about all these different

9 projects. The letting date is usually

10 established as to when they can be finished, when

11 they can get it into the letting schedule. Then

12 it's let out to the contractor, and that's when

13 we ultimately get it.

14 MS. BERGSTROM: Okay. Who do you

15 report to?

16 MS. BENJAMIN: Terry Zolar. Terry

17 Zolar reports to Sue Mulville and Sue, of course,

18 reports to Connie.

19 So what that schedule is that you're

20 looking at is a compilation of all of the

21 projects that were in ARTEMUS for this year, and

22 I do that every year for all of the projects.

23 MS. BERGSTROM: Okay.

24 MS. BENJAMIN: So depending upon what

25 projects we have, what skill levels, you know,

Page 15

1 are necessary to accomplish that work, I'll

2 assign projects.

3 MS. BERGSTROM: Okay. And at what

4 level, is it the Terry or the Sue or the Connie

5 level, do they decide which projects go into

6 ARTEMUS?

7 MS. BENJAMIN: I don't know the answer

8 to that question.

9 MS. BERGSTROM: Okay. But ARTEMUS

10 should -- Whenever the overlay project was added,

11 that should be tracked in ARTEMUS?

12 MS. BENJAMIN: Correct, correct.

13 MS. BERGSTROM: Okay.

14 MS. BENJAMIN: Sue is in charge of

15 program delivery, so that means design,

16 right-of-way, pre-design, and then, ultimately,

17 construction. So somewhere out of her folks, I

18 would imagine, is where it gets determined when a

19 project needs to be done.

20 BY MS. BERGSTROM:

21 Q At the point in time, Eric, that you get

22 involved, has the contract already been let?

23 A No, no.

24 Q So what role do you have in that contracting

25 process?

Page 16

1 A Prior to letting?

2 Q Right.

3 A We put together portions of the provisions

4 generally relating to amount of contract time

5 needed for completing the work, provisions for

6 traffic control, when they're allowed to close

7 lanes, stuff like that. That's kind of the

8 primary involvement we've got. Looking at how

9 the staging of it is and determining how much

10 time is needed to do the work.

11 Q And that's pre-bid, right?

12 A Correct.

13 Q Okay. What is the office, then, that actually

14 packages up all of your information that you help

15 with the staging and then puts it out for bid?

16 A Design or the project manager would be the one

17 that basically assembles all the provisions and

18 plans. So when we get our stuff together and

19 approved, then it goes to them to assemble with

20 that and to submit.

21 Q And in this case was that Jeff Prelgo?

22 A It's -- It was, and then he -- Let's see. Jeff

23 had -- It was Jeff, and then he took a different

24 position. Then Tiffany Cotts (phonetic) and I

25 want to say Chris Bosack (phonetic) I think kind

Page 17

1 of finished up assembling that stuff. And their
 2 main involvement would be more on the grating
 3 part of it, and then bridge would have had
 4 someone that would have handled the
 5 bridge-related work.
 6 Q And do you remember who that was?
 7 A Not for sure. No, I don't.
 8 Q So after you have done some of the staging and
 9 provided some of the information, then somebody
 10 in this other position gets the bid package and
 11 information ready. Who makes the decision on who
 12 gets awarded the bid; where is that decision
 13 made?
 14 A Who gets awarded the bid?
 15 Q Yeah.
 16 A It's a low-bid process, so it's letting and low
 17 bid and contract -- CO contract administration, I
 18 guess, would go through the work of determining
 19 whether they're qualified.
 20 Q So they're looking at the bid responses and
 21 making that determination?
 22 A Uh-huh.
 23 Q And do you have any involvement in that piece?
 24 A No.
 25 Q Okay. So is the next time you touch the project

Page 18

1 again once the bid has been let?
 2 A Once it's been awarded and approved, then we
 3 proceed. Our next step, generally, is doing
 4 preconstruction conference with the contractor
 5 once it's been awarded and approved.
 6 (Embacher Exhibit 2 was marked for
 7 identification by the court reporter.)
 8 BY MS. BERGSTROM:
 9 Q So, Eric, I'll have you look at Exhibit 2. And
 10 rather than have us try to guess when things
 11 happened, I'm going to see if we can use
 12 documents to fill in the holes.
 13 A Okay.
 14 Q This looks like a pre-bid construction conference
 15 that was on this project, the overlay project, on
 16 June 6, 2007. So is this what you were talking
 17 about?
 18 A Yeah. For a preconstruction conference? Yes.
 19 Q Okay. So this -- And I take it all the people on
 20 the second page -- There's a cover page and then
 21 the second page -- are these all the people that
 22 attended?
 23 A Correct, yes.
 24 Q Is this a big group or a pretty usual amount of
 25 people to attend or --

Page 19

1 A This was a pretty good-sized group, I would say
 2 towards the larger side.
 3 Q From a project standpoint was this project a
 4 pretty big project?
 5 A Yeah. It was big, especially in the sense of
 6 traffic impacts.
 7 Q All right. About midway down that list there is
 8 some representatives from PCI, Progressive
 9 Contractors, Inc. And I understand they were the
 10 contractor who was awarded the project, right?
 11 A Correct.
 12 Q Had you worked with them before?
 13 A Yes.
 14 Q On what projects?
 15 A I've worked with them before on a project -- it
 16 would be the Valley Creek Road interchange at
 17 494. And not necessarily these folks
 18 specifically, but PCI.
 19 Q So these people weren't known to you, but the
 20 company was?
 21 A Yeah. And we also -- Actually, we had a concrete
 22 pavement rehab project earlier in 2007 on
 23 Highway 77 in Apple Valley, and PCI was the prime
 24 contractor on that. So a couple of these would
 25 have been involved in that one.

Page 20

1 Q So the Valley Creek interchange and the
 2 Highway 77 were the other two times that you had
 3 worked with PCI?
 4 A As a prime. They have -- I mean, they have been
 5 on other projects as a subcontractor.
 6 Q So knowing that the -- One of the things I'm
 7 trying to get to is when this project might have
 8 first come to your attention, and you would guess
 9 maybe sometime in 2005. Knowing that the
 10 preconstruction conference was in June of '07,
 11 does that help back anything up for you or --
 12 A As far as?
 13 Q When you first were assigned the project.
 14 A I guess one of the main things I recollect for
 15 recollection of the project was looking at the
 16 staging of the traffic for the project, which
 17 would have been in 2005; but how that came about,
 18 I guess I don't remember.
 19 Q Now, looking at the list of people present, is
 20 there anybody from central bridge at this
 21 meeting?
 22 A I don't see any.
 23 MS. BENJAMIN: May I add something?
 24 MS. BERGSTROM: Sure.
 25 MS. BENJAMIN: Typically they don't

Page 21

1 come to the preconstruction meeting, the bridge
 2 representative or the liaison person. This type
 3 of project was a typical, very common repair
 4 project. We do a lot of bridge rehabbing. We do
 5 a lot of concrete rehabbing.
 6 BY MS. BERGSTROM:
 7 Q As I understand this project, there were a lot of
 8 bridges involved, right?
 9 A Correct.
 10 Q Okay.
 11 A They would have likely -- I'd have to look at the
 12 invite list we have. I generally put an invite
 13 list together who I send notices out to, and I
 14 would imagine they were invited. But I would
 15 agree with Liz, on something like this they
 16 probably wouldn't typically be there unless there
 17 was specifically a need for them.
 18 Q How do you come up with an invite list?
 19 A We look at generally the scope of the work
 20 involved and which kind of specialty offices may
 21 have some interest or need to be involved or have
 22 something going on in the project. And then,
 23 also, there's kind of some set lists, as well, as
 24 far as traffic people that would be invited,
 25 materials, people that do the materials testing

Page 22

1 and stuff that would be invited. You know, the
 2 contractor would then be responsible for any
 3 subcontractors that would need to show up or be
 4 involved with the meeting.
 5 Q So some of the people on this list may have been
 6 invited by you and some of these people may have
 7 been invited by others; is that fair?
 8 A Yeah. By others would generally be the
 9 contractor-type people. MnDOT people generally
 10 would be by us. There may be somebody that
 11 somebody else in MnDOT may have been informed of
 12 it, but...
 13 MS. BERGSTROM: I know that, Barbara,
 14 you produced files for this overlay project on
 15 Friday afternoon. So I don't know whether that
 16 invite list is part of that. My guess is it
 17 maybe is.
 18 BY MS. BERGSTROM:
 19 Q But would you have a physical, Eric, invite list;
 20 would there be a document that shows who was
 21 invited?
 22 A I should. I generally just make -- It's more for
 23 my use. I think my files got copied. If they
 24 were, it should have been in there. I just
 25 generally make a list and address it for each

Page 23

1 project, and then check off if I send them an
 2 e-mail notifying them or a letter.
 3 Q I think I've seen something like that. It's a
 4 form, isn't it?
 5 A Kind of like a form is how I set it up, yeah.
 6 MS. BERGSTROM: Barbara, maybe we can
 7 talk afterwards about whether we need to get our
 8 hands on that in a certain way or something like
 9 that.
 10 MS. FORSLAND: Eric, would it be
 11 possible for you to pull that out of your file,
 12 just as a courtesy, to make it easier for Katie
 13 to reference that single document out of a pile
 14 of them?
 15 MR. EMBACHER: Yeah. And send it to --
 16 MS. FORSLAND: Shoot it off to me and
 17 I'll send it to Katie.
 18 MR. EMBACHER: Okay.
 19 MS. FORSLAND: Is it something you can
 20 send electronically?
 21 MR. EMBACHER: I can make a PDF of it,
 22 yeah.
 23 MS. FORSLAND: Okay. Great. Thanks.
 24 BY MS. BERGSTROM:
 25 Q Looking again at this Exhibit Number 2, Eric, it

Page 24

1 looks like the project official start date was
 2 June 4, 2007, and then the preconstruction
 3 meeting was June 6th. Is it in that week that
 4 the actual work on this project began; do you
 5 know?
 6 A On the week of June 4th? I believe -- I would
 7 have to check, but I believe they started -- it
 8 may have been the following week.
 9 Q Okay.
 10 A Yeah. Under contractor's operations, the lane
 11 closure on June 14th, that was for the grating
 12 work, which would have -- What they were doing is
 13 marking repair areas for the pavement. So they
 14 actually started work on the 18th, is the date
 15 they would have started.
 16 Q And this was scheduled to conclude sometime in
 17 the fall, correct?
 18 A Correct.
 19 Q So they got going in June. On a day-to-day
 20 basis, then, what is your duties vis-a-vis this
 21 project? Are you out on site ever?
 22 A I would be on site. It would vary, but I was
 23 probably on site maybe a couple times a week,
 24 depending on the activities or needs. If there's
 25 questions on something, it would be more or less.

Page 25

1 Q And are these inspectors who report to you, are
 2 they on site?
 3 A Not all of them were, but yeah. Some of them are
 4 assigned to different projects. There would be
 5 ones that would be assigned to this project that
 6 would have been on site.
 7 Q Okay. And who was that; do you know?
 8 A Mark LeMay and Matt Latte, Carlos Mesa was out
 9 there. And they were more specifically on the
 10 grating or the rehab stuff on the roadway.
 11 Q And so do they go out on a daily basis?
 12 A Yeah. They're out there every day.
 13 Q And is the way to describe what they're doing
 14 just kind of quality checks for the contractor's
 15 work?
 16 A They're doing quality assurance. You know, if
 17 they're doing concrete work where they're pouring
 18 patches back in the pavement, they'd be testing
 19 concrete for air and slump, taking tickets as far
 20 as concrete we're getting, making sure it's the
 21 right mix, inspecting any steel or materials that
 22 would be going into the repairs, then also
 23 looking at locations of work, verifying locations
 24 where repairs need to be made. And at this point
 25 primarily it's the grating work.

Page 26

1 MS. BENJAMIN: The inspectors are
 2 verifying what work is shown in the plan to be
 3 done.
 4 BY MS. BERGSTROM:
 5 Q And when you're going out two times a week,
 6 what's the purpose of your visits?
 7 A I generally go out to see the progress, where
 8 things are at, if there's any issues with things,
 9 making sure that our inspectors are getting --
 10 have what they need and if there's any concerns
 11 they may have that need to be addressed. That's
 12 either by a site visit or a phone call if they
 13 have a question when I'm not out there.
 14 Q Tell me about -- I've seen some kind of elaborate
 15 charting on how you track the progress of the
 16 project. Is that something that you prepare?
 17 A The schedule; is that what you're talking about?
 18 Q Yes.
 19 (Embacher Exhibit 3 was marked for
 20 identification by the court reporter.)
 21 BY MS. BERGSTROM:
 22 Q Why don't you tell me what this Exhibit 3 is?
 23 A This would be a schedule that the contractor
 24 would put together, and this one looks like one
 25 of the initial submittals that I would have

Page 27

1 reviewed and had comments on as far as how I
 2 wanted it set up.
 3 Q Okay. So whatever program is that generates this
 4 document, that's PCI's?
 5 A On this one it would be, yes. And this project
 6 required, it's called a CPM schedule, a critical
 7 path method schedule. What it does is it ties
 8 activities together to show which path is kind of
 9 controlling the completion of the work.
 10 Q Explain that to me. I think what you just said,
 11 if I was listening right, is it shows which path
 12 is driving the completion of the work?
 13 A Right.
 14 Q Okay. And what do you mean by path?
 15 A Sequence of work. So the contractor lays out, we
 16 have to do this work, kind of a step-by-step
 17 process of how the work has to be done to be
 18 completed. So they can be working, say, for
 19 example, on the bridge stuff, bridge work, as one
 20 path, and the grating or the concrete rehab stuff
 21 they can do at the same time but have different
 22 sequence of work. And one of them is going to
 23 take longer than the other to get done. So a CPM
 24 schedule will show you which path is the longest,
 25 what controls when the completion of the work is

Page 28

1 done.
 2 Q What dictates whether a project has a CPM
 3 schedule or not?
 4 A Generally it would be part of our work in putting
 5 provisions together if we include it, if we want
 6 to include that level of schedule. Under the
 7 regular specs a bar chart could be used, where,
 8 again, it shows kind of a sequence, but it
 9 doesn't tie activities together. This one has to
 10 be done before this one.
 11 Q So do you make that determination when you're
 12 getting the project ready for bid?
 13 A Correct, yeah.
 14 Q Okay. And what was the path that was driving
 15 this schedule?
 16 A I believe the bridge was. This isn't the actual
 17 final accepted schedule. This is one that was
 18 initially submitted. So there would have been
 19 a -- an update to this to address some of the
 20 comments.
 21 Q When you're making a determination at the
 22 beginning of a project, pre-contract award, to
 23 include a CPM schedule or not, what elements go
 24 into making that decision?
 25 A Generally, you know, complexity of the project

Page 29

1 would be involved. If it's something we feel
 2 would be beneficial to use to make sure the
 3 contractor clearly understands the sequence of
 4 the work, the order of the work, and to help
 5 ensure that the job gets done on time. So
 6 complexity and then time, because it's a way
 7 of -- for us to be able to track -- Because they
 8 update these -- as the project goes, these will
 9 be updated, this is when the actual work was
 10 completed, so you can see if the contractor is
 11 falling behind schedule. So you can help
 12 identify if something is falling behind, and it
 13 also helps us to identify maybe ways to bring us
 14 back on schedule with a reasonable fix or
 15 reasonable adjustment.
 16 Q And the time factor, is that, in part, a traffic
 17 control issue?
 18 A It could be. If we've got traffic impacts, to
 19 keep it on schedule, you know, gets more lanes
 20 back open up in the expected time frame.
 21 Q And maybe you've already answered this, but do
 22 you remember what it is about this project, was
 23 it the bridge that caused it to go to a CPM
 24 schedule?
 25 A It would have been a combination. I mean, we

Page 30

1 knew there was bridge work and there's grating
 2 work both. It was a means to help identify -- to
 3 see which would kind of control it, for one, and
 4 then also to make sure we can kind of stage and
 5 control things as we're going. If something is
 6 being slowed up, if it's a concern or not, you
 7 know, to extend it a little longer or had to be
 8 addressed to keep things on time.
 9 Q And what was the time sensitivity on this
 10 project?
 11 A The biggest time sensitivity was 35, which is a
 12 three-lane roadway in both directions, was going
 13 to be restricted down to two lanes basically
 14 throughout the project. So the general public is
 15 losing a lane of traffic, basically, until the
 16 job is completed.
 17 Q So PCI gets out and starts the project in
 18 mid-June. The bridge collapses on August 1st.
 19 How much of the non-bridge related -- well, the
 20 non-35W bridge related work was done at the time
 21 of the collapse?
 22 A The southbound roadway was pretty well complete
 23 as far as the rehab work. The northbound roadway
 24 was I'd say maybe half on the concrete rehab.
 25 And then once that was completed, there was

Page 31

1 still -- the other remaining work would have been
 2 there was median guardrail throughout the project
 3 which was to be removed and replaced with
 4 concrete median barrier, so that work would have
 5 been remaining as well. That was the biggest
 6 part that was left, along with some roadway
 7 lighting.
 8 There was also some bridge work on the
 9 north end that I want to say -- I'm trying to
 10 remember. Southbound may have been -- southbound
 11 bridge on the north end of the project were
 12 probably pretty close to complete or at least
 13 half complete and probably the same for the
 14 northbound, at least half complete.
 15 Q After the collapse was the unfinished parts of
 16 that project ever completed?
 17 A The portion -- Yeah. On the north end the
 18 portions of the work were completed.
 19 Q You mentioned, Eric -- Well, let me ask this:
 20 Who from central bridge was involved in the
 21 project?
 22 A Involved in what sense?
 23 Q Was there somebody from central bridge assigned
 24 to the project or that was your contact on the
 25 project?

Page 32

1 A There wouldn't be, I guess, a specific assignment
 2 to the project. It would just be more a matter
 3 as far as construction stuff if there was a
 4 question or an issue, we'd contact Paul Kivisto.
 5 Ed Lutgen would have been another one that would
 6 have had some involvement.
 7 Q And do you remember speaking to them about this
 8 project?
 9 A I -- I know I talked to Ed on a unrelated matter
 10 for the bridge part of it. It had to do more
 11 with a wall for a pier protection by Fourth and
 12 University. And I don't believe I talked to Paul
 13 at all, that I recollect at least.
 14 Q Do you remember if Paul or Ed were at any
 15 construction meetings?
 16 A No, I don't believe so.
 17 Q After you have a preconstruction conference, do
 18 you have subsequent meetings?
 19 A We have -- On this project, yeah, we have weekly
 20 progress meetings. So we held these every week
 21 to kind of see where the status of the work was
 22 and any upcoming potential issues.
 23 Q And where are those held?
 24 A Those are held at the field office that we had
 25 set up, the field trailer that we have set up on

Page 33

Page 35

1 the job site.
 2 Q On this project where was that set up?
 3 A It would have been set up on the south side of
 4 the river and on the east side of the river
 5 bridge, just outside from underneath the river
 6 bridge itself.
 7 Q Do you keep weekly attendance sheets for those
 8 meetings?
 9 A Yes, we had sign-in sheets for...
 10 (Embacher Exhibit 4 was marked for
 11 identification by the court reporter.)
 12 BY MS. BERGSTROM:
 13 Q Number 4, Eric, is this a sheet like that, just
 14 so I know what I'm looking at?
 15 A Yep, correct.
 16 Q Okay. And are these invite meetings or are these
 17 standing meetings?
 18 A These are standing ones.
 19 Q Okay. So there should be a stack of sheets like
 20 this that would show on a week-to-week basis who
 21 showed up, right?
 22 A Correct. They'd generally be attached to -- I
 23 put on this one, at least, the project meeting
 24 minutes together, and usually they're with the
 25 minutes.

Page 34

1 Q So would there be weekly minutes?
 2 A Yep.
 3 Q Okay. So based on this date, it looks like at
 4 least this week's weekly meeting was actually the
 5 day before the bridge collapse?
 6 A Correct, yep.
 7 Q Okay. Eric, have you ever worked with URS?
 8 A No.
 9 Q Do you --
 10 A No.
 11 Q Were you aware at all at any time during this
 12 Project 107 that URS was studying the bridge?
 13 A No.
 14 Q Okay. Have you worked with HNTB?
 15 A I haven't directly. They've been involved with
 16 another project we've had, but in general I guess
 17 I haven't really worked with them directly.
 18 Q What about the University of Minnesota, worked
 19 with them on any projects?
 20 A They had -- I guess it depends what you mean work
 21 with them. They had a grad student on this
 22 project that was interested in coming out to look
 23 at some of the pavement stuff to try some
 24 equipment that they were trying to work to help
 25 identify concrete deterioration stuff. It never

1 worked out that he was able to come out. Other
 2 than that, no. As far as working at MnDOT
 3 itself, I haven't.
 4 Q Okay. You weren't aware that either the
 5 University of Minnesota or HNTB was studying the
 6 bridge?
 7 A No.
 8 Q Okay. For your work on the bridge and running --
 9 or being a project manager for this, was there
 10 any study by you, Eric, any analysis on how the
 11 actual construction work on the bridge might
 12 affect the structural integrity of the bridge?
 13 A No, not on my end.
 14 Q Do you know -- Have you ever been involved in an
 15 analysis like that on any other project?
 16 A No.
 17 Q Was there any, to your knowledge, analysis of how
 18 the live loads or the dead loads might be
 19 affected on the bridge during construction?
 20 A Not that I'm aware of.
 21 Q During the construction project or during the 107
 22 project, did you talk to any of the metro bridge
 23 inspectors who inspected this bridge?
 24 A No.
 25 Q Do you know them?

Page 36

1 A Not really, no.
 2 Q Mark Pribula?
 3 A I know the name, but I don't really know him.
 4 Q Kent Fuhrman?
 5 A I don't know that name, so no.
 6 Q Okay. During the project, either at these
 7 meetings or in your site visits, did you ever
 8 have a conversation with PCI about how they were
 9 positioning their materials on the bridge?
 10 A No, I never did.
 11 Q If somebody had questions about that, who would
 12 take that up with PCI?
 13 A If there was a question with it?
 14 Q Right.
 15 A If it was something that was a concern or PCI
 16 asked a question, it would probably be asked to
 17 one of our inspectors on the job. And then they
 18 would typically probably raise it to myself or
 19 Barry, that there was some type of request or if
 20 they noticed a concern about it. And then the
 21 chain from there, we'd typically contact CO
 22 bridge, Paul Kivisto or somebody, for a
 23 recommendation of what should be done.
 24 Q As far as you know, did any of your inspectors
 25 raise a concern like that?

1 A Not that I'm aware of.
 2 Q And you don't recall talking to Paul Kivisto
 3 about anything?
 4 A No.
 5 Q Okay. Do you know whether anybody from central
 6 bridge attended the weekly construction meetings?
 7 A I don't believe they did. I'd have to check; but
 8 from what I recollect, they didn't.
 9 Q There was something on this time line and in some
 10 of the documents that I've seen that talked about
 11 the deicer on the bridge or the anti-icing system
 12 and what needed to be done vis-a-vis that. Do
 13 you remember that?
 14 A Do I remember it in the schedule?
 15 Q Yeah. I'm just wondering if you're generally
 16 familiar with the deicing system on the bridge.
 17 A Generally, yeah.
 18 Q What particular issues with the deicing system
 19 did you have to address in the overlay project?
 20 A I believe it was primarily just with the overlay,
 21 that the heads would need to be replaced.
 22 Whether by damage or just in order to complete
 23 the overlay, I think they had to replace them.
 24 Again, my recollection is pretty general as far
 25 as replacement. I know there's some piping and

1 stuff that was being replaced.
 2 Q Visually I don't have a concept of what this
 3 deicing system looks like, so I'm just trying to
 4 -- When I see references to it, I'm just
 5 wondering what had to be done vis-a-vis that.
 6 A In general there's a disc, maybe a foot in
 7 diameter or so (indicating), that are placed in
 8 the deck throughout and then they have pipes that
 9 go underneath the bridge. So in order to take
 10 two inches off of the overlay to replace it,
 11 those discs had to be removed to get all the
 12 concrete off. And then when they come back and
 13 put the new concrete back in, they put new discs
 14 back in place.
 15 Q And was all the detail about that, I take it, in
 16 the bid package?
 17 A Yeah.
 18 Q Okay. And who would have -- who was involved in
 19 putting together the design or the shop drawings
 20 for that?
 21 A Pre-bid or --
 22 Q Pre-bid, yeah.
 23 A It would either be metro design or bridge. I
 24 don't know which one put that together. I
 25 believe it was in the bridge plan, so it was

1 probably bridge.
 2 Q I know from this Exhibit Number 4 that you had a
 3 construction meeting the day before the bridge
 4 collapsed. Were you out at the bridge site on
 5 August 1st?
 6 A Not prior to the collapse, no.
 7 Q I just don't know the answer to this: Were there
 8 MnDOT folks on the bridge when it collapsed?
 9 A There was one on it.
 10 Q And who was that?
 11 A Bob Rucker.
 12 Q Who's Bob?
 13 A He would be one of our, I guess you could say,
 14 temporary or summer help for maintenance
 15 inspectors as well.
 16 Q So in a similar position to some of these people
 17 that you've mentioned?
 18 A He would be with these here (indicating), the
 19 bottom of the T.G.S.'s on loan.
 20 MS. BENJAMIN: Yeah T.G.S.
 21 MR. EMBACHER: Yeah. These are the
 22 T.G.S.'s on loan. It's a 60/40 shared position
 23 with maintenance.
 24 BY MS. BERGSTROM:
 25 Q Okay. Prior to the June 6th preconstruction

1 meeting, were you aware, Eric, of some work done
 2 on the bridge in May of 2007?
 3 A In May? No.
 4 Q Have you been involved in any other construction
 5 projects involving this bridge?
 6 A Involving this bridge? No.
 7 Q Okay. We've been going for an hour. Why don't
 8 we take a little break.
 9 A Okay.
 10 (Break taken.)
 11 (Embacher Exhibits 5 through 8 were
 12 marked for identification by the court
 13 reporter.)
 14 BY MS. BERGSTROM:
 15 Q Eric, just to kind of fill in some holes here and
 16 make sure I know what I'm looking at, I'm going
 17 to hand you Exhibits 5 and 6. 5 is dated
 18 September 7, 2006, so it's the year before. Why
 19 don't you just explain to me what this document
 20 is.
 21 A This was a letter sent out to AGC. Again, given
 22 the traffic impacts of this project and --
 23 primarily the traffic impacts, what we decided to
 24 do on this one is to do a constructability
 25 review, and what that is is invite subcontractors

Page 41

Page 43

1 in. And there's some preliminary maps that we
2 kind of let them look at, and we just discuss
3 with them any thoughts on how -- the best way to
4 stage it and do the work to try to minimize how
5 much impact we had on traffic. So we brought
6 them in just to have each one take a look, kind
7 of give some thoughts on if they were looking at
8 it, how they would put it together, what would
9 make sense as far as staging it. You know, can
10 we do it this way, or, you know, can we set it up
11 with just weekends to try to minimize how much
12 traffic impacts we have. It's to get the
13 industry thoughts or feelings on ways that we can
14 maybe approach this project.

15 Q Who is Minnesota AGC?

16 A Association of General Contractors.

17 Q And what about CPAM?

18 A Concrete Paving Association.

19 Q And so they're kind of bigger member
20 organizations, and they're going to assist you in
21 listening to the contractors; is that it?

22 A They have -- The contractors we had are members
23 of one or both of these.

24 Q Okay.

25 A So I think it was partly -- I'd have to check our

Page 42

1 office of construction. Usually the contracting
2 can help set some of this stuff up and how -- who
3 this is sent to. But they have some, you know,
4 means of being able to identify who might be
5 helpful and basically make sure it's fair, that
6 we're not just picking certain contractors, that
7 we're doing a general pick based on what type of
8 work they do and have done.

9 Q So the actual contractors that were coming in, is
10 it fair to call it kind of like a brainstorming
11 session?

12 A Yeah, kind of. We give them the general plans
13 and say, what would help speed things up, see
14 what information they could offer for it.

15 Q And it looks like there was at least three, maybe
16 four scheduled?

17 A Yeah. There was going to be a fourth. I can't
18 remember the contractor it was, but they weren't
19 able to attend.

20 Q Do the contractors who come and do this, do they
21 bring materials with them, written materials?

22 A No, they didn't really. I'm trying to remember.
23 I don't think we even provided them advanced
24 stuff. I think we kind of show them at the day
25 of kind of the plans and what the scope of work

1 is and then try to get their thoughts on that.

2 Q At this point in time, September of 2006, how
3 detailed are the plans? Do you have shop
4 drawings and things like that?

5 A No. This is looking more at general plan and
6 layout and staging of it more than the details,
7 general quantities as far as kind of time frames
8 we might be able to have certain quantities in,
9 stuff like that.

10 Q At this time, September of '06, have you already
11 decided that it needs a CPM schedule or are you
12 using these guys to help you decide if you have
13 to have one?

14 A I guess I don't recollect. We may have it in
15 mind that we may or may not use it. I don't
16 think it was decided at that point whether for
17 sure we were going to use it. The provisions we
18 would have put together wouldn't have been
19 together at that time.

20 MS. BENJAMIN: I'd like to add a couple
21 things to this.

22 MS. BERGSTROM: Okay.

23 MS. BENJAMIN: When we do this review
24 process, what we're asking for on these tricky
25 projects is for the contractor to look at how

Page 44

1 he's going to approach doing the job, how he's
2 going to get his material in, equipment in, how
3 he's going to want to lay the work out. We knew
4 because we were taking the bridge down to two
5 lanes it was going to be a tight project, plus
6 with all the ramp closures that were happening
7 out there. So we wanted the industry to take a
8 look at that up front and give us any ideas so
9 that we could make sure when we put the contract
10 together, it was a doable contract.

11 BY MS. BERGSTROM:

12 Q But they don't get anything in advance, right,
13 and they don't bring anything for you to study,
14 so it's more like a verbal session?

15 A Yeah, generally.

16 MS. BENJAMIN: What we do is we have
17 layouts, typically, and we show them the area of
18 the work, what kind of work we're looking at,
19 what ramps are going to have to be shut down. So
20 they have the geometry of the roadway, the curves
21 and how tight things are in different areas.

22 BY MS. BERGSTROM:

23 Q Eric, who at MnDOT participates in this kind of a
24 session?

25 A This one did -- Who was all there? Myself, I

Page 45

1 believe Jay was there, Jay Hietpas.
 2 Q Who's that?
 3 A He would be with the office of construction and
 4 bid contracting. He deals a lot with innovative
 5 contracting stuff and design build stuff.
 6 Q How do you spell his last name?
 7 A H-I-E-T-P-A-S.
 8 Q Anybody else?
 9 A The designer, Jeff Prelgo, was there, I believe,
 10 and I think Rick Post was there. He was one of
 11 the technicians that was doing some of the design
 12 stuff. I'm trying to remember if Barry was
 13 there. I don't believe he was, but...
 14 Q And who does Rick Post work for?
 15 A He worked for Jeff Prelgo at that time. He was
 16 one of the technicians doing the design stuff. I
 17 think that may have been it for MnDOT.
 18 Q Do you know, was central bridge invited to
 19 participate in this session?
 20 A I don't recollect.
 21 Q But --
 22 A I don't know if they were. I think -- I think we
 23 were looking at more -- We knew we had space on
 24 the bridge to maintain two lanes. The question
 25 that this kind of addressed a little bit more was

Page 46

1 on the grating stuff, where there was a question
 2 whether we'd have to restrict down to a single
 3 lane for a time period as a means of going about
 4 not condensing it that much. So I don't
 5 recollect if they were invited or if they were --
 6 I don't believe they were in attendance, but I
 7 don't recollect if they were invited.
 8 Q All right. Now, let's look at Exhibit Number 6.
 9 And Exhibit Number 6 is a June 29, 2007 letter to
 10 Tom Sloan at PCI --
 11 A Uh-huh.
 12 Q -- from you, and it's enclosing some shop
 13 drawings for the deicing system?
 14 A Correct.
 15 Q And at this point the work, obviously, has
 16 already started on the entire project because
 17 we're in late June. How would it come about that
 18 you would be sending him reviewed shop drawings
 19 for the deicer at this point in time in the
 20 project?
 21 A There's a lot of different components in a
 22 project that require the contractor to put shop
 23 drawings together. This would be one that they'd
 24 to submit -- assembly and submit and then would
 25 be reviewed by MnDOT. And then depending --

Page 47

1 Generally we would get them, we'd send them to
 2 someone in that area of specialty to review them,
 3 and they would provide comments if there was
 4 anything that needed to be changed. Or if
 5 they're acceptable, they'd send them back and
 6 we'd return them as okay to use.
 7 Q So this is just part of that overall time line,
 8 that PCI has to submit the drawings that have --
 9 A Part of the contract requirements, yeah.
 10 Q Do you know who was reviewing the shop drawings
 11 for the deicing system?
 12 A I believe it was Chris Beck with MnDOT
 13 maintenance. They were involved, I think, a
 14 little more with the deicing system stuff.
 15 Q Okay. Eric, let me just kind of ask you
 16 globally, is there anything else about the
 17 overlay project or the bridge collapse that you
 18 think that we ought to know?
 19 A Not from my end. I mean, generally, yeah, it was
 20 just a typical rehab project. There was
 21 nothing -- aside from the complexity of the
 22 staging and the traffic, anything real different
 23 than most rehab projects.
 24 Q Had you ever been involved in a -- in an overlay
 25 project before that involved the replacement of a

Page 48

1 bridge deck on a fracture critical bridge?
 2 A No.
 3 Q All right. I don't think I have anything else.
 4 MS. BENJAMIN: The deck wasn't
 5 completely replaced.
 6 MS. BERGSTROM: Well, the overlay
 7 slab. Excuse me.
 8 (Whereupon, the interview was concluded
 9 at 9:22 a.m.)
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 25

1 STATE OF MINNESOTA)

2

3

4 COUNTY OF HENNEPIN)

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7

8 REPORTER'S CERTIFICATE

9

10

I, Julie A. Rixe, do hereby certify

11

that the above and foregoing transcript, consisting of

12

the preceding 48 pages, is a correct transcript of

13

my stenographic notes and is a full, true and complete

14

transcript of the proceedings to the best of my

15

ability.

16

Dated April 23, 2008.

17

18

19

20

JULIE A. RIXE
Court Reporter

21

22

23

24

25

1 INTERVIEW OF BEVERLY FARRAHER - March 24, 2008

2
3
4 In the Matter of Conducting an Independent
Investigation into the Collapse of the I-35W Bridge

5
6
7 Department of Transportation
395 John Ireland Boulevard
8 Room G-13
9 St. Paul, Minnesota

10
11 Met, pursuant to Notice, at 10:30 in
12 the morning on March 24, 2008.

13
14
15
16 INTERVIEWERS:

17 Kathryn Bergstrom, Attorney at Law with
18 Gray Plant Mooty Law Firm.

19 ALSO PRESENT:

20 Barbara E. Forsland, MnDOT Data
21 Practices Compliance & Policy Analyst.

22 COURT REPORTER:

23 Julie A. Rixe
24
25

1 another question and vice versa, and give audible
2 answers, and she'll be able to take down
3 everything we say.

4 Bev, this witness -- And may I call you
5 Bev?

6 A Yes, please do.

7 Q This witness protocol, in paragraph one, the
8 authority, we are the Gray Plant Mooty law firm.
9 Gray Plant Mooty has been retained by the
10 Minnesota Legislature to conduct an independent
11 investigation into the collapse of the I-35W
12 bridge. The Minnesota Legislature has asked us
13 to provide a report of our investigation by May
14 1, 2008. We will be asking you questions
15 concerning the bridge collapse and related
16 policies, practices and legislative oversight
17 issues.

18 The purpose of this interview is to
19 determine what you might know about the matters
20 we are investigating.

21 Confidentiality. During the time our
22 investigation is active, the information that
23 interviewees provide to us is not public
24 information. The information you provide may no
25 longer be confidential once we submit a report to

Page 2

1 (Farraher Exhibit 1 was marked
2 for identification by the court
3 reporter.)

4 EXAMINATION

5 BY MS. BERGSTROM:

6 Q Okay. Let's get started. Bev, my name is Katie
7 Bergstrom. We met briefly.

8 MS. BERGSTROM: Let's go around the
9 room and do our appearances for the record.

10 MS. FORSLAND: I'm Barbara Forsland.
11 I'm a Data Practices attorney for the agency.

12 MS. FARRAHER: Beverly Farraher,
13 maintenance engineer for metro district, MnDOT.

14 BY MS. BERGSTROM:

15 Q Bev, I'm going to hand you this witness
16 protocol. I've started every interview by
17 reading through this.

18 Before I do that, though, I have a
19 court reporter here this afternoon -- this
20 morning, and she's taking down everything we
21 say. And I don't know if you've worked with a
22 court reporter before.

23 A Yeah.

24 Q But we can't talk on top of one another, so I'll
25 try to let you finish your answer before I ask

Page 4

1 the Legislature.

2 The process. You are required to
3 answer our questions truthfully. A court
4 reporter is present to record our conversation.
5 Either during this interview or later in our
6 investigation, we may determine that we need to
7 verify certain information. If that occurs, we
8 may ask you for a further recorded statement, a
9 signed affirmation or an oath statement.

10 Post-interview contact. We view this
11 process as an ongoing dialogue. If you think of
12 anything after this interview that you want to
13 tell us about, please call or e-mail us.
14 Likewise, we hope that you will respond to us if
15 we call or e-mail you with follow-up questions or
16 clarifications.

17 A Okay. If I wanted to e-mail you, should I be
18 working through Barbara?

19 Q I think probably that's best.

20 MS. FORSLAND: I think that's an idea.
21 Technically Lisa Freese is our direct contact
22 with Gray Plant. So if you wanted to send
23 materials, I'd send a copy to me and to Lisa, and
24 then Lisa will authorize you to send it directly
25 to GPM.

Page 5

Page 7

1 MS. FARRAHER: I just wanted to figure
2 that out now.

3 MS. FORSLAND: Yeah.

4 BY MS. BERGSTROM:

5 Q Bev, how long have you worked for MndOT?

6 A Since July of 1988.

7 Q And when you started in July of 1988, what was
8 your job description?

9 A I was hired into the graduate engineer rotation
10 program, so my job description was, as a Graduate
11 Engineer 1, went on a series of rotation programs
12 that were managed by me and the department in a
13 coordinated manner.

14 Q And I think I learned from Jerome Adams that the
15 process is to have you touch as many -- many
16 different --

17 A Yes.

18 Q -- offices within MndOT, correct?

19 A That is the goal. They take a look at what you
20 come in with from student work or other work and
21 then try and fill the gap so that you have as
22 broad a spectrum as possible.

23 Q What kind of an engineer are you?

24 A I am a bachelor of civil engineering, with a
25 geotechnical and public works emphases.

Page 6

Page 8

1 Q How long were you in the rotation program?

2 A From July 1988 through May of 1990.

3 Q Okay. And in May of 1990 where did you go?

4 A I became a Graduate Engineer 2, that was my
5 classification. My title was the viewing
6 engineer for what was then District 5, which is
7 the west half of the metro area. And I did that
8 job and I segued into a lateral within that
9 office to become the assistant right-of-way
10 engineer, which also still included viewing
11 engineer responsibilities but then also included
12 assistant right-of-way acquisition and
13 right-of-way management responsibilities from May
14 of 1990 through November of 1992.

15 Q Okay. And then? Let's just keep going.

16 A In that time period I'm pretty darned sure that's
17 when I became a professional engineer because I
18 had four years in that was required. I actually
19 had to have three-and-a-half because I got half a
20 year credit towards the registration from the
21 student worker and other engineering work I had
22 done.

23 So in November of 1992 I took a lateral
24 transfer to become a signal design engineer
25 within metro district. At that time Metro

1 combined Districts 5 and 9 and became the whole
2 metro area, and I was the signal design engineer
3 from November of 1992 to March of 1997.

4 Q Okay. And then in 1997?

5 A In March of 1997 I accomplished a promotion
6 within the traffic engineering office to become a
7 principle engineer as a classification, and my
8 title was district traffic engineer. And metro
9 district has multiple district traffic engineers
10 because we have such a huge infrastructure and a
11 variety and complexity of things. So I was a
12 district traffic engineer responsible for signals
13 and lighting. That would be everything
14 associated with once we've decided to put a
15 signal in, which would be considered the scoping
16 work, once that was done, then I would take up
17 the cost negotiations, the design, the agreements
18 with local agencies, the operation and timing,
19 trying to program maintenance projects, things of
20 that nature, for both signal and lighting
21 systems, and fun things like intelligent
22 transportation systems. And I did that job from
23 March of 1997 into February of 2002.

24 Q And then in February of 2002?

25 A I had another opportunity to advance, so I became

1 an 18M manager, and my title then became
2 maintenance operations engineer within metro
3 district. And I was one of two maintenance
4 operations engineers who were supervised by the
5 maintenance engineer for Metro District.

6 Q And who was that?

7 A That was Susan Mulvihill, M-U-L-V-I-H-I-L-L. And
8 I held the maintenance operations engineer
9 position from February 2002 through March of
10 2007. And during those -- during that full time
11 period I had two work-out-of-class appointments
12 to the maintenance engineer position because Sue
13 was on other assignments, other mobilities and
14 things of that nature. They were from August of
15 '04 through March of '05, March of '06 through
16 March of '07 in those work-out-of-class
17 appointments.

18 Q Say that again. They were work out -- What did
19 you call that?

20 A We call it work out of class.

21 Q Okay.

22 A It's basically when a position becomes vacant and
23 a temporary appointment is made.

24 Q Okay. So for those temporary periods of time,
25 you stepped into Sue Mulvihill's position?

Page 9

Page 11

1 A Yes.

2 Q Okay. And then at some point it became a
3 permanent position?

4 A In March of '07 it was posted and determined as
5 permanent.

6 Q And that's where you are right now?

7 A Right.

8 Q And that's the maintenance engineer?

9 A Correct, for Metro District.

10 Q For Metro. Bev, as the maintenance engineer for
11 Metro, what is your job description?

12 A As a job description it runs to about 24 pages,
13 but the gist of it is the non-electrical
14 maintenance products and services, we deliver all
15 of those. I brought a reference that might
16 help. Maintenance products and services are
17 clear roadways, which is snow and ice removal,
18 and sweeping and removing debris in the lane that
19 is a traffic hazard.

20 And the next one we've got is smooth
21 pavement. Smooth and reliable pavement is the
22 definition technically, and that runs into the
23 patching of potholes with cold mix/hot mix, doing
24 mill and overlays, doing mills and patches,
25 anything to keep that roadway smooth. That is

Page 10

1 also where we include all sorts of drainage
2 infrastructure work, so everything associated
3 with culverts, ditches, grit chambers. Anything
4 associated with drainage falls under that, which
5 folks frequently forget.

6 Safety features includes everything
7 from shoulder, maintenance, which some folks
8 think falls into smooth and reliable pavement,
9 but shoulders, by definition, are a safety
10 feature, so I put them under the safety features
11 heading. But that, of course, would include the
12 obvious things like signing and striping,
13 guardrail attenuators, high tension cable median
14 barrier, everything in that vein. Even things as
15 mundane as right-of-way fence are a safety
16 feature.

17 Then we've got attractive roadsides,
18 which covers mowing, most specifically is what
19 folks think of there, but it also includes
20 noxious weeds, herbicide, disease tree removal,
21 landscape management, planned partnerships for
22 landscape installations and maintenance of
23 those. Everything associated with litter removal
24 that is not within the lane and is not a
25 hazard.

1 Then we move on to available bridges.

2 Available bridges includes everything with regard
3 to scoping for bridge improvement projects to
4 doing maintenance of bridges to doing fracture
5 critical and non-fracture critical inspection of
6 bridges and reporting those results to our
7 central office, Bridge Office.

8 Then we've got highway permits. That
9 is everything where folks want to have an
10 entrance onto the highway or want to have a
11 utility crossing the highway or want a culvert
12 replaced on the highway done by power companies,
13 private citizens, everything in that vein.
14 That's also where we try to manage encroachments
15 and manage the right-of-way because of the
16 incredibly huge nature of the creative things
17 people try to do with the right-of-way.

18 We've got construction contract
19 assistance, which is a highfalutin way of we help
20 construction whenever they need help. If they
21 have work zones that get hit and the contractor
22 is not responding in a timely manner, we assist.
23 If they need something hauled, we assist. We
24 just step in and help them whenever they say they
25 need it. We've removed beaver dams before

Page 12

1 construction projects because it was just too
2 expensive to put it in the contract, things of
3 that nature.

4 System security and incident response
5 frequently go hand in hand, but they are
6 different things. System security is what we
7 would call homeland security, where we have the
8 incident command structure, the ability to
9 inspect critical structures when needed, respond
10 to what used to be called red alerts, things of
11 that nature, everything associated with homeland
12 security requirements and good planning.

13 Incident response is a part of system
14 security, but it is something that we do many
15 more times a week than folks may be aware, where
16 we are responding to rollovers, fires, spills,
17 crashes, where we are not the key incident
18 commander, but we are assisting the agencies,
19 fire and police, predominantly, that are managing
20 the incident and resolving the incident. And we
21 do clean-up operations, traffic control
22 operations, traffic management operations,
23 putting up changeable message signs, anything in
24 that vein.

25 Q May I keep this?

Page 13

Page 15

1 A Yes.
 2 Q As the maintenance engineer in Metro, who do you
 3 report to?
 4 A I report to the director of traffic and
 5 maintenance operations, that is Amr Jabr, A-M-R,
 6 J-A-B-R. And he is also, as it happens, in a
 7 work out of class. The person who formerly held
 8 the position was Gary Workman. They report to
 9 the district engineer.
 10 Q And that's Connie?
 11 A Correct.
 12 Q Okay.
 13 MS. BERGSTROM: I'm going to have you
 14 mark this. We're going to look at a few org
 15 charts to make sure I've got --
 16 MS. FARRAHER: A clear understanding.
 17 BY MS. BERGSTROM:
 18 Q A clear understanding.
 19 A And I ran through the products and services for
 20 you, but the upshot is, is I manage the resources
 21 to accomplish that, which in maintenance, unlike
 22 some office kinds of jobs, we've got a
 23 significant amount of materials, equipment, a
 24 variety of labor unions and a variety of
 25 environmental and OSHA and all sorts of

1 A To clarify what is going on so you can speak to
 2 this, the maintenance operations engineer, John
 3 Howard, I would call the field ops; not because
 4 that's the only description of what he does, but
 5 it's a way for us to clarify who does what. And
 6 John Bieniek's position is more traffic, bridge
 7 and administration.

8 And prior to holding the maintenance
 9 engineer position, John Howard was in John
 10 Bieniek's position. So John Howard had traffic,
 11 bridge and administration and I was in field ops.

12 And then when I moved up to maintenance
 13 engineer, I moved John into field ops and I
 14 posted and filled the maintenance operations
 15 engineer traffic, bridge, administration
 16 position.

17 Q Okay. So in one version of this, and I think
 18 it's the bigger, I think it's Number 3 --

19 A Okay.

20 Q -- that shows the maintenance operations engineer
 21 as vacant?

22 A Correct.

23 Q And that's in July 2007?

24 A Correct.

25 Q So how long was that position vacant?

Page 14

Page 16

1 regulations that we need to follow.
 2 Q Okay.
 3 (Farragher Exhibits 2, 3 and 4 were
 4 marked for identification by the court
 5 reporter.)
 6 BY MS. BERGSTROM:
 7 Q Let's look at Number 2. And I will tell you that
 8 these are org charts from various times and
 9 things like that, so we'll try to just go through
 10 these as necessary. On the third page is, I
 11 believe, the metro management team.
 12 A Uh-huh.
 13 Q And then I see your name there as the maintenance
 14 engineer?
 15 A Correct.
 16 Q And then there are two maintenance operations
 17 engineers below you, right?
 18 A Correct.
 19 Q And that's the position that you would have had
 20 before, correct?
 21 A Correct.
 22 Can I write on this?
 23 MS. FORSLAND: Probably right on mine.
 24 BY MS. BERGSTROM:
 25 Q Yeah.

1 A We had the last interview for the position on
 2 August 1st of '07. And due to things happening,
 3 we didn't make an offer until later in August.
 4 So the position had been filled -- the field ops
 5 position had been filled by a mobility. And I
 6 don't have the exact dates, but they can be
 7 discerned if we look into it.

8 But when I was promoted, John Howard
 9 stayed in bridge, and we had a person come in and
 10 do a mobility, work out of class, in the field
 11 ops position, and she was there for approximately
 12 four months. I can't remember exactly. She got
 13 a job offer for promotion herself, and so she had
 14 to leave earlier than anyone would have liked.
 15 And that's when it really became vacant. So I
 16 don't know the exact date.

17 Q And what was her name?

18 A That was Lynn Klarkowski (phonetic).

19 Q Okay. On number 3, so this exhibit, I'm looking
 20 over under Jack Pirk --

21 A Uh-huh.

22 Q -- and his reports. And I talked to Mr. Schultz,
 23 Roger, and then I see down beneath him, but not
 24 as a direct report, Mark Pribula?

25 A Yes.

Page 17

Page 19

1 Q So on this Exhibit 3, does Mark Pribula report
 2 to --
 3 A To Jack Pirkel.
 4 Q -- to Jack Pirkel?
 5 A Correct.
 6 Q Okay. All right.
 7 A And both Kurt and Vance report to Mark --
 8 Q Okay.
 9 A -- as it shows. It's accurate.
 10 Q Then if you'll look at Exhibit Number 4, which is
 11 this (indicating) exhibit, this is a couple of
 12 different org charts. The top page of this seems
 13 to be from November of 2007. And in this org
 14 chart, Mark Pribula appears to be reporting right
 15 to John Bieniek. Do you see that?
 16 A Yes.
 17 Q Okay.
 18 A One of the things that we were doing -- And I'm
 19 trying to think of the iterative nature of this.
 20 I know what this is. This is not how we ever
 21 functioned. I'm not sure who gave this to you.
 22 After August 1st we were doing a lot of
 23 self-analysis of everything that we do in every
 24 area at all times. And one of the charges that I
 25 gave to John Bieniek was to determine what do we

1 of things, some things not associated with bridge
 2 at all. But with regard to his bridge
 3 responsibilities I said, take a look at the org
 4 structure. What do we need to have in order to
 5 fill these gaps, documentation and ability to
 6 communicate gaps.
 7 So he was looking at a variety of
 8 different org charts, and we created a number of
 9 org charts that were samples and ideas of how we
 10 could be reporting. And we were trying to figure
 11 out what we would need to facilitate this system
 12 change in this documentation effort.
 13 And you may have seen from other folks
 14 that we have created a new document to help us
 15 discuss bridge findings and maintenance
 16 activities, and it's still in the very iterative
 17 stages. It's gone through about -- I don't even
 18 know how many iterations from what we initially
 19 proposed that we would use, but it's causing a
 20 lot more paperwork to be generated for all the
 21 right reasons. And you need a person to champion
 22 this and manage it and make sure it's happening
 23 at all the levels and the follow-through is
 24 coming through to show it in paper, in some kind
 25 of database or whatever.

Page 18

Page 20

1 need to do to fill the gaps that we
 2 self-identified as far as communication and
 3 documentation.
 4 Because, to jump to the chase, I would
 5 say that our determination was that we have the
 6 right conversations about bridge inspection
 7 findings, both fracture critical and non-fracture
 8 critical, but we have not done a good job in our
 9 entire MnDOT culture, not just in bridge, but in
 10 our entire culture. And this is something that
 11 we've been trying to correct for a long time, but
 12 it's challenging for a variety of reasons that
 13 you don't want to hear about, possibly. We're
 14 trying to correct documenting conversations and
 15 documenting decisions. And there is a lot of
 16 additional time and effort that would go into
 17 that, but we recognize the need for that.
 18 Even though we know we had appropriate
 19 discussions and made the right decisions, as I
 20 said before, it is very hard for us to show when
 21 we had the discussions and who was a part of the
 22 discussions and what was discussed and what was
 23 decided and what all the parts were.
 24 So to that end the charge I gave John,
 25 when he stepped in the door, was to do a number

1 So we were looking at should we have an
 2 AAP, which is a level above principal but
 3 equivalent to an APM position as far as pay
 4 rates, but they would be working for John
 5 Bieniek. And if we did that, who would be
 6 reporting to that AAP. We were pushing around a
 7 lot of the maintenance crews, the program and
 8 scoping folks, Roger Schultz, and the inspection
 9 guys trying to figure out who should work in a
 10 way that would best facilitate this, to get the
 11 right abilities and skills on board at the right
 12 organizational level to champion this.
 13 Okay. So I do not recall ever having
 14 seen this particular org chart dated November 16,
 15 '07 before, but that does not surprise me
 16 because John worked on a dozen, at least,
 17 different scenarios. He had a document that he
 18 was running through that he was trying to explain
 19 some of these. So I'm not sure which this came
 20 from, but it's not of great concern to me.
 21 What you can see is that we had
 22 initially hoped for an AEP position. We needed
 23 to go to a board within MnDOT to propose that AEP
 24 because they're rather tightly controlled,
 25 because they're a very specialty niche position.

Page 21

Page 23

1 And while we thought the AEP was the appropriate
2 level, that group did not concur. So we had to
3 go back.

4 And what that group recommended was
5 that what they felt we were describing was
6 actually a management level ATM position. So
7 that's where you can see the org chart on the
8 next piece of paper, which shows a new vacant
9 maintenance operations engineer position between
10 John Howard and John Bieniek. And we've carved
11 off everything associated with bridge to put it
12 under that ATM management position.

13 And we did get approval -- before we
14 made this org chart, we did get approval to
15 create another management position, which is
16 another approval process. And we posted that
17 position, and we've gone through the interviews
18 and we're getting ready to do the second round of
19 interviews for that position.

20 Q And is that the position on page 2 here that's
21 currently vacant?

22 A Page 2, yes, that's the vacant one.

23 Q And then all of bridge will report up to that
24 person?

25 A Correct.

Page 22

Page 24

1 Q So let me ask this: So has Mark Pribula, then,
2 historically always reported to Jack Pirkil?

3 A Correct, yes.

4 Q And based on page 1, did that change for a short
5 time, or do you know?

6 A It did not functionally change. Mark has not
7 reported directly to John Bieniek. That is not
8 something that I would have approved of. It was
9 something under discussion if we carved off an
10 AEP, that that AEP would work for John and would
11 become between Mark and John. But I don't have
12 senior engineers reporting to managers.

13 Q So if you go back to your position, maintenance
14 engineer, and then you've got John Bieniek, John
15 Howard, and one vacant operations engineer and
16 all the people down below them, how many people
17 ultimately report to you, Bev?

18 A Constantly in flux. As a matter of fact, by the
19 end of today, it will be one less person. What I
20 can tell you as a number that you can use for
21 conversation is that I am budgeted for
22 540 positions. Of course, all those folks are at
23 different classifications and different levels,
24 but 540 is the number that we keep in play.

25 What that also means is that knowing

1 that I lose 50 to 60 people a year, because
2 people will do silly things like drink and drive
3 and do all sorts of things that cause them to go
4 away, or retire or take other jobs, what that
5 means is generally I try to go into the winter
6 season, because I usually have folks start in
7 July or September, and we try to have more than
8 540.

9 So this year I had about 570. And just
10 as I had hoped, it's bizarre how it works, right
11 January 1st of '08 I went through the 540 mark.
12 So I'm below 540 right now.

13 Q I'm trying to figure out the best way to ask
14 this: I'm trying to -- That's a lot of people,
15 and you've obviously got other layers of
16 management in there. But I'm trying to get a
17 feel for how much of the detail down at, say, the
18 Mark Pribula level or the Dale Dombroske level
19 gets floated up to your level. How do you stay
20 in contact?

21 A Detail, no, unless it's necessary.

22 Q Okay.

23 A There are things day in and day out that I learn
24 a lot more about than I otherwise would because I
25 need to, in a variety of things.

1 For example, on the 20th in one of our
2 salt piles we found an exploded primer.
3 Something went awry in the salt manufacturer/salt
4 deliverer's processes, and something that should
5 have been removed back in the phase of shipping
6 the salt never got removed. So we found an
7 explosive device in our salt pile.

8 I normally don't learn a lot about
9 what's in the salt pile, other than keeping
10 generally aware of what is meeting and what is
11 not meeting our contract specs. Once I know
12 they've got the system set up, I expect them to
13 just work it and let me know what isn't working.
14 But when something that bizarre happens, I hear
15 about it.

16 Q Okay. So let's take that example. It's a
17 perfect one to make this a little more concrete.
18 Looking on the top page of Exhibit 4, where would
19 have that primer been --

20 A Dealt with.

21 Q -- discovered?

22 A Okay. The far left of the org chart, you can see
23 below John Howard but above the other people
24 there are descriptive titles, clear roadways,
25 attractive roadsides. Clear roadways is snow and

Page 25

1 ice removal. So Norm Ashfeld, the person who's
2 responsible for that business line, is
3 responsible for all the truck stations listed
4 below him as well as the business operations for
5 clear roadways. He has a dual role, a geographic
6 and functional role.

7 So working for him, below him you can
8 see John Giguere, who's a maintenance operations
9 specialist, TPS 2, if I remember correctly.

10 Norm hired John and gives John
11 direction, but I chat with John every other day
12 about how things are going just in a passing
13 mode. John set up a beautifully-rigorous
14 spreadsheet and a variety of form letters that
15 our central office folks set up the salt
16 contracts and send things out and everything gets
17 bid, and then they send us the spreadsheet of
18 who's delivering all our salt. So we have three
19 our four major providers here in the metro area.
20 Some districts only have one, but we've got three
21 or four. So every truck station has a different
22 salt provider, but everybody is under the same
23 contract.

24 Every truckload of salt that comes into
25 our truck stations at all the different truck

Page 26

1 stations that are listed in this area gets tested
2 for moisture, gets checked if it's covered, gets
3 checked if there's any debris in it. There's a
4 variety of contract specs.

5 John makes sure that all these folks
6 have the ability to test the salt, do the salt
7 testing appropriately, get the results sent in
8 and tell him anything else that he needs to
9 know. Then he keeps track of all this so when I
10 say, John, how are we doing, he can tell me. He
11 tells me anything weird that's happening, any
12 trend with North American being particularly bad
13 or Cargill being particularly bad or whatever.
14 So he would keep track of all those letters.

15 And we've saved dozens of thousands of
16 dollars in the deducts that he's taken, little
17 incremental this much salt moisture off, that
18 much salt moisture off. He will keep track of
19 all that.

20 Norm keeps a pretty good fix on what
21 John's up to. This is not the only thing that
22 John does. It's just one of many things that
23 John does. So Norm is overall aware of the
24 salt. Now, that's just bringing in the salt.

25 Once you get the salt in, it needs to

Page 27

1 be treated, so either buy it treated or treat it
2 ourselves. Buying it treated is way too
3 expensive, so the two of them worked on a very
4 nice research proposal where they're creating out
5 of thin air a treatment machine that will save us
6 -- Oh, within the first half year of its
7 operation it will save us all the money to build
8 it, and from then on we're just saving the
9 taxpayer money. So they put together that
10 research project.

11 So they do everything associated that
12 you could ever imagine with salt. If we have to
13 have salt trucked from one place to another, we
14 do it ourselves. So that whole world of salt is
15 a multi-million dollar aspect of just metro
16 district's operations, and those two gentlemen
17 are aware of it.

18 So John is day-to-day involved in it,
19 and he reports things to CO as necessary to keep
20 them informed. Norm is very aware of what's
21 going on, but Norm can't do day to day. It would
22 take down his whole function, given the enormous
23 variety of the other things he has to do, plus
24 the whole people aspect of things. Because field
25 operations are always more challenging for people

Page 28

1 as opposed to office operations. I think that's
2 common knowledge.

3 Q So let me ask you this --

4 A But then they try to keep John Howard updated and
5 they keep me updated. You learn to float a lot
6 of balls in the air.

7 Q So you said you would say, John, how we doin'.
8 Is that because you passed him in the hallway or
9 because you have kind of a standing meeting on
10 salt, or what is it?

11 A We do not have a standard meeting on salt. We
12 have monthly staff meetings where Norm would
13 bring up anything that he really wants us to know
14 about. So the monthly staff meetings are a good
15 opportunity. We have --

16 Q Let's talk about monthly staff meetings for a
17 minute.

18 A Okay.

19 Q So when you have a monthly staff meeting, who
20 attends those?

21 A There's actually three meetings that you'll want
22 to keep aware of: There's the engineers'
23 meeting, the monthly staff meeting from Water's
24 Edge folks, and then there's the monthly
25 supervisor meeting. And then every field

Page 29

Page 31

1 superintendent also has their region meetings,
 2 but that really isn't associated with bridge at
 3 all.
 4 Q Okay. So engineer meetings, monthly staff
 5 meetings and monthly supervisor meetings?
 6 A Correct.
 7 Q So who goes to the engineer meeting?
 8 A The engineer meeting is Mike Schadegg, who is
 9 over our engineering services section, almost
 10 smack dab in the middle, Jack Pirkel, John
 11 Bienick, John Howard, me and Amr.
 12 Q Okay. And what is the purpose of that meeting?
 13 A We go over Workers' Compensation and non-Worker's
 14 Comp injury reports to make sure that we're
 15 managing that well, and then we do a round-robin
 16 to discuss anything of concern to anyone for
 17 their responsibility areas. So we cover
 18 facilities and equipment, standards. It's a huge
 19 gamut of everything, but it's a very, very high
 20 level to make sure people are kept informed and
 21 to make sure that people are coordinated. It
 22 goes over a whole lot of areas.
 23 Q And is that a monthly engineering meeting?
 24 A Yes.
 25 Q Okay.

Page 30

Page 32

1 A The monthly staff meeting are the leads of folks
 2 who work at Water's Edge. That would be all the
 3 superintendents, and it would include Mark
 4 Pribula, Roger Schultz, the engineers who work
 5 for Mike Schadegg in engineering services, and it
 6 would include Lanay Pille (phonetic), our
 7 administrative support person. But it doesn't
 8 include the non-supervisory staff.
 9 Q So how come Roger Schultz and Mark Pribula are
 10 included in those?
 11 A They are engineers. Mark is a supervisor. Roger
 12 is not directly, but he manages a wide variety of
 13 folks indirectly. So they're part of the
 14 operations of metro, so the maintenance staff
 15 meeting gives them an opportunity to keep
 16 everybody apprised of what they're up to, if
 17 they're making their time lines, if they're
 18 encountering any problems, anything of that
 19 nature.
 20 Q And then what's the monthly supervisors?
 21 A Monthly supervisor meeting -- The first two
 22 meetings I mentioned are held at our Water's Edge
 23 building.
 24 Q Okay?
 25 A The monthly supervisor meeting is held

1 predominantly at the Arden Hills training center
 2 because that has the room large enough for us,
 3 and that's all the field supervisors across the
 4 operations. That would be for fleet, mechanics,
 5 bridge, dispatch, training, all the truck
 6 stations across the board. So you get about 60
 7 to 70 people in the room.
 8 Q And what's the purpose of that?
 9 A That, again, is to keep everyone up to date,
 10 disseminate information, policies. We have a
 11 labor relations-human resources component, we
 12 have a safety component, we have a training
 13 component. When there's new OSHA regulations or
 14 personnel, anything, it's a onetime way to get
 15 everybody updated on the same level so that
 16 everybody can get the questions out, get it
 17 figured out.
 18 It's a forum for us to talk about group
 19 issues with regard to contractual -- We always
 20 have a grievance update because we have a
 21 significant number of grievances. So it's a
 22 onetime monthly opportunity for folks to
 23 network -- They get a lot of work done
 24 unofficially -- and organize things and explain
 25 what bidding coming up, because we have two

1 rounds of bidding every year for seasonal crews
 2 and winter postings and things like that. So
 3 there's always a lot going on, and we just need a
 4 time to make sure everybody is on the same page,
 5 because then those folks take that and carry it
 6 back to their truck station.
 7 Q Now, of those three monthly meetings that we just
 8 talked, it would probably be the monthly staff
 9 meeting, wouldn't it, that if there was something
 10 specific that Mark or Roger wanted to bring up
 11 about bridges --
 12 A Uh-huh.
 13 Q -- that you would probably get it at that
 14 meeting?
 15 A And they have --
 16 Q Okay.
 17 A I have nothing but the highest respect for both
 18 of them. Jack has brought up individual issues
 19 on particular bridges even in the engineers'
 20 meeting; it just depends to what level it rises.
 21 And historically we haven't done a
 22 hugely rigorous job of documenting the meeting
 23 minutes on those because people walk out the door
 24 very clear of what their action items are,
 25 because sometimes if it's information sharing,

Page 33

Page 35

1 there is no action item specifically. You're
2 supposed to go back and share that information
3 and just do it. But if there's a particular
4 person that needs to do something, they're aware
5 of it, they go and they do it. But we're doing a
6 better job now of documenting those.

7 Q So the engineering meeting, is that on the same
8 day every month or --

9 A Yes, yes. They're all on roughly the same day,
10 very cyclical, leave and breathe by that.

11 Q And are there written agendas?

12 A For the engineers' meeting, no, because it's so
13 timely that it's truly of the moment because
14 things are changing so quickly all the time.

15 The staff meeting we try to have agenda
16 items, and we notify folks if there's a
17 particular presentation. For example, our last
18 staff meeting we were going to have a
19 presentation on the UPA project, the UPA, but
20 that had to fall through because that person had
21 a conflict. But everybody knew coming to that
22 staff meeting that we would have had that if they
23 hadn't had a conflict.

24 For the maintenance supervisor meeting,
25 there is always an agenda for that. There's a

Page 34

1 committee of three that puts that together,
2 because you've got to tie them down to what they
3 want talked about or else it --

4 Q Otherwise you get 60 to 70 people in a room with
5 no structure.

6 A Yes, yes, and we don't like that.

7 Q Are you, Bev, a certified bridge inspector?

8 A No.

9 Q So you've never done any bridge inspections?

10 A One of my rotations was within maintenance on the
11 District 9 side of the world, back in the day
12 when there were, so I did quite a few bridge
13 inspections.

14 Unfortunately, I was coming to bridge
15 right after Al Vasquez died. He died in a
16 construction workzone when he was doing a bridge
17 inspection and had a reaction to diabetes and he
18 died. So the organization had not only lost a
19 very smart and kind man, but they were just in
20 mourning.

21 So I came in as a grad engineer. The
22 bridge inspections had to get done; and they
23 partnered me up with a very wise bridge
24 supervisor, and we got the non-fracture critical
25 bridge inspections done.

1 Q Who was that person?

2 A Roger Hoff, who is a bridge supervisor out of
3 Forest Lake.

4 Q Mark takes his team out, and I understand he is
5 in charge of the fracture critical --

6 A Uh-huh.

7 Q -- bridges in the metro.

8 A Uh-huh.

9 Q And he is at the point where he's writing up his
10 report --

11 A Uh-huh.

12 Q -- of the inspection?

13 A Yes.

14 Q Where does that report go?

15 A That report gets turned into our central office.

16 They are made aware at that office, and we keep
17 that report in our office also.

18 Q You say you keep it in your office. Who's the
19 keeper of it? Does it ever land on your desk?

20 A No, it does not, unless the bridge guys, as a
21 group or individually -- I would just call them
22 the bridge guys because it depends on what the
23 issue is -- unless they have a particular issue
24 that they want to talk to me about. And then
25 they bring in their information to me, and we sit

Page 36

1 and we slog our way through it to make sure
2 everybody is on the same page and everything is
3 discussed. They come to me, I'm proud to say,
4 with options of solutions, not with just
5 problems.

6 Q Okay.

7 A They are in frequent, frequent discussion with
8 our CO bridge folks. So if we don't have a CO
9 bridge person in the room, they are still part of
10 the discussion.

11 Q Okay. With respect to the I-35 bridge, did they
12 ever come to you -- the timing is a little bit --
13 You were in the position kind of temporarily, but
14 did you ever have a meeting with Mark about any
15 issues on the I-35 bridge?

16 A I do not recall, and I have tried to recall.

17 What I can tell you is that I recall a
18 discussion. Whether it was in my office or in
19 their offices or at a staff meeting, I do not
20 recall that, but I do know I was kept apprised of
21 the milestones of what was going on.

22 Q And what do you mean by milestones?

23 A That we were in discussion with the consultant,
24 that we had been discussing options with CO
25 bridge for what projects to do, that we were

Page 37

Page 39

1 thinking of this or that. There's an anti-icing
 2 system on the bridge that's of critical
 3 importance to us. So with the pavement work that
 4 was being done when the bridge fell, how would
 5 that affect the anti-icing system and how do we
 6 make that all fit together to everyone's
 7 satisfaction.

8 So I was aware of the discussions that
 9 had been happening, but those discussions are the
 10 kinds of things that we historically have not
 11 documented well because there's so many things
 12 going on all the time in all functional areas.

13 Q So you were aware of some of the discussions. Do
 14 you remember being asked for your input on any
 15 specific thing related to the bridge?

16 A Any specific thing related to the bridge.

17 Q Well, let's make it concrete as opposed to so
 18 big. I think this may be before your time, but
 19 were you aware of the study that was done by the
 20 University of Minnesota?

21 A Eventually. I don't know when I became aware,
 22 but yes.

23 Q Okay. And what about the work that was done by
 24 HNTB?

25 A Again, generally aware. Whether it was when I

1 If Mark comes across something when
 2 he's inspecting, he calls them immediately and
 3 uses them as a technical expert. Because four
 4 eyes are better than two, and we've already got
 5 four eyes out there; so six eyes are better than
 6 four, eight eyes are better than four.

7 Q Do you have occasion to contact central bridge
 8 directly on issues or do you leave that
 9 communication down at the Mark level?

10 A It's very rare, but it has happened. I can't
 11 give you a specific example off the top of my
 12 head, but it must have occurred because in my
 13 mind it's not a no.

14 Q Okay. But you just can't remember what you would
 15 have contacted them for?

16 A There are so many projects in the works at any
 17 given time, I wouldn't want to guess.

18 Q Okay. What about the maintenance engineers in
 19 other districts other than metro, do you get
 20 together with them?

21 A Yes, yes.

22 Q How often do you do that?

23 A We have a variety of meetings. Again, let's see,
 24 how would I describe this. The AME, area
 25 maintenance engineers, as an entity of people,

Page 38

Page 40

1 was in the field ops position or the work out of
 2 class or this permanent position -- Well, it was
 3 pre this permanent position, I can tell you
 4 that. But prior to March of '07, I can't tell
 5 you when I became aware of it.

6 Q Okay. Were you aware that URS was a consultant
 7 on the bridge?

8 A No, I do not recall that. I may have been told
 9 it. I just do not recall it. And I don't have
 10 any documents that show that because, again, very
 11 verbal.

12 Q Okay, okay. You mentioned just a little while
 13 ago that you might be aware that the bridge guys
 14 were working with the central office or central
 15 bridge?

16 A Uh-huh.

17 Q Do you know how often they would work with
 18 central bridge or what they used them for?

19 A Oh, there's a huge amount of interaction. What
 20 we would use them for. We have to turn in all of
 21 our bridge inspection reports to them, so they're
 22 the fundamental reporter to the feds on bridge
 23 inspection. That's the most basic of things.
 24 But we interact with them on programming issues,
 25 scoping issues, maintenance issues.

1 there's an operations manager group, which is
 2 parallel to all the different manager groups.
 3 There's a preconstruction managers' group, a
 4 construction managers' group, an administrative
 5 managers' group. So there's OMG and they have
 6 twice yearly meetings, one in April and one in
 7 September.

8 We try to sit down at those and hash
 9 through things. We run through the full gamut of
 10 what things are going on. But I've got to tell
 11 you, they're not very bridge specific, because CO
 12 bridge office exists, and it's the office of
 13 maintenance that champions OMG. And that's
 14 something that is just the structure of MnDOT.
 15 So we have OMG meetings.

16 We do have a variety of video
 17 conferences over specific subjects. And we also
 18 have the maintenance business managers' team,
 19 MBMT, that looks at specific measurement kinds of
 20 things. And we're having monthly meetings of
 21 that group lately because we're really trying to
 22 ramp up some measurement things. It's very hard
 23 to tell the story unless you can measure it, both
 24 what you have for infrastructure and what you're
 25 accomplishing as work, and how that affected a

Page 41

Page 43

1 measurement of expectation. So we're really
2 trying to make strides on that.
3 Then we also have the OAG group.
4 Because with all these maintenance engineers, and
5 some districts have two, the mundanities of
6 approving some conferences for mechanics and
7 things like that, you should not gather all the
8 AMES across the state to have that discussion;
9 that would be silly. So there's a very small
10 group that occasionally meets -- it's got to be
11 monthly, frankly, but occasionally their meetings
12 get cancelled due to conflicts. But they meet
13 and review and approve things and determine the
14 agenda for the larger meetings and things of that
15 nature.

16 Q Do you go outside of MnDOT to stay current on
17 issues that you're in charge of, like other
18 cities, other states?

19 A Yes, and it's the variety of whatever product and
20 service you're talking about. We interact -- It
21 might be CO maintenance that does it. We might
22 be hearing things from Jim Lilly in CO bridge.
23 It might be a district AME who recently was
24 working with the U of M under contract to do a
25 better job of measuring our herbicide work. And

1 Minnesota in St. Paul, and all the folks from
2 snow and ice across the nation came. It gives
3 you a chance to hear what other people are
4 presenting.

5 So we have very specific folks in our
6 central office maintenance that are keeping track
7 of what other folks are doing, and the same is
8 true in CO bridge. So there's a lot of sharing
9 that's going on. It's just part and parcel of
10 people's job description to try and keep track of
11 that, read the technical journals and try and
12 keep up on those kinds of things.

13 Q Okay.

14 A Yeah.

15 Q Going back to the bridge guys, and by that I
16 assume you mean it's Roger and Mark and --

17 A Phil and Jack.

18 Q Okay. How involved are you, if at all, in
19 Roger's BIP, his Bridge Improvement Program, and
20 the various work that makes it to his list? Do
21 you review that with him?

22 A Not deeply.

23 Q Okay.

24 A I would not say that I review it with him. I
25 keep tabs on it, but this is over years of

Page 42

Page 44

1 they came up with a phenomenal measurement that I
2 don't think any other agency in the United States
3 has because that was part of the contract, was to
4 check that.

5 So it depends on what product and
6 service that you're talking about if there's a
7 lot of interaction. And then we're involved in
8 other groups like the American Public Works
9 Association, so there's that awareness also.

10 Q I guess what I'm curious about, in order to stay
11 kind of current in best practices in your job,
12 where do you go to stay current? I made the
13 observation to somebody that the person who has
14 your job in Milwaukee might be a better resource
15 for you than a person who works in Minnesota
16 because the metro is just so unique.

17 A This is true. There is no formalized process,
18 would be my rigorous answer. But the practical
19 aspect is that people are always talking to each
20 other and using information groups.

21 My snow and ice coordinator, my lead
22 superintendent Norm, he will use the APWA
23 listserv to contact folks. And I was involved in
24 helping organization the North American snow
25 conference last year that was held here in

1 watching Roger work and watching his interaction
2 with project engineers at the metro district
3 level and his very high regard in our CO bridge
4 office. You couldn't find someone more dedicated
5 or rigorous.

6 Q So unless somebody had a specific question or
7 something they wanted to draw to your attention,
8 you might not look at the BIP in a given year?

9 A Oh, I'd definitely look at it.

10 Q Okay.

11 A I definitely look at it. I am aware of it. But
12 if you ask me why any specific project was on
13 there, you'd have slim odds of me knowing enough
14 to be conversant. Some projects are just so
15 obvious and have been coming up in the works for
16 so long.

17 But the reality and the complexity of
18 the program is that Roger is working on 2013 or
19 2012 right now. But the nature of funding
20 changes, he has to -- not constantly, but much
21 more than he's happy about, he has to go back and
22 reiterate every year. And if I were to go in
23 there and feel that I could change something, I
24 would need to spend literally two weeks getting
25 as conversant as he is on what he is doing and

Page 45

Page 47

1 how he is doing it.
 2 I have a problem on my hands that I've
 3 been waiting for for two years. Roger has been
 4 saying he's going to retire for about four years
 5 now, and it is of great concern to me. And I
 6 started having Mark shadow Roger because it will
 7 be very, very hard for someone to step in and do
 8 Roger's job. I anticipate that I will have to
 9 possibly fill it with even two positions.
 10 Because Roger stepped into the job when he came
 11 to the DOT with an enormous amount of
 12 organizational ability, awareness of bridges,
 13 awareness of this system and just sheer can
 14 juggle it all, and you don't find people like
 15 that quickly.
 16 So I might have to carve off the
 17 non-fracture critical inspections to one person
 18 and carve off the Bridge Improvement Program to
 19 another person, which is inherently inefficient
 20 because the knowledge of either compliments the
 21 whole, but you can only have human beings do so
 22 much. So we've been very lucky to have Roger.
 23 He does a phenomenal job of squeezing every penny
 24 out of the program, taking --
 25 Q Let's talk about that for a second.

1 trying to back you up once. And maybe looking at
 2 this org chart, Number 2 --
 3 A Okay.
 4 Q -- you've got metro district over here. And as I
 5 understand it, investment management is involved
 6 over here (indicating) in setting budgets; is
 7 that right?
 8 A That's really outside of my control. I tend to
 9 get very frustrated with the lack of changes over
 10 the years, with what I perceive to be the lack of
 11 change in the allocations, but it's just not a
 12 discussion topic.
 13 Q I guess what I'm -- I'm just trying to get to, do
 14 you, for your areas, are you asked to provide
 15 information on, like, forecasting, okay, what do
 16 you think your changes are going to be this year
 17 or does that come from Connie? What involvement,
 18 if any, do you have in giving them information
 19 they need?
 20 A We, meaning maintenance engineers and metro
 21 district, for various different things are
 22 invited at various times to report on the state
 23 of something, cable median barrier, snow and ice
 24 control, breaking it out into various things.
 25 And we do report and explain that this is what

Page 46

Page 48

1 A Okay.
 2 Q Are you involved in allocating the dollars that
 3 go to the BIP?
 4 A No. The BIP comes to us as a dollar amount. I
 5 don't get to affect that at all.
 6 Q Who does that come from?
 7 A Our central office.
 8 Q Okay. So they tell you, Metro, here's your money
 9 for the year --
 10 A Yeah.
 11 Q -- and this much is in the BIP column?
 12 A Yeah.
 13 Q Are you involved in telling the central office,
 14 Hey, we need X number of dollars not just for
 15 BIP, but for all of your --
 16 A This would be the same response I gave to the
 17 legislative auditor, that it would be meaningless
 18 for me to contact CO and tell them how frequently
 19 I need more money because everybody could tell
 20 everybody how much more we need money. The times
 21 that I say we are in desperate need of money is
 22 when we are truly at a critical mass failure,
 23 which we've done for certain things such as
 24 drainage systems.
 25 Q Let me just stop you for a second. I'm just

1 we're trying to accomplish and this is the money
 2 we need to accomplish blankity blank.
 3 Sign management system. We need over a
 4 million dollars in the metro area to populate it
 5 or else we can't make it work. There is no
 6 funding source for that, so it is sitting
 7 stagnant. Everybody is aware of that. If there
 8 were money available, they would give it to us;
 9 but there is no money available.
 10 For every mile of cable median barrier
 11 that is installed, I incur about \$5,000 of extra
 12 cost per year in maintaining that. There is no
 13 money to fund that. So the multiple miles of
 14 cable median barrier that we have installed in
 15 the metro area I just have to soak into my
 16 operating budget and make it work.
 17 Q Okay. So your operating budget. Maybe this gets
 18 me to the level of detail that I need to get to.
 19 You have an operating budget, obviously?
 20 A Yes.
 21 Q Who sets that?
 22 A That is determined by -- Actually, I am not the
 23 right person to ask, but the upshot is that it is
 24 determined by a distribution formula that is
 25 outside of my control.

Page 49

Page 51

1 Q Okay. And is that the formula that's over here
 2 (indicating), in investment management?
 3 A Yes --
 4 Q Okay.
 5 A -- to the best of my understanding.
 6 Q And your operations budget, does the BIP money
 7 fall under that?
 8 A No.
 9 Q That's separate?
 10 A Correct.
 11 Q And let's say that Mark Pribula brings an issue
 12 to you. The bridge guys come and talk to you and
 13 say, We have to do this project on the bridge.
 14 And it's not on the BIP --
 15 A Yep.
 16 Q -- and let's say it's going to cost \$15 million
 17 --
 18 A Yep.
 19 Q -- which is the entire BIP.
 20 A Yep.
 21 Q And they come to you and say, Gee, Bev, we've got
 22 to get this project done. Where would you go
 23 with that request?
 24 A My first would be to take a step back and say,
 25 What data do you have for this; how did you come

1 reality is, when you have something like a Bridge
 2 Improvement Program fund, there's little pots of
 3 money left over from other people where bids have
 4 come in shorter or a project needed to get
 5 pushed. So that's where you start talking about
 6 if this project truly needs to happen, what are
 7 the options out there to have it happen.
 8 It's the same as when cable median
 9 barrier, a whole system fails, or a drainage --
 10 Casa 70 a few years ago just washed away one day,
 11 there you go, the whole drainage structure
 12 underneath. And we had to rebuild the drainage
 13 structure and the road, and that was a true
 14 emergency project. You just have to figure these
 15 things out.
 16 Q Do you ever remember getting involved in the
 17 discussion along that line, like, we need money
 18 to do work on the I-35W bridge?
 19 A Not of an emergency project nature, no.
 20 Q Okay.
 21 A The discussions of the complexity of the system,
 22 yes.
 23 Q Explain that to me.
 24 A Well, the fact that the anti-icing system on it
 25 and the nature of the structure being fracture

Page 50

Page 52

1 to the conclusion that this is the project we
 2 need to do. And in all likelihood, they would
 3 have been involving me at that point anyway.
 4 We have a variety of things we can look
 5 at. There is the Metro District Construction
 6 Program. And within that construction program
 7 there's 4.6 million carved out for bridge and
 8 road construction that I control annually each
 9 year. And within that dollar amount we buy a
 10 bunch of signs to install on the roadway, we
 11 contract out pavement markings, we buy the
 12 bituminous that we use for long stretches of
 13 patching because my operations budget hasn't been
 14 able to cover those things for years; it's the
 15 only way I can survive.
 16 So the BARK, bridge and road
 17 construction, BARK funds do cover some
 18 possibility of pseudo emergency projects. The
 19 term emergency projects in state government is
 20 very specific, so you want to be careful if
 21 you're truly meaning emergency project. What
 22 you've described might or might not be an
 23 emergency project.
 24 The first thing I would do is I would
 25 get the CO bridge folks involved. Because the

1 critical, it's just always complex. Every
 2 fracture critical bridge is always a complex
 3 discussion.
 4 Q And were you involved in discussions about what
 5 work to be done on the bridge?
 6 A I don't remember. I know for sure that once it
 7 got into formal design, I was not involved. I do
 8 not remember if I was involved in any
 9 scoping/programming. I think I was informed.
 10 That's one of the improvements that
 11 will happen when we are using our documentation
 12 improvement, that we will have an ability to
 13 communicate those discussions and resolutions,
 14 whether they go to a programming, emergency
 15 contract or maintenance level of work.
 16 Q I think I asked you this, but at some point you
 17 understood that URS was acting as a consultant on
 18 the bridge?
 19 A I don't recall URS. I vaguely recall HNTB, and
 20 I'm less than 50 percent confident that it was
 21 involving the 35W bridge. I recall update
 22 discussions, is what I would call them, of, This
 23 is where we're going; this is what we think we
 24 should be doing; this is the discussion that's
 25 occurred; these are the options; this is where

Page 53

Page 55

1 we're going, this way; do you have any concerns,
 2 do you have any problems with that. No, the
 3 logic is there.
 4 Q Okay. Were you aware at a certain point that URS
 5 made specific recommendations on what work to be
 6 done on the bridge?
 7 A I just don't recall. URS is not ringing bells.
 8 Q Okay. Were you aware that the bridge guys, for
 9 lack of a better word --
 10 A It works, does it, as a heading?
 11 Q Yeah -- were discussing the possibility of
 12 redecking the entire bridge?
 13 A Yes, I was aware.
 14 Q Okay. And what do you remember about that?
 15 A Not a lot of detail. Context of the anti-icing
 16 system, context of the timing of the project, but
 17 I'm not remembering where we were or when it
 18 was. I know it was not a highly-planned
 19 discussion. It wasn't a meeting.
 20 Q Were you aware of the overlay project that was --
 21 As I understand it, the overlay project was going
 22 on when the bridge collapsed?
 23 A Yes.
 24 Q And were you aware that that work was being done?
 25 A I thought you were talking about the overlay

Page 54

1 project when you were talking about the redeck
 2 project.
 3 Q Okay. Well, I think the overlay project is
 4 different than the redecking project.
 5 A Yes. And I misunderstood what you were getting
 6 at because I thought you'd be more cavalier in
 7 your terms. I'm rather impressed. I think I'd
 8 have to say everything I was saying about the
 9 redeck would apply to the overlay, and I'm not
 10 aware of redeck.
 11 Q Okay. And so let's go back, then. As to the
 12 overlay project, you were aware that they were
 13 doing the overlay project or you weren't? I
 14 can't remember.
 15 A I was aware of the overlay project, absolutely.
 16 I'm not sure to what level we discussed that
 17 particular project. I did not make a decision to
 18 do that project. We did not have a meeting that
 19 I was invited to to specifically talk about that
 20 project, but I was well aware. And I knew that
 21 we were working on making sure the anti-icing
 22 system was reinstalled correctly and the
 23 construction staging with regard to other
 24 regional projects, that kind of thing.
 25 Q Do you know who at central bridge was involved in

1 that overlay project?
 2 A No, I don't have a clue.
 3 Q And I think you said you don't remember
 4 discussions about redecking the bridge?
 5 A Not with any of the bridge guys. The last time I
 6 recall talking anything about the redeck project
 7 was years ago with the previous CO bridge design
 8 engineer, Val Swenson. And that was when we were
 9 having one of those girlfriend get-together
 10 lunches. I don't even remember what she said. I
 11 just remember there was something about the
 12 redeck there and how it just wouldn't work.
 13 Something about not going to work, not going to
 14 happen, not going to fly. And I don't even know
 15 if it was structural or funding or whatever. I
 16 have no idea.
 17 Q Were you aware of the discussions going on about
 18 the possible retrofitting of certain portions of
 19 the bridge?
 20 A Nope, nope.
 21 Q How about the recommendation to do certain
 22 non-destructive testing out on the bridge?
 23 A I don't know. I couldn't give you a definitive
 24 yes or no on that. I just don't recall.
 25 Q Okay. As I understand it, Mark Pribula was out

Page 56

1 on the bridge in May 2007. Do you know what he
 2 was out there for?
 3 A It was bridge inspection.
 4 MS. BERGSTROM: Why don't we take a
 5 break.
 6 (Break taken.)
 7 BY MS. BERGSTROM:
 8 Q Let's go back on the record. So Mark and some of
 9 his crew were out on the bridge in May 2007. And
 10 do you know what he was doing out there then?
 11 A Bridge inspection.
 12 Q Do you know what kind or for what reason?
 13 A If I recall correctly, it was identified in our
 14 spring construction rollout, where I spoke to the
 15 media as part of our bridge inspection program,
 16 normal inspections. So I didn't particularly
 17 blip on it as anything in particular. He may
 18 have told me otherwise. I don't recall.
 19 Q So as far as you know, he was just out there in
 20 his normal course doing the inspection?
 21 A That's what I'm recalling right now. He could
 22 very well have told me otherwise. I just don't
 23 have that great a memory, frankly.
 24 Q Okay.
 25 A And there is a very extensive schedule of

Page 57

Page 59

1 inspections for fracture critical and
 2 non-fracture critical, so I don't remember unless
 3 it twigs me again.
 4 Q You had mentioned earlier when we were talking,
 5 Bev, that there is a new document that has gone
 6 through a few versions already in which you are
 7 trying to better tie together inspection findings
 8 and maintenance?
 9 A Well, inspection findings and the resolution of
 10 those findings. Most findings in bridge
 11 inspection are documented from year to year just
 12 to keep track on them; there's nothing that needs
 13 to be done. But it would be disconcerting to the
 14 public and it was disconcerting to one of the
 15 legislators that I spoke to that we didn't have a
 16 document saying, Hey, we looked at it, we thought
 17 about it, and all the right people talked about
 18 it, and we decided that this particular thing,
 19 there is no action that should be done for this;
 20 but this thing, we should do some maintenance on
 21 that, so we did that maintenance.
 22 Q Where is that form now? Is it finalized yet?
 23 A No, I wouldn't call it finalized. It's going to
 24 be draft for a while because of a variety of
 25 reasons. The bridge office has a contract going

1 it. And the intent is that we take the findings
 2 -- We identify who's there so that we have all
 3 the correct players, and we take the findings and
 4 we talk about the discussion of what are the
 5 options, what are the implications.
 6 And then we'll identify what action
 7 will be done, whether it's no action because
 8 there is no action needed, or whether it's
 9 something that will be incorporated into a
 10 program, the Bridge Improvement Program contract
 11 work, or if we need to do an emergency project
 12 through contract, or if we should be doing some
 13 maintenance work.
 14 And whichever route this goes, if
 15 there's a follow-up, we identify who's doing the
 16 follow-up. And then they will be coming back
 17 after the fact to notate that they got it done.
 18 And then the next time somebody goes to inspect
 19 that bridge, they'll have the former inspection
 20 and they'll have this document that says, this is
 21 where we went.
 22 Q And presumably your new position --
 23 A Will be the champion of that.
 24 Q Will be the champion of that, okay?
 25 A Yes. Because this is a phenomenal amount of

Page 58

Page 60

1 to look at our inspection practices, so we're
 2 just doing this in metro because we saw a gap and
 3 we're filling the gap. We've provided it and we
 4 involve CO bridge in those discussions and in
 5 that documentation. And we've provided them the
 6 overall blank form, and they're taking that
 7 forward in the consultant's work.
 8 Q So it emanated out of metro, this document or
 9 this form?
 10 A Yes.
 11 Q And now it's with central bridge and they're
 12 working on it?
 13 A And they're participating in it. And I think
 14 they've rolled it into some process that they're
 15 working on right now for fracture critical
 16 inspection finding resolution. They've got that
 17 document and a document from another state, if I
 18 recall correctly. Again, I'm not positive on
 19 that. They're looking at their processes and
 20 options. And they also have a contract active --
 21 The consultant is going blank on me right now.
 22 Q Is that PB Americas?
 23 A Yes, that's it. Thank you -- to look at our
 24 overall processes.
 25 So we saw a gap and I wanted to fill

1 time. Even for the most mundane structure, you
 2 still need to have the discussion and write the
 3 things down. So it's more work than we have
 4 bodies right now, but we're going to figure out a
 5 way to cram it all in because...
 6 Q What's the timeline of that project? You said
 7 the form is with bridge --
 8 A It will be ongoing because 900 structures were
 9 not done. We've only done the top three in the
 10 metro area, because the sheer fact of getting all
 11 the people in the right room to talk about
 12 substantive listings of findings, it's a huge
 13 undertaking.
 14 Q And I guess what I'm talking about is what is the
 15 timeline for finishing up this form and having
 16 the process set? Because the process is
 17 underway, as I understand it. You said it's
 18 sitting with central bridge and they're working
 19 with the consultant.
 20 A Well, we're continuing with the document while
 21 it's with central office bridge.
 22 Q Okay.
 23 A We're not stopping because it's part of this
 24 other discussion. We figure whatever we can get
 25 done with the time frame we've got, as tight as

Page 61

1 it may be, is just to the benefit.

2 And I would again reiterate, it's not
3 that we don't think we're having the right
4 conversations; it's just that we can't show that
5 chain of information flow.

6 MS. BERGSTROM: Barb, have we seen a
7 copy of this document?

8 MS. FORSLAND: I haven't seen this
9 document, to my knowledge, yet, so this is new to
10 me.

11 MS. BERGSTROM: Some people have heard
12 of it and some people haven't heard of it as
13 we've gone through these interviews. So I'm just
14 trying to --

15 MS. FARRAHER: Roger is not happy about
16 it. He may have shared with you he really isn't
17 happy about it. Because the overwhelming
18 majority of bridges it will just be, we got
19 together; there were no significant findings;
20 there is nothing that we need to do for many,
21 many, many of them. But, still, even if it were
22 a couple hundred of those, that's still a lot of
23 work.

24 BY MS. BERGSTROM:

25 Q Is it a process or a form that's going to be used

Page 62

1 across all districts or just in metro?

2 A I don't have control over that. I can tell you
3 it's going to be done in metro.

4 Q Were you involved at all, Bev, in the decision to
5 shut down the St. Cloud bridge within the last
6 couple weeks?

7 A No, not one iota.

8 Q Were any of your bridge guys involved in that, do
9 you know?

10 A I do not know. I was actually speaking at a
11 conference at the time, so I was kind of busy
12 there.

13 Q Do you think, Bev, that your metro maintenance
14 operations are adequately staffed right now?

15 A We're doing good with the folks we've got. If
16 people don't work, I fire them. I'm really,
17 really good at that. But to do what we should be
18 doing on the road, we are not adequately
19 staffed. And it's not just staff, it's equipment
20 and materials. Even if I had all the bodies in
21 the world, if I don't have equipment for them to
22 run or materials for them to use, it doesn't make
23 sense.

24 Q Other than funding, which I understand is kind of
25 the ongoing saga --

Page 63

1 A It's life.

2 Q -- what other changes or recommendations would
3 you say would help your staff do their jobs
4 better?

5 A Well, it's kind of like a wish thing. Well,
6 given the reality we live in, it's a political
7 world, it's a highly scrutinized world, it's hard
8 for them to struggle with that, though. If I
9 could, I would enlighten them to the reality of
10 that's never going away. And we've got a lot of
11 folks that have resisted it for twenty years and
12 they've resisted it a lot. I've got an amazing
13 mix of every generation, every type of employee
14 you can imagine, and it's a benefit and it's a
15 challenge at the same time. So getting that idea
16 across is a challenge.

17 My goal is to incorporate more
18 infrastructure management into the department,
19 and we just aren't staffed or funded to really
20 tackle that the way we could. We know what we
21 want to do, we just can't do it. But that's a
22 funding thing, but it's also a philosophical
23 thing.

24 We have folks that at a supervisory
25 level and they're struggling with it, and at a

Page 64

1 very front-line level they're struggling with
2 it. My supervisors are on board. They get the
3 point because they've seen the success you can
4 have when you can tell the story with data of
5 what you're up to.

6 But you've got your old-line guys that
7 they just want to work. They don't want to have
8 to tell anybody what they're doing. They just
9 want to work. Why can't you just leave them
10 alone and let them work.

11 So if you take away the whole funding
12 thing, it's really a human being getting
13 everybody on board with doing how we should be
14 doing things. They're doing a good job of what
15 we do and how we do it within the constraints of
16 our life, just the realities we live in. And if
17 they don't, I fire them. But it's really a
18 resources issue.

19 Q Kind of just generally speaking, what would you
20 say is the morale in the metro?

21 A I would say it's as low as it can go, but that's
22 an abstract concept; it could always go lower.

23 Q And why do you think morale is low?

24 A Because we've taken an ongoing five-year,
25 four-year, six-year, whatever it is, cycle of

Page 65

1 tighter, tighter, less resources, do more with
2 less. We're now in a do less with less mode.
3 And you have folks who -- Psychologically these
4 folks are very attached to what they do. They
5 might deny it, but their identity highly comes
6 from what they're able to do.

7 And when they can't do a job all the
8 way correctly; and when they can't do enough of
9 the job, they have to do a little patch as
10 opposed to the real fix; and when they get
11 harangued by their neighbors and coworkers who
12 don't understand the full complexity of it
13 because everybody thinks the State has got all
14 this money, they are miserable. They've got the
15 desire to do the job; they very much have the
16 self-identity attached to the job, but they can't
17 do it all the way. So it's making them go kind
18 of psychotic and it's very tough on them.

19 And then you add on top of that the
20 fact that we are frequently used as a political
21 pawn without all the information incorporated
22 into whatever discussion is happening, they do
23 not understand that that's part and parcel of the
24 reality of a state agency. And they want
25 somebody to force people to listen to the whole

Page 66

1 story or share the whole story, and they don't
2 seem to understand that is not the reality of
3 media and other aspects of our reality. So they
4 just don't like that reality and it's -- they're
5 just very resisting it.

6 And then you have the bridge tragedy.
7 I stand behind my guys from maintenance
8 inspection 100 percent. I am confident in what
9 they did and how they did it, but they are
10 suffering. They are truly, truly suffering. And
11 everyone around them is suffering, too, because
12 it's the MnDOT identity. So even folks up in our
13 payroll are anxiety ridden and absolutely on the
14 edge.

15 Q The news media over the weekend, this past
16 weekend, talked about some historical pictures of
17 the gusset plates being bowed out. Were you
18 aware of that?

19 A Actually, not, I was not aware that the gusset
20 plates were bowed out. But what I am aware of --
21 Pre-August 1st -- Since August 1st I've become
22 aware of it because I heard some of the
23 information that the NTSB has been looking at.

24 But what I would have to say to that is
25 bridges are not constructed like Lego systems.

Page 67

1 And it was disconcerting to me that the media did
2 not make a better effort to recognize that when
3 you're putting large, complex structures
4 together, be they fracture critical or not,
5 things simply do not fit together perfectly.
6 Things have to be pushed and pulled and tweaked
7 and whatever to get them to be constructed.

8 So what I would like to ask is, is it
9 very possible that since the day of opening,
10 those gusset plates were bowed like that. It is
11 very possible that they were. It is highly
12 possible, as a matter of fact, given everything
13 we know now, in my personal opinion. And I
14 suspect, not being privy to NTSB, I suspect that
15 the NTSB is looking into that.

16 But it is hard. It is more hard than
17 you'll ever understand, I hope, because I don't
18 want anyone else to live with this, but it is
19 very hard for my folks to know what they know
20 about the realities of how things get constructed
21 and the realities of if it's been bowed for 40
22 years, it's just not that, number one, easy to
23 notice. I have not talked to those guys about
24 this, that I recall, but how would they know to
25 look at this if it's been this way since the day

Page 68

1 it opened. It could have been part and parcel of
2 how you got the thing constructed.

3 Q So that's not a conversation you've had with
4 them?

5 A I talked to Mark Pribula this morning, but all I
6 recall about the conversation was that he hasn't
7 slept much. He's very stressed. He's very upset
8 that the media was reporting it in the way they
9 were doing it, because he and I have talked in
10 the past about how you've got to tweak stuff to
11 get it to fit and to get it constructed. So the
12 media skew was the focus of the conversation and
13 how it's ruining his sleep.

14 Q Why don't I just take a few minutes and look
15 through my notes, and we'll see if there's
16 anything left.

17 A Okay.

18 (Break taken.)

19 BY MS. BERGSTROM:

20 Q I think that's probably it.

21 A I did want to clarify one thing for you. I stand
22 behind what my guys do day in and day out. And
23 you had asked if I was aware of the St. Cloud
24 bridge closing --

25 Q Right.

Page 69

Page 71

1 A -- if my guys were called to that. We do a
2 variety of work called out statewide, and I hear
3 about some of it and I don't hear about others of
4 it because that's what they're supposed to do.
5 They're supposed to partner with other districts
6 in the system in any way. So whether it's mud
7 jacking or bridge inspection, I don't need to
8 know day in and day out; I get other feedback in
9 other venues. So I wouldn't be surprised if we
10 had gone and helped, and I wouldn't have expected
11 them to call me and tell me either.
12 Q So you just don't know either way?
13 A Just don't know either way.
14 Q Okay. That's it.
15 (Interview concluded at 12:10 p.m.)
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6 JULIE A. RIXE
7 Court Reporter
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Page 70

1 STATE OF MINNESOTA)
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4 COUNTY OF HENNEPIN)
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8 REPORTER'S CERTIFICATE
9
10
11 I, Julie A. Rixe, do hereby certify
12
13 that the above and foregoing transcript, consisting of
14
15 the preceding 68 pages, is a correct transcript of
16
17 my stenographic notes and is a full, true and complete
18
19 transcript of the proceedings to the best of my
20
21 ability.
22
23 Dated March 28, 2008.
24
25

1 INTERVIEW OF LISA FREESE - April 21, 2008

2
3
4 In the Matter of Conducting an Independent
Investigation into the Collapse of the I-35W Bridge

5
6
7 Department of Transportation
395 John Ireland Boulevard
8 Room G-13
9 St. Paul, Minnesota

10
11 Met, pursuant to Notice, at 1:30 in the
12 afternoon on April 21, 2008.

13
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15
16 INTERVIEWERS:

17 Kathryn Bergstrom, Attorney at Law with
18 Gray Plant Mooty Law Firm.

19 ALSO PRESENT:

20 Barbara E. Forsland, MnDOT Data
21 Practices Compliance & Policy Analyst.

22 COURT REPORTER:

23 Julie A. Rixe
24
25

1 concerning the bridge collapse and related
2 policies, practices and legislative oversight
3 issues.

4 Two, the purpose of the interview is to
5 determine what you might know about the matters
6 we are investigating.

7 Three, Confidentiality. During the
8 time our investigation is active, the information
9 that interviewees provide to us is not public
10 information. The information you provide may no
11 longer be confidential once we submit a report to
12 the Legislature.

13 Four, Process. You are required to
14 answer our questions truthfully. A court
15 reporter is present to record our conversation.
16 Either during this interview or later in our
17 investigation, we may determine that we need to
18 verify certain information. If that occurs, we
19 may ask you for a further recorded statement, a
20 signed affirmation or an oath statement.

21 Five, Post-Interview Contact. We view
22 this process as an ongoing dialogue. If you
23 think of anything after this interview that you
24 want to tell us about, please call or e-mail.
25 Likewise, we hope that you will respond to us if

1 (Freese Exhibit 1 was marked for
2 identification by the court reporter.)

3 EXAMINATION

4 BY MS. BERGSTROM:

5 Q All right. Well, we'll get started. Lisa, we've
6 met a number of times, but we'll state
7 appearances for the record. Katie Bergstrom,
8 Gray Plant Mooty.

9 MS. FORSLAND: Barbara Forsland, Data
10 Practices attorney.

11 MS. FREESE: Lisa Freese, F-R-E-E-S-E,
12 Deputy Commissioner.

13 BY MS. BERGSTROM:

14 Q Lisa, as you know, we've been going through the
15 witness protocol with every interviewee. And
16 even though you've sat through some of them, I'm
17 not going to make an exception; we're going to go
18 through it with you, as well, okay.

19 Authority. We are the Gray Plant Mooty
20 law firm. Gray Plant Mooty has been retained by
21 the Minnesota Legislature to conduct an
22 independent investigation into the collapse of
23 the I-35W bridge. The Minnesota Legislature has
24 asked us to provide a report of our investigation
25 by May 1, 2008. We will be asking you questions

1 we call or e-mail you with follow-up questions or
2 clarifications. Okay?

3 A Okay.

4 Q Any questions?

5 A No, I have none at this point.

6 Q All right. Although we've talked a couple of
7 times and even you've helped out on interviews,
8 Lisa, I don't really know anything about you.
9 Why don't you tell me about your educational
10 background.

11 A I have a master's degree in urban planning from
12 the University of Iowa, and I have an
13 undergraduate degree from Clark College in
14 Dubuque, Iowa, with majors of political science,
15 history and a minor in computer science.

16 Q What years were you in Iowa City?

17 A From '82, the summer of '82, '83, and I graduated
18 in '84.

19 Q I did my first year of law school there, in Iowa,
20 so I like that city.

21 A It's a nice place.

22 Q It is a nice place. Your current position,
23 you're the deputy commissioner?

24 A Yes.

25 Q When did you start at MnDOT?

Page 5

1 A I started at MnDOT in August of 1999.
 2 Q Okay. And what was your position then?
 3 A I was on a special project. The human resources
 4 title that I had was planning director state, but
 5 what I was involved with the access
 6 management initiative that the department had at
 7 the time.
 8 Q Of the five or so divisions that are under you
 9 right now, what division would that have been
 10 under?
 11 A Well, actually, it started out in the division
 12 which is now engineering services, and then it
 13 was reorged roughly 18 months, maybe not quite
 14 that long, after I started into the office of
 15 investment management. And that function still
 16 is in that office today.
 17 Q What was that access management project about?
 18 A Well, it was setting up a statewide system of
 19 access management guidelines for getting access,
 20 obtaining access to state trunk highways, both
 21 private and public access. So it was setting up
 22 a system based on classifications of roadways and
 23 the volumes of the roadways, et cetera,
 24 et cetera, for both safety and operational
 25 enhancements.

Page 6

1 Q Was that across the entire state?
 2 A Yes, it was statewide.
 3 Q Okay. So how long did you stay in that position?
 4 A I was in that position roughly two years, maybe a
 5 little bit more than that. And then I went over
 6 to the metro -- at the time metro division. It's
 7 now considered a district. And I worked in
 8 the -- I had a different title then too. It's
 9 currently called the program management and rail
 10 office at the metro district, but generally that
 11 office is still intact, with a couple of new
 12 functions added to it.
 13 Q And what did you do there?
 14 A I was a lead planner. I was actually one of
 15 their three kind of lead planners in that group.
 16 I was responsible for all of the planning
 17 associated with the long-range plan for the metro
 18 district, participating with the development of
 19 the long-range plan on a statewide basis, the
 20 performance measures, et cetera, as well as all
 21 corridor planning for the metro district,
 22 including the interregional corridor plans which
 23 were going on during the time I was in that
 24 position.
 25 Q And how long were you in that position?

Page 7

1 A Probably about a little over two years in that
 2 role.
 3 Q Until about 2003?
 4 A Actually, it was like October or November of
 5 2002. And I may be miscalculating my dates here
 6 a little bit. I kind of lose track of time.
 7 Because I don't think I was in the one position
 8 for a full two years, and then I was in metro a
 9 little longer in that position.
 10 Q And then did you move to another position?
 11 A Yes. I moved into the area manager position in
 12 October of 2002.
 13 Q What area within metro did you manage?
 14 A I covered the south metro, which included the
 15 three counties of Carver, Scott and Dakota, bits
 16 and pieces of Goodhue County, Sibley County. So
 17 that was generally the areas that I was
 18 responsible for, all pretty much planning and
 19 program delivery activities. I was the lead for
 20 any projects in that area.
 21 Q All right. Then you did that until when?
 22 A Until I assumed this position in two thousand --
 23 I'm losing track. What year is this, 2008?
 24 Yep. February of 2007.
 25 Q From '84 to '99 were you -- did you work during

Page 8

1 that time?
 2 A Yes, I did.
 3 Q Okay. Where did you work then?
 4 A I worked for a county government initially after
 5 getting out of school. Then I moved up to the --
 6 in the Kansas City area. I worked for Johnson
 7 County, Kansas, and I did both sewer planning and
 8 transportation planning, corridor planning for
 9 that agency while I was there.
 10 And then in '87 I moved up to the Twin
 11 Cities, worked for the City of St. Paul.
 12 And then in '91 I went to the City of
 13 Rosemount as the community development director
 14 in Rosemount.
 15 And then I took a position briefly in
 16 the City of Roseville for a year in about '84, I
 17 think -- or '94. God, I lose track of my time.
 18 Then I worked for the City of Eagan for
 19 three years.
 20 I went to the State and worked for an
 21 agency that's now no longer in existence. It was
 22 called the office of strategic and long-range
 23 planning. I worked on a newly passed initiative
 24 there that the Legislature sunsetted in the
 25 following legislative session.

Page 9

Page 11

1 And then that's when I moved over to
 2 the Department of Transportation.
 3 Q Okay. As the deputy commissioner, Lisa, how
 4 would you describe your job duties?
 5 A I would describe my job duties as being like the
 6 chief operating officer of an organization. My
 7 job is mainly to deal with the internal
 8 operations of the department. I'm not as
 9 involved in the external legislative activities,
 10 but I do have a role with local units of
 11 government in my capacity with county engineers,
 12 city engineers, things of that nature. Primarily
 13 it's dealing with the internal operations of the
 14 department, making sure that I provide leadership
 15 for those activities and that resources are
 16 appropriately distributed to cover the needs
 17 within the department.
 18 Q In your role, then, you report to the
 19 commissioner?
 20 A Correct.
 21 Q And then do each of those division heads report
 22 to you?
 23 A Correct.
 24 Q Okay. And what are those five divisions? I
 25 don't have an org chart along.

1 standing meeting that occurs once a week.
 2 Q And is the commissioner at that meeting or is the
 3 commissioner's staff at that meeting?
 4 A The commissioner's staff meeting, the
 5 commissioner is generally present. And at the
 6 division director meeting, which I also attend,
 7 the commissioner is not normally present. They
 8 occur on the same day and they're back to back,
 9 at least since I've been here they are.
 10 Q And is that what's been referred to as the
 11 Tuesday meetings?
 12 A Yep, the Tuesday meeting. And I think at one
 13 point they used to be on Monday, so maybe some
 14 people might still refer to them as the Monday
 15 meeting.
 16 Q Prior to your being appointed the deputy
 17 commissioner, did you know Commissioner Molnau?
 18 A The first time that I really dealt with
 19 Commissioner Molnau was in my capacity as area
 20 manager.
 21 Q Okay. And what kind of contact did you have with
 22 her back then?
 23 A Typical kind of contact for an area manager to
 24 have with the commissioner would be if there's an
 25 issue that gets brought to the commissioner level

Page 10

Page 12

1 A There's the finance administration division;
 2 there's the planning, data and modal management
 3 division, which has all of the programming
 4 activities plus some of the modal offices;
 5 engineering services division; the state aid and
 6 electronic communications division; and the
 7 largest of the divisions, which is the
 8 district -- well, it's now called operations
 9 division, and it includes the directs as well as
 10 the office of maintenance and the traffic
 11 engineering office, which has a fancy name.
 12 Without the org chart, I can't remember. It
 13 includes our TMC, the regional --
 14 Q Traffic management?
 15 A -- traffic management center and the different
 16 TOCCs across the state.
 17 Q How often do you -- does the deputy commissioner
 18 get together with each of the heads of those
 19 divisions?
 20 A We typically get together as a group once a
 21 week. We have a meeting that involves just the
 22 division directors and myself once a week, and
 23 then we have a full what we call commissioner
 24 staff meeting once a week. There's occasion
 25 where those meetings get cancelled, but they're a

1 of a project in your area and people request a
 2 meeting with the commissioner, usually you do a
 3 briefing meeting with the commissioner in advance
 4 of that meeting and then oftentimes would be
 5 asked to be present for those meetings with
 6 outside constituencies, elected officials, other
 7 government officials.
 8 And so over the course of my tenure,
 9 the types of meetings that I would get asked to
 10 attend were like a meeting on the proposed
 11 amphitheater on Trunk Highway 169, or a safety
 12 issue on Trunk Highway 3 which involved a
 13 fatality and the parents requested a meeting with
 14 the commissioner, a meeting on where we're
 15 putting the maintenance facility along 212, those
 16 kinds of things. Those would be the types of
 17 meetings that I would get asked to either brief
 18 the commissioner or be part of.
 19 Q And would you brief the commissioner directly or
 20 did you brief the deputy commissioner?
 21 A Sometimes the deputy commissioner was involved.
 22 But oftentimes because the area that I rep- -- or
 23 that I worked in was an area that she was a
 24 legislator for, oftentimes people would contact
 25 her directly for those meetings. But it kind of

Page 13

Page 15

1 depended. It could occur either way.
 2 Q And during the time that you were the area
 3 manager, did the expansion of 212 happen during
 4 your area managership?
 5 A That project was one of the projects that was
 6 funded by the Pawlenty-Molnau funding package. I
 7 had been working on that project prior to that
 8 with some advanced design work and then the 212
 9 interregional corridor study. So I had kind of a
 10 long-standing history of working on that project.
 11 Q Back when you were doing that lead planning
 12 role --
 13 A Uh-huh.
 14 Q -- and then as the area manager?
 15 A Uh-huh.
 16 Q Yes? She can't take down uh-huhs.
 17 A Sorry about that. I forgot about the uh-huh
 18 problem. Yeah. So, you know, that project --
 19 you know, the 212 corridor had been the corridor
 20 that was part of my planning studies that I had
 21 been lead on, and then as area manager it was one
 22 of the lead projects in that area that was being
 23 considered.
 24 Q Other than the contacts that you've described
 25 when there would be a specific project, did you

1 replacement?
 2 A No. In my area I had one bridge that was
 3 replaced. That was the Trunk Highway 41 bridge
 4 that had a scour issue. And that bridge we
 5 worked diligently, when there were funding issues
 6 with regard to some of the projects, to keep it
 7 in the time line that it was scheduled for. And
 8 all of that stuff occurred at the district
 9 level. There was nothing that was brought up to
 10 the commissioner's level. We shuffled projects
 11 around at the district level to make that happen.
 12 Q Is that somewhere down around Chaska?
 13 A Yes, yes.
 14 Q So would that bridge replacement have been paid
 15 for out of the bridge improvement plan?
 16 A It was a federally-funded project, and it had a
 17 sufficiency rating below 50 at the time. It was
 18 a bridge that we had concerns about handling
 19 traffic without the replacement. And so that was
 20 one of the projects that we worked very hard to
 21 keep on track when it was scheduled to be done,
 22 and we did accomplish that.
 23 Q But, in any event, it didn't have to go outside
 24 metro to any commissioner level?
 25 A No, it did not.

Page 14

Page 16

1 ever have projects that you raised to the
 2 commissioner's level when you were area manager,
 3 as opposed to, like, parents or constituents or
 4 something raising an issue?
 5 A Not -- Not that I can remember. Normally the
 6 course of how activities occur is that it occurs
 7 at the transportation policy committee. And
 8 oftentimes if there was an issue pertaining to a
 9 project that wasn't already on the radar of the
 10 commissioner, that would be the avenue that those
 11 kinds of issues got brought forth, was through
 12 that process.
 13 Q Who was the deputy commissioner during this time?
 14 A Doug Differt.
 15 Q Do you know when he left?
 16 A He left probably, I think, in December of 2006.
 17 A specific date, I don't know.
 18 Q So there was just that three-month or so lag
 19 before, then, you were --
 20 A Uh-huh.
 21 Q -- the deputy?
 22 A Yes. I'll get that uh-huh right. Yes.
 23 Q Do you ever remember during any of those contacts
 24 with Commissioner Molnau having any of these
 25 meetings that related to bridge safety or

1 Q Okay. Prior to becoming the deputy commissioner,
 2 did you ever have any occasion to bring any
 3 issues to the Governor?
 4 A No.
 5 Q Okay. How about the Legislature?
 6 A No specific issues. Normally the role of the
 7 area manager was once a year to go brief the
 8 legislative delegation in your area that you
 9 worked in about -- We had a legislative booklet
 10 that we provided to them which mainly talked
 11 about projects that were occurring during this
 12 year and out -- projected to occur over the next
 13 couple years. It was an opportunity to have an
 14 exchange, and have them ask questions and get
 15 answers for things that typically were more
 16 focused on their district specifically.
 17 Q And by district you mean the area that you --
 18 A Their legislative district specifically.
 19 Q Okay.
 20 A And I would meet with -- I think I had like 30
 21 legislators, both House and Senate members, that
 22 had bits and pieces of their district in those
 23 three counties. So I met with roughly between 20
 24 and 30 legislators over the course of each of the
 25 four legislative sessions that I was area

Page 17

Page 19

1 manager.
 2 Q And I take it those are a little more informal
 3 meetings?
 4 A Informal. I don't believe that I ever testified
 5 before the Legislature. I do remember in my
 6 planning capacity providing presentations to the
 7 legislative staff and some members of the
 8 Legislature regarding metro district's 20-year
 9 plan.
 10 Q All right. I want to figure out -- I'm going to
 11 ask you a series of questions about bridges and
 12 bridge policy. And I think for a point in time,
 13 we'll go prior to August 1st, 2007, so before the
 14 collapse.
 15 A Okay.
 16 Q But because you've had a few different roles, you
 17 might have to tell me -- If your answer is, yeah,
 18 I've dealt with that, can you let me know which
 19 role you were in?
 20 A Which hat I was wearing?
 21 Q Yeah, that would be helpful. And, actually,
 22 let's start prior to you being deputy
 23 commissioner.
 24 A Okay.
 25 Q So prior to February 2007, were you involved in

1 the boundaries of the project that was
 2 articulated by those expert offices and stuff.
 3 Q Let's back up a little bit. When you talk about
 4 being area manager and the number of projects
 5 you're managing for your area, does that include
 6 projects that are staffed both by MnDOT and by
 7 outside contractors?
 8 A It could be either.
 9 Q It could be either?
 10 A Uh-huh.
 11 Q And in that capacity did you work with the
 12 central bridge office?
 13 A Yes.
 14 Q Okay. And that would be, I would assume, if the
 15 projects that you're managing for your area
 16 include a bridge project?
 17 A Correct.
 18 Q Okay. So you would have worked with central
 19 bridge on the Highway 41?
 20 A Yes. They did the bridge design.
 21 Q And did you work with the central bridge office
 22 prior to becoming the deputy on any other bridge
 23 projects?
 24 A On some planning level projects. For example,
 25 we're doing EIS for a major river crossing. They

Page 18

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1 reviewing or preparing any written communications
 2 or policies regarding bridge inspections?
 3 A No.
 4 Q Okay. How about bridge inspection findings?
 5 A Be more clear about what you mean by that.
 6 Q Well, I mean, any -- worked in developing any
 7 policies or best practices regarding the bridge
 8 inspection reports, for instance?
 9 A No.
 10 Q Any communications about that with anyone?
 11 A No.
 12 Q What about bridge maintenance policies?
 13 A Not with policies.
 14 Q Practices?
 15 A As an area manager, your main role was if there
 16 was a project in your area or a bridge in your
 17 area, you'd work and coordinate with those
 18 staff. Usually the decisions about what happens
 19 after the inspection and the maintenance, those
 20 kinds of things are handled between the
 21 maintenance staff and the bridge office staff.
 22 And the role of the area manager typically was,
 23 once they decided it needed to be a project -- or
 24 a project, then you would need to do the external
 25 communication with the community and work within

1 were involved in that process, but not directly.
 2 I mean, they would provide us -- we would consult
 3 with them on locations and technical information
 4 with regard to that. But the district itself was
 5 managing the Environmental Impact Statement
 6 process with an outside consultant.
 7 For example, the Hastings bridge would
 8 have been another bridge in that area of which
 9 every year we monitored the inspection reports.
 10 We worked with the district and our maintenance
 11 staff on various projects that would result from
 12 those inspections. And I believe at least once
 13 that I can recall we had a maintenance project on
 14 that bridge coming from those inspection reports
 15 that was handled by our own internal maintenance
 16 forces.
 17 Q All right. The EIS for the river crossing, is
 18 that 212?
 19 A It's actually the new 41 river crossing.
 20 Q Okay. And then when you said, for instance, on
 21 the Hastings bridge you monitored the inspection
 22 reports, how would the inspection report coming
 23 from metro come to your attention, say on the
 24 Hastings bridge?
 25 A Usually from our maintenance staff. Like Roger

Page 21

Page 23

1 Schultz would be coordinating those things with
 2 the area staff.
 3 Q And he would come to you and say, we need to have
 4 a project on this bridge?
 5 A Yeah. He would come every year with his list of
 6 work that he felt needed to be done. He would be
 7 asking us about other things that maybe we knew
 8 about that either needed to be done or were on
 9 the horizon, or were on his horizon that maybe
 10 could be coordinated with local government work.
 11 So a lot of times his questioning to us
 12 was more in terms of did we have a project coming
 13 down the pike that might affect this bridge, or
 14 do we have a local government project which we
 15 need to be aware of that might be impacted if we
 16 decide to move forward with a maintenance project
 17 on this bridge or that bridge.
 18 Q So more like a total coordination effort?
 19 A It was more in a coordination role.
 20 Q And when he is talking to you about that, Roger,
 21 is that in his capacity as kind of the master of
 22 the BIP?
 23 A The master of the BIP. Of the Bridge Improvement
 24 Program?
 25 Q Yes.

Page 22

Page 24

1 A Yes. He was -- At metro we had a number of
 2 different pots of money that we called set
 3 asides; and they had a champion, and Roger was
 4 the champion of that particular pot of money.
 5 And so it was his responsibility to solicit
 6 input, to get the technical information
 7 assembled, working with maintenance and bridge
 8 staff, and to make recommendations on that
 9 particular set of projects to the metro
 10 management team, which would have been the -- At
 11 the time I was there -- They've changed it a
 12 little bit, but at the time I was there, there
 13 was a program committee called the metro program
 14 committee. And they would have kind of been the
 15 final decision-makers, at least, in moving
 16 forward with what was in our proposed stip.
 17 Q The reason I asked you that question is when I
 18 talked to Roger, I understand that he kind of had
 19 two different roles. He was in charge of all the
 20 people who were inspecting all structures that
 21 were not the fracture critical bridge?
 22 A Uh-huh.
 23 Q And then he also was kind of in charge of this
 24 Bridge Improvement Program, the BIP --
 25 A Uh-huh.

1 Q -- and in that role would deal both with fracture
 2 critical and the other structures. And so my
 3 guess is that if he's coming to you to talk about
 4 the Hastings bridge, it's because something about
 5 the Hastings bridge made it to his little list of
 6 prioritized projects?
 7 A Well, his pot of money, to be quite frank with
 8 you, was much smaller than the larger metro
 9 district program. And more than likely a major
 10 bridge project that's \$100 million wouldn't get
 11 funded out of that smaller pot of money; it would
 12 come out of the larger metro district program.
 13 Q Right.
 14 A And most certainly when it comes to a large
 15 bridge like that -- You know, a lot of the
 16 smaller bridges, like the 41 bridge, Roger is
 17 clearly in the lead on that.
 18 When it comes to the larger bridges,
 19 the bridge office staff is at the table at the
 20 same time, helping us make decisions about what
 21 year it needs to be in the program and what kinds
 22 of things need to be done. Can it be rehabbed or
 23 does it need to be replaced. They would be very
 24 much engaged in that process.
 25 Q So using the two examples that you had, was

1 central bridge involved in making the
 2 determination whether the Highway 41 bridge
 3 should be rehabbed or replaced?
 4 A Yes, they were.
 5 Q Okay.
 6 A And from Roger's purview, he would be -- that
 7 bridge was small enough that it actually got
 8 funded out of his smaller pot. I think it was in
 9 the \$4 million range. But when you're talking
 10 about the larger bridge structures -- For
 11 example, the Lexington bridge was replaced
 12 during -- before I started as area manager, the
 13 project was completed, not under my tenure.
 14 Those decisions are really larger program level
 15 decisions that get made by the district with
 16 consultation with the bridge office.
 17 Q Okay. How do you make the determination whether
 18 it's -- Well, in both cases the bridge office was
 19 involved, it's just in one money came solely from
 20 Roger's fund and another one would be a different
 21 pot of money, right?
 22 A Right --
 23 Q Okay.
 24 A -- or that pot of money plus more.
 25 Q Okay. And I think Roger told me probably the

Page 25

Page 27

1 largest project he had was about 7.7 million.
 2 I'm interested in your role when you're
 3 having these discussions, whether it's the
 4 Highway 41 replacement or the project -- the
 5 maintenance project on the Hastings bridge. How
 6 involved were you in ultimately reaching the
 7 conclusion whether it should be rehabbed,
 8 replaced, et cetera? I mean, do you facilitate
 9 that discussion, are you there, do you just
 10 implement it after it's been made by others?
 11 A In my case the bridge office really pretty much
 12 makes the -- As far as I understand it, the
 13 bridge office makes the decision about whether to
 14 replace or to repair.
 15 Q When they let you know, then you implement the
 16 strategy to --
 17 A That is correct.
 18 Q Okay. What was the maintenance project that was
 19 done on the Hastings bridge?
 20 A There was a maintenance project that was done. I
 21 don't remember the specifics of the work, but it
 22 was deck repair. I don't think it included
 23 painting. There was replacing some of the
 24 hardware. They have a project again this year,
 25 which is a little bit more extensive in terms of

1 into their program. Bridges come first. And if
 2 other projects like resurfacing jobs need to slip
 3 a little in order to fit in a bridge project, it
 4 has.
 5 Q So who are the people who are working those
 6 priorities to make sure that it happens?
 7 A Well, it would be the metro district staff that
 8 consists of the programming committee in the
 9 planning and programming office. A lot of the
 10 juggling of the program occurs with Marv
 11 Luntsford. He's a master at trying to match up
 12 funding resources with projects, keeping it so
 13 that we're maximizing the amount of money that
 14 the district is spending of the various siloed
 15 pots of money that we get from the federal
 16 level. And to a less extent, state moneys are
 17 not quite as compartmentalized.
 18 But we really look to Marv's expertise
 19 out there to get things sorted. You basically
 20 say, this has to go. And then he looks to, can
 21 we fit it in. Or if we can't fit it in, what
 22 else do we need to move in order to fit it in.
 23 That's the role that he plays.
 24 And sometimes there's options and
 25 decisions, and those kinds of things would have

Page 26

Page 28

1 the maintenance activities they'll be undertaking
 2 on that bridge.
 3 Q And are they contracting that out or are they
 4 staffing it through MnDOT?
 5 A That project will be contracted out, or it is
 6 actually under contract now.
 7 Q And who's doing that; do you know?
 8 A Who's the contractor?
 9 Q Yeah.
 10 A Rainbow, I believe.
 11 Q And then back when they did the one maintenance
 12 project when you were the area manager, was that
 13 an internal MnDOT project or --
 14 A It's the best of my recollection that that was an
 15 internally-handled project by our maintenance
 16 staff. They were conducting both an inspection
 17 at the time and doing maintenance work
 18 simultaneously. And the specifics of that we'd
 19 have to go back through the records on.
 20 Q Like on the Highway 41 bridge, if central bridge
 21 says, no, we really need to replace this bridge,
 22 who determines the priority of when that happens?
 23 A Well, generally speaking, the bridge office
 24 provides us a window in which that project needs
 25 to be done, and then the district works to fit it

1 been brought typically to the metro program
 2 committee at the metro district. And ultimately
 3 that committee is even kind of advisory. The
 4 district engineer would have the final
 5 decision-making authority over those types of
 6 things.
 7 Most likely we come to consensus
 8 decisions and it doesn't get dictated what the
 9 decision is. We're able to work it out and fit
 10 needs into the program that way.
 11 That doesn't mean that there aren't
 12 repercussions and there's not a project that has
 13 to move out a year or two, and that has to be
 14 communicated. Sometimes it's a major -- like add
 15 lane type project that because we had to take
 16 another 10 million and put it towards this or
 17 another 20 or 30 million, then that means that
 18 that project might not happen for a couple of
 19 years. But those kinds of things occur on an
 20 annual basis, as they're developing the statewide
 21 transportation improvement program.
 22 Q So the Highway 41 bridge, that was on the stip?
 23 A Yep. When I came into my position, it was one of
 24 those bridges that the bridge office had
 25 identified as a bridge that needed to get

Page 29

Page 31

1 repaired. It was in the stip I think in the
2 third year out, and so staff were working hard to
3 do the replacement. It was a replacement, pretty
4 much, with very limited approach work. We did
5 coordination with the DNR because we were adding
6 pedestrian facilities and trail to that.

7 So those kinds of things sometimes add
8 time line or length to a project. We got money
9 through the regional process for that trail, so
10 we went out -- That wasn't part of the funding.
11 We went out and found some more funding, put it
12 together as a package.

13 And then the key things in terms of
14 keeping schedule tend to be municipal approval on
15 projects, whether or not you can get it when you
16 need it at the juncture point, so you can keep
17 moving and right-of-way acquisition. So if a
18 project slips that's kind of in the program, it
19 tends to be for those couple of reasons, that
20 we're not ready with the right-of-way, we haven't
21 got through that process yet, or the municipal
22 consent process requires that we had to add
23 something to the project that takes a little bit
24 more time, either right-of-way or time to get the
25 design work done on the project.

1 kind of tracking in the metro area those bridges,
2 Hastings being one, Kayuga, Lafayette, 35W. They
3 were all on different tracks.

4 As area manager, we're kind of
5 responsible for making sure things are moving
6 along with each of those bridges. And at some
7 point over the next 20 to 25 years, certain
8 things were going to need to be done with all of
9 those bridges, whether it be a major
10 rehabilitation or a replacement of those
11 bridges.

12 And so from the context of the major
13 bridge program in the metro district, as part of
14 the management team I was aware of different
15 things going on, but not intimately familiar with
16 the findings or discussions that were occurring
17 between the bridge office and the area and design
18 staff with regard to the options.

19 Q And would you have had knowledge as to which
20 consultants were being used on the bridge?

21 A I was aware that they were using URS as a
22 consultant.

23 Q Were you aware that the U of M had done a study?

24 A Not until after the bridge collapse was I fully
25 in the know on that.

Page 30

Page 32

1 Q Okay. In the years that you worked over at metro
2 or even your tenure at MnDOT prior to you
3 becoming the deputy, did you ever have a project,
4 say, of 100 million or so that was never on the
5 stip?

6 A Nope.

7 Q Prior to becoming the deputy, did you ever have
8 any conversations with the people at metro or
9 central bridge regarding a bridge failure or
10 collapse?

11 A No.

12 Q And had you ever heard about that happening in
13 other states?

14 A No.

15 Q I take it that based on where your area was, you
16 didn't have any dealings with the I-35W bridge?

17 A I did not.

18 Q And is that true even in the planning?

19 A Well, you know, I should maybe qualify that. As
20 part of the metro program committee, we were
21 aware of the discussions regarding the I-35
22 bridge and the study that was being done to take
23 a look at whether or not there were rehab options
24 available for the bridge and whether or not --
25 There were several major bridges, and we were all

1 Q I guess I'm wondering, you knew that URS was
2 doing a study -- or that they were using URS.

3 Why would you have known that?

4 A Generally speaking, especially pertaining to my
5 work on Hastings, we try to keep track of who's
6 doing which projects for just generally -- If
7 you're going to move out an RFP on a project, you
8 kind of want to know the capacity of certain
9 consultants. And when it comes to large bridge
10 structures, of which Hastings is one of them --
11 I'll speak strictly from my focus, as Hastings
12 was the bridge project I was trying to shepherd
13 through a certain feasibility process. There are
14 a limited pool of consultants that have knowledge
15 of those types of structures nationally and in
16 the state of Minnesota. And so there are
17 probably a half dozen consultants nationwide that
18 have in-house, all of the expertise required to
19 deal with those types of structures. And so from
20 that standpoint, that's why you kind of know
21 who's doing what.

22 And, plus, I think if you've -- the
23 process that -- when consultants know that you
24 have a project potentially coming up, they like
25 to come and meet with you so you can get to know

Page 33

Page 35

1 who they are, et cetera. And I can tell you that
 2 I've met with probably half a dozen different
 3 consultants who were all looking at and
 4 interested in the Hastings bridge project. And
 5 when they come to talk to you, they talk about
 6 the things that they're working on either for
 7 MnDOT or for other states. And so from that
 8 standpoint, somewhere along the line it became
 9 part of my collective information that URS was
 10 working on that study.
 11 Q And then is it fair to say with that explanation
 12 that you wouldn't have known what exactly URS was
 13 studying?
 14 A No. We may have -- My staff may have pulled up
 15 their scope to try to help put together an RFP.
 16 But since we were not looking at anything with
 17 regard to the Hastings bridge that would have
 18 resulted in some sort of rehabilitation on that
 19 bridge, at the current time we weren't really
 20 focusing in on that. Because the recommendation
 21 from the bridge office perspective on Hastings
 22 was we needed to replace it.
 23 Q Okay. And you wouldn't have known about URS's
 24 time line on the I-35W bridge?
 25 A No.

1 when you were still area manager, even though it
 2 wasn't in your area.
 3 A Typically we would only get involved in those
 4 kind of detailed discussions with projects within
 5 our area, not outside of our area.
 6 Q Once you became deputy commissioner, I take it --
 7 Well, as deputy commissioner prior, so now we're
 8 talking February 2007 to August 1st, 2007, so in
 9 that six months or so before the bridge collapse,
 10 did you have one-on-one meetings with Dan Dorgan?
 11 A Not one-on-one, just general meetings where he
 12 was -- his staff were presenting bridge program
 13 issues to TPC or to the operations division, but
 14 never one-on-one.
 15 Q And during that time what kinds of bridge issues
 16 were being raised to the TPC?
 17 A Generally speaking, the ongoing discussion about
 18 the major bridge program and the capacity to fund
 19 some of the upcoming major bridges, and the
 20 timing of those and the status of those bridges
 21 with regard to their health conditions, so to
 22 speak.
 23 Q Do you ever remember having a specific
 24 conversation about the health condition of the
 25 I-35 bridge?

Page 34

Page 36

1 Q Okay. I think I asked you this, but I don't
 2 remember what you said. Were you aware of the U
 3 of M study on the I-35W bridge?
 4 A No, not until after the collapse.
 5 Q And were you aware of HNTB's proposals regarding
 6 the bridge?
 7 A No.
 8 Q Did you have any knowledge about the 1977
 9 modifications to the bridge?
 10 A No.
 11 Q How about the 1998 modifications?
 12 A No.
 13 Q Okay. I take it from the description of, again,
 14 your areas, that you -- Well, you tell me. Were
 15 you involved at all in any of the discussions
 16 regarding the overlay project that actually was
 17 taking place when the bridge collapsed?
 18 A No. That project probably was -- You know, even
 19 in my capacity as deputy commissioner, that
 20 project probably was already turned in for
 21 letting, the plans and everything, before -- or
 22 at about the time I would have taken this
 23 position.
 24 Q Yeah, I think that's right. I just didn't know
 25 if it came up in any of the planning discussions

1 A Not specific to that.
 2 Q During that time frame were there specific
 3 conversations about when the I-35W bridge might
 4 need to be replaced?
 5 A Well, the general thinking was that that bridge
 6 would be probably 2020 and beyond, as I
 7 understood it, before we would need to consider a
 8 replacement.
 9 Q And there was an opposite conclusion with the
 10 Hastings bridge, correct?
 11 A Correct.
 12 Q And when was the Hastings bridge set to be
 13 replaced?
 14 A It was actually in our program, I believe, in
 15 like the 2018-19 time frame. It was one of the
 16 bridges that was anticipated to receive some of
 17 the statewide bridge program moneys, which the --
 18 would have it probably maybe being advanced up to
 19 the 2015-2016 time frame.
 20 Q And is that the statewide bridge preservation
 21 fund that you're talking about?
 22 A Yes.
 23 Q Okay. Is there money in that fund right now, the
 24 statewide bridge preservation fund?
 25 A Well, there is anticipated money in future years

Page 37

Page 39

1 from federal revenues. It's not like the money
 2 ever sits there; it always gets programmed and
 3 out. The first -- I believe the first years that
 4 it was to be in effect was -- I'd have to check
 5 on the specifics of that, but I know that, like,
 6 the Lafayette bridge was set to receive some of
 7 those moneys. And, actually, this may be the
 8 first year, because the Robin Drayton bridge is
 9 being funded using some of those funds as well.
 10 Q Where is that bridge?
 11 A That's on the Minnesota-North Dakota border.
 12 Q So as far as you know, that -- Robin Drayton, did
 13 you say --
 14 A Yeah.
 15 Q -- bridge and the Lafayette bridge might be the
 16 only two bridges that have benefitted from the
 17 funds in the --
 18 A Well, see, the fund was set up based on
 19 anticipated future federal revenues. And what we
 20 did this time around with those new moneys that
 21 we were anticipating receiving from the federal
 22 government was rather than do our traditional,
 23 allocate the money out through the target
 24 formula, we anticipated that we had -- we would
 25 keep hold the target formula, so all the

1 fund would pay for a portion, I believe the
 2 bridges -- the bridge replacement. And I can't
 3 remember if that fund allocated a piece of the
 4 approaches, but it would have been a limited
 5 piece of the approach work. I think it was -- I
 6 actually think in that particular instance, it
 7 was only the bridge that would be paid for out of
 8 that fund, and any approach work that needed to
 9 be done would be the district responsibility.
 10 Q Prior to the collapse, Lisa, you're not aware of
 11 the detail that was in the I-35W bridge
 12 inspection reports, correct?
 13 A Correct.
 14 Q Prior to the collapse did you ever have any
 15 conversations with Dan Dorgan about the written
 16 policies regarding bridge inspections?
 17 A No.
 18 Q How about with the person he reports to, Dick
 19 Arnebeck?
 20 A Rick Arnebeck?
 21 Q Yeah, Rick.
 22 A Not specific about the bridge policies.
 23 Q Okay.
 24 A About policies in general and some of the
 25 direction we need to be going with those policies

Page 38

Page 40

1 districts would continue to get the same amount
 2 of money that they had previously received, plus
 3 we did some adjustments as to how the target
 4 formula got allocated.
 5 So all districts at least were made
 6 whole, but the extra money, the new money that we
 7 received from the additional federal funding, was
 8 set into a central pot of money, of which at
 9 least half of it was to be spent for bridges and
 10 half of it was supposed to be spent for
 11 mobility. And we have -- it was supposed to be
 12 bridge first, and so we've never actually spent
 13 any money on mobility yet.
 14 Q Okay. Was it contemplated that a bridge that was
 15 going to get money from the state bridge
 16 preservation fund would still have to be on the
 17 stip at some point?
 18 A Well, it would be part of the stip. Anything
 19 that gets any kind of money from -- It would be
 20 part of the stip, but a piece of the funding
 21 would come from the statewide bridge fund and a
 22 piece of the funding would come from the district
 23 budget or allocation.
 24 Q Okay.
 25 A So the money out here for the statewide bridge

1 that we have in the department with regard to
 2 directives, but never specific to bridge policies
 3 only.
 4 Q Okay. How about discussions with either one of
 5 them about the importance of implementing the
 6 policies that MnDOT does have?
 7 A We have had those types of discussions as we
 8 review our annual audit. And issues come up,
 9 generally fairly minor in nature, but it's always
 10 an ongoing discussion about doing what we're
 11 supposed to be doing, making sure it's getting
 12 done, and making sure that we have the resources
 13 to do what we say we're going to do.
 14 Q And, again, you don't remember having any
 15 conversations relating to bridge inspections
 16 along those lines?
 17 A No.
 18 Q Okay. There's been varying discussions in these
 19 interviews about bridge maintenance and then
 20 bridge preservation. And you and I were just
 21 talking about the bridge preservation fund. What
 22 kinds of work on bridges would qualify as
 23 preservation, if you know or have an opinion on
 24 that?
 25 A Well, sometimes the names of the funds and how

Page 41

1 things get allocated and done don't completely --
 2 well, I wouldn't say they don't correspond, but
 3 they are what you might think is a little
 4 different. You know, we have our operating
 5 budget which pays for our staffing and materials
 6 that do things with our internal forces.

7 We also have our state road
 8 construction portion of the budget, where
 9 typically that's where we develop projects that
 10 go out for bid and get contracted out for.

11 So oftentimes -- And then we have what
 12 you call preventive maintenance, we have what we
 13 typically, in MnDOT nomenclature, refer to as
 14 preservation, which is preserving their existing
 15 infrastructure. And preservation can run the
 16 gamut of, to preserve something, repairing it or
 17 replacing it. So it can run the full gamut,
 18 really, of fixes that you choose.

19 So, you know, there's what we do out of
 20 our operating budget, which we do repairs on our
 21 bridges, and we do preventive maintenance work
 22 out of our operating budget. We can also make
 23 choices, if we don't have enough resources in
 24 our -- or staffing of the right expertise, to
 25 make a decision to contract out for it.

Page 42

1 So, for example, we don't paint.
 2 Painting is kind of a -- it's a preservation type
 3 of thing. So rather than doing that with our
 4 internal forces, we contract out for it.

5 Q Does the definition for maintenance or
 6 preservation depend in part on the cost?

7 A That's one of those areas where I think people
 8 from -- that are not familiar really attempt to
 9 try to say it's a cost thing. In a way, we
 10 perform some maintenance activities by
 11 contracting out. We perform some maintenance
 12 activities by our internal forces. They can all
 13 be and attribute to preservation activities on
 14 bridges and roadways, but they're -- they can --
 15 they are really one and the same sometimes.

16 Typically on a job that requires more
 17 staffing -- let's say in particular in the metro
 18 area. We oftentimes contract out for a job
 19 because we don't have enough crew to be able to
 20 assign to a particular job so that we can
 21 complete it in an efficient manner so it doesn't
 22 disrupt traffic so long.

23 In a rural district, where we don't
 24 need to worry about traffic control so much on a
 25 particular facility, we may actually do that with

Page 43

1 our internal forces. So the decisions sometimes
 2 are made not so much by what the cost of the
 3 project is, but by whether or not we have enough
 4 people internally to do it in an efficient manner
 5 to manage traffic, or whether or not we have the
 6 expertise to do a particular task or two that
 7 needs to be done.

8 And we try to only mobilize once to do
 9 a project. So even though we might have been
 10 able to do ten things with our internal forces,
 11 if there's two things we don't have the expertise
 12 to do, we may make a decision to go ahead and
 13 package that as one project, mobilize once and
 14 get it done by an outside contractor.

15 Q And as I understand it, all the projects that get
 16 on Roger Schultz's Bridge Improvement Program are
 17 projects that there has been a determination that
 18 an outside contractor will be used?

19 A Yes.

20 Q And who makes that decision?

21 A Generally it's done after consultation with the
 22 maintenance staff, with the bridge office, and
 23 with the program staff. So it's done kind of
 24 collaboratively, with all of those folks giving
 25 input. But at the end of the day, usually

Page 44

1 somebody like Roger will be kind of the chief
 2 indicator of which way it's going to go.

3 Q Okay. And the Bridge Improvement Program, his
 4 BIP, was never intended to be the source of a
 5 major replacement of a bridge?

6 A That is correct.

7 Q I'm curious if in the summer -- if prior to the
 8 collapse of the bridge the central bridge office
 9 had come and said, we have got to replace this
 10 bridge ASAP, and it's never been on the stip,
 11 where would MnDOT have found the money to replace
 12 the bridge?

13 A Well, the first thing that we would have done in
 14 a situation like that is to assess whether or not
 15 we had the capacity within our existing program
 16 to even fund it. We would have looked at -- We
 17 would have tried to get a handle on the cost of
 18 the project. And we know we have X number of
 19 million a year we can spend, but not all of those
 20 funds can be just directed towards anything.
 21 Some of them have to -- they have specific things
 22 that they need to go to. So we would have taken
 23 and looked at that.

24 Most certainly in an instance like
 25 that, I think if we would -- You know, this is

Page 45

1 pure speculation, but we would not have been
2 probably able to make that decision without
3 including the Legislature and the Governor in
4 that type of a dialogue. And since it's not a
5 typical thing, it's not something that we've had
6 to deal with on, you know, an annual basis, I
7 would say the process isn't clear to me exactly
8 how we would have handled it.

9 But most certainly if the bridge office
10 had come into my office and said, we can't rehab
11 this project, but we have to replace it, and
12 we've got to do it now and we should close the
13 bridge down, we would have had to be -- we would
14 have had to look at every option within our
15 program and articulate it, the implications of
16 it. We would have probably had to go to the
17 Legislature and request emergency funding or some
18 sort of financing mechanism to enable us to move
19 forward with that project.

20 Q In the short time that you were deputy
21 commissioner prior to the bridge collapse, did
22 you ever have any conversations with Commissioner
23 Molnau about those types of special requests?
24 Not necessarily for bridge replacement, but major
25 funding of a project that wasn't on the stip that

Page 46

1 would have caused you to have to go to the
2 Governor or the Legislature?

3 A Not of an emergency nature like that. There are
4 plenty of needs out there, plenty of wants out
5 there that are all good projects that we don't
6 have money to do. But of a project that would
7 have been of that nature, we have never had an
8 issue nor a need for that type of conversation.

9 Q So the Hastings bridge and the time line, what
10 was the -- where was the plan to get the funds to
11 replace that bridge?

12 A It would have been partially out of the statewide
13 bridge -- or statewide bridge program, which is
14 not the same as the preservation program.

15 Q Okay. And how are they different?

16 A The preservation program is the federal funds
17 that are allocated through our moneys that we get
18 on an annual basis, and they're set up by
19 different silos. Like some need to be spent for
20 safety, some need to be spent for bridges,
21 et cetera. So those are the federal moneys that
22 we get, plus then the amount of money that we
23 need for match from the state dollars. So that
24 pot is determined in that way.

25 This other statewide bridge program,

Page 47

1 major bridge program pot of money that we had,
2 was based on, as I mentioned before, a process
3 that we went through after the last federal
4 legislation was past, SAFETEA-LU, and we
5 reassessed how we allocate money out to the
6 districts. We made a decision that we needed to
7 keep -- The department made a decision. And I
8 wasn't in a decision-maker role at that time, but
9 the department made a decision that we needed to
10 keep a central pot of money to be used for these
11 major bridge projects that we anticipated over
12 the next ten years coming down the pike. Those
13 projects, in and of themselves, for those major
14 bridges tended to create great strain on
15 individual district budgets to be able to fit
16 them in. So the idea was that with this central
17 pot, they would fund the bridge structure itself,
18 and then the district would have less financial
19 hardship trying to fit the approach work and the
20 right-of-way and the other associated work into
21 their program. So the idea was to take and make
22 it a little easier for them.

23 That's the challenge. It's always been
24 the challenge. These onetime funding projects
25 that we've had have helped us move large projects

Page 48

1 a little faster, but in any case what happens
2 when you have a large project and you need to fit
3 it in, it's a challenge.

4 So the idea and the whole concept
5 behind this is that it would make the districts
6 more successful at being able to keep that bridge
7 project on track in the time period that it was
8 slotted by making available funds from a central
9 pot to pay for the lion's share of the cost.

10 Q When was that bridge program started?

11 A It was set up about three years ago. And, like I
12 said, it didn't go into effect right away; it was
13 more long-term in orientation. And I think it
14 was set to start in fiscal year '09, which would
15 be this year, and then run through 2015 or '16,
16 at least for the beginning part.

17 Q So arguably by the time the Hastings bridge was
18 ready to be replaced, there would have been some
19 funds allocated from the statewide bridge
20 program?

21 A That was the vision of that whole program, was to
22 try to get out ahead of these major bridges, make
23 sure that we wouldn't have them slip in the
24 program. You know, the issue, I think, that
25 you've been kind of talking about is how do we

Page 49

Page 51

1 fit these in. Well, this was the concept behind
 2 that whole program. And it is a piece, an
 3 element that's being used now to keep the bridge
 4 program that the Legislature articulated in their
 5 funding bill. We're using that bridge program in
 6 addition to the moneys that were allocated for
 7 bonding to keep these projects moving forward.
 8 Q Is that still the current plan for the Hastings
 9 bridge?
 10 A It actually was announced that we're moving it
 11 up. With the bridge bonding money, we're able to
 12 move it up to having it let in 2010. So
 13 somewhere around June 1st, if the design build
 14 legislation stays the same, we'll be able to have
 15 a contract underway, hopefully, for that
 16 project. That's the goal, anyway.
 17 Q Lisa, let's talk about the St. Cloud bridge for a
 18 moment. Were you involved in the discussions to
 19 close that bridge?
 20 A Yes.
 21 Q Okay. At what level did you participate?
 22 A The decision to close the bridge was made by the
 23 bridge staff. Our role was to support them and
 24 to communicate it to the Governor's office and to
 25 the public.

Page 50

Page 52

1 The day that they went out to do those
 2 inspections, Dan Dorgan was keeping me aware of
 3 what they were finding as they were inspecting
 4 critical elements. They made that decision and
 5 we supported their decision.
 6 Q And did you have any conversations with the
 7 Governor's office about that?
 8 A Dan Dorgan called me, said that they had made a
 9 decision to close the bridge. I was the person
 10 who got ahold of Bob McFarlin. Bob McFarlin
 11 communicated that information to the Governor's
 12 office. That all occurred within about three to
 13 five minutes. And, actually, Dan had attempted
 14 to call Bob McFarlin first, but was unable to
 15 reach him because they were in the casting yards
 16 of the 35W bridge at the time. I wasn't able to
 17 go for that tour.
 18 Q Do you know what the Governor's response was to
 19 Bob's call?
 20 A I think the Governor's office staff was
 21 supportive of our decision, the department's
 22 decision. I didn't hear any kind of negative
 23 repercussions as a result of that decision we
 24 made.
 25 Q Was the reason that the bridge was -- Did Dan

1 Dorgan or his staff convey to you the reason why
 2 they supported the bridge closing; did they tell
 3 you why?
 4 A Yes. When they went out -- When they went out to
 5 look at the bridge, they actually were looking
 6 for something and measuring something that was
 7 different. They were looking for how much the
 8 gusset plates had corroded, if there was any
 9 corrosion, and basically they found them to be
 10 not corroded.
 11 But the other piece of the inspection,
 12 they determined that what happened is that they
 13 were -- the gusset plates were bent. And when
 14 they initially found the first gusset plate, they
 15 said, we need to look at at least two of them
 16 before we make a decision about what to do,
 17 because sometimes these things get bent during
 18 the impact of construction. And if it's just
 19 one, then that might be the explanation. If it's
 20 two, then it could be a load-bearing issue.
 21 So upon inspection of the second gusset
 22 plate, that's when the decision was made to close
 23 the bridge. And then they went -- And it was
 24 closed before they inspected the third and the
 25 fourth gusset plate in this load-bearing area.

1 So that was how that worked.
 2 Q And then ultimately they found that all four were
 3 in fact bent, right?
 4 A That is correct.
 5 Q When the NTSB came out with it's interim report,
 6 the public report that it came out with in
 7 January, did you have meetings with the bridge
 8 office then about what the bridge office should
 9 be doing vis-a-vis all the other bridges in the
 10 state?
 11 A Actually, the bridge office was already moving
 12 forward with those things prior to the interim
 13 report. Because our folks had been knowledgeable
 14 about what the NTSB was concerned with, and, as a
 15 result of it, we were already responding and
 16 working towards making those reviews and figuring
 17 out how to go about making those reviews prior to
 18 that NTSB announcement. We had already started
 19 on it.
 20 Q And so let me characterize it this way: I
 21 understand that after the bridge collapse, MnDOT,
 22 with the help of PB Americas, is out doing kind
 23 of a major reinspection of all the bridges. But
 24 what you were just talking about now is kind of
 25 like what I want to say is the third --

Page 53

Page 55

1 A The third wave.
 2 Q -- the third wave. And what you're saying is
 3 that was already underway?
 4 A Yeah.
 5 Q Do you know how many bridges that they have gone
 6 out and looked at under what we've just described
 7 as this third wave?
 8 A Well, the third wave really consists of two
 9 pieces. One is more of what they call a shop
 10 drawing review, where they go in and perform the
 11 calcs based on the shop drawings. And then the
 12 second part of the review, which occurred when
 13 they went out to look at the Highway 23 bridge
 14 just recently, is verifying -- or not so much
 15 verifying what the shop drawing says, but looking
 16 at corrosion and other wear on those critical
 17 gusset plates. So it's a field review. But the
 18 shop drawing is a calculation type of thing, and
 19 that had been occurring -- Probably within a
 20 month or two prior to the NTSB announcement, they
 21 started doing that review.
 22 And then this second review really was
 23 done based on that information, plus a further
 24 refinement of a directive from FHWA that came
 25 out -- or that was being considered but is not

1 level that's been required.
 2 So we're kind of in new territory. So
 3 they're bringing in experts, both at FHWA and I
 4 understand some university experts from major
 5 universities that have renowned structural
 6 engineering programs. So it's very high-level
 7 expertise.
 8 And what we tend to have in terms of
 9 communication internally in the department is
 10 that Dan Dorgan tends to brief us about what's
 11 going on, but we aren't -- because it's such a
 12 highly-technical area of expertise, we're not at
 13 all in any of the decisions about, you know, how
 14 to calculate or do gusset plate analysis or
 15 measurement of the details. That's being handled
 16 by those folks in that very small subset of
 17 expertise. Even in the structural engineering
 18 industry it's a subset of expertise.
 19 Q Is it fair to say you're getting briefed by Dan
 20 Dorgan more post-collapse than you did
 21 pre-collapse?
 22 A Given the nature of what's occurred and the types
 23 of things he's briefing us on, I would say in
 24 those areas, yes, because we didn't necessarily
 25 get briefed on them. But in terms of programming

Page 54

Page 56

1 yet official yet that had them go out and look at
 2 further field inspections.
 3 Q Who was involved in implementing that next wave,
 4 the shop drawing review and the fieldwork review?
 5 A Well, it would be the bridge office staff, and
 6 I'm assuming the two lead people on that would be
 7 Gary Peterson and Nancy Daubenberger.
 8 Q And were you involved in meetings on that?
 9 A What type of meetings?
 10 Q When they're deciding what it is they're going to
 11 kind of do next.
 12 A Typically at our level we would not be engaged in
 13 those detailed meetings. The detailed meetings
 14 about what they do next probably, as I understand
 15 it, have -- The discussion about how to approach
 16 the issue, how to analyze the issue -- Because
 17 it's not something that historically has been
 18 analyzed or occurring at our staff level with the
 19 experts at the FHWA office in D.C., and probably
 20 with the experts maybe through the AASHTO
 21 organization, there's a dialogue that's going on
 22 with those highly technical people about the
 23 right way to approach reviewing this particular
 24 issue, since it's, as I understand it, really not
 25 part of the traditional protocol at a national

1 and other decision-making types of things, we're
 2 getting about the same frequency of briefing in
 3 those areas.
 4 Q So how does that briefing occur?
 5 A As I had indicated, it occurs generally in a
 6 couple of different venues: In our
 7 transportation program committee, and we also
 8 have -- I kind of failed to mention this before
 9 -- we have quarterly commissioner's performance
 10 measure reporting.
 11 Q We talked about that, I think.
 12 A Yeah. That slipped my mind right now. But we do
 13 that on a quarterly basis. So then we would have
 14 a pavements report and bridge report, quarterly
 15 briefings that would occur. And Dan and his
 16 staff would be directly involved in those.
 17 And then from my standpoint, since
 18 I'm -- I consider myself the chief operating
 19 officer of the agency, I would also go to those
 20 briefings when they're talking with the district
 21 staff. So at the district operations meetings
 22 that occur monthly, Dan's staff typically goes to
 23 them at least once on an annual basis, and
 24 sometimes they'll go after one of these quarterly
 25 briefings if the information changes. Generally

Page 57

Page 59

1 it's once a year and it's after -- it tends to be
 2 in the January time-frame, when they go to brief
 3 the districts with the composite, big picture
 4 statewide bridge program, major bridges, minor
 5 bridges kind of all rolled up.
 6 Q There have been some questions in the interviews
 7 about whose decision it was to place the
 8 replacement of the I-35W bridge into the 2020
 9 time frame. Do you know whose decision that was?
 10 A I'm going to go back -- I'm going to say that
 11 having not been involved in a planning process at
 12 this level --
 13 Q At the deputy level?
 14 A -- at the deputy level since those decisions were
 15 made, I'm going to go back to my hat as planning
 16 director, because these decisions were made when
 17 I was a planning director at metro. And
 18 typically my view then would be that the bridge
 19 office would help each district with an analysis
 20 of their bridge program and the bridge needs
 21 based on their systems of record and their
 22 inspection reports and their knowledge about what
 23 fixes will be needed. So they would help each
 24 district figure out what dollar amounts we should
 25 be spending on bridges to keep within those

1 coming to any of the districts and saying, you
 2 know, this hundred million dollar bridge
 3 replacement needs to be done within the next
 4 couple of years?
 5 A Generally speaking, we're forward thinking enough
 6 that we're always working on those things. And I
 7 will be pretty up front that the bridge office
 8 has said that some dates for replacement to the
 9 districts are firm dates and you have to have
 10 them done by that time. And that's very
 11 important.

12 Now, what you seem to be talking about
 13 is an emergency project, and during my tenure
 14 here the metro district hasn't had to deal with
 15 an emergency project.

16 Q Well, what about a non-emergent project but of
 17 that magnitude, meaning were there projects on
 18 the stip of a \$100 million magnitude?

19 A Well, I think that the Lafayette bridge has
 20 been -- that's a firm date. That bridge needs to
 21 move forward in that time frame, as I understand
 22 it. And the bridge office wants very much for
 23 that project to keep on track, and that's the
 24 orders that the metro district has in terms of
 25 how they shape their program.

Page 58

Page 60

1 performance targets that are set in the plan.
 2 And with regard to major bridges, and
 3 they get taken in a little bit different context
 4 because of their size, there would be a
 5 discussion on each one of them specifically. And
 6 the district would look very much towards the
 7 expertise of the bridge office to tell them
 8 within which time frame -- because we did the
 9 plans, we're divided up into three different time
 10 frames, and in which time frame do those bridges
 11 need to be replaced so that we can sort through
 12 the program to make a decision about how much
 13 capacity we have to do safety jobs, expansion
 14 jobs or whatever in the metro district.
 15 So usually as I was going through the
 16 planning process, what the bridge office would
 17 give us for dates that bridges needed to be
 18 replaced would be given, and then they would get
 19 put in there. So taking that one step further,
 20 I'm assuming that the bridge office staff really
 21 calls the shots on when those types of things
 22 need to occur based on their expertise.
 23 Q In those years that you were in planning and over
 24 the area supervisor, did you ever have central
 25 bridge come or did you hear about central bridge

1 And that's why all the people who want
 2 to have certain projects like Trunk Highway 169
 3 and 494 rebuilt, that's why that doesn't get
 4 done. That's kind of the reality of it. In
 5 order to manage and keep those kinds of large
 6 projects in, 610 doesn't get finished, 494 and
 7 169 doesn't get done, the new interchange at 494
 8 and 35W doesn't happen, we don't add another lane
 9 on the beltway. There's like 13 big, major
 10 projects that everybody thinks are important and
 11 would like to have done, but we will be doing the
 12 Lafayette bridge and not one of those projects
 13 during that time frame.

14 Q And remind me, what's the scheduling on the
 15 Lafayette bridge?

16 A It's two thousand -- I think it's to be let in
 17 fiscal year 2011, so it starts in 2010. That
 18 fiscal year and construction year kind of get me
 19 turned around sometimes.

20 MS. BERGSTROM: Okay. Why don't we
 21 take a little break and I'll just look through my
 22 stuff and see what I have left.

23 (Break taken.)

24 BY MS. BERGSTROM:

25 Q We'll go back on. I don't have a lot left. I

Page 61

Page 63

1 have a few little areas.
 2 Can you describe for me, Lisa, the
 3 interaction that you have, I suppose as deputy
 4 commissioner, with the Governor's office
 5 regarding the draft budget?
 6 A I really can't speak to that because the biannual
 7 budget process was pretty much completed when I
 8 came on board. So it's hard for me to describe
 9 that.
 10 Q So you haven't been involved in that yet?
 11 A No, no.
 12 Q Did you have any role in your other positions at
 13 MnDOT in that process?
 14 A No, not with the Governor's office, anyway.
 15 Q Now, what about with the Legislature?
 16 A On the budget process?
 17 Q Yeah.
 18 A Pretty much all of the budget process last year
 19 was handled with our legislative liaison, Betsie
 20 Parker and Kevin Gray being the front-end people
 21 on that process. And, like I said, I didn't
 22 engage in a lot of work with the Legislature, in
 23 particular, last year because that process was
 24 already started by the time I came on board. So
 25 I felt it was probably not an appropriate role

1 programmed, what level of work needs to be done
 2 on that.
 3 And from Roger's standpoint, his money
 4 that's in his BIP will be a part of that bridge
 5 program and will be continued to be directed
 6 towards bridge projects, as well as the 600 --
 7 \$6 million worth of bond dollars as well as that
 8 statewide bridge fund that we talked about.
 9 And, most likely, other internal
 10 resources in every district will have to be
 11 directed in order to meet the requirements of
 12 that bridge program over the next ten years
 13 because it's a ten-year program.
 14 Q And when you're talking about that, you're
 15 talking about the statewide bridge program as
 16 opposed to preservation fund?
 17 A Well, I'm talking about the program that was
 18 articulated in House File 2800 when I'm talking
 19 about the bridge program.
 20 Q There's no -- There are no plans, though, to
 21 abandon the statewide bridge preservation fund,
 22 the one that's federally funded?
 23 A No. That money will be used in conjunction with
 24 the overall bridge program. We'll continue -- I
 25 mean, until the federal government or Congress

Page 62

Page 64

1 for me the first year, since I, one, wasn't
 2 involved in the development of the budget in my
 3 position; and, two, I had perfectly capable
 4 people who were more familiar with the subject
 5 matter. So I figured I would probably be more of
 6 a hinderance than a help.
 7 Q The 2008 transportation funding bill that was
 8 passed, did you have any role in that?
 9 A No.
 10 Q You're generally aware of its content, I take it?
 11 A That is very true.
 12 Q The trunk highway improvement program that has
 13 been passed as part of that bill, what
 14 relationship will that have to Roger Schultz's
 15 BIP?
 16 A Probably won't affect how much he has in his
 17 BIP. The way that we've been handling the
 18 statewide program is that there's a list of
 19 bridges and they're in either Tier 1, Tier 2,
 20 Tier 3. And each of the districts are being told
 21 when they need to have certain things done or
 22 when things, you know -- And there's a decision
 23 tree, a very detailed decision tree that's been
 24 developed for every bridge in the state with
 25 regard to when it needs to be programmed or not

1 chooses to do something different, we'll continue
 2 to take that money, continue to utilize it in the
 3 manner that we can make it work the best.
 4 Oftentimes, though, as you well know,
 5 there are specific requirements about which
 6 bridge projects you can use that funding on. So
 7 sometimes we use state resources on bridge
 8 projects and we deal with -- We don't get all of
 9 our federal appropriation to begin with. We only
 10 get a certain percentage of it. In the order of
 11 magnitude, it's around 90 percent of the money
 12 that they say they're going to give to us they
 13 actually give to us. So in the end, we have to
 14 actually make decisions about which pots not to
 15 spend it from. And sometimes, depending on what
 16 happens with a particular project, it may be the
 17 safety pot we don't spend the federal money out
 18 of it, maybe other pots we don't spend money out
 19 of.
 20 But at the end of the day, we don't get
 21 100 percent of the money. We only get 90 cents
 22 or so on the dollar from the federal government
 23 that they say they're giving to us. So in one
 24 category or another, we end up reducing it now.
 25 And sometimes it has historically in the past in

Page 65

Page 67

1 a couple of years affected how much we spent out
2 of the bridge program because of its lack of
3 flexibility and its lack of some bridges don't
4 qualify for it. But you have to do bridges based
5 on a federal process. And if we're already going
6 to be able to meet our federal spending targets
7 by a different avenue, then we'll spend state
8 dollars on those kinds of things instead.

9 Q Okay. In your tenure at MnDOT, either over at
10 metro or in various spots or, frankly, as the
11 deputy, have you had discussions with anyone
12 about a budget-buster bridge?

13 A Well, the large bridge projects have been, in
14 some circles within the department, referred to
15 as budget-buster bridges.

16 Q And who refers to them that way?

17 A Well, for a while we were -- people were using
18 that as a term for those bridges. I think, you
19 know, some folks in OIM call them budget-buster
20 bridges. I think even a couple of people in the
21 bridge office called them that. But what was
22 meant by that was the major bridge program, these
23 large bridge replacement projects that we have
24 coming down the pike in our program.

25 Q Have there ever been any directives that you're

1 a couple years back, two or three years back.
2 Precisely you'd have to go back to the records
3 and see. But that occurred during that time
4 frame because there was not enough money to keep
5 them on track. But I am assuming that
6 conversations did occur about whether -- about
7 the risks of doing that with regard to the
8 urgency for replacing those particular
9 structures.

10 Q So you assume that, but you don't know that those
11 conversations occurred?

12 A Well, I think that they probably did, but I can't
13 verify it.

14 Q You weren't a party to them?

15 A I wasn't a party to those specific projects.

16 Q What changes have been made that you're aware of
17 in MnDOT since the bridge collapse?

18 A Well, right now I think there are a number of
19 things on the drawing board with regard to how we
20 handle the follow-up and documentation on the
21 inspections and then the follow-up maintenance
22 program on the bridges. Whether or not they're
23 fully implemented, I'm sure they're not. I'm
24 sure we're still in the process of -- in the
25 metro district lining up the appropriate -- We're

Page 66

Page 68

1 aware of delaying the replacement of a bridge
2 based on the money that it would take to replace
3 it?

4 A Directives. From whom to whom?

5 Q Well, let's start with discussions. Any
6 discussions that say, no, no, let's replace that
7 later because we don't have the money?

8 A Well, as a part of developing the ten-year work
9 program, as a part of developing the 20-year
10 transportation plan, as a part of developing the
11 four-year stip, there are always discussions
12 about trying to feather in all the projects. And
13 particularly when you have a large project,
14 sometimes it has to shift a year or two as a
15 result of when you start adding up all the
16 dollars of the other projects, that that
17 happens.

18 Specifically with regard to a bridge
19 project, I know that back under the Tinklenberg
20 administration there were several projects that
21 were pushed back. There was a big campaign -- or
22 I won't call it a campaign, but a big
23 announcement that was made about moving projects
24 back. And I remember during that time frame both
25 the Lafayette bridge and the Kayuga bridge moved

1 hiring a bridge maintenance engineer that's going
2 to be helping head up that unit and be organized
3 around it.

4 There are some other functions that are
5 being mandated not as a result of the bridge
6 collapse, but as a part of a federal program on
7 fracture critical bridges that require us to do
8 some additional inspections. And we're in the
9 process of making decisions about how much staff
10 is needed, where that staff should be located and
11 the nature of that. Those things are occurring
12 right now, as we're going through our budget
13 process. Those final decisions will be made here
14 within a month or so. I think by the end of --
15 Our target is to have those decisions made by the
16 end of May.

17 Q Any other changes going on as a result -- or, you
18 know, since the bridge collapse that are, you
19 know, related?

20 A Well, there's some ongoing changes that we're
21 doing, but it isn't specific to the bridge
22 collapse but has to do with how we're handling
23 supplemental agreements on projects, some of our
24 construction procedures and things of that
25 nature. We have a whole working group. They've

Page 69

1 made -- But they aren't really -- I mean, they
2 affect projects, like bridge projects, but they
3 aren't specific towards bridges, and you were
4 asking specific towards bridges.

5 I think with the bridge program itself
6 coming out of House File 2800, we've put together
7 a detailed -- our bridge office staff has put
8 together a fairly detailed decision-making matrix
9 about the fixes for particular situations on
10 particular types of bridges, particular ages.
11 And they have formalized that process and have
12 made it a lot more transparent than it had been
13 to staff previously. I'm talking about when
14 particular jobs need to be done on bridges at a
15 certain age.

16 Q And my question wasn't necessarily limited to
17 changes in the bridge office. When you talked
18 about supplemental agreements, is that with
19 outside contractors?

20 A Right.

21 Q Somebody had told me that there were some
22 provisions that were being looked at with respect
23 to the use of outside contractors and what they
24 agree to do or don't do in their contracts, and I
25 think Barbara produced some documents along that

Page 70

1 line.

2 A You know, it's really hard to be specific,
3 because we're always -- we're an organization
4 that's large. We're a big bureaucracy. We
5 implement -- And bridge or no bridge collapse, we
6 would have been doing continuous improvement.

7 Q And that's fair. What I'm saying is, you know,
8 specific initiatives that have arisen as a result
9 of the bridge collapse, the PB America's review,
10 your own internal review of best practices and
11 that kind of thing.

12 A Well, part of the PB contract was to assess our
13 bridge inspection program and provide us
14 recommendations about changes to that. That is
15 not complete yet. We're in the process of
16 completing that.

17 Q What is the time line on that?

18 A I'm thinking that it's supposed to be fairly soon
19 that we'll be receiving those recommendations.
20 And then, generally speaking, even if we get a
21 consultant's recommendations, because of the --
22 The department is decentralized, and many of
23 its -- in its programming, in its scheduling of
24 things. And so we do a lot of consult and confer
25 with districts. We usually -- When we're making

Page 71

1 changes in policies and procedures and protocol,
2 we usually go through a tech memo process that
3 goes through expert review, and then it goes out
4 for general review to all the districts and all
5 the staff for comment. And sometimes it's even
6 implemented incrementally, meaning it's
7 implemented, and then they allow comment, and
8 then they make final adjustments to it and then
9 they implement it. And typically they have
10 expiration dates on them.

11 But as a direct -- I would say that all
12 of those things are in process now, you know,
13 with the PB America contract, with the new
14 requirements coming down through FHWA. All those
15 things are in review. They're in various stages
16 of consultation about how to staff up to do some
17 of those things.

18 As you've probably figured out, the
19 bridge office, while they're the central bridge
20 office, there are crews that are sometimes
21 assigned out of districts that provide and feed
22 into the central office information system. And
23 oftentimes they don't have places to store new
24 snoopers, new equipment. So oftentimes we make a
25 decision that we'll maybe have like a northern

Page 72

1 region and a southern region, and one of the
2 southern districts will store the equipment and
3 actually store and support that crew. And so
4 they actually have the appearance of maybe
5 residing in like a District 6 or a District 2,
6 but they may in fact be central bridge office
7 employees, or part of the crew is central bridge
8 office employees.

9 So we're in the process of trying to
10 work out some of those details on the enhanced
11 inspections program for fracture critical bridges
12 that's coming down the pike. We're in the
13 process in the metro district of improving our
14 documentation.

15 And, generally speaking, what tends to
16 happen is that they'll do a metro district
17 prototype, and then those kinds of things will
18 then get disseminated out to the other
19 districts. Because, generally speaking, in some
20 cases metro district is kind of in the lead on
21 things. In other cases, because some of the
22 smaller rural districts probably have more core
23 focus staff instead of people being assigned to
24 do multiple things, they already have some
25 systems in place that maybe metro district

Page 73

Page 75

1 doesn't have. So it kind of depends on each
2 thing.
3 Q And I would imagine that some outstate districts
4 have less information to manage, so managing it
5 is easier.

6 A Is easier, that is true. Yes.

7 MS. FORSLAND: We should probably note
8 that that supplemental agreement issue came up
9 well before the bridge and was just being
10 finalized at the time the bridge collapsed and
11 then got delayed in implementation, but it has
12 been ongoing. So that is not related to the
13 bridge collapse at all but to a regular research
14 effort MnDOT did.

15 MS. FREESE: That was an analysis of
16 our existing construction projects ranging from
17 roadway to bridge to whatever we do. And the
18 issue there was looking at the amount and type of
19 our supplemental agreements. Because oftentimes
20 after a construction project is started, there's
21 often agreements after the fact to pay for
22 additional work, but why was there additional
23 work. Was it because the plans weren't done
24 right up front; was it because a municipality
25 decided to add work; was it because the

1 et cetera, et cetera, came up as a part of the
2 bridge collapse, that we didn't maybe have
3 spelled out the way that would have -- that --
4 You know, we've looked at what other states do.
5 Some do allow it, some don't allow it, some
6 prohibit it. So that's an area where we felt we
7 maybe needed to address it.

8 Q Who's involved in that effort?

9 A It would probably -- Well, I'm sure it's the
10 bridge office staff and the construction office
11 staff, between the two of them. But on an annual
12 basis we have a little blue book of construction
13 specifications. And expert offices initiate
14 adjustments, changes, new specifications to that
15 book on an annual basis, and it goes through a
16 process of review and then ultimately either gets
17 implemented or not implemented into that new
18 specification book.

19 Q Lisa, as the kind of self-described COO in the
20 six months or so before the bridge collapsed and
21 in the eight months since the bridge collapsed,
22 so February '07 to the present, do you have any
23 recommendations that MnDOT should be making,
24 first of all, in its organizational structure
25 that would enhance the performance of the agency?

Page 74

Page 76

1 department decided to add work; was it because of
2 a plan error; and was that plan error because of
3 a MnDOT internally-designed plan or was it
4 because of a consultant-designed plan; and what
5 are we doing to deal with those kinds of things.
6 It wasn't specific to bridge contracts, but it
7 probably did include some bridge-related work.

8 Q Well, and as I understand it, I'm not so sure I
9 do have documents about that. We have documents
10 about some revisions that are being made to
11 contractors -- with contractors relating to
12 construction materials and placement of machinery
13 and things like that.

14 A Right, right.

15 Q And those policy changes are underway, as well,
16 as I understand it?

17 A Right.

18 Q And I think I have those documents.

19 A Yep. Those should be...

20 Q Okay.

21 A And that, actually, quite honestly, on an annual
22 basis we look at our construction specifications
23 manual, and that's where those come from. And
24 obviously the concerns about stockpiling of
25 material, placement of equipment on the site,

1 A Well, I'm not sure this is the appropriate forum
2 for me to unveil my thoughts on where we go. I
3 mean, right now there's a new commissioner
4 appointed today, and I feel that the most
5 appropriate thing would be to have that dialogue
6 with that new individual and make some assessment
7 about what things to move forward.

8 Q All right. Let me take it from another angle,
9 then. The Legislature has asked, as part of our
10 investigation, that we make recommendations to
11 the Legislature.

12 A Uh-huh.

13 Q If you could make -- You know, if you could be
14 the spokesperson for that and make a
15 recommendation to the Legislature, do you have
16 any thoughts on what that would be?

17 A Well, I think we, through the legislative audit
18 process, working with OLA, articulated areas we
19 felt strongest about, is improving the
20 recordkeeping on the maintenance side of things
21 and documenting the follow-up that occurred after
22 those inspections. That was a key area, and
23 we're moving forward to try to do that.

24 From my standpoint, I think we're well
25 positioned to make internal types of changes that

Page 77

Page 79

1 pertain to where we might have been able to do
2 things a little better, or where even though they
3 may not be the cause of what happened, there were
4 some practices that probably we should take a
5 little bit more aggressive stance on with regard
6 to like the materials on the bridge, et cetera.
7 And I think that the department is moving forward
8 with those things.

9 I, quite frankly, think that as we move
10 forward, even with new resources it's always
11 going to be a challenge to keep focused in on the
12 preservation program of the department not only
13 with bridges, but with our highway program, as
14 well, and keep our resources focused into those
15 areas. And that's a political issue that every
16 administration that I've ever observed faces.
17 And it's also a challenge that everyone has,
18 including the Legislature, about setting
19 appropriate expectations about what we can
20 accomplish with this funding.

21 One of the things that I felt strongly
22 and have been directing the staff to do as they
23 updated the transportation plan is to get a
24 better handle on what our resources are that we
25 have to work with and what the real cost of

1 as good as it should have been over the last five
2 to ten years. We've made a renewed emphasis in
3 that. We've put a lot of time and energy into
4 trying to get a handle around how to improve
5 those processes. We are in the first round of
6 implementing the scoping. We're still working on
7 implementing the cost estimating process.

8 But the thing that everybody needs to
9 understand is that those things are going to
10 affect not next year or not the next year or not
11 the next year, but maybe 2012, 2013, 2014 and
12 beyond. And the problem that we have as a
13 department is that the political view is four
14 years, even, or two years, depending on your
15 legislative cycle. And the processes that we
16 have to go through for project development on
17 major projects are five to six to seven to eight
18 years and on smaller projects are at least three
19 to four years.

20 And so it's a challenge, as we jump
21 from the Carlson administration to the
22 Tinklenberg administration to the Pawlenty
23 administration and a couple of different
24 compositions of the Legislature in between, to
25 keep people educated about the length of time

Page 78

Page 80

1 projects are so that we can do a better job of
2 informing the Legislature, the public about what
3 can be accomplished. To a certain extent, even
4 though our first attempt at a performance-based
5 plan was an attempt to try to set expectations, I
6 think it missed the mark and it didn't completely
7 get there.

8 Q You're talking about the stip?

9 A I'm talking about the statewide plan. The stip
10 always gets there because it's physically
11 constrained, but this plan didn't. And it's kind
12 of like -- And, in particular, the district plans
13 probably didn't get there. This is a policy and
14 a performance-based plan, and it's really hard
15 for you to read this document and to be able to
16 understand what's going to get accomplished with
17 this. But when you go into the individual eight
18 district plans and take a look at them and read
19 through them about what they plan to get done
20 over the next twenty years, that's where we need
21 to do a better job of setting boundaries.

22 One other thing that we really need to
23 have -- that we acknowledged and we have a major
24 effort going on to fix is our cost estimating
25 process and our scoping process probably wasn't

1 that it takes to develop projects and the
2 complexity of the funding not only from the state
3 side of things, but also the federal side of
4 things.

5 So, you know, I think we have a number
6 of initiatives underway that are right focused.
7 And from my standpoint, we need to be given an
8 opportunity to implement them and see the results
9 of them. And the problem with the political
10 process which we have to work within, and we are
11 really well aware of that, is that we, as an
12 agency, need to be given a chance to try to
13 complete some of those things before people start
14 passing judgment on whether or not we're
15 successful in doing those things. You know,
16 that's a hard mark. It's a hard thing to do.

17 MS. FORSLAND: And argues for a system
18 like the British have, the permanent civil
19 servants who are educated on topics, while the
20 politicians rotate through based on elections.

21 MS. FREESE: You know, there has been
22 some discussion about really reforming how -- And
23 there are a couple of other departments of
24 transportation across the country that's really
25 reforming how budgeting is done. You know, we

Page 81

Page 83

1 have a two-year biannual budget. We have an
 2 annual -- or every other year a capital budget.
 3 Basically we don't -- Even when we do these
 4 things (indicating), then sometimes occasionally
 5 we have a funding package that's over and above
 6 what we get. But what we get is whatever the
 7 different revenue sources that have been
 8 allocated towards us produce. And if they start
 9 declining and not producing as much, then we
 10 don't get so much money. Then we have to make
 11 cuts in what we do in terms of our program. And
 12 the operating budge and the capital budget come
 13 out of the same pot of money. So if you add more
 14 to the capital side of the budget, you cut away
 15 from our operating budget. If you cut away from
 16 our operating -- Or if you cut away from the
 17 capital side of the budget and add to our
 18 operating side of our budget, then we get less
 19 big projects out on the road.

20 So since I have been here, we have had
 21 one funding package in which money came from the
 22 general fund. That was the Ventura package.

23 Then we had the Pawlenty-Molnau funding
 24 bill, where the funding came from internal
 25 efficiencies in our organization, a little bit,

Page 82

Page 84

1 and bonding, so we're paying for it long term as
 2 a part of our program with no revenue source
 3 dedicated for the bonding. So now we have a
 4 little bit longer term funding package with this
 5 new funding package, so that enables us to plan
 6 out.

7 But when you're dealing with trying to
 8 gear up and fund an agency on every couple of
 9 years you're anticipating that the Legislature
 10 might add a little bit more to your base budget,
 11 which the base budget is what that gas tax, what
 12 those tab fees, and what those other things that
 13 contribute to the trunk highway users fund are
 14 able to generate. And we all know that there's
 15 less gas tax money coming in. It used to grow
 16 all the time. And now the last couple of years,
 17 based on the rates that were set, we actually
 18 have started seeing it decline.

19 Q When you talk about a couple of states, a couple
 20 of departments across the country kind of
 21 changing up how budgeting is done --

22 A Well, they were doing the enterprise type of
 23 thing, where they actually didn't have this
 24 biannual budget process. It was done more long
 25 term. It was done over a five-year time period.

1 Money was not -- You know, if we don't spend the
 2 money at the end of the biennium, it goes back
 3 into the trunk highway users fund and has to be
 4 reappropriated.

5 Q So who was doing it differently, what states?

6 A I am less familiar with that, because it's
 7 something that was discussed before I came into
 8 this position and it was decided not to pursue
 9 it. But I think there are a couple of states
 10 that are operating under that kind of a scenario.

11 Q And when you say it was discussed, by whom?

12 A It was discussed at the leadership level, so by
 13 that I would say it was discussed probably by top
 14 managers down here in CO, probably division
 15 director level, commissioner level staff, maybe
 16 some folks a little further down in the
 17 organization. It was brought up at one of our --
 18 We have biannual -- Every six months we have
 19 annual -- we have these managers' meetings. It
 20 was discussed at that managers' meeting as an
 21 idea, concept.

22 But the one thing that I kind of took
 23 away from that was it would help us with making
 24 our budgeting and knowing what we had to work
 25 with over a longer period, more consistent and

1 more reliable than what we have now.

2 Because, you know, the Legislature and
 3 the Governor have not always agreed on -- I think
 4 they've all agreed on the fact that we need more
 5 money, but they haven't necessarily agreed on how
 6 we get it. And over the course -- And that
 7 battle has become a little bit more contentious
 8 over the time I've worked here at the
 9 department.

10 And, unfortunately, at the end of the
 11 day last year, the Legislature, you know, put in
 12 place what we called the lights on funding bill,
 13 which just basically continued our funding at
 14 what it was in the previous time period. And
 15 while that got us money, it didn't take care of
 16 some of the things that had been proposed in that
 17 bill. The Governor's budget had proposed that we
 18 add more money to maintenance. The lights on
 19 bill didn't do that.

20 So at the end of the day, the
 21 administration and the Governor really need to
 22 work together. And they need to realize that
 23 when they make decisions like they did the last
 24 time around that they affect our ability to
 25 manage things. And then we become so focused at

Page 85

Page 87

1 trying to figure out how to get the resources
2 where they have to be and what things are
3 non-essential that they put us in a bad
4 situation.
5 Q Not kind of from a forward-looking view, which is
6 kind of what we've been talking about, but from a
7 backward-looking view, back to the time that you
8 took over as deputy commissioner, is there
9 anything about the bridge collapse that you think
10 we should know that I haven't asked you about?
11 A I don't think -- There isn't anything out there
12 that's a secret. I mean, from our standpoint,
13 the only things that we can't talk about is the
14 specifics of the NTSB investigation. Otherwise,
15 we've tried to provide anything possible that we
16 can to the Legislature about the department's
17 finances related to the bridge collapse, about
18 the actions that we took related to the bridge
19 collapse. The other inspection programs, we've
20 been very up front and open about all of those
21 things.
22 Q Okay.
23 A I can't think of anything specifically that we
24 haven't conveyed either on our website or in
25 person to the Legislature.

1 STATE OF MINNESOTA)

2

3

4 COUNTY OF HENNEPIN)

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8

REPORTER'S CERTIFICATE

9

10

I, Julie A. Rixe, do hereby certify

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that the above and foregoing transcript, consisting of
the preceding 86 pages, is a correct transcript of
my stenographic notes and is a full, true and complete
transcript of the proceedings to the best of my
ability.

Dated April 28, 2008.

JULIE A. RIXE
Court Reporter

Page 86

1 MS. BERGSTROM: Okay. That's it for
2 today.
3 (Whereupon, the interview was concluded
4 at 3:55 p.m.)
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1 INTERVIEW OF KURT FUHRMAN - March 24, 2008

2
3
4 In the Matter of Conducting an Independent
5 Investigation into the Collapse of the I-35W Bridge

6
7 Department of Transportation
8 395 John Ireland Boulevard
9 Room G-13
10 St. Paul, Minnesota

11
12 Met, pursuant to Notice, at 1:30 in the
13 afternoon on March 24, 2008.

14
15
16 INTERVIEWERS:

17 Greg Merz, Attorney at Law with Gray
18 Plant Mooty Law Firm.

19 ALSO PRESENT:

20 Barbara E. Forsland, MnDOT Data
21 Practices Compliance & Policy Analyst.

22 COURT REPORTER:

23 Julie A. Rixe
24
25

1 (Fuhrman Exhibit 1 was marked for
2 identification by the court reporter.)

3 EXAMINATION

4 BY MR. MERZ:

5 Q I think we'll just go ahead and get going. I
6 introduced myself before we started, but I'll do
7 that again. My name is Greg Merz, and I'm an
8 attorney with the Gray Plant and Mooty Firm. And
9 as I think you are aware, our firm was retained
10 by the Minnesota Legislature to assist it in
11 investigation of the 35W bridge. And I'm here to
12 ask you a few questions about your kind of
13 involvement with that bridge. Okay?

14 A Okay.

15 Q You have in front of you there a document, and
16 you'll see at the top it says Witness Protocol
17 for Interviews. And I'm just going to go over
18 this with you real quickly, but essentially this
19 sets out the ground rules for our discussions
20 today.

21 Before I get to this, if at any time
22 you have a question about what I've asked or
23 something is unclear to you, just let me know.
24 If you want to take a break, we can do that.
25 This isn't intended to be any sort of endurance

1 INDEX

Page 2

Page 4

2 WITNESS	PAGE
3 KURT FUHRMAN	
4 Examination by Mr. Merz	3
5 FURMAN EXHIBITS:	PAGE
6 1 - Witness Protocol for Interviews	3
7 2 - Quality Assurance Plan Office of	
8 Bridges and Structures	39
9 3 - MnDOT Program Support Division Technical	
10 Memorandum No. 02-22-B-01	39
11 4 - MnDOT program Support Division Technical	
12 Memorandum No. 07-10-B-02	40
13 5 - Minnesota Department of Highways Bridge	
14 Inspection Report for Bridge 9340	40
15 6 - Report of the 1994 Annual Fracture	
16 Critical Inspection for Bridge 9340	
dated 9/28 and 9/29/94	44
7 - MnDOT Bridge Inspection Report	
for Bridge 9340 dated 7/12/96	64
8 - MnDOT Bridge Inspection Report	
for Bridge 9340 dated 8/4/97	64
9 - Fracture Critical Bridge Inspection	
Report Annual dated 9/2001	78
10 - Fracture Critical Bridge Inspection	
In-Depth Report dated 6/2003	83
11 - Initial Inspection Report for Fatigue	
Evaluation Bridge 9340 prepared by URS	89
12 - Fracture Critical Bridge Inspection	
In-Depth Report dated 6/2006	90

1 contest or anything like that.

2 So you'll see there in the document
3 where it says Authority. We are the Gray Plant
4 Mooty Law Firm. As I've told you, we've been
5 retained by the Minnesota Legislature to conduct
6 an independent investigation of the I-35W bridge
7 collapse. And the Legislature has asked us to
8 provide a report of our investigation by May 1st
9 of 2008. So I'm going to be asking you some
10 questions related to the collapse and the MnDOT
11 policies and the like.

12 The purpose of our interview is to
13 determine whether you might know about the
14 matters we are investigating. During the time of
15 our investigation the information that
16 interviewees, that you provide to us is not
17 public information, although the information may
18 no longer be confidential once we submit a report
19 to the Legislature.

20 You're required to answer the questions
21 that I ask today truthfully. As you've seen, we
22 have a court reporter here to record our
23 conversation. If during the interview or later
24 we determine that we need to verify certain
25 information, we may call you back for a further

1 statement or a signed affirmation or the like.
 2 We view this process as an ongoing
 3 dialogue. So if you think of anything after this
 4 interview has taken place that kind of comes to
 5 you that you want to let us know, please do that;
 6 and otherwise, we hope that you'll respond if we
 7 have some additional issues that we want to
 8 clarify.
 9 Is all that clear to you?
 10 A Yeah.
 11 Q And your name is -- Well, why don't you state
 12 your name.
 13 A Kurt Fuhrman, K-U-R-T, F-U-H-R-M-A-N.
 14 Q And how long, Mr. Fuhrman, have you been employed
 15 by MnDOT?
 16 A I started in 1983 in maintenance, then did some
 17 bridge construction after 1987. Doing bridge
 18 inspections since like nineteen ninety -- or,
 19 yeah, 1996.
 20 Q Would you describe for me the training that
 21 you've had with respect to bridge inspection?
 22 A Well, there's -- I guess the feds have a program
 23 where you take classes that they've got. David,
 24 I guess, Baker & Associates, you know, the feds
 25 have set up. And then we have to be out in the

1 metro area or is there some geographic area or
 2 other breakdown for which you have
 3 responsibility?
 4 A We do -- There are probably about a couple dozen
 5 that are fracture critical; we do those every
 6 year. And then the rest of them, one of our
 7 engineers gives me a list, and I would fit in
 8 what I could handle while we're not doing the
 9 rest.
 10 Q So you yourself actually do inspection of all the
 11 fracture critical bridges in the metro area?
 12 A Yeah. Well, I'm one of them, one of us; but we
 13 do those every year, yeah.
 14 Q And I want to make sure I understand what it is
 15 you do. Do you yourself inspect each of the
 16 fracture critical bridges in the metro area every
 17 year?
 18 A We get a bridge snooper that goes out on the
 19 bridge deck and let's us go underneath it and
 20 look at all the components usually.
 21 Q And then you also, you, yourself, inspect
 22 non-fracture critical bridges to the extent you
 23 have time?
 24 A Yes.
 25 Q Who is your boss?

1 field looking at bridges every year, you know,
 2 just take these refresher classes when they come
 3 about.
 4 Q How would you describe your job duties as a
 5 bridge inspector. Tell me what you do.
 6 A I'm an engineering specialist, but that's what we
 7 do. In the metro district we look at, like, the
 8 seven-county that make up this metro, we look at
 9 the -- well, fracture critical every year and the
 10 rest of them every two years, usually.
 11 Q Your actual title is engineering specialist; is
 12 that right?
 13 A Yes.
 14 Q For how long has that been your title?
 15 A Maybe since like 2001, I think.
 16 Q Do you have any responsibility for performing
 17 maintenance on bridges or is it just limited to
 18 inspections?
 19 A I do strictly inspections. The maintenance
 20 you're referring to, like bridge maintenance, is
 21 usually done by our bridge maintenance people.
 22 There's like five shops here in the metro that do
 23 that, and they split up the bridges based on the
 24 shops.
 25 Q Do you yourself inspect all of the bridges in the

1 A Mark Pribula. He's the fracture critical
 2 engineer.
 3 Q And for how long has Mr. Pribula been your boss?
 4 A I think about 2001ish. It was Terry Marvac
 5 (phonetic) before him, but he retired. He's the
 6 one in 1996ish that -- who I did my first
 7 training and stuff with, and Mark's been the
 8 second one since.
 9 Q Are there any employees that report to you?
 10 A No. I have a partner, but that's it. It's Mark,
 11 myself and my partner, and that's it.
 12 Q And who's your partner?
 13 A Vance Desens, V-A-N-C-E, D-E-S-E-N-S.
 14 Q How long has Mr. Desens been your partner?
 15 A I'm guessing about maybe 2002 or so.
 16 Q Who was it before that?
 17 A Pete Wilson. He's over at CO bridge office now.
 18 Q We're going to be looking at some documents in
 19 just a bit, but some of the documents we have are
 20 bridge inspection reports. It's part of your job
 21 to prepare a report after you've done the
 22 inspection; is that right?
 23 A Yeah. We have, like, two, one for fracture
 24 critical. And then all the bridges that we do
 25 get this PONTIS report.

Page 9

Page 11

1 Q PONTIS report?
 2 A Yeah.
 3 Q That's P-O-N-T-I-S?
 4 A Yeah.
 5 Q The PONTIS report is one that's kind of shorter
 6 in length, maybe four or six pages or so?
 7 A Yeah. That's the one that we turn in to the
 8 feds. I guess like 30 other states or so use the
 9 same format.
 10 Q And that's a report that you yourself have
 11 prepared; is that right?
 12 A Well, it's a computer program that we go on the
 13 Internet and put it in.
 14 Q Okay. So you input the data?
 15 A Yeah.
 16 Q And you've done that for the 35W bridge?
 17 A Uh-huh, yes.
 18 Q You say that it's turned in to the feds. What
 19 office or agency?
 20 A Well, I suppose it goes through our bridge office
 21 at Oakdale, and then they must give it to the
 22 other guys. It's electronic, or whoever has got
 23 access. I'm not sure otherwise.
 24 Q So you're guessing that that's what must happen?
 25 A Well, we put it in the computer and it's

1 Mr. Pribula about anything that was contained in
 2 a PONTIS report that you input?
 3 A Well, I guess when you rate all the elements that
 4 are there, if he's got a question about
 5 something, I may be too severe, we'll talk about
 6 them. It's just general -- It's the bridge
 7 condition, so we -- You know, if everything is
 8 fine, it's a good rating, there's problems, then
 9 we write it down and put a comment beside why
 10 we're doing that. That would be what it's for.
 11 Q And specifically with respect to a PONTIS report
 12 that you did relating to the 35W bridge, do you
 13 remember ever having a discussion with
 14 Mr. Pribula about any issue on one of those
 15 reports?
 16 A No, not necessary on that. I guess on the
 17 fracture critical bridges, we don't necessarily
 18 review it on the PONTIS report. That's where the
 19 other reports -- The fracture critical reports
 20 are strictly on each one of those bridges. And
 21 if we've any questions of what happens there,
 22 that's where it's going to be, on that other
 23 one. We'll repeat it on the PONTIS stuff, but
 24 the one that's critical for fracture critical is
 25 the fracture critical report itself.

Page 10

Page 12

1 controlled by CO bridge. I mean, that's the
 2 bridge management division. So if we have any
 3 problems with the computer, that's who we call
 4 and talk to.
 5 Q Do you know who at central bridge actually
 6 reviews that PONTIS report?
 7 A I don't know about central bridge. My boss is
 8 supposed to look at these, I guess.
 9 Q Do you know that he does?
 10 A Well, yeah. I'm pretty sure he does now.
 11 Q Why do you say that?
 12 A Well, after the collapse, a lot of things are
 13 changing, but...
 14 Q And that's a good point, and I'll come to that in
 15 just a minute. Before the collapse do you know
 16 whether Mr. Pribula was reviewing the PONTIS
 17 report?
 18 A Well, Roger Schultz is the other -- he's the guru
 19 on the PONTIS. All the bridge reports have to
 20 have a PONTIS. He would look at all the other
 21 ones, so it's possible he looked at those too. I
 22 just input them, and I guess after that it's not
 23 normally my responsibility to worry about who
 24 looks at it after that.
 25 Q Sure. Have you ever had a discussion with

1 Q And there are, as I understand it, an annual
 2 fracture critical report and sometimes there's an
 3 in-depth fracture critical report; is that right?
 4 A In-depth -- We're, like, four years set up by the
 5 feds. I think now they're going like every two
 6 years. But in depth fracture critical, we do it
 7 on a yearly basis. I go -- I sort of screwed up
 8 there. It's like two to four year on the annual
 9 ones. It's every year on fracture critical.
 10 Q Okay. So every year you do a fracture critical
 11 report?
 12 A Yes.
 13 Q And that might be an annual report, but then
 14 every two to four years it's an in-depth report?
 15 A Yeah.
 16 Q How does the inspection between the annual report
 17 and the in-depth report differ, if at all?
 18 A We put in depth on the top page.
 19 Q It's just a change in the title?
 20 A Yeah, title change.
 21 Q The way you perform the inspection is the same?
 22 A It's the same, yes.
 23 Q And just to jump back a second to this PONTIS
 24 report, do you do two separate inspections or are
 25 they different reports prepared based on the same

1 inspection?
2 A Well, it's basically the same inspection. The
3 PONTIS report breaks it down by elements. So you
4 have abutments, piers, pier caps, steel or
5 concrete. And then you rate each element based
6 on what you see.
7 The fracture critical reports is laid
8 out by abutments, piers, and then we have like
9 panel points on the 9340. So if you find
10 something, you put it down on each location.
11 Q 9340 is the 35W bridge?
12 A Yeah. There's like east truss, a west truss, but
13 it's spelled out in that report pretty well.
14 Q In the fracture critical report?
15 A Uh-huh, right. That's the difference with the
16 PONTIS: There are general terms in a PONTIS
17 report; they get real specific in the fracture
18 critical.
19 Q Focusing specifically on the inspections that
20 you've done of the 35W bridge, how long do those
21 inspections usually take to complete?
22 A We're given a week to do fracture critical
23 reports with two trucks, normally, so four
24 people.
25 Q So that would be a solid week of being out there

1 on the bridge?
2 A Well, we can't start before nine o'clock in the
3 morning and we've got to be off at two, for
4 traffic reasons --
5 Q Okay.
6 A -- unless that policy changes.
7 Q Has that been the case throughout the time that
8 you've been doing inspections of the 35W bridge?
9 A Yeah.
10 Q And so between the hours of nine and two, you'd
11 be out there five days a week, typically, on that
12 bridge?
13 A Well, at least Monday through Thursday. Friday
14 is usually in case of bad weather or something.
15 Q You've mentioned a truck that's sometimes
16 referred to as a snooper truck?
17 A Yeah. It's a -- Well, the one that we use is a
18 75, so it can go like up to 75 feet below. Or if
19 it can't reach, then you've got to do both sides.
20 Q Other than the snooper truck, have you ever used
21 any other kind of special equipment in connection
22 with an inspection of the 35W bridge?
23 A Well, we have a couple of boom trucks. On the
24 approach spans, where you've got land below, you
25 can use a boom truck and come up from the

1 bottom. So on hinges and stuff like that we
2 sometimes do it that way. The snooper screws up
3 traffic. If you're down below, you don't.
4 Q Other than the boom truck and the snooper truck,
5 have you ever had occasion to use any special
6 equipment in connection with one of your
7 inspections of the 35W bridge?
8 A Everything that we do for inspections is done
9 with those two.
10 Q What about non-destructive testing, have you ever
11 performed any non-destructive testing as part of
12 an inspection of the 35W bridge?
13 A That's a mag particle. We've got power in the
14 snooper truck that we use or use a generator from
15 a boom truck. But that's where magnetic -- or
16 metal filings show up in a line if you've got a
17 crack. So you spray the powder and use this
18 steel thing that's called, but that's the only
19 normal testing equipment that we do. Anything
20 beyond that has got to be done by our ultrasonic
21 testing people over at Oakdale.
22 Q Have you ever participated in an inspection of
23 the 35W bridge where ultrasonic testing was being
24 done?
25 A Yeah. We use them for like pins and hangers or

1 if we've got a question with, you know, like
2 finding cracks and stuff. Yeah, I think we've
3 had -- Well, and then we've had them to make up
4 those four people we need to run both trucks as
5 personnel too. So they're there if we find
6 something that we need their expertise for. I
7 would guess as far as ultrasonic testing needed
8 for that, pin and hangers, I don't think there
9 was any on that particular one.
10 Q If you used ultrasonic testing, is that something
11 that you would expect to be noted in the
12 inspection report?
13 A Well, I'll make a note -- If there's ultrasonic
14 testing going on by these gentlemen that are over
15 at Oakdale, I'll put UT testing as a comment with
16 a year by it.
17 Q Who were the people from Oakdale that
18 participated in inspections of the 35W bridge?
19 A Well, from how long ago or recent, or what?
20 Q Well, maybe we could just get a list of the
21 people that have been doing it most recently and
22 then if it's changed over time.
23 A Well, Mark Pribula, my boss, and Vance and
24 myself. Pete Wilson was my partner. He's over
25 at Oakdale bridge now. And then the UT people,

Page 17

Page 19

1 that's Ken Rand and Bill Nelson. And then
 2 sometimes just for help we'll take members of our
 3 bridge crew, but that depends which -- I guess
 4 the 9340, the bridge that collapsed, is the guys
 5 from Spring Lake Park, so whoever is on their
 6 bridge maintenance crew. And then I guess that
 7 changes when their personnel change from year to
 8 year. It's maintenance, so people are in and out
 9 of positions all the time, so...

10 Q So Ken Rand and Bill Nelson are two people in the
 11 central bridge office; is that right?

12 A Yeah, that do ultrasonic testing for us.

13 Q Have they had a role in inspection of the 35W
 14 bridge in addition to ultrasonic testing or do
 15 they just specialize in that one thing?

16 A I guess if they're available and they happen to
 17 be in the office when you set up this, they could
 18 help us with the inspections. Most of the
 19 time -- We won't necessarily use Oakdale bridge
 20 unless it's short -- staffing issues. Well, the
 21 bridge crew is our first group. If they aren't
 22 available, then we'll try them too.

23 Q What do you do to prepare to do an inspection?

24 A Well, I guess when they started this, we had a --
 25 The people did this before I started, so we

1 Q Would you also look at it before you start to do
 2 the inspection or was it just a matter of having
 3 it with you to kind of refresh your memory as you
 4 were doing the inspection?

5 A It helps to look at it a little bit ahead of
 6 time.

7 Q The report you were looking at was just the
 8 fracture critical report, not the PONTIS report;
 9 is that right?

10 A Yeah. The fracture critical report is our main
 11 one. We do most of -- The PONTIS, in this case,
 12 is just general -- you've got to take all the
 13 parts of stuff and put in the general statements
 14 for the other. It's like a computer. You have
 15 to best fit the condition once you find what's
 16 there.

17 Q Does the PONTIS report have kind of like these
 18 drop-down menus that you see sometimes?

19 A Well, we have national NBI, which is general
 20 statements on like super structure and
 21 substructure. Those go from one to -- or zero to
 22 nine, and then we've got -- the PONTIS report
 23 does the opposite, they go from one to five.
 24 Nine is good on the NBI, zero is bad. Five is
 25 the worst on -- Yeah, I guess five is the worst

Page 18

Page 20

1 probably started with their notes, just to get a
 2 general idea of what's maybe out there, and then
 3 we'd just keep adding to the original.

4 Q And I'm not sure if I understand. Keep adding to
 5 the original what?

6 A Well, each year that we go out there, if there's
 7 something that changes or deteriorates worse,
 8 we'll make a note on it. And I guess that's --
 9 You can tell that we made a change on condition
 10 because we usually put like what happened in
 11 2006. We'll have the 2006. If it happened
 12 before that, it will have a different year on it.

13 Q So in preparing to do an inspection of the 35W
 14 bridge, was it your general practice to review
 15 the report from the previous year?

16 A Well, I'll look at it, I guess, to see if
 17 anything has changed -- Well, I guess that's the
 18 one thing, you don't know what's changed until
 19 you get out there. That's why you've got this.
 20 We bring a copy with us and look at that specific
 21 area and see what's different, if anything.

22 Q And so as I understand it, you'd have a copy of
 23 last year's report with you when you did the
 24 inspection; is that right?

25 A Yes.

1 on PONTIS and one is the best, just the
 2 opposite. So I guess eight, nine on NBI is
 3 equivalent to maybe one or two on the PONTIS.
 4 You've got like two numbers for the federal -- or
 5 PONTIS report, for each of the PONTIS report.

6 Q NBI is national bridge inspection?

7 A Yeah, or institute, something like that. It's a
 8 fed -- It's a fed program, so however they...
 9 National bridge inspection maybe.

10 Q Now, I've never seen a bridge inspection. I've
 11 read some of these reports, but can you just
 12 explain to me what you do; what does a bridge
 13 inspection involve?

14 A Well, we have a general layout of a bridge from
 15 one end to the other. Well, I guess we used the
 16 consultant planner -- or, whatever, the bridge
 17 plan either done by DOT or with the consultant,
 18 whoever did the original, and lay it out the same
 19 way. And then as we come up to top and bottom,
 20 you start like at one abutment. And as you go
 21 across, when you're in that section, you put the
 22 notes based where you're looking on that and do
 23 that all the way across.

24 Q Now, you talked about a bridge plan. What's
 25 that?

Page 21

Page 23

1 A Well, all the these bridges have a bridge plan
 2 that shows the layout of them. So it will be an
 3 abutment, some piers in between, and then another
 4 abutment. You've got -- Well, like on 9340, this
 5 one that collapsed, you have I guess an east
 6 truss, a west truss, you have floor beams. So
 7 that's how we did this. The floor beams are a
 8 truss also. So you'd have east and west truss
 9 for the main span, and then you'd have each floor
 10 beam numbered. It went from, I think, 0 to 14.
 11 And then a prime system's 13 prime, 12 prime,
 12 down to 0 prime, and then it was like east and
 13 west truss, I think. And then, yeah, we just
 14 start at one end -- Or two trucks would start at
 15 the ends, usually, and work towards the middle.
 16 Q So the plan that you're talking about is a
 17 drawing?
 18 A A drawing, yeah.
 19 Q And as you're doing this inspection, how close
 20 are you to whatever it is you're looking at?
 21 A The snooper let's us get right up to it, within a
 22 foot. There's this basket we're standing in. As
 23 long as you can get it through the members, you
 24 can....
 25 Q So you talked about this mag particle testing?

Page 22

Page 24

1 A Yeah. That's for finding cracks.
 2 Q And so do you have to actually touch the bridge
 3 to use that test?
 4 A It's a U-shaped magnet that's got a power switch,
 5 and you use these metal filings. If there's a
 6 crack, it will go into the opening, you know,
 7 just line up or whatever.
 8 Q Okay.
 9 A The excess powder will float away if there's
 10 nothing there.
 11 Q We had talked about the PONTIS report and who
 12 might get a copy of that. I want to ask you the
 13 same kind of series of questions related to the
 14 fracture critical report. And I know that you
 15 yourself have written some of these reports.
 16 When you finish writing them, what did you do
 17 with them?
 18 A Well, the fracture critical reports are on a Word
 19 document on my computer. Then I send those to
 20 my -- Well, my partner and I both take notes. I
 21 take photos. He usually -- You know, we both
 22 take notes, so we send them to each other, and
 23 they eventually get to Mark Pribula. Then
 24 eventually, after he looks it over, they go to
 25 the bridge office. I am not sure who exactly

1 gets -- I know people over there, but I don't
 2 know who he mails them to directly. Or they're
 3 on the computer, so if they've got access.
 4 Q Is there, I don't know, some kind of central
 5 computer database where these reports are kept,
 6 the fracture critical reports?
 7 A Well, our MIS people, the computer people at, I
 8 guess, metro, these files are so big they've
 9 restricted our -- how much you can put on the
 10 machine. So when we -- however it's set up, it
 11 goes to -- Like I can send it my boss; but if I
 12 try to send it to other people, I can't do that
 13 without those guys getting involved.
 14 So, like I say, I'll go between my
 15 partner and my boss, and then he'll send it to
 16 the bridge office. Right now they have to be
 17 hooked into that system, I guess. And there's
 18 two computer people, one in Oakdale and one in
 19 metro. Those two have to talk to each other
 20 sometimes to do it. But I don't know -- These
 21 are big -- Well, I put photos in these things,
 22 and that really throws them off the roof.
 23 Q And I'm just going to kind of feed it back to you
 24 to make sure I understand it. You prepare the
 25 report and give it to Mark?

1 A Right.
 2 Q And then it would be Mark who forwards it along
 3 to central bridge; is that correct?
 4 A Yeah, to the bridge.
 5 Q And you couldn't forward it to central bridge if
 6 you wanted to because the files are too big and
 7 you're restricted from doing that?
 8 A I wouldn't want to do that without him looking at
 9 it first, but, yeah, I'm probably restricted
 10 anyway.
 11 Q Now, after Mr. Pribula gets it, does he make any
 12 changes? Do you have any discussion with him
 13 about the report?
 14 A There's sometimes the way we word something, he
 15 may not quite understand what we're -- and then
 16 we'll talk about, yeah. And if I've got to make
 17 changes, I'll do it, to get his okie-dokie before
 18 we send it off. If we have a problem, we'll
 19 discuss it and change it on that.
 20 Q With specific respect to any reports that you did
 21 relating to the 35W bridge, do you recall any
 22 conversation you ever had with Mr. Pribula about
 23 your report?
 24 A No. Most of the stuff on 35W is just, there's
 25 normal maintenance. What would happen then,

Page 25

Page 27

1 like, if a traffic accident or something did
 2 damage to a rail or something, we'd -- Like we
 3 have a bridge superintendent that's in charge of
 4 the five bridge crews. So between Mark and the
 5 superintendent, they'd talk about -- you know,
 6 let their individual shop supervisor know and
 7 make arrangements to get that fixed, I guess is
 8 how it works. So it was just communicating that
 9 to the -- Well, I'd just give it to Mark. Phil
 10 Erickson was bridge superintendent. And then
 11 there's five supervisors at each shop that... On
 12 9340 is Dale Dombroske, so we'd call him.
 13 Q Mark would call Mr. Dombroske?
 14 A Yeah. Well, we could, too, but...
 15 Q Did you ever do that?
 16 A No, not really. I had one thing about repairs
 17 too: It can be done either by our forces, if we
 18 have equipment to do it, and/or the contractor,
 19 and that's decided between what's available
 20 funding and the contractor's time frame or
 21 something, I guess. That's all decided usually.
 22 I mean, we'll tell those people if we don't like
 23 something, but that's about as far as it goes.
 24 The rest of it gets done by my boss and higher up
 25 the ladder, I guess.

Page 26

1 Q You would tell what people if you didn't like
 2 something?
 3 A I'd tell my boss.
 4 Q Mr. Pribula?
 5 A Yeah, I'd tell him. If it's, like I said, a
 6 bridge hit, you can go to Phil Erickson, that's
 7 the bridge superintendent, and to -- tell what
 8 happened. Then if we find something wrong, other
 9 people go out there and look at it. And then
 10 they set up a repair plan based on what's there
 11 and how they have to... Well, if they can do it,
 12 they will; if they can't, then they'll get a
 13 contractor to do it. That's what usually
 14 happens.
 15 Q And I want to focus now real specifically on any
 16 conversations that you recall having with
 17 Mr. Pribula about any condition on the 35W
 18 bridge. Do you remember ever having any
 19 discussion with Mr. Pribula about a condition
 20 that you identified on the 35W bridge?
 21 A Well, 35W bridge has had issues over the years.
 22 There's approach spans that are not fracture
 23 critical. We did have problems with cracks way
 24 back. We ended up getting the University of
 25 Minnesota involved. And we've had, I guess, a

1 consultant involved in another issue.
 2 Q Who was that?
 3 A Well, URS is one. I think, also, Lehigh
 4 University was another. But I think all this is
 5 generated from -- Lehigh Univ- -- We had some
 6 cracks on the approach spans because the bridge
 7 was built too rigid. And to solve that problem,
 8 this guy from Lehigh University did that. And
 9 the process, I think it goes through the bridge
 10 office eventually. I mean, we noted cracks in
 11 the reports and it went to Mark, to the bridge
 12 office, I guess. After that, I am not sure what
 13 happens.
 14 And the University of Minnesota, I
 15 think they were trying to increase truck weights
 16 to like 100,000 pounds, so that would involve
 17 strain gages. I guess I'm not sure what URS had
 18 to do with plating. What brought that on, I
 19 guess I don't know. And we operated the snooper
 20 for them the one time because they had to get
 21 people down there, and that's as far as it went.
 22 Q Do you recall when that was?
 23 A I think URS is 2000 something. No, I'm not sure
 24 the exact date.
 25 Q And you said URS had something to do with

Page 28

1 plating?
 2 A Well, there's -- they're talking about doing some
 3 maintenance to maybe get the bridge to last
 4 longer or something. This is things that come up
 5 within the life of the bridge, I guess.
 6 Q What was your role in those discussions?
 7 A I don't normally get involved -- I mainly do the
 8 bridge inspection end of it. These are some
 9 things that happened over the years that they got
 10 involved with, I guess.
 11 Q Did you ever have occasion to talk with anyone at
 12 URS about anything having to do with the 35W
 13 bridge?
 14 A No.
 15 Q Do you know the names of any of the individuals
 16 at URS that were involved in that work?
 17 A No. It's, you know, a consultant. They were
 18 picked. I guess I don't know how or why.
 19 Q Did you ever talk with Mr. Pribula about any work
 20 that URS was doing relating to the 35W bridge?
 21 A No.
 22 Q How do you know that URS was involved in
 23 something having to do with plating?
 24 A Well, that's I guess newspapers and stuff
 25 recently. URS started several years ago, when

Page 29

Page 31

1 they were looking at like bearings and stuff like
 2 that. We had to supply an operator to get their
 3 people down to whatever they want to look at. So
 4 that's what my part has been with URS, is to run
 5 the truck.
 6 Q And I might have asked you this, but I'm not
 7 certain if I got an answer. Do you recall
 8 anything that you put in a fracture critical
 9 report relating to the 35W bridge that
 10 Mr. Pribula asked you about or asked you to
 11 change?
 12 A Not really. Like I said, on the approach spans,
 13 they had cracks, and that's where we got this
 14 Lehigh University to help figure out what was
 15 going on. We ended up drilling holes at the end
 16 of the cracks. I was with Lehigh on the bridge
 17 unit, and all we did there is to mark the ends
 18 where they drilled the holes, but that was all
 19 spelled out for us. Other than -- Like if
 20 somebody were to spin out and knock a spell of
 21 concrete out of the railing or something, to do a
 22 patch, something like that, you would call like
 23 the bridge supervisor for that area. You could
 24 call him and say, You've got a hole here; you may
 25 want to come out and look at it. You mention it,

1 and tear pretty much.
 2 Q Was there any sort of written manual or policy
 3 that you used to prepare the fracture-critical
 4 report?
 5 A Well, when you take these classes we have, they
 6 do give you manuals. We use those to -- Well,
 7 like a PONTIS report is this (indicating) book.
 8 They give you general things to use to rate, so
 9 it would be the same principles on those
 10 manuals. The plans basically spell out what the
 11 elements are, and I use those to make sure I've
 12 got everything covered in the reports I write.
 13 I'd just put the wear and tear on those elements
 14 there, same way with fracture critical. If we
 15 have any issues, we let those be known and see
 16 what happens after that.
 17 Q If you had issues, how would you let that be
 18 known?
 19 A I'd write it in the report.
 20 Q Do you know who -- Well, maybe it's you. Are you
 21 the one that would then determine what issues
 22 require further follow-up on the 35W bridge?
 23 A Well, I'd suggest stuff, and Mark would see it.
 24 Actually, if they're going to do repairs, where
 25 you need somebody -- it's not done by us. We

Page 30

Page 32

1 what was the matter, and set it up to get it
 2 repaired, but they pretty well take care of it
 3 after that.
 4 Q And I'm going to get to sort of how repairs on
 5 the bridge get made, but I want to focus really
 6 specifically, at this point, about any
 7 conversation you had with Mr. Pribula where he
 8 had some question about a fracture critical
 9 report that you prepared for the 35W bridge, some
 10 change he wanted you to make, any sort of
 11 revision, any discussion you had with him about
 12 the report that you prepared. Do you recall
 13 anything like that?
 14 A No. We didn't have anything -- just normal
 15 wear-and-tear stuff.
 16 Q And sort of aside from the question of did
 17 Mr. Pribula have any questions or changes, did
 18 you ever talk with Mr. Pribula about a 35W
 19 fracture-critical report?
 20 A No. Our basic job is to report what we see.
 21 There's really nothing going on out there, at
 22 least while we were out there inspecting,
 23 that's... You know, you write it down and we'd
 24 have a discussion, but nothing came back as like
 25 emergency or any of that stuff, just normal wear

1 strictly look at this stuff. It's done by other
 2 groups. I'm pretty well out of it after that.
 3 We record it. Any repairs and stuff that are
 4 done are done by other people, but it does go
 5 through a chain of command. Like I say, if our
 6 people are going to do it, it would go to the
 7 bridge superintendent and the supervisor.
 8 And I guess there's a group at the
 9 bridge office that does the construction end of
 10 that. So they have to decide if that's something
 11 our people can do or if it's a contract. And
 12 then if that's the case, if it goes under
 13 contract, then it's done by a whole other group,
 14 and they set it up to get it done whenever they
 15 can -- or that's based on funding and all that
 16 kind of stuff too. It's out of my control.
 17 Q Yes. And I want to focus on the things that are
 18 within your responsibility. And so as I
 19 understand what you're saying, if there's
 20 something that you think needs to be done, you
 21 would note that on the report?
 22 A Yes.
 23 Q And other than noting it on the report, is there
 24 any other way that you communicated that you
 25 believed something needed to be done on the 35W

Page 33

Page 35

1 bridge?

2 A Well, if I wanted something done, I'd either

3 go -- Well, I would go to my boss. And then we

4 can go to like the bridge -- I can call the

5 bridge office too. I know them well enough to --

6 But there's people over there -- If it comes to

7 that, Mark would tell me, but I usually let him

8 -- And our group in metro, I guess, get first

9 crack at it. They know when they need assistance

10 or whatever, they'll call the bridge unit and go

11 from there.

12 Q Do you recall any repairs that you believed were

13 necessary for the 35W bridge that you did not

14 note in your written report?

15 A No. You can't take that chance.

16 Q So if it was important, you'd put it in the

17 report?

18 A Yep.

19 Q And then it's up to somebody, not you, to decide

20 what, if anything, needs to be done to address

21 the issue?

22 A Yes.

23 Q And that someone is Mr. Pribula?

24 A Well, it could be Mr. Pribula. I guess if it's

25 we have like frozen bearings or something like

1 Q Do you know what was done to document that a

2 particular issue reflected in your report had in

3 fact been addressed?

4 A Well, if there's something that comes up that has

5 to be addressed, yeah, I'd go talk to, well, Mark

6 and our people over here. It probably would be

7 like Gary Peterson, because he is, I think -- and

8 there's a Todd Niemann that are people over at

9 the Oakdale bridge that do inspections, same kind

10 of stuff we do, but they do it for the whole

11 state.

12 Q Uh-huh.

13 A And Paul Kivisto is another one that does the

14 construction end of this. Between those three or

15 four, they make -- in our group, they make the

16 decisions on what happens when.

17 Q And you don't have any role in that

18 decision-making at all?

19 A No.

20 Q Have you been involved in meetings where issues

21 of kind of repair or maintenance of the 35W

22 bridge were discussed?

23 A I don't normally take part in the meeting. I

24 guess if there's something I don't like, I'll

25 take a photo of it and submit it and let the

Page 34

Page 36

1 that, that then becomes -- our bridge design

2 people have to look at that, see what's there,

3 how it works, if you can just fix it or you've

4 got to replace it. That's where all the fun

5 starts.

6 Q What do you mean by that?

7 A Well, this bridge was built in the sixties. We

8 don't use those components today, a lot of that

9 stuff. So they may update it with a newer

10 technology, and that's got to be done by somebody

11 in design. And that's the kind of stuff that may

12 happen in some of this older stuff.

13 Q Did you ever have any discussions with anyone in

14 bridge design about the 35W bridge?

15 A No, not with the design. No.

16 Q Was it part of your job to have any interaction

17 with central bridge?

18 A I'd only contact them if in talking with Mark,

19 there's something that needed their expertise.

20 Q And as I recall what you've told me, there wasn't

21 anything like that that you recall relating to

22 the 35W bridge?

23 A Yeah. No.

24 Q Is that right?

25 A Uh-huh, yes.

1 wheels turn as they may.

2 Q That photo will be part of your written report?

3 A Yeah, that would be in the inspection report.

4 Q Now, again, we'll come to some of these reports

5 in a minute. But just one example of something

6 that might be noted in your report is a missing

7 bolt, and you recall seeing that, correct?

8 A Yes. Bolts pop out.

9 Q Now, where would I look to figure out whether

10 that missing bolt was replaced?

11 A You'd have to look at the -- know where you are

12 on that bridge, and it would be -- Well, some

13 bolts on the -- it would be on the floor beam and

14 it would be a certain floor beam. It would be

15 numbered. You'd have to read the report and

16 state it on the floor beam if there was something

17 missing that way.

18 Q And the question is, if there was something

19 missing, a bolt, for example, where would I look

20 in terms of documentation to determine whether or

21 not that bolt had been replaced?

22 A It would say on our -- we would tell the bridge

23 crew and they'd, you know, usually on their own

24 or at some other date, fix that. And then when

25 they'd tell us it got fixed or whatever, we'd

Page 37

Page 39

1 note it on the report. I guess we had at least
 2 one contractor do that too.
 3 Q Do what?
 4 A Replace bolts.
 5 Q Okay.
 6 A So it depends on who's doing the work.
 7 Q Are there any changes to the policies that have
 8 governed your work that have been implemented
 9 since the bridge collapse?
 10 A I think we're still working on that.
 11 Q Are you taking a role in that?
 12 A No. I think this is all going to be -- Well, I
 13 don't know. We're reorganizing, I guess, or
 14 possibly...
 15 Q No change has actually taken place, then, I take
 16 it, as of yet?
 17 A Not that I'm aware of, no. We haven't really
 18 started the new inspection schedule. We are
 19 going to start in a couple weeks. That's why I'm
 20 sort of asking what, if anything, but so far
 21 nothing.
 22 Q Okay. So in a couple weeks you're going to be
 23 out there inspecting again, and you've not gotten
 24 any word that you're supposed to be doing
 25 anything differently?

Page 38

1 A Not yet. I think something will show up, but not
 2 yet.
 3 Q Why do you think that?
 4 A Just from what we're hearing in the newspapers
 5 and stuff.
 6 Q Were you aware of changes that were made to the
 7 national bridge inspection standards in early
 8 2005?
 9 A Well, this manual we get can be updated. If it
 10 is, we have to go to the website and -- I don't
 11 think nothing -- No, not that I'm really aware
 12 of. Minor stuff, language or something, but
 13 that's about it.
 14 Q Have you been involved in any changes to policies
 15 in order to implement changes to the national
 16 bridge inspection standards?
 17 A No. We don't do that.
 18 Q Are you aware of any changes to any policies that
 19 were needed to implement changes to the national
 20 bridge inspection standards?
 21 A No. We wouldn't get involved with that.
 22 Q Are you familiar with any quality control or
 23 quality assurance program that is used by the
 24 State of Minnesota relating to bridge
 25 inspections?

1 A Well, if there is, when we do these bridge
 2 certification every couple of years, that would
 3 be brought up then, I guess. No, I don't think
 4 so.
 5 (Fuhrman Exhibit 2 was marked for
 6 identification by the court reporter.)
 7 BY MR. MERZ:
 8 Q Mr. Fuhrman, you have in front of you there what
 9 we've marked Exhibit 2. Do you see at the top it
 10 says Quality Assurance Plan Office of Bridges and
 11 Structures?
 12 A Yes.
 13 Q Have you ever seen this document before?
 14 A No.
 15 (Fuhrman Exhibit 3 was marked for
 16 identification by the court reporter.)
 17 BY MR. MERZ:
 18 Q Then you have in front of you what we've marked
 19 as Exhibit 3. It's a technical memorandum dated
 20 September 23rd of 2002. It says that its subject
 21 is Guidelines for In-Depth Inspection of Fracture
 22 Critical Bridges and Underwater Inspections.
 23 Have you seen that document before?
 24 A No. One thing, we don't do any underwater
 25 inspections ourselves. That's done by the

Page 40

1 bridge -- the CO -- by a consultant or whoever is
 2 qualified. That's sort of a real specialty.
 3 (Fuhrman Exhibit 4 was marked for
 4 identification by the court reporter.)
 5 BY MR. MERZ:
 6 Q And then, Mr. Fuhrman, I've put in front of you
 7 what we've marked as Exhibit 4. And this is a
 8 technical memorandum dated July 19th of 2007.
 9 Its subject is Guidelines for In-Depth Inspection
 10 of Fracture Critical and other Non-Redundant
 11 Bridges and for Underwater Inspections. Have you
 12 ever seen that document before?
 13 A No.
 14 (Fuhrman Exhibit 5 was marked for
 15 identification by the court reporter.)
 16 BY MR. MERZ:
 17 Q Mr. Fuhrman, you have in front of you a document
 18 we've marked as Exhibit 5. And this is, I think,
 19 a form of a PONTIS bridge inspection report. Is
 20 that your understanding?
 21 A Well, this looks like the Brenfall (phonetic) one
 22 before that, but, yeah, it's the same -- This
 23 would be like PONTIS because it's got all the
 24 elements on it, general statements.
 25 Q This is a form that I understand was used before

1 you were actually involved in inspecting bridges,
 2 correct?
 3 A Before I started -- Well, I take that back. When
 4 they started bridge inspections, this was the
 5 forms that were in our files. PONTIS is a
 6 federal -- using the computer. This is the
 7 handwritten ones that we did before that, yeah.
 8 Q Okay. And really what I'm mostly interested in
 9 is the condition rating that you see on the
 10 second page there. And you were talking with me
 11 before about this nine-point scale.
 12 A Well, yeah. Nine-point is the federal numbering
 13 system. These here look like the federal
 14 numbering system.
 15 Q And I guess what I want to focus on is where it
 16 says rating of 4.
 17 A Oh, okay.
 18 Q Do you see where it says rating of 4, Minimum
 19 adequacy to tolerate present traffic - immediate
 20 rehabilitation necessary to keep open?
 21 A Yes.
 22 Q Okay. Is that your understanding of a rating of
 23 four, what that means, as you would have used it
 24 in the inspection reports that you prepared?
 25 A Well, this is the NBI rating, and that usually

1 down to a four, yes.
 2 Q And when you wrote down four as the NBI rating
 3 for the super structure of the 35W bridge, what
 4 did you mean to be indicating about the
 5 condition?
 6 A Well, on the four for like the deck, it means
 7 that there's what we call spaul, so you've got
 8 potholes in the concrete and you're down into the
 9 rebar, so you're down at least three inches or
 10 more. Underneath the bottom is delaminated or
 11 water saturated. These are just conditions of
 12 deteriorating concrete. These are general items
 13 that you have to keep an eye on. If they get
 14 worse, it may -- Well, when they get down this
 15 low, you've got to do repairs probably.
 16 Q And the super structure is a part of the bridge
 17 that's below the deck, correct?
 18 A Well, super structure is the deck itself and like
 19 railings, so it's what you drive on normally, or
 20 like the railings keep you from falling off.
 21 Q And so what would it have been about the bridge
 22 super structure that during the time you were
 23 inspecting the 35W bridge you believed required
 24 an NBI rating of four?
 25 A The number of -- Well, there's a wearing course

1 means that you've got a serious problem or, yeah,
 2 something that you probably need to work on.
 3 Q A four is a serious problem?
 4 A Yeah.
 5 Q And would it be a serious problem that requires
 6 immediate rehabilitation?
 7 A I guess this is the poor category, not
 8 necessarily serious. Like I said, on the NBI,
 9 nine and eight is -- like nine is brand new;
 10 eight is just open to traffic stuff; seven and
 11 six are minor things; five and four you need to
 12 do -- if you hit like a spaul or something, you
 13 hit it, it could knock your alignment out of your
 14 car; three, two and one and zero are the ones
 15 where you've almost got to get out there -- Well,
 16 zero means it's collapsed or closed. I guess
 17 four is like poor condition, so I guess you need
 18 to do a repair. It wouldn't necessarily get done
 19 until you can get everything set up for it.
 20 Q Throughout the time that you did fracture
 21 critical reports relating to the 35W bridge, the
 22 super structure of the bridge was rated at an NBI
 23 rating of four; is that correct?
 24 A I think through the -- Before I've been there it
 25 may have been higher than that, but it's gone

1 on top. So if you've got any patching going on
 2 in the wearing course, that's part of this. But
 3 if the deterioration is getting into the two
 4 layers of steel down below, which it was in this
 5 case, we were looking at putting a new wearing
 6 surface on or possibly replacing the deck.
 7 Sometimes it's better to replace the deck and get
 8 it to go a number of years than to not replace it
 9 and have the whole bridge fall apart, and then
 10 you've got to do -- It's a maintenance thing,
 11 that rating of four.
 12 Q As you understood it, a rating of four would
 13 require some action?
 14 A Yeah. This is where, like I say, on a deck, if
 15 it's got a lot of potholes or something, we'd
 16 talk to Mark, we'd talked to Roger Schultz, too,
 17 and the bridge office. And at some point you may
 18 have to replace the deck. Do you just put a
 19 wearing course on it that's two inches thick and
 20 keep it for a few years or replace the whole
 21 works for like 20 years or something. That's
 22 what this is about. And the bridge needed --
 23 That's why repairs were going on when they were,
 24 is it needed repairs.
 25 (Fuhrman Exhibit 6 was marked for

1 identification by the court reporter.)
 2 BY MR. MERZ:
 3 Q Do you have there in front of you, Mr. Fuhrman, a
 4 document marked as Exhibit 6?
 5 A Yes.
 6 Q Do you recognize this as the 1994 fracture
 7 critical inspection report?
 8 A Yes.
 9 Q You were the person who prepared this report,
 10 correct?
 11 A Well, between Pete and myself and Terry, yeah, we
 12 all -- '94 is when I was working a mobility
 13 assignment with Terry, so this is the first year
 14 of doing bridge inspection, this one, for me.
 15 Q Okay. So this would have been the first report
 16 that you would have ever prepared, correct?
 17 A Yeah.
 18 Q Okay.
 19 A Well, I helped -- this report was probably in
 20 existence, but we added to this one.
 21 Q Is there somewhere that you would look to
 22 determine that this was a report that was already
 23 in existence but added to?
 24 A Well, like pages 2 and 3 are the individual
 25 element and general elements, like the PONTIS

1 Q And I will tell you, I believe that this is the
 2 earliest fracture critical report that we've
 3 received for the 35W bridge. Do you know whether
 4 there were any fracture critical reports that
 5 were prepared for the 35W bridge before 1994?
 6 A I guess the people that would have done that, if
 7 they did, aren't with us anymore. So I guess,
 8 no, I couldn't tell you that, I guess.
 9 Q Are you aware of any fracture critical report for
 10 the 35W bridge that would have come before 1994?
 11 A No. This is when I physical- -- This would have
 12 been my first one, and that's what you've got
 13 here. All I can think of is just by looking at
 14 this real quick, the general notes in the
 15 beginning, that kind of stuff of could have been
 16 there from previous. And all these notes on each
 17 individual item could have been previous or we
 18 put them there as -- You know, each year we look
 19 at them, if it gets worse, it would be more
 20 detail into each one of these. But since then it
 21 would have a date next to it of that particular
 22 year. This is our first year doing this, so I
 23 wouldn't expect to see too much of the difference
 24 yet.
 25 Q Go to the page that's page number 1.

1 thing. Then you go into the abutment, Pier 1,
 2 the panel point numbers and stuff. If we added
 3 to it -- I guess this might have been the first
 4 year that we -- Well, on page 11 I'm looking. At
 5 panel point U3 it's got a 1994 in brackets, so
 6 that's an indication that we found that nick in
 7 1994. That's how this would proceed.
 8 Q But this is the 1994 report, correct?
 9 A Yeah. I mean, this report was in existence
 10 before this. We just -- This is what we, the
 11 three of us, discussed and went to the bridge
 12 office, I guess.
 13 Q Looking at this document, how would I be able to
 14 figure out what was from previous inspections and
 15 what related to 1994?
 16 A This particular one here it would be hard to do,
 17 just because we didn't -- This is when we first
 18 started bridge inspection like we are now. All
 19 this inspection we're doing today was generated
 20 by problems before now and to get the federal
 21 program started. This is when we started doing
 22 it here at MnDOT. So to tell you the truth, I'm
 23 not sure we would distinguish that much before
 24 then, unless they -- Looking at this you couldn't
 25 distinguish previous stuff from...

1 A Okay.
 2 Q You see at the top it says information by Terry
 3 Moravec, Kurt Fuhrman, Pete Wilson?
 4 A Uh-huh.
 5 Q Yes?
 6 A Yes.
 7 Q And as I understood it, you would typically want
 8 to have four people doing an inspection; is that
 9 right?
 10 A Well, the snooper trucks take two -- for safety's
 11 sake you've got two people in there, one to make
 12 sure that whoever is running the controls for
 13 that truck doesn't get yourself into trouble. So
 14 if we had four people, then we had two trucks.
 15 Q So this would indicate you just had one truck?
 16 A I think when we first started doing this, yeah,
 17 we probably had one. Well, back then, too -- We
 18 have five snoopers now. We just purchased two,
 19 one real recent and then the 75-footer we got a
 20 few -- I'm not sure when, the last like three,
 21 four years. Back in 1994 we had two 50-footers,
 22 so we had one doing -- we used it to do this
 23 here.
 24 Q Were those 50-foot snoopers big enough to allow
 25 you to see everything on the bridge that you

1 needed to see?

2 A Well, that 50-footer has -- you get most of it,

3 but you can't -- You can go horizontal 50 feet

4 up, roughly, not quite, so you reach what you can

5 reach. On this bridge that you're talking about

6 here, you can't get all the -- you can get close,

7 but there's probably a 20-, 30-foot gap in the

8 middle that you can't get at. With the newer

9 truck you can get closer, but you still can't get

10 it all.

11 Q You got that newer truck when, the 75-footer?

12 A Two or three years ago, I think.

13 Q And there's still a little gap of things you

14 can't see?

15 A Well, it goes up to like 70-some feet. It

16 depends on the width of the bridge. And then it

17 also depends on if you've got like sidewalks. If

18 you can't get on the sidewalk to get over the

19 side, that does make a difference. It all

20 depends.

21 So a 75-footer, you can do like a

22 60-foot width on each side. You might be able to

23 do 120 when you go on both sides. If the bridge

24 is longer than that -- So the 50-footer, there's

25 a lot you couldn't quite reach. These bridges

1 have got to be designed for snoopers. If they

2 aren't, then you get what you get.

3 Q The 35W bridge wasn't designed for snoopers?

4 A It didn't have -- On the newer bridges you'd have

5 an opening in the middle, so you could not get to

6 all the middle stuff. Even today you can't all

7 because it's wider than what our equipment let's

8 us do.

9 Q Go to, again, the first page, where you see

10 recommendations. Do you see that?

11 A Yes.

12 Q Am I correct in understanding that these are the

13 things that you or the inspection team believed

14 needed to be done before the next inspection?

15 A Well, they're things that need to get done, not

16 necessarily before -- repairing the hinge joint,

17 that's -- you've got to rip the deck apart to do

18 stuff like that. So depends what it is. We

19 reported this stuff and we let everybody know,

20 and it's up to them to decide if they need --

21 That's done by other people than myself, about

22 actual setting up repairs. It's a -- Paint the

23 bridge is one that -- You can't just go paint

24 these bridges over water nowadays without...

25 That's a big expensive item. If it's replacing

1 bolts, they could do that possibly.

2 Q Go to the next page, page 2.

3 A Yes.

4 Q Do you see there's a discussion there of elements

5 of the super structure; do you see that?

6 A Yeah.

7 Q And then there's another discussion of elements

8 of the deck; do you see that?

9 A Yep.

10 Q I had understood, and I must have just

11 misunderstood, you to be saying that the bridge

12 deck and the super structure were the same

13 thing. Did I misunderstand you?

14 A Let's see, on this -- this bridge we're on,

15 you've got multiple beam -- two multiple beam

16 spans and you've got a fracture critical span in

17 the middle. By looking -- Super structure

18 elements for PONTIS are from the bearings on the

19 abutments in piers up, so that's super structure

20 for NBI. The deck itself is one of the -- bridge

21 deck that you're referring to is just an element

22 of the super structure. Like on the bridge deck

23 there's a concrete deck for Spans 1 to 11, and

24 then there's a slab span, which is a different

25 deck element, and that's why it's separate. And

1 then there's a wearing course that's on top of

2 that basic deck. So, yeah. Super structure is a

3 bunch of items. The deck is a specific item.

4 Q And I'm looking at the report on page 2, where it

5 says super structure, and then it says girders,

6 deck truss, floor beam truss, stringers, bearing

7 assemblies?

8 A Those are all part of the super structure,

9 according to the NBI like PONTIS. And the bridge

10 deck, they've got a concrete deck. There's two

11 decks on that particular bridge, and these are

12 the spans that you find the two different ones.

13 And the wearing surface is that wearing course

14 that you drive your cars on. Expansion joints

15 are movement, let the bridge move. So those are

16 like specific elements to the super structure

17 itself.

18 Q You talked about the sort of parts of the bridge

19 that you couldn't get close enough to with the

20 snooper that you had. Were there fracture

21 critical parts of the bridge that you couldn't

22 get within arm's distance of using the snooper

23 truck that you had?

24 A Well, it's the middle part of the bridge. We

25 have, I guess, diagrams of the -- what's in

Page 53

Page 55

1 tension and what's in compression, and you could
2 look at what you could look at. The rest of it
3 you'd have to -- Unless it would be something
4 like a bow, something that -- I guess unnatural
5 movement or, you know, something like that, then
6 you'd have to do the best visual from what you
7 could reach.

8 Q Yes. And my question is a little bit different.
9 Were there fracture critical elements of the 35W
10 bridge that using the 50-foot snoopers that you
11 had available at the time you couldn't get within
12 arm's distance of?

13 A I don't necessarily -- Fracture critical --
14 There's components of the bridge you could not
15 reach, but it's usually like -- it's a deck
16 truss, so it's really deep. That 50-footer would
17 not -- In the river area you could not get all
18 the way down to the bottom. So the bearings and
19 any lower, you couldn't get to just because you
20 didn't have the length. And then going
21 horizontal, like I said, the 50-footer you'd
22 maybe have like 45 to 47 foot. Horizontal, you'd
23 get what you get. The rest -- The stuff you
24 couldn't reach, you'd just have to look at
25 visually the best you can.

Page 54

Page 56

1 Q Were those things you couldn't reach fracture
2 critical elements?

3 A No, not there.

4 Q Okay. You've heard the reports in the media
5 about the gusset plates that were bowing and that
6 the NTSB has talked about?

7 A Yes.

8 Q Were those parts of the bridge something you
9 could see, get within arm's distance of to
10 inspect?

11 A Yeah, most of the time. There's a few in the
12 middle that you couldn't get close enough to see
13 if there's any major problems. Yeah, most of the
14 time you could get to those.

15 Q And you know the ones that the NTSB has
16 identified as perhaps being the origin of the
17 collapse?

18 A Yeah. I guess what's in the media, they've got
19 specific panel points, as we call it, yes.

20 Q Were those parts of the bridge that you could get
21 within arm's distance of using the 50-footer
22 snoopers that you have?

23 A I guess we can get -- That's the deck truss
24 pieces, which run like the east and west -- face
25 the bridge. Then you've got floor beam pieces

1 that run -- well, they run in between the deck.
2 It's those floor beam pieces in the middle that
3 you couldn't get to. But the plates that were
4 there you could see. If there was like corrosion
5 or a problem, we could see it and you take photos
6 of it, at least make people aware if there's a
7 problem. We'd let them know.

8 Q Do you recall noticing that there was any problem
9 with the gusset plates that have been in the news
10 lately?

11 A The gusset plates are -- Well, the ones that are
12 in the news are like a half inch thick. And I
13 guess unless you're a designer and know what size
14 they're supposed to be and what thickness they're
15 supposed to be, they are computed through the
16 designer. Generally they're a big plate and you
17 look at them for like corrosion -- paint missing,
18 rust, that kind of stuff. I guess they were
19 riveted together back in the sixties, so you'd
20 look for like the heads popping off and stuff
21 like that. Most of that stuff was -- there's no
22 big problems.

23 Sometimes you can get -- When water
24 gets -- There's a series of plates usually on
25 these built-up bridges, like this one is. When

1 the water gets in between it, it can actually
2 what we call pack rust, push things apart. I
3 guess on that particular one there isn't a lot of
4 pack rust that was causing major problems yet, at
5 least not on the trusses. So that's where those
6 gusset plates are that they're talking about.

7 Q Was there anything about the kind of physical
8 layout and where those gusset plates were that
9 would have prevented you from fully inspecting
10 those parts of the bridge?

11 A Well, over the river itself -- These gusset
12 plates are like big plates that hold all the
13 components of the bridge together. If we
14 couldn't reach it, all you could do is -- I'd
15 take photos. And if there's -- Well, paint,
16 that's the only protection to keep the steel from
17 rusting. If that started to rust, that's all you
18 could do, is say the paint is peeling and
19 rusting. If you're going to get, say, any more
20 than that, you need key people to -- like for
21 section loss, stuff like that, you need specific
22 equipment to do that kind of... But for just
23 normal looking at stuff, no, nothing -- you know,
24 surface rust -- no pack rust, major stuff.

25 Q The NTSB is focused on particularly the U10 node;

Page 57

Page 59

1 is that your understanding?
 2 A Well, yeah. The connection number is what that
 3 is.
 4 Q And you know where that is on the 35W bridge?
 5 A Yeah.
 6 Q And I think I've asked this, but I'm just not
 7 sure if I understand your answer: Is that a
 8 location that you could get within arm's length
 9 of?
 10 A Yes.
 11 Q And you did do that?
 12 A Yes.
 13 Q You didn't notice any problems anytime you
 14 inspected that part of the bridge; is that right?
 15 A Yes.
 16 Q Did you inspect those gusset plates for bowing?
 17 A Well, no, not exactly. The thing with these 1960
 18 design bridges -- or that -- It was built like in
 19 '67. Things didn't quite always fit together
 20 when they're fabricated and put together out in
 21 the field. So any bending and stuff like that I
 22 guess we term as the iron workers sometimes bend
 23 or beat stuff to get it to fit right. And if the
 24 holes are slightly off, they use these -- I don't
 25 know, it's like a big drift pin that lines it up

1 design on it. As far as I'm concerned, it's a
 2 bad detail. Some of the training that we've had,
 3 it's a bad -- Well, we don't use a lot of gussets
 4 on -- We don't do trusses too much any more at
 5 all, but it's a detail that's sort of
 6 discouraged.
 7 Q My question, though, I think is different. My
 8 question is as between one option, the gusset
 9 plate was bowed at the time of construction, and
 10 another option, it occurred sometime after
 11 construction, how would you go about determining
 12 which of those two things was the case?
 13 A If we would do that, you'd almost have to put a
 14 straight edge on it, off one of the components
 15 and measure it with a tape measure or something.
 16 The problem is you're looking at something
 17 without having the time, number one, or even
 18 if -- You've got a bunch of pieces. This is a
 19 connection for a bunch of components on the
 20 bridge. If they don't line up just right, if
 21 you've got a diagonal -- A truss has got
 22 horizontal members, it's got vertical members,
 23 it's got diagonals. Any one of those pieces, I
 24 guess these connections can be what we call an H
 25 pile. It can be a rectangular box. They're not

Page 58

Page 60

1 so they can get their bolts in and stuff like
 2 that. From what I can tell or what we saw so
 3 far, it looked like normal -- just whatever an
 4 iron worker would have to do to get the stuff to
 5 fit together.
 6 Q Why do you say that?
 7 A Well, it's -- I say that because of I guess the
 8 training I've had and just -- Well, these were
 9 riveted together. They have to heat them and
 10 stuff like that just to get them to -- It's the
 11 way things were done back then.
 12 Q And so if the gusset plate was bowed, it could
 13 have been the case that it was done that way at
 14 the time the bridge was constructed, correct?
 15 A Yes.
 16 Q It might also have happened sometime over the
 17 life of the bridge; is that correct?
 18 A Yeah, that's possible. But I guess that's one
 19 thing that because of this, this design, the ones
 20 that they talked about are underdesigned, they
 21 said that. They were supposed to be twice as
 22 thick or something like that. So that's why I
 23 said, that may be something that we're going to
 24 look at different in the future, because it's --
 25 Well, there's a lot of bridges that got this

1 just coming in straight. If they've got any
 2 crooks or something like that, that gusset plate
 3 will not -- you can't have it true up and down --
 4 it could be skewed a little bit. We don't have
 5 the quality control back in the sixties that we
 6 do today.
 7 Q So you're talking now about how it could be that
 8 the gusset plate was bowed at the time of
 9 construction?
 10 A Yeah. And I guess that wasn't -- We didn't worry
 11 about gusset plates because they're supposed to
 12 be stronger than the connection. So it wasn't an
 13 issue in the past. But if it's not necessarily
 14 straight, I'm assuming that it may have gotten
 15 dinged a little bit on its manufacture or being
 16 put in place.
 17 Q Do you recall noticing at the time you did the
 18 inspection, not thinking now about what you might
 19 have read in the paper since then, that the
 20 gusset plates were bowed?
 21 A No.
 22 Q Is that something you would have inspected for?
 23 A Oh, yeah. When we look at these bridge
 24 components, we usually site down -- or I'd site
 25 down them to see if there's any of that kind of

Page 61

Page 63

1 stuff in there. If there is, then you might have
 2 a problem. But that's not the case with that
 3 bridge, at least not while we were out there.
 4 Q If you would have noticed that the gusset plate
 5 at U10 was bowed, is that something you would
 6 have noted in your report?
 7 A Yeah. But I guess the problem I've got with this
 8 is how much -- or that's something that's going
 9 to come out here, how much of that bow -- What's
 10 considered -- You report it, but at what point is
 11 it critical or not critical.
 12 Q Yes. I understand that.
 13 A But we'd write it down, yes.
 14 Q Okay. And so if you didn't write it down, does
 15 that mean -- Well, let me ask you a better
 16 question.
 17 A I'd write it down if I thought it was a problem.
 18 Q If you noticed it but didn't think it was a
 19 problem, would you write it down?
 20 A Not necessar- -- I'd write it down if it was
 21 really significant. If it's -- Well, I don't
 22 know. From what we've seen so far, we haven't
 23 seen any gusset plates bent way out of shape.
 24 And that's something from the training I've had.
 25 You've got to sort of -- You know, you're sort of

1 making the decision that it wasn't significant,
 2 or you don't remember any bowing at all?
 3 A No. There's -- I guess from the picture -- After
 4 seeing it from the end, there's bowing there, but
 5 that's hard to tell. You've got to be looking
 6 for it. I don't know. I'm going to say there
 7 could have been some bowing there from the
 8 construction. If it was from the construction,
 9 it hasn't gotten any worse.
 10 Q What if it wasn't from the construction; what if
 11 it was something that was occurring over time?
 12 A It's -- Then I guess now, what's been going on,
 13 that's something that we're going to be paying
 14 more attention to. But the only way to know, to
 15 see what kind of problem you've got, you've
 16 almost got to lay a straight edge on it and
 17 measure it. And you better hope that the stuff
 18 you're laying on is true. If it's out of whack,
 19 then everything else is out of whack too. I
 20 guess from what I've seen in the paper, that's an
 21 issue, taking photos. If you're not directly in
 22 line with it, it distorts what you're looking
 23 at. What I've seen so far, what you're asking,
 24 that there is not a good, straight on shot.
 25 That's what we're wondering.

Page 62

Page 64

1 trained -- I mean, I'm looking at it. If it's
 2 got a little bit, that's not so bad. If it
 3 starts really curving out where it's -- I mean,
 4 we look at it every year. Nothing that was going
 5 on out there yet showed signs like that.
 6 Q Are you able to tell me, as you sit here today,
 7 that when you inspected the bridge, that you
 8 noticed that the U10 gusset plate was bowing, but
 9 you didn't think the extent was significant
 10 enough to note in your report?
 11 A U10, the photo that's floating around in the
 12 papers is shot from the end. We don't shoot them
 13 that way. We don't take photos. That was, we
 14 think, done by a consultant or somebody else. So
 15 that is something that we're looking into.
 16 Q My question is a different one, though.
 17 A I don't think those gusset plates -- I'd look at
 18 them. What we saw, if that bows in it or not, is
 19 not enough to worry about. We figured the design
 20 of that gusset plate was enough, at least that's
 21 what we've been trained so far. Now, that may
 22 change.
 23 Q And I appreciate that. And what I'm really
 24 trying to get at is was it the case that you
 25 remember back then, noticing the bowing and then

1 Q And that's fair. When you looked at the gusset
 2 plates, did you line up a straight edge to figure
 3 out whether or not they were --
 4 A No --
 5 Q -- straight or bowing?
 6 A -- just site down. I guess the bowing, if it's
 7 there, wasn't enough to worry about yet. A
 8 little bit shouldn't matter, or at least that's
 9 what we've been told, it shouldn't matter. Now,
 10 I don't know if that's going to be the case
 11 coming up or not.
 12 Q When you said at least that's what we've been
 13 told, who told you that?
 14 A From our people that train us to do bridge
 15 inspections.
 16 (Fuhrman Exhibits 7 and 8 were marked
 17 for identification by the court
 18 reporter.)
 19 BY MR. MERZ:
 20 Q Mr. Fuhrman, I'd like to direct your attention
 21 first to the document we've marked as Exhibit 7.
 22 Is this the PONTIS form of bridge inspection
 23 reports that you've been talking about?
 24 A Yes.
 25 Q And this is the one for the inspection performed

Page 65

Page 67

1 in 1996, correct?
 2 A Yes.
 3 Q Were you the one that input the information for
 4 this report?
 5 A I could have been. Pete Wilson, my partner,
 6 might have done this one. One of us would have.
 7 We didn't start putting our names on here -- Or
 8 that's what's missing. One of us did it, though.
 9 Q At the top there's a field that says SUFF,
 10 period, rate, R-A-T-E. Do you see that? I'll
 11 just point it out for you.
 12 A Oh.
 13 Q Yeah, there it is.
 14 A Yeah.
 15 Q Do you know what that is?
 16 A That's supposed to be sufficiency rating.
 17 Q And what's that?
 18 A That's a computer-generated number based on your
 19 NBI. These NBI ratings there, it gets generated
 20 from the computer based on what those are.
 21 Q So that's a number that's assigned based on some
 22 formula, I take it?
 23 A Yes.
 24 Q It's not a number you would input?
 25 A No.

Page 66

1 Q Do you know why it's blank on this report?
 2 A No.
 3 Q I just want to try to understand kind of the
 4 format of the report. You've got the different
 5 element numbers and element names. Is that
 6 something that's kind of already part of the
 7 report and you're just filling in the ratings for
 8 those things? How does it work?
 9 A Well, the NBI is the federal -- Or are you
 10 talking down here?
 11 Q Yep.
 12 A NBI is just general -- I think they've got it
 13 broke down into like five different components.
 14 So whatever applies -- Like on a bridge you've
 15 got a deck, a super structure, a substructure.
 16 You only have a channel if it goes over a river
 17 or a creek or something. A culvert doesn't apply
 18 in this case. So that's the national bridge
 19 inspections policy, to rate those main bridge
 20 components.
 21 These other ones are the PONTIS
 22 individual items, and they're based -- Well, no.
 23 I guess that's NBI and the other one is the
 24 PONTIS one through five system on each individual
 25 item.

1 Q So you're looking underneath, where it says
 2 structure unit, element number, element name?
 3 A Yeah.
 4 Q And where do I find the rating for each of those
 5 things?
 6 A Well, I guess on the structure or unit, certain
 7 elements apply to the NBI on top.
 8 Q Okay.
 9 A So the deck is I guess the driving surface.
 10 Q Okay.
 11 A The super structure can be like the bearings, it
 12 can be the deck, it can be the rail and anything
 13 else that's up there. The substructure is like
 14 piers, footings, abutments. And then as far as
 15 the individual element numbers, you've sort of
 16 got to know how they -- with working with it,
 17 what applies to which ones on top. But it's -- I
 18 guess the NBI is just a fed way of documenting
 19 the bridge. And then the PONTIS part, each
 20 individual element, is a way for us, probably, to
 21 do more tracking and maintenance of individual
 22 bridge items that we can repair as needed.
 23 Q There's a column that says ENV. Do you see that?
 24 A Environment? That's just a computer-generated
 25 statement. I think it goes from like one to

Page 68

1 four.
 2 Q What does it indicate?
 3 A I think we don't necessarily use that. I think
 4 it has to do with, like, if you're on the East
 5 Coast with salt water, a corrosion thing. It
 6 says a two, but I guess it comes out -- One is
 7 where you first put -- Each individual item comes
 8 out a one. So since these are new items, I
 9 automatically put it at a two. It's environment,
 10 but we don't use it, I guess, not here anyway.
 11 Q Are you able to tell me which of the elements
 12 that are listed are part of the super structure?
 13 A Yeah. Well, the 22 is low slump overlay. That
 14 is the driving surface for the cars.
 15 Q So that's part of the super structure?
 16 A The strip seal joint is, I believe, a gap between
 17 segments of a bridge for expansion and
 18 contraction. That's part of it.
 19 Poured joints can be, although some of
 20 those fall on the approaches, too, which is off
 21 the bridge, but you do have them out on the
 22 bridge.
 23 Assembly joint is just -- well, there's
 24 three joints. That like, to me, a finger joint
 25 or a joint with a steel plate over it.

1 The approach slab is what you drive on
 2 before you get to the bridge.
 3 And railing super structure. This
 4 metal rail, I think that one could be the median
 5 barrier down the center of this particular one.
 6 Painted steel can be super structure
 7 and substructure in this case.
 8 Stringers are super structure.
 9 And this deck truss and the steel floor
 10 beam and stuff can be, depending on where they
 11 are. There's different types of trusses, so you
 12 have to... I guess that's super structure.
 13 Steel hinge is a joint.
 14 Q Is that part of the super structure?
 15 A Yeah. The secondary elements can be a little bit
 16 of everything; they can be substructure or super
 17 structure.
 18 Q Let me ask maybe a little bit different
 19 question: Is there any condition or set of
 20 conditions that you would point to as the reason
 21 why the super structure is getting an NBI rating
 22 of a four?
 23 A Well, they're supposed to be, at some point,
 24 notes that go along with this on the element
 25 items and they're not on here. But it says

1 condition -- Well, the one, two, three, four,
 2 five on the elements, one is brand new, two is
 3 where you're starting to get like spalls in
 4 the -- so the concrete is slowly deteriorating.
 5 Just by looking at this, that's what happens to a
 6 super structure, is the deck starts falling
 7 apart, so when you get potholes and stuff in the
 8 concrete. That's why that's down.
 9 These joints, the three types here, the
 10 strip is a rubber gland. They can get holes in
 11 it. So when it starts going below a one, that's
 12 because there's holes in the gland or they're
 13 starting to get pushed together.
 14 Railing. As the concrete deteriorates,
 15 you get spalling and delamination and cracks in
 16 it. Those go down accordingly.
 17 I guess with the steel, basically it's
 18 the paint. If we find any -- Well, I guess --
 19 Paint if there's dings in it or cracks and
 20 stuff. But that deck truss says numerous poor
 21 welding detail. That's the problem with a 1960
 22 bridge, is there's a lot of deep, bad welding
 23 that aren't good.
 24 Q So just looking at painted steel deck truss, for
 25 example, just the way you would interpret this is

1 there's 1,914 linear feet that would be
 2 Classification 3, which is the middle?
 3 A Well, the problem with this PONTIS system is they
 4 give you -- the quantities listed there are
 5 what's on the plan. And some of these, like --
 6 You asked specific on the steel, right?
 7 Q Right.
 8 A The painted steel girder?
 9 Q The painted steel deck truss.
 10 A That one there is the -- Okay. Deck truss is the
 11 main support to span the -- Okay. It says
 12 numerous poor welding details. Well, it's -- The
 13 deck is either H pile -- or H-shaped steel or a
 14 rectang- -- or a square box. Inside the square
 15 box is these details that keep the box from,
 16 like, deforming and stuff like that. There's
 17 these welding -- tack welds inside that were
 18 cracking. That's why the note is there. That's
 19 a poor detail. So that explains why it's down in
 20 the three and four category.
 21 Q So there's 213 liner feet of a deck truss that
 22 would be in the four category?
 23 A It's a guesstimate by us, but it's based on
 24 general information.
 25 Q And then I just want to make sure I understand

1 these reports. That's what these questions are
 2 about. If you go down to the next element,
 3 painted steel floor beam?
 4 A That's the truss that -- So now you're going
 5 between east and west truss. And that's
 6 similar. I mean, it works the same principle as
 7 the other one. Instead of -- That keeps the
 8 width stable, where the ones are -- That's the
 9 difference here, the deck truss is length-wise;
 10 the floor beams width-wise.
 11 Q And so you say -- The very last note there, under
 12 the floor beam, you say, At north crossbeam, the
 13 Beam Number 3 connection is working; the bolt
 14 should be replaced. Do you see that?
 15 A Uh-huh.
 16 Q Yes.
 17 A Yes.
 18 Q And so that's something that you're reporting
 19 needs to be addressed?
 20 A Yeah. The problem with that crossbeam is you're
 21 right in where you're going between the fracture
 22 critical stuff and the multiple beam stuff.
 23 Q Okay.
 24 A That crossbeam is part of the multiple beam
 25 stuff.

Page 73

Page 75

1 Q Okay.

2 A So, yeah, there are some bolts or something

3 there. That's something that we suggested they

4 look at.

5 Q So then if you go to Exhibit 8, which is the next

6 year's report --

7 A Okay.

8 Q -- go to the same element, the floor beam.

9 A Yep, yes.

10 Q The report says, again, At the north crossbeam,

11 the Beam Number 3 connection is working; the bolt

12 should be replaced. Do you see that?

13 A Yes.

14 Q So I'm assuming, and you tell me if I'm wrong,

15 that the fact that the report still says that

16 means the bolts have not been replaced?

17 A Yeah.

18 Q If the bolts had been replaced, you would reflect

19 that in the report; is that correct?

20 A Yes. We'd either take that out or say repaired.

21 Q Okay. You know, we have used more than the time

22 that you allotted to me, and I appreciate that.

23 I have a number of things that I wanted to go

24 over still. But there's one area in particular

25 that if you could just give me another 15

1 afterwards.

2 Q Who from central bridge was involved in that

3 inspection?

4 A Ken Rand and Bill Nelson. They are our UT guys.

5 You have to be certified to do what they're

6 doing.

7 Q Do you know whether URS had any role in deciding

8 what that inspection would involve?

9 A They might have, I guess, but that was between

10 the bridge design people and those -- Yeah.

11 That's been going on for a while, so it's

12 possible, yes.

13 Q You don't know?

14 A No, I don't know specifically.

15 Q Do you know whether that's something Mark Pribula

16 would know?

17 A He might. I guess I'm not sure there either.

18 Q So what was your role in this inspection? Was it

19 just removing the covers so that Mr. Rand and

20 Mr. Nelson could get at those parts of the

21 bridge?

22 A Yeah. Those covers are on there because of the

23 pigeons. So, yeah, we removed the covers so they

24 could get in there with their stuff.

25 Q Did you write up any report for that inspection?

Page 74

Page 76

1 minutes, I think I could get through. Would that

2 be okay with you?

3 A That's fine with me.

4 Q Were you involved in inspection of the bridge

5 that took place in 2007, approximately May?

6 A Yeah, yes.

7 Q Who was involved in that?

8 A Well, that one was basically driven by the bridge

9 office in Oakdale.

10 Q What do you mean by that?

11 A Well, I've said some things, that over the years

12 they're trying to increase the trucks weights and

13 we found cracks and stuff. What we were doing in

14 2007 was checking specific areas that they had

15 interest between the consultants or all these

16 people involved so far.

17 Q What specific areas were being checked?

18 A We were looking in the fracture critical part of

19 the bridge, so over the river areas. They had

20 detailed certain spots where they wanted us to

21 take the covers off so our UT people could go in

22 there and inspect the welds with their UT

23 equipment. And we'd open up the areas so they

24 could go in with their stuff and do what they

25 needed to do, and they'd close them up

1 A No.

2 Q Did you keep any notes?

3 A Well, from what we were told by Ken and Bill,

4 they found nothing.

5 Q When did they tell you that?

6 A Just -- We use them from time to time on other

7 bridges, so I'd just ask. They might have wrote

8 up something, but it would probably -- If they

9 keep their own files, that would be something to

10 look at -- Or they would, but we didn't put

11 anything in our report because of it.

12 Q Were you involved in doing any analysis or

13 inspection in preparation for the overlay work

14 that was done in 2007?

15 A No. Well, we said the deck was deteriorating, so

16 we'd been telling them to replace the deck or

17 overlay it. That was all done by people above

18 me.

19 Q Did you do any work that was intended to try to

20 figure out whether the construction work,

21 placement of materials or equipment, might put

22 unusual stress on the bridge?

23 A No.

24 Q Do you know whether anyone did that work?

25 A Well, when I work construction, bridge

Page 77

Page 79

1 construction, or did bridge inspection now,
 2 usually all the materials and stuff are put on
 3 the approaches. I guess I'm not sure what was
 4 going on with this one, but -- because I think
 5 the media says they might have had supplies in
 6 the middle on this particular bridge. But we
 7 have a construction group, and that's a whole
 8 different -- This contract that was let for all
 9 the repairs going on in 2007 was this
 10 construction group. That's another area, Golden
 11 Valley.
 12 Q So if anyone looked at what stress construction
 13 might put on the bridge, it wasn't you?
 14 A No. The only -- That would have to be a designer
 15 or we have a bridge rating person. Those are the
 16 only two people that could possibly do that.
 17 Q Who's the designer?
 18 A We have like seven or eight groups over at...
 19 Q Okay.
 20 A So it would be one of them. The rating part
 21 would be Lowell Johnson, or is at the moment.
 22 Q What does rating involve?
 23 A Just I think you compute the loads on each
 24 individual item. It's a design thing.
 25 Q Okay.

1 testing that was done?
 2 A No. I think this particular bridge I don't think
 3 really has UT on it.
 4 Q Okay.
 5 A He's there for an extra -- My guess is Mark
 6 Pribula had other issues to attend to, so he's --
 7 We had two trucks here, and they said the 75 and
 8 the 60. So to get two people in it the whole
 9 time, that's why we've got the five names. I
 10 think Mark is in and out. Well, all these --
 11 Vance and I were probably here the full timetable
 12 here. Palmer, Rand and Mark would be as needed
 13 or, you know, to fill the spots.
 14 Q Go to page 6, where it starts to list
 15 recommendations. You have three bullet points
 16 under the heading Long-Term Repair
 17 Recommendations. Do you see that?
 18 A Yes.
 19 Q What did you mean here by long term?
 20 A Well, it mentions -- the first bullet is wanting
 21 to get -- I guess deck replacement -- Well, the
 22 crossbeam is the transition area between the
 23 multiple beam and the... We had some problems
 24 there.
 25 Q What problems?

Page 78

Page 80

1 A That's how you size up your members, I guess.
 2 That's done by an engineer that's got structural
 3 background.
 4 MR. MERZ: Let's go off the record just
 5 a second.
 6 (Discussion held off the record.)
 7 (Fuhrman Exhibit 9 was marked for
 8 identification by the court reporter.)
 9 BY MR. MERZ:
 10 Q Mr. Fuhrman, I'm going to give you what we've
 11 marked as Exhibit 9. Do you recognize that as
 12 the 2001 fracture critical bridge inspection
 13 report that you did for the 35W bridge?
 14 A Yes.
 15 Q And the inspection team is listed there on the
 16 second page. Those are the folks that were
 17 involved in the inspection; is that right?
 18 A Yep, yes.
 19 Q And does the fact that Mr. Rand and Mr. Palmer
 20 identified there -- Well, no, I guess it wasn't
 21 Palmer. Who's Mike Palmer?
 22 A He's one our bridge workers from the Spring Lake
 23 Park bridge group.
 24 Q Do you know whether the fact that Mr. Rand is
 25 listed there indicates that there was some UT

1 A I guess what comes to mind here is the bridge,
 2 over years they push together; they don't
 3 necessarily go back, and it's cracking at the
 4 crossbeam. So we've done some repairs over the
 5 years. So fatigue cracking, truckloading,
 6 traffic loading over time cracks steel, so we're
 7 looking at stuff that's cracked in that crossbeam
 8 that -- Well, I guess what we ended up doing was
 9 drilling holes to relieve the pressure.
 10 Q Did you have any discussion with either
 11 Mr. Pribula or anyone at the central bridge
 12 office about the need to replace this bridge?
 13 A Well, it's a 1960 design. Since the designs are
 14 so much different back there, we've sort of run
 15 into its design life. It's 40-some plus years.
 16 Usually you've got to do some significant work or
 17 replace it. From what we're seeing over the
 18 years, yeah, I'd like to see it done.
 19 Q Why do you say that?
 20 A There's a lot of things that were done in the
 21 sixties that wouldn't make today's standards.
 22 Q Were there other bridges that you were
 23 responsible for inspecting that were of this same
 24 kind of vintage, late 1960's?
 25 A Yes. There's several in the metro area and

Page 81

Page 83

1 they've got similar problems, just like this one.
 2 Q Has the collapse of the 35W bridge caused you to
 3 do anything different with respect to those other
 4 bridges, at least as we sit here today,
 5 understanding that there may be changes in the
 6 works?
 7 A No. I guess the problem with these river -- with
 8 these mostly the river crossings, the problem is
 9 they're very expensive to replace. I'd like to
 10 see them all gone, but there's -- I don't know,
 11 eight were identified with the collapse. Then
 12 that's more than just metro too. So eventually
 13 I'd like to see all those replaced, but it's --
 14 This is the thing with doing bridge inspection,
 15 you can keep fixing it and fixing it or you can
 16 replace it at some point and use new technology
 17 that hopefully doesn't have problems that
 18 you've -- It took 40 years or let's say 20 years
 19 to identify issues. Now we're starting to spend
 20 a lot of time fixing those issues.
 21 Q So to get back to my original question, did you
 22 have discussions with anyone about the need to
 23 replace this bridge?
 24 A Yes.
 25 Q Who did you talk to?

1 A Yes.
 2 Q Are those things that you believe affected the
 3 structural integrity of the bridge?
 4 A These are just -- Well, stringers is a bolt to
 5 connect steel members below to the floor beam.
 6 They got fixed. When we note them, they usually
 7 try to get out there.
 8 Strip joints, you've got to rip out the
 9 -- If it's a gland, you can take those off. The
 10 problem is, is you've got to close the bridge off
 11 to do that. So as long as traffic is willing,
 12 you can do that. But once they rip, all the
 13 water goes through, so it's hitting the steel and
 14 corroding it.
 15 The skirt thing is try to keep the
 16 water from rusting out the steel, which didn't
 17 work very good because then you can't get at it.
 18 It's bad enough already trying to get up there.
 19 Q And then the areas for concern for future
 20 inspection, this is just your note, I take it, of
 21 things to be alert to in the future; is that
 22 right?
 23 A Yes.
 24 (Fuhrman Exhibit 10 was marked for
 25 identification by the court reporter.)

Page 82

Page 84

1 A Mark and -- The same people I mentioned before.
 2 Q And then your second long-term repair
 3 recommendation is if bridge replacement is
 4 significantly delayed, the bridge should be
 5 redecked. Do you see that?
 6 A Yes.
 7 Q What did you mean by significantly delayed?
 8 A Well, the deck's deteriorate really bad after --
 9 I don't know how long you can get on a deck; but
 10 when it's got a lot of traffic, it starts
 11 spauling and the water gets into it. What we
 12 want is a deck -- It's getting to a point where
 13 you need a new deck on it.
 14 What they did is in 2007 they decided
 15 on a low-slump overlay, which is a temporary fix
 16 to give it maybe 10, 15 years. And then if it
 17 will hold out that long and we can meet our goal
 18 with the planned projected bridge replacement or
 19 whatever the bridge people figure out after --
 20 It's maintenance to hold it long enough until we
 21 can get funding to replace on a normal...
 22 Q Under Immediate Maintenance Recommendations
 23 you've got three bullet points and specific
 24 things that you think need to be done; is that
 25 right?

1 BY MR. MERZ:
 2 Q In front of you what we've marked as Exhibit 10,
 3 do you recognize this as the fracture critical
 4 bridge inspection report that you prepared for
 5 2003?
 6 A Yes.
 7 Q If you go back to Number 9 and just compare the
 8 recommendations, and I'm looking at page 8 on
 9 Exhibit Number 10 and page 6 on Exhibit Number 9,
 10 I'm looking at where it says Immediate
 11 Maintenance Recommendations.
 12 A Okay.
 13 Q It looks to me like the three immediate
 14 maintenance recommendations are the same in both
 15 of these reports; is that right?
 16 A Yes, sir.
 17 Q And so would -- am I correct in understanding,
 18 then, that none of those recommendations had been
 19 acted on between the 2001 and 2003 reports?
 20 A Yeah, I'd assume so. I'm going to say when you
 21 make recommendations like this, I guess the
 22 contract that they just -- we're doing might have
 23 been to address those. Sometimes it can be
 24 bridge people immediately. If there's a bunch of
 25 them, they may choose to do it in a contract.

Page 85

Page 87

1 Q So in looking at the 2001 report under
 2 intermediate -- or, I'm sorry -- immediate
 3 maintenance recommendations, you talked about the
 4 four stringer connection bolts that need
 5 replacement?
 6 A Right.
 7 Q And they still need replacement in 2003?
 8 A Yes. They weren't done before that. The only
 9 thing I can think of is whoever ended up doing
 10 that, that was decided to be done on a -- Well,
 11 this contract in 2007, I think through the years
 12 they made a decision to have all that done as a
 13 contract.
 14 Q Are you guessing, now, about that decision or is
 15 that something that you know about?
 16 A Well, just from -- if our bridge crew would
 17 have -- We would have noted that they fixed it.
 18 Because you look at this stuff every year, so you
 19 would have made a note if it wasn't.
 20 Q Go to page 23 of Exhibit 10. I'm looking at
 21 where it says Panel Point 11, east truss?
 22 A Okay.
 23 Q You say there, Section loss at gusset plate
 24 bottom chord, and then in brackets you have
 25 2001. Do you see that?

Page 86

Page 88

1 A Yep.
 2 Q That indicates that that's a condition that you
 3 first identified in 2000?
 4 A Well, actually, Stringer 3 has a bolt missing at
 5 the floor beam. That's what it refers to.
 6 Q Oh, okay. So the bracketed material --
 7 A The bracket usually goes before this -- refers to
 8 what -- Whatever is after that bracket is usually
 9 what we're referring to.
 10 Q So, Section loss at gusset plate, bottom
 11 chord --
 12 A That's a general statement that's -- That's, I
 13 guess, an issue with that bridge that's going
 14 on. I mean, steel will rust, and this had a
 15 enough water getting through to the steel
 16 members. That's a general statement. That's
 17 probably been -- That could be on every year we
 18 do it.
 19 Q And just so I understand, what's section loss?
 20 A That's a thinning of the steel through surface
 21 rust, and then it becomes flaking rust where it
 22 actually gets deep. And to get rid of it, you
 23 take like a prospector's pick and beat it away.
 24 It's actual steel missing.
 25 Q The gusset plates that have been identified by

1 NTSB, anyway, would be gusset plates at Panel
 2 Point Number 10; is that right?
 3 A That's one of them, yeah.
 4 Q Did you inspect the gusset plates at Panel
 5 Point 10 when you did your 2003 inspection?
 6 A We probably looked at them, you know, just
 7 visually to see if there's anything out of the
 8 ordinary, which if it was something we didn't
 9 like, we would have noted, but so far so good.
 10 Q So was it the case that the inspection that you
 11 were able to do of the gusset plate at that
 12 location was within an arm's distance?
 13 A Oh, yes. These gusset plates are at every panel
 14 point. The NTSB identified ones that -- Well,
 15 each one can be different, I guess, so it depends
 16 on what forces are acting on each one of those.
 17 Q Was there any part of that gusset plate structure
 18 that you could not visually see?
 19 A Well, it's just a steel plate, like six foot by
 20 six foot up against all the members. So, yeah,
 21 it's bolted -- or riveted back in the sixties.
 22 So, yeah, you look at the front face and the
 23 edge. There could be other plates on top of it,
 24 possibly, where all the members come in on the
 25 back, and then there's one on the back side too.

1 So, yeah, you can't see it all.
 2 Q You can see what's in the front and what's in the
 3 back, but not what's in --
 4 A Well, it's a rectangular box, these elements, and
 5 they're like 12 x 12. When they come down, it's
 6 just like this (indicating), over whatever, my
 7 arm. So where each member is, you can't see
 8 everything.
 9 Q So it's just a flat --
 10 A It's a flat plate on the exterior. It's the last
 11 piece -- a gusset is the last piece on a
 12 connection.
 13 Q Would you be able to detect whether or not gusset
 14 plates were bowing, based on what you could see?
 15 A On the outside edge maybe.
 16 Q Okay.
 17 A But if it's bowing down in here (indicating),
 18 because water getting in here and pushing out, it
 19 would have to be really significant.
 20 Q And just because when we look at the transcript
 21 of our discussion today, we won't have your
 22 visual aid, what part wouldn't you be able to see
 23 bowing, what part of the gusset?
 24 A Wherever it's like riveted to the -- It's just a
 25 plate bolted or riveted to the series of

Page 89

Page 91

1 members. So wherever those members cross each
 2 other, you're not going to be able to see like
 3 the back face. You'll see the front face. Well,
 4 and then some of these gusset plates have got
 5 other plates on the top and the front. These are
 6 built-up sections. It's a design thing. It's a
 7 case-by-case basis, I guess, each one of these
 8 points can be.
 9 (Fuhrman Exhibit 11 was marked for
 10 identification by the court reporter.)
 11 BY MR. MERZ:
 12 Q I've given you what we've marked as Exhibit 11,
 13 which is a portion of a report prepared by URS.
 14 It's the executive summary. It's titled Initial
 15 Inspection Report for Fatigue Evaluation
 16 Bridge 9340, 35W, Over Mississippi River. It's
 17 dated June 9th through the 13th of 2003. Have
 18 you ever seen this document before?
 19 A No. This is the first time.
 20 Q Did you ever see any reports prepared by URS?
 21 A No.
 22 Q Did anyone ever tell you about any
 23 recommendations that URS had made relating to the
 24 bridge?
 25 A No.

Page 90

Page 92

1 (Fuhrman Exhibit 12 was marked for
 2 identification by the court reporter.)
 3 BY MR. MERZ:
 4 Q Okay. You've got in front of you a document
 5 we've marked as Exhibit Number 12. Is that a
 6 fracture critical bridge inspection report that
 7 you prepared for the 35W bridge for 2006?
 8 A Yes, it is.
 9 Q Go to where it says Inspection Team.
 10 A Yes.
 11 Q There are a couple names there I don't recognize,
 12 Khaled Shouman and Michael Koffski.
 13 A Khaled Shouman I think was a grad engineer, so
 14 engineering students that are getting their
 15 degree rotate through our office. I think that
 16 Michael Koffski is another bridge worker from
 17 Spring Lake Park, I'm assuming. They get new
 18 people. Usually it's Spring Lake Park bridge
 19 crew people that show up on this bridge. I don't
 20 know if he's part of -- Mike and Palmer, either
 21 one are part of Spring Lake today.
 22 Q Okay.
 23 A I know the IT guy is doing some other thing.
 24 Q Who is it you're talking about?
 25 A Khaled Shouman.

1 Q Oh, I see. Go to your recommendations, which are
 2 page 8.
 3 A Yep.
 4 Q I'm looking under Immediate Maintenance
 5 Recommendations, and it talks about removing the
 6 plastic pigeon screens. Is that the UT
 7 inspection we've been talking about?
 8 A We've done that for the UT guys in 2007.
 9 Q Was that the first time that was done?
 10 A No. I guess I can't remember when those were put
 11 on. The pigeons build nests inside there and
 12 leave their manure, so that was a maintenance
 13 decision. I think we've taken them off at least
 14 a couple times, well, maybe since 2000, something
 15 like that. It's a fracture critical -- Taking
 16 them off is between every two and four years,
 17 depending what the rules are.
 18 Q Do you know anything about the inspection that
 19 led up to the closing of the bridge in St. Cloud?
 20 A No. I was plowing snow this weekend. That's how
 21 I first heard about it, on the news.
 22 Q Do you know whether there was anyone from the
 23 metro bridge office that was involved in that
 24 inspection?
 25 A I think our UT guys from CO went up there. And

1 the snooper came from us, but that's -- I
 2 guess -- That's a different -- That's
 3 District 3. The districts have a bridge crew, so
 4 their bridge people, if they got involved, would
 5 have got involved.
 6 Q You've never had any occasion to inspect the
 7 St. Cloud bridge that was recently closed?
 8 A No. That's why I said, we've got metro. We have
 9 certain bridges assigned to each district.
 10 That's District 3, so that would be their people.
 11 Q If you want to take just a few minutes to stretch
 12 your legs, I can look at my notes and maybe I'll
 13 be done with you here.
 14 (Break taken.)
 15 BY MR. MERZ:
 16 Q We just took a short break, and you had come back
 17 and pointed out a picture on page 39 of
 18 Exhibit 12, which I understand illustrates the
 19 use of the mag particle test; is that right?
 20 A Yes.
 21 Q Which picture is that?
 22 A It's the one that says the diaphragm crack at
 23 bottom cope girder 1C, is the inscription on the
 24 photo.
 25 Q Okay. And so the U-shaped thing that's in

Page 93

Page 95

1 someone's hand there, that's the mag particle --
 2 A Machine, I guess.
 3 Q All right. Go to page 11.
 4 A Okay.
 5 Q Here's where you start talking about the bridge
 6 super structure in this report, correct?
 7 A Yes.
 8 Q And you assign an NBI condition code of four?
 9 A Yeah.
 10 Q And I think I've asked you this, but in your
 11 mind, what did a condition code of four indicate?
 12 A Well, for what's listed here, we're referring to
 13 the paint. It's seen its better days. And then
 14 -- Yeah, mostly the steel stuff, corrosion
 15 issues over the years.
 16 Q Now, the super structure of the 35W bridge had
 17 been rated with an NBI rating of four for as long
 18 as you'd been inspecting the bridge, correct?
 19 A Yes. I think so, yeah.
 20 Q Was there any discussion about whether that was a
 21 cause for concern?
 22 A These NBI codes mostly are like maintenance. If
 23 it gets below a four, yeah, then you might have
 24 a -- Each one of these NBI codes in our guidebook
 25 have got descriptions. If it gets lower than a

1 A Yes.
 2 Q And you say that that's done to visually inspect
 3 the members' internal diagrams?
 4 A No. It says 1999 screens replaced over -- That's
 5 to keep the pigeons to get in there. We take
 6 them off to look in -- What we're looking at is
 7 inside these covers is what we call a diaphragm
 8 with little tabs, metal -- steel-welded tabs, 2 X
 9 2 inch with tack welds on it. Those tack welds
 10 are cracking. So for us to get in, we take those
 11 off so our UT guys can inspect those welds.
 12 They're poor quality to begin with.
 13 Q And my question is, you talk here about visually
 14 inspecting. You don't mention the UT, and I
 15 wondered why that was.
 16 A Well, we don't UT every -- all the time. We're
 17 looking at these tack welds. If they're cracked
 18 -- It's okay if they're cracked, just as long as
 19 they don't get into the -- The tab is like a
 20 secondary item. If it gets into the main box,
 21 that's a primary item. That could be a problem.
 22 So on our training things, that's what we're --
 23 Well, a mag particle is sort of that. So we
 24 check for cracks. That's what we'd use to check
 25 it. If it gets any more serious, then you need

Page 94

Page 96

1 four, now you're talking about where you worry
 2 about collapse or you're actually seeing
 3 something. It's specified by the rules that we
 4 use.
 5 Q And where do these rules come from?
 6 A NBI comes from the feds, I guess.
 7 Q When you say it's specified by the rules that we
 8 use, are you talking about some particular
 9 written policy?
 10 A Well, the super structure is a bunch of items, so
 11 we're using the items that pertain -- a lot of
 12 problems with that, and we need to -- Yeah, it's
 13 usually the concrete deck, and it can be railing
 14 and the steel; the steel has got a bunch of paint
 15 issues or whatever. And pack rust is the steel
 16 thing -- In between a bunch of built-up members,
 17 it just starts spreading apart. It's pack rust,
 18 and we have problems like that on these older
 19 bridges. So it would be that kind of stuff.
 20 Q At the top of page 12 --
 21 A Okay.
 22 Q -- the second full sentence there talks about
 23 during the 2004 inspection and every two years
 24 after, plastic pigeon screens are removed. Do
 25 you see that?

1 the UT to find the internal, I guess -- stuff you
 2 can't see with the eye.
 3 Q And I know you told me that the UT was used in
 4 this May of 2007 inspection.
 5 A Yes.
 6 Q Was it also used in 2006?
 7 A I guess you'd have to look for MT with a date by
 8 it for mag particle, mag test. And it would be
 9 on each -- No, it -- If it's like pins and
 10 hangers, we have dates that get specific. On
 11 this particular bridge, no, it doesn't have -- I
 12 guess I don't know the years without seeing a
 13 note saying MT with a date on it, for mag test.
 14 Q Is the mag particle test the same as the UT
 15 test? I guess I'm misunderstanding maybe.
 16 A The mag particle is what we use, that yoke thing.
 17 Q Right.
 18 A UT is ultrasonic testing, a thing where you use a
 19 transducer sending radio waves. To get an
 20 accurate description of what that is, you're best
 21 to talk to the two guys that do that.
 22 Q That's someone from the central bridge office?
 23 A Yeah, they do that. And for like section loss,
 24 you can do that with, but we have to call them to
 25 do stuff like that.

Page 97	Page 99
<p>1 Q Was UT testing -- Not mag testing, but was the UT 2 testing done in June of 2006; do you know? 3 A Well, they probably used their -- Yeah, that's 4 what they -- Well, in 2007 they used that 5 machine. In 2006, no, that would have been our 6 stuff. 7 Q Was 2007 the first time that the UT testing was 8 done on the 35W bridge? 9 A As far as I know, yes. 10 Q And I might have asked you this when we first 11 started. Are you an engineer? 12 A No. We're in the same classification as 13 engineer, but I'm an engineering specialist. 14 Engineer is a professional license. I am not. 15 Q I don't believe I have anything further. I 16 really appreciate your time and your willingness 17 to go longer than we said we'd go this 18 afternoon. So thank you very much. 19 MS. FORSLAND: This is Barbara 20 Forsland, the Data Practices attorney for the 21 agency. Today, along with this interview, we 22 have submitted our documentary responses to Gray 23 Plant Mooty's letter for request of 40 items. 24 We've submitted Numbers 1 through 9, some 25 additional documentation for Number 33, and</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
Page 98	Page 100
<p>1 Numbers 36 and 37. And we had previously 2 submitted Number 18 and an initial section of 3 Number 33. Thank you. 4 (Interview concluded at 4:02 p.m.) 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 STATE OF MINNESOTA) 2 3 4 COUNTY OF HENNEPIN) 5 6 7 8 REPORTER'S CERTIFICATE 9 10 11 I, Julie A. Rixe, do hereby certify 12 that the above and foregoing transcript, consisting of 13 the preceding 99 pages, is a correct transcript of 14 my stenographic notes and is a full, true and complete 15 transcript of the proceedings to the best of my 16 ability. 17 Dated April 3, 2008. 18 19 20 21 JULIE A. RIXE 22 Court Reporter 23 24 25</p>

1 INTERVIEW OF KEVIN GRAY - April 10, 2008

2
3
4 In the Matter of Conducting an Independent
Investigation into the Collapse of the I-35W Bridge

5
6
7 Department of Transportation
395 John Ireland Boulevard
8 Room G-13
9 St. Paul, Minnesota

10
11 Met, pursuant to Notice, at nine
12 o'clock in the morning on April 10, 2008.

13
14
15
16 INTERVIEWERS:

17 Thomas L. Johnson, Attorney at Law with
18 Gray Plant Mooty Law Firm.

19 ALSO PRESENT:

20 Barbara E. Forsland, MnDOT Data
21 Practices Compliance & Policy Analyst.

22 COURT REPORTER:

23 Julie A. Rixe
24
25

1 (Gray Exhibits 1 through 14 were marked
2 for identification by the court
3 reporter.)

4 MR. JOHNSON: Let's go on the record.
5 And why don't we begin by stating our appearances
6 here. I'm Tom Johnson with the Gray Plant Mooty
7 law firm.

8 MS. FORSLAND: I'm Barbara Forsland.
9 I'm the Data Practices attorney for the agency.

10 MR. GRAY: I'm Kevin Gray, division
11 director, finance administration for MnDOT.

12 BY MR. JOHNSON:

13 Q Kevin, I'm going to give you what's entitled
14 Witness Protocol for Interviews. And let me read
15 that through so that it's on the record and so
16 that we're clear that you've been made aware of
17 it.

18 First, the authority with which Gray
19 Plant Mooty conducts these interviews is in
20 response to our being retained by the Minnesota
21 Legislature to conduct an independent
22 investigation into the collapse of the I-35W
23 bridge. The Minnesota Legislature asked us to
24 provide a report of our investigation by May 1,
25 2008. I'll be asking you questions concerning

1 INDEX

GRAY EXHIBITS:	PAGE
2 1 - Witness Protocol for Interviews	3
3 2 - Organization Chart dated 2/2008	3
4 3 - Transportation Funding Sources document	3
5 4 - FY 2006 HSOP - Bridge - Planned Impacts	
6 of HSOP Funds on Preventive Bridge	
7 Maintenance - Bridge Office Report	3
8 5 - Memo dated 4/17/06 from R. Stehr	
9 to Distribution 57, 612, 618, 650	
10 with attachment	3
11 6 - Transportation Program Committee (TPC)	
12 Meeting Minutes dated 11/2/2005	3
13 7 - Transportation Program Committee (TPC)	
14 Meeting Minutes dated 1/5/2006	3
15 8 - Statewide Bridge Preservation Fund	
16 document dated 1/5/06	3
17 9 - Future Trends in Condition and	
18 Investment Needs document	3
19 10 - Bridge Report for Commissioner's	
20 Staff Meeting dated 2/27/06	3
21 11 - MnDOT Policy Position Statement	
22 dated 5/4/83	3
23 12 - MnDOT Policy Position Statement	3
24 13 - MnDOT Policy Position Statement	
25 dated 7/2006	3
14 14 - MnDOT Policy Position Statement	
dated 7/2006	3

1 the bridge collapse and related policies,
2 practices and legislative oversight issues. Your
3 questions are going to be primarily regarding the
4 fundings of MnDOT, in particular, as it relates
5 to bridges.

6 The purpose of the interview is to
7 determine what you might know about the matters
8 we are investigating. During the time of our
9 investigation -- During the time that our
10 investigation is active, the information that
11 interviewees provide us is not public
12 information, but that information may become
13 public once we submit our report to the
14 Legislature.

15 You're required to answer the questions
16 truthfully. The court reporter is here to record
17 our conversation. Either during this interview
18 or later in our investigation, we may determine
19 that we need to verify certain information. If
20 that occurs, we may ask you for a further
21 recorded statement, a signed affirmation or a
22 statement under oath.

23 We view this process as an ongoing
24 dialogue, although now it's coming closer to
25 winding up. If you think of anything after this

Page 5

Page 7

1 interview that you want to tell us about, please
 2 call or e-mail us. Likewise, we hope that you
 3 will respond to us if I call or we call you or
 4 e-mail you or ask you for some further
 5 information.
 6 That's the end of the protocol. Are
 7 there any questions?
 8 A No questions.
 9 Q Okay. Now, let me just make clear that our role
 10 here is not to give you legal advice. Our role
 11 here is, under the auspices of the Minnesota
 12 Legislature, not to respond to questions that you
 13 may have regarding any legal interpretations
 14 regarding the investigation.
 15 So let's begin with you talking a
 16 little bit about your education. Do you have a
 17 college degree?
 18 A Yes, I do. I have a bachelor's of science in
 19 business administration with a major in
 20 accounting from the University of North Dakota, a
 21 1977 graduate.
 22 Q Any degrees beyond your bachelor's degree?
 23 A No. There's been subsequent training and
 24 development throughout various positions and
 25 jobs. And I have completed a mini MBA in public

1 engineer.
 2 Q How long did you have that position?
 3 A Approximately two years. And I believe the
 4 formal title was director of business operations,
 5 metro district.
 6 Q What did you do after that?
 7 A In June or July of 2000 I was asked by then
 8 Commissioner Elwyn Tinklenberg to take an interim
 9 assignment as chief financial officer for the
 10 agency.
 11 Q How long did you serve as the interim CFO?
 12 A Approximately six months, at which time I was
 13 named permanent -- classified as a permanent --
 14 as CFO.
 15 Q So that would have been sometime in the summer --
 16 A 2001. It would have been early 2001.
 17 Q Were you at the same time made the director of --
 18 A No, I was not. No. I was chief financial
 19 officer. And at that time I reported to the
 20 commissioner.
 21 Q You reported directly to the commissioner?
 22 A Yes.
 23 Q And then when did you pick up the title of
 24 director of finance?
 25 A Early in -- Commissioner Molnau and Deputy

Page 6

Page 8

1 administration with the University of
 2 St. Thomas. And I'd have to verify -- It's a
 3 certificate. It was a coursework of
 4 approximately 12 to 14 weeks, and I'll verify the
 5 actual certificate title, but it was for --
 6 Q That's okay.
 7 A -- public administration, nonprofit businesses.
 8 Q I'm generally familiar with the program, so
 9 that's fine.
 10 A Yep.
 11 Q Let's now move to your work experience. What is
 12 your current position at MnDOT?
 13 A My current position is division director, finance
 14 administration, and chief financial officer for
 15 MnDOT.
 16 Q How long have you had that position?
 17 A I've been in this role since early 2003,
 18 approximately February 2003.
 19 Q Who do you currently report to?
 20 A I currently report to Deputy Commissioner Lisa
 21 Freese.
 22 Q Now, have you had previous positions at MnDOT?
 23 A Yes, I have. I joined MnDOT in April of 1998 as
 24 the division or district business manager for the
 25 metropolitan district, reporting to the district

1 Commissioner Doug Differt were identified as the
 2 leadership team for MnDOT. I was approached by
 3 them, along with others, to become the division
 4 director for finance and administration, and that
 5 organization, that included the finance areas as
 6 well as human resources, administrative services
 7 and diversity and civil rights functions.
 8 Q So tell me the month of that again.
 9 A February of 2003.
 10 Q I'm going to show you an organizational chart
 11 that's marked Exhibit 2, and it's dated February
 12 2008. Does it look current, as far as you can
 13 see?
 14 MS. FORSLAND: Have you got a set of
 15 exhibits you can share with me, Tom?
 16 MR. JOHNSON: Sure.
 17 MS. FORSLAND: Thank you.
 18 MR. GRAY: Yes, this looks current and
 19 accurate.
 20 BY MR. JOHNSON:
 21 Q Why don't you keep Exhibit 2 in front of you and
 22 let me ask you a question or two.
 23 A We'll do.
 24 Q Let's go back to the comment that you made with
 25 respect to your reporting directly to the

Page 9

Page 11

1 commissioner when you were a CFO; is that
 2 correct?
 3 A That's my recollection, yes.
 4 Q When was the change made that has the finance and
 5 administration division reporting to the deputy
 6 commissioner?
 7 A I believe commensurate with the naming of
 8 Lieutenant Governor Molnau as commissioner, along
 9 with the new administration change.
 10 Q Let me make sure I understand this. Was the
 11 position of CFO at that point combined with the
 12 division director?
 13 A Yes, it was combined with the division director
 14 role.
 15 Q So when you initially held the CFO position, it
 16 was a separate position?
 17 A Yes, it was a stand-alone position, if you will.
 18 Q Historically had that been true?
 19 A No, I don't believe so. When I was asked to
 20 serve as the CFO, the then CFO and deputy
 21 commissioner, Ed Cohoon, C-O-H-O-O-N, held the
 22 title of CFO as well as division -- or, excuse
 23 me -- deputy commissioner. And I think he had
 24 various entities, finance, administration, the
 25 CFO responsibility, including obviously the

1 A Tim and I have probably the closest day-to-day
 2 working relationship. A key function of his
 3 arena is around agency-wide state transportation
 4 planning as well as program investment
 5 management. The office of investment management
 6 makes all the planning and development decisions
 7 around our state road construction program
 8 project selection and use of funds. He also has
 9 responsibility for the modal agencies, some of
 10 which have dedicated funding, including the
 11 aeronautics or the state airports fund, and the
 12 greater Minnesota transit funds.
 13 Q Do you work with him on a day-to-day basis or is
 14 it primarily around setting the annual budget?
 15 A I would say it's somewhere in between, between
 16 that. We work, as I said, very closely on a
 17 regular basis. Approximately half of our budget
 18 is consumed by the state road construction
 19 program, and more if you factor in the program
 20 delivery planning elements and delivery of the
 21 capital budget. So there is a significant
 22 resource consumption that is based upon the level
 23 of our construction program and the resources to
 24 deliver and -- plan and deliver that program. So
 25 I think that we talk on a regular basis.

Page 10

Page 12

1 finance arena, and I believe modal programs
 2 reporting to him. So I think there was a dual
 3 deputy scenario when I was -- And when he
 4 resigned, I was asked to take on a piece of that
 5 puzzle that was the CFO and finance office.
 6 Q Why don't you give me a sort of overview of what
 7 you view as your job responsibilities now.
 8 A Well, my key responsibilities, and I've got some
 9 notes that I want to include, too, here as well.
 10 My key responsibilities are around accurate and
 11 reliable financial reporting for the agency; to
 12 support management in leadership decision-making
 13 around financial matters; to oversee and provide
 14 an accurate internal control environment; to
 15 provide leadership and direction around
 16 financial, human resource, administrative
 17 matters, including diversity; and to be an active
 18 spokesperson for the agency regarding financial
 19 and budget-related matters at the agency level.
 20 Q Thank you. I'm curious as to how you relate to
 21 some of the other division directors, so let's
 22 start with the Tim Henkel, who is shown as the
 23 division director of planning, modal and data
 24 management division. What's your relationship
 25 with that division?

1 Q Let's move over to the next division, the
 2 engineering services division on the
 3 organizational chart. Do you have any direct
 4 relationship with Dan Dorgan, who heads the
 5 office of budget within that division?
 6 A No, I do not.
 7 Q Tell me a little bit about -- Back up here and
 8 tell me a little bit about your relationship with
 9 Richard Arnebeck, then, who is the division
 10 director.
 11 A Rick is part of the division leadership team and,
 12 as such, is a peer. He is focused on, I would
 13 say, the more technical engineering policy and
 14 service delivery aspects of the organization. So
 15 I don't regularly interact with him as much
 16 because it's more technical and engineering
 17 specific direction and leadership that he
 18 provides.
 19 Q Describe your interaction with Julie Skallman,
 20 S-K-A-L-L-M-A-N, who's the division director for
 21 the state aid for local transportation division?
 22 A She, too, is a peer and a fellow division
 23 director, if you will. And we work on a regular
 24 because, I would guess -- or say, rather. She
 25 has a portion -- The major focus of her area is

1 on local counties and municipalities. And we are
 2 responsible, from my perspective, financially to
 3 ensure that the resources collected through our
 4 highway user distribution fund that are allocated
 5 directly to the counties and cities indeed get to
 6 those systems. And she's responsible for the
 7 state aid systems and programs and oversight of
 8 the projects in the state aid community, which
 9 includes counties and cities over 5,000.
 10 Q And let's finish up with the division level, with
 11 Bob Winter, the division director for the
 12 operations division. Why don't you tell me a
 13 little bit about your relationship there.
 14 A Well, Bob, too, is another division director. As
 15 you can see, there are five. When I was
 16 initially asked to be a division director, there
 17 were six positions, now consolidated into five.
 18 Bob heads the largest division, as the
 19 title would imply, the operations division. They
 20 essentially reflect our districts, which are
 21 responsible for both program delivery and
 22 maintenance and operations responsibilities
 23 across the state. As such, it is geographically
 24 the most diverse and embodies the greatest amount
 25 of what we call operating resources and people

1 metro district.
 2 A No, I don't recall. I certainly have met
 3 individually with the metro district engineer on
 4 occasion, oft times for general information
 5 purposes and to check in on a variety of
 6 subjects, whether financial or budget related or
 7 human resources or administration related, as
 8 well, but nothing on a regular basis or that I
 9 recall specifically.
 10 Q When we interviewed the metro district engineer
 11 and were asking him about what he would do in
 12 response to a major issue with a bridge, where it
 13 had a significant cost attached to it, either to
 14 repair it or to replace it, he said that he would
 15 come to the fourth floor of the -- of this
 16 building.
 17 A Sure.
 18 Q Would you be -- When he came to the fourth floor
 19 and met with people up here, presumably about
 20 where these moneys are going to come from that he
 21 needs, would you be a part of those
 22 conversations?
 23 A I would be an extended part of those
 24 conversations, probably not the first visit. I
 25 think that as there are major financing and/or

1 dedicated to the maintenance, delivery and
 2 ongoing operations of our transportation system.
 3 Q Do you have any direct interaction with any of
 4 the district directors or district engineers?
 5 A Not on a regular basis. I would say I have
 6 access to any of these leadership folks, as they
 7 have access to me. But the reporting
 8 relationship is such that I work most directly
 9 with Bob Winter, and then selectively I will
 10 attend district operation meetings or conference
 11 calls or things like that on an as-needed basis.
 12 Q Tell me a little bit about what might constitute
 13 an as-needed basis.
 14 A Well, as we talk, for instance, budget decisions
 15 and/or protocols, budget procedures, we might
 16 talk about key financing challenges, ongoing
 17 business challenges of the district. So I
 18 would -- We talk about that regularly at division
 19 director meetings. And so I would -- as they go
 20 through their budget process, I would be apprised
 21 at times and sit in on that.
 22 Q Do you recall being in any meetings with the
 23 metro district engineer?
 24 A Any meetings? I'm sure --
 25 Q Meetings that were specific to matters within the

1 financial projects that are outside of the norm
 2 of the state construction program or statewide
 3 transportation improvement plan, I would
 4 certainly be aware, want to be aware of those
 5 decisions. So, yes, I would be -- if not
 6 initially, I would, in all likelihood, be
 7 discussed with about, particularly, changes in
 8 program and funding needs related to those.
 9 Q Would you be the ultimate decision-maker in where
 10 those funds would come from?
 11 A No, I would not be the ultimate decision-maker.
 12 I would have some contributory abilities to
 13 hopefully influence or shape the outcome. The
 14 ultimate decision would be typically up to the
 15 district, if it was within their ability to
 16 manage the challenge, within the division, and
 17 then typically it moves up through, as the metro
 18 district engineer referenced, the fourth floor.
 19 But ultimately it would go to the deputy
 20 commissioner and commissioner for major project
 21 changes and the like.
 22 There are planning committees,
 23 including the transportation planning committee,
 24 that does see a lot of the program impactful
 25 changes. That group is headed up by Tim Henkel,

Page 17

Page 19

1 and the project manager or the committee manager,
 2 if you will, is Abbie McKenzie of the office of
 3 investment management.
 4 Q Let me ask a similar question with respect to Dan
 5 Dorgan. Have you been in meetings with Dan
 6 Dorgan over bridge funding issues?
 7 A Yes. Not that I recall one-on-one, but as we
 8 develop budgets, we've had selective offices and
 9 districts involved in budget development issues.
 10 As the statewide transportation plan -- As a
 11 member of the transportation planning committee,
 12 I see the results, at least on an overview basis,
 13 of the statewide transportation improvement plan,
 14 STIP, S-T-I-P, for future reference. That is the
 15 collection of projects and activities that would
 16 be funded with our state road program, both a
 17 combination of state, federal and local funds.
 18 And certainly bridges are an important element of
 19 our annual program and something that Dan
 20 monitors quite closely, working with the
 21 districts.
 22 Q Tell me about your working relationship with Lisa
 23 Freese, the deputy commissioner. How often do
 24 you have contact with her and what's the nature
 25 of that contact?

1 to keep her apprised on any number of functions,
 2 activities, on a regular basis.
 3 Q If there is an issue floating around within the
 4 department as to whether or not a bridge needs to
 5 be replaced, you know, repaired in a major way,
 6 would that be a topic of a conversation you might
 7 have with the deputy?
 8 A In all likelihood, depending upon the financial
 9 ramifications or needs, there probably would be
 10 some dialogue on an extended basis. But
 11 typically I would not be involved with bridge
 12 design, development or maintenance items on a
 13 day-to-day basis. And if there are issues, I
 14 normally wouldn't be in the loop, other than, you
 15 know, keeping my ear to the ground and probably
 16 being aware of things as --
 17 Q So your participation in those issues is
 18 primarily within the TPC, then?
 19 A Primarily within the TPC is probably an accurate
 20 description, right.
 21 Q What about the commissioner, the former
 22 commissioner and now the acting commissioner,
 23 what's your frequency of contact with the
 24 commissioner? And if you are having contact,
 25 what's the nature of it?

Page 18

Page 20

1 A Lisa is my -- I report directly to the deputy
 2 commissioner. Lisa is officed two doors down
 3 from me, so we see each other on a regular
 4 basis. We have periodic status meetings, but are
 5 often involved in meetings where we're -- while
 6 not directly the two of us, we participate in
 7 multiple meetings where there's overlap with
 8 other areas and other individuals. So we see and
 9 correspond and talk on an ad hoc basis; if
 10 nothing else, on a very frequent basis.
 11 Q Can you give me any sense for what those
 12 conversations might typically involve?
 13 A Oh, I think the conversations can have a wide
 14 range of issues. It can be on organizational
 15 matters, it can be on finance and/or budget
 16 matters, it can center on workforce planning, it
 17 can be about affirmative action issues and/or
 18 personnel actions. Again, as division director
 19 for finance and administration, I've got a gamut
 20 of activities.
 21 So I think that the -- She's
 22 responsible for the overall operating environment
 23 of the agency, and that includes, obviously, all
 24 five of the division directors reporting to her.
 25 So she's got a big plate, if you will. And I try

1 A Well, I would say that now acting Commissioner
 2 McFarlin is accessible in his current role; he
 3 was accessible in his former role as well. But
 4 my day-to-day relationship is with my division
 5 director peers, my own staff and reporting to
 6 Deputy Commissioner Freese. So I didn't have
 7 standing meetings or status reports with the
 8 assistant to the commissioner or now acting
 9 Commissioner McFarlin, but we did talk on a
 10 regular basis or not infrequent basis, anyway, on
 11 specific topics, particularly as relates to
 12 legislative matters of financial and policy
 13 matters that are in progress.

His area of responsibility includes
 government affairs, which is responsible for
 helping draft our policy, legislative policy and
 bill issues, and to monitor our progress and
 legislative impacts to the agency. So oft times
 those have financial ramifications, as well, so
 we would talk about that.

We would also spend time as we -- as
 the Governor's office and acting Commissioner
 McFarlin, in that capacity, working with the
 Governor and the agency to develop transportation
 funding proposals and prospectives. I would be a

Page 21

1 resource to him in those times as well.
 2 Q Do you participate in any of those meetings with
 3 the Governor's office?
 4 A I have been in, I would say, one or two meetings
 5 over the past number of years, but very
 6 infrequently, sometimes when it comes to specific
 7 matters around funding availability and use and
 8 the like. But, by and large, no.
 9 Q Now, are you responsible for preparing the budget
 10 for the organization?
 11 A I'm responsible for accumulating the information
 12 into a consolidated budget. We have a very
 13 decentralized budget approach, where we give the
 14 parameters as to what our budget resources are,
 15 what are some of the upcoming commitments, for
 16 instance, around salary increases and cost
 17 increases. And then we try to set priorities
 18 as -- at the agency leadership level, then set
 19 some broad parameters around ensuring that we
 20 have certain key priorities that are met, such as
 21 preservation and safety and the like.
 22 And then the individual offices and
 23 directs, working through their division chains of
 24 command, develop their budges and assign their
 25 resources to their highest priorities, and

Page 22

1 identify both the people and non-payroll needs as
 2 part of that budget process.
 3 So I ultimately have a cumulative role
 4 of trying to consolidate those and then make a
 5 final recommendation to the commissioner and
 6 deputy commissioner.
 7 Q It may be a chicken and an egg here, but I assume
 8 that someone within the department makes a
 9 projection as to how much revenues you're going
 10 to have in any particular year or biennium. Is
 11 that you or your office that makes that
 12 projection?
 13 A Yes, it is.
 14 Q So that number gets put on the table as the cap,
 15 then, in terms of what the total expenditures are
 16 department-wise?
 17 A Well, I think that's probably maybe too
 18 oversimplified. Revenues are one portion.
 19 Q I like to keep things simple.
 20 A We'll try and do that as well. We do look at the
 21 revenue stream. We also look at planned or
 22 committed expenditures to determine -- including
 23 borrowing costs and other things of that nature
 24 to determine, first and foremost, do we have
 25 sufficient revenues to meet our committed

Page 23

1 expenditures, present and future; and, secondly,
 2 to determine if there's anything over and above
 3 that if revenues are exceeding that, what portion
 4 of that might be available for additional
 5 appropriation increases, as a for instance.
 6 So it's kind of, if you will, a
 7 combination of looking at our revenue-expenditure
 8 status and predicted future. And that's a basis
 9 for whether or not we have capacity to, first of
 10 all, meet our expenditure commitments and,
 11 secondly, to request additional spending
 12 authority for other investments.
 13 Q This is, again, going to be oversimplified, but
 14 is it correct to say that you have the districts
 15 developing their own budgets around their
 16 determination of priorities that comes up to your
 17 office, all of those draft budgets, I'll call
 18 them?
 19 A The individual district budgets -- It is correct
 20 to say that they do develop their own budgets,
 21 first of all, both the districts and the offices
 22 throughout the agency. Those come up to the
 23 individual division directors first, and that's
 24 where the highest scrutiny is placed. And then
 25 we consolidate those division budgets and look at

Page 24

1 them collectively. And it is not untypical (sic)
 2 that -- Well, we look at the division budgets and
 3 consolidate those and make final decisions about
 4 resource allocation at that point in time.
 5 Q So those district budgets first come to Bob
 6 Winter, the division director for operations?
 7 A That would be correct.
 8 Q And he makes some judgments as to whether or not
 9 the level of funding from each of the districts
 10 is appropriate. And once that is done, then
 11 you've got an aggregate budget number from all of
 12 the districts?
 13 A That's correct.
 14 Q And that would be the number that you would see
 15 or would you see -- would you still be working in
 16 some fashion with the district budgets?
 17 A I'd probably see the overall number. I think
 18 that depending upon the identification of
 19 potential investment increases or needs, we'd
 20 probably look at those priorities in some fashion
 21 and do some more probing on a selected basis, but
 22 we look to the division directors to really do
 23 that overall assessment and determination of
 24 priorities and where they fund -- and what they
 25 fund with these resources.

Page 25

Page 27

1 Q Before Mr. Winter sends you that overall number
 2 that represents the aggregate from the various
 3 divisions, have you had a conversation with him
 4 to say, Hey, Bob, this year I think this is what
 5 you've got to spend? Has that conversation
 6 occurred?

7 A That's typically occurred with all the division
 8 directors and collectively. In fact, that's part
 9 of our -- probably our budget instructions of
 10 preparation process. We look at that in the
 11 aggregate. We make these determinations about
 12 what revenue streams we have and what planned
 13 expenditures and whether or not there maybe
 14 additional resources for investment, first of
 15 all. And that becomes a bit of a baseline for
 16 us. We might, finance director and his team and
 17 the finance office, prepare some standard
 18 worksheets and budget documents and timelines for
 19 use by the agency so that we can collectively
 20 roll up this information division by division and
 21 then across the divisions for an agency number.
 22 My office of finance is indeed responsible for
 23 aggregating this and putting it into the budget
 24 information system for the state.
 25 So there are points that we work very

Page 26

1 closely with the division directors and their
 2 division business managers, who are responsible
 3 for completing these worksheets and making their
 4 budget determination needs and setting their
 5 priorities within each of their offices and
 6 districts.

7 Q Let me ask this -- I believe this will be my last
 8 question about this budgeting process, at least
 9 for now --

10 A That's fine.

11 Q -- do safety concerns, safety issues, you know,
 12 obviously particularly interested in bridge
 13 safety issues, those concerns, do those rise to
 14 your level during the budgeting process or would
 15 those be addressed at the district and then
 16 perhaps at the division through Mr. Winter?

17 A We give great leeway to the districts and to the
 18 expert offices, which is what we often refer to
 19 as, for instance, the engineering service
 20 offices, the bridge office, as an expert or
 21 corporate office that sets much of the policy,
 22 the guidelines, which would include around
 23 safety. And I lean heavily on their operational
 24 and professional judgment and existing policies
 25 that are out there in that regard. So I presume

1 that funding is directed to those highest
 2 priority activities around preservation and
 3 safety, as best we can.

4 Q So you figure out the number that Mr. Winter has
 5 to spend and he figures out -- he's the ultimate
 6 decision-maker, then, in terms of whether the
 7 priorities that have been set within each of the
 8 divisions match up with the department
 9 priorities?

10 A In general, yes.

11 Q Let's look at Exhibit 3, which is this
 12 handy-dandy little diagram that's entitled
 13 Transportation Funding Sources. And I'm unclear
 14 who actually prepared this. Does this look
 15 familiar to you?

16 A Yes, it does.

17 Q Do you know who prepared it, by any chance?

18 A I believe it was ultimately the effort of the
 19 office of investment management as an exhibit for
 20 their statewide transportation planning update
 21 exercise.

22 Q I'm going to try to run through this relatively
 23 quickly and kind of focus on areas, Kevin, where
 24 I'm unsure of my own knowledge base. Let's start
 25 on the left-hand side of the diagram on the -- or

Page 28

1 the state side of --

2 A Uh-huh.

3 Q -- the funding sources. We've got three funding
 4 sources contributing to the highway user tax
 5 distribution fund, and those three are the motor
 6 fuel tax, the motor vehicle sales tax, and the
 7 vehicle registration fees. Is that part of this
 8 correct?

9 A (Indicating.)

10 Q Tell me what it means in the box 5 percent
 11 flexible fund? And the box I'm referring to is
 12 the highway user tax distribution fund.

13 A Good question. All of the state revenue streams
 14 for transportation are collected in the highway
 15 user tax distribution fund. And the distribution
 16 fund itself is a tip-off by the name. This
 17 distribution fund is the basis for distributing
 18 moneys to the trunk highway fund, if you will,
 19 the state MnDOT trunk highway fund, to municipal
 20 state aid entities and to county state aid
 21 entities.

22 All of the moneys collected in the
 23 highway user tax distribution fund, we'll call it
 24 the HUTDF for short, 95 percent of that money,
 25 then, is allocated on a formula basis to the

1 state, municipalities and counties, 62 percent to
 2 the state trunk highway fund, 9 percent to the
 3 municipal state aid fund, and 29 percent to the
 4 county state aid fund.
 5 Q And those percentages that you just listed are
 6 constant from year to year?
 7 A They are constant and in statute. And it may
 8 even be constitutional, but definitely statute.
 9 There is a 5 percent flexible fund that
 10 is held back for various purposes, including
 11 local town roads and bridges, accounts for
 12 municipal and state aid, turn-back funds. And
 13 based on a biannual recommendation of the
 14 commissioner of transportation, potentially a
 15 portion could go to the trunk highway fund. That
 16 is recommended every biannual budget. And a vast
 17 majority of that fund goes to county and local
 18 township roads and bridges.
 19 Q Do you have any rough estimate as to what
 20 5 percent of that fund represents? It's got to
 21 be a pretty significant number.
 22 A Yes. Approximately \$60 million, I believe. Of
 23 that amount, approximately half is prescriptive,
 24 in statute, for local township road and bridge
 25 accounts. And the other half is what I would

1 call truly flexible, or approximately 30 to 35
 2 million a year. And it's of that 30 to
 3 \$35 million that we make a recommendation for
 4 distribution.
 5 And historically the majority of that
 6 has gone for county and/or municipal state aid,
 7 turn-back projects. In the past couple of years
 8 7 1/2 to \$15 million has been made available to
 9 the trunk highway fund.
 10 Q Let me ask this: If the commissioner chose to,
 11 could they take half of that 5 percent that's not
 12 committed by statute and say, We've got a problem
 13 with a bridge here; we're going to use it to --
 14 for major repair and do it now?
 15 A I think that that would -- First of all, it would
 16 require approval of the Legislature. Second of
 17 all, I think that we would look to our existing
 18 trunk highway fund resources if it were a trunk
 19 highway bridge or road project or investment need
 20 first as opposed to this source.
 21 Q And you say it would need the approval of the
 22 Legislature? I'm not sure that I understand
 23 that.
 24 A The commissioner -- Every biannual budget is
 25 required to make a suggestion as to how the flex

1 fund use will be deployed, if you will.
 2 Q And that includes the 50 percent that's
 3 discretionary --
 4 A Yes.
 5 Q -- or that you described as being totally
 6 discretionary?
 7 A Right. And within those parameters, the
 8 Legislature first provides appropriation
 9 authority and approval for the plan
 10 recommendation. If any of it goes to the trunk
 11 highway fund, that has to be appropriated and
 12 approved by the Legislature.
 13 Q The state might also sell some bonds to fund the
 14 highway program. If that occurred, where does
 15 that funding stream show up on this diagram?
 16 A From my observation, that additional funding
 17 stream does not appear on this diagram. This
 18 diagram reflects the normal recurring state
 19 revenue sources as well as a reflection of
 20 federal funds. Again, it was primarily used for
 21 statewide transportation planning update that's
 22 ongoing as we speak and with a focus on the state
 23 road construction elements. So it's showing the
 24 fact that there are state revenues that come in,
 25 a portion of which go to operation, maintenance,

1 debt service. And we also fund the state patrol,
 2 which is the public safety referenced in the box
 3 there.
 4 And then we receive funds from the
 5 federal government, both formula funds and some
 6 high priority or discretionary project funds.
 7 Virtually all of these formula and high priority
 8 project funds are used for state road
 9 construction purposes. There's a modest amount
 10 that are used for operations, but a vast majority
 11 is used for state road construction projects,
 12 both state and local projects at the federal
 13 level.
 14 Q In the box at the bottom of the diagram that's
 15 titled State Trunk Highway Fund, there's
 16 reference to debt service.
 17 A Right.
 18 Q Tell me what that reference is to.
 19 A We have -- The state and the Governor has
 20 authority to issue general obligation trunk
 21 highway bonds for trunk highway projects. There
 22 are certain bond eligibility requirements around
 23 those, typically on a long-life project that
 24 supports the life or the term of the bond or is
 25 commensurate with that. Those --

1 Q Excuse me just one second.
 2 (Discussion held off the record.)
 3 MR. GRAY: And I think the question was
 4 around debt service?
 5 BY MR. JOHNSON:
 6 Q Correct.
 7 A The debt service is when we issue bonds and have
 8 to repay those bonds over time, typically a
 9 20-year time period, the debt service is the
 10 first and highest call on the fund use, the trunk
 11 highway fund use. So that is paid for and is not
 12 directly taken out of the state road
 13 construction, but it's taken off if you go off
 14 the top of the fund. So it's the first call on
 15 the fund.
 16 Q I may come back to bonding a little bit later,
 17 but let's move on for now.
 18 A Right. And, again, I do want to confirm that
 19 bonding, it's not a revenue source, which is why
 20 it's not here on the funding source. It is a
 21 borrowing, but it does give us the ability to use
 22 those proceeds for projects, but with a
 23 commitment to repay that borrowing over time. I
 24 think, if I recall, there may have been a
 25 reference to bonding as a revenue source. It's

1 not a revenue stream. It is borrowing and gives
 2 us the ability to pay for projects in the current
 3 time frame.
 4 Q Thank you for making that distinction. Let's
 5 look at the right-hand side of the diagram that's
 6 showing, I'm assuming, federal sources of
 7 funding.
 8 A Correct.
 9 Q Tell me -- And I don't need a long tutorial here,
 10 Kevin, but I'm just trying to get enough
 11 information so that I've got a sense for what
 12 you've got available to spend and how it can be
 13 spent. So tell me first what the term formula
 14 funds means in the upper -- one of the upper
 15 boxes.
 16 A And I'm not as intimately familiar with the
 17 federal funding as even some of my staff and
 18 certainly the office of investment management.
 19 But formula funds are federal highway funds that
 20 are allocated to the states across the nation on,
 21 as you might guess, on a formula basis. And we
 22 receive a share of the federal highway trust fund
 23 apportionments, as determined by Congress every
 24 year. They are initially set up in six-year
 25 terms, where they have an authorization, a time

1 frame of six years, and then annually they are
 2 appropriated by Congress to the states.
 3 Formula funds include things like the
 4 maintenance program, the STPNHS, or national
 5 highway system, state transportation program,
 6 bridge funds. They have various buckets for
 7 formula programs. And I think there are quite a
 8 number of them that are standard, as determined
 9 by the Federal Highway Administration or FHWA.
 10 They are appropriated to the states on a formula
 11 basis.
 12 Q And then if I'm looking at where the money that's
 13 coming in under the formula flows, part of it
 14 flows to the area transportation partnership, and
 15 that's, I'm assuming, money that goes out
 16 directly to the districts. Is that what's
 17 happening there?
 18 A The area transportation partnerships is part of
 19 the planning process mandated by the FHWA and
 20 USDOT. And, yes, we determine of the formula
 21 funds identified, appropriated to the state of
 22 Minnesota, we identify a vast majority of those
 23 and direct them to the various area
 24 transportation partnerships, which roughly
 25 coincides geographically with our districts. A

1 little bit of a unique beast in the metropolitan
 2 area because it's Metropolitan Planning
 3 Organization, or MPO. But, broadly speaking, we
 4 target these funds out and rely upon the area
 5 transportation partnerships to identify their
 6 highest use and best use for these funds for
 7 project selection purposes.
 8 Q Does the department have the discretion in
 9 determining how much money is going to go out to
 10 the districts?
 11 A I believe so, but I would defer these questions
 12 to either Tom Henkel or to Abby McKenzie.
 13 They're much more familiar with the planning
 14 process. But broadly speaking, we do target out
 15 moneys by geographic location, and there's a
 16 complex formula for that. There's some amount,
 17 as indicated on the box here, set aside or a
 18 contingency that is, if you will, taken off the
 19 top, but that is a modest portion. But we work
 20 heavily and closely with the area transportation
 21 partnership groups to help determining project
 22 selection and use of the federal funds.
 23 Q What I'm trying to understand, Kevin, is just of
 24 the federal funds that are coming into the
 25 department, how much flexibility does the

1 department have to take the formula funds and
 2 dedicate them to a large project. You've got a
 3 bridge that needs to be replaced. Is it possible
 4 to take those funds at the department level or
 5 does it have to go down to the district level
 6 before you can grant flexibility in deciding it's
 7 going to go towards this project?
 8 A My understanding is that these funds are targeted
 9 to the districts, and that is in part because of
 10 the lead time for the project development and for
 11 planning certainty and the like. But, again, I
 12 would defer that question to somebody who's much
 13 more familiar with that process than me.
 14 Q And would the same be true in terms of maybe
 15 talking to someone over in the office of --
 16 A Investment management?
 17 Q -- investment management on the box and the flow
 18 out of the box that's entitled high priority
 19 projects/discretionary?
 20 A Yes. I think that would be the best call there.
 21 Q All right. Now I'm going to focus almost
 22 entirely from here on out on bridge funding.
 23 A Sounds good.
 24 Q Kevin, we've been asking people as we've been
 25 going through the interviews, in most cases to

1 of what you want to --
 2 A I --
 3 Q -- what you want to do as a policy. But is it --
 4 And if so, how is it operationalized? What terms
 5 are used to operationalize preservation?
 6 A I think that preservation probably has a more
 7 specific definition and meaning to engineers,
 8 particularly materials engineers or bridge
 9 engineers, than it might have for me, as you
 10 suggested. It might be more of a conceptual or
 11 generic term, good, bad or indifferent.
 12 But from a preservation standpoint, I
 13 think that we looked at some broad categories of
 14 preventive and reactive maintenance, which
 15 contributes to preservation. We look at a
 16 broader category of preservation, rehabilitation
 17 or even replacement. And we have -- we try to
 18 track our investments in those areas very
 19 specifically, with supporting activity codes and
 20 the like in our accounting system.
 21 So we look to -- under the broad
 22 caption of maintenance and construction, there
 23 would be preventive and reactive maintenance,
 24 which I would assume would include some repair,
 25 as you go along, as well as categories around

1 help us understand some terms that get frequently
 2 used. Those terms are preservation, maintenance,
 3 preventive maintenance, reactive maintenance.
 4 And I would like your help, too, in understanding
 5 whether, you know, those are terms that you're
 6 using at the time that the budget is being set,
 7 and when used by others at the district level are
 8 reflective of terms that are used in the budget
 9 or whether it's something else.
 10 Because there's other terms that get
 11 used too. For example, repair pops up fairly
 12 often and expansion projects. And it's hard for
 13 me to get my arms around just sort of the --
 14 whether those terms are different terms and used
 15 consistently throughout the department or whether
 16 people are just being a little bit loose in using
 17 a term that -- Well, we're going to repair that
 18 bridge. Well, does repair mean you're going
 19 to -- what does that mean in terms of the other
 20 terms. Is it preventive maintenance? So let's
 21 start with preservation. What is meant by
 22 preservation, in your mind?
 23 A Preservation, to me, is maintaining and
 24 maximizing the life of an infrastructure asset.
 25 Q So that's just a conceptual idea, then, in terms

1 preservation, rehab and replacement. And I think
 2 those have specific types of activities and/or
 3 investments that the operations and maintenance
 4 engineers would be more familiar with than am I.
 5 And we use a combination of our construction
 6 program funding as well as our operating budget
 7 funding to provide resources for those efforts.
 8 Q I'm actually going to move to what I think is
 9 marked Exhibit 5. It's the April 17, 2006
 10 memorandum. This is a memo that Dick Stehr put
 11 out -- Richard Stehr put out in April 17th,
 12 2006. It's entitled Bridge Preservation,
 13 Improvement and Replacement Guidelines for Fiscal
 14 Year 2006 through 2008. Is this, Kevin,
 15 something that you're familiar with?
 16 A No, I'm not familiar with it, other than
 17 anecdotally I'm aware that it's engineering
 18 services responsibility and the bridge office
 19 responsibility to put forth preservation,
 20 improvement and replacement guidelines and that
 21 they do so on a regular basis.
 22 Q The reason I was asking is it has some pretty
 23 handy definitions. And I'm trying to figure out
 24 whether these are definitions that we can run
 25 with and sort of expect that everyone else would

Page 41

Page 43

1 be adhering to them when we see these terms pop
 2 up, whether it's at a district level or up in the
 3 central office.
 4 A Given the fact that it was issued by the division
 5 director of engineering services, I would presume
 6 that these are good definitions, yes.
 7 Q As far as you know, this memo and the guidelines
 8 it has is still effective?
 9 A Yes.
 10 Q All right. Now, let me show you another one, an
 11 exhibit which is marked 4, I think that one is.
 12 And it's an exhibit that's first put out by the
 13 bridge office, so I'm not sure whether you're
 14 familiar with it or not. Take a look at it and
 15 tell me if you've seen that before. And if not,
 16 we're going to be interviewing Dan Dorgan again
 17 and I can talk to him about that.
 18 A I'm not familiar with it.
 19 Q And I have only a question or two if you are.
 20 A No, I'm not familiar with this. I do know that
 21 on a periodic basis, as part of our executive or
 22 commissioner staff, we do get office updates on
 23 key performance measures. And some of this
 24 information may have been shared, certainly not
 25 in this level of detail, in some of those

1 (Break taken.)
 2 BY MR. JOHNSON:
 3 Q Let me ask about a Bridge Improvement Program and
 4 what you know about that. Start by telling me
 5 whether the references that I see and hear to a
 6 Bridge Improvement Program, whether that program
 7 is different than the Statewide Bridge
 8 Preservation Fund or whether the fund funds the
 9 Bridge Improvement Program. Help me know the
 10 difference between those two.
 11 A I wish I could do so. I'd have to defer both
 12 either to Mr. Dorgan or to Tim Henkel or Abbie
 13 McKenzie in the planning and investment
 14 management areas. I do know that we have the
 15 bonding program, the bond accelerated program
 16 from 2003, which was the current administration's
 17 initiative for increased transportation funding.
 18 We did invest more than our -- we accelerated our
 19 pace of, you know, bridge system expansion and
 20 enhancement. Now, if that's the same as rehab
 21 and replacement or if that's a separate Bridge
 22 Improvement Program, which bucket it came out of,
 23 I do know that we did increase our investment
 24 levels in bridges overall from approximately a
 25 baseline of 2003 to 2007. So whether that, you

Page 42

Page 44

1 meetings. But this looks to be an operational
 2 tool to work with the districts, in particular.
 3 Q Kevin, notwithstanding that you aren't familiar
 4 with the document, just turn to page 6 and let me
 5 ask a question. And if you don't feel
 6 comfortable in responding, just say that. What I
 7 was trying to figure out here is when I look at
 8 this page, you see this very dramatic increase in
 9 expenditures for preventive maintenance between
 10 the 2003-2005 average and then what happens in
 11 2006, the increase occurring in 2006. And I'm
 12 just wondering, was there an increase in funding
 13 that was going to preventive maintenance in 2006
 14 or was it just a change in definition and I
 15 shouldn't go any further with it? And, again,
 16 if --
 17 A I'm just not familiar. My recollection is that
 18 there would be some increase in the level of
 19 funding in 2006 to reflect this. And I believe
 20 that as part of our 2006-7 biannual budget, we
 21 redirected resources to address -- make an
 22 additional investment in preventive bridge
 23 maintenance activities.
 24 MR. JOHNSON: Let's take a five-minute
 25 break.

1 know, is a Bridge Improvement Program, which
 2 pieces of that contributed to that, I think it
 3 was the additional bonding over and above our
 4 state revenues and flows.
 5 Q All right. I'm aware of that. Let's look at the
 6 document that's been marked Exhibit 6. It's,
 7 Kevin, the meeting minutes for the transportation
 8 program committee, November 2, 2005. It shows
 9 you as being an attendee at that meeting.
 10 And if you look at page 3, there's a
 11 paragraph that's entitled Statewide Bridge
 12 Preservation Fund. And as I read it, it appears
 13 as though at that meeting there was action taken
 14 to establish a statewide bridge preservation
 15 fund. Do you recall that at all?
 16 A Not necessarily the particular meeting, but, yes,
 17 I recall the conversation and the establishment
 18 of what was called the Statewide Bridge
 19 Preservation Fund.
 20 Q Now, it says the fund is intended to address
 21 large bridge preservation projects. So I'm
 22 assuming it's a fund that was separate from
 23 funding that might be flowing to bridges that are
 24 not large, that are perhaps city or county
 25 bridges or even in the state highway trunk

1 system, but aren't going to be a significant
2 drain on any district's budget. Do you have any
3 sense for what was meant when that was -- this
4 fund was created to address large bridge
5 preservation projects?

6 A Yes. I think that this was intended to recognize
7 two things: One, that there are an increasing
8 number of bridges that were reaching kind of a
9 mature life cycle, and that we anticipated that
10 surge in bridge investment activity and needs.

11 And, secondly, I think it was even more
12 specifically focused on large, if you will,
13 budget-buster bridges that would be, in a
14 singular season, difficult to balance within an
15 annual planning budget.

16 So I think the intent of this fund was
17 to set aside some moneys to help address these
18 needs as there were spikes or peaks in specific
19 years of bridge investment activity needs.

20 Q The paragraph here says that the fund will be
21 capitalized with \$40 million annually. Does
22 that -- Has that happened; and, if so, where has
23 that funding come from?

24 A We mentioned earlier that there's another stream
25 of funds. We have talked about the chart with

1 funds aren't committed, and to my knowledge they
2 have been, we would have to have that authority,
3 where appropriate. But my understanding of this
4 programming commitment/fund, is that 40 million
5 each year is dedicated and targeted for
6 particular bridge projects district by district.
7 And there's a -- if not a competition, there is a
8 schedule that is looked at and the needs are
9 balanced out across the agency for that.

10 Q Is there a certain dollar amount that the project
11 has to entail before it gets on that list? Is it
12 half a million, or is it large, or is it 10,
13 20 million?

14 A I am not sure. That would be a question for the
15 bridge office or the investment management office
16 to address. I'd like to expand on that. I do
17 know it's intended for larger bridge projects.
18 Depending upon the location of the bridge and the
19 size of the district and their budgeted
20 resources, large might have a different
21 definition.

22 For instance, a \$5 million bridge in
23 District 2 might be the equivalent of a \$50
24 million in the metro district as a proportion of
25 their budget. And those are just hypothetical

1 the state and federal fund sources. This money
2 is coming, essentially, off the top as a
3 commitment of the statewide construction program
4 to this activity as a first commitment. So there
5 isn't a new source of funds, as the title might
6 imply. It's a dedicated commitment, if you will,
7 or dedication of existing funds to this activity.

8 Q Is this money that would have otherwise flowed
9 out to the districts, then?

10 A That's my understanding.

11 Q And is that happening; are you creating a fund
12 that now has a fund balance with --

13 A Not a fund in the sense of as a financial person
14 would say it, but a dedicated programming use
15 that is called the Statewide Bridge Preservation
16 Fund. So it is a program category that our
17 office of investment management has established,
18 and that's how they're funding these bridges,
19 hence the word "fund." So it's not a fund in the
20 classic accounting sense of the word.

21 Q Does that mean that the 40 million has to be
22 spent each year or it vaporizes or --

23 A We have sufficient needs, I believe, to use the
24 40 million and probably more each year. But
25 certainly at the end of each biennium, if the

1 numbers. I don't -- By sense of scale, I mean, I
2 think there is a sliding scale when they use the
3 term large. So depending upon the location and
4 the actual construction program budget of that
5 individual district, large has -- I don't think
6 they had a flat or static dollar value in mind,
7 you know, 2 million or 200 million or anywhere in
8 between. So I just give you that sense of a
9 sliding scale.

10 Q Okay. Thank you.

11 A So large is a little bit nebulous, but it's a bit
12 on a sliding scale as relative to the budget of
13 the individual district.

14 Q In terms of the process by which bridges get cued
15 up to receive this funding, is that something
16 that you've got some knowledge of or is that
17 something that we should turn to Dan Dorgan for?

18 A I would turn to Dan or the office of investment
19 management, which oversees the distribution of
20 the state road construction program budget, yeah.

21 Q Okay. I'm going to skip a couple of exhibits.

22 Take a look at what's been marked Exhibit 9. Do
23 you have any familiarity with this document? I'm
24 not sure who prepared it.

25 A Yes, I have some familiarity with this document.

Page 49

Page 51

1 By recollection, I believe I've seen it either in
 2 TPC or commissioner staff updates or performance
 3 measure updates that we have periodically. If
 4 not the entire document at least portions of it.
 5 Q And, again, if you're not comfortable, Kevin,
 6 with answering the two or three questions I have
 7 about the document, just say so.
 8 A Sure.
 9 Q And unfortunately these pages aren't numbered,
 10 but if you turn to, I think it's page 5, the page
 11 that's titled Increased Bridge Needs 2007-2030,
 12 there's some projections for annualized costs for
 13 bridge replacements, bridge decks, bridge
 14 painting. You start with bridge replacements set
 15 at 53 million per year. Is there any
 16 relationship I should make between the 53 million
 17 here and the \$40 million that's been set aside in
 18 the bridge preservation fund?
 19 A I would think that it would be a loose tie. And
 20 I say that because the bridge preservation fund,
 21 I think, was primarily intended for specific
 22 bridges that we -- were of a larger magnitude.
 23 We have hundreds of bridges, maybe thousands, I
 24 would presume, and the replacement cycle, I
 25 think, is pretty well planned in a long-term

1 you're referring to?
 2 A Yes. This has been a -- A number of these are
 3 commonly referred to as budget-buster bridges.
 4 Q And with the exception of the I-35W bridge, which
 5 is on this list, as far as you know, is this list
 6 still current?
 7 A Looking at the titles, it certainly looks to be
 8 items that I'm at least anecdotally aware have
 9 been discussed. Again, to get a final list of
 10 what's classified as a major trunk highway bridge
 11 replacement, I would defer to Dan, but this
 12 certainly seems representative.
 13 Q I notice that the DeSoto bridge in St. Cloud
 14 isn't on here. And I forget what the replacement
 15 cost of it is, but is that one that would have,
 16 could have, should have been on here?
 17 A I defer to the bridge office. My sense is that
 18 it -- I haven't seen it referred to as a
 19 budget-buster bridge historically, though. And,
 20 again, I notice this caption is requiring
 21 replacement or renovation in the next ten years,
 22 so maybe there are bridges beyond this planned
 23 time frame that might be considered major trunk
 24 highway bridges that might be over and above
 25 this.

Page 50

Page 52

1 sense. You can see this is a 2007 through '30
 2 planning document that the bridge office has
 3 prepared.
 4 So I would say that the loose tie is
 5 that there are going to be within these
 6 replacements some larger/budget-buster bridges
 7 and we need some specific funding for these. I
 8 think this is more of an awareness as we prepare
 9 our near and longer-term state capital budgets,
 10 road construction budgets. These are for
 11 planning purposes so that we assure these needs
 12 are addressed as part of that process.
 13 Q So if I'm hearing you correctly, the 53 million
 14 per year would include responding to the
 15 replacement needs of the budget-buster bridges
 16 plus other bridges?
 17 A That would be my sense, but I would have to defer
 18 to the bridge office or investment management for
 19 that.
 20 Q If you flip back two more pages --
 21 A Uh-huh.
 22 Q -- there's a list on a page entitled Budget
 23 Buster Major Trunk Highway Bridges Requiring
 24 Replacement or Renovation in the Next 10 Years.
 25 This is the list of budget-buster bridges that

1 Q Let me show you Exhibit Number 9 (sic). It's
 2 titled Bridge Report for Commissioner's Staff
 3 Meeting. That meeting was on February 27, 2006.
 4 Is this a meeting, Kevin, that you would
 5 typically be at?
 6 A I would typically be at.
 7 Q Do you recall whether you were at this meeting
 8 and have some familiarity with this document?
 9 A I don't recall. But the contents of the document
 10 I've certainly seen, at least pieces of it, in
 11 various presentations or discussions in the past.
 12 Q Well, flip to the very last page. We're speaking
 13 of Exhibit Number 10. What you're looking at is
 14 a list of bridges that I believe are proposed to
 15 be funded to have their replacement or I guess
 16 rehabilitation, maybe just replacement, funded
 17 out of the bridge preservation fund; is that
 18 correct?
 19 A Yes, that's what the chart indicates.
 20 Q And this list is a little different than the list
 21 that we previously looked at. And I'm assuming
 22 that the list in Exhibit 10, the February 27,
 23 2006 list, is the more current list; is that
 24 correct?
 25 A That would be my presumption, yes.

1 Q On this list, for example, the St. Cloud bridge
 2 does show up?
 3 A Correct.
 4 Q And I think when I look at this, I see that it's
 5 to cover 100 percent of bridge costs eligible for
 6 funding, and then this chart shows for each
 7 bridge the amount in millions that the
 8 construction will cost. But when we are talking
 9 about bridge construction costs, we're not --
 10 that doesn't include costs related to the
 11 approach or any other costs that may be involved
 12 in the connections to the bridge?
 13 A That's oft times the case. This is typically --
 14 And the box is labeled bridge cost, which would
 15 typically refer to the structure cost only, as
 16 opposed to approach, municipal agreements,
 17 utility agreements, and even right-of-way that
 18 might be involved with replacing a bridge
 19 structure.
 20 Q So help me understand, Kevin, if you can, how
 21 this \$40 million annual fund covers the cost of
 22 these bridge projects when, as in the case for
 23 the Lafayette bridge, the bridge construction
 24 cost is \$90 million and the fund has a
 25 \$40 million annual flow into it.

1 So I think that the 40 million isn't
 2 the only source. Again, if you look over ten
 3 years, which is the nine through 18 time frame,
 4 we're looking at \$400 million collectively to
 5 address, which is approaching a \$500 million
 6 funding challenge. So regular program funds, new
 7 funding sources to be identified in the future
 8 would be logically directed towards these
 9 projects.
 10 And a good for instance of that is the
 11 recently passed statewide -- or state
 12 transportation funding bill. And there are bond
 13 proceeds dedicated to infrastructure
 14 investments. And within those investments,
 15 bridges are highlighted as a top priority,
 16 including what would be a number of these bridges
 17 as a for instance. So that would be an
 18 additional resource that would be applied to
 19 ensure delivery of these projects.
 20 Q I'm going to come back to that transportation
 21 bill in just a second. But help me understand
 22 how much this fund, the \$40 million fund, helps
 23 address the situation that arises suddenly. It's
 24 a bridge that you make a decision has to be
 25 replaced now or has to be replaced within the

1 A Right.
 2 Q How does that work?
 3 A I think the \$40 million, again, is, if you will,
 4 off the top of the state road construction
 5 program. It's set aside to help individual
 6 districts, based on timing and the magnitude of
 7 the bridge to be funded within their program, to
 8 address these major trunk highway bridge
 9 replacement needs. In addition to that, they
 10 will still use portions of their regular program
 11 to fund the bridges. So, in essence, there will
 12 be multiple sources.
 13 So they'll have access to this
 14 statewide bridge preservation funding source,
 15 their regular program sources. And I think we'll
 16 also identify, to the extent that we have
 17 additional funds, whether it be bonding programs
 18 and/or additional infusions of revenues or
 19 additional federal moneys earmarked or
 20 discretionary funds, it's a combination of
 21 resources that would be used to deliver these
 22 bridges. Or it would identify, if nothing else,
 23 particularly in the longer term, where we have
 24 significant gaps in our ability to fund these
 25 projects.

1 next year or with load restrictions you could
 2 stretch it out two years, but this is a bridge
 3 that needs to be replaced quickly.
 4 A Well, again, I would defer to the bridge office
 5 or the investment management office or the
 6 individual districts, who have the best handle on
 7 bridge programming needs and timelines. My own
 8 sense is that we're very purposeful about
 9 identifying when and what the costs are for these
 10 bridges. The bridge preservation fund I don't
 11 believe is intended to be an emergency fund.
 12 And, indeed, in the best world we wouldn't have
 13 any emergencies.
 14 So I don't think that our program is --
 15 it purposefully has a long planning process,
 16 definitive times and planned target dates for
 17 investments that have a pretty broad horizon. So
 18 I don't think that the fund is, per se, intended
 19 for emergency repairs. That's not to say that as
 20 events unfold, that we don't make adjustments to
 21 the program based on new information.
 22 Q That helps, because I was trying to figure out --
 23 I could see how the 490 million is close to the
 24 400 million that gets raised over ten years; but
 25 if you've got something that hits you in the face

1 when you weren't expecting it, where does this
 2 fit in.
 3 A Yeah. And I think that we do look at -- You
 4 know, we're looking very closely, I'm sure, at
 5 program adjustments and ways to address the
 6 bridge in St. Cloud as a for instance, since you
 7 referenced it earlier. And we looked -- And we
 8 were fortunate to receive an infusion of federal
 9 revenues to support the reconstruction -- or
 10 construction of the new I-35W bridge as well.
 11 Q Now, the state Legislature did pass an
 12 appropriation bill this year.
 13 A Yes.
 14 Q And it speaks to a trunk highway Bridge
 15 Improvement Program. Now we're back to a Bridge
 16 Improvement Program.
 17 A Right.
 18 Q And it says that the moneys are to be used to
 19 accelerate repair and replacement, we're using
 20 the term repair now, of trunk highway bridges
 21 throughout the state. Were you involved in
 22 conceiving of or in any way drafting this
 23 legislation?
 24 A No.
 25 Q Do you know who was?

1 A Well, certainly legislative leadership was
 2 directly involved. My understanding is that they
 3 did speak with representatives from MnDOT about
 4 some of the language, particularly around the
 5 Bridge Improvement Program and the Tier 1, 2 and
 6 3 classifications.
 7 So, again, I believe that there were
 8 probably several parties that had some
 9 involvement or discussion about the bill
 10 language. Ultimately the Legislature had the
 11 final say in the wording. So I don't know at
 12 what stage of the game we had a chance to
 13 interject thoughts and whether we had any ability
 14 to influence dollar amounts. I think probably
 15 not.
 16 Q Who do you think would be the best person for us
 17 to talk to that would have a good sense for how
 18 this tiering of the bridges is going to work and
 19 the relationship between being put in a Tier 1
 20 and the bridge preservation fund?
 21 A Well, clearly Dan Dorgan, who's the state bridge
 22 engineer, has a good understanding of this and
 23 has also worked closely with investment
 24 management. I would say Dan Dorgan would be the
 25 best point. He might have had staff members

1 during this time frame that had some discussion
 2 with legislators. I think Dan would have a good
 3 pulse on that.
 4 Q But as far as you're concerned, the funding that
 5 was allocated by the Legislature for this trunk
 6 highway Bridge Improvement Program is separate
 7 from and will supplement, correct, the funding
 8 that's a part of the Statewide Bridge
 9 Preservation Fund?
 10 A That's my understanding, that this would be over
 11 and above our current state road construction
 12 program, a piece of which is the State Bridge
 13 Preservation Fund. This would certainly
 14 complement or supplement that.
 15 Q And that funding, you're believing, is going to
 16 stay at that 40 million per year level?
 17 A That's my understanding. I would defer to Abbie
 18 McKenzie of the office of investment management
 19 for that.
 20 Q Okay. Kevin, I'm trying to get a grasp, as I
 21 think you know now, of where funding might be
 22 available within the department to respond to a
 23 very short -- a significant need, such as a
 24 bridge that is in danger of falling down or a
 25 busy bridge that has a load restriction on it,

1 and to have the money for its substantial repair
 2 or replacement available within a short period of
 3 time, let's say within six months to a year.
 4 We've talked about that now for some time. Have
 5 we missed talking about anything? Was there
 6 other funding sources within the state or within
 7 the feds that I should be aware of?
 8 A No, I don't believe so. As I briefly referenced,
 9 we did receive additional federal funds for the
 10 I-35W bridge, and that was a significant resource
 11 to us and a new source of funds, if you will,
 12 that was over and above any anticipated regular
 13 formula or discretionary moneys that we had
 14 planned in our programming and planning cycles.
 15 As we look at -- From an emergency
 16 response standpoint, we essentially have to live
 17 within our means. We are given appropriation
 18 authority, and that's the budget that we have to
 19 work with, if you will.
 20 Q Right.
 21 A So our ability to respond to emergency repairs
 22 requires adjustments in our existing priorities,
 23 is essentially the first point of looking at
 24 options.
 25 Of course, as was the case with the 35W

1 bridge, if there are other external resources, we
2 look to that. The recent funding bill that
3 coincidentally passed, you know, in the last,
4 what, two months now, I guess, is a resource for
5 the St. Cloud DeSoto bridge that's received some
6 notoriety of late.

7 So I think that, you know, essentially
8 we have plans and commitments that are both short
9 and long term. And if there are exceptions,
10 emergencies, as you characterize them, we would
11 have to look toward existing resources as the
12 first point of adjustment to redirect moneys
13 towards a necessary investment.

14 Q As the CFO, and I'm going to give you a magic
15 wand, how would you change that? How would you
16 have funding available for that, you know,
17 emergency or near emergency, the unplanned major
18 expenditure that, you know, allows decisions to
19 get made without having to think of, My God,
20 where is this money going to come from? I mean,
21 that's always going to be of some concern.

22 A Right.

23 Q And we're not inviting people to be irresponsible
24 in how they make decisions regarding spending,
25 but it seems to me you want a situation where you

1 don't have to be concerned as to the decisions --
2 how you're making decisions about whether a
3 bridge needs to be replaced -- how soon it needs
4 to be replaced based on, Oh, my God, it's not in
5 our plan; and if we put it in our plan, it's
6 going to create a mess. How would you respond to
7 that? I mean, is there some kind of a fund or
8 would you use bonding for that, reserve bonding
9 for it; what would you do?

10 A Well, I think first and foremost, we always want
11 to maximize the utility of the resources we have
12 and direct that to the highest and best use, and
13 I think that we work very hard to do that. We
14 have high demands and needs, and we work to take
15 not only the resources we have but the
16 appropriation and spending authority that's
17 granted to us by the Legislature, and the
18 parameters that they sometimes put around where
19 we can spend money, to achieve the best
20 outcomes.

21 I think what you're talking about in
22 terms of having some flexibility to respond to
23 emergencies or unplanned scenarios is a bit of a
24 subjective world. Perhaps some of the things
25 that we have looked at and/or have in place

1 around that is that typically we do commit our
2 resources to deliver projects and to deliver key
3 activities, maintenance and planning and
4 operational activities.

5 In terms of having some flexibility to
6 address the unplanned needs, I think there's
7 always an element of is there an amount of
8 contingency that you could set aside; is there an
9 amount of fund balance reserve that you could
10 have available. I have advocated to increase our
11 fund balance reserve over the past several years,
12 as arguably we had too great a fund balance
13 reserve at points in times. And not investing
14 where you have needs is perhaps not an efficient
15 use of resources just as much as stretch your
16 dollars to thin.

17 In this case I would say, though, that
18 having a fund balance reserve would still require
19 action by the Legislature to respond to an
20 emergency, and I think they would have their own
21 sense of what an emergency is. It would also
22 require probably first to talk with the current
23 administration.

24 So having a fund balance reserve does
25 give us some buffer for more typically

1 differences in predictions of revenue streams and
2 things of that nature as opposed to being
3 available for emergencies. Because the hope is,
4 with the planning and efforts that we do to
5 manage our system, that we won't have these
6 emergencies, obviously.

7 So a fund balance reserve is something
8 that would give us a bit more ability to respond
9 outside of realigning existing priorities. But I
10 think that that's probably the area that would be
11 most beneficial.

12 I have a tough time saying that we
13 should be given appropriation authority and keep
14 a significant amount of that behind when there
15 are expectations that go with that authority. In
16 other words, we have plans and commitments and
17 intended uses that we describe to the Legislature
18 for any appropriation authority, spending
19 authority that they give us. So we want to honor
20 those commitments and utilize those resources, as
21 we've indicated.

22 So I think that for emergency purposes
23 we have, you know, appropriate mechanisms to go
24 to the Legislature, to go to the administration,
25 to access funds if they're available. The

1 biggest issue with the fund balance is to make
 2 sure that there's a sufficient fund balance to
 3 access at times. And we've been -- I think
 4 that's an area that we could improve upon, is our
 5 fund balance reserve.

6 Q So you're thinking is that the fund balance
 7 strategy is a better one than, say, a bonding
 8 strategy, than using bonding in a more limited
 9 way for these kinds of major projects?

10 A No. I think what I'm saying is that it's hard to
 11 plan a funding source for an emergency. I think
 12 that, by definition, it's not a logical link. We
 13 have fund balance reserves that we try to
 14 maintain and keep it to a certain level that are
 15 primarily responsive to revenue fluctuations. As
 16 you probably watched our revenue forecast,
 17 they've been on the wane each successive period.
 18 More often than not we've faced a decline in
 19 revenue streams from our forecast basis. So
 20 that's an important buffer that we use in that
 21 regard.

22 But to plan for material emergency
 23 expenditures I think is awkward. The fund
 24 balance reserve might be a resource that we could
 25 tap into in those events, were it sufficient.

1 And the definition of sufficiency is a very
 2 subjective one, as you might guess.

3 Bonding is an option if we can
 4 demonstrate that we can afford to absorb the
 5 future debt service cost. So that may be an
 6 option. It, too, would require administrative
 7 and legislative action, just as if we had a
 8 larger fund balance reserve; it would require
 9 administrative and legislative action to tap into
 10 that.

11 So I think that, you know, our strategy
 12 now is to look at our existing program and budget
 13 resources and reprioritize when there are
 14 emergencies.

15 Q Let me give you a hypothetical and apply what
 16 you've just said to it. Let's assume that the
 17 35W bridge hadn't collapsed but that the decision
 18 was made that, you know, given its condition --
 19 And this is all hypothetical now, but we've seen
 20 these buckling gusset plates and other aspects of
 21 the bridge that need attention, and we've got to
 22 put a weight restriction on this bridge; no more
 23 semis can cross the 35W bridge. Not an emergency
 24 in the sense it hasn't fallen down, we've got
 25 cars maybe still going across it, but it's

1 clearly a situation that is pretty intolerable
 2 over any length of time. How would that get
 3 responded to?

4 A Well, first of all, I think any decisions on
 5 weight restrictions and the like, both the
 6 district and bridge office resources and
 7 leadership would make that decision.

8 Q Let's assume they made that decision.

9 A Then I think that they would look at the impacts
 10 of that on the transportation system and look at
 11 the needs for repair and/or replacement of the
 12 bridge to improve that scenario, if indeed that
 13 was a decision they concluded to make. They
 14 would look first at their internal program
 15 resources and this bridge preservation fund, and
 16 they would prioritize where does this investment
 17 rank compared to the other competing needs of
 18 projects in other -- that are competing for
 19 resources.

20 Q We asked the metro district engineer whether he
 21 could have funded it, and he just shook his head
 22 and said no. He said, I'd be up on the fourth
 23 floor looking for some money.

24 A And he would.

25 Q So where does the money come from off the fourth

1 floor?

2 A Off the fourth floor, I think the first step --
 3 or stop would be to talk with the transportation
 4 policy committee, TPC group. I know that prior
 5 to that there would be a lot of preparation in
 6 Tim Henkel's division, in his office in
 7 investment management, to look at total funding
 8 sources and program funding sources. There would
 9 be dialogue likely with the office of finance and
 10 myself around potential other budget --
 11 unrestricted budget sources, of which there are,
 12 quite frankly, limited few without other impacts
 13 in terms of operating budgets. So I think we'd
 14 look collectively at, primarily, the project and
 15 future federal revenue flows.

16 We'd look at opportunities for
 17 advancing federal formula funds. We have some
 18 ability to do that. And I think we'd determine
 19 the impacts on the program, and a recommendation
 20 would likely be developed by the office of
 21 investment management as to the next steps and
 22 options, including an identification of what the
 23 resources are that we need in totality and when
 24 we need them.

25 Q I had a chance to look at your -- the transcript

1 of your interview with the office of the
2 legislative auditor. And in it you spoke about
3 the tension between maintenance, preservation,
4 and new construction, new projects, meeting needs
5 to move more people around to more places. And I
6 guess what I'm adding is a third element to that
7 tension, which is this unplanned development that
8 has to be accounted for, as you spoke with the
9 legislative auditor, within our means. We know
10 what we have to spend, and we've got to figure
11 out how to address those means. Anything more
12 you want to say? When you add that element, what
13 happens to that tension, is what I'm trying to
14 explore here?

15 A Well, I think probably at the risk of
16 oversimplifying is that if you don't have
17 additional revenue or additional resources, you
18 have to, as you stated, live within your means,
19 and that means doing less in other areas. There
20 are trade-offs and you have to identify what
21 those trade-offs are. I hope I can help
22 facilitate some of that dialogue.

23 But in actuality, the districts and, in
24 this case, as we talk about bridges, in
25 particular, the bridge office and the office of

1 investment management are going to be closest to
2 looking at how do we address this need. With the
3 I-35W bridge, had we not received additional
4 federal funding, we would have had to make
5 significant decisions around which projects would
6 be deferred or delayed because we were committed
7 to replacing the bridge.

8 Q What do you know -- Or what do you think would
9 have been the process as to how that -- those
10 decisions would have been made? No federal
11 funding coming. Congress said, We've got to get
12 control of this, our deficit; no money to replace
13 the 35W bridge. How would the decision have
14 gotten made within Minnesota if the money all had
15 to come from here?

16 A Well, I think that we would have clearly looked
17 at first the time frame for the project to be
18 replaced, and then we would have had to look at
19 our existing program. That is the most -- that's
20 the biggest budget resource. We have to continue
21 with our -- some level of operations and
22 maintenance activities and sustain kind of the
23 vitality of the department, the day-to-day
24 business, if you will. We would have had to look
25 at, in all likelihood, reprioritizing projects

1 and making a significant adjustment in our
2 program to meet this unforeseen dramatic funding
3 need.

4 Q I know we're talking about hypothetically here,
5 but do you think that would have affected pending
6 projects throughout the state, that is, across
7 all districts rather than just within the metro
8 district?

9 A This is sure a point where I'd like to defer to
10 investment management and even others that would
11 have to make those kind of qualitative decisions.

12 Q I'm getting close to the end here. I just wanted
13 to show you some policy statements now, Kevin,
14 and see mostly what the statuses of them are.
15 The first statement, which is Exhibit 11, is
16 MnDOT Policy Position Statement dated May 4,
17 1983. It pertains to the criteria for issuing
18 trunk highway bonds. Are you familiar with this
19 policy?

20 A Yes.

21 Q And what's its status right now; do you know?

22 A I believe the status is it's still current,
23 although I will say that overall we defer to the
24 department of finance around the decision to sell
25 trunk highway bonds and to ensure that they are

1 appropriately meeting state debt obligation
2 guidelines. They make that determination. They
3 look at a lot of other factors in addition to the
4 trunk highway bond portion that are criteria that
5 have to be followed before they issue and sell
6 trunk highway bonds, which are also general
7 obligation bonds of the state.

8 Q Right. But the criteria they're looking at are
9 criteria that are applicable to a request to
10 issue bonding from any department, I believe,
11 correct?

12 A Correct.

13 Q And this policy statement was intended to be, as
14 I read it, sort of an internal guideline for the
15 Department of Transportation?

16 A That's correct.

17 Q And it had a -- attached to the policy statement
18 as a part of this exhibit, then there's a
19 guideline that's attached to the policy
20 statement. It has this 25 percent rule. Are you
21 familiar with that, where the amount of capital
22 funds -- in other words -- where the amount of
23 bonding would be limited to 25 percent of the
24 available capital funds? And the capital funds
25 are defined as the total state revenues, but I'm

1 assuming state revenues for the department less
 2 current operating expenses. And I haven't a clue
 3 what that means would be your limit bonding-wise
 4 in dollars, but I'm assuming you would know. Are
 5 you within that limit now or outside of it?
 6 A Actually, we've got a revised debt management
 7 policy that we have been operating under.
 8 Q And that's the next exhibit.
 9 A Okay. And this is what we have been operating
 10 under (indicating) versus this 1983 policy. And
 11 our real basis for debt service has been to
 12 ensure that we have sufficient revenues in excess
 13 of planned expenditures to meet our debt service
 14 obligations and that the debt obligation --
 15 Q So that's a different limit than the --
 16 A 25 percent.
 17 Q -- 25 percent.
 18 A That's correct.
 19 Q Can you give me some sense for what that means
 20 dollar-wise, what the '83 limitation would be
 21 versus the current limitation?
 22 A I would have to do some calculations. I could
 23 supply that for you.
 24 Q Would you?
 25 A Yeah.

1 Q I'd be curious.
 2 A I can do that.
 3 Q Before we move on to Exhibit 12 and the new
 4 policy, the only thing I wanted to ask you about
 5 is in the old guideline, the '83 guideline. It
 6 had a fairly restricted list of the kinds of
 7 projects that it would fund. That's on the top
 8 of page 2 of the two-page guideline. So as I
 9 read this, it's suggesting that bonding be
 10 restricted for major river crossings, other key
 11 bridges, interstate completion, major
 12 construction and reconstruction and buildings.
 13 So this seems to be -- policy seems to be
 14 directing the money toward large projects and
 15 with some emphasis on bridges. And I assume
 16 that's the case because bridges are large
 17 projects, or replacement bridges. Is that your
 18 understanding of this policy too?
 19 A Yes, it is.
 20 Q Okay. So tell me, you know, is the policy that
 21 is Exhibit 12, which my -- and it's referenced as
 22 debt management policy, and my copy doesn't have
 23 a date on it. Tell me what the status of it is.
 24 Is this effective now?
 25 A It is still in draft form, but we are following

1 the policy and the limits currently.
 2 Q Okay. And tell me why you went from the '83
 3 policy to this policy.
 4 A Well, I think there are a couple key reasons.
 5 One is it's good to revisit policies
 6 periodically, just on a normal basis.
 7 Q Sure.
 8 A Second, there are changes in the magnitude of
 9 costs, the ability and perhaps need to leverage
 10 resources. It was thought to be appropriate to
 11 revisit this and to kind of do an overall sense
 12 of our debt management as opposed to just a trunk
 13 highway bonding policy. There are other forms of
 14 debt that we have agreements and commitments with
 15 local units of government, borrowings from
 16 revolving loan funds and things like that. So
 17 it's a little more expansive than just debt
 18 issuance.
 19 Q Give me some sense for -- of the total amount of
 20 the existing debt that the department has. How
 21 much of that is bonded debt versus other forms
 22 that we were just talking about?
 23 A I would say that our bonded debt is in the range
 24 of \$55 million annually at this point in time,
 25 and that will obviously be increasing with the

1 passage of the new bill over time here. And
 2 that's supporting approximately \$600 million of
 3 issued bonds in the last six or seven years.
 4 Prior to that time I think we had only
 5 one significant bond issuance. It was a much
 6 more modest amount and had virtually limited debt
 7 service -- bond debt service repayments.
 8 We are making payments of revolving
 9 loan funds and the like I believe in the range of
 10 \$5 million a year. We have commitments up to --
 11 it can be up to \$30 million a year of future
 12 program funds with local governmental units,
 13 which is a technical debt commitment in the
 14 future.
 15 And I think that we average somewhere
 16 between five and ten million a year of repayment
 17 of those local advances where the local entities
 18 do the work or pay for the services in advance of
 19 when we have the work programmed. And then we
 20 repay them at the point in time that is in our
 21 program. So that's a technical function,
 22 though. That's not a new source of funds that's
 23 required for that.
 24 So by far the major focus is on trunk
 25 highway bonding from a debt management

1 perspective and remains for construction
 2 projects.
 3 Q So is there some reason -- And maybe you've just
 4 explained it, because this policy is intended to
 5 cover other debt other than just bonded debt --
 6 that it is broader in terms of the uses that it
 7 talks about, the debt being available -- the
 8 projects that the debt is available to fund?
 9 A Could you repeat the question?
 10 Q Well, the new policy seems more broad in how it
 11 allows the moneys to be spent that is derived
 12 from bond proceeds, for example.
 13 A Right. I think it's modestly broader. It does
 14 recognize, in a very literal sense, that there
 15 are the long-term debt financing obligations,
 16 such as the transportation revolving loan fund
 17 and things of that nature. But the principles
 18 remain relatively the same, in that the major
 19 uses are to accelerate and expand construction
 20 projects and/or buildings as well. We do use
 21 trunk highway bonds for buildings, such as our
 22 Mankato headquarters that's about to be awarded
 23 this spring for construction. So there are major
 24 building investments that we'll use bonding for
 25 as well.

1 Q I just want to get some clarity around which of
 2 the policies are being followed at the present
 3 time.
 4 A We are following the --
 5 Q The draft policy.
 6 A -- the draft policy.
 7 Q And this draft policy became effective, as a
 8 practical matter, on approximately when?
 9 A Approximately 2006.
 10 Q I'm not getting into any detail, but there's a
 11 couple of other policies that I just wanted to
 12 make sure I understood what the status is. The
 13 next document in your stack there, Kevin, is
 14 Exhibit 13. It's a MnDOT Policy Position
 15 Statement relating to trunk highway fund
 16 balance. Is this in effect now?
 17 A Yes. This is the basis for talking about the
 18 level of appropriations that we would seek.
 19 Q And is there a final policy statement that might
 20 be different than the draft I have?
 21 A No, there is not.
 22 Q Has this been formally adopted within the
 23 department?
 24 A No, it has not been formally adopted.
 25 Q But it is being followed?

1 A It is being strived for, I guess.
 2 Q It is an aspiration, huh?
 3 A It is that, yes.
 4 Q In it you've got language on the top of page 3
 5 that says that, Adequate fund balance provides an
 6 opportunity for the department to respond to
 7 significant unforeseen demands in operating funds
 8 and at the same time remain adequate funding for
 9 planned operations.
 10 A That's correct.
 11 Q Tell me what you're talking about there.
 12 A Well, I think it goes to some of our other
 13 dialogue and some of the discussion that we had
 14 around having a fund balance reserve for not only
 15 -- it says unforeseen demands in operating
 16 funds. Well, a bridge emergency repair would be
 17 an example of the broad category of operating
 18 funds that a budget that is programmed either to
 19 construction projects and/or to what we more
 20 commonly call our operating budgets. And having
 21 a reserve gives you the capacity to appropriate
 22 additional resources to respond to those sorts of
 23 unforeseen demands or emergencies.
 24 Q So if you met your goal here of -- Is it
 25 8 percent did I see someplace? --

1 A Yes.
 2 Q -- how much money does that mean in terms of what
 3 you've got by way of fund balance?
 4 A I think that the technical math would be
 5 approximately \$65 to \$75 million, in that range.
 6 Q What's your fund balance now?
 7 A Let me see if I have it here. I want to be very
 8 accurate on that. I would like to get that
 9 number back to you for both the 2007, and I can
 10 also give you our planning estimates for '8
 11 through '11.
 12 Q Okay. And then, finally, there's a position
 13 statement that's marked Exhibit 14. And this
 14 relates to federal advance construction, both a
 15 position statement and a policy guideline.
 16 A Yes.
 17 Q What's the status of this?
 18 A That's the same status as the fund management,
 19 the fund balance and debt management. I'm not
 20 sure if I have that policy. Here we go. It is
 21 in draft mode, and we are making progress to
 22 those current recommendations.
 23 All three of these policies, as I've
 24 addressed with the legislative auditor and with
 25 others, are things that I would like to have

Page 81

Page 83

1 finalized and have renewed efforts to see that
 2 that happens internally.
 3 Q If the advanced construction guideline was
 4 followed, would that have any effect on the
 5 flexibility the department would have to use
 6 federal advances as a way to fund a non-planned
 7 expenditure, like a bridge that needs significant
 8 repair or replacement?
 9 A Yes. I think that all of these policies are
 10 intended to say that there's prudent levels of
 11 borrowing and being leveraged. I think that this
 12 would set some ceilings that we would try to
 13 adhere to to respond to regular program needs and
 14 gaps as well as emergencies. That said, I think
 15 that they are that. They are policies and
 16 guidelines. There are times where you will look
 17 to deviate from these guidelines in response to
 18 unusual circumstances, but that should be a noted
 19 exception as opposed to a ready alternative.
 20 Q I think, if I recall right, and I couldn't tell
 21 you, Kevin, who told me this, but the 1983 policy
 22 actually had received some attention by the
 23 legislative committees back in the early
 24 eighties, was presented to them, discussed by
 25 them. I don't know that they formally adopted it

1 A I will do that. We track that for financial
 2 purposes. It's also aggressively monitored and
 3 decisions around that are made by investment
 4 management, so we'll work with them to ensure
 5 that we get that information to you.
 6 MR. JOHNSON: And I'll make that my
 7 last question, Barb.
 8 (Whereupon, the interview was concluded
 9 at 11:45 a.m.)
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Page 82

Page 84

1 either, but they were certainly aware of what the
 2 department was -- what policy the department was
 3 putting into place. Do you have any intention of
 4 doing something like that with these policies?
 5 A Yes. One of the recommendations of the OLA,
 6 which was very supportive of these draft policies
 7 being formally adopted, was, particularly on the
 8 debt management, to work with the Legislature in
 9 that regard. So my intention would be to
 10 advocate for that and to work internally and with
 11 our administration as well as with the
 12 Legislature in dialoguing this.
 13 Q Do you track the amount of federal advance
 14 construction moneys, you know, from year to year
 15 that you've drawn down on?
 16 A Yes.
 17 Q And is that available someplace that I could take
 18 a look at that?
 19 A I could get you, I believe, two or three
 20 historical perspectives as well as a prospective
 21 look ahead.
 22 Q If you could go back further than that, Kevin,
 23 that would be great.
 24 A Okay.
 25 Q If you could go back to even ten years.

1 STATE OF MINNESOTA)

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4 COUNTY OF HENNEPIN)

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REPORTER'S CERTIFICATE

I, Julie A. Rixe, do hereby certify
 that the above and foregoing transcript, consisting of
 the preceding 82 pages, is a correct transcript of
 my stenographic notes and is a full, true and complete
 transcript of the proceedings to the best of my
 ability.

Dated April 20, 2008.

JULIE A. RIXE
 Court Reporter

Neal, Claudia

From: Sophia Yang [Sophia.Yang@dot.state.mn.us]
Sent: Friday, May 02, 2008 10:01 AM
To: Michele Clarizio
Cc: Kevin Gray
Subject: Kevin Gray's Respond to Transcript File

Attachments: Technical Observations Related to Kevin Gray.doc



Technical Observations Related

Michele, here are Kevin's responses to the transcript file. He has two set of clarifications.

First set of clarifications, please note the following changes:

Page 19 , Line 10 take out "on an extended basis" insert "extending to me."

Page 27, Line 8 add "districts offices within his" in the beginning of line 8 take off "s" in divisions.

Page 35, Line 4 add "(Surface Transportation Program)," after "STP"

Line 5 delete "state of transportation program,"

Line 6 replace "funds" with "program, etc."

Page 63, Line 12 replace "as" with "though"

Line 13 insert "in prior years." (after "times")

Second set of clarifications, please see the attached word document for answers corresponding to the questions in the electronic file. These are not edits to the transcripts but are clarifying and expanding his responses to questions raised on pages 29-32 of the transcript primarily related to flexible funds.

Page 29, Line 5-6 answer is Question 1 (word document)

Page 29, Line 19-21 answer is Question 2 (word document)

Page 30, Line 10-14 & Line 21-23 answer are Questions 3 and 4 (word document)

Page 31, Line 2-3 answer is Question 5 (word document)

Page 31, Line 13-15 answer is Question 7 (word document)

Page 32, Line 18 answer is Question 9 (word document)

**Technical Observations Related to Kevin Gray's Interview with Vance Desens
(4/18/08)**

Question 1 – The 62% to the Trunk Highway Fund, 29% to the County State Aid Highway Fund and 9% to the Municipal State Aid Street Fund are for 95% of the revenue in the Highway User Tax Distribution Fund, and these are constant percentages. They're set in Article XIV of the state constitution.

The so-called 5% Set Aside is allocated in statute. The constitution allows the Legislature to allocate this money, but only among the Trunk Highway Fund, the County State Aid Highway Fund, and the Municipal State Aid Street Fund. Currently 100% of the 5% Set Aside is allocated to the County State Aid Highway Fund. Within that fund, the money is allocated to three accounts:

- Township Roads Account 30.5%
- Township Bridges Account 16.0%
- Flexible Highway Account 53.5%

It's money in the Flexible Highway Account for which the Commissioner has been required since 1999 to make a recommendation (after consultation with committees selected by the statewide associations of both county commissioners and municipal officials) for allocation among three purposes (through the end of Fiscal Year 2009):

- County Turnback Projects
- Municipal Turnback Projects
- Regular Trunk Highway Projects

Beginning in Fiscal Year 2010, the allocation will be different and much more complicated. Assuming that the bill containing corrections to Laws 2008 Chapter 152 is enacted, the money will go to

- Metropolitan Routes of Regional Significance Account (all of the so-called "excess sum" in FY 2010 and 2011 and 50% of the excess sum from FY 2012 and beyond);
- The trunk highway fund for routes turned back to local governments by agreement;
- The county turnback account;
- The municipal turnback account;
- The highway safety improvement account; and
- The statewide routes of regional significance account.

Question 2 - The amount of revenue available to the 5% Set Aside in recent years has been approximately \$65 million per year, with about \$20 million for Township Roads, \$10 million for Township Bridges, and \$35 million for the Flexible Highway Account. These amounts will increase with the impacts of the new funding bill (Laws 2008 Chapter 152). Based on our most current estimates, a total of \$87 million will be in the

5% Set Aside, with \$26.5 million available for Township Roads, \$14 million available for Township Bridges, and \$46.5 million available for the Flexible Highway Account.

Questions 3 and 4 – The literal to his answer to question is no, the commissioner would not be able to do this. The commissioner could decide that additional funding is needed for fixing bridges and could recommend use of a large portion of this money to help address the problem, but as you suggested, the legislature would have to approve. First, the legislature would have to approve allocating a large portion of the Flexible Highway Account in this way, as part of the biennial budget, but it would also have to change the statute so that money allocated to the trunk highway fund could be used for ways other than for routes turned back to local governments by agreement. Secondly if the legislature wanted to allocate some of the money that now goes to Township Roads and Bridges, it would also have to change the statute, as well as set up a mechanism to appropriate the money. As Article XI of the constitution says, “No money shall be paid out of the treasury of this state except in pursuance of an appropriation by law.”

Question 5 – This is discretionary among the purposes prescribed in statute, as explained in the information provided regarding question 1, and there is discretion only on 53.5% of the 5% Set Aside, with the other 46.5% being set aside for Township Roads and Bridges.

Question 7 – The legislature decides to fund the State Patrol from the Trunk Highway Fund, not Mn/DOT. In addition to the State Patrol, the legislature also provides funding from the Trunk Highway Fund for the Department of Public Safety for a portion of its administration costs, a portion of the laboratory costs for the Bureau of Criminal Apprehension, and for the Traffic Safety Office. Also, no federal money is made available for local governments for operations purposes.

Question 9 – Ultimately the legislature, with concurrence of the governor, decides whether to use bonding to finance trunk highway projects. When this occurs, the legislature appropriates the money and provides an authorization to sell a specific amount of trunk highway bonds, which are general obligation bonds of the state, as you stated. (General Obligation bonds backed by the state general fund cannot be legally used to finance trunk highway projects.) The legal authority for these bond authorizations is Article XIV, section 11 of the state constitution and Minnesota Statutes 167.50 – 167.52. The legislation authorizing the bonds provides that the commissioner of finance will sell the bonds at the times and in the amounts requested by the commissioner of transportation. Debt service, of course, is the result of selling bonds, because all purchasers of these bonds expect to be paid both principal and interest on the money they have loaned to the state. Trunk highway bonds are typically 20 year bonds, with equal amounts of principal (one-fortieth of the amount in each sale) re-paid every six months (thus the bond issues are a mixture of short term bonds (6 months) to long term bonds (twenty years). Each debt service payment also includes interest on all of the outstanding bonds. This practice results in debt service being highest in the earliest years after issuing the bonds, with amounts gradually declining over the twenty year period.

The Department of Finance, not Mn/DOT, actually makes payments to all of the bond holders. For trunk highway bonds, a transfer from the trunk highway fund to the state debt service fund is required on December 1 of each year. This transfer includes money needed to pay the debt service for the remainder of the current fiscal year, for all of the following fiscal year, and on July 1 of the next fiscal year after that. This in effect builds a debt service reserve. The practical effect is slight front loading of the required debt service described above.

I assume you made this point (but the material you gave me did not specifically show this) that revenue from trunk highway bonds can only be used for trunk highway purposes, and that this is closely scrutinized by the state's bond counsel.

1 INTERVIEW OF LOWELL JOHNSON - April 21, 2008

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4 In the Matter of Conducting an Independent
Investigation into the Collapse of the I-35W Bridge

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7 Department of Transportation
395 John Ireland Boulevard
8 Room G-13
9 St. Paul, Minnesota

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11 Met, pursuant to Notice, at ten o'clock
12 in the morning on April 21, 2008.

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15
16 INTERVIEWERS:

17 Kathryn Bergstrom, Attorney at Law with
18 Gray Plant Mooty Law Firm.

19 ALSO PRESENT:

20 Barbara E. Forsland, MnDOT Data
21 Practices Compliance & Policy Analyst.

22 COURT REPORTER:

23 Julie A. Rixe
24
25

Page 2

1 INDEX

JOHNSON EXHIBITS:		PAGE
2	1 - Witness Protocol for Interviews	3
3	2 - Document Request Number 17	14
4	3 - Bridge Rating and Load Posting Report dated 9/17/79	16
5	4 - Bridge Rating and Load Posting Report dated 12/14/95	16
6	5 - Bars document - three pages	16
7	6 - Bars document dated 8/18/97	16
8	7 - Bars document dated 12/11/95	16
9	8 - E-mail dated 10/17/02 from L. Johnson to P. Kivisto	38
10	9 - E-mail dated 8/16/05 from L. Johnson to G. Peterson	38

Page 4

1 EXAMINATION

2 BY MS. BERGSTROM:

3 Q All right. We'll go on the record. Lowell,
4 hello again.

5 A Hello.

6 MS. BERGSTROM: My name is Katie
7 Bergstrom with the Gray Plant Mooty law firm.
8 Let's go around the room and state appearances.

9 MS. FORSLAND: Barbara Forsland, the
10 Data Practices attorney for the agency.

11 MR. JOHNSON: Lowell Johnson, bridge
12 rating engineer.

13 (Johnson Exhibit 1 was marked for
14 identification by the court reporter.)

15 BY MS. BERGSTROM:

16 Q Lowell, you and I spoke for a while on April 8th;
17 and when we did that, we didn't have a court
18 reporter present. Today we have a court reporter
19 present. The difference -- And I can't remember
20 when we talked whether we were good at this or
21 not. But the difference is that Julie is taking
22 down every word that we say, so it's important
23 that we not talk at the same time.

24 A Okay.

25 Q Because she can only take down one voice at a

1 time. And she also needs answers to questions,
2 like yes and nos, not uh-uhs or nods of the
3 head. She needs a verbal response, okay?

4 A Yes.

5 Q We started when we talked on April 8th, and we
6 read through the witness protocol for
7 interviews. I'm going to do that again, just so
8 that we're consistent with all of our
9 interviews.

10 Again, we are the Gray Plant Mooty law
11 firm. Gray Plant Mooty has been retained by the
12 Minnesota Legislature to conduct an independent
13 investigation into the collapse of the I-35W
14 bridge. The Minnesota Legislature has asked us
15 to provide a report of our investigation by
16 May 1, 2008. We will be asking you questions
17 concerning the bridge collapse and related
18 policies, practices and legislative oversight
19 issues.

20 The purpose of this interview is to
21 determine what you might know about the matters
22 we are investigating. During the time our
23 investigation is active, the information that
24 interviewees provide to us is not public
25 information. The information you provide may no

Page 5

Page 7

1 longer be confidential once we submit a report to
2 the Legislature.
3 Four, Process. You are required to
4 answer our questions truthfully. A court
5 reporter is present today to record our
6 conversation. Either during this interview or
7 later in our investigation, we may determine that
8 we need to verify certain information. If that
9 occurs, we may ask you for a further recorded
10 statement, a signed affirmation or an oath
11 statement.

12 Post-Interview Contact. We view this
13 process as an ongoing dialogue. If you think of
14 anything after this interview that you want to
15 tell us about, please call or e-mail us.
16 Likewise, we hope that you'll respond to us if we
17 call or e-mail you with follow-up questions or
18 clarifications.

19 Any questions about that?

20 A No questions.

21 Q Okay. Lowell, some of this information is going
22 to be repetitive. But since I've interviewed you
23 once, maybe I can -- tell me if I got all my
24 notes right and we'll get through it rather
25 quickly. As I read my notes, you started in the

1 Q Okay. You, I think, told me that the two main
2 things that your bridge ratings offices oversees
3 is the overweight permits, right?

4 A Yes.

5 Q And then the bridge load ratings?

6 A Yes.

7 Q You did a good job in talking to me, in telling
8 me the slight differences between bridge design
9 and bridge ratings. Can you tell me that again?

10 A Well, bridge rating isn't much different from
11 bridge design, it's just that we do the
12 calculations in a different order.

13 Q Okay. So what are those orders, again?

14 A Well, in ratings we first calculate the bridge
15 capacity, then the dead loads, and then we
16 compare that to the live load we want to use.

17 Q And I think the way you told me is you're
18 calculating what is left for the live load,
19 correct?

20 A Yes.

21 Q And design differs how?

22 A Well, design you start with the live load you
23 want to use, and then you make an estimate of the
24 dead load, and then you design the member
25 strength or capacity. And then you review how

Page 6

Page 8

1 graduate engineering rotation program in 1974 for
2 MnDOT?

3 A Correct.

4 Q Okay. And you were in the design unit for a
5 while, right?

6 A Yes.

7 Q And then have been the bridge rating engineer for
8 about nine-and-a-half years?

9 A Correct.

10 Q Okay. And I can't read my handwriting very well,
11 but before you had that position, who had that
12 position?

13 A John Dawes.

14 Q And how do you spell Dawes?

15 A D-A-W-E-S.

16 Q And right now you report to Gary Peterson, right?

17 A Right.

18 Q And telling me, again, Lowell, who reports to
19 you?

20 A Yihong Gao, that's Y-I-H-O-N-G, capital G-A-O,
21 and on mobility assignment right now, it's Scott
22 Pierson.

23 Q Okay. And, Lowell, are you a certified bridge
24 inspector?

25 A No.

1 close you were on the original dead load
2 estimates, and you might go back through that
3 cycle one or two more times.

4 Q And I think what you told me, and, again, tell me
5 if I get this right or wrong, obviously, is at
6 the origin of a bridge, when it's built,
7 technically speaking the design load and the
8 rating load should be pretty close?

9 A Yes.

10 Q Okay. You also told me that over the life of a
11 bridge, there would be times when you might have
12 to rerate the bridge?

13 A Yes.

14 Q Okay. What would cause you to rerate the bridge?

15 A Well, one reason, if there's some modification
16 made to a bridge, for example, you put an overlay
17 on it or new railings or any heavier load.
18 Another example might -- That's basically for the
19 load part of it.

20 The other part of it, if there's damage
21 or deterioration to the bridge, it might have to
22 be rerated.

23 Q Is it fair to say that when you're talking about
24 a modification to a bridge, the modification that
25 results in the increase of the dead load would

Page 9

Page 11

1 cause you to rerate it?
 2 A Uh-huh, yes.
 3 Q Okay. And then damage or deterioration would
 4 also cause you to rerate it?
 5 A Yes.
 6 Q Okay. If a bridge is going to be modified --
 7 Well, what I want to get to is how requests for
 8 rerating the load comes to your office. You
 9 don't make the determination, do you, that a
 10 bridge needs to be rerated?
 11 A No. Usually there's probably a couple different
 12 sources. In our bridge office we have three
 13 people who are called regional construction
 14 engineers, and often they will -- they usually
 15 recommend types of modifications. And part of
 16 their process of doing that, they consult with my
 17 section.
 18 Then as far as the damage or
 19 deterioration, one of those people or some bridge
 20 inspector might come to me.
 21 Q And if they come to you for either reason,
 22 modification or damage and deterioration, is
 23 there a form they fill out to ask to have a
 24 bridge rerated?
 25 A No specific form, no.

Page 10

1 Q So they might just make a verbal or oral request?
 2 A Or e-mail.
 3 Q Or an e-mail, okay. Do you get a copy, Lowell,
 4 of the bridge inspection reports?
 5 A No.
 6 Q Okay. If you go out and rerate a bridge, do you
 7 study the inspection reports before you do that?
 8 A Depends on the situation. We sometimes do --
 9 Q Okay.
 10 A -- or usually do, I guess.
 11 Q And then we talked a little bit about if you're
 12 asked to rerate a bridge due to deterioration or
 13 damage, what is the process you go through to
 14 rerate the bridge; how do you do that?
 15 A Did you say for deterioration or damage?
 16 Q Right.
 17 A Okay. Well, first of all, you read the
 18 inspector's notes or whatever they've written
 19 down and you look at the plan of the bridge, and
 20 you have to translate that into something you can
 21 define very closely. And we have a computer
 22 program we use for most of our ratings called
 23 Vertus, so it has to be in a form you can
 24 describe and enter into that computer program.
 25 Q And I think the way you told me when we talked is

1 the first thing you need to do is you need to
 2 quantify the damage or deterioration?
 3 A Yeah, yes.
 4 Q And how do you go about quantifying that?
 5 A Well, an inspector might say something like
 6 1/16th inch corrosion from a member. So then you
 7 have to -- That's only one dimension. The bridge
 8 is in three dimensions, so you have to make sure
 9 you get down the width and the length and also
 10 whereabouts in the member was it, was it in the
 11 middle or at the end and so on.
 12 Q And so if you need to have those additional
 13 calculations, do you go out to the bridge and get
 14 those?
 15 A Usually we get them from the inspector. They
 16 might possibly have to go back if we ask too many
 17 questions.
 18 Q Okay. Then explain to me again -- I'm not sure I
 19 really understood this the first time, and it's
 20 no fault of yours. The rating system, I run
 21 across a term called HS 20. Explain to me how
 22 that's used in the rating system.
 23 A HS 20 is a live load designated by AASHTO. And
 24 it was used for our design loads for new bridges
 25 for over a long period of time in the Twentieth

Page 12

1 Century. And when you use that for rating, if,
 2 for example, the rating is 10 percent higher than
 3 HS 20, the rating would come out to HS 22. So
 4 it's -- that number 20 is directly proportional
 5 to the capacity for live load.
 6 Q And if something was an HS 22, would there be a
 7 load restriction on the bridge?
 8 A No, that's better than HS 20.
 9 Q It's better. So if it falls below HS 20 is when
 10 the load restrictions start?
 11 A Uh-huh, yes.
 12 Q What standards, Lowell, do you use to determine
 13 if damage or deterioration is significant enough
 14 to, one, ask for a rerating and then, two, rerate
 15 the bridge?
 16 A A lot of it is judgment by the people in our
 17 unit. When you hear a report of something, you
 18 maybe don't know what it's full effect is until
 19 you do some calculations. So, like we just
 20 talked about, you have to get all the
 21 particulars, the details of the damage or
 22 deterioration, and how much they are and where
 23 they are in the member. And then sometimes at
 24 that point you can determine that there's no
 25 problem, but then you might have to do further

Page 13

Page 15

1 calculations to determine exactly how much
 2 trouble there is.
 3 Q All right. We also talked about the difference
 4 between the inventory rating and the operating
 5 rating. Can you tell me those again?
 6 A Inventory rating corresponds to the design
 7 loading. They're the same, the same factors that
 8 AASHTO prescribes us to use for safety factors
 9 and so on. And AASHTO says that a bridge can
 10 operate under the design loading or inventory
 11 loading for a long period of time with no
 12 damage.
 13 Then AASHTO prescribes the operating
 14 rating, which has a lower factor of safety. And
 15 attached to that they say you can operate -- you
 16 can allow those loads on a bridge in a regulated
 17 manner, but doing so might shorten the lifetime
 18 of the bridge.
 19 Q And explain to me, too, what you mean when you
 20 say that you have posted a bridge.
 21 A Minnesota law has a section in Chapter 169 that
 22 tells exactly how much weight a vehicle can
 23 carry, a truck, depending how many axles it has
 24 and how far apart the axles are. And the
 25 maximum -- There's a table, and the maximum there

1 calculations were done in the 1970's and 1990's,
 2 and this is specific to Bridge 9340. The repair
 3 in 2007 did not add weight to the bridge so a
 4 load rating was not applicable. Copies of the
 5 load rating documents are attached.
 6 And then you did produce some
 7 documents, and I just want to run through those
 8 documents with you so that I feel I know what I
 9 was looking at.
 10 But let me ask you this first: The
 11 comment, The repair in 2007 did not add weight to
 12 the bridge so a load rating was not applicable,
 13 did you put together that response?
 14 A I don't recall that I did --
 15 Q Okay.
 16 A -- directly. Maybe I made some indirect comments
 17 to it, but the final version was not written by
 18 me.
 19 Q In any event, you didn't have any responsibility,
 20 your office didn't, for making a determination at
 21 the start of the repair work in 2007 that a
 22 rerating might be necessary?
 23 A No. I was not -- I wasn't in on any discussion
 24 like that.
 25 Q Okay. And that's not typically what your office

Page 14

Page 16

1 is 80,000 pounds. If a bridge is found that it
 2 doesn't have the capacity for those -- for any of
 3 those loads, then we put a sign in front of it
 4 that says what the lesser loads are, and that's
 5 called posting.
 6 Q And I assume, then, that posting comes as a
 7 result of a lower HS rating?
 8 A They're somewhat proportional, not exactly. But,
 9 yeah.
 10 Q Or it could be design based, too, right? A
 11 bridge might not be designed to carry a certain
 12 amount of weight?
 13 A It could be related to that. If it's a bridge
 14 that's 75 years old, it would have been designed
 15 to a load less than HS 20. Maybe it was designed
 16 to HS 15 or H 15, for example.
 17 MS. BERGSTROM: Let's mark this.
 18 (Johnson Exhibit 2 was marked for
 19 identification by the court reporter.)
 20 BY MS. BERGSTROM:
 21 Q Lowell, what I'm having you look at here is a
 22 response to a request we made, Request
 23 Number 17. And I believe that you assisted in
 24 preparing some of this response. If you look at
 25 the final paragraph, it says, Load rating

1 does, right? You don't make the determination to
 2 rerate, you actually do the rerating once
 3 requested?
 4 A Well, I would not have done it if it says the
 5 repair of 2007 did not add weight to the bridge.
 6 There would have been no reason to contact me
 7 probably.
 8 Q And I guess what I'm getting into is that
 9 somebody made a decision that the repair didn't
 10 add weight to the bridge, but you weren't part of
 11 those discussions?
 12 A No.
 13 Q Okay.
 14 (Johnson Exhibits 3 through 7 were
 15 marked for identification by the court
 16 reporter.)
 17 BY MS. BERGSTROM:
 18 Q Lowell, if you'll refer back to Exhibit Number 2,
 19 the one we were just looking at, the last
 20 sentence says, Copies of the load rating
 21 documents are attached. And so these were the
 22 load rating documents that you pulled together
 23 for 9340. And I'll submit to you that Exhibits 3
 24 through 7 here are the documents that were
 25 attached as the load ratings for the bridge. And

Page 17

Page 19

1 I have separated them into slightly different --
 2 I haven't taken them out of order. I just added
 3 a staple here and there where I thought it made
 4 sense, based on the years or something like
 5 that.
 6 So the first document that you see,
 7 this looks like the bridge rating and load
 8 posting report that was prepared in September of
 9 1979?

10 A Yes.

11 Q And it appears that this was signed by John
 12 Dawes?

13 A Yes.

14 Q Okay. I know that there was some overlay work
 15 done on the bridge in 1977. And, actually, up
 16 above it says, Year remodeled, 1978, new slab.

17 If modifications are done to a bridge,
 18 how quickly are the reratings done? Because it
 19 looks like the work was done in '77 or '78, and
 20 then the rerating was done in September of '79.
 21 Is that a usual amount of time to pass or is that
 22 an unusual amount of time?

23 A It can vary. For example, today, when they ask
 24 us in advance about a thing, we do the
 25 calculations and return some numbers, but that's

1 Q And is that the program that Virtus replaced?

2 A Yes.

3 Q So this looks like in 1995 and in 1997 the Bars
 4 program was used. Is it to rerate the bridge?

5 A Yes.

6 Q Okay. And is there any printout like this, then,
 7 from 1977 or '78?

8 A No.

9 Q And is that because there wasn't Bars back then
 10 or --

11 A It hasn't been our policy to retain old ones
 12 after new ones were done. It just so happens
 13 that somebody didn't throw away the old one here,
 14 in this case, when they did a new one.

15 Q So does this mean that the bridge was rerated
 16 both in '95 and '97?

17 A It looks like it, from what I can see here.
 18 You'd have to go through here and look at some
 19 numbers, I guess, to tell that. No. I recall
 20 from looking at it in the last few months that
 21 originally -- There was a couple additional
 22 members rated in 1979 -- or 1997 that hadn't been
 23 rated in 1995. That's why one is a little
 24 thicker, I think.

25 Also, there was a change -- No, I see

Page 18

Page 20

1 tentative. We don't finalize it, fill out a form
 2 like this until we're informed that the work has
 3 been completed, and sometimes that can be delayed
 4 also. So the calculations can remain tentative
 5 for a long -- some period of time, months, a
 6 couple years maybe.

7 Q If you look at the front page of this, there's an
 8 inventory rating of HS 15.9. Do you see that?

9 A Yes.

10 Q And then an operating rating of HS 30.6. Is
 11 there any historical document at MnDOT to show
 12 how this rerating in '79 was different from how
 13 the bridge was rated when it was built?

14 A Well, I believe everything we had in our files
 15 should be included here if we turned it over to
 16 you. I think there's two of these exhibits,
 17 Number 6 and 7.

18 Q Maybe we'll switch to those. Number 6 I grouped
 19 together as one document because the date on all
 20 of them was August 18th, 1997. And then on
 21 Exhibit Number 7 the date is December 11, 1995.

22 So, first of all, I guess, my question
 23 is, what are these documents?

24 A These are outputs from a computer program we have
 25 called Bars, B-A-R-S.

1 they're the same. There was a change in rating
 2 method. The new method is called load factor
 3 rating, but I see both of these have been done by
 4 that method.

5 Q Look, if you will, at Exhibit Number 5. It's
 6 this one here (indicating). Can you tell me what
 7 this document is?

8 A This should probably be stapled to the front of
 9 one of these, 6 or 7 here.

10 Q Okay.

11 A That's the input for one of these Bars runs.

12 Q Where does the information come to input this?

13 A Most of it you can get off the plan. And the way
 14 Bars does it, it doesn't put a date on these
 15 sheets.

16 Q And these are the sheets that are Exhibit
 17 Number 5?

18 A Yeah. 5 should probably be stapled to the front
 19 of either Number 6 or 7, but it's a little hard
 20 to tell at the moment.

21 Q Yeah. I didn't find a date on it, which is why I
 22 made it a stand-alone document. But what you're
 23 saying is this is somewhat of a summary sheet
 24 that goes on the front?

25 A Yeah. It's the input data that Bars uses to

Page 21

Page 23

1 calculate what's in the rest of the report here.
 2 Q Okay. When you say that the information comes
 3 from the plans, would that be the original plans
 4 or the modified plans?
 5 A Both.
 6 Q Okay. And if the information that you're putting
 7 into the Bars program is based on damage and
 8 deterioration as opposed to modification, where
 9 do you get that information from?
 10 A Well, that would be from inspection reports or
 11 from inspectors.
 12 Q It appears based on this (indicating), and tell
 13 me if you think this is accurate, that the bridge
 14 was rerated in the mid-nineties or mid- to late
 15 nineties. It started in '95, and then some
 16 additional members were included, and it looks
 17 like it was concluded in '97.
 18 A It looks to me like two separate ratings. A
 19 rerating was done in '95 and a rerating was done
 20 in '97.
 21 Q And maybe what I'll have you do to try to
 22 understand the history of this a little bit is
 23 looking at Exhibit 3 and Exhibit 4, Exhibit 3 we
 24 talked about as the 1979 bridge rating and load
 25 posting report. And I think what you're telling

1 MS. BERGSTROM: So I guess, maybe,
 2 Barbara, the question comes to you. We appear to
 3 be missing the first three pages of the
 4 August 18, 1997.
 5 BY MS. BERGSTROM:
 6 Q Is that what it appears to be?
 7 A I've looked at this a little bit before coming
 8 here today. When we were looking at our files
 9 before, it appeared that after this 1997 rating
 10 was partially done, it was never completed to its
 11 final state and signed and filed in our bridge
 12 records with the final rating.
 13 Q So pages 4 and 5 are supposed to be adding onto
 14 the '95?
 15 A Yes. And some of -- And maybe 1, 2 and 3 nothing
 16 changed in that part. I haven't looked yet. But
 17 the one thing definitely is the addition of the
 18 sheets 4 and 5 here.
 19 Q So based on your review of the file, you think
 20 that 4 and 5 are supplements to the 1995 three
 21 pages?
 22 A Yes.
 23 Q Okay.
 24 MS. FORSLAND: Lowell, can you take a
 25 look at your first page of Exhibit 4? Is there

Page 22

Page 24

1 me is that this type of document is prepared when
 2 all of the work that are in 5, 6 and 7 are done?
 3 A Yes.
 4 Q Okay. And then looking at Exhibit Number 4, it
 5 appears that this is a bridge rating load posting
 6 report from 1995?
 7 A Yes.
 8 Q Okay. One question I have for you is that if the
 9 bridge was rerated in 1997, shouldn't there be a
 10 bridge rating and load posting report for that as
 11 well? And, actually, I'm going to answer my own
 12 question, because I think -- Take a look through
 13 Exhibit 4, if you will. The first page says
 14 1995. The next page appears to be a back-up --
 15 Or, actually, maybe it's dated 1998 and it says 1
 16 of 3?
 17 A Yes.
 18 Q Okay. Then we've got 2 of 3 and 3 of 3 all in
 19 December of -- Is that '95 or '98?
 20 A I think those are all the same, from 1995.
 21 Q Okay, you're right. So they're all dated
 22 December 14, 1995. Then the next page says it's
 23 4 of 5, and it has the date of August 18, 1997.
 24 And then the next page says 5 of 5, August 18,
 25 1997.

1 anything in that handwritten notation at the top
 2 of the page that tells us anything about this
 3 report, new ruling?
 4 MR. JOHNSON: Well, it looks like that
 5 writing at the top of the page there was written
 6 in 1997 referring to one of these Bars reports of
 7 1997.
 8 BY MS. BERGSTROM:
 9 Q It appears to say at the top of Exhibit 4, Note,
 10 new rating for January 1998 contract not filed,
 11 see computer output?
 12 A Yes.
 13 Q Okay. Do you know whose handwriting that is?
 14 A It looks like John Dawes's writing.
 15 Q Okay.
 16 A And, also, you can see the handwriting at the top
 17 of this Exhibit 5 that says -- that looks like
 18 John Dawes's writing also. And he's written,
 19 Hold until letting of January 1998. Then he's
 20 got inventory rating HS 19, operating rating
 21 HS 31.5. So that would have been slightly
 22 lower. If he would have waited until the work
 23 was done sometime in 1998, probably, then this
 24 (indicating) form should have been completed with
 25 slightly lower numbers there.

Page 25

Page 27

1 Q And this form, you mean Number 4?

2 A The first sheet of Exhibit Number 4, which is

3 about 5 percent, about a 5 percent decrease.

4 Q And then if work was done on the bridge in 1998,

5 it doesn't appear that it was rated after that,

6 right?

7 A It was rated -- No, I don't think so. It was

8 rated -- The rating was done -- The calculations

9 for the rating were done before that, but then

10 the final report was not filed.

11 Q And it appears that had the final report been

12 filed, at least based on the notations in Exhibit

13 Number 5, it would have had a slightly lower

14 inventory rating and operating rating?

15 A Yes.

16 Q Okay. Have you done any investigation as to why

17 a final report wasn't filed?

18 A No. It's -- No, I haven't.

19 Q Okay. So you don't know why it wasn't done?

20 A I don't think it would be possible to find out.

21 I don't know where you'd look.

22 Q Help me understand something. These load

23 ratings, are they done on a span-by-span basis,

24 or how does that work?

25 A Yeah, you can usually, especially bigger bridges,

1 Q Okay. Based on your review of this file, was the

2 9340 bridge, did anybody ever ask to rerate the

3 bridge due to damage or deterioration?

4 A I don't know that anybody ever did, to the best

5 of my knowledge. But if we can read some of the

6 notes on here, I don't know if it says anything

7 there. I suppose studying this for a while you

8 could figure it out from this input section here

9 (indicating), Section -- If there's damage or

10 deterioration, it would have been on this page 4

11 here buried in those numbers. It would take

12 awhile to look at that and figure that out.

13 Q What is the column head that you're reading

14 there?

15 A This is Exhibit 5, fourth page at the top says,

16 Section properties, steel or timber, girders,

17 stringers, floor beams, and then detailed

18 description.

19 Q Okay.

20 A And it gives areas of the various plates that

21 were -- that made up the beams.

22 Q And, again, by looking at this page can you tell

23 whether this information came from plans versus

24 inspection reports?

25 A Not sitting here right now I can't. The only way

Page 26

Page 28

1 break them down into several smaller parts. And

2 these smaller parts have independent calculations

3 for each one of them. Sometimes a part might be

4 one span and sometimes an independent part might

5 be multiple spans.

6 Q Who makes that determination, of --

7 A Well, it's the geometry of the bridges and put

8 together on the design plan. It's not something

9 that a person decides, it's the reality of the

10 design.

11 Q If you look at Exhibit Number 3, which is '79,

12 and then Exhibit Number 4, which is the '95, you

13 see that the inventory rating goes from 15.9 up

14 to 20, and the operating rating goes from 30.6 to

15 33. Do you know why the rating improved during

16 that time?

17 A There's no way to tell by what we have here. I

18 can speculate maybe there was a different version

19 of Bars used. Also, there was a different method

20 back in 1979. The rating method was called

21 allowable stress rating. And in 1995 and 1997 we

22 see here on our Exhibits 6 and 7 that was done by

23 load factor method. So that's most likely a

24 reason -- Or that's highly probable that that was

25 the reason for the change.

1 to check would be to have the plan here and then

2 go back and forth, like that (indicating).

3 Q Lowell, look with me, if you will, at Exhibit

4 Number 3. This is the '79 rating. Do you see in

5 the second box it says, Data used for basis of

6 report. And then it talks about bridge inventory

7 file, bridge inspection report and some other

8 options. Do you see that?

9 A Yes.

10 Q Now, obviously the form has been updated by the

11 time we get to Exhibit Number 4, but it has a

12 data for basis of report box again. It says that

13 the bridge inspection report, that box is

14 checked, but it doesn't have the date, correct?

15 A Yes.

16 Q Okay. Is there anything to show in the update,

17 which are the pages 4 and 5, what was relied on

18 back then?

19 A I just looked through this and I didn't see

20 anything.

21 Q When we talked before, kind of at the end, you

22 and Dan Dorgan had mentioned that there are some

23 NBI standards for deterioration that would result

24 in a rerating of a bridge. Do you remember that?

25 A A little bit.

1 Q Okay. So give me your understanding of what the
 2 NBI standards are for -- that would cause a
 3 bridge to be rerated.
 4 A Well, the NBI standards don't have much direct
 5 meaning to me. They have a couple features in
 6 them for steel beams. They have what's called
 7 Condition State 5. And I don't remember the
 8 exact wording they use for that, but that
 9 Condition State 5 in a steel member would be an
 10 alarm to me or an indication that a rating should
 11 be redone.
 12 Q And I'm just naive about this. Do the NBI
 13 standards have condition ratings for all the
 14 members, the beams and various other parts of the
 15 bridge?
 16 A The way it's used in the inspection report, NBI
 17 Condition State 5 usually refers to the whole
 18 bridge. It isn't beam by beam or span by span.
 19 It's just one number for the whole bridge.
 20 Q And is it one number for various parts of the
 21 bridge, deck versus substructure versus
 22 superstructure?
 23 A Well, there's a whole lot of different numbers in
 24 those ratings, and you have to be careful which
 25 ones you're talking about. The one I'm referring

1 done anything with that.
 2 Q Prior to that bulletin?
 3 A Yes.
 4 Q Okay.
 5 A And if we would have seen something extreme, we
 6 would have maybe spent more time looking at it.
 7 But the methods of rating a gusset plate were
 8 kind of forgotten because no truss bridges have
 9 been designed for so many years. This bridge was
 10 something like 45 years old, I think. There's
 11 only been one truss bridge built since then in
 12 Minnesota, and that was designed by a consultant.
 13 Q I would imagine that there is bowing or bending
 14 of other members on other bridges.
 15 A I've been out and looked at a couple other
 16 bridges since then, and we noticed that they're
 17 not all real flat and straight like I would have
 18 expected.
 19 Q And have you completed reratings as a result of
 20 that?
 21 A No.
 22 Q Okay. You talked to me about the fact that URS
 23 was hired as a consultant to help your office
 24 implement the Virtus system, right?
 25 A Yes.

1 to, Condition State 4, that's in the inspection
 2 report. Maybe it's something different than what
 3 you're thinking of right now. If you had one of
 4 those inspection reports or something here, I
 5 could show you which ones.
 6 Q I'm just trying to understand Condition State
 7 Number 5.
 8 A When you get into the detailed part of the
 9 inspection, that's where that appears.
 10 Q Okay.
 11 A On the summary of the inspection they have some
 12 other ratings that go 1, 2, 3, 4, 5, 6 and so
 13 on. They're real general numbers. You can't
 14 tell much by them, a person like me can't tell
 15 much. You have to get down to the most detailed
 16 levels of the inspection.
 17 Q There's been some media, Lowell, about some
 18 pictures taken in 2003 of the gusset plates on
 19 the bridge that had some bowing. Would bent
 20 gusset plates, in your mind, result in a rerating
 21 if somebody knew about them?
 22 A Well, up until just a few months ago, when the
 23 Federal Highway Administration sent out an
 24 advisory to all the states to look at -- to
 25 inspect and rate gusset plates, we wouldn't have

1 Q Okay. And that each of the bridges in your
 2 system were brought into the Virtus system; is
 3 that right?
 4 A A large number were.
 5 Q Okay.
 6 A A little over 2,000 bridges were put into Virtus.
 7 Q Bridge 9340 was not brought into Virtus, right?
 8 A No.
 9 Q And why not?
 10 A Well, it's a truss bridge. It's a continuous
 11 truss, and Virtus was not capable of doing that,
 12 although they are still working on it. I think
 13 Virtus can rate simple span trusses now, but
 14 still not continuous trusses.
 15 Q So do you still have the Bars program for bridges
 16 that don't work yet in Virtus?
 17 A Yes, we still have Bars.
 18 Q The St. Cloud bridge, I take it, then, can't be
 19 brought into Virtus?
 20 A No, not the main truss. We can do floor systems,
 21 the stringers and floor beams on some bridges,
 22 but not the main truss.
 23 Q I can't remember if we talked about this or not,
 24 Lowell, but were you aware of the University of
 25 Minnesota study that was done on the bridge?

Page 33

Page 35

1 A I was never -- I might have heard just a little
 2 bit about it. I never knew any details about
 3 it. I wasn't involved in it.
 4 Q In fact, you never rated this bridge before its
 5 collapse?
 6 A No.
 7 Q And there's nothing in the ratings file for this
 8 bridge that would indicate that the University of
 9 Minnesota study was consulted or used?
 10 A There's nothing in these here (indicating)?
 11 Q Right.
 12 A No, I don't think so.
 13 Q Okay. Did you do any work with HNTB? Did you
 14 know that HNTB was working on the bridge?
 15 A I worked with HNTB on a couple things, but I
 16 wasn't aware that they ever did anything on this
 17 bridge, I don't think.
 18 Q And your work with HNTB was on the Stillwater
 19 bridge? I think we talked about that.
 20 A Yes.
 21 Q And did you work at all with URS with respect to
 22 this bridge, not the Virtus project, but this
 23 bridge?
 24 A No.
 25 Q Were you aware of any of their draft reports on

1 see if I've kind of captured it.
 2 (Break taken.)
 3 BY MS. BERGSTROM:
 4 Q Not too much more, Lowell.
 5 Were you involved in -- I can't
 6 remember that we talked about this or not -- in
 7 the closing of the St. Cloud bridge?
 8 A No.
 9 Q Not in any of those discussions?
 10 A Not directly. I guess I heard that inspectors
 11 were going out there, I heard that somebody found
 12 some bent gussets, and somebody else was going to
 13 analyze them and decide whether they could be
 14 repaired or it would have to be -- or not, but I
 15 wasn't involved directly in that.
 16 Q And your office wasn't involved, your ratings
 17 group?
 18 A No, our section.
 19 Q One of the things that URS was recommending to
 20 MnDOT was a redecking of the entire 35W bridge at
 21 some point in the future. Would a redecking of
 22 the bridge have resulted in a rerating, in your
 23 mind?
 24 A It probably would have if the -- It probably
 25 would have, especially if the new deck was a

Page 34

Page 36

1 the bridge?
 2 A No. I don't think I had ever even heard of their
 3 work until after the bridge collapsed.
 4 Q At the time the bridge collapsed, there was a
 5 bunch of construction materials on the bridge
 6 that has been the source of some kind of
 7 speculation. Is it fair to say, Lowell, that the
 8 construction materials and equipment on the
 9 bridge changed the dead load of the bridge?
 10 A No. That type of loading we classify as live
 11 load.
 12 Q Okay.
 13 A Even though it was kind of inert materials, just
 14 sitting there for -- That would fall into the
 15 classification of live load.
 16 Q Is that because it's not permanent?
 17 A Yeah.
 18 Q Okay. And I think I clarified this before, but
 19 you weren't involved in any way in any analysis
 20 of how those materials or the construction on the
 21 bridge in the summer of 2007 might affect the
 22 structural integrity of the bridge?
 23 A No.
 24 MS. BERGSTROM: Why don't we take a
 25 little break, and I'll go through my stuff and

1 different thickness than the old deck.
 2 Definitely if the new deck has a different
 3 thickness. I heard a little bit about that, and
 4 I haven't studied it. But I guess the reason for
 5 that recommendation was something to do with
 6 continuity of the whole bridge, and that might --
 7 Depending on the continuity of the whole bridge
 8 change, that might change some stresses or forces
 9 and stresses in some members, so that would
 10 indicate that a new rating should be done.
 11 Q There was also some discussion by URS of adding
 12 redundancy to the bridge by retrofitting some of
 13 the members. Would that type of modification
 14 have resulted in a rerating?
 15 A Possibly. I don't know exactly what -- I
 16 heard -- I never saw the plans or anything of
 17 what they recommended. I heard that they wanted
 18 to strengthen members. I don't know if that
 19 would have changed any redundancy. I haven't
 20 seen anything that -- I doubt if it would have.
 21 Q There's also been some stuff in the media about
 22 the sag of a bridge in Ohio in 1996. Had you
 23 ever heard about that prior to the bridge
 24 collapse?
 25 A I don't recall that I did, no.

Page 37

Page 39

1 Q We talked a little bit about this Condition
 2 State 5 as having -- in the steel beams, you
 3 mentioned, would be one alarm to rerate. And
 4 what I'm trying to understand is presumably one
 5 of the reasons that you would rerate a bridge
 6 would be due to section loss, right?
 7 A Uh-huh, yes.
 8 Q And I'm wondering what percentage of section loss
 9 would give rise to a rerating and how you'd go
 10 about making that determination? And I'm
 11 assuming, in part, the answer is, it depends?
 12 A That's right. You have to look what member is
 13 being -- or where the loss is in the member, what
 14 member it is, and whether that member is the
 15 critical member in the whole bridge, and what the
 16 overall rating is at that point. As little as
 17 5 percent might mean if it was a critical member
 18 of the bridge and the bridge was in that -- would
 19 have been close to the posting level, as little
 20 as 5 percent would mean you'd have to redo it.
 21 Q And so when we talked earlier about, you know,
 22 requests come in due to damage or deterioration,
 23 and you say your first determination is to
 24 quantify that. Those are the types of things
 25 you're quantifying, correct?

1 and the fact that one member was bent and some
 2 members are in tension and how the rating might
 3 change. And I guess my question for you, go to
 4 the last sentence here. Well, the last two
 5 sentences, The member will not have to be
 6 repaired immediately; however, we have
 7 investigated the repair and have prepared some
 8 sketches for doing it.

9 And I'm wondering how involved is your
 10 office in making the determination that members
 11 don't have to be repaired or that here are some
 12 repairs that are suggested?

13 A Well, this person here, Paul Kivisto, is metro
 14 region construction engineer. And when there's
 15 repairs done on a bridge, he usually has some
 16 major say in what happens. And somebody else,
 17 probably district people, would have to decide
 18 when and how they were going to be done and what
 19 money was needed to do them. And then they would
 20 have to be coordinated with somebody else who
 21 would draw up the plans for them. So there's
 22 many people involved in different ways.

23 Q I guess what I'm trying to understand is the
 24 ratings office -- is the ratings office involved
 25 in making a determination of what should be

Page 38

Page 40

1 A Yes.
 2 Q Okay. And so if that information is not
 3 available to you, then you can't make a
 4 determination of whether you need to rerate the
 5 bridge?
 6 A Right. But sometimes when that -- like that
 7 Condition State 5 comes to us, that's kind of
 8 vague, and then we have to go back and ask for
 9 more details, what and where and why that
 10 Condition State 5 got put in there.
 11 Q But if a Condition State 5 isn't in the
 12 inspection report, you're not going to know that
 13 unless somebody comes to you first and says, Say,
 14 we have this Condition State 5?
 15 A True.
 16 MS. BERGSTROM: Let's mark two more
 17 exhibits.
 18 (Johnson Exhibits 8 and 9 were marked
 19 for identification by the court
 20 reporter.)
 21 BY MS. BERGSTROM:
 22 Q Lowell, I'll have you looked at Exhibit 8 first.
 23 This appears to be an e-mail October 17, 2002,
 24 from you to Paul Kivisto regarding the Stillwater
 25 bridge. And it talks about some of the members

1 repaired when and how?
 2 A Well, in this case here, I guess our
 3 determination there was nothing urgent that
 4 needed to be done. There was talk, as I recall,
 5 of doing more repairs. What date was this?
 6 2002. Well, yeah, there was -- at that time
 7 there was a plan being prepared to do a whole
 8 bunch of repairs on the bridge. And they ran out
 9 of money, and they did the ones that were most
 10 important, I guess, at that time.

11 Q Then take a look at Exhibit Number 9. And this
 12 is an e-mail probably three years later, August
 13 16, 2005. And, again, this is about the
 14 Stillwater bridge. And it says, Yesterday we
 15 were called to the bridge site to inspect
 16 corrosion on truss stringers. And you have some
 17 recommendations and some analysis in this
 18 e-mail.

19 And my question to you is, how often do
 20 the inspectors call you out to a site to take a
 21 look at the bridge?

22 A Oh, it's not real often. I would guess, on
 23 average, less than -- three times or less per
 24 year.

25 Q It's probably fair to say you've had a fairly

Page 41

1 active role with the Stillwater bridge, right?
2 A Yes. As much as any bridge, yeah.
3 Q Do you know why that is?
4 A Well, it's a bridge that's 70 years old. It's
5 had a lot of corrosion. These inspectors have
6 found a lot of things wrong with it in the past.
7 There's been repairs done on it many times.
8 Q In your capacity as the ratings engineer, have
9 you ever reviewed any of the inspection reports
10 on the 9340 bridge -- And let's put this in a
11 time frame -- prior to August 1st?
12 A No, I don't think I had.
13 MS. BERGSTROM: Okay. All right. I
14 don't think I have any further questions.
15 (Whereupon, the interview was concluded
16 at 11:22 a.m.)
17
18
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25

Page 42

1 STATE OF MINNESOTA)
2
3
4 COUNTY OF HENNEPIN)
5
6
7
8 REPORTER'S CERTIFICATE
9
10
11 I, Julie A. Rixe, do hereby certify
12 that the above and foregoing transcript, consisting of
13 the preceding 41 pages, is a correct transcript of
14 my stenographic notes and is a full, true and complete
15 transcript of the proceedings to the best of my
16 ability.
17 Dated April 28, 2008.
18
19
20
21 JULIE A. RIXE
22 Court Reporter
23
24
25

1 INTERVIEW OF PAUL KIVISTO - March 27, 2008

2
3
4 In the Matter of Conducting an Independent
5 Investigation into the Collapse of the I-35W Bridge

6
7 Department of Transportation
8 395 John Ireland Boulevard
9 Room G-13
10 St. Paul, Minnesota

11
12 Met, pursuant to Notice, at 8:00 in the
13 morning on March 27, 2008.

14
15
16 INTERVIEWERS:

17 Kathryn Bergstrom, Attorney at Law with
18 Gray Plant Mooty Law Firm.

19 ALSO PRESENT:

20 Barbara E. Forsland, MnDOT Data
21 Practices Compliance & Policy Analyst.

22 COURT REPORTER:

23 Julie A. Rixe
24
25

1 (Kivisto Exhibit 1 was marked for
2 identification by the court reporter.)

3 MS. BERGSTROM: All right. Let's get
4 started. Let's state our appearances for the
5 record. Katie Bergstrom with the Gray Plant
6 Mooty law firm.

7 MS. FORSLAND: I'm Barbara Forsland.
8 I'm the Data Practices attorney for the agency.

9 MR. KIVISTO: I'm Paul Kivisto. I'm
10 the metro region bridge engineer with the
11 Minnesota Department of Transportation bridge
12 office.

13 BY MS. BERGSTROM:

14 Q And may I call you Paul?

15 A Yes, you may.

16 Q Okay. Paul, I'm going to show you Exhibit
17 Number 1. We've been starting our interviews,
18 every interview, by going through this witness
19 protocol.

20 Before I do that, though, we're working
21 here with a court reporter, and I don't know if
22 you've ever worked with a court reporter. She's
23 taking down everything that we say. So it's
24 important that you and I not talk at the same
25 time because she can only take down one voice.

1 INDEX

Page 2

KIVISTO EXHIBITS:	PAGE
2 1 - Witness Protocol for Interviews	3
3 2 - Memo dated 5/4/01 from D. Dorgan to G. Workman	46
4 3 - Organization chart dated 4/17/07	23
5 4 - Memo dated 10/23/98 from D. Flemming to G. Workman	29
6 5 - Meeting minutes dated 11/23/98	29
7 6 - E-mail dated 11/28/01 from S. Hunt to D. Dorgan, et al.	36
8 7 - E-mail dated 11/25/02 from R. Cekailla to B. Miller, et al.	38
9 8 - Memo dated 12/3/02 from P. Kivisto to D. Dorgan, et al.	41

Page 4

1 So if you let me finish my questions before you
2 start to answer; and if I let you answer before I
3 ask my next question, it will help her out a
4 lot. I got a little enthusiastic, Jack Pirkki and
5 I, we had some good conversations and we talked
6 at the same time. So we're going to try to avoid
7 doing that. We're going to try to avoid uh-huhs
8 and uh-uhs and nods of the head because she needs
9 audible answers.

10 All right. The witness protocol. The
11 authority. We are with the Gray Plant Mooty law
12 firm. Gray Plant has been retained by the
13 Minnesota Legislature to conduct an independent
14 investigation into the collapse of the I-35W
15 bridge. The Minnesota Legislature has asked us
16 to provide a report of our investigation by
17 May 1, 2008. We will be asking you questions
18 concerning the bridge collapse and related
19 policies, practices and legislative oversight
20 issues.

21 The purpose of this interview is to
22 determine what you might know about the matters
23 we are investigating.

24 Three, confidentiality. During the
25 time our investigation is active, the information

Page 5

Page 7

1 that interviewees provide to us is not public
2 information. The information you provide may no
3 longer be confidential once we submit a report to
4 the Legislature.

5 The process. You are required to
6 answer our questions truthfully. A court
7 reporter is present to record our conversation.
8 Either during this interview or later in our
9 investigation, we may determine that we need to
10 verify certain information. If that occurs, we
11 may ask you for a further recorded statement, a
12 signed affirmation or an oath statement.

13 Post-interview contact. We view this
14 process as an ongoing dialogue. If you think of
15 anything after the interview that you want to
16 tell us about, please call or e-mail us.
17 Likewise, we hope that you will respond to us if
18 we call or e-mail you with follow-up questions or
19 clarifications.

20 Any questions about that?

21 A No, that's clear.

22 Q All right. Thanks. Tell me, again, Paul, if you
23 will, what your title is.

24 A Metro region bridge engineer with the bridge
25 office.

1 Q And when you joined the bridge office in November
2 of 1985, what was your title?

3 A I was working in a bridge design unit, so a bridge
4 designer.

5 Q And how long did you do that?

6 A For about four-and-a-half years.

7 Q And after you left that unit, where did you go?

8 A Still within the central bridge office as the
9 bridge management engineer.

10 Q And how long did you do that?

11 A It was a little over seven years, until 1998.

12 Q And in 1998 you moved to where?

13 A To my present position as the metro region bridge
14 engineer.

15 Q I take it you are an engineer?

16 A That is correct.

17 Q And what kind of an engineer are you?

18 A I'm a registered civil engineer.

19 Q As a registered civil engineer, is there special
20 training that they do for bridge engineers?

21 A Not necessarily a requirement for being a
22 registered engineer. However, working in MnDOT
23 in the bridge office, there's a lot of training
24 available that I've participated in.

25 Q So what kind of training has that been?

Page 6

Page 8

1 Q So you work for the central bridge office?

2 A That is correct.

3 Q But you're assigned to metro?

4 A Yeah. I have responsibilities for the bridges in
5 the metro district.

6 Q Okay. How long have you worked for MnDOT, Paul?

7 A Almost 25 years.

8 Q And have you always had the same job?

9 A No.

10 Q Okay. What did you start at?

11 A I started as a graduate engineer in District 1,
12 up in Duluth.

13 Q From talking to a few other people, as a graduate
14 engineer were you in the rotation program?

15 A Yes, I was.

16 Q But within the Duluth district?

17 A Within the Duluth district.

18 Q And how long did you do that?

19 A For about a little over two years.

20 Q And then where did you go after that?

21 A And then I came to the bridge office, the central
22 bridge office.

23 Q So since about the mid-eighties you've worked for
24 the central bridge office?

25 A Yes. That was November 1985.

1 A It's varied from design courses in bridge design
2 to three-week inspection courses to teaching
3 various courses in construction.

4 Q Are you a certified bridge inspector?

5 A I am not.

6 Q As the metro region bridge engineer, can you tell
7 me what your job duties are?

8 A The job duties vary extensively. I get involved
9 in in-service bridges as well as planning for new
10 bridges and programming bridges into replacement
11 program. And perhaps I can take them each at a
12 time.

13 For instance, in-service bridges, if
14 there are items such as critical deficiencies
15 that are noted by the district, I will get
16 involved and recommend types of repairs or
17 rehabilitations to the bridge. Items such as
18 bridge hits, I will be notified if there's bridge
19 hits, make site visits, assess the damage and
20 work with our designers to come up with, again,
21 the appropriate repairs or fixes to be
22 undertaken.

23 General condition, from time to time
24 we'll go out with the metro district personnel to
25 look at various bridges, especially with the eye

Page 9

Page 11

1 for programming of future bridges.
 2 Other responsibilities I have would be
 3 in the planning area. I am responsible for
 4 writing foundation recommendations for new
 5 bridges, which would be everything from piling to
 6 spread footings, to drilled shafts, specifying
 7 the size, the type, the estimated lengths of
 8 pilings and type of foundation. I get involved
 9 with checking the design plans for
 10 constructability, also, then, checking the
 11 preliminary plan as I do the foundation
 12 recommendations.
 13 Other duties would be writing
 14 recommendations for bridge improvement work, and
 15 for various things such as bridge deck overlays,
 16 joint replacements, rail replacements, structural
 17 steel repair, concrete repair. All of the things
 18 that are necessary I write the recommendations
 19 from the bridge office for these type of repair
 20 activities that should be done.
 21 And then in construction I get involved
 22 and I'm the liaison between the central bridge
 23 office and the district construction personnel
 24 for handling construction-related issues that
 25 come up during construction. If they need

1 A In the Oakdale office with the bridge office.
 2 And I do also have an office set up in the Golden
 3 Valley office, where there's two resident
 4 construction offices. I try to get there one day
 5 a week.
 6 Q And just to make sure I have this accurate,
 7 Water's Edge or the Roseville location doesn't
 8 have a construction unit, right?
 9 A That is correct.
 10 Q So it's Golden Valley or Mendota Heights?
 11 A There's two offices in Golden Valley, there's one
 12 at Mendota Heights, there's one at Eden Prairie,
 13 and there's one at Oakdale.
 14 Q When you were describing your job duties, you
 15 described them nicely in various areas. You
 16 mentioned a couple times that you're the first
 17 point of contact for the metro people. And I
 18 want to talk a little bit about your
 19 communication between you, as the metro engineer,
 20 and the people over in the metro division.
 21 You mentioned, for instance, that if
 22 somebody in the metro district noted a critical
 23 deficiency, they might contact you if there's a
 24 bridge hit, if they needed somebody from central
 25 bridge to come with them on a particular issue.

Page 10

Page 12

1 technical advice, if they need input on how to
 2 handle certain issues that come up during
 3 construction, I'll be the first point of contact
 4 for bridges in the metro district.
 5 Q Are you the only bridge engineer assigned to the
 6 metro district?
 7 A I currently am the only one.
 8 Q At other times was there more than one?
 9 A I had an assistant for only a couple of months.
 10 From May of 2007 until the collapse of the 35W
 11 bridge I had an assistant. And then he took
 12 responsibility for our field efforts of the work
 13 with NTSB on the 9340 collapse.
 14 Q Who was that?
 15 A Ed Lutgen, L-U-T-G-E-N.
 16 Q Okay. Since 1998, when you moved into the job
 17 you have now, who have you reported to?
 18 A My first supervisor was John Allen, A-L-L-E-N.
 19 And I don't recall what year, but approximately
 20 five years ago Mr. Allen retired and Gary
 21 Peterson is now my supervisor.
 22 Q And during that same time frame, have you had
 23 employees who report to you?
 24 A I have not, other than Mr. Lutgen.
 25 Q Okay. Physically where do you office?

1 Who do you work with the most at metro?
 2 A That varies, depending on the type of activity.
 3 In the planning area for programming future work
 4 it would be Roger Schultz. In the construction
 5 area, oftentimes it's the chief bridge inspector
 6 or the project supervisor, and there's a variety
 7 of people.
 8 For instance, out of the Mendota
 9 office, oftentimes Barry Nelson is a chief point
 10 of contact. On, like, the Wakota bridge project
 11 or upcoming projects this summer on Hastings.
 12 The Golden Valley office, Tom Villar,
 13 V-I-L-L-A-R, is often the main point of contact,
 14 as he's responsible for bridges on the Crosstown
 15 project. I have some dealings also with Mark
 16 Pribula, P-R-I-B-U-L-A, with bridge hits and
 17 those type of things.
 18 Q So your contact with Mark, is it fair to say that
 19 that would be limited to fracture critical
 20 bridges?
 21 A And bridge hits.
 22 Q Whether it was a fracture critical bridge or not?
 23 A That's correct. Mark seems to get involved for
 24 metro on assessing damage to bridge hits, so both
 25 fracture critical and bridge hits.

Page 13

Page 15

1 Q The communication that you might get from Roger
2 or Mark or one of these project supervisors, is
3 that formalized in any way? Do they make written
4 reports to you, are these phone calls? What's
5 your primary contact with them?
6 A It's hard to say what the primary contact is,
7 probably phone conversations; but certainly there
8 is written communication, especially on the
9 project level. If there's an issue that we're
10 dealing with, oftentimes it will be in writing.
11 But certainly there's many phone calls also
12 during the course of a day.
13 Q It's fair to say that it just depends on the
14 situation you're dealing with, right?
15 A That's correct.
16 Q Now, if Mark Pribula was out on the I-35W bridge
17 in a given year to do his annual inspection, and
18 then he wrote up his annual inspection report, is
19 that report something that ultimately lands on
20 your desk?
21 A Yes, it does.
22 Q Okay. I know from talking to some people -- And
23 we're talking to Mark tomorrow, so he can tell us
24 what he does, but I know he sends his reports to
25 the central bridge office. Where does it go; do

1 BY MS. BERGSTROM:
2 Q So Mark's reports come to you. What's the
3 purpose, Paul, of your review? What are you
4 trying to do with the reports?
5 A When we do review them, it would be to look for
6 any deficiencies that we do think need to either
7 get programmed for work or for immediate action.
8 But for the most part, any critical deficiencies
9 have been handled prior to the written report,
10 and oftentimes these are six months after the
11 inspection. So it takes awhile to get the
12 written work through the process.
13 So there's some items I think even
14 referencing on this note of the Stillwater lift
15 bridge -- I think we made reference in there to
16 the bridge crew already having taken care of some
17 critical deficiencies in section loss and
18 members.
19 Q Do you know -- I see on the second page of this,
20 page 2, it mentions Bridge 9340, the I-35W bridge
21 over the Mississippi River. It says, We concur
22 that long-range plans for this bridge need to be
23 defined. The bridge office has recommended that
24 this bridge be programmed for replacement within
25 10 to 15 years.

Page 14

Page 16

1 you know?
2 A It has varied. In the past, prior and including,
3 I believe, 2002 reports they were hard copies and
4 they would be in my area, and I would do a review
5 of those to some degree. Including in 2001, we
6 wrote a note back to metro summarizing the
7 inspection reports and commenting on the
8 findings.
9 And starting in 2003 and beyond, it has
10 been electronic reports that he would give me on
11 a floppy-type disc or a CD. And they would,
12 again, be available in my office.
13 Q You mentioned that you wrote a note, and I saw
14 you touched your papers. Did you bring that note
15 along?
16 A Yes, I did. Here's a copy of it dated May 4th of
17 2001.
18 Q Can I see that briefly?
19 A (Witness complies.)
20 Q Is this a copy I can keep?
21 A It's a copy in this file, but I could make
22 another one for myself.
23 MS. FORSLAND: I want one too. If we
24 take a break, I'll be happy to run and get the
25 copies for you.

1 Do you know whether you have any other
2 notes or memorandums like this that talk about
3 9340 in response to reviewing the fracture
4 critical bridge inspection reports?
5 A I do not think I have any others in my files.
6 Q Do you know if there have ever been critical
7 deficiencies or were there ever critical
8 deficiencies reported on the I-35W bridge?
9 A The best example would be the large crack that
10 was in one of the approach span girders. I can't
11 recall right now exactly what year it was,
12 approximately 1999 or 2000 perhaps.
13 Q I think I have some documents on that and we'll
14 go through those. Okay. Other than the
15 cracks -- And I think it was in 1998, actually,
16 late 1998. But other than those, do you ever
17 remember any other critical deficiencies?
18 A Associated with the larger crack were several
19 small cracks, I think 33 of them we identified at
20 one point, and those were drilled out by the
21 bridge maintenance crew.
22 Q And you were involved in that project?
23 A That is correct.
24 Q If you look at the fracture critical inspection
25 reports that were done on the I-35W bridge from

Page 17

Page 19

1 year to year to year, there is a lot of
 2 repetition in some of the findings and
 3 recommendations. Did you ever have a
 4 conversation with Mark about that repetition in
 5 the inspection reports?
 6 A Not to my recollection.
 7 Q Do you remember seeing the repetition?
 8 A Yes, and we often do on inspection reports.
 9 Q And what does that repetition mean to you as the
 10 metro bridge engineer?
 11 A I think if we look at the repetition, most often
 12 it's for long-term needs or minor type of
 13 maintenance. And so it means to me that, yes, at
 14 some point if we have a program, let's try to
 15 take care of it. If we're fixing structural
 16 steel and there's some bolts missing, let's
 17 replace them. But it has not risen to the level
 18 that we feel is an item that has to get taken
 19 care of within six months.
 20 Q Who makes that decision?
 21 A That would be a joint decision between the bridge
 22 office and metro. I would be involved typically
 23 in that decision, probably call in one of our
 24 bridge designers and discuss it with my
 25 supervisor, and maybe the state bridge design

1 contractor, I assume, then, that Roger Schultz
 2 gets involved to make sure it gets on the Bridge
 3 Improvement Program?
 4 A Not necessarily. It depends on how soon it has
 5 to get done. There's a possibility of using
 6 emergency maintenance funds, much as we do for a
 7 bridge hit, and that would not be coming out of
 8 the bridge improvement dollars.
 9 Q If it's going to be done on a more emergent basis
 10 and not as part of the BIP, who oversees that
 11 project?
 12 A I'll just speak to a real-life example, the
 13 bridge hit of 494 under Xerxes Avenue. In that
 14 case we drew up a bridge design plan, had a
 15 contract, and the Eden Prairie construction
 16 office handled the construction activities.
 17 Q So the dollars that are associated with that,
 18 those come out of central bridge office?
 19 A They wouldn't come out of our central bridge
 20 office.
 21 Q Okay.
 22 A I'm not sure where the dollars come from for
 23 those type of repairs.
 24 Q Okay. Just a couple minutes ago you mentioned a
 25 fund, not the Bridge Improvement Program, but

Page 18

Page 20

1 engineer, depending on the level of deficiency
 2 that we're talking about.
 3 Q And who from metro would you involve in that
 4 decision?
 5 A Oftentimes it would be Jack Pirkel and Mark
 6 Pribula and possibly Phil Erickson, if it's
 7 something that the bridge maintenance crews would
 8 be handling.
 9 Q So let's assume that there's some minor
 10 maintenance that continues to be shown as needing
 11 to be done year after year, and there's a
 12 decision made, yeah, let's go ahead and do that
 13 minor maintenance this year, okay. Who makes
 14 sure that the minor maintenance duties get on the
 15 maintenance crews' list of projects or list of
 16 things to do?
 17 A That would be metro's responsibility.
 18 Q And what if the recommendation in the inspection
 19 report calls for something that has to be done by
 20 an outside contractor, who makes that decision?
 21 A That, again, would be a joint decision between
 22 metro, Jack Pirkel, Phil Erickson and the bridge
 23 office.
 24 Q And if that work is determined that it needs to
 25 be done and it's going to go to an outside

1 where these dollars might come from. What was
 2 that called?
 3 A I'm not sure of the exact name, but it's
 4 emergency maintenance dollars.
 5 Q And are those dollars that exist at the metro
 6 district level as opposed to central bridge?
 7 A I know it's not at the central bridge; but where
 8 exactly they are, I'm not certain.
 9 Q So if I understand it, and I like using the
 10 concrete example, the 494 Xerxes, central bridge
 11 would have been involved in helping design kind
 12 of the emergency response and then give it to the
 13 construction crews, whose area that is, in order
 14 to implement the response?
 15 A Yes. And the central bridge office response
 16 included my involvement the day of the hit to
 17 assess the damage, assess whether the bridge over
 18 could be opened or remain closed, and then
 19 develop a recommendation and work with our
 20 designer to get the plans prepared in standard
 21 format so that contractors could bid on it, put
 22 together special provisions.
 23 And then, also, our involvement from
 24 the central office was once it was let, during
 25 construction I made a couple of site visits out

Page 21

Page 23

1 to assess the progress and work with the district
 2 on needs, including checking the false work
 3 system they had and so forth.
 4 Q Did you say false work system?
 5 A Correct. False work is the type of support that
 6 had to be used on that particular hit. We were
 7 actually removing beams, and part of the bridge
 8 would have been unstable had we not supported
 9 it. And the contractor had to design it, but we
 10 checked it.
 11 Q Is it a fair description to say that that process
 12 is -- does it measure how the construction work
 13 might add to the stress on the bridge during the
 14 work? Does that make sense?
 15 A Can you try to restate that, please?
 16 Q Sure, sure. Maybe I just need to set some
 17 context here. So there's a contractor who's
 18 going to do work out on the 494 Xerxes bridge,
 19 and they're going to have construction crews and
 20 materials and everything else out there. Who
 21 does the assessment of how their work is going to
 22 in fact add to or not the existing stress on the
 23 bridge?
 24 A Our bridge office and our designer would look at
 25 all of the stresses on the bridge anticipated

1 (Kivisto Exhibit 3 was marked for
 2 identification by the court reporter.)
 3 BY MS. BERGSTROM:
 4 Q Paul, Exhibit Number 3 is an org chart I have of
 5 the bridge office. The first page is incredibly
 6 tiny print; but if you look at the pages back
 7 behind, you'll see the breakdown of the various
 8 areas. And I think about the fourth page back is
 9 the subdivision, if you will, headed by Gary
 10 Peterson, and I see you about the second box in.
 11 Starting over on the very left, James Pierce,
 12 what does that bridge management unit do?
 13 A They're the unit that tracks all of the inventory
 14 and inspection data on all Minnesota bridges,
 15 including trunk highway and local bridges. They
 16 also, then, are responsible for development of
 17 the bridge management system, which is a tool
 18 that will help MnDOT assess the future needs and
 19 the types of activities that are most
 20 cost-effective to undertake at a certain point in
 21 a bridge life.
 22 Q The next three boxes, you're the first. It says,
 23 Metro region construction unit. And then there's
 24 another Paul who's the north region construction
 25 unit, and then a Bruce, who's the south region

Page 22

Page 24

1 from deck removal and if that causes any
 2 difference in stress. In this particular case it
 3 did. As we took off a section of deck, hinge
 4 areas in span one would have been unstable had we
 5 not supported them. And so we looked at it and
 6 made the determination that they needed false
 7 work to support that part of the bridge. And so
 8 it was made during the design phase. We knew
 9 that there would be changes in stresses, and so
 10 we handled that as part of the design.
 11 Q Okay. So that work comes from the central bridge
 12 office, that --
 13 A That's correct.
 14 Q -- design work? And then there's a determination
 15 of whether there needs to be a false work system
 16 to shore things up, for lack of a better word,
 17 right?
 18 A That's correct.
 19 Q And then I think what you said is that you go out
 20 and assess the contractor to make sure that that
 21 whole system is working correctly?
 22 A That is correct.
 23 Q Okay.
 24 MS. BERGSTROM: Let's mark this
 25 exhibit.

1 construction unit. Are you three, do you all
 2 have the same job, just in different areas?
 3 A That is correct. And the north region is now Ed
 4 Lutgen, the individual that was an assistant for
 5 me, but we do have the same job
 6 responsibilities. I have responsibility for
 7 bridges in the metro area; Ed has
 8 responsibilities in the northern four districts,
 9 Districts 1, 2, 3 and 4; and Bruce has
 10 responsibilities in the southern part of the
 11 state, Districts 6, 7 and 8.
 12 Q Do they both office in the Oakdale office?
 13 A Yes, they do.
 14 Q Okay. Then you've got the fabrication methods
 15 unit. What do they do?
 16 A They review shop drawings for various parts of
 17 bridges. Most notably would be the steel framing
 18 and all of the steel beams, diaphragms and so
 19 forth for steel girder bridges, as well as shop
 20 drawings for expansion devices and bearings and
 21 various things like that.
 22 Q The next box is Todd Niemann's inspections unit.
 23 And what does that unit do?
 24 A That unit does fracture critical inspections, and
 25 they do them for various districts in the state,

Page 25

Page 27

1 I believe Districts 1, 2, 3, 4, 7 and 8. They
 2 also are responsible, then, for the local bridges
 3 in various districts, the fracture critical
 4 bridges. They also do the structural steel
 5 inspection in the steel fabrication plans, and
 6 there's three individuals that do that type of
 7 work.
 8 Q So if Mark Pribula is on the bridge, on the I-35W
 9 bridge, and has a question where he needs some
 10 assistance, would it be to somebody in Todd's
 11 group that he would call in his inspections?
 12 A Typically it would be.
 13 Q Okay. And then he's going to contact you if it's
 14 more of a construction or emergent type of issue?
 15 A If they find some type of critical finding, I'm
 16 sure Todd would be notified and I would also
 17 likely be notified.
 18 Q Then Lowell Johnson's unit, what does that unit
 19 do, the bridge rating unit?
 20 A That does load ratings on all of the bridges, the
 21 trunk highway bridges, and assesses overweight
 22 permit routes and grants the clearance for trucks
 23 that want to go from Point A to Point B access to
 24 certain bridges or restricts them from certain
 25 bridges.

1 Q How about a major safety issue that wasn't
 2 emergent, can you think of any of those that
 3 wasn't the result of a hit, a bridge hit?
 4 A Right at this time I can't.
 5 MS. FORSLAND: May I interject? Was
 6 there an issue on the Crosstown construction
 7 project about a temporary routing area that
 8 someone was concerned about -- Would that have
 9 come to you? -- or a temporary overpass or
 10 something? I saw something in the newspapers on
 11 that. Is that anything you know about?
 12 MR. KIVISTO: Yeah, I sure do. I think
 13 you're referring to a temporary steel girder
 14 bridge with a timber deck that we oftentimes use
 15 for temporary bypasses. And the bridge plans
 16 showed a varying amount of bituminous on top, I
 17 think varying from four inches to maybe ten
 18 inches maximum, and the contractor placed much
 19 more than that. They had as much as 16 inches
 20 and had excessive deflection. And as a result,
 21 we closed the bridge -- actually closed the road
 22 underneath for a short while, while we assessed
 23 the situation, took some of that bituminous off
 24 and reconstructed, then, the bituminous to the
 25 correct depth.

Page 26

Page 28

1 Q So when we were talking about the 494 Xerxes
 2 assessment to determine whether there had to be a
 3 false work system, would that have come out of
 4 this Gary Peterson division?
 5 A I would have been involved from Gary's division,
 6 and then we also had a bridge designer from the
 7 bridge design unit.
 8 Q Okay. And going to the second page, is that
 9 somebody from Kevin Western's division?
 10 A That's correct.
 11 Q Okay. Paul, in your tenure since 1998 forward,
 12 have you ever had -- outside of the 494 Xerxes,
 13 because I think that is one circumstance, but
 14 have you ever had a call from anybody in the
 15 metro district on a major safety issue?
 16 A There certainly have been. Another one that
 17 comes to mind is Stillwater. The Stillwater lift
 18 bridge has areas of significant section loss.
 19 And we went out to take a look, and we directed
 20 the inspection team to get more detailed section
 21 loss measurements. So that's one instance.
 22 There's been a host of bridge hits.
 23 There's no lack of bridge hits, up to 20 a year,
 24 so oftentimes I will get called on those type of
 25 actions.

1 BY MS. BERGSTROM:
 2 Q How did you become aware of the situation?
 3 A It was a phone call from the district
 4 construction people.
 5 Q So the people out on the scene were concerned
 6 about it?
 7 A Yes.
 8 Q Okay. I take it that work is being done by an
 9 outside contractor?
 10 A That's correct.
 11 Q And then the local MnDOT construction people are
 12 there to assess and measure how the work is
 13 going?
 14 A That's correct.
 15 Q When did that happen, Paul?
 16 A That was in the fall of 2007. I can't recall the
 17 month.
 18 Q And the bridge that was involved isn't part of
 19 the permanent highway system, it's just there to
 20 reroute traffic while the other work gets done?
 21 A That's correct.
 22 Q Okay. All right. Let's talk about the I-35W
 23 bridge. You've been involved with that bridge
 24 presumably since 1998, right?
 25 A Correct.

Page 29

Page 31

1 MS. BERGSTROM: Let's mark a few of
 2 these.
 3 (Kivisto Exhibits 4 and 5 were marked
 4 for identification by the court
 5 reporter.)
 6 BY MS. BERGSTROM:
 7 Q Paul, I'll have you look at Exhibit Numbers 4 and
 8 5. 4 appears to be a memo from Don Flemming to
 9 Gary Workman with some Cc's, and you are cc'd on
 10 that. That's October 23, 1998.
 11 And then there is a subsequent
 12 November 23, 1998 meeting minutes which look like
 13 you may have drafted. Why don't you just take a
 14 little minute and look through these and tell me
 15 if this was the -- if these deal with the
 16 cracking in the approach span girders that we
 17 were talking about earlier.
 18 A Yes, they do.
 19 Q And it appears from looking at them that in the
 20 October 23rd memo, the last paragraph, there is
 21 going to be a meeting between central bridge and
 22 the metro division on November 5th. And then it
 23 appears from Exhibit 5 that those are the meeting
 24 minutes from the November 5th meeting. Is that
 25 right?

Page 30

Page 32

1 A That is correct.
 2 Q Do you know how the cracks in the nineteen --
 3 they're talking about in these two memos, how
 4 they were discovered?
 5 A That was part of the inspection program. In the
 6 annual inspection they would -- And they do a
 7 great job, and they identified the crack
 8 locations and reported them to us.
 9 Q At this point do you know, October, November of
 10 '98, had the central bridge office already
 11 engaged the University of Minnesota to study the
 12 bridge?
 13 A I think we engaged them at the conclusion of that
 14 meeting. And if you look on Exhibit 5, the
 15 second page, the second full paragraph down, The
 16 fixes for approach span cracks, in italics there
 17 is action for Gary Peterson to develop contract
 18 with the U of M to install strain gauges and
 19 record stresses based on the known truck weights.
 20 Q Who did the actual drilling and fixing of these
 21 cracks?
 22 A The metro bridge maintenance crews.
 23 Q Were you out during that process to assess their
 24 work?
 25 A Yes, I was, for part of it.

1 Q Okay. And for that work was the central bridge
 2 office involved in assessing how that work might
 3 or might not put further stresses on the bridge
 4 during the actual fixing?
 5 A We certainly were involved, yes. The fact of
 6 drilling a hole at the end of a crack puts no
 7 additional stress in the bridge.
 8 Q Do you know what the -- Well, we'll do that in a
 9 minute.
 10 So one of the conclusions of this
 11 meeting was that the U of M was going to be
 12 retained to do a study, right?
 13 A That's correct.
 14 Q Prior to this 1998 meeting had you been aware of
 15 any issues with the I-35W bridge?
 16 A It's long been known that these type of bridges
 17 have tack welds used as part of the construction,
 18 and that would have always been our thought as
 19 being at least potentially a problematic detail.
 20 Q Can you tell me what a tack weld is? Because
 21 I've seen that term time and time again and I
 22 have no idea.
 23 A These bridges are fabricated by many, many
 24 different pieces. And during the construction,
 25 they would use little welds, varying in length

1 from one to two inches, to temporarily attach the
 2 members together into whatever configuration, say
 3 a box configuration, so that they could line up
 4 holes and then connect the bridge with rivets.
 5 Q After the bridge has been connected with rivets,
 6 what's the purpose of those tack welds?
 7 A There is no purpose.
 8 Q Do they become obsolete at that point; they've
 9 done their job and you don't need them there
 10 anymore?
 11 A That's correct.
 12 Q So when you say it's long been known that they
 13 have tack welds, why is it important to pay
 14 attention to the tack welds after the
 15 construction of the bridge?
 16 A The tack welds are what we term in the bridge
 17 business as a fatigue-prone detail. There's
 18 categories of fatigue details on up to the severe
 19 cases are D, E and E prime. And these would be
 20 fatigue-prone details that, depending on their
 21 configuration, could potentially lead to a stress
 22 riser and a crack in the main structural member.
 23 Q So what do you do with these tack welds, do you
 24 inspect them?
 25 A Yes. The tack welds get inspected, along with

Page 33

Page 35

1 all of the other portions of the bridge. The
 2 inspectors are looking for is there any crack in
 3 the tack weld or in the main member surrounding
 4 the tack weld.
 5 Q And that's true even though the purpose of the
 6 tack weld, in its origin, is not to support the
 7 bridge in perpetuity?
 8 A That is correct. And, again, the reason is as a
 9 fatigue-prone detail, it could lead to cracks in
 10 the main structural member.
 11 Q There's been a lot of discussion about the fact
 12 that this type of fracture critical steel truss
 13 non-redundant bridge was obsolete in design as
 14 early as the 1970's and that the federal
 15 standards changed in the mid-seventies. Was
 16 there any special considerations given to this
 17 bridge because it was of an obsolete design; is
 18 there anything special that you did vis-a-vis
 19 this bridge because of that?
 20 A You just made mention of the University of
 21 Minnesota study. That would be one of the things
 22 that we did. I'm sure you're also aware of the
 23 URS study which we undertook, again, to make
 24 assurances that the bridge was safe. And so
 25 those are a couple of instances that, yes, we

1 A I do not recall that.
 2 Q Have you worked with HNTB on any projects?
 3 A Yes, I have.
 4 Q What projects were you involved with them?
 5 A They have designed many bridges for us. The most
 6 notable one, in my mind, is the Wakota westbound
 7 bridge project and now the ongoing eastbound
 8 Wakota construction. I've also worked with them
 9 on the Stillwater lift bridge. Again, numerous
 10 bridges.
 11 Q So HNTB is a contractor -- a consultant that
 12 MnDOT still works with?
 13 A That is correct.
 14 Q Okay. You mentioned URS. Were you involved in
 15 the decision to hire URS as a consultant?
 16 A I know I was on the review team, and I have been
 17 on several panels to select consultants. I don't
 18 recall now if I was on that selection team or
 19 not.
 20 Q Do you know why the decision was made to hire
 21 URS, what -- Let's start that over.
 22 U of M is in and does its study. And
 23 then a couple of years later, there's a decision
 24 made to have another study done, as I understand
 25 it, and a request for interest went out to

Page 34

Page 36

1 absolutely were looking at what we could do and
 2 needed to do to ensure the safety of the bridge.
 3 Q Were you -- I take it from the time line that we
 4 did that you weren't involved with the 1977
 5 overlay project on the bridge?
 6 A That's correct.
 7 Q Do you know who was?
 8 A I do not.
 9 Q How were you involved with the study that was
 10 done by the University of Minnesota?
 11 A Just in some minor review of their report.
 12 Q Do you remember what their recommendations were?
 13 A I do recall that they indicated there should not
 14 be a problem with fatigue on Bridge 9340.
 15 Q Do you remember working with HNTB at the
 16 conclusion of the U of M study?
 17 A No, I did not work with them.
 18 Q Okay. So you've never studied any
 19 recommendations that HNTB made on this bridge?
 20 A Not that I recall. I do recall that they were in
 21 our office for a meeting, but I don't recall
 22 anything in particular.
 23 Q Do you ever remember someone discussing the
 24 retrofit that was suggested by HNTB, or did you
 25 have any involvement in that?

1 contractors. Who was behind the decision to
 2 issue the request for interest?
 3 A That's a bridge office decision. That would come
 4 from the management of the bridge office.
 5 Q Let's back up a little bit.
 6 MS. BERGSTROM: Why don't we mark
 7 this.
 8 (Kivisto Exhibit 6 was marked for
 9 identification by the court reporter.)
 10 BY MS. BERGSTROM:
 11 Q I'm backing up a little bit because I realized,
 12 Paul, I had some documents relating to U of M and
 13 HNTB. Exhibit 6 appears to be an e-mail or a
 14 meeting invitation to attend a meeting with Rich
 15 Johnson, from HNTB, and Bob Dexter, from the U of
 16 M, plus there's some handwriting, Steve Olson.
 17 And you were one of the people who, it looks to
 18 be, is invited to this meeting in November of
 19 2001.
 20 Do you know, does this help jog your
 21 memory of whether you attended that meeting or
 22 not, or what your involvement might have been?
 23 A Yes. Maybe I did attend that meeting. And like
 24 I mentioned before, I recall that there were some
 25 discussions with HNTB, but, frankly, I cannot

Page 37

Page 39

1 recall what the outcomes would have been from
 2 that meeting. I'd have to go back to my notes
 3 and take a look.
 4 Q And would you have notes from this meeting if you
 5 attended?
 6 A I'm not sure. My files have been taken from my
 7 area and photocopied. It's possible. I'm sure
 8 that they would be in there if I took some notes.
 9 Q Do you know what happened -- Well, at some point
 10 MnDOT stopped working with HNTB and the U of M.
 11 Do you know why that is?
 12 A I do not. But maybe I could add something to
 13 that. Looking at the subject of this, Discussion
 14 of possible additional fatigue investigation work
 15 on Bridge 9340. Oftentimes consultants do come
 16 in to give presentations on what they could offer
 17 to MnDOT. And so I'm not sure whether there was
 18 ever a contract with HNTB to undertake any kind
 19 of work.
 20 Q But you just don't know either way?
 21 A Correct.
 22 Q Do you see down at the bottom of this page, these
 23 are handwritten notes, and it says, Stage 2,
 24 develop retrofit details for critical members or
 25 scheme for entire arch or additional arches.

Page 38

1 Were you involved in any discussions about that?
 2 A Some of this is coming back a little bit. And
 3 I'm not sure if it was with HNTB, but at one
 4 point we were talking of utilizing temporary
 5 dewey dag bars, which are post-tensioning bars
 6 going from panel point to panel point, and to tie
 7 over and supplement the box-shaped truss-type
 8 members. And perhaps, and this is only
 9 speculation, that may have been from discussions
 10 with HNTB.
 11 Q Do you know why those conversations ended? I
 12 think you maybe already answered this, but...
 13 A No, I don't.
 14 (Kivisto Exhibit 7 was marked for
 15 identification by the court reporter.)
 16 BY MS. BERGSTROM:
 17 Q I'll have you look at Number 7. This appears to
 18 be an e-mail from Ray Cekalla. Who is Ray,
 19 again?
 20 A Ray was the preliminary bridge design engineer,
 21 and he retired approximately a year ago, maybe
 22 two years ago.
 23 Q Would he have been in Kevin Western's group?
 24 A No. That's in the preliminary design improve,
 25 which would be Nancy Daubenberger's group.

1 Q So that's where Ray would have officed?
 2 A Correct.
 3 Q You are copied on this e-mail, and they're
 4 talking about in November of 2002 a discussion
 5 about the bridge replacement. What do you
 6 remember about the discussions in 2002 about the
 7 bridge replacement?
 8 A Metro has been looking from time to time at what
 9 would it take to replace the 35W bridge, in
 10 conjunction with expansion of maybe an
 11 interchange at Washington Avenue and various
 12 things that would be required. From time to
 13 time, then, there would be discussions on what
 14 needs to happen and what kind of process if we
 15 were to go forward and hire a consultant to study
 16 the bridge replacement.
 17 Q What work out of the central bridge office do you
 18 do internally versus when you make a
 19 determination to hire a consultant?
 20 A Are you talking on preparation of bridge
 21 preliminary plans and bridge design plans?
 22 Q Well, I'm just wondering if you have any
 23 policies, for instance, on when you're going to
 24 do the work internally versus when you're going
 25 to hire a consultant to do the work. And if that

Page 40

1 doesn't make sense globally, maybe you can break
 2 it down by in your area.
 3 A In my area in construction, we really don't hire
 4 any external people. It would be in the bridge
 5 design area and in the bridge preliminary design
 6 area. I know on complex bridges, such as design
 7 of the Wakota bridge, for instance, when we don't
 8 have capability of the numbers of staff that
 9 would be needed to put together a 200-sheet plan,
 10 we would hire it out to consultants. And much
 11 the same would hold true for preliminary design.
 12 If it's a large scoping type of project, and
 13 especially if we were to look at bridge
 14 alternatives, we would typically hire consultants
 15 for that.
 16 Q So this e-mail that's in Exhibit Number 7, I'm
 17 trying to understand, in part, the sentence,
 18 Should the bridge work be part of metro's
 19 contract with bridge involved in the selection or
 20 should the bridge work be a separate contract
 21 with bridge. Do you know what that means?
 22 A Somebody in maybe Nancy's unit would be better
 23 served to explain that. But I do know that metro
 24 has a budget to hire consultants and the bridge
 25 office has a budget to hire consultants. And

Page 41

Page 43

1 when either group hires them, I'm not sure of.
 2 Q In part, this, then, appears to be just saying
 3 who's going to be in charge of hiring a
 4 consultant?
 5 A That's what it appears like to me.
 6 Q And do you remember what the outcome of that
 7 question was?
 8 A I don't recall.
 9 Q Ultimately when URS was hired, they were hired by
 10 the central office, right?
 11 A That's correct.
 12 Q And it was not to consult on bridge replacement,
 13 was it?
 14 A No, it was not.
 15 Q And what was the purpose of the URS hire?
 16 A To look at the fatigue-prone nature of the bridge
 17 and model the entire bridge and make some
 18 assumptions that if we do find a crack in a given
 19 member, what would be the result. And in
 20 conjunction, then, also, it was to develop repair
 21 details and retrofit details that could either be
 22 implemented quickly or programmed and do some
 23 work.
 24 (Kivisto Exhibit 8 was marked for
 25 identification by the court reporter.)

1 consultants that are only able to design standard
 2 girder-type bridges. And so this one would have
 3 gone out only to consultants who were able to
 4 design complex bridges.
 5 Q Now, the request for interest goes out, and
 6 ultimately the consultant contract is awarded to
 7 URS. And as I understand it, URS began its work
 8 in May or June of 2003, and they were still
 9 acting as a consultant to MnDOT at the time of
 10 the bridge collapse on August 1, 2007. Can you
 11 explain to me the various phases of the work they
 12 did over that four-plus years?
 13 A The first phase would have been going out and
 14 doing an inspection of the bridge and taking
 15 photographs. I remember seeing a report of all
 16 kinds of photographs of the bridge, just so that
 17 they could be familiar with some of the various
 18 details of the bridge.
 19 Another very important phase would have
 20 been to do the modeling of the truss and to
 21 identify all of the tension members as well as
 22 any reversal members. And in conjunction with
 23 that, then, one of the results that we wanted to
 24 see, which is if a given member develops a crack
 25 and if it were to fail, would it lead to the

Page 42

Page 44

1 BY MS. BERGSTROM:
 2 Q Paul, if you look at Exhibit Number 8, this
 3 appears to be a December 3, 2002 memo from you
 4 regarding the draft RFI for the consultant
 5 study. Did you draft that RFI?
 6 A Yes, I did.
 7 Q And when you were just discussing the purpose of
 8 hiring URS, that was really the purpose of
 9 issuing the RFI, right? Well, stated another
 10 way, URS ultimately got the consultant contract,
 11 but your purpose in drafting the RFI was to in
 12 fact hire a consultant to look at the very things
 13 that you were just talking about?
 14 A That's correct. And the purpose of the RFI would
 15 be to go to whatever interested consultants
 16 wanted to submit bids on it.
 17 Q Do you know how the list of consultants was
 18 developed on who to send the RFI to?
 19 A Typically the RFIs are sent out to some website
 20 or some method to allow contractors that are
 21 categorized in complex bridges to be able to
 22 bid. And so you'd have to talk to somebody in
 23 consultant agreements to get more details on
 24 that. I do know that there are some consultants
 25 that are able to design complex bridges and other

1 collapse of the entire bridge. And so we wanted
 2 to identify what those members were. And so a
 3 phase of the work was to model the bridge and
 4 come up with various findings like that.
 5 Q As URS did its work, what was your involvement?
 6 A I was part of the team that was reviewing the
 7 report. I would sit in on the meetings, and I
 8 don't recall if we had them quarterly, at least
 9 semiannually, to discuss the project and how it
 10 was coming along and discuss findings and so
 11 forth.
 12 Q As I understand it, URS was out doing that first
 13 phase, the inspection phase, in June of 2003. Do
 14 you remember seeing their inspection report from
 15 that?
 16 A Yeah. I remember seeing the photographs and -- I
 17 don't recall that there was a final report, a
 18 final inspection report.
 19 Q Part of the news media over the past weekend
 20 reported these pictures that were taken by URS in
 21 June of 2003, and the pictures are of the bowing
 22 of the gusset plates on the bridge. Do you
 23 recall seeing those before?
 24 A I do not.
 25 Q Do you recall having any conversations with URS

Page 45

Page 47

1 about the bowing of the gusset plates?
 2 A I do not recall.
 3 Q If URS was going to talk to somebody at MnDOT
 4 about the bowing of the gusset plates or the
 5 condition of the gusset plates, who would have
 6 been their point of contact?
 7 A I'm not sure if they would have come through
 8 someone like Dan Dorgan or Kevin Western or if
 9 they would have gone to the project manager for
 10 the project, who is Scott Pearson.
 11 Q And who is Scott Pearson?
 12 A Scott is a senior engineer in one of the bridge
 13 design units and is now working in the load
 14 rating area.
 15 Q So now he's over with Lowell Johnson, but before
 16 he would have been where?
 17 A He would have been in a bridge design spot. I
 18 was looking for him. He's listed in here under
 19 Lowell's, but he would have been in a bridge
 20 design unit.
 21 Q Somewhere over in what is now Kevin Western?
 22 A Correct.
 23 Q Okay. So he was the project manager for the URS
 24 consultant study?
 25 A Yes.

1 sense that I knew that it was going to be
 2 commented on by MnDOT, but their preliminary
 3 final report. Were you involved in the review of
 4 that report, Paul?
 5 A Yes, I was.
 6 Q And what do you recall about what recommendations
 7 URS was making?
 8 A I recall that they were recommending plating of
 9 about 20 members.
 10 Q And what else?
 11 A No other recollection at this time.
 12 Q Do you recall there was some recommendation about
 13 redecking the bridge to add to the redundancy?
 14 A Yes, I do recall that. That was one of the
 15 things that we did have them look at as well.
 16 Q Okay. And then as I understand it, there was
 17 also a recommendation on doing some
 18 non-destructive testing on the bridge?
 19 A And ongoing with our annual inspection program.
 20 Q Do you recall whether that testing was going to
 21 be different than the testing that was currently
 22 being done in annual inspection?
 23 A I don't recall.
 24 Q As I understand it, after URS issued its report,
 25 there were some internal discussions at MnDOT

Page 46

Page 48

1 Q Okay. Do you know when he moved over to the
 2 bridge rating unit?
 3 A I don't recall. It doesn't seem like it's a
 4 year, but this org chart is April 17th, '07, so I
 5 guess it's been a year.
 6 Q You know, we've been going for about an
 7 hour-and-a-half. Why don't we take a little
 8 break. I meant to tell you that. Anytime you
 9 want to take a break, let me know.
 10 A Okay.
 11 (Break taken.)
 12 (Kivisto Exhibit 2 was marked for
 13 identification by the court reporter.)
 14 BY MS. BERGSTROM:
 15 Q All right. When we took a break, we were talking
 16 about URS and the URS study. And I think you
 17 said you maybe sat in on meetings a couple times
 18 a year. Were you ever out on the bridge with
 19 URS?
 20 A No, I was not.
 21 Q So you didn't have any active day-to-day work
 22 with them?
 23 A No, I didn't.
 24 Q Ultimately in the fall of 2006, URS issued its
 25 final report. And I use final loosely in the

1 about what recommendations it was going to
 2 implement. Is that a fair statement?
 3 A There were certainly discussions on that draft
 4 final report, yes.
 5 Q And who was involved in discussing that report
 6 and making decisions regarding what the next
 7 steps would be?
 8 A It would have been the bridge office management
 9 team of Dan Dorgan, Gary Peterson, Kevin Western,
 10 as well as Scott Pearson, myself, and I believe
 11 Todd Niemann was involved in some of the
 12 discussions.
 13 Q How often did you meet to discuss the URS draft
 14 final report?
 15 A I don't recall how many times it may have been.
 16 It wasn't real often.
 17 Q Did you make any written comments to the report?
 18 A I know I have some handwritten comments on my
 19 copy at my desk.
 20 Q And is that something that when they came and
 21 gathered all your files that you turned over?
 22 A I understood that they copied that, and that may
 23 be the report that's on the website. I'm not
 24 certain about that, but I know that it was copied
 25 in the early days after the collapse.

Page 49	Page 51
<p>1 Q Ultimately what did MnDOT decide to do vis-a-vis 2 the URS recommendations in the draft final 3 report?</p> <p>4 A We had discussions with HN- -- pardon me -- with 5 URS to discuss what the recommendations were and 6 expressed some of our concerns with the plating 7 option that they had proposed, namely, drilling 8 literally hundreds or thousands of holes in the 9 members. We felt that that might actually cause 10 more problems than it was helping.</p> <p>11 We also wanted to discuss the 12 feasibility of plating with member sizes that 13 were incredibly large and how we would physically 14 even be able to do that type of retrofit work. 15 So we did want to even get some comment from 16 local contractors as to how that might best be 17 accomplished.</p> <p>18 Q Did MnDOT go out and get comments from 19 contractors?</p> <p>20 A It was during that time that we decided, then, to 21 defer the plating project for at least six months 22 to a year, while we did a little more in-depth 23 inspection.</p> <p>24 Q Who made the decision to defer the retrofitting 25 or the plating?</p>	<p>1 mind what was URS's final recommendation?</p> <p>2 A It would have been three-fold: One, to plate 3 various members, which had since increased in 4 quantity from 20 to, it was closer to 50; or, a 5 second option, to inspect more closely the 6 members that were the most concern; and then, 7 thirdly, would be a combination of those two.</p> <p>8 Q And did MnDOT then make the decision to proceed 9 with the inspection or to inspect more closely 10 the members of most concern and hold off on 11 making a decision of the plating?</p> <p>12 A That's correct, but we still had the plating in 13 the program for the fall of 2008. So we fully 14 still anticipated to go forward with plating if 15 we would have noted any problems that had come 16 up.</p> <p>17 Q So the decision was made to do the more 18 closely-done inspection, and, depending on the 19 outcome of that, the plating would either stay on 20 the schedule for 2008 or be removed, as I 21 understand it?</p> <p>22 A That is correct.</p> <p>23 Q And who made that decision at MnDOT?</p> <p>24 A Again, it was a bridge office decision.</p> <p>25 Q The same team?</p>
Page 50	Page 52
<p>1 A It was a bridge office decision.</p> <p>2 Q And, again, would it have been that same team of 3 people that you talked about?</p> <p>4 A Yes.</p> <p>5 Q Was anybody from the metro district involved in 6 that decision?</p> <p>7 A I know we had various people from metro. They 8 had assigned a project manager, Jerome Adams. I 9 don't recall that Mr. Adams was involved in the 10 decision to plate or not to plate, as they left 11 that really up to the bridge office expertise. I 12 don't recall now who from the metro maintenance 13 and between Jack Pirkel and Mark Pribula. Those 14 guys were involved to some degree.</p> <p>15 Q What did URS -- How did URS respond to your 16 expressed concerns that the plating option might 17 cause more problems and that there were some just 18 contractual feasibility work-wise problems in 19 putting up that large of plates?</p> <p>20 A I think they could understand the concerns. And 21 as a result, then, also, they made what you know 22 is then the final recommendation of also doing an 23 inspection or a combination inspection and 24 plating operation.</p> <p>25 Q Tell me about that final recommendation. In your</p>	<p>1 A The same team.</p> <p>2 Q Okay. How was the inspection that was 3 recommended by URS going to be different than the 4 inspections that had been done in the past?</p> <p>5 A It would be a little closer hands-on, possibly 6 utilizing a little of non-destructive testing and 7 looking at all of the details that URS had 8 identified did you go that you are study. But I 9 would say that our annual inspection did look at 10 all of these same members. It's not that we 11 passed up various members in the past.</p> <p>12 Q It wasn't a quantity of inspection of members, it 13 was a different type of inspection, right?</p> <p>14 A Well, inspection still is visual and making sure 15 you get up and close to all of the critical 16 details.</p> <p>17 Q What was the non-destructive testing supposed to 18 be?</p> <p>19 A I'm not certain. And Todd Niemann would have a 20 better understanding of that.</p> <p>21 Q Okay. As I understand it, Mark Pribula and some 22 of the central bridge inspectors were out on the 23 bridge in May of 2007. Is that your 24 understanding?</p> <p>25 A Yes, I know they were.</p>

Page 53

Page 55

1 Q And did you know that they were out there at the
 2 time or have you since learned?
 3 A I knew they were out there at the time. I did
 4 not participate.
 5 Q Okay. And do you know what was the purpose of
 6 their inspection in May of 2007?
 7 A It was part of this -- the results of the URS
 8 study, which was to do a close look at the
 9 members, the critical members.
 10 Q Who made the decision to have Mark and the two
 11 central bridge people and whoever else was out
 12 there do that inspection in May of 2007?
 13 A I'm not sure.
 14 Q You weren't involved in that?
 15 A I wasn't.
 16 Q Do you know what the results of that inspection
 17 were?
 18 A I have not seen any report. I know that they
 19 didn't identify any problems to me.
 20 Q If they had identified problems, would you have
 21 been the person that they would have contacted?
 22 A I certainly -- I know I would have been involved,
 23 between Todd and myself. It would have very soon
 24 gone up to Gary and Dan, too, I know that.
 25 Q Then in the summer of 2007, the overlay project

1 locate that and provide it to you if that would
 2 save you some time. Is that okay?
 3 MR. KIVISTO: Sure.
 4 MS. FORSLAND: I've made a note of it
 5 here.
 6 BY MS. BERGSTROM:
 7 Q At the time, Paul, that you wrote the bridge
 8 preservation recommendation, you didn't yet have
 9 the draft final report from URS, right?
 10 A No, I would not have.
 11 Q So what consideration did you give, if any, to
 12 the intersection, if you will, of what URS was
 13 going to be recommending vis-a-vis the bridge and
 14 the overlay project?
 15 A We considered them to be two completely separate
 16 projects.
 17 Q As I understand it, Jerome Adams was involved in
 18 scoping the overlay project, and Jeff Progo
 19 (phonetic) was involved in the design phase of
 20 the overlay project, and then Eric Embacker
 21 (phonetic) was involved in the construction phase
 22 of the project. Did you work with all three of
 23 those?
 24 A Yes, I did, but the first two individuals were on
 25 the roadway plan side. They were not involved in

Page 54

Page 56

1 began on the bridge. You're aware of that?
 2 A Yes, I am.
 3 Q Okay. What was your involvement in the overlay
 4 project?
 5 A Well, I could start back probably three or four
 6 years prior, when we put the project into the
 7 Bridge Improvement Program. I was involved with
 8 metro in scoping the project and what type of
 9 work we thought we would need to do.
 10 And then approximately a year prior to
 11 the start of the project, I wrote the
 12 recommendation, the bridge preservation
 13 recommendation to mill off the overlay, patch the
 14 deck, replace the joints and do other various
 15 work that we did on the bridge.
 16 Q So the recommendation -- there is a written
 17 recommendation that you authored?
 18 A That is correct.
 19 Q And I assume that that recommendation was part of
 20 all the files that were copied and given to the
 21 central office here?
 22 A I'm sure it must be. It's got to be in all kinds
 23 of people's files.
 24 MS. FORSLAND: We'd be happy to work
 25 with Paul. Paul and I could work together to

1 development of the bridge plans. But I did work
 2 with all three individuals through various
 3 stages.
 4 Q And as I understand it, to the extent that a
 5 project like that contains bridge in addition to
 6 roadway, then the project manager for the bridge
 7 portion comes from the central office; is that
 8 right?
 9 A The project manager for the overall project is
 10 not from the bridge central office, it's from the
 11 metro district.
 12 Q Jerome Adams was explaining to me that he
 13 considers himself the project manager for the
 14 roadway portions of the project, and that the
 15 project manager for the bridge portion is
 16 somebody that they consult with from central
 17 office. Is that right?
 18 A I guess we don't title our people as project
 19 manager, but we'll have a designer, or in this
 20 case I think we had a couple of designers because
 21 it was a large project of, oh, ten bridges or
 22 so. And I think one design group did half the
 23 bridges and another design group did the other
 24 half. And I was always involved as kind of a
 25 central point of contact.

Page 57

Page 59

1 Q Okay. Do you know who at central office was
 2 involved in the I-35 bridge part of that project?
 3 A You're talking from the central bridge office?
 4 Q Right.
 5 A As far as this overlay project?
 6 Q That's right.
 7 A I was involved and then we had bridge designers.
 8 And I'm going by memory. I think Arlen Ottman
 9 may have been involved, Steve Ellis I think had a
 10 couple of the bridges. I would have to go back
 11 and look. There may have been somebody else
 12 also. It would show on the bridge design plans.
 13 Q And as I understand this work, it was I-35W work
 14 between 94 and Stinson Boulevard, which included
 15 the bridge, correct?
 16 A Correct.
 17 Q And a whole bunch of other bridges?
 18 A Correct.
 19 Q Did the central office do an analysis of the
 20 impact of the construction work on the 35 bridge
 21 and how that might add to the stress on the
 22 bridge?
 23 A No, we did not, as we were taking off two inches
 24 of overlay and putting it back on; and so we're
 25 not increasing the amount of weight on the

1 deck from beyond the pier, it would cause -- the
 2 whole beam would lose support and the Span 1 beam
 3 coming from the abutment wouldn't be supported.
 4 Q So in layperson's terms, is it fair to say that
 5 in that situation, the nature of the injury of
 6 the bridge that you were fixing led you to
 7 further analyze how the work might be affected?
 8 A Correct. We were taking out a big section of the
 9 beam. We were taking out literally all of the
 10 concrete in Span 2. And so we're vastly changing
 11 the weights on the girders; and, therefore, it
 12 made it unstable. That's on the Xerxes Avenue
 13 bridge.
 14 Q There have been reports and speculations about
 15 the contractors' materials, as positioned on the
 16 bridge, having contributed to the collapse.
 17 You're aware of that?
 18 MR. KIVISTO: Barbara.
 19 MS. FORSLAND: Aware from a public
 20 newspaper article would be awareness of it. And
 21 I believe it has been commented on in public
 22 newspaper articles and in the NTSB's public
 23 release of information. So if you were aware
 24 from discussions in newspapers only, you could
 25 comment on that, or from the NTSB report that all

Page 58

Page 60

1 bridge.
 2 Q Did central office do any analysis of how the
 3 construction materials on the bridge might add to
 4 the stress of the bridge?
 5 A No, we did not.
 6 Q Was there any analysis done to determine the
 7 impact of the overlay improvement on the
 8 structural integrity of the bridge?
 9 A There was no analysis done, but we know that it
 10 would improve the life because it protects
 11 chlorides from getting down to the deck.
 12 Q When we were talking about the Xerxes 494 bridge
 13 and you talked about the false work system that
 14 you set up, what led you to analyze the integrity
 15 of the bridge during that project; what factors
 16 go into that decision?
 17 A There was a hinge in the first span and,
 18 actually, in the last span that wasn't impacted,
 19 but a hinge in the first span where there was a
 20 short beam, that cantilever from the abutment out
 21 to before the first pier. And there were beams
 22 that were overhanging from Pier 2 to Pier 1 that
 23 overhang and supported that short beam coming
 24 from the abutment.
 25 And once we removed the weight of the

1 states should reevaluate the weight of
 2 construction equipment and materials on bridge
 3 projects. You could discuss it from those two
 4 points of awareness. If you had discussed that
 5 within MnDOT or with the NTSB directly, you could
 6 not discuss those conversations.
 7 Does that help at all?
 8 BY MS. BERGSTROM:
 9 Q And right now all I'm asking you is if you're
 10 aware that that is out there in the public as a
 11 theory?
 12 MS. FORSLAND: Perhaps could you
 13 rephrase the question to something like, have you
 14 read the newspaper articles that commented on the
 15 weight of contractor vehicles and equipment on
 16 the bridge. Would that help or not?
 17 BY MS. BERGSTROM:
 18 Q Well, I think, like you said, the NTSB has
 19 publicly stated that they are looking into the
 20 location and weight of construction materials as
 21 possibly being a contributing factor to the
 22 collapse. Are you generally aware of that?
 23 A Yes, I am.
 24 Q Has MnDOT done any of its own analysis of that
 25 issue?

Page 61

Page 63

1 A Are you asking --

2 MS. FORSLAND: An analysis of that

3 issue would be part of the NTSB investigation.

4 MS. BERGSTROM: I'm not asking for what

5 the analysis is. I'm just asking --

6 MS. FORSLAND: NTSB doesn't even allow

7 us to say what we have provided to them or who

8 they interviewed. So if we have discussed a

9 matter with NTSB, we're not allowed to tell you

10 that we've discussed that matter under the terms

11 of the investigation.

12 MS. BERGSTROM: We'll have to take that

13 up, because --

14 MS. FORSLAND: Yeah, we do.

15 MS. BERGSTROM: -- I think that's not

16 an accurate reading of the NTSB regulations.

17 We'll come back to that with your witnesses once

18 we clear that up.

19 MS. FORSLAND: Sure.

20 BY MS. BERGSTROM:

21 Q In any event, no analysis of that issue was done

22 prior to the collapse, correct?

23 A That is correct.

24 Q During the overlay work in the summer, Paul, when

25 that was going on, were you out on the bridge

1 overseeing the contractor's work?

2 A That's correct.

3 Q And would that be like Barry Nelson, you

4 mentioned?

5 A That's correct.

6 Q He was out on the bridge that summer as well?

7 A Yes.

8 Q You mentioned when you were talking about your

9 involvement in the overlay project that it went

10 back three or four years, when you were involved

11 in scoping and also making sure that the project

12 got on the Bridge Improvement Program. Who was

13 involved in having the overlay project or

14 portions of it, I should say, added to the BIP?

15 A It's mostly metro that puts that together, and

16 they call on me for advice and cost estimating

17 and various things like that. But it's metro

18 that suggests projects, and essentially I will

19 concur and add others if I think it's necessary.

20 Q Did you provide cost estimates to metro for the

21 overlay work?

22 A I'm sure I did.

23 Q Paul, you mentioned some training that you did

24 through the central bridge office and various

25 courses that you've attended or taught. Do you

Page 62

Page 64

1 that summer?

2 A Yes, I was.

3 Q For what purpose?

4 A Just general overview. And there were a couple

5 of times that the project people called me out

6 there to look at some of the joints and the deck

7 deterioration.

8 Q And what was the purpose of you looking at the

9 joint and deck deterioration?

10 A Partly it was to assess if we needed to do more

11 removals at the joint or if it was sufficient to

12 stay at the limits as outlined in the plan. And

13 the same with the deck deterioration. There was

14 quite a bit of deterioration, on especially the

15 north end of the bridge, and they just wanted

16 that the bridge office was aware of that deck

17 deterioration. And really a lot also for the

18 future, that if the overlay starts debonding,

19 that we were aware of the condition of the

20 underlying deck.

21 Q Does the contractor call you out there?

22 A No.

23 Q Who does?

24 A The project people.

25 Q So it would be the MnDOT people who are kind of

1 do any training on a national level, go outside

2 of the state for training?

3 A I have. In 2007 I gave a presentation in

4 St. Louis on some of the bridge preservation

5 things that we do in Minnesota. That was more a

6 training session. It was more a workshop. I

7 shouldn't say it was training. It was more a

8 workshop to discuss types of maintenance and

9 preservation activities that various states do.

10 Q Was any part of that workshop specific to

11 fracture critical bridges?

12 A No, it was not.

13 Q Have you ever gotten information from other

14 states specific to fracture critical bridges and

15 best practices?

16 A Do you mean that somebody said something

17 specifically to me or do you mean have I

18 reviewed, like, state documents or federal

19 highway documents?

20 Q Either one, actually. Have you ever had occasion

21 to have somebody send to you from another state

22 information on steel truss bridges in their state

23 or what they're finding, or have you ever had any

24 occasion to go looking for that outside of

25 Minnesota, from other resources?

Page 65

Page 67

1 A I'm quite certain I haven't had anything that
 2 somebody sent directly to me on fracture critical
 3 bridges, but there's certainly all kinds of
 4 information that's available and that just as
 5 part of training I've reviewed about the nature
 6 of fracture critical bridges.
 7 For instance, when the Hoan bridge
 8 collapsed in Wisconsin, there's information that
 9 gets sent all around the country, I would guess,
 10 and it filters through our office. There's a lot
 11 of information, yes, that does come around.
 12 Q And did you ever have any information from the
 13 steel truss bridge that sagged in Ohio?
 14 A Can I ask Barbara something?
 15 (Discussion held off the record.)
 16 MR. KIVISTO: I did after the collapse
 17 of 9340. I don't recall receiving that prior to
 18 the collapse.
 19 BY MS. BERGSTROM:
 20 Q Okay. You don't recall ever discussing that Ohio
 21 bridge collapse at MnDOT prior to the collapse?
 22 A I don't recall.
 23 Q I understand that the Federal Highway
 24 Administration has sponsored some training
 25 sessions since the collapse of the I-35 bridge.

1 prioritize. The list of projects came in less
 2 than the available amount of funding, and so we
 3 didn't prioritize it. That would have been one
 4 of the tasks, had there been more bridges that
 5 were submitted.
 6 Q Let me try to get at this a different way. And I
 7 just don't know if you're involved or not. Let's
 8 say that Dan Dorgan looks at -- is charged with
 9 talking to Dick Arnebeck about how much money
 10 central bridge office needs for a particular
 11 year. Are you involved in the funding at that
 12 level, setting budgets and things like that?
 13 A At that level, no, not at all.
 14 Q But if Dan said, boy, oh, boy, I know we've got
 15 to have these projects done next year, he might
 16 say to you, Paul, what's the cost of that repair
 17 going to involve on this bridge over here?
 18 A I'm still not understanding you correctly. Your
 19 previous question, I thought you were talking
 20 about the budget to run the bridge office, and
 21 that I have no idea of. But of budgets to repair
 22 and replace bridges, I would be involved in
 23 sometimes rough cost estimates, although
 24 typically that would be our estimating unit. But
 25 I would likely get involved in, is this bridge a

Page 66

Page 68

1 Have you been involved in those?
 2 A Which particular one, the fracture critical?
 3 Q Right.
 4 A That class is coming up next week, I believe; and
 5 I was hoping to attend, but I got called to some
 6 other duties. I won't be able to attend.
 7 Q And the one that you're talking about is the one
 8 that's going to take place in the Arden Hills
 9 training center?
 10 A Correct.
 11 Q And as I understand it, there was one in either
 12 St. Louis or Kansas City. Were you involved in
 13 that?
 14 A No.
 15 Q Paul, are you involved at all in funding requests
 16 for budgets within the central office?
 17 A I get involved in various things, such as right
 18 now we're trying to develop bridges that get
 19 moved ahead into the 2009-2010, based on
 20 legislation that was passed. So I get involved
 21 in that process.
 22 Q And is that in the sense of prioritizing bridges
 23 that you're involved or are you helping with cost
 24 estimates, or what is your role?
 25 A In this particular case we didn't have to

1 worthy candidate to get repaired or replaced.
 2 Q Okay. Have you ever had an occasion to go to Dan
 3 Dorgan or any district who's working on their
 4 budgeting and say, you really need to have this
 5 much dollars in your budget for this bridge, or
 6 does that take place at a different level, with
 7 different people?
 8 A I think for the most part it takes place at
 9 different levels. I think where that would come
 10 in would be if we found some type of a critical
 11 deficiency and needed something to happen
 12 quickly. And then -- This is all supposition,
 13 but I think as the metro region bridge engineer,
 14 yes, I would be pushing for funding to take care
 15 of that problem.
 16 Q And maybe this is the way I can ask this and give
 17 a concrete example. And I don't have this here
 18 with me today, but there is a memo that I talked
 19 to Jerome Adams about where he took meeting
 20 minutes from a meeting that you were involved in
 21 and metro was involved in about the various
 22 potential fixes on the bridge. And as I recall
 23 part of the synopsis, there was the cost of doing
 24 the retrofitting that was in his memo. It came
 25 in at about a million-and-a-half dollars. There

Page 69

Page 71

1 was the cost of doing the overlay project that
 2 was being done came in around \$3 million. There
 3 was the cost of doing the potential redecking,
 4 which came in around \$15 million. And then there
 5 was the cost of bridge replacement, which,
 6 depending on which memo you looked at, was
 7 anywhere from 75 million up to over a hundred
 8 million.
 9 So clearly the costs of those various
 10 improvements were being discussed vis-a-vis this
 11 bridge. Do you remember those discussions?
 12 A Yes, I do.
 13 Q Okay. So I guess the way to ask my question,
 14 then, is, if, as a group, you decided it's
 15 replacement or nothing, we have got to replace
 16 this bridge, and you know you have a big price
 17 tag attached to that, are you involved at all in
 18 appropriating the dollars to make sure that that
 19 happens?
 20 A I'm not involved in appropriating them, no.
 21 Q Okay. So you would make your recommendation, and
 22 then Dan Dorgan would work with whoever he's
 23 supposed to work with to make sure that those
 24 dollars are available in the year contemplated?
 25 A What exactly the process is, it's obviously a

1 involved on that level.
 2 Q And, again, that's more of a prioritizing based
 3 on available funds, right, and the project needs
 4 that are out there?
 5 A That's correct.
 6 Q Okay. Paul, have you been involved in the
 7 decision to close down the St. Cloud bridge?
 8 A No, I have not.
 9 Q Do you know who at MnDOT is involved in that
 10 decision?
 11 A I know it's a team of, again, our bridge office
 12 staff of Dan Dorgan, Gary Peterson, Kevin
 13 Western, as well as some designers and the north
 14 region engineer.
 15 Q So the St. Cloud bridge is with your counterpart
 16 in the north region?
 17 A Right.
 18 Q Oh, but that's not Paul anymore?
 19 A Right. That's Ed Lutgen.
 20 Q Since the collapse of the bridge on August 1st,
 21 Paul, have there been policy changes that have
 22 been implemented in the central bridge office
 23 that you're aware of, any changes made?
 24 MR. KIVISTO: Can I discuss what we've
 25 been doing here?

Page 70

Page 72

1 team effort of people that are making sure that
 2 our bridges remain safe. And if, under your
 3 example, that replacement was the only option,
 4 and if we said it had to be replaced now, we
 5 would do everything necessary to get that bridge
 6 replaced.
 7 Q And I think I am just not asking a very good
 8 question, it's not you. If the team makes a
 9 decision that replacement has to be done and it's
 10 going to cost \$100 million, would you have any
 11 role, I guess, and maybe you've answered this, in
 12 making sure that the \$100 million is appropriated
 13 for that project?
 14 A No, I wouldn't have any involvement in allocating
 15 the resources.
 16 Q Okay.
 17 A But I will clarify it by saying that this happens
 18 from time to time because of cost overruns on
 19 projects, or we need to put money in for another
 20 bridge project or roadway project. All of a
 21 sudden metro doesn't have \$10 million and they
 22 say, what can we defer for a year or two years.
 23 And then it may come back to me, in conjunction
 24 with Roger Schultz and others in metro, to say
 25 what projects can we defer. And so I would get

1 MS. FORSLAND: Yes.
 2 MR. KIVISTO: I know we've been working
 3 on various things in our special provisions,
 4 which are our specifications. We have been
 5 looking at clarifying the requirement that the
 6 contractor has to provide analysis of their loads
 7 on bridges. We've updated some of the chapters
 8 in the -- or a chapter in the bridge construction
 9 manual dealing with some of the loads on
 10 bridges. I know there's some draft work, but I'm
 11 not sure if it's finalized, on some of the
 12 inspection frequencies of fracture critical
 13 bridges. I'm not intimately involved with that,
 14 but I know there's some work going on in that.
 15 BY MS. BERGSTROM:
 16 Q Are you aware of the MnDOT technical memorandum
 17 that discusses the finding of a critical
 18 deficiency on a bridge inspection or during a
 19 bridge inspection and then the resulting kind of
 20 obligations for various people at MnDOT in
 21 response to that?
 22 A Yes, I'm aware of that.
 23 Q You've read that memorandum before?
 24 A Yes.
 25 Q Does the central office keep a critical

Page 73

1 deficiency log?

2 A I believe they do, and it would be in the bridge
3 management unit.

4 Q And, again, looking at the org chart, that would
5 fall under whose responsibility?

6 A Under Gary Peterson would be James Pierce. It's
7 possible it might also -- I don't know if it's
8 duplicated, or maybe it would reside under Todd
9 Niemann also.

10 MS. BERGSTROM: I think that's all I
11 have.

12 (Interview concluded at 10:23 a.m.)
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Page 74

1 STATE OF MINNESOTA)
2
3

4 COUNTY OF HENNEPIN)
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6
7

8 REPORTER'S CERTIFICATE
9

10 I, Julie A. Rixe, do hereby certify
11 that the above and foregoing transcript, consisting of
12 the preceding 73 pages, is a correct transcript of
13 my stenographic notes and is a full, true and complete
14 transcript of the proceedings to the best of my
15 ability.

16 Dated March 27, 2008.
17
18
19

20 JULIE A. RIXE
21 Court Reporter
22
23
24
25

Neal, Claudia

From: Paul Kivisto [Paul.Kivisto@dot.state.mn.us]
Sent: Thursday, May 08, 2008 3:53 PM
To: Neal, Claudia; Bergstrom, Katie J.
Subject: Fwd: Re: Paul Kivisto Interview Transcript - Please Review/Respond by May 2

Ms. Bergstrom and Ms. Neal,
I am forwarding you my comments from review of my transcript in case this had not been forwarded to you in Ms. Clarizio's absence.
Paul

Paul Kivisto
Metro Region Bridge Engineer
Office of Bridges and Structures
MS 610
3485 Hadley Ave. North
Oakdale, MN 55128
(651) 366-4563 Phone
(651) 470-9862 Cell Phone

>>> Paul Kivisto 5/5/2008 9:27 AM >>>

Michele,

I'm sorry I couldn't get my review completed last week, but I had a chance to review the transcript today. There are only a few minor corrections and clarifications that should be made as listed below:

Page 7, line 3 - change bride to bridge ... I was working in a BRIDGE design unit...

Page 15, line 10 - Clarification: suggest changing some words of my answer ... oftentimes these are six months ... should be changed to ... oftentimes the reports are not finished until six months ... This will make it clear that it is the reports that are not ready for six months, not that the critical deficiency is not addressed for six months.

Page 24, line 8 - Change directs to districts ... northern four districts ...

Page 37, lines 17 thru 21 - Clarification: At the time of the interview I had not recalled that HNTB had come into our office to seek work. After more thought I realized that HNTB had indeed come into the office to propose a study, but that proposal was never undertaken directly with HNTB. HNTB was invited to submit a proposal for the fatigue study eventually awarded to URS. My answers in lines 17 through 21 show I didn't recall what had transpired which is fine, but the facts are that there never was a contract with HNTB to undertake this work.

Page 55, line 10 - Clarification: I looked at the dates we received the draft URS report and the date that I finalized my recommendation, and indeed I did have the draft report information available. But as the succeeding questions show, the repair recommendations and the plating were two separate projects so whether or not I had the draft report did not influence the final makeup of the recommendations for the overlay and joint work.

Paul

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>>> Lisa Freese 4/30/2008 3:26 PM >>>
Good Afternoon Paul,

Here is the transcript from your interview with Gray Plant Mooty (GPM). They have sent some of these transcripts out more than once, so this may be the second time you may be receiving this. I would like to make sure that you review this transcript for accuracy. Also if you feel that something you said, even though accurate in the transcript, needs to be further clarified I want to make sure you have the opportunity to respond. I know that GPM is trying to complete their investigation within the next week so I would ask you to complete your review and respond back to Michele Clarizio by the end of this week-May 2nd. If you have clarification or corrections please provide them in writing to Michele. Even if you have no clarifications or corrections please let Michele know.

Thanks!

Lisa Freese, AICP
Deputy Commissioner
Minnesota Dept. of Transportation
MS 110
395 John Ireland Blvd
St Paul MN 55155-1899

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>>> "Katherine Elling" <katherine@janetshaddix.com> 4/29/2008 3:34 PM
>>> >>>

Thanks Again, Katie EllingOffice Manager

From: Katherine Elling [mailto:katherine@janetshaddix.com]
Sent: Wednesday, April 09, 2008 10:59 AM
To: 'lisa.freese@state.mn.us'
Subject: PDF 35W interviews

Here are the PDF formats of PirkI, Kivisto and Ottman. Thank You, Katherine EllingOffice Manager Shaddix & Associates9100 West Bloomington FreewaySuite 122Bloomington, MN 55431952-888-7687 This e-mail and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to whom they are addressed. If you are not the intended recipient or the individual responsible for delivering the e-mail to the intended recipient, please be advised that you have received this e-mail in error and that any use, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited.

No virus found in this outgoing message.

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Version: 7.5.519 / Virus Database: 269.22.10/1367 - Release Date: 4/9/2008 7:10 AM

Internal Virus Database is out-of-date.

Checked by AVG.

Version: 7.5.519 / Virus Database: 269.23.0 - Release Date: 4/15/2008 12:00 AM

1 INTERVIEW OF JAMES LILLY - March 28, 2008

2
3
4 In the Matter of Conducting an Independent
Investigation into the Collapse of the I-35W Bridge

5
6
7 Department of Transportation
395 John Ireland Boulevard
8 Room G-13
9 St. Paul, Minnesota

10
11 Met, pursuant to Notice, at 1:00 in the
12 afternoon on March 28, 2008.

13
14
15
16 INTERVIEWERS:

17 Kathryn Bergstrom, Attorney at Law with
18 Gray Plant Mooty Law Firm.

19 ALSO PRESENT:

20 Barbara E. Forsland, MnDOT Data
21 Practices Compliance & Policy Analyst.

22 COURT REPORTER:

23 Julie A. Rixe
24
25

1 (Lilly Exhibits 1 and 2 were
2 marked for identification by the
3 court reporter.)

4 EXAMINATION

5 BY MS. BERGSTROM:

6 Q Let's go on the record. And may I call you Jim?

7 A You may.

8 Q Jim, as I just said a minute ago, my name is
9 Katie Bergstrom. I'm with the Gray Plant Mooty
10 law firm.

11 MS. BERGSTROM: Let's go around the
12 table and state our appearances.

13 MS. FORSLAND: My name is Barbara
14 Forsland. I'm the Data Practices attorney for
15 the agency.

16 MR. LILLY: And I'm Jim Lilly. I'm the
17 manager of the standards, research and
18 information section at the bridge office.

19 BY MS. BERGSTROM:

20 Q Okay. Jim, we have a court reporter here today.
21 She is taking down everything we say verbatim. I
22 don't know if you've worked with a court reporter
23 before, but in order for her to do that, it's
24 important that you and I not talk at the same
25 time because she can only take down one voice.

1 INDEX

1 LILLY EXHIBITS:	PAGE
2 1 - Witness Protocol for Interviews	3
3 2 - Organization Chart	3
4 3 - Age Profile by Area of Structures	
5 Trunk Highways Only Structures 10 Feet	50
6 and Over as of 2003	50
7 4 - J. Lilly resume	50

1 So if you let me answer -- or finish my question
2 before you answer and I'll let you finish your
3 answer before I ask my next question, that will
4 help her out a lot.

5 A Certainly.

6 Q And we need audible answers, yeses and nos, no
7 head nods.

8 I'm going to show you Exhibit 1. We've
9 started every interview by reading this protocol
10 statement for interviewees. And I'm just going
11 to read through this quickly. The authority here
12 today, we are with the Gray Plant Mooty law
13 firm. Gray Plant Mooty has been retained by the
14 Minnesota Legislature to conduct an independent
15 investigation into the collapse of the I-35W
16 bridge. The Minnesota Legislature has asked us
17 to provide a report of our investigation by
18 May 1, 2008. We will be asking you questions
19 concerning the bridge collapse and related
20 policies, practices and legislative oversight
21 issues.

22 Two, the purpose of this interview is
23 to determine what you might know about the
24 matters we are investigating.

25 Three, confidentiality. During the

Page 5

1 time our investigation is active, the information
2 that interviewees provides to us is not public
3 information. The information you provide may no
4 longer be confidential once we submit a report to
5 the Legislature.

6 The process. You are required to
7 answer our questions truthfully. A court
8 reporter is present to record our conversation.
9 Either during this interview or later in our
10 investigation, we may determine that we need to
11 verify certain information. If that occurs, we
12 may ask you for a further recorded statement, a
13 signed affirmation or an oath statement.

14 Five, post-interview contact. We view
15 this process as an ongoing dialogue. If you
16 think of anything after this interview that you
17 want to tell us about, please call or e-mail us.
18 Likewise, we hope that you will respond to us if
19 we call or e-mail you with follow-up questions or
20 clarifications.

21 Is that clear?

22 A That is clear.

23 Q Okay. Thank you.

24 MS. FORSLAND: Katie, I haven't had a
25 chance to talk to Jim before this interview; and

Page 6

1 I just wanted him to know that if he needed a
2 break at any time, he could ask you for a break
3 and, most likely, we'd break for a brief time.
4 If he needs to talk to me about anything, he
5 could ask for a break to do that as well.

6 MR. LILLY: Thank you very much.

7 MS. FORSLAND: Thank you, Katie.

8 BY MS. BERGSTROM:

9 Q All right. Jim, can you give me your title
10 again?

11 A It's somewhat of a new title. I am the bridge
12 standards, research and information manager.

13 Q Are you an engineer?

14 A I am.

15 Q And what kind of an engineer are you, Jim?

16 A I'm a registered civil engineer.

17 Q How long have you worked for MnDOT?

18 A It was twenty years last January the 20th.

19 Q How long have you been in the position that
20 you're in?

21 A Less than a year. Almost a year, but less than a
22 year.

23 Q And prior to that position, what positions did
24 you have at MnDOT?

25 A Immediately previously I was still in the bridge

Page 7

1 office. I was special bridge projects manager.
2 That started -- I was in that position in 2003,
3 went through to 2007.

4 Prior to that I was state facilities
5 and equipment engineer in the office of
6 maintenance. That was a one-year stint.

7 Prior to that I was the assistant
8 maintenance engineer in the office of
9 maintenance, and that was from 1998 to 2002.

10 Prior to that I was materials engineer,
11 materials and research laboratory from 1991 to
12 1997.

13 And prior to that I was a structural
14 metals engineer, again, in the office of bridges
15 and structures, that's what it was called at that
16 time, 1988 to 1991.

17 Q So of those various jobs that you just went
18 through, which ones of those are with the central
19 bridge office?

20 A The first one and the last one.

21 Q So the structural engineer?

22 A Structural metals.

23 Q Sorry.

24 A That's steel fabrication inspection.

25 Q And then your current position?

Page 8

1 A Excuse me. And the last two positions, current
2 two positions, from 2003 onward.

3 Q From 2003 -- Well, let's do this: Let's start
4 with Exhibit Number 2. This is an org chart from
5 the bridge office. I'll tell you right now, the
6 front page is really hard to read because it's
7 really tiny, but the pages behind it are
8 breakdowns of the various --

9 A Sections.

10 Q -- sections. So when you started in 2003, where
11 would you have fallen on this org chart, if at
12 all?

13 A I would have been in what is now bridge
14 construction and maintenance section. Actually,
15 it was still the same at that time.

16 Q Was Gary Peterson the head of it then?

17 A No, he was not. John Allen was the head of it at
18 that time.

19 Q And am I right that John Allen has since retired?

20 A That's correct.

21 Q So from 2003 to 2007 you reported to John Allen?

22 A No. From 1998 to 2002 -- or nineteen -- I can
23 check my records. From 1998 to 1991 I reported
24 to John Allen.

25 Q Okay. And then in 2003, when you joined the

Page 9

Page 11

1 central bridge office again, where would you have
 2 fallen on this org chart?
 3 A I would have reported to Dan Dorgan. It would
 4 not have been on the org chart.
 5 Q The special bridge project manager --
 6 A Reported directly to the office director.
 7 Q The way the bridge office is organized right now,
 8 is that position no longer there?
 9 A I have taken it with -- I have those duties with
 10 me in my current position.
 11 Q And in your current position, which is on the
 12 back page, I take it you still report to Dan
 13 Dorgan?
 14 A That's correct.
 15 Q And then it shows that you have various people
 16 who report to you?
 17 A That's correct.
 18 Q But that some of those positions are vacant right
 19 now, right?
 20 A Actually, they're all filled.
 21 Q Okay. Jim, as the head of standards, research
 22 and information resources section, what are your
 23 job duties?
 24 A I have written them down here. Here we go, job
 25 duties. In terms of standards and research,

1 Also, I do the office budget, primarily
 2 responsible for the office budget. I work
 3 together with Dan Dorgan, the bridge engineer, to
 4 develop it annually. I respond to division and
 5 department budget inquiries. I incorporate
 6 staffing plans with budget needs and
 7 availability.

8 I was originally brought into the
 9 office to do historic bridge management, which
 10 was a major part of my effort at the time. It's
 11 now much smaller. Put together a bridge
 12 management program for the state. That program
 13 is complete, but there's still ongoing work I'm
 14 involved in.

15 And miscellaneous assignments. I do
 16 any assigned needs. Developed an overhead sign
 17 inspection manual. We're still working on that.
 18 We're just finishing that up. I'm working off
 19 and on to develop a quality assurance program for
 20 bridge plans, coordinate the implementation of
 21 electronic data management system. So those are
 22 miscellaneous.

23 Overall my job duties are to coordinate
 24 the standards, research and information section
 25 with the other sections in the bridge office.

Page 10

Page 12

1 which is a unit, I assure the resources are --
 2 resources are available and the employees are
 3 accountable to accomplish their work, general
 4 management. I attend those standards meetings.
 5 I track research activities. I initiate research
 6 projects. I serve on research advisory panels
 7 for different research projects.
 8 The information or IT section, IT unit,
 9 excuse me, for that, again, I assure resources
 10 are available, and employees are held accountable
 11 to accomplish their work. I monitor computer
 12 hardware, software and system needs. So those
 13 are the two main duties. I also have, bringing
 14 from my previous special -- assignment in special
 15 assignment manager, I have preventive bridge
 16 maintenance, involved in implementing the
 17 statewide preventive bridge maintenance program,
 18 tracking investments, accomplishments and system
 19 improvement.
 20 To determine program needs and advocate
 21 for needed financial computer systems, personnel
 22 materials and equipment resources. I facilitate
 23 and implement identification and adoption of best
 24 practices and maintenance practices -- excuse me,
 25 best preventive maintenance practices.

1 Q That's a lot of things.
 2 Okay. Are you, Jim, a certified bridge
 3 inspector?
 4 A I am not.
 5 Q When you were talking about standards and
 6 research, you mentioned that you participate in
 7 some research advisory panels?
 8 A Right.
 9 Q Okay. Where do you get -- Where do the topics
 10 for those research advisory panels come from?
 11 A Different people in the office. Typically what
 12 happens, some of them I generate. If you
 13 generate an idea, you're usually almost always on
 14 that panel. Others other people in the office
 15 generate. They go through an approval process.
 16 Then once the research is set up -- research is
 17 identified and then a researcher is selected,
 18 they get together an advisory panel that work to
 19 monitor the research projects and to give
 20 technical feedback and check out the work they're
 21 doing.
 22 Q And when you say they come from the office, are
 23 you talking just central bridge office or is it
 24 broader than that?
 25 A The ideas may percolate off different places, but

Page 13

Page 15

1 they're always cleared through the central
2 office. So central bridge office then will make
3 a proposal to the university. And I still have
4 one project that is carrying over from six years
5 ago, from when I was in the maintenance office,
6 which was the pavement preservation, which is
7 finishing up. So I still sit on that advisory
8 panel, even though that's outside of my job
9 duties.

10 Q Do you keep a running list in the bridge office
11 of what your research projects are?

12 A I won't get the name right, but basically the
13 office of research also has a library in it. I
14 don't know the exact title. Sue Lowdall
15 (phonetic) is the office director. They keep a
16 list of all the formal projects we do with the
17 university or outside consultants.

18 There are also internal projects right
19 now. Right now we have one project going on in
20 the materials lab in the district which is not
21 officially tracked. It's an unofficial project.
22 We're just trying to get the project together.
23 It's more of an implementation project.

24 Q As I understand the organization of MnDOT right
25 now, central bridge reports up through the

1 work to coordinate changes in order to facilitate
2 the collection of data and making of reports for
3 the preventive bridge maintenance.

4 Q You mentioned the bridge maintenance -- Was it
5 called program or --

6 A Preventive bridge maintenance program.

7 Q And is that the program that you said is almost
8 done, but not quite done?

9 A No. I can't remember what I said was almost done
10 at this point. The preventive bridge maintenance
11 program, it's been put into the place in the last
12 two years and we're just getting up and running.
13 It's still in, I would say, it's -- It's not
14 infancy, but it's in its childhood.

15 Q It's a toddler?

16 A Yeah, toddler stage. We're not birthing babies
17 or changing diapers, but we are dealing with a
18 very immature system.

19 Q When did you begin that project -- that program?

20 A In 2005 the department put together what was
21 called a highway systems operations plan, HSOP,
22 called affectionately HSOP, and in that they
23 identified highway maintenance needs and bridge
24 maintenance needs. The bridge maintenance needs
25 specifically were dealing with preventive bridge

Page 14

Page 16

1 engineering services division?

2 A That's correct.

3 Q Do you have a research counterpart in the other
4 MnDOT divisions?

5 A Not necessarily divisions, but many of the other
6 office -- Like in my duties as state maintenance
7 engineer, I was responsible for the maintenance
8 research. Of course the materials lab has their
9 own research. They have a pavements research
10 section, then they have a concrete office, and a
11 bituminous office. And they have grating and
12 base, so they have their own research office out
13 there -- or section out there.

14 Q When you talked about IT and information systems,
15 is that for the central bridge office or --

16 A For the bridge office.

17 Q So it's limited to the bridge office?

18 A Limited to the bridge. Well, let me back up just
19 a little bit. As part of the pavement -- the
20 preventive bridge maintenance, we also work with
21 what's called WMS, which is Mike Sierra, which is
22 part of the BPMS, which handles, basically, work
23 for the office, it's a work management system.

24 The BPMS is a planning system.

25 So I'm not responsible for that, but I

1 maintenance. So once that was approved in 2005,
2 then I began to get involved with the process to
3 basically bring it about, to get it off the
4 ground and running.

5 Q And even in understanding that it's in its
6 toddler stage, what is the intent of the
7 preventive bridge maintenance program?

8 A I have -- I don't know if you're interested.

9 This is our program on bridges by square foot.
10 And it's broken into ten-year segments on which
11 these bridges were created or made, built. And
12 the big bulge you see to the right side is the
13 interstate error. And you'll see two arrows to
14 the left that say replace. Until recently our
15 whole bridge replacement program was based on
16 that top arrow to the left, and we were replacing
17 bridges that were built in that era.

18 In this current step transportation
19 plan, we are now looking at this group of bridges
20 quite a bit larger than we had been previously.
21 And then looking out once we get beyond this
22 20-year plan, you see this big bulge of bridges
23 that if we continue with the average life the way
24 they have been, we'll have to replace. And,
25 quite frankly, we've been struggling to find

Page 17

Page 19

1 enough resources to deal with the small number of
2 bridges that we have to replace. The plan out
3 ahead is just -- it's not doable by any regular
4 stretch of the imagination.

5 Q Staggering, even?

6 A Yes. It's awesome. And I would say pavements
7 are not unlike this.

8 So in order to address this, we have
9 begun talking about preventive maintenance. The
10 typical bridge in the outstate area lasts about
11 70 to 75 years. In metro it's 50 years. So we
12 need to extend the average life of these
13 structures substantially. Preventive maintenance
14 is a key component in doing that.

15 So in recognition of that, this
16 preventive bridge maintenance program was kicked
17 off. Pavements have something of a program of
18 their own, looking at -- I used to be involved in
19 that years ago, but haven't been involved with it
20 for a while.

21 Q And is the preventive bridge maintenance program
22 captured in a document?

23 A Yes, it is, it's called the HSOP plan.

24 Q It's within the HSOP --

25 A Yes.

Page 18

1 Q -- plan?

2 MS. BERGSTROM: I don't know, Barbara,
3 that I need the whole HSOP plan, but it would be
4 good to get the preventative bridge maintenance
5 program pieces of that.

6 MS. FORSLAND: Okay.

7 BY MS. BERGSTROM:

8 Q Is the program, Jim, bridge specific or is it a
9 best practices?

10 A Can you clarify a little bit?

11 Q Well, I guess the program within HSOP, what does
12 it outline that you should be doing? I'm trying
13 to understand how general it is or how specific.

14 A Okay. I'll start off with the general plan and
15 we'll get into best practices, because that's
16 where we're going, although it wasn't the
17 original intent of the report.

18 The original intent of the report was
19 simply to address and to make sure that adequate
20 funding was available, is available, to complete
21 the preventive maintenance activities. In part
22 of the study, in part of the report they did a
23 cost-benefit or benefit-cost ratio for different
24 preventive maintenance of bridge treatments, and
25 they were anywhere from two to one to eight to

1 one. In other words, if I were to spend \$1 doing
2 a particular treatment, preventive maintenance, I
3 could save in the future anywhere between 2 and
4 \$8. So that generated and started the plan off.

5 We received funding in 2006 for the
6 fiscal year 2006 and 2007 and we began tracking
7 both the expenditures and the work
8 accomplishment. As we've done that, this year
9 for the first time, although, again, the
10 opportunity presents itself to identify best
11 practices. The initial way of doing that is
12 looking at unit cost, and we've just begun
13 identifying unit cost.

14 And when I say we're in the toddler
15 stages of quality, our data is very poor at this
16 time. It's difficult to collect, which is why
17 we're modifying the computer system to try and
18 make it easier to collect the data. The reports
19 have not been very good. They've been
20 hand-generated reports.

21 So we have data quality which was
22 certainly anticipated. We understand that when
23 we start off with something new, collecting the
24 data is a little difficult in the quality; but
25 knowing from previous experience, it improves

Page 20

1 with time and attention.

2 So as we started into this, the first
3 year you're taking a look at unit cost, and you
4 pretty well start identifying -- or start asking
5 questions about why are the costs so different
6 between one area and another. And we had
7 definition problems, of what people defined their
8 work as, and with quality of the data. But once
9 you get that sorted out, shaken out, then you can
10 start looking at best practices. So the intent
11 is to move to identifying best practices in
12 preventive bridge maintenance.

13 Q So let me see if I have the concepts right.

14 A Okay.

15 Q It starts with a cost-benefit analysis of doing a
16 certain kind of preventive maintenance?

17 A Yes.

18 Q And the benefit is both in dollars saved long
19 term and, presumably, in extending the life of
20 the bridge?

21 A And there's a correlation between those two.

22 Q Right.

23 A As you put off spending dollars today, you spend
24 less dollars per annum; and, therefore, you
25 extend the life of the bridge.

Page 21

Page 23

1 Q So in its infancy, this program is based somewhat
 2 on modeling, I would imagine?
 3 A Yes.
 4 Q And then what you're saying now is the actual
 5 data is coming in?
 6 A Yes.
 7 Q And so once you get the data perfected and the
 8 system in the right way, what should emerge is
 9 some best practices?
 10 A Yes. You'll be able to identify best practices.
 11 You have to make the decision then to work at
 12 that, but you'll have the tools by which you can
 13 do that. Right now it's not possible.
 14 Q In putting together this program, Jim, a little
 15 bit at the modeling stage, if you will, where do
 16 you go to get that information?
 17 A Well, they did some -- Gary Peterson, who's the
 18 bridge construction and maintenance engineer,
 19 kind of headed up that effort and started off by
 20 both looking nationally, I think questionnaires,
 21 and talking to other maintenance engineers around
 22 the state, bridge maintenance engineers, but
 23 primarily through a survey of the bridge
 24 supervisors we identified possible preventive
 25 maintenance treatments. And they were evaluated

1 A It itself has nothing to do with inspection.
 2 There's an audit function involved in my job.
 3 Initially I was assigned to this as an audit
 4 function and to make sure that the districts were
 5 spending the money as they were supposed to spend
 6 their money and, then along with that, to see
 7 what benefit we were getting from it. So that
 8 was the primary purpose, but there was no actual
 9 bridge inspection associated with this.
 10 Q From this program are preventative maintenance
 11 projects, actual projects developed or does that
 12 take place someplace else?
 13 A Well, the way we approach this is we identify
 14 candidate bridges for the districts. Either the
 15 district bridge engineer, maintenance engineer
 16 and/or bridge supervisor then sit down and they
 17 know how much money they have. They have
 18 candidate bridges for different types of
 19 treatments identified. They make the
 20 determination of where they're going to spend the
 21 money and put their effort into, and then that's
 22 the program that they go with.
 23 My function at that point is to measure
 24 what they did and how much they spent and then
 25 what we call outcomes, and that's where the

Page 22

Page 24

1 in kind of a -- I've forgotten the term.
 2 Basically it's where you sit down and discuss and
 3 decide what the best -- most -- the best
 4 treatments would be, and then you take some
 5 guesstimates on what they think, how long these
 6 treatments are going to last and how much money
 7 they're going to save. It becomes a guesstimate
 8 as far as coming up. And you take a consensus as
 9 to what you think are the best practices and what
 10 are the cost-benefit ratios, and that's how you
 11 determine the program.
 12 Q It doesn't sound like -- Correct me if I'm wrong,
 13 it doesn't sound like the program has an
 14 inspection component?
 15 A Well, no. Why don't you clarify that for me.
 16 Q Well, other than the fact that data can be
 17 gathered through inspections, the program, at its
 18 infancy, if you will, is designed to study the
 19 cost and benefits of doing preventative
 20 maintenance, it's not how you should be doing
 21 inspections or --
 22 A Yes. It has nothing -- Well, let's see. It uses
 23 bridge inspection data in order to generate a
 24 list of candidate bridges.
 25 Q Sure.

1 inspection data comes in. For some of these
 2 treatments there's a direct correlation between a
 3 bridge inspection, smart flag or item, that is
 4 correlated.
 5 For instance, if you have deck
 6 cracking, there are certain numbers that are
 7 assigned to deck cracking. If you have a cracked
 8 bridge deck, you have a certain number.
 9 Depending on the amount of cracking on the deck,
 10 the numbers change.
 11 So if you go out there and fill all the
 12 cracks and your inspection rating improves,
 13 that's an outcome. And so one of the things
 14 we're measuring with the three -- of the
 15 activities that we have that are correlated that
 16 way, we measure outcomes, and we started that
 17 this year.
 18 Q So you'd also track the cost of filling in those
 19 cracks?
 20 A The cost, how much work was done, and then how
 21 did it impact the system, how many bridge decks
 22 or how many linear feet had their inspection
 23 ratings improved.
 24 Q Is there a separate inspection or a separate way
 25 that the program deals with fracture critical

Page 25

Page 27

1 bridges?

2 A There is not.

3 Q Okay. I've talked with and have learned about
4 Roger Schultz's Bridge Improvement Program.

5 A Okay.

6 Q How would the Bridge Improvement Program
7 intersect, if at all, with this program?

8 A Roger works for the metro division, and he then
9 is involved in putting together their plan. I
10 work primarily with Phil Erickson, who's the
11 bridge superintendent for metro. He, in turn,
12 works with Mark Pribula, who is one of the bridge
13 inspection engineers. And he works with Roger
14 and Jack Pirkel, who is the overall bridge
15 engineer for metro. They develop their program.

16 It would fit together, then, with
17 Roger's program. I'm not directly involved in
18 it, except if I talk to Roger about what he's
19 doing or gives me input. But normally he works
20 within his people and his staff, and then it
21 comes up through Phil Erickson, gives me their
22 final -- I don't actually look at their program.
23 I just look at their outcomes, the results of
24 their program.

25 Q Do they use the program in order to inform which

1 Q So primarily you see the intersection of the two
2 as being -- Well, clearly it's where you get the
3 outcome information from.

4 A Well, I get the outcome information from the data
5 they capture on their reports manually up to this
6 point, but now with WMS.

7 Q Does the program, then, contain a list of bridge
8 maintenance -- preventative bridge maintenance
9 that's scheduled to be done? I mean, do you
10 track it at the front end, in the planning stage
11 too?

12 A I don't track it at the front end. They have to
13 put together their plan. I report it at the back
14 end. Again, my initial charge in this was to act
15 as an audit function, to see that it was being
16 done, not to give them direction on how to do it.

17 Q I would imagine from the timing that there
18 probably is not data about Bridge 9340 in the
19 program?

20 A No. Well, that fell in August. I would not have
21 the individual bridge number. And that's one of
22 the things we are doing, is tracking -- we're
23 trying to get things tracked to individual
24 bridges. That's one of the changes we're making
25 with -- We just have some new procedures that had

Page 26

Page 28

1 projects might make it to that -- their BIP,
2 meaning they see that this kind of maintenance
3 costs X and will do Y, and so it helps them
4 prioritize over there; is that the intent?

5 A Well, the intent is not to particularly work with
6 their program, but it's -- A bridge needs
7 program, like Roger has in I think District 4,
8 the Detroit Lakes district, those two have
9 developed bridge needs programs and they do
10 work. I'm not involved with that specifically.
11 I'm just aware of it. There could even be other
12 districts that do it. I don't know. I know
13 those two districts do.

14 So the preventive maintenance, then,
15 insofar as those needs or activities are
16 identified as something they want to do, then
17 they will count towards these HSOP activities and
18 that part of the program. So it would become,
19 then -- From the districts it just might be an
20 ancillary thing that they may have been going to
21 do it anyway.

22 On the other hand, they may say, well,
23 we need to put more efforts into preventive
24 maintenance than they were planning with their
25 original program.

1 nothing to do with 9340. We just needed -- Let
2 me put it this way: It didn't have anything
3 directly to do with 9340. It's background
4 information. Now, Roger may have information
5 about preventive maintenance that was done on
6 9340.

7 I would say nothing that was done --
8 the very nature of preventive maintenance is not
9 making structural improvements or anything else,
10 it's strictly to prevent environmental
11 deterioration. That's what they're all about.

12 Q You also mentioned that part of what you're
13 working on quality assurance?

14 A We have had a sporadic attempt at writing quality
15 assurance program for our bridge design plans.
16 We were making some pretty good progress just
17 prior to 9340, and then we've had to pull so many
18 resources onto the 9340 bridge, recovery and new
19 bridge, that we have suspended that for the time
20 being.

21 Q And what is the quality assurance that you're
22 tracking in the bridge design plans?

23 A Well, there's several aspects to quality
24 assurance. I mean, you want to make sure that
25 the plans that are produced are checked, are

Page 29

Page 31

1 verified and, therefore, comply with all
 2 necessary codes. There's also involved with
 3 quality assurance the computer programs and
 4 spreadsheets and different things that are used
 5 to do calculations. So we'd have a quality
 6 assurance program for all the software that's
 7 used for design software. And basically you'd
 8 have a quality assurance program for the design
 9 software and a quality assurance program for the
 10 quality of work that was done on the plans and
 11 the use of that software.

12 Q But is it as built; does it look at as-built
 13 information as well?

14 A It's not -- We have not got that far along, but I
 15 don't anticipate looking at as built. It's --
 16 We have talked about feedback from -- I mean, you
 17 have -- Yeah, we haven't gotten that far with
 18 it. There is a quality assurance -- Informal
 19 program there's certain ways a designer does some
 20 work and his work is checked by somebody else.
 21 That's informal. It's not been written down into
 22 a formal program. So part of this thing was to
 23 put together a formal program that we would have
 24 who checks what or even what color of pen do you
 25 mark when you want a change versus when it's

1 A Well, that has to do with part of our staffing.
 2 We have been staffed to about 45, 40 or \$45
 3 million worth of bridges internally a year.
 4 That's the best measure we've been able to come
 5 up with, the number of contracted dollars that
 6 would -- If you were going to build \$45 million
 7 worth of bridges, we would probably design all of
 8 them in-house. Unless there was something
 9 specially complex about the bridges, we do them
 10 all internally. That was until recently.

11 We've cut back one design squad, so our
 12 capabilities now are less than that, probably the
 13 \$30 something million range. So we would not be
 14 able to deliver that side of the program.
 15 Anything else beyond that is done by consultants
 16 outside.

17 And then part of the function of our
 18 design squad gets to be checking over the plans
 19 that are done by the consultants. So, you know,
 20 if we didn't have anything else to do, we could
 21 do probably, I'm just taking a guess, but in the
 22 neighborhood of \$38 million of bridge design.
 23 Thirty-five to \$38 million of bridge design we
 24 could do in-house right now.

25 If I double that program to \$70

Page 30

Page 32

1 checked to be good and those minor kinds of
 2 things, some consistency throughout the office.

3 Q Okay. Is this quality assurance plan limited to
 4 bridge design plans?

5 A The one I'm working on is.

6 Q Okay.

7 A Well, preliminary plans, as well, which
 8 include -- In hydraulics we have some initial
 9 efforts. Again, we've not put anything together
 10 at all. We're just collecting information,
 11 trying to formulate what we want to put in the
 12 quality assurance plan. We looked at what we
 13 already have. That's as far as we've gotten.

14 Q Historically was there a quality assurance for
 15 bridge design plans; do you know?

16 A There was not a written quality assurance
 17 program.

18 Q When did you start that program or that --

19 A It's been almost three years ago probably at this
 20 point, two-plus years ago. Again, let me say,
 21 there's always been a quality assurance process
 22 informal; but I'm saying as far as writing it
 23 down in a written plan, there has not been.

24 Q In generalities, the bridge design plans, are
 25 they drafted within MnDOT or outsourced?

1 million, and we've not done less than 70 in the
 2 last several years, part of my time has to be
 3 taken away to check the bridge plans; so no
 4 longer can I do that much internally.

5 So it's one of these kind of limited
 6 resources. There's no elasticity in the system.
 7 If we do consultant drawings, we take resources
 8 internally to check those drawings.

9 Q So either it's a quality assurance program
 10 designed within MnDOT or checked within MnDOT or
 11 it's designed outside of MnDOT but checked within
 12 MnDOT?

13 A Yes, that's correct.

14 Q Do you happen to know how that process worked
 15 with respect to this bridge in the late 1960's?

16 A I have no idea. It predates my time with the
 17 department, so I don't know. I can only
 18 speculate and we won't do that.

19 Q Do you know anybody who would know that?

20 A The only person who would know that would be
 21 Arlen Ottman. I think you interviewed him.

22 Q One of my colleagues did, yeah.

23 A And Jack Pirk. Jack was the only one that was
 24 around when that bridge was built.

25 Q And he wasn't on the bridge; he was just on the

1 approaches, just so you know. It was grating.
 2 It was only grating.
 3 A But Arlen was involved as a young engineer at
 4 that time with bridge design in that era. So
 5 he's been with the department 44 years, I think.
 6 But he would have just been a young guy. I
 7 believe he started off in bridge, but I'm not
 8 sure.
 9 Q You mentioned the project involving inspection
 10 manuals?
 11 A Oh, the overhead sign inspection.
 12 Q That doesn't have to do with bridge inspection?
 13 A Just overhead signs, structural signs.
 14 Q Are you involved at all, Jim, in the bridge
 15 inspection process?
 16 A No, not directly. I use the information, of
 17 course, and I'm aware of some of the things that
 18 go on. When I was structural metals engineer, I
 19 used to get involved in if they had structural
 20 metal repairs that were needed in the field. I
 21 don't have direct input into that at all.
 22 Q And you don't have any special projects going on
 23 around bridge inspections?
 24 A I don't. We certainly in the office have a huge
 25 inspection program. Gary Peterson is the person

1 who primarily handles that.
 2 Q Where do you physically office, out in Oakdale?
 3 A Oakdale.
 4 Q Do you have any special projects or research
 5 projects going on about safety? And by that I
 6 mean structural safety of bridges.
 7 A There is a project going on, Art Schultz is the
 8 primary investigator, dealing with sensors. It's
 9 not directly involved with bridge safety. It
 10 involves sensor capabilities. That's just
 11 starting. Yes, I am on that panel. We just had
 12 one meeting so far that I've been part of. There
 13 was a couple more before I got on.
 14 Q While you were either in special projects or in
 15 the position that you are now, have you ever done
 16 any projects or research around best
 17 communication practices for reporting safety
 18 concerns?
 19 A Never, no.
 20 Q Are you aware of any policies like that --
 21 A Communications?
 22 Q -- in the central office?
 23 A Written formal policies?
 24 Q Right.
 25 A I'm not.

1 Q Okay.
 2 A Certainly with traffic safety there's a big
 3 effort going on for some time with traffic, but I
 4 assume you mean with bridges. Nothing written,
 5 nothing formal.
 6 Q What's your communication, Jim, with, let's say,
 7 your job equivalents in other states. Do you do
 8 some national participation?
 9 A You know, I've been in this job such a short
 10 period of time, I have no idea what's going on in
 11 other states. My other jobs, maintenance
 12 engineer I was very much involved in AASHTO
 13 programs and foundation pavement preservation and
 14 I had all kinds of national contacts. I have had
 15 communications with other bridge maintenance
 16 engineers about specific things like deck sealing
 17 and things like that. But this position I'm in
 18 right now, I do not know if there's such an
 19 equivalent to that position in any other state.
 20 Q So, for instance, when you're building the
 21 preventive maintenance bridge program, you didn't
 22 go out to other states to research if they have
 23 that kind of stuff?
 24 A No. When I was part of the foundation for
 25 pavement preservation, I was very much involved

1 with -- I was on the board of directors for that
 2 national. I knew they were just talking about
 3 putting together a bridge preventive
 4 maintenance. So when I came over, I know of no
 5 other states that have a bridge preventive
 6 maintenance program. And Gary Peterson, again,
 7 would be the person. He would have made contacts
 8 leading up to 2005. But to the best of my
 9 knowledge, which is incomplete and speaking more
 10 out of ignorance than out of investigation, no
 11 other state has a program.
 12 Q I take it that based on what you reported your
 13 job has been, that any bridge inspection reports
 14 that might come from the metro district is not
 15 going to land on your desk in central bridge?
 16 A I didn't even know that 9340 was a critical
 17 bridge.
 18 Q You've just since learned that since August 1st?
 19 A I learned that since August 1st. There was other
 20 bridges that came up in conversation about
 21 different things, but I had never heard that
 22 bridge mentioned.
 23 Q Let me ask you a few things about the bridge, and
 24 you can just tell me, I don't know anything about
 25 it, because I think that's going to be the

1 answer.
 2 A Okay.
 3 Q Do you have any knowledge or awareness of the
 4 1977 overlay project?
 5 A Not other than what I've read in the press and
 6 heard discussed subsequent to -- Nothing
 7 personal.
 8 Q The 1998 construction project on the bridge?
 9 A Same answer.
 10 Q Okay. Were you aware of the U of M study that
 11 was done on the bridge?
 12 A Not until after the bridge collapse.
 13 Q Or any of the consultants that were working with
 14 central bridge?
 15 A I did not know they were working on that bridge.
 16 Q Have you worked with HNTB?
 17 A I have.
 18 Q On what kinds of projects?
 19 A Historical bridge projects.
 20 Q What is the historical bridge project?
 21 A In 1998 a report was drafted identifying all
 22 historical bridges in the state of Minnesota that
 23 had historical significance. The background on
 24 that is to be with -- I can't remember the date
 25 or even the name of the federal requirement that

1 was involved with that, and it was pretty much my
 2 central job duty for first two years of my time
 3 out at the bridge office, 2004 to 2006. In that
 4 situation, the contractor we hired to help
 5 develop a full program or plan was Meade & Hunt
 6 and then HNTB. So that's where I worked with
 7 HNTB, on that program.
 8 Q So if I did that right, 230 bridges identified as
 9 falling within the criteria, 35 belonged to
 10 MnDOT, 24 selected to maintain at a higher level?
 11 A The number, I believe, was 233 -- 237, out of
 12 which 34 -- Oh, you're right. I thought it was
 13 33 or 35, but roughly.
 14 Q Roughly.
 15 A Roughly, yes. Twenty-four were identified that
 16 we would maintain higher-level maintenance.
 17 Q And it's not maintaining a higher level of
 18 maintenance for safety or structural concerns,
 19 but for historic concerns?
 20 A It's to make them last as long as possible. It
 21 kind of dovetails in with some of the preventive
 22 maintenance concepts, but it's somewhat
 23 independent of that. But the idea was the same
 24 thing, to make them last as long as possible.
 25 Q And 9340 wasn't on that list?

1 all bridges basically over 50 years of age be
 2 evaluated for historical significance and
 3 restrictions placed on their removal if they were
 4 historically significant.
 5 A series of consultant effort was put
 6 into coming up with this 1998 list of historical
 7 structures. There were 230 something bridges
 8 statewide that were identified as meeting the
 9 criteria of being 50 years older and then having
 10 historical significance. Out of that number, 35
 11 identified of those belonged to the Minnesota
 12 Department of Transportation. And then out of
 13 that number, 24 were selected as being examples
 14 that MnDOT would maintain at a higher level and
 15 try to preserve as long as possible.
 16 That languished for about ten years due
 17 to -- well, not ten years, until 2000, when was
 18 it -- I came on board 2004, 2003. That
 19 languished until that time, for five years.
 20 Nothing was done on it because of changing
 21 personnel and things had gotten lost.
 22 So when they brought me on, it was
 23 primarily to deal with those structures and to
 24 develop a management plan of how we're going to
 25 deal with and maintain those structures. So I

1 A It was not on the 24 list. As far as I know, it
 2 was not on the other 33 list. I don't recall it
 3 being. I would have remembered if it had been.
 4 Q Because it would have had to have been at least
 5 50 years old, right?
 6 A Fifty years, yeah.
 7 Q The overlay project that was going on on the
 8 bridge in the summer of '07 when the bridge
 9 collapsed, were you familiar with that at all?
 10 A I was not.
 11 Q And that didn't make it to the preventive bridge
 12 maintenance program?
 13 A No. That would be very typical of reactive
 14 maintenance. One of the things we try to avoid
 15 is that kind of expenditure. The idea with
 16 preventive maintenance would be to go out there
 17 sealing that deck and sealing the cracks and
 18 putting crack seal on it, you will not have to go
 19 out and do that.
 20 Q So the summer of '07 project on the bridge was
 21 considered reactive maintenance?
 22 A That's the term I would use for it.
 23 Q You mentioned that you're involved in helping
 24 prepare the office budget?
 25 A Yes.

Page 41

Page 43

1 Q Lucky you. Is that just the budget for central
2 bridge?
3 A Just for central bridge office.
4 Q Okay. And generally speaking, because I
5 understand that the funding issues across the
6 whole agency are very complicated, but what are
7 the general categories that go into the central
8 bridge office budget?
9 A The two largest groups are what we call salaries
10 and non-salary, the two pig pots. Almost all the
11 money is in the salary pot. I think we have an
12 eight -- In round numbers we have an
13 \$8 1/2 million budget for salaries and 300,000 --
14 \$350,000 for non-salary, so it's rather small.
15 Q So an office budget is not the same as an
16 operating budget, right?
17 A It is our office operating budget.
18 Q So does central bridge have any funds of money
19 for which they can use on projects that they're
20 doing?
21 A We have a consultant budget. Well, we used to
22 have a consultant budget. They've just -- As of
23 this last fiscal year they reorganized that. I
24 think we still have some consulting budget.
25 Historically we had identified money to hire

1 of money, and that works between pavement and
2 bridges. There's a big -- They have their own --
3 how they can allocate that money.
4 Q So that's --
5 A Can I take a break?
6 Q Absolutely.
7 MS. BERGSTROM: Let's go off the
8 record.
9 (Break taken.)
10 BY MS. BERGSTROM:
11 Q We'll go back on the record. Jim, we were
12 talking about money a little bit.
13 A May I add one thing? I've just got one more
14 budget. It's a very small budget. We have our
15 scientific equipment budget, and it's only like
16 \$50,000. Normally it handles things in terms of
17 inspection. If we buy ultrasonic testing
18 equipment, paint thickness gauges, if we buy
19 hydraulics for sonar and things like that, we
20 purchase that with scientific equipment budget.
21 It's a real small budget, but just for
22 completeness.
23 Q You wouldn't be involved from a budgeting
24 standpoint, then, in helping to forecast or set
25 aside money to do actual work on bridges?

Page 42

Page 44

1 consultants, and then we would manage those, set
2 those contracts up and manage that budget. Nancy
3 Dollenberger (phonetic) is the section manager
4 over that area.
5 Starting with this last fiscal year,
6 although still some carry-over money so we have
7 still have some money we manage, the districts
8 were assigned that money. So we would identify a
9 project, and we were now supposed to go the
10 district and ask them for the money for the
11 consulting and we would set the project up.
12 The only other difference is we would
13 have to get the concurrence from the district
14 where we spend the money. Before it was our pot
15 of money. They were always happy to come to us
16 because they always wanted projects done. Now it
17 comes out of their pot of money, so there's a
18 change in dynamics.
19 Q When you had a consultant budget, that would have
20 been a third area, salary, non-salary and
21 consultants?
22 A Yeah. I would not be responsible for that, but
23 yes. And that's handled as a separate budget. I
24 have responsibility for the office operational
25 budget. The consultant budget is a separate pot

1 A I'm not.
2 Q There's been a lot in the paper about the
3 St. Cloud bridge being shut down. Were you
4 involved in that in any way?
5 A Not any more than being a casual bystander in the
6 bridge office to it.
7 Q Just what you hear in the hallways?
8 A And we were up there for a bridge supervisors
9 meeting, which was scheduled simultaneously. So
10 I was involved in that, and we were talking about
11 whether we should go out and look at that bridge
12 with the bridge supervisors. But, no, nothing
13 specific. I didn't find out about it -- I didn't
14 find out there was a problem with the bridge
15 until the afternoon before they shut it down.
16 The announcement was made after I got home. I
17 didn't know they were going to shut it down. I
18 just knew there was some concerns about the
19 bridge.
20 Q The bridge supervisor meeting that you were
21 attending, is that a bridge supervisor across all
22 districts?
23 A Yes, ma'am.
24 Q So who, like, from the metro district would have
25 been there?

Page 45

Page 47

1 A Jack Pirkel was there; Mark Pribula; two
 2 engineers; Roger Schultz showed up for a few
 3 moments; Phil Erickson, bridge superintendent,
 4 was there the entire time. Bruce Anderson, who's
 5 one of the bridge supervisors, was there; Larry
 6 Kellerman, who's another bridge supervisor; Dale
 7 Dombrowske, who's another metro bridge
 8 supervisor. I'm thinking there was one other
 9 bridge supervisor from metro that was there, but
 10 I'm not sure.

11 Q What's the purpose of those meetings?

12 A They get together twice a year, I think, maybe
 13 three times a year to discuss bridges, bridge
 14 maintenance. A lot of presentations would be on
 15 different kinds of repairs they'd made. If the
 16 person has a new piece of equipment or uses a new
 17 technique or does something unique with it,
 18 they'll talk about how that repair was done. If
 19 they have a difficult issue to deal with, they --
 20 There was a long presentation on the floods down
 21 in southeastern Minnesota, all the maintenance
 22 activities and how they responded to that, how
 23 they did their staffing, you know, how they
 24 prioritized the work and what to do, some of the
 25 special contractors that were brought in to do

1 how much work did we accomplish by district, by
 2 state, how did the overall system improve. I
 3 introduced the unit cost this time, talked to
 4 them about the idea of moving towards best
 5 practices. I also talked to them about the
 6 computer system, the modifications we're making
 7 to make it easier to collect data. Actually,
 8 there was a lot of dialogue on that one earlier,
 9 so...

10 Q Do you capture information from the PONTIS
 11 system?

12 A The way that's set up, we have PONTIS element
 13 numbers which are exported into WMESS (phonetic),
 14 and they become part of the identifying where the
 15 work is done on the bridge. That's the way that
 16 works.

17 Q There's been some discussion, both in the papers
 18 and these interviews, about the Ohio bridge,
 19 similar to the 9340 bridge, that sagged in 1996.
 20 Had you ever heard about that?

21 A Only when we were discussing -- Again, I'm a
 22 listener, not a discussor -- the three different
 23 options they were exploring as far as repairing
 24 this bridge. And the gusset plate design that
 25 Ohio used was one of the options that was looked

Page 46

Page 48

1 special recovery work on that disaster.

2 Q And why do you attend a meeting like that, Jim?

3 A The HSOP is an integral part of that, has been
 4 since I've been involved with it. I prepare
 5 these reports and I run it out to them. I need
 6 to have feedback from the supervisors on the data
 7 I'm presenting because the way it should work --
 8 It didn't work that way this year, but normally I
 9 present it to the bridge supervisors, take it to
 10 the engineers, and I take it into the area
 11 maintenance engineers, the next group up the
 12 line, and the district engineers. So before you
 13 take it to the district engineers, you'd like to
 14 make sure everybody is on board with what's going
 15 on.

16 This year, unfortunately, they
 17 scheduled the district engineers' meeting before
 18 I could get to the supervisors, but that's not
 19 normal. Normally the process is to present it to
 20 the bridge supervisors in a great deal of detail,
 21 and then to get their input and feedback on
 22 things.

23 Q And what exactly are you presenting to them?

24 A I presented basically, you know, how many dollars
 25 they spent by district, how did we do statewide,

1 at and evaluated. I didn't have any more to do
 2 with it than that.

3 Q When you say you're a listener there, can you put
 4 that in a time frame for me? When was that?

5 A It would have been after the bridge was closed.
 6 And why was I -- Where was I? We have regular
 7 bridge management team meetings that meet. I
 8 don't remember if it was in context with that
 9 meeting or if I was just -- I know we were also
 10 discussing -- Gary Peterson and I were discussing
 11 whether we should cancel the supervisors' meeting
 12 in St. Cloud or if we should go out on the bridge
 13 and those kinds of issues, and we were discussing
 14 that. I'm not sure if it was in context with
 15 that.

16 Q And just so I'm clear, because I thought you were
 17 saying something else, but now I think I know
 18 what you're saying, there were some discussions
 19 about what you might do to the St. Cloud
 20 bridge --

21 A Yes.

22 Q -- and it was in that that you heard about the
 23 Ohio bridge?

24 A Ohio bridge. The Ohio bridge gusset plate option
 25 was discussed as one option to investigate.

Page 49

Page 51

1 Q Okay, gotcha. Since the bridge collapse, Jim,
2 have there been any changes made in the central
3 bridge office that you're aware of?

4 A There have been lots of changes. Depends what
5 you mean by changes.

6 Q That's a little broad. Have there been any new
7 policies enacted specific to the -- or kind of in
8 response, if you will, to the bridge collapse
9 that you're aware of?

10 A The legislative auditor's report came out, and we
11 are in the process -- And by "we" I mean the
12 office, not me specifically -- in the process of
13 looking at all those recommendations and
14 responding to those recommendations.

15 There are no policies that have been
16 developed. There are some guidelines that have
17 been conceived, possible policies that may be
18 developed and things that are in discussion.
19 There's nothing that has come to the point of
20 being a draft of any kind of policy or anything,
21 but there's a lot of discussion going on.

22 Q Are you involved -- Are you heading up any
23 projects like that?

24 A I'm not.

25 Q Are you involved in any of them?

1 STATE OF MINNESOTA)

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4 COUNTY OF HENNEPIN)

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REPORTER'S CERTIFICATE

9

10

I, Julie A. Rixe, do hereby certify

11

that the above and foregoing transcript, consisting of

12

the preceding 50 pages, is a correct transcript of

13

my stenographic notes and is a full, true and complete

14

transcript of the proceedings to the best of my

15

ability.

16

Dated April 15, 2008.

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JULIE A. RIXE
Court Reporter

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Page 50

1 A Let me scrape through my mind here. Let me
2 think. I did become involved -- We were looking
3 at increasing the number of bridge maintenance
4 workers. The only thing I was involved in was
5 looking over a proposed estimate on the cost,
6 again, on the budget side of things. I was asked
7 to look at the budget numbers on that. So I had
8 some comments and thoughts about how we would
9 figure out the estimated cost on that, and that's
10 all.

11 Q Have you been involved in working with the
12 PB Americas folks at all?

13 A Have not.

14 MS. BERGSTROM: Can we mark this as an
15 exhibit.

16 (Lilly Exhibits 3 and 4 were marked
17 for identification by the court
18 reporter.)

19 MS. BERGSTROM: And with that, I think
20 we can go off the record and we're done.

21 (Whereupon, the interview was concluded
22 at 2:11 p.m.)
23
24
25

<p style="text-align: right;">1</p> <p>1 INTERVIEW OF ROBERT MCFARLIN - APRIL 18, 2008</p> <p>2</p> <p>3</p> <p>4 In the Matter of Conducting an Independent Investigation</p> <p>5 Into the Collapse of the I-35W Bridge</p> <p>6</p> <p>7 Department of Transportation</p> <p>8 395 John Ireland Boulevard</p> <p>9 Fourth Floor</p> <p>10 St. Paul, Minnesota</p> <p>11</p> <p>12 Met, pursuant to notice, at 9:00 in the</p> <p>13 morning on April 18, 2008.</p> <p>14</p> <p>15 INTERVIEWERS:</p> <p>16</p> <p>17 Thomas Johnson and Greg Merz, Attorneys at</p> <p>18 Law with the Gray Plant Mooty Law Firm.</p> <p>19 ALSO PRESENT:</p> <p>20</p> <p>21 Barbara E. Forsland, MnDOT Data Practices</p> <p>22 Compliance & Policy Analyst.</p> <p>23 COURT REPORTER:</p> <p>24 Angie D. Threlkeld, RPR CRR</p> <p>25</p>	<p style="text-align: right;">3</p> <p>1 Q -- we have it as a part of the record. And this is</p> <p>2 entitled Witness Protocol for Interviews.</p> <p>3</p> <p>4 Number 1, Authority. We are the Gray</p> <p>5 Plant Mooty law firm. Gray Plant Mooty has been</p> <p>6 retained by the Minnesota legislature to conduct an</p> <p>7 independent investigation into the collapse of the</p> <p>8 I-35W bridge. The legislature has asked us to</p> <p>9 provide a report of our investigation by May 1st,</p> <p>10 2008. We'll be asking you questions concerning the</p> <p>11 bridge collapse and related policies, practices, and</p> <p>12 legislative oversight issues.</p> <p>13</p> <p>14 Second, the purpose of the interview is</p> <p>15 to determine what you might know about the matters</p> <p>16 we are investigating.</p> <p>17</p> <p>18 Third, during the time of our</p> <p>19 investigation -- during the time our investigation</p> <p>20 is active, the information that the interviewees</p> <p>21 provide us is not public information. The</p> <p>22 information you provide us may no longer be</p> <p>23 confidential once we submit our report to the</p> <p>24 legislature.</p> <p>25</p> <p>Four, you're required to answer our</p> <p>questions truthfully. A court reporter is present</p> <p>to record our conversation. Either during this</p> <p>interview or later in our investigation we may</p>
<p style="text-align: right;">2</p> <p>1 (Exhibits 1 through 11 were</p> <p>2 marked for identification by the</p> <p>3 court reporter.)</p> <p>4 MR. JOHNSON: So let's go on the record</p> <p>5 and start with identifying who all is here.</p> <p>6 I'm Tom Johnson with the Gray Plant Mooty</p> <p>7 law firm.</p> <p>8 MR. MERZ: And I'm Greg Merz, also with</p> <p>9 the Gray Plant Mooty law firm.</p> <p>10 MS. FORSLAND: I'm Barbara Forsland, data</p> <p>11 practices for MnDOT.</p> <p>12 MR. MCFARLIN: Bob McFarlin, acting</p> <p>13 commissioner for MnDOT.</p> <p>14 BY MR. JOHNSON:</p> <p>15 Q Bob, I've put a stack of documents in front of you,</p> <p>16 and those are the documents that we'll be going</p> <p>17 through today. I'm not sure we'll touch on all of</p> <p>18 them --</p> <p>19 A Okay.</p> <p>20 Q -- but I want to start with the witness protocol,</p> <p>21 which is the first document, and the reporter has</p> <p>22 identified as Exhibit 1.</p> <p>23 And let me just read that to you so</p> <p>24 we're --</p> <p>25 A Okay.</p>	<p style="text-align: right;">4</p> <p>1 determine that we need to verify certain</p> <p>2 information. If that occurs, we may ask you to</p> <p>3 submit to a further recorded statement, a signed</p> <p>4 affirmation, or an oath statement.</p> <p>5</p> <p>6 Finally, we view this process as an</p> <p>7 ongoing dialogue. If you think of anything that you</p> <p>8 would want to tell us about after this interview,</p> <p>9 please call or e-mail us. And, likewise, we hope</p> <p>10 that you will respond to us if we call or e-mail you</p> <p>11 with follow-up questions or clarifications.</p> <p>12 A Okay.</p> <p>13 Q Do you understand --</p> <p>14 A Sure.</p> <p>15 Q -- all of that?</p> <p>16 A Yeah.</p> <p>17 Q I might also say that we're here on behalf of the</p> <p>18 Minnesota legislature, which has retained us to do</p> <p>19 an independent investigation. We're not here as</p> <p>20 your legal advisor. So if you have questions</p> <p>21 regarding the legal status of the process or any</p> <p>22 questions that get asked, we're not here to give</p> <p>23 you --</p> <p>24 A Okay.</p> <p>25 Q -- advice on that. I just want to make sure you</p> <p>understand that.</p>

<p>5</p> <p>1 And then, finally, we do need to have you</p> <p>2 answer every question verbally. The court reporter</p> <p>3 can't take nods of the head or uh-huhs or hum. We</p> <p>4 need to have yeses and nos and verbal answers.</p> <p>5 A Okay.</p> <p>6 Q So let's start with your telling us what education</p> <p>7 you received in college.</p> <p>8 A I have a master's degree in speech communication</p> <p>9 from the University of Minnesota, a bachelor's</p> <p>10 degree in business administration from the</p> <p>11 University of Minnesota, and an undergraduate minor</p> <p>12 in speech communication from the University of</p> <p>13 Minnesota.</p> <p>14 Q I'm going to go now directly to your work</p> <p>15 experience.</p> <p>16 A Okay.</p> <p>17 Q Your current position is acting commissioner; is</p> <p>18 that correct?</p> <p>19 A Acting commissioner.</p> <p>20 Q How long have you held that?</p> <p>21 A I was appointed to acting commissioner on</p> <p>22 February 29th, 2008. So I get to -- I get to</p> <p>23 celebrate that anniversary every four years.</p> <p>24 Q As acting commissioner whom do you report to?</p> <p>25 A Governor.</p>	<p>7</p> <p>1 Q Okay. So you still have two individuals -- or two</p> <p>2 areas of the office, governmental affairs and</p> <p>3 communications, reporting to you?</p> <p>4 A Yes, I still maintain those responsibilities. But</p> <p>5 as commissioner they would report me -- essentially</p> <p>6 reporting up to me anyway through the process. So</p> <p>7 I'm just maintaining both the acting commissioner</p> <p>8 responsibilities and those responsibilities to my</p> <p>9 previous job as well, that my previous job has not</p> <p>10 been backfilled at the moment.</p> <p>11 Q At some time in the future do you intend to fill</p> <p>12 that position?</p> <p>13 A That has everything to do with what the governor</p> <p>14 decides to do with appointing a permanent</p> <p>15 commissioner.</p> <p>16 Q Most of my focus today is going to be on your role</p> <p>17 prior to your becoming the acting commissioner,</p> <p>18 since we're --</p> <p>19 A Okay.</p> <p>20 Q -- our focus is prior to August 1st, really, of</p> <p>21 2007. I'll come back toward the end and ask you</p> <p>22 some of your thoughts that you may want to express</p> <p>23 as the acting commissioner, but the bulk of the</p> <p>24 questioning will relate to your duties in positions</p> <p>25 prior --</p>
<p>6</p> <p>1 Q And in a general way just talk about your</p> <p>2 responsibilities as commissioner of MnDOT.</p> <p>3 A I am responsible for the operations of the agency</p> <p>4 and for the appointment of officials and the overall</p> <p>5 direction and leadership of the organization. And I</p> <p>6 respond and carry out the administration's --</p> <p>7 respond to the governor's office and carry out the</p> <p>8 administration's policies and directives as it</p> <p>9 relates to the operations of the agency.</p> <p>10 Q Okay. I'm going to ask you more specific</p> <p>11 questions --</p> <p>12 A Okay.</p> <p>13 Q -- about some of your duties later, but let's --</p> <p>14 A Okay.</p> <p>15 Q -- move on. I'm going to show you an organizational</p> <p>16 chart from MnDOT, which we'll have identified as</p> <p>17 Exhibit 2. And just tell me if that's a current...</p> <p>18 A Current -- current organizational chart as of my</p> <p>19 appointment on the 29th.</p> <p>20 Q Now, it shows a box reporting to you, assistant to</p> <p>21 the commissioner --</p> <p>22 A So I get to report to myself, yes --</p> <p>23 Q -- that shows you report --</p> <p>24 A -- because I'm still maintaining those</p> <p>25 responsibilities, Tom.</p>	<p>8</p> <p>1 A Okay.</p> <p>2 Q -- to being acting commissioner. So why don't you</p> <p>3 talk about the positions that you've held at MnDOT</p> <p>4 prior to becoming acting commissioner.</p> <p>5 A I was first hired at MnDOT in early of -- early</p> <p>6 nineteen-ninety -- I remember the year -- it would</p> <p>7 have been early 1992, probably March or so in 1992.</p> <p>8 I was hired as the director of communications under</p> <p>9 then-commissioner Jim Denn in the Carlson</p> <p>10 Administration.</p> <p>11 In a period of about a year, year and a</p> <p>12 half -- I don't know the exact dates -- I was given</p> <p>13 additional duties as chief of staff to Jim Denn. We</p> <p>14 worked under a management structure of the</p> <p>15 commissioner, chief of staff. And I still</p> <p>16 maintained the communications activities but also</p> <p>17 took on the role of the -- the legislative</p> <p>18 activities and liaison to the governor's office, and</p> <p>19 we still had -- at that time we had two deputy</p> <p>20 commissioners; one, a deputy commissioner in charge</p> <p>21 of operations, and the other -- the second deputy</p> <p>22 was chief financial officer. I was in that role</p> <p>23 until June of 1999. I served in that role for about</p> <p>24 six months in the Ventura Administration in early</p> <p>25 1999.</p>

<p style="text-align: right;">9</p> <p>1 I returned to MnDOT in March -- mid or</p> <p>2 late March of 2003 in the capacity of assistant to</p> <p>3 the commissioner. And in that role I served as</p> <p>4 policy advisor to the commissioner; liaison to the</p> <p>5 governor's office on policy issues, primarily</p> <p>6 responsible for state and legislative affairs --</p> <p>7 state and -- I'm sorry, state and Congressional</p> <p>8 legislative affairs and the communications office.</p> <p>9 And then it was from that position that I was</p> <p>10 appointed to the current position as acting</p> <p>11 commissioner until a permanent commissioner is</p> <p>12 appointed.</p> <p>13 Q What did you do between being chief of staff, which</p> <p>14 you -- a position that you left in June of '99 and</p> <p>15 coming back to MnDOT in March of '03?</p> <p>16 A I spent a period with the MNSCU system as executive</p> <p>17 director of the MNSCU board; and then I ran my own</p> <p>18 consulting company in legislative affairs, strategic</p> <p>19 public policy issues from January of 2000 to the</p> <p>20 point in time when I came back to MnDOT.</p> <p>21 Q Did your consulting firm do any business with MnDOT?</p> <p>22 A No. I did -- I did work with clients who did</p> <p>23 business with MnDOT, but I never had any contracts</p> <p>24 with MnDOT. I was helping -- The areas I worked</p> <p>25 in -- or at least one of the areas was working with</p>	<p style="text-align: right;">11</p> <p>1 administration. And does this look accurate as of</p> <p>2 the time -- that date and the time that she left</p> <p>3 as --</p> <p>4 A Yes.</p> <p>5 Q -- commissioner and you took over?</p> <p>6 A Well, at the -- as of August 1st, 2006, yes.</p> <p>7 Remember, she was not removed as commissioner --</p> <p>8 Q Yeah.</p> <p>9 A -- until February 29th of 2008. This is -- this was</p> <p>10 not -- this is not an accurate picture of the org</p> <p>11 chart at the point that I became acting</p> <p>12 commissioner.</p> <p>13 Q I see that now, that I brought one older than I had</p> <p>14 intended to. Let me ask: Is the depiction in this</p> <p>15 chart of your relationship to the commissioner</p> <p>16 correct?</p> <p>17 A Yes. And it was -- and that would be a correct</p> <p>18 depiction of my role at MnDOT from the moment I came</p> <p>19 back in 2003 to the moment I assumed the appointment</p> <p>20 as acting commissioner.</p> <p>21 And, Tom, just so you're clear, the role</p> <p>22 of acting commissioner is an official gubernatorial</p> <p>23 appointment. It has to be signed by the governor.</p> <p>24 It's an official title. So I -- and I don't know if</p> <p>25 that's important, but I want to make that</p>
<p style="text-align: right;">10</p> <p>1 corridor groups, working with transportation</p> <p>2 advocacy groups on their legislative programs, on</p> <p>3 their communications programs to advocate for their</p> <p>4 positions.</p> <p>5 Q Okay. So the clients that you represented were</p> <p>6 engaged with MnDOT?</p> <p>7 A Yes.</p> <p>8 Q Was that a large portion of --</p> <p>9 A No.</p> <p>10 Q -- your consulting business?</p> <p>11 A No. It was -- it was not my primary. My largest</p> <p>12 clients were in the area of public education.</p> <p>13 Q I'm going to put a couple of additional</p> <p>14 organizational charts into the record because I want</p> <p>15 to make sure that we're --</p> <p>16 A Okay.</p> <p>17 Q -- talking about both the Molnau Administration and</p> <p>18 the Denn Administration, and I would like to cover</p> <p>19 both of those with you that --</p> <p>20 A Sure.</p> <p>21 Q -- we've got the organizational structure correct.</p> <p>22 So Exhibit 3 is an organizational chart dated</p> <p>23 August 1st, 2006.</p> <p>24 A Okay.</p> <p>25 Q And it shows Carol Molnau as the commissioner of</p>	<p style="text-align: right;">12</p> <p>1 clarification. Papers had to be signed and</p> <p>2 certificates signed and mailed and all that kind of</p> <p>3 stuff.</p> <p>4 Q Then I'm going to show you another organizational</p> <p>5 chart that's dated February 1993, and it shows James</p> <p>6 Denn, D-E-N-N, as the commissioner of</p> <p>7 transportation.</p> <p>8 A Um-hum.</p> <p>9 Q It also shows you as a direct report to Mr. Denn as</p> <p>10 director of public affairs. Was that your title?</p> <p>11 A Yes.</p> <p>12 Q And is this an accurate depiction of the</p> <p>13 organization in February of '93 and for the time</p> <p>14 that you were with Mr. Denn at least?</p> <p>15 A It is an accurate depiction at that point in time.</p> <p>16 It would not be -- during those years -- you know, I</p> <p>17 was with the commissioner, Commissioner Denn, for</p> <p>18 seven years and the org chart changed a number of</p> <p>19 times.</p> <p>20 Q There was a period of time you said when you were</p> <p>21 chief of staff?</p> <p>22 A Um-hum.</p> <p>23 Q When you held that position, were you reporting</p> <p>24 directly to Mr. Denn?</p> <p>25 A Yes.</p>

<p style="text-align: right;">13</p> <p>1 Q And were there others reporting to you as well?</p> <p>2 A That would have been -- the Office of Communications</p> <p>3 would be reporting directly to me. And then under</p> <p>4 Commissioner Denn's leadership, we worked as a team.</p> <p>5 We didn't -- at that level. So there was Denn;</p> <p>6 myself; Ed Cohoon, the deputy commissioner and chief</p> <p>7 financial officer; Darryl Durgin, who was the state</p> <p>8 engineer and deputy commissioner for the operations</p> <p>9 of the organization. This shows Dick Borson as</p> <p>10 government relations. In later years Bill Schreiber</p> <p>11 was in government relations. I would never suggest</p> <p>12 that that team, which worked very well, had any kind</p> <p>13 of a linear hierarchical structure. We worked as a</p> <p>14 team and -- you know, Bill Schreiber didn't directly</p> <p>15 report to me, and I didn't report to Bill Schreiber.</p> <p>16 We all worked as a team under Jim Denn.</p> <p>17 Q Let me go back now to your -- your past position.</p> <p>18 And I'm going to -- after I get a better handle on</p> <p>19 that, I am going to ask you to compare it to the</p> <p>20 organizational structure and operation in -- from</p> <p>21 your experience in the Denn Administration.</p> <p>22 A Okay.</p> <p>23 Q Let's start by talking about your relationship to</p> <p>24 the commissioner of transportation -- the</p> <p>25 then-commissioner of transportation, Carol Molnau.</p>	<p style="text-align: right;">15</p> <p>1 things I was able to handle myself in working with</p> <p>2 the governor's office or working with the lieutenant</p> <p>3 governor. So I wouldn't say that there's a regular</p> <p>4 pattern that you could say it's this much per day or</p> <p>5 this much per week, but it --</p> <p>6 Q Is it fair to character --</p> <p>7 A -- I think it was a similar relationship that</p> <p>8 anybody in my role would have with a CEO.</p> <p>9 Q Fair to characterize it as frequent?</p> <p>10 A Yes.</p> <p>11 Q Let me explore your role vis-a-vis the</p> <p>12 legislature --</p> <p>13 A Okay.</p> <p>14 Q -- and that part of your policy advisory role to the</p> <p>15 commissioner. Tell me what that entailed and</p> <p>16 particularly whether it involved any role in the</p> <p>17 budget preparation.</p> <p>18 A Yeah, it did. It involved a role, because</p> <p>19 everything the agency does involves, really, at some</p> <p>20 point legislative oversight. I mean, the</p> <p>21 legislature is our board of directors. The governor</p> <p>22 is our CEO. They work together. So when we're</p> <p>23 talking about budgets, we're preparing budgets for</p> <p>24 delivery to the legislature or we're developing</p> <p>25 transportation funding proposals for delivery to the</p>
<p style="text-align: right;">14</p> <p>1 A Okay.</p> <p>2 Q If you could, why don't you just generally quantify</p> <p>3 how often you were in communication with her and how</p> <p>4 that communication would occur?</p> <p>5 A Well, again, I served as policy advisor to the</p> <p>6 lieutenant governor as commissioner of</p> <p>7 transportation. And I was -- hard to quantify, Tom.</p> <p>8 I was in constant contact with her either by phone</p> <p>9 or, you know, when she was here in the office. So</p> <p>10 how -- I'm not following -- what are you looking</p> <p>11 for?</p> <p>12 Q Well, were you in touch with her on a daily basis, a</p> <p>13 weekly basis?</p> <p>14 A Oh, it would depend on the issues that I was dealing</p> <p>15 with during the legislative session. We would be in</p> <p>16 contact far more frequently, because that's really</p> <p>17 one of my principal roles is the policy side of the</p> <p>18 agency and dealing with the legislature and the</p> <p>19 bridge between the governor's office and the agency</p> <p>20 on policy and transportation policy matters. So</p> <p>21 more contact during the legislative sessions. It</p> <p>22 would -- it would kind of depend on where the</p> <p>23 lieutenant governor was focused at that time, where</p> <p>24 the governor was focused at that time, with</p> <p>25 different issues that might be coming up. A lot of</p>	<p style="text-align: right;">16</p> <p>1 governor for review by the governor for -- for</p> <p>2 legislative consideration.</p> <p>3 So my role in working with the lieutenant</p> <p>4 governor and working with the entire agency and</p> <p>5 working, you know, with the commissioner staff</p> <p>6 structure, as is the case here, is to -- to help</p> <p>7 look at those processes from the perspective of</p> <p>8 public policy, provide a sense of how the</p> <p>9 legislature might consider things, where they fit</p> <p>10 into policy proposals that might be coming forth,</p> <p>11 how they integrate with one another, you know,</p> <p>12 different policies, different issues that the</p> <p>13 legislature or Congress might be considering.</p> <p>14 Q Now, when --</p> <p>15 A So that --</p> <p>16 Q Finish up. I'm sorry.</p> <p>17 A So from that standpoint, whether it was budget</p> <p>18 preparation, you know, biennial budget preparation</p> <p>19 or supplemental budget preparation, I would be</p> <p>20 involved in those discussions. I don't make those</p> <p>21 decisions. I'm involved in those discussions.</p> <p>22 Truly a policy advisory role. Issues of interest to</p> <p>23 the governor's office, because of the governor's</p> <p>24 interest in certain policies, certain impacts of --</p> <p>25 you know, the governor is constitutionally</p>

<p>17</p> <p>1 responsible for submitting a budget to the</p> <p>2 legislature, including our budget. Gubernatorial</p> <p>3 initiatives are included in those budgets. I would</p> <p>4 keep track of those, provide thought and insight and</p> <p>5 advice on those things. So it's a very broad --</p> <p>6 it's a very broad involvement in the agency in kind</p> <p>7 of looking at things in terms of public policy and</p> <p>8 history and what might fly and using the agency to</p> <p>9 help make proposals to the governor, things like</p> <p>10 that.</p> <p>11 Q Let's put your role in the context of the</p> <p>12 budget-setting process.</p> <p>13 A Okay.</p> <p>14 Q Where would your contact -- or when would your</p> <p>15 contact with the governor's office begin in that</p> <p>16 process?</p> <p>17 A I think fairly -- it would be considered fairly late</p> <p>18 in MnDOT's process and probably fairly early in the</p> <p>19 administration's process. There's a tremendous</p> <p>20 amount of work that goes in -- of detailed work that</p> <p>21 goes into developing budgets within a state agency,</p> <p>22 starting at our districts and our office managers</p> <p>23 and working their way up.</p> <p>24 When we would start to see in a budget --</p> <p>25 we're developing, for example -- and all agencies</p>	<p>19</p> <p>1 take a 3 percent cut or --</p> <p>2 A It happens at any -- as you know, Tom, in the state</p> <p>3 budgetary process, it is not -- there isn't a</p> <p>4 calendar that is necessarily followed every year.</p> <p>5 As we get into -- for a biennial budget, for</p> <p>6 example, as we come out of the last year's session</p> <p>7 of a current biennium, which would be this 2008</p> <p>8 session, as we start to go through the summer and</p> <p>9 get into the fall of the even-year session, we'll</p> <p>10 start to see more and discuss more with the</p> <p>11 administration, the Department of Finance -- which</p> <p>12 is our primary liaison with the governor's office in</p> <p>13 these matters -- the development of the biennial</p> <p>14 budget and the proposal that the governor will have</p> <p>15 to issue to the legislature in January of the</p> <p>16 odd-numbered year.</p> <p>17 So -- so -- but any governor comes</p> <p>18 forward with ideas or thoughts on where resources</p> <p>19 should be directed at any point in time in their</p> <p>20 term. And that's one of the things I do, is a</p> <p>21 governor might say what's happening with this</p> <p>22 project or what's happening with this initiative or</p> <p>23 what's happening with this thing that the</p> <p>24 legislature passed or I'd like to pursue this type</p> <p>25 of thing or this type of thing, and we and all other</p>
<p>18</p> <p>1 are starting to take a look at the 2010-11 biennial</p> <p>2 budget. So that process has begun. I'm not -- in</p> <p>3 my role I'm not terribly involved in that, if at</p> <p>4 all.</p> <p>5 Q At this point in time?</p> <p>6 A At this point in time. As that starts to take shape</p> <p>7 in a more macro form and starts to come up to the</p> <p>8 more executive level with its themes and its</p> <p>9 investment goals and where dollars are going and we</p> <p>10 start to see those at the executive level, I</p> <p>11 would -- I would start to see those and start to</p> <p>12 weigh in on some questions or thoughts or where is</p> <p>13 this going or where is that going. And then we</p> <p>14 would start to get prepared for presentation of the</p> <p>15 budget. And there's a formal presentation process</p> <p>16 of presenting your budget and budget proposals to an</p> <p>17 administration. I would start to get involved more</p> <p>18 at that level, as a more macro picture of the</p> <p>19 biennial budget starts to come up. Where there are</p> <p>20 significant changes being proposed or requested</p> <p>21 by -- possibly by the governor, I start to work on</p> <p>22 plugging those in there. It's a very --</p> <p>23 Q When would that occur? When would the governor tell</p> <p>24 you that, Department of Transportation, you got to</p> <p>25 live within your means this year or you're going to</p>	<p>20</p> <p>1 agencies address those kinds of inquiries and those</p> <p>2 kinds of desires from the governor's office, you</p> <p>3 know, throughout the year.</p> <p>4 Q I guess what I'm getting at, Commissioner, is</p> <p>5 when -- when do you find out that you've got to live</p> <p>6 for the next biennium, your budget has to reflect,</p> <p>7 you know, a status quo, it's the current budget,</p> <p>8 there's no increase?</p> <p>9 A I think what you're getting at, Tom, is, you know,</p> <p>10 we submit -- all agencies submit budget proposals</p> <p>11 through the Department of Finance in the building of</p> <p>12 a biennial budget. And somewhere in the late part</p> <p>13 of the even-numbered year and maybe even a little</p> <p>14 bit early into the odd-numbered year the governor</p> <p>15 makes final determinations on his biennial budget</p> <p>16 proposal to the legislature. That would be the</p> <p>17 point in time where we would know for certain and</p> <p>18 officially when -- when those decisions have been</p> <p>19 made.</p> <p>20 Q So the budget that you send over to the Department</p> <p>21 of Finance, who is putting all the budgets</p> <p>22 together --</p> <p>23 A Um-hum.</p> <p>24 Q -- of the various departments, that proposal is what</p> <p>25 you think -- or the commissioner thinks ultimately</p>

<p style="text-align: right;">21</p> <p>1 the department needs for the next biennium</p> <p>2 unencumbered by any guidance from the governor's --</p> <p>3 A We receive --</p> <p>4 Q -- office or the --</p> <p>5 A We receive --</p> <p>6 Q -- Department of Finance?</p> <p>7 A We receive finan -- we receive guidance. There's a</p> <p>8 difference -- I think you might be looking for</p> <p>9 something, Tom, that doesn't exist, some sort of</p> <p>10 formal process early in the -- early in the -- kind</p> <p>11 of the definitive point in time early in the process</p> <p>12 where the governor says this. And that's not how --</p> <p>13 that's not how it works. I think the</p> <p>14 budget-building process, especially in</p> <p>15 transportation over the last -- last several years,</p> <p>16 has been a very interactive and ongoing discussion</p> <p>17 within the administration because there have been</p> <p>18 transportation funding -- there have been base</p> <p>19 budget proposals that deal with the resources that</p> <p>20 exist, and then there -- along with those there have</p> <p>21 been debates and discussions about increasing</p> <p>22 funding for transportation and in what fashion and</p> <p>23 when.</p> <p>24 There has -- in that process there -- you</p> <p>25 know, you start with the base budget. I'm kind of</p>	<p style="text-align: right;">23</p> <p>1 might be comparing us to a general fund budgetary</p> <p>2 process, and we're not really comparable.</p> <p>3 Q And I understand that you've got dedicated funds.</p> <p>4 You also have some general fund moneys that come</p> <p>5 into the department. What I'm asking, I suppose,</p> <p>6 is --</p> <p>7 A Very little.</p> <p>8 Q -- when the -- when the governor submits the</p> <p>9 administration's proposal to the legislature,</p> <p>10 there's a number in it that represents -- or numbers</p> <p>11 in it that represent your -- the budget figures for</p> <p>12 the Department of Transportation. And I'm just</p> <p>13 asking, you know --</p> <p>14 A Well, I think --</p> <p>15 Q -- how does that number get --</p> <p>16 A Well --</p> <p>17 Q -- set? Does that number --</p> <p>18 A You're looking for one number, and what I'm trying</p> <p>19 to explain is that there isn't a single number,</p> <p>20 necessarily. Here's why I say we put together our</p> <p>21 base -- our base biennial budget based on existing</p> <p>22 resources and the existing Department of Finance</p> <p>23 revenue projections for our base revenues, and that</p> <p>24 goes -- that kind of goes through the budget</p> <p>25 process. There are some movements that -- there are</p>
<p style="text-align: right;">22</p> <p>1 mostly talking about our base budget development.</p> <p>2 We know what the resources are in the base budget.</p> <p>3 We're very different than the general fund. And you</p> <p>4 can't compare our budget development process with</p> <p>5 the general fund development process, because in the</p> <p>6 general fund development process you have a number</p> <p>7 of agencies and a number of different spending areas</p> <p>8 all competing for the general fund. And so the</p> <p>9 governor makes determinations and can make</p> <p>10 determinations between agencies and initiatives from</p> <p>11 the one big pot; they can get 4 percent more, they</p> <p>12 get 4 percent less. And that's not how it works for</p> <p>13 transportation.</p> <p>14 In -- at MnDOT we deal with a dedicated</p> <p>15 source of funding. We have one pot for our budget.</p> <p>16 So we start with a base budget that's based on</p> <p>17 estimates of revenue from the gas tax, motor vehicle</p> <p>18 sales taxes now after the constitutional amendment,</p> <p>19 the tab fees and the like. So we build a base</p> <p>20 budget based on those revenues, and then we -- like</p> <p>21 I said, over the past several years there have been</p> <p>22 discussions that are ongoing without deadlines about</p> <p>23 supplementing those resources with a transportation</p> <p>24 funding package.</p> <p>25 So I'm -- I think you might be -- you</p>	<p style="text-align: right;">24</p> <p>1 some movements in that budget among some different</p> <p>2 initiatives, but they tend to be fairly small. So</p> <p>3 that goes through the process I described with the</p> <p>4 Department of Finance.</p> <p>5 Then there has been throughout this</p> <p>6 administration kind of a second budgetary</p> <p>7 discussion, and that is the issue of increasing that</p> <p>8 base budget with a transportation funding package.</p> <p>9 They do not -- they are not necessarily in sync</p> <p>10 leading up to the governor's biennial proposal. So</p> <p>11 I'm --</p> <p>12 Q Let me ask you a question too --</p> <p>13 A Okay.</p> <p>14 Q -- about the supplemental discussions, and then we</p> <p>15 can move on --</p> <p>16 A Sure.</p> <p>17 Q -- because we've got other areas to cover. But tell</p> <p>18 me about your role in those discussions and --</p> <p>19 A Okay.</p> <p>20 Q -- are you initiating those discussions because</p> <p>21 that's your position here to initiate those or are</p> <p>22 those discussions being initiated out of the</p> <p>23 governor's office and --</p> <p>24 A I think --</p> <p>25 Q -- at the end of the day who's putting the ideas on</p>

<p>25</p> <p>1 the table --</p> <p>2 A Everybody working --</p> <p>3 Q -- and who's making decisions as to what should</p> <p>4 happen?</p> <p>5 A Well, of course, the governor eventually makes the</p> <p>6 decision on what to put forward to the legislature</p> <p>7 to have a funding package, and he has done so in</p> <p>8 2003, 2005, 2006 and 2007. Four of his six</p> <p>9 legislative terms or legislative sessions he's had</p> <p>10 significant transportation funding package on the</p> <p>11 table. Those are developed interactively with the</p> <p>12 governor's office. We propose. We have not been</p> <p>13 shy, and we have not been shy publicly as an agency</p> <p>14 discussing transportation funding needs. I think</p> <p>15 any suggestions to the contrary are wrong. We have</p> <p>16 presented transportation funding shortfalls and</p> <p>17 needs to the legislature every year that I've been</p> <p>18 back here. We've talked about the needs for funding</p> <p>19 transportation. We have talked about that with the</p> <p>20 governor, and we have worked back and forth with the</p> <p>21 governor on different kinds of ideas to address</p> <p>22 those transportation funding needs. The governor</p> <p>23 has made it clear -- I think it's no secret -- the</p> <p>24 governor does not support and did not support tax</p> <p>25 increases as a means of funding those -- those</p>	<p>27</p> <p>1 concept here?</p> <p>2 Q Okay. I'm not sure that we have. So --</p> <p>3 A Okay.</p> <p>4 Q -- why don't you tell me what you mean by that term?</p> <p>5 A We have -- and this has long been a management</p> <p>6 tradition and structure at MnDOT. We have a</p> <p>7 structure. It's not an organization. It's a</p> <p>8 gathering called commissioner staff; the</p> <p>9 commissioner, the role I play, and the division</p> <p>10 directors, the top managers. And we meet pretty</p> <p>11 regularly weekly, and we get budget -- and it is in</p> <p>12 that forum -- the deputy commissioner, of course --</p> <p>13 it is in that forum where divisions talk about their</p> <p>14 budgets. They bring forth kind of macro level</p> <p>15 budgetary information. We discuss the biennial</p> <p>16 budget. We review it. We review -- any number of</p> <p>17 issues that are relevant to upper management can</p> <p>18 come up through for -- you know, through that</p> <p>19 meeting process for --</p> <p>20 Q Let me interrupt you just for a second, because it</p> <p>21 seems like what you're describing has been</p> <p>22 identified by others as the transportation</p> <p>23 programming committee?</p> <p>24 A No.</p> <p>25 Q This is separate?</p>
<p>26</p> <p>1 needs. So we, in working with the governor's</p> <p>2 office, looked at other options for funding the</p> <p>3 needs. The governor understood the needs. He</p> <p>4 indicated he would not accept tax increases. So we</p> <p>5 had different proposals; bonding proposals --</p> <p>6 Q Let me --</p> <p>7 A -- vehicle sales tax, constitutional amendments,</p> <p>8 things like that.</p> <p>9 Q I'm going to touch on those --</p> <p>10 A Okay.</p> <p>11 Q -- in a moment, but let me just kind of finish up</p> <p>12 here with the organizational structure under the</p> <p>13 previous commissioner and have some discussion about</p> <p>14 that as it relates to your previous discussion --</p> <p>15 A Sure.</p> <p>16 Q -- your previous role with the Denn Administration.</p> <p>17 In your role as assistant to the commissioner, did</p> <p>18 you have any interaction with any of the division</p> <p>19 directors that was specific to any bridge-related</p> <p>20 issues?</p> <p>21 A Only to the extent of when we would have periodic</p> <p>22 input to the commissioner's staff, you know -- I</p> <p>23 under -- I would ask if you understand what I'm</p> <p>24 talking about when I talk about commissioner staff,</p> <p>25 if you've had -- if you've had introduction to that</p>	<p>28</p> <p>1 A This is separate. This is -- what you may have</p> <p>2 heard, or maybe not, one iteration of this</p> <p>3 administration was called the six pack. But it's</p> <p>4 just -- it's -- as you look at this org chart, it</p> <p>5 would be the commissioner, deputy commissioner,</p> <p>6 myself, and then the -- in this -- I'm looking at</p> <p>7 this August 2006 one -- and the six division</p> <p>8 directors across -- across the top there, and that</p> <p>9 would make up what's known as commissioner staff.</p> <p>10 Q So how did it differ from the transportation</p> <p>11 programming committee?</p> <p>12 A Well, the transportation programming committee is a</p> <p>13 larger group that -- and is made up of folks below</p> <p>14 this level led by the deputy commissioner, and they</p> <p>15 deal with specific programming issues in the</p> <p>16 development of the state road construction</p> <p>17 investment program and make -- look at things in far</p> <p>18 greater detail than the commissioner staff would at</p> <p>19 a macro level, and they end up putting together the</p> <p>20 details of the -- how money is distributed to our</p> <p>21 districts, what kinds of projects. They review the</p> <p>22 projects at times that districts want to fund. If</p> <p>23 there's a particular issue in the district about</p> <p>24 getting a -- about a particular project or they need</p> <p>25 to recommend to the commissioner that some money</p>

29

1 moves around between districts to accomplish certain

2 things, it would go to that committee, and they take

3 a formal vote as a recommendation for the

4 commissioner to move some money around within the

5 agency. They make -- they make more micro

6 decisions. But that all flows up through the

7 division directors and up to the commissioner --

8 Q So a recommendation out of the -- out of the TPC,

9 the transportation programming committee, comes to

10 the commissioner's staff?

11 A Yes, would come up through that way. And there --

12 that transportation programming committee --

13 Q So --

14 A -- for example, we have -- we have what's known as

15 a four-year state transportation improvement

16 program. It's our planning document, a

17 financially-constrained federal requirement for

18 planning our investments in transportation projects

19 over the four years. We are required to file a

20 STIP, a four-year STIP, every year. So it goes like

21 this (indicating). Transportation programming

22 committee is responsible for the development of that

23 program.

24 Q Let's go back to the commissioner staff.

25 A Okay.

30

1 Q Is there --

2 A But --

3 Q Are there agendas for those meetings?

4 A Yes, there are.

5 Q Are there minutes for those meetings?

6 A Yes, there are.

7 MR. JOHNSON: Barbara, I don't believe

8 we've seen either of those.

9 MS. FORSLAND: They should be in the mass

10 of documents you've gotten. I'll check on that.

11 MR. MCFARLIN: But I -- and I'll just

12 tell you that the range -- the range of issues is

13 all over the place, and it's -- the agenda can be

14 influenced by what the commissioner wants to talk

15 about that day, what issue -- what issue is up and

16 the like. So...

17 BY MR. JOHNSON:

18 Q Would the commissioner staff meetings ever have on

19 its agenda a bridge safety issue?

20 A Yes.

21 Q And it would be specific to a bridge?

22 A No, not generally.

23 Q So --

24 A What it would be, for example, we -- I know we would

25 get an update on the bridge program from -- from the

31

1 bridge office, and we would -- and the bridge office

2 would come in and talk about their -- make a

3 presentation to commissioner staff about anticipated

4 bridge needs in the coming decade and the wave of

5 bridges and where they are in programming bridges

6 and things like that. So you get programatic kinds

7 of presentations.

8 Q So was there action -- a decision made and action

9 taken as a result of the presentations that were

10 made to the --

11 A To the commissioner staff? Generally, you know,

12 depending on the issue, there are certainly

13 decisions made and actions directed.

14 Q Would any of those decisions related to -- relate to

15 bridges?

16 A I think in terms of -- mostly presentational, here's

17 where we are in the bridge program. I don't recall

18 ever there being a bridge issue in general or

19 specific brought to commissioner staff as an action

20 item. Here's where we are in the bridge program.

21 We get updates -- and, for example, Tom -- and I --

22 maybe you've seen this. MnDOT is a management by

23 performance measurement kind of organization. We

24 have an extensive set of performance measures that

25 we monitor regularly on how our system works. We

32

1 have bridge measures for our bridge system as part

2 of that performance-based budgeting and planning

3 effort.

4 Commissioner staff would get regularly --

5 and we -- we chop it up into different, you know,

6 kind of quarterly reports. We would get reports on

7 how well we are doing in meeting our measures in

8 different areas, including bridges.

9 Q So those reports would come to the commissioner

10 staff?

11 A Yeah, for presentation and for discussion.

12 Q Would they come -- come to the TPC?

13 A TPC would not have performance measures as part of

14 their agenda. I don't -- well, you know, it's a --

15 I don't run TPC, so they probably look at -- I mean,

16 it's part of their -- it's -- the performance

17 measures are part of our budgeting decisions. For

18 example -- you know, the legislative auditor is well

19 familiar with all of this material, so you can look

20 into their work.

21 Q We have.

22 A And, in fact, looking at our performance measures

23 and our performance goals was a strong basis for

24 their recent report, especially on the pavement

25 conditions. It's those type of things like the

<p>33</p> <p>1 pavement condition reports that -- that --</p> <p>2 Q When you would be discussing performance measures</p> <p>3 related to bridges within the commissioner staff</p> <p>4 meetings, would you also talk about the so-called</p> <p>5 budget-buster bridges and how you were going to</p> <p>6 replace those?</p> <p>7 A They would be part of that presentation, and we'd</p> <p>8 see a schedule for when they would need to be</p> <p>9 replaced and the like. And the one thing with</p> <p>10 bridges --</p> <p>11 Q Would you be talking about any specific safety</p> <p>12 concerns as it relates to the structural integrity</p> <p>13 of those bridges when you were discussing --</p> <p>14 A No, no specific --</p> <p>15 Q -- the replacement schedule?</p> <p>16 A No, only -- no specific safety concerns, because</p> <p>17 what would happen is the engineers would -- you</p> <p>18 know, the bridge engineers would come to -- you</p> <p>19 know, Dan Dorgan and his staff would come and make a</p> <p>20 presentation about bridge needs, general bridge</p> <p>21 needs, just like we have general road needs. And</p> <p>22 those needs are based on estimates of the life of</p> <p>23 bridges, when they were built, when they need to be</p> <p>24 replaced, what their -- you know, the general</p> <p>25 condition ratings of the bridge system and --</p>	<p>35</p> <p>1 the legislature a great deal -- bridges did not have</p> <p>2 a funding gap in our long term -- in our long-term</p> <p>3 funding needs because we prioritize the funding of</p> <p>4 the bridge program. And so if you take a look at</p> <p>5 the funding analysis that we -- most recent</p> <p>6 long-term funding analysis that we gave to the</p> <p>7 legislature, taking a look at needs -- the needs to</p> <p>8 meet the performance measures in our performance</p> <p>9 goals over -- over time, bridges were fully funded</p> <p>10 based on those performance needs and performance</p> <p>11 goals to meet those -- meet those needs. And</p> <p>12 bridges have always -- and the bridge system has</p> <p>13 always maintained a top priority in our budget.</p> <p>14 Q When Mr. Dorgan was making a presentation about</p> <p>15 bridge needs, did he discuss the condition rating of</p> <p>16 specific bridges in the context of telling you what</p> <p>17 the needs were?</p> <p>18 A No, I -- not at that level. We wouldn't get into</p> <p>19 condition ratings of specific bridges because that</p> <p>20 would be -- that would be inherent -- all of that</p> <p>21 information would be inherent in the recommendation</p> <p>22 being made by the bridge office for the bridge</p> <p>23 investment program.</p> <p>24 Q So --</p> <p>25 A So there wouldn't be any need. You know, they take</p>
<p>34</p> <p>1 Q Did those presentations --</p> <p>2 A If I can finish, please. And then so those would</p> <p>3 be -- we'd get kind of a report in a macro sense</p> <p>4 about the bridge program and the state of the</p> <p>5 bridges. And certainly the, quote, unquote, budget</p> <p>6 busters are part of that discussion, showing where</p> <p>7 they fit into the financial program and when they</p> <p>8 are scheduled to be replaced based on the bridge</p> <p>9 condition.</p> <p>10 Now, one thing it is very important to</p> <p>11 note is that bridges have always been in the</p> <p>12 budgetary process and, based on these condition --</p> <p>13 these performance reports and the like, bridges have</p> <p>14 always been a priority. And that priority -- you</p> <p>15 know, if the bridge -- if the bridge office comes in</p> <p>16 and says here's the schedule that we recommend for</p> <p>17 the replacement of bridges, that schedule would be</p> <p>18 followed. And that is reflected and that priority</p> <p>19 is reflected in the most recent two thousand -- I</p> <p>20 think it's 2005 -- 2005 probably that we're just</p> <p>21 updating stated vestment plan for the long term.</p> <p>22 And we gave this information to the legislature. We</p> <p>23 presented it frequently.</p> <p>24 When we talk about funding gaps for our</p> <p>25 transportation system -- you've heard that term from</p>	<p>36</p> <p>1 that into account --</p> <p>2 Q So --</p> <p>3 A -- in programming --</p> <p>4 Q -- If a bridge -- If a bridge was rated poor in</p> <p>5 terms of its structural integrity, that would not be</p> <p>6 a condition that would be shared with you?</p> <p>7 A It wouldn't need to be because, if the bridge was</p> <p>8 rating poor or, you know, some -- some structural</p> <p>9 deficiency, the bridge office would address that</p> <p>10 need by programming it into a bridge investment</p> <p>11 program that -- at a point in time when they felt it</p> <p>12 was appropriate to deal with that structural</p> <p>13 integrity, and then that would -- that would be</p> <p>14 reflected in the bridge program that they talk to</p> <p>15 the commissioner --</p> <p>16 Q Would --</p> <p>17 A -- staff about.</p> <p>18 Q Would any of the members of the commissioner staff</p> <p>19 ever ask questions about the condition of specific</p> <p>20 bridges?</p> <p>21 A They might. I don't recall it. And I'm just --</p> <p>22 again, that is -- that is an issue that likely</p> <p>23 wouldn't need to be discussed at that level because</p> <p>24 that would be taken into account in the description</p> <p>25 and the development of the bridge investment program</p>

<p style="text-align: right;">37</p> <p>1 that would be being put forth or recommended by the</p> <p>2 bridge office that then would be -- then would be</p> <p>3 accepted as part of our programming process.</p> <p>4 Q So you're saying that where a bridge falls in terms</p> <p>5 of its -- on the replacement time line, where it's</p> <p>6 chewed up is entirely the responsibility of the</p> <p>7 bridge office?</p> <p>8 A Yes.</p> <p>9 Q And --</p> <p>10 A As far as -- as far as their recommendation, yes.</p> <p>11 Q And that recommendation isn't -- what I heard you</p> <p>12 say is that recommendation really doesn't get</p> <p>13 examined beyond the bridge office?</p> <p>14 A You have to understand, by the time it gets to this</p> <p>15 point, it has gone through the bridge office, up</p> <p>16 through their division, up through the deputy</p> <p>17 commissioner, who -- you know, who is responsible</p> <p>18 for these divisions, and then it gets discussed at</p> <p>19 commissioner staff. And so it is -- it is -- it is</p> <p>20 vetted in our process. Bridges are a priority.</p> <p>21 They always have been. It would not be necessary --</p> <p>22 you know, because -- because we -- we rely on our</p> <p>23 experts in our bridge office and our bridge engineer</p> <p>24 who are there to do this job, it would not be</p> <p>25 necessary for the -- you know, they put together</p>	<p style="text-align: right;">39</p> <p>1 Q And what I hear you saying, and correct me if I'm</p> <p>2 incorrect, is that the decision regarding when a</p> <p>3 bridge should replace -- be replaced rests in the</p> <p>4 bridge office?</p> <p>5 A Yes. Yes.</p> <p>6 Q Why don't we spend a short amount of time anyway</p> <p>7 talking about the difference that you experience</p> <p>8 between your position with -- in the Molnau</p> <p>9 Administration and the Denn Administration. And,</p> <p>10 first, why don't you just tell us if there's -- if</p> <p>11 there was any significant differences in the</p> <p>12 position that you held in Molnau versus, say, the</p> <p>13 chief of staff position that you had in the Denn</p> <p>14 Administration.</p> <p>15 A There are great similarities, and there are a few</p> <p>16 differences. And the differences are primarily</p> <p>17 just -- just dealing with, you know, you had -- we</p> <p>18 have a different organizational structure -- or had</p> <p>19 one under Carol Molnau. Under Jim Denn we had two</p> <p>20 deputies. We had a different management style in</p> <p>21 Jim Denn. We had a larger commissioner staff under</p> <p>22 Jim Denn. So there was -- there was a little bit</p> <p>23 more of that kind of thing.</p> <p>24 But the base -- the base responsibilities</p> <p>25 for me were very similar between the Denn</p>
<p style="text-align: right;">38</p> <p>1 their program to replace bridges on the schedule</p> <p>2 that they as experts believe needs to be put</p> <p>3 forward. It gets vetted kind of through their --</p> <p>4 their peer process, through their division and up</p> <p>5 through the deputy commissioner. And it wouldn't be</p> <p>6 necessary to discuss specific condition ratings of</p> <p>7 bridges, because they will have always -- they would</p> <p>8 have already figured that in into their investment</p> <p>9 program, their regular capital investment program.</p> <p>10 Q Well, does it get discussed -- condition of the</p> <p>11 bridge, does that get discussed during the vetting</p> <p>12 process?</p> <p>13 A You'd have to -- I'm not part of that vetting</p> <p>14 process, Tom. You'd have to discuss that with the</p> <p>15 bridge engineer and with their division director and</p> <p>16 with the deputy commissioner. I would assume. But</p> <p>17 we rely on experts. You know, I'm not sure -- I'm</p> <p>18 not sure you want me questioning, you know, or --</p> <p>19 and I'm just making that point.</p> <p>20 Q No, Commissioner, I'm not -- I'm not putting any</p> <p>21 value on --</p> <p>22 A Yeah.</p> <p>23 Q -- this at all. I'm just trying to figure out where</p> <p>24 the decisions are made.</p> <p>25 A Sure.</p>	<p style="text-align: right;">40</p> <p>1 Administration and this administration; policy</p> <p>2 advisor to the commissioner, liaison with the</p> <p>3 governor's office, principally responsible for</p> <p>4 putting together large transportation funding</p> <p>5 proposals for the governor to consider and</p> <p>6 eventually roll out, communications activities,</p> <p>7 chief spokesperson for the agency primarily on</p> <p>8 matters of large public interest or public -- you</p> <p>9 know, of controversial nature, those types of</p> <p>10 things. Very similar between -- between both.</p> <p>11 Jim Denn had a little bit different</p> <p>12 management style. Carol Molnau had a little</p> <p>13 different management style. So they affect kind of</p> <p>14 how you work. Different governor. Different</p> <p>15 governor staff. Different governor initiatives.</p> <p>16 But largely the same.</p> <p>17 Q This is hard to ask in a bite-size question; but I'm</p> <p>18 curious if you could characterize the difference, if</p> <p>19 there was any, in the budgetary tension between</p> <p>20 maintenance preservation and new projects between</p> <p>21 the two administrations?</p> <p>22 A Well, I think it's very hard to compare between the</p> <p>23 two administrations because the financial</p> <p>24 circumstances facing the agency were very different,</p> <p>25 very different, and there was an intervening</p>

<p style="text-align: right;">41</p> <p>1 administration. You know, each administration has</p> <p>2 an impact one way or another on the succeeding -- or</p> <p>3 the next administration.</p> <p>4 In -- during the Arnie Carlson</p> <p>5 Administration the -- we had kind of the steady</p> <p>6 growth in transportation funding resources, no major</p> <p>7 transportation funding packages passed by the</p> <p>8 legislature, but the gas tax was on a steady growth,</p> <p>9 the tab fees were on a steady growth. The gas tax</p> <p>10 had been increased just a few years prior to</p> <p>11 Governor Carlson taking office, and construction</p> <p>12 inflation was rather flat -- or flatter than it is</p> <p>13 now, and the backlog of projects that -- at that</p> <p>14 time was not as acute as it has been in the</p> <p>15 following decade. You get into -- so the tensions</p> <p>16 weren't as great just from a fiscal standpoint.</p> <p>17 But the tensions you describe between</p> <p>18 preservation and maintenance and capital investment</p> <p>19 in our state road construction program are not</p> <p>20 really tensions within the agency about what we</p> <p>21 should spend money on and what we shouldn't and</p> <p>22 arguments that way. It's that, especially in recent</p> <p>23 years with declining revenues from base -- from base</p> <p>24 taxes or shrinking revenues and with -- with the</p> <p>25 construction inflation going forward at such a high</p>	<p style="text-align: right;">43</p> <p>1 between attempting to maintain that preservation</p> <p>2 first approach, primarily for roads, and the desire</p> <p>3 for large expansion projects that get -- that get</p> <p>4 advocacy groups and corridor groups and a lot of</p> <p>5 press and things like that. There aren't a lot of</p> <p>6 people who are out there advocating to improve</p> <p>7 shoulders.</p> <p>8 Q I have one question on preservation --</p> <p>9 A Sure.</p> <p>10 Q -- that you maybe can help me with because I haven't</p> <p>11 gotten the answer yet. New bridge replacement, say</p> <p>12 the I-35W bridge, had that needed -- had that been</p> <p>13 replaced, would that have been replacement -- would</p> <p>14 that have been preservation or a new project?</p> <p>15 A It -- you ask a very good question, because the</p> <p>16 definition -- sometimes the lines get blurred</p> <p>17 between the definition of preservation and the</p> <p>18 definition of expansion. Replacing a bridge that</p> <p>19 needs to be replaced in its life cycle is generally</p> <p>20 a preservation activity. And, like I said -- I</p> <p>21 can't say this enough, and I can show you the</p> <p>22 data -- bridges and the bridge program and the</p> <p>23 bridge program as laid out by the bridge office has</p> <p>24 always maintained a priority in this agency. It did</p> <p>25 under Denn, it did under Tinklenberg, and it did</p>
<p style="text-align: right;">42</p> <p>1 level. And, thirdly, just the built-up pressure</p> <p>2 over years of not having any kind of a funding</p> <p>3 increase for transportation, there -- these tensions</p> <p>4 you describe are just more overall budgetary</p> <p>5 tensions of there not really being enough money to</p> <p>6 accomplish all the things that people would like to</p> <p>7 accomplish within the agency. And so -- and there's</p> <p>8 been a growing pressure -- and the legislative</p> <p>9 auditor pointed this out. There has been a growing</p> <p>10 pressure over recent years, and recent years kind of</p> <p>11 the last ten, through the Tinklenberg Administration</p> <p>12 and the early part of this administration, more and</p> <p>13 more for big-dollar projects. The longer they're</p> <p>14 delayed, the big expansion projects, the more</p> <p>15 pressure there is to go there.</p> <p>16 MnDOT has a preservation first investment</p> <p>17 philosophy, maintain safety, maintain what exists in</p> <p>18 good condition. And we -- and that includes</p> <p>19 bridges. And we've always made bridges a priority.</p> <p>20 Q Let me ask --</p> <p>21 A But I was just going to finish. And the issue we've</p> <p>22 been running into, as the legislative auditor</p> <p>23 pointed out and that we fully agreed with that -- we</p> <p>24 pointed it out -- is this pressure between -- as the</p> <p>25 budgets get tighter and tighter, the pressure</p>	<p style="text-align: right;">44</p> <p>1 under Molnau. And it's reflected in the budgetary</p> <p>2 analysis about funding gaps. But if you replace --</p> <p>3 if you replace a bridge that -- that is at a point</p> <p>4 in time when it's needed to be replaced in its life</p> <p>5 cycle, that would be a preservation investment. If</p> <p>6 you replace a bridge that is in its time of needing</p> <p>7 to be replaced and you expand it from two lanes to</p> <p>8 four or four lanes to six, an element of that</p> <p>9 investment is an expansion element. So --</p> <p>10 Q Is the --</p> <p>11 A -- you will see -- in our programming documents, you</p> <p>12 will see, you know, with respect to a particular</p> <p>13 investment on a particular project where we're</p> <p>14 required -- where we require our programming people</p> <p>15 and our district people to indicate what strategic</p> <p>16 goal that investment meets within our strategic</p> <p>17 plan, you will see preservation, you will see safety</p> <p>18 and you will see expansion sometimes mentioned --</p> <p>19 all three of them mentioned for one project at</p> <p>20 meeting those strategic goals.</p> <p>21 So you were going to ask about the --</p> <p>22 Q Is the replacement that's occurring now, the 35W</p> <p>23 bridge, preservation or expansion?</p> <p>24 A I think it's -- right now it would be considered</p> <p>25 both. It would be considered both.</p>

<p style="text-align: right;">45</p> <p>1 Q And why would that be?</p> <p>2 A Well, we're replacing it with a larger structure.</p> <p>3 It has a little bit more capacity. It has capacity</p> <p>4 for light-rail transit. So some of the</p> <p>5 investments -- you know, when you're tracking the</p> <p>6 dollars spent, some of the investments on that</p> <p>7 bridge would be considered investment for expansion,</p> <p>8 because you're not -- you're not -- you're very</p> <p>9 closely but not entirely, you know, replacing just</p> <p>10 what was there. There are some expansion</p> <p>11 improvement elements to that -- to that structure.</p> <p>12 But I -- you know, Tom, also, it's --</p> <p>13 it's a little bit difficult to describe the</p> <p>14 replacement of that collapsed bridge in the same</p> <p>15 vocabulary with which we describe all of our -- all</p> <p>16 of our other investments.</p> <p>17 Q I agree. That was why I've been having a hard time</p> <p>18 getting my head around it. Let me ask this: Is</p> <p>19 there -- because others have spoken about this</p> <p>20 tension, others within MnDOT that we have talked to</p> <p>21 have spoken about this tension between, you know,</p> <p>22 preservation and the expansion, what I would think</p> <p>23 of in terms of new construction. But is there -- it</p> <p>24 almost seems as though there's a third element to</p> <p>25 that tension, which is major bridge replacement?</p>	<p style="text-align: right;">47</p> <p>1 Q We've also been told, you know, by metro that issues</p> <p>2 of magnitude when you've got major repairs,</p> <p>3 replacement, they come up to the fourth floor. How</p> <p>4 would you have dealt with that issue in 2002?</p> <p>5 A Well, first let me clarify, I wasn't here in 2002.</p> <p>6 Q All right. Well, let's do 2004.</p> <p>7 A Okay. It has been my experience that if ever a</p> <p>8 district engineer, a bridge engineer, a division</p> <p>9 director, or anybody in this agency brings forth an</p> <p>10 issue of safety concern on a road or a bridge, it is</p> <p>11 addressed to the recommendation that the</p> <p>12 professionals give. And funding for those</p> <p>13 recommendations to deal with a safety issue, a</p> <p>14 bridge issue, or anything that specifically might be</p> <p>15 brought forward as a concern has never been in</p> <p>16 question, and we would find the resources within the</p> <p>17 remainder of -- the other aspects of the program to</p> <p>18 address that safety concern.</p> <p>19 Q So if there was --</p> <p>20 A Case in point, DeSoto Bridge.</p> <p>21 Q Let's -- let's --</p> <p>22 A I'll just -- that's the case in point that is my</p> <p>23 case. But...</p> <p>24 Q Let's stick with 2004 --</p> <p>25 A Okay.</p>
<p style="text-align: right;">46</p> <p>1 A See, I would disagree. And the reason I would</p> <p>2 disagree is that the bridge program has never been</p> <p>3 subject to that tension, and our documents and our</p> <p>4 programming and budgeting has reflected that for</p> <p>5 years. The bridge program -- bridges are considered</p> <p>6 a priority. Darryl Durgin, as deputy commissioner</p> <p>7 throughout the Denn Administration, talked about</p> <p>8 bridges as being the fuses of the system and that</p> <p>9 the system doesn't work unless you take care of</p> <p>10 those fuses.</p> <p>11 I have never in my experience with MnDOT</p> <p>12 seen any philosophy other than that. And so there</p> <p>13 has never been in my experience any kind of a</p> <p>14 tension or question about investing in the bridge</p> <p>15 repair and replacement program as put forward by our</p> <p>16 bridge experts, and our documents reflect that.</p> <p>17 Q Let's go back a few years then.</p> <p>18 A Okay.</p> <p>19 Q Let's go back to -- just pick any year -- 2002. And</p> <p>20 let's say that in that year, as a result of an</p> <p>21 inspection report on the 35W bridge, the bridge</p> <p>22 office is saying, hey, we got to put a weight</p> <p>23 restriction on this bridge; no semis can go across</p> <p>24 it.</p> <p>25 A Okay.</p>	<p style="text-align: right;">48</p> <p>1 Q -- and a determination that you had to put not a --</p> <p>2 didn't have to replace the bridge immediately, but</p> <p>3 you just had to put a load restriction on it.</p> <p>4 A Is this -- are you referring to something in</p> <p>5 particular or --</p> <p>6 Q No, this is --</p> <p>7 A -- or are you referring to a hypothetical?</p> <p>8 Q No, it's just a hypothetical.</p> <p>9 A Okay.</p> <p>10 Q Because I'm trying to figure out -- because I know</p> <p>11 there's been some developments with the bridge --</p> <p>12 statewide bridge preservation fund --</p> <p>13 A Um-hum.</p> <p>14 Q -- since 2004. So I'm trying to figure out in 2004</p> <p>15 how you would have funded either a major repair,</p> <p>16 say, 50 to \$100 million magnitude, or a replacement</p> <p>17 of that bridge. How would you have funded that?</p> <p>18 A We would have gone into our regular program, and we</p> <p>19 would have found -- we would have delayed projects,</p> <p>20 if necessary, to address a safety issue to whatever</p> <p>21 magnitude.</p> <p>22 Q And would -- have you delayed projects just within</p> <p>23 metro division or would this have been statewide?</p> <p>24 A I -- depending on the magnitude of your</p> <p>25 hypothetical, Tom, if it were a safety issue, we</p>

<p style="text-align: right;">49</p> <p>1 would first look to the resources that are allocated</p> <p>2 to a particular district where the safety issue</p> <p>3 exists. And if that wasn't adequate, we'd look</p> <p>4 throughout the entire statewide construction budget.</p> <p>5 And if that wasn't adequate, we'd go into the</p> <p>6 maintenance budget as well. Remember, this is all</p> <p>7 hypothetical. Now, all I'm telling -- the point I'm</p> <p>8 making is that -- let's just talk about bridges. If</p> <p>9 the state bridge engineer comes to the commissioner</p> <p>10 of the Minnesota Department of Transportation and</p> <p>11 says I have a safety issue on a bridge and I need to</p> <p>12 take this particular action, I have never, ever</p> <p>13 experienced a commissioner that would not take that</p> <p>14 advice and take that recommendation immediately and</p> <p>15 give that -- and give that authority to the -- to</p> <p>16 the state bridge engineer or a division director</p> <p>17 that comes to them, a district engineer that says I</p> <p>18 have a safety problem here that needs to be</p> <p>19 addressed, I have to close a bridge, I got to fix a</p> <p>20 bridge, I got to move my construction budget around</p> <p>21 to address this issue.</p> <p>22 Q This is a difficult question, Bob, and I'm just</p> <p>23 trying to get some sense for, you know, your</p> <p>24 impression as to how things work here.</p> <p>25 A Um-hum.</p>	<p style="text-align: right;">51</p> <p>1 in our infrastructure, the type of hypotheticals</p> <p>2 that you're raising here are extremely rare. We</p> <p>3 don't have to struggle with those issues very</p> <p>4 frequently, and when we do it's usually because of</p> <p>5 some sort of external force on our -- on our</p> <p>6 infrastructure. A truck hits a bridge. A flood</p> <p>7 undermines -- undermines the structural integrity of</p> <p>8 a bridge somewhere. And when those types of things</p> <p>9 happen, first of all, our district engineers are</p> <p>10 very empowered in their districts to take the</p> <p>11 necessary action to protect public safety and</p> <p>12 address public safety. Those actions are not</p> <p>13 questioned. We trust them to make those. And so</p> <p>14 I'm saying here -- you're raising a hypothetical,</p> <p>15 but I'm also pointing out that the hypothetical that</p> <p>16 you raise is, fortunately, because of the way we've</p> <p>17 invested, a very rare occurrence.</p> <p>18 Q What we're told is the reality by the interviews</p> <p>19 we've conducted both within and outside of MnDOT,</p> <p>20 though, Bob, is that while the bridge program is a</p> <p>21 solid program, it has a weakness, and that's the</p> <p>22 so-called budget-buster bridges, and how to address</p> <p>23 either major repair or replacement of those is the</p> <p>24 issue that the department has struggled with.</p> <p>25 A Well, and I don't -- I don't deny that that's a big</p>
<p style="text-align: right;">50</p> <p>1 Q And it goes also to, you know, how you would fund</p> <p>2 major projects that arise in a -- either as an</p> <p>3 emergency or within a short time line where you need</p> <p>4 a significant amount of money to correct a problem.</p> <p>5 Does it, do you think, affect the bridge</p> <p>6 engineer to know that if he comes in and makes a</p> <p>7 recommendation that we got to put a load restriction</p> <p>8 on the 35W bridge and that that's going to set in</p> <p>9 motion either a major repair job or a replacement of</p> <p>10 the bridge, that if he makes that recommendation,</p> <p>11 he's going to bump everything else out of the queue</p> <p>12 within the metro division and maybe elsewhere around</p> <p>13 the state?</p> <p>14 A I think our bridge engineers in particular -- and,</p> <p>15 you know, I've known Mr. Fleming and Mr. Dorgan -- I</p> <p>16 think they're empowered. They know that they are</p> <p>17 empowered to bring forth those issues and that they</p> <p>18 will be supported. I don't think they think in</p> <p>19 terms of reservations or concerns about that at all.</p> <p>20 And the fortunate thing, Tom, in your hypothetical</p> <p>21 is, because of the way we have invested in bridges</p> <p>22 in Minnesota -- remember, we have one of the top</p> <p>23 bridge programs in the country as measured by</p> <p>24 federal data, and we have maintained that for years.</p> <p>25 The manners we have invested in bridges and invested</p>	<p style="text-align: right;">52</p> <p>1 financial issue. The replacement and the -- and</p> <p>2 we've been talking about, and I think this is to</p> <p>3 MnDOT's great credit, the agency has been tracking</p> <p>4 its bridge inventory and anticipating the wave, as</p> <p>5 you've probably heard it described, of bridge</p> <p>6 replacements necessary in the future since early --</p> <p>7 probably before the Denn Administration. I know</p> <p>8 Dick Brahnen (phonetic) sure was interested in that.</p> <p>9 But the fact that they are budget-buster bridges and</p> <p>10 have that moniker doesn't mean that they are bridges</p> <p>11 that are unsafe. You can't -- the fact -- all the</p> <p>12 fact -- all that points out is that we know in the</p> <p>13 future, as we look at the life cycle of these</p> <p>14 bridges, when they were constructed, that they are</p> <p>15 going to need to be replaced; and guess what, folks,</p> <p>16 these particular bridges exceed significantly the</p> <p>17 normal financial capacity of the particular</p> <p>18 district, be it metro, be it Rochester, be it</p> <p>19 Bemidji. And so we have to start planning for their</p> <p>20 replacement and figuring out ways to set aside</p> <p>21 money, make money available, supplement the budgets</p> <p>22 of our district offices to handle these important --</p> <p>23 these important bridges and get at them at the point</p> <p>24 in time when they need to be addressed. And I think</p> <p>25 that planning and that identification is to -- is to</p>

<p style="text-align: right;">53</p> <p>1 our bridge office's credit and to our credit in</p> <p>2 taking a look at an emerging issue.</p> <p>3 We have the same issue on</p> <p>4 budget-buster-type projects with road projects, and</p> <p>5 we have been -- that has been a subject of</p> <p>6 discussion with the legislature and the public for</p> <p>7 years, what -- in fact, the legislature put together</p> <p>8 on I think two different occasions committees called</p> <p>9 mega project study commissions to take a look at the</p> <p>10 wave of large transportation projects, including</p> <p>11 bridges, coming in the future and how to fund them.</p> <p>12 And so this is -- this is not a new issue.</p> <p>13 Q Do you think within the department and by the</p> <p>14 legislature those mega projects are just kind of</p> <p>15 seen as one and the same; they're all large items to</p> <p>16 be -- that we need to figure out how we're going --</p> <p>17 A I think --</p> <p>18 Q -- to come up with --</p> <p>19 A I think to a certain extent, yes. It's been a part</p> <p>20 of the legislative funding debate. Mega projects</p> <p>21 have been -- both bridge and roads, have been part</p> <p>22 of the transportation funding debate since back in</p> <p>23 the '90s under the Carlson Administration. They</p> <p>24 were a part of the funding debate in the Tinklenberg</p> <p>25 Administration, and part of -- part of legislative</p>	<p style="text-align: right;">55</p> <p>1 that they need to be replaced.</p> <p>2 MR. JOHNSON: I think we should give the</p> <p>3 reporter a rest here.</p> <p>4 A Okay.</p> <p>5 (Recess.)</p> <p>6 MR. JOHNSON: Well, let's go back on the</p> <p>7 record.</p> <p>8 MR. MCFARLIN: Okay.</p> <p>9 BY MR. JOHNSON:</p> <p>10 Q Commissioner, I have some questions that are</p> <p>11 specific to bridge safety, and I'm going to --</p> <p>12 A All right.</p> <p>13 Q -- start with some questions that relate to the 35W</p> <p>14 bridge. And it may very well be that you don't have</p> <p>15 any information to share and, if that's the case,</p> <p>16 that's fine --</p> <p>17 A Okay.</p> <p>18 Q -- just tell me that. During the time that you've</p> <p>19 been at MnDOT but prior to August 1st of 2007, I'm</p> <p>20 going to ask you whether you were either involved in</p> <p>21 any discussions or in preparing or reviewing any</p> <p>22 written communications that relate to a number of</p> <p>23 different things as it concerns the 35W bridge.</p> <p>24 A Okay.</p> <p>25 Q So the first question was were you involved in any</p>
<p style="text-align: right;">54</p> <p>1 discussion and debate, part of the debate in the</p> <p>2 Pawlenty Administration.</p> <p>3 Mega project funding came up in this last</p> <p>4 transportation bill; and a portion of what was</p> <p>5 supposed to be mega project funding, which could be</p> <p>6 used both for bridges and for roads, was actually</p> <p>7 amended out of the bill before it passed, because</p> <p>8 the legislature had planned to use a half-cent sales</p> <p>9 tax in the metropolitan area for transit and roads</p> <p>10 to supplement the metropolitan's growing need for</p> <p>11 these large projects. Bonding has been identified.</p> <p>12 The point is -- but I want to make a</p> <p>13 difference -- make a point of difference as well.</p> <p>14 The bridges fall in that category of talking about</p> <p>15 mega projects, but they are also different because</p> <p>16 they are of high priority. And we know that we have</p> <p>17 to take care of the bridges for the system to work.</p> <p>18 So we would prioritize with -- under limited</p> <p>19 funding, we would prioritize -- at the point in time</p> <p>20 when the bridge needs to be replaced, we would</p> <p>21 prioritize those bridge projects over the road</p> <p>22 projects that might -- you might be able to let go</p> <p>23 longer, even though they're not operating as well as</p> <p>24 under congestion or whatever as you might think.</p> <p>25 The bridges would take priority at the point in time</p>	<p style="text-align: right;">56</p> <p>1 discussions or preparing, reviewing any documents</p> <p>2 that relate to inspection findings --</p> <p>3 A No.</p> <p>4 Q -- on the bridge? So --</p> <p>5 A Wouldn't generally be in my area of responsibility.</p> <p>6 It would be -- all of the material -- and I'm</p> <p>7 probably going to be -- knowing probably where your</p> <p>8 questions are going, Tom, it's probably likely I'm</p> <p>9 going to have the same answer. It's just not in</p> <p>10 my --</p> <p>11 Q And that's fine.</p> <p>12 A -- area. Okay.</p> <p>13 Q We just want to make sure we haven't left</p> <p>14 something --</p> <p>15 A Sure.</p> <p>16 Q -- on the table here --</p> <p>17 A Sure.</p> <p>18 Q -- when we leave in terms of what information you</p> <p>19 might provide us. So you have not been in any</p> <p>20 discussions as it related to gusset plates,</p> <p>21 corrosion, section loss --</p> <p>22 A No.</p> <p>23 Q -- frozen bearings on the bridge?</p> <p>24 A No.</p> <p>25 Q What about the maintenance needs of that specific</p>

<p>57</p> <p>1 bridge?</p> <p>2 A No.</p> <p>3 Q The NBI rating of the bridge?</p> <p>4 A No.</p> <p>5 Q The bridge replacement time line?</p> <p>6 A No.</p> <p>7 Q Any of the consultant studies that were --</p> <p>8 A All of that --</p> <p>9 Q -- looking at the bridge?</p> <p>10 A All of that was a learning experience post</p> <p>11 August 1st, all the knowledge about the existence of</p> <p>12 those particular studies and the like, for me.</p> <p>13 Q Were you involved in any discussions pertaining to</p> <p>14 the construction work that was occurring on the</p> <p>15 bridge in 2007?</p> <p>16 A No.</p> <p>17 Q Again, prior to August --</p> <p>18 A Yeah.</p> <p>19 Q -- 1st?</p> <p>20 A No. The PCI work. No.</p> <p>21 Q Do you recall, you know, during your two different</p> <p>22 stints at MnDOT having been involved in any</p> <p>23 discussions relating to the 35W bridge and its --</p> <p>24 A None at all.</p> <p>25 Q -- physical condition?</p>	<p>59</p> <p>1 A Dan Dorgan and Lisa Freese. Dan Dorgan, our state</p> <p>2 bridge engineer; and Lisa Freese, our deputy</p> <p>3 commissioner, who -- just letting me know that they</p> <p>4 had -- they had come across something that they had</p> <p>5 yet not been able to explain with a gusset --</p> <p>6 with -- you know, our first conversation was with a</p> <p>7 gusset plate, and they'd keep me informed during the</p> <p>8 day.</p> <p>9 Q Subsequently a decision gets made to close the</p> <p>10 bridge?</p> <p>11 A I was called by Dan Dorgan and Lisa Freese -- I</p> <p>12 can't remember in what order -- and early that</p> <p>13 afternoon Dan made the recommendation and the</p> <p>14 decision, because they are empowered to do so, to</p> <p>15 close the bridge; and I concurred with that</p> <p>16 recommendation and decision.</p> <p>17 Q So let me make sure I understand. So he calls you</p> <p>18 and says, Commissioner, I made a decision to close</p> <p>19 the DeSoto Bridge?</p> <p>20 A Yep.</p> <p>21 Q Does he ask do you agree or do you --</p> <p>22 A I said --</p> <p>23 Q -- I'm just calling you as an FYI?</p> <p>24 A Yeah. I said, okay, that sounds good. And I asked</p> <p>25 a couple -- couple of questions in that phone</p>
<p>58</p> <p>1 A None at all.</p> <p>2 Q Now, let's turn to the DeSoto Bridge.</p> <p>3 A Okay.</p> <p>4 Q You brought that up as an example earlier and the</p> <p>5 fact that it was closed.</p> <p>6 A Um-hum.</p> <p>7 Q You were already the acting commissioner when that</p> <p>8 action --</p> <p>9 A Yes.</p> <p>10 Q -- was taken. My first question is did you become</p> <p>11 involved -- or become aware of the problem that led</p> <p>12 to its closing prior to the time it was closed?</p> <p>13 A During -- in that day, yes. I was -- they had -- I</p> <p>14 was told earlier that day that they were looking at</p> <p>15 the bridge, inspecting it as part of the -- you</p> <p>16 know, that was being inspected as part of the effort</p> <p>17 under the new NTSB and FHWA directives on examining</p> <p>18 gusset plates, which, of course, Minnesota has</p> <p>19 exceeded those guidelines or those recommendations</p> <p>20 in examining gusset plates on our steel truss</p> <p>21 bridges. I was told that something had been noticed</p> <p>22 in a gusset plate, and they were continuing their</p> <p>23 evaluation, and they would keep me informed during</p> <p>24 the course of the day.</p> <p>25 Q Who did you have that -- those discussions with?</p>	<p>60</p> <p>1 conversation. In fact, I took that phone</p> <p>2 conversation, ironically, while I was visiting the</p> <p>3 35W bridge reconstruction site. And Dan said that</p> <p>4 this is what we have found; we can't explain it yet.</p> <p>5 And he explained that they had found it in four</p> <p>6 symmetrical points on the bridge -- actually, at</p> <p>7 that time it was three symmetrical points, and they</p> <p>8 were checking the fourth with the gusset plates, and</p> <p>9 it was his belief and directive that the</p> <p>10 bridge should be -- that they were shutting it down.</p> <p>11 And I said, Dan, I agree with you; make no -- no</p> <p>12 delay; shut it down.</p> <p>13 Q Did you have any communication with the governor</p> <p>14 about the closing?</p> <p>15 A After -- after I received that call --</p> <p>16 Q Which call now?</p> <p>17 A From Mr. Dorgan.</p> <p>18 Q Saying that he was going to close the bridge?</p> <p>19 A Then I contacted the governor's office and informed</p> <p>20 them of the action the agency was taking, and I</p> <p>21 received full and complete support.</p> <p>22 Q Who did you talk to there?</p> <p>23 A I talked with -- it was either -- I really can't</p> <p>24 remember, Tom. It was either Bob Schroeder or Matt</p> <p>25 Kramer.</p>

<p style="text-align: right;">61</p> <p>1 Q You did not talk directly with the governor?</p> <p>2 A I did not talk directly with the governor, no, I did</p> <p>3 not.</p> <p>4 Q In the discussions regarding the DeSoto Bridge, was</p> <p>5 there any comparisons made to the I-35W bridge?</p> <p>6 A No, not in terms of -- not in terms of, you know,</p> <p>7 their structure or the prob -- or the problem found,</p> <p>8 because, of course, with the 35W bridge we don't</p> <p>9 know what caused the collapse, and we won't know</p> <p>10 until the NTSB report is out. So you really can't</p> <p>11 make those comparisons. But the linkage with the</p> <p>12 35W bridge is very clear in that the -- this anomaly</p> <p>13 they found in the gusset plates, which has since</p> <p>14 been further analyzed by Wiss Janey and our staff,</p> <p>15 but the anomaly they found at that time in those</p> <p>16 gusset plates was discovered because of the</p> <p>17 inspection process that had been implemented</p> <p>18 following the NTSB and FHWA recommendations on</p> <p>19 gusset plate inspections. So that's the link. But</p> <p>20 we have -- there is no way at this point in time to</p> <p>21 draw any comparisons between the two bridges or the</p> <p>22 things that were found.</p> <p>23 Q I'm not sure if it's a link or a comparison. I</p> <p>24 guess there's -- we know now that there was a bent</p> <p>25 gusset plate or plates on the 35W bridge.</p>	<p style="text-align: right;">63</p> <p>1 A And I'm not -- where is that indicated? Is it just</p> <p>2 in your discussions or is it in an inspection report</p> <p>3 or where is that --</p> <p>4 MR. MERZ: It was -- It was discussed</p> <p>5 during one of my interviews with one of the</p> <p>6 inspectors. It's not in an inspection report.</p> <p>7 MR. MCFARLIN: So what I said is correct.</p> <p>8 It's not in any inspection reports. It's not in --</p> <p>9 it's not in the URS report. It doesn't reference</p> <p>10 the bent gusset plate. So we don't know what that</p> <p>11 photograph means.</p> <p>12 BY MR. JOHNSON:</p> <p>13 Q But within the department there is knowledge that --</p> <p>14 A That the photograph exists.</p> <p>15 Q -- that the photograph exists and that at least one</p> <p>16 of the bridge inspectors says that he observed that</p> <p>17 the gusset plate was bent.</p> <p>18 A Okay. And did he indicate it in the report?</p> <p>19 Q Well, I'm assuming -- It was not recorded in a</p> <p>20 report, but I'm assuming that if the right hand</p> <p>21 knows what the left is doing that you would be aware</p> <p>22 that there was a bent gusset plate when you were</p> <p>23 looking at the DeSoto Bridge.</p> <p>24 A Well, I'm not sure what link you're trying to draw,</p> <p>25 Tom. I think -- how -- we had inspectors at the</p>
<p style="text-align: right;">62</p> <p>1 A Well --</p> <p>2 Q And --</p> <p>3 A Well, what we -- what we know, Tom, is we know the</p> <p>4 Star Tribune has taken a look at a photograph in a</p> <p>5 consultant's report that the Star Tribune appears to</p> <p>6 believe is a bent gusset plate. That's what we</p> <p>7 know. What we don't have in any of the records is</p> <p>8 we don't have any kind of a consultant comment on</p> <p>9 that within the report about that picture that</p> <p>10 suggests that this is a picture of a bent gusset</p> <p>11 plate, we don't have any inspection reports that</p> <p>12 indicate or reference that gusset plate, and we</p> <p>13 don't have any determinations from the National</p> <p>14 Transportation Safety Board about what that picture</p> <p>15 might mean and how they're analyzing within their</p> <p>16 investigation. So I would -- as I have from day</p> <p>17 one, from August 1st on, I would suggest that that's</p> <p>18 a bit -- that's a bit of speculation. We have a</p> <p>19 photograph.</p> <p>20 Q Commissioner, one of the inspectors says that he</p> <p>21 observed a bent gusset plate. So I --</p> <p>22 A On DeSoto.</p> <p>23 Q No.</p> <p>24 A On 35?</p> <p>25 Q On 35W.</p>	<p style="text-align: right;">64</p> <p>1 DeSoto Bridge doing a type of inspection that is new</p> <p>2 to all states across the country, as -- as</p> <p>3 recommended by the NTSB and the Federal Highway</p> <p>4 Administration in the wake of their</p> <p>5 investigation and in the process of their</p> <p>6 investigation of the 35W bridge. And those</p> <p>7 inspectors using that process found bending or</p> <p>8 anomalies in the gusset plates, which have since</p> <p>9 by -- by Wiss Janey have been analyzed to have</p> <p>10 occurred not because of load but because of the</p> <p>11 tensions that were occurring in the construction of</p> <p>12 the bridge. And that's in the Wiss Janey report in</p> <p>13 the examination of the DeSoto Bridge. I would</p> <p>14 assume you've seen that. But I'm not -- I'm --</p> <p>15 so -- so -- and those are the facts around the</p> <p>16 discovery of those. And we didn't know at the time,</p> <p>17 the inspectors could not explain what they were</p> <p>18 seeing, had an indication because of the symmetry of</p> <p>19 the bent gusset plates in four locations symmetrical</p> <p>20 on the bridge, that it might be due to load, and in</p> <p>21 a conservative and proper call by our bridge experts</p> <p>22 closed the bridge.</p> <p>23 Now, I'm not sure what link you're</p> <p>24 drawing between that activity and a photograph in a</p> <p>25 URS report that has been assumed to represent a</p>

<p style="text-align: right;">65</p> <p>1 discovery of bent gusset plates.</p> <p>2 Q So if there wasn't a link within the department,</p> <p>3 there wasn't a link.</p> <p>4 A I'm not aware of one.</p> <p>5 Q So the decision -- or the concern over the bent</p> <p>6 gusset plate on the DeSoto Bridge was a concern that</p> <p>7 was drawn entirely independently from any knowledge</p> <p>8 about gusset plates at the -- on the 35W bridge?</p> <p>9 A I'm -- I don't know if we're parsing words here or</p> <p>10 what. I -- that wouldn't be correct -- a correct</p> <p>11 statement either, because there is a link between</p> <p>12 the 35W bridge and the action of the DeSoto Bridge,</p> <p>13 because it is the investigation of the 35W bridge</p> <p>14 that led to the recommendations for the examination</p> <p>15 of gusset plates. And I think it is extremely</p> <p>16 important to make it very clear that the examination</p> <p>17 and the inspection that took place with the DeSoto</p> <p>18 Bridge is under a whole new set of protocols that</p> <p>19 were not in existence -- nationwide were not in</p> <p>20 existence prior to the collapse or in prior years</p> <p>21 with respect to the 35W bridge or any other bridge.</p> <p>22 We are implementing new protocols, new -- you know,</p> <p>23 the inspectors are asked to look at new things.</p> <p>24 We're -- you know, so you -- the one</p> <p>25 thing that is very important to do and not make the</p>	<p style="text-align: right;">67</p> <p>1 plates that they could not explain on that bridge.</p> <p>2 I don't know how else to explain it, Tom.</p> <p>3 Q No, and I understand that. And I thought that they</p> <p>4 were possibly relating that back to 35W, and you're</p> <p>5 saying no they're not, and that's okay.</p> <p>6 A That's -- yeah. It's related in the fashion that I</p> <p>7 described it and to my understanding.</p> <p>8 Q I haven't exactly held true to my outline here.</p> <p>9 So --</p> <p>10 A We never do. And believe me you never will with me.</p> <p>11 Q I'm just trying to figure out where I'm going to</p> <p>12 pick up next.</p> <p>13 Commissioner, I'm not sure you'll be able</p> <p>14 to answer this, but let me try. I'm aware that</p> <p>15 there was a -- what was characterized or called a</p> <p>16 bridge improvement program that dates back some</p> <p>17 period of time in the department; is that correct?</p> <p>18 A I -- yeah, there is. It's part of our programming,</p> <p>19 yes, allocation of funds.</p> <p>20 Q Can you tell me what the relationship of that</p> <p>21 program is to the statewide bridge preservation fund</p> <p>22 that was created in late 2005?</p> <p>23 A I think the statewide bridge preservation fund is</p> <p>24 more linked to your discussion of so-called</p> <p>25 budget-buster bridges that we had before. The</p>
<p style="text-align: right;">66</p> <p>1 mistake is to compare the inspection processes that</p> <p>2 took place in years prior or months prior to the</p> <p>3 August 1st collapse and inspection processes that</p> <p>4 are in place today, and I think people are</p> <p>5 attempting to make that link.</p> <p>6 Q Commissioner, I was not making that comparison. I</p> <p>7 simply thought that when the inspectors were looking</p> <p>8 at the DeSoto Bridge and when these discussions were</p> <p>9 occurring that an assumption was -- that was a part</p> <p>10 of that discussion was that there was a signif --</p> <p>11 that there were bent gusset plates on the 35W</p> <p>12 bridge.</p> <p>13 A No, I don't think -- I don't -- I mean, you'd have</p> <p>14 to really check this with Dan Dorgan. So I'm just</p> <p>15 going to provide my opinion on this. I think to say</p> <p>16 that there is an assumption that there were bent</p> <p>17 gusset plates on the 35W bridge and, therefore,</p> <p>18 that's why DeSoto was either inspected in the</p> <p>19 fashion that it was, I don't think that's the case.</p> <p>20 DeSoto was being inspected in the fashion that it</p> <p>21 was being inspected because of the directives of the</p> <p>22 NTSB and the State of Minnesota going beyond those</p> <p>23 directives to examine these steel truss bridges even</p> <p>24 before what is being recommended in that -- in that</p> <p>25 recommendation, and they found something in gusset</p>	<p style="text-align: right;">68</p> <p>1 primary impetus around the statewide bridge fund was</p> <p>2 to start to set money aside within our programming</p> <p>3 and with our budgeting for a central fund that could</p> <p>4 be used to help districts deal with these large</p> <p>5 bridges that exceed the normal financial capacity</p> <p>6 of -- of those districts.</p> <p>7 Q Within the department is there a certain dollar</p> <p>8 value that is used when you're thinking or</p> <p>9 percentage of a district's expenditure?</p> <p>10 A Yeah, you know --</p> <p>11 Q How do you -- how do you -- how do you --</p> <p>12 A I'm trying to remember --</p> <p>13 Q -- define a budget-buster bridge?</p> <p>14 A We have to get that. We can get that.</p> <p>15 Barb, would you make a note on that?</p> <p>16 Because we can get that from our Office of</p> <p>17 Investment Management. It's in our guidelines for</p> <p>18 the definition of both mega projects and</p> <p>19 budget-buster bridges. We have some percentage</p> <p>20 guidelines related to that. And I can't articulate</p> <p>21 them off the top of my head, but we can get them to</p> <p>22 you.</p> <p>23 BY MR. JOHNSON:</p> <p>24 Q So with respect to the bridge improvement program</p> <p>25 when it existed, predating the statewide</p>

<p style="text-align: right;">69</p> <p>1 preservation fund, where --</p> <p>2 A I -- I think the bridge improvement program still</p> <p>3 exists. The statewide bridge preservation fund is</p> <p>4 in addition to.</p> <p>5 Q Okay. So --</p> <p>6 A They're not -- it didn't go from one to the other.</p> <p>7 They're two different things.</p> <p>8 Q But they -- would you say they complement one</p> <p>9 another?</p> <p>10 A Yes.</p> <p>11 Q And with the bridge preservation fund being devoted</p> <p>12 primarily, would you say, toward the larger bridge</p> <p>13 replacement or repair projects?</p> <p>14 A I think that the best thing on that is for us to get</p> <p>15 you the actual guidance on that whole program that</p> <p>16 we -- we have printed guidance and a description of</p> <p>17 that statewide bridge preservation fund, the one</p> <p>18 that we created in 2005, and it would probably --</p> <p>19 rather than me trying to explain it in detail, we'll</p> <p>20 just -- we'll get you that. We have documents to</p> <p>21 that.</p> <p>22 Q And I've reviewed those documents. It still leaves</p> <p>23 me not appreciating, I don't think anyway, what</p> <p>24 you're funding with it versus what is included in</p> <p>25 the bridge improvement program and what the funding</p>	<p style="text-align: right;">71</p> <p>1 most of my work -- we answered a few clarifying</p> <p>2 questions with the legislature on that particular</p> <p>3 bill, but a lot of it was working with the</p> <p>4 governor's office to help analyze what it was that</p> <p>5 the legislature was intent on passing.</p> <p>6 Q Is there anything in that bill that will be helpful</p> <p>7 to you as it relates to either major repair or</p> <p>8 replacement of the budget-buster bridges?</p> <p>9 A Oh, certainly, the financial -- just as proposals</p> <p>10 from the governor would have -- would have been</p> <p>11 helpful. And I think -- you know, I'm going to give</p> <p>12 you a little bit of a standard line here, Tom. The</p> <p>13 debate about transportation funding between the</p> <p>14 governor and the legislature was never about needs,</p> <p>15 and MnDOT has been very clear with both the governor</p> <p>16 and the legislature about the level of needs that we</p> <p>17 see in our estimates for the system. It was always</p> <p>18 about how much, how soon, and in what fashion. How</p> <p>19 much money, how soon would it take effect, and how</p> <p>20 would it be raised or spent.</p> <p>21 In this particular bill that passed, they</p> <p>22 have about \$2-and-a-half billion, 2-and-a-half,</p> <p>23 \$2.6 billion in cash resources from the tax</p> <p>24 increases directed to the trunk highway fund.</p> <p>25 That's the fiscal impact -- over ten years. That's</p>
<p style="text-align: right;">70</p> <p>1 stream was for that bridge improvement program.</p> <p>2 A Yeah. I would -- if you don't have these folks on</p> <p>3 your list, it would probably be good to address</p> <p>4 those questions to folks in our investment -- Office</p> <p>5 of Investment Management.</p> <p>6 Q Okay.</p> <p>7 A They helped create that fund as a proposal. It was</p> <p>8 accepted. It was a good idea. You're asking some</p> <p>9 detail that I probably -- I know in general, but I</p> <p>10 might butcher them too much, and I don't want to</p> <p>11 give you any incorrect information. The folks</p> <p>12 closest to that would be best.</p> <p>13 Q Were you involved in the legislative consideration</p> <p>14 of the transportation funding bill that passed</p> <p>15 earlier this session?</p> <p>16 A Yes. To the extent that anybody from the</p> <p>17 administration was part of that. You have to recall</p> <p>18 it was put together by the legislature. It did not</p> <p>19 have a lot of administration input. I've been</p> <p>20 involved in transportation funding proposals for</p> <p>21 years, so I know how to analyze them and get through</p> <p>22 them. But it was passed in a matter of a couple of</p> <p>23 weeks, and there was very little testimony or</p> <p>24 administration MnDOT input into the legislative</p> <p>25 process that led to the passage of that bill. So</p>	<p style="text-align: right;">72</p> <p>1 the fiscal impact of the bill for MnDOT. The</p> <p>2 legislature has directed that MnDOT utilize those</p> <p>3 cash resources, at least early on, in the form of</p> <p>4 bonding. Bonding -- bonding is the resources;</p> <p>5 bonding is a way to spend resources.</p> <p>6 So we have -- at our disposal under that</p> <p>7 bill, we have \$1.8 billion in bonding that we will</p> <p>8 put to use and that the legis -- for improvements to</p> <p>9 the trunk highway system. What we will do with</p> <p>10 those funds is -- at the legislative directive, a</p> <p>11 minimum of \$600 million of those bonds will be used</p> <p>12 to meet bridge repair and replacement mandates that</p> <p>13 are in the bill, and that is to have -- they've</p> <p>14 divided the -- our bridge inventory asked us to</p> <p>15 divide it into three tiers; tier 1, tier 2, and tier</p> <p>16 3. And all of our tier 1 and tier 2 bridges need to</p> <p>17 be under contract for repair or replacement by</p> <p>18 June 30th of 2018, by the end of the fiscal year of</p> <p>19 2018. And we are currently putting together the</p> <p>20 programs to meet that mandate.</p> <p>21 Now, what that -- what that is going to</p> <p>22 mean in a lot of cases is just taking bridges that</p> <p>23 had previously been scheduled for repair or</p> <p>24 replacement and moving those schedules up and --</p> <p>25 Q Who is going to make those decisions in terms of how</p>

73

1 they get moved up?

2 A We are. The bridge office is currently -- and we

3 just made a presentation to the legislature on

4 Tuesday that outlined the time line and the process

5 for making these decisions and putting these --

6 putting these plans together. They were very

7 receptive, very complimentary of the work that

8 MnDOT's doing. It is the responsibility of the

9 bridge office in working with our districts to put

10 together a bridge investment program that meets the

11 mandates that the legislature has set forth. We are

12 in the process of doing that. We'll have a draft

13 available for public consumption and work with our

14 stakeholders near the end of May. And then we'll

15 work through that draft with our stakeholders, our

16 local units of government; and by the end of this

17 summer, mid summer to end of summer, we'll have a

18 ten-year bridge investment program that meets the

19 criteria set forth in the legislature. And bridge

20 office will put it together. It will come up

21 through TPC. It will come up to -- you know,

22 through the process to the commissioner, and

23 eventually be approved as part of our overall budget

24 investment plan by the commissioner of

25 transportation, whoever that might be.

74

1 And let me add to that answer. The

2 legislation calls on the commissioner --

3 Q I realize that.

4 A -- in general generic terms, which is to the -- to

5 develop that plan.

6 Q Is that bill, in your view, fully able to fund what

7 the department foresees as its bridge replacement

8 needs?

9 A What we will do is we will meet the mandates in the

10 legislation to -- and the bridge program, and we

11 will spend whatever resources -- since it is

12 mandated in the legislation, we will spend whatever

13 resources are necessary. And it will likely be

14 significantly above the \$600 million minimum target

15 they placed on the bonding to repair and replace all

16 of the bridges that they've asked to be replaced.

17 And we're going to do -- you know, we're going to do

18 very good -- very good things. We're going to

19 replace all the fracture critical bridges.

20 Q I fully realize that's a lot of new money. But my

21 question was is that adequate to meet what you've

22 identified as your needs for bridge replacement?

23 A I -- I think it is. We have to wait to see the full

24 program and -- as addressed by the bridge office.

25 We have to get input from our districts on the

75

1 bridges. And so we -- it's very -- I'm confident

2 that we're going to meet the goals set forth by the

3 legislature, and I'm confident it's going to meet

4 our goals and -- you have to understand we're

5 already there. Our bridge -- I was hoping -- I was

6 printing something off for you to give you. We --

7 we have a good bridge program. This is going to

8 accelerate that program. And we're going to meet

9 the mandates, and it's going to do good things and

10 good projects. But bridges were already a priority,

11 and our bridge program and our bridge investments

12 were already a priority.

13 Q I should probably --

14 A So we're going to -- but, you know, right down to

15 the decimal point we have to wait to see our -- the

16 bridge investment program to see if there are any --

17 as they put that together, if there are any unmet

18 needs that still have to be addressed.

19 Q So when we report back to the legislature and

20 they're looking for obviously suggestions,

21 recommendations regarding what they might do

22 differently in the future, should we say anything

23 about what they could do from a financial

24 perspective or not? I'm kind of hearing you say

25 that, no, they covered it this session, there's

76

1 nothing --

2 A No, no, no.

3 Q -- more they have to do?

4 A You asked about bridges.

5 Q I'm talking about bridges now. Yes, I should have

6 qualified that.

7 A Yeah. It is very -- it is very clear -- and MnDOT

8 acknowledges it, the governor's office acknowledges

9 it, the legislature acknowledges it -- that that

10 bridge is not -- that bill does not solve all of the

11 transportation funding needs. We have --

12 Q Let's --

13 A Okay.

14 Q My questions to you are just -- unless I say

15 otherwise, are all around bridges.

16 A Okay.

17 Q That's our charge. So as it relates to bridges and

18 any safety concerns you may have about bridges and

19 when they should be repaired or replaced, does this

20 bill address the needs that you have?

21 A For a period of time is what my general answer would

22 be. And this -- this bill has a certain shelf life

23 because it is -- it is based primarily on bonding

24 and a level of revenues to support that bonding. We

25 will continue over time to have -- to have bridge

<p style="text-align: right;">77</p> <p>1 needs. They will continue to be prioritized. And</p> <p>2 we'll continue to have road needs.</p> <p>3 My advice to the legislature would be,</p> <p>4 between the legislature and the -- and whatever</p> <p>5 sitting administrations there might be, don't wait</p> <p>6 20 years between these funding periods, that the</p> <p>7 bridge needs and the road needs and the</p> <p>8 transportation needs of the state need to be</p> <p>9 reviewed on a -- and addressed on a far more regular</p> <p>10 basis than the politics of the last 20 years allow.</p> <p>11 So I would never say that this bill is</p> <p>12 going to meet all of the needs in bridges or roads</p> <p>13 or transit, because that would be premature, because</p> <p>14 we don't know what some of those needs might be five</p> <p>15 years hence.</p> <p>16 Q Well, let me ask --</p> <p>17 A I mean, you're looking for a recommendation. It's</p> <p>18 more -- It's more regular review and more regular</p> <p>19 addressing as needed the funding needs that face</p> <p>20 both bridges and roads and not wait these large</p> <p>21 increments.</p> <p>22 And second -- And, secondly, I think a</p> <p>23 recommendation would be, while bonding is a -- is a</p> <p>24 very important tool to accelerate projects and to</p> <p>25 address backlogs of projects, which we've been</p>	<p style="text-align: right;">79</p> <p>1 it's primarily there to support the bonding that's</p> <p>2 in the bill.</p> <p>3 Q I interviewed Kevin Gray earlier and reviewed with</p> <p>4 him a draft policy that he has on --</p> <p>5 A Debt service.</p> <p>6 Q -- debt service that covers bonds, and it's</p> <p>7 primarily directed at debt service on bonds. Do you</p> <p>8 know what the status of that is or what are your</p> <p>9 plans now as commissioner to --</p> <p>10 A Well, I --</p> <p>11 Q -- deal with that?</p> <p>12 A Yeah. It's -- it is a -- it's a draft policy that's</p> <p>13 been in draft form since near the end of 2006. It</p> <p>14 was not officially adopted by the -- by Commissioner</p> <p>15 Molnau; but we have been, along -- that policy,</p> <p>16 along with our fund balance policy -- the two big</p> <p>17 ones that the legislature talks about and the</p> <p>18 legislative auditor talked about -- we have been</p> <p>19 following those and planning around those in our</p> <p>20 budgeting processes even though they have not been</p> <p>21 formally signed by the commissioner.</p> <p>22 As acting commissioner I'm going to let</p> <p>23 those sit in their draft form, pending the</p> <p>24 appointment of a permanent commissioner, and let</p> <p>25 whoever that is deal with it. If it's me, I'll deal</p>
<p style="text-align: right;">78</p> <p>1 trying to do for years, regular streams of funding</p> <p>2 that are reliable, streams of cash that are reliable</p> <p>3 over the long term, it's much easier to program</p> <p>4 against those regular streams than these ups and</p> <p>5 downs of bonding and spurts and sputters.</p> <p>6 Q Well, does the recently-passed transportation bill</p> <p>7 with the gas tax increase provide that stream or</p> <p>8 not?</p> <p>9 A It provides it to a certain extent. But it -- the</p> <p>10 taxes in that bill, as significant as they are and</p> <p>11 the way the bill is structured for the trunk highway</p> <p>12 program -- there's a lot of other money for other</p> <p>13 people in that bill -- is largely -- for the next 20</p> <p>14 years or so largely focused on supporting the bonds.</p> <p>15 They're one -- there's \$1.8 billion of bonding in</p> <p>16 that bill, there's -- in over a ten year period.</p> <p>17 There's \$2.5 billion in cash over that same ten-year</p> <p>18 period. And starting in about the third year of</p> <p>19 that ten-year period, a significant amount of that</p> <p>20 cash is used for debt service. And that's</p> <p>21 appropriate. That's good. Bonding is a really</p> <p>22 strong tool. But -- so it provides some of the cash</p> <p>23 in the out years, that which is not being used for</p> <p>24 debt service. It will provide a boost in cash. But</p> <p>25 it's primarily there -- in the first 10 or 15 years</p>	<p style="text-align: right;">80</p> <p>1 with it then. But as an acting I didn't -- those</p> <p>2 are -- those are issues that maybe would be reviewed</p> <p>3 by the -- by an incoming commissioner. I support</p> <p>4 those policies. And, like I said, we're operating</p> <p>5 as if they are in force. They're just not --</p> <p>6 haven't formally been adopted or signed by a</p> <p>7 commissioner.</p> <p>8 Q And the bond debt retirement policy works with the</p> <p>9 current bonding authority within the 2008</p> <p>10 legislation?</p> <p>11 A We'll have to -- we have yet to know that, because</p> <p>12 what we're going to have -- the bond -- the bond</p> <p>13 policy relates to amount of resources in a</p> <p>14 particular fiscal year that would be dedicated to</p> <p>15 debt service. We'd have -- as we start to do these</p> <p>16 long-range plans, like I said, both for bridges and</p> <p>17 for roads that we're doing over the course of this</p> <p>18 summer to invest the resources in this bill, we will</p> <p>19 get a better sense of how quickly the bonds are</p> <p>20 going to be used, what -- in our financial plans,</p> <p>21 when the bonds will be issued and when debt</p> <p>22 retirement starts, and we'll start to get a</p> <p>23 financial picture of the debt service over time a</p> <p>24 little better than we have now.</p> <p>25 All we have now are estimates from the</p>

<p style="text-align: right;">81</p> <p>1 Department of Finance based on the appropriations in</p> <p>2 the bill. Then we'll want to match those outlays</p> <p>3 that are predicted by the financial plans we put</p> <p>4 together to the debt service policy and see if</p> <p>5 adjustments need to be made. So it's a little bit</p> <p>6 too early to tell.</p> <p>7 Q Are you aware of the debt retirement policy --</p> <p>8 bonded debt retirement policy that was, I think,</p> <p>9 approved back in '83, adopted -- developed and</p> <p>10 adopted in 1983?</p> <p>11 A No, I'm not. I may -- you know, it may have come</p> <p>12 before me at some point, but I couldn't speak to it.</p> <p>13 MR. JOHNSON: I'm not sure what exhibit</p> <p>14 number we're at at this point, but let me --</p> <p>15 MR. MCFARLIN: Can you excuse me for one</p> <p>16 second?</p> <p>17 MR. JOHNSON: Sure.</p> <p>18 MR. MCFARLIN: There was something I</p> <p>19 wanted to get for you.</p> <p>20 (Recess.)</p> <p>21 MR. MCFARLIN: Tom, what I wanted to get</p> <p>22 for you and, if I may for just a second because I</p> <p>23 referenced this several times, was, you know, our</p> <p>24 long-term financial targets and performance targets</p> <p>25 that show our priority to bridges. And this is all</p>	<p style="text-align: right;">83</p> <p>1 that came from MnDOT. Let me make a little plug</p> <p>2 here while I've got the tape on. There's been a lot</p> <p>3 of -- there's been a lot of criticism from the</p> <p>4 legislature in this highly-politicized debate about</p> <p>5 this administration or MnDOT not telling the</p> <p>6 legislature about funding needs. Well, this is all</p> <p>7 legislative material, and all of the data that the</p> <p>8 legislature uses to describe the funding needs that</p> <p>9 they used to support the passage of the bill came</p> <p>10 from MnDOT.</p> <p>11 So we showed -- we showed needs of 37.2</p> <p>12 billion. We showed available resources in this time</p> <p>13 period at that time of 14.6 billion, which is that</p> <p>14 \$23 billion shortfall in trunk highway investments</p> <p>15 needed to meet performance goals spread over 22</p> <p>16 years, which is roughly a billion dollars a year</p> <p>17 shortfall. And you've heard that frequently.</p> <p>18 But what you see here is available</p> <p>19 priorities. And, again, I'm reading upside down, I</p> <p>20 apologize. We see safety. Now, that's how much of</p> <p>21 the available priorities we would put and we</p> <p>22 forecast to put to our bridge preservation, repair,</p> <p>23 all of our bridge goals. Here's our gap analysis.</p> <p>24 When you take these needs where we put the resources</p> <p>25 available where we have the gaps, you will note that</p>
<p style="text-align: right;">82</p> <p>1 information that's been provided to the legislature.</p> <p>2 It's on our website. It's publicly documented. And</p> <p>3 this is being updated in this particular year and</p> <p>4 now being updated to incorporate the resources in</p> <p>5 the new bill.</p> <p>6 This is what we call our funding gap</p> <p>7 analysis. And what you see there is -- this is what</p> <p>8 we anticipated -- this was work that was done back</p> <p>9 in the 2005 time frame. In our -- in our investment</p> <p>10 areas we showed what we felt were the investments</p> <p>11 needed in the time period 2008 to 2030 to meet the</p> <p>12 investment targets that we have in our statewide</p> <p>13 plan. And you will actually see, I believe in here,</p> <p>14 if I can -- I'm looking upside down -- bridges. We</p> <p>15 have -- we have that six -- this was -- this slice</p> <p>16 of the pie represents how much of our -- how much we</p> <p>17 believe of this overall \$37.2 billion need we have</p> <p>18 identified represents to our bridge policy and our</p> <p>19 bridge investment goals. Then we show -- so that's</p> <p>20 our needs analysis.</p> <p>21 This (indicating) was our revenue</p> <p>22 available analysis and where we would put those</p> <p>23 revenues. And what you see here is this is where</p> <p>24 you get this idea that the legislature has often</p> <p>25 talked about -- and, remember, this is information</p>	<p style="text-align: right;">84</p> <p>1 we show no funding gap for our bridge preservation</p> <p>2 and our bridge needs; that when we identified the</p> <p>3 needs here long term and we applied resources to</p> <p>4 bridges long term, we make sure that our bridge</p> <p>5 investments meet our bridge needs. And that's what</p> <p>6 we've been telling the legislature, and that's what</p> <p>7 we've done in our budgeting, is that we -- bridges</p> <p>8 are a priority. And so I just wanted to -- I had</p> <p>9 referenced this kind of analysis several times</p> <p>10 earlier in this interview, and I wanted to -- wanted</p> <p>11 to make sure you saw that.</p> <p>12 BY MR. JOHNSON:</p> <p>13 Q Is this an analysis that holds up because of the</p> <p>14 creation of the statewide bridge preservation fund?</p> <p>15 A That would be an element -- that would be an element</p> <p>16 of it. That would be a -- that would be a tactic, a</p> <p>17 financial tactic, that we would commit ourselves to</p> <p>18 to address the overall strategic and philosophical</p> <p>19 approach that bridges are a priority. And in the</p> <p>20 future we might have to look at some other kind of</p> <p>21 financial tactic to make good on that commitment,</p> <p>22 but it starts with the commitment that bridges are a</p> <p>23 priority and our bridge program --</p> <p>24 Q So this information was presented to the</p> <p>25 legislature?</p>

<p style="text-align: right;">85</p> <p>1 A Yes.</p> <p>2 Q And presented in last year, 2007?</p> <p>3 A No, it would be -- it would have been presented</p> <p>4 in -- to them in great detail -- there's a very</p> <p>5 large presentation about -- this comes from a --</p> <p>6 from a report that we provided to the legislature.</p> <p>7 I believe it was either the 2005 or two thousand --</p> <p>8 it was either the 2005 or 2006 legislative session.</p> <p>9 Right off the top of my head I can't -- these don't</p> <p>10 have a date on it.</p> <p>11 Q The bridge preservation fund doesn't get created</p> <p>12 until --</p> <p>13 A 2005.</p> <p>14 Q -- early 2006. So...</p> <p>15 A But all that work was being discussed with the</p> <p>16 legislature. You know, those kinds of programs</p> <p>17 don't kind of materialize for MnDOT out of thin air.</p> <p>18 Before they are officially adopted, we go through</p> <p>19 painstakingly -- painstaking review and discussion</p> <p>20 with the legislature. The bridge preservation fund,</p> <p>21 renewed targets, investment targets, for our</p> <p>22 districts in the way we distribute funds, how we're</p> <p>23 using federal funds and the like, well before</p> <p>24 they're formally adopted, they were all part of</p> <p>25 presentations to the legislature, discussions with</p>	<p style="text-align: right;">87</p> <p>1 Q -- your earlier answer?</p> <p>2 A If -- if something -- if a need arose -- an</p> <p>3 unexpected need arose in a bridge area that involves</p> <p>4 safety, having to replace a bridge for safety,</p> <p>5 having to repair a bridge for safety, we would go</p> <p>6 into our -- our state road construction program, and</p> <p>7 we would reprioritize projects to address that</p> <p>8 safety need.</p> <p>9 Q We're going to wind up here --</p> <p>10 A Sure.</p> <p>11 Q -- in short order. But you earlier had mentioned</p> <p>12 Commissioner Denn and your experience working with</p> <p>13 him, and, you know, his statement, which I -- about</p> <p>14 bridges and the significance of bridges.</p> <p>15 A That was Darryl Durgin --</p> <p>16 Q Okay.</p> <p>17 A -- deputy commissioner.</p> <p>18 Q Right. But within the Denn Administration --</p> <p>19 A Yes.</p> <p>20 Q -- I thought you said.</p> <p>21 A Yes.</p> <p>22 Q And then -- so there's that point. And then the</p> <p>23 second point would be this -- I just mentioned</p> <p>24 earlier, this '83 policy relating to trunk highway</p> <p>25 bonds.</p>
<p style="text-align: right;">86</p> <p>1 the legislature and the like.</p> <p>2 Now, while they're not -- while some of</p> <p>3 this stuff is not statutory in nature, it is part of</p> <p>4 our overall financial reporting and discussion with</p> <p>5 our -- you know, our oversight financial committees</p> <p>6 with the legislature. So bridge preservation fund,</p> <p>7 our statewide corridor fund, which is a similar fund</p> <p>8 to help with large bridge pro -- all of those -- all</p> <p>9 of those ideas and all of those methods of funding</p> <p>10 transportation and how we invest internally were all</p> <p>11 vetted through the legislative process --</p> <p>12 Q Let me make sure --</p> <p>13 A -- and a public process as well.</p> <p>14 Q Let me make sure, with respect to the need to</p> <p>15 replace a major bridge outside of the time line that</p> <p>16 is assumed for purposes of the materials we've been</p> <p>17 reviewing, how would you fund that?</p> <p>18 A We would -- again, your hypothetical runs a wide</p> <p>19 range of possibilities. Could be a small bridge.</p> <p>20 Could be a big bridge. Are you talking about a big</p> <p>21 bridge?</p> <p>22 Q I just want to make sure that --</p> <p>23 A If --</p> <p>24 Q -- nothing you say now changes --</p> <p>25 A No.</p>	<p style="text-align: right;">88</p> <p>1 A Um-hum.</p> <p>2 Q And it's in the form of a position statement and</p> <p>3 then a guideline. And the guideline, if you look</p> <p>4 down here, it talks about where bonding moneys</p> <p>5 should be used --</p> <p>6 A Um-hum.</p> <p>7 Q -- and gives some specific examples on the next</p> <p>8 page. And they include major river crossings, other</p> <p>9 key bridge, interstate completion.</p> <p>10 A Completion, major construction, reconstruction,</p> <p>11 buildings. And we generally -- we generally follow</p> <p>12 that guidance and philosophy.</p> <p>13 Q Okay. That -- this seems to be a, you know, pretty</p> <p>14 clear indication that bonding moneys -- that you</p> <p>15 think -- that the department back then was thinking</p> <p>16 about using bonding moneys for major bridge</p> <p>17 replacement. Is that correct?</p> <p>18 A Sure. I mean, they fall into the general cat --</p> <p>19 what we generally do with bonding -- and I can't</p> <p>20 speak to who drafted this and why they would put</p> <p>21 specifics in. But along with the -- the trunk</p> <p>22 highway bonding is really not much different in its</p> <p>23 application from general obligation bonding. And</p> <p>24 the bonding -- the trunk highway bonding is overseen</p> <p>25 by the Department of Finance and by bond counsel and</p>

<p style="text-align: right;">89</p> <p>1 by bond houses. And just like with general</p> <p>2 obligation projects, trunk highway projects have to</p> <p>3 meet certain criteria to be eligible for bonds. And</p> <p>4 those kind of reflect that a little bit in greater</p> <p>5 specificity. I think that the -- probably the</p> <p>6 category here that makes the most sense and is sort</p> <p>7 of the umbrella is major construction and</p> <p>8 reconstruction. And that could be bridges; that</p> <p>9 could be buildings. What we look for in these -- in</p> <p>10 these circumstances are projects -- when we're</p> <p>11 investing in trunk highway bonds, projects that have</p> <p>12 a 20-year life or more, general rule of thumb,</p> <p>13 because you want -- and as guided by bond counsel</p> <p>14 and the Department of Finance, you want your project</p> <p>15 to outlive your debt service. So when we use bonds,</p> <p>16 you know, and when you take a look at where the</p> <p>17 state has used trunk highway bonds, it's been for</p> <p>18 major reconstruction projects or for buildings, even</p> <p>19 trunk highway bonds.</p> <p>20 Q As -- let me just interrupt. As I understand --</p> <p>21 because I want to wind up here. But as I understand</p> <p>22 some of the background to this policy, part of it</p> <p>23 was to reserve some of the bonding authority for the</p> <p>24 need to replace a bridge, for example, if it arose</p> <p>25 that you would have --</p>	<p style="text-align: right;">91</p> <p>1 the bill that the governor just dealt with, it is a</p> <p>2 list of specific uses for bonding. It is not --</p> <p>3 whether it is a good idea or not, what -- what we</p> <p>4 have is we have a circumstance where the legislature</p> <p>5 passes bonding to be used for specific things, not</p> <p>6 bonding to be held in reserve. We cannot hold</p> <p>7 bonding -- necessarily hold bonding in reserve</p> <p>8 waiting for some project to come along that might</p> <p>9 need it. The legislature would look at that and</p> <p>10 say, you know, if that's the circumstance, if</p> <p>11 something comes up where you need bonding authority</p> <p>12 to do something that you had not expected or</p> <p>13 anticipated, we're here, the governor can call us</p> <p>14 into special session. Like what hap -- what happens</p> <p>15 sometimes with floods, we get some trunk highway</p> <p>16 bonding, those types of things.</p> <p>17 It's always good -- but I will answer in</p> <p>18 one way, Tom. It's always good to have resources</p> <p>19 available for unexpected expenditures. And that's</p> <p>20 part of what our fund balance policy helps us try</p> <p>21 and negotiate, is to have enough on the bottom line</p> <p>22 to deal with unanticipated expenses that might come</p> <p>23 along. I don't know if that answers your question.</p> <p>24 Q It's -- I think it's real complicated to work</p> <p>25 through because, as you know, the state is -- always</p>
<p style="text-align: right;">90</p> <p>1 A I --</p> <p>2 Q -- capacity to reach into. Is that a good policy or</p> <p>3 not?</p> <p>4 A I don't know what the -- I don't know what the</p> <p>5 feeling behind those particular set-asides would be</p> <p>6 back at that time.</p> <p>7 Q Regardless of what it was or wasn't, do you think</p> <p>8 it's a good idea to reserve some bonding authority</p> <p>9 for emergency or near-emergency situations which --</p> <p>10 A Well, I don't think there -- that's an interesting</p> <p>11 question, and it's -- you have to put whether it's a</p> <p>12 good idea in context of what is allowable with</p> <p>13 bonding policy and within the state legislative</p> <p>14 process.</p> <p>15 The legislature tends to not pass bonding</p> <p>16 authority to sit around and wait to be used. They</p> <p>17 pass bonding authority to be used for specific</p> <p>18 projects. Now, in the transportation area they</p> <p>19 fortunately don't get into specific projects, but</p> <p>20 they pass trunk highway bonding authorizations for</p> <p>21 particular fiscal years to be used in those fiscal</p> <p>22 years. We hope they don't get and I don't think</p> <p>23 they want to get into the selection of projects.</p> <p>24 But when you take a look at general</p> <p>25 obligation bonding, for example, you know, just like</p>	<p style="text-align: right;">92</p> <p>1 has to keep its eye on how much bonding authority</p> <p>2 it's -- has authorized and whether or not it's going</p> <p>3 to put its bond rating at risk and so that there</p> <p>4 needs to be some thought about --</p> <p>5 A So --</p> <p>6 Q -- an agreement as to whether or not you're</p> <p>7 reserving --</p> <p>8 A So are you talking more from a position of state</p> <p>9 policy to main -- to make sure that there is enough</p> <p>10 bonding capacity against the trunk highway fund and</p> <p>11 the -- the fund debt policy that the legislature</p> <p>12 doesn't issue too many bonds; they always have it</p> <p>13 there at their ready, the ability to tap into</p> <p>14 bonding under the -- under the trunk highway debt</p> <p>15 service policy to deal with unanticipated needs?</p> <p>16 Q It could be in that context. It could be in the</p> <p>17 department's context where you have by your own</p> <p>18 policy, with agreement by the legislature, not to</p> <p>19 exceed a certain percentage of -- your bonded</p> <p>20 indebtedness a certain percentage of what you have</p> <p>21 by way of revenue to retire those bonds. But the</p> <p>22 other understanding is you are going to leave some</p> <p>23 room within that cap for your bonding -- where you</p> <p>24 still have some excess bonding authority for the</p> <p>25 emergency situation.</p>

<p style="text-align: right;">93</p> <p>1 A Yeah, I'd say it's -- you know, when we -- when we</p> <p>2 talked -- in response to the legislative auditor's</p> <p>3 report, when they talked about the debt service</p> <p>4 policy, we certainly offered to the legislature</p> <p>5 and -- and actually recommended that we have a debt</p> <p>6 service policy discussion with our financial</p> <p>7 oversight committees. That could be -- that could</p> <p>8 be a topic that could be addressed in the discussion</p> <p>9 about what is the appropriate use and management of</p> <p>10 trunk highway debt -- you know, debt capacity.</p> <p>11 Q I'm -- to finish up, I'm just kind of curious to go</p> <p>12 back to your -- your having worked under two</p> <p>13 commissioners as a direct report and getting some --</p> <p>14 A Three.</p> <p>15 Q Right. Commissioner Tinklenberg for six months;</p> <p>16 correct?</p> <p>17 A For a period.</p> <p>18 Q Okay. And just get some of your thoughts about the</p> <p>19 differences. You talked about the -- sort of the</p> <p>20 collegial staffing structure under Commissioner</p> <p>21 Denn; more hierarchical, as I understand it, under</p> <p>22 Commissioner Molnau. But can you -- you know,</p> <p>23 what -- what would you like us to know about the</p> <p>24 differences in those styles and structures and</p> <p>25 whether one was more effective than another,</p>	<p style="text-align: right;">95</p> <p>1 of the book.</p> <p>2 Q Reworking Government or --</p> <p>3 A Yeah, something like that. And he -- he had a</p> <p>4 particular passion for organizational efficiency and</p> <p>5 worked hard at it. And I think it was also borne a</p> <p>6 bit by the fact that Governor Carlson at the time</p> <p>7 had very little interest in transportation and</p> <p>8 didn't give Commissioner Denn or the agency much to</p> <p>9 work with externally in terms of funding proposals</p> <p>10 and funding activity and the like.</p> <p>11 Really, my period with Commissioner</p> <p>12 Tinklenberg is probably not all that relevant</p> <p>13 because it was more of a transition period in</p> <p>14 helping a new and unexpected administration get</p> <p>15 through their first legislative session. That's</p> <p>16 really what my role was with Tinklenberg in the</p> <p>17 Ventura Administration.</p> <p>18 With Commissioner Molnau, Lieutenant</p> <p>19 Governor Molnau, a very different approach than Jim</p> <p>20 Denn. Far more of a macro person. Far more of a</p> <p>21 delegation of authority. Not -- not particularly</p> <p>22 interested in getting into the gears and such of the</p> <p>23 inner workings of the management structure of the</p> <p>24 organization. Provided the experts and the div --</p> <p>25 you know, the engineers and the experts and the</p>
<p style="text-align: right;">94</p> <p>1 whether -- and I'm not just generally speaking, but,</p> <p>2 again, it's -- you know, our charge is around</p> <p>3 bridge --</p> <p>4 A Um-hum.</p> <p>5 Q -- you know, 35W bridge specifically, but, you</p> <p>6 know -- you know, bridge safety more generally, but</p> <p>7 still narrow in the sense of what the department is</p> <p>8 concerned with.</p> <p>9 A Well, I don't -- I think I'll leave to others the</p> <p>10 idea of what was more effective or not. I can</p> <p>11 describe a little bit of the differences in the</p> <p>12 different -- you know, the different bosses that</p> <p>13 I've had in serving them.</p> <p>14 Jim Denn was very active, a very active</p> <p>15 commissioner, very active in the internal workings</p> <p>16 of the agency, enjoyed the internal management</p> <p>17 aspect, the internal -- you know, internal</p> <p>18 structures and initiatives within the agency to try</p> <p>19 and make things work better and be more efficient.</p> <p>20 He was here -- he was here in a time when the rave</p> <p>21 was, oh, some of the work by Peter Drucker and some</p> <p>22 of the work -- I'm trying to think of the book that</p> <p>23 kind of went through -- through government at the</p> <p>24 time. You've been involved in government a long</p> <p>25 time as well. And I'm trying to remember the name</p>	<p style="text-align: right;">96</p> <p>1 division directors a great deal of leeway and power</p> <p>2 and empowerment, delegated authority to get things</p> <p>3 done, and kind of worked things from a much higher</p> <p>4 level, more philosophical level. And also she had</p> <p>5 the responsibilities that are associated with</p> <p>6 lieutenant governor and serving the administration.</p> <p>7 One-deputy model here. Two-deputy model under Jim</p> <p>8 Denn. I think that was kind of -- the two-deputy</p> <p>9 model I like. And --</p> <p>10 Q And why do you like that?</p> <p>11 A I liked -- well, probably two reasons. One,</p> <p>12 structurally I thought it was very good in this</p> <p>13 organization to have a deputy that was responsible</p> <p>14 for operations and, you know, all of the districts</p> <p>15 but also to have at that same level a deputy that</p> <p>16 was responsible for the financial side of our -- of</p> <p>17 our agency. And I -- it put the financial side, the</p> <p>18 financial credibility, the financial soundness of</p> <p>19 the organization at a very high level. It made a</p> <p>20 statement about what was important to Jim Denn.</p> <p>21 And the other reason I liked it is that</p> <p>22 any model is only -- can only succeed or fail based</p> <p>23 on the people who fill the roles. It was a</p> <p>24 wonderful working team with Jim Denn, Ed Cohoon, and</p> <p>25 Darryl Durgin, Don Fleming as bridge engineer and of</p>

<p style="text-align: right;">97</p> <p>1 particular interest to you.</p> <p>2 And so, you know, it's just personal</p> <p>3 management preference from my standpoint. I liked</p> <p>4 that model a little bit better than a one-deputy</p> <p>5 model because of the -- I have particular interest</p> <p>6 in the financial health and soundness of</p> <p>7 organizations and working in that regard. And I</p> <p>8 think it's -- this agency is an engineering culture,</p> <p>9 and at times it gets focused on engineering such and</p> <p>10 not necessarily about making sure that we can</p> <p>11 explain our budget to our -- to our board of</p> <p>12 directors that sits across the street and that we</p> <p>13 can -- and that we make -- make them partners in the</p> <p>14 agency.</p> <p>15 Q You mentioned Commissioner Denn's statement about</p> <p>16 bridges and their importance. Is there anything</p> <p>17 that would be similar in terms of expression of</p> <p>18 philosophy priority from Commissioner Molnau?</p> <p>19 A Well, I just -- as I mentioned before, you know,</p> <p>20 that is an example. Darryl Durgin was able to</p> <p>21 describe it in that fashion, that the bridges are</p> <p>22 the fuses of our system. Whether it's been</p> <p>23 referenced in another form or not, I have never seen</p> <p>24 or experienced this agency treating bridges and</p> <p>25 bridge safety and bridge investments any differently</p>	<p style="text-align: right;">99</p> <p>1 different. It's cultural here. It is -- it is</p> <p>2 professional here. So I -- no, I -- I saw no</p> <p>3 difference in this particular area. I really</p> <p>4 didn't.</p> <p>5 Q Now, you say that bridge safety is a part of the</p> <p>6 culture?</p> <p>7 A Yeah. And I -- like I said, the good things and the</p> <p>8 commitment that I saw in the Denn era around</p> <p>9 bridges, I've never seen it wain. And the same</p> <p>10 commitment in these past years -- I mean, the</p> <p>11 commitment is the same in these past years as it was</p> <p>12 then. And I've never seen a commissioner waver from</p> <p>13 that. I have not seen bridge -- state bridge</p> <p>14 engineers waver from that. I have not seen our</p> <p>15 investment management process waver from that</p> <p>16 commitment. It's always been there.</p> <p>17 Q My last question.</p> <p>18 A Sure.</p> <p>19 Q If you become commissioner, is there anything that</p> <p>20 you would do organizationally in order to sleep</p> <p>21 better at night that there won't be another I-35W</p> <p>22 bridge collapse?</p> <p>23 A That's a -- it's a very interesting question. The</p> <p>24 bridge collapse was a horrendous accident of some</p> <p>25 sort. I think we have to -- before I would suggest</p>
<p style="text-align: right;">98</p> <p>1 than that represented by that type of a statement.</p> <p>2 It was true in Denn. I never -- you know, both</p> <p>3 briefly with Commissioner Tinklenberg, but then in</p> <p>4 observing his administration, I saw nothing</p> <p>5 different there. And I've seen nothing different in</p> <p>6 this administration. Bridge investments, bridge</p> <p>7 safety have always been a top priority, and that's</p> <p>8 just one statement to sort of reflect it.</p> <p>9 Q Is -- Is there any difference, do you think, in the</p> <p>10 Denn Administration approach versus the Molnau</p> <p>11 Administration approach to being able to</p> <p>12 implement -- to identify needs and implement those</p> <p>13 needs as they relate to bridges --</p> <p>14 A I saw --</p> <p>15 Q -- given that both are top --</p> <p>16 A That's one --</p> <p>17 Q -- priority?</p> <p>18 A That's an area where I really saw no difference.</p> <p>19 Bridge office doing great expert work, great</p> <p>20 analysis about the -- about the needs, immediate and</p> <p>21 long term, analysis of the way -- all the</p> <p>22 continuation of work -- I mean, I came back here,</p> <p>23 and I saw continuation of the same kind of good work</p> <p>24 and analysis and progress and commitment to bridges</p> <p>25 that I saw during the Denn Administration. Nothing</p>	<p style="text-align: right;">100</p> <p>1 what actions I would take or actions that I might</p> <p>2 recommend to another commissioner, I think we have</p> <p>3 to wait for the results of the NTSB investigation to</p> <p>4 give us an indication of what happened. I think</p> <p>5 it's -- I think it is premature to speculate on</p> <p>6 cause and, thus, speculate on reaction to that</p> <p>7 cause.</p> <p>8 MR. JOHNSON: I said that would be my</p> <p>9 last question, so I'll leave it there.</p> <p>10 Greg, do you have anything?</p> <p>11 MR. MERZ: I don't have anything.</p> <p>12 MR. JOHNSON: Thank you.</p> <p>13 (Concluded at 11:32 a.m.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

1 STATE OF MINNESOTA)
2) ss.
3 COUNTY OF DAKOTA)
4

5 REPORTER'S CERTIFICATE
6
7

8 I, Angie D. Threlkeld, do hereby
9 certify that the above and foregoing transcript,
10 consisting of the preceding 100 pages is a
11 correct transcript of my stenographic notes, and is
12 a full, true and complete transcript of the
13 proceedings to the best of my ability.

14 Dated April 25, 2008.
15
16
17
18

19 ANGIE D. THRELKELD
20 Registered Professional Reporter
21 Certified Realtime Reporter
22
23
24
25

Bergstrom, Katie J.

From: Bob McFarlin [Bob.McFarlin@dot.state.mn.us]
Sent: Wednesday, May 07, 2008 1:12 PM
To: Bergstrom, Katie J.
Subject: From Bob McFarlin: GPM I-35W Investigation

Dear Ms. Bergstrom:

I am writing in regards to GPM's I-35W bridge collapse investigation and the interview I conducted with Tom Johnson and Gregg Merz on April 18, 2008. I have reviewed the transcript of my interview and wish to offer the following edits/clarifications. I trust you will deliver these comments to the proper individual on your investigatory team.

Page 5, line 22: I was appointed to the position of acting commissioner on February 28, 2008, not February 29. My recollection was incorrect.

Page 11, line 9: February 28, not February 29 (see above).

Page 74, lines 18-19: My statement, "We're going..... fracture critical bridges." was misstated. I apologize for my error. That should read, "We are going to replace about one-half of the fracture critical bridges. The remainder are newer bridges that don't need replacement in this time frame."

Page 76, line 10: For clarity, I suggest that the word "bridge" be replaced with "bill."

Page 78, line 13: For clarity, I suggest the word "people" be replaced with "purposes."

Page 86, line 8: For clarity, I suggest the word "bridge" be replaced with "road."

Page 94, line 21-page 95, line 2: The book referenced here is "Reinventing Government" published in 1992 and authored by David Osborne and Tom Gaebler.

Thank you for your consideration of these comments.

Bob McFarlin

1 INTERVIEW OF ABIGAIL MCKENZIE - May 2, 2008

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3
4 In the Matter of Conducting an Independent
Investigation into the Collapse of the I-35W Bridge

5
6
7 Department of Transportation
395 John Ireland Boulevard
8 Room G-14
9 St. Paul, Minnesota

10
11 Met, pursuant to Notice, at 1:30 in the
12 afternoon on May 2, 2008.

13
14
15
16 INTERVIEWERS:

17 Thomas Johnson, Attorney at Law with
18 Gray Plant Mooty Law Firm.

19 ALSO PRESENT:

20 Barbara E. Forsland, MnDOT Data
21 Practices Compliance & Policy Analyst.

22 COURT REPORTER:

23 Julie A. Rixe
24
25

1 (McKenzie Exhibit 1 was marked for
2 identification by the court reporter.)
3 MR. JOHNSON: Let's go on the record.
4 First state our appearances. I'm Tom Johnson
5 with the Gray Plant Mooty law firm.

6 MS. FORSLAND: I'm Barbara Forsland,
7 the Data Practices attorney with the agency.

8 MS. MCKENZIE: I'm Abbie McKenzie. I'm
9 director of the Office of Investment Management
10 with the Minnesota Department of Transportation.

11 EXAMINATION

12 BY MR. JOHNSON:

13 Q Should I call you Abigail?

14 A Abbie is fine.

15 Q Abbie?

16 A Uh-huh.

17 Q Abbie, I'm going to show you a Witness Protocol
18 that we've been using throughout the course of
19 the interviews that Barbara is very familiar
20 with. It hasn't changed from the first day. And
21 let me read it to you, if I could, so it's part
22 of the record.

23 Paragraph one, Authority. I am with
24 the Gray Plant Mooty law firm, and the firm has
25 been retained by the Minnesota Legislature to

1 INDEX

1 MCKENZIE EXHIBITS:	PAGE
1 - Witness Protocol for Interviews	3
2 - Organization chart	6
3 - Office of investment Management chart	8
4 - Transportation Funding Sources document	18
5 - MnDOT's Planning and Programming Process document	23

5 6 - MnDOT Revenue Forecast for 2009-2028	29
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1 conduct an independent investigation into the
2 collapse of the I-35W bridge. The Minnesota
3 Legislature has asked us to provide a report of
4 our investigation by May 1, 2008, now changed to
5 May 13, 2008. We will be asking you questions
6 concerning the bridge collapse and related
7 policies, practices and legislative oversight
8 issues.

9 Second, the purpose of this interview
10 is to determine what you might know about the
11 matters we are investigating.

12 Third, during the time of our
13 investigation -- During the time our
14 investigation is active, the information that you
15 provide to us is not public information. The
16 information you provide, however, may no longer
17 be confidential once we submit the report to the
18 Legislature.

19 Fourth, you are required to answer our
20 questions truthfully. The court reporter is
21 present to record our conversation. Either
22 during this interview or later in our
23 investigation, we may determine that we need to
24 verify certain information. If that occurs, we
25 may ask you for a written statement or to provide

Page 5

Page 7

1 something under oath.
 2 And then, finally, we view this process
 3 as an ongoing dialogue. If you think of anything
 4 after this interview that you want to tell us
 5 about, either call or e-mail us. Likewise, we
 6 hope that you would respond to an inquiry from us
 7 if we were to be in touch with you.

8 Is that clear enough?

9 A Uh-huh, that's fine.

10 Q Let me just make one other thing clear. We have
 11 been retained by the Minnesota Legislature, who's
 12 our client here. So I'm not here to provide with
 13 you legal advice if you have any questions
 14 regarding the legalities of it.

15 You need to answer your questions
 16 verbally. The reporter can't take shakes of the
 17 head down.

18 And, also, it's best if I wait until
 19 you finish answering one question before I ask my
 20 next question and vice versa, that you don't
 21 start answering before I finish my question.

22 So if we could begin, just tell us what
 23 your education is just at the college level.

24 A Okay. I have a bachelor's degree in experimental
 25 psychology from the University of Iowa and a

1 are correct. I mean, you want me to go through
 2 every office?

3 Q No, no, no, no, no --

4 A Okay.

5 Q -- just down to the division level.

6 A Yeah, uh-huh.

7 Q And I see that your position would report to a
 8 Timothy Henkel; is that correct?

9 A Uh-huh, correct.

10 Q I'm going to come back to your position
 11 currently, but let me ask you: Have you had
 12 previous positions at MnDOT?

13 A Yes. I joined MnDOT March 8, nineteen -- Oh, my
 14 gosh. I looked this up. 1995. I think that's
 15 right. I looked it up because I knew you would
 16 ask and now I can't -- 1995. I came as the
 17 director of the economic analysis unit in the
 18 Office of Investment Management.

19 I think in 2000, it might have been
 20 1999, my position changed to director of planning
 21 and analysis, so it had not only the economic
 22 analysis fund, but the statewide planning
 23 functions as well.

24 And then in 2006 I became the office
 25 director.

Page 6

Page 8

1 master's degree in public policy analysis from
 2 the University of Michigan.

3 Q And you are now the director of the Office of
 4 Investment Management?

5 A Yes.

6 Q How long have you been in that position?

7 A Since January 3, 2006.

8 Q I'm going to show you an exhibit that is -- we'll
 9 put in the record as Exhibit Number 2.

10 (McKenzie Exhibit 2 was marked for
 11 identification by the court reporter.)

12 BY MR. JOHNSON:

13 Q This is an organizational chart dated February
 14 2008, and out of date insofar as there's been a
 15 change in the acting commissioner position. But
 16 if you'd take a look at this and see if, other
 17 than that, it still is current.

18 A It's current for my position.

19 Q And when you say that, are there other changes
 20 that you would make to it other than in the
 21 commissioner position? Only insofar as the
 22 directors go and the deputy director and --

23 A The division directors are all correct. The
 24 Government Affairs office, Communications office
 25 directors are correct. Civil Rights and Audit

1 Q Prior to coming to MnDOT, did you work in any
 2 transportation-related fields?

3 A I came directly from the Department of Trade and
 4 Economic Development, where I was director of
 5 information and analysis for the Department of
 6 Trade and Economic Development.

7 Q And prior to that any transportation-related
 8 positions you might have had?

9 A I came from the Minnesota Energy Agency to the
 10 Department of Trade and Economic Development.

11 And before that I was in graduate
 12 school.

13 (McKenzie Exhibit 3 was marked for
 14 identification by the court reporter.)

15 BY MR. JOHNSON:

16 Q I'll show you an exhibit marked number 3, which
 17 is titled Office of Investment Management and I
 18 believe tends to be an organizational chart for
 19 the office.

20 A Uh-huh.

21 Q And is that chart current, at least down to the
 22 section head level?

23 A Yes, it is current down to the section head
 24 level.

25 Q Why don't you tell me what your responsibilities

Page 9

Page 11

1 are as the director of the Office of Investment
2 Management? And do you have a short way of
3 saying that? Is it OIM?
4 A OIM is how we say it. Well, I'm responsible for
5 developing and implementing the statewide
6 transportation plan, the stip, the Statewide
7 Transportation Improvement Program, and
8 developing and implementing MnDOT's research
9 program.

10 Q What are the major elements of the research
11 program?

12 A We are funded with both state and federal funds.
13 We receive a little over \$3 million of state
14 funds and \$2 1/2 million of federal funds. And
15 from that we develop each year a program of
16 research projects they are very wide in nature,
17 everything from policy and planning-type topics
18 to, you know, engineering, lots of pavement
19 materials type of topics as well.

20 We also have an implementation program,
21 which takes research into an implementation
22 phase, so designing standards or things like
23 that. It includes a library, and the library
24 serves as the primary information resource for
25 the department.

Page 10

1 Q Are the responsibilities that you just described
2 shared among the three section heads?

3 A Right. Each section has a primary focus area.
4 The planning director focuses on our planning
5 responsibilities, such as the metropolitan
6 planning organization, planning responsibilities
7 -- those are set out in the federal law --
8 developing and implementing the statewide plan.

9 The program development -- Is it called
10 the Program Development Section Program?
11 Development section is responsible for developing
12 construction program, the four-year fiscally
13 constrained construction program, that's both the
14 federal and state funds. And then the research
15 section works on the research area.

16 So those are the major -- Yeah, so each
17 of the major responsibility areas has a section
18 that is working on those various
19 responsibilities.

20 Q If we were interested in seeing what publications
21 come into the library, how would we go about --

22 A We could set up a meeting with our head
23 librarian. She would of love to give you a tour
24 at any time. Very proud of our library.

25 MR. JOHNSON: Barbara, we probably will

1 want to do that, have somebody meet with your
2 library, and even on Monday, that would be okay.
3 MS. FORSLAND: That's woman's name is
4 Sheila Hatchell, H-A-T-C-H-E-L-L. I will contact
5 her after the meeting so she would expect a call,
6 and I'll send a number for her so you can call
7 her directly and schedule that if you'd like.

8 MR. JOHNSON: And we can just call her
9 directly; is that okay?

10 MS. FORSLAND: Absolutely.

11 BY MR. JOHNSON:

12 Q I'm going to run real quickly through your
13 relationship to other people within the
14 organization so I just get some sense for how
15 that communication flows.

16 A Uh-huh.

17 Q So could you briefly tell me what your
18 relationship would be with Tom Henkel --

19 A Tim.

20 Q -- Tim Henkel, I'm sorry? How often would you be
21 meeting with him? What would be the kinds of
22 purposes that you would be meeting with him
23 about?

24 A Tim's my direct supervisor. I probably talk to
25 him almost every day, maybe three or four times a

Page 12

1 week. I would guess there are many weeks where I
2 talk to him every day on just a whole variety of
3 management issues that one might face, from
4 budget issues to employee discipline issues to
5 specific issues as it relates to the construction
6 program, and planning issues, research issues and
7 everything.

8 Q How often would you relate -- be in contact with
9 one of the other division directors?

10 A Almost every day. The construction program -- I
11 can show you this, but it represents about half
12 of the budget of the department. And there is
13 just hardly a day that goes by when I'm not
14 dealing with someone in the engineering services
15 division, the operations division or the finance
16 division. So one of the division directors I'd
17 be in contact with essentially every day.

18 Q And so the people that we're talking about are
19 Richard Arnebeck in engineering services?

20 A Uh-huh.

21 Q You're saying nearly daily contact with him?

22 A No. Pardon me. I thought the question you asked
23 was would you talk to one of the division
24 directors every day. And of the four other
25 division directors, I would talk to one of

Page 13

Page 15

1 them --
 2 Q Okay.
 3 A -- every day.
 4 Q Good clarification. And the people that we're
 5 talking about are Richard Arnebeck?
 6 A Yes.
 7 Q Robert Winters?
 8 A Yes.
 9 Q Kevin Gray?
 10 A Yes.
 11 Q And Julie Skallman?
 12 A Less so Julie, but regularly, nonetheless.
 13 Because we manage the federal funds, some of the
 14 federal funds go through our local partners, some
 15 stay with MnDOT. So there are federal local
 16 issues fairly commonly, but less in contact with
 17 Julie than the others.
 18 Q I'm going to ask you in just a second to describe
 19 the funding process from the start through actual
 20 construction, and maybe you could come back and
 21 talk then about your -- in relationship with each
 22 of these division heads?
 23 A Yes.
 24 Q Okay. Now, I understand from previous interviews
 25 that we've conducted that you have a role in the

1 the committee wrong. We just tall it TPC. The
 2 actual words are Transportation Program
 3 Committee. And I know you've heard it referred
 4 to in at least five different ways. The actual
 5 words are Transportation Program Committee. So,
 6 okay.
 7 Do I have contact with the
 8 commissioner?
 9 Q Correct.
 10 A Rarely.
 11 Q And on the rare occasions when it does occur,
 12 what would be the nature of the contact?
 13 A I have agenda items before commissioner staff on
 14 a fairly regular basis, and I would present to
 15 commissioner staff, and the commissioner is in
 16 attendance at commissioner staff.
 17 Q When you say commissioner staff, are you
 18 referring to commissioner staff meetings?
 19 A Uh-huh, correct.
 20 Q So this is the group that includes the division
 21 heads, the deputy commissioner and the
 22 commissioner that have relatively regular
 23 meetings?
 24 A The communications director and the legislative
 25 affairs director, correct.

Page 14

Page 16

1 Transportation Program Committee process; is that
 2 correct?
 3 A Yes.
 4 Q What's that role?
 5 A We staff the committee, so as the office director
 6 I lead the work of the committee. I do not chair
 7 the committee; the deputy commissioner chairs the
 8 committee. I prepare the agenda, prepare the
 9 materials, prepare the presentations, and
 10 somewhat do the floor management of the agenda as
 11 we're working through it.
 12 Q You're at most of the meetings, then?
 13 A All of them.
 14 Q And I'm going to come back to how the
 15 Transportation Program Committee fits into the
 16 funding process, but you're a key player in that,
 17 correct?
 18 A Uh-huh, yes.
 19 Q In either your role as director of the Office of
 20 Investment Management or in this role with the
 21 Transportation Planning Committee, do you have
 22 any discussions with the commissioner?
 23 A Well, I'd like to correct this for the record,
 24 because I have actually read several of the
 25 testimonies and almost every one has the name of

1 Q And so your contact with the commissioner is
 2 primarily through that commissioner staff meeting
 3 process?
 4 A Yes, that would be the primary.
 5 Q Do you get any opportunities to appear before
 6 legislative bodies?
 7 A Yes, I do.
 8 Q Why don't you tell me what those opportunities
 9 involve; why are you there?
 10 A I've presented the agency overview before at the
 11 beginning of each biennial budget session. The
 12 committees do an agency overview, and I've been
 13 responsible for the agency overview. I've
 14 testified on our plans many times. I've -- I
 15 testified many times on the I-35W bridge
 16 collapse. It would be the whole range of issues
 17 that are within my functions.
 18 Q In preparing to make the presentation on the
 19 agency overview --
 20 A Uh-huh.
 21 Q -- who are you working with in getting ready for
 22 that presentation?
 23 A Wow. I'd have to think about that. There's sort
 24 of a basic format that we use in the agency
 25 overview, so, I mean, we just kind of work from

Page 17

Page 19

1 that each year. I'm sure -- Well, primarily I
2 would have worked with our director of
3 legislative affairs, that's Betsie Parker. But
4 I'm sure I would have sent it to the division
5 directors and got their comments and thoughts
6 about any special initiatives I should highlight,
7 or the like, or particular focus area of the
8 hearing. I'm sure there would have been review
9 like that.

10 Q But is that something you would meet with the
11 commissioner about before you make the
12 presentation?

13 A I have not met with the commissioner on that.

14 Q Do you have any contact with the governor's
15 office in making the presentation or prior to the
16 presentation?

17 A No, none.

18 Q With that as background, now, let's turn to the
19 funding process. And I think it may be easiest
20 for you to just start out with a description, as
21 you see it, as to how money flows from revenue
22 sources, which you're going to identify, to
23 construction. And keep in mind, we're going to
24 have a focus on how it gets to bridges and bridge
25 maintenance and replacement.

Page 18

1 A Well, let me start by giving you this flow
2 chart. Is this an exhibit?

3 Q We will mark it in as an exhibit, you bet.
4 (McKenzie Exhibit 4 was marked for
5 identification by the court reporter.)

6 BY MR. JOHNSON:

7 Q We now have it in front of us, Exhibit 4, which
8 is entitled Transportation Funding Sources. And
9 I'm going to ask you to describe what this
10 depicts and how this results in bridges getting
11 repaired or replaced.

12 A So money comes in to MndOT from two primary
13 sources. One are the state sources, the
14 constitutionally-dedicated motor fuel, motor
15 vehicle sales tax, vehicle registration fees you
16 see on the left side. And it goes through this
17 constitutionally-prescribed distribution of
18 programs, of which after the 5 percent flexible
19 fund is taken off, 62 percent goes to the state
20 trunk highway.

21 And then the Legislature appropriates
22 it specifically by use. And so there's a
23 specific appropriation for state road
24 construction and a specific appropriation for
25 operations -- There's like three or four

1 operating budgets, operations, maintenance and
2 the like. The state road construction
3 appropriation can only be used for the actual
4 improvement and construction of the trunk
5 highways.

6 Now, the second major source,
7 especially for state road construction, are the
8 federal funds. So if you look on the right-hand
9 side, the gray area called federal funds, there
10 are two principle sources of federal funds.
11 Those are the formula funds, the federal formula
12 funds. There's four -- No. There's six core
13 programs that are distributed to each state by
14 formula, and then the other source are high
15 priority or discretionary projects. It's a much
16 smaller source, but it did represent 21 percent
17 of our total portion of our SAFETY-LU, so it's
18 not zero.

19 Q When you say that there are four different --

20 A Core six core programs.

21 Q -- six programs that feed into the -- that
22 comprise the formula fund pool --

23 A Principally.

24 Q We'll keep it simple.

25 A Yeah.

Page 20

1 Q When you're making this description, don't leave
2 out any moneys, however, that may be usable to
3 help with bridge.

4 A So do you want me to list the four core -- six
5 core programs?

6 Q Yes.

7 A Okay. They are the National Highway Systems
8 funds, the Surface Transportation Program funds,
9 CMAQ, and that is something, Congestion --

10 MS. FORSLAND: Mitigation --

11 MS. MCKENZIE: -- and Air Quality

12 Funds, the Bridge Replacement and Improvement
13 Program, and the Highway Safety Improvement
14 Program. Those are the six core federal funds.

15 Those come in --

16 BY MR. JOHNSON:

17 Q I'm going to stop you just for a second.

18 A Uh-huh.

19 Q Give us an order of magnitude. How much money
20 comes in for the bridge replacement and repair
21 program?

22 A Oh, you know, I couldn't say. I know our
23 apportionments over the entire life of
24 SAFETY-LU. Would that help you?

25 Q You tell me. Why would that help me as it

Page 21

Page 23

1 relates to bridge moneys?

2 A Well --

3 MS. FORSLAND: Let's get on the record
4 that SAFETY-LU is S-A-F-E-T-Y, hyphen, L-U, and
5 that's the nickname for the federal funding
6 program at the national level.

7 MS. MCKENZIE: It's the Surface
8 Transportation Authorization Program.

9 MS. FORSLAND: There we go.

10 BY MR. JOHNSON:

11 Q Let me just interrupt you. I think, Abbie, that
12 rather than going into the specifics of each of
13 these programs right now, let's move through --

14 A The big picture.

15 Q -- the rest of the flow chart and the process.

16 A I think that would be good.

17 Q If we have to loop back to a particular program
18 once we get down to a specific bridge, then let's
19 do it that way.

20 A Okay. So these formula funds come in, and
21 MnDOT -- to Minnesota. MnDOT takes, I think,
22 about \$40 million for administrative and a small
23 -- \$15 million for other centralized functions.

24 Q Excuse me. Is that the administrative set aside
25 that we're looking at?

Page 22

1 A Yes, right, to fulfill all of the requirements
2 that come along with the federal funds. And then
3 they distribute the rest of the federal funds to
4 area transportation partnerships. These are
5 groups of local and transportation stakeholders
6 that work in conjunction with our district staff
7 to prioritize investments of the federal funds.

8 So once the ATPs, area transportation
9 partnerships, have done their work, part of that
10 money will go to MnDOT. So they do a split.
11 They say this much of these federal formula funds
12 go to local work and this much of these federal
13 funds go to MnDOT work. So then there's a MnDOT
14 pot of that, and those federal funds then get
15 deposited, along with the state funds in the
16 state road construction program.

17 Q Is there a typical split between what amount of
18 moneys come into MnDOT for MnDOT projects versus
19 to local agencies?

20 A It varies quite a bit. When I first started with
21 the department, I think it might have been as low
22 as 15 or 20 percent of federal funds. It's been
23 growing steadily, and now it represents
24 30 percent of federal funds go to the local
25 jurisdictions.

1 Q So that would mean that the amount coming to
2 MnDOT out of the area transportation partnerships
3 would be from 70 to 85 percent?

4 A 15 years ago it might have been close to 85
5 percent, nowadays it's closer to 70 percent.

6 All right. So now we have the state
7 road construction budget, okay?

8 Q Could you describe to me what this high priority
9 project, discretionary fund box is?

10 A These are the specific projects that are
11 specifically earmarked or identified, either in
12 the Reauthorization Act or an annual
13 appropriations bill, by members of the Congress,
14 the U.S. Congress, for Minnesota.

15 Q We could describe them as earmark moneys?

16 A Oh, it says discretionary. Yep, that's exactly
17 how you could describe them.

18 So now you've seen how the money flows
19 through these two kind of major processes. So
20 now I will talk about programming that money into
21 construction projects.

22 Q Let's mark it as an exhibit first.

23 (McKenzie Exhibit 5 was marked for
24 identification by the court reporter.)

25 BY MR. JOHNSON:

Page 24

1 Q We now have in front of us Exhibit 5, which is
2 entitled MnDOT's Planning and Programming
3 Process. Abbie, why don't you describe to us
4 what that exhibit shows?

5 A This just basically lays out the steps, or it's
6 kind of a condensed version of the steps we go
7 through from planning the construction of the
8 highway system to identifying specific projects,
9 programming those with funding, and then
10 ultimately building the transportation system.

11 So it starts with our strategic plan
12 that's just the broad view of our mission and
13 vision. Then goes to the state --

14 Q Let me stop you for one second. Is there
15 anything in the strategic plan that's bridge
16 specific?

17 A I don't believe so.

18 Q Okay. Go on.

19 A Then it's the Statewide Transportation Plan. The
20 Statewide Transportation Plan establishes
21 policies, performance measures to implement
22 MnDOT's strategic plan, especially for giving
23 direction to investing capital, the capital
24 budget.

25 Q Let's stop at that plan for a second, because I

Page 25

Page 27

1 do have a few questions about it.

2 A Uh-huh.

3 Q Now, it's my understanding that prior to the
4 development of this plan, your office comes up
5 with some type of revenue forecast?

6 A Uh-huh, yes.

7 Q What do you do with that forecast?

8 A Well, I should back up. In the past we have not
9 done a revenue forecast for the Statewide
10 Transportation Plan. The Statewide
11 Transportation Plan was a policy plan, so it
12 established our investments, policies and the
13 performance measures that we would use to guide
14 them by.

15 When we got to a revenue plan is when
16 we got to the district long-range plan, so when
17 we're getting into this area, this second box.

18 Q Okay.

19 A So the thing I need to explain here is that
20 Minnesota has a very decentralized programming
21 process, probably the most decentralized in the
22 nation, maybe the most decentralized in the
23 nation. And, basically, districts have great
24 authority and autonomy to select their own
25 construction investments within the policy

1 to?

2 A Well, in the past we've had a
3 fiscally-constrained scenario saying you have to
4 identify which projects or spending you're going
5 to do limited by this fiscal constraint, this
6 revenue forecast.

7 The other scenario would be in the
8 past, what would it take, how much money would it
9 take to reach all of your performance goals in
10 all areas.

11 Q Now, there's been legislative presentations and I
12 think maybe even discussion with Kevin Gray about
13 this \$1 billion differential.

14 A Yes.

15 Q And that's between the fiscal --

16 A Fiscally.

17 Q -- fiscally-driven --

18 A Constrained.

19 Q -- constrained scenario and the needs-driven
20 scenario?

21 A Performance-based scenario, correct.

22 Q And is there a difference between describing it
23 as a performance-based or a needs-based?

24 A The performance-based is to achieve specific
25 quantifiable performance goals.

Page 26

Page 28

1 framework and guidelines set out by the statewide
2 plan.

3 So when we move now to the district
4 long-range plans, what we develop is a
5 district-level revenue forecast for just the
6 state road construction budget, okay, so just
7 this (indicating) gray box. We say here's our
8 total forecasted construction dollars and here's
9 how much every district gets, and we distribute
10 that through what we call a target formula.

11 Q Let me interrupt just for a second. The gray box
12 she was pointing to was on Exhibit 4, and it's
13 entitled State Road Construction at the bottom of
14 the diagram.

15 A Go on?

16 Q Yes.

17 A So the districts get a forecast of the state
18 construction dollars that might be available for
19 their district, and then they develop their
20 long-range plan of projects and spending levels
21 in the various policy areas within -- well,
22 usually there's two scenarios, but within that
23 physically-constrained level that we have given
24 them.

25 Q What are the two scenarios that you're referring

1 Needs are sometimes broader than that.

2 They include everything all your partners would
3 like you to do and, you know, kind of big
4 visions. The performance-based is to set -- to
5 meet a set of specific performance goals.

6 Q And the performance goals that we're talking
7 about are like having no more than 2 percent of
8 the bridges classified in poor condition; is that
9 correct?

10 A Yes, right.

11 So then from the long-range plan we
12 move into what we call programs of capital and
13 service. The one that we specifically work on is
14 the Highway Improvement Program, and that's a
15 ten-year program. And now the long-range plans
16 tend to be twenty years and the HIP is ten
17 years. And basically as you're moving through
18 our planning programming process, this obviously
19 takes very long to develop roadway projects. The
20 citizens want us to plan very carefully, and so
21 these are very long-time horizons. We have a
22 ten-year HIP. And as you're moving from the
23 20-year plan to the ten-year HIP, projects are
24 becoming more well developed. So instead of
25 saying I've got to budget for pavement,

Page 29

1 preservation-type work, now you'd start to see
2 specific projects and the like.
3 And all of this is still done at the
4 district level. They are given a revenue
5 forecast by formula, each of our districts are,
6 and within that revenue forecast they develop
7 their ten-year capital plan and -- This says the
8 Statewide Transportation Improvement Program is
9 three years, but it's four years now. That's a
10 new federal rule -- and their four-year stip.

11 So the districts within this policy
12 guidance that they receive, they pick their own
13 projects for that ten-year HIP and that four-year
14 stip.

15 Q I want to come back to how they select those
16 projects in just a second.

17 A Uh-huh.

18 Q But before we do, I want to make sure I
19 understand how the districts know how much money
20 they have to operate with as they're developing
21 each of these programs.

22 MR. JOHNSON: Let's mark this as
23 Exhibit 6.

24 (McKenzie Exhibit 6 was marked for
25 identification by the court reporter.)

Page 30

1 BY MR. JOHNSON:

2 Q The reporter has now marked Exhibit 6, which is
3 entitled MnDOT Revenue Forecast, 2009-2028.

4 A Uh-huh.

5 Q Do you recognize this document? You smiled there
6 for a second.

7 A Well, Rabinder Bains did it. She's on my staff.

8 Q Now, this forecast is for 2009-2028. This is the
9 forecast that you were referring to that goes
10 out -- I don't know if this goes out, but it's
11 part of the work product that you're generating
12 and coming up with a revenue number to give to
13 each district in terms of what they have to
14 spend?

15 A Their long-range plan.

16 Q In developing their long-range plan?

17 A Right.

18 Q And you do something similar to this for the
19 ten-year plan and then, finally, for the
20 four-year stip, correct?

21 A Correct.

22 Q I've read through, actually, Exhibit 6 and found
23 it quite interesting. But one of the questions I
24 had after reading it is, none of the sort of
25 variables that you're looking at in terms of what

Page 31

1 might affect future revenues include what might
2 happen by the Legislature or by the Governor
3 proposing to the Legislature some change in the
4 gas tax or some other source for the funds, for
5 the trunk highway fund.

6 A Well, this is a planning-level forecast, and I
7 think it's actually federal regulation that it --
8 that the forecast of revenues for the
9 fiscally-constrained scenario cannot be based on
10 anticipation of future unlegislatively-approved
11 funds.

12 Q Is that correct?

13 A So it's basically a current law forecast.

14 Q So if a newly-elected governor was run on the
15 program, I'm going to raise the gas tax and we're
16 going to have more money to repair our roads, you
17 wouldn't be able to take that into account when
18 he's sworn into office until after the
19 Legislature had increased the gas tax?

20 A Not in our fiscally-constrained scenario. Of
21 course, we could develop a new funding scenario,
22 a governor's initiative scenario in addition to
23 our performance-based scenario. So we certainly
24 have the capability to do other scenarios if the
25 administration us to do so.

Page 32

1 Q So the fiscally-constrained scenario is that --
2 is largely driven by federal requirements in
3 terms of the factors you can take into account?

4 A Largely.

5 Q To the extent that there is some flexibility,
6 what requirements do you have?

7 A Well, the Metropolitan Council has an absolute
8 requirement to do a fiscally-constrained 20-year
9 program, and so that represents half of the
10 state. It's very hard for us to deviate from
11 that.

12 The stip, the four-year actually funded
13 construction program, it is absolutely required
14 by federal law to be fiscally constrained.

15 So when we have these very firm
16 requirements for fiscal constraint within our own
17 planning world, we stay with the fiscal
18 constraint.

19 Q Does your office develop other funding scenarios
20 that would provide revenues more closely matching
21 the performance-based scenario needs?

22 A No.

23 Q And the reason you don't do that is what?

24 A We haven't been asked.

25 Q That's what I thought. You've got enough work to

Page 33

Page 35

1 do, I'm sure.
 2 A Yeah.
 3 Q But it would have to come either at direction of
 4 the commissioner or through the governor's
 5 office. Or, I suspect, a legislative committee
 6 could say, Look, we want to know what this
 7 scenario would look like, if we raised the gas
 8 tax two cents and the license plate tabs by X
 9 amount --
 10 A Correct.
 11 Q -- give us those numbers?
 12 A Correct.
 13 Q And they would turn to you, in all likelihood, to
 14 give you those numbers -- or give them those
 15 numbers?
 16 A Well, they would turn to the department and the
 17 department would turn to us, right.
 18 So maybe I could get through the end of
 19 the graph? No?
 20 Q No, let's do it, please.
 21 A Because once you move out of the planning realm
 22 into the stip, this last box, the Statewide
 23 Transportation Improvement Program, it's -- we're
 24 now moving to what we call our committed
 25 program. So this is the program of actual

Page 34

1 projects which we, as a department, are committed
 2 to. You know, it's a list. Every single project
 3 is identified specifically. So this is a very
 4 public, very public commitment. So the stip
 5 probably has kind of the highest amount of
 6 scrutiny when it comes to the construction
 7 program. And, again, in the development of the
 8 stip, the districts receive their
 9 district-targeted funds, and they develop their
 10 program of construction projects based on that.
 11 Now, the exception to that would be in
 12 rare cases where we have centrally-programmed
 13 funds. For example, in 2005 or '6 we established
 14 a Statewide Bridge Preservation Program, and
 15 those funds would be centrally programmed. But
 16 the vast majority of the funds of the department
 17 are programmed by each of the districts, and
 18 their individual constructions are developed
 19 individually.
 20 Q As I understand it, each district receives an
 21 allocation that's dependant upon -- or determined
 22 by a fairly complicated formula; is that correct?
 23 A Correct.
 24 Q Are you involved in working through what that
 25 formula will be?

1 A We have led the two or three efforts to
 2 develop -- When we first moved to the
 3 decentralized model, we developed the original
 4 target formula. It's gone through two revisions
 5 since then, and the Office of Investment
 6 Management has led both of those initiatives,
 7 with the Transportation Program Committee making
 8 the final decisions.
 9 Q Was your office also involved in the development
 10 of the Statewide Bridge Preservation Program?
 11 A Yes, in conjunction with the bridge office and
 12 the districts.
 13 Q Why don't you talk a little bit about the purpose
 14 behind -- We're getting out of order now, I
 15 realize, but why don't you talk about the purpose
 16 of that fund when it was initially discussed.
 17 A With the last update of the target formula, we
 18 did a series of interviews with each of the area
 19 transportation partnerships -- Remember, they're
 20 the groups here (indicating) -- and talked to
 21 them about what they kind of saw as the strengths
 22 and the weaknesses of this decentralized process
 23 that we had developed in the early nineties.
 24 And one of the things that was
 25 regularly identified was the difficulty in

Page 36

1 undertaking these very large projects, both big
 2 mobility projects but especially big bridge
 3 projects. Once you chunk up the money eight
 4 ways, it's really hard to put together enough
 5 money to undertake these very big structures.
 6 And so one of the recommendations that
 7 we came back with as a result of that whole
 8 process, it was many, many meetings, but as a
 9 result of that whole process was to establish
 10 some statewide funds to aid districts in
 11 replacing or reconstructing these very large
 12 bridges.
 13 Q Is there an actual fund that was created as a
 14 result of this decision?
 15 A Not like in an accounting sense. The federal
 16 funds come into us, and we basically build up
 17 from the targeted funds. So through this process
 18 that I talked about, we committed to targeting of
 19 that \$390 million of the federal funds to the
 20 ATPS.
 21 And then after that we committed to
 22 taking another -- well, it averaged \$40 million a
 23 year over ten years to begin with. It's gone up
 24 from that, but it's another \$40 million a year,
 25 on average, of the federal funds for the

Page 37

Page 39

1 statewide bridge funds. And then we kind of said
2 the remainder, whatever would be left of any
3 federal funds at that point, would establish this
4 congestion fund, this statewide mobility fund.

5 So the money is only a way of
6 allocating federal resources as they come in to
7 us. So there's not like an accountant -- an
8 account sitting someplace with money deposited in
9 it.

10 Q Are you tracking how much money in any particular
11 year is spent of that 40 million?

12 A Well, the Office of Investment Management, along
13 with the bridge office and the districts, we
14 actually program those major bridges. They were
15 programmed out for ten years. So we know exactly
16 what bridges qualify, what funds they're getting,
17 and how much they're getting in each year. And
18 then, of course, obviously we track the
19 expenditures that those projects are let and
20 those funds are expended. By our first bridge
21 won't be let under the statewide bridge fund
22 until November of 2009, so...

23 Q I'm still struggling to understand how this
24 works. So you've got a bridge that's scheduled
25 for replacement in 2012, let's say --

1 But what I'm trying to get at is, a bridge that
2 will require you to accumulate several years'
3 worth of the \$40 million appropriation, how does
4 that work? Are you actually doing that or --

5 A No.

6 Q What is -- --

7 A Oh, I see your question. The way we use the
8 federal funds with bridges is we use advanced
9 construction financing. So a bridge will come
10 in, and let's say it takes \$100 million of
11 statewide bridge funds to build that bridge.
12 Through AC we use advanced construction financing
13 for the whole \$100 million, and then we only use
14 the federal funds when the actual bills come
15 due. That's the way AC was set up.

16 And so, as a result, those expenditures
17 go out for three or four years. So you'd have
18 maybe 30 percent of that 100 worth of actual
19 federal bills coming in in any one year. So you
20 would never need more than that 40 million in any
21 one year.

22 Now, the way the bridge program -- The
23 reason I emphasize that it was \$40 million average
24 a year is because that goes up and down a lot.
25 And so in one year it might take \$80 million of

Page 38

Page 40

1 A Uh-huh.

2 Q -- and it's a \$100 million bridge replacement.

3 A Okay.

4 Q Well, let me backtrack. Is this money intended
5 just to cover the bridge structure or is this
6 also money that's going to go into covering, you
7 know, the associated costs with building a new
8 bridge? If you've got approach work and other
9 work that gets done, it sometimes can be very
10 expensive. Is it intended for just the
11 structure?

12 A The way we had done it originally, but this may
13 be changing with the new money, but the way we
14 had done it originally is we said the statewide
15 bridge fund will pay for the structure and the
16 districts, out of their targeted share of funds,
17 would pay for the approaches. So on average it's
18 about 50-50, but obviously some bridges have
19 bigger approaches and some bridges have smaller
20 approaches. We didn't want to try to manage
21 that, so we said, actually at the recommendation
22 of the bridge office, we'll fund the structures
23 and the districts would fund, out of their share,
24 the approaches.

25 Q So a \$100 million bridge is an expensive bridge.

1 our federal funds and next year only
2 \$10 million.

3 So after we have targeted out that 390,
4 that's the first funds out the door. The bridge
5 fund and the statewide corridor fund kind of act
6 in concert. So in one year we may need
7 \$50 million of money for bridges, so in that year
8 there would only be 30 million of the corridor
9 fund. And the next year you may only need
10 10 million of statewide bridge funds, so then you
11 could have a bigger program for the congestion.
12 So the bridge fund goes up and down as the
13 bridges come into the program and are played
14 out. But you never have to come up with all the
15 money for a structure all at once.

16 In our state accounting procedures we
17 encumber the whole amount of the bridge all at
18 once, but we encumber that with AC financing, and
19 then it utilizes the federal funds as they come
20 in. So that's how it works. It's complicated.

21 Q You spoke of using AC financing as though it were
22 a policy of the department -- AC financing for
23 bridges as though it were a policy of the
24 department. Is that correct?

25 A It's a federal program. Advanced construction

Page 41

Page 43

1 financing is a federal program. I think it
 2 was -- There's been advanced construction
 3 financing I really think since the original IST,
 4 but it got really expanded in TEA-21, the
 5 Authorization Act that was -- T-E-A, dash, 21.
 6 And so the department -- that allowed you to do
 7 this broader looking out at the federal revenues
 8 over several years when the bills would come from
 9 a project and counting -- from an accounting
 10 perspective counting -- anticipating those future
 11 revenues as a source of revenue. And it was a
 12 formal policy decision of the department to begin
 13 to use advanced construction financing in the way
 14 that the federal -- or the federal
 15 reauthorization bill allowed us to.
 16 Q Thank you. That was helpful. But is there a
 17 policy specific to bridges and, particularly,
 18 large bridges in that AC financing will be used
 19 when it comes time to replace them?
 20 A No. There's an advanced construction financing
 21 draft policy. Have you seen that?
 22 Q I have.
 23 A So it does talk about large -- that it is the
 24 appropriate tool for large and multi-year
 25 projects. Major bridges obviously fit that

1 small but still very large, we would use advanced
 2 construction financing for those as well.
 3 Q I want to make sure I understand where the moneys
 4 are coming from for the Bridge Preservation
 5 Fund.
 6 A They are all federal funds. It's a very simple
 7 answer.
 8 Q I understand they're all federal funds, but --
 9 and they're taken -- these moneys are taken off
 10 the top of the federal funds that are distributed
 11 before they go out to the districts; is that
 12 correct?
 13 A The first funds are the district-targeted funds,
 14 the \$390 million of base federal funds that we
 15 target to the districts. That's the first money
 16 we distribute.
 17 And then after that we take another 40
 18 for the statewide bridge fund. And then if there
 19 are any additional federal funds after that, we
 20 take the -- we use it for the statewide corridor
 21 fund.
 22 Q I think I'm understanding what happened here. I
 23 heard from people that there was a proposal to
 24 take -- that the department would take the Bridge
 25 Preservation funding first and then distribute to

Page 42

Page 44

1 definition. But I don't think it says anyplace
 2 in there, such as bridges, but I could be wrong.
 3 Q So the idea to use AC financing for bridges,
 4 particularly large bridges, is tied into that
 5 draft policy, then?
 6 A It's -- It isn't specific to large bridges. It
 7 is our approach to large projects,
 8 federally-funded projects in general. And I
 9 think that policy does a good job of describing
 10 our approach to advanced construction financing.
 11 Q Let me ask that question differently, then. The
 12 policy or strategy of using advanced construction
 13 moneys for large bridge projects originates
 14 within that policy rather than as part of the
 15 creation of the Statewide Bridge Preservation
 16 Program?
 17 A The Statewide Bridge Preservation Program, I'm --
 18 couldn't have worked without the assumption of AC
 19 financing. The idea of having a centralized
 20 group of money that we did not distribute out to
 21 the districts in order to help us program and
 22 construct these major bridges was the genesis of
 23 the bridge-specific programming. But even
 24 without -- even bridges that don't qualify for
 25 major Statewide Bridge Preservation Funds, too

1 the districts. That must have at some point
 2 either got reversed or was misunderstood by the
 3 people who thought that that was going to
 4 happen.
 5 A I think you can go back to the earliest documents
 6 on the target formula reevaluation and they
 7 clearly said the first funds are distributed to
 8 the districts.
 9 Q Does that leave sort of in jeopardy, though, the
 10 amount of money that would be available after you
 11 distribute the \$390 million to the districts, the
 12 amount of money that would be available for the
 13 bridge fund?
 14 A It hasn't so far.
 15 Q I know you can't predict what the feds are going
 16 to do, but do you have any sense for the level of
 17 security around the availability of that funding
 18 going into the future?
 19 A I can't predict what the feds are -- No. I think
 20 there is a certain amount of risk in our federal
 21 funds and our state funds. I mean, there are
 22 risks in funds that are collected through the gas
 23 tax.
 24 Q This was very helpful.
 25 A I thought it might be.

Page 45

Page 47

1 MS. FORSLAND: Do you have another copy
 2 of Exhibit 6 for us, by any chance? Thank you.
 3 BY MR. JOHNSON:
 4 Q Help me understand the way in which these
 5 performance measures come into play and what
 6 projects actually get selected. And let's start
 7 focusing in now on bridge projects.
 8 A Uh-huh.
 9 Q It's my understanding the decision-making is, in
 10 large part, going on out in the districts. We'll
 11 focus on the metro district. And they're
 12 deciding how they're going to, you know, allocate
 13 whatever moneys that they have or decide they
 14 have to bridges. How do these performance
 15 measures fit into what decisions their making?
 16 A I think the performance measures come in -- Well,
 17 I would first begin by saying every district does
 18 this in a slightly different way, and I don't
 19 know all the details of how they do it. But the
 20 performance measures themselves come in on kind
 21 of a high level. What is the dollar amount that
 22 we need to be spending on bridges or
 23 preservations, pavement preservations, since
 24 those are our top priorities.
 25 So they're looking at the performance

Page 46

1 measures, they're looking at the data from the
 2 bridge and pavement models and their saying,
 3 okay, our pavement experts are saying we need to
 4 spend about \$30 million a year on pavements and
 5 our bridge experts are saying we need to spend
 6 about \$20 million a year on bridges.
 7 And then my understanding is they
 8 generally work with their own districts,
 9 materials experts and bridge experts, to
 10 identify, well, then within that kind of budget
 11 that we need to be spending to be making progress
 12 toward our goals, what are the specific projects;
 13 what are the specific pavements we need to be
 14 doing; what are the specific bridges we need to
 15 be doing.
 16 Q Do you know what role the central bridge office
 17 plays in making decisions regarding, you know,
 18 which bridges should they pull into the funding
 19 process?
 20 A The bridge office does this bridge rating and
 21 evaluation every year and reports the condition
 22 of the bridges. It really -- I'm sure it varies
 23 district by district. I know in some districts
 24 the bridge planning engineer works very closely
 25 with the bridge engineer to identify their

1 specific program of bridges. Do I know what
 2 happens in every district? I just don't.
 3 Q Do you have any sense for how this works in the
 4 metro district?
 5 A No, I don't.
 6 Q Now, let's take this pot of money that the metro
 7 district has received from the allocation of
 8 funding. As it relates to bridges --
 9 A Uh-huh.
 10 Q -- they're going to be doing some maintenance
 11 work.
 12 A Uh-huh.
 13 Q And it's my understanding that if it's routine
 14 maintenance work, flushing the bridge, that
 15 that's going to be done by maintenance staff and
 16 will be a part of metro's budget.
 17 A I was going to show you the funding chart.
 18 Okay. Here we go. So as I said, the Legislature
 19 specifically appropriates these two pots, so they
 20 appropriate an operating budget and a
 21 construction budget. And there is specific
 22 language about what things can be done out of the
 23 construction budget and what things can be done
 24 out of the operating budget. And maintenance is
 25 the kind of thing that is done out of the

Page 48

1 maintenance budget, and there are very strict
 2 limitations on how much of that we can do out of
 3 the construction budget.
 4 So maintenance, like a bridge flushing,
 5 would be a maintenance activity, would come out
 6 of the maintenance budget, would not come out of
 7 the statewide construction budget. And, as a
 8 result, I don't know very much about that because
 9 that's not my side of the business.
 10 Q But see if you can verify what my understanding
 11 is, which is that that budget is just a pretty
 12 set budget within the metro district and may not
 13 vary much from year to year. And, you know, it
 14 has some relationship back to the inspection
 15 reports, but it's not going to be a very direct
 16 one in the sense that the work that they're going
 17 to do is work that needs to be done annually,
 18 regardless of the findings of the inspection
 19 report. Is that --
 20 A Really, I do not know very much about the
 21 operating budget.
 22 Q Okay. Let me ask you this, because I'm going to
 23 go on to some other types of expenditures.
 24 People use different terms to describe similar
 25 activities. There is a document that purports to

Page 49

Page 51

1 define, at least, what terms mean relative to
 2 bridges. And that document is one that was
 3 prepared by Richard Stehr and is entitled --
 4 Stehr is S-T-E-H-R -- and it was prepared for
 5 fiscal years 2006-2008 called Bridge Preservation
 6 Improvement and Replacement Guidelines. Do you
 7 have any familiarity with this?
 8 A No, although it sounds like something we might
 9 have been involved with, so it may be my hazy
 10 memory.
 11 Q Well, this describes maintenance as bridge
 12 flushing, the type of thing that we were just
 13 talking about, part of the operation budget,
 14 which is not your side of the budget. But then
 15 it also talks about preservation activities --
 16 A Uh-huh.
 17 Q -- which is more significant than maintenance?
 18 A Uh-huh.
 19 Q And then it goes to projects like an overlay
 20 project.
 21 A Correct.
 22 Q Now, does that come -- does that leave the
 23 operating budget and go over to the construction
 24 budget?
 25 A Correct.

Page 50

Page 52

1 Q And do you use this term preservation when you
 2 are putting together presentations for the
 3 Legislature? And I'm looking at your documents.
 4 A Yes.
 5 Q So preservation, you're going to be talking about
 6 it in that kind of term?
 7 A Yes. You can see from the statewide plan
 8 presentation that that's how we refer to it, as
 9 preservation work.
 10 Q First we have maintenance, then we have
 11 preservation. And this document that was
 12 prepared by Mr. Stehr refers to the next category
 13 of activities as improvement activities. --
 14 A Okay.
 15 Q -- which are activities that even more major than
 16 preservation activities and would cover
 17 activities such as a redecking of the bridge or a
 18 widening of the bridge.
 19 A Uh-huh, yes.
 20 Q Now, tell me where the funding for that kind of
 21 activity would come.
 22 A Everything now you're talking about, all the way
 23 up from bridge preservation to improvement to
 24 replacement to a new bridge, all of that comes
 25 out of the state road construction budget.

1 Q Thank you. Now, it's also my understanding,
 2 though, that it gets -- where those moneys come
 3 from has a lot to do with the amount of money
 4 that is needed, and that within the metro
 5 district, for example, maybe all districts, there
 6 is what's referred to as a Bridge Improvement
 7 Program that is a budgeted line item for the
 8 district. Does that sound correct?
 9 A Yes. As I said, when they're developing their
 10 HIP, they would -- they might budget it that way,
 11 but it's all one pot of money. The money doesn't
 12 come to them earmarked in that way. This is just
 13 a planning and programming tool for them. They
 14 don't give -- When we give them their
 15 construction revenue forecast, we don't say,
 16 You've got so much in bridge improvement and so
 17 much -- They get a pot of money. And however
 18 they program that that makes sense to them is up
 19 to them. And I believe that most districts have
 20 a pavement program and a bridge program, but I
 21 don't even know that for sure.
 22 So these are just ways of thinking
 23 about your investment levels and your investment
 24 needs as opposed to a categorical budget, that,
 25 boy, they get that much and that's all they can

1 use that on. That's not the way it works.
 2 Q I understand it. The metro district just gets a
 3 state allocation --
 4 A Correct.
 5 Q -- and they make a determination how much money
 6 is going to go into a Bridge Improvement Program?
 7 A Correct.
 8 Q And if they're going to have something operating
 9 under that title?
 10 A Correct. That's right.
 11 Q And as far as I can tell from looking at
 12 documents and the testimony, that fund has been
 13 pretty close to 15 million, up a little, down a
 14 little, over the last half dozen years or so.
 15 And my question to you: The decision as to the
 16 amount that is allocated for bridge improvement
 17 within the metro district, that's a metro
 18 decision, is what you're saying?
 19 A Correct, correct.
 20 Q Now, from the conversations that we've had with
 21 people, it seems as though projects that are in
 22 the one to two, maybe \$3 million range can get
 23 funded out of that Bridge Improvement Program or
 24 within that Bridge Improvement Program at the
 25 metro level, but that if they get larger than

Page 53

Page 55

1 that, it starts to get dicey in terms of whether
 2 it's going to be improved. Some people like
 3 Connie would say, well, at that point it would
 4 have to come to the fourth floor to find out if
 5 there isn't some more money we can tap. Do you
 6 have any role in that?
 7 A There is no more money.
 8 Q Okay.
 9 A I've described to you all of the money. The
 10 money is distributed to the districts by target
 11 formula. There are these limited central funds
 12 that you know about. That's all the money there
 13 is.
 14 Q So if there's not an overlay but a bridge
 15 redecking at, say, 15 million and that can't be
 16 part of the Bridge Improvement Program because it
 17 would bust their budget, where does that money
 18 have to --
 19 A Metro districts get between 200 and \$245 million
 20 a year that is theirs to program for their
 21 priority needs.
 22 Q That's clear. So it is the metro district's
 23 decision whether to blow their entire Bridge
 24 Improvement Program line item on this one item or
 25 not do some other projects to put it toward the

Page 54

1 redecking?
 2 A Well, a 10 or \$13 million bridge is not their
 3 whole budget. It's not 10 percent of their
 4 budget.
 5 Q I understand that, but it is 100 percent of their
 6 Bridge Improvement Program budget. I'm just --
 7 You can respond to that. I'm just --
 8 A They get \$245 million a year, 200 to \$245 million
 9 a year in their construction program that is
 10 theirs to...
 11 Q How do they go about, then, deciding -- And maybe
 12 we have to circle back here -- I'm sorry, Barbara
 13 -- to Connie or someone. How do they go about
 14 deciding that of that 240 million, \$15 million
 15 will go into the Bridge Improvement Program?
 16 A I don't know how they do that.
 17 Q Does the -- And if your answer is no, I don't
 18 know anything, that's fine. There's also a
 19 scoping committee that gets involved at the metro
 20 level, a pretty big group of people that get
 21 together in a room to sort of give final say as
 22 to what's going to be -- what bridge work is
 23 going to be done so they can tie it into other
 24 work. Do you have any familiarity with that?
 25 A No, other than the name.

1 Q All right. That's helpful. I realize that the
 2 Bridge Preservation -- Are we calling that a
 3 program or fund?
 4 A I think we call it a fund. I think the name is
 5 the Statewide Bridge Preservation Fund, but I
 6 wonder if we've called it both. I think it has
 7 the word fund at the end of it.
 8 Q But I shouldn't mistake that to believe that
 9 there's an actual fund, as in a pot of money
 10 someplace?
 11 A In an accounting sense, correct.
 12 Q All right. And I understand that that fund is
 13 just becoming available now for projects,
 14 correct?
 15 A Right.
 16 Q So let's say that metro had this \$15 million
 17 bridge overlay -- or deck -- not deck overlay --
 18 deck replacement that they wanted to do. Could
 19 they come to the central office and say, Hey,
 20 we'd like to get this deck replacement project --
 21 A No. There is no more money.
 22 Q -- funded out?
 23 A There is no more money.
 24 Q Well, explain it.
 25 A I've described to you how we allocate all the

Page 56

1 money, how we program all the money. The money
 2 is programmed to the districts, the statewide
 3 corridor -- the Statewide Bridge Fund is funded
 4 by a specific set of criteria, and the districts
 5 know very well which bridges are fund and what
 6 level they're funded at, what year they're funded
 7 in, and there is no more money.
 8 Q So the allocation of the Bridge Preservation Fund
 9 is the specific bridges at specific periods of
 10 time, and that's already been decided?
 11 A Yes.
 12 Q Now, did that change or was there an adjustment
 13 made after the legislation was passed this
 14 session?
 15 A Well, we're in the process of changing that after
 16 we got all this new money for bridges, right.
 17 But their program was initially laid out, it's
 18 updated every year, presented to TPC, and TPC
 19 approves it. And all the districts are involved
 20 in developing it and they all know what it is.
 21 So there's no secret pots of money.
 22 Q I think I'm going to come back at the end about
 23 how the new legislation and new funding affects
 24 what we were talking about. Let's turn to the
 25 TPC now and its role in the stip approval

Page 57

1 process.

2 As I understand it, you've allocated to
3 the metro district \$240 million for, like, 2008
4 to spend for projects in the metro area. And
5 we're talking about the construction project
6 budget?

7 A Correct.

8 Q They make their decisions as to which projects
9 they're going to fund and how that money is going
10 to be spent and put it into a metro

11 transportation improvement plan or --

12 A The stip, the stip. For the districts it's
13 called an ATIP, an Area Transportation
14 Improvement Program.

15 Q Once they have completed that process, that then
16 gets sent up to the Transportation Program
17 Committee?

18 A Well, they come -- the ATIPs come to us
19 April 15th of every year, so we just got them.
20 So the draft Area Transportation Improvement
21 Programs come to us. And we --

22 Q Excuse me. When you say us, you mean your
23 office?

24 A Office of Investment Management. And then we put
25 them into the federal form required -- There is,

Page 58

1 you know, the form for the tests against fiscal
2 constraints and so forth to make sure that the
3 districts have lined up their funding in the
4 appropriate way.

5 When you do advanced construction
6 financing, then you need to set aside your
7 federal funds every year as those bills come in
8 to convert them to advanced construction
9 financing. So we go in and check and make sure
10 the districts write out their AC conversions in
11 the right way so that they can pay the bills as
12 they come in, we test against the fiscal
13 constraints.

14 So we then present a summary document
15 so it demonstrates fiscal constraint. It
16 demonstrates the investments in the stip against
17 our policy goals and the like.

18 And then at that point -- Well, TPC
19 actually has two rounds of approval. One, this
20 draft stip we will bring to them in May, a draft
21 stip for approval. They'll approve the draft
22 stip. It then goes back out to the area
23 transportation partners and the districts for one
24 more round of changes and modifications. Then
25 the final stip is due in July.

Page 59

1 We, again, do the same thing, combine
2 them, make sure they've got their funding aligned
3 right, make sure they're fiscally constrained.
4 Then we'll do a final stip for approval by the
5 Transportation Program Committee in August or
6 September. It needs to be into the feds by
7 September 30th of every year.

8 Q That sounds like a lot of activity.

9 A It is a lot of activity.

10 Q When the draft ATIP comes to you for your review,
11 do you make any changes to it at the project
12 level?

13 A Very, very rarely. I just would struggle to
14 think of a time where we would change a project
15 in the stip.

16 Q Would the same be true when the ATIP is reviewed
17 by the TPC?

18 A Yes, very true.

19 Q So they would very seldom take a project out and
20 say that's a --

21 A Stupid project.

22 Q -- stupid project?

23 A Correct.

24 Q At the TPC level is there any discussion that's
25 at the project level?

Page 60

1 A Very little. These centralized funds are an
2 exception to that. So since we've had this
3 statewide mobility or corridor fund, I think it's
4 called a Statewide Corridor Fund and the
5 Statewide Bridge Fund, those fund individual
6 projects. So in those cases there have been
7 individual projects that have come to TPC because
8 they are the final kind of arbitrator and
9 selector of the programmer of the statewide
10 funds. So, you know, perhaps in the last five
11 years there's been more of that, but just for
12 these statewide funds.

13 Well, okay. And then there's this
14 District C, which is this tiny little dab of
15 money, 15 million of state funds and 15 million
16 of federal funds, that are used for projects that
17 are hard to fund at a district level.

18 There was a GPS marker program, where
19 every historic site on the trunk highway got a
20 GPS location. Well, it would have been
21 ridiculous to have the districts fund.

22 Or we had these historic bridges. And
23 when the districts replaced them, it's an
24 additional cost because then they have to
25 preserve the historic bridge. They have to move

Page 61

1 it someplace, to a state park, or do something
2 with it. So out of that District C fund we
3 funded that kind of thing.
4 So it's a very small amount of money to
5 kind of do these -- Our dedication to this water
6 resources fund that gives us allocations of
7 wetlands, we do that at the statewide level. So
8 that's the kind of thing. So that District C is
9 a small amount of money. That's been there for
10 twenty years.
11 Recently we've had these statewide
12 corridor funds, statewide bridge funds that have
13 involved individual projects.
14 Q Those matters are coming to the TPC's approval
15 separate from the stip process, then?
16 A Well, they're coordinated with the stip process
17 because all the projects have to go in the stip.
18 So they follow the stip timeline, but they are
19 programmed centrally as opposed -- as part of
20 that district allocation.
21 Q Let me loop back again to these performance
22 standards.
23 A Uh-huh.
24 Q There's a performance standard that's setting a
25 goal of having no more than 2 percent of the

Page 62

1 bridges in poor condition, correct?
2 A Uh-huh.
3 Q So if the metro division -- And I don't know if
4 this is correct or not, but say they've got
5 5 percent of their bridges that are in poor
6 condition.
7 A Uh-huh.
8 Q And year after year --
9 A Uh-huh.
10 Q -- their stip comes in, and they're really not
11 doing very much to get that percentage of bridges
12 in poor condition down from 5 percent to
13 2 percent.
14 A Uh-huh.
15 Q Where does the intervention come to say, hey, pay
16 attention to our performance standards?
17 A Yes. There's policy guidance. And that's why I
18 meant that they program within the policy
19 guidance. We have what we call district plan
20 check-in meetings once or twice a year, where all
21 of the districts come together, along with us and
22 expert offices, bridge and pavements and safety,
23 and they show how they plan to program by
24 category; not by project, but by category their
25 ATIP and their long-range plan.

Page 63

1 And then they show -- Well, then we
2 take that information, and the various expert
3 offices show whether that's making appropriate
4 progress toward their goals or not. So that's a
5 formal conversation that goes on every year in
6 Addition to the guidance that is set forth in the
7 planning and programming documents.
8 Q And the guidance document you're talking about
9 now is the one that comes out of your office in
10 advance of the long-range planning?
11 A There's guidance for the long-range planning for
12 the district plans for the stip.
13 Q But those all originate in your office and --
14 A That is correct. So there's active participation
15 and a discussion of how we meet our goals or not.
16 Q If there is a bridge that needs pretty immediate
17 attention, but that bridge isn't showing up in
18 the stip year after year after year --
19 A Uh-huh.
20 Q -- does that get picked up as it moves through
21 your office to the TPC or does that have to get
22 identified someplace before it gets to a draft
23 TPC? Do you understand my question?
24 A Right. No. That would be -- Each year the
25 bridge office gets the list of bridges programmed

Page 64

1 in the stip, so they're very well aware of what's
2 programmed in the stip. It would be between the
3 bridge office and the district to identify a
4 specific bridge that was or was not being
5 addressed.
6 Q Okay.
7 A I mean, I would imagine that Rick Arnebeck, the
8 division director that heads engineering services
9 that has the bridge in it, if they felt that they
10 were not getting response from the districts, I
11 mean, I'm sure they would bring it as a TPC
12 item. It has never, to my knowledge, come up as
13 a TPC item.
14 Q And I'm speaking hypothetically. I'm just trying
15 to understand this process --
16 A Yeah.
17 Q -- and sort of where the checkpoints are and I
18 guess points of tension as well.
19 A Well, and in 1992 or '93 we made this very big
20 decision. It had been entirely central
21 programming before that, so all of the state road
22 construction funds were programmed out of the
23 Office of Investment Management. Every project
24 was picked by the Office of Investment
25 Management. There was a very explicit decision

Page 65

1 to go to a decentralized programming model. And,
2 as I said, prior to the establishment of these
3 two small statewide funds, 100 percent of the
4 construction funds were distributed, well, except
5 that 15 million of District C money, was
6 distributed to the districts for their
7 programming.

8 There was a very strong belief, and
9 there were Northstar workshops and everything
10 else, that the programming decisions are best
11 made as close to the people who are responsible
12 for that roadway system as possible. The
13 identification of problems, the identification of
14 solutions were best made in this decentralized
15 way. It was a very big shift for the
16 organization. I think it happened in 1992 or '3,
17 so I wasn't part of MnDOT then.

18 But when I came in 1995, we were still
19 processing it very heavily. It was a very big
20 change for the organization in response to the
21 new way of federal funding.

22 Q Was that change in any way driven by federal
23 policy?

24 A Well, it was in response to IST, which was that
25 landmark federal authorization act which made

Page 66

1 federal funding much more flexible and really
2 emphasized local and stakeholder participation
3 and project selection and programming.

4 So it was very much done to reflect
5 what MnDOT thought was the spirit and the intent
6 of this new landmark federal legislation. There
7 was nothing in the federal legislation that said
8 you have to do it this way. In fact, we're
9 really one of the very few states that are so
10 decentralized in their programming. But it was
11 very much driven by this new thinking about
12 transportation funding and being flexible and
13 being close to the citizens who are using the
14 roadway and all of that.

15 Q In a former life I actually served on the
16 Transportation Advisory Board for the Met
17 Council, and this is back in the seventies. That
18 was a feature of federal law back then. So there
19 was a citizens' process or stakeholder process
20 within the metropolitan area before '93?

21 A The Metropolitan Planning Organization.

22 Q Are you saying that before '93 there wasn't that
23 kind of a process in the other districts?

24 A Well, there really wasn't that kind of process in
25 the metro area. For the few funds, the STP

Page 67

1 Federal Urban Guarantee Funds, for those few
2 federal funds that the MPO controlled, they did
3 it. But all the state funds, all the MnDOT
4 funds, all the MnDOT federal funds, there was --
5 it was all programmed in the CO.

6 Q This is a long time ago. So the money that I was
7 participating in deciding how to spend, how to
8 prioritize --

9 A Were the MPO funds.

10 Q Were the MPO funds or federal funds?

11 A Uh-huh.

12 Q And it was a relatively small amount compared to
13 the entire budget for the metropolitan area,
14 which was at that point largely controlled -- or
15 was controlled out of the central office?

16 A That's my understanding.

17 Q Very helpful. After these various plans,
18 including and maybe particularly the stip gets
19 the TPC approval, my understanding is that still
20 goes to the commissioner's staff meeting for
21 review; is that your understanding as well?

22 A Well, let's see. All TPC decisions, and there
23 are dozens of them every year, including the
24 stip, are the advice of the Transportation
25 Program Committee to the commission. And so the

Page 68

1 deputy commissioner chairs it, and my presumption
2 is all the decisions the commissioner is made
3 aware of. Oh, I suppose there are completely
4 administrative-type decisions that the
5 commissioner isn't aware of. I didn't know that
6 they went to commissioner staff. I thought they
7 just went to the commissioner, since TPC is sort
8 of made up by the same people as commissioner's
9 staff.

10 So whether they go to commissioner's
11 staff or directly to the commissioner, I just
12 couldn't comment on that. But all the decisions
13 -- The stip is actually signed by the
14 commissioner. It's a requirement that it's
15 signed by the commissioner. So all of the
16 decisions of TPC are recommendations to the
17 commissioner.

18 Q So if it is considered at a commissioner staff
19 meeting, you haven't participated in --

20 A Correct.

21 Q -- any of those discussions?

22 A No, I have not.

23 Q I don't think this will take very long, but I
24 want to ask a few questions about the Highway
25 Systems Operation Plan. Do you know anything

Page 69

1 about that?

2 A Very little.

3 Q And the reason you know little about it is

4 because it's about operations, not about

5 construction, correct?

6 A Yes, although I think my staff were one of the

7 leads putting it together. I just, frankly,

8 haven't really delved into it. I think it was a

9 responsibility of our office, I just haven't

10 personally followed it along a lot.

11 Q Well, the introduction does identify your staff

12 as having participated in putting it together,

13 and it also talks about it being a compliment to

14 the Statewide Transportation Plan from a

15 maintenance operation perspective.

16 A Right. I'm sure it is. I mean, I can read

17 commissioner staff and division directors and

18 district engineers meeting and they're referring

19 to it a lot, but, frankly, I just am not tracking

20 it a lot, so...

21 Q But to the extent that this plan also has some

22 objectives and criteria, its use is with respect

23 to the operations budget, not the construction

24 budget; is that correct?

25 A I think that's fair to say.

Page 70

1 MR. JOHNSON: Let's go off the record

2 for just a second.

3 (Discussion held off the record.)

4 BY MR. JOHNSON:

5 Q Back on the record. Prior to the creation of

6 this Statewide Bridge Preservation Fund, if a

7 major bridge had to be replaced or rehabilitated

8 in some very significant way so there was a big

9 cost attached to it, where would those funds have

10 come from?

11 A Well, the district program.

12 Q And that would be true whether it's a \$10 million

13 replacement bridge or a \$100 million replacement

14 bridge?

15 A You know, I don't know that prior to the creation

16 of the bridge program we had such a thing as a

17 \$100 million bridge. So when we got to the

18 neighborhood of having bridges that took more

19 than half -- That's actually the standard, if the

20 bridge represents more than half the district's

21 budget -- we recognized that districts couldn't

22 do that, and that's when we created the Statewide

23 Bridge Preservation Fund. So up until that time

24 we just had not been faced with replacing

25 structures of that magnitude.

Page 71

1 Q You may not be familiar with this. You've talked

2 about the draft advanced construction policy

3 that's over in the finances division.

4 A Well, it was developed collectively as a

5 department.

6 Q Okay.

7 A The division directors all participated, OIM

8 participated.

9 Q Correct. I'm sorry. There was an earlier policy

10 that was, I think, developed in 1983, if I'm

11 correct.

12 A On advanced construction financing?

13 Q No, I'm sorry. It's my understanding that

14 there's also a draft bonded indebtedness

15 policy --

16 A Yes.

17 Q -- correct? And I've looked at that, and Kevin

18 Gray and I had a fairly lengthy discussion about

19 it. And I also asked him about this 1983 policy,

20 which he had some familiarity with. And I was

21 interested in it insofar as it specifically

22 identified bridges as a use for bonding --

23 A Uh-huh.

24 Q -- a bond fund. And that isn't part of the

25 current policy, but he explained to me that major

Page 72

1 projects like that certainly could -- are part of

2 the policy, draft policy, and this could be --

3 A Absolutely. I mean, they're a perfect example of

4 structures with very long lives exceeding the

5 length of the debt repayment, and I think those

6 are all consistent with the guidelines in the

7 debt service policy.

8 Q What I would like are your thoughts on the

9 desirability of using bond funding for bridges,

10 and is that even necessary now that you've

11 created the Bridge Replacement Fund and the

12 moneys that have come this past session -- or

13 this session from the Legislature?

14 A But those are bond moneys. Well, let me talk a

15 little bit about debt service. I mean, in

16 general, you don't want your debt payments to

17 take -- Our debt payments come off the top.

18 They're the first thing we pay with our

19 revenues. And the greater those are, then the

20 less flexibility we have to pay for the ongoing

21 things we have to do, the payments we have to fix

22 every year, the snow we have to plow every year

23 and so forth. And so I think there is lots of

24 literature on the appropriate level of your total

25 revenues that you want to have committed in this

Page 73

1 very fixed way that come off the top and are paid
2 for first.

3 And so I don't think using bonds beyond
4 that level, no matter what the purpose, is good
5 fiscal policy. That's what the policy says, that
6 we'll commit I think it's 11 percent of our state
7 funds, I can't quite remember, no more than, for
8 debt replacement, leaving the remainder to do the
9 ongoing, every-year work we have to do. Potholes
10 are there every year, pavement has to be done
11 every year, snow has to be plowed every year.

12 But within that fiscal constraint, is
13 it reasonable to use bonds for long-life
14 structures. That's the exact appropriate use for
15 bonds. You pay bonds off over 20 years. That
16 means future drivers and car buyers will be
17 paying for those bonds, and so it needs to be a
18 facility that has a long life so that those same
19 users will be benefited from that facility. And
20 I think bridges obviously have those
21 characteristics that make them very good for bond
22 funding.

23 Q There are various documents that I've looked at.
24 I have one, I think, with me today if you need to
25 see it. It's a list of the so-called

Page 74

1 budget-buster bridges.

2 A Uh-huh.

3 Q And if I understand you right, it was the
4 recognition that you had these major buildings --
5 or bridges that would eat up a significant share
6 of any district's allocation that precipitated
7 your thinking about the creation of the
8 preservation fund.

9 A Yes.

10 Q How are we situated going forward now in terms of
11 covering those bridges, the major budget-buster
12 bridges? And sensing that there is a -- there's
13 a second tier behind those not maybe as old, but
14 aging. So how well are we situated with what we
15 have now by way of funds available to address
16 those, either the major repair or replacement on
17 those bridges?

18 A Well, we're just analyzing that right now. The
19 law specifies these Tier 1 and Tier 2 bridges
20 that need to be replaced or repaired in the next
21 20 years. The Legislature gave us a certain
22 amount of money through bonding to address
23 those. We have still our base district budgets
24 and the Statewide Bridge Preservation Fund. And
25 we are just now putting that all together and

Page 75

1 seeing if we can repair and replace all those
2 bridges in the next ten years, as the law says.

3 Now, that's far more than the eight or
4 ten budget-buster bridges. I think there's 160
5 or 161 bridges that the law directs us to
6 replace, but we're just going through that
7 exercise right now to figure that out.

8 Q When do you think that's going to be done?

9 A I think June is when we believe we can have it
10 done.

11 Q I'm just now going to kind of move over to just
12 getting your thoughts, ideas, recommendations
13 about, you know, what might be in our report to
14 the Legislature, which is looking for ways in
15 which they can be helpful going forward so that
16 we don't have another I-35W bridge collapse.

17 And part of the thinking, obviously, is
18 that we need to make sure that funding decisions
19 around bridges that are deteriorating aren't
20 driving whether or not, you know, we can replace
21 this bridge as soon as it should be.

22 So given that, do you have any thoughts
23 that go beyond what they did this past session,
24 as to how we can assure that there is that fund
25 available, maybe criteria to access it, but there

Page 76

1 is money that can be tapped if a bridge inspector
2 says, oops, we've got a problem here; I'm going
3 to take this bridge from a 4 to a 3, and no one
4 is going to like it and someone is going to want
5 to put -- we're going to have to put some
6 bit-time money into it?

7 A I mean, I think that flexibility was always
8 there. So I think --

9 Q Tell me, then, where is the flexibility? Because
10 what I heard you saying is that money is
11 distributed, and there isn't any flexibility.

12 A There's complete flexibility. I mean, the
13 districts -- metro district gets 200 to \$250
14 million a year. If they had known that there was
15 a bridge, if they had believed there was a bridge
16 in imminent failure, they would have, could have
17 and would have made all of those funds
18 available.

19 If it had been a \$300 million bridge,
20 so let's say it strips the capacity of the
21 district to fund it, obviously the capacity of
22 the CO to fund it, we found the Legislature so
23 willing to meet in special session and to -- In
24 that first hearing that I testified at, they
25 would have written us a \$500 check in that

Page 77

Page 79

1 moment --
 2 Q 500 --
 3 A -- million dollar check in that moment. We are
 4 not even close to our bonding cap. We've said --
 5 I can't remember if it was 11 or 15 percent.
 6 We're less than 5 percent. We have great
 7 capacity in our bonding to go to them and say, We
 8 need bonding authority to replace this bridge
 9 right now, and they could have given us the
 10 bonding authority that would have come off the
 11 top, \$30 million a year payment on a \$300 million
 12 a year bond.
 13 Now, if we didn't have the fund balance
 14 to absorb that, we might have had to take the \$30
 15 million a year off the top of the district or out
 16 of the district's allocation, but \$30 million a
 17 year on a \$250 million program is absorbable. So
 18 I always think the flexibility was there. The
 19 tools were there for us to respond to this as an
 20 organization.
 21 Q Is there any change that should occur to make
 22 them more readily accessible or usable in any
 23 fashion?
 24 A I think the change that needs to occur is that we
 25 as a society, and the Legislature, as policy

1 we're approaching these new bonds for this bridge
 2 program and the like, because the Legislature
 3 sort of directed us to do these things, we're
 4 just paying for them off the top. So, you know,
 5 there's not -- I don't think there's just one
 6 answer to that.
 7 Q All right. I'm getting close to my final
 8 question here. These are good points.
 9 A Uh-huh.
 10 Q When you spoke of having additional bonding
 11 capacity within your authority, were you talking
 12 about the department specifically or the State of
 13 Minnesota?
 14 A I was talking about MnDOT's -- Its policy says --
 15 I wish I had it with me. I can't remember if it
 16 says 11 percent or 15 percent of state funds, no
 17 more than that, should be dedicated to debt
 18 repayment. We're less than 5 percent now. So
 19 that's what I mean by capacity. We could take on
 20 a lot more debt within our existing revenue
 21 sources and still be within those parameters I
 22 said were fiscally prudent.
 23 So I guess that's just my point. We
 24 have the ability, if there's an emergency -- If
 25 we knew the bridge was going to fall down and had

Page 78

Page 80

1 leaders, need to support investments in
 2 preservation activities. It's a lot more fun to
 3 cut a ribbon, it just is. And we need to have
 4 support from all of our policymakers to do the
 5 bread-and-butter work of keeping the existing
 6 system in good condition.
 7 Q So when you're talking preservation, that would
 8 include major rehabilitation and even
 9 replacement?
 10 A Yes, absolutely.
 11 Q A point of clarification. When a new bridge in
 12 the metro district is funded by a bond issue and
 13 you've got debt retirement on those bonds, is the
 14 retirement allocated -- the amount of the moneys
 15 necessary for that retirement, is it allocated to
 16 the district or is it paid out of the state pot
 17 before it gets distributed?
 18 A You know, I said it could go either way when I
 19 was talking to you about that hypothetical case
 20 of going and getting a \$300 million bond.
 21 Because we aren't very experienced at bonding.
 22 We really did not do a lot of bonding before
 23 2000, so we've kind of handled it in a variety of
 24 ways. Sometimes the bonds have been paid back by
 25 the districts out of their allocation. The way

1 to close the bridge and had to go right away to
 2 get the money, we have great capacity to do that
 3 and to respond to those situations. So that's
 4 what I meant by the flexibility.
 5 Q And the authority figure of 11 percent or 15
 6 percent that you spoke about, that's in the
 7 draft --
 8 A Policy.
 9 Q -- policy regarding bonded indebtedness?
 10 A Yes. It's the draft policy on debt management.
 11 Q Does it make any sense to maintain some of that
 12 capacity for the \$300 million bridge project?
 13 A You know, I don't think you hold financial
 14 reserves for a once-in-a-generation catastrophe.
 15 We've got so many needs right now, right today,
 16 to withhold reserves for something that may
 17 happen 50 or 20 or 100 years for now, I don't
 18 think that would be considered good financial
 19 policy.
 20 Do you want to, as a practice, to
 21 always be butted up right against your cap so you
 22 don't have any flexibility? You know, maybe
 23 not. I don't know that I have strong feelings
 24 about that.
 25 Q Do you have any other thoughts, suggestions,

Page 81

1 recommendations you want to make? And I'm
2 serious about that, so think about it for a
3 moment. This has been very, very helpful. And
4 if you've got something else that you'd like to
5 pass on, please do, either now or sometime soon.
6 A I have nothing now.

7 MR. JOHNSON: That's it.

8 MS. FORSLAND: I do need to submit some
9 documents to you. This morning Katie Bergstrom
10 asked me about the e-mails that we were going to
11 be reviewing, and I misunderstood the question.
12 These are the e-mails that she asked me for this
13 morning. We have a little bit under 200 of them
14 that we're reviewing and redacting. We should be
15 able to add those to that list. Now, these have
16 just moved onto our public computers at the
17 library. They'll be on our website probably
18 Monday or Tuesday, but we're having one technical
19 problem with that. So this is what she was
20 waiting for. And I told her this morning we
21 hadn't gotten around to doing that because I
22 misunderstood what she was asking for, so she
23 does need to see that.

24 At the interview with the lieutenant
25 governor and Bob Stein, he asked for a list of

Page 82

1 bridge closings. This is the current list of
2 bridge closings due to critical findings. It
3 turns out we do not maintain a master list of
4 bridge closings due to traffic hits or bridge
5 hits on bridges, so we don't have a central
6 gathering place. However, that is being added
7 into the processing, because now we understand
8 that we likely will have to answer this question
9 for the Legislature. That information would be
10 in each individual bridge file throughout the
11 state, that's our 30,000 bridges, or
12 thereabouts. We will be building a system to
13 centralize that information in the future.

14 Also this morning Katie asked about
15 meeting with Commissioner Sorel and a contact at
16 PB Americas. Here's the contact information for
17 Commissioner Sorel. He will be available to talk
18 only about his five or six days at MnDOT. He
19 says he's not allowed to talk about his FHWA
20 work, but he did refer you to the FHWA attorneys
21 so you could maybe request that through FHWA.

22 And the contact for Laura Amundson,
23 she's the project manager with PB Americas. The
24 MnDOT project manager is Duane Hill, so he would
25 be available if you ended up with questions about

Page 83

1 PB Americas. That's the firm that was helping us
2 with our inspection process.

3 Also, Bob Stein wanted a list of awards
4 that MnDOT had received. This is kind of a draft
5 version. It's still being edited and it doesn't
6 go back in time. We have not historically kept a
7 master list of all the awards, but each year
8 there are many, many of them as a tribute to what
9 the agency does on a national and state level.

10 And the last thing I need to turn in is
11 some paper copies of commissioner staff meeting
12 agendas. We provided a disc with the bulk of
13 them this morning. These are some older ones
14 that we only had in paper copies, and I needed to
15 turn them in to Katie to accompany that disc. So
16 that's where we are on the things that she's
17 asked for recently.

18 MR. JOHNSON: Thank you very much.

19 MS. FORSLAND: You're very welcome.
20 (Interview concluded at 3:44 p.m.)
21
22
23
24
25

Page 84

1 STATE OF MINNESOTA)
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4 COUNTY OF HENNEPIN)
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8 REPORTER'S CERTIFICATE
9

10 I, Julie A. Rixe, do hereby certify
11 that the above and foregoing transcript, consisting of
12 the preceding 83 pages, is a correct transcript of
13 my stenographic notes and is a full, true and complete
14 transcript of the proceedings to the best of my
15 ability.

16 Dated May 3, 2008.
17
18
19

20 JULIE A. RIXE
21 Court Reporter
22
23
24
25

Investigation - 35W Bridge
Abigail McKenzie - May 2, 2008

Page 3

1 (McKenzie Exhibit 1 was marked for
2 identification by the court reporter.)

3 MR. JOHNSON: Let's go on the record.
4 First state our appearances. I'm Tom Johnson
5 with the Gray Plant Mooty law firm.

6 MS. FORSLAND: I'm Barbara Forsland,
7 the Data Practices attorney with the agency.

8 MS. MCKENZIE: I'm Abbie McKenzie. I'm
9 director of the Office of Investment Management
10 with the Minnesota Department of Transportation.

11 EXAMINATION

12 BY MR. JOHNSON:

13 Q Should I call you Abigail?

14 A Abbie is fine. ✓

15 Q Abbie? ✓

16 A Uh-huh.

17 Q Abbie, ✓ I'm going to show you a Witness Protocol
18 that we've been using throughout the course of
19 the interviews that Barbara is very familiar
20 with. It hasn't changed from the first day. And
21 let me read it to you, if I could, so it's part
22 of the record.

23 Paragraph one, Authority. I am with
24 the Gray Plant Mooty law firm, and the firm has
25 been retained by the Minnesota Legislature to

Investigation - 35W Bridge
Abigail McKenzie - May 2, 2008

Page 16

1 Q And so your contact with the commissioner is
2 primarily through that commissioner staff meeting
3 process?

4 A Yes, that would be the primary.

5 Q Do you get any opportunities to appear before
6 legislative bodies?

7 A Yes, I do.

8 Q Why don't you tell me what those opportunities
9 involve; why are you there?

10 A I've presented the agency overview before at the
11 beginning of each biennial budget session. The
12 committees do an agency overview, and I've been
13 responsible for the agency overview. I've
14 testified on our plans many times. I've -- I
15 testified ~~many times~~ on the I-35W bridge ✓
16 collapse. It would be the whole range of issues
17 that are within my functions.

18 Q In preparing to make the presentation on the
19 agency overview --

20 A Uh-huh.

21 Q -- who are you working with in getting ready for
22 that presentation?

23 A Wow. I'd have to think about that. There's sort
24 of a basic format that we use in the agency
25 overview, so, I mean, we just kind of work from

Investigation - 35W Bridge
Abigail McKenzie - May 2, 2008

Page 19

1 operating budgets, operations, maintenance and
2 the like. The state road construction
3 appropriation can only be used for the actual
4 improvement and construction of the trunk
5 highways.

6 Now, the second major source,
7 especially for state road construction, are the
8 federal funds. So if you look on the right-hand
9 side, the gray area called federal funds, there
10 are two principle sources of federal funds.
11 Those are the formula funds, the federal formula
12 funds. There's four -- No. There's six core
13 programs that are distributed to each state by
14 formula, and then the other source are high
15 priority or discretionary projects. It's a much
16 smaller source, but it did represent 21 percent
17 of our total portion of our SAFET^ALU, so it's ✓
18 not zero.

19 Q When you say that there are four different --

20 A Core six core programs.

21 Q -- six programs that feed into the -- that
22 comprise the formula fund pool --

23 A Principally.

24 Q We'll keep it simple.

25 A Yeah.

Investigation - 35W Bridge
Abigail McKenzie - May 2, 2008

Page 20

1 Q When you're making this description, don't leave
2 out any moneys, however, that may be usable to
3 help with bridge.

4 A So do you want me to list the four core -- six
5 core programs?

6 Q Yes.

7 A Okay. They are the National Highway Systems
8 funds, the Surface Transportation Program funds,
9 CMAQ, and that is something, Congestion --

10 MS. FORSLAND: Mitigation --

11 MS. MCKENZIE: -- and Air Quality
12 Funds, the Bridge Replacement and Improvement
13 Program, and the Highway Safety Improvement
14 Program. Those are the six core federal funds.
15 Those come in --

16 BY MR. JOHNSON:

17 Q I'm going to stop you just for a second.

18 A Uh-huh.

19 Q Give us an order of magnitude. How much money
20 comes in for the bridge replacement and repair
21 program?

22 A Oh, you know, I couldn't say. I know our
23 apportionments over the entire life of
24 SAFETY^{EX}-LU. Would that help you?

25 Q You tell me. Why would that help me as it

Investigation - 35W Bridge
Abigail McKenzie - May 2, 2008

Page 21

1 relates to bridge moneys?

2 A Well --

3 MS. FORSLAND: Let's get on the record
4 that SAFETY-LU is S-A-F-E-T-~~E~~^A, hyphen, L-U, and
5 that's the nickname for the federal funding
6 program at the national level.

7 MS. MCKENZIE: It's the Surface
8 Transportation Authorization Program.

9 MS. FORSLAND: There we go.

10 BY MR. JOHNSON:

11 Q Let me just interrupt you. I think, Abbie, that
12 rather than going into the specifics of each of
13 these programs right now, let's move through --

14 A The big picture.

15 Q -- the rest of the flow chart and the process.

16 A I think that would be good.

17 Q If we have to loop back to a particular program
18 once we get down to a specific bridge, then let's
19 do it that way.

20 A Okay. So these formula funds come in, and
21 MnDOT -- to Minnesota. MnDOT takes, I think,
22 about \$40 million for administrative and a small
23 -- \$15 million for other centralized functions.

24 Q Excuse me. Is that the administrative set aside
25 that we're looking at?

Investigation - 35W Bridge
Abigail McKenzie - May 2, 2008

Page 26

1 framework and guidelines set out by the statewide
2 plan.

3 So when we move now to the district
4 long-range plans, what we develop is a
5 district-level revenue forecast for just the
6 state road construction budget, okay, so just
7 this (indicating) gray box. We say here's our
8 total forecasted construction dollars and here's
9 how much every district gets, and we distribute
10 that through what we call a target formula.

11 Q Let me interrupt just for a second. The gray box
12 she was pointing to was on Exhibit 4, and it's
13 entitled State Road Construction at the bottom of
14 the diagram.

15 A Go on?

16 Q Yes.

17 A So the districts get a forecast of the state
18 construction dollars that might be available for
19 their district, and then they develop their
20 long-range plan of projects and spending levels
21 in the various policy areas within -- well,
22 usually there's two scenarios, but within that
23 *fiscally* ~~physically~~-constrained level that we have given
24 them.

25 Q What are the two scenarios that you're referring

Investigation - 35W Bridge
Abigail McKenzie - May 2, 2008

Page 42

1 definition. But I don't think it says anyplace
2 in there, such as bridges, but I could be wrong.

3 Q So the idea to use AC financing for bridges,
4 particularly large bridges, is tied into that
5 draft policy, then?

6 A It's -- It isn't specific to large bridges. It
7 is our approach to large projects,
8 federally-funded projects in general. And I
9 think that policy does a good job of describing
10 our approach to advanced construction financing.

11 Q Let me ask that question differently, then. The
12 policy or strategy of using advanced construction
13 moneys for large bridge projects originates
14 within that policy rather than as part of the
15 creation of the Statewide Bridge Preservation
16 Program?

17 A The Statewide Bridge Preservation Program, *the* ✓
18 couldn't have worked without the assumption of AC
19 financing. The idea of having a centralized
20 group of money that we did not distribute out to
21 the districts in order to help us program and
22 construct these major bridges was the genesis of
23 the bridge-specific programming. But even
24 without -- even bridges that don't qualify for
25 major Statewide Bridge Preservation Funds, too

Investigation - 35W Bridge
Abigail McKenzie - May 2, 2008

Page 65

1 to go to a decentralized programming model. And,
2 as I said, prior to the establishment of these
3 two small statewide funds, 100 percent of the
4 construction funds were distributed, well, except
5 that 15 million of District C money, was
6 distributed to the districts for their
7 programming.

8 There was a very strong belief, and
9 there were Northstar workshops and everything
10 else, that the programming decisions are best
11 made as close to the people who are responsible
12 for that roadway system as possible. The
13 identification of problems, the identification of
14 solutions were best made in this decentralized
15 way. It was a very big shift for the
16 organization. I think it happened in 1992 or '3,
17 so I wasn't part of MnDOT then.

18 But when I came in 1995, we were still
19 processing it very heavily. It was a very big
20 change for the organization in response to the
21 new way of federal funding.

22 Q Was that change in any way driven by federal
23 policy?

24 A Well, it was in response to IST ^{EA}, which was that ✓
25 landmark federal authorization act which made

Investigation - 35W Bridge
Abigail McKenzie - May 2, 2008

Page 77

1 moment --

2 Q 500 --

3 A -- million dollar check in that moment. We are
4 not even close to our bonding cap. We've said --
5 I can't remember if it was 11 or 15 percent.
6 We're less than 5 percent. We have great
7 capacity in our bonding to go to them and say, We
8 need bonding authority to replace this bridge
9 right now, and they could have given us the
10 bonding authority that would have come off the
11 top, \$30 million a year payment on a \$300 million
12 a year bond.

13 Now, if we didn't have the fund balance
14 to absorb that, we might have had to take the \$30
15 million a year off the top of the district⁷ or out
16 of the district's allocation, but \$30 million a
17 year on a \$250 million program is absorbable. So
18 I always think the flexibility was there. The
19 tools were there for us to respond to this as an
20 organization.

21 Q Is there any change that should occur to make
22 them more readily accessible or usable in any
23 fashion?

24 A I think the change that needs to occur is that we
25 as a society, and the Legislature, as policy

1 INTERVIEW OF BARRY NELSON - April 14, 2008

2
3
4 In the Matter of Conducting an Independent
Investigation into the Collapse of the I-35W Bridge

5
6
7 Department of Transportation
395 John Ireland Boulevard
8 Room G-13
9 St. Paul, Minnesota

10
11 Met, pursuant to Notice, at ten o'clock
12 in the morning on April 14, 2008.

13
14
15
16 INTERVIEWERS:

17 Kathryn Bergstrom, Attorney at Law with
18 Gray Plant Mooty Law Firm.

19 ALSO PRESENT:

20 Barbara E. Forsland, MnDOT Data
21 Practices Compliance & Policy Analyst.
22 Liz Benjamin, Resident Engineer.

23 COURT REPORTER:

24 Julie A. Rixe
25

1 (Nelson Exhibits 1 through 8 were
2 marked for identification by the court
3 reporter.)

4 EXAMINATION

5 BY MS. BERGSTROM:

6 Q All right. Well, let's get started. Barry,
7 again, my name is Katie Bergstrom. I'm with the
8 Gray Plant Mooty law firm. We have a court
9 reporter here. And based on your conversations
10 with her earlier, I take it you understand what
11 her role is?

12 A Uh-huh.

13 Q Transcribing our conversation. I'm going to hand
14 you, Barry, what I've handed every witness to
15 start these interviews, and that is a witness
16 protocol statement. I'm just going to run
17 through this with you.

18 MS. BERGSTROM: But first let's state
19 our appearances for the record.

20 MS. BENJAMIN: I'm Liz Benjamin,
21 Mendota Heights resident engineer.

22 MS. FORSLAND: I'm Barbara Forsland,
23 the Data Practices attorney for the agency.

24 MR. NELSON: I'm Barry Nelson,
25 engineering specialist. I work out of the

1 INDEX

NELSON EXHIBITS:	PAGE
2 1 - Witness Protocol for Interviews	3
3 2 - Minutes of Meetings dated 6/6/07	3
4 3 - Contractor schedule	3
5 4 - Weekly Meeting Attendance Sheet	3
6 5 - Memo dated 9/7/06 from E. Embacher to T. Worke	3
7 6 - Memo dated 6/29/07 from E. Embacher to T. Sloan	3
8 7 - Southeast Resident Office - 2008	3
9 8 - Organization chart	3

1 Mendota construction office.

2 BY MS. BERGSTROM:

3 Q Barry, going through the witness protocol,
4 Authority. We are the Gray Plant Mooty law
5 firm. Gray Plant Mooty has been retained by the
6 Minnesota Legislature to conduct an independent
7 investigation into the collapse of the I-35W
8 bridge. The Minnesota Legislature has asked us
9 to provide a report of our investigation by
10 May 1st, 2008. We will be asking you questions
11 concerning the bridge collapse and related
12 policies, procedures and legislative oversight
13 issues.

14 Two, the purpose of this interview is
15 to determine what you might know about the
16 matters we are investigating.

17 Three, Confidentiality. During the
18 time our investigation is active, the information
19 that interviewees provide to us is not public
20 information. The information you provide may no
21 longer be confidential once we submit a report to
22 the Legislature.

23 Four, Process. You are required to
24 answer our questions truthfully. A court
25 reporter is present to record our conversation.

Page 5

Page 7

1 Either during this interview or later in our
2 investigation we may determine that we need to
3 verify certain information. If that occurs, we
4 may ask you for a further recorded statement, a
5 signed affirmation or an oath statement.

6 Five, Post-interview Contact. We view
7 this process as an ongoing dialogue. If you
8 think of anything after this interview that you
9 want to tell us about, please call or e-mail us.
10 Likewise, we hope that you will respond to us if
11 we call or e-mail you with follow-up questions or
12 clarifications.

13 Any questions about that?

14 A Nope.

15 Q Okay. And just a reminder. Working with the
16 court reporter, it's important that you and I
17 don't talk at the same time and that your answers
18 are audible; no uh-uhs and uh-huhs.

19 All right. Barry, why don't you tell
20 me -- And may I call you Barry?

21 A Yes, you may.

22 Q Why don't you tell me how long you've worked for
23 MnDOT.

24 A Come June I'll be approaching 29 years.

25 Q If you can, generally, why don't you tell me what

1 Q Do you remember who that was?

2 A I had a couple of them. One was Robert Hilgers.
3 He worked out of the Mendota construction
4 office. And out of the Golden Valley office I
5 worked for a Fred Stark.

6 Q Are you, Barry, a certified bridge inspector?

7 A Yes, I am.

8 Q Okay. And for fracture critical bridges?

9 A Let me clarify. I am in construction a certified
10 bridge inspector. As for safety inspection, no,
11 I'm not.

12 Q How do those two -- How does the bridge inspector
13 from construction differ from the safety
14 inspectors?

15 A Those positions or the one I'm presently in is
16 more the documentation of a project with quality
17 assurance of the construction of a project.

18 Q And in your current position as the senior
19 engineering specialist, do you have inspectors
20 reporting to you?

21 A Yes, I do.

22 Q And how many?

23 MS. BENJAMIN: Again, that schedule is
24 this year, not last year's.

25 MR. NELSON: I would have anywhere from

Page 6

Page 8

1 various positions you've had at MnDOT, starting
2 at the beginning.

3 A When I started in June of 1979, I was hired at
4 that time as a highway technician.

5 June of 1981 I was promoted to a
6 highway tech intermediate.

7 And then in the spring of 1996 I was
8 hired or promoted as a senior highway tech in
9 bridge.

10 In September of 2004 I was promoted to
11 a senior engineering specialist, present.

12 Q So you are an engineer, Barry?

13 A I am not a registered engineer. No, I am not.

14 Q Okay. All right. When you said in '96 that you
15 became a senior highway tech in bridge, was that
16 working for the central bridge office?

17 A No, it was not.

18 Q Was it metro bridge?

19 A It was in construction out of the metro district.

20 Q And when you were in that position, Barry, who
21 did you report to?

22 A As a senior chief inspector, you're saying?

23 Q Right.

24 A I would report -- My boss would be the project
25 engineer.

1 two to three TS positions.

2 BY MS. BERGSTROM:

3 Q I'm going to have you looked at this Exhibit 8.

4 These are the TS positions right below you,
5 right?

6 A Don Nordquist, Harvey Unruh. The position of Don
7 Nordquist last year would have been a Bill Wald
8 (phonetic) and Harvey Unruh was the other one.
9 Don came in later on in the season. Underneath
10 those folks I had approximately, like it says
11 here, anywhere from three to a half dozen other
12 employees.

13 Q Okay. And before you took the position that you
14 have now in September of 2004, where would you
15 have been on this org chart?

16 A That position that used to be senior highway
17 technician is transportation specialist.

18 Q Okay. And is that position which Harv Unruh is
19 in now, is that specific to bridges?

20 A That could be bridge chief inspector/grating.

21 Q Do these other -- I don't know what you call
22 these -- divisions or subdivisions --

23 MS. BENJAMIN: Positions.

24 BY MS. BERGSTROM:

25 Q -- that Eric heads up and Charles heads up, do

Page 9

1 they have bridge people on their teams too?
 2 MS. BENJAMIN: And I can help out a
 3 little here. In the makeup the five different
 4 resident offices typically have two engineers,
 5 project engineers and one SES, senior engineering
 6 specialist. Senior engineering specialist is
 7 typically a bridge expert, not always. And then
 8 they typically handle the bridges that occur on
 9 projects, so that's why you'll see a double-up of
 10 a grating project engineer and a bridge STS on a
 11 project.

12 Sometimes that is not possible because
 13 of the work load. Then we'll move a bridge TS
 14 under a grating engineer, depending on the size,
 15 complexity of the project.

16 MS. BERGSTROM: Do those TS's or even
 17 STS's have different training on bridges or
 18 something?

19 MS. BENJAMIN: There is more
 20 certification that's required to become a bridge
 21 TS, more training. Typically we like to put
 22 people into bridge positions and deal solely with
 23 bridges.

24 BY MS. BERGSTROM:

25 Q What kind of certification is there; do you want

Page 10

1 to tell me about that, Barry?

2 MS. BENJAMIN: The office of
 3 construction administration puts together a class
 4 that every TS takes. They have to be up to date
 5 every so many years. I believe the first bridge
 6 certification class is three weeks?

7 MR. NELSON: Yes, it is.

8 MS. BENJAMIN: Then every two years you
 9 have to come back and get recertified. For every
 10 updates, changes in specifications, changes in
 11 inspection procedures, you know, new types of
 12 bridge structures that we're seeing out there,
 13 just so the education is current on inspection.

14 BY MS. BERGSTROM:

15 Q All right. And so I'm just trying to get a
 16 handle on how this kind of bridge work is
 17 different from the Mark Pribula or the Todd
 18 Niemann's world of bridge inspections.

19 A Okay.

20 Q So in that three-week class when you get that
 21 certification, what kinds of things are you
 22 learning?

23 A They'll go through, again, quality assurance.

24 You might have a course in concrete, plan
 25 reading, there will be foundations, classes that

Page 11

1 pertains to the piling that's under your concrete
 2 footings, procedures. There will also be a quick
 3 reference to the type of structure you're working
 4 on. Again, any updates in the procedures of
 5 technology, inspection reports or form work that
 6 they want us to be using.

7 Q So when you are out on a project, Barry, say
 8 you're back down in this TS role, do you generate
 9 a report based on the inspection that you were
 10 doing?

11 A The reports that will -- Again, it's quality
 12 assurance. And we are implementing the plans
 13 that are in front of us based on the inspection,
 14 and inspection is phases of the constructability
 15 of the form work, the reinforcement that goes
 16 inside the form work, the actual casting of the
 17 concrete, some surveying.

18 Then what's generated after this, we'll
 19 have diaries that we're filling out on the
 20 contractor's progress, we'll have concrete
 21 reports based on quality assurance. And then, of
 22 course, there's other reports, but those are the
 23 grating folks, but mainly concrete reports and
 24 diaries, and our portion of the estimate, which
 25 would be keeping control -- or not control, but

Page 12

1 pay quantities. Again, that's all part of the
 2 progress of the contract.

3 So whatever the contractor does and
 4 whatever items are in the contract, we keep an
 5 inventory of what he's done, a progress of what
 6 he's done and pay accordingly.

7 Q I talked with Eric this morning and understand
 8 that he was the project leader on what I'll call
 9 the Project 107 overlay that was being done on
 10 the bridge in the summer of 2007. And what was
 11 your role in that, Barry?

12 A On that project, again, we were split up. Eric
 13 was the grating portion and the overall project
 14 engineer. I was the senior engineering
 15 specialist on the project pertaining to
 16 structures, items on that project. That was all
 17 the bridge rehab work throughout.

18 Q On all of the bridges involved?

19 A Yes.

20 Q Okay. When did you, to your memory, first get
 21 involved in that project?

22 A It was let in, I would say, probably late fall of
 23 the previous year. That would have been fall of
 24 '06.

25 Q Let me show you what we've marked as Exhibit

Page 13

Page 15

1 Number 5 in Eric's interview. This is a memo
 2 that he put out where he was doing
 3 constructability review with some contractors.
 4 He couldn't remember whether you were involved in
 5 that or not. Do you remember whether you
 6 participated in that?
 7 A In this memo these are the contractors that were
 8 there?
 9 Q That's what I understand.
 10 A To my knowledge, I was not present.
 11 Q Okay.
 12 A What was the date of that meeting?
 13 Q This is September 2006, so the year before.
 14 A Right.
 15 Q Barry, explain to me, if you can, how your role
 16 differed from Eric's. I understand Eric is kind
 17 of grating and overall project and you're
 18 structures, but what was your job
 19 responsibilities, then?
 20 A My job responsibilities were just about the same
 21 as Eric's. I dealt, again, with the structures.
 22 So if there was any problems with the plan or a
 23 solution had to be performed, such as, say, a
 24 change of conditions where I needed to write up a
 25 work order or a supplement agreement or change

1 specified in the plans. So I would call the
 2 bridge department. And in this case Paul
 3 Kivisto, who's our liaison for the field,
 4 communicated between each other and have the
 5 contractor who performed this with this piece of
 6 equipment, and with this performance decide if in
 7 fact the contractor could do it. That would be
 8 one of the examples of the role of construction
 9 inviting bridge out to the field, if there was
 10 something that was against the special provisions
 11 or the specs, on a trial basis we would make
 12 changes.
 13 Q And when you said they were going to use a larger
 14 piece of equipment, which bridge in the project
 15 was that on?
 16 A These were just the north, going -- the freeway,
 17 35W going over Johnson.
 18 Q Do you remember having occasion to call Paul
 19 Kivisto on anything related to the I-35W bridge
 20 during the project?
 21 A We had an instant on the north end of the bridge,
 22 it was particularly the southbound lane. It
 23 would be the very north spans. The contractor
 24 was doing his rehab work, like Type 1 or Type 3
 25 removal, and it's hallow. It was a single span

Page 14

Page 16

1 order to keep the project going, I would handle
 2 that that pertained to bridge items and any other
 3 structure items.
 4 In the beginning phases, such as the
 5 memo here you brought up, some of the preliminary
 6 phases, we both had similar meetings, such as the
 7 constructability. In this case I wasn't at that
 8 exhibit that you pointed out earlier. Other than
 9 that, it was the same. The flow of the project,
 10 I would monitor that.
 11 Q Okay. And how often would you -- Once work
 12 commences, how often would you be out on site?
 13 A On average, once a week for sure, maybe twice.
 14 Q And did you interact -- in doing your job duties
 15 for Project 107, did you interact with the folks
 16 from central bridge office?
 17 A I would, when certain things would arise, contact
 18 Paul Kivisto.
 19 Q And, in particular, do you remember contacting
 20 him on any issues?
 21 A Yes, I do.
 22 Q Okay.
 23 A For mill and overlay, the contractor was doing
 24 deck rehab. The contractor requested using, for
 25 example, a larger piece of equipment than what's

1 cast bridge on that part of it where we were
 2 doing repairs. They started getting deep, and we
 3 didn't want to get into this type of repair. So,
 4 again, I would contact Paul Kivisto. He came
 5 out, showed him what we had. And based on the
 6 bridge office's recommendation, we came up with a
 7 repair that we could use.
 8 Q Now, I have talked to Paul, but I've talked with
 9 a lot of people, so I'll have to try to remember
 10 this right. I think Paul said that he was out --
 11 called out on the bridge, and it was to review
 12 kind of what you were finding as the removal
 13 occurred. Is that what you're talking about?
 14 A That's exactly right.
 15 Q Okay. Any other conversations with Paul
 16 specifically to the I-35W bridge -- or I should
 17 say Bridge 9340?
 18 A To my recollection right now, I don't know off
 19 the top of my head.
 20 Q Did you ever have any conversation with Paul
 21 about how the actual construction work being done
 22 by PCI on the bridge might affect the structural
 23 integrity of the bridge?
 24 A No, I did not.
 25 Q How about any conversations with Paul or,

Page 17

Page 19

1 actually, anyone about the dead loads or live
 2 loads on the bridge during the construction
 3 project?
 4 A No, I did not, never a concern.
 5 Q Have you, Barry, in the past, either in the
 6 position you're in now or when you were in the
 7 one box below, had those conversations with
 8 central bridge, about the structural integrity of
 9 the bridge and how it might -- not this bridge,
 10 but a bridge and how it might be affected by
 11 construction projects?
 12 A Yes. Again, depends on the type of project
 13 you're doing. You're always in contact with the
 14 bridge office regarding -- Let's say we're
 15 replacing bearing assemblies that are underneath
 16 the beams of a bridge, and so the contractor has
 17 to jack the bridge up. Prior to any work being
 18 done, the contractor has to supply a proposal or
 19 a scheme of how they're going to do the jacking,
 20 which I would forward to the engineer. The
 21 engineer would forward it to bridge, or now my
 22 role, I take that information and forward that to
 23 bridge for their review process.
 24 MS. BENJAMIN: And that's required in
 25 the special provisions that come from bridge, to

1 Q Okay. But prior --
 2 A I know they're a consultant firm.
 3 Q But you weren't aware, at the time that the
 4 project was going on, 107 project, that URS was
 5 studying the bridge?
 6 A No, I did not. Again, my role is implementing a
 7 set of construction plans based on the designer's
 8 design. And the special provisions, if there's
 9 any concerns of any kind, we implement those. My
 10 role is strictly for the repair work or, slash,
 11 construction of the project at hand.
 12 Q The designer's design in the 107 project, did
 13 that have details on how PCI should be doing
 14 construction on the bridge as far as materials or
 15 supplies?
 16 A No, they did not.
 17 Q You were talking about the examples, and you said
 18 if somebody has got a larger piece of equipment
 19 than the design plans call for, the designers are
 20 the ones who are in charge of making those
 21 specifications?
 22 A They do the calculations, yes.
 23 Q And you're just doing the quality assurance to
 24 make sure?
 25 A That's correct.

Page 18

Page 20

1 submit that proposal.
 2 MR. NELSON: Another example --
 3 BY MS. BERGSTROM:
 4 Q Yep.
 5 A -- would be the contractor wants to walk his
 6 crane across a bridge deck. Now, that's not a
 7 normal piece of equipment. Based on size,
 8 weight, again, you would forward that on to your
 9 bridge division, tell them what you're doing, and
 10 they would review it based on the contractor's
 11 information on this piece of equipment. If in
 12 fact they can drive it across the bridge or if
 13 they can drive it across the bridge, how to drive
 14 it across the bridge, over a beam or, no, put it
 15 on a low boy, which is a trailer, to displace the
 16 weight with axles to walk it across the bridge.
 17 Those would be some examples.
 18 Q But there weren't any conversations like that
 19 regarding the 9340 bridge, right?
 20 A Not a one.
 21 Q Were you aware at all that central bridge had
 22 consultants studying the bridge?
 23 A No, I did not.
 24 Q Okay. Have you ever worked with or heard of URS?
 25 A I have now.

1 Q Okay.
 2 MS. BERGSTROM: Liz, you mentioned
 3 something came over that's the special provisions
 4 from bridge. What were you talking about?
 5 MS. BENJAMIN: We have -- When we get a
 6 plan, we get the picture drawings, the
 7 schematics, and then we also get a documentation
 8 of words, special provisions they're called, that
 9 specifically relate to that plan. So any kind of
 10 unusual things that don't fall under our standard
 11 specifications, which is another thick book that
 12 we use as far as the quality assurance, we use to
 13 make sure that the contractor is following the
 14 right procedures out there.
 15 Typically, like Barry was referring to,
 16 the bearing, if you have to replace a bearing,
 17 they will tell you in the special provisions you
 18 have to jack the bridge deck, replace these
 19 bearings, and we need a proposal with engineering
 20 review that the bridge will not be in jeopardy.
 21 That's all laid out in those special provisions.
 22 MS. BERGSTROM: So help me with the
 23 genesis of these special provisions. Design
 24 designs -- Let's use the bearing assembly
 25 example.

Page 21

Page 23

1 MS. BENJAMIN: Uh-huh.

2 MS. BERGSTROM: They make a plan as to
3 how the work has to be done, that goes to central
4 bridge for review?

5 MS. BENJAMIN: No. Bridge design makes
6 the design on the bridges. They'll come up with,
7 the bearings have to be replaced. They will put
8 in their plans whatever they think is necessary
9 for that. It's up to the contractor to come up
10 with the means and methods to do that.

11 Because we don't know what their means
12 and methods to replace it is, we want a proposal
13 from them. We get that proposal and we, in
14 construction, send it over to our CO bridge, Paul
15 Kivisto. They review it, make sure that it's not
16 going to damage the bridge. That procedure is
17 all written up in our special provisions when we
18 have something like that to handle.

19 MS. BERGSTROM: Okay. And when you
20 said that bridge designs all the work on the
21 bridge, the Project 107 design, that came from
22 metro, not from bridge?

23 MS. BENJAMIN: I believe there were
24 some details from bridge on repair, so there were
25 a handful of sheets that were bridge designed,

Page 22

1 correct, by Manjula?

2 MR. NELSON: Right. When you're using
3 bridge and you're saying CO, I work with
4 bridge -- the bridge design squads are out of our
5 metro east Oakdale office.

6 MS. BENJAMIN: They're bridge. It's
7 all CO bridge. It's out of Oakdale office, but
8 it's all CO bridge. Paul Kivisto works in the
9 same group as the designers do.

10 MS. BERGSTROM: And there are also
11 designers over in metro?

12 MS. BENJAMIN: Correct. The designers
13 in metro are roadway designers, hydraulic
14 designers, but all of our bridge designers come
15 from CO Oakdale bridge, so that's Dan Dorgan's
16 office.

17 MR. NELSON: Right.

18 MS. BENJAMIN: So when we put together
19 -- Let's say we have a bridge plan and a grating
20 plan. Typically you get a bridge repair plan or
21 a bridge plan. It also goes together with that
22 roadway plan.

23 BY MS. BERGSTROM:

24 Q Were there special provisions that came from
25 central bridge on the 107 overlay project?

1 A There's an SB section. Yes, there was.

2 Q And what do you mean by SB?

3 A In the special provisions it's broken down based
4 on type of work. Grating portion is section S,
5 they start with the letter S page numbers, by
6 spec, and then the bridge portion is SB.

7 Q And was any part of the SB sections, did any part
8 of that deal with how PCI should be placing any
9 materials on the bridge?

10 A No, it did not.

11 Q During your visits -- I take it you were out on
12 the I-35W bridge that summer?

13 A Yes, I was.

14 Q Okay. And did you ever have any conversations
15 with anybody at PCI about their construction
16 materials on the bridge?

17 A No, I did not.

18 Q And none of the inspectors who were out there
19 reporting to you brought back any questions about
20 the materials, right?

21 A No, they did not.

22 Q Do you know, Barry, the bridge safety inspectors
23 over in the metro division, Mark Pribula?

24 A I know Mark Pribula.

25 Q Did you have any conversations with him during

Page 24

1 the 107 project about anything on the bridge?

2 A No, I did not.

3 Q How about Kent Fuhrman?

4 A Don't know him.

5 Q Okay. Anybody from bridge inspections at central
6 bridge, like Todd Niemann?

7 A No, I did not.

8 Q Okay. Did you have any knowledge, Barry, about
9 the inspection and the testing that was done on
10 the bridge in May 2007?

11 A What kind of testing? No, I did not.

12 Q Okay.

13 MS. BENJAMIN: Again, typically we are
14 responsible for our plan and what work is set to
15 be done in that plan.

16 BY MS. BERGSTROM:

17 Q Have you been involved in other construction
18 projects on the 9340 bridge?

19 A Other than on that bridge --

20 Q Right.

21 A -- you mean, on the same project?

22 Q No, not on the 107 project, but in previous years
23 had you been involved in a construction project
24 on that bridge?

25 A No, no.

Page 25

Page 27

1 Q There was a '77 overlay that was done, 1977.
 2 A I was in high school.
 3 Q And then there was a 1998. And I just wondered
 4 if you had any involvement?
 5 A No. In 1998 I was in west metro at that time, so
 6 I wasn't even here.
 7 Q Okay. Did you have any contact with Ed Lutgen in
 8 the summer of 2007 regarding the bridge or just
 9 Paul was your contact?
 10 A Paul Kivisto is my contact.
 11 Q Okay. Had you done work with PCI before, Barry?
 12 A Yes, I have.
 13 Q Okay. On what projects?
 14 A Off the top of my head -- Well, the same year I
 15 worked with their grating folks on Trunk
 16 Highway 61, just north of the Hastings bridge
 17 last year. PCI does a number of different types
 18 of work. I mean, bridge rehab is their main
 19 work, but they also do pavement rehab. At that
 20 time MnDOT for a few years was doing crack and
 21 joint repair on the pavement, so I worked with
 22 PCI on those types of projects.
 23 Highway 100 was a project that we were
 24 doing for about a five-year period there at
 25 different stages. PCI had some work there. I

1 Barry, both the three-week class and then the
 2 every couple of years updated, are there
 3 specific -- is there specific training relating
 4 to fracture critical bridges?
 5 A There will be reference to critical members on a
 6 bridge, kind of a schematic, a quick review --
 7 Q Okay.
 8 A -- not an in depth...
 9 Q So when you talked about the fact that you'd get
 10 some kind of overview on the types of structure,
 11 is that when that would come in?
 12 A Uh-huh, yes.
 13 Q During the actual work that was being done that
 14 summer, do you ever have occasion to talk to the
 15 design people about what their specs might mean
 16 or questions that you might have?
 17 A If I run into -- The answer to that would be yes.
 18 Q And so if you had questions about the
 19 specifications relating to the bridge work, would
 20 you call Paul?
 21 A Yes, I would.
 22 Q Okay.
 23 A Paul is the protocol contact person with
 24 construction.
 25 MS. BENJAMIN: Typically if it's not in

Page 26

Page 28

1 did run into some of their folks. There they
 2 were just doing bridge railing and so forth. Off
 3 the top of my head -- I could be more specific
 4 looking back at my past history, but I've worked
 5 with them.
 6 Q Eric mentioned that there was a standing
 7 construction meeting down at the field office
 8 that happened during the 107 overlay project.
 9 Did you attend those meetings?
 10 A Yes, I would.
 11 Q Okay.
 12 A Those were once a week.
 13 Q So were you at the meeting the day before the
 14 bridge collapsed? I have an attendance sheet
 15 somewhere here.
 16 A I want to say I was.
 17 Q Yeah. I'll show you Exhibit Number 4.
 18 A There I am there (indicating).
 19 Q Okay.
 20 A Yep.
 21 Q And do you know whether central bridge attended
 22 these meetings or not?
 23 A I'd say -- I'm trying to think now. In most
 24 cases no.
 25 Q Okay. In the training that they do for you,

1 our plans or specifications or a standard spec,
 2 then that's when we contact Paul.
 3 BY MS. BERGSTROM:
 4 Q Were you aware, Barry, of any of the studies that
 5 the University of Minnesota had done about the
 6 bridge?
 7 A No, I was not.
 8 Q How about HNTB?
 9 A What about them?
 10 Q Any of the studies that they had done on the
 11 bridge?
 12 A No, I was not.
 13 Q Okay. Was there anything about the project as it
 14 progressed during the summer of 2007, Barry, that
 15 was unusual?
 16 A No, there wasn't. Everything was a typical rehab
 17 project.
 18 Q Have you been involved in the rehab -- well, this
 19 type of overlay on any other fracture critical
 20 bridge?
 21 A Right now I can't recall. Correct that
 22 statement. Now I think about one. One would
 23 have been the Wacota bridge back in '88.
 24 Q Okay. What did they do on the Wacota bridge?
 25 A On the Wacota bridge we widened it for an

Page 29

1 acceleration lane, we replaced expansion joints
2 and some bearings, painted the steel structure.
3 Q So is it fair to say, then, that the Wacota work
4 was actually a bigger job than this two-inch
5 overlay replacement?
6 A Oh, definitely.
7 Q Yeah. Do you know whether PCI was on time with
8 the project?
9 A I'd have to defer that to Eric.
10 Q You don't remember either way?
11 A I'd be guessing.
12 Q Okay. Is there anything -- I asked Eric this
13 question, too, Barry. Is there anything about
14 the project or about the bridge collapse on
15 August 1st that you think we ought to know about
16 that I haven't asked you?
17 A No.
18 MS. BERGSTROM: All right. I don't
19 think I have anything else.
20 (Whereupon, the interview was concluded
21 at 10:43 a.m.)
22
23
24
25

Page 30

1 STATE OF MINNESOTA)
2
3
4 COUNTY OF HENNEPIN)
5
6
7
8 REPORTER'S CERTIFICATE
9
10 I, Julie A. Rixe, do hereby certify
11 that the above and foregoing transcript, consisting of
12 the preceding 29 pages, is a correct transcript of
13 my stenographic notes and is a full, true and complete
14 transcript of the proceedings to the best of my
15 ability.
16 Dated April 28, 2008.
17
18
19
20 JULIE A. RIXE
21 Court Reporter
22
23
24
25

Erickson, Cheryl L.

From: Barry Nelson [Barry.Nelson@dot.state.mn.us]
Sent: Monday, May 05, 2008 11:39 AM
To: Lisa Freese
Cc: Barbara Forsland; Elizabeth Benjamin; Michele Clarizio
Subject: Re: E-Transcript File Delivery Please review/respond by May2

Lisa,
I have reviewed the transcript with "no objections taken". The only comment I have regards to a typo, throughout the transcript the word "grating" should be replaced with the word "grading".
Barry Nelson

Barry Nelson
E- Mail Address
barry.nelson@dot.state.mn.us
Mendota Construction
Office PH# 651/406-4725
Office Fax 6651/406-4724
Cell Phone 651/775-1094
Nextel 31094

>>> Lisa Freese 4/30/2008 3:39 PM >>>
Good Afternoon Barry,

Here is the transcript from your interview with Gray Plant Mooty (GPM). They have sent some of these transcripts out more than once, so this may be the second time you may be receiving this. I would like to make sure that you review this transcript for accuracy. Also if you feel that something you said, even though accurate in the transcript, needs to be further clarified I want to make sure you have the opportunity to respond. I know that GPM is trying to complete their investigation within the next week so I would ask you to complete your review and respond back to Michele Clarizio by the end of this week-May 2nd. If you have clarification or corrections please provide them in writing to Michele. Even if you have no clarifications or corrections please let Michele know.

Thanks!

Lisa Freese, AICP
Deputy Commissioner
Minnesota Dept. of Transportation
MS 110
395 John Ireland Blvd
St Paul MN 55155-1899

Office: 651-366-4807
Fax: 651-366-4797
Cell: 651-271-1891

e-mail: lisa.freese@dot.state.mn.us

>>> "Katherine Elling" <katherine@janetshaddix.com> 4/29/2008 3:32 PM >>>

Thanks Again,

Katie Elling
Office Manager

-----Original Message-----

From: Katherine Elling [mailto:katherine@janetshaddix.com]
Sent: Monday, April 28, 2008 3:54 PM
To: 'lisa.freese@state.mn.us'
Subject: Jeff Prelgo (and 1 other transcript) - E-Transcript File Delivery

Attached to this e-mail is an E-Transcript file. Open the attachment to display the transcript.

The free E-Transcript Viewer may be downloaded,
<<<http://www.reallegal.com/demosAndtours.asp>>>.

For technical support visit, <<<http://www.reallegal.com/support.asp>>>.

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Visit <<<http://www.reallegal.com/binder.asp>>>

Internal Virus Database is out-of-date.
Checked by AVG.
Version: 7.5.519 / Virus Database: 269.23.0 - Release Date: 4/15/2008 12:00 AM

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Checked by AVG.
Version: 7.5.519 / Virus Database: 269.23.0 - Release Date: 4/15/2008 12:00 AM

1 INTERVIEW OF BILL NELSON - April 21, 2008

2
3
4 In the Matter of Conducting an Independent
Investigation into the Collapse of the I-35W Bridge

5
6
7 Department of Transportation
395 John Ireland Boulevard
8 Room G-13
9 St. Paul, Minnesota

10
11 Met, pursuant to Notice, at eight
12 o'clock in the morning on April 21, 2008.

13
14
15
16 INTERVIEWERS:

17 Gregory Merz, Attorney at Law with Gray
18 Plant Mooty Law Firm.

19 ALSO PRESENT:

20 Barbara E. Forsland, MnDOT Data
21 Practices Compliance & Policy Analyst.
22 Todd Niemann, MnDOT.

23 COURT REPORTER:

24 Julie A. Rixe
25

1 (Nelson Exhibit 1 was marked for
2 identification by the court
3 reporter.)

4 MR. MERZ: Good morning. To get
5 started, I think we will just go around the table
6 and introduce ourselves. And we'll start with
7 you, sir.

8 MR. NELSON: Bill Nelson.

9 MS. FORSLAND: Barb Forsland.

10 MR. NIEMANN: Todd Niemann.

11 EXAMINATION

12 BY MR. MERZ:

13 Q And I'm Greg Merz with the Gray Plant Mooty law
14 firm. Mr. Nelson, you've probably heard
15 something about these interviews, but what you
16 have in front of you there that we've marked as
17 Exhibit 1 are essentially the ground rules for
18 the discussions that we'll be having today. And
19 I'm just going to kind of walk through those
20 ground rules with you.

21 As I mentioned, I'm with the Gray Plant
22 Mooty law firm, and our firm has been retained by
23 the Minnesota Legislature to conduct an
24 independent investigation into the collapse of
25 the I-35W bridge. The Legislature has asked us

1 INDEX

	PAGE
1 NELSON EXHIBITS:	
1 - Witness Protocol for Interviews	3
2 - MnDOT Technical Memorandum No. 02-22-B-01 dated 9/23/02	11
3 - MnDOT Technical Memorandum No. 07-10-b-02 dated 7/19/07	14
4 - E-mail dated 12/13/06 from E. Zhou	

5 to D. Flemming

20

1 to provide a report of our investigation by
2 May 1st of 2008. I'm going to be asking you some
3 questions today concerning the collapse and
4 related policies, practices and legislative
5 oversight issues.

6 The purpose of my interview today is to
7 determine what you might know about the matters
8 that we're investigating.

9 During the time that our investigation
10 is active, the information that you and other
11 interviewees provide to us is not public
12 information. The information you provide may no
13 longer be confidential once we submit our report
14 to the Legislature.

15 You're required to answer my questions
16 today truthfully. As I'm sure you've noticed,
17 the court reporter is here to record our
18 conversation. Either during this interview or
19 later on in our investigation, we may determine
20 that we need to verify certain information. And
21 if that occurs, we might ask you to provide us
22 with a further recorded statement, a signed
23 affirmation or an oath statement.

24 We regard this process as an ongoing
25 dialogue. So if you think of anything after this

Page 5

Page 7

1 interview that you want to tell us about, please
2 call or e-mail us. And, likewise, we would hope
3 that you would respond if we would call or e-mail
4 you with follow-up questions.

5 Is all of that clear?

6 A Yes.

7 Q And this isn't any kind of endurance contest. I
8 don't expect that we'll be here for a long time
9 this morning. But if you want to take a break at
10 any time, you let me know that and we'll do that,
11 okay?

12 A Okay.

13 Q First, why don't you just describe for me your
14 employment at MnDOT.

15 A I was hired in March of '99 to work in the
16 fracture critical inspection group doing
17 inspections of fracture critical bridges
18 throughout the state.

19 Q And that's been your job since 1999; is that
20 correct?

21 A Yes.

22 Q And you report to Mr. Niemann?

23 A Yes.

24 Q Has that been true since 1999?

25 A No. My original supervisor was Terry Morovek.

Page 6

1 Q Now, you mentioned that you did fracture critical
2 inspections throughout the state. Did those
3 include fracture critical bridges located in the
4 metro area?

5 A We've assisted the metro division in inspections
6 in the metro area, but we were not the primary
7 inspection agency for those.

8 Q How have you assisted in inspections in the metro
9 area?

10 A Mainly riding along in the snoopers bucket. It
11 was more a safety concern than anything else with
12 metro inspectors. Plus, we provide
13 nondestructive testing assistance. They don't
14 have the expertise for that, we do.

15 Q And so as I understand the way these inspections
16 typically went, you'd have a snoopers bucket.
17 There would be two men in the bucket. One person
18 would be responsible for looking at the bridge
19 and other person is essentially looking out so
20 you don't run into something or get hit. Is that
21 kind of a fair way to describe it?

22 A Basically one person kind of drives while the
23 other one...

24 Q Now, have you ever prepared a fracture critical
25 inspection report for the 35W bridge?

1 A No.

2 Q Have you ever reviewed a fracture critical
3 inspection report for the 35W bridge?

4 A Only when we had it during the inspection.

5 Q And you would take last year's report out with
6 you when you're doing the inspection for the next
7 year; is that right?

8 A Or whatever the most recent one would be.

9 Q Who in the metro area have you worked with?

10 A Vance Desens, Kurt Fuhrman and Mark Pribula.

11 Q You are a certified bridge inspector; is that
12 correct?

13 A Yes, I am, a team leader.

14 Q How did you become a certified bridge inspector?

15 A I took the training after I started at MnDOT.

16 There's a two-week course that's required and a
17 proficiency test.

18 Q When did you become a certified bridge inspector?

19 A 2004, I believe. I'm not sure.

20 Q You mentioned that you provided the metro
21 district with assistance in nondestructive
22 testing. Describe the assistance that you
23 provided.

24 A Mainly ultrasonic testing, which is used to look
25 for internal defects and cracks in the steel.

Page 8

1 Q Do you recall doing ultrasonic testing on the 35W
2 bridge?

3 A Yes.

4 Q Tell me what you recall about that.

5 A Last May we were doing a special inspection on
6 the internal -- the diaphragms on the lower
7 chord.

8 Q Other than last May did you ever do ultrasonic
9 testing on the 35W bridge?

10 A Not that I recall.

11 Q Are you an engineer?

12 A No.

13 Q Do you have some special certification to do
14 nondestructive testing?

15 A Yes.

16 Q What certification?

17 A I'm a nationally-certified Level 3, which is the
18 highest level of certification you can attain.

19 Q What does that certify you to do?

20 A I'm certified in magnetic particle, ultrasonic,
21 dipenetrant and radiographic methods.

22 Q And those are four different types of
23 nondestructive testing, correct?

24 A Right.

25 Q Did you ever do any dipenetrant testing on the

Page 9

Page 11

1 35W bridge?
 2 A No.
 3 Q Did you ever do any radiographic testing on the
 4 35W bridge?
 5 A No.
 6 Q What is the purpose of dipenetrant testing?
 7 A Dipenetrant is used to find cracks that are open
 8 to the surface, but it's a time-consuming, messy
 9 procedure. We use magnetic particle instead.
 10 It's faster and more efficient. We basically
 11 don't -- We use dipenetrant very little.
 12 Q And radiographic testing, what's the purpose of
 13 that?
 14 A That's to look for internal flaws. That's mainly
 15 done in the shops and not in the field because of
 16 safety concerns of radiation. MnDOT doesn't have
 17 the capabilities for doing that. They hire
 18 consultants.
 19 Q And then as I understand it, the metro district
 20 inspectors did their own magnetic particle
 21 testing; is that correct?
 22 A Yes.
 23 Q In the inspections that you performed on bridges
 24 outside of the metro area, have you used
 25 ultrasonic testing?

Page 10

1 A Yes.
 2 Q Under what circumstances?
 3 A To look for cracks due to an impact damage, look
 4 for cracks in pin connections, use it for
 5 determining thickness of corroded members, so for
 6 looking for other cracks in the fatigue-prone
 7 details, welded details.
 8 Q Would you say that use of ultrasonic testing is
 9 something that you would typically do when you
 10 did an inspection of a bridge?
 11 A No.
 12 Q So it's not as if you'd be doing ultrasonic
 13 testing in every inspection?
 14 A Correct.
 15 Q So how would you make the decision that you
 16 should be doing that kind of testing?
 17 A There's certain fatigue-prone details and other
 18 items such as pin connections we would do it on,
 19 or if we need to measure section loss due to
 20 corrosion, or if there's an impact damage.
 21 Q Were there some bridges that you inspected that,
 22 as a matter of course, you always did or even
 23 almost always did ultrasonic testing?
 24 A Yes.
 25 Q Which bridges?

1 A Oh, there's a lot of them. For example, 35W over
 2 the Minnesota River in Bloomington, there's the
 3 Central Avenue bridge in Moorhead. Those are two
 4 that come to mind.
 5 Q So for those bridges you would do that kind of
 6 testing pretty much for every inspection?
 7 A Correct.
 8 Q And why?
 9 A Those have the pin connections that according to
 10 our requirements, we do them every four years.
 11 Those are current requirements. It was at one
 12 point in time five years.
 13 Q So the current requirement is those kinds of
 14 bridges are inspected using ultrasonic testing
 15 every four years?
 16 A Yes.
 17 (Nelson Exhibit 2 was marked for
 18 identification by the court reporter.)
 19 BY MR. MERZ:
 20 Q Mr. Nelson, you have in front of you there a
 21 document we've marked as Exhibit 2. Have you
 22 seen this document before?
 23 A Yes.
 24 Q Do you recognize it as MnDOT's Guidelines for
 25 In-Depth Inspection of Fracture Critical Bridges

Page 12

1 and Underwater Inspections?
 2 A Yes.
 3 Q It's dated September 23rd of 2002. Do you
 4 believe you first saw it about that time?
 5 A I don't recall.
 6 Q Do you know how it was that it came to you?
 7 A I believe I looked it up online.
 8 Q Why?
 9 A I don't know.
 10 Q Okay. Was that relatively recently?
 11 A No.
 12 Q And the reason I ask, it wasn't something you
 13 looked up because of the 35W bridge collapse or
 14 because you were preparing for this interview
 15 or --
 16 A No. I've been aware of it longer than that.
 17 Q Do you know whether someone suggested to you that
 18 you should look it up?
 19 A I just believe that we found out there was a new
 20 addendum, so just wanted to...
 21 Q Flip to page 3 of the document.
 22 A Okay.
 23 Q I'm looking there at the very bottom. Do you see
 24 all those bullets?
 25 A Yes.

Page 13

Page 15

1 Q And then it also says right before that, Reports
 2 shall include such items as, and then it lists a
 3 number of things to be included in reports of
 4 fracture critical bridge inspections; is that
 5 right?
 6 A Yes.
 7 Q And as you look at those things, are all those
 8 things that you, in the ordinary course of your
 9 work, would note in your fracture critical bridge
 10 inspection reports?
 11 A Yes.
 12 Q I'm looking specifically at amount of corrosion
 13 and associated field measurements of section
 14 loss. That was something that you would note.
 15 If you saw section loss in a bridge that you were
 16 inspecting, you would note the amount of section
 17 loss; is that right?
 18 A Yes.
 19 Q How would you do that?
 20 A It depends upon the extent of the corrosion.
 21 Sometimes it's very minor surface rust that
 22 really hasn't degraded the material that much, so
 23 we just basically visually determine how much
 24 corrosion there is and state that there's minor
 25 corrosion.

1 of the policy that we just looked at?
 2 A Yes.
 3 Q I haven't tried to figure out how these two
 4 documents are different. Are you aware of any
 5 way in which the policies changed from 2002 to
 6 2007?
 7 A No.
 8 Q Describe for me the process that you would follow
 9 in preparing to do an inspection of a fracture
 10 critical bridge.
 11 A We would find all previous -- look for at least
 12 the last inspection report, any drawings, if
 13 they're available, and we'd prepare field notes
 14 identifying the different members that we
 15 inspect.
 16 Q Are there any policies or guidelines that you
 17 would rely on in doing the inspection work?
 18 A Yeah, this document.
 19 Q And you're referring to Exhibit 2 and 3?
 20 A Exhibits 2 and 3, yes.
 21 Q Okay. I've seen, and I don't have it with me,
 22 there's a MnDOT -- I think it's a bridge
 23 inspection manual?
 24 A Uh-huh.
 25 Q Is that something you'd rely on?

Page 14

Page 16

1 For more extensive corrosion we'd
 2 perform ultrasonic thickness measurements and
 3 record the thicknesses.
 4 Q How extensive would corrosion need to be before
 5 you would believe it would be necessary to
 6 perform the ultrasonic measurements?
 7 A That's a hard question to answer.
 8 Q Kind of a subjective sort of a judgment?
 9 A Exactly.
 10 Q In your experience assisting in inspections of
 11 the 35W bridge, did you see corrosion on that
 12 bridge that you regarded as extensive?
 13 A I don't recall.
 14 Q Do you remember, in connection with the times
 15 when you assisted with inspections on the 35W
 16 bridge, seeing anything that gave you concern?
 17 A Not that I recall.
 18 (Nelson Exhibit 3 was marked for
 19 identification by the court reporter.)
 20 BY MR. MERZ:
 21 Q You have in front of you a document that's marked
 22 as Exhibit 3. Have you seen this document
 23 before?
 24 A Yes.
 25 Q And do you recognize this as an updated version

1 A Yeah, yes.
 2 Q How would you use --
 3 A Well --
 4 Q I'm sorry. I don't want to cut you off.
 5 A Most of the -- all the inspections we've done,
 6 we've done them before. The guidelines are
 7 pretty much the same. After you've done one or
 8 two, you know what has to be done.
 9 Q Do you also prepare Pontis reports for fracture
 10 critical bridges?
 11 A No.
 12 Q Who does that?
 13 A The owner of the bridge. The other district.
 14 Q And after you've done your inspection, you
 15 prepare your report; is that right?
 16 A Yes.
 17 Q Describe the report-writing process.
 18 A We go off of our field notes and basically
 19 identify all the members of the bridge, different
 20 components, and describe their condition. We
 21 include pictures in the reports to back up the
 22 details.
 23 Q Do those reports that you prepare typically
 24 include recommendations for future action?
 25 A No.

Page 17

Page 19

1 Q So the report is just, when you prepare it, it's
 2 a reflection of the condition of the bridge at
 3 the time the inspection is done?
 4 A Correct. We recommend the next inspection
 5 frequency.
 6 Q Do you know how decisions are made about any
 7 future action that might be taken on a fracture
 8 critical bridge?
 9 A Not really. That's up to the owner of the
 10 bridge.
 11 Q After you finish your report, what do you do with
 12 it?
 13 A Give it to Todd for review.
 14 Q Do you know what that review consists of?
 15 A Not really.
 16 Q I mean, does he get back to you with comments
 17 and --
 18 A Yes.
 19 Q Would it be fairly typical that Mr. Niemann might
 20 have some comments on a fracture critical
 21 inspection report that you prepared?
 22 A Yes.
 23 Q What kinds of comments?
 24 A Things like phrasing, terminology, just little
 25 differences in syntax; is that what it's called?

1 A A lot of times they need to provide traffic
 2 control and other support for us.
 3 Q Is there anyone at the bridge office that you
 4 work with?
 5 A Yes.
 6 Q Who's that?
 7 A Ken Rand, Todd, Pete Wilson, Jennifer Zink.
 8 They're the ones that get involved with the
 9 inspections with us.
 10 Q Then jumping back to your report, Mr. Niemann
 11 gives you comments, and I assume you would
 12 somehow incorporate those comments into your
 13 report; is that right?
 14 A Yes.
 15 Q And then the report would be finalized?
 16 A Correct.
 17 Q What happens to it after that?
 18 A We make copies, it's stored electronically. We
 19 make paper copies and send them to the bridge
 20 owner, the people that are on file.
 21 Q Other than the bridge owner, do you know of any
 22 other person that the report goes to?
 23 A No.
 24 Q Can you describe the ultrasonic testing equipment
 25 that MnDOT has?

Page 18

Page 20

1 Q So editing kinds of --
 2 A Yeah, correct.
 3 Q Did he ever make any substantive comments, for
 4 example, you know, we need more information about
 5 this particular member, that kind of thing?
 6 A Yes.
 7 Q Describe the kinds of substantive comments that
 8 Mr. Niemann had made.
 9 A Things like I like to say through going correc-
 10 -- or corrosion. He likes through thickness.
 11 Just little differences in technical terms.
 12 Q Okay. Outside of the metro area, who do you work
 13 with when you perform fracture critical bridge
 14 inspections?
 15 A The bridge owners, either the outstate districts
 16 or counties or local agencies that own the
 17 bridges.
 18 Q Would the bridge owner typically have an employee
 19 that would accompany you on the inspection, then?
 20 A Quite often they do. We let them know when we're
 21 going to do the inspection and invite them to
 22 come along.
 23 Q Is there anyone that --
 24 A A --
 25 Q I'm sorry. I don't mean to cut you off.

1 A Well, we have two different kinds. We have
 2 ultrasonic thickness meters or inspection units
 3 that give digital readout of the material
 4 thickness.
 5 Then we have portable flaw detectors
 6 which use different styles of transducers to
 7 transmit sound into the material you're testing.
 8 And the sound is reflected back to the
 9 transducer, and there's a signal on a screen that
 10 needs to be interpreted to determine what the
 11 sound is reflecting off of.
 12 Q Have you been using the same ultrasonic testing
 13 equipment for as long as you've been doing that
 14 kind of testing?
 15 A Yes. Actually, no. I got a new flaw detector
 16 last summer, after Pete kicked my old one off a
 17 bridge. But they're basically the same. The
 18 technology really hasn't changed in the last
 19 15 years.
 20 (Nelson Exhibit 4 was marked for
 21 identification by the court reporter.)
 22 BY MR. MERZ:
 23 Q Mr. Nelson, I've put in front of you there a
 24 document we've marked as Exhibit 4, which is an
 25 e-mail to Don Flemming at URS from Ed Zhou at

Page 21

Page 23

1 URS. I'm going to guess you haven't seen this
 2 before, but I'll ask you the question, have you
 3 seen this e-mail before?
 4 A No.
 5 Q In this e-mail Mr. Zhou refers to detecting
 6 cracks that are one-quarter of the web plate
 7 thickness in order to propagate under the live
 8 load induced stresses. Do you see that
 9 discussion there in the first paragraph?
 10 A Yes.
 11 Q Was the ultrasonic testing that MnDOT had
 12 available to it able to detect cracks of that
 13 size?
 14 A It would, yes.
 15 Q And which of these two kinds of testing would you
 16 use to detect that kind of crack?
 17 A I would use the flaw detector.
 18 Q Do you know who manufactures that flaw detector
 19 that you use?
 20 A A company called Panometrics. Actually, now it's
 21 Olympus. It still goes under the Panometrics
 22 name.
 23 Q Do you know, is there any sort of model or
 24 description?
 25 A The one I'm using now is an Epoch, E-P-O-C-H,

Page 22

1 XT. The one I had previous to that would be an
 2 Epoch 3.
 3 Q That was the one you got kicked off the bridge?
 4 A Yeah.
 5 Q Is the Epoch 3 the one that you would have been
 6 using in May of 2007?
 7 A Yes.
 8 Q Mr. Zhou, in the last paragraph of his -- Well,
 9 the next to the last paragraph of his e-mail he
 10 refers to something called a MaTech EFS. Do you
 11 see that?
 12 A I do.
 13 Q Do you know what kind of equipment Mr. Zhou is
 14 talking about there?
 15 A No.
 16 Q Did you ever perform any inspections or assist in
 17 any inspections where URS was also involved?
 18 A Not while we were doing the inspection. I'm not
 19 aware if we've done inspections that they had
 20 done previously.
 21 Q I'm not sure if I understand your answer.
 22 A I don't believe I've ever worked with them.
 23 Q Okay.
 24 A We may have both inspected the same bridge but at
 25 different times.

1 Q Okay. Describe the special inspection that you
 2 did in May of 2007 on the 35W bridge.
 3 A We were looking for defects at the end of the tab
 4 plates that hold the internal diaphragms on the
 5 chords and plates. Metro -- I'll back up.
 6 There's pigeon guards on the holes and the
 7 chords, so metro division was going ahead of us
 8 and removing the pigeon guards and cleaning up
 9 inside of the chord and removing the pigeon feces
 10 so we could perform our inspection.
 11 And we mainly did visual inspection of
 12 the tab plates. We were concerned with the --
 13 any weld discontinuities that wrapped around the
 14 end of the tab plates. The tab plates run
 15 horizontally. The concern was that if any of the
 16 welds or any weld discontinuities wrapped around
 17 the end of the tab plates, they'd then be running
 18 perpendicular to the direction of stress on the
 19 member.
 20 There was some question before we
 21 started the inspection whether or not we'd be
 22 able to get close enough to the diaphragms to do
 23 a visual inspection. Once we started, we found
 24 out that we could get very close, close enough to
 25 get inside there and physically measure any

Page 24

1 undercut or any weld discontinuities.
 2 Our concern was to look for any weld
 3 discontinuities that, as it says in this
 4 document, were at least one-quarter of the web
 5 plate thickness. I don't recall what that is at
 6 this time.
 7 Q The weld discontinuities that you're talking
 8 about are things that you look for visually?
 9 A Correct.
 10 Q And then if you saw them, would you do some sort
 11 of testing? Or maybe I'm just wrong. Maybe the
 12 testing doesn't play into it here.
 13 A We didn't find anything that we felt warranted
 14 any testing. We did the ultrasonic inspection on
 15 a few, I don't remember how many, just to see if
 16 we could see anything. But none of the
 17 discontinuities we saw were close to being a
 18 quarter of the web plate thickness.
 19 Q What's a discontinuity?
 20 A Discontinuity is an imperfection or a -- I have
 21 to think.
 22 MR. NIEMANN: It's a flaw.
 23 MR. NELSON: Yeah. Basically it's a
 24 flaw. There can be discontinuities in the weld
 25 or in anything. It's not part of the normal

Page 25

Page 27

1 configuration, or whatever, of what you're
 2 inspecting. But there can be discontinuities,
 3 but they're really not considered defects unless
 4 they don't meet the applicable codes or
 5 specifications. I don't like to use the word
 6 defect. Defect would mean that it's detrimental
 7 to the member, where discontinuity can be in
 8 there and not be detrimental.
 9 BY MR. MERZ:
 10 Q So when you're talking about a weld discontinuity
 11 that wraps around the tab plate a quarter of its
 12 thickness, can you explain to me what that would
 13 look like?
 14 A Mainly it's undercut. When they make the weld,
 15 the heat from the weld will melt away part of the
 16 base metal at the edge of the weld and leave a
 17 little bit of an, I don't know, crater or a
 18 divot. Can you think of a better word?
 19 Q Was there anyone else from the bridge office that
 20 was involved in that May 2007 inspection with
 21 you?
 22 A Yes.
 23 Q Who was that?
 24 A Ken Rand.
 25 Q And were you and he in separate buckets or were

1 he's stated it.
 2 Q And then how was your assignment, to look for
 3 these discontinuities, going to determine whether
 4 or not there were such cracks?
 5 A I don't quite understand what you're asking.
 6 Q Well, because I'm not a bridge inspector, I'm
 7 trying to understand if the thing that you were
 8 looking for would provide the information that
 9 Mr. Zhou appears to be looking for in his e-mail;
 10 and, if so, how was it going to do that?
 11 A Yes. I don't like his use of the word crack in
 12 this statement.
 13 Q Okay.
 14 A I think he's referring to weld discontinuities
 15 that could cause a crack.
 16 Q And why do you think that?
 17 A I don't know.
 18 Q Okay.
 19 A I just don't think it's accurate. I think the
 20 concern was to look for discontinuities that
 21 could cause a crack. You're doing a visual
 22 inspection.
 23 Q But he's talking about -- or at least appears to
 24 be talking about some nondestructive testing to
 25 do this inspection, isn't he?

Page 26

Page 28

1 you working together in the same?
 2 A We were working together in the same bucket.
 3 Q Who described to you what it was that you were
 4 supposed to be looking for when you were doing
 5 the inspection?
 6 A Mr. Niemann.
 7 Q What did he tell you?
 8 A That we were looking for any sharp, deep
 9 discontinuities that were at least one-quarter
 10 the thickness of the web plate. And if we did
 11 find any such discontinuities, then perform an
 12 ultrasonic inspection of it to determine if they
 13 were causing cracks in the base metal.
 14 Q Now, in this e-mail Mr. Zhou talks about an
 15 existing crack that's one-quarter of the web
 16 plate thickness. And I'm trying to understand
 17 how what you've told me matches up with what he's
 18 talking about. Are they the same thing or
 19 different things?
 20 A He's saying that if there was a crack, it would
 21 need to be one-quarter of the thickness. There
 22 is no existing crack that we know of. He's
 23 saying if there was a crack, the size of the
 24 existing crack would have to be one-quarter of
 25 the web plate thickness. I believe that's how

1 A He is.
 2 Q I mean, what I'm trying to get at is whether the
 3 thing that you did is what Mr. Zhou's -- Let me
 4 ask a better question, whether the thing that you
 5 were asked to do was what Mr. Zhou seems to be
 6 looking for in his e-mail, knowing that you
 7 didn't write the e-mail? I'm trying to have you
 8 help me interpret what he's saying here.
 9 A We did not perform an EFS inspection, whatever
 10 that is, so the answer would be no.
 11 Q All right.
 12 MR. NIEMANN: Do you want me to
 13 comment?
 14 MR. MERZ: You certainly can feel free
 15 to.
 16 MR. NIEMANN: We did exactly -- The
 17 inspection we performed was directed exactly at
 18 identifying the defects that Ed Zhou's fracture
 19 mechanic's analysis identified to be a critical
 20 flaw size.
 21 MR. MERZ: And why do you say that?
 22 MR. NIEMANN: Well, because as he
 23 stated, his fracture mechanic's analysis
 24 indicated that the critical flaw size was an
 25 existing crack a quarter of a plate thickness.

Page 29

Page 31

1 And our inspection was to identify any existing
2 defects that existed or cracks that may have
3 existed. But generally a crack generates from a
4 different defect, so you have to have a different
5 defect to generate the crack. And so our
6 inspection was to identify both the defect that
7 may cause the crack to generate or a crack
8 itself.

9 MR. MERZ: But what I understood
10 Mr. Zhou to be saying, and maybe I'm just
11 misunderstanding, is that in order to be
12 confident that you've identified the cracks of
13 this particular size, you need to do
14 nondestructive testing, that visual testing isn't
15 going to be enough. Is that different than the
16 way you understand it?

17 MR. NIEMANN: That's completely
18 different, yeah. Visual testing is a form of
19 nondestructive evaluation.

20 MR. MERZ: Sure, sure. That's a fair
21 point. But then he makes this reference to
22 MaTech's EFS and a \$200,000 contract, which I
23 assume isn't going to be just visual inspection.
24 I take it you don't know anything about this
25 MaTech EFS either?

1 flaw size is evident in a bridge. I'm very
2 familiar with nondestructive testing techniques
3 and capabilities, and we have the best.

4 MR. NELSON: The purpose of the visual
5 inspection was to determine if there were any
6 cracks. Visual is still one of the best methods
7 for finding cracks. And if there were any cracks
8 found, then nondestructive testing would have
9 been performed to determine the depth.

10 MR. NIEMANN: There's a presumption
11 here that Ed Zhou is an expert in NDE technology,
12 and that may or may not be a correct assumption.

13 MR. MERZ: That's fair. And I've not
14 talked to Mr. Zhou. I believe we're going to
15 be. I just wanted to get kind of your
16 perspective on what it was you were doing out
17 there in May of 2007, so your clarification is
18 helpful. Thank you.

19 BY MR. MERZ:

20 Q Did you prepare any written report of your
21 special inspection in May of 2007?

22 A We had field notes. We hadn't had the time to
23 put them into a formal-type report.

24 Q Are those notes something that still exist?

25 A Yes.

Page 30

Page 32

1 MR. NIEMANN: I've looked at some of
2 the MaTech technology. I'm not specifically
3 familiar with the EFS reference.

4 MR. MERZ: What is MaTech?

5 MR. NIEMANN: MaTech is just a company
6 that generates inspection technology.

7 MR. MERZ: Did you, Mr. Niemann, have
8 any discussion with anyone at URS about the kind
9 of testing that they believed would be
10 necessary?

11 MR. NIEMANN: No.

12 MR. MERZ: Where did you get your
13 information about what it is you're supposed to
14 be looking for?

15 MR. NIEMANN: The MaTech information
16 that came to me came post-collapse.

17 MR. MERZ: No. I'm asking a different
18 question. When you gave Mr. Nelson his
19 assignment, who told you what to tell
20 Mr. Nelson?

21 MR. NIEMANN: Nobody.

22 MR. MERZ: How did you determine what
23 to tell Mr. Nelson?

24 MR. NIEMANN: Because I know what it
25 takes to determine whether or not that critical

1 MR. MERZ: Barb, do you know whether
2 those have been provided?

3 MS. FORSLAND: Just by description of
4 it, I don't.

5 Bill, people were asked to submit
6 documents for scanning in preparation. Did you
7 submit your field notes?

8 MR. NELSON: Todd, I believe, scanned
9 them. I know the Star Tribune had them.

10 MR. NIEMANN: I'm almost positive those
11 have been provided. I'm 99 percent positive they
12 have been.

13 MR. MERZ: And you're probably right.
14 And if you'd be just willing to kind of double
15 check. And if you'd let Barb know that, yes,
16 they've been provided; or, no, they haven't, here
17 they are, that would be great.

18 MR. MERZ: Why don't we take just a
19 couple minutes for me to review my notes, and
20 then I might be done or either just about done.

21 (Break taken.)

22 BY MR. MERZ:

23 Q I did have one issue that I needed to follow up
24 on just a little bit. The May 2007 special
25 inspection, the cracking that you were looking

Page 33

Page 35

1 for, would it have been possible for cracking to
 2 be internal so that it couldn't be visually
 3 identified?
 4 A No. Cracks don't start internally.
 5 Q And I might have just misheard you, because I had
 6 written something down about internal cracking.
 7 And maybe -- Actually, you said internal flaws.
 8 So cracking could start from an internal flaw, I
 9 take it?
 10 A Yes.
 11 Q I mean, is visual inspection the best way to
 12 determine where there are cracks, in your view?
 13 A It's the most efficient. Magnetic particle is a
 14 very good way for finding cracks, but it's
 15 virtually impossible to get inside the chord to
 16 do the magnetic particle inspection. Access is
 17 probably -- you know, because those aren't done
 18 in the chord. Access is extremely limited.
 19 Q You wouldn't use ultrasonic testing to find
 20 cracks?
 21 A You can. However, to perform ultrasonic testing
 22 on every one of those tab plates would have taken
 23 several weeks.
 24 Q How would you decide whether to look for cracks
 25 visually or use ultrasonic testing?

1 you anyway. I appreciate your time this
 2 morning.
 3 (Break taken.)
 4 MR. NELSON: I just want to say I've
 5 been a certified weld inspector nationally
 6 certified for, I believe, 25 years. Prior to
 7 working at MnDOT I worked for an independent
 8 testing laboratory. So there's tons of weld
 9 inspection experience.
 10 And, you know, with that much
 11 experience, you know how cracks propagate and
 12 what you're looking for in situations like this.
 13 It's just not something we, you know, came up
 14 with off the top of our heads.
 15 Q I appreciate that. Thanks.
 16 (Whereupon, the interview was concluded
 17 at 8:55 a.m.)
 18
 19
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 21
 22
 23
 24
 25

Page 34

Page 36

1 A We basically use visual --
 2 Q Okay.
 3 A -- unless we see something that we suspect.
 4 MR. NIEMANN: It's a difference in the
 5 type of weld.
 6 MR. MERZ: You'll have to help me out
 7 on that.
 8 MR. NIEMANN: There are some welds that
 9 are complete joint penetration welds, so it's a
 10 weld that goes through the entire member. And in
 11 that situation you're looking for an internal
 12 flaw, because you have a weld that goes through
 13 the entire thickness of the web member.
 14 If you have a weld that just is on the
 15 surface of the member, then you don't have to
 16 look through the member to look for a weld
 17 defect.
 18 MR. MERZ: Okay. And the tab welds
 19 that we're talking about now were on the surface
 20 of the member?
 21 MR. NIEMANN: Correct.
 22 MR. NELSON: Fill-it welds they're
 23 called.
 24 BY MR. MERZ:
 25 Q Okay. I think that completes my questions for

1 STATE OF MINNESOTA)
 2
 3
 4 COUNTY OF HENNEPIN)
 5
 6
 7
 8 REPORTER'S CERTIFICATE
 9
 10 I, Julie A. Rixe, do hereby certify
 11 that the above and foregoing transcript, consisting of
 12 the preceding 35 pages, is a correct transcript of
 13 my stenographic notes and is a full, true and complete
 14 transcript of the proceedings to the best of my
 15 ability.
 16 Dated April 28, 2008.
 17
 18
 19
 20
 21 JULIE A. RIXE
 22 Court Reporter
 23
 24
 25

Neal, Claudia

From: Bill Nelson [Bill.Nelson@dot.state.mn.us]
Sent: Friday, May 02, 2008 11:46 AM
To: Michele Clarizio
Subject: Re: GPM Interview Transcript

I have some changes and clarifications to my GPM interview from 4-21-08.

Page 7, Line 19 - Should be 2002

Page 8, Line 20 & 25, Page 9 Line 6, 7 & 11 - Dipenetrant should be 2 words, "Dye Penetrant"

Page 15, Line 7 - I was aware that there were changes to the document, but I could not recall offhand what they were .

Page 16, Line 25 - We make inspection recommendations such as "the bearings should be monitored for movement" or "the lower chord should be flushed of debris".

Page 21, Line 2 - Should be "Panametrics"

Page 33, Line 4 - I stated that cracks don't start internally. I should have clarified that cracks don't start internally in this type of weld detail. These were fillet welds, which are applied to the surface of the metal in a single pass. Some welds, called complete joint penetration welds, require that the base metal be beveled so the weld penetrates through the base metal. This sometimes requires multiple weld passes, and cracking can occur in an underlying weld pass. But that was not the type of weld detail we were inspecting on the 35W bridge.

Page 35, Line 6 - Should be 28 years

>>> Michele Clarizio 4/29/2008 9:29 AM >>>

<p>1 INTERVIEW OF TODD NIEMANN - MARCH 31, 2008</p> <p>2</p> <p>3</p> <p>4 In the Matter of Conducting an Independent Investigation 5 Into the Collapse of the I-35W Bridge</p> <p>6</p> <p>7 Department of Transportation 8 395 John Ireland Boulevard 9 Room G-13 10 St. Paul, Minnesota</p> <p>11</p> <p>12 Met, pursuant to notice, at 1:00 in the 13 afternoon on March 31, 2008.</p> <p>14</p> <p>15 INTERVIEWER:</p> <p>16</p> <p>17 Kathryn Bergstrom and Greg Merz, Attorneys 18 at Law with the Gray Plant Mooty Law Firm.</p> <p>19 ALSO PRESENT:</p> <p>20 Barbara E. Forsland, MnDOT Data Practices 21 Compliance & Policy Analyst.</p> <p>22 COURT REPORTER:</p> <p>23 Angie D. Threlkeld, RPR CRR</p> <p>24</p> <p>25</p>	<p>3</p> <p>1 started every interview, Todd, with this. May I</p> <p>2 call you Todd?</p> <p>3 A Sure.</p> <p>4 Q Okay. And I'm just going to read through this with</p> <p>5 you.</p> <p>6 Authority. We are the Gray Plant Mooty</p> <p>7 law firm. Gray Plant Mooty has been retained by the</p> <p>8 Minnesota legislature to conduct an independent</p> <p>9 investigation into the collapse of the I-35W bridge.</p> <p>10 The Minnesota legislature has asked us to provide a</p> <p>11 report of our investigation by May 1st, 2008. We</p> <p>12 will be asking you questions concerning the bridge</p> <p>13 collapse and related policies, practices, and</p> <p>14 legislative oversight issues.</p> <p>15 Two, the purpose of this interview is to</p> <p>16 determine what you might know about the matters we</p> <p>17 are investigating.</p> <p>18 Three, confidentiality. During the time</p> <p>19 our investigation is active, the information that</p> <p>20 interviewees provide to us is not public</p> <p>21 information. The information you provide may no</p> <p>22 longer be confidential once we submit our report to</p> <p>23 the legislature.</p> <p>24 Four, the process. You are required to</p> <p>25 answer our questions truthfully. A court reporter</p>
<p>2</p> <p>1 (Whereupon, Exhibits 1 and 2</p> <p>2 were marked for identification</p> <p>3 by the court reporter.)</p> <p>4 EXAMINATION</p> <p>5 BY MS. BERGSTROM:</p> <p>6 Q Todd, hello again. My name is Katie Bergstrom. I</p> <p>7 think we'll go around the table and note our</p> <p>8 appearances.</p> <p>9 MR. MERZ: I'm Greg Merz with the Gray</p> <p>10 Plant Mooty law firm.</p> <p>11 MS. FORSLAND: I'm Barbara Forsland, the</p> <p>12 data practices attorney for the agency.</p> <p>13 MR. NIEMANN: I'm Todd Niemann with</p> <p>14 MnDOT.</p> <p>15 BY MS. BERGSTROM:</p> <p>16 Q Todd, I don't know if you've ever had your -- been</p> <p>17 working with a court reporter before, but Angie here</p> <p>18 is taking down everything that we say. So it's</p> <p>19 important that you and I don't talk at the same time</p> <p>20 because she can only take down one voice at a time.</p> <p>21 It's also important that you give audible answers,</p> <p>22 not nods of the head or huh-uhs because those are</p> <p>23 hard for her to transcribe. Okay?</p> <p>24 A Okay.</p> <p>25 Q I'm going to hand you Exhibit Number 1. We have</p>	<p>4</p> <p>1 is present to record our conversation. Either</p> <p>2 during this interview or later in our investigation,</p> <p>3 we may determine that we need to verify certain</p> <p>4 information. If that occurs, we may ask you for a</p> <p>5 further recorded statement, a signed affirmation, or</p> <p>6 an oath statement.</p> <p>7 Five. Post-interview contact. We view</p> <p>8 this process as an ongoing dialogue. If you think</p> <p>9 of anything after this interview that you want to</p> <p>10 tell us about, please call or e-mail us. Likewise,</p> <p>11 we hope that you will respond to us if we call or</p> <p>12 e-mail you with follow-up questions or</p> <p>13 clarifications.</p> <p>14 A Okay.</p> <p>15 Q Okay? Any questions about that?</p> <p>16 A Nope.</p> <p>17 Q Todd, how long have you been working for MnDOT?</p> <p>18 A 15 years.</p> <p>19 Q And when you started at MnDOT, what was your job?</p> <p>20 A I've always worked in the bridge office. I started</p> <p>21 out working in the structural metals unit as a</p> <p>22 senior engineer. I was promoted to principal</p> <p>23 engineer. That unit is responsible for inspection</p> <p>24 of fabrication of new steel components for new steel</p> <p>25 bridges. At some point, late '90s I think, that</p>

<p>5</p> <p>1 unit was merged with the bridge inspection unit.</p> <p>2 And I now oversee both of those functions.</p> <p>3 Q When you worked in the structural metals unit as a</p> <p>4 senior engineer, who is your -- who did you report</p> <p>5 to then?</p> <p>6 A At the time I was hired I reported to J. T. Staley.</p> <p>7 Q Let's do this. This is Exhibit Number 2. This is</p> <p>8 an org chart for the bridge office. I'm just trying</p> <p>9 to -- The front page is really small writing, but</p> <p>10 the second and third and fourth pages are each of</p> <p>11 the design, the various sections.</p> <p>12 A Um-hum.</p> <p>13 Q So on about the fourth page back is the bridge</p> <p>14 construction and maintenance sections.</p> <p>15 A Correct.</p> <p>16 Q Okay. So have you always worked in this division of</p> <p>17 the central bridge office?</p> <p>18 A Yes.</p> <p>19 Q Okay. And when you say you reported to J. T. --</p> <p>20 what was the last name?</p> <p>21 A Staley.</p> <p>22 Q -- Staley, what position was he in at that point?</p> <p>23 A He was right here (indicating). These -- These --</p> <p>24 Q Don't write this one.</p> <p>25 A Oh, sorry.</p>	<p>7</p> <p>1 A One of them is. I'm not sure if it's still an open</p> <p>2 position.</p> <p>3 Q Okay. So how long, tell me again, Todd, have you</p> <p>4 been in charge of this unit?</p> <p>5 A I've been in charge of this one since I -- Well, I</p> <p>6 started off as the senior engineer, and then I was</p> <p>7 promoted to the unit leader.</p> <p>8 Q Okay. Back when they were two?</p> <p>9 A Right.</p> <p>10 Q Okay.</p> <p>11 A I don't -- I don't have the years. I don't know the</p> <p>12 years that I changed jobs. I would guess -- Well,</p> <p>13 you want me to guess?</p> <p>14 Q Yeah, even if you --</p> <p>15 A I would say I started in '92. I think I was</p> <p>16 promoted to the unit leader in '95, and then this</p> <p>17 combined job happened in --</p> <p>18 Q Okay.</p> <p>19 A -- 2000.</p> <p>20 Q 2000? Okay.</p> <p>21 A Somewhere around there.</p> <p>22 Q And when they combined did you take over as the</p> <p>23 supervisor of both of them?</p> <p>24 A Correct.</p> <p>25 Q Okay. And one of them you called structural metals;</p>
<p>6</p> <p>1 Q It's all right.</p> <p>2 A These were separate functions.</p> <p>3 Q Inspections and bridge rating unit --</p> <p>4 A No.</p> <p>5 Q -- or -- Oh, I see. The ones below you right now?</p> <p>6 A Correct.</p> <p>7 Q Okay.</p> <p>8 A Those were separate, and they were combined under a</p> <p>9 single leadership later.</p> <p>10 Q And now at the time when you reported to J. T.</p> <p>11 Staley, who did he report to?</p> <p>12 A John Allen.</p> <p>13 Q And John Allen at the time was in the position that</p> <p>14 Gary Peterson is now?</p> <p>15 A Correct.</p> <p>16 Q Okay. And it looks like now you report directly to</p> <p>17 Gary Peterson?</p> <p>18 A Correct.</p> <p>19 Q Okay. And the combined divisions, it looks like</p> <p>20 there's about nine people that report to you or nine</p> <p>21 positions that should report to you?</p> <p>22 A Yep, that's correct.</p> <p>23 Q Okay. On this version, which is April 17th, 2007,</p> <p>24 it shows two vacancies in the positions below you.</p> <p>25 Are those still vacant?</p>	<p>8</p> <p>1 is that right?</p> <p>2 A Right.</p> <p>3 Q And then the other side is called what?</p> <p>4 A Bridge inspection unit.</p> <p>5 Q Bridge inspection unit. Okay. What does the</p> <p>6 structural metals unit do?</p> <p>7 A Does inspection of new steel, for new steel bridges.</p> <p>8 Q And as the head of both the structural metals and</p> <p>9 the bridge inspection unit, what would you say your</p> <p>10 job duties are, your job description?</p> <p>11 A Management and oversight of both of those</p> <p>12 specialized inspection efforts. I have a specialty</p> <p>13 in metallurgy and welding.</p> <p>14 Q And I guess I should ask you that. I take it you're</p> <p>15 an engineer?</p> <p>16 A I am an engineer.</p> <p>17 Q Okay. What kind of an engineer?</p> <p>18 A By degree?</p> <p>19 Q Right.</p> <p>20 A I'm a welding engineer.</p> <p>21 Q And do you do specific training to have a specialty</p> <p>22 in metallurgy?</p> <p>23 A They're very similar fields. My professional</p> <p>24 engineer license is in metallurgical engineering.</p> <p>25 Q Okay.</p>

<p>9</p> <p>1 A They're very related.</p> <p>2 Q And are you a certified bridge inspector?</p> <p>3 A Yes.</p> <p>4 Q I know from talking to a few other people within</p> <p>5 MnDOT that there are different ways that you can</p> <p>6 become a certified bridge inspector.</p> <p>7 A Um-hum.</p> <p>8 Q How did you obtain that certification?</p> <p>9 A By training and having an engineering degree.</p> <p>10 Q And does your bridge inspection certification</p> <p>11 include fracture critical bridges?</p> <p>12 A Yes. That's not really a separate classification,</p> <p>13 but...</p> <p>14 Q But you do -- You have in the past?</p> <p>15 A I have taken the training class for inspection of</p> <p>16 fracture critical bridges.</p> <p>17 Q I take it the column on the right, which is the</p> <p>18 bridge inspection unit, are the -- is that the unit</p> <p>19 that is out inspecting existing bridges?</p> <p>20 A Correct.</p> <p>21 Q Okay. Where -- Well, I asked you this earlier, but</p> <p>22 you office in Oakdale?</p> <p>23 A Yes.</p> <p>24 Q Okay. Do all of these individuals below you office</p> <p>25 there as well?</p>	<p>11</p> <p>1 A Some administrative responsibilities.</p> <p>2 Q In the other districts, not metro or District 6, is</p> <p>3 it this bridge inspection unit who is going out and</p> <p>4 doing the fracture critical inspections?</p> <p>5 A Yes.</p> <p>6 Q Do they do them -- How do they staff those? Say,</p> <p>7 for instance, you're going up to do a fracture</p> <p>8 critical inspection in Duluth. Do all four of these</p> <p>9 people go or...</p> <p>10 A It's just dependent on the needs of the bridge, how</p> <p>11 big the bridge is, how -- how much staff time is</p> <p>12 needed, how much equipment will be used associated</p> <p>13 with the bridge, how many people will be needed to</p> <p>14 run all that equipment. So it can vary.</p> <p>15 Q Okay. Do they use --</p> <p>16 A No less than two.</p> <p>17 Q Pardon me?</p> <p>18 A No less than two.</p> <p>19 Q Do they use inspectors from the districts?</p> <p>20 A At times they work with us.</p> <p>21 Q In the metro district, and specifically to the I-35W</p> <p>22 bridge, I understand from talking to people that</p> <p>23 Mark Pribula was in charge of conducting the</p> <p>24 inspections on that bridge; right?</p> <p>25 A That's correct.</p>
<p>10</p> <p>1 A Yes.</p> <p>2 Q What bridges are the responsibility of the bridge</p> <p>3 inspection unit in this column?</p> <p>4 A Direct responsibility for inspection is all fracture</p> <p>5 critical bridges.</p> <p>6 Q Including the ones that are in the metro section?</p> <p>7 A We have some relationship with those, but metro and</p> <p>8 District 6 conducts those inspections because they</p> <p>9 have staff to do that.</p> <p>10 Q Is the District 6 the Rochester folks?</p> <p>11 A Yes.</p> <p>12 Q So is it the case then that you have responsibility</p> <p>13 for all fracture critical bridges except those in</p> <p>14 metro and District 6?</p> <p>15 A Yeah, I think that's accurate. We have some degree</p> <p>16 of responsibility.</p> <p>17 Q You just don't do the physical inspections?</p> <p>18 A Correct.</p> <p>19 Q Okay. In what --</p> <p>20 A We maintain the statewide list of what all bridges</p> <p>21 are fracture critical. We collect all the reports.</p> <p>22 Q So whether or not -- So even though metro and</p> <p>23 District 6 are doing their own inspections, the</p> <p>24 bridges that are in those areas you still have some</p> <p>25 responsibilities for some of these other --</p>	<p>12</p> <p>1 Q How often would he or how often did he utilize</p> <p>2 people from your bridge inspection unit to assist on</p> <p>3 inspections?</p> <p>4 A I can't tell you specifically for that structure.</p> <p>5 We do assist metro frequently. But I guess I can't</p> <p>6 tell you how often we assisted and with how many</p> <p>7 personnel specifically for that structure.</p> <p>8 Q If Mark determined that he needed help, how would he</p> <p>9 put a request in?</p> <p>10 A Just verbally or e-mail. Generally it was just</p> <p>11 verbally.</p> <p>12 Q Pretty informal --</p> <p>13 A Very --</p> <p>14 Q -- call you up?</p> <p>15 A -- informal, yeah.</p> <p>16 Q Let's say in a given year that Mark was out doing an</p> <p>17 inspection of the I-35 bridge and then he drafts his</p> <p>18 report of the inspection. Where does that</p> <p>19 inspection report go?</p> <p>20 A It would come to our office and a regional</p> <p>21 construction engineer for metro in our office.</p> <p>22 Q So that's Paul; right?</p> <p>23 A Correct.</p> <p>24 Q Does a copy of it also go to you?</p> <p>25 A Yep.</p>

<p style="text-align: right;">13</p> <p>1 Q Okay.</p> <p>2 A Well, to our unit.</p> <p>3 Q To your bridge inspections unit?</p> <p>4 A Yep.</p> <p>5 Q And what's the purpose of sending the inspection report to you, to your unit?</p> <p>6</p> <p>7 A So they're all filed in a central location.</p> <p>8 Q Do you have responsibility for reviewing them?</p> <p>9 A Do I? I don't know if I have responsibility. I generally did so I was aware of -- so I was aware if there was any findings or have a general sense of the structure. They were signed by Mark.</p> <p>12</p> <p>13 Q And so then he sends them over to central bridge. What's the purpose of delivering them to Paul Kivisto?</p> <p>14</p> <p>15 A So the construction engineer was familiar with any work that needed to be identified for any future rehabilitation. The construction engineer is the person that would put together a package of rehabilitation needs for a new contract for construction.</p> <p>21</p> <p>22 Q And that follow-up or construction needs based on the inspection reports, that's not something that your unit would have responsibility for?</p> <p>23</p> <p>24</p> <p>25 A No.</p>	<p style="text-align: right;">15</p> <p>1 bridge?</p> <p>2 A Not specifically on this bridge, no.</p> <p>3 Q Have you -- Since the collapse of the bridge, have you reviewed any of the inspection reports?</p> <p>4</p> <p>5 A Have I reviewed. Yeah. Sure.</p> <p>6 Q And what was the purpose of your review of the inspection reports after the collapse?</p> <p>7</p> <p>8 A Being able to answer questions about what was said in the report.</p> <p>9</p> <p>10 Q And prior to the collapse, other than this process that you've described, which is the reports would come in and they'd come to your office to have a central location, do you ever recall reviewing the inspection reports for this bridge in particular?</p> <p>13</p> <p>14</p> <p>15 A Yeah, I'm sure I've read -- I had read inspection reports.</p> <p>16</p> <p>17 Q But nothing specific --</p> <p>18 A No.</p> <p>19 Q -- comes to mind? Okay. You've been involved, Todd, haven't you, with this -- the development of a couple of different technical memorandums relating to critical deficiencies?</p> <p>22</p> <p>23 A Um-hum.</p> <p>24 Q Is that a yes?</p> <p>25 A Yes. Sorry.</p>
<p style="text-align: right;">14</p> <p>1 Q Do you have any responsibility to check the work in the inspection report, kind of oversee Mark's work?</p> <p>2</p> <p>3 A I guess I don't know how to answer that. None that I understood because I don't have any -- I don't have any oversight responsibility or authority for Mark.</p> <p>6</p> <p>7 Q Let's use a concrete example. Do you ever recall discussing any of the inspection reports on the I-35W bridge with Mark after the fact?</p> <p>9</p> <p>10 A Not specifically.</p> <p>11 Q Okay. Do you ever recall him calling you to consult with any particular piece of his inspection on that bridge?</p> <p>13</p> <p>14 A Not specifically.</p> <p>15 Q If Mark had called you up and said, oh, you know, I'm trying to do this part of my report and he wanted to talk to you about it, would there be any way that that conversation would have been captured or recorded, memorialized?</p> <p>19</p> <p>20 A I wouldn't think so. It would just be a verbal conversation. I know that did happen on occasions, but I couldn't tell you what specific bridges.</p> <p>22</p> <p>23 Q Do you ever recall ever calling Mark up after reviewing one of his inspection reports on the bridge or having any conversations about this</p> <p>25</p>	<p style="text-align: right;">16</p> <p>1 Q How do you define a critical deficiency?</p> <p>2 A It's just as it's defined in the memorandum. It's a deficiency that would lead to collapse of a span.</p> <p>3</p> <p>4 Q Okay. And is a critical finding the same thing?</p> <p>5 A Yes.</p> <p>6 Q Okay.</p> <p>7 A They're interchanged terms.</p> <p>8 Q Okay.</p> <p>9 A Depends on who you're talking to.</p> <p>10 Q Does the central bridge office keep a critical deficiency log?</p> <p>11</p> <p>12 A Yes.</p> <p>13 Q And where is that kept? Is that in your unit?</p> <p>14 A Um-hum. Yes.</p> <p>15 Q Okay. Is that bridge specific or is it statewide?</p> <p>16</p> <p>17 A Or let me -- It's bridge specific statewide.</p> <p>18 Q Okay. Let me ask that again. What I meant to say is do you keep a critical deficiency log by district or is it a statewide list?</p> <p>20</p> <p>21 A It's a statewide list bridge by bridge.</p> <p>22 Q Okay. And were there ever any critical deficiencies for the I-35 bridge?</p> <p>23</p> <p>24 A No.</p> <p>25 Q So how -- Tell me how -- If an inspector is out</p>

<p>17</p> <p>1 doing an inspection, whether it's your team or, say,</p> <p>2 District 6 or metro, and they determine there's a</p> <p>3 critical deficiency, tell me the process that it</p> <p>4 goes through so that it ends up on the critical</p> <p>5 deficiency log.</p> <p>6 A Well, first you need to understand that that process</p> <p>7 was only developed in 2005. Before that date -- And</p> <p>8 I think I identified that on the answers to the</p> <p>9 questions that we submitted back to Gray Plant</p> <p>10 Mooty.</p> <p>11 Q Okay.</p> <p>12 A So before '05 that process never existed formally.</p> <p>13 Q Did it exist informally?</p> <p>14 A Yes.</p> <p>15 Q So describe to me the informal process.</p> <p>16 A The informal process is that the inspector would</p> <p>17 either call his supervisor or another engineer in</p> <p>18 his organization, let him know he's found something,</p> <p>19 want, depending on the issue, confirmation that what</p> <p>20 he's looking at is something to be concerned about,</p> <p>21 get on the phone, call generally the regional</p> <p>22 construction engineer in the bridge office, and take</p> <p>23 whatever action was necessary.</p> <p>24 Q Okay. Was -- And were any calls like that captured</p> <p>25 on a deficiency log then?</p>	<p>19</p> <p>1 Q Where did you go for -- to -- as a resource to kind</p> <p>2 of come up with the contents of that memo, the</p> <p>3 definitions, the chain of response, that kind of</p> <p>4 stuff?</p> <p>5 A Definitions right from the National Bridge</p> <p>6 Inspection Standards. Chain of response was just</p> <p>7 developed based on what made sense for our</p> <p>8 organization.</p> <p>9 Q Did you consult with any other DOTs?</p> <p>10 A I don't believe so.</p> <p>11 Q Okay. Did you go to the AASHTO organization at all</p> <p>12 to see if they had any resources?</p> <p>13 A I don't believe so.</p> <p>14 Q Okay.</p> <p>15 A I'm not sure what aspects of that memo I could have</p> <p>16 gleaned anything from another state or AASHTO.</p> <p>17 Q The -- You mentioned that since the collapse you've</p> <p>18 had the occasion to go back and look at the</p> <p>19 inspection reports for the I-35W bridge. In doing</p> <p>20 that have you -- did you uncover anything in the</p> <p>21 inspection reports that you have since determined</p> <p>22 were critical deficiencies?</p> <p>23 A No. Nothing even close.</p> <p>24 Q Let's talk about the original construction of the</p> <p>25 bridge. Obviously you weren't working at MnDOT at</p>
<p>18</p> <p>1 A No.</p> <p>2 Q What -- What were the reasons for developing a</p> <p>3 formal process?</p> <p>4 A Because annually the Federal Highway</p> <p>5 Administrative -- Administration wanted a list.</p> <p>6 Q And they just started to ask for that in 2005?</p> <p>7 A Correct.</p> <p>8 Q Who is your -- Who do you primarily work with at the</p> <p>9 FHWA?</p> <p>10 A Romeo Garcia.</p> <p>11 Q And so in 2005 he started to ask for a critical</p> <p>12 deficiency?</p> <p>13 A We had probably talked about it for a couple of</p> <p>14 years, that that would be something that would be</p> <p>15 nice to develop. I have no idea when he first asked</p> <p>16 for it. It took awhile to develop to where everyone</p> <p>17 would agree to the process and the procedures that</p> <p>18 we would use. Those things generally take awhile to</p> <p>19 develop, a formalized process like that.</p> <p>20 Q And that technical memo has been updated and tweaked</p> <p>21 a couple of times; right?</p> <p>22 A Yeah, just recently, mostly just updates on phone</p> <p>23 numbers because our phone system changed.</p> <p>24 Q Okay. Were you the primary author of that memo?</p> <p>25 A I would say yes.</p>	<p>20</p> <p>1 that time; right?</p> <p>2 A Correct.</p> <p>3 Q Have you ever had any occasion, Todd, to go back and</p> <p>4 look at the original design of the bridge?</p> <p>5 A No.</p> <p>6 Q Okay. Your -- You may be aware that in the last ten</p> <p>7 days or so, two weekends ago, the media reported</p> <p>8 some pictures that were taken on the bridge in 2003,</p> <p>9 and the pictures were of the bent or bowed gusset</p> <p>10 plates. Are you generally familiar with that?</p> <p>11 A Quite.</p> <p>12 Q Had you ever seen those pictures before?</p> <p>13 A Not to my knowledge.</p> <p>14 Q Do you know whether -- Or do you know when that</p> <p>15 bending or bowing of the gusset plates occurred?</p> <p>16 A No.</p> <p>17 Q Or how long it has been like that?</p> <p>18 A No.</p> <p>19 Q Is the -- Is the bridge inspection unit primarily</p> <p>20 responsible for the annual inspections of the</p> <p>21 bridges?</p> <p>22 A No, we almost never have responsibility for the</p> <p>23 annual inspection. The bridge inspection unit in my</p> <p>24 office?</p> <p>25 Q That's right.</p>

<p style="text-align: right;">21</p> <p>1 A No.</p> <p>2 Q Okay. So they're just -- They're just doing the</p> <p>3 fracture critical inspections?</p> <p>4 A Correct.</p> <p>5 Q Okay. Does your bridge inspection unit --</p> <p>6 A Can I clarify?</p> <p>7 Q Sure. Sure.</p> <p>8 A We often do an annual inspection in addition to the</p> <p>9 fracture critical inspection, particularly on local</p> <p>10 bridges, because it doesn't make sense for the</p> <p>11 county or the district to send another inspection</p> <p>12 team out there to do another inspection.</p> <p>13 Q Okay.</p> <p>14 A So depending on the structure, we do both the</p> <p>15 fracture critical and what would be considered</p> <p>16 annual.</p> <p>17 Q Okay. Do -- Does your bridge inspection unit ever</p> <p>18 get called out to a bridge during a construction</p> <p>19 project, for instance, to do any inspections?</p> <p>20 A No.</p> <p>21 Q I guess what I'm -- where I'm going with that is I'm</p> <p>22 trying to understand if you're out there doing the</p> <p>23 fracture critical and sometimes annual or whether</p> <p>24 you are an emergency kind of response team as well?</p> <p>25 A Generally not an emergency response team. If</p>	<p style="text-align: right;">23</p> <p>1 as-needed basis?</p> <p>2 A More as an as-needed basis.</p> <p>3 Q Okay. Do you know whether your staff was ever out</p> <p>4 doing ultrasonic examinations on the I-35W bridge?</p> <p>5 A Yes, they were.</p> <p>6 Q Okay. And when were they doing that?</p> <p>7 A The only one that I have knowledge of or that I have</p> <p>8 specific recollection of was during our May</p> <p>9 inspection.</p> <p>10 Q Okay. May of 2007?</p> <p>11 A Correct.</p> <p>12 Q Okay. So we'll get back to that in a little bit</p> <p>13 here. But other than that one, you're not aware of</p> <p>14 any ultrasonic examinations done on the bridge?</p> <p>15 A None that I'm aware of.</p> <p>16 Q Okay. What about any magnetic particular testing --</p> <p>17 or particle?</p> <p>18 A None that I'm aware of. None that I have specific</p> <p>19 knowledge of.</p> <p>20 Q What do you use ultrasonic examinations for with</p> <p>21 respect to fracture critical bridges?</p> <p>22 A It's either used for thickness measurement or crack</p> <p>23 detection.</p> <p>24 Q When you say thickness measurement, the thickness of</p> <p>25 what?</p>
<p style="text-align: right;">22</p> <p>1 there's a problem in new construction, the other</p> <p>2 unit would go out because they're the ones involved</p> <p>3 with new construction. I can't think of a time that</p> <p>4 our bridge inspection unit went out to a new</p> <p>5 construction site to do anything.</p> <p>6 Q Or even not new construction but, say, maintenance</p> <p>7 work. Say maintenance work is being done on a</p> <p>8 bridge.</p> <p>9 A Yes, for -- my staff is the only staff in the state</p> <p>10 that has the capacity to do certain nondestructive</p> <p>11 testing techniques. And so if the district who was</p> <p>12 responding to an emergency or a -- had the need for</p> <p>13 that expertise, then they would call us and we would</p> <p>14 assist. I think that answers your question.</p> <p>15 Q What particular nondestructive testing techniques</p> <p>16 are unique to your staff?</p> <p>17 A Ultrasonic examination.</p> <p>18 Q Any others?</p> <p>19 A To some degree magnetic particle testing. Although</p> <p>20 we're not the only ones; others conduct that. My</p> <p>21 staff is the only people certified to do it.</p> <p>22 Q So sometimes does your staff then get called out by</p> <p>23 the districts to do this kind of testing?</p> <p>24 A Yes.</p> <p>25 Q And is that on a routine basis again or is it on an</p>	<p style="text-align: right;">24</p> <p>1 A The member of the steel piece or of a -- determine</p> <p>2 if we have loss due to corrosion. Ultrasound that</p> <p>3 we use on steel is not any different than ultrasound</p> <p>4 that they use in the medical arena. Most</p> <p>5 examinations are external. Ultrasound is internal.</p> <p>6 It allows you to view internally just like x-ray.</p> <p>7 If that puts it in context.</p> <p>8 Q If you're out there doing an ultrasonic examination</p> <p>9 and you're doing a thickness measurement and you</p> <p>10 said you're looking for loss due to corrosion, if</p> <p>11 your inspection results are that there has, in fact,</p> <p>12 been loss due to corrosion, where does that get</p> <p>13 reported to?</p> <p>14 A In the inspection report.</p> <p>15 Q Okay. And so where either in the bridge office or</p> <p>16 out in the districts does that conclusion rest for</p> <p>17 follow-up action?</p> <p>18 A Ultimately with the bridge ratings engineer.</p> <p>19 Q And you said ultimately. So take me on the path of</p> <p>20 how you ultimately get there.</p> <p>21 A Generally that's informal discussion of findings,</p> <p>22 some phone calls, different people have seen this</p> <p>23 type of loss in this type of area in this type of</p> <p>24 member, does this warrant structural evaluation.</p> <p>25 That's not done by the inspector.</p>

<p style="text-align: right;">25</p> <p>1 Q The inspector is there to make the finding?</p> <p>2 A Correct.</p> <p>3 Q And then the discussion of what to do about the finding happens at a different level?</p> <p>4 A Correct.</p> <p>6 Q Okay. And, again, you said ultimately they might have that with the bridge rating unit?</p> <p>8 A The bridge rating unit is responsible for rating all the bridges on the trunk highway system.</p> <p>10 Q Who is going to be involved in the discussion of those findings to determine if it warrants action?</p> <p>12 A It could be -- It could be me. It could be supervisory staff. It could be the regional construction engineer. Could be a district engineer, I mean one of the engineers in the district associated with the bridge inspection program.</p> <p>18 Q Do you know who it was for the I-35W bridge?</p> <p>19 A Mark would have relayed any findings that he had.</p> <p>20 Q Have you ever seen a critical deficiency or critical finding, whether it's part of the formal process now or the informal previous, that was due to loss due to corrosion?</p> <p>24 A Yes.</p> <p>25 Q Do you know on what bridge that was?</p>	<p style="text-align: right;">27</p> <p>1 Q Fall of 2007, after the I-35 bridge collapsed, then the DeSoto Bridge was inspected?</p> <p>3 A Correct.</p> <p>4 Q Who did that inspection?</p> <p>5 A Staff from my office.</p> <p>6 Q Do you know if nondestructive testing was used?</p> <p>7 A I don't know specifically. Yes, it would have been.</p> <p>8 Q Okay. Last fall?</p> <p>9 A Yes.</p> <p>10 Q Okay. Was the P. B. America's group involved in that inspection?</p> <p>12 A No.</p> <p>13 Q And were there any --</p> <p>14 A I don't think so.</p> <p>15 Q Okay. Were there any critical deficiencies discovered?</p> <p>17 A No.</p> <p>18 Q Then as I understand it, after the initial NTSB report in January, a second round of testing was done on the St. Cloud bridge; is that right?</p> <p>21 A Chronologically, yes.</p> <p>22 Q I don't think I understand that, chronologically.</p> <p>23 A Well, it did occur at a different -- at a date later than when the NTSB report came out.</p> <p>24 Q Okay. Do you know when that was?</p>
<p style="text-align: right;">26</p> <p>1 A Some of these -- Some of these probably predate our critical findings log though.</p> <p>3 Q So we're back at the informal process?</p> <p>4 A Yeah.</p> <p>5 Q Okay.</p> <p>6 A Jacobson. I don't know the bridge number. Bernie's (phonetic) Mill Bridge, Hennepin County. I can't think of the name of the other one. I had it a second ago.</p> <p>10 Q Is Jacobson a bridge name or is it a town or what is that?</p> <p>12 A It's a bridge in I think near the town of Jacobson. Sometimes we have pet names for a lot of bridges. I apologize.</p> <p>15 Q I'm sure nobody knew it was bridge 9340 until August 1st as well. Were you involved, Todd, in the inspection of the St. Cloud bridge since August 1st, 2007?</p> <p>19 A Yes.</p> <p>20 Q Okay. So as I understand it the bridge was -- up in St. Cloud, that's the DeSoto Bridge; right?</p> <p>22 A Right.</p> <p>23 Q That was inspected after the I-35W bridge first time sometime last fall; correct?</p> <p>25 A Say again.</p>	<p style="text-align: right;">28</p> <p>1 A When the NTSB report came out?</p> <p>2 Q No, when the second inspection of the DeSoto Bridge occurred.</p> <p>4 A Yeah, it was two weeks ago Thursday, whatever that works out to be.</p> <p>6 Q And was that the first time it had been inspected since last fall?</p> <p>8 A Yes.</p> <p>9 Q Okay. And who did that inspection?</p> <p>10 A Staff from my office.</p> <p>11 Q And was different testing done than the testing last fall or is it the same testing?</p> <p>13 A Well, I mean, no two inspections are generally identical. Was the same testing used? We did use ultrasonic inspection.</p> <p>16 Q Was it the exact same team that had been up in the fall of two thou --</p> <p>18 A No.</p> <p>19 Q Okay. How many people were involved in the inspection?</p> <p>21 A The one two weeks ago?</p> <p>22 Q Right.</p> <p>23 A Three.</p> <p>24 Q Okay. Who were they?</p> <p>25 A Myself, Bill Nelson, Jennifer Zink.</p>

<p style="text-align: right;">29</p> <p>1 Q And who was the team that went out last fall?</p> <p>2 A Ken Rand and Jennifer Zink.</p> <p>3 Q Was the ultrasonic testing that was done in the</p> <p>4 fall, were the results of that two weeks ago</p> <p>5 different than last fall's?</p> <p>6 A No.</p> <p>7 Q After the inspection two weeks ago, the decision was</p> <p>8 made obviously to close down the DeSoto Bridge?</p> <p>9 A Um-hum.</p> <p>10 Q Yes?</p> <p>11 A Yes.</p> <p>12 Q What --</p> <p>13 A You're sharp on that.</p> <p>14 Q What -- What results in your inspection report two</p> <p>15 weeks ago were different enough from last fall to</p> <p>16 result in the closing down of the bridge this time</p> <p>17 around?</p> <p>18 A Ask that one again.</p> <p>19 Q Well, and I can maybe ask it better. It was a</p> <p>20 little inartful. But last fall there would have</p> <p>21 been an inspection report that emanated from the</p> <p>22 testing that was done in the inspection; right?</p> <p>23 Yes?</p> <p>24 A Yes.</p> <p>25 Q And then two weeks ago this -- the second team went</p>	<p style="text-align: right;">31</p> <p>1 were used last fall?</p> <p>2 A I don't believe so.</p> <p>3 Q Okay. Had straight edges been used in the fall?</p> <p>4 A That I don't know.</p> <p>5 Q In any event, the fall inspection report did not</p> <p>6 identify any potential stress in that particular</p> <p>7 member; right?</p> <p>8 A Correct.</p> <p>9 Q Okay. Were there or are there historical pictures</p> <p>10 of that particular member in the DeSoto Bridge from</p> <p>11 previous inspection reports?</p> <p>12 A I -- To be honest with you, I don't know.</p> <p>13 Q Okay. But --</p> <p>14 A I have not had time to look.</p> <p>15 Q The -- The bridge inspection unit at central bridge</p> <p>16 though would have been the inspectors of that bridge</p> <p>17 over its --</p> <p>18 A Yes.</p> <p>19 Q -- lifetime?</p> <p>20 A Well, not -- no, not over its lifetime.</p> <p>21 Q When did -- When did central bridge start?</p> <p>22 A Central bridge took over fracture critical</p> <p>23 inspections statewide in the late '90s.</p> <p>24 Q What precipitated that?</p> <p>25 A I guess as an agency we just determined we wanted to</p>
<p style="text-align: right;">30</p> <p>1 out, including yourself, and you did the inspection</p> <p>2 again and did ultrasonic testing again; right?</p> <p>3 Right?</p> <p>4 A Yes, in addition to other methods of inspection.</p> <p>5 Q Okay. So I'll come back to that question in a</p> <p>6 second, but -- or that statement in a second. My</p> <p>7 question is how were the conclusions in this</p> <p>8 inspection report two weeks ago different enough or</p> <p>9 different if at all from the one last fall that</p> <p>10 resulted in the decision to close down the bridge</p> <p>11 this time?</p> <p>12 A Identification of potential distress in a particular</p> <p>13 member.</p> <p>14 Q And which -- What member was it?</p> <p>15 A L11, south truss.</p> <p>16 Q And how was that potential stress identified?</p> <p>17 A With straight edges and visual examination.</p> <p>18 Q A minute ago you said ultrasonic inspection and</p> <p>19 other methods of testing and inspection. What other</p> <p>20 methods did you use two weeks ago?</p> <p>21 A Visual examination.</p> <p>22 Q Anything else?</p> <p>23 A Straight edges.</p> <p>24 Q Did you use any methods of inspection or testing two</p> <p>25 weeks ago that were different from the ones that</p>	<p style="text-align: right;">32</p> <p>1 centralize that effort and develop specific --</p> <p>2 people with specific expertise. Before that it was</p> <p>3 a district responsibility.</p> <p>4 Q Has -- Has MnDOT completed the inspection of all of</p> <p>5 the fracture critical bridges similar in design to</p> <p>6 the I-35W bridge since the interim NTSB report in</p> <p>7 January?</p> <p>8 A No.</p> <p>9 Q Is P. B. America assisting with that effort?</p> <p>10 A No. With inspecting bridges since January?</p> <p>11 Q Right.</p> <p>12 A No. P. B. America's assisted MnDOT in the</p> <p>13 inspection of all bridges from the time of the</p> <p>14 collapse to the end of the calendar year.</p> <p>15 Q And helped to get that -- meet that December</p> <p>16 deadline; right?</p> <p>17 A Correct.</p> <p>18 Q Okay. And they -- And P. B. America has not been</p> <p>19 involved in any reinspections since the interim NTSB</p> <p>20 report?</p> <p>21 A No.</p> <p>22 Q Is it just your staff who's been charged to do those</p> <p>23 reinspections?</p> <p>24 A There's no charge for reinspections.</p> <p>25 Q What led to the reinspection then of the St. Cloud</p>

<p>33</p> <p>1 bridge?</p> <p>2 A Load ratings.</p> <p>3 Q Pardon me?</p> <p>4 A Load ratings as recommended by the Federal State</p> <p>5 Highway.</p> <p>6 Q You say low ratings?</p> <p>7 A Load ratings.</p> <p>8 Q Oh, load ratings.</p> <p>9 A Or I don't know how they termed it. Whatever they</p> <p>10 termed -- They recommended states go through their</p> <p>11 bridges, evaluate load capacity.</p> <p>12 Q And bridges of a certain -- that carried a certain</p> <p>13 load they recommended be reinspected?</p> <p>14 A Essentially they recommended states do a design</p> <p>15 review.</p> <p>16 Q Specific to the gusset plate issue?</p> <p>17 A Specific to all members.</p> <p>18 Q Okay.</p> <p>19 A Not specific to gusset plates.</p> <p>20 Q And how many -- How many bridges fell into the</p> <p>21 category that would need reinspect -- reinspection?</p> <p>22 Excuse me.</p> <p>23 A There have not been any that have been categorized</p> <p>24 as needing reinspection except the DeSoto.</p> <p>25 Q So based on the Federal Highway Administration load</p>	<p>35</p> <p>1 and is pretty involved?</p> <p>2 A Doing an evaluation has nothing to do with doing an</p> <p>3 inspection.</p> <p>4 Q Well, I'm just trying to understand -- Let me just</p> <p>5 back up. And I'm just missing a piece of the story</p> <p>6 here. I'm just trying to understand it. FHWA</p> <p>7 issued something about load ratings, and based on</p> <p>8 that -- I called it a bulletin -- Gary Peterson</p> <p>9 directed you to reinspect certain members of the</p> <p>10 DeSoto Bridge; right?</p> <p>11 A Correct.</p> <p>12 Q And then you said but it takes a lot of people</p> <p>13 involved in that evaluation, but ultimately you took</p> <p>14 your direction from Gary Peterson. And I'm just</p> <p>15 trying to understand what evaluation when you say it</p> <p>16 takes a lot of people to be involved in that</p> <p>17 evaluation?</p> <p>18 A Well, it's not a duty that I was specifically</p> <p>19 involved with in the office. But they're doing a</p> <p>20 design analysis. They're doing a structural</p> <p>21 evaluation. They're evaluating the design of all</p> <p>22 structural members.</p> <p>23 Q Who's involved in that effort?</p> <p>24 A I don't know who's all involved in that effort.</p> <p>25 MS. BERGSTROM: Why don't we take a</p>
<p>34</p> <p>1 rating bulletin, for lack of a better word, you</p> <p>2 looked at the bridge inventory and determined that</p> <p>3 the St. Cloud bridge should be reinspected?</p> <p>4 A They asked us to evaluate certain members.</p> <p>5 Q Of the St. Cloud bridge?</p> <p>6 A Yes.</p> <p>7 Q Okay. And no other bridges; just that bridge?</p> <p>8 A At this time.</p> <p>9 Q Do you have any planned, any others planned?</p> <p>10 A None identified.</p> <p>11 Q And who identified them?</p> <p>12 A Who...</p> <p>13 Q Who identified the members on the St. Cloud bridge</p> <p>14 as needing reinspection?</p> <p>15 A I guess Gary Peterson. It's a fairly large effort</p> <p>16 within our office to do the structure. There's a</p> <p>17 number of people involved doing these evaluations.</p> <p>18 But my direction came from my supervisor.</p> <p>19 Q Gary?</p> <p>20 A Correct.</p> <p>21 Q Okay. And by evaluations do you mean taking a look</p> <p>22 at the bridge -- details of any given bridge,</p> <p>23 looking at the FHWA bulletin and deciding whether</p> <p>24 any particular bridge needed reinspection? Is that</p> <p>25 the evaluation that you said takes a lot of people</p>	<p>36</p> <p>1 little break.</p> <p>2 (Recess.)</p> <p>3 (Whereupon, Exhibit 3 was</p> <p>4 marked for identification by the</p> <p>5 court reporter.)</p> <p>6 MR. MERZ: Todd, I've got a couple of</p> <p>7 questions -- well, a few questions about some</p> <p>8 documents that I wanted to run by you.</p> <p>9 EXAMINATION</p> <p>10 BY MR. MERZ:</p> <p>11 Q You've got a document there that we've marked as</p> <p>12 Exhibit 3. And this refers to a discussion that you</p> <p>13 were involved in regarding some installation of some</p> <p>14 strain gauges that was back in December of '97,</p> <p>15 which obviously it's been awhile ago. I just wonder</p> <p>16 if you recall anything about this?</p> <p>17 A Not a thing.</p> <p>18 Q Nothing; it's just a big blank hole?</p> <p>19 A Got nothing for you.</p> <p>20 Q Okay.</p> <p>21 (Whereupon, Exhibit 4 was</p> <p>22 marked for identification by the</p> <p>23 court reporter.)</p> <p>24 BY MR. MERZ:</p> <p>25 Q You've got in front of you now a document we've</p>

<p style="text-align: right;">37</p> <p>1 marked as Exhibit 4, which is really about the same</p> <p>2 thing. So it strikes me there's a good chance you</p> <p>3 may not recall anything about this either. But if</p> <p>4 you notice in the second-to-the-last sentence on the</p> <p>5 first page, the author of this document, Mr. Miller,</p> <p>6 talks about because cracking in the area of the</p> <p>7 floorbeam stringer connection may threaten public</p> <p>8 safety, you're authorized to begin work immediately.</p> <p>9 And I guess I wonder whether looking at this</p> <p>10 document caused you to remember anything about this</p> <p>11 cracking in -- apparently that was being addressed</p> <p>12 in December of '97?</p> <p>13 A Huh-uh.</p> <p>14 Q No? I'm sorry, you have to answer --</p> <p>15 A No.</p> <p>16 Q Okay. All right.</p> <p>17 (Whereupon, Exhibit 5 was</p> <p>18 marked for identification by the</p> <p>19 court reporter.)</p> <p>20 BY MR. MERZ:</p> <p>21 Q And, you know, as you're sitting here kind of</p> <p>22 ruminating on that, if something pops into your head</p> <p>23 about it, feel free to just let me know.</p> <p>24 A Okay.</p> <p>25 Q You've got a document now that we've marked as</p>	<p style="text-align: right;">39</p> <p>1 A Um-hum.</p> <p>2 Q Yes?</p> <p>3 A Yes.</p> <p>4 Q Do you know whether this is referring to section</p> <p>5 loss at the gusset plate or the member that was</p> <p>6 attached to the gusset plate?</p> <p>7 A I don't know how I would know that.</p> <p>8 Q And I don't know -- I mean, I don't know is a</p> <p>9 perfectly fine answer. Do you recall any issue</p> <p>10 relating to the 35W bridge relating to section loss</p> <p>11 of any of the gusset plates?</p> <p>12 A Not precollapse.</p> <p>13 Q Section loss is something that happens as a result</p> <p>14 of corrosion; is that correct?</p> <p>15 A That is correct.</p> <p>16 Q And one of the things that you were telling us</p> <p>17 previously is that one of the reasons you might use</p> <p>18 ultrasonic testing is to do thickness measurement to</p> <p>19 determine section loss due to corrosion; correct?</p> <p>20 A That is correct.</p> <p>21 Q Was it also the case that you could do a visual</p> <p>22 inspection for section loss due to corrosion?</p> <p>23 A Yes, you can do a visual. But there's other means</p> <p>24 to measure --</p> <p>25 Q Tell me about that.</p>
<p style="text-align: right;">38</p> <p>1 Exhibit 5. This is an annual inspection report;</p> <p>2 correct?</p> <p>3 A It looks like it.</p> <p>4 Q And this is something different than the fracture</p> <p>5 critical inspection reports that you were talking</p> <p>6 about previously; correct?</p> <p>7 A Yes. They didn't exist at this time.</p> <p>8 Q Would you -- And you weren't actually with MnDOT in</p> <p>9 '93; is that correct?</p> <p>10 A I was.</p> <p>11 Q Oh, you were. That's right. Was it part of your</p> <p>12 job to review the annual inspection reports at all?</p> <p>13 A Not in '93 or not -- it never has been.</p> <p>14 Q Was there anyone at the central bridge office that</p> <p>15 was responsible for reviewing the annual inspection</p> <p>16 reports?</p> <p>17 A No, not to my knowledge.</p> <p>18 Q Go to page 5 of 6, so the next-to-the-last page. Do</p> <p>19 you see where it says Additional Comments from</p> <p>20 October 13th through 18th?</p> <p>21 A Yes.</p> <p>22 Q The first one there says, downstream truss at L11</p> <p>23 inside gusset plate has loss of section 18 inches</p> <p>24 long and up to 3/16 inches deep, original thickness</p> <p>25 one-half inch. Do you see that?</p>	<p style="text-align: right;">40</p> <p>1 A -- to quantify.</p> <p>2 Q What other means are there?</p> <p>3 A There's mechanical gauges.</p> <p>4 Q Was the use of mechanical gauges something that was</p> <p>5 routinely part of inspections of the 35W bridge?</p> <p>6 A I would only speculate.</p> <p>7 Q Would you -- If the inspections were being performed</p> <p>8 in the manner that you believe they should have been</p> <p>9 performed, is that something you would expect?</p> <p>10 A I would speculate that they were. That's the only</p> <p>11 way they could quantify that it was 3/16-inch deep.</p> <p>12 But that's speculation.</p> <p>13 Q How do you determine whether to use ultrasonic</p> <p>14 testing as opposed to visual inspection or the use</p> <p>15 of a gauge?</p> <p>16 A How do I determine?</p> <p>17 Q How do you decide which of those things you're going</p> <p>18 to do or how would an inspector decide that?</p> <p>19 A He would use the one he had. There's -- There's no</p> <p>20 determination that there's any benefit of one versus</p> <p>21 the other. I doubt -- Pretty questionable about</p> <p>22 whether or not accurate technology for UT thickness</p> <p>23 measurements was available in '93 --</p> <p>24 Q Okay. What about today?</p> <p>25 A -- pretty common course. Today still just my staff</p>

<p style="text-align: right;">41</p> <p>1 that has that equipment.</p> <p>2 Q And I guess the question is under what circumstances</p> <p>3 do you believe it would be necessary to do UT</p> <p>4 testing either in addition to or instead of visual</p> <p>5 inspection or using mechanical gauge?</p> <p>6 A None if the area is accessible with a mechanical</p> <p>7 gauge. But there's -- We have that technology to</p> <p>8 look in areas that aren't necessarily accessible.</p> <p>9 Q In terms of measuring for section loss, the benefit</p> <p>10 of UT testing is you can get to areas that you</p> <p>11 couldn't otherwise reach; is that correct?</p> <p>12 A That is a benefit. It's not a benefit that's known</p> <p>13 that's needed.</p> <p>14 Q What do you mean by that?</p> <p>15 A We don't know of any cases where there's section</p> <p>16 loss in areas that aren't visible that -- We don't</p> <p>17 go around looking for those. UT testing is done --</p> <p>18 We have that technology for crack detection, not for</p> <p>19 thickness measurement.</p> <p>20 Q Okay. And --</p> <p>21 A So we have that technology for crack detection. We</p> <p>22 can use it for thickness measurement.</p> <p>23 Q Typically it's not used for that purpose, for</p> <p>24 thickness measurement?</p> <p>25 A Correct.</p>	<p style="text-align: right;">43</p> <p>1 reports; is that correct?</p> <p>2 A Generally.</p> <p>3 Q Okay. And would you read them, skim them, read</p> <p>4 parts of them? Tell me what your usual practice was</p> <p>5 with respect to those reports.</p> <p>6 A I would at least read the executive summary, any</p> <p>7 recommendations generally. And a lot of times read</p> <p>8 the whole report. I guess I don't know what -- I</p> <p>9 don't know what routine is.</p> <p>10 Q I guess what I'm -- what I mean by routine is what</p> <p>11 you would usually do. Would you usually read the</p> <p>12 whole report?</p> <p>13 A I think I would usually read the whole report. I</p> <p>14 read the whole report from my staff.</p> <p>15 Q And what about then the reports that would have been</p> <p>16 done by metro, for example, the reports for the 35W</p> <p>17 bridge?</p> <p>18 A I wouldn't -- I wouldn't say I probably would review</p> <p>19 the whole report.</p> <p>20 Q Would you read the executive summary?</p> <p>21 A I assume so.</p> <p>22 Q Would you read the recommendations?</p> <p>23 A Probably.</p> <p>24 Q Would that be about it generally?</p> <p>25 A I really don't recall.</p>
<p style="text-align: right;">42</p> <p>1 MS. BERGSTROM: On the -- Let me just ask</p> <p>2 something. On the St. Cloud Inspection a couple</p> <p>3 weeks ago, were you using the UT testing to</p> <p>4 determine corrosion on the backside of the gusset</p> <p>5 plates?</p> <p>6 MR. NIEMANN: Yes.</p> <p>7 MS. BERGSTROM: Okay.</p> <p>8 MR. NIEMANN: Or determine if there was</p> <p>9 any.</p> <p>10 MS. BERGSTROM: So that was a thickness</p> <p>11 measurement?</p> <p>12 MR. NIEMANN: Yes.</p> <p>13 (Whereupon, Exhibit 6 was</p> <p>14 marked for identification by the</p> <p>15 court reporter.)</p> <p>16 BY MR. MERZ:</p> <p>17 Q And now you have in front of you a document that</p> <p>18 we've marked as Exhibit 6. This is a fracture</p> <p>19 critical bridge inspection report for the 35W</p> <p>20 bridge --</p> <p>21 A Um-hum.</p> <p>22 Q -- and that was done in 2003; is that right?</p> <p>23 A That's what it says.</p> <p>24 Q And as I understood what you were telling Katie, you</p> <p>25 would typically see the fracture critical inspection</p>	<p style="text-align: right;">44</p> <p>1 Q That's fair. If you look at page 8 of the 2003</p> <p>2 report, it's got long-term repair recommendations,</p> <p>3 immediate maintenance recommendations, and areas of</p> <p>4 concern for future inspection. Do you see that?</p> <p>5 A Um-hum.</p> <p>6 Q Yes?</p> <p>7 A Yes.</p> <p>8 Q And is that a typical kind of format for reports</p> <p>9 that are done by your staff?</p> <p>10 A No.</p> <p>11 Q How -- How do the recommendations done by your staff</p> <p>12 differ?</p> <p>13 A It differs in that we oftentimes don't make</p> <p>14 recommendations.</p> <p>15 Q Was it usually the case that at least for the</p> <p>16 reports prepared by your staff that there were no</p> <p>17 recommendations?</p> <p>18 A I think that's true, yes.</p> <p>19 Q Is there a reason --</p> <p>20 A We're just reporting findings.</p> <p>21 Q Okay. Is there a reason why you wouldn't want your</p> <p>22 staff to make recommendations?</p> <p>23 A Because we're not charged with that -- with</p> <p>24 determination of what the findings mean.</p> <p>25 Q Who is charged with that?</p>

<p style="text-align: right;">45</p> <p>1 A That responsibility goes to the owner. We do</p> <p>2 inspections for both the cities, the counties, and</p> <p>3 the districts.</p> <p>4 Q Is there anyone at the central bridge office that</p> <p>5 has that responsibility?</p> <p>6 A Not really. It's a little bit of a back and forth</p> <p>7 relationship.</p> <p>8 Q Can you tell me what you mean by that?</p> <p>9 A Well, the bridge office is a service organization.</p> <p>10 We provide a service for inspection, report the</p> <p>11 findings to the owner, and they may turn around and</p> <p>12 ask us for service of determining what the</p> <p>13 inspection findings mean, though they may would turn</p> <p>14 around to other engineers, Paul Kivisto or one of</p> <p>15 his counterparts, depending on where it was, or</p> <p>16 someone else in the bridge office to assist them</p> <p>17 with analysis.</p> <p>18 Q Would you or any of your staff ever be involved in</p> <p>19 that part of the back and forth?</p> <p>20 A Rarely, unless there's -- there were things that</p> <p>21 were -- if there was something specific in our</p> <p>22 inspection that we deemed important enough to bring</p> <p>23 forward. Those are hard to answer because our</p> <p>24 program has been evolving a lot ever since it</p> <p>25 started. This program's only been -- it's only ten</p>	<p style="text-align: right;">47</p> <p>1 maintenance recommendations. And I just wonder if</p> <p>2 you know, for example, in June of 2003 how these</p> <p>3 three things were picked and other things weren't?</p> <p>4 A No clue.</p> <p>5 Q Did you ever ask anyone at the district bridge</p> <p>6 office about that?</p> <p>7 A We may have had discussions, but none that I have</p> <p>8 specific knowledge of or not that I know</p> <p>9 specifically.</p> <p>10 Q Do you have any general recollection of those</p> <p>11 discussions?</p> <p>12 A No. I mean, these are all pretty standard</p> <p>13 maintenance things that all districts and bridge</p> <p>14 crews do, work on strip seals and glands and...</p> <p>15 Q And I may have covered this. But just go to page 23</p> <p>16 of Exhibit 6, the 2003 report. If you look under</p> <p>17 panel point number 10 and panel point number 11,</p> <p>18 there's discussion there -- actually, just focusing</p> <p>19 on panel point number 11, there's discussion there</p> <p>20 of section loss gusset plate bottom chord. Do you</p> <p>21 see that?</p> <p>22 A Um-hum.</p> <p>23 Q Yes?</p> <p>24 A Yes.</p> <p>25 Q Do you know what that refers to?</p>
<p style="text-align: right;">46</p> <p>1 years old. It's been in a constant state of</p> <p>2 evolution.</p> <p>3 Q To the extent that you would review inspection</p> <p>4 reports for the 35W bridge, what were your reasons</p> <p>5 for doing that?</p> <p>6 A Just so I had a general sense of the condition of</p> <p>7 most of the bridges, what were the major technical</p> <p>8 issues with the structures. That's not easy to do</p> <p>9 for 200 structures, but -- or 500 when I started.</p> <p>10 Q In reviewing reports for the 35W bridge, did you</p> <p>11 have an understanding about what was meant by the</p> <p>12 phrase immediate maintenance recommendations?</p> <p>13 A No.</p> <p>14 Q You didn't have any expectation about when the</p> <p>15 things that were identified as immediate maintenance</p> <p>16 recommendations would be addressed?</p> <p>17 A No.</p> <p>18 Q Did you have any understanding about how the things</p> <p>19 that were identified as immediate recommendations</p> <p>20 were chosen as opposed to any other issue that might</p> <p>21 be identified on the bridge?</p> <p>22 A Ask that again.</p> <p>23 Q Well -- And I don't know that I asked it very well.</p> <p>24 If you look at this report, there's a whole bunch of</p> <p>25 stuff that it seems might go under immediate</p>	<p style="text-align: right;">48</p> <p>1 A Do I know what it refers to?</p> <p>2 Q I guess the question that I have, at least in my</p> <p>3 mind, is whether this is talking about section loss</p> <p>4 on the gusset -- of the gusset plate or of a member</p> <p>5 that's attached to the gusset plate. Reading this</p> <p>6 can you tell me which of those two things it is?</p> <p>7 A I cannot.</p> <p>8 Q Jump down to panel point 13 prime.</p> <p>9 A Okay.</p> <p>10 Q Do you see the last sentence there says, Truss</p> <p>11 bottom chord connection plate has 1/2 inch pack</p> <p>12 rust. Do you see that?</p> <p>13 A Yes.</p> <p>14 Q Is that something that can be determined visually or</p> <p>15 would you have to do ultrasonic testing?</p> <p>16 A That was determined visually.</p> <p>17 Q How do you know that?</p> <p>18 A Ultrasonic examination wouldn't tell you that. And</p> <p>19 people that did this didn't use ultrasonic</p> <p>20 examination. Measurement of pack rust is a physical</p> <p>21 deformation that's just identified visually.</p> <p>22 Q Okay. And not with a gauge; you just look at it?</p> <p>23 A Correct. We might use a tape measure to determine</p> <p>24 that it's a half-inch.</p> <p>25 MR. MERZ: I think that's all.</p>

<p style="text-align: right;">49</p> <p>1 FURTHER EXAMINATION</p> <p>2 BY MS. BERGSTROM:</p> <p>3 Q Okay. There's been some discussion, Todd, about the</p> <p>4 bridge in Ohio, similar design to the I-35 bridge</p> <p>5 that had a significant sag event in 1996. Have you</p> <p>6 heard about that?</p> <p>7 A No -- Well, I --</p> <p>8 Q Since?</p> <p>9 A -- have now.</p> <p>10 Q Okay. Is that something you had heard about prior</p> <p>11 to the bridge collapse?</p> <p>12 A No.</p> <p>13 Q Do you ever have occasion to reach out to other</p> <p>14 states' DOTs in performing your job duties for</p> <p>15 MnDOT?</p> <p>16 A To a very limited degree, yes.</p> <p>17 Q What is an example of that?</p> <p>18 A I've attended a couple of information exchange type</p> <p>19 conferences.</p> <p>20 Q Are those sponsored by some entity in particular?</p> <p>21 A Sponsored by?</p> <p>22 Q Who hosts those?</p> <p>23 A I don't know who the parent group was. I -- It was</p> <p>24 the -- It's called the Midwest Bridge Working</p> <p>25 Group --</p>	<p style="text-align: right;">51</p> <p>1 having lots of conversations with other</p> <p>2 counterparts, do you do that via a list serve or do</p> <p>3 you call people? What's your main method of</p> <p>4 communication?</p> <p>5 A Well, no, I don't use a list server. Just</p> <p>6 individual e-mail, phone calls, meetings.</p> <p>7 Q Let me ask you specifically with respect to the</p> <p>8 I-35W bridge. I take it based on your tenure with</p> <p>9 MnDOT that you weren't involved in any way in the</p> <p>10 1977 overlay project?</p> <p>11 A No.</p> <p>12 Q Have you had any occasion to go back and review what</p> <p>13 was done during that project?</p> <p>14 A No.</p> <p>15 Q Greg was showing you earlier some documents from</p> <p>16 some work that was done on the bridge in 1996 and</p> <p>17 1997. There was also a construction project done on</p> <p>18 the bridge in 1998. I believe some medians were put</p> <p>19 on the bridge and some other stuff. Were you</p> <p>20 involved in that project?</p> <p>21 A No.</p> <p>22 Q Were you personally involved in any of the</p> <p>23 inspections on the bridge?</p> <p>24 A The May inspection.</p> <p>25 Q Okay. We'll get to that. Other than that have you</p>
<p style="text-align: right;">50</p> <p>1 Q Can you --</p> <p>2 A -- coordinated by the University of Kentucky I</p> <p>3 believe. I believe they do it under federal</p> <p>4 funding, a federal funding program in part. But...</p> <p>5 Q When was the last time you were at one of those?</p> <p>6 A I don't recall.</p> <p>7 Q Ten years ago or --</p> <p>8 A Oh, no, no. I maybe attended two in the last five</p> <p>9 years or something like that. We have limited</p> <p>10 availability to travel to things like that. Most</p> <p>11 states have zero availability.</p> <p>12 Q How do you know that?</p> <p>13 A I have a lot of conversation with colleagues in</p> <p>14 other states, more from my other job, fabrication</p> <p>15 inspection.</p> <p>16 Q When you say your other job, not the inspections</p> <p>17 unit but the new steel?</p> <p>18 A Structural metals, yeah.</p> <p>19 Q Okay. So in that arena you're in contact with other</p> <p>20 counterparts, if you will, more often?</p> <p>21 A Frequently.</p> <p>22 Q Okay.</p> <p>23 A Most states don't allow any out-of-state travel.</p> <p>24 It's restricted.</p> <p>25 Q On the structural metal side, if you're going to be</p>	<p style="text-align: right;">52</p> <p>1 ever been out on -- as an inspector on the bridge?</p> <p>2 A I don't believe I have.</p> <p>3 Q There were various projects being analyzed with</p> <p>4 respect to the bridge, a rehabilitation, redecking,</p> <p>5 some other things. Were you involved in those</p> <p>6 efforts?</p> <p>7 A No.</p> <p>8 Q The University of Minnesota did an analysis and a</p> <p>9 report on the bridge in 2001. Have you seen that,</p> <p>10 that report?</p> <p>11 A I believe so.</p> <p>12 Q Okay. And were you involved in working with the</p> <p>13 University of Minnesota?</p> <p>14 A No.</p> <p>15 Q Okay. What was the purpose of your review of that</p> <p>16 report?</p> <p>17 A There was no purpose in reviewing it. Just for my</p> <p>18 own information.</p> <p>19 Q Were you ever --</p> <p>20 A I don't recall that I was asked to review it or I</p> <p>21 had some specific purpose for me to review it.</p> <p>22 Q You just generally remember it?</p> <p>23 A Well, yeah, I mean, it's -- they're looking at</p> <p>24 steel, and I'm kind of the steel guy in the office.</p> <p>25 Q There were -- Some of the work that was done in 1998</p>

<p style="text-align: right;">53</p> <p>1 was the -- as I understand it there was some</p> <p>2 cracking that was drilled out and filled in. Were</p> <p>3 you consulted with -- on that work?</p> <p>4 A In '98?</p> <p>5 Q Right.</p> <p>6 A Possibly.</p> <p>7 Q You don't remember?</p> <p>8 A (Witness moved head negatively.)</p> <p>9 Q Part of the University of Minnesota's study was in</p> <p>10 conjunction with some work being done, some analysis</p> <p>11 by HNTB. Have you ever worked with HNTB?</p> <p>12 A Have I ever worked with them?</p> <p>13 Q Yeah.</p> <p>14 A Not -- Not that I know specifically.</p> <p>15 Q Okay. Do you remember ever seeing any of HNTB's</p> <p>16 reports on the bridge?</p> <p>17 A No.</p> <p>18 Q Do you know anything about what HNTB was</p> <p>19 recommending vis-a-vis the bridge?</p> <p>20 A I do not.</p> <p>21 Q Were you aware that central bridge was working with</p> <p>22 URS as a consultant on the bridge?</p> <p>23 A Yes, I was.</p> <p>24 Q Okay. And as I understand it the URS work started</p> <p>25 on the bridge around 2003 and was ongoing at the</p>	<p style="text-align: right;">55</p> <p>1 Q Did you have discussions with anybody at MnDOT or</p> <p>2 anybody at URS about retrofitting the fracture</p> <p>3 critical members with steel plating?</p> <p>4 A Did I have any discussions? Yeah.</p> <p>5 Q What was -- What was your role in those discussions?</p> <p>6 What...</p> <p>7 A Just other than understanding that that was a</p> <p>8 recommendation and we were considering and pursuing</p> <p>9 that as an option. I don't know that I had a</p> <p>10 particular role other than just information.</p> <p>11 Q At some point that retrofitting was put on hold or</p> <p>12 that -- the discussions of the retrofitting were put</p> <p>13 on hold. Are you aware of that?</p> <p>14 A I don't know that they were put on hold. As far as</p> <p>15 I know we had a contract to do it.</p> <p>16 Q One of the URS recommendations was to replace the</p> <p>17 deck with a continuous deck as a way to reduce</p> <p>18 stress in the truss members and improve redundancy.</p> <p>19 Were you involved in those discussions?</p> <p>20 A No.</p> <p>21 Q So the redecking was not something you were --</p> <p>22 A No.</p> <p>23 Q -- consulted with? What -- Another of the URS</p> <p>24 discussions was the inspection of internal</p> <p>25 diaphragms using nondestructive testing. Were you</p>
<p style="text-align: right;">54</p> <p>1 time of the collapse. What was your role over that</p> <p>2 period of time with respect to URS?</p> <p>3 A Very limited. I don't recall any involvement</p> <p>4 until -- until the final report was being drafted;</p> <p>5 then I was asked to kind of take a look at the</p> <p>6 technical data and maybe the recommendations.</p> <p>7 Q Do you remember what the recommendations were?</p> <p>8 A I don't.</p> <p>9 Q Do you remember what your response was to the</p> <p>10 report?</p> <p>11 A No.</p> <p>12 Q Did you make written comments to the report?</p> <p>13 A Unlikely.</p> <p>14 Q Do you remember attending any meetings to discuss</p> <p>15 the report?</p> <p>16 A I remember, yeah, at least one meeting.</p> <p>17 Q Who was -- Who was there?</p> <p>18 A I don't recall who was there from our office. Don</p> <p>19 Fleming I believe from URS, and maybe Ed Zow</p> <p>20 (phonetic) on teleconference or something.</p> <p>21 Q Where was that meeting held?</p> <p>22 A At the bridge office.</p> <p>23 Q And was that after the draft final report had been</p> <p>24 issued by URS?</p> <p>25 A I couldn't tell you a time line.</p>	<p style="text-align: right;">56</p> <p>1 consulted about that?</p> <p>2 A Yes.</p> <p>3 Q And who -- Who consulted with you?</p> <p>4 A Probably Gary or maybe Dan. I don't know. Probably</p> <p>5 not Dan.</p> <p>6 Q And what is it that Gary needed to know from you</p> <p>7 with respect to the nondestructive testing?</p> <p>8 A My understand -- My perceptions of nondestructive</p> <p>9 testing's capability in association with those</p> <p>10 members and those welds and their configurations in</p> <p>11 the member.</p> <p>12 Q What was your understanding of what it was that URS</p> <p>13 was trying to discover with the testing?</p> <p>14 A Flaws introduced at the time of fab -- Defects and</p> <p>15 flaws from the time of fabrication or subsequent to</p> <p>16 fabrication.</p> <p>17 Q Okay. Okay. So from the inception of the bridge</p> <p>18 forward, whether there was --</p> <p>19 A Yeah.</p> <p>20 Q -- any defects that were there originally or had</p> <p>21 developed?</p> <p>22 A Right.</p> <p>23 Q Okay.</p> <p>24 A Specifically associated with those welds.</p> <p>25 Q And which welds were they?</p>

<p style="text-align: right;">57</p> <p>1 A The welds to the tab plates holding the internal</p> <p>2 diaphragms.</p> <p>3 Q Are those sometimes called tack welds?</p> <p>4 A Could be. But they weren't tack welds.</p> <p>5 Q Okay. They weren't?</p> <p>6 A There were other tack welds.</p> <p>7 Q But that's not what you were inspecting or that's</p> <p>8 not what they were talking about?</p> <p>9 A Well, not always the right terminology is used.</p> <p>10 MS. FORSLAND: I recall someone referring</p> <p>11 to them as tabs. Does that ring a bell?</p> <p>12 MR. NIEMANN: They are tab plates.</p> <p>13 MS. FORSLAND: Tab. Yeah.</p> <p>14 MR. NIEMANN: And there was welds on the</p> <p>15 tab plates. And they may have been referenced to</p> <p>16 those as being tack welds, but those technically are</p> <p>17 not tack welds.</p> <p>18 BY MS. BERGSTROM:</p> <p>19 Q Ultimately MnDOT made a decision to go forward with</p> <p>20 URS's recommendation on the nondestructive testing;</p> <p>21 right?</p> <p>22 A No.</p> <p>23 Q What did MnDOT decide to do with respect to URS's</p> <p>24 recommendations?</p> <p>25 A We went out to evaluate our capacity to determine</p>	<p style="text-align: right;">59</p> <p>1 that's when you went out to evaluate your capacity?</p> <p>2 A Correct.</p> <p>3 Q Okay. So I don't -- Explain to me what you mean by</p> <p>4 evaluate your capacity.</p> <p>5 A We wanted to -- The issue with these welds and the</p> <p>6 evaluation of these welds was access. So we were</p> <p>7 going to determine whether or not there was</p> <p>8 sufficient access for us to adequately evaluate</p> <p>9 these welds, visually and with nondestructive</p> <p>10 evaluation, and determine any deficiencies or</p> <p>11 defects associated with these welds.</p> <p>12 Q So your capacity that you were evaluating was your</p> <p>13 actual ability to get at the welds and -- in order</p> <p>14 to do the evaluations?</p> <p>15 A Correct.</p> <p>16 Q Okay. And is that what you were doing in May of</p> <p>17 2007?</p> <p>18 A Exactly.</p> <p>19 Q So it wasn't the actual evaluation of the welds; it</p> <p>20 was the evaluation of your ability to get at them?</p> <p>21 A Correct.</p> <p>22 Q Okay.</p> <p>23 A And then not -- Get to them and be able to do a</p> <p>24 proper inspection and evaluation.</p> <p>25 Q Okay. So who was involved in that work in May?</p>
<p style="text-align: right;">58</p> <p>1 what flaws were there.</p> <p>2 Q Are you talking about what you were doing on the</p> <p>3 bridge in May 2007?</p> <p>4 A Yes.</p> <p>5 Q Okay. Back up in time, and we'll get to that work</p> <p>6 on the bridge. But URS had these various</p> <p>7 recommendations. Do you know what MnDOT decided to</p> <p>8 implement out of those recommendations?</p> <p>9 A That hadn't been decided, to my knowledge.</p> <p>10 Q Okay. Were you involved in that discussion?</p> <p>11 A I don't -- I don't know if there was a single</p> <p>12 discussion or...</p> <p>13 Q Well, did you attend meetings to discuss the URS</p> <p>14 recommendations?</p> <p>15 A Yes.</p> <p>16 Q Okay. And so who was part of that decision-making</p> <p>17 team?</p> <p>18 A Gary. Dan. I don't recall who all from the office</p> <p>19 was involved.</p> <p>20 Q But as far as you understand, no decision had been</p> <p>21 reached regarding the URS recommendations?</p> <p>22 A I think we were concurrently pursuing both of them.</p> <p>23 Q Okay. Both of what?</p> <p>24 A Both the recommendations of plating and inspecting.</p> <p>25 Q Okay. And as part of pursuing the inspecting,</p>	<p style="text-align: right;">60</p> <p>1 A Bill Nelson, Ken Rand, and myself.</p> <p>2 Q And how many days were you out there?</p> <p>3 A Four or five --</p> <p>4 Q Was Mark Pribula there?</p> <p>5 A -- to my recollection. Maybe initially. I don't</p> <p>6 recall exactly.</p> <p>7 Q That was --</p> <p>8 A Actually, metro was involved as well in an assistant</p> <p>9 role. They were removing covers and cleaning pigeon</p> <p>10 debris.</p> <p>11 Q So explain to me what you did in those four or five</p> <p>12 days exactly.</p> <p>13 A We were taking a look at the members identified by</p> <p>14 URS as the targeted members, determining access</p> <p>15 using different techniques to evaluate and inspect</p> <p>16 those welds and members.</p> <p>17 Q How many -- Well, first of all, what different</p> <p>18 techniques did you use?</p> <p>19 A Visual examination and ultrasonic testing.</p> <p>20 Q And in those four or five days did you look at all</p> <p>21 of the members identified by URS?</p> <p>22 A No.</p> <p>23 Q How many did you look at?</p> <p>24 A About 60 percent, roughly.</p> <p>25 Q And did you --</p>

<p style="text-align: right;">61</p> <p>1 A Remember, we were going to go out there to evaluate</p> <p>2 our capacity to do it, not to do them all.</p> <p>3 Q And did you reach a conclusion on your capacity to</p> <p>4 do them?</p> <p>5 A No. That meeting was scheduled for later in</p> <p>6 September with URS.</p> <p>7 Q When you were out there, did you -- did you feel</p> <p>8 that based on your work out there in May that you</p> <p>9 were able to get adequate access to the welds?</p> <p>10 A Personal opinion?</p> <p>11 Q Yes.</p> <p>12 A Yes.</p> <p>13 Q And -- And it was planned that in September you</p> <p>14 would discuss those findings with URS?</p> <p>15 A In September.</p> <p>16 Q Yeah, September. What did I say?</p> <p>17 A I thought you said December, but I may have</p> <p>18 missed -- may have heard you wrong.</p> <p>19 Q September. Did you ever write up a report out of --</p> <p>20 for that four or five days' worth of --</p> <p>21 A No.</p> <p>22 Q -- evaluation?</p> <p>23 A No.</p> <p>24 Q Did you discuss it with anybody in the -- around the</p> <p>25 same time, May or June?</p>	<p style="text-align: right;">63</p> <p>1 that you have to have a defect of this size in order</p> <p>2 for it to be a critical size defect.</p> <p>3 Q And so your work out there was to determine whether</p> <p>4 you had adequate access to see a defect like that?</p> <p>5 A Correct.</p> <p>6 Q Okay.</p> <p>7 A In the capacity of technology and specifically</p> <p>8 visual examination and ultrasonic testing to have a</p> <p>9 great deal of confidence that after we were done</p> <p>10 inspecting that we didn't have anything that met the</p> <p>11 critical size.</p> <p>12 Q And so as part of your evaluation on your access and</p> <p>13 your capacity, when you were out there those days,</p> <p>14 did you actually do some ultrasonic testing of some</p> <p>15 of those members?</p> <p>16 A Yes.</p> <p>17 Q And presumably you didn't discover any cracks?</p> <p>18 A Correct.</p> <p>19 Q At the time, Todd, that you were out on the bridge</p> <p>20 in May of 2007, was the contractor out on the bridge</p> <p>21 yet doing any work?</p> <p>22 A The contractor?</p> <p>23 Q The contractor that was doing work at the time of</p> <p>24 the collapse.</p> <p>25 A No, not in May I don't believe.</p>
<p style="text-align: right;">62</p> <p>1 A I don't know if it was May or June, but it was --</p> <p>2 I'm sure it was discussed informally.</p> <p>3 Q Okay. With whom?</p> <p>4 A I'm sure -- I presume Gary. I can't recall any</p> <p>5 specific discussions that I had with anyone.</p> <p>6 Q Did you have any discussion with URS before you went</p> <p>7 out to do that evaluation in May?</p> <p>8 A Yeah.</p> <p>9 Q Who did you talk to at URS?</p> <p>10 A It was -- It's -- It seems to me it was all that</p> <p>11 meeting that we had in -- I don't know if it was</p> <p>12 January or February. Everything -- Everything I</p> <p>13 recall is kind of based on one meeting. But I don't</p> <p>14 remember if there was two or three or -- I don't</p> <p>15 know if it was all the same meeting or different, to</p> <p>16 tell you the truth.</p> <p>17 Q And that's the meeting at central bridge you were</p> <p>18 talking about?</p> <p>19 A Yeah.</p> <p>20 Q Okay. And is it at that meeting or meetings where</p> <p>21 you talked to URS about what kind of access you</p> <p>22 would need in order to evaluate the welds? Or how</p> <p>23 did you know what URS was thinking about with</p> <p>24 respect to that inspection?</p> <p>25 A From analysis of their report. Their analysis said</p>	<p style="text-align: right;">64</p> <p>1 Q After you were --</p> <p>2 A Oh, there -- I don't know if that's true. There was</p> <p>3 lane closures. That's why we chose to do it at that</p> <p>4 time. I -- I can't -- I can't tell you for sure.</p> <p>5 Q Did you have any role in that summer 2007 overlay</p> <p>6 construction project?</p> <p>7 A No.</p> <p>8 Q After you were out on the bridge in May of 2007,</p> <p>9 were you ever out on the bridge again that summer?</p> <p>10 A No. Not that I recall. I don't believe so.</p> <p>11 Q Do you know if there was any load or structural</p> <p>12 integrity analysis that was done prior to the</p> <p>13 construction work in the summer of 2007?</p> <p>14 A I have no idea.</p> <p>15 Q In your conversations with URS, whether it's at one</p> <p>16 meeting or a couple of meetings, do you remember any</p> <p>17 discussion about the gusset plates?</p> <p>18 A No. Only about those tab welds, those tab</p> <p>19 connections, those diaphragms.</p> <p>20 Q Were you involved in any discussions on how the</p> <p>21 retrofitting might compromise the structural</p> <p>22 integrity of the bridge?</p> <p>23 A I had some concerns. I'm not sure I was in any</p> <p>24 formal discussions associated with that.</p> <p>25 Q You didn't raise those concerns to anybody?</p>

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1 A I -- I recall having a discussion with Gary. And I
2 don't recall if he was sharing his concerns and...

3 MS. BERGSTROM: I think I'm probably
4 done, but why don't I just take a five-minute break
5 and go through my notes --

6 MS. FORSLAND: Sure.

7 MS. BERGSTROM: -- and see if there's
8 anything else we have to follow up on.

9 (Recess.)

10 MR. MERZ: I had just one thing that I
11 wanted to follow up on and mostly it's because my
12 notes are just a little bit unclear on what you told
13 us.

14 MR. NIEMANN: Okay.

15 FURTHER EXAMINATION

16 BY MR. MERZ:

17 Q Katie had asked you about the inspection reports
18 that Mark Pribula had been responsible for
19 preparing; and she asked you something like, you
20 know, did you do anything to check his work or did
21 you have any responsibility for checking his work.
22 And I understood you to say none that I understood.
23 And the question that I had based on that response
24 was whether you've later come to understand that
25 there was something you should have been doing to

66

1 check Mr. Pribula's work?

2 A Barb and I were just talking about this a little
3 bit. The -- The interaction a lot of times between
4 districts and central office and responsibilities
5 and authority when both are working concurrently are
6 not always clear and not everyone may have the same
7 perception as to what are the responsibilities and
8 authorities. And so I think my answer is based on
9 that that -- I didn't -- I think her -- ask -- Tell
10 me what her question was again.

11 Q The question was something like did you have any
12 responsibility for checking --

13 A Right.

14 Q -- Mr. Pribula's work.

15 A Right. And my -- I think my response was none that
16 I understood. I didn't understand that I had any
17 responsibility to do so or need to do so, because he
18 was doing it and metro was sort of a self --
19 self-operating system as far as that goes.

20 Q Do you know whether there was any certified bridge
21 engineer that would have had responsibility for
22 checking Mr. Pribula's work?

23 A Mark is a certified bridge engineer, so...

24 Q Yes.

25 A I can't say that I do.

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1 Q And then since the collapse have you come to view
2 your responsibility for checking Mr. Pribula's work
3 any differently? In other words, are you looking at
4 those reports any differently than you did before?

5 A Yeah, we have -- we have looked at our structure,
6 our organization, and our relationship with the
7 districts. So, yes, I think that's true.

8 Q And how has -- How has your view of your
9 responsibility then changed?

10 A Our office is going to have more oversight. I
11 shouldn't say is. We're talking that our office
12 will, but those policies and practices have not been
13 100 percent formalized.

14 Q Are you --

15 A They're in generation.

16 Q Are you involved in helping to develop those policy
17 and practice changes?

18 A Yes.

19 Q Who else is involved?

20 A Gary. I'm sure Dan will be. The metro staff,
21 engineering and administrative staff. Rochester
22 District 6 engineering and administrative staff.
23 We're the three agencies involved in working
24 together for this implementing the fracture critical
25 inspection program. And generally the FHWA looks at

68

1 it and reviews our policy.

2 MS. BERGSTROM: Is that Romero again?

3 MR. NIEMANN: Romeo. No R.

4 MS. BERGSTROM: Oh, right. Romeo. Got
5 it. I think that's it.

6 MS. FORSLAND: You're not in the direct
7 line of oversight of Mark though, are you?

8 MR. NIEMANN: I am not.

9 MS. FORSLAND: So you don't assign his
10 work tasks --

11 MR. NIEMANN: I do not.

12 MS. FORSLAND: -- or anything like that?

13 MR. NIEMANN: I do not.

14 MS. FORSLAND: Do you know who he
15 directly reports to?

16 MR. NIEMANN: Jack Pirkel.

17 MS. FORSLAND: So that's important to
18 know that, I think.

19 MR. MERZ: Sure.

20 (Concluded at 3:15 p.m.)

21

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24

25

1 STATE OF MINNESOTA)
2) ss.
3 COUNTY OF DAKOTA)
4

5 REPORTER'S CERTIFICATE
6

7
8 I, Angie D. Threlkeld, do hereby
9 certify that the above and foregoing transcript,
10 consisting of the preceding 68 pages is a
11 correct transcript of my stenographic notes, and is
12 a full, true and complete transcript of the
13 proceedings to the best of my ability.

14 Dated April 9, 2008.
15
16
17
18

19 ANGIE D. THRELKELD
20 Registered Professional Reporter
21 Certified Realtime Reporter
22
23
24
25

1 INTERVIEW OF ARLEN OTTMAN - March 26, 2008

2
3
4 In the Matter of Conducting an Independent
5 Investigation into the Collapse of the I-35W Bridge

6
7 Department of Transportation
8 395 John Ireland Boulevard
9 Room G-13
10 St. Paul, Minnesota

11 Met, pursuant to Notice, at 8:00 in the
12 morning on March 26, 2008.

13
14
15
16 INTERVIEWERS:

17 Greg Merz, Attorney at Law with Gray
18 Plant Mooty Law Firm.

19 ALSO PRESENT:

20 Barbara E. Forsland, MnDOT Data
21 Practices Compliance & Policy Analyst.

22 COURT REPORTER:

23 Julie A. Rixe
24
25

(Ottman Exhibit 1 was marked for
identification by the court reporter.)

EXAMINATION

BY MR. MERZ:

Q Good morning, Mr. Ottman. I introduced myself
before we went on the record, but I'll do that
again. My name is Greg Merz, and I'm an attorney
with the Gray Plant Mooty law firm. Our firm has
been retained by the Minnesota Legislature to
assist it in investigating the circumstances
surrounding the collapse of the 35W bridge. And
I'm going to be asking you some questions today
about what you recall about facts that may be
relevant to that investigation.

As we get started here, I'm going to go
through some ground rules. And you have in front
of you there Exhibit 1, which is titled Witness
Protocol for Interviews. And these are,
essentially, the ground rules that we'll be
following today.

First, as I mentioned, we are the Gray
Plant Mooty law firm, and we have been retained
by the Minnesota Legislature to conduct an
independent investigation into the collapse of
the I-35W bridge. And the Legislature has asked

INDEX

Page 2

OTTMAN EXHIBITS:	PAGE
1 - Witness Protocol for Interviews	3
2 - Document entitled GPM Interview on March 26, 2008	6
3 - Fax from B. Miller to R. Hochstein dated 12/17/97	69
4 - Fax from g. Peterson to R. Hochstein dated 1/12/97	72
5 - Memo from M. Pribula to J. Pirkel dated 10/14/98	76
6 - E-mail from P. Kivisto to A. Ottman dated 11/5/98	77
7 - Initial Inspection Report for: Fatigue Evaluation Bridge 9340 35W Over Mississippi River dated 6/9 through 6/13/03	79
8 - Comments on Executive Summary - Bridge 9340 study dated 8/13/06	80

us to provide a report of our investigation by
May 1, 2008. So I'm going to be asking you some
questions in connection with that.

The purpose of this interview is to
determine what you might know about matters that
we are investigating. During the time that our
investigation is active, the information that you
provide to us and that the other interviewees
provide to us is not public information, although
that information may no longer be confidential
once we submit our report to the Legislature.

You're required to answer my questions
today truthfully. As I'm certain you've
observed, we have a court reporter here today to
record our conversation. Either during this
interview or later in our investigation, we may
determine that we need to verify certain
information. If that happens, we may ask you for
a further recorded statement, a signed
affirmation or perhaps a statement under oath.

We view this as an ongoing dialogue.
This may or may not be the end of our meeting.
But if you think of anything after this interview
that you think is important for us to know, I
would invite you to call or e-mail me. Likewise,

Page 5

Page 7

1 we may be in contact with you for further
 2 follow-up if things come to light that we need to
 3 ask you about.
 4 A Okay. I did have a chance to -- I had an
 5 advanced copy of this, so I read it over.
 6 Q And did you have any questions about the process
 7 here today?
 8 A I don't think so. I believe I know your purpose
 9 and know kind of the point of where you're going
 10 with this.
 11 Q Now, one thing. If you haven't either given a
 12 deposition or a statement in this kind of
 13 circumstance, something that people sometimes
 14 find a little hard to get used to is we can't
 15 both talk at the same time. So I'll try to be
 16 really careful about not talking when you're
 17 talking --
 18 A Okay.
 19 Q -- and you'll have to try to remember to do the
 20 same.
 21 And now Ms. Forsland is getting you
 22 some water, so I think we'll just wait for a few
 23 minutes for her to return.
 24 A Okay.
 25 (Break taken.)

Page 6

Page 8

1 BY MR. MERZ:
 2 Q And, again, if you need a break at any time, just
 3 let me know.
 4 A Oh, okay.
 5 Q This isn't intended to be kind of an endurance
 6 contest for you.
 7 Can you just begin by telling me how
 8 long have you been at MnDOT?
 9 A And I did jot down a few notes. I started with
 10 MnDOT in September of 1959, which makes me
 11 probably one of the longest employees. I've been
 12 here longer than probably most.
 13 Q Now, you've got a sheet there. Is that something
 14 that you made for me or just for your own --
 15 A Actually, I made another copy.
 16 MR. OTTMAN: Did I give you that,
 17 Barb?
 18 MS. FORSLAND: No.
 19 MR. OTTMAN: Actually, you can take
 20 this one and use it just as you need it.
 21 BY MR. MERZ:
 22 Q Maybe we'll mark this as Exhibit 2.
 23 A You can just ask me the questions.
 24 (Ottman Exhibit 2 was marked for
 25 identification by the court reporter.)

1 BY MR. MERZ:
 2 Q And, Mr. Ottman, what we've marked here as
 3 Exhibit 2 is some notes that you put together, I
 4 take it, about your experience at MnDOT; is that
 5 right?
 6 A Yes.
 7 Q And that's very helpful and I appreciate that,
 8 because that will help kind of move things
 9 along. So maybe I'll just ask you some specific
 10 questions about what you've provided to me here.
 11 Bridge utilities coordinator, I take it
 12 that was the first job title you had when you
 13 started at MnDOT?
 14 A Actually, when I started at MnDOT I was kind of a
 15 walk-on. I didn't go through all of the
 16 processes of answering an announcement for an
 17 opening. I just wrote them a letter and I asked
 18 for a job. And they said come in for an
 19 interview.
 20 I was subsequently hired, and then I --
 21 when I came in on the day I was supposed to
 22 start, I guess nobody had told anyone in the
 23 bridge office that I was coming in, so they had
 24 to kind of find a place for me. And bridge
 25 utilities coordinator was just kind of making

1 sure that all these various utilities, telephone,
 2 water and other things, utilities that are placed
 3 can be carried on a bridge, kind of got in the
 4 right place. I didn't have that job very long.
 5 Q And so your next job started in 1960, and you
 6 were a member of the design squad; is that
 7 correct?
 8 A Yes. They did find a place for me. I went to
 9 the design squad. It was composed of, I suppose,
 10 about six people. There was a supervisor. There
 11 was engineers to do the design and there was
 12 drafters to draft these plan sheets.
 13 What we did, we designed -- produced
 14 the designs for new bridges. Design consists
 15 of -- it's kind of the end. Plan sheets, plan
 16 sheets that go out to a contractor. The
 17 contractor can take that and build a structure.
 18 We also reviewed final bridge plans by
 19 consultants. And there was quite a number of
 20 them coming in at that time because the freeway
 21 construction was really getting into full swing.
 22 Q And the 35W bridge was, I believe, constructed in
 23 1967; is that correct?
 24 A Yes.
 25 Q And so were you involved in the design of that

Page 9

Page 11

1 bridge in some way?

2 A I did not have anything to do with that bridge.

3 The bridge was designed by a consultant, Sverdrup

4 & Parcel, out of St. Louis, Missouri. The plans

5 came in. They were assigned to a different

6 design squad. I think at that time we had six

7 squads; subsequently we went to nine. So I did

8 not see anything on that bridge at that time. I

9 knew it was there, but I did not see any

10 details.

11 Q Do you know who would have been on the design

12 squad that those plans were assigned to?

13 A There's one name. I believe this is the person.

14 His name was Ludwig Bann. He's since retired,

15 and I have not heard from him since he retired.

16 I'm not sure he is still living. He could be.

17 Q Do you know how to spell Mr. Bann's last name?

18 A B-A-N-N.

19 Q When did he retire?

20 A Oh, boy. It had to have been over twenty years

21 ago.

22 Q Okay. Do you know where he was living, at least

23 last you knew?

24 A Well, he was living in Fridley last I knew.

25 Q Okay. He, I take it, is the only name that you

1 finished our review, we sent in our report back

2 in the form of a redlined sheet showing, you

3 should change this or that, or you didn't get

4 this right. And eventually it got into a form

5 that could go out for bids.

6 Q Now, this particular bridge was a design build

7 project; is that your understanding?

8 A Do you mean the 35W bridge?

9 Q Yes, yes.

10 A No. That was the standard design bid --

11 Q Okay.

12 A -- build. I don't think we got into design build

13 until just recently, maybe in the past 10,

14 15 years.

15 Q Okay. And so the process that you're describing,

16 if, you know, the regular process were followed,

17 those things would have been done on the 35W

18 bridge?

19 A I would think they would have been done. I don't

20 know the extent that they did.

21 Q I'm certain that you've seen media reports about

22 the gusset plates and whether they perhaps had

23 been underdesigned or perhaps whether, as the

24 bridge was constructed, the size of the plates

25 that were used were inadequate. Is that

Page 10

Page 12

1 can recall of the design squad that would have

2 been reviewing the plans for the 35W bridge?

3 A Yes. I recall his name because I heard him talk

4 about it. I may have seen the plans, but I did

5 not get into any review detail.

6 Q Do you recall anything that he said about the

7 plan?

8 A Not really, no.

9 Q It was, though, part of your job to review bridge

10 plans that had been prepared by consultants?

11 A Yes.

12 Q What did that review involve; what did you do?

13 A Well, we looked at the plans to make sure they

14 had -- they followed the preliminary plan, which

15 is just an abbreviated plan that essentially

16 tells how long the bridge has been to be, how

17 wide it is, how high it is, some other features,

18 giving information on foundations. That means

19 soil borings and other things like that.

20 We did do some review of the strength

21 of the bridge, the beams, some of the major

22 components. We checked -- We did get into

23 design. Going back that far is a little bit hard

24 to recall exactly what we did then.

25 And when that was finished, when we

1 something that you would have checked as part of

2 your plan review, the width of gusset plates to

3 determine whether they were adequately sized?

4 A It's possible. However, there's -- Now, this

5 being a truss bridge, which there aren't many of

6 those built anymore since then, there's the main

7 members, the ones that really are supposed to

8 carry the load. Gusset plates are connection

9 plates connecting all these pieces together.

10 They do carry stress, and it's possible that we

11 would have checked them.

12 With this particular job, I don't know

13 if they were checked. I know I read every report

14 that's been made public on this bridge, and I'm

15 quite familiar with it right now. So I can see

16 the differences, but I don't know if anyone

17 checked them. It could be possible. And this

18 was just kind of speculation on my part. Maybe

19 it was checked and maybe it turned out they were

20 okay.

21 Q There wasn't a regular practice, with respect to

22 gusset plates on steel truss bridges, we always

23 check them, we never check them; is that right?

24 A I don't think anyone -- anything was written

25 down.

Page 13

1 Q Okay. So how would you determine whether or not
2 something needed checking?
3 A Well, it would be a major stress carrying
4 member. I dealt mostly with bridges with beams.
5 And we would go through kind of an abbreviated
6 design check. The consultants had to send in all
7 their calculations so we could look at it, and we
8 had to make sure they had all the loads in
9 there. Then we could do a stress check. And I'd
10 like to add, the design was a lot simpler back
11 then than it is now.
12 Q How so?
13 A Well, the change in the design codes. Can I use
14 an example? The design code that all the states
15 use, prescribed to, it was called AASHTO. It's
16 an acronym for American Association of State
17 Highway Officials. It was a little hard-bound
18 book about that (indicating) thick, smaller than
19 normal.
20 Q Maybe less than an inch thick?
21 A Oh, it was about a half an inch thick.
22 Q Okay.
23 A Today we're using a design code. It's changed a
24 lot over the years. It's about, I'd say, five
25 inches thick.

Page 14

1 Q Was the design squad ever involved in looking at
2 a bridge to make sure that it had been built in a
3 manner consistent with what the plans said?
4 A No. The design squad was not required to go out
5 and look to see that it was built correctly.
6 Q Do you know whether anyone had that
7 responsibility?
8 A Oh, that was the responsibility of the
9 construction people. They're separate group, and
10 they are kind of a liaison between the office and
11 the field. They had what they called -- And I
12 think they may still have it. It's a group that
13 goes out and final out the bridge, makes sure
14 everything is done correctly. Then they can sign
15 off and, say, you're done, the contractor has
16 done it right.
17 Q And do you know who would have been part of the
18 construction group at the time the 35W bridge was
19 built? And if they are broken up into subgroups
20 the way the design squads were, if you know who
21 would have been responsible for the review of the
22 35W bridge.
23 A As far as finaling it out? That's quite awhile
24 ago to try to remember. I think there was a name
25 of Richard Levenson, who was one of those

Page 15

1 office-to-field liaison people. I'm sure he's
2 passed away. About everyone back then is
3 probably not around anymore.
4 Q We were kind of going through your work
5 experience and got a little bit sidetracked. You
6 worked as a member of the design squad from 1960
7 to July 1967 I see here; is that right?
8 A Yes, I was a member. I was one of the engineers.
9 Q And then in July you were promoted to supervisor;
10 is that correct?
11 A Yes, I was.
12 Q And how many folks did you supervise?
13 A I think there was at least five.
14 Q And those included both engineers and drafters?
15 A I think there was two engineers and probably
16 three drafters.
17 Q When you were -- Before you became a supervisor
18 when you were on the design squad, who was your
19 supervisor?
20 A His name was Tenner Tangen, T-E-N-N-E-R,
21 T-A-N-G-E-N.
22 Q And when you became supervisor of the design
23 squad, to whom did you report?
24 A Okay. I reported to a fellow named Al Holmboe.
25 He was the next step up.

Page 16

1 Q How do you spell Al's last name?
2 A H-O-L-M-B-O-E.
3 Q As supervisor did you continue to be responsible
4 for the same kind of design work or were you just
5 really strictly overseeing others who were doing
6 that work?
7 A Well, I oversaw the others, but I did a lot of
8 the work myself, because I had to do checking
9 and -- check their work. Sometimes the engineers
10 would check each other's work. I would generally
11 check the plans to make sure they were complete.
12 Q And I should have asked you this: As a member of
13 the design squad, you were one of the
14 engineers --
15 A Yes.
16 Q -- not one of the drafters?
17 A I was one of the engineers, yes.
18 Q You worked as a supervisor of the design squad
19 from July '67 to November '70, correct?
20 A To November of '70.
21 Q And then in November of '70 you became a bridge
22 estimates engineer; is that right?
23 A Yes.
24 Q And what was that job?
25 A I would produce all of the engineers' estimates,

Page 17

1 the official engineers' estimates that are
 2 compared against the contractors' bids to see if
 3 they were in line with what we thought a project
 4 should cost. And, of course, some of the bids
 5 may be under, some may be over the estimate. If
 6 they were over the estimate by a certain margin,
 7 there may have to have been justification or we
 8 could recommend rejection and rebidding.

9 I also did some estimating for the
 10 preliminary plans so they could get an idea, kind
 11 of a start.

12 Q Okay. Is there a way to just kind of generally
 13 describe what that estimating work involved, what
 14 you would do?

15 A Okay. If I could go to the final estimates, we
 16 have a list of work, we put it under pay items.
 17 We have -- That's kind of a standard
 18 description. We have an item number, a
 19 description, the quantity, unit, maybe the amount
 20 of, say, steel concrete or something. And we'd
 21 have to put a price on that. The price would
 22 come from experience on previous jobs, sometimes
 23 just a general feeling about what something
 24 should cost. It was kind of a comparison with
 25 what was being done at that time.

Page 18

1 Q Who did you report to as bridge estimates
 2 engineer?

3 A Let's see, at that time I reported to a Mr. -- It
 4 was George Evans, but he retired. He's since
 5 passed away. The next person, I believe, was --
 6 I don't know. There was a Mr. Clarence
 7 Christopherson in there somewhere, and I don't
 8 know if it was -- he was during that time I was
 9 estimates engineer or not.

10 Q Did you have positions that reported to you?

11 A I did have. I was supervising a group. They
 12 were all technicians. They would do some of the
 13 leg work on the estimating. They put prices in,
 14 and I would check and see if they looked
 15 reasonable.

16 Q Your next position you took in June of 1975,
 17 correct?

18 A 1975, yes. I was promoted to the state aid
 19 bridge engineer. There was a promotion in there
 20 somewhere; it might have been this. And it was
 21 up -- kind of on the same level as I'm at now,
 22 although the title was a little different.

23 Q What did that job involve?

24 A That involved reviewing plans for bridges on the
 25 secondary roads. That means counties, cities,

Page 19

1 townships, anything that received state aid
 2 funding that came through MndOT.

3 I could also add that it involved both
 4 the preliminary plan that they had to send in,
 5 the small one, and then the final detailed plan
 6 afterwards.

7 Q And you held that job until August of 1987,
 8 correct?

9 A Until 1987, yes.

10 Q And that's when you became a bridge design unit
 11 leader, correct?

12 A Yes.

13 Q What does that job involve?

14 A That involved -- It's some of the same thing that
 15 I described as being a squad leader. It's just
 16 set up as a -- heading up a group of people.
 17 It's a design group. It consists of engineers
 18 and drafters.

19 Q Who do you report to currently?

20 A Currently I report to Kevin Western,
 21 W-E-S-T-E-R-E-N (sic).

22 Q How many design -- bridge design unit leaders
 23 report to Mr. Western?

24 A There were a total of six, but we've kind of
 25 reduced it in size. Now there is five, five

Page 20

1 active design units.

2 I would like to back up on that who I
 3 report to. Since Kevin Western was on a mobility
 4 to the construction of the new 35W bridge and
 5 he's just coming back in, a person named Mangula
 6 Louis was appointed to fill in for him at that
 7 time and handle all the office.

8 Q How do you spell Mangula?

9 A Mangula is spelled M-A-N-G-U-L-A; Louis is
 10 L-O-U-I-S.

11 Q So Kevin has now come back; is that correct?

12 A He's sort of part-time coming back. He still has
 13 to be out there at the site sometimes, but I
 14 think he's -- his engineering part is kind of
 15 getting wrapped up now.

16 Q Now, you mentioned that you used to have six
 17 design units and it has been reduced to five now?

18 A Yes. It's sort of downsized, I think, due to the
 19 personnel available and maybe the work load at
 20 that time.

21 Q When was it reduced?

22 A Oh, I'd say within the past three years. It
 23 wasn't a complete reduction, but there was one
 24 person left in there; and he was the design
 25 leader at that time, but now he had to fill a

Page 21

Page 23

1 position to fill in behind the mobility
2 assignment.
3 Q You've mentioned mobility assignment a couple
4 times. Is that just like a temporary assignment?
5 A That's a temporary assignment to another job, and
6 it could last between a month to a year or more.
7 Q Has the reduction in the number of bridge design
8 units had the effect of increasing your work
9 load?
10 A I don't think so, at least not until the present
11 time. The assignments are made kind of on a
12 basis of who has the ability, you know, or the
13 time to do this particular job. The jobs vary so
14 much in the amount of work to be done that --
15 Kevin was doing the assigning until recently,
16 then Mangula was doing it. But it's based on how
17 much the job involved and what the backlog of the
18 certain unit was.
19 Q There's not been, at least so far as you've
20 noticed, an increase in the backlog of work as a
21 result of reducing the number of design teams?
22 A Not until recently, but now we've got into some
23 other things we normally don't do. They're
24 asking us to review inspection reports, because I
25 think these inspection reports have to be

Page 22

1 completed by June. And this review, we didn't do
2 it before, but for some reason they want the
3 engineers to look at them to -- just to see if
4 we've got things right. There's still kind of
5 a -- We're still discussing the ways to do that.
6 We did recently review some inspection reports
7 for one done by consultant firms. That's just
8 because so many came in at one time, because we
9 had to go back and inspect everything.
10 Q This was after --
11 A After August 1st. So they had to hire outside
12 help. And we were asked to look at these reports
13 to see if they looked factual or they looked
14 right. So I did review about ten of them, I
15 think, already done by a consulting firm.
16 Q And what are you looking for; what have you been
17 asked to look for?
18 A Well, to see if they got the -- things are in a
19 standard format. See if they got this summary
20 right. They call it executive summary. That it
21 seems factual, it's easy to understand, it's
22 clear. They give us the notes, and they have to
23 take several photographs and we look at those.
24 See if they looked at everything and put down
25 something that kind of stood out that maybe they

1 thought might be a defect or deterioration. A
2 number of these bridges are quite old.
3 Q Did you or the design teams begin reviewing these
4 reports after the 35W bridge collapsed?
5 A Oh, yes. We started reviewing those about after
6 the 1st of January of this year.
7 Q Did those reports include reports for fracture
8 critical and non-fracture critical bridges?
9 A Yes. All the ones were for fracture critical.
10 The ones I had reviewed were fracture critical.
11 Q Did you, in the reports that you reviewed,
12 identify any issues or concerns?
13 A Well, I thought maybe there was things they said
14 that they thought was -- might be something
15 critical that maybe I didn't think it was, and
16 other things I thought maybe they should take a
17 little more -- better look at. But the thing is,
18 we normally didn't do that. That was one -- The
19 group of engineers in the bridge office had never
20 really gone over inspection reports before.
21 There was recommendations made in there, and we
22 weren't sure if the inspectors should be making
23 the recommendations or that should be some other
24 person that's more experienced at that.
25 Q Did you get any sort of training or instruction

Page 24

1 about what you were supposed to be doing when you
2 reviewed these inspection reports?
3 A Well, not at first, but that came a little
4 later. We had a morning session that was led by
5 Mr. Duane Hill. He's an engineer with MnDOT in
6 District 1. That's headquartered in Duluth. And
7 he was put in charge of coordinating all of these
8 inspection reports.
9 Q Other than that morning session, did you have any
10 other training about what you were supposed to be
11 looking for in reviewing these inspection
12 reports?
13 A No. I think that was the only thing. We finally
14 got into the idea of what we were supposed to be
15 doing and supposed to be covering. And then we'd
16 send the report back to Mr. Hill. There would be
17 two of us to review it, and then he would get our
18 comments and put it together in kind of the same
19 language and send it back to the consultant. In
20 this case it was Parsons, Brinkerhoff
21 (phonetic) -- or they called themselves PB
22 Americas now. I think that's a new title, a new
23 name for the firm.
24 Q Are you a certified bridge inspector?
25 A No.

Page 25

Page 27

1 Q Have you ever participated in a bridge
2 inspection?

3 A Actually, I've not participated in any actual
4 inspection. There was a couple of times I went
5 out and kind of looked at the bridge to see what
6 it looked like, and one of those was the 35W
7 bridge. I was riding in the snooper and they
8 showed us various things underneath. I think
9 when we get down in this list a little bit
10 further, I can list my 9340 involvement.

11 Q And that's right there at the bottom of the page?

12 A Uh-huh.

13 Q Thanks for pointing that out. And we will come
14 to that.

15 A Okay.

16 Q For how long has Mr. Western been your
17 supervisor?

18 A Oh, when did he get that? I'm not sure. I think
19 he was before we left Water's Edge, and we moved
20 from there to Oakdale in the year of 2000, August
21 of 2000.

22 Q So he's been your supervisor at least since
23 August of 2000; is that right?

24 A Yes. I think the previous supervisor was -- I
25 think Gary Peterson probably was. I know Dan

1 they're doing.

2 Q So how do you do that?

3 A Well, we could get a plan from another state, we
4 could get a written report of something.

5 One specific one I can recall, and it's
6 kind of simple, but we were doing what we call
7 integral abutment bridges. It means that the
8 abutment and everything is cast solid with the
9 beams on a bridge. There's no flexing or
10 anything. It simplifies the details and cuts the
11 cost down, but there's certain considerations we
12 have to do. There's different ways to detail it,
13 and different states have different ideas on how
14 it should be done. We got some plans from the
15 state of South Dakota that does a lot of that.

16 Q You may have seen some reports in the news media
17 about a bridge in Ohio that had a gusset plate
18 failure. Do you recall seeing some stuff --

19 A I recall seeing that. That's the first time I'd
20 heard about it.

21 Q So it's not something that you were aware of --

22 A No.

23 Q -- having happened at the time?

24 A No. I didn't know anything about it until that
25 time.

Page 26

Page 28

1 Dorgan, I think, held that same position at one
2 time.

3 Q What is the position?

4 A Bridge design engineer.

5 Q Just to jump back a second to your review of
6 inspection reports, did any of those reports
7 include the inspection of the St. Cloud bridge
8 that was recently closed?

9 A You know, I never saw that one.

10 Q Do you know anything about the circumstances
11 surrounding the closure of that bridge?

12 A The St. Cloud bridge? No. In fact, I just heard
13 about it, I believe it was, last week, when it
14 first came out that -- They said it was the
15 DeSoto bridge, and I didn't even know where it
16 was at. But then when they said it was the
17 Highway 23 bridge, then I could place it.

18 Q You list here the training courses that you've
19 taken. Do you, either as part of these courses
20 or in some other way, make an effort to find out
21 what's going on in other states?

22 A Well, I do get a chance to see what they're doing
23 in other states, mainly with my work if I'm
24 looking at details. I like to see how some
25 others do it. Maybe I can improve on what

1 Q Next on the sheet that you provided me you've got
2 a list of meetings conducted as part of the --
3 part of your position, I take it; is that right?

4 A Okay. I think this conducted might not be
5 exactly right, because I put down section
6 meetings with the supervisor, Kevin Western or,
7 currently, Mangula Louis. Those are
8 participatory meetings and I didn't conduct
9 those.

10 But with my design unit and all those
11 people, every four weeks, on the day we turn in
12 our time sheet, we get together for about an hour
13 and just make it kind of informal. I go over our
14 work status at the time and we discuss maybe how
15 we're going to get a job done. And then we kind
16 of open it up to a round-robin session, and
17 someone can bring up any topic they want to talk
18 about. These meetings were recommended by a
19 supervisor -- I think it was probably before
20 Kevin, but maybe Kevin did -- that I should do
21 this. So I wasn't actually holding these
22 meetings at the time, but I found out it's a good
23 thing. It keeps the lines of communication open.

24 Q So how long have you been holding these meetings?

25 A Oh, boy, that was back in about mid- -- I'd say

Page 29

Page 31

1 about 1995.

2 Q Do you know whether the other design units have
3 similar meetings?

4 A I think they do, yeah. I don't know if all of
5 them do, but I see they're sometimes on the
6 calendar.

7 Q Do you have any vacancies currently in your
8 design unit?

9 A Not anymore. I just filled an open vacancy on
10 Monday.

11 Q How long had that position been vacant?

12 A Okay. That had been vacant since about July of
13 2007. We had a person retire out of that
14 position -- out of that unit. One of the other
15 engineers was reassigned to fill in behind, a
16 mobility assignment, so I got two people to fill
17 that -- fill those positions. One was just a new
18 engineer coming in off of grant engineer status.
19 At the time he wasn't licensed, but he is now.
20 He has taken the PE exam.

21 The other person was there for a couple
22 of months, and then he was reassigned to work on
23 the new 35W project, so that left an open
24 position. I needed an experienced engineer that
25 knew the codes and was familiar with going

Page 30

1 through these complicated design calculations,
2 and we just hired someone from out of the
3 department, came from consulting.

4 Q Do you know whether any of the other design teams
5 have vacancies?

6 A I think one other position was filled with an
7 engineer, a similar position, on Monday. And as
8 far as I know, I think all the positions are
9 filled.

10 Q Okay. The position on the other team that was
11 filled on Monday, do you know how long that
12 position had been open?

13 A That one I don't know. I know they had two
14 engineers in the unit, but one was kind of an
15 inexperienced engineer and they wanted someone
16 with more experience.

17 Q Just to jump back to the original construction of
18 the bridge, I've heard this bridge described as
19 an obsolete bridge. Would you agree with that
20 description?

21 A If I want to call it obsolete, it's probably
22 obsolete with MnDOT because it's a truss bridge.
23 You've heard the term nonredundancy several
24 times. They don't build those kind anymore. The
25 last truss bridge that I recall being built was

1 across the Mississippi down at Wabasha, down
2 Wabasha. And no truss bridges, that I know of,
3 have been built since. I think I'm pretty up to
4 date on what kind of bridges have been built,
5 that MnDOT is building.

6 Q Did the nature of the 35W bridge, because it was
7 a truss bridge with certain nonredundant
8 features, require MnDOT to treat that bridge any
9 differently with respect to inspection or
10 maintenance or repair?

11 A Well, I think it got a lot of attention. I know
12 there was the regular inspections, and then there
13 was the recent study conducted by URS on it. Don
14 Flemming, he was kind of concerned that -- See,
15 Don Flemming was the predecessor to Dan Dorgan as
16 state bridge engineer. Even when he was in that
17 position of state bridge engineer, he was
18 concerned about some welding details on the
19 bridge that might cause what we call fatigue
20 cracks. Fatigue is, you know, stressing and
21 unstressing of a member -- metal repeatedly until
22 finally it just gives way. We had some details
23 caused from welding that he was concerned about
24 might cause cracking there. But those were not
25 on the gusset plates. Those were on the main

Page 32

1 members. That's what the focus of that study
2 was.

3 Q You're talking now about the URS study?

4 A The URS study, yes.

5 Q I'm kind of skipping around here a little bit,
6 but going back up to your meetings, the section
7 meetings with the supervisor, you participate in
8 those meetings. Are those a regular meeting
9 that's held?

10 A Well, it is kind of supposed to be regular
11 meetings, but it probably doesn't come off any
12 more than probably about every two months. Kevin
13 is pretty busy and he has to fit these meetings
14 in whenever he can.

15 Q What goes on at those section meetings?

16 A Oh, he goes over how our status of all of our
17 assignments is doing. We have target dates, so
18 letting date, when the contractors turn in their
19 bids, we work back from that and try to stay on
20 track so we complete our jobs. We like to turn
21 them in and have them completed about 12 weeks
22 prior to the letting date. That's kind of a
23 target date for us.

24 And then we have other assignments. He
25 asks us if we think we can, you know, handle

Page 33

Page 35

1 that, get that work done. And then he says,
 2 well, should we maybe give it to a consultant,
 3 because then -- it's kind of an overload for us.
 4 Q The work is assigned to the various design teams
 5 on a kind of ad hoc basis; there's not any sort
 6 of geographic area of responsibility or the like?
 7 A No, because all of our design teams are doing the
 8 same thing.
 9 Q Who makes the decision about whether design work
 10 is going to be assigned to a consultant as
 11 opposed to doing it in-house here at MnDOT?
 12 A That's kind of in the -- It could be, like I
 13 mentioned, the overflow or it might be a special
 14 large project.
 15 Just an example, the St. Croix crossing
 16 at Stillwater, that would be something that we
 17 probably don't have the expertise to do, nor the
 18 time, nor the personnel to handle.
 19 Q At the section -- Let me back up a second. Who
 20 attends the section meeting?
 21 A That's all of the people that Kevin Western would
 22 supervise. It would be design leaders, and then
 23 he's got a couple of other people. I think he's
 24 over the state aid unit now. He might supervise
 25 the consultant liaison person, although I'm not

Page 34

Page 36

1 sure. I know you have an interview with him and
 2 he'll give you more. The better answer is more
 3 actual ones; I'm just trying to recall.
 4 Q Sure. How long do those meetings typically last?
 5 A Oh, they've lasted up to two to two-and-a-half
 6 hours, depending on how much talking done.
 7 Q Are there ever technical issues that are
 8 discussed?
 9 A There could be. He could bring up something
 10 about a technical issue. He usually puts
 11 together an agenda and then asks us if we want to
 12 add anything to it. And that could vary on any
 13 subject that would be within his realm of
 14 responsibility.
 15 Q You also mentioned kick-off meetings with
 16 consultants. Tell me about those meetings.
 17 A Okay. When a bridge is assigned to -- maybe a
 18 consultant is hired to do work on a bridge plan,
 19 at the same time one of the design groups is
 20 assigned to review it. In the case of a
 21 consultant plan, I would be assigned as a project
 22 manager for that. And subsequently they would be
 23 sending in their work at various stages and I
 24 would review it, make sure they're on the right
 25 track. And then we have to review it to make

1 sure the bridge is going to be strong enough and
 2 it's going to fit well. We have kind of a
 3 checklist now that we -- Some things we should
 4 look at closely, some things we make kind of a
 5 cursory look at to see if it looks right, and
 6 then some things we just decide it would take too
 7 much time and we probably won't look at.
 8 Q When was that checklist implemented?
 9 A Pardon?
 10 Q The checklist, when was that implemented?
 11 A Oh, that was within the past, I think, five
 12 years. I guess I didn't list it down here, but I
 13 was -- Oh, yes. Under consultant plan review
 14 committee, I was chairing that committee to come
 15 up with this checklist. And I don't have a copy
 16 of it with me, but if you'd like one, I could
 17 always e-mail it to you.
 18 Q Okay. I think I would like -- And, actually, I
 19 probably should direct my requests through
 20 Ms. Forsland.
 21 MR. MERZ: So we would like a copy of
 22 that.
 23 MS. FORSLAND: I'd be happy to provide
 24 that.
 25 BY MR. MERZ:

1 Q Let's talk about these task forces and committees
 2 that you've worked on. You mentioned the
 3 consultant plan review committee. And the work
 4 of that committee was to produce this checklist;
 5 is that right?
 6 A Yes. Because we had had other, oh, procedures
 7 for reviewing consultant plans. This was kind of
 8 to bring it up to date and to write it down so
 9 everybody who was reviewing these plans could
 10 review the same thing.
 11 Q Then there's something called the consultant
 12 prequalifications committee. What's that?
 13 A Yes. Consultants now have to be prequalified to
 14 do any work for MnDOT. They have to be under
 15 certain rules or certain levels of the complexity
 16 of a bridge. A short, straight, square bridge
 17 might be the lower level; the upper level might
 18 be something like the segmental box girder that
 19 is being constructed over 35W now. That would be
 20 a complex job. And then there's others in
 21 between. So we categorize it into different
 22 levels.
 23 And then we look at this firm to see --
 24 look at their past experience, if they had done
 25 this before, or maybe they were a small firm and

Page 37

Page 39

1 only did small bridges.

2 Q So was it the case that this committee was
3 determining whether a consultant was or wasn't
4 qualified for a particular job?

5 A Not particular job, but for any job that may come
6 up.

7 Q Okay.

8 A And this isn't just confined to the bridge
9 office, because it's any consultant that now does
10 any kind of work for MnDOT, but I was only
11 involved in just the bridge part.

12 Q So I'm still just a little unclear, I guess, on
13 what this committee was doing.

14 A Okay. They would -- The consultants would ask to
15 be qualified. They'd send in a letter. They'd
16 have to provide a certain amount of information
17 on their firm. They'd have to state how many
18 personnel they had, what kind of jobs they had
19 done before. They have to have an office in the
20 state, a physical office, and it has to be
21 staffed by certain people. It has to have
22 engineers, qualified people. They have to have a
23 -- state what computerized -- what software
24 they're using for designing bridges, because we
25 all use -- it's computerized now. They have to

1 A The concrete anchorages is a piece of metal,
2 whether it's a reinforcement bar or bolt that is
3 somehow anchored into concrete by a strong
4 adhesive or maybe a less strong grout or
5 something. Some of these anchorages don't have
6 much tension on; some may have a lot of tension.

7 This was a -- We needed to straighten
8 out our specification on that. We have -- I
9 might come down here. Special provisions, I
10 don't know if you've heard about that yet, but I
11 can explain what --

12 Q Sure.

13 A -- special provision is. Well, MnDOT, for their
14 construction, goes by a printed spec book,
15 specifications. Standard specifications, it's
16 called MnDOT's standard specifications and it's
17 published about every five years. It's a hard
18 cover book. It's more of a general situation.
19 We can't have -- Specifications don't cover
20 everything. So we have these special provisions,
21 which are a supplement to the -- our spec book.
22 They are sometimes boilerplate because they're
23 used over and over again. They can be changed,
24 as necessary, and I do that. Or if there isn't
25 any boilerplate, it has to be all put together

Page 38

Page 40

1 do -- They have to have the CAD drafting
2 abilities. They have to have a quality
3 control-quality assurance plan written down.
4 They have to provide us with examples of their
5 work, even showing what personnel did what on
6 it. They have to show who signed off on the
7 plan.

8 And then we review it and see -- And
9 then, oh, pardon me. I have to back up. They
10 have to state what level they want to be
11 qualified for.

12 Q Okay.

13 A Some say, well, I'll just take level one because
14 that's all we really do; some say they're
15 qualified all the way up. And we look at it, and
16 numerous times we told them they're not qualified
17 for that kind of work.

18 There was a total of -- Let's see, I
19 think there was three of us on the committee.
20 We're familiar with plans and have been --
21 Because I've been around here quite awhile, I've
22 seen a lot of bridge plans.

23 Q You also have listed here the task force on
24 specifications for concrete anchorages. What's
25 that?

1 from scratch. I've done a lot these special
2 provisions and written the package that -- it
3 becomes a contract document, part of the contract
4 documents. And it has to be signed off,
5 certified that I -- under our standard
6 certification language.

7 Q You also talk here about the NCHRP panel for
8 performance testing of modular bridge joint
9 systems?

10 A Yes. NCHRP stands for National Cooperative
11 Highway Research Program, I believe. This was a
12 certain joint -- It's an expansion joint in a
13 bridge. It's waterproof and it has to take a lot
14 of movement. These things can become quite
15 complex. But they're right there where -- that's
16 where the wheels always hit every time, and it
17 gets quite an impact on it.

18 And some of the earlier ones, they were
19 kind of breaking or failing or cracking. And
20 they wanted to -- this was a test to -- under
21 simulated conditions to see what could be done to
22 prevent this maybe premature failures. I should
23 say if one failed, it wasn't a catastrophic
24 failure, but they wanted them to last longer.

25 So this was a -- It was a research

Page 41

1 project. I think it was actually initiated by
2 MnDOT. And the NCHRP -- It goes down to
3 Washington, we get a lot of these requests, and
4 they select some of things they think would be
5 helpful.

6 Then they get -- Then that is gone out
7 to a contractor, who will do the actual physical
8 test. And it's kind of bid on by how much --
9 They have to have qualifications. Have they had
10 experience doing this before, how much money
11 they're going to spend, because they're allocated
12 an amount. And then they're told they can begin
13 work.

14 This panel consisted of, I think, five
15 people plus a facilitator. I was one of them,
16 and then there was others from other states. And
17 we met in Washington, DC, and we would go over --
18 we would develop language for getting this
19 started. And then we'd have interim reviews of
20 it and, ultimately, the final report and decide,
21 have we got everything there, does it look right,
22 can it go out for publication.

23 This report actually -- This testing
24 was actually done by -- at the University of
25 Minnesota, this project, by Professor Robert

Page 42

1 Dexter. And he is deceased also. It's published
2 in a report, Number 467, issued in 2002.

3 Q I want to go back and follow up on something that
4 you were telling me relating to your review of
5 the inspection reports, which you've been doing
6 recently.

7 A Uh-huh.

8 Q I recall you saying something like -- and I want
9 you to correct me if I've got this wrong, that
10 there was some, I don't know, concern or question
11 about whether the inspectors should be making
12 recommendations. Did I hear you right?

13 A Yes, you did. That's kind of a controversial
14 point and it's just come up in the recent months,
15 after we started reviewing it. Some thought
16 maybe the inspectors should just tell us what
17 they saw out there, just observe and tell us what
18 they saw, and then the recommendations should be
19 made by someone qualified to do that. We don't
20 know if the inspectors -- I know they probably
21 have ideas and say, this looks like it should be
22 fixed right away; someone else says, no, that's
23 not important, we can wait a little bit to fix
24 it.

25 These reports I reviewed were done by a

Page 43

1 consultant, and we brought that up at the meeting
2 with Mr. Hill. He said that -- He mentioned that
3 to PB, PB Americas, but the spokesperson said
4 that they may be under a lot of responsibility
5 for this and to kind of cut down their -- What's
6 the word I'm trying to -- I think liability for
7 it, they were going to put these recommendations
8 out anyways. That's still kind of an ongoing
9 thing, as to who should do the recommending.

10 Q And is there a similar concern when MnDOT
11 employees are the ones doing the inspection?

12 For example, metro bridge has an
13 inspection unit and they go out, and they've seen
14 inspection reports and they make
15 recommendations. Would you have the same kind of
16 concern?

17 A Well, I think our inspectors have been doing this
18 for quite awhile and I think they're quite
19 experienced at it. I don't know. I think some
20 of the consultants may have experienced
21 inspectors because they have been hired before;
22 it isn't just a recent thing. And then there may
23 be some people who are inspecting who are just --
24 haven't really done it before. So we have a
25 concern about that, but...

Page 44

1 Q What qualifications do you think someone would
2 have to have to be able to reliably make
3 recommendations about repair or maintenance on a
4 bridge?

5 A Well, I think they have to know what they're
6 supposed to look for. We have -- There's kind of
7 routine inspections, where they don't get up
8 close to it. The fracture critical ones have to
9 be inspected, I believe it's within two feet or
10 an arm's length. They have to get up where they
11 can see it.

12 Q And so the way this issue was resolved, as I
13 understand it, is there was a discussion with PB
14 Americas and PB Americas said, well, we're going
15 to do it anyway because we think it might limit
16 our liability down the road; is that a fair --

17 A That's a fair assessment.

18 Q Let's now talk about what you have at the bottom
19 of the sheet that you provided to me, your
20 involvement in the 35W bridge. That's the 9340
21 bridge, correct?

22 A Yes. I knew you'd probably be interested in
23 that, so I wrote down as much as I could.

24 Q Okay. I'm just going to walk through this. So
25 on November 1, 1996, you say that you were

Page 45

1 assigned to develop plans and special provisions
2 for median replacement, rail reconstruction and
3 repair of other portions of the bridge. Tell me
4 what that work involved.

5 A That was actually the first time I had actually
6 gotten into any work on this bridge. I think you
7 know that there was another job prior to that; it
8 will probably come up in some of your interviews,
9 but I didn't have anything to do with that. This
10 was the first real assignment to get into it.

11 This median replacement was a low
12 island-type median. It had a guardrail attached
13 to the top of it. Since then guardrails have
14 been replaced by solid concrete barriers. It
15 also had a joint down the middle where water and
16 salt could go in and subsequently corrode the
17 steel underneath. And then the concrete was
18 deteriorating because it was being attacked by
19 the salt or -- that was put on the roads.

20 So what we did was just cut out a piece
21 down the middle of the bridge, cut it on the
22 right place, and build it back with solid
23 concrete barriers, and then we put a concrete
24 cap. Because there was a gap between the
25 barriers of about a foot wide. We put a cap over

Page 46

1 the top because that would keep water and
2 everything off the steel that was underneath.

3 Let's see, I had railing
4 reconstruction. The railing on the outside was a
5 steel railing, and then we just built a concrete
6 wall in front of it, which was considered safer.

7 Repair of other portions of the bridge,
8 there was some cracking in the deck. Water had
9 come in. All we did was fill those up with
10 epoxy.

11 Q Did you look -- I'm just going to stop you
12 there. Did you look at all at what was causing
13 those cracks or was it just sort of a normal wear
14 and tear?

15 A Kind of a normal thing. Concrete will crack
16 because when it tears, the moisture goes out of
17 and that leaves a void in there. And, also, just
18 the wear and tear on it can kind of cause it to
19 deteriorate.

20 I want to mention one other thing, one
21 repair we did. At each end of the truss, there
22 was an open joint called a finger joint. Those
23 were common back in, oh, the sixties, where you
24 fit together like that (indicating).

25 Q Like fingers.

Page 47

1 A Like fingers. And traffic could go over it
2 easily and there was hardly any bump; but the
3 thing is, it was open and water could come down
4 through the joint. Apparently before that they
5 weren't -- maybe there wasn't as much salt used
6 on the roads and they weren't aware of all the
7 ultimate effects this water could have on the
8 steel, because that would attack steel and result
9 in having corrosion to varying degrees.

10 Underneath those joints were some
11 troughs, metal troughs that would carry the water
12 that would come through there over to a piping
13 system and down. I think it ultimately ended up
14 in the river. Because dirt could also go through
15 those joints, it would fill the troughs up with
16 mud and dirt and it hardened like concrete. It
17 became ineffective and the water was just flowing
18 over the edges and down on the steel underneath.

19 Well, at the time, and it was just kind
20 of a temporary fix, we probably could have
21 replaced those joints. It would have been --
22 It's very expensive. These modular joints are
23 quite an expensive thing. But what we did was
24 take all those troughs out of there, put some
25 curtains in there, waterproof curtains on each

Page 48

1 side of this joint that would direct the water
2 downward, but it would protect the steel behind
3 them. And all that steel there, all the rust was
4 sandblasted off of it and repainted, so repainted
5 from one end of the bridge -- one side of the
6 bridge to the other. That, I think, pretty much
7 sums up what that project was about. It was an
8 extensive project because the bridge was fairly
9 large.

10 Q Who were you working with; what other MnDOT
11 people were involved?

12 A Okay. I was working with the construction
13 people, liaison people. There's three in that
14 group. One handles the metro area, one handles
15 the northern part of the state, and another one
16 the southern part of the state. The metro area
17 seems to have the most work. I would discuss
18 things between them and see if I was getting
19 things right, if this is going to work.

20 Repair jobs aren't -- they're
21 different. You don't -- It isn't really a
22 routine. Some of the details we use could be
23 routine, but you kind of have to work each repair
24 job out and see which is the best way to do it.

25 Q And who were the construction liaison people that

Page 49

Page 51

1 you were working with, if you recall?

2 A I think at the time it was Mr. Paul Rowekamp, but

3 he has been -- he is not in that position right

4 now. The current one that handles that is

5 Mr. Paul Kivisto.

6 Q Do you know how to spell Mr. Rowekamp's last

7 name?

8 A R-O-W-E-K-A-M-P.

9 Q Rowekamp, okay. Who else were you working with

10 on the '96 project?

11 A Well, I was working with my supervisor at the

12 time. I don't recall if it was Kevin Western or

13 his predecessor. And then, of course, we had all

14 of our -- we had our drafting personnel and

15 design personnel. I think all the records we

16 have with this bridge are open if anybody wants

17 to view them.

18 Q Was there any work done as part of the '96

19 project to look at how the repairs or

20 modifications might affect the stresses on the

21 bridge or the way stress is loaded on the bridge?

22 A I don't think we did that. I don't think we got

23 down and -- No, I'm sure we didn't check anything

24 on the truss. There was some additional weight

25 put on it, but I didn't think it was that

1 example, if something is rusted away, then they

2 may lower that bridge rating. And when it gets

3 too low, then the bridge will be posted for

4 maximum loading.

5 Q Are these the NBIS ratings, the zero through nine

6 or one through nine ratings, or are they

7 something else?

8 A Those are inspection ratings. The load rating is

9 done by -- that's a different group. We've got a

10 whole -- We've got a person in charge of that in

11 our office.

12 Q I think I've heard that name, but can you remind

13 me who that is?

14 A The one in charge right now is Lowell Johnson,

15 and I think he's scheduled for this afternoon.

16 Q Yeah, that's right. Obviously when you were

17 doing the design work for the '96 project, you

18 must have been looking at the condition of the

19 bridge as it was in '96?

20 A I did look at some things. There was some

21 details. I believe that was part of the '96

22 project. I don't know if you've looked at the

23 bridge to see how it was configured. There was

24 the truss spans, and then there was the spans on

25 the end that consisted of multiple beam spans.

Page 50

Page 52

1 significant. We had to do some design work on

2 this median and this railing to make sure that

3 withstood the loads, you know, specified loads

4 that it was supposed to take.

5 We were taking some concrete off and we

6 were putting some back on. Apparently there was

7 some additional weight put on. But bridges are

8 designed to carry more than just their

9 self-weight, of course; they have to carry their

10 traffic loads and other loads applied. Wind is a

11 big factor and some other things.

12 When I did this one, no, I did not get

13 into any part of the truss. Now, I don't know if

14 someone else may have, but I'm not sure who did

15 that, and I don't think I'll even speculate as to

16 who might have checked that out. It may come out

17 later in your subsequent interviews.

18 Q You don't know of anyone else that did?

19 A I don't know of anyone else who checked. We've

20 got what we call bridge ratings. That's kind of

21 a number that can be compared with other numbers

22 to indicate how much live load capacity a bridge

23 has, and the ratings are -- There's a number that

24 comes out when the bridge is new. And then if

25 inspection reports may indicate that -- Well, for

1 Q Yes.

2 A The connection in there, there was one bearing,

3 and this bearing was a rotating pin. And steel

4 on steel eventually rusts up and doesn't slide

5 well. There was -- It was causing some cracking

6 not on the truss spans, but in the connection to

7 the -- these approach spans.

8 And we had to put some bracing on there

9 because just pushing and pulling on this stiff

10 bearing was causing -- stressing the beam.

11 Theoretically it shouldn't have really caused

12 anything.

13 This particular bridge, just in looking

14 at it, there was some details on it I didn't

15 really like. It made it hard to maintain, hard

16 to repair.

17 Q You've talked about this bearing that perhaps

18 wasn't working the way it should have. What

19 other details on the bridge do you believe made

20 it hard to maintain?

21 A Well, a lot of it was in the bearings, the

22 movement, where the bridge had to move. There

23 was kind of a similar detail, but it was even a

24 worse one on the other end, but that had been

25 braced a few years before that.

Page 53

Page 55

1 I think inspecting it -- It's just
 2 because it was a truss and made up of so many
 3 pieces that -- There's so much to look at, you
 4 know, to inspect.
 5 Q Let's talk now about the next entry you have
 6 here, March 2nd of 1998. Describe what you did
 7 relative to that work.
 8 A Okay. The first one was painting. The
 9 maintenance people that was in metro decided that
 10 the bridge should be painted, all the steel
 11 should be painted on that. That was the truss
 12 spans.
 13 And at first I thought they were going
 14 to paint the whole thing, so I went through this
 15 bridge piece by piece, shop drawings, design
 16 drawings and calculated all the area that had to
 17 be painted. And then they said, oh, no, we're
 18 just going to paint the middle part of it, middle
 19 half, middle third, I think. So I reduced my
 20 quantities down to that.
 21 So that gave me quite a bit of
 22 familiarity with all the different plates and
 23 things that were put together. And subsequently
 24 it was painted, just that part. That was the
 25 part that was mostly susceptible to attack by

1 A Yes.
 2 Q -- some of the truss members; is that right?
 3 A Yes.
 4 Q What do you know about that? And maybe that's
 5 what you know.
 6 A Removing them? They were easy to remove. They
 7 just had to loosen a couple bolts and slip it to
 8 one side and it would come out, and then they
 9 could look inside.
 10 Q And then go on with what you were telling me
 11 about the March 1998 work?
 12 A Lowering these diaphragms, that's on the approach
 13 spans. That was on the beam spans.
 14 Q And the diaphragm is the piece between --
 15 A Between the beams, yes. And the way they were
 16 positioned -- And this was a recommendation after
 17 a study by Mr. Robert Dexter from the
 18 university. He said, I believe, if you drop
 19 these diaphragms down to where they're not
 20 causing so much bending stress on this web, you
 21 can control the cracking better. This cracking
 22 wasn't catastrophic, although we discovered a
 23 really long crack in the approach span.
 24 Q Was that '98?
 25 A '98. Oh, yes, repair of a crack in the web of a

Page 54

Page 56

1 salt and that and could rust.
 2 Then the installation of these bird
 3 screens, and you've seen pictures of those.
 4 Q Uh-huh.
 5 A Plastic screens over all these holes in these
 6 members to keep the pigeons out. The pigeons,
 7 well, I think you know, what they could do.
 8 Their droppings are corrosive and they wanted to
 9 get those out of there. So we put on a few
 10 thousand of those. I don't know the exact
 11 number, but I think it may have been around 4,000
 12 or something.
 13 I think they were effective, because
 14 after the bridge fell I see a lot of them were
 15 still in place. And that's one thing I was
 16 wondering, how are we going to get these -- the
 17 way it was attached was going to keep them from
 18 falling out. Actually, we asked the painting
 19 contractor to come up with a method. I think he
 20 did pretty well. It was simple and it worked.
 21 Q And later on there was a recommendation that
 22 those screens needed to be removed as part of the
 23 inspection process --
 24 A Uh-huh.
 25 Q -- to look inside --

1 plate.
 2 Q That's the second '98 reference?
 3 A Yes. That's the second '98. That repair work
 4 was done by the MndOT bridge crew, and it
 5 consisted of large steel plates bolted at each
 6 side of this crack. And I think probably all
 7 those details are in all the information
 8 that's -- in all the public information.
 9 Q Now, as part of the lowering of the diaphragm or
 10 the repairing of the crack or the cracking issue
 11 that the U of M was looking at, were the stresses
 12 on the bridge recalculated, anyone look at those
 13 issues?
 14 A I don't think there were -- It's pretty hard to
 15 calculate that stress, but I think the inspectors
 16 were watching it, and I think it did effectively
 17 control the cracks.
 18 Q So lowering the diaphragms did what it was
 19 supposed to do, I take it?
 20 A I think so, yes.
 21 Q What was involved in repairing the crack that you
 22 referred to in the north approach span?
 23 A The large crack. We used sections of steel
 24 plates, showed positions of the holes through
 25 them. They fabricated these plates and brought

Page 57

Page 59

1 them out to the job. And, actually, I was out
 2 there to observe that. And they put them up in
 3 position, drilled holes through the web. The web
 4 is that thin plate between the stress carrying
 5 flanges. And they put a plate on each side and
 6 pulled it back together. It covered up the crack
 7 so you couldn't see it. You couldn't have been
 8 able to see it. But it looked pretty alarming at
 9 the time. And as soon as it was discovered, then
 10 within just -- immediately we got on this for
 11 repair.

12 Q Was that crack something that threatened the
 13 structural integrity of the bridge?

14 A It would have maybe weakened it somewhat on the
 15 approach span. It didn't have any effect on the
 16 truss spans. Ultimately if it wasn't fixed, it
 17 would have caused further problems, but...

18 Q Who were you working with on the work that you
 19 did in 1998?

20 A As far as in the office work?

21 Q Either in the office or people that you were
 22 perhaps kind of communicating with.

23 A Okay. Let me see, I don't know if Paul Kivisto
 24 or Paul Rowekamp were working on it at that
 25 time. I don't know the exact time line when they

Page 58

1 changed jobs. I worked with Mark Pribula, who
 2 was the inspector who first -- I think he noticed
 3 it or his crew noticed it. And then I worked
 4 with some other people in the metro division
 5 maintenance office. We were still at Water's
 6 Edge at the time. The names I don't exactly
 7 recall. Donovan Hoff, I believe, was one name,
 8 one person. I think he was one of the bridge
 9 maintenance people. There was a technician. I
 10 don't remember his name. I think he might
 11 have -- may have been promoted to somewhere. But
 12 we got it -- we got all the plans together. It
 13 was a cooperative effort.

14 Q Let's talk, then, about the work that was done in
 15 2005 and what your role was.

16 A 2005. That was the job that was going on at the
 17 time. That was when I had assigned -- That was
 18 when I was assigned the plans, assigned the
 19 work. We had to replace some expansion joints.
 20 Those were the small narrow ones. We call them
 21 strip seals. They're waterproof, and they
 22 consist of two steel extrusions connected by a
 23 rubber gland. And we had to replace, I think,
 24 five of them on the truss spans, and then there
 25 was some in the approach spans.

1 And then there was repairing of the
 2 deck concrete. Some of it was deteriorated to
 3 the point that it had to be removed and
 4 replaced. And I know you've probably seen from
 5 the picture there was several holes that went all
 6 the way through the slab because it was
 7 deteriorated to that extent. It's a little
 8 difficult just from observing to tell what the
 9 extent of that deterioration is until they get
 10 into it. Could be more, could be less.

11 Basically that was the major part of
 12 the work. I'm kind of anticipating a question.
 13 Was any weight added to the bridge? No, it was
 14 not. We only put back what was taken off.

15 Q Was there any consideration given to how
 16 construction activity on the bridge might affect
 17 the bridge? And let me tell you more
 18 specifically what I'm talking about. I talked
 19 with someone a couple days ago, and he said one
 20 of the things he noticed was construction
 21 materials were stored in the middle of the bridge
 22 rather than the approach spans, which was
 23 different than kind of other ways that he'd seen
 24 that kind of job done.

25 A Uh-huh.

Page 60

1 Q When I talk about construction activity on the
 2 bridge, that's what I'm talking about. Was that
 3 issue looked at at all?

4 A That issue wasn't looked at, at least not on my
 5 part. Because these plans, you know, they're
 6 kind of put together like an assembly line. I do
 7 my part and hand it off to another one.
 8 Subsequently it gets out into actual
 9 construction. We don't like to tell the
 10 contractors how to do their job unless it's
 11 important to the integrity of the bridge.

12 PI has done just a lot of repair work
 13 for MNDOT and they're a reputable contractor. I
 14 don't know if anyone was watching them. Maybe --

15 Now, I'm going to make an example of
 16 other jobs that -- Say on a construction job.
 17 Maybe a contractor wants to put a big crane out
 18 in the middle of a bridge that he's building to
 19 lift something, lift a beam. There we like --
 20 And most of them will actually volunteer that.
 21 They ask us, is this bridge going to hold up, not
 22 be overstressed if we put this crane out there.
 23 And they'll send in the whole calculations and
 24 maybe drawings. And then we'll look at it and
 25 say it's okay, but under certain conditions, like

Page 61

1 they have to spread the load out by putting down
2 wooden planks or something.

3 On this job, no, I don't know how they
4 were going to do it.

5 Q And you didn't, I take it, feel a need to find
6 out how they were going to do it?

7 A No, no. I let them do their job. They knew how
8 to do it. They were working on other bridges at
9 the same time, although this was the biggest
10 one. And maybe they put that out there just
11 because it was closer. They needed the materials
12 and they didn't have to drive all the way to the
13 end of the bridge. Because they did mix the
14 concrete for this patching concrete right on the
15 bridge. I think there was some equipment on
16 there at the time too.

17 I did look at the NTSB report because
18 I'm always curious about this, trying to keep in
19 touch with it. I see it did look like it was --
20 everything was kind of clustered together, but
21 that's something for others to analyze.

22 Q And you wouldn't have a basis to say whether or
23 not that had any impact, I take it?

24 A I don't want to speculate on that.

25 Q Okay. That's fair.

Page 62

1 A Uh-huh.

2 Q You mentioned this assembly line aspect of the
3 work that you were doing. I mean, what was your
4 part of that work?

5 A Oh, this part on this latest project?

6 Q Yes.

7 A I received the recommendations written by the
8 construction engineer, and that would have been
9 Paul Kivisto. I was to turn those
10 recommendations into a plan, a set of detailed
11 sheets that could be taken by the contractor to
12 do the work he was supposed to do. This
13 particular one was part of a larger package of
14 some other bridges on both ends of the project.
15 There was some south of the river and some on the
16 north end. It was all assembled into a large
17 package.

18 I did not write the special provisions
19 on this job. That was done by a Mr. Steve Ellis,
20 who was -- He was assigned to do other work, and
21 then he was assigned the special provisions and
22 ultimately assembled the package. Because some
23 of this -- working on all of these bridges would
24 have been a little too much for one design unit.

25 Q The special provisions are the non-boilerplate --

Page 63

1 A Actually, they're part of the boilerplate, but
2 they're non-standard.

3 Q Okay. So you did your work by preparing the
4 plans. Who did you then hand it off to?

5 A I -- When I finished it, I gave it to Mr. Kivisto
6 to look it over to see if I had everything
7 covered and followed his recommendations. I gave
8 it to Mr. Dan Dorgan to put his approval
9 signature on it. Before he does that, he has to
10 make sure I certify it with my name and license
11 number.

12 And then it goes from there to the --
13 down here to this building, central office, who
14 assembles it into the package of documents that
15 the contractors will bid on.

16 Q And then, finally, you have this note,
17 November 21, 2006, Assigned to review
18 consultant-prepared plans for retrofitting
19 designed (sic) truss members. Tell me about
20 that.

21 A Oh, I'm trying to recall, what was that. That
22 was the next assignment that I would have on
23 Bridge Number 9340. It was on my list of
24 assignments. I think it was to do whatever I had
25 to do with this -- coming from this URS study. I

Page 64

1 don't know just what it was involved. I know
2 there was a lot of discussion back and forth of
3 what we should do -- what they should do. I
4 wasn't privy to those discussions, or those were
5 a little higher up than me.

6 Q Who was involved in those discussions?

7 A I think it was Dan Dorgan and Kevin Western and
8 Don Flemming, from URS, and maybe -- and others
9 involved. They were making all the decisions.
10 So I don't really know. I didn't see any plans
11 for this or know specifically what it involved.

12 Q Okay. So this was an assignment you were given,
13 but it never got to that point?

14 A It never got to that point.

15 Q And just to make sure I understand, you weren't
16 involved in the discussions about whether or not
17 to retrofit or how to retrofit?

18 A No.

19 Q Okay.

20 A It didn't come down to my level on that. If
21 they'd have told me -- Well, that would be just
22 reviewing the consultant plans. This would have
23 been a consultant job from URS.

24 Q Okay.

25 A So I wouldn't have been doing any plan

Page 65

Page 67

1 preparation.

2 Q Okay. You just would have been reviewing the
3 plans?

4 A Reviewing.

5 Q Do you know anything about what was supposed to
6 be the relationship between the repair work that
7 was being done in 2007 and this retrofitting
8 project?

9 A I think that was the retrofitting project. I
10 think they talked about adding some strengthening
11 plates to the -- these main members, the ones
12 they thought could possibly develop cracks. I
13 believe that's what it was about. That's what
14 some of the talk was.

15 Q Okay. Do you remember who you were talking with
16 about that?

17 A I don't know if I was really talking with,
18 really, anyone about it. I think it was just --
19 It was assigned by Kevin Western. I think it
20 came to me because I was involved with all these
21 other previous projects, and I must be the one
22 that was --

23 Q Okay.

24 A -- could handle it.

25 Q You've seen probably the Star Trib last weekend

1 this bridge. Actually, I pulled up some of those
2 the other day just to see what it looked like. I
3 wanted to see if that plate was -- how it was
4 shown in the shop drawings, and it was shown to
5 be cut straight. And it should be a flat plate
6 that is attached there, and all the rivets are
7 put in to connect it together.

8 Q And as I have heard it, it's sort of like when I
9 buy one of these things at Target that you have
10 to put together and sometimes the holes don't
11 quite line up, and I end up getting mad and kind
12 of swearing and stomping around and then making
13 it fit. It sounds like that's what we're being
14 told may have happened here. Is that, based on
15 your experience, something that occurs when you
16 build a bridge?

17 A Everything should fit.

18 Q Okay.

19 A It's supposed to fit.

20 Q All right.

21 A But things may not be 100 percent perfect and
22 they've gotten -- And this isn't specific to this
23 job, but something might not fit.

24 Q If it had been the case that the gusset plate
25 were bent during construction to make it fit,

Page 66

Page 68

1 talked about this bowed gusset plate?

2 A Yes, I looked at those pictures. If you look at
3 the pictures, it does show what looks like bowed
4 plates, the ones on both sides. And that's all I
5 can tell, is just from looking at the pictures.
6 I don't know if they are, if the plates were not
7 cut straight. Or maybe if they were cut with a
8 little kink in, they might show it being bowed.
9 The only conclusions I can derive is from my own
10 personal thought.

11 Q And I would expect that this is the case, but you
12 don't have any knowledge yourself about whether
13 those gusset plates were or were not bowed?

14 A No.

15 Q One of the things that we've heard from other
16 MnDOT folks is kind of the thought that what may
17 have happened is during the construction process,
18 it might have been necessary to bend the plates
19 to make the bridge fit together. I'm not going
20 to ask you -- I'll just tell you that's what I've
21 been told. Does that idea make any sense to you?

22 A I don't think they should have had to bend the
23 plates. The plates should have been cut and
24 drilled to fit exactly because we have shop
25 drawings. We have extensive shop drawings on

1 would you expect there to be some notation on the
2 shop drawings or the as-built drawings or
3 something?

4 A It would have to have been on -- probably on the
5 as-built drawings. The shop drawings are done
6 before any pieces are ever cut.

7 Q Okay.

8 A There are dimensions between -- dimensions
9 everywhere. When they drill a hole through the
10 plates, they're supposed to match the holes in
11 the member. I don't know if shop inspection
12 noted anything. I don't even know where the shop
13 inspection notes are.

14 Q All right.

15 A Theoretically it's supposed to fit perfect.

16 Q Would you expect that if the gusset plates had
17 been bent at construction, that that would have
18 made the plates more susceptible to failure?

19 A To be bent they have to be under compression.
20 Normally they won't -- If a plate breaks, it has
21 to be pulled apart under tension.

22 Q Okay.

23 A I don't know what would have caused this. And
24 this connection seemed so rigid that it doesn't
25 seem like there should have been any movement

Page 69

Page 71

1 there. For those plates to be bent under
 2 service, something has to move.
 3 Q And my question is a little bit different. If it
 4 were necessary to bow the plate in the way that
 5 we've kind of all seen the pictures, would you
 6 expect that that would have an adverse affect on
 7 the plates, whether it would be more susceptible
 8 to failure as a result of that?
 9 A Oh. A slight bowing shouldn't have much affect.
 10 It's not the bowing, I think it's what may have
 11 caused it, would be the focal point of any
 12 investigation.
 13 Q Tell me --
 14 A Like to the St. Cloud bridge, now, I think
 15 they're looking at why, not what.
 16 Q I'm going to ask you about a couple documents
 17 that I brought along.
 18 (Ottman Exhibit 3 was marked for
 19 identification by the court reporter.)
 20 BY MR. MERZ:
 21 Q Mr. Ottman, I've given you a copy of what we've
 22 marked as Exhibit 3, which is a two-page fax.
 23 And the reason I'm giving it to you is on the
 24 second page you're identified as one of the folks
 25 that were cc'd on the fax.

Page 70

Page 72

1 A Yes, uh-huh.
 2 Q This fax concerns placing some strain gauges to
 3 measure stress in floor beam connections. Do you
 4 recall this issue at all?
 5 A I do. And I think this was the result of a
 6 recommendation by a study by the University of
 7 Minnesota at the time to check stresses in these
 8 areas. Let's see, this was to an outside firm to
 9 do this. I don't recall this specific document,
 10 although I was cc'd and I have -- must have had a
 11 copy of that.
 12 It says here, Because cracking in the
 13 area of the floor beam stringer connection may
 14 threaten public safety, you are authorized to
 15 begin work immediately. This must have been
 16 right on the truss spans, because that was the
 17 only ones with floor beams, and those are the --
 18 And weren't exactly a beam. It's connecting one
 19 truss with the other truss, the main trusses.
 20 They were actually trusses in themselves, but
 21 they were smaller.
 22 Laid on top of those trusses were a
 23 series of beams, small beams. And this talks
 24 about being in that connection. I don't know --
 25 I really don't know where this is, where the

1 cracking was. And I wouldn't think that that was
 2 that much of a threat to public safety. It must
 3 have been as recommended by those who looked at
 4 it.
 5 Q And that's really why I was asking about it, is
 6 it appears that this was an issue of some
 7 urgency, or at least it was believed to be so,
 8 such that the contract for this work was really
 9 taken out of the state's regular contracting
 10 process.
 11 A I think so. This Maxim Technologies, they must
 12 have been a firm that was experienced in this
 13 kind of work or did this kind of work.
 14 Q You don't recall, I take it, in this late 1997
 15 time frame some kind of urgent need to
 16 investigate cracking that had been discovered in
 17 the bridge?
 18 A Well, I know there was cracking on those beams,
 19 the approach span beams. There seemed to be
 20 cracking there, but I don't -- apparently they
 21 must have been putting it on the truss spans
 22 too. And I'd have to do some research to get
 23 back and follow the path through here.
 24 I'm just going to read this one top
 25 paragraph. To determine the size of these forces

1 we propose to install strain gauges at the
 2 locations shown on the attached drawings and to
 3 read strains as a loaded MnDOT dump truck drivers
 4 don't drive over the stringer and floor beam.
 5 They did have these loaded trucks to simulate
 6 loads, maybe maximum loads on the bridge. And
 7 then they'd check the effect of it.
 8 A strain gauge is just a little device
 9 that will -- it's a measuring device. How it
 10 works, it's kind of involved. This firm
 11 apparently installed and read the strain gauges.
 12 Q Okay.
 13 A These names down here, Todd Niemann, I believe
 14 he's on one of the lists of interviewees. John
 15 Allen, he was a supervisor of the construction
 16 liaison people at the time. And I guess I'm on
 17 here -- Oh, John Allen has retired. I think he's
 18 still around, but he's retired. And my name on
 19 here is apparently on here because I was kept in
 20 the loop for information because I was -- You can
 21 see I got quite involved.
 22 (Ottman Exhibit 4 was marked for
 23 identification by the court reporter.)
 24 BY MR. MERZ:
 25 Q Mr. Ottman, I've put in front of you there a

Page 73

Page 75

1 document we've marked as Exhibit 4. And this
2 actually comes a little bit earlier in time from
3 the one that we just saw, but I'm really handing
4 this to you to see if it helps you recall at all
5 this issue.
6 A Oh, okay. I'd like to just read it to myself. I
7 can read it out loud or can I read it to myself?
8 Q You're certainly welcome to read it to yourself.
9 A Okay. This brings it to light and I know what it
10 was about.
11 Q Okay.
12 A And I had actually alluded to it earlier in our
13 discussion. This floor beam was part of the
14 approach span. The way this bridge was
15 configured, each one of the trusses had a
16 cantilever out there. A bearing was on that.
17 This floor beam was set over these two bearings,
18 and that was the transmittal -- That's how the
19 approach spans were supported, on the ends of the
20 trusses.
21 So any forces, cracking that he talks
22 about, push-pull forces and partially frozen
23 rocker bearing was causing some distress in the
24 floor beam, the floor beam was not part of the
25 truss span; it was part of the approach spans.

1 Q Okay.
2 A The long crack is in a different place.
3 Q Okay.
4 A No. This was at that frozen bearing. And
5 because the bearing was stiff, it was
6 transmitting all of its loads into this beam and
7 bending it and causing these fatigue cracks.
8 Now, a piece of metal doesn't have to bend very
9 much. It might be imperceptible for bending.
10 But after it does that several hundred or a
11 thousand times, something is going to give. It's
12 going to weaken and give.
13 Q Okay.
14 A That's what this one was about. So it's isolated
15 from the truss. I don't think even it must have
16 exhibited or transmitted an equal force back into
17 the truss, but it was right in line with the
18 truss. So I don't believe myself that it really
19 caused a problem in the truss.
20 Q And you wouldn't, I take it, regard this as a
21 public safety issue or any kind of an emergency
22 that needed to be dealt with?
23 A If anything broke, there might have been a drop
24 in the deck, but it wouldn't have been
25 catastrophic if this broke.

Page 74

Page 76

1 And we had -- I think this was -- We
2 had put a brace on at this one particular bearing
3 to just kind of relieve some of the stresses in
4 this floor beam. That was one of the bad details
5 of this whole bridge, and we wouldn't do that
6 now. So they were putting these strain gauges on
7 it to try to check how much stress it was
8 actually handling.
9 I see -- Looking at the date of 1997,
10 that was prior to the actual work done to install
11 this brace.
12 Q And is this the lowering of the diaphragm, is
13 that that work or --
14 A The lowering of the diaphragms is a different
15 situation.
16 Q All right. And maybe I just heard it and I
17 missed it. Where was the brace installed?
18 A The brace was installed at the end of the
19 downstream truss, north end. It was along a
20 couple of beams that were attached back about
21 20 feet and it kind of came into a V right at
22 the -- above the position of this bearing.
23 Q This is the long crack that you were talking
24 about?
25 A It's not the long crack.

1 Q Okay.
2 (Ottman Exhibit 5 was marked for
3 identification by the court reporter.)
4 BY MR. MERZ:
5 Q You have in front of you there a document we've
6 marked as Exhibit 5. And, again, you'll see on
7 the second you're identified as one of the people
8 that were cc'd on this document. Do you recall
9 this and can you tell me where it sort of fits in
10 the picture?
11 A Okay.
12 Q Do you recall this document?
13 A I do recall it; not specifically, but it has
14 bought it back. This was the start of this
15 concern over these cracks, and it ultimately
16 resulted in lowering the diaphragms that I had
17 alluded to earlier. This is a copy of a drawing
18 out of the original plans.
19 Q And you're looking at the third page of the
20 document; is that right?
21 A Yes, this drawing here. They had spotted in
22 where they saw these cracks. And the drawing
23 that I worked on showed kind of a similar detail,
24 but it showed which diaphragms -- which ones to
25 actually lower.

Page 77

Page 79

1 Q On the second page of the document it says, right
2 underneath the chart, Metro bridge inspection is
3 requesting that the Office of Bridges and
4 Structures consider a review of bridges with this
5 similar type of girder/stiffener/diaphragm
6 connection. Do you know whether that was
7 something that was done?

8 A I don't really know anything about this bridge,
9 this Number 27855. It was south of there in
10 that -- I think they call it the Hiawatha
11 interchange. I didn't have anything to do with
12 this one. I think I could possibly have referred
13 to it to see how they may have done this, but...

14 Q Okay.

15 A Our actual plan was a rather simple plan. I
16 don't think -- It may not have even been done
17 under contract. It might have been done by the
18 MnDOT forces. It just showed what they had to
19 do. It was actually releasing these diaphragms
20 from causing stress.

21 (Ottman Exhibit 6 was marked for
22 identification by the court reporter.)

23 BY MR. MERZ:

24 Q Mr. Ottman, I've put in front of you a document
25 we've marked as Exhibit 6, which is an e-mail

1 other things. And then at the bottom, Number 6,
2 it talks about 10- to 15-year plan. Were you
3 involved in any subgroup of people that were
4 looking at the long-range plans for the 35W
5 bridge?

6 A No, not much of it. I guess that would have been
7 out of my area of responsibility. I think that
8 was more people above me, like Don Flemming. So
9 I don't recall really making any recommendations
10 on -- recommending anything. I just think they
11 kept me in the loop on this.

12 (Ottman Exhibit 7 was marked for
13 identification by the court reporter.)

14 BY MR. MERZ:

15 Q Mr. Ottman, I'm giving you a document marked as
16 Exhibit 7. Can you tell whether you've seen this
17 before?

18 A I probably have seen it before, but I think it
19 was after August 1st. A lot of this went onto
20 the MnDOT website, and being curious about it I
21 pulled up some things and read it over to find
22 out what this URS study involved. I know URS was
23 doing this, but I wasn't in on any of the
24 meetings between URS and Mr. Flemming and
25 Mr. Dorgan.

Page 78

Page 80

1 from Paul Kivisto to yourself and others relating
2 to some planning concerning the 35W bridge. You
3 take whatever time you need to review it, and
4 then I'll ask you if you recall this.

5 A Okay. This was a meeting held in Water's Edge
6 Conference Room D on November 5, 1998. I see it
7 involved Paul Kivisto. He was probably -- I
8 guess he was the construction engineer at the
9 time. Whether Mr. Rowekamp and he -- I think --
10 I don't know just what date one left and the
11 other took over, but...

12 And I don't recall all this discussion,
13 but they talked about what the problem is. And
14 this loosening the diaphragms, that's really what
15 apparently came out of it, that they ultimately
16 said these diaphragms should be dropped to the
17 bottom of the -- Most of the time they're way up
18 at the top of the beam. These were dropped down
19 to the bottom of the beam. That's not the normal
20 place to put them. They're usually up at the
21 top. But that was a recommendation by Mr. --
22 Professor Dexter. And we thought it was a little
23 bit out of the ordinary, but it's something that
24 worked.

25 Q This talks about not only the diaphragm, but some

1 Q Okay. So to the extent you know about it, it's
2 just because of your curiosity after the fact?

3 A That's it. I wanted to know what maybe they
4 observed. I think after I -- if this had gone on
5 to ultimate repair and I would have gotten into
6 this last project, I would have seen all of this,
7 these documents.

8 Q Okay.

9 (Ottman Exhibit 8 was marked for
10 identification by the court reporter.)

11 BY MR. MERZ:

12 Q You have in front of you there what we've marked
13 as Exhibit 8. I'm pretty sure that I know the
14 answer to this question, but I'm really focusing
15 on the part of the document that starts with the
16 URS table of contents, the 9340 bridge study?

17 A And that is back here?

18 Q Yes. And then the executive summary to the draft
19 report that follows. My question is whether
20 you've seen these URS documents, whether you saw
21 them at the time, I guess?

22 A I had not seen this document prior to that time.
23 I may have read parts of it online.

24 Q Okay. Are you familiar with any study done by a
25 company called HNTB?

Page 81

Page 83

1 A I know about HNTB. Which study are you alluding
2 to?

3 Q Well, a study relating to the 35W bridge that
4 would have been done in approximately the time
5 frame of Dr. Dexter's study.

6 A Okay. I recall there might have been one, but I
7 think there was something going on there that I
8 didn't -- I wasn't part of. I wasn't kind of in
9 on this project. I think there was something
10 done, and I don't know because I didn't work with
11 any HNTB documents.

12 Q Okay. Are you aware of any changes to MnDOT's
13 policies relating to bridge inspection or
14 maintenance or repair or design that have been
15 implemented since the 35W collapse?

16 A Since then. I don't know of any actual design.
17 We had ongoing improvements to design and details
18 of how pieces of steel are put together. Since
19 35W there's been -- things have been kind of
20 topsy-turvy, you know. Certain personnel have
21 gone here and others have gone there.

22 There may be improvements to
23 inspection. Inspection was one of the real focal
24 points after this catastrophe. I don't think --
25 Because I don't do any inspecting, I don't think

1 photographs, and we ultimately decided there was
2 really nothing we could do about it, except maybe
3 clean some dirt off of it on the outside.

4 Q And so what did that mean, for purposes of kind
5 of keeping this bridge up; what kind of threat
6 did that present to the future viability of the
7 bridge?

8 A Only to the approach spans, this one large floor
9 beam that was cracking. I guess we decided we
10 would just have to live with it. It could have
11 been gotten out of there, but the bridge would
12 have had to have been taken apart, literally,
13 completely shut down. And I guess at the time it
14 was unacceptable to -- Well, it wouldn't have
15 gone over very well if we would have shut 35W
16 down, but we know how; it can be done.

17 So that was something we decided we
18 could live with, but it would have been nice to
19 have been able to repair it. Most bridges we can
20 get at all of these things. That was one of the
21 bad details that I didn't really care for.

22 Q Okay. All right. Well, I appreciate that as
23 well. Thank you very much.

24 A Okay.

25 MS. FORSLAND: I'm going to supply

Page 82

Page 84

1 I really should answer that, because I may
2 have -- may tell you something that may not be
3 correct. I think it would be better answered by
4 the people involved, the inspectors and...

5 Q And that's fair. There haven't been any changes,
6 I take it, to any policies that impact how you do
7 your job?

8 A No, I don't believe so.

9 Q I don't have anything further. I really
10 appreciate your time here today, sir.

11 A Okay. Thank you very much. I think I may want
12 to volunteer something, and it's only to this
13 detail on the bridge about this frozen bearing.

14 Q Okay.

15 A One of the thoughts before we got into this last
16 project was let's take that bearing out and fix
17 it. Maybe we'll put a new pin in, we will shine
18 it up, we'll grease it.

19 We went out there and looked at it.
20 There was a group from my office. I said let's
21 go out and look at that, because I don't think we
22 can get this bearing out of there. It's just
23 tucked into a little pocket. We can't get the
24 bolts loose and we can't even get at them. We
25 actually went out in the field and took

1 something to you here. I'm checking my list.

2 MR. MERZ: I believe it's just the
3 checklist for plan review.

4 MS. FORSLAND: Yes.

5 MR. OTTMAN: Consultant plan review,
6 yes, I can provide you with that.

7 MS. FORSLAND: Terrific. If you can
8 e-mail that to me, I'll take and forward it to
9 the law firm.

10 MR. OTTMAN: Okay. I can do it as -- I
11 think it's either -- Do you want it as a Word --

12 MR. MERZ: We can go off.

13 (Interview concluded at 10:15 a.m.)

1 STATE OF MINNESOTA)

2

3

4 COUNTY OF HENNEPIN)

5

6

7

8 REPORTER'S CERTIFICATE

9

10

I, Julie A. Rixe, do hereby certify

11

that the above and foregoing transcript, consisting of

12

the preceding 84 pages, is a correct transcript of

13

my stenographic notes and is a full, true and complete

14

transcript of the proceedings to the best of my

15

ability.

16

Dated April 6, 2008.

17

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19

20

JULIE A. RIDGE
Court Reporter

21

22

23

24

25

April 11, 2008

**COMMENTARY ON TRANSCRIPT OF 35W BRIDGE INTERVIEW – ARLEN OTTMAN
MARCH 26, 2008**

This commentary is intended only to correct spellings of some words and proper names; and to change some wording that didn't appear to transcribe well.

Page 1		Change Room "G-13" to Room "G-22"
Page 2	Line 9	Correct spelling of "Executive"
Page 8	Line 1	Change "was" to "were"
Page 10	Line 16	Delete the word "been"
Page 13	Line 15	Change "AASHTO" to "AASHO" (in regard to the title during that era of the organization)
Page 18	Line 7	Change "Christopherson" to "Christofferson"
Page 19	Line 20	Change "Westeren" to "Western"
Page 20	Line 5	Change "Mangula" to "Manjula"
Page 20	Line 9	Change "Mangula" to "Manjula" and "G" to "J"
Page 21	Line 6	Change "Mangula" to "Manjula"
Page 22	Line 7	Delete "for one"
Page 23	Line 1	Change "was" to "were"
Page 28	Line 7	Change "Mangula" to "Manjula"
Page 29	Line 18	Change "grant" to "graduate"
Page 31	Line 1 & 2	Delete "down Wabasha" as it seems to have no meaning
Page 38	Line 19	Change "was" to "were"
Page 40	Line 22	Change "this" to "these"
Page 41	Line 3	Change "we" to "they"
Page 41	Line 6	Change "gone" to "sent"
Page 45	Line 21	Change "on" to "in"
Page 46	Line 3	Change "I" to "It"

April 10, 2008

Commentary Continued

Page 53	Line 9	Change “was” to “were”
Page 60	Line 12	Change “PI” to “PCI”
Page 63	Line 19	Change “designed” to “designated”
Page 74	Line 3	Change “relief” to “relieved”
Page 83	Line 16	Change “how” to “now”

End of Commentary

1 INTERVIEW OF GARY PETERSON - APRIL 2, 2008

2
3
4 In the Matter of Conducting an Independent Investigation
5 Into the Collapse of the I-35W Bridge

6
7 Department of Transportation
8 395 John Ireland Boulevard
9 Room G-14
10 Saint Paul, Minnesota

11
12 Met, pursuant to notice, at 2:30 in the
13 afternoon on April 2, 2008.

14
15
16 INTERVIEWERS:

17 Kathryn Bergstrom and Greg Merz, Attorneys at
18 Law with the Gray Plant Mooty Law Firm

19 ALSO PRESENT:

20 Barbara E. Forsland, Attorney at Law, MnDOT Data
21 Practices Compliance & Policy Analyst

22
23
24 COURT REPORTER:

25 Colleen M. Sichko, Registered Professional Reporter

1 question before you answer, and if I can wait until you
2 are done with your answer before I start my next question,
3 that will help her out.

4 A Okay.

5 Q She also needs audible responses, yes and no, not uh-huh
6 or uh-uh, and we're pretty good at reminding you.

7 A Okay.

8 Q To start each one of these interviews, Gary, we have
9 started with reading this witness protocol, and I'll run
10 through that with you right now.

11 We are with the Gray Plant Mooty law firm.
12 Gray Plant Mooty has been retained by the Minnesota
13 legislature to conduct an independent investigation into
14 the collapse of the I-35W bridge. The Minnesota
15 legislature has asked us to provide a report of our
16 investigation by May 1st, 2008. We will be asking you
17 questions concerning the bridge collapse and related
18 policies, practices and legislative oversight issues.

19 The purpose of this interview is to determine
20 what you might know about the matters we are
21 investigating.

22 Confidentiality: During the time our
23 investigation is active, the information that interviewees
24 provide to us is not public information. The information
25 you provide may no longer be confidential once we submit a

Page 2

1 (WHEREUPON, the following proceedings were duly had
2 and entered of record, to-wit:)

3 (Peterson Exhibits 1 and 2 were marked for
4 identification by the court reporter and
5 attached hereto.)

6 MS. BERGSTROM: Gary, we just met real
7 briefly. My name is Katie Bergstrom, and I think I'll go
8 around the room and put appearances on the record.

9 MR. MERZ: I'm Greg Merz with the Gray Plant
10 Mooty law firm.

11 MS. FORSLAND: I'm Barb Forsland, and I'm the
12 data practices attorney for the agency.

13 MR. PETERSON: Gary Peterson, bridge
14 construction and maintenance engineer for MnDOT.

15 BY MS. BERGSTROM:

16 Q And Gary -- may I call you Gary?

17 A Please.

18 Q We have a court reporter here today, who is taking down
19 everything that all of us will be saying today. I don't
20 know if you've worked with a court reporter before, but
21 briefly, in order for her to take down all of our words,
22 it's important that we not talk at the same time.

23 A Okay.

24 Q I've had some enthusiastic witnesses and we talk on top of
25 each other, so if you can wait until I'm done with my

Page 4

1 report to the legislature.

2 For the process, you are required to answer
3 our questions truthfully. A court reporter is present to
4 record our conversation. Either during our interview or
5 later in this investigation, we may determine that we need
6 to clarify further information. If that occurs, we may
7 ask you for a further recorded statement, a signed
8 affirmation or an oath statement.

9 And, five, Post-Interview Contact: We view
10 this process as an ongoing dialog. If you think of
11 anything after this interview that you want to tell us
12 about, please call or e-mail us. Likewise, we hope that
13 you will respond to us if we call or e-mail you with
14 follow-up questions or clarification.

15 A Okay.

16 Q Any questions about that?

17 A No.

18 Q Gary, can you tell me how long you have worked for MnDOT?

19 A Since 1967, so that's 41 years.

20 Q And when you started at MnDOT in '67, what was your title?

21 A I was a highway field assistant. That's a position
22 really, not a title. I didn't have a title back then.

23 Q Are you an engineer, Gary?

24 A I'm an engineer, yes.

25 Q Okay. What kind of an engineer?

1 A Civil engineer, graduated with a civil engineering degree.
 2 Q And at the time that you started with MnDOT, were you an
 3 engineer then?
 4 A No, I wasn't.
 5 Q Okay. Can you tell me briefly, from the time you started,
 6 what your various jobs have been at MnDOT?
 7 A Forty years, you want to go through all that?
 8 Q Well, just briefly.
 9 A I started off as a rear chainman on a survey crew. That's
 10 where everybody starts off. I left briefly for six months
 11 in the Army; came back and I was put on bridge inspection
 12 construction; had various jobs in Duluth in construction
 13 and in bridge inspection for a period of must have been
 14 about 13 years before I left. I think I left in 1981.
 15 I graduated from college in 1981, became an
 16 engineer and came down here in the graduate engineer
 17 program; took rotations in construction and hydraulics,
 18 but ended up in the bridge office probably in about 1982
 19 and have been in the bridge office since 1982.
 20 Q Okay.
 21 A I've been in positions anywhere from starting off as a
 22 bridge design engineer, working up to a unit leader or
 23 squad leader, moved to a construction -- or contract
 24 agreements. From that position was promoted to bridge
 25 design engineer in 1991 and took a lateral transfer to the

1 A Yeah.
 2 Q Okay.
 3 A That was in two thousand -- or nineteen -- I should say
 4 1989 I think it was. In 1991 I was promoted to the
 5 position Kevin currently has.
 6 Q Okay. And then the time, then, in 1991 when you were in
 7 the position where Kevin Western is now, did you report to
 8 Don Flemming?
 9 A Yes, I did.
 10 Q Okay. And then in -- and Don Flemming left when, if you
 11 know?
 12 A I think it was probably, like, 2002, 2003, in that area.
 13 It was right after I moved over, maybe about a year after
 14 I moved into this construction and maintenance position.
 15 Q So then you moved over there in around 2001, you think?
 16 A Yeah.
 17 Q And we'll maybe look up some things today that will help
 18 us firm up those dates --
 19 A Okay.
 20 Q -- but do you remember that when you moved into the Bridge
 21 Construction and Maintenance Section, Don Flemming was
 22 still the state bridge engineer?
 23 A Yes.
 24 Q And at some point that has changed to Dan Dorgan?
 25 A Yes.

1 bridge construction and maintenance engineer position. I
 2 believe that was in 2002, although it might have been in
 3 2003 -- or 2001, I should say. It might have been in
 4 2001.
 5 Q I'll show you this org. chart for the bridge office that's
 6 been marked as Exhibit Number 2. The top page, as I've
 7 told everybody, is incredibly tiny to read, but the pages
 8 behind it are the various divisions.
 9 A Mm-hmm.
 10 Q So I take it, based on what you just told me, that when
 11 you first came up -- when you first joined the bridge unit
 12 in around '82, you were in the section that Kevin Western
 13 heads up now?
 14 A That's right.
 15 Q And then you moved over to -- oh, you would have headed up
 16 that section starting in 1991?
 17 A I started off within the -- with one of those squads in
 18 1982.
 19 Q Okay.
 20 A Became a squad leader, which would be directly under
 21 Kevin --
 22 Q Okay.
 23 A -- in about 1986, and then moved over to the planning
 24 section, to Robert Miller's position.
 25 Q Okay. And that's under Nancy Daubenberger now?

1 Q Prior to Dan becoming the state bridge engineer, did you
 2 ever have a direct report relationship with him?
 3 A No.
 4 Q Gary, are you a certified bridge inspector?
 5 A No.
 6 Q Have you ever been in your tenure at MnDOT?
 7 A I have been a bridge inspector at MnDOT, but it was prior
 8 to the certification.
 9 Q Okay.
 10 A That would be when I was in Duluth.
 11 Q And I take it, from that description, that you were up in
 12 Duluth for about 13 years?
 13 A That's right.
 14 Q Looking at page 4 of this org. chart, which is the Bridge
 15 Construction and Maintenance Section, right below your box
 16 there appears to be seven kind of division heads, if you
 17 will, that report to you. Are all of those people still
 18 in their spots?
 19 A Paul Rowekamp, the third one over, isn't in that position.
 20 He's been replaced by Ed Lutgen.
 21 Q Is Paul Rowekamp still employed by MnDOT?
 22 A Yes. He's our standards engineer now.
 23 Q And the subdivision that's headed up by James Pierce,
 24 that's the Bridge Management Unit, what is that division?
 25 What does that division, if you will, do?

Page 9

Page 11

1 A Primarily responsible for maintaining the bridge
 2 inspection records and bridge -- it's called inventory
 3 database. It's basically all the little details about
 4 what describes a bridge.
 5 Q Maybe I should have asked you this already, but as the
 6 head of this division, Gary, what is your job description?
 7 What does it entail?
 8 A I haven't looked for a long time.
 9 Q On a day-to-day basis, what do you do?
 10 A Well, it's to provide -- well, to manage and provide
 11 leadership over the Bridge Construction and Maintenance
 12 Section, all of those units. We have three different --
 13 four different units, the Inspections Unit, Construction
 14 Unit, Ratings Unit, Bridge Management Unit, and then --
 15 yep.
 16 Q Okay. And you physically office in Oakdale?
 17 A Yes.
 18 Q Gary, as the head of this unit, do you have contact with
 19 the -- this is a broad question. Do you have contact with
 20 the various engineers out in the operating districts?
 21 A It depends upon what you mean. Of course I have contact.
 22 We have meetings with them, various meetings.
 23 Q Let's go to the Metro District since that's what we've
 24 been talking about in these interviews. I understand that
 25 Paul Kivisto is the head of that division?

1 I've heard from other people and you can tell me if it's
 2 accurate or not, I guess.
 3 A Okay.
 4 Q I understand that Mark Pribula is in charge of inspecting
 5 the fracture critical bridges in the Metro Unit as opposed
 6 to some of Todd Niemann's staff?
 7 A Yeah.
 8 Q Okay. And after bridge inspection, Todd -- excuse me,
 9 Mark puts together his report and sends a copy of it over
 10 to Central Bridge and, as I understand it, the people who
 11 receive that report are Paul Kivisto and Todd Niemann.
 12 Does that sound right?
 13 A That would be -- that's the way it should work, yes.
 14 Q Would there ever be an occasion or was it a normal course
 15 of practice that Mark Pribula's inspection reports would
 16 end up on your desk for any reason?
 17 A No.
 18 Q Okay.
 19 A Unless -- I should say no, unless -- actually, I should
 20 just say no because it's never happened that way.
 21 Q Do you know what the purpose is for one of Mark's
 22 inspection reports to go to Paul Kivisto?
 23 A Well, typically, his reports, Mark's reports are done
 24 about six months after, at least -- well, about six months
 25 after. It's basically part of the -- our policy on

Page 10

Page 12

1 A Mm-hmm.
 2 Q And then there are various reports to him and I've talked
 3 to a few of those people. Who might you, over at Metro,
 4 have contact with?
 5 A I have contact with Jack Burkel, what's his name -- John
 6 Bieniek (phonetic) just got the management position.
 7 Brett Farragher (phonetic), Mark Pribula, various bridge
 8 maintenance supervisors that they have over there. I'd
 9 have contact with resident engineers in construction, not
 10 very frequently, and I don't think -- not very frequently
 11 with any of those people necessarily, but those would be
 12 the people who I would have the primary contacts with.
 13 Q People at Metro --
 14 A Terry Zoller.
 15 Q -- who work in the bridge area?
 16 A Or construction.
 17 Q Okay. And when you say not very frequent contact, how
 18 often do you think you're in contact with the Metro
 19 District?
 20 A With somebody over at Metro?
 21 Q Yeah.
 22 A Well, recently it's been a lot more, but I think before
 23 August 1st it would be -- I might have a contact over
 24 there once a week maybe, once -- yeah.
 25 Q I'm going to shortcut some of this by telling you what

1 bridge -- fracture critical bridge inspections is that
 2 when the report has been completed by the inspector, in
 3 this case it would be Mark, and it's sent over to the
 4 bridge office, it would go to Todd. Todd would review it
 5 for completeness. If he had any questions about it, it
 6 would be up to him to call Mark for some additional
 7 information, and then he would pass it on.
 8 After it passed Todd's initial screening, it
 9 would go on to -- or it should go on to Paul Kivisto for
 10 just review to see if there's anything that should be
 11 included in a future repair contract or something that
 12 catches his eye that might need some additional attention.
 13 Q Do you know whether Todd reviewed Mark's reports on the
 14 9340 bridge?
 15 A I honestly don't know.
 16 Q Do you know whether he made it a common practice to review
 17 Todd's reports on any bridge?
 18 A You mean Mark's reports on any bridge?
 19 Q Excuse me, yes, Mark's.
 20 A No, I don't.
 21 Q When you said that in your years up in Duluth, that you
 22 had inspected some bridges, did you inspect fracture
 23 critical bridges up there?
 24 A I think that was before they had fracture critical. I
 25 inspected routine -- what we call routine inspections of

Page 13

1 fracture critical bridges, which would be the annual type
 2 of inspection, it wouldn't be the in-depth type of
 3 inspection. That would have been as an assistant -- I
 4 went on a couple of inspections on my own, but it was
 5 typically as an assistant inspector.
 6 Q As I understand it, the two subdivisions, if you will,
 7 under Todd Niemann's box used to be separate; is that
 8 right?
 9 A Correct.
 10 Q Who used to be the head of the Inspections Unit?
 11 A Terry Moravec.
 12 Q And do you know when Terry moved on?
 13 A Not for sure. I'm not sure how long Todd's been in that
 14 position. I would say Todd's been in that position
 15 probably at least four years, maybe five years. Well,
 16 let's see, he's been in that position since -- it's been
 17 probably five years.
 18 Q I take it that you're familiar with the NBI standards?
 19 A NBIS standards, yes.
 20 Q NBIS?
 21 A Yes, I am.
 22 Q Do you know what a rating of 4 stands for?
 23 A Generally, it's the terminology that it's in poor
 24 condition.
 25 Q Does that change depending on -- does a rating of 4 depend

Page 14

1 on what part of the bridge you're looking at?
 2 A No, it's always poor condition, but the symptoms, you
 3 know, would be different for a superstructure or a
 4 substructure or --
 5 Q Or a deck?
 6 A A deck, yeah.
 7 Q Okay. And I understand that MNDOT has had different
 8 iterations of a technical memo describing critical
 9 deficiencies or critical findings?
 10 A I'm not sure we've had -- go ahead, you can term it as
 11 iterations, I guess.
 12 Q Well, the critical deficiencies memo, correct me if I'm
 13 wrong, has been published a few different times, right?
 14 A Twice, I believe, which is our typical -- which is our
 15 normal process when they expire. We only have them -- a
 16 technical memorandum only exists for the period of time
 17 that they are defined to exist, and then they have to be
 18 reissued.
 19 Q Okay. Were you involved in the development of the
 20 critical deficiency memo?
 21 A Yes.
 22 Q Okay. What was your role with respect to that?
 23 A Gee, to tell you the truth, I can't remember whether I
 24 authored parts of it or -- I think I probably authored
 25 parts of it. I may have authored all of it. I honestly

Page 15

1 can't remember how much. I'm sure I gave it over to our
 2 Bridge Inspection Unit to work on.
 3 Q What is your understanding of a definition of a critical
 4 deficiency?
 5 A A critical deficiency that is -- it helps to understand
 6 the history of a critical deficiency, I think. The idea
 7 behind a critical deficiency was an issue by the Federal
 8 Highway Administration because a finding was -- a finding
 9 on a bridge that fell down because of scour was noted on
 10 an inspection and there was nothing that was done to
 11 follow up on it. So the inspectors said you had a serious
 12 situation out here and nothing was done to follow up on
 13 it.
 14 So the critical deficiency then was defined
 15 to be any type of a condition that was so significant that
 16 it may cause a collapse or a partial collapse of the
 17 bridge before the next inspection period.
 18 Q What bridge was the FHWA responding to, do you know?
 19 A I wish I could be sure, but I can't be. You'll have to
 20 ask the Federal Highway Administration.
 21 Q Okay. Do you know how long ago that was?
 22 A I can guess that was back in about nineteen -- I think it
 23 was in the 1990s.
 24 Q Okay. And your memory was that it was a bridge that
 25 ultimately was determined to have collapsed due to scour?

Page 16

1 A Yeah.
 2 Q Okay. So I take it that the FHWA then states you ought to
 3 be developing a critical deficiency protocol?
 4 A Yes.
 5 Q Okay. And that's --
 6 A In fact, they came to us and notified us in one of their
 7 reviews of our program that we didn't have one and they
 8 required us to develop one.
 9 Q And does that notification come from the local office?
 10 A Yes.
 11 Q Okay. Are you, Gary, the primary contact for the FHWA?
 12 A For the bridge maintenance area, bridge construction, am I
 13 the primary contact? I don't know whether Dan or I am the
 14 primary contact. I kind of think that I get contacted by
 15 them a lot for bridge issues.
 16 Q And is that primarily Romeo?
 17 A Romeo, yes.
 18 Q There's been some talk in this investigation and in the
 19 news media about the sag that occurred in the Ohio bridge.
 20 Did you ever receive anything from the FHWA on that
 21 bridge?
 22 A I honestly don't know. I don't know anything, that's for
 23 sure.
 24 Q Prior to the collapse of the I-35W bridge, had you ever
 25 heard of that sag incident?

Page 17

Page 19

1 A No.

2 Q You started at MNDOT just as the bridge was being
3 finished, in 1967?

4 A Is that right? When was it being finished?

5 Q I think it opened for business in 1967, and based on my
6 interviews thus far, only Jack Pirkel was around during the
7 construction.

8 A Mm-hmm.

9 Q Have you ever had the opportunity, as part of the Central
10 Bridge office, to ever review the plans for the original
11 construction of the bridge?

12 A Only since the collapse.

13 Q Do you ever remember having discussions at Central Bridge
14 about the fact that the -- and this is pre-collapse,
15 obviously -- that the bridge's design was obsolete?

16 A I'm not sure that it ever was considered to be obsolete,
17 so no.

18 Q Were there any -- to your awareness, were there any
19 special precautions that MNDOT took with respect to this
20 bridge during your tenure in the bridge office?

21 A We did a -- there are quite a few things that we did
22 during my tenure at the bridge office that were special.
23 One of the things was that it was being inspected on a
24 more frequent basis than other bridges were required to be
25 inspected. Metro was going out and inspecting the bridge

1 Q In reviewing the 1977 overlay work since the collapse,
2 have you been able to ascertain whether, back at the time
3 when that work was being done, there was any analysis or
4 testing to determine whether the addition of the overlay
5 would add stress to the bridge? Do you know if that kind
6 of study was done back then?

7 A Well, there's a revised rating from back in that period of
8 time, I believe, I'm not absolutely sure, and that is --
9 there were several ratings that were done on the bridge.
10 I can't testify, I mean, I can't tell you for sure what
11 dates they were. Our normal process would have been to
12 perform another load rating on the bridge at that time.

13 Q The rating that would have been done --

14 A So I guess I'm speculating, so I guess I shouldn't say
15 that.

16 Q I'm sorry?

17 A I guess I'm speculating. I don't know that I know that
18 for sure.

19 Q That's fine. If you give an answer and it's speculating,
20 just tell me that. It's still helpful to me.

21 A Sure.

22 Q The ratings that were done on the bridge, are those
23 ratings done by the Central Bridge office?

24 A Yes.

25 Q Okay. And is that Lowell Johnson?

Page 18

Page 20

1 every year with a snooper. They were aware that there
2 were some fracture critical details, some fatigue type
3 details on the bridge, so they were paying attention to
4 those details during their inspections.

5 Q What other precautions were taken with respect to this
6 bridge, or special treatment?

7 A Oh, there probably were lots of them, but, you know, I
8 think, of course, you're probably getting to the
9 University of Minnesota fatigue study as one and then,
10 eventually, the URS study which was another. There were
11 other fatigue problems that they had on the bridge that
12 caught our attention and caused us to do additional
13 studies on the bridge also, on the approaches, not on the
14 arch itself, so there were a lot of different things. We
15 had construction contracts that had to address -- that we
16 used to address some of the maintenance problems that were
17 accumulating on the bridge.

18 So like all bridges, it received special
19 attention as it needs maintenance that's -- as special
20 deficiencies or problems or -- that's probably too loose,
21 special circumstances came to our attention.

22 Q Just sequentially in time, are you aware of the 1977
23 overlay project that was done on the bridge?

24 A I'm aware, but that's, you know, basically through review
25 of -- since the collapse, basically.

1 A Correct, or his predecessor.

2 Q Okay. Do you know who the contractor was in 1977?

3 A I'm trying to think. I honestly don't know, no.

4 MS. BERGSTROM: We have not been able to find
5 that contract anywhere, right?

6 MR. MERZ: The contract, no.

7 MS. BERGSTROM: Okay. Is that something that
8 you can put on your list?

9 MS. FORSLAND: Yes, and I'm sure that it is
10 somewhere and we'll find it for you.

11 MS. BERGSTROM: We've got a lot of documents
12 from around '77, but we have not been able to ascertain
13 who the contractor is, as far as I know.

14 MR. MERZ: I think we know who the contractor
15 is, I think we don't have the contract.

16 MR. PETERSON: Is it Arcon?

17 MR. MERZ: I don't think that's it. If you
18 said the right name, I might remember it, but I wouldn't
19 promise that either.

20 MR. PETERSON: Okay.

21 BY MS. BERGSTROM:

22 Q Would Lowell Johnson's division have a history of the
23 various load ratings that have been done on this bridge?

24 A He'll have the past rating sheets. Basically, it's a
25 summary sheet. I think he will have those or he may end

Page 21

Page 23

1 up -- I think that he's got that.
 2 Q Okay. And are those kept, Gary, do you know, on a
 3 bridge-by-bridge basis?
 4 A Yes.
 5 MS. BERGSTROM: I guess, Barb, we might want
 6 to get our hands on those, as well.
 7 MR. PETERSON: I've seen the Mooty questions,
 8 and I think -- oh, just for this bridge you're saying?
 9 MS. BERGSTROM: Yes, just for this bridge.
 10 MS. FORSLAND: Could we talk just briefly
 11 about what that is? You want the sequential load ratings
 12 performed by CO bridge on this bridge?
 13 MS. BERGSTROM: Right. I know on one request
 14 we had talked about all load alterations for bridges; and
 15 when we had the meeting on March 17th, we talked about
 16 them all being captured in a file cabinet. This is much
 17 more specific, obviously, to the ones on this bridge.
 18 MS. FORSLAND: Okay.
 19 BY MS. BERGSTROM:
 20 Q There were some cracks that were discovered on the bridge
 21 in 1996. What do you know about that, Gary?
 22 A What do you know about it?
 23 Q Very little.
 24 A I can't -- you know, there were -- I'm not sure whether
 25 those were cracks that were found on the -- there were two

Page 22

1 sets of cracks that I'm familiar with.
 2 Q Why don't you tell me about those two sets of cracks.
 3 A Well, there were sets of cracks on the approach girders on
 4 the south end and in the north span, and then there were
 5 some cracks in what I call a transfer beam between the
 6 approach spans and the end of the truss.
 7 MS. BERGSTROM: Since you know more about
 8 that, do you want to ask some questions about that?
 9 MR. MERZ: Sure.
 10 BY MR. MERZ:
 11 Q I just want to make sure I understand the last thing you
 12 said. The transfer beam between what?
 13 A Between the approach spans and the end of the truss. So
 14 that's, like, a big -- do you understand the term
 15 "diaphragm"?
 16 Q Mm-hmm.
 17 A It's like a big diaphragm that's sitting at the end of the
 18 approach spans with a couple holes stuck in the center of
 19 it and the end of the truss pokes out of those holes, so
 20 it just kind of sits on the end of the truss there.
 21 Q And was that cracking at both ends?
 22 A The cracking on -- I think it was on the end of the
 23 approach beams. I'm not absolutely positive, but I think
 24 it was.
 25 (Peterson Exhibits 3 and 4 were marked for

1 identification by the court reporter and
 2 attached hereto.)
 3 BY MR. MERZ:
 4 Q So the one that you have in front of you there, what's the
 5 number on that exhibit?
 6 A It's Exhibit 4.
 7 Q Okay. So Exhibit 4 is a fax from you to Randy Hochstein
 8 at Maxim Technologies dated December 1st of 1997 and you
 9 talk here about a contract that's being entered into with
 10 Maxim to place some strain gauges; is that right?
 11 A Let me finish reading it here.
 12 Q Sure.
 13 A Okay.
 14 Q Does this relate to either of the two cracking instances
 15 that you just --
 16 A This is the cracking at the end of that transfer beam that
 17 I was talking about, at the end of the approach span.
 18 Q Do you recall how this -- how that cracking was
 19 discovered?
 20 A I'm certain it was discovered during an inspection.
 21 Q Then if you look at the next document, which I guess we've
 22 actually marked as Exhibit 3 --
 23 A Okay.
 24 Q -- and you take whatever time you need to read it, but
 25 there's a sentence there that says, "Because cracking in

Page 24

1 the area of the floor beam stringer connection may
 2 threaten public safety, you are authorized to begin work
 3 immediately."
 4 A Okay.
 5 Q And my question is whether you recall this cracking as
 6 being something that, in your mind, threatened public
 7 safety.
 8 A Well, I think when we find cracking, this type of cracking
 9 on main structural members, it has the potential to --
 10 well, if not taken care of, it certainly could grow to
 11 threaten public safety. Typically, that type of wording
 12 that I'm putting in there is to justify an immediate
 13 contract so we don't have to jump through the normal hoops
 14 that we normally have to go through in the contracting
 15 process.
 16 But in any case, you know, our -- whenever we
 17 find cracks on the approach -- whenever we find cracks, we
 18 try to address those fairly quickly. We normally have a
 19 lot of time to address them, but it's just good policy to
 20 try to address them quickly.
 21 Q And why is that?
 22 A Because they can grow unexpectedly. They may -- I don't
 23 know, I guess it's always worst case thinking. Basically,
 24 that's the thinking. Worst case thinking is that they
 25 could go grow unexpectedly, quickly, and by that I really

Page 25

Page 27

1 mean over a long period of time, several months, if not
 2 attending to.
 3 Q And one of the things that has confused me about these two
 4 documents -- and I don't have in mind the date of the
 5 inspection in 1997, but I have a general sense that it was
 6 well before December of 1997. What I'm having a difficult
 7 time understanding is if the inspection occurred in
 8 September, why this issue was one of urgency in the
 9 beginning of December?
 10 A Well, yeah, and I can't answer that question.
 11 Q You just don't recall?
 12 A I don't recall it, no. I think it's pretty obvious that,
 13 when we learned about it, we started acting on it fairly
 14 quickly, though.
 15 Q And given that you can't recall, this might not be a fair
 16 question and, if it's not, just say, I don't know, but
 17 could the delay have something to do with, you know, the
 18 document is coming from Metro and someone at Central
 19 Bridge eventually has to read it to come to the conclusion
 20 that, Well, we need to take some action? I mean, in your
 21 mind, is that a plausible --
 22 A Typically not. Typically not.
 23 Q Okay.
 24 A Because typically, when -- if Mark or somebody else at
 25 Metro would have a concern about something, particularly

1 A Well, I know that we had -- that Maxim installed strain
 2 gauges on the bridge to determine that it was indeed
 3 out-of-plane bending on this forward beam.
 4 Q Is that kind of a twisting, is that what out-of-plane
 5 bending is?
 6 A Well, it's more like that (indicating). Yeah,
 7 out-of-plane bending could be twisting, too, but it's
 8 typically more of a push/pull type thing.
 9 Q And was there out-of-plane bending? Was that the cause of
 10 this cracking?
 11 A I believe that's what the strain gauges showed. I believe
 12 the strain gauges showed that it was out-of-plane bending
 13 because, from that, my recollection is that we probably --
 14 well, no, I'm sure we drilled out the holes to try to
 15 arrest the cracks, but I think we -- my recollection is
 16 that we designed a bracing system that was eventually
 17 installed as part of a contract in 1998 or 1999 or
 18 something like that.
 19 Q I recall that at some point, and I don't recall if it was
 20 in this timeframe, that the diaphragms was lowered. Do
 21 you know if that was related to this issue?
 22 A No, that was related to that other issue that I was
 23 talking about.
 24 Q Okay.
 25 MS. BERGSTROM: I didn't tell you this when

Page 26

Page 28

1 cracking, they usually bring it to our attention. It's
 2 not something that waits for a fracture critical report to
 3 be reviewed.
 4 Q How would that generally get done?
 5 A Mark would give -- let's see, I'm trying to think. It
 6 would be Mark or Jack, because it's happened both ways, I
 7 think. Mark or Jack would end up giving the bridge office
 8 a call to -- probably to Paul Kivisto or bridge
 9 construction to come out and take a look at something that
 10 they are looking at. You know, it would be along those
 11 lines. Then the bridge engineer would get involved at
 12 that point.
 13 If you have a crack in any one of these
 14 bridges, Paul Kivisto would probably go directly to the
 15 bridge engineer and tell him, We have a crack situation
 16 out there. He would tell him, I'm going out to take a
 17 look at it. He would go out and take a look at it and
 18 report back, and we would have a discussion in a group as
 19 to how serious that was. It would normally be the
 20 construction engineer; somebody from Metro; the state
 21 bridge engineer; the construction engineer from our
 22 office, which would be my position; and the design
 23 engineer.
 24 Q Do you know how this issue that apparently arose at the
 25 end of 1997 was addressed?

1 we started, Gary, but if you ever want to take a break,
 2 just let us know.
 3 MR. PETERSON: No problem. I do -- I can
 4 probably stay for maybe 15 minutes after 5:30, but beyond
 5 that, I do have to leave today.
 6 MS. BERGSTROM: Okay.
 7 (Discussion held off the record.)
 8 BY MR. MERZ:
 9 Q Who was involved in the work that was done to address the
 10 cracking between the approach span and the end of the
 11 truss; do you recall?
 12 A You're talking about the transfer beam that I was talking
 13 about?
 14 Q Yes.
 15 A Who was involved? No, I can't. You would have to look at
 16 memos for who was copied and stuff like that. Again, my
 17 guess is that Mark Pribula would have been involved. Jack
 18 PirkI would have been involved. I think maybe Phil
 19 Erickson would have been involved. Those would be from
 20 Metro. From our office, I'm sure Don Flemming was
 21 involved. I was involved. John Allen was probably
 22 involved. It sounds like Todd Niemann was involved. I'm
 23 sure that Terry Moravec, back then, would have been
 24 involved. I think he was probably the inspections
 25 engineer. I'm certain that Paul Kivisto was probably

1 involved if -- no, I shouldn't say that. That might have
 2 been Paul Rowekamp, because I'm not sure who was the
 3 bridge construction engineer at the time.
 4 Q Okay. And then the other issue, the cracking and the
 5 approach girders in the south and north spans --
 6 A Sure.
 7 Q -- how was that issue addressed? That's when you lowered
 8 the diaphragms?
 9 A Right. My recollection, and I'm not absolutely positive
 10 about this, but I did -- I have read e-mails on this, and
 11 my recollection was that they were -- a number of those
 12 cracks, they were cracks that you've got the top of the
 13 connections, the diaphragm -- you have the diaphragm
 14 connecting two beams together and you have what's called a
 15 stiffener that's welded to the beam that the diaphragm is
 16 connected to and, when the bridge goes up and down, that
 17 kind of wiggles and we had some out-of-plane bending
 18 happening. These are all over the place, these
 19 connections back then. I think there was a total of, I
 20 don't know, over ten different spots along the bridge
 21 where they found small cracks, anywhere from 1 to 4 inches
 22 long, horizontal cracks at the time of the girder, not
 23 vertical, horizontal. They are from out-of-plane bending.
 24 I think -- I can't recall when we got Dexter
 25 involved, but I think we told people to drill the crack

1 tips out the first time. I think the next step was they
 2 found almost a full depth crack in the girder, that one of
 3 these things had grown to full depth. That's when I think
 4 we got Dexter involved, and I think we spliced the girder
 5 that had the full depth crack on it, and I think we asked
 6 Dexter for a recommendation as to how we should try to
 7 minimize that type of cracking in the future, and there
 8 would have been a couple of different ways you could have
 9 done that.
 10 I think what he came up with was he
 11 recommended lowering the diaphragms from the -- their high
 12 position, basically flipping them over and mounting them
 13 towards the bottom of the girder away from where the
 14 cracking was happening. Then he strain-gauged before and
 15 after the fix to determine that the fix did indeed reduce
 16 the stresses in the area that cracking was happening. So
 17 it was a fix that we had some confidence in and I think we
 18 had a contract to actually lower all the girders -- I
 19 think it was all the diaphragms in that area anyway, the
 20 area where they were cracking on the south spans.
 21 Q And was that effective in eliminating the cracking then?
 22 A Yes, I believe it was.
 23 Q Okay. The earlier issue involving the transfer beam, I
 24 take it you don't recall as much detail about how that
 25 issue was addressed?

1 A Well, like I said, I know that we -- I can't recall how
 2 we -- what we initially did, but I do recall that we did
 3 have -- because I was the guy that worked with Maxim to
 4 try to get them out there. I was actually out there on
 5 that one. I was up there and I took a look at what the
 6 cracking was, and it was -- like I said, they
 7 strain-gauged it, drilled out the holes, continued to
 8 monitor it and then, eventually, we developed a fix for
 9 it.
 10 Q And the fix was bracing?
 11 A Yes.
 12 Q Was that fix effective to arrest that cracking?
 13 A I think we have had -- you would have to go into the
 14 inspection reports to find out. We may have had some
 15 minor extensions, but we -- I guess I have speculated.
 16 You would have to go into inspection reports to find out
 17 if there was anything, any additional cracking.
 18 Q And you had used the phrase that a crack had grown to
 19 almost a "full depth"?
 20 A That was on the approach deck.
 21 Q And what does "full depth" mean? I'm not sure that I know
 22 what that means.
 23 A Well, if you have a 40-inch girder, it was probably on the
 24 order of 36 inches.
 25 MR. MERZ: okay.

1 BY MS. BERGSTROM:
 2 Q One of the things that you've mentioned, Gary, was that
 3 some of the stuff done on the bridge was that you knew
 4 that there were some construction contracts let to address
 5 accumulating maintenance. In general terms, what
 6 construction contracts were you talking about?
 7 A There was one, I believe it was -- there was one in -- I
 8 believe there was one in 1999, one in 1998, or it might
 9 have been -- there were two in that period of time. It
 10 might have been 1997 and 1999, something like that, and
 11 then again this last one in 2006.
 12 Q The 2006, are you talking about the work that was being
 13 done on the bridge --
 14 A Yes.
 15 Q -- when the bridge collapsed?
 16 A Right.
 17 Q Okay. We'll talk about that in a minute. Back in the
 18 1997 to 1999 range, what work was contracted out then; do
 19 you know?
 20 A Well, I know that there was paint. There was this bracing
 21 that I was just talking about. There may have been, there
 22 may have been -- you would have to go to the construction
 23 contracts to get that work, to be certain of that work.
 24 Q But generally, you think it was the paint, you think it
 25 was bracing. Anything else?

Page 33

Page 35

1 A Well, I know there was some missing bolt replacement.
 2 Basically, what I'm giving you is my recollection from
 3 research, some of this from Star Tribune questions that
 4 have come up since the collapse. I mean, it's not
 5 something that I would otherwise know.
 6 Q You didn't know it at the time?
 7 A No. That's why I say the best thing to do there is to go
 8 to the plans and find out what the work was. I think
 9 there were some drain extensions that were done.
 10 Q Do you know who -- to the extent that contracts were let
 11 for this as opposed to Metro maintenance doing the work,
 12 do you know what makes that decision, meaning contracting
 13 it out versus having maintenance crews at Metro do it?
 14 A Well, I think that the projects are jointly decided
 15 between the bridge office and Metro maintenance. If it
 16 were to happen today, I could tell you how the project
 17 would have been selected. I can't tell you how the
 18 project would have been selected back in 1997 or 1998 or
 19 something like that.
 20 Q When you said that somebody from Central Bridge would work
 21 with Metro, who at Central Bridge would have worked with
 22 Metro?
 23 A That would have been the bridge construction engineer, one
 24 of those three --
 25 Q So Paul?

Page 34

1 A Paul Kivisto, right, or Rowekamp.
 2 Q For either of the work that you were discussing with Greg,
 3 either of those two projects, if there were analyses done
 4 to determine how those projects would have impacted the
 5 structural integrity, would those again show up in the
 6 ratings documents that we discussed earlier?
 7 A Neither of those projects would likely have shown up in
 8 the ratings area.
 9 Q And why is that?
 10 A Because they wouldn't have affected the load rating of the
 11 bridge. They wouldn't have reduced the engineering
 12 properties of the beam or the deck or anything like that
 13 that would have determined how much load it could carry.
 14 Q So the Ratings Unit is simply a load type of analysis?
 15 A Yes, load and -- well, load and condition. Condition
 16 comes in.
 17 Q You mentioned Dexter at the U of M who got involved in
 18 lowering the diaphragms. That would have been, then,
 19 before he was asked to participate in the fatigue study or
 20 to conduct the fatigue study?
 21 A Right. He was involved in -- we had -- whenever we had a
 22 problem on a bridge, a fatigue problem on a bridge, we
 23 typically involved him. There were other places around
 24 the state where we also had him involved.
 25 Q Ultimately, he did do a fatigue study on the I-35 bridge,

1 and I think the report is dated 2001?
 2 A Yes, it is.
 3 Q Okay. And how long were they out doing studies on the
 4 bridge in order to complete that 2001 report?
 5 A You would have to go through the records to find that out.
 6 I don't --
 7 Q You don't have any recollection?
 8 A I can't tell you when it started and when it stopped.
 9 2001 is when it stopped.
 10 Q And to your memory, what was the result of his report?
 11 A Basically, that there was -- that the bridge had -- that
 12 fatigue cracking of the bridge was not a significant
 13 concern for the truss.
 14 Q What was HNTB's role with respect to the Dexter report?
 15 A I don't think they had anything to do with that.
 16 Q Were you aware that HNTB was out studying the bridge?
 17 A No, I wasn't.
 18 Q Okay.
 19 (Peterson Exhibit 5 was marked for
 20 identification by the court reporter and
 21 attached hereto.)
 22 BY MS. BERGSTROM:
 23 Q All right, Gary, I'll have you look at Exhibit Number 5.
 24 Why don't you take some time and take a look at this.
 25 A I don't know how much you want me to look at this. To do

Page 36

1 it in detail would take quite a long time.
 2 Q Well, let me just ask you, do you remember seeing this
 3 before?
 4 A You know, I don't, but that doesn't mean that I haven't
 5 seen it before. I would have thought that I would have
 6 seen it before, but I don't remember seeing it before.
 7 Q On the second page, so not the title page, but the second
 8 page, about the third paragraph down it says, "MnDOT
 9 recently contracted with the University of Minnesota
 10 Department of Civil Engineering to conduct fieldwork and
 11 analysis for a "Fatigue Evaluation of the Deck Truss of
 12 Bridge No. 9340."
 13 A On the third page?
 14 Q Second, second page, third paragraph down.
 15 A Okay.
 16 Q And it talks about the fact that the University of
 17 Minnesota has been contacted, and then it says, "Among the
 18 findings in the University's interim report dated
 19 January 2000 ..."
 20 A Okay.
 21 Q So I assume, as I understand the way a lot of these
 22 reports go, there is a draft report that gets commented on
 23 and discussed by MnDOT and the consultant, and this seems
 24 to indicate that they had a draft report out in January of
 25 2000?

Page 37

Page 39

1 A Okay.

2 Q And that HNTB was doing some work in conjunction with
3 those draft findings?

4 A I think I understand where you are going. I'm not
5 absolutely positive, but my recollection is that the
6 University of Minnesota and Dexter were there putting
7 together that report. I think Steve Olson was a graduate
8 student that was working on that report at the same time
9 or was working on it for Dexter. He ended up getting a
10 job with Howard Needles (phonetic), and I think this
11 might -- well, I shouldn't even talk about that because
12 it's all pure speculation. It seems to me that that's
13 what this is, just marketing based on some inside
14 knowledge of the Dexter report.

15 Q And you said -- if you look at the top page of Exhibit
16 Number 5, the cover page --

17 A Okay.

18 Q -- there are, in fact, some initials up there that appear
19 to be SAO, so maybe that is Steve Olson. I don't know.

20 A I'll bet you it is.

21 Q But you had said that he had a job with who?

22 A Howard Needles.

23 Q Oh, that's HNTB?

24 A Yeah.

25 MS. BERGSTROM: Okay, let's mark another

1 there's nothing that causes me to remember it.

2 Q Okay. If you look back a couple of pages into this
3 document, which appears to be from HNTB and maybe Steve
4 Olson, on the fourth page there's some diagrams that talk
5 about --

6 A Is that this page here (indicating) by the way, just to be
7 sure?

8 Q Yes -- no. There's a cover page --

9 A So it's the fifth page down, okay.

10 Q Here, why don't you hand me yours and I'll get you to the
11 page that I want you to look at.

12 A Okay.

13 Q This (indicating) is the page. It's about the fourth page
14 back.

15 A Okay.

16 Q It has some -- it shows the joints at L5 and it talks
17 about new -- it looks like new oversized gusset plates to
18 be attached?

19 A Okay.

20 Q Does that trigger any memory that you --

21 A No.

22 Q Okay.

23 A I do -- I'm not sure if it was Howard Needles or
24 discussions with other consultants, but I know that --
25 it's not totally unfamiliar, the concept. I think these

Page 38

Page 40

1 exhibit.

2 (Peterson Exhibit 6 was marked for
3 identification by the court reporter and
4 attached hereto.)

5 BY MS. BERGSTROM:

6 Q All right. I'll have you take a little time and have you
7 look through Exhibit Number 6.

8 A Oh, Steve's signature is on the bottom of that second
9 page.

10 Q Let's start on the first page.

11 A Okay.

12 Q There's some cover writing that says, "Please review and
13 discuss with Bob." I'm guessing that that might be Bob
14 Miller?

15 A I think that's right.

16 Q And then this note down below that is signed by Don, and
17 I'm assuming that's probably Don Flemming?

18 A I would expect that's true.

19 Q And it says, "Set up a meeting" -- and it's dated. It
20 says, "Set up a meeting" for November 2nd, 2000, "with
21 Bob, Gary, Kevin and I to decide on action." Do you see
22 that?

23 A Yep.

24 Q Do you remember having a meeting?

25 A Nope. That doesn't mean it didn't happen, just that

1 are all -- they look like they are all different schemes
2 for -- that they may have come in just to discuss.

3 There's a lot of different ways to add redundancy to the
4 truss. That was one of our concerns, so it looks like
5 that was one of many. You would have had to add some --
6 you would have had to strengthen any gusset plate if you
7 were going to add that much force from a post tensioning
8 system into that connection, so my guess is that's why
9 they are adding that extra plate.

10 Q Okay. So back in November of 2000, Central Bridge office
11 was talking about how to add redundancy to the bridge?

12 A There was discussion back then that Dexter's report -- I
13 think we were probably aware that Dexter's report wasn't
14 finding necessarily that we had a fatigue problem, but
15 like Flemming always said, this was the most heavily
16 traveled fracture critical bridge in our system and he
17 wanted to be sure that we were looking at it from a
18 fracture standpoint. He was looking for some additional
19 ways to -- if there was some way we could add redundancy
20 to the bridge that wouldn't make it fracture critical
21 anymore, he was interested in talking to people about
22 that.

23 (Peterson Exhibit 7 was marked for
24 identification by the court reporter and
25 attached hereto.)

Page 41

Page 43

1 BY MS. BERGSTROM:
 2 Q Okay, I'll have you take a look at this. I don't know who
 3 the author of this document was, this Exhibit Number 7.
 4 A I believe I was.
 5 Q Pardon me?
 6 A I believe I was.
 7 Q Okay. So in this document number 7, it appears that you
 8 are discussing the University of Minnesota's final report,
 9 correct?
 10 A Yes.
 11 Q And then you had some comments on the HNTB proposal kind
 12 of two-thirds of the way down. Do you see that?
 13 A Right.
 14 Q The -- kind of the second to the last paragraph says, "It
 15 might be worthwhile if we ask HNTB to develop an action
 16 plan and retrofit details to repair various crack types in
 17 case they develop in the future."
 18 Do you remember whether you had those
 19 discussions with HNTB?
 20 A I've got to read that second paragraph a little bit more.
 21 (Peterson Exhibit 8 was marked for
 22 identification by the court reporter and
 23 attached hereto.)
 24 MR. PETERSON: Okay, go ahead, what was that
 25 question?

1 Q Up in the top left corner, it says "6 of 7."
 2 MS. FORSLAND: Up here (indicating).
 3 MR. PETERSON: All right.
 4 BY MS. BERGSTROM:
 5 Q If you see, down at the bottom of that page there is
 6 Compensation. It says, "Our estimated cost for this
 7 project is" \$126,000.
 8 A Okay.
 9 Q And back referring again to your Exhibit Number 7, you are
 10 saying, "I'm not convinced HNTB's proposal for \$125,000
 11 (and subsequent retrofit project cost) gives any greater
 12 assurance that problems won't develop than Dexter's report
 13 currently assures us." Do you see that?
 14 A Yep.
 15 Q So it does appear that Exhibit Number 7, the report, is
 16 commenting on Exhibit Number 8?
 17 A I think that's probably true.
 18 (Peterson Exhibits 9 through 12 were marked
 19 for identification by the court reporter and
 20 attached hereto.)
 21 (Short break taken.)
 22 BY MS. BERGSTROM:
 23 Q Gary, I'm going to hand you --
 24 A Can I follow up on this one here (indicating)? I probably
 25 shouldn't do this, but --

Page 42

Page 44

1 BY MS. BERGSTROM:
 2 Q My question was, do you remember whether you talked to
 3 HNTB about an action plan and retrofit?
 4 A I think we -- I think that was what we eventually went out
 5 to contract for with not necessarily HNTB, but I think we
 6 put out an RFP probably asking for a more in-depth
 7 analysis and retrofit details.
 8 Q I'll show you this one, this document, which has been
 9 marked as Exhibit 8. This is a proposal from HNTB and
 10 this one is dated October 2001.
 11 A Okay.
 12 Q Is it the case that in Exhibit Number 7, when you are
 13 commenting on the HNTB proposal, that this is the proposal
 14 that you are commenting on?
 15 A You would have to take a look at -- are there any dates on
 16 any of this stuff?
 17 Q Well, on Exhibit 8 it appears to be October 2001.
 18 A Yep, October 9th. Do you have any idea when this one here
 19 (indicating) was?
 20 Q I don't have anything on that.
 21 A I would have to look. This doesn't look like a financial
 22 proposal, so it doesn't look like it's from a subsequent
 23 solicitation for a contract.
 24 Q Well, let's do this, let's look at page 6 of 7 --
 25 A Cover page is one page?

1 MS. FORSLAND: No, no, go ahead.
 2 MR. PETERSON: As I walked away and I thought
 3 about it a little bit more, I think that \$125,000 that I'm
 4 seeing, I'm saying what are we going to get for this?
 5 They were going to refine Dexter's model, and they didn't
 6 really find any problem with that, and what we're going to
 7 get out of this is nine critical members, but it's not
 8 going to give us any more assurance than Dexter's model
 9 is. So what we should ask for there is, if you are going
 10 to give us nine critical members, tell us how to fix them.
 11 Q So when you say, "It might be more worthwhile if we ask
 12 HNTB to develop an action plan and retrofit details to
 13 repair various crack types in case they develop in the
 14 future" --
 15 A Right.
 16 Q -- that's where you are saying it would be a better use of
 17 the money?
 18 A Well, it would be a better proposal. It's not addressed
 19 in their proposal.
 20 Q Okay. All right, so now I'll have you look at Exhibits 9
 21 through 12.
 22 A And that's these (indicating)?
 23 Q It is. And it appears that these are meeting minutes,
 24 first from November 8th, 2001; the next from
 25 November 28th, 2001; a handout from Rich Johnson at HNTB

Page 45

Page 47

1 on November 28th, 2001; and then a December 14th, 2001
 2 meeting at Waters Edge.
 3 A Okay.
 4 Q All right. I believe, and maybe you can tell me, I think
 5 this is Dan Dorgan's handwriting. Does that look familiar
 6 to you?
 7 A Well, it's either his or Don's.
 8 Q And I can certainly ask Dan. I'm just wondering if you
 9 recognize it.
 10 MS. FORSLAND: Is that anything that you
 11 can --
 12 MR. PETERSON: I've worked for them both for
 13 so long I guess you would have to -- it says from Dan
 14 Dorgan up there, so -- or Dan Dorgan, possible addition,
 15 so I question that. If Dan -- Sharon Hunt -- I'm trying
 16 to think.
 17 BY MS. BERGSTROM:
 18 Q Okay. If you look at Number 10, which is the second one
 19 that I handed you, it looks like this is a meeting that
 20 involved Dan Dorgan, Paul Kivisto, Gary Peterson and Kevin
 21 Western. Do you see that?
 22 A On the second exhibit?
 23 Q Up at the top.
 24 A Okay.
 25 Q It appears that that is --

1 A Okay.
 2 Q And it says, "Discussed Dexter report plus HNTB proposal
 3 for added study." And then at the very bottom it says,
 4 "Based on above, and doubtfulness expansion will occur on
 5 schedule, decided to proceed with study HNTB/Dexter
 6 proposed."
 7 A Okay.
 8 Q So in December of '01 the group charged with discussing
 9 these points makes a decision to proceed with their work?
 10 A Okay.
 11 Q Do you remember that?
 12 A Nope.
 13 Q Do you know what happened to the HNTB work that was
 14 approved at this December meeting?
 15 A No. My guess is -- now, this is October, this is 2001.
 16 I'm not sure when -- when did we go to contract with URS,
 17 because I think we -- my recollection is that at some time
 18 or another there were a number of different people that
 19 came in and talked to us about the 35W bridge and it
 20 wasn't just Howard Needles. There was -- HDR came in and
 21 talked to us. URS did.
 22 Q Let me put this into context for you this way: In
 23 March 2003, so a good 14 months after these meeting
 24 notes --
 25 A Okay.

Page 46

Page 48

1 A Okay.
 2 Q This is a meeting invitation, if you will, for those
 3 individuals.
 4 A Okay.
 5 Q And I believe that Exhibit Number 11, which is the next
 6 page, was a handout from HNTB at that November 28th
 7 meeting --
 8 A Okay.
 9 Q -- because the first one says, "Meeting with Rich Johnson
 10 from HNTB and Bob Dexter from the U of M and Steve Olson,"
 11 and then number 11 says, "From Rich Johnson."
 12 A Number 11?
 13 MS. FORSLAND: Exhibit 11.
 14 MR. PETERSON: Okay.
 15 BY MS. BERGSTROM:
 16 Q So this would seem to indicate that in November of 2001
 17 Dan, you, Kevin Western and Paul Kivisto met to discuss
 18 how to proceed with the HNTB proposal. Do these documents
 19 help trigger your memory that you were doing that, Gary?
 20 A Nope. No, I wonder -- no, they don't.
 21 Q Okay. Look, then, at the last exhibit that I handed you,
 22 Exhibit Number 12. This appears to be a meeting at Waters
 23 Edge. It looks like the attendees are listed right at the
 24 top there and, again, I'm certain that this is Dan
 25 Dorgan's handwriting.

1 Q -- the Request For Interest, the RFI, went out --
 2 A Okay.
 3 Q -- to various entities including to URS.
 4 A Okay.
 5 Q That resulted in a contract with URS in around June 2003.
 6 A Okay.
 7 Q So my question is, what happened between December '01 and
 8 March '03 to HNTB and the study that was approved? Do you
 9 know?
 10 A No, I don't think that -- no, I don't know.
 11 Q Okay. Based on the time line that I just told you, that
 12 the RFI went out in March of 2003, there was work awarded
 13 to URS and, as I understand it, the work was two-fold.
 14 The first thing that URS did was to go out on the bridge
 15 in June of 2003 and prepare a fracture critical inspection
 16 report for MnDOT?
 17 A Actually, I don't know whether that's what they did. I
 18 think they were out there on a fracture critical
 19 inspection with Mark and his -- the group that was doing
 20 inspections, but I'm not certain -- I guess I'm not aware
 21 that they did a fracture critical inspection for us.
 22 Q You don't know whether they prepared a fracture critical
 23 inspection report for you in the summer of '03?
 24 A There was an inspection made and they reported on an
 25 inspection, but I don't think it was a fracture critical

Page 49

Page 51

1 inspection. I think they were documenting details and
 2 issues that they were going to be looking at, bearings,
 3 bearing movements.
 4 Again, what you really want to do there is
 5 you really want to look at contract documents. You want
 6 to look at what it said in their contract documents.
 7 That's what we would have held them to.
 8 Q But to your memory, you don't recall them producing a
 9 report to MnDOT in the summer of 2003 that's an inspection
 10 report?
 11 A They did -- oh, it was an inspection report. It wasn't a
 12 fracture critical inspection report.
 13 Q Okay. And would you have been someone who received that
 14 inspection report?
 15 A I would have -- yes, I think I would have been one person,
 16 yes.
 17 Q There has been some media, if you will, around some photos
 18 taken by URS in that summer of 2003 that show the gusset
 19 plates bowed --
 20 A Bowed, yeah.
 21 Q Bowed. Do you know whether those were attached to that
 22 inspection report?
 23 A I know now that they were.
 24 Q You don't recall seeing them at the time?
 25 A No.

1 Q After they did this initial inspection in 2003, I
 2 understand that URS continued to do the work under the
 3 contract documents. There were at least four progress
 4 meetings with URS over the course of a couple of years.
 5 Were you in attendance at those progress meetings?
 6 A Probably most of them.
 7 Q Okay.
 8 A I want to go back to your previous discussions there about
 9 the inspection report. You almost have to look at, again,
 10 time lines to see how these things all meshed together and
 11 I don't know, but my guess is that things were being done
 12 in parallel, that we had the inspection contract going on,
 13 and there was probably some analysis going on. We were
 14 probably hearing other things going on at the same time,
 15 that there were pieces of the inspection report that were
 16 helpful to URS, that URS needed to help them develop their
 17 computer model. I think there was some work done on the
 18 bearings in that inspection report. My feeling is that
 19 the inspection was more for the modeling benefit than it
 20 was for anything else, but I -- you know, that's why I say
 21 you almost have to look at the contract documents.
 22 Q Well, and as I understand it, one of the reasons they were
 23 out with Mark during his June inspection was to gather
 24 data so that they could do their work.
 25 A All right.

Page 50

Page 52

1 Q When the news media reported on those pictures within the
 2 last couple of weeks, was that the first time you had seen
 3 them, to your recollection?
 4 A To my recollection, it was.
 5 Q After URS --
 6 A I'm trying to think. Honestly, I may have been aware
 7 through some NTSB inquiries or whatever, but I really --
 8 you know, I can't say for sure that the newspaper was the
 9 very first place I saw it.
 10 Q It may be a more fair way to ask the question that you
 11 weren't aware before the bridge collapsed?
 12 A No, absolutely not.
 13 MR. MERZ: If you had seen that, is that
 14 something that would have caused you concern or caused you
 15 to follow up on?
 16 MR. PETERSON: Are you going to ask me pre-
 17 or after, pre-collapse or after collapse?
 18 MR. MERZ: Well, that's fair, but to the
 19 extent you can, putting yourself back in time.
 20 MR. PETERSON: I don't think it would be fair
 21 for me to speculate on that.
 22 MR. MERZ: Do you believe that you saw the
 23 URS report in 2003?
 24 MR. PETERSON: I'm sure I did.
 25 BY MS. BERGSTROM:

1 Q Is that correct?
 2 A Yes.
 3 Q That's what you're talking about?
 4 A Yes.
 5 Q Okay. The progress -- well, let's back up.
 6 So they started doing some of this gathering
 7 of data in June 2003 and their draft final report to MnDOT
 8 was issued in July 2006.
 9 A Okay.
 10 Q Do you know why, Gary, their work took three years?
 11 A I'm not sure what their schedule was. I would have to
 12 look at their schedule. That seems like it's a little bit
 13 too long. There may have been jobs that got in the way
 14 and they couldn't devote all of their resources to it. It
 15 might have been time -- our review time might have gotten
 16 in the way, might have added to it.
 17 Q Do you know either way?
 18 A No.
 19 Q Do you recall having discussions at MnDOT about the length
 20 of time the URS study was taking?
 21 A I can't recall.
 22 (Peterson Exhibit 13 was marked for
 23 identification by the court reporter and
 24 attached hereto.)
 25 BY MS. BERGSTROM:

Page 53

Page 55

1 Q Gary, here is Exhibit Number 13. The cover memo appears
 2 to be to Bob from Scott Pierson. Again, I assume Bob is
 3 Bob Miller?
 4 A I would expect you're right.
 5 Q And who is Bob Miller again?
 6 A He would be the consultant agreements engineer. He would
 7 be the person who would be responsible for the contract
 8 administration of these contracts.
 9 Q So, in fact, if URS -- if URS contracts had numerous
 10 amendments or extensions, he would be the person who would
 11 know that information probably?
 12 A Yes.
 13 Q And then Scott Pierson, what was his role in the URS
 14 study?
 15 A He was what we would call the technical liaison for it,
 16 which was basically, Scott states here, it would really be
 17 the point person to coordinate meeting times, response
 18 comments through. It would have been a very clerical
 19 position.
 20 Q This appears to be a letter from Don Flemming at URS to
 21 Scott enclosing some meeting minutes from the fourth
 22 progress meeting.
 23 A Okay.
 24 Q And it appears that the fourth progress meeting took place
 25 on March 31st, 2005?

1 Q And you had some concerns that URS had not addressed all
 2 the concerns, right?
 3 A Well -- mm-hmm.
 4 Q I'm sorry, you have to say yes.
 5 A Yes.
 6 Q Okay. This meeting takes place in March 2005 and, again,
 7 URS's draft report comes to MndOT in August 2006. I don't
 8 believe there were any progress meetings during that
 9 interim of time. Do you know why that was?
 10 A No.
 11 Q When the last report came to MndOT in July 2006, I
 12 understand that you, Dan Dorgan and Kevin Western all
 13 reviewed it and made comments on it. Do you remember
 14 that?
 15 A I sure do, mostly from Star Tribune inquiries about that.
 16 Q And, obviously, one of the recommendations made by URS was
 17 to implement a retrofit on various parts of the bridge,
 18 right?
 19 A That's correct.
 20 Q After you received the July 2006 draft, I understand you
 21 had a meeting with URS in September of 2006. Does that
 22 sound right?
 23 A Yeah, that was a formal meeting. Yep.
 24 Q And what was -- and, presumably, the draft was discussed
 25 at that meeting?

Page 54

Page 56

1 A Okay.
 2 Q And that you were one of the people in attendance?
 3 A Okay.
 4 Q First, this Don Flemming is the same Don Flemming who used
 5 to be the bridge engineer, correct?
 6 A Yes, he is.
 7 Q And then there are some minutes reflecting the discussion
 8 items.
 9 A Okay.
 10 Q If you look at number 8, it says, "Gary Peterson raised
 11 the question about failures that may occur at locations
 12 other than at the interior diaphragm, specifically at tack
 13 weld locations. URS will contact Mark Pribula and review
 14 the photograph records to determine if tack welds exist at
 15 the member to gusset plate locations."
 16 Did you have the follow-up conversation with
 17 Mark Pribula about those issues?
 18 A I can't remember if I did or not.
 19 Q Do you remember raising the question that there would have
 20 been failures?
 21 A I can imagine I would have. I don't know if failures
 22 would have -- if I had to rewrite that, I certainly
 23 wouldn't use the term "failure," but I think the point was
 24 if you are going to do a bunch of plating, have you
 25 addressed all of the concerns?

1 A I think those review comments were -- I believe the review
 2 comments were discussed at the meeting.
 3 Q In your memory, what was the next action after that
 4 September 2006 meeting? What were the take-aways, if you
 5 will?
 6 A I almost have to think out loud here, and I don't like
 7 thinking out loud, because it really starts in -- it
 8 really starts when we received the report, which was in
 9 June. We had talked to -- we had talked to Metro District
 10 at that time saying it looks like we've got a replating
 11 contract coming up, so at that time we started talking
 12 contract with Metro and -- I'm trying to think. I think
 13 when we got done with the September meeting with URS, it
 14 was confirmed that that was the direction we were going to
 15 go, that our -- that the review comments that we had were
 16 considered and were addressed and that the best direction
 17 to go was to go forward with the plating contract.
 18 I think -- and I would have to go into the
 19 records to find out exactly actions we took, but I know
 20 there were -- there was some point in there that we put
 21 out -- we tried to get ahold of contractors to look at a
 22 potential job of plating the bridge. I think subsequent
 23 action that resulted from there was that we determined to
 24 move forward with the plating contract.
 25 (Peterson Exhibits 14 through 16 were marked

1 for identification by the court reporter and
 2 attached hereto.)
 3 BY MS. BERGSTROM:
 4 Q Gary, I'm now going to hand you some meeting minutes that
 5 are marked Exhibits 14 through 16.
 6 A Okay.
 7 Q These are minutes that were produced to us in conjunction
 8 with our investigation, both originally and then again
 9 when I talked to interviewee Jerome Adams.
 10 A Okay.
 11 Q And as I understand it, Jerome is the author of these
 12 meeting minutes. Based on the attendees, I understand
 13 that you were at each of these meetings?
 14 A Okay.
 15 Q So the first is in April, April 3rd, 2006, and at the
 16 meeting on April 3rd, 2006, there was some discussion
 17 about the various projects going on on the bridge, and it
 18 does not appear at this point that the retrofit or the
 19 replating is mentioned specifically.
 20 A Okay.
 21 Q And that makes some sense because it's April 2006 and you
 22 wouldn't have yet received some of URS's conclusions, I
 23 take it?
 24 A That's right.
 25 Q Okay. If you turn to the third page, it talks about the

1 A Okay, yep.
 2 Q So is that what you were talking to me earlier about, it
 3 was your memory that you had started discussing the
 4 retrofitting with Metro and started working up the cost
 5 for that, right?
 6 A This is what I was referring to.
 7 Q Okay. And as I understand it, those discussions continue,
 8 and if you look at Exhibit Number 16, there's another
 9 meeting, and at paragraph 2 it says, Gary Peterson
 10 presented the costs of reinforcing the steel structure.
 11 The cost would be 1 to 1.5 million. Gary stated that not
 12 performing the reinforcing work is unacceptable. The
 13 consequences of structural failure are too great. The
 14 structural reinforcement will add an extra level of
 15 security to the bridge. Do you see that?
 16 A Yep.
 17 Q And right down below there it talks about the funding and
 18 the fact that Roger Schultz had the \$1.5 million set aside
 19 from his Bridge Improvement Fund to do the retrofitting,
 20 right?
 21 A Mm-hmm.
 22 Q Yes?
 23 A Yes, I'm sorry. I'm sorry.
 24 Q Okay. So as of November 2006, the retrofitting project at
 25 the cost of about 1.5 million was still something that was

1 2007 deck overlay.
 2 A We're talking about the --
 3 Q It's paragraph 4.1.1.
 4 A Thank you.
 5 Q And I've talked to Jerome Adams about that project, which
 6 is Special Project 107. Were you involved at all in the
 7 decision to move forward with the deck overlay?
 8 A I probably was. I probably was. I think there was
 9 probably recommendations that would have come out of our
 10 office that I might have signed or that I would have
 11 signed.
 12 Q But you don't have any specific memory about it?
 13 A No. I think -- no, I don't.
 14 Q Okay. Then in July -- Number 15, Exhibit Number 15 is the
 15 July 24th, 2006 meeting. And in the very first paragraph
 16 it says that you and Paul summarized URS's draft final
 17 report and here there is mentioned, the second sentence,
 18 that to further reduce the risk of failure, the report
 19 recommends structural steel reinforcement and a new
 20 concrete bridge deck. Do you see that?
 21 A Mm-hmm, mm-hmm.
 22 Q And it appears then that the very last paragraph of this
 23 document, number 10, Next Steps, is that the bridge office
 24 is going to start looking at the costs and present them to
 25 Metro for the replating. Do you see that?

1 contemplated by MnDOT?
 2 A Yes, it was.
 3 Q Was that retrofitting ever abandoned by MnDOT?
 4 A Technically, no.
 5 Q Why don't you explain what you mean by that.
 6 A Well, eventually, URS gave us a supplement to their
 7 inspection that identified a level of defect that would --
 8 a defect would have to be a certain size to continue to
 9 grow into a crack. I mean, otherwise, it just sits there
 10 as a defect, and there was a possibility of either
 11 reducing the amount of plating that was done or possibly
 12 even completely eliminating it if that -- if we were
 13 comfortable with our NDT detection methods to find those
 14 types of flaws. So we had one recommendation from them
 15 that said we could replate the whole thing. We had
 16 another one that said we can do a thorough NDT inspection
 17 and, if no flaws are found, just continue inspecting it,
 18 or some combination.
 19 So we determined to take a break here from
 20 the contract and do the NDT work, take that extra step,
 21 see if we had comfort and, if we found issues that we
 22 didn't feel we could deal with, that continued to cause us
 23 concern, we would move into the replating contract the
 24 following year. Basically, all we did was postpone the
 25 plating contract for one year, so we never really

Page 61

Page 63

1 abandoned it.

2 Q The thought was to do the nondestructive testing to

3 determine whether it could be reduced or even wholly

4 eliminated, so it was postponed for a while?

5 A Yeah. I mean, it's one thing to say you have a certain

6 size flaw that needs to be detected out there. It's

7 another one to actually go out there and be confident that

8 you are looking at enough spots that you are catching all

9 the places. That's why we asked our inspectors to give us

10 a report on how confident they were that they could catch

11 those flaws.

12 Q Okay. Do you know why URS gave you a supplement to its

13 recommendations?

14 A I just don't think they were complete at the time. I

15 don't think their final -- their report was -- that was a

16 draft final report. I don't think it was complete at the

17 time, and there were other sections. There were other

18 sections that have been added since then also.

19 Q In fact, it wasn't even final at the time of the bridge

20 collapse, was it?

21 A We haven't received a final section at the end, at the

22 time of the bridge collapse. I'm not sure that it was

23 ever finished. I'm not sure there was ever an acceptance

24 of a final draft.

25 Q When you said that we decided to take a break and pursue

1 A Todd's -- it would have been his two -- at least his two

2 structural metals inspectors that are -- that are licensed

3 to do UT inspections. Yeah, they are licensed to do UT

4 inspections, so it would be Ken Rand (phonetic) and Bill

5 Nelson.

6 I've got to just warn you here, I'm going to

7 leave in ten minutes and I'm okay with coming back for

8 additional time.

9 Q Okay. Let me just ask you, so there was a group of

10 inspectors out on the bridge in May of 2007?

11 A Yes.

12 Q Were they -- as I understand it, Todd Niemann was the head

13 of the group that was out there.

14 A Okay.

15 Q Is that your understanding?

16 A Well, I think you are talking about the 2007 inspection

17 when we did the UT testing of the -- yes.

18 Q I guess I want your understanding. What's your

19 understanding of what they were doing out there?

20 A My understanding of what they were doing out there was a

21 visual inspection of the -- a visual inspection and a use

22 of UT to find -- to determine the depth of flaws that they

23 were able to find using visual and UT methods.

24 Q Do you know whether they completed the testing, both

25 visual and UT, on the entire bridge in that timeframe?

Page 62

Page 64

1 this nondestructive testing, who decided that? Who was

2 the group that decided that?

3 A Well, I'm sure that would have been -- I'm sure it would

4 have been myself, Dan and Kevin. I'm not sure whether

5 Todd would have been involved with that, but Todd would

6 have had input into the decision.

7 Q What was involved in the nondestructive testing that you

8 were going to do? I mean, what kind of testing was that

9 going to be?

10 A It was going to be UT testing of specifically the welds on

11 the -- a visual inspection and a UT inspection of welds on

12 the tab plate connections of the diaphragm to the side of

13 the box in the truss members. I think there were three,

14 there were three diaphragms per length of truss member,

15 and they were going to examine those welds because that's

16 really where we were looking for the flaws. That was the

17 fatigue detail that had been identified as being possibly

18 susceptible to cracking or crack propagation, so we were

19 going to look at each of those welds and do NDT on a

20 number of them to determine whether we could find flaws.

21 Q And when you talk UT, does that --

22 A NDT, UT.

23 Q Right, is that ultrasound testing?

24 A Ultrasonic, yes.

25 Q And who was going to do that ultrasonic testing?

1 A A little bit more than half the bridge.

2 Q Do you know why they didn't do the whole bridge?

3 A Gee, no, I really can't say for sure. I don't think they

4 originally intended to do the whole bridge. I think there

5 was supposed to be a break in the middle to be able to

6 talk the whole thing over with URS and the methods, but I

7 don't know that that's what stopped them. There might

8 have been some other reasons too.

9 Q Do you know what happened to URS's recommendation that

10 there be some audible testing on the bridge?

11 A I remember discussing that.

12 Q Okay.

13 A I think the feedback that we got from -- it may have been

14 Todd on the whole thing, I'm not positive, was that it

15 wouldn't have added to our certainty that we weren't

16 developing problems. I think with this type of

17 technology, you needed to have a crack present or a

18 similar crack present for it to be effective, and there

19 were no cracks present so this technology, I don't think,

20 would have given reliable results to the point that you

21 wouldn't -- you would have felt that the plating would

22 have been less desirable than the monitoring system.

23 Q Since we're just about out of time, let's switch gears a

24 little bit. Gary, have you been involved in the decision

25 to close down the St. Cloud bridge?

Page 65

Page 67

1 A Oh, yeah.

2 Q What's been your role in that?

3 A Well, Todd works for me, so when the inspection was going

4 on and he was reporting, actually, because I think we're

5 in the middle of the gusset plate review, the whole gusset

6 plate review thing, that -- I don't know whether that's

7 the Governor's -- I think that's the Governor's

8 requirement, but we would want to do it anyway after we

9 know about the whole NTSB thing. So the consultant -- is

10 there a consultant in that case? No, we have an in-house

11 group that has done a gusset plate analysis on that.

12 They are making assumptions of section loss

13 and -- well, basically, section loss on the members. We

14 had some discussions that indicated that sometimes visual

15 examination of the section loss isn't enough, that you may

16 end up finding more with a UT examination. So we sent a

17 crew out, Todd's crew out that week to do UT examination

18 of the gusset plate so we could confirm about -- because

19 we just automatically assumed that we had 5 percent

20 section loss, which is quite a bit of section loss.

21 Q Why did you presume that?

22 A Just to be -- because we didn't have any inspection data

23 that had measured any section loss out there, so we just

24 kind of made a worst case scenario. Actually, we did a

25 15 percent and a 5 percent section loss. We used our

1 going on in the bridge and it was decided that two was

2 enough, that we didn't know enough about what was going

3 on, they were highly stressed and we just decided to err

4 on the cautious side and close the bridge.

5 Q And --

6 A And then the inspection continued and, as it turned out,

7 they found -- they didn't find any other deformations on

8 the bridge except at the other two joints, so all four of

9 those joints had deformations.

10 Q The section loss that they were originally looking for,

11 was that section loss due to corrosion?

12 A That's what we were looking for, yes.

13 Q And section loss due to corrosion is a very significant

14 problem?

15 A It could be. It's not necessarily a significant problem.

16 Q And at what point does it rise to the level of

17 significant?

18 A We're really not sure. We're really not sure. Based

19 on -- prior to the 35W collapse, I don't think we

20 really -- I don't think there's any guidelines out there.

21 Now that we're doing gusset plate checks, now that we've

22 got some guidance on how to do them, we've got some actual

23 calculations that will help us that we can throw section

24 loss into, small amounts, and see if it makes a

25 difference.

Page 66

Page 68

1 5 percent section loss for our calculations and we sent

2 them out there and we wanted to see what it was and, as it

3 turns out, there is no section loss. There is negligible

4 section loss, so technically we could have -- we didn't

5 have to assume that 5 percent. It was a conservative

6 assumption, but it was a good place to be without having

7 looked at anything.

8 But then when they were out there, they

9 reported in to us that there was that -- they saw

10 deformations out there. We sat -- I think Kevin was

11 there, myself, Dan got in on it, Khani Sahebjam got in on

12 discussions, and we said look at -- oh, and Dave Dahlberg

13 (phonetic), and we said look at some of these other

14 gussets that are highly stressed. They found the bending

15 on the highly stressed one. They didn't find anything

16 wrong with that. So we said, Go and look at similar

17 joints on the bridge. We went and found a similar joint

18 on the bridge that was basically at the other end,

19 suspended, and it was basically the same joint. There

20 were four of the same joints on the bridge and they found

21 bending in that second one.

22 At that point, the three of us, I think it

23 was just Dan Dorgan and myself and Kevin Western,

24 discussed whether that was enough to go on or whether we

25 should get confirmation that we had other deformations

1 Q And where did you get those guidelines from?

2 A Federal Highway Administration.

3 MS. BERGSTROM: It might be the case that we

4 have to do some follow-up, but why don't we just stop

5 there so you can get where you need to go.

6 MR. PETERSON: Sure, okay.

7 (Concluded at 4:50 p.m.)

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2 COUNTY OF DAKOTA)

REPORTER'S CERTIFICATE

I, Colleen M. Sichko, do hereby certify that

the above and foregoing transcript, consisting of the preceding
68 pages is a correct transcript of my stenograph notes, and is
a full, true and complete transcript of the proceedings to the
best of my ability.

Dated April 7, 2008.

COLLEEN M. SICHKO

Registered Professional Reporter

1 INTERVIEW OF JIM PIERCE - April 25, 2008

2
3
4 In the Matter of Conducting an Independent
5 Investigation into the Collapse of the I-35W Bridge

6
7 Department of Transportation
8 395 John Ireland Boulevard
9 Room G-13
10 St. Paul, Minnesota

11 Met, pursuant to Notice, at eight
12 o'clock in the morning on April 25, 2008.

13
14
15
16 INTERVIEWERS:

17 Gregory Merz, Attorney at Law with Gray
18 Plant Mooty Law Firm.

19 ALSO PRESENT:

20 Barbara E. Forsland, MnDOT Data
21 Practices Compliance & Policy Analyst.

22 COURT REPORTER:

23 Julie A. Rixe
24
25

1 (Pierce Exhibit 1 was marked for
2 identification by the court reporter.)

3 EXAMINATION

4 BY MR. MERZ:

5 Q Good morning, Mr. Pierce.

6 A Hello.

7 Q Before we went on the record I introduced myself,
8 but I'll do that again. My name is Greg Merz,
9 and I'm with the Gray Plant Mooty law firm.

10 You have in front of you there what
11 we've marked as Exhibit 1 to your interview
12 transcript today. These are essentially the
13 ground rules for what we'll be doing today. And
14 I'd just like to walk through those with you
15 now.

16 A Okay.

17 Q As I've already explained, I'm with the Gray
18 Plant Mooty law firm, and we've been retained by
19 the Minnesota Legislature to conduct an
20 independent investigation into the collapse of
21 the I-35W bridge. The Legislature has asked us
22 to provide a report of our investigation by
23 May 1st, and we are asking you questions today
24 concerning the bridge collapse, related policies,
25 practices and legislative oversight issues.

Page 2

INDEX

PIERCE EXHIBITS:	PAGE
1 - Witness Protocol for Interviews	3
2 - Bridge Inspection Report dated 6/15/06	8
3 - Bridge Inspection In-Depth Report dated 6/2006	12
4 - Bridge Inspection Report dated 10/18/93	37

Page 4

1 The purpose of my interview today is to
2 determine what you might know about the matters
3 that we are investigating.

4 During the time that our investigation
5 is active, the information that you provide to us
6 and that other interviewees provide to us is not
7 public information. The information you provide
8 may no longer be confidential once we submit our
9 report to the Legislature.

10 You're required to answer my questions
11 today truthfully. As I'm sure you've noticed, a
12 court reporter is here to record our
13 conversation. If during this interview or later
14 on in our investigation we determine that we need
15 to verify certain information, we may ask for a
16 further recorded statement, a signed affirmation
17 or an oath statement.

18 We view this as an ongoing dialogue.
19 So if you think of anything after this interview
20 that you believe we should hear about, please
21 call or e-mail me, and I'm sure you can get some
22 help doing that. And likewise, we'd hope that
23 you would be able to respond to us if we call or
24 e-mail you with any follow-up information.

25 Is all of that clear?

Page 5

Page 7

1 A Yep.
 2 Q And, finally, I don't expect that this will be a
 3 long interview today, but it's not an endurance
 4 contest. So anytime you want to take a break,
 5 let me know that, fair enough?
 6 A All right.
 7 Q Let's begin by telling me when did you first
 8 become employed by MnDOT?
 9 A 1987.
 10 Q And I'd like to just get a history of your -- the
 11 various positions you've had since 1987 at
 12 MnDOT.
 13 A I've been a grad engineer. Do you want all the
 14 offices I worked in or --
 15 Q Yes, please.
 16 A Willmar, District 8, and then also in the bridge
 17 office as a grad engineer. I worked in
 18 District 5, which back then the metro it was
 19 split into two halves, the Golden Valley side of
 20 the metro district and road design.
 21 Q And you were no longer a grad engineer at that
 22 point; is that right?
 23 A I was still a grad engineer at that point.
 24 Q Okay.
 25 A And then let me think. And I also worked in the

1 design units. Dave Ganyo would have been one of
 2 them, Arlen Ottman, Kevin Western, and Marty
 3 Nelson.
 4 Q When you were working in bridge design, did you
 5 ever have any involvement in any project relating
 6 to the I-35W bridge?
 7 A No.
 8 Q And you went into the bridge management unit, is
 9 that right, in 2000?
 10 A Correct.
 11 Q And what job did you take there?
 12 A That is basically being responsible for managing
 13 the data on all the bridges, inspection and
 14 inventory data.
 15 Q To whom do you report in that position?
 16 A Gary Peterson.
 17 Q Does anyone report to you?
 18 A I have two employees that work for me.
 19 Q What do they do?
 20 A They assist me in doing that. We enter data into
 21 a database and maintain and update that data to
 22 keep it current.
 23 Q Describe for me the data that's in the inventory
 24 that you maintain.
 25 A It's inventory and inspection data. So inventory

Page 6

Page 8

1 Oakdale half of the metro district, at that time
 2 it was split, in preliminary road design. Then I
 3 went back to bridge office, and I became a senior
 4 engineer there, and that was in early nineties.
 5 I'm not sure of the year, say '91 or '92,
 6 somewhere in that time. And I've been in bridge
 7 ever since. And I was in bridge design for about
 8 eight years, and then I got my current position
 9 in bridge management in 2000.
 10 Q You worked in bridge design from approximately
 11 '92 to 2000?
 12 A Correct.
 13 Q Is that when you became a senior engineer or did
 14 you have another job as a senior engineer --
 15 A Well, there was a classification called Grad 2,
 16 where you were still a graduate engineer. It was
 17 a permanent position, but you haven't passed your
 18 engineering exam. And I believe that was in '94
 19 when I did that. That's when I became a senior.
 20 Q Do you have any particular emphasis of
 21 engineering?
 22 A Structural.
 23 Q When you were working in bridge design, who did
 24 you report to?
 25 A Let me see, several people. I was in different

1 data is information about the location and the
 2 size of the bridge, those sorts of data, and then
 3 inspection data is what the bridge inspectors
 4 actually use and each time update. They keep not
 5 only a history but current data in there.
 6 Q The inspection data, how does it come to you, in
 7 what form?
 8 A Usually in an electronic form in a database
 9 file. Occasionally we will get marked up
 10 inspections and enter the mark-up information
 11 into the database.
 12 Q I've talked with some other interviewees about
 13 Pontis reports. Do you receive Pontis reports?
 14 A Well, it depends on what you mean by that. The
 15 Pontis reports, an inspector can print out a
 16 Pontis inspection report and mark that up and
 17 enter that into his database and send that to
 18 us. Or, as I said, occasionally they will mark
 19 that up and send it to us and we will enter it
 20 in.
 21 (Pierce Exhibit 2 was marked for
 22 identification by the court reporter.)
 23 BY MR. MERZ:
 24 Q Mr. Pierce, you have in front of you there a
 25 document we've marked as Exhibit 2 to your

Page 9

Page 11

1 interview today. It's a MnDOT bridge inspection
 2 report with an inspection date of June 15th of
 3 2006. It relates to the I-35W bridge. Is this a
 4 form of report that you receive?
 5 A Again, it depends on what you mean by receive.
 6 We receive the data on which this report is
 7 based. This report comes from the database and
 8 retrieves the most current data in there. So the
 9 inspector would have entered this information,
 10 and this is a report on that information.
 11 Q So the inspector enters the report and it goes
 12 directly into the database that you're
 13 responsible for?
 14 A Correct, correct.
 15 Q And then just like any database, if someone wants
 16 to print out a report of some data, you can input
 17 parameters and it will just spit out the
 18 information?
 19 A That is correct.
 20 Q The information, then, is transmitted to you
 21 generally electronically; is that correct?
 22 A Yes.
 23 Q And then do you -- other than making sure that
 24 it's properly in the database, do you send that
 25 information anywhere or to anyone?

Page 10

1 A No, we don't, not this particular information in
 2 this form.
 3 Q Is there some other form in which you send bridge
 4 inspection information to someone?
 5 A Well, each year we submit a file to the FHWA
 6 which contains some of the information in our
 7 database.
 8 Q What information do you submit to the Federal
 9 Highway Administration?
 10 A A bridge inventory and inspection information
 11 that they have selected. They have a defined
 12 format that they want the information in, and I
 13 couldn't describe that to you in detail.
 14 Q Is the information drawn from the kind of report
 15 that we've marked as Exhibit 2?
 16 A It's drawn from the database, the same database
 17 that this report comes from.
 18 Q Do you have any responsibility for performing any
 19 analysis of the data that's in the database?
 20 A No analysis, just reporting.
 21 Q You report to the FHWA, that's one place you
 22 report.
 23 A Yep.
 24 Q Who else do you report to? And I'm talking about
 25 reporting inspection data, particularly.

1 A Not to anybody in particular, other than if
 2 someone requests information, we will provide
 3 it. Most of the information is public.
 4 Q So you respond to requests from the public for
 5 information?
 6 A And agencies and customers and government, yes.
 7 Q Who at MnDOT has access to the database?
 8 A Internally our MnDOT inspectors have access to
 9 input data. That's who has access to the data in
 10 the database.
 11 Q Does Mr. Peterson have access to the data in the
 12 database?
 13 A I don't know.
 14 Q Mr. Kivisto?
 15 A Again, I'm not sure if they have access to the
 16 database or not. They have access to the
 17 reports.
 18 Q And the way they would get the reports is to ask
 19 you for them; is that --
 20 A Or they can go onto the website. We have an
 21 internal website.
 22 Q All the inspection reports are available, then,
 23 on that internal website?
 24 A Not all of them, just the most recent.
 25 Q Okay. Do you have any responsibility to make

Page 12

1 sure that the data that the inspectors put in is
 2 complete?
 3 A No.
 4 Q Do you have any responsibility to make sure that
 5 the information the inspectors put in is
 6 accurate?
 7 A No.
 8 (Pierce Exhibit 3 was marked for
 9 identification by the court reporter.)
 10 BY MR. MERZ:
 11 Q Mr. Pierce, you have in front of you there a
 12 document we've marked as Exhibit 3 to your
 13 interview. It's a fracture critical bridge
 14 inspection in-depth report for the I-35W bridge
 15 from June of 2006. Is this a type of report that
 16 you receive?
 17 A No, it wouldn't be. Our inspections unit takes
 18 care of these. The only information that goes
 19 into our database on these was the date of the
 20 fracture critical inspection and the frequency.
 21 Q You had talked, I believe, a bit earlier about
 22 maintaining historical information?
 23 A Uh-huh.
 24 Q Can you describe for me how that historical
 25 information is maintained?

Page 13

Page 15

1 A It's in the same database. We keep the
 2 inspections going back, I believe, to sometime in
 3 the early nineties. We have them
 4 electronically. And other historical data would
 5 be in our paper files.
 6 Q Do you have a responsibility for maintaining
 7 paper files as well?
 8 A Yes.
 9 Q What paper files do you maintain?
 10 A We have a file for each bridge, and there's
 11 various things in there. There's bridge ratings,
 12 inspection reports, printed ones from the past,
 13 inventory sheets, correspondence, pictures.
 14 Q Is that referred to as the bridge file?
 15 A Yes.
 16 Q So you're the keeper of the bridge file; is that
 17 accurate?
 18 A Yes.
 19 Q Where physically is that file maintained?
 20 A It's in our office.
 21 Q Here?
 22 A In Oakdale.
 23 Q In Oakdale? If someone wants information from
 24 the bridge file, do they come to you or are they
 25 able to access it independently?

Page 14

Page 16

1 A They can access it independently.
 2 Q And does pretty much anybody who works in the
 3 Oakdale office have access to that information?
 4 A Yes.
 5 Q You mentioned bridge ratings that are included in
 6 the paper file. Are the bridge ratings also part
 7 of the electronic database?
 8 A There is information on the load ratings, load
 9 capacity ratings, in the Pontis database and in
 10 the bridge file.
 11 Q Are you familiar with the various condition
 12 states that are used in these reports and what
 13 they mean?
 14 A Yes.
 15 Q And so if I would refer you to -- back to
 16 Exhibit 2, if you just go to page 3 of 4, I'm
 17 looking at the top where it says, Fatigue
 18 cracking. Do you see that?
 19 A Uh-huh.
 20 Q And then it says, Quantity, CS 2, and you
 21 understand that to mean Condition State 2; is
 22 that right?
 23 A Correct.
 24 Q And the way you interpret this report is in the
 25 2005 inspection, for the fatigue cracking

1 element, the inspector gave this a Condition
 2 State 2; is that --
 3 A Correct.
 4 Q And the same rating in 2006; is that right?
 5 A Yes.
 6 Q And what's your understanding of the meaning of a
 7 Condition State 2 with respect to fatigue
 8 cracking?
 9 A I don't have that definition memorized. I would
 10 have to look it up in the inspection manual.
 11 Q All right. Is that something that you do as part
 12 of your job, do you interpret these reports to
 13 kind of evaluate the condition of the bridge for
 14 any purpose?
 15 A No.
 16 Q This will seem like sort of an odd question, and
 17 I'm not sure how to ask it. I mean, you're an
 18 engineer. Is there any aspect of your job that
 19 requires you to use your professional judgment as
 20 an engineer?
 21 A Well, I would say --
 22 Q And I don't mean it as a criticism. I'm just
 23 trying to get an understanding --
 24 A Yes. There's engineering judgments that get made
 25 pretty much on a day to day. You know, I provide

1 data that gets used for analysis, even though I
 2 may not do the analysis myself. And I need to
 3 have enough of an engineering background to
 4 understand bridges well enough to know how they
 5 behave and be able to support those who do make
 6 decisions, engineering judgment.
 7 Q So give me an example of that kind of request, if
 8 you can think of one, just so I have a better
 9 sense of what it is you do.
 10 A Somebody might want to know which bridges might
 11 be susceptible to something like fatigue
 12 cracking, and we would have to know how to find
 13 those bridges, based on that criteria, using
 14 engineering judgment.
 15 Q Do you recall responding to any requests for
 16 information from anyone relating to the I-35W
 17 bridge at any point up to the collapse?
 18 A Up to the collapse?
 19 Q Yes.
 20 A Not specifically.
 21 Q Do you have some general recollection of that?
 22 A No, I don't. It's just that people occasionally
 23 make requests for more than what's available on
 24 the website about a bridge, and I don't recall
 25 that happening on this bridge before the

Page 17

Page 19

1 collapse.

2 Q Did you ever attend any meetings to review the

3 plans for the 35W bridge?

4 A No.

5 Q And I shouldn't say plans, what was being planned

6 for the bridge in the future by MnDOT?

7 A No.

8 Q Did you ever attend any meetings where anyone

9 from URS was present?

10 A No.

11 Q Do you recall getting any request to provide

12 information to URS or to provide information to

13 someone to provide to URS?

14 A Before the collapse?

15 Q Yes.

16 A I don't remember specifically getting a request

17 from them on this bridge, but they do

18 occasionally make requests for bridges they are

19 working on. I don't remember specifically if

20 they did on this bridge or not.

21 Q You mentioned that you receive information

22 typically electronically, but sometimes it would

23 come to you in paper form; is that right?

24 A Uh-huh.

25 Q When you'd get it electronically, would it just

1 Q Okay.

2 A The only information we store in the database is

3 the date of that inspection and the frequency of

4 it.

5 Q Yes, although the database includes information

6 for both fracture critical and non-fracture

7 critical bridges, correct?

8 A Correct.

9 Q So the 35W bridge is obviously in the database?

10 A Yep.

11 Q The fracture critical inspection information

12 isn't maintained in that database?

13 A Correct.

14 Q Is there some other database that the fracture

15 critical bridge inspection information is

16 maintained in?

17 A I'm not aware of any.

18 Q So far as you know, the only inspection

19 information is that that you find in the paper

20 reports for fracture critical bridges; is that

21 correct?

22 A As far as I understand.

23 Q I'm kind of jumping around a little bit, and I

24 apologize for that. In Exhibit 2 you see there's

25 all these different elements, and then there's a

Page 18

Page 20

1 be something that would come directly to you or

2 would you get a physical CD or flash drive or

3 something?

4 A It could be a CD or maybe just a file, an e-mail.

5 Q With respect to the I-35W bridge, do you recall

6 who it was that you would get that information

7 from?

8 A That would have come from the district, and they

9 would have input that directly into the database

10 without actually sending us an e-mail or a disc.

11 Q So they wouldn't have sent an e-mail or a disc;

12 is that --

13 A Correct. The districts, when they send in their

14 inspections, they don't send them in, they just

15 enter them directly into the database. It's the

16 local agencies that send in the information.

17 Q And as I understand it, inspectors from the

18 bridge office do inspections for all of at least

19 the fracture critical bridges except in metro and

20 District 6. Is that your understanding?

21 A As far as I know.

22 Q And do inspectors from the bridge office also

23 input data directly into the database that we've

24 been talking about?

25 A Not for the fracture critical inspections.

1 place for notes. Do you understand the

2 circumstances under which an inspector might put

3 a note in?

4 A I don't think there are any specific rules for

5 that. The inspector notes things that he deems

6 important enough to note.

7 Q So it's just an individual inspector's judgment?

8 A Yes.

9 Q The database that you're responsible for

10 maintaining, does it have a name?

11 A Pontis is what we call it.

12 Q Does Pontis stand for something; do you know?

13 A No, it doesn't. It's not an acronym.

14 Q It's like a brand name?

15 A Yeah.

16 Q And has it been the Pontis database for as long

17 as you've been in your position?

18 A Pretty close. When I moved in the position we

19 had a different software package to maintain our

20 inventory and inspection data, but within about a

21 year of my being there we switched to Pontis.

22 Q And is it your understanding that the Pontis

23 database is one that's required by the federal

24 government?

25 A I don't believe that it is. They require us to

Page 21

Page 23

1 submit their federal data to them, but I don't
 2 believe they require Pontis to be used.
 3 Q So the Pontis database is how MnDOT goes about
 4 satisfying its requirement to provide data to the
 5 federal government regarding bridges?
 6 A Yes.
 7 Q Have you had any training relating to database
 8 management?
 9 A Depends on if you mean that literally. Database
 10 management as far as the database administration,
 11 no, but I have had training in Oracle database
 12 and Crystal recording and those sorts of things.
 13 Q I mean, has there been any training that you
 14 received that was sort of specific to the job
 15 that you do now?
 16 A I think that training, as mentioned, would be.
 17 Q You are not a certified bridge inspector, I take
 18 it?
 19 A Correct.
 20 Q Have you ever performed an inspection on a
 21 bridge?
 22 A I have not performed one as a bridge inspector.
 23 I've witnessed them.
 24 Q Was that when you were a grad engineer?
 25 A And also since I've been in my current position

1 whether anyone is reviewing the work -- whether
 2 there's any program to review the fracture
 3 critical bridge inspection work that's done by
 4 those districts?
 5 A I don't know.
 6 Q Do you know whether the federal quality assurance
 7 and quality control requirements would call for
 8 such a program?
 9 A I don't know.
 10 Q Have you ever witnessed an inspection in those
 11 being performed in the metro district?
 12 A I don't believe so.
 13 Q Is there inspection information in the database
 14 that you maintain that goes beyond the
 15 information that you find on the report that's
 16 Exhibit Number 2 or that's in addition to that
 17 information; do you know?
 18 A There probably would be some, yes.
 19 Q What would that be?
 20 A There's some data we maintain beyond what the
 21 Pontis database is set up for, additional
 22 information. And, again, I would go with my
 23 documentation. I can't just think offhand what
 24 some of those things would be, but there are
 25 some.

Page 22

Page 24

1 I've been out on inspections.
 2 Q For what reason?
 3 A We have a program of reviewing our local agency
 4 bridge inspection programs, and as part of that
 5 we looked at some of the bridges when we review
 6 their agency's inspections. So I've been with
 7 another inspector on an inspection.
 8 Q Tell me about the program that you're talking
 9 about. What's the purpose of the review?
 10 A It's to maintain quality control and quality
 11 assurance to satisfy the FHWA that we have
 12 delegated and are monitoring the local agency
 13 inspection program.
 14 Q And when you talk about a local agency, I'm not
 15 sure if I understand necessarily what you mean by
 16 that.
 17 A It would be counties and cities, other public
 18 agencies that own bridges, DNR.
 19 Q Would that program extent to inspections that are
 20 performed by the districts?
 21 A Not in that forum. The FHWA actually reviews
 22 MnDOT's inspection program.
 23 Q And I guess my question is that the fracture
 24 critical bridge inspections are delegated to the
 25 districts in District 6 and metro. Do you know

1 Q Would that be the bridge inspection manual, or
 2 what documentation would you refer to?
 3 A Yes, it would be in there.
 4 Q Do you know how that additional information is
 5 used or why it's maintained?
 6 A We occasionally have need of some of the items
 7 that are not part of Pontis as it comes out of
 8 the box, so we've modified it to allow us to
 9 access that information.
 10 Q And just if I could kind of sum up what I
 11 understand you to be telling me at least about
 12 the core of your job, you get information, and
 13 I'm talking now about inspection information, and
 14 transmit it electronically. That information is
 15 maintained in a database, and you are available
 16 to provide reports from that database, as
 17 requested.
 18 A Yes.
 19 Q And you're also responsible for making sure that
 20 the information is transmitted to the federal
 21 government, as required?
 22 A Yeah.
 23 MR. MERZ: Maybe if we could take just
 24 a couple of minutes, I think I'm just about done.
 25 (Break taken.)

Page 25

1 BY MR. MERZ:

2 Q We've been off the record, and you've mentioned
3 some analysis that is available through the
4 Pontis program itself; is that right?

5 A Correct.

6 Q Would you just describe for me that analytical
7 capability, if you will?

8 A Well, briefly what we can do, in a rough way,
9 anyway, is to take our bridge inventory, say our
10 trunk highway bridge as an example, and say if we
11 do nothing to them, what will happen to their
12 condition over time, you know, five years from
13 now, ten years from now. And we input
14 deterioration information in there and set up a
15 deterioration model. And then we can say if we
16 do nothing, the bridge will deteriorate to this
17 level X number of years from now.

18 And then we can also, as she mentioned,
19 input projects in there. We're going to replace
20 this bridge, we're going to maintain this one,
21 we're going to replace the deck on this one and
22 predict, then, what the condition would be in the
23 future. Obviously to replace a bridge you get a
24 new bridge, so your condition improves. So it's
25 a way to look at what-if scenarios, would be an

Page 26

1 easy way of stating it.

2 Q And that's something that's done on a report
3 basis; is that right?

4 A Currently we're just doing it on a network
5 level. We look at all of them and say a certain
6 percentage of our bridges are in good condition
7 or poor condition. And then we say, if we do
8 this work or we don't do, here's what it will be.

9 Q So it's not looking on a bridge-by-bridge basis?

10 A Currently it isn't, no.

11 Q Is that capability there?

12 A The capability is there, but we have not used
13 it. There's some limitations on it. Using it
14 for project selection is something we haven't
15 pursued at this time.

16 Q What limitations are you talking about?

17 A Well, there's just some -- it doesn't make
18 decisions the same way we would. It's a computer
19 program. And we have our way of making
20 decisions, and currently we don't feel there's a
21 very good match on a bridge-by-bridge basis.

22 Q You don't trust the predictions that the Pontis
23 program would come up with for any individual
24 bridge?

25 A Yeah.

Page 27

1 Q You talked about inputting deterioration
2 information. Where does that deterioration
3 information come from?

4 A Mostly from experience. We know how they
5 deteriorate, so we try and have the model
6 represent that.

7 Q Let's just take an example of the 35W bridge.
8 That bridge obviously reflects certain
9 deterioration. Is there an effort to input into
10 the Pontis database the deterioration that the
11 35W bridge was actually experiencing?

12 A No. The deterioration is general information
13 that would apply to all bridges, so it has to be
14 averaged and generalized. It can't be made
15 specific for a bridge.

16 Q It's --

17 A And that's why we tend to not use it so much on
18 individual bridges. It's more of a global look
19 at how everything tends to deteriorate. So it's
20 hard to pinpoint a specific bridge and have it be
21 made for that bridge.

22 Q It's a set of assumptions?

23 A Yeah.

24 Q Although the inspection report itself provides at
25 least some information about deterioration on an

Page 28

1 individual, bridge-by-bridge basis, correct?

2 A Yeah. And over a longer term you could use that
3 information.

4 Q When did this capability first become available?

5 A As far as I know, it's always been available in
6 Pontis. But we have only used it probably the
7 last -- to do those kinds of things maybe the
8 last three or four years probably.

9 Q And who uses that information?

10 A Bridge office management might use it,
11 districts. You know, we can provide them with
12 that same information on a district-by-district
13 basis.

14 Q You recall running reports like this, I take it?

15 A Yeah.

16 Q And how many times have you done that?

17 A Probably about once per year, so maybe three or
18 four times.

19 Q Does that report have a name?

20 A I don't know if it does or not. It is in a book
21 form. I don't know the name of it. We used it
22 for what we call district check-in meetings. And
23 I'm not sure what the name of that is, but I have
24 the information before.

25 Q Is the district check-in meeting a meeting that

Page 29

Page 31

1 you attend?

2 A I have attended those, yes.

3 Q Have you attended district check-in meetings with

4 the metro district?

5 A The check-in meetings are usually with all the

6 districts present at once.

7 Q What happens at those meetings?

8 A Well, it's basically to review the current stip

9 program and how performance will go as a result

10 of that. You know, we do this current stip, and,

11 again, here's that prediction of what our bridge

12 condition will be based on that stip program.

13 Q Is there any effort to go back to determine

14 whether the predictions that are produced by the

15 Pontis program are accurate?

16 A I'm not aware of an actual effort to do that.

17 Q What does the output look like, what does it tell

18 you?

19 A The output will usually tell you condition of

20 bridges in broad categories, good, fair and poor

21 in a given year.

22 Q So it says all of the bridges from the state, if

23 they deteriorate based on these assumptions and

24 we make these specific improvements, they will be

25 considered fair, poor or good --

1 AASHTO-approved software application?

2 MR. MERZ: Sure.

3 MR. PIERCE: The answer is yes.

4 BY MR. MERZ:

5 Q You said that there's a system of checks and

6 balances to make sure that, you know, significant

7 conditions are identified, and you talked about

8 the critical findings process.

9 A Uh-huh.

10 Q Is there anything else that you would refer to as

11 part of that system of checks and balances?

12 A No.

13 Q Does the database that you are responsible for

14 maintaining contain information about

15 improvements that are made on a particular

16 bridge? For example, if there's a redecking or

17 some other repair that's done, is that something

18 that would be reflected in the database?

19 A It does contain some basic information. The last

20 redecking date would be in there, the date of...

21 Q Other than redecking is there any other

22 information about bridge repair that's reflected

23 in the database?

24 A I don't -- Well, there is some paint information

25 too. Paint date would be in there, the last time

Page 30

Page 32

1 A Yeah.

2 Q -- excellent?

3 A Uh-huh.

4 Q I mean, is that essentially it?

5 A Yeah.

6 Q Then how is that information used?

7 A Well, I don't know. I guess you'd have to ask

8 the users. We provide it to MnDOT management,

9 and I don't know how it gets used after that.

10 Q On the bridge inspection reports, these condition

11 states, does the Pontis program have any sort of

12 tickler system, such that if a condition state is

13 one that some attention should be paid to, Pontis

14 will, I don't know, point that out?

15 A Again, not specifically there's not a system in

16 place. Informally there's some checks and

17 balances. We have a critical finding system,

18 which is supposed to track serious bridge

19 deficiencies noticed by inspectors on

20 inspections, and that is a tech memo that directs

21 them to notify the bridge office and document

22 action and those kinds of things. But Pontis

23 doesn't provide that kind of a tickler system.

24 MS. FORSLAND: Greg, would you be

25 interested in knowing if Pontis is an

1 it was repainted.

2 Q Do you know whether the database is used to help

3 make decisions about necessary maintenance or

4 repair activities?

5 A I don't know that. One could assume, but I don't

6 know.

7 Q Do you have contact with people that would be

8 your counterparts in other states to talk about

9 kind of best practices issues?

10 A We do have a Pontis user group that meets once a

11 year nationally.

12 Q Do you attend those meetings?

13 A Yes.

14 Q Do you recall any issues that were discussed at

15 the Pontis user group meetings?

16 A Could you be more specific?

17 Q Well, I don't know that I can. I'm trying to get

18 a sense of what sorts of best practices might be

19 discussed at these meetings.

20 A Mostly it's just the use of Pontis and some, you

21 know, bridge management kind of issues, the kind

22 of stuff that I was telling you that I provide,

23 how Pontis is or isn't working well to meet those

24 needs. That's mostly the discussion we have.

25 Q Are representatives from AASHTO there?

Page 33

Page 35

1 A Yes.

2 Q Are there sometimes suggestions made for

3 improvement in the Pontis system --

4 A Yes.

5 Q -- at those meetings?

6 A Uh-huh.

7 Q Do you recall any?

8 A Not specifically. There are a lot of more

9 technical issues, you know, try to make a

10 software do this and that in its modeling

11 situation.

12 Q Are there any other limitations in the Pontis

13 software that you have identified that you think

14 could or should be fixed?

15 A Well, there's limitations. Whether or not they

16 could be fixed, I don't know. There may be

17 limitations that can't be fixed. We have found

18 in our use of it that it doesn't do project

19 selection the way we would want it to do it.

20 Q What do you mean by that?

21 A Well, again, currently we know what we like to

22 pick as projects. And when we try and run Pontis

23 to do that, it does not come up with what we

24 think is a reasonable list that would be matching

25 what we would want to do and think we need to do.

Page 34

Page 36

1 Q And, again, that's this systemwide --

2 A Right.

3 Q -- analysis that you were talking about?

4 A Yeah.

5 Q Any other limitations that you can think of?

6 A Well, that's a hard question to answer. It would

7 be nice if it would do everything the way we want

8 to do it, so I'm not sure getting into the

9 details of limitations.

10 Q Well, let --

11 A It doesn't meet our expectations for choosing and

12 selecting bridge projects on an individual

13 basis. It in a basic way, I guess you could say,

14 meets our needs in terms of network analysis of

15 condition prediction.

16 Q One of the things that I think we've heard is

17 that the Pontis system wouldn't allow inputting

18 two different inspections in the same year. Is

19 that accurate?

20 A I don't believe so. I think you can input two

21 inspections in the same year.

22 Q One of the charges that we have been given is to

23 make recommendations to the Legislature about,

24 you know, issues that may have impacted the

25 bridge collapse and changes that might be made in

1 the future. And I wonder, you know, based on

2 position you've had, can you think of ways that

3 you think the information management system at

4 MnDOT could be improved?

5 A Not without thinking about it for quite awhile.

6 Q Okay.

7 A I don't think I could answer that just sitting

8 here.

9 Q Nothing comes to mind that you think, well, if we

10 could make these changes, that would benefit us

11 in some way?

12 A Not really. I mean, I think we have the basic

13 information we need to do what we're doing.

14 Q And just to go back to one area that I think

15 we've covered, the fracture critical inspection

16 reports are available in paper form in the bridge

17 file. Are they also available in electronic form

18 on an internal database?

19 A As far as I know, they aren't.

20 Q Okay.

21 A I just don't want to say equivocally without

22 asking our inspection folks. I don't know, so I

23 would rather have you ask them.

24 Q Assuming that you're correct that they're not, is

25 having those reports available on an internal

1 website something that you think would be

2 worthwhile having?

3 A You're saying on a website versus in a database?

4 Is there a distinction there?

5 Q Well, I don't know that there is. What I'm

6 trying to find out is if I'm sitting in my office

7 at MnDOT and I want to see the 35W fracture

8 critical inspection report for June of 2006, is

9 that something I can access on my computer or do

10 I have to look you up to get the paper file?

11 A As far as I know now, it would actually be our

12 inspection unit is the one you have to contact.

13 They keep the paper files. Again, I don't want

14 to speculate, but there may be electronic files,

15 word files or something there.

16 Q If there is, that's not a part of something that

17 you maintain?

18 A Correct.

19 Q Now, I understood that you did maintain the

20 bridge file, which would include copies of the

21 fracture critical inspection reports. Is that

22 not the case?

23 A Well, we have to define what the bridge file is,

24 then. These aren't actually filed in what we

25 call the bridge file. Everything about the

1 bridge is called the bridge file, then this would
 2 not be in our subset of the bridge file.
 3 Q Then I misunderstood what you told me. What is
 4 included in the bridge file that you yourself
 5 maintain?
 6 A Basically what I said earlier -- Maybe what you
 7 didn't understand is I said inspection reports,
 8 and those are just the printed copies from before
 9 we had electronic stuff of routine inspection
 10 reports, but, generally speaking, not the
 11 fracture critical inspection reports. Some may
 12 actually be in the bridge files, but it's not in
 13 the bridge files that we maintain in bridge
 14 management. As far as I know, they're kept in
 15 the inspection unit.
 16 (Pierce Exhibit 4 was marked for
 17 identification by the court reporter.)
 18 BY MR. MERZ:
 19 Q Mr. Pierce, you have in front of you there what
 20 we've marked as Exhibit 4 to your interview
 21 transcript. Is this the kind of paper inspection
 22 report that you're talking about being kept in
 23 the bridge file that you maintain?
 24 A Yes.
 25 Q Do you know --

1 (Whereupon, the interview was concluded
 2 at 9:05 a.m.)
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1 A Some of this information also could come from the
 2 district's bridge inspection file. We don't have
 3 100 percent of all of these from the past in our
 4 bridge file; we have some of them.
 5 Q How do you determine which ones you have and
 6 which ones you don't have?
 7 A I don't know. That happened before I was there.
 8 Q Okay. So do you know what kind of the most
 9 recent paper copy of an inspection report would
 10 be in the bridge files that you maintain?
 11 A Offhand I don't know.
 12 Q But whenever the Pontis system came in, then you
 13 stopped maintaining paper copies of reports in
 14 the bridge file that you maintain?
 15 A Correct.
 16 Q Assuming that the fracture critical inspection
 17 reports are not available in electronic format
 18 presently, is that something that you think would
 19 be worthwhile to have?
 20 A I think so.
 21 Q And why?
 22 A I would just say for easier access. In the end
 23 it works having paper too.
 24 Q Okay. I don't have anything further. Thanks for
 25 your time.

1 STATE OF MINNESOTA)
 2
 3
 4 COUNTY OF HENNEPIN)
 5
 6
 7
 8 REPORTER'S CERTIFICATE
 9
 10 I, Julie A. Rixe, do hereby certify
 11 that the above and foregoing transcript, consisting of
 12 the preceding 39 pages, is a correct transcript of
 13 my stenographic notes and is a full, true and complete
 14 transcript of the proceedings to the best of my
 15 ability.
 16 Dated April 28, 2008.
 17
 18
 19
 20
 21 JULIE A. RIXE
 22 Court Reporter
 23
 24
 25

Neal, Claudia

From: James Pierce [James.Pierce@dot.state.mn.us]
Sent: Friday, May 02, 2008 10:36 AM
To: Michele Clarizio
Subject: interview transcript

I request the following revision to the transcript from my interview on 04/25/08:

page 22, line 21, change "forum" to "form"

05/02/2008

1 INTERVIEW OF SCOTT PIERSON - April 15, 2008

2
3
4 In the Matter of Conducting an Independent
Investigation into the Collapse of the I-35W Bridge

5
6
7 Department of Transportation
395 John Ireland Boulevard
8 Room G-13
9 St. Paul, Minnesota

10
11 Met, pursuant to Notice, at one o'clock
12 in the afternoon on April 15, 2008.

13
14
15
16 INTERVIEWERS:

17 Kathryn Bergstrom, Attorney at Law with
18 Gray Plant Mooty Law Firm.
19 Dana A. Wheeler, Executive Director,
Minnesota Government Engineers Council.
20 Lowell Johnson, MnDOT.

21 ALSO PRESENT:

22 Barbara E. Forsland, MnDOT Data
23 Practices Compliance & Policy Analyst.

24 COURT REPORTER:

25 Julie A. Rixe

1 (Pierson Exhibit 1 was marked for
2 identification by the court reporter.)
3 MR. MERZ: Would you please -- Maybe
4 what we'll do first is just go around the table
5 and introduce ourselves so we've got on the
6 record everyone that's here. Why don't we start
7 with the witness.

8 MR. PIERSON: Okay. I'm Scott
9 Pierson. I'm a senior engineer in the bridge
10 office. I've been employed there since '91 -- or
11 '91 as an engineer.

12 MS. FORSLAND: I'm Barb Forsland. I'm
13 the Data Practices attorney for the agency.

14 MR. JOHNSON: I'm Lowell Johnson. I
15 work in the bridge office, MnDOT, and I'm Scott's
16 supervisor.

17 MR. WHEELER: I'm Dana Wheeler. I'm
18 executive director for the Minnesota Government
19 Engineers Council.

20 EXAMINATION

21 BY MR. MERZ:

22 Q And my name is Greg Merz. I'm an attorney with
23 the Gray Plant Mooty law firm. And we'll start
24 out this interview the way we have all of the
25 interviews we've taken thus far. And what I'd

1 INDEX

PIERSON EXHIBITS:	PAGE
2 1 - Witness Protocol for Interviews	3
3 2 - E-mail dated 8/4/04 from D. Flemming to S. Pierson with attachment	42
4 3 - Meeting minutes dated 11/17/04	48
5 4 - Meeting minutes dated 1/6/05	53
6 5 - E-mail dated 2/7/05 from E. Zhou to D. Flemming with attachment	63
7 6 - Meeting minutes dated 3/31/05	64
8 7 - Letter dated 3/24/06 from D. Flemming to G. Peterson	69

1 like to do is go through with you what you have
2 there in front of you as Exhibit 1, which is
3 essentially the ground rules that we'll be
4 following today.

5 As I've already mentioned, I'm with the
6 Gray Plant Mooty law firm. Gray Plant Mooty has
7 been retained by the Minnesota Legislature to
8 conduct an independent investigation into the
9 collapse of the I-35W bridge. We've been asked
10 by the Legislature to provide a report of our
11 investigation by May 1st. So I'll be asking you
12 questions about the bridge collapse, related
13 policies, practices and legislative oversight
14 issues. The purpose of this interview is to
15 determine what you might know about the matters
16 that we're investigating.

17 During the time that our investigation
18 is active, the information that you provide to us
19 and that the other interviewees have provided to
20 us is not public information, but that
21 information may no longer be confidential once we
22 submit our report to the Legislature.

23 You're required to answer my questions
24 today truthfully. As I'm sure you've noticed,
25 we've got a court reporter here to record our

conversation. Either during this interview or later on in our investigation, we may determine that we need to verify certain information. If that occurs, we might ask you for a further recorded statement, a signed affirmation or an oath statement.

Finally, we view this as an ongoing dialogue. If you think of anything after this interview that you think we ought to know about, please call or e-mail us. Likewise, we would hope that you would respond if we have additional follow-up questions that we might want to ask you.

Do you have any questions about any of that?

A I just feel a little -- Everybody here is right-handed. I'm left-handed.

MS. FORSLAND: Are you comfortable enough with where you are?

MR. PIERSON: I don't know what your hand is.

BY MR. MERZ:

Q Hopefully it won't matter very much. I don't expect this to be a long interview today, but it's not any kind of an endurance contest. So if

on 94, placement of those signs.

Q So in '91 what job did you take?

A In the grad engineer rotation program, and I worked in several offices then.

Q What ones?

A I tailored it strictly for the bridge office so that my skills -- what I learned in the rotation program would be applicable. I worked in construction on the Seventh Street project down there.

Q In St. Paul?

A What's that?

Q The 7th Street project in St. Paul; is that what you're talking about?

A No, the Seventh Street parking ramp.

Q Oh, okay.

A And that afforded me an opportunity that MnDOT is not normally in instead of buildings, a parking ramp.

Q Uh-huh.

A And then I took a rotation -- And these rotations are six months. I took a rotation doing preliminary design in the Oakdale office where they currently are, but they were moved to the metro area. And now the bridge office occupies

you want to take a break any time, just let me know.

A The reason I say that is because I work with Dana in negotiations. I'm a union treasurer for the MGC. And all the management is right-handed, but all the engineers on the other side of the table, about 50 percent of them are left-handed.

Q I'm sure that means something, but who knows what.

You have already given me a little thumbnail sketch of your employment at MnDOT. I understand you came to MnDOT in '91, or is that when you --

A No. I started as a technician in 1989.

Q And what was that job?

A As a drafter, going way back to the ink, before CAD.

Q Computer-aided design.

A You're right.

Q And how long were you a technician?

A I think two years. About, yeah, two years, 1989 to '91.

Q Okay. And did you have some particular type of structure that you were responsible for drafting?

A Bridge plans and all the overhead signs on the --

the old preliminary space.

Q Okay.

A And then I followed that with a six-month rotation in the bridge office, working on culvert design.

Q Culvert design?

A Yeah. Because a road is a dam, actually, and culverts act to pass, so it's part of the bridge office. So I actually sized the culvert and figured out what the backwater would be or the -- correct lingo, backwater -- or upstream water --

Q Okay.

A -- the head.

Q All right.

A And then my last rotation the end of my two-year program was in the bridge office.

Q And what did that involve?

A Pre-stress concrete design. Yeah, that was primarily it.

Q What job did you then take after you completed your grad engineer rotations?

A I was offered a position as a -- about six months after that as a Grad 2, because you had to apply and compete at a competition-type level because you remain a Grad 1. And about six months later

Page 9

Page 11

1 I became a Grad 2 in that office, which had been
 2 my ultimate goal, as I had been going to college
 3 at the time for structural engineering. And at
 4 that time I was pursuing a master's degree.
 5 Q How long were you in that Grad 2 position?
 6 A You know, I think it was two-and-a-half years. I
 7 might be wrong. It might be three, four, three
 8 to six months, something like that. I don't
 9 recall right off the top. It was a period,
 10 though, several interviews I had to go through.
 11 Q What, generally, were your responsibilities in
 12 the Grad 2 position?
 13 A In each of the positions or --
 14 Q Well, you went through rotations in that --
 15 A Yeah, for six months.
 16 Q And you've described those rotations.
 17 A Well, the rotation in construction, I wanted to
 18 not come off as a college student, you know,
 19 engineer type that knows everything. You know, I
 20 wanted to get along with these people. And I
 21 was -- never got any paper, but my boss said at
 22 the time, he said they all complimented me and
 23 said I was real good to work with. And he said
 24 don't take that lightly. And I did -- I wanted
 25 to -- I worked with good people at that time.

1 A As a senior engineer? Primarily the same thing
 2 as a Grad 2, except now as a senior you become
 3 licensed. You can't become licensed -- Or you
 4 can't become a senior until, for the most part,
 5 at least in MnDOT, from my understanding, until
 6 you pass the PE test.
 7 Q Was there some particular area or number of areas
 8 that you worked in once you became a senior
 9 engineer?
 10 A No. I did take a leave of absence.
 11 Q Where was that?
 12 A 1997 to -- '96 to '97.
 13 Q Okay.
 14 A I worked in building construction, building
 15 design and then returned. That's a provision in
 16 our contract that allows you to, you know,
 17 broaden your background.
 18 Q To whom do you report currently?
 19 A Currently I report to Lowell Johnson, who is --
 20 Q And how long -- I'm sorry. Go ahead.
 21 A Who would be underneath Gary Peterson as part of
 22 the construction division, which there's three
 23 divisions in their office, construction, design
 24 and then state aid. And I'm currently working in
 25 ratings with Lowell Johnson.

Page 10

Page 12

1 And I still see them out at Oakdale out there,
 2 working for maintenance -- or not maintenance,
 3 but construction.
 4 Q After --
 5 A And then --
 6 Q I was going to ask you, after you completed the
 7 Grad 2 position, what job did you then have?
 8 A Senior engineer, that's it.
 9 Q And that's the job you're in now?
 10 A That's what I'm in now. And in preliminary there
 11 I did the Forest Lake corridor up at the common
 12 area there. And the only thing I need to note
 13 there is basically investigate whether they
 14 should put up a concrete wall, so I did a
 15 cost-benefit analysis of that came up with a cost
 16 per mile per year to repair versus the cost of
 17 whatever it is, I think a five-foot high glare
 18 wall, you know.
 19 Q When did you become a senior engineer?
 20 A Nineteen -- I believe '94. I was talked into
 21 taking the test at that time with fellow
 22 coworkers.
 23 Q And what were your duties in that position?
 24 A As a?
 25 Q Senior engineer.

1 Q How long have you worked in ratings?
 2 A It was a mobility, and the end of my mobility is,
 3 I think, today.
 4 Q How long are mobility assignments; how long does
 5 that last?
 6 A They extend about three months. Ever since the
 7 collapse of the bridge, I have not been on what I
 8 was. I shouldn't say that. I mean, it's kind of
 9 been a distraction to what I was -- my mobility
 10 was.
 11 Q Okay.
 12 A And you can understand that, I'm sure --
 13 Q Yes.
 14 A -- for me to focus.
 15 Q When did you start that mobility assignment in
 16 ratings?
 17 A Well, it would be a year and three months ago.
 18 Right after the first of the year, I would guess,
 19 of last year.
 20 Q What do you do in that job or what did you do?
 21 A Well, I mean, in that job, and I still do it, but
 22 we're under spring permits where we don't have
 23 the overweight vehicles that we permit to go
 24 through the state over -- and we check -- In my
 25 work I check the bridges to make sure that the

Page 13

Page 15

1 trucks can pass safely and we permit them, then,
 2 or else we give them restrictions.
 3 Q How do you go about doing that?
 4 A We receive from the permits people, we get
 5 permits that come in with the truck axle spaces
 6 and weight and a list of the -- well, a route.
 7 There's a computer program that lists all the
 8 sequential bridges down that route, either going
 9 across the state or their trip away from home and
 10 trip back, possibly within state.
 11 Q So you're, if I understand it, looking at each of
 12 those bridges to determine whether the truck that
 13 has the permit can safely go across?
 14 A That's correct. We have computer work that can
 15 help us, but sometimes you have to do some hand
 16 calculations.
 17 Q The determination of whether or not any
 18 particular truck can go across a bridge is based
 19 on the bridge's rating; is that correct? And if
 20 it's not correct, straighten me out.
 21 A Yeah. Fundamentally, yes, that would be
 22 reasonable to...
 23 Q It's a reasonable characterization?
 24 A Well, yeah. But, I mean, when you say we're
 25 rating, it's comparable to a standard truck, per

1 allowed to -- Say if you have a factor of safety
 2 of two for a design. You're allowed to impinge
 3 on that factor of safety of two and maybe go just
 4 one-and-a-half, per se. And that comes from --
 5 there's currently manuals out that give you those
 6 numbers of -- well, not really safety factors,
 7 but they'd be the equivalent of a safety factor
 8 when it's all told.
 9 Q Is it part of your job to actually rate bridges?
 10 A I'm currently doing one right now. Excuse me.
 11 I'm sorry. Because -- I mean, yeah. My
 12 assignment was to rate horizontally curved steel
 13 bridges using a software package, so yeah.
 14 Q Have you ever rated a fracture critical bridge?
 15 A No.
 16 MR. PIERSON: Have I, Lowell?
 17 MR. MERZ: He's not telling.
 18 MR. JOHNSON: You're working on one
 19 right now, aren't you? I don't remember what
 20 bridge it is, that truss.
 21 MR. PIERSON: I guess I never looked at
 22 it as such.
 23 BY MR. MERZ:
 24 Q What bridge are you rating now?
 25 A The Osceola bridge in, what is it, St. Croix?

Page 14

Page 16

1 say.
 2 Q Okay.
 3 A And these aren't standard trucks. They're
 4 oversized, overweight. So you have to be able to
 5 look at the number of axles, per se, and what the
 6 spans and -- and kind of have a feel for what the
 7 possible span lengths that could get you into
 8 trouble, and that comes with experience.
 9 Q And I guess my question is, what is it that
 10 you're looking at to figure out whether any
 11 particular truck can safely go across the bridge?
 12 A That we don't -- What am I looking for?
 13 Q What are you looking at; what information do you
 14 review to figure that out?
 15 A Oh. The amount of stress or the allowable limits
 16 that are placed on us that are somewhat higher
 17 than design levels, but yet still within a
 18 reasonable factor of safety below the point of
 19 deterioration of the strength of the structure, I
 20 suppose is how you'd say it.
 21 Q And you just have to help me because I'm not an
 22 engineer and I've never rated a bridge. Where
 23 does that information come from?
 24 A That is -- Well, the design is set up by AASHTO,
 25 and that's the designers. And then you're

1 Well, I guess any steel bridge would be fracture
 2 critical.
 3 MR. JOHNSON: It's --
 4 MR. PIERSON: There's some fracture
 5 critical detailed ones --
 6 MR. JOHNSON: Generally it's a
 7 two-girder system. So any truss would be or a
 8 plate girder bridge with two main girders.
 9 MR. PIERSON: Oh, lack of redundancy.
 10 MR. JOHNSON: Uh-huh.
 11 BY MR. MERZ:
 12 Q Is the concept of a fracture critical bridge one
 13 that you just didn't really use?
 14 A For my answer there or --
 15 Q In your job.
 16 A I'm a designer.
 17 Q Right.
 18 A I've been designing since '91, and this last year
 19 I became a rater. The fracture critical comes
 20 after the design. I mean, we don't design --
 21 Usually you don't -- I mean, we do details that
 22 are not subject to -- Or we try to build on
 23 lessons learned to incorporate newer details that
 24 would not be subject to -- or even come up with a
 25 design that way, you know. I mean, and if we did

Page 17

1 a two-girder system, such as Lowell said, yeah, I
 2 would be aware of it then.
 3 Q And it's my understanding, and you tell me if you
 4 agree, disagree or don't know, that fracture
 5 critical bridges aren't being designed anymore.
 6 A Well, like Lowell said, a two-girder system, it's
 7 got a level of redundancy that isn't there, so
 8 then it would be a fracture critical bridge.
 9 MR. PIERSON: Is that not correct,
 10 Lowell? If you're using that --
 11 MR. JOHNSON: We're trying to get away
 12 from them. I'm trying to remember the last
 13 fracture critical bridge we designed and built.
 14 That truss on the Mississippi River in Wabasha is
 15 about 22 years old, I think. That may be the --
 16 That may be the last one, but I can't be sure.
 17 BY MR. MERZ:
 18 Q And maybe I just need to make sure that we're
 19 talking about the same thing. When I say
 20 fracture critical bridge -- And it's easier for
 21 the court reporter to understand if you put your
 22 hand down because it helps her to see your face.
 23 If I say fracture critical bridge, what is your
 24 understanding of what that means?
 25 A It's usually a tension member that's subject to

Page 18

1 cracking. And there's a certain level of
 2 non-redundancy so that if we lose this member,
 3 the whole bridge will go down, per se. So when
 4 you say fracture critical, it usually means
 5 something that is, to me, a tension problem and a
 6 fatigue-type problem.
 7 Q Who did you report to before you began the
 8 assignment where you reported to Mr. Johnson?
 9 A I was in design, so that would have been under a
 10 design leader and then underneath the design
 11 engineer of the office.
 12 Q Who was your design leader?
 13 A There's been many of them. Let's see.
 14 Q Who was the most recent before you went to work
 15 for Mr. Johnson?
 16 A Manjula Louis.
 17 Q How do you spell that first name?
 18 A M-A-N-J-U-L-A, AND then Louis is L-O-U-I-S.
 19 Q Is that a Mr. or Ms. Louis?
 20 A Miss.
 21 Q How long did you report to her?
 22 A Two years.
 23 Q When did you start in the design office?
 24 A '91.
 25 Q Okay.

Page 19

1 A No, excuse me. That's when I started the
 2 rotation program. The design office would have
 3 been '92. Yeah, maybe -- Yeah, '92. When did we
 4 have that snowfall winter?
 5 Q The Halloween blizzard, you mean?
 6 A Yeah. '92?
 7 Q Somewhere in that ballpark.
 8 A The reason I say that is because I was in
 9 preliminary, which, like I said, was out at
 10 Oakdale, and my house is right there.
 11 Q In your job in the design office, did you have
 12 any occasion to interact with the metro bridge
 13 office?
 14 A I know one person from there would be Mark
 15 Pribula, and I've talked to him at a personal
 16 level. If that's -- Maybe see what he's working
 17 on or whatever.
 18 Q Has it ever been necessary as part of your job
 19 duties to interact with anyone at the metro
 20 bridge office?
 21 A No, not per se. Road designers maybe.
 22 Q Has it ever been part of your job to review
 23 bridge inspection reports?
 24 A To review?
 25 Q Yes.

Page 20

1 A And endorse them, per se, or just look at them?
 2 Q Yeah, that's a fair distinction. Have you ever
 3 looked at bridge reports?
 4 A I've looked at bridge reports.
 5 Q Bridge inspection reports? I should be more
 6 accurate.
 7 A Yes.
 8 Q For what purpose?
 9 A A lot of times for ADT, average daily traffic,
 10 truck traffic, the year it was built, what
 11 materials would have been used in that era,
 12 strength materials would have been used in that
 13 era, possible clues as to what work has been done
 14 on it since, maybe -- It would be probably an
 15 automatic to look at it if you're doing a
 16 widening or something, and we do widenings, not
 17 just new bridges.
 18 Q Why do you say that would be automatic, to look
 19 at an inspection report if you're doing a
 20 widening of a bridge?
 21 A Because maybe all the information we would have
 22 in our design file would be there. And it's
 23 probably part --
 24 MR. PIERSON: I believe it is part of
 25 the design file, isn't it, Lowell?

Page 21

Page 23

1 BY MR. MERZ:
 2 Q Well, let me ask you this: When you want to look
 3 at an inspection report, where do you go to get
 4 one?
 5 A Jim Pearson, and he would be bridge management,
 6 which would be under the construction. I think
 7 they're part of the construction, bridge
 8 construction. So it would be Lowell's boss's,
 9 under his auspices.
 10 Q Okay. So you've told me a few circumstances
 11 under which you've looked at bridge inspection
 12 reports. Are there any others that you can think
 13 of?
 14 A Right now I'm looking at the Osceola bridge, so
 15 I'm looking there to see if there's any degrading
 16 of the structure through environmental conditions
 17 that would require a judgment call by an engineer
 18 such as myself to say what is the loss on, you
 19 know, material, say 5 percent loss of materials.
 20 Q Are you talking about section loss?
 21 A Yeah, right, exactly. Just seeing what kind of
 22 condition it is in.
 23 Q Let's talk specifically about section loss. Is
 24 there some amount of section loss that would, in
 25 your mind, be significant?

1 A I think there's -- I'm not fully knowledgeable in
 2 that area. I've only been in ratings for a year,
 3 and that's even another area. There's
 4 categories, I believe, NBI categories that I
 5 was -- that give clues to the structural
 6 condition of the bridge.
 7 Q And are you talking now about the NBI ratings,
 8 the one through --
 9 A A hundred.
 10 Q -- the 1 through 100?
 11 A I was just looking at it today.
 12 Q Okay.
 13 A I'm catching up to you. You said you didn't know
 14 anything about...
 15 Q Did you ever have occasion to look at an
 16 inspection report for the 35W bridge?
 17 A I honestly can't recall. I can't recall.
 18 Q Was there any part of your job at any time that
 19 would have required you to look at an inspection
 20 report for the 35W bridge?
 21 MR. JOHNSON: Can I add something? Are
 22 you talking about before the collapse or after?
 23 MR. PIERSON: That's kind of what I was
 24 wondering too.
 25 BY MR. MERZ:

Page 22

Page 24

1 A I would not be qualified to answer that --
 2 Q Okay.
 3 A -- other than what -- You know, I would rely on
 4 other people of more metallurgical expertise --
 5 Q Okay.
 6 A -- to maybe guide me in that regard.
 7 Q So if you -- And tell me if this is right. If
 8 it's not, set me straight. If you saw in an
 9 inspection report for a bridge that you were
 10 looking at reference to section loss, you would
 11 go to a metallurgical engineer to figure out
 12 whether that section loss was significant?
 13 A Not because it's already there. You're telling
 14 me that there's something there already. Then
 15 I'm able to use that number. But, now, if
 16 there's a question in my mind after seeing
 17 something, then I would talk to them, I mean, if
 18 I'm required to go out and look at something and
 19 I get nervous about something. But, I mean, I
 20 wouldn't go bother him because he's already made
 21 a decision to say 5 percent, 10 percent loss
 22 and... I mean, I might out of curiosity, but...
 23 Q What if the inspection report doesn't quantify
 24 the loss, if it just says section loss at a
 25 particular member; how would you deal with that?

1 Q I appreciate that clarification. I'm really now
 2 just interested in any reports that you might
 3 have reviewed for the 35W bridge before the
 4 collapse.
 5 A You know my role in that -- with the 35W?
 6 Q Why don't you tell me.
 7 A Well, I mean, that would be -- Because I honestly
 8 can't recall.
 9 Q Okay.
 10 A I was part of the process to select a consultant,
 11 given several Requests for Proposals that were
 12 submitted, of which I believe there was anywhere
 13 from five to seven of them, of people asking to
 14 do the work. And it was awarded, and then I
 15 found out I was going to be the project manager
 16 of it after the award.
 17 Q And what was the project?
 18 A The project was a continuance of an inspection
 19 moving on to the fatigue analysis of that bridge.
 20 Q You are familiar, I take it, with a study that
 21 was done by the University of Minnesota related
 22 to the 35W bridge?
 23 A Yes.
 24 Q Okay. And how are you familiar with that?
 25 A That was done prior, and it was part of my group

Page 25

Page 27

1 of information that I had available for the
 2 consultant.
 3 Q And the reason I asked it the way I did is, you
 4 said that the consultant, and the consultant
 5 we're talking about is URS, correct?
 6 A Exactly.
 7 Q The work that URS was doing was a continuation of
 8 a prior inspection?
 9 A Done by Dexter.
 10 Q And that's what you're talking about, is the U of
 11 M study that Professor Dexter was heading, is
 12 that correct, or are you referring to something
 13 different?
 14 A Well, I don't know if I would say a continuation,
 15 per se. I think it was just a further -- a new
 16 look at it possibly. I really can't, I mean,
 17 with authority tell you what the purpose of it
 18 was. It seemed like it was -- You know, it was
 19 all -- I guess I'm really not sure whether it was
 20 a continuation or whether it was just to provide
 21 more guidance for the people that needed to look
 22 at the viability of replacing the bridge or what.
 23 Q Did you have any role in the decision to hire a
 24 consultant to do that study?
 25 A You mean to initiate the study?

Page 26

1 Q Yes.
 2 A To initiate the study, no.
 3 Q Okay. You did have a role in selecting URS?
 4 A Right, but I didn't select them.
 5 Q You participated; is that correct?
 6 A I participated.
 7 Q What was your participation?
 8 A Just to look through all the proposals.
 9 Q Do you know why URS was chosen and the ones that
 10 weren't chosen weren't?
 11 A I have no idea. I thought there was people who
 12 were fully qualified in all of them, and I
 13 just -- My personal choice was something
 14 different.
 15 Q What was your choice?
 16 A I don't recall.
 17 Q Okay.
 18 A But, I mean, there was nothing wrong with URS.
 19 It was just that -- I mean, I think, you know, we
 20 all gave -- we looked at the total tally type of
 21 thing and gave marks on different areas.
 22 Q So the group --
 23 A So the group, as a whole, arrived at a number for
 24 each -- If I recall the process, is that -- If I
 25 recall the process, I think we judged them --

1 merited them on different points, and that's how
 2 the final choice was made.
 3 Q Are you familiar with any study that was done by
 4 a company called HNTB? And I'm talking
 5 specifically now about a study relating to the
 6 35W bridge.
 7 A Not at all that I can recall.
 8 Q Did anyone ever tell you that HNTB had done
 9 either a study or a proposal relating to the 35W
 10 bridge?
 11 A I don't believe so. You know, but, now, they may
 12 have -- I mean, it may have been right in their
 13 proposal, and so I might have just -- been a fact
 14 that -- In other words, I may have known about it
 15 because I read through the proposals, like I
 16 said. So, I mean, I can't be totally sure about
 17 that.
 18 Q HNTB was one of the companies that was competing
 19 with URS for that consulting job.
 20 A Okay. Then they probably would have mentioned it
 21 in their Request for Proposal or in seeking the
 22 work if they hadn't familiarized themselves. So
 23 it would seem logical that, yes, I have, but I
 24 can't recall it.
 25 Q And I don't mean to be telling you that they did

Page 28

1 submit a request to you or a response. Do you
 2 know whether they did or didn't?
 3 A Well, I would guess because of the way -- You
 4 know, you've got URS, HNTB, Pars Brigger. I'm
 5 sure they all did. There's a few other firms
 6 that would have...
 7 Q They were one of the usual suspects?
 8 A Yes, exactly. And, like I say, I read through
 9 all of them. And if HNTB did work, as you say,
 10 then I'm sure they would have mentioned that in
 11 the thing. I just don't recall.
 12 Q Did you have any role in the repairs that were
 13 done on the 35W bridge in 1998?
 14 A No.
 15 Q After URS was selected, what was your role in
 16 that project?
 17 A Project manager. I took it totally as a project
 18 manager. If I could, I'd like to explain that.
 19 Q I would like you to.
 20 A I looked at that role as I was the design
 21 engineer at the time. I had his boss's -- His
 22 boss in there.
 23 Q Mr. Johnson?
 24 A Yep.
 25 Q Because when you say his --

Page 29

Page 31

1 A No. It would be one level above him, Gary
 2 Peterson --
 3 Q Okay.
 4 A -- and Gary Peterson's equal at the level, Kevin
 5 Western, a construction engineer, Paul Kivisto,
 6 and Dan Dorgan were in these meetings. I
 7 consequently said project manager -- I looked at
 8 my role in that position as strictly a somewhat
 9 knowledgeable, but I knew I had been put into
 10 this project -- that there had been a lot of work
 11 done on it already because of the Dexter study.
 12 It seemed like it was going back.

13 So when you say the '98 work or
 14 whatever, I may have heard some of that. So I
 15 knew these people were in the know about it, and
 16 I was coming on board late, you know.

17 So I looked at that point as being the
 18 project manager, strictly on the level of my job
 19 was to coordinate, see that the consultants got
 20 what they needed to get their work done, as my
 21 managers deemed that they, you know, required,
 22 and also to coordinate the meetings and try to
 23 keep the work on progress.

24 Q I didn't hear the last thing. You said try to
 25 keep the work --

1 invoices.
 2 Q And the Don you're referring to is Don Flemming?
 3 A Flemming, excuse me, for URS. And it's tragic
 4 that this happened. And, you know, for me to be,
 5 you know, an engineer, but then look at it as
 6 only a project manager, I mean, I feel bad, you
 7 know, for -- You know, is there something I could
 8 have done, you know, from a tech- -- But I
 9 don't -- It's...

10 Q Well, and that's a fair point. I mean, you
 11 didn't see your role in that position as one of
 12 an engineering function, correct?

13 A Well, only to the extent that, you know, in the
 14 meetings listening and, you know, offer, you
 15 know... But, you know, other than to -- I mean,
 16 yeah, I did really just try to -- I mean, I had
 17 my work as a design engineer, and I just didn't
 18 see that I would be able to jump -- Because
 19 it's -- it would require -- I don't think it was
 20 necessarily my position.

21 Q Yep. I understand. Were there things that you
 22 saw going on in the project that were of concern
 23 to you as an engineer?

24 A Just the seriousness at that level of what -- the
 25 questions that you need to answer and to be

Page 30

Page 32

1 A Progressing. So from a technical aspect, I was
 2 in design at the time and had other
 3 responsibilities, so I treated it as a project
 4 manager. I looked at the fact that my boss's
 5 boss and even his boss, these guys know what --
 6 they've been -- they were not rehearsed, I
 7 shouldn't say, but they kind of knew what they
 8 were wanting.

9 Q The people that you mentioned --

10 A I mean, does that not make sense?

11 Q It does. I mean, the people you mentioned are
 12 all very knowledgeable people that had been
 13 looking at this bridge for a long time.

14 A Exactly.

15 Q And that had not been your role up until that
 16 time.

17 A Right.

18 Q So it wasn't as if you were going to try to
 19 impose your will on them.

20 A No.

21 Q You were there to make sure that the process
 22 moved forward.

23 A And coordinate meetings and coordinate
 24 schedules. And if Don had to call, he'd e-mail
 25 me or send me invoices. I'd go through the

1 responsible for. I mean, you're dealing -- well,
 2 what costs you today a \$300 million bridge. I
 3 guess it was -- You know, the whole purpose of
 4 this probably was to figure out a cost-benefit
 5 ratio, you know.

6 And that's the unfortunate part of it,
 7 is that as an engineer I seen that you had the
 8 ability -- You don't always have the ability to
 9 make things fail safe. I mean, if anything I
 10 learned out of this is to see that everything has
 11 a price, you know. You can make something that
 12 will withstand anything, but do you as a taxpayer
 13 want to...

14 So that's one of the glaring things I
 15 seen is that -- You know, and to come out of
 16 it -- I think Amy Klobucher saying bridges aren't
 17 made to fall down -- or aren't meant to fall
 18 down. My friends would ask me, you know, so does
 19 that mean I'm assuming a level of risk. And I
 20 think in today's age, when you're -- I seen that
 21 inflicted on my bosses, and that's the troubling
 22 aspect, is that everybody is within constraints.

23 Even as a design engineer myself, I
 24 would try to minimize what materials and still
 25 stay within the code, so I'm giving the taxpayer

1 their best.... And that's an unfortunate
 2 situation, that money is so tight. And being
 3 part of the union and stuff, I've seen what other
 4 states are going through with money.
 5 And so when it came to the
 6 recommendation, it all of a sudden hit me that
 7 this is of major -- you know, I mean, it's -- you
 8 know, this is where it hits the fan. An
 9 engineering judgment is going to have to be
 10 made. Does that make sense without being to --
 11 Q It does, I think. What recommendation are you
 12 referring to?
 13 A Just when the preliminary report came out -- or
 14 the not final draft, let's put it that way.
 15 Q And what do you recall that report -- And you're
 16 talking now about a report prepared by URS,
 17 correct?
 18 A Yes, submitted to us sometime in June or July of
 19 the year prior to that. Or maybe it was even
 20 later. It was August 1st, preceding year.
 21 Q So 2006?
 22 A Yeah, whenever it was. I'm trying to think of
 23 monuments of time.
 24 Q What do you recall URS was recommending in that
 25 preliminary report?

1 A My recollection is that it was -- that here's the
 2 facts, that there was kind of a sense of a
 3 decision needs to be made as to how -- I mean,
 4 it's a troubling situation, I realized at that
 5 point in time. If you -- Whatever is
 6 recommended, could -- might not be the right
 7 choice, per se. I mean, it was bandied about
 8 that, you know, you could spend millions on this
 9 and there wasn't a problem. And, quite frankly,
 10 it seemed like there was no problem.
 11 Q Why do you say that?
 12 A Well, we never thought that this would happen.
 13 Q Well, sure. I mean, but putting yourself back in
 14 that time, you said it seemed like there wasn't a
 15 problem. I just wonder what caused you to think
 16 that?
 17 A Because we were looking at the members. Are you
 18 familiar with the report?
 19 Q A little -- Yeah, I'm familiar.
 20 A I think it was a very well done report. It's
 21 concise, concise to the stuff that was a part of
 22 the project. The scope of the project changed,
 23 is what -- We had a set of guidelines that, you
 24 know, this is the time line it's going to take
 25 and this is the tasks that we want, and those

1 changed.
 2 Q Why?
 3 A Because, you know, anytime you do an analysis or
 4 whatever, you find out that what may have been a
 5 concern isn't a concern, per se.
 6 Q Do you recall how the scope of the project
 7 changed?
 8 A I don't think fatigue was nearly as much of an
 9 issue, but they did want to retrofit it in the
 10 event that there was a fatigue crack. Because
 11 that was the whole part of the study. And I
 12 shouldn't say fatigue wasn't -- In the event we
 13 chose eight members and one was to fail, what
 14 would the bridge do. And so they were required
 15 to give us a retrofit for those plating -- I
 16 guess the concern of mine was is you're putting
 17 more holes in it. But that's what that study
 18 was, was to see if the plating or whatever, you
 19 know, an addition of plates would arrest the
 20 cracking and -- not arrest the cracking, but
 21 strengthen it in the critical -- members of the
 22 bridge that we found were the most likely to be
 23 overstressed. I shouldn't say overstressed, but
 24 higher stressed. Because overstressed would
 25 imply that we're allowing stuff to be

1 overstressed, and that's not the case.
 2 And these weren't necessarily, I don't
 3 think -- I think there was a couple of them that
 4 weren't necessarily fracture critical, that
 5 just.... And as I say, the report was done very
 6 well. It's logical, if you look at it, in how it
 7 was put together. And I was kind of not
 8 following all the time, you know, what is the
 9 final goal here sometimes.
 10 Q Do you --
 11 A It was well put together, is what I'm saying.
 12 Q Do you recall one of the URS recommendations was
 13 to put on a continuous deck?
 14 A That was investigated. It was a deck pouring
 15 schedule to -- You know, we wanted to know either
 16 you should build the deck on the outside, on the
 17 inside or this half. We looked at those.
 18 Q And as I understand it, there was a concern that
 19 if the bridge were to be redecked, it was
 20 important to keep the weight on the bridge fairly
 21 symmetrical; is that right?
 22 A Well, intuitively, but I'm sure we probably asked
 23 can it be done, I mean, just out of, you know...
 24 I mean, there's a reason why you'd want to have
 25 it all on one side, it's just easier to construct

Page 37

Page 39

1 properly. And I do think we asked is it
 2 feasible. That's part of what they were probably
 3 looking at.
 4 Q Is what feasible?
 5 A To do it unsymmetrical.
 6 Q Okay.
 7 A I mean, obviously you want to do everything
 8 symmetrical, but then that would cause traffic on
 9 this outside, then you've got a tighter area that
 10 people -- ingress and egress, you know. They're
 11 going to have tougher -- higher cost, you know.
 12 So, I mean, it would seem reasonable
 13 and I'm pretty sure we did, yes. Because I
 14 remember I had to go around and get that loading,
 15 you know, what do we want, checkerboard type
 16 loaded or...
 17 Q How did you do that?
 18 A Just asked the people that were in the meetings,
 19 Dan Dorgan, Dave Peterson, Kivisto.
 20 Q So you're talking now about getting the
 21 loading --
 22 A To Don, what we wanted for loads. That's in my
 23 memorandum -- or not memorandums, but letters.
 24 He'd ask me, let's clarify what you want. So I
 25 would send out something, Don needs this.

Page 38

1 Q But the loading pertained to this redecking
 2 option, is that correct, the loading you're
 3 talking about now?
 4 A No, no, no. The loading we wanted to investigate
 5 for the future of the bridge.
 6 Q Okay.
 7 A Because that's been the course of change over the
 8 past twenty years, per se, going to a new design
 9 code. Even a new grating is coming up.
 10 Q Do you recall -- and you've talked about this a
 11 little bit -- that another one of the URS
 12 recommendations was to do a retrofit, to attach
 13 some plating to the fracture --
 14 A Right.
 15 Q -- critical members? And you recall that?
 16 A Yeah. Or, you know, or investigate what
 17 schemes. I mean, there was other ideas that
 18 were -- You know, possibly having an attached rod
 19 that could be highly stressed.
 20 MR. PIERSON: What do they call those
 21 rods, Lowell? Excuse me.
 22 MR. JOHNSON: Dewidag.
 23 MR. PIERSON: Dewidag rods. And
 24 possibility of composites or --
 25 BY MR. MERZ:

1 Q Composite, what are you talking about there?
 2 A Plastics, possibly, you know -- I don't know,
 3 it's...
 4 Q For the plating; is that what you're talking
 5 about?
 6 A Yeah. If there's high enough -- Just anything
 7 that you could...
 8 Q Do you recall that at some point a decision was
 9 made, at least tentatively, to proceed with
 10 retrofitting?
 11 A That was always part of it, to at least develop a
 12 scheme for, you know, what you would do, you
 13 know, to reinforce these critical members that
 14 were deemed to be stressed. And there's a lot --
 15 I mean, there's judgments that had to be made,
 16 you know. When that snaps, what's -- how much of
 17 an impact does it have on... You have to be
 18 conservative, but... So that was part of the
 19 investigation, is what -- in these members, what
 20 will the out- -- I mean, will we have time to
 21 shut the bridge down if one of these members go
 22 type of thing. Safety is always a concern.
 23 Q Do you recall whether a decision was made about
 24 the retrofitting option?
 25 A That's not at my level.

Page 40

1 Q Okay. You didn't participate in any meeting
 2 where there was such a decision made, I take it?
 3 A I know that they had given us in that preliminary
 4 draft or non-final draft -- That was the last I
 5 had ever heard of it. They had given us some
 6 detailed drawings. As far as what happened after
 7 that, I didn't receive a final paper that you're
 8 talking about, I'm sure, or are interested in
 9 knowing about, the final recommendation. You're
 10 leading to that, I'm assuming, right?
 11 Q Well, I don't know if I am or not. I just want
 12 to hear what you know about.
 13 A I never was given the final recommendation until
 14 the day after the collapse.
 15 Q When you looked at that -- I mean, did you look
 16 at the final recommendation the day after the
 17 collapse?
 18 A I really didn't have -- I mean, it just surprised
 19 me that I was the project manager and I didn't
 20 hear anything about it. I didn't even know where
 21 the project was going then, at that time, okay.
 22 Q Was there some point when you were kind of taken
 23 out of the project?
 24 A No. I mean, we were still -- I mean, if I got a
 25 bill, I'd pay it or whatever, or sign off on it,

Page 41

Page 43

1 having it go to the next level. But at that
 2 meeting they were -- we still wanted to look at
 3 some other things.
 4 Q Which meeting?
 5 A That meeting where that draft was turned over.
 6 And it was given to us a week in advance so that
 7 we could have a productive meeting. So at that
 8 meeting our points were discussed, so there was
 9 still work to be done. So I was still in it, but
 10 as far as final recommendation, I never seen
 11 that. And the work that was proceeding, I didn't
 12 know.
 13 Q Is the meeting that you're talking about one that
 14 took place --
 15 A It was the fourth of five meetings or -- I think
 16 it was the fourth. I've got progress meeting
 17 discs or whatever, and I think it was the fourth
 18 of five.
 19 Q And we'll come to those in a minute, so maybe
 20 I'll ask you when I have the minutes in front of
 21 you. Just to get to that, though, do you recall
 22 hearing any concerns or having any concerns about
 23 the pace of URS's work, that they weren't moving
 24 as quickly as you'd hoped?
 25 A I really can't say that -- I mean, I think it

1 marked as Exhibit 2, which is an e-mail to you
 2 from Don Flemming, and then it attaches some
 3 meeting minutes; is that right?
 4 A July 20th, 2004, so this is -- Yeah, this is --
 5 This would be what they handed to us for -- We
 6 also asked them for the slide show.
 7 Q PowerPoint?
 8 A PowerPoint presentation as a receivables type
 9 thing. And your question -- Did I --
 10 Q My question really is do you recall attending the
 11 meeting that these minutes refer to?
 12 A Yes.
 13 Q I'm going to ask you about some specific points.
 14 I don't need to know everything about this
 15 meeting, but I have a few points I'm interested
 16 in. I'm going to focus first on the numbered
 17 paragraph 3 that talks about movement of the
 18 bearings. Do you see that?
 19 A Yes.
 20 Q What discussion do you recall about the impact on
 21 the bridge of the bearings and whether they were
 22 moving adequately?
 23 A That was part of the problem with modeling it.
 24 The issues were brought up with regard to the
 25 bearings. Do you model it the way the bridge was

Page 42

Page 44

1 ended up taking longer, you know, but that's
 2 understandable.
 3 Q Why is it understandable?
 4 A Because difficulties arise, modeling, questions.
 5 Q And so the project took longer than was expected;
 6 is that correct?
 7 A With the three addendums, I would assume so. And
 8 it was because the amount of work that was
 9 required ended up being more than what was
 10 initially assumed.
 11 Q Do you know why that was?
 12 A I think people are too optimistic at higher
 13 levels, to be honest, almost to the point of
 14 being unrealistic. And I can say that because I
 15 worked on the bridge manual for LRFD, and the
 16 initial estimates they were talking about for
 17 that was -- seemed unreasonable, so... Does that
 18 make sense? Without being --
 19 Q You have to wait so she can mark this exhibit,
 20 and then you can talk. She can't mark the
 21 exhibit and take down what you have to say.
 22 (Pierson Exhibit 2 was marked for
 23 identification by the court reporter.)
 24 BY MR. MERZ:
 25 Q You've got in front of you a document we've

1 designed or do you model it the way the bridge is
 2 actually behaving. So fixing these were raised.
 3 I do recall it seemed like some were frozen up
 4 that were supposed to be moving or whatever, and
 5 that's about all I recall.
 6 Q Do you know whether the model that URS used was
 7 based on the bridge as it was designed or as it
 8 existed?
 9 A I believe that -- Did it say in here. Did we
 10 give them guidance. My best recollection is that
 11 we said design it as it's behaving, not as it's
 12 designed.
 13 Q Do you recall any discussion about --
 14 A To the best of my knowledge. I don't recall.
 15 Q Do you recall any discussion about the bearings
 16 and what impact that was having on the bridge?
 17 A Yeah, there was some discussion. As to what, I
 18 don't recall. You know, some of the -- Okay. It
 19 had something to do with the floor beams, if I
 20 recall, that -- Yeah, there was just some
 21 issues. There was stuff talked about that was...
 22 Q You don't remember any specifics, I take it?
 23 A Not specifics, but I seem to recall that -- See,
 24 and this is where -- Now that you say that, the
 25 words from '98 that was done, some of the

Page 45

Page 47

1 modifications, now I recall.
 2 Q What do you remember?
 3 A Just that I think they freed up some of the -- Or
 4 either they discovered -- I don't know. Just
 5 something to do with the floor beams in the
 6 stringer and how they were all tied together, if
 7 I -- if I remember right.
 8 Q And then --
 9 A There was some modification work done to the
 10 floor beams or the trusses that distributed those
 11 loads to the truss itself.
 12 Q And I think I asked you this: Did you have any
 13 role --
 14 A No.
 15 Q -- in the 1998 project?
 16 A No.
 17 Q And so what you're telling me about what you
 18 recall of that project, where is that coming
 19 from?
 20 A You know, it's really hard post-11 -- or post 7/1
 21 or is it 8/1. I mean, I was looking through a
 22 lot of boxes, and I looked through the boxes
 23 before then too. Because Don was asking me for
 24 things, so I might have breezed through it either
 25 before or after.

1 availability of Mill Certifications for
 2 Bridge 9340. What do you recall about that
 3 issue?
 4 A I remember going to talk to Jim. And I was
 5 not -- As to what Mill Certifications are, they
 6 are the heats, it's commonly referred to, that
 7 being the force-deformation curves. Maybe that's
 8 what they refer to as the heats. It didn't
 9 appear that we had the exact information that Don
 10 needed at that time, at that time.
 11 Q Did you get it at some point?
 12 A I don't think so. I think we got him some
 13 inspection slips that were in a box that I had
 14 given him after the fourth meeting that appeared
 15 to be maybe knowledge -- The question arose as to
 16 what material would have been used at that time.
 17 Q What are Mill Certifications?
 18 A I don't know.
 19 Q Do you know what force-deformation curves are?
 20 A I should say Mill Certifications are -- I mean,
 21 they talk about heats. They give you the certain
 22 tests that were done on it, and that's all I
 23 would read into it.
 24 Q On the steel?
 25 A On the steel as it was being fabricated.

Page 46

Page 48

1 Q And that's a good point. In preparing for your
 2 role as project manager, what did you do to
 3 familiarize yourself with the condition of the
 4 bridge?
 5 A Nothing, really, I don't think, as far as the
 6 condition of the bridge. I just focused on the
 7 tasks at hand that needed to be done.
 8 Q During the course of your work as project
 9 manager, what information did you use to
 10 familiarize yourself with the condition of the
 11 bridge?
 12 A Well, when Don would ask me a question, I would
 13 look through the files, so that's what I was
 14 using to learn the history of the bridge.
 15 Q And that would be in response to some specific
 16 question that somebody was asking?
 17 A A question. So I would be reading through memos,
 18 four boxes, if I remember correctly.
 19 Q Go to the second page of exhibit -- or the third
 20 page of Exhibit 2.
 21 A Yep.
 22 Q At the bottom there's an action item, and they're
 23 giving you a task there to do; is that right?
 24 I'm looking at number one, where it says, Scott
 25 Pierson will check with Jim Paddock about the

1 Q This is talking about tests done on the steel
 2 while it was being fabricated?
 3 A Right. Some of these tests weren't even done, I
 4 don't think, at that time.
 5 MR. PIERSON: Is that right? There
 6 was -- Sharpy Notch (phonetic) wasn't necessarily
 7 done back in the 1960's. Is that right, Lowell?
 8 MR. JOHNSON: I don't know, but I'm
 9 guessing they weren't.
 10 BY MR. MERZ:
 11 Q Do you know why Mr. Flemming wanted this
 12 information?
 13 A This would be four meetings later -- Or, wait.
 14 Well, yeah, just so that they could verify what's
 15 out there to -- Just to verify what is in the
 16 existing structure and to see if there's any
 17 anomalies, or whatever, or just to be able to
 18 cross-reference the bridge with the actual pieces
 19 so they got -- You know, they're interested -- We
 20 found the eight critical members. Now what were
 21 the heats.
 22 (Pierson Exhibit 3 was marked for
 23 identification by the court reporter.)
 24 BY MR. MERZ:
 25 Q Mr. Pierson, I'm giving you what we've marked as

Page 49

Page 51

1 Exhibit 3. Do you recognize these as the minutes
 2 from the second progress meeting with URS?
 3 A Okay.
 4 Q And do you recognize this as the meeting minutes
 5 for the second progress meeting with URS?
 6 A Yes.
 7 Q You attended this meeting?
 8 A Yes.
 9 Q Paragraph 3 talks about mill certification data
 10 for the bridge. Do you see that?
 11 A Yep.
 12 Q And it's your recollection that the information
 13 that you were looking for wasn't available; is
 14 that correct?
 15 A Yeah. I still believe it isn't available.
 16 Q It goes on there to say in paragraph three,
 17 There's a large amount of data that is not easily
 18 related to the shop drawings. Do you know what
 19 that's talking about there?
 20 A Well, in particular it was missing pieces,
 21 corresponding marks. I'm not familiar with the
 22 whole process, but there was heats that were
 23 missing, even, I think, shop drawings that were
 24 missing of specific members.
 25 Q In paragraph four it talks about shop drawing

1 that if there's no indication of rust or loss of
 2 section, it's a viable thing. The steel is
 3 higher strength, so therefore use it.
 4 Q Do you know whether there was any indication of
 5 rust or section loss on this bridge?
 6 A Actually, I don't even know that that's what --
 7 No, I don't -- I -- I'm thinking that this was --
 8 We're dealing with early on here. We're dealing
 9 with the idea of fatigue, and I think fatigue has
 10 criteria that's involved that is correlated to
 11 the properties that are in those heats. And when
 12 we found out that that might not be an issue,
 13 then -- Or that the scope changed from this...
 14 Q Can you recall any way in which the shop drawings
 15 were different from the contract plans?
 16 A Only that there was not a complete set.
 17 Q And I was looking at paragraph four, where it
 18 says that there were a few locations with major
 19 differences from the contract plans, referring
 20 now to Exhibit 3. And I just wondered if you
 21 recalled any major differences between the shop
 22 drawings and the contract plans?
 23 A Are you talking 4 or 3?
 24 Q 4.
 25 A Okay. This goes into trying to ascertain what

Page 50

Page 52

1 data being incomplete. Do you see that?
 2 A Yep.
 3 Q Is that what you're talking about?
 4 A That's what I'm talking about.
 5 Q And there were a few locations with major
 6 differences from the contract plans. Do you see
 7 that?
 8 A You know, back up. They did want that
 9 information of the heats so that they could use
 10 the actual steel properties as opposed to -- If
 11 it afforded higher strength, then let's use it.
 12 Do you follow what I'm saying there?
 13 Q Maybe.
 14 A If the mill certifications and the heats, or
 15 whatever, showed that the steel was stronger than
 16 what was -- which commonly is the case, that
 17 maybe it was -- I think that that was the idea.
 18 Q I mean, why, though, would you assume that the
 19 mill certifications relating to the strength of
 20 the steel when the bridge was put in place was
 21 better information than looking at the bridge as
 22 it existed 30 years later -- more than 40 years
 23 later?
 24 A Well, if there isn't an issue of -- That, again,
 25 isn't, you know, my area of expertise. I think

1 the correct stresses are in that structure.
 2 Q My question is a little bit different. My
 3 question is do you recall any differences between
 4 the shop drawings and the contract plans?
 5 A Only to the extent that they were trying to match
 6 as closely as possible the in-place stresses, as
 7 would be indicated from using these drawings, to
 8 best reflect their model. Does that make sense?
 9 Q It does, but I don't know that it answers my
 10 question. My question is whether you remember
 11 any way in which the shop drawings were different
 12 from the contract plans? I'm just trying to
 13 figure out what this is talking about, if you
 14 remember.
 15 A I guess I'd have to say I don't remember.
 16 Q And that's a fine answer. I'm really only
 17 interested --
 18 A I'm trying to put this into the context of what
 19 was discussed at the time and...
 20 Q Sure. Paragraph four also talks about
 21 discrepancies in the camber data. What's camber
 22 data?
 23 A Camber is what you put in so that the bridge
 24 doesn't sag. It looks like it's healthy. You
 25 put in cambers so that when you put the deck on,

Page 53

Page 55

1 it sags to a level that still makes it look like
 2 it isn't -- even though a sagging deck, but it
 3 would still be okay. It's just public appearance
 4 and whatnot, and also water. You want water to
 5 be able to drain off.
 6 And these are bridges that are no
 7 longer done, so I don't know -- I mean, I find it
 8 amazing. I'd like to know more about how they
 9 did truss construction.
 10 (Pierson Exhibit 4 was marked for
 11 identification by the court reporter.)
 12 BY MR. MERZ:
 13 Q And just based on what you were telling me in the
 14 few seconds we were off the record, I understand
 15 that you have never designed a truss bridge
 16 before; is that right?
 17 A No. Well, I've gotten to work on a truss bridge
 18 before.
 19 Q Other than the 35W bridge --
 20 A No --
 21 Q -- what --
 22 A -- not a truss bridge. I guess the Wabasha
 23 bridge wasn't a truss bridge.
 24 Q Just make sure you let me finish my question
 25 before you answer, otherwise we'll have a bad

1 Was it the conclusion that the shop
 2 drawings were consistent with the contract
 3 documents?
 4 A I wouldn't say that.
 5 Q You would not say that or would?
 6 A I would say that the outcome that I recall was
 7 that the model that they are setting up is
 8 consistent with the intent of the whatever --
 9 Q Go to the second --
 10 A -- so that we could move on into what our project
 11 was, to model that bridge.
 12 Q Go to the second page of Exhibit 4. And I'm
 13 looking at paragraph 7, where it says, Dan Dorgan
 14 noted that we could combine the composite deck
 15 and PT system on the lower chord and consider
 16 that as an alternative for truss retrofit. Do
 17 you see that?
 18 A Yes.
 19 Q What's a PT system?
 20 A That's your Dewidag post-tension system.
 21 Q So this was just another alternative?
 22 A And composite deck was to tie -- to strengthen it
 23 with the use of the deck acting compositely with
 24 the steel. You know, that's the truss retrofit
 25 that we're talking about.

Page 54

Page 56

1 transcript here.
 2 The 35W bridge is the only truss bridge
 3 that you have worked on; is that correct?
 4 A That I've been associated with, yeah.
 5 Q You have in front of you there a document we've
 6 marked as Exhibit 4?
 7 A Yes.
 8 Q Do you recognize this as the meeting minutes for
 9 the third progress meeting with URS?
 10 A Yes.
 11 Q If you look at paragraph three, it talks about
 12 the shop drawing discrepancy. Do you see that?
 13 A Yes.
 14 Q And it says it was attributable to the difference
 15 between the contract documents with level
 16 geometry and shop drawings with corrections to
 17 profile grade. Do you see that?
 18 A Yes.
 19 Q Do you know what that's talking about?
 20 A The camber again.
 21 Q Okay. So was it the conclusion -- And I'm just
 22 going to ask you to interpret here a little bit.
 23 Was it the conclusion that the shop drawings were
 24 accurate after all or -- Actually, let me ask a
 25 better question.

1 Q And I was understanding that this was -- that
 2 Mr. Dorgan's suggestion was somehow an
 3 alternative to the truss retrofit. Is that not
 4 right?
 5 A It was one of the suggested -- or one of the
 6 things that, you know, you could use.
 7 Q It's one of the options that was --
 8 A One of the options, yeah.
 9 Q In paragraph 10 it says, After the above
 10 discussions, it was determined that URS should
 11 concentrate our efforts at looking into the steel
 12 plating option of retrofit. Do you see that? .
 13 A Yes.
 14 Q And that was the conclusion, correct?
 15 A Right.
 16 Q Do you know how that conclusion was reached?
 17 A Many thoughts were taken into account,
 18 constructability, weight of the pieces. That
 19 was -- Yeah, so it seemed the most viable. There
 20 was something that was not good about the PT
 21 system.
 22 Q Do you recall what it was?
 23 A I really can't.
 24 Q Paragraph 12 says, There was a discussion about
 25 placing the new steel plates onto the gussets by

Page 57

Page 59

1 replacing rivets with bolts a couple at a time.
 2 Do you see that?
 3 A Yes.
 4 Q Do you know what that's referring to?
 5 A This is like just lacing --
 6 Q When I --
 7 A I think --
 8 Q Go ahead.
 9 A No, I don't know.
 10 Q When I read this the first time, I thought it was
 11 referring to plates to make the gusset plates
 12 thicker, but --
 13 A No.
 14 Q -- I now think what it's referring to is the
 15 members that --
 16 A You latch onto it.
 17 Q Okay.
 18 A So, yeah, you're -- No, it isn't a fabrication of
 19 a new gusset plate.
 20 Q It's the things that attach to the gusset plates
 21 that --
 22 A Yeah. I think your intent there, what you were
 23 thinking, is wrong. I'm sure of that. That was
 24 not the intent.
 25 Q Paragraph 16 says, URS will also study the effect

1 A I would not know why other than money.
 2 Q Do you know whether there was any discussion
 3 about the impact that construction activities on
 4 the bridge to do the 2007 --
 5 A Can we back up?
 6 Q Yes.
 7 A What were you asking about that? Do I know why
 8 MnDOT did that?
 9 Q Yes. And I'll just ask it again so we can get a
 10 good answer. Do you know how the decision was
 11 made to proceed with an overlay in 2007 and
 12 redecking some number of years later on?
 13 A My guess is that it was -- if it's in here, it
 14 was just that's part of what was determined by
 15 the construction plan, which is scoped years
 16 before.
 17 Q But my question is do you know how that decision
 18 was made?
 19 A No.
 20 Q Okay. So --
 21 A So it was planned is all I would know. And that
 22 probably all was brought up in the meeting. Do
 23 those people have -- I don't know.
 24 Q Do you know whether there was any consideration
 25 given to the impact of construction activities on

Page 58

Page 60

1 of the steel plate strengthening in regard to the
 2 change in stiffness and the impact this may have
 3 near the gusset plate connections. Do you see
 4 that?
 5 A Which one did you say?
 6 Q Paragraph 16.
 7 A It makes sense, but I don't recall it.
 8 Q You don't recall --
 9 A The discussion.
 10 Q -- the discussion? Okay. Paragraph 18 says
 11 that, MnDOT's current plan is to overlay the
 12 bridge in 2007 and redeck in the year 2020. Do
 13 you see that?
 14 A Right.
 15 Q Do you recall that discussion?
 16 A I do if that's what the whole part of it was, was
 17 to redeck it and -- I think looking at the
 18 viability of it in 2020.
 19 Q Do you know why the decision was made to do the
 20 overlay and then sometime later look at redecking
 21 the bridge?
 22 A Go ahead. I'm sorry.
 23 Q Do you know why the decision was made to proceed
 24 with the overlay and do the redecking some number
 25 of years later on?

1 the bridge to perform the overlay in 2007 on the
 2 bridge's structural integrity?
 3 A No. Rephrase that again, please, or -- I mean,
 4 it's a valid -- It's something that if I --
 5 Q It's a long question and I'll break it up. To do
 6 the 2007 overlay there had to be trucks on the
 7 bridge, there had to be materials, all that stuff
 8 to actually do the work to put on the overlay in
 9 2007, correct?
 10 A Okay.
 11 Q My question is whether anyone thought about how
 12 those activities might impact the structural
 13 integrity of the bridge?
 14 A Well, without -- At this point I can't say yes or
 15 no to that. I mean, was the subject brought up
 16 of how to reconstruct the deck at that time,
 17 being discussed in these meetings? I'd have to
 18 read through the minutes.
 19 Q And I'm really asking about what you remember.
 20 If you remember --
 21 A I don't remember.
 22 Q You have to let me finish.
 23 A Oh.
 24 Q Do you remember any discussion about the impact
 25 of construction activities on the bridge?

Page 61

Page 63

1 A At this point in time, no --
 2 Q Okay.
 3 A -- not without -- I mean, if you understand where
 4 I'm coming from, is that if -- What do we say in
 5 this? Well, there's some implications in here.
 6 Q What do you mean?
 7 A I mean, it would seem to imply that that's part
 8 of their work, too, is to know how to redeck it
 9 for 2020.
 10 Q And I'm focusing now not on the redecking, but on
 11 the overlay project that was done in 2007.
 12 A I have no idea.
 13 Q Okay.
 14 A That would be a question better left for -- that
 15 would still stick in somebody else's head that
 16 would be better than mine at that point in time.
 17 If I can evade it like that -- or not evade it,
 18 but... I mean, we have construction engineers
 19 that might, you know, better respond to what
 20 happened in that meeting.
 21 Q What I'm understanding you to say is that just
 22 wasn't your job; is that correct?
 23 A Yeah. I mean, you know, to what level we
 24 discussed it, it isn't -- yeah, it isn't my --
 25 you know, that it would be something that I would

1 and what I understand --
 2 A I don't recall anything other than that.
 3 Q What I understand you to be saying is you just
 4 don't remember that?
 5 A Right.
 6 Q Okay. That's fair.
 7 (Pierson Exhibit 5 was marked for
 8 identification by the court reporter.)
 9 BY MR. MERZ:
 10 Q Mr. Pierson, you have a document marked as
 11 Exhibit 5. And if you see at the bottom of that
 12 exhibit, it's an e-mail from you to Don Flemming;
 13 is that right?
 14 A Okay. Yeah, I recall all this.
 15 Q And the documents that come after your e-mail or
 16 the pages that come after your e-mail, those were
 17 something that were attached to the e-mail that
 18 you sent to Mr. Flemming; is that correct?
 19 A Yeah. This was a series of stuff to come from my
 20 desk, yeah.
 21 Q If you look at the second page of Exhibit 5, and
 22 I'm looking where it says Question 2C --
 23 A Redeck, okay.
 24 Q -- it talks about deck placement and choosing the
 25 staging of the construction; is that right?

Page 62

Page 64

1 recall.
 2 Q And just to be clear, you don't recall any
 3 discussion about that at any level; is that
 4 correct?
 5 A No, that's not the case.
 6 Q Okay. Tell me what you remember, then.
 7 A Basically if they said it in here, I probably
 8 remember it. But to what the ramifications of
 9 that are, no, it isn't a flag that we know that
 10 down the line you're going to be doing -- Because
 11 there was going to be a construction sheet
 12 that... Now, as to an overlay, I would -- there
 13 may have been something that was brought up. I
 14 don't know. And it could have been brought up
 15 because they brought up the overlay, but I don't
 16 recall if there was any -- anything that was
 17 spoken, other than the fact that these are in
 18 this project letting for the years out.
 19 And it would seem to imply that -- I
 20 don't know. I mean, what's there is there, you
 21 know, whether there was any discussion on it. I
 22 mean, I kind of read it as being this is in the
 23 upcoming construction period.
 24 Q And I'm not asking you to read it because I can
 25 read it. What I'm asking is what you remember,

1 A Yep.
 2 Q My question is where did you go to get this
 3 information?
 4 A Paul Kivisto, probably Gary Peterson, and that
 5 would probably be the only two.
 6 (Pierson Exhibit 6 was marked for
 7 identification by the court
 8 reporter.)
 9 MR. PIERSON: Is that it? Because that
 10 was a lot of work involved in that.
 11 BY MR. MERZ:
 12 Q To get the information, you mean?
 13 A To make sure that what they were communicating to
 14 me was being put down -- I mean, because there's
 15 also loadings that were discussed and all sorts
 16 of things. So it was quite lengthy, you know, to
 17 make sure I was right, you know.
 18 Q Exhibit 6, do you recognize Exhibit 6 as the
 19 meeting minutes for the fourth progress meeting
 20 with URS?
 21 A Yep, yes.
 22 Q Paragraph three, I'm looking at the second
 23 sentence of paragraph three. I'll give you a
 24 second to get there. It says there, It was
 25 discovered that some of the floor truss members

Page 65

Page 67

1 are overstressed as a result of the dead load
 2 alone. The overstress as a result of the out of
 3 plane bending of the floor truss top chord. Do
 4 you see that?
 5 A Well, I think you're reading it out of context.
 6 Q My only question is --
 7 A Do I recall it?
 8 Q Yeah.
 9 A I'm a bad witness, apparently.
 10 Q No, you're a fine witness; you're doing what
 11 witnesses do. But do you recall it?
 12 A Yeah. I mean, that's -- I think that leads back
 13 to some of the '98 stuff that -- or the camber
 14 and the bearing freezing and some of the issues
 15 with everything.
 16 Q And my question is what do you recall having been
 17 discussed about the topic that's referred to
 18 there in paragraph three?
 19 A As I read this and compared to what a person from
 20 the outside with no knowledge of what was being
 21 discussed there, I would say that this was to
 22 show that the model, in the event of a collapse
 23 or some breakage of one of them lead to
 24 overstresses, that's trying to show why the
 25 actual bridge is not behaving like it was

1 A Other than welds are subject to fatigue, you
 2 know, cracking, or whether they're sound, good
 3 welding practice. I mean, they do x-rays and all
 4 sorts of things that I'm not fully aware of to
 5 value -- validate what they think is a sound
 6 weld.
 7 Q This was the last progress meeting minutes that I
 8 could find. That doesn't mean there aren't
 9 more. There's a million pages of documents in my
 10 office. But do you know whether there were any
 11 subsequent progress meetings with URS after this
 12 one?
 13 A To be determined. There should be another one.
 14 Q How many progress meetings do you recall there
 15 having been with URS?
 16 A There should have been one more, because this one
 17 doesn't -- This was -- Wait. Yeah, there had to
 18 be one more.
 19 Q So you remembered there were five?
 20 A Yeah. There had to be one more, because we
 21 discussed -- I was delivered the draft final
 22 report a week in advance -- Or, no, given plenty
 23 of time for the next meeting so that it could be
 24 looked at and comments made so that URS could
 25 look at them prior to the meeting to make the

Page 66

Page 68

1 intended to do. So, in other words, he's just
 2 relating some knowledge to why the bridge is
 3 behaving the way it is.
 4 Q Go to the second page of Exhibit 6, paragraph
 5 eight. It says there, Gary Peterson raised the
 6 question about failures that may occur at
 7 locations other than at the interior diaphragm,
 8 specifically at tack weld locations. URS will
 9 contact Mark P. -- That's Mark Pribula,
 10 correct? --
 11 A Right.
 12 Q -- and review the photograph records to determine
 13 if tack welds exist at the member to gusset plate
 14 locations. Do you see that?
 15 A Yes.
 16 Q What discussion do you recall about that subject?
 17 A About that?
 18 Q Just what it says.
 19 A Even that? I wouldn't have recalled it right now
 20 if you had asked.
 21 Q Okay. Do you remember whether there were tack
 22 welds at the member to gusset plate locations?
 23 A No.
 24 Q Do you know what the significance of that was,
 25 why URS is concerned or looking at this issue?

1 meeting more productive in discussing the
 2 preliminary and final draft.
 3 Q And --
 4 A So there had to be one more meeting.
 5 Q Where do you recall things were left at the end
 6 of that meeting, where the preliminary final
 7 draft was discussed?
 8 A That's why I was looking at my to-do list there.
 9 I think there's another meeting minutes.
 10 Q Yes. And I probably have it somewhere, but my
 11 question is, if you recall, where do you recall
 12 things were left at the end of the meeting where
 13 URS presented the preliminary final draft?
 14 A That I was given a task to try to find out the
 15 specs, the material. Heats were still trying to
 16 be found, dig through them again. There was
 17 still work left to be done.
 18 Q What was your last involvement in this project?
 19 A Probably signing an invoice for the progress
 20 meeting -- or even some other work to get end of
 21 year billing done or whatever.
 22 Q And you told me you never saw the final URS
 23 report until after the bridge collapse?
 24 A Final recommendation.
 25 Q Final recommendation until after the bridge

Page 69

Page 71

1 collapsed?

2 A The final recommendation was, I believe, one

3 sheet of paper.

4 (Pierson Exhibit 7 was marked for

5 identification by the court reporter.)

6 BY MR. MERZ:

7 Q This is a document, a correspondence dated

8 March 24, 2006 to Gary Peterson from Don Flemming

9 at URS, and it refers to preliminary

10 recommendations, as described below. Have you

11 seen this document before?

12 A To the best of my knowledge, no. I would like to

13 be able to look at it a little bit further.

14 Q Do you recall how the final URS recommendations

15 were different from the preliminary

16 recommendations?

17 A Can I back up a second here?

18 Q Sure, sure.

19 A March 31st was our meeting four. March 24th,

20 2006.

21 Q Well, I don't want you to be misled. These are

22 different years. Exhibit 6 is 2005 and Exhibit 7

23 is 2006.

24 A Right. And when was meeting five; do you have

25 that?

1 A Again, I don't recall.

2 Q Do you recall that at least one of the things

3 that it was decided would happen was that there

4 would be some non-destructive testing undertaken

5 on the bridge, ultrasonic testing?

6 A I can't recall. Because you put me in a time

7 frame of what I know after versus before, and I

8 cannot replace the time without giving it further

9 thought. Was I supposed to review this before

10 I -- I mean, I did review, so I felt that that

11 would be the best way to...

12 Q No. And I'm sympathetic. I know that you're

13 being asked to remember stuff that happened a few

14 years ago. And, really, this is just about what

15 you remember, so I wouldn't worry about it.

16 A I mean, the only reason I would want to recall is

17 because maybe I would have had a better answer

18 for you instead of just trying to guess the

19 contents.

20 Q And I don't want you to guess.

21 A I mean, when I -- I know whether we discussed --

22 you know, if I say that type of thing.

23 Q I don't think I have anything further. I

24 appreciate your time.

25 A Thank you.

Page 70

Page 72

1 Q Not with me. I don't know when that occurred.

2 A No, I stay with what I said, then. I don't

3 recall this.

4 Q Okay. Do you recall how the final URS

5 recommendations were different from the

6 preliminary recommendations?

7 A Not right off the top of my head.

8 Q Do you recall that there was going to be some --

9 A I mean, I'd have to -- There was some difference,

10 but I can't recall right off -- I know there

11 was -- That's why I'd like to look at that a

12 little further.

13 Q I'm only asking you what you remember.

14 A Okay.

15 Q If you remember any differences, either

16 specifically or generally, tell me about them; if

17 you don't remember any --

18 A I guess I don't.

19 Q Okay. Do you recall that there was going to be

20 some inspection of the bridge that was to be done

21 in May of 2007?

22 A Not right now.

23 Q Do you recall that there was in fact an

24 inspection of the bridge that took place in May

25 of 2007?

1 (Whereupon, the interview was concluded

2 at 2:50 p.m.)

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1 STATE OF MINNESOTA)

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4 COUNTY OF HENNEPIN)

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7

8 REPORTER'S CERTIFICATE

9

10

I, Julie A. Rixe, do hereby certify

11

that the above and foregoing transcript, consisting of

12

the preceding 72 pages, is a correct transcript of

13

my stenographic notes and is a full, true and complete

14

transcript of the proceedings to the best of my

15

ability.

16

Dated April 28, 2008.

17

18

19

20

JULIE A. RIXE

21

Court Reporter

22

23

24

25

1 INTERVIEW OF JACK PIRKL - March 25, 2008

2
3
4 In the Matter of Conducting an Independent
5 Investigation into the Collapse of the I-35W Bridge

6
7 Department of Transportation
8 395 John Ireland Boulevard
9 Room G-13
10 St. Paul, Minnesota

11
12 Met, pursuant to Notice, at 8:00 in the
13 morning on March 25, 2008.

14
15
16 INTERVIEWERS:

17 Kathryn Bergstrom, Attorney at Law with
18 Gray Plant Mooty Law Firm.

19 ALSO PRESENT:

20 Barbara E. Forsland, MnDOT Data
21 Practices Compliance & Policy Analyst.
22 John Bieniek, Maintenance
23 Operations Engineer

24 COURT REPORTER:

25 Julie A. Rixe

1 (Pirkl Exhibits 1, 2 and 3 were marked
2 for identification by the court
3 reporter.)

4 EXAMINATION

5 BY MS. BERGSTROM:

6 Q Again, my name is Katie Bergstrom. We have a
7 court reporter here. May I call you Jack?

8 A Yes. Should I call you Katie or do you want
9 Miss --

10 Q Katie is just fine. I was only called Katherine
11 when my dad was yelling at me as a child.

12 We have a court reporter here today,
13 Jack, who's taking down everything that we say.
14 And it's important that we not talk on top of one
15 another. She can only take down one voice at a
16 time.

17 A I didn't know that.

18 Q So I'll try to -- you let me finish my question
19 and I'll let you finish your answer, and that
20 will help her out.

21 A All right.

22 Q The other thing is, it's hard for her to take
23 down nods of the heads and uh-uhs and uh-huhs.
24 So audible yeses and nos and words are what helps
25 her out.

Page 2

INDEX

PIRKL EXHIBITS:	PAGE
1 - Witness Protocol for Interviews	4
2 - Organization chart dated 7/10/07	4
3 - Organization chart dated 11/16/07	4

Page 4

1 Let's go around the room and state our
2 appearances here. I'm Katie Bergstrom, Gray
3 Plant Mooty.

4 MS. FORSLAND: I'm Barbara Forsland.
5 I'm the Data Practices attorney for the agency.

6 MR. BIENIEK: I'm John Bieniek. I'm
7 the maintenance operations engineer.

8 MR. PIRKL: And I'm Jack Pirkl, one of
9 the maintenance operation engineers also.

10 BY MS. BERGSTROM:

11 Q Jack, the first thing that we're going to do is
12 go through this witness protocol for interviews.
13 I've done this with every witness that we've
14 talked to here at MnDOT. This says that our
15 authority here today, we are the Gray Plant Mooty
16 law firm. Gray Plant Mooty has been retained by
17 the Minnesota Legislature to conducted an
18 independent investigation into the collapse of
19 the I-35W bridge. The Minnesota Legislature has
20 asked us to provide a report of our investigation
21 by May 1st, 2008. We will be asking you
22 questions concerning the bridge collapse and
23 related policies, practices and legislative
24 oversight issues.

25 The purpose of this interview is to

Page 5

Page 7

determine what you might know about the matters we are investigating. Confidentiality during the time our investigation is active. Information that interviewees provide to us is not public information. The information you provide may no longer be confidential once we submit the report to the Legislature.

The process. You are required to answer our questions truthfully. The court reporter is present to record our conversation. Either during the interview or later in our investigation we may determine that we need to verify certain information. If that occurs, we may ask you for a further recorded statement, a signed affirmation or an oath statement.

Post-interview contact. We view this process as an ongoing dialogue. If you think of anything after this interview that you want to tell us about, please call or e-mail us. Likewise, we hope that you will respond to us if we call or e-mail you with follow-up questions or clarifications.

Is that all clear?

A Yes, it is, except for confidentiality. It's confidential today, but not confidential

maintenance engineer, principal engineer. I more or less consider myself as a maintenance operations engineer.

Q And is your work for MnDOT right now specific to bridges?

A Not necessarily.

Q Okay. Explain that to me.

A As you can see by the org chart, there are other factions that I'm responsible for. There's traffic engineering. And unbeknownst to what this organizational chart shows, I have other duties that take some of my time also.

Q How long have you been in that position, Jack, in this --

A In what position?

Q This maintenance engineer that you were just describing.

A Since I became an engineer back in 1976.

Q With some of the other interviewees I have run them kind of through their various positions at MnDOT. Can you kind of give me the big picture? Have you always been in that position or have you done other things within the organization?

A That's when I became a professional engineer. I became a professional engineer in '71, and I was

Page 6

Page 8

tomorrow.

Q Well, it's a Data Practices analysis, really. And while I can't give you legal advice and Barbara probably can, the fact of the matter is that if City Pages came to me tomorrow and asked me for all of my notes, I would say no, it's confidential. Once I submit a report to the Minnesota Legislature, they will have access to certain of my file, but not all. That's kind of a concrete way to explain what we mean there.

A Okay.

Q Okay. All right. You kind of hinted at this off the record a little bit, but, Jack, how long have you been employed by MnDOT?

A I'd say more than a half a century. Fifty-two years.

Q And you're an engineer?

A Yes.

Q What kind of an engineer?

A Professional engineer.

Q And I'm not an engineer, so forgive me if I get this wrong, but are you a civil engineering?

A My training was in civil engineering.

Q Your current title with MnDOT is what?

A They've got it down in the org chart as a

in the field in construction for those five years. And it was in '76 when I joined the maintenance ranks. Maintenance ranks is everything under the sun, from a pothole to a bridge and everything in between.

Q So you've been in the maintenance area since 1976?

A Correct. Actually, since -- Yeah, that's correct.

Q Okay. Are you, Jack, a certified bridge inspector?

A No.

Q So as part of your tenure at MnDOT, you've never had responsibility for going out and physically doing inspections?

A That is correct.

Q Physically where do you office?

A At Water's Edge.

Q In Roseville?

A That's correct.

Q All right. I'm going to have you look at this Exhibit Number 2. We have a number of org charts here, and we'll just take our time and go through them so I get a clear picture. This one, I'll tell you, is dated July 10, 2007. And at the

1 time the position above you was vacant, but I
 2 understand that John Bieniek now has that
 3 position, correct?
 4 A Correct.
 5 MR. BIENIEK: Right. I started that
 6 job on October 3rd.
 7 BY MS. BERGSTROM:
 8 Q And, Jack, is this the case, based on some of
 9 these earlier ones, that before that position was
 10 vacant, John Howard was over in that box?
 11 A That's correct.
 12 Q Okay. And so currently do you report to John
 13 Bieniek?
 14 A Yes.
 15 Q Okay. And before that you reported to John
 16 Howard?
 17 A Correct.
 18 Q Now, in this Exhibit Number 2, which is the July
 19 2007, this appears that Mark Pribula reports up
 20 to you. Is that the case?
 21 A That is correct.
 22 Q Okay. And how long did Mark report to you?
 23 A Ever since he came into the maintenance
 24 operations area.
 25 Q Okay. And does he report to you today?

1 A Yes.
 2 Q And how long -- When did he come into
 3 maintenance, roughly?
 4 MR. BIENIEK: Was it -- Is it '98 or
 5 '97? It's one of those two years.
 6 MR. PIRKL: It's the latter part of the
 7 nineties. I can't remember exactly.
 8 BY MS. BERGSTROM:
 9 Q And then Phil Erickson also reports to you,
 10 correct?
 11 A Correct.
 12 Q And then down below him are the various truck
 13 stations.
 14 A There's five bridge crews there plus an office
 15 manager.
 16 Q Okay. And Roger Schultz reports to you?
 17 A Correct.
 18 Q Okay. And Dave Schmidt?
 19 A Correct.
 20 Q And what does Dave Schmidt do?
 21 A Dave Schmidt is the same civil service
 22 classification as Phil Erickson, and he is
 23 responsible for all of the signs and traffic
 24 operations in the district.
 25 Q So when you had said earlier that some of your

1 job responsibilities include traffic services,
 2 are those the traffic services?
 3 A Yes.
 4 Q Okay.
 5 MR. BIENIEK: And that was true in
 6 July. And then as of approximately January 1st,
 7 Dave Schmidt is no longer reporting to Jack
 8 Pirkel, if you want to talk about how it was
 9 organized at the time of the bridge incident
 10 versus today.
 11 BY MS. BERGSTROM:
 12 Q Well, and I understand that there are some
 13 efforts underway to even create some new
 14 positions and change some things around.
 15 MR. BIENIEK: Uh-huh.
 16 BY MS. BERGSTROM:
 17 Q So it's fair to say it's a little bit in flux
 18 right now.
 19 MR. BIENIEK: It is, it is.
 20 BY MS. BERGSTROM:
 21 Q Jack, with respect to the work that Roger Schultz
 22 does and Mark Pribula does beneath you, what are
 23 your job responsibilities vis-a-vis them?
 24 A Basically oversight. They come to me with any
 25 unique problems, but I do not hear about the

1 day-to-day activities.
 2 Q They come see you when they need to?
 3 A We communicate daily. Sometimes it's for five
 4 minutes, sometimes it's longer.
 5 Q Do you have any standing meetings with those
 6 direct reports?
 7 A Not regimented, no, spontaneous.
 8 Q And then what about your reporting up to the
 9 various people that you report to, do you have
 10 standing meetings with them?
 11 A Not a standing meeting. We have a monthly
 12 meeting where we talk to all of the managers. I
 13 try and talk to John Bieniek here daily, every
 14 other day, whatever.
 15 Q And presumably you're all out in Roseville
 16 together, right?
 17 A Correct.
 18 MR. BIENIEK: The standing meetings
 19 that we have are the maintenance engineers.
 20 MR. PIRKL: That's what I was really
 21 talking about.
 22 MR. BIENIEK: And then there's
 23 maintenance supervisors.
 24 MR. PIRKL: But we haven't talked about
 25 the operations of my section there.

1 MR. BIENIEK: That's not about bridge,
2 though. Sometimes facilities. And then we'll
3 have a maintenance -- I guess you want to call it
4 a maintenance supervisors --
5 MR. PIRKL: Yes.
6 MR. BIENIEK: -- which is more of a
7 general staff meeting.
8 MR. PIRKL: I'm assuming Katie was
9 talking about upper.
10 BY MS. BERGSTROM:
11 Q Right.
12 A Not down, just up.
13 Q Right, moving up. Now, as I understand it,
14 having talked to Roger -- I've not talked to Mark
15 yet -- Roger is in charge of all structures in
16 the metro district that are non-fracture
17 critical, correct?
18 A Correct.
19 Q And then Mark would be in charge of all the
20 fracture critical bridges?
21 A Correct.
22 MR. BIENIEK: That's inspection, too,
23 right; that's with regard to inspection?
24 BY MS. BERGSTROM:
25 Q Right. That's what I'm talking about,

1 inspections.
2 MR. BIENIEK: Okay.
3 BY MS. BERGSTROM:
4 Q If Mark was out on the I-35W bridge doing his
5 annual inspection and he drafted his report for
6 that year, does a copy of that report find its
7 way to your desk, Jack?
8 A No.
9 Q Where does that report go to?
10 A In Mark's office, 25 feet away from mine.
11 Q So would you have had occasions over the years to
12 talk to him about what was in his inspection
13 reports?
14 A Only if he brings something up to me that is of a
15 concern to him.
16 Q And does a copy of his report go to central
17 bridge?
18 A Correct.
19 Q Do you remember him specifically bringing up
20 anything about the 35W bridge?
21 A Not specifically.
22 Q Generally?
23 A There's always talk about one or two little minor
24 things, but it never gets reduced to a major
25 meeting. So, I mean, it's -- I don't want to say

1 idle conversation, but conversation about the
2 bridge that is on a low key.
3 Q Okay. So nothing comes to mind about a big
4 meeting or --
5 A No.
6 Q -- big issue raised? Okay. And I understand
7 that both Roger and Mark will rely on central
8 bridge as kind of a deep expert?
9 A They are the experts.
10 Q Who, Roger and Mark or central?
11 A No. The central office is the -- central office
12 bridge is the expert on our structures.
13 Q If Roger or Mark needed to rely on central
14 bridge, do you initiate that contact for them?
15 A No.
16 Q Okay. That's something they do directly?
17 A That's correct. I hear about it after the fact,
18 unless it happens immediately; I may be in the
19 vicinity and I'll be notified immediately.
20 Q Do you ever have occasions to contact central
21 bridge directly?
22 A Yes.
23 Q For what reasons?
24 A When I have a conversation with anybody down
25 there, it could relate to anything of an

1 inspection nature or it could be just general
2 nature.
3 Q Is there somebody in particular that you contact
4 at central bridge?
5 A Generally the one or two people. It's Paul
6 Kivisto or Gary Peterson. Those are the main two
7 that I interact with probably most of the time.
8 Q Are they the ones that are kind of assigned to
9 metro?
10 A Paul Kivisto is the regional bridge engineer for
11 metro. There are two other bridge engineers
12 similar to Paul around the state. Paul has the
13 metro area, the other two have the northern
14 Minnesota, the other has the south, southern.
15 Q Okay. Are there any -- This is kind of a broader
16 question than the specific ones, but are there
17 any task force or committees, Jack, that you sit
18 on with people either in other districts or
19 central office?
20 A No.
21 Q You have enough to do over in metro?
22 A Yes.
23 Q Okay. Do you get together with the -- your
24 counterparts in the other districts around the
25 state?

Page 17

Page 19

1 A Occasionally on the annual meetings I get to talk
 2 to them; but on a day-to-day basis, no.
 3 Q What about your counterparts in other DOTs?
 4 A Not familiar with them.
 5 Q Okay. Let's take a look at this one. This is
 6 Number 3. And I understand from talking to Bev
 7 yesterday that the top page of this, which is
 8 dated 11/16/07, might have been a potential
 9 iteration but never really was formally approved
 10 as a reorg. And I guess I'm more interested in
 11 page 2 of this, which is -- shows the vacant --
 12 the addition of the maintenance operations
 13 engineer and kind of combining all of bridge down
 14 beneath that position. Do you see that?
 15 A Yes.
 16 Q Okay.
 17 A Right in the center.
 18 MR. BIENIEK: I need -- The
 19 reorganizations and the changes that we are
 20 considering in the bridge area had resulted in a
 21 few different concepts, organizational concepts,
 22 this one being March 4. This isn't an accurate
 23 org chart.
 24 BY MS. BERGSTROM:
 25 Q Well, let me ask you this, Jack: Are you

1 A There may have been.
 2 Q But that would have been something you would have
 3 heard about just in passing?
 4 A Yes.
 5 Q Okay. What about the work that URS was doing on
 6 the bridge, were you aware of that?
 7 A Aware of the contractor out there, but not aware
 8 of the details that they were supposed to be
 9 doing as far as their charge.
 10 Q From your understanding, who did have that
 11 information?
 12 A The central office, naturally, had 100 percent
 13 buy into that thing, and there may have been one
 14 of our bridge people here in the metro district
 15 that was involved to some extent.
 16 Q But you don't know either way?
 17 A I'm not going to speculate as to how detailed
 18 this particular individual was involved in this
 19 thing here.
 20 Q Would it have been Mark, though?
 21 A Yes.
 22 Q Okay. So were you aware, either at the time or
 23 afterwards, that URS was out in 2003 with Mark at
 24 the annual inspection?
 25 A I do not know that answer.

Page 18

Page 20

1 involved in the discussions relating to how to
 2 reorganize this?
 3 A No. I maybe recommend certain things here, but
 4 I'm not on the decision-making panel.
 5 Q There's been various consultants and work done on
 6 the bridge historically, Jack, and I'm just
 7 curious about your involvement with that. Were
 8 you aware, for instance, that the U of M was
 9 conducting a study?
 10 A Yes.
 11 Q What was your involvement in that?
 12 A Very little. Just probably a sideline
 13 information to me is all. I did not meet with
 14 any of the particulars with the university. It
 15 was concocted by the central office.
 16 Q Do you know whether any of your direct reports
 17 were involved?
 18 A I'm not sure if they were or not. They knew
 19 about it.
 20 Q What about HNTB, did you work with them at all?
 21 A Just as an outsider, nothing direct.
 22 Q You didn't attend any meetings?
 23 A No.
 24 Q And, again, any of your direct reports involved
 25 in that?

1 Q And at some point, and I think it's the summer of
 2 '06, URS makes some recommendations in a
 3 preliminary -- a preliminary final report, if you
 4 will.
 5 A Uh-huh.
 6 Q Do you recall being involved in those
 7 recommendations?
 8 A No.
 9 Q Okay.
 10 A Those recommendations would have gone to the main
 11 office, the central office bridge, and then it
 12 filters down piece by piece to the district.
 13 Q Did you ever have any conversations with central
 14 bridge or Mark regarding a potential retrofitting
 15 of the bridge?
 16 A There were conversations. I can't remember
 17 exactly what it was all about and when it
 18 happened or anything like that.
 19 Q Do you ever remember having any price tags
 20 attached to a potential retrofit?
 21 A There's always options on the various scenarios
 22 that they put forth, so there's got to be a price
 23 tag here and there on some things. I don't want
 24 to say it's pulled out of the air, but obviously
 25 there's a difference, probably sometimes maybe a

1 difference of a zero on the end.
 2 Q Were you aware of any conversations between URS,
 3 central office and/or metro bridge about the
 4 possible redecking of the bridge?
 5 A Just in idle conversations. I was not involved
 6 in direct negotiations or meetings with either of
 7 those parties when they had their meetings.
 8 Q Okay. And what about any conversations regarding
 9 the overlay work that was being done in the
 10 summer of 2007?
 11 A That is something that was one of the options
 12 that Rog and I put forth, depending on exactly
 13 what was going to happen with the URS report,
 14 when they were going to do it and when they were
 15 not going to do it. It was something that was
 16 part of a corridor project. Corridor means the
 17 other things happening along 35W. So when you do
 18 that, you close down lanes, you probably do
 19 something more than you probably anticipated on
 20 that particular bridge deck, and that was how it
 21 happened.
 22 Q Well, and by corridor project, as I understand
 23 it, 35 was getting some work done from 94 up to
 24 Stinson Boulevard?
 25 A Correct.

1 Q And the work that happened to be the subset of
 2 the work on the bridge, did that depend on
 3 whether or not the URS recommendations were
 4 implemented?
 5 A The decision had been made at that time here to
 6 go ahead only with the overlay on the bridge.
 7 Q And who made that decision?
 8 A That's probably a meeting with central office.
 9 Generally it's generated by the central office
 10 and we get involved after the fact. They are the
 11 experts on analyzing what happened -- what URS
 12 found in the field. So they come after us and
 13 say, Well, maybe it's too premature to do it now,
 14 maybe we should do it tomorrow, maybe we should
 15 do it five years from now. They are the experts
 16 that kind of tell us exactly when the thing
 17 should be done and when it's liable to happen.
 18 Q Do you remember a meeting where they said, We're
 19 not going to do these other URS recommendations,
 20 we're going to do the overlay instead?
 21 A Not a meeting, but just passed the word down that
 22 this is probably going to be delayed, so you
 23 might as well go ahead with the other portion of
 24 your bridge.
 25 Q As I understand it, the overlay project made it

1 to Roger's BIP schedule?
 2 A Correct.
 3 Q Do you know when that happened?
 4 A In time to get it programmed, obviously. I don't
 5 know exactly the date. It has to go in the stip
 6 and so forth like that. That all happens in the
 7 scoping meeting. A project doesn't get done
 8 unless Roger brings a bridge project to that
 9 meeting, and he sits on every one of those
 10 meetings.
 11 Q Is that a scoping subcommittee?
 12 A Correct.
 13 Q Who sits on that?
 14 A One person from every section in the district.
 15 There's materials engineers, there's a traffic
 16 engineer, there's this guy, that guy, that gal.
 17 And anybody that has anything to do with a
 18 project in the area -- Scoping means when they
 19 want to do a corridor from -- Let's say a mile
 20 stretch of roadway. What needs to be done in
 21 that corridor so that you, I and the fence post
 22 are not inconvenienced more than one time. You
 23 try and get everything done. So everybody comes
 24 out of the woodwork with their pet projects that
 25 they want to be done in that particular mile

1 stretch, and all that goes through the scoping
 2 meeting.
 3 And they determine to what extent. Are
 4 we going to do a Cadillac job or are we going to
 5 do a Chevrolet job. It depends on the resources.
 6 And after everybody agrees to that, not everybody
 7 is always happy, but they agree, then it goes
 8 into the stip and then it gets funded.
 9 Q So the actual corridor project itself would have
 10 been in the stip, but the portion of it over the
 11 bridge would have been in the BIP; is that fair?
 12 A Okay. Everybody keeps saying BIP. I just call
 13 it a BI program. I realize B-I-P is BIP, but...
 14 Q But that's something different from the stip,
 15 right?
 16 A Right, right, right. The BI program is a funding
 17 mechanism, \$15 million a year. I think Roger
 18 probably said that.
 19 Q He did. So I guess what I'm wondering is, is a
 20 portion of this bigger corridor project was
 21 funded through the BIP program?
 22 A The bridge only. Materials has to find money in
 23 their kitty to overlay a piece of 94 or 35W.
 24 Q Right, okay.
 25 A Same with guardrail and everything. They have to

Page 25

Page 27

1 come out of their own allotments. That's why I
2 say some things may get done and some things may
3 not. A person may not have enough money; they've
4 got all their resources spread out in other areas
5 and can't work too much in this particular
6 corridor.

7 Q Let's talk a little bit about money for a
8 second. Do you have a budget in your job
9 description?

10 A Only the labor budget. Is that what you mean?

11 Q Well, I guess I don't know. Are dollars
12 allocated to you at all?

13 A No, no, to the group, the organization.

14 Q Okay. And at what level?

15 A Well, the BI program is basically the only budget
16 that we have.

17 MR. BIENIEK: Would that be the
18 preservation -- We kind of have discretion over
19 the preservation dollars? I don't know if Roger
20 mentioned that or not. It's not a lot.

21 MR. PIRKL: There are other funding
22 mechanisms out here. There are the BARK funds.
23 I think you probably have heard that too. We can
24 rely on some of those if we have recourse to get
25 into those, but those are specific ideas for that

Page 26

Page 28

1 particular money. We have restitution funds that
2 we use in the traffic and engineering section.

3 When you hit a fence post out there or
4 a sign or something like that and you're lucky
5 enough to not be able to kill yourself, but then
6 the cop shows up and issues you a ticket or
7 something like that, we go back to your insurance
8 company and your insurance company pays for
9 replacement of that sign. That's why your
10 insurance rates are so high.

11 BY MS. BERGSTROM:

12 Q So as I understand it, and I did talk to Dale
13 Dombroske, too, he gets told he's got this much
14 money to do his job, and Roger has got
15 \$15 million for the Bridge Improvement Program,
16 and then you've got some money that you use in
17 traffic engineering. Do all those come to you
18 separately tagged or do you just get a big old
19 pot of money and say, Okay, you've got to deliver
20 this up amongst your responsibilities?

21 A All of these programs are -- Well, let's see
22 here. Everyone has to have a plan and they're
23 allocated so much money. Roger's 15 million,
24 he's putting together the 2013 program. I mean,
25 that's so far out in left field here that you and

1 I probably can't even conceive what's going to
2 happen in 2013. Who knows, we may have a change
3 in our plan. So he puts a bridge in for 2013.

4 By the time we get to 2011 or 2012,
5 that bridge is no longer important. If there's
6 more important bridges come in, that gets pushed
7 to 2014 or 2015 and we bring a new bridge in. So
8 it's not permanent. Those are placeholders for
9 that bridge. Today, five years in advance, we
10 think that we're going to need some work on that
11 bridge in 2013, but it doesn't always happen.

12 Another thing that will happen, that
13 corridor, if there's something on that corridor
14 from one of the other people that have a
15 significant work load in that thing, maybe the
16 public relations office of the department or the
17 engineer, the area engineer, can't get the city
18 to side with what they want to do. All of a
19 sudden that corridor goes down the tube for a
20 year and they have to wait for a year.

21 Everything has to come to a screeching halt and
22 have to find replacements for that money, because
23 we spend the same amount of money every year.

24 Q That scoping committee that would meet and talk
25 about say, like, the corridor project, how often

1 does that committee get together?

2 A Monthly and sometimes every two weeks. It
3 depends on the items that are at hand at the
4 time.

5 Q Okay. So I want to do a hypothetical. If Mark
6 comes off of an inspection of a bridge and
7 determines that he's got to do a project that's
8 going to, say, cost \$15 million; it's something
9 that needs to be done. And we know we can't use
10 Roger's 15 million because that's been allocated
11 out --

12 A Right.

13 Q -- and we know we just don't have 15 million set
14 aside, would he come to you with that request?

15 A He would come to me, because he and I would never
16 have been able to make a decision on the \$15
17 million project. That would have to go up the
18 line here, John and the top.

19 Q So then where would you take his request? He
20 would come to you.

21 A Tell John about it. I would say, something major
22 is going on here; the central office recommended
23 that we go a little bit further with this
24 recommendation as far as doing certain things on
25 the bridge, and there's no money for it.

Page 29

Page 31

1 We're running into a situation right
2 now with the Stillwater bridge. When are we ever
3 going to get that thing done. There's no money.
4 It just sits there.

5 MS. BERGSTROM: And presumably, John,
6 you would take it to Bev and Bev would take it to
7 Connie and Connie would visit the fourth floor
8 here?

9 MR. BIENIEK: And in your hypothetical
10 situation, the bridge -- you know, usually the
11 bridge degradation is slow and is trackable; you
12 don't have to react to it initially, right. So
13 in your hypothetical, if we found something that
14 was more significant, that was a significant
15 change from just last year, that type of
16 funding -- if it starts to get to be an emergency
17 or very high priority, we'll find money; we have
18 to. But that's an unusual situation, too, to
19 find a big change in a structure. They're slow
20 and gradual is the nature of how infrastructure
21 ages.

22 So Mark would find data that would get
23 recorded into a database, typically, and then
24 that database, you know, is an analytical tool
25 which shows this degradation. And at some point,

Page 30

Page 32

1 at some trigger point, you know, in the life of
2 an infrastructure asset you go, that thing should
3 be rehabilitated. It's a good time to do this
4 now economically, and maybe it lines up with
5 other scoping situations or other opportunities.
6 So you hopefully don't have to charge out there
7 and fix anything. That's in emergency
8 situations, which are -- That's a whole different
9 class of a situation to be dealing with.

10 BY MS. BERGSTROM:

11 Q Let me ask you this, Jack: In your tenure here
12 at -- And putting that in the context of what
13 John was just talking about --

14 A Uh-huh.

15 Q -- there's some projects that come up that people
16 didn't know about and we'll call them
17 emergencies, rare, but true emergencies. And
18 then you might have some that might be coming up
19 two or three years that you don't have money for
20 either but that probably needs to be done. So
21 taking first the emergency, in your tenure have
22 you had any emergency projects like that?

23 A What's the degree of emergency. There's always
24 some that come to the forefront that maybe have a
25 little bit higher priority than the one that you

1 scheduled. Now, that isn't really a true
2 emergency, but this has a little bit more
3 importance maybe than the other one.
4 Q And I guess I was combining the emergency with a
5 price tag that causes problems. So not just from
6 a priority standpoint, we should do this first
7 before this, but where somebody brings you
8 something that you need in an emergency and
9 you've got to find a way to fund it.

10 MR. BIENIEK: A truck hit, say?

11 MR. PIRKL: Well, we did have an
12 accident over on Xerxes and 494 a couple years
13 ago, and that was a high load that hit the beam,
14 hit numerous beams. That was closed down and we
15 did find the money. It has to come out of
16 Connie's budget someplace. It doesn't come out
17 of District 2 or District 1 or anything like
18 that, and it doesn't come out of Bob Winter.
19 Connie has to find the money. And what he does
20 is, there's going to be maybe a sign project that
21 does not get let, maybe something like that, but
22 he has to find the money and defer some other
23 project. There's only so much money available.

24 And, John, unless you know a little bit
25 more how this thing works up above.

1 MR. BIENIEK: That's a good
2 description. The district itself will reallocate
3 or shift funds over to this emergency situation.
4 Maintenance has a budget that we have to hit,
5 too, our own budget, internal budget.

6 It doesn't happen very frequently.
7 Again, generally we have this degradation over
8 time, over 30 to 50 to 100 years of the asset
9 that you can plan for. If you do this right, you
10 know, you can plan things out and, you know, have
11 the money sitting in each year's budget too...

12 MR. PIRKL: One other item here we can
13 probably talk about on the same thing as Xerxes
14 and 494 down there, there are times here, it's an
15 accident, so Joe Blow's rubbish department gets
16 caught. We go to his insurance department. A
17 lot of times we can get the insurance company --
18 it takes a little bit of time, phone calls back
19 and forth, letters back and forth, everything
20 like that. Finally the insurance company says,
21 Yeah, we're libel. We can get the contract
22 almost paid directly by the insurance, so then
23 Connie has to come up with only a small portion
24 of funds maybe for the MndOT employees. A lot of
25 times it's cumbersome, but sometimes we can't get

1 work that fast so we have to pay for it up
 2 front.
 3 BY MS. BERGSTROM:
 4 Q Were you historically involved, Jack, in the
 5 discussions regarding replacing the bridge?
 6 A Replacing what --
 7 Q The I-35W bridge?
 8 A Not really. I was there when they built it.
 9 Q Were you aware that they were having discussions
 10 that they were going to replace the bridge?
 11 A Some of the options, yes.
 12 Q And did you ever -- were you ever aware of the
 13 price tags that were being attached to that?
 14 A There was so many zeros behind it I lost track.
 15 Q So it's not something that ever got into any
 16 stip?
 17 A No, no, no.
 18 Q So let's talk about the fact that you were there
 19 when the bridge was built.
 20 MR. BIENIEK: He's the only person
 21 you're going to talk to that you can do this
 22 with.
 23 BY MS. BERGSTROM:
 24 Q Maybe Arlen. He's been around for a while.
 25 There is all of this data now about the bridge

1 opening in '67, and then sometime early in the
 2 seventies the design being already considered, at
 3 a national level, obsolete. Are you aware of
 4 anything that MnDOT did specifically with respect
 5 to this bridge because of the obsolete design?
 6 A No.
 7 Q Who would know that?
 8 A That would be our central office people in the
 9 central office bridge section.
 10 Q I mean, and by saying obsolete design, we're not
 11 the only state who has bridges of this type?
 12 A Right, correct.
 13 Q Were you aware of any information being shared
 14 with other DOTs?
 15 A No. But, I mean, when you talk about a fracture
 16 critical bridge, that means there's a minimum
 17 amount of beams out there. A pedestrian bridge
 18 that you and I go over sometimes when you cross
 19 the freeway is a fracture critical structure;
 20 it's only got two beams on it. But they don't
 21 really say that is a full -- because the thing is
 22 only 14 feet wide anyway, so they can't get any
 23 more beams on it.
 24 And it's the same thing as -- It may be
 25 have been a money saving thing. Maybe it was the

1 design of that era, I don't know, that they built
 2 them with only just two main girders over the
 3 river. Don't know.
 4 Q Were you involved at all in the revisions that
 5 were done to the bridge in 1977?
 6 A Not familiar with that. I don't think I was even
 7 in that particular area in '77. That would have
 8 been a Golden Valley bridge, District 5 bridge.
 9 We didn't get together until years after that.
 10 It just so happened that I was only on
 11 the approaches to the river bridge when it was
 12 being constructed. Interstate 35W was not
 13 built. They only built the river bridge as a
 14 starting point to get the traffic from Washington
 15 Avenue to University Avenue. That's all the
 16 further that trail went. There was a big glory
 17 hole under the University Avenue bridge and there
 18 was one underneath the Washington Avenue bridge.
 19 And that's all that we paved, from Washington
 20 Avenue up to the river bridge, from the river
 21 bridge to University Avenue, and then the bridge
 22 was open.
 23 Q Okay. Were you involved in any of the work that
 24 was done on it in 1998?
 25 A What specifically are you talking about?

1 Q I think the '98 work was medians that were added?
 2 A Part of the plan -- Yes. They had cable -- I
 3 mean a structural plate beam guardrail down the
 4 center, and any kind of guardrail maintenance is
 5 a pain in the posterior. So it's something here
 6 -- We try and get our maintenance people off the
 7 road because it's a safety hazard. And that was
 8 probably one of the options that they used to
 9 minimize the traffic impact to our maintenance
 10 people.
 11 Q Just so I get this, by changing to these medians,
 12 you would decrease the need to have maintenance
 13 people out there on the rail?
 14 A Correct.
 15 Q Okay. And then what about any involvement in the
 16 2001, the deicer going on the bridge?
 17 A That was in 1999.
 18 Q Oh, 1999? And were you involved in that?
 19 A A little bit.
 20 Q Okay. What was your involvement there?
 21 A The overseer of some of the project. It started
 22 out as a design by a Switzerland company. And
 23 the more we got into it, there was an RFP put
 24 out, and then there was negotiations. And the
 25 Switzerland company, Bochum, Incorporated, ended

Page 37

Page 39

1 up with the contract. And it was the first one
 2 in the United States. And the headquarters, we
 3 had to constantly deal with Switzerland.
 4 But I was just kind of a general
 5 overseer, not involved with any payment or
 6 anything like that. We had other people here
 7 that literally ran the job.
 8 Q When you said you were somewhat involved in the
 9 median project in 1998, what was your involvement
 10 in that?
 11 A From the standpoint of just minimizing some of
 12 the traffic impacts to our maintenance
 13 operations. I mean, these are general
 14 conversations that happen all the time. I mean,
 15 we're always looking for a way to minimize our
 16 traffic impact to the traveling public and to our
 17 own safety.
 18 Q There's been some discussion about Mark Pribula
 19 being out with a crew on the bridge in May of
 20 2007. Do you know what they were doing out there
 21 in May of 2007?
 22 A Not specifically.
 23 Q Generally?
 24 A If he was out there, I was assuming it would
 25 probably be something to do with his annual

1 A No.
 2 Q Okay. Are you involved at all in any of the
 3 revisions that are being made to the inspection
 4 reports and the maintenance tracking?
 5 A Just as a general nature. I rely on Mark and
 6 Roger, as professionals, and I just provide
 7 general oversight. And they come to me when
 8 there's problems or when there's certain things
 9 here that they want to make specifically changes
 10 in. They handle the thing. They work with
 11 central office. The central office is becoming a
 12 little bit more gun-shy on some of these
 13 inspection reports. They want to see more
 14 detail.
 15 Q So you're aware that there's some efforts
 16 underway to kind of shore up some of the
 17 documentation?
 18 A Yes. We have not been given definite ways to
 19 improve our inspection. We're waiting for that
 20 to come down the line.
 21 MR. BIENIEK: That project is underway
 22 right now.
 23 BY MS. BERGSTROM:
 24 Q And I talked to Bev a little bit about it
 25 yesterday. I'm just trying to understand who's

Page 38

Page 40

1 inspection.
 2 Q But you don't know either way?
 3 A No.
 4 Q Have you been involved at all, Jack, in the
 5 decision to close the St. Cloud bridge?
 6 A No.
 7 Q Have any of your direct reports been involved in
 8 that?
 9 A I think it surprised everybody. We did find out
 10 the day before that -- Phil Erickson got a call
 11 from somebody in the central office, and they
 12 said they wanted our 75-foot snooper up to
 13 St. Cloud. That's all he knew about it. He
 14 didn't know what it was for. And the next day we
 15 heard the bridge was closed. So you heard it the
 16 same time I did.
 17 Q I think I saw that snooper on the news last
 18 night?
 19 MR. BIENIEK: Me too.
 20 BY MS. BERGSTROM:
 21 Q Have there been any changes, Jack, in your -- for
 22 your direct reports that have been implemented
 23 since the collapse of the bridge?
 24 A No.
 25 Q Nothing?

1 involved. I know that it's not finished.
 2 A I mean, we have 21 bridge inspectors on normal
 3 bridges, and these are the routine bridges that
 4 Roger has. And I'm sure there's even going to be
 5 additional requirements on those bridges for
 6 those 21 people. Eighteen of these guys are
 7 bridge workers, three of them are from
 8 construction. So it will be a few training
 9 periods, and I'm sure there's going to be more
 10 things to be looked at, more in depth, even on
 11 routine bridges, the one that's out in front of
 12 your house.
 13 Q I understand that since the collapse, the FHWA
 14 has had a couple of training sessions. I want to
 15 say it's down in Kansas City or something like
 16 that. Are you aware of those?
 17 A Not really, but we have our fracture critical
 18 three-day or four-day class starting the 31st of
 19 this month at Arden Hills. And there are about
 20 30, 35 people that will be going to that, of
 21 which five of them are from metro district. Four
 22 of them are bridge workers who want to become
 23 more involved in fracture critical inspection,
 24 and one of them is one of our permanent fracture
 25 critical inspectors.

1 Q Which --
 2 A Vance.
 3 Q Vance, okay. Who's teaching that class?
 4 A I'm assuming it's got something to do with the
 5 feds. I have no idea.
 6 Q And the other attendees are coming from the other
 7 districts?
 8 A City and county and, also, districts.
 9 Q Sure. Once that overlay project was discussed at
 10 the scoping committee and made it to the stip,
 11 got on Roger's Bridge Improvement Program, who's
 12 in charge of kind of implementing that?
 13 A The plan is designed by the central office. The
 14 project manager in that particular area adds his
 15 plan sheets to that plan and it becomes one big
 16 plan. There's guardrail, there's traffic,
 17 there's bridge work. One set of plan, the thing
 18 is that (indicating) thick, one-inch thick. That
 19 is one plan, and then it goes to the -- excuse
 20 me -- passes through all of the pertinent people
 21 that have to say yes or no to it, and then it
 22 becomes a project. Again, it's in the stip a
 23 long time before the plan is ever done. They
 24 don't start working on the plan until it's in the
 25 stip. And, basically, normal procedures happen

1 Sometimes the fabrication methods by the iron
 2 worker, who puts these things together, it has to
 3 be drawn in to catch that beam. And that's what
 4 possibly could have something to do with the
 5 bowing. It may have been done from the day it
 6 was built, it may have been something else. I
 7 have no idea.
 8 Q But that's not a conversation that you had ever
 9 had --
 10 A No.
 11 Q -- with anybody prior to the collapse?
 12 A No.
 13 Q So that's not a conversation you ever remember
 14 having prior to the collapse?
 15 A No.
 16 Q Okay.
 17 MR. BIENIEK: That's the first we've
 18 seen those pictures, was this weekend, at least
 19 metro district. That report was produced by URS
 20 for central office bridge. But those pictures
 21 weren't -- You know, I don't think -- they may
 22 have not been considered significant because they
 23 weren't -- it didn't initiate any type of a
 24 conversation.
 25 BY MS. BERGSTROM:

1 after that.
 2 Q And did you have any involvement in that project
 3 while it was actually being -- the work was being
 4 done?
 5 A Not the actual construction, no.
 6 Q There were some reports in the news media over
 7 the weekend about -- and these pictures that all
 8 got reported in the news media about these gusset
 9 plates being bowed on the bridge from these
 10 pictures from 2003. When's the first time that
 11 you were aware that these gusset plates were
 12 bowed?
 13 A The bowing on the gusset plates came about after
 14 the collapse. I didn't really know anything
 15 about it. I mean, take a picture of this
 16 blackboard here. This is a 4 X 6 piece of
 17 blackboard. That's the size of a gusset plate.
 18 Fabrication of gusset plates on a bridge, just
 19 picture a circle. That is a connection point for
 20 one, two, three, four, six, seven, eight pieces
 21 of metal beam coming together. They all have to
 22 come together in one central location. The cover
 23 plate, gusset plate, is put around the outside to
 24 hold all of those pieces in place. They are not
 25 always 100 percent in line with each other.

1 Q At least not with metro. It may have with
 2 central.
 3 MR. BIENIEK: Maybe central office
 4 talked about those pictures, but they didn't
 5 relay information to metro about it being a
 6 concern.
 7 But my understanding is, too, kind of
 8 like what Jack just said, during the actual
 9 fabrication or construction of bridges, gusset
 10 plates get -- they sometimes get bent, and then
 11 they get bent back into line again with the rest
 12 of the beams that are coming into it. But it
 13 leaves a kink.
 14 BY MS. BERGSTROM:
 15 Q Have you had some meetings at metro to discuss
 16 that, the fact that this might have happened
 17 during fabrication?
 18 MR. BIENIEK: It's -- It's been kind of
 19 general -- probably general conversations about
 20 how bridges end up after they're constructed,
 21 that sometimes there's -- that they're not
 22 perfect. The bridges aren't perfect once they're
 23 built, that they have had bending or things
 24 fitting together -- I think they call it a
 25 fitting or fit -- It's the result of just fitting

Page 45

1 together that you'll get some imperfections in
2 the original structure. On day one, when it's
3 finished, it will have those things in it. But
4 they're not considered structurally significant,
5 though.

6 BY MS. BERGSTROM:

7 Q And I guess my question is, has the metro
8 district sat down since these pictures were
9 released over the weekend and had discussions
10 about that?

11 MR. BIENIEK: We did talk yesterday
12 about the pictures.

13 MS. BERGSTROM: And I'll be Frank with
14 you. These pictures just came out over the
15 weekend, and now four MndOT witnesses have told
16 me the exact same thing of why they were bowed.
17 Everybody is saying exactly the same thing, so it
18 seems to me that you've gotten together and
19 discussed the possible causes.

20 MR. BIENIEK: We talked about it
21 yesterday as a group.

22 MS. BERGSTROM: Why don't we take a
23 little break, and I'll just look through my stuff
24 and see kind of what more we need to do.

25 (Break taken.)

Page 46

1 BY MS. BERGSTROM:

2 Q I just have a few more questions for you, Jack.
3 The areas that report to you in metro, do you
4 think that they are adequately staffed?

5 A Not at this time.

6 Q Okay. And what do you need in order to get them
7 adequately staffed?

8 A Well, as you can see by the small metro bridge
9 org chart, we have five vacancies out of 30-some
10 people and, one, two, three, four, five, six --
11 no, seven, seven vacancies.

12 MR. BIENIEK: Those are the bridge
13 workers in the five different bridge maintenance
14 shops.

15 MR. PIRKL: At one time we had six
16 bridge crews. With a demise of one of the
17 supervisors, that was the opportunity, with our
18 cutbacks through the various years, to combine
19 the bridge crews from that sixth crew into the
20 five that remain; and we just never filled up
21 that supervisor again.

22 BY MS. BERGSTROM:

23 Q Are there other changes or recommendations you
24 could make for your area that would improve your
25 ability to do your jobs?

Page 47

1 A Well, obviously seven vacancies out of 30-some
2 people just don't cut it. And John is working on
3 that right now and maybe tomorrow, maybe the next
4 day, I don't know.

5 Q Since you might be the only person I talked to
6 who was there when the bridge was being
7 constructed, we talked a little about the design
8 issues with the bridge. At the time when you
9 were working out there on the bridge, was it
10 considered --

11 A It wasn't on the bridge, Katie.

12 Q Okay.

13 A I had the grading portion from the bridge to
14 Washington Avenue and from the bridge to
15 University Avenue.

16 Q Okay.

17 A So the bridge was something that was started
18 before we got on the project.

19 Q You were doing the approaches?

20 A I was grading, right, and we put the concrete up
21 to the bridge.

22 Q Okay. Was the bridge -- well, it must have
23 opened with a fair amount of fanfare. Did it?

24 A Well, you weren't there, so it couldn't have been
25 a lot of fanfare.

Page 48

1 Q I was just born a couple years after that. I
2 have to tell you that it's been pretty
3 interesting reading through all these historical
4 MndOT things, because I found a memo internally
5 at MndOT that was drafted on the day I was born.
6 I thought, well, I knew what they were doing over
7 at the Capitol. I was then over at what was then
8 St. Mary's Hospital.

9 But, I mean, that was a big connection
10 to make between --

11 A Correct. They had the Tenth Avenue bridge in
12 place, and this was the start of the interstate
13 going through that corridor; and obviously they
14 made the river crossing first. And it was years
15 later before they ever dug out the rest of the
16 grading to put the interstate through.

17 Q You know, without telling me any of the content
18 of any conversations, Jack, can you just tell me
19 whether you've been interviewed by the NTSB?

20 A I have not.

21 MS. BERGSTROM: Okay. Safe enough?

22 MS. FORSLAND: On the edge, but I'll go
23 with it.

24 BY MS. BERGSTROM:

25 Q All right. I think I don't have anything further

Page 49

Page 51

1 for you right now, unless there's anything that
2 you feel the burning need to tell me that I
3 didn't ask you.

4 MR. PIRKL: Do we want -- John, do you
5 want to talk about the new changes we're
6 promoting here on the -- this (indicating)
7 thing?

8 MR. BIENIEK: On the instruction form?

9 MR. PIRKL: Yeah.

10 BY MS. BERGSTROM:

11 Q Is that the project that's in flux, that's not
12 been finalized you're talking about?

13 MR. BIENIEK: Yeah. The project that's
14 underway which is being -- it's contracted out to
15 this PB company, Parsons --

16 MS. BERGSTROM: PB Americas?

17 MR. BIENIEK: Yes. My understanding is
18 they're evaluating our current bridge inspection
19 practices and documentation practices, you know,
20 field practices, and then they're going to
21 generate a set of recommendations and things for
22 us to potentially implement. So this project
23 does involve some of our people who are -- have
24 been attending meetings, like, for example, Kurt
25 Fuhrman and Vance Desens and Mark Pribula. And I

1 interviewing. I think there's -- There's
2 probably a second round of interviews that will
3 occur.

4 MS. BERGSTROM: Has the position been
5 approved?

6 MR. BIENIEK: Yes. That's completely
7 approved.

8 MS. BERGSTROM: And I've mentioned a
9 little bit of this yesterday, but where do you go
10 to get approval to create that position?

11 MR. BIENIEK: That was approved at,
12 like, at Bob Winter, you know, it's that level,
13 bi-pack level.

14 MS. BERGSTROM: Is that an acronym?

15 MR. BIENIEK: Yeah, right. I guess Bob
16 Winter, and there's five people that are at that
17 level. And then they report to --

18 MR. PIRKL: Lisa.

19 MR. BIENIEK: -- Lisa.

20 MS. BERGSTROM: Okay.

21 MR. BIENIEK: You've got a lot of org
22 charts, and I probably like your November 16th
23 version the best, for how it's running now,
24 currently now.

25 MS. BERGSTROM: Well, except let me ask

Page 50

Page 52

1 think Mark Pribula is, again, involved in another
2 meeting about that this week.

3 So until we have the results of that
4 project, we're still in the -- you know, we're
5 still using the same form we haven't made changes
6 to yet.

7 MS. BERGSTROM: Did you say, John, that
8 you started in October of '07?

9 MR. BIENIEK: Yes, October 3 of '07.

10 MS. BERGSTROM: And where did you come
11 from, within MnDOT?

12 MR. BIENIEK: Yeah. I've been mostly
13 in traffic engineering my whole career, since
14 1989.

15 MS. BERGSTROM: And always for metro?

16 MR. BIENIEK: I've always been in metro
17 district, which actually was created in 1989.

18 MS. BERGSTROM: Okay.

19 MR. BIENIEK: There was a merge between
20 the east and west.

21 MS. BERGSTROM: And as I understand
22 from Bev, this plan to bring on a third
23 maintenance operation engineer is well underway,
24 right, interviewing is happening?

25 MR. BIENIEK: We've performed some

1 you a question about that: This org chart shows
2 Mark Pribula reporting to you. Is that what
3 happens right now or does he still report to
4 Jack?

5 MR. BIENIEK: We're in a transition on
6 this to Mark being -- he's a candidate for a
7 promotion. Once that goes through, then he would
8 report directly to the --

9 MR. PIRKL: To you or to your next in
10 line?

11 MR. BIENIEK: He would report to the
12 manager directly.

13 MS. BERGSTROM: Whether it's that new
14 position --

15 MR. BIENIEK: Or me. If the new
16 position gets hung up, for whatever reason, it
17 would be to me. Right now his day-to-day
18 business is still conducted -- the truth is it's
19 a combination of between Jack and myself. And
20 I'm learning about their operation and I'm
21 learning about how, you know, everything is going
22 and goes in the operations. So I'm, you know, to
23 some degree a student.

24 MS. BERGSTROM: Are you a bridge
25 inspector?

Page 53

Page 55

MR. BIENIEK: No. You know, I've got a professional engineering license and a civil engineering degree. So I've had structural coursework, enough to be dangerous and enough to kind of understand the concepts that go -- that we talk about when we talk.

MS. BERGSTROM: But your years of traffic engineering wouldn't have included bridge work, right?

MR. BIENIEK: Zero, zero.

MS. BERGSTROM: Okay. Okay.

MR. BIENIEK: So that's kind of the changes. The org charts I just wanted to probably mention. Because we've brought out a few versions of it, and the November 16th one I would say best describes how it works right now. But I think you're getting a good feel for how we internally operate every day from Roger and Jack here, and you'll be talking to Mark Friday. There's certainly not a rigidity. There's not a rigidity of, You can only talk to him and you can only talk to him.

MS. BERGSTROM: And I think it's been described as an oral culture. Is that pretty fair?

And I think the answer is wait and see. Because if I can round it out with somebody else, I'll do it that way.

MR. PIRKL: But I see you've got a deadline of May 1st or something like that. I mean, you're not going to be able to get too many of us back in here for the second time.

MS. BERGSTROM: No, that's right. And it might be the case, and we've talked about this a little bit, that, you know, Barb and you and I get on the phone and we do 10, 15 minutes of holes as opposed to coming here and filling it out that way. But I appreciate your time.

(Interview concluded at 10:15 a.m.)

Page 54

Page 56

MR. PIRKL: That's exactly right. I mean, you've done more writing on your tab here than I've ever done in just off-the-hand/wall meetings.

MS. FORSLAND: Katie, during the break a question came up about whether we'd been giving you enough information in response to your questions. As you think back over the discussion we've had, if there's anything you'd like to discuss in more detail or anything, we certainly would be happy to do that. It's sometimes hard to know if people should keep going on discussing something or more directly answer a question. We just wanted to make sure --

MS. BERGSTROM: Well, you know, the reality is, is that this is an enormously big organization, and everybody has got a little piece of the puzzle. So it's kind of hard to know right now what pieces are missing because I haven't talked to everybody. Mark is going to know a lot more of this information than maybe you will.

MR. PIRKL: That's right.

MS. BERGSTROM: And central bridge is going to know some. So I appreciate the offer.

1 STATE OF MINNESOTA)

2

3

4 COUNTY OF HENNEPIN)

5

6

7

8 REPORTER'S CERTIFICATE

9

10

11 I, Julie A. Rixe, do hereby certify

12 that the above and foregoing transcript, consisting of

13 the preceding 54 pages, is a correct transcript of

14 my stenographic notes and is a full, true and complete

15 transcript of the proceedings to the best of my

16 ability.

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25

Dated March 6, 2008.

JULIE A. RIXE
Court Reporter

Neal, Claudia

From: Jack PirkI [Jack.PirkI@dot.state.mn.us]
Sent: Thursday, May 01, 2008 1:59 PM
To: Michele Clarizio
Subject: Fwd: Interview Transcript
Attachments: Fwd: Interview Transcript

A few spelling changes are noted on the attachment.

No other text changes, of meaningful consequence, were obvious during the reading of the transcript.

05/02/2008

Neal, Claudia

From: Jack PirkI [Jack.PirkI@dot.state.mn.us]
Sent: Thursday, April 24, 2008 2:15 PM
To: John Bieniek
Subject: Fwd: Interview Transcript
Attachments: Interview Transcript

Some spelling corrections are attached. Look over your portion of the interview on this transcript.

Page 25, line 22, Use the word "BARC", NOT 'BARK'
Page 36, line 25, use the word "Boschung", NOT 'Bochum'
Page 51, line 13, use the word "five", NOT 'bi'

05/02/2008

1 INTERVIEW OF JEFF PRELGO - April 15, 2008

2
3
4 In the Matter of Conducting an Independent
5 Investigation into the Collapse of the I-35W Bridge

6
7 Department of Transportation
8 395 John Ireland Boulevard
9 Room G-13
10 St. Paul, Minnesota

11
12 Met, pursuant to Notice, at ten o'clock
13 in the morning on April 15, 2008.

14
15
16 INTERVIEWERS:

17 Kathryn Bergstrom, Attorney at Law with
18 Gray Plant Mooty Law Firm.

19 ALSO PRESENT:

20 Barbara E. Forsland, MnDOT Data
21 Practices Compliance & Policy Analyst.

22 COURT REPORTER:

23 Julie A. Rixe
24
25

1 (Prelgo Exhibit 1 was marked for
2 identification by the court reporter.)
3 MS. BERGSTROM: Let's go on the record,
4 then. And first we'll go around the room and
5 state our appearances. I'm Katie Bergstrom from
6 the Gray Plant Mooty law firm.

7 MS. FORSLAND: I'm Barbara Forsland.
8 I'm the Data Practices attorney for the agency.

9 MR. PRELGO: I'm Jeff Prelgo from metro
10 district design.

11 EXAMINATION

12 BY MS. BERGSTROM:

13 Q Jeff, before we get started, we're working with a
14 court reporter here today, Julie, who we just
15 met. She's taking down everything that we say.
16 And I don't know if you've worked with a court
17 reporter before, but it's important that we not
18 talk at the same time because she can only take
19 down one voice at a time. So if you let me
20 finish my question and I let you finish your
21 answer before we continue, that will help her
22 out.

23 And, also, nods of the head and uh-huhs
24 don't transcribe very well, so you have to have
25 verbal answers.

Page 2

INDEX

1 PRELGO EXHIBITS: PAGE
2 1 - Witness Protocol for Interviews 3
3 2 - Meeting minutes dated 8/16/06 11
4 3 - Meeting minutes dated 8/24/06 11

Page 4

1 A Okay.
2 Q The first thing we're going to do I've done with
3 everybody, Jeff -- And may I call you Jeff?

4 A Yes.

5 Q -- is read through this Witness Protocol for
6 Interviews. We've gone through this with
7 everybody we've talked to here at MnDOT.

8 First paragraph, Authority. We are the
9 Gray Plant Mooty law firm. Gray Plant Mooty has
10 been retained by the Minnesota Legislature to
11 conduct an independent investigation into the
12 collapse of the I-35W bridge. The Minnesota
13 Legislature has asked us to provide a report of
14 our investigation by May 1, 2008. We will be
15 asking you questions concerning the bridge
16 collapse and related policies, practices and
17 legislative oversight issues.

18 Two, the purpose of this interview is
19 to determine what you might know about the
20 matters we are investigating.

21 Three, confidentiality. During the
22 time our investigation is active, the information
23 that interviewees provide to us is not public
24 information. The information you provide may no
25 longer be confidential once we submit a report to

Page 5

Page 7

1 the Legislature.
 2 Process. You are required to answer
 3 our questions truthfully. A court reporter is
 4 present to record our conversation. Either
 5 during this interview or later in our
 6 investigation, we may determine that we need to
 7 verify certain information. If that occurs, we
 8 may ask you for a further recorded statement, a
 9 signed affirmation or an oath statement.

10 Five, post-interview contact. We view
 11 this process as an ongoing dialogue. If you
 12 think of anything after this interview that you
 13 want to tell us about, please call or e-mail us.
 14 Likewise, we hope that you will respond to us if
 15 we call or e-mail you for follow-up questions or
 16 clarifications.

17 Any questions?

18 A No questions.

19 Q Great, thanks. Jeff, you said you worked for
 20 metro district design. What is your official
 21 title?

22 A It was, at the time, project manager.

23 Q What is your title now?

24 A Design and maintenance engineer for the RTMC.

25 Q RTMC stands for what?

Page 6

Page 8

1 A It's the Regional Traffic Management Center. Or
 2 otherwise I'm also, more specifically, the
 3 traffic management system design and maintenance
 4 engineer.

5 Q How long have you worked for MnDOT?

6 A Six years.

7 Q And I take it you are an engineer?

8 A Yes.

9 Q What kind of engineer?

10 A Civil engineer.

11 Q When you started for MnDOT six years ago, what
 12 were you -- what was your title?

13 A Same, project manager in design. That's where I
 14 started.

15 Q Okay. So the project manager in design and now
 16 the design and maintenance engineer for RTMC are
 17 the two jobs you've held at MnDOT?

18 A Yes.

19 Q Who do you report to right now, Jeff?

20 A Terry Hokum.

21 Q And who did you report to as a project manager?

22 A I had three supervisors: Nancy Yu (phonetic),
 23 Ken Johnson and Jeff Gibbons.

24 Q As the project manager did you have any people
 25 who directly reported to you?

1 A Yes.

2 Q Okay. Who was that?

3 A Louise Rayus (phonetic). I had numerous people
 4 over the five years that I was in design. Do you
 5 want all their names or --

6 Q Generally tell me, without names, what those
 7 people who reported to you, what they did.

8 A They drafted plans, they helped to develop
 9 projects, put together exhibits, did
 10 calculations. Whatever was needed to finish the
 11 project or design the project.

12 Q Were they all engineers?

13 A No, none of them were engineers. Well, I
 14 shouldn't say that. Some of them were grads on
 15 rotation, so...

16 Q Okay. I take it, based on this history, that you
 17 are not a certified bridge inspector?

18 A I am not.

19 Q Okay. And do you have any special training,
 20 Jeff, in fracture critical bridges?

21 A I don't.

22 Q Or in bridges in general?

23 A No.

24 Q Okay. One of the reasons we've identified you as
 25 somebody we wanted to talk to was I understand

1 that you were involved in the overlay project
 2 that was going on at the bridge at the time it
 3 collapsed?

4 A I was the project manager.

5 Q Okay. I want to talk to you about that. Is that
 6 the only project that you've been involved with
 7 with the I-35W bridge?

8 A I was briefly involved in the -- I don't know if
 9 you call them a committee or group that was put
 10 together to try to determine whether or not the
 11 bridge should be replaced.

12 Q How long ago was that?

13 A I would guess that was probably two years ago.

14 Q Okay. I'm just doing this from memory. Is that
 15 Project 102; do you know?

16 A I don't believe that one had a project number.
 17 That was just a group of people -- Jerome Adams
 18 was heading that up, that group --

19 Q Okay.

20 A -- Jerome and Dan.

21 Q And when you say Dan, who is Dan?

22 A Dorgan.

23 Q Okay. I understand the overlay project, which I
 24 understand was Project 107, had different project
 25 managers at different times. When did you get

Page 9

Page 11

1 involved?

2 A Probably three to three-and-a-half years ago.

3 Q And then maybe I'll ask you first. As a project

4 manager in the design unit, what were your job

5 duties?

6 A Basically to coordinate all the different

7 functional groups and get them to complete plans

8 and specifications for the project.

9 Q And with respect to the overlay project, what was

10 your role?

11 A It would be the same. I thought that's the

12 project you were asking about before.

13 Q It was. And then I just went back up to a higher

14 level. Is your job as the project manager the

15 same job to job?

16 A Yes.

17 Q Okay. And so now specifically on the overlay

18 project, do you know why there were different

19 project managers?

20 A I guess I'm not clear on that there was different

21 project managers.

22 Q You thought you were the project manager?

23 A I did.

24 Q Okay. That's fair. So were you involved in that

25 project from the very beginning?

1 (Prelgo Exhibits 2 and 3 were marked

2 for identification by the court

3 reporter.)

4 BY MS. BERGSTROM:

5 Q So, Jeff, I've marked as Exhibits 2 and 3 some

6 documents that have been produced to us. And

7 this looks like these are the minutes from the

8 meetings of the types of meetings you were just

9 describing; is that right?

10 A Correct.

11 Q And these are dated August 16, 2006 and

12 August 24, 2006. Is that around the time when

13 you got involved or were you involved prior to

14 that?

15 A I was probably involved prior to this.

16 Q Okay. How often would this group get together to

17 meet?

18 A Until the issues were resolved and we came to

19 some sort of consensus on what we were going to

20 do. As many meetings as it took.

21 Q The various -- There's some references in here to

22 when the contract will be let, and it was

23 projected that it would be let out in March of

24 2007.

25 A Okay.

Page 10

Page 12

1 A No. The very beginning it was Jerome Adams.

2 Q Okay. And I guess that's, in part, my question.

3 Why did you take over from Jerome Adams?

4 A I think he was too busy at the time and needed --

5 For some reason or another, his work load was too

6 large, so he had to get rid of a project.

7 Q And that's when you took over?

8 A Yep.

9 Q And at what point in the project was it that you

10 took over?

11 A Just at the end of what I'd call the scoping

12 phase. I received a completed scoping document

13 from Jerome and then started up there.

14 Q And then what's left to do after the scoping

15 phase?

16 A Well, the scoping for that project was done quite

17 a bit prior to me taking it over. So once I got

18 that, I contacted all the different functional

19 groups and had a kick-off meeting to discuss the

20 scope, find out if it was still accurate, and

21 then discuss the roles and responsibilities with

22 the functional group project managers.

23 Q I'm going to --

24 MS. BERGSTROM: Let's mark a couple of

25 these.

1 Q By the time the project goes to bid, is your work

2 done?

3 A Typically.

4 Q Okay.

5 A Once in a while there might be questions about

6 the plans or the specifications, where the

7 construction engineer would call and ask for

8 clarification. Or possibly, maybe, you know,

9 something needed to be redesigned because of

10 field conditions. Typically I'm out of it once

11 it's turned in to the central office.

12 Q Okay. And as you get all these functional groups

13 together, what is it that you are preparing?

14 A Plans, specifications and estimate.

15 Q And is that the plans, specifications and

16 estimate that would go to proposed contractors?

17 A The estimate wouldn't. The plans and specs

18 would.

19 Q Okay. And when you complete your plans,

20 specifications and estimate, where do you send

21 it?

22 A Central office.

23 Q And by central office, do you mean metro or

24 central bridge or --

25 A I mean central office here. This would be

Page 13

Page 15

1 central office, Nuget Maldinato (phonetic) is the
 2 person who makes copies and distributes them here
 3 at the central office.
 4 Q And distributes them to contractors, you mean?
 5 A She does not distribute them to contractors, no.
 6 Q So who is she distributing them to?
 7 A I believe it's Sixth Floor, our design support
 8 unit. They review the plans, look for
 9 discrepancies in the plans, possibly any mistakes
 10 made. Typically they take a run through them at
 11 the end, and then we make corrections. There's
 12 typically maybe a day to a week's worth of
 13 corrections work on the plans and specs.
 14 Q And that Sixth Floor, what did you call them?
 15 A Design support unit.
 16 Q Okay.
 17 A I'm not even sure if that's exactly what they're
 18 called.
 19 Q It's what you call them.
 20 A Yeah.
 21 Q Okay. All right. If the plans and specs that
 22 you're working on involve a bridge, do you get
 23 the central bridge office involved?
 24 A Well, yeah. Anytime there's a bridge involved,
 25 central bride office is involved, yes.

1 Q And Paul Kivisto is here --
 2 A Yep.
 3 Q -- from central bridge. And is that because
 4 you're still in the preliminary project
 5 development stage?
 6 A Well, there's not really a fine line between
 7 preliminary and final project development, so I
 8 don't really know how to answer your question.
 9 Q Would you ever have meetings at this stage where
 10 the actual final designers are there, like Arlen
 11 Ottman or a Steve Ellis?
 12 A Typically bridge would send a representative from
 13 their office to these meetings. If they felt
 14 that they needed more than one, they would send
 15 more than one.
 16 Q It doesn't appear that either of those designers
 17 are at either one of the two meetings reflected
 18 by these minutes.
 19 A Right.
 20 Q Do you remember whether they ever attended any?
 21 A No, I don't recall ever seeing Arlen or Steve at
 22 any of the meetings.
 23 Q When I've talked to various people at metro,
 24 they've talked about the role that the metro
 25 designers take versus the role that the bridge

Page 14

Page 16

1 Q Okay. Who's your contact there?
 2 A Well, for that project it was Paul Kivisto.
 3 Q Is he your normal contract out of --
 4 A Contact?
 5 Q Contact, excuse me.
 6 A Not always. He's typically my contact for
 7 preliminary project development, I guess you'd
 8 call it. He's not what you would call a final
 9 designer. That's the person who actually does
 10 the bridge plans and specifications.
 11 Q And who is that?
 12 A On that job I think -- I guess I'm not even sure
 13 who it was on that job. I'd guess it was Arlen
 14 Ottman.
 15 Q I was going to say, I think it was Arlen Ottman.
 16 Does that ring a bell?
 17 A Yeah, yeah. He helped with some other things on
 18 the project, so -- It was him or Steve Ellis.
 19 Both of them might have worked on that.
 20 Q Well, taking a look at Exhibit Number 2, for
 21 instance, it looks like -- would you have called
 22 this meeting?
 23 A Yes --
 24 Q Okay.
 25 A -- probably. It looks like one I did, yeah.

1 designers take on a project.
 2 A Okay.
 3 Q Can you give me your understanding of how that
 4 works?
 5 A Well, I guess the way I would describe it is the
 6 metro designer project manager, which was me, my
 7 responsibility, as I explained earlier, is to get
 8 all the functional groups to put their pieces
 9 together and assemble plans and specs from their
 10 pieces. And then I also turn in the grating
 11 portion of the plans.
 12 The bridge office is kind of their own
 13 entity. They do the bridge plans and the bridge
 14 specifications for the work being done on the
 15 bridge. They -- It's a separate turn-in at a
 16 different time. By turn-in I mean they turn in
 17 their plans, specifications and estimate at a
 18 different time than I turn in the grating
 19 portion. Typically because they are a central
 20 office and they have their own system for
 21 checking and that type of thing, they can do it
 22 in a shorter time period. They can turn their
 23 stuff in much closer to the letting than I can
 24 turn my stuff in. So they're two totally
 25 separate packages.

Page 17

Page 19

1 Q As I understand this project, it was work on I-35
 2 from Interstate 94 all the way up to Stinson
 3 Boulevard, right?
 4 A I don't think it was all the way from 94. I
 5 think it was from just south of the bridge up to
 6 Stinson.
 7 Q And were you the project manager for that
 8 entire --
 9 A Yes.
 10 Q -- strip? And I also understand there was a
 11 number of bridges involved?
 12 A Yes.
 13 Q Did the central bridge office do all the design
 14 work and the plans and the specs, then, for all
 15 of the bridges on that stretch?
 16 A Yes.
 17 Q So did you do any of the design for the I-35W
 18 river bridge?
 19 A Not for the bridge, no.
 20 Q Okay. So the two inches of overlay that was
 21 being taken off and put back on was all designed
 22 by central bridge?
 23 A Correct.
 24 Q Okay. Did you ever have any conversations with
 25 central bridge about the best way to go about

1 anybody at central bridge about how the placement
 2 of the construction materials on the bridge might
 3 affect the bridge?
 4 A No. I didn't even know they were going to place
 5 construction materials on the bridge, so...
 6 Q Not just on this project, but in your work as a
 7 whole for MnDOT, have you made recommendations on
 8 how contractors would place construction
 9 materials during their projects?
 10 A There has been times when we will call out on a
 11 plan a stockpile area or a staging area. And I
 12 believe on that plan -- I don't recall exactly,
 13 but I thought we called one out up by Stinson.
 14 There's a wide, flat, grassy area up there,
 15 Stinson or Johnson.
 16 Q Your interaction with central bridge for this
 17 project, how would, like, Paul Kivisto know that
 18 there was going to be a meeting on this project
 19 to attend?
 20 A I'd send him an appointment by our e-mail system.
 21 Q Okay. There's not a -- It's kind of an informal
 22 system of e-mails or phone calls?
 23 A As far as to set the meetings up?
 24 Q Right.
 25 A Yes. Well, unless you're having an office

Page 18

Page 20

1 that?
 2 A Well, this -- You have an example here of meeting
 3 with Paul Kivisto at this meeting talking about
 4 staging of the project and how to handle traffic
 5 during the project. So, yes, there was
 6 conversations with them about what they were
 7 planning on doing. Basically that's just to
 8 coordinate the approaches with the bridge and to
 9 coordinate the construction of the project, which
 10 is a large part of Eric Embacher's job, the
 11 coordinating of the bridge construction with the
 12 grating construction. So that's why Eric was at
 13 this meeting too.
 14 Q And it appears that traffic and staging is a huge
 15 part of these projects, right?
 16 A Yeah, because the public wants to get where they
 17 want to get. Yep.
 18 Q Do you remember at any of these meetings, either
 19 the two reflected by these exhibits or others,
 20 ever having a conversation with Paul Kivisto
 21 about how the construction project on the river
 22 bridge might affect the structural integrity of
 23 the bridge?
 24 A Nope.
 25 Q Do you ever remember any conversations with

1 administrative assistant or something working for
 2 you, which I don't. They might set something up
 3 for you.
 4 Q Were you aware, at the time that you were working
 5 on the overlay project, Jeff, that there were
 6 consultants out studying the bridge?
 7 A Yes. That was part of that -- Well, yeah. Near
 8 the end of the project development I think is
 9 when that started, and that was that group that
 10 Jerome Adams -- that I mentioned earlier. Maybe
 11 that was the 102 job. I don't remember. It was
 12 a group of people where they had a study done by
 13 I think URS. Yeah, I was aware of it once I was
 14 invited to that meeting, but I don't think I was
 15 part of those meetings from the beginning, when
 16 Jerome first started having them. And it was
 17 near the end of the development of the overlay
 18 project.
 19 Q Do you remember at any of your meetings that are
 20 reflected by the minutes of 2 and 3 and whatever
 21 other ones you had, did you ever talk about the
 22 URS study?
 23 A You know, no, we didn't. It might have been
 24 something in passing where it was mentioned that
 25 URS did a study and that it was being looked at

Page 21

Page 23

1 whether to replace the bridge or not, but no.
 2 Those meetings hadn't gone on very long before
 3 the bridge collapsed, at least I wasn't privy to
 4 them. I don't know exactly when they started.
 5 Jerome would have the answer to that.
 6 Q So when did you wrap up your work with the
 7 overlay project?
 8 A Probably March, I'd guess, March or April of '07.
 9 Q And after the project was let for bids, did you
 10 have any ongoing involvement?
 11 A Nope. I don't think I got contacted after -- I
 12 did have a little involvement with my new job
 13 just because the contractor out there hit some of
 14 our cabling for our traffic management system,
 15 but it wasn't in relation to the design of that
 16 project; it was in my new position or new role.
 17 Q And when did you move into that?
 18 A I moved into that in, I believe, December of '06,
 19 so I worked two jobs for a few months.
 20 Q Okay. During the time up until March or April,
 21 whenever you concluded your work on the overlay
 22 project, during the time that you were working on
 23 the overlay project, did you ever have occasion
 24 to talk to Mark Pribula about the bridge?
 25 A No. I'm trying to think. I think he might have

1 what you said. Other than the overlay project,
 2 any other projects involving this bridge?
 3 A This bridge? Just that -- No projects. And I
 4 don't remember if it had a state project number,
 5 but you asked about the 102 project, so that
 6 would be --
 7 Q Just that committee get-together, whatever --
 8 A Yeah. That was basically to talk about the URS
 9 study and what to do based on their report.
 10 Q Do you remember when that was?
 11 A I don't. I think it was end of 2006, beginning
 12 2007. Yeah. Oh, it had to have been end of
 13 2006, because I don't think -- Beginning in 2007,
 14 I don't think I would have kept going to those
 15 meetings anymore. I just finished up the
 16 project.
 17 Q Do you remember at any of these meetings whether
 18 Barry Nelson attended?
 19 A Yeah, Barry was at a meeting or two. Basically
 20 he was there to answer questions for how long
 21 certain work on the bridge would take in relation
 22 to staging and scheduling of the project.
 23 Q Traffic and lane closures and things like that?
 24 A And the duration of the project, yep.
 25 Q Okay. These minutes that we're looking at here,

Page 22

Page 24

1 come with Roger Schultz to a couple of those
 2 meetings Jerome had. But as far as contact with
 3 Mark regarding the overlay project, the only
 4 thing I had was the bridge recommendations that I
 5 believe are signed off on by Mark and his group,
 6 people.
 7 Q Who makes those bridge recommendations?
 8 A The bridge office -- I think the way it works is
 9 the bridge office writes up the recommendations
 10 after the inspection is done, and then the metro
 11 bridge area signs off on the recommendations.
 12 And I don't know who in the bridge office does
 13 it.
 14 Q And do you, as the project manager, then,
 15 coordinate getting the metro bridge to sign off
 16 on central bridge, or is that something they
 17 do --
 18 A That's something they do themselves. And then I
 19 get the recommendations after -- typically after
 20 metro signed them. I might get them before, just
 21 so I have the information. My experience has
 22 been that metro typically signs off on them. So
 23 sometimes I might get it before they sign off,
 24 just so I can begin my work earlier.
 25 Q And I know I asked you this, but I can't remember

1 Exhibits 2 and 3, are those something that you
 2 would have prepared after your meetings?
 3 A Typically -- You know, I see Rick attended with
 4 me. Rick would write up the minutes and I would
 5 run the meeting. And then I would review the
 6 minutes and approve them, and he'd send them out
 7 to the attendees.
 8 Q Was Rick somebody who reported to you?
 9 A Yes.
 10 Q And is it your practice, Jeff, to keep the
 11 minutes from one project all in one central
 12 location?
 13 A Yeah. Typically I would keep minutes -- I would
 14 just toss my e-mail in a folder, like a meeting
 15 folder or something like that.
 16 Q I'm wondering, is there a folder that would have
 17 all the minutes for the overlay project meetings?
 18 A Unfortunately not. Because when I forwarded the
 19 e-mails, they all came through as a 9340 bridge,
 20 when I forwarded all my e-mails to the 9340
 21 bridge folder. It didn't keep intact the folder
 22 structure, so we lost the folder structure when I
 23 forwarded all those e-mails.
 24 Q But you have forwarded all those e-mails to --
 25 A Yes.

Page 25

1 Q -- central here?

2 A Yes.

3 Q Okay. That probably explains why I find them
4 randomly here and there, but not all in one set,
5 right?

6 MS. FORSLAND: Probably, yeah.

7 MS. BERGSTROM: Okay. Why don't we
8 just take a short break and I'll see if I have
9 anything else.

10 (Break taken.)

11 BY MS. BERGSTROM:

12 Q Back on the record. Jeff, is there anything
13 about the overlay project or the collapse of the
14 bridge that you think that we ought to know that
15 I haven't asked you about?

16 A No.

17 MS. BERGSTROM: Okay. All right. I
18 think we're done.

19 (Whereupon, the interview was concluded
20 at 10:43 a.m.)
21
22
23
24
25

Page 26

1 STATE OF MINNESOTA)
2
3

4 COUNTY OF HENNEPIN)
5
6
7

8 REPORTER'S CERTIFICATE
9

10 I, Julie A. Rixe, do hereby certify
11 that the above and foregoing transcript, consisting of
12 the preceding 25 pages, is a correct transcript of
13 my stenographic notes and is a full, true and complete
14 transcript of the proceedings to the best of my
15 ability.

16 Dated April 28, 2008.
17
18
19

20 JULIE A. RIXE
21 Court Reporter
22
23
24
25

Neal, Claudia

From: Geoffrey Prelgo [Geoffrey.Prelgo@dot.state.mn.us]
Sent: Friday, May 02, 2008 3:25 PM
To: Michele Clarizio
Subject: Re: GPM Interview Transcript

Attachments: prelgo_1.pdf



prelgo_1.pdf
(99 KB)

Following are a few comments regarding the subject Transcript:

CORRECTIONS:

- * "Jeff Prelgo" should be Geoff Prelgo and "Jeff" should be Geoff
 - * "Terry Hokum" should be Terry Haukom
 - * "Nancy Yu" should be Nancy Yoo
 - * "Louise Rayus" should be Luis Reyes
 - * "Nuget Maldinato" should be Nounith Maldonado

 - * On page 16 and 18, "grating" should be grading
 - * On page 17, "I35" should be I35W
- >>> Michele Clarizio 4/29/2008 7:28 AM >>>

1 INTERVIEW OF MARK PRIBULA - March 28, 2008

2
3
4 In the Matter of Conducting an Independent
Investigation into the Collapse of the I-35W Bridge

5
6
7 Department of Transportation
395 John Ireland Boulevard
8 Room G-13
9 St. Paul, Minnesota

10
11 Met, pursuant to Notice, at nine
12 o'clock in the morning on March 28, 2008.

13
14
15
16 INTERVIEWERS:

17 GREG MERZ, Attorney at Law with Gray
18 Plant Mooty Law Firm.

19 ALSO PRESENT:

20 Barbara E. Forsland, MnDOT Data
21 Practices Compliance & Policy Analyst.

22 John Bieniek

23 COURT REPORTER:

24 Julie A. Rixe
25

1 EXAMINATION

2 BY MR. MERZ:

3 Q Would you please state your name, sir, and spell
4 your last name?

5 A Mark K. Pribula, P-R-I-B-U-L-A.

6 (Pribula Exhibit 1 was marked for
7 identification by the court reporter.)

8 BY MR. MERZ:

9 Q Mr. Pribula, I'm going to hand you what we've
10 marked as Exhibit 1. Before we went on the
11 record I introduced myself, but I'll do that
12 again. My name is Greg Merz, and I'm an attorney
13 with the Gray Plant Mooty law firm. And what
14 I've given you here as Exhibit 1 is essentially
15 kind of the ground rules for our discussion that
16 we're going to have today, and I'll just walk
17 through this with you for just a minute if you
18 don't mind.

19 As you see there in the first paragraph
20 and as I've already mentioned, I'm with the Gray
21 Plant Mooty law firm, which has been retained by
22 the Minnesota Legislature to conduct an
23 investigation of the collapse of the I-35W
24 bridge. The Legislature has asked us to provide
25 a report of our investigation by May 1st, and

Page 2

1 INDEX

PRIBULA EXHIBITS:	PAGE
2 1 - Witness protocol for Interviews	3
3 2 - MnDOT Technical Memorandum No. 02-22-B-01 dated 9/23/02	15
4 3 - MnDOT Technical Memorandum No. 05-02-B-02 dated 7/20/05	23
5 4 - MnDOT Bridge Inspection Report dated 9/26/01	39
6 5 - Fracture Critical Bridge Inspection Report Annual dated 9/2001	39
7 6 - Memo from G. Peterson to R. Hochstein dated 12/1/97	78
8 7 - Memo from B. Miller to R. Hochstein dated 12/17/97	79

Page 4

1 I'll be asking you questions today concerning the
2 bridge and your knowledge that may relate to that
3 investigation.

4 The purpose of our interview is to
5 determine what you might know about the matters
6 that we're investigating. During the time that
7 our investigation is active, the information that
8 you and other interviewees provided to us is not
9 public information, but the information you
10 provide may no longer be confidential once we
11 provide a report to the Legislature.

12 You're required to answer our questions
13 truthfully. As you've noticed, I'm sure, a court
14 reporter is here to record our conversation.
15 Either during this interview or later, we may
16 determine that we need to verify certain
17 information. And for that purpose, we may call
18 you back again to give a recorded statement, a
19 signed affirmation or an oath statement, but
20 that's in the future if it happens.

21 And then, finally, we view this
22 interview as an ongoing dialogue. And so if you
23 think of anything after the interview that you
24 think we ought to know, I'd invite you to contact
25 me and let me know that. And, likewise, if we

Page 5

Page 7

1 have things that we may follow up, we hope you'd
2 cooperate with that.
3 Do you have any questions at this
4 point?
5 A Not at this time.
6 MR. MERZ: Okay. And the record should
7 reflect, if it doesn't already, that Mr. Bieniek
8 is here, as well, and Mr. Bieniek is
9 Mr. Pribula's supervisor.
10 BY MR. MERZ:
11 Q Could you just -- I want to start out by getting
12 some background about your experience at MnDOT.
13 When did you come to MnDOT?
14 A I was hired by MnDOT in 1986.
15 Q And what job did you take at that time?
16 A As a grad engineer working out of what we called
17 District 7. Mankato is where it's located.
18 Q What did that job involve?
19 A The Grad 1 requirements are the basic engineering
20 assignment. You were learning about being an
21 engineer. You're just out of school.
22 Essentially it's -- you rotate through various
23 areas within the districts, four to six months in
24 certain areas. They can comprise ranging from
25 construction to land management.

Page 6

Page 8

1 Q Would it be fair to say it's kind of an
2 apprenticeship-type --
3 A It's an --
4 Q -- program?
5 A -- apprenticeship program, yeah.
6 Q Now, one thing that will be real important as we
7 have our discussions is that we not talk over one
8 another. So I'll try to remember to let you
9 finish whatever it is you're saying before I
10 start to talk if you'll try to do likewise. And
11 it's something that's easy to forget because
12 that's unnatural when you have a conversation,
13 but I'll just remind you of that.
14 How long did you have that grad
15 engineer position?
16 A I was a grad engineer from '86 to '91.
17 Q What position did you take then, in 1991?
18 A Where was I in '91? I'm looking at my resume
19 here. I took a leave of absence from the State
20 and worked for the Washington State Department of
21 Transportation as a transportation engineer,
22 working in contract administration, the I-94
23 bridge project in Lake Washington in Seattle. I
24 was there for approximately two years and came
25 back to the State. I was hired by maintenance

1 operations in the central office here, and I was
2 a maintenance operations support engineer for
3 CO.
4 What I did, my duties there was to
5 provide operational support for research methods,
6 field operations and research project
7 applications. And I also coordinated repair
8 contracts and BIP specifications. I conducted
9 technology transfer presentations on maintenance
10 research projects.
11 Q Now, I see you've got your resume here. Do you
12 have an extra copy for me; would you mind if I
13 took one? If you don't want me to have that,
14 that's fine, but it just might make it --
15 A I don't want you to have it.
16 Q Okay, that's fair. So when did you take your job
17 as a maintenance operations engineer?
18 A I took it in 1993, I think. I can't remember.
19 Q Well, you told me you were in Washington for
20 about two years --
21 A Yeah.
22 Q -- so I was guessing it was around '93.
23 A Yeah. On my resume it's '94, so...
24 Q All right. And I think I might have interrupted
25 you as you were describing what your duties were

1 in that position. You talked about coordinating
2 repair contracts. Were there other things that
3 you were doing in the position of maintenance --
4 A Maintenance research projects, technology
5 transfer presentations. We had some research
6 projects that we were doing, and then we
7 presented them to various other state agencies,
8 county agencies and foreign countries.
9 Q When you say other state agencies, you mean
10 agencies other than in Minnesota?
11 A Yes. Iowa DOT, Pennsylvania DOT. Who else did
12 we talk to? This is ten years ago plus.
13 Q And if you leave a couple out, I'm not going to
14 hold you to it.
15 A Those two come to mind.
16 Q All right. That's fine. How long did you have
17 that position, then?
18 A I had it for approximately two years, from '94 to
19 '97.
20 Q All right. And then what job did you have?
21 A I was hired in 1997 as bridge safety inspection
22 engineer, fracture critical in the metro
23 district, which is Minneapolis-St. Paul.
24 Q And who did you report to in that position?
25 A At that -- my boss was Jack Pirkel.

Page 9

Page 11

1 Q Did you have any positions reporting to you or
 2 any employees --
 3 A Yes. I had -- At that time, in '97, they were --
 4 Tech 3s was the old terminology, I want to say,
 5 senior techs. They are now engineering
 6 specialists.
 7 Q And I had a chance to talk with Mr. Fuhrman. Is
 8 that the kind of position he has?
 9 A He is one of my employees, yes.
 10 Q In 1997 what were your job duties in the position
 11 of bridge safety inspection engineer?
 12 A I was responsible for the fracture critical and
 13 other special features bridges within the
 14 district. I conducted the safety inspections for
 15 those bridges and documented any findings that we
 16 had with that, plus supervision, managed the
 17 budget for that area, set the schedules, set
 18 the...
 19 Q Is that a fairly exhaustive list of what you do,
 20 as if that's not enough?
 21 A Pretty close, yes.
 22 Q All right. Has there been any significant change
 23 in your job duties since 1997?
 24 A It's grown over time with -- I still have the
 25 responsibility for the fracture critical. I've

1 job.
 2 Q There's just more of it, I take it?
 3 A There's more of it. You gain more -- As you are
 4 in the position, you gain more credibility with
 5 your peers and you are recognized as a
 6 knowledgeable person within the organization on
 7 bridge issues.
 8 Q Now, you mentioned that in 1997 you had two
 9 people reporting to you. Has that been true
 10 since 1997?
 11 A Yes.
 12 Q And today those two folks are Mr. Fuhrman and
 13 Mr. Desens?
 14 A Yes.
 15 Q Could you describe for me your training to be a
 16 bridge inspector?
 17 A Undergrad degree in civil engineering from North
 18 Dakota State. At that time, when I was in
 19 school, I took a lot of the classes in
 20 structures. That was the basic training.
 21 After accepting this job I attended the
 22 bridge and safety inspection classes that we are
 23 required by federal guidelines. There is a
 24 Bridge Safety 1 and 2, plus a fracture critical
 25 inspection class. I attended all three of

Page 10

Page 12

1 gotten more into the management of
 2 recommendations for bridge repairs, coordinating
 3 -- working with that, working with the bridge
 4 crews on traffic control issues for the -- for
 5 our bridge inspection. The responsibility has
 6 grown because people within the organization are
 7 asking me, do we have issues for bridges, on the
 8 bridges that I look at. Or they also ask me,
 9 where do I find information about other bridges,
 10 because I worked in bridge and I know where the
 11 files are. I say, this is where this bridge. In
 12 some cases I'm also able to guide them because I
 13 know we have concerns on some of the structures
 14 for repair.
 15 Q One of the things that we're going to spend some
 16 time talking about are kind of how you get from
 17 inspection report to repairs. And I heard you
 18 tell me that one of the ways your job has grown
 19 is you took on more responsibility for
 20 recommending bridge repairs; is that right?
 21 A Yes.
 22 Q Over what period of time or when did that first
 23 become kind of a significant part of your
 24 responsibility?
 25 A That carried over from when I first was in the

1 those. I've attended all the seminars that DOT
 2 and the FHWA provide. I've gone to several
 3 conferences and other training outstate. One is
 4 the International Bridge Conference in
 5 Pittsburg. I've attended the bridge and tunnel
 6 vulnerability class in Vicksburg, Mississippi
 7 regarding bridge and tunnel vulnerability in
 8 relationship to 9/11.
 9 Q You have responsibility for inspection of all of
 10 the fracture critical bridges in the metro area;
 11 is that right?
 12 A Yes.
 13 Q And describe your role in those investigations.
 14 A I don't understand your question, sir.
 15 Q Do you visit the bridges and do the inspections?
 16 A Initially when I first was in the job, I went out
 17 for every inspection with my employees. I was
 18 new to the district, new to the job and wanted to
 19 know the bridges intimately.
 20 As time has progressed I've gotten more
 21 confident in my inspectors' ability and I've
 22 gotten other duties within my own job. Depending
 23 on the scope and size of the bridge and logistics
 24 required for the bridge, if I only need two
 25 people, I'll send my own employees out.

1 If we have a larger bridge that
 2 requires two bridge snoopers, we are only three
 3 people. We need two people in the bucket for
 4 safety and a second set of eyes for inspection.
 5 It's just -- The safety feature is just as I
 6 described. The second set of eyes is, we are
 7 human. Every individual will look at a certain
 8 thing and the other individual will -- might
 9 catch it or probably will catch it, where the
 10 other individual, he might be looking at
 11 something else and miss it. That's why we have
 12 two eyes.
 13 Q And I understand that for the inspections of the
 14 35W bridge, you would typically have two snooper
 15 trucks, four folks doing the inspections; is that
 16 correct?
 17 A Yep.
 18 Q So you would have attended all of those
 19 inspections?
 20 A Yes, unless I was booked elsewhere and I get
 21 somebody to sub for me.
 22 Q You can't think of any that you missed, I take
 23 it, for the 35W bridge?
 24 A No.
 25 Q You've talked about your increasing work load.

1 Do you attribute any of that to a lack of an
 2 adequate number of staff? I mean, have you
 3 experienced any, I guess, declines in your
 4 staffing over the time that you've been in the
 5 position that you hold now?
 6 A Declines in the staffing? For inspection?
 7 Q Yes.
 8 A No. The position has grown over time because of
 9 the responsibility I've accumulated and that's
 10 been given to me. We have not reduced our metro
 11 inspection group.
 12 Q Are there any written policies that you use in
 13 connection with performing inspections of
 14 fracture critical bridges?
 15 A Yes.
 16 Q What written policies do you use?
 17 A The NBI inspection guidelines, the federal
 18 inspection of fracture critical members, the
 19 PONTIS guidelines we have at the State, the
 20 memorandums that are given out by the State, by
 21 our CO bridge, I'm assuming by the State.
 22 There's FHWA manuals for fatigue cracking on
 23 steel structures. There's a study out of
 24 Pennsylvania that's from 1990. It's a little old
 25 now, but it's a manual for inspecting bridge and

1 fatigue damage conditions. It's prepared by --
 2 One of the authors is a world-known or nationwide
 3 known expert in fracture critical inspection,
 4 fatigue details. That's what we use.
 5 Q And I just have to jump back a second. When did
 6 Mr. Bieniek become your supervisor?
 7 A October, September?
 8 MR. BIENIEK: Well, I entered the unit
 9 on October 3rd, 2007, and Jack Pirkel directly
 10 reports to me. Mark Pribula reports directly to
 11 Jack Pirkel.
 12 MR. MERZ: Then I misunderstood the
 13 relationship. I appreciate you clarifying that.
 14 BY MR. MERZ:
 15 Q Mr. Pirkel is still your direct supervisor; is
 16 that the case?
 17 A Yes.
 18 (Pribula Exhibit 2 was marked for
 19 identification by the court reporter.)
 20 BY MR. MERZ:
 21 Q Mr. Pribula, I've put in front of you a document
 22 we've marked as Exhibit 2, which is a MnDOT
 23 technical memorandum. The subject is Guidelines
 24 for In-Depth Inspection of Fracture Critical
 25 Bridges and Underwater Inspections. Is this one

1 of the written policies that you have relied on
 2 in connection with the inspection of fracture
 3 critical bridges?
 4 A Relied is not the term I would use, sir.
 5 Q Okay. How would you characterize it?
 6 A It is a guideline, as it says in the subject.
 7 Q Have you seen this before?
 8 A Yeah.
 9 Q How are you distinguishing between something you
 10 would rely on and a guideline?
 11 A Relied on is a book that I would go to, that's
 12 what I would use. We have manuals in our
 13 office. I did not bring them. They are 700
 14 pages. That's just for Volume 1, sir.
 15 Q Fair enough. This isn't a resource, in other
 16 words, that you would consult?
 17 A This is a guideline. It's -- As you -- The
 18 analogy would be as a code changes or, like, a
 19 law has changed, it is rewritten or they would
 20 add an addendum. This is what I would -- As a
 21 guideline, this is what you -- Things change over
 22 time. These are the things that we try to use,
 23 you know, in 2006. The newest one is in 2008.
 24 Q On the third page of Exhibit 2, toward the bottom
 25 there's a reference to critical findings. My

1 question is, can you describe for me what a
 2 critical finding is?
 3 A In engineering judgment, a critical finding would
 4 cause the -- possibly cause severe damage to the
 5 bridge or collapse. Imminent failure is the term
 6 that we use. That would be a critical finding.
 7 And when we find stuff like that, our
 8 procedures are to immediately call -- I'm on the
 9 phone -- I have Nextel phones that we use, so we
 10 are calling our references and our resources in
 11 CO bridge; and then I'm notifying the district
 12 bridge engineer, who is Jack Pirkil; and then I'm
 13 talking to the -- my guys within the bucket plus
 14 the other guys on the other side. I'm also
 15 talking to the bridge supervisor, because the
 16 traffic controllers are usually provided by the
 17 bridge crews, we have an issue here.
 18 All inspection will cease at that
 19 finding. We then start looking for other related
 20 findings. If you find one, there's possibility
 21 that there are more similar problems within that
 22 certain area and on the other certain areas
 23 within the bridge structure. It's not just
 24 located right there, is what I'm trying to say.
 25 My example would be -- You may have

1 A Different style structure than what the main span
 2 was. The main span is a fracture critical span.
 3 The approach spans are what we call simple span.
 4 The load will be carried by the other members of
 5 the girders.
 6 MR. BIENIEK: I just wanted to mention
 7 something about this tech memo too.
 8 MR. MERZ: Yes, go ahead.
 9 MR. BIENIEK: This tech memo does
 10 establish a frequency of inspection and the
 11 qualifications of the inspectors and things about
 12 how -- and what it means to be in depth, how
 13 close you need to physically get to the members
 14 when you inspect them. And we're fully -- we
 15 fully comply with this tech memo, in that if
 16 it's -- be it -- if you want to call it
 17 guidelines or whatever you want to call it, but
 18 it's something that metro district does.
 19 BY MR. MERZ:
 20 Q I've also heard the phrase, and I don't know if
 21 it's in this memo or maybe any of these memos,
 22 critical deficiency. Is that a phrase that is
 23 used in connection with the inspection of
 24 fracture critical bridges?
 25 A Yes, it is.

1 heard this. In '98 we had the approach spans.
 2 When we first found that, it was at the one
 3 pier. I can't recall the exact location; but
 4 when we first found it initially, we stopped and
 5 started looking at that area. Then we started
 6 moving along the line of that same location and
 7 we started finding the other problems.
 8 And the inspection -- our actual
 9 inspection stopped, and we started going to find
 10 the critical findings.
 11 Q And we'll talk in some more detail about this in
 12 just a bit, but the 1998 cracking that was
 13 discovered in the approach spans of the 35W
 14 bridge?
 15 A Yes.
 16 Q And that cracking was something you regarded as a
 17 critical finding?
 18 A That is correct.
 19 Q So that triggered all of these reporting
 20 obligations you've been describing for me?
 21 A Yes.
 22 Q Was there any need to close the bridge at that
 23 time?
 24 A No.
 25 Q Other --

1 Q Is that something different from a critical
 2 finding?
 3 A To me it is equivalent. It would be semantics to
 4 me, in my -- In my experience I would describe it
 5 as deficiency finding.
 6 MR. BIENIEK: It --
 7 MR. PRIBULA: Both are the same.
 8 BY MR. MERZ:
 9 Q And --
 10 MR. BIENIEK: I'm sorry. The tech memo
 11 again, it also says critical findings shall be
 12 reported within 24 hours. We probably report
 13 critical findings sooner than 24 hours.
 14 BY MR. MERZ:
 15 Q I understood Mr. Pribula to say it would be
 16 immediate. Immediate, to me, means a lot quicker
 17 than 24 hours. And that's your practice,
 18 correct?
 19 A Always has been.
 20 Q And my question is whether other than that 1998
 21 instance, are you aware of any other critical
 22 findings on the 35W bridge?
 23 A No.
 24 Q Exhibit 2 says it's to Distribution, and then
 25 it's got some numbers 57, 612, 618, 650. Do you

Page 21

Page 23

1 know what that is?
 2 A Mail stops, I believe.
 3 Q Is one of those you?
 4 A I don't know.
 5 MR. BIENIEK: I think we're 650.
 6 MR. PRIBULA: I think we're 650.
 7 MR. BIENIEK: Water's Edge is 650.
 8 BY MR. MERZ:
 9 Q Okay. How did you go about, if you did, making
 10 sure this information that's reflected in
 11 Exhibit 2 got to the folks that you supervise,
 12 Mr. Desens and Mr. Fuhrman?
 13 A I would keep this in my book here (indicating).
 14 They're available electronically and the guys
 15 would get them. I think the guys even get a copy
 16 of them. I'm not sure on that. Like I said,
 17 it's a guideline. We have some changes. We'd go
 18 through it.
 19 The other thing is the information, if
 20 any changes are -- that they really want, CO
 21 bridge will inform us, gentlemen, we are going
 22 from -- for example, we are going from a
 23 four-year in-depth inspection schedule to a
 24 two-year in-depth inspection schedule. That
 25 would be documented, plus it would be verbal. So

1 A What I mean is that if it's a clarification of
 2 the guidelines. This is what we were doing. My
 3 analogy is it would be that.
 4 Q Okay.

5 A You read four pages. We all are inundated by
 6 paper, five, six pages of this stuff. They try
 7 and boil it down, and we will talk back to our
 8 people -- or the people where we're getting this
 9 from, say, like, an individual or contact in CO
 10 bridge, what do you really want us to do, you
 11 know.

12 MR. BIENIEK: I'd like to say something
 13 too. We're a small work group. We're all very
 14 close together physically, our offices and
 15 cubes. This stuff gets talked about. This is
 16 our business. We talk about this memo, memos
 17 like this.

18 MR. PRIBULA: Yeah, I didn't enunciate
 19 that at all.

20 (Pribula Exhibit 3 was marked for
 21 identification by the court reporter.)

22 BY MR. MERZ:

23 Q And you have what we've marked now as Exhibit 3.
 24 I can go through this really quickly. Is this a
 25 memo that you also use -- have used in connection

Page 22

Page 24

1 that's how the changes would be disseminated to
 2 us from CO plus other sources.
 3 Q What other sources?
 4 A Other peers, other bridge inspection peers.
 5 Q And you referred to a change that they really
 6 want. Some changes are more significant than
 7 others, I assume?
 8 A You're asking me for a question I can't answer,
 9 because at that -- when these policies are made,
 10 they're made by people who are above me. I don't
 11 have that authority.
 12 Q And I guess my question is whether there are some
 13 changes, in your experience, that are reduced to
 14 writing but perhaps not communicated verbally as
 15 well?
 16 A Are you asking me if there's an unwritten policy;
 17 is that what you're asking?
 18 Q No, it's not that. What I heard you to say is if
 19 there's a change that they really want, and what
 20 I understood that to mean, one that's really
 21 important --
 22 A No, I did not mean to say that.
 23 Q All right.
 24 A That is -- I didn't mean to infer that.
 25 Q Okay.

1 with your position?
 2 A Yeah.
 3 Q And it would be disseminated, communicated in the
 4 same way that you've described the last one; is
 5 that fair to say?

6 A Yes.

7 Q What do you do to prepare to do an inspection?

8 A For example, we would coordinate with the bridge
 9 crews because they provide traffic control; we
 10 would provide notice to the other groups within
 11 the DOT because we are to have them take
 12 advantage of our lane closure. If the bridge
 13 crew needs additional help, they would talk to
 14 maintenance. They might do the traffic control,
 15 and bridge crew would take advantage of the lane
 16 control for repair on whatever they've got to
 17 work on, or soundings or inspection of the deck.
 18 Sounding is inspection of the deck for
 19 deterioration within the deck.

20 We then get geared up, look --
 21 prepare -- copy off our paper reports. We tend
 22 to use what I call the narrative reports, which
 23 are the written ones, for fracture critical.
 24 They are about -- Depending on the type and
 25 complexity and size of the bridge, they are

Page 25

1 probably between 80 and 100 pages long.

2 Q We'll come to it, but this is one?

3 A Yeah, that's one.

4 Q All right.

5 A And we have -- We use those instead of PDAs or
6 computers. If I drop that in the water, I just
7 lose paper. Also, you are writing -- then you
8 use that report.

9 We break the crews up into -- the
10 snoopers up into -- Each snoopers would start on
11 each end of the bridge. Say the bridge faces
12 north-south. One snoopers starts on the north and
13 one snoopers starts on the south.

14 I have discussed it with the person who
15 schedules my bridges -- I used to do it, but I've
16 delegated that to one of my guys -- trying to
17 alternate the time and the frequency of -- or not
18 the frequency, but the time when the inspection
19 is. Specifically, did we inspect this bridge in
20 May. Okay. Let's try this one in July to see
21 how the temperature affects the bridge.

22 We will alternate the crews. Where did
23 you guys start last year. We were on the north
24 side. Okay, you're on the south side. Who was
25 with you. Well, it was this individual. Well,

Page 26

1 you're going to work with this guy. So
2 everything is mixed up. I don't want -- I do it
3 purposely that way so I don't have a sense of --
4 I can't think of the word, but...

5 Q Complacency?

6 A Complacency, yes -- complacency with the
7 inspection. I always want -- I always want to
8 look at things differently. People who are
9 either other grad engineers who are on rotation
10 with my office, they come out, other people from
11 CO as assistants. And we start the inspection.

12 Usually the inspection will take,
13 depending on the size and the bridge, type of
14 inspection, it can take a half a day, it can take
15 two weeks.

16 Q For the 35W bridge, how long would an inspection
17 typically take?

18 A Typically five days, five to six days, depending
19 on what you did -- what we did. And, also, that
20 is depending on the number of bridge snoopers we
21 had on the site.

22 Q Were there times when the 35W bridge was
23 inspected with just one snoopers?

24 A Only for a day. Sometimes we are -- We can be
25 called away. My organization -- Bridge and

Page 27

1 maintenance -- bridge maintenance is very much a
2 responsive-type -- a fire department type
3 organization. So we have been split out. By
4 split out I mean we start with four people, they
5 have issues, a bridge hit, another bridge problem
6 related, such, and I will -- you will send out
7 people and equipment to respond to those
8 emergencies during the day. The next day the
9 equipment is back on site.

10 Q This is probably evident, but I just want to make
11 sure the record is clear. The report that you
12 have with you is the report from last year?

13 A Yes, it is the previous year's report. So if we
14 were doing it in 2007, we had 2006 in the snoopers
15 baskets with us.

16 Q Do you ever take with you any of these different
17 written materials that you've talked about or are
18 those primarily consulted with in the office?

19 A The guidelines? No, no. We just take the
20 report.

21 Q Have you ever done inspections with consultants,
22 like URS or HNTB, University of Minnesota?

23 A Yes. The only way URS and the University of
24 Minnesota were able to access the bridge is via
25 our equipment. It's our bridge. They do not

Page 28

1 have authority to get out on the bridge. We
2 provide the access equipment to URS, we provide
3 the access -- They were in the buckets with us.
4 While we're doing our inspection, they were doing
5 theirs.

6 The University of Minnesota was
7 involved with the research on that project, so we
8 were involved. We provided the bridge snoopers
9 for them and worked with them on conducting their
10 research project in 1998.

11 Q When do you recall doing an inspection with URS
12 in the bucket with you?

13 A June of 2003.

14 Q Any others?

15 A Not that I recall.

16 Q Specifically relating to the 35W bridge, what
17 non-destructive testing is done?

18 A We use -- We have what we call magnetic particle
19 testing equipment with us. The fancy term is
20 Eddy current.

21 Q How do you spell Eddy?

22 A E-D-D-Y.

23 Q Okay. Is magnetic particle testing something
24 that was done on the 35W bridge for each of the
25 inspections?

1 A We always had it with us. We have a kit. It's a
2 portable kit. We have electrical power within
3 the snooper baskets. It's always carried with
4 us. That's how we make our determinations if we
5 have a crack in the metal.

6 There is another -- There are two other
7 systems that are used. One is ultrasonic
8 testing. Actually, there's a fourth and that's
9 x-ray, but we don't use that.

10 Back to the ultrasonic testing, we do
11 not -- metro district does not have the expertise
12 in that NDT technology. We have two individuals
13 within our CO bridge office that come out and do
14 that for us.

15 Q What's that testing used for?

16 A Specifically it's used for pin and hanger type
17 construction.

18 Q Say that again. I'm sorry.

19 A Pin and hanger bridge construction.

20 Q What's --

21 A Pin. The member is held together by a pin. That
22 pin, you can't take it apart. You can't look at
23 it. You take it apart, where are you going to
24 hang everything else up. Ultrasonic testing will
25 tell on a pin, by using sound waves through the

1 pin, it will tell you if there are cracks on that
2 pin. There's bridges that use that design and
3 they're called pin and hanger.

4 Q Was ultrasonic testing ever used on the 35W
5 bridge?

6 A Yes, but there are no pins and hangers on that
7 bridge.

8 Q And that's what I thought, and so help me
9 understand how ultrasonic testing was used on the
10 35W bridge.

11 A We specifically, in 2006, used ultrasonic testing
12 as part of determining where the diaphragm
13 members, the internal diaphragm members were
14 located on the tension and reversal members of
15 the truss. The reason we were doing that is to
16 be proactive on my part, because we were
17 discussing to put structural strengthening steel
18 on those members and needed the exact location of
19 those diaphragms. Those plates were
20 approximately, you know, 12-inch deep by a
21 half -- you know, three-quarters of an inch thick
22 by 40 feet long, and that's only part of it.

23 Then you put form on each sides, so
24 you're drilling -- They were proposing to drill a
25 lot of holes on those in-place members, and we

1 needed to know where the exact locations of
2 diaphragms were. The diaphragms are not
3 located -- the what we called as-built plans, we
4 have what we call shop drawings, but we don't
5 know exactly where they are. That's why we were
6 out there in '06, locating that in May.

7 Q And that was in 2006 or 2007?

8 A That was in 2007. I'm sorry. I said it wrong.

9 Q That's fine. Who else participated in that May
10 2007 inspection?

11 A Kurt Vance, myself, the two NDT inspectors from
12 CO bridge.

13 Q Mr. Rand, and I can't remember the other guy's
14 name. Is that right?

15 A Yeah.

16 Q Who's the other guy?

17 A Bill Nelson.

18 Q Bill Nelson. Thank you. You say that there was
19 some discussion of putting structural steel on
20 certain members of the bridge. Who was involved
21 in those discussions?

22 A I can't recall exactly who was all in the
23 meetings.

24 Q You were, obviously?

25 A Yes, I was, district bridge engineer, CO bridge

1 staff.

2 Q You don't recall who from CO bridge?

3 A Gary Peterson, Paul Kivisto.

4 Q Mr. Dorgan?

5 A No.

6 Q Was URS ever at any of the meetings where you
7 were present?

8 A I don't recall.

9 Q The May 2000 inspection I presume produced some
10 drawing, then, that located where the diaphragms
11 were; is that right?

12 A We didn't prepare a drawing. I don't know where
13 the information was located.

14 Q Were they marked on the bridge?

15 A No. Ken and Bill were maintaining those
16 records. I don't know where they -- They have
17 it. That's all I know.

18 Q When I talked with Mr. Fuhrman about this, my
19 recollection of what he told me was that the
20 ultrasonic testing was used inside of these
21 members where the pigeon screens were. Do you
22 know what I'm talking about?

23 A Yes.

24 Q Is he just wrong about that?

25 A No, he's correct. That's how you get at them.

Page 33

Page 35

1 As I described, it's an internal diaphragm.
 2 The reason we're concerned about it is
 3 because the member is held together with tack
 4 welds. And according to the FHWA and NTSB
 5 guidelines, they rate the severity of certain
 6 category fatigue prone details. That particular
 7 design of the tack welds and the way they're held
 8 in there is what we call a category E prime.
 9 Q What's that mean?
 10 A Which is the most fatigue prone detail.
 11 Every two years we would pull off all
 12 the pigeon covers on the tension and reversal
 13 members to inspect those. In 2006 we had just
 14 completed that. We kept it easy. Every -- It
 15 was a choice of every odd or even year and we
 16 picked the even.
 17 Q And there were -- Mr. Ottman told me there were a
 18 lot of these pigeon covers, weren't there?
 19 A Oh, there's thousands of them.
 20 Q I mean, you weren't taking them all off, I
 21 assume?
 22 A Yes.
 23 Q Wow, okay.
 24 A As I said, every reversal, every tension member
 25 we pulled all the covers off.

Page 34

Page 36

1 Q And did you do the UT testing inside those
 2 members?
 3 A Magnetic particle and visual. The 2007 was just
 4 on those diaphragms that we were talking about.
 5 UT did at that time. In '06 we did the magnetic
 6 particle and our inspection, in conjunction with
 7 the in depth -- No, I can't say. I can't
 8 remember if 2006 was in depth or not. It will
 9 say on the cover of the report. It will say
 10 annual or in depth.
 11 Q You've been clear about this; I just want to make
 12 sure I understand. The May 2007 testing, the UT
 13 testing, you weren't looking for cracks; you were
 14 trying to locate the diaphragms for --
 15 A We were locating diaphragms for potential -- for,
 16 as I stated, the strengthening of the members.
 17 The actual inspection was going to be taking
 18 place at the end of the construction project,
 19 which was scheduled to be end of September. We
 20 were probably going to be doing our inspection
 21 October or November. The schedule does not
 22 reflect that from our '07 bridge inspection
 23 schedule because the schedule is very fluid,
 24 things change.
 25 Q I've heard the design of this bridge being

1 described as obsolete. I assume that's the
 2 way -- a characterization that you've also heard?
 3 A I can't comment. I didn't design the bridge.
 4 Q I'm not asking you to comment on whether it was
 5 in fact obsolete, but whether you've heard it
 6 described that way.
 7 A It's a different style design. I've not heard
 8 com- -- it as an obsolete design.
 9 Q Was there anything about the design of the bridge
 10 that presented any special considerations for
 11 inspection, anything that was particularly
 12 important to look at, anything that made the
 13 inspection particularly difficult to do? That's
 14 the kind of thing I'm talking about.
 15 A The bridge was a fracture critical bridge. I
 16 looked at it that way. That's why -- It was a
 17 deck truss system. It was fracture critical. It
 18 met the definition as per federal guidelines.
 19 That was the only -- To me as an engineer, that
 20 was the only special feature about it. It was an
 21 older design. We don't design fracture critical
 22 bridges anymore.
 23 What was the second part of your
 24 question? I'm sorry.
 25 Q Whether there was anything about that bridge that

1 sort of was especially important to look at or
 2 especially difficult to do when you were doing
 3 your inspections?
 4 A There were some -- There were some details on
 5 that bridge. As I've just stated, the diaphragms
 6 were fatigue prone. There are some other details
 7 that they did when they assembled the bridge that
 8 we did scratch our heads at now. In 1967 when
 9 they were building the bridge, they didn't
 10 understand fatigue as well as we do now.
 11 Q What were some of those details that you're
 12 thinking about?
 13 A Plug welds in the floor beam member. By a plug
 14 weld I mean -- before you get to the next
 15 question -- was that they drilled holes on the
 16 floor beam. The actual floor beam on this bridge
 17 was a truss member. And for whatever reason, I
 18 don't know why, but on one connection right by
 19 the vertical they welded -- they filled in with
 20 weld material those holes. I don't know why.
 21 That's a fatigue prone detail. The diaphragm --
 22 The way the bridge was assembled, you know,
 23 putting the diaphragms inside on the reversal and
 24 tension members always puzzled me, with the tabs
 25 that they used to hold everything together. But

1 in '67 they didn't know.
 2 Q Any other details that maybe were fatigue prone,
 3 as you've used that phrase?
 4 A Fatigue -- Those would be the details that come
 5 to mind. The bearings at the transition from the
 6 last floor beam from the main span to the
 7 approach, there's a couple of rocker bearings in
 8 there. We had some problems there with fatigue.
 9 I don't understand why the designer designed it
 10 the way they did. That's it.
 11 Q Okay. What Mr. Ottman had told me is that the --
 12 and I believe he was talking about those
 13 bearings, that they were difficult to get to.
 14 You couldn't really repair them because of where
 15 they were situated. Was that your perception?
 16 A Yes. Yeah, it's difficult to repair, it's
 17 difficult to inspect. Before we did some repair
 18 to the area. Above that area is a finger joint.
 19 Water from the deck would leak down on you,
 20 pigeons would nest in there. If it's wet, there
 21 is nothing worse than smelling pigeon excrement.
 22 Q I'm going to take your word for that.
 23 A We put what we call a diaper in there. I think
 24 it was in '99 when we put that in. That cleaned
 25 up the area a lot better. It became a lot easier

1 that incorrect?
 2 A FHWA? No, I would not have any input in. They
 3 may -- CO bridge may ask, a big may there. I
 4 have not been asked about that -- about any
 5 changes currently.
 6 Q We've been talking about inspection reports a
 7 little bit, and I'd like to kind of shift gears
 8 and talk about that with you now.
 9 (Pribula Exhibit 4 was marked for
 10 identification by the court reporter.)
 11 BY MR. MERZ:
 12 Q Mr. Pribula, there are at least a couple of
 13 different kinds of inspection reports that I'm
 14 aware were done relating to the 35W bridge. This
 15 is one of those reports; is that right?
 16 A Yes.
 17 Q And what would you call this format of report?
 18 A This format is what I would call a PONTIS report.
 19 Q And just to put everything in front of you, I'll
 20 give you one more here.
 21 (Pribula Exhibit 5 was marked for
 22 identification by the court reporter.)
 23 BY MR. MERZ:
 24 Q I've given you Exhibit 5. What would you call
 25 this kind of report?

1 to inspect.
 2 Q And that was these waterproof curtains that --
 3 A Yes, that's all. Don't ask me how the pigeons
 4 still got in there. I have no idea how they --
 5 You'd jump halfway out of the snooper bucket when
 6 you find one. That's what made it difficult to
 7 inspect them.
 8 Repair, there's a lot of interesting --
 9 Those repairs were done before I was on the
 10 bridge in my position.
 11 Q Since the collapse of the 35W bridge, have you
 12 implemented any changes in your inspection
 13 policies or practices?
 14 A I'm more conservative within my own inspection.
 15 I have not -- I believe my -- Without direction
 16 from myself, my two inspectors are also more
 17 conservative.
 18 Q No formal changes in any policies, I take it?
 19 A The policy is dictated by central office bridge
 20 and the FHWA. We have -- I expect those policies
 21 and changes and guidelines and rules to change.
 22 I have not seen anything yet.
 23 Q The changes that might come from central office
 24 bridge or FHWA obviously aren't anything that you
 25 would have any input into; is that correct or is

1 A This is what we prepare for -- from my group.
 2 It's a fracture critical inspection report. I
 3 would term it as a narrative-style report.
 4 Q Who prepares the PONTIS report?
 5 A That would be prepared by Kurt or Vance,
 6 depending on who wants to do it at the time.
 7 Q Is it part of your job to review the PONTIS
 8 report?
 9 A Yes.
 10 Q Is that something that you do?
 11 A I see them. Roger Schultz will sign them. He
 12 also reviews them. He's my peer.
 13 Q Tell me if I'm wrong, but your focus, I take it,
 14 is on the narrative report; is that right?
 15 A Yes.
 16 Q The PONTIS report is done for all the bridges,
 17 whether they're fracture critical or not?
 18 A Yes.
 19 Q The specific comments that are written in
 20 connection with the list of members on this
 21 PONTIS report, that narrative is drafted by your
 22 inspector, Mr. Fuhrman or Mr. Desens?
 23 A Or myself, yes.
 24 Q Have you ever had occasion to ask that anything
 25 on a draft report, a PONTIS report, be changed?

Page 41

Page 43

1 And I'm focusing now on the 35W bridge.
 2 A No.
 3 Q And was --
 4 A If you're -- Are you talking about change as in
 5 English clarification? Are you talking about
 6 rating changes? Are you talking about, for
 7 example, my inspector might say, there's a hole
 8 in the gusset plate. My answer back is, I need a
 9 size or an approximation of dimensions.
 10 Q Right. And I'm really thinking about any change,
 11 because I don't know what might possibly get
 12 changed. I guess my --
 13 A That would be a style of changes.
 14 Q Okay.
 15 A If they rate -- If you look up at the top here on
 16 the NBI deck, it's 5, 4, 6, 8. Culvert is not
 17 applicable. If they rate it, they talk to me
 18 about it. That is also -- And I look at them and
 19 I say, Do you think it's that, and they will --
 20 we will discuss it in-house. They will either
 21 leave it as is or change it, and I give the -- I
 22 give final say on that. I say, Okay, sell me on
 23 it. This is how I say it.
 24 Q So the super structure on the 35W bridge was at
 25 least in 2001 rated a 4?

Page 42

Page 44

1 A Yes.
 2 Q What, in your mind, is the significance of that
 3 level of rating?
 4 A NBI goes from 1 to 9, 9 being good, excellent,
 5 brand new, basically. Four is poor condition.
 6 That's what for a super structure, we were
 7 concerned about. The super structure was a 4 in
 8 2001.
 9 Q I have seen, and I don't have it with me, but
 10 kind of a key to these NBI ratings that I believe
 11 says in connection with the rating of a 4, that
 12 some sort of immediate attention is required. Is
 13 that consistent with your understanding of what a
 14 4 is?
 15 A No.
 16 Q Tell me what, in your mind, a rating of a 4 would
 17 require in terms of future activity.
 18 A Our guidelines of poor condition it says for 4, a
 19 super structure, is advanced deterioration.
 20 Members may be significantly out of alignment.
 21 Connections or failure may be imminent. Bearings
 22 may be severely restricted.
 23 On this bridge that's why it was a 4.
 24 The main bearings on the bridge, we couldn't
 25 identify -- We couldn't get marks -- Our scribe

1 marks are marks to see if the bearing was moving,
 2 but you realize -- It's a style of bearing. It's
 3 not the bearings that you see. These are what we
 4 would call a gear with a rack on it. And we
 5 couldn't determine really good -- We could get
 6 some indication of movement, but we couldn't
 7 actually -- you know, is this movement enough.
 8 We'd get indications that it is working, but the
 9 structure is 60-feet long. We realized that the
 10 structure will move itself and the bearing can
 11 still sit there.
 12 Q What is the consequence of the -- if the bearing
 13 can't move?
 14 A Stresses build up within the bridge and the
 15 joints start collapsing. And by collapsing I
 16 mean they compress together. They don't fail,
 17 but they lock up. There's no expansion or
 18 contraction within the bridge.
 19 Q The problems with the bearing and the fact that
 20 you couldn't determine that the bearings were
 21 allowing movement was the reason for rating the
 22 super structure an NBI rating of 4?
 23 A That and there was another bearing -- there was
 24 another -- The main bearings on Pier 6 and 7 were
 25 a concern; but on the other hand, in engineering

1 judgment, we knew the stresses were going --
 2 would just move. They don't just -- the stresses
 3 don't build up. The stresses are transferred.
 4 So on that structure, I, you know, discussed it
 5 and said, I think the stresses are going
 6 elsewhere. And everybody on the inspection crew
 7 agreed. And it wasn't me leading the
 8 conversation, it was a group consensus of it.
 9 There's another area on that bridge,
 10 where they did repair before I was there, that is
 11 at the transition on the south side. I think
 12 it's by the hinge joint. And we had to -- that
 13 was where we had some fatigue problems. And that
 14 bearing, Arlen had talked about it, was difficult
 15 to get to. We had to do some emergency repairs.
 16 That joint wasn't moving, because we had repairs
 17 we had to do. That was a concern.
 18 Can we have a break?
 19 Q Absolutely.
 20 (Break taken.)
 21 BY MR. MERZ:
 22 Q Before, when you were describing for me the
 23 significance of the NBI rating of 4, you were
 24 reading from some policy manual. Can you just
 25 tell me what manual it was you were looking at?

Page 45

Page 47

1 A Bridge inspection manual, December '06, Minnesota
 2 DOT. It's the rating guide. I can't remember
 3 all of the things.
 4 Q Let's go, then, to Exhibit 4 -- Exhibit 5, I'm
 5 sorry, which is I think --
 6 A This --
 7 Q I'm sorry.
 8 A I'll also state that it's also off of there.
 9 Q From the Federal Highway Administration?
 10 A Recording and Coding Guide for the Structure
 11 Inventory and Appraisal of the Nation's Bridges.
 12 Same description is given in that one. It
 13 describes the structural condition, what we're
 14 looking for on what we call Item 59, which would
 15 be the PONTIS report, and it gives us what we're
 16 looking for. Everything is broken down by
 17 numbers on that PONTIS report.
 18 Q Thank you for clarifying that.
 19 Turning now to Exhibit 5, which I
 20 believe is what you've described as the narrative
 21 report?
 22 A Yes.
 23 Q It's for the same year as what we had previously
 24 marked as Exhibit 4, correct, 2001?
 25 A Yeah, it is.

1 reports for sentence, editorial comment, brevity,
 2 no opinions. I want the findings, the facts. I
 3 try to -- You know, to say it's very, very, very
 4 rusty is not -- is an opinion. Is there flaking
 5 rust? Yes. That's what I'm saying.
 6 My analogy previously, you've got a
 7 hole in the gusset plate. Okay. How big is the
 8 hole in the gusset plate.
 9 Q And big hole wouldn't be adequate either?
 10 A No. Is the strip seal leaking? Yes. We put
 11 down some notes like that. If it's leaking bad,
 12 I need strip seal is leaking -- Approximately
 13 five feet of strip seal is leaking. That gives
 14 an idea for us and our bridge crews to determine
 15 how much strip seal they need to replace or
 16 patch. Sometimes we can patch them and sometimes
 17 we have to pull the whole seal out.
 18 Q Were there any years that you recall on the 35W
 19 bridge when you both wrote the report and
 20 reviewed it or do you try to split those
 21 responsibilities out?
 22 A I am Kurt's supervisor. I review it.
 23 Q But what I understood you to say is there might
 24 be some years when you would write it?
 25 A Yeah, I wrote it and then I would set it aside.

Page 46

Page 48

1 Q Could you go to page 6, where the bridge
 2 inspection recommendations start?
 3 A Uh-huh.
 4 Q Well, first, maybe I should back up a little
 5 bit. What is your role in the preparation of
 6 this report?
 7 A Depending on the year and given, I either write
 8 it, and by writing it I take the written field
 9 copies and put those into the report, or in this
 10 particular year Kurt wrote it. I then,
 11 therefore, review and edit those comments using
 12 the field notes as a back-up. I'm editing -- By
 13 editing I'm looking for -- I'm an engineer, I'm
 14 not an English major; I married one and she's
 15 taught me a few things -- sentence structure that
 16 is clear and concise and that actually makes
 17 sense to a non-bridge engineer. I'm writing for
 18 engineers. I don't write for the public. This
 19 is a report that goes out to us, so I am making
 20 the assumption that the technical information
 21 contained within this, the person reading it has
 22 a basic understanding of structures. If I was
 23 writing for the public, it would be a much
 24 different one.
 25 Back to the editing, I then look at the

1 And by set it aside, I've learned from other work
 2 previously within DOT plus my own reports that
 3 I've had to write, you put it aside for grammar
 4 and making sure it makes sense. I've had to do
 5 that for me. So I do it that way.
 6 Q This report, what we've marked as Exhibit 5, says
 7 it's an annual report, and I've also seen some
 8 reports that say in depth. What is the
 9 difference between those two things, annual and
 10 in depth?
 11 A It relates partly to the type of inspection. Per
 12 federal guidelines you are required -- Well, the
 13 old standard was you were required to do an in
 14 depth every four or five years within a five-year
 15 period. Let me back up. Minnesota chose to do
 16 it every four. In depth means, just as the
 17 guidelines stated that you handed me out, within
 18 24 inches or closer. Actually, I think the
 19 original guideline I was working on you had to
 20 have -- basically touch almost every piece of the
 21 bridge, which meant you were within 18 to 12
 22 inches of the bridge. So you were very up close
 23 and personal on every member. That's what an in
 24 depth inspection is. You start at one end and
 25 work to the middle. We work to the middle

Page 49

Page 51

1 because it works logistically for us. On a
 2 smaller scale structure, you would start at one
 3 end and go to the other end, then you flip it
 4 around and do the other side, do the same thing.
 5 Q And when you're not doing an in depth inspection
 6 in those years --
 7 A You are further away. That is the major
 8 difference.
 9 Q Now, again, Mr. Fuhrman, at least as I understood
 10 it, told me the other day that the snooper trucks
 11 that you have, there were some parts of the 35W
 12 bridge, maybe toward the middle, that you
 13 couldn't get within 24 inches of. Was that your
 14 experience?
 15 A It -- Can you rephrase the question? I don't
 16 understand what you're talking about.
 17 Q Sure. I understood you had these 50-foot snooper
 18 trucks.
 19 A Ah, that's why. The 50-footer, yes, we couldn't
 20 reach the meeting with the 50-foot snooper. That
 21 was before we bought the 75.
 22 What we would do at that point is at
 23 that time we would lease -- or rent, I should
 24 say, rent St. Paul's snooper. St. Paul's boom
 25 was 60 feet; ours was only 50. That additional

1 structure. The -- Each bridge snooper has its
 2 own idiosyncracies and limitations and what you
 3 can reach and what you can't reach. It's just a
 4 matter of learning how to use those
 5 characteristics to your advantage instead of to
 6 your detriment. So you would have to sometimes
 7 move -- the operator would have to move the
 8 truck.
 9 And keep in mind, you know, you have
 10 diagonals in there. That's just on the outside
 11 of the picture here (indicating), these
 12 diagonals. There's cross-members coming in
 13 inside the structure also. So it is not open and
 14 free within that structure. You have to come up
 15 and go through, then come back down -- remember
 16 how to get back down, then move over and either
 17 have the driver back up, pull forward, go into a
 18 different bay or a different area, and then work
 19 your way in.
 20 And when we did these inspections, we
 21 would do them in a pattern. If you notice,
 22 you've probably seen why we identify panel point.
 23 And by panel point, we're talking the verticals,
 24 so it would be 1, 2, 3. We number them. And as
 25 you go through, you go in one side and try to go

Page 50

Page 52

1 10 feet would give us additional access to the
 2 areas that the 50s couldn't reach.
 3 What I would do then is knowing I had
 4 rental of the St. Paul one, I would flip where
 5 the St. Paul one started versus ours. So if the
 6 50 was on -- our MnDOT 50 was on the south end,
 7 say, in 2000, okay, in 2001 the St. Paul rig
 8 would be there and the 50 would be back. So it
 9 would be an annual -- Or we would get it every
 10 two years, I should say, that area we couldn't
 11 reach.
 12 Q Okay.
 13 A There were other areas within that structure
 14 where you had to realign the driver and get in
 15 through the diagonals and the cross-members and
 16 such. And certain areas you were able to observe
 17 up close and personal, you just did a lot of
 18 other stuff.
 19 Q In fact, if you look at the 2001 report on the
 20 second page, I guess you see the use of that
 21 St. Paul snooper there.
 22 A Yes.
 23 Q So that's what you're telling me?
 24 A Yeah. In 2000 we bought a 75-foot snooper, and
 25 that rig is able to reach much farther into that

1 up.
 2 I would go in, go along and out. I'd
 3 make a rectangle. Some guys would go in, they'll
 4 go in, and then they'll go on both sides of the
 5 floor beam and do this (indicating), then they go
 6 to that (indicating) side. It is inspector's
 7 prerogative. I do not tell my inspectors how to
 8 do a bridge inspection.
 9 Q As long as they get close enough?
 10 A No, so long as they complete the task at hand and
 11 mark off -- We use this (indicating) as a check
 12 sheet. So long as they are able to complete the
 13 job assigned.
 14 Q And just because "this" won't show up on the
 15 record, when you said "this," you were referring
 16 to last year's inspection report as the check
 17 sheet?
 18 A Yeah. It's a guide to our -- what we found in
 19 last year plus the check sheet on where we are in
 20 the bridge. Underneath there, there are no
 21 landmarks. You don't know where you are in
 22 relationship to what's on top of the deck.
 23 Essentially, sometimes if you're not paying
 24 attention -- We write down the numbers for the
 25 panel points -- you get lost. And you have to

1 come back out and you've got to count them all,
 2 where you are in relationship to the pier.
 3 That's where you track yourself.
 4 Q Mr. Schultz is the person that signs off on the
 5 PONTIS report; you're the person that signs off
 6 on the fracture critical narrative report,
 7 correct?

8 A Yeah, yeah. I could do both, but Roger just does
 9 it for the PONTIS.

10 Q After you sign off on the fracture critical
 11 report, what happens to it next?

12 A After it's signed off, I would then -- because
 13 these are -- What is this, 1? Yeah, this is 25
 14 pages. That's short.

15 In 2001 the information was loaded onto
 16 a -- I would -- a back-up. I will print one for
 17 my file in case somebody within the metro
 18 district wants to look at them, the bridge
 19 inspection, they have a paper copy. It's nice to
 20 have. I keep them electronically. I used to
 21 keep them on zip drives. We now have CDs, so
 22 that's where the back-ups are all stored.

23 And then I will print an annual
 24 inspection report. So if you go into the bridge
 25 -- in my office the files are kept -- All the

1 inspection reports for the last ten years,
 2 basically, are kept that I have done, including
 3 some of the other ones from my predecessor on
 4 this. And then further information -- further
 5 inspection information is also included in the
 6 bridge file -- the actual bridge file, which is
 7 in another drawer within our area.

8 Q What other inspection information is included in
 9 the bridge file?

10 A That would be plans, crew reports, maintenance
 11 work, in case of a bridge hit, an incident
 12 report, pictures of the bridge, the original
 13 structure plans. But those plans are not the
 14 whole project; they would be just that structure,
 15 so the grating plans are not in there. The
 16 original plans are there, copies, I should say.
 17 Underwater inspection reports would be contained
 18 within those files.

19 Back to your first question, and,
 20 again, the second part on that?

21 Q Okay.

22 A I can't remember what it was. Can you tell me?

23 Q Well, I think the question is who gets the report
 24 after you've signed off on it.

25 A Okay. The report then is -- The executive

1 summary is prepared and I will either verbally
 2 discuss it with my supervisor if I have issues or
 3 the bridge maintenance superintendent. Paper
 4 copies were disseminated, but we already had the
 5 inspection report. I try to reduce a little bit
 6 of paper and stop choking everybody.

7 The actual report itself was -- in 2001
 8 it would have been sent on zip to CO bridge, to
 9 the construction and bridge maintenance engineer
 10 and to their bridge inspection group. They have
 11 a separate fracture critical bridge inspection
 12 group.

13 And currently I put them on CD and I
 14 send them to a gentleman who used to work for me
 15 in CO's fracture critical bridge inspection
 16 group. He has become the keeper of the records,
 17 as they say.

18 Q Is that Mr. Wilson?

19 A Yes. That's where they go.

20 Q And the district bridge maintenance supervisor is
 21 Mr. Dombroske; is that right?

22 A That's the -- He is the supervisor for that area,
 23 for the bridge crew. The bridge superintendent
 24 is who I would mention. I would either talk to
 25 Dale or to the bridge superintendent on, we have

1 an issue here, we've seen these things, we put
 2 them on a list, a verbal list of -- a wish list.
 3 If we had time, we would get to them. Are they
 4 critical in engineering judgment? Yes or no. I
 5 would give my judgment, then, on that.

6 Q Who's the bridge maintenance supervisor?

7 A Phil Erickson. Bridge superintendent.

8 Q Superintendent, yeah. I can't seem to remember
 9 that. Phil Erickson?

10 A Uh-huh. That's the chain of where my inspection
 11 reports go.

12 Q The wish list discussion is one that takes place
 13 at the district level or with someone at central
 14 bridge?

15 A If we have some issues -- We discuss amongst
 16 ourselves. Roger and myself are involved with --
 17 I become involved, I should say. Roger's main
 18 job is doing what we call Bridge Improvement
 19 Program. He requests information for four years
 20 from now, say, or five years from now, funding
 21 for bridge projects. Do you see a need for a
 22 bridge repair project on this bridge, do you have
 23 any information on this. He will come through.
 24 I will provide him, well, I think this bridge has
 25 got these problems; you may want to put it in

1 four years.

2 The findings we find on bridge are very

3 slow time factors, except for what happened on

4 35W. What occurs over time is they deteriorate

5 slowly. It does not happen rapidly. As an

6 engineer I would use it happens graphically, a

7 straight line graph, as opposed to

8 logarithmically, where, if you were in school,

9 wham, it goes right up. That would be an

10 analogy. The deterioration over time is slow, so

11 that's why we can plan out a repair project

12 within four years, five years for this work.

13 That's the basis of what we're working on.

14 That information will be provided to

15 Roger. I will talk to Phil, You know, we've got

16 these issues. Or I talked to Dale, be nice if we

17 had some guys sometime, let's do this. Sometimes

18 I just talk to him directly.

19 Q And you're going to be talking with Mr. Dombroske

20 about things that would be done in the relatively

21 near term, the next few months or so; is that

22 generally the case?

23 A Few months to a year.

24 Q And Mr. Schultz is looking kind of --

25 A Four-year.

1 Q -- long term?

2 A Yes.

3 Q And then where does Mr. Erickson fit in?

4 A Mr. Erickson is Dale's supervisor. I do not have

5 direct authority over the bridge crews. I have

6 quasi authority when they are on the -- if and

7 when I'm on the bridge with them, they know I am

8 the engineer. I have the expertise in the

9 structures and knowledge within that area to be

10 able to say, Is this -- they will come up, Is

11 this an issue, is it a serious issue, is it one

12 that can wait, and I have the expertise. So

13 that's where it is. I can tell them what to do

14 then, where do you stop for marking out D lins

15 (phonetic), say. If a deck is bad, where do you

16 stop -- Sometimes we just can't -- You know,

17 limitations of that. You have to make a

18 determination. I'm out there, so they ask my

19 opinion.

20 Q And maybe you already answered this and I just

21 didn't understand it. Is there anyone from

22 central bridge that's involved in this wish-list

23 discussion?

24 A We provide information -- yes. To answer your

25 question, yes. Roger and I prepare for the

1 long-term stuff. And long term, the Bridge

2 Improvement Program is a better way of saying it,

3 is to Paul Kivisto, who is a construction and

4 maintenance engineer from CO bridge. We get --

5 We give him the input. He then will talk back

6 and forth with us about bridge recommendations

7 and preparing those and findings we have out

8 there.

9 And then the CO bridge prepares bridge

10 recommendations. We have already started with a

11 proposal for repair, which Roger has done, and

12 then the project is -- then the project process

13 continues on for bridge contract to be let in

14 four years. Bridge repair contract is a better

15 way to say it, not bridge contract.

16 Q Does Mr. Kivisto receive a copy of the bridge

17 inspection report?

18 A That's -- Yes. As part of your first question on

19 the inspection reports, I believe I said that.

20 Q And you probably did and I just didn't understand

21 what his position was, so...

22 Is there anyone else at central bridge

23 that you would communicate with on these

24 wish-list issues?

25 A If I had questions, I would talk to Paul. Paul

1 might have questions, and then somebody else from

2 CO bridge -- it could be a designer, it could be

3 -- You know, when they're doing the design

4 plans, they may contact me, whoever -- whatever

5 design engineer. It's usually the principal

6 engineer in charge of the design squad.

7 Q Is there anyone at central bridge that's involved

8 in the kind of the short-term things that need to

9 be done, the kinds of things that Mr. Dombroske

10 would be doing?

11 A No. The most we would say as an information, if

12 Paul is out there or, you know, I happened to be

13 in the office, this is what we're doing, just to

14 keep them informed.

15 Q The wish-list discussion, is there any sort of

16 document or documents that are produced as a

17 result of that discussion?

18 A The work produced is documented in our -- in the

19 bridge crew -- I can't remember the exact term.

20 That work --

21 MR. BIENIEK: BMS?

22 MR. PRIBULA: BMS system. You're out

23 of my area. You'd have to talk to -- That's how

24 they track the work crews, Bridge Management

25 System.

Page 61

Page 63

1 BY MR. MERZ:

2 Q Okay.

3 A That would tell you where the -- what the crew
4 was doing that day.

5 Q The thing that's been hard for us, I guess, to
6 figure out is how the findings in the inspection
7 reports get translated into specific action
8 items. What I understand you to be saying is
9 it's just these discussions that go on among the
10 folks that you've talked about. I mean, is that
11 a fair characterization?

12 A Yes. We have -- To our detriment, hindsight is
13 always great. We have a verbal culture. I find
14 it easier personally, for me, to talk to the
15 bridge supervisor, crew supervisor, saying, we've
16 got this out here and it would be nice if you
17 could fix this; let's put it on your to-do list.
18 The bridge crew supervisor will have a to-do list
19 for his crews to be assigned. I will talk to my
20 boss or to Phil or to Paul as information, this
21 is what I found, you know, didn't find anything,
22 you know, that was critical in my estimation or
23 my judgments. I found this, which would be --
24 we've discussed it with Dale to put on his to-do
25 list, let's add it.

Page 62

1 Did I document everything in writing?

2 We are lacking in that. We are changing that
3 after the collapse. We are probably going to be
4 documenting more -- have a written paper trail.
5 Better paper trail would be better to say.

6 Q Have those changes already been implemented or
7 are they in the works?

8 A They are in the works.

9 MR. BIENIEK: I was going to mention
10 something here at this point.

11 MR. MERZ: Sure, go ahead.

12 MR. BIENIEK: As has already been
13 stated, you know, big things, big deficiencies
14 are communicated immediately, and they get
15 communicated to the maintenance people, to the
16 central bridge people and things. So those
17 things are dealt with right away.

18 The other group of maintenance needs
19 comprise -- fall into this category of this, you
20 know, gradual degradation of the structure's
21 condition, which gets -- they get recorded onto
22 the PONTIS report and into the Bridge Management
23 System, and then they come out as -- there's a
24 thousand plus bridges involved here. They come
25 out as a databased product that you can review.

1 And bridges don't need to be maintained
2 every year. Some of these repairs don't need to
3 occur that year. It's a marking of the
4 degradation, but it's not -- And it's not an
5 intervention point yet. And so spotting the
6 intervention points that should be acted on, and
7 matching that up to your resources and your crews
8 and your traffic control and, you know,
9 everything else that you need to have lined up to
10 perform the work is the job here that is
11 performed by the maintenance people, by the
12 maintenance side.

13 So, I don't know, I just wanted to make
14 that clear, that within the framework of managing
15 a thousand bridges and dealing with the slow
16 degradation that may take years and years to
17 actually get to the point where intervention and
18 closing lanes and things is appropriate, that
19 comes into play. So that's part of this complex
20 nature of this interaction between the inspectors
21 and the maintenance people. And these
22 conversations and these documents that we talk
23 about don't -- they occur, but, you know, they
24 occur -- you know, sometimes they can occur
25 consecutive years in a row and you still don't

Page 64

1 need to do anything; you still shouldn't do
2 anything.

3 BY MR. MERZ:

4 Q And I appreciate that clarification. And I
5 guess, Mr. Pribula, my question for you is was it
6 sometimes the case that your inspection of the
7 35W bridge identified things that did -- that
8 were not things that needed to be done right
9 then, like 1998, the cracking, but were things
10 that needed to be done within a year, before you
11 did the next inspection?

12 A A year or two.

13 Q Okay.

14 A I didn't set a time line for the deadline. I do
15 not have the authority to direct those crews on
16 how they schedule their work. I can only provide
17 a recommendation saying, you've got this out
18 here. And Dale would ask me, is it a serious
19 issue. And I would look at him and say no. Can
20 it -- You know, could we -- You know, can I get
21 to it when I get -- get logistically set up.
22 Yes.

23 Q In your inspection report did you identify things
24 that although not requiring attention right then,
25 like the 1998 cracking, you believed should be

1 done within the next year or two?

2 A The recommendations we tried to look at and that

3 were written is we tried to say, like, immediate

4 ones, immediate terminology, you know. Should we

5 look at long term to me is long term. I tried to

6 identify them that way.

7 Q And you're referring, I think, to page 6 of

8 Exhibit 5. There you have recommendations for

9 long-term repair, immediate maintenance, and then

10 areas of concern for future inspection, correct?

11 A Yeah. Areas of concern is just the area -- It's

12 to highlight for a person who does not read this,

13 meaning another designer, say, or a planner to

14 come back and say, okay, this is what they're

15 looking at, these are the concerns we have. It's

16 to explain why we're looking at it a little bit.

17 Q And the term immediate, as you use it here in

18 this report, and I believe you see this same kind

19 of recommendation page in subsequent reports --

20 A Yeah.

21 Q -- what does immediate mean, as you used it here?

22 A Immediate means when we can get -- Immediate

23 means if the bridge crews can schedule the work

24 to be done -- Like in the second bullet, the

25 glands on the seal, it was a hot bullet wire

1 report that you prepared for the 35W bridge from

2 anyone in central bridge?

3 A I'm sure I did, but I can't recall what the exact

4 conversations would be.

5 Q The kind of oral culture that you've described

6 and the various discussions that went on to

7 determine what exactly needed to be done, were

8 there any written policies about how information

9 was to flow within MnDOT on those kinds of

10 issues?

11 A Specifically for that type of finding?

12 Q Yes.

13 A No. We didn't -- There are no policies that I am

14 aware of that require us to document. There may

15 be, but we -- it was -- We only have limited time

16 on the decks, on the bridges. It was more

17 expedient for me to talk verbally to the

18 individuals. It takes me too long to type. I

19 feel more at ease verbally.

20 Q You've talked about changes that are in the works

21 with respect to documentation policies. Have you

22 been involved in kind of discussions relating to

23 what sorts of changes were necessary?

24 A Preliminary discussions I'm involved with, saying

25 we could -- could we document better. Yes, I've

1 meshing. It looks like it's okay. Monitor it,

2 we take a look at it and see if that strip seal

3 is leaking. That's all it is.

4 It also functions as a reference note

5 to us or to some other person reading the report

6 who's never seen it before who's also in the

7 bucket with us, specifically, the CO bridge

8 inspector if he was with us, he or she now.

9 Q Take the first immediate concern, the four

10 stringer connection bolts need replacement. .

11 A Uh-huh.

12 Q Having written that down as a recommendation for

13 immediate maintenance, what was your expectation

14 about when those four stringer connection bolts

15 would be replaced?

16 A The stringer bolts, they had been replaced

17 previously. They keep on breaking. I wasn't

18 concerned about it in, my engineering judgment,

19 because of the type and where they were located

20 on the bridge. Immediate was put in there just

21 to make sure that the crew wouldn't forget about

22 it or that we wouldn't forget about it. Again, I

23 can't tell them when to do it.

24 Q Did you ever receive any feedback or question

25 about any report that you -- fracture critical

1 been involved with those.

2 Q I mean, has your involvement gone beyond, we can

3 document better, to, here are some things that we

4 either could or should do to document better?

5 A Yes. We're trying to write a sheet, like a

6 contact sheet, and I put it in quotation marks,

7 to write down what was discussed and then have

8 that paper trail. We're in that stage right now.

9 Q Who is involved in kind of the development of new

10 documentation policies here?

11 A It's kind of a -- I really don't know.

12 Q Okay. That's fair.

13 A I mean, it's just -- there's no set person that

14 says, okay, we will do that. Some of it is

15 initiated by management, some of it is

16 self-initiated. Sometimes you just go ahead and

17 do it yourself and prepare that. There is no

18 individual that is the documentation expert

19 within that policy in the district that I'm aware

20 of.

21 Q And, you know, I probably just have the wrong

22 conception of what's going on. What I had

23 imagined was there's something like a task force

24 that had been put together to look at what you

25 were doing and look at what you ought to be doing

Page 69

Page 71

1 and how to get there. There's not that kind of
 2 group?
 3 A We have a group discussing that right now. But
 4 where I took your question from is who is the
 5 initial idea originated, and there is nobody
 6 that's the originator of the idea, as they say.
 7 Q And I probably just didn't ask the question very
 8 well. Who is involved in that group?
 9 A Myself, Roger Schultz, Jack Pirkel, Bev, John, to
 10 a degree, the bridge superintendent, bridge
 11 supervisor, more the bridge superintendent.
 12 Q I'm not sure if I know who John is.
 13 A John Bieniek.
 14 Q Oh, John. You're not on very many of these
 15 documents, Mr. Bieniek, and that's why I've
 16 forgotten your name.
 17 MR. BIENIEK: That group of people,
 18 they talk about -- Probably the biggest part of
 19 the documentation so far we've talked about in
 20 metro district has been, you know, the
 21 transmission of inspection findings and
 22 recommendations to the maintenance people, you
 23 know, to document that there was a conversation
 24 that occurred about the maintenance findings and
 25 recommendations, the names of the persons

1 can find a consultant that does it, I'll talk to
 2 them on how we do it versus how they would do
 3 it. I read their reports to determine, okay,
 4 maybe I should adjust my report narratives to --
 5 certain -- like a format or an explanation of a
 6 format. You will see over time my reports have
 7 changed. That's why I do it.
 8 Q You probably have read in some of the media
 9 reports about a bridge in Ohio in 1996 that had a
 10 similar design to the 35W bridge that experienced
 11 a gusset plate failure and resulted in a sagging
 12 of the bridge. Do you know what I'm talking
 13 about?
 14 A Yes, I know.
 15 Q Is that something that you were aware of at the
 16 time?
 17 A No, because if you read the articles, and I did,
 18 that was not released to the FHA -- The FHWA did
 19 not put anything out nationwide, so in 1997 we
 20 wouldn't have known about it. The bridge in Ohio
 21 was in '96.
 22 Q And you've no doubt heard lots of discussion
 23 about the gusset plates. Were the gusset plates
 24 a part of the bridge that were included in your
 25 inspection; in other words, did you get 24 inches

Page 70

Page 72

1 present, the date so that can be filed.
 2 And central bridge and a consultant
 3 that has been hired by central bridge are also,
 4 my understanding, looking at this, and they may
 5 come out with a form or a guideline for all the
 6 districts as far as having more substantial
 7 documentation.
 8 BY MR. MERZ:
 9 Q What do you do to make yourself knowledgeable
 10 about the inspection practices and policies in
 11 other states?
 12 A I try to attend like the international bridge
 13 conference to determine the inspection policies
 14 or bridge maintenance, bridge repair policies.
 15 That particular conference has two main groups:
 16 One is design and one is repair. I go to the
 17 repair on the -- for the days. That's where I
 18 end up. Guys like Arlen Ottman would be in
 19 design. I fix them. I try to find out how you
 20 can fix them. That's where I go.
 21 I try to keep up on the seminars that
 22 are offered by the State. I try to talk -- I
 23 have some contact with my peers on the border
 24 bridges in Wisconsin, so we discuss what we do
 25 versus what they do, that type of stuff. If I

1 away from the gusset plates?
 2 A Yes. We were up closer than that to the gusset
 3 plates.
 4 Q And you also, no doubt, have seen stuff in the
 5 media about the bowing --
 6 A Yeah.
 7 Q -- right? And is that something that you were
 8 checking for?
 9 A On that bridge, on that particular picture that
 10 is mentioned in the paper and URS discussed, I
 11 can recall being on that upstream side of the
 12 truss. I can't recall the years. I can
 13 recall -- Additionally, I can't recall the
 14 location, but I can recall when we went through
 15 those areas of the gusset plates, we looked and
 16 go, oh, that one is warped or bowed or rippled.
 17 To us, those three words are the same. The
 18 determination with the other inspector in the
 19 bucket was at that time we looked at it and said,
 20 that's fit-up, that's construction, that's
 21 original construction.
 22 The reason we made that determination
 23 is, one, from me from undergrad, gusset plates
 24 are overdesigned. The factor safeties within
 25 those gusset plates are 2 to 3.

Page 73

Page 75

1 The other factor in that connection is
 2 you did not see any other indicators of stress on
 3 that gusset plate or around that connection. You
 4 would have seen ripples within the paint, peeling
 5 paint; you would have seen possibly an elongation
 6 of the rivets; you would have seen cracking of
 7 the -- possible cracking of the tack welds; we
 8 would have seen crushing or stress induced on the
 9 member coming into that area; you would have seen
 10 cracking or crushing of the concrete deck above,
 11 because the potential for the -- that vertical
 12 member to start sinking. Didn't see any of those
 13 other flags in that. We look at them to see if
 14 everything is straight and true. You have two
 15 plates, four members. You have approximately --
 16 The reason I have the picture with me is I can do
 17 it.

18 Q You probably thought we might talk a little bit
 19 about this.

20 A Just a little bit. You have four members. Look
 21 at all the rivets coming into them (indicating).
 22 This is not -- They do not all match up. We
 23 have -- On that bridge, on any other bridge I
 24 will challenge you to find a perfect set, a
 25 perfect fit. That does not occur. In designer's

1 position. I appreciate your explanation. It's
 2 been very helpful. So don't misunderstand what
 3 my role is in this process.

4 A Maybe I got off subject, sir, but --

5 Q No, you didn't, you didn't. So my question is,
 6 did you note the bowing of the --

7 A No.

8 Q -- gusset plate? And that was because of your
 9 determination that it was construction related?

10 A We don't note -- Our inspections -- Our
 11 inspections are to find deterioration or findings
 12 of deterioration on maintenance. We do not note
 13 or describe construction or design problems or
 14 construction problems. It's not the purpose of
 15 our inspections. We just -- it just -- It would
 16 just serve to -- The reason we don't is, one, as
 17 I said, we just don't; and, two, it just serves
 18 as an issue of confusion to another individual
 19 who does not know our practice. So individuals,
 20 those would be designers, a roadway designer or a
 21 repair designer. A bridge designer would know,
 22 maybe. Depends on what their background is.

23 Q You mentioned the other person in the bucket when
 24 you first observed this rippling. Do you recall
 25 who that would have been?

Page 74

Page 76

1 world, yes. This is my world. This is the
 2 field. We do not match up.

3 You will find what we call -- An iron
 4 worker has a pin called a drift pin. Drift pins
 5 are pins about -- they can be 18 to 36 inches
 6 long. It's a great big bar. They drive it into
 7 the hole, and that's how they line up the
 8 member. In this particular instance, then the
 9 rivet gangs will come in and drive the rivets
 10 in. Currently our designs are bolts. They'll
 11 run the bolts in. Sometimes you can get the
 12 drift pin out, sometimes you can't.

13 This particular bridge, 9340, had drift
 14 pins in the bridge. One bolt, one rivet missing
 15 in the connection is not structurally important.
 16 Any engineer will give you the same answer. The
 17 fit up -- The issues here is you have -- Showing
 18 you in the picture you have one, two, three,
 19 four, five on one side and the same thing on the
 20 other side. They don't line up straight. I
 21 challenge you to find a true wall in your house
 22 that is true. That's the same thing. The
 23 picture in the paper does a disservice to me and
 24 the department.

25 Q And just so we're clear, I'm not advocating any

1 A No, I do not recall who it was. But we have --
 2 We have a lot of conversations in the bucket.
 3 You're in the bucket with the individual five
 4 hours of straight time. You are talking about a
 5 lot of stuff, and we are also talking about
 6 connections. When we find stuff, we discuss it.
 7 Is this an issue, is it not an issue, check it,
 8 we'll see, fine; we're already here, same thing.

9 The analogy I use is on crack
 10 determination with mag particle. You basically
 11 are looking for a line that looks like a piece of
 12 red thread. And you see that line. Is it a
 13 crack. It might be. And you look again, what do
 14 you think. You'll talk to your partner. Well,
 15 it could be. We're here, mag it. And that is
 16 the style of conversation we have on gusset
 17 plates or any other questionable feature within
 18 the bridge.

19 Q Do you recall when it was you first noted this
 20 rippling of the gusset plate?

21 A No, I do not.

22 Q My question, I guess, and the thing that has me
 23 confused, perhaps, is there was a point in time
 24 when you noticed this rippling?

25 A Uh-huh.

Page 77

Page 79

1 Q Before that you didn't notice the rippling. And
 2 if you're getting, you know, 24 inches or closer
 3 to the gusset plates, I'm just trying to
 4 understand that circumstance.
 5 A Close up it disappears. You have to be far --
 6 You have to be within the panel point. We will
 7 come in where you even do the panel points in a
 8 rectangle. So you start at one end and move in
 9 like this (indicating) and come back out.
 10 This area they're talking about, you
 11 were -- by the panel point you were on the
 12 outside of the bridge. You were not in the main
 13 area of the bridge, you were on the outer part.
 14 You would come in and look through. You looked
 15 at that and then checked it out.
 16 I don't recall when we did it, but we
 17 would visually check and make sure that all the
 18 -- everything kind of lines up, basically, to a
 19 relative vertical and horizontal. I mean, you
 20 can site down the stuff and go, it's crooked or
 21 straight, in other words, it's okay. We would
 22 have noted if it was of concern. It wasn't a
 23 concern.
 24 The other thing is, is that URS shot
 25 the picture in 2003. They didn't see any issue

1 was putting together the exhibits for today.
 2 My question is whether you recall an
 3 issue relating to cracking in the floor beams in
 4 '97, that one of the things you did was had some
 5 stress gauges or strain gauges placed?
 6 A The only thing -- I don't recall to the floor
 7 beams, although this is probably -- I'm assuming
 8 this is in regards to the 1998 U of M study that
 9 was conducted. They did wire the floor beams
 10 strain gauge installation. They did put strain
 11 gauge installation on other members within the
 12 bridge. I do not recall this exact facts. For
 13 that matter, I've never seen it before either.
 14 Q No, I know. And the reason I was giving it to
 15 you was to see if it would help you to remember
 16 at all this cracking in '97.
 17 A No.
 18 Q And the reason -- Well, I'm going to hand you
 19 another document you haven't seen before.
 20 (Pribula Exhibit 7 was marked for
 21 identification by the court reporter.)
 22 BY MR. MERZ:
 23 Q This is Exhibit 7, which deals with the same
 24 issue. And I'll just tell you kind of my
 25 thinking about this, and you can respond to it if

Page 78

Page 80

1 with it. That picture went to CO bridge and CO
 2 bridge didn't have any issue with it. Flags
 3 would have gone off a lot faster in 2003 if we
 4 thought we had an issue with the bowing of the
 5 gusset plates than what the paper said.
 6 (Pribula Exhibit 6 was marked for
 7 identification by the court reporter.)
 8 BY MR. MERZ:
 9 Q Mr. Pribula, I've put in front of you there a
 10 document we've marked as Exhibit 6, which is a
 11 fax. You're not on this fax, and I'm going to
 12 guess you haven't seen it. The reason I'm
 13 putting it in front of you is to see if you
 14 recall this issue in late 1997 regarding some
 15 cracking in the floor beams.
 16 A I have not seen this. This is 1997. I started
 17 in approximately January of 1997, so I would not
 18 have seen this.
 19 Q This is December of '97, so it would have been
 20 after you had been there for about a year.
 21 A Okay. Is this in --
 22 Q You might have two pages that are stapled
 23 together.
 24 A These are both the same pages, sir.
 25 Q They are. That was probably just an error as I

1 you have any response; you may not. This talks
 2 about some cracking in the floor beam stringer
 3 that, at least according to the author of this
 4 document, may threaten public safety. And I'm
 5 confused about the timing of this. As I
 6 understood, the inspections were typically done
 7 in the fall or maybe the spring or summer months,
 8 but by December the inspections would have been
 9 done. And so my question is whether you know how
 10 this cracking might have come to light in
 11 December of '97. And if you don't remember it,
 12 that's a perfectly appropriate response on your
 13 part.
 14 A I don't remember.
 15 Q All right.
 16 A Just reading -- I don't remember.
 17 MR. PRIBULA: Do you have a minute?
 18 MS. FORSLAND: Sure do.
 19 MR. PRIBULA: Can I take this with?
 20 MS. FORSLAND: Can we take a break?
 21 MR. MERZ: Absolutely.
 22 (Break taken.)
 23 MS. FORSLAND: Back on the record. I
 24 wanted to tell you something generally about what
 25 we just discussed in this brief break. Because

Page 81

Page 83

1 he started his job in 1997, it's possible that
2 this kind of material resulted from the '96
3 inspection report or possibly something from the
4 '97 inspection report. But since the people on
5 these memos in Exhibit 6 and 7 are from the
6 central office bridge, they apparently started
7 some work to analyze strain.

8 By comparing the second page of Exhibit
9 7 to what Mark recalls from the University of
10 Minnesota study, he was struck by the exact
11 similarity. And his concern was that maybe this
12 action preceded the U of M study or was in
13 conjunction with early discussion about that.
14 But he does not recall it and hasn't seen the
15 memo and would direct you to the bridge central
16 office to see if their records follow up on
17 that. Is that helpful at all?

18 BY MR. MERZ:

19 Q It is helpful. And I just wanted to find out
20 what you remembered. And since you were someone
21 that was involved in inspecting the bridge in
22 1997, to see if you recalled this at all. And I
23 understand you to be saying that you don't, and
24 that's fine. There are other witnesses I can
25 follow up with.

Page 82

Page 84

1 You are familiar, I believe you told
2 me, at least generally with the recommendations
3 that URS made with respect to retrofitting of the
4 bridge?

5 A Generally, yes.

6 Q Were you ever involved in any meeting -- And I
7 might have asked you this; and if I did, I
8 apologize. Were you ever involved in any
9 meetings with URS to discuss how the bridge might
10 be retrofitted or otherwise maintained?

11 A I do recall that, but I don't recall the dates,
12 nor who was in there -- I attended the meetings.
13 I don't recall everybody who was in the meeting
14 with me.

15 Q What do you recall about those discussions?

16 A Generally they were discussing what the loads
17 were in the members, the forces within the
18 members, how to possibly repair those areas, how
19 to -- basically how do we get access to it. That
20 was the challenging thing. Then the other thing
21 was how do we strengthen these areas, that type
22 of stuff. That's my general recollection of what
23 we were discussing.

24 Q Do you recall that another aspect of URS's
25 recommendation was to do a deck replacement with

1 a continuous composite deck?

2 A I don't recollect that.

3 Q Okay.

4 A I don't recollect the discussion, let's put it
5 that way.

6 Q Were you ever asked to do any inspection or
7 analysis in connection with the construction work
8 that was done in 2007 that was underway when the
9 bridge collapsed?

10 A Inspection as -- I'm confused by your question.

11 Q And that's fair.

12 A Excuse me for interrupting.

13 Q Sure.

14 A I answer it from the terms -- From my thinking, I
15 work in maintenance. Construction is a different
16 group.

17 Q Right. And I understand. You did tell me the
18 work that you did in May of 2007, the inspection
19 work. My question is whether anyone asked, I
20 guess, for your input about how the construction
21 activities on the bridge might affect the bridge?

22 A No.

23 Q And what I understand you to be saying is that
24 was someone else's job, someone in construction,
25 if anyone?

1 A Your question should be directed to the -- to a
2 person in construction, possibly the project
3 engineer on that. I do not have any
4 recollection, nor was I consulted by a person
5 from construction regarding your question.

6 Q Are you aware of any study that was done by a
7 company called HNTB, of the 35W bridge?

8 A It's been bandied about. I've heard them. I've
9 heard they did a study, but I don't know -- I
10 don't recall a report or anything like that.

11 Q If there was a study done, you're only aware of
12 it kind of in the secondhand, after the fact
13 hearing about it?

14 A Yes.

15 Q Did you have any involvement in the U of M study,
16 other than to assist them in getting access to
17 the bridge?

18 A In analysis or anything like that?

19 Q Yes.

20 A No. They had their -- The professor who was
21 monitoring their grad students' work was Dexter.
22 He is a nationally-recognized expert. They
23 conducted it. It was an independent -- I would
24 term it as an independent study. When we
25 contract with them, they do the work. We do not

Page 85

Page 87

1 have any input on how the data is -- or writing
2 of that report.
3 Q And just to jump back on one point relating to
4 URS, did you have any concerns about the
5 feasibility of URS's recommendation about
6 retrofitting?
7 A Concerns as in that we needed to do it, or
8 concerns as in if we don't do it, or what? I
9 don't understand your question.
10 Q I'll break it up a little bit. Did you have any
11 concerns that that option might somehow further
12 degrade the bridge or negatively impact the
13 bridge's structural integrity?
14 A No. I had concerns on how we were going to --
15 how would we implement their recommendation, how
16 are we going to fix it. That was where I was
17 concerned. I mean, we were all trying to figure
18 how are we going to -- Logistics of putting those
19 members up and doing that work was what I recall
20 was what I was concerned about.
21 Q Okay. And so you're talking about kind of
22 physically how it would be accomplished?
23 A How would you do the job, yeah.
24 Q You did not, I take it, have any -- You don't
25 have any knowledge about the closing of the

1 STATE OF MINNESOTA)

2

3

4 COUNTY OF HENNEPIN)

5

6

7

8 REPORTER'S CERTIFICATE

9

10

I, Julie A. Rixe, do hereby certify

11

that the above and foregoing transcript, consisting of

12

the preceding 86 pages, is a correct transcript of

13

my stenographic notes and is a full, true and complete

14

transcript of the proceedings to the best of my

15

ability.

16

Dated April 13, 2008.

17

18

19

20

JULIE A. RIXE
Court Reporter

21

22

23

24

25

Page 86

1 St. Cloud bridge?
2 A Only what I've read in the paper. Let me also
3 say that St. Cloud is a different district that
4 is handled by Brainerd's district and in
5 conjunction with CO bridge.
6 Q The meetings with URS, you did tell me you don't
7 recall who was there. Do you remember anyone
8 from central bridge that was there?
9 A Paul Kivisto, Gary Peterson.
10 Q Do you know how many meetings you would have
11 attended, approximately?
12 A I don't recall. I'd be guessing and I don't want
13 to do that.
14 Q And I wouldn't necessarily ask you to guess, but
15 were you kind of a regular part of that group?
16 A Yes.
17 MR. MERZ: I don't have anything
18 further. I thank you for your time, sir.
19 (Whereupon, the interview was concluded
20 at 11:20 a.m.)
21
22
23
24
25

Neal, Claudia

From: John Bieniek [John.Bieniek@dot.state.mn.us]
Sent: Friday, May 02, 2008 11:19 AM
To: Michele Clarizio
Subject: Mark Pribula's Transcript

As Mark's manager I am replying to the note requesting comments and edits to the GPM transcripts to be provided in writing. Mark is not available to provide them himself but he did give me a hard copy of his transcript with his few edits.

Page 49 Line 20, change "meeting" to "median"

Page 54 Line 15, change "grating plans" to "grading plans"

Page 58 Line 14, change "D lms" to "delamination limits"

Other than these edits Mark is not indicating any significant changes to the transcript. Please call me with questions today. Mark will be back in the office next week and can be contacted through groupwise or voicemail anytime.

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INTERVIEW OF KHANI SAHEBJAM - MARCH 14, 2008

<p style="text-align: right;">1</p> <p>1 INTERVIEW OF KHANI SAHEBJAM - MARCH 14, 2008</p> <p>2</p> <p>3</p> <p>4 In the Matter of Conducting an Independent Investigation</p> <p>5 Into the Collapse of the I-35W Bridge</p> <p>6</p> <p>7 Department of Transportation</p> <p>8 395 John Ireland Boulevard</p> <p>9 Room G-22</p> <p>10 St. Paul, Minnesota</p> <p>11</p> <p>12 Met, pursuant to notice, at 9:40 in the</p> <p>13 morning on March 14, 2008.</p> <p>14</p> <p>15 INTERVIEWERS:</p> <p>16</p> <p>17 Kathryn Bergstrom and Thomas Johnson,</p> <p>18 Attorneys at Law with the Gray Plant Mooty Law Firm.</p> <p>19</p> <p>20 ALSO PRESENT:</p> <p>21 Barbara E. Forsland, MnDOT Data Practices</p> <p>22 Compliance & Policy Analyst.</p> <p>23 Lisa Freese, MnDOT Deputy Commissioner.</p> <p>24</p> <p>25 COURT REPORTER:</p> <p> Angie D. Threlkeld, RPR CRR</p>	<p style="text-align: right;">3</p> <p>1 all of our words so that we don't have to two months</p> <p>2 from now try to remember what we said. I don't know</p> <p>3 if you've ever worked with a court reporter before,</p> <p>4 but she can't take down both of our voices at the</p> <p>5 same time. So I'm going to -- If you let me try to</p> <p>6 finish my question, I'll let you try to finish your</p> <p>7 answer; and we won't talk on top of each other.</p> <p>8 Okay?</p> <p>9 A Very well.</p> <p>10 Q And she can't take nods of the heads or the uh-huhs</p> <p>11 and huh-uhs. So yeses and nos and audible answers.</p> <p>12 Okay?</p> <p>13 A Sure.</p> <p>14 Q All right. This witness protocol, let's -- I've</p> <p>15 marked it as Exhibit 1. Let's go through that</p> <p>16 briefly.</p> <p>17 We're here today, at paragraph 1,</p> <p>18 authority with -- we are the Gray Plant Mooty law</p> <p>19 firm, and Gray Plant Mooty has been retained by the</p> <p>20 Minnesota Legislature to conduct an independent</p> <p>21 investigation into the collapse of the I-35W bridge.</p> <p>22 The Minnesota legislature has asked us to</p> <p>23 provide a report of our investigation by May 1st,</p> <p>24 2008. We will be asking you questions concerning</p> <p>25 the bridge collapse and related policies, practices,</p>
<p style="text-align: right;">2</p> <p>1 (Whereupon, Exhibit 1 was</p> <p>2 marked for identification by the</p> <p>3 court reporter.)</p> <p>4 MS. BERGSTROM: Let's go on the record.</p> <p>5 BY MS. BERGSTROM:</p> <p>6 Q Khani -- May I call you Khani?</p> <p>7 A That would be great.</p> <p>8 Q My name is Katie Bergstrom, and I'm with the Gray</p> <p>9 Plant Mooty law firm. We're going to go through</p> <p>10 this witness protocol for interviews. We're going</p> <p>11 through this with everybody that we talk to, whether</p> <p>12 they're MnDOT employees or not.</p> <p>13 But let's go around the room and state</p> <p>14 our appearances.</p> <p>15 I'm, again, Katie Bergstrom.</p> <p>16 MR. JOHNSON: Tom Johnson with the Gray</p> <p>17 Plant Mooty law firm.</p> <p>18 MS. FORSLAND: Barbara Forsland, data</p> <p>19 practices attorney for the agency.</p> <p>20 MS. FREESE: Lisa Freese, deputy</p> <p>21 commissioner for MnDOT.</p> <p>22 MR. SAHEBJAM: I'm Khani Sahebjam, MnDOT</p> <p>23 metro district engineer.</p> <p>24 BY MS. BERGSTROM:</p> <p>25 Q Khani, the court reporter here today is taking down</p>	<p style="text-align: right;">4</p> <p>1 and legislative oversight issues.</p> <p>2 Two, the purpose of the interview is to</p> <p>3 determine what you might know about the matters we</p> <p>4 are investigating.</p> <p>5 Three, confidentiality during the time</p> <p>6 our investigation is active. The information that</p> <p>7 interviewees provide to us is not public</p> <p>8 information. The information you provide may no</p> <p>9 longer be confidential once we submit a report to</p> <p>10 the legislature.</p> <p>11 The process. You are required to answer</p> <p>12 our questions truthfully. A court reporter is</p> <p>13 present to record our conversation. Either during</p> <p>14 this interview or later in our investigation, we may</p> <p>15 determine that we need to verify certain</p> <p>16 information. And if that occurs, we may ask you for</p> <p>17 a further recorded statement, a signed affirmation,</p> <p>18 or an oath statement.</p> <p>19 And, five, post-interview contact. We</p> <p>20 view this process as an ongoing dialogue. If you</p> <p>21 think of anything after this interview that you want</p> <p>22 to tell us about, please call or e-mail. And,</p> <p>23 likewise, we hope that you will respond to us if we</p> <p>24 call or e-mail you with follow-up questions or</p> <p>25 clarifications. Okay?</p>

INTERVIEW OF KHANI SAHEBJAM - MARCH 14, 2008

<p>5</p> <p>1 A Okay.</p> <p>2 Q And you understand that Gray Plant Mooty doesn't</p> <p>3 represent you or the Minnesota Department of</p> <p>4 Transportation?</p> <p>5 A Okay.</p> <p>6 Q Okay. Why don't you tell me how long you've worked</p> <p>7 for MnDOT?</p> <p>8 A I've been with MnDOT since December of 1990.</p> <p>9 Q Okay. And when you started in December of 1990,</p> <p>10 what was your position?</p> <p>11 A I worked in the bridge office actually, reviewing</p> <p>12 shop drawings, structure steel shop drawings for a</p> <p>13 couple of years.</p> <p>14 Q I take it you're an engineer?</p> <p>15 A Yes, I'm a registered engineer.</p> <p>16 Q Okay. What kind of an engineer?</p> <p>17 A Well, civil engineer in general. And -- But I have</p> <p>18 a master's degree in structural engineering also.</p> <p>19 Q And how long were you in that position in the bridge</p> <p>20 office?</p> <p>21 A In that position two years.</p> <p>22 Q And then you went from?</p> <p>23 A Then I went to research, the research office for one</p> <p>24 year.</p> <p>25 Q Is that within the bridge office still?</p>	<p>7</p> <p>1 A Back into, yes, central office here to the state aid</p> <p>2 office in a management position. And my role there</p> <p>3 was project delivery and bridge bonding. We took</p> <p>4 care of bridge bonding for the -- for local</p> <p>5 agencies.</p> <p>6 Q How long did you do that?</p> <p>7 A Another four years.</p> <p>8 Q What does that bring us up to?</p> <p>9 A Then -- I don't remember what the date was. But</p> <p>10 then after that I came back -- left the state aid</p> <p>11 side, moved back to the trunk highway, the MnDOT</p> <p>12 side, came back to the bridge office. I worked</p> <p>13 there for one year. I was Dan Dorgan's assistant,</p> <p>14 assistant state bridge engineer on the planning and</p> <p>15 programming side.</p> <p>16 And after that one year I went to the</p> <p>17 metro district as a director of program delivery.</p> <p>18 This was six years ago. So -- And I was in that</p> <p>19 position for four years, and I have been in this</p> <p>20 position as a metro district engineer for a little</p> <p>21 over two years now.</p> <p>22 Q Okay.</p> <p>23 A She can type faster than you guys can write.</p> <p>24 Q Yeah. So that year that you went back to the bridge</p> <p>25 office and were the assistant state bridge engineer,</p>
<p>6</p> <p>1 A No.</p> <p>2 Q Okay.</p> <p>3 A That was outside the bridge office.</p> <p>4 Q Okay.</p> <p>5 A Then I -- Do you want me to tell you the rest?</p> <p>6 Q Please just go forward.</p> <p>7 A Okay. Then after that I went -- I got a promotion,</p> <p>8 went back to the bridge office in their state aid</p> <p>9 section where you review city and county bridge</p> <p>10 plans.</p> <p>11 Q Is the state aid office, is that a -- is there a</p> <p>12 monetary function of that office or is it funding?</p> <p>13 A Well, the state aid -- Part of the dollars that</p> <p>14 trunk -- the transportation funds go to the cities</p> <p>15 and counties. And by law the Minnesota Department</p> <p>16 of Transportation oversees those dollars, the state</p> <p>17 aid portion of it, the dollars, and makes sure that</p> <p>18 counties and cities meet their own rules and laws.</p> <p>19 And the money is spent where -- according to law.</p> <p>20 And that was the function of that state aid section.</p> <p>21 Q Okay. And how long were you in that position?</p> <p>22 A That one I was for four years. And then I got</p> <p>23 promoted to management from there to the central</p> <p>24 office state aid, which is here in this building.</p> <p>25 Q So out of the bridge office and back into the --</p>	<p>8</p> <p>1 what was the time frame there? Was that 2001 or --</p> <p>2 Was Dan Dorgan the state --</p> <p>3 A He was --</p> <p>4 Q -- bridge engineer?</p> <p>5 A He was the bridge engineer --</p> <p>6 Q Okay.</p> <p>7 A -- yes.</p> <p>8 Q Okay. And then the previous times that you had been</p> <p>9 at the bridge office Don Fleming was the bridge</p> <p>10 engineer?</p> <p>11 A Don Fleming was the bridge engineer. Right.</p> <p>12 Exactly.</p> <p>13 Q Okay. Are you -- We'll go into this a little bit.</p> <p>14 But are you a certified bridge inspect -- bridge --</p> <p>15 A Bridge inspector?</p> <p>16 Q -- bridge inspector? Yeah.</p> <p>17 A The way inspection rules are that you can be a</p> <p>18 certified bridge inspector to inspect a bridge or a</p> <p>19 registered professional engineer, and that's what I</p> <p>20 am. So because I'm a registered engineer, I only do</p> <p>21 things that I know that I'm qualified to do. So if</p> <p>22 I think I'm qualified -- I've studied bridge</p> <p>23 engineering and I know what a bridge is, what</p> <p>24 different elements are -- I can do that, yes.</p> <p>25 Q Okay. In any of these jobs that you described to me</p>

INTERVIEW OF KHANI SAHEBJAM - MARCH 14, 2008

9	11
1 have you done bridge inspections?	1 it entails design and construction of projects on
2 A Not -- Not with MnDOT I haven't.	2 the trunk highway system within -- within the
3 Q Okay.	3 district. It also is the operations, the
4 A I have -- When I was in state aid, I have gone out	4 maintenance, whether it's snow and ice, and
5 to help a county where they had a situation with a	5 infrastructure repair and maintenance of
6 bridge, I've gone out and helped look at it. And	6 infrastructure.
7 they have their own inspectors, and they wanted me	7 Q How many -- How many MnDOT employees work for the
8 to go out there and help them out. So...	8 metro district, do you know?
9 Q Where was that at?	9 A Yes. It varies a lot; but around 1,200 I would say,
10 A Mille Lacs County --	10 1,250 maybe.
11 Q Okay.	11 Q And ultimately they're direct -- directly or
12 A -- was one. So...	12 indirectly they all report up to you?
13 Q And then is your -- In your job as the -- What are	13 A Yes.
14 you called at the metro district? The director; is	14 Q Okay. And then who do you report to?
15 that your title?	15 A I report to Bob Winter.
16 A Right now?	16 Q And what's his title?
17 Q Yeah.	17 A His title is director of operations, division
18 A District engineer, yeah.	18 director.
19 Q District engineer?	19 Q Okay. So do each of the director -- or the district
20 A Yeah.	20 engineers report up to --
21 Q Okay.	21 A To Bob --
22 A I have done -- By the way, I have done inspections	22 Q -- Bob? Okay.
23 before this, before I joined MnDOT --	23 A -- Winter.
24 Q Okay. Before --	24 Q And how long has he been in that position, if you
25 A -- with --	25 know?
10	12
1 Q -- 1990?	1 A Yeah. He has been in there for five years.
2 A -- with private --	2 MS. FREESE: Five plus.
3 Q Okay.	3 MR. SAHEBJAM: Five-plus years, yeah.
4 A -- consultants, yeah.	4 MS. BERGSTROM: All right. Let's mark
5 Q Okay. And was that in the state of Minnesota or	5 this as number 2.
6 some other state?	6 (Whereupon, Exhibit 2 was
7 A It was Texas and then -- and then when it was in	7 marked for identification by the
8 Minnesota with a consultant, we inspected a big	8 court reporter.)
9 bridge in Michigan.	9 BY MS. BERGSTROM:
10 Q What consultant group was that?	10 Q Khani, I'm going to show you what's been marked as
11 A HNTB.	11 Exhibit Number 2. Some of these questions are
12 Q And what bridge in Michigan was it, do you remember?	12 organizational because I've been trying to figure
13 A It was Zilwaukee Bridge. Zilwaukee.	13 out a little bit how everything is organized. And
14 Q Oh, where is that?	14 if you pull up all these org charts, it seems to
15 A It's by Saginaw. It's kind of the armpit of the	15 change rapidly sometimes.
16 world. I spent a few weeks out there.	16 A Sure.
17 Q HNTB, that's still around, right, that business?	17 Q So the front page is most recent, I think, February
18 A Um-hum.	18 of '08 MnDOT. And I see you over there on the right
19 Q Still an engineering consulting --	19 under operations division; right?
20 A Um-hum.	20 A Right.
21 Q -- firm? Okay. As the district engineer at the	21 Q Then back behind that I think is about a year ago,
22 metro district, can you kind of generally describe	22 and again you're over there on the right?
23 what your job duties are?	23 A Um-hum.
24 A My job duties are -- basically entails the planning	24 Q If you -- If you compare one and two, do you see
25 and programming of projects within the district, and	25 that under the operations division on the front page

INTERVIEW OF KHANI SAHEBJAM - MARCH 14, 2008

<p>13</p> <p>1 they've moved traffic safety and operations --</p> <p>2 A Um-hum.</p> <p>3 Q -- over -- Do you know when that happened, brought</p> <p>4 that over to the operations division?</p> <p>5 A About one year ago.</p> <p>6 Q Okay. Do you know why that happened or what was</p> <p>7 involved in making that reorg?</p> <p>8 A Yeah. I wasn't directly involved with doing that.</p> <p>9 That happened after -- I think after the -- when we</p> <p>10 had a new deputy commissioner, when -- Doug Differt,</p> <p>11 the last one. That second one shows vacant; but</p> <p>12 there was a different deputy commissioner there, and</p> <p>13 he left.</p> <p>14 Q Was that Doug Differt?</p> <p>15 A That was Doug Differt, yes.</p> <p>16 Q Okay.</p> <p>17 A When he left Lisa Freese became the deputy</p> <p>18 commissioner, and then reorganizations happened.</p> <p>19 Then there was -- From what I understand, if you</p> <p>20 notice, there's six divisions under the second</p> <p>21 exhibit.</p> <p>22 Q Right.</p> <p>23 A And a couple of those folks retired from the DOT,</p> <p>24 and then that was an opportunity to reorganize. And</p> <p>25 that's -- It turned into five divisions, as you can</p>	<p>15</p> <p>1 A Maintenance, central office is right here in the</p> <p>2 central office.</p> <p>3 Q Okay. Go to the next, the third page of this</p> <p>4 exhibit. And this is the metro district management</p> <p>5 team. Now, this version is October 3rd, '07.</p> <p>6 A Um-hum.</p> <p>7 Q Take a quick look at that. Is this still how you're</p> <p>8 organized?</p> <p>9 A Mostly, yes. But there's a couple of changes. You</p> <p>10 see there's a couple of acting positions?</p> <p>11 Q Okay. Yep.</p> <p>12 A There are different people in there now.</p> <p>13 Q Okay. So the one acting state aid engineer?</p> <p>14 A That is now Greg Coughlin.</p> <p>15 Q And --</p> <p>16 A And then --</p> <p>17 Q Was that the position that you had when you were</p> <p>18 over at --</p> <p>19 A No.</p> <p>20 Q Oh, okay.</p> <p>21 A I had the one on the left that says program</p> <p>22 delivery --</p> <p>23 Q Okay.</p> <p>24 A -- office director that has Sue Mulvihill in there</p> <p>25 now.</p>
<p>14</p> <p>1 see here. And some of the offices were distributed</p> <p>2 through the other divisions.</p> <p>3 Q I see. So it used to be six divisions; now it's</p> <p>4 five?</p> <p>5 A Um-hum. The division that was called Operation</p> <p>6 Safety and Technology Division --</p> <p>7 Q Um-hum.</p> <p>8 A -- that was the one that was divided up amongst</p> <p>9 other --</p> <p>10 Q Okay.</p> <p>11 A -- other divisions.</p> <p>12 Q And brought up over into operations?</p> <p>13 A Yeah, two of those offices, the one in the bottom,</p> <p>14 the traffic security operations office and the</p> <p>15 maintenance office, those are the two that were</p> <p>16 brought into the operations.</p> <p>17 Q I see. I see. Physically where are those located,</p> <p>18 those traffic safety and operations and then</p> <p>19 maintenance?</p> <p>20 A Traffic safety and operations is the regional</p> <p>21 traffic management center, right beside the Waters</p> <p>22 Edge where my office is.</p> <p>23 Q Okay. And where is that?</p> <p>24 A Roseville.</p> <p>25 Q In Roseville. Okay. And what about maintenance?</p>	<p>16</p> <p>1 Q Okay. And then traffic maintenance operations?</p> <p>2 A That's still acting now --</p> <p>3 Q Okay.</p> <p>4 A -- I would assume. The same person is in there.</p> <p>5 Q Okay.</p> <p>6 A Yeah, everything else is accurate.</p> <p>7 Q Okay. Where -- Where on this organ -- org chart do</p> <p>8 the bridge inspector inspections fall under?</p> <p>9 A They fall under the -- From the top, it starts</p> <p>10 through the traffic and maintenance operation --</p> <p>11 Q Okay.</p> <p>12 A -- section, and you go down through the maintenance</p> <p>13 engineer --</p> <p>14 Q Okay.</p> <p>15 A -- Bev Farragher, and then it's within those -- those</p> <p>16 areas.</p> <p>17 Q I guess turn to the last page then. This is an org</p> <p>18 chart called Metro Bridge.</p> <p>19 A Yes.</p> <p>20 Q And if you compare this metro bridge to your metro</p> <p>21 district, where does that metro bridge fall under?</p> <p>22 A Under metro operations engineer -- MnDOT --</p> <p>23 maintenance operations engineer, John Bieniek.</p> <p>24 Q Okay.</p> <p>25 A Yep.</p>

INTERVIEW OF KHANI SAHEBJAM - MARCH 14, 2008

<p style="text-align: right;">17</p> <p>1 Q So metro bridge would be a box under his box?</p> <p>2 A Yeah, within that, yes.</p> <p>3 Q Okay. And then the -- Are the inspectors different</p> <p>4 than the maintenance engineers?</p> <p>5 A Yes. We have -- And I think if you interview</p> <p>6 further -- if you do interview with Bev Farraher or</p> <p>7 anybody else, they can probably explain a lot better</p> <p>8 than I can. But, yes, they -- we have fracture</p> <p>9 critical inspectors, and we have regular</p> <p>10 maintenance -- or bridge workers who do also</p> <p>11 maintenance work.</p> <p>12 Q Okay. I've heard -- I don't know if this is the</p> <p>13 legislative auditor's office or something -- that in</p> <p>14 the outstate districts you might have people who</p> <p>15 both do inspections and maintenance but that that's</p> <p>16 different in the metro?</p> <p>17 A We do that too.</p> <p>18 Q Okay. So you have some people who do both?</p> <p>19 A Do both, yeah.</p> <p>20 Q Okay. Go ahead.</p> <p>21 MR. JOHNSON: Khani, do the fracture</p> <p>22 critical inspectors do both?</p> <p>23 MR. SAHEBJAM: No, I think they mostly do</p> <p>24 those big bridges within the metro area, not the</p> <p>25 smaller ones. The bridge workers --</p>	<p style="text-align: right;">19</p> <p>1 A I don't know.</p> <p>2 Q Okay. And then within the metro bridge it's</p> <p>3 organized by area; right?</p> <p>4 A Right.</p> <p>5 Q Okay.</p> <p>6 A Yeah, those are within -- those are -- each truck,</p> <p>7 our truck stations, that's where --</p> <p>8 Q Oh, okay.</p> <p>9 A -- those folks are located at. Like there's one in</p> <p>10 Eden Prairie, Forest Lake, Spring Lake Park,</p> <p>11 Mendota, and Plymouth.</p> <p>12 Q And the I-35 bridge fell under Spring Lake Park; is</p> <p>13 that right?</p> <p>14 A Yes.</p> <p>15 Q Okay. Now, following up on what Tom just asked, so</p> <p>16 one of the -- the lead inspector, best I've been</p> <p>17 able to tell, on the I-35 bridge was Mark Privula?</p> <p>18 A Um-hum.</p> <p>19 Q And so he's a fracture critical --</p> <p>20 A Well, he's certified --</p> <p>21 Q -- inspector?</p> <p>22 A -- to do the fracture --</p> <p>23 Q Fracture critical.</p> <p>24 A Inspection.</p> <p>25 Q And he's an engineer?</p>
<p style="text-align: right;">18</p> <p>1 MR. JOHNSON: Do they work on the big</p> <p>2 bridges exclusively?</p> <p>3 MR. SAHEBJAM: Yes.</p> <p>4 MR. JOHNSON: So they wouldn't be doing</p> <p>5 maintenance?</p> <p>6 MR. SAHEBJAM: Right. They don't do</p> <p>7 maintenance, no.</p> <p>8 MS. BERGSTROM: Okay.</p> <p>9 MR. SAHEBJAM: Because a lot of those</p> <p>10 guys are engineers, actually. So you know</p> <p>11 engineers. Yeah. One thing to note that we are --</p> <p>12 we're in the process of -- we have been, even before</p> <p>13 the -- before the collapse, to have a bridge</p> <p>14 engineer -- a bridge -- a bridge section within</p> <p>15 metro.</p> <p>16 BY MS. BERGSTROM:</p> <p>17 Q Okay.</p> <p>18 A We didn't have -- you know, we didn't -- we -- to</p> <p>19 bring all of the maintenance and the inspection and</p> <p>20 the planning, programming, and all of that work</p> <p>21 under one -- one person.</p> <p>22 Q Okay. So this metro bridge page, how long has that</p> <p>23 been organized in that manner, do you know?</p> <p>24 A I don't remember.</p> <p>25 Q Okay.</p>	<p style="text-align: right;">20</p> <p>1 A Um-hum.</p> <p>2 Q And he doesn't do maintenance; right?</p> <p>3 A No, he doesn't go fix --</p> <p>4 Q Right.</p> <p>5 A -- guardrails. But he -- yes, he --</p> <p>6 Q Okay.</p> <p>7 A -- does engineering inspection, yeah.</p> <p>8 Q Where would he -- Where would he fall on this org</p> <p>9 chart, either this metro or under the metro bridge?</p> <p>10 Because I don't see his name. Not that you would</p> <p>11 see every name, but I'm just trying to understand.</p> <p>12 A Yeah, those guys are not here within these. These</p> <p>13 are the bridge workers who do other things, even</p> <p>14 snowplowing, they do maintenance --</p> <p>15 Q Okay.</p> <p>16 A -- they do -- they fix bridges if they get hit, you</p> <p>17 know, a guardrail, things like that. That's not in</p> <p>18 this -- in this section.</p> <p>19 Q Okay.</p> <p>20 A I guess maybe you don't have that part of it.</p> <p>21 Q Okay. And then I've also seen the name Arlen</p> <p>22 Ottman, and I know he's been around a long time and</p> <p>23 been on this bridge a lot. Where would he fall in</p> <p>24 this?</p> <p>25 A He's not in the metro district. He works for</p>

INTERVIEW OF KHANI SAHEBJAM - MARCH 14, 2008

<p>21</p> <p>1 central office bridge.</p> <p>2 Q Oh, okay.</p> <p>3 A So he works for Dan Dorgan's area. He is a</p> <p>4 long-time design squad leader in charge of bridge</p> <p>5 design basically.</p> <p>6 Q Okay.</p> <p>7 A He's not an inspector. He basically designs new</p> <p>8 bridges or if there's rehab work to be done on</p> <p>9 bridges and -- And, yes, he was on this -- on this</p> <p>10 bridge when we did the rehab work, did the redesign,</p> <p>11 you know, added railing and some overlay work --</p> <p>12 Q Okay.</p> <p>13 A -- two years ago.</p> <p>14 Q Okay.</p> <p>15 A That was -- Yeah, he was a designer on that.</p> <p>16 Q All right. One of the -- Well, going back to the</p> <p>17 front page, the -- in looking at the metro district</p> <p>18 over here on the very right, somewhere deep, as we</p> <p>19 talked about now, we've got a metro bridge there.</p> <p>20 How -- How often and for kind of what reasons -- and</p> <p>21 this is a broad -- I'm giving you a softball here.</p> <p>22 How often and for what reasons would metro bridge</p> <p>23 talk to central bridge over here under engineering</p> <p>24 services?</p> <p>25 A All the time.</p>	<p>23</p> <p>1 work with them. So it's in two different areas do</p> <p>2 the inspections together.</p> <p>3 Q So let's -- On the I-35 bridge --</p> <p>4 Let's stop for a minute.</p> <p>5 (Off-the-record discussion.)</p> <p>6 MS. BERGSTROM: Okay. Let's go back on.</p> <p>7 BY MS. BERGSTROM:</p> <p>8 Q So on the I-35 bridge inspection team, is there --</p> <p>9 is there an inspector from central office who's part</p> <p>10 of that inspection team?</p> <p>11 A I don't know that if they were --</p> <p>12 Q Okay.</p> <p>13 A -- if they were.</p> <p>14 Q How do they make a determination whether somebody</p> <p>15 from central bridge joins one of the districts on</p> <p>16 their inspections?</p> <p>17 A I don't know when they make that determination.</p> <p>18 Q Okay.</p> <p>19 A I would think is if they need -- if they need help</p> <p>20 with it, based on manpower and how quickly they want</p> <p>21 to get it done. I don't know.</p> <p>22 Q So if the metro bridge team was going out and they</p> <p>23 were short, they would have the ability to call</p> <p>24 central and say could you send somebody out?</p> <p>25 A Yeah.</p>
<p>22</p> <p>1 Q All the time?</p> <p>2 A Yes.</p> <p>3 Q And informally? Formally? For what reasons? Can</p> <p>4 you give some examples?</p> <p>5 A Both informally and formally. They -- We work with</p> <p>6 them both in the -- as you do planning of projects</p> <p>7 and bridges of new, new structures and new roads.</p> <p>8 So working with them in the preliminary designs. We</p> <p>9 are also involved with them all the way through the</p> <p>10 design. And then even during construction when</p> <p>11 you're building the project, we build it or we hire</p> <p>12 a contractor -- we being the district -- and we have</p> <p>13 our inspectors, construction inspectors inspecting,</p> <p>14 making sure everything is being built correctly and</p> <p>15 according to the plans. The bridge office will</p> <p>16 have -- has a person that -- helping our inspectors</p> <p>17 during bridge construction. They're working with</p> <p>18 the contractor and so on. So that's another link</p> <p>19 that we have with those folks.</p> <p>20 And then also during the maintenance</p> <p>21 inspections we work really closely with them</p> <p>22 because, as you know, the bridge office has their</p> <p>23 inspect -- inspectors. That's all they do is bridge</p> <p>24 inspection. They're certified for doing fracture</p> <p>25 critical and different kinds of inspections. So we</p>	<p>24</p> <p>1 Q Okay. But --</p> <p>2 A To go with them.</p> <p>3 Q But there's no written policy that says central has</p> <p>4 to be along or anything like that?</p> <p>5 A If there is I don't know of it.</p> <p>6 Q Okay. You mentioned that you would also be talking</p> <p>7 with central bridge for construction and projects</p> <p>8 and planning, and you said that, for instance, if</p> <p>9 you were going to hire a contractor to do some of</p> <p>10 the work. If a bridge project is going to -- Well,</p> <p>11 and let's talk about interstate -- an interstate</p> <p>12 bridge like the I-35 bridge is going to use a</p> <p>13 contractor. Who papers the contract? Is it done in</p> <p>14 metro or is it done over in central bridge?</p> <p>15 A We -- The district does it.</p> <p>16 Q Okay.</p> <p>17 A We have the contract with them, the department does,</p> <p>18 but --</p> <p>19 Q Do you put out the proposal, the request for</p> <p>20 proposal and everything?</p> <p>21 A Yeah, we -- we're involved with that. But some of</p> <p>22 the functions are centrally. Not the bridge office,</p> <p>23 but our contract construction office here help us</p> <p>24 put the contract together and does the advertising,</p> <p>25 and that's all done centrally.</p>

INTERVIEW OF KHANI SAHEBJAM - MARCH 14, 2008

25	27
1 Q Okay.	1 bridge office.
2 A All the districts have their projects done through	2 Q Okay. So then when the university is going to act
3 here, electronic bidding. So it's done mostly here	3 as the consultant and there's a contract that
4 with help from the district.	4 governs that relationship, central bridge office
5 Q Okay. And then when the -- when you're at the	5 negotiates that contract with them?
6 decision-making process where you're choosing	6 A Right.
7 between the contractors, who makes those decisions?	7 Q Okay. And then did you say construction contract --
8 A That is kind of depending on the type of the	8 A Yeah.
9 contract. Most of our contracts are what's called a	9 Q -- as opposed to a consultant contract?
10 design/bid/build where you go through a bidding	10 A Yeah. Construction I meant -- where I was going
11 process and you award the contract to the low	11 with it was a new project that you're going to
12 bidder. And that is done publicly right here in the	12 build. You tear up a piece of road or a bridge, and
13 cafeteria at central office. The bids are opened;	13 then you're going to build a new one. It's a new
14 and the low bidder gets the job, the apparent low	14 project, construction --
15 bidder. And then you need to go through paperwork	15 MS. FREESE: Or even --
16 and make sure everything is in place, all the bonds	16 MR. SAHEBJAM: -- after you build it.
17 and --	17 MS. FREESE: -- a rehabilitation of --
18 Q Okay.	18 MR. SAHEBJAM: Or even a rehabilitation
19 A -- so on. And then the project gets awarded based	19 of a project where you're actually going to go do
20 on that.	20 stuff, jackhammer things and build new things,
21 MS. FREESE: Could you clarify that	21 that's -- that's done with this method that I was
22 question a little bit because I --	22 telling you earlier.
23 MS. BERGSTROM: Sure. Sure. Tell me	23 BY MS. BERGSTROM:
24 what you thought was --	24 Q Okay. The design/bid/bill (sic)?
25 MS. FREESE: Were you speaking about	25 A Build, yeah.
26	28
1 construction contracts or consultant contracts?	1 Q When do you -- At the metro district how do you
2 MS. BERGSTROM: Oh, I can -- Let's talk	2 determine whether you need an outside contractor to
3 about them both.	3 do a project, a construction, new or rehabilitation,
4 BY MS. BERGSTROM:	4 versus staffing it internally?
5 Q Well, and let's talk about this bridge so that we're	5 A Are you talking construction now again?
6 not just talking hypothetically. So in 1998 or so	6 Q Yeah, construction.
7 when the University of Minnesota was retained to do	7 A Construction. Most of our construction we hire
8 the study on the I-35 bridge -- Let's go back to the	8 contractors to do. We do have some staff
9 beginning. The decision to hire a con -- Or the	9 internally, our maintenance folks forces, who do
10 decision that you needed to hire a consultant like	10 certain minor pothole fixing, you know, pothole
11 the University of Minnesota, is that something that	11 repair, guardrail repair. We have crews that can do
12 emanates from the metro district or from the central	12 that.
13 bridge office?	13 Q So it's not --
14 A Central bridge office.	14 A And so --
15 Q Okay. And why would that -- Why was that? I mean,	15 Q -- a threshold. It's not a scope of project. Is it
16 was there a recommendation from metro or do you	16 just availability?
17 know?	17 A Well, yeah, mostly if it gets -- depending on the
18 A I don't know exactly how -- what led to that. But	18 size. Most of the time we hire it out. If we can
19 normally, again, our -- our engineering staff works	19 do it internally with our crews, then we do it.
20 with the -- with our -- with the central office, and	20 Q Is there any written policy at MnDOT to talk about
21 then as experts they decide that you want to have a	21 when you use an outside contractor versus when you
22 -- hire a consultant to take another look at it or	22 use an inside crew?
23 the university. And that's -- And those are	23 A I don't know if there's a policy in that regard.
24 normally those technical contracts where they do	24 Again, our -- My maintenance manager might know if
25 analysis. Engineering analysis are done through the	25 there is such a thing. It -- It's based on two

INTERVIEW OF KHANI SAHEBJAM - MARCH 14, 2008

29

1 things. One is how big -- how big it is; can you
 2 even take it on. And how complicated it is. You
 3 know, certain things we don't have the ability to
 4 do; then we hire it out. And sometimes it could be
 5 manpower related also.

6 MS. FREESE: Particularly in the metro
 7 area those decisions get based on how quickly the
 8 work needs to get done for traffic management as
 9 well. And so in many cases we have the technical
 10 expertise to do jobs within our own resources, but
 11 there's not enough folks to get it done in an
 12 expedited manner. So then that might also influence
 13 the decision as to the need to contract out.

14 MS. BERGSTROM: Are you aware, Lisa, is
 15 there -- if there's any written policy on the use of
 16 outside contractors versus doing it internally?

17 MS. FREESE: I am not familiar with one,
 18 but there -- that's not to say -- We have many
 19 policies pertaining to things and that some of, you
 20 know, the people that do the projects day to day are
 21 familiar with. So that would be better to direct
 22 those kinds of questions specifically --

23 MS. BERGSTROM: Okay. To like Bev or
 24 somebody like that?

25 MS. FREESE: To Bev. Or -- Yeah, to Bev

30

1 or to even the bridge office.

2 BY MS. BERGSTROM:

3 Q Okay. Khani, in the two years that you've been the
 4 head of -- or the district engineer for metro, have
 5 you had in the metro outside of the bridge any major
 6 safety issue arise? And by that I mean not the
 7 safety of the workers when they're out doing the
 8 guardrails or -- you know, but like a major safety
 9 issue that would be like a bridge failure or a
 10 something of that gravity in the two years?

11 A No, as I think -- Not that I can remember.

12 Q Okay. How about -- How about in your tenure at
 13 MnDOT, does anything come to mind, in your various
 14 positions?

15 A If it was a bridge collapse, you would hear it in
 16 the news.

17 Q Sure.

18 A You guys would know it too. But, no, I cannot think
 19 of any.

20 Q Okay. Oh, one question I had was as between the
 21 metro district and the central bridge office, are
 22 there any committees or tasks force that are kind of
 23 jointly populated by both of them that you know of?

24 A I don't know. We don't do standing committees
 25 like -- anymore, you know. If you need something

31

1 done, you create a task force. But I don't know.
 2 There might be. I can't think of it.

3 Q Are there any task force that you're sitting on now?
 4 Are there any current ones that you're working on?

5 A Boy, I'm on a lot of things.

6 MS. FREESE: I would ask for
 7 clarification --

8 MR. SAHEBJAM: Yeah.

9 MS. FREESE: -- about what kinds of
 10 things you're --

11 MR. SAHEBJAM: Yeah, because I'm involved
 12 with so many things.

13 BY MS. BERGSTROM:

14 Q Okay. So let's talk about that a little bit. Is
 15 that in your capacity as the district engineer or --
 16 I mean, for instance, as between the districts, do
 17 you district engineers have kind of standing monthly
 18 meetings or something or...

19 A Yes. Yes, we do. Within the operations division we
 20 have monthly meetings. So that's --

21 Q And I would assume those cover a wide variety of
 22 topics?

23 A That's everything, yes.

24 MS. FREESE: They have a generally
 25 two-day monthly meeting or a day-and-a-half type of

32

1 monthly meeting, plus they have weekly video
 2 conferences.

3 MR. SAHEBJAM: I'm glad you came, Lisa.

4 MS. FREESE: I know Khani's calendar
 5 better.

6 MR. SAHEBJAM: Yes, she does.

7 BY MS. BERGSTROM:

8 Q Has there been a change in your mind -- Since moving
 9 traffic safety and operations and maintenance over
 10 to operations compared with the second page of the
 11 org chart, has there been any change in your mind
 12 about how those divisions interact with the
 13 districts? Better? Same?

14 A I think it's -- From my point of view, it's better
 15 with the traffic and maintenance being with us in
 16 those monthly meetings that Lisa was saying, those
 17 weekly video conferences, because we work very
 18 closely with those guys. Not that we didn't have a
 19 good relationship, close working relationship with
 20 them before; but now they're under one umbrella.

21 So --

22 Q Okay. So --

23 A So I think --

24 Q -- they participate --

25 A -- it's working better.

INTERVIEW OF KHANI SAHEBJAM - MARCH 14, 2008

<p style="text-align: right;">33</p> <p>1 Q -- now in all those monthly --</p> <p>2 A In those --</p> <p>3 Q -- and weekly --</p> <p>4 A -- district meetings, yes.</p> <p>5 Q And before they were probably on an as-needed basis?</p> <p>6 A Well, they were always part of the -- part of the</p> <p>7 operations. So that -- Safety is not -- You know,</p> <p>8 traffic safety that you see, that's not so much --</p> <p>9 that's not bridge safety, you know, bridges or</p> <p>10 anything.</p> <p>11 Q Right.</p> <p>12 A That's basically traffic --</p> <p>13 Q Traffic safety?</p> <p>14 A -- related. Yeah.</p> <p>15 Q Okay. I think that the legislative auditor asked</p> <p>16 this question, maybe not of you, but some of the</p> <p>17 others in the metro district. Do you feel like the</p> <p>18 metro district, all of your 1,200 employees, do you</p> <p>19 feel like you're adequately staffed, Khani? Do you</p> <p>20 have enough people?</p> <p>21 A I think -- I think -- At this point I think we are.</p> <p>22 I think we -- we have become a lot more efficient in</p> <p>23 the past few years. We have gotten smaller, and</p> <p>24 that's because we do things a lot more smarter now</p> <p>25 and better equipment and better technology and</p>	<p style="text-align: right;">35</p> <p>1 Q It's probably not more than 10 --</p> <p>2 A No.</p> <p>3 Q -- or 15 --</p> <p>4 A No.</p> <p>5 Q -- or 20?</p> <p>6 A No.</p> <p>7 Q Okay. And how many -- I know the metro district is</p> <p>8 big; but how many fracture critical bridges are</p> <p>9 there in the metro, do you know? Again ball park.</p> <p>10 A Yeah. Statewide we have about 200. I don't know</p> <p>11 how many of them are metro. I'm sorry.</p> <p>12 Q Okay.</p> <p>13 MS. FREESE: Statewide that's on?</p> <p>14 MR. SAHEBJAM: Trunk highway.</p> <p>15 MS. FREESE: Trunk highway.</p> <p>16 MR. SAHEBJAM: The trunk highway we have</p> <p>17 a hundred -- 97 --</p> <p>18 BY MS. BERGSTROM:</p> <p>19 Q Okay.</p> <p>20 A -- a hundred, something like that.</p> <p>21 Q So do each of the districts have fracture critical</p> <p>22 inspectors or do they kind of share them?</p> <p>23 A No -- I don't know. District 6 may have their own.</p> <p>24 They have a lot of bridges. But most districts</p> <p>25 utilize the central office expertise.</p>
<p style="text-align: right;">34</p> <p>1 things like that. So -- You'll probably get a</p> <p>2 different answer from anybody you ask, you know,</p> <p>3 about whether we have enough people or not.</p> <p>4 We have a great -- We have the ability to</p> <p>5 go out and hire people such as consultants. With</p> <p>6 our design work, we do some of it in-house; some of</p> <p>7 it we hire consultants. Maintenance work, I'm a</p> <p>8 believer it needs to be done with our own internal</p> <p>9 forces as much as you -- snow and ice removal and</p> <p>10 things like that. So that work I'm committed to</p> <p>11 keep in-house and -- So I think we're doing okay.</p> <p>12 Q Okay. Let's talk a little bit about bridge</p> <p>13 inspections and maintenance. The -- You talked a</p> <p>14 little bit about there's -- there are different ways</p> <p>15 to be a bridge inspector or different criteria, if</p> <p>16 you will, and that you have these certain inspectors</p> <p>17 who are the fracture critical trained --</p> <p>18 A Um-hum.</p> <p>19 Q -- Inspectors. How many of those does the metro</p> <p>20 district have?</p> <p>21 A I don't want to give a number. I don't remember.</p> <p>22 Q Can you just ball park it? I mean, is it --</p> <p>23 A A handful.</p> <p>24 Q A handful? Okay.</p> <p>25 A Yeah.</p>	<p style="text-align: right;">36</p> <p>1 Q Oh, okay. So rather than come to metro and borrow</p> <p>2 somebody, they'll go to central office?</p> <p>3 A We do have equipment that we share. We have snooper</p> <p>4 trucks. It's like a big cherry picker that we</p> <p>5 have -- and District 6 has one too I think; District</p> <p>6 6 is Rochester -- that we share amongst -- for all</p> <p>7 kinds of inspection, whether it's fracture critical</p> <p>8 or -- fracture critical bridge or a nonfracture</p> <p>9 critical bridge that we share resources with the</p> <p>10 districts.</p> <p>11 Q Obviously I'll talk to the inspectors more about</p> <p>12 what they do. But let's take the I-35 bridge and</p> <p>13 say Mark Privula who is out there. And as I</p> <p>14 understand the process, he goes out over a three,</p> <p>15 four-day period with a team of people, and they</p> <p>16 inspect the bridge. And they will come back, and at</p> <p>17 a certain point when they're done inspecting all the</p> <p>18 bridges, they -- they commit their inspection</p> <p>19 findings to a written report. At what level -- At</p> <p>20 what point in time might you be involved in that</p> <p>21 process as the district engineer?</p> <p>22 A I -- Normally I don't get involved reading every</p> <p>23 report. I would get involved if -- if there's</p> <p>24 something that there -- they would be concerned</p> <p>25 with, something serious --</p>

37

1 Q And so --

2 A -- I'd be concerned about that.

3 Q -- If Mark or one of the inspectors saw something

4 serious, how would that find its way up to you?

5 Would it come through --

6 A Yeah, it would come --

7 Q -- Bev or --

8 A Yeah.

9 Q Okay.

10 A Yeah, we would sit down together with Bev of course.

11 If it's -- Since it's bridge related -- If it's a

12 bridge-related thing, obviously he would have the

13 central -- he would be working with the central

14 office inspectors. So they would be all part of the

15 team.

16 Q Who -- Help me just with logistics. Who would call

17 that meeting?

18 A I don't know. Mark.

19 Q Okay.

20 A Mark would call it.

21 Q Well, let's not talk in hypotheticals. Have you

22 ever done that? Have you ever sat down with Mark

23 and -- and not just on the I-35 bridge, but on any

24 bridge, Mark and Bev and central office and had a

25 meeting?

38

1 A Yes, I have.

2 Q Okay. And what kinds of things would cause you to

3 have that meeting? What kinds of concerns would

4 result in that?

5 A If -- If there was the -- If they feel that the

6 project needs -- needs attention, needs to be

7 expedited, you know, for certain work.

8 Q So, again, the timing is going to be part of that;

9 it's something that maybe wasn't on the radar and

10 now it needs to be on the radar?

11 A (Witness moved head affirmatively.)

12 Q Okay. You said you've been a part of those types of

13 meetings. Can you remember any specifics? Can you

14 give me an example of one?

15 A Huh-uh.

16 Q Okay.

17 A No.

18 Q Okay. In the inspection reports back on the I-35

19 bridge, in each of the fracture critical inspections

20 there is a page of recommendations. Well, let's go

21 back. So Mark puts together that report or somebody

22 on the team puts together that report, and Mark

23 signs it. Where does that inspection report go

24 then? What does he do with it?

25 A As far as I know it goes in the file.

39

1 Q Okay. Who -- Who reads that inspection report?

2 A I would say, I don't know, the bridge office,

3 central bridge office are the ones who would read

4 that.

5 Q So --

6 A It may --

7 Q -- It goes in his file, and a copy also gets sent to

8 central bridge?

9 A Yes. And they -- they read it and they decide

10 together. I mean, you just don't do inspections and

11 then write a report and put it away. Obviously it

12 says some things. It makes recommendations. And

13 depending on what the recommendation is, out of that

14 recommendation some things might be you're going to

15 fix it right now or we're going to fix it next --

16 next year or we should be watching this; we should

17 be monitoring. And they sit down as a group,

18 technical experts, and make those decisions.

19 Q Okay. Let's talk a little more specifically about

20 that. So there's a page of recommendations in the

21 inspection report. Who -- Who between metro and

22 central bridge or anybody else for that matter is

23 kind of charged with tracking the recommendations

24 and whether they get on a list or don't get on a

25 list?

40

1 A I don't know who's charged with it. But if it's

2 something really serious that needs to happen, our

3 folks are -- our maintenance section would program

4 the -- would recommend for the bridge to be

5 programmed. Obviously, again in conjunction with

6 the bridge office, they agree, okay, we need to fix

7 this part, and here's the fix, and we got to do it

8 this summer. Then it gets programmed; and our

9 maintenance section, which would be that bridge

10 office that you saw, bridge, they would be the ones.

11 MS. FREESE: The -- I don't know if it's

12 appropriate for me to step in and just --

13 MS. BERGSTROM: Sure.

14 MS. FREESE: -- say from my perspective,

15 when I worked at metro, those decisions occur at a

16 level that's -- that's underneath maintenance, but

17 it's coordinated with a bunch of different people.

18 And usually kind of key people would be like Jack

19 Pirkel, Bev, those folks would be coordinating. And

20 it would occur at that level they would be

21 coordinating with the bridge office having

22 discussions and then prioritizing their work or

23 external work within, you know, the -- And if there

24 are issues or challenges that they have, they would

25 bring it to the attention of the people like Khani

INTERVIEW OF KHANI SAHEBJAM - MARCH 14, 2008

41	43
<p>1 or the program delivery people about needing to</p> <p>2 switch priorities or move a project up or move it</p> <p>3 back based on the findings of those inspections.</p> <p>4 So those folks are pretty accustomed to,</p> <p>5 once they complete an inspection -- and I think when</p> <p>6 you finally talk with them, you'll understand that</p> <p>7 better; that they just go about their business of</p> <p>8 figuring out where to go with the particular items</p> <p>9 that need to be addressed. It's pretty automatic.</p> <p>10 MS. BERGSTROM: Okay. Because presumably</p> <p>11 Bev and Jack PirkI and everybody have a list of</p> <p>12 projects A to Z; and then this inspection report</p> <p>13 comes in, and all the sudden you got double A,</p> <p>14 double B, you know.</p> <p>15 MS. FREESE: Um-hum.</p> <p>16 MS. BERGSTROM: So they're trying to</p> <p>17 figure out priorities.</p> <p>18 MS. FREESE: Um-hum.</p> <p>19 MS. BERGSTROM: But what you're</p> <p>20 saying that happens kind of on an</p> <p>21 operationally-based basis --</p> <p>22 MS. FREESE: Um-hum.</p> <p>23 MS. BERGSTROM: -- as opposed to some</p> <p>24 formalized process; is that fair? I mean,</p> <p>25 formalized in a sense there's no written policy that</p>	<p>1 A They would be better to answer that.</p> <p>2 Q You know, like a Bev, who's a maintenance engineer,</p> <p>3 so does she get together with the maintenance</p> <p>4 engineers in the other districts the same way you</p> <p>5 do --</p> <p>6 A Um-hum.</p> <p>7 Q -- at the district level?</p> <p>8 MS. FREESE: Yeah.</p> <p>9 MR. SAHEBJAM: Yeah. They have -- They</p> <p>10 have occasion -- I don't know how often they meet.</p> <p>11 MS. BERGSTROM: Okay.</p> <p>12 MR. SAHEBJAM: But they have manage --</p> <p>13 maintenance meetings.</p> <p>14 MS. FREESE: Many of our functional</p> <p>15 groups in the department like that -- we would</p> <p>16 consider maintenance to be like a functional area --</p> <p>17 they have -- they range from either quarterly to</p> <p>18 monthly meetings, depending on the type of group.</p> <p>19 But they do have ongoing meetings, either in the</p> <p>20 form of face-to-face meetings or through our video</p> <p>21 conference capabilities in the department.</p> <p>22 BY MS. BERGSTROM:</p> <p>23 Q Let me ask this. I would imagine that the metro</p> <p>24 people have very different challenges than maybe</p> <p>25 somebody in outstate Minnesota because of just the</p>
42	44
<p>1 tells you exactly how you're supposed to go about</p> <p>2 it.</p> <p>3 MS. FREESE: Right.</p> <p>4 MS. BERGSTROM: Yeah. Okay.</p> <p>5 MR. SAHEBJAM: Yeah. Because every</p> <p>6 situation is different, so you would treat it</p> <p>7 differently.</p> <p>8 BY MS. BERGSTROM:</p> <p>9 Q And, Khani, is that the process, do you know, that</p> <p>10 they follow in the other districts as well?</p> <p>11 A I don't know how they do it. I think they probably</p> <p>12 rely more on the central office expertise is what I</p> <p>13 think.</p> <p>14 Q So tracking recommendations and the follow through</p> <p>15 on recommendations, that's not something that has</p> <p>16 been a big discussion item at your monthly or weekly</p> <p>17 meetings historically?</p> <p>18 A Not for the district engineers, no.</p> <p>19 Q Okay.</p> <p>20 A It may be -- may be amongst the staff level, the</p> <p>21 experts, you know, our guys and bridge office folks</p> <p>22 maybe they...</p> <p>23 Q Talk about it?</p> <p>24 A Yeah.</p> <p>25 Q Okay.</p>	<p>1 shear traffic and intensity of transportation issues</p> <p>2 down here. So if -- Do they go outside of MnDOT --</p> <p>3 That's pretty vague. But like a Bev, rather than at</p> <p>4 the district level, does she interact with</p> <p>5 maintenance engineers in other states' metro areas</p> <p>6 so that she has more comparable information sharing?</p> <p>7 Do you know what I mean?</p> <p>8 A Yeah.</p> <p>9 Q Okay.</p> <p>10 A With the comparab -- With other state --</p> <p>11 Q Right. That somebody in Milwaukee is going to have</p> <p>12 more one-on-one information for her than somebody</p> <p>13 out in Morris, Minnesota, for instance.</p> <p>14 A Yeah. I don't know.</p> <p>15 Q Okay.</p> <p>16 A I don't know if she has done that or -- I do it at</p> <p>17 my level.</p> <p>18 Q Okay.</p> <p>19 A I'm involved nationally with many things. Not</p> <p>20 bridges, but operations and traffic. So I would</p> <p>21 think a lot of our expert folks have -- we do have</p> <p>22 great national presence in many things --</p> <p>23 Q Okay.</p> <p>24 A -- many different functions in different areas,</p> <p>25 whether it's traffic or maintenance.</p>

INTERVIEW OF KHANI SAHEBJAM - MARCH 14, 2008

45	47
1 Q Right. So what -- what national initiatives are you	1 MR. SAHEBJAM: Exhibit 3.
2 involved in?	2 BY MS. BERGSTROM:
3 A Oh, I'm a member of a commit -- AASHTO committee on	3 Q Uh-hum. Khani, Exhibit 3 is a document that Dan
4 operations, traffic operations and maintenance. The	4 Dorgan gave me a couple of weeks ago. And this is a
5 official name is system operations and maintenance.	5 critical deficiency -- technical memorandum
6 It's a subcommittee. Includes people like myself	6 regarding critical deficiencies. If you go to the
7 and deputy commissioner levels. So...	7 second page, about two-thirds of the way down the
8 Q In those -- In those AASHTO committees and	8 line there is the definition of engineer as it's
9 subcommittees, are those all primarily state	9 going to be used in this technical memorandum. And
10 employees or do outside consultants sit on those	10 it says, The engineer is defined as the supervising
11 too?	11 registered professional engineer of the entity
12 A They have some outside consultants that act as	12 listed on the MnDOT bridge inventory as having
13 facilitators.	13 report jurisdiction for the bridge.
14 Q Okay.	14 I'm not sure I know what that means. But
15 A Ours does. But they're --	15 who would be the engineer, say, for the I-35W
16 MS. FREESE: But in terms --	16 bridge? I mean, it does say, In most cases this
17 MR. SAHEBJAM: -- mostly --	17 will be the MnDOT district bridge engineer.
18 MS. FREESE: -- of committee	18 A Um-hum.
19 membership --	19 Q And who is that? Who is that for metro?
20 MR. SAHEBJAM: Committee membership is	20 A Well, we're in the process -- As I mentioned
21 the agencies.	21 earlier, we're in the process of getting one. But
22 BY MS. BERGSTROM:	22 that's -- according to that org chart it would be --
23 Q Agencies? Okay.	23 Well, it's not -- you don't have the org chart.
24 MS. FREESE: Agency. Maybe -- Maybe just	24 Q Okay.
25 to kind of explain a little bit, oftentimes because	25 A Probably Jack Pirkl.
46	48
1 we have the -- we have only so much ability to	1 Q Okay. It's not you?
2 engage our staff in external activities with other	2 A No.
3 states, we have -- we try to cover all the bases	3 Q No.
4 within the department and have the different	4 A No.
5 functional areas covered by having experts involved,	5 Q And you wouldn't be the engineer that they're
6 our experts. And generally those experts tend to be	6 talking about?
7 in our central offices, but sometimes we have	7 A Personally I would love to do bridges. If you look
8 metro-type employees engaged in those activities.	8 at my career, it's bridges. But time does not allow
9 But -- And then the idea between --	9 me to do that. So...
10 behind their involvement is that they're supposed to	10 Q And the only reason I ask is that there are then
11 be sharing that knowledge and also serving as the	11 responsibilities in this technical memorandum for
12 point person for our district staffs -- our	12 the bridge inspector and for the engineer and then
13 district's staffs to contact and explore. So that	13 the MnDOT bridge office if there was, in fact, a
14 system's pretty well set up. So oftentimes the	14 critical deficiency found. And I'm trying to get to
15 expert maybe from the maintenance area that's	15 who those people might be.
16 involved on an AASHTO National Committee then is a	16 A Well, you know, with this specific bridge you're
17 part of these functional group meetings that occur	17 talking -- that's why I was struggling with
18 on a month-to-month basis to share the knowledge	18 answering it, because, you know, it went from
19 that they learn through these national venues.	19 discussions all the way to Dan Dorgan and Gary
20 So...	20 Peterson, that office, they were all part of
21 MS. BERGSTROM: Okay. Let's do this.	21 decision making, became a team effort, you know, as
22 Let's mark this.	22 they talk about, you know, bridge -- along with the
23 (Whereupon, Exhibit 3 was	23 consultants. So, you know, you have a big group
24 marked for identification by the	24 there.
25 court reporter.)	25 If you want to know where the -- where

INTERVIEW OF KHANI SAHEBJAM - MARCH 14, 2008

49	51
1 the buck stops in metro, I guess it would be me.	1 A I don't know if there's a specific list.
2 But I --	2 MS. FREESE: Critical deficiencies not
3 MS. FREESE: Well, Khani, maybe it would	3 critical elements. Like if they find a critical
4 be helpful I think if you, you know, look at this.	4 deficiency in the field.
5 And I'm sure that if you talked to our inspections	5 BY MS. BERGSTROM:
6 on our maintenance side, they have figured out --	6 Q Is there a log of those, do you know?
7 MS. BERGSTROM: Who it is.	7 A I have no idea.
8 MS. FREESE: -- who the roles and	8 Q Okay. Okay. Do you know whether there was ever a
9 responsibilities --	9 critical deficiency -- as it's defined here, which
10 MS. BERGSTROM: Right. And it --	10 Lisa read, was there ever a critical deficiency
11 MS. FREESE: -- are on here. Because	11 finding on the I-35W bridge?
12 this pertains to -- a critical deficiency is defined	12 A If there was I was not involved with it.
13 as any condition discovered during a scheduled	13 Q Okay. Back when the University of Minnesota was
14 bridge inspection that threatens public safety and	14 involved with the bridge, did you have any role in
15 if not properly corrected could result in collapse	15 any of that --
16 or partial collapse of a bridge.	16 A No.
17 MS. BERGSTROM: Right.	17 Q -- work? Okay. Were you aware that HNTB was
18 MS. FREESE: And, you know, just because	18 working with the University of Minnesota on that
19 Khani -- you handed this to him without him	19 bridge?
20 having --	20 A No.
21 MS. BERGSTROM: Correct.	21 Q Okay. Okay. And did you have any involvement with
22 MS. FREESE: -- the benefit of reading	22 URS being hired as a consultant on the bridge?
23 the entire policy, I think that you'll find that	23 A No.
24 this is defined by the maintenance staff, and	24 Q Okay. Have you since the bridge collapse had an
25 they'll have -- they'll be able to answer that	25 occasion to go back and review the inspection
50	52
1 question to you clearly.	1 reports on the bridge? I mean, presumably you
2 MS. BERGSTROM: And that's fine. And	2 didn't see them beforehand because you said I
3 that's fair too. I'm just trying to figure out who	3 wouldn't have seen them.
4 and what he --	4 A Right.
5 MR. SAHEBJAM: Yeah.	5 Q But since the bridge collapse, have you been back
6 MS. BERGSTROM: -- knows about it. And	6 through them at all?
7 if you don't, you don't.	7 A Not in depth, no.
8 MS. FREESE: Yeah.	8 Q Okay.
9 MS. BERGSTROM: That's fair.	9 A Again, I would have loved to, but I don't have the
10 MR. SAHEBJAM: That's the thing, district	10 time that that takes.
11 engineer is probably a different person depending on	11 Q Okay. Do you at the -- At the metro district level
12 the situation --	12 have you changed any policies since the bridge
13 BY MS. BERGSTROM:	13 collapse within the metro district?
14 Q Right. Right.	14 A Like I mentioned earlier I think, even before the
15 A -- what you got going. So...	15 collapse I had conversations with our maintenance
16 Q Do you know -- And, again, whether you know or you	16 side to have -- because I'm a bridge engineer, I
17 don't know -- You know, if you don't know, you can	17 wanted to have our -- have a bridge section, bridge
18 just say you don't know.	18 engineer work in conjunction with the central office
19 A Yeah.	19 bridge, with Dan Dorgan's group. And as a matter of
20 Q But is there a crit -- Do you keep a critical	20 fact, they welcome it. They want us to have it,
21 deficiency log at the metro district, do you know?	21 because it's -- otherwise it's -- the work load, you
22 A A critical -- A log of critical --	22 know, is higher on their folks, and help us with the
23 Q Critical deficiencies.	23 construction efforts and also the inspecting work.
24 A -- elements?	24 So this collapse put it in a fast gear. So we are
25 Q Yeah, of -- of --	25 in the process of having it. And that would be a

INTERVIEW OF KHANI SAHEBJAM - MARCH 14, 2008

53

1 technical person and a manager both --

2 Q Okay.

3 A -- that would understand. And that person, once

4 that person is in place -- because the person would

5 be both technical -- technical expert and also a

6 manager that can make -- make those decisions

7 whether it's a complicated bridge or a simple

8 bridge.

9 MS. BERGSTROM: Okay. Why don't we take

10 a little break?

11 (Recess.)

12 BY MS. BERGSTROM:

13 Q All right. Khani, we're -- Tom I think is going to

14 ask some questions about funding and how you pay for

15 all these things.

16 A Um-hum. Sure.

17 MR. JOHNSON: So it may be less than a

18 half hour.

19 MR. SAHEBJAM: That's good. I'll be all

20 right I think. I have a noon appointment, so I'll

21 be okay.

22 MR. JOHNSON: You'll be fine.

23 EXAMINATION

24 BY MR. JOHNSON:

25 Q Khani, let's start with the repair work that was

54

1 done to the bridge -- or was being done to the

2 bridge in 2007.

3 A Right.

4 Q Do you recall how much that repair work cost?

5 A Well, it wasn't just the bridge. It was bridge and

6 roadway.

7 Q Correct.

8 A I did this in the press conference. I mentioned the

9 numbers at the press conference after the collapse.

10 And I forget. I want to say \$9 million. And,

11 again, we can clarify that with our other folks that

12 you might talk to. But most of it was for the

13 roadway costs, and a smaller portion was for the

14 actual brick repair work.

15 Q Does the roadway cost come from a separate funding

16 source than -- Does the cost for the roadway work

17 come from a separate -- from a funding source

18 different than the bridge repair work?

19 A No. It's base -- Both of them are trunk highway

20 funds, state trunk highway funds. And so it's

21 basically the same pot of money.

22 Q Would there be any --

23 A It may be --

24 Q -- federal moneys involved?

25 A It could be. I don't know if this one had any

55

1 federal money in it or not. Normally you don't have

2 federal money on small area repair work. It's on

3 bigger projects. Within our -- Within our district

4 we have different set-aside, bridge dollars, you

5 know, maintenance, road -- road funds. So within

6 the district we may have different set-asides that

7 we use. But it's basically the state trunk highway

8 dollars for the metro district.

9 Q Tell us how that 9 million got budgeted so that you

10 could do that work in 2007.

11 A Well, at some point in the -- coming up to that date

12 in that summer, the project was -- the project gets

13 scoped by our materials -- by our engineers, the

14 pavement engineers and the bridge engineers. They

15 get together in a scoping meeting. They decide,

16 well, we're going to do this stretch of pavement; it

17 needs fixing. And the bridge guys are in the same

18 meeting say, well, the bridge -- we need to fix the

19 deck on the bridge; so let's just do it all on one

20 contract. And then -- And then they fund the

21 project that way. So you have a cost estimate that

22 actually gets prepared, you know, okay, a couple

23 million for the bridge and so much for the roadway.

24 And then we set aside those dollars for that -- for

25 that contract.

56

1 Q And when you say we set aside those dollars, are you

2 talking about the metro division --

3 A Yeah.

4 Q -- or --

5 A The metro district. Yeah. We just say, okay, so

6 many million dollars is going to go to this project,

7 which is going to get advertised, let next -- next

8 August or whatever. And so that money is kind of --

9 is dedicated to that project, and then the project

10 goes to advertising. You advertise. You get a

11 contractor on board. And then we have inspectors on

12 the job that inspect the construction. And as the

13 contractor does its work, we pay them.

14 Q How much lead-up time do you need to be able to put

15 a \$9 million project into your budget?

16 MS. FREESE: We have a four-year STIP

17 process. And generally the outer years of the STIP,

18 there's still what we call set-asides that have

19 unnamed projects in them. And as you get down to

20 that final year of the STIP, those set-asides tend

21 to be -- projects are identified in those. And

22 we've been doing more work to try -- at least when I

23 was at the metro district, to try to move further

24 out the years that we have projects scoped. Instead

25 of being the last two years, they're trying to get

INTERVIEW OF KHANI SAHEBJAM - MARCH 14, 2008

57

1 better work done on years three and four and then
 2 candidate projects. But in the end, if a project
 3 that was maybe out here as a candidate project,
 4 after an inspection or after a pavement review in
 5 the spring it's determined that, well, last year it
 6 wasn't in as bad of shape as we thought it was going
 7 to be in this year, year four, but it needs to move
 8 up, there's flexibility within the dollars.

9 Projects get shifted around based on
 10 those priority needs. We depend on our technical
 11 experts in the metro district, our materials
 12 engineer, input from the bridge staff to help
 13 facilitate those shifts that may need to occur in
 14 which year a project happens. And on a project
 15 that's a maintenance project like the bridge
 16 project, generally it can be put together, if it
 17 doesn't require extensive environmental
 18 documentation or right-of-way acquisition, within a
 19 few months for letting. But if it requires other
 20 documentation, right-of-way, that's when time lines
 21 get stretched out quite a bit further. But a
 22 typical maintenance project does not have those
 23 elements, so they can be put together in a more
 24 expedited fashion.

25 MR. JOHNSON: Would the 2007 bridge work

58

1 then have appeared in the STIP back in 2004; is that
 2 what we're saying?

3 MS. FREESE: You could check. It may or
 4 may not. It may have been still identified as a
 5 set-aside at that particular point in time.

6 MS. BERGSTROM: All right. Tell me what
 7 a set-aside means.

8 MS. FREESE: It's money that's set aside
 9 for bridge, money that's set aside for pavement, and
 10 then at some point then they become an identified
 11 project.

12 MS. BERGSTROM: As opposed to a potential
 13 project, which is we know we got to redeck, so
 14 redeck is a candidate, versus, oh, man we had a
 15 particularly bad winter; now all the sudden we have
 16 to do something that needs some of this set-aside
 17 money?

18 MS. FREESE: Well, that's maybe not quite
 19 a fair assessment of it.

20 MS. BERGSTROM: Okay.

21 MS. FREESE: You know, we have a
 22 four-year programming process. And then we have
 23 certain targeted amounts that we hope to spend in
 24 particular areas that are identified for more of
 25 these routine-type jobs, not major, major projects

59

1 but more routine-type jobs that are more
 2 categorical, like how much we want to spend on
 3 pavements, how much we want to spend on bridges, how
 4 much we want to spend on traffic, on fixing traffic
 5 signals, et cetera. And so we have pots of money
 6 that what our folks that scope projects do, they'll
 7 sit down and say, okay, from traffic they may have
 8 this traffic intersection or this intersection they
 9 want to fix; and then the pavement guys will sit
 10 down and say, well, there's some pavement issues,
 11 or, if there's a bridge nearby, they'll say we have
 12 a bridge that needs to be fixed. And that's kind of
 13 how projects end up evolving from needs on the
 14 system when the scoping committee -- you know, when
 15 one entity says -- You know, let's say the bridge
 16 folks say we need to fix 35 within the next couple
 17 of years, for example. Then in the scoping
 18 committee they'll sit down and say, well, if we're
 19 going to be fixing that bridge, there's also X, Y,
 20 and Z that also needs to be done within that
 21 immediate vicinity too; and we'll contribute part of
 22 our set-aside to make that part of a project. And
 23 so it's a dialogue like that that occurs at the
 24 technical expert level and the people who are most
 25 familiar with what the needs are on that particular

60

1 facility that they're programming.

2 MR. JOHNSON: The dialogue that you just
 3 referred to, is it typical -- is typically happening
 4 four or more years out around a specific project?

5 MS. FREESE: It could be up to four or
 6 more years. Sometimes there are projects that enter
 7 into the system a little bit, you know, more at year
 8 two in the STIP. But, generally speaking, they're
 9 four or more years out.

10 BY MR. JOHNSON:

11 Q Do we know when the 2007 repair work entered into
 12 the STIP?

13 A I don't know when it did for sure.

14 MS. FREESE: That could be determined.

15 MS. BERGSTROM: Within the metro
 16 district, assuming the STIP is out there, where are
 17 those conversations happening on this -- on this org
 18 chart?

19 MR. SAHEBJAM: Well, what happens is you
 20 have a -- here's our planning -- where is it -- the
 21 program management. This is when Lisa said she used
 22 to be at metro, she was in this section where they
 23 do planning and programming and manage -- manage the
 24 STIP. And they work -- And here's where all the
 25 technical experts are.

INTERVIEW OF KHANI SAHEBJAM - MARCH 14, 2008

61	<p>1 MS. BERGSTROM: At the manager level</p> <p>2 and --</p> <p>3 MR. SAHEBJAM: Yes.</p> <p>4 MS. BERGSTROM: -- these resource</p> <p>5 engineers?</p> <p>6 MR. SAHEBJAM: Um-hum.</p> <p>7 MS. BERGSTROM: Okay.</p> <p>8 BY MR. JOHNSON:</p> <p>9 Q I take it a \$9 million project is not a big-ticket</p> <p>10 item for the metro division?</p> <p>11 A I would never say that in front of our outstate</p> <p>12 districts, because to them it's a big deal. But</p> <p>13 yeah. Well, yeah, we do a lot of those. So it's --</p> <p>14 you know.</p> <p>15 Q Well --</p> <p>16 A But it doesn't mean it's not important.</p> <p>17 Q Let me ask you now some hypo -- hypothetical facts</p> <p>18 to try to understand just how the funding decisions</p> <p>19 differ dependent on the level -- the amount of money</p> <p>20 that's involved.</p> <p>21 So just assume that bridge work that was</p> <p>22 being done on the 35W bridge in 2005 wasn't a</p> <p>23 \$9 million project but \$90 million project, major</p> <p>24 repair work. Tell us how you would go about</p> <p>25 budgeting for that.</p>	63	<p>1 involves our -- it wouldn't be just us; it would be</p> <p>2 involving our bridge office. And it -- When you do</p> <p>3 a big project like that, you look at what else --</p> <p>4 while you're in there impacting traffic, what else</p> <p>5 is it that you're going to do; are you going to</p> <p>6 expand it, you know, expand capacity, add lanes; how</p> <p>7 far off the bridge do you want to go. So it</p> <p>8 involves all our other project managers, our</p> <p>9 planners. You actually even get involved with the</p> <p>10 local agencies, the cities that are impacted by that</p> <p>11 project. So -- And it takes years to get up to that</p> <p>12 point.</p> <p>13 Q Can you tell me though how -- I understand there's</p> <p>14 going to be a lot of people involved in that</p> <p>15 process. But just, if you could, focus just on the</p> <p>16 funding piece of it and if there's anything you can</p> <p>17 tell us about how that -- how the decisions around</p> <p>18 the funding move forward.</p> <p>19 A We have -- For a big project like that to get</p> <p>20 funded, we -- within our metro district, we have a</p> <p>21 programming -- metro programming committee where you</p> <p>22 talk about projects, the big projects, and how --</p> <p>23 when you decide to do it. If it ends up being for</p> <p>24 an emergency reason, like you were saying earlier,</p> <p>25 if it has to get advanced, if you have to move it</p>
62	<p>1 A Well, a project -- a \$90 million project normally</p> <p>2 doesn't -- you wouldn't be able to do that like in a</p> <p>3 few months like compared to a smaller one. So a</p> <p>4 project like that, it's almost like replacing the</p> <p>5 whole bridge, that amount that you're talking about.</p> <p>6 So that's going to include a lot of -- the whole</p> <p>7 environmental process. And so it's going to take</p> <p>8 awhile for a project like that to develop.</p> <p>9 Q And tell me what you mean by the environmental</p> <p>10 process.</p> <p>11 A Well, any project -- any project that we do, you</p> <p>12 have to see how it impacts the environment in</p> <p>13 general. So you do an environmental assessment and,</p> <p>14 depending on the complexity, you do an environmental</p> <p>15 impact statement, especially if it's a --</p> <p>16 Q Let's talk about this in the context of the 35W</p> <p>17 bridge. So it's there, existing. Presumably you</p> <p>18 wouldn't have to do an EAW or EIS at that point. So</p> <p>19 the only thing we need to talk about then is the</p> <p>20 funding process. How does -- How does that -- How</p> <p>21 does that get triggered and who are the decision</p> <p>22 makers along the way to fund a \$90 million project?</p> <p>23 A To fund a \$90 million project, that obviously</p> <p>24 means -- if you're talking about a bridge project,</p> <p>25 it would mean that it obviously involves our --</p>	64	<p>1 ahead of other projects, obviously it's going to</p> <p>2 impact funding on other projects. So you -- you</p> <p>3 meet within a district -- within a district, which</p> <p>4 includes our managers, our area managers, our</p> <p>5 programming folks; and we get together. And</p> <p>6 obviously within the jurisdiction of the project</p> <p>7 there's other entities involved for the funding, you</p> <p>8 know, maybe other local dollars involved; and a lot</p> <p>9 of those negotiations that happen, you work with the</p> <p>10 locals on that. And then as a district we decide.</p> <p>11 Based on a cost estimate, we program so much for the</p> <p>12 project.</p> <p>13 Q You could make a decision within the metro district</p> <p>14 to fund a \$90 million project?</p> <p>15 A Um-hum. Um-hum.</p> <p>16 Q You would not have to go to the central office for</p> <p>17 that, or would you?</p> <p>18 A The only time we would -- it would go to a central</p> <p>19 decision making group is if the project gets so big</p> <p>20 that for whatever reason that we're having a hard</p> <p>21 time making it fit and we do need financial --</p> <p>22 whether it's financial innovation, ways to be able</p> <p>23 to fund it with other -- other funding pockets that</p> <p>24 may be within the department, you can get help from</p> <p>25 others. If it's important enough that it has to</p>

INTERVIEW OF KHANI SAHEBJAM - MARCH 14, 2008

65

1 happen next year, well, then the department's going
 2 to come act as one and help the district fund a big
 3 project. A \$90 million project normally, no, we
 4 would be able to do it ourselves, the decision
 5 making of funding it.

6 MS. BERGSTROM: Is a \$90 million project
 7 then always going to be on the STIP?

8 MR. SAHEBJAM: Um-hum.

9 MS. FREESE: For sure.

10 MS. BERGSTROM: For sure. Okay.

11 MR. SAHEBJAM: Yes.

12 MS. FREESE: But as we discussed
 13 previously, you know, the funding decisions -- You
 14 know, Khani is, I think, making a pretty fair
 15 assessment; that those decisions are made pretty
 16 decentralized in the agency. And the process -- The
 17 process for the metro district occurs within the
 18 metro district and through the transportation
 19 advisory board process. And then when it comes to
 20 the rollup, it almost is an exercise of putting a
 21 document together; that changes are not made at that
 22 level when it comes downtown and it goes through OAM
 23 to shift project priorities around. Those decisions
 24 are made generally prior to it being rolled up into
 25 the Statewide Transportation Improvement Program.

66

1 BY MR. JOHNSON:

2 Q If the bridge needed to be replaced rather than
 3 repaired -- so we're talking about a \$300 million
 4 project.

5 A Um-hum. Based on -- You mean overnight you decide
 6 you need to do that?

7 Q Well, let's examine both. Let's examine, oh, this
 8 is a situation where, you know, it's -- the
 9 determination is made that it has to be replaced
 10 five years out. How do you -- How does the decision
 11 get made to find the money and allocate it to that
 12 project?

13 A Well, after you come to a consensus that the bridge
 14 needs to be -- and that, again, is -- if it's a
 15 bridge, Dan Dorgan would be part of that discussion
 16 obviously; and it probably comes based on his
 17 recommendation. If we have to do a bridge like that
 18 with -- and technical experts say within five years
 19 this bridge needs to be replaced, it will happen. I
 20 can tell you that. We can't do \$500 million, you
 21 know. It would be really hard for us within the
 22 metro district to be able to do a project like that.
 23 If we're asked to do, we have -- you know, we'd have
 24 to cancel everything else, I suppose. But I think
 25 in a case like that, you -- that's when I come over

67

1 here to the fourth floor to get help. So it will
 2 become a department --

3 Q And when you come over here to the fourth floor, who
 4 do you talk to and what's their role in the decision
 5 making?

6 A Well, there's the -- There is a financial group that
 7 Lisa chairs. It's the transpor -- TPC,
 8 Transportation Program -- Programming Committee,
 9 that I have the privilege, the honor to be member --

10 MS. FREESE: You have a seat on it.

11 MR. SAHEBJAM: I have a vote. I actually
 12 vote, which is interesting because my boss, Bob
 13 Winter, is a voting member and my boss's boss is a
 14 voting member. So -- And I think it's a very wise
 15 thing to do, to have the metro district engineer on
 16 that -- on that because a lot of the stuff that we
 17 do, such as the example you're using, it impacts the
 18 things that we do, impacts the department quite a
 19 bit. So that's where we would get together and try
 20 to fund something like that. If it's that big --
 21 500 million is a lot -- that's a lot of money. So
 22 that's going to need some attention. And it will be
 23 hard to squeeze into our program. And I would think
 24 we're going to be getting some help from -- funding
 25 help probably, bonding or something like that, trunk

68

1 highway bonding.

2 BY MR. JOHNSON:

3 Q Would the process differ if you had, say, a very
 4 short time; the determination is that this bridge
 5 needs to be replaced within the immediate future?
 6 In the meantime --

7 A Immediately -- Immediately next year?

8 Q Yeah, rather than five years, we're talking we got
 9 to get this bridge replaced; we're going to put
 10 weight restrictions on it for the time being, but we
 11 need to get the money together and replace it. So
 12 is it -- How do you make a decision when you have to
 13 act that quickly?

14 A Again, I'll come to fourth floor.

15 MS. FREESE: I would say, you know, my --
 16 And I know you want to hear Khani's response, but we
 17 haven't been in one of those positions because we
 18 spend enough time, especially with -- and we maybe
 19 have had some smaller bridges where that's been an
 20 instance. But with our major bridges we spend a
 21 considerable amount of effort monitoring and trying
 22 to place and to be forward thinking about when those
 23 bridges need to get replaced. And to the best of my
 24 knowledge, since we have -- since I've been in the
 25 department, we haven't been faced with that sort of

69

1 a decision. So I think you're asking a question
 2 that we haven't been put in that position. So we
 3 would be speculating about how we might react. But
 4 it's -- You know, it's a fair question. But I think
 5 to this point, since we haven't had a situation
 6 quite like what you've presented to us on a major
 7 bridge, that we don't have a firm answer for how we
 8 might proceed with that. I think we would have to
 9 evaluate the circumstance around that bridge and
 10 make a determination about whether it can remain
 11 open or not. And that would be the first question
 12 that would kind of get --
 13 MR. SAHEBJAM: Um-hum.
 14 MS. FREESE: -- dealt with, as opposed to
 15 the funding question. And then we would have to
 16 work through whatever resources we have then to
 17 figure out how to fix the problem.
 18 MR. SAHEBJAM: We -- That's a good
 19 question. And we know it's a -- it's a big problem
 20 to come up with the money immediately. So what we
 21 do is we understand these bridges cost so much. So
 22 we do -- We have been programming federal -- federal
 23 dollars for -- we used to call them budget-buster
 24 bridges -- I don't know what we call them -- major
 25 structures where we program so you know you're going

70

1 to do a bridge in year so and so. So you start the
 2 process way back and off the top set aside federal
 3 dollars for that to help the districts pay for that.
 4 Because even a small district, there's no way they
 5 could even afford anything like that. So you take
 6 it off the top so-called from the central pot to
 7 help. If you know when it's going to be, you can
 8 plan for it. But if it's just dumped on your lap,
 9 then within a year you have to react, that will be
 10 pretty difficult. But I can guarantee you, if the
 11 bridge is in the shape that you're worried about
 12 getting it repaired by next year, you're going to
 13 have those meetings like she was saying, that should
 14 we actually close it and then take the emergency
 15 route like we did with the 35, you know. So...
 16 MS. BERGSTROM: You know, Khan, as part
 17 of your job at metro, are you -- do you have
 18 occasion to speak to the legislature ever?
 19 MR. SAHEBJAM: I have had the pleasure,
 20 yes.
 21 MS. BERGSTROM: Okay. And on what kinds
 22 of issues?
 23 MR. SAHEBJAM: Oh, testifying on -- I did
 24 it back when I was in that state aid section --
 25 MS. BERGSTROM: Okay.

71

1 MR. SAHEBJAM: -- when I was trying to
 2 get funding for the bridges, for local bridges. I
 3 used to do it back then. And I recently -- quite a
 4 bit I've had to do with -- after the bridge collapse
 5 and -- that's the twin stadium, never mind -- the
 6 bridge collapse and some other projects that we have
 7 that gets a lot of attention, political attention.
 8 So we got called out there. So, yes, I have had
 9 that.
 10 MS. BERGSTROM: Okay.
 11 BY MR. JOHNSON:
 12 Q When you were working in the state aid -- is that a
 13 division or section? Section?
 14 A It's a division.
 15 Q -- division and making presentations to the
 16 legislature, what kind of information were you
 17 providing?
 18 A Basically what -- what the needs were from different
 19 counties and cities around the state, county board
 20 resolutions. And my job was to get their needs, put
 21 it together, and then go present to the legislature
 22 what it is that the counties' needs are.
 23 Q So the information was at kind of a macro level?
 24 A Um-hum. Yeah.
 25 MS. BERGSTROM: I think I'm done.

72

1 MR. SAHEBJAM: What else do you want to
 2 know?
 3 MS. BERGSTROM: What's your favorite meal
 4 at Mission? No.
 5 (Off-the-record.)
 6 (Interview concluded at 11:23 a.m.)
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1 STATE OF MINNESOTA)
2) ss.
3 COUNTY OF DAKOTA)

4
5 REPORTER'S CERTIFICATE

6
7
8 I, Angie D. Threlkeld, do hereby
9 certify that the above and foregoing transcript,
10 consisting of the preceding 72 pages is a
11 correct transcript of my stenographic notes, and is
12 a full, true and complete transcript of the
13 proceedings to the best of my ability.

14 Dated March 20, 2008.
15
16
17
18

19 ANGIE D. THRELKELD
20 Registered Professional Reporter
21 Certified Realtime Reporter
22
23
24
25

<p>1 INTERVIEW OF ROGER SCHULTZ - MARCH 21, 2008</p> <p>2</p> <p>3</p> <p>4 In the Matter of Conducting an Independent Investigation 5 Into the Collapse of the I-35W Bridge</p> <p>6</p> <p>7 Department of Transportation 8 395 John Ireland Boulevard 9 Room 6-13 10 St. Paul, Minnesota</p> <p>11</p> <p>12 Met, pursuant to notice, at 10:00 in the 13 morning on March 21, 2008.</p> <p>14</p> <p>15 INTERVIEWER:</p> <p>16</p> <p>17 Kathryn Bergstrom, Attorney at Law with the 18 Gray Plant Mooty Law Firm.</p> <p>19 ALSO PRESENT:</p> <p>20 Barbara E. Forsland, MnDOT Data Practices 21 Compliance & Policy Analyst.</p> <p>22 COURT REPORTER:</p> <p>23 Angie D. Threlkeld, RPR CRR</p> <p>24</p> <p>25</p>	<p>3</p> <p>1 of the head or huh-uhs or uh-huhs, nuh-uhs because</p> <p>2 that doesn't come off in the transcript very well.</p> <p>3 I'm going to hand you what we've been</p> <p>4 handing everybody as the very first exhibit and read</p> <p>5 through this witness protocol. We've done this with</p> <p>6 every single person. It's just the parameters for</p> <p>7 this interview.</p> <p>8 Paragraph 1, the authority. We are with</p> <p>9 the Gray Plant Mooty law firm. And Gray Plant Mooty</p> <p>10 has been retained by the Minnesota legislature to</p> <p>11 conduct an independent investigation into the</p> <p>12 collapse of the I-35 bridge. The Minnesota</p> <p>13 legislature has asked us to provide a report of our</p> <p>14 investigation by May 1st, 2008. We will be asking</p> <p>15 you questions concerning the bridge collapse and</p> <p>16 related policies, practices, and legislative</p> <p>17 oversight issues.</p> <p>18 Two, the purpose of this interview is to</p> <p>19 determine what you might know about the matters we</p> <p>20 are investigating.</p> <p>21 Three, confidentiality. During the time</p> <p>22 our investigation is active, the information that</p> <p>23 interviewees provide to us is not public</p> <p>24 information. The information you provide may no</p> <p>25 longer be confidential once we submit a report to</p>
<p>2</p> <p>1 (Whereupon, Exhibit 1 was</p> <p>2 marked for identification by the</p> <p>3 court reporter.)</p> <p>4 BY MS. BERGSTROM:</p> <p>5 Q Roger, my name again is Katie Bergstrom. I'm one of</p> <p>6 the lawyers at Gray Plant Mooty who's special</p> <p>7 counsel to the Minnesota legislature.</p> <p>8 Let's go around the room, state</p> <p>9 appearances for the record.</p> <p>10 MS. FORSLAND: My name is Barbara</p> <p>11 Forsland. I'm the data practices attorney for the</p> <p>12 agency.</p> <p>13 MR. SCHULTZ: My name is Roger Schultz,</p> <p>14 bridge inspection engineer at metro.</p> <p>15 BY MS. BERGSTROM:</p> <p>16 Q Roger, first thing, we have a court reporter here</p> <p>17 today, and she is taking down everything that we</p> <p>18 say. And in order for her to do that, we have a</p> <p>19 couple little rules that we have to follow. One is</p> <p>20 we can't talk at the same time. And I think I was a</p> <p>21 little bad about that with Jerome a couple of times.</p> <p>22 If you let me finish my question before you start</p> <p>23 talking and I'll let you finish your answer before I</p> <p>24 ask another question, that would be great.</p> <p>25 Also, we need audible answers. No shakes</p>	<p>4</p> <p>1 the legislature.</p> <p>2 Four, the process. You are required to</p> <p>3 answer our questions truthfully. A court reporter</p> <p>4 is present to record our conversation. Either</p> <p>5 during this interview or later in our investigation,</p> <p>6 we may determine we need to verify certain</p> <p>7 information. If that occurs we may ask you for a</p> <p>8 further recorded statement, a signed affirmation, or</p> <p>9 an oath statement.</p> <p>10 And, finally, the post-interview contact.</p> <p>11 We view this process as an ongoing dialogue. If you</p> <p>12 think of anything after this interview that you want</p> <p>13 to tell us about, please call or e-mail us.</p> <p>14 Likewise, we hope that you will respond to us if we</p> <p>15 call or e-mail you with follow-up questions or</p> <p>16 clarifications.</p> <p>17 All right. That's that. Any questions</p> <p>18 about that?</p> <p>19 A No questions.</p> <p>20 Q Okay. Thank you. Let's start generally, Roger.</p> <p>21 And is it okay if I call you Roger?</p> <p>22 A Certainly.</p> <p>23 Q Okay. How long have you been employed by MnDOT?</p> <p>24 A I started in 1958, and I have probably about I think</p> <p>25 it's 25 years with them.</p>

<p>5</p> <p>1 Q If you started in 1958, did you take time off?</p> <p>2 A I -- I was with -- started in January 1958, left for</p> <p>3 the Coast Guard in October of '58, came back to</p> <p>4 MnDOT in I think probably September of 1959, left</p> <p>5 for Mobil Oil Company in 1961, returned to MnDOT in</p> <p>6 1963, left for Arcon Construction Company in 1966,</p> <p>7 was restructured out of Arcon Construction Company</p> <p>8 at the end of 1989. And fortunately I was able to</p> <p>9 come back with MnDOT as a bridge inspection</p> <p>10 engineer. My time with Arcon Construction Company I</p> <p>11 was a project manager for various highway and heavy</p> <p>12 projects from 1966 until 1975, and then I became</p> <p>13 division manager of their bridge repair division</p> <p>14 from 1975 until nine -- end of 1989.</p> <p>15 Q So you worked for them for a long time?</p> <p>16 A 23 years with Arcon.</p> <p>17 Q Okay. Where are they located, Roger?</p> <p>18 A Mora, Minnesota. They were at Mora, Minnesota. I</p> <p>19 think they now have moved to, I believe it's Harris.</p> <p>20 I'm not for sure.</p> <p>21 Q Okay. In 1989 when you came back to MnDOT, what was</p> <p>22 your title?</p> <p>23 A I came back actually in nine -- At the end of 1989 I</p> <p>24 was restructured out of Arcon, and I interviewed for</p> <p>25 a position with MnDOT in 1990, and I was hired I</p>	<p>7</p> <p>1 Q That's right. I'm going to just show this to you.</p> <p>2 I think here are you. This is the maintenance</p> <p>3 operations?</p> <p>4 A Yeah, I'm right here.</p> <p>5 Q Okay. This -- Coming down from Bev Farraher, it</p> <p>6 looks like the direct report under there is vacant.</p> <p>7 Who used to be in that position, do you know? Was</p> <p>8 that John Bieniek?</p> <p>9 A Well, I don't quite understand this. I did bring --</p> <p>10 I did bring an org chart, if you would --</p> <p>11 Q Here, I have one that we'll mark as Exhibit Number</p> <p>12 2.</p> <p>13 (Whereupon, Exhibit 2 was</p> <p>14 marked for identification by the</p> <p>15 court reporter.)</p> <p>16 BY MS. BERGSTROM:</p> <p>17 Q And you can ignore the first two, which are MnDOT</p> <p>18 generally, and go into metro. And you see here down</p> <p>19 near the bottom you've got Bev, and then you've got</p> <p>20 a couple -- the John Howard side is here?</p> <p>21 A Yeah, in July -- This is dated July 2007. I don't</p> <p>22 know if Bieniek was in that position at that time or</p> <p>23 not.</p> <p>24 Q Oh, I see. Maybe -- This is October of '07.</p> <p>25 A Yeah.</p>
<p>6</p> <p>1 believe it was in March of 1990. And the title was</p> <p>2 senior engineer, bridge inspection engineer.</p> <p>3 Q And when you were -- What kind of an engineer are</p> <p>4 you?</p> <p>5 A Civil engineer. I got my degree from the University</p> <p>6 of Minnesota 1957, December of 1957. That was a</p> <p>7 five-year degree at that time.</p> <p>8 Q Senior engineer, bridge engineer in 1990. Is that</p> <p>9 within metro?</p> <p>10 A Yes. Well, it started in District 9, and District 9</p> <p>11 and District 5 combined I think a couple years</p> <p>12 later.</p> <p>13 Q And they became metro?</p> <p>14 A Yes.</p> <p>15 Q Okay.</p> <p>16 A District 9 was Oakdale. District 5 was</p> <p>17 Golden Valley.</p> <p>18 Q And is that the title that you have yet today?</p> <p>19 A As far as I know.</p> <p>20 Q So that's not changed from 1990?</p> <p>21 A It hasn't changed on my paycheck. So I think that's</p> <p>22 where I'm still at. Can you find me on there or</p> <p>23 not?</p> <p>24 Q I did just find you on here. And I --</p> <p>25 A Should be -- Should be working for Jack Pirkl.</p>	<p>8</p> <p>1 Q So maybe he has since filled that spot.</p> <p>2 A John Howard is there now. John Bieniek is there</p> <p>3 now. And they are -- also have interviewed for a</p> <p>4 third maintenance operations engineer.</p> <p>5 Q Okay.</p> <p>6 A That still has not been filled. They've</p> <p>7 interviewed, but it hasn't been filled. And that</p> <p>8 maintenance engineer is going to be in charge of</p> <p>9 bridge from what I understand.</p> <p>10 Q Okay.</p> <p>11 A And I do have a copy of that org chart.</p> <p>12 Q I would love to see that if you have that.</p> <p>13 A I'll dig it out some -- a little bit later. Here's</p> <p>14 my org chart dated 11-16-2007. Here is the org</p> <p>15 chart dated 3-04-08 that shows the vacant third</p> <p>16 maintenance operations engineer.</p> <p>17 Q I'll just take a quick look at that here. So you</p> <p>18 will then be reporting to whoever they hire for this</p> <p>19 third spot?</p> <p>20 A Through Jack Pirkl. I work directly for Jack Pirkl.</p> <p>21 Q Right.</p> <p>22 A At least that's my understanding.</p> <p>23 Q Okay.</p> <p>24 A Jack Pirkl will be reporting to the third</p> <p>25 maintenance operations engineer.</p>

<p style="text-align: right;">9</p> <p>1 Q But essentially they're going to capture all of</p> <p>2 bridge under its own --</p> <p>3 A Yeah.</p> <p>4 Q -- maintenance operations?</p> <p>5 A Yep.</p> <p>6 Q How long has -- Do you know when they came up with</p> <p>7 that plan?</p> <p>8 A Not really.</p> <p>9 Q Okay.</p> <p>10 A Obviously since the collapse.</p> <p>11 Q Right now you report to Jack Pirkl; correct?</p> <p>12 A Right.</p> <p>13 Q And have you for your entire tenure since 1990?</p> <p>14 A Yes.</p> <p>15 Q Okay. So Jack's been around a long time as well?</p> <p>16 A He came early but he stayed. He never left.</p> <p>17 Q And does anybody report to you, Roger?</p> <p>18 A Not directly. I sign no pay -- I sign no time</p> <p>19 sheets.</p> <p>20 MS. BERGSTROM: Just as an aside, Barb,</p> <p>21 this is -- maybe we can get a copy made of this. It</p> <p>22 appears to be this but shrunk down, and it appears</p> <p>23 to be the metro bridge but with the retired people</p> <p>24 off of it. And it's colorful.</p> <p>25 MS. FORSLAND: Additional information.</p>	<p style="text-align: right;">11</p> <p>1 securing funding for the various projects?</p> <p>2 A The effort that I put forth in securing funding is</p> <p>3 that I recommend which bridges should be part of the</p> <p>4 bridge improvement program. I have an annual</p> <p>5 set-aside budget. I only recommend. It has to be</p> <p>6 approved by other -- by other units, other people.</p> <p>7 Q Okay. Now, do -- Is your responsibility for these</p> <p>8 various things limited to the metro region?</p> <p>9 A Yes.</p> <p>10 Q So do you have a counterpart in the other</p> <p>11 districts -- or counterparts I should say?</p> <p>12 A I assume. I don't know.</p> <p>13 Q Okay.</p> <p>14 A But there are bridge inspection engineers in other</p> <p>15 districts. What their responsibilities are I don't</p> <p>16 know.</p> <p>17 Q Okay. Are the other bridge inspection engineers, do</p> <p>18 you get together with them on a regular basis in</p> <p>19 other districts?</p> <p>20 A I personally do not, not on a regular basis. I</p> <p>21 should share with you we also have a bridge</p> <p>22 inspection engineer who's in charge of the fracture</p> <p>23 critical inspections.</p> <p>24 Q Well, that was going to be my next question. So --</p> <p>25 A Okay.</p>
<p style="text-align: right;">10</p> <p>1 I'll be happy to provide copies of that.</p> <p>2 Roger, do you have those available</p> <p>3 electronically that you could send to me?</p> <p>4 Otherwise, I'll arrange to make copies of them here</p> <p>5 in the office.</p> <p>6 MR. SCHULTZ: I don't.</p> <p>7 MS. FORSLAND: Okay. I'll arrange to</p> <p>8 make copies.</p> <p>9 MR. SCHULTZ: I got them from somebody</p> <p>10 else.</p> <p>11 MS. FORSLAND: Okay.</p> <p>12 MR. SCHULTZ: It may be there, but I</p> <p>13 don't know how to get to them.</p> <p>14 BY MS. BERGSTROM:</p> <p>15 Q Roger, as the senior engineer, bridge inspection,</p> <p>16 what would you -- how would you describe your job</p> <p>17 duties?</p> <p>18 A I'm responsible for the routine inspections of the</p> <p>19 approximately 1,250 bridges. That's one -- one of</p> <p>20 my responsibilities. Another responsibility is to</p> <p>21 prepare the annual bridge improvement program. And</p> <p>22 I suppose another responsibility is to provide</p> <p>23 information to various people within MnDOT in</p> <p>24 planning and design.</p> <p>25 Q Is there part of your job duties that pertain to</p>	<p style="text-align: right;">12</p> <p>1 Q -- the bridges that you're in charge of, they do not</p> <p>2 include the fracture critical?</p> <p>3 A No fracture critical.</p> <p>4 Q Okay. And who's in charge of those?</p> <p>5 A Mark Pribula.</p> <p>6 Q I take it you're a certified bridge inspector?</p> <p>7 A Yes.</p> <p>8 Q Okay. And I've -- Based on talking to a few people</p> <p>9 and reading some documents, I understand there are</p> <p>10 different ways to become a certified inspector; is</p> <p>11 that right?</p> <p>12 A I believe there are.</p> <p>13 Q Okay. And so how -- how are you certified as a</p> <p>14 bridge inspector?</p> <p>15 A Well, as a registered engineer I'm certified. I</p> <p>16 also have attended the necessary requirements for</p> <p>17 the team leader, which include a bridge safety 1</p> <p>18 class, a bridge safety 2 class. I've also -- I've</p> <p>19 taken the field proficiency class. We're talking</p> <p>20 about 1990, 1991 now. I also keep going to the --</p> <p>21 They've got seminars every year. I attend usually a</p> <p>22 couple -- one of those every year. Requirement to</p> <p>23 remain certified is to attend two out of four.</p> <p>24 Q Okay. Who -- Who hosts those?</p> <p>25 A CO bridge office.</p>

<p>13</p> <p>1 Q Okay. Although you are not -- you don't oversee the</p> <p>2 fracture critical bridges, are you certified to</p> <p>3 inspect fracture critical bridges?</p> <p>4 A I don't know if there is a certification --</p> <p>5 Q Okay.</p> <p>6 A -- for inspection of fracture critical bridges other</p> <p>7 than you have to attend a fracture critical</p> <p>8 school --</p> <p>9 Q Okay.</p> <p>10 A -- or fracture critical seminar. I have attended</p> <p>11 that, but it was early '90s.</p> <p>12 Q Okay. Overseeing all of these bridges, I think you</p> <p>13 said 1,250?</p> <p>14 A Structures.</p> <p>15 Q Structures.</p> <p>16 A I should have used the word structures rather than</p> <p>17 bridges because some of those are culverts.</p> <p>18 Q Culverts. Okay. So structures?</p> <p>19 A Yeah.</p> <p>20 Q Do you have a team of inspectors who do that?</p> <p>21 A Yes.</p> <p>22 Q And who is your team?</p> <p>23 A We've got about -- We've got about 18 bridge workers</p> <p>24 that are certified team leaders, and we have three</p> <p>25 construction technicians that are certified team</p>	<p>15</p> <p>1 responsibility for that bridge improvement program</p> <p>2 early 1990s I'd say.</p> <p>3 BY MS. BERGSTROM:</p> <p>4 Q Okay.</p> <p>5 A There was a transition. Before that Jack Pirkl was</p> <p>6 putting it together I think or the previous person</p> <p>7 who was in my position.</p> <p>8 Q And, again, is your role there limited to the bridge</p> <p>9 improvement program as it pertains to metro?</p> <p>10 A Yes.</p> <p>11 Q Okay. As the senior engineer and bridge inspection,</p> <p>12 talk to me a little bit about your interaction with</p> <p>13 the central bridge office. Is that daily</p> <p>14 interaction?</p> <p>15 A It's interaction as needed, that I feel as needed.</p> <p>16 Q And in practice what does that equate to? Once a</p> <p>17 week? Once a day? Once a month?</p> <p>18 A It's sort of hard to answer that. But it would</p> <p>19 certainly be more like once a week than it would be</p> <p>20 once a month. It's not daily.</p> <p>21 Q I suppose it depends on kind of what's going on?</p> <p>22 A That's exactly right.</p> <p>23 Q Do you -- Are there any committees or tasks force or</p> <p>24 anything like that that you serve on that is a</p> <p>25 combination of you as part of metro and people from</p>
<p>14</p> <p>1 leaders.</p> <p>2 Q And on an org chart where do they fall?</p> <p>3 A They fall under the supervisor that they work for.</p> <p>4 Q Oh, these are the --</p> <p>5 A They work --</p> <p>6 Q -- various --</p> <p>7 A They work with me, but they fall under the org chart</p> <p>8 where they would work for. If you look at the --</p> <p>9 that chart there, your bridge workers that are</p> <p>10 certified would be under one of those crews.</p> <p>11 Q I see. I see. Okay.</p> <p>12 A The construction -- The three construction team</p> <p>13 leaders are part of the construction division.</p> <p>14 Q Oh, I see. Okay. How long have you been -- Well,</p> <p>15 let me back up this way. You said you are in charge</p> <p>16 of making recommendations on the annual bridge</p> <p>17 improvement program. How long has that program been</p> <p>18 around?</p> <p>19 A It was here when I -- It was here when I got to --</p> <p>20 When I came with MnDOT it was already in place.</p> <p>21 Q In 1990?</p> <p>22 A Yeah.</p> <p>23 MS. BERGSTROM: Let's go off the record.</p> <p>24 (Off-the-record discussion.)</p> <p>25 MR. SCHULTZ: I assumed the</p>	<p>16</p> <p>1 central bridge?</p> <p>2 A I did serve on a committee that was trying to</p> <p>3 determine or ascertain the life of bridge decks or</p> <p>4 when bridge decks need to be -- need to be repaired,</p> <p>5 something along those lines. I just don't know how</p> <p>6 to explain it.</p> <p>7 Q Okay.</p> <p>8 A It was in conjunction with CO bridge and the</p> <p>9 University of Minnesota.</p> <p>10 Q Okay. And is that the University of Minnesota study</p> <p>11 around 1999, 2000?</p> <p>12 A I can't tell you the date on it. I can't tell you</p> <p>13 the date on it.</p> <p>14 Q Do you know whether that committee ever produced any</p> <p>15 written final product or anything like that?</p> <p>16 A They did have a final -- a final conclusion.</p> <p>17 MS. BERGSTROM: Okay. Barb, maybe we can</p> <p>18 look. It might be that that is the Minnesota study,</p> <p>19 but maybe it's something different.</p> <p>20 MS. FORSLAND: Okay.</p> <p>21 MS. BERGSTROM: I don't know.</p> <p>22 MS. FORSLAND: Roger, do you have a</p> <p>23 recollection of who was in charge of that committee</p> <p>24 or could you lead me to anyone else who served on</p> <p>25 that committee?</p>

<p>17</p> <p>1 MR. SCHULTZ: Paul Kivisto was on that</p> <p>2 committee.</p> <p>3 MS. FORSLAND: Okay. I'll be happy to</p> <p>4 check with Paul Kivisto, and he can maybe lead me to</p> <p>5 the final report or notes, and we will produce them.</p> <p>6 MR. SCHULTZ: I'm the first to say I</p> <p>7 didn't attend all their meetings.</p> <p>8 BY MS. BERGSTROM:</p> <p>9 Q Fair enough.</p> <p>10 A My nickname is Roger no meeting Schultz -- Roger</p> <p>11 what meeting Schultz.</p> <p>12 Q Obviously I want to ask some questions about</p> <p>13 inspections and then maintenance. And I'm assuming</p> <p>14 for the basis of our conversation that I don't mean</p> <p>15 fracture critical --</p> <p>16 A Okay.</p> <p>17 Q -- bridges. An inspection team goes out,</p> <p>18 inspects -- and let's stick with a bridge as opposed</p> <p>19 to any structure -- and there's a team leader who's</p> <p>20 in charge of that inspection; right?</p> <p>21 A Yes.</p> <p>22 Q Okay. Who's charged with -- They finish their</p> <p>23 inspection, and then who's charged with putting</p> <p>24 together the inspection report? Well, maybe I</p> <p>25 should ask that question. Is there always a written</p>	<p>19</p> <p>1 transferred to the crew supervisors that showed up</p> <p>2 in that org chart. And we have the -- We have the</p> <p>3 team leaders for each bridge crew inspect bridges in</p> <p>4 their area that they're responsible for. And when</p> <p>5 the bridge worker is out there as a team leader</p> <p>6 inspecting those bridges, he will bring information</p> <p>7 back to the bridge crew supervisor; and that</p> <p>8 information is used in them putting together their</p> <p>9 work schedule --</p> <p>10 Q Okay. And will --</p> <p>11 A -- or work plan.</p> <p>12 Q Will those maintenance projects, if you will, will</p> <p>13 they be captured in the inspection report or are</p> <p>14 they oral or verbal? I mean...</p> <p>15 A I would say dependent on the -- dependent on the</p> <p>16 bridge crew, some are oral and some probably are</p> <p>17 written --</p> <p>18 Q Okay.</p> <p>19 A -- between the bridge inspector and the bridge crew</p> <p>20 supervisor.</p> <p>21 Q Is there a policy in metro that it be one way or</p> <p>22 another or is it just individual practices?</p> <p>23 A I'd say it's individual crew practices.</p> <p>24 Q Okay. So the inspection reports come back, they</p> <p>25 land on your desk, you're looking through them. Are</p>
<p>18</p> <p>1 inspection report?</p> <p>2 A Yes.</p> <p>3 Q Okay. And whose responsibility is it to put that</p> <p>4 together?</p> <p>5 A The process is that a written inspection report is</p> <p>6 forwarded to my office, I review the inspection</p> <p>7 report for the -- what I would think accuracy of the</p> <p>8 condition ratings, and then it is entered into the</p> <p>9 bridge management PONTIS system by various people</p> <p>10 that have ability to type in the information.</p> <p>11 Q And is it -- Is part of that report -- Part of that</p> <p>12 report, I presume, contains findings; is that fair?</p> <p>13 A Define the word findings.</p> <p>14 Q Well, let me back up. Do sometimes these inspection</p> <p>15 reports contain recommendations for work to be done?</p> <p>16 A Not generally, no.</p> <p>17 Q Okay.</p> <p>18 A No.</p> <p>19 Q So what's the purpose of the inspection report?</p> <p>20 A The inspection report is -- probably has two</p> <p>21 purposes. The first purpose is bridge safety</p> <p>22 inspection. When I came here in 1990, that was the</p> <p>23 emphasis, on bridge safety. Now it also is used for</p> <p>24 bridge safety and bridge maintenance. And</p> <p>25 information that is on the inspection report is</p>	<p>20</p> <p>1 there occasions when you would contact one of the</p> <p>2 division heads to make sure that --</p> <p>3 A Well --</p> <p>4 Q -- items get on their work plans?</p> <p>5 A If you're talking about division head, they aren't</p> <p>6 on this. If you're talking about the bridge</p> <p>7 crews -- is that what you're talking about?</p> <p>8 Q Well, why don't you tell me who the division heads</p> <p>9 are? I was talking about these crews, actually.</p> <p>10 A All right.</p> <p>11 Q Like a Dale Domdroske.</p> <p>12 A Yeah. If I saw something on a bridge inspection</p> <p>13 report that sort of got my attention, I may go back</p> <p>14 to -- more than likely would go back to Dale and ask</p> <p>15 if it's been done --</p> <p>16 Q Okay.</p> <p>17 A -- completed. But anything that we find that's a</p> <p>18 structural problem or any structural, quote,</p> <p>19 unquote, emergency, that's handled that day. It's</p> <p>20 not waited until it gets into my office and goes</p> <p>21 through me and -- Our crews are competent enough so</p> <p>22 that they will complete that, quote, unquote,</p> <p>23 necessary work within a day or two.</p> <p>24 Q Okay. So let's assume that a bridge inspection team</p> <p>25 is out there and they find some structural</p>

<p style="text-align: right;">21</p> <p>1 emergency. Who's their first call to?</p> <p>2 A Well, I guess you would have to define what extent</p> <p>3 there was an emergency. If it's a, for instance,</p> <p>4 probably a -- some delaminated concrete on the</p> <p>5 over -- overhang of a bridge that looks like maybe</p> <p>6 that's going to fall down in the next X number of</p> <p>7 weeks or whatever, they would get ahold of their</p> <p>8 bridge supervisor.</p> <p>9 Q Okay. What --</p> <p>10 A And if it's something real serious with structural</p> <p>11 integrity of the bridge, then it would go probably</p> <p>12 directly to the crew supervisor, and they'd get</p> <p>13 ahold of their superintendent or get ahold of me or</p> <p>14 we get ahold of CO bridge.</p> <p>15 Q Okay. So that was my next question is what kinds of</p> <p>16 things would inspection teams be finding that would</p> <p>17 necessitate a call to you?</p> <p>18 A Probably the finding of a new crack in a steel</p> <p>19 girder.</p> <p>20 Q And do -- Have you had occasion to be called out to</p> <p>21 sites to take a look at such a crack?</p> <p>22 A A few over the last 18 years.</p> <p>23 Q Okay. Any other findings that would cause an</p> <p>24 inspection crew to give you a call versus a</p> <p>25 supervisor?</p>	<p style="text-align: right;">23</p> <p>1 so, they recommend the type of repair.</p> <p>2 Q So do you use central bridge then as a -- just kind</p> <p>3 of as a deeper resource?</p> <p>4 A Sounds good.</p> <p>5 Q Okay.</p> <p>6 A A deeper resource when necessary --</p> <p>7 Q Okay.</p> <p>8 A -- or as needed. And that's my determination. If</p> <p>9 this become -- On a routine bridge and it comes in</p> <p>10 to me, if Mark Pribula is there, we'll discuss it</p> <p>11 with Mark; or if he's not, if we both think CO</p> <p>12 bridge should be involved, CO bridge will get a</p> <p>13 call.</p> <p>14 Q Who do you -- Who is your main contact at CO bridge?</p> <p>15 A Paul Kivisto. He's the metro regional bridge</p> <p>16 engineer. I made a living in using expertise that</p> <p>17 knows more than I do.</p> <p>18 Q It's a wise way to move around the world.</p> <p>19 A Well, it's worked for me.</p> <p>20 Q So going back. The inspection reports come in, and</p> <p>21 they land on your desk. You may have occasion once</p> <p>22 in a while to call one of the crew supervisors and</p> <p>23 say, hey, has this been done; right? What -- What</p> <p>24 do you do -- Let's assume that has happened and then</p> <p>25 you have this inspection report. What happens next</p>
<p style="text-align: right;">22</p> <p>1 A Something that they would consider real unusual that</p> <p>2 they've seen that wasn't there before. Maybe a</p> <p>3 slight movement of one of the elements of the</p> <p>4 bridge. But they normally would go through their</p> <p>5 crew chief -- or crew supervisor and normally go</p> <p>6 through their bridge superintendent, which is Phil</p> <p>7 Erickson who is in charge of that, those five crews.</p> <p>8 Q So they might come back and talk to Phil Erickson,</p> <p>9 and then Phil would -- might look at the issue and</p> <p>10 say, hey, I got to call Roger?</p> <p>11 A Right.</p> <p>12 Q Okay. And then I take it sometimes you work with</p> <p>13 Phil and other times you say let's call central</p> <p>14 bridge?</p> <p>15 A Exactly.</p> <p>16 Q Okay. And what --</p> <p>17 A We make that determination as to whether or not we</p> <p>18 should -- we have a need for central office bridge.</p> <p>19 Q Okay. And what kinds of things would come up that</p> <p>20 you would feel the need to call central bridge?</p> <p>21 A Well, just as I had said previously, possibly a</p> <p>22 crack in the -- unknown crack that appeared, an</p> <p>23 unusual condition of a bridge deck. Bridge is</p> <p>24 utilized for recommendations on how to repair or if</p> <p>25 a repair is needed. If a repair is needed and if</p>	<p style="text-align: right;">24</p> <p>1 to that inspection report?</p> <p>2 A I review it to make -- to make sure in my judgment</p> <p>3 that the condition ratings are correct in accordance</p> <p>4 with the comments that are on the inspection report.</p> <p>5 Q And if you --</p> <p>6 A I will do some editing to make it more</p> <p>7 understandable, some of the comments. And then it's</p> <p>8 passed on to a person to type it into the bridge</p> <p>9 management system.</p> <p>10 Q Okay. Have you had opportunities over the years to</p> <p>11 change the condition ratings?</p> <p>12 A Oh, sure.</p> <p>13 Q Okay.</p> <p>14 A Sure.</p> <p>15 Q And I assume -- Well, you tell me, I guess. Both</p> <p>16 change them in the sense of an upgrade and change</p> <p>17 them in the sense of a downgrade?</p> <p>18 A I would, sure.</p> <p>19 Q Okay. When you look at a condition rating, what do</p> <p>20 you do? I mean, you're sitting in your office and</p> <p>21 you're looking at the inspection reports. What do</p> <p>22 you use as a criteria to determine, well, this</p> <p>23 rating is correct or not?</p> <p>24 A Guidelines of the bridge inspection manual.</p> <p>25 Q Okay. Something looks off, then you might do what,</p>

<p>25</p> <p>1 call the inspector?</p> <p>2 A May or may not.</p> <p>3 Q Okay. Maybe sometimes have occasion to go out and</p> <p>4 look at the structure?</p> <p>5 A If I thought it was serious enough, I would. If it</p> <p>6 were a change -- big enough change. Usually you</p> <p>7 aren't changing it that much.</p> <p>8 Q Okay. Then the inspection reports get entered into</p> <p>9 the PONTIS system?</p> <p>10 A That's correct.</p> <p>11 Q And then presumably nothing else happens until the</p> <p>12 next time that structure is up for inspection?</p> <p>13 A That's correct.</p> <p>14 Q Are you involved at all, Roger, in making sure that</p> <p>15 any maintenance that is suggested as a part of the</p> <p>16 inspections actually gets done?</p> <p>17 A I'd say no.</p> <p>18 Q Okay. That's left to the crews?</p> <p>19 A That would be left to either Jack Pirk, my</p> <p>20 supervisor, and/or the maintenance superintendent.</p> <p>21 My experience in the private sector taught me not to</p> <p>22 micromanage.</p> <p>23 (Whereupon, Exhibit 3 was</p> <p>24 marked for identification by the</p> <p>25 court reporter.)</p>	<p>27</p> <p>1 work.</p> <p>2 Q So do you use these guidelines that are in Exhibit</p> <p>3 Number 3 to make recommendations to central office</p> <p>4 and then they decide kind of what's going to get</p> <p>5 done?</p> <p>6 A I review it. I review it, but I use a lot of other</p> <p>7 information for my bridge improvement program.</p> <p>8 Q Okay. Is there a -- Is there a technical memorandum</p> <p>9 that's different than this that serves as a</p> <p>10 guideline to your bridge improvement program?</p> <p>11 A No.</p> <p>12 Q Okay. So then is it fair to say you use this and a</p> <p>13 bunch of other criteria in order to come up with</p> <p>14 yours?</p> <p>15 A Correct.</p> <p>16 Q Okay. What is -- What other criteria do you use?</p> <p>17 A Well, I brought some things along that date back to</p> <p>18 1998 when persons were asking for some guidance. I</p> <p>19 didn't have a lot of time to put all this together,</p> <p>20 but I -- In 1998 metro was trying to improve their</p> <p>21 scoping process for the entire metro division. Our</p> <p>22 bridge improvement program seemed to be working very</p> <p>23 well in that we had set-aside dollars and we would</p> <p>24 come within the set aside-dollar budget each year.</p> <p>25 And persons were -- couldn't really understand why</p>
<p>26</p> <p>1 BY MS. BERGSTROM:</p> <p>2 Q Roger, I'll have you look at Exhibit Number 3. And</p> <p>3 I -- Is this -- This document is a technical</p> <p>4 memorandum called Bridge Preservation Improvement</p> <p>5 and Replacement Guideline for Fiscal Years 2006</p> <p>6 through 2008.</p> <p>7 A Okay.</p> <p>8 Q I just -- I don't know exactly what this document</p> <p>9 is, but I -- so maybe, one, you can tell me how it,</p> <p>10 if at all, coincides with your duties with respect</p> <p>11 to the annual bridge improvement program.</p> <p>12 A It is a guideline. It is utilized a lot by bridge</p> <p>13 office when they make their recommendations for</p> <p>14 repair on bridges.</p> <p>15 Q And by bridge office do you mean metro bridge</p> <p>16 office?</p> <p>17 A Metro bridge office. Well, no, not metro bridge</p> <p>18 office. We really don't have a metro bridge office.</p> <p>19 I mean, that would -- that will be put together once</p> <p>20 we get a -- a maintenance engineer slot.</p> <p>21 Q Okay.</p> <p>22 A But this is CO bridge.</p> <p>23 Q Okay.</p> <p>24 A CO bridge. They write the recommendations on all</p> <p>25 the bridges that have been presented for repair</p>	<p>28</p> <p>1 that would happen. This is what I put together in</p> <p>2 1998. It since has been -- The latter part is</p> <p>3 changed because we do now have a much more elaborate</p> <p>4 scoping process for all projects. But this is how I</p> <p>5 was doing it in 1998. I think it's a pretty</p> <p>6 thorough definition of what I was doing.</p> <p>7 Q And is this a copy that I can keep?</p> <p>8 A That's for you.</p> <p>9 Q Okay. Great.</p> <p>10 A It's public information, so sure.</p> <p>11 Q Is the -- Help me understand. So you come up with</p> <p>12 the list of projects that you think are necessary in</p> <p>13 metro to satisfy your bridge improvement program.</p> <p>14 And do you send those to central bridge then or who</p> <p>15 gets the say over --</p> <p>16 A Well --</p> <p>17 Q -- yes or no?</p> <p>18 A -- I guess now it's the scoping committee in metro.</p> <p>19 But I've had the luxury of having very few of my</p> <p>20 recommendations not being accepted in the last 18</p> <p>21 years.</p> <p>22 Q Okay.</p> <p>23 A There are a lot of things out there on the bridge</p> <p>24 deck where we need to possibly have a contract.</p> <p>25 This is only for contracts now. The BIP programs</p>

29

1 are only for contracts to be solicited for bridge
 2 repair work.
 3 Q Outside vendor -- Or outside contractors?
 4 A Yes. Private contractors.
 5 Q Do you on an annual basis generate a physical list
 6 of projects?
 7 A I just seem to get lucky here in that I've got some
 8 things along that for some reason I thought you
 9 might ask, even though I wasn't sure what you were
 10 going to ask. I went back to 2007. Now, these are
 11 generated four or five years in advance. I've just
 12 completed the 2013 BIP program. And the best of my
 13 knowledge these documents have been collected or
 14 whatever.
 15 Q Interestingly enough, on the second page here of
 16 this, it shows down at line 31 the 9340 over
 17 Mississippi River deck repair 3.3 million. Is it
 18 the work that was being done --
 19 A Yes.
 20 Q -- at the time of the collapse?
 21 A Yep. Yep.
 22 Q Okay. And how far in advance would that have made
 23 it on to your BIP here?
 24 A I imagine that would have been -- I'd have to go
 25 back and look. I suppose -- Let me look. I guess

30

1 that was probably the first time it was on. Yeah,
 2 I'd say that was the first time it was on.
 3 Q Okay.
 4 A Because there's no -- there's no notes there that
 5 indicates that it was adjusted and came in, you
 6 know, from a -- from a different year.
 7 Q Your running total here --
 8 A Yep.
 9 Q -- presumably that tracks to some budget you have;
 10 is that right?
 11 A That's correct.
 12 Q Where do you -- Who -- Where do you get your budget
 13 for your BIP?
 14 A I imagine it's from -- Well, it's from the planning
 15 division or planning department in metro.
 16 Q Within metro?
 17 A It's strictly a metro in-house budget.
 18 Q Do they ask you -- Well, obviously if you're doing
 19 this five years in advance, you're kind of telling
 20 them in 2013 I'm going to need this much for my
 21 bridge improvement program; right?
 22 A Um-hum.
 23 Q So they're taking those dollars almost as a request
 24 into consideration in making their budget,
 25 presumably?

31

1 A No.
 2 Q Okay.
 3 A They tell me that I have 15 million as my budget in
 4 2013 --
 5 Q I see.
 6 A -- as of today. All this has to be as of today.
 7 Q Okay.
 8 A And I then put together my best guesstimate working
 9 with bridge office on estimating the costs of what
 10 we think we would do on those projects and put it
 11 into this draft.
 12 Q Got it. Okay.
 13 A If you go through you'll see there's one there for
 14 '08, '09, '10, '11, '12, and '13.
 15 Q Okay. Now, when you're working on these schedules
 16 for the bridge improvement program, that includes
 17 both fracture critical and other structures?
 18 A Yes, it would. The fracture critical
 19 recommendations come -- the interest in those come
 20 from Mark Pribula.
 21 Q But he doesn't do a separate BIP?
 22 A No.
 23 Q Okay.
 24 A No.
 25 Q And would -- Would -- Well, let me ask it this way:

32

1 On a BIP like this, is there any dollar limits to
 2 the types of projects that might make it on to a
 3 BIP?
 4 A No, not as long as I stay within 15 million.
 5 Q Okay. So that a bridge replacement wouldn't be on a
 6 BIP?
 7 A It can if it's smaller replacement costs.
 8 Q Okay.
 9 A The problem we have with replacing bridges is that
 10 there's a lot more dollars needed than just the
 11 bridge structure. You've got grading on both sides,
 12 an upgrade of the interchange maybe. And those
 13 dollars have to come from a different source.
 14 Q So if you had a bridge project -- and this is just
 15 hypothetical -- that was going to cost, say,
 16 15 million, which was your whole BIP, that project
 17 probably wouldn't make it on to your --
 18 A No, that would be -- that would be funded by a
 19 different source of funds.
 20 Q Okay. And where would you go for those funds?
 21 A I guess it's -- I don't know the source of funding
 22 within the district. I'm only concerned about my --
 23 Q Okay.
 24 A -- BIP program.
 25 Q And from a funding standpoint, is the BIP the only

33

1 place you get involved in funding?

2 A That's correct.

3 Q What's the -- We've been using the example of

4 15 million. What's the biggest amount that you've

5 ever had in your BIP fund?

6 A I think earlier than -- Let's see what we have here

7 now. Did I have 16.3 a few years ago and -- I mean

8 prior to 2007. I think it was 16.3. I -- That was

9 the most that I've had since -- when I got -- when I

10 started this, assuming these responsibilities in

11 1992, I think we were at either 10 or 13 million,

12 and then it's gone up some. And then probably

13 sometime ago it got reduced from that 16.3 down to

14 15.

15 Q So if one of the recommendations coming out of

16 inspections or Mark or just -- or Jack was for a

17 bridge project that was going to cost, say,

18 15 million, would they ask for your input under

19 the bridge improvement program?

20 A I'd probably bring it -- If the condition of the

21 bridge was such that it needed that much work,

22 whoever determined that then would follow through to

23 see if there's some funding in my BIP program that

24 could partially fund it --

25 Q I see.

34

1 A -- and then other funding sources. And that's

2 handled by people a lot farther up the ladder than

3 me. I'm just a senior engineer.

4 Q What's probably the biggest cost project you've had

5 within your BIP in a given year?

6 A Probably a project coming up at Trunk Highway 694

7 and Trunk Highway 5. We got four bridges there.

8 And I think that's going to be probably around

9 7 million. Larpenteur and 280 I have to look and

10 see what we finally finalized out on that one.

11 You see, there are additional funding --

12 there is additional funding available through a BIR

13 program where we have to have matching funds,

14 whatever that match may be. The BIR program only

15 replaces the bridge. It doesn't remove it. It just

16 replaces the bridge. And then we have to provide

17 other funding for that.

18 Q Okay. What does the acronym BIR stand for?

19 A I imagine bridge something replacement.

20 Q Okay.

21 A And bridges have to meet certain criteria for that.

22 Q And when you're talking about matching funds, are

23 you talking about federal funds?

24 A State funds.

25 Q State funds?

35

1 A Matching state funds, as far as I know. Let me try

2 to find what we've got here. If you look at the top

3 of the -- on some of these forms, you'll see the

4 different revisions. I mean, for instance, the 2009

5 probably was even put together before January of

6 '06, but then it's been revised a lot since then

7 because it's an ongoing process. And that's why you

8 will see some blank spaces under costs of bridge.

9 Q Right.

10 A Some are blank. Some are filled.

11 Q And then it talks about whether it's been moved or

12 whether it's a partnership project or the City of

13 Minneapolis is involved?

14 A I try to do that. But I'll be honest, it's not all

15 that --

16 Q Okay.

17 A It's not totally accurate. It's accurate for me but

18 not for someone to sit and look at it.

19 Q Right. Okay. You know, you had mentioned when we

20 were talking about the job duties that part of what

21 you do is planning and design. Is that, Roger, as

22 part of this BIP process?

23 A Yeah, the planning is part of it. And I work with

24 the project designers. I don't do any designing.

25 Q Right. Okay.

36

1 A They come to me for information.

2 Q Okay. And then --

3 A I've been sort of a source of information for them.

4 Q Let's assume that you got a project that you want to

5 get on your BIP. Where do you go to get your cost

6 estimates?

7 A I go to CO bridge.

8 Q Okay. So that might be one of the occasions that

9 you would call over there?

10 A Certainly. They will get a copy of our proposed BIP

11 program, review it. Like it says in here, they will

12 review it. If they agree that this seems to fit

13 what they think are our needs, then they will go

14 ahead and put together an estimate of costs.

15 Q Okay.

16 A And that's just for the bridge. And then I put

17 another factor in there to cover traffic control,

18 things like that, things off the bridge.

19 Q And then if -- Let's say that you've prepared this

20 BIP. Who says yes this is a good plan or no? You

21 said you haven't had very many occasions for anybody

22 to say no.

23 A That's right. Now it's the scoping committee

24 that's --

25 Q Oh, okay, that's it.

<p>37</p> <p>1 A The process they have now is a scoping committee.</p> <p>2 Q And is that -- Who's on that committee?</p> <p>3 A About 25, 30 people.</p> <p>4 Q Is it a combination of central bridge and metro?</p> <p>5 A No.</p> <p>6 Q Okay.</p> <p>7 A Only metro.</p> <p>8 Q It's only metro. Okay.</p> <p>9 A These are metro dollars.</p> <p>10 Q And then if you get to the point where you've been</p> <p>11 given the big green light and you know you've got to</p> <p>12 hire out -- let a contract for one particular thing,</p> <p>13 does that all get handled through metro as well?</p> <p>14 A That gets handled through CO.</p> <p>15 Q Central bridge. Okay.</p> <p>16 A I don't know if central bridge let's contracts. I</p> <p>17 think it's the administration.</p> <p>18 MS. FORSLAND: Yes, it would go through</p> <p>19 our contract management office, I think it's called,</p> <p>20 who would arrange for the content of the documents,</p> <p>21 the posting, and the award.</p> <p>22 MS. BERGSTROM: Okay.</p> <p>23 MS. FORSLAND: And it's usually our</p> <p>24 construction office, come to think of it.</p> <p>25 MS. BERGSTROM: Okay.</p>	<p>39</p> <p>1 (Recess.)</p> <p>2 BY MS. BERGSTROM:</p> <p>3 Q Roger, let's talk -- Well, let's go back to the BIP</p> <p>4 for just a minute and talk specifically about the</p> <p>5 deck repair that I pointed out to you.</p> <p>6 A Okay.</p> <p>7 Q You had mentioned that it had probably just gotten</p> <p>8 on the BIP because you didn't see any notation that</p> <p>9 it had been moved. How would a project like that</p> <p>10 come to your attention so that it gets placed on the</p> <p>11 BIP?</p> <p>12 A Pretty much by the items that were on that one</p> <p>13 handout I gave you.</p> <p>14 Q Okay.</p> <p>15 A I talk to the -- The bridge maintenance supervisors</p> <p>16 will bring attention to certain bridges that they</p> <p>17 have to be out there doing repair work all the time,</p> <p>18 and they think it's about ready to be included in --</p> <p>19 for a contract. Also, I will -- like I say, I'll</p> <p>20 look at the inspection reports, the bridge structure</p> <p>21 inventory reports, where I find out when the bridge</p> <p>22 was built, when the bridge was overlaid or repair</p> <p>23 work done on the bridge. There's a time frame that</p> <p>24 you sort of want to look at because you -- keep in</p> <p>25 mind, again, we're looking at four years down the</p>
<p>38</p> <p>1 MR. SCHULTZ: Bridge will design the</p> <p>2 bridge plans. Metro more than likely designs the</p> <p>3 roadway plans leading to the bridge and off the</p> <p>4 bridge, such things as guardrail or traffic controls</p> <p>5 is a big item.</p> <p>6 BY MS. BERGSTROM:</p> <p>7 Q I was talking to Jerome Adams -- Adams, yeah --</p> <p>8 MS. FORSLAND: Yes.</p> <p>9 BY MS. BERGSTROM:</p> <p>10 Q -- this morning.</p> <p>11 A Yep.</p> <p>12 Q And he talked about the fact that he's the roadway</p> <p>13 engineer; and if he needed the bridge stuff, he'd go</p> <p>14 to somebody out of central bridge. So there are no</p> <p>15 design -- bridge designs within metro?</p> <p>16 A No, there are not.</p> <p>17 MS. BERGSTROM: Got it. All right.</p> <p>18 Well, let's take a little break. We've been going</p> <p>19 about an hour.</p> <p>20 MS. FORSLAND: Okay.</p> <p>21 MS. BERGSTROM: And then I'll just take a</p> <p>22 look at some of these things that Jerome brought me</p> <p>23 and see if we can come up with a little plan on that</p> <p>24 kind of stuff.</p> <p>25 MS. FORSLAND: Okay.</p>	<p>40</p> <p>1 line. When this showed up in 2007, it more than</p> <p>2 likely was probably put in -- this was probably put</p> <p>3 together 2003 or '4 I'd say. Although I have to</p> <p>4 check that out and see if it was added later. And,</p> <p>5 then again, various ratings that are on the -- you</p> <p>6 know, that are on the inspection report. Corridor</p> <p>7 planning. Sometimes we can go ahead and put some</p> <p>8 dollars in to take care of a bridge replacement, and</p> <p>9 there will be local agencies that will be financing</p> <p>10 maybe the rest of the construction work.</p> <p>11 Q Why don't you tell me about how you were involved</p> <p>12 with the I-35W bridge obviously prior to its</p> <p>13 collapse?</p> <p>14 A Other than preparing a recommendation that repair</p> <p>15 work be done on that -- on the deck, the only</p> <p>16 other -- the only other really time I was involved</p> <p>17 is when it was discovered that there may be a need</p> <p>18 for some retrofitting. And I've got to look here.</p> <p>19 Well, I think I probably even brought those. But</p> <p>20 when it was brought -- it was brought to my</p> <p>21 attention that there was retrofitting possibly</p> <p>22 needed -- in fact, I'm sure some of this information</p> <p>23 came from Jerome Adams, because Jerome at the time I</p> <p>24 believe was, quote, unquote, maybe a project</p> <p>25 engineer or whatever designation he had. His</p>

<p style="text-align: right;">41</p> <p>1 comment to me was do we have any dollars to do that</p> <p>2 work or where can we get dollars for that. And when</p> <p>3 I went to the first meeting, it was my comment that</p> <p>4 said if it's a needed repair, we had no choice; we</p> <p>5 had to find dollars. And I had a mill -- put a</p> <p>6 million and a half in there to cover the at the time</p> <p>7 guesstimated -- guesstimated repair work. And,</p> <p>8 let's see, where that would be? The best of my</p> <p>9 knowledge -- I've got a copy of this, but you don't.</p> <p>10 It's a previous -- more than likely a previous</p> <p>11 bridge improvement sheet. But if you look in your</p> <p>12 2006, I believe that -- No, I'm wrong. I'm wrong.</p> <p>13 I got to check this here. It would be 2008, 2008</p> <p>14 bridge improvement program, I have a note there that</p> <p>15 I added on 12-05-06 1 million-and-a-half dollars for</p> <p>16 a steel reinforcing retrofit project as recommended</p> <p>17 by CO branch. Now this happens to be one of those</p> <p>18 years that my title sheet didn't show up. So if you</p> <p>19 look in the right -- bottom right corner there,</p> <p>20 you'll see BIP fiscal year 2008, number 2.</p> <p>21 Q Okay.</p> <p>22 A Does it keep going or do I have them out of order</p> <p>23 for you?</p> <p>24 Q Well, no, my 2008 are only number 6.</p> <p>25 A Okay.</p>	<p style="text-align: right;">43</p> <p>1 the retrofit project out of the BIP money?</p> <p>2 A And that makes me feel good because exactly -- it</p> <p>3 said exactly what Jerome had there. So...</p> <p>4 Q Right. Right.</p> <p>5 A And that's all out of memory. It's not off the</p> <p>6 minutes of the meeting.</p> <p>7 Q Okay. So in -- So there are various minutes from</p> <p>8 these meetings, and it looks like you are at most of</p> <p>9 these meetings. And it has to do with the bridges,</p> <p>10 redecking, the retrofitting, the overlay work,</p> <p>11 repair work, and then ultimately the replacement.</p> <p>12 Those were the various things being discussed about</p> <p>13 this bridge. In one of them they talk about the</p> <p>14 deck overlay in 2007 is costing about \$3.5 million.</p> <p>15 And I think we saw part of that on your BIP.</p> <p>16 A Um-hum. Um-hum.</p> <p>17 Q They talk about deck replacement and steel</p> <p>18 strengthening as costing \$15 million. That would</p> <p>19 not have been something that would have been part of</p> <p>20 your BIP?</p> <p>21 A That's right. That would be major construction of</p> <p>22 some sort.</p> <p>23 Q Okay. So that either has to come out of metro's</p> <p>24 other budget or out of central bridge?</p> <p>25 A I don't know where the funding comes from.</p>
<p style="text-align: right;">42</p> <p>1 Q So you just have a different version you mean?</p> <p>2 A Yeah. Evidently I didn't -- That's the last one for</p> <p>3 2008. But if you look -- if you'd look at the last</p> <p>4 item on 2008, do you find added 12-05-06?</p> <p>5 Q I don't. Let me see. Why don't you show me?</p> <p>6 A (Indicating.)</p> <p>7 Q Oh, I see. Okay. Well, by the time -- Actually, my</p> <p>8 version of it -- I see it. I do see it. But it</p> <p>9 says steel retrofit project as recommended by CO</p> <p>10 bridge moved to FY 2009 --</p> <p>11 A Right. Okay.</p> <p>12 Q -- 1.5. That happened later --</p> <p>13 A Yeah.</p> <p>14 Q -- in the game?</p> <p>15 A Um-hum. Yep. Yep. Yep.</p> <p>16 Q Well, actually, based on your earlier talking to me</p> <p>17 about this -- I'm looking, for instance, at the</p> <p>18 minutes from a meeting, and Jerome gave me this this</p> <p>19 morning -- November 1st, 2006 where it says -- it's</p> <p>20 talking about the retrofit and that Gary Peterson</p> <p>21 out of central bridge thinks it will cost a million</p> <p>22 to a million and a half. And it says funding, Roger</p> <p>23 Schultz has allocated 1,500,000 from the bridge</p> <p>24 improvement fund which he manages. So that makes a</p> <p>25 lot more sense to me now. So essentially they had</p>	<p style="text-align: right;">44</p> <p>1 Q Okay. And, then again, same with -- they talk about</p> <p>2 replacement as being 75 million. That's the same</p> <p>3 idea that --</p> <p>4 A Yeah, I don't...</p> <p>5 Q Okay. So is it -- Is it fair to summarize that your</p> <p>6 involvement with this bridge was to make sure that</p> <p>7 there was BIP money available for these lower-dollar</p> <p>8 projects?</p> <p>9 A That's correct.</p> <p>10 Q Okay. Other than in that capacity, did you have</p> <p>11 anything to do with the bridge?</p> <p>12 A Not that I can recall.</p> <p>13 Q Okay. Have -- Mark Pribula would have been in</p> <p>14 charge of the inspections and the maintenance;</p> <p>15 right?</p> <p>16 A That is correct.</p> <p>17 Q Did you --</p> <p>18 A I -- When you say maintenance, I stand corrected on</p> <p>19 that. I don't know if Mark was in charge of</p> <p>20 maintenance. He was in charge of inspection.</p> <p>21 Q Yeah. And I might have overstated that. But</p> <p>22 certainly he would have been -- as a fracture</p> <p>23 critical bridge, he would have been the engineer in</p> <p>24 charge of the inspection side of it?</p> <p>25 A Correct.</p>

<p style="text-align: right;">45</p> <p>1 Q Okay. Roger, the retrofit project is being</p> <p>2 discussed and being discussed -- Well, let me go</p> <p>3 back in time. Were you aware at all of the</p> <p>4 University of Minnesota study that was done in 1999</p> <p>5 and 2000?</p> <p>6 A Not that I can recall what the specifics of it were.</p> <p>7 Q Okay. And did you have any occasion to meet with or</p> <p>8 attend meetings with HNTB?</p> <p>9 A Not to my knowledge.</p> <p>10 Q Okay. At a certain point in time HNTB was</p> <p>11 similarly, like I think it's 2000, 2001, suggesting</p> <p>12 a retrofit of the bridge. Do you remember placing</p> <p>13 any retrofitting dollars on your BIP back in that</p> <p>14 time?</p> <p>15 A Not that I can recall at this time.</p> <p>16 Q Okay. And then you're aware that URS was on the</p> <p>17 bridge doing consulting studies?</p> <p>18 A I know there was a consulting firm.</p> <p>19 Q Okay. So you never met with URS?</p> <p>20 A No, sir.</p> <p>21 Q But the -- Ultimately URS recommends this retrofit,</p> <p>22 and you get involved for BIP money like we were just</p> <p>23 talking about; right?</p> <p>24 A Correct.</p> <p>25 Q And then at a certain point, and we determined</p>	<p style="text-align: right;">47</p> <p>1 BIP?</p> <p>2 A That's correct.</p> <p>3 Q Okay. In the -- In the inspections for the</p> <p>4 structures that you're in charge of, so the</p> <p>5 nonfracture criticals, do you have -- do you use the</p> <p>6 terms of art critical deficiencies and critical</p> <p>7 findings or are those only fracture critical terms</p> <p>8 of art?</p> <p>9 A They can -- They can be for any bridge.</p> <p>10 Q Okay. And so is there -- Is there -- What would be</p> <p>11 determined to be a critical deficiency?</p> <p>12 A Bear with me. I do have a handout for you. We must</p> <p>13 have had some ESP going last night or the day</p> <p>14 before. I just have to find it now. Well, it's not</p> <p>15 in there. It's got to be in one of these. Bear</p> <p>16 with me.</p> <p>17 Q That's all right.</p> <p>18 A I'm sure I brought it along. Maybe I left it on my</p> <p>19 desk. Critical findings or critical deficiency is</p> <p>20 when a bridge is about to collapse, that there are</p> <p>21 conditions in the bridge that would lead to a</p> <p>22 collapse.</p> <p>23 Q And on the structures that you're in charge of in</p> <p>24 the metro district, do you keep a log of critical</p> <p>25 deficiencies and critical findings?</p>
<p style="text-align: right;">46</p> <p>1 earlier this morning, January of 2007, central</p> <p>2 bridge and the consultants decide that maybe they</p> <p>3 don't need to do the retrofit. And at that point do</p> <p>4 you -- what do you recall about what they told you</p> <p>5 about the BIP money?</p> <p>6 A Well, that's in the reports there. It went to</p> <p>7 450,000 is what it did.</p> <p>8 Q Well, the one that I had read you earlier said first</p> <p>9 it gets delayed to 2009.</p> <p>10 A In 2009 I had 450,000 in there as of 2-28-07.</p> <p>11 That's -- At least that appears on the BIP fiscal</p> <p>12 year 2009 number 3. And it would also appear on all</p> <p>13 the rest of them in 2009. Comments are steel</p> <p>14 retrofit project may be recommended by CO bridge.</p> <p>15 Only guesstimated cost available at this time.</p> <p>16 Q So when they -- When central bridge does a change in</p> <p>17 strategy, if you will, and decides that that's not</p> <p>18 something they're going to do, are you consulted at</p> <p>19 all on whether that makes sense or are you just told</p> <p>20 we don't need those dollars?</p> <p>21 A I don't have the expertise for that design --</p> <p>22 Q Okay.</p> <p>23 A -- that design input.</p> <p>24 Q So you just -- They consult with you and say may be</p> <p>25 delayed, may not; and you make adjustments to your</p>	<p style="text-align: right;">48</p> <p>1 A To the best of my knowledge we have not had any</p> <p>2 critical findings on any of my routine bridges. We</p> <p>3 had a couple of references to critical findings by</p> <p>4 the inspect -- by the consultant that was doing some</p> <p>5 inspections on routine bridges for us; but it turned</p> <p>6 out that those were hazardous, not critical.</p> <p>7 Q And are those the inspections that have been done</p> <p>8 since the bridge collapse?</p> <p>9 A Yeah, because we had to inspect all of our bridges</p> <p>10 this year. That was, you know, a governor's</p> <p>11 directive.</p> <p>12 Q Right.</p> <p>13 A We did -- Or central office did choose to provide</p> <p>14 some help through a consulting firm. And we</p> <p>15 utilized them on about, I don't know, maybe a couple</p> <p>16 hundred bridges probably.</p> <p>17 Q That's the PB America's group?</p> <p>18 A Yeah.</p> <p>19 Q Okay.</p> <p>20 A Um-hum.</p> <p>21 Q In your tenure at MnDOT have you ever been involved</p> <p>22 in closing a bridge?</p> <p>23 A Nope. I will continue to keep looking through these</p> <p>24 files because I know I brought it. I knew you'd be</p> <p>25 asking for that or would need -- I'd need to</p>

<p style="text-align: right;">49</p> <p>1 describe that for you and explain it. Page 2. I</p> <p>2 did have it in my bridge inspection manual.</p> <p>3 Q Okay. So this is a technical memorandum dated</p> <p>4 July 20th, 2005 on critical deficiencies?</p> <p>5 A That's correct.</p> <p>6 Q And I believe I have seen this. But this is not</p> <p>7 specific to fracture critical; it's to all bridges;</p> <p>8 right?</p> <p>9 A That's correct.</p> <p>10 Q Okay.</p> <p>11 A The important thing here is to review the definition</p> <p>12 of critical deficiency and hazardous deficiency.</p> <p>13 Q And so in your tenure you've not had a bridge that</p> <p>14 had a critical deficiency?</p> <p>15 A That is correct.</p> <p>16 Q Are you -- Roger, are you involved in any AASHTO</p> <p>17 committee work?</p> <p>18 A No, I'm not.</p> <p>19 Q Okay. Have you ever been historically?</p> <p>20 A No. When I was with Arcon Construction Company, I</p> <p>21 was involved with the AGC CO bridge subcommittee.</p> <p>22 Q AGC stands for?</p> <p>23 A Associated general contractors, which was the union</p> <p>24 of contractors.</p> <p>25 Q Okay. The --</p>	<p style="text-align: right;">51</p> <p>1 the bridge and on the bridge approach panel,</p> <p>2 sometimes we'll leave it in, the old comment, we</p> <p>3 would leave it in. Other times we would just</p> <p>4 eliminate it and maybe change the rating, the</p> <p>5 condition rating.</p> <p>6 Q Okay.</p> <p>7 A It's dependent on -- It's dependent on whether or</p> <p>8 not it has an effect on the structural integrity of</p> <p>9 the bridge and/or might have an effect on some other</p> <p>10 work that we would be looking at under the BIP</p> <p>11 program.</p> <p>12 Q As you -- As you may or may not know, the Office of</p> <p>13 the Legislative Auditor has done an investigation</p> <p>14 update as well.</p> <p>15 A I sat in on it.</p> <p>16 Q Okay. And so there were some criticisms early by</p> <p>17 certain people that the inspection reports -- and I</p> <p>18 know that these are fracture critical inspection</p> <p>19 reports, and so it's a little different from your</p> <p>20 area -- but that they have this repetitive nature in</p> <p>21 them. And the explanation as I understand it, and</p> <p>22 I've seen the written response, was that those</p> <p>23 paragraphs were oftentimes included to provide a</p> <p>24 historical glance, if you will, for the following</p> <p>25 year's inspection teams.</p>
<p style="text-align: right;">50</p> <p>1 A The word union doesn't mean, quote, unquote, union</p> <p>2 for people. It's a group of contractors that belong</p> <p>3 to that organization.</p> <p>4 Q Roger, are there any policies or technical</p> <p>5 memorandums that you're aware of that talk about how</p> <p>6 the team leaders or the inspectors are supposed to</p> <p>7 draft inspection reports?</p> <p>8 A I have not -- I am not aware of a written policy on</p> <p>9 that. I mean, they've been instructed through their</p> <p>10 education as to what they're supposed to be looking</p> <p>11 for and how it's supposed to be presented on the</p> <p>12 inspection reports.</p> <p>13 Q If -- Let's assume that a team leader went out and</p> <p>14 inspected the bridge and made some findings and that</p> <p>15 as a result of that inspection report some</p> <p>16 maintenance was done to respond to the</p> <p>17 recommendations, and then the inspector goes out the</p> <p>18 following year and that finding from the previous</p> <p>19 year has been alleviated at that point because the</p> <p>20 maintenance was done. Would the inspector include</p> <p>21 that previous finding in the subsequent years?</p> <p>22 A What we try to do, and that's part of my editing, is</p> <p>23 that, dependent on maybe the item that's listed,</p> <p>24 whether it be a structural detail or a smooth</p> <p>25 pavement -- smooth pavement detail that might be off</p>	<p style="text-align: right;">52</p> <p>1 A Um-hum.</p> <p>2 Q And I guess I'm curious whether the inspection</p> <p>3 reports on your structures you do the same thing?</p> <p>4 A It's a judgment call. And, yes, I -- we attempt to</p> <p>5 do the same thing. I've sat -- We sat through two</p> <p>6 reviews with the -- with the FHWA, and both times</p> <p>7 have come out with positive -- positive comments</p> <p>8 from our reviews, one was in 1998 and another in</p> <p>9 November of 2005. And they would like to -- or</p> <p>10 would -- they encouraged to keep information for the</p> <p>11 history of the bridge. Yeah, they encourage that.</p> <p>12 And so we -- We've -- You know, we try to keep it</p> <p>13 in, but it's a judgment call.</p> <p>14 Q And it's -- And it's something that's in the -- it's</p> <p>15 in the judgment of the person who's writing the</p> <p>16 report and who's doing the inspection; it's not</p> <p>17 something that's codified in any policy or anything?</p> <p>18 A I guess it would be my policy for metro.</p> <p>19 Q Okay.</p> <p>20 A And I would be the one that usually would eliminate</p> <p>21 a comment --</p> <p>22 Q That's --</p> <p>23 A -- before I give it to someone for inputting.</p> <p>24 Q So that's -- That's the editing process?</p> <p>25 A That's the editing process, yes.</p>

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1 MS. BERGSTROM: I think I'm probably
2 done.
3 MS. FORSLAND: Okay.
4 MS. BERGSTROM: I appreciate your time
5 and your documents.
6 (Concluded at 11:43 a.m.)

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1 STATE OF MINNESOTA)
2) ss.
3 COUNTY OF DAKOTA)

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5 REPORTER'S CERTIFICATE

6

7

8 I, Angie D. Threlkeld, do hereby
9 certify that the above and foregoing transcript,
10 consisting of the preceding 53 pages is a
11 correct transcript of my stenographic notes, and is
12 a full, true and complete transcript of the
13 proceedings to the best of my ability.

14 Dated April 3, 2008.

15

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18

19 ANGIE D. THRELKELD
20 Registered Professional Reporter
Certified Realtime Reporter

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22

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24

25

Neal, Claudia

From: Roger Schultz [Roger.Schultz@dot.state.mn.us]
Sent: Thursday, May 01, 2008 2:59 PM
To: Michele Clarizio
Cc: John Bieniek
Subject: Additions and Corrections to March 21, 2008 SPM Interview

Michele -- John Bieniek suggested I submit to you any additions or corrections that I recommend to my interview transcript. I submit the following:

Page 14 ---- line 9 ---- Replace the word "your" with "the" to read --- "the" bridge workers

Page 19 ---- line 8 ---- Replace the word "in" with "by" to read --- used "by" them"

Page 29 ---- line 12 ---- Add the word "to" to read --- And "to" the best

Page 34 ---- line 1 ----- Add the word "use" to read --- and then "use" other

Page 41 ---- line 17 ---- Replace the word "branch" with "Bridge" to read --- by CO "Bridge".

Page 43 ---- line 2 / 3 ----- Replace the word "it" with "I" to read --- "I" said exactly

If you need additional input, please contact me.

Roger S

<p>1 INTERVIEW OF KEVIN WESTERN - MARCH 28, 2008</p> <p>2</p> <p>3</p> <p>4 In the Matter of Conducting an Independent Investigation 5 Into the Collapse of the I-35W Bridge</p> <p>6</p> <p>7 Department of Transportation 8 395 John Ireland Boulevard 9 Room G-13 10 St. Paul, Minnesota</p> <p>11</p> <p>12 Met, pursuant to notice, at 3:00 in the 13 afternoon on March 28, 2008.</p> <p>14</p> <p>15 INTERVIEWER:</p> <p>16</p> <p>17 Thomas Johnson, Attorney at Law with the 18 Gray Plant Mooty Law Firm.</p> <p>19 ALSO PRESENT:</p> <p>20 Barbara E. Forsland, MnDOT Data Practices 21 Compliance & Policy Analyst.</p> <p>22</p> <p>23 COURT REPORTER:</p> <p>24 Angie D. Threlkeld, RPR CRR</p> <p>25</p>	<p>1 MR. WESTERN: Very good.</p> <p>2 MS. FORSLAND: Thank you.</p> <p>3 BY MR. JOHNSON:</p> <p>4 Q Also, Kevin, the court reporter, she can only</p> <p>5 record verbal answers --</p> <p>6 A Yes, I understand.</p> <p>7 Q -- not nods of the head. So --</p> <p>8 A Yes.</p> <p>9 Q -- keep that in mind.</p> <p>10 A I understand.</p> <p>11 Q I'm also going to share with you protocol for the</p> <p>12 interview. It may have been shared with you before.</p> <p>13 I'm not sure. Barb has seen it a number of times.</p> <p>14 And what it says is that we have been authorized by</p> <p>15 the Minnesota legislature -- actually retained by</p> <p>16 the Minnesota legislature to conduct an independent</p> <p>17 investigation of the collapse of the 35W bridge.</p> <p>18 The legislature has asked us to prepare</p> <p>19 our report by May 1st of this year or the earliest</p> <p>20 part of May. So we're under a very tight deadline.</p> <p>21 I'll be asking you questions that concern</p> <p>22 the bridge collapse and related policies, practices,</p> <p>23 and legislative oversight issues.</p> <p>24 The purpose is very simple, which is to</p> <p>25 determine what you know -- what you might know about</p>
<p>1 (Whereupon, Exhibits 1, 2, and 3</p> <p>2 were marked for identification</p> <p>3 by the court reporter.)</p> <p>4 BY MR. JOHNSON:</p> <p>5 Q Kevin, I'm going to state my name for the record;</p> <p>6 and then I'll ask you to do likewise so we know</p> <p>7 who's here. I'm Tom Johnson with the Gray Plant</p> <p>8 Mooty law firm.</p> <p>9 A Okay. And I'm Kevin Western. I'm with MnDOT.</p> <p>10 Q Now, the court reporter is going to be taking down</p> <p>11 what I'm asking and what you're answering. And that</p> <p>12 will work best if I ask questions and you answer,</p> <p>13 and I wait to ask the next question so I ask my next</p> <p>14 question when you've finished your answer.</p> <p>15 (Off-the-record discussion.)</p> <p>16 MR. JOHNSON: If you'd introduce</p> <p>17 yourself, that would be good.</p> <p>18 MS. FORSLAND: I'm Barbara Forsland, and</p> <p>19 I'm the data practices attorney. I haven't had a</p> <p>20 chance to talk to Kevin yet.</p> <p>21 Kevin, at any time you need a break, just</p> <p>22 let us know. If you want to talk about anything or</p> <p>23 go over it with me before you answer, that's okay</p> <p>24 too. Just let us know you want to take a little</p> <p>25 break.</p>	<p>1 the matters under investigation.</p> <p>2 With respect to confidentiality, during</p> <p>3 the course of our investigation the information you</p> <p>4 provide will be confidential. Once we give our</p> <p>5 report to the legislature, at that point it may</p> <p>6 become public information.</p> <p>7 You are required to answer my questions</p> <p>8 truthfully. A court reporter is present to record</p> <p>9 our conversation. And either during this interview</p> <p>10 or later in our investigation we may determine that</p> <p>11 we will want to verify certain information. And if</p> <p>12 we do that, we may ask you to sit for a further</p> <p>13 recorded statement or to sign an affirmation that</p> <p>14 something is truthful under oath.</p> <p>15 And then, finally, we're just trying to</p> <p>16 get to the bottom of things, Kevin, in terms of what</p> <p>17 happened here. And we view this process as an</p> <p>18 ongoing dialogue between us and you and others at</p> <p>19 MnDOT. If you think of anything after this</p> <p>20 interview that you want to tell us about, please</p> <p>21 either call or e-mail me. And, likewise, we hope</p> <p>22 that you will respond to any e-mail that you might</p> <p>23 get from me or other lawyers at Gray Plant to follow</p> <p>24 up on our questions.</p> <p>25 So let's start with getting to know a</p>

<p style="text-align: right;">5</p> <p>1 little bit about you.</p> <p>2 A Okay.</p> <p>3 Q First why don't you let me know where you received</p> <p>4 your college degree, what it's in.</p> <p>5 A Okay. I attended the University of Wisconsin at</p> <p>6 Madison and received my bachelor's of -- bachelor's</p> <p>7 degree in civil engineering in 1983. And I started</p> <p>8 my master's degree there. After six months my wife</p> <p>9 got a job up here. And so I moved, transferred up</p> <p>10 to the University of Minnesota and finished my</p> <p>11 master's degree here in 1986 with a -- in civil</p> <p>12 engineering and structures.</p> <p>13 After -- And I guess that's the formal</p> <p>14 education. I have had numerous other -- attended</p> <p>15 seminars, conferences, that sort of thing, probably</p> <p>16 too numerous to mention.</p> <p>17 Q Let's move now to your employment at MnDOT. When</p> <p>18 did you start with MnDOT?</p> <p>19 A Started in January 1987.</p> <p>20 Q So that was right out of college?</p> <p>21 A Right out of college, yes. Started in the bridge</p> <p>22 office, worked there. And I assume you want other</p> <p>23 experiences?</p> <p>24 Q Yes. Why don't you just kind of walk through --</p> <p>25 A Okay.</p>	<p style="text-align: right;">7</p> <p>1 at that time I took a transfer over to the bridge</p> <p>2 state aid position. That position sits in the</p> <p>3 bridge office, but it is the -- it is the bridge</p> <p>4 contact person for all the local counties and cities</p> <p>5 for the development of their plans. And those plans</p> <p>6 are all done by consultants. So you're -- You're</p> <p>7 helping manage the consultants, reviewing their</p> <p>8 work.</p> <p>9 Q What was your title in that position?</p> <p>10 A The state aid bridge engineer. So I was in that</p> <p>11 position for between a year and a half to two years;</p> <p>12 and then I was promoted into the position that I am</p> <p>13 in currently, which is the state bridge design</p> <p>14 engineer. I -- While I've been in this position,</p> <p>15 I've had two different mobility opportunities that</p> <p>16 I've been on. One is an area manager -- or area</p> <p>17 engineer spot within metro division. I did that.</p> <p>18 That was for a six-month period of time. That would</p> <p>19 have been about two years ago.</p> <p>20 Q And what area did you have?</p> <p>21 A I had Dakota County. And then starting on</p> <p>22 August 2nd, I've been -- until about a week ago I</p> <p>23 was the deputy project manager in charge of design</p> <p>24 for the 35W project. And I still -- I'm still in</p> <p>25 that position. I spend some time over there. But</p>
<p style="text-align: right;">6</p> <p>1 Q -- what positions you've held here and if you could</p> <p>2 give me the period of time in which you have.</p> <p>3 A Period of time. So I worked as a -- as a designer</p> <p>4 in a bridge unit from '87 till, see, it would have</p> <p>5 been 1991 I believe was the time frame. I -- During</p> <p>6 that time I also had a four-month mobility where I</p> <p>7 worked out in construction with some inspectors,</p> <p>8 worked with writing supplemental agreements, those</p> <p>9 sorts of things out in the field. At that point in</p> <p>10 time, in '91, I was promoted to a position as the</p> <p>11 state -- trying to -- state -- it's the bridge</p> <p>12 standards engineer. That again is in the bridge</p> <p>13 office where I oversaw the development of --</p> <p>14 development and updating of all of the bridge</p> <p>15 manuals. Also the research automation. I think</p> <p>16 that's -- There probably were some other things, but</p> <p>17 for the most part that was part of those job duties.</p> <p>18 Q How long did you hold that position?</p> <p>19 A That position I was in for about two-and-a-half</p> <p>20 years.</p> <p>21 Q '91 to '94?</p> <p>22 A '91 to '93. In '93 I transferred over to a position</p> <p>23 as a design unit leader where I headed a unit of</p> <p>24 eight people that developed plans, design plans,</p> <p>25 repair plans. Was in that position until 1999. And</p>	<p style="text-align: right;">8</p> <p>1 there are a number of duties that I need to get back</p> <p>2 to at the bridge office.</p> <p>3 Q Let me go back and, with respect to each or most of</p> <p>4 those positions, ask you a follow-up question or</p> <p>5 two.</p> <p>6 A Okay.</p> <p>7 Q When you were with -- When you were working as a</p> <p>8 design engineer on the bridge unit, which was from</p> <p>9 '87 to '91, who were you reporting to there?</p> <p>10 A I actually had two different supervisors. One was</p> <p>11 Conrad Hoblin. And he is no longer with the</p> <p>12 department. He's retired. And the other one is</p> <p>13 William Holzemer, H-O-L-Z-E-M-E-R. And he has since</p> <p>14 passed away.</p> <p>15 Q When you were the bridge standards engineer, who did</p> <p>16 you report to?</p> <p>17 A Gary Peterson.</p> <p>18 Q And do you recall what manuals you worked on in</p> <p>19 the --</p> <p>20 A There were --</p> <p>21 Q -- two-plus years you were there?</p> <p>22 A Yes. There were three different manuals that I was</p> <p>23 in charge of. One was the bridge design manual.</p> <p>24 One was a details manual, and that details manual is</p> <p>25 a separate half-sheet details that go in our bridge</p>

<p>9</p> <p>1 plans.</p> <p>2 Q Explain that one.</p> <p>3 A They're a half sheet. Plans are 11-by-17 sheets,</p> <p>4 and these details take up half of that size. And</p> <p>5 they are -- If that component is part of the bridge,</p> <p>6 then you would include that with -- with the bridge</p> <p>7 plan. So as an example, if you had a prestress</p> <p>8 girder bridge, I would include a diaphragm detail</p> <p>9 that shows that it's being used for that bridge. We</p> <p>10 have details that are used for steel bridges that</p> <p>11 would not be part of that plan.</p> <p>12 So you kind of pick and choose these</p> <p>13 details so it creates some efficiencies in producing</p> <p>14 your plans that these details that are repetitively</p> <p>15 used are then made a standard. So it's been through</p> <p>16 a process that is reviewed and approved by the</p> <p>17 office, and then those get included in the plans.</p> <p>18 Q So the manual just captures those standards?</p> <p>19 A Well, there -- Again, there's two -- I'm just</p> <p>20 talking about the details themselves. The details</p> <p>21 are these sheets that go into the plans. And then</p> <p>22 the bridge manual, which I mentioned, is -- I didn't</p> <p>23 go into what that all was. But that is a manual</p> <p>24 that gives guidance on the design and other aspects</p> <p>25 of bridge engineering for -- you know, from</p>	<p>11</p> <p>1 I assign the work to the different units, manage the</p> <p>2 work that they -- that they do, the level of their</p> <p>3 work, the quality of their work. I'm also -- In</p> <p>4 that position I'm part of an R & D, research and</p> <p>5 development, team within the bridge office that</p> <p>6 oversees new products that we may be implementing,</p> <p>7 talking about changes in our standards, new</p> <p>8 products. I think I might have mentioned that.</p> <p>9 Also, as all the managers working for the</p> <p>10 state bridge engineer, we get assigned different</p> <p>11 special tasks when they come up. You know, so it's</p> <p>12 nothing that not necessarily fits under the design</p> <p>13 area. It's something to deal with the office,</p> <p>14 either management of the personnel or, you know,</p> <p>15 maybe some other task bridge related that would be</p> <p>16 assigned to me.</p> <p>17 Q With respect to your work assignment responsibility,</p> <p>18 tell me a little bit how that's done. Is it done</p> <p>19 geographically? Is it done by type of bridge? How</p> <p>20 do you assign it to the individual units?</p> <p>21 A Overall we have a -- The program varies year to</p> <p>22 year. And so we have, since I've been in that</p> <p>23 position, anywhere from about \$50 million to</p> <p>24 \$190 million of construction in the year in the</p> <p>25 units that can do about 150 to \$160 million of work</p>
<p>10</p> <p>1 development of the project to getting the plan done</p> <p>2 and what needed to be in that plan.</p> <p>3 Q So you've identified the bridge design manual, the</p> <p>4 details manual, and there's a third?</p> <p>5 A And then there's a standards plan manual, which is a</p> <p>6 full-size plan. And it's similar to the details --</p> <p>7 B details. It's just larger in scope. But it's the</p> <p>8 same process, same sort of sheet.</p> <p>9 Q When you were the design -- or a design unit leader,</p> <p>10 who did you report to?</p> <p>11 A That also was Gary Peterson. He was the section</p> <p>12 head for both the design units and the standards</p> <p>13 unit.</p> <p>14 Q And as the state bridge engineer -- state aid bridge</p> <p>15 engineer, who were you reporting to?</p> <p>16 A That would be Keith Shannon.</p> <p>17 Q So now let's focus in for a few minutes on your</p> <p>18 position as the head of the bridge design section.</p> <p>19 A Okay.</p> <p>20 Q Tell me what the job description is for that</p> <p>21 position.</p> <p>22 A In that position I direct the -- right now it is</p> <p>23 five design units. And the design units provide</p> <p>24 plans, specifications for bridge -- either new</p> <p>25 bridge plans or bridge rehab plans. So in that role</p>	<p>12</p> <p>1 a year. So when the projects are -- come through</p> <p>2 the pipeline, we have to make the decision first and</p> <p>3 foremost do we have the capacity to be able to do</p> <p>4 those in-house. So that is one -- one -- one point</p> <p>5 of looking where the projects, whether they're</p> <p>6 assigned either with our in-house staff or with a</p> <p>7 consultant doing the work.</p> <p>8 As far as the bridges that I do assign to</p> <p>9 our in-house personnel, part of it is to look at the</p> <p>10 experience of that unit leader to the complexity of</p> <p>11 the job. It's also to look at how much work they</p> <p>12 already have in front of them. So part of my -- you</p> <p>13 know, I don't look at -- I don't get down to the</p> <p>14 hours in making sure everything is perfect in their</p> <p>15 time; but what I do is I kind of look at a global</p> <p>16 sense if they can do about 7 to \$10 million worth of</p> <p>17 work in a year, and so I make sure that the work</p> <p>18 they have assigned to them fits within that -- that</p> <p>19 dollar amount.</p> <p>20 Q Let me be more specific now. If you're doing a</p> <p>21 major -- If a major bit of work is being done on a</p> <p>22 project, critical bridge, I-35W for example, would</p> <p>23 you -- would one of your design units do that --</p> <p>24 A We --</p> <p>25 Q -- the design work for the project?</p>

13

1 A It depends on the level of the work. And if
 2 we're -- we're talking about 35W, the work that we
 3 had programmed, we had assigned that to Arlen
 4 Ottman, who had worked on a number of different
 5 projects over the years, probably our most
 6 experienced unit leader that we had -- have in the
 7 bridge office.

8 He -- As we -- When we assign these
 9 projects for these rehab projects, there's a process
 10 that it goes through with -- with the district and
 11 with our regional construction engineer and also
 12 with the fracture critical or the inspectors out on
 13 the bridge that note deficiencies in the bridge.
 14 And then a repair recommendation is developed, and
 15 then we would follow through with developing plans
 16 to help fix those deficiencies on the bridge. And
 17 typically those are done in-house. We have at times
 18 done those with consultants, but for the most part
 19 those maintenance projects are done with our
 20 in-house design units.

21 Q You mentioned that there's five units now --

22 A Right.

23 Q -- implying that there was a different number at
 24 some other point in time. Was there?

25 A There -- Back in the -- probably in the early '90s

14

1 we had six design units.

2 Q Do you recall specifically when you would have gone
 3 from six to five?

4 A It was within the last two to three years, but I
 5 cannot tell you the specific date.

6 Q Do you remember what the rationale was for that?

7 A Part of it was we had -- we have been downsizing the
 8 department for a while and our office for a while.
 9 And I can't remember all the specifics of the
 10 reasons why we did it, but part of it when you -- if
 11 you try to thin the work out too much within six
 12 units and with lesser people, you don't have enough
 13 people to do the tasks within that unit. So it made
 14 more sense to have the same number of people within
 15 five units than to have six units with a lesser
 16 number of people. If that makes sense. Because the
 17 unit leader does some of the work, but he does more
 18 of the managing of the unit. And so you have only
 19 so many workers. And so you have one less worker.
 20 You're able to divvy those workers up to the other
 21 units. And it's more efficient for those units.

22 Q Did the result of going -- Was the result of going
 23 from six to five design units a need to go to
 24 outside consultants more or were you able to still
 25 manage the work within the department?

15

1 A We -- For the most part we've stayed at about that
 2 same dollar level. You know, it's hard to compare
 3 from, say, 10 or 15 years ago to what we have now,
 4 because there have been efficiencies in design with
 5 automation, the draft -- the way we draft things.
 6 So those things, the time it takes to produce a plan
 7 is less than what it was. Design -- Design maybe
 8 takes, you know, a little bit less; but the tools
 9 that we have are more -- much stronger than what
 10 they were at that time. So I think we can probably
 11 comparatively do, I'm guessing now, about 80 to 90
 12 percent of what we would have done back when we had
 13 six full units compared to what we have now.

14 Q One last question just in terms of your job
 15 position. You mentioned that you serve on an R & D
 16 team. Who else is on that team?

17 A We have Gary Peterson from our office. We have
 18 Romeo Garcia, our FHWA representative. Our
 19 structural standards engineer. Our -- Our LRFD
 20 engineer. He's our -- that's -- He's our lead
 21 designer for the bridge office.

22 Q So these are -- With the exception of the FHWA
 23 person, it's all people within the department?

24 A Within -- Yes. Yes.

25 Q Tell me where you're physically located.

16

1 A In the -- At Oakdale. At our office in Oakdale.

2 Q Okay. That's the same place that Dan Dorgan is?

3 A Yes. Yes.

4 Q I'm going to have to get some water here. Excuse
 5 me.

6 (Recess.)

7 BY MR. JOHNSON:

8 Q Kevin, just to get oriented I'm going to show you an
 9 organizational chart that's been marked I believe
 10 Exhibit 2. And it's dated I believe --

11 A February 2008.

12 Q February 2008. And just look at it real quickly and
 13 see if that looks current to you. And I think what
 14 we're talking about in terms of your location within
 15 this chart is within the bridges, office of bridges,
 16 which is under the engineering services division;
 17 correct?

18 A That is correct.

19 Q And so Dan Dorgan is...

20 A Is my boss, yes.

21 Q He's your boss. You can keep that if you want.

22 A Okay.

23 Q Now let me show you an organizational chart that's
 24 marked Exhibit 2 -- or 3, rather. And that's a
 25 chart of the bridge office itself. And take a quick

<p style="text-align: right;">17</p> <p>1 look at that and tell me whether that looks current</p> <p>2 to you.</p> <p>3 A It's -- It's very current. But there are a few</p> <p>4 differences just from staffing personnel changes</p> <p>5 that we've had over the last year. It's almost a</p> <p>6 year old. So we have a few things that are a little</p> <p>7 different.</p> <p>8 Q Anything in particular you think should be noted?</p> <p>9 A Nothing -- Nothing major. I think everybody's --</p> <p>10 You know, probably the people you're concerned with</p> <p>11 are in the correct spots.</p> <p>12 Q Now, I'm looking at your position in this chart, and</p> <p>13 I see the five design units, and then there's</p> <p>14 some -- several other boxes. Why don't you describe</p> <p>15 for me what are in those boxes?</p> <p>16 A Okay. The other...</p> <p>17 Q Start with the special assignment box.</p> <p>18 A Special assignment. I'm trying to -- that -- When</p> <p>19 we went from our six design units down to five, I</p> <p>20 did have an extra design unit leader who's Jihshya</p> <p>21 Lin. And what we did -- We had a number of these</p> <p>22 special assignments that I would assign throughout</p> <p>23 the office. And what we -- what we did at that time</p> <p>24 was then we would assign those only to him. And so</p> <p>25 we had a number of evaluation-type projects that he</p>	<p style="text-align: right;">19</p> <p>1 the department probably about two, three years ago;</p> <p>2 and he was -- he was special projects. He was</p> <p>3 working on our historical preservation projects with</p> <p>4 the cultural resources area within the department.</p> <p>5 He also worked on a lot of the budget informa --</p> <p>6 budget tasks that we had for the department. And</p> <p>7 so -- But he did not have anybody working for him.</p> <p>8 And over the -- You know, we had talked about it for</p> <p>9 about six months about some reorganization that we</p> <p>10 could do. Nancy Daubenberger, who is the -- who had</p> <p>11 been promoted to our bridge preliminary engineer</p> <p>12 position in -- earlier in '07 -- I believe that was</p> <p>13 in January -- when she came in, we did this</p> <p>14 switching of some of the areas and where they</p> <p>15 reported. So at that time Jim took over the</p> <p>16 standards area and the -- and the IT area. And then</p> <p>17 the state aid area, which does a lot -- it's --</p> <p>18 Again, it's a lot of design review, more -- Probably</p> <p>19 most of the interaction that Dave had with any of</p> <p>20 the other managers was with me. We thought it was a</p> <p>21 better business decision to have him working,</p> <p>22 reporting directly to me.</p> <p>23 Q And previously he reported where?</p> <p>24 A He reported to Nancy, Nancy's position, the bridge</p> <p>25 preliminary plans engineer.</p>
<p style="text-align: right;">18</p> <p>1 would work on with the regional construction</p> <p>2 engineers when they were out in the field with the</p> <p>3 districts, and they would see -- see some issues on</p> <p>4 a bridge; then he would be involved with them and</p> <p>5 come up with retrofit plans for them.</p> <p>6 So the other -- The other four people</p> <p>7 listed on that left side of the chart along with</p> <p>8 Steve Ellis were the five then design unit leaders.</p> <p>9 Dave Dahlberg is our -- talked about our LRFD</p> <p>10 engineer. He's our -- kind of our design expert for</p> <p>11 the office. So he's a resource for all of the</p> <p>12 designers. And then the last gentleman there on the</p> <p>13 right is Dave Conkel. He is the state aid bridge</p> <p>14 engineer. We made this change -- It was probably</p> <p>15 about this time that we made this change where the</p> <p>16 state aid bridge engineer reported to me. Before</p> <p>17 that time we had -- I had the automation and bridge</p> <p>18 standards unit reporting to me also.</p> <p>19 Q And what precipitated the latter change?</p> <p>20 A The change? We -- If you see from our org chart,</p> <p>21 Jim Lilly, where he's listed as special projects --</p> <p>22 can you see that over on the -- he's the -- one of</p> <p>23 the project -- one of the managers underneath Dan</p> <p>24 Dorgan. He's the one way over on the right-hand</p> <p>25 side. He basically was assigned to us from within</p>	<p style="text-align: right;">20</p> <p>1 Q Much of my focus is going to be on what happens</p> <p>2 within the metro division. And what I'd like you to</p> <p>3 talk about now is how you relate to the metro bridge</p> <p>4 office.</p> <p>5 A As far as bridge -- bridge office, they -- the metro</p> <p>6 bridge office, now, they -- it's not really an</p> <p>7 office they have. It's -- They have their</p> <p>8 inspectors and -- that go out and look at the</p> <p>9 bridges. I really do not -- In my day-to-day work I</p> <p>10 do not have direct interaction with them. Where I</p> <p>11 would have any workings with the metro bridge people</p> <p>12 would be if we had a design or an inspection issue</p> <p>13 that came up, it would basically -- most of the time</p> <p>14 was reported to the regional construction engineer</p> <p>15 who at this time is Paul Kivisto for the metro area,</p> <p>16 and they would work the issue together. And if</p> <p>17 there was a need to get me involved, then I would be</p> <p>18 involved. One --</p> <p>19 Q Could you just stop there, would you --</p> <p>20 A Okay.</p> <p>21 Q -- and just help me understand how the communication</p> <p>22 flows from the inspector who spots a problem with a</p> <p>23 bridge up to your office. Who -- Who does it flow</p> <p>24 through before your -- someone -- either you or</p> <p>25 someone in your office?</p>

<p style="text-align: right;">21</p> <p>1 A Typically that would -- If there was a noted</p> <p>2 finding, it would come in to Paul Kivisto would</p> <p>3 be -- he is the contact person for the metro bridge</p> <p>4 people.</p> <p>5 Q And Paul then makes the decision whether to come to</p> <p>6 your office?</p> <p>7 A In -- No. He sits in our office. He is our -- We</p> <p>8 have -- Within our office we have three regional</p> <p>9 construction engineers that one of them reports to</p> <p>10 the southernmost districts, one reports to the</p> <p>11 northernmost districts, and Paul reports -- I</p> <p>12 shouldn't say reports to, I'm sorry -- he helps</p> <p>13 coordinate work with them. And it really is a point</p> <p>14 of resource for them. So if they have questions,</p> <p>15 they call Paul.</p> <p>16 Q And when you say they call Paul, who do you mean</p> <p>17 by --</p> <p>18 A Who's they?</p> <p>19 Q Who is the they?</p> <p>20 A Who's they? I can't tell you specifically. I just</p> <p>21 know from working with a few of them that I've seen</p> <p>22 Jack Pirkil and Mark Pribula are the two that we've</p> <p>23 had interactions with when an issue has come in to</p> <p>24 Paul.</p> <p>25 Q Do you have any direct interaction with the</p>	<p style="text-align: right;">23</p> <p>1 A I don't have firsthand knowledge of that. I -- I do</p> <p>2 not know. I believe there is; but, again, that's --</p> <p>3 you know, I know there was a bridge office, but I</p> <p>4 could not tell you how they functioned. So I can't</p> <p>5 really speak to that.</p> <p>6 Q Kevin, what I would like to get to is whether or not</p> <p>7 there were any policies or manual that would have</p> <p>8 governed, you know, the review of the plans back in</p> <p>9 '63. Is the bridge manual that you worked on, do</p> <p>10 you have any sense for how far that went back, the</p> <p>11 previous iterations of it?</p> <p>12 A It appears that the first -- the first bridge manual</p> <p>13 was developed about 1971. And so this -- that would</p> <p>14 have been after the time that the bridge -- that the</p> <p>15 9340 was designed.</p> <p>16 Q Would there be anything policy wise do you think</p> <p>17 that still exists someplace in the department that</p> <p>18 would have been the predecessor to the manual?</p> <p>19 A Not that I'm aware of. I have not seen anything.</p> <p>20 Q So in terms of what process the department followed</p> <p>21 back then with respect to making sure that this was</p> <p>22 a design that was an adequate one, you're not sure</p> <p>23 about whether there was any policies in place or...</p> <p>24 A I'm not, no.</p> <p>25 Q Do you have any sense for who -- how we might</p>
<p style="text-align: right;">22</p> <p>1 maintenance folks within metro?</p> <p>2 A No.</p> <p>3 Q With respect to the communication that you have</p> <p>4 between the inspectors at metro and your section, is</p> <p>5 there any policies that guide that communication?</p> <p>6 Anything in writing that says when a metro</p> <p>7 inspector, inspection supervisor is supposed to be</p> <p>8 in contact with your section?</p> <p>9 A Not -- Not that I'm aware of.</p> <p>10 Q Now, almost all the balance of my questions are</p> <p>11 going to be specific on this 35W bridge. And I'm</p> <p>12 just going to --</p> <p>13 A Right.</p> <p>14 Q -- walk through the lifetime of the bridge.</p> <p>15 A Okay.</p> <p>16 Q So let me start with the original construction of</p> <p>17 the bridge. This is in the 1963 to '67 time frame.</p> <p>18 So this predates your time at MnDOT --</p> <p>19 A Right.</p> <p>20 Q -- correct?</p> <p>21 A Um-hum. Yes, that's correct.</p> <p>22 Q Let me just ask about what, you know, historically</p> <p>23 in terms of your section. Would there have been --</p> <p>24 have been a bridge design section like the one that</p> <p>25 you're now in charge of back in 1963?</p>	<p style="text-align: right;">24</p> <p>1 ascertain whether there was?</p> <p>2 A We -- I don't know, can I -- if I can -- if I can</p> <p>3 say or not. Can I say?</p> <p>4 MS. FORSLAND: What do you want to</p> <p>5 talk...</p> <p>6 (Mr. Western and Ms. Forsland</p> <p>7 conferring.)</p> <p>8 MS. FORSLAND: Sure. Sure.</p> <p>9 MR. WESTERN: Okay. We -- We dug through</p> <p>10 all of our records looking back to see if we could</p> <p>11 find any information on a policy, how it should have</p> <p>12 been reviewed --</p> <p>13 BY MR. JOHNSON:</p> <p>14 Q Yeah.</p> <p>15 A -- and could not find anything.</p> <p>16 Q Not too long after the bridge was built, there's a</p> <p>17 determination made that the design is obsolete. Are</p> <p>18 you aware of that?</p> <p>19 A No, I was not.</p> <p>20 Q Well, that fracture critical nonredundant bridges</p> <p>21 are --</p> <p>22 A Okay.</p> <p>23 Q -- are bridges that shouldn't be built. Do you know</p> <p>24 anything about the department or your section's</p> <p>25 understanding of the fact that the bridge had become</p>

<p style="text-align: right;">25</p> <p>1 functionally obsolete?</p> <p>2 A State that question again, could you, please?</p> <p>3 Q I understand, Kevin, you weren't there at the point</p> <p>4 at which the bridge was determined to be</p> <p>5 functionally obsolete, as were other bridges of this</p> <p>6 design is my understanding. But we're curious to</p> <p>7 know what -- when the department and presumably</p> <p>8 would have been your section learned that, how would</p> <p>9 they have learned it, what were they told, and what</p> <p>10 action did they take?</p> <p>11 A I am not aware of when that would have taken place.</p> <p>12 Q Do you think there would be any record of that</p> <p>13 communication and a response to that communication</p> <p>14 that might be in the department in your section?</p> <p>15 We're talking about the early --</p> <p>16 A Right.</p> <p>17 Q -- '70s now.</p> <p>18 A Right. And I do not -- I do not know if there would</p> <p>19 be. Part of the -- I don't know on most bridges</p> <p>20 when they go from -- Again, you talk about</p> <p>21 functionally obsolete and the definition of what</p> <p>22 functionally obsolete and structurally deficient</p> <p>23 are. Functionally obsolete is that it's</p> <p>24 geometrically no longer the right size that it needs</p> <p>25 to be. So part of that can be based on traffic</p>	<p style="text-align: right;">27</p> <p>1 determination that nonredundant bridges shouldn't be</p> <p>2 built and --</p> <p>3 A Right.</p> <p>4 Q -- put out the word that you shouldn't do it?</p> <p>5 A And I am sure that happened. I couldn't tell you</p> <p>6 the date and I -- but I agree with that, what you're</p> <p>7 saying, yes. But I can't tell you the date.</p> <p>8 Q And it's my understanding that it happened sometime</p> <p>9 in the early to mid '70s.</p> <p>10 A Could be.</p> <p>11 Q But I'm not the expert either. What I'm trying to</p> <p>12 get to is, you know, the information that presumably</p> <p>13 arrived within the department about that</p> <p>14 determination and who would have obtained it and how</p> <p>15 it got shared.</p> <p>16 A I was not in the department at the time, so I -- I</p> <p>17 wouldn't know.</p> <p>18 Q Would information about nonredundant bridges find</p> <p>19 its way into the bridge manual?</p> <p>20 A If it was part of a design process, it would be,</p> <p>21 yes. And I -- But I cannot tell you if there is</p> <p>22 a -- where it talks about having a redundant</p> <p>23 structure. I know it is within the specifications</p> <p>24 that we adhere to, but I don't -- I can't tell you</p> <p>25 whether it's in the design manual or not.</p>
<p style="text-align: right;">26</p> <p>1 capacities; that it no longer is the width that it</p> <p>2 needs to be, shoulders are substandard. And so I --</p> <p>3 depending on those traffic volumes and when those</p> <p>4 reached certain levels, I'm sure that's when it</p> <p>5 became or maybe it was when an additional lane was</p> <p>6 added, that may be where it became functionally</p> <p>7 obsolete. But I'm not sure. I can't tell you when</p> <p>8 that would be.</p> <p>9 Q Well, it's my understanding though that it wasn't</p> <p>10 just a matter of the bridge not being able to deal</p> <p>11 with the number of cars that needed to go across it</p> <p>12 each day, but it was -- it went to the structural</p> <p>13 integrity of the bridge and the fact that it was</p> <p>14 nonredundant and that this design was not any longer</p> <p>15 considered an acceptable design. Does that -- Does</p> <p>16 that ring a bell?</p> <p>17 A No. I don't -- I don't know that it was ever -- I</p> <p>18 have never heard anything mentioned that it was not</p> <p>19 an acceptable design. I guess I had never heard</p> <p>20 that before till you just mentioned it.</p> <p>21 Q Well, it's my understanding that non -- that</p> <p>22 nonredundant bridges are no longer built.</p> <p>23 A That is -- That is correct.</p> <p>24 Q And my understanding is also that at some point the</p> <p>25 Federal Highway Administration or someone made a</p>	<p style="text-align: right;">28</p> <p>1 Q So it's not so much a matter of a manual saying</p> <p>2 don't build a nonredundant bridge; it's just that</p> <p>3 the manual says within the specifications --</p> <p>4 A Follow --</p> <p>5 Q -- there's going to be a redundancy?</p> <p>6 A Correct. Well, follow AASHTO specifications in your</p> <p>7 design, and in the design it talks about building a</p> <p>8 structure with redundancy.</p> <p>9 Q Do you have a shelf someplace in your section with</p> <p>10 all of those bridge manuals lined up one next to the</p> <p>11 other?</p> <p>12 A Too many. Too many manuals. Yes, I do. But not --</p> <p>13 typically not the -- not from the time I started to</p> <p>14 the time -- Just the latest one, not a historical</p> <p>15 one. We do have historical copies in our library.</p> <p>16 Q And those would go back to 1971 when you think the</p> <p>17 first one was drafted?</p> <p>18 A Oh, I take that back. I was talking about the</p> <p>19 specifications we have historically. The manuals</p> <p>20 themselves, that would be part of our standards area</p> <p>21 where they would have -- when the manual was</p> <p>22 updated, there would be a -- they'd kind of archive</p> <p>23 the old one, and the new one is then distributed to</p> <p>24 everybody else.</p> <p>25 Q And who has possession of those manuals?</p>

<p style="text-align: right;">29</p> <p>1 A That is the bridge standards engineer.</p> <p>2 MR. JOHNSON: Barb, I'm going to think</p> <p>3 over the weekend whether we want copies of those.</p> <p>4 MS. FORSLAND: Do you know if the bridge</p> <p>5 manual is available online?</p> <p>6 MR. WESTERN: The bridge manual right --</p> <p>7 the current one is, yes.</p> <p>8 MS. FORSLAND: The current one is. Okay.</p> <p>9 And it might be available on the I-Hub site for</p> <p>10 internal --</p> <p>11 MR. WESTERN: It is, yes.</p> <p>12 MS. FORSLAND: Okay.</p> <p>13 MR. JOHNSON: We have a copy of the</p> <p>14 current one.</p> <p>15 MS. FORSLAND: Okay. But the historical</p> <p>16 ones are what you're interested in. And you think</p> <p>17 it's our bridge standards engineer who might be the</p> <p>18 repository for historical ones?</p> <p>19 MR. WESTERN: And I have it. And if you</p> <p>20 have something I would be -- and you need it, you</p> <p>21 could give me a call, let me know what you need, I</p> <p>22 can get you a copy. Part of -- Part of the manual</p> <p>23 though at that time, realize that the manual was in</p> <p>24 its infancy. And so what we -- it appears anyhow</p> <p>25 from in-house documents is that they would update</p>	<p style="text-align: right;">31</p> <p>1 BY MR. JOHNSON:</p> <p>2 Q On this obsolete design issue -- and I apologize if</p> <p>3 I'm messing up the terminology here. But on this</p> <p>4 issue, once the determination is made that the</p> <p>5 bridge is structurally obsolete, that -- because of</p> <p>6 its nonredundancy, is there any standards that you</p> <p>7 know of that come into place in terms of what to do</p> <p>8 with those bridges going forward by way of</p> <p>9 maintenance?</p> <p>10 A If you're -- You know, if we're talking about 35W,</p> <p>11 again that bridge would have been classified as a</p> <p>12 fracture critical bridge. So there were inspection</p> <p>13 responsibilities that we needed to every two</p> <p>14 years -- it used to be every five years, but it's</p> <p>15 changed now to every two years -- every two years it</p> <p>16 needed to have a fracture critical inspection done.</p> <p>17 That's the -- Those are the requirements. Basically</p> <p>18 you get a look at all the members within an arm's</p> <p>19 reach to make sure you don't see lost -- you know,</p> <p>20 excessive loss due to corrosion, cracking members,</p> <p>21 things like that. So those are -- Those are really</p> <p>22 the criteria that -- for the fracture critical part</p> <p>23 of it.</p> <p>24 We also -- There is the other aspects of</p> <p>25 the bridge, the concrete deck, that are typical to</p>
<p style="text-align: right;">30</p> <p>1 sections of it. There were about nine sections in</p> <p>2 the manual. So you might have one section that was</p> <p>3 updated, but the next one wouldn't be updated for</p> <p>4 two years or only a couple of sheets of it got</p> <p>5 updated. And so, you know, if you're looking for a</p> <p>6 particular section of that manual, it would be a</p> <p>7 whole lot easier than the whole thing, so...</p> <p>8 MR. JOHNSON: Okay.</p> <p>9 MS. FORSLAND: Besides the MnDOT bridge</p> <p>10 manual, are there other manuals that you're required</p> <p>11 to follow? Like does AASHTO have a manual, FHWA</p> <p>12 or --</p> <p>13 MR. WESTERN: FHWA does not. There is</p> <p>14 the -- The AASHTO design specifications are what is</p> <p>15 typically nationally referred to as their design</p> <p>16 manual. If you have some -- or design</p> <p>17 specifications. If you have some other special</p> <p>18 design, there are some other sorts of specifications</p> <p>19 that can be -- can be utilized. And at times we</p> <p>20 will utilize other specifications like the AISC,</p> <p>21 which is the steel institute manual, if we have a</p> <p>22 special steel structure that doesn't fall under</p> <p>23 AASHTO. Same thing with concrete, if we have some</p> <p>24 concrete issue that is not handled within AASHTO, we</p> <p>25 go to ASACI specifications.</p>	<p style="text-align: right;">32</p> <p>1 all bridges that we try to maintain, and expansion</p> <p>2 joints, things like that, that were the same sort of</p> <p>3 level of maintenance activity that we would try --</p> <p>4 with all of our bridges try to meet.</p> <p>5 Q So the fracture critical inspection report is in</p> <p>6 response to the nonredundancy of the bridge?</p> <p>7 A Correct.</p> <p>8 Q Then any special efforts, precautions that are taken</p> <p>9 with respect to the bridge are keyed off of the</p> <p>10 findings from the fracture critical inspection?</p> <p>11 A Could you repeat that again? I just want to make</p> <p>12 sure I understand.</p> <p>13 Q I'm just trying again still figure out how -- if you</p> <p>14 deal with an I-35W bridge differently than you would</p> <p>15 a bridge that's not fracture critical. And what I'm</p> <p>16 hearing from you is that one of the things you do</p> <p>17 differently is you do this fracture critical</p> <p>18 inspection?</p> <p>19 A Correct.</p> <p>20 Q And so my next question then is do you -- you then</p> <p>21 follow up that inspection and its findings with</p> <p>22 certain maintenance efforts?</p> <p>23 A And I can't speak to the maintenance efforts, what</p> <p>24 they would be doing. But I know if there were</p> <p>25 findings that would require a -- some sort of plan</p>

<p style="text-align: right;">33</p> <p>1 creation for us to do something for either the</p> <p>2 maintenance crews to install on to the bridge or to</p> <p>3 have -- actually have a contract that would go out</p> <p>4 and have a contractor do work, then we would develop</p> <p>5 that -- those plans, if it rose to that level.</p> <p>6 Q This is a bit of a side issue, but I'm going to take</p> <p>7 it up right now, which is there's been some -- you</p> <p>8 know, there's recently been a finding that the</p> <p>9 gusset plates -- at least some of the gusset plates</p> <p>10 on the 35W bridge have a bowing to them. From your</p> <p>11 experience do you have any thoughts as to why that</p> <p>12 may have occurred?</p> <p>13 A I know -- I don't know why. I could suppose why it</p> <p>14 might have happened, but I don't know why.</p> <p>15 Q Well, let me ask you this: It's been suggested that</p> <p>16 it might have occurred during the construction of</p> <p>17 the bridge. Do you think that's a possibility?</p> <p>18 A That is a possibility.</p> <p>19 Q Is another possibility it just had too much weight</p> <p>20 on it?</p> <p>21 A That -- That is a possibility.</p> <p>22 Q And if it happened during construction, for example,</p> <p>23 would it have been observed then right from the</p> <p>24 beginning we got a bent gusset plate?</p> <p>25 A Possibly. I -- I don't know. Obviously on that</p>	<p style="text-align: right;">35</p> <p>1 been reading in the paper, but I read the paper with</p> <p>2 interest these days.</p> <p>3 A Yeah. Remember, the papers are not always true.</p> <p>4 Q Well, but what I'm reading has me a little bit</p> <p>5 mystified in that there's been quotes that the bent</p> <p>6 gusset plates on the 35W bridge wouldn't be of any</p> <p>7 significance, weren't of any significance. But when</p> <p>8 it comes to the DeSoto Bridge in St. Cloud, they</p> <p>9 were considered to be of great significance by</p> <p>10 someone else in MnDOT. What -- What's your</p> <p>11 explanation for that?</p> <p>12 A I would -- I haven't heard that it's of great</p> <p>13 significance. I don't know who stated that.</p> <p>14 Q It was the deputy engineer was quoted in the</p> <p>15 paper --</p> <p>16 A Deputy engineer.</p> <p>17 Q -- as saying that this is serious stuff.</p> <p>18 A I think anytime we see something that we feel rises</p> <p>19 to the attention like we did on DeSoto, we will do</p> <p>20 similar -- you know, we will close the bridge if we</p> <p>21 have to to evaluate what is in front of us to make</p> <p>22 sure that we don't have a problem.</p> <p>23 Q Would that same be true of I-35W; if those gusset</p> <p>24 plates had been observed to have been bowed, that</p> <p>25 same action would have been taken?</p>
<p style="text-align: right;">34</p> <p>1 project it was not, because from the best of my</p> <p>2 knowledge it was never noted.</p> <p>3 Q Would you have any thoughts on what the effect of</p> <p>4 having a bent gusset plate might be?</p> <p>5 A There's -- The effect of a bent gusset plate. Well,</p> <p>6 there's you can have some increased distortion, some</p> <p>7 load redistribution going on. Obviously when the</p> <p>8 person that designed the bridge, they probably did</p> <p>9 not take that into account, that it was no longer</p> <p>10 completely true, you know, had the bend in it.</p> <p>11 Q It wasn't designed with a bend in it?</p> <p>12 A Right. That's what I'm saying, the designer didn't</p> <p>13 account for it. So it's hard to say what sort of</p> <p>14 effect that would have, unless you did an in-depth</p> <p>15 analysis of it to see if it was a critical issue or</p> <p>16 not.</p> <p>17 Q I'm assuming you wouldn't -- if you had a choice</p> <p>18 between having a straight gusset plate and a bent</p> <p>19 one, you would choose the straight one?</p> <p>20 A I concur with that.</p> <p>21 Q I'm curious, Kevin, in that the reaction to --</p> <p>22 Pardon me.</p> <p>23 (Phone ringing.)</p> <p>24 BY MR. JOHNSON:</p> <p>25 Q I don't know anything more about this than what I've</p>	<p style="text-align: right;">36</p> <p>1 A I'm sure it would have.</p> <p>2 Q Let's move from the construction -- the design and</p> <p>3 construction of the bridge to the 1977 and what I'm</p> <p>4 going to call the overlay project. As I understand</p> <p>5 it in '77 there was a -- basically a new deck put</p> <p>6 on, widened and lanes added in each -- a lane added</p> <p>7 in each direction. Do you happen to know anything</p> <p>8 about your section's role with respect to the design</p> <p>9 work that would have been done on that project?</p> <p>10 A At that time, no, I do not.</p> <p>11 Q Do you know from your work around the bridge manual</p> <p>12 whether at that point in time there would have been</p> <p>13 any process that would have come into play with</p> <p>14 respect to determining whether or not the bridge was</p> <p>15 going to be able to sustain the additional weight?</p> <p>16 A Again, at that time I don't -- since I was not in</p> <p>17 the office, I do not know what the process was at</p> <p>18 that time.</p> <p>19 Q If that project were done now when you're adding a</p> <p>20 couple of inches to the deck and widening it, would</p> <p>21 you -- is there a process now to look at the</p> <p>22 superstructure, for example, of the bridge and</p> <p>23 decide, yes, this 35W bridge can handle the</p> <p>24 additional weight?</p> <p>25 A Yes, there -- Yes, there is.</p>

<p>37</p> <p>1 Q And that's part of the bridge manual?</p> <p>2 A It is. It's within a number of different documents</p> <p>3 that we have. There is a -- I believe it's in our</p> <p>4 bridge manual too where it talks about a -- at least</p> <p>5 a minimum rating that a bridge would have to have if</p> <p>6 you were doing a retrofit or putting an overlay on a</p> <p>7 bridge. There's also a condition evaluation manual</p> <p>8 that is used by the raters of bridges, and that</p> <p>9 would be what they would follow when they were doing</p> <p>10 this work.</p> <p>11 There's also within our -- within our</p> <p>12 documents -- I'm sorry, I'm trying to think of --</p> <p>13 remember the name. There is another document that</p> <p>14 we have, and I -- the name is missing me right now,</p> <p>15 but it's dealing with the rehabilitation and</p> <p>16 reconditioning of bridges, guidelines for that. And</p> <p>17 within there -- within that document we talk about</p> <p>18 minimum widths that would have to be met and then</p> <p>19 minimum rating levels that would have to be met.</p> <p>20 Q Tell me what you mean by the minimum ratings.</p> <p>21 A When we -- When we want to do something like an</p> <p>22 overlay, what we will do is then evaluate the bridge</p> <p>23 to its load carrying capacity. And originally</p> <p>24 AASHTO standards, before they were changed back --</p> <p>25 design standards, before they were changed back in</p>	<p>39</p> <p>1 and if you've got it full of cars at any point --</p> <p>2 vehicles at any point in time that you want the</p> <p>3 bridge to be able to carry some additional weight?</p> <p>4 A Right.</p> <p>5 Q And is that standard -- Does that standard tell you</p> <p>6 how much additional weight it should be able to</p> <p>7 carry?</p> <p>8 A Right. And this HS-18 is this level, the size of</p> <p>9 the truck; but it also has factors on it. You have</p> <p>10 load factors on top of it that also get applied. So</p> <p>11 it's not just whatever 72 times .9 would be, 60 --</p> <p>12 63 kips of load; it's also multiplied by 2.2.</p> <p>13 There's a safety factor on top of that. So in</p> <p>14 actuality that bridge should be able to take 63</p> <p>15 times 2.2, which ends up to be what, 130 kips of</p> <p>16 truckload, of vehicle load. Plus the dead load, the</p> <p>17 concrete weight and its self weight of the</p> <p>18 superstructure also has a load factor on it of 1.3.</p> <p>19 So those are also increased by 30 percent to account</p> <p>20 for whatever, why it might be higher. So all of</p> <p>21 those things add another level of safety on when you</p> <p>22 do this evaluation.</p> <p>23 Q I'm not sure that I -- that we need to get too much</p> <p>24 further into this, but I'm just still curious in</p> <p>25 terms of does that for any particular bridge allow</p>
<p>38</p> <p>1 1994, had a design vehicle which was called an HS-20</p> <p>2 loading. And this HS-20 loading is a 72 kip or</p> <p>3 36-ton vehicle that would be used as a -- as a</p> <p>4 design vehicle to run across the bridge. And</p> <p>5 realizing that part of -- you know, over time loads</p> <p>6 keep going up, previous standards had much less of a</p> <p>7 design load that have to be used. And so to</p> <p>8 evaluate all these bridges on a -- kind of the same</p> <p>9 level playing field, they use this HS rating system</p> <p>10 for all bridges no matter whether they were</p> <p>11 designed, you know, 2000, 1980, 1960, 1940. They</p> <p>12 were all -- all rated based on that same level. And</p> <p>13 so it will -- it gives you an idea of how much</p> <p>14 carrying capacity that bridge has remaining.</p> <p>15 And as part of our policy is that if</p> <p>16 you -- you want to do some work on a bridge, say you</p> <p>17 wanted to put a completely new deck on a bridge,</p> <p>18 you'd have to reevaluate the superstructure to make</p> <p>19 sure that it still met HS-18 level. So it's</p> <p>20 slightly less than the 20, but it's down to the 18,</p> <p>21 18 level.</p> <p>22 Q Does that somehow equate to a margin of weight -- of</p> <p>23 weight -- additional weight capacity for the bridge?</p> <p>24 I don't know if that's -- What I'm asking is, I'm</p> <p>25 assuming that you know how much the bridge weighs</p>	<p>40</p> <p>1 you to determine what additional weight, weight in</p> <p>2 pounds, that the bridge can withstand?</p> <p>3 A Could you repeat that again? I'm -- I'm missing the</p> <p>4 question.</p> <p>5 Q Well, I'm trying to understand whether or not you --</p> <p>6 when you do the analysis, whether you're trying to</p> <p>7 determine how much weight in pounds the bridge can</p> <p>8 support?</p> <p>9 A How much -- How much of a live load -- with these</p> <p>10 factors on it, how much of a live load that bridge</p> <p>11 can still withstand?</p> <p>12 Q Correct.</p> <p>13 A Yes.</p> <p>14 MS. FORSLAND: It might help just to say</p> <p>15 from sitting in on these interviews that we're</p> <p>16 talking live load and dead load. Why don't you just</p> <p>17 say what those are?</p> <p>18 MR. WESTERN: Explain what those are?</p> <p>19 MS. FORSLAND: Yeah.</p> <p>20 MR. WESTERN: Live load is basically the</p> <p>21 vehicles. It's all your transient loads, moving</p> <p>22 loads on the bridge. And dead load is your</p> <p>23 concrete, steel, those things.</p> <p>24 MS. FORSLAND: Okay. And where do you</p> <p>25 get your dead load number that you start with in</p>

<p>41</p> <p>1 this formula?</p> <p>2 MR. WESTERN: That is -- We calculate</p> <p>3 that based on the size of the component that we're</p> <p>4 evaluating.</p> <p>5 MS. FORSLAND: Do you regenerate that</p> <p>6 each time you -- a project would come forward or do</p> <p>7 you take it from the original plans? How are -- Let</p> <p>8 me rephrase that. How are you sure that if you had</p> <p>9 a project this year your dead load weight is</p> <p>10 incorporating changes that might have been made over</p> <p>11 the last 15 years from the original construction of</p> <p>12 the bridge? Does that make sense?</p> <p>13 MR. WESTERN: Yes.</p> <p>14 MS. FORSLAND: Okay.</p> <p>15 MR. WESTERN: As -- There's a couple</p> <p>16 different ways. One is, before we do this work, if</p> <p>17 we're going to add something to the bridge, say</p> <p>18 putting a new concrete deck on top, our rating</p> <p>19 engineer will actually run a new rating with that --</p> <p>20 if it's an increase in thickness, which we have</p> <p>21 done, they'll run it to see what that rating value</p> <p>22 comes out. The beams themselves that you take the</p> <p>23 deck off, the beams would stay. They wouldn't</p> <p>24 reevaluate the beam. The beam would -- is still in</p> <p>25 their model. All they do is put this larger deck on</p>	<p>43</p> <p>1 sufficiency rating, but I can't tell you exactly</p> <p>2 what -- how it works into it.</p> <p>3 Q Now, the 35W bridge had a superstructure rating of 4</p> <p>4 for probably 15 years. Can you tell me what a 4</p> <p>5 means?</p> <p>6 A I cannot. I'd only be guessing.</p> <p>7 Q That's an inspector question -- or question for an</p> <p>8 inspector not for --</p> <p>9 A Yes. Yes.</p> <p>10 Q Moving along. There was another project in 1998 --</p> <p>11 A Okay.</p> <p>12 Q -- that added some barriers to the bridge, which,</p> <p>13 again, I understand added some significant weight to</p> <p>14 the bridge. So this is at a point in time when you</p> <p>15 were now a --</p> <p>16 A I was the state aid bridge engineer at that time.</p> <p>17 Q This is the period of time that you're the state aid</p> <p>18 bridge engineer?</p> <p>19 A Um-hum.</p> <p>20 Q So you would not have -- At that point would you</p> <p>21 have been in the bridge design unit?</p> <p>22 A No. No.</p> <p>23 Q But do you have any knowledge of what the design</p> <p>24 section's role would have been in this project?</p> <p>25 A I -- I'm sure they did the plans for it. But I'm</p>
<p>42</p> <p>1 top with the increased weight to then evaluate that</p> <p>2 beam to see if it still met. There is also -- So</p> <p>3 that is one way.</p> <p>4 There's also, if you have -- within our</p> <p>5 process of inspection, if there's an -- the</p> <p>6 inspectors also have a -- if they see a loss in</p> <p>7 section, they also have the ability to bring that to</p> <p>8 the attention of the engineer and ask for a rerating</p> <p>9 to be done on the bridge. So there's -- Kind of</p> <p>10 those are the two avenues typically that a rerating</p> <p>11 is done.</p> <p>12 BY MR. JOHNSON:</p> <p>13 Q So you adjust the model for the --</p> <p>14 A For the section --</p> <p>15 Q -- corrosion and lost section?</p> <p>16 A For the section loss, yes.</p> <p>17 Q Does your evaluation of the load bearing capacity of</p> <p>18 the bridge factor in the national bridge inventory</p> <p>19 rating of the superstructure?</p> <p>20 A Yes, it does.</p> <p>21 Q Tell me how it does that.</p> <p>22 A I don't know. It's a very complicated equation.</p> <p>23 I've seen it before, but I -- I haven't looked at it</p> <p>24 for probably ten years. So I could not tell you how</p> <p>25 it -- All I know is it's a function of that</p>	<p>44</p> <p>1 not aware who did it and what other work was done</p> <p>2 with it.</p> <p>3 Q Tell me again when you were responsible for the</p> <p>4 bridge design manual.</p> <p>5 A That would have been --</p> <p>6 Q '91 to '93?</p> <p>7 A Yeah, like '91 to '93, something like that. It was</p> <p>8 too many years ago.</p> <p>9 Q So when the 1998 project comes along for the 35W</p> <p>10 bridge, it would be following some manuals that</p> <p>11 you've been involved in drafting? I say drafting.</p> <p>12 I mean updating.</p> <p>13 A Um-hum. I'm thinking the only -- You know, if it</p> <p>14 was the rail addition, the only -- the only portion</p> <p>15 that would have been -- the only portion that would</p> <p>16 have been used would have been the rails standard,</p> <p>17 if there was a new rail or a new barrier put on.</p> <p>18 Otherwise, I -- you know, there's really not -- to</p> <p>19 my knowledge not anything that would have been in</p> <p>20 the design manual that would have been followed.</p> <p>21 Q Now, they did some other work at the time too. They</p> <p>22 repaired some seals and some -- I think they either</p> <p>23 repaired or tried to repair some bearings that were</p> <p>24 frozen.</p> <p>25 A Okay. And those would not --</p>

<p style="text-align: right;">45</p> <p>1 Q Does that trigger --</p> <p>2 A Those would not have been in the manual.</p> <p>3 Q But would that trigger your section being</p> <p>4 involved --</p> <p>5 A The --</p> <p>6 Q -- that kind of work?</p> <p>7 A The design section?</p> <p>8 Q Yeah.</p> <p>9 A The barrier replacement would have. If it -- If it</p> <p>10 was trying to free up the bearings, maybe, maybe</p> <p>11 not. What was the other thing again you said?</p> <p>12 Q Seals.</p> <p>13 A Seals. Strip seals?</p> <p>14 Q Um-hum.</p> <p>15 A Do you recall whether it was replacement or was it a</p> <p>16 completely -- It could be either/or. That could be</p> <p>17 our maintenance forces or it could have been done</p> <p>18 under contract too.</p> <p>19 Q What I'm most curious about here is the barriers,</p> <p>20 the addition of weight to the bridge and how you</p> <p>21 would have dealt with determining whether or not the</p> <p>22 bridge had a capacity to carry that weight.</p> <p>23 A And that -- And that evaluation would be by the</p> <p>24 rating engineer, looking of the load that was being</p> <p>25 put on and whether it was -- whether it rose to the</p>	<p style="text-align: right;">47</p> <p>1 Q So you're not familiar with what the purpose was or</p> <p>2 what they studied and what they recommended?</p> <p>3 A I know from now looking at it since what some of</p> <p>4 the -- what some of it had in it. But it's been</p> <p>5 quite awhile ago since I looked at it.</p> <p>6 Q And it seems like the work that was done by the</p> <p>7 University of Minnesota flows into the retention of</p> <p>8 HNTB as a consultant. Do you have any familiarity</p> <p>9 with that?</p> <p>10 A I know they were -- I know they were part of it, but</p> <p>11 I cannot tell you how. I don't -- I don't know</p> <p>12 if -- if it was because some of the people that HNTB</p> <p>13 had on staff or it was actually that they were</p> <p>14 providing some of the capabilities. I'm not sure.</p> <p>15 Q Did you have any personal involvement with their</p> <p>16 retention or the work they did?</p> <p>17 A No, I did not.</p> <p>18 Q Do you know whether your section did?</p> <p>19 A I do not. I don't know.</p> <p>20 Q Moving on long.</p> <p>21 A Okay.</p> <p>22 Q It then seems that HNTB gets replaced by URS. Now,</p> <p>23 did you have any connection with the work that URS</p> <p>24 did?</p> <p>25 A Is this for the contract that they had or is this</p>
<p style="text-align: right;">46</p> <p>1 level of needing another rating.</p> <p>2 Q And the work that the rating engineer would have</p> <p>3 done back then would have been guided by the bridge</p> <p>4 manual?</p> <p>5 A Condition evaluation manual. I think the actual</p> <p>6 term is Manual of Condition Evaluation or something.</p> <p>7 MR. JOHNSON: Barbara, I do not believe</p> <p>8 we have that manual. So if you can --</p> <p>9 MS. FORSLAND: Okay.</p> <p>10 MR. JOHNSON: -- provide that to us, that</p> <p>11 would be wonderful.</p> <p>12 BY MR. JOHNSON:</p> <p>13 Q And you think it's called the Manual of Condition --</p> <p>14 A Or Manual for Condition in Evaluation.</p> <p>15 MS. FORSLAND: I will be happy to obtain</p> <p>16 that and provide it.</p> <p>17 BY MR. JOHNSON:</p> <p>18 Q At about the same time as this '98 project was</p> <p>19 occurring, the University of Minnesota gets retained</p> <p>20 as a consultant to do some analysis of the bridge.</p> <p>21 Were you involved in that at all?</p> <p>22 A No, I was not.</p> <p>23 Q Do you know if your section was?</p> <p>24 A I -- I don't know. I was not aware of it at the</p> <p>25 time.</p>	<p style="text-align: right;">48</p> <p>1 for the Dexter study?</p> <p>2 Q This is the work -- the contract that they had with</p> <p>3 MnDOT.</p> <p>4 A That URS had?</p> <p>5 Q That URS had, correct.</p> <p>6 A Okay. Yes, I was involved with that.</p> <p>7 Q I want to come back to that. But I may have missed</p> <p>8 something here in terms of the Dexter study is the</p> <p>9 University of Minnesota study.</p> <p>10 A Right.</p> <p>11 Q Did you mean something more than that?</p> <p>12 A That's why I wasn't sure you were saying they</p> <p>13 replaced -- they were with HNTB and was with the</p> <p>14 university. I wasn't sure. I don't know -- I don't</p> <p>15 believe URS was involved before with the university</p> <p>16 and the Dexter study. And that's what I thought you</p> <p>17 were providing a link there, which I --</p> <p>18 Q No.</p> <p>19 A -- wasn't aware of.</p> <p>20 Q No.</p> <p>21 A That's why I was --</p> <p>22 Q No.</p> <p>23 A Okay.</p> <p>24 Q I'm just saying there seems to be kind of a</p> <p>25 sequential flow of some sort from the --</p>

49

- 1 A Right. Yes.
- 2 Q -- university to HNTB to URS. But your involvement
- 3 picks up with URS?
- 4 A URS, correct.
- 5 Q What was your role there?
- 6 A We had -- Gary Peterson, Dan Dorgan, and myself,
- 7 along with Paul Kivisto, we basically sat in on --
- 8 we were part of the team that was working with URS
- 9 as they were determining, you know, how to evaluate
- 10 the structure for the -- for the needs that we had.
- 11 Q And what -- What were they supposed to be doing or
- 12 what was the purpose for evaluating the structure?
- 13 A The -- Again, we had -- we had issues with the --
- 14 some of the details on the cord numbers. They're --
- 15 Within the cords -- they're basically a box shape.
- 16 And what's inside of those, they had a diaphragm, a
- 17 plate that helped keep the box square while they
- 18 made the welds to connect the sides of the boxes
- 19 together. These plates that were on the inside were
- 20 not meant -- didn't need to be there structurally.
- 21 They were just there to hold this box shape while
- 22 they fabricated them. But these tab -- There were
- 23 some tabs that they needed to weld -- weld to hold
- 24 this stiffener in place to do the fabrication.
- 25 Q Where on the bridge structure is this?

50

- 1 A These are all of the -- all the long members, all of
- 2 the -- we call them the cords. They're the long
- 3 pieces of the bridge that you see.
- 4 Q Are they the diagonal pieces or the --
- 5 A The diagonals, the longitudinal pieces, they're
- 6 all -- they're all of that same -- that same
- 7 fabrication. And so the concern was -- and this
- 8 came from Dr. Dexter's study -- was that where these
- 9 plates were put in and these short tabs were welded,
- 10 it created an area of discontinuity that could cause
- 11 a crack to form. And our concern was that one of
- 12 these areas would crack and sever one of the members
- 13 and collapse the bridge.
- 14 And so the study with URS was to, number
- 15 1, look at the loads on the bridge to see if we had
- 16 loads on those members that would be at a level that
- 17 we could have fatigue cracks showing up. They went
- 18 through that whole aspect of the study, and my
- 19 recollection is that their stress levels were below
- 20 the threshold where we should not have had fatigue
- 21 cracks in any of those locations. So we carried
- 22 it -- we did carry the -- another step farther to
- 23 ask to look at the most critical members. And I
- 24 believe it ended up that there were 52 members all
- 25 said and done. And to look at those -- And also you

51

- 1 mentioned before about redundancy and fracture
- 2 critical. One of the things with fracture critical,
- 3 if you can take a bridge and take out a component
- 4 and the bridge still stands, it's assumed to have
- 5 internal redundancy.
- 6 Q Right.
- 7 A And so even though it's fracture critical, it can
- 8 still function. So we asked them to look at each of
- 9 these critical members, analyze the structure,
- 10 take -- assume that that member would break, and
- 11 then analyze the structure and see if the bridge
- 12 would still -- would still survive under service
- 13 loads. And that was their -- their -- the majority
- 14 of their work.
- 15 The other -- Then when I believe some of
- 16 these members would not -- it appeared that if they
- 17 did fracture that the bridge would collapse, we also
- 18 asked them to do this -- to come up with some
- 19 plating options for plating these members, these
- 20 cord members. And so they came up with those --
- 21 with those retrofit plans also.
- 22 Q And the replating was of the --
- 23 A Of the cords.
- 24 Q Of the cords. But just those cords that were
- 25 nonredundant?

52

- 1 A The cords that were the most critical elements.
- 2 Q Tell me what you mean by most critical elements.
- 3 Does that mean nonredundant or something else?
- 4 A The ones that had -- that had the highest load in
- 5 them. And if they -- if they had failed, it
- 6 appeared that there would not be a way for the loads
- 7 to redistribute, and it would collapse.
- 8 Q Did any of their analysis involve looking at the
- 9 gusset plates?
- 10 A No, it did not.
- 11 Q You know now, I'm sure --
- 12 A Yeah.
- 13 Q -- by the paper that there was a photograph taken by
- 14 URS in 2003 of one of the gusset plates --
- 15 A Yes.
- 16 Q -- that shows the gusset plate. Do you have any
- 17 recollection or understanding as to why that
- 18 photograph was taken?
- 19 A I do not. I know there were a number of photographs
- 20 taken of the bridge. And a lot of -- A lot of
- 21 the -- Realize when they were out on the bridge and
- 22 they were taking photographs, they were looking at a
- 23 particular area, not necessarily at, you know, in
- 24 this term. Because we're all -- we're all very
- 25 concentrated on gusset plates now, it's very easy to

<p>53</p> <p>1 see that. I'm sure they were looking at how</p> <p>2 members -- other members were coming in to other</p> <p>3 members or -- or maybe some surface corrosion that</p> <p>4 was on a member. They were looking at a number of</p> <p>5 different things, you know, as they modeled the</p> <p>6 structure. And so it's hard to assume why somebody</p> <p>7 was taking the photo. Again, they must have thought</p> <p>8 it was -- there was a good reason. But I can't tell</p> <p>9 you, you know, why that one in particular was taken.</p> <p>10 Q In any of their analysis of the bridge's load</p> <p>11 bearing capacity, did they calculate the capacity,</p> <p>12 stress capabilities -- I'm not sure what the right</p> <p>13 term would be, Kevin -- of the gusset plate?</p> <p>14 A Not -- Not to my recollection they did. I only --</p> <p>15 Q They did or didn't?</p> <p>16 A Did not.</p> <p>17 Q Did not.</p> <p>18 A I've only seen in any of the results were all just</p> <p>19 due to the members, the cord members, not -- not any</p> <p>20 results for gusset plates.</p> <p>21 Q You mentioned that you along with some others</p> <p>22 attended some meetings --</p> <p>23 A Um-hum.</p> <p>24 Q -- with URS --</p> <p>25 A Um-hum.</p>	<p>55</p> <p>1 recommendations, they came in and they talked about</p> <p>2 the plating option, and we -- and specifically I</p> <p>3 asked about where they were -- you know, they're</p> <p>4 plating the entire length and you're drilling --</p> <p>5 you're holding this plate up there and drilling in</p> <p>6 all these holes into this -- into these members that</p> <p>7 have a lot of load already. And I questioned, I</p> <p>8 said have you guys evaluated by drilling these holes</p> <p>9 the section that you're actually taking out of these</p> <p>10 cord members and then the softening that that makes</p> <p>11 of the member and how much the -- how much</p> <p>12 deformation it may take into the rest of the</p> <p>13 structure because you're changing the stiffness of</p> <p>14 those members.</p> <p>15 The other part I had questioned was have</p> <p>16 you -- because you've made this stiffer, now this</p> <p>17 member stiffer, have you looked at how it affects</p> <p>18 all the other members within the bridge.</p> <p>19 And so I -- Really what we were talking</p> <p>20 about was there -- you know, between risk and</p> <p>21 benefit, was there risk by what they had proposed to</p> <p>22 do with the plating and was there benefit. And I</p> <p>23 guess we -- after talking through it, the questions</p> <p>24 that I had they seemed to have addressed. They had</p> <p>25 thought through all those things. But we also</p>
<p>54</p> <p>1 Q -- correct? How many meetings do you think you</p> <p>2 attended?</p> <p>3 A I can't recall. Probably -- A handful. Ten maybe.</p> <p>4 I -- I don't know.</p> <p>5 Q Do you recall during those meetings any discussion</p> <p>6 of gusset plates?</p> <p>7 A No, I do not. It was all about the -- It was all</p> <p>8 about the cords and loads and how much load to be</p> <p>9 putting on the bridge as you're analyzing it. We</p> <p>10 put -- They -- Well, part of it they put tremendous</p> <p>11 loads on this bridge too. I mean, we were -- we</p> <p>12 really tried to test it. I mean, we want to -- We</p> <p>13 were trying to make sure that what happened didn't</p> <p>14 happen.</p> <p>15 Q Are you familiar with the recommendations from URS?</p> <p>16 A Yes. Yep.</p> <p>17 Q One of those recommendations was to retrofit or</p> <p>18 plate --</p> <p>19 A Yeah.</p> <p>20 Q -- the cord?</p> <p>21 A Um-hum.</p> <p>22 Q You mentioned that. What do you know about why that</p> <p>23 recommendation went -- It seems like it went from</p> <p>24 front and center to back burner.</p> <p>25 A My -- My recollection, when we discussed their</p>	<p>56</p> <p>1 talked about -- it was -- From my recollection it</p> <p>2 was in the -- that was kind of in the winter of it</p> <p>3 must have been '07, must have been January of '07 or</p> <p>4 so. And the thought then as we were going out with</p> <p>5 the inspections in the spring and one of the other</p> <p>6 options that they had in their -- one of their</p> <p>7 recommendations was to do a visual inspection of</p> <p>8 each of those little tab welds. And so what we --</p> <p>9 we had -- we kind of went in two parallel paths.</p> <p>10 One was to, okay, we've got the details for that</p> <p>11 retrofit; let's keep working forward on those and</p> <p>12 look at each of those tab welds when we were doing</p> <p>13 the inspections starting in April of '07. And if we</p> <p>14 see anything that looks like we have any issues at</p> <p>15 all, we will go in and plate, and we'll start</p> <p>16 plating.</p> <p>17 And so the -- I don't know how many of</p> <p>18 those -- of those little welds were inspected and</p> <p>19 looked at, but I know from all the welds they looked</p> <p>20 at there was absolutely no issues with them. And so</p> <p>21 at that time we kind of then said, okay, we'll keep</p> <p>22 the plating option, but we're going to continue to</p> <p>23 look at the rest of those tab welds.</p> <p>24 Q And when was that going to be done?</p> <p>25 A As we continued on with the fracture critical</p>

57

1 inspections. I couldn't tell you when that was
 2 going to happen. But obviously they got to be done
 3 every two years, so it would have happened within --
 4 it would have been happening either last -- the end
 5 of last year or it would have been this year.
 6 Q There was another recommendation to do a full deck
 7 replacement with what I envision is some type of
 8 continuous flow concrete deck.
 9 A A continuously composite.
 10 Q That's what it's called?
 11 A Yes.
 12 Q Thank you.
 13 A Yes.
 14 Q And when I looked at the initial report, I saw the
 15 recommendation there; and then there's a
 16 supplemental report that comes out I think in
 17 January of '07, and that recommendation wasn't
 18 contained in that report. Do you know why?
 19 A I do not.
 20 Q What do you know about that recommendation?
 21 A I know part of the project -- Excuse me. I know
 22 part of the project too was for them to look at a
 23 redecking option for the bridge to be done half at a
 24 time. And I cannot recall though whether it was to
 25 develop plans or if it was just to -- to look at the

58

1 feasibility of that being done. I do not recall --
 2 I don't recall that being in recommendations, and I
 3 don't -- I just don't -- and maybe it's just because
 4 I'm -- you know, since the collapse haven't thought
 5 about that side of it, but I don't recall where that
 6 fit in. I remember it -- excuse me -- it was
 7 supposed to be part of the scope of their work, but
 8 I can't remember how that ended up.
 9 Q And, frankly, I don't recall either. But I do know
 10 that --
 11 A Okay.
 12 Q -- there was considerable attention given to how
 13 they would have to lay this new deck, the new --
 14 continuous composite deck --
 15 A Right.
 16 Q -- so as to maintain the symmetry of the weight, as
 17 I understood. Is that what --
 18 A Well, that -- From what I recall was the plan was to
 19 remove half the deck at a time. We put all the
 20 traffic on one side of the bridge with that deck
 21 still in place, remove the other half, and install
 22 that. You'd do it in segments, but you would remove
 23 part of that deck; put in the new deck. You'd also
 24 do an attachment down to the steel floor beams to
 25 give it composite action.

59

1 Q What do you know about how much analysis they did as
 2 to whether or not they could do it in that --
 3 A I don't --
 4 Q -- way?
 5 A I know we talked -- we talked about the analysis,
 6 but I cannot recall all the details.
 7 Q Now, while the URS study is going on, it's also my
 8 understanding that there was an overlay project that
 9 was being designed for the bridge. And this overlay
 10 was separate from and different than the redecking
 11 that URS was studying; is that correct?
 12 A That's correct.
 13 Q What do you know about the role of your section in
 14 planning this overlay project?
 15 A I know that was -- as far as planning, our section
 16 was involved in producing the plans for the -- for
 17 that overlay.
 18 Q Do you know what was taken into account in terms of
 19 how this overlay project should work relative to
 20 weight distribution?
 21 A As far as weight distribution on the truss itself?
 22 Q Correct.
 23 A We -- From my recollection we had -- did not have a
 24 discussion about that. Typically the -- what we
 25 were talking about in this level of project is that

60

1 we're taking off two inches of the concrete deck
 2 over certain areas and then reinstalling that two
 3 inches back on. That's the concrete overlay. So as
 4 far as the amount of load we're taking off or
 5 putting back on, it's pretty minor compared to what
 6 the loads that are on the bridge. And typically we
 7 do not -- when we're doing this, we don't reevaluate
 8 because we are not -- we are not putting on more
 9 load; we're taking load off and putting it back on.
 10 Q URS spends considerable time though trying to figure
 11 out, you know, how to keep the load balanced on the
 12 deck when they're -- or on the -- load balanced on
 13 the bridge when they're putting a new deck on. Did
 14 you have to give any thought to, you know, can you
 15 take it off, do the stripping on one lane, and leave
 16 it on -- leave the full deck on the other with the
 17 traffic and whether or not that would affect the
 18 symmetry of the building -- or the bridge in its
 19 capacity?
 20 A And realize URS's study was to take the entire deck
 21 off, half of the entire deck off and then analyze
 22 the -- You know, it's not so much the truss that
 23 would have the load on top of it. It's more of the
 24 laterals that go from the truss that's unloaded to
 25 the one that's loaded and the loads that go through

<p>61</p> <p>1 that. Realize when you initially design this, the</p> <p>2 whole thing goes down together.</p> <p>3 Q Right.</p> <p>4 A So it's not so much the truss itself; it's the</p> <p>5 laterals between the two trusses that would see</p> <p>6 those loads. And that's the -- From what I</p> <p>7 recollect, that is where a lot of URS's, you know --</p> <p>8 looking at the highest loads due to that difference</p> <p>9 in weight, that's where most of the stresses were,</p> <p>10 in the laterals.</p> <p>11 Q This deck is what, eight inches thick, something</p> <p>12 like that?</p> <p>13 A I don't recall, but I would -- I would venture to</p> <p>14 say it was probably more in the order of</p> <p>15 nine-and-a-half total with the concrete deck plus</p> <p>16 the overlay.</p> <p>17 Q So what you're saying is that it's far different to</p> <p>18 be two inches off than nine-and-a-half inches off</p> <p>19 and --</p> <p>20 A Right. And you're only taking parts of it off.</p> <p>21 Again, you're not taking off half of the -- half the</p> <p>22 bridge; you're taking off, you know, a strip,</p> <p>23 replacing it, doing the next strip, replacing it.</p> <p>24 Q So now we know that along comes the contractor and</p> <p>25 moves on to the bridge with their construction</p>	<p>63</p> <p>1 Q Okay. Okay.</p> <p>2 A -- that -- because we -- we thought we needed to do</p> <p>3 that because we didn't know -- didn't know it was</p> <p>4 obvious of how the contractor could do the work.</p> <p>5 But that isn't a -- That's more of a unique thing</p> <p>6 than -- than a standard practice.</p> <p>7 Q Do you know within the department who -- where there</p> <p>8 might be a policy that says to the contractor don't</p> <p>9 put a pile of aggregate in the middle of the bridge?</p> <p>10 A I do not know of a policy. If I was going to look,</p> <p>11 I would go look in our standards specifications for</p> <p>12 construction.</p> <p>13 MR. JOHNSON: Okay. I don't think,</p> <p>14 Barbara, that that's on the website either, is it?</p> <p>15 MS. FORSLAND: The standards</p> <p>16 specifications are hardcover books that are</p> <p>17 published. I don't know if we have them on the</p> <p>18 website.</p> <p>19 MR. WESTERN: I don't believe they are.</p> <p>20 MS. FORSLAND: And currently the version</p> <p>21 is the I think 2005.</p> <p>22 MR. WESTERN: '5, yes.</p> <p>23 MS. FORSLAND: Is it the blue one?</p> <p>24 MR. WESTERN: It's kind of a teal color.</p> <p>25 MS. FORSLAND: Teal. Okay. They switch</p>
<p>62</p> <p>1 equipment and construction materials and apparently,</p> <p>2 again what I read in the newspaper, on the day of</p> <p>3 the -- on August 1st of 2007 had a fair amount of</p> <p>4 gravel, and I'm not sure what else.</p> <p>5 A Right. Yeah, aggregate --</p> <p>6 Q Aggregate --</p> <p>7 A -- and gravel. Yes.</p> <p>8 Q In one location on the bridge. Now, is there</p> <p>9 anything that you do within your section govern how</p> <p>10 the contractors go about doing their work?</p> <p>11 A Typically not. We will -- We will get asked at</p> <p>12 times by -- by the contractors -- by the contractor</p> <p>13 or usually by the project manager for a -- you know,</p> <p>14 if they want to drive a crane across a bridge or do</p> <p>15 something. But in this case I was not aware that we</p> <p>16 were asked.</p> <p>17 Q Is there anything that you have within your policies</p> <p>18 for your section govern how the contractor has to go</p> <p>19 about construction? I mean, obviously you've got</p> <p>20 the design. I'm not talking about that. But I'm</p> <p>21 talking about the method they use, not the actual</p> <p>22 work.</p> <p>23 A Typically not unless -- unless during -- One bridge</p> <p>24 that I worked on in particular, we -- we described</p> <p>25 the sequence of building and erecting a bridge --</p>	<p>64</p> <p>1 the colors so you can make sure you're using the</p> <p>2 right book. If you would like a copy of the 2005</p> <p>3 standards specs, we can handle that.</p> <p>4 MR. JOHNSON: Thank you.</p> <p>5 BY MR. JOHNSON:</p> <p>6 Q We're getting close to the end here.</p> <p>7 A Okay. Very good.</p> <p>8 Q We talked a little bit earlier -- or we've talked a</p> <p>9 little bit earlier about the DeSoto Bridge, but I</p> <p>10 want to just come back to that for a minute. Is</p> <p>11 your section formally involved with the discussions</p> <p>12 around the closing of that bridge?</p> <p>13 A Yes.</p> <p>14 Q Tell me what role your section plays.</p> <p>15 A I was involved in the discussions with Dan Dorgan</p> <p>16 and Gary Peterson.</p> <p>17 Q And which discussions were those?</p> <p>18 A Well, we -- when -- When the mis -- I don't know --</p> <p>19 distortion of a plate was discovered, the call came</p> <p>20 in actually to one of my engineers; and then they</p> <p>21 got ahold of me. Dan and Gary were both out of the</p> <p>22 office. Explained what they had. And I took the --</p> <p>23 took the note, called -- got ahold of Gary, got</p> <p>24 ahold of Dan. And we also asked him to look at some</p> <p>25 other additional plates. And one of the things we</p>

<p style="text-align: right;">65</p> <p>1 tried to -- we looked at the plans, in-place plans.</p> <p>2 We tried to determine whether maybe it was due to</p> <p>3 initial fabrication in construction or if it was</p> <p>4 load induced. We had been -- We had -- The reason</p> <p>5 they were out on the bridge was we were looking to</p> <p>6 see if there was any corrosion back behind a plate</p> <p>7 on the -- behind the gusset plate. And we had went</p> <p>8 through our models and looked at the capacity of the</p> <p>9 gusset plates. The gusset plates were -- looked</p> <p>10 like they were fine, but we wanted to make sure --</p> <p>11 let's say there was tremendous overcapacity but they</p> <p>12 were at a level that they were fine, we wanted to</p> <p>13 just make sure there was no corrosion back behind</p> <p>14 them.</p> <p>15 We also told -- mentioned to them while</p> <p>16 they were out, please look at the -- these three</p> <p>17 edges on the plate, which they did; and they saw</p> <p>18 this slight distortion that was on top of the</p> <p>19 plates.</p> <p>20 We had -- We also had them look at other</p> <p>21 gusset plates, and all the other gusset plates on</p> <p>22 the bridge that had been looked at besides the ones</p> <p>23 at this particular joint were true. There was no --</p> <p>24 They were all straight. So at that point we -- we</p> <p>25 thought it did not have as much to do with</p>	<p style="text-align: right;">67</p> <p>1 Aren't they about six feet?</p> <p>2 MR. WESTERN: Yeah, about --</p> <p>3 MS. FORSLAND: About six by ten feet?</p> <p>4 MR. WESTERN: Yeah, that sounds about</p> <p>5 right. I think it's about 68 inches, 6 foot 2,</p> <p>6 something like that.</p> <p>7 BY MR. JOHNSON:</p> <p>8 Q Is that about the size of the plates on the 35W</p> <p>9 bridge then too?</p> <p>10 A They're about -- The gusset plate that failed, it's</p> <p>11 about the same thickness, same length.</p> <p>12 Q So that's about ten feet?</p> <p>13 A About ten feet long.</p> <p>14 Q Just a few other questions. There was a bridge on</p> <p>15 I-90 out in Ohio over the Grand River where there</p> <p>16 was a failure of it due to some buckling gusset</p> <p>17 plates. Do you know about that?</p> <p>18 A I -- I have become aware of that since August 1,</p> <p>19 yes.</p> <p>20 Q Prior to August 1st of last year you were not aware</p> <p>21 of it?</p> <p>22 A No, I did not. But it --</p> <p>23 Q What do you know --</p> <p>24 A The bridge --</p> <p>25 Q -- about it now?</p>
<p style="text-align: right;">66</p> <p>1 fabrication or construction; that it may have been</p> <p>2 load induced. So at that time we -- even though our</p> <p>3 models were telling us that the loads were just</p> <p>4 fine, we thought it deem -- it was appropriate to</p> <p>5 close the bridge. So that was the -- kind of the</p> <p>6 discussion.</p> <p>7 Q How many nodes or junctures were involved? Was it</p> <p>8 just the one?</p> <p>9 A No, there's -- We've got four nodes that are -- that</p> <p>10 were -- that have this distortion on the bridge.</p> <p>11 Q I'm just curious, how much buckling was observed?</p> <p>12 A One -- The maximum on three of the plates was up to</p> <p>13 a quarter of an inch. The plates were -- The plates</p> <p>14 were the same size as -- same thickness, one</p> <p>15 half-inch plates. They were the same thickness as</p> <p>16 the 35W gusset plates and about the same size, about</p> <p>17 the same length.</p> <p>18 Q How long are they? That's very hard to determine.</p> <p>19 A About ten feet. Ten feet long.</p> <p>20 Q They don't look that long --</p> <p>21 A No.</p> <p>22 Q -- on the photo.</p> <p>23 A On the photo. You have to have somebody standing by</p> <p>24 it.</p> <p>25 MS. FORSLAND: And how tall are they?</p>	<p style="text-align: right;">68</p> <p>1 A The bridge did not collapse.</p> <p>2 Q Was it --</p> <p>3 A It was -- From my understanding the gusset plates --</p> <p>4 the gusset plates failed, but it -- it caught on its</p> <p>5 other members, so it didn't collapse. That was</p> <p>6 due -- There was excessive corrosion on those</p> <p>7 plates. So it -- It was not -- Well, we don't -- do</p> <p>8 not believe it's -- I better not say any more. We</p> <p>9 didn't have cor -- Well, I better not say about the</p> <p>10 35W. Anyhow, that's the findings from that project</p> <p>11 was that it was corrosion, corrosion and the section</p> <p>12 loss that induced the gusset plate failure.</p> <p>13 Q Now, my recollection though is that there was</p> <p>14 corrosion identified on one of the gusset plates, I</p> <p>15 think it was 11, on 35W --</p> <p>16 A Yes.</p> <p>17 Q -- over a period of years. But what are you saying</p> <p>18 about that corrosion?</p> <p>19 A From my understanding -- and, again, I -- that</p> <p>20 corrosion was deemed minor. Overall the length of</p> <p>21 that -- the amount of corrosion compared to the size</p> <p>22 of that gusset plate, it was minor corrosion.</p> <p>23 Q Do you know whether or not any notice about the --</p> <p>24 this failure on Grand River bridge came in to the</p> <p>25 department?</p>

<p>69</p> <p>1 A Not that I -- Not that I was aware of. Again, that</p> <p>2 was the first I had heard was --</p> <p>3 Q Yeah.</p> <p>4 A -- after -- after August 1.</p> <p>5 Q If someone -- If a notice was to go out, would that</p> <p>6 have come from the Federal Highway Administration?</p> <p>7 A There -- I would assume there would have been two</p> <p>8 avenues, either through FHWA or through AASHTO</p> <p>9 itself.</p> <p>10 MS. FORSLAND: Another way would have</p> <p>11 been through NTSB if they investigated the Ohio</p> <p>12 River bridge situation, and I don't know if they did</p> <p>13 or not.</p> <p>14 MR. JOHNSON: And typically they only</p> <p>15 investigate if it is a collapse.</p> <p>16 MS. FORSLAND: Okay.</p> <p>17 MR. WESTERN: So since it did not</p> <p>18 collapse, they -- I'm sure that's why they were not</p> <p>19 involved.</p> <p>20 BY MR. JOHNSON:</p> <p>21 Q When -- Well, let me ask: Have you received other</p> <p>22 communications though about an issue regarding</p> <p>23 bridge design or another bridge collapse while</p> <p>24 you've been --</p> <p>25 A Have not.</p>	<p>71</p> <p>1 state bridge engineer, and then in that case down</p> <p>2 through our hydraulic section, and those processes</p> <p>3 and procedures get implemented.</p> <p>4 Q Is there a formal notice that comes out to the</p> <p>5 department at some point?</p> <p>6 A Yes.</p> <p>7 Q And who does that come to?</p> <p>8 A That would be the state bridge engineer.</p> <p>9 Q Okay.</p> <p>10 A I'm sure it probably comes to the commissioner maybe</p> <p>11 of transportation also. But I'm -- From what I know</p> <p>12 is that it's come in to the state bridge engineer.</p> <p>13 And I -- In the role I'm in now, I see those also.</p> <p>14 And with what happened at -- in Boston on the Arter</p> <p>15 -- the Artery Tunnel --</p> <p>16 Q Yeah.</p> <p>17 A -- I mean, I saw that notice came out. So I'm --</p> <p>18 You know, it --</p> <p>19 Q And that's a direct mailing to you rather than --</p> <p>20 A Well, it comes -- It's a direct mailing to --</p> <p>21 Q MnDOT.</p> <p>22 A -- thousands of people. I'm just on the list, you</p> <p>23 know.</p> <p>24 Q So you shouldn't feel that important.</p> <p>25 A I don't think -- yeah. It's a good thing. Those</p>
<p>70</p> <p>1 Q -- In this section?</p> <p>2 A We've been -- Well, we know about other collapses.</p> <p>3 The Scary Creek in New York, that was a scour issue</p> <p>4 that took place. There was a barge hit in Oklahoma</p> <p>5 that caused the bridge collapse. Those sorts of</p> <p>6 things tend to go through, and I think in both of</p> <p>7 those instances there were findings that came out</p> <p>8 that created new Initiatives within the bridge</p> <p>9 community. Scary Creek, that created a new</p> <p>10 monitoring for scour. The barge impact that</p> <p>11 happened in Oklahoma was some new -- new design</p> <p>12 issues for a barge impact. Also looking at maybe</p> <p>13 early morning systems for bridges where they can be</p> <p>14 impacted by a barge.</p> <p>15 Q Help me understand how when a notice comes in like</p> <p>16 on the scour, who does it come to in MnDOT and how</p> <p>17 does it work its way down to the inspector who's out</p> <p>18 looking at a bridge?</p> <p>19 A That would -- That would come in, and in that case</p> <p>20 those were again NTSB findings. And through that we</p> <p>21 developed new procedures within AASHTO. The whole</p> <p>22 scour monitoring procedure that we have now really</p> <p>23 came out of that. And so a lot of times when we</p> <p>24 have these issues, that's what happens. And it --</p> <p>25 it's -- It filters down from FHWA, with AASHTO,</p>	<p>72</p> <p>1 issues you want to make widespread knowledge;</p> <p>2 everybody understands what the issues are.</p> <p>3 Q So then when the -- Let's stick with this scour</p> <p>4 monitoring example.</p> <p>5 A Okay.</p> <p>6 Q So when that notice comes in to your section, what</p> <p>7 do you do with it?</p> <p>8 A Well, in that case -- I don't know enough about that</p> <p>9 one. I just -- Maybe a better one is the Arter --</p> <p>10 Boston Tunnel, because that one just went through.</p> <p>11 What we did is when -- We kind of knew about that</p> <p>12 anyhow, what had happened. We understood what they</p> <p>13 did, and we wouldn't have done it that way anyhow.</p> <p>14 But there were -- We developed some -- After the</p> <p>15 response came out from NTSB and AASHTO also</p> <p>16 described what the state should do, we developed</p> <p>17 some practices in writing to make sure that, you</p> <p>18 know, these anchors and direct tension would not be</p> <p>19 used. So that's the sort of the process that would</p> <p>20 take place following this finding of a study.</p> <p>21 Q Your section develops the new standard?</p> <p>22 A It was -- Actually, that was in working with the</p> <p>23 standards area downtown and our area and I think the</p> <p>24 materials lab was also involved. So what we did,</p> <p>25 there was a -- we -- we sent out a memo to</p>

<p style="text-align: right;">73</p> <p>1 designers. We have that within our bridge office</p> <p>2 where it comes from the state bridge design</p> <p>3 engineer, my position. It goes to all the holders</p> <p>4 of the manual. Basically it explains the issue and</p> <p>5 what not to use. So we had sent that out, and also</p> <p>6 the department also sent out a notice on its use.</p> <p>7 And sometimes I think you look at how</p> <p>8 large of a -- an issue it might be. And like in</p> <p>9 this case of the anchors, there's a number of</p> <p>10 different designers, both structural and roadway and</p> <p>11 others, that may have been using them. So you</p> <p>12 wanted a broad spectrum --</p> <p>13 Q Yeah.</p> <p>14 A -- and get it out to as many people as you can.</p> <p>15 Where if we are talking about the scour of a bridge,</p> <p>16 it's a very refined group. So in that case I'm sure</p> <p>17 it just came through state bridge engineer and the</p> <p>18 hydraulic engineers within the state so they were</p> <p>19 notified on what the requirements would be.</p> <p>20 Q When new requirements come out that you're -- that</p> <p>21 the states are supposed to implement, does the</p> <p>22 Federal Highway Administration then audit those at</p> <p>23 some point to see whether or not you incorporated</p> <p>24 those new standards into your manual?</p> <p>25 A I am sure they do. I have not seen them audit</p>	<p style="text-align: right;">75</p> <p>1 those -- to the sections of the manual that we are</p> <p>2 in control of.</p> <p>3 Also, my boss, Dan Dorgan, is the</p> <p>4 chairman of the T-13 committee, the culvert and --</p> <p>5 culvert committee. So we -- We have a lot of items</p> <p>6 that we have to review for him, and so we have a lot</p> <p>7 to do with that. He is also a member of the</p> <p>8 concrete committee. And so all of the concrete</p> <p>9 design items that are coming through, we review</p> <p>10 those also. So quite a bit of -- quite a bit of</p> <p>11 time is spent on AASHTO items.</p> <p>12 Also we have a group that gets together</p> <p>13 that's called the North Central States Group that we</p> <p>14 meet once a year and a member of ten different</p> <p>15 states that we get together and talk about design</p> <p>16 issues, detailed maintenance, other things, and try</p> <p>17 to better the ways that we do things and look at,</p> <p>18 you know, within our area if there's a -- you know,</p> <p>19 a better way to detail and design bridges, as other</p> <p>20 people have had practice doing for a number of years</p> <p>21 and maybe we just haven't done that sort of detail</p> <p>22 before, kind of sharing our best practices.</p> <p>23 Q So when you come back from one of those conferences</p> <p>24 with an idea of, boy, Iowa or Wisconsin nailed this</p> <p>25 one, we should be doing that too, how do you</p>
<p style="text-align: right;">74</p> <p>1 personally, but I am sure they do. I know Romeo</p> <p>2 Garcia is our federal contact. We've asked about</p> <p>3 other issues of that nature. Actually, him and I</p> <p>4 have had this discussion about the anchors. So I</p> <p>5 told him what we were doing. I don't know there was</p> <p>6 a -- I don't know if he's seen an audit, but...</p> <p>7 Q Final few questions here. Just with respect to best</p> <p>8 practices more generally, how do you stay on top of</p> <p>9 design changes, new developments that are occurring</p> <p>10 that relate particularly to structural safety of</p> <p>11 bridges?</p> <p>12 A I'm -- Part of my -- my position I also attend the</p> <p>13 AASHTO bridge subcommittee every year where we --</p> <p>14 where we vote on new changes to the specifications,</p> <p>15 the design specifications. And also with those</p> <p>16 there are a number of presentations at that time</p> <p>17 where they're talking about maybe new directions</p> <p>18 that we're going, new methods for design or</p> <p>19 evaluation. And so I get a lot from that. There's</p> <p>20 other conferences and things that I -- that I</p> <p>21 attend. I'm also part -- There's I believe 20 -- 20</p> <p>22 committees within this -- the bridge subcommittee,</p> <p>23 and I'm on a -- I'm a member of the load and load</p> <p>24 distribution committee. So I have an active role in</p> <p>25 that committee of reviewing specification changes to</p>	<p style="text-align: right;">76</p> <p>1 implement that?</p> <p>2 A And it varies, depending on the size of the change.</p> <p>3 As an example, a few years ago we had -- it's called</p> <p>4 an integral abutment. They are abutments where</p> <p>5 they -- the end of the bridge where you don't have a</p> <p>6 joint so you don't have a maintenance issue anymore.</p> <p>7 So these are shorter bridges. And we had built some</p> <p>8 40 years ago, and we had performance issues with</p> <p>9 them. So we kind of backed away from them. A</p> <p>10 number of states around us, they kind of swear by</p> <p>11 them; they're their bread and butter, they're the</p> <p>12 best thing they've ever done. So we actually went</p> <p>13 on a standing tour. Went down to Iowa as one of the</p> <p>14 states that has been performing very well. We had</p> <p>15 our FHWA representative and a few people from our</p> <p>16 office went down, talked to their designers for a</p> <p>17 half a day about how they -- their design practices,</p> <p>18 their detailing their construction. Then went out</p> <p>19 in the field and looked at some that were already in</p> <p>20 service, how they looked, and then also went and</p> <p>21 looked at some that were in construction.</p> <p>22 It was interesting in that we -- we</p> <p>23 actually -- we had -- are doing many more of them</p> <p>24 now than what we had been. But we also caught some</p> <p>25 details that Iowa was using that they were having</p>

<p style="text-align: right;">77</p> <p>1 problems with. So we helped provide them with</p> <p>2 some -- hopefully some help to -- so their</p> <p>3 maintenance issues aren't as large either. So</p> <p>4 that's one example.</p> <p>5 But, otherwise, you know, if it's</p> <p>6 something minor, we come back, we'll also do some</p> <p>7 additional research on other states' web search or</p> <p>8 actually phone calls with people that we know, ask</p> <p>9 them, you know, what their practices are and see if</p> <p>10 we have specifications or details that they can</p> <p>11 share with us, construction specifications I should</p> <p>12 say, and then take those and glean what we think are</p> <p>13 the best practices and then try them on a project.</p> <p>14 Q And if it's -- If you think it's --</p> <p>15 A Successful.</p> <p>16 Q -- a good idea, successful, you incorporate that</p> <p>17 into the --</p> <p>18 A Incorporate in our way of doing business, yes.</p> <p>19 MR. JOHNSON: That's all I have.</p> <p>20 MS. FORSLAND: We do need to just review</p> <p>21 what I'm going to be providing. You want the</p> <p>22 historical bridge manuals.</p> <p>23 MR. JOHNSON: Now, what it might be</p> <p>24 useful to have is if there's a table of contents</p> <p>25 for --</p>	<p style="text-align: right;">79</p> <p>1 difficulty -- that back in about 2002 or so, we</p> <p>2 developed a completely new manual with -- it's</p> <p>3 this -- we have this new design methodology, and</p> <p>4 it's based on that. And it has design cal --</p> <p>5 examples, and it's more of a state-of-the-art</p> <p>6 manual. The old manual we had was more of a -- just</p> <p>7 very prescriptive on things that you needed to have</p> <p>8 in there. And that was the backbone of what was</p> <p>9 back in the '70s.</p> <p>10 MR. JOHNSON: So we maybe need two table</p> <p>11 of contents then; the one that would be the -- for</p> <p>12 the manual prior to the 2002 addition.</p> <p>13 MR. WESTERN: Okay. Then the other part</p> <p>14 that -- realize that that -- The manual that we have</p> <p>15 now is very set, and it's got a table of contents,</p> <p>16 and it's not going to really vary from that very</p> <p>17 much. Back in the day from, if you're looking at</p> <p>18 especially historic, starting in '71 up to the time</p> <p>19 that we didn't update the manual anymore, it was</p> <p>20 probably in the late '90s, there's a lot of changes</p> <p>21 that took place; and there were actually probably</p> <p>22 whole sections that went in that weren't even there</p> <p>23 before.</p> <p>24 And that's what I'm saying, this -- this</p> <p>25 one section where we were looking at what the design</p>
<p style="text-align: right;">78</p> <p>1 MR. WESTERN: And we can get you that.</p> <p>2 MR. JOHNSON: -- for one of them that</p> <p>3 seems to be fairly consistent over time. Barb, if</p> <p>4 we can just look at that. Because I think what</p> <p>5 Kevin was saying is that is a lot of volume here.</p> <p>6 MS. FORSLAND: Yeah.</p> <p>7 MR. JOHNSON: And if we can just identify</p> <p>8 a section or two, that would be --</p> <p>9 MR. WESTERN: What sort of --</p> <p>10 MR. JOHNSON: -- better.</p> <p>11 MR. WESTERN: -- section would you be</p> <p>12 looking for? Is it kind of --</p> <p>13 MR. JOHNSON: I'd have to see the table</p> <p>14 of content.</p> <p>15 MR. WESTERN: Okay.</p> <p>16 MS. FORSLAND: We'll start off with just</p> <p>17 a complete table of contents, and then you can</p> <p>18 narrow in on certain sections and at least see the</p> <p>19 structure of them.</p> <p>20 MR. WESTERN: Yeah.</p> <p>21 MS. FORSLAND: So the complete table of</p> <p>22 contents of the current bridge manual, and then I'll</p> <p>23 start searching for the historical ones.</p> <p>24 MR. WESTERN: I should mention to you --</p> <p>25 and this is where it's going to create some</p>	<p style="text-align: right;">80</p> <p>1 review was, policy was at the time, was in 1971 was</p> <p>2 the first date that we could find.</p> <p>3 BY MR. JOHNSON:</p> <p>4 Q Well, let me ask, would there have been sections</p> <p>5 removed over -- between '71 and the late '90s?</p> <p>6 A Sections re -- I don't believe there was any</p> <p>7 sections removed. They would have been modified --</p> <p>8 Q Sure.</p> <p>9 A -- or --</p> <p>10 Q Added?</p> <p>11 A -- or added.</p> <p>12 MR. JOHNSON: So if we see a table of</p> <p>13 contents --</p> <p>14 MS. FORSLAND: Okay.</p> <p>15 MR. JOHNSON: -- prior to the major</p> <p>16 revision in 2002.</p> <p>17 MR. WESTERN: Okay. So like the '95</p> <p>18 manual or something like that --</p> <p>19 MR. JOHNSON: Right.</p> <p>20 MR. WESTERN: -- that would be okay?</p> <p>21 MS. FORSLAND: Okay. And the conditional</p> <p>22 ratings manual was the second thing. And then the</p> <p>23 condition evaluation manual. Are those the same</p> <p>24 thing?</p> <p>25 MR. WESTERN: That's the same thing.</p>

81

1 MS. FORSLAND: Just I used a different
2 term at one point.
3 MR. WESTERN: And I don't quite have the
4 terminology on that. That's -- I'm sorry about
5 that.
6 MS. FORSLAND: Well, I'll give you a call
7 and we'll work it out.
8 MR. WESTERN: I don't -- In my work I
9 don't utilize that one. That's on the rating side
10 of it. So I don't --
11 MS. FORSLAND: That's one Gary Peterson
12 can probably help me out.
13 MR. WESTERN: Gary Peterson would know
14 that name.
15 MS. FORSLAND: Is there a source for this
16 information on the bridge manuals that would be more
17 pertinent than coming to you or --
18 MR. WESTERN: They would not -- The
19 only -- I think all of those are going to be
20 historic. They won't be on the website.
21 MS. FORSLAND: Yeah.
22 MR. WESTERN: Just go through me.
23 MS. FORSLAND: Okay.
24 MR. WESTERN: I think that would be best.
25 And I got enough -- You know, a couple of the other

82

1 people have enough other things going on. So I'll
2 just get somebody else to dig them up for you.
3 MS. FORSLAND: Is our library helpful at
4 all? Is the bridge manuals filed at the library?
5 MR. WESTERN: They may be. But I don't
6 think they have the historic. They would just
7 have --
8 MS. FORSLAND: The current one.
9 MR. WESTERN: -- the latest and greatest
10 one.
11 MS. FORSLAND: Now that was all I had on
12 my list.
13 MR. JOHNSON: Well, I have the standards
14 specs for bridge construction.
15 MS. FORSLAND: I'm sorry, you're right.
16 MR. WESTERN: Yeah.
17 MS. FORSLAND: That was the last one.
18 MR. JOHNSON: Thank you.
19 MS. FORSLAND: Okay.
20 (Concluded at 5:20 p.m.)
21
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23
24
25

83

1 STATE OF MINNESOTA)
2) ss.
3 COUNTY OF DAKOTA)
4

REPORTER'S CERTIFICATE

6 I, Angie D. Threlkeld, do hereby
7
8 certify that the above and foregoing transcript,
9
10 consisting of the preceding 82 pages is a
11
12 correct transcript of my stenographic notes, and is
13
14 a full, true and complete transcript of the
15
16 proceedings to the best of my ability.
17

Dated April 7, 2008.

18
19 ANGIE D. THRELKELD
20 Registered Professional Reporter
21 Certified Realtime Reporter
22
23
24
25

INTERVIEW OF ROBERT C. WINTER - APRIL 3, 2008

In the Matter of Conducting an Independent Investigation
Into the Collapse of the I-35W Bridge

Department of Transportation
395 John Ireland Boulevard
Room G-14
Saint Paul, Minnesota

Met, pursuant to notice, at 8:00 in the
morning on April 3, 2008.

INTERVIEWERS:

Greg Merz, Attorney at Law with the Gray Plant
Mooty Law Firm

ALSO PRESENT:

Barbara E. Forsland, Attorney at Law, MnDOT Data
Practices Compliance & Policy Analyst

COURT REPORTER:

Colleen M. Sichko, Registered Professional Reporter

During the time that our investigation is
active, the information that you provide to us and that
other interviewees provide to us is not public
information, but the information you provide may no longer
be confidential once we submit our report to the
legislature.

You are required to answer my questions today
truthfully. As I'm sure you've seen, we have a court
reporter here today to record our conversation. If either
during this interview or later on in our investigation we
determine that we need to verify certain information, we
may ask you for a further recorded statement, signed
affirmation or an oath statement.

We view this as an ongoing process, so if you
think of anything after this interview that you want to
tell us about, please call or e-mail us. Likewise, we
would hope that you would be able to respond to us if we
call or e-mail with any follow-up questions or
clarifications.

Do you have any questions about any of that?

A I don't believe so.

Q And I don't know if you've had experience testifying with
a court reporter present, but one thing that's a little
hard to get used to is we can't talk over one another.

A Right.

Page 2

(WHEREUPON, the following proceedings were duly had
and entered of record, to-wit:)

(Winter Exhibit 1 was marked for
identification by the court reporter and
attached hereto.)

BY MR. MERZ:

Q I'll give you this one, Mr. Winter, and I'll introduce
myself again. I did that before we went on the record,
but, again, my name is Greg Merz and I'm an attorney with
the Gray Plant Mooty law firm.

And what you have in front of you there,
Exhibit 1, is essentially the ground rules for what we've
been doing today. We've gone over this with each of the
witnesses, and I would like to do that with you now. As
you see there in paragraph one, Gray Plant Mooty has been
retained by the Minnesota legislature to conduct an
independent investigation into the collapse of the I-35W
bridge. We have been asked by the legislature to provide
our report of the investigation by May 1st, and I'll be
asking you questions today concerning the bridge collapse,
related policies, practices, legislative oversight issues
and the like.

The purpose of our interview today is to
determine what you might know about the matters that we
are investigating.

Page 4

Q She can't record two people at the same time, so I'll try
to remind you, but if you would remember to wait until I
finish asking my question before you answer, I'll try to
remember to wait until you've finished your answer before
asking another question. Fair enough?

A Sure is.

Q And, finally, I don't expect that this will be a long
process today. We have set aside two hours, and I don't
think we'll need it all, but if at any time you want a
break, just let me know and we can do that. Okay?

A Fine.

Q Let's just start with some background information. How
long have you been with MnDOT?

A Thirty -- almost 38 years, 38 years in June.

Q So you started in?

A June of 1970.

Q Are you an engineer?

A Yes, I am, registered professional engineer in the state
of Minnesota.

Q And is there some particular type of engineering?

A Civil.

Q Civil engineering? When did you become a registered
professional engineer?

A Well, let's see. I'm going to say in about 1974. I don't
know, I might be able to tell you.

Page 5

Page 7

1 Q You're looking at your card there?

2 A Looking at my card, yeah.

3 Q Well, if you are off by a few years, that will be fine, I won't hold you to it.

5 A Yeah.

6 Q What was the first job you had when you started with MndOT?

8 A I started with MndOT -- I worked in this building, in fact, in the preliminary design area working on preliminary plans for highway projects across the state of Minnesota.

12 Q Did that include plans for bridges?

13 A Not bridge plans. Obviously, you know, bridges are often included in a set of road plans, and these were the preliminary plans. These weren't the final construction plans, these were kind of the planning plans, layouts we called them at that time.

18 Q Okay.

19 A But they would include bridges, yes.

20 Q Okay. Did you have any particular job title in that position?

22 A Oh, I suppose I was -- I guess I was a grad engineer at that time, so, you know, doing geometric layout work.

24 Q Okay. And how long did you have that as your job?

25 A I want to say probably about four years, from '70 to about

1 Q Okay. Just generally, what responsibilities did you have as a project manager?

3 A Well, I was responsible for getting the development and preliminary design of predominantly -- well, exclusively, I guess, highway projects. You know, that was in the days when we were still trying to complete the interstate system in the metro area, as well as a few other fairly significant trunk highway projects again in the east metro area.

10 Q What was your next job at MndOT?

11 A After being project manager, then I became, still in the District 9, the east metro area, I became the preliminary design engineer, which was -- that was kind of a promotion, so I had a number of project managers that reported to me on a wider variety of projects. So I really kind of shifted from spending my time specifically working on a project to advising, overseeing, directing a group of project managers that were working on a wide range of projects.

20 Q When was that?

21 A Let's see, I don't know, I'm going to say the mid '80s. I can find these dates for you if it's really important.

23 Q And it's not. I'm just trying to get a sense of the course of your career.

25 A Okay.

Page 6

Page 8

1 '74.

2 Q And then what position did you have in '74?

3 A Well, then I went to -- we called it -- boy, you're dredging up some old history here -- project liaison, I think. In that position, again, I was located here. I worked in the area where we kind of coordinate project development between MndOT and the Federal Highway Administration, so I had some liaison work with the Federal Highway Administration on a lot of the project documentation and reports that have to be prepared, Environmental Impact Statements and things of that nature, design reports, study reports.

13 Q What was your next position at MndOT?

14 A Oh, then in about '79 I transferred to the Metro -- to what was then District 9, which is now part of the Metro District as a project manager, again for highway development projects in the east metro area.

18 At that time, Metro was divided into two districts. There was a District 9, which was the east metro, and a District 5, which was the west metro, which has now been designed into the Metro District. So in those days there were two districts in the metro area.

23 Q When did that combination happen?

24 A Oh, I want to say about the early '90s, about '92, somewhere along there, early '90s.

1 Q So if you're off a little ways, that's not a problem at all.

3 A Okay.

4 Q So what was the next job you had, then?

5 A From preliminary design engineer, then I worked on -- I was the MndOT representative on the -- well, the previous version of the central corridor light rail study, again working for the -- well, we had become Metro District by then, so that was somewhere in the early '90s, and I had moved to the Waters Edge Building, which is where the Metro District headquarters are out in Roseville. So then I was the MndOT liaison to the central corridor LRT project. I worked with, well, the other primary actors, which was the Hennepin County Rail Authority, Ramsey County Rail Authority, the Metropolitan Council, they were the primary folks, and we did preliminary planning work on the central corridor project as it was envisioned at that point in time.

19 Q When you were -- just to jump back a second, in District 9, where was your office?

21 A In Oakdale.

22 Q When did you hold that position, approximately?

23 A That's probably in the very early '90s.

24 Q What did you do next?

25 A Then in about '96 or so I became one of the Metro District

Page 9

Page 11

1 maintenance engineers. Area maintenance engineer they
 2 called it.
 3 Q What were your responsibilities in that job?
 4 A To oversee, provide engineering advice in a number of the
 5 maintenance activities that go on around in the metro
 6 area. There were two area maintenance engineers. There
 7 was the district maintenance engineer and then there were
 8 two of us called area maintenance engineers.
 9 Q Who was the other area maintenance engineer?
 10 A Terry Zoller and we worked for Gary Thompson (phonetic) at
 11 that point in time. He was the district maintenance
 12 engineer.
 13 Q Would it have been part of your role in that position to
 14 determine what maintenance projects got done?
 15 A Well, I would have been involved in maintenance projects,
 16 I suppose, at that point in time, yeah.
 17 Q Would that have included maintenance projects that were on
 18 the 35W bridge?
 19 A I suppose if there would have been any. I don't recall
 20 that there were any that we dealt with at that point in
 21 time. Most of what we were -- at least my recollection
 22 is, you know, more like pavement maintenance projects,
 23 paving, drainage, things of that nature.
 24 Q There was a fairly significant construction project done
 25 on the bridge in about 1998, and maybe construction is

1 least that one isn't the latest.
 2 Q So that was January of two thousand --
 3 A January 2003. It was the district operations at that
 4 point in time. We did some restructuring here about a
 5 year ago and it became just the Operations Division.
 6 (Winter Exhibit 2 was marked for
 7 identification by the court reporter and
 8 attached hereto.)
 9 BY MR. MERZ:
 10 Q Mr. Winter, I've given you a document we've marked as
 11 Exhibit 2, which is a couple of MndOT org. charts. The
 12 first one is the one that I was referring to when I
 13 referred to you as the district operations division
 14 director?
 15 A Mm-hmm.
 16 Q And you find yourself in the chart there on the right-hand
 17 side of the page; is that right?
 18 A Yes.
 19 Q And just based on the date of January 31, 2005, I'm
 20 assuming that this is how MndOT was organized as of
 21 January 2005?
 22 A That's correct.
 23 Q And then the second page is dated January 2007. Does this
 24 reflect the reorganization that you were describing for
 25 me?

Page 10

Page 12

1 just outside of your responsibility, but do you have any
 2 recollection of that project?
 3 A Not really, no.
 4 Q Did you have any role in the installation of the de-icer?
 5 A No, I think that was maybe already in the bridge when --
 6 well, I didn't have any role in it. It may have already
 7 been in the bridge when I started working in the
 8 maintenance area.
 9 Q What was your next position then?
 10 A From there, I went to being the MndOT project manager for
 11 the Hiawatha light rail project, the one that did get
 12 built. That was in, what, about '98, I think. That was
 13 about a year, '98 to '99, that I was the MndOT project
 14 manager for the Hiawatha light rail project.
 15 Q Okay. What next?
 16 A From there I became the assistant Metro District engineer.
 17 Dick Stehr was the Metro District engineer, and I was his
 18 assistant. Let's see, that was -- so that must have been
 19 about '99 to 2000. 2000 to 2001, then I was the -- no,
 20 that must have been about two years. Must have been about
 21 2002, and then 2002 to 2003 I was the district engineer
 22 for Metro. Then in January of 2003 I went into this job.
 23 Q And that's the district operations director?
 24 A Well, it's not district, it's the Operations Division.
 25 You don't exactly have the latest org. chart there, at

1 A No, this is not the current org. chart.
 2 Q And I probably have it somewhere in my office, but just as
 3 it relates to you, how is the organization different?
 4 A As relates to me, there are two additional offices. It's
 5 now the Operations Division, and I think that occurred
 6 shortly after this date. I think it was after about March
 7 of 2007. There was some restructuring of -- well, there
 8 was a redistribution of the offices. We went from six
 9 divisions, which this shows, to five divisions, and in
 10 that restructuring I took on two additional offices, which
 11 is the traffic, security and operations office, that's in
 12 the fourth column over, the very bottom office.
 13 Q Okay, yes.
 14 A I took that one, and then the second one up from that, the
 15 maintenance office. So both of those offices moved into
 16 my division.
 17 Q Okay.
 18 A Plus the eight districts.
 19 Q What's your understanding of the purpose of that
 20 restructuring?
 21 A Well, because of some retirements and a change at the
 22 deputy commissioner level, there was a decision made by
 23 the Commissioner under the deputy that they wanted to
 24 streamline the organization a little bit, so we went from
 25 six divisions to five divisions and those two offices were

Page 13

Page 15

1 moved into the Operations Division because, although we
 2 work with all the offices, those are a couple that are
 3 probably more operations-oriented and it made the most
 4 sense to redistribute -- that Operations, Safety and
 5 Technology Division was the one that was, I would say,
 6 dissolved, and so all of those offices were dispersed.
 7 Those two, the maintenance and the traffic, security and
 8 operations office, were the most closely aligned with the
 9 work that the districts did, so those two offices were
 10 moved into the Operations Division.
 11 Q Was the result of that restructuring that there were fewer
 12 people to do the work, or were the people just reporting
 13 differently?
 14 A Just different reporting. Well, I guess there was one
 15 less division director, so we went from six to five.
 16 Q So let's focus now specifically on your job as it has been
 17 constituted since March of 2007, then.
 18 A Okay.
 19 Q If you could, describe for me your responsibilities.
 20 A Well, my responsibilities are to, I guess, be the manager
 21 for the administrator, the manager for the eight districts
 22 and the two additional offices to, you know, represent
 23 those offices and districts on the Commissioner's staff.
 24 We often refer to, you know, everybody above this line
 25 (indicating), directors, the deputy, the Commissioner and

1 have been in contact with me about what they should do and
 2 further investigation that's necessary, which is, in fact,
 3 going on today. Budget matters; I don't know, almost --
 4 well, that's an example, I guess. Almost anything and
 5 everything, yes.
 6 Q Do you recall dealing with any issues specifically related
 7 to the 35W bridge?
 8 A Issues? Nothing pre-collapse, I guess, specifically.
 9 Q Would it be part of your responsibility to review
 10 inspection -- fracture critical inspection reports?
 11 A Typically not.
 12 Q Do you recall reviewing, prior to the collapse, any
 13 fracture critical inspection reports for the 35W bridge?
 14 A No.
 15 Q Do you recall ever having any discussion about the
 16 condition of the 35W bridge?
 17 A No. I mean, I was certainly aware there was a pavement --
 18 or a bridge deck restoration project that was under way at
 19 the time. I was aware of that, but not any structural
 20 issues, no.
 21 Q And that bridge deck restoration project was the activity
 22 that was going on on the bridge when it collapsed?
 23 A That's correct.
 24 Q Did you have any role in that project?
 25 A No.

Page 14

Page 16

1 the assistant to the Commissioner as the Commissioner's
 2 staff, so I'm kind of like the connection point between
 3 the districts and the offices and the Commissioner, the
 4 director and the Commissioner's staff.
 5 Q What do the various district offices do, the functions
 6 that report to you?
 7 A Well, the districts are geographically separated across
 8 the state, so they have a distinct geographic area. Metro
 9 is the metro area; District 1, you know, and on and on.
 10 You can see by the cities that are named there generally
 11 the area of the state that they represent.
 12 So they are responsible predominantly for the
 13 planning, design, construction, operations and maintenance
 14 of the -- mostly the trunk highway system. They have a
 15 few responsibilities in the transit area, but that's minor
 16 in comparison. So they are primarily highway-oriented and
 17 they pretty much do all of those activities that I
 18 mentioned in their geographic area.
 19 Q What kinds of issues come up to you from the districts?
 20 A Oh, a wide variety of issues, everything from personnel
 21 matters to what -- well, yesterday our District 1, our
 22 Duluth district, had a concern on a piece of roadway, 169
 23 near Chisholm, that because it's in the mining area, there
 24 seems to be some cavities under the road and there is some
 25 subsidence, so they are concerned about that. So they

1 Q And this will maybe seem like an odd question, but why
 2 not? Is that because it was construction as opposed to
 3 operations?
 4 A Well, that was -- you know, we have many projects going on
 5 across the state at any one time and that particular
 6 project was just another one of the many projects. I
 7 mean, I was aware it was going on because, you know, as we
 8 go into this time of the year and the construction season,
 9 we spend time talking about the whole array of projects
 10 that will be going on during the year. Obviously, work on
 11 a major connection like 35W that closes lanes has traffic
 12 impacts, plus I drive that way from time to time. So
 13 clearly I would be aware of that, but no more than any of
 14 the couple hundred other projects that are going on at any
 15 time.
 16 Q You wouldn't know, I take it, what, if any, analysis was
 17 done about how the construction of the bridge might affect
 18 the structural integrity of the bridge?
 19 A No.
 20 Q Did you ever see a study that was done by URS?
 21 A Did I see it?
 22 Q Yeah.
 23 A I don't believe so, no.
 24 Q Did you ever hear any discussion about the recommendations
 25 that URS had made relative to the 35W bridge?

Page 17

Page 19

1 A Would you repeat that?

2 Q Sure. Did you ever hear any discussions about

3 recommendations that had been made by URS relative to the

4 35W bridge?

5 A Before the collapse or after the collapse?

6 Q Before.

7 A No. At least not that I recall, I would say.

8 Q The maintenance position that reports to you, who is in

9 that position?

10 A Steve Lund is the state maintenance engineer.

11 Q What kinds of issues come to you through Mr. Lund?

12 A Oh, again, personnel kinds of issues, staffing. He does a

13 lot of liaison work with the maintenance engineers. Every

14 one of the districts has a district maintenance engineer

15 also, so Steve works very closely with the maintenance

16 engineers on a whole array of things that they deal with

17 from, you know, equipment, plow trucks to salt to

18 materials that they need. They have some research

19 functions out of his office, so they have some ongoing

20 research projects.

21 The MNDOT emergency management office is

22 currently in the maintenance office, so they are a

23 subsection of the maintenance office, so from time to time

24 there are matters there. Training kinds of things, they

25 coordinate a lot of training activities, snow and ice

Page 18

1 activities, as well as a lot of other training activities

2 for the districts. That would be a sample of the kinds of

3 things.

4 Q Then traffic, security and operations, what does that job

5 do?

6 A A couple of things. That's traffic engineering, so they

7 get involved in, you know, signing and striping and median

8 cable barrier kinds of projects. That also includes the

9 Regional Traffic Management Center, where we have all of

10 the, you know, the -- well, the metro area traffic

11 management occurs. Cameras, you know, the loop detectors,

12 the ramp meters, all of those, that instrumentation, the

13 first trucks, the Highway Helper, first trucks that are

14 out there, they run out of that office. The 511 system,

15 which is our information system on road conditions across

16 the state, runs out of there.

17 There is also an ITS office that's part of

18 that that is involved in a lot of the new technology

19 applications, which lots of times plays out in the traffic

20 management center, the intelligence information center

21 technologies as we apply those. We also have a function,

22 safety -- roadway safety, looking at doing a lot of the

23 analysis of highway accident locations, working with --

24 working with the districts and making recommendations on

25 safety improvement kind of projects, managing the --

1 collecting and analyzing and interpreting the safety data,

2 particularly crash data, you know, on fatalities and various

3 kinds of injuries and causes. So they really have a

4 safety focus.

5 Q As I understand it, the districts do some of the

6 maintenance and repair activities, and I'm specifically

7 focusing on bridge repair and maintenance activities

8 in-house and some are contracted out?

9 A That's correct.

10 Q Do you have any participation in deciding whether you are

11 going to be letting a contract or whether those kinds of

12 maintenance and repair activities will be done in-house?

13 A Those decisions are almost always made at the districts.

14 Well, I would say at the districts in consultation with

15 our bridge office. I very rarely would ever get directly

16 involved in those discussions.

17 Q I'm pretty sure I know the answer to a couple of these

18 next questions, but I think I have to ask them just to

19 flesh this out.

20 A Sure.

21 Q You haven't reviewed, or at least prior to the collapse

22 hadn't ever reviewed the study that was done by the

23 University of Minnesota about the 35W bridge?

24 A No, I had not.

25 Q And had you ever seen a proposal relating to the 35W

Page 20

1 bridge prepared by a company called HNTB?

2 A Not that I'm aware of.

3 Q Did you have any role in the decision to close the

4 St. Cloud bridge?

5 A No.

6 Q And then you've probably seen some media reports about a

7 bridge in Ohio that was apparently designed similarly to

8 the 35W bridge that had some kind of sag issue back in the

9 '90s. Do you recall reading about that?

10 A Yes.

11 Q And is that something that you were aware of at the time

12 or is it something you only found out about kind of as a

13 result of the media reports about the collapse?

14 A As a result of the media post collapse publicity, I guess,

15 yes.

16 Q Were you involved at all in any discussions relating to

17 whether to replace the 35W bridge at some point?

18 A No. Well, I would qualify that in saying that, you know,

19 as we would talk about needs, bridge replacement needs,

20 35W was always one of those bridges that was on the list

21 of consideration, but at my -- my recollection is that we

22 were -- we felt that it was not in need of replacement for

23 a number of years. So I was aware that it was a

24 candidate, but it was a number of years out.

25 Q Who was involved in the discussions that you're

Page 21

Page 23

1 describing?

2 A Oh, I would say largely that's -- those kind of

3 recommendations are primarily made from our bridge office,

4 the state bridge engineer and his staff.

5 Q Mr. Dorgan?

6 A Mr. Dorgan, yes. They are the experts, so we pretty

7 heavily rely on them.

8 Q Do you have regular meetings with the Commissioner?

9 A Yes.

10 Q When do those occur?

11 A We have a Commissioner's staff meeting every Tuesday

12 morning.

13 Q For how long has that been the case?

14 A Well, since I was in -- since June of two thousand --

15 January of 2003, when I came into this position.

16 Q Did you ever hear, do you recall ever hearing any

17 discussions during any of those meetings about the 35W

18 bridge?

19 A No. Again, pre-collapse, no.

20 Q Obviously, I bet there's been a lot of talk about it --

21 A Yes.

22 Q -- since then?

23 A Yes.

24 Q And then do you have regular meetings with your -- the

25 folks that report to you?

1 STATE OF MINNESOTA } ss.

2 COUNTY OF DAKOTA)

REPORTER'S CERTIFICATE

I, Colleen M. Sichko, do hereby certify that

8 the above and foregoing transcript, consisting of the preceding
9 22 pages is a correct transcript of my stenograph notes, and is
10 a full, true and complete transcript of the proceedings to the
11 best of my ability.

Dated April 9, 2008.

COLLEEN M. SICHKO

Registered Professional Reporter

Page 22

1 A Yes, I do. We have -- almost every week we have a video
2 conference on Friday mornings and then, typically, we have
3 a monthly face-to-face meeting, which is a day-and-a-half
4 or a two-day meeting.

5 MR. MERZ: I don't have anything further. I
6 appreciate your time.

7 MR. WINTER: Okay, you're welcome.

8 (Concluded at 8:40 a.m.)

1 INTERVIEW OF DON FLEMMING - April 30, 2008

2
3
4 In the Matter of Conducting an Independent
5 Investigation into the Collapse of the I-35W Bridge

6
7 Dorsey & Whitney
8 50 South Sixth Street
9 Suite 1500
10 Washington, DC Conference Room
11 Minneapolis, Minnesota

12 Met, pursuant to Notice, at 12:30 in
13 the afternoon on April 30, 2008.

14
15
16
17 INTERVIEWERS:

18 Kathryn Bergstrom, Thomas Johnson,
19 Bruce Mooty, Attorneys at Law with Gray Plant
20 Mooty Law Firm.

21 ALSO PRESENT:

22 Jocelyn Knoll and Eric Ruzicka,
23 Attorneys at Law with Dorsey & Whitney Law Firm.

24 COURT REPORTER:

25 Julie A. Rixe

1 (Flemming Exhibits 1 through 12 were
2 marked for identification by the court
3 reporter.)

4 MS. BERGSTROM: All right. Why don't
5 we get started, and we'll start by stating our
6 appearances for the record. Katie Bergstrom with
7 Gray Plant Mooty.

8 MR. JOHNSON: Tom Johnson, Gray Plant
9 Mooty.

10 MR. MOOTY: Bruce Mooty, Gray Plant
11 Mooty.

12 MS. KNOLL: Jocelyn Knoll, Dorsey &
13 Whitney.

14 MR. RUZICKA: Eric Ruzicka, Dorsey &
15 Whitney.

16 MR. FLEMMING: Donald Flemming, URS.

17 EXAMINATION

18 BY MS. BERGSTROM:

19 Q Don, may I call you Don?

20 A That would be great.

21 Q Okay. Don, we're going to start the interview
22 today going through this witness protocol, which
23 is how I've started all the interviews in our
24 investigation, just so that we're clear on what
25 the protocols are.

1 INDEX

FLEMMING EXHIBITS:	PAGE
1 - Witness Protocol for Interviews	3
2 - Response of Interest dated 3/28/03	3
3 - Fax dated 5/21/03 from E. Zhou to D. Flemming with attachments	3
4 - URS Initial Inspection Report for Bridge 9340	3
5 - E-mail dated 11/17/04 from E. Zhou to D. Long	3
6 - E-mail dated 12/13/06 from E. Zhou to D. Flemming	3
7 - E-mail dated 12/18/06 from E. Zhou to D. Flemming	3
8 - E-mail dated 2/1/07 from B. McElwain to E. Zhou	3
9 - E-mail dated 7/19/07 from D. Flemming to E. Zhou	3
10 - URS note dated 9/6/05	3
11 - E-mail dated 6/23/06 from B. McElwain to E. Zhou	3
12 - E-mail dated 5/17/05 from D. Long to E. Zhou with attachments	3
13 - Letter dated 11/30/98 from E. Power to D. Flemming with attachments	52
14 - E-mail dated 9/1/06 from D. Flemming to M. Maves with attachments	80
15 - E-mail dated 11/7/06 from G. Peterson to D. Dorgan	85
16 - E-mail dated 2/27/06 from E. Zhou to B. McElwain	96

1 The Authority. We are with the Gray
2 Plant Mooty law firm. Gray Plant Mooty has been
3 retained by the Minnesota Legislature to conduct
4 an independent investigation into the collapse of
5 the I-35W bridge. The Minnesota Legislature has
6 asked us to provide a report of our investigation
7 by May 1, 2008, which is actually early
8 May 2008. We will be asking you questions
9 concerning the bridge collapse --

10 A Tomorrow.

11 Q -- and related policies, practices and
12 legislative oversight issues.

13 Purpose. The purpose of this interview
14 is to determine what you might know about the
15 matters that we are investigating.

16 Confidentiality. During the time our
17 investigation is active, the information that
18 interviewees provide to us is not public
19 information. The information you provide may no
20 longer be confidential once we submit a report to
21 the Legislature.

22 Process. You are required to answer
23 our questions truthfully. A court reporter is
24 present to record our conversation. Either
25 during this interview or later in our

Page 5

Page 7

1 investigation, we may determine that we need to
2 verify certain information. If that occurs, we
3 may ask you for a further recorded statement, a
4 signed affirmation or an oath statement.

5 Post-Interview Contact. We view this
6 process as an ongoing dialogue. If you think of
7 anything after this interview that you want to
8 tell us about, please call or e-mail us.
9 Likewise, we hope that you will respond to us if
10 we call or e-mail you with follow-up questions or
11 clarifications. And obviously we'd do that
12 through your counsel here.

13 Any questions about that, Don?

14 A No.

15 Q Let me just say at the outset, Don, that you're a
16 very unique interviewee for us in this process,
17 in that you have lots of years at MnDOT and have
18 a lot of information about MnDOT, and then
19 obviously have spent some time with this bridge
20 in your capacity as a URS employee.

21 We have been asked by the Legislature
22 to make recommendations to them that might help
23 improve MnDOT and keep MnDOT a strong agency for
24 the state of Minnesota, and also to make some
25 recommendations to them on some processes or

Page 6

Page 8

1 policies that they can be a part of so that we
2 don't have another tragedy like the bridge
3 collapse. So I hope to, at the end of the day,
4 spend some time getting your thoughts on either
5 one of those things as well.

6 Why don't you tell me, Don, about your
7 educational background.

8 A Well, I graduated from the University of
9 Minnesota in 1961 with a BSC. I also attended
10 Winona State for two years prior to that. It was
11 a five-year program at that point.

12 Q So what is your degree in from the U?

13 A Civil engineering.

14 Q Did you go right to work for MnDOT?

15 A Yes, I did.

16 Q And when you started for MnDOT, what was your
17 position?

18 A I started in the bridge office 1961.

19 Q And what was your job?

20 A I was an engineer in training.

21 Q Was that the rotation program back then?

22 A Yes.

23 Q And did you rotate out of the bridge office or
24 did you rotate within the bridge office?

25 A I rotated out.

1 Q And that's about a two- -- no, six-month
2 program? How long does that last?

3 A It was to be two years.

4 Q And did you stay in that program for two years?

5 A No.

6 Q Okay. What did you move on to?

7 A Well, I was in the bridge office three months,
8 and then -- and then I was almost drafted, but I
9 received a critical skill deferment, so I had to
10 go into service for three months.

11 And then when I came back, I went into
12 the research office. I was in the research
13 office for, I'm not sure, maybe six months.

14 And then there was a need in the bridge
15 office for engineers, and I got this call from
16 the bridge engineer who asked me to come back to
17 the bridge office, and that ended my rotation.

18 Q Who was the bridge engineer back then?

19 A Tony LaBonte.

20 Q And who was the commissioner?

21 A I don't know.

22 Q So when you went back to the bridge office, what
23 position did you go back to?

24 A I went back to an engineer in training in a
25 design squad.

1 Q And how long did you do that?

2 A I stayed in that design squad for about six
3 years. And at the end of my tenure in that
4 squad, I was the design squad leader. After
5 registration I headed up that squad.

6 Q And after you left that position, where did you
7 move to?

8 A I moved to a bridge construction liaison
9 engineer. I had the southern districts in the
10 state. And then later -- I spent about three
11 years about doing that, and then I moved to the
12 northern districts. I had all the northern
13 districts for three years or so.

14 Q And then after you were the bridge construction
15 liaison engineer, where did you move to?

16 A I was a bridge standards engineer.

17 Q What does that position do within the bridge
18 office?

19 A It oversees the creation of bridge standards,
20 standard details, standard designs.

21 Q How long did you do that?

22 A Just one year.

23 Q And then moved on to where?

24 A I moved back to the bridge office and had the
25 bridge construction and maintenance engineer job.

Page 9

Page 11

1 Q And is that job, then, overseeing those bridge
2 construction liaison engineers?
3 A Uh-huh, as well as all the bridge maintenance.
4 MS. KNOLL: Don, you want to answer
5 audibly.
6 MR. FLEMMING: Oh, I'm sorry. Yes.
7 BY MS. BERGSTROM:
8 Q The uh-huhs and uh-uhs, you can't read them
9 afterwards and tell whether it was a
10 "yes" or "no." I'll help correct you.
11 A Okay.
12 Q At the time that you were the bridge construction
13 and maintenance engineer, was the inspection
14 division reporting to you?
15 A The inspections reported to the districts, but I
16 oversaw the program.
17 Q Did you have inspectors on your staff within the
18 central bridge office at that time?
19 A Not directly.
20 Q Okay.
21 A The inspectors all reported in the districts.
22 Q How long were you the bridge construction and
23 maintenance engineer?
24 A Three years.
25 Q I'm not sure what year we're up to yet, but what

1 office, who was the commissioner?
2 A See, I'm not sure when Levin came, but it would
3 be close to that time. I think Len Levine.
4 Q And maybe another way to ask it is this way:
5 While you were the stage bridge engineer, who
6 were the various commissioners that you reported
7 to, if you know?
8 A I'm not totally positive, but, you know, Dick
9 Braun -- Well, Dick Braun was before, I guess.
10 Levin.
11 Q Tinklenberg?
12 A Tinklenberg. I was there with Tinklenberg.
13 MR. JOHNSON: Dan?
14 MR. FLEMMING: Dan, yes.
15 BY MS. BERGSTROM:
16 Q And you left the bridge office when?
17 A December of 2000.
18 Q When you became the state bridge engineer in '86,
19 was the central bridge office out in Oakdale at
20 that time?
21 A No.
22 Q Where was it?
23 A It was in the central office.
24 Q So it was in the building by the Capitol?
25 A Yes.

Page 10

Page 12

1 did you do next?
2 A Next I moved to the Golden Valley district,
3 District 5, which was the biggest metro district.
4 Q This is before it merged with 9?
5 A Right.
6 Q Okay. And what did you do over in District 5?
7 A I was the -- I had the road design section. I
8 had the right-of-way people, basically that part
9 of the business.
10 Q And that's a construction office, right?
11 A That's a construction office, right, and design.
12 They design the road part of it.
13 Q Okay. How long were you over in the Golden
14 Valley office?
15 A I was there seven years. And the last year over
16 there I had all of the construction activities.
17 Q For the metro?
18 A For District 5.
19 Q For District 5, okay. After the Golden Valley
20 position, what was next?
21 A I went back to the bridge office as the state
22 bridge engineer.
23 Q And what year was that, Don?
24 A '86.
25 Q So in '86, when you went back to the bridge

1 Q When did you move out to Oakdale?
2 A It was about three years, I think, before I left
3 the position.
4 Q So most of the time that you were the state
5 bridge engineer, then, you were in the main
6 transportation building?
7 A No.
8 Q No? Okay.
9 A There was a period when we were moved to the
10 Water's Edge building.
11 Q So you were out in Roseville for a while?
12 A Right.
13 Q Okay. Was that immediately prior to going to
14 Oakdale?
15 A Yes.
16 Q Okay. When did District 5 and 9 merge to make
17 the metro district, roughly?
18 A Roughly. I guess I'm not real positive on
19 dates. It was in Levine's tenure, is about what
20 I can tell you.
21 Q At some point the central bridge office developed
22 its own inspection unit?
23 A Yes.
24 Q Were you a part of that effort?
25 A Yes.

Page 13

1 Q Roughly when was that?

2 A I'm not sure if it was three, four years before I

3 left there when we really got into it.

4 Q What was the impetus of that development, Don?

5 A We wanted experts in fracture critical

6 inspection.

7 Q And in those three or four years before you left,

8 who headed up that inspection unit?

9 A I'm not sure. It was our metallurgist, but we

10 had several. I'm not sure which one exactly.

11 Q And I'm kind of doing this from memory, too, but

12 was it Terry Morvick?

13 A Terry, yes.

14 Q Okay. What was the -- The term fracture critical

15 bridge wasn't always used over the life of the

16 I-35W bridge. When do you first remember hearing

17 about it being referred to that way?

18 A With the NBIS standards.

19 Q Now, while you were the state bridge engineer,

20 you served on some AASHTO committees, right?

21 A Yes.

22 Q Okay. Which committees did you serve on?

23 A Well, I chaired the timber bridge committee, I

24 chaired the aluminum committee, I was on the

25 concrete committee, and I was on the load and

Page 14

1 load distribution committee.

2 Q How often did that committee work take you out of

3 state to meetings, to AASHTO meetings?

4 A That committee basically meets once a year at the

5 annual meeting, and we do our work offline by

6 correspondence and meet once a year.

7 Q And then there are break-out sessions for the

8 various committees, and you have that annual

9 meeting?

10 A One more committee that I chaired was the AASHTO

11 pipe committee.

12 Q So when the NBI standards were passed and

13 fracture critical bridges kind of came under the

14 spotlight, when was that?

15 A The NBI standards really came in place with the

16 collapse of the Silver bridge.

17 Q And that collapse happened when, decade-wise?

18 A '67.

19 Q It was right around the time the I-35 bridge was

20 being finished, right?

21 A Probably.

22 Q Was there part of any AASHTO committee work that

23 was dedicated to the steel truss or fracture

24 critical bridges?

25 A No.

Page 15

1 Q So fast forward in time to your implementation of

2 an inspection unit within the central bridge

3 office. And I think you said it's to bring the

4 fracture critical expertise into the central

5 bridge office; is that right?

6 A Yes.

7 Q In order to reach that conclusion, I mean, who

8 was involved in that decision?

9 A Well, I was involved in it, district people were

10 involved in it, my -- the person that I reported

11 to, the assistant commissioner.

12 Q Who was that?

13 A David Ekern was party to that.

14 I'd like to back up and clarify

15 something that you asked me about AASHTO.

16 Q Okay.

17 A You asked -- I wasn't sure what you asked. Did

18 you ask was I on the committee, an AASHTO

19 committee, or did AASHTO have committee work in

20 that area?

21 Q Well, I asked a couple of different ways, but I

22 think -- You're talking about fracture critical.

23 I was curious whether AASHTO had any special

24 subcommittees that kind of studied and

25 disseminated best practices on fracture critical

Page 16

1 bridges?

2 A Yes.

3 Q And were you involved in that committee?

4 A No.

5 Q Okay. When you made the determination to develop

6 an inspection unit at the central bridge office

7 to develop and keep the fracture critical

8 expertise within the bridge office, did you go

9 out to other states or an AASHTO committee to

10 kind of see how other DOTs were handling the

11 issue?

12 A I interacted with my counterparts around and was

13 involved in -- quite heavily involved in the

14 AASHTO Pontis task force that I chaired. In the

15 AASHTO Pontis task force we did a lot of

16 interaction between other states.

17 Q So were you the person responsible for bringing

18 the Pontis system to MnDOT as well?

19 A Yes.

20 Q And, roughly speaking, when did that Pontis

21 system get implemented?

22 A I'm really not sure.

23 Q Okay. All right. When the bridge inspection

24 unit got started at the central bridge office,

25 was there some decision at that point to keep

Page 17

1 fracture critical inspectors within the districts
 2 at metro and down in Rochester?
 3 A Yes.
 4 Q Okay. And what was that based on, Don?
 5 A The expertise that they had.
 6 Q The existing inspectors in those districts?
 7 A Yes, especially in Rochester.
 8 Q Describe to me, then, as you set up that
 9 inspection unit, how were the inspectors in metro
 10 and Rochester supposed to interact with the
 11 inspection unit at central bridge?
 12 A The central bridge was to give them oversight.
 13 Q On an as-needed basis or kind of on a constant
 14 basis?
 15 A On an as-needed basis.
 16 Q So if an inspector in the metro unit was doing a
 17 fracture critical inspection, was the resulting
 18 inspection report supposed to be sent to central
 19 bridge?
 20 A I'm not sure what we had set up for that process
 21 exactly, but in concept they were there to
 22 assist.
 23 Q I don't think I asked you this, but are you a
 24 certified bridge inspector?
 25 A No.

Page 18

1 Q Okay. How did you go about hiring for the
 2 inspection unit once you started that within
 3 central bridge?
 4 A We tried to staff with metallurgists and
 5 certified inspectors.
 6 Q At the time did MnDOT have a certified fracture
 7 critical bridge inspector training session?
 8 A I'm not sure when we adopted that process
 9 exactly.
 10 Q Prior to MnDOT bringing some of that capacity
 11 in-house, where would you send somebody to get
 12 that fracture critical inspection expertise?
 13 A Well, metallurgy, they can go to school and learn
 14 metallurgy. They can go to the -- They can go to
 15 the vo-techs and learn UT, the ultrasonic. Those
 16 things they could learn that way.
 17 Q Do you know whether AASHTO sponsored any classes
 18 or training on fracture critical inspections?
 19 A Yes.
 20 Q Okay. How about the FHWA?
 21 A Yes.
 22 Q Did MnDOT at that time, back at this period of
 23 time, send people to any of those type --
 24 A Yes.
 25 MS. KNOLL: Let her finish her question

Page 19

1 before you answer.
 2 MR. FLEMMING: Okay.
 3 BY MS. BERGSTROM:
 4 Q All right. Once the inspection unit is set up,
 5 if a metro inspector went out and did a fracture
 6 critical inspection and drafted a report based on
 7 that, is that something that would have landed on
 8 your desk?
 9 A Not directly. There's 4,000 trunk highway
 10 bridges, roughly 15,000 bridges statewide here --
 11 I'm sorry, let's see, twenty -- I'm sorry on the
 12 number exactly, but we're talking in the 15,
 13 20,000 of bridges. All of those inspection
 14 reports come into the central office. Personally
 15 you don't see all those reports.
 16 Q What about the reports just relating to the
 17 fracture critical bridges?
 18 A They're all just put into that same system, but
 19 there was no reason that the bridge engineer,
 20 necessarily, looked at that report.
 21 Q Did you ever, while you were the state bridge
 22 engineer, Don, see a fracture critical inspection
 23 report for the I-35W bridge?
 24 A No, not to my knowledge.
 25 Q Would you have expected that the head of the

Page 20

1 inspection unit at central bridge would have seen
 2 them?
 3 A Yes.
 4 Q Now, while you were the state bridge engineer, I
 5 think you said that -- Is it David Ekern? --
 6 A Yes.
 7 Q -- was the assistant commissioner. Is that who
 8 you reported to?
 9 A For part of my time, yes.
 10 Q And who else did you report to?
 11 MS. KNOLL: During his entire career?
 12 BY MS. BERGSTROM:
 13 Q No, during the state bridge engineer role.
 14 A Gene Ofstead, John Sandel (phonetic), David
 15 Ekern.
 16 Q And in each of those three examples, was that
 17 person the assistant commissioner?
 18 A Yes.
 19 Q Okay. So there wasn't a layer between you and
 20 the assistant commissioner?
 21 A No.
 22 Q Okay. During your tenure as the state bridge
 23 engineer, did you have occasion to have audiences
 24 or meetings directly with the commissioner?
 25 A Yes.

Page 21

1 Q How often did that happen?
 2 A Very seldom.
 3 Q Those three assistant commissioners that you
 4 mentioned, were they all engineers?
 5 A Yes.
 6 Q Do you think that either at the commissioner
 7 level or the assistant commissioner level it's
 8 important to have an engineer in that position?
 9 A Yes.
 10 Q During the years that you were the state bridge
 11 engineer, Don, did you ever have an occasion to
 12 have a meeting or an audience directly with the
 13 Governor?
 14 A Yes.
 15 Q Which governor --
 16 A Perpich.
 17 Q -- or governors? Perpich? What was the purpose
 18 of that meeting?
 19 A It was after the Lake Street bridge collapse.
 20 Q That was during the construction project?
 21 A Yes.
 22 Q Was MnDOT involved in that project, the Lake
 23 Street bridge?
 24 A Yes.
 25 Q Was that a highway -- Why was MnDOT involved?

Page 22

1 A At the time of construction, it was on the MnDOT
 2 system; and after construction it was turned back
 3 to a local authority.
 4 Q Okay. And what was the purpose of your meeting
 5 with the Governor after that tragedy?
 6 A Just to assure him that we were handling the
 7 situation properly.
 8 Q Other than the Lake Street bridge collapse,
 9 during the years that you were the state bridge
 10 engineer, did you ever have any other major
 11 safety issue that arose on the bridges?
 12 A Yes.
 13 Q Can you tell me about that or those?
 14 A We had an issue on the I-94 bridge at Hudson, a
 15 major floor beam corrosion.
 16 Q Now, that bridge is not a fracture critical
 17 bridge, right?
 18 A That bridge has been taken down and replaced.
 19 Q The bridge you're talking about is no longer the
 20 bridge that's there?
 21 A Right.
 22 Q How did the major floor beam corrosion come to
 23 light, if you will?
 24 A Inspection team.
 25 Q And is that a metro district bridge?

Page 23

1 A Yes.
 2 Q Back when that corrosion was detected, that old
 3 bridge wasn't a fracture critical bridge, though,
 4 was it?
 5 A Yes.
 6 Q Oh, it was. Okay. Were you involved in -- Well,
 7 did you shut that bridge down?
 8 A We closed -- We closed except to one lane that
 9 night and backed traffic five to seven miles.
 10 Q And then what did you do after that? Did you
 11 post the bridge?
 12 A No, we repaired it.
 13 Q When did that happen? Sorry.
 14 A I don't know exactly. It was either -- I would
 15 say in the very early nineties or late eighties.
 16 Q I'm interested in the flow of information around
 17 that safety incident. I'm curious about how the
 18 inspectors got the word to central bridge and who
 19 at central bridge, and then how you heard about
 20 it. Can you kind of tell me about how
 21 information about that major floor beam corrosion
 22 kind of came to light?
 23 A In that case there were two inspection teams
 24 involved because it was Wisconsin and Minnesota.
 25 It was on a Friday afternoon, and they brought a

Page 24

1 video into my office showing me this condition.
 2 And I picked up the phone and called the
 3 Wisconsin bridge engineer, and he decided that we
 4 had jurisdiction. So I immediately went -- At
 5 that time I was in the same -- in the central
 6 office. I went and made calls to the maintenance
 7 engineer, and they made the traffic arrangements.
 8 Q And the bridge was closed that night?
 9 A Yes, within an hour.
 10 Q In making your decision to close the bridge, did
 11 you seek authority from either the deputy
 12 commissioner or the commissioner at the time?
 13 A I contacted the deputy and he said go ahead.
 14 Q Do you know whether anybody at MnDOT, then, was
 15 in touch with the Governor's office?
 16 A Yes, they were.
 17 Q Okay. And who was that?
 18 A I'm not sure who made the contact with the
 19 Governor's office.
 20 Q But either the deputy commissioner or the
 21 commissioner level would have reported to the
 22 Governor?
 23 A Someone made a contact, I believe, because I know
 24 the other -- the Wisconsin governor got involved.
 25 Q And maybe that will help us place it in time. Do

Page 25

Page 27

1 we know which governor it was?
 2 A I'm not sure.
 3 Q Okay. How long did the repairs take on that
 4 bridge?
 5 A We did it that night and early Saturday morning,
 6 and I think by Saturday afternoon we had it open.
 7 Q And then how long between those repairs, Don, and
 8 the replacement of that bridge, how long did that
 9 take?
 10 A It was a bridge in planning stage and the plan
 11 were partially done. So it was not a very long
 12 period of time when we moved forward with the new
 13 bridge.
 14 Q And I assume, maybe correctly or incorrectly, you
 15 can correct me, that Wisconsin ponied in some
 16 funds to help replace that bridge?
 17 A It was 50-50. And Wisconsin led the replacement,
 18 because we exchange bridges as we go up and down
 19 the river. It was their bridge.
 20 Q So we got the St. Croix.
 21 A St. Croix is ours.
 22 MS. KNOLL: It's a reciprocity.
 23 BY MS. BERGSTROM:
 24 Q I think we kind of lost the bet between those
 25 two.

Page 26

1 Don, in between the time when the
 2 bridge over St. Croix was repaired and to the
 3 time that it was replaced, was the bridge posted
 4 to load restrictions as well?
 5 A For a period of time we actually took the trucks
 6 off.
 7 Q And would the ratings office at central bridge
 8 have been involved in doing those postings or
 9 making those decisions to take the truck off?
 10 A I think both the Wisconsin bridge engineer and I
 11 and staffs talked about all this.
 12 Q Okay.
 13 A We met in the Eau Claire district and talked with
 14 them about it, ran the trucks the wrong way on
 15 the adjacent bridge with barriers.
 16 MS. KNOLL: I hope so.
 17 BY MS. BERGSTROM:
 18 Q Just a couple other questions about that. When
 19 they came in and showed you the video, Don, had
 20 they made the video as part of their annual
 21 inspection or were they responding to some, you
 22 know, emergency call out to the bridge?
 23 A As far as I know, they were on a routine
 24 inspection.
 25 Q All right. So that's one example. Any other

1 examples during your tenure of a bridge closing
 2 like that or a major bridge safety issue?
 3 A Yes.
 4 Q Okay. Tell me about that.
 5 A Well, we closed the High bridge.
 6 Q And were you the state bridge engineer when that
 7 happened?
 8 A No.
 9 Q Okay. What were you doing at MNDOT when the High
 10 bridge was closed?
 11 A I'm not sure exactly which position that I had,
 12 whether I was maintenance and construction or a
 13 construction liaison, one of those.
 14 Q Did you have a role in the closing of the High
 15 bridge?
 16 A Yes.
 17 Q And tell me about that role.
 18 A Basically it was to give advice to the bridge
 19 engineer.
 20 Q Who was the bridge engineer during that time?
 21 A Keith Benthin.
 22 Q Do you know how to spell his last name?
 23 A B-E-N-T-H-I-N.
 24 Q And did Keith come to you and ask your opinion on
 25 something; is that how that came about?

Page 28

1 A Yes.
 2 Q Did the concerns about the High bridge arise from
 3 an annual inspection or did they arise from a
 4 more emergent situation?
 5 A I think the concerns on the High bridge came from
 6 the failure of the Point Pleasant bridge and the
 7 fact that it was the same design, in a sense. It
 8 was an I-bar connected truss.
 9 Q So --
 10 A And also from our other problems on the bridge.
 11 Q And what were the other problems on that bridge?
 12 A That a major post had corroded and a connection
 13 broke.
 14 Q At the time that the High bridge was closed, was
 15 the High bridge posted for restrictions?
 16 A I believe so, but I don't know for certain.
 17 Q I think it was Commissioner Braun at the time,
 18 right?
 19 A Yes.
 20 Q Was he involved in the decision to close the High
 21 bridge?
 22 A Yes.
 23 Q And what is your remembrance of how that all
 24 happened?
 25 A I was just giving input to the condition.

Page 29

Page 31

1 Basically he was asking the assistant
 2 commissioners for their assessment, and we in the
 3 bridge office were giving input.
 4 Q And what's your understanding of who made the
 5 call to close that bridge? Was it the state
 6 bridge engineer, the deputy commissioner, the
 7 commissioner?
 8 A My recollection was that Dick Braun made the
 9 final decision.
 10 Q Somewhat of a legendary story over there, isn't
 11 it?
 12 A Yes.
 13 Q All right. So now we've got the Hudson bridge
 14 and the High bridge. Any other major safety
 15 bridge issue or closing during your tenure as
 16 state bridge engineer?
 17 A Temporary closings or permanent closings?
 18 Q Either, actually.
 19 A We had some temporary closing of the new High
 20 bridge.
 21 Q When was the High bridge replaced?
 22 A I was just appointed bridge engineer shortly
 23 before the grand opening of the High bridge, so
 24 that would have been close to '86, '87.
 25 Q When Commissioner Braun closed the High bridge,

1 Q Okay. And how was the -- Well, presumably the
 2 inspectors brought back information to you?
 3 A They called me.
 4 Q Okay. Called you from out on the bridge?
 5 A Yes.
 6 Q And did you make a decision while they were on
 7 the phone to close the bridge?
 8 A We made a decision on the phone to take some
 9 action.
 10 Q And what action did you take?
 11 A Basically in that case we put some barriers up
 12 and did some temporary work and were able to get
 13 the bridge back in service quite fast.
 14 Q The decision to do that temporary closing, is
 15 that a decision you shared with the deputy
 16 commissioner?
 17 A Yes. Every time we closed we --
 18 Q Shared it with the commissioner or the deputy
 19 commissioner?
 20 A Yes.
 21 Q At that time did you have any written policies
 22 about sharing that information; is there any
 23 requirement that you do so?
 24 A To my knowledge we really didn't have a written
 25 procedure.

Page 30

Page 32

1 was it repaired or simply replaced?
 2 A Replaced.
 3 Q And had that been in the works, as well, or did
 4 you have to start from scratch on the High
 5 bridge?
 6 A I think we pretty well started from scratch, but
 7 it became an extremely urgent project.
 8 Q Do you recall on the replacement of the High
 9 bridge, were you involved at all in discussions
 10 about how to fund that replacement?
 11 A No.
 12 Q When the new High bridge was temporarily closed,
 13 what was that for?
 14 A We had a problem with bearings on the end of the
 15 bridge.
 16 Q Was that brought to your attention?
 17 A Yes.
 18 Q Okay. And how was it -- how did somebody figure
 19 out there was a problem with the bearings?
 20 A I think there was a call made that there was a
 21 bump at the end of the bridge.
 22 Q A citizen call of some sort?
 23 A Yes.
 24 Q And then some team of inspectors went out?
 25 A Yes.

1 Q And do you know, with that temporary closing of
 2 the new High bridge, was that shared from the
 3 commissioner level to the Governor's office?
 4 A No, I don't think so. That's not probably the
 5 best example.
 6 Q What other closings of bridges occurred while you
 7 were the state bridge engineer?
 8 A The Old Swing bridge.
 9 Q The what?
 10 A The old swing bridge.
 11 Q Where was that bridge?
 12 A In South St. Paul...
 13 Q And what was that bridge closed for?
 14 A Deterioration.
 15 Q How did the deterioration, how was it reported to
 16 the bridge office?
 17 A We were not in direct authority on that bridge,
 18 so we had gotten a call.
 19 Q Is that a call that would have come from South
 20 St. Paul or the county?
 21 A County.
 22 Q Okay. And the call to the central bridge office
 23 was for what purpose?
 24 A Assistance.
 25 Q Okay. And what did the bridge office do for the

Page 33

Page 35

1 county?
 2 A Went to the site, assessed the condition and made
 3 a recommendation to close.
 4 Q How quickly did that happen?
 5 A Within the same day.
 6 Q And was that bridge, then, repaired or taken
 7 down?
 8 A No, that was permanently closed.
 9 Q And not replaced, right?
 10 A Right.
 11 Q Were you the state bridge engineer, Don, when the
 12 bridge over 494 at Xerxes was closed?
 13 A I don't recall.
 14 Q Okay.
 15 MS. KNOLL: Katie, let's take a short
 16 break here.
 17 MS. BERGSTROM: Sure.
 18 (Break taken.)
 19 BY MS. BERGSTROM:
 20 Q Don, before we move on from some of the safety
 21 issues, let me ask you a question about those
 22 bridges we were talking about. The I-94 bridge
 23 at Hudson, do you know what the NBI standard
 24 ratings were for that bridge?
 25 A No. They were legal.

Page 34

1 Q Do you remember having a discussion about those
 2 in making the decision to call -- to close the
 3 bridge?
 4 A To close? We didn't close it.
 5 MS. KNOLL: One lane.
 6 MR. FLEMMING: One lane.
 7 BY MS. BERGSTROM:
 8 Q One lane, right. Do you recall having a
 9 discussion about the condition of the bridge, the
 10 NBI standards, as part of that?
 11 A No.
 12 Q Would the High bridge have been rated with an NBI
 13 code?
 14 A Is the question bridge rating?
 15 Q Right. I'm wondering about the NBI rating and
 16 whether that was discussed or part of the
 17 decision to close these bridges.
 18 A The High bridge, I believe, was posted, which
 19 means it had a rating less than legal.
 20 Q Do you know, did it have an NBI rating?
 21 MS. KNOLL: Do you understand the
 22 question, Don?
 23 MR. FLEMMING: The question, I'm not
 24 quite sure of the question.
 25 BY MS. BERGSTROM:

1 Q I mean, I understand there's --
 2 A Bridges have ratings.
 3 Q Load ratings you're talking about?
 4 A Load ratings.
 5 Q And I'm talking about the NBI condition codes.
 6 A Oh.
 7 Q And whether the --
 8 A I would think it would have.
 9 Q But you don't know --
 10 A I don't know.
 11 Q -- what it was?
 12 MS. KNOLL: Okay. You have to take
 13 turns here. She has to finish her question
 14 before you answer.
 15 BY MS. BERGSTROM:
 16 Q And I'm not sure. A bridge like the Old Swing
 17 bridge that was a county bridge, would that have
 18 even had an NBI condition rating?
 19 A Yes.
 20 Q Okay. Do you happen to know what its NBI
 21 condition rating was?
 22 A No.
 23 Q Do you know which NBI condition rating is
 24 supposed to result in an immediate closing of the
 25 bridge?

Page 36

1 A It's the rating that's placed on that condition
 2 that says close.
 3 Q All right. Let's move on to the I-35W bridge.
 4 I've talked to a number of people at MnDOT, most
 5 of whom I'm sure you know. And as of yet, you
 6 might be the third person who was around at MnDOT
 7 when the bridge was actually constructed. I
 8 think Jack Pirkel was on the approach spans and
 9 Arlen Ottman was part of the construction.
 10 Did you have any involvement in the
 11 original construction of the bridge, Don?
 12 A Not to my knowledge.
 13 Q You were generally aware that it was being
 14 constructed?
 15 A I was very junior, you know, in the bridge office
 16 working on small bridges and design squad, not
 17 working on river crossings.
 18 Q You had mentioned the collapse of the Silver
 19 bridge, which occurred right around the time that
 20 the I-35W bridge was being finished. Do you
 21 remember any discussions around central bridge
 22 about what the collapse of the Silver bridge
 23 meant for the I-35W bridge?
 24 A No.
 25 Q When you became state bridge engineer -- well,

Page 37

1 actually, even before that, do you remember any
 2 discussions at MnDOT on special precautions that
 3 should be taken because of the fact that the
 4 I-35W bridge was a fracture critical bridge?
 5 A No.
 6 Q In 1977 the overlay on the bridge was removed and
 7 some -- well, there was an overlay project on the
 8 bridge. Were you involved in that?
 9 A No.
 10 Q In 1977 would you have been a construction
 11 engineer manager?
 12 A I would have been by those dates, yes.
 13 Q Or maybe you were in Golden Valley?
 14 A No.
 15 Q Okay.
 16 A I was not in charge of the construction because
 17 construction -- the person in charge is in the
 18 district.
 19 Q So do you know which construction office was in
 20 charge of that '77 overlay project?
 21 A It would have come out of Golden Valley.
 22 Q Okay. And were you there at the time?
 23 A No.
 24 Q Okay. My understanding is that the bridge was
 25 rerated as a consequence of the '77 project.

Page 38

1 Were you ever aware of that rerating?
 2 A No.
 3 Q In 1996, so this would have been when you were
 4 the state bridge engineer --
 5 A Yes.
 6 Q -- there was some cracking that was discovered on
 7 the bridge. Were you aware of that?
 8 A Yes.
 9 Q Okay. How did that come to your attention?
 10 A I believe it was through our inspectors.
 11 Q And at the time, 1996, was there an inspection
 12 unit yet at central bridge office?
 13 A I'm not sure if that was there or not at that
 14 point.
 15 Q In any event, metro had its own fracture critical
 16 bridge inspectors, right?
 17 A To my knowledge they did.
 18 Q If the metro bridge inspectors are the ones that
 19 discerned the cracking in 1996, who at the
 20 central bridge office would they have contacted
 21 with that information?
 22 A I'm not sure if they would have contacted Russ
 23 Noreen or Paul Kivisto. I'm not sure which of
 24 those people were in that position.
 25 Q But by that position you mean the contacts should

Page 39

1 have come in to the construction engineer for
 2 that area?
 3 A I think that's the way it came in.
 4 Q And then how did it move from that person to you?
 5 A Probably quite directly.
 6 Q Construction engineer for that area would have
 7 called you?
 8 A Called me -- Probably called their supervisor
 9 who, in turn, would talk to me about it.
 10 Q While you were the state bridge engineer, who was
 11 in charge of the construction and maintenance
 12 unit?
 13 A John -- I've lost John's last name. I'm having a
 14 senior moment.
 15 Q So am I because I can't pull it out of the air
 16 for you either.
 17 All right. What was central bridge
 18 office's response to the notification of this
 19 cracking?
 20 A I'm not sure what cracking you're talking about.
 21 Q The 1996 cracking that was discovered was some
 22 cracking in the approach spans.
 23 A I understand that.
 24 Q Okay. And so do you know what was done in
 25 response to that?

Page 40

1 A There was a crack in -- There was problems with
 2 the floor beam, there was problems with a girder
 3 and a fracture in a girder. And we responded
 4 with a design to strengthen the floor beam, and
 5 we responded with a splice for the fracture, and
 6 we also responded by changing the diaphragms on
 7 the bridge and the bolts in the diaphragms.
 8 Q How quickly was that design and work done?
 9 A I'm not sure, but it received the highest
 10 priority.
 11 Q At that time, in 1996, Don, were you talking
 12 about the replacement of the bridge at all?
 13 A No.
 14 Q And in making those repairs and revisions, was
 15 funding an issue for you?
 16 A No.
 17 Q Do you know how those repairs were funded?
 18 A No.
 19 Q Did central bridge back then have a budget for
 20 those types of repairs or would they have come
 21 from metro?
 22 A There was an overall bridge maintenance budget,
 23 and I'm not sure exactly which moneys made it to
 24 this issue.
 25 Q Okay. And when you say an overall bridge

Page 41

Page 43

1 maintenance budget, is that out of central
 2 bridge?
 3 A Central bridge developed the bridge maintenance
 4 program.
 5 Q And that had funding attended to it?
 6 A The funding comes out of the districts, but
 7 central bridge created an overall bridge program.
 8 Q At the time that that was done, did Roger Schultz
 9 have his Bridge Improvement Program going on at
 10 metro; do you know?
 11 A I would have thought so, or in that era
 12 someplace.
 13 Q Let's back up a little bit in time, Don. The
 14 1991 inspection report for the I-35W bridge is
 15 the first year that the superstructure on the
 16 bridge gets an NBI condition rating code of 4.
 17 Is that something that was brought to your
 18 attention at that time, in 1991?
 19 A I don't recall.
 20 Q As the state bridge engineer, would you have had
 21 discussions with the inspectors about what type
 22 of condition ratings the bridges were getting on
 23 the NBI standards scale?
 24 A Unusual ones would have been -- we would have
 25 discussed.

1 fallen -- the superstructure had fallen to an NBI
 2 coding of 4?
 3 A Not that I recall.
 4 Q There was a construction project on the I-35W
 5 bridge in 1998 where a median was replaced and
 6 added. Was the central bridge office involved in
 7 that?
 8 A Yes.
 9 Q What was the central bridge office role in that
 10 1998 construction project?
 11 A I'm not positive, but I would have thought that
 12 we prepared plans.
 13 Q Do you know whether an analysis was done in the
 14 1998 construction project to determine how that
 15 project would affect the structural integrity of
 16 the bridge?
 17 A To my knowledge there wasn't one.
 18 Q Do you know whether the bridge was rerated as a
 19 result of that project?
 20 A I don't know.
 21 Q As the state bridge engineer, what would have
 22 been your involvement with that project?
 23 A I would have signed the plan as to the process,
 24 not as the engineer of record.
 25 Q Back then the actual -- Well, the '98

Page 42

Page 44

1 Q Would the I-35W bridge fall into that category?
 2 A Condition codes of that would have been brought
 3 to our attention?
 4 Q Do you remember, during your tenure as the state
 5 bridge engineer, ever having a bridge that got an
 6 NBI condition code of 3?
 7 A Yes.
 8 Q What bridge was that?
 9 A I can't recall.
 10 Q Wouldn't a 3 require MnDOT to shut the bridge
 11 down?
 12 A Yes.
 13 Q Okay. So do you recall which bridge had a 3 that
 14 you would have shut it down?
 15 A Well, you realize that there's 24,000 bridges or
 16 whatever here, and these are statewide. And so
 17 there can be small, local bridges that get a 3
 18 and get closed.
 19 Q It could be a culvert, right?
 20 A That's right, that's right, ten feet and up.
 21 Q Do you recall ever having a fracture critical
 22 bridge receiving a rating of 3?
 23 A Not that I can recall.
 24 Q And to the best of your knowledge, in 1991 no one
 25 brought to your attention that the 35W bridge had

1 construction project was done by an outside
 2 contractor. What was the process back then for
 3 who oversaw that outside contractor?
 4 A It would have been a district construction.
 5 Q So it would have been the metro district, one of
 6 their construction offices?
 7 A Yes.
 8 Q Did central bridge back at that time keep a role
 9 in the ongoing construction process?
 10 A It's a liaison role between the district and the
 11 central office. It's a troubleshooting role.
 12 It's a providing expertise kind of role.
 13 Q And is the liaison the construction engineer for
 14 whatever area?
 15 A Yes.
 16 Q I think you said, Don, that you left MnDOT in
 17 December 2000. During the years from 1991 to
 18 2000, do you remember any conversations with
 19 anybody at the central bridge office about the
 20 fact that the superstructure on the bridge had a
 21 consistent NBI condition rating of 4?
 22 A I don't recall that.
 23 Q Do you recall any conversations during that time
 24 frame of doing any work on the bridge to improve
 25 the NBI condition rating?

Page 45

Page 47

1 A No.

2 Q During that time, Don, were there any studies

3 that were done on the existing -- on the bridges

4 on the trunk highway system regarding the

5 percentage of bridges that were of a certain NBI

6 condition rating versus another?

7 A Yes.

8 Q What was the purpose of those studies?

9 A It was to assess the overall bridge condition and

10 to demonstrate needs for funding.

11 Q And do you have an understanding of what

12 percentage of the bridges on the trunk highway

13 system during that time frame had an NBI

14 condition rating of 4?

15 A No. And I think the explanation I need here is

16 which NBI condition rating.

17 Q I was talking about the condition rating that's

18 on the scale of 0 to 9, and in particular, I

19 guess, on the superstructure.

20 A The assessment rating?

21 Q Let me go at it this way: It had to be the case,

22 didn't it, that there was a very low percentage

23 of bridges on the trunk highway system with

24 superstructures that had an NBI rating condition

25 of 4; isn't that a fair statement?

Page 46

1 A Yes.

2 Q And so my question, then, is because there were a

3 very few number, was there anything specific that

4 you did, vis-a-vis this bridge, to try to

5 increase that rating?

6 A We did a study with the University.

7 Q Let's talk about that. When did that study

8 start?

9 A It was during my last years.

10 Q Well, I'll tell you, I think the study is dated

11 in the spring of 2001.

12 A Okay.

13 Q But I think by the time that you had left in

14 December 2000, they had a preliminary final

15 report; is that right?

16 A That's right.

17 Q That U of M study was not a study of the

18 condition of the superstructure, was it?

19 A The concern was fatigue.

20 Q It was a fatigue study?

21 A Fatigue study, which was really the concern.

22 Q I know later when you're at URS, you have some

23 concerns about the condition of the bridge as

24 well as the fatigue elements of the bridge. Back

25 in this time frame, '91 to 2000, did you have

1 concerns about the condition of the bridge?

2 A No.

3 Q Who made the decision to have the U of M do a

4 study?

5 A I was involved in that decision.

6 Q And who else?

7 A I'm sure that the assistant commissioner.

8 Q Was the metro district involved?

9 A Somewhat.

10 Q Who from over there would have been involved?

11 A From metro?

12 Q Right.

13 A It would have probably been just their -- Roger

14 Schultz, the bridge people there. That decision

15 was basically made out of the bridge office.

16 Q To your knowledge, what were the results of the U

17 of M study?

18 A Basically they did not see fatigue as a major

19 problem.

20 Q Did the U of M have any recommendations,

21 follow-on recommendations?

22 A Not really.

23 Q Did you work directly with Professor Dexter?

24 A Yes.

25 Q Was he somebody that you knew prior to this

Page 48

1 study?

2 A Yes.

3 Q How did you know him?

4 A From interaction at AASHTO meetings and

5 interaction with the University.

6 Q And was it your understanding that Professor

7 Dexter and the U were also working with HNTB on

8 the bridge?

9 A Yes.

10 Q And that HNTB and the U, as part of their study,

11 were making some recommendations on a retrofit

12 for the bridge?

13 A Yes.

14 Q And was the purpose of that to add redundancy to

15 the bridge?

16 A Yes.

17 Q So even though the fatigue study had pretty good

18 results, there was still some discussion going on

19 to add redundancy?

20 A Yes.

21 Q Before you left MnDOT were any decisions made

22 regarding a retrofit for the bridge?

23 A No. The study wasn't really complete.

24 Q Who at the central bridge office was involved in

25 reviewing the retrofit recommendations that were

Page 49

Page 51

1 being proposed by the U of M and HNTB?
 2 A Well, I was involved, Gary Peterson.
 3 Q Was Kevin Western involved?
 4 A Probably Kevin.
 5 Q Do you know what became of the retrofit
 6 recommendations that were being proposed by the U
 7 of M and HNTB?
 8 A No.
 9 Q Did you know Steve Olson at HNTB?
 10 A Yes.
 11 Q And had he been a graduate student of Professor
 12 Dexter's; do you know?
 13 A I'm not sure.
 14 Q Did you meet Rich Johnson from HNTB?
 15 A Yes.
 16 Q Did you work with either one of those two folks
 17 on other bridges?
 18 A Yes.
 19 Q Okay. Don, from 1991 to the time you left, who
 20 was the person who headed up your ratings office?
 21 MS. KNOLL: You mean MnDOT's ratings
 22 office?
 23 BY MS. BERGSTROM:
 24 Q Yes.
 25 A Well, John Allen was the bridge construction and

1 A Right.
 2 Q When you were the state bridge engineer, did you
 3 have involvement with the ratings office relating
 4 to rerating requests coming out as a consequence
 5 of damage and deterioration?
 6 A If there was something very unusual about it.
 7 Q Do you ever remember any conversations about
 8 rerating the I-35W bridge?
 9 A No.
 10 Q During your tenure as state bridge engineer, was
 11 the I-35W bridge ever posted?
 12 A Not to my knowledge.
 13 Q In 1996 a similarly constructed bridge in Ohio
 14 over the Grand River experienced a failure that
 15 resulted in a sag of that bridge. Was that
 16 something that you were aware of at the time it
 17 happened?
 18 A Just superficially.
 19 Q How did you know about that?
 20 A Just through -- Just through hearsay, really,
 21 from...
 22 Q Was it something that was discussed at the AASHTO
 23 committee level?
 24 A Not that I recall.
 25 Q Do you recall whether the Federal Highway

Page 50

Page 52

1 maintenance engineer.
 2 Q I understand now Lowell Johnson heads up the
 3 ratings office. Was he there when you were
 4 there?
 5 A Yes.
 6 Q Okay. And was he the ratings engineer when you
 7 were there?
 8 A For part of the time.
 9 Q And who else had that position?
 10 A Before Lowell? I really don't know.
 11 Q Is it John Dawes?
 12 A Yes.
 13 Q Okay. What was your interaction as a state
 14 bridge engineer with those ratings people; for
 15 what reasons would you have to communicate?
 16 A Only if John Allen had an issue with a rating
 17 that Lowell would bring to John. There would be
 18 a question on it and it would possibly come to
 19 me.
 20 Q As I understand it, a request to rerate a bridge
 21 could come from -- for two reasons: One, because
 22 modifications are being made to the bridge --
 23 A Right.
 24 Q -- or because of damage and deterioration on the
 25 bridge.

1 Administration issued any bulletins relating to
 2 that?
 3 A I don't really recall that.
 4 Q Okay. There was an article in the civil
 5 engineering journal called "Grand Gusset
 6 Failure." Do you ever recall that?
 7 A No.
 8 Q During your tenure, Don, as state bridge
 9 engineer, were there any other major bridge
 10 collapses around the country that you were aware
 11 of?
 12 A There was the New York throughway.
 13 Q And if there was a major bridge collapse like
 14 that, did you have a particular practice at the
 15 central bridge office on how to disseminate
 16 knowledge about it?
 17 A I don't think we had a process or a procedure.
 18 Q When the U of M was hired, had MnDOT issued an
 19 RFP for that?
 20 A I really don't recall, but I'm not sure that we
 21 did.
 22 (Flemming Exhibit 13 was marked for
 23 identification by the court reporter.)
 24 BY MS. BERGSTROM:
 25 Q Don, I'll ask you just to take a look at this

Page 53

1 ten-year old letter to you from HDR Engineering.
 2 Take some time to read it so you're familiar with
 3 generally what it's about, and then I'll ask you
 4 some questions about it. Ready?
 5 A I guess so, yes.
 6 Q Don, this letter from HDR Engineering reflects
 7 that on November 10, 1998, you had a meeting with
 8 some of the HDR Engineering folks. Do you
 9 remember how this meeting came about?
 10 A I would assume that it was an effort by HDR to do
 11 work for us.
 12 Q And, specifically, work relating to 9340?
 13 A Yes.
 14 Q Okay. Back at the time that you were talking to
 15 HDR about this, was the -- Well, let me ask you
 16 this: Was the University of Minnesota already
 17 doing work on the bridge?
 18 A I'm not sure if they were doing it exactly at
 19 this point, but very close to this point.
 20 Q And as part of your agreeing to meet with HDR
 21 Engineering, was it because in your mind, the
 22 non-redundancy of the bridge was an important
 23 factor that needed to be addressed?
 24 A Yes.
 25 Q Did you ever follow up with HDR Engineering; do

Page 54

1 you know?
 2 A Not to my knowledge.
 3 Q And then the U of M study would have followed
 4 fairly soon after this, right?
 5 A Right.
 6 Q Do you know whether on the Allegheny River bridge
 7 that they're discussing, whether there was ever a
 8 project done to add redundancy to that bridge?
 9 A None.
 10 Q I know the U of M and HNTB were talking about
 11 non-redundancy retrofits, and it appears that you
 12 were talking to HDR Engineering about the
 13 non-redundancy of the bridge. At the time that
 14 you were the state bridge engineer, did you talk
 15 to any other outside consultant about the
 16 non-redundant elements of the bridge?
 17 A Not that I recall.
 18 Q You left MnDOT in December of 2000. Why did you
 19 leave?
 20 A I wanted to retire at the top of my game.
 21 Q But then you landed in the URS gig, right?
 22 A Yes.
 23 Q I think we're going to switch to talk about your
 24 work with URS, so why don't we take a little
 25 break and we'll see if there's anything we need

Page 55

1 to clean up on this other stuff.
 2 (Break taken.)
 3 BY MS. BERGSTROM:
 4 Q Don, before we move on to your work with URS --
 5 A I guess I'd just like to make one clarification.
 6 Q Sure.
 7 A I'm still at the top of my game.
 8 Q I don't doubt it for a minute, do not doubt it
 9 for a minute.
 10 During the years that you were the
 11 state bridge engineer, did you have discussions
 12 about the replacement of the 35W bridge and when
 13 that might occur?
 14 A While I was still bridge engineer?
 15 Q Right.
 16 A I don't recall that.
 17 Q Did you ever have discussions during your tenure
 18 as state bridge engineer about, I'll use this
 19 phrase, budget-buster bridges that needed to be
 20 replaced?
 21 A Yes.
 22 Q What were the budget-buster bridges that were
 23 scheduled to be replaced that you would have been
 24 discussing?
 25 A They were all the major bridges across the

Page 56

1 Mississippi River, Tresback, Lafayette, I'm sure
 2 35W was in that, Lexington. These are the ones
 3 that come to mind.
 4 Q The Hastings bridge?
 5 A Hastings, yes.
 6 Q Did the central bridge office have a plan on how
 7 it was going to secure funding for those
 8 budget-buster bridges?
 9 A We were working on developing such a plan, and we
 10 called it the District 10 or the -- It was really
 11 a central office fund that we were going to set
 12 aside for these major bridges because of the
 13 impact that one of those projects has on a
 14 district's budget.
 15 Q Did those conversations, Don, rise to the
 16 commissioner level?
 17 A They went to the commissioner's staff.
 18 Q Were you involved in the stip planning process?
 19 A To a degree.
 20 Q Would you have been involved in getting any
 21 bridge replacement onto the yearly stip?
 22 A The bridge office created a bridge maintenance
 23 budget and distributed that to districts to help
 24 get into the stip.
 25 Q And would replacement have been part of that

Page 57

Page 59

1 process?

2 A We would have recommended replacements.

3 Q While you were the state bridge engineer, was

4 there a tension between the funds allocated for

5 preservation versus new construction?

6 A Yes.

7 Q Generally speaking, what was that tension? Who

8 won?

9 A Well, there were trade-offs. We presented our

10 program, districts had their program. Basically

11 the districts had the budgets, and it's worked

12 out between the central office and the district

13 as to what gets in that budget.

14 Q Was there pressure on the central bridge office

15 to come up with projects that were preventative

16 maintenance projects as opposed to new

17 construction?

18 A At times.

19 Q Did that pressure ever intersect, in your mind,

20 with the condition coding of the bridges, the NBI

21 condition coding?

22 A Not with safety issues, where we saw it as a

23 major safety issue.

24 Q But if the issue was not a major safety issue,

25 that pressure was there?

1 A I think I was an associate.

2 Q And what was --

3 A I was director of their bridge engineering, the

4 local office.

5 Q So what were your intended job duties in that

6 position?

7 A To work on projects.

8 Q Were you brought in as a business developer?

9 A Somewhat.

10 Q So there was that aspect to your job?

11 A Yes.

12 Q And then assuming that your efforts there

13 resulted in projects, I take it you were also

14 going to work on the projects?

15 A Yes.

16 Q Okay. Ed Zhou told me yesterday that at some

17 point, you and he and maybe some other URS folks

18 paid a visit on MnDOT to talk about your

19 abilities. Do you recall that?

20 A Yes.

21 Q Do you know when that was?

22 A It was prior -- Are you talking about prior to us

23 getting the 35W job?

24 Q Right, right.

25 A It was shortly before the RFP came out.

Page 58

Page 60

1 A There's always pressure with limited funds.

2 Q So you leave MnDOT in December 2000. Did you

3 take a little time off before you started at URS?

4 A A few weeks, a couple weeks.

5 Q That was your retirement? I'm aiming for

6 something a little bigger for myself.

7 There was an existing URS Minneapolis

8 office, was there?

9 A Yes.

10 Q Okay. And when you joined URS --

11 A There was a BRW office which was acquired by URS.

12 Q When was that acquisition?

13 A I'm not really sure. There was also a Dames &

14 Moore acquisition of the BRW, but it kept its

15 name. And then there was BRW, a subsidiary of

16 URS, and then URS.

17 Q Okay. When you joined, which I assume is maybe

18 January of 2001 --

19 A Right.

20 Q -- what was the name of the outfit?

21 A It was going by BRW.

22 Q And then at some point it changed to URS?

23 A Right.

24 Q When you joined in January of 2001, what was your

25 title?

1 Q Prior to that visit with Ed and the others, had

2 you made calls on MnDOT to talk about the

3 services that you could provide?

4 A Yes.

5 Q Okay. Who would you meet with there?

6 A I met with Bob Miller and sometimes Dan Dorgan.

7 Q You had worked with Dan at central bridge office,

8 right?

9 A Yes.

10 Q When you left he was over in the metro district?

11 A Yes.

12 Q While the two of you worked together at the

13 central bridge office, did you have a good

14 working relationship with him?

15 A Yes.

16 Q Don, when you were the state bridge engineer, was

17 Karen Molnau ever the commissioner of

18 transportation?

19 A I don't think so, but I don't really know.

20 Q Did you work with Lisa Freese?

21 A Directly with Lisa?

22 Q Right.

23 A No.

24 Q You knew who she was?

25 A Yes.

Page 61

Page 63

1 Q Okay. All right. So you had made some -- you
 2 had had some meetings with Bob Miller and Dan
 3 Dorgan; but then shortly before the RFP comes out
 4 for the 35W bridge, you go to MnDOT for a
 5 meeting. Who went to that meeting?
 6 A Ed Zhou, Tom Jenkins and I.
 7 Q And what was the purpose of the meeting?
 8 A Similar to this (indicating).
 9 Q Similar to Exhibit 13.
 10 A To demonstrate our expertise in doing the work
 11 that we thought was coming out shortly.
 12 Q Is that a meeting that you requested to have or
 13 that MnDOT requested to have?
 14 A I think we requested it.
 15 Q In March of 2003 MnDOT sent out its Request for
 16 Interest, they called it, for the I-35W bridge.
 17 Was that sent directly to you?
 18 A It was sent to the consultants of interest, to
 19 everyone on the consultant list.
 20 Q But, I mean, at URS you were the one who received
 21 it?
 22 A I'm not sure. I would think I was probably the
 23 one. It could have been someone else.
 24 Q In any event, URS prepared a response?
 25 A Yes.

Page 62

Page 64

1 Q I'll show you Exhibit Number 2. It appears that
 2 this is the response to the Request for Interest,
 3 and you signed the cover letter as the project
 4 manager. How did URS go about picking the team
 5 of people who would work on the project?
 6 A We looked for our best people that had the
 7 experience and expertise that we thought would
 8 fit this work. I made contacts with our national
 9 bridge leader, and together we decided that the
 10 Hunt Valley office had the best expertise.
 11 Q Thomas Jenkins is listed as somebody who was
 12 going to be on the team as the chief bridge
 13 engineer for URS. Did he actually work on this
 14 project?
 15 A No.
 16 Q Okay. Why not?
 17 A He retired.
 18 Q Real retired?
 19 A Really did.
 20 Q Okay. And then Don -- or, excuse me -- David
 21 Long, out of the Minneapolis office, also worked
 22 on the team, right?
 23 A Yes.
 24 Q And he's somebody that you had met when you were
 25 at MnDOT, right?

1 A Yes.
 2 Q When you delivered this response back to MnDOT,
 3 and it appears to be March 28, 2003, when did you
 4 hear from MnDOT that the work had been awarded to
 5 URS?
 6 A I'm not sure.
 7 Q Do you remember how you were notified?
 8 A No, I don't, whether it was a phone call or --
 9 and then eventually a letter or, you know...
 10 Normally you would get a phone call followed by a
 11 letter.
 12 Q And who at MnDOT was the contact person?
 13 A Bob Miller.
 14 Q And Bob Miller has since retired, as well, right?
 15 A Yes.
 16 Q Real retired.
 17 A Real retired.
 18 Q When you got the contact from Bob Miller, when
 19 was your understanding of when the project was
 20 going to start?
 21 A We thought it would start quite soon after this.
 22 Q And as I understand it, prior to starting your
 23 work on the work that you were awarded, on the
 24 fatigue evaluation, you actually did a mini
 25 contract to accompany the metro bridge inspectors

1 on their annual inspection so that you could
 2 gather information?
 3 A Right.
 4 Q And I've talked to Ed Zhou about Exhibit
 5 Number 3. It appears that this was a checklist
 6 that was supposed to accompany the URS -- or that
 7 the URS person was supposed to take out on its
 8 trip with MnDOT. Were you involved in developing
 9 this list?
 10 A These are my notes.
 11 Q So the handwriting is your handwriting?
 12 A Yes.
 13 Q Okay. Under paragraph one, where you've added a
 14 small letter F, it says, VT for corrosion loss,
 15 or is it UT?
 16 A UT.
 17 Q So was ultrasonic testing done?
 18 A No, not by our people.
 19 Q As I understand Ren --
 20 MS. BERGSTROM: Jocelyn, can you help
 21 we with the last name?
 22 MS. KNOLL: Cowden, C-O-W-D-E-N.
 23 BY MS. BERGSTROM:
 24 Q -- Cowden went out with MnDOT in June 2003 to go
 25 through this checklist, right?

Page 65

Page 67

1 A Right.

2 Q And why was it important, from your standpoint,

3 to have some ultrasonic testing done for

4 corrosion loss?

5 A If there were significant corrosion in critical

6 locations, then I wanted them to UT it to measure

7 it.

8 Q When you say critical locations, would those

9 include critical members?

10 A Yes.

11 Q Would it include connections?

12 A Possibly.

13 Q Ultimately Ren didn't do any UT?

14 A Right.

15 Q And do you know why?

16 A I don't think he thought that we had significant

17 corrosion on the critical members that we were

18 looking at.

19 Q Do you know, is he a certified bridge inspector?

20 A He is now.

21 Q Was he then?

22 A I don't think so.

23 Q As I understand it, Ren went along with MnDOT

24 during those four days or so and, in addition to

25 making field notes, took a number of pictures, as

1 fact that the fracture critical details at the

2 tab locations are very difficult to observe

3 because they're in the interior of the box chord

4 and there are some cover plates in the way. It

5 says, It is our understanding that the cover

6 plates are not being removed as part of MnDOT's

7 regular inspection cycle.

8 How did URS know that?

9 A Only on the basis of what Ren had discussed with

10 the inspectors out there.

11 Q Did you have a conversation with David Long about

12 the fact that MnDOT didn't routinely take off

13 those cover plates?

14 A I can't recall with David.

15 Q Is this something that you -- were you aware of

16 that when you were the state bridge engineer,

17 Don, that MnDOT --

18 A No, I wasn't.

19 Q There's been some media attention to a few of the

20 pictures that were attached to this report as

21 having captured some bowing of some of the gusset

22 plates out on the bridge. Are you familiar with

23 that?

24 A I've seen that, yes.

25 Q Okay. Prior to the collapse of the I-35W bridge,

Page 66

Page 68

1 well, correct?

2 A Yes.

3 Q And then ultimately, URS prepared Exhibit 4,

4 which was the initial inspection report. And

5 I'll tell you, Don, that this is the narrative of

6 the report. I have not attached all of the

7 pictures, and there were a voluminous number of

8 pictures.

9 A Uh-huh.

10 Q Were you involved in drafting this?

11 A Yes.

12 Q And what was your involvement?

13 A I was giving it oversight, just kind of editing.

14 Q In preparing this report, had URS reviewed the

15 historical inspection reports on the bridge?

16 A We had -- In the data collection part? I'm not

17 sure what we had done.

18 Q At this point in time?

19 A At this point.

20 Q Now, when Ren was out there, he didn't quantify

21 any section loss due to corrosion, did he?

22 A Not to my knowledge.

23 Q At the last page of this -- second to the last

24 page or so in the summary and recommendation, if

25 you look at the last paragraph it talks about the

1 had you seen those pictures?

2 A They were part of this report, I mean, that

3 picture.

4 Q Do you remember having any discussions amongst

5 the URS team about the bowed gusset plates?

6 A Prior to the collapse?

7 Q Right.

8 A No.

9 Q And do you remember having any discussions with

10 MnDOT prior to the collapse about those bowed

11 gusset plates?

12 A No.

13 Q This initial inspection report, which is Exhibit

14 Number 4, was delivered to MnDOT in the summer of

15 2006 (sic), and the contract for the actual

16 fatigue evaluation was signed in December 2003.

17 Do you know what caused that delay, from the

18 summer of '03 to December of '03?

19 A I can only surmise what caused it.

20 Q And what do you surmise?

21 A The bridge office is very busy getting projects

22 out and probably didn't see this as high a

23 priority as some of their other projects.

24 Q Did you ever have any conversations with anybody

25 at MnDOT about when the project was going to get

Page 69

Page 71

1 started?

2 A Yes.

3 Q And did you have conversations during that fall

4 of 2003?

5 A Yes.

6 Q And what did they tell you about when it would

7 get started?

8 A As soon as they could get to it.

9 Q Was funding ever a consideration, in your

10 understanding, as to when it would get started?

11 A I don't think so.

12 Q At least it wasn't raised to you by MnDOT?

13 A No.

14 Q Don, the contract ultimately is signed in

15 December 2003. And the initial contract

16 contemplates a final report by URS in May 2005,

17 which is approximately a 14-month time frame.

18 Ultimately the preliminary final report was

19 delivered in the summer of 2006.

20 A Uh-huh.

21 Q Can you tell me, generally, what caused that

22 amount of delay?

23 A The problem was, basically, the DOT didn't really

24 know how much time this was going to take. And

25 they set the time. And we, as a consultant,

1 no to?

2 A The amount of the amendment, yes.

3 Q Okay. Do you know ultimately how much URS was

4 paid for its work on the bridge?

5 A It was over 600,000, I think, which was very

6 close to our original estimate.

7 Q In order to get started in doing the work on the

8 project, what information did you have to get

9 from MnDOT?

10 A Shop drawings, the plans. There was a list of

11 things that we were to collect.

12 Q Historical inspection reports?

13 A I think that was part of it.

14 Q As I understand it, URS did not get a complete

15 set of shop drawings from MnDOT; is that right?

16 A We got everything they had.

17 Q And how did you -- who at URS discovered that you

18 didn't have the complete shop drawings?

19 A The shop drawings came from the structural metals

20 unit in MnDOT to, I think, David Long. And he

21 talked to me about not finding a couple of

22 pages. And we made inquiries, tried to find

23 them, and MnDOT never did find them. We made a

24 complete copy of that. One set went to our Hunt

25 Valley office, we had a copy and then returned

Page 70

Page 72

1 really didn't know either. We had never done

2 this before. I mean, this hasn't really been

3 done. This kind of modeling hadn't been done to

4 this level on -- at least here in Minnesota. And

5 so there was that problem of getting the time

6 right.

7 Q The modeling that you're talking about is the

8 redundancy modeling?

9 A It's more than redundancy modeling, it's the

10 modeling of that structure.

11 Q Ed Zhou and Brett McElwain described to me there

12 were kind of two major portions of the study:

13 One was the fatigue evaluation itself, and then

14 the second was the modeling of the various

15 failures and the redundancy modeling. And so I'm

16 just trying to understand.

17 A It's one model.

18 Q Okay. Did MnDOT ever voice any complaints to you

19 about the length of time that the project was

20 taking?

21 A No.

22 Q And I know that you negotiated a number of

23 amendments to the contract, correct?

24 A Yes.

25 Q Did you ever suggest an amendment that MnDOT said

1 the originals.

2 Q Did the missing shop drawings affect URS's

3 ability to do the calculations it needed to do?

4 A No. The shop drawing reflects the plan. And we

5 compared the shop drawings to the plan. The only

6 difficulty we had was getting the camber exactly

7 right, but we could tell from the plan and the

8 other shop drawings that it was pretty close.

9 Q The shop drawings are essentially as-built

10 drawings?

11 A Shop drawings are what the fabrication shop

12 details for putting the bridge together.

13 Q So to the extent that information was missing

14 from the shop drawings, you used the original

15 plans to supply that info?

16 A We used the plan where we didn't have shop

17 drawings.

18 Q Did you personally review any of the historical

19 inspection reports on the bridge?

20 A Only at the point where we were looking for

21 cracks that had been detected by the -- in the

22 one inspection. There was some weld cracks that

23 we were concerned about. I looked at those.

24 Q Did you have occasion, during the work that URS

25 was doing, to have direct contact with Mark

Page 73

Page 75

1 Pribula?

2 A When we were getting some of those inspection

3 reports, I think there was conversation back and

4 forth with us.

5 Q Is that something personally you had conversation

6 with him?

7 A I don't really recall. I know we got that -- we

8 were concerned about the inspection reports that

9 had reported cracks in tab welds.

10 Q Was Mark somebody that you knew from your days as

11 a state bridge engineer?

12 A Yes.

13 Q Did you ever have any discussions with MnDOT

14 during your work about the condition rating of 4

15 for the superstructure?

16 A Not that I can recall. And you keep referring to

17 the condition rating 4. I guess what I'm

18 wondering is are we talking structural condition,

19 are we talking -- which condition rating are we

20 talking about?

21 Q I didn't bring an inspection report with me,

22 but...

23 A Because it can be just a bridge deck that drops

24 that rating.

25 Q And I'm talking about superstructure.

Page 74

1 A Right, but that can just be the bridge deck.

2 Q The NBI condition codes, as I understand it,

3 attach to three main areas: The deck, the

4 superstructure and the substructure. And so when

5 I'm talking about the NBI condition rating of 4,

6 I'm talking about the superstructure.

7 A Are you sure that doesn't include the deck?

8 Q I am. At any rate, you don't remember having any

9 conversations between URS and MnDOT about the

10 superstructure's NBI condition rating of 4?

11 A No.

12 Q As I understand it, there were a number of

13 progress meetings, Don, that were held with MnDOT

14 over the course of the project?

15 A Yes.

16 Q And those generally took place at Water's Edge?

17 A At the bridge office.

18 Q Right. Who from URS would go to those meetings?

19 A I attended them.

20 Q And who else?

21 A Ed Zhou, David Long, and I think Brett went to

22 one of them.

23 Q And who from MnDOT attended?

24 A It varied, but Gary Peterson, Kevin Western, Paul

25 Kivisto, Scott Pierson.

1 Q Dan Dorgan?

2 A And sometimes Dan, but not every time, I don't

3 think.

4 Q And all those people who attended, those were

5 people who were people you were familiar with

6 from your tenure at MnDOT?

7 A Yes.

8 Q I'll show you this exhibit that's marked Exhibit

9 Number 5, an e-mail from Ed Zhou to David Long

10 and you. It's some edits to one of the minutes

11 from one of the meetings that were held. And

12 there's a notation by Ed that, The minutes are

13 very important, since they are directing us to do

14 something that is kind of out of the ordinary or

15 standard.

16 What was MnDOT directing URS to do that

17 was out of the ordinary or standard?

18 A Do you have this minute?

19 Q Pardon me?

20 A The minutes. Do you have the minutes?

21 Q I don't have the minutes. I'm just saying --

22 A So how do I know what 8 and 11 is?

23 Q I don't know if you do or don't. I'm just saying

24 do you have any memory if MnDOT was directing you

25 to do anything out of the ordinary or standard?

Page 76

1 A I guess I'd like to see the minutes.

2 Q Do you remember having any discussion about

3 anything like that with the URS folks?

4 A Well, if I could look at the document, it would

5 really help me.

6 Q So absent looking at the document, nothing comes

7 to mind?

8 A No.

9 Q Don, I understand that the preliminary final

10 report was delivered to MnDOT in July of 2006.

11 Does that ring a bell?

12 A Uh-huh, yes.

13 Q And as I understand, that preliminary final

14 report had three recommendations, right?

15 A I can think of -- I'm not positive on the three,

16 but, you know...

17 Q One of the recommendations, and we'll go through

18 them --

19 A Okay.

20 Q -- was a recommendation to redeck the bridge?

21 A That's true.

22 Q Okay. What was your involvement in making that

23 recommendation?

24 A Well, between Ed and I, we had discussion and we

25 thought that was a good thing to do to add

Page 77

Page 79

1 redundancy.
 2 Q Up until the time that you delivered the
 3 preliminary final report to MnDOT in that summer
 4 of 2006, I assume that your progress reports and
 5 your PowerPoints contained information on the
 6 redecking, right?
 7 A Yes.
 8 Q So MnDOT knew that's one thing you were looking
 9 at?
 10 A Yes.
 11 Q And I understand another one of the
 12 recommendations was the plating retrofit?
 13 A Yes.
 14 Q Okay. And that recommendation, similarly, was to
 15 add redundancy to the bridge, right?
 16 A For those specific members, yes.
 17 Q And I think the way Ed Zhou described it is
 18 rather than structural redundancy, like the
 19 redecking, it added member redundancy?
 20 A Member redundancy, exactly.
 21 Q Okay. And then the third recommendation was
 22 continued testing and inspection of the bridge?
 23 A Yes.
 24 Q Were you involved in making that recommendation?
 25 A Yes.

Page 78

1 Q Okay. What was contemplated by the testing and
 2 inspection at that point in time, the summer of
 3 '06?
 4 A We wanted to continue the recommendation to do
 5 fracture critical inspection on a repeated cycle,
 6 is what we were asking for.
 7 Q As I understand it, you got together -- well,
 8 MnDOT made some comments to the preliminary final
 9 report, you produced some comments back, and then
 10 you had a meeting with MnDOT in September of '06?
 11 A I think that's correct.
 12 Q What was your understanding of what was going to
 13 happen after that September 2006 meeting?
 14 A After the 2006 meeting, we thought at that point
 15 they were going ahead with the plating
 16 recommendation.
 17 Q At the September '06 meeting, did MnDOT tell you
 18 that any redecking was off the table?
 19 A I'm not sure exactly at what point, but at one
 20 point they told us that redecking was not going
 21 to happen until 2020 or '22 or something.
 22 Q And was that a funding consideration by MnDOT;
 23 did they say it wasn't going to happen because of
 24 the funding considerations?
 25 A I can't speculate.

1 Q Did they mention that to you?
 2 A They just said it wouldn't happen.
 3 Q As somebody making the recommendation, did you
 4 ask why?
 5 A They just told us that was a given.
 6 Q That it wouldn't happen?
 7 A Wouldn't happen.
 8 Q In all of your PowerPoint presentations and
 9 progress reports when you were giving them
 10 information on the redecking, had they ever told
 11 you this is a no-go?
 12 A They hadn't up to that point.
 13 Q As I understand from talking to Ed yesterday, one
 14 of his take-aways from the September 2006 meeting
 15 was to do a fracture mechanic study or analysis
 16 on the bridge?
 17 A Yes.
 18 Q Okay. Do you remember that that was one of the
 19 things that came out of the September meeting?
 20 A Yes.
 21 Q Okay. What was the purpose of doing that
 22 analysis?
 23 A To find out -- To look at the inspection cycle
 24 and then to determine a size of crack that had to
 25 preexist in order that the fatigue forces -- that

Page 80

1 the forces in the member would propagate fatigue.
 2 Q Did you agree that that was a good thing to do?
 3 A It was out of scope. We hadn't -- It wasn't part
 4 of the original scope. So it was sort of a --
 5 somewhat of a change in direction.
 6 (Flemming Exhibit 14 was marked for
 7 identification by the court reporter.)
 8 BY MS. BERGSTROM:
 9 Q Take a moment to read Exhibit Number 14, Don, and
 10 let me know when you're ready. Ready?
 11 A (Indicating.)
 12 Q This is an e-mail to you from Mark Maves. Who is
 13 Mark Maves?
 14 A Mark is -- He really leads the structural section
 15 in our Minneapolis office.
 16 Q And this is a September 1, 2006 e-mail. It seems
 17 to be that you have concern that Ed is -- Well, --
 18 tell me what your concerns are with what Ed is
 19 recommending to MnDOT.
 20 A Well, at this point this is kind of give-and-take
 21 between experts. And Ed had found a -- when he
 22 did a 3-D model -- This bridge was designed with
 23 slide wheels in a 2-D sense. When you design
 24 it -- When you look at a model in 3-D, you get
 25 bending that you don't get in a 2-D analysis.

Page 81

Page 83

1 And he was finding some members in
 2 bending that were somewhat overstressed. And it
 3 was after more in-depth discussion with Ed back
 4 and forth that I think I fully understood what
 5 the concern was or what the model was telling
 6 us. The model was telling us that you would have
 7 a slight yield at the one corner of a member, but
 8 the overall stress was never a big problem.
 9 And so after that explanation with Ed
 10 and that give and take back and forth, then I
 11 think we reconciled our recommendation. And so I
 12 didn't feel nearly as concerned as when I wrote
 13 this first memo.
 14 Q The middle paragraph basically says that although
 15 the fatigue analysis does not result in alarming
 16 results, the design does not meet today's design
 17 specifications.
 18 A And that had to do with this bending issue that
 19 we later resolved.
 20 Q And did it also have to do with the fact that the
 21 fracture critical non-redundant design was
 22 obsolete by this point in time?
 23 A Could you rephrase that question?
 24 Q What part of it didn't make sense to you, and
 25 then I can try to redo it?

Page 82

1 A Well, give it to me again.
 2 Q Well, it says, The original design does not meet
 3 today's design specifications. And I'm asking if
 4 that's a reference to the fact that fracture
 5 critical non-redundant bridges, from a design
 6 standpoint, are now obsolete?
 7 A No. What that refers to is that original design
 8 was done in two dimensions with very simplistic
 9 modeling. And when you do it in three
 10 dimensions, you get these kinds of slight
 11 overstresses at the corners of the members. And
 12 this would be true of any bridge designed in that
 13 era, if you went back today and... And so we were
 14 trying to resolve in our mind how significant
 15 that was.
 16 Q In the third paragraph there you say in the first
 17 sentence, From a fatigue standpoint, if a
 18 significant crack develops in the ten most
 19 critical members, collapse could be imminent in a
 20 short period of time even though the analysis
 21 says a crack is unlikely.
 22 That's still true, isn't it?
 23 A Yes.
 24 Q And isn't the fact that even though the fatigue
 25 analysis might report good results, you still

1 want to add redundancy onto the bridge because
 2 the existence of a crack can grow into something
 3 big fairly rapidly?
 4 A Yes.
 5 Q The following sentence says, We experienced such
 6 a crack on the bridge over Cleveland, when the
 7 fatigue analysis showed infinite fatigue life and
 8 we had poor workmanship in a detail. What was
 9 the poor workmanship in the detail?
 10 A It was a bad weld, a bad undercut weld.
 11 Q So a cracked weld might be a problem?
 12 A Yes, depending on the size.
 13 Q And could section loss due to corrosion also be a
 14 problem?
 15 A Depends where the section loss is and it depends
 16 on the amount of section loss. So it's both
 17 location and amount.
 18 Q And the amount of section loss that causes
 19 concern will also vary, depending on where that
 20 section loss is, right?
 21 A Right.
 22 Q Were you involved in the Cleveland bridge work
 23 that URS did?
 24 A No.
 25 Q So that was something that you knew from

Page 84

1 studying --
 2 A This is not the Cleveland bridge.
 3 Q Well, it says, We experienced such a crack on
 4 the --
 5 MS. KNOLL: Trunk highway.
 6 BY MS. BERGSTROM:
 7 Q Oh, over Cleveland Avenue.
 8 A Avenue on Trunk Highway 36.
 9 Q And was that when you were the state bridge
 10 engineer?
 11 A Yes.
 12 Q What happened in response to that crack?
 13 A We opened the deck and we put a bolted slice on.
 14 Q How was that crack discovered?
 15 A Inspection.
 16 Q Annual inspection or emergency inspection?
 17 A I think annual.
 18 Q Was the bridge closed for a period of time?
 19 A No. I need to explain. A bridge of that type
 20 has multiple girders, many girders. So if you
 21 have a fracture in one, that bridge is not
 22 fracture critical.
 23 MS. KNOLL: So it's redundant.
 24 MR. FLEMMING: So it's redundant.
 25 BY MS. BERGSTROM:

Page 85

Page 87

1 Q Is it fair to say that the condition of the
 2 bridge or the poor workmanship in the detail of
 3 the bridge can have an effect on the stability,
 4 even if the fatigue analysis shows an infinite
 5 fatigue life?
 6 A Yes.
 7 Q As a result of the fracture mechanics analysis
 8 that Ed Zhou did, did he arrive at a different
 9 recommendation for MnDOT?
 10 A As a result of that, he came up with a size of
 11 flaw that had to preexist in order to be driven
 12 by a fatigue force.
 13 Q All right. Let's take a look at this document.
 14 MS. KNOLL: Can we take a short break?
 15 MS. BERGSTROM: Sure, sure.
 16 (Flemming Exhibit 15 was marked for
 17 identification by the court reporter.)
 18 BY MS. BERGSTROM:
 19 Q Don, I'll have you look at Exhibit 15, which is
 20 an e-mail string with some handwriting. And I
 21 know the handwriting isn't yours, but why don't
 22 you take a look at that. Tell me when you've
 23 read through it. Ready?
 24 A Yes.
 25 Q Okay. If you start down kind of halfway down the

1 that that's Dan Dorgan's handwriting, and it
 2 appears he had a follow-up conversation with you?
 3 A Right.
 4 Q And does his note reflect your conversation
 5 accurately?
 6 A Yes.
 7 Q So when you talked to Dan, the two of you decided
 8 still going forward with the retrofit?
 9 A I tried to assure Dan that we saw that we could
 10 bolt the plates on without a problem. It's
 11 something you would have to do carefully. And
 12 you wouldn't want to drill all the holes at once,
 13 and we were proposing drilling a few holes and
 14 immediately stuffing those with bolts, and
 15 following them progressively that way. But we
 16 felt very confident that doing it that way was
 17 not a problem.
 18 Q So after your conversation with Dan, did you
 19 understand that you were also supposed to be
 20 pursuing the monitoring?
 21 A I think we also -- we thought we were supposed to
 22 be pursuing both things.
 23 MS. KNOLL: Can we go off the record
 24 for a second?
 25 MS. BERGSTROM: Sure.

Page 86

Page 88

1 page, it appears this starts with an e-mail from
 2 you to Dan Dorgan on November 7, 2006, and you're
 3 discussing the feasibility of placing a
 4 monitoring system on the bridge.
 5 Why don't you tell me about your
 6 conversations with Ed Zhou related to what type
 7 of monitoring he was proposing and what the
 8 purpose of that was?
 9 A Well, we had looked at two different monitoring
 10 systems at least by two different people. The
 11 one was being proposed by a professor at Iowa
 12 State.
 13 The other was a system that Ed had more
 14 information on than I really did. I had only
 15 seen at one of the meetings the information from
 16 the Iowa State one. And so we were saying that
 17 this was another type of system that could be
 18 placed on the bridge to give warning if there was
 19 a crack.
 20 Q Instead of adding the plating?
 21 A It was being discussed if they weren't going to
 22 plate.
 23 Q And then the top part of the e-mail is an
 24 internal MnDOT response between Gary Peterson and
 25 Dan Dorgan. Off to the side, I'll submit to you

1 (Discussion held off the record.)
 2 MS. KNOLL: Back on the record, I'd
 3 just like to clarify with respect to Exhibit 15.
 4 At the bottom of Exhibit 15 it references an
 5 e-mail dated 11/7/2006 forwarded by Don
 6 Flemming. That e-mail is not part of Exhibit 15,
 7 and it appears to be an e-mail written by Ed Zhou
 8 that's referenced in the second paragraph of
 9 Mr. Flemming's 11/7/2006 e-mail to Dan Dorgan.
 10 MS. BERGSTROM: And I guess we're
 11 assuming he's forwarding an e-mail from Ed
 12 Zhou --
 13 MS. KNOLL: Right.
 14 MS. BERGSTROM: -- but it doesn't say
 15 that it's from him.
 16 MS. KNOLL: Right.
 17 BY MS. BERGSTROM:
 18 Q Don, I'll have you look at now Exhibit Number 6,
 19 which is an e-mail from Ed Zhou dated
 20 December 13, 2006. Let me know when you've had a
 21 chance to look at that.
 22 A Okay.
 23 Q Looking at Exhibit Number 6, the third paragraph,
 24 Ed is writing to you that, Based on all the
 25 results we have obtained, I strongly believe that

Page 89

1 doing a \$2 million plating retrofit is not
 2 necessary. The most rational solution is to
 3 perform a thorough NDE procedure to detect and
 4 then remove any measurable cracks.
 5 So a month after your conversation with
 6 Dan in November '06, Ed is still working on doing
 7 a type of testing on the bridge, right?
 8 A He's still -- He was still working on the
 9 fracture critical piece, on the mechanics -- the
 10 fracture mechanics piece, is what I want to say.
 11 And he came up with a size of crack that had to
 12 be at least a quarter of the thickness of the
 13 plate. So if it's a half-inch plate, it has to
 14 be an eighth inch crack bigger. If it's an inch,
 15 it's got to be a quarter inch crack or bigger.
 16 Q And was he pursuing that testing in lieu of the
 17 plating?
 18 A This wasn't testing he was doing. We were
 19 directed in that September meeting to come up
 20 with the crack size, so we were still working on
 21 that crack size. It wasn't until about this time
 22 when he came up with what that crack size had to
 23 be.
 24 Q And his conclusion was he had a way to do that so
 25 that the plating retrofit wasn't necessary?

Page 90

1 A What he's saying here is if you can assure
 2 yourself with NDE that there are no flaws in that
 3 bridge of that size, then the plating is not
 4 necessary.
 5 Q Was there an internal disagreement at URS as to
 6 whether the plating was necessary or not
 7 necessary?
 8 A There was discussion back and forth. I wouldn't
 9 call it a disagreement, but there was discussion
 10 between us.
 11 Q How did URS know that the plating retrofit was
 12 going to cost MnDOT \$2 million?
 13 A That was just a guesstimate. It wasn't a very
 14 accurate estimate.
 15 Q Was there ever any discussion between URS and
 16 MnDOT to have URS find them a more
 17 economically -- a more economic recommendation
 18 for the bridge?
 19 A Well, there was this discussion about, you know,
 20 can we -- they wanted to know about the
 21 inspection cycle, and then they wanted to know on
 22 the size of flaw that had to be there in order to
 23 derive from our fatigue analysis what size flaw
 24 had to be present to drive a fatigue crack from
 25 the loads on the bridge.

Page 91

1 And so after this, people became more
 2 interested in the inspection, because the flaw
 3 size, MnDOT quickly came back and said they could
 4 detect that size flaw.
 5 Q When I talked to Ed yesterday, he told me --
 6 Well, let's put that aside for a second.
 7 After this December 13, 2006 e-mail, I
 8 understand that URS sent revised recommendations
 9 to MnDOT?
 10 A Yes.
 11 Q Okay. And the revised recommendations were,
 12 again, three-fold?
 13 A Right.
 14 Q And it was testing?
 15 A Right.
 16 Q The replating retrofit?
 17 A Right.
 18 Q Or a combination of the both?
 19 A Right.
 20 Q When I talked to Ed yesterday, I asked him what
 21 testing he contemplated, and he said he had come
 22 up with two alternatives: One was an acoustical
 23 testing --
 24 A Right.
 25 Q -- and the other was the testing referenced in

Page 92

1 this Exhibit 6 by MaTech?
 2 A Right.
 3 Q And he had gone out in both instances and
 4 obtained bids from vendors?
 5 A Yes, we did.
 6 Q And then I understand that there was a
 7 January 17, 2007 meeting with MnDOT to discuss
 8 those recommendations?
 9 A There was a conference call.
 10 Q Ed was in on the call --
 11 A He was on the call.
 12 Q And you actually were over at central bridge?
 13 A Right.
 14 Q What was MnDOT's response to the recommendations?
 15 A Well, I think that turned the decision from
 16 plating -- Basically they then said we will
 17 inspect and determine if we can find flaws of
 18 that size, and we think we can. Their
 19 metallurgist was saying they definitely could
 20 find that size flaw. It was decided then that
 21 they would go ahead with inspection; but if they
 22 found flaws in any of these areas, then they
 23 would go back to plating.
 24 Q So rather than accepting the various testing
 25 options that URS had recommended, MnDOT came up

Page 93

1 with its own inspection method?
 2 A They said they could find those flaws. Yes.
 3 They turned down our idea of the acoustic
 4 testing.
 5 Q Okay. And they didn't pursue this MaTech type of
 6 testing either?
 7 A No.
 8 Q And was it your understanding that they were
 9 going to have an inspection team from MndOT go
 10 out and do this inspection to detect for these
 11 flaws?
 12 A Accompanied by us.
 13 Q So your understanding was that you would be --
 14 that URS would be a part of that?
 15 A Ed personally was going to be part of that, to
 16 assure that we really could do this.
 17 Q At some point did you learn that MndOT went out
 18 and did the testing by themselves?
 19 A I drove over the bridge and I saw them out there.
 20 Q At that meeting when you were discussing that, in
 21 January, was Todd Niemann at that meeting?
 22 A Todd was -- I think Todd was there at that
 23 meeting, uh-huh.
 24 Q Was he somebody that you knew from your --
 25 A Yes.

Page 94

1 Q -- days? So you drove across the bridge in May
 2 2007 and you saw the MndOT folks out there?
 3 A Uh-huh, yes.
 4 Q What was your response to that?
 5 A I called Dan Dorgan.
 6 Q Did you call him right at that same time?
 7 A Within that same day, I think.
 8 Q And what did you say to Dan?
 9 A I said I was surprised that I saw them out
 10 inspecting, and I didn't -- and Ed wasn't part of
 11 that.
 12 Q And what was Dan's response?
 13 A He said, Let me check on it. He said, I didn't
 14 know they were out there.
 15 Q Did he ever get back to you?
 16 A Todd Niemann called me and said that they were
 17 setting up a meeting to share with us what they
 18 had found and would explain to us what they had
 19 done so far. And I think he set it up for, you
 20 know, later than when the bridge actually
 21 collapsed.
 22 Q When Todd Niemann got back to you, was that
 23 pretty close in time to their inspection?
 24 A It was pretty close. It was a few days.
 25 Q Okay. So you come back, call Dan, he checks into

Page 95

1 it, and Todd calls you within a few days?
 2 A Right.
 3 Q Okay. Did you ask Todd what he did out on the
 4 bridge?
 5 A No. Basically, you know, I'm not sure what our
 6 conversation -- Basically Todd just was going to
 7 tell me what he had done.
 8 Q Did you call Ed?
 9 A I'm not sure if I called Ed. I may have.
 10 Q Showing you this Exhibit Number 9, this appears
 11 to be an e-mail from you to Ed in July of 2007.
 12 And the e-mail string below it seems to be
 13 talking about scheduling the meeting you just
 14 talked about with Todd Niemann. So prior to this
 15 July 19th e-mail from Todd Niemann, you had been
 16 on the phone with him back in May talking about
 17 the fact that URS hadn't been along, right?
 18 A Right. Whenever -- It's when I saw them out
 19 there. I don't know the exact dates, but...
 20 Q Did you ask Todd Niemann why he hadn't involved
 21 URS?
 22 A No. I just told -- When I talked to Dan, I
 23 expressed surprise. But as far as talking to
 24 Todd much about it, I don't really recall.
 25 Q Did Dan ever get back to you or loop back to you

Page 96

1 as far as why URS wasn't included?
 2 A Not that I recall.
 3 Q Anybody else at MndOT?
 4 A No. Basically the contact came back through
 5 Todd, as I recall.
 6 (Flemming Exhibit 16 was marked for
 7 identification by the court reporter.)
 8 BY MS. BERGSTROM:
 9 Q Don, from a timing standpoint, this backs us up a
 10 year, to February of '06, but I wanted to talk to
 11 you about this e-mail. The bottom half of this
 12 e-mail appears to be an e-mail from you to Ed
 13 Zhou about a call you had received from Gary
 14 Peterson. And apparently Gary has called you
 15 with some of the construction work that they were
 16 planning to do on the bridge. Do you recall that
 17 conversation?
 18 A Yes.
 19 Q And was it your opinion that you shared with Gary
 20 that MndOT should hold off on any deck repair
 21 work in the summer of 2007?
 22 A Yes. I expressed my preference for replacing the
 23 bridge deck versus repairing it.
 24 Q And did Gary have a response to you?
 25 A I guess I really can't recall what Gary's

Page 97

Page 99

1 response was.

2 Q Other than Gary calling to let you know, did

3 MnDOT ever consult with you about the proposed

4 overlay project they were going to do in 2007?

5 A Not that I recall. I mean, basically it was them

6 just telling us they were doing it.

7 Q So nobody asked -- nobody from MnDOT asked URS's

8 opinion, other than this phone call, on whether

9 that was a good idea or not?

10 A Right.

11 Q And nobody from MnDOT asked URS to do any

12 analysis of how that 2007 overlay project might

13 affect the bridge?

14 A No.

15 Q Anybody at MnDOT consult with URS about placement

16 of the materials on the bridge during the

17 construction project?

18 A No.

19 Q When were you aware that MnDOT went ahead with

20 the overlay project in the summer of 2007?

21 A I think just when we saw the work progressing.

22 Q So you would have seen Todd Niemann and his crew

23 out in May of 2007, right?

24 A Uh-huh, yes.

25 Q And then you saw some of the construction crews

1 the spring testing, other than that piece of

2 work, what else did URS have left to complete on

3 the project?

4 A The final report.

5 Q And as I understand it, URS was still working on

6 that final report when the bridge collapsed?

7 A Yes.

8 Q And so, in fact, the final report was never

9 finalized?

10 A That's true.

11 Q What work was left to be done on it?

12 A It was basically just to complete the report.

13 Q Why did that take so long?

14 A I'm not sure.

15 Q In the work that URS did on the bridge, did it do

16 any analysis of the gusset plates on the bridge?

17 A No. We basically assumed that the gusset plates

18 were as designed and that they were designed to

19 meet specifications. I think we made reference

20 to that in the report.

21 Q If the gusset plates had section loss as a result

22 of corrosion, is that something that you believe

23 should have been captured in the fracture

24 critical inspection reports done on the bridge by

25 MnDOT?

Page 98

Page 100

1 out on the bridge in June of 2007?

2 A Yes.

3 Q Do you know, Don, did the testing that Todd

4 Niemann's group did, was that comparable to the

5 testing that Ed was recommending?

6 A I believe that Todd's testing was ultrasound. He

7 was using ultrasound to look for a crack. And he

8 was going to look for them at the diaphragm

9 locations, which would be three diaphragms for

10 each one plus the six tabs on 52 members.

11 Q And was that comparable to what Ed Zhou was

12 recommending?

13 A It's different.

14 Q Is it fair to say that the testing that was

15 suggested by Ed Zhou is more complete --

16 thorough? Let's use the word thorough.

17 A It's more leading edge, but we don't know for

18 sure how much more thorough it is because it is

19 not totally proven technology.

20 Q Is it fair to say that the testing suggested by

21 Ed Zhou could detect cracks at a smaller level

22 than ultrasonic testing?

23 A Possibly.

24 Q After the January 2007 meeting, where URS

25 believes that it is going to accompany MnDOT on

1 A It depends how significant the corrosion is,

2 depends on the location of the corrosion, depends

3 if the corrosion is on a plane of failure. It

4 depends on all those things. So just saying you

5 have section loss isn't very definitive. It has

6 to be in a critical spot.

7 Q So you would expect, then, that if section loss

8 was mentioned in an inspection report, it

9 probably isn't a critical spot?

10 A Not necessarily.

11 Q Would there be a reason to report non-critical

12 section loss in an inspection report?

13 A Yes.

14 Q What would be the purpose of that?

15 A You want to -- The inspector is trained to put

16 anything down that he or she sees as a potential

17 flaw. The rating engineer then makes a

18 determination as to whether this is critical or

19 not.

20 Q And in order to make a determination whether it's

21 critical or not, the findings have to be

22 quantified, don't they?

23 A It has to be located, has to be shown where it

24 is, and described.

25 Q And absent that level of detail, the ratings

Page 101

1 engineer is not going to be able to make a
 2 determination, right?
 3 A Right.
 4 Q When you were a state bridge engineer at MnDOT,
 5 how would the ratings engineer get notice of a
 6 bridge that might need rerating due to damage and
 7 deterioration?
 8 A From the inspection report.
 9 Q And were the inspection reports routinely routed
 10 to the ratings engineer?
 11 A They would be circulated to him if -- You know,
 12 if there was to be a supervisor that oversaw the
 13 inspections in an area, then that review person's
 14 job was to flag these kinds of things.
 15 Q And for fracture critical inspection reports, did
 16 that review happen at central bridge office?
 17 A I'm not sure that was true on all the fracture
 18 critical. I'm not exactly sure on the process.
 19 Q Don, since the collapse of the bridge, have you
 20 had any interaction with the NTSB?
 21 A No.
 22 Q Do you know whether the NTSB has made any
 23 requests of URS for information on the bridge?
 24 A Yes.
 25 Q Have you done any consultation with MnDOT

Page 102

1 regarding the closing of the St. Cloud bridge?
 2 A No. And I guess I should back up on that contact
 3 with NTSB. It was only for that modeling
 4 information. They did call us and we furnished
 5 that. That was the only contact, if that's what
 6 you're getting at.
 7 Q Okay. Don, I said at the beginning of the day
 8 that one of the things that we're charged with is
 9 making recommendations to the Legislature on
 10 either how we might enhance performance of MnDOT
 11 as an agency or enhance policies or procedures
 12 such that something like this doesn't happen
 13 again. Do you have any recommendations?
 14 MS. KNOLL: Personally?
 15 BY MS. BERGSTROM:
 16 Q Personally on what that might be, both your
 17 history at MnDOT?
 18 A Well, from what I read in the newspaper, it seems
 19 like this is a very unique situation. And from
 20 what I understand, this is a very unique
 21 situation. So it's difficult to set up a process
 22 that improves the system for a very unique
 23 circumstance, other than to refine the design
 24 review process.
 25 Q How would you refine the design review process?

Page 103

1 A I think MnDOT has a very good design review
 2 process specified in their bridge design manual,
 3 so if that's fully followed. And I think, also,
 4 possibly adding an independent technical review
 5 to it. But basically they do have a good review
 6 process. Whether that was true in 1964, I do not
 7 know.
 8 Q We have been told by various people at MnDOT that
 9 the administrative support at MnDOT has been
 10 systematically gutted over the years and that it
 11 is strapped as an agency in order to get things
 12 done. Did you believe that to be the case when
 13 you were at MnDOT?
 14 A There's always give and take, you know, between
 15 the budget and amount of people you have. That's
 16 always an issue, staffing is always an issue.
 17 But I don't think -- I really don't believe that
 18 it was ever reduced to the point that there's,
 19 you know, a safety issue.
 20 Q Did it reduce MnDOT's ability to plan and
 21 implement non-emergent projects?
 22 A You're saying did the reduction in staff and
 23 funding impact project delivery?
 24 Q Right, project delivery outside of major safety
 25 response, is what I'm saying, none-emergency type

Page 104

1 planning.
 2 A I'm sure that's true.
 3 MS. BERGSTROM: Why don't we take a few
 4 minutes and powwow.
 5 (Break taken.)
 6 BY MS. BERGSTROM:
 7 Q I just have a few follow-up questions, Don.
 8 A If I could make a point of clarification.
 9 Q Sure.
 10 A When you asked about why we didn't complete the
 11 report --
 12 Q Right.
 13 A -- one of the things we were waiting on was that
 14 inspection, to see how that inspection really
 15 happened or confidence we could put in that
 16 inspection. So that was part of the reason the
 17 report wasn't finalized.
 18 Q Did you share that with MnDOT?
 19 A No.
 20 Q Let's talk about that testing for a moment. When
 21 I asked you whether the testing that MnDOT was
 22 proposing was comparable to the testing that Ed
 23 had recommended, you mentioned that the testing
 24 that Todd Niemann's group was going to do was
 25 going to be in specific spots?

Page 105

1 A Yes.
 2 Q Okay. Was the testing that Ed Zhou was
 3 recommending in the same exact locations?
 4 A Yes.
 5 Q And was it in additional locations as well?
 6 A I think the main emphasis was going to be in the
 7 same exact locations.
 8 Q But the difference was in the type of testing?
 9 A The difference was in the type of testing. And
 10 it is -- You know, it's more leading edge, not as
 11 proven. It's just something that's kind of on
 12 the leading edge of where that testing is going.
 13 MR. MOOTY: Was any of the testing
 14 different that he was proposing? Other than the
 15 type of testing, there were no other locations
 16 that you were wanting to have looked at?
 17 MR. FLEMMING: Not to my knowledge.
 18 BY MS. BERGSTROM:
 19 Q Would you have thought, Don, that Todd Niemann's
 20 group would have done the testing in all of the
 21 proposed locations before any construction work
 22 would have been started on the bridge?
 23 A We didn't even know that construction work was
 24 going to be ongoing. We did not associate the
 25 timing with that construction work.

Page 106

1 Q Let me set up this question for you a little
 2 bit. URS recommends redecking and MnDOT says,
 3 Nah, it's not going to happen; URS recommends
 4 replating and MnDOT says, Let's study instead;
 5 URS recommends study and MnDOT says, We'll do our
 6 own studies; the conclusion is reached to do
 7 MnDOT studies with URS, and MnDOT proceeds
 8 without URS.
 9 What's your reaction to that?
 10 A We do what the client wants done to the degree
 11 that they want it done.
 12 MR. MOOTY: And on August 1 when the
 13 bridge goes down, after you've had such a long
 14 and illustrious career there, and you've made
 15 recommendations and all this stuff happens,
 16 what's your personal feeling after it happens as
 17 to what you wish could have been done
 18 differently?
 19 MR. FLEMMING: Of course we're all
 20 feeling tremendous remorse that a bridge
 21 collapses. But my assessment is that the cause
 22 of the collapse was not related to what we were
 23 doing or even what we would have recommended,
 24 except possibly the bridge deck would have
 25 helped, but it wouldn't have necessarily

Page 107

1 precluded collapse.
 2 BY MS. BERGSTROM:
 3 Q Has URS donned any analysis as to the cause of
 4 the bridge collapse?
 5 MS. KNOLL: I'm going to instruct you.
 6 To the extent that that question asks for
 7 information that's protected by the
 8 attorney-client privilege, I will instruct you
 9 not to answer; to the extent that it doesn't, you
 10 can go ahead and answer.
 11 BY MS. BERGSTROM:
 12 Q And I'm not interested in your conversations with
 13 your lawyers, in-house or Dorsey. What I'm
 14 wondering is whether URS has done any engineering
 15 study?
 16 MS. KNOLL: Since the collapse?
 17 MS. BERGSTROM: Since the collapse.
 18 MS. KNOLL: I'm going to instruct you
 19 not to answer.
 20 MR. FLEMMING: No answer.
 21 BY MS. BERGSTROM:
 22 Q As part of our investigation, Don, we have talked
 23 with the former governors over the life of this
 24 bridge and former commissioners of
 25 transportation, asking their opinions on things

Page 108

1 like the structure of MnDOT as an agency and the
 2 culture of MnDOT.
 3 A Uh-huh.
 4 Q Do you have opinions or recommendations on either
 5 the structure of MnDOT or culture at MnDOT which
 6 would help it function as a top DOT across the
 7 country?
 8 A The recommendation that I would have would be
 9 that the top staff be engineers so that when a
 10 bridge engineer or another engineer brings a
 11 critical engineering decision there, they
 12 recognize it and are willing to take action and
 13 see the need to take action.
 14 Q Do you think that the people making critical
 15 engineering decisions ought to be involved in the
 16 funding process or do you believe that the
 17 funding process compromises critical engineering
 18 decisions?
 19 A I never saw really a safety issue being set aside
 20 because of funding.
 21 Q But what about projects that are non-emergency,
 22 non-safety, but that are going to require a lot
 23 of money. Did you see decisions that were being
 24 compromised because of the fight for funds?
 25 A There's always a tension between how much funding

Page 109

1 you have and which projects you can fund, and
 2 that tension is going to be there. But I didn't
 3 see them making, you know, a judgment saying,
 4 We're going to do something unsafe to save
 5 money. I never saw that.

6 MR. MOOTY: The organizational
 7 structure changed a fair amount at various points
 8 in time while you were there?

9 MR. FLEMMING: Yes.

10 MR. MOOTY: How did that affect, in
 11 your opinion, just kind of how the operation
 12 ran? Did you see some things that -- some
 13 structures that were better than others? Is
 14 there anything we can learn from that?

15 MR. FLEMMING: During my tenure we had
 16 a non-engineer in a high position at one point
 17 when we had a critical decision on the old High
 18 bridge, and I watched a real tension develop
 19 there. Well, an assistant commissioner had to
 20 just make a bold move to close the bridge. It
 21 was the only one time that I saw that happen.

22 So I would say we need people in those
 23 positions that recognize when something is
 24 critical and will take action.

25 MR. MOOTY: It seems from time to time

Page 110

1 if somebody retires or somebody dies and they're
 2 in a leadership position, that then the deck gets
 3 reshuffled. Did you ever feel that there was an
 4 overview of trying -- an optimal structure that
 5 you could go to that wasn't kind of just
 6 happenchance -- happenstance as to when somebody
 7 retired or died? It seems like a division just
 8 disappears if somebody retires or dies. It
 9 doesn't give a lot of confidence that there's a
 10 lot of planning that's going on as to how to best
 11 be organized to do the task. Did you ever have
 12 that feeling?

13 MR. FLEMMING: In some instances, yes;
 14 and with some commissioners, yes.

15 MR. MOOTY: I took one of your
 16 responses earlier on the Rochester situation, on
 17 the inspector being a real capable person. Was I
 18 correct in that assessment by you?

19 MR. FLEMMING: Yes.

20 BY MS. BERGSTROM:

21 Q Who was that, Don? Sorry.

22 A I can't remember the name right off, but he was a
 23 person that was trained in metallurgy and was a
 24 real metallurgist. So I felt very confident when
 25 he was out inspecting that if he saw a real

Page 111

1 metallurgical kind of problem, that he would
 2 immediately understand it. I also felt confident
 3 that he could run a UT and really find a flaw.

4 Q Do you think that fracture critical inspectors
 5 should be metallurgists?

6 A I think they should have that capability
 7 available to them. Inspectors need to be trained
 8 to the degree that when they see something, they
 9 can recognize it as something they need to bring
 10 a metallurgist in to look at.

11 MR. MOOTY: You had a great inspector
 12 in Rochester. If you had somebody somewhere else
 13 that wasn't such a great inspector or you didn't
 14 have the same level of confidence, and you're in
 15 central bridge over here and they aren't
 16 reporting to you and you have no control over
 17 them, does that -- does that cause you any
 18 concern in terms of structure or how best to
 19 handle that situation?

20 MR. FLEMMING: Yes. My preference
 21 would be that the fracture critical piece is run
 22 out of the central office.

23 MR. MOOTY: And they would do all of
 24 the inspections?

25 MR. FLEMMING: Would do all of it or at

Page 112

1 least have assurance that the people in the
 2 districts that are doing it have that same level
 3 of expertise.

4 MR. MOOTY: How about the role of
 5 consultants and the use of consultants, are there
 6 ways that that could be improved, in your mind,
 7 in any way?

8 BY MS. BERGSTROM:

9 Q Understanding that you are one now.

10 A For what kind of work?

11 MR. MOOTY: I'm sorry. I didn't make
 12 that very clear. If you had your MnDOT hat on --
 13 And I'm really kind of talking about structural
 14 things here, as to how -- Our goal is to make
 15 sure that the best -- to help make sure that the
 16 best decisions can be made about all this. It
 17 seems like from time to time, the department is
 18 using more and more consultants. Maybe as some
 19 of the staffing has gone down, there's more of a
 20 reliance on consultants. Are there things that
 21 you can see from a policy or procedure standpoint
 22 that could improve the use of consultants?

23 For instance, the University of
 24 Minnesota, you people, PB Americas, is there
 25 communication amongst all of you in a way that's

Page 113

1 helpful to make sure the best results are found,
 2 or are there any things that you can think of
 3 that would help us to have a better system?
 4 MR. FLEMMING: I think only in
 5 training, and I think they're doing a pretty good
 6 job of that. But I think there's a real need to
 7 have the MnDOT people, the consultants attending
 8 the training on it so that everyone keeps up to a
 9 certain level of expertise. I think MnDOT has
 10 done a good job as they've transitioned to the
 11 LRFD, that's the load resistance factor design
 12 specification, to not only train their own
 13 people, but to train consultants as well.
 14 And I think as the department moves
 15 more towards consultant help, it's really
 16 important to have this training available to not
 17 only the in-house staff but the consultant side,
 18 too, so that the whole industry keeps up to this
 19 high level of standard.
 20 MR. MOOTY: We hear about low morale at
 21 MnDOT. Are you hearing that, too, at this point
 22 in time?
 23 MR. FLEMMING: Some.
 24 MR. MOOTY: Any suggestions you have on
 25 how to improve morale over there?

Page 114

1 MR. FLEMMING: I think you'll see it
 2 change soon.
 3 MR. MOOTY: Okay.
 4 BY MS. BERGSTROM:
 5 Q That says it in one, doesn't it. Do you know Tom
 6 Sorel?
 7 A Yes.
 8 Q Is he somebody you -- How do you know him?
 9 A Through his work at FHWA.
 10 Q Did you know him when you were at MnDOT? He
 11 wasn't --
 12 A No, he wasn't here.
 13 Q -- here yet.
 14 MR. JOHNSON: The recommendation from
 15 URS to redeck the bridge has a relatively big
 16 price tag attached to it, I suspect; is that
 17 correct?
 18 MR. FLEMMING: Yes, more significant
 19 than the overlay.
 20 MR. JOHNSON: Does the decision to do
 21 the redecking get caught up in the tension that
 22 you've been describing between projects and what
 23 to fund when you have limited funding?
 24 MR. FLEMMING: I think you could
 25 understand that may be the case.

Page 115

1 BY MS. BERGSTROM:
 2 Q Was there ever a price tag that was attached to
 3 the redecking option?
 4 A No.
 5 Q Not to your mind?
 6 A (Indicating.)
 7 MR. JOHNSON: But when MnDOT projects
 8 that that's not a possibility until 2020, it's
 9 hard for us to figure out what, other than
 10 funding, is a consideration there. You're not
 11 waiting for new technology to develop or some
 12 other reason to defer. Would that be your
 13 impression?
 14 MR. FLEMMING: I guess I don't want to
 15 speculate on, you know, MnDOT's thought process
 16 there. I just had to work with the givens.
 17 MR. JOHNSON: And the given was that
 18 that option was off the table?
 19 MR. FLEMMING: During that period of
 20 time. We still were looking at putting that in
 21 the report as how you would do it at the time
 22 they would proceed, so we still looked at the
 23 staging of how you would do it.
 24 BY MS. BERGSTROM:
 25 Q Because you had spent quite a bit of analysis

Page 116

1 time on the staging?
 2 A On the staging issue, yes.
 3 MR. MOOTY: Don, were there any --
 4 Again, I'm going back to the time when you're at
 5 MnDOT and a bridge engineer. Tell me if this is
 6 an incorrect statement in some way. It just
 7 appears that there are certain dollar amounts on
 8 projects that if there's a million dollars or
 9 that level, that you probably have some fluidity
 10 and ability to get funding to kind of move some
 11 things around or delay some things.
 12 But then pass you get more -- as the
 13 price tag goes up, your ability to really kind of
 14 do things without really disrupting the rest of
 15 the budgets of the BIPs and the other things
 16 seems to put limitations on. Are there any
 17 suggestions you might have on the funding side
 18 that would create more ability to make sure that
 19 the projects that maybe should go forward aren't
 20 considered because it has too much of an effect
 21 on either the division or some other district or
 22 whatever?
 23 MR. FLEMMING: I think MnDOT has done a
 24 good job with the budget-buster bridge concept.
 25 And setting aside a dollar amount per year to put

Page 117

1 into the budget-buster or the District 10 amount,
2 whatever you wanted to call it, I think that
3 whole concept is a real step forward here in
4 taking care of these sort of mega projects that
5 else, in an individual district, is really -- it
6 breaks their budget. So I think that is a real
7 good move and I recommend continuing that.

8 MS. BERGSTROM: I'm done.

9 MR. JOHNSON: Thank you.

10 MS. BERGSTROM: Very much.

11 (Whereupon, the interview was concluded
12 at 5:05 p.m.)
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Page 118

1 STATE OF MINNESOTA)
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4 COUNTY OF HENNEPIN)
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8 REPORTER'S CERTIFICATE
9

10 I, Julie A. Rixe, do hereby certify
11 that the above and foregoing transcript, consisting of
12 the preceding 117 pages, is a correct transcript of
13 my stenographic notes and is a full, true and complete
14 transcript of the proceedings to the best of my
15 ability.

16 Dated May 1, 2008.
17
18
19

20 JULIE A. RIXE
21 Court Reporter
22
23
24
25

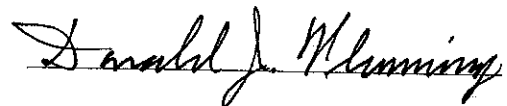
Don Flemming – April 30, 2008

ERRATA SHEET

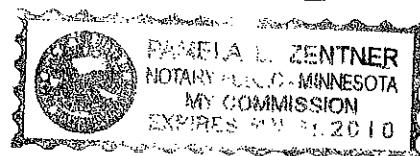
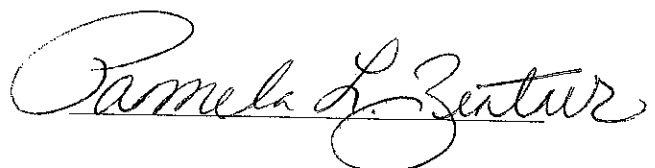
PAGE	LINE	CORRECTION	REASON
11	13	Change "Dan" to "Denn"	Transcription error
11	14	Change "Dan" to "Denn"	Transcription error
14	11	Change "Pipe" to "Culvert"	Clarification
47	2	Change "No" to "There is always concern over a fracture critical, non-redundant bridge. For this reason, I supported the study by the University of Minnesota."	Clarification
56	1	Change "Tresback" to "Dresbach"	Transcription error
60	17	Change "Karen" to "Carol"	Transcription error
60	19	Change "I don't think so, but I don't really know." to "No."	Clarification
80	23	Change "slide wheels" to "slide-rules"	Transcription error
84	13	Change "slice" to "splice"	Transcription error

I, Don Flemming, have read this interview transcript and acknowledge its accuracy except as noted on the errata sheet.

Don Flemming



Notary Public



INTERVIEW OF DAVID LONG - April 30, 2008

In the Matter of Conducting an Independent Investigation into the Collapse of the I-35W Bridge

Dorsey & Whitney
50 South Sixth Street
Suite 1500
Washington, DC Conference Room
Minneapolis, Minnesota

Met, pursuant to Notice, at nine o'clock in the morning on April 30, 2008.

INTERVIEWERS:

Kathryn Bergstrom and Thomas Johnson,
Attorneys at Law with Gray Plant Mooty Law Firm.

ALSO PRESENT:

Jocelyn Knoll, Attorney at Law with
Dorsey & Whitney.

COURT REPORTER:

Julie A. Rixe

(Long Exhibits 1 through 11 were marked for identification by the court reporter.)

MS. BERGSTROM: Let's go on the record. And we'll start by noting appearances. I'm Katie Bergstrom with the Gray Plant Mooty law firm.

MR. JOHNSON: Tom Johnson from Gray Plant Mooty.

MS. KNOLL: Jocelyn Knoll of Dorsey & Whitney.

MR. LONG: David Long from URS Corp.

EXAMINATION

BY MS. BERGSTROM:

Q David -- And may I call you David?

A Yes.

Q We met briefly. I'm going to start this interview the way I've started every interview, by reading through this witness protocol so that you know what we're doing here today.

Authority. We are with the Gray Plant Mooty law firm. Gray Plant Mooty has been retained by the Minnesota Legislature to conduct an independent investigation into the collapse of the I-35W bridge. The Minnesota Legislature has

INDEX

LONG EXHIBITS:	PAGE
1 - Witness Protocol for Interviews	3
2 - Response of Interest dated 3/28/03	3
3 - Fax dated 5/21/03 from E. Zhou to D. Flemming with attachments	3
4 - URS Initial Inspection Report for Bridge 9340	3
5 - E-mail dated 11/17/04 from E. Zhou to D. Long	3
6 - E-mail dated 12/13/06 from E. Zhou to D. Flemming	3
7 - E-mail dated 12/18/06 from E. Zhou to D. Flemming	3
8 - E-mail dated 2/1/07 from B. McElwain to E. Zhou	3
9 - E-mail dated 7/19/07 from D. Flemming to E. Zhou	3
10 - URS note dated 9/6/05	3
11 - E-mail dated 6/23/06 from B. McElwain to E. Zhou	3
12 - E-mail dated 5/17/05 from D. Long to E. Zhou with attachments	38

asked us to provide a report of our investigation by May 1, 2008, early May, actually, now. We will be asking you questions concerning the bridge collapse and related policies, practices and legislative oversight issues.

Purpose. The purpose of this interview is to determine what you might know about the matters we are investigating.

Confidentiality. During the time our investigation is active, the information that interviewees provide to us is not public information. The information you provide may no longer be confidential once we submit a report to the Legislature.

Process. You are required to answer our questions truthfully. A court reporter is present to record our conversation. Either during this interview or later in our investigation, we may determine that we need to verify certain information. If that occurs, we may ask you for a further recorded statement, a signed affirmation or an oath statement.

Post-Interview Contact. We view this process as an ongoing dialogue. If you think of anything after this interview that you want to

Page 5

1 tell us about, please call or e-mail us.
 2 Likewise, we hope that you will respond to us if
 3 we call or e-mail you with follow-up questions or
 4 clarifications. And, of course, we'd do that
 5 through your counsel.
 6 A Uh-huh.
 7 Q Any questions about that?
 8 A No.
 9 Q Let's start, David, by having you tell me about
 10 your educational background.
 11 A I graduated from the University of Minnesota,
 12 Department of Civil and Mineral Engineering, with
 13 an emphasis in structural, and it would be 1990.
 14 Q That's an undergraduate degree?
 15 A Yes.
 16 Q And do you have any post-graduate --
 17 A No.
 18 Q -- degree? When you were there, did you work
 19 with Professor Dexter --
 20 A No, I did not.
 21 Q -- or, excuse me, study with him?
 22 A No.
 23 Q And when you graduated from the U of M, you
 24 entered the workforce?
 25 A Yes.

Page 6

1 Q And who did you go to work for?
 2 A I worked for Bladholm Brothers in Osseo for a
 3 short time.
 4 Q What is that business?
 5 A They used to be a precast manufacturer. I
 6 believe they're no longer in business.
 7 Q And how long did you work there?
 8 A Very short. Three months, give or take.
 9 Q After that where did you work?
 10 A Then I got a job with Parsons Brinckerhoff here
 11 in Minneapolis.
 12 Q What did you do for Parsons?
 13 A Bridge design, structural engineering.
 14 Q I'm sure you went over this with your lawyers,
 15 but Julie is taking down everything that we say.
 16 And I can tell already that you and I are going
 17 to talk on top of each other. So it's really
 18 important that I finish my question before you
 19 answer and I let you finish your answer before I
 20 ask my next question, because it makes it really
 21 difficult for her. Okay?
 22 A Yep.
 23 Q And how long did you work for Parsons?
 24 A For approximately five years.
 25 Q All right. So we're up to around '95 or so?

Page 7

1 A We're up to about '95.
 2 Q Okay. And then where did you go?
 3 A I went to work for RCM.
 4 Q What is RCM?
 5 A Well, they are a multi-discipline engineering
 6 firm. I worked in their structural engineering
 7 department.
 8 Q Was that a design job?
 9 A Yes.
 10 Q Okay. How long did you work for RCM?
 11 A About three years.
 12 Q Okay. Where did you go after that?
 13 A I went to URS.
 14 Q So you've been at URS since about '98?
 15 A Correct.
 16 Q And what is your job title at URS?
 17 A Senior structural engineer.
 18 Q As a senior structural engineer, David, what are
 19 your job duties?
 20 A Mostly design of bridges and other related
 21 structures.
 22 Q Is it design on new construction?
 23 A Design on new construction, yes.
 24 Q And do you do analysis or design on existing
 25 construction?

Page 8

1 A Yes.
 2 Q In your work for Parsons or RCM, did you do any
 3 design work on fracture critical bridges?
 4 A No.
 5 Q For URS, other than the 35W bridge, have you done
 6 any design work on fracture critical steel truss
 7 bridges?
 8 A No.
 9 Q Either at the U of M or since then, have you had
 10 any special education or training in fracture
 11 critical bridges?
 12 A Yes.
 13 Q Tell me about that.
 14 A Tell you about the training?
 15 Q Right.
 16 A I've taken a course on fracture critical bridge
 17 -- it would be inspection.
 18 Q Who did you -- When did you take that?
 19 A I don't recall.
 20 Q Do you know where you took it?
 21 A The location?
 22 Q Yeah. Who sponsored it?
 23 A No, I don't recall.
 24 Q Okay. I'm just trying to -- If I wanted to go
 25 and take a fracture critical course on

Page 9

Page 11

1 inspection, where would I go to find something
 2 like that?
 3 A You would probably talk to the Minnesota
 4 Department of Transportation.
 5 Q Is that who you went through to take a class; do
 6 you know?
 7 A I honestly don't recall.
 8 Q Okay. Do you recall, was it out of state or
 9 instate?
 10 A It was instate.
 11 Q Okay. Do you know, does AASHTO sponsor something
 12 like that?
 13 MS. KNOLL: By sponsoring something
 14 like that, do you mean --
 15 MS. BERGSTROM: Fracture critical
 16 inspection course.
 17 MR. LONG: I don't know if AASHTO
 18 sponsors a course.
 19 BY MS. BERGSTROM:
 20 Q Or Federal Highway Administration?
 21 A I guess I'm not sure.
 22 Q All right. Physically where was this class in
 23 Minnesota?
 24 A I believe it was in the MnDOT training facility
 25 in Arden Hills.

Page 10

1 Q Okay, okay.
 2 A Arden Hills. I might have the location
 3 incorrect.
 4 Q I think there is one in Arden Hills, and I know
 5 that they've had other training sessions there.
 6 Was there fieldwork involved in that; did you go
 7 out on a bridge?
 8 A I don't recall.
 9 Q Okay. Do you know whether it was when you were
 10 with -- who you were working for at the time?
 11 A Parsons Brinckerhoff, I believe.
 12 Q As a result of that class, did you -- were you --
 13 Well, let me ask it this way: Are you a
 14 certified inspector for fracture critical
 15 bridges?
 16 A I'm not sure. I guess I don't -- I'm not sure.
 17 Q Okay. Have you ever done a fracture critical
 18 inspection?
 19 A No.
 20 Q Have you ever accompanied a bridge crew while
 21 they were doing a fracture critical inspection?
 22 A No.
 23 Q Other than the I-35W project, are you working on
 24 any other projects with MnDOT currently?
 25 A Yes.

1 Q And what projects are those, David?
 2 A I only recall one, and that is a ratings project
 3 that we have with the DOT.
 4 Q Is that project ongoing?
 5 A We are -- Well, we are currently past the
 6 contract expiration date and we are doing final
 7 cleanup of submittal information.
 8 Q Is that the project where you're assisting
 9 getting the existing bridge inventory into the
 10 Virtus system?
 11 A That's correct.
 12 Q And as part of that project you did not rerate
 13 the fracture critical bridges in the state,
 14 right?
 15 A I guess in the state?
 16 Q Well, as I understand your role, and tell me if
 17 I'm wrong, you're assisting Lowell Johnson's
 18 office in rerating all the bridges and getting
 19 the information into the Virtus system, right?
 20 A Uh-huh.
 21 Q You need to say "yes" or "no."
 22 A I'm sorry.
 23 Q Yes?
 24 A Well, yes and no.
 25 Q And what's the no part?

Page 12

1 A The no is that we got a very select group of
 2 bridges that we were assigned as a company.
 3 Q Right. And so I guess my question was, in that
 4 select group there are no fracture critical steel
 5 truss bridges?
 6 A I'm unsure if there are or are not.
 7 Q Have you personally rerated any fracture critical
 8 steel truss bridges?
 9 A I'm unsure.
 10 Q Okay. Would there be special considerations that
 11 you'd need to take if you were rerating a
 12 fracture critical bridge versus a non-fracture
 13 critical structure?
 14 A No.
 15 Q At any rate, you did not rerate the I-35W bridge
 16 prior to its collapse?
 17 A That's correct, we did not.
 18 Q Did you rerate the St. Cloud DeSoto bridge?
 19 A No.
 20 Q The Lafayette bridge?
 21 A No.
 22 Q The Hastings bridge?
 23 A No.
 24 Q The Stillwater bridge?
 25 A No.

Page 13

Page 15

1 MS. BERGSTROM: Okay. What bridge am I
 2 missing?
 3 MR. JOHNSON: You want to focus on
 4 fracture critical bridges?
 5 MS. BERGSTROM: Yeah.
 6 BY MS. BERGSTROM:
 7 Q Any bridges in Rochester?
 8 A I don't know.
 9 Q You personally?
 10 A No, I don't believe so.
 11 Q Okay. That reratings project, that doesn't
 12 involve fieldwork, does it?
 13 A Yes.
 14 Q It can?
 15 A Yes.
 16 Q Okay. And when you go out to do the fieldwork,
 17 what are you looking for out in the field?
 18 MS. KNOLL: Are you talking about David
 19 personally?
 20 BY MS. BERGSTROM:
 21 Q Yes.
 22 A I didn't do any fieldwork on that job.
 23 Q Okay. So other URS folks would have done some
 24 fieldwork?
 25 A Yes.

1 A Yes.
 2 Q How did you get involved in the I-35W project?
 3 A I was assigned to the job.
 4 Q Assigned by whom?
 5 A My supervisor.
 6 Q Who is your supervisor?
 7 A Mark Maves.
 8 Q When do you recall first being involved?
 9 A You're looking for a date?
 10 Q Right.
 11 A I don't know.
 12 Q Why don't we look at this Exhibit Number 2. And
 13 this is URS's response to the Request for
 14 Interest. And I note that at the back, your
 15 resume is included. Were you involved in
 16 preparing this response?
 17 A No.
 18 Q This response is dated March 28, 2003. And I
 19 heard from Ed Zhou yesterday that he had
 20 participated in a meeting at MnDOT prior to March
 21 2003. Were you involved in that meeting with
 22 MnDOT?
 23 A No.
 24 Q Okay. Did you know that your involvement was
 25 being proposed to MnDOT at the time, March 2003,

Page 14

Page 16

1 Q And do you know what the purpose of their going
 2 to the field was?
 3 A Was to gather dimensional information required to
 4 complete the ratings.
 5 Q And is it also the case that in doing fieldwork
 6 for rerating, you'd need to be able to get
 7 information regarding section loss?
 8 A No. That was not part of our contract.
 9 Q In conjunction with that rerating project, did
 10 you ever have the occasion to review the
 11 inspection reports on a particular bridge?
 12 A Yes.
 13 Q And what do you personally look for in an
 14 inspection report?
 15 A Notations of damage, notations of modification,
 16 notations of section loss, other damage, items
 17 that would affect the rating input.
 18 Q And you rely on the inspection report to
 19 accurately reflect the condition of the bridge in
 20 doing that rerating, right?
 21 A That was our task, yes.
 22 Q So it would be a problem for you if you were
 23 asked to rerate a bridge, and there was an
 24 inspection report that said section loss but then
 25 didn't have any quantification?

1 at the time this was submitted?
 2 A I don't know.
 3 Q Don Flemming obviously was involved in preparing
 4 this and signing the letter. Did you know Don
 5 Flemming when he was at MnDOT?
 6 A Yes.
 7 Q When you were with Parsons and RCM or in your
 8 previous jobs, did you do work with MnDOT?
 9 A Which firm are you referring to?
 10 Q Any of them.
 11 A We worked with MnDOT when I worked with Parsons
 12 Brinckerhoff.
 13 Q Is that how you met Don Flemming?
 14 A I'm not sure. I may have met him prior to that
 15 at some point. I don't recall.
 16 Q I mean, I'm assuming that if you were in the
 17 training up in the Arden Hills facility, that you
 18 knew some of the MnDOT people.
 19 A Yeah, I suppose.
 20 Q What kind of work did Parsons do for MnDOT?
 21 A Same thing, bridge design.
 22 Q Maybe this is on your resume. Which bridges were
 23 you involved in working on for MnDOT when you
 24 were at Parsons?
 25 A That's a pretty long list, I would assume. I

Page 17

Page 19

1 don't know how many of those I could pull off the
 2 top of my head.
 3 Q All right. So at some point you hear that URS
 4 was picked by MnDOT to conduct the fatigue
 5 evaluation, right?
 6 A Yes.
 7 Q Okay. What was your role on the team of the URS
 8 team, who was going to be doing this work?
 9 A My role was to provide structural calculations to
 10 support the work of others.
 11 Q When I talked to Ed Zhou and Brett McElwain
 12 yesterday, they described the work on this
 13 project as falling into a couple of categories:
 14 One is the fatigue analysis and the other is the
 15 redundancy study, okay? Were you involved in one
 16 or both of those?
 17 A What were the two groups that you put it into
 18 again?
 19 Q The fatigue evaluation on the one hand and then
 20 the redundancy studies on the other hand.
 21 A I don't know the work that I did, if it was used
 22 in both or either. I guess there would probably
 23 be others that could speak more accurately to
 24 exactly how that was utilized.
 25 Q And were you involved in designing the replating

1 A Yes.
 2 Q Okay. What was your role in connection with
 3 that?
 4 A I coordinated some of the -- I guess the tasks,
 5 the objectives.
 6 Q Who did you work with on that?
 7 A There was probably others, but I can recall
 8 Dr. Ed Zhou and Ren Cowden.
 9 Q And I understand Ren was the person who actually
 10 went out on the bridge with the MnDOT folks,
 11 right?
 12 A Yes.
 13 Q And then Ed Zhou drafted a checklist of things
 14 that needed to be looked at on the bridge that
 15 day or over those days; is that right?
 16 A Yes.
 17 Q Would you take a look at Exhibit Number 3. I
 18 understand that this is the checklist that he had
 19 developed for that June '03 inspection. Do you
 20 see the handwriting on page 2? Is that your
 21 handwriting?
 22 A No.
 23 Q When you say that you coordinated the tasks and
 24 objectives, are these the tasks and objectives
 25 that you coordinated?

Page 18

Page 20

1 retrofit?
 2 A Yes.
 3 Q Okay. Were you involved in analyzing the
 4 symmetrical deck recommendation?
 5 A No, not directly.
 6 Q Did you provide structural calculations with
 7 respect to the deck recommendation?
 8 A Not that I'm specifically aware of.
 9 Q I note that on this Exhibit Number 2, one of the
 10 team members from URS was Thomas Jenkins. Was he
 11 involved in this project?
 12 A I don't know.
 13 Q Did you have any involvement with him?
 14 A No.
 15 Q As I understand it, David, before the work on the
 16 actual evaluation took place, URS had a smaller
 17 contract with MnDOT to accompany the MnDOT
 18 inspection team in June of 2003 out onto the
 19 bridge in order for URS to gather information
 20 about the bridge. Were you involved in that
 21 effort at all?
 22 A In what aspect of that effort? I guess if you
 23 could --
 24 Q In any aspect of the June 2003 inspection of the
 25 bridge.

1 A These were authored by Ed. I guess I'm not sure,
 2 I'm sorry, what you're asking me.
 3 Q Well, look at the front page. It appears this
 4 was sent to you?
 5 A Uh-huh.
 6 Q So when you got it, what did you do with it?
 7 A What did I do with it? I read it.
 8 Q Why is Ed sending it to you?
 9 A So we know what to do on site.
 10 Q Right. Okay. So when you say you coordinated
 11 the tasks and objectives, I'm just asking you,
 12 what did you do; what did you coordinate?
 13 A Well, eventually this information had to get to
 14 the people or persons who were going to go to the
 15 site, so this information would have had to have
 16 been relayed to Ren.
 17 Q So did you discuss it with him?
 18 A Yes.
 19 Q Okay. And when he was out on the bridge, did you
 20 have ongoing conversations with him about what he
 21 was seeing out there?
 22 A When Ren was on site?
 23 Q Right.
 24 A No.
 25 Q When he got done gathering the data, would he

Page 21

Page 23

1 have come back and talked to you?
 2 A Yes.
 3 Q And were you involved, then, in drafting the
 4 inspection report that came out of his work on
 5 the bridge?
 6 A That followed this visit?
 7 Q Right.
 8 A Yes.
 9 Q Okay. So taking a look at Exhibit Number 4, this
 10 is the inspection report that followed the June
 11 2003 visit. And I'll tell that you it's not the
 12 entire report; I don't have all the pictures
 13 attached to it. But you just said that you were
 14 involved in preparing this. What was your
 15 involvement; what did you do?
 16 A I drafted it.
 17 Q You didn't physically go out on the bridge,
 18 right?
 19 A That's correct.
 20 Q So would you have reviewed all of the pictures
 21 that Ren took out on the bridge?
 22 A No.
 23 Q You would have looked at some of them?
 24 A Sure, yes.
 25 Q What other kind of field notes did he bring back

1 was produced to us from MnDOT. Do you see the
 2 overall condition of the truss paragraphs?
 3 A Yes.
 4 Q And the first one that talks about corrosion and
 5 deterioration, the second sentence says, The
 6 overall condition of the truss members was found
 7 to be in relatively good condition from a
 8 corrosion standpoint.
 9 I take it you drafted that sentence
 10 based on the information that Ren brought back to
 11 you, right?
 12 A Yes, unless that was added on some other review
 13 of the draft, I guess.
 14 Q When Ren was out on the bridge, was he attempting
 15 to quantify the percentage of corrosion; do you
 16 know?
 17 A No. He was looking for a general overview.
 18 Q So you would have drafted the first draft of this
 19 report. Who else was involved in editing and
 20 revising it?
 21 A Specifically I guess I don't recall.
 22 Q Did Don Flemming have a hand in that?
 23 A It would be likely Don Flemming would have been
 24 one of the persons looking at it, yes.
 25 Q Ed Zhou?

Page 22

Page 24

1 from his visit on this?
 2 A I guess I don't recall all of the field notes. I
 3 can recall that he brought back an index of the
 4 photo and locations that he took. There may have
 5 been other things. I don't recall.
 6 Q I guess I'm just trying to understand what the
 7 physical documentation is that he would have
 8 brought back. Does he have worksheets that he
 9 takes out with him? Does he have a legal pad
 10 like this (indicating)? What does he do?
 11 A There would have been an engineering pad that he
 12 would have taken with him, straight edges,
 13 pencils, camera, tape measure, things of that
 14 nature.
 15 Q And does he record his notes on an engineering
 16 pad?
 17 A That wouldn't be unusual. There may have been
 18 recording on, you know, something other than an
 19 engineering pad.
 20 Q Okay. And when he comes back, does he provide
 21 all of that -- those field notes to you?
 22 A I believe he did, yes.
 23 Q If you look at the page after the introduction,
 24 it's kind of -- There's some blank pages in this
 25 that weren't there originally, but this is how it

1 A Maybe. I don't recall.
 2 Q Do you know, David, did Ren bring back
 3 information on the connections as well as the
 4 truss members?
 5 A Only photographs.
 6 Q Was he looking at the connections for the
 7 purposes of this report?
 8 A Ren's purpose was to gather overall information.
 9 Q There's been some media report about some of the
 10 pictures that he took there that day showed the
 11 bowed gusset plate. Are you familiar with that
 12 issue?
 13 A With the bowed gusset plate?
 14 Q Right.
 15 A I'm familiar with the picture. I don't know if
 16 I'd choose, you know, the same words maybe.
 17 Q Okay. When's the first time you saw those
 18 pictures, to your memory?
 19 A Obviously I would have seen that picture as I
 20 assembled this report.
 21 Q Did it stand out in your mind?
 22 A No.
 23 Q Did you remember having any conversations with
 24 anybody about it?
 25 A No, I had no conversations with anybody about it.

Page 25	Page 27
<p>1 Q If you wouldn't use bowed gusset plates, what 2 nomenclature would you use?</p> <p>3 A Maybe bent, warped with some sort of slight or 4 some other modification to it.</p> <p>5 Q Over the course of your work on the I-35W bridge, 6 did you ever have a conversation with anybody at 7 MnDOT about those pictures?</p> <p>8 A The entire pictures?</p> <p>9 Q No, just these gusset plate pictures we're 10 talking about.</p> <p>11 A That picture? No.</p> <p>12 Q In drafting this report did you have access to 13 the historical inspection reports on this bridge?</p> <p>14 A Yes.</p> <p>15 Q Had you reviewed all of them?</p> <p>16 A I don't recall specifically, but it would be the 17 thing to have done, yes. I believe I would have.</p> <p>18 Q In drafting this report, were you in contact with 19 people at MnDOT, you know, discussing the various 20 points on the bridge?</p> <p>21 A No. This was a submittal to MnDOT.</p> <p>22 Q If you go back to the summary and recommendations 23 page, which is about the third from the end, the 24 very last paragraph talks about the fact that the 25 fracture critical details on the interior of the</p>	<p>1 it prior to your work on the bigger study?</p> <p>2 A I don't recall.</p> <p>3 Q The contract for the bigger study was signed in 4 December 2003. So from the time that this report 5 was done in the summer of '03 to December of '03, 6 did you do any work in conjunction with the I-35W 7 bridge?</p> <p>8 A I don't recall what my effort would have been 9 during that time frame.</p> <p>10 Q Did you ever, in conjunction with your work on 11 the I-35W bridge, do any analysis over whether 12 the bent gusset plates we were just discussing, 13 how that bending occurred?</p> <p>14 A No.</p> <p>15 Q The contract is signed in December of 2003, and, 16 as I understand it, URS begins its work on the 17 study. What information did you use to do your 18 pieces of work on the project?</p> <p>19 A The contract plans. The original construction 20 documents would be another way to say that.</p> <p>21 Q And you had the inspection reports?</p> <p>22 A Yes.</p> <p>23 Q Shop drawings?</p> <p>24 A Yes. Not a complete set, however.</p> <p>25 Q What was missing from the shop drawings?</p>
Page 26	Page 28
<p>1 box chord are very difficult to observe, and that 2 it's URS's understanding that the cover plates 3 are not being removed as part of MnDOT's regular 4 inspection cycle, and that MnDOT should consider 5 inspection of all these fracture critical 6 details.</p> <p>7 How did you know that MnDOT had not 8 been removing the cover plates in order to do the 9 inspection?</p> <p>10 A Don Flemming made me aware of that. I believe 11 that Ren Cowden also commented on the same thing.</p> <p>12 Q Because Ren was having trouble seeing the 13 interior as well?</p> <p>14 A Yes.</p> <p>15 Q Okay.</p> <p>16 A The cover plates physically block view.</p> <p>17 Q When you took your fracture critical course out 18 at the Arden Hills facility, did they talk about 19 the necessity of getting past the cover plates 20 here and getting into the access where the 21 interior of the box chords are, things like that?</p> <p>22 A I don't recall, but I also don't believe that 23 this bridge was part of that course.</p> <p>24 Q This report gets forwarded to MnDOT. Were there 25 any meetings at MnDOT to discuss the contents of</p>	<p>1 A I don't recall.</p> <p>2 Q But you recall that it wasn't a complete set?</p> <p>3 A Yes.</p> <p>4 Q Did you run into some stumbling blocks because 5 you didn't have all the shop drawings?</p> <p>6 A I don't recall being stymied by that myself, no.</p> <p>7 Q Do you recall discussing it with anybody?</p> <p>8 A The absence of some of the shop drawings?</p> <p>9 Q Right.</p> <p>10 A Yes.</p> <p>11 Q Who did you talk to about that?</p> <p>12 A Tom Merritt at the DOT.</p> <p>13 Q And what was Tom's response as to the missing 14 shop drawings?</p> <p>15 A As I recall, he indicated that that was all he 16 thought he had, but he would check again.</p> <p>17 Q How did you make a determination that some were 18 missing?</p> <p>19 A I didn't personally do that.</p> <p>20 Q Who did?</p> <p>21 A I don't know who made that determination. I 22 believe that Brett informed me of the missing 23 shop drawings. I believe MnDOT was also aware 24 that they were missing shop drawings when they 25 originally gave them to us.</p>

Page 29

Page 31

1 Q So you had the original construction documents,
 2 inspection reports, the shop drawings. Anything
 3 else that you relied upon in doing your work on
 4 the project from MnDOT?
 5 A No.
 6 Q In reviewing the inspection reports, historical
 7 inspection reports on the bridge, did you ever
 8 have occasion during your work on this project to
 9 call up the MnDOT inspectors and ask them what
 10 they meant by a certain notation in the
 11 inspection reports?
 12 A No.
 13 Q Have you ever talked to Mark Pribula at MnDOT?
 14 A Yes.
 15 Q Brett told me yesterday that he was involved in
 16 one March 2005 meeting with MnDOT; and other than
 17 that, he never was on the phone with anybody at
 18 MnDOT or met them in person. Was that the case
 19 for you? How involved were you with
 20 communicating with MnDOT?
 21 A Are you asking about my attendance with, like,
 22 progress meetings?
 23 Q Both. Obviously you've talked to Mark Pribula,
 24 so I'm just trying to get a general feel for how
 25 often you'd be in contact with MnDOT during this

1 Q Okay. And were there more of those?
 2 A I don't recall any others.
 3 Q So you recall that meeting. What was the purpose
 4 of that meeting?
 5 A As I recall, we were trying to coordinate
 6 attending with the MnDOT crew when they were at
 7 the job site.
 8 Q Is this in connection with the 2003, the June
 9 2003 work?
 10 A I don't recall which -- what work that would have
 11 been. I don't know if it was for that one or if
 12 it was for a follow-up one. I don't recall.
 13 Q How many times did URS send somebody out to do
 14 fieldwork during the course of this project?
 15 MS. KNOLL: By fieldwork you mean --
 16 MS. BERGSTROM: Out on the bridge.
 17 MS. KNOLL: Just out on the bridge in
 18 general?
 19 BY MS. BERGSTROM:
 20 Q Yes.
 21 A I recall twice with the DOT. Yeah, twice with
 22 the DOT. And I was going to say once, I believe,
 23 we visited in the absence of the DOT to look at
 24 the bearing marking.
 25 Q When you say twice with the DOT, does that

Page 30

Page 32

1 project.
 2 A Well, I attended numerous project meetings -- or
 3 I should say progress meetings, not project.
 4 Q And I think there were four or five progress
 5 meetings. So would you have been at those?
 6 A Yes. I don't recall if I was specifically at all
 7 of them.
 8 Q Did you have any meetings separate from the
 9 progress meetings with MnDOT?
 10 A With regard to this project, to the 9340?
 11 Q That's right.
 12 A I don't recall any other meetings, no.
 13 Q You mentioned that you've talked to Mark Pribula
 14 with respect to this project. Was that in person
 15 or on the phone?
 16 A That was in person.
 17 Q And was that at one of the progress meetings?
 18 A No. That was at URS's office.
 19 Q Who was at that meeting?
 20 A There may have been others, but I recall Don
 21 Flemming, myself and Mark Pribula.
 22 Q So that at least was one meeting that you had
 23 with the MnDOT folks that wasn't a progress
 24 meeting?
 25 A Yes.

1 include the June 2003 visit?
 2 A As I recall. There may have been others. I'm
 3 unsure right now. There would have been a
 4 document for each time we were out there.
 5 Q We talked about the purpose of the June 2003
 6 visit. What was the purpose of the subsequent
 7 visits? Well, you said the ones without the DOT
 8 had to do with the bearings. What was the other
 9 visit with the DOT, the purpose of that?
 10 A The same task, marking bearing movements and
 11 positions at different temperature.
 12 Q Who physically did that from URS?
 13 A Ren Cowden. I believe Dr. Zhou was also in
 14 attendance at the second.
 15 Q So your meeting with Mark Pribula that we were
 16 talking about was about scheduling?
 17 A As I recall.
 18 Q Prior to this project had you met Mark Pribula?
 19 A No.
 20 Q In connection with the progress meetings that you
 21 attended, who else did you meet at MnDOT?
 22 A In attendance at those meetings?
 23 Q Right.
 24 A There was many people there. I could probably
 25 name some of them, but not all of them.

Page 33

1 Q Why don't you tell me who you remember.
 2 A And it somewhat probably varied from meeting to
 3 meeting, but in attendance at some, perhaps not
 4 all, would be Dan Dorgan, Kevin Western, Paul
 5 Kivisto, Bob Miller, Gary Peterson. Those are
 6 all MnDOT employees. That's all I recall right
 7 now, I guess.
 8 Q Prior to the I-35W project had you met any of
 9 those individuals before?
 10 A All of them.
 11 Q Okay. Have you met Todd Niemann?
 12 A I've met Todd.
 13 Q Was that in conjunction with the I-35W bridge
 14 project?
 15 A No.
 16 Q Was that some work for Parsons?
 17 A No. We had staff in the MnDOT office working on
 18 one of our rating projects with them, and the
 19 individuals we had over there were working in the
 20 structural metals area. I met all of those folks
 21 at that time.
 22 Q When did that ratings project start?
 23 A I'm not sure.
 24 Q Were you working on it in 2003?
 25 A I don't recall.

Page 34

1 Q The signed contract -- The contract was signed in
 2 December 2003 and initially had a final report
 3 due date in May of 2005. And as you know, the
 4 final report was never finished, but the
 5 preliminary final report was not completed until
 6 the summer of 2006. And I'd like to know, David,
 7 what is your understanding of why that process
 8 got delayed?
 9 A I really don't know. It wasn't my job to, you
 10 know, keep track of whether or not that contract
 11 was done or not.
 12 Q Were you involved in discussions at URS about it?
 13 A About the contract not --
 14 Q About the delay.
 15 A No, not that I recall.
 16 Q Were you involved in preparing any of the
 17 information to prepare the amendments of the
 18 contract?
 19 A No.
 20 Q Have you ever been involved, either at URS or in
 21 your previous positions, in evaluating or setting
 22 the NBI standards for a bridge?
 23 A Can you say that one more time?
 24 Q Sure. Either at URS or in your previous
 25 positions, have you ever been involved in setting

Page 35

1 or establishing the NBI standards for a bridge?
 2 A Are you talking about the NBI, the rating
 3 number?
 4 Q Right, right.
 5 A Yes.
 6 Q Have you ever done that for a fracture critical
 7 bridge?
 8 A No.
 9 Q During your work on the 9340 bridge, did you ever
 10 have conversations with MnDOT about the fact that
 11 the superstructure of the bridge had an NBI
 12 rating of 4?
 13 A No.
 14 Q Did you ever have conversations with Paul Kivisto
 15 about the NBI ratings on the bridge?
 16 A No.
 17 MS. BERGSTROM: Let's take a break.
 18 (Break taken.)
 19 BY MS. BERGSTROM:
 20 Q All right. David, understanding that I'm not an
 21 engineer, can you generally give me the
 22 description of the difference between what your
 23 role was on the project and what Brett's role was
 24 on the project?
 25 A I'm not sure, I guess, all of Brett's tasks and

Page 36

1 what he has done. I know that he worked on a lot
 2 of the modeling, which I didn't. That would be
 3 one difference.
 4 Q Was it his role to supply certain data to you so
 5 that you could do your role?
 6 A Yes. That was -- That worked both ways. I
 7 supplied data to Brett and Ed, and they supplied
 8 data back to myself and Don.
 9 Q Were you involved, David, in coming up with the
 10 recommendations that were made in the preliminary
 11 final report?
 12 A Do you have that, the document?
 13 Q I don't have the document here.
 14 A Do you know -- Could you explain, I guess, which
 15 ones you're talking about, then?
 16 Q Well, as I understand, the preliminary final
 17 report was delivered to MnDOT in July of 2006 and
 18 initially had three recommendations. One
 19 recommendation had to do with the redecking of
 20 the bridge. So were you involved in coming up
 21 with the redecking recommendation?
 22 A No.
 23 Q And then a second recommendation had to do with
 24 the plating retrofit recommendation. Were you
 25 involved in arriving at that recommendation?

Page 37

Page 39

1 A Yes.

2 Q Okay. And I think what you said earlier, you

3 were involved in designing the replating,

4 correct?

5 A Correct.

6 Q Any other role in the replating recommendation?

7 A In addition to designing; is that what you're

8 asking me?

9 Q Right.

10 A We produced some sketches of -- some plan sheets,

11 essentially, of what that would look like. I was

12 involved with that.

13 Q Was it your understanding that the replating

14 recommendation was intended to add redundancy to

15 the bridge?

16 A No.

17 Q What was your understanding of why the replating

18 was being recommended?

19 A To provide the capacity of that member should it

20 fracture at one of those internal tab locations.

21 Q So it was your understanding that the plating was

22 intended to strengthen the individual members?

23 A It -- No. It was more of a -- In my mind, my

24 task was to replace the lost capacity of that

25 member should it fracture.

Page 38

1 Q And so --

2 A It kind of depends on a person's definition of

3 redundancy.

4 Q So what definition are you using?

5 A Alternate load paths would be a redundant

6 structure to me.

7 Q And so was the replating that you were designing

8 intended to supply an alternate load path?

9 A With respect to a fractured member, yes. And

10 that's the gray area, as I see it, in your

11 question.

12 Q So if a member fractured, the plating was

13 intended to provide an alternate load path?

14 A Yes.

15 Q Okay. There was also in the July 2006

16 preliminary final report a recommendation on

17 continued inspection and testing of the bridge.

18 Were you involved in that recommendation?

19 A No.

20 (Long Exhibit 12 was marked for

21 identification by the court reporter.)

22 BY MS. BERGSTROM:

23 Q David, I'll have you look at Exhibit Number 12.

24 This appears to be an e-mail that you drafted,

25 along with a sketch. Why don't you take some

1 time to read it, and then I have a few questions

2 for you. Ready?

3 A Sure, yes.

4 Q So it appears that the top page is an e-mail to

5 you from Ed and Don, the second page is the

6 attachment, and then the third is Ed's response

7 to you via e-mail, okay? And, again,

8 understanding that I'm not an engineer, these are

9 pretty engineering-specific details in these

10 documents.

11 Let me ask you first, can you give me

12 kind of the layman's version of why you were

13 wanting to develop the end forces beyond the

14 diaphragm and what was the purpose of that?

15 A The purpose is that the assumed failure is at the

16 fatigue prone details at the diaphragm, and you

17 have to be able to develop the strength based

18 on -- assuming the failure point occurred at that

19 location.

20 Q So by extending the end forces beyond the

21 diaphragm, you're adding in some of that

22 alternative load path you were talking about?

23 A Not in this instance.

24 Q Okay. Is this e-mail -- Is this document,

25 Exhibit Number 12, dealing with concepts for the

Page 40

1 retrofit?

2 A Yes.

3 Q Okay. So when you develop the end forces beyond

4 the diaphragm, if you had a fatigue crack or

5 failure at the diaphragm, what would the

6 developed end forces do for that member?

7 A Can you phrase that again? I'm sorry.

8 Q And I might not be asking the question

9 correctly. I'm wondering if you go forward and

10 you do develop the end forces beyond the

11 diaphragm, and then you have a failure in the

12 diaphragm because you said it's the fatigue prone

13 area, what will that extended end forces

14 development do for the member?

15 A It will allow the forces to span across that

16 failure plane, again, with the assumed failure

17 plane occurring at those fatigue prone details,

18 at the internal diaphragm.

19 Q So using the word redundancy the way that you

20 defined it, would it add redundancy?

21 A It would add an alternate load path in the case

22 of a fracture, yes.

23 Q And then Ed's response to you, what is the point

24 he's making in response?

25 A Specifically he's telling me the three bolts that

Page 41

1 occur on the wrong side of that joint don't
 2 contribute to the connection, which was already
 3 known. I believe it's three. Yes.
 4 Q Ultimately did the retrofit that you designed
 5 contain this concept that's captured in Exhibit
 6 Number 12?
 7 A Something similar to it. I can't say that that
 8 was the final version or not.
 9 Q As I understand it in the time line, the
 10 preliminary final report was delivered to MnDOT
 11 in July of 2006, and then MnDOT and URS had a
 12 meeting in September of 2006 to discuss the
 13 recommendations. Were you at that meeting?
 14 A I believe I was, yes.
 15 Q And prior to that meeting various people at MnDOT
 16 had made written comments to the preliminary
 17 report. Were you aware of that?
 18 A Yes.
 19 Q Okay. Were you involved in drafting the response
 20 to the MnDOT comments?
 21 A No.
 22 Q At the September 2006 meeting there was some
 23 discussion about doing a fracture mechanics
 24 analysis on the bridge. Do you remember that?
 25 A No, not specifically.

Page 42

1 Q Were you involved in doing that analysis?
 2 A No.
 3 Q After the September 2006 meeting, was it your
 4 understanding that you were to continue to work
 5 on the retrofit design?
 6 A No.
 7 Q Did you have any task that you were given after
 8 the September 2006 meeting?
 9 A I don't recall.
 10 Q Did you have ongoing involvement in the project
 11 after September 2006?
 12 A Not that I recall.
 13 Q Were you aware that in December 2006, Ed Zhou had
 14 suggested that MnDOT do some testing on the
 15 bridge?
 16 A I was aware that it was being discussed. I guess
 17 I don't specifically know if it was Ed or others.
 18 Q Were you involved in any of the discussions about
 19 perhaps testing, doing testing on the bridge?
 20 A Not directly.
 21 Q In late 2006 or early 2007 there were some
 22 revised recommendations that were forwarded from
 23 URS to MnDOT. Were you involved in drafting
 24 those revised recommendations?
 25 A No.

Page 43

1 Q Were you aware of the specifics on the proposed
 2 type of testing that URS was recommending to
 3 MnDOT?
 4 A No.
 5 Q On January 17th, 2007 there was a meeting between
 6 URS and MnDOT to discuss how to proceed with
 7 respect to the bridge. Were you at that meeting?
 8 A I don't recall if I was at that meeting. If
 9 there are minutes or something from it, my name
 10 might be on that. I don't recall.
 11 Q It was a meeting that Don Flemming went over to
 12 the central bridge office and Ed Zhou was on by
 13 phone. Does that trigger any memory?
 14 A No.
 15 Q Do you remember being at any meetings where the
 16 various types of testing that might occur on the
 17 bridge was discussed?
 18 A No.
 19 Q Do you remember being at any meetings at MnDOT
 20 where Todd Niemann was present but not on the
 21 ratings project?
 22 A No, I don't recall.
 23 Q After January 2007 were you aware of how MnDOT
 24 had decided to proceed with the bridge?
 25 A Proceed --

Page 44

1 Q Do you know what recommendations that they
 2 decided to implement?
 3 A No.
 4 Q Did you have any discussions with anybody at URS
 5 about the testing that MnDOT was going to do on
 6 the bridge in the spring of '07?
 7 A Discussions with URS staff is what you're
 8 asking?
 9 Q Right.
 10 A I don't recall. I may have.
 11 Q During that springtime in 2007, were you
 12 continuing to finalize the retrofit details?
 13 A I don't recall.
 14 Q Were you still working on any aspect of the
 15 project when the bridge collapsed?
 16 A No.
 17 Q Were you aware that MnDOT went out and did an
 18 inspection on the bridge in May of 2007?
 19 A Not specifically, no.
 20 Q Did you have any discussions with anybody at
 21 MnDOT about -- or, excuse me -- at URS about
 22 that?
 23 A No, not that I recall.
 24 Q Were you aware that MnDOT was doing a
 25 construction project on the bridge in the summer

1 of 2007?

2 A When I saw the construction activity I was.

3 Q And that would have affected your commute?

4 A Absolutely.

5 Q Yeah. Just out of curiosity, did you drive on

6 the bridge on August 1, 2007?

7 A I drove twice on the bridge. My wife drove on

8 the bridge as well.

9 Q So you were already on your way back home by the

10 time it collapsed?

11 A I crossed the bridge probably about 3:45 that

12 afternoon. My wife crossed it probably 11:30

13 that day.

14 MS. BERGSTROM: Did you cross the

15 bridge that day?

16 MR. JOHNSON: No, I didn't because

17 there was -- the entry off of University was

18 closed.

19 BY MS. BERGSTROM:

20 Q Did anybody at MnDOT consult with you, David, in

21 conjunction with the construction project?

22 A No.

23 Q A fracture critical bridge steel truss bridge in

24 Ohio had a failure in 1996 that resulted in a sag

25 of that bridge, not a collapse. Were you aware

1 of that Ohio bridge sag when you were doing your

2 work on the I-35W bridge?

3 A No, not that I recall.

4 Q Have you had any involvement with MnDOT with

5 respect to the St. Cloud bridge closing?

6 A No.

7 Q Have you had any interaction with the NTSB?

8 A No.

9 Q Where is URS in the replating -- or the rerating

10 project? Are you done? The project with MnDOT

11 about rerating the bridges and getting them into

12 the Virtus system.

13 A Like I said earlier, we are in the final cleanup

14 of the submittals to the DOT on that, yes.

15 Q Who are your primary contacts at MnDOT for that?

16 A Paul Johnson.

17 Q Have you met Vance Desens?

18 A Not to my knowledge. The name is not familiar.

19 Q Okay. How about Kurt Fuhrman?

20 A Not familiar to me.

21 Q Bill Nelson?

22 A Bill Nelson is a familiar name to me, but I don't

23 know why.

24 Q There's probably dozens of them in Minnesota,

25 that's why.

1 You may have answered this, I just

2 don't remember. In connection with your work at

3 Parsons, had you done work with Dan Dorgan

4 before?

5 A With Dan. I don't believe so.

6 Q Okay. How about Gary Peterson?

7 A Most likely. Specific instance, I guess I'm --

8 It would not have been unusual to deal with Gary.

9 Q And Paul Kivisto?

10 A I would say yes.

11 Q How about Arlen Ottman?

12 A Yes.

13 Q Okay.

14 (Break taken)

15 BY MS. BERGSTROM:

16 Q We'll go back on the record. Just a few

17 follow-up questions, David. On Exhibit

18 Number 12, which should be in front of you, it

19 talks on the very first page about the five bolts

20 connected to the existing one-half inch gusset

21 plate. Where did you get the calculation that

22 the gusset plate was a half an inch?

23 A The calculations?

24 Q Uh-huh.

25 A It wouldn't have been. It would have been

1 pulling information off the existing -- the

2 contract documents, the construction documents.

3 Q Okay. And we talked about this a little bit, but

4 to what extent did your work on the retrofit take

5 into consideration section loss that was evident

6 on the bridge?

7 A It didn't factor into my work at all. There was

8 no noted significant section loss on the truss

9 members.

10 Q And would section loss on the connections have

11 factored into your work?

12 A No.

13 Q In doing your work for URS, and I think you said

14 this, there's times, depending on the project,

15 where you do take section loss into consideration

16 in reaching your conclusions, right?

17 A Yes.

18 Q And you mentioned sometimes, in fact the rerating

19 project, you might consider section loss in that

20 capacity?

21 A Correct.

22 Q If a gusset plate is a half an inch thick and it

23 has 3/16th of an inch section loss due to

24 corrosion, is that significant?

25 A I would account for it in the ratings if -- but

Page 49

Page 51

1 not -- You're specifically speaking about a
2 gusset plate?
3 Q I am.
4 A Would that be specific to what work, I guess?
5 Because it doesn't really factor into the ratings
6 project, if that's what we're talking about.
7 Q Were you aware, from reviewing the inspection
8 reports on this bridge, that some of the gusset
9 plates had noted a 3/16th inch section loss due
10 to corrosion?
11 A I don't specifically recall that. It didn't
12 really factor into what I was doing, what my
13 tasks were.
14 Q Is that, David, because the failure that you were
15 examining would have been failure due to fatigue
16 cracking as opposed to condition?
17 A It would have been, yes, fatigue failure at those
18 tab connections.
19 MR. JOHNSON: David, when you refer to
20 construction drawings as being the source for
21 this half-inch dimension, are you referring to
22 the shop drawings?
23 MR. LONG: Most likely I'm referring to
24 the contract documents, the original bid
25 documents.

1 STATE OF MINNESOTA)

2

3

4 COUNTY OF HENNEPIN)

5

6

7

8 REPORTER'S CERTIFICATE

9

10 I, Julie A. Rixe, do hereby certify
11 that the above and foregoing transcript, consisting of
12 the preceding 50 pages, is a correct transcript of
13 my stenographic notes and is a full, true and complete
14 transcript of the proceedings to the best of my
15 ability.

16

Dated April 30, 2008.

17

18

19

20

JULIE A. RIXE
Court Reporter

21

22

23

24

25

Page 50

1 MR. JOHNSON: Do you know whether those
2 were the shopping drawings or the design plans?
3 MR. LONG: Those would have been the
4 design drawing plans. I don't know specifically,
5 but that's where I would have looked first.
6 MR. JOHNSON: And they were made a part
7 of the contract by MnDOT? The drawings became a
8 part -- The drawings that became a part of the
9 contract were provided by MnDOT?
10 MR. LONG: You're referring to the
11 existing -- the contract plans?
12 MR. JOHNSON: Yes.
13 MR. LONG: Were they provided by
14 MnDOT?
15 MR. JOHNSON: Correct.
16 MR. LONG: Yes.
17 MS. BERGSTROM: I think we're done.
18 (Whereupon, the interview was concluded
19 at 11:01 a.m.)
20
21
22
23
24
25

1 INTERVIEW OF BRETT MCELWAIN - April 29, 2008

2
3
4 In the Matter of Conducting an Independent
5 Investigation into the Collapse of the I-35W Bridge

6
7 Dorsey & Whitney
8 50 South Sixth Street
9 Suite 1500
10 Salt Lake City Conference Room
11 Minneapolis, Minnesota

12 Met, pursuant to Notice, at one o'clock
13 in the afternoon on April 29, 2008.

14
15
16
17 INTERVIEWERS:

18 Kathryn Bergstrom and Greg Merz,
19 Attorneys at Law with Gray Plant Mooty Law Firm.

20 ALSO PRESENT:

21 Jocelyn Knoll and Eric Ruzicka,
22 Attorneys at Law with Dorsey & Whitney.

23 COURT REPORTER:

24 Julie A. Rixe
25

1 (McElwain Exhibits 1 through 10 were
2 marked for identification by the court
3 reporter.)

4 MS. BERGSTROM: We'll go on the record
5 and state appearances for the record. Katie
6 Bergstrom, Gray Plant Mooty law firm.

7 MR. MERZ: Gray Merz, Gray Plant Mooty.

8 MS. KNOLL: Jocelyn Knoll, Dorsey &
9 Whitney.

10 MR. RUZICKA: Eric Ruzicka, Dorsey &
11 Whitney.

12 MR. MCELWAIN: Brett McElwain, URS
13 Corporation.

14 EXAMINATION

15 BY MS. BERGSTROM:

16 Q Brett, we met briefly. May I call you Brett?

17 A That would be fine.

18 Q I'm going to show you Exhibit 1 and read it into
19 the record, which is how we've done every
20 interview in our investigation.

21 We are with the Gray Plant Mooty law
22 firm. Gray Plant Mooty has been retained by the
23 Minnesota Legislature to conduct an independent
24 investigation into the collapse of the I-35W
25 bridge. The Minnesota Legislature has asked us

1 INDEX

MCELWAIN EXHIBITS:	PAGE
2 1 - Witness Protocol for Interviews	3
3 2 - Response of Interest dated 3/28/03	3
4 3 - Fax dated 5/21/03 from E. Zhou to D. Flemming with attachments	3
5 4 - URS Initial Inspection Report for Bridge 9340	3
6 5 - E-mail dated 11/17/04 from E. Zhou to D. Long	3
7 6 - E-mail dated 12/13/06 from E. Zhou to D. Flemming	3
8 7 - E-mail dated 12/18/06 from E. Zhou to D. Flemming	3
9 8 - E-mail dated 2/1/07 from B. McElwain to E. Zhou	3
10 9 - E-mail dated 7/19/07 from D. Flemming to E. Zhou	3
11 10 - URS note dated 9/6/05	3
12 11 - E-mail dated 6/23/06 from B. McElwain to E. Zhou	19

1 to provide a report of our investigation by
2 May 1, 2008, which is now early May. We will be
3 asking you questions concerning the bridge
4 collapse and related policies, practices and
5 legislative oversight issues.

6 The purpose of this interview is to
7 determine what you might know about the matters
8 we are investigating.

9 Confidentiality. During the time our
10 investigation is active, the information that
11 interviewees provide to us is not public
12 information. The information you provide may no
13 longer be confidential once we submit the report
14 to the Legislature.

15 Process. You are required to answer
16 our questions truthfully. A court reporter is
17 present to record our conversation. Either
18 during this interview or later in our
19 investigation, we may determine that we need to
20 verify certain information. If that occurs, we
21 may ask you for a further recorded statement, a
22 signed affirmation or an oath statement.

23 Post-Interview contact. We view this
24 process as an ongoing dialogue. If you think of
25 anything after this interview that you want to

Page 5

Page 7

1 tell us about, please call or e-mail us.
 2 Likewise, we hope that you will respond to us if
 3 we call or e-mail you with follow-up questions or
 4 clarifications. And that last piece will
 5 obviously be through your council at Dorsey.
 6 A Okay.
 7 Q Any questions about that?
 8 A No.
 9 Q Brett, why don't you tell me about your
 10 educational background.
 11 A Okay. I graduated high school at Kennerdale High
 12 School in Pennsylvania. I went to the
 13 Pennsylvania State University, graduated in 1997
 14 with a bachelor of science in civil engineering
 15 and 1999 with a master of science in civil
 16 engineering.
 17 Q And your master's is from?
 18 A Also from Penn State.
 19 Q And after you got your master's, did you enter
 20 the workforce?
 21 A Yes, I did. I started right out with URS
 22 Corporation.
 23 Q In 1999?
 24 A 1999, yes.
 25 Q And have worked for them since then?

Page 6

Page 8

1 A Correct.
 2 Q Okay. When you started with URS in 1999, what
 3 was your job title?
 4 A I believe it was just structural engineer, I
 5 believe.
 6 Q And what's your job title now?
 7 A Senior structural engineer.
 8 Q Can you tell me a little bit about your job
 9 duties as the senior structural engineer?
 10 A Just in general?
 11 Q Yeah, your job description, what you do for URS.
 12 A Basically I'm involved, depending on what the
 13 project is, be it an analysis job, I'll do
 14 analysis work, computer modeling, maybe design
 15 work. I also interact with some of our younger,
 16 lower-level engineers and kind of -- not directly
 17 oversee them, but help oversee them, work with
 18 draftsmen to create plans, do some cost
 19 estimates. Basically that's about it.
 20 Q Who do you report to at URS?
 21 A My direct supervisor Nick Deros.
 22 Q In your training, either undergrad, master's
 23 program or on the job, did you have any specific
 24 training on fracture critical bridges?
 25 A No specific training, no.

1 Q How many projects have you been involved with at
 2 URS that dealt with fracture critical bridges?
 3 A I guess I'll give you a little clarification.
 4 There's nothing that I would say outside of the
 5 9340 job that was specifically a fracture
 6 critical job. There are other bridges that may
 7 have fracture critical pieces that I did work
 8 with, but it would not be considered directly a
 9 fracture critical analysis, if that makes sense.
 10 Q Uh-huh. Have you had any training as a bridge
 11 inspector?
 12 A No formal training. I have been out in the field
 13 and I have -- You know, that was one of the
 14 earlier things I did as an engineer starting out,
 15 and I have done that in the past. But I do not
 16 have a certification or any formal training in
 17 that, just basically the company training.
 18 Q Okay. And when you've done company training, has
 19 that been on fracture critical bridges?
 20 A Yes, but, again, not to do specifically a
 21 fracture critical inspection.
 22 Q When did you first get involved in the -- Well,
 23 let me if you first: Other than the I-35W
 24 bridge, do you have any other projects going on
 25 with MnDOT?

1 A I don't know if this is directly with MnDOT. We
 2 have a project, the Washington Avenue bridge.
 3 And I believe that MnDOT is involved in that, but
 4 I do not believe they're the client. And I've
 5 done just some review work of another engineer's
 6 work.
 7 Q All right. When did you get involved in the
 8 I-35W project?
 9 A I believe it was January of 2004.
 10 Q Were you part of the team -- Well, based on the
 11 date, you wouldn't have been part of the team
 12 that prepared the Response of Interest?
 13 A No, I was not.
 14 Q Okay. How was it that you became involved?
 15 A I don't recall. It would either be Nick Deros or
 16 Ed Zhou would have informed me. I knew prior to
 17 that date that I was going to be slated to be
 18 working on this project, but I'm not sure exactly
 19 when. And I'm not sure which of the two of them,
 20 but it would have either been Nick Deros or Ed
 21 Zhou that would have told me that I'd be working
 22 on it.
 23 Q And who is the team of people at URS that was the
 24 team you worked with on this project?
 25 A Primarily Ed Zhou, then David long and Don

Page 9

Page 11

1 Flemming, but mainly Ed Zhou.
 2 Q And are you in the same office as he?
 3 A Not exactly. I don't know if he explained to
 4 you. He's technically a Hunt Valley employee,
 5 but he works at another office in Maryland. He's
 6 generally available via phone or we would meet
 7 occasionally in our office. But, generally, no,
 8 he's not in the same office.
 9 Q And you're in the Hunt Valley office?
 10 A That's correct.
 11 Q Have you always been in that office?
 12 A Yes, I have.
 13 Q So in January of 2004, what was your
 14 understanding of your role on this project?
 15 A My understanding was that I would be doing the
 16 bulk of the computer analysis and also assisting
 17 in preparing the report based on the results that
 18 we found from the computer.
 19 Q Did you physically come to Minnesota?
 20 A Not at that time, no. I believe it was more
 21 2005. It was one of the series of progress
 22 meetings, but I think it was about a year later.
 23 Q So your work from January 2004, at least until
 24 you visited in 2005, was to take data and do the
 25 computer analysis?

1 A Based on the University of Minnesota report,
 2 which we had a copy of, there was discussion in
 3 there, I believe, about the bearings being
 4 possibly locked up. And part of the computer
 5 analysis was looking at different -- and these
 6 are the main bearings -- looking at both the main
 7 bearings and the stringer bearings under
 8 different conditions, either locked or unlocked.
 9 Q So where did you get information regarding those
 10 bearings?
 11 A For the computer model it was basically either
 12 one or the other, either looking at them locked
 13 up and not being able to perform or looking at
 14 them being able to move, as they were originally
 15 designed and shown on the plans.
 16 Q So you didn't necessarily need field data for
 17 that, it was just an assumption of one or the
 18 other?
 19 A For what I did, yes.
 20 Q Okay. Now, as part of your work, did you
 21 review -- I'm going to show you Exhibit
 22 Number 4. And this is the June 3rd inspection
 23 report that -- June 2003, excuse me, inspection
 24 report that URS did. This would have been before
 25 your involvement in the project. And as I told

Page 10

Page 12

1 A Yes.
 2 Q Okay. Where did you get that data from?
 3 A Basically it was from the original contract plans
 4 for the bridge. We also had a copy of some of
 5 the retrofits done to the bridge and we had a
 6 copy of the shop drawings.
 7 Q And by retrofits, do you mean the 1977 and 1998
 8 work that was done to the bridge?
 9 A Correct, yes.
 10 Q Did you have copies of the inspection reports?
 11 A I don't recall. We may have, but I'm not sure.
 12 Q You don't, as you sit here, remember reading
 13 through the inspection reports?
 14 A No.
 15 Q As part of your analysis, Brett, did you attempt
 16 to identify or quantify any section loss on the
 17 bridge due to corrosion?
 18 A No.
 19 Q Did you attempt to identify or quantify any
 20 section loss for any other reason?
 21 A No.
 22 Q Did you, as part of your analysis, do any
 23 investigation into the bearings on the bridge?
 24 A I guess I'd say that's a qualified yes.
 25 Q All right. Tell me your qualification.

1 Ed Zhou, this is just a portion of the report.
 2 It has pages upon pages of pictures attached to
 3 it --
 4 A Okay.
 5 Q -- and I've just omitted the pictures. But my
 6 question to you is, did you see this report with
 7 the attached pictures?
 8 A I don't believe so, no.
 9 Q So that's not something that you would have
 10 relied on in doing your analysis?
 11 A Not in what I did, no.
 12 Q You mentioned one of the progress meetings. I
 13 think there were approximately four progress
 14 meetings.
 15 A That sounds about right.
 16 Q Did you physically come to Minnesota for those?
 17 A Just for one of them.
 18 Q And that was the first one?
 19 A No. I want to guess it was the fourth one. I
 20 know I appear in the meeting minutes as an
 21 attendee, so it's something we could track down,
 22 but I can't recall.
 23 Q That's the March of '05 meeting?
 24 A That sounds right.
 25 Q Was that the only time you were in Minnesota in

Page 13

Page 15

1 connection with your work on the project?
 2 A Yes, it was.
 3 Q And who did you meet when you came?
 4 A Both Ed and I, Ed Zhou and I came, David Long and
 5 Don Flemming were there. I honestly don't recall
 6 who we met from MnDOT. I know there was a
 7 handful of people from MnDOT there, probably four
 8 or five, but I had never met any of them at the
 9 time. I can't say for sure who exactly was there
 10 from their end.
 11 Q Prior to that meeting had you had occasion to
 12 talk on the phone with any MnDOT folks?
 13 A No.
 14 Q So, then, other than the March 2005 meeting where
 15 you met some of them, have you ever had meetings
 16 with them face to face --
 17 A No --
 18 Q -- since?
 19 A -- no.
 20 Q How about phone calls?
 21 A No.
 22 Q The contract for the study that you were working
 23 on was signed in December 2003, with initial
 24 final report completion date of May 2005,
 25 approximately 16 months later. Then obviously

1 investigation into the various members'
 2 connection details to determine the adequacy of
 3 those connections?
 4 A Yes.
 5 Q Okay. Tell me about that process.
 6 A We wanted to consider the connections when we
 7 were doing our redundancy analysis. So,
 8 essentially, when a member would fail, a main
 9 truss member, we wanted to make sure that we were
 10 also checking the connections.
 11 And the way we did that was we assumed
 12 that they had been designed properly, based on
 13 the contract plans that indicated they met the
 14 AASHTO specs. And using the original AASHTO
 15 specs, how they should have been designed, we
 16 used those guidelines, which basically says the
 17 connections should be essentially as strong as
 18 the member. So we did not directly calculate a
 19 connection capacity.
 20 Q So those are based on AASHTO specs as opposed
 21 to --
 22 A AASHTO is basically the governing criteria for
 23 bridge design, so that's essentially the only
 24 place you would look.
 25 Q Did you use the shop drawings in connection with

Page 14

Page 16

1 that was delayed through a number of amendments
 2 and some other things.
 3 A Yes.
 4 Q Can you generally describe the basis for the
 5 reason for that delay?
 6 A I guess from my perspective it was a very
 7 complicated analysis, and I think between that
 8 and the amount of data and the length of the
 9 report, it just took longer than it was
 10 anticipated.
 11 Q Had you ever been involved in a redundancy study
 12 before, like the one you were doing on the 35W
 13 bridge?
 14 A No.
 15 Q As part of your analysis, Brett, did you
 16 undertake any structural integrity analysis of
 17 the bridge as built -- as designed? Excuse me.
 18 A Can you rephrase that? I'm not quite --
 19 Q Yeah, sorry.
 20 A I'm not quite sure what you're asking.
 21 Q I'm wondering if as part of your analysis whether
 22 you have looked at the structural integrity of
 23 the bridge as it was designed?
 24 A No.
 25 Q And as part of your analysis, did you do any

1 that exercise?
 2 A Not that I recall.
 3 Q The original plans?
 4 A Yes.
 5 Q Brett, can you tell me what shop drawings you
 6 got, generally speaking?
 7 A Yes. We got, to my understanding, all the shop
 8 drawings that were available for the structural
 9 steel, and some were not available.
 10 Q Did you have some conversations with MnDOT about
 11 which ones weren't available?
 12 A No.
 13 Q Did MnDOT communicate to you the fact that some
 14 were not available?
 15 MS. KNOLL: Just to clarify, again,
 16 when you say communicate to you, are you talking
 17 Brett personally or are you talking URS?
 18 BY MS. BERGSTROM:
 19 Q Well, URS if you know and to you personally if it
 20 came to you.
 21 A I'm not sure how it was directed to us. I did
 22 not receive any direction directly from MnDOT
 23 that there was missing shop drawings.
 24 Q Okay. How did you come to know that some of the
 25 shop drawings weren't available?

Page 17

Page 19

1 A I believe it was either from talking with David
 2 Long or Ed Zhou.
 3 Q And do you know, do you remember which ones were
 4 missing?
 5 A No.
 6 Q Did the missing shop drawings affect your ability
 7 to do the analysis that you were doing?
 8 A No.
 9 Q After the March 2005 progress meeting, did you
 10 have a hand in drafting the preliminary final
 11 report?
 12 A Yes.
 13 Q What was your role in that?
 14 A Primarily I ran off the sections that involved
 15 the analysis and the results. Basically I wrote
 16 the sections that explained what I had done with
 17 the computer model.
 18 Q And is that on the fatigue study side or on the
 19 redundancy side?
 20 A The redundancy side.
 21 Q Were you involved with the fatigue analysis as
 22 well?
 23 A No.
 24 Q Who was in charge of that?
 25 A Ed Zhou.

1 making the recommendations, but you provided some
 2 back-up analysis for that?
 3 A Yes.
 4 Q And what specifically do you remember about that?
 5 MS. KNOLL: Do you understand the
 6 question?
 7 MR. MCELWAIN: I'm not quite sure, I
 8 guess, what you're getting at.
 9 BY MS. BERGSTROM:
 10 Q You've said a couple of times you weren't
 11 directly involved, so I'm trying to understand
 12 the nature of your involvement. Let's start
 13 generally. Generally tell me how you were
 14 involved in the redecking analysis, and then
 15 maybe we can drill down from there.
 16 A Okay. Basically my role was to run the computer
 17 models considering this different case, where we
 18 made some changes to the deck and assumed that it
 19 was redecked, looked at how that changed load
 20 distribution in the members. And based on those
 21 results and having those results and discussing
 22 them with Ed, that's how that would generate the
 23 recommendation.
 24 (McElwain Exhibit 11 was marked for
 25 identification by the court reporter.)

Page 18

Page 20

1 Q Were you involved in making the recommendations
 2 that were -- the initial recommendations that
 3 were in the July 2006 report?
 4 A Not directly, no.
 5 Q So the redecking recommendation was not something
 6 you were involved with?
 7 A Not directly, no.
 8 Q How were you indirectly involved in that?
 9 A Some of the computer analysis I did was looking
 10 at the benefit, potential benefit of doing a
 11 redecking and changing how that deck is
 12 connected. So there was some analysis work
 13 involved.
 14 Q I recall some e-mails about some discussions with
 15 Don Flemming on the symmetries involved and
 16 things like that. Is that the back-up
 17 documentation -- or back-up analysis that you're
 18 talking about?
 19 A Not directly, no.
 20 Q So what kinds of back-up analysis were you
 21 providing on the redecking?
 22 A I believe there is a section of our draft report
 23 that deals specifically with the redecking
 24 analysis.
 25 Q And as I understand it, you weren't involved in

1 BY MS. BERGSTROM:
 2 Q Brett, I'll have you looked at Exhibit
 3 Number 11. This is a long e-mail string, and I'm
 4 really only concerned about the front page.
 5 A Okay.
 6 Q It looks like there's some drafting that's going
 7 on and some editing that's going on in the
 8 preliminary final report. And if you can read
 9 the paragraph that talks about the major -- that
 10 starts with, The major item that Don was
 11 concerned about was Recommendation 4.
 12 A Yes.
 13 Q So why don't you read through that, and then I'll
 14 ask you some questions about that.
 15 A Okay. I've read it.
 16 Q Okay. First of all, it says that you have found
 17 truss members that are already subjected to
 18 bending that was not accounted for in the
 19 design. What do you remember about that, what
 20 members, and what was the bending that is
 21 discussed there?
 22 A My understanding is that traditionally, truss
 23 design was based on the assumption that the truss
 24 members take an axial load only. When you do a
 25 3-D analysis, the benefit is that you can

Page 21

Page 23

1 consider three-dimensional behavior, but that
 2 means that in addition to that member being
 3 subjected to an axial loading, it has a bending
 4 as well.
 5 Q And so that bending -- it appears that that
 6 bending caused Don Flemming to have some concerns
 7 with an unsymmetrical deck replacement?
 8 A Yes.
 9 Q In responding to his concerns, did you do any
 10 analysis on having a symmetrical deck replacement
 11 versus an unsymmetrical deck replacement?
 12 A I don't believe so.
 13 Q Did you do any analysis to further alleviate any
 14 of the concerns that he had raised to you?
 15 A I don't believe so.
 16 Q Ultimately did URS recommend the symmetrical deck
 17 replacement?
 18 A I honestly don't remember.
 19 Q There's a comment that he's hesitant to recommend
 20 something that's out of the ordinary, even if it
 21 was what MnDOT was hoping for. Did you have any
 22 discussions with anybody at URS about what MnDOT
 23 was hoping to see in this report?
 24 A In our study we did want to look at an
 25 unsymmetrical deck replacement. I can't recall

1 Q But the actual replating needed a design format.
 2 A Yes.
 3 Q Okay. And were you involved in the analysis --
 4 underlying analysis for the recommendation to
 5 further test and inspect --
 6 A No.
 7 Q -- the bridge? Once the preliminary final report
 8 went to MnDOT in July 2006, what was your ongoing
 9 role?
 10 A At that point it was waiting to get comments back
 11 from MnDOT once the preliminary report was turned
 12 in.
 13 Q And did you get comments from MnDOT?
 14 A We did, yes.
 15 Q And then what did you do with those comments;
 16 what's your role?
 17 A Basically trying to address whatever comments
 18 they have.
 19 Q As I understand it, there was a meeting in
 20 September of 2006 to discuss the MnDOT comments
 21 and to discuss steps going forward. Were you
 22 involved in that meeting?
 23 A No.
 24 Q So Ed, Don, maybe David would meet with MnDOT and
 25 then bring back work for you to do?

Page 22

Page 24

1 where that came from, but I know that was one of
 2 the things we wanted to look at.
 3 Q So when Don had this conversation with you and
 4 asked you to modify the recommendation, what do
 5 you believe was your next step with respect to
 6 this issue? Was it to talk to Ed and get his
 7 input or something else?
 8 A I believe for the purposes of the draft, it was a
 9 slight change to the recommendation, but
 10 ultimately it would be to speak with Ed about it.
 11 Q Were you involved -- This paragraph talks about
 12 the recommendation that was the deck
 13 replacement. Were you involved in doing some of
 14 the analysis or writing any of the report
 15 relating to the replating recommendation?
 16 A Yes.
 17 Q What was your involvement in that?
 18 A I provided forces from our model to David Long
 19 for his use in designing the retrofits, the
 20 plating retrofits.
 21 Q And who designed the redecking?
 22 A Can I give you a qualified answer for that?
 23 Q Sure, absolutely.
 24 A I wouldn't say we designed the redecking. It was
 25 more of an analysis.

1 A Somebody met with them, yes, and essentially
 2 that's it, right, I was given the comments.
 3 Q Okay. And I think you told me this, but I just
 4 don't remember. So other than the meeting in
 5 March of 2005, you never talked on the phone with
 6 anybody at MnDOT?
 7 A That is correct, I never did.
 8 Q Okay. At the meeting in March of 2005, do you
 9 remember in any part of that meeting MnDOT
 10 raising funding concerns?
 11 A No.
 12 Q Were you involved at all, Brett, in some of
 13 the -- Were you involved in the fracture
 14 mechanics analysis that URS did in the fall of
 15 2006?
 16 A No.
 17 Q Did you know that was being done?
 18 A Yes.
 19 Q Were you aware of the recommendations that URS
 20 made as a result of the fracture mechanics
 21 analysis?
 22 A Yes.
 23 Q And who did you discuss that with?
 24 A Ed Zhou.
 25 Q And what was your understanding of what

Page 25

Page 27

1 recommendations were being made as a result of
 2 the fracture mechanical analysis?
 3 A My understanding was that the recommendations
 4 would be that they could plate, as initially
 5 recommended, they could inspect or they could do
 6 a combination of the two.
 7 Q And were you involved in writing up those revised
 8 recommendations?
 9 A I don't believe so, no.
 10 Q Do you know what kind of inspecting or testing
 11 was contemplated in making that recommendation?
 12 A Not exactly, no.
 13 Q Were you aware that Ed had obtained some bids
 14 from some testing companies with respect to the
 15 bridge?
 16 A Yes.
 17 Q Okay. Did you have any involvement in that?
 18 A No.
 19 Q Did you see the responses from the testing
 20 companies?
 21 A I don't believe so.
 22 Q Were you involved in the January 2007 meeting
 23 when the revised recommendations were discussed?
 24 A No.
 25 Q Did anybody report back to you the decision MnDOT

1 Q So in the spring or early February '07 time frame
 2 going forward, was it your job, then, to finalize
 3 the report and the various recommendations that
 4 were being made?
 5 A The report, yes. The recommendations I would say
 6 no.
 7 Q Okay. But helping Ed and the other URS folks
 8 finalize the analysis within the report itself?
 9 A Yes.
 10 Q At some point did you hear that MnDOT had gone
 11 out and done the inspection -- or an inspection
 12 of the bridge?
 13 A Yes.
 14 Q Okay. When did you find that out?
 15 A I don't recall.
 16 Q Do you know what MnDOT did on the bridge?
 17 A No.
 18 Q Did you ever have discussions with anybody at URS
 19 about that?
 20 A About what they exactly did?
 21 Q Right.
 22 A No.
 23 Q Or about what they generally did?
 24 A I think generally -- I can't recall for certain
 25 what was discussed, other than that I knew they

Page 26

Page 28

1 had made on how to proceed going forward?
 2 A I don't think anyone told me exactly what MnDOT
 3 had decided.
 4 Q Did you know what the plan was in the spring --
 5 or in early January, February 2007 time frame?
 6 A I believe so, yes.
 7 Q And what was your understanding of that?
 8 A I guess my understanding was that we would be
 9 issuing these recommendations, and ultimately it
 10 was going to be a decision that MnDOT would have
 11 to make, as to what the -- what they would
 12 finally do.
 13 Q Were you aware that MnDOT had decided to do some
 14 testing on its own of the bridge with its own
 15 crews?
 16 A Yes.
 17 Q How did you figure that -- find that out?
 18 A Ed had indicated to me that they would be doing
 19 some testing.
 20 Q And was it your understanding that Ed was
 21 supposed to accompany MnDOT on the inspection?
 22 A Yes.
 23 Q And did you have an understanding of when that
 24 was supposed to take place?
 25 A No.

1 were going to be out there doing some kind of
 2 inspection.
 3 Q What about after the fact? When you found out
 4 they had gone out and done something, did you
 5 discuss that at URS?
 6 A Aside from knowing that Ed was to have a meeting
 7 about what they found, no.
 8 Q So you never discussed with Ed the fact that they
 9 went forward without you?
 10 A He mentioned that.
 11 Q Did you ever have a discussion with Ed where he
 12 mentioned something to you, where he discussed
 13 whether MnDOT had the internal capabilities to do
 14 the type of testing that Ed was talking about?
 15 A Can you repeat that? I'm sorry.
 16 Q I'm just wondering if you had any conversations
 17 with Ed or Ed had any conversations with you
 18 where you discussed whether MnDOT had the
 19 internal capabilities to do the kind of testing
 20 that Ed had been recommending?
 21 A No, we didn't have that conversation.
 22 Q And had you had that conversation with anybody
 23 else at URS?
 24 A No.
 25 Q You were still working on finalizing the report

Page 29

Page 31

1 right up to the day of the bridge collapse,
 2 right?
 3 A Yes.
 4 Q Brett, the media has reported some pictures that
 5 were taken by URS in June of 2003, prior to your
 6 involvement in the project, where it shows the
 7 bowing of some of the gusset plates on the
 8 bridge. Have you heard that in the media?
 9 A Yes.
 10 Q Okay. Prior to the bridge collapse had you ever
 11 seen those pictures?
 12 A No.
 13 Q Had you ever discussed the bowing of any or
 14 buckling of any gusset plates on the bridge?
 15 A Not on this bridge, no.
 16 Q I'll show you Exhibit Number 10. We talked about
 17 this with Ed. This appears to be a memorandum
 18 written by you, right?
 19 A Yes.
 20 Q Okay. Why don't you tell me what this memorandum
 21 signifies.
 22 A We had a general discussion about how we wanted
 23 to handle the connections for the redundancy
 24 analysis, and we were speaking in reference to
 25 the Cleveland Viaduct job and how it was handled

1 any further involvement with this project?
 2 A Can you clarify a little bit?
 3 Q I understand that the final report was not
 4 finished, correct?
 5 A Correct.
 6 Q Okay. Have you had any -- Other than the
 7 Washington Avenue bridge, have you had any other
 8 ongoing contact with MndOT?
 9 A No.
 10 MS. KNOLL: I just want to clarify your
 11 comment, other than the Washington bridge. I
 12 think his testimony was even with the Washington
 13 bridge, he hasn't had any direct contact with
 14 MndOT. Is that accurate?
 15 MR. MCELWAIN: That is accurate. Can I
 16 also clarify that?
 17 MS. KNOLL: Sure.
 18 MR. MCELWAIN: I'm not sure that MndOT
 19 is the client for that either.
 20 BY MS. BERGSTROM:
 21 Q I remember you said that, yeah. I guess maybe a
 22 fair way to ask that is, to the extent that MndOT
 23 is involved in Washington Avenue. Putting
 24 Washington Avenue aside, you don't have any other
 25 further involvement with MndOT?

Page 30

Page 32

1 there.
 2 Q The reference in the first sentence to the gusset
 3 plate buckling, why don't you tell me what you
 4 recall about that notation.
 5 A My recollection is that was a general statement,
 6 that basically if a gusset plate is designed
 7 properly, it doesn't necessarily mean that
 8 buckling is a catastrophic problem. I don't
 9 recall who made the statement.
 10 Q Were you involved in the Cleveland bridge
 11 project?
 12 A No.
 13 Q Do you know what analysis was done on the
 14 connections on that bridge?
 15 A No.
 16 Q Based on this discussion, how did you determine
 17 to handle the connections with respect to the
 18 I-35W bridge?
 19 A That's when we looked into the AASHTO code and
 20 made the assumption that the original design was
 21 correct. Based on that, we used the code to
 22 indirectly calculate an adjustment factor to
 23 apply to the member capacities to account for the
 24 connections.
 25 Q After the bridge collapse, Brett, have you had

1 A Correct.
 2 Q Brett, in working on -- Well, I think you
 3 answered this, actually. Other than the I-35W
 4 bridge, you said you've not worked on any other
 5 fracture critical bridge projects with URS?
 6 A Not directly, not an actual fracture critical
 7 analysis. I have worked on fracture critical
 8 bridges, but not an actual fracture critical
 9 analysis.
 10 MS. BERGSTROM: Why don't we just take
 11 a minute.
 12 (Break taken.)
 13 BY MS. BERGSTROM:
 14 Q I had asked you, Brett, whether in your one
 15 meeting and discussion with MndOT, anybody from
 16 MndOT had raised any funding concerns, and I
 17 think your answer was no, they hadn't. Have you
 18 had any conversations amongst the people at URS
 19 about funding pressures at MndOT?
 20 A No.
 21 Q In 1996, and you would have still been pursuing
 22 your education, the fracture critical truss
 23 bridge over the Ohio -- over the Grand River in
 24 Ohio sagged. Were you aware of that bridge
 25 incident at the time that you were working on the

Page 33

Page 35

1 MndOT project?
2 A No.
3 Q In doing the redundancy study that you were
4 working on, did you -- what kind of sources did
5 you use for redundancy studies?
6 A I basically discussed with Ed the procedure we
7 wanted to follow.
8 Q And as I understand it, you were modeling what
9 the redundancy would be if a single member
10 failed, right?
11 A Yes.
12 Q And when you say, I discussed with Ed the
13 procedure we wanted to follow, what procedure did
14 you follow?
15 A We identified eight critical members. And,
16 basically, we would remove that member from the
17 model, run the analysis, see how the loads
18 redistributed throughout the bridge into the
19 other members, and then repeat that for the
20 remaining seven critical members.
21 Q And maybe you said this, but you had never done
22 an analysis like that before, correct?
23 A That is correct.
24 Q And when you say eight critical members, you take
25 one out and you see how the loads vary with the

1 since the bridge collapse?
2 A No.
3 Q That's all I have. Thanks for your time.
4 A Sure.
5 (Whereupon, the interview was concluded
6 at 2:07 p.m.)
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Page 34

Page 36

1 remaining seven. Then when you move onto the
2 next member, do you put the first one back?
3 A Yes. You're assuming a single member fails at a
4 time.
5 Q Okay, okay. Were you able to find any studies
6 where -- on a fracture critical bridge where some
7 other consultant or university, whatever you want
8 to call it, had done a redundancy study similar
9 to this?
10 A I didn't look into anything like that.
11 Q Okay. And then did you say that in order to come
12 up with the replating option to add redundancy,
13 it was David Long who designed that?
14 A David Long designed the plates, correct.
15 Q And you just supplied him the information from
16 your analysis that he needed in order to make
17 those design calculations?
18 A Yes.
19 Q All right. Were you aware, Brett, that MndOT had
20 a construction project scheduled for the bridge
21 in the summer of 2007?
22 A No.
23 Q Nobody ever talked to you about that?
24 A No.
25 Q And have you had any interaction with the NTSB

1 STATE OF MINNESOTA)
2
3
4 COUNTY OF HENNEPIN)
5
6
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9

REPORTER'S CERTIFICATE

10 I, Julie A. Rixe, do hereby certify
11 that the above and foregoing transcript, consisting of
12 the preceding 35 pages, is a correct transcript of
13 my stenographic notes and is a full, true and complete
14 transcript of the proceedings to the best of my
15 ability.

16 Dated April 29, 2008.
17
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22
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24
25JULIE A. RIXE
Court Reporter

1 INTERVIEW OF ED ZHOU - April 29, 2008

2
3
4 In the Matter of Conducting an Independent
5 Investigation into the Collapse of the I-35W Bridge

6
7 Dorsey & Whitney LLP
8 50 South Sixth Street
9 Suite 1500
10 Salt Lake City Conference Room
11 Minneapolis, Minnesota

12 Met, pursuant to Notice, at nine
13 o'clock in the morning on April 29, 2008.

14
15
16
17 INTERVIEWERS:

18 Kathryn Bergstrom and Thomas Johnson,
19 Attorneys at Law with Gray Plant Mooty Law Firm.

20 ALSO PRESENT:

21 Jocelyn Knoll and Eric Ruzicka,
22 Attorneys at Law with Dorsey & Whitney LLP.

23 COURT REPORTER:

24 Julie A. Rixe
25

1 (Zhou Exhibit 1 was marked for
2 identification by the court reporter.)
3 MS. BERGSTROM: We are conducting the
4 interview of one of the URS representatives at
5 the Dorsey & Whitney law offices. And sticking
6 to the protocol that we've been following all
7 along, we'll go around the table and state our
8 appearances. I'm Katie Bergstrom with the Gray
9 Plant Mooty law firm.

10 MR. JOHNSON: I'm Tom Johnson, also
11 with Gray Plant Mooty.

12 MS. KNOLL: I'm Jocelyn Knoll with the
13 Dorsey & Whitney firm here on behalf of URS.

14 MR. ZHOU: And I'm Eric Ruzicka, also
15 from the Dorsey & Whitney firm, R-U-Z-I-C-K-A.

16 MR. ZHOU: I'm Ed Zhou, Z-H-O-U, with
17 URS Corporation.

18 EXAMINATION

19 BY MS. BERGSTROM:

20 Q Ed, we met briefly. May I call you Ed?

21 A Yes.

22 Q I'm going to start with showing you and reading
23 to you a witness protocol. Every interview that
24 we have done in connection with our work we have
25 started by reading through this and putting it on

1 INDEX

Page 2

ZHOU EXHIBITS:	PAGE
2 1 - Witness Protocol for Interviews	3
3 2 - Response of Interest dated 3/28/03	9
4 3 - Fax dated 5/21/03 from E. Zhou	14
5 4 - URS Initial Inspection Report	14
6 5 - E-mail dated 11/17/04 from E. Zhou	29
7 6 - E-mail dated 12/13/06 from E. Zhou	44
8 7 - E-mail dated 12/18/06 from E. Zhou	46
9 8 - E-mail dated 2/1/07 from B. McElwain	53
10 9 - E-mail dated 7/19/07 from D. Flemming	55
11 10 - URS note dated 9/6/05	59

1 the record, so I want to be consistent with you
2 and all the URS representatives as well.

3 First, Authority. We are with the Gray
4 Plant Mooty law firm. Gray Plant Mooty has been
5 retained by the Minnesota Legislature to conduct
6 an independent investigation into the collapse of
7 the I-35W bridge. The Minnesota Legislature has
8 asked us to provide a report of our investigation
9 by May 1, 2008, now a little bit later than
10 that. We will be asking you questions concerning
11 the bridge collapse and related policies,
12 practices and legislative oversight issues.

13 The purpose of this interview is to
14 determine what you might know about the matters
15 that we are investigating.

16 Confidentiality. During the time our
17 investigation is active, the information that
18 interviewees provide to us is not public
19 information. The information you provide may no
20 longer be confidential once we submit a report to
21 the Legislature.

22 Process. You are required to answer
23 our questions truthfully. A court reporter is
24 present to record our conversation. Either
25 during this interview or later in our

Page 5

Page 7

1 investigation, we may determine that we need to
 2 verify certain information. If that occurs, we
 3 may ask you for a further recorded statement, a
 4 signed affirmation or an oath statement.
 5 Post-Interview contact. We view this
 6 process as an ongoing dialogue. If you think of
 7 anything after this interview that you want to
 8 tell us about, please call or e-mail us.
 9 Likewise, we hope that you will respond to us if
 10 we call or e-mail you with follow-up questions or
 11 clarifications. And on that final note,
 12 obviously that would be through your counsel.
 13 Any questions about that?
 14 A No.
 15 Q Okay. Ed, can you tell me about your educational
 16 background?
 17 A Yes. I went to college at Northern Jiaotong
 18 University. That was in Beijing, China. And I
 19 came to the U.S. in nineteen -- Well, after that
 20 I went to China Academy of Railway Sciences,
 21 worked for six years. The first three years was
 22 also graduate-level training. I got a master's
 23 degree in railway engineering. I then worked
 24 three years in the Railway Academy.
 25 I came to the U.S. in 1988, went to

1 of fracture critical bridges?
 2 A Fracture critical is a specific area. In general
 3 I would say fatigue and fracture.
 4 Q And is it specific to bridges?
 5 A Yes.
 6 Q Okay. And is it specific to steel truss bridges?
 7 A Steel bridges.
 8 Q Steel bridges. And then is there a category of
 9 fracture critical steel bridges that are
 10 non-redundant or are they all non-redundant?
 11 A There are two primary components. For example,
 12 for girder bridges, if you have a two-girder
 13 system, that would be fracture critical. And
 14 trusses, usually there are two trusses, so most
 15 truss bridges are fracture critical.
 16 MS. KNOLL: What about redundancy and
 17 non-redundant?
 18 MR. ZHOU: That's what I meant by
 19 fracture critical. When you have two-girder
 20 bridges, that's fracture critical, and fracture
 21 critical is non-redundant. And for trusses,
 22 since you have two planes of trusses, so that is
 23 analogous to two girders, so it's also fracture
 24 critical or non-redundant.
 25 BY MS. BERGSTROM:

Page 6

Page 8

1 Lehigh University. I got a master's degree and a
 2 Ph.D. in '94. Immediately after that I began
 3 working with Greiner Engineering, which was
 4 acquired by URS in '96, and I've been basically
 5 with the same company since '94.
 6 Q And I understand that you also teach?
 7 A I taught part-time at Johns Hopkins University
 8 for five years. I haven't done that in the past
 9 couple years.
 10 Q And what did you teach when you did that?
 11 A I taught fatigue and fracture in steel bridges.
 12 It was a graduate-level course. And, also, it's
 13 called design and synthesis. It's a senior
 14 design for civil engineering.
 15 Q In that history have you ever been a bridge
 16 inspector; have you ever got qualifications as a
 17 bridge inspector?
 18 A I did not take specific courses as a bridge
 19 inspector, but I did do bridge inspections.
 20 Q And those inspections that you've done, is that
 21 for URS or the predecessor when it gets hired out
 22 by somebody?
 23 A I cannot recall. It might have been both.
 24 Q Okay. I take it from your study and from what
 25 you taught that you have some special knowledge

1 Q The fracture critical non-redundant bridges in
 2 the United States, they don't make those anymore,
 3 right; they don't construct those anymore?
 4 A I wouldn't say -- They are making very less now.
 5 It's restricted, but not completely. For highway
 6 bridges most states don't -- they discontinued.
 7 Q Have you ever, in your years at -- And when I say
 8 URS, I mean both URS and Greiner, okay?
 9 A Right.
 10 Q In your years at URS, have you ever been asked to
 11 consult on a new construction fracture critical
 12 bridge?
 13 A No.
 14 Q Is it fair to say that fracture critical
 15 non-redundant steel truss bridges, that that's an
 16 obsolete design now?
 17 A I don't know. That's hard to say. For the
 18 question that you asked earlier, actually, it was
 19 in the late -- another bridge that was completed
 20 in the late nineties, that's the U.S. 33 over
 21 Lehigh River in Pennsylvania. It is a two-plane
 22 truss bridge, but that has a composite deck. So
 23 that is a new construction.
 24 PennDOT does not encourage fracture
 25 critical bridges, but in that particular case we

Page 9

Page 11

1 made the deck composite, so try to improve the
 2 system to enhance the redundancy or lower the
 3 fracture criticalness.
 4 Q With respect to the Minnesota Department of
 5 Transportation, other than the I-35W bridge have
 6 you done any projects with them?
 7 A With MnDOT?
 8 Q Right.
 9 A This is the first one. The 35W is the first
 10 one. Currently I'm working on -- I'm involved in
 11 a project for the evaluation of the Washington
 12 Avenue bridge.
 13 Q When did that project start?
 14 A I can't recall exactly. Probably a year ago.
 15 (Zhou Exhibit 2 was marked for
 16 identification by the court reporter.)
 17 BY MS. BERGSTROM:
 18 Q Ed, I'll have you look at Exhibit Number 2. And
 19 I'll fill in a little bit of background. This is
 20 the response of interest for fatigue evaluation
 21 of the I-35W bridge that was prepared by URS. On
 22 the second page it's identified as having been
 23 sent on March 28, 2003. And I'll tell that you
 24 in earlier March 2003 is when MnDOT sent out the
 25 Request for Interest --

Page 10

Page 12

1 A Right.
 2 Q -- proposal to URS. Do you know who at URS got
 3 the original Request for Interest from MnDOT?
 4 A I don't know exactly who, but it would be in the
 5 Minneapolis office.
 6 Q And then who -- I take it at some point somebody
 7 contacted you to be part of the URS team?
 8 A Right. It was our office bridge department chief
 9 engineer, Tom Jenkins. He contacted me about
 10 this RFI.
 11 Q Okay. An when you say our office, do you mean --
 12 A The Hunt Valley, Maryland office. That's my
 13 office.
 14 Q And then who was involved in putting together the
 15 URS team that was going to be part of this
 16 response?
 17 A For the team? I think it was between Tom Jenkins
 18 and the Minneapolis office representative. I
 19 think it was Don Flemming, maybe other people
 20 that I don't know.
 21 Q Had you worked with Don Flemming before this
 22 project?
 23 A Yeah.
 24 Q Were you involved in preparing this response?
 25 A Yes, I was.

1 Q How many fatigue evaluations of this sort had you
 2 done in the past?
 3 A Prior to this?
 4 Q Right.
 5 A That's what we put in the previous project
 6 experience, the Cleveland Central Viaduct. I led
 7 the fatigue evaluation of that. That was
 8 completed in 2001.
 9 And the US Route 522 fatigue
 10 evaluation, also I led that project. That was in
 11 2002.
 12 And for this Lehigh River bridge, that
 13 was a new design. Tom Jenkins led that design
 14 project, among others.
 15 Q The Cleveland project and the 522 bridge, were
 16 those bridges fracture critical steel truss
 17 bridges as well?
 18 A Yes. They are -- Looking at the pictures, they
 19 are quite similar to 35W.
 20 Q And, in fact, it would appear from this
 21 description, slightly older than the I-35W
 22 bridge?
 23 A Yeah. We have the year put in here. Like
 24 Cleveland Viaduct was 1959, so it was a couple
 25 years older.

1 Q Do you know how URS was notified about its
 2 selection to do the work by MnDOT?
 3 A No, I don't.
 4 Q Is it your understanding that that would have
 5 gone to Don Flemming?
 6 A Or at least to somebody in the Minneapolis
 7 office.
 8 Q Okay. As I understand the time line, and you can
 9 correct me if I have anything wrong, URS was
 10 notified by MnDOT that they were awarded this
 11 project. And then prior to executing the
 12 contract to actually do this work, URS and MnDOT
 13 had a mini contract to go out and shadow the
 14 inspectors in June of 2003 in order to get
 15 knowledge about the bridge; is that right?
 16 A I think so.
 17 Q Do you know why, from the time that you were
 18 notified that URS was awarded the project to the
 19 time you executed the contract, which was
 20 December of '03, why that took so long?
 21 A I don't know.
 22 Q Did you have any conversations with MnDOT about
 23 that?
 24 A Prior to that, no, I did not have direct
 25 conversations with MnDOT.

Page 13

1 Q All right. So let's talk about, then, the June
 2 2003 work. As I understand it, URS
 3 representatives went along with the MnDOT
 4 inspectors when they were doing their -- the
 5 MnDOT inspectors were doing their annual fracture
 6 critical inspection; is that right?
 7 A Whether or not it's annual or just for assisting,
 8 I don't know, but I think it was.
 9 Q Okay. Who went for URS?
 10 A I think it was a bridge inspector out of the
 11 Minneapolis office.
 12 Q But you don't know who it was?
 13 A Ren.
 14 MS. KNOLL: Cowden.
 15 MR. ZHOU: Cowden, yeah.
 16 BY MS. BERGSTROM:
 17 Q What's the first name?
 18 A Ren.
 19 Q So was there just one URS person along?
 20 A For the actual field inspection, I think that's
 21 what happened.
 22 Q And what did you understand -- Or do you have an
 23 understanding of what that URS person was doing
 24 along with the MnDOT inspectors?
 25 A My understanding was it was a special visit or

Page 14

1 inspection just to collect information for us to
 2 start this fatigue evaluation.
 3 (Zhou Exhibit 3 was marked for
 4 identification by the court reporter.)
 5 BY MS. BERGSTROM:
 6 Q Ed, Exhibit Number 3 appears to be an inspection
 7 checklist that was prepared in May 2003, and it
 8 appears this was prepared by you; is that right?
 9 A I think so.
 10 Q Okay. And so this was a document that you
 11 prepared to help the person who was going out
 12 with MnDOT to do the fieldwork?
 13 A Right, to give them guidelines about what to look
 14 and what information to collect for the fatigue
 15 evaluation.
 16 Q The handwriting on page 2, is that your
 17 handwriting?
 18 A That does not look like my handwriting.
 19 Q Okay. So let's look at the next document.
 20 (Zhou Exhibit 4 was marked for
 21 identification by the court reporter.)
 22 BY MS. BERGSTROM:
 23 Q And I'll have you look at Exhibit Number 4, Ed.
 24 There are some blank papers about every other
 25 page because that is the way that MnDOT prepared

Page 15

1 these electronic documents. But as I understand
 2 it, after the URS representative went out and did
 3 the work that was on your checklist, then URS
 4 prepared this report for MnDOT, correct?
 5 A I think so.
 6 Q Okay. And did you have a hand in drafting this
 7 report?
 8 A I don't recall.
 9 Q Now, this was not intended to be a fracture
 10 critical inspection report, correct?
 11 A Not even a regular inspection report, just a
 12 special inspection just for the purpose of this
 13 project.
 14 Q So in doing this initial inspection of this
 15 gathering of information, you weren't trying to
 16 give any kind of coding to the bridge or assess
 17 its overall condition from that standpoint?
 18 MS. KNOLL: Just to clarify, when you
 19 say you, do you mean Ed personally or URS?
 20 BY MS. BERGSTROM:
 21 Q I mean URS, yeah.
 22 A That was not the intent.
 23 Q In preparing this report and gathering
 24 information about the bridge, did MnDOT -- or did
 25 URS, excuse me, get copies of the past inspection

Page 16

1 reports on the bridge from MnDOT?
 2 A In preparing this report?
 3 Q Yes, in preparing this report.
 4 A I don't know.
 5 Q Okay. At some point in your work for MnDOT on
 6 the bridge, the bigger study that you did, did
 7 you have access to the years of inspection
 8 reports?
 9 A Part of the work is to collect data, historical
 10 data, and I think inspection reports were part of
 11 that data.
 12 Q Who on the URS team would have reviewed the MnDOT
 13 inspection reports, the historical reports on the
 14 bridge?
 15 A Did you say would have reviewed?
 16 Q Or did.
 17 A I don't know.
 18 Q You don't know. Did you review them?
 19 A I did not.
 20 Q Exhibit Number 4 is only a partial exhibit of the
 21 report that URS gave. If you go to the very back
 22 page, you'll see Appendix A is the Documented
 23 Photo Log, and I did not attach all the photos
 24 that were there. Are the photos, though, that
 25 were attached to this report, are those the

Page 17

Page 19

1 photos that were taken by the URS rep when he was
 2 out on the bridge and doing fieldwork in June of
 3 '03?
 4 A Were the photos attached to the -- is that the
 5 way --
 6 Q The photos that were attached, I just didn't
 7 attach them because the report is so voluminous
 8 with them, so I just didn't print off the
 9 pictures. But I'm wondering if the pictures that
 10 were attached were the ones that were taken by
 11 the URS rep?
 12 A It should be.
 13 Q And do you remember seeing the full report of
 14 Exhibit 4 with the photos attached?
 15 A I had a copy of that report.
 16 Q There have been some media reports and
 17 discussions in the papers about one of the photos
 18 that were attached to Exhibit 4 as showing some
 19 buckling gusset plates. Are you aware of those?
 20 A After that, yes.
 21 Q Did you remember noticing that at the time?
 22 A No.
 23 Q Okay. Did you have any discussion at URS about
 24 that?
 25 MS. KNOLL: When?

1 cause.
 2 Q I guess my question is, at URS have you had any
 3 discussions about whether it was a fit-up issue
 4 or whether it was a subsequent -- the buckling
 5 was the result of subsequent stress; have you had
 6 any conversations about that?
 7 A No.
 8 Q Okay. Have you had any discussions with MnDOT
 9 about that?
 10 A No.
 11 Q At some point after this Exhibit Number 4 gets
 12 sent to MnDOT in the summer of '03, the contract
 13 to actually do the work on the bridge isn't
 14 signed until December of '03, and then presumably
 15 URS would have started its work after that
 16 contract gets signed? Is that time frame
 17 something you remember?
 18 A Yeah, sounds about right.
 19 Q And we talked about the fact that one of the
 20 things you would do is gather the inspection
 21 reports from MnDOT, URS. What other data did URS
 22 gather in order to start its work on the project?
 23 A Drawings. Because we needed to establish a
 24 computer model, so we need to have dimensions.
 25 And one of the main purposes of inspection was to

Page 18

Page 20

1 BY MS. BERGSTROM:
 2 Q Oh, yeah. I can give you a time frame, that's
 3 fair. Well, you didn't notice it at the time
 4 that --
 5 A (Indicating.)
 6 Q At any time prior to the bridge collapse do you
 7 remember having any discussions at URS about
 8 those photos?
 9 A No. I did go through those reports, but nothing
 10 jumped out at me.
 11 Q There have been -- There has been some
 12 speculation -- I take it you've seen those photos
 13 since the bridge collapsed?
 14 A Yes, I have.
 15 Q There have been some comments that say that
 16 those -- that buckling that's depicted in those
 17 photos is a fit-up issue. Do you know what I
 18 mean by that?
 19 A Fit-up as you're doing the fabrication?
 20 Q That's right, that it occurred during
 21 construction in order to make the gusset plate
 22 fit.
 23 A Right. I could say there are multiple reasons to
 24 cause a gusset plate not to be perfectly
 25 straight, and it's not necessarily a detrimental

1 look for signs of corrosion that would be
 2 significant section changes, which we didn't
 3 see. The drawings were the main things that we
 4 needed.
 5 Q Let's talk about corrosion for a moment. I know
 6 that one of the things of the inspection
 7 checklist was to check for corrosion loss, right?
 8 A Right.
 9 Q And presumably you would have some information on
 10 corrosion from the MnDOT inspection reports?
 11 A Presumably.
 12 Q I guess my question is, did URS do any fieldwork
 13 to determine the percentage of corrosion on the
 14 bridge or section loss due to corrosion on the
 15 bridge in performing your work on the bigger
 16 study?
 17 A It's not necessary to accurately determine the
 18 section loss. One of the purposes of the
 19 inspection is to observe, see if there's
 20 significant section loss due to corrosion on the
 21 main members.
 22 Q So there was no separate fieldwork done by URS to
 23 determine section loss?
 24 A Correct.
 25 Q Okay. Did URS have -- When you were gathering

Page 21

1 the information, the drawings and inspection
 2 reports, did you have any kind of kick-off
 3 meeting with MnDOT; did you all get together and
 4 talk about the project?
 5 A I don't recall. There might be one, but I don't
 6 recall.
 7 Q Okay. When do you first recall meeting somebody
 8 from MnDOT, person to person?
 9 A We had the first -- the progress meeting in June
 10 '03.
 11 Q '03 or '04?
 12 A '04. Sorry. That was after we began the
 13 analysis. We had a progress meeting.
 14 Q And did you fly out for that?
 15 A Yes, I did.
 16 Q And that's the first time you met with the MnDOT
 17 folks in person?
 18 A That was the second time. We also had a meeting
 19 prior to the RFI.
 20 Q And was that in preparation for submitting your
 21 response to the RFI?
 22 A No. That was prior to the RFI.
 23 Q Oh, prior to even MnDOT issuing the RFI?
 24 A Right.
 25 Q When was that meeting?

Page 22

1 A That was in the winter of -- That was in early
 2 '03.
 3 Q And who was at that meeting, to the best of your
 4 memory?
 5 A It was Tom Jenkins and myself, coming from
 6 Maryland, and Don. We went to MnDOT's office met
 7 with a couple of people in the MnDOT bridge
 8 office. I think it was Gary Peterson, Kevin
 9 Western and Bob Miller. There may be somebody
 10 else.
 11 Q Did Don Flemming come to that meeting?
 12 A Yes, he did.
 13 Q So the three of you from URS and then people from
 14 the bridge office at MnDOT?
 15 A Correct.
 16 Q Okay. And what was the purpose of that meeting?
 17 A It was for us to show them our experience of this
 18 kind of work and our... Yeah, primarily what we
 19 had done on the Cleveland Central Viaduct and
 20 similar projects.
 21 Q Do you know who set up that meeting?
 22 A I don't know.
 23 Q It wasn't you?
 24 A No.
 25 Q Okay. At that point, at the time of that

Page 23

1 meeting, did you have some understanding that
 2 MnDOT was going to issue the RFI?
 3 A We understand that they were going to request a
 4 fatigue evaluation for that bridge.
 5 Q Okay. I think you already answered this, but I'm
 6 just not remembering. You weren't the person who
 7 reviewed the MnDOT inspection reports, right?
 8 A That is correct.
 9 Q Okay. And do you know who at URS did?
 10 A I don't.
 11 Q Do you remember ever having conversations with
 12 the URS team during the project about the quality
 13 of the MnDOT inspection reports, the historical
 14 ones?
 15 A No, I don't.
 16 Q Okay. The contract, when signed in December of
 17 '03, contemplated that URS would have its final
 18 report to MnDOT in May of 2004, so approximately
 19 16 months later, and then there were a number of
 20 amendments made and the project took longer than
 21 originally contemplated. Can you tell me
 22 generally why that was?
 23 A The nature of the project was not a standard kind
 24 of bridge analysis work, so the procedure -- the
 25 analysis was complicated, was unique. There was

Page 24

1 no specifications that are available to give
 2 specific procedure, so a lot of things needed to
 3 be discussed. So we met multiple times to
 4 discuss what would be the proper load and
 5 analysis approach, also some specifics about how
 6 to do it, and that took longer than originally
 7 anticipated.
 8 Q Was the analysis and the specifications for this
 9 bridge, were they unique compared to the other
 10 fracture critical bridges you had worked on?
 11 A Yes, it was.
 12 Q Okay. And why was that?
 13 A It was the redundancy analysis part that was
 14 unique.
 15 Q And understanding I'm not an engineer, but can
 16 you tell me what was unique about the redundancy
 17 analysis?
 18 A That is to analyze the consequences for the loss
 19 of one member, so basically simulate the
 20 consequence of a member -- a sudden member loss.
 21 Q And that is not a simulation that you did in
 22 these other projects?
 23 A That is correct.
 24 Q That simulation, were you trying to do it on a
 25 member-by-member basis, this is a simulation if

Page 25

Page 27

1 this member fails, this is a simulation if this
 2 member fails?
 3 A For a certain -- For a certain group of selected
 4 members, not for all the members.
 5 Q The critical members?
 6 A Right.
 7 Q Okay. And how many members ended up being
 8 critical members that you did the simulation for?
 9 A The contract requested that we would do that
 10 analysis for eight critical members.
 11 Q And then as part of the amendments, did that
 12 number increase?
 13 A No, I don't think so.
 14 Q And were you ultimately able to provide those
 15 simulations?
 16 A I think we did.
 17 Q Those would be all of those programs that won't
 18 open up on my computer, which is fine.
 19 Prior to the I-35W bridge, had URS
 20 provided a simulation like that before on a
 21 fracture critical bridge?
 22 A I don't -- No, I don't think so.
 23 Q Okay. Have you ever been involved in one?
 24 A No.
 25 Q Okay. It appears from the documents that there

1 ratings of the bridges were from the inspection
 2 reports?
 3 A It's not necessary. For this project and many of
 4 my other projects, they were very specific,
 5 focusing on fatigue, specific issues. For
 6 example, this one is on fatigue. And we were
 7 concentrating on the welds inside the box
 8 sections. That was our focus.
 9 Q So the fatigue evaluation is not going to be
 10 overly concerned with the NBI ratings that
 11 they're giving during their inspections?
 12 A Depends.
 13 Q Are you generally familiar with the NBI rating
 14 structures -- or standards? Excuse me.
 15 A I'm familiar with them.
 16 Q And when you talked about the fact that you have
 17 been out on bridge inspections, have you ever
 18 been in a position to evaluate a bridge for the
 19 purpose of giving an NBI standard?
 20 A That was not my main responsibility.
 21 Q Do you happen to know what the NBI standards were
 22 on the Cleveland bridge?
 23 A That was a larger-scale project. We have
 24 multiple people working on it in our office, and
 25 I only did the fatigue evaluation part. We have

Page 26

Page 28

1 were, I think, four progress meetings that were
 2 held with MnDOT over the course of the project.
 3 Is that right?
 4 A I can't remember the exact number, but something
 5 like that.
 6 Q And was it your general practice to fly in for
 7 those, Ed?
 8 A Yes.
 9 Q And, generally, they were accompanied by a
 10 PowerPoint presentation, right?
 11 A Yes.
 12 Q Okay. As you worked with MnDOT over the course
 13 of that project and during those progress
 14 meetings, do you ever remember having
 15 conversations with MnDOT about the poor rating of
 16 the superstructure of the bridge?
 17 A Did you say poor rating?
 18 Q The poor rating of the superstructure?
 19 A No.
 20 Q So you don't remember any conversations with
 21 MnDOT about the NBI rating of 4 for the
 22 superstructure?
 23 A No.
 24 Q In your work on the other bridges that you
 25 mentioned, would you have known what the NBI

1 other engineers working on the strength and other
 2 issues.
 3 Q So you don't remember?
 4 A Personally, right, I don't remember.
 5 Q How about for the 522 bridge?
 6 A For that one we were given the inspection
 7 report. We were provided the inspection report
 8 by the State for the issues that we needed to
 9 address. It had a fatigue crack. They called me
 10 at night. I went there to look at the crack. It
 11 was not our scope of work to evaluate the overall
 12 condition of the bridge but just to address the
 13 specific crack issue.
 14 Q Now, in doing your work over the course of those
 15 years, did URS undertake a review of the
 16 structural capacity of the bridge as part of your
 17 work?
 18 A For this bridge?
 19 Q Yeah.
 20 A A review of the structural capacity?
 21 Q The overall structural capacity. And I'm not
 22 using the right engineering words, so you tell me
 23 you don't understand my question if you don't
 24 understand my question.
 25 A The project scope was a fatigue evaluation. When

Page 29

Page 31

1 you say overall capacity, usually it's meant by
 2 strength. That's the strength for taking the
 3 total load. Fatigue is for repetitive cyclic
 4 load.
 5 Q And maybe that's a better way to ask it. So did
 6 URS do any analysis of the structural integrity
 7 of the bridge to handle its total load as opposed
 8 to the repetitive cycling load?
 9 A It wasn't the purpose of this contract.
 10 Q And that's fair. I'm just wondering if it was
 11 done or not. I just don't know.
 12 A In the evaluation, in the draft report it did
 13 come across that, but it was serving the purposes
 14 of fatigue evaluation and redundancy analysis.
 15 (Zhou Exhibit 5 was marked for
 16 identification by the court reporter.)
 17 BY MS. BERGSTROM:
 18 Q Ed, this appears to be an e-mail from you to
 19 David Long with a cc to Don Flemming dated
 20 November 17, 2004. And it appears that you're
 21 just making some comments on the minutes of a
 22 meeting that you've had with MnDOT.
 23 The second sentence says, This minutes
 24 is very important since they are directing us to
 25 do something that is kind of out of ordinary or

1 goal, depending on how far you would go, you
 2 could spend a lot of time or you could draw a
 3 boundary. But without looking at the minutes, I
 4 just can't -- I don't know what nature this one
 5 was.
 6 Q All right. Let's move forward on a time line,
 7 Ed, to July 2006. And I understand that's when
 8 the preliminary final report was sent to MnDOT.
 9 Do you recall that?
 10 A July?
 11 Q 2006.
 12 A 2006? Yes.
 13 Q Okay. And as I understand the initial report,
 14 URS was making three recommendations to MnDOT,
 15 correct?
 16 A Yeah.
 17 Q Okay. If you will for me, can you just describe
 18 the recommendation relating to redecking the
 19 bridge?
 20 A Yes, I can. The deck on the structure, it was
 21 not continuous in the longitudinal direction. It
 22 has joints at multiple locations. And, also, it
 23 is not structurally connected to the trusses. So
 24 it would be advantageous if the deck would be
 25 continuous longitudinally and structurally

Page 30

Page 32

1 standard. And I assume by they you mean MnDOT?
 2 A Yeah, I think so.
 3 Q Okay. Can you tell me what MnDOT was directing
 4 you to do that was out of the ordinary or
 5 standard?
 6 A Do you have the minutes?
 7 Q Not with me.
 8 A I don't recall exactly what these two items were,
 9 but it's not unusual for this -- It's just all
 10 the stuff I was talking was technical stuff. The
 11 nature of the project, as I said earlier, it's --
 12 there's no -- because usually engineers or our
 13 bridge engineers, we do things according to code
 14 specifications, and there were no guidelines from
 15 the specifications for this kind of analysis.
 16 For fatigue there is, but for redundancy analysis
 17 there isn't.
 18 So there are things -- I can't recall
 19 exactly what it is. Sometimes we needed to
 20 discuss what kind of load we need, how far we
 21 needed to go, because this is like an open end.
 22 The work scope, it's like a research project.
 23 Q So, again, there you're talking about the
 24 simulation of a member failing probably or --
 25 A Yeah. Sometimes in order to achieve one specific

1 connected to the trusses. And that was an idea
 2 that we had in our mind. We think it would be
 3 beneficial to improve the integrity of the
 4 structure and reduce stresses. So that was one
 5 of our recommendations.
 6 Q And had MnDOT gone forward with that redecking,
 7 would that project have added redundancy to the
 8 bridge?
 9 A To some degree, yes, it would.
 10 Q Okay. All right. Describe, if you will, the
 11 plating or the retrofit recommendation that was
 12 in that preliminary final report.
 13 A Right. The plating is what I call a local
 14 retrofit and the redecking would be more global.
 15 Plating would be only to the members themselves
 16 and only between the joints. And the main
 17 purpose of the plating is to add plates to bridge
 18 over the areas of concerns, which are the welds
 19 inside the boxes.
 20 Q Had you, for any other bridge, designed a
 21 retrofit similar to the one that was being
 22 recommended on this bridge?
 23 A For the -- that was in our RFP, that US 33 bridge
 24 in Pennsylvania. That was a new design. The
 25 deck was designed to be composite with the

1 trusses.
 2 Q So that was a decking, a global --
 3 A Right.
 4 Q -- retrofit --
 5 A Right.
 6 Q -- as opposed to a plating?
 7 A The plating itself, it has been used on other
 8 bridges, but I personally had not designed
 9 exactly the same kind of a retrofit.
 10 Q And had MnDOT gone forward with the plating
 11 retrofit, would that have added redundancy to the
 12 bridge?
 13 A It would have if the problems initiated from
 14 those welds.
 15 Q So for those members that happened to experience
 16 some failure, that plating would have shored them
 17 up, for lack of a better word?
 18 A Right. One is called the structural redundancy.
 19 And that is if you were to have three girders or
 20 three trusses so one would fall, the other would
 21 still be able to carry the remaining load.
 22 And the other kind of redundancy is
 23 called member redundancy, and that's although you
 24 have two girders or two planes of trusses, but
 25 the members themselves, they have multiple load

1 paths. So one thing that would have a problem,
 2 others would pick up the load. And that was the
 3 intent for the plating solution.
 4 Q So the plating solution was the member
 5 redundancy?
 6 A Right.
 7 Q Okay. All right. And as I understand the third
 8 recommendation, it had some testing element,
 9 right?
 10 A I don't recall the exact word, but it was testing
 11 or inspection, yeah.
 12 Q Okay. And what was contemplated by that
 13 recommendation?
 14 A The overall -- The purpose of this project is to
 15 do a fatigue evaluation, and the focus is on the
 16 welds. And the cause for a weld to initiate a
 17 crack and eventually fracture, there are two
 18 factors affecting that: One is the level of
 19 stresses and the other is the size of an initial
 20 defect.
 21 And in that particular bridge, the
 22 stresses due to load were determined to be very
 23 low. So only the sizes of the defects would be
 24 large enough, they would grow and cause a
 25 problem; otherwise they would be just of a benign

1 nature.
 2 So we recommended, you know -- And we
 3 knew that it was low, the stresses were low, that
 4 is, so we recommended an inspection to see if it
 5 is possible, if the inspection can detect the
 6 dimensions of any defects. Then that would also
 7 be a better understanding of the condition of the
 8 structure -- of the performance of the structure.
 9 Q When you said the load stress was very low, how
 10 did you reach that conclusion?
 11 A We did analysis. That was one of the primary
 12 purposes of our study.
 13 Q Did you rely on the U of M study?
 14 A No. We established a computer model, and we
 15 calibrated our model with the University of
 16 Minnesota's field strain measurement results.
 17 Q So you used the field data from the U of M?
 18 A We utilized the field data. But the stresses
 19 that we relied upon, it was primarily our own
 20 analytical results.
 21 Q In analyzing the load stress, do you consider the
 22 condition of the bridge?
 23 A It should be considered if we had seen
 24 significant section losses.
 25 Q And how would you have seen the significant

1 section losses?
 2 A Usually the corrosion would occur at joints. Our
 3 initial inspection indicated that the condition
 4 of this bridge, there's no significant section
 5 losses due to corrosion.
 6 Q Were you aware at the time that the
 7 superstructure had an NBI rating of 4?
 8 A NBI rating of 4 could be caused -- could be due
 9 to multiple reasons. At the time, no, I was not
 10 aware.
 11 Q In looking at the load stress analysis, did you
 12 ever ask MnDOT for its load rating reports on the
 13 bridge?
 14 A I don't recall. I don't think so.
 15 Q So the recommendation for testing that was made
 16 in July of 2006, along with the redecking and the
 17 replating, what was contemplated by that testing
 18 or inspection?
 19 A What testing?
 20 Q Well, you mentioned that you were focused on the
 21 size of the defects. So was it a specific type
 22 of testing or inspection that you were
 23 recommending to MnDOT in order to determine the
 24 size?
 25 A No, we did not -- In terms of inspection and

Page 37

Page 39

1 testing, we did not -- I don't think we did
 2 mention any specific techniques.
 3 Q From the time you made the initial
 4 recommendations in July 2006 throughout the fall
 5 of 2006, what happened during that time?
 6 A We submitted a report in July, June or July, I
 7 can't recall exactly, and then we had a meeting
 8 to discuss their comments for the draft report.
 9 I think it took place sometime in the fall,
 10 September, around September. And we had minutes
 11 for that, for all the comments they had.
 12 So we needed to make certain revisions
 13 to the draft report, complete it. One of them
 14 was to perform some -- As the result of the
 15 discussions and the commenting that they made, is
 16 to perform a fracture mechanics analysis to
 17 see -- to study the impact of the size of any
 18 cracks in the weld locations, and we did that.
 19 Q So you had a meeting. Who was at that meeting?
 20 A From URS I think it was typical. It was me, Don
 21 Flemming and David Long. And from MnDOT
 22 typically it is Dan Dorgan, Kevin Western, Gary
 23 Peterson, and also their project manager, Scott
 24 Pierson.
 25 Q So when you met with them in September of '06 to

1 add redundancy to the members, but only to the
 2 specific problems that we were concerned with at
 3 the welds.
 4 There was also concern about the
 5 installation of the plates, because they needed
 6 to be bolted to existing members. So a lot of
 7 holes needed to be drilled up in the air and not
 8 very easily controlled condition. So we wanted
 9 to make sure that we...
 10 And the main dilemma was we have these
 11 welds that we are concerned with, but the
 12 stresses are very low. So we were discussing
 13 whether it was absolutely necessary to install
 14 those plates and what would be possible side
 15 effects that a retrofit might bring.
 16 Q Did MnDOT discuss the cost of the retrofit?
 17 A I don't recall exactly, but I think we were --
 18 either they -- I think they estimated the price
 19 for the retrofit.
 20 Q Do you remember what it was?
 21 A I think around 2 million.
 22 Q You mentioned that you had discussions about
 23 completing a fracture mechanics analysis at this
 24 meeting?
 25 A Right.

Page 38

Page 40

1 talk about their concerns, where was that
 2 meeting?
 3 A It was in their office.
 4 Q In your office?
 5 A In their --
 6 Q In MnDOT's office.
 7 A Yeah. The progress meetings had always been in
 8 MnDOT's office.
 9 Q Generally speaking, not in the level of detail,
 10 but just generally speaking, do you know what
 11 MnDOT's response was to the three
 12 recommendations?
 13 A Yeah. The recommendations -- the three
 14 recommendations, yeah. They said the schedule
 15 for deck replacement was governed by many issues;
 16 and, therefore, it just -- it wouldn't take place
 17 until 2015 or 2020, I can't recall exactly, but
 18 it would be some time. And, therefore, that
 19 option was basically out for the time being.
 20 Q Did they mention available funding as part of the
 21 reasons why it would be delayed?
 22 A I don't recall.
 23 Q And what was their reaction to the retrofitting,
 24 the replating?
 25 A For the replating we all agreed that that would

1 Q Whose idea was that?
 2 A I can't recall exactly from whom. It was just
 3 from the discussions, saying, you know, what
 4 would be the size of the crack, whether it would
 5 be in existence, and how fast it would grow and
 6 how soon can they be discovered.
 7 Q Did that discussion come up when you were
 8 discussing the third recommendation about testing
 9 and inspection?
 10 A I don't recall.
 11 Q Was the fracture mechanics analysis opposed to an
 12 individual person; was it pushed by URS or MnDOT
 13 more, one than the other?
 14 A I don't recall.
 15 Q What did you understand that URS was to do after
 16 this meeting; what were your next steps?
 17 A I can't recall the exact items, but we had a list
 18 of items that needed to be completed. One of
 19 them was that fracture mechanics analysis, which
 20 we did in the fall, in the time frame of October,
 21 November. We determined the critical sizes of
 22 the crack to grow and to fracture. And after
 23 that we made -- Yeah, I think we -- I don't
 24 recall when we sent that report in or whether we
 25 did.

Page 41

Page 43

1 Q Is it fair to say that at the conclusion of that
 2 meeting, both URS and MnDOT agreed that it was a
 3 good idea to do the fracture mechanics analysis?
 4 A I think so.
 5 Q And when you finished that fracture mechanics
 6 analysis late in the year 2006 --
 7 A Right.
 8 Q -- did that precipitate a change in your
 9 recommendation to MnDOT?
 10 A We were requested to send in some recommendations
 11 prior to the final report, retrofit
 12 recommendations. So given the fact that we
 13 basically took -- We basically accepted as a fact
 14 that deck replacement was not going to happen.
 15 And based on the results of the fracture
 16 mechanics, the size of a crack that would grow on
 17 that particular bridge is in terms of an eighth
 18 of an inch. So for -- it's not -- And that's a
 19 detectable size for today's technologies,
 20 depending on its location.
 21 So we recommended -- we made -- we
 22 basically summarized our recommendations part
 23 that is to be a part of the final report. And
 24 that's what's called the changed
 25 recommendations. But in there we still kept the

1 specific size of a crack but just whether or not
 2 a crack would grow.
 3 And there's another method that we
 4 looked at. It's called the EMS, some kind of
 5 fatigue electrical magnetic process. And we did
 6 get price quotes from those two companies -- from
 7 two companies, and I think we forwarded those to
 8 MnDOT. I got those price quotes, or proposals, I
 9 should say, and sent them to Don, and I believe
 10 he forwarded them to MnDOT.
 11 Q When you made your further recommendations, as
 12 you said, the decking was off, based on comments
 13 from MnDOT, and you made some further
 14 recommendations on testing. What was the testing
 15 that you were recommending?
 16 A We did not recommend any specific ones. We
 17 basically say one option is to detect the
 18 existence of any cracks. In the recommendation
 19 we did not mention any specific technology that
 20 we would recommend, but we did get two proposals
 21 from two specialized vendors.
 22 MS. BERGSTROM: Why don't we do this:
 23 Why don't we give Julie a little bit of a break
 24 and I'll look through which e-mails I'm going to
 25 use.

Page 42

Page 44

1 steel plating, we added inspection, which was
 2 also there but without specifics, but we
 3 basically expanded that. We did not keep the
 4 deck replacement in there.
 5 Q Okay. Let's back up a little bit to the fall.
 6 At one point were you talking about an acoustical
 7 testing process with MnDOT?
 8 A That was after -- That was in the fall, after the
 9 fall of '06. That was after the draft report.
 10 Q Right. And did you discuss the acoustical
 11 testing with MnDOT when you got together in
 12 September of '06?
 13 A That was after that.
 14 Q Okay.
 15 A The acoustic emission testing, it was done after
 16 we completed the fracture mechanics analysis.
 17 Q So at one point did you recommend to MnDOT to do
 18 acoustical testing?
 19 A After the fracture mechanics analysis we had an
 20 idea about the size of the crack that could grow
 21 on that bridge, and so we were looking for
 22 techniques that would be able to detect those
 23 cracks, a crack growth. So we looked at two
 24 possible methods. One is the acoustic emission.
 25 The acoustic emission is not used for detecting a

1 MS. KNOLL: Sounds good.
 2 (Break taken.)
 3 BY MS. BERGSTROM:
 4 Q Okay. I have a few e-mails and things to kind of
 5 help us along through the end of 2006.
 6 (Zhou Exhibit 6 was marked for
 7 identification by the court reporter.)
 8 BY MS. BERGSTROM:
 9 Q And I'll have you look at Exhibit Number 6. And
 10 this appears to be an e-mail from you dated
 11 December 13, 2006. And I'm focusing on the
 12 second paragraph -- actually, I guess the third
 13 paragraph that starts, Based on all the
 14 results... Take a minute and read that, and then
 15 tell me how you arrived at that conclusion.
 16 A Basically after I did the fracture mechanics
 17 analysis. And as I explained earlier, a crack
 18 would grow. There are two factors that would
 19 govern the growth of a crack: One is the size of
 20 the crack prior to the growth and the other is
 21 the level of stresses.
 22 For this one the stresses are low, so
 23 the crack needs to be really a larger size in
 24 order to be able to grow. And we determined that
 25 based on the fracture mechanics analysis, the

Page 45

Page 47

1 size of the crack needs to be pretty --
 2 relatively large compared to the thickness of the
 3 plate in order to grow.
 4 So based on that, that would be very
 5 unusual, to have a crack of that size, based on
 6 what I have seen on the welds of that nature and
 7 the members of that nature.
 8 And by doing plating, we introduce --
 9 You know, once you drill more holes, you're going
 10 to drill through the plates and may cause other
 11 problems and other defects that wouldn't be there
 12 otherwise.
 13 So it was based on the results of the
 14 fracture mechanics, basically. And I think the
 15 sizes -- the critical sizes are detectable, based
 16 on today's technologies.
 17 Q In the paragraph below that there's a sentence
 18 that says, MaTech's BFS appears to be the most
 19 advanced NDE procedure at this time. What was
 20 that technology?
 21 A It is -- I think they call themselves MaTech.
 22 That's the company. It is to put a sensor -- If
 23 you have a weld of concern, the area that you
 24 want -- of your interest, you put the sensor
 25 there and it would be able to, through some

1 So five or so days after the testing
 2 e-mail, you are still sending revised retrofit
 3 recommendations, right?
 4 A Right.
 5 Q And I guess my question is, why are you still
 6 pursuing the retrofit recommendations at that
 7 point?
 8 A Well, retrofit -- doing the NDT is one of the
 9 retrofit recommendations. I didn't understand --
 10 You say still?
 11 Q Oh, I guess maybe this is the way to ask the
 12 question. The December 18th e-mail, is that
 13 about replating or is that about the testing you
 14 were talking about in the December 13th e-mail?
 15 A Both.
 16 Q Both, okay. So earlier I think you had said we
 17 were still giving both options to MnDOT, we had
 18 just left off the deck option, right?
 19 A That's correct.
 20 Q So the December 18th e-mail contains those
 21 revised recommendations?
 22 A Right, for both plating and NDT.
 23 Q Okay. What happened next with MnDOT?
 24 A I think what happened after this was we had a
 25 conference call to discuss how to execute those

Page 46

Page 48

1 mechanical -- chemical and magnetic process, they
 2 would be able to detect whether a crack is in
 3 existence. And they said they could detect a
 4 crack size in terms of a fraction of a
 5 millimeter.
 6 Q So your paragraph, the third paragraph, when you
 7 say that the NDT procedure to detect should be
 8 just as good, you were contemplating that the
 9 procedure used to detect would be something like
 10 the MaTech procedure, right?
 11 A Something that has the same, you know, capacity,
 12 right.
 13 Q Okay. It wasn't your thought that the detection
 14 could be done with a visual inspection?
 15 A That's correct.
 16 (Zhou Exhibit 7 was marked for
 17 identification by the court reporter.)
 18 BY MS. BERGSTROM:
 19 Q And you can maybe keep 6 out, as well, and I'm
 20 going to ask you a few questions about both of
 21 these. Exhibit Number 7 appears to be a
 22 December 18, 2006 e-mail to Don. And it says,
 23 Per our discussions, here's the revised retrofit
 24 recommendations where we provide three options
 25 for them to pick from.

1 two options, about whether plating or doing
 2 non-destructive testing. And I think not just
 3 me, other people probably also had the same
 4 feeling, that doing an NDT would be -- at least
 5 you can do it prior to doing plating. So we were
 6 discussing options for doing the non-destructive
 7 testing.
 8 And besides the two vendors that I have
 9 contacted, MaTech and Physical Acoustics, they
 10 brought up a third option, and that is to use
 11 their in-house people. And they also have
 12 experience and the skill of doing non-destructive
 13 testing using ultrasound.
 14 MS. KNOLL: Ed, you used the word
 15 they. You mean MnDOT?
 16 MR. ZHOU: MnDOT.
 17 BY MS. BERGSTROM:
 18 Q Okay. So this phone call -- This was not a
 19 meeting that you were at in person?
 20 A That was a conference call for me.
 21 Q And as I understand it, Don Flemming might have
 22 been over at MnDOT, right?
 23 A I don't know for sure. It's possible.
 24 Q Okay. Do you know who was at that meeting from
 25 MnDOT's side?

Page 49

Page 51

1 A I remember it was Dan Dorgan. I'm not
 2 100 percent sure, but Gary Peterson might have
 3 been there. I don't know for sure. And also
 4 their metals people --
 5 Q Today Niemann?
 6 A -- person.
 7 Q Was it Todd Niemann?
 8 A Yeah. I never met him, so I couldn't remember
 9 his name.
 10 Q As far as you know, is that the first time he had
 11 been involved in the bridge project?
 12 A For me that was.
 13 Q Okay. Do you remember having discussions about
 14 the two types of testing that you had
 15 recommended?
 16 A I don't recall what we discussed during the
 17 conference call. We should have, but I don't
 18 recall the details.
 19 Q It looks like the MaTech EFS testing quote was
 20 around \$200,000. Do you remember talking about
 21 that at all?
 22 A Talking about the money, I don't recall.
 23 Q Okay. What about the acoustical testing, do you
 24 remember talking about that?
 25 A The acoustic testing I don't recall talking about

1 A For the details of interest or of concern, you
 2 know, you have this box section and there's a
 3 diaphragm, there's a plate inside the member.
 4 There are eight little plates that are welded to
 5 the diaphragm and the plates of the member. And
 6 it's -- And then there's the weld on this. So
 7 it's not member specific. The details are --
 8 It's a typical kind of detail occurring at all
 9 the members.
 10 Q And was the idea, then, that if they were going
 11 to inspect those areas on the member, they would
 12 be inspecting all the members?
 13 A I think the discussion was to begin with some
 14 members and then expand.
 15 Q In making this recommendation using the two types
 16 of testing that you got quotes for, what was the
 17 frequency of your contemplated testing?
 18 A For those two?
 19 Q Yes.
 20 A Those two are of different nature. For the
 21 acoustic emission you need to install the
 22 system. The acoustic emission would not tell you
 23 if or not there's a crack in existence. But if a
 24 crack would grow, it would hear it, it will let
 25 you know. But it requires constant attention.

Page 50

Page 52

1 in that conference call.
 2 Q Do you recall either before or during that call
 3 what the projected cost of the acoustical testing
 4 was going to be?
 5 A I can't remember the number, but I thought we had
 6 a number. I think I was under the impression
 7 that prior to that meeting, those two proposals
 8 had been reviewed by them.
 9 Q And then at this meeting is it MnDOT who comes up
 10 with the third option of testing?
 11 A I think so.
 12 Q Okay. And that was to use the in-house
 13 inspectors and their ultrasound equipment?
 14 A Correct.
 15 Q Did you have a discussion at all as to
 16 specifically what MnDOT should be looking for if
 17 they used that third option or how they should
 18 conduct the testing?
 19 A I think I tried to clarify exactly which areas to
 20 look at, and I think we did mention that, that's
 21 the weld toe.
 22 Q Excuse me, the what?
 23 A The weld toe. That's the tip. The weld is a
 24 triangular shape. It's one of the corners.
 25 Q And was that member specific?

1 Q So it would be continuous testing to the system
 2 once in place?
 3 A Continuous monitoring, yes.
 4 The MaTech thing it would be -- Because
 5 I did not expect the weld toes would have
 6 cracks. So if we would go out and do the testing
 7 and if they don't find anything, then there's no
 8 need to do further testing. There would not be
 9 the need. Because without the size of that
 10 critical size that we have determined, they would
 11 not have grown.
 12 Q But if MaTech does the testing and there is no
 13 cracking, how often would you repeat that in
 14 order to ensure that there was still no cracking?
 15 A I don't think it -- If -- If they do not detect
 16 the crack sizes of what we have determined to be
 17 critical for growing, then there's no need to
 18 repeat that test. It could be a onetime deal.
 19 Q At the conclusion of that meeting, were there
 20 decisions made as to how to proceed?
 21 A Yes. The decision was that they would use their
 22 in-house personnel and go out to do the testing
 23 sometime in the spring and for me being on site
 24 not through the entire process, but just to make
 25 sure that they check the areas that need to be

Page 53

Page 55

1 checked.

2 Q And was there a decision on the plating

3 recommendation?

4 A At that conference call I don't recall.

5 (Zhou Exhibit 8 was marked for

6 identification by the court reporter.)

7 BY MS. BERGSTROM:

8 Q Looking at Exhibit 8, this appears to be an

9 e-mail to you from Brett McElwain, and it's dated

10 February 1, 2007. It appears to be e-mails about

11 following up an estimating for the retrofit

12 design.

13 A Uh-huh.

14 Q So in February of 2007, did you have some

15 understanding as to what URS was still doing with

16 the retrofit design?

17 A Can I have a minute to read this?

18 Q Sure, please do.

19 A Yeah. This is from Brett, and he was the

20 engineer who performed most of the analysis. We

21 needed to finish the final report, which was

22 expected to be completed by the end of August of

23 2007. We still need to have the full information

24 about the options, and the steel plating would be

25 one of them. These are the technical details

1 bridge doing the inspection.

2 Q Let's look at an e-mail, then.

3 (Zhou Exhibit 9 was marked for

4 identification by the court reporter.)

5 BY MS. BERGSTROM:

6 Q So, Ed, this is a July 19, 2007 e-mail to you

7 from Don, where he said he saw them on the

8 bridge. Is this the first time you heard from

9 him that MnDOT had gone out and done the testing?

10 A Yes, it was.

11 Q Okay. Have you had any conversations with Don

12 about when he saw them out on the bridge?

13 A I might have asked him, but I don't recall.

14 Q As I understand it, they were out on the bridge

15 doing some of this testing in May of 2007.

16 A Okay.

17 Q And I'm wondering if you know why Don is just

18 talking to you about it two months later, in

19 July?

20 A I can't recall.

21 Q Okay. At any rate, this is when you found out

22 that they had gone ahead and done the testing?

23 A Yes.

24 Q What was your and Don's follow-up conversations

25 about that?

Page 54

Page 56

1 that we needed to complete that report.

2 Q So even though MnDOT might have decided to put

3 the replating on hold, it was still going to be

4 part of the final report and recommendation by

5 URS?

6 A Yes.

7 Q Okay. Did you and Don Flemming have

8 conversations about whether the testing or the

9 replating, whether one of those options was

10 better than the other?

11 A Yeah, we discussed about it.

12 Q Did the two of you disagree on that point?

13 A I don't recall the specifics, but we had

14 discussions about, you know, the pros and cons of

15 each one.

16 Q I think you mentioned that you understood, after

17 the January meeting, that you would be involved

18 with the internal MnDOT team when they went out

19 to do the inspection on the bridge, right?

20 A Right.

21 Q Okay. At some point did you find out that MnDOT

22 went out there without you?

23 A Yes, I did.

24 Q Okay. When did you first understand that?

25 A Don told me. He said he saw them out on the

1 A I guess we were surprised. And then, you know,

2 we wanted to know the results of the findings of

3 their inspection. And then I think Don discussed

4 with them. I remember a meeting set up for the

5 20th of August, a meeting or a conference call

6 for me.

7 Q And that meeting was supposed to discuss what the

8 MnDOT folks had learned when they were out on the

9 bridge in May?

10 A Right.

11 Q Did you ever see anything in writing from MnDOT

12 about what they found out there?

13 A No, I did not.

14 Q Did you ever have any conversations with anyone?

15 A No.

16 Q And this August 20th meeting obviously never

17 occurred?

18 A Right.

19 Q You mentioned that you were -- it was your

20 understanding you were supposed to be out there

21 on the bridge with the MnDOT group. What was

22 going to be your role out there?

23 A Just observe. Because, you know, ultrasonic

24 testing requires specific skills for operating

25 equipment. I'm not an ultrasound operator. So

1 basically my role would be to give them
2 directions to the specific locations of where the
3 cracks might be and the orientation of the
4 cracks.
5 Q But the MnDOT folks never called you before they
6 went out?
7 A No, they did not.
8 Q Okay. Do you have any knowledge about whether
9 what they did on the bridge in May 2007 was what
10 you had contemplated that they would do for
11 testing?
12 A No.
13 Q Do you know, did -- I think you said this. Did
14 Don Flemming ever follow up with MnDOT about the
15 fact that they had proceeded without URS?
16 A Yeah. My understanding, this was the result of
17 that, and that's why the meeting for August 20th
18 was set up.
19 Q Did Don Flemming ever tell you about
20 conversations he had with anybody over at MnDOT?
21 A No specifics.
22 Q Are you aware that MnDOT was doing a construction
23 project on the bridge in the summer of 2007?
24 A No, I was not.
25 Q Did anybody ever consult with you about whether

1 A Right.
2 Q Okay. And did you ever finalize the report?
3 A The report was nearly completed on that date. My
4 goal was to get it -- send it by the end of
5 August. So even just before that I was working
6 on the report and it was almost done.
7 Q And then I assume it was tabled after the
8 collapse?
9 A It was --
10 Q You didn't finish the report?
11 A No, no. Then I didn't do anything after that.
12 (Zhou Exhibit 10 was marked for
13 identification by the court reporter.)
14 BY MS. BERGSTROM:
15 Q Ed, I'll have you look at Exhibit Number 10.
16 This appears to be a URS memorandum or notes
17 dated September 6, '05. It says, Computed by
18 BAM. And am I right in assuming that's Brett
19 McElwain?
20 A Yes.
21 Q And in the notes it has some initials. Are you
22 the YEZ?
23 A Yes, I am.
24 Q Okay. And I'm curious. It says, Notes from
25 meeting. Does that mean that you were at a

1 it was appropriate to replace the overlay on the
2 bridge?
3 A No.
4 Q Do you know whether they consulted with anybody
5 at URS?
6 A No.
7 Q Ed, there was a steel truss fracture critical
8 bridge in Ohio over the Grand River that suffered
9 a failure in the form of a sag in 1996. Are you
10 aware of that bridge sag?
11 A Not until recently.
12 Q How did that come to your attention recently?
13 A I think it was some news articles.
14 Q Have you done any work with MnDOT or have any
15 involvement in the MnDOT decision to close the
16 bridge in St. Cloud, Minnesota?
17 A No.
18 Q Have you had interaction with the NTSB regarding
19 the I-35W bridge?
20 A No.
21 Q Have you worked with the NTSB before on any
22 projects?
23 A No.
24 Q Now, on the day that the bridge collapsed, the
25 final report wasn't yet done, right?

1 meeting with these folks?
2 A Yeah. We had an informal discussion among the
3 three of us.
4 Q And the top line says, Gusset plate buckling - if
5 this occurs, it is not catastrophic. So in
6 September of '05, what caused the three of you to
7 get together to talk about the gusset plate?
8 A That was the time when we were doing the analysis
9 for the redundancy analysis. And we were in the
10 process of making a decision about how to
11 evaluate the strength of the connections as the
12 result -- That's the consequences of the sudden
13 loss of one member. So if we would lose one
14 member, what would be the load and stress
15 condition of the remaining members and the
16 connections. So we discussed on this.
17 And we also had CJL, another engineer
18 in the Hunt Valley office. He was involved in
19 the evaluation of the strength evaluation of the
20 Cleveland Central Viaduct. In that particular
21 case we did evaluate the connections, including
22 the gusset plates.
23 So we discussed whether or not -- to
24 what level we needed to get in. So we
25 determined -- We basically -- You know, this

Page 61

Page 63

1 meeting was just for us to gather the
2 information.

3 And for the Cleveland Central Viaduct,
4 they did find that the gusset plate may buckle,
5 but it's not that the strength was too low, but
6 just because the edges were relatively long.

7 So this note that Brett took, basically
8 he says that just the fact that the edge of a
9 gusset plate may buckle, it's not necessarily
10 indicating it's low on strength.

11 Q So this phrase, the gusset plate buckling, that's
12 a hypothetical?

13 A Right.

14 Q Okay. And if I understood what you said
15 correctly, and tell me if I get it wrong, you're
16 talking about member failure. And you're saying
17 based on the Cleveland experience that if the
18 gusset plate buckles, similar to Cleveland, then
19 it's not catastrophic?

20 A Here we're just talking about the Cleveland,
21 because we were collecting the information from
22 the Cleveland bridge saying just the fact that
23 the member edge is too slender is not necessarily
24 indicating that that gusset plate itself may
25 fail.

Page 62

1 Q CJL, who is that?

2 A It's Joe Logan, Charles Joe Logan.

3 Q And I think you said that in the Cleveland
4 scenario, they evaluated the strength of the
5 gusset plates?

6 A Yes.

7 Q What did they do to do that?

8 A There was just the original scope of work.

9 Q I guess how; how do you do that?

10 A How do you do that?

11 Q Yeah.

12 A It would be just repeating the -- It was checking
13 the original design, basically. That is a
14 widening project, so the bridge was widened.
15 They intend to add more lanes to it, so there is
16 significant change to be made. So they were
17 examining the strength of the members as well as
18 the connections.

19 And for the 35W, we needed to examine
20 the strength of the bridge due to a change, and
21 that change is a hypothetical member loss. So
22 there's no actual change prior to or right after
23 our study. We determined that it's not necessary
24 for us to get into the level of details of
25 reexamining the gusset plate if they were

1 designed properly.

2 One of the basic design principles is
3 that the connections are to be designed no weaker
4 than the members. So we check the members. We
5 also check the connections, but the connections
6 were assumed to be as strong as they were
7 designed probably.

8 Q Was your review of the connections, was that
9 global or local?

10 A That would be the global consequences. We did
11 check the -- In our report we summarized the
12 results of possible consequent member failures
13 due to member failures and due to connection
14 failures.

15 Q So on the I-35W bridge was there evaluation of
16 the strength of any of the connections?

17 A No. We assumed those connection strengths to be
18 a proportion of the member strength, which is no
19 weaker than the member strength because that was
20 required by the design.

21 Q And using your comments about the Cleveland
22 bridge, had the I-35 bridge been undergoing a
23 modification that would have changed either its
24 live load or dead load, would you anticipate that
25 there would be an analysis of the strength of the

Page 64

1 connections?

2 A That would be logical.

3 Q And, in fact, that's what you were hired to do on
4 the Cleveland bridge?

5 A That is correct.

6 MS. BERGSTROM: Okay. I think I'm
7 probably done, but why don't I just look through
8 my stuff and talk to Tom.

9 (Break taken.)

10 (Whereupon, the interview was concluded
11 at 11:05 a.m.)

1 STATE OF MINNESOTA)

2

3

4 COUNTY OF HENNEPIN)

5

6

7

8 REPORTER'S CERTIFICATE

9

10

11 I, Julie A. Rixe, do hereby certify
12 that the above and foregoing transcript, consisting of
13 the preceding 64 pages, is a correct transcript of
14 my stenographic notes and is a full, true and complete
15 transcript of the proceedings to the best of my
16 ability.

16

Dated April 29, 2008.

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18

19

20

21 JULIE A. RIXE
Court Reporter

22

23

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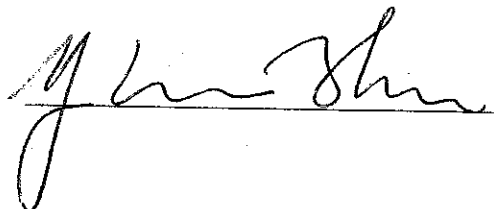
Ed Zhou -- April 29, 2008

ERRATA SHEET

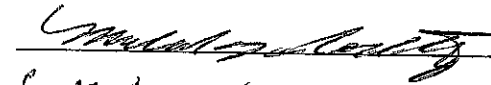
PAGE	LINE	CORRECTION	REASON
10	23	Change "Yeah" to "No"	Transcription error
18	23	Change "could" to "would"	Transcription error
20	3	Change "were the" to "were one of the"	Transcription error
34	2	Change "so one" to "so if one"	Transcription error
43	4	Change "EMS" to "EFS"	Transcription error
49	5	Change "Today" to "Todd"	Transcription error

I, Ed Zhou, have read this interview transcript and acknowledge its accuracy except as noted on the errata sheet.

Ed Zhou



Notary Public


for Montgomery County Maryland on
this day 07 MAY 08 the above signed
Ed Zhou appeared before me.
Expiration Date 31 MAR 12
Michael J. Rodtang

