

BEFORE THE ENVIRONMENTAL APPEALS BOARD  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.

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IN THE MATTER OF:	:
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	:
GREENBUILD DESIGN &	: Docket No.
CONSTRUCTION, LLC	: TSCA-10-2021-0006
	:

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Volume I

Monday,  
May 2, 2022

Videoconference

The above-entitled matter came on for  
hearing, pursuant to notice, at 1:00 p.m. EDT

BEFORE:

THE HONORABLE SUSAN BIRO  
Chief Administrative Law Judge

APPEARANCES:

On Behalf of GreenBuild Design and  
Construction LLC:

RODRIGO A. VON MAREES, pro se  
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On Behalf of the Environmental  
Protection Agency Region 5:

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DANIELLE MEINHARDT, ESQ.  
of: Environmental Protection Agency  
Region 5  
Office of Regional Counsel  
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ALSO PRESENT:

MICHAEL B. WRIGHT, ESQ.  
Supervisory Attorney-Advisor  
of: Office of Administrative Law Judges  
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ALSO PRESENT:

JENNIFER ALMASE, EPA  
MARY ANGELES, EPA  
MATT BARNWELL, EPA  
ALYSSA KATZENELSON, EPA  
EMILIE SCHWARTZ, EPA

## C-O-N-T-E-N-T-S

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
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Kim Farnham	22	138	156
Maria Tartaglia	180		

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1 P-R-O-C-E-E-D-I-N-G-S  
 2 1:01 p.m.  
 3 JUDGE BIRO: Okay. I'm Susan Biro. I'm  
 4 the Chief Administrative Law Judge of the United  
 5 States EPA, and I'm sitting on this hearing to  
 6 adjudicate the penalty aspect of the case.  
 7 Madam Reporter, could you please swear  
 8 in the court translators?  
 9 Oh. I'm sorry. I'm sorry. I didn't  
 10 -- where are you located? I'm -- I'm looking --  
 11 THE COURT REPORTER: I'm located, Your  
 12 Honor, in Washington, D.C.  
 13 JUDGE BIRO: Okay. All right. Please  
 14 proceed.  
 15 THE COURT REPORTER: Yes, Your Honor.  
 16 Let me momentarily -- actually, let me just ask -  
 17 - is the interpreter Mr. Luis or -- I mean,  
 18 sorry, Mr. Lopez or Mr. Cruz?  
 19 JUDGE BIRO: I believe it's both of  
 20 them.  
 21 THE COURT REPORTER: Okay. Mr. Lopez  
 22 and Cruz, please raise your right hand.

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1 everyone can hear me?  
 2 JUDGE BIRO: Mr. Marees --  
 3 INTERPRETER LOPEZ: Am I being heard  
 4 by everyone?  
 5 (Simultaneous speaking.)  
 6 INTERPRETER LOPEZ: She's not hearing  
 7 me. Am I being heard by --  
 8 (Simultaneous speaking.)  
 9 MR. VON MAREES: Yes. Von Marees.  
 10 Von Marees. Nice to meet you.  
 11 JUDGE BIRO: Good afternoon, Mr.  
 12 Marees. We have these two court reporters  
 13 available for your use at your request, and they  
 14 need to, I think, trade off every hour to provide  
 15 for simultaneous translation. So they'll be  
 16 accessible to you as we go through the  
 17 proceeding.  
 18 MR. VON MAREES: Okay.  
 19 JUDGE BIRO: If at any point you  
 20 don't understand what they're translating, you  
 21 two should indicate to me that you're having some  
 22 problem. Raise your hand. Say something, and we

5

1 (Interpreters sworn.)  
 2 JUDGE BIRO: Good morning, Mr. Cruz  
 3 and Mr. Lopez, or good afternoon depending on  
 4 where you are.  
 5 INTERPRETER LOPEZ: Good afternoon.  
 6 JUDGE BIRO: I'd like you to please  
 7 try your very best to translate the material that  
 8 you hear as accurately as possible without  
 9 interpreting it to make it more understandable or  
 10 in any way changing the intonation or the  
 11 inference of the -- the questions and the  
 12 answers.  
 13 It's very important in this proceeding  
 14 that we get exactly what is being said translated  
 15 exactly as it is. And if there's any problem  
 16 with that, if you don't understand or you don't  
 17 have the correct translation for a certain word,  
 18 you know, just indicate that. Raise your hand,  
 19 and we will do our best to help resolve that  
 20 issue rather than have you go ahead and try to do  
 21 it yourself. Thank you very much.  
 22 INTERPRETER LOPEZ: Understood. Now

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1 will try to work it out. It's very important to  
 2 me that you understand exactly what's being said  
 3 in this proceeding and asked of you in this  
 4 proceeding.  
 5 MR. VON MAREES: Okay. Okay.  
 6 JUDGE BIRO: On January 17th, 2021, I  
 7 granted the Agency's motion for accelerated  
 8 decision in this proceeding. So this hearing is  
 9 solely on penalty, and we're going to proceed on  
 10 that basis.  
 11 So, Counsel for the Agency, could you  
 12 identify yourself for the record?  
 13 MR. FUTERMAN: Good morning, Your  
 14 Honor. My name is Andrew Futerman. I'm Counsel  
 15 for Complainant, and I'm joined by my Co-Counsel,  
 16 Ms. Danielle Meinhardt.  
 17 JUDGE BIRO: Okay. Good morning,  
 18 Counsel.  
 19 MS. MEINHARDT: Good morning. Good  
 20 morning, Your Honor.  
 21 JUDGE BIRO: EPA has proposed a  
 22 penalty in this case, Mr. Marees, of \$25,609.

1 Is that correct, Mr. Futerman?  
 2 MR. FUTERMAN: Yes, Your Honor.  
 3 JUDGE BIRO: I am not bound by that  
 4 proposal, Mr. Reese -- Mr. Marees. I can impose  
 5 a different penalty if I deem it appropriate. In  
 6 deciding how much to impose as a penalty for the  
 7 four violations of which I previously found the  
 8 company liable, I have to take into account the  
 9 factors set forth in TSCA. It's the Toxic  
 10 Substance Control Act.  
 11 Those factors are the nature,  
 12 circumstance, extent, and gravity of the  
 13 violations, and with respect to the violator, the  
 14 company, its ability to pay, continuing business,  
 15 history of prior violations, culpability, and  
 16 such other matters as justice may require, which  
 17 is a fairly open-ended category.  
 18 I previously ruled in -- in April 4th,  
 19 2022, that since no documentary evidence had been  
 20 produced on the issue of ability to pay, none  
 21 would be allowed to be admitted at hearing. So  
 22 that issue is not contested at this time. So the

1 American dream. I'm from Chile. I come here to  
 2 build my company. Okay? To work hard.  
 3 JUDGE BIRO: Mr. Marees --  
 4 MR. VON MAREES: I don't understand why  
 5 they use wrong evidence. Okay? We swear for God.  
 6 I believe in God. Okay? And I don't believe  
 7 they using false people and false company. Okay?  
 8 Towards -- to me, to make me look bad to me on  
 9 you, because you read that and you say, oh, this  
 10 is a bad guy. I'm not a bad guy.  
 11 JUDGE BIRO: Mr. Marees? I want to  
 12 hear everything you have to tell me. Please be  
 13 assured I do. But there's a process and a  
 14 procedure in this case, and I will give you an  
 15 opportunity to testify narratively and tell me  
 16 everything you want me to know and everything,  
 17 you know, that you can show me that is relevant  
 18 and material in this proceeding where we are  
 19 right now.  
 20 But in terms of your motion to  
 21 dismiss, that's denied. We're going to move  
 22 forward. After EPA's witnesses have all

1 only issues regarding the Respondent are the  
 2 other issues which I just identified.  
 3 In this proceeding, the Agency will  
 4 introduce its evidence first, one witness at a  
 5 time. And after they have questioned their  
 6 witness, you will have an opportunity to question  
 7 the witness. After they have -- yes, Mr. Marees?  
 8 MR. VON MAREES: Okay, I'm going to  
 9 say this in English. I want to dismiss this case  
 10 because EPA is using false evidence towards -- to  
 11 me. And I got proof, this big folder they sent  
 12 me -- my wife, she's American. She helped me,  
 13 and we show as people know me and my companies --  
 14 know me. So I want to dismiss this because I've  
 15 been -- a lot of harassment and racist towards --  
 16 to me. And I -- I request dismiss this case  
 17 because I can tell you --  
 18 JUDGE BIRO: No, no. Mr. Marees --  
 19 MR. VON MAREES: And as evidence, you  
 20 used my Honor say Greenbuild is guilty. Okay?  
 21 Why is guilty? Using false people, false  
 22 company? That's -- you know, I believe in

1 testified and you've had an opportunity to cross-  
 2 examine them, we will put you under oath, and you  
 3 can tell me everything. Okay? This -- this  
 4 proceeding will not end until you get a full  
 5 opportunity to do that.  
 6 MR. VON MAREES: Okay.  
 7 JUDGE BIRO: I am well familiar with  
 8 this case. I don't feel any need for opening  
 9 statements.  
 10 So, Mr. Futerman, can you call your  
 11 first witness, please?  
 12 MR. FUTERMAN: Yes, Your Honor. Can  
 13 I ask one question before we begin?  
 14 JUDGE BIRO: Of course.  
 15 MR. FUTERMAN: I -- I just want to  
 16 clarify that our witnesses are under a  
 17 sequestration order. The Complainant's witnesses  
 18 are, in fact, doing so, but with the number of  
 19 guests that are in the meeting, I just want to  
 20 make sure that Mr. Von Marees' witnesses also  
 21 understands that he needs to be sequestered as  
 22 well.

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1 JUDGE BIRO: Well, as far as I know,  
 2 he's the only witness. But maybe we should ask  
 3 Mr. Von Marees.  
 4 Are you planning to call any other  
 5 people to testify in this hearing other than  
 6 yourself?  
 7 MR. VON MAREES: Yes. Yes.  
 8 JUDGE BIRO: And who are you planning  
 9 to call?  
 10 MR. VON MAREES: Paul Maple.  
 11 JUDGE BIRO: Paul Maple?  
 12 MR. VON MAREES: Yeah.  
 13 INTERPRETER LOPEZ: Can you hear me in  
 14 English now?  
 15 JUDGE BIRO: Was he the other person  
 16 that you identified --  
 17 INTERPRETER LOPEZ: She's not hearing  
 18 -- she's not hearing me. Your Honor? Your  
 19 Honor?  
 20 (Simultaneous speaking.)  
 21 JUDGE BIRO: -- as a witness in this  
 22 proceeding? Let me just check. Yes, you did.

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1 MR. WRIGHT: I can hear him. Judge,  
 2 you can --  
 3 INTERPRETER LOPEZ: Can you tell her  
 4 to try to see what her --  
 5 JUDGE BIRO: Thank you, Mr. Wright.  
 6 INTERPRETER LOPEZ: -- interpretation  
 7 switch is on? Is it on English or Spanish?  
 8 JUDGE BIRO: Also present on this  
 9 hearing is --  
 10 INTERPRETER LOPEZ: I think she's on  
 11 Spanish.  
 12 JUDGE BIRO: -- Michael Wright, our  
 13 senior staff attorney, and Emily Schwartz, one of  
 14 our staff attorneys from OALJ.  
 15 INTERPRETER LOPEZ: Mr. Wright, can  
 16 you please tell her?  
 17 MR. WRIGHT: Judge Biro, I have to  
 18 make sure one thing, that you are on the correct  
 19 channel. If you look at the bottom left of your  
 20 screen to the globe icon and click, you should be  
 21 on the English channel.  
 22 JUDGE BIRO: Yeah.

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1 Okay. So, in regard to Mr. Maple, where is he  
 2 located right now?  
 3 MR. VON MAREES: Right now, I don't  
 4 know. I think -- I think he's in -- in -- in his  
 5 -- his house. His house.  
 6 JUDGE BIRO: Okay. So the Agency has  
 7 indicated it's sequestering its witnesses.  
 8 MR. WRIGHT: Judge Biro?  
 9 JUDGE BIRO: Oh --  
 10 MR. WRIGHT: The interpreter --  
 11 JUDGE BIRO: Yes.  
 12 MR. WRIGHT: -- was trying to  
 13 communicate something.  
 14 JUDGE BIRO: Mr. Cruz?  
 15 MR. WRIGHT: No. Mr. Lopez.  
 16 JUDGE BIRO: Mr. Lopez.  
 17 INTERPRETER LOPEZ: She's not hearing  
 18 -- everyone else can hear me but --  
 19 JUDGE BIRO: I can't hear Mr. Lopez.  
 20 INTERPRETER LOPEZ: This is what I'm  
 21 saying -- this is why. You can't hear me. She  
 22 can't hear --

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1 INTERPRETER LOPEZ: Okay. Can you  
 2 hear me now, Judge?  
 3 JUDGE BIRO: Yes, I can.  
 4 INTERPRETER LOPEZ: Fantastic. You  
 5 need to -- I would suggest you stay on the  
 6 English channel so you could hear my response  
 7 from Mr. Von Marees. I'm speaking to Von Marees  
 8 in Spanish. I'll switch accordingly back and  
 9 forth English and Spanish. But if you would stay  
 10 on the Spanish channel, you'll only hear my  
 11 interpretation in Spanish. If you stay on the  
 12 English channel, everything's perfect.  
 13 JUDGE BIRO: Thank you. Thank you so  
 14 much. I appreciate the help.  
 15 INTERPRETER LOPEZ: Okay.  
 16 JUDGE BIRO: English would be much  
 17 more helpful to me.  
 18 INTERPRETER LOPEZ: I'm sure it would.  
 19 I'm sure it would. Thank you. Now I'm going to  
 20 switch back to the Spanish channel to interpret  
 21 to Mr. Von Marees. If I need to speak in  
 22 English, I'll switch over to the English channel

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1 accordingly.  
 2 MR. VON MAREES: Von Marees.  
 3 JUDGE BIRO: Mr. Marees?  
 4 MR. VON MAREES: Yes. I'm going to  
 5 say something. I'm no lawyer. Okay? I'm a  
 6 carpenter. And I understand talking in English,  
 7 but a lot of, like, ideas what they sent me -- no  
 8 good. Spanish is my first language, so I can --  
 9 I can understand. So Mr. Luis, you know, can --  
 10 if I need him, I will ask him. But I can  
 11 understand you, what you say.  
 12 JUDGE BIRO: Okay, Mr. Marees. We  
 13 have two court reporters that we've hired to be  
 14 here at this hearing to provide you with  
 15 simultaneous translation so that I know you  
 16 understand everything.  
 17 MR. VON MAREES: I listen. I  
 18 understand.  
 19 (Foreign language spoken.)  
 20 MR. VON MAREES: Okay.  
 21 INTERPRETER LOPEZ: Mr. Von Marees --  
 22 so that everyone knows, Mr. Von Marees wants to

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1 Spanish to speak to Mr. Von Marees as you speak  
 2 in English.  
 3 JUDGE BIRO: Okay.  
 4 Mr. Marees, I understand that you  
 5 would like to hear the hearing in English. And I  
 6 --  
 7 (Simultaneous speaking.)  
 8 MR. VON MAREES: Yeah. I understand  
 9 English.  
 10 JUDGE BIRO: No. Stop. Let me  
 11 finish. Let me finish, and then you can talk.  
 12 That's how this proceeding goes. I understand  
 13 that you would like to hear it in English. But  
 14 at your request, we have provided you with two  
 15 translators so that you can hear it in Spanish.  
 16 MR. VON MAREES: Yeah.  
 17 JUDGE BIRO: And I would prefer if you  
 18 would answer in Spanish so that I know exactly  
 19 what you're trying to say with no limitations on  
 20 your -- on your ability to speak English.  
 21 MR. VON MAREES: Okay.  
 22 JUDGE BIRO: Thank you.

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1 hear it in English because he wants to -- he  
 2 doesn't -- he tells me he doesn't want any -- any  
 3 misinformation. He wants to hear it, but he  
 4 cannot do that in this forum. He has to hear one  
 5 or the other.  
 6 I told him to -- to -- to -- to take  
 7 under consideration that I am a professional  
 8 interpreter. I will be interpreting everything  
 9 that's said from English to Spanish. And I told  
 10 him -- I made him aware, now, if he has -- when  
 11 he wants to speak, he -- he has to speak in  
 12 Spanish so that I can translate in English to  
 13 everyone that's -- that's here.  
 14 Now, I believe he is good with that  
 15 for the moment. But I foresee throughout the  
 16 hearing -- I foresee that he's going to be  
 17 interchanging English and Spanish, English and  
 18 Spanish, without realizing that he has to change  
 19 channels, and that could cause a problem later  
 20 on. But I suggest we start this now, then maybe  
 21 see as it goes along.  
 22 Okay? I'm going to switch over to

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1 MR. VON MAREES: You're welcome.  
 2 JUDGE BIRO: Now, getting back to the  
 3 point we had before, you want to call Mr. Maple  
 4 as a witness. He may not listen in on the  
 5 hearing till he comes to testify. Do you  
 6 understand that?  
 7 MR. VON MAREES: Si.  
 8 JUDGE BIRO: Okay. That's the one  
 9 word of Spanish I understand.  
 10 INTERPRETER LOPEZ: Yes.  
 11 JUDGE BIRO: Okay. Mr. Futerman, can  
 12 you please call your first witness?  
 13 MR. FUTERMAN: Yes. Thank you, Your  
 14 Honor.  
 15 The EPA calls Ms. Kim Farnham to the  
 16 stand.  
 17 JUDGE BIRO: Mr. Reporter, can you  
 18 please swear the witness?  
 19 MR. FUTERMAN: Sorry, sir. She is not  
 20 in the room yet. She -- we asked her to join.  
 21 She'll be joining momentarily. My apologizes,  
 22 Your Honor.

20

1 JUDGE BIRO: Okay. That's fine. How  
 2 long is this going to take?  
 3 MR. FUTERMAN: She's ready. She  
 4 should just be joining as we speak, Your Honor.  
 5 JUDGE BIRO: Okay. We don't need to  
 6 go off the record.  
 7 While we're waiting, Mr. Futerman,  
 8 just for your information, we're going to stop  
 9 and take a break at 2:00 to let the translators  
 10 switch off.  
 11 SPEAKER: Thank you, Your Honor.  
 12 INTERPRETER LOPEZ: Actually, Your  
 13 Honor, myself and Mr. Cruz, we already have a  
 14 system where we -- we will go on and off as you -  
 15 - as everyone is speaking. There's no need to --  
 16 there's no need to break unless you were going to  
 17 break for -- for bathroom or whatever, a short  
 18 recess or whatever. But as far as us -- as far  
 19 as you guys taking a recess for us to switch, no,  
 20 we -- we have a -- we have a system where we're  
 21 going to do it ourselves. So we -- we will --  
 22 (Simultaneous speaking.)

22

1 Mr. Reporter, could you please swear  
 2 the witness?  
 3 WHEREUPON,  
 4 KIM FARNHAM  
 5 was called as a witness by Counsel for the  
 6 Complainant and, having been first duly sworn,  
 7 was examined and testified as follows:  
 8 JUDGE BIRO: Okay. Please proceed,  
 9 Mr. Futerman.  
 10 MS. MEINHARDT: Thank you, Your Honor.  
 11 I will be questioning our first witness.  
 12 JUDGE BIRO: Okay.  
 13 MS. MEINHARDT: My name is Danielle  
 14 Meinhardt for EPA. Thank you.  
 15 DIRECT EXAMINATION  
 16 BY MS. MEINHARDT:  
 17 Q Ms. Farnham, would you please state  
 18 and spell your name for us?  
 19 A Kim Farnham. It's K-I-M, F-A-R-N-H-A-  
 20 M.  
 21 Q Thank you. And what pronouns do you  
 22 use?

21

1 JUDGE BIRO: -- accommodation.  
 2 INTERPRETER LOPEZ: We will -- we will  
 3 constantly be on unless otherwise something else  
 4 happens. So there's no need for that, Your  
 5 Honor.  
 6 JUDGE BIRO: Okay. Great. Thank you  
 7 for your professionalism. Really appreciate  
 8 that.  
 9 INTERPRETER LOPEZ: You're quite  
 10 welcome. We've been doing this for a long time.  
 11 JUDGE BIRO: So have I.  
 12 INTERPRETER LOPEZ: I got you.  
 13 JUDGE BIRO: But not using video  
 14 technology.  
 15 INTERPRETER LOPEZ: That's -- that's  
 16 the way the world has changed right now. Yeah.  
 17 It's kind of convenient for some of us and for  
 18 others no. But I love it.  
 19 JUDGE BIRO: Ms. Farnham, can you hear  
 20 me?  
 21 MS. FARNHAM: Yes.  
 22 JUDGE BIRO: Okay.

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1 A She and her.  
 2 Q Thank you. So would it be correct to  
 3 refer to you as Ms. Farnham?  
 4 A Yes.  
 5 Q Okay. Thank you. Ms. Farnham, are  
 6 you currently employed?  
 7 A Yes.  
 8 Q Who is your current employer?  
 9 A Environmental Protection Agency.  
 10 Q And what is your current occupation?  
 11 A Environmental Protection Specialist.  
 12 Q Okay. And are you an Environmental  
 13 Protection Specialist in some particular program  
 14 at EPA?  
 15 A Yes.  
 16 Q And what is that program?  
 17 A It's the Toxic Substance Control Act  
 18 with the Lead-Based Paint Program.  
 19 Q Okay. Thank you. How long have you  
 20 been a TSCA Environmental Protection Specialist?  
 21 A Going on 11 years.  
 22 Q Did you hold any positions with EPA



1 prior to being a TSCA Environmental Protection  
 2 Specialist?  
 3 A Yes.  
 4 Q And can you tell us a little bit about  
 5 what those were?  
 6 A Prior to the Lead-Based Paint Program,  
 7 I was the RCRA solid waste working with tribal  
 8 land. And then, prior to that, I was a program  
 9 analyst.  
 10 Q Okay. Thank you. And so how long  
 11 have you worked for EPA in total?  
 12 A Since 2000.  
 13 Q So you just said that you're currently  
 14 employed as a TSCA Environmental Protection  
 15 Specialist. What does that role entail? What --  
 16 what are your job duties?  
 17 A I'm an inspector. I'm also a case  
 18 developer. I also do outreach and education to  
 19 the general public, to the regulated community.  
 20 Q Okay. And you said you're an  
 21 inspector. So are those TSCA lead-based paint  
 22 inspections?

1 that you typically give when you do that  
 2 education?  
 3 A Yes.  
 4 Q Okay. Would you -- would you -- I'm  
 5 sorry. Can you still hear me? My video's  
 6 frozen.  
 7 A You cut in and out.  
 8 MR. FUTERMAN: My apologies, Your  
 9 Honor. It appears that Ms. Meinhardt's computer  
 10 has frozen. I guess we're living in a  
 11 technological world.  
 12 JUDGE BIRO: Okay. Well, hopefully  
 13 she'll come back. We'll just wait a couple of  
 14 minutes.  
 15 MS. MEINHARDT: Okay. Am I back?  
 16 JUDGE BIRO: Yes, you are. Please  
 17 continue, Ms. Meinhardt.  
 18 MS. MEINHARDT: Okay. Thank you.  
 19 BY MS. MEINHARDT:  
 20 Q Moving on -- so, Ms. Farnham, would  
 21 you mind sharing some of that information with us  
 22 that you share with the regulated community and

1 A Yes.  
 2 Q Okay. And can you tell us just  
 3 generally, what's the purpose of those  
 4 inspections?  
 5 A So, under the Renovation, Repair, and  
 6 Painting Rule, I do inspections to make sure that  
 7 contractors are in compliance with the  
 8 requirements of the RRP rule.  
 9 Q Okay. Thank you. And then you also  
 10 mentioned case development. Could you briefly  
 11 just tell us what that is?  
 12 A If there -- if there are enforcement  
 13 actions to be had after an inspection has been  
 14 completed, I will do the case development.  
 15 Q Okay. So is that determining whether  
 16 to pursue a case?  
 17 A Yes.  
 18 Q Okay. Thank you. Ms. Farnham, when  
 19 you speak to the general public or to contractors  
 20 -- you just said that you do -- you do outreach  
 21 to the public and the regulated community. Is  
 22 there a particular set of information or a speech

1 the public when you do outreach?  
 2 A Yes. So I usually let -- during the  
 3 presentation, I start with letting the public  
 4 know that there are two ways of getting lead  
 5 poisoned, and the two ways are ingestion or  
 6 inhalation. And then that gets into -- into the  
 7 system through your bloodstream, and your body  
 8 stores it in your organs, tissues, bones, and  
 9 teeth.  
 10 There's -- there is only one way of  
 11 telling if you have been lead poisoned, and  
 12 that's with the EBLL. It's the elevated blood  
 13 lead level test. So you have to -- you have to  
 14 go to the doctor to have them draw blood in order  
 15 to test to see if you've actually been lead  
 16 poisoned.  
 17 Lead exposure has serious consequences  
 18 for the health of children. Our rules are  
 19 definitely geared towards children, protecting  
 20 the children. And so it can alter the chemical  
 21 messengers that the body -- oh. Sorry. Can you  
 22 still hear me?

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1 JUDGE BIRO: Yes, I can hear you.  
 2 THE WITNESS: Okay. I think I'm  
 3 hearing background noises. Lead exposure has  
 4 serious consequences for the health of children.  
 5 It can alter the chemical messengers that the  
 6 body relies on to carry out proper immune  
 7 function. At high levels, lead attacks the brain  
 8 and central nervous system, causing coma,  
 9 convulsions, and yes, even death.  
 10 It has -- it can affect children's  
 11 brain developing -- development, lowering their  
 12 IQ, reduce attention deficit, increase antisocial  
 13 behavior, reduce educational attainment, anemia,  
 14 damage their kidneys, hearing, and speech  
 15 problems, decrease bone and muscular growth,  
 16 affect their reproductive organs.  
 17 And can a fetus inherit lead  
 18 poisoning? Yes, it can. If a pregnant woman is  
 19 exposed to lead, the lead can pass through the  
 20 placenta into the baby's developing bones and  
 21 other organs. High levels of lead can cause  
 22 miscarriage and stillbirth. It can cause the

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1 in order for it to be dangerous? And what I  
 2 typically will tell them is it's not so much how  
 3 much lead you eat; it's how much lead is  
 4 contained in that product. So, if a child  
 5 happens to swallow a metallic --  
 6 (Pause.)  
 7 THE COURT REPORTER: Hello. This is  
 8 the court reporter.  
 9 JUDGE BIRO: Yes, Mr. Reporter.  
 10 THE COURT REPORTER: There was a -- I  
 11 don't hear the witness anymore after the words, a  
 12 metallic.  
 13 MS. MEINHARDT: It appears that she's  
 14 cut out.  
 15 JUDGE BIRO: Hopefully, Ms. Farnham  
 16 will come back on. We'll give it a few minutes.  
 17 MS. MEINHARDT: Thank you, Your Honor.  
 18 And just to clarify, are people able to hear and  
 19 see me --  
 20 JUDGE BIRO: Yes, Ms. Meinhardt.  
 21 MS. MEINHARDT: -- Counsel for  
 22 Complainant? Okay. Thank you.

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1 baby to be born too early or too small. It can  
 2 hurt the baby's brain, kidneys, and nervous  
 3 system, cause the child to have learning or  
 4 behavioral problems.  
 5 The symptoms of lead poisoning in  
 6 children are sometimes hard to determine because  
 7 it is the same symptoms as if you have the flu.  
 8 It's -- you get headaches, stomachache. Your  
 9 muscles and joints feel weak. You feel tired.  
 10 You look pale. A loss of appetite, weight loss,  
 11 throwing up.  
 12 It does also have some -- adults can  
 13 also be lead poisoned, and it -- and it is  
 14 typically the same symptoms. People don't  
 15 realize they've been lead poisoned because they  
 16 feel the symptoms, but they -- it feels like the  
 17 flu: lethargic, no appetite. You're throwing  
 18 up. You have a headache. For adults, it's -- it  
 19 also can lower their sperm count.  
 20 And then -- so, a lot of times, during  
 21 the presentation, contractors do -- will ask --  
 22 will ask, how much lead do I actually have to eat

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1 THE WITNESS: Last thing I usually --  
 2 MS. MEINHARDT: Okay. Ms. --  
 3 THE WITNESS: Yes.  
 4 BY MS. MEINHARDT:  
 5 Q You cut out after you were talking  
 6 about -- you said the word, metallic. Can you  
 7 back up and repeat what you were saying because  
 8 you cut out?  
 9 A If a child happens to swallow a piece  
 10 of jewelry that is 99 percent lead, it will kill  
 11 that child within two weeks because that has  
 12 happened. And if a child eats paint chips that's  
 13 35 percent lead in the paint and they've eaten  
 14 it, ingested it, it's very fatal to the child.  
 15 The child will die.  
 16 So what I was saying was so it's not  
 17 so much how much lead you are exposed to. It's  
 18 more how much lead is in the product. And if the  
 19 child happens to eat that product, that will kill  
 20 the child. And it is fatal.  
 21 Q Okay.  
 22 A Okay. Go ahead.

1 Q Did you -- I didn't mean to interrupt  
 2 you, Ms. Farnham.  
 3 A No. You know, I always like to leave  
 4 the audience with letting them know that the  
 5 reason -- the reason that I'm -- that we get  
 6 passionate -- that I get passionate for this job  
 7 or that anybody that works in this program is  
 8 because lead poisoning is totally preventable.  
 9 It is totally preventable if people are educated  
 10 and have the knowledge of knowing about the  
 11 dangers of lead paint. Okay, sorry. That's it.  
 12 Q That's okay. Thank you, Ms. Farnham.  
 13 I just wanted to clarify. Were you reading some  
 14 of that information as you testified?  
 15 A Yes, it keeps my mind focused.  
 16 Q Okay. Can you just explain to us what  
 17 you are reading?  
 18 A Oh, no. I made notes for myself, just  
 19 key notes.  
 20 Q Okay. And does that reflect what the  
 21 kinds of information that your share with people  
 22 when you do --

1 reason you cannot, we will try to work that out.  
 2 THE WITNESS: Okay.  
 3 MS. MEINHARDT: Thank you, Your Honor.  
 4 (Simultaneous speaking.)  
 5 JUDGE BIRO: -- Ms. Meinhardt.  
 6 MS. MEINHARDT: Thank you.  
 7 Ms. Farnham, would you please turn to  
 8 the exhibit that has previously been marked as  
 9 CX4A and let me know when you have that open.  
 10 (Whereupon, the above-referred to  
 11 document was marked as Complainant Exhibit No. 4A  
 12 for identification.)  
 13 THE WITNESS: Okay.  
 14 COURT REPORTER: Ma'am, are you --  
 15 could you repeat that exhibit? And are you  
 16 directing me as the court reporter to pull that  
 17 up on the screen or not?  
 18 MS. MEINHARDT: I wasn't, but we could  
 19 ask you to publish them all if the Court would  
 20 like that.  
 21 JUDGE BIRO: That would be great.  
 22 INTERPRETER LOPEZ: This is

1 A Yes.  
 2 Q -- educate the public --  
 3 A Yes.  
 4 Q -- and the regulated community?  
 5 A Yes. And it's all online. Anytime  
 6 you can research lead poisoning and lead effects,  
 7 it's -- yeah.  
 8 Q Okay. Thank you. So Ms. Farnham,  
 9 would you please turn --  
 10 (Simultaneous speaking.)  
 11 JUDGE BIRO: One second. Ms. Farnham,  
 12 I'd really prefer if you wouldn't refer to notes  
 13 in this proceeding.  
 14 THE WITNESS: Okay.  
 15 JUDGE BIRO: Because I have no way of  
 16 sharing those notes right at this moment with the  
 17 respondent.  
 18 THE WITNESS: Okay.  
 19 JUDGE BIRO: So I would prefer if  
 20 could testify from your own personal memory --  
 21 THE WITNESS: Okay.  
 22 JUDGE BIRO: -- of events. If by some

1 Interpreter Lopez. Yes, if you're going to use a  
 2 document for the witness, I as the interpreter  
 3 would definitely want to see it so I could go  
 4 along as you're speaking with the document.  
 5 MS. MEINHARDT: Okay.  
 6 INTERPRETER LOPEZ: So if Mr. Crawley,  
 7 if you can, please put --  
 8 THE WITNESS: So I'm not going to be  
 9 able --  
 10 INTERPRETER LOPEZ: -- those up on the  
 11 screen.  
 12 THE WITNESS: -- to see it on the  
 13 screen, right?  
 14 JUDGE BIRO: Just me. This is Judge  
 15 Biro, and I'd like you to publish the documents  
 16 if you can.  
 17 COURT REPORTER: Yes, ma'am.  
 18 JUDGE BIRO: So we were looking at  
 19 Complainant's Exhibit 4A.  
 20 (Pause.)  
 21 JUDGE BIRO: Thank you so much.  
 22 Please proceed, Ms. Meinhardt.

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1 MS. MEINHARDT: Thank you, Your Honor.  
 2 BY MS. MEINHARDT:  
 3 Q Ms. Farnham, do you recognize CX4A?  
 4 A Yes.  
 5 Q Okay. And how do you recognize CX4A?  
 6 A I signed it.  
 7 INTERPRETER LOPEZ: Excuse me. I  
 8 don't see anything.  
 9 THE WITNESS: It's my affidavit that  
 10 I'm telling the truth.  
 11 INTERPRETER LOPEZ: I don't see any  
 12 document on the screen.  
 13 THE WITNESS: Okay.  
 14 INTERPRETER LOPEZ: There we go.  
 15 There we go. Okay. I got it now. It took a  
 16 minute. If you're going to scroll, whoever is  
 17 going to scroll up and down, please do. Okay.  
 18 BY MS. MEINHARDT:  
 19 Q Okay. Ms. Farnham, is CX4A signed?  
 20 A Yes.  
 21 Q And who signed CX4A?  
 22 A I did.

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1 Complainant moves that CX4A be admitted into  
 2 evidence at this time.  
 3 JUDGE BIRO: Okay. Mr. Marees, do you  
 4 have any objection to the admission of this  
 5 document?  
 6 INTERPRETER LOPEZ: He doesn't seem to  
 7 be answering me, Judge.  
 8 JUDGE BIRO: Was he able to hear you?  
 9 INTERPRETER LOPEZ: I've been talking  
 10 to him all along.  
 11 JUDGE BIRO: Mr. Marees, can you hear  
 12 us?  
 13 MR. VON MAREES: No, I hear you.  
 14 JUDGE BIRO: Okay. Mr. Lopez, can you  
 15 repeat for him?  
 16 INTERPRETER LOPEZ: He's saying that  
 17 the interpretation has been going in and out.  
 18 JUDGE BIRO: Well, Mr. Marees, tell me  
 19 if you lose the sounds and we will try to correct  
 20 it as we go along. I'm getting the impression  
 21 that he's saying that it's going in and out. But  
 22 here's where we are, Mr. Marees.

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1 Q And is CX4A dated?  
 2 A Yes.  
 3 Q And what is the date on CX4A?  
 4 A September 23rd, 2021.  
 5 Q And did you sign CX4A under penalty of  
 6 perjury?  
 7 A Yes.  
 8 Q Please take a moment to review CX4A  
 9 and let me know when you're done.  
 10 A I'm done.  
 11 Q Okay. Looking at CX4A, does it appear  
 12 to be complete and accurate?  
 13 A Yes.  
 14 Q Does anything in CX4A appear  
 15 incomplete or inaccurate?  
 16 A No.  
 17 Q And do you declare again now that  
 18 everything in CX4A is true to the best of your  
 19 knowledge?  
 20 A Yes.  
 21 Q Okay. Thank you.  
 22 MS. MEINHARDT: Your Honor,

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1 The Agency would like to introduce  
 2 into the record Complainant's Exhibit 4A. It's  
 3 Ms. Farnham's sworn statement. Do you have any  
 4 objection to the admission of this document?  
 5 MR. VON MAREES: What I want to know  
 6 is I want Kim Farnham to say the truth because  
 7 when she visited me at the job, she identified  
 8 herself and we were conversing. And she told  
 9 lots of things. We even laughed. She spoke  
 10 about her life, a child, where she comes -- where  
 11 she's from.  
 12 I want to be sure that she says only  
 13 the truth and only the truth because she's under  
 14 oath. And what she promised me what she was  
 15 going to do, I did everything that she offered  
 16 me. That's why I want to be sure, please, the  
 17 truth is told here in this case.  
 18 JUDGE BIRO: Okay, Mr. Marees. I too  
 19 would like the truth only. And I will give you  
 20 an opportunity to question Ms. Farnham when the  
 21 Agency is done with their questioning. But my  
 22 only question to you right now is do you object

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1 to the admission of Complainant's Exhibit 4A?  
 2 And by admission, I mean that I will look at this  
 3 document in rendering my decision.  
 4 MR. VON MAREES: Yes, like I said  
 5 before, I'm not a lawyer. This is all new to me,  
 6 so forgive me. But yes, you can allow it. And  
 7 along with that, this has been going for a long  
 8 time. I've been very bothered by this. This is  
 9 something that I've been going through for a  
 10 while already. So okay, you can allow it.  
 11 JUDGE BIRO: Okay. I'm going to take  
 12 that as no objection, and I'm going to admit  
 13 Complainant's Exhibit 4A into the record.  
 14 (Whereupon, the above-referenced to  
 15 document was received into evidence as  
 16 Complainant Exhibit 4A.)  
 17 JUDGE BIRO: Ms. Meinhardt, please  
 18 proceed.  
 19 MS. MEINHARDT: Thank you, Your Honor.  
 20 I do believe that the court reporter was trying  
 21 to break in and ask something. Court reporter,  
 22 Mr. Crawley, were you trying to --

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1 COURT REPORTER: Your Honor, could we  
 2 go off the record for one moment?  
 3 JUDGE BIRO: Okay. Why don't we take  
 4 a five-minute break.  
 5 (Whereupon, the above-entitled matter  
 6 went off the record at 1:44 p.m. and resumed at  
 7 1:55 p.m.)  
 8 JUDGE BIRO: We're going to go back on  
 9 the record. Hopefully, you've worked out the  
 10 interpretation problem. Ms. Meinhardt, can you  
 11 please proceed.  
 12 MS. MEINHARDT: Yes. Thank you, Your  
 13 Honor.  
 14 Ms. Farnham, would you please turn to  
 15 the exhibit that has previously been marked as  
 16 CX1 and let me know when you have that open.  
 17 (Whereupon, the above-referred to  
 18 document was marked as Complainant Exhibit No. 1  
 19 for identification.)  
 20 MS. MEINHARDT: And I would ask the  
 21 court reporter to publish that.  
 22 COURT REPORTER: Stand by.

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1 COURT REPORTER: 1:43:15.  
 2 INTERPRETER LOPEZ: Mr. Crawley, for  
 3 your information, you're not supposed to be even  
 4 listening to the Spanish speaking, only the  
 5 English like everyone else. You may be on the  
 6 wrong channel also. Mr. Crawley? You shouldn't  
 7 even be hearing the Spanish at all. Like, no one  
 8 else is hearing Spanish, is it?  
 9 MS. MEINHARDT: I am able to hear  
 10 Spanish, and I'm on the English channel.  
 11 INTERPRETER LOPEZ: Then something is  
 12 wrong. This is not the way it's supposed to be.  
 13 Oh, he just said that he could hear both also.  
 14 Okay, this is not -- yeah, this is not the way  
 15 it's supposed to be.  
 16 In the past, I've done this many  
 17 times. I've done many conferences and hearings  
 18 with Spanish and English. And when I'm on  
 19 Spanish, no one else is supposed to be hearing  
 20 me. And when I'm on English, only the English  
 21 speakers hear me. When I'm on Spanish, only the  
 22 Spanish speakers are supposed to hear.

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1 BY MS. MEINHARDT:  
 2 Q And Ms. Farnham, do you recognize CX1?  
 3 A Yes.  
 4 Q And how do you recognize CX1?  
 5 A It's a summary of my experience.  
 6 Q Okay. And how is it that you know  
 7 that's what it is?  
 8 A Because I wrote it myself.  
 9 Q Okay. Thank you. Please take a  
 10 moment to review CX1 and let me know when you're  
 11 --  
 12 A Okay.  
 13 Q Okay. Looking at CX1, does it appear  
 14 to be complete and accurate?  
 15 A Yes.  
 16 Q Does anything in CX1 appear to be  
 17 incomplete or inaccurate?  
 18 A No.  
 19 Q Is CX1 an accurate representation of  
 20 your resume?  
 21 A Yes.  
 22 Q Thank you.

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1 MS. MEINHARDT: Your Honor,  
2 Complainant moves that CX1 be admitted into  
3 evidence.

4 JUDGE BIRO: Mr. Marees, do you have  
5 any objection to the admission of CX1 into the  
6 record?

7 MR. VON MAREES: No.

8 JUDGE BIRO: Okay. CX1 is admitted  
9 into the record.

10 (Whereupon, the above-referenced to  
11 document was received into evidence as  
12 Complainant Exhibit No. 1.)

13 JUDGE BIRO: Please proceed.

14 MS. MEINHARDT: Thank you, Your Honor.

15 BY MS. MEINHARDT:

16 Q Ms. Farnham, let's talk about your  
17 education and training. Did you obtain a college  
18 degree?

19 A Yes.

20 Q Okay. And what degree did you obtain?

21 A I have degree, a BS in management --  
22 business management.

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1 training?

2 A In -- so in the RRP initial training,  
3 they will teach you how to -- they teach you  
4 about the two certifications, the one for the  
5 company which is the firm certification. The  
6 other one is for the renovator certification.  
7 And they obtain that by attending the eight-hour  
8 renovator initial training.

9 And then also during the training,  
10 they teach you how to make a determination for  
11 the presence of lead paint, utilizing the lead  
12 checks. And you must be a certified renovator to  
13 utilize that. And then they also teach you about  
14 the record keeping and also the work practice  
15 standards which basically the containment that's  
16 required.

17 Q Okay. So do you learn in detail how  
18 to perform those activities, use containment and  
19 things that you just mentioned?

20 A Yes.

21 Q Okay. And is that a hands-on class  
22 where you learn to do those things?

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1 Q Okay. Thank you. Did you complete  
2 trainings or earn certifications that are  
3 relevant to your work as a TSCA environmental  
4 protection specialist?

5 A Yes.

6 Q Okay. And what are some examples of  
7 those trainings or certifications?

8 A I took the Renovation, Repair, and  
9 Painting rule initial training. I also took the  
10 risk assessor -- lead-based paint risk assessor  
11 training. And I always take the HAZWOPER  
12 training.

13 Q Okay. And just for those unfamiliar,  
14 what is a HAZWOPER training? What is that about?

15 A I'm sorry. It's a 40-hour in-  
16 classroom training that teaches you how to look  
17 for environmental hazards when you're out in the  
18 field.

19 Q Okay. Thank you. And so you  
20 mentioned the RRP renovator training, the  
21 Renovation, Repair, and Painting rule renovator  
22 training. What do you learn as part of that

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1 A Yes. I'm sorry. It's six hours of  
2 lecture, two hours of hands on.

3 Q Okay. Thank you. And how teaches  
4 those trainings?

5 A The companies that are wanting to  
6 provide that training must be accredited either  
7 by EPA or a state that has been authorized to run  
8 the program for EPA. They must be accredited by  
9 the state to be able to provide that training.

10 Q Okay. And then the lead risk assessor  
11 certification, what is involved in that  
12 certification?

13 A So that training teaches you how to  
14 utilize equipment to make a determination for the  
15 presence of lead paint in pre-1978 residential  
16 properties.

17 Q Okay. Thank you. And then did you  
18 also perform any -- or I'm sorry. Did you take  
19 any inspector trainings?

20 A Yes.

21 Q Okay. Can you tell us a little bit  
22 about that? How do you learn to be an inspector

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1 at EPA?

2 A So for the TSCA program, I was  
3 required to read all the regulations for lead  
4 paint and then also to go out into the field with  
5 an experienced lead inspector. I'm usually  
6 required to do that two to three times to go out  
7 with an experienced inspector. And they're the  
8 ones leading the inspection.

9 After that, then I go out with -- I  
10 still go out with the experienced inspector.  
11 Sorry. I'm hearing background noises. So then  
12 what I'm required to do is lead two to three  
13 inspections myself. But I still have the  
14 experienced inspector with me just to make sure  
15 that I'm covering all the bases when I'm doing  
16 inspections.

17 Q Okay. And are you talking about  
18 that's what you did in order to learn how to do  
19 inspections?

20 A Yes.

21 Q Okay. And do you currently lead  
22 inspections yourself?

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1 bullet point for us under employment history?

2 A The regional subject matter --

3 JUDGE BIRO: She doesn't need to read  
4 this to me, Ms. Meinhardt. I can read this for  
5 myself.

6 MS. MEINHARDT: Okay.

7 JUDGE BIRO: Let's move on.

8 MS. MEINHARDT: I'm sorry, Your Honor.

9 BY MS. MEINHARDT:

10 Q So what does it mean to be the  
11 regional subject matter expert point of contact  
12 and program coordinator for the RRP rule, Ms.  
13 Farnham?

14 A What that typically means is that if  
15 the general public, if the regulator community,  
16 if any other agencies have specific questions  
17 about the Renovation, Repair, and Painting rule,  
18 then I usually -- I'm typically the one that  
19 provides the clarification for that program.

20 Q Okay. Thank you. And I notice on the  
21 next page the first bullet point, states that  
22 manage and supervise employees. What are those

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1 A Yes.

2 Q Okay. And then are you involved in  
3 offering that training to other newer inspectors  
4 now?

5 A Yes.

6 Q Okay. I just wanted to clarify that  
7 you're not still in training sort of what sounds  
8 like an apprentice program. Okay. Thank you.  
9 Would you please look at CX1, page 2 of 3? And  
10 look at that first bullet point under employment  
11 history.

12 MS. MEINHARDT: And Your Honor, I  
13 don't know if you wish to have this published on  
14 the screen during the time that we're talking  
15 about it.

16 JUDGE BIRO: That would be wonderful.

17 MS. MEINHARDT: Okay. So that is --  
18 yeah, that's CX4A just for the court reporter,  
19 what you have on the screen right now. And we're  
20 talking about CX1. Thank you.

21 BY MS. MEINHARDT:

22 Q Ms. Farnham, could you just read that

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1 employees doing? What kind of work are you  
2 managing them while they're doing?

3 A They are typically doing inspections  
4 for EPA.

5 Q Okay. And what kinds of inspections?  
6 Can you clarify?

7 A Renovation, Repair, and Painting rule  
8 inspections.

9 Q Thank you. And then the next two  
10 bullet points on page 3, it says that you oversee  
11 grants. What are those grants related to?

12 A I also managed here in Region 10, it's  
13 State of Oregon and Washington. They've been  
14 authorized to run the lead-based paint program  
15 for EPA. So I also manage the grant for those  
16 two states.

17 Q Thank you. And during the 11 years  
18 you've been working as a TSCA environmental  
19 protection specialist at EPA, how many repair,  
20 renovation, and painting inspection -- sorry,  
21 inspections have you conducted?

22 A So I've completed over 300 inspections

1 under the RRP rule.  
 2 Q Thank you. And about how many lead-  
 3 based paint enforcement cases have you worked on?  
 4 A About 50.  
 5 Q Okay. And EPA Region 10 has named you  
 6 as the TSCA RRP rule subject matter expert for  
 7 the region. Is that right?  
 8 A Yes.  
 9 MS. MEINHARDT: Okay. Thank you.  
 10 Your Honor, at this time, Complainant moves to  
 11 recognize Ms. Farnham as an expert in TSCA lead-  
 12 based paint, TSCA and the RRP rule.  
 13 JUDGE BIRO: Mr. Von Marees, do you  
 14 have any objection to Ms. Farnham testifying as  
 15 an expert witness on the TSCA lead-based paint --  
 16 as an expert witness on TSCA lead-based paint and  
 17 TSCA RRP rule?  
 18 MR. VON MAREES: No.  
 19 JUDGE BIRO: Okay. So recognized.  
 20 Please proceed.  
 21 MS. MEINHARDT: Thank you, Your Honor.  
 22 BY MS. MEINHARDT:

1 A So the whole purpose of the RRP rule  
 2 is to protect the general public, to protect the  
 3 workers, and especially to protect the family  
 4 members that may actually be living in that  
 5 house. And if they have children present, the  
 6 whole -- the requirement is to protect especially  
 7 the children under the age of 6 from possibly  
 8 getting lead poisoned.  
 9 Q Okay. Thank you. And you shared a  
 10 little bit with us earlier. But can you just  
 11 tell us about what kinds of health problems can  
 12 arise if you're exposed to lead?  
 13 A So smaller children, they can -- a  
 14 learning disability, attention deficit disorder,  
 15 brain damage, kidney damage.  
 16 Q Okay. Thank you. And can it impair  
 17 hearing and vision?  
 18 A Yes.  
 19 Q Okay. And can exposure to lead cause  
 20 convulsions?  
 21 A Yes.  
 22 Q Okay. And you had said earlier it can

1 Q Ms. Farnham, let's talk a little bit  
 2 more about TSCA and the RRP rule. Can you tell  
 3 us what the RRP rule requires?  
 4 A The RRP rule says that if you are  
 5 working on pre-1978 target properties, that's  
 6 residential, preschools, daycare centers, the  
 7 rule says that the company -- any company working  
 8 on pre-1978 property must be firm certified.  
 9 Basically, the company needs to be registered.  
 10 And then the firm is responsible for making sure  
 11 that there is a certified renovator assigned to  
 12 the renovation job. Then the certified renovator  
 13 must make a determination for the presence of  
 14 lead paint. And if there is lead paint present,  
 15 then they have to do the recordkeeping  
 16 requirements and they also have to do the  
 17 containment, the safe work practice standards.  
 18 Q Okay. Thank you. Can you tell us a  
 19 little bit about why it's important to use those  
 20 work practices when a company is performing  
 21 renovation on a residence that was built before  
 22 1978?

1 lead to death. Is that right?  
 2 A Absolutely.  
 3 Q Okay. And how much lead does a child  
 4 have to encounter generally speaking? You don't  
 5 have to give us a specific number. But how much  
 6 does a child have to encounter before it can  
 7 damage their health?  
 8 A No amount of lead in the system is  
 9 safe for any child.  
 10 Q Okay. And do the impacts that you  
 11 just talked about, are those long lasting health  
 12 impacts?  
 13 A Yes, they are permanent damages.  
 14 Q Okay. Thank you, Ms. Farnham. Let's  
 15 talk about how a person might be exposed to lead.  
 16 During your residential renovation, what kinds of  
 17 renovation activities can expose someone to lead?  
 18 A So dry sanding, if contractors are  
 19 cutting into components that are painted that  
 20 could possibly have lead in it if they're cutting  
 21 into it, creating dust and debris.  
 22 Q Okay. And a little bit earlier, you



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1 mentioned containment. Can you tell us what you  
2 meant by containment?

3 A What the RRP rule says is that any  
4 contractor working on a pre-1978 property must  
5 contain the work site. And what that means is  
6 they have to have signage. They have to have  
7 tape around the work site.

8 They have to lay down plastic. The  
9 whole -- the whole thing is you have to contain  
10 the debris, the paint chips from getting onto the  
11 bare ground, getting onto the floor, you know, on  
12 the interior. The whole thing is just contain  
13 the work site.

14 Q Okay. And are you saying that's what  
15 prevents people from coming into contact with  
16 lead dust and debris?

17 A Yes.

18 MS. MEINHARDT: Thank you. And Mr.  
19 Crawley, you can unpublish CX1, please. Sorry.  
20 I failed to say that earlier. Okay.

21 BY MS. MEINHARDT:

22 Q And so are the activities we just

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1 talked about -- Ms. Farnham, you mentioned  
2 scraping, sanding, dry sanding, the kinds of  
3 renovation activities you just mentioned. Are  
4 those the ones that are regulated by the RRP  
5 rule?

6 A Yes.

7 Q Okay. And did EPA create the  
8 requirements found in the RRP rule due to the  
9 direction of Congress?

10 A Yes.

11 Q Okay. And do you know where that  
12 direction from Congress is found?

13 A It's Title 10.

14 Q Okay. Will you turn please to the  
15 exhibit previously marked as CX100?

16 (Whereupon, the above-referred to  
17 document was marked as Complainant Exhibit No.  
18 100 for identification.)

19 MS. MEINHARDT: I would ask that Mr.  
20 Crawley publish CX100, please.

21 INTERPRETER LOPEZ: Mr. Von Marees  
22 would like to ask a question. Is that possible,

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1 Your Honor?

2 JUDGE BIRO: Sure. That's fine.  
3 What's your question, Mr. Von Marees?

4 MR. VON MAREES: Forgive me. I forget  
5 the lady's name that was just speaking.

6 JUDGE BIRO: Farnham.

7 MR. VON MAREES: Well, I just wanted  
8 to say that when Ms. Danielle was referring to  
9 the need for containment at the site. And I  
10 learned this after taking a course. That  
11 containment that she discussed is only necessary  
12 if there is a positive test. If there is no  
13 positive test, then that containment is not  
14 necessary.

15 JUDGE BIRO: Okay. Thank you, Mr. Von  
16 Marees. I understand, and that is the kind of  
17 testimony that you can provide when you get a  
18 chance to testify.

19 MR. VON MAREES: Okay.

20 JUDGE BIRO: But right now, I'm taking  
21 Ms. Farnham's testimony.

22 MR. VON MAREES: Okay.

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1 JUDGE BIRO: And ask her about that on  
2 cross examination. And you can testify to that  
3 on your own. But right now, we're taking her  
4 testimony. Please proceed, Ms. Meinhardt.

5 MS. MEINHARDT: Thank you, Your Honor.

6 BY MS. MEINHARDT:

7 Q Ms. Farnham, do you recognize CX100?

8 A Yes.

9 Q Okay. And how do you recognize CX100?

10 A This was one of the regulations that  
11 I was needing to read in order to become an  
12 inspector.

13 Q Okay. Thank you. And what is CX100?

14 A It's Title 10.

15 Q Okay. Title 10 of what? Could you be  
16 more specific?

17 A I'm sorry. Congress passed this law  
18 requiring an EPA to come up with regulations for  
19 the lead-based paint program.

20 Q Okay. Thank you. I recognize CX100  
21 as more than 300 pages long. But can you briefly  
22 skim through CX100 and let me know when you've

1 done so?  
 2 (Pause.)  
 3 A Okay.  
 4 Q Okay. Thank you, Ms. Farnham. Does  
 5 CX100 appear to be complete and accurate?  
 6 A Yes.  
 7 Q Does any part of CX100 appear to be  
 8 incomplete or inaccurate?  
 9 A No.  
 10 MS. MEINHARDT: Your Honor,  
 11 Complainant moves to admit CX100 into evidence.  
 12 JUDGE BIRO: Mr. Von Marees, do you  
 13 have any objection to the admission of  
 14 Complainant's Exhibit CX100?  
 15 MR. VON MAREES: No.  
 16 JUDGE BIRO: Okay. CX100 is admitted  
 17 into the record.  
 18 (Whereupon, the above-referenced to  
 19 document was received into evidence as  
 20 Complainant Exhibit No. 100.)  
 21 JUDGE BIRO: Please proceed, Ms.  
 22 Meinhardt.

1 Renovation, Repair, and Painting rule.  
 2 Q Okay. Thank you. Would you please  
 3 turn to the exhibit previously marked as CX101,  
 4 and let me know when you get there?  
 5 (Whereupon, the above-referred to  
 6 document was marked as Complainant Exhibit No.  
 7 101 for identification.)  
 8 MS. MEINHARDT: And, Mr. Crawley, I'd  
 9 ask that you please publish CX101.  
 10 THE WITNESS: Okay. I'm sorry.  
 11 BY MS. MEINHARDT:  
 12 Q Oh, that's okay. Thank you, Ms.  
 13 Farnham. Do you recognize CX101?  
 14 A Yes.  
 15 Q And how do you recognize CX101?  
 16 A This is a regulation that I was  
 17 required to read when I was learning to be an  
 18 inspector.  
 19 Q Okay. And what is CX101?  
 20 A It's the requirements for hazard  
 21 education before renovation of target housing.  
 22 Q Okay. Thank you. Can you briefly

1 MS. MEINHARDT: Thank you, Your Honor.  
 2 BY MS. MEINHARDT:  
 3 Q Ms. Farnham, can you tell us generally  
 4 what Congress found that led to the passage of  
 5 the Residential Lead-Based Paint Hazard Reduction  
 6 Act?  
 7 A What Congress has found is that there  
 8 are many children moving in pre-1978 properties  
 9 that have lead paint and the dangers of lead  
 10 paint for children and their exposure.  
 11 Q Okay. Thank you. And so did -- and  
 12 what were they passing the legislation in an  
 13 attempt to do? Do you know, Ms. Farnham?  
 14 A To protect the children, especially  
 15 under the age of 6 and making EPA write  
 16 regulations for lead paint.  
 17 Q Okay. Thank you. So you said that  
 18 they directed EPA to establish regulations  
 19 regarding lead-based paint. Do you know what  
 20 those regulations are?  
 21 A Yes, there's two regulations. There's  
 22 one for pre-education and then there's also the

1 skim through CX101 and let me know when you're  
 2 finished?  
 3 A Okay.  
 4 Q Okay. Does CX101 appear to be  
 5 complete and accurate?  
 6 A Yes.  
 7 Q Does anything in CX101 appear to be  
 8 incomplete or inaccurate?  
 9 A No.  
 10 MS. MEINHARDT: Thank you. Your  
 11 Honor, Complainant moves to admit CX101 into  
 12 evidence.  
 13 JUDGE BIRO: Mr. Von Marees, do you  
 14 have any objection to Complainant's Exhibit 101  
 15 being admitted into the record?  
 16 MR. VON MAREES: No.  
 17 JUDGE BIRO: Okay. Complainant  
 18 Exhibit 101 is admitted into the record.  
 19 (Whereupon, the above-referenced to  
 20 document was received into evidence as  
 21 Complainant Exhibit No. 101.)  
 22 MS. MEINHARDT: Thank you, Your Honor.

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1 BY MS. MEINHARDT:

2 Q Ms. Farnham, can you generally  
3 summarize why EPA created the regulations found  
4 at CX101?

5 A So what the -- what this regulation  
6 does is it tells companies that are performing  
7 renovation work on pre-1978 properties that they  
8 must provide education to the property owner  
9 and/or to the tenants that live in that pre-1978  
10 property before the contractor or the company  
11 starts renovation work?

12 MS. MEINHARDT: Okay. Thank you. And  
13 now -- actually, Your Honor, I would just like to  
14 ask. It doesn't appear that Mr. Von Marees has  
15 objections to the complainant's exhibits. We're  
16 wondering if he would be willing to stipulate to  
17 the admissibility of the exhibits exchanged at  
18 pre-hearing just to expedite the process.

19 JUDGE BIRO: Mr. Von Marees, would you  
20 be open to agreeing to admission as a group of  
21 Complainant's exhibits that they had provided to  
22 you prior to the hearing?

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1 MR. VON MAREES: No, I think that they  
2 do a poor job of informing contractors of these  
3 things. I know plenty of other contractors that  
4 don't know anything about this. So I don't think  
5 this should be used.

6 JUDGE BIRO: Okay. So you are not  
7 agreeing to admit as a group the Agency's  
8 exhibits. Is that correct?

9 MR. VON MAREES: Correct.

10 JUDGE BIRO: Okay. Ms. Meinhardt,  
11 please proceed.

12 MS. MEINHARDT: Okay. Thank you.  
13 Thank you, Your Honor.

14 BY MS. MEINHARDT:

15 Q Ms. Farnham, would you please turn to  
16 the exhibit previously marked as CX102, and let  
17 me know when you get there.

18 (Whereupon, the above-referred to  
19 document was marked as Complainant Exhibit No.  
20 102 for identification.)

21 THE WITNESS: Okay.

22 MS. MEINHARDT: Mr. Crawley, I would

66

1 ask that you publish CX102.

2 BY MS. MEINHARDT:

3 Q Ms. Farnham, you said that you turned  
4 to CX102?

5 A Yes, sorry.

6 Q Sorry. Do you recognize CX102?

7 A Yes.

8 Q How do you recognize CX102?

9 A I was required to read this  
10 regulation, and I refer to this regulation a lot  
11 during my work.

12 Q Okay. And what is CX102?

13 A And this is the Renovation, Repair,  
14 and Painting rule.

15 Q Okay. Thank you. Is CX102 one of the  
16 examples you just mentioned also where EPA  
17 created regulations to deal with lead-based  
18 paint?

19 A Yes.

20 Q Okay. And can you please skim through  
21 CX102? It's 100 pages long. But if you could  
22 just briefly skim it and let me know when you're

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1 finished.

2 A Okay.

3 Q Does CX102 appear to be complete and  
4 accurate?

5 A Yes.

6 Q Does anything in CX102 appear to be  
7 incomplete or inaccurate?

8 A No.

9 MS. MEINHARDT: Your Honor,  
10 Complainant moves to admit CX102 into evidence.

11 JUDGE BIRO: Mr. Von Marees, do you  
12 have any objection to Complainant's Exhibit 102  
13 being admitted into the record?

14 MR. VON MAREES: Well, yes. I mean,  
15 I was not sent any of this in Spanish, and I  
16 don't understand. And because it's all in  
17 English, I feel like I can't defend myself of  
18 looking at something that's completely in  
19 English.

20 JUDGE BIRO: Okay. Your objection is  
21 overruled. Complainant's Exhibit 102 is admitted  
22 into the record.

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1 (Whereupon, the above-referenced to  
 2 document was received into evidence as  
 3 Complainant Exhibit No. 102.)  
 4 MS. MEINHARDT: Thank you, Your Honor.  
 5 BY MS. MEINHARDT:  
 6 Q Ms. Farnham, can you generally  
 7 summarize why EPA created the regulations in  
 8 CX102?  
 9 A So the whole purpose of the RRP rule  
 10 is to protect the general public, to protect the  
 11 property owners that are hiring contractors to  
 12 perform renovation work on pre-1978 properties.  
 13 Q Okay. Thank you. Before we move on  
 14 from our general discussion of the dangers  
 15 associated with lead and lead-based paint, I just  
 16 have one more question about TSCA and the RRP  
 17 rule. Does the law assume that lead is present  
 18 in a home built before 1978?  
 19 A Yes.  
 20 Q Okay. So if someone is going to  
 21 conduct a renovation for compensation in a pre-  
 22 1978 home, should they assume there is lead-based

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1 Q Okay. And so how did you hear about  
 2 Greenbuild at that time?  
 3 A I had requested that Rob -- I'm sorry,  
 4 Mr. Rob Hamlett to start looking at permits and  
 5 to make sure that they were put on pre-1978  
 6 properties. And that is typically how we make a  
 7 list of contractors that we are going to meet  
 8 with to do RRP recordkeeping inspections. And  
 9 Mr. Hamlett was the one that (audio interference)  
 10 -- sorry.  
 11 Q No, that's okay.  
 12 MS. MEINHARDT: And, Mr. Crawley, you  
 13 can unpublish CX102, please.  
 14 BY MS. MEINHARDT:  
 15 Q So just to clarify, Ms. Farnham, who  
 16 is Rob Hamlett who you're referring to?  
 17 A He -- he was an employee of EPA -- a  
 18 senior employee.  
 19 Q Okay. And did he perform inspections  
 20 with you under TSCA lead-based paint?  
 21 A Yes.  
 22 Q Okay. And then you were speaking a

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1 paint present unless they conduct a proper lead  
 2 test?  
 3 A Yes.  
 4 Q Okay. And why does the law presume  
 5 that lead is present?  
 6 A Because EPA says that there is lead  
 7 present unless a certified individual has tested  
 8 it to prove otherwise.  
 9 Q Okay. Thank you, Mr. Farnham. Let's  
 10 discuss the particular case at issue here. It  
 11 involves the renovation firm called Greenbuild  
 12 Design and Construction, LLC. I will also refer  
 13 to Greenbuild as Respondent just so you're aware.  
 14 When did you first hear about Greenbuild?  
 15 A It was July 2018 --  
 16 Q Okay.  
 17 A -- when I was getting ready to do an  
 18 inspection. Sorry.  
 19 Q Oh, that's okay. When you were  
 20 getting ready to do an inspection. Is that what  
 21 you --  
 22 A Yes.

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1 little bit about building permits. Can you just  
 2 explain so that it's clear what building permits  
 3 you're referring to?  
 4 A So when -- when we are getting ready  
 5 to do inspections in a certain area, we will pull  
 6 residential building permits to see what kind of  
 7 renovation work is being done on a permit and  
 8 also to check to see if the houses that are being  
 9 worked on are pre-1978 properties.  
 10 Q Okay. And then are you determining  
 11 whether the contractor is certified to so that  
 12 work?  
 13 A Yes.  
 14 Q Okay. And then if they're not, I  
 15 assume that's when you would go do an inspection?  
 16 A Yes.  
 17 Q Okay. Thank you. When you said we,  
 18 can you just clarify who is we?  
 19 A I'm sorry. At that time, it was Rob  
 20 Hamlett and myself.  
 21 Q Okay. And yourself? Okay. So you're  
 22 going to go conduct EPA inspections?

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1 A Yes.

2 Q Thank you. And then are these  
3 recordkeeping inspections you're conducting?

4 A Yes.

5 Q Okay. And can you explain to us what  
6 a recordkeeping inspection is?

7 A Typically, when a contractor comes to  
8 meet with us, we are asking to see the RRP  
9 records. Mainly what I'm looking for is the  
10 renovator certification, the firm certification,

11 and did they make a determination for lead paint.  
12 And if it's -- and if it's positive, then I'm  
13 looking for the rest of the records. Did the  
14 individual provide the pamphlet? Did they do the  
15 final checklist when the job was done?

16 Q Okay. And what was your understanding  
17 at this time of EPA Region 10's prior attempts to  
18 contact Respondent or to inspect Greenbuild?

19 A The only knowledge that I had at that  
20 time was that EPA had other inspectors contacted  
21 Greenbuild to try to get them to come to the  
22 inspection unsuccessfully.

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1 have to research to see if it is a pre-1978  
2 property, what type of renovation work is being  
3 done. And then if we make the determination that  
4 it is a pre-1978 property, then we will send out  
5 a notice of inspection with a time and date and  
6 send that out to the companies. And then once  
7 the notification has been sent, we will contact  
8 the company to make sure that they did get the  
9 notice of inspection.

10 Q Okay. Thank you. How long do you  
11 usually spend getting ready for inspection trips?

12 A It probably takes a good three days to  
13 do all that.

14 Q Okay. And how long do such trips  
15 generally last?

16 A Usually about a week.

17 Q And do you need to make travel  
18 arrangements?

19 A Yes, the flight and the lodging.

20 Q Okay. And does EPA pay the costs of  
21 that travel --

22 A Yes.

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1 Q Okay. And prior to that -- and who  
2 did you learn that from?

3 A I'm sorry. Mr. Rob Hamlett.

4 Q Okay. And prior to learning that or  
5 talking with him about that, had you had contact  
6 with Respondent before?

7 A No.

8 Q Okay. So had you done any enforcement  
9 actions against Greenbuild before that time?

10 A No.

11 Q Thank you. And you mentioned an  
12 inspection trip. So are you based out of  
13 Seattle?

14 A Yes.

15 Q And do you take periodic trips to  
16 other places to conduct inspections?

17 A Yes.

18 Q Can you please describe for us the  
19 tasks involved in putting together an inspection  
20 trip?

21 A So we take the -- like I said earlier,  
22 we do take the time to pull permits. We also

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1 Q Okay. And when you have a scheduled  
2 inspection, do you typically sit and wait for  
3 renovators to show up?

4 A Yes.

5 Q Okay. Do renovators fail to show up  
6 for inspections sometimes?

7 A Yes.

8 Q Okay. And can you tell me a little  
9 bit about the problems that arise when renovators  
10 don't show up for inspections?

11 A So for us, you know, as inspectors, we  
12 hope that companies will come to us and at least  
13 talk with us so that we are able to provide them  
14 the information about the RRP rule. And if they  
15 don't show up, then they have the potential to  
16 continue to work without knowing the  
17 requirements, potentially putting not only  
18 themselves but also the family members, their  
19 clients in danger of possibly getting lead poison  
20 because they're not doing the work correctly.

21 Q Okay. Thank you. And when you're  
22 sitting and waiting for renovators and if they

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1 fail to show up, does that mean that's time that  
 2 you could've spent doing something else in terms  
 3 of enforcing the RRP rule?  
 4 A Yes.  
 5 Q Okay. Going back to this particular  
 6 trip to Alaska that you took to inspect  
 7 Greenbuild, did you and Mr. Hamlett plan to  
 8 conduct a recordkeeping inspection of Greenbuild  
 9 during that trip?  
 10 A Yes.  
 11 Q Okay. And did that inspection ever  
 12 happen?  
 13 A No.  
 14 Q Okay. And why not?  
 15 A Because we will also do drive-bys  
 16 which means that when we have permits in hand, we  
 17 will drive around the neighborhood and go to work  
 18 sites to see if there is actual work being done  
 19 when we drive by.  
 20 Q Okay. And what is the purpose of  
 21 driving by work sites where renovation firms are  
 22 actually engaged in doing renovation work?

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1 do is drive by first to see if there is actual  
 2 work being done. And if there is work being  
 3 done, then -- and in this particular case, what  
 4 we observed as we were driving by was that there  
 5 was pressure washing -- active pressure washing  
 6 going on in the back of the house because not  
 7 only could you see it, you could also hear it.  
 8 And so at that time, we decided to drive past,  
 9 park the car a little bit up the street. And  
 10 then we decided to stop and do the work practice  
 11 standard inspections.  
 12 Q Okay. So I guess then what happened  
 13 next after you parked?  
 14 A Then we walked up. I will typically  
 15 always ask to talk to the foreman. And the  
 16 employee that I happened to talk to at the time  
 17 said that he was not the foreman. And so he was  
 18 -- that he would get the individual that I could  
 19 talk to at the time.  
 20 Q Okay. And just backing up a moment,  
 21 how could you tell that Greenbuild was present at  
 22 this site? You mentioned power washing. But how

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1 A For us as inspectors, we're making  
 2 sure that they're doing the containment at the  
 3 job site.  
 4 Q Okay. Did you decide to drive by  
 5 Greenbuild's work site at 2208 Turnagain Parkway  
 6 to see if Respondent was conducting work?  
 7 A Yes.  
 8 Q Okay. And how do you know that the  
 9 property at 2208 Turnagain Parkway in Anchorage,  
 10 Alaska was a home that Respondent was working on?  
 11 A Because we had a permit showing that  
 12 the company, Greenbuild, was one that pulled the  
 13 permit. And they were the one actually  
 14 performing the work.  
 15 Q Okay. Thank you. And when you say a  
 16 permit, do you mean a building permit?  
 17 A Yes, sorry.  
 18 Q Thank you. That's okay. What  
 19 happened first when you arrived at 2208 Turnagain  
 20 Parkway which I'll refer to as the Turnagain  
 21 property from now on?  
 22 A So as inspectors what we will always

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1 did you know that it was actually Greenbuild that  
 2 was present?  
 3 A Because the other thing we look for  
 4 are work trucks. And typically, work trucks have  
 5 the company name and the logo right on the truck  
 6 parked by the target property.  
 7 Q Okay. Thank you. And so you said  
 8 that you were directed to the foreman. So did  
 9 you end up talking to the foreman?  
 10 A Yes.  
 11 Q Okay. And so who did you talk to at  
 12 this work site?  
 13 A It was -- it was Mr. Von Marees.  
 14 Q Okay. And do you know who Mr. Von  
 15 Marees is respect to Greenbuild?  
 16 A Yes, he is the company owner.  
 17 Q Okay. And how do you know that?  
 18 A During introductions, I always ask if  
 19 -- if they are -- if he owns the company, how is  
 20 he related to the company. And he confirmed that  
 21 he was the company owner at the time.  
 22 Q Okay. And as you started speaking

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1 with Mr. Von Marees, did you identify yourself?  
 2 A Yes, we always introduce ourselves,  
 3 present our inspectors credentials along with a  
 4 business card. And we let them know immediately  
 5 why we're there to do the inspection.  
 6 Q Okay. And what did you tell Mr. Von  
 7 Marees in terms of why you were there that day?  
 8 A That we were doing an RRP inspection  
 9 for the work practice standards.  
 10 Q Okay. And did you present Mr. Von  
 11 Marees with a notice of inspection?  
 12 A Yes.  
 13 Q And did Mr. Von Marees sign that  
 14 notice of inspection?  
 15 A Yes.  
 16 Q And Ms. Farnham, will you please turn  
 17 to what has previously been marked as Exhibit  
 18 CX89?  
 19 (Whereupon, the above-referred to  
 20 document was marked as Complainant Exhibit No. 89  
 21 for identification.)  
 22 MS. MEINHARDT: And, Mr. Crawley, if

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1 A Yes.  
 2 Q What date is listed on CX89?  
 3 A July 25th, 2018.  
 4 Q Would you please review CX89 and let  
 5 me know when you're done?  
 6 A I'm done.  
 7 Q Does CX89 appear to be complete and  
 8 accurate?  
 9 A Yes.  
 10 Q Does anything in CX89 appear  
 11 incomplete or inaccurate?  
 12 A No.  
 13 MS. MEINHARDT: Thank you. Your  
 14 Honor, Complainant moves to admit CX89.  
 15 JUDGE BIRO: Mr. Von Marees, do you  
 16 have any objection to Complainant's Exhibit 89  
 17 being admitted into the record?  
 18 MR. VON MAREES: I signed the document  
 19 -- yes, I signed the document. But I don't know  
 20 what it was all about. I signed the document.  
 21 We were talking very, very nicely.  
 22 And to me -- I would like to ask for

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1 the court reporter would please publish CX89.  
 2 BY MS. MEINHARDT:  
 3 Q Can you see that, Ms. Farnham?  
 4 A Oh, yes. I'm sorry, yes.  
 5 Q That's okay. Ms. Farnham, do you  
 6 recognize CX89?  
 7 A Yes.  
 8 Q How do you recognize CX89?  
 9 A Because this is the EPA's notice of  
 10 inspection form that we provide during all  
 11 inspections.  
 12 Q Okay. And how do you know that that's  
 13 what it is?  
 14 A Because I was the one that provided  
 15 it, yeah.  
 16 Q Okay. Thank you. And Ms. Farnham, is  
 17 CX89 signed?  
 18 A Yes.  
 19 Q Who signed CX89?  
 20 A Mr. Von Marees signed it and I signed  
 21 it as well.  
 22 Q Okay. Is CX89 dated?

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1 a favor, please, a giant favor. My mother-in-law  
 2 last week had an emergency. She had an ulcer  
 3 ruptured last week. And my wife cannot be  
 4 present right now.  
 5 She's with her. I have to be in  
 6 charge of the children while my wife is away with  
 7 her mother taking care of her. And I need to get  
 8 my children, and I'd like to know if we could  
 9 take a break so I could get my children.  
 10 JUDGE BIRO: How long a break would  
 11 you like, Mr. Von Marees?  
 12 MR. VON MAREES: I have three children  
 13 to get. I have to pick them up every day.  
 14 JUDGE BIRO: How long do you need in  
 15 terms of time, Mr. Von Marees? Mr. Von Marees,  
 16 do you understand my question? Okay. I need to  
 17 know how long --  
 18 MR. VON MAREES: From 11:00 a.m. to  
 19 12:30. I need an hour and a half.  
 20 JUDGE BIRO: Tomorrow? Oh, you mean  
 21 today?  
 22 MR. VON MAREES: Today to all week.

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1 JUDGE BIRO: No, no, Mr. Von Marees.  
2 We can take a lunch break for you, and you can go  
3 get your children. And I can give you --

4 INTERPRETER LOPEZ: Says that his  
5 mother-in-law had a ruptured ulcer. She's in the  
6 --

7 JUDGE BIRO: Mr. Von Marees, I'm very  
8 sorry about your mother-in-law. But this hearing  
9 has been scheduled for a very long time, and you  
10 did not file anything in advance asking for any  
11 accommodation. So I'm giving you time for lunch,  
12 and you may use that time to pick up your  
13 children. And I will try to accommodate.

14 But we cannot push off getting this  
15 hearing done. We have these translators, the  
16 court reporter. All the witnesses are ready to  
17 do this hearing. So it's much better if you make  
18 other arrangements for someone to pick up your  
19 children.

20 INTERPRETER LOPEZ: Excuse me. I  
21 didn't hear anything till I just heard just now,  
22 so it's much better. I was completely --

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1 JUDGE BIRO: Okay.

2 INTERPRETER LOPEZ: Everything was  
3 completely off on this side.

4 JUDGE BIRO: Okay. So I will take a  
5 lunch break at 11:30 if that's what he wants and  
6 give him one hour to pick up his children. But  
7 it would be better if he could make other  
8 arrangements for the other days so that we can  
9 proceed in this hearing.

10 MR. VON MAREES: Let's just have it  
11 Friday. I have no other family members here.  
12 I'm not usually home. I'm the only one that  
13 works. And unfortunately, my wife is the one  
14 that does it.

15 This just happened, and it's an  
16 emergency. Just like the other witness just had  
17 surgery and couldn't testify which was something  
18 unexpected. I don't know what you want. I don't  
19 want me to leave my children in school waiting  
20 while I get there.

21 JUDGE BIRO: You need a full hour and  
22 a half to pick up your children from school?

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1 MR. VON MAREES: It's three children,  
2 and they come out at different times. And I live  
3 45 minutes from the school. I need to go and  
4 come back, 45 minutes each way.

5 JUDGE BIRO: Okay, okay. I will  
6 accommodate you. We will stop at 11:30 your time  
7 and come back at 1:00 your time.

8 MR. VON MAREES: 11:00, 11:00. Not  
9 11:30. I need to stop at 11:00 my time to 12:30  
10 at least.

11 JUDGE BIRO: Okay. We'll go to 11:00  
12 and we'll come back at 12:30. Okay. Ms.  
13 Meinhardt, can you proceed?

14 MS. MEINHARDT: Yes, Your Honor.

15 MR. VON MAREES: Thank you. Thank you  
16 very much. Perfect. Thank you very much.

17 JUDGE BIRO: Where were we? Were we  
18 admitting Exhibit 89? I've already forgot.

19 MS. MEINHARDT: Yes, Your Honor. It  
20 was Exhibit 89.

21 JUDGE BIRO: Okay. Mr. Marees, do you  
22 have any objection to Complainant's Exhibit 89

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1 being admitted into the record?

2 MR. VON MAREES: I'll repeat. I  
3 signed something that I don't understand. It's  
4 totally in English and I understand Spanish.

5 JUDGE BIRO: Okay. Objection  
6 overruled. Complainant's Exhibit 89 is admitted  
7 into the record.

8 (Whereupon, the above-referenced to  
9 document was received into evidence as  
10 Complainant Exhibit 89.)

11 JUDGE BIRO: Go ahead.

12 MS. MEINHARDT: Thank you, Your Honor.

13 BY MS. MEINHARDT:

14 Q Ms. Farnham, so you said you and Mr.  
15 Hamlett arrived at the Turnagain property and you  
16 started speaking with Mr. Von Marees. Do you  
17 know what Mr. Hamlett did while you were speaking  
18 with Mr. Von Marees?

19 A Yes, I had requested that Mr. Hamlett  
20 please walk around the property to take pictures.

21 Q Okay. And so while you were  
22 conversing with Mr. Von Marees, was anyone else



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1 involved in that conversation at the Turnagain  
2 property?  
3 A No, they were not.  
4 Q Okay. What was your conversation with  
5 Mr. Von Marees about?  
6 A When it comes to the RRP rule, it is  
7 always about the requirements of the RRP rule.  
8 So we talk about the certifications, the  
9 recordkeeping, did he make the determination for  
10 the presence of lead paint, and the work practice  
11 standards.  
12 Q Okay. And do you explain what the  
13 work practice standards are?  
14 A Yes.  
15 Q And did you explain those in this case  
16 when you talked to Mr. Von Marees?  
17 A Yes.  
18 Q Okay. And did he seem receptive to  
19 that information?  
20 A Yes.  
21 Q Okay. What was it about your  
22 conversation with him that made you think he was

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1 the back of the house.  
2 Q Okay. And did you do anything else  
3 during the inspection at the Turnagain property  
4 besides talk to Mr. Von Marees?  
5 A Yes, I like to walk around myself of  
6 the target property after -- after I'm done  
7 talking to the owner or the general -- the  
8 foreman. So I walked around the property myself.  
9 Q Okay. And what did you observe as you  
10 walked around the Turnagain property?  
11 A Definitely there was no containment,  
12 and people -- you could tell the water was still  
13 wet in the backyard from the pressure washing.  
14 So there was no plastic, no containment, no  
15 signage.  
16 Q Okay. And can you just clarify for  
17 us. What was the signage that you were looking  
18 for? Do you need me to repeat the question?  
19 A You broke up. Yes, please.  
20 Q Oh, okay. Can you clarify for us what  
21 signage it was that you were look for?  
22 A I'm looking for the sign that keeps

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1 receptive?  
2 A Because during the conversation, Mr.  
3 Von Marees asked about how to become firm  
4 certified and how to get the renovator's  
5 certification.  
6 Q Okay. And the topics you covered, are  
7 these the same topics that you typically cover  
8 during your RRP inspections?  
9 A Yes.  
10 Q While Mr. Hamlett was walking around  
11 the property and you were speaking with Mr. Von  
12 Marees, could you tell whether there were other  
13 things going on at the property?  
14 A Yes, there were still workers working  
15 because I could see them walking back and forth  
16 from the back to the front.  
17 Q Okay. And did you observe any of the  
18 work that they were doing? Could you tell what  
19 they were doing?  
20 A Well, they were still pressure washing  
21 because you could hear it. You could hear the  
22 pressure washing and you could see it coming from

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1 the general public out of the work site that is  
2 not involved in the work for the renovation.  
3 Q Okay. And then you mentioned plastic  
4 sheeting. Can you clarify why are you looking  
5 for that?  
6 A The other requirement under the RRP  
7 rule is that you contain the debris that you're  
8 causing during the renovation work. So I'm  
9 looking for the plastic on the ground. Is it  
10 collecting the paint chips and the debris?  
11 Q Thank you. Do you remember did you  
12 walk all around the house or just part of it?  
13 A Oh, no. I walked around the whole  
14 house.  
15 Q Thank you. Ms. Farnham, I'd like you  
16 to turn to the exhibits previously marked CX15  
17 through CX55.  
18 (Whereupon, the above-referred to  
19 documents were marked as Complainant Exhibit Nos.  
20 15 through 55 for identification.)  
21 Q I'd like you to look at each on in  
22 turn and let me know when you're finished.

1 (Pause.)  
 2 A Okay.  
 3 Q Okay. Thank you. Ms. Farnham, do you  
 4 recognize CX15 through CX55?  
 5 INTERPRETER LOPEZ: I don't see  
 6 anything. This is Interpreter Lopez. I don't  
 7 see anything on the screen.  
 8 MS. MEINHARDT: I haven't requested to  
 9 publish all of these photos. But as we speak  
 10 about each one, I will publish the photos that  
 11 we're speaking about.  
 12 INTERPRETER LOPEZ: Please, please, I  
 13 need to see also and so does the Respondent.  
 14 MS. MEINHARDT: The Respondent has a  
 15 binder that contains CX15 through CX55, each of  
 16 the photos that we're looking at.  
 17 INTERPRETER LOPEZ: Understood, ma'am.  
 18 But I as the interpreter, I have nothing. And I  
 19 would like to see what's being asked of the  
 20 witness, please, if it's possible.  
 21 JUDGE BIRO: Okay, Mr. Lopez. We'll  
 22 try to accommodate. But, Ms. Meinhardt, move on.

1 CX15 through CX55 accurate representations of  
 2 your independent memory of what the Turnagain  
 3 property looked like when you performed the  
 4 inspection on July 25th, 2018?  
 5 A Yes.  
 6 Q Thank you, Ms. Farnham. Do CX15  
 7 through CX55 appear to be complete and accurate?  
 8 A Yes.  
 9 Q Does anything in CX15 through CX55  
 10 appear to be incomplete or inaccurate?  
 11 A No.  
 12 MS. MEINHARDT: Your Honor,  
 13 Complainant moves to admit CX15 through CX55 into  
 14 evidence.  
 15 JUDGE BIRO: Mr. Von Marees, do you  
 16 have any objection to admitting the photographs  
 17 that have been identified as Complainant's  
 18 Exhibit 15 through 55? I can't hear him.  
 19 MS. MEINHARDT: It looks like he's on  
 20 mute, Your Honor.  
 21 JUDGE BIRO: I can't hear you. I'm  
 22 sorry.

1 Go ahead.  
 2 MS. MEINHARDT: Okay. Thank you.  
 3 BY MS. MEINHARDT:  
 4 Q Do you recognize CX15 through CX55?  
 5 A Yes.  
 6 Q How do you recognize CX15 through  
 7 CX55?  
 8 A Because those were pictures taken  
 9 during the inspection when we were there.  
 10 Q Okay. And generally speaking, what  
 11 does CX15 through CX55 show?  
 12 A So the pictures actually show us  
 13 walking up to the work site, actually seeing  
 14 workers doing the pressure washing and the water  
 15 that's coming over the house. It's also showing  
 16 pictures of the whole house. It also shows the  
 17 picture of the work truck with the company's logo  
 18 and name on it. And it's also showing the  
 19 trimmings under the roof that was painted white.  
 20 And then it's also showing paint chips on the  
 21 ground close to the foundation of the house.  
 22 Q Okay. Thank you. Are the photos in

1 MR. VON MAREES: What happens here is  
 2 that some of these photos -- what happens with  
 3 some of these photos, they were taken for when  
 4 other contractors were working here. The ex-  
 5 owner of the house --  
 6 COURT REPORTER: Excuse me, sir. I  
 7 must again advise you not to speak at the same  
 8 time, sir.  
 9 INTERPRETER LOPEZ: He's not listening  
 10 to me.  
 11 JUDGE BIRO: Okay. Mr. Von Marees,  
 12 you tell me what you want me to know because of  
 13 your objection to these photographs in Spanish  
 14 and then --  
 15 MR. VON MAREES: Objection. I object  
 16 because there's some photos there that was with  
 17 other contractors were there before us. This is  
 18 one reason why I object.  
 19 JUDGE BIRO: Is there more, Mr. Von  
 20 Marees, that you want me to know?  
 21 MR. VON MAREES: Some photos are from  
 22 the work we did, and some photos are from work

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1 previously being done before us. This is why.  
 2 This is why I was hired by the owner to take over  
 3 whatever work the previous contractor was doing.  
 4 JUDGE BIRO: Okay. Objection  
 5 overruled. Complainant's Exhibits 15 through 55  
 6 are admitted into the record.  
 7 (Whereupon, the above-referenced to  
 8 documents were received into evidence as  
 9 Complainant Exhibit Nos. 15 through 55.)  
 10 JUDGE BIRO: We're going to stand in  
 11 recess at Mr. Von Marees' request for an hour and  
 12 a half until 1:00 p.m. Anchorage Time. Okay.  
 13 MR. VON MAREES: Perfect, perfect. I  
 14 will leave and I'll be back. Thank you very  
 15 much.  
 16 JUDGE BIRO: We will start up at 1:00  
 17 p.m. exactly.  
 18 INTERPRETER LOPEZ: What's the time  
 19 difference here?  
 20 MR. VON MAREES: I'll be back. Okay.  
 21 Thank you. I'm on my way.  
 22 JUDGE BIRO: Okay. We're going off

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1 Thank you, Mr. Crawley.  
 2 BY MS. MEINHARDT:  
 3 Q Ms. Farnham, does this picture, CX17,  
 4 does it show the truck you noticed parked near  
 5 the Turnagain property which you said had  
 6 Respondent's name on it?  
 7 A Yes.  
 8 Q Okay. Thank you. Ms. Farnham, would  
 9 you please turn to what has previously been  
 10 admitted as CX32?  
 11 MR. WILDER: Okay. Can we stop for a  
 12 moment? Mr. Lopez is unable to hear Ms. Farnham  
 13 speak.  
 14 JUDGE BIRO: Okay. We'll pause.  
 15 (Whereupon, the above-entitled matter  
 16 went off the record at 4:37 p.m. and resumed at  
 17 4:38 p.m.)  
 18 JUDGE BIRO: Okay. Please proceed.  
 19 MS. MEINHARDT: Okay. Thank you, Your  
 20 Honor. Mr. Crawley, would you please publish  
 21 CX32? Thank you.  
 22 BY MS. MEINHARDT:

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1 the record. We'll return 1:00 p.m. local time  
 2 for Mr. Von Marees.  
 3 (Whereupon, the above-entitled matter  
 4 went off the record at 2:59 p.m. and resumed at  
 5 4:34 p.m.)  
 6 JUDGE BIRO: Ms. Meinhardt, could you  
 7 please continue your questioning of the witness?  
 8 MS. MEINHARDT: Yes, Your Honor.  
 9 BY MS. MEINHARDT:  
 10 Q Ms. Farnham, I think you're on mute  
 11 right now.  
 12 A Sorry, okay.  
 13 Q It's okay. And just to clarify, you  
 14 remember that you're still under oath that you  
 15 took earlier to answer truthfully and accurately  
 16 to the best of your ability.  
 17 A Yes.  
 18 Q Thank you. Ms. Farnham, would you  
 19 please turn to what has previously been admitted  
 20 as Exhibit CX17?  
 21 MS. MEINHARDT: And, Mr. Crawley,  
 22 would you please publish CX17? Okay.

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1 Q Ms. Farnham, does CX32 represent the  
 2 front of the house at 2208 Turnagain Parkway in  
 3 the way that you remember it on July 25th, 2018  
 4 when you inspected it.  
 5 A Yes.  
 6 Q Thank you. Ms. Farnham, would you now  
 7 turn to an exhibit that has been previously  
 8 admitted, CX22?  
 9 MS. MEINHARDT: And Mr. Crawley, would  
 10 you now publish CX22? Okay. Thank you.  
 11 BY MS. MEINHARDT:  
 12 Q And Ms. Farnham, are you able to see  
 13 that photo?  
 14 A Yes.  
 15 Q Okay. Thank you. Does CX22 show the  
 16 power washing work that you said that you saw at  
 17 the inspection of the Turnagain property?  
 18 A Yes, it does.  
 19 Q Okay. And were you able to see  
 20 exactly what the workers were power washing as  
 21 you walked up?  
 22 A No, not until we walked up closer and

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1 I could tell that they were washing the back of  
2 the house or pressure washing the back of the  
3 house.

4 Q Okay. Thank you. And Ms. Farnham,  
5 would you please now turn to the exhibit that has  
6 been previously admitted as CX35?

7 MS. MEINHARDT: And Mr. Crawley, if  
8 you would please publish CX35 at this point.  
9 Okay. Thank you.

10 BY MS. MEINHARDT:

11 Q Ms. Farnham, could you please tell us  
12 what the white specks are that we see on the  
13 ground here?

14 A Those are the white paint chips that  
15 I saw on the ground when we were there.

16 Q Okay. And how do you know that they  
17 were paint chips?

18 A I use the experience of being on the  
19 work sites with contractors.

20 Q Okay. And just to be clear, do you  
21 have an independent memory of there being paint  
22 chips on the ground at the Turnagain property?

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1 Or are you just saying that's what you're seeing  
2 in these photographs?

3 A Oh, no. I remember.

4 Q Okay. Thank you. Ms. Farnham, would  
5 you please turn to CX36 now.

6 MS. MEINHARDT: And Mr. Crawley, would  
7 you please publish CX36.

8 BY MS. MEINHARDT:

9 Q Okay. Ms. Farnham, are you looking at  
10 CX36?

11 A Yes.

12 Q Okay. Thank you. What are the white  
13 specks that we see on the ground there?

14 A Those are white paint chips on the  
15 ground close to the foundation of the target  
16 property.

17 Q Okay. Thank you. And then next would  
18 you please turn to CX39.

19 MS. MEINHARDT: And Mr. Crawley, would  
20 you please publish CX39?

21 BY MS. MEINHARDT:

22 Q And Ms. Farnham, would you please tell

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1 us what we see on the ground here?

2 A And once again, those are paint chips  
3 on the bare ground next to the foundation of the  
4 house.

5 Q And so again, do you have an  
6 independent memory of seeing these paint chips on  
7 the ground? Or do you just think that's what the  
8 photo is showing?

9 A No, I remember seeing it when I was  
10 there.

11 Q Okay. Thank you. Would you please  
12 turn to CX32 next?

13 MS. MEINHARDT: And Mr. Crawley, would  
14 you please publish CX32?

15 BY MS. MEINHARDT:

16 Q Ms. Farnham, are you looking at CX32?

17 A Yes.

18 Q Thank you. Is this the side of the  
19 house at 2208 Turnagain Parkway that was shown in  
20 the closeup photos we just looked at where we saw  
21 chips on the ground?

22 A This is the front of the house.

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1 Q Okay. And --

2 A And the paint chips were on the side  
3 of the house.

4 Q Okay. Would you please turn to -- I  
5 guess let me ask you. So you said that you  
6 observed paint chips only on the side of the  
7 house, correct?

8 A On the sides of the house and the  
9 back, yes.

10 Q Okay. Thank you. Would you please  
11 turn to CX47?

12 MS. MEINHARDT: And Mr. Crawley, would  
13 you now please publish CX47?

14 JUDGE BIRO: Who's drumming? Whoever  
15 it is, please stop.

16 BY MS. MEINHARDT:

17 Q Ms. Farnham, what does CX47 show?

18 A So it's the picture of the back of the  
19 house. And you can still see the water on the  
20 window from the pressure washing. And it also  
21 shows the white -- the component underneath the  
22 roof line that's painted white.

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1 Q Okay. And I would just ask you to  
2 turn back, please, to CX32.  
3 MR. VON MAREES: I have an objection,  
4 Your Honor.  
5 BY MS. MEINHARDT:  
6 Q Okay. And Ms. Farnham, you said this  
7 was the back of the house?  
8 A No, that is the front of the house.  
9 That's the front of the house.  
10 Q Okay.  
11 A And the reason, I -- sorry.  
12 Q Go ahead.  
13 A And the reason I took that picture was  
14 because it's got its new windows on the target  
15 property.  
16 Q Okay. Thank you. And then if we turn  
17 back to CX47, I just want to clarify you had said  
18 that CX47 showed the back of the house.  
19 A Yes.  
20 Q Are you certain about this?  
21 A Yes, I'm positive of that. That is  
22 the -- that is the back of the house because it -

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1 looking at CX53 now?  
2 A Yes.  
3 Q Okay. Is the man in the photo  
4 standing where you saw power washing going on?  
5 A Yes.  
6 Q Okay. And what did you observe about  
7 the roof here?  
8 A The trimming under the roof is painted  
9 white.  
10 Q And so were these parts of the roof  
11 over the area of ground where you saw paint  
12 chips?  
13 A Yes.  
14 Q Okay. And why are you concerned that  
15 paint chips are on the ground? Why did you or  
16 Mr. Hamlett take photos of these paint chips that  
17 were on the ground?  
18 A Because as inspectors, that shows --  
19 that shows me that the company did not contain  
20 the work site like they were supposed to.  
21 Q Okay. And so by contain the work  
22 site, did you mean -- could you just say what you

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1 - yeah.  
2 Q Let's turn instead to CX48. This will  
3 be the last that we look at.  
4 A Okay.  
5 Q Of this particular set, I mean. So  
6 CX48, please.  
7 MS. MEINHARDT: Mr. Crawley, could you  
8 please publish CX48?  
9 BY MS. MEINHARDT:  
10 Q Okay. And Ms. Farnham, what does CX48  
11 show?  
12 A That is the back of the house showing  
13 the window that has also been replaced on the  
14 target property. And you can still see the water  
15 from the pressure washing.  
16 Q Okay. And then let's turn to CX53,  
17 please, the picture that has previously been  
18 admitted in Exhibit CX53.  
19 MS. MEINHARDT: Mr. Crawley, will you  
20 please publish that?  
21 BY MS. MEINHARDT:  
22 Q I'm sorry. Ms. Farnham, are you

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1 mean by that?  
2 A So under the RRP rule, you're supposed  
3 to lay down plastic. To contain the work site,  
4 you're supposed to have signage. You're supposed  
5 to have caution tape to keep the general public  
6 out of the work site unless you're working in it.  
7 Q Okay. And so tell us why you're  
8 concerned, though, about there not being  
9 containment and these paint chips being on the  
10 bare ground?  
11 A For -- for EPA, the whole purpose of  
12 the RRP rule is to protect the general public and  
13 also to protect the potential homeowner that  
14 could be moving into that house that most likely  
15 would have a child under the age of 6 moving into  
16 that house. And when there's paint chips all  
17 over the ground, there's the potential of lead  
18 poisoning for the family that could potentially  
19 move in.  
20 Q Okay. So even though there aren't any  
21 children present at the renovation right now,  
22 you're saying there's a risk there?

1 A Yes.  
 2 Q Okay. Did you have any evidence to  
 3 suggest that this was lead-based paint at the  
 4 Turnagain Street?  
 5 A No, as inspectors, we presume that  
 6 it's positive for lead unless the certified  
 7 renovator has made a determination that there is  
 8 no lead present.  
 9 Q And did you test the paint during the  
 10 inspection?  
 11 A No.  
 12 MR. VON MAREES: Exactly.  
 13 BY MS. MEINHARDT:  
 14 Q So, why are you concerned about these  
 15 paint chips if you can't say for sure that this  
 16 is the base paint based on testing?  
 17 A Because we presume that there's lead  
 18 present unless, unless we are shown otherwise?  
 19 Q Okay, Ms. Farnham, let's switch gears  
 20 again and talk about what happened after you and  
 21 Mr. Hamlett conducted your inspection of the  
 22 Turnagain property.

1 document was marked as Complainant Exhibit No. 7  
 2 for identification.)  
 3 THE WITNESS: Okay.  
 4 BY MS. MEINHARDT:  
 5 Q Ms. Farnham, do you recognize CX-7?  
 6 A Yes.  
 7 Q How do you recognize CX-7?  
 8 A This is the inspection report that I  
 9 wrote.  
 10 Q Okay. Is CX-7 signed?  
 11 A Yes.  
 12 Q Who signed CX-7?  
 13 A I did.  
 14 Q Okay. Is CX-7 dated?  
 15 A Yes.  
 16 Q What is the date listed on CX-7?  
 17 A Can you clarify the question, please?  
 18 Q Sure. I just asked if it was dated  
 19 and then I asked what is the date on CX-7.  
 20 A January 27, 2019.  
 21 Q And can you please take a moment to  
 22 look over CX-7, and let me know when you're

1 Did you record information about the  
 2 inspection in the report?  
 3 A Yes.  
 4 Q Okay. And what does a -- what was the  
 5 report that you created?  
 6 A So, after each inspection, as an  
 7 inspector we, we will write the inspection  
 8 report.  
 9 Q Okay. And what does the, what does an  
 10 RRP inspection report typically entail, or what  
 11 does it include?  
 12 A So, typically, from the inspection on  
 13 the inspection report we will document what, what  
 14 was observed, and also look at the requisition  
 15 requirements, and then, and then what was  
 16 discussed with the contractor.  
 17 Q Okay. Would you please turn to the  
 18 exhibit previously marked as CX, as CX-7, and let  
 19 me know when you get there?  
 20 MS. MEINHARDT: And, Mr. Crawley,  
 21 would you please publish CX-7.  
 22 (Whereupon, the above-referred to

1 finished?  
 2 (Pause.)  
 3 A Okay.  
 4 Q Thank you. Ms. Farnham, does CX-7  
 5 appear to be complete and accurate?  
 6 A Yes.  
 7 Q Does anything in CX-7 appear to be  
 8 incomplete or inaccurate?  
 9 A No.  
 10 Q Okay. Thank you.  
 11 MS. MEINHARDT: Your Honor,  
 12 Complainant moves to admit CX-7 into evidence.  
 13 JUDGE BIRO: Mr. Von Marees, do you  
 14 object to the admission of CX-7 into the record?  
 15 MR. VON MAREES: I object to this  
 16 because, first of all, it's all written in  
 17 English. And it also shows that we did not do  
 18 this in the photos.  
 19 We never touched the back part of the  
 20 house.  
 21 THE INTERPRETER: Did you hear me?  
 22 JUDGE BIRO: No. I'm sorry, I did

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1 not. Could you, could you repeat it? I'm sorry.  
 2 THE INTERPRETER: Can you hear me now?  
 3 JUDGE BIRO: Yes, I can.  
 4 THE INTERPRETER: Okay.  
 5 MR. VON MAREES: I object to this  
 6 being made part of the record because it shows,  
 7 the evidence shows that we did not do any work in  
 8 the back part of the house.  
 9 And this, the whole document is  
 10 written in English and I don't understand it.  
 11 And we did not do any work in the back  
 12 of the house.  
 13 JUDGE BIRO: Okay. Over Respondent's  
 14 objection, I'm going to admit CX-7 into the  
 15 record.  
 16 (Whereupon, the above-referred to  
 17 document was received into evidence as  
 18 Complainant Exhibit No. 7.)  
 19 MS. MEINHARDT: Thank you, Your Honor.  
 20 BY MS. MEINHARDT:  
 21 Q Ms. Farnham, you just mentioned that  
 22 CX-7 was signed in January but the inspection was

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1 in July. What was the reason for that delay in  
 2 writing the inspection report?  
 3 A I was waiting to get a copy of the  
 4 renovator certification from Mr. Van Marees.  
 5 Q Okay. And that took some time; is  
 6 that what you're saying?  
 7 A Yes.  
 8 Q Okay. When writing CX-7, an  
 9 inspection report like that, do you just rely on  
 10 your memory?  
 11 A No. I take field notes.  
 12 Q Okay. Can you please refer to CX-94,  
 13 the exhibit previously marked as CX-94.  
 14 MS. MEINHARDT: Your Honor, would you  
 15 like me to publish all of the exhibits going  
 16 forward for the benefit of the interpreter, or  
 17 may I refer just to the --  
 18 JUDGE BIRO: That would be fine.  
 19 MS. MEINHARDT: Okay. Mr. Crawley,  
 20 would you please publish CX-94.  
 21 (Whereupon, the above-referred to  
 22 document was marked as Complainant Exhibit No. 94

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1 for identification.)  
 2 BY MS. MEINHARDT:  
 3 Q Ms. Farnham, do you recognize CX-94?  
 4 A Yes.  
 5 Q How do you recognize CX-94?  
 6 A Those were my field notes out in the  
 7 field when I was there.  
 8 Q Okay. So, so how do you know that  
 9 that's what they are?  
 10 A Because that's what, that's -- I was  
 11 writing them. I wrote it.  
 12 Q Okay, thank you.  
 13 Is CX-94 dated?  
 14 A Yes.  
 15 Q What is the date on CX-94?  
 16 A It's July 25th, 2019.  
 17 Q Can you skim through CX-94, please?  
 18 A Yes. I'm done.  
 19 Q Okay. Ms. Farnham, does CX-94 appear  
 20 to be complete and accurate?  
 21 A Yes.  
 22 Q Does anything in CX-94 appear to be

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1 incomplete or inaccurate?  
 2 A No.  
 3 MS. MEINHARDT: Okay, thank you. Your  
 4 Honor, at this time, Complainant moves to admit  
 5 CX-94 into evidence.  
 6 JUDGE BIRO: Mr. Von Marees, do you  
 7 object to the admission of CX-94 into the record?  
 8 MR. VON MAREES: Yes. I object to  
 9 this information because the information is  
 10 erroneous.  
 11 JUDGE BIRO: Okay, Mr. Von Marees,  
 12 over your objection, I'm admitting CX-94.  
 13 (Whereupon, the above-referred to  
 14 document was received into evidence as  
 15 Complainant Exhibit No. 94.)  
 16 And, again, I'm going to give you an  
 17 opportunity, I want to assure you, to tell me  
 18 everything that you believe is wrong with these  
 19 documents. Okay?  
 20 I'm going to admit them into the  
 21 record.  
 22 MR. VON MAREES: I'm taking down notes

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1 as to all my objections. And then later on,  
 2 thank you, later on I will explain everything.  
 3 JUDGE BIRO: Okay. That's perfect.  
 4 Please proceed, Ms. Meinhardt.  
 5 MS. MEINHARDT: Thank you, Your Honor.  
 6 BY MS. MEINHARDT:  
 7 Q Ms. Farnham, did you refer to CX-94  
 8 when writing CX-7?  
 9 A Yes.  
 10 Q Okay. So, Ms. Farnham, you conduct an  
 11 inspection, you write an inspection report using  
 12 your notes, and then what happens next?  
 13 A So, typically I will follow up with  
 14 the company, and especially if they are asking  
 15 for information on how to become firm certified  
 16 and renovator certified, I'll send them the  
 17 information on how to do that.  
 18 And then I will typically ask for  
 19 additional records because they usually don't  
 20 have them onsite.  
 21 Q Okay. So, what are some of the  
 22 records and documents that you're going to be

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1 you have that open?  
 2 A Oh, yes.  
 3 Q Oh, okay.  
 4 Okay, do you recog -- and I think the  
 5 court reporter is just looking for it.  
 6 A All right.  
 7 Q Go ahead. Do you recognize CX-8?  
 8 A Yes.  
 9 Q How do you recognize CX-8?  
 10 A It is a contract between the property  
 11 owner and Greenbuild that was provided to me via  
 12 email from Mr. Von Marees.  
 13 Q Okay. And is that how you know that's  
 14 what it is?  
 15 A Yes.  
 16 Q You received an email? Okay.  
 17 A Yes.  
 18 Q Please take a moment to review CX-8,  
 19 and let me know when you're done.  
 20 (Pause.)  
 21 A Okay.  
 22 Q In looking at CX-8, does it appear to

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1 asking for that they don't have onsite?  
 2 A So, I will typically ask for a copy of  
 3 the first certification, the renovator  
 4 certification. I ask for the RRP recordkeeping  
 5 requirements that are required. And then I also  
 6 ask for invoices, contracts, a list of general  
 7 sub -- subcontractors that they utilize to do the  
 8 work.  
 9 Q Okay. And is that what they utilize  
 10 to do the work on the property that you just  
 11 inspected?  
 12 A Yes.  
 13 Q Thank you. Would you please turn to  
 14 the exhibit that has previously been marked as  
 15 CX-8, and let me know when you have that open.  
 16 MS. MEINHARDT: And, Mr. Crawley, if  
 17 you would please publish CX-8.  
 18 (Whereupon, the above-referred to  
 19 document was marked as Complainant Exhibit No. 8  
 20 for identification.)  
 21 BY MS. MEINHARDT:  
 22 Q Okay, Ms. Farnham, did you say that

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1 be complete and accurate?  
 2 A Yes.  
 3 Q Does anything in CX-8 appear to be  
 4 incomplete or inaccurate?  
 5 A No.  
 6 Q Okay, thank you.  
 7 MS. MEINHARDT: Your Honor,  
 8 Complainant moves that CX-8 be admitted into  
 9 evidence.  
 10 JUDGE BIRO: Mr. Von Marees, do you  
 11 have any objection to the admission of CX-8 into  
 12 the record?  
 13 MR. VON MAREES: No.  
 14 JUDGE BIRO: Thank you. CX-8 is  
 15 admitted into the record.  
 16 MR. VON MAREES: No. No.  
 17 (Whereupon, the above-referred to  
 18 document was received into evidence as  
 19 Complainant Exhibit No. 8.)  
 20 THE INTERPRETER: Obviously, you can  
 21 hear him, no?  
 22 MR. VON MAREES: No.



1 MS. MEINHARDT: Okay. Thank you, Your  
 2 Honor.  
 3 BY MS. MEINHARDT:  
 4 Q Ms. Farnham, you said you received  
 5 this document from Respondent. Did Respondent  
 6 send it to you in response for your -- in  
 7 response to your request for the contract for the  
 8 renovation of Turnagain Parkway?  
 9 A Yes.  
 10 Q Okay, thank you.  
 11 Would you please turn to the exhibit  
 12 that has previously been marked as CX-9, and let  
 13 me know when you have that open.  
 14 MS. MEINHARDT: Mr. Crawley, if you  
 15 would please publish CX-9 now.  
 16 (Whereupon, the above-referred to  
 17 document was marked as Complainant Exhibit No. 9  
 18 for identification.)  
 19 BY MS. MEINHARDT:  
 20 Q And, Ms. Farnham, do you recognize CX-  
 21 9?  
 22 A Yes.

1 Q And how do you recognize CX-9?  
 2 A This was a copy of the invoice that  
 3 was sent via email by Mr. Von Marees.  
 4 Q Okay. And how do you recognize CX-9,  
 5 how do you know what it is?  
 6 A Oh, because he was the one that sent  
 7 it to me and I -- when I requested a copy of the  
 8 invoice.  
 9 Q Okay, thank you.  
 10 Please take a moment to review CX-9,  
 11 and let me know when you're done.  
 12 A Okay.  
 13 Q Okay. Looking at CX-9, does it appear  
 14 complete and accurate?  
 15 A Yes.  
 16 Q Does anything in CX-9 appear  
 17 incomplete or inaccurate?  
 18 A No.  
 19 Q Okay, thank you.  
 20 MS. MEINHARDT: Your Honor,  
 21 Complainant moves to admit CX-9 into evidence.  
 22 JUDGE BIRO: Mr. Von Marees, do you

1 have any objection to CX-9 being admitted into  
 2 the record?  
 3 MR. VON MAREES: No.  
 4 JUDGE BIRO: CX-9 is admitted into the  
 5 record.  
 6 (Whereupon, the above-referred to  
 7 document was received into evidence as  
 8 Complainant Exhibit No. 9.)  
 9 MS. MEINHARDT: Thank you, Your Honor.  
 10 BY MS. MEINHARDT:  
 11 Q Ms. Farnham, so, you said that you  
 12 received this document from Respondent. Did he  
 13 communicate to you that it was an invoice paid to  
 14 Greenbuild for the renovation of Turnagain  
 15 Parkway?  
 16 A Yes.  
 17 Q Thank you. Would you now please turn  
 18 to the exhibit that has previously been marked as  
 19 CX-11, and let me know when you have that open.  
 20 MS. MEINHARDT: Mr. Crawley, would you  
 21 please publish CX-11.  
 22 (Whereupon, the above-referred to

1 document was marked as Complainant Exhibit No. 11  
 2 for identification.)  
 3 THE WITNESS: Okay.  
 4 BY MS. MEINHARDT:  
 5 Q And, Ms. Farnham, do you recognize CX-  
 6 11?  
 7 A Yes.  
 8 Q How do you recognize CX-11?  
 9 A That is the EPA firm certification for  
 10 the RRP rule.  
 11 Q Okay. And whose firm certification is  
 12 it?  
 13 A Oh. It's for Greenbuild Design and  
 14 Construction.  
 15 Q Okay. And how do you recognize CX-11,  
 16 or how do you know that that's what it is?  
 17 A Because this is what he sent me when  
 18 I was requesting the firm certification for the  
 19 company. Via email. Sorry.  
 20 Q That's okay.  
 21 And when you say "he," who are you  
 22 referring to?

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1 A Oh, Mr. Von Marees.  
 2 Q Okay, thank you.  
 3 Please take a moment to review CX-11.  
 4 A Yep.  
 5 Q Looking at CX-11, does it appear  
 6 complete and accurate?  
 7 A Yes.  
 8 Q Does anything in CX-11 appear  
 9 incomplete --  
 10 A No.  
 11 Q -- or inaccurate?  
 12 MS. MEINHARDT: Thank you.  
 13 Your Honor, Complainant moves to admit  
 14 CX-11 into evidence.  
 15 JUDGE BIRO: Mr. Von Marees, do you  
 16 have any objection to CX-11 being admitted into  
 17 evidence?  
 18 MR. VON MAREES: No.  
 19 JUDGE BIRO: Okay. CX-11 is admitted  
 20 into the record.  
 21 (Whereupon, the above-referred to  
 22 document was received into evidence as

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1 Marees asking for all the documentations listed.  
 2 Q Okay. And how is it that you know  
 3 that that's what it is?  
 4 A Because I'm the one that sent the  
 5 email.  
 6 Q Okay, thank you.  
 7 Please take a moment to review CX-12,  
 8 and let me know when you're done.  
 9 A Okay.  
 10 Q Looking at CX-12, does it appear  
 11 complete and accurate?  
 12 A Yes.  
 13 Q Does anything in CX-12 appear  
 14 incomplete or inaccurate?  
 15 A No.  
 16 Q Thank you.  
 17 MS. MEINHARDT: Your Honor,  
 18 Complainant moves to admit CX-12 into evidence.  
 19 JUDGE BIRO: Mr. Von Marees, do you  
 20 have any objection to the admission of CX-12 into  
 21 the record?  
 22 MR. VON MAREES: No.

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1 Complainant Exhibit No. 11.)  
 2 MS. MEINHARDT: Thank you. Thank you,  
 3 Your Honor.  
 4 BY MS. MEINHARDT:  
 5 Q Ms. Farnham, can you tell me did you,  
 6 did you ask Mr. Von Marees for this certificate?  
 7 A Yes.  
 8 Q Okay, thank you.  
 9 Would you now please turn to the  
 10 exhibit that has previously been marked as CX-12,  
 11 and let me know when you get there.  
 12 A Okay.  
 13 MS. MEINHARDT: Mr. Crawley, would you  
 14 please publish CX-12?  
 15 (Whereupon, the above-referred to  
 16 document was marked as Complainant Exhibit No. 12  
 17 for identification.)  
 18 BY MS. MEINHARDT:  
 19 Q Ms. Farnham, do you recognize CX-12?  
 20 A Yes.  
 21 Q How do you recognize CX-12?  
 22 A This is the email I sent to Mr. Von

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1 JUDGE BIRO: CX-12 is admitted into  
 2 the record.  
 3 (Whereupon, the above-referred to  
 4 document was received into evidence as  
 5 Complainant Exhibit No. 12.)  
 6 MS. MEINHARDT: Thank you, Your Honor.  
 7 BY MS. MEINHARDT:  
 8 Q Ms. Farnham, can you tell me more  
 9 about CX-12: what is the conversation that's  
 10 happening in this email thread?  
 11 A So, this email is the one that I will  
 12 follow up with the contractor asking for the firm  
 13 certification, the renovator certification, any  
 14 RRP recordkeeping, and also cert, yeah, the  
 15 certifications.  
 16 Q Okay. And so, were you, are you  
 17 asking for this in cases where a renovator is not  
 18 firm certified or not renovator certified?  
 19 A Yes.  
 20 Q And are you asking to make sure that  
 21 they did become certified?  
 22 A Yes.

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1 Q Okay, thank you.  
 2 Okay. Would you now please turn to  
 3 the exhibit that has previously been marked as  
 4 CX-59, and let me know when you have that open.  
 5 MS. MEINHARDT: Mr. Crawley, would you  
 6 please publish CX-59.  
 7 (Whereupon, the above-referred to  
 8 document was marked as Complainant Exhibit No. 59  
 9 for identification.)  
 10 BY MS. MEINHARDT:  
 11 Q Okay, Ms. Farnham, do you recognize  
 12 CX-59?  
 13 A Yes.  
 14 Q And how do you recognize CX-59?  
 15 A One of the things I asked for were  
 16 invoices of the sub, from the subcontractors that  
 17 Mr. Von Marees utilized for this particular  
 18 project.  
 19 Q Okay. And what is CX-59?  
 20 A So, it's an invoice from one of his  
 21 subcontractors.  
 22 Q Okay. And how was it that you know

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1 into the record.  
 2 (Whereupon, the above-referred to  
 3 document was received into evidence as  
 4 Complainant Exhibit No. 59.)  
 5 MS. MEINHARDT: Thank you, Your Honor.  
 6 BY MS. MEINHARDT:  
 7 Q Okay, Ms. Farnham, would you now  
 8 please turn to the exhibit that has previously  
 9 been marked as CX-60, and let me know when you  
 10 have that open.  
 11 A Okay.  
 12 MS. MEINHARDT: Mr. Crawley, would you  
 13 please publish CX-60?  
 14 (Whereupon, the above-referred to  
 15 document was marked as Complainant Exhibit No. 60  
 16 for identification.)  
 17 BY MS. MEINHARDT:  
 18 Q Okay, Ms. Farnham, do you recognize  
 19 CX-60?  
 20 A Yes.  
 21 Q And how do you recognize CX-60?  
 22 A This was another invoice of one of his

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1 that that's what it is?  
 2 A Because Mr. Von Marees provided it to  
 3 me via email.  
 4 Q Okay, thank you.  
 5 Please take a moment to review CX-59,  
 6 and let me know when you're done.  
 7 A Okay, I'm done.  
 8 Q Okay. Does CX-59 appear to you to be  
 9 complete and accurate?  
 10 A Yes.  
 11 Q Does anything in CX-59 appear  
 12 incomplete or inaccurate?  
 13 A No.  
 14 Q Thank you.  
 15 MS. MEINHARDT: Your Honor, at this  
 16 time Complainant moves to admit CX-59 into  
 17 evidence.  
 18 JUDGE BIRO: Mr. Von Marees, do you  
 19 have any objection to CX-59 being admitted into  
 20 the record?  
 21 MR. VON MAREES: No.  
 22 JUDGE BIRO: Okay, CX-59 is admitted

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1 subcontract -- Mr. Von Marees's subcontractors  
 2 that he utilized for this particular project.  
 3 Q Okay. And how is it that you know  
 4 that's what this document is?  
 5 A Because it was sent to me via email.  
 6 Q Okay, thank you.  
 7 And who sent it to you via email?  
 8 A Mr. Von Marees.  
 9 Q Okay, thank you.  
 10 Please take a moment to review CX-60,  
 11 and let me know when you're done.  
 12 A Okay.  
 13 Q Looking at CX-60, does it appear  
 14 complete and accurate?  
 15 A No. The activity services date, it  
 16 says 2908 Turnagain Parkway instead of the  
 17 correct address.  
 18 Q Okay.  
 19 A For the invoice, yes.  
 20 Q So, you believe that the address is  
 21 incorrect here?  
 22 A Yes.

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1 Q Okay, thank you.  
 2 Other than that, does anything in CX-  
 3 60 otherwise appear to you to be incomplete or  
 4 inaccurate?  
 5 A No.  
 6 Q Okay, thank you.  
 7 MS. MEINHARDT: Your Honor,  
 8 Complainant moves to admit CX-60 into evidence.  
 9 JUDGE BIRO: Mr. Von Marees, do you  
 10 have any objection to CX-60 being admitted into  
 11 the record?  
 12 Is that a no?  
 13 MR. VON MAREES: No. No. Sorry. No.  
 14 JUDGE BIRO: Okay. CX-60 is admitted  
 15 into the record.  
 16 (Whereupon, the above-referred to  
 17 document was received into evidence as  
 18 Complainant Exhibit No. 60.)  
 19 MS. MEINHARDT: Thank you, Your Honor.  
 20 BY MS. MEINHARDT:  
 21 Q So, Ms. Farnham, you said that the  
 22 Respondent -- that Mr. Von Marees sent you this,

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1 in my experience, that company is, like, totally  
 2 right on top of everything that is required to be  
 3 done as far as the recordkeeping, making a  
 4 determination, containing the worksite.  
 5 And they also make sure that all their  
 6 subcontractors are in compliance with the RRP  
 7 rule as well.  
 8 Q Thank you. Do you know that the  
 9 penalty -- I'm sorry.  
 10 Do you know the penalty the EPA has  
 11 proposed in this case against Greenbuild?  
 12 A No, I do not.  
 13 Q Okay. So, I'll just let you know EPA  
 14 has proposed a penalty of \$25,609. Would this  
 15 penalty have been higher had children been  
 16 present at the renovation?  
 17 A Yes, absolutely.  
 18 Q Okay. And in your expert opinion on  
 19 TSCA and the RRP rule, is the penalty in this  
 20 case appropriate for the violations Respondent  
 21 committed?  
 22 A Yes.

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1 this invoice on behalf of the Respondent. Did  
 2 Mr. Von Marees say that this was an invoice that  
 3 Greenbuild paid to subcontractors for the  
 4 renovation at Turnagain Parkway?  
 5 A Yes.  
 6 Q Okay, thank you. I have just a few  
 7 more questions for you, Ms. Farnham, regarding  
 8 your opinion on the penalties assessed for  
 9 violations of TSCA and the RRP rule.  
 10 As a TSCA lead-based paint expert,  
 11 would you say that penalties have a deterrent  
 12 effect?  
 13 A Yes.  
 14 Q How so?  
 15 A So, what happens a lot of times is  
 16 when a contractor has been penalized, they are,  
 17 they are forced to go to the renovator  
 18 certification, to get the renovator certification  
 19 and the firm certification. And they learn the  
 20 rules when they're taking the class.  
 21 And I have followed up with  
 22 contractors after they have been penalized. And

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1 Q Why is that?  
 2 A Because I was there and I saw that the  
 3 company was not in compliance with the rule.  
 4 They were not firm certified. They were not  
 5 renovator certified. And they, they definitely  
 6 did not contain the worksite.  
 7 Q Okay. Did those violations of TSCA  
 8 which you observed at the Turnagain property  
 9 inspection, did those violations put human health  
 10 at risk?  
 11 A Yes.  
 12 Q And, again, how so?  
 13 A Well, because we're, I mean the whole  
 14 purpose of this rule is to protect the family  
 15 that is potent -- that could potentially move  
 16 into that house. And if you got paint chips on  
 17 the ground there's the potential for, for  
 18 children and the family members getting lead  
 19 poisoned if they move into that house when  
 20 there's paint chips on the ground.  
 21 MS. MEINHARDT: Thank you, Ms.  
 22 Farnham.

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1 I have no further questions at this  
2 time, Your Honor.  
3 JUDGE BIRO: Mr. Von Marees, you can  
4 now ask Ms. Farnham all the questions you like.  
5 But it has to be in a series of questions  
6 relevant to this proceeding and the issues  
7 pending in this proceeding.  
8 MR. VON MAREES: Okay.  
9 JUDGE BIRO: You should ask them in  
10 Spanish, and the translator will translate them  
11 for her into English.  
12 THE WITNESS: I can't hear the  
13 translator. So, do I need to change my setting  
14 to do that?  
15 JUDGE BIRO: I'm sorry, you probably  
16 do.  
17 THE INTERPRETER: No. No, you don't.  
18 You stay in English. Everyone stays in English.  
19 Can you hear me?  
20 MS. MEINHARDT: Does anybody know how  
21 to --  
22 THE INTERPRETER: Everyone can hear

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1 THE INTERPRETER: Mr. Rodrigo's  
2 saying, "hello, hello." So, I'm telling him just  
3 wait a second while I get this done.  
4 THE WITNESS: Okay.  
5 THE INTERPRETER: And now I'm in  
6 English. I'll be going back and forth. Just  
7 take a brief pause.  
8 CROSS-EXAMINATION  
9 BY MR. VON MAREES:  
10 Q I have questions for Ms. Farnham.  
11 What happened after the day that you --  
12 JUDGE BIRO: Mr. Von Marees, you have  
13 to give the translator an opportunity to  
14 translate as you go along.  
15 MR. VON MAREES: I understand.  
16 JUDGE BIRO: If you could pause, that  
17 would be great.  
18 MR. VON MAREES: I don't see  
19 translator here.  
20 THE INTERPRETER: I thought he was  
21 seeing me. He just told me he's not. Because  
22 I'm going like this, and he's not seeing me.

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1 me?  
2 JUDGE BIRO: Ms. Farnham, can you hear  
3 the court reporter -- the translator now?  
4 THE INTERPRETER: Can you hear me, Ms?  
5 Can you hear me?  
6 THE WITNESS: No. So, maybe I select  
7 English.  
8 THE INTERPRETER: No. No, no, no, no,  
9 no.  
10 THE WITNESS: Oh, let me try. Okay,  
11 try now.  
12 THE INTERPRETER: How about now? Can  
13 you hear me now?  
14 THE WITNESS: Yes.  
15 THE INTERPRETER: You can hear me now?  
16 THE WITNESS: Yes. Yes, I can. Thank  
17 you.  
18 JUDGE BIRO: Yay. Okay.  
19 THE WITNESS: Now I can't hear him.  
20 THE INTERPRETER: I'm going back and  
21 forth.  
22 THE WITNESS: Oh, got it.

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1 JUDGE BIRO: This won't help our  
2 record at all. So, we'll reflect that you're  
3 holding up your hands. Go ahead.  
4 Okay. Can you translate that  
5 question?  
6 BY MR. VON MAREES:  
7 Q Okay, the question was what happens,  
8 Ms. Farnham, what happened at the time when we  
9 spoke when you came for the inspection, and as we  
10 were speaking very nicely, after you spoke to me  
11 that you promised to send me all the info,  
12 information so I could become certified? What  
13 happened with that?  
14 A That is in the email that was -- that  
15 email had the information about the firm  
16 certification and the renovator certification.  
17 Q What happened, Ms. Farnham, you told  
18 me to give you all, send you all the information  
19 about the subcontractors. You asked for all the  
20 information from me. I gave it to you.  
21 You said it was going to be a warning  
22 if I gave you all, if I complied with all the

1 information that you wanted. I gave you all the  
2 information and you said it was only going to be  
3 a warning to me.

4 What happened with that?

5 A I'm sorry, as an inspector I do not  
6 make the determination for the violations as an  
7 inspector. And I do not in the field have the  
8 right to give anybody a warning. In the TSCA  
9 program we don't have warnings.

10 Q We are under oath, aren't we? You  
11 believe in God, and so do I. I swear to what I'm  
12 saying. Are you believing?

13 MR. FUTERMAN: Objection, Your Honor.  
14 Testifying. The witness' belief in a higher  
15 being has no relevance here.

16 JUDGE BIRO: Overruled.  
17 Just go ahead, translate. Just go  
18 ahead.

19 Ms. Farnham, did you understand the  
20 question?

21 THE WITNESS: No. I'm sorry, I got  
22 lost in the question here. I didn't understand

1 what the question was.

2 JUDGE BIRO: I think the question was  
3 did you suggest to Mr. Von Marees that he would  
4 receive a warning for the violation rather than a  
5 penalty?

6 THE WITNESS: No. I would never do  
7 that as an inspection out in the field -- as an  
8 inspector.

9 JUDGE BIRO: Okay.

10 BY MR. VON MAREES:

11 Q My worker was there and he, he heard  
12 the same thing. That's not true. That's not  
13 true.

14 JUDGE BIRO: Mr. Von Marees, I'm going  
15 to give you a complete opportunity to testify.  
16 But now we're just asking Ms. Farnham questions.

17 BY MR. VON MAREES:

18 Q Okay. The photos that you took, you  
19 took and saw that we were working there in the  
20 area where the paint chips were on the floor. We  
21 didn't touch any of that. Did you see us there?

22 A What I saw were, was an active

1 worksite with contractors working on that house  
2 with Mr. Von Marees there on the site.

3 Q Why -- why do we have to be the ones  
4 guilty of doing this when there was painters  
5 before that that did that? Why should we pay for  
6 this when we were only doing the siding of the  
7 house?

8 MR. FUTERMAN: Again, Your Honor,  
9 objection. Complainant wants to at least note it  
10 for the record.

11 JUDGE BIRO: Overruled.

12 MR. FUTERMAN: Thank you, Your Honor.

13 JUDGE BIRO: Ms. Farnham, do you  
14 understand the question?

15 THE WITNESS: No. Could you rephrase  
16 that, please?

17 JUDGE BIRO: I believe Mr. Von Marees  
18 is asking if there were painters who had done  
19 work on the site and why would he be liable for  
20 their actions?

21 THE WITNESS: I have no information  
22 about painters being on that jobsite.

1 BY MR. VON MAREES:

2 Q That's because the owner before, Mr.  
3 Jason Warfield, before he bought this house in an  
4 estate sale there was being renovations done by  
5 the other gentleman which was assassinated,  
6 assassinado.

7 This man was, was killed before, the  
8 previous owner, in Anchorage. And this house was  
9 80 percent demolished when we came in here.

10 JUDGE BIRO: Okay. Again, what we're  
11 doing right now is asking Ms. Farnham questions.  
12 And I will give you an opportunity to testify.

13 Do you have any more questions you'd  
14 like to ask Ms. Farnham?

15 BY MR. VON MAREES:

16 Q Okay then. The pictures that she said  
17 she took, Ms. Farnham, did you see us spraying,  
18 like the photos you sent to us? Can you show  
19 where my subcontractors or any of my workers were  
20 doing the water spraying there?

21 A The only thing I can tell you is what  
22 I observed. When I was at that property there

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1 was active pressure washing going on when we  
2 showed up. And you could see the water going  
3 over the house and the water being sprayed behind  
4 the house. And we saw workers walking back and  
5 forth.

6 Q Okay. I refer to photo CX-11.

7 JUDGE BIRO: Mr. Court Reporter, could  
8 you please publish CX-11. This is the firm  
9 certification.

10 BY MR. VON MAREES:

11 Q Okay. I complied with everything you  
12 wanted me. And I sent you the email in end of  
13 August/early September with my certification,  
14 like, like I said I would.

15 Now, why do you say that you signed  
16 this and say that it was in December?

17 A I'm sorry. I didn't quite understand  
18 the question. What, what is the question?

19 JUDGE BIRO: Mr. Von Marees, can you  
20 restate your question?

21 BY MR. VON MAREES:

22 Q I'm asking, I'm asking why are you

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1 saying that I sent you everything in December  
2 when I sent it to you early August/early  
3 September? You're saying that you received  
4 everything in December, when I sent it right away  
5 after I finished my certification.

6 A From my recollection, in the emails  
7 when I did not recall Mr. Von Marees sending me a  
8 copy of the renovator certification so that is  
9 why I requested it again.

10 I got the firm certification but I  
11 never received a copy of the renovator  
12 certification. And if you look at the email, it  
13 does say that Mr. Von Marees did take the class  
14 but there was a -- there was something wrong with  
15 this renovator certification. The name was wrong  
16 on it. He had to request it again from the  
17 company, and that he was out of town for two  
18 months.

19 So, from my recollection I do not  
20 recall getting a copy of his renovator  
21 certification.

22 Q Okay. I have another question.

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1 CX-59. CX-59 shows exactly the total  
2 invoices that you promised, that this was going  
3 to be important.

4 A I can't hear. I'm not sure what's  
5 going on, so.

6 JUDGE BIRO: Okay. Well, let's finish  
7 the question, if we can.

8 THE WITNESS: Okay.

9 BY MR. VON MAREES:

10 Q I'm going to ask the question now.

11 In CX-61, CX-61 shows the front of the  
12 house and also, and it also shows the sides of  
13 the house. We put new siding -- we put new  
14 siding on the house.

15 We put new siding on the house which  
16 is not shown.

17 MR. FUTERMAN: Excuse me, Your Honor,  
18 I have to object. I'm sorry to delay. Mr. Von  
19 Marees is speaking for two or three minutes, is  
20 not allowing the interpreters to give a question.  
21 It feels to me like this is testimonial, but I  
22 don't know because there's no question.

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1 MR. VON MAREES: No, I'm asking a  
2 question.

3 THE INTERPRETER: I appreciate you  
4 jumping in, Mr. Futerman, because I've been  
5 trying to begin but he keeps going on.

6 JUDGE BIRO: Okay. Mr. Von Marees,  
7 first, you have to stop talking when I start  
8 talking because I'm the Judge.

9 MR. VON MAREES: Yes.

10 JUDGE BIRO: Second, you have to talk  
11 in short bursts so the interpreter can translate  
12 as you go along, which you haven't done. You  
13 need to do that.

14 I know it's not how you normally  
15 speak, but it's how we have to do it in this  
16 process. Okay.

17 So, now I'm going to give a chance for  
18 the interpreter to tell me everything you said  
19 over the past few minutes. And you have to say  
20 nothing.

21 MR. VON MAREES: Okay.

22 JUDGE BIRO: Until he's done.

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1 MR. VON MAREES: Okay.  
 2 JUDGE BIRO: Okay, let's go.  
 3 THE INTERPRETER: Your Honor, I was  
 4 taking notes as he was speaking. But if you  
 5 would allow, my preference would be for him to  
 6 restate his testimony in shorter phrases so that  
 7 I can get exactly what he said as opposed to what  
 8 I would be doing now, which would be  
 9 paraphrasing.  
 10 JUDGE BIRO: Mr. Futerman, do you have  
 11 any objection to that?  
 12 MR. FUTERMAN: No, Your Honor.  
 13 JUDGE BIRO: Okay.  
 14 THE INTERPRETER: All right. So, I  
 15 will explain to Mr. Von Marees.  
 16 JUDGE BIRO: Mr. Von Marees, what did  
 17 I say? Short bursts of testimony.  
 18 THE INTERPRETER: Mr. Von Marees is  
 19 actually communicating his frustration with the  
 20 process.  
 21 MR. VON MAREES: Yeah.  
 22 THE INTERPRETER: Because as we are

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1 interpreting for him we're doing it  
 2 simultaneously and there's no pause for him to, I  
 3 guess, digest what's being said.  
 4 And what he's saying is that when he  
 5 then goes to speak in English why can't we do the  
 6 same thing. I'm trying to explain to him that  
 7 it's because you guys don't hear our  
 8 interpretation. But when he goes to speak in  
 9 English, Mr. Futerman expressed an interest in  
 10 wanting to hear him in Spanish. And so, because  
 11 of that we can't do the simultaneous because then  
 12 the court reporter wouldn't be able to get a  
 13 record of any of it.  
 14 JUDGE BIRO: Okay. So, please explain  
 15 that to him.  
 16 THE INTERPRETER: My name is Carlos  
 17 Cruz. I'm the other interpreter. Carlos Cruz.  
 18 You're welcome. I'm sorry, Your Honor. Was  
 19 there an instruction?  
 20 JUDGE BIRO: Yes. Please explain  
 21 everything Mr. Lopez I think just said. And --  
 22 THE INTERPRETER: This is Carlos Cruz.

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1 I'm the other interpreter.  
 2 JUDGE BIRO: Oh, Mr. Cruz. Right.  
 3 But explain the situation that we can't do  
 4 simultaneous translation.  
 5 THE INTERPRETER: No problem.  
 6 JUDGE BIRO: We're going to do  
 7 consecutive translation. It just takes a little  
 8 more time, and if he could just try to work with  
 9 us I would be very grateful, if we could just get  
 10 through this.  
 11 THE INTERPRETER: Let me explain that  
 12 to Mr. Von Marees.  
 13 THE WITNESS: Yes, I understand.  
 14 JUDGE BIRO: Okay. So, can he please  
 15 in a short burst of words tell us what his next  
 16 question for Ms. Farnham is?  
 17 BY MR. VON MAREES:  
 18 Q What I want to know is why Mrs.  
 19 Farnham is saying that she clearly remembers that  
 20 the photos are showing the rear of the house when  
 21 showing CX-32 that clearly shows the front of the  
 22 house as permitted by the permits?

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1 Just by way of that inaccuracy right  
 2 there, it's clear that she's not 100 percent sure  
 3 in the evidence that she's trying to present  
 4 against me.  
 5 A Okay.  
 6 MR. FUTERMAN: Objection, Your Honor.  
 7 Testifying.  
 8 JUDGE BIRO: It's sustained. But  
 9 let's see if we can move forward.  
 10 Ms. Farnham, could you look at CX-32  
 11 again. If we could pull that up.  
 12 Wait, Mr. Von Marees.  
 13 MR. VON MAREES: I apologize. I'm  
 14 just trying to defend myself.  
 15 JUDGE BIRO: I understand. But we  
 16 have to take it very slow. Just indulge me here.  
 17 MR. VON MAREES: No problem.  
 18 JUDGE BIRO: Thank you. Ms. Van  
 19 Marees -- Ms. Farnham, could you look at  
 20 Complainant's Exhibit 32. Is this the picture  
 21 you were referring to? You indicated that this  
 22 was the back of the house. Is that, is that your



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1 testimony?  
 2 THE WITNESS: No, I -- my -- I thought  
 3 this was the front of the house.  
 4 MR. VON MAREES: Yes, this is the  
 5 front --  
 6 THE WITNESS: Yeah, my memory says  
 7 this is the front of the house, so.  
 8 BY MR. VON MAREES:  
 9 Q This is, this is the front. However,  
 10 in earlier photos you indicated that it was the  
 11 rear of the house. And I'm looking for the photo  
 12 now. CX-47.  
 13 And Mrs. Meinhardt showed that photo  
 14 and asked you, are you sure this is the back of  
 15 the house? And you said, yes. Why it showed the  
 16 same permit there, the stamp in the window, and  
 17 you say, no, that's the window's wet?  
 18 JUDGE BIRO: Mr. Von Marees, wait a  
 19 minute.  
 20 Mr. Von Marees asked that question in  
 21 English. It should be recorded in English  
 22 because that's what he said.

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1 MR. VON MAREES: What I want to  
 2 highlight here is that when Ms. Farnham was asked  
 3 about the photos that she was showed previously,  
 4 she indicated that the photos were taken of a  
 5 portion of the rear of the house. We actually  
 6 never did any work on the rear of the house. And  
 7 what I'm trying to highlight here is that she  
 8 doesn't remember this clearly.  
 9 And what she spoke about as far as --  
 10 what she spoke about as far as the paint chips  
 11 around the house, that wasn't us either. We  
 12 didn't do any work to the rear of the house.  
 13 If you look at this photo that's here  
 14 right now what you see is the permit that's on  
 15 the window. She referenced this as a wet window  
 16 in the rear of the house, and this is not a part  
 17 of the house that we worked on.  
 18 JUDGE BIRO: Okay. The problem is  
 19 that that's testifying by you, and that is not a  
 20 question to Ms. Farnham.  
 21 MR. VAN MAREES: No.  
 22 JUDGE BIRO: No, you don't talk when

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1 MR. VON MAREES: Sorry.  
 2 JUDGE BIRO: I would be --  
 3 MR. VON MAREES: I'm sorry. It's just  
 4 a very complicated process for me.  
 5 JUDGE BIRO: I know, Mr. Von Marees,  
 6 it is really complicated. And I share your  
 7 frustration, I assure you.  
 8 MR. VON MAREES: Thank you.  
 9 JUDGE BIRO: And I'm trying as hard as  
 10 I can to make it go as efficiently as we can.  
 11 But I need your help.  
 12 Please try to talk in small bursts,  
 13 pause, and give the translator a chance to  
 14 translate, please.  
 15 MR. VON MAREES: Okay.  
 16 JUDGE BIRO: Not even close to a short  
 17 burst. Not anywhere near a short burst.  
 18 THE INTERPRETER: I think I got it  
 19 all, Your Honor.  
 20 JUDGE BIRO: You're not stopping.  
 21 THE INTERPRETER: I think I have it  
 22 all.

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1 I talk. All we're doing now is taking her  
 2 testimony because you are not under oath. Do you  
 3 understand? Your testimony is not under oath  
 4 now. We're not taking your testimony, we are  
 5 just asking Ms. Farnham, who has been put under  
 6 oath, for her testimony.  
 7 So, do you have a question you want to  
 8 ask her?  
 9 BY MR. VON MAREES:  
 10 Q So that I'm going to try to phrase it  
 11 in the form of a question. And what I would ask,  
 12 Ms. Farnham, is why are you saying that this was  
 13 the rear of the house? Is it that you really  
 14 don't remember exactly what was happening there,  
 15 and what you may have saw there was not something  
 16 that we ourselves did?  
 17 That's my question.  
 18 A Okay. So, I'm sorry, what was the  
 19 question?  
 20 JUDGE BIRO: Do you remember whether  
 21 this was the front or the back of the house?  
 22 THE WITNESS: Well, now that you are

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1 questioning it, I'm not sure that this picture is  
2 the front or the back.

3 MR. VON MAREES: And I want that  
4 recorded because she's obviously not clear what's  
5 going on here.

6 JUDGE BIRO: We're recording it all as  
7 best we can. And if you would help us, it would  
8 be wonderful.

9 MR. VON MAREES: Muchas gracias.

10 JUDGE BIRO: Okay. Do you have  
11 another question, Mr. Von Marees, for Ms.  
12 Farnham?

13 MR. VON MAREES: That will be all,  
14 Your Honor.

15 JUDGE BIRO: Okay.

16 Ms. Meinhardt, do you have any  
17 redirect?

18 MS. MEINHARDT: Thank you. Your  
19 Honor, yes, I do have just a few quick questions  
20 on redirect.

21 REDIRECT EXAMINATION  
22 BY MS. MEINHARDT:

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1 strike while you're conducting an inspection?

2 A I always try to maintain a friendly --  
3 I always maintain a friendly conversation.

4 Q Okay. Thank you. Did you send Mr.  
5 Von Marees information after the inspection to  
6 instruct him how to become a firm and renovator  
7 certified?

8 A Yes.

9 Q Is that something that you regularly  
10 do after inspections? Do you send renovators  
11 this information about firm and renovator  
12 certification?

13 A Yes.

14 Q Okay. At the inspection did you  
15 provide him a warning and tell him there would be  
16 no penalty in this case?

17 A No.

18 Q Do you have authority to issue field  
19 citations under TSCA?

20 A No, we do not.

21 Q Do you make determinations as to  
22 whether a violation has occurred while you're out

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1 Q Regarding your memory of the Turnagain  
2 property, Ms. Farnham, did you walk all around  
3 the house?

4 A Yes.

5 Q Do you remember seeing paint chips in  
6 multiple places on the ground?

7 A Yes.

8 Q Do you remember them being close to  
9 the foundation?

10 A Yes.

11 Q Okay. And they were on the bare  
12 ground, not on top of any plastic sheeting?

13 A No.

14 Q Okay. Thank you.

15 MS. MEINHARDT: There's a lot of  
16 background noise.

17 JUDGE BIRO: That's the bird. If so,  
18 please turn it off.

19 MR. VON MAREES: Sorry, my bird is in  
20 the living room. Sorry. It's a big parrot.

21 BY MS. MEINHARDT:  
22 Q What tone or demeanor do you try to

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1 doing an inspection?

2 A Not as an inspector, no.

3 Q Were you trained on these matters  
4 during your training for becoming an inspector?

5 A Yes.

6 Q Were you told about the things that  
7 you should be doing in the field?

8 A Yes.

9 Q Okay. Do you decide whether a  
10 renovator who appears to be out of compliance  
11 with TSCA will be assessed a penalty?

12 A No.

13 Q And do you tell people that they may  
14 be charged a penalty if they are founding in  
15 violation of TSCA and the RRP rule?

16 A No.

17 Q Okay. So do you follow these  
18 procedures that you learned as you became an  
19 inspector each time you conduct an inspection?

20 A Yes.

21 Q And do you basically follow very  
22 similar scripts each time you conduct an

1 inspection?  
 2 A Yes.  
 3 Q Thank you. After you conduct an  
 4 inspection, when you write out your report, do  
 5 you note who was present at the inspection?  
 6 A Yes.  
 7 Q Okay. And does that include people  
 8 who are parts -- who were part of a conversation  
 9 with you during the inspection?  
 10 A Yes.  
 11 Q Thank you. If I could ask you to  
 12 please look at CX-42.  
 13 MS. MEINHARDT: If Mr. Crawley would  
 14 please publish CX-42.  
 15 BY MS. MEINHARDT:  
 16 Q Ms. Farnham, can you tell me what you  
 17 believe CX-42 shows?  
 18 A Those are contractors working on the  
 19 house, actively working on the house and pressure  
 20 washing the back of the house.  
 21 Q Okay. Thank you. Was GreenBuild  
 22 overseeing the work going on that day?

1 MR. VON MAREES: Ms. Farnham, do you  
 2 believe that I would have provided all of my  
 3 subcontractors contact information had it not  
 4 been for the fact that you told me that this was  
 5 a warning?  
 6 MR. FUTERMAN: Objection. Calls for  
 7 speculation, Your Honor.  
 8 JUDGE BIRO: Sustained.  
 9 MR. FUTERMAN: Thank you, Your Honor.  
 10 JUDGE BIRO: That's not an appropriate  
 11 question. You can't ask her what you would have  
 12 done under different circumstances.  
 13 MR. VON MAREES: But it's the truth,  
 14 Your Honor. I have taken an oath to say the  
 15 truth. That's what I'm here to do and I would  
 16 like her as an agent to say the truth also.  
 17 JUDGE BIRO: First of all, you are not  
 18 under oath yet. Second of all, she can't imagine  
 19 what your mind would have decided would be the  
 20 appropriate course of action. If you have a  
 21 question that relates to her and her thoughts,  
 22 feel free to ask it.

1 A At the time, yes, he was there.  
 2 Q Okay. Was Mr. Von Marees, in  
 3 particular, was he presented to you as the person  
 4 in charge when you asked to speak with the  
 5 foreman?  
 6 A Yes, he was.  
 7 Q Is it -- does the picture we just  
 8 talked about, whether it was the front or the  
 9 back, does that change your opinion about  
 10 respondent's compliance with TSCA or the RRP  
 11 rule?  
 12 A No, it does not.  
 13 MS. MEINHARDT: Thank you, Your Honor.  
 14 I do not have any further questions.  
 15 JUDGE BIRO: Mr. Von Marees, you now  
 16 have an opportunity to ask Mr. Farnham additional  
 17 questions related to the questions she was just  
 18 asked in the last segment by Ms. Meinhardt. Do  
 19 you have any questions you would like to ask?  
 20 MR. VON MAREES: Yes.  
 21 JUDGE BIRO: Okay. Please proceed in  
 22 short bursts.

1 MR. VON MAREES: Okay.  
 2 Ms. Farnham, wasn't it myself that  
 3 asked you for the appropriate information that I  
 4 would have needed to become certified. Yes or  
 5 no?  
 6 MS. FARNHAM: Yes.  
 7 MR. VON MAREES: Okay. When you look  
 8 at this photo, CX-42, can you tell by looking at  
 9 the photo whether those were my workers that were  
 10 doing this work in the rear of the house. Yes or  
 11 no?  
 12 MS. FARNHAM: My job as an inspector  
 13 is to observe what I see when I'm on the  
 14 inspection site and what I'm observing is that  
 15 there are workers working on the house, actively  
 16 working on the house and pressure washing during  
 17 the inspection and that is what I see.  
 18 JUDGE BIRO: That's not the answer --  
 19 that's not an answer to his question, Ms.  
 20 Farnham. Can you tell whether that is a worker  
 21 employed by GreenBuild or not from the picture?  
 22 MS. FARNHAM: No, I cannot.

1 MR. VON MAREES: Okay. Thank you.  
 2 That will be all for now, Your Honor.  
 3 JUDGE BIRO: Okay.  
 4 Ms. Farnham, I have a couple of  
 5 questions I'd like to ask you. I looked at the  
 6 pictures that were taken on the day of the  
 7 inspection and it seemed that the house that was  
 8 being worked on. 2208 Turnagain Parkway, was in a  
 9 developed residential community. Is that  
 10 correct?  
 11 MS. FARNHAM: Yes.  
 12 JUDGE BIRO: Okay. Were there  
 13 occupied houses on either side, in front of and  
 14 in back of, 2208 Turnagain Parkway?  
 15 MS. FARNHAM: From what I can recall  
 16 there were houses on both sides. I cannot recall  
 17 what was behind the house. Sorry.  
 18 JUDGE BIRO: Do you know whether the  
 19 houses on either side were being occupied at the  
 20 time?  
 21 MS. FARNHAM: No.  
 22 JUDGE BIRO: Okay. How far can lead

1 JUDGE BIRO: No. Now it's my turn.  
 2 We'll give you a chance.  
 3 MR. VON MAREES: Okay.  
 4 JUDGE BIRO: Ms. Farnham, what is the  
 5 cost of complying with TSCA on a residential  
 6 property for a contractor?  
 7 MS. FARNHAM: Are you able to rephrase  
 8 that question?  
 9 JUDGE BIRO: Has the agency estimated  
 10 what the cost of compliance is under TSCA in  
 11 connection with a residential home renovation?  
 12 MS. FARNHAM: Yes. TSCA -- I'm sorry.  
 13 If you're -- I know with complying for the  
 14 certifications, the renovator certification, the  
 15 firm certification for EPA, the training  
 16 certification is anywhere from 250 to 300. The  
 17 firm certification is 300 through EPA.  
 18 JUDGE BIRO: Okay. I was actually  
 19 thinking of the cost of compliance in terms of  
 20 putting down the plastic you indicated, put up  
 21 the warning signs, all those other things on  
 22 site.

1 dust that has been made airborne travel?  
 2 MS. FARNHAM: I can just tell you from  
 3 my experience when a contractor has pressure  
 4 washed a house, the paint chips because I have  
 5 gotten plenty of tips and complaints from the  
 6 neighboring house because the paint has landed in  
 7 their backyard or their side of the house in the  
 8 garden. When you're pressure washing, because  
 9 it's high pressure, the paint chips can fly far  
 10 enough into the other neighbor's house -- I mean,  
 11 yard.  
 12 JUDGE BIRO: Okay. So that's  
 13 waterborne paint chips.  
 14 MS. FARNHAM: Yes. It's actually high  
 15 pressure, yes.  
 16 JUDGE BIRO: Did you see any sanding  
 17 going on?  
 18 MS. FARNHAM: Drysanding? No, no, I  
 19 did not at this time.  
 20 JUDGE BIRO: Okay.  
 21 MR. VON MAREES: Your Honor, can I ask  
 22 a question?

1 MS. FARNHAM: I would have to look  
 2 into that but EPA has definitely come up with a  
 3 cost of what it would cost the renovators as far  
 4 as doing the containment, but I would have to  
 5 look into that. I don't have that answer on top  
 6 of my head.  
 7 JUDGE BIRO: Is there a time factor  
 8 that is involved in doing these compliance  
 9 activities?  
 10 MS. FARNHAM: As far as paying the  
 11 workers? Are you talking about the workers  
 12 laying down the plastic?  
 13 JUDGE BIRO: Right. Is there  
 14 additional time that goes into compliance?  
 15 MS. FARNHAM: So from my experience  
 16 from talking with a lot of contractors, when they  
 17 are changing up how they contain the worksite,  
 18 yes, it does take them a little bit longer. As  
 19 they've done it, the more they do it, the quicker  
 20 they can get it done.  
 21 If I had to take a guess, I think most  
 22 contractors would say that it may take anywhere

1 from an hour or two to actually contain the  
2 worksite. Then it also depends on what kind of  
3 containment they have to do depending on the job.

4 JUDGE BIRO: What are the alternatives  
5 in terms of containment?

6 MS. FARNHAM: So you have different  
7 containments. So like if it's a window job, if  
8 it's a window job, one window, the contractor can  
9 -- I mean, the containment is a lot simpler.

10 They would have to just cover the  
11 interior of the window with plastic and then the  
12 exterior they typically will lay down enough  
13 plastic just to be able to take out the window  
14 and then burrito wrap it and take it to the  
15 container that they have.

16 But if it's a siding, removing siding  
17 on a house is more intense because you're  
18 removing the whole siding of the house. That  
19 means actually going out -- I mean, the rule says  
20 you have to go out 10 in each direction to lay  
21 down the plastic. It really does depend on the  
22 job. If it's more intense, it will take them a

1 little bit longer, more plastic.

2 If it's just a simple job, if it's  
3 just like one window, you know, it's just a  
4 matter of -- like I said, for a window it's just  
5 a matter of laying down the plastic in front of  
6 the window just big enough so that you can at  
7 least contain it.

8 And then taping up the back of it on  
9 the interior, putting a piece of plastic on the  
10 interior so that as you're removing the window,  
11 the paint chip doesn't, you know, contaminate the  
12 interior. A lot of it depends on the job. It is  
13 like -- well, okay.

14 So, for instance, smaller companies  
15 when they're pressuring washing, they don't have  
16 the tools, the right tools. If you're pressure  
17 washing, you're supposed to have the right tools  
18 to collect the water. You have to lay down the  
19 plastic.

20 You have to collect all the water  
21 because the water that is actually being utilized  
22 is being contaminated with paint chips and debris

1 so you have to be able to collect all the water.  
2 Usually in a smaller company they don't have that  
3 capacity. They don't have the right equipment to  
4 be able to do that.

5 JUDGE BIRO: Okay. Where do you as a  
6 contractor dispose of either the contaminated  
7 water or the plastic which has been contaminated  
8 with the lead chips after you've completed the  
9 renovation project.

10 MS. FARNHAM: EPA headquarters has  
11 said that residential waste is considered  
12 residential waste so contractors are able to get  
13 rid of the construction debris as residential  
14 waste at a landfill.

15 JUDGE BIRO: It's not considered  
16 hazardous waste?

17 MS. FARNHAM: No. In this particular  
18 case it is not. EPA considers four apartments or  
19 more commercial. That's considered commercial.  
20 Then that would definitely fall under hazardous  
21 waste and that falls under RCRA.

22 JUDGE BIRO: Okay. Do contractors

1 need to have any type of inspection as they  
2 complete a renovation project involving lead  
3 paint?

4 MS. FARNHAM: Okay. I'm sorry. Can  
5 you ask the question again?

6 JUDGE BIRO: If there's an inspection  
7 requirement after they complete renovation of a  
8 property with lead paint.

9 MS. FARNHAM: Okay. Under the RRP  
10 rule a certified renovator is supposed to do a  
11 cleaning verification. Basically what that  
12 entails is you look over the site and make sure  
13 all the debris and paint chips have been picked  
14 up.

15 In the interior you do wipe samples.  
16 Then during the training they get this plastic  
17 card. They do the wipes and compare the wipes to  
18 the card. Is it, you know, dirty, is it clean.  
19 For under the RRP rule they are only required to  
20 do a cleaning verification which is really easy  
21 for contractors to do.

22 JUDGE BIRO: When you were on site and

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1 speaking to Mr. Von Marees, did you communicate  
 2 with him in English?  
 3 MS. FARNHAM: Yes, I did.  
 4 JUDGE BIRO: Did you have any  
 5 difficulty in that communication?  
 6 MS. FARNHAM: No, I did not.  
 7 JUDGE BIRO: Did you -- was there any  
 8 indication that Mr. Marees had any difficulty  
 9 communicating with you and understanding what you  
 10 were saying?  
 11 MS. FARNHAM: No, I did not get that  
 12 inclination.  
 13 JUDGE BIRO: Did Mr. Von Marees ask  
 14 you for a copy of the inspection notice in  
 15 Spanish?  
 16 MS. FARNHAM: No, he did not.  
 17 JUDGE BIRO: Did he ask you to  
 18 translate any of your emails or any of the other  
 19 documents that you exchanged with him into  
 20 Spanish?  
 21 MS. FARNHAM: No, he did not.  
 22 JUDGE BIRO: You indicated that you

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1 don't make the determination of whether a  
 2 violation has occurred on the properties that you  
 3 inspect. Is that correct?  
 4 MS. FARNHAM: Yes.  
 5 JUDGE BIRO: Who makes such a  
 6 determination?  
 7 MS. FARNHAM: It is the case  
 8 developer.  
 9 JUDGE BIRO: And does the case  
 10 developer also determine the penalty?  
 11 MS. FARNHAM: Yes.  
 12 JUDGE BIRO: Okay. I have no further  
 13 questions.  
 14 Ms. Meinhardt, did my questions raise  
 15 any questions that you would like to follow up  
 16 on?  
 17 MS. MEINHARDT: No, Your Honor.  
 18 JUDGE BIRO: Okay.  
 19 Mr. Von Marees, did my questions raise  
 20 any issues that you would like to follow up on  
 21 with further questions of Ms. Farnham?  
 22 MR. VON MAREES: Yes.

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1 JUDGE BIRO: Okay. Please ask the  
 2 questions in short bursts.  
 3 MR. VON MAREES: Ms. Farnham, when  
 4 your office trains a contractor, how do you  
 5 approach them? How do you inform them because I  
 6 never received any such information about that  
 7 training.  
 8 MS. FARNHAM: I'm sorry. Are you  
 9 asking how the information is gotten to the  
 10 contractor about the training?  
 11 MR. VON MAREES: What I suppose I want  
 12 to ask is where is the outreach on behalf of the  
 13 EPA to the contractor community? What I want to  
 14 know is how are we as contractors supposed to  
 15 know?  
 16 For example, in the town there's no  
 17 such discussion about EPA or requirements for any  
 18 work that's going to be done on a home  
 19 constructed before 1978. What I want to know is  
 20 what is the outreach?  
 21 How do you guys reach the contractor  
 22 so that the contractors know this is what they

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1 need to do if any such work is to be done? And  
 2 why doesn't the state do anything to inform us of  
 3 these things?  
 4 MS. FARNHAM: Okay. So when -- when  
 5 the RRP rule first came out, headquarters EPA did  
 6 try to do a lot of outreach to the contractors to  
 7 make them aware of the RRP rule and what the  
 8 requirements were. That was the outreach that  
 9 happened.  
 10 Here in Region 10 for like the first  
 11 five years when the rule first came out we did a  
 12 lot of outreach to the contractors to make them  
 13 aware of what the requirements were. Probably  
 14 for about five or six years when the rule first  
 15 came out in 2010 we did do outreach.  
 16 After that, what headquarters did then  
 17 was we did try to work with the permitting  
 18 offices in the cities and the county to make the  
 19 permitting offices aware of what the requirements  
 20 were because we felt that at least here in Region  
 21 10 a lot of the permitting offices are very  
 22 familiar with who the contractors are so we did

1 try to work with the permitting offices to please  
 2 make sure that your contractors are aware of the  
 3 RRP rule.  
 4 We did outreach as far as leaving  
 5 pamphlets on the permitting desk so that the  
 6 permitting offices could actually provide the  
 7 pamphlets to the contractors. We do very much  
 8 try to make the requirement known to the  
 9 contractor.  
 10 MR. VON MAREES: So my question is  
 11 then why isn't that the enforcement that takes  
 12 place? Why isn't it enforced that we be informed  
 13 as the contractor community of the requirements  
 14 that the EPA has? For example, I still don't  
 15 know any of the contractors that I know that have  
 16 any awareness of this.  
 17 I'm the individual who's been doing  
 18 the outreach to the contractors that I know  
 19 informing them of the EPA and what your codes are  
 20 and what the possible consequences are. Why  
 21 isn't that enforced? Why isn't that the  
 22 enforcement, the outreach to the contractors

1 ensuring that the contractors are getting this  
 2 information?  
 3 JUDGE BIRO: I'm not sure I understand  
 4 the question that you want Ms. Farnham to answer.  
 5 The outreach they do and they don't do anymore.  
 6 Do you have a specific question that she can  
 7 answer for you?  
 8 MR. VON MAREES: I would also like to  
 9 follow up on the question that you asked, Ms.  
 10 Farnham, Your Honor, about the waste because she  
 11 said that the waste could be discarded of as  
 12 residential waste, but I've done the study on  
 13 this and that's not true.  
 14 You have to get a permit to then  
 15 dispose of the waste at a landfill. Even in the  
 16 information that she is responding to your  
 17 questions, I would say that she's giving  
 18 erroneous information.  
 19 JUDGE BIRO: Okay. So you can get a  
 20 chance to testify later. If you would like to  
 21 ask her a question, ask her a question.  
 22 MR. VON MAREES: That would be all,

1 Your Honor.  
 2 JUDGE BIRO: Okay.  
 3 Thank you, Ms. Farnham.  
 4 Ms. Meinhardt, are you retaining the  
 5 right to recall Ms. Farnham?  
 6 MS. MEINHARDT: Yes, please, Your  
 7 Honor. We would like to reserve that right.  
 8 JUDGE BIRO: Okay, Ms. Farnham. I'm  
 9 sorry, you're not released.  
 10 MS. FARNHAM: Thank you.  
 11 JUDGE BIRO: Okay. Ms. Meinhardt, is  
 12 there another witness that you would like to call  
 13 in this case?  
 14 MR. FUTERMAN: Your Honor, do you mind  
 15 if we take a brief five-minute recess before we  
 16 call?  
 17 JUDGE BIRO: We can. It's completely  
 18 up to you how long the next witness is going to  
 19 take. I'm happy to go another hour and a half.  
 20 MR. FUTERMAN: Yes, Your Honor. It  
 21 depends on -- we're going to move to admit some  
 22 written testimony and if we're allowed to do so,

1 it should be, I guess, about an hour and a half.  
 2 If not, it was going about five or six hours in  
 3 practice. That's why we would like to get the  
 4 written testimony admitted.  
 5 JUDGE BIRO: Okay.  
 6 MR. FUTERMAN: To foreshadow what  
 7 we're doing.  
 8 JUDGE BIRO: We'll take a 10-minute  
 9 break until 6:30 my time which is, I don't know,  
 10 2:30 your time?  
 11 MR. VON MAREES: Yes.  
 12 JUDGE BIRO: Okay. All right. We'll  
 13 stand in recess for 10 minutes.  
 14 MR. FUTERMAN: Thank you, Your Honor.  
 15 (Whereupon, the above-entitled matter  
 16 went off the record at 6:19 p.m. and resumed at  
 17 6:33 p.m.)  
 18 JUDGE BIRO: Ms. Meinhardt, would you  
 19 like to call your next witness?  
 20 MR. FUTERMAN: Yes, Your Honor.  
 21 Complainant calls Ms. --  
 22 JUDGE BIRO: Yes?

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1 MR. FUTERMAN: Yes, Your Honor.  
 2 Complainant calls Ms. Maria "Socky" Tartaglia.  
 3 JUDGE BIRO: Okay. Mr. Court  
 4 Reporter, could you please swear the witness?  
 5 Whereupon,  
 6 Maria "Socky" Tartaglia a witness, was  
 7 called by Counsel for the Complainant, after  
 8 having been first duly sworn, assumed the witness  
 9 stand and was examined and testified as follows:  
 10 JUDGE BIRO: Okay. Please proceed,  
 11 Mr. Futerman.  
 12 MR. FUTERMAN: Thank you, Your Honor.  
 13 DIRECT EXAMINATION  
 14 BY MR. FUTERMAN:  
 15 Q Good afternoon, Ms. Tartaglia. What  
 16 you your pronouns?  
 17 A She and her.  
 18 Q So would referring to you as Ms.  
 19 Tartaglia be correct?  
 20 A Yes.  
 21 Q Thank you. And do you go by a  
 22 nickname?

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1 A For about 26 years.  
 2 Q Was the entire 26 focused on TSCA or  
 3 was that other statutes as well?  
 4 A It's other statutes.  
 5 Q What are some of the statutes that  
 6 you've worked with?  
 7 A I worked with the RCRA Program, the  
 8 EPCRA 313 TRI Program, the AHERA Program, the  
 9 NESHAP Program, and the Lead-Based Paint TSCA  
 10 Program.  
 11 Q How long have you now been working on  
 12 just TSCA work?  
 13 A For 12 years.  
 14 Q For about 12 years. And is that all  
 15 lead-based paint work?  
 16 A Yes.  
 17 Q Thank you, Ms. Tartaglia. Have you  
 18 had any other jobs other than an Environmental  
 19 Protection Specialist with EPA?  
 20 A Yes. I was EPA Branch Office Manager.  
 21 Then I got promoted to an Environmental  
 22 Protection Assistant.

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1 A I do.  
 2 Q What is that?  
 3 A Socky, S-O-C-K-Y.  
 4 Q Thank you, Ms. Tartaglia. Some of  
 5 your colleagues refer to you as Maria but some  
 6 refer to you as Socky?  
 7 A Yes.  
 8 Q Thank you, Ms. Tartaglia. Ms.  
 9 Tartaglia, are you currently employed?  
 10 A Yes.  
 11 Q And who is your current employer?  
 12 A The United States Environmental  
 13 Protection Agency, Region 10 based out of  
 14 Seattle, Washington.  
 15 Q And what is your current job title?  
 16 A I am the Environmental Protection  
 17 Specialist TSCA Lead-Based Paint Enforcement and  
 18 Compliance Officer.  
 19 Q How long have you been an  
 20 Environmental Protection Specialist TSCA  
 21 Compliance Officer, if I can shorten it, with the  
 22 US EPA?

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1 Q So when did you first start your job  
 2 at the EPA?  
 3 A 1993.  
 4 Q 1993. So you've been with the EPA in  
 5 total since 1993, been an Environmental  
 6 Protection Specialist since about 1996. Is my  
 7 math correct there?  
 8 A Yes.  
 9 Q And then been focusing just on TSCA  
 10 work for the last 12 years?  
 11 A Yes.  
 12 Q And was that always with EPA Region 10  
 13 or have you worked for any other regions?  
 14 A Just with EPA Region 10.  
 15 Q Thank you, Ms. Tartaglia. Ms.  
 16 Tartaglia, at this time I want to direct your  
 17 attention to what has previously been marked as  
 18 CX-3, Complainant's Exhibit 3. Can you please  
 19 turn to that?  
 20 Mr. Crawley, would you please publish  
 21 CX-3.  
 22 MS. TARTAGLIA: I have CX-3 open.



1 BY MR. FUTERMAN:  
 2 Q Thank you, Ms. Tartaglia. We'll just  
 3 let it go on the screen. While that's happening,  
 4 Ms. Tartaglia, do you recognize CX-3?  
 5 A Yes.  
 6 Q And what is CX-3?  
 7 A It is my resume or CV.  
 8 Q Did you write CX-3?  
 9 A Yes.  
 10 Q Can you please take a moment just to  
 11 look over CX-3.  
 12 A I'm done.  
 13 Q Thank you, Ms. Tartaglia. Is CX-3 --  
 14 does CX-3 appear to be complete and accurate to  
 15 you?  
 16 A Yes.  
 17 Q Is there anything that appears  
 18 incomplete or inaccurate?  
 19 A No.  
 20 Q And is CX-3 a true and accurate  
 21 representation of your education and professional  
 22 history with the EPA?

1 MR. FUTERMAN: Thank you.  
 2 BY MR. FUTERMAN:  
 3 Q Ms. Tartaglia, looking at CX-3, on  
 4 page 2 of 3 it looks to me like you have quite a  
 5 few certifications. Can we just sort of talk  
 6 through what some of those are?  
 7 A Yes.  
 8 Q So, for example, I see there are two  
 9 HAZWOPER certifications. Can you just tell me  
 10 what that refers to?  
 11 A Those HAZWOPER training classes are  
 12 basically health and safety classes that are  
 13 required by my job. It teaches us how to protect  
 14 ourselves when we encounter hazardous materials  
 15 while offsite.  
 16 Q Thank you. I've noticed that there  
 17 are a few inspector trainings, the EPA Lead  
 18 Inspector Training and EPA Inspector Workshop.  
 19 Can you talk to me a little bit about what those  
 20 are?  
 21 A Yes.  
 22 MR. VON MAREES: Can you hear me now?

1 A Yes.  
 2 Q Thank you.  
 3 MR. FUTERMAN: Your Honor, at this  
 4 time Complainant moves to admit CX-3.  
 5 JUDGE BIRO: Mr. Von Marees, do you  
 6 have any objection to the admission of  
 7 Complainant's Exhibit 3?  
 8 I can't hear Mr. Von Marees or the  
 9 interpreter.  
 10 MR. VON MAREES: This is not in  
 11 Spanish so I can't understand it. I don't know  
 12 what it is.  
 13 JUDGE BIRO: It's the resume of Ms.  
 14 Tartaglia. Do you have any other basis for  
 15 objecting to it at this point?  
 16 MR. VON MAREES: No.  
 17 JUDGE BIRO: Okay. Over your  
 18 objection, I'm going to admit into the record CX-  
 19 3.  
 20 (Whereupon, the above-referred to  
 21 document was received into evidence as  
 22 Complainant Exhibit No. 3.)

1 I just want to check, please. Sorry to  
 2 interrupt.  
 3 MR. FUTERMAN: Yes, I can hear you.  
 4 MR. VON MAREES: Excellent. Okay.  
 5 Thank you.  
 6 BY MR. FUTERMAN:  
 7 Q Sorry, Ms. Tartaglia. Do you want me  
 8 to repeat the question?  
 9 A Yes, please.  
 10 Q Certainly. I've noticed that there  
 11 are a few inspector trainings on your resume.  
 12 For example, the EPA Lead Inspector Training and  
 13 the EPA Inspector Workshop. Can you just kind of  
 14 talk to me a little bit about what those are?  
 15 A Yes. So I was required to take those  
 16 classes so that I can understand what an EPA  
 17 Inspector does.  
 18 Q Okay. And what about the RRP  
 19 Renovator Initial Training? What was that? Why  
 20 did you take that class?  
 21 A That was part of my job as a Lead-  
 22 Based Paint Enforcement and Compliance Officer.

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1 I needed to understand what a renovator does  
2 while he performs renovation work.  
3 Q Okay. Thank you, Ms. Tartaglia.  
4 Referring to all of these certifications, were  
5 these all required as part of your job as on the  
6 job training type stuff?  
7 A Yes.  
8 Q Okay. So you had to take these  
9 classes?  
10 A Yes.  
11 Q Thank you, Ms. Tartaglia. Can we talk  
12 a little bit about your current job? I believe  
13 you said that you were currently employed as an  
14 Environmental Protection Specialist TSCA  
15 Enforcement and Compliance Officer. What does  
16 that mean? What are your actual job duties?  
17 A So as a Lead-Based Paint Enforcement  
18 and Compliance Officer I do both programmatic and  
19 enforcement work. On the program side I have to  
20 do outreach which is educating the public and the  
21 regulated community which are the contractors  
22 about the RRP rule requirements.

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1 educate them about the RRP rule requirements. We  
2 want them to know that before you do any kind of  
3 remodeling work on a pre-1978 home to make sure  
4 that the contractor you hire is certified.  
5 Q Thank you, Ms. Tartaglia.  
6 I'm sorry, Mr. Crawley. Could you  
7 unpublish CX-3? I'm not going to refer to it  
8 anymore.  
9 BY MR. FUTERMAN:  
10 Q So Ms. Tartaglia, speaking about those  
11 home shows, I guess if I understand correctly,  
12 the general public comes to these things. They  
13 are looking for a contractor or painter or  
14 something like that. The general public is  
15 allowed to go to these events?  
16 A Yes.  
17 Q And what is your outreach look like  
18 there? Do you set up a booth and talk to whoever  
19 comes up to you?  
20 A Yes. We set up a booth. We have all  
21 kinds of lead outreach materials and the general  
22 public come to us and ask different questions.

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1 Q Okay. I'm sorry. Go ahead.  
2 A Yeah. In doing this I have to also  
3 make sure I provide outreach to callers from the  
4 general public and, again, from the regulated  
5 community.  
6 Q Okay. Can we talk a little bit more  
7 about your outreach work and kind of what that  
8 specifically looks like?  
9 A Yes.  
10 Q Are there different types of outreach  
11 that you perform?  
12 A Yes. So I do participate in home  
13 shows. Basically what that is is a home show is  
14 an exhibit event for builders and contractors  
15 that like to show off their work. Typically  
16 you'll see like carpet installers, remodelers,  
17 painters, window installers, floor installers,  
18 roofers, and many more.  
19 So we thought as a team, lead-based  
20 paint team, that by participating in a home show  
21 we are able to reach our target audience which is  
22 typically the general public. Our goal is to

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1 Q Okay. What about the regulated  
2 community? I know it sounds like they are at  
3 these home shows but do they sometimes talk to  
4 you as well?  
5 A Yes, they do. They --  
6 Q And would that be -- I'm sorry. Go  
7 ahead.  
8 A I'm sorry. They stop by the booth and  
9 they ask about the RRP rule requirements.  
10 Q Okay. Thank you. What other sorts of  
11 outreach do you do other than the home shows?  
12 A We work with our Public Affairs  
13 Office. We try to send messages about the RRP  
14 rule requirements through social media.  
15 Q Through social media. I guess what's  
16 the point of that? Who are you hoping to kind of  
17 target with that outreach?  
18 A We are basically again targeting the  
19 general public; families, contractors that have  
20 older homes, and contractors that work on homes  
21 built before 1978.  
22 Q And are you the one that's kind of

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1 drafting that message to, I don't know, tweet or  
 2 put on social media?  
 3 A Yes.  
 4 Q Thank you, Ms. Tartaglia. Are there  
 5 any other types of outreach work that either you  
 6 or the office does, your office?  
 7 A Our EPA inspectors will do some RRP  
 8 presentations to the building associations,  
 9 contractors, property management firms, real  
 10 estate firms.  
 11 Q And do you have any role in that?  
 12 A No.  
 13 Q No? Okay. Thank you so much, Ms.  
 14 Tartaglia. At this time I want to direct your  
 15 attention to what has previously been marked as  
 16 Complainant's Exhibit CX-6. Can you please turn  
 17 to CX-6 and take a few moments to look it over?  
 18 A Yes.  
 19 MR. FUTERMAN: Thank you, Mr. Crawley.  
 20 I meant to say can we please publish CX-6.  
 21 MS. TARTAGLIA: I have it open and I'm  
 22 done reviewing it.

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1 today?  
 2 A Yes.  
 3 Q Thank you. Ms. Tartaglia, would you  
 4 please look to the last page of CX-6, page 10.  
 5 It's on the screen but also in your binder. Is  
 6 CX-6 signed?  
 7 A Yes.  
 8 Q By whom is it signed?  
 9 A By myself, Maria Tartaglia.  
 10 Q Thank you. Is CX-6 dated?  
 11 A Yes.  
 12 Q And what is the date of CX-6?  
 13 A April 16, 2021.  
 14 Q And the last line right before the  
 15 signature, what does that last line say? Can you  
 16 just kind of paraphrase?  
 17 A Yes. I declare under penalty of  
 18 perjury that the foregoing is true and correct.  
 19 Q Thank you, Ms. Tartaglia. Do you  
 20 reaffirm that oath today?  
 21 A Yes.  
 22 Q Thank you.

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1 BY MR. FUTERMAN:  
 2 Q Thank you. Ms. Tartaglia, do you  
 3 recognize CX-6?  
 4 A I do.  
 5 Q And how do you recognize CX-6?  
 6 A It's my unsworn statement in support  
 7 of Complainant's initial prehearing exchange.  
 8 Q Thank you, Ms. Tartaglia. Did you  
 9 write CX-6?  
 10 A Yes, I did.  
 11 Q And if you could please just scan  
 12 through CX-6 briefly.  
 13 A I'm done.  
 14 Q Thank you, Ms. Tartaglia. Does CX-6  
 15 appear complete and accurate to you?  
 16 A Yes.  
 17 Q Is there anything that appears  
 18 incomplete or inaccurate?  
 19 A No.  
 20 Q Ms. Tartaglia, is CX-6 a true and  
 21 accurate representation of your knowledge and  
 22 independent memory of the events leading up to

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1 MR. FUTERMAN: Your Honor, at this  
 2 time Complainant moves to admit CX-6.  
 3 JUDGE BIRO: Mr. Von Marees, do you  
 4 have any objection to Complainant's Exhibit 6  
 5 being admitted into the record?  
 6 MR. VON MAREES: Yes.  
 7 MR. FUTERMAN: I'm not hearing an  
 8 interpreter, Your Honor.  
 9 JUDGE BIRO: I'm not hearing an  
 10 interpreter either.  
 11 INTERPRETER CRUZ: Can you hear me,  
 12 guys?  
 13 JUDGE BIRO: Yes, I can hear you.  
 14 INTERPRETER CRUZ: I can't hear you.  
 15 Can someone talk? I'm having a problem with the  
 16 speakers.  
 17 MR. FUTERMAN: I can currently hear  
 18 you, sir.  
 19 I'm not sure which interpreter is  
 20 talking but I currently can hear an interpreter  
 21 talking.  
 22 INTERPRETER CRUZ: Give me two

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1 minutes, please. Oh my goodness gracious. Can  
2 somebody speak? I can't hear anyone.

3 JUDGE BIRO: Mr. Cruz, are you able to  
4 hear us?

5 INTERPRETER CRUZ: Can anybody hear  
6 me? Can you hear me now?

7 JUDGE BIRO: Mr. Lopez.

8 INTERPRETER CRUZ: I can't hear you.  
9 I can't hear you. What's going on here.

10 JUDGE BIRO: Let's take five minutes  
11 to see if we can work out the interpreter's  
12 situation.

13 (Whereupon, the above-entitled matter  
14 went off the record at 6:50 p.m. and resumed at  
15 6:53 p.m.)

16 JUDGE BIRO: Mr. Von Marees, do you  
17 object to the admission of Complainant's Exhibit  
18 6?

19 MR. VON MAREES: It's not fair to me,  
20 I don't understand anything of that -- from that  
21 document. It's not fair.

22 JUDGE BIRO: Okay. Over your

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1 objection, Complainant's Exhibit 6 is admitted  
2 into the record.

3 (Whereupon, the above-referred to  
4 document was received into evidence as  
5 Complainant Exhibit No. 6.)

6 MR. FUTERMAN: Thank you, Your Honor.

7 BY MR. FUTERMAN:

8 Q Ms. Tartaglia, did you calculate the  
9 penalty in this matter?

10 A Yes, I did.

11 Q And can you please turn to what's  
12 previously been marked as CX Complainant's  
13 Exhibit 95? Nine five. Take a moment to look at  
14 that.

15 INTERPRETER LOPEZ: Mr. Futerman, can  
16 you please speak a little louder or get closer to  
17 your microphone? Thank you.

18 MR. FUTERMAN: Yes, sir.

19 INTERPRETER LOPEZ: Much better, thank  
20 you. What number did you say?

21 MR. FUTERMAN: Nine five. Mr.

22 Crawley, if you would publish CX 95, I would

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1 appreciate that. Thank you so much.

2 (Whereupon, the above-referred to  
3 document was marked as Complainant Exhibit No. 95  
4 for identification.)

5 BY MR. FUTERMAN:

6 Q Ms. Tartaglia, do you have CX 95 in  
7 front of you?

8 A I do.

9 Q Thank you. Ms. Tartaglia, do you  
10 recognize CX 95?

11 A Yes.

12 Q And what is CX 95?

13 A It's the penalty calculations summary  
14 for GreenBuild Design and Construction, LLC.

15 Q Thank you. Ms. Tartaglia, did you  
16 write CX 95?

17 A Yes, I did.

18 Q And is CX 95 the penalty calculation  
19 that you performed in this case?

20 A Yes.

21 Q Is CX 95 a true and accurate  
22 representation of the penalty calculation that

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1 you performed in this matter?

2 A Yes.

3 Q Does CX 95 appear complete and  
4 accurate to you?

5 A Yes.

6 Q Does anything in CX 95 appear  
7 incomplete or inaccurate?

8 A No.

9 MR. FUTERMAN: Your Honor, at this  
10 time complainant moves to admit CX 95.

11 JUDGE BIRO: Mr. Von Marees, do you  
12 have any objection to CX 95 being admitted into  
13 the record?

14 MR. VON MAREES: Yes, objection. Yes,  
15 I object. I don't understand anything there.

16 JUDGE BIRO: Okay. Over your

17 objection, Mr. Von Marees, I'm going to admit  
18 Complainant's Exhibit 95.

19 (Whereupon, the above-referred to  
20 document was received into evidence as  
21 Complainant Exhibit No. 95.)

22 MR. FUTERMAN: Thank you, Your Honor.

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1 Your Honor, complainant's prepared to go through  
2 CX 6, CX 95, and Ms. Tartaglia's calculation of  
3 the penalty in this matter line by line if  
4 necessary.

5 As I mentioned before in practice it's  
6 been taking us about five hours, four and a half  
7 five hours to complete.

8 In the interest of everyone's time,  
9 and considering Mr. Von Marees will be able to  
10 cross-examination Ms. Tartaglia on everything and  
11 all these exhibits, complainant would like to  
12 offer CX 6 and CX 95 as Ms. Tartaglia's written  
13 testimony pursuant to 40 CFR Section 22.22(c).

14 JUDGE BIRO: Yeah, normally I would be  
15 really thrilled with that option, but since Mr.  
16 Von Marees says he cannot understand any of these  
17 documents, and did not move prior to the hearing  
18 for any translation of these documents, I think  
19 it's only fair that we go through and have her  
20 testify on everything.

21 (Simultaneous speaking.)

22 MR. VON MAREES: Thank you.

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1 JUDGE BIRO: So, I think that's what  
2 we're going to have to do.

3 MR. FUTERMAN: Okay, understood.

4 Thank you, Your Honor.

5 BY MR. FUTERMAN:

6 Q Okay, Ms. Tartaglia, let's focus on  
7 your administrative enforcement work, and can you  
8 please explain to me how an administrative action  
9 like this one comes to be? What are just the  
10 steps in this process here, kind of generally  
11 speaking?

12 A When an inspector completes their  
13 inspection report, or when they complete their  
14 inspection they put together a case file. And  
15 that will include all the information that they  
16 collected before, during, and after an inspection  
17 was conducted on a contractor.

18 And then that case file comes to me,  
19 the case developer. And then as a case  
20 developer, I will review all the information in  
21 that case file and start making my compliance  
22 analysis.

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1 Q Okay, and what is a compliance  
2 analysis? What are you trying to do in that  
3 process?

4 A I use penalty policy as a guidance, so  
5 when I'm reviewing the inspection report, I  
6 identify and violations that were found by the  
7 inspector during that inspection.

8 Q Okay. So inspector. Are the  
9 inspectors kind of giving you findings or are  
10 they actually saying these are the violations in  
11 their inspection?

12 A No, they provide me findings and then  
13 it's up to me to make that determination if it's  
14 truly a violation.

15 Q Okay, so let's say that you have  
16 reviewed the inspection report, the case file,  
17 any other information that you have, and you  
18 believe that the firm that was the subject of the  
19 inspection violated TSCA. Who decides what to do  
20 about those violations?

21 A That would be myself, the case  
22 developer.

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1 Q Okay, and is that decision reviewed by  
2 anybody?

3 A Yes.

4 Q Who is it reviewed by?

5 A It's reviewed by my team leader, Mr.  
6 Derrick Carrada.

7 Q Okay, thank you. And are there  
8 different options? Is it no matter what happens,  
9 if there are violations you discovered, you get  
10 involved and it becomes a case like this --  
11 admittedly maybe not a full hearing, but a case  
12 kind of like this case, or are there other  
13 options available?

14 A There are other options available. So  
15 once I make a determination on what type of  
16 violation they have, I will -- if it's a  
17 recordkeeping violation, then I can use the  
18 expedited settlement agreement policy.

19 However, if it includes a work  
20 practice standard violation, then I will proceed  
21 with a full penalty enforcement action.

22 Q Okay, thank you.

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1 MR. FUTERMAN: And Mr. Crawley, you  
2 can unpublish CX 95, my apologies. I won't be  
3 referring to it.

4 BY MR. FUTERMAN:

5 Q So Ms. Tartaglia, it sounded to me  
6 like there were about -- there were two options  
7 that you just discussed, the expedited settlement  
8 possibility and the full penalty possibility.  
9 Are there other options or are those kind of the  
10 two options?

11 A The last option is if they don't have  
12 any violations then we close the case.

13 Q Okay, are there any sort of like  
14 formal warnings or things of that nature that you  
15 could do?

16 A Yes. We could issue a -- an advisory  
17 letter or a notice of non-compliance.

18 Q So what does what --  
19 (Simultaneous speaking.)

20 Q I'm sorry, Ms. Tartaglia. What does  
21 that look like? What's a notice of non-  
22 compliance?

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1 apologies. And what are work practice standard  
2 violations? What does that mean?

3 A It's typically let's say four  
4 practices that a certified renovator is supposed  
5 to use when they perform renovations on a pre-  
6 1970 home.

7 Q Okay, and what are the other types of  
8 violations like that aren't work practice  
9 standard violations?

10 A That would be the recordkeeping  
11 violation, which is the -- when a company doesn't  
12 have their firm certification or renovator  
13 certification.

14 Q Okay, so if I understand correctly,  
15 any time there are work practice standard  
16 violations, it basically has to be a full penalty  
17 case? It doesn't qualify for an expedited  
18 settlement agreement?

19 A Yes.

20 Q Thank you, Ms. Tartaglia. So after  
21 you do that, after you review all your  
22 information and determine what violations you

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1 A A notice of non-compliance is  
2 typically a first-time violator, and it's a minor  
3 violation if -- and we give them an opportunity  
4 to come into compliance with the RRP rule.

5 Q Okay, and what is that? Is that just  
6 a letter that you send or is that -- how do you  
7 communicate with the respondent that you're  
8 giving them this warning?

9 A We issue a letter to the respondent.

10 Q Thank you, Ms. Tartaglia. Now going  
11 back to the other two options you mentioned the  
12 expedited settlement agreement and the full  
13 penalty case, is there like a deciding line, are  
14 there certain types of violations that  
15 automatically become one kind of case as opposed  
16 to the other kind of case?

17 A Yes. If my violations include work  
18 practice standard violations, then that is a full  
19 penalty enforcement action case. And --

20 Q Okay, and what -- go ahead, I'm sorry.

21 A No, I'm done, thank you.

22 Q Thank you, Ms. Tartaglia, my

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1 have, what do you do next?

2 A I look at the economic benefit  
3 component.

4 Q So I guess my question's a little bit  
5 more basic than that. I mean, are you next  
6 calculating the penalty?

7 A Yes.

8 Q Okay, thank you. So --

9 A I am.

10 Q Thank you, Ms. Tartaglia. So let's  
11 talk about how you calculate penalties in just  
12 sort of a generic administrative enforcement  
13 case.

14 So I'm not specifically referring to  
15 this respondent at all in this kind of initial  
16 conversation. Is your work guided by anything?

17 A Yes, it's guided by the Consolidated  
18 Enforcement Response Penalty Policy.

19 Q Okay, can you please take a look to  
20 what's previously been marked as CX 96? Take a  
21 few moments to review that.

22 MR. FUTERMAN: And Mr. Crawley, if you

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1 would please publish CX 96?  
 2 (Whereupon, the above-referred to  
 3 document was marked as Complainant Exhibit No. 96  
 4 for identification.)  
 5 BY MR. FUTERMAN:  
 6 Q Do you have CX 96 open in front of  
 7 you, Ms. Tartaglia?  
 8 A Yes, I do.  
 9 Q Thank you so much. Do you recognize CX  
 10 96?  
 11 A I do.  
 12 Q And what is CX 96?  
 13 A It's the -- one of the penalty polices  
 14 that I use when calculating the penalty amount.  
 15 Q Thank you, Ms. Tartaglia, and do you  
 16 know who or what entity wrote CX 96?  
 17 A Yes.  
 18 Q Who was it?  
 19 A The United States Environmental  
 20 Protection Agency, Office of Enforcement and  
 21 Compliance Assurance, Office of Civil  
 22 Enforcement, and the Water -- the Waste and

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1 A Yes.  
 2 Q Thank you.  
 3 MR. FUTERMAN: Your Honor, at this  
 4 time complainant moves to admit CX 96.  
 5 JUDGE BIRO: Mr. Von Marees, do you  
 6 have an objection to Complainant's Exhibit 96?  
 7 MR. VON MAREES: Yes, objection  
 8 because I don't understand these documents.  
 9 JUDGE BIRO: Mr. Von Marees, I will  
 10 give you a standing objection on that basis to  
 11 every document that's being offered that's  
 12 written in English so you don't have to repeat  
 13 that objection.  
 14 MR. VON MAREES: Okay.  
 15 (Simultaneous speaking.)  
 16 JUDGE BIRO: Do you have any other  
 17 objection to the document?  
 18 MR. VON MAREES: No. No. Other than  
 19 that, I don't understand it.  
 20 JUDGE BIRO: Okay. Over your  
 21 objections -- over your objection I'm admitting  
 22 Complainant's Exhibit 96.

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1 Chemical Enforcement Division.  
 2 Q Thank you, Ms. Tartaglia. And do you  
 3 know when it was written?  
 4 A Yes.  
 5 Q When was that?  
 6 A August 2010.  
 7 Q Thank you. Ms. Tartaglia, could you  
 8 please -- I know it's long, but can you please  
 9 kind of scan through all of CX 96?  
 10 A I'm done.  
 11 Q Thank you, Ms. Tartaglia. Does CX 96  
 12 appear to be complete and accurate to you?  
 13 A Yes.  
 14 Q Is there anything that appears  
 15 incomplete or inaccurate in CX 96?  
 16 A No.  
 17 Q And Ms. Tartaglia, does CX 96 appear  
 18 to be a true and accurate representation of the  
 19 consolidated lead-based paint enforcement  
 20 response and penalty policy guidance document  
 21 that you use to guide your efforts when  
 22 calculating penalties?

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1 (Whereupon, the above-referred to  
 2 document was received into evidence as  
 3 Complainant Exhibit No. 96.)  
 4 MR. FUTERMAN: Thank you, Your Honor.  
 5 Ms. Tartaglia, can you please direct your  
 6 attention to what's previously been marked CX 97?  
 7 And, Mr. Crawley, would you please publish 97?  
 8 (Whereupon, the above-referred to  
 9 document was marked as Complainant Exhibit No. 97  
 10 for identification.)  
 11 MS. TARTAGLIA: It's open.  
 12 BY MR. FUTERMAN:  
 13 Q Thank you. Ms. Tartaglia, do you  
 14 recognize CX 97?  
 15 A I do.  
 16 Q And how do you recognize CX 97?  
 17 A That's another penalty policy that I  
 18 used when calculating the gravity-based penalty  
 19 amount.  
 20 Q Thank you, Ms. Tartaglia. So what  
 21 specifically is CX 97?  
 22 A It's the Section 1018 disclosure rule,

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1 enforcement response and penalty policy.  
 2 Q Thank you. And do you know who wrote  
 3 CX 97?  
 4 A Yes.  
 5 Q Who was that?  
 6 A The United States Environmental  
 7 Protection Agency, Office of Enforcement and  
 8 Compliance Assurance, Office of Civil  
 9 Enforcement, and the Waste and Chemical  
 10 Enforcement Division.  
 11 Q Thank you. And do you know when CX 97  
 12 was written?  
 13 A Yes. December 2007.  
 14 Q Thank you. And Ms. Tartaglia, does CX  
 15 97 appear to be complete and accurate?  
 16 A Yes.  
 17 Q Is there anything that appears to be  
 18 incomplete or inaccurate in CX 97?  
 19 A No.  
 20 Q And Ms. Tartaglia, does CX 97 appear  
 21 to be a true and accurate representation of the  
 22 Section 1018 enforcement response and penalty

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1 policy guidance document that you use when  
 2 calculating penalties in these scenarios?  
 3 A Yes.  
 4 Q Thank you.  
 5 MR. FUTERMAN: Your Honor, complainant  
 6 moves to admit CX 97.  
 7 JUDGE BIRO: Other than the fact that  
 8 the document is written in English, do you have  
 9 any other objection to the document, Mr. Von  
 10 Marees?  
 11 MR. VON MAREES: Yeah, objection.  
 12 Objection.  
 13 JUDGE BIRO: Okay. Is there -- can  
 14 you tell me the basis for your objection, Mr. Von  
 15 Marees?  
 16 MR. VON MAREES: In this case, I would  
 17 remind you all that you all knew that my primary  
 18 language is Spanish.  
 19 None of these documents were ever  
 20 provided to me in Spanish. I feel like this  
 21 whole process is completely one-sided, I feel  
 22 like I'm defenseless here.

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1 JUDGE BIRO: Okay. Any other  
 2 objections?  
 3 MR. VON MAREES: No.  
 4 JUDGE BIRO: Okay. Exhibit 97 is  
 5 admitted over Mr. Von Marees' objection into the  
 6 record.  
 7 (Whereupon, the above-referred to  
 8 document was received into evidence as  
 9 Complainant Exhibit No. 97.)  
 10 MR. FUTERMAN: Thank you, Your Honor.  
 11 BY MR. FUTERMAN:  
 12 Q So Ms. Tartaglia, I guess let me start  
 13 by asking you this question. Do you have these  
 14 documents memorized, or do you have them in front  
 15 of you as you're walking through this process?  
 16 A I have it in front of me because I  
 17 don't have it memorized.  
 18 Q Thank you. Okay, Ms. Tartaglia, so  
 19 let's begin with CX 96, and Mr. Crawley, if you'd  
 20 please publish CX 96? Ms. Tartaglia, do you know  
 21 for what purpose CX 96 was written?  
 22 A Yes, it's to determine the appropriate

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1 penalty amount for the appropriate violation.  
 2 Q Okay, thank you. So let's get back  
 3 into your work here. So the TSCA Team has  
 4 decided to pursue an administrative enforcement  
 5 action for violations discovered during an  
 6 inspection.  
 7 You've completed your kind of initial  
 8 information gathering activities, whatever else  
 9 you need to do, you're ready to sit down and  
 10 calculate the penalty.  
 11 I guess, first off, what information,  
 12 what do you have in front of you as you're  
 13 sitting down to calculate the penalty in a case?  
 14 A Typically I have the case file in  
 15 front of me. That would include the inspection  
 16 report, any background information that I have on  
 17 the company, and any information that was  
 18 collected by the inspector during the inspection,  
 19 and that could be pictures of the work site.  
 20 Q Okay, thank you, Ms. Tartaglia. What  
 21 if a given firm has had previous interactions  
 22 with the EPA?



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1 You know, whether that's formal  
2 enforcement or otherwise, just previous letters  
3 or communications with the EPA and that firm.  
4 Would you have that information in front of you?

5 A Yes, I do.

6 Q Is that included in the case files?

7 A Yes.

8 Q Thank you, Ms. Tartaglia. Okay, so I  
9 guess kind of generic -- generally speaking, can  
10 you talk to me about kind of the steps that are  
11 involved in calculating this process?

12 MR. FUTERMAN: And Mr. Crawley, if you  
13 would scroll down to page 10 at the moment?  
14 That's CX 10 of 44, Mr. Crawley. Thank you so  
15 much.

16 BY MR. FUTERMAN:

17 Q Okay, so Ms. Tartaglia, so what are  
18 the steps kind of broadly speaking in calculating  
19 a penalty under the RRP rule?

20 A So the first step is to identify the  
21 violations in a case, and then the second step is  
22 to look at the economic benefit component, and

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1 then from there, we could proceed to calculating  
2 the gravity-based penalty amount.

3 MR. FUTERMAN: Okay Mr. Crawley, would  
4 you please scan to page 11? Thank you so much.

5 BY MR. FUTERMAN:

6 Q And Ms. Tartaglia, are there multiple  
7 stages --

8 (Simultaneous speaking.)

9 Q Are there multiple stages within  
10 calculating the gravity-based penalty?

11 A Yes, there is.

12 Q And what are those stages?

13 A So the first stage is to determine the  
14 gravities-based penalty amount by looking for the  
15 nature of the violation, the extent, the  
16 circumstance of the violation, and the extent of  
17 the violation.

18 Q Okay, and what about the second stage?

19 (Simultaneous speaking.)

20 INTERPRETER CRUZ: Excuse me, I'm  
21 sorry. I believe Mr. Von Marees is saying he  
22 can't see the document.

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1 MR. FUTERMAN: Your Honor, complainant  
2 also provided the respondent with a binder with  
3 all of these exhibits that he has in front of  
4 him.

5 INTERPRETER CRUZ: I'm trying to get  
6 a response now from him. I don't know if he can  
7 hear me. Let me go back to the Spanish channel.  
8 I'm not getting a response on the Spanish  
9 channel, I'm going to try through this channel.

10 No response. Let me try again in the  
11 Spanish channel. Sorry.

12 All right, I'm not getting a response  
13 from him. Can you -- can all the other parties  
14 hear me okay?

15 JUDGE BIRO: Yes.

16 MS. TARTAGLIA: Yes.

17 JUDGE BIRO: We can all hear you.

18 INTERPRETER CRUZ: Okay. I'm terribly  
19 sorry, but he did blurt out, I don't see  
20 anything, and then -- I just wanted to  
21 communicate that to the court. And now we seem  
22 to have lost him. Sorry. I feel responsible

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1 somehow.

2 JUDGE BIRO: It's certainly not your  
3 fault.

4 MR. FUTERMAN: We're living in a new  
5 world.

6 INTERPRETER CRUZ: I'm going to try  
7 the Spanish channel again. I'm so sorry guys. I  
8 see his box still open, but it seems like he's  
9 back now.

10 JUDGE BIRO: Yeah, he's back. Mr. Von  
11 Marees?

12 MR. VON MAREES: Yes, I'm sorry, my  
13 internet froze. I don't know what happened.

14 JUDGE BIRO: Okay.

15 MR. VON MAREES: Whenever -- or we're  
16 not showing the documents, I'll wait until it  
17 comes back up.

18 JUDGE BIRO: Mr. Von Marees, the  
19 exhibit is in the binder of documents that the  
20 agency provided to you.

21 INTERPRETER CRUZ: I think he can't  
22 hear me on the Spanish channel -- okay, so he

1 cannot hear me on the Spanish channel, he's only  
 2 hearing me on the English channel, which -- I  
 3 think he's still having internet issues.  
 4 COURT REPORTER: Your Honor, do you  
 5 want to -- for this to continue to be on the --  
 6 MR. VON MAREES: Hello, hello, hello?  
 7 JUDGE BIRO: No, we can go off the  
 8 record for a few minutes until we hopefully fix  
 9 this.  
 10 (Whereupon, the above-entitled matter  
 11 went off the record at 7:17 p.m. and resumed at  
 12 7:19 p.m.)  
 13 JUDGE BIRO: Okay, Mr. Futerman, you  
 14 may proceed.  
 15 MR. FUTERMAN: Thank you, Your Honor.  
 16 Mr. Crawley, if you could please republish CX96.  
 17 I'm currently on page 11.  
 18 BY MR. FUTERMAN:  
 19 Q And Ms. Tartaglia, do you still have  
 20 CX96 open in front of you?  
 21 A Yes.  
 22 Q Thank you, Ms. Tartaglia. So when we

1 left off, we were discussing the -- determining  
 2 the gravity based penalty stage. You said that  
 3 there were two stages within that -- within  
 4 determining the gravity based penalty step. Can  
 5 you talk about those two stages again?  
 6 A Yes. So the first case is to  
 7 determine the gravity based penalty by looking at  
 8 the nature, the circumstance, and the extent  
 9 level of the violation.  
 10 Q Okay, and what about the second stage?  
 11 What's the second stage?  
 12 A The second stage, that's where I can  
 13 adjust -- that's where you can adjust the gravity  
 14 based penalty amount based on the factors that's  
 15 listed in that second stage.  
 16 Q Okay. So let's talk a little bit in  
 17 more detail about the first stage. What is the  
 18 nature of a violation?  
 19 A The nature of the violation is  
 20 typically the character of the violation. And  
 21 there are two types. The first type is chemical  
 22 control in nature and the second type is the

1 hazard assessment in nature.  
 2 Q Okay, and with respect to violations  
 3 of the RRP rule, do most RRP rule violations have  
 4 a given nature?  
 5 A Yes.  
 6 Q And what is that?  
 7 A That would be the chemical control in  
 8 nature.  
 9 Q Okay, and do you know why that's the  
 10 case?  
 11 A Because these violations could have  
 12 been handled -- if the renovator was certified,  
 13 they could have controlled those violations, to  
 14 minimize exposure to lead.  
 15 Q Okay. Thank you. And what about the  
 16 circumstances of a violation? What is a  
 17 circumstance?  
 18 A A circumstance of a violation is the  
 19 probability of harm that resulted in -- that  
 20 resulted from a violation that can -- that harms  
 21 human health and the environment.  
 22 Q Thank you, Ms. Tartaglia.

1 MR. FUTERMAN: And Mr. Crawley, would  
 2 you please scroll down to page 17, CX96, page 17.  
 3 BY MR. FUTERMAN:  
 4 Q Ms. Tartaglia, is the circumstance of  
 5 a violation broken down into different levels?  
 6 A Yes.  
 7 MR. FUTERMAN: I'm sorry, Mr. Crawley,  
 8 page 18. My apologies.  
 9 BY MR. FUTERMAN:  
 10 Q And what are the different  
 11 circumstance levels?  
 12 A There are six levels. Level 1 and 2  
 13 are considered high. Level 3 and 4 are  
 14 considered medium. And level 5 and 6 are  
 15 considered low.  
 16 Q Thank you, Ms. Tartaglia. And what  
 17 are the differences between the three levels?  
 18 A So if it's level 1 and 2, that means  
 19 a violation -- has a high probability of harming  
 20 human health and the environment. And for  
 21 violations under level 3 and 4, there is a medium  
 22 probability of impacting human health and the

1 environment. And for levels 5 and 6, there is a  
 2 low probability of impacting human health and the  
 3 environment.  
 4 Q Thank you, Ms. Tartaglia. And what  
 5 about the extent categories? What are the  
 6 different -- I guess what is the extent of a  
 7 violation?  
 8 A The extent -- it means the degree of  
 9 a violation that impacts the human health and the  
 10 environment.  
 11 Q Okay, and are there different extent  
 12 categories?  
 13 A Yes. So there's three categories.  
 14 The first one is significant, excuse me, major,  
 15 significant, and minor.  
 16 Q And what are the different  
 17 definitions? What are the differences between  
 18 each category?  
 19 A So for major, it's the potential of  
 20 damage to -- a serious potential damage to human  
 21 health and the environment.  
 22 Q Thank you.

1 well.  
 2 And if we could scroll down to the  
 3 next page, please?  
 4 MR. FUTERMAN: Mr. Crawley, would you  
 5 mind scrolling down to the next page? Thank you  
 6 so much, Mr. Crawley.  
 7 THE WITNESS: And so the third factor  
 8 is we need to know if there were any children  
 9 that have access to a child-occupied facility.  
 10 BY MR. FUTERMAN:  
 11 Q Okay, and why are those three kind of  
 12 determinable facts, if I can use that phrase?  
 13 Why are those three the facts that we care about  
 14 when considering a violations extent category?  
 15 A Because we need to know if children  
 16 are present. They are the ones that are  
 17 vulnerable to lead-based paint, high levels of  
 18 lead-based paint. Exposure of lead-based paint  
 19 can make a child sick and they can become -- and  
 20 they can become lead poisoned from it.  
 21 Q Okay, thank you, Ms. Tartaglia. So we  
 22 talked about the theory behind this calculation.

1 MR. FUTERMAN: Mr. Crawley, would you  
 2 please scroll down to the bottom of page 18. I  
 3 can only see the top.  
 4 BY MR. FUTERMAN:  
 5 Q And Ms. Tartaglia, what about  
 6 significant? What's the definition of a  
 7 significant extent category?  
 8 A So for significant, it simply states  
 9 there's a potential for significant damage to  
 10 human health and to the environment. And for  
 11 minor, there's a potential for lesser amount of  
 12 damage to human health and to the environment.  
 13 Q Thank you, Ms. Tartaglia. And are the  
 14 different categories or the difference between  
 15 the categories determined by considering specific  
 16 facts?  
 17 A Yes.  
 18 Q Go ahead.  
 19 A So the first fact, we need to know the  
 20 age of the children living in the target housing.  
 21 And also, we need to know if there are any  
 22 pregnant women living at the target housing as

1 I guess I want to know now if we could switch to  
 2 how you actually come up with concrete penalty  
 3 numbers in practice.  
 4 So starting with the circumstance  
 5 level, when determining the circumstance of a  
 6 violation, do you make an independent assessment  
 7 and create a circumstance level for yourself? Or  
 8 does this document, the CX96, provide what  
 9 circumstance level should be given for a given  
 10 violation?  
 11 A The penalty policy provides  
 12 circumstance level for each violation.  
 13 Q Thank you, Ms. Tartaglia. And do you  
 14 know where that information is located within  
 15 CX96?  
 16 A Yes. It's in the appendices, Appendix  
 17 A.  
 18 MR. FUTERMAN: Okay, Mr. Crawley,  
 19 could we please scroll down to Appendix A which  
 20 begins on page 30.  
 21 BY MR. FUTERMAN:  
 22 Q And Ms. Tartaglia, if you would flip

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1 to that as well.  
 2 A Yes.  
 3 Q Okay, so Ms. Tartaglia, what  
 4 information is Appendix A providing? What is  
 5 this chart that we're looking at?  
 6 A It provides the circumstance level for  
 7 each violation.  
 8 Q Okay, and can you explain perhaps  
 9 using an example what -- how you use this chart?  
 10 A Yes. So I'll just use the example of  
 11 violation for failure of posting warning signs.  
 12 First, you need to look for that violation. If  
 13 you go to Section 1 under information  
 14 distribution requirements, that is on page 30 of  
 15 44.  
 16 Q Okay.  
 17 A And then scroll down to row 8.  
 18 Q Okay.  
 19 A That particular violation talks about  
 20 failure of firms to post signs. And to your  
 21 left, you will find the circumstance level which  
 22 is 1B.

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1 an independent assessment and create an extent  
 2 level for yourself or does CX96 provide what the  
 3 appropriate extent level is for a given  
 4 violation?  
 5 A CX96 provides the extent level for the  
 6 appropriate violation.  
 7 Q Okay, and where is that information  
 8 located?  
 9 A That would be in Appendix B.  
 10 MR. FUTERMAN: Okay, Mr. Crawley, if  
 11 you would please scan to page 40, Appendix B?  
 12 Thank you so much.  
 13 BY MR. FUTERMAN:  
 14 Q Now Ms. Tartaglia, it looks to me like  
 15 there are four charts in Appendix B. Can you  
 16 explain to me the difference between each of  
 17 these four charts?  
 18 A Yes. So chart number one is for --  
 19 it's the gravity based penalty matrix for pre-  
 20 renovation education rule, the RRP rule, and the  
 21 lead-based paint activities rule.  
 22 Q Okay. Go ahead.

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1 Q Okay, so the right hand side of this  
 2 chart lists out each violation. The left hand  
 3 chart already provides you what the circumstance  
 4 level is?  
 5 A Yes.  
 6 Q Okay. And what about the B, what does  
 7 the B signify in that level 1B?  
 8 A The B signifies the nature of the  
 9 violation.  
 10 Q Okay, what is -- I guess what  
 11 specifically is a B nature? What does that mean?  
 12 A It's a hazard assessment violation.  
 13 Q Okay. So if this was a chemical  
 14 control violation, do you know what that would  
 15 look like?  
 16 A Yes. It would have a letter A by the  
 17 number.  
 18 Q Okay, thank you so much, Ms.  
 19 Tartaglia. So once you determine -- once you  
 20 determine the circumstance level, I believe you  
 21 said you would then look for the extent level.  
 22 And the same question I had before. Do you make

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1 A And chart number 2 is the same for --  
 2 it's the gravity based penalty matrix for the  
 3 pre-renovation education rule, the RRP, and the  
 4 lead-based paint activities rule.  
 5 Q Are these the two charts that would be  
 6 applicable in an RRP violations case?  
 7 A Yes.  
 8 Q Okay, could we focus on the second  
 9 chart which is on page 41 of 44, please?  
 10 A Yes.  
 11 Q Now looking at this chart, can you  
 12 explain to me how we determine the gravity based  
 13 penalty -- how you determine, excuse me, the  
 14 gravity based penalty for a given violation?  
 15 A Yes. So I need to know what extent  
 16 level exists at the time I reviewed the  
 17 inspection report. And to do that, I need to  
 18 know if there were any occupants or children  
 19 present at the time that the renovation work was  
 20 conduct.  
 21 So if I could give you the definition  
 22 of each extent level?

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1 Q Is that the same -- is it the same  
2 that we just discussed?  
3 A Yes.  
4 Q Okay, so let's just assume that we  
5 know the answer to all three of those  
6 determinable facts is no. They were all no.  
7 What would that extent level be?  
8 A It would be minor.  
9 Q Okay, so we did that, if we assume or  
10 we determined that the extent level is minor, how  
11 do you use this chart to find the gravity based  
12 penalty?  
13 A So using the same example from  
14 earlier, if the circumstance level is 1B, then I  
15 look for the penalty amount under minor and the  
16 penalty amount will tell me the appropriate  
17 amount which is \$2,840.  
18 Q Okay, thank you. Do you then do that  
19 same process using Appendix A and Appendix B for  
20 each violation independently?  
21 A Yes.  
22 Q Okay, thank you so much. So Ms.

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1 Q And what is CX98?  
2 A That's the other document that I use  
3 when calculating the gravity based penalty  
4 amount.  
5 Q Okay, and Ms. Tartaglia, does CX98  
6 appear to be complete and accurate to you?  
7 A Yes.  
8 Q Is there anything that appears  
9 incomplete or inaccurate in CX98?  
10 A No.  
11 Q Is CX98 signed?  
12 A Yes.  
13 Q And by whom is CX98 signed?  
14 A Susan Parker Bodine.  
15 Q Okay, and is CX98 dated?  
16 A Yes.  
17 Q What is the date on CX98?  
18 A January 15th, 2020.  
19 Q Thank you, Ms. Tartaglia. Does CX98  
20 appear to be a true and accurate representation  
21 of the Amendments to the EPA Civil Penalty Policy  
22 to account for inflation guidance document that

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1 Tartaglia, once you calculate the gravity based  
2 penalties for each violation, does that complete  
3 the stage 1 we talked about, do you then move on  
4 to stage 2?  
5 A That does not complete stage 1.  
6 Q Okay, so what do you do next?  
7 A I have to add the inflation multiplier  
8 --  
9 Q Okay, thank you.  
10 A -- to the gravity based penalty  
11 amount.  
12 Q Thank you, Ms. Tartaglia. And would  
13 you please turn to CX98.  
14 MR. FUTERMAN: And, Mr. Crawley, if  
15 you would please publish CX98.  
16 (Whereupon, the above-referred to  
17 document was marked as Complainant Exhibit No. 98  
18 for identification.)  
19 BY MR. FUTERMAN:  
20 Q Okay, Ms. Tartaglia, do you recognize  
21 CX98?  
22 A I do.

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1 you used when calculating penalties and scenarios  
2 such as this?  
3 A Yes.  
4 Q Thank you.  
5 MR. FUTERMAN: Your Honor, Complainant  
6 moves to move CX98.  
7 JUDGE BIRO: Mr. Von Marees, do you  
8 have any objection to the admission of CX98 into  
9 the record other than the fact that it is written  
10 in English?  
11 MR. VON MAREES: I'm looking it over.  
12 Can you give me a minute?  
13 JUDGE BIRO: Yes.  
14 MR. VON MAREES: It's wrong because if  
15 someone does a lead test and it comes back  
16 negative, why do you have to go through all this  
17 table? I don't know why they even went through  
18 all this.  
19 JUDGE BIRO: Okay, I'm talking about  
20 an objection to this -- you're saying it's not  
21 relevant in this case because there was no lead.  
22 Is that correct?

1 MR. VON MAREES: That's correct, yes,  
 2 that's correct.  
 3 JUDGE BIRO: Okay. I'm going to admit  
 4 Complainant's Exhibit 98.  
 5 (Whereupon, the above-referred to  
 6 document was received into evidence as  
 7 Complainant Exhibit No. 98.)  
 8 MR. FUTERMAN: Thank you, Your Honor.  
 9 BY MR. FUTERMAN:  
 10 Q Ms. Tartaglia, a moment ago, you said  
 11 that you applied the inflation multiplier after  
 12 determining the total gravity based penalty.  
 13 Where does that inflation multiplier come from?  
 14 A It comes from the table in this  
 15 document.  
 16 Q Okay, are you referencing Table A of  
 17 CX98?  
 18 A Yes.  
 19 Q And can you give me the page number on  
 20 where the appropriate inflation multiplier is for  
 21 this case, in our RRP rule case, excuse me?  
 22 A Yes. If you go to page 14 of 21.

1 bottom of that page, please, and the beginning of  
 2 the next page. Yes, perfect. Thank you so much.  
 3 BY MR. FUTERMAN:  
 4 Q So Ms. Tartaglia, what was Stage 2 in  
 5 this process again?  
 6 A This is where you can adjust the  
 7 penalty amount upwards or downwards.  
 8 Q Okay, and are there specific factors  
 9 that you're considering when considering whether  
 10 to adjust the gravity based penalty?  
 11 A Yes. There are four factors.  
 12 Q And what are those four factors,  
 13 please?  
 14 A So the first one is the degree of  
 15 culpability. The second one is the ability to  
 16 pay or ability to continue in business.  
 17 Q Okay.  
 18 A And the third one is the history of  
 19 prior violations.  
 20 Q Okay.  
 21 A And the last one is other matters as  
 22 justice may require.

1 MR. FUTERMAN: Thank you. Mr.  
 2 Crawley, would you please go to page 14?  
 3 Okay. Thank you.  
 4 BY MR. FUTERMAN:  
 5 Q So Ms. Tartaglia, what is this chart  
 6 -- what information is it giving us?  
 7 A It's giving me the inflation  
 8 multiplier for the TSCA lead-paint program.  
 9 Q Okay. So then after determining the  
 10 gravity based penalty, what are you doing with  
 11 this multiplier? What do you do?  
 12 A I am multiplying it, multiplying the  
 13 inflation multiplier with the gravity based  
 14 penalty amount.  
 15 Q Okay, and then after doing so, do you  
 16 then continue on to Stage 2 which we said before,  
 17 adjusting the gravity based penalty?  
 18 A Yes.  
 19 Q Okay. Thank you. So let's turn back  
 20 to CX96 and I'm now looking at page 19.  
 21 MR. FUTERMAN: If we could please, Mr.  
 22 Crawley, turn back to CX96, page 19. And at the

1 Q Okay, so let's look through each one  
 2 of those in turn.  
 3 MR. FUTERMAN: And Mr. Crawley, if you  
 4 would please scroll down a little bit to the next  
 5 page.  
 6 BY MR. FUTERMAN:  
 7 Q So Ms. Tartaglia, what is the degree  
 8 of culpability?  
 9 A It's the respondent's knowledge of the  
 10 RRP rule requirements or if they have some sort  
 11 of control over the events that constituted  
 12 towards the violation. And the last one is the  
 13 extent to which the violator knew the RRP rule  
 14 requirements.  
 15 Q Okay, and is there a limit to how much  
 16 you can adjust the gravity based penalty based on  
 17 a respondent's degree of culpability?  
 18 A Yes, there is.  
 19 Q And what is that limit?  
 20 A That limit is 25 percent.  
 21 Q Okay, and can you adjust the gravity  
 22 based penalty based on a respondent's degree of

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1 culpability in either direction?  
 2 A Yes.  
 3 Q Okay, so you can either raise or lower  
 4 the gravity based penalty by up to 25 percent, is  
 5 that accurate?  
 6 A Yes.  
 7 Q Okay, thank you so much. And moving  
 8 on to the history of prior violations, what is  
 9 that factor? What are you considering when  
 10 considering a respondent's history of prior  
 11 violations?  
 12 A So I'm looking at whether the  
 13 respondent had a formal enforcement action  
 14 against the company. So that could mean if there  
 15 was a consent agreement against the company, a  
 16 final order, judicial decision, or a criminal  
 17 conviction.  
 18 Q Okay, so if there were prior  
 19 communications between EPA and a given  
 20 respondent, not a formal settlement, but prior  
 21 warnings, things of that nature, would you be  
 22 able to consider that under a history of prior

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1 deliberately put a company out of business?  
 2 A No, that's not our intent.  
 3 Q Okay, thank you, Ms. Tartaglia. And  
 4 is this required of you by -- is there a law out  
 5 there that says you have to do this other than  
 6 just what CX96 tells you to do?  
 7 A Yes, there is a law.  
 8 Q And what is that?  
 9 A That's the TSCA regulation.  
 10 Q Okay, thank you so much. Now at this  
 11 initial stage, when you're initially reviewing a  
 12 respondent's ability to pay or continue business,  
 13 if -- okay, I'll continue.  
 14 In this initial stage when you're  
 15 initially reviewing a respondent's ability to pay  
 16 or continue in business, what sort of information  
 17 do you have in front of you? What information  
 18 are you able to obtain at this point?  
 19 A I typically can obtain publicly  
 20 available information through our EPA Region 10  
 21 library.  
 22 Q Okay, publicly available information.

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1 violations?  
 2 A No.  
 3 Q No, so to consider a -- to be  
 4 considered a prior violation, is there something  
 5 specific that has to happen?  
 6 A Yes.  
 7 Q And what is that?  
 8 A They have to have a formal enforcement  
 9 against -- action against them.  
 10 Q Thank you, Ms. Tartaglia. And what  
 11 about the ability to pay slash continue in  
 12 business? What is that factor?  
 13 A So we want to know if the company has  
 14 the ability to pay the proposed penalty amount  
 15 that a case developer comes up with.  
 16 Q Okay, and why do we want to know that?  
 17 Why are we considering a respondent's ability to  
 18 pay slash continue in business?  
 19 A We want to know if they are able to  
 20 pay the penalty amount that we proposed.  
 21 Q Okay, when going through this process,  
 22 would you ever -- would the EPA kind of

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1 Are there certain types of reports that you  
 2 typically get?  
 3 A Yes.  
 4 Q What are those?  
 5 A I get three reports, two West Law  
 6 investigative reports, and the third one would be  
 7 the D&B report.  
 8 Q Do you know what D&B stands for?  
 9 A Yes, that would be Dunn & Bradstreet.  
 10 Q Okay. Thank you. And how do you get  
 11 those reports? What's the process like to get  
 12 that information?  
 13 A Yes, I send a request to our EPA  
 14 Region 10 library and they will produce those  
 15 reports and send it back to me.  
 16 Q Okay, and do you know where they get  
 17 that information from, where the library gets it  
 18 from?  
 19 A Again, it's publicly available  
 20 information, so it would be from West Law and  
 21 D&B.  
 22 Q Okay, thank you so much. And at this

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1 initial stage in the process, do you ever have  
 2 private information? Do you ever have things  
 3 like tax returns or accounting statements,  
 4 balance sheets, things of that nature?  
 5 A No.  
 6 Q Okay. Thank you so much. So what  
 7 about the last factor which was the other factors  
 8 that justice may require? So kind of generally  
 9 speaking, what is that?  
 10 A So it allows flexibility for us. If  
 11 something comes up, we can consider that in  
 12 adjusting the gravity based penalty amount.  
 13 Q Okay, thank you.  
 14 MR. FUTERMAN: And Mr. Crawley, if you  
 15 would please scroll down now to page 25 of 44?  
 16 Thank you so much.  
 17 BY MR. FUTERMAN:  
 18 Q Okay, Ms. Tartaglia, so this allows  
 19 you -- this factor you said allows you some  
 20 flexibility. Are there specific subfactors  
 21 within other factors that justice may require  
 22 that you're considering?

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1 place.  
 2 Q Okay. And is there another subfactor  
 3 that you're considering also?  
 4 A Special circumstances.  
 5 Q Okay, and what is that?  
 6 A If -- I guess this is where there is  
 7 -- is it okay if I read it?  
 8 Q Yes, Ms. Tartaglia. Honestly, I'm  
 9 interested in your memory, but if you want a  
 10 moment to refresh your recollection, I can  
 11 probably ask the Judge if we could do that.  
 12 JUDGE BIRO: Sure.  
 13 MR. FUTERMAN: Thank you, Your Honor.  
 14 THE WITNESS: Thank you, Your Honor.  
 15 BY MR. FUTERMAN:  
 16 Q Ms. Tartaglia, my question is a little  
 17 bit more broad than that. My question is really  
 18 if the special circumstances is sought where you  
 19 could consider kind of anything else? If there's  
 20 something that hasn't been considered yet, is it  
 21 a factor that allows you to just think about kind  
 22 of anything else that's present?

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1 A Yes.  
 2 Q And what are those?  
 3 A So if the respondent was aware of the  
 4 violation that they committed, they can disclose  
 5 that to us and if they come into compliance, like  
 6 if they know they didn't have a firm  
 7 certification and they obtain it, then we could  
 8 allow some adjustment to the penalty amount.  
 9 Q Okay. So it sounded to me like one of  
 10 the factors was the voluntary disclosure that you  
 11 talked about. Are there other like kind of  
 12 denoted factors?  
 13 A Yes.  
 14 Q And what are those?  
 15 A The other one would be their attitude.  
 16 Q Okay.  
 17 A Within that section there. It can be  
 18 reduced if the respondent cooperates throughout  
 19 the whole process and also if the respondent  
 20 shows good faith in complying with the RRP rule  
 21 requirements. And the last one is if they settle  
 22 before the filing of a pre-hearing exchange takes

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1 A Yes.  
 2 Q Okay. Thank you so much, Ms.  
 3 Tartaglia. That's really what I was asking with  
 4 that one.  
 5 Okay, so does that now kind of  
 6 complete the Step 2 of adjusting the gravity  
 7 based penalty?  
 8 A Yes.  
 9 Q So after you do that, after you walk  
 10 through and determine the gravity based penalty,  
 11 multiply that by the inflation adjustment, walk  
 12 through each of these adjustment factors, does  
 13 that then give you what you believe to be the  
 14 appropriate penalty for any given case?  
 15 A Yes.  
 16 Q Okay, and this seems like seems like  
 17 a fairly complicated process. Do you record that  
 18 information anywhere?  
 19 A Yes.  
 20 Q And where do you record that  
 21 information?  
 22 A It will be in my compliance analysis



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1 and penalty calculation memo.  
 2 Q Okay, is that the CX96 document that  
 3 we looked at earlier?  
 4 A Yes.  
 5 Q Okay, thank you so much. Now Ms.  
 6 Tartaglia, we also identified and admitted into  
 7 evidence CX97 which was the Section 1018 ERPP.  
 8 Does that document ever factor into your  
 9 consideration of penalties under the RRP rule?  
 10 A Yes.  
 11 Q Okay, so I know this is going to be a  
 12 little complicated question and we'll break it  
 13 down into subparts in a moment, but when does  
 14 CX97 come into play with respect to RRP rule  
 15 violations?  
 16 A If the violation has a hazard  
 17 assessment nature and violation, that's when I  
 18 refer to the Section 1018 disclosure rule. I  
 19 only use their penalty matrix when calculating  
 20 the penalty amount for that violation.  
 21 Q Okay, so earlier, we looked at the  
 22 nature of violations and we said that there were

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1 BY MR. FUTERMAN:  
 2 Q Now Ms. Tartaglia, earlier, we talked  
 3 about this document with respect to the inflation  
 4 multiplier. But we didn't talk about the  
 5 footnote, footnote 30, the application of  
 6 inflation multiplier. Can you explain for us  
 7 what footnote 30 is saying?  
 8 A Yes. That's basically saying that any  
 9 violation with a Level B, that you should be  
 10 using the Section 1018 lead based paint  
 11 disclosure penalty policy.  
 12 Q Do you know why that's the case?  
 13 A Yes, it's because Level B penalties  
 14 apply to violations of the pre-renovation  
 15 education rule.  
 16 Q Okay, so I guess in this process are  
 17 we trying to treat similar violations similarly?  
 18 A Yes.  
 19 Q Can you kind of speak a little bit  
 20 more about that?  
 21 A Yes. So all violations ending --  
 22 having an A, a chemical control nature, you have

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1 As and Bs in the circumstance level of that  
 2 chart. Are you saying that when it's a certain  
 3 letter, you do the process that we just did, you  
 4 walk through CX96, do everything the same way.  
 5 But when it's a different letter, you're using  
 6 the Section 1018 matrix?  
 7 A Yes.  
 8 Q Is the process the same and just the  
 9 matrices are different?  
 10 A The process is the same and the  
 11 matrices are different.  
 12 Q Okay, so you're just getting the  
 13 actual number from a different document?  
 14 A Correct.  
 15 Q Thank you so much, Ms. Tartaglia.  
 16 Would you please turn back to CX98 which was the  
 17 penalty policy inflation memo. And I'm looking  
 18 again at page 14 of 21.  
 19 MR. FUTERMAN: Mr. Crawley, if you  
 20 would please publish CX98, page 14 and scroll  
 21 down to the bottom of that page? I'm going to  
 22 look at the footnotes. Thank you so much.

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1 to use the penalty policy for the RRP rule. And  
 2 any violations with a nature of B, hazard  
 3 assessment, you need to use the penalty policy,  
 4 the Section 1018 penalty policy when calculating  
 5 the appropriate penalty amount.  
 6 Q Okay, thank you, Ms. Tartaglia.  
 7 MR. FUTERMAN: Your Honor, I just kind  
 8 of want to let you know we're at a really natural  
 9 stopping point. We were told earlier that we'd  
 10 be going until about 6:30 our time, 9:30 your  
 11 time, but I did want to you know this is a pretty  
 12 natural stopping point just to give you that  
 13 information.  
 14 JUDGE BIRO: Okay. I think the  
 15 translators had a cutoff time of 8 p.m. I  
 16 understood. So I think that we have to stop.  
 17 So what time tomorrow could we begin  
 18 again?  
 19 MR. FUTERMAN: As early as you want to  
 20 go. I think the complainant would be happy to  
 21 make that happen.  
 22 JUDGE BIRO: Okay. Mr. Von Marees,

1 what time could you begin tomorrow?

2 MR. VON MAREES: At 9:00 a.m., after

3 I take my children to school.

4 JUDGE BIRO: Okay, so that I think

5 again puts us beginning at one o'clock my time.

6 Okay, we'll stand in recess until 9:00 a.m.

7 (Whereupon, the above-entitled matter

8 went off the record at 7:52 p.m.)

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