

1 response was almost the same as ours. You've been
2 doing it forever. There's an easement. What's
3 going on?

4 Q. He got the same response, namely, that
5 they withdrew it.

6 A. Remember, they didn't withdraw it from
7 us. They only temporarily withdrew it. It's still
8 an open issue with us.

9 Q. You haven't received any other ones, have
10 you?

11 A. No. But it's still a pending issue.
12 Their final determination has never been made even
13 though we've asked for it.

14 Q. Okay.

15 A. He basically said, in his mind, there was
16 a final determination made. He spoke with someone
17 at Emmons Company and thought they told him
18 everything's fine. So he got a different answer
19 than I did in that regard, according to what he
20 said to me.

21 Q. Can you think of a reason why he was
22 treated differently than you?

23 A. I think we were the target of the
24 harassment efforts and he wasn't. He was only
25 dragged into it because he was under the same

1 easement. He had to be sent the same letter
2 because it was the same easement. Other than that,
3 he wouldn't have gotten the letter.

4 Q. What do you mean by "target of the
5 harassment issues"?

6 A. The harassment actions the board has
7 taken against us.

8 Q. The actions are what?

9 A. Numerous.

10 Q. I'll take them all.

11 A. One would be the fuel modification/brush
12 clearance letter. After 20 years of them doing it,
13 they said it came to their attention they're no
14 longer obligated to do it. We've asked every board
15 member in their depositions what it is that came to
16 their attention and they either don't recollect or
17 know.

18 Q. Fuel modification, and what other
19 harassment issues?

20 A. They did a stop work order for
21 agricultural activities that they have never done
22 before in any of the agricultural lots, or my lot.

23 Q. That's the Phase III planting?

24 A. Yes, and they also went back and said now
25 we want Phase II, also.

1 would expect to see some farm equipment on a farm
2 and not be asked to move it, like you wouldn't be
3 asked to move your car from your driveway to the
4 other side of the driveway.

5 Q. Any other acts of harassment?

6 A. Yes, and I can't think of them at the
7 moment.

8 Q. Okay. Why do you think the board is
9 harassing you?

10 A. It started right after we asked them for
11 the second time to perform their maintenance
12 obligations. They basically said no, we're not
13 going to maintain the trees. We're turning them
14 over to you.

15 And then when we didn't accept that as an
16 answer, we said, "No, we are not taking over the
17 obligation," shortly thereafter was the April 13th,
18 2011 fuel brush clearance letter -- the fuel
19 modification/brush clearance letter. The lawsuit
20 was filed April 8, 2011.

21 Q. So when did you think the harassment
22 started?

23 A. It -- that was the most overt. That's
24 where I knew it was harassment, the letter saying
25 it's come to our attention we're no longer

1 responsible for the fuel modification/brush
2 clearance even though we performed it in the past.
3 Then when I saw the e-mails from the civil
4 engineer, Tom Murphy, showing them they had the
5 fuel modification easement, he highlighted it and
6 verbally described it and many months later they
7 sent a letter that it's come to their attention.

8 So it was after -- they already knew they
9 had the obligation. They had been doing it for
10 20 years. The same man has been doing it. They
11 hired a civil engineer for boundary issues and
12 easement issues. He told them they had the fuel
13 mod/brush clearance easement and months later, they
14 sent us a letter that it's come to their attention
15 it's no longer their obligation.

16 Q. I appreciate the information but why do
17 you think the board is harassing you? I didn't
18 quite understand it. It's that you declined to
19 remove the trees; is that the reason?

20 A. No.

21 Q. What's the reason from your
22 perspective --

23 A. I don't know for sure. You have to ask
24 them.

25 Q. I'm asking you.

1 clearance.

2 Q. Are you saying a nonresponsive response
3 by someone means that they hate you?

4 A. No.

5 Q. They bear you personal animus?

6 A. It depends on the context. When they go
7 from a long-standing position of doing something
8 and inexplicably change that position and don't
9 have any reason to explain to you why they did
10 it -- now, they could have made a mistake and would
11 certainly say, Oh, we goofed, we misinterpreted the
12 civil engineer's report. If they say something
13 like that, fine. When they offer nothing, it's
14 obvious they're hiding something.

15 Q. My point --

16 A. You don't do something like that and hide
17 it unless you have ill will.

18 Q. So the only time -- so ill will is -- you
19 think there's ill will if you get either a
20 nonresponse or a response that you disagree with or
21 that you think is a non-reasoned position?

22 MR. ARSHT: Objection; argumentative.

23 THE WITNESS: No, that's not close to it. I
24 gave you real specific examples. It's not a
25 disagreement. It's when it's just -- read back

1 what I said. I don't want -- I don't want to waste
2 any more time on that. It's when they specifically
3 and willfully do something when they know better.

4 They've been told by a civil engineer a
5 few months before that of their obligation. They
6 knew their obligation. They had been doing it for
7 20 years. When we asked them, what came to your
8 attention to cause you to change your performing
9 your obligation, they didn't know anything.

10 Q. Did you think the association's lawyers,
11 the Adams Kessler firm, bore you any personal
12 animosity?

13 A. No.

14 Q. Suffice it to say that the letters you
15 got from the Adams Kessler firm disagreed with the
16 positions of you and your lawyer; fair statement?

17 A. Again, they were more nonresponsive than
18 disagreeable. They didn't want to even get into
19 the discussion of facts. They just ignored them.
20 Didn't address them.

21 Q. Their failure to address them, does
22 that -- did you feel the Adams Kessler lawyers were
23 ignoring the facts that you and your lawyers were
24 putting forth?

25 A. Yes.