

213

1 A. This is for engineering work from  
 2 Landmark Consultants.  
 3 **Q. What's it mean, "Asphalt quantities for  
 4 Mt. Harris for Booco"?**  
 5 A. Apparently Booco had asked for the  
 6 asphalt quantities.  
 7 **Q. So you're not pouring asphalt at this  
 8 time? It's just how much more asphalt do we need to  
 9 pour; is that what this is?**  
 10 A. No. This is mis-billed.  
 11 **Q. It's a mistake in the bill, you think?**  
 12 A. I believe so.  
 13 **Q. The asphalt quantities you think is  
 14 wrong?**  
 15 A. Yes.  
 16 **Q. Do you know whether you actually  
 17 invoiced -- never mind.**  
 18 **How about the next item, the locating  
 19 conduits? What's that?**  
 20 A. That's work that we directed for  
 21 as-builts on the drawings. It's our survey crew.  
 22 **Q. And the draft conduits sent to YVEA,  
 23 what's that?**  
 24 A. That's the as-builts being put into  
 25 drawing form and sent to Yampa Valley Electric

214

1 Association as a requirement of the Grassy Creek at  
 2 Mt. Harris project.  
 3 **Q. Has Robinson Construction paid Landmark  
 4 for this work?**  
 5 A. I would assume so.  
 6 **Q. Pardon me?**  
 7 A. I would assume that, yes, they are paid.  
 8 Would you like me to call and make sure?  
 9 **Q. Sure, but not right now.**  
 10 A. Okay.  
 11 **Q. Next page, what's this?**  
 12 A. This is the completion of the gas pipe --  
 13 natural gas pipeline at Villages of Hayden.  
 14 **Q. This is Villages of Hayden. Do you know  
 15 if this work was actually performed in the July 2007  
 16 time frame?**  
 17 A. Yes, it was.  
 18 **Q. Okay. At least one timely. What's the  
 19 next invoice that's the August 10, 2007, invoice?**  
 20 A. This is another invoice from a trucking  
 21 company that we used to bring equipment. They hauled  
 22 a piece of equipment from Hayden that was on site for  
 23 the completion of the work back to Hillsboro.  
 24 **Q. Okay. How about the next one, August 16,  
 25 2007?**

215

1 A. The next one is a copy of a previous  
 2 invoice. And the reason it has double copies is  
 3 because it's in each job file.  
 4 **Q. Great. Thank you. Let's talk about the  
 5 fidelity bond. Robinson Construction caused a  
 6 fidelity bond to be posted for infrastructure work  
 7 that still had to be performed; is that right?**  
 8 A. Are you referring to the city-required  
 9 street maintenance bond -- maintenance and warranty  
 10 bond?  
 11 **Q. This is -- do you know there's a --**  
 12 A. Performance bond?  
 13 **Q. -- subdivision improvement agreement? Do  
 14 you know what I'm talking about?**  
 15 A. Okay.  
 16 **Q. Do you know what I'm talking about?**  
 17 A. Yes.  
 18 **Q. And that's a subdivision improvement  
 19 agreement with the town of Hayden, correct?**  
 20 A. Yes.  
 21 **Q. And did Robinson Construction cause a  
 22 fidelity bond to be posted for that work?**  
 23 A. Robinson Construction provided a  
 24 maintenance and warranty bond for that work. I'm not  
 25 exactly sure what you mean by "fidelity bond."

216

1 **Q. Okay. So there's a maintenance and  
 2 warranty bond?**  
 3 A. There is a maintenance and warranty bond  
 4 posted.  
 5 **Q. Tell me what your understanding of the  
 6 purpose of the maintenance and warranty bond is.**  
 7 MR. BERNSTEIN: Object to the form and  
 8 foundation.  
 9 A. It's a requirement from the city.  
 10 **Q. (BY MR. CAL) Did Robinson Construction  
 11 have to enter into indemnification agreements with the  
 12 bond company to obtain that bond?**  
 13 MR. BERNSTEIN: Objection, form and  
 14 foundation.  
 15 A. Under normal circumstances, yes, so I  
 16 would assume -- I don't have the bond in front of me.  
 17 MR. GRAGG: Pretty funny looking bond you  
 18 got there, Peter.  
 19 MR. CAL: Do you have a better one?  
 20 MR. GRAGG: One that's signed?  
 21 MR. CAL: Did you produce it to me?  
 22 MR. GRAGG: No.  
 23 MR. CAL: Why not?  
 24 MR. GRAGG: Because there is no such  
 25 thing.

217

219

1 MR. CAL: There is no such what?  
 2 MR. GRAGG: There is no signed bond.  
 3 MR. CAL: There is no signed bond.  
 4 (Deposition Exhibit 19 was marked.)  
 5 Q. (BY MR. CAL) Would you tell me what the  
 6 first two pages of Exhibit 19 reflect.  
 7 A. They would reflect what we commonly  
 8 referred to as a maintenance bond.  
 9 Q. And what -- so you're familiar with these  
 10 types of maintenance bonds?  
 11 A. Yes, I am.  
 12 Q. And Robinson Construction has posted  
 13 maintenance bonds in the past?  
 14 A. Yes, we have.  
 15 Q. Did Robinson Construction post a  
 16 maintenance bond for the incomplete work at Villages  
 17 of Hayden?  
 18 A. It is not complete and was never  
 19 finished.  
 20 Q. What is not complete?  
 21 A. This is not a valid bond. It's not  
 22 stamped and there is no valid bond, and I can answer  
 23 to that actually.  
 24 Q. Okay. Why don't you answer to why  
 25 there's not a valid bond.

1 improvement agreement was first executed?  
 2 A. All I can tell you is just by looking at  
 3 the document that you've given me, appears like March.  
 4 Q. Read the title of the document you're  
 5 talking about, please.  
 6 A. Subdivision Improvements Agreement.  
 7 Q. For Villages of Hayden, filing 1?  
 8 A. For Villages of Hayden, filing 1.  
 9 Q. This indicates that this document was  
 10 recorded on March 22, 2007; is that right?  
 11 A. Yes.  
 12 Q. And this is -- to your knowledge, this  
 13 is -- maybe it's not. Have you seen this document  
 14 before?  
 15 A. I have not, no.  
 16 Q. But as far as you know, there was never a  
 17 bond posted by Robinson Construction because Robinson  
 18 Construction did not enter into the contract with the  
 19 Villages of Hayden?  
 20 A. That is correct. We were prepared to do  
 21 that in November, the year before.  
 22 Q. Okay. So take a look at page 2 of this  
 23 document. I want you to look at paragraph 6.  
 24 A. Subdivision improvements agreement?  
 25 Q. Yes, please.

218

220

1 A. Because the original subdivision  
 2 improvement agreements was going to be with Robinson  
 3 Construction, and the 4S group took that upon  
 4 themselves because of a timing issue. And we were  
 5 prepared to put a bond in place in November and when  
 6 4S was needing the city to release permits the next  
 7 spring, they took on the subdivision improvement  
 8 agreement with the city instead of having that made  
 9 out to us. So the city, in fact, never did come back  
 10 and request or require that Robinson Construction do  
 11 the maintenance bond.  
 12 Q. Okay. So just so I'm on the same page  
 13 here, in November 2006, did Robinson Construction post  
 14 a bond?  
 15 A. It was never completed.  
 16 Q. But at that time --  
 17 A. We were prepared to post the bond.  
 18 Q. -- you were prepared to post the bond in  
 19 the event there was a contract between Robinson  
 20 Construction and the town of Hayden?  
 21 A. Yes. In the event that the town of  
 22 Hayden was going to require the subdivision agreement  
 23 to be between Robinson Construction and the city of  
 24 Hayden.  
 25 Q. And do you know when the subdivision

1 A. Okay.  
 2 Q. On paragraph 6, commitment guarantee, it  
 3 says, "Developer's performance under this Agreement is  
 4 guaranteed by a letter of credit from Vectra Bank for  
 5 \$501,951 and a performance bond in the amount of  
 6 \$1,300,000 for warranty on improvements completed  
 7 prior to platting." Do you see that?  
 8 A. I do.  
 9 Q. Is there, to your knowledge, a  
 10 performance bond in the amount of \$1,300,000 for the  
 11 warranty on the improvements completed prior to  
 12 platting?  
 13 A. The agreement here is made between 4S  
 14 Development and the town of Hayden, and I have no idea  
 15 if 4S actually got a \$1.3 million bond --  
 16 Q. So you don't know?  
 17 A. -- for the improvements.  
 18 Q. You don't know?  
 19 A. I can't speak for 4S.  
 20 Q. So you don't know?  
 21 A. I don't know. Sorry.  
 22 Q. That's okay, but you do know for a fact  
 23 that Robinson Construction has not posted a  
 24 \$1.3 million bond for warranty on improvements?  
 25 A. That is correct.

221

223

1 Q. Okay. Did Robinson ever generate a  
2 document for what it believed was the work that still  
3 needed to be complete on the infrastructure at  
4 Villages at Hayden?

5 A. I believe so, yes.

6 Q. And do you remember when that document  
7 was created?

8 A. I didn't create it, so I don't know  
9 exactly what date it is.

10 (Deposition Exhibit 20 was marked.)

11 Q. Okay. We'll show you some documents in a  
12 second. When you've had a chance to review the  
13 document, let me know, please.

14 A. Okay.

15 Q. And what is that document?

16 A. This is the list of items to complete at  
17 Villages of Hayden and Hidden Springs subdivision.

18 Q. What does it indicate in terms of what  
19 still needed to be done on September 25, 2007?

20 A. Would you like me to read the list?

21 Q. Well, let's ask a different question. It  
22 says -- I assume that should say "to whom it may  
23 concern"?

24 A. Yes.

25 Q. Who was this document being drafted for?

222

1 A. This document was being drafted for  
2 basically anybody that wanted it.

3 Q. What was the purpose of drafting it?

4 A. Because Ron Sills, Roger Johnson, Don  
5 Anderson, all of the parties concerned wanted to know  
6 what was left to do at Villages of Hayden because the  
7 Sills group had made claim that there was financing in  
8 place to complete the work.

9 (Deposition Exhibit 21 was marked.)

10 Q. And then I'd like you to take a look at  
11 this one. Would you take a look at what's been marked  
12 as Exhibit 21, please.

13 A. Yes.

14 Q. And tell me what this document is.

15 A. This is a list of the unfinished work  
16 that was going to be left until we could return in the  
17 spring or summer, depending on the construction  
18 schedule for the summertime, that was being proposed  
19 prior to Ryan Barackman leaving the project.

20 Q. Okay. And was this an attempt to make  
21 sure you included everything that was needed on  
22 Villages of Hayden?

23 A. No. It was a proposed -- it was a  
24 proposed -- you know, it was a proposal, this is what,  
25 in our opinion, needs to be completed next year.

1 Because of weather, we were having a hard time getting  
2 anything done in the weather.

3 Q. Assuming all of this work were performed,  
4 would Robinson Construction have fulfilled its  
5 obligations under the construction contract?

6 A. The contract scope would have been  
7 complete, yes.

8 Q. The estimate is \$551,437, correct?

9 A. Yes, that's what's on there.

10 Q. So I'd like you to put Exhibit 20 --  
11 we're going to compare 20 and 21. Okay?

12 A. Okay.

13 Q. So 21 includes general conditions, but  
14 there are no general conditions on Exhibit 20, right?

15 A. Exhibit 20 was after we had been told to  
16 leave the project. We had de-mobed. It's a list of  
17 unfinished items or items to complete for somebody  
18 else, because we weren't going to be there, so no,  
19 there's no general conditions.

20 Q. Okay. Now, on Exhibit 21 there's an item  
21 for handicap ramps for \$97,500?

22 A. Yes.

23 Q. To your knowledge, were those installed?

24 A. I believe they were installed, yes.

25 Q. And there's an item for 8-foot concrete

224

1 pathway. You see that?

2 A. Yes.

3 Q. Was any work performed on the 8-foot  
4 concrete pathway between November 2, 2006, and  
5 September 25, 2007?

6 A. Not that I'm aware of.

7 Q. So that would be an item that still has  
8 to be performed?

9 A. Yes.

10 Q. That's reflected on your September 25,  
11 2007, correct?

12 A. Yes.

13 Q. How about the 4-foot gravel trail,  
14 \$4,868? Was any of that work performed?

15 A. No.

16 Q. So that still has to be performed as  
17 reflected on your Exhibit 20, right?

18 A. Right.

19 Q. Gas service here, \$85,500 on your  
20 November 2, 2006, invoice, right?

21 A. Correct.

22 Q. Was there gas service work performed  
23 between November 2, 2006, and September 25, 2007, on  
24 Villages of Hayden?

25 A. Yes, sir, there was.

**225**

1 **Q. And was it completed?**  
 2 A. I don't believe it was complete. We  
 3 could roll back to this bill you gave me a little bit  
 4 ago.  
 5 **Q. Can you find how much was on that bill**  
 6 **and tell us what exhibit you're looking at, please.**  
 7 A. I'm looking at Exhibit 18.  
 8 **Q. Okay. What does that tell you?**  
 9 A. It tells me that \$36,664 of the gas  
 10 service is complete on the invoice for completion of  
 11 Lake Villages.  
 12 **Q. So it says, "Invoice for completion," but**  
 13 **I guess I'm -- is that a misstatement? Is it complete**  
 14 **or isn't it complete?**  
 15 A. I would have to verify at this point  
 16 whether gas service was complete.  
 17 **Q. Okay. Then there's phone/cable for**  
 18 **\$84,000 listed on your Exhibit 21.**  
 19 A. Uh-huh.  
 20 **Q. Was any work done for phone/cable between**  
 21 **November 2006 and September 2007?**  
 22 A. Not that I'm aware of. I could check on  
 23 that.  
 24 **Q. Okay. How about landscaping? Any**  
 25 **landscaping done between the two dates?**

**226**

1 A. Yes, there was landscaping ongoing during  
 2 the summertime.  
 3 **Q. So presumably the amount needed to**  
 4 **complete the landscaping should be less?**  
 5 A. It should be less. They are not  
 6 complete.  
 7 **Q. Okay. The top lift AC paving, would you**  
 8 **tell me what that is.**  
 9 A. When we built subdivisions, typically  
 10 they require a 3 to 4-inch section of asphalt in the  
 11 streets, and typical standard construction is where  
 12 you'll put an inch and a half down or potentially  
 13 2 inches down and then leave that and then when the  
 14 houses are under construction or substantially  
 15 complete, then the top lift would come back through so  
 16 that the housing construction doesn't damage the  
 17 street.  
 18 **Q. So that's an item where the work still**  
 19 **would not have been performed, correct?**  
 20 A. Yes, that's not done.  
 21 **Q. So there's some items on the**  
 22 **September 25, 2007, document that were not in the**  
 23 **November 2006 document?**  
 24 A. Uh-huh.  
 25 **Q. That rock outcroppings relocated from**

**227**

1 **Hockins pit, why is that in September 2007 but not in**  
 2 **November 2006?**  
 3 A. Because between November 2, 2006, and  
 4 September 25, Ron Sills had also requested additional  
 5 work be done at Villages of Hayden. These rocks had  
 6 been purchased. These are the rocks that were hauled  
 7 out of -- apparently now we've answered our earlier  
 8 question -- the Hockins pit. There's additional work  
 9 that has been created or been requested by Ron Sills  
 10 and the 4S group.  
 11 **Q. Okay. Storm culverts at pathway, what's**  
 12 **that?**  
 13 A. I'd have to look at the plans to show you  
 14 that, but it would be a culvert crossing.  
 15 **Q. Why is it not included in the November 2,**  
 16 **2006, document?**  
 17 A. Because it could have been work also that  
 18 they were trying to complete in the November time  
 19 frame when we were still on site in and out of the  
 20 weather, because remember, I said the first one was a  
 21 proposal of work to leave open.  
 22 **Q. Now, the storm culverts at pathway, if**  
 23 **you just had to take a guess, a swag, is that**  
 24 **something that's like \$10,000 or \$100,000?**  
 25 A. It could be both. I'd have to look at

**228**

1 the drawings, Peter.  
 2 **Q. Now, the install park benches, why is**  
 3 **that not on the November 2006 document?**  
 4 A. Again, we would have to look. I'm not  
 5 sure if they were part of the scope and original  
 6 portion. I don't know if they were in or not. I'm  
 7 not sure.  
 8 **Q. So if I've been told that there was some**  
 9 **sort of discussions going on with the town of Hayden**  
 10 **to release the Robinson bond, as far as you know, that**  
 11 **just can't be because there's no bond to release; is**  
 12 **that correct?**  
 13 A. There was discussions about the bond and  
 14 release of the bond, and through the whole deal it was  
 15 recognized that in March of '07 apparently, according  
 16 to this document -- 20 minutes ago I couldn't have  
 17 told you March '07 -- that the 4S group took the  
 18 agreement on, Robinson Construction didn't, therefore  
 19 we never did actually have to post the bond, but we  
 20 were prepared for it.  
 21 **Q. So what were the discussions about --**  
 22 **when were the discussions about the release of the**  
 23 **bond?**  
 24 A. During the August breakup of this project  
 25 and all of the discussions about what is complete,

229

231

1 what is not complete, what is getting complete, where  
2 we're at in the whole deal, the discussions about the  
3 bond and the requirements of the subdivision agreement  
4 came into those conversations.

5 Q. So this is August 2007?

6 A. Uh-huh.

7 Q. Did you tell people in August 2007, What  
8 do you mean, there is no bond to release?

9 A. Not that I'm aware of.

10 Q. What did you say in response to people  
11 who were talking about the bond?

12 A. That there should be a bond posted that  
13 is going to need to be released.

14 Q. So do I understand right, you were  
15 assuming that there was a bond posted by someone else  
16 or did you think there was a bond posted by Robinson  
17 in August 2007?

18 A. I'm not saying that I assumed anything  
19 about anybody else, but we had been prepared to post  
20 this bond. It was documented, ready to go. In  
21 between the time frame of the city requiring it, 4S  
22 took on their work and it was our understanding that  
23 we still may have this bond hanging out there that  
24 would need to be released or the requirements would  
25 need to be released.

1 Q. What was the reaction when you found out  
2 you hadn't posted a bond?

3 A. One less thing we have to unwind.

4 Q. It's like, whew, we didn't post that bad  
5 boy, huh?

6 MR. BERNSTEIN: Objection.

7 Q. (BY MR. CAL) I mean, that meant you're  
8 off the hook \$1.3 million?

9 A. Sure.

10 MR. BERNSTEIN: Objection to the form.

11 Q. (BY MR. CAL) When did you tell the other  
12 members of MAPI that you had not posted the bond?

13 A. I don't know that I personally have told  
14 the other members of MAPI that the bond hadn't been  
15 executed.

16 Q. Has anyone from -- go ahead.

17 A. The discussions were about 4S taking over  
18 the subdivision agreement in March and --

19 Q. Have you personally told anyone outside  
20 of Robinson Construction that Robinson Construction  
21 has not posted a bond?

22 A. No, I have not.

23 Q. So Robinson & Sons is still a member of  
24 MAPI; is that right?

25 A. That is correct.

230

232

1 Q. In August 2007, did you, Kirk Moisan,  
2 believe that Robinson Construction had posted a  
3 \$1.3 million bond for the infrastructure work at  
4 Villages at Hayden?

5 A. Yes.

6 Q. You did?

7 A. I did, yes.

8 Q. Subsequently you determined that the bond  
9 had not been posted?

10 A. That is correct.

11 Q. Tell me when you determined that the bond  
12 had not been posted.

13 A. In the August/September time frame when  
14 the discussions were being had about what was  
15 complete, what was not complete, and how to move out  
16 of that project.

17 Q. How did you determine this?

18 A. I don't recall a specific conversation or  
19 who told me. It's in discussion.

20 Q. With whom?

21 A. I don't recall, Peter.

22 Q. Was it with other members of MAPI?

23 A. No.

24 Q. Was it internal within Robinson?

25 A. It would have been most likely, yes.

1 Q. And Robinson & Sons as a member of MAPI  
2 has learned through Robinson Construction that a  
3 \$1.3 million bond that everyone else in MAPI thinks is  
4 posted has not been posted; is that correct?

5 MR. BERNSTEIN: Object to the form.

6 A. That would be assuming that the  
7 conversation had taken place.

8 Q. (BY MR. CAL) The point is Robinson &  
9 Sons is a member of MAPI; is that right?

10 A. Yes, they are.

11 Q. And Robinson & Sons now asserts the  
12 position from information learned from Robinson  
13 Construction that Robinson Construction has not posted  
14 a bond for the work to be performed at Villages of  
15 Hayden; is that correct?

16 MR. BERNSTEIN: Object to the form.

17 A. I don't understand that series of  
18 questions. Are you making the claim that -- I'll let  
19 you -- I don't understand the question, Peter.

20 Q. (BY MR. CAL) Is it a good thing or a bad  
21 thing for the other members of MAPI that Robinson  
22 Construction has not posted the \$1.3 million bond?

23 MR. BERNSTEIN: Object to form.

24 A. You're asking me to speculate on what the  
25 good thing and bad thing for MAPI is in this case?

233

235

1 Q. (BY MR. CAL) If you were a member of  
2 MAPI, wouldn't you want a bond to be posted for the  
3 work that had to be performed?

4 MR. BERNSTEIN: Object to the form.

5 A. I don't know if 4S has posted the bond or  
6 not. 4S has the agreement with the city.

7 Q. (BY MR. CAL) Well, you knew in  
8 August 2007 that everyone thought that Robinson had  
9 posted the bonds, right? You thought Rob --

10 A. I thought Robinson had posted the bond.  
11 I don't know if everyone else thought that Robinson  
12 had posted the bond.

13 Q. So in these discussions about the bond,  
14 who were they -- what bond do you think they were  
15 talking about?

16 A. Who was talking about the bond? I told  
17 you I had told them that -- Don Anderson and Ron Sills  
18 that there was a bond in place.

19 Q. So were you talking on behalf of Robinson  
20 Construction or Robinson & Sons when you told them the  
21 bond was in place?

22 A. In the conversations about what was  
23 completed, what was not completed, what was left to  
24 do, the bond issue, warranty issues, punch list  
25 issues, I was talking on behalf of Robinson

1 got your talking points down.

2 A. I have what?

3 Q. Your talking points, you have them down  
4 real well. You told 4S and the other members of MAPI  
5 that Robinson Construction had posted a bond?

6 A. Yes.

7 Q. Now, they didn't tell you, We know you  
8 really didn't do it, did they?

9 MR. BERNSTEIN: Objection to the form.

10 A. No. I was told that 4S created -- or  
11 executed the agreement with the city, the subdivision  
12 agreement with the city, which would then put that  
13 requirement upon 4S's back, not Robinson  
14 Construction's. Once we realized that they actually  
15 posted the bond, it's not an issue for us anymore.

16 Q. (BY MR. CAL) So it wasn't until sometime  
17 in August 2007 that you found out that Robinson  
18 Construction hadn't signed the contract with the town  
19 of Hayden?

20 A. That's correct.

21 Q. So all through 2000 -- so from  
22 November 2006 through August 2007, you on behalf of  
23 Robinson Construction thought that Robinson  
24 Construction had executed a contract with the town of  
25 Hayden to complete the infrastructure?

234

236

1 Construction.

2 Q. So on behalf of Robinson Construction,  
3 you told the members of MAPI in early August 2007 that  
4 a fidelity bond had been posted by Robinson  
5 Construction?

6 A. Based on my understanding that the bond  
7 was posted, yes.

8 Q. And since you provided that information  
9 to the members of MAPI in August 2007, have you  
10 corrected the misstatement?

11 A. Not formally, no.

12 Q. Have you done it informally?

13 A. No.

14 Q. So you haven't done it at all then; am I  
15 right?

16 A. You are right.

17 Q. So the other members of MAPI are merrily  
18 going along thinking they've got a bond posted because  
19 Mr. Moisan from Robinson Construction told them that  
20 Robinson Construction had posted a bond?

21 MR. BERNSTEIN: Objection to the form.

22 A. I don't know what they're thinking. 4S  
23 has the agreement. 4S is the one that told me they  
24 had the agreement.

25 Q. (BY MR. CAL) Stop with the 4S. You've

1 A. No. I thought we had posted the bond.

2 Q. You had posted the bond. Okay. But  
3 let's just pick March 2007. In March 2007 did you  
4 know that 4S had the contract with Hayden to do the  
5 infrastructure work?

6 A. March 2007, I knew that it was taken care  
7 of.

8 Q. How did you know it was taken care of?

9 A. I hadn't been getting any more requests  
10 or there was not any open issues concerning the bond  
11 or the agreement with the town of Hayden being  
12 presented to Robinson Construction. Now, at the same  
13 time, through the course, there was the letter of  
14 credit produced and debt applied against the Mt.  
15 Harris property that I was aware of that was for the  
16 city requirements.

17 Q. Okay. Who was the lead -- Mr. Barackman  
18 was the project manager who was on site on a weekly  
19 basis in 2006, correct?

20 A. Correct.

21 Q. And you were also on site on a weekly  
22 basis in 2006?

23 A. Ryan Barackman was on site every day  
24 through the course of the construction project. I  
25 came in every week for meetings.

237

239

1 Q. And Ryan Barackman reports to you; is  
 2 that correct?  
 3 A. That's correct.  
 4 Q. So you're in the chain, you're up the  
 5 food chain from Mr. Barackman, correct?  
 6 A. Correct.  
 7 Q. Who's up the food chain from you?  
 8 A. Randy Robinson.  
 9 Q. So it's Randy Robinson, Kirk Moisan, and  
 10 Ryan Barackman for the projects up in Hayden; is that  
 11 correct?  
 12 A. That's correct.  
 13 Q. And so the number two guy in the  
 14 hierarchy for Robinson Construction thought that  
 15 Robinson Construction had posted the bond?  
 16 A. That's correct.  
 17 Q. And didn't really care apparently about  
 18 who had signed the contract with the town of Hayden to  
 19 perform the work?  
 20 MR. BERNSTEIN: Objection, form.  
 21 A. That's your speculation.  
 22 Q. (BY MR. CAL) Did you care? It was  
 23 important to you, wasn't it?  
 24 A. The requirements and the issues and  
 25 priorities of the project, that was not one of them.

1 & Sons has informed anyone from MAPI that Robinson  
 2 Construction has not posted the bond?  
 3 A. I don't know that anyone from Robinson &  
 4 Sons has informed any other members of MAPI that  
 5 Robinson Construction did not post a bond.  
 6 Q. Has anyone from Robinson Construction  
 7 informed Robinson & Sons that Robinson Construction  
 8 has not posted the bond?  
 9 A. There would not be a formal process for  
 10 that. If Randy Robinson knew Robinson Construction  
 11 did not post a bond, then as a manager of Robinson &  
 12 Sons, then he would know that Robinson Construction  
 13 didn't post a bond.  
 14 Q. And you also told us earlier this morning  
 15 that you represented both Robinson Construction and  
 16 Robinson & Sons on this job, correct?  
 17 A. That is correct.  
 18 Q. And so you know that Rob -- you know in  
 19 your capacity as a representative of Robinson & Sons  
 20 that Robinson Construction did not post the bond?  
 21 A. Okay.  
 22 Q. Is that true?  
 23 A. That's true.  
 24 Q. And as far as you know, no one from  
 25 either Robinson Construction or Robinson & Sons has

238

240

1 It had been taken care of.  
 2 Q. And as the general contractor doing the  
 3 work, you never cared about how it had been taken care  
 4 of?  
 5 MR. BERNSTEIN: Objection to form.  
 6 A. No.  
 7 Q. (BY MR. CAL) When did Mr. Robinson learn  
 8 that Robinson Construction had not posted the bond?  
 9 MR. BERNSTEIN: Objection to form.  
 10 A. I'm not sure. I don't know.  
 11 Q. (BY MR. CAL) Did he learn it from you?  
 12 A. No.  
 13 Q. Who did he learn it from?  
 14 A. I don't know.  
 15 Q. Who did you learn it from?  
 16 A. I'm not aware of the specific person that  
 17 told me. It was in a conversation. I don't know.  
 18 Q. Do you know whether the town of Hayden  
 19 thinks that Robinson Construction posted a bond?  
 20 A. I don't know.  
 21 Q. Have you had any discussions with the  
 22 town of Hayden about whether Robinson Construction had  
 23 posted a bond?  
 24 A. I have not.  
 25 Q. Do you know whether anyone from Robinson

1 ever gone to tell the other members of MAPI that, in  
 2 fact, if there's a bond on this job, it's not Robinson  
 3 Construction's bond?  
 4 A. You're correct.  
 5 Q. But in August 2007 you had told them that  
 6 Robinson Construction had posted a bond?  
 7 A. Yes, I did.  
 8 Q. Okay. Was there any other work -- in  
 9 some documents I've seen references to various  
 10 projects. Were there any other projects other than  
 11 Mt. Harris at Grassy Creek, Villages at Hayden, and  
 12 Hidden Springs for which Robinson Construction did  
 13 work in or near Hayden? Cliffs?  
 14 A. That is Mt. Harris.  
 15 Q. Cliffs and Mt. Harris are the same?  
 16 A. Exactly the same.  
 17 Q. Different, same thing. Looks like you're  
 18 thinking. Are there other projects other than those  
 19 three where Robinson Construction did any work?  
 20 A. No. We have a project -- at the time we  
 21 had a project in Gypsum, Colorado, Eagle, Colorado.  
 22 Q. How far is that from Steamboat?  
 23 A. I've only flown. It's right over the  
 24 hill. I don't know the mileage distance.  
 25 Q. Different employees on each job?