

# **EXHIBIT C.5**

New Mexico Designation

1 IN THE SUPREME COURT OF THE UNITED STATES

2 BEFORE THE OFFICE OF THE SPECIAL MASTER

HON. MICHAEL J. MELLOY

3

4 STATE OF TEXAS )

)

5 Plaintiff, )

)

Original Action Case

6 VS. )

No. 220141

)

(Original 141)

7 STATE OF NEW MEXICO, )

and STATE OF COLORADO, )

8 )

Defendants. )

9

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11 \*\*\*\*\*

12 REMOTE ORAL AND VIDEOTAPED DEPOSITION OF

13 CARI-MICHEL LA CAILLE

14 SEPTEMBER 3, 2020

15 \*\*\*\*\*

16

REMOTE ORAL AND VIDEOTAPED DEPOSITION of

17 CARI-MICHEL LA CAILLE, produced as a witness at the

instance of the Defendant State of New Mexico, and

18 duly sworn, was taken in the above-styled and numbered

cause on September 3, 2020, from 1:02 p.m. to 2:03

19 p.m., before Heather L. Garza, CSR, RPR, in and for

the State of Texas, recorded by machine shorthand, at

20 the offices of HEATHER L. GARZA, CSR, RPR, The

Woodlands, Texas, pursuant to the Federal Rules of

21 Civil Procedure and the provisions stated on the

record or attached hereto; that the deposition shall

22 be read and signed.

23

24

25

1 R E M O T E A P P E A R A N C E S

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VIDEOGRAPHER:

16

Ms. Kayla Brown

17

18 ALSO PRESENT:

19 Mr. Bobby Salehi

20

21

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1 THE VIDEOGRAPHER: The time is 1:02 p.m.

2 We're on the record.

3 CARI-MICHEL LA CAILLE,

4 having been first duly sworn, testified as follows:

5 E X A M I N A T I O N

6 BY MR. ROBLES:

7 Q. Will you please state and spell your name?

8 A. Yes. My name is Cari-Michel, C-A-R-I,

9 hyphen, M-I-C-H-E-L, last name is La Caille, L-A,

10 capital C-A-I-L-L-E.

11 Q. Ms. La Caille, have you ever had your  
12 deposition taken before?

13 A. No.

14 Q. As was likely explained by your attorney,  
15 I'll ask you a series of questions, and I'll ask that  
16 you answer those questions, and during that  
17 questioning, you will find out maybe sooner rather  
18 than later that not every question I ask makes sense.  
19 Some of them might be confusing, downright confusing,  
20 and if I do that, will you let me know?

21 A. Yes.

22 Q. And if at any time, you would like to take a  
23 break for convenience sake or you want to talk to your  
24 attorney, would you let me know that, as well?

25 A. Yes.

1 Q. And if at the course of this proceeding, you  
2 have questions about something that's come up, will  
3 you let us know?

4 A. Yes.

5 Q. Before we talk about Texas -- or the TCEQ,  
6 I'd like to ask you about how you found your way  
7 there. And so, first, I'd like to ask you about your

New Mexico  
Designation

8 education. Will you please tell us, you know, the --  
9 the education that you received prior to becoming --  
10 joining the Texas Commission for Environmental  
11 Quality?

12 A. Yes. I have a bachelor of science degree in  
13 biology that I obtained from the Mary Baylor Hardin  
14 University in 2005.

15 Q. Is that the only advance -- is this the only  
16 advanced degree that you have received?

17 A. Yes.

New Mexico  
Designation

18 Q. After graduating, will you please tell us  
19 your relevant work history prior to becoming an  
20 employee of the TCEQ?

21 A. I was a student. I was a stay-at-home  
22 mother. I worked for the United States Department of  
23 Agriculture, and I also worked for the City of Austin.

24 Q. What did you do for the Department of  
25 Agriculture?

1 A. I was a research associate on a biology  
2 program that was investigating biological controls.

3 Q. When you say "biological controls," what do  
4 you mean?

5 A. Looking for resources, such as insects, to  
6 control native species that are overtaking areas in  
7 the state.

8 Q. When did you begin your employment with the  
9 Department of Agriculture, and when did it come to a  
10 conclusion?

11 A. I'd probably say 2005 to 2006. I was still  
12 working for them while I was employed with TCEQ.

13 Q. You also mentioned working for the City of  
14 Austin; is that right?

15 A. Yes.

16 Q. What did you do for the City of Austin?

17 A. The last position I held there was pipe fire  
18 prevention.

19 Q. What specifically did you do to help prevent  
20 fires?

21 A. We did a lot of information to make sure that  
22 occupancy loans were correct, fire sprinklers were  
23 installed appropriately.

24 Q. When did you begin and when did you end your  
25 employment with the City of Austin?



1 A. Probably 1989 through 1998.

2 Q. Aside from your work at the Department of  
3 Agriculture and your work at the City of Austin, is  
4 there any other work-related experience you had before  
5 joining TCEQ?

6 A. No. Just menial jobs to support myself as a  
7 younger adult.

New Mexico  
Designation

8 Q. When were you first employed by TCEQ?

9 A. December of 2005.

10 Q. Would you please take us through that  
11 progression from your first, you know, job at TCEQ to  
12 where you find yourself today?

13 A. I started in 2005 as an enforcement  
14 coordinator with the Office of Compliance and  
15 Enforcement. I then was promoted to special assistant  
16 to the director of the enforcement division, and I was  
17 there until 2009. In 2009, I was hired as a special  
18 assistant to the director in radioactive materials  
19 division, and then in 2010, I became the assistant  
20 director for the water supply division, and in 2016, I  
21 became the director of the water supply division, and  
22 that is my current position now.

Texas  
Counter-De...

23 Q. What type of work does an enforcement  
24 coordinator do for TCEQ?

25 A. Any time that the entity, regardless if it's

1 air, water, or waste, has a violation and that's  
2 elevated and needs enforcement criteria, that is  
3 elevated to a formal enforcement, whether that's  
4 through an administrative order, to correct the  
5 violations or assess a penalty for noncompliance with  
6 our rules.

7 Q. Would it be fair to say that in your capacity  
8 as an enforcement coordinator, you would look at all  
9 the areas in which TCEQ is involved, land, air, water,  
10 other materials, and in terms of enforcement?

11 A. Not necessarily. I probably wasn't subject  
12 to waste. I primarily did some water and air cases.

13 Q. How were those cases brought to your  
14 attention?

15 A. They're assigned to you as an enforcement  
16 coordinator after they're referred from whoever the  
17 program area is that has cited the violation.

18 Q. So complaints -- maybe I should ask:  
19 Generally speaking, what are the origin of the  
20 complaints that you investigate?

21 A. That's not my role. Those already have met  
22 enforcement criteria, and I'm essentially assuring  
23 that that's going through that administrative process.

24 Q. So do you facilitate the -- the charge, for  
25 lack of a better term, being brought against an entity

1 or individual or do you actually investigate that  
2 charge to ensure that it's properly being prosecuted?

3 A. In what capacity? In my capacity now or as  
4 an enforcement coordinator?

5 Q. As an enforcement coordinator.

6 A. I'm going to look at the question again. No.

7 Q. Please explain how you would shepherd a -- a  
8 charge through the administrative process.

9 A. Once the case is referred and has the  
10 violations included in the case, they're put into a  
11 format for administrative order and what type of order  
12 that actually is based on the type of violations that  
13 you receive. You're determining a penalty calculation  
14 against the entity based on the seriousness of the  
15 violations that are contained in the enforcement case  
16 and then that goes through the administrative process.

17 Q. Now, so jumping ahead to your move from  
18 radioactive waste to, I believe, it's water supply in  
19 2009/2010; is that right?

20 A. Correct.

21 Q. Why did you make the move from radioactive  
22 waste to water supply?

23 A. Primarily because I was offered a promotion  
24 position within the water division -- water supply  
25 division as an assistant director.

Texas  
Counter-De...

New Mexico  
Designation

1 Q. And is it correct to say that you hold the  
2 position of water supply division director today?

3 A. Correct.

4 Q. Please explain those particular areas for  
5 which the water supply division is responsible.

6 A. Sure. The water supply division at TCEQ  
7 oversees the public drinking water program. We have  
8 oversight of public water systems, primarily an  
9 implementation of the Safe Drinking Water Act. We  
10 also have general oversight for certain types of  
11 districts and those usually are related to processing  
12 bond applications, district creations, and managing  
13 financial information that's submitted to us.

14 Q. Is it correct to say that the water supply  
15 division is responsible for the provision of safe and  
16 adequate drinking water to the citizens of Texas?

17 A. Yes.

New Mexico  
Designation

18 Q. As used by you and your office, what do you  
19 -- what do you mean by "safe"?

20 A. That it meets federal and state drinking  
21 water standards.

22 Q. As used by you and your office, what is meant  
23 by the term "adequate"?

24 A. That the public water system can provide  
25 enough water to meet the needs and the demand of those

1 residents that are within the system's distribution  
2 system.

3 Q. So I'll take you back to the term "safe" and  
4 ask a question. How does the TE -- TCEQ ensure that  
5 there is a safe supply of water?

6 A. We are looking at the monitoring, and we do  
7 compliance activities. Most of that is related into  
8 sampling efforts and so we receive those analytical  
9 results for compliance with state and federal drinking  
10 water, make sure that those are within the limits that  
11 are set by either EPA and either ourselves as a state.

12 Q. How does the water supply division determine  
13 -- determine that there is an adequate amount of water  
14 for the citizens of the State of Texas?

15 MS. BARFIELD: Overbroad; vague;  
16 ambiguous.

17 Are we still talking about drinking  
18 water? If so, far outside the scope of what Ms. La  
19 Caille is here to testify about today. Go ahead.

20 A. Okay. In terms of capacity, we want to make  
21 sure that the source of water that a public water  
22 system has is adequate enough to supply the daily  
23 demand that the system has to ensure that water is  
24 provided to its customers and its residents.

25 Q. (BY MR. ROBLES) What is the relationship or

1 interplay among the water supply division, the  
2 groundwater division, and the surface water division?

3 A. There's not. We -- we provide different  
4 functions.

5 Q. For example, with regards to the use of  
6 surface water to provide drinking water, would you  
7 have any -- would there be any interaction between the  
8 two different divisions of surface water and water  
9 supply division in looking at the provision of  
10 drinking water for a particular city, for instance?

11 A. No.

12 Q. Is -- would it be fair to say that -- that  
13 the water supply division does not work with the other  
14 divisions that address water issues within the TCEQ?

15 A. I wouldn't necessarily agree with that  
16 statement.

17 Q. Would you please describe the relationship,  
18 to the extent that there is one, among the different  
19 divisions that address water issues within the TCEQ?

20 MS. BARFIELD: Object as to form. Also,  
21 outside the scope of the testimony that this witness  
22 is designated to provide.

23 A. You know, a lot of it is us meeting with them  
24 when we have folks that come in that want to begin a  
25 public water supply and there are different areas that

1 they must comply with and so sometimes they will meet  
2 with that entity and provide each one of our programs  
3 and so that we're providing, you know, for lack of a  
4 better term, a one-stop shop so that entity has all  
5 the information they need for requiring of all the  
6 different programs at TCEQ.

New Mexico  
Designation

7 Q. (BY MR. ROBLES) What does the water supply  
8 division do to ensure that there's an adequate supply  
9 of drinking water?

10 MS. BARFIELD: Same objection.

11 A. When we're approving source water, we're  
12 looking at the capacity of how they can produce the  
13 water to serve the system.

14 Q. (BY MR. ROBLES) How is that process  
15 undertaken to determine the capacity of the system?

16 MS. BARFIELD: Same objection. I'm just  
17 going to also say and remind counsel, pursuant to  
18 Texas' objections in response to the notice of  
19 deposition for Ms. La Caille today, she's here to  
20 testify on Subject I, which is the authority and  
21 responsibilities of TCEQ within GMA 5, RWPAE, EP1 or  
22 Hudspeth. She also has a very limited discussion area  
23 in Subject M regarding director and bond issues for  
24 those geographic areas. This is so far outside the  
25 scope of what she's here to testify about. I'll give

1 you a little more leeway, but can we get to the topic  
2 areas that she's here to talk about today?

3 Q. (BY MR. ROBLES) You can go ahead and answer  
4 the question.

5 A. Okay. I'm going to go back and review the  
6 question. Depending upon what type of source it is,  
7 whether it's groundwater or surface water, we are  
8 required to approve that source and so when they come  
9 in to get that approved through us for the facilities  
10 of treating water, they'll have to show us what their  
11 source is and be able to show that they can -- and do  
12 that. On a well, it's generally, you know, the  
13 production of the well and what it can produce and  
14 then in minimum capacity, which is required in our  
15 rules, the engineer that submits that has to show  
16 calculations that he can meet those minimum  
17 capacities.

18 Q. Is it correct to say that the water supply  
19 division manages the water district database and safe  
20 drinking water information system?

21 A. Yes.

22 Q. What is the water district database?

23 A. It's a database that we have that tracks our  
24 bond applications, district creations. It's used to,  
25 you know, delineate information about districts,

New Mexico  
Designation



1 general information about districts.

2 Q. What is the role of the water supply division  
3 in bonding for the various water districts throughout  
4 the State of Texas?

5 A. We are required to determine a feasibility of  
6 a project when they come in. When they -- before they  
7 issue bonds, they must submit that to us so that we  
8 can review that. Our primary goal in that program is  
9 to make sure that the district remains financially  
10 stable as they're taking on debt obligations.

11 Q. In -- in looking at the staff that you work  
12 with there wasn't a way to determine if there are  
13 individuals within accounting or financial background,  
14 but would it be fair to say that there are individuals  
15 who have those credentials reviewing the bond -- the  
16 bonds that are being issued by the various water  
17 districts?

18 A. Yes.

19 Q. What is the safe drinking water information  
20 system?

21 A. It is a federal database that we've  
22 incorporated at the state level that is used to house  
23 information about public water systems and compliance  
24 with the requirements under the safe -- the Federal  
25 Safe Drinking Water Act. It's used as a mechanism to

New Mexico  
Designation

1 report to EPA certain data that we're required to  
2 report.

3 Q. What is the water district?

4 A. In terms of the definition that would be in  
5 the water code or just in general?

6 Q. As used by you as the director of the -- of  
7 the water supply division?

8 A. I would say a water district is a political  
9 subdivision of the state. That's a local governmental  
10 entity that provides limited services to its customers  
11 and residents. It's dependent upon the powers and for  
12 the purpose in which it's created.

13 Q. How are water districts created?

14 A. There are three ways a water district can be  
15 created, either by TCEQ, the legislature, or by the  
16 commissioner's court.

17 Q. And who regulates water districts?

18 A. We have a continuing right of supervision  
19 over water districts, but that is -- that jurisdiction  
20 and authority is very limited in -- in that, that I  
21 mean day-to-day operations of the districts are done  
22 at the local level and not at the state level.

23 Q. Would you please describe that -- that  
24 supervision, which TCEQ has over an individual water  
25 district?

1       A.    In my division for my area, it's primarily  
2 related to the obligation that they have to turn in  
3 their bond applications so that we can review that for  
4 feasibility.  It's also through when they create  
5 districts through us using the agency process, and  
6 then we also manage records related to their financial  
7 information.  They're required to submit certain types  
8 of financial information to us.

9       Q.    To what extent does TCEQ or the water supply  
10 division have authority over a water district with  
11 regards to water quality?

12       A.    I'm going to look at the question again.

13               MS. BARFIELD:  I'll object that it's  
14 overbroad in terms of the geographic scope of the  
15 notice of deposition.

16       A.    If it's a water district, that is a public  
17 water system.  They have to be classified as a public  
18 water system for us to have that authority.

New Mexico  
Designation

19       Q.    (BY MR. ROBLES)  If the water district is  
20 classified as a public water system, what authority  
21 does TCEQ have over it with regards to water quality?

22               MS. BARFIELD:  Same objection.

23       A.    They have to meet state and federal drinking  
24 water standards.

25       Q.    (BY MR. ROBLES)  And how do you monitor that

1 and enforce that?

2       A.     That is done through sampling collection.  
3 They'll turn -- they'll submit their sampling results  
4 to us or we take those samples and then we determine  
5 compliance with the national primary drinking water  
6 regulations that are set out in 40 code of federal  
7 regulations to implement the Federal Safe Drinking  
8 Water Act.

9       Q.     If a water district that provides public  
10 drinking water provides you with a sample that  
11 contains -- and it can be anything, but an elevated  
12 level of a substance which, you know, humans should  
13 not consume, what authority does the TCEQ, the water  
14 supply division, have to remedy that particular issue?

15       A.     We have enforcement authority to ensure that  
16 we enforce against the requirements of the act. EPA  
17 designates a certain enforcement criteria that  
18 elevates formal enforcement action against certain  
19 types of violations of the act.

20       Q.     Has the TCEQ ever exercised its authority to  
21 enforce the drinking water standards on any water  
22 district?

23                   MS. BARFIELD: Overbroad; exceeds the  
24 scope of the deposition notice.

25       A.     I would have to see what those violations

1 were and if they were ever referred to enforcement  
2 division.

3 Q. (BY MR. ROBLES) To your recollection, are  
4 there any?

5 MS. BARFIELD: Same objection; asked and  
6 answered.

7 A. Again, it's system specific, and I think it  
8 would be an opinion at this point to say for sure  
9 whether a water district is -- had violations of the  
10 Safe Drinking Water Act without looking at the system.

11 Q. (BY MR. ROBLES) What types of water districts  
12 exist in the State of Texas?

13 A. There are a myriad of districts that are --  
14 had for the State of Texas. You could --

15 Q. For --

16 A. Is --

17 Q. I'm sorry to interrupt you.

18 A. It's okay.

19 Q. I interrupted you when you were about to make  
20 a statement, so it's my mistake. I apologize for  
21 that. I didn't want to interrupt you and let you --  
22 and I'd like to let you complete your answer.

23 A. I would not, on the basis of what I know  
24 today, can stipulate every district that has been  
25 created because there are a myriad of them and

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IN THE SUPREME COURT OF THE UNITED STATES  
BEFORE THE OFFICE OF THE SPECIAL MASTER  
HON. MICHAEL J. MELLOY

STATE OF TEXAS )  
)  
Plaintiff, )  
) Original Action Case  
VS. ) No. 220141  
) (Original 141)  
STATE OF NEW MEXICO, )  
and STATE OF COLORADO, )  
)  
Defendants. )

THE STATE OF TEXAS :  
COUNTY OF HARRIS :

I, HEATHER L. GARZA, a Certified Shorthand Reporter in and for the State of Texas, do hereby certify that the facts as stated by me in the caption hereto are true; that the above and foregoing answers of the witness, CARI-MICHEL LA CAILLE, to the interrogatories as indicated were made before me by the said witness after being first remotely duly sworn to testify the truth, and same were reduced to typewriting under my direction; that the above and foregoing deposition as set forth in typewriting is a full, true, and correct transcript of the proceedings had at the time of taking of said deposition.

I further certify that I am not, in any capacity, a regular employee of the party in whose

1 behalf this deposition is taken, nor in the regular  
2 employ of this attorney; and I certify that I am not  
3 interested in the cause, nor of kin or counsel to  
4 either of the parties.

5  
6 That the amount of time used by each party at  
7 the deposition is as follows:

- 8 MR. ROBLES - 00:52:47
- 9 MS. BARFIELD - 00:00:00
- 10 MR. TUSTIN - 00:00:00
- 11 MS. HALVORSEN - 00:00:00

12 GIVEN UNDER MY HAND AND SEAL OF OFFICE, on  
13 this, the 24th day of September, 2020.



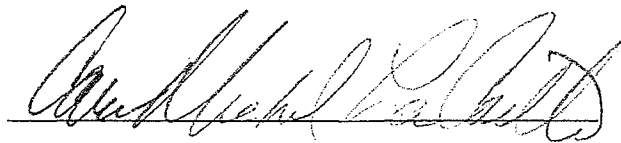
14 Heather L. Garza  
 HEATHER L. GARZA, CSR, RPR, CRR  
 Certification No.: 8262  
 Expiration Date: 04-30-22

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S I G N A T U R E   O F   W I T N E S S

I, CARI-MICHEL LA CAILLE, solemnly swear or affirm under the pains and penalties of perjury that the foregoing pages contain a true and correct transcript of the testimony given by me at the time and place stated with the corrections, if any, and the reasons therefor noted on the foregoing correction page(s).



CARI-MICHEL LA CAILLE

Job No. 65348

