

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

Civ. No. 12-5003

CHRIS BROOKS, FRANCIS RENCONTRE,
GLORIA RED EAGLE, SHARON CONDEN,
JACQUELINE GARNIER, JENNIFER RED OWL
EDWINA WESTON, MICHELLE WESTON,
MONETTE TWO EAGLE, MARK A. MESTETH,
STACY TWO LANCE, HARRY BROWN,
ELEANOR WESTON, DAWN BLACK BULL,
CLARICE MESTETH, DONOVAN L. STEELE,
EILEEN JANIS, LEONA LITTLE HAWK, EVAN
RENCOUNTRE, CECIL LITTLE HAWK, SR.
LINDA RED CLOUD, LORETTA LITTLE HAWK,
FAITH TWO EAGLE, EDMOND MESTETH and
ELMER KILLS BACK, JR.

Plaintiffs,

vs.

Deposition of:
LYLA HUTCHISON

JASON GANT, in his official capacity
As SOUTH DAKOTA SECRETARY OF STATE,
SHANNON COUNTY, SOUTH DAKOTA, FALL
RIVER COUNTY, SOUTH DAKOTA, SHANNON
COUNTY BOARD OF COMMISSIONERS, FALL
RIVER BOARD OF COMMISSIONERS, JOE
FALKENBUERG, ANNE CASSENS, MICHAEL P.
ORTNER, DEB RUSSELL, and JOE ALLEN in
Their official capacity as members
Of the County Board of Commissioners
For Fall River County, South Dakota,
BRYAN J. KEHN, DELORIS HAGMAN, EUGENIO
B. WHITE HAWK, WENDELL YELLOW BULL, and
LYLA HUTCHISON, in their official
Capacity as members of the County Board of
Commissioners for Shannon County, South
Dakota, SUE GANJE, in her official
Capacity as the County Auditor for Shannon
And Fall River Counties, and JAMES SWORD,
In his official capacity as Attorney for
Shannon and Fall River Counties.

Defendants.

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BEFORE: Jean M. Carlson, Rapid Reporting
Court Reporter and Notary Public
Rapid City, South Dakota

DATE: May 3, 2012 at 9:00 a.m. - 4:30 p.m.

PLACE: Gunderson Palmer, Nelson & Ashmore
506 Sixth Street
Rapid City, South Dakota

APPEARANCES:

Representing the Plaintiffs: STEVEN D. SANDVEN
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Representing Defendant
Counties: SARA FRANKENSTEIN, Esq.
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Representing Defendant
Secretary of State RICHARD M. WILLIAMS
Attorney General's Office
1302 East Highway 14 Ste. 1
Pierre, South Dakota

I N D E X

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1 LYLA HUTCHISON

2 Called as a witness, being first duly sworn, testified as
3 follows:

4 **EXAMINATION BY MR. SANDVEN:**

5 **Q** Name please.

6 **A** Lyla Hutchison.

7 **Q** When were you appointed to the Shannon County
8 Commission, ma'am?

9 **A** In 2007.

10 **Q** In September?

11 **A** I'm not positive. I believe it was September.

12 **Q** I think that's what the website said. And you were
13 filling a vacated position?

14 **A** Yes.

15 **Q** And the position was vacated, and whose position did you
16 fill at that time, ma'am?

17 **A** I believe it was Tom Conroy.

18 **Q** And you have now been now elected to serve through 2014?

19 **A** Yes.

20 **Q** What's your education, ma'am?

21 **A** High school.

22 **Q** And then you served as vice chairman in 2009 and 2010?

23 **A** I believe so.

24 **Q** And what were your duties as vice chair?

25 **A** There were none. Our chairman was always there. I

1 believe there might have been one time when I called a
2 meeting to order.

3 **Q** Okay. So, you just presided over meetings in the
4 absence of the chair?

5 **A** Correct.

6 **Q** No other collateral duties beyond that of any other
7 commissioner at the time?

8 **A** No.

9 **Q** And then when did you begin serving as chair of the
10 commission there?

11 **A** Just this past year.

12 **Q** Beginning when?

13 **A** January 1st.

14 **Q** So you miss any meetings in 2011?

15 **A** I don't believe so.

16 **Q** Haven't missed any in 2012 so far?

17 **A** No.

18 **Q** Missed any meetings in 2010?

19 **A** Not to my memory.

20 **Q** Miss any meetings in 2009?

21 **A** I don't believe I have ever missed a meeting.

22 **Q** Are you kind of the financial person that the rest of
23 the commissioners go ahead and lean upon?

24 **A** I wouldn't say that.

25 **Q** I was told that you have a lot of financial background

1 and you are very involved in the financial affairs of
2 the county commission; is that true?

3 **A** Because of my work experience, I may have more
4 understanding about budgets and financing.

5 **Q** Can you go ahead and share your experience, your work
6 experience?

7 **A** I went to work for Shannon County School District in
8 1970 and worked there 28 years in the business office.

9 **Q** What did you do in the business office, ma'am?

10 **A** I did everything. I started out as the receptionist and
11 I worked through every job there, to business manager.

12 **Q** What were your business manager duties?

13 **A** All the finances. I did the budgets, school board
14 election, school board meetings. It was a busy time.
15 I'm trying to sort that from -- everything you do
16 financially for a business.

17 **Q** So you did a lot of the accounting for the school
18 district during that period you just described?

19 **A** I was responsible for all of it, yes.

20 **Q** When you say responsible for all of it, what does that
21 mean?

22 **A** I had other employees working for me.

23 **Q** Who did you supervise in that business office?

24 **A** Everyone involved in the business office. The accounts
25 payable clerk, the payroll clerk, the receptionist.

1 There were ten people in the immediate office. There
2 were three superintendents while I was business manager,
3 but we worked as a team. So I wouldn't say I was
4 responsible for any particular thing.

5 **Q** You didn't start off as the business manager, right; you
6 worked your way into that position?

7 **A** Yes.

8 **Q** Can you describe that progression, please?

9 **A** Receptionist, accounts payable clerk, assistant business
10 manager, business manager, I believe. 28 years is a
11 long time to recall.

12 **Q** Do you currently work with the Treasurer's Office for
13 Shannon County?

14 **A** Work with them?

15 **Q** Yes.

16 **A** Not particularly. If I have a question as a
17 commissioner I ask it.

18 **Q** What is your role in the finances of the county?

19 **A** I have no role any different than any other
20 commissioner.

21 **Q** All right. What is your involvement in the budgeting
22 process?

23 **A** Same as every other commissioner.

24 **Q** And what is that, ma'am?

25 **A** We are presented with a budget request. We consider it

1 and approve it, eventually.

2 **Q** What is your role in the creation of the budget?

3 **A** I don't have a role.

4 **Q** None?

5 **A** Other than making a suggestion or asking questions.

6 **Q** You approve the budget, correct?

7 **A** Yes, we do.

8 **Q** And what does that approval process include?

9 **A** We are presented with a preliminary, and we all consider
10 it, discuss it, approve or disprove.

11 **Q** When is the budget usually presented, the draft budget?

12 **A** There is a date that it's due, and I'm not exactly sure
13 what that is.

14 **Q** Do you recall when the 2012 budget was presented to you,
15 initially?

16 **A** Not exactly. I believe it was September possibly.

17 **Q** September of 2011?

18 **A** Yes. I wouldn't swear to that. I believe that was when
19 it was.

20 **Q** In or about September 2011?

21 **A** It would be in our minutes.

22 **Q** And who presented the budget to you, ma'am?

23 **A** The County Auditor, Sue Ganje.

24 **Q** Did you have a chance to review the budget before she
25 presented it?

1 **A** She gave it to us and then we had a chance to review it
2 with her and take it home and study it.

3 **Q** How long did you study it before approving it?

4 **A** Until our next meeting. And I don't believe we gave
5 final approval then.

6 **Q** Do you recall when you gave final approval for --

7 **A** No, I don't --

8 **Q** -- the budget?

9 **A** --know. I don't recall. It would be in the minutes.

10 **Q** And if you can wait for me to finish for the Court
11 reporter. So, the budget for 2012, do you folks go on a
12 fiscal year down there?

13 **A** Calendar year.

14 **Q** So the budgeting cycle is from January 1, 2012, until
15 the end of the year?

16 **A** December 31, yes.

17 **Q** And it's always been that way since you have worked
18 there?

19 **A** Yes.

20 **Q** How many budgets have you approved?

21 **A** Four -- five, '8, '9, '10, '11 and '12.

22 **Q** Those calendar years?

23 **A** Yes.

24 **Q** And then so the approval process is, your County Auditor
25 Miss Ganje, would go ahead and bring you a draft?

1 **A** Yes.

2 **Q** Do you know who was involved besides Miss Ganje in the
3 creation of that draft?

4 **A** Each of the Department heads comes to our commission
5 meetings, whenever we talk about that. If we have any
6 questions of any department we have an opportunity to
7 ask them.

8 **Q** So Miss Ganje, she was responsible for the election
9 piece, correct?

10 **A** Yes.

11 **Q** Early voting piece, that budget she would bring to you?

12 **A** Yes.

13 **Q** Do you recall what money she asked be allocated for
14 early voting for 2012?

15 **A** No, I don't.

16 **Q** You don't remember any discussion on that, in the budget
17 regarding early voting?

18 **A** We discussed the fact that we would be short funds.
19 Every other year we have to allow more for elections
20 than we do on the off years, so we always discuss it.

21 **Q** You were a tuition student, or you graduated from high
22 school in Gordon, Nebraska?

23 **A** Yes.

24 **Q** And then that business office experience, that was at
25 Shannon County Schools?

1 **A** Yes.

2 **Q** That was for 28 years?

3 **A** Yes.

4 **Q** And when did your 28-year tenure with Shannon County
5 Schools then end?

6 **A** I resigned effective June 30th of 1999.

7 **Q** And you live south of Wounded Knee, currently?

8 **A** Yes.

9 **Q** How long does it take for you to drive to Hot Springs
10 for a meeting?

11 **A** I try to allow two hours. If no one is looking I can
12 make it in an hour and a half.

13 **Q** Two hours it takes, one way?

14 **A** It's 80 miles.

15 **Q** So sometimes it takes two hours to travel 80 miles?

16 **A** It depends on if there is a funeral in Pine Ridge or
17 road construction, that kind of thing, but, yes.

18 Normally an hour and a half I can be there.

19 **Q** Do you remember talking to Stephanie Woodard in late
20 January of 2012?

21 **A** Yes, I do.

22 **Q** Do you remember making the statement, "I understand why
23 the Plaintiffs want what every other citizen gets--"

24 **A** Yes.

25 **Q** "But we're simply out of money"?

1 **A** Yes.

2 **Q** What did you mean, "I understand why the Plaintiffs want
3 what every other citizen gets"?

4 **A** I meant that everyone in the United States should have
5 equal rights.

6 **Q** So what wasn't equal, in your opinion?

7 **A** The fact that our county does not have the funding to do
8 what other counties are able to do in any respect.

9 **Q** Specific to early voting within Shannon County
10 boundaries, were you referencing that; is that what you
11 meant?

12 **A** No.

13 **Q** This was no reference to early voting?

14 **A** Not specifically.

15 **Q** Generally?

16 **A** It was what I just said, the fact that residents of
17 Shannon County always get the short stick regarding
18 anything.

19 **Q** And we'll get into that, but I thought what you said, I
20 understand why the Plaintiffs want what other citizens
21 get, so you were talking about the Plaintiffs in the
22 lawsuit, correct; or were there other Plaintiffs?

23 **A** What was the question that she asked me that I answered
24 that to?

25 **Q** I don't know.

1 **A** I don't remember either.

2 **Q** All right. But you do remember making the statement, "I
3 understand why the Plaintiffs want what every other
4 citizen gets", right?

5 **A** I understand why every resident of our county would want
6 what every other citizen gets.

7 **Q** So you didn't say, I understand why the Plaintiffs want
8 that? She misquoted you?

9 **A** I don't recall that. I've been misquoted by --

10 **Q** Did she misquote you, is that what you are saying here
11 today?

12 **A** I don't recall.

13 **Q** All right. So did you make any statement to Stephanie
14 Woodard talking about the Plaintiffs should get what
15 everyone else gets?

16 **A** Possibly.

17 **Q** What do you recall saying about the Plaintiffs in this
18 case, to Stephanie Woodard?

19 **A** I don't recall specifically using that word.

20 **Q** Okay. And she put that in quotes. Did you ever read
21 the article that she published?

22 **A** No, I did not.

23 **Q** Do you remember talking to the Rapid City Journal,
24 ma'am?

25 **A** Several times.

1 **Q** Do you remember what you told them?

2 **A** Which time?

3 **Q** Any time?

4 **A** That's too broad.

5 **Q** Let's start with the first time. We will go through
6 them. When is the first time you recall talking to the
7 Rapid City Journal?

8 **A** I don't recall what the first time was.

9 **Q** What month?

10 **A** No, I don't recall.

11 **Q** After the lawsuit was filed?

12 **A** Which lawsuit?

13 **Q** The lawsuit that we are currently talking about today.

14 **A** Well, I had talked to the Journal prior to that on other
15 things.

16 **Q** Let's be specific to your discussions with the Rapid
17 City Journal regarding the lawsuit that you are being
18 deposed for today. When is the first time you recall?

19 **A** I don't recall talking to them about this lawsuit. I
20 may have, but I don't recall.

21 **Q** In January 27th, did you know you were quoted as saying,
22 "We can't even afford to have extra meetings;
23 Commissioner Lyla Hutchison said"? Do you remember
24 that?

25 **A** Who did I say that to?

1 **Q** The Journal?

2 **A** But who?

3 **Q** Andrea Cook was the Journal staff that went ahead and
4 posted the article.

5 **A** I quite possibly did say that, because it is true.

6 **Q** If you are talking with the Argus Leader on or about
7 January 18, 2012?

8 **A** Can you give me the name of the reporter.

9 **Q** No. Do you recall talking with anyone at the Argus
10 Leader.

11 **A** Vaguely.

12 **Q** Do you remember talking about sympathizing with the
13 Plaintiffs?

14 **A** No.

15 **Q** You don't recall saying that?

16 **A** Not specifically, no, I don't recall that.

17 **Q** Generally?

18 **A** I don't recall that.

19 **Q** Do you recall making any statement regarding the
20 Plaintiffs in your discussions at any time with the
21 Argus Leader?

22 **A** Not specifically.

23 **Q** Generally?

24 **A** I do not remember our conversation. I did talk to them.

25 I don't remember specifically any statements that I

1 made.

2 **Q** Don't remember saying that's all we could afford; I
3 agree with the voters in the county?

4 **A** I may have said that.

5 **Q** Don't remember saying you sympathize with the
6 Plaintiffs, but the county can't afford a more permanent
7 voting site?

8 **A** Any time I said our county can't afford it, I'm sure I
9 did, because I harp on that continually.

10 **Q** Do you sympathize with the voters at Shannon County that
11 don't have the equal number of days of early vote in
12 Shannon County?

13 **A** No.

14 **Q** Why don't you?

15 **A** Because I believe that every voter, if they're
16 interested in voting, has a personal obligation to find
17 a way to do that. I also think that it would be nice if
18 our county could offer the opportunities that every
19 other county gets.

20 **Q** It would be nice, what do you mean by that? Necessary?

21 **A** Nice.

22 **Q** Explain; it would be nice.

23 **A** Every resident of our county has always had an
24 opportunity to vote. I have gone out of my way to vote.
25 I think if someone is interested in voting they'll do

1 that. I guess because of my age and my background and
2 having been in charge of elections years ago where you
3 had to swear on an affidavit, and there were only I
4 think five reasons on there that you could not be in
5 your county to vote in person on election day, that you
6 were able to get an absentee ballot. So people went out
7 of their way and made special considerations to vote.
8 Because of my personal background, I think people should
9 do that. If they're interested, they should go out of
10 their way to cast their ballot.

11 But now the federal laws have changed and
12 everywhere else. And being a resident of Shannon County
13 and understanding that our county has always had the
14 same problems financially, I think it would be nice if
15 we were able to keep up with the rest of the world. And
16 because of finances we've not been able to.

17 **Q** You talked about some reasons. You know people used to
18 have to provide reasons on why they wanted an absentee
19 ballot. Do you know when that ended?

20 **A** Not exactly.

21 **Q** Does the 2004 election cycle sound about right?

22 **A** I wasn't taking care of things after 1999 when I
23 resigned from my job. At that time you still had to do
24 that. So I don't know the exact date, no, because I
25 went physically to vote. I didn't have a reason to know

1 that.

2 **Q** Since you have been a county commissioner in 2007, do
3 you know what the rules are for requesting an absentee
4 ballot?

5 **A** You fill out a form and mail it to the County Auditor --

6 **Q** You no longer have --

7 **A** There are no reasons, any reason, you don't need a
8 reason.

9 **Q** Yes, ma'am, and it's been that way since you have been a
10 county commissioner?

11 **A** Yes, I believe so. I'm not sure what date it changed.

12 **Q** When you were talking about having a role in elections,
13 when and where?

14 **A** At Shannon County Schools.

15 **Q** What elections?

16 **A** The school board elections.

17 **Q** What was your role, ma'am?

18 **A** The business manager assigned me as her assistant to
19 handle the elections, completely.

20 **Q** So who were eligible voters in those elections?

21 **A** The same as the registered county voters.

22 **Q** So what specifically did you do during what period?

23 **A** I lined up the election boards; found the polling
24 places -- generally we used the schools; and secured the
25 supplies that we needed and got those out to the

1 precinct superintendents; just generally lined it up.

2 **Q** What was your title during that time? I know you were
3 business manager.

4 **A** Assistant Business Manager.

5 **Q** Did you have a title specific to elections then, while
6 the election was being conducted?

7 **A** No. It was one job to do during the year.

8 **Q** That was right in your job duties for being a business
9 manager?

10 **A** Assistant; yes.

11 **Q** Do you recall if it was right in the job description?

12 **A** The business manager is responsible for the elections
13 and the school districts and she assigned me that task.

14 **Q** And that included absentee balloting at the time?

15 **A** Yes.

16 **Q** And you did that from what year to what year,
17 approximately?

18 **A** 1975 to 1995 probably.

19 **Q** Twenty years?

20 **A** Probably.

21 **Q** You handled the absentee balloting during that period?

22 **A** The business manager was responsible for the elections.
23 I did whatever she asked me to do.

24 **Q** What were you asked to do during those elections?

25 **A** What I just told you.

1 **Q** You did the absentee balloting during the 20-year
2 period?

3 **A** Some years, yes.

4 **Q** Do you recall what years you did or didn't?

5 **A** I do not.

6 **Q** Most of the years did you do the absentee balloting?

7 **A** If the business manager needed me to help, if she had to
8 be gone or was busy; I was her assistant. I felt I
9 needed to do whatever she needed done.

10 **Q** Do you recall the last year that you were involved in
11 absentee balloting for the Shannon County School Board
12 election?

13 **A** '99.

14 **Q** You were involved in that election?

15 **A** Yes.

16 **Q** What did you do in that election, specifically?

17 **A** I was the business manager and responsible for the whole
18 election.

19 **Q** So what did you do? Did you have staff that went ahead
20 and helped you conduct it?

21 **A** Yes.

22 **Q** How did you do absentee balloting at that time?

23 **A** The person contacted for application for a ballot
24 whereupon they swore that one of these five specific
25 reasons could not be there on election day, and we

1 mailed their ballots out and they came back. There's a
2 packet that you send out with all the instructions and
3 envelopes to return it.

4 **Q** So you were responsible for all phases of absentee
5 balloting during the 1999 school board election for
6 Shannon County?

7 **A** Yes.

8 **Q** What did you mean when you talked about special
9 considerations; I make special considerations to vote;
10 what do you mean by that?

11 **A** I didn't use that word.

12 **Q** Oh, you didn't? Do you recall what you said?

13 **A** I think that people -- no I don't recall exactly.

14 **Q** Generally?

15 **A** People need to go out of their way if they're interested
16 in voting.

17 **Q** People need to go out of their way if they are
18 interested in voting. What does that mean?

19 **A** Nationally, if you have an interest in casting a vote,
20 you need to make it happen. You need to do whatever is
21 necessary to cast your vote.

22 **Q** For example?

23 **A** Obtain an absentee ballot, if that's what is necessary
24 for you to do, or make yourself available to go to the
25 polling place on voting day.

1 **Q** So what do you think Shannon County voters should be
2 willing to do regarding absentee balloting?

3 **A** Whatever they need to do to cast their vote?

4 **Q** So you don't see it as a hardship to drive to Hot
5 Springs to request a ballot?

6 **A** You don't have to drive to Hot Springs to request a
7 ballot.

8 **Q** If you want to do it in person?

9 **A** If you want to do it in person, then you do however or
10 whatever you want to do it.

11 **Q** What are your options for a Shannon County voter before
12 this lawsuit, if you want to go ahead and request --

13 **A** You make a phone call to Hot Springs, which is a local
14 call.

15 **Q** And then?

16 **A** Receive a ballot by absentee.

17 **Q** Requested over the telephone you are saying you can do?

18 **A** I believe you can.

19 **Q** And then what happens? So if you are a Shannon County
20 resident living in Porcupine, you are saying you can
21 make a phone call -- to who?

22 **A** To Sue Ganje.

23 **Q** And then do you request an absentee ballot?

24 **A** I believe you can.

25 **Q** And then what will Sue Ganje do? Explain the process.

1 **A** I'm not exactly sure how she handles it, specifically,
2 but I know that through a letter or a phone call you can
3 obtain an absentee ballot.

4 **Q** What if you want to request it in person, what do you
5 have to do if you lived anywhere in Shannon County,
6 before this lawsuit?

7 **A** If you want to do it in person, if you want to do it in
8 person, I guess you can drive up to see Sue Ganje in
9 person.

10 **Q** In Hot Springs?

11 **A** Yes.

12 **Q** Is that a big deal, do you think, for some Shannon
13 County folks?

14 **A** That's probably the reason that a lot of people don't do
15 it in person.

16 **Q** Why?

17 **A** Because they have to drive to Hot Springs.

18 **Q** Do you consider that a hardship for some people?

19 **A** It could be.

20 **Q** When could it be?

21 **A** If you didn't want to make the phone call or write the
22 letter to request a ballot. I don't know. I've always
23 gone to vote on election day, and I said because of my
24 age, quite possibly --

25 **Q** And you're a rancher?

1 **A** -- election day was the day you went to vote. That
2 always made sense in my mind.

3 **Q** Do you remember the March 8th hearing, testifying at the
4 at the March 8th hearing?

5 **A** Where?

6 **Q** Federal Court, Rapid City, South Dakota?

7 **A** This year?

8 **Q** Yes.

9 **A** I didn't specifically remember that it was March 8th,
10 but, yes, I do remember it.

11 **Q** Do you remember talking about the minutes of the March,
12 2, 2012 meeting?

13 **A** Not specifically, no. Can you bring it to my memory?

14 **Q** Do you remember that you went ahead and, "made a motion
15 by Hutchison, seconded by White Hawk, to provide 46 days
16 of early voting for each 2012 election, due to the
17 Secretary of State's commitment to provide an additional
18 approximate \$12,000 through HAVA funds to reimburse the
19 county for an eight-hour day wages for early voting
20 election workers with no further, I'm tongue tied, with
21 no further discussion; motion carried"?

22 **A** Yes.

23 **Q** When is the first time for the 2012 election cycle that
24 your county commission went ahead and requested HAVA
25 funds from the South Dakota Secretary of State?

1 **A** I don't know.

2 **Q** You were sitting at the hearing, right?

3 **A** Yes.

4 **Q** Do you remember that the discussion, that the first
5 request for HAVA funds of the South Dakota Secretary of
6 State, occurred shortly before the hearing?

7 **A** I don't remember that specifically, because I'm not in
8 charge of making that request.

9 **Q** You have no idea when HAVA monies were requested from
10 the State of South Dakota for the 2012 election?

11 **A** I don't remember the date that was given.

12 **Q** Do you remember the month?

13 **A** No.

14 **Q** Do you remember the quarter?

15 **A** I don't remember the date.

16 **Q** Do you remember the quarter?

17 **A** I don't remember the date within the year.

18 **Q** Do you remember the year?

19 **A** Requested for the last election?

20 **Q** Right. You keep talking about, we didn't have the money
21 to do early voting for folks; we didn't have the money,
22 correct? You have stated that numerous times to the
23 press, to the Court?

24 **A** Our county is always short of funds regarding anything
25 we attempt to do.

1 **Q** Right. And you are saying that's the reason that you
2 couldn't go ahead and do early voting, correct, in
3 Shannon County?

4 **A** We had planned to do some days of early voting.

5 **Q** And we will get into that. What I am getting at, is if
6 you needed money, why didn't you request money from the
7 HAVA fund from the South Dakota Secretary of State
8 sooner?

9 **A** Sue Ganje is in charge of making that request, and we
10 have only a certain amount of funds that were available
11 to us, and are afraid to use them all up too soon. The
12 way I understand, there is an end to that pot.

13 **Q** Do you have any idea how big that HAVA funds' pot is for
14 your commission?

15 **A** It was somewhere in the \$60,000 area.

16 **Q** Did you have any idea how much it cost to do early
17 county in Shannon County for the whole 46-day period,
18 like the rest of the folks in South Dakota?

19 **A** We have a budget now.

20 **Q** Right.

21 **A** I don't recall the exact amount.

22 **Q** When is the first time you did a budget for early voting
23 in Shannon County?

24 **A** I don't recall. It's not segregated out of our election
25 budget; it's all inclusive.

(Exhibit No. 131 was marked for identification.)

1
2 **Q** I'll hand you Exhibit 131. Do you recognize this
3 document, ma'am?

4 **A** Yes.

5 **Q** What is it?

6 **A** This is an early voting budget for this coming election.

7 **Q** Who approved it?

8 **A** The commission.

9 **Q** Who presented it?

10 **A** Sue Ganje.

11 **Q** When?

12 **A** I don't recall.

13 **Q** Do you know what month?

14 **A** No, but you do.

15 **Q** Do you know what quarter?

16 **A** It had to be the first quarter of 2012?

17 **Q** Do you recall the first time you had any kind of
18 discussion on a budget for early voting cost in Shannon
19 County?

20 MS. FRANKENSTEIN: For 2012?

21 **Q** For 2012?

22 **A** We had some discussion at each meeting in the last
23 quarter of 2011.

24 **Q** Did you put together the cost of early voting in Shannon
25 County?

1 **A** We had an election budget proposed, and in the
2 consideration of that budget, we had discussions of how
3 much money we had.

4 **Q** Right. And from that that's where you said six days for
5 the primary, six days for the general?

6 **A** That's what we decided we could afford.

7 **Q** We'll get into that. Let's stick with this exhibit for
8 awhile. So where does it say how much early voting
9 costs in Shannon County on here?

10 **A** Column 4, total, \$79,259,76.

11 **Q** That's the total election expenses, right? That's not
12 specific to early voting locations in Shannon County?

13 **A** Correct.

14 **Q** So, how, from this budget -- and this is titled "Early
15 Votes and Normal Election Costs," where are early votes?

16 **A** Column two, \$22,144.76.

17 **Q** This was approved by the county commission?

18 **A** Yes.

19 **Q** All right. So that's \$22,144.76 for one election cycle
20 of early voting in Shannon County?

21 **A** Yes and no.

22 **Q** Okay. Explain, ma'am.

23 **A** There is not a way to completely segregate early voting
24 from the Lakota Coordinator from the regular election.

25 **Q** Explain, ma'am.

1 **A** Supplies, travel, office expense.

2 **Q** So you are looking at the Lakota Coordinator's line item
3 and you are saying that they're shared miscellaneous
4 expenditures?

5 **A** Correct.

6 **Q** All right. What expenditures are shared between the
7 Lakota Coordinator and early voting under this budget?

8 **A** For instance, when we decided we could afford six days,
9 we wouldn't have been paying salaries for people to go
10 to Shannon County to do early voting for six days only.

11 **Q** Let's start talking about this early voting expenses.
12 What's FR Salary Reimbursed stand for, that \$18,656,
13 ma'am?

14 **A** Fall River Salary Reimbursement.

15 **Q** All right. So the cost for early voting, that
16 \$22,144.76, the vast majority of that amount is for Fall
17 River County salary reimbursements?

18 **A** Yes.

19 **Q** All right. And how was that figured; where is this
20 \$18,656 coming from; what's it for?

21 **A** What does it cover?

22 **Q** Yes, ma'am.

23 **A** They're contracted to work for us an eight-hour day in
24 Fall River on a normal working day. In order to be in
25 Shannon County, we have to buy extra travel time going

1 and coming, and I believe it works out to about a 12-
2 hour day. So we are paying basically overtime.

3 **Q** So these aren't hiring new folks, it's subsidizing wages
4 of existing folks that go ahead and work in the
5 Auditor's Office in Fall River?

6 **A** Correct.

7 **Q** So you are figuring that their time for -- how many days
8 of early voting was this budget figured on?

9 **A** This budget is figured on the full 46 days.

10 **Q** I need you to explain -- 46 days, does that include
11 Saturdays and Sundays?

12 **A** No.

13 **Q** All right. So there aren't 46 days of actual travel to
14 and from Hot Springs, are there?

15 **A** No.

16 **Q** How many are there?

17 **A** I don't know.

18 **Q** Approximately 32, 33, somewhere in there?

19 **A** I believe I've heard the number 32. I haven't sat down
20 with a calendar to take out the weekends and holidays.

21 **Q** So it's your understanding that that \$18,656 represents
22 the hourly rates for two workers traveling to and from
23 Hot Springs, and doing early voting on site?

24 **A** Yes.

25 **Q** Whose salary is that based upon?

1 **A** I don't know.

2 **Q** All right. Was there any discussion of this when you
3 approved this?

4 **A** No, because I don't know whose salary it was based upon.
5 I think she took an average.

6 **Q** When you say she, who are we talking about?

7 **A** Sue Ganje does the budgets; that's her jobs.

8 **Q** When was the first time this was presented to you,
9 ma'am?

10 **A** The first quarter of 2012. I don't know the exact date.
11 I don't recall.

12 **Q** You don't know the month?

13 **A** No. Do you have the minutes to show me, then I can tell
14 you.

15 **Q** So, did you review it and approve it at the same
16 meeting, or did you take it home?

17 **A** No, we reviewed and approved it at the same meeting.

18 **Q** Do you recall -- what is HS to OEL travel stand for on
19 this form?

20 **A** Hot Springs --

21 **Q** To --

22 **A** I don't know.

23 **Q** Do you know what that \$1,221 represents?

24 **A** You know, I do, and it had to do with, they went to
25 Oelrichs where they trade vehicles, and then take a

1 different vehicle from Oelrichs to Shannon County, and
2 that's the reason it's split like that.

3 **Q** I don't understand. You got a Rez car?

4 **A** I believe they leave a vehicle -- I don't know.

5 **Q** Do you think the folks drove two vehicles and then met
6 in Oelrichs and then jumped in one and headed to Pine
7 Ridge?

8 **A** It was something along that line. That's the reason
9 there are two line items there.

10 MS. FRANKENSTEIN: If I could interject.

11 MR. SANDVEN: Please tell me.

12 MS. FRANKENSTEIN: It's the sheriff car, the
13 county sheriff car there in Oelrichs, so they get in the
14 county-owned sheriff's vehicle.

15 THE WITNESS: I didn't remember which vehicle.

16 MR. SANDVEN: So folks drive their personal
17 vehicles to Oelrichs and then they jump in the sheriff's
18 vehicle.

19 MS. FRANKENSTEIN: That's what I understand.

20 **Q** Why do you do that?

21 **A** Because their mileage in their personal vehicle is more
22 than driving our county vehicle.

23 **Q** So what's the mileage in the personal vehicles?

24 **A** How much?

25 **Q** How much a mile?

1 **A** State rate.

2 **Q** What is that right now, currently?

3 **A** I don't know for sure. 51?

4 **Q** I think that's the federal rate. Under your -- so it's
5 your understanding that \$1,221 represents travel
6 expenses for two workers for approximately 32 days from
7 Hot Springs to Oelrichs?

8 **A** Yes, anticipated.

9 **Q** All right. Then tell me about the next line, OEL to SH
10 travel?

11 **A** That's in the sheriff's vehicle from Oelrichs to Pine
12 Ridge.

13 **Q** Okay. So, that's figuring about 32 days?

14 **A** I'm sure it is.

15 **Q** Why are you sure it is?

16 **A** Because that's what she requested. Those are the number
17 of days they need to go.

18 **Q** And then the two workers get in the sheriff's car and go
19 to Pine Ridge?

20 **A** That's what they anticipated doing.

21 **Q** And the sheriff's car is paid for by who?

22 **A** The Shannon County funds.

23 **Q** You have an expense line for the sheriff also, right?

24 **A** Yes.

25 **Q** So the county is paying for the sheriff's car over here,

1 and then they're paying again?

2 **A** The car is paid for. This is gas.

3 **Q** Is this gas or mileage?

4 **A** It would be fuel.

5 **Q** Actual fuel utilized?

6 **A** I'm assuming so.

7 MR. SANDVEN: Do you know, ma'am?

8 MS. FRANKENSTEIN: I don't know if it's based on
9 miles or based on State rate.

10 **Q** Who would know, Miss Ganje?

11 **A** Yes.

12 **Q** Next line item, we have some meals, \$363. So when the
13 workers are driving over from Hot Springs, they're
14 supposed to eat breakfast in Hot Springs first, right?

15 **A** I used to know what the State anticipated or what their
16 rules were about travel. I don't know what they are
17 now.

18 **Q** Do you know how much a meal you get?

19 **A** No, not anymore.

20 **Q** Do you know where this \$363 comes from?

21 **A** I believe it's because they won't be home for supper and
22 they qualify for that reimbursement.

23 **Q** Not home for lunch, and you've got to be fed this many
24 meals for these 32 days?

25 **A** I believe so. The State has a formula.

1 **Q** And who explains these four line items to you before you
2 approved the budget?

3 **A** Sue Ganje.

4 **Q** Was there any questions on this budget by any member of
5 the commission?

6 **A** No.

7 **Q** Any discussion on this budget?

8 **A** Not to my recollection. Well, yes, we discussed the
9 budget, not those specific items.

10 **Q** Not specific to early voting?

11 **A** Not specifically, other than this is what we are going
12 to need to pull this off.

13 **Q** Need to pull what off?

14 **A** Early voting.

15 **Q** And so the total cost of doing early voting for the 32
16 or 33 days or the 46 day period for early voting, is
17 \$22,144.76?

18 **A** It's only that much because of the fact that we already
19 have an office established there.

20 **Q** So where are those office expenses on the chart, and
21 what are you paying for that; beginning when and ending
22 when?

23 **A** Column three, rent; column one, rent \$4,500.

24 **Q** So it's \$500 to rent the Old Moccasin Factory in Pine
25 Ridge?

1 **A** A portion of it, yes.

2 **Q** How many square feet are you renting there?

3 **A** It says in our contract; I don't recall.

4 **Q** But it's \$500 for the whole primary and general election
5 cycle or five hundred for each?

6 **A** Per month.

7 **Q** It's \$500 a month to rent that space. So what months do
8 you have to rent that space for?

9 **A** It's rented now. I believe the dates on our contract
10 were April 7th to November 7th.

11 **Q** So you've rented this facility from the beginning of
12 early voting for the primary until the end of early
13 voting for the general?

14 **A** Yes.

15 **Q** So to figure out the total cost of early voting, I add
16 that \$500 on to the \$22,000?

17 **A** Say again, please.

18 **Q** So, how much money is the rent?

19 **A** \$4,500.

20 **Q** I have to add that to the twenty-two thousand in change,
21 correct, to figure out the cost of early voting in
22 Shannon County for the 2012 election cycles?

23 **A** Yes.

24 **Q** What else from this budget fits into early voting
25 expenses? I didn't understand the shared expenses with

1 Lakota Coordinators on supplies, office, travel; how
2 does that fit in?

3 **A** Our Lakota Coordinator had certain duties, for instance,
4 in that supplies and publish, whereby she goes up to
5 KILI Radio, or is responsible for seeing that notices
6 are put out everywhere.

7 **Q** The blanks behind publishing and supplies are blank?

8 **A** The \$1,200 is under Lakota Coordinator.

9 **Q** Okay. So you are saying part of that money is for early
10 voting?

11 **A** Now it will be used that way, because when she goes to
12 KILI Radio, she has advertisements saying where to go
13 vote, which days you can go vote, and explaining all of
14 that. She would not have made as many notices were it
15 just the duties that she was assigned to begin with.
16 Now that we've expanded the days and the times, she has
17 to do more explaining.

18 **Q** So out of the HAVA supplies and publish, that \$1200 line
19 item under Lakota Coordinator, what would you estimate,
20 what percentage of that is dedicated to early voting
21 expenses?

22 **A** I don't know.

23 **Q** Any idea?

24 **A** No.

25 **Q** But as far as you know the only extra expense that

1 Lakota Coordinator would incur in her duties from early
2 voting is to say a few more sentences on KILI Radio?

3 **A** No.

4 **Q** Okay. Explain it to me. And here's what I'm trying to
5 do on this exhibit. I want to figure out, from your
6 perspective, how much all the costs, how much does it
7 cost to do early voting in Shannon County for these
8 days? And that's the number I'm trying to get to. So
9 far we have \$22,144.76 for those four line items, plus
10 \$4,500 for renting space. What else can I add on here?

11 **A** I'm not certain. Portions of all of this may fall into
12 that, and we won't know until we're done. It's a
13 budget, our best guess at the time.

14 **Q** So as far as you know here today, the total cost for
15 conducting early voting in Shannon County is
16 approximately \$27,000, or it's less than \$27,000?

17 **A** Hopefully.

18 **Q** So that's, yes, you think early voting for the
19 prescribed period in Shannon County for the entire 2012
20 election cycle costs less than \$27,000, ma'am?

21 **A** I don't know specifically, because I don't write the
22 budget, and when we considered the election budget, it's
23 to do everything toward the election process.

24 **Q** Can you give me your best estimate how much it cost to
25 conduct early voting in Shannon County for the 2012

1 election cycles consistent with what's being done in
2 Fall River for absentee balloting?

3 **A** I don't know what Fall River does.

4 **Q** Let me rephrase that. For Shannon County voters to get
5 32 days of early voting in Shannon County, how much is
6 it going to cost?

7 **A** We are hoping it will cost \$79,259.76.

8 **Q** Please explain how you got to that number?

9 **A** The County Auditor presented this budget to us.

10 **Q** But I thought that was the cost for all of the election
11 expenses, not just absentee balloting?

12 **A** That's what you just asked me, what will it cost to get
13 through the 2012 election process.

14 **Q** I'm sorry if I didn't emphasize or say, absentee
15 balloting in Shannon County?

16 **A** I don't know.

17 **Q** Is it more than \$27,000 that you have just described?

18 **A** I don't know.

19 **Q** So as far as you know here today -- you don't have any
20 idea how much early voting is going to cost?

21 MS. FRANKENSTEIN: I'll object at this point.

22 It's been asked and answered.

23 **Q** You don't know?

24 **A** As a commissioner I hope we stay at \$80,000 for the
25 whole process.

1 **Q** What do you hope you stay at for early voting in Shannon
2 County?

3 **A** It's part of the process. I can't segregate it out. I
4 don't know.

5 **Q** So in all your discussions at the county commission
6 meeting when you went ahead and approved the budget, you
7 weren't clear on how much early voting costs in Shannon
8 County for the 2012 election cycle?

9 **A** Do you have our initial budget for 2012?

10 **Q** The General Fund Surplus Analysis dated September 30,
11 2011?

12 **A** No, the original budget that we wrote.

13 **Q** The 2012 annual budget compared to the 2011 SHCO?

14 **A** Yes.

15 (Exhibit No. 112 was marked for identification.)

16 **Q** Do you recognize this document?

17 **A** Yes.

18 **Q** Does this help you answer the question?

19 **A** Yes, it does.

20 **Q** So please answer my question then.

21 **A** Will you ask it again, please.

22 MR. SANDVEN: Would you read it back?

23 (The question was read back by the reporter as
24 follows: "So in all your discussions at the county
25 commission meeting when you went ahead and

1 approved a budget you weren't clear on how much
2 early voting costs in Shannon County for the 2012
3 election cycle?")

4 **A** I was clear, considering this is a budget, our best hope
5 for.

6 **Q** Yes, ma'am.

7 **A** We had initially approved \$45,150 for elections.

8 **Q** All elections?

9 **A** The 2012 election process.

10 **Q** And that wasn't specific to absentee balloting?

11 **A** No.

12 **Q** So where are you looking at?

13 **A** I'm looking on the exhibit you just handed me.

14 **Q** What line?

15 **A** The one that says elections.

16 **Q** Okay. So that 2012 budget, \$45,150?

17 **A** Yes, that's what we initially approved.

18 **Q** And what was that for?

19 **A** That included the six days of on-site early voting, and
20 all the rest of the 2012 election process. We are not
21 required to break it down?

22 **Q** So you don't know how much of that \$45,000 was allocated
23 for the 12 days of early voting for the 2012 election
24 cycle?

25 **A** No, I don't.

1 **Q** Do you have any idea how much it cost to do 12 days of
2 early voting for the 2012 election cycle?

3 **A** I don't. But if you take this 80,000 and subtract that
4 45,000, I'm sure you could work it out and calculate the
5 amount.

6 **Q** So that equals \$35,000, the cost for early voting in
7 Shannon County?

8 **A** Apparently so.

9 **Q** Well, I'm asking what you think, what do you think the
10 cost is. From those figures, that's what it means to
11 you?

12 **A** That's what I think, yes.

13 **Q** So early voting, all the costs for early voting, all the
14 costs for early voting in Shannon County, are
15 approximately \$35,000 per election cycle for the full
16 number of days?

17 **A** That was the way I calculated it; yes.

18 **Q** Right. So there's only an election every two years,
19 correct?

20 **A** Correct.

21 **Q** So you would only need to set aside about \$17,500 per
22 year to go ahead and cover that election cycle, correct?

23 MS. FRANKENSTEIN: That election cycle, or early
24 voting on-site?

25 **Q** Early voting.

1 **A** Hopefully.

2 **Q** Right. Your understanding is that if you budgeted
3 \$17,500 annually, just to go ahead and cover early
4 voting in Shannon County every two years; that's your
5 best estimate on the cost?

6 **A** Hopefully it can be accomplished for that amount this
7 year. Looking forward we would need to add to it
8 continually.

9 **Q** Why do you see hopefully?

10 **A** Because it's a budget. Things don't always turn out the
11 way you anticipate.

12 **Q** Right. So for the 2012 election cycle you think it
13 would cost approximately \$35,000 to go ahead and do
14 early voting for Shannon County residents like everybody
15 else?

16 **A** Hopefully.

17 **Q** All right. And then there's an election cycle once
18 every two years, so for five election cycles, the total
19 cost of five election cycles, ten years' worth, would
20 you estimate to be less than \$175,000 in Shannon County?

21 **A** No, it would be closer to 200,000.

22 **Q** Tell me how you figure that, ma'am?

23 **A** Because everything goes up and in my mind, in the
24 ten-year period --

25 **Q** Five elections.

1 **A** A ten-year period.

2 **Q** Yes, ma'am.

3 **A** I would allow \$200,000.

4 **Q** Tell me why?

5 **A** Because we know it's going to be at least \$35,000 this
6 year, and it will go up. I'm glad I don't have to plan
7 out ten years?

8 **Q** So you think with inflation or additional cost, could
9 still get five elections done of early voting in Shannon
10 County, same days as everybody else for \$200,000?

11 **A** I would hope so.

12 **Q** So, for you as a commissioner, would you commit to doing
13 the next five elections early voting in Shannon County,
14 treating everybody like the rest of South Dakota, if you
15 had a \$200,000 commitment from the South Dakota
16 Secretary of State?

17 **A** No.

18 **Q** Why not?

19 **A** Because I won't be a commissioner ten years from now.

20 **Q** All right. So is there any way to go ahead and get you
21 to commit to anything on early voting in future
22 elections?

23 **A** I won't commit to anything regarding anything in Shannon
24 County for the future.

25 **Q** Tell me why?

1 **A** Because I'm only one commissioners and there are five of
2 us to make any commitment.

3 **Q** Back to the schedule, what's marked as Exhibit 131,
4 ma'am, when you got to the \$4,500 of rent for this
5 election cycle, you figure it's going to be about nine
6 months renting that office in Pine Ridge?

7 **A** Seven months.

8 **Q** So seven months' times 500 is \$3,500? I thought I heard
9 you say 4,500?

10 **A** You did. I didn't break it down that way. 45 is what
11 is here.

12 **Q** What would you estimate thinking now it's going to cost
13 for an office location to conduct early voting for this
14 cycle?

15 **A** I don't remember what our contract with the Tribe says.
16 I don't have it in front of me. It's in our minutes and
17 we've paid them already.

18 **Q** What is your understanding of what expenses HAVA monies
19 can go for?

20 **A** They pay for the election boards, and I'm not certain
21 that they pay -- I don't know, because I've not ever
22 personally read the HAVA rules.

23 **Q** And I'm looking at this budget, and I don't see under
24 the line item for early vote expenses, where is the HAVA
25 supplement?

1 **A** I'm sorry. I didn't understand what you meant. The
2 HAVA supplement is on this last column.

3 **Q** Okay. When you say the last column, right here, after
4 HAVA reimbursement, I anticipated HAVA reimbursement --
5 none of those things are in the early voting expenses
6 line item?

7 **A** Yes, the \$11,330.

8 **Q** Where are you looking at, ma'am?

9 **A** I'm sorry, the second to the last column, that's the
10 anticipated HAVA reimbursement.

11 **Q** So, how much out of the HAVA monies you're receiving,
12 how much of that money is going for early voting for the
13 2012 election cycle? How much have they committed so
14 far, total, to the county?

15 **A** HAVA?

16 **Q** Yes.

17 **A** Just under 31,000.

18 **Q** That's the total money?

19 **A** I don't know how much is split out for early voting.

20 **Q** Can I tell that from this budget, how much is split out
21 for early voting?

22 **A** Other than under the early vote expenses, \$22,144.76.

23 **Q** Right. My question is, from reading this budget you
24 approved as a commission, HAVA -- they went ahead and
25 said, we're going to give you this money, correct? They

1 haven't given it to you already?

2 **A** Yes.

3 **Q** And when did they tell you they're going to give you
4 this money?

5 **A** We knew part of it was coming all along, but -- when did
6 we secure the extra approximately \$12,000 for these
7 wages was in March.

8 **Q** So you said you knew this HAVA money was coming all
9 along, what do you mean by that?

10 **A** Because we use HAVA funds every time we have an
11 election.

12 **Q** So how did you know what part was coming and what part
13 are you referring to?

14 **A** The expenses that qualify for HAVA funds.

15 **Q** What are those?

16 **A** I'm not exactly sure. Machine upkeep, the voting
17 machines, the election board expenses, I think -- no, we
18 have to pay those; some supplies, equipment maintenance,
19 rent for voting places, that's what that other \$500 rent
20 is for. We have to pay for the election sites on
21 election day.

22 **Q** My question is, how much money did you initially think
23 was going to come from HAVA for 2012 election cycle?
24 You said we knew it was coming, part of it was coming,
25 we knew. How much HAVA monies did you think were coming

1 to Shannon County for the 2012 election cycle?

2 **A** I don't have my scratch papers in front of me from when
3 we discussed the budget.

4 **Q** So, was this 30,974.76, it's your understanding that
5 that represents the full commitment from HAVA for both
6 early voting and normal, the regular election the 2012
7 cycle?

8 **A** Yes.

9 **Q** All right. Now there was an extra \$12,000 pumped in
10 recently?

11 **A** It's in here.

12 **Q** That's included there?

13 **A** Yes.

14 **Q** So at first you thought you were going to get around 18
15 or \$19,000 from HAVA for this election cycle?

16 **A** Apparently.

17 MR. SANDVEN: Do you want to take a break and talk
18 a little bit?

19 MS. FRANKENSTEIN: Yeah.

20 (A break was taken from 10:04 to 10:37.)

21 (Exhibit No. 107 was marked for identification.)

22 **Q** I'm handing you what's been marked Exhibit 107, ma'am.
23 Are you familiar with this document?

24 **A** Yes.

25 **Q** What is it, ma'am?

1 **A** Contract between Fall River and Shannon County.

2 **Q** And it was passed when?

3 **A** March 6th by the Shannon County Commission; March 7th by
4 Fall River.

5 **Q** Why was the contract for services for Shannon County
6 amended?

7 **A** To try to satisfy this lawsuit.

8 **Q** Can you go to the second page, please? How much money
9 is paid to the Auditor and the Clerk under this
10 agreement annually?

11 **A** 34,200.

12 **Q** How much of that money goes for early voting?

13 **A** I don't know.

14 **Q** All right. Explain to me paragraph 11. If you can go
15 ahead and read that, the fourth page, paragraph 11?

16 **A** And your question again?

17 **Q** So no money that's paid by Shannon County to Fall River
18 can be utilized for early voting?

19 **A** What this says is that Shannon County has to pay the
20 cost that it incurs.

21 **Q** It shall bear all expenses and costs associated with
22 operating and maintaining a satellite office for early
23 voting, right?

24 **A** Yes.

25 **Q** Why isn't some of the money on page two, that 34,200,

1 going for early voting, which is part of an election
2 function?

3 **A** It does.

4 **Q** Explain.

5 **A** This pays for an eight-hour day for them. Because of
6 our situation, we have on-site early voting in Shannon
7 County, we have to pay overtime for those people to go
8 down there.

9 **Q** For the travel time that they incur going to and from?

10 **A** Yes.

11 **Q** So that's about three hours a day or four hours a day?

12 **A** Four.

13 **Q** So it's four hours of overtime for who?

14 **A** Two people to go to Shannon County each day.

15 **Q** What are those two peoples' titles that will be
16 conducting the early voting at Shannon County?

17 **A** I don't know.

18 **Q** Are they Clerks or big shots or what?

19 **A** Anybody that went that could. Everyone in the Fall
20 River County Courthouse took a turn or more turns.

21 **Q** Explain. Who took turns; who went ahead and performed
22 this early voting function?

23 **A** I don't know. Whoever was available to do it
24 volunteered and went, if their work was caught up.

25 **Q** They volunteered and then they got the overtime to go

1 ahead and do this?

2 **A** Apparently. Sue worked it out, to find two bodies --
3 Sue has to go always.

4 **Q** She has to be one of the two to go ahead and sit at the
5 satellite location?

6 **A** That's my understanding, yes.

7 **Q** And then the other person can be a basic administrative
8 person, a secretary --

9 **A** Everybody --

10 **Q** Clerk?

11 **A** -- even Jim Sword, the State's Attorney went; his people
12 went; the Director of Equalization sent people; the
13 Treasurer sent people.

14 **Q** So Jim Sword's salary is a little bit different than a
15 Clerk's salary, right?

16 **A** True.

17 **Q** So what was the hourly rate that was paid to Jim Sword
18 versus the hourly rate paid to the clerk?

19 **A** I don't know.

20 **Q** Was there a difference or was there just a set rate; if
21 you want to go do this --

22 **A** I don't know.

23 **Q** So what employees do you know here today that went ahead
24 and participated in early voting locations on Shannon
25 County?

1 **A** I don't know exactly who went. I just know it was a
2 variation of people.

3 **Q** So you knew it was James Sword and his employees, I
4 thought you said?

5 **A** I know that what was told to the commission was that all
6 of the offices donated people and time.

7 **Q** All offices donated money and time?

8 **A** People and time.

9 **Q** And that would include what offices? What are all
10 offices; what are you considering, all offices?

11 **A** The Director of Equalization, the Treasurer, the State's
12 Attorney, and the Auditor's Office were the main ones.
13 She has, I believe, five employees in there and they
14 took turns. So it was no specific dollar, per-hour
15 amount.

16 **Q** But it's your understanding that Auditor Ganje was one
17 of the people that went ahead and went each time?

18 **A** Yes.

19 **Q** And the other people rotated for the second position?

20 **A** That was my understanding.

21 **Q** You don't know whether or not they were paid a flat rate
22 all the people across the board?

23 **A** I don't know.

24 **Q** Or their normal hourly rate that they would make in the
25 different positions?

1 **A** I don't know.

2 **Q** From the Treasure's Office, do you know if Laurie Back
3 Hand participated?

4 **A** I believe she did.

5 **Q** Do you know what her salary is off the top of your head?

6 **A** No, I don't.

7 **Q** Roberta Strailon?

8 **A** I don't know.

9 **Q** You don't know if she participated?

10 **A** I don't know who went.

11 **Q** You don't know if Roberta Strailon went?

12 **A** I don't know for sure.

13 **Q** Brenda Seegress?

14 **A** I don't know.

15 **Q** Kelly Roe?

16 **A** I don't know who she took and which days. I'm sure Sue
17 has that list if you look back through the time sheets.

18 **Q** The only one you know besides Sue and her five Clerks in
19 her office, the Auditor's Office that went, were James
20 Sword?

21 **A** I know that they said they took turns, whomever was
22 available to go. And also she had to hire another
23 person to go some days, but we didn't take names.

24 **Q** Okay. So how do I know what expenses or what salaries
25 from the Auditor and Clerk were allocated to early

1 voting?

2 **A** We don't.

3 **Q** No way to figure it out that you can think of?

4 **A** I'm sure Sue could figure it out if she needed to.

5 **Q** So this Auditor's salary of \$14,200, did that create an
6 extra position for Shannon County?

7 **A** No.

8 **Q** All right. So Sue Ganje does both, right?

9 **A** Yes.

10 **Q** All right. So she gets a salary for doing Fall River
11 duties?

12 **A** I'm sure.

13 **Q** And then she gets this \$14,200 supplement?

14 **A** This is a portion of whatever her salary is.

15 **Q** Right. Do you have any idea what her total salary is?

16 **A** No, I don't.

17 **Q** Do you know how this apportionment was determined?

18 **A** Basically it came down to, this is all that Shannon
19 County had to give.

20 **Q** How do you know that? Were you part of that discussion?

21 **A** I know that when we made this budget, everybody got cut
22 because we only had this much money to play with.

23 **Q** Do you know how the \$14,200 figure was generated; how it
24 came up with, that's the fair payment?

25 **A** Not specifically, no. I'm sure it's not fair payment.

1 I believe it to be probably a third of her salary.

2 **Q** But it didn't hire any extra people?

3 **A** No.

4 **Q** All right. The Clerk's salary of \$20,000, did that hire
5 any additional people in the office?

6 **A** Specifically to be a Shannon County person, is that what
7 you are asking?

8 **Q** Yes, ma'am.

9 **A** I don't believe this \$20,000 completely pays that Clerk,
10 no.

11 **Q** What is your understanding of what that \$20,000 goes
12 for?

13 **A** Our Clerk services.

14 **Q** So Shannon County has a Clerk that's a different person
15 than the Fall River Clerk?

16 **A** No. All the clerks in that office devote some of their
17 time to Shannon County. This 20,000 goes to pay -- we
18 give 20,000 for Clerk services.

19 **Q** Do you know how that amount was determined, ma'am?

20 **A** No. Other than the fact that that's all we have.

21 **Q** You've been involved in the negotiations of three or
22 four contracts with Fall River regarding services?

23 **A** There's no negotiation.

24 **Q** Explain.

25 **A** A contract is presented to us and a budget is presented

1 to us. We know the bottom line is all we have to split
2 up. We know Fall River is the only place we can
3 contract. We do what we have to do.

4 **Q** Why do you say Fall River is the only place we can
5 contract?

6 **A** Because back in 1973 I believe it was, we were assigned
7 to Fall River County by the State.

8 **Q** In the middle of the American Indian Movement.

9 **A** Imagine that. We are just there. No other county would
10 want us. This is my own personal interpretation.

11 **Q** I'm taking your deposition, that's what I'm asking.

12 **A** My personal interpretation is that other counties would
13 not want us because we can't pay our way. Fall River
14 has been stuck with us long enough that they've adapted.

15 **Q** Why do you make reference to 1973?

16 **A** Because I believe that was the date -- I have
17 information, but I don't have it with me -- I believe
18 that was the date that our county was officially
19 designated as an unorganized county and assigned to Fall
20 River.

21 **Q** When you say "adapted", Fall River and Shannon County
22 has adapted, what do you mean by that?

23 **A** If Shannon were to disappear, just not be on the map and
24 Fall River on their own without us, I'm sure that they
25 would have to cut some personnel, because their county

1 doesn't need that many people.

2 **Q** Do you have any idea how many personnel would be
3 committed to Shannon County and how many aren't? You
4 used the term a third of their time earlier.

5 **A** I believe -- Fall River has -- our contract is covered
6 about a third of their time, I believe. However, we use
7 up more than half of their time, because more people
8 from Shannon County license vehicles than Fall River
9 County people do, for instance. So I believe we use up
10 more than half of their time and we pay for a third of
11 it.

12 **Q** Why do you say no one else would want a contract with
13 Shannon County?

14 **A** Because it costs that county to have us around, because
15 we can't pay our way. That's my understanding. Our
16 taxes don't add up to our expenses. If another county
17 were to take us on, the only county that would have half
18 a shot would be Bennett, because the taxable land lies
19 on the side that Bennett would be stuck with.

20 **Q** And you've talked to them in the past or one of their
21 commissioners, haven't you?

22 **A** I was at a commission meeting, and I believe we went
23 over this at the hearing that day in Pierre.

24 **Q** What year, ma'am?

25 **A** 2010.

1 **Q** What happened?

2 **A** During the break, the commissioners were all having
3 rolls and coffee, and if we were to walk up to anyone
4 they'd go like this (indicating), stay away, we don't
5 want anything to do with it, because we are tied up in
6 these lawsuits through no fault of ours. Like I said
7 before, if the Feds would pay their bill, we could
8 operate like any other county in the nation. And it all
9 comes down to money. It's always, follow the money. If
10 the Feds were to give us, by the same token that they do
11 the school districts for funding, Shannon County would
12 overnight have 4.6 million annually.

13 **Q** What is the total amount of money that Shannon County
14 gets a year on average from anybody? What is your total
15 operating budget for '12, 2011?

16 **A** \$767,454.

17 **Q** Right. And you're looking at Exhibit 112?

18 **A** But notice that the roads are half of that, and that's
19 all State money.

20 **Q** So Shannon County Commission has about \$741,000 to spend
21 in 2011?

22 **A** In '11, yes.

23 **Q** And you anticipate another \$850,000 to spend in 2012?

24 **A** What are you looking at?

25 **Q** The request of 2012 budget?

- 1 **A** That was requested --
- 2 **Q** And then you got approved, \$767,000?
- 3 **A** Right, because we didn't have that much money. We had
4 to cut.
- 5 **Q** So out of that \$767,000 under the 2012 budget, where
6 does that come from?
- 7 **A** Back up two lines there to roads, highway roads and
8 bridges, that's half of it, and that is mostly State
9 money.
- 10 **Q** What line item?
- 11 **A** Bottom, highway, roads and bridges, \$365,894.
- 12 **Q** So about half your money is --
- 13 **A** That all goes to the roads in the county.
- 14 **Q** So that line item, 311, where does that money come from?
- 15 **A** Mostly from the State.
- 16 **Q** Anywhere else?
- 17 **A** When someone licenses a vehicle, it goes to the State
18 and then comes back to us proportionately, and I'm not
19 sure what the formula is.
- 20 **Q** So what percent of your money would you estimate for
21 that line item 311, comes from the State of South
22 Dakota?
- 23 **A** I'm not certain. Sue would have that answer, but I
24 believe most all of it.
- 25 **Q** Where else do you get money from, ma'am?

1 **A** Like that fire protection and emergency disaster, that's
2 State and Federal money.

3 **Q** That 7,500?

4 **A** Yes, and that forty-one, twenty-five D4125.

5 **Q** Under 221 fire protection?

6 **A** Now, a portion of that is county taxes. You are taxed
7 for your fire department.

8 **Q** Where else does line item 221 under the general fund
9 come from beside taxes?

10 **A** I believe it's the State formula again, to give fire
11 departments some money, and that emergency money, same
12 way.

13 **Q** Line item 222, Emergency and Disaster Services for
14 \$7,500 comes from the State?

15 **A** Yes. And that money just passes through and we don't
16 touch it. It goes straight to the fire department.

17 **Q** So where does the other \$300,000 or so come from?

18 **A** Okay. Now we are looking at the general fund up there,
19 the \$389,935, that's the general fund, that's what we
20 have to deal with.

21 **Q** Where does that come from?

22 **A** Most of it comes from county property taxes. Some comes
23 from back from utilities.

24 **Q** From looking at this budget sheet, how do I know what
25 portion of it comes from county property taxes?

1 **A** You don't on here. This is the expenditure budget.
2 We're not looking at the revenue budget.

3 **Q** So about what percent would you estimate comes from
4 county property taxes for the total general government
5 fund of 389?

6 **A** I believe they are --

7 MS. FRANKENSTEIN: I'm just handing her D000389.

8 **A** It says here property taxes for 2010 are \$202,922. And
9 I believe this coming year they are about \$220,000, the
10 year we are in right now.

11 **Q** Okay. Where does the rest of the money come from for
12 the total general fund for government?

13 **A** Utilities.

14 **Q** How much comes from utilities?

15 **A** I'm not certain without a revenue budget in front of me.

16 **Q** What line item is that?

17 **A** This is only the expenditure budget we're looking at
18 now. Sue fills it out with the rest. If we don't ask
19 for it -- this is the revenue budget.

20 MS. FRANKENSTEIN: She's looking at D000385.

21 **Q** So out of that \$389,000, approximately \$220,000 comes
22 from property taxes?

23 **A** \$221,656.

24 **Q** Where does the rest of the money come from that gets to
25 that number of 389,000 in the general fund?

1 **A** Other taxes, which are, I believe, utilities. We get
2 money back from the phone company and electrical
3 companies. And then intergovernmental revenue,
4 \$107,000, I believe that is State grants, and I'm not
5 sure what they involve. And fines, charges for other
6 goods and services. I'm trying to think of an example,
7 pistol permits, and then there's \$21,000 of
8 miscellaneous.

9 **Q** Okay. So when I look at what's been marked as Exhibit
10 112, ma'am, for line items 221, 222 and 311 down at the
11 bottom, is there any discretion in those funds? And
12 what I'm getting at, the fire protection funds, they
13 have to be used for fire protection.

14 **A** When we receive the money, we write a check to the fire
15 department. It just passes through.

16 **Q** No discretion for line item 221?

17 **A** No.

18 **Q** Is there any discretion for line item 221?

19 **A** No.

20 **Q** Is there any discretion for line item 222?

21 **A** No, that money is handed to Fall River because we use
22 their emergency services manager.

23 **Q** Any discretion in line item 311?

24 **A** Only discretion on which road to fix first.

25 **Q** Can't be utilized for election services, correct?

- 1 **A** Nothing other than roads.
- 2 **Q** Let's go up to the general fund. All these line items
3 in the general fund are discretionary for the county?
- 4 **A** No, they're not.
- 5 **Q** Which ones are not discretionary?
- 6 **A** Mental Health Board and Mental Health Center.
- 7 **Q** 444 and line item 445?
- 8 **A** And 441.
- 9 **Q** They're not discretionary?
- 10 **A** No, they can only be spent for mentally ill services.
- 11 **Q** Why?
- 12 **A** Because it's State mandated that mentally ill be given
13 hearings, so we pay for those hearing costs.
- 14 **Q** Understood. Anything else in the general fund that is
15 not discretionary?
- 16 **A** We are required to have a sheriff, so I would say it's
17 not discretionary.
- 18 **Q** Is there a minimum amount that the sheriff must be paid?
- 19 **A** That's what we are paying him.
- 20 **Q** Okay. That's line item 211. Any other line items you
21 consider?
- 22 **A** Predator animal, that money comes from the State and it
23 is specifically for that.
- 24 **Q** Line item 166 is not discretionary?
- 25 **A** Right.

- 1 **Q** Anything else?
- 2 **A** Veteran Service Officer has to go to that.
- 3 **Q** Line item 165 is not discretionary?
- 4 **A** No.
- 5 **Q** Why?
- 6 **A** Because we are required to have a Veterans Service
7 Officer and that money goes to pay that person.
- 8 **Q** Does it have to be that amount?
- 9 **A** No, it doesn't.
- 10 **Q** So you have discretion -- where does that \$15,980 come
11 from?
- 12 **A** \$15,780.
- 13 **Q** For 2012. Where does that come from?
- 14 **A** I'm not certain. I believe it's a combination of both
15 State and Federal funds.
- 16 **Q** Why couldn't a little bit of that go to early voting in
17 Shannon County?
- 18 **A** Because we only hire this man two days a week now with
19 this money, and it's designated -- we would not receive
20 this money if we didn't use it for that.
- 21 **Q** Understood. Anything else where there is no discretion
22 on how it's spent under the general fund?
- 23 **A** We are required to have a Register of Deeds.
- 24 **Q** You are looking at line item 163?
- 25 **A** Yes.

1 **Q** Does it have to be that amount?

2 **A** No.

3 **Q** What's the minimum amount?

4 **A** More than that. This is again to pay for the Register
5 of Deeds, to Fall River County.

6 **Q** But there is discretion in what that amount is, right?

7 **A** Yes, if we were not able to agree with Fall River on
8 hiring the person.

9 **Q** The Register of Deeds does a lot of property
10 transactions, correct?

11 **A** Yes.

12 **Q** So they don't have anything to do with fee or trust
13 lands in Shannon County, do they?

14 **A** No.

15 **Q** So there's pretty limited fee land in Shannon County,
16 isn't there?

17 **A** It is less, however, the Register of Deeds also takes
18 care of car titles.

19 **Q** The tags?

20 **A** The Treasurer takes the tags, but the Register of Deeds
21 has to step in there somewhere, is my understanding.

22 **Q** Well, why couldn't you take \$5,000 or so of that line
23 item in 163 and put that towards early voting?

24 **A** Because we wouldn't be able to afford the Register of
25 Deeds services.

1 **Q** But how are the Register of Deeds services determined?

2 **A** Through our contract with Fall River.

3 **Q** And how do you go ahead and say, you get this much money
4 in the negotiation process?

5 **A** Because they say that is the amount that they need from
6 us.

7 **Q** Kind of a take-it-or-leave-it negotiation?

8 **A** It has to be, yes.

9 **Q** Why does it have to be a take-it-or-leave-it
10 negotiation, in your opinion?

11 **A** In my opinion, if Shannon County is going to exist, we
12 have to have a Register of Deeds, Director of
13 Equalization and a State's Attorney, an Auditor and
14 Treasurer, Veteran Service Officer, because to exist as
15 a county we're required to have that.

16 **Q** Right. So why is that take it or leave it?

17 **A** Because Fall River is who we have it with.

18 **Q** Go to somebody else. Go to one of the other adjoining
19 counties?

20 **A** Okay. We will just be turned down.

21 **Q** Why?

22 **A** Because we can't afford -- if we were to create our own
23 county tomorrow and try to hire ourselves these people,
24 we would never be able to pay anyone a legal wage.

25 **Q** So, is it your understanding -- do you know what the

1 legal wage is for the Register of Deeds that is
2 required?

3 **A** No, I don't.

4 **Q** So, money could be transferred from line item 163 for
5 early voting?

6 **A** No, it could not.

7 **Q** Why not?

8 **A** Because we have to have a Register of Deeds.

9 **Q** But you could pay them a lesser amount, right?

10 **A** And not have one at all. You can't pay somebody \$2 when
11 they want to work for ten?

12 **Q** Right, but why not pay them \$20,000 instead of \$25,000?

13 **A** Because they would not accept that offer.

14 **Q** How do you know.

15 **A** Because they didn't want to accept this offer.

16 **Q** How do you know?

17 **A** Because they took a \$2,000 cut, and they weren't willing
18 to take anymore cuts than that.

19 **Q** Were you involved in the negotiations?

20 **A** They came to our meeting, like they do every year, and
21 agreed to accept lesser money because they knew that we
22 couldn't afford it.

23 **Q** What other line items aren't discretionary besides 163,
24 165, 166, 211, 441, 444, 445 under the general fund,
25 ma'am?

1 **A** The Director of Equalization is the same story as the
2 Register of Deeds.

3 **Q** Okay. There's \$23,649?

4 **A** Yes.

5 **Q** Why couldn't some of that money go for early voting;
6 maybe \$3,000 worth?

7 **A** For the same reason as the Register of Deeds.

8 **Q** Is there a requirement, a legal requirement that you pay
9 \$23,649 to the Director of Equalization?

10 **A** I don't know.

11 **Q** And that amount, do you know what that is based upon?

12 **A** No, I do not.

13 **Q** But there isn't any restriction that prevents you from
14 going ahead and taking two or three thousand out of
15 there for early voting?

16 **A** Other than the same reason that the Register of Deeds,
17 we would not be able to have one, if we didn't pay this
18 amount.

19 **Q** And you're restricted to contracting with counties that
20 touch Shannon County, correct?

21 **A** Yes.

22 **Q** Who does that include?

23 **A** Pennington, Custer, Bennett and Jackson.

24 **Q** So have you ever had discussions with Pennington County;
25 can you do these services for a cheaper amount?

- 1 **A** I've not had, no.
- 2 **Q** Do you know if anybody that has?
- 3 **A** I believe Sue Ganje talked to their Auditor.
- 4 **Q** Any luck?
- 5 **A** No.
- 6 **Q** What is your understanding?
- 7 **A** The same result that I got, you get laughed at. There's
8 no discussion.
- 9 **Q** That's a bad sign in negotiations. How about Jackson
10 County?
- 11 **A** I believe one of the other people have had a
12 conversation with the same result. There is no
13 discussion about it. They just laugh at you, you've got
14 to be joking, and that's the end of it.
- 15 **Q** Any other funds that aren't discretionary in the general
16 fund?
- 17 **A** We are up to the State's Attorney. We cannot do without
18 an attorney.
- 19 **Q** What line item are you looking at?
- 20 **A** 151.
- 21 **Q** \$42,045?
- 22 **A** Yes.
- 23 **Q** How did you come up with that amount?
- 24 **A** He would not take any less.
- 25 **Q** But he only has criminal jurisdiction over incidents on

1 fee lands down there, right?

2 **A** Yes.

3 **Q** And there's not a lot of fee lands down there?

4 **A** No.

5 **Q** So why is it so much?

6 **A** Because of you.

7 **Q** What did I do?

8 **A** Because of Shannon County's situation, because there are
9 a lot of questions to answer, a lot of times there's a
10 lot more time and labor.

11 **Q** It's not just the criminal jurisdiction services, it's
12 the civil services associated with a lot of the
13 jurisdictional issues that arise on the Pine Ridge Rez?

14 **A** Yes.

15 **Q** Could that amount be lesser? Out of that \$42,045, could
16 you say, let's take 5,000 of that and put it in election
17 services?

18 **A** No, we could not say that.

19 **Q** Is there a legal reason you couldn't do it? Is there a
20 minimum salary?

21 **A** Not to my knowledge.

22 **Q** So why can't you take a little bit out of there?

23 **A** Because we would not have a State's Attorney and we need
24 one.

25 **Q** What makes you think you wouldn't have a State's

1 Attorney?

2 **A** Because he said he would not work for less than that.

3 **Q** You heard him say that?

4 **A** That was my understanding.

5 **Q** When?

6 **A** Whenever we met with each department regarding their
7 budgets.

8 **Q** When did you meet with each department regarding the
9 2012 budget?

10 **A** I don't remember which meeting it was.

11 **Q** Do you know what month?

12 **A** No.

13 **Q** Quarter?

14 **A** Fall of last year, 2011.

15 **Q** Anything else that isn't discretionary, ma'am?

16 **A** Data processing, 143 for \$3,700 is our portion of the
17 upkeep on the machines, so I would say that's not
18 discretionary.

19 **Q** Upkeep of what machines, ma'am?

20 **A** Only accounting machines, for instance to do payroll and
21 accounts payable. This is only our portion of it, and I
22 don't know what percentage that is.

23 **Q** Anything else not discretionary?

24 **A** \$14,750 in contingency is discretionary.

25 **Q** Why don't you take that \$14,750 and apply it to early

1 voting for the 2012 election cycle in Shannon County?

2 **A** That's our intent.

3 **Q** Okay. I thought, from discussions, that the South
4 Dakota Secretary of State is paying for all early voting
5 except for a couple of thousand?

6 **A** Of early voting but not all the election.

7 **Q** So you are saying that \$14,750 would be applied to
8 general election services?

9 **A** I'm saying that it's in the contingency fund, and it's
10 discretionary, and it's there, so we can put it where
11 it's needed. If you look down, judicial system is
12 blanked out. If we have to have -- any cost for
13 judicial in this whole year, we're going to need to pay
14 it, and we've had costs already. If you go down to
15 Court-appointed attorney, if there is any individual
16 that has to go to Court and the county has to pay his
17 attorney, we have no money in there, so that's where
18 that 14,750 will go.

19 If we put someone in jail for one night, we have
20 to pay for that. We have no money there. If we have a
21 juvenile picked up that has to be housed somewhere, we
22 have no money. County Poor has no money in it. And we
23 zeroed out the County Extension, which is 4-H. Soil
24 Conservation and Weed Control, we completely wiped those
25 out, because they were discretionary. If we have an

1 indigent burial, we're going to have to pay for it.

2 **Q** What line item are you looking at there, ma'am?

3 **A** Under County Poor, line item 411. So we've already
4 zeroed out everything that was discretionary. We have
5 \$14,750 to pay for anything that happens in those areas.

6 **Q** Under the agreement that's currently in effect, what's
7 been marked as 107, is it discretionary, on page two,
8 the money that goes to the auditor, could some of that
9 go to early voting; second page?

10 **A** You asked that awhile ago and I said no, because this
11 was just the minimum that they would take.

12 **Q** Not a legal requirement, but it's just, they wouldn't do
13 the services at Fall River if you didn't pay them that
14 much?

15 **A** That was my understanding, yes.

16 **Q** Same thing for the Clerk?

17 **A** Yes.

18 **Q** Could some of that the Director of Equalization money go
19 for early voting?

20 **A** Same story; no.

21 **Q** \$5,400 for the Clerk, for Director of Equalization under
22 the Equalization Department?

23 **A** No. The Auditor is responsible for the election, not
24 these other people.

25 **Q** Right. But couldn't some of the money be moved from

1 these line items over to the Auditor's line items to go
2 ahead and give early voting to the residents of Shannon
3 County in Shannon County?

4 **A** No, because then we would have no way to pay for these
5 services, and they are also required, legally.

6 **Q** Right, but couldn't that amount be reduced a little bit,
7 the Director of Equalization, that thirteen five hundred
8 and that fifty-four hundred?

9 **A** To what?

10 **Q** Let's say take 3,000 from that category to apply for
11 early voting?

12 **A** It's already less than a third of what a normal person
13 works for.

14 **Q** But aren't they only doing about a third of the duties?

15 **A** Possibly. I don't know.

16 **Q** Next page, couldn't some of that Register of Deeds'
17 money of 14,200, or the Clerk of Court of 5,400,
18 couldn't some of that go towards early voting in Shannon
19 County?

20 **A** No, for the same reasons.

21 **Q** Which reasons? We've talked about a lot of reasons.

22 **A** What I just told you, this is the minimum we can hire a
23 person for, and we are required to have that body.

24 **Q** So it's a legal requirement that you pay that much
25 14,200, or you are saying, we wouldn't have a contract

1 with Fall River if we tried to cut it?

2 **A** We wouldn't have a Register of Deeds, and we're required
3 to by law.

4 **Q** And why, if you dropped that down, if you took two or
5 3,000 from that line item for Register of Deeds or the
6 Clerk and you transferred that over for early voting in
7 Shannon County, why would that cause a problem?

8 **A** Because they would not agree to work for less than this.
9 This is the minimum amount they would agree to.

10 **Q** What makes you think that?

11 **A** They said so.

12 **Q** When did they say so?

13 **A** When they met with the commission and when we were
14 discussing the budget.

15 **Q** The Register of Deed folks?

16 **A** Each department head came to our meeting.

17 **Q** And these are the amounts that each of them said is the
18 bottom line -- it wasn't just one person negotiating the
19 agreement; you met with the individual department heads?

20 **A** The department heads came to our meeting, and they had
21 already met with Sue, who wrote up our budget and
22 presented it.

23 **Q** Did they submit a proposed budget and said, this is why
24 the Register of Deeds, we need \$14,200, did they submit
25 a justification?

1 **A** No, not to us.

2 **Q** To anybody?

3 **A** Possibly to Fall River. I don't know.

4 **Q** But you as chair of the commission, you don't know what
5 the justification are for any of these salaries that are
6 set in this agreement?

7 **A** No, I don't.

8 **Q** How come?

9 **A** Because it doesn't matter because we have to hire these
10 people. And Fall River has these employees, and we pay
11 about, my understanding is, a third of their salaries.

12 **Q** Do you know where that formula came from, a third?

13 **A** I don't. It's historical.

14 **Q** So because you're a poor county, you have to contract
15 these services, why haven't you requested a
16 justification when the budget is so tight, and said, you
17 know what, things are really tight right here, why can't
18 you knock off \$1,000 instead of just letting them say,
19 no, say, show me why?

20 **A** Well, we did that.

21 **Q** When?

22 **A** At the same meeting we are talking about. If you look
23 at the 2011 budget, and the requested 2012 budget, there
24 are no raises. And then if you look at what we approve,
25 you'll see that they all got cut to these amounts that

1 are in this contract.

2 **Q** So you are using that as a unitive measure, the baseline
3 for going ahead and determining the amounts of money in
4 the current contract?

5 **A** Yes.

6 **Q** Why can't some of the miscellaneous expenditures under
7 paragraph 5 be utilized for early voting? This \$7,604
8 from the Auditor's Office, why can't that be just moved
9 over to early voting?

10 **A** Because it's needed to pay for the expenses that it was
11 put in the contract for.

12 **Q** How do you know what those expenses are?

13 **A** Well, we have to buy check blanks and we have to pay for
14 telephones, and buy paper, copy machines, our portion of
15 it.

16 **Q** Couldn't you move one or two thousand from that \$7,604
17 to miscellaneous expenses from the Auditor over for
18 early voting?

19 **A** No, we could not.

20 **Q** Why not?

21 **A** Because this is less than what our actual costs are now.

22 **Q** Same question for the \$4,749 of miscellaneous costs
23 under the Director of Equalization?

24 **A** Same answer.

25 **Q** How do you know that?

1 **A** Because of prior budgets running over these amounts.

2 **Q** Same question for Register of Deeds, why can't you move
3 some of that \$5,429 of miscellaneous expenses over to
4 early voting in Shannon County?

5 **A** For the same reason.

6 **Q** Same question for the \$9,114?

7 **A** Same answer.

8 **Q** For the Treasurer?

9 **A** Same answer.

10 **Q** How do you know your miscellaneous expenditures are
11 exceeding 9,114?

12 **A** Because of the fact that she has reported to us that
13 Shannon County licenses three times as many vehicles as
14 Fall River does, and that's mostly what her office tends
15 to for our county.

16 **Q** On the State's Attorney contract, why can't you move
17 some of that \$2,927 over for early voting?

18 **A** Same answer.

19 **Q** How do you know your expenses for the State's Attorney
20 exceeds \$2,927?

21 **A** Because of prior expenditure budgets.

22 **Q** And then you explained the data-processing charge of
23 \$3,700 before?

24 **A** That's our portion of the machine upkeep.

25 **Q** Do you know how that was determined?

1 **A** No, I don't.

2 **Q** Did you sign this contract which is marked 107, ma'am?

3 **A** No.

4 **Q** Did you read it before it was signed?

5 **A** Yes.

6 **Q** When you go to the next page, paragraph seven, seven is
7 on one page and the paragraph underneath it is on the
8 next. "Shannon is familiar with the amount of work
9 required by the Auditor, Director of Equalization,
10 Register of Deeds and Treasurer." Who at Shannon County
11 is familiar with the amount of work that's done?

12 **A** As reported to us.

13 **Q** And then it says that you specifically acknowledge that
14 the sums paid pursuant to the contract are appropriate
15 and reasonable. How did you make sure these sums are
16 appropriate and reasonable?

17 **A** Personally the job is done and I wouldn't work for that
18 amount. I don't know where I can get it done in any
19 better fashion.

20 **Q** And then the next sentence, "The sums described herein
21 are substantially less than Shannon would have to expend
22 if Shannon had to staff and supply its own offices". Do
23 you know what that sentence is based upon?

24 **A** Rationality.

25 **Q** Explain.

1 **A** If we were our own county, and we had an elected
2 official to be our Auditor, she would not work for
3 \$14,200. That's how I rationalized it.

4 **Q** Last sentence to that paragraph, "Shannon acknowledges
5 that if it's not being required to pay for office staff
6 for the State's Attorney, but it's specifically
7 compensating for said deficiency by paying \$4,000 toward
8 the State Attorney Victim's Assistance program". In the
9 budget, where is that at? I'm looking at the State's
10 Attorney line item 151.

11 **A** I believe it's part of that line item.

12 **Q** On that \$4,000 you are saying that it's part of line
13 item 151 State's Attorney?

14 **A** I believe it is.

15 **Q** It's part of the \$42,045?

16 **A** Yes.

17 MS. FRANKENSTEIN: Steve, I think if you add up
18 the total amount paid under the State's Attorney
19 contract and add that in I think you get to that.
20 Thirty-eight thousand.

21 MR. SANDVEN: Doesn't he get some administrative
22 expenses too; and then you've got that \$3,000 there.

23 **Q** So we're not sure where that \$4,000 is in the budget?

24 **A** I believe it's part of that 151.

25 **Q** So we think -- that \$42,045 includes the \$4,000 for that

1 Victim's Assistance Fund?

2 **A** Yes.

3 **Q** And then when you look at what's been marked as
4 Exhibit 107, his office, under paragraph 5, is getting
5 \$2,927 for administrative expenses, right?

6 **A** For paper and supplies. Those amounts are for supplies
7 mostly.

8 MR. SANDVEN: May I have this marked 108, please?

9 (Exhibit No. 108 was marked for identification.)

10 **Q** Do you recognize this document?

11 **A** Yes.

12 **Q** What is it?

13 **A** Shannon State's Attorney contract.

14 **Q** When was it signed?

15 **A** By the Shannon Commission on March 7th.

16 **Q** So these two contracts are in place at the same time,
17 correct?

18 **A** Yes.

19 **Q** All right. You are looking at 108. Please go to page
20 two of this exhibit. So the State's Attorney goes ahead
21 and gets paid \$14,200.

22 **A** Yes.

23 **Q** His deputy gets paid \$20,918?

24 **A** Yes.

25 **Q** And then there is that \$4,000 for Victim's Assistance

1 again?

2 **A** Not again; same 4,000.

3 **Q** But it's mentioned in two different contracts, right?

4 **A** Yes.

5 **Q** So is Shannon County paying that twice?

6 **A** No.

7 **Q** How do you know?

8 **A** I know because we don't have the money.

9 **Q** Why is it in both contracts, that \$4,000? Why can't one
10 of those go for election services?

11 **A** Because there is only one.

12 **Q** So it's a typo you think?

13 **A** Yes. It's not a typo, it's just -- you had me read
14 paragraph 7.

15 **Q** We are going to compare contract marked Exhibit 107.

16 **A** It's the same \$4,000.

17 **Q** Contract Exhibit 108. So the State's Attorney in
18 Exhibit 107 gets \$4,000, correct, for the Victim's
19 Assistance Program?

20 **A** Yes.

21 **Q** And the State's Attorney in Exhibit 107 gets \$2,927,
22 correct, for miscellaneous expenses under paragraph 5?

23 **A** That's office supplies, yes.

24 **Q** So the State's Attorney, there's two line items where
25 the State's Attorney is getting money under Exhibit 107

1 in the amounts of approximately \$7,000?

2 **A** Yes.

3 **Q** Okay. And then when you look at Exhibit 108, this is
4 the State's Attorney's own contract, right?

5 **A** Yes.

6 **Q** So under the State's Attorney's own contract, under
7 paragraph 4, Victim Assistance says \$4,000, correct?

8 **A** Yes, it does say that.

9 **Q** And then on the next page, under paragraph 5, top of the
10 next page, the State's Attorney gets \$2,927 for
11 miscellaneous expenses, correct?

12 **A** Supplies; yes.

13 **Q** Why is it listed in both contracts?

14 **A** It's a blooper.

15 **Q** Okay. Is that blooper reflected on the budget?

16 **A** No, it's in the budget once.

17 **Q** Okay. And this budget document was created before these
18 contracts were executed?

19 **A** Yes.

20 **Q** Going back to the front page of Exhibit 107, last
21 whereas, "Whereas pursuant to SDCL 7-7-9.1, the minimum
22 salary for the County Treasurer and Auditor and Register
23 of Deeds for a county with the population of thirteen,
24 five six, is 29,891. Is that minimum being paid?

25 **A** No, it is not. But, thank you, that's what I wanted to

1 know.

2 **Q** The Treasurer is currently getting \$34,200 in salaries,
3 correct?

4 **A** The Treasurer is getting \$14,200 from Shannon County.

5 **Q** Plus his Clerk is getting \$20,000?

6 **A** Clerks are getting 20,000.

7 **Q** Right. So the Treasurer's Office is receiving \$34,200
8 from Shannon County, correct?

9 **A** The Treasure's Office is, yes.

10 **Q** Plus the Treasure's Office is getting an additional
11 \$9,114 for miscellaneous expenses, correct?

12 **A** Supplies, yes.

13 **Q** So that's well above the minimum salary for the County
14 Treasure's Office, correct?

15 **A** No.

16 **Q** Explain.

17 **A** The law says the County Treasurer, period, shall be paid
18 \$29,891.

19 **Q** So you are saying that the distinction between the
20 Treasurer and the Treasurer's Clerk and the Treasurer's
21 miscellaneous expenses, that can't add up to equal a
22 payment to the Treasurer?

23 MS. FRANKENSTEIN: I'm just going to lodge an
24 objection that salaries do not include office expenses.
25 Salary is a salary.

1 **A** It's supplies.

2 **Q** But even forgetting the supplies, doesn't the amount
3 being paid to the Treasure's Office go ahead and exceed?

4 **A** No, because the law says the Treasurer shall receive
5 \$29,891. We are paying a portion of that to the
6 Treasurer, because she also has duties with Fall River,
7 and we are paying \$20,000 toward Clerk services,
8 separate.

9 **Q** Right. So couldn't you just go ahead and knock off some
10 of the Clerk services?

11 **A** No, because a third of a Treasurer can't do the job that
12 we need done.

13 **Q** And then the minimum that should be paid to the Auditor
14 is \$29,891. Here it looks like the Auditor is paying
15 \$34,200; right?

16 **A** Same answer.

17 **Q** You are saying we got to pay them that much?

18 **A** The law says we have to pay that much.

19 **Q** But you are not paying the Register of Deeds that much,
20 are you?

21 **A** No. We are buying half of her time, approximately. And
22 if you will notice there, the Clerk services, because as
23 you pointed out before, we have a lot fewer deeds to
24 register in Shannon County, that person is a lot less.

25 **Q** And then the Register of Deeds, that office is getting

1 approximately \$19,700, plus miscellaneous, correct;
2 nineteen, six?

3 **A** Plus supplies.

4 **Q** I'm having a hard time understanding this whereas
5 provision. What's your understanding of this whereas
6 provision? That this was the basis, that we are
7 discussing right now, this was the basis for
8 establishing a formula on how much you would pay under
9 the contract?

10 **A** My understanding was for Shannon County Commissioners'
11 information, that this is the minimum amount that we
12 would be required to pay those parties in our own
13 county. And that we are buying their services for
14 approximately half or less.

15 **Q** Where are you getting that from?

16 **A** Well, the Auditor, for instance, if we had to pay our
17 own Auditor, it would cost us the \$29,891. We are
18 paying \$14,200. It's informational.

19 **Q** Going to paragraph 11 on early voting on Exhibit 107,
20 "Under this contract that's in effect currently, Shannon
21 County shall reimburse Fall River for wages associated
22 with early voting". Yes?

23 **A** Yes.

24 **Q** Okay. I guess don't understand. I thought it was just
25 for overtime. Why are you paying wages, too?

1 **A** Overtime wages.

2 **Q** That's what that means, wages, overtime?

3 MS. FRANKENSTEIN: Steve, would you like me to
4 interject here?

5 MR. SANDVEN: Yes, ma'am.

6 MS. FRANKENSTEIN: You are mistaken on that before
7 we waste time. This contract does include both regular
8 wages, your eight-hour per day, plus overtime. Where,
9 as is if you look in the past contract of 2011 it didn't
10 have those provisions?

11 MR. SANDVEN: So why? Why are we paying salaries
12 and then paying wages and then paying overtime?

13 MS. HUTCHISON: What this means is Shannon County
14 has to pay their bill to Fall River for whatever costs
15 we incur.

16 MR. SANDVEN: So, all this money -- I thought you
17 said earlier that all this money that goes for Auditor
18 services, and Clerk services, that some of that salary
19 is apportioned, or we're not having to pay for that; why
20 do we got to pay twice?

21 MS. FRANKENSTEIN: Do you want me to go ahead?

22 MR. SANDVEN: Yup. I want to understand this.
23 Why was the term wages inserted here?

24 MS. FRANKENSTEIN: So that when somebody, if the
25 County Auditor's Office, such as Sue Ganje or anyone

1 else under her there have to take time out of that
2 office and not provide Fall River services, and instead
3 provided in a satellite office, such as in Pine Ridge,
4 instead of Fall River County taking the hit, because
5 they gave up services that they're paying for, Shannon
6 County would pay for those additional hours being asked
7 to provide early voting on site.

8 MR. SANDVEN: So this was the only provision to
9 paragraph 11 in this amended contract?

10 MS. FRANKENSTEIN: The 2011 one says that Shannon
11 County shall pay all, shall bear all expenses and costs
12 associated with operating and maintaining a satellite
13 office for early voting. The 2012 gives some examples,
14 and does, in fact, list wages, overtime, benefits,
15 meals, mileage or other expenses. Those specifically
16 weren't listed out in the 2011 contract.

17 MR. SANDVEN: Right, but it was your understanding
18 that wages that Shannon County had to pay all the wages
19 --

20 MS. FRANKENSTEIN: For on-sit early voting. Where
21 before if they were just providing early voting services
22 in the Shannon County Courthouse, they didn't have to
23 pay that worker twice, because they were already being
24 paid working for Fall River.

25 MR. SANDVEN: But adding any wages, doesn't that

1 make it more expensive for Shannon County to go ahead
2 and do early voting?

3 MS. FRANKENSTEIN: Sure, because they're taking
4 the County Auditor away from her post in the Fall River
5 County Office, which means that Fall River either loses
6 out on those services, or they have to hire someone to
7 fill their spot. She can't do both county services at
8 once when she's in Pine Ridge.

9 MR. SANDVEN: Can you look at Exhibit 131, please?

10 MS. FRANKENSTEIN: Steve, if I can go just a
11 little bit further I can explain that quickly. The FR
12 Salary Reimbursement anticipated for 18,656, if you go
13 to the second to the last column, previously the
14 Secretary of State historically only covered the
15 overtime hours, and not the eight-hour-per-day hours
16 that Sue Ganje's office would spend in Pine Ridge on
17 location. The deal that we worked out with the
18 Secretary of State for the additional \$11,330 was to
19 cover the normal eight hours per day.

20 MR. SANDVEN: Right. But I thought that this
21 whole formula, that a third of Sue Ganje's efforts were
22 expended on Shannon County. But that doesn't include
23 early voting.

24 MS. FRANKENSTEIN: Right. That's why there's a
25 separate provisional in the contract, because if it

1 takes her away from her post, unlike any of the other
2 Fall River County workers, she actually has to leave and
3 can't do Fall River County duties, they agreed to
4 reimburse her for her regular wages. Because either
5 Fall River goes without her services, or they hire
6 someone to fill her spot.

7 MR. SANDVEN: So any worker -- like if James Sword
8 volunteers, or anyone volunteers from down there to do
9 basic Clerk stuff, Shannon County is paying them their
10 regular wages?

11 MS. FRANKENSTEIN: I don't know what that is.
12 Early voting started a week ago. We haven't crossed
13 that bridge yet. I don't know what the wage would be.

14 BY MR. SANDVEN:

15 Q Is there a standard wage?

16 A I don't know.

17 Q What's your understanding of the wages being added here
18 to paragraph 11 in Exhibit 107?

19 A My understanding of that whole paragraph is to protect
20 Fall River County in insuring that Shannon pay for the
21 charges we incur.

22 Q Was it your understanding that you are paying Fall River
23 all the money under this contract for only work that
24 they perform right in the Fall River County Courthouse?

25 A Yes.

1 **Q** How did you know that?

2 **A** Because that's the only place that they -- prior to this
3 early voting, the law changes, they didn't have to leave
4 the Fall River County Courthouse, so there were no extra
5 fees.

6 **Q** Is that new language in paragraph 1?

7 MS. FRANKENSTEIN: I have the 2011 contract. It's
8 not new from 2011. I don't have further back.

9 **A** That's what it says.

10 **Q** When you voted for approving this contract with Fall
11 River, did you understand that you were going to have to
12 pay the actual wages for anyone when they came over to
13 Shannon County, not just their overtime?

14 **A** Yes.

15 **Q** That was discussed?

16 **A** I understood it.

17 **Q** Was there any discussion on it?

18 **A** I believe there was some.

19 **Q** This is an additional cost from previous election
20 cycles, isn't it? You didn't pay the wages for
21 everybody in 2010, did you?

22 **A** No, which is the reason that we have a contract stating
23 that we will now.

24 **Q** So this is an additional cost that has been imposed on
25 Shannon County by Fall River County since the 2010

1 election cycle?

2 **A** This is to be sure that Shannon County pays their debt.

3 MR. SANDVEN: I understand. Can you read back my
4 question?

5 (The question was read back by the reporter as
6 follows: "So this is an additional cost that has
7 been imposed on Shannon County by Fall River
8 County since the 2010 election cycle.")

9 **A** No.

10 **Q** This isn't an additional cost?

11 **A** No.

12 **Q** You paid wages for all the workers, not just overtime,
13 but you paid their wages also during the 2010 and 2008
14 election cycles?

15 **A** I don't know how that was calculated in 2010.

16 **Q** The second paragraph of paragraph 3, "Fall River County
17 shall refrain from making threats to cancel the
18 contract." Why was that added, ma'am?

19 **A** I don't know.

20 **Q** Why did you agree to it?

21 **A** Because it seemed necessary that we amend the contract
22 to satisfy everyone.

23 **Q** Who is everyone?

24 **A** You.

25 **Q** The Plaintiffs in this litigation?

1 **A** No. We're trying to write a contract with Fall River
2 that will be fair to everyone and that's the effort
3 that's being made in these contracts.

4 **Q** Did you think this contract is fair to everybody?

5 **A** Yes. But as far as the paragraph you are referring to,
6 I did not personally understand why that needed to be
7 there.

8 **Q** But you are satisfied with the terms of this contract
9 and you think it's fair to Shannon County?

10 **A** Yes, I do.

11 MR. SANDVEN: Is this the contract currently in
12 effect?

13 MS. FRANKENSTEIN: No. Do you want the current
14 one?

15 MR. SANDVEN: What was the date that the current
16 contract was executed?

17 MS. FRANKENSTEIN: March 14th. There is a
18 separate State's Attorney one.

19 **Q** What was the revisions that were done between the
20 March 6th and March 14th, on your services contract with
21 Fall River, ma'am?

22 **A** I don't know. I don't have it to look at. And without
23 comparing the two line by line --

24 **Q** Right. This is something you reviewed and voted on
25 about a month and a half ago?

1 **A** Yes.

2 **Q** Do you recall any of the revisions?

3 **A** Not specifically, no. Can you point out what was
4 changed?

5 **Q** Right. Did some of the right to terminate the contract
6 at any time, was there any discussion on why that needed
7 to be removed.

8 **A** Which paragraph is it?

9 MS. FRANKENSTEIN: She's looking at one where it's
10 been removed. Do you want to show her the 2012.

11 MR. WILLIAMS: For the record which dates are you
12 comparing right not?

13 MR. SANDVEN: March 6th and March 14th, the
14 contracts approved by Shannon and Fall River.

15 **A** There was one sentence deleted under part 18.

16 **Q** What was deleted?

17 **A** "Fall River and the county officials have the ability
18 and right to terminate this contract and/or resign their
19 position at any time, and with or without justification
20 and without notice".

21 **Q** Any other changes?

22 **A** I don't believe so.

23 **Q** Do you know why the Auditor and the Auditor Clerk's
24 salaries for Shannon County were increased all the way
25 up to \$40,500 in 2010?

1 **A** What are you looking at?

2 (Exhibit No. 18 was marked for identification.)

3 **Q** Are you familiar with this document?

4 **A** Yes.

5 **Q** Did you vote for approving this document?

6 **A** I believe I did, yes.

7 **Q** Why did you agree to paying the Auditor and the Clerk
8 \$40,500 this year?

9 **A** Because I believe if you look at prior contracts, this
10 was reasonable.

11 **Q** But I thought the minimum, you talked about the minimum
12 earlier, that you only had to pay about \$30,000 a year.
13 That was the minimum on the first whereas, on what's
14 been marked 107. Do you see last whereas on the first
15 page of 107, you talked to me about the minimum,
16 \$29,891, so why are you paying them \$40,500 plus \$7,375
17 for miscellaneous expenses?

18 **A** We weren't. We were paying \$20,500.

19 **Q** Why did you pay that amount to that office?

20 **A** That was our portion of the Auditor.

21 **Q** You say that the minimum was \$29,891?

22 **A** That's what the contract says.

23 **Q** And then you paid the Auditor \$20,500 in 2007?

24 **A** I don't know what we paid in 2007.

25 **Q** I'm sorry, 2010?

1 **A** Yes.

2 **Q** And this contract was signed two days before 2010
3 started and some of the folks signed it five days after
4 2010 started. Please explain to me how this \$2,500
5 adheres in the statutory requirement you cited earlier
6 for minimum salaries for the County Auditor?

7 **A** In 2010 we paid about two-thirds of that required
8 amount.

9 **Q** Why?

10 **A** Well, I believe if you look at the older contracts prior
11 to 2010, the amount was even more.

12 **Q** How did you figure you did two-thirds of the work there?

13 **A** Her salary is not \$29,891. It is more than that. This
14 is the amount that would be required of a Treasurer for
15 Shannon County. I don't know what Fall River's rate is.

16 **Q** If Shannon is so broke, why did you agree to pay that
17 office, \$40,500 in 2010?

18 **A** We paid the Auditor \$20,500, and we were not quite so
19 broke then.

20 **Q** Then why couldn't you afford early voting that year for
21 the same days for Native Americans at Shannon County as
22 Fall River County? Why couldn't you take some of the
23 money and put it into early voting?

24 **A** Well, that's the reason that her salary is less now than
25 it was then and --

1 **Q** But in 2010 Indians didn't get the same number of early
2 voting days in Shannon County?

3 **A** Why do you say Indians? They're people there of all
4 nationalities.

5 **Q** What percent of Shannon County is a tribal member from a
6 Federally-recognized Indian Tribe?

7 **A** That I don't know, but I know there's 95% Indians.

8 **Q** But why didn't some of that money that went to the
9 Auditor, who is responsible for election cycles in 2010,
10 go back and pay for some of the early voting?

11 **A** Because we are to improve that since then.

12 **Q** Right. Do you know how many days of early voting there
13 were in 2010?

14 **A** No, I don't recall.

15 **Q** Do you remember getting \$5,000 from Four Directions for
16 early voting in 2010?

17 **A** Yes.

18 **Q** And even with that, Shannon County residents only had 22
19 partial days of early voting in Shannon County; do you
20 remember that?

21 **A** I've heard that lately through working with this stuff,
22 yes.

23 **Q** And it was 22 partial days before the general election?

24 **A** I don't recall. I believe so.

25 **Q** Do you remember it was 0 days of early voting before the

1 primary election?

2 **A** Probably so.

3 **Q** So why do you say you had more money there where you
4 could pay the Auditor extra money?

5 **A** We wrote this budget in 2009.

6 **Q** Did you end up paying her that much money, that office
7 that much money?

8 **A** Yes.

9 **Q** Why did you go back and revise the budget and take some
10 of the money from there and put it into early voting?

11 **A** Because that was after the fact, and this contract was
12 already in effect, and we had to honor the contract.

13 **Q** You can amend the contract, can't you?

14 **A** If Fall River were to agree to that.

15 **Q** Did you try to go ahead and get them to agree to it?

16 **A** Not to my recollection, no.

17 **Q** Why not?

18 **A** Because I was pretty new to being a commissioner at the
19 time.

20 (Exhibit No. 19 was marked for identification.)

21 **Q** I'll hand you Exhibit Number 19; do you recognize this
22 document, ma'am?

23 **A** Yes.

24 **Q** What is it?

25 **A** The 2009 Shannon-Fall River County contract.

1 **Q** This was approved a couple days before the new year
2 started?

3 **A** It appears so, yes.

4 **Q** And you voted to approve this?

5 **A** Yes.

6 **Q** How much did the Auditor and the Clerk make in 2009.

7 **A** Together \$30,500.

8 **Q** Why did you bump it up ten or \$11,000 in 2010?

9 **A** I don't know.

10 **Q** No idea? Were you involved in the negotiations at all?

11 **A** In the discussion, yes.

12 **Q** Did you vote on both agreements?

13 **A** Yes, I did.

14 **Q** Did you vote yes for both agreements?

15 **A** Yes.

16 **Q** And you have no idea why you agreed to that \$10,000
17 increase between the agreement?

18 **A** I have an idea of why I agreed to it.

19 **Q** Can I hear it, please?

20 **A** Because I understand how much extra grief Shannon County
21 causes.

22 **Q** And there was a lot more grief in 2010 than 2009?

23 **A** Yes.

24 MS. FRANKENSTEIN: Are we talking about the
25 changes of '08 to '09?

1 **Q** Yes. Between '08 and '09 there was a lot of grief?

2 **A** Between '9 and '10. We haven't seen '8.

3 **Q** Right. But in 2009 the total amount of money paid to
4 the Auditor's Office was approximately \$30,000, correct?

5 **A** \$30,500.

6 **Q** And then in 2010 it was how much?

7 **A** \$40,500.

8 **Q** \$10,000 increase in one year, correct?

9 **A** Yes.

10 **Q** What was the grief you are talking about that you think
11 justified that \$10,000 increase? That's a good raise.

12 **A** Things that happened within our commission meetings, not
13 regarding voting.

14 **Q** Why would you raise the Auditor's services for things
15 that don't involve voting?

16 **A** Because she has a lot of other tasks.

17 **Q** So what disputes or what issues or what grief was being
18 discussed in commission meetings that, specific to the
19 Auditor's services, that justified this increase, in
20 your mind?

21 **A** I'm not at liberty to say. It was in executive session.

22 **Q** Go ahead and answer.

23 MS. FRANKENSTEIN: Hold on. Give me a second.

24 (Miss Frankenstein and Miss Hutchison stepped out.)

25 (A five-break was taken.)

1 MS. FRANKENSTEIN: You can go ahead and ask her
2 again. I think it will clear this up.

3 MR. SANDVEN: Could you go ahead and read the
4 question back, ma'am?

5 (The question was read back by the reporter as
6 follows: "So what disputes or what issues or what
7 grief was being discussed in commission meetings
8 that, specific to the Auditor's services that
9 justified this increase, in your mind?")

10 **A** I was mistaken on the years, so backing up another year,
11 I don't know. She just negotiated that amount, and we
12 agreed to it.

13 **Q** You have no idea on why you agreed to a \$10,000 increase
14 going to the Auditor's Office from 2009 to 2010?

15 **A** Other than personally I felt that it was justified.

16 **Q** Based upon what?

17 **A** What she does for our county.

18 **Q** What did she do different from '09 to '10?

19 **A** She didn't.

20 **Q** So what did she do that was justifying this \$10,000
21 increase?

22 **A** I personally have always felt like Shannon County
23 doesn't pay what we should for the services we receive
24 anyway. If we can manage to give a bigger amount, and
25 it still isn't a fair amount, then we try to.

1 **Q** Why didn't you take some of that money and put it into
2 election services in early voting?

3 **A** Because back in 2008 I was not aware of the fact that we
4 would need to do that.

5 **Q** When did you first learn that Shannon County residents
6 didn't have same access to in-person, early absentee
7 voting as Fall River folks?

8 **A** I first became aware of that when Four Directions came
9 to our meetings, and you.

10 **Q** And that was for the 2010 election cycle, ma'am?

11 **A** I believe so. You were at our meeting, right?

12 **Q** So why didn't you go ahead, if you were taking money
13 from Four Directions, \$5,000 -- why did you take money
14 from Four Directions from early voting, if you could
15 afford to do a \$10,000 increase to the Auditor's Office?

16 **A** Because that increase had already been made before we
17 were made aware of what you are talking about.

18 **Q** But why didn't you go ahead and say, hey, we've given
19 you an extra \$10,000, Auditor's Office, go do early
20 voting in Shannon County?

21 MS. FRANKENSTEIN: I will object. This has been
22 asked and answered.

23 **Q** Go ahead.

24 **A** I don't know why.

25 **Q** Can't think of a single reason?

1 **A** We did the best that we could at the time with what we
2 knew.

3 MR. SANDVEN: Can you mark this 20?

4 (Exhibit No. 20 was marked for identification.)

5 **Q** Hand you Exhibit 20, and do you recognize this document,
6 ma'am?

7 **A** 2008 Shannon-Fall River County contract.

8 **Q** Were you involved in this negotiation?

9 **A** Yes.

10 **Q** What was your role?

11 **A** Commissioner.

12 **Q** And you voted for this?

13 **A** Yes.

14 **Q** How much money was allocated to the Auditor's Office in
15 2008, ma'am?

16 **A** It appears to be for salaries, \$30,200.

17 **Q** When was the early voting provision first put into the
18 contract for services between Shannon County and Fall
19 River?

20 **A** I don't know that. It's in one of these contracts.

21 **Q** Was it in the 2010 contract, ma'am?

22 **A** I believe so.

23 **Q** Was it in the 2009?

24 **A** I don't believe so. That was not a voting year and I
25 don't believe all this had come to our attention at that

1 time. I don't see anything in here regarding that.

2 **Q** So the first time that early voting was put in a
3 contract, as far as you know, was in the 2010 agreement
4 with Fall River?

5 **A** Yes.

6 **Q** Why was it put in there?

7 **A** It seemed necessary.

8 **Q** Why was it necessary?

9 **A** Because Fall River wanted it in the contract.

10 **Q** Why?

11 **A** Because we would be taking personnel from those offices
12 and we needed to pin down who would be responsible for
13 the time and the costs.

14 **Q** Wasn't early voting without a reason; wasn't that
15 something in place since 2004?

16 **A** I don't know.

17 **Q** You don't know when it started?

18 **A** No, I don't.

19 **Q** So why did you agree to putting that provision regarding
20 early voting in the 2010 agreement?

21 **A** It seemed necessary.

22 **Q** All right. So in the same negotiations from 2009 to
23 2010 you did a \$10,000 bump increase in the Auditor's
24 salaries, correct, in that department?

25 **A** Yes.

1 **Q** A \$10,000 increase in the 2010 agreement, correct?

2 **A** Yes.

3 **Q** And yet at the same time you gave them an additional
4 \$10,000, you agreed that Shannon County should be billed
5 for all services associated with early voting in Shannon
6 County, correct?

7 **A** It appears so, yes.

8 **Q** Why?

9 **A** That was the amount that was established that Shannon
10 County needed to pay for the services.

11 **Q** Why would early voting require additional costs, while
12 at the same time you were doing a \$10,000 increase,
13 approximately a 25% increase for Auditor's Office
14 services?

15 **A** Now you have got me crossed up. State that again,
16 please.

17 **Q** Here's what I'm getting at. In 2010 that was the first
18 time that Shannon County was being billed for early
19 voting, correct?

20 **A** Yes.

21 MS. FRANKENSTEIN: On-site?

22 **Q** On-site, early voting, absentee voting, that was the
23 first time that they were being specifically billed in
24 agreement with Fall River for early voting. And at the
25 same time, you had increased the amount of money you

1 were paying to Fall River County, approximately 25% for
2 Auditor services; why?

3 **A** Because it was necessary to pay for the time we were
4 using.

5 **Q** Explain.

6 **A** That's all the explanation I can have.

7 **Q** So you don't know why you went ahead and agreed to going
8 ahead and paying these amounts for early voting,
9 approximately 30, \$40,000 a year while at the same time
10 agreeing to a \$10,000 increase to the Auditor's Office?

11 MS. FRANKENSTEIN: I'm going to object to the form
12 of the question, it doesn't include the 30 to \$40,000.
13 We talked about during the break that that might be the
14 cost associated with the 2012 elections for early voting
15 beginning four to six days prior. They didn't have that
16 early voting in the county at --

17 MR. SANDVEN: Go ahead.

18 **A** Well, why don't you restate the question subtracting out
19 those dollar figures.

20 **Q** The costs of early voting were to be taken or absorbed
21 by Shannon County, correct?

22 **A** Shannon County has to pay for the expenses we incur,
23 yes.

24 **Q** This was the first time that Shannon County agreed to
25 picking up those expenses?

1 **A** It's the first time that it was put in the contract.

2 **Q** So you are saying in previous elections that Shannon
3 County went ahead and paid costs, specific, to absentee
4 voting in Shannon County that weren't provided for under
5 the agreement?

6 **A** Absentee voting in the county, the way it was done when
7 these contracts were made, did not take them away from
8 their offices.

9 **Q** Early voting, without any reasons, began in 2004, right?

10 **A** These people were not taken out of their offices to
11 Shannon County in 2004; no.

12 **Q** In 2004 did you know that there were 15 days of early
13 voting on the Pine Ridge Indian Reservation?

14 **A** No, I did not. I voted on election day.

15 **Q** And in the 2008 election, there were two days of early
16 voting before the primary in Shannon County?

17 **A** I don't know.

18 **Q** And two days before the general?

19 **A** I don't know.

20 **Q** So people from the Fall River County Courthouse were
21 taken out of their office to conduct early voting in
22 Shannon County, weren't they?

23 **A** I don't know.

24 **Q** Okay. Do you remember any of the discussions at the
25 County Commission meeting, at any County Commission, or

1 at any negotiating session with Fall River, on why early
2 voting was put in the 2010 agreement?

3 **A** It was necessary to have it in the agreement to be sure
4 that Shannon County paid the bill that we incurred.

5 **Q** Who said that?

6 **A** In general.

7 **Q** Do you remember any conversations from any of the
8 negotiations for county commission meeting, regarding
9 the reasons for going ahead and putting the early voting
10 provision in the agreement with Fall River and Shannon
11 County for the first time in 2010?

12 **A** I don't remember the discussion. I do remember my
13 feeling about the contract.

14 **Q** What was your feeling?

15 **A** That it was necessary to protect Fall River County.

16 **Q** Weren't you negotiating on behalf of Shannon County
17 though?

18 **A** There isn't a negotiation that goes on. We were
19 approached with the contract and it's basically a take-
20 it-or-leave-it. I believe it's a fair contract.

21 **Q** I'd like you to tell me all the reasons that you believe
22 that is not a negotiation, and it's a take-it-or-leave-
23 it situation?

24 **A** Because, I personally do not believe we would have any
25 better deal with any other county.

1 **Q** You don't have anyone else to negotiate with, in other
2 words?

3 **A** That's my feeling, yes. If people had to drive to Rapid
4 City instead of Hot Springs, or to Martin instead of Hot
5 Springs, I don't believe it would be an improvement.
6 That's my feeling.

7 MR. SANDVEN: I have 12:30. What time would be a
8 good time to break?

9 MS. FRANKENSTEIN: Now would be a great time.

10 (A break was taken from 12:30 to 1:45.)

11 (Exhibit No. 21 was marked for identification.)

12 **Q** I'll hand you what's been marked 21. Do you recognize
13 this document?

14 **A** Yes, I do.

15 **Q** What is it, ma'am?

16 **A** Contract between Shannon and Fall River Counties, 2007.

17 **Q** How much was the Auditor's Office paid in 2007?

18 **A** \$16,300.

19 **Q** And how much was allocated for miscellaneous expenses to
20 the Auditor's Office?

21 **A** \$4,510.

22 **Q** In Exhibit 20, how much was paid to the Auditor's
23 Office?

24 **A** \$30,200.

25 **Q** That was what year?

1 **A** 2008.

2 **Q** What was the total paid to the Auditor's Office in 2008?

3 **A** \$30,200.

4 **Q** Okay. So why did things double from 2007 to 2008 to the
5 Auditor's Office?

6 **A** I don't know.

7 **Q** Were you involved in any of those discussions?

8 **A** I was a commissioner when the 2008 contract was made,
9 but not the one prior to that.

10 **Q** So in 2008 you went ahead and agreed to how much?

11 **A** \$30,200.

12 **Q** And then how much was it in 2007?

13 **A** \$16,300.

14 **Q** No idea why things doubled during that period?

15 **A** No. No idea.

16 **Q** You never went ahead and checked the baseline when you
17 went through negotiating how much --

18 **A** I didn't, no.

19 **Q** Do you know if anybody has?

20 **A** I don't know.

21 **Q** You have no idea why the contracts to Auditor's Office
22 increased from \$15,000 in 2007 to \$40,500 in 2010? I
23 mean that's almost tripling?

24 **A** I don't know. Everything goes up.

25 **Q** Tripled?

1 **A** I'm assuming that Fall River gave their employees raises
2 and we had to comply.

3 **Q** And that's your only understanding of why things tripled
4 during that time span?

5 **A** That's the only understanding I have.

6 **Q** That the contracts, the services went from \$15,000 to
7 \$40,500 because of cost of living allowances for
8 employees at the Fall River Courthouse?

9 **A** I don't know what Fall River gives their employees
10 raises, because of.

11 **Q** But even if you gave someone a 5% or 10% raise, it still
12 wouldn't result in --

13 **A** Their population may have changed, which puts them in a
14 higher bracket according to the State regs.

15 **Q** Put who in a higher bracket?

16 **A** Fall River. Shannon County's also.

17 **Q** So it's your understanding that payments to the
18 Auditor's Office increased from \$15,000 in 2007, to
19 \$40,500 in 2010, because of increased population and
20 employee wage increases?

21 **A** Well, it was \$16,300 in 2007.

22 **Q** Okay. And it was \$40,500 in 2010?

23 **A** Yes.

24 **Q** That's a dramatic increase; why?

25 **A** I assume it had to do with the fact that Fall River gave

1 their employees raises, and we needed to comply with our
2 portion.

3 **Q** And that's it?

4 **A** That's my understanding.

5 **Q** All right. Thank you.

6 MR. SANDVEN: Could I have this marked 17, please?

7 (Exhibit No. 17 was marked for identification.)

8 **Q** I'm going to hand you what's marked 17; do you recognize
9 that document, ma'am?

10 **A** Shannon-Fall River contract for 2011.

11 **Q** How much was the Auditor's Office paid in 2011?

12 **A** \$35,500.

13 **Q** Were you part of negotiating that agreement?

14 **A** Yes.

15 **Q** Tell me every reason you know on why, since you've been
16 a County Commissioner, that contracts increased from
17 15,000 in 2007, to 15,000, the figure in 2008, to
18 approximately 30,000 in 2009, \$40,500 in 2010; and then
19 it went down a little bit in 2011 to 35,500, and then
20 34,000 in 2012? What's your undergoing for these
21 fluctuations in the Auditor's Office for these contracts
22 that you have in front of you?

23 **A** My understanding was that in 2007, that's \$16,300, not
24 15,000, that we were not paying the proportion that we
25 should have been, so we jumped it up for 2008, '9 and

1 '10. And then we recognized that we were short of
2 money, and we dropped it back \$5,000 for 2011, because
3 we needed the money elsewhere.

4 **Q** So this proportion, what do you mean by that?

5 **A** The part that Shannon County needs to pay to pull Fall
6 River County to cover our obligations.

7 **Q** What are all the variables that you are aware of that go
8 into that proportionment decision?

9 **A** First of all, in my mind, I believe we pay approximately
10 one-third.

11 **Q** What are you basing that upon?

12 **A** That's just my understanding. I look at these salaries
13 and see that, in my mind, that's about one-third of what
14 people would earn.

15 **Q** Any other reason that you base your decision upon that
16 you pay approximately one-third of the salaries; is
17 there any reason for that, besides, that's the way it
18 works?

19 **A** I look at that salary and see that that person probably
20 cost three times that amount.

21 **Q** Okay.

22 **A** So in my mind that's how I justify it.

23 **Q** Right. So my question though is, these fluctuations
24 between the different years in varying from 16,000 --

25 **A** It crept up for four years and then down.

1 **Q** 16,000 to 40,000, that's creeping up to you?

2 **A** No, it isn't. That's a good jump. Up here these two
3 were a good jump.

4 **Q** Okay. So these jumps --

5 **A** Because we were not paying for the amount of time we
6 were utilizing.

7 **Q** Right. And you are basing that upon what?

8 **A** The amount of work that we are creating for them.

9 **Q** And you are basing that upon what?

10 **A** Looking and seeing.

11 **Q** Looking and seeing where?

12 **A** When I'm there, I see how much work Shannon County
13 causes those people.

14 **Q** So how do you do that? You walk into the courthouse and
15 how do you learn how much work Shannon County is causing
16 those people?

17 **A** Having been in a similar position, I understand when
18 they get requests to do certain things, that it takes a
19 lot more time to do that; just a general assumption I
20 have that we're causing them to utilize more time for
21 Shannon County.

22 **Q** What similar position have you been in?

23 **A** Business manager for the school district.

24 **Q** And how does that help you to understand the services
25 provided by Fall River County to Shannon River County

1 pursuant to these agreements?

2 **A** Because a School District Business Manager and a County
3 Auditor have similar responsibilities.

4 **Q** Because of your experience in election services?

5 **A** No. That's just one small job out of the task.

6 **Q** So you consider that a similar position, a County
7 Auditor to a Business Manager at a school system?

8 **A** Have a lot of similar obligations and responsibilities;
9 yes.

10 **Q** Okay. So you went in with what you consider to be this
11 similar job, and then how did you assess the workload
12 that was put upon this Auditor's Office by Shannon
13 County?

14 **A** I know what it takes to create a budget.

15 **Q** So the creation of the budget, that was one of the
16 variables, and what else?

17 **A** I know what it takes to conduct an election.

18 **Q** What else?

19 **A** I know what it takes to set up and carry through with
20 your regular monthly meetings; minutes, publications,
21 just the general duties, and also the number of
22 employees that you have to work.

23 **Q** How many employees are in the Auditor's Office?

24 **A** I believe there are five.

25 **Q** How many are dedicated to Shannon County exclusively?

1 **A** None, to my knowledge.

2 **Q** So how do you understand what portion of their duties go
3 for Shannon County and what portion of their duties go
4 for Fall River?

5 **A** I don't.

6 **Q** No idea?

7 **A** I assume a third. I assume we are paying for a third
8 and using over half, in some offices. In the Treasure's
9 Office I would say we use two-thirds of their time.

10 **Q** And what are you basing that on?

11 **A** Vehicle registrations. Shannon County licenses
12 two-times as many cars as Fall River does.

13 **Q** But specific to the Auditor's Office for election
14 services, and all the other stuff that an Auditor
15 does --

16 **A** The fact that they're able to do their county and their
17 office, and our county takes everybody away that far.
18 Obviously we all know that's a bigger job and takes a
19 lot more organization and time.

20 **Q** You mean just during the absentee voting where they have
21 to leave the office for a certain number of days?

22 **A** Well, that is the election process now.

23 **Q** Correct. But I'm trying to understand what you are
24 telling me, when two of their employees leave their
25 office to do early voting in Shannon County, how does

1 that fit into your assessment of increased needs there?

2 **A** For one thing, the day is half again as long as it would
3 be to do that same task for Fall River right there in
4 the office.

5 **Q** Going through the variables you just shared, on the
6 creation of a budget, have those responsibilities
7 increased dramatically from 2007 to present?

8 **A** I believe so, yes.

9 **Q** Why?

10 **A** Because when you don't have any money to work with, it's
11 twice as difficult to do.

12 **Q** Anything else on why you think the creation of a budget
13 or the budgeting process has changed dramatically from
14 2007 to present?

15 **A** That would be the main reason. When you don't have any
16 money to work with, it's twice as much work.

17 **Q** What do you mean?

18 **A** Trying to pin that down and nail down what you are going
19 to need, versus what you should have, versus what you
20 want. You have to negotiate individually with everyone
21 that brings you their budget request; cut it back.
22 Cutting back is a lot harder to do than just putting it
23 down and spending the money.

24 **Q** The second variable you talked about was conducting an
25 election. Have the requirements for conducting an

1 election increased the Auditor's duties considerably
2 from 2007 to present?

3 **A** Yes.

4 **Q** Explain.

5 **A** The laws have changed.

6 **Q** What laws have changed?

7 **A** And I don't know, from 1999, when I studied the election
8 code, until I've become aware of how things are lately,
9 I don't know exactly which year things took effect, but
10 there used to be an election day. You revved up and you
11 hired people for a day and now it's a two-month process.

12 **Q** Because of absentee balloting?

13 **A** That, and the questions on who can vote and who can't;
14 felons, for instance. That didn't use to be a question.
15 It's come to the limelight now, so it takes a lot more
16 attention.

17 **Q** Do a records check on some of the voters?

18 **A** Yes. It's more time consuming. And obviously where
19 she's in Fall River County in the courthouse building,
20 she's more aware of what goes on in that county. To
21 take care of those same obligations in Shannon County is
22 a little more daunting. It takes more time.

23 **Q** Explain.

24 **A** To double-check everything; to be certain of things.

25 She can find an address in Fall River County and send a

1 sheriff or a deputy out to check on somebody to see if
2 they're there, if they need to make contact. That can't
3 be done in our county.

4 **Q** The third element you discussed was monthly meeting
5 requirements. How has that changed from 2007 to
6 present?

7 **A** Everything takes a lot more time. In 2007 the agendas
8 were pretty short and routine, and now they're not.

9 **Q** So the process of drafting an agenda --

10 **A** Not drafting, but dealing with the people that want on
11 the agenda is more time consuming; yes.

12 **Q** For the Auditor's Office?

13 **A** Yes, because she's the one responsible for that.

14 **Q** When you talked about publications, how has that changed
15 since 2007 to present?

16 **A** We have two papers vying for our attention now, and that
17 can be ugly at times. There's a lot more to publish,
18 because the minutes used to be very short and now
19 they're long. You can't post things as simply as you
20 used to be able to. Everything has to be put on paper
21 and on the computer and posted a certain number of
22 places. There are three times the work to do that there
23 used to be.

24 **Q** With publications?

25 **A** With everything.

1 **Q** But specific to publications.

2 **A** It takes more time to be sure that it's right.

3 **Q** By the Auditor's Office?

4 **A** Yes.

5 **Q** And then you talked about general duties. What general
6 duties have changed from 2007 to present, ma'am?

7 **A** I'm not certain without a list, and to sit down and
8 study it.

9 **Q** Has the number of employees in that office changed from
10 2007 to present?

11 **A** I believe she may have one more than she used to have.

12 **Q** One additional employee as far as you know?

13 **A** I believe so.

14 **Q** Do you know what position that employee holds?

15 **A** No, I don't.

16 **Q** Do you know what that employee gets paid?

17 **A** No, I don't.

18 **Q** Have you ever researched in any manner, besides what you
19 just described, what the costs are for the Auditor's
20 Office to provide services to Shannon County?

21 **A** No, I haven't.

22 **Q** Do you know if anybody has?

23 **A** No, I don't know.

24 **Q** Have you heard anyone ever bring this up at any time?

25 **A** It's been brought up.

1 Q When was it brought up?

2 A I couldn't say exactly.

3 Q Who brought it up?

4 A I couldn't say that exactly.

5 Q When did they bring it up?

6 A Couldn't answer that exactly.

7 Q Where did they bring it up?

8 A Apparently in a meeting. That's the only other time I
9 see other people.

10 Q But you don't know what meeting or who did it or where
11 it happened?

12 A No.

13 MR. SANDVEN: Could I have this marked 36, ma'am?

14 (Exhibit No. 36 was marked for identification.)

15 Q I'll hand you what's been marked 36. Were you at this
16 meeting? Do you recognize this document?

17 A Yes.

18 Q Were you at this meeting?

19 A It says I was, yes.

20 Q Do you remember Four Directions, O.J. Semans being on
21 the agenda?

22 A Yes.

23 Q Do you know when he was placed on the agenda?

24 A No.

25 Q Was he there for the full meeting?

1 **A** I don't recall.

2 **Q** What do you remember about O.J. Semans at the
3 September 3, 2010, meeting; fifth page. At the bottom
4 of page four, do you remember that a request from
5 President Two Bulls from Oglala being presented by O.J.
6 Semans?

7 **A** I believe he had a letter from her.

8 **Q** And do you remember the contents of that letter?

9 **A** No, I don't.

10 **Q** Do you remember if O.J. Semans was on the agenda?

11 **A** Yes, I'm sure he was, or he wouldn't have been -- yes,
12 I'm sure he was on the agenda.

13 **Q** And you went ahead and the agenda, you have to be put on
14 the agenda 24 hours ahead of time?

15 **A** Yes.

16 **Q** And who prepares the agenda?

17 **A** The County Auditor.

18 **Q** And when do you get notified as a commissioner on the
19 agenda?

20 **A** We are able to get onto the computer, if you have one
21 and look at the agenda, or you see it when you get to
22 the meeting.

23 **Q** Do you recall when you learned that O.J. Semans was on
24 the agenda for the September 3, 2010 meeting?

25 **A** No, I don't.

1 **Q** Is this the first time that you learned about the
2 request letter from Tribal President Two Bulls to go
3 ahead and have early voting?

4 **A** Yes.

5 **Q** Do you remember the discussion on this issue?

6 **A** Somewhat.

7 **Q** Tell me everything you remember.

8 **A** I remember it was a very awkward day for a lot of
9 reasons that did not pertain to the election.

10 **Q** My question is about what do you remember about the
11 conversation with O.J. Semans regarding early voting?

12 **A** I remember that he presented this letter.

13 **Q** What was the discussion?

14 **A** I have to think back and who else was there. I don't
15 have a lot of recollection of specifics.

16 **Q** Do you remember anything about the discussion with O.J.
17 Semans regarding early voting?

18 **A** Not particular to this meeting, no.

19 **Q** You don't remember anything?

20 **A** I remember the meeting and I remember him being there
21 and presenting Theresa's letter.

22 **Q** Then what happened?

23 **A** I'm reading the minutes to find out what happened. I
24 believe he was told that we had not planned or budgeted
25 for early voting for the amount that he was asking, and

1 to not do it. What I specifically remember is we had
2 about four other things going on in the middle of this
3 conversation. Everybody was talking at once about
4 different subjects?

5 **Q** From the County Commission?

6 **A** No, the audience.

7 **Q** So O.J. was physically at the meeting and was presenting
8 an early voting request, and other people were raising--

9 **A** The meeting was out of order.

10 **Q** And no point of order was called by the chair?

11 **A** No.

12 **Q** What was going on? What were the other issues that --
13 people were yelling from the audience?

14 **A** I'm trying to be specific to this meeting. There were
15 other issues.

16 **Q** I'm asking specifically about the time when O.J. Semans
17 went ahead and made this request that's recorded in the
18 minutes. He made the request and he presented Two
19 Bulls' letter and then what happened?

20 **A** We explained that we were short of money, which we
21 always are. He offered -- I don't remember that he
22 offered the 5,000 that day, but that's initially what
23 turned up to be. I don't have other recollections,
24 specifically, of what was said.

25 **Q** At the top of page five -- and it looks like this is all

1 the same paragraph, on the bottom of page 4 it starts
2 off with, there was a request by President Two Bulls
3 presented by O.J. Semans?

4 **A** That was the letter.

5 **Q** And then at the top of page five there's another
6 paragraph, isn't there? And after it says that he asked
7 for your approval for early voting, and then it says
8 upon discussion of the request, what request is that
9 referring to?

10 **A** I don't know.

11 **Q** It's in the same paragraph as the request O.J. Semans
12 was making. So is that referencing the request being
13 made by O.J. Semans or not?

14 **A** No, it was not.

15 **Q** How can you say that?

16 **A** Because I was there.

17 **Q** And what was happening?

18 **A** Before O.J. ever got up for his turn, there was another
19 upset that caused the State's Attorney to present that
20 notice.

21 **Q** But if you go back to page four, it says motion by
22 Hutchison, that's you, correct; seconded by Yellow Bull,
23 to again deny the request for burial assistance. With
24 no further discussion, all voting, yes, the motion
25 carried. Do you remember voting on that motion?

1 **A** Yes, I do.

2 **Q** So the whole commission votes yah to deny the request
3 for burial assistance, correct?

4 **A** Yes.

5 **Q** And then O.J. comes in and goes ahead and presents his
6 request from President Two Bulls regarding early vote?

7 **A** Yes.

8 **Q** In the same paragraph it says, "Upon discussion of the
9 request, State's Attorney Sword presented the board with
10 a 30-day notice of intent to terminate the contract and
11 other officials with Shannon County". What request are
12 these minutes referring to?

13 **A** If you back up on page four, you see that there were
14 three, maybe four items there that were very upsetting
15 to some of the Commissioners, and a lot of the audience.
16 And the audience was large that day. The Sheriff issue
17 was one.

18 **Q** My question, which request was this referring to?

19 **A** It had to do with -- it was a combination of things, but
20 mainly back to the disagreement over the Sheriff.

21 **Q** How do you know that?

22 **A** That was my conception.

23 **Q** What was your conception based upon?

24 **A** What I saw and heard.

25 **Q** What did you see and hear?

1 **A** That the Sheriff was the general contention. People on
2 both sides were unhappy. His attorney was there.
3 People on both sides were there regarding that issue.
4 We also had people there asking for this burial request
5 for the second time, and they were not happy. Those
6 same people were not happy with the Sheriff. It just
7 began to be a big mess. So we took a break to let
8 everybody go their different directions and cool down.

9 **Q** Right in the middle of O.J. Semans' presenting his
10 request?

11 **A** It wasn't in the middle of his request. He had made it
12 when some of the audience blew up and --

13 **Q** Blew up over his request?

14 **A** No, no, it had nothing to do with his request. It was
15 over what we had denied prior to that.

16 **Q** The burial assistance?

17 **A** That was one item. Another item was the Sheriff.

18 **Q** I thought you took a meeting break at 1:35?

19 **A** We resumed at 1:35.

20 **Q** Right. You were on break from 1:10 to 1:35, correct?

21 **A** Yes.

22 **Q** And then you were back from a break. So what happened
23 after the break was that Hagman asked if the lawsuits
24 would be laid to rest and Colhoff indicated she couldn't
25 speak to that; correct?

1 **A** That's what it says.

2 **Q** Well, is that what you remember or you don't remember?

3 **A** Yes, I do.

4 **Q** And then Wendell Yellow Bull asked for a decision on the
5 second request for payment of expenses. Do you remember
6 that?

7 **A** I didn't, but, yes, it says that here.

8 **Q** And State's Attorney reviewed the codified law and
9 advised the board. And then you went ahead and made a
10 motion, and everyone voted, yes, and the motion carried.
11 Do you remember that?

12 **A** Yes.

13 **Q** Then O.J. Semans comes up and presents this request on
14 early voting. And then, upon discussion of the request
15 and you're saying that's referencing -- was it something
16 before the break you are saying, or after the break?

17 **A** The upset was before the break. The upset was before
18 this meeting. There was a culmination of things that
19 just happened to come to a peak when O.J. got up for his
20 turn.

21 **Q** How long had O.J. sat down from making his request,
22 before the discussion of the request, before Sword
23 presented the board with the 30-day notice of intent to
24 withdraw?

25 **A** The State's Attorney was not in the meeting. He had

1 left the meeting after we were done discussing the
2 Sheriff issue.

3 **Q** Do you know how much time elapsed from O.J. making his
4 presentation to the County Commission until Mr. Sword
5 came back into the room and presented the board with the
6 30-day Notice of Intent to Terminate the Contract?

7 **A** No, I don't know how much time elapsed. I believe O.J.
8 was still in the process of explaining himself when he
9 came back in.

10 **Q** So Mr. Semans was going ahead and talking about early
11 voting, and Mr. Sword comes in while he's still
12 discussing it and goes ahead and says, stop, we've got
13 to go ahead and deal with this 30-day Notice of Intent
14 to Terminate?

15 **A** I don't remember that that was said.

16 **Q** What do you remember being said?

17 **A** Like I said, I remember four different factions all at
18 war at the same time and it was hard to keep track of
19 who said what and when.

20 **Q** Right. What do you remember Mr. Sword saying at this
21 time while O.J. Semans is presenting his early voting
22 pitch?

23 **A** It was hard to pay attention to O.J. because of all the
24 other people talking about their issues at the same
25 time. He had already been interrupted before Mr. Sword

1 came in.

2 **Q** Why?

3 **A** From the other factions.

4 **Q** Why were they interrupting O.J.? They were challenging
5 early voting?

6 **A** It had nothing to do with early voting. They were on
7 the fight over their taxes and their roads and the
8 Sheriff and the indigent burial that wasn't happening.
9 Everyone was on the fight in different corners of the
10 room all talking at once.

11 **Q** So you don't remember what Mr. Sword said when he came
12 into the room?

13 **A** Not specifically, no.

14 **Q** Generally?

15 **A** I know that O.J. was interrupted generally.

16 **Q** Do you remember anything that Mr. Sword said at that
17 time?

18 **A** Not specifically, no.

19 **Q** Generally?

20 **A** Other than what it says in the minutes. He was fed up
21 because his advice wasn't being taken seriously. He
22 felt --

23 **Q** Who wasn't taking his advice seriously?

24 **A** He felt he was being disrespected, that was my concept.

25 **Q** By who?

1 **A** He did not say that. By some of the Commission, by a
2 lot of the public.

3 **Q** So then he goes ahead and presents a 30-day Notice of
4 Intent to Terminate the Contract?

5 **A** It was all in one sweep.

6 **Q** He started handing out the termination notices?

7 **A** No. There was only one.

8 **Q** And he handed it out and said, sign this?

9 **A** No, he laid it on the table as I remember.

10 **Q** And what did he say then?

11 **A** He presented his 30-day Notice of Intent and said what
12 it was and left.

13 **Q** What did you do then?

14 **A** I said everyone should -- it says here I asked to back
15 up, I just wanted everybody to sit back and calm down
16 and think before they talked.

17 **Q** And then O.J. Semans suggested that the Tribe could take
18 over the function of the Auditor's Office?

19 **A** He did, which threw fuel on the fire.

20 **Q** What fire and what fuel?

21 **A** I just explained the fire. The four factions that were
22 all mad for different reasons.

23 **Q** Now they were mad that O.J. Semans wanted to set up an
24 Auditor's Office?

25 **A** Well, you can't just go set up an Auditor's Office

1 somewhere. The absurdity of it was disgusting to me.

2 **Q** So, you were disgusted by this?

3 **A** I was, because it's absurd. You can't just go create an
4 Auditor's Office on a whim. We were having enough
5 trouble to start with before one more person jumped up
6 with a bright idea.

7 **Q** So O.J. Semans was talking before Mr. Sword came in,
8 correct?

9 **A** Possibly. Everyone was talking at once.

10 **Q** And then O.J. Semans was talking when James Sword came
11 in?

12 **A** I'm not certain.

13 **Q** I thought that's what you said --

14 **A** Everyone was talking at once at will.

15 **Q** And then I thought by looking at the minutes you just
16 explained that O.J. was talking again after James Sword
17 came in with the Notice to Terminate?

18 **A** No one stopped talking.

19 **Q** Discussion was held on whether they would need pre-
20 clearance by the U.S. Department of Justice. What do
21 you remember about that?

22 **A** I don't remember -- it may have been our Auditor that
23 said, we can't just make a motion and make a move and
24 change anything without getting preclearance clearance
25 from the Department of Justice.

1 **Q** Who said that this process should have been started
2 earlier?

3 **A** It takes a length of time to get a preclearance.

4 **Q** Understood. Do you know who said that?

5 **A** No, unless it says here.

6 **Q** Next paragraph, O.J. Semans suggested Four Directions
7 could provide the support for early voting; do you
8 remember that?

9 **A** Possibly, yes. I don't remember the terminology, other
10 than what it says.

11 **Q** And offered to compromise and narrowing services down to
12 one location; do you remember that?

13 **A** Yes. I'll go along with what the minutes say.

14 **Q** I'm asking if you remember any of this conversation?

15 **A** Specifically, I do not remember, no.

16 **Q** Generally do you remember?

17 **A** In general I remember.

18 **Q** What do you remember generally?

19 MS. FRANKENSTEIN: Hold on. I would just ask that
20 the two of you not talk one on top of the other and so
21 we will get a clean record.

22 **Q** Go ahead.

23 **A** In general I remember all of this. Specifically, no.

24 **Q** Do you remember any of the discussion on hours for early
25 voting?

1 **A** No, I do not.

2 **Q** Anything regarding early voting commencing on the week
3 of September 27, 2010?

4 **A** Not that specific date. I do remember a little
5 discussion on the fact that they could not get down
6 there before 10 a.m. and would need to leave at 3 p.m.
7 because we didn't have the money budgeted for overtime.
8 So I do remember a discussion about that.

9 **Q** And then when Wendell Yellow Bull discussed the
10 requirements of the Memorandum of Agreement, he was
11 referring to the Memorandum of Agreement regarding --

12 **A** With the Department of Justice.

13 **Q** -- voting issues?

14 **A** Yes.

15 **Q** What was the discussion?

16 **A** I don't remember that either.

17 **Q** Is any of the meeting recorded?

18 **A** No.

19 **Q** You don't record meetings down there?

20 **A** No. I wish they would.

21 **Q** And then you went ahead and advised Mr. Pumpkin Seed
22 that the 30-day notice had been received by the board?

23 **A** Yes. That was another frustration of the day. Francis
24 was on the phone instead of at the meeting. You can't
25 hear over that.

1 **Q** And you urged caution in moving towards Shannon County,
2 conducting county business?

3 **A** There was some discussion over, let's just take our
4 county to our county, and, yes, I urged discretion over
5 doing that, because it can't be done legally.

6 **Q** What did you say, if anything, regarding no reason
7 another entity would want to take over providing
8 services?

9 **A** The same thing I've said to you earlier today, and I say
10 every time I get to talk about it, we can't support
11 ourselves. No one is going to want to touch us.

12 **Q** And then after that O.J. Semans again asked the board to
13 allow early voting access in Shannon County?

14 **A** That's what it says, yes.

15 **Q** Do you remember anything about that?

16 **A** Not specifics, no.

17 **Q** And Miss Ganje offered to provide staff and services to
18 make early voting available?

19 **A** Yes. She was more willing than the rest of us were.

20 **Q** And then the next motion, there was motion by Mr. Yellow
21 Bull to tentatively approve early voting in Shannon
22 County?

23 **A** Motion by Pumpkin Seed.

24 **Q** Motion by Pumpkin See, seconded by Wendell?

25 **A** Yes, that's what it says.

1 **Q** Did that pass?

2 **A** Yes, it did.

3 **Q** And there was a special meeting scheduled on
4 September 9th to work out the details of early voting?

5 **A** Yes.

6 **Q** Did that happen?

7 **A** Yes.

8 **Q** What happened at the September 9th meeting?

9 **A** I don't know. Do you have the minutes?

10 **Q** We will get into that. Then there was another motion by
11 you regarding the 2011 annual budget?

12 **A** Yes.

13 **Q** Was there ever any discussion regarding absentee
14 balloting in Shannon County, the costs associated with
15 that?

16 **A** I believe that we were under a deadline to approve our
17 preliminary budget, and we only had the money that was
18 already put in the budget to do that with. What was the
19 question again?

20 **Q** You had just had all this discussion regarding early
21 voting and costs, correct?

22 **A** Yes.

23 **Q** And then you passed a budget immediately after that
24 discussion, correct?

25 **A** Yes, which had already been prepared before this request

1 for early voting.

2 **Q** Right. Why didn't you make an amendment motion to the
3 budget for early voting at that time?

4 **A** On this day?

5 **Q** Yes.

6 **A** Because we had a Sheriff and his attorney and a family
7 wanting their indigent family member buried and some mad
8 taxpayers and some roads that weren't fixed.

9 **Q** It was time to go?

10 **A** One commissioner on the phone that couldn't hear and
11 wanted things that were not reasonable. And, yes, it
12 was time to put an end to the circus.

13 **Q** But the circus kept going, didn't it?

14 **A** Yes it did; on and on.

15 **Q** Did you ever make an amendment to the 2011 budget to
16 provide for early voting?

17 **A** Not 2011, there wasn't an election year.

18 **Q** 2010?

19 **A** I believe we did, but I don't have that budget in front
20 of me.

21 **Q** So you went ahead and wrapped up this meeting, and the
22 commission voted to accept the 30-day Notice of Intent
23 to cease providing services, correct?

24 **A** We had no choice but to accept it; yes, we did.

25 **Q** And you adjourned the meeting then?

1 **A** Yes. That was the best motion of the day.

2 MR. SANDVEN: Can I have this marked Exhibit 3,
3 please?

4 (Exhibit No. 3 was marked for identification.)

5 **Q** Do you recognize this document?

6 **A** Shannon County Commission Meeting, September 9, 2011.

7 **Q** Do I have the wrong year here? This is not the
8 September 9th meeting that you were referring to?

9 **A** Should have been 2010.

10 **Q** Do you recall anything that happened at that meeting
11 regarding early voting?

12 **A** Not without looking at the minutes, no.

13 (Exhibit No. 53 was marked for identification.)

14 **Q** Have you seen this document before?

15 **A** Yes, I have.

16 **Q** When did you first see it?

17 **A** Apparently some time after October 21, 2009.

18 **Q** Was there discussion regarding this memo?

19 **A** I'm certain there was.

20 **Q** Do you recall anything that was said?

21 **A** No.

22 **Q** On the second page it says, "Shannon County and Sue are
23 willing to work with DOJ to improve the voting process,
24 but we won't be threatened, intimidated into signing any
25 settlement agreement". Is this the Shannon County's

1 position?

2 **A** He's our representative.

3 **Q** Was there any discussion by you on this, on where you
4 felt threatened and intimidated into signing an
5 agreement?

6 **A** I didn't, personally; no.

7 **Q** So who in Shannon County did?

8 **A** I can't speak to other people's feelings.

9 **Q** Do you know anybody that felt threatened?

10 **A** Quite possibly, and in general.

11 **Q** Who specifically do you think was threatened?

12 **A** I believe this was following sometime not too long after
13 the meeting in Pine Ridge that was very hostile.

14 **Q** Which meeting in Pine Ridge, ma'am?

15 **A** We've only had one there.

16 **Q** When was that?

17 **A** At the Billy Mills' hall, and I don't know the date
18 exactly.

19 **Q** What happened there?

20 **A** Short of a riot, I wouldn't know what else to call it.

21 **Q** Please describe what you are talking about?

22 **A** Insulting, intimidating. It was basically, get the Fall
23 River County, Shannon County people down there and pick
24 on them.

25 **Q** What picking?

1 **A** Insulting, intimidating.

2 **Q** I'm asking what happened; what was said?

3 **A** It was a long meeting.

4 **Q** When did it begin?

5 **A** I don't know. I don't recall the date.

6 **Q** Who was in attendance?

7 **A** Anybody that happened to be walking by on the street
8 came in because they thought it was a free meal.

9 **Q** And you were representing Shannon County Commission at
10 that meeting?

11 **A** I was a commissioner then, yes.

12 **Q** And so you had the full Shannon County Commission there?

13 **A** I don't remember who all was present.

14 **Q** Was any of the Fall River Commission members there?

15 **A** No.

16 **Q** Just Shannon County Commission members.

17 **A** We've never met with Fall River?

18 **Q** You've never had a meeting with Fall River?

19 **A** No.

20 **Q** How do these agreements get approved?

21 **A** The attorney who works for both counties.

22 **Q** Just runs them back and forth?

23 **A** Yes.

24 **Q** And that's Mr. Sword?

25 **A** Yes. Now it is.

1 **Q** And you folks never officially sit down and speak with a
2 Fall River County Commission representatives?

3 **A** I've never met the Fall River County Commissioners.

4 **Q** Why not?

5 **A** We've not had a reason to.

6 **Q** To negotiate an agreement. You have an agreement for
7 services?

8 **A** It was negotiated way back when, and it has worked up
9 until now to do it this way. I'm the commissioner
10 that's been on our current commission the longest, but I
11 haven't been there very long. All of this was done
12 years ago --

13 **Q** Five years.

14 **A** -- and we've just continued to build on it.

15 **Q** So the county commissions have never norm formally met?

16 **A** No; ever; not to my knowledge.

17 **Q** Have you ever attended one of the Fall River County
18 Commission meetings?

19 **A** No, I haven't.

20 **Q** Has anyone from the Fall River County Commission ever
21 attended one of your meetings?

22 **A** One time Mike Ortner came into one of our meetings, and
23 I don't even remember what to inform us of. It was
24 something simple, like they wanted to let their Fall
25 River County employees off at noon before a holiday, and

1 would we agree to do that; something like that.

2 **Q** Have you ever went ahead and called anyone on the Fall
3 River County Commission and talked about the agreement?

4 **A** No, I have no reason to.

5 **Q** Have you ever e-mailed anyone on the Fall River County
6 Commission?

7 **A** I don't know who they are.

8 **Q** Do you know if anyone from the current commission has
9 ever had any communication with the Fall River County
10 Commission?

11 **A** I believe Deloris Hagman attended one of their meetings.

12 **Q** Was it regarding negotiations of this agreement?

13 **A** No, she just sat in on one of their meetings.

14 **Q** Just to see how they do business over there?

15 **A** Yes.

16 **Q** And she just went there as an individual and not a
17 representative of the Shannon County Commission?

18 **A** No, just on her own to watch a meeting of another
19 county.

20 **Q** Anybody else that you know that has ever communicated
21 from your commission with Fall River County Commission?

22 **A** No.

23 MR. SANDVEN: Could you mark this 54, please?

24 **A** (Exhibit No. 54 was marked for identification.)

25 **Q** I'll hand you Exhibit 54 and do you recognize this

1 document?

2 **A** I have seen this; yes.

3 **Q** When did you first see this?

4 **A** Apparently sometime after December 31, 2009. I don't
5 remember the date.

6 **Q** Jumping back to Exhibit 53, do you know if Mr. Sword was
7 acting on behalf of Shannon County Commission? You are
8 looking at 54, if you could jump back to Exhibit 53, the
9 one we just had. Was it your understanding that Mr.
10 Sword was representing Shannon County in Exhibit 53?

11 **A** Did we tell him what to write; is that your question?

12 **Q** Yes.

13 **A** No, we did not.

14 **Q** All right. And then you look at the letterhead and it
15 says that it's the Office of the State's Attorney, Fall
16 River and Shannon Counties. So how do you know who
17 James Sword is representing in correspondence like this;
18 Fall River or Shannon County?

19 **A** I don't.

20 **Q** Here on Exhibit 53, just Shannon County was copied in,
21 correct?

22 **A** Yes.

23 **Q** Not Fall River?

24 **A** Correct.

25 **Q** Do you remember how you received Exhibit Number 54?

1 **A** I believe it was handed to us at a commission meeting.

2 **Q** A draft was handed to you or after it was written it was
3 handed to you?

4 **A** After it was written.

5 **Q** Did Mr. Sword get permission of you to send it to the
6 Department of Justice before it was provided to you?

7 **A** Did we see a draft and approve it; is that what you are
8 asking?

9 **Q** Yes.

10 **A** No, we did not.

11 **Q** Did you see a draft and approve Exhibit Number 53?

12 **A** No.

13 **Q** On the second page of Exhibit 54 it goes ahead and
14 states at the end, second to the last paragraph,
15 "However, if a voting rights complaint is filed, I will
16 resign; Sue will resign". Is he referring to Sue Ganje
17 when he talks about, Sue will with resign?

18 **A** There is no other Sue, so I'm assuming so, yes.

19 **Q** How many times has Mr. Sword threatened to resign since
20 you've been on the county commission?

21 **A** He didn't threaten to resign to the commissioners. This
22 letter went to the U.S. Attorney in Sioux Falls.

23 **Q** You didn't consider this a threat to resign?

24 **A** No, I considered he was very distressed and upset about
25 what all was going on and fed up with it, so he's

1 considering resigning. I didn't blame him for that.

2 **Q** Right. It says, however if a voting rights complaint is
3 filed I will resign.

4 **A** And when I read this letter that was the first I knew
5 that.

6 **Q** Have there been any other instances besides this
7 September 3, 2010 meeting, where he's threatened to
8 resign, since you've been on the county commission?

9 **A** Not to come into our meeting and do that, no.

10 **Q** In any way?

11 **A** No, other than to let us know that he's doing the best
12 he can and if we're not satisfied with it he will
13 resign.

14 **Q** Upon request?

15 **A** Well, that may have been inferred.

16 **Q** Okay. But do you consider him ever having threatened to
17 resign?

18 **A** I've seen him be so fed up that he just wanted done with
19 it, yes.

20 **Q** So you have seen him threaten to resign?

21 **A** He did not threaten to resign. He was so fed up that he
22 was sick of the whole mess.

23 **Q** What did he say?

24 **A** About that, I'm fed of it and I'm sick of the whole
25 mess. And that's not a quote, that's my perception of

1 what he meant. When I reread all of these, I don't
2 blame him for feeling that way. If you've done the best
3 job you can do, and you still get kicked, there isn't
4 much you can do but leave.

5 MR. SANDVEN: Could I have this marked as 55?

6 (Exhibit No. 55 was marked for identification.)

7 **Q** Have you seen this document before?

8 **A** Yes.

9 **Q** What is it?

10 **A** Our Memorandum of Agreement with the United States
11 Government.

12 **Q** What was your involvement here?

13 **A** I was a commissioner and we accepted this.

14 **Q** Do you remember any provisions on early voting?

15 **A** Just that we had to do it according to the time line
16 that Sara Beth set out for us. And to my knowledge
17 we've complied to every bit of this. And this
18 memorandum I believe it ends in 2013, at the end of this
19 election cycle.

20 **Q** Who was the attorney for Shannon County on this
21 agreement?

22 **A** I don't know.

23 **Q** Who provided legal advice to Shannon County before you
24 folks signed this agreement?

25 **A** Sara Frankenstein?

1 MS. FRANKENSTEIN: No, I must interject. It
2 wasn't me.

3 **A** It had to be Jim.

4 **Q** Who provided legal advice for Fall River regarding this
5 agreement?

6 **A** I don't know.

7 **Q** Who provided legal advice to Sue Ganje for this
8 agreement?

9 **A** I don't know.

10 MR. SANDVEN: Could I have this marked 56, ma'am?

11 (Exhibit No. 56 was marked for identification.)

12 **Q** Are you familiar with what's marked as Exhibit 56?

13 **A** I'm familiarizing myself with it. Yes.

14 **Q** Do you recall when you first saw this memorandum?

15 **A** I believe this is the letter that O.J. brought to our
16 meeting.

17 **Q** The September 3, 2010 meeting?

18 **A** Yes.

19 **Q** And you received a copy of it then?

20 **A** Yes.

21 **Q** On the second page, in the offer, Theresa Two Bulls
22 states in the second to the last paragraph on the second
23 page, "Reimbursement of the Fall River County Auditor
24 for this proposal up to \$5,500 per satellite office,
25 \$11,000 total"; do you remember that?

1 **A** I believe we received \$5,000.

2 **Q** Why didn't you ask for the whole amount; \$11,000?

3 **A** Because I believe in the end they only sent us 5,000,
4 which was good.

5 **Q** You never requested the full amount, did you?

6 **A** I don't know. The Auditor makes the requests.

7 **Q** Have you ever talked with anyone and say, hey, did we
8 get our full 11,000 for early voting here?

9 **A** I believe when we asked that question we were told that
10 the costs that were incurred were reimbursed that they
11 had obligated themselves for.

12 **Q** Right. But did you ever take the full \$11,000 offered
13 by Four Directions for paying for early voting?

14 **A** No.

15 **Q** Why not?

16 **A** I'm not certain.

17 **Q** And you didn't have the full number of days for early
18 voting during the 2010 election cycle that other
19 counties got, did you?

20 **A** No.

21 MS. FRANKENSTEIN: On-site are you asking?

22 MR. SANDVEN: In person, absentee voting. Shannon
23 County received less days than other folks.

24 MS. FRANKENSTEIN: I will object to the form of
25 the question and ask you to clarify as to absentee

1 voting in general or absentee voting --

2 **Q** We'll go through the drill now and it will take a little
3 while. In 2010, do you know how many days of early
4 voting in person that Fall River County folks had where
5 they could go to the Fall River County Courthouse and
6 request an absentee ballot?

7 **A** No, I do not know.

8 **Q** In the 2010 election cycle, I thought I heard you
9 testify earlier, you didn't know of any days of early
10 voting in Shannon County before the primary election
11 correct, in 2010?

12 **A** We had some days.

13 **Q** Before the primary?

14 **A** No. Sorry.

15 **Q** You didn't have a single day, did you?

16 **A** Correct.

17 **Q** But in Fall River they went ahead and had early voting
18 in person at the Fall River County Courthouse for the
19 full 46 days, correct?

20 **A** I don't know.

21 **Q** And then do you know if you got the same number of days
22 of early voting in Shannon County before the general
23 election in 2010 as other counties?

24 **A** I don't believe we did.

25 **Q** So why didn't you take the money to give your people the

1 same rights that other counties had?

2 **A** I don't know. The Auditor negotiated with Four
3 Directions.

4 **Q** And you never followed up on any of this, in this
5 August 18, 2010 letter?

6 **A** I didn't, no.

7 **Q** You have no idea how many days of absentee balloting in
8 Shannon County occurred before the 2010 general
9 election?

10 **A** I don't recall exactly how many days; no.

11 **Q** Generally?

12 **A** No.

13 **Q** You have no idea?

14 **A** I don't remember. I've looked through so many of these
15 I've completely gotten mixed up and don't remember which
16 was which.

17 **Q** Do you know how many days of early voting that Shannon
18 County received before the primary election in 2008?

19 **A** Not without looking at some records; no.

20 **Q** No idea? Do you know how many days of early voting
21 before the general election in 2008 that Shannon County
22 residents received where they could vote in person in
23 Shannon County?

24 **A** I don't recall the exact number of days.

25 **Q** General number?

1 **A** I don't want to say.

2 **Q** No idea?

3 **A** I know there were some days. I'm thinking it was 23,
4 but that's a guess in the dark.

5 **Q** You think there were 23 days of early voting during the
6 2008 election cycle?

7 MS. FRANKENSTEIN: Steve, we'd be happy to
8 stipulate that whatever the minutes indicate that early
9 voting days on site in Shannon County were indicated in
10 our records are what they were. I think that would
11 speed things up a great deal.

12 MR. SANDVEN: Okay.

13 (Exhibit No. 109 was marked for identification.)

14 **Q** Are you familiar with this document?

15 **A** Yes, I am. It's the lease between Shannon County and
16 the Oglala Sioux Tribe for an election office in Pine
17 Ridge.

18 **Q** And when was this approved?

19 **A** It appears to be March 7, 2012.

20 **Q** When is the first time that there was discussions on
21 using the EDA Building in Pine Ridge for early voting?

22 **A** At this commission meeting when this was approved.

23 **Q** That was the first time that there'd ever been any
24 discussions --

25 **A** To use this site. We had sent our election coordinator,

1 Jean Belt, to find a place for us to use. She had
2 negotiated this with the Tribe, and they sent their
3 emissary up to make an agreement with us.

4 **Q** So this is the first time that this March 2, 2012
5 hearing, that's the first time you were considering this
6 lease?

7 **A** The first time we knew there was an available spot for
8 us to use.

9 **Q** So before March 2, 2012, you had no idea where early
10 voting would occur in Shannon County?

11 **A** Correct.

12 **Q** How come?

13 **A** Because there's no available place in Pine Ridge.

14 **Q** Did you folks ever go to the Tribe and ask the Tribe's
15 office?

16 **A** Yes, and this is the result.

17 **Q** When did you first go to the Tribe and say, where can we
18 do early voting?

19 **A** I'm not certain. Jean Belt went to find somewhere.

20 **Q** Who is Jean Belt?

21 **A** She's the election coordinator.

22 **Q** Do you remember if she did this in 2011?

23 **A** We had an office at the old hospital in 2010.

24 **Q** My question is, when did she begin soliciting a location
25 for early voting?

1 **A** I don't know.

2 **Q** When is the first time you've heard any discussion about
3 early voting in Shannon County?

4 **A** We discuss it at every meeting.

5 **Q** When is the first meeting you recalled discussing where
6 the early voting location would be in Shannon County for
7 the 2012 primary election?

8 **A** At this meeting when Bob Palmer brought this to us.

9 **Q** And who is Bob Palmer?

10 **A** He's the Tribe's emissary in charge of taking care of
11 leasing us the spot.

12 **Q** So you had No idea where early voting was going to occur
13 in Shannon County before this March 2, 2012, meeting?

14 **A** No.

15 MR. SANDVEN: Could I have this marked 102?

16 (Exhibit No. 102 was marked for identification.)

17 **Q** Are you familiar with this document marked 102?

18 **A** This I do not recollect.

19 **Q** You don't remember any request from my office to the
20 Shannon County Commission for early voting?

21 **A** Not specifically, no.

22 **Q** Generally?

23 **A** Generally, yes.

24 **Q** Is this Shannon County Commission's mailing address?

25 **A** Yes, it is, and it's not to say that I didn't have this

1 in my packet, but I don't specifically remember reading
2 it before.

3 **Q** When is the first time you knew some of the Shannon
4 River(sic) folks were requesting early voting in Shannon
5 County?

6 **A** For this election cycle?

7 **Q** For the 2012 primary?

8 **A** I've known since 2008 that early voting was always a
9 request.

10 **Q** What do you mean?

11 **A** When we talk election, that's part of it. We know that
12 people want that.

13 **Q** So why didn't you start looking for office space for
14 early voting until March 2, 2012 in Shannon County?

15 **A** Because it is not available. Jean Belt is our election
16 coordinator, and it was her task to find a place to do
17 that.

18 **Q** How do you know that?

19 **A** Sue Ganje, the Auditor, told her to find some where to
20 do early voting.

21 **Q** How do you know that?

22 **A** Jean comes to our commission meetings to report that she
23 had looked.

24 **Q** When was that?

25 **A** I don't know, specifically.

1 **Q** Generally?

2 **A** One of our meetings in the last six months.

3 **Q** No idea when though?

4 **A** I don't recall exactly. She'll be at our meeting
5 tomorrow to report again, and she was at our meeting
6 last month.

7 **Q** How many pages do you have there on that?

8 **A** Two.

9 (Exhibit No. 103 was marked for identification.)

10 **Q** Do you recognize this document marked Exhibit 103?

11 **A** Yes, I do recognize this.

12 **Q** Do you recall when you first saw this letter?

13 **A** Not specifically, no.

14 **Q** Generally?

15 **A** At I believe our December regular meeting, 2011.

16 **Q** Had you been looking for early voting locations by this
17 time?

18 **A** I hadn't personally; no.

19 **Q** Had anybody?

20 **A** According to the Auditor, yes.

21 **Q** Was there a report at the December meeting regarding
22 early voting?

23 **A** There was discussions regarding early voting.

24 **Q** What was the discussion?

25 **A** How long we could afford to have it; where we would have

1 it; who would be in charge of it; how we would pay for
2 it.

3 **Q** Tell me everything you remember about the discussions
4 regarding whether or not you could pay for it, whether
5 you could afford it?

6 **A** Well, I'm the one that always brings up the,
7 we-can't-afford-it issue, so I remember that.

8 **Q** So you got the request and said, we can't afford this?

9 **A** The request has nothing to do with it. It's like any
10 other thing that we need to plan and budget for. No one
11 needs to request that it be done.

12 **Q** Are you sure?

13 **A** I'm sure. It's on our list of things to try to do
14 right. It doesn't take a request to cause it to happen.

15 **Q** What do you mean the request to do things right?

16 **A** Well, that's like requesting that you hold monthly
17 meetings. By State statute, we're supposed to. Now by
18 State statute we're supposed to have early voting.

19 **Q** When did you first know that?

20 **A** I first became aware of it in 2008.

21 **Q** Why didn't it happen in 2010 then?

22 **A** Because we didn't have the money to make it happen right
23 away. We did the best we could with what we had to work
24 with.

25 **Q** Go to Exhibit 16, ma'am.

1 **A** I don't have 16.

2 (Exhibit No. 16 was marked for identification.)

3 **Q** Do you recognize this document?

4 **A** Shannon/Fall River County Contract, 2012.

5 **Q** There's three contracts for 2012, isn't there?

6 **A** Yes, apparently.

7 **Q** This was the first contract for 2012, wasn't it?

8 **A** Okay.

9 **Q** And this was executed when?

10 **A** It appears to be December 2, 2011.

11 **Q** You signed this, correct?

12 **A** Yes, I did.

13 **Q** Did you read it before you signed it?

14 **A** Yes, I did.

15 **Q** Please go to paragraph 11 on page 4. Read the last
16 sentence of paragraph 11?

17 **A** Yes.

18 **Q** Doesn't that mean that early voting must be requested?

19 **A** The Shannon County Commission needs to make the request
20 of the Fall River County employees to do early voting.

21 That does not mean that the people of Shannon County
22 need to request it of the commission.

23 **Q** This was the contract that was in effect when you were
24 getting these letters in November of 2011 from my
25 office?

1 **A** Yes.

2 MS. FRANKENSTEIN: Well, I'd just ask you to take
3 a look at when this was signed. Was it signed before or
4 after?

5 THE WITNESS: It was signed after the letter.

6 MS. FRANKENSTEIN: So it was not in effect at the
7 time --

8 THE WITNESS: Right. And it wouldn't have been in
9 effect until January 1st.

10 **Q** So what contract was in effect when you got my letters?

11 **A** The 2011 contract.

12 **Q** Do you have that in front of you.

13 **A** Number 17.

14 **Q** Does that have the same language in it?

15 MS. FRANKENSTEIN: The paragraphs aren't the same.
16 The last sentence is slightly different, but it's of the
17 same result.

18 **Q** What had to occur for early voting to happen in Shannon
19 County?

20 **A** The Shannon County Commission needs to request of our
21 County Auditor that it happen.

22 **Q** And when did Shannon County make the request for the
23 2012 primary election?

24 **A** In December of 2011, I believe.

25 **Q** And how many days were provided before the primary

1 election?

2 **A** Six.

3 **Q** And how many days before the general election?

4 **A** Six.

5 **Q** How did you come up with six days before the primary?

6 **A** We determined that was how much money we would have to
7 spend.

8 **Q** Explain that process.

9 **A** The process was sitting at the meeting with a doodle pad
10 trying to figure out, we had to do some days. We had no
11 money to bury anyone or to put anybody in jail, but we
12 determined we had to do some days.

13 **Q** Why did you have to do some days?

14 **A** To comply with what everybody wanted.

15 **Q** To comply with what who wanted?

16 **A** Everyone that is requesting early voting.

17 **Q** Who else requested early voting besides my office?

18 **A** Four Directions. They're not from your office, are
19 they?

20 **Q** Who else did?

21 **A** Department of Justice in the Agreement of Memorandum.

22 **Q** Where does it say in the DOJ --

23 **A** And I'm not certain that it does, but verbally they
24 would like us to do that.

25 **Q** How do you know that?

1 **A** The State has early voting everywhere. We want to
2 provide early voting in our county. We determined we
3 could afford six days.

4 **Q** But before we get to the six days, DOJ went ahead and
5 said what to you about early voting?

6 **A** I don't specifically remember.

7 **Q** Generally?

8 **A** Generally there's been hours and hours of discussion
9 about voting, period, for the last five years. Never a
10 meeting goes by without some mention of it. I can't
11 specifically recall what was said by whom and what days.
12 In general, we want to have early voting as much as we
13 can. We determined, and we had discussed it at several
14 meetings, we need to have some money to early vote.

15 **Q** My question was, who requested, beside my office and
16 Four Directions, for early voting in Shannon County?

17 **A** That's enough; your 25 people.

18 **Q** The 25 Plaintiffs, who else? Who from Four Directions
19 requested?

20 **A** We have a letter from Theresa Two Bulls. We know that
21 everyone would like that. There's never been a question
22 about that.

23 **Q** How did you come up with six days before the primary?
24 How much does it cost for one day of early voting?

25 **A** I don't know exactly.

1 **Q** Generally?

2 **A** I don't know, generally.

3 **Q** How did you come up with six days on your doodle pad?

4 **A** We determined that would be an amount that would allow
5 people to get to vote if they wanted to vote early.

6 **Q** How did you make that determination? What was the
7 discussion?

8 **A** I don't remember, specifically.

9 **Q** Generally?

10 **A** Some commissioners said why do we need to do that;
11 others said, let's do it all and we met in the middle.

12 **Q** Who wanted to do it all on your commission, the entire
13 46-day period?

14 **A** There was no mention of number of days.

15 **Q** I thought you just said some of us wanted to do none,
16 some of us wanted to do all, so we split it in the
17 middle. Who wanted all of it?

18 **A** There was no mention of number of days being all.

19 **Q** What did you mean when you just said, some people on the
20 commission wanted all of it?

21 **A** Whatever is offered in other counties.

22 **Q** Who wanted that?

23 **A** Wendell Yellow Bull.

24 **Q** The chair?

25 **A** That's my recollection, yes.

1 **Q** Why did he want all of it?

2 **A** Everyone wants it all.

3 **Q** Did he provide any reasons for wanting to do the entire
4 period?

5 **A** There was no reason to give a reason. I understood he
6 would like to have it all.

7 **Q** What did you say at the meeting?

8 **A** We can't afford that.

9 **Q** And how many days did you propose?

10 **A** Two days.

11 **Q** Before the primary?

12 **A** Yes.

13 **Q** How many days before the general?

14 **A** Two.

15 **Q** Why did you think that was fair?

16 **A** I don't know that it's fair, but I thought that would
17 give people an opportunity to early vote if they needed
18 to.

19 **Q** Two days?

20 **A** The whole world voted on election day at one time and it
21 seemed to work. I thought two days was plenty.

22 Personally, that's how I feel.

23 **Q** That's what I'm asking you. Did you have any two days
24 in particular before the primary election?

25 **A** No.

1 **Q** Did you have any two days in particular before the
2 general election?

3 **A** No, I was open to suggestions. That was just something,
4 I threw out as something to consider.

5 **Q** Who wanted none?

6 **A** I don't remember specifically.

7 **Q** What was the positions of the other commissioners? I
8 understand Wendell's.

9 **A** I'm not going to speak to what they felt or said?

10 **Q** You will speak to what they said?

11 **A** I don't remember specifically who said what.

12 **Q** You don't remember anything that was said besides
13 Wendell saying --

14 **A** I remember specifically the County Auditor saying, no,
15 we have to do more than that, and I want to, and I'm
16 willing to. But I don't specifically remember anyone
17 else's comments, other than we need to provide some days
18 of early voting.

19 **Q** But the County Auditor said you needed to do more than
20 two days?

21 **A** Yes.

22 **Q** And you said --

23 **A** That's really all we can afford, and she said, we need
24 to afford more; we need to do more than that.

25 **Q** And here's what I need to understand, how did you come

1 up with two days before the primary on cost?

2 **A** I just threw two days out as a starting point for
3 negotiating.

4 **Q** Do you have any idea how much two days cost?

5 **A** No.

6 **Q** Do you have any idea how much six days of early voting
7 costs?

8 **A** I know two days is a third of six, and it's cheaper.

9 **Q** Okay. But you had no idea how much it cost?

10 **A** No, I didn't. I'm looking at the whole budget of which
11 voting is one aspect, and I'm thinking of someone dying
12 that we can't bury or some child raper in jail that we
13 can't keep there.

14 **Q** So why did you restrict the number of voting or proposed
15 restriction of the number of voting days to do two days
16 before the primary, if you didn't even know how much it
17 cost?

18 **A** I threw two days on the table to get the discussion
19 going.

20 **Q** And then what came back next? You threw out two and
21 what came back?

22 **A** I don't recall specifically.

23 **Q** Do you recall how long the discussion was before you got
24 to six days?

25 **A** No, I don't. Probably ten minutes.

1 **Q** Was there a single comment on by anyone on how much a
2 day of early voting in Shannon County cost?

3 **A** No, not broken down by day.

4 **Q** By a week?

5 **A** No.

6 **Q** Did anyone give any indication of anything regarding
7 costs of early voting?

8 **A** No.

9 **Q** So you are just throwing around days and you have no
10 idea how much it costs?

11 **A** It didn't much matter, we couldn't afford -- whatever we
12 did was going to be gravy. We couldn't afford any of
13 it. We are doing it now; we've had some help.

14 **Q** Right. But how did you get to six days?

15 **A** Just threw it out on the table; had to start somewhere.

16 **Q** I thought you threw two days out on the table to start
17 somewhere?

18 **A** I did, and the County Auditor said that's not enough we
19 have to do more than that.

20 **Q** Did she say how much more you have to do?

21 **A** She wanted to do it all, and I didn't think we could
22 afford to.

23 **Q** What did she say about doing it all?

24 **A** That we needed to.

25 **Q** Why?

- 1 **A** Because that's what other people get.
- 2 **Q** Do you want to take a break?
- 3 **A** No, I don't. I want to shut my phone off.
- 4 **Q** So it's a ten minute discussion?
- 5 **A** Approximately.
- 6 **Q** And it was open session?
- 7 **A** Yes.
- 8 **Q** And all five commissioners were there?
- 9 **A** I believe so.
- 10 **Q** And it was a unanimous vote on six days?
- 11 **A** Whatever the minutes say.
- 12 **Q** Do you remember?
- 13 **A** No, not without looking at the minutes?
- 14 **Q** And what was the response to Sue Ganje when Sue Ganje
15 said you need to do it for the entire period like
16 everybody else?
- 17 **A** The discussion opened on how can we afford this, and
18 obviously we can't.
- 19 **Q** Last thing I'll ask on this. How can you make a
20 budgetary decision on what you can afford if you have no
21 idea how much a day of voting cost?
- 22 **A** We put every spare dime we could find into elections.
23 You can see by looking at our budget. We cut everything
24 that was discretionary.
- 25 **Q** That day?

1 **A** Yes. The commissioners receive no salaries.

2 **Q** That day?

3 **A** That's my recollection, yes. We cut everything out of
4 the budget and what was left we stuck in elections.

5 **Q** How much was that?

6 **A** \$45,150.

7 MR. SANDVEN: Could we take a break? Can I visit
8 with you off the record?

9 MS. FRANKENSTEIN: Sure.

10 (An off-the-record discussion was held; and a
11 break was taken from 3:20 to 3:40.)

12 **Q** Do you remember the six days you picked for early voting
13 for the 2012 primary?

14 **A** Not specifically, no. They are listed in the minutes.

15 **Q** Right. Was it May 21st, 23rd, 25th, 28th and 30th?

16 **A** If that's what the minutes said.

17 **Q** And one of the days you picked was Memorial Day, a
18 holiday?

19 **A** You brought that to our attention.

20 **Q** You didn't know that?

21 **A** Didn't realize it, no.

22 **Q** How did you pick those six days?

23 **A** We just picked three days for two weeks prior to each
24 election.

25 **Q** How come?

1 **A** Because we had to start somewhere.

2 **Q** Why didn't you pick during the voter registration
3 period?

4 **A** We didn't think about that at the time, because we have
5 a satellite office that's open where people can register
6 at any time.

7 **Q** And do you know what the hours are on that office are?

8 **A** Not specifically, no.

9 **Q** Generally?

10 **A** Jean will be at our meeting tomorrow to tell us.

11 **Q** Do you know what the hours are?

12 **A** Not exactly, no.

13 **Q** Okay. Do you remember the six days you picked for the
14 general election?

15 **A** Same answer.

16 **Q** Can I hear it again?

17 **A** Three days each week for the two weeks prior to the
18 election.

19 **Q** So that was October 22, 24th, 26th, 29th, 31st?

20 **A** And one day in November.

21 **Q** And those were all days outside of the voter
22 registration period?

23 **A** Same story there. The election satellite office would
24 be open to register.

25 **Q** Today, do you know how much it cost to staff the early

1 voting location in Shannon County?

2 **A** No, I don't. I believe Jean will be bringing us a
3 budget tomorrow.

4 **Q** Do you know how much Perdiem is for staffing early
5 voting locations?

6 **A** No, I don't. I have some notes to that effect in my
7 briefcase which I don't have with me.

8 **Q** Do you know why early voting locations require two staff
9 workers?

10 **A** Yes, I do. One is a part-time assistant, in case Jean
11 needs to be gone to a tribal meeting or to KILI Radio or
12 to our commission meetings, something that takes her out
13 of the office, we have an assistant to fill in while
14 she's gone.

15 **Q** Do you know what the miscellaneous costs are associated
16 with early voting in Shannon County?

17 **A** Not without looking at a budget.

18 **Q** Are you talking about that early voting budget you were
19 discussing earlier?

20 **A** No. I'm talking about one that Jean Belt was going to
21 work up for what she needed for supplies; moving costs,
22 cardboard, crayons, whatever it is she needs.

23 **Q** Is Exhibit Number 131, is that the only document that
24 you know regarding the cost of early voting in Shannon
25 County for this election cycle?

1 **A** So far. I believe Jean is going to give us a breakdown
2 tomorrow.

3 **Q** When did early voting start?

4 **A** I don't know specifically which day it was. I don't
5 recall.

6 **Q** Do you know it has started?

7 **A** Yes.

8 **Q** Do you know how much it cost for notices or KILI?

9 **A** No, I don't.

10 **Q** Do you know how much the publications costs?

11 **A** No, I don't.

12 **Q** Is there internet available at the location?

13 **A** I believe that they had that installed.

14 **Q** Do you know if anyone researched, before the
15 installation at this facility, whether or not internet
16 resources were available at Pine Ridge?

17 **A** It's available in Pine Ridge, yes.

18 **Q** Everybody knows that?

19 **A** Who's everybody?

20 **Q** Everybody who lives there knows how to get to internet
21 locations?

22 **A** If they want to I'm assuming they figure a way to; I
23 don't know.

24 **Q** Is internet readily available in Pine Ridge?

25 **A** I don't know.

1 **Q** Do you know if that was a concern by the Shannon County
2 Commission whether or not --

3 **A** Yes, it was a concern.

4 **Q** Why?

5 **A** Because there was a possibility that we could have vote
6 centers, and we would need internet to do that.

7 **Q** Did anyone research where internet was available in Pine
8 Ridge?

9 **A** We asked Bob Palmer when we brought us that agreement
10 with the Tribe to rent that facility.

11 **Q** So as far as you know, no one even researched what
12 internet was available in Pine Ridge before March 2,
13 2012?

14 **A** No, not that we know of.

15 **Q** On March 2nd you went ahead and made a motion to provide
16 46 days of early voting for each 2012 election; correct?

17 **A** Yes.

18 **Q** And that was due to the Secretary of State's commitment
19 to provide an additional \$12,000?

20 **A** Partially, yes.

21 **Q** What do you mean, partially?

22 **A** I mean that we just plainly have to do that, so we will
23 do it.

24 **Q** What do you mean you have to do it? Why did you have to
25 do it on March 2nd, but not last year?

1 **A** Last year wasn't an election year.

2 **Q** 2010?

3 **A** We were doing all we can do.

4 **Q** Why?

5 **A** Because we are broke.

6 **Q** You're doing all you can do because you're broke or
7 because of the pending litigation?

8 **A** Both.

9 **Q** How has the pending litigation influenced your decision
10 to go ahead and do early voting in Pine Ridge?

11 **A** Personally I'm more convinced that it's more necessary
12 than anything else.

13 **Q** Does the litigation have any influence on whether or not
14 Shannon County Commission is doing the full 46 days of
15 early voting?

16 **A** Yes, it does.

17 **Q** Was the first time you met with Bob Palmer from the
18 Oglala Sioux Tribe at the March 2, 2012 meeting?

19 **A** Yes.

20 **Q** And he told you at that meeting that he had to take it
21 back to the Tribe to sign?

22 **A** Yes.

23 **Q** Did he indicate what the approval requirements were for
24 the Oglala Sioux Tribe for that lease?

25 **A** No, he did not.

- 1 **Q** He did not have that authority?
- 2 **A** No.
- 3 **Q** He had to go get that authority from who?
- 4 **A** He did not say.
- 5 **Q** The Notify to Terminate Services that was discussed at
6 the September 3, 2010 meeting, that was approximately
7 two months before the general election in 2010?
- 8 **A** Yes, it would have been.
- 9 **Q** And the county commission accepted that notice to
10 terminate at the end of the meeting, less than 60 days
11 before the general election?
- 12 **A** When someone hands you a notice, you don't have much
13 choice but to accept it. Didn't say we approved it.
- 14 **Q** What's the difference between accepting a notice and
15 approving a notice?
- 16 **A** Accept; file.
- 17 **Q** Say again.
- 18 **A** Accept it, file it. You have to acknowledge receipt.
- 19 **Q** Looking at Exhibit 36, last page. So the distinction
20 you are making is that it wasn't a Motion to Approve but
21 it was a Motion to Accept a 30-day Notice of Intent?
- 22 **A** It was handed to us and they walked out.
- 23 **Q** Was there any discussion before you made that motion?
- 24 **A** I'm sure there was.
- 25 **Q** What do you remember?

1 **A** I remember what I felt.

2 **Q** What did you feel?

3 **A** That all the stupidity was taking the county down sooner
4 than necessary.

5 **Q** What did you say before the motion was made?

6 **A** I don't recall.

7 **Q** Do you remember what anyone said before that motion was
8 made?

9 **A** No. I know what I remember feeling about it, but I'm
10 not certain that I said it.

11 **Q** So this was approximately -- this motion was passed to
12 accept the Notify of Termination, how long before the
13 2012 general election?

14 **A** I don't know the specific date of the 2010 election, but
15 this was on September 3rd, and it would have been the
16 first week of November.

17 **Q** Right. So less than two months?

18 **A** Yes.

19 **Q** And when should early voting have started, if the
20 Shannon County --

21 **A** Probably about the time we were having this meeting.

22 **Q** About the same time that services were being terminated?

23 **A** Yes, but the two were not related.

24 **Q** At the March 8th hearing you went ahead and you were
25 asked a questions regarding the early voting location.

1 Can you go to page 29 of your transcript. What did you
2 mean on page 29, line 7 when you answered, "We intended
3 to have a satellite office open there the whole time"?

4 **A** Our election satellite office, we intended all along for
5 it to be open.

6 **Q** What satellite office were you referring to?

7 **A** The one that Jean Belt is housed in at the old bingo
8 hall in Pine Ridge.

9 **Q** So at the hearing you weren't talking about early
10 voting, you were talking Jean Belt's office?

11 **A** Yes, the satellite office.

12 **Q** And what did you mean, we intended to have her satellite
13 office open there the whole time?

14 **A** Well, you were asking prior to that about registration
15 to vote. Our thought on that was that they could go to
16 that satellite office and register with her any time.

17 **Q** On page 34, ma'am, line 1 you answered, "No, that did
18 not have any bearing on it. We intended to have early
19 voting all along". And I think you were referring to
20 the request from my office and the request from Four
21 Directions?

22 **A** Yes. Prior to that, that's what I said. But we did
23 intend to have some early voting all along, we just
24 didn't determine what we thought we could afford.

25 **Q** What made you think you intended to have early voting

1 all along for the 2012 primary election cycle?

2 **A** From our general discussions at meetings from 2010 on.

3 **Q** What discussions do you remember that go ahead and
4 support this statement?

5 **A** As I said before, at every meeting we discussed voting.

6 **Q** At every commission meeting you discussed voting?

7 **A** It's not on our agenda, but somewhere in the process of
8 talking about budgets or lack thereof, election comes
9 up, because that's our largest expense. So in that,
10 there's always discussion; not detailed discussion just
11 a remark here and there. Early voting was always an
12 intention, we just didn't know how much we would be able
13 to afford.

14 **Q** It was an intention by the full commission?

15 **A** I believe so, yes.

16 **Q** What are you basing that on?

17 **A** The fact that we usually are in agreement. I don't
18 remember anyone there ever being negative about doing
19 early voting or negative about the fact that we can't
20 afford to do more days, but we had always intended to do
21 some days.

22 **Q** For the folks at Pine Ridge, they can utilize public
23 transportation on the Reservation?

24 **A** In all the communities, Pine Ridge, Kyle, Manderson.
25 The bus runs everywhere.

1 **Q** On Reservation?

2 **A** Yes.

3 **Q** Does it ever leave the Reservation?

4 **A** Not to my knowledge.

5 **Q** Do people have to pay that?

6 **A** I think it's 50 cents.

7 **Q** To go anywhere on the Rez; go anywhere in Shannon
8 County?

9 **A** There's different rates. You pay 50 cents to ride from
10 Point A to Point B and then you disembark and it's 50
11 cents to go to another point. They have a schedule and
12 a rate chart. I couldn't quote it, but I have seen it.
13 It's very reasonable, and it runs all day every day.

14 **Q** But it doesn't run to Hot Springs, does it?

15 **A** No.

16 **Q** Doesn't it make sense to have early voting at Pine Ridge
17 for that reason alone?

18 **A** Yes. It all makes sense. It's a very good idea as soon
19 as we figure out how to pay for it.

20 **Q** And on the limited number of early voting days in 2008,
21 there was a split vote on the commission, three-two; do
22 you remember that?

23 **A** Yes.

24 **Q** Do you recall why it wasn't unanimous to at least give
25 the Shannon County residents some days for early voting?

1 **A** Money.

2 **Q** Do you remember what your vote was?

3 **A** I probably voted no, but I don't recall. Do you have
4 the minutes?

5 **Q** And remember in 2008 we talked about just two days
6 before the general and two days before the primary?

7 **A** Yes, I recall that.

8 **Q** You even voted no against that?

9 **A** Before I would say, yes, I would want to see the
10 minutes. A no vote does not necessarily mean you are
11 not in favor of having something, it mean you are
12 considering you have to pay for it first.

13 **Q** Do you know when you requested HAVA funds the first time
14 before the 2010 election?

15 **A** No, I don't. I don't do that, so I don't know when.

16 **Q** No knowledge of that?

17 **A** No, other than there was mention that we use HAVA funds.
18 We have a pool that decreases. We don't want to use it
19 all in one year.

20 **Q** Do you know whether anyone other than the County Auditor
21 has had communication with South Dakota requesting HAVA
22 funds?

23 **A** I don't know that. I would assume it's only her. I'm
24 sure she has someone in her office get the documents
25 ready to turn in for reimbursement.

1 **Q** Do you know why before this litigation started, why the
2 Shannon County Commission didn't push harder on the
3 South Dakota Secretary of State to provide additional
4 HAVA funds?

5 **A** Because we received what the regulations said we could
6 have.

7 **Q** Did you ever ask for any additional HAVA funds besides
8 what was allotted in the State plan?

9 **A** I don't know. I didn't.

10 **Q** Why not?

11 **A** Because it's not my job. Because we beg from everybody
12 we talk to until people won't talk to us.

13 **Q** Did you know that the hours for early voting for the
14 limited number of days in Pine Ridge during the 2010
15 election was shorter than that of the Fall River County
16 Courthouse?

17 **A** We talked about that earlier today, yes.

18 **Q** Why was it shorter in 2010?

19 **A** Because we couldn't afford to pay them overtime, and it
20 was the drive time, so it was ten to three, which made
21 their day eight to five.

22 **Q** So how many hours were they actually doing early voting
23 for those limited number of days?

24 **A** Ten until three.

25 **Q** And just took their lunch and sat there from ten to

1 three?

2 **A** Yes.

3 **Q** Do you know why there wasn't early voting on election
4 day in 2010?

5 **A** I believe that has something to do with the State law
6 that at 3 o'clock or the day before election day, that's
7 the last time you can cast a ballot.

8 **Q** Right. So do you know why early voting locations
9 weren't provided in Pine Ridge on the primary election
10 day on 2010?

11 **A** Because our Auditor is shared and she had to be in Fall
12 River to do that deed there.

13 **Q** Same question for the general in 2010?

14 **A** I'm assuming so, yes.

15 **Q** How will that be avoided this cycle?

16 **A** I don't know. I know there was some discussion about
17 her needing to stop at 3 o'clock. Do they do that in
18 every other county, cut off at three?

19 MS. FRANKENSTEIN: For early voting.

20 MR. SANDVEN: Could I have this marked 96, please?

21 (Exhibit No. 96 was marked for identification.)

22 **Q** Have you seen this document marked Exhibit 96?

23 **A** No, I have not.

24 **Q** Have you heard anything about it?

25 **A** No.

- 1 **Q** This is the first time you've seen it?
- 2 **A** Yes. May I take time to read it?
- 3 **Q** Of course. First time you've read it?
- 4 **A** Yes.
- 5 **Q** Have a position on it at all on the initial read?
- 6 **A** A definite one.
- 7 **Q** Can I hear it?
- 8 **A** I don't know, sometimes it's not good for me to spout my
9 thoughts in a hurry, but I have several.
- 10 **Q** Let me hear them.
- 11 **A** Okay. First of all, just the fact that the Secretary of
12 State Gant said that does not make it so. Does every
13 other county vote on Saturdays and Sundays?
- 14 **Q** Were you at the hearing where you heard that some can?
- 15 **A** I did hear that. I thought he misspoke and I just
16 ignored that. I still think that, unless I'm convinced
17 otherwise. Does anybody know?
- 18 **Q** And what are your other thoughts on this?
- 19 **A** Thought number two, personally, I can't speak for the
20 whole commission --
- 21 **Q** I'm asking your thoughts?
- 22 **A** I would vote no on accepting any money again from Four
23 Directions.
- 24 **Q** Why?
- 25 **A** Because I don't believe that's how elections were meant

1 to be paid for. That's how you would buy an election.
2 That's a good start. I'm not saying that's what Four
3 Directions intent is, but I don't believe that we should
4 take donations to have an election in our county.
5 That's not the proper way --

6 **Q** I thought I heard at the hearing you say something, if
7 we had the money we would do it?

8 **A** Money needs to come from the right place, the way the
9 law was intended to afford elections; that's my personal
10 position.

11 **Q** So what's the right place?

12 **A** Taxes. The Government made the law about elections, the
13 Government should afford elections. I don't believe an
14 entity or any individual should be donating money to buy
15 an election. That's my personal opinion. I don't think
16 that's the right way to afford an election. And I don't
17 think that our county should do that, when I know no
18 other county in the U.S. has to pay for their election
19 in that manner.

20 Thirdly, I don't blame Mr. Steele for wanting
21 this, but I think this is way over and above. Because
22 like I stated earlier, I never saw anything wrong with
23 people voting on election day, everyone, one day. It
24 seemed to work for many years. So I'm kind of against
25 blowing all the money to do this for months on end, when

1 it used to be accomplished in one day. That's my
2 personal feeling.

3 **Q** Even if it's not your money you don't want to expend it
4 on -- -

5 **A** It is my money. I'm a taxpayer.

6 **Q** I'm talking about the money on this sheet.

7 **A** Who do we have do this? I think that our County Auditor
8 doesn't want to give up her weekends and nights. She
9 has a job already, more than a job. She's bending over
10 backwards to cause this to happen in two counties, and I
11 think she's doing an excellent job. I wouldn't want to
12 ask anymore of her. And she is personally responsible
13 for elections, and she has to do that herself. She's
14 put herself way out on a limb. I wouldn't feel right
15 about asking her to do more.

16 And if we were to consider this, because there
17 are, from what I understand, 32 actual days to vote
18 early within a 46-day span, would this shut the span
19 down, shorten it up in any way?

20 **Q** I think what the request is, it's in additional to.

21 **A** Right. So then in Shannon County we would have way more
22 days to vote than any other county in the nation.

23 **Q** You have already stated your position.

24 **A** Mine, personally. I may be outvoted. That's my
25 position and that's what you asked for.

1 **Q** Yes, ma'am.

2 MR. SANDVEN: Could I have this marked 34?

3 (Exhibit No. 34 was marked for identification.)

4 THE WITNESS: I assume I will see this tomorrow.

5 Are you coming to our commission meeting tomorrow?

6 MR. SANDVEN: No, I sent it to your attorney about
7 a week ago.

8 THE WITNESS: So this came to you, not the
9 commission?

10 MR. SANDVEN: I sent it to her.

11 THE WITNESS: Okay.

12 **Q** Can I hand you what's been marked Exhibit 34.

13 **A** So when I vote no on this I'm going to look bad again
14 for all the wrong reasons.

15 **Q** You know the post office situation in Shannon County a
16 lot better than I do. This is what I got off the
17 internet. They closed the post office in Manderson, is
18 that true?

19 **A** Not yet.

20 **Q** When are they going to, ma'am?

21 **A** We've been threatened that it will happen in May, this
22 month.

23 **Q** Before the primary election?

24 **A** Not only Manderson, but Wounded Knee. Quite possibly.
25 That's what my postmaster told me.

1 **Q** When were you told that?

2 **A** They were going to close it in October or November and
3 then they backed off until May. But we don't have a
4 specific date. The letter I got from the U.S. Postal
5 Service suggested I plan to pick up my mail in Hot
6 Springs.

7 **Q** You use which mailbox?

8 **A** Wounded Knee. I get my mail in Wounded Knee.

9 **Q** Where do the folks in Wounded Knee go and get their mail
10 now?

11 **A** At Wounded Knee.

12 **Q** But after that office closes, where would you go?

13 **A** The letter I personally received from the postal service
14 told me to plan to get it in Hot Springs. It was 80
15 miles away. That was specified in a letter I received
16 from the U.S. Postal Service. No mention of Batesland
17 or Pine Ridge. I asked our postmaster about that and
18 she said she thought because those post offices were
19 already overwhelmed, had all the boxes they could have
20 or that they had room for in their building. They have
21 none more to rent.

22 **Q** How are people going to go to Hot Springs to check their
23 mail? A lot of people only go there once a year to get
24 tags on their car, right?

25 **A** On a side note, if you will excuse me, while they're

1 getting their mail they can go vote. I thought I would
2 consolidate my trip anyway. And don't write to me, I
3 won't get it. I don't know.

4 **Q** Have you heard about the Manderson folks, if they closed
5 that office how far they have to go?

6 **A** I believe they're suggesting they go to Porcupine.

7 **Q** How far a drive is that; 20 minutes?

8 **A** You've got to go from Manderson six or seven miles over
9 the gooseneck and then back down to Porcupine, or you
10 can go around the other way. It will be a drive. But
11 Porcupine already has a rural route. It doesn't touch
12 everybody, but I believe they could be put on a rural
13 route, other than the people right in Manderson.

14 But there's Pinky's store, she might possibly put
15 a corner there to be a post office. But Wounded Knee
16 has nothing. There's no building.

17 **Q** Have you heard if any other post offices are shutting
18 down in Shannon County?

19 **A** That's the only two I'm aware of. There may be others
20 but I don't know.

21 MR. SANDVEN: Thank you. I have no further
22 questions.

23 MS. FRANKENSTEIN: I might have a few follow-up.

24 (A break was taken from 4:00 to 4:10.)

25 **EXAMINATION BY MS. FRANKENSTEIN:**

1 **Q** Lyla, we had some discussion with Mr. Sandven regarding
2 early voting, and lots of times we just used the word
3 early voting, both you and Mr. Sandven. Would you
4 describe what kind of early voting you've had in Hot
5 Springs as opposed to on-site, meaning within Shannon
6 County borders?

7 **A** My understanding, we have always had early voting since
8 the law said we needed to have early voting. The
9 difference is that Shannon County doesn't have its own
10 courthouse. Hot Springs is our contact point, so you
11 were always able to vote early in Hot Springs. Then we
12 had to add the term on-site early voting, or in-person
13 early voting on site, meaning that we have had to set up
14 a location, and we've chosen Pine Ridge -- we did a few
15 days in Kyle one year, where people could come early to
16 vote in our county.

17 **Q** Sometimes that term that we use is satellite office, as
18 well, meaning an office within Shannon County?

19 **A** Right. The satellite office also though was to fulfill
20 our memorandum agreement with the Department of Justice.
21 However we had the satellite office to comply with that
22 MOA and we also used it for our early voting site.

23 **Q** So throughout both the testimony today, as well as
24 meeting minutes, whenever Shannon County, as a
25 commission would determine whether or not it would have

1 "early voting" did that mean, offer it at the courthouse
2 or was that a given?

3 **A** Early voting at the county courthouse since the law came
4 into effect was always a given, always available.

5 **Q** How about mail-in ballots, absentee votes?

6 **A** Always available per the law. So any time we were
7 referring to early voting, we were meaning in our own
8 county.

9 **Q** I'm going to show you what we've got bate-stamped
10 D000387388. The top reads, Facts Regarding Shannon
11 County, South Dakota? Do you recognize that document?

12 **A** Yes, I do.

13 **Q** Who is the author of that document?

14 **A** I am.

15 **Q** Are the facts that you wrote in that document accurate,
16 to the best of your knowledge?

17 **A** Yes.

18 **Q** Did you use your knowledge as both a resident of Shannon
19 County, as well as a school official and county official
20 of Shannon County to provide those facts and figures
21 within that document?

22 **A** Yes. My lifelong understanding, this is what I
23 determined.

24 **Q** Earlier today you discussed how funding differs for
25 Shannon County schools versus Shannon County government.

1 Is impact aid the federal dollars that allow or that
2 fund Shannon County schools?

3 **A** Yes.

4 **Q** And PILT, Payment in Lieu of Taxes, is that what does or
5 in reality does not --

6 **A** The law was written that PILT would be available to
7 counties; impact aide would be available to schools.
8 They were supposedly parallel laws to take care of
9 counties or school districts because they taxed through
10 the county that were impacted by government presence.
11 However, PILT does not pay off what impact aide does.

12 **Q** Is it justified with the state that the Shannon County
13 School District in today's dollars receives about
14 9.5 million dollars in impact aid money?

15 **A** That's what the business manager told me, yes.

16 **Q** And in like token PILT, Payment in Lieu of Taxes, is
17 received by Shannon County to the tune of \$4,600?

18 **A** Yes.

19 **Q** I'm showing you what's been bate-stamped D000389, and
20 it's entitled Ten County Comparison.

21 MR. SANDVEN: Are you going to make these part of
22 the record, ma'am?

23 MS. FRANKENSTEIN: No.

24 MR. SANDVEN: This is which document now?

25 MS. FRANKENSTEIN: D000389.

1 MR. SANDVEN: And what do you call it?

2 MS. FRANKENSTEIN: Ten County Comparison.

3 **Q** Lyla, have you seen this document before?

4 **A** Yes, I did.

5 **Q** As best as you can tell, based upon your experience and
6 your knowledge, is this an accurate reflection of how
7 Shannon County compares to other counties when looking
8 at taxable land and PILT money received?

9 **A** Yes, it is.

10 **Q** So you believe it to be accurate at 15.06% of Shannon
11 County land is taxable?

12 **A** Yes.

13 **Q** And that means current taxes levied in Shannon County
14 only result in income of about \$202,922?

15 **A** Yes. These are state department numbers from the South
16 Dakota Department of Legislative Audit; so, yes, I
17 believe them.

18 **Q** And this chart shows you a drastic difference in your
19 PILT money received versus other counties that have
20 federal land, non-Indian trust land, receives more
21 sizable PILT funds?

22 **A** Correct.

23 **Q** If we look at the second to last column, Expenditure Per
24 Person, what's Shannon County show?

25 **A** \$29.72.

1 **Q** How does that compare even with the ten highly dense
2 Native American counties in South Dakota?

3 **A** The others all run -- I would guess that averages about
4 300, but some up to \$450, \$565 per person. We have
5 \$29.72.

6 **Q** Shannon County is last by a long shot, would that be
7 accurate?

8 **A** Yes.

9 **Q** We looked through the 2012 budget numbers earlier today
10 throughout your deposition. Did any of those numbers
11 that we looked at include a potential expense for
12 electronic PULL books?

13 **A** No.

14 **Q** So any expenditures required under any new South Dakota
15 law that might require you to have PULL books would be
16 in addition to the budget you've already got for 2012?

17 **A** If we can't get the money anywhere else, yes, it would
18 be in addition.

19 **Q** To what you've got budgeted?

20 **A** Yes. If there is nowhere to get the money from, we
21 wouldn't have them.

22 **Q** You discussed earlier today your funding sources for the
23 county, and you talked about pistol permit money and
24 taxable land. Anything other than what you've talked
25 about which would add to the amount of money that

1 Shannon County brings in to spend on county government?

2 **A** You mean are there any other available resources?

3 **Q** Correct.

4 **A** Other than the federal government, no.

5 **Q** And we already looked at what the federal government is
6 providing regarding PILT money?

7 **A** \$4,600. Were we able to convince them to pay us on the
8 same premise that they pay the school district on, we
9 would overnight receive 4.6 million a year, using the
10 same formula.

11 **Q** When Shannon County leases office space within Shannon
12 County, do you have to pay for internet hookups?

13 **A** Yes.

14 **Q** Is that over and above whatever you might pay for a
15 lease?

16 **A** Yes; internet and telephone.

17 **Q** Does Fall River County have any say in the early voting
18 determination that Shannon County Commission makes?

19 **A** No. Like I said we've never met with them or discussed
20 any of our business with them.

21 **Q** Does the Fall River County Commissioners, specifically,
22 have any say in whether or how Shannon County offers
23 early voting?

24 **A** No.

25 **Q** Did Fall River County Commissioners ever attempt to have

1 a say in whether or how Shannon County offered early
2 voting during any of the past five years you've been on
3 the commission?

4 **A** No; never had any discussion over anything with them.

5 **Q** And they haven't attempted to have a say in that
6 process?

7 **A** Not to my knowledge. I've never had any contact.

8 **Q** Does it follow that Fall River County has never denied a
9 Shannon County request to offer early voting to Shannon
10 County residents in a satellite office?

11 **A** No, I'm sure they're not even aware of what goes on in
12 our county.

13 MS. FRANKENSTEIN: That's all I have. Thank you.

14 MR. SANDVEN: Could I have this marked 110,
15 please?

16 (Exhibit No. 110 was marked for identification.)

17 **EXAMINATION BY MR. SANDVEN:**

18 **Q** Do you see 110 and do you recognize this document?

19 **A** Yes, I do.

20 **Q** How are you familiar with this document?

21 **A** I wrote this.

22 **Q** When did you write it?

23 **A** Approximately two years ago.

24 **Q** What was your reason for writing it?

25 **A** We had been to a commissioner's meeting in Pierre where

1 there was discussion on the fact that each county should
2 promote themselves, and they were trying to show us how
3 to make brochures and do things to put your county
4 business out there and make your appearance and make
5 yourself known, and a brochure regarding what you could
6 do for the people in your county, explaining how your
7 county worked. It was suggested, so when I came back to
8 the commission to report on my trip, we discussed it.

9 And I had always felt like the main reason that
10 people get so up in arms over things is because they
11 don't understand the why. So in an effort to do that, I
12 wrote down what I knew, and invited anybody else to add
13 anything they had, and it's not been added to.

14 **Q** So it was written a couple years ago, and who went ahead
15 and helped you draft it?

16 **A** I just typed it up one night.

17 **Q** And then this is your research?

18 **A** Yes. I wanted to try to help the new commissioners that
19 come on to explain how things work.

20 **Q** And you didn't site any of your sources in here?

21 **A** No. I just sat down one night and wrote it before I
22 went to a meeting the next day, and said maybe this will
23 help you understand how the government works. This was
24 what I knew from my own personal background.

25 **Q** The Tribe goes ahead and has their own ambulance

1 service?

2 **A** Yes.

3 **Q** And the Oglala Sioux Tribe has their own attorneys
4 office?

5 **A** I believe so.

6 **Q** Their own Tribal Court?

7 **A** As far as I know.

8 **Q** The Tribe has their own Burial Assistance Program?

9 **A** Yes.

10 **Q** The Tribe has their own Community Health Program?

11 **A** Uhm-uhm.

12 **Q** The Tribe has their own Child Care and Development
13 Program?

14 **A** All that, as far as I know.

15 **Q** The Tribe has their own Commodity Food Distribution
16 Program?

17 **A** Uhm-uhm.

18 **Q** They have their own Community Action Program?

19 **A** As far as I know.

20 **Q** They have a Conservation District?

21 **A** I don't know about that.

22 **Q** They have a Department of Education and Planning?

23 **A** I believe so.

24 **Q** They have an Elderly Phone Program?

25 **A** As far as I know.

- 1 **Q** The Tribe has an emergency youth shelter?
- 2 **A** I think so.
- 3 **Q** They have their own Employee Assistance Program?
- 4 **A** Continue.
- 5 **Q** Oglala Sioux Tribe has their own Environmental
6 Protection Program?
- 7 **A** As far as I know.
- 8 **Q** The Tribe has their own grant programs?
- 9 **A** I'm sure they do.
- 10 **Q** The Tribe has their own Head Start?
- 11 **A** Yes.
- 12 **Q** Their own schools?
- 13 **A** Yes.
- 14 **Q** Their own Healthy Start?
- 15 **A** I don't know what that is, but I'm assuming. The list
16 of tribal programs is long. If you want to read it all
17 I will tell you.
- 18 **Q** The Tribe's own Home Improvement Program?
- 19 **A** I guess.
- 20 **Q** The Tribe has their own Higher Education Program?
- 21 **A** Yes.
- 22 **Q** And it's own Jobs Program?
- 23 **A** True.
- 24 **Q** And the Tribe has its own Park and Recreation?
- 25 **A** Yes.

1 **Q** The Tribe has its own Pesticide Enforcement Program?

2 **A** Yes.

3 **Q** All right. The Tribe has its own Rural Water Supply
4 Program?

5 **A** Yes.

6 MR. SANDVEN: Could I have this marked 111, ma'am?

7 (Exhibit No. 111 was marked for identification.)

8 **Q** Do you recognize this document marked Exhibit 111?

9 **A** Yes, I do.

10 **Q** Who prepared it, ma'am?

11 **A** The Department of Legislative Audit.

12 **Q** Where did you get this Ten-County Comparison?

13 **A** Our County Auditor gave us a copy of it.

14 **Q** So Shannon County, you testified earlier about the
15 amount of taxable income; it's 15.06; is that correct?

16 **A** That's the amount of the acres of land in our county
17 that are taxable.

18 **Q** Right. So that means approximately 85% of the lands are
19 not taxable, correct?

20 **A** Yes.

21 **Q** So 85% of the lands in Shannon County are trust lands?

22 **A** Trust and reserve.

23 **Q** Trust and reserve, where the State has no jurisdiction?

24 **A** Right.

25 **Q** And the State has no responsibilities over those trust

1 lands?

2 **A** Yes and no.

3 **Q** Who has the trust responsibility over those 85% of trust
4 lands located within Shannon County?

5 **A** The US Government.

6 **Q** All right. The State has no criminal jurisdiction over
7 anything that happens on those lands, correct?

8 **A** Correct.

9 MR. WILSON: I think that's a misstatement of law,
10 so I'll make an objection to that.

11 **Q** Unless there's an offense that involves non-Indian
12 against non-Indian or a victimless crime, the State
13 doesn't have jurisdiction for acts on Indian lands? If
14 you don't know, you don't know.

15 **A** I do know. I just know our sheriff cannot go handle a
16 situation unless it's on deeded land and is non-Indian.

17 **Q** So that would just be 15% of the lands within Shannon
18 County?

19 **A** That's the land, not the population.

20 **Q** Right. And then as far as recording property, it's just
21 for that 15% that the county has to go ahead and do for
22 the Reservation, for Shannon County?

23 **A** Yes.

24 **Q** Okay. You talked a little bit about PULL books. When
25 is the first time you heard about PULL books being

1 required for an election?

2 **A** A month ago at our commissioner's meeting; maybe two
3 months ago.

4 **Q** First time you've heard about PULL books?

5 **A** We've always had PULL books, these are E-books.

6 **Q** Electronic PULL books, right?

7 **A** Yes.

8 **Q** So your attorney just asked you some question regarding
9 if you knew how much they cost?

10 **A** I have no idea.

11 **Q** If you've known about them for two months, how come you
12 haven't researched how much they cost?

13 **A** Because we don't have the money to buy them, and the law
14 isn't there yet. Our Auditor didn't know what they
15 would cost yet.

16 **Q** Does anybody have any idea in the county commission how
17 much electric PULL books are going to cost?

18 **A** No.

19 **Q** Do you know when they're required?

20 **A** No.

21 **Q** Do you know how many you'll need?

22 **A** No.

23 **Q** Do you know anything about electronic PULL books?

24 **A** No.

25 **Q** Internet, you were asked some questions regarding

1 internet. Did the Shannon County Commission, anybody or
2 any of their agents go ahead and talk to the district
3 centers about doing early voting there?

4 **A** Doing early voting in the district --

5 **Q** Yes, ma'am.

6 **A** That's up to Jean Belt.

7 **Q** Really it's up to the County Auditor, isn't it?

8 **A** Jean works for the County Auditor.

9 **Q** Right. My question is, do you know if anyone went to
10 any of the district centers in Shannon County and asked,
11 can we do early voting here?

12 **A** I don't know that, but Jean is going to report to us
13 tomorrow.

14 **Q** But you already leased space, didn't you, and paid for
15 \$500 a month to go ahead and lease space for early
16 voting?

17 **A** Yes.

18 **Q** But no one went to the Tribe and asked the Tribe if they
19 could use any of their buildings to conduct early
20 voting, did they?

21 **A** Yes. That's how it is we ended up with the one spot we
22 do have.

23 **Q** In February, someone ran to the Tribe and said, can we
24 lease space?

25 **A** We are commissioners and we meet once a month at a

1 regular meeting. It's not up to the five of us to be
2 running around asking questions anywhere.

3 **Q** Have you ever been to a district center?

4 **A** Yes.

5 **Q** Do you know if there is internet in a district center?

6 **A** No, I don't.

7 **Q** Do you know that all the district centers have internet?

8 **A** I don't know that they do, no. I --

9 **Q** Never researched?

10 **A** I went there to vote, I didn't go to snoop on their
11 internet.

12 **Q** Okay. Why didn't Shannon County ask somebody, can we go
13 ahead and use the location for the Tribe that has
14 internet service?

15 MS. FRANKENSTEIN: I will object, it's been asked
16 and answered. She told you Jean Belt on behalf of the
17 county has been doing these exact things.

18 **Q** Has Jean Belt went to the district centers and asked?

19 **A** She's going to tell us tomorrow where she's been. I
20 live there, and I know that there is internet everywhere
21 except Batesland.

22 **Q** So getting internet isn't a big deal, is it?

23 **A** It depends on if your building is down in the hole or
24 not. Where I live I can't get anything. My cell phone
25 doesn't work.

1 **Q** Right, but in Pine Ridge --

2 **A** In Pine Ridge, yes, but we still have to have it hooked
3 up and pay for it.

4 **Q** Right. Do you have any idea how much that cost to have
5 monthly internet there?

6 **A** Hopefully I'll know tomorrow.

7 **Q** You don't know?

8 **A** No. We just know we have to do it, doesn't matter what
9 it costs.

10 MR. SANDVEN: No further questions. Thank you,
11 ma'am.

12 MR. WILSON: No questions.

13 MS. FRANKENSTEIN: I don't have any either. Lyla,
14 you have the opportunity to review the deposition
15 transcript and determine whether or not there are any
16 errors or inaccuracies you'd like to change, and I would
17 advise you to go ahead and do that. Just tell the Court
18 Reporter where you want it sent.

19 THE WITNESS: Yes. If it's still there, PO
20 Box 168 in Wounded Knee, 57794.

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