

Excerpts of Libicki Cross-Examination
Transcript, PCHB No. P19-087c
(4-27-2021)

Hearing - Day 10

Advocates for a Cleaner Tacoma, et al. v. Puget Sound Clean Air Agency, et ano.

April 27, 2021



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PHYSICIANS FOR SOCIAL)	PCHB NO. P19-087C
RESPONSIBILITY; STAND.EARTH; and)	
THE PUYALLUP TRIBE OF INDIANS,)	
)	
Appellants,)	
)	
v.)	
)	
PUGET SOUND CLEAN AIR AGENCY, PUGET)	
SOUND ENERGY,)	
)	
Respondents.)	

VIDEOCONFERENCE HEARING

DAY 10

Pages 2330 - 2644

OLYMPIA, WASHINGTON

April 27, 2021

8:03 a.m.

REPORTED BY: CRYSTAL R. MCAULIFFE, RPR, CCR 2121

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2 tight time rein. With that, we are off the record.

3 (A luncheon recess was taken from
4 11:48 a.m. to 12:50 p.m.)

5 THE COURT: Okay. Let's go back on the
6 record. And I know that we're ready for
7 cross-examination of Dr. Libicki. But I'm going to let
8 her arrange her camera to her satisfaction first.

9 Mr. Thomas, are you going to be questioning
10 or is Mr. Bridgman? I see you both unmuted.

11 MR. BRIDGMAN: I apologize, Your Honor. I
12 thought we were going to talk about demonstratives for a
13 couple minutes, but I will mute and go later.

14 THE COURT: I was hoping to talk about those
15 after Dr. Libicki is finished.

16 MR. BRIDGMAN: Yes, of course.

17 THE COURT: Okay. Dr. Libicki, you're ready
18 to go?

19 THE WITNESS: I am. Thanks for the delay.
20 Every time the video goes down, the camera resets.

21 THE COURT: You have to start over.

22 Mr. Thomas, please go ahead.

23 C R O S S - E X A M I N A T I O N

24 BY MR. THOMAS:

25 Q. Dr. Libicki, good afternoon. Good to see you

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23 C R O S S - E X A M I N A T I O N

24 BY MR. THOMAS:

25 Q. Dr. Libicki, good afternoon. Good to see you

1 again.

2 A. Afternoon.

3 Q. Would it be fair to say that you did not assist
4 with PSE's permit application for the Tacoma LNG
5 facility?

6 A. I did not assist with the permit application.

7 Q. Okay. And a little earlier you discussed
8 fugitive emissions at refineries with Ms. Mallick.

9 Is Tacoma LNG a refinery, in your view?

10 A. No, it is not.

11 Q. And would it be fair to say that all of your
12 work concerning Tacoma LNG occurred after the issuance
13 of the Order of Approval being appealed in this case?

14 A. Yes, that's correct.

15 Q. Okay. And would it be fair to say that your
16 written testimony in this case is based, to some extent,
17 on work that you performed after your deposition with me
18 on January 14th of this year?

19 A. I'm sorry. Can you repeat the question?

20 What part of my work?

21 Q. Just -- just an appreciable portion of it was
22 performed after January 14th; is that --

23 MS. WATKINS MALLICK: Objection to form. I
24 don't know what "appreciable portion" means.

25 THE COURT: Can you rephrase, Mr. Thomas?

1 MR. THOMAS: Sure.

2 BY MR. THOMAS:

3 Q. Dr. Libicki, you know what, I'll leave that.

4 When we spoke at your deposition, you told me
5 you had never been to the Tacoma LNG site or the Port of
6 Tacoma.

7 Do you recall that?

8 A. I do.

9 Q. And have you been to the Port of Tacoma since
10 your deposition to personally observe Tacoma LNG and its
11 surroundings?

12 A. Well, in as much as we can call a FaceTime tour
13 personally in the age of COVID, yes. I haven't been
14 fully vaccinated but for a couple of weeks now, so I
15 took a tour on FaceTime.

16 Q. Okay. Correct me if I'm wrong, but you did not
17 personally run the air dispersion modeling underlying
18 the testimony you provided today.

19 Do I have that right?

20 A. What do you mean by personally running?

21 Q. Did you set up the model and press go?

22 A. No, I did not set up the model and press go.

23 Q. Well, can you tell us who actually ran the
24 modeling analysis that you're testifying about?

25 A. Sure. It was a woman in our staff at our

1 Lynnwood office.

2 Q. In your what office?

3 A. Lynnwood. Lynnwood, Washington. It is right up
4 near the facility.

5 Q. Okay. So just one person?

6 A. Well, she was the one who physically put the
7 parameters in the monitor and pressed go. I believe
8 that's what you asked.

9 Q. I see.

10 And are you a professional engineer,
11 Dr. Libicki?

12 A. I am not.

13 Q. Do you hold any professional certificates?

14 A. Other than my Ph.D., no.

15 Q. Okay. Would it be fair to say that you are also
16 an expert in how drugs are transported through human
17 skin in the pharmaceutical context?

18 A. Well, that's what I did my first work on out of
19 graduate school, and that's what I have patents in. But
20 I haven't kept up with the science in that area
21 probably, 30 years right now.

22 Q. And would it be fair to say that you have no
23 educational background in meteorology?

24 A. I have not taken a course in meteorology, per
25 se; however, meteorology is simply fluid dynamics, and

1 that I've taken a number of courses in.

2 Q. And you're not employed by the Environmental
3 Protection Agency; correct?

4 A. I am not employed by the EPA.

5 Q. And in your testimony here today, you're not
6 purported to speak for the EPA, are you?

7 A. No.

8 Q. And have you spoken with the EPA about whether
9 it considers Tacoma LNG to be a fuel conversion
10 facility?

11 A. I have not.

12 Q. Okay. Does EPA routinely retain you as an
13 outside consultant?

14 A. So I have some grants that I work with from the
15 EPA. Actually, not grants to me, but I'm a
16 subcontractor on them, so I suppose.

17 Q. Okay. And at your deposition you told me that
18 Tacoma LNG was the first time you performed work
19 specifically assessing emissions from a methane
20 liquefaction facility; correct?

21 MS. WATKINS MALLICK: Objection to form.
22 Methane liquefaction facility.

23 MR. THOMAS: Your Honor, it is what Tacoma
24 LNG is. They turn methane into liquid methane. The
25 process is called "liquefaction," if --

1 THE COURT: I'm going to allow it.

2 THE WITNESS: So I have to apologize,
3 Mr. Thomas. Can you repeat the question?

4 MR. THOMAS: Sure. Yes.

5 BY MR. THOMAS:

6 Q. Is Tacoma LNG the first time that you performed
7 work specifically assessing emissions from an LNG
8 facility that makes LNG, like Tacoma LNG?

9 A. So as much as we're talking about the facility
10 in total, I don't recall doing any work on a methane
11 facility. However, each and every one of the processes
12 in the facility I think I've worked on.

13 Q. And you and Ms. Mallick discussed Jordan Cove a
14 bit, and you've provided a fair amount of testimony
15 regarding Jordan Cove. But you did not work on the
16 permitting of Jordan Cove; correct?

17 A. That's correct.

18 Q. Okay. And do you understand that Tacoma LNG is
19 not an export facility subject to FERC jurisdiction?

20 MS. WATKINS MALLICK: Objection.
21 Foundation.

22 THE COURT: Mr. Thomas?

23 MR. THOMAS: Your Honor, it's
24 cross-examination of -- of items that Ms. Mallick
25 discussed with the witness in depth. I'm asking the

1 witness what her understanding is based on that
2 testimony.

3 THE COURT: I don't think you talked about
4 whether it had FERC jurisdiction. But with that said,
5 I'm going to let her answer it to the best of her
6 ability.

7 THE WITNESS: Yeah. So I think I'm going to
8 agree with exactly what you said. I don't think I
9 talked about FERC jurisdiction. I don't have knowledge
10 of that area.

11 BY MR. THOMAS:

12 Q. Do you understand that Tacoma LNG will not be
13 exporting its LNG project?

14 A. So if you're using the term "export" in a
15 technical sense, I'm afraid I can't answer that because
16 I don't know what constitutes export in a technical
17 sense.

18 Q. Okay. Do you understand that the LNG produced
19 at LNG needs to meet a methane number of 80?

20 A. I have read that in the record.

21 Q. What specification is Jordan Cove's LNG that
22 it's producing? What specification is that LNG required
23 to meet, if you know?

24 A. I'm not sure I know that.

25 Q. I won't ask you any more questions about it.

1 I would like, if we could, to take a look at
2 PSE 347. So your written direct.

3 Do you have that handy?

4 A. I do.

5 Q. Okay.

6 A. So you have to excuse me because I'm going to be
7 switching from close in and far out.

8 Q. And I can ask Ms. Perloff to please put it up on
9 the screen.

10 A. I've actually got it in front of me.

11 Q. And I'd like to go to page 77 of your written
12 testimony.

13 And, Dr. Libicki, I would like to ask you about
14 your testimony at line 16 where it says, quote, "What
15 the Tribe thinks the flare can do is not relevant here."

16 Do you see that that?

17 A. I do.

18 Q. And would it be fair to say that you have done a
19 lot of work assessing the flare's emissions in this
20 case?

21 A. So I've done a fair amount of work looking into
22 what the flare can do. In terms of its destruction
23 efficiency and in terms of what's coming out of the
24 flare.

25 Q. And you've got a Ph.D. in chemical engineering,

1 if I'm not mistaken.

2 A. That's correct.

3 Q. Given all the work that you've done, do you
4 understand that Tacoma LNG's flare will emit carcinogens
5 to the airshed?

6 A. So in -- in our world, when we talk about
7 toxics, we can talk about them two ways. We can talk
8 about the single molecule, which is to say that there
9 are definitely molecules of chemicals that have been
10 classified as carcinogens or possible carcinogens in the
11 exhaust of the flare.

12 The second way we talk about carcinogens is:
13 What's the concentration? Because there are things in
14 the air all around us that are carcinogens. And that's
15 why we have the TAPs and the ASILs and the evaluation.

16 So the simple emissions of carcinogens -- of
17 course we would like zero everywhere -- is not something
18 we normally talk about.

19 Q. But will it?

20 A. There are -- so I'm going to use the benzene,
21 which I think is either a suspected carcinogen or a
22 known carcinogen. I'm not sure what the classification
23 is. There is benzene in the exhaust.

24 Q. Did you write this sentence?

25 A. Did I write this sentence? I -- I certainly