

# EXHIBIT 2

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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AMERICAN SOCIETY FOR TESTING AND ) Case No.  
MATERIALS d/b/a ASTM INTERNATIONAL;) 1:13-cv-01215-EGS  
)  
NATIONAL FIRE PROTECTION )  
ASSOCIATION, INC.; and )  
)  
AMERICAN SOCIETY OF HEATING, )  
REFRIGERATING, AND )  
AIR-CONDITIONING ENGINEERS, INC., )  
)  
Plaintiffs, )  
vs. )  
)  
PUBLIC.RESOURCE.ORG, INC., )  
)  
Defendant. )  
-----)  
AND RELATED COUNTERCLAIMS. )  
-----)

RULE 30(B)(6) VIDEOTAPED DEPOSITION OF AMERICAN  
STANDARDS SOCIETY FOR TESTING AND MATERIALS, BY AND  
THROUGH ITS DESIGNEE,  
JEFFREY GROVE  
WASHINGTON, D.C.  
WEDNESDAY, MARCH 4, 2015

Reported by:  
NANCY J. MARTIN, CSR No. 9504, RMR  
Job No. 2010158  
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1 Q. Does he still work for ASTM? 11:54:10	1 Q. How many times have you seen her at standards 11:57:24
2 A. He does. 11:54:12	2 community events? 11:57:25
3 (Deposition Exhibit 1037 was marked for 11:54:56	3 A. I'd say at least a dozen. At least 10 to 12 11:57:31
4 identification.) 11:54:56	4 times. 11:57:34
5 BY MR. BRIDGES: 11:54:57	5 Q. And what standards community events do you 11:57:35
6 Q. Mr. Grove, Exhibit 1037 is an exchange of 11:54:57	6 have in mind? Strike that. 11:57:40
7 correspondence between you and John Pace; correct? 11:55:01	7 What standards community events do you 11:57:44
8 A. Yes. 11:55:11	8 recall? 11:57:46
9 Q. And the post that you're referring to is 11:55:12	9 A. I recall there were some subsequent ACUS 11:57:47
10 indicated at the URL down below at the bottom of that 11:55:17	10 public stakeholder opportunities for stakeholders to 11:57:50
11 document; is that correct? 11:55:20	11 come to ACUS events. I recall that Emily was at the 11:57:56
12 A. That's correct. 11:55:22	12 NIST standards workshop in May of 2012. I know I've 11:58:03
13 Q. What interactions did you have with Emily 11:55:24	13 seen her on other occasions at ANSI related events, 11:58:11
14 Bremer? 11:55:26	14 ANSI sponsors world standards week where there's a 11:58:17
15 A. I forget the time line. It was probably in 11:55:28	15 number of different opportunities for meetings and 11:58:22
16 2011 but Emily Bremer was the lead investigator or 11:55:31	16 topical discussions. So those would be the -- some of 11:58:27
17 counsel that was working on the administrative counsel 11:55:36	17 the instances where I may have seen her. 11:58:34
18 of the United States review and potential 11:55:39	18 Q. What other occasions have you seen her apart 11:58:36
19 recommendations on incorporation by reference, and we 11:55:44	19 from ACUS public stakeholders events, the NIST 11:58:39
20 met on one occasion at my office at her request. 11:55:49	20 standards workshop, and ANSI sponsored events? 11:58:42
21 Q. Did you meet with her only once? 11:55:55	21 A. I think that represents most of my 11:58:51
22 A. Only once professionally. I see her at 11:55:56	22 interactions or times I've seen her in Washington. 11:58:55
23 various standards community events in Washington quite 11:55:59	23 Q. I understand maybe most. I want to try to 11:58:58
24 a bit. 11:56:04	24 understand every single one that you recall. 11:59:01
25 Q. Are those nonprofessional events? I don't 11:56:06	25 A. Right. That's all I recall. 11:59:03
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1 quite understand the -- 11:56:09	1 Q. What were the ANSI sponsored events to which 11:59:07
2 MR. FEE: Objection. 11:56:14	2 you referred? 11:59:09
3 BY MR. BRIDGES: 11:56:15	3 A. I recall there was one at the national -- I'm 11:59:10
4 Q. You said you met with her only once 11:56:15	4 sorry. It's at the consumer electronics association 11:59:15
5 professionally, and then you see her at various 11:56:17	5 in Arlington, Virginia. A panel where Peter Strauss, 11:59:20
6 standards community events in Washington quite a bit. 11:56:19	6 Emily spoke, and now that you've refreshed my memory, 11:59:24
7 A. Yeah. Thanks for the opportunity to clarify. 11:56:25	7 I believe I spoke also on a panel there. Oh, and the 11:59:28
8 MR. FEE: Objection. Vague. 11:56:25	8 ANSI events, the question. During world standards 11:59:38
9 THE WITNESS: So I only met in an official 11:56:29	9 week every year there's four or five days in October 11:59:41
10 capacity to be interviewed to represent ASTM's views 11:56:32	10 where each day there's a -- one or more events, such 11:59:45
11 once with Emily, but from time to time since then I 11:56:37	11 as the organizational member form of ANSI, where 11:59:53
12 see her at standards related events and quite possibly 11:56:40	12 organizations that are members of ANSI can come and -- 11:59:57
13 would say, "Hi" or "Hello," or "What are you working 11:56:45	13 for a program. There's the consumer interest forum or 12:00:02
14 on" type of networking discussions. 11:56:48	14 consumer groups that are members of ANSI speak. 12:00:07
15 BY MR. BRIDGES: 11:56:53	15 There's a legal issues forum where members 12:00:13
16 Q. What networking would be going on in those 11:56:53	16 from the standards community might go to discuss legal 12:00:20
17 networking discussions? 11:56:56	17 issues. And, occasionally, there's official committee 12:00:24
18 A. Just in the course of normal relationship, 11:56:57	18 meetings, such as the national policy committee, which 12:00:29
19 discussions that one might have with a colleague from 11:57:04	19 I belong to, during that week. 12:00:31
20 another organization. 11:57:07	20 Q. And did she attend all of those? 12:00:34
21 Q. Have you ever met with her alone on any 11:57:11	21 A. I recall I've seen her at some ANSI events 12:00:36
22 occasion other than the one time you said you were 11:57:14	22 before, but I wouldn't be able to tell you which ones 12:00:38
23 interviewed? 11:57:17	23 with any certainty. 12:00:41
24 A. I don't recall, no. I don't believe I have 11:57:20	24 Q. Are there any other instances that you recall 12:00:43
25 ever met with her besides the one time. 11:57:21	25 being with her at an event? 12:00:46
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<p>1 A. I had previously mentioned an office in 12:18:34</p> <p>2 Brussels, Belgium where we have a contractor. 12:18:35</p> <p>3 Q. Who else? 12:18:39</p> <p>4 A. We operated for many years an office in 12:18:40</p> <p>5 Mexico City. That office, our representative, 12:18:44</p> <p>6 unfortunately, recently passed away. So we are 12:18:47</p> <p>7 re-evaluating what we're going to be doing in Mexico 12:18:51</p> <p>8 City. But I believe we will still have an office 12:18:54</p> <p>9 there for the time being. 12:18:58</p> <p>10 Q. Any other offices? 12:18:59</p> <p>11 A. We do. So we worked in collaboration with an 12:19:01</p> <p>12 organization called the American Association of State 12:19:04</p> <p>13 Highway Transportation Officials. It's known as 12:19:09</p> <p>14 AASHTO, and AASHTO and ASTM work together in a 12:19:12</p> <p>15 facility in Buckeystown, Maryland, which is -- we do 12:19:16</p> <p>16 cement and concrete reference, related laboratory 12:19:22</p> <p>17 inspections. To my knowledge, that's the scope of 12:19:30</p> <p>18 ASTM's offices. 12:19:35</p> <p>19 Q. How often do you visit the corporate 12:19:44</p> <p>20 headquarters in the course of a year? 12:19:47</p> <p>21 A. In 2013 I made approximately 24 trips to 12:19:50</p> <p>22 ASTM's headquarters. 12:19:55</p> <p>23 Q. How often do you speak to Emily Bremer on the 12:20:38</p> <p>24 telephone? 12:20:41</p> <p>25 A. I honestly don't recall speaking with Emily 12:20:46</p> <p style="text-align: right;">Page 102</p>	<p>1 an interview with Emily that appeared in our magazine. 12:22:11</p> <p>2 (Deposition Exhibit 1040 was marked for 12:23:27</p> <p>3 identification.) 12:23:27</p> <p>4 BY MR. BRIDGES: 12:23:27</p> <p>5 Q. Mr. Grove, have you seen Exhibit 1040 before? 12:23:27</p> <p>6 MR. FEE: Read it first. 12:23:34</p> <p>7 MR. BRIDGES: It's pretty short. It's pretty 12:23:35</p> <p>8 obvious. 12:23:37</p> <p>9 (The witness reviewed Exhibit 1040.) 12:24:02</p> <p>10 THE WITNESS: Yes, I'm familiar -- I am on 12:24:07</p> <p>11 this E-mail, yes. 12:24:09</p> <p>12 BY MR. BRIDGES: 12:24:12</p> <p>13 Q. All right. And did you get -- did you see at 12:24:12</p> <p>14 any point the segment from John Pace to James Thomas 12:24:18</p> <p>15 up top? 12:24:22</p> <p>16 A. Yes. 12:24:27</p> <p>17 Q. Is the "Jeff" in the middle of the large 12:24:30</p> <p>18 paragraph at the top, do you understand that to be a 12:24:34</p> <p>19 reference to you? 12:24:37</p> <p>20 A. I believe it is as I'm responsible for the 12:24:39</p> <p>21 ASTM's reading room. 12:24:41</p> <p>22 Q. Why are you responsible for the reading room? 12:24:54</p> <p>23 MR. FEE: Objection. Vague. Calls for 12:24:57</p> <p>24 speculation. 12:24:59</p> <p>25 THE WITNESS: For many years I've been 12:25:01</p> <p style="text-align: right;">Page 104</p>
<p>1 Bremer since 2012 on the telephone. 12:20:48</p> <p>2 Q. What about your staff? Do you know how often 12:20:50</p> <p>3 they speak to Emily Bremer on the telephone? 12:20:53</p> <p>4 MR. FEE: Objection. Calls for speculation. 12:20:56</p> <p>5 Beyond the scope of his designation. 12:20:57</p> <p>6 THE WITNESS: I believe my staff would inform 12:21:00</p> <p>7 me if they spoke with Emily, and I don't recall them 12:21:01</p> <p>8 speaking with her by phone. 12:21:08</p> <p>9 MR. BRIDGES: I'll hand you Exhibit 1039. 12:21:14</p> <p>10 (Deposition Exhibit 1039 was marked for 12:21:25</p> <p>11 identification.) 12:21:25</p> <p>12 BY MR. BRIDGES: 12:21:25</p> <p>13 Q. Do you recognize this as an E-mail to you 12:21:25</p> <p>14 from Cicely Enright? And who is Cicely Enright? 12:21:26</p> <p>15 MR. FEE: Objection. Compound. 12:21:46</p> <p>16 THE WITNESS: Yes. I recognize this is an 12:21:50</p> <p>17 E-mail from Cicely Enright. Cicely works as an 12:21:51</p> <p>18 associate editor of our ASTM magazine known as 12:21:54</p> <p>19 Standardization News. 12:21:58</p> <p>20 BY MR. BRIDGES: 12:22:00</p> <p>21 Q. Does this E-mail concern an article to be 12:22:00</p> <p>22 published in that newsletter? 12:22:03</p> <p>23 MR. FEE: Objection. Beyond the scope of his 12:22:05</p> <p>24 designation. 12:22:07</p> <p>25 THE WITNESS: It appears as if it does. It's 12:22:08</p> <p style="text-align: right;">Page 103</p>	<p>1 working with senior staff because of an interest that 12:25:01</p> <p>2 I have in striking the right balance between providing 12:25:05</p> <p>3 the public with access to ASTM standards that become 12:25:09</p> <p>4 incorporated by reference in various laws and 12:25:12</p> <p>5 regulations while maintaining our ability to sustain 12:25:17</p> <p>6 our organization through the distribution of our 12:25:25</p> <p>7 standards under the model that served us so well for 12:25:27</p> <p>8 118 years. 12:25:30</p> <p>9 BY MR. BRIDGES: 12:25:42</p> <p>10 Q. How did you come by such an interest? 12:25:42</p> <p>11 A. Well, working in Washington for ASTM for as 12:25:45</p> <p>12 long as I have, I've begun to hear and see the 12:25:48</p> <p>13 emerging interest in striking this delicate balance, 12:25:56</p> <p>14 began to see efforts that other organizations were 12:26:04</p> <p>15 taking, such as the NFPA, which, going back all the 12:26:06</p> <p>16 way to 2004, started to provide some of their key code 12:26:10</p> <p>17 documents on their website. And I've heard some 12:26:15</p> <p>18 interesting testimony and ideas expressed by people 12:26:21</p> <p>19 like Peter Strauss, who is a law professor, I believe, 12:26:23</p> <p>20 and other people associated with ACUS who served on 12:26:31</p> <p>21 ACUS committees. So those are some of the factors and 12:26:35</p> <p>22 things that have influenced my thinking on this 12:26:42</p> <p>23 reading room. 12:26:44</p> <p>24 Q. I understand the factors that influenced your 12:26:47</p> <p>25 thinking, but how did you come to have such an 12:26:50</p> <p style="text-align: right;">Page 105</p>


<p>1 BY MR. BRIDGES: 12:48:17</p> <p>2 Q. How many ASTM standards do you understand are 12:48:17</p> <p>3 listed at that location? 12:48:21</p> <p>4 MR. FEE: Objection. Vague as to time. 12:48:23</p> <p>5 THE WITNESS: So there's -- if I'm answering 12:48:34</p> <p>6 your question exactly as you phrased it to me, how 12:48:35</p> <p>7 many standards, I believe there's 885 or so ASTM 12:48:38</p> <p>8 standards that are incorporated in the NIST database. 12:48:41</p> <p>9 BY MR. BRIDGES: 12:48:50</p> <p>10 Q. How many of those standards are currently 12:48:50</p> <p>11 available at ASTM's reading room? 12:48:52</p> <p>12 A. Well, if it's in the NIST database, we built 12:48:55</p> <p>13 the ASTM reading room using the NIST database as a 12:49:02</p> <p>14 baseline, and we added in other versions of those same 12:49:06</p> <p>15 885 ASTM standards that have been also incorporated by 12:49:10</p> <p>16 reference, just an agency, for instance, might 12:49:17</p> <p>17 reference the same ASTM standard but reference two 12:49:21</p> <p>18 different versions of the standard. 12:49:25</p> <p>19 So we counted them in the reading room as 12:49:27</p> <p>20 well, and I believe our reading room has a volume of 12:49:30</p> <p>21 13- to 1,400 ASTM standards that are available to the 12:49:32</p> <p>22 public at no cost on our website for their review. 12:49:36</p> <p>23 Q. Are every one of the 885 standards from the 12:49:41</p> <p>24 NIST database available in the reading room? 12:49:45</p> <p>25 A. I wouldn't be able to answer that 12:49:51</p> <p style="text-align: right;">Page 122</p>	<p>1 of working with agencies during the notice of proposed 12:51:41</p> <p>2 rule-making process. 12:51:45</p> <p>3 Any agency that comes to us and asks us to 12:51:46</p> <p>4 put a standard up for public review during the public 12:51:50</p> <p>5 review period of a rule, we work with them to make 12:51:53</p> <p>6 that possible. So at times we know that a certain 12:51:57</p> <p>7 number of ASTM standards have been in a notice to 12:52:01</p> <p>8 proposed rulemaking and that the new rule's expected 12:52:04</p> <p>9 to come out, so we can look for it. 12:52:08</p> <p>10 Q. Does ASTM provide assistance to the 12:52:16</p> <p>11 government in any way when the government is 12:52:18</p> <p>12 considering whether to incorporate an ASTM standard by 12:52:20</p> <p>13 reference? 12:52:23</p> <p>14 MR. FEE: Objection. Vague. 12:52:24</p> <p>15 THE WITNESS: So we do -- I'm familiar with a 12:52:29</p> <p>16 couple things that either I do or a member of my staff 12:52:31</p> <p>17 does. We look to see -- when we're aware that an ASTM 12:52:34</p> <p>18 standard is going to be used and incorporated by 12:52:39</p> <p>19 reference in some type of an action, we look to see 12:52:43</p> <p>20 what version of the standard and what designation of 12:52:46</p> <p>21 the standard is being used, and I believe on occasion 12:52:50</p> <p>22 if they're using -- proposing to use an outdated 12:52:54</p> <p>23 version of a standard, or, quite frankly, we've seen 12:52:59</p> <p>24 errors where they've attempted to use an ASTM biofuel 12:53:02</p> <p>25 standard, and rather than referencing D6751 they've 12:53:06</p> <p style="text-align: right;">Page 124</p>
<p>1 specifically. Using the NIST database as a guideline, 12:49:53</p> <p>2 we've incorporated, you know, as much of that as 12:50:02</p> <p>3 possible in the reading room. At times I believe we 12:50:04</p> <p>4 also tried to add a little bit more intelligence to it 12:50:06</p> <p>5 to determine if an agency was undertaking a subsequent 12:50:09</p> <p>6 rule-making, and we became aware that the agency had 12:50:18</p> <p>7 published a new final rule which either changed the 12:50:24</p> <p>8 reference to an ASTM standard that we had placed in 12:50:27</p> <p>9 the reading room or added a new ASTM standard to the 12:50:31</p> <p>10 reading room. 12:50:38</p> <p>11 Then we took steps to add that to the reading 12:50:39</p> <p>12 room. It's not an exact science. We don't pay a 12:50:42</p> <p>13 vendor to perform the service for us. We rely either 12:50:48</p> <p>14 exclusively on the NIST database or we -- it's based 12:50:55</p> <p>15 on intelligence that we've gathered about new 12:50:58</p> <p>16 rulemakings. 12:51:01</p> <p>17 Q. How do you gather intelligence about 12:51:03</p> <p>18 incorporations of ASTM standards by reference? 12:51:08</p> <p>19 A. Well, as much as possible we read the federal 12:51:14</p> <p>20 register. I'd like to think we read it on a regular 12:51:17</p> <p>21 basis, but sometimes it's more infrequent than that. 12:51:20</p> <p>22 So we will search key terms in the federal register to 12:51:24</p> <p>23 see if it's mentioning ASTM and if there's a rule that 12:51:30</p> <p>24 has resulted in the publication of standards. And 12:51:34</p> <p>25 sometimes we're ahead of it because ASTM has a policy 12:51:38</p> <p style="text-align: right;">Page 123</p>	<p>1 referenced D56571, gotten the numbers wrong, we will 12:53:09</p> <p>2 engage with an agency and either make them aware 12:53:14</p> <p>3 there's a more recent version or make them aware that 12:53:16</p> <p>4 what they are trying to reference doesn't make a lot 12:53:20</p> <p>5 of sense. 12:53:22</p> <p>6 BY MR. BRIDGES: 12:53:23</p> <p>7 Q. Does ASTM bring standards to the attention of 12:53:26</p> <p>8 the federal government with some sort of 12:53:36</p> <p>9 recommendation that the federal government incorporate 12:53:38</p> <p>10 the standard by reference? 12:53:41</p> <p>11 MR. FEE: Objection. Vague. 12:53:43</p> <p>12 THE WITNESS: That's not part of what we call 12:53:45</p> <p>13 engaging federal agencies in Congress. What we will 12:53:49</p> <p>14 do is work with agencies and work with Congress to 12:53:53</p> <p>15 make them aware of the voluntary consensus standards 12:53:56</p> <p>16 that we're developing in any given area that they 12:53:59</p> <p>17 might have an interest. But the ultimate decision of 12:54:02</p> <p>18 whether or not to utilize and reference those 12:54:07</p> <p>19 standards we rarely take positions on, and I can't 12:54:08</p> <p>20 give you a specific example of a time that we have 12:54:14</p> <p>21 taken an example on -- taken a position on. 12:54:17</p> <p>22 BY MR. BRIDGES: 12:54:23</p> <p>23 Q. Do any state governments or municipal 12:54:23</p> <p>24 governments incorporate ASTM standards by reference? 12:54:26</p> <p>25 MR. FEE: Objection to form. 12:54:30</p> <p style="text-align: right;">Page 125</p>

<p>1 that they must be -- they have to be referred to as 17:24:32</p> <p>2 "musts," and this would have the voluntary consensus 17:24:35</p> <p>3 standards process. This isn't the intention when 17:24:39</p> <p>4 people come together to work in a voluntary consensus 17:24:43</p> <p>5 standard environment. They want the words to mean 17:24:47</p> <p>6 what they carefully craft them to mean in the process, 17:24:49</p> <p>7 and when -- so I believe that's what I was referring 17:24:52</p> <p>8 to in this. 17:24:55</p> <p>9 BY MR. BRIDGES: 17:25:00</p> <p>10 Q. Well, Mr. Miller was not saying that the 17:25:00</p> <p>11 government was changing the standard. The government 17:25:02</p> <p>12 was proposing to change the law; correct? 17:25:07</p> <p>13 MR. FEE: Objection. The document speaks for 17:25:11</p> <p>14 itself. Calls for speculation. 17:25:13</p> <p>15 THE WITNESS: I guess I would be speculating, 17:25:22</p> <p>16 but that was my interpretation of what this means. 17:25:24</p> <p>17 BY MR. BRIDGES: 17:25:29</p> <p>18 Q. That the government would be changing the law 17:25:29</p> <p>19 as the law interprets the standard? 17:25:31</p> <p>20 MR. FEE: Same objections. And vague. 17:25:36</p> <p>21 THE WITNESS: Yeah. That the government was 17:25:41</p> <p>22 interpreting a standard in a way that the voluntary 17:25:43</p> <p>23 consensus standard group didn't necessarily intend it 17:25:46</p> <p>24 to without coming back to the organization and working 17:25:50</p> <p>25 with them. 17:25:57</p> <p style="text-align: right;">Page 234</p>	<p>1 stakeholders because the government is a very 17:29:07</p> <p>2 important member. 17:29:09</p> <p>3 BY MR. BRIDGES: 17:29:11</p> <p>4 Q. So is the answer to my question "yes"? 17:29:11</p> <p>5 MR. FEE: Objection. 17:29:13</p> <p>6 You can answer it however you'd like. 17:29:14</p> <p>7 MR. BRIDGES: He already has. 17:29:17</p> <p>8 Q. I'm now asking him is the answer to my 17:29:18</p> <p>9 question "yes." 17:29:20</p> <p>10 MR. FEE: Same objection. Asked and 17:29:21</p> <p>11 answered. 17:29:22</p> <p>12 THE WITNESS: Speaking for Jeff Grove, yes. 17:29:23</p> <p>13 BY MR. BRIDGES: 17:29:26</p> <p>14 Q. What about speaking for ASTM? 17:29:26</p> <p>15 MR. FEE: Objection. Asked and answered. 17:29:28</p> <p>16 THE WITNESS: I don't believe ASTM would have 17:29:29</p> <p>17 an official position. 17:29:31</p> <p>18 BY MR. BRIDGES: 17:29:35</p> <p>19 Q. You don't think that ASTM has a view as to 17:29:35</p> <p>20 whether it is pleased when governments incorporate its 17:29:39</p> <p>21 standards by reference? 17:29:43</p> <p>22 MR. FEE: Objection. Vague and asked and 17:29:44</p> <p>23 answered. 17:29:46</p> <p>24 THE WITNESS: It's never been a performance 17:29:49</p> <p>25 metric for me. So no. 17:29:50</p> <p style="text-align: right;">Page 236</p>
<p>1 BY MR. BRIDGES: 17:27:38</p> <p>2 Q. Mr. Grove, does ASTM encourage any 17:27:38</p> <p>3 governments to incorporate its standards by reference? 17:27:46</p> <p>4 MR. FEE: Objection. Vague. 17:27:49</p> <p>5 THE WITNESS: As a matter of policy, we make 17:27:54</p> <p>6 organizations -- sorry -- governments aware of our 17:27:58</p> <p>7 standards and point out and connect with agency 17:28:04</p> <p>8 missions. But in the end, we respect that agencies 17:28:07</p> <p>9 should be the ones that determine whether or not our 17:28:09</p> <p>10 standards are incorporated or not. 17:28:12</p> <p>11 BY MR. BRIDGES: 17:28:13</p> <p>12 Q. Is ASTM generally pleased when governments 17:28:13</p> <p>13 incorporate its standards by reference? 17:28:20</p> <p>14 MR. FEE: Objection. Vague. 17:28:22</p> <p>15 THE WITNESS: So I think it speaks to the 17:28:28</p> <p>16 significance of ASTM and to the breadth of ASTM when 17:28:29</p> <p>17 you see ASTM standards become incorporated by 17:28:34</p> <p>18 reference because it does signify that they are widely 17:28:37</p> <p>19 respected for their technical excellence. I believe 17:28:42</p> <p>20 that it signifies that the government -- it couldn't 17:28:46</p> <p>21 do what we've done with the same effectiveness. So 17:28:52</p> <p>22 they're looking to a voluntary consensus standards 17:28:54</p> <p>23 group in utilizing those standards. 17:28:57</p> <p>24 So in some ways I might take pride in the 17:29:00</p> <p>25 fact that ASTM standards are relied upon by all of our 17:29:04</p> <p style="text-align: right;">Page 235</p>	<p>1 BY MR. BRIDGES: 17:29:58</p> <p>2 Q. Does ASTM have views about things that are 17:29:58</p> <p>3 not performance metrics? 17:30:01</p> <p>4 MR. FEE: Objection. Beyond the scope of his 17:30:05</p> <p>5 designation. Vague. 17:30:06</p> <p>6 THE WITNESS: It could. 17:30:11</p> <p>7 BY MR. BRIDGES: 17:30:14</p> <p>8 Q. What performance metrics do you have? 17:30:14</p> <p>9 MR. FEE: Objection. Beyond the scope of his 17:30:16</p> <p>10 designation. 17:30:20</p> <p>11 THE WITNESS: Generally, my performance is 17:30:23</p> <p>12 based on the job I've done in removing worldwide 17:30:24</p> <p>13 barriers to the acceptance and use of ASTM standards. 17:30:27</p> <p>14 BY MR. BRIDGES: 17:30:36</p> <p>15 Q. Is your -- do your performance reviews ever 17:30:36</p> <p>16 mention the degree of adoption of ASTM standards by 17:30:39</p> <p>17 reference -- strike that. 17:30:44</p> <p>18 Do your performance reviews ever mention the 17:30:46</p> <p>19 degree of incorporation of ASTM standards by 17:30:48</p> <p>20 reference? 17:30:50</p> <p>21 MR. FEE: Objection. Beyond the scope of his 17:30:51</p> <p>22 designation. 17:30:55</p> <p>23 THE WITNESS: I believe over the years I 17:30:56</p> <p>24 might have pointed out to my superiors that a standard 17:30:57</p> <p>25 has become incorporated as something significant. 17:31:00</p> <p style="text-align: right;">Page 237</p>

1 A. Kathe Hooper is responsible for permissions 18:16:38	1 legislation that causes an incorporation by reference? 18:20:11
2 at ASTM. 18:16:47	2 MR. FEE: Can you read that back to me, 18:20:19
3 Q. Who is Joe Koury? 18:16:49	3 please. 18:20:20
4 A. Joe Koury is a staff manager that works with 18:16:51	4 (Record read.) 18:20:38
5 technical committees. 18:16:53	5 MR. FEE: Objection to form. Beyond the 18:20:39
6 (Deposition Exhibit 1070 was marked for 18:17:06	6 scope of his designation. Calls for speculation. 18:20:40
7 identification.) 18:17:06	7 BY MR. BRIDGES: 18:20:48
8 MR. BRIDGES: I'm showing you Exhibit 1070. 18:17:06	8 Q. You may answer. 18:20:48
9 Q. This is an E-mail from Ms. Hooper responding 18:17:12	9 MR. FEE: Hold on. 18:20:49
10 to a permission request; is that correct? 18:17:17	10 Lack of foundation. 18:20:53
11 (The witness reviewed Exhibit 1070.) 18:17:58	11 Go ahead. 18:20:55
12 THE WITNESS: Yes. 18:17:59	12 THE WITNESS: Yeah. So I think we think -- 18:20:55
13 (Deposition Exhibit 1071 was marked for 18:18:11	13 we want to make sure that Congress is aware of the 18:20:59
14 identification.) 18:18:11	14 fact there may be a more recent version because 18:21:02
15 BY MR. BRIDGES: 18:18:12	15 oftentimes it may be unintended that they're not using 18:21:05
16 Q. Exhibit 1071 is an E-mail from Sarah Petre to 18:18:12	16 the most recent version. 18:21:08
17 you and others; is that correct? 18:18:16	17 BY MR. BRIDGES: 18:21:12
18 (The witness reviewed Exhibit 1071.) 18:18:26	18 Q. Ms. Petre asked you whether ASTM should 18:21:12
19 MR. FEE: Objection. Lack of foundation -- 18:18:26	19 request that Congress use the language. Does ASTM 18:21:17
20 strike that. No objection. 18:18:27	20 ever request Congress to use particular language 18:21:21
21 THE WITNESS: So it's an E-mail between ASTM 18:18:42	21 regarding ASTM standards? 18:21:25
22 and Congressional staff and then ASTM staff, correct. 18:18:44	22 MR. FEE: Objection. Beyond the scope of his 18:21:32
23 BY MR. BRIDGES: 18:18:48	23 designation. 18:21:36
24 Q. And within the ASTM -- 18:18:48	24 You can answer. 18:21:36
25 A. Correct. 18:18:51	25 THE WITNESS: Okay. I can think of instances 18:21:38
Page 258	Page 260
1 Q. And it's discussing Congressional 18:18:51	1 like this where Congress -- what's happening here is 18:21:40
2 legislation; is that correct? 18:18:54	2 this is incorporation by reference by Congress and not 18:21:45
3 MR. FEE: Objection. The document speaks for 18:18:56	3 by an agency, and the concern that's expressed at 18:21:48
4 itself. 18:18:57	4 times by our committee members is if Congress acts to 18:21:52
5 THE WITNESS: Legislation passed the House 18:19:10	5 designate a specific standard in legislation that 18:21:57
6 and now it's being referred to the Senate, and Sarah 18:19:11	6 freezes that piece of -- that reference in statute for 18:22:02
7 Petre recognized that there's references to ASTM 18:19:16	7 years to come and agencies -- since it's something 18:22:06
8 standards which are out of date, and she wanted to 18:19:18	8 that Congress said, agencies will simply say, "Hey, 18:22:12
9 contact the staffer to make him aware of that fact. 18:19:22	9 talk to Congress, not to agencies about it." 18:22:16
10 BY MR. BRIDGES: 18:19:26	10 So that's a concern that I'm familiar with, 18:22:19
11 Q. Was this a discussion about incorporation by 18:19:26	11 and I can't tell if that -- I don't recall the 18:22:21
12 reference? 18:19:28	12 circumstances of this here, but that's the most 18:22:26
13 MR. FEE: Same objection. 18:19:29	13 current version language. That's why we're interested 18:22:29
14 THE WITNESS: It's a discussion about 18:19:35	14 in making sure Congress is aware as a more current 18:22:32
15 Congressional intent to use the most recent standard, 18:19:37	15 version. 18:22:36
16 I believe. 18:19:40	16 BY MR. BRIDGES: 18:22:38
17 BY MR. BRIDGES: 18:19:41	17 Q. Mr. Grove, again, you didn't answer my 18:22:38
18 Q. Is that for Congress's use in making an 18:19:41	18 question. My question is does ASTM ever request 18:22:40
19 incorporation by reference into a federal law of an 18:19:48	19 Congress to use particular language regarding ASTM 18:22:43
20 ASTM standard? 18:19:52	20 standards? 18:22:46
21 MR. FEE: Same objection. 18:19:54	21 MR. FEE: Same objections. Plus asked and 18:22:47
22 THE WITNESS: It appears, yes. 18:19:55	22 answered. 18:22:50
23 BY MR. BRIDGES: 18:20:01	23 THE WITNESS: Yes. 18:22:52
24 Q. Does ASTM have a view as to which versions of 18:20:01	24 BY MR. BRIDGES: 18:22:55
25 its standard Congress should include in its 18:20:07	25 Q. To your knowledge, has ASTM ever asked 18:22:55
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<p>1 Congress or a federal agency not to incorporate any of 18:23:00</p> <p>2 its standards by reference? 18:23:04</p> <p>3 MR. FEE: Objection. Beyond the scope of his 18:23:07</p> <p>4 designation. 18:23:09</p> <p>5 THE WITNESS: To my knowledge, no. I believe 18:23:15</p> <p>6 it's possible that there's been reasons why committees 18:23:21</p> <p>7 haven't wanted to see standards incorporated by 18:23:24</p> <p>8 reference, but I can't recall an instance. 18:23:26</p> <p>9 BY MR. BRIDGES: 18:23:31</p> <p>10 Q. Has ASTM ever imposed conditions on whether 18:23:31</p> <p>11 the federal government may incorporate its standards 18:23:37</p> <p>12 by reference? 18:23:42</p> <p>13 MR. FEE: Same objection. Vague as well. 18:23:44</p> <p>14 THE WITNESS: I don't have direct knowledge. 18:23:52</p> <p>15 It was before my time at ASTM, but I understand at one 18:23:54</p> <p>16 point in time there was a concern that Congress was 18:23:58</p> <p>17 perhaps taking ASTM -- taking key content from an ASTM 18:24:03</p> <p>18 standard and placing it in a piece of legislation and 18:24:09</p> <p>19 that ASTM would be concerned about that. 18:24:13</p> <p>20 BY MR. BRIDGES: 18:24:16</p> <p>21 Q. Why would ASTM be concerned about that? 18:24:16</p> <p>22 MR. FEE: Objection. Beyond the scope of his 18:24:20</p> <p>23 designation. Calls for speculation. Lack of 18:24:22</p> <p>24 foundation. 18:24:24</p> <p>25 THE WITNESS: It would be taking the standard 18:24:26</p> <p style="text-align: right;">Page 262</p>	<p>1 don't think it happens very often, but I believe it 18:25:33</p> <p>2 has happened in the last 10 years since I've been at 18:25:35</p> <p>3 ASTM. 18:25:38</p> <p>4 BY MR. BRIDGES: 18:25:40</p> <p>5 Q. Are you saying that there has to be a 18:25:40</p> <p>6 consensus process in order to cooperate with a federal 18:25:42</p> <p>7 government in incorporating standards by reference? 18:25:46</p> <p>8 MR. FEE: Objection. Mischaracterizes his 18:25:52</p> <p>9 testimony. Vague. 18:25:54</p> <p>10 You can answer. 18:25:58</p> <p>11 THE WITNESS: No, that's not what I'm saying. 18:26:00</p> <p>12 BY MR. BRIDGES: 18:26:14</p> <p>13 Q. Do you know whether any federal official has 18:26:14</p> <p>14 taken advantage of the reading room that ASTM provides 18:26:17</p> <p>15 the public? 18:26:22</p> <p>16 MR. FEE: Objection. Vague. 18:26:23</p> <p>17 THE WITNESS: I don't know specifically 18:26:30</p> <p>18 whether they have. I do know I've received accolades 18:26:31</p> <p>19 from federal agencies, the fact that it exists. So I 18:26:34</p> <p>20 would presume that they have. 18:26:40</p> <p>21 BY MR. BRIDGES: 18:26:44</p> <p>22 Q. How much money has ASTM received from the 18:26:44</p> <p>23 federal government in each of the last five years? 18:26:49</p> <p>24 MR. FEE: Objection. Vague. 18:26:58</p> <p>25 THE WITNESS: Well, I believe we've received 18:27:00</p> <p style="text-align: right;">Page 264</p>
<p>1 out of context from what the voluntary consensus 18:24:27</p> <p>2 process encompassed in ASTM standards development 18:24:31</p> <p>3 enterprises wanted to see represented in the standard. 18:24:35</p> <p>4 BY MR. BRIDGES: 18:24:43</p> <p>5 Q. Has ASTM ever asked an agency to use specific 18:24:43</p> <p>6 language in a regulation? 18:24:47</p> <p>7 MR. FEE: Objection. Beyond the scope of his 18:24:50</p> <p>8 designation. 18:24:52</p> <p>9 THE WITNESS: It's possible that we have. 18:24:54</p> <p>10 BY MR. BRIDGES: 18:24:55</p> <p>11 Q. Do you recall a particular -- any instance? 18:24:55</p> <p>12 MR. FEE: Same objection. 18:24:57</p> <p>13 THE WITNESS: I don't recall a particular 18:24:59</p> <p>14 time. 18:24:59</p> <p>15 BY MR. BRIDGES: 18:25:01</p> <p>16 Q. Do you have an estimate as to the number of 18:25:01</p> <p>17 times it's occurred? 18:25:06</p> <p>18 MR. FEE: Objection. Lack of foundation. 18:25:08</p> <p>19 Beyond the scope of his designation. Calls for 18:25:09</p> <p>20 speculation. 18:25:11</p> <p>21 THE WITNESS: It's -- there's a process that 18:25:13</p> <p>22 our committees would have to follow. They would have 18:25:17</p> <p>23 to -- the executive committee of a committee would 18:25:19</p> <p>24 have to reach a consensus that they want to see an 18:25:24</p> <p>25 ASTM standard included in a regulation. And so I 18:25:28</p> <p style="text-align: right;">Page 263</p>	<p>1 anywhere from \$650,000 to \$900,000 per year over the 18:27:04</p> <p>2 last five years from the federal government. 18:27:11</p> <p>3 BY MR. BRIDGES: 18:27:17</p> <p>4 Q. Were some of that money provided by the 18:27:17</p> <p>5 federal government in order to facilitate the 18:27:22</p> <p>6 standards development process? 18:27:25</p> <p>7 MR. FEE: Objection. Calls for speculation. 18:27:27</p> <p>8 Vague. 18:27:29</p> <p>9 THE WITNESS: To my knowledge, none of it 18:27:31</p> <p>10 was. 18:27:32</p> <p>11 BY MR. BRIDGES: 18:27:37</p> <p>12 Q. What were the main categories of payments by 18:27:37</p> <p>13 the federal government to ASTM over the last five 18:27:41</p> <p>14 years? 18:27:46</p> <p>15 MR. FEE: Objection. Vague. 18:27:47</p> <p>16 BY MR. BRIDGES: 18:27:48</p> <p>17 Q. In other words, what were the payments for 18:27:48</p> <p>18 ASTM to do? 18:27:50</p> <p>19 MR. FEE: Same objection, plus form. 18:27:52</p> <p>20 THE WITNESS: I can think of -- that we would 18:27:53</p> <p>21 sell standards to federal agencies. That would be one 18:27:56</p> <p>22 source of revenue. 18:28:00</p> <p>23 BY MR. BRIDGES: 18:28:01</p> <p>24 Q. What other sources of revenue? 18:28:01</p> <p>25 A. I believe that we have a number of federal 18:28:03</p> <p style="text-align: right;">Page 265</p>



<p>1 THE VIDEOGRAPHER: This is the end of the 18:53:06</p> <p>2 deposition of Mr. Jeffrey Grove. We are off the 18:53:08</p> <p>3 record at 18:52. 18:53:13</p> <p>4 (Witness excused.) 18:53:16</p> <p>5 (Deposition concluded at 6:52 p.m.) 18:53:16</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 282</p>	<p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2</p> <p>3 I, JEFFREY GROVE, do hereby certify that I</p> <p>4 have read the foregoing pages, _____ to _____,</p> <p>5 and that the same is a correct transcription of the</p> <p>6 answers given by me to the questions therein</p> <p>7 propounded, except for the corrections or changes in</p> <p>8 form or substance, if any, noted in the attached</p> <p>9 Errata Sheet.</p> <p>10</p> <p>11 _____</p> <p>12 DATE SIGNATURE</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 284</p>
<p>1 CERTIFICATE</p> <p>2 I do hereby certify that the aforesaid</p> <p>3 testimony was taken before me, pursuant to</p> <p>4 notice, at the time and place indicated; that</p> <p>5 said deponent was by me duly sworn to tell</p> <p>6 the truth, the whole truth, and nothing but</p> <p>7 the truth; that the testimony of said</p> <p>8 deponent was correctly recorded in machine</p> <p>9 shorthand by me and thereafter transcribed</p> <p>10 under my supervision with computer-aided</p> <p>11 transcription; that the deposition is a true</p> <p>12 and correct record of the testimony given by</p> <p>13 the witness; and that I am neither of counsel</p> <p>14 nor kin to any party in said action, nor</p> <p>15 interested in the outcome thereof.</p> <p>16</p> <p>17</p> <p>18</p> <p>19  Nancy J. Martin, RMR, CSR</p> <p>20</p> <p>21</p> <p>22 Dated: March 18, 2015</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 283</p>	