

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

2

ANTHONY and KAREN ROTI,)
3 PAUL ROSENSTROCK, and)
LESLIE WEBER)

4

 Complainants,)

5

 vs.)

6

) No. PCB 99-019

LTD COMMODITIES,)

7

 Respondent.)

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10 The following is the transcript of a
11 hearing held in the above-entitled matter, taken
12 stenographically by Caryl L. Hardy, CSR, a notary
13 public within and for the County of Cook and State
14 of Illinois, before JOHN C. KNITTLE, Hearing
15 Officer, at 118 West Cook Avenue, Libertyville,
16 Illinois, on the 3rd day of November, 1999, A.D.,
17 scheduled to commence at 9:30 a.m., commencing at
18 the hour of 9:35 p.m.

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1 PRESENT:

2 STEVEN P. KAISER & ASSOCIATES,
3 4711 Golf Road
4 Suite 708
5 Skokie, Illinois 60076
6 (847) 677-7066
7 BY: MR. STEVEN P. KAISER

8 Appeared on behalf of the Complainants;

9 BAIZER & KOLAR,
10 513 Central Avenue
11 5th Floor
12 Highland Park, Illinois 60035
13 (847) 433-6677
14 BY: MR. JOSEPH E. KOLAR

15 Appeared on behalf of the Respondent.

16 ALSO PRESENT:

17 Ms. Karen Roti

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L.A. REPORTING (312) 419-9292

544

1 I N D E X

2 WITNESSES:

3 PAUL ROSENSTROCK PAGE

4	Direct Examination by Mr. Kaiser.	546
	Cross Examination by Mr. Kolar.	590
5	Redirect Examination by Mr. Kaiser.	651
	Recross-Examination by Mr. Kolar.	661

6

7 KAREN A. ROTI

8	Direct Examination by Mr. Kaiser.	666
	Cross-Examination by Mr. Kolar.	731
9	Redirect Examination by Mr. Kaiser.	780

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E X H I B I T S

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12	Marked for Identification	Admitted Into Evidence
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13	Complainants' Exhibit No. 42.	569	
14	Complainants' Exhibit No. 43.	551	664
	Complainants' Exhibit No. 44.	694	792
15	Complainants' Exhibit No. 45.	700	792
	Complainants' Exhibit No. 46.	703	792
16	Complainants' Exhibit No. 48.	787	789
	Complainants' Exhibit No. 49.	787	794
17	Complainants' Exhibit No. 50.	787	
	Complainants' Exhibit No. 51.	787	

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545

1 HEARING OFFICER KNITTLE: We are on the
2 record.

3 Today is November, 3rd, 1999, at
4 approximately 9:35 a.m. This is the third day of
5 hearing in PCB Number 99-19 -- the LTD case we'll
6 call it for now since I can't find my --

7 MR. KAISER: Roti v. LTD Commodities.

8 HEARING OFFICER KNITTLE: There we go. Thank
9 you very much. Roti, et al. v. LTD Commodities.

10 Once again, there are no members of the
11 public here. There are no representatives from LTD
12 here today. The only representative from the
13 Complainants is Mr. Rosenstock who will be the
14 Complainants' first witness. Is that correct?

15 MR. KAISER: Yes.

16 HEARING OFFICER KNITTLE: Mr. Kaiser, shall we

17 swear him in?

18 MR. KAISER: Yes, if you would, please.

19 HEARING OFFICER KNITTLE: Could you please
20 swear him in for us?

21 (The witness was duly sworn.)

22

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546

1 PAUL M. ROSENSTROCK,
2 called as a witness herein, having been first duly
3 sworn, was examined upon oral interrogatories, and
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. KAISER:

7 Q Sir, could you please state your full name
8 and spell your last name for the court reporter's
9 benefit?

10 A Paul M. Rosenstock, R-o-s-e-n-s-t-r-o-c-k.

11 Q Mr. Rosenstock, are you one of the
12 Complainants in this matter?

13 A I am.

14 Q What is your age?

15 A I am 55.

16 Q Can you describe for the board the
17 business that you're engaged in?

18 A I'm in the group travel business. I work
19 with groups that come to Chicago for meetings and
20 conventions.

21 Q And is that business called Contact
22 Chicago?

23 A That's correct.

24 Q And what is your position within Contact

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547

1 Chicago?

2 A I'm the president.

3 Q Do you own a home on Wedgewood Drive in
4 Lake Forest, Illinois?

5 A Yes.

6 Q Is that in Lake County, Illinois?

7 A Yes.

8 Q When did you purchase the land and your
9 home on Wedgewood Drive in Lake Forest?

10 A 1987, I believe.

11 Q And do you recall approximately what you

12 paid for the land and the improvements on the land?

13 A I don't recall exactly. I could

14 guesstimate 400, 450,000, somewhere in that range.

15 Q When did you move into your home on

16 Wedgewood Drive?

17 A 1988.

18 Q And I would like to show you a photograph

19 that has been marked for purposes of identification

20 as Respondent's Exhibit 83. Do you recognize what's

21 shown in that photograph?

22 A That is a picture of the rear of my home

23 taken from outside of my yard. It appears to be

24 from the Roti property.

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548

1 Q And is your home a one or two-story home?

2 A It's a two-story home.

3 Q Approximately how many square feet of

4 living space does it have?

5 A I don't know specifically, but I would say

6 3500 to 4,000.

7 Q And in the photograph I've just shown you,

8 that's the south side of your house, isn't it?

9 A Yes.

10 Q And I note that your home -- it's a

11 two-story home?

12 A Yes.

13 Q And I see a series of windows on the

14 second floor. There appears to be part of the house

15 that hangs out a little bit, and there's a series of

16 windows facing south. Do you see those?

17 A Yes.

18 Q And what are those -- which room of your

19 home is shown? If we look through those windows,

20 what would we be looking at?

21 A If you looked into them or out of them?

22 Q Either way. If you looked into them,

23 that's your bedroom, right?

24 A That's my bedroom, right.

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549

1 Q And if you stand in your bedroom and look

2 out those windows that are shown in the photograph

3 Respondent's Exhibit 83, what do you see if you look

4 to the south?

5 A I would be looking at the LTD facility.

6 Q And is that the LTD Commodities facility

7 in Bannockburn, Illinois?

8 A Yes.

9 Q And is that the facility that's the
10 subject of this noise complaint?

11 A Yes.

12 Q And what we have hanging here is
13 Respondent's Exhibit 88, an aerial photograph. Do
14 you recognize some of the major features shown in
15 that photograph?

16 A Can I come and look at it?

17 Q Yes, if you would, please.

18 A Yes, I do.

19 Q And, for instance, can you see your home?

20 A Yes.

21 Q And does it appear to be complete or under
22 construction in this photograph, Respondent's
23 Exhibit 88?

24 A It appears to be under construction.

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550

1 Q All right. If we fold this back, we can
2 see that the aerial photograph was dated March 27th,
3 1988. Was that, in fact, true that your house was
4 still under construction on March 27th, 1988?

5 A Yes.

6 Q And does this aerial photograph truly and
7 accurately depict the condition of the LTD facility
8 back in March of 1988?

9 A Yes.

10 Q And do you see that the dock area which
11 you can view from the south bedroom window of your
12 home was in place in March of 1988?

13 A Yes.

14 Q And do you recall approximately what time
15 of the year it was that you moved into your home?

16 A I believe it was August.

17 Q August of 1988?

18 A Yes.

19 Q And just for the record, you see the
20 circle with the handwriting Weber on it?

21 A Yes.

22 Q And for the purpose of the record, your
23 home is the home just to the left of that circle
24 indicating the Weber lot?

L.A. REPORTING (312) 419-9292

551

1 A Yes.

2 Q Now, back -- if you would be more
3 comfortable, you might want to return to the witness
4 stand.

5 Now, back in 1988 when you moved into your
6 home on Wedgewood Drive, were you able to observe
7 operations in LTD's dock area?

8 A Yes.

9 Q And if I may back up a bit, do you have
10 any -- well, are you a licensed truck driver?

11 A Yes.

12 Q And do you, in fact -- which state has
13 licensed you to drive semi tractors?

14 A Illinois.

15 MR. KAISER: Off the record, if I may.

16 HEARING OFFICER KNITTLE: Let's go off.

17 (Whereupon, a discussion was
18 held off the record.)

19 HEARING OFFICER KNITTLE: Back on.

20 (Complainant's Exhibit No. 43 marked
21 for identification, 11-3-99.)

22 BY MR. KAISER:

23 Q Mr. Rosenstock, I'm showing you what I'm
24 marking for purposes of identification as

1 Complainants' Exhibit 43. It's a photocopy of --
2 I'll let you tell us what it is. Do you recognize
3 what's contained on this two-page document?

4 A Yes.

5 Q What is that?

6 A This is a copy of the front and back of my
7 commercial driver's license.

8 Q And how long have you been licensed by the
9 state of Illinois to drive a semi tractor and a semi
10 trailer?

11 A Since I was 21 years old.

12 Q And are you licensed to drive both the --
13 well, what lengths of trailers are you licensed to
14 drive?

15 A My license allows me to drive anything in
16 the state of Illinois except for hazardous material
17 vehicles.

18 Q Are you able to distinguish based on your
19 experience between -- well, the lengths of semi
20 trailers, a 45-foot trailer versus a 53-foot
21 trailer?

22 A I am.

23 Q All right. Now, I would like to return to
24 1988, August of 1998. You've moved into your home.

1 You're able to observe the dock activities at the
2 LTD facility. Could you describe for the board what
3 you could see and what you observed in the manner in
4 which LTD received freight and shipped out freight
5 back in 1988 and 1989? And if it would help for you
6 to come to the exhibit, that would be fine.

7 MR. KOLAR: For the record, is this after he
8 moved into his house?

9 MR. KAISER: After he moved into his house,
10 yes.

11 BY THE WITNESS:

12 A What I observed at that time --

13 MR. KAISER: Note for the record that
14 Mr. Rosenstock has moved over so that he can view
15 up close Respondent's Exhibit 88.

16 BY THE WITNESS:

17 A -- were commercial vehicles, meaning
18 tractor trailers, coming to the facility and
19 actually backing into the facility, the door
20 closing, and that meant that I didn't hear the noise
21 that I'm hearing today.

22 BY MR. KAISER:

23 Q Do you recall whether LTD used a yard pig

24 or a yard tractor to put tractors and trailers --

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554

1 trailers in place back in 1988 and 1989?

2 A I recall there not being the system that's
3 in place today with the yard pig that has been
4 referred to on this.

5 Q And in comparison -- all right. Now,
6 you're still able to observe LTD's dock --

7 A Yes.

8 Q -- facilities today?

9 A Yes.

10 Q And if you stand up in your bedroom
11 window, can you describe for the board whether it's
12 a clear view, an obstructed view? What kind of view
13 do you have exactly of LTD's dock area?

14 A It depends on the time of year because of
15 foliage. Now that we're into the later fall season,
16 I have a view of probably 40 to 50 percent of the
17 actual base that the trucks go in and out of.

18 Q And is it your understanding that
19 currently and even as of 1988 LTD had a total of 26
20 dock doors on its north side?

21 A That was when?

22 Q As early as 1988 and continuing to the
23 present that the total number of docks at LTD are
24 26.

L.A. REPORTING (312) 419-9292

555

1 A I know that there was construction between
2 '88 and today, and so I would say that there were a
3 different amount of dock bays then as exist today.

4 Q All right. Well, I would like to show you
5 in terms of construction, flipping over -- and we're
6 looking at Respondent's Exhibit 89. Do you see this
7 large addition on the south end of LTD's property?

8 A Yes.

9 Q And you're aware that this section was
10 built sometime after 1988; is that right?

11 A Yes.

12 Q And, in fact, we're looking at this aerial
13 photograph?

14 MR. KOLAR: The top, I think, that's March 20th,
15 '99, I believe.

16 MR. KAISER: I'll accept Mr. Kolar's
17 representation.

18 BY MR. KAISER:

19 Q Is this pretty much how you understand
20 LTD's facility to look now, November 3rd, 1999?

21 A Yes.

22 Q And do you see -- do you see these -- this
23 area that I'm circling with my pen?

24 A Yes.

L.A. REPORTING (312) 419-9292

556

1 Q Do you know, based on your own observations,
2 what is shown in that portion of the photograph?

3 A It shows trailers parked against what I
4 would refer to as a berm or a wall that was created.

5 Q And is this dock, LTD's dock, is that at
6 grade or below grade, or where does it stand in
7 relation to the surrounding?

8 A It's at a lower level than the parking lot
9 which is between my house and that area.

10 Q And, in fact, is your house situated on a
11 little bit of a rise? Is your home located above
12 the grade of this Wedgewood Drive?

13 A I do go up my driveway as I go in, yes.

14 Q I'm showing you what's been marked for
15 purposes of identification as Respondent's
16 Exhibit 72. Do you recognize what's shown in that

17 picture?

18 A These are the loading docks that my
19 bedroom window looks out at.

20 Q And that being the LTD loading docks?

21 A Yes.

22 Q Showing you Respondent's Exhibit 74, again,
23 do you recognize what's shown in that photograph?

24 A Well, it's showing the yard pig and,

L.A. REPORTING (312) 419-9292

557

1 again, the docks, and it's also showing an
2 over-the-road tractor with its nose sticking out of
3 the building.

4 Q Now, when you say the yard pig or the yard
5 tractor, just which vehicle are you referring to?

6 A The vehicle that has lights on it and is
7 outside with the man walking behind it.

8 Q And that is in the center roughly of
9 Respondent's Exhibit 74?

10 A Yes.

11 Q And I would like to show you Respondent's
12 Exhibit 75. Do you recognize what's shown in
13 Respondent's Exhibit 75?

14 A This is a picture of the rear of the
15 trailers against the bumper posts and the berm.

16 Q And have you -- and the bumper posts, by
17 that, do you mean these concrete posts just next to
18 the retaining wall?

19 A Yes.

20 Q And are those posts -- is there a wooden
21 beam connected to those concrete posts?

22 A I've never gone physically to examine it.
23 You're showing me a picture --

24 Q I'm showing you a photograph of

L.A. REPORTING (312) 419-9292

558

1 Respondent's Exhibit 76. I don't know if you're
2 able, based on your own experience, to recognize
3 what's shown in 76.

4 A I can see the beams here, and I can see
5 the close-up of beams there, yes.

6 Q Meaning you can see the beams on
7 Respondent's 75 and the close-up of the beams on
8 Respondent's 76?

9 A Yes.

10 Q Now, are you able to see the yard pig in
11 motion within the LTD dock area from your bedroom

12 window?

13 A Yes.

14 Q And what would you estimate to be the
15 distance in either feet or yards from LTD's dock
16 area to the south wall of your home?

17 A I can guess 400 feet.

18 Q Was there a time -- when did you first
19 become aware that LTD used -- well, in what way have
20 you seen LTD use the yard tractor or yard pig? What
21 function have you seen performed by the yard pig?

22 A I've seen it used to take trailers in and
23 out of the physical loading docks, as well as to
24 reposition them where they're at on their facility.

L.A. REPORTING (312) 419-9292

559

1 Q And have you observed whether or not the
2 work performed by the yard tractor makes noise?

3 A Yes.

4 Q And what have you observed with respect to
5 the yard tractor and noise?

6 MR. KOLAR: Can he sit down again? I don't
7 know if the court reporter can here this whole
8 exchange.

9 HEARING OFFICER KNITTLE: Yes. I'd prefer that
10 as long as you're not using the map.

11 MR. KOLAR: Thanks.

12 BY THE WITNESS:

13 A The noises that I've heard from the yard
14 pig or tractor are the noises certainly of its motor
15 engine, the noises that it makes as it attaches to
16 the trailer, the noises that are made as the trailer
17 is moved, certainly the noise of the back-up beeper
18 that is on the yard pig, and certainly the noises of
19 the yard pig smashing the trailer either into the
20 berm or actually into the loading dock itself inside
21 the facility.

22 BY MR. KAISER:

23 Q I would like to take those one at a time.

24 With respect to the yard pig's motor, how

L.A. REPORTING (312) 419-9292

560

1 does it sound?

2 A Okay.

3 MR. KOLAR: Foundation. Is that currently or a
4 1996 yard pig?

5 MR. KAISER: All right.

6 BY MR. KAISER:

7 Q Well, let's break it down a little bit.

8 You're aware that the complaint in this
9 matter was filed in July of 1998; is that right?

10 A Yes.

11 Q And I take it -- well, you tell me if I'm
12 correct, but in the late summer and fall of 1988
13 when you first moved into your home, did you
14 perceive noise from the LTD truck docks as a
15 nuisance?

16 A No.

17 Q During the summer and fall of 1989 and
18 1990, did you perceive noise from the LTD truck
19 docks as a nuisance?

20 A No.

21 Q When did you begin to perceive noise from
22 the LTD truck docks as a nuisance?

23 A After their major construction and the
24 appearance on the scene of the yard pigs.

L.A. REPORTING (312) 419-9292

561

1 Q Now, when you say the major construction,
2 are you referring to the 1994 addition of
3 approximately 200,000 square feet of warehouse and

4 packaging facilities shown in Respondent's
5 Exhibit 89?

6 A I'm referring to the creation of the berm
7 and the permanent docking areas for the trailers
8 that are adjacent to my property.

9 Q All right. All right. So at some point
10 in time, LTD expanded and created this berm that now
11 exists?

12 A Yes.

13 Q And that's the berm that we were able to
14 observe in Respondent's Exhibit 75; is that right?

15 A Yes, yes.

16 Q And we've talked about this. Behind this
17 blue railing, are you aware that there's a sidewalk
18 just behind that blue railing?

19 A I'm aware there's a parking lot. I can
20 see the sidewalk in this photo.

21 Q All right. And, again, at that point, the
22 parking lot is above the level of the loading dock?

23 A Yes.

24 Q Did you -- were you able to observe from

L.A. REPORTING (312) 419-9292

562

1 your home the construction activities by which LTD

2 created the berm and the truck staging area shown in
3 Respondent's Exhibit 89?

4 A Yes.

5 Q And did I understand your testimony
6 correctly that it was when LTD completed
7 construction of the berm in the truck staging area
8 that you began to experience the noise from LTD's
9 operations as a nuisance or as a problem?

10 A Well, the nuisance or problem began really
11 with the construction of that whole area because
12 that was a major construction project. They had
13 major earth-moving equipment, but the real -- the
14 problem that continues to exist today really began
15 when they evidently completely changed their whole
16 operation to involve this yard pig or tug or
17 whatever we're going to call it and also seemed to
18 coincide with an expansion of the operation meaning
19 that it went to a 24-hour-day operation.

20 Q And part of the expansion of the operation
21 and the change in LTD's dock operations involved the
22 use of the yard tractor; is that right?

23 A Yes.

24 Q And we were talking about the noises that

1 the yard tractor makes, and you described the motor
2 sound. Now, back in 1996, do you recall what the
3 yard pig sounded like, the first yard pig or pigs
4 that you were aware of LTD employing?

5 A It sounded -- first of all, we had the
6 back-up beeper noise. We also had -- you know, I
7 have not gone and done an examination of these
8 vehicles, but it appeared to my ears that the
9 muffler system was not existent on those vehicles.

10 Q That was back in 199 -- 1996?

11 A Yes.

12 Q Since 1996, have you noticed any
13 improvement at least in the muffler on the current
14 yard pig?

15 A I believe so.

16 Q Now, the yard pig's motor, do you know
17 whether the yard pig is a diesel or electric
18 vehicle?

19 A I've never examined it.

20 Q Have you been able to determine whether
21 the yard pig makes more noise when it's in motion or
22 when it's accelerating than when it's idling?

23 A It certainly makes more noise when it's
24 accelerating.

1 Q Have you been able to observe whether
2 there's any relation between the number of
3 revolutions per minute that the yard pig is
4 operating at and the noise as you experience it in
5 your home?

6 A That would seem to make sense that the
7 faster the motor is going, the more noise there is.

8 MR. KOLAR: Objection. It's speculative as
9 opposed to knowledge.

10 MR. KAISER: I would agree with the objection.

11 HEARING OFFICER KNITTLE: It would be
12 sustained.

13 BY MR. KAISER:

14 Q Have you actually heard a difference in
15 the quality of sound emanating from the yard tractor
16 when it's operating at higher rpm's?

17 A Yes.

18 Q And what -- how would you describe the
19 difference in the noise the yard pig makes when it's
20 moving slowly and when it's going quickly?

21 A Well, first of all, the yard pig doesn't
22 go quickly, but what the yard pig does is it's
23 pulling a trailer. It's hooking up to and pulling a

24 trailer, so when it does that, what I've observed --

L.A. REPORTING (312) 419-9292

565

1 and, again, I'm not sitting in the cab with the
2 driver. I'm observing this mostly with my ear. I'm
3 also watching, and I'm picturing what I pictured
4 last week. It seems that they just leave it in the
5 low gear, one gear. You don't hear shifting like
6 you hear with a regular truck where they're shifting
7 throughout the gears. It just seems to be one gear,
8 and it's a high-pitched noise with the engine
9 revving pulling a tractor that could weigh tens of
10 thousands of pounds if it's fully loaded and
11 whatever it weighs empty but pulling a load.

12 Q And are you able to hear the engine of the
13 yard pig labor as it pulls that load?

14 A Yes.

15 Q And are you able to hear that -- where do
16 you hear that noise?

17 A In my bedroom.

18 Q Must your bedroom windows be open for you
19 to hear the noise from the yard pig?

20 A No.

21 Q When was the last time you heard noise in
22 your home with the windows closed that you felt was
23 generated by LTD's yard pig?

24 A This morning.

L.A. REPORTING (312) 419-9292

566

1 Q At what time this morning?

2 A I got up at 7:00 a.m., so it was right
3 after I got up.

4 Q You mention that the yard pig makes noise
5 when it attaches to a semi trailer. Could you
6 describe for the board the noise the yard pig makes
7 when it engages with a semi trailer?

8 A It's really doing a mating, and it's metal
9 against metal, the plates hitting, so it's a metal
10 against metal type sound that could be described as
11 a clank or a boom.

12 Q Where have you heard the clank or boom
13 that you associate with the yard tractor engaging
14 with the semi trailer?

15 A In my bedroom and in my family room.

16 Q Have you ever heard the yard tractor
17 disengage from a semi trailer?

18 A Yes.

19 Q Have you determined -- well, do you hear
20 anything when the yard tractor disengages from a
21 trailer?

22 A Yes.

23 Q What do you hear?

24 A I hear the back-up beeper stop beeping,

L.A. REPORTING (312) 419-9292

567

1 and I hear the explosion of the air brake system
2 being disconnected.

3 Q How often do you hear explosions from air
4 brakes being released in the LTD dock area?

5 A All the time.

6 Q Do you hear these explosions even when
7 you're in your home with all your doors and windows
8 shut?

9 A Yes.

10 Q The explosion or the sound made when LTD
11 releases air from air brakes within its dock area,
12 does that explosion of sound in any way disturb you
13 when you're in your home?

14 A Yes.

15 Q Could you describe for the board in what

16 manner you're disturbed by the sound of air brakes
17 releasing the air?

18 A The explosion sound, I could be reading a
19 book, I could be talking on the telephone. It's
20 disconcerting. It's -- it's a disruption of my
21 living peacefully in my house.

22 Q Do you understand that one of the
23 functions of the yard tractor is to position
24 trailers in this trailer staging area just to the

L.A. REPORTING (312) 419-9292

568

1 north of the LTD facility as shown here on
2 Respondent's Exhibit 89?

3 A Yes.

4 Q And have you observed the yard tractor
5 putting trailers in position in the trailer staging
6 area?

7 A Yes.

8 Q What, if any, noise is made when the
9 tractor positions the trailers in the trailer
10 staging area?

11 A I call this affectionately driving by
12 braille, and by that I mean that the yard pig has
13 the back-up beeper going, and it's backing that

14 trailer against this berm. And what they do -- and
15 they do this on a consistent basis. You had asked
16 me earlier if they know how -- if I would know if a
17 truck is 53 feet, and the easy answer is that
18 they're marked 53 feet. If you go out and look on
19 the highway, it says 53 feet on it. So this yard
20 pig is at least 53 feet away and more. There's no
21 way on the planet earth they can know. I don't know
22 if they have any visuals, but they smash that
23 trailer into that berm, into that wooden piece
24 across, and it causes an earthquake effect where

L.A. REPORTING (312) 419-9292

569

1 when they really smash it in, you can call this road
2 rage, you can call it a lot of things, but that
3 driver is not driving what I would call properly
4 where he's not smashing it in, where he's not
5 driving by braille. But my observation is that they
6 are driving by braille, and they smash it in. It
7 causes an earthquake effect. My entire house
8 shakes. It sounds like an explosion or a bomb has
9 gone off. And those are the sounds that I hear when
10 that yard pig puts that trailer against that berm.

11 Q How often do you experience -- how often
12 does your house shake and do you experience that
13 earthquake effect when the yard tractor puts a
14 trailer in position against the north truck bumpers
15 and berm?

16 A Well, until last Thursday night, I had
17 never really sat down and laid it all out, but in
18 getting ready for my testimony today, I actually sat
19 down in my bedroom and wrote out a list. So that
20 list can best answer specifically for that given
21 hour of time what went on.

22 (Complainants' Exhibit No. 42 marked
23 for identification, 11-3-99.)

24

L.A. REPORTING (312) 419-9292

570

1 BY MR. KAISER:

2 Q I would like to show you now what I've
3 marked for purposes of identification as
4 Complainants' Exhibit 42. It's a four-page
5 document. Can you tell the board what this document
6 is?

7 A It consists of two parts. One is a log
8 that begins October 20th, ends October 26th with

9 times when I took specific notice of a specific
10 incident. The other back three pages are the --
11 what I refer to where I took a one-hour period and
12 sat and did nothing but write down what I was
13 experiencing sound-wise while in my bedroom.

14 Q With respect to the first page --

15 MR. KOLAR: Let me object. For the record, at
16 this point, I guess I should renew it even though
17 you overruled me, this was given to me for the first
18 time late Friday, probably about 5:00 p.m. on
19 Friday, and I don't think it's a timely disclosure
20 that complies with the scheduling orders that you
21 had entered in the case along the way, and I would
22 move to bar it because of its timeliness -- or lack
23 of timeliness.

24 HEARING OFFICER KNITTLE: Mr. Kaiser? We've

L.A. REPORTING (312) 419-9292

571

1 gone over this before and I've already made a
2 ruling, but I'm going to allow you each to make
3 another statement on the record.

4 MR. KAISER: Well, I stand on my previous
5 argument.

6 HEARING OFFICER KNITTLE: Okay. As before,
7 that motion will not be granted, and the objection
8 is overruled. This document will be allowed in.

9 BY MR. KAISER:

10 Q Now, Mr. Rosenstock, if you look at the
11 first page of Complainants' -- and, again, is that
12 42?

13 A Yes.

14 Q I see the top line 10-20-99. Could you
15 read the top line for us, please?

16 A It says 11:55 p.m.: house shook, loud
17 boom, woken up, back-up noise.

18 Q What did you experience -- I take it --
19 well, where were you at 11:55 p.m. on October 20th?

20 A I was in bed sound asleep.

21 Q And what happened at that time, 11:55 p.m.,
22 October 20th, 1999?

23 A The house shook. I wrote down a loud
24 boom. It was like an explosion. I was woken up,

L.A. REPORTING (312) 419-9292

572

1 and I also heard the back-up noise of the yard pig.

2 MR. KAISER: If I just might parenthetically,
3 with respect to the objection, I would also -- while

4 I understand there's been a ruling to the extent the
5 board wants to review your determination, I would
6 also point out that this is -- would be admissible
7 as a past recollection recorded, and in the event it
8 was required, it could also be used to refresh
9 Mr. Rosenstock's recollection about these
10 particular events.

11 HEARING OFFICER KNITTLE: Do you have a comment
12 on that before I say something?

13 MR. KOLAR: Yes, that he's using it
14 improperly. The way he would refresh his
15 recollection is do you recall what happened on
16 October 20th, 1999, at 11:58 p.m. No. Let me show
17 you this. Does this refresh your recollection.
18 Yes. And then you're supposed to take it away from
19 him.

20 HEARING OFFICER KNITTLE: Right. And if it's a
21 past recollection recorded, he can't have no, as I
22 recall, recollection currently on the stand, it
23 would only be allowed if he couldn't remember it on
24 his own volition.

1 MR. KOLAR: Right. That was my second point.

2 HEARING OFFICER KNITTLE: I'm sorry. I didn't
3 mean to jump in there.

4 MR. KOLAR: Right. I would agree.

5 MR. KAISER: I'm sorry I said anything.

6 HEARING OFFICER KNITTLE: No. It could have
7 been -- you should say that for the record if that's
8 what you want. Unless we go through the steps, which
9 we haven't done yet, I wouldn't allow it under those
10 situations.

11 MR. KAISER: All right.

12 BY MR. KAISER:

13 Q Now, the second line, Mr. Rosenstock,
14 what does it say?

15 A 10-21, 12:05 a.m.: boom, boom, woken up,
16 back-up noise.

17 Q Where were you when you were woken up?

18 A In my bedroom sound asleep.

19 Q What do you think woke you up?

20 A I went to the window, looked out, and I
21 saw the yard pig disengaging from a trailer that
22 evidently had been parked or positioned against the
23 berm, and that was what woke me up.

24 Q Would you please read the third line of

1 the first page?

2 A 10-22, 11:35 p.m.: House shook, loud
3 boom, back-up noise.

4 Q Were where you at 11:35 p.m. on
5 October 22nd, 1999?

6 A I was in my bedroom, and I was not asleep
7 yet.

8 Q And to what extent -- when you say house
9 shook, what happened?

10 A It literally is an earthquake effect, and
11 this is something that came into being with the
12 creation of that berm. Before that berm was there,
13 there was no earthquake effect. It's something
14 that's been there ever since they created that, and
15 literally, if you're in my home when they hit
16 that -- and as I've indicated to you, I call it
17 driving by braille, and they have certainly
18 different drivers at different times, and some drive
19 more delicately, and some don't care. I could make
20 a case of road rage for some of these guys and gals,
21 whoever they are, where they just drive it like
22 there's no tomorrow, and they just smash it in. And
23 we're talking tens and tens and tens of thousands of
24 pounds of weight. It doesn't take very much. Maybe

1 the difference between one mile an hour and two
2 miles an hour is a tremendous difference.

3 But it's literally, if you're in my home,
4 I've had it happen where an overhead light fixture
5 literally came crashing down because of this
6 earthquake; that the whole house shook, and it shook
7 that loose.

8 Q Do you have an opinion as to what caused
9 the sound or vibration that shook your house and
10 caused a lighting fixture to fall?

11 A There is absolutely no question in my mind
12 because I've observed it where I've stood watching
13 and then the house shook as I was watching, and what
14 I was watching was this trailer being backed against
15 this berm. And we could adjourn now and go there
16 and recreate it any -- you know, it's that
17 straightforward of a situation.

18 Q And with respect to your observations on
19 October 22nd, 1999, did you form an opinion as to
20 the source of the noise that shook your house?

21 A Again, I looked out, and I saw the yard
22 pig attach to the trailer at the berm.

23 Q Would you please read the fourth line of
24 the first page?

L.A. REPORTING (312) 419-9292

576

1 A 10-25, 10:50 p.m.: loud boom, back-up
2 noise.

3 Q Where were you?

4 A In my bedroom.

5 Q Were you awake or asleep?

6 A I was awake.

7 Q What did you determine caused the noise
8 that you describe as a loud boom, back-up noise?

9 A Again, I went to the window, looked out,
10 and observed the tug this time having put a trailer
11 into the actual facility.

12 Q And when you say actual facility, you're
13 talking about inside the docks under the roof of
14 LTD's facility?

15 A Yes.

16 Q Was the dock door open or closed --

17 A It was open.

18 Q -- at that time?

19 A It was open.

20 Q And, again, so it's clear, where was the

21 point of impact that you believe caused your house
22 to shake on that day?

23 A This particular one it says loud boom,
24 back-up noise. It doesn't say house shook.

L.A. REPORTING (312) 419-9292

577

1 Q I appreciate that correction.

2 A And I'm looking out of my window at the
3 loading dock. I can see the front of the tug.
4 Whatever the size of the trailer is back into the
5 inside facility. And I was surprised with this
6 observation that I was getting that kind of a noise
7 from something that's buried 40 feet inside a
8 building or 50 feet inside the building. That
9 surprised me greatly.

10 Q Could you please read the fifth line?

11 A 10-26, 11:40 p.m.: House shook, loud
12 boom, woken up.

13 Q Where were you when you made these
14 observations?

15 A In my bedroom.

16 Q Did you form an opinion as to what was the
17 source of the noise?

18 A Yes.

19 Q What is your opinion?

20 A I looked out the window, and I saw the
21 tug, yard pig, detaching from a trailer that been
22 had been parked against the berm.

23 Q If you could please turn to the second
24 page, what do we have here on pages 2, 3, and 4?

L.A. REPORTING (312) 419-9292

578

1 A What we have is the -- a log of a one-hour
2 period where I literally stopped everything and just
3 sat there and wrote down my observations visually
4 and sound-wise of what was going on on the LTD
5 property.

6 Q Where were you when you made these
7 observations?

8 A I was in my bedroom.

9 Q Was the bedroom window open or closed?

10 A I opened the window.

11 Q And what did you hear at 10:03 on
12 October 27th, 1999?

13 A It says 10:03: Back-up beeper, 30 seconds,
14 smash, boom, air explosion.

15 Q Did you form an opinion as to the source

16 of the noise described at 10:03 on October 27th,
17 1999?

18 A I was watching the operation, and I had
19 watched the yard pig where it backed in a trailer
20 against the berm and then detached itself.

21 Q How would you describe the sound of the
22 back-up warning beeper that's employed by LTD?

23 A I call it the noise from hell.

24 Q Why do you call it that?

L.A. REPORTING (312) 419-9292

579

1 A Because it is just a horrendous sound that
2 would make anybody crazy if they lived across from
3 it.

4 Q Does it make you crazy, not in a clinical
5 sense, but in a noise nuisance sense?

6 A To say it's aggravating would be a
7 tremendous understatement. It's tremendously
8 annoying, very disruptive of my life and my house.

9 Q Surely you don't hear that noise late at
10 night?

11 A Unfortunately, I do.

12 Q How late into the evening do you hear a

13 back-up beeper from LTD's dock operations?

14 A I have heard it over the years 24 hours a
15 day. Currently, it seems to start at about 5:00,
16 5:30 in the morning and ends midnight, 12:30,
17 1:00 a.m.

18 Q Have you observed that you hear less noise
19 in your home since LTD has implemented its good
20 neighbor policy?

21 A I was not aware there was a good neighbor
22 policy, and so the noise is not any better.

23 Q Could you describe for us what you heard
24 at 10:07, 10:08, 10:10, 10:12, 10:14, 10:15, and

L.A. REPORTING (312) 419-9292

580

1 10:17 on October 27th, 1999?

2 A Okay. Again, I'm in my bedroom and have a
3 pad of paper, and I'm taking these notes as these
4 things are occurring. 10:08: Back-up beeper ten
5 seconds, smash, boom, air brake explosion; 10:10,
6 back-up beeper, 20 seconds; 10:12, sound of tug
7 motor pulling trailer, air brake explosion; 10:14,
8 back-up beeper ten seconds, smash, boom, ground
9 shook; 10:15, back-up beeper, air brake explosion;
10 10:17, back-up beeper, 24 seconds, 15 seconds.

11 Q Did you form an opinion as to what was the
12 source of the noises you recorded between 10:05 and
13 10:17 p.m. on October 27th, 1999?

14 A Yes.

15 Q What is your opinion?

16 A This was all caused by the yard pig working
17 with and positioning trailers.

18 Q Could you please describe for us what you
19 heard in your bedroom on October 27th, 1999, between
20 10:20 p.m. and 10:39 p.m.?

21 MR. KOLAR: I would object. This has been
22 admitted. I don't think it's proper to just read
23 the log.

24 HEARING OFFICER KNITTLE: Any response,

L.A. REPORTING (312) 419-9292

581

1 Mr. Kaiser?

2 MR. KAISER: I don't think it's inappropriate,
3 and I don't think it takes up much time in the
4 context of both this hearing and the more than 15
5 months that have led up to this hearing. So I think
6 we can cover the final two pages in roughly three or
7 four minutes, and I think it would create a clear

8 place in the record, create facts in a way that
9 would be useful to the board in drafting an opinion
10 in this case.

11 HEARING OFFICER KNITTLE: I'm going to sustain
12 the objection. I think it's covered all the various
13 noises, and I don't see any reason why we have to go
14 through them one by one.

15 MR. KAISER: If I may just before we leave this
16 document...

17 BY MR. KAISER:

18 Q The noises that you recorded in your
19 bedroom on October 27th, 1999, did you form an
20 opinion as to what was the source of all the noises
21 recorded and set forth in Complainants' Exhibit 42?

22 A Yes.

23 Q And what is that opinion?

24 A That was the operation of the yard pig.

L.A. REPORTING (312) 419-9292

582

1 Q Now, this night, October 27th, 1999, was
2 this night typical of the nights in the week before
3 October 27th, 1999?

4 A Yes.

5 Q Was this night, October 27th, 1999,

6 typical of the first two weeks of October 1999?

7 A Yes.

8 Q Is this night, October 27th, 1999, similar
9 to many nights you experienced in your home between
10 September 1st and December 15th of 1998?

11 A Yes.

12 Q Are these sounds and noises that you
13 recorded on October 27th, 1999, typical and
14 representative of the sounds and noises you
15 experienced in your home between September 1st and
16 roughly December 15th of 1997?

17 A Yes.

18 Q Are these observations you made on
19 October 27th, 1999, indeed representative of the
20 sounds you were experiencing in November and
21 December of 1996?

22 A Yes.

23 Q And during those periods November and
24 December of 1996, did you form an opinion then as to

L.A. REPORTING (312) 419-9292

583

1 what the source of the noise was that you were
2 hearing in your home?

3 A Yes.

4 Q And what was that opinion?

5 A The yard pig.

6 Q And during this period of September 1st
7 through December 15th of 1997, did you form an
8 opinion as to what was the source of the noise you
9 heard in your home during that time frame?

10 A Yes.

11 Q And what is that opinion?

12 A The yard pig.

13 Q And during the time frame of September 1st
14 through December 15th, 1998, did you form an opinion
15 as to what was the source of the noise you heard in
16 your home during that time frame?

17 A Yes.

18 Q And what was it?

19 A The yard pig.

20 Q Do these noises that you hear coming from
21 LTD's facility in any way interfere with your use
22 and enjoyment of your home?

23 A Yes.

24 Q How?

1 A Well, for example, I have a daughter
2 that's nine years old, and I can remember as vividly
3 as we're sitting here right now her coming to me in
4 the middle of the night scared to death because she
5 had been awoken from a sound sleep, didn't know what
6 the hell had happened, and had to console her. And
7 that shouldn't be an experience people have in their
8 home that a child is woken up from a sound sleep and
9 is scared to death because of a trucking operation
10 behind you.

11 Q Have you given any thought, Mr. Rosenstock,
12 as to what steps LTD might take to reduce the
13 transmission of noise or the generation of noise
14 from their loading dock activities?

15 A I have.

16 Q Could you please tell the board what
17 thoughts you've had in that regard?

18 MR. KOLAR: Objection. Beyond his area of
19 expertise. I don't think he's an expert in noise
20 abatement.

21 HEARING OFFICER KNITTLE: Any response,
22 Mr. Kaiser?

23 MR. KAISER: I don't think that you need to be
24 an expert. I mean, he's a person who is licensed to

1 drive semi tractors. He has, not by his own choice,
2 but had opportunities to observe LTD's operations
3 and compare LTD's earlier operations with their
4 current operations. And I think his observations
5 about how LTD operates its docks and what they might
6 do on an operational level to reduce noise would be
7 helpful to the board.

8 HEARING OFFICER KNITTLE: I'm going to sustain
9 it in a limited fashion. I don't want him
10 testifying to -- his lay observations about what he
11 thinks might help I would allow in a limited sense,
12 but he isn't an expert in noise abatement, and I
13 don't think he's qualified to testify to any effect
14 of any noise abatement measures. So along those
15 lines, I would allow you to ask questions.

16 BY MR. KAISER:

17 Q Allright. Now, Mr. Rosenstock, again,
18 not by choice, but you've been watching LTD's dock
19 operations for 11 years; is that right?

20 A Yes.

21 Q And during the early years, LTD managed to
22 operate a dock that didn't annoy you in your home;
23 is that right?

24 A Yes.

1 Q More recently, since they completed the
2 addition on the south end and construction of the
3 berm, they've been generating noise that has brought
4 you here today; is that right?

5 A Yes.

6 Q Now, have you been able to observe and
7 consider steps that LTD might take to reduce noise?

8 A Yes.

9 Q And what are those?

10 A First of all, they could ask the tractor
11 trailer drivers that are coming in their facility
12 not to blow their air horns.

13 Q How often do you observe --

14 MR. KOLAR: Objection. We haven't heard any
15 testimony from him at all regarding air horns.

16 MR. KAISER: Well, that's what we're going to
17 follow-up.

18 HEARING OFFICER KNITTLE: Yes. Please ask some
19 foundational questions.

20 BY MR. KAISER:

21 Q Have you ever heard trucks approaching
22 LTD's facility blow their air horns?

23 A Yes.

24 Q How often?

L.A. REPORTING (312) 419-9292

587

1 A On a regular basis.

2 Q And is that regular basis -- when did that
3 regular basis begin, and does it continue to this
4 date?

5 A I first became aware of it about four
6 years ago, and it does continue to this date.

7 Q All right. So your first recommendation
8 again was?

9 A To ask the drivers to please not use their
10 air horns to request the door to be opened for them
11 or whatever it is they're blowing their horns for,
12 but just not to use their air horns on the property.

13 Q What is your second recommendation?

14 A My second recommendation would be to
15 restrict the hours of operation.

16 Q What would be your proposal nighttime
17 limit for LTD's operations?

18 MR. KOLAR: Objection. This is beyond his --
19 beyond what a person should be able to offer as lay

20 opinions. He's not a land use planner. He's got
21 trucking experience, but, again, I think this
22 question goes to land use, land planning experience,
23 expertise.

24 HEARING OFFICER KNITTLE: Mr. Kaiser?

L.A. REPORTING (312) 419-9292

588

1 MR. KAISER: I think it would be helpful for
2 the board to know if LTD stopped at 8:00 p.m.,
3 Mr. Rosenstock wouldn't perceive noise up to
4 8:00 p.m. as a nuisance. There's some point beyond
5 which it's too much, and we want to hear from
6 Mr. Rosenstock what he thinks is too much.

7 HEARING OFFICER KNITTLE: I will overrule the
8 objection. I think he can testify as to when the
9 noise would stop being a nuisance for him.

10 BY MR. KAISER:

11 Q What time of night would you ask LTD to
12 wind up operations?

13 A I heard 8:00 o'clock mentioned. I put my
14 daughter to bed at 8:30.

15 Q Do you have any additional recommendations?

16 A Yes.

17 Q What are those?

18 A To stop driving by the braille method.
19 And I would be having -- instead of the back-up
20 beeper going, to eliminate the back-up beeper, why
21 not have a human being saying come on back, Joe,
22 hold it Joe, whatever? And stop the smashing into,
23 stop the earthquake effect, stop the tremendous
24 explosion sounds. And that would be at the berm, as

L.A. REPORTING (312) 419-9292

589

1 well as at the -- in the loading dock area.

2 Q Any other recommendations?

3 A Putting up a noise wall.

4 MR. KOLAR: Objection. That's beyond his area
5 of lay opinion. That's noise abatement.

6 HEARING OFFICER KNITTLE: Right. I'm going to
7 allow that statement, but I don't want any testimony
8 about how effective that would be or anything like
9 that.

10 BY MR. KAISER:

11 Q Do you have any suggestions -- you
12 mentioned eliminating the back-up beeper. Do you
13 have any suggestions as to how LTD might warn people
14 who might be behind a tractor or trailer if the

15 beeper were disconnected?

16 A I just mentioned having a human being
17 there to guide the driver.

18 Q Does that summarize your recommendations
19 that you would make to LTD?

20 A As a reasonable person, yes.

21 MR. KAISER: If I may have a minute, please?

22 HEARING OFFICER KNITTLE: Off the record for a
23 couple minutes.

24

L.A. REPORTING (312) 419-9292

590

1 (Whereupon, a discussion was
2 held off the record.)

3 HEARING OFFICER KNITTLE: We're back on.

4 MR. KAISER: Thank you, Mr. Rosenstock. I
5 have no further questions at this time. Mr. Kolar
6 may.

7 HEARING OFFICER KNITTLE: Mr. Kolar, do you
8 have cross-examination?

9 MR. KOLAR: Yes. Can I just have a two-minute
10 break?

11 HEARING OFFICER KNITTLE: Yes. I was all for
12 the two-minute break. Let's take it now.

13 MR. KOLAR: Thanks.

14 (Whereupon, a recess was taken.)

15 HEARING OFFICER KNITTLE: We are back on the
16 record. Mr. Rosenstock, let me remind you you're
17 still under oath.

18 Cross-examination.

19 CROSS-EXAMINATION

20 BY MR. KOLAR:

21 Q Mr. Rosenstock, my name is Joe Kolar.

22 Remember we met at your deposition?

23 A Yes.

24 Q This Respondents's Exhibit 88, showing the

L.A. REPORTING (312) 419-9292

591

1 LTD building before the expansion to the south, do
2 you recall looking at this with Mr. Kaiser?

3 A Yes.

4 Q And do you recall that he said this was
5 March -- this was from March 27th, 1988. Now, you
6 did not actually own your home and lot until July
7 1988, right?

8 A Until the closing.

9 Q Right. So when it was under construction

10 as we see here with the hole in the roof and a
11 Dumpster in the front yard, you weren't the owner of
12 this home and lot, right?

13 A Yes.

14 Q Okay. So this is your -- the home that
15 you eventually bought?

16 A Yes.

17 Q So we can put a circle -- just for the PCB
18 put a circle and write your name above that. I'll
19 just put PR, your initials, okay? That's accurate?

20 A Yes.

21 Q And it's your understanding that when LTD
22 expanded its warehouse to the south as we see here
23 on Exhibit 89 that truck docks were added during
24 that expansion, correct?

L.A. REPORTING (312) 419-9292

592

1 A Yes.

2 Q And it was that adding of truck docks as
3 part of the 1994 and '95 expansion which increased
4 noise that you hear on your property?

5 A Yes.

6 Q And I believe you testified that prior to
7 the '94, '95 expansion this below-grade staging area

8 did not exist. Is that accurate?

9 A Yes.

10 Q So before that was constructed, was the
11 area immediately north of the docks at the same
12 elevation as the employee parking lot?

13 A I have never gone on the property to
14 examine it in detail.

15 Q Now, I heard Mr. Kaiser say not by choice
16 you're hearing these sounds from the LTD trucking
17 operations. Do you recall that question?

18 A Not specifically.

19 Q Do you remember him saying not by choice
20 you're hearing these sounds on your property?

21 A I don't remember that phrase specifically.

22 Q How about not by choice you've been
23 hearing these sounds for the last 11 -- strike that.

24 Not by choice you've been hearing these

L.A. REPORTING (312) 419-9292

593

1 sounds since 1996?

2 A I don't think anyone would choose to hear
3 loud noises.

4 Q So prior to coming to your current location,

5 you lived in Chicago, correct?

6 A Yes.

7 Q And you spent -- before deciding to
8 purchase your current lot and home, you spent about
9 a year and a half looking for a home in that part of
10 Lake Forest, right?

11 A Not just in Lake Forest but in the area.

12 Q Okay. But you spent a year and a half
13 looking for the place you wanted to live when you
14 moved out of Chicago, right?

15 A Approximately.

16 Q And you -- you had set a price limit for
17 what you were going to spend of about \$550,000 for a
18 lot and a home, right?

19 A Approximately.

20 Q And that's about what you paid for your
21 lot and home at Wedgewood, right?

22 A I believe it was a little bit less than
23 that, but...

24 Q And the area that you selected was more

L.A. REPORTING (312) 419-9292

594

1 affordable than other areas in Lake Forest, right?

2 A Yes.

3 Q And you've had a commercial driver's
4 license since you were 21, right?

5 A I believe so.

6 Q And you're 55 now?

7 A Yes.

8 Q So when were you 21? What year was that?
9 Help me out with the math. What's your birthday?

10 A '65, '66, somewhere in there.

11 Q So in 1965, 1966, you were 21. So for
12 more than 20 years before you bought this lot you
13 had a commercial driver's license, right?

14 A Okay.

15 Q And for more than 20 years before you
16 bought this lot, you had knowledge as to the
17 operations of trucks, right?

18 A Most of my work with my commercial driver's
19 license involved motor coaches.

20 Q Okay. But since you got your commercial
21 driver's license when you were 21, did that allow
22 you to drive tractor trailers?

23 A Yes.

24 Q Okay. So since 1965 and up until 1988,

1 you knew that a noise was made when a tractor
2 engaged with a trailer, right?

3 A Yes.

4 Q You knew that a noise was made when a
5 tractor and a trailer disengaged?

6 A Yes.

7 Q You knew from that period 1965 to 1988
8 that a noise was made by air brakes on a tractor
9 trailer, right?

10 A Yes.

11 Q And you knew for that same time period
12 that a tractor trailer rig weighed a lot, right?

13 A Yes.

14 Q And that if a driver backed a tractor
15 trailer rig into a post, it might shake the ground
16 around it, right?

17 A Yes.

18 Q And for that same time period, 1965 to
19 1988, did you also have knowledge that some tractors
20 would have back-up warning beepers on them?

21 A No.

22 Q During the latter part of that time
23 period, did you learn that companies were putting
24 back-up warning beepers on tractors?

1 A No.

2 Q Did you know anything about back-up
3 warning beepers before you bought this lot?

4 A No.

5 Q Were you driving motor coaches before
6 1988?

7 A Yes.

8 Q Did any of the motor coaches that you
9 drive in your business have back-up warning beepers?

10 A No.

11 Q Garbage trucks have back-up warning
12 beepers, right?

13 A Are you referring to 1966, or are you
14 referring to today?

15 Q Today.

16 A I don't know specifically.

17 Q So in any event, before you went through
18 and actually bought your lot and home, you had all
19 this knowledge of all the noises made by tractor
20 trailers, right?

21 A Yes.

22 Q And then you went ahead and bought the lot
23 knowing that the lot was immediately north of an
24 office building, right?

1 A Yes.

2 Q And you bought that lot knowing that it
3 was immediately north of some truck docks, right?

4 A Yes.

5 Q And you bought that lot knowing that it
6 was immediately north of a trucking operation,
7 right?

8 A Yes.

9 Q In fact, before you bought your lot, you
10 visited that lot five to ten times -- strike that.

11 You advised your lot five to ten times
12 before even signing the contract, right?

13 A Approximately.

14 Q And before signing the contract, you saw
15 trucks coming and going from that LTD trucking area,
16 right?

17 A Yes.

18 Q You even drove on the LTD property before
19 buying your lot, right?

20 A I believe so.

21 Q Before buying your lot, you knew that LTD

22 was in Bannockburn and that the lot you were
23 considering buying was in Lake Forest, right?

24 A I believe so.

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598

1 Q And before you bought your lot, you knew
2 that somebody was living in what's now the Roti
3 house, right?

4 A Yes.

5 Q And you never spoke to the people living
6 in the Roti house back in 1987 or 1988 regarding
7 whether the truck docks to the south made any noise,
8 right?

9 A We did speak. That was the Brown family.

10 Q You did speak to the Brown family?

11 A I believe so.

12 Q Well, what did you speak -- what did you
13 say to them about noise from the LTD trucking docks?

14 A You're misunderstanding me. Repeat your
15 question.

16 Q I thought you said that you spoke to the
17 Brown family about whether LTD's trucking operations
18 made noise. I thought you had that conversation
19 before you decided to buy your lot. Is that correct?

20 A I'm simply saying I spoke to the Brown
21 family.

22 Q Okay. Well, Mr. Brown or Mrs. Brown?

23 A I spoke to them together, separately.
24 They were my neighbors.

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599

1 Q Well, did you speak to Mr. or Mrs. Brown
2 about any noise from LTD before you decided to buy
3 your lot and home?

4 A I don't recall specifically.

5 Q Okay. So you know that you specifically
6 spoke to them before deciding to buy the lot, right?

7 A You're talking about something that's 12
8 years ago. I don't remember the specifics.

9 Q But you do -- you are telling the
10 Pollution Control Board that you did speak to the
11 Browns before you decided to buy your lot?

12 A I don't remember specifically. I know
13 that they lived there before I came to live in my
14 home.

15 Q I just want to make sure. Is it you don't
16 remember specifically if you talked to them or you

17 know you talked to them but you don't remember
18 specifically what you talked about?

19 A I talked to them. I do not remember
20 specifically what I talked about. We certainly
21 talked about the area, but, again, I don't remember
22 specifics.

23 HEARING OFFICER KNITTLE: Mr. Kolar?

24 MR. KOLAR: Yes.

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600

1 HEARING OFFICER KNITTLE: I want to ask a point
2 of clarification.

3 MR. KOLAR: Sure.

4 HEARING OFFICER KNITTLE: Did you talk to
5 them -- are you referring to before or after you
6 bought your house?

7 THE WITNESS: I don't remember specifically
8 the time frame when I talked to them.

9 HEARING OFFICER KNITTLE: Okay. I just wanted
10 to know.

11 THE WITNESS: It was a long time ago.

12 HEARING OFFICER KNITTLE: Understood.

13 BY MR. KOLAR:

14 Q At some point after you moved in in August

15 1988, after that, the Rotis eventually bought the
16 home that the Browns were living in, right?

17 A Yes.

18 Q Approximately a year and a half, two years
19 after that?

20 A I don't recall the exact timing.

21 Q But you remember that the Browns were your
22 neighbor to the west for a period of time after you
23 moved in, right?

24 A Yes.

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601

1 Q And before you bought your lot when you
2 were driving onto the LTD property, you saw the
3 vacant lot to the south of the then existing LTD
4 building, right?

5 A Yes.

6 Q And in particular, if you look at this
7 Respondent's Exhibit 88, the area to the south of
8 the building you saw this large vacant lot, right?

9 A Evidently.

10 Q Well, you did see it, didn't you?

11 A I didn't go looking specifically at it. I

12 drove past it obviously to get into their facility.

13 Q Right. I mean, to get to LTD's facility
14 before you bought your lot, you had to drive north
15 up Lakeside Drive, right?

16 A Yes.

17 Q And that vacant lot was immediately to
18 your left, right?

19 A Yes.

20 Q And before buying your lot, you did no
21 investigation to see if LTD could expand its
22 warehouse to the south, right?

23 A That's correct.

24 Q And before you decided to buy your lot,

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602

1 you were aware of the tollway to the west, right?

2 A Yes.

3 Q And before you decided to buy your lot,
4 you were aware of the tollway noise on the lot you
5 were considering, right?

6 A Yes.

7 Q You were aware before you decided to buy
8 the lot that the noise from the tollway was louder
9 when the wind was blowing from the west to the east,

10 right?

11 A That I was not aware of.

12 Q Do you know that now that when the wind
13 blows from the west to the east towards your
14 property the tollway sound is louder on your
15 property?

16 A I heard the testimony yesterday to that
17 effect.

18 Q Well, do you agree with that?

19 A I'm not a sound expert. I mean...

20 Q Well, based on your experience of living
21 at that property, have you ever made that
22 connection?

23 A The tollway noise is not something that
24 I'm conscious of.

L.A. REPORTING (312) 419-9292

603

1 Q Well, you can hear the tollway noise
2 inside your house when you've got your windows open,
3 right?

4 A Because of the LTD facility and what's
5 happening with it now, I do not open my windows.

6 Q But when you're inside your house with the

7 windows open, you can hear the tollway noise in your
8 house, right?

9 MR. KAISER: Objection.

10 HEARING OFFICER KNITTLE: What's the objection?

11 MR. KAISER: The form of the question. He says
12 his windows aren't open, so it's argumentative, so
13 now when you have your windows open, even though
14 he's just said he doesn't, you can hear something.
15 I mean, given what Mr. Rosenstock just said, the
16 form of the question is improper.

17 HEARING OFFICER KNITTLE: I'll sustain that,
18 but, Mr. Kolar, you could ask him further questions
19 along this line to get your point across.

20 BY MR. KOLAR:

21 Q After you moved in in 1988 until -- strike
22 that.

23 When did you start closing your windows
24 permanently at your house?

L.A. REPORTING (312) 419-9292

604

1 A After the reconstruction of the LTD
2 facility.

3 Q So '94, '95?

4 A Again, I don't remember an exact timing.

5 Q When you say that now you keep your
6 windows closed, all day long every day of the year?

7 A Yes.

8 Q Except when you're making a log, right?

9 A That was literally the only time I've
10 opened up my windows.

11 Q So you did open up your windows to make
12 the log which Mr. Kaiser marked as Complainants'
13 Exhibit 42, right?

14 A Yes.

15 Q Okay. But before the expansion of the
16 building to the south, you would have your windows
17 open, right?

18 A I would have my windows open. I would
19 enjoy my backyard. I would live there like a normal
20 person.

21 Q All right. But when you had your windows
22 open, you could hear tollway noise inside your
23 house, right?

24 A Not really.

L.A. REPORTING (312) 419-9292

605

1 Q You hear -- can you hear the tollway

2 background noise in your house when the windows are
3 open?

4 A Perhaps.

5 Q Okay. What do you mean by background
6 noise, tollway background noise? Define that for
7 me.

8 A Background noise would be we're sitting
9 here and the Metra train goes by or a truck goes by,
10 something that doesn't disrupt you, but yet you may
11 or may not be aware of it.

12 Q Well, is there another type of tollway
13 noise by your home besides background noise?

14 A Not that I'm aware of.

15 Q Okay. So then the only noise that you
16 hear from the tollway you would call background
17 noise, right?

18 A Yes.

19 Q And that background noise from the tollway
20 you could hear inside your house with the windows
21 open back when you would keep your windows open,
22 right?

23 A Not really. It's not a noise that you're
24 sitting there saying oh, my goodness, what the heck

1 is going on here? It's not something you're really
2 aware of on a day-to-day basis.

3 Q Let me show you page 27 of your deposition
4 transcript. Do you recall giving your deposition on
5 March 16th, 1999, at my office?

6 A Yes.

7 Q And you were placed under oath, and you
8 gave testimony, right?

9 A Yes.

10 Q Page 27, line 19, "Question: Can you hear
11 tollway noise inside your house if the windows are
12 open?

13 Answer: Perhaps the background noise.

14 Question: Is there another type of
15 tollway noise besides the background noise?

16 Answer: No."

17 Did I read that correctly?

18 A Yes.

19 Q Is the tollway noise worse when the
20 pavement on the tollway is wet?

21 A Not that I've been aware of.

22 Q Well, did you ever open your windows and
23 try to determine if it was worse when the tollway
24 was wet versus when it's dry?

1 A No.

2 Q Now, I thought I heard you testify on
3 direct that tractor trailers make more noise when
4 they're accelerating. Is that accurate?

5 A I was referring to the engine noise.

6 Q Right. But you know that from your
7 experience with a commercial driver's license,
8 right?

9 A I know that from my experience hearing
10 what's going on at LTD.

11 Q So if a tractor trailer on the LTD truck
12 staging area is leaving going to the east and then
13 exiting south to Lakeside Drive, you can hear that
14 acceleration noise at your property?

15 A No.

16 Q No. Never?

17 A The noise that I'm referring to is the
18 noise of the yard pig.

19 Q But what about a tractor trailer exiting
20 the LTD staging area and going onto Lakeside Drive
21 to the south? You'll acknowledge a tractor trailer
22 would have to accelerate to leave the below-grade
23 staging area, right?

24 A When I was talking about the noise, I was

L.A. REPORTING (312) 419-9292

608

1 thinking in my mind specifically about the yard pig.

2 Q Well, let's talk about this, though.

3 You told us the staging area is below
4 grade relative to the parking lot, right?

5 A I believe so.

6 Q And since you've driven back to the LTD
7 property, you understand that to get out of the
8 truck staging area, the tractor trailers have to go
9 up an incline to Lakeside Drive, right?

10 A Yes.

11 Q Okay. So based on your experience with
12 tractor trailers, you would agree that the trucks
13 would make an acceleration noise as they were
14 leaving the LTD property to go onto Lakeside Drive?

15 A That is not a specific noise that we're
16 complaining about.

17 Q Okay. Do you know if the Webbers are
18 complaining about that?

19 A I don't know.

20 Q Is there a tollbooth immediately to the
21 west of the southwest corner of the LTD expansion?

22 A Yes.

23 Q And you've seen trucks and cars pull up to
24 that tollbooth and accelerate away, correct?

L.A. REPORTING (312) 419-9292

609

1 A When you say seen, are you talking about
2 going over there and sitting there, or are you
3 talking about looking out my window?

4 Q Well, I take it -- have you ever used that
5 tollbooth to go north on the tollway?

6 A I have.

7 Q All right. So then you would recognize
8 Respondent's Exhibit 57 as the tollbooth that's
9 immediately west of the LTD building, right?

10 A Yes.

11 Q Okay. So before the builder started
12 working on your house, you were concerned that noise
13 might affect you on this property, right?

14 A From the tollway, yes.

15 Q So even though you knew of the trucking
16 operations to the south, you're saying to the
17 Pollution Control Board you had no concerns at all
18 about trucking noise coming onto your property?

19 A Not from the operation that was in effect
20 then.

21 Q You would acknowledge that in 1988 before
22 you officially closed on your lot that the trucking
23 operation was about maybe a quarter of the distance
24 from your house compared to the tollway?

L.A. REPORTING (312) 419-9292

610

1 A Yes.

2 Q Okay. So positively back in 1988 before
3 you bought your home, the tollway was about four
4 times farther away from your house than the LTD
5 trucking operation?

6 A I'm looking maybe three times but
7 approximately.

8 Q All right. So you're saying even though
9 the trucking operation was three times closer, you
10 had no concerns about noise coming from that
11 operation onto your lot?

12 A It was a completely different operation
13 then.

14 Q That was because there weren't as many
15 truck docks then; is that what you're saying?

16 A As I recall, the operation did not involve

17 the yard pigs.

18 Q Okay. And you also told us there weren't
19 as many truck docks back then because the truck
20 docks were added with the '94, '95 expansion, right?

21 A Yes.

22 Q And it was the adding of those truck docks
23 with the '94 and '95 expansion that really caused
24 the noise problem to escalate, right?

L.A. REPORTING (312) 419-9292

611

1 MR. KAISER: Objection. Misstates his testimony.

2 HEARING OFFICER KNITTLE: Mr. Kolar?

3 MR. KOLAR: No response.

4 HEARING OFFICER KNITTLE: Overruled.

5 BY THE WITNESS:

6 A I'm sorry. The question?

7 BY MR. KOLAR:

8 Q It was the adding of truck docks with the
9 '94, '95 expansion to the south that really caused
10 the noise to increase on the LTD property and
11 emanate to your property, right?

12 MR. KOLAR: Again, his testimony was expansion
13 of operations.

14 HEARING OFFICER KNITTLE: I'm going to --

15 Mr. Kolar?

16 MR. KOLAR: This is cross-examination. I think

17 I'm allowed to test his answers on direct.

18 HEARING OFFICER KNITTLE: Overruled. Do you

19 need him to ask the question a third time?

20 THE WITNESS: Please.

21 BY MR. KOLAR:

22 Q Am I correct that you've pinpointed the
23 time when noise worsened on the LTD property as the
24 time when LTD expanded its building to the south,

L.A. REPORTING (312) 419-9292

612

1 right?

2 A It was after that time.

3 Q Okay. And the noise worsened, if I
4 understand your testimony, because that was the time
5 when LTD increased the number of truck docks on its
6 property, right?

7 A Again, after that time.

8 Q Okay. After the expansion to the south
9 shown here on Exhibit 89, that's when truck docks
10 were added and the noise got worse, right?

11 A If you're asking me -- adding the truck

12 docks did that make it worse; is that what you're
13 asking me?

14 Q Yes.

15 A Truck docks alone, no.

16 Q Truck docks was a part of making it worse,
17 right?

18 A It was all the other things that went with
19 it.

20 Q But one factor that made it worse back in
21 1994 and '95 was when truck docks were added at that
22 time period, right?

23 MR. KOLAR: Objection. Again, misstates his
24 testimony.

L.A. REPORTING (312) 419-9292

613

1 HEARING OFFICER KNITTLE: Overruled.

2 BY THE WITNESS:

3 A I wouldn't argue with that.

4 BY MR. KOLAR:

5 Q Let's go back to 1988 when you're working
6 with your builder.

7 MR. KAISER: If we're going to go back to '88,
8 why don't we put the '88 picture instead of pointing

9 to the 1999 photograph which has been in front of
10 Mr. Rosenstock the entirety of his
11 cross-examination?

12 HEARING OFFICER KNITTLE: Is that an objection,
13 Mr. Kaiser?

14 MR. KAISER: Yes. It is an objection. I think
15 it's been misleading.

16 MR. KOLAR: Okay. So I guess it was pretty
17 tricky how I put that PR on this '88.

18 HEARING OFFICER KNITTLE: Well, I don't think
19 Mr. -- just for the record, let me make this clear.
20 I don't think Mr. Rosenstock, in my judgment, was
21 mislead, so I'm going to overrule the objection.
22 But I have no problem and I think the appropriate
23 aerials should be up there when he's testifying.
24

L.A. REPORTING (312) 419-9292

614

1 BY MR. KOLAR:

2 Q Well, Mr. Rosenstock, do you recall me
3 showing you this aerial of the LTD building before
4 the warehouse expansion to the south, right?

5 A Yes.

6 Q And do you recall that you agreed with me

7 that I circled your house correctly and put your
8 initials, right?

9 A Yes.

10 Q In any event, back there in 1988 when the
11 builder was building your house, you requested him
12 to put more insulation in your house for noise
13 abatement, right?

14 A Yes.

15 Q And at that time in 1988, you also had a
16 small berm built on the south end of your house to
17 shield the house from the office building and LTD,
18 right?

19 A Yes.

20 Q Now, as of the time when you gave your
21 deposition on March 16th, 1999, you had no written
22 notes of when noise bothered you from the LTD
23 operation, right?

24 A Yes.

L.A. REPORTING (312) 419-9292

615

1 Q And, in fact, from March 16th, 1999, until
2 October 19th, 1999, you had no log of when noise
3 bothered you from the LTD operation, right?

4 A Yes.

5 Q So did Mr. Kaiser ask you to make the log
6 which was marked as Exhibit 42?

7 A He suggested to me, yes.

8 Q Did you have a meeting with him on
9 October 20th?

10 A I met with him -- I don't remember the
11 exact date.

12 Q Okay. But he asked you to make a log, and
13 then you said that's a good idea, and you started
14 doing one, right?

15 A I believe it was a telephone conversation.

16 Q Okay. Telephone conversation.

17 And do you have any tape-recording of
18 noise coming from the LTD trucking operations?

19 A No.

20 Q You mentioned that you weren't aware of
21 LTD's good neighbor policy, correct?

22 A Yes.

23 Q But you were late in becoming -- not late,
24 but you were added on sort of at the end of this

L.A. REPORTING (312) 419-9292

616

1 process, right, as a Complainant?

2 A Officially -- well, what do you mean by
3 late?

4 Q Okay. Well, did you attend any meetings
5 at the village of Bannockburn in 1997?

6 A No.

7 Q And if I understand your testimony
8 correctly, this year, last year, and then in 1997 as
9 well, noise from the LTD trucking operations at
10 times would wake you at all hours of the night?

11 A Yes.

12 Q So that would be 3:00 a.m. you could be
13 woken up by this earthquake, right?

14 A There were periods where it was a
15 24-hour-day operation.

16 Q At 4:00 a.m. you could be woken by this
17 earthquake noise, right?

18 A I don't remember specific times because I
19 didn't record it.

20 Q So let's go back to this Exhibit 89, the
21 aerial photo from 1999.

22 You testified that you watched or you can
23 see from your house the yard pig operating in the
24 staging area, right?

1 A Yes.

2 Q And you've witnessed the yard pig back up
3 trailers into the staging area?

4 A When you say staging area, you mean what I
5 call the berm?

6 Q Right, the area where you have the wooden
7 bumper stops.

8 A Yes.

9 Q Have you ever been on the sidewalk above
10 that berm looking down to see the operation?

11 A No.

12 Q So have you ever actually seen a bumper
13 come in contact with the wooden bumper stops?

14 A Yes.

15 Q You can see that from the window of your
16 house?

17 A No.

18 Q How have you seen that?

19 A I've gone and looked at that.

20 Q And where were you situated when you watched
21 that operation?

22 A I was right there on the lot.

23 Q So for the yard tractor, if we did the
24 sequence here, to back up a trailer into the berm

1 area, first -- well, let's say a trailer is off --
2 out of the staging area away from those wooden
3 bumpers, okay?

4 A Yes.

5 Q Disengaged from the yard tractor.

6 A Yes.

7 Q So what it would first have to is, the
8 yard tractor, engage with the trailer, right?

9 A Yes.

10 Q And then back it up into the berm staging
11 area, right?

12 A Yes.

13 Q And if you went so far reckless, you would
14 hit the wooden bumper stop, right?

15 A Yes.

16 Q So in terms of sequence of noise, we would
17 hear the back up -- we would hear -- strike that.

18 In terms of sequence of noise, we might
19 hear the engaging noise first, right?

20 A Yes.

21 Q And then the back-up beeper noise?

22 A That would come first actually.

23 Q I see. Back-up beeper noise first, right?

24 A Yes.

L.A. REPORTING (312) 419-9292

619

1 Q Engaging noise, right?

2 A Yes.

3 Q Then we continue to hear the back-up
4 beeper, right?

5 A Yes.

6 Q And then if he went too fast, we would
7 hear the trailer hitting the wooden bumpers, right?

8 A Yes.

9 Q And that's the impact that you claim
10 shakes your house, right?

11 A Yes.

12 Q So what makes the loud boom that you've
13 written on the first page of Exhibit 42 of your log?

14 A Boom, another word could be explosion, is
15 the hitting of that tractor trailer combination into
16 that berm which is into the earth, and the effect is
17 what I've been talking about.

18 Q So then in terms of sequence, if we just
19 go past the engagement period, we would hear back-up
20 beeper, boom, and then your house would shake, right?

21 A The back-up beeper is a constant.

22 Q Right, but I mean I'm talking about the
23 tractor backing a trailer into the berm area. We
24 would hear back-up beeper on the yard tractor, boom

L.A. REPORTING (312) 419-9292

620

1 from hitting the wooden bumper stop, and then your
2 house would shake, right?

3 A Simultaneously, yes.

4 Q And on this Complainants' Exhibit 42, for
5 October 22nd, 11:35 p.m., you wrote house shook,
6 loud boom, back-up noise, right?

7 A Okay.

8 Q You would agree that the yard tractor
9 doesn't make a back-up noise when it's pulling away
10 from the staging area, right?

11 A You're misinterpreting what I have put
12 down there.

13 Q Well, when you did this Complainants'
14 Exhibit 42, didn't you try to write down noises in
15 the sequence that they happened?

16 A First of all, was I awake? What I was
17 doing there was writing down my experiences. I
18 wasn't necessarily doing it in a chronological. I

19 was doing it -- this is what I've just experienced.

20 Q So then this Exhibit 42 is not accurate in
21 terms of chronologically how noises occurred?

22 A Again, the back-up beeper is a constant,
23 so you could have it first, last, and always. The
24 house shook, and it says slash if -- can I see it

L.A. REPORTING (312) 419-9292

621

1 for a second?

2 Q Sure.

3 (Document tendered.)

4 BY THE WITNESS:

5 A It says house shook/loud boom. The slash
6 indicates it happened together.

7 BY MR. KOLAR:

8 Q But then after that, you wrote back-up
9 noise, right?

10 A As part of that whole combination because
11 I'm hearing all of that simultaneously is what
12 that's saying; that all of that is happening at one
13 moment.

14 Q So 10-25, 10:50 p.m., you wrote loud
15 boom/back-up noise, right?

16 A Meaning that I'm hearing all of that
17 together at one moment.

18 Q Doesn't the back-up beeper on the yard
19 tractor stop when the motion of the yard tractor
20 stops?

21 A It's not controlled by that. It's
22 controlled by the transmission.

23 Q Well, do you know if it has an automatic
24 transmission or a manual transmission?

L.A. REPORTING (312) 419-9292

622

1 A I don't know specific. I've not been in
2 it.

3 Q How do you know the back-up beeper is
4 controlled by the transmission?

5 A Because in any vehicles that I have driven
6 that did have a back-up beeper, if you put it in
7 reverse, you could have the emergency brake on. You
8 could have the air brakes locked. If it's in
9 reverse, the back-up beeper would be on even though
10 you're not moving.

11 Q So when was the first time you drove a
12 vehicle that had a back-up beeper?

13 A Probably four or five years ago.

14 Q So this back-up beeper, according to your
15 log, you heard it last week, right?

16 A I heard it this morning. I heard it last
17 week. I hear it every day.

18 Q What time did you hear it this morning?

19 A I believe it was about 7:00 a.m. when I
20 got up, right after that.

21 Q Did you hear it last night?

22 A I was not woken up last night, thank
23 goodness.

24 Q So you heard the yard tractor back-up

L.A. REPORTING (312) 419-9292

623

1 beeper Monday night?

2 A I heard it Monday morning.

3 Q And you heard it this morning, Wednesday
4 morning, the yard tractor back-up beeper?

5 A Yes.

6 Q And you're certain of that?

7 A If you're asking me if I went to the
8 window to look, I didn't go look, but I heard.

9 Q Now, are you aware that Corporate 100,
10 this office building to the east of LTD, has a

11 fenced-in garbage area directly south of your house?

12 A Yes.

13 Q So is it right here?

14 A I would have to come and look.

15 Q Can you come down and take a look? In
16 fact, why don't you circle for me the Corporate 100
17 garbage area on Exhibit 89?

18 A (Indicating.)

19 Q Can you just write to the right garbage?

20 A (Indicating.)

21 Q G is fine.

22 And then circle your house on Exhibit 89.

23 A (Indicating.)

24 Q Let's put your initial above that so it's

L.A. REPORTING (312) 419-9292

624

1 clear, please.

2 A (Indicating.)

3 Q Okay. Let me show you Exhibit 55. Now,
4 in the background of Exhibit 55, does that look like
5 the wooden fenced-in area where the garbage
6 containers are kept on the office building parking
7 lot?

8 A It's hard to tell. It's quite a distance

9 away. I just see a fence there.

10 Q Now, Leslie Weber yesterday told us that
11 she's been woken up by the back-up beeper on the
12 garbage truck that picks up garbage at the office
13 building. I assume you've also been woken up by
14 that back-up beeper on the garbage truck?

15 A No.

16 Q Never? You've heard that back-up beeper?

17 A I've heard it, but it's only once a day.

18 Q So have you heard that back-up beeper
19 hundreds of times in the last couple years?

20 A No.

21 Q How many times have you heard it?

22 A I don't know, but I don't hear it on a
23 daily basis.

24 Q Well, Leslie Weber, I think, said she

L.A. REPORTING (312) 419-9292

625

1 heard it 100 times. Would you agree with that? 100
2 times over the last couple years; would you agree
3 with that number?

4 A I have no way to know what Leslie Weber...

5 Q But I'm asking you if you would agree that

6 you probably heard that back-up beeper from the
7 garbage truck 100 times over the last couple years.

8 A I personally do not recall that, no.

9 Q Fifty to 75 times?

10 A The back-up beeper you're referring to is
11 not why I'm complaining about noise at LTD.

12 Q But you have heard the back-up beeper on
13 the garbage truck, right?

14 A Yes.

15 Q So try to give me a number. Since
16 November 1996, how many times have you heard a
17 back-up beeper on the garbage truck?

18 A I have no idea.

19 Q Well, when you hear the back-up beeper,
20 you also hear the sound of those roll-out metal
21 garbage containers clanking against parts of the
22 garbage truck?

23 A I have not.

24 Q Have you ever heard a noise made when a

L.A. REPORTING (312) 419-9292

626

1 garbage container is set back down on the ground by
2 the garbage truck?

3 A Not to my recollection.

4 Q According to Exhibit 89, the garbage
5 containers are about half the distance from your
6 house that the yard tractor is, right?

7 A Evidently.

8 Q You would agree with that, right?

9 A Yes.

10 Q And it's your testimony that one thing LTD
11 should do regarding these trucking operations is
12 that it should somehow tell truckers don't blow your
13 horn on our property, right?

14 A Yes.

15 Q Let me show you Respondent's Exhibit 77.
16 Have you ever seen that sign posted anywhere towards
17 the entrance to the LTD truck staging area?

18 A I have not.

19 Q What does it say on the third line from
20 the bottom of that sign?

21 A No horns or shouting.

22 Q Okay. So if that sign is posted at the
23 entrance to the LTD trucking area, that would be
24 something like you described to Mr. Kaiser, a good

1 thing to do, right?

2 A It's not a bad thing to do.

3 Q Okay. But that's what you wanted to see,
4 some sort of action by LTD to tell people don't blow
5 your horns, right?

6 A No.

7 Q So we should cross that off your list of
8 steps to reduce noise?

9 A No.

10 Q Let me show you Respondent's Exhibit 84.

11 MR. KOLAR: I think, for the record, on the
12 index I gave you for 83, 84, 85 might say Weber
13 house, but it's really the Rosenstock house. We
14 knew it was the middle house, but I had forgotten in
15 my mind that Mr. Rosenstock lived there.

16 BY MR. KOLAR:

17 Q Let me show you 85. Does that look to you
18 like a photo looking -- or taken south from Route 22
19 towards the roof of your house?

20 A I can see what I would believe to be the
21 roof of my house, but I'm not familiar with that
22 particular angle of landscape.

23 Q But in the background of this photo,
24 Exhibit 85, that looks like the roof of your house,

1 right?

2 A I'm not really sure to tell you the truth.

3 Q So would it be accurate that probably the
4 two things that you claim bother you the most would
5 be the back-up beeper from the yard tractor and what
6 you described as the earthquake effect?

7 A It all bothers me. There's not one specific
8 thing.

9 Q Okay. But let's talk about Exhibit 75
10 showing the trailers in the staging area.

11 Based on your experience in trucking, I
12 guess one thing that could be done would be maybe to
13 put some sort of bumper down on the asphalt so a
14 driver would feel when the wheels hit the speed bump
15 before the trailer hits the wood?

16 A It would be not to make contact.

17 Q Okay. Well, what would you recommend LTD
18 do so that it not make contact with those wooden
19 bumpers?

20 A To have a human being guide the driver.

21 Q So if the tractor doesn't hit the wooden
22 bumper, that would eliminate the earthquake effect,
23 and that would eliminate the loud boom noise made by
24 the contact of the truck bumper with the wooden

1 bumper on the staging area, right?

2 A Yes.

3 Q And then if the back-up beeper was
4 disengaged and maybe flashing lights were put in its
5 place, that would, as another step, take care of
6 three of the noises you're complaining of, right?

7 A I believe there are already flashing
8 lights.

9 Q I understand, but if somehow trailers
10 didn't hit the wooden bumpers in this staging area
11 and there was no back-up beeper on the yard tractor,
12 that would take care of three of your complaints,
13 right?

14 A With the addition of a noise wall perhaps.

15 Q But you would agree the noise wall
16 wouldn't be necessary relative to the back-up beeper
17 if a back-up beeper was disengaged, right?

18 A But the motor noises would be, and the
19 coupling and uncoupling would be, and the air brake
20 explosions would be.

21 Q And if the trailers don't hit the wooden
22 bumper, then there's no need for a noise wall

23 relative to that noise, right?

24 A No.

L.A. REPORTING (312) 419-9292

630

1 Q Would you agree with that on that particular
2 noise?

3 A Restate the question, please.

4 Q If trailers don't bump into the wooden
5 bumper in the staging area, then a noise wall is not
6 needed relative to that noise, right?

7 A Yes.

8 Q So this earthquake effect, you're saying
9 this is such a serious impact that it caused an
10 entire light fixture to fall from the ceiling?

11 A Yes.

12 Q The whole thing or just like a glass bulb
13 that encloses the light bulb?

14 A The entire fixture.

15 Q So the earthquake effect would come from
16 the truck staging area and sort of radiate out
17 towards your home and the Weber home, right?

18 A Evidently.

19 Q I mean, it sounds like it's so serious
20 that you would agree it doesn't just affect the

21 Rosenstock home, right?

22 MR. KAISER: Objection. Calls for
23 speculation. Misstates prior testimony in the
24 hearing.

L.A. REPORTING (312) 419-9292

631

1 HEARING OFFICER KNITTLE: Sustained, but I
2 think you could ask a further question.

3 BY MR. KOLAR:

4 Q Did you ever talk to the Webers whether
5 they're affected by this earthquake effect that you
6 described?

7 A I don't recall specifically.

8 Q All right. And based on your feeling in
9 your home, you would expect both the Webers to
10 experience this earthquake effect in their house as
11 well?

12 MR. KAISER: Objection. Calls to -- I mean,
13 it's irrelevant what he would expect its impact to
14 be on the Webers and Rotis.

15 HEARING OFFICER KNITTLE: Mr. Kolar?

16 MR. KOLAR: Well, he's told us how violent it
17 is and how much of an annoyance it is, so I'm just

18 exploring that more.

19 HEARING OFFICER KNITTLE: I'll overrule that
20 and let you answer it.

21 THE WITNESS: What's the question?

22 BY MR. KOLAR:

23 Q This earthquake effect, according to you,
24 is so strong, such an annoyance that you would

L.A. REPORTING (312) 419-9292

632

1 expect it to, based on your own experiences at your
2 home, affect the Weber home as well, right?

3 A I have no way to know what else it would
4 affect. I can only tell you what's happened to me.

5 Q Did you replace the light fixture that
6 fell down?

7 A I had it repaired.

8 Q And when did that happen?

9 A It happened -- I don't remember. It's
10 been several years, but I don't remember the exact
11 date.

12 Q And has that light fixture ever fallen
13 down again?

14 A It has not.

15 Q Did you put it back up or an electrician

16 put it back up?

17 A I don't remember the specifics.

18 Q So it could be, relative to that light
19 fixture, that it wasn't installed properly in the
20 first place, right?

21 MR. KAISER: Objection. Calls for speculation.

22 HEARING OFFICER KNITTLE: Overruled.

23 BY THE WITNESS:

24 A I'm sorry. The question again?

L.A. REPORTING (312) 419-9292

633

1 BY MR. KOLAR:

2 Q It could be, relative to that light
3 fixture falling down, that it was not installed
4 properly in the first place by your builder, right?

5 A No.

6 Q Well, it's the only light fixture in the
7 house that ever fell down, right?

8 A Yes.

9 Q And you've got -- probably in a house of
10 your size, you must have 15 to 20 light fixtures in
11 that house?

12 A No.

13 Q Is this one hanging from the ceiling?

14 A This is really the only one in the house
15 that is just hanging from the ceiling.

16 Q Okay. Well, in any event, it hasn't
17 fallen down again in two years since it was put back
18 up, right?

19 A No.

20 Q What I said is correct?

21 A Which is?

22 Q It hasn't fallen down again, correct?

23 A That's correct.

24 Q Okay. And it's your position that the

L.A. REPORTING (312) 419-9292

634

1 house has continued to shake since it was put back
2 up?

3 A Yes.

4 Q And no one has ever told you that your
5 house is worthless because of the LTD trucking
6 operations, right?

7 A That's correct.

8 Q And you were the one that decided that you
9 wanted a two-story house on your lot, right?

10 A Yes.

11 Q You knew at that point that you could have
12 a ranch if you wanted, right?

13 A Yes.

14 Q If you were to make a log for this morning
15 as to -- strike that.

16 If you were to make a log right now or
17 just estimate for us how many times you heard the
18 yard pig last night and this morning, the back-up
19 beeper on the yard pig, how many times would that
20 be?

21 A I don't know.

22 Q Could you give us even an estimate, five
23 to ten times, more than ten times?

24 MR. KAISER: If I may be heard -- and I almost

L.A. REPORTING (312) 419-9292

635

1 would like this to be out of earshot of the witness,
2 but I think it's something that I would like to
3 bring to the board's attention without --

4 HEARING OFFICER KNITTLE: Okay. Let's --

5 MR. KAISER: -- tainting the witness in any
6 way.

7 HEARING OFFICER KNITTLE: Do you want to be on

8 the record?

9 THE WITNESS: Do you want me to step out?

10 HEARING OFFICER KNITTLE: We can do an in
11 camera approach if you want.

12 MR. KAISER: Outside of Mr. Rosenstock's
13 earshot.

14 MR. KOLAR: Well, I object.

15 HEARING OFFICER KNITTLE: Why do you want it to
16 be outside of Mr. Rosenstock's earshot?

17 MR. KAISER: Well, if you and I step out in the
18 hall with the court reporter, I'll tell you exactly
19 why. And if you don't want to do it, then I'll put
20 it on the record in front of Mr. Rosenstock, but
21 I'm trying to be as delicate about as it possible.

22 MR. KOLAR: What was my last question? Maybe
23 I'll withdraw it.

24 HEARING OFFICER KNITTLE: All right. If he

L.A. REPORTING (312) 419-9292

636

1 withdraws his last question, Mr. Kaiser, are you
2 still going to want to talk to me outside of the
3 earshot of Mr. Rosenstock?

4 MR. KAISER: I'm afraid I will, yes.

5 HEARING OFFICER KNITTLE: Okay.

6 Mr. Rosenstock, why don't you step outside for a
7 sec, please?

8 MR. KAISER: And I would ask Ms. Roti as well
9 to leave the hearing room.

10 (Whereupon, Mr. Rosenstock and
11 Ms. Roti exited the hearing room.)

12 HEARING OFFICER KNITTLE: Yes. Try not to
13 eavesdrop at the door.

14 THE WITNESS: I'll shut the door.

15 MR. KOLAR: Okay. If he's asked Ms. Roti to
16 leave the room, then I'm going to ask that whatever
17 we discuss he not tell his client.

18 MR. KAISER: Oh, of course, absolutely.

19 MR. KOLAR: Any of his clients.

20 MR. KAISER: Oh, any of my clients?

21 MR. KOLAR: Any of his clients who haven't
22 testified yet.

23 MR. KAISER: Oh, man.

24 HEARING OFFICER KNITTLE: Yes. I mean, I can't

L.A. REPORTING (312) 419-9292

637

1 control what he says, but this is an
2 in-camera-of-sorts discussion, and if you didn't

3 want Mr. Rosenstock to hear, I think we ought to
4 keep it from them.

5 MR. KAISER: All right.

6 HEARING OFFICER KNITTLE: What's your piece,
7 Mr. Kaiser?

8 MR. KAISER: Just off the record --

9 MR. KOLAR: No.

10 MR. KAISER: All right. On the record, here's
11 my concern. It strikes me -- I have a feeling --
12 and Mr. Kolar can probably tell us whether I'm right
13 or wrong -- that LTD at this point in the hearing
14 is, in my view, playing games with the Complainants
15 and I -- my suspicion is that LTD disconnected the
16 back-up warning beeper last night in an effort not
17 to permanently solve the noise problem that's been
18 the subject of this action and subject of complaint
19 for almost three years but in an effort to, in a
20 way, trick the Complainants. And I think that's --
21 it just offends some sense of decency if, in fact,
22 they've done that. And I would like
23 Mr. Kolar -- it appears to me that Mr. Kolar knows
24 whether they've done that, and that's why he's

1 setting up Mr. Rosenstock with these questions.

2 So I would like him to tell the board
3 whether, in fact, LTD caused the back-up warning
4 beepers to be disconnected last night.

5 HEARING OFFICER KNITTLE: Mr. Kolar, do you
6 have a response? And you're not -- I'm not
7 directing you to answer his question by any means.

8 MR. KOLAR: I'm allowed in cross-examination to
9 ask the witnesses as to what they've heard, when
10 they heard it, and the witness testified that last
11 night -- you know, he told us what he heard last
12 night, and he told us what he heard this morning,
13 and I'm going to ask Karen Roti the same questions.
14 I'm going to ask Henry Weber the same questions, and
15 I'll ask Anthony Roti the same questions.

16 HEARING OFFICER KNITTLE: I don't have a
17 problem with him asking those questions if he
18 disconnected -- and I don't know that Mr. Kolar did
19 or didn't do anything, but regardless of whether --
20 I should say regardless of whether it's been
21 disconnected or not, I would still expect your
22 clients and any witness -- they've taken an oath to
23 tell the truth. I don't know what I could do -- I
24 don't know that there's any remedy for the problem

1 as you see it, at least from my perspective. I'm
2 going to have to let them testify, and if you think
3 that Mr. Kolar or LTD has, you know, pulled some
4 trick in the end, I think that's a motion you could
5 make to the board if you didn't think it was proper
6 testimony or a method of achieving testimony.

7 MR. KOLAR: Let me address that. If the
8 testimony shows that it was disconnected -- again,
9 you're right, these people have sworn to tell the
10 truth, and they're claiming that every time they
11 hear a back-up beeper noise, it comes from the yard
12 tractor. And that's what Mr. Rosenstock has now
13 basically testified to. And they're blaming LTD for
14 every time they hear a back-up beeper noise. So LTD
15 ought to be able to put on its case to determine if
16 every time they claim they hear a back-up beeper
17 noise it's, in fact, the back-up beeper from the
18 yard tractor. And if hypothetically it was
19 disconnected and they're still blaming LTD for the
20 back-up beeper on the yard tractor --

21 MR. KAISER: It can't be hypothetical --

22 MR. KOLAR: -- so be it

23 MR. KAISER: -- if you're not going to tie it
24 up with a witness of your own. Then whatever they

1 say stands. If they heard it, they heard. If they
2 didn't, they didn't.

3 So, Joe, as you stand here today, you've
4 got to know. Otherwise, it's an irrelevant question
5 almost. I mean, if you're not going to tie it up,
6 then let's not ask the question.

7 HEARING OFFICER KNITTLE: Let me ask this. I
8 don't think it's irrelevant at all. In fact, I
9 think you said earlier in your either opening or
10 during some argument that it's your burden to show
11 that the noise is continuing up to the time of the
12 hearing and continuing through the hearing.

13 So I don't think it's irrelevant that we
14 ask whether there's noise yesterday or today or
15 even, you know, later on in the week, God forbid if
16 we're still going. But I just know that if he asks
17 these questions, they're relevant, and they're going
18 to have to be allowed. I'm not going to do anything
19 to stop him, but I don't think you're precluded from
20 making motions down the road to the board.

21 MR. KOLAR: And under section 33 of the
22 Environmental Protection Act, there's a factor

23 relating to subsequent compliance. So LTD has every
24 right to try to take certain steps, make tests to

L.A. REPORTING (312) 419-9292

641

1 determine how it impacts the Complainants. But
2 still, the Complainants have the duty to tell the
3 truth and --

4 MR. KAISER: I'm sure they'll do that.

5 MR. KOLAR: And I'll present our case and --

6 MR. KAISER: Well, I reserve the right to
7 recall Mr. Hara to examine him with respect to this
8 issue if, in fact, last night or at some point
9 during the hearing a decision was made by LTD to
10 disconnect the warning beeper. I would like to ask
11 him whether that was for the purposes of from this
12 date forward complying or eliminating a noise source
13 or whether a consideration of trial tactics entered
14 into it.

15 MR. KOLAR: Well, I can tell you, and we have
16 said it, Mr. Hara said it, he would disconnect the
17 back-up warning beeper if he knew there wouldn't be
18 a liability concern, and he's looking into that, and
19 if he can do something other than a back-up warning

20 beeper on the yard tractor, he'll do it.

21 HEARING OFFICER KNITTLE: Okay.

22 MR. KOLAR: And, in fact, we made an offer to
23 Mr. Kaiser, and maybe he should tell you what our
24 offer was with respect to --

L.A. REPORTING (312) 419-9292

642

1 MR. KAISER: I don't think that's appropriate.

2 MR. KOLAR: Okay. Well, I think it is. We
3 said drop your Pollution Control Board --

4 MR. KAISER: I would ask you, Mr. Knittle, to
5 bar him from putting into the record offers of
6 settlement.

7 MR. KOLAR: Well, you're blaming us for tactics
8 intended to trick your client, and we made an offer
9 relative to the back-up beeper on the yard tractor
10 which I guess is still under consideration by his
11 clients.

12 HEARING OFFICER KNITTLE: And I wouldn't -- I
13 don't want to get into settlement discussions if at
14 all possible.

15 This is all on the record. As I stated, I
16 think we should move on. I don't think there's
17 anything at this point inappropriate or wrong for

18 him to ask the questions that he's asking.

19 MR. KAISER: That's fine. I'm glad we have it
20 on the record. I would ask you if at some later
21 point I attempt to recall Mr. Hara, you might want
22 to reserve judgment on that issue pending, of
23 course, what I hear from Mr. Voigt.

24 HEARING OFFICER KNITTLE: Well, even if it's

L.A. REPORTING (312) 419-9292

643

1 been disconnected, I don't think it's -- even if I
2 knew right now that it was -- that the warning
3 beeper were disconnected, I still would allow the
4 testimony to go forward.

5 MR. KAISER: Sure.

6 HEARING OFFICER KNITTLE: I don't think it's
7 inappropriate, you know, and you may think -- and it
8 could be classified as a trial tactic or sneaky or
9 whatever, but that doesn't mean that they're
10 inappropriate questions or that they're questions
11 that shouldn't be asked here before the board.

12 MR. KAISER: All right. I just wanted it on
13 the record because everything Mr. Kolar hasn't said
14 bears out my suspicions.

15 HEARING OFFICER KNITTLE: And I don't want
16 Mr. Kolar to think I'm -- sneaky wasn't my word, you
17 know, just -- it's what it is, and I think we should
18 go ahead with the questioning. I don't think
19 they're inappropriate.

20 MR. KOLAR: I think if we did that, it would be
21 smart trial tactics because we would get down to
22 what really makes the noise that bothers them.

23 But second, since he specifically wanted
24 this in camera opportunity to address this and had

L.A. REPORTING (312) 419-9292

644

1 Ms. Roti leave the room, he should be precluded from
2 filling in Ms. Roti or any Complainants who haven't
3 testified as to his suspicions that perhaps LTD
4 disconnected the back-up warning beeper so you
5 better not testify that you heard it last night or
6 this morning, Karen, Tony.

7 MR. KAISER: No. I don't think there would be
8 anything improper for me preparing my witnesses who
9 haven't testified in the manner I see fit. And I
10 don't think putting this on the record should, you
11 know, essentially gag me from talking to witnesses
12 who may speak. Obviously, they're bound to tell the

13 truth.

14 MR. KOLAR: That would be smart trial tactics
15 on your part, I guess, to tell your clients be
16 careful; Joe is going to ask these questions.

17 MR. KAISER: Well, of course it would, and
18 that's why I don't think the board or Mr. Knittle
19 should bar me from that. I should warn them be
20 careful about what you testify you heard or didn't
21 hear within the last 24 hours. There's nothing
22 wrong with that.

23 HEARING OFFICER KNITTLE: Let's go off the
24 record and get people back in here, unless there's

L.A. REPORTING (312) 419-9292

645

1 something else. Mr. Kolar, do you have a final
2 request?

3 MR. KAISER: Am I barred from speaking to my --

4 HEARING OFFICER KNITTLE: I was hoping to avoid
5 that. Mr. Kolar, do you have something along those
6 lines?

7 MR. KOLAR: Well, I guess then if he is not
8 barred, I'm going to ask them, you know, did your --

9 MR. KAISER: Sure, absolutely.

10 HEARING OFFICER KNITTLE: Well, that's what I
11 was going to say. I want to take a minute and look
12 something up, but at this point, I'm not going to
13 bar him, but you're definitely within your rights to
14 find out if he's conveyed them this message.

15 Why don't we take five? And before you go
16 back out and talk to them, let me look at
17 something.

18 MR. KAISER: All right.

19 HEARING OFFICER KNITTLE: We're off the record,
20 please.

21 (Whereupon, a recess was taken.)

22 HEARING OFFICER KNITTLE: Mr. Kolar, you had
23 something along the lines -- and let me try to
24 phrase this and make sure I've got the right

L.A. REPORTING (312) 419-9292

646

1 question that we're addressing, whether Mr. Kaiser
2 should tell his clients the content of our
3 discussion out of their earshot, correct?

4 MR. KOLAR: Well, that goes more to the fact
5 that he wanted them to be excluded when he addressed
6 this in the first place, then he ought to be held to
7 taking it further and not warning his clients, so to

8 speak. But on the issue of whether if -- whether
9 disconnecting a back-up beeper would be
10 inappropriate, I said I had an analogy which would
11 be surveillance films. In a personal injury case,
12 somebody says I have a permanent injury, I can't
13 move my head side to side, I can't lift my arms, I
14 can't even get out of a car door. I'm sure you're
15 aware, it happens all the time, defense, insurance
16 companies, they hire people to do surveillance films
17 of the plaintiff. They'll track them without the
18 plaintiff knowing. And if the plaintiff is telling
19 the truth and they can't move their head side to
20 side and lift doors and get out of the car, well,
21 that's what the film will show. If the plaintiff is
22 lying, then the film will show that the plaintiff is
23 lying. And it's very relevant because you're sworn
24 to tell the truth when you take the stand. So

L.A. REPORTING (312) 419-9292

647

1 that's the one point.

2 Second, on the section 233(c) factors
3 which the Pollution Control Board has to consider
4 when making a decision, you've got any subsequent

5 compliance. You've got a factor of technical
6 practicability and economic reasonableness of
7 reducing or eliminating emissions. So disconnecting
8 a back-up warning beeper might allow the Pollution
9 Control Board to pinpoint what really bothers the
10 people.

11 HEARING OFFICER KNITTLE: Anything further,
12 Mr. Kaiser?

13 MR. KAISER: Well, I mean, I think with
14 Mr. Rosenstock clearly it would be inappropriate
15 for me to do anything or suggest anything, and
16 that's why I asked him to leave. But if I learn
17 something in the course of Mr. Kolar's
18 cross-examination or if I think I do or if I have a
19 hunch, I don't think it would be appropriate for the
20 board to --

21 HEARING OFFICER KNITTLE: Right.

22 MR. KAISER: -- preclude me from talking with
23 my clients about that hunch. All it is is a hunch.

24 HEARING OFFICER KNITTLE: And I've been giving

L.A. REPORTING (312) 419-9292

648

1 it some thought. I'm not going to direct you not to
2 talk to them. I don't think it's something that I

3 should be doing, nor -- and I don't have to make
4 this decision. This is a board decision about
5 whether it's inappropriate to disconnect the back-up
6 beepers, but I don't think it is, for just whatever
7 it's worth. And if asked by the board, that's what
8 I'm going to tell them.

9 The only time it becomes an issue is if,
10 in fact, they're not telling the truth under oath,
11 so that would be my final stance.

12 Anything else?

13 MR. KOLAR: One thing -- this is in Steve's
14 favor, because I don't want -- I don't want to err
15 is that there might be an attorney-client privilege
16 issue on me being able to ask Steve what he told his
17 clients in preparation for their testimony.

18 HEARING OFFICER KNITTLE: If that comes up,
19 you've got a valid point. I was going to leave that
20 until if and when you started asking questions.

21 MR. KOLAR: I just wanted to throw him a fig
22 leaf.

23 HEARING OFFICER KNITTLE: I would have no doubt
24 he would have made that objection at the time.

1 MR. KAISER: All right.

2 HEARING OFFICER KNITTLE: We're not going to be
3 able to get to Ms. Roti -- let's go off the record,
4 please.

5 (Whereupon, a discussion was
6 held off the record.)

7 HEARING OFFICER KNITTLE: We're back on
8 the record after an off-the-record -- or an
9 on-the-record out-of-witness-and-Complainant-earshot
10 discussion.

11 Mr. Kolar, you are still conducting your
12 cross-exam with Mr. Rosenstock. Mr. Rosenstock,
13 let me remind you you are still under oath.

14 BY MR. KOLAR:

15 Q Mr. Rosenstock, what time did you get
16 home from work last night or wherever you were when
17 you were away from your home?

18 A 9:00 o'clock.

19 Q Did you hear the back-up beeper on the
20 yard tractor last night after 9:00 o'clock when you
21 got home?

22 A I don't recall specifically hearing
23 anything.

24 Q What time did you wake up this morning?

1 A About 7:00.

2 Q And you heard the back-up beeper on the
3 yard tractor this morning?

4 A I believe so.

5 Q How many times did you hear it?

6 A Well, the one time specifically I was in
7 the shower and out of the house after that.

8 Q You heard the back-up beeper on the yard
9 tractor when you were taking a shower?

10 A No. I'm saying after I heard it, then the
11 rest of the time I was in the shower and then out of
12 the house.

13 Q Well, that one time you heard a back-up
14 beeper, could that have been the back-up beeper on
15 the garbage truck at Corporate 100?

16 A I don't know.

17 Q It could have been?

18 A Anything is possible.

19 MR. KOLAR: I don't have any other questions.

20 HEARING OFFICER KNITTLE: Any redirect,
21 Mr. Kaiser?

22 MR. KAISER: Yes.

23 If I may see the photograph that has the
24 good neighbor policy...

1 (Document tendered.)

2 MR. KAISER: Thank you.

3 REDIRECT EXAMINATION

4 BY MR. KAISER:

5 Q Mr. Rosenstock, I'm showing you
6 Respondent's Exhibit 77, LTD's good neighbor policy.

7 Do you see that?

8 A Yes.

9 Q And do you see what it says on there?

10 A Yes.

11 Q What does it say?

12 A Attention truck drivers: LTD good
13 neighbor policy, please help us, no parking on
14 street, pulling into staging area -- or pull into
15 stage area, no horns or shouting, turn engine off.

16 Thank you.

17 Q Do you have any problem with any of those
18 elements of LTD's good neighbor policy?

19 A No.

20 Q Do you think it would be important if LTD
21 has this policy to police the policy?

22 A Yes.

23 Q Do you have an opinion as to whether LTD,
24 during month of the October 1999, effectively

L.A. REPORTING (312) 419-9292

652

1 policed and enforced their good neighbor policy?

2 A No.

3 MR. KOLAR: Objection. That's not a proper
4 area of opinion testimony. I think he can testify
5 as to, despite the sign, what he's heard, but it's
6 not an opinion question.

7 HEARING OFFICER KNITTLE: I'll sustain that. I
8 don't think he would know whether or not LTD policed
9 it or not just from his hearing and seeing from his
10 house.

11 BY MR. KAISER:

12 Q We have your testimony concerning your
13 observations during the latter part of October 1999,
14 do we not, Mr. Rosenstock?

15 A Yes.

16 Q Now, there was some description -- some
17 effort on Mr. Kolar's part to have you describe the
18 sequence by which trailers were engaged, moved
19 around, placed into position in the staging area,

20 put into the LTD docks, removed from the LTD docks,
21 and to try to get you to identify at each of those
22 points when noise was emitted. Do you recall that
23 section of the cross-examination?

24 A Yes.

L.A. REPORTING (312) 419-9292

653

1 Q Could you describe for the board what
2 you've observed is the sequence of activities where
3 a semi trailer comes north on Lakeside Drive and
4 then pulls into the LTD dock area?

5 A The tractor may or may not leave a trailer
6 there and leave the premise.

7 Q Now, when a tractor leaves the trailer
8 there -- and I take it there means the LTD staging
9 area, the dock area?

10 A Yes.

11 Q Have you observed whether noise is
12 generated when the tractor uncouples from the
13 trailer?

14 A Yes.

15 Q What noise is generated at that instant?

16 A That is the explosion sound of the air

17 brake system being disconnected.

18 Q And then what is the next step? If the
19 trailer has been left by the tractor that brought it
20 to the LTD facility and now you've got a trailer
21 loaded with goods about to be received, what happens
22 next?

23 A You know, I'm not physically on their
24 property, but obviously here's a trailer. I don't

L.A. REPORTING (312) 419-9292

654

1 know if it's empty. I don't know if it's full. But
2 that yard pig is going to hook up to it, so there's
3 a slamming in. There's the back-up beeper. All of
4 these things happening together or individually or
5 both. And now maybe they're putting it against the
6 berm. Maybe they're putting it inside a dock. But
7 it's being handled a second time or a third time or
8 a fourth time on their facility.

9 Q Well, let's slow down.

10 If that trailer is then taken by the yard
11 pig and put into position in the staging area, what
12 happens next? What does the yard tractor then do?

13 A You would -- a reasonable person might
14 make the assumption the trailer was brought there

15 for some purpose. And maybe it's full and needs to
16 be emptied. Maybe it's empty and needs to be
17 filled. But sooner or later, it would seem to me
18 that it's going to end up inside one of their
19 loading dock areas.

20 Q How does it get into the loading dock
21 area?

22 A That would, again, involve the yard pig
23 coupling up and all the noises that go with that and
24 putting it inside one of their docking facilities.

L.A. REPORTING (312) 419-9292

655

1 Q And then does the yard -- has it been your
2 experience and your observation that the yard pig
3 remains engaged with the trailer while the trailer
4 is being loaded?

5 A It's been my observation that the -- we
6 hear the explosion noise again of disconnecting the
7 air brakes and the yard pig leaving it there not
8 staying with it and doing other services in the yard
9 with other trailers.

10 Q And what have you observed? How does a
11 trailer, which we'll assume has then been -- well,

12 in this example, unloaded, what then happens to that
13 trailer?

14 A Unless they've shut down their operation,
15 that trailer has to come back out and either be
16 positioned to be picked up by an over-the-road
17 tractor or to be put against the berm area.

18 Q Is there noise again when that trailer is
19 withdrawn from the inside docks at LTD's facility?

20 A Yes, there is.

21 Q So correct me if I'm wrong, but we have an
22 uncoupling when the trailer arrives?

23 A Yes.

24 Q And we have a coupling between the yard

L.A. REPORTING (312) 419-9292

656

1 tractor and the trailer; is that right?

2 A Yes.

3 Q On some occasions, the yard tractor then
4 puts the trailer in the dock -- or in the staging
5 area; is that right?

6 A Yes.

7 Q The tractor then uncouples from the
8 trailer; is that right?

9 A Yes.

10 Q At some point in time, the tractor
11 recouples with that trailer; is that right?

12 A Yes.

13 Q The tractor then puts the trailer into the
14 LTD dock facility; is that right?

15 A Yes.

16 Q The tractor then uncouples from the trailer;
17 is that what you've observed?

18 A Yes.

19 Q The trailer is then either loaded or
20 unloaded; is that right?

21 A It could be either way.

22 Q And then the tractor or over-the-road --
23 either the yard tractor or an over-the-road tractor
24 again engages with the trailer in order to pull it

L.A. REPORTING (312) 419-9292

657

1 out of the dock area?

2 A My observations that I've seen is always
3 the yard pig pulling it out. That's not to say a
4 tractor or trailer over the road couldn't come and
5 get a trailer inside. But what I've observed is the
6 yard pig pulling it out again, putting it back

7 against the berm, or else setting it out somewhere
8 to be picked up by an over-the-road tractor.

9 Q And then does the yard tractor then
10 disengage from the trailer?

11 A Yes.

12 Q And then an over-the-road tractor engages
13 that trailer?

14 A Perhaps. Obviously, it's got to get out
15 over the road at some point, whatever has happened
16 with it. Maybe it's empty and it's supposed to come
17 out of there. Maybe it's full going somewhere,
18 whatever the situation is.

19 Q But that fairly illustrates what you've
20 seen happen with respect to a typical trailer at the
21 LTD docks, is it not?

22 A Yes.

23 Q Now, during your cross-examination --
24 testimony during cross-examination, Mr. Kolar talked

L.A. REPORTING (312) 419-9292

658

1 to you and you said -- he asked you essentially
2 well, how often do you hear this noise; how many
3 hours of a day do you hear it? Do you recall a
4 question to that effect?

5 A Yes.

6 Q And it was your testimony that you have
7 heard noise originating at the LTD dock facilities
8 24 hours a day; is that right?

9 A Yes.

10 Q And I've told you I think LTD is closed
11 for at least three or four hours a day, haven't I?

12 A Yes.

13 Q And how is it with LTD being closed you
14 think you hear noise from LTD's docks even while LTD
15 is closed?

16 A What I'm hearing is the activity of this
17 yard pig. I don't know if it's positioning things
18 getting ready for the next day of business or what,
19 but I certainly have observed the yard pig operating
20 when -- during time periods when you've told me gee,
21 that's past the end of the shift that they know
22 about; that somehow these are separate operations
23 and my understanding that it's a subcontractor, and
24 so I have no idea how that driver is told when to be

L.A. REPORTING (312) 419-9292

659

1 there, you know, what his hours are, whatever. But

2 it's a separate company that's evidently doing this
3 service, and I don't know how it all works, but it
4 seems to appear that that yard pig is working when
5 the rest of the facility is not.

6 Q Now, when you described and went through
7 the exhibit you prepared, your noise log, you told
8 the board that you had your windows open that
9 evening?

10 A Yes.

11 Q And then you told Mr. Kolar during cross
12 that since LTD's operations have intensified, you
13 essentially keep the windows closed all the time
14 year-round; is that right?

15 A Yes.

16 Q Even with your windows closed and your
17 doors closed, are you still able to hear noise from
18 LTD's dock?

19 A Yes.

20 Q And even with your windows and doors
21 closed, do you find that the noise from LTD's docks
22 disrupt you in the way you testified on direct
23 examination?

24 A Yes.

1 Q Now, it's clear that this south section of
2 the LTD facility was added after you had moved in
3 and were living in your home; is that right?

4 A Yes.

5 Q And as I understood your testimony, it's
6 your testimony that dock activity in the LTD -- at
7 the north end of LTD intensified when LTD expanded
8 its entire warehouse capacity essentially doubling
9 its warehouse capacity; is that right?

10 A Yes, after that.

11 Q And was it also your testimony that the
12 manner in which LTD operated its docks changed after
13 the construction of the addition on the south end of
14 LTD's property?

15 A Yes.

16 Q Now, I flipped over and we're looking at
17 Respondent's Exhibit 88 which is the 1988 aerial
18 photo without that south addition. Did I understand
19 your testimony correctly that at some point after
20 you had moved into your home in roughly August of
21 1988, you saw construction activities in the area
22 that we've now been describing as LTD's dock area?

23 A Yes.

24 Q And what did those construction activities

1 consist of?

2 A There was massive earth-moving equipment
3 and what appeared to me to be a complete
4 reconfiguration of the land as it now appears today.

5 Q And following that massive earth movement
6 and reconfiguration of the land, is it your
7 testimony that the frequency and intensity and
8 quality of noise from LTD's dock operations changed?

9 A Yes.

10 Q And changed for the worse?

11 A Yes.

12 MR. KAISER: Thank you. I have no further
13 questions.

14 HEARING OFFICER KNITTLE: Mr. Kolar?

15 MR. KOLAR: Just one quick area.

16 RECROSS-EXAMINATION

17 BY MR. KOLAR:

18 Q Prior to 1988, you told us you drove down
19 Lakeside Drive and went to the LTD truck dock area,
20 right?

21 A Yes.

22 Q And you're saying at that point there was
23 no berm with the wooden trailer bumper stops, right?

24 A I don't recall the specific layout of it.

L.A. REPORTING (312) 419-9292

662

1 Q Can you describe the topography at that
2 time as to how the land changed from the doors to
3 the truck docks to the north end of the auto parking
4 lot?

5 A I'm not an expert in topography.

6 Q I know. I just mean was it like a rolling
7 hill going up or --

8 A I don't have a picture of it in my mind or
9 elsewhere, so I can't tell you specifically.

10 Q And the noise that Mr. Kaiser described on
11 redirect affects you and your daughter at the house?

12 A Yes.

13 Q So that noise you would expect -- you're
14 daughter is nine years old?

15 A She's nine now, yes.

16 Q So you would expect LTD's operations to
17 affect any nine-year-old, I take it?

18 MR. KAISER: Objection. Calls for
19 speculation.

20 HEARING OFFICER KNITTLE: Mr. Kolar, anything?

21 MR. KOLAR: No.

22 HEARING OFFICER KNITTLE: Overruled.

23 THE WITNESS: I'm sorry. The question?

24

L.A. REPORTING (312) 419-9292

663

1 BY MR. KOLAR:

2 Q The noise and the impact from the LTD
3 trucking operations, you told us, affect not only
4 you but your nine-year-old daughter, right?

5 A Yes.

6 Q You would expect then that noise from the
7 LTD trucking operations to affect any nine-year-old
8 living in the Roti, the Rosenstock, the Weber
9 house, right?

10 A I have no way to know that.

11 MR. KOLAR: I have no further questions.

12 MR. KAISER: Just before Mr. Rosenstock steps
13 down, I would just like to formally move for
14 admission into evidence of that group of
15 photographs, although they were Respondent's
16 exhibits, but they were used in connection with
17 Mr. Rosenstock's testimony, and, of course,
18 formally move for admission into evidence of C-42

19 being the noise log, C-43 being Mr. Rosenstock's
20 commercial driver's license, and then the series of
21 photographs.

22 HEARING OFFICER KNITTLE: Let's take your
23 Complainants' exhibits first.

24 Is there an objection to C-43? That's the

L.A. REPORTING (312) 419-9292

664

1 photo of the driver's ID. Mr. Kolar?

2 MR. KOLAR: No.

3 HEARING OFFICER KNITTLE: That will be
4 admitted.

5 (Complainants' Exhibit No. 43
6 admitted into evidence.)

7 HEARING OFFICER KNITTLE: How about C-42? Log
8 of Rosenstock we've already discussed.

9 MR. KOLAR: Right. You already submitted that
10 over my objection.

11 HEARING OFFICER KNITTLE: Right.

12 As to the photographs --

13 MR. KOLAR: I'll show those to Jack Voigt, and
14 he'll authenticate them all.

15 HEARING OFFICER KNITTLE: I don't think there's
16 been enough foundation to admit those.

17 MR. KOLAR: I don't think you're going to
18 object.

19 MR. KAISER: No. I certainly won't.

20 HEARING OFFICER KNITTLE: If you wanted to
21 agree to admit them now I would, but I think you're
22 going to want to lay the foundation and authenticate
23 them, correct?

24 MR. KOLAR: Right.

L.A. REPORTING (312) 419-9292

665

1 HEARING OFFICER KNITTLE: So let's save those
2 then.

3 MR. KAISER: All right. Very good. Thank you,
4 Mr. Rosenstock.

5 HEARING OFFICER KNITTLE: You can step down,
6 sir.

7 MR. KOLAR: Thank you.

8 HEARING OFFICER KNITTLE: Let's go off the
9 record.

10 (Whereupon, a discussion was
11 held off the record.)

12 AFTERNOON SESSION

13 HEARING OFFICER KNITTLE: We are back on the

14 record. Lunch -- afternoon session, PCP 1999-019,
15 Anthony and Karen Roti, Paul Rosenstock, and Leslie
16 Weber vs. LTD Commodities.

17 Once again, for the record, no members of
18 the public are here. And in actuality, the only
19 person not either an attorney, hearing officer, or
20 court reporter present is Karen Roti who will be
21 sworn in now.

22 Could you swear her in, please?

23 (The witness was duly sworn.)

24 HEARING OFFICER KNITTLE: Your witness,

L.A. REPORTING (312) 419-9292

666

1 Mr. Kaiser.

2 KAREN A. ROTI,

3 called as a witness herein, having been first duly
4 sworn, was examined upon oral interrogatories, and
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. KAISER:

8 Q Ms. Roti, could you please state your full
9 name and spell your last name for the court
10 reporter's benefit?

11 A Karen Ann Roti, R-o-t-i.

12 Q What's your date of birth, Ms. Roti?
13 A 8-25-59.
14 Q Are you married?
15 A Uh-huh, yes.
16 Q To whom?
17 A Anthony Roti.
18 Q Do you have any children?
19 A Yes.
20 Q How many?
21 A Five.
22 Q What are their names and ages?
23 A Kristin, 16; Tony, 15; Katie, 11;
24 Madeline, nine; and Sarah, five.

L.A. REPORTING (312) 419-9292

667

1 Q Where does your family live?
2 A 1591 Wedgewood, Lake Forest.
3 Q How long have you lived at 1591 Wedgewood
4 in Lake Forest, Illinois?
5 A Since August of 1990.
6 Q I'm showing you what's been previously
7 marked for purposes of identification as Respondent's
8 Exhibit 89. Can you -- from where you're seated,

9 can you see this aerial photograph?

10 A Uh-huh.

11 Q And for the court reporter's benefit,
12 she's going to need you to answer yes or no.

13 A Yes.

14 Q Can you see in the center of this large
15 white building?

16 A Yes.

17 Q Would it help you if you got down out of
18 the witness box and came over here?

19 A I can see it.

20 Q Okay. Do you recognize what is shown here
21 in the center of this aerial photograph, Respondent's
22 Exhibit 89?

23 A That's the LTD building right there.

24 Q And can you locate your home in relation

L.A. REPORTING (312) 419-9292

668

1 to either the Weber or Paul Rosenstock home?

2 A It's to the left of Paul Rosenstock.

3 Q And for the record, indicating a home just
4 before an area of woods further to the west and
5 immediately to the left of Paul Rosenstock's home.

6 So this is your house on Wedgewood?

7 A Yes.

8 Q Approximately how far would you say you
9 are in either feet or yards from the north wall of
10 LTD's building?

11 A I don't know.

12 Q Okay. All right. Do you share -- does
13 your home share a common property line with LTD's
14 north parking lot?

15 A Yes.

16 Q And how deep in -- if you could
17 approximate in feet or yards, how deep is your
18 backyard? If you walk out of your back door and go
19 to the end of your backyard, approximately how far
20 is that?

21 A A couple hundred feet.

22 Q Okay. And --

23 A It's a guess.

24 Q Okay. And then you're -- and then there's

L.A. REPORTING (312) 419-9292

669

1 a fence that separates your house from?

2 MR. KOLAR: I object. I know she's trying to
3 do the best she can, but a couple hundred feet, it's

4 a guess, from her backyard. I don't think it's
5 anywhere near that, so I would ask that the guess be
6 stricken from the record.

7 HEARING OFFICER KNITTLE: Mr. Kaiser?

8 MR. KOLAR: That's like nearly a football field --
9 well, 200 feet.

10 MR. KAISER: No. Thirty yards is all that
11 would be.

12 MR. KOLAR: A couple hundred feet?

13 MR. KAISER: I thought I heard 100 feet as the
14 depth of the backyard which would be 30 --

15 HEARING OFFICER KNITTLE: I don't know how far
16 it is, so I'm hesitant to strike it because I don't
17 know if that's accurate or not. It's a guess, and
18 she stated that it's a guess, so I think the board
19 would be able to understand that she's not entirely
20 certain how great a distance it is.

21 BY THE WITNESS:

22 A I can describe that I walk out my back
23 door, walk a short distance, there's a berm, and
24 behind the berm there's probably ten feet between

L.A. REPORTING (312) 419-9292

670

1 the berm and the fence.

2 BY MR. KAISER:

3 Q And that fence is the line between your
4 property and LTD's?

5 HEARING OFFICER KNITTLE: Is there a scale on
6 the aerial photo?

7 MR. KAISER: I don't know if there is.

8 MR. KOLAR: I think on the backside.

9 HEARING OFFICER KNITTLE: We don't have to look
10 at that now, unless you want to, Mr. Kaiser, but as
11 long as there's a scale, we'll be able to figure it
12 out.

13 MR. KAISER: Right. That's a good point.

14 Thank you, Mr. Knittle.

15 BY MR. KAISER:

16 Q All right. And, Ms. Roti, have you ever
17 had to testify at a contested hearing like this
18 before?

19 A No.

20 Q Is it fair to say you're a little bit
21 nervous being in the witness chair?

22 A Yes.

23 Q Okay. Now, when you first moved into your
24 home back in August of 1990 --

1 HEARING OFFICER KNITTLE: Steve, watch out.

2 (Whereupon, a discussion was
3 held off the record.)

4 HEARING OFFICER KNITTLE: Let's go back on.

5 BY MR. KAISER:

6 Q All right. Now, Ms. Roti, when your
7 family moved into your home on Wedgewood Drive in
8 August of 1990, did you hear any noise at that time
9 from LTD's dock activities that interfered with your
10 use and enjoyment of either your home or your
11 backyard?

12 A No.

13 Q And in 1991, did you hear any noise from
14 LTD's dock area that interfered with your use and
15 enjoyment of either your home or your yard?

16 A No.

17 Q Did there come a time when you began to
18 hear noise from LTD's dock activities that began to
19 annoy you?

20 A That would be late summer of 1996, late
21 summer, early fall.

22 Q And what do you recall hearing in the late
23 summer or early fall of 1996?

24 A The loudest, most obnoxious noise that

1 went on all day and all night.

2 Q Did you take any steps to find out what
3 was the source of this loudest, most obnoxious noise
4 that you were hearing all day and all night back in
5 the late summer and early fall of 1996?

6 A The first thing we did is we called the
7 Bannockburn Police Department one night.

8 MR. KOLAR: Objection. Not responsive.

9 HEARING OFFICER KNITTLE: I can't recall the
10 question.

11 MR. KAISER: It was about did they make
12 investigations, and apparently this is part of the
13 investigation. I mean, the first thing we did, it's
14 directly responsive.

15 MR. KOLAR: I withdraw my objection.

16 HEARING OFFICER KNITTLE: You can proceed.

17 BY MR. KAISER:

18 Q Please go ahead.

19 A My husband and I came home late one
20 night. We had a babysitter at the house. The
21 babysitter's mother was there. The girl was
22 scared. We called the Bannockburn Police Department
23 to find out what they were doing. I thought maybe

24 they were doing some nighttime construction.

L.A. REPORTING (312) 419-9292

673

1 Bannockburn said that they were working 24 hours.

2 MR. KOLAR: Objection to what Bannockburn said.
3 Hearsay.

4 HEARING OFFICER KNITTLE: Mr. Kaiser?

5 MR. KAISER: I don't know if it's even to prove
6 the truth of the matter asserted. It's simply what
7 they said. I'm not offering it to prove the truth
8 of the matter, and I would welcome any limited
9 instruction.

10 HEARING OFFICER KNITTLE: Anything further,
11 Mr. Kolar?

12 MR. KOLAR: No -- well, just blatant hearsay.

13 HEARING OFFICER KNITTLE: Yes. I'll sustain
14 that. If you could avoid that particular answer...

15 BY MR. KAISER:

16 Q Did you talk with someone at the
17 Bannockburn Police Department that evening?

18 A Yes.

19 Q Did you obtain information from the
20 Bannockburn Police Department during that telephone

21 call?

22 A They said LTD was --

23 MR. KOLAR: Objection. Hearsay.

24 MR. KAISER: Bear with us all here.

L.A. REPORTING (312) 419-9292

674

1 BY MR. KAISER:

2 Q At the conclusion of your conversation
3 with the Bannockburn Police Department in the late
4 summer or early fall of 1996, did you form an
5 opinion concerning the source of the noise you were
6 hearing that night?

7 A Yes.

8 Q And what was that opinion?

9 A That LTD was working a 24-hour operation
10 that was making noise.

11 Q All right. And what did you -- what did
12 you do next?

13 A I think I --

14 Q Well, let me back up.

15 Were your children awake or asleep when
16 you arrived that evening at home in 1996?

17 A I think -- okay. A couple of them were
18 awake. I do not remember which particular children

19 it was.

20 Q And along with the children who were
21 awake, there was the babysitter and the babysitter's
22 mother?

23 A Yes.

24 Q When was the next time you heard noise

L.A. REPORTING (312) 419-9292

675

1 that was as loud and as obnoxious as the sound you
2 just described when you returned home with your
3 husband that evening in late summer, early fall of
4 1996?

5 A Later that evening or that -- earlier that
6 morning.

7 Q Could you see what was creating the noise?

8 A Not at that time. I didn't look.

9 Q Was this noise just a sudden impulse of
10 sound, or did it continue over the course of either
11 that evening or the early morning hours?

12 A Could you repeat the question?

13 Q Sure.

14 What I'm wondering is was it just one loud
15 bang that you heard?

16 A No.
17 Q What was it?
18 A It was what I came to later find out was
19 the yard pig.
20 Q When --
21 A -- along with the loud bangs and --
22 Q When did you find out that --
23 MR. KOLAR: Objection. Not responsive. The
24 question was what noise did you hear, and the answer

L.A. REPORTING (312) 419-9292

676

1 was what I later learned to be the yard pig.
2 MR. KAISER: I think -- and you've got your
3 rules over there, but I think that nonresponsive
4 objection is reserved for the questioner. I could
5 be wrong, but I don't think it's appropriate for
6 Mr. Kolar to be making that objection on my behalf.
7 HEARING OFFICER KNITTLE: I don't know that I
8 agree with that, Mr. Kaiser, but I'm going to allow
9 this one to stand. I don't think it was entirely
10 responsive, though, and you may want to reask the
11 question.
12 BY MR. KAISER:
13 Q At what point in time did you become aware

14 that LTD allowed to operate on its property
15 something called a yard pig or a yard tractor?

16 A During a phone conversation with Jack
17 Voigt.

18 Q When did you call Jack Voigt?

19 A I do not recall.

20 Q Would it have been in the summer or fall
21 of 1996?

22 A Yes. It was sometime after September 15th.

23 Q And at that time, was Jack Voigt working
24 for LTD Commodities?

L.A. REPORTING (312) 419-9292

677

1 A Yes.

2 Q Do you recall how long your conversation
3 lasted with Mr. Voigt?

4 A No, I don't.

5 Q Do you recall what you said to Mr. Voigt
6 and what he said to you?

7 A There was an attorney on the phone also.

8 Q Who was that?

9 A Rick Carbonara.

10 Q And is Rick Carbonara related to you in

11 any way?

12 A No.

13 Q Is he related -- who is Rick Carbonara?

14 A He's a friend of the family.

15 Q Where were you when you made the call to
16 Mr. Voigt?

17 A At home.

18 MR. KOLAR: I would object to anything that
19 Rick Carbonara said during this phone call. Jack
20 Voigt might be, as an agent of a party, an
21 exception, but Rick Carbonara would be hearsay.

22 HEARING OFFICER KNITTLE: Mr. Kaiser, do you
23 concur with that?

24 MR. KAISER: I would agree with that

L.A. REPORTING (312) 419-9292

678

1 limitation, yes.

2 HEARING OFFICER KNITTLE: Okay.

3 BY MR. KAISER:

4 Q During this conversation, what do you
5 recall Mr. Voigt saying?

6 A That it was the yard pig; that it put out
7 95 or 99 decibels of noise. I don't -- it was one
8 or the other. I don't recall the exact number.

9 Q And what else did he say?

10 A That's all I recall.

11 Q What -- did you tell Mr. Voigt why you
12 were calling?

13 A Yes.

14 Q What did you tell him?

15 A I called to tell him that it was
16 disturbing my family, myself.

17 Q And when you say it was disturbing your
18 family and disturbing yourself, just what was it
19 that was disturbing you?

20 A The noise.

21 Q And did you have an opinion or did you
22 know what the source of that noise was by late
23 September or early October of 1996?

24 A Yes.

L.A. REPORTING (312) 419-9292

679

1 Q And what was the source of the noise that
2 was disturbing you at that time?

3 A It was the yard pig, the trucks backing
4 up, hooking up, unhooking.

5 Q Would that noise disturb you if you were

6 in your yard?

7 A Yes.

8 Q And, again, the time frame being September
9 and October of 1996.

10 In what ways was that noise -- would that
11 noise disturb you when you were inside your home?

12 A Couldn't fall asleep, couldn't stay
13 asleep.

14 Q Why couldn't you fall asleep?

15 A The noise was so loud that it -- it drove
16 you nuts.

17 Q And, again, the time frame we're talking
18 about is late September and October of 1996?

19 A Yes.

20 Q Did that noise, being the noise from the
21 yard tractor at the LTD dock area, continue into
22 November of 1996?

23 A Yes.

24 Q Did it continue into December of 1996?

L.A. REPORTING (312) 419-9292

680

1 A Yes.

2 Q Back in the fall of 1996, what time of
3 night did you try to go to sleep?

4 A Usually around 10:00, 10:30.

5 Q Was the yard tractor operating at the LTD
6 dock area routinely during the fall of 1996 at the
7 hour of 10:30 p.m.?

8 A Yes, usually.

9 Q Did you observe, during the fall of 1996,
10 any changes in the behavior or mood of your children
11 that you attributed to the noise from LTD's dock
12 activities?

13 A Yes.

14 Q What did you observe?

15 A They couldn't fall asleep during the
16 night. They would be woken up. They would come in
17 our room. They couldn't get up for school the next
18 day.

19 Q How many times did you observe that your
20 children had trouble -- well, that they couldn't
21 fall asleep during the fall of 1996 and you
22 attributed that inability to fall asleep to noise
23 from LTD?

24 A Almost every night.

1 Q Did you notice any change in your own mood
2 during the fall of 1996 as a result of the noise
3 from LTD's dock activities?

4 A Yes.

5 Q What did you observe?

6 A I was tired, irritable, crabby, frustrated,
7 angry.

8 Q At any point towards the end of 1996, did
9 the noise from the LTD docks stop?

10 A Closer to Christmas it slowed down.

11 Q What was the level of activity in LTD's
12 docks between roughly September 15th of 1996 until
13 Christmas of 1996?

14 A Could you say that again?

15 Q Maybe she could read it back.

16 (Whereupon, the record was read
17 by the court reporter.)

18 BY THE WITNESS:

19 A It --

20 BY MR. KAISER:

21 Q Did you understand the question?

22 A I think so.

23 Q Okay.

24 A It seemed that approximately every hour

1 and a half they would start this procedure again
2 that would last about a half an hour, and that went
3 on for 24 hours six days a week: 10:00, 10:30,
4 12:00, 2:00, 4:00, 6:00, 8:00, 10:00, 12:00. It
5 would repeat itself.

6 MR. KAISER: If I may take a moment?

7 HEARING OFFICER KNITTLE: Sure. Let's go off
8 the record.

9 (Whereupon, a discussion was
10 held off the record.)

11 BY MR. KAISER:

12 Q What did you do during the late fall --
13 did you make any efforts during the late fall or
14 early winter of 1996 to get more information about
15 LTD's operations or find out if LTD could make less
16 noise?

17 A I spoke with Dave Lothspeich. I went to a
18 Bannockburn village meeting. I think that was
19 December of '96. I spoke with P.J. Carroll who was
20 on the Bannockburn village board at the time. I
21 spoke with Jack Voigt that one time. I think we
22 spoke to him again after that one time.

23 Q When you had the conversation with Jack
24 Voigt where your family friend the attorney was on

1 the line, did Jack Voigt make any promises that LTD
2 would reduce the noise?

3 A Not that I recall.

4 Q I'm going to show you a letter that's
5 previously been marked as Complainants' Exhibit 7.
6 It's a letter from David Lothspeich to Mike Hara
7 dated February 7th, 1997. I note at the bottom that
8 you're carbon copied on this letter. Did you, in
9 fact, receive a copy of this letter on or about
10 February 7th, 1997?

11 A Yes.

12 Q And I note that the last paragraph of --
13 the first -- last sentence of the first paragraph
14 reads: This letter would seem to reiterate the
15 issues discussed regarding the yard pig slamming
16 into the truck trailers.

17 Was that, in fact, one of the noises that
18 you were complaining about during the fall and early
19 winter of 1996?

20 A Yes.

21 Q And I note that the first sentence of that
22 paragraph states: As requested by LTD neighbor Bill

23 Kaufman during our January meeting, I am forwarding
24 a copy of the noise regulations pertaining to LTD.

L.A. REPORTING (312) 419-9292

684

1 Does that refresh your recollection that
2 there was a Bannockburn meeting hosted in January of
3 1997?

4 A Yes.

5 Q And do you recall whether you attended
6 that meeting?

7 A Yes. I was there.

8 Q Where was that meeting held?

9 A Bannockburn village hall.

10 Q And was one of the subjects discussed at
11 that meeting noise from LTD and your concerns about
12 that noise?

13 A Yes, yes.

14 Q Showing you what's been marked for
15 purposes of identification as Complainants'
16 Exhibit 10, it's a letter from David Lothspeich to
17 Mike Hara dated April 25th, 1997. I see, again,
18 you're carbon copied on that letter. Did you
19 receive a copy of that letter on or about
20 April 25th, 1997?

21 MR. KOLAR: I'm sorry. What exhibit is this?

22 BY THE WITNESS:

23 A Yes.

24 MR. KAISER: Ten.

L.A. REPORTING (312) 419-9292

685

1 BY MR. KAISER:

2 Q And in April of 1997, was noise from the
3 LTD dock area disturbing you in your home or in your
4 yard?

5 A I don't think in April it was nearly as
6 offensive as it is in the fall.

7 Q In April of 1997, were you still concerned
8 about noise from LTD's dock operations?

9 A Yes.

10 Q I'm showing you what's previously been
11 marked for purposes of identification as
12 Complainants' Exhibit 11. It's a letter from David
13 Lothspeich to Mike Hara dated July 11th, 1997. I
14 see you're cc'd on that letter. Did you receive a
15 copy of this letter on or about July 11th, 1997?

16 A Yes.

17 Q Did you understand at that time that LTD

18 was going to go ahead and take some noise
19 measurements sometime in the late summer or early
20 fall of 1997?

21 A Yes.

22 Q In July of 1997, were you being disturbed
23 by noise from LTD's dock activities?

24 A No, not that I recall.

L.A. REPORTING (312) 419-9292

686

1 Q In July of 1997, were you still concerned
2 about noise from LTD's dock activities?

3 A Yes.

4 Q I'm showing you what's been marked for
5 purposes of identification as Complainants'
6 Exhibit C-15. The top page is a fax cover sheet
7 from David Lothspeich to Jack Voigt, but I would ask
8 you to tell me if you recognize the second and third
9 pages of that exhibit.

10 A Yes, I do.

11 Q What do you recognize that to be?

12 A A letter that I wrote to Dave Lothspeich.

13 Q What's the date of that letter?

14 A November 21st, 1997.

15 Q Is that a true and accurate copy of the

16 letter you wrote David Lothspeich?

17 A Yes.

18 Q Why did you write David Lothspeich a letter
19 in November of 1997?

20 A Because the noise was, once again, driving
21 us crazy.

22 Q All right. And the noise, what noise --
23 was that the tollway noise that was driving you
24 crazy?

L.A. REPORTING (312) 419-9292

687

1 A No.

2 Q What noise was driving you crazy in the
3 fall of 1997?

4 A The yard pig, the horns, the banging,
5 slamming, beepers, vibrations.

6 Q Did you have an opinion in -- well, when
7 did these -- to the best of your ability to recall,
8 when did the noise from the LTD dock begin to pick
9 up in the late summer or early fall of 1997?

10 A August, late August.

11 Q And did the noise from the LTD dock
12 activities continue throughout September and October

13 and early November of 1997?

14 A Yes.

15 Q And when you say you heard slamming
16 noises, did you determine what was the source of
17 that slamming noise?

18 A LTD's operation.

19 Q And when you heard banging sounds, did you
20 determine what was the source of those banging
21 sounds, again, the time frame being late August of
22 1997 through the date of your letter to
23 Mr. Lothspeich late November of 1997?

24 A LTD's operation.

L.A. REPORTING (312) 419-9292

688

1 MR. KOLAR: Objection. Voluntary response. It
2 calls for a yes-no answer. Can you give a
3 foundation for how she determined that?

4 HEARING OFFICER KNITTLE: Mr. Kaiser?

5 MR. KAISER: I'll lay the foundation.

6 BY MR. KAISER:

7 Q During the -- between late August of 1997
8 and the date you wrote the letter to Mr. Lothspeich
9 in November of 1997, I take it you were living at
10 Wedgewood Drive?

11 A Yes.

12 Q And you weren't working out of the house
13 at that time, were you?

14 A No.

15 Q You were taking care of your five children,
16 right?

17 A Yes.

18 Q And did you have occasion -- and you don't
19 have any hearing problems or disabilities, do you?

20 A No.

21 Q And nor are you especially -- have you
22 ever been diagnosed as especially sensitive to noise
23 or sound?

24 A No.

L.A. REPORTING (312) 419-9292

689

1 Q And during the time -- were you at your
2 home during the day and nighttime hours routinely
3 between late August and late November of 1997?

4 A Yes.

5 Q And did you have opportunities during that
6 time period to observe the noise both in your yard
7 and in your home?

8 A Yes.

9 Q And when you were in your yard, what, if
10 any, noise did you hear during this time frame of
11 late August 1997 until late November of 1997?

12 A Banging, slamming, horns, beepers, yelling.

13 Q And what was -- did you determine what the
14 source of that noise was?

15 A Yes.

16 Q And what did you determine the source of
17 those noises to be?

18 MR. KOLAR: Objection. Foundation.

19 MR. KAISER: We now know we're in the backyard
20 in the fall from mid, late August until late
21 November of 1997.

22 HEARING OFFICER KNITTLE: I think he's
23 objecting to foundation as to how she determined who
24 the -- was the responsible party or at least the

L.A. REPORTING (312) 419-9292

690

1 person alleged to be making the noise.

2 MR. KOLAR: Correct.

3 HEARING OFFICER KNITTLE: All right. That I
4 would sustain.

5 BY MR. KAISER:

6 Q Thank you, Ms. Roti.

7 Can you tell the board how it is you
8 formed the conclusion or opinion that LTD was the
9 source of the noise that you were hearing in your
10 backyard in late August of 1997 through late
11 November of 1997?

12 A I have and had walked over, driven through,
13 and watched.

14 Q And when you mean walked over, where did
15 you walk over to?

16 A LTD's parking lot.

17 Q And when you were in LTD's parking lot,
18 what did you see?

19 A This was 1996?

20 Q Yes -- no. We're in '97 now, but if you
21 want to go back to 1996, we can do that.

22 What did you see -- did you visit LTD's
23 parking lot in the fall of 1996?

24 A Yes.

L.A. REPORTING (312) 419-9292

691

1 Q What did you see?

2 A The yard pig hooking, unhooking, driving

3 around, picking up a trailer, moving it, disengaging
4 it.

5 Q And were you able to -- all right. So in
6 1996, you saw these activities. Did you hear noise
7 associated with those activities?

8 A Yes.

9 Q Did you come, in your mind, to connect the
10 activities that you saw with the noise that you
11 heard at the same time you were observing those
12 activities?

13 A Yes, I did.

14 Q Did you develop an ability, as early as
15 the late fall of 1996, to be able to hear a sound
16 and equate it with an activity on the LTD property?

17 A Yes.

18 Q And I take it you developed that ability
19 because -- well, how did you develop that ability?

20 MR. KOLAR: Objection. Overkill on foundation.

21 HEARING OFFICER KNITTLE: I can't sustain that
22 one.

23 MR. KOLAR: Okay.

24 MR. KAISER: If you feel that there's enough,

1 then I can just go on.

2 BY MR. KAISER:

3 Q So you recognize these sounds, right?

4 A Yes, I do.

5 Q And you've been listening to them now for
6 almost -- well, for more than three years, right?

7 A Yes, I have.

8 Q Now, are you able to distinguish between
9 the sounds that originate in the LTD dock activity
10 and sounds that originate on the tollway or the
11 ramps leading onto the tollway?

12 A Yes, I can.

13 Q And are you able to distinguish sounds
14 originating at the LTD dock activities from sounds
15 generated by cars going to and from the Corporate
16 100 office center?

17 A Yes.

18 Q And are you able, in your mind, to
19 distinguish the sounds generated by LTD's dock
20 activities from the sounds generated by the
21 collection of garbage from the Corporate 100
22 facility?

23 A Yes.

24 Q Now, these sounds -- the sounds that you

1 heard in 1996, the horns, the banging, the slamming,
2 the beepers, the vibration that you attributed to
3 LTD's activities, were you able to hear those when
4 you were inside your home?

5 A Yes.

6 Q Could you hear those on the first floor of
7 your home?

8 A Yes.

9 Q Could you hear these sounds on the second
10 floor of your home?

11 A Yes.

12 Q Could you hear these sounds in your home
13 even with the doors and windows closed?

14 A Yes.

15 Q How often did you hear these sounds from
16 LTD's dock in the fall of 1997?

17 A Twenty-four hours a day on approximately
18 the same schedule, an hour and a half.

19 Q Could you give us a little more
20 description of this same schedule? What schedule
21 did you -- were you able to determine LTD was
22 operating under in the fall of 1997?

23 A The yard pig must have -- they had some
24 routine that lasted approximately a half an hour of

1 connecting, disengaging trailers.

2 Q And -- okay. Thank you.

3 MR. KAISER: Mr. Knittle, what is Complainants'
4 next exhibit, if you please? Is it 44?

5 HEARING OFFICER KNITTLE: I have it -- maybe
6 I'm wrong. Did we have a couple more that I
7 missed? I guess we did. Yes, it is.

8 MR. KOLAR: Forty-four.

9 MR. KAISER: Forty-four.

10 MR. KOLAR: The commercial license was 43.

11 HEARING OFFICER KNITTLE: Yes. I forgot the
12 commercial driver's license.

13 (Complainants' Exhibit No. 44 marked
14 for identification, 11-3-99.)

15 BY MR. KAISER:

16 Q Ms. Roti, I'm showing you now what I've
17 marked for purposes of identification as
18 Complainants' Exhibit 44. It was previously marked
19 for purposes of your deposition as Respondent's
20 Exhibit 13. I would ask you to take a look at that
21 letter. Tell me if you recognize this document.

22 A Yes.

23 Q What do you recognize it to be?

24 A A letter I wrote to Murray Conzelman.

L.A. REPORTING (312) 419-9292

695

1 Q Who do you understand -- well, who is
2 Murray Conzelman?

3 A The Lake Forest attorney.

4 Q Why did you write to Mr. Conzelman in late
5 November of 1997?

6 A I was looking for some assistance in
7 getting rid of the noise from LTD.

8 Q I note that your third paragraph states:
9 LTD has traded in their, quote, yard pig, close
10 quote, for a quieter model this year. Unfortunately,
11 it has yellow flashing lights all over it. We are
12 still experiencing disruption at all hours of the
13 day and night. These include lights, banging, truck
14 engines, warning beepers, air horns, and vibrations
15 that shake our home.

16 Is that a true and accurate description of
17 the noise you were hearing --

18 A Yes.

19 Q -- in November of 1997?

20 A Yes.

21 Q And, again, did you attribute those -- that
22 noise to LTD's dock operations?

23 A Yes.

24 Q During the fall of 1997, did you observe

L.A. REPORTING (312) 419-9292

696

1 whether the noise you were hearing from LTD's dock
2 activities affected your mood or disposition?

3 A Yes, it did.

4 Q In what way?

5 A I couldn't get a good night's sleep. The
6 kids couldn't get a good night's sleep. Frustrating.

7 Q Did you observe, during the fall of 1997,
8 any changes in your children's behavior that you
9 attributed to noise from LTD's dock activities?

10 A Yes.

11 Q Could you describe those for the board?

12 A They complained about not being able to
13 fall asleep. They would wake up during the night.
14 My youngest daughter wouldn't go outside because
15 every time there was a loud noise, she would get
16 scared and run back in. Even in the house when
17 there would be a loud bang or that explosion noise,

18 she would get startled and come running over to me.

19 Q That explosion noise, were you ever able
20 to determine what was the source of that explosion
21 noise?

22 A I don't think that I ever actually watched
23 it happen at LTD on the property. I think I
24 determined that it was sometimes the doors slamming

L.A. REPORTING (312) 419-9292

697

1 on the back of a truck or slamming into a wall.

2 MR. KOLAR: Objection. Speculative. I ask
3 that it be stricken. She said she didn't actually
4 observe the noise.

5 MR. KAISER: Well, there are other bases
6 without having -- sight is not the only sense we
7 have, nor the only way in which we can gain
8 understanding about what's happening in our
9 environment. So the fact that she didn't see it,
10 that alone is no reason.

11 HEARING OFFICER KNITTLE: I'll grant the motion
12 at this point, but along the lines that you just
13 outlined, Mr. Kaiser, if you could come up with some
14 way of where she made that determination, I would

15 allow it in.

16 BY MR. KAISER:

17 Q In the fall of 1997, did you form the
18 opinion that the explosion sounds that you heard and
19 that your daughter heard came from LTD's operations?

20 A Yes.

21 MR. KOLAR: Same objection. It's just asked as
22 an opinion question, but it's still asking for a
23 speculative answer.

24 MR. KAISER: We'll get the foundation.

L.A. REPORTING (312) 419-9292

698

1 HEARING OFFICER KNITTLE: I'll let him continue
2 along this line.

3 MR. KOLAR: I guess she could say yes if she
4 formed an opinion on it.

5 MR. KAISER: Right.

6 BY MR. KAISER:

7 Q You formed an opinion, right?

8 A Yes, I did.

9 Q And how did you form that opinion? You
10 can tell us everything you considered to form that
11 opinion.

12 A I had heard it in the past. I had heard

13 it from the previous year. I knew the direction the
14 sound was coming from. It was a noise I had
15 listened to over and over again day in and day out.

16 Q To your knowledge, does the Corporate 100
17 office building have 26 loading docks?

18 A Not to my knowledge, no.

19 Q So is it your testimony because of your
20 familiarity with LTD's dock operations through
21 visual observations and through hearing the noise
22 for at that point well over a year you formed the
23 opinion that this explosion noise was coming from
24 LTD's property?

L.A. REPORTING (312) 419-9292

699

1 A Yes.

2 Q Is there any doubt in your mind as you sit
3 here today that that noise came from LTD and not
4 from the tollway or from the adjacent office
5 buildings?

6 A No. There's no doubt in my mind.

7 Q Do you recall whether you had any
8 conversations with Jack Voigt or Mike Hara during
9 the fall of 1997?

10 A Not that I recall.

11 Q I would like to show you what's been
12 marked for purposes of identification as
13 Complainants' Exhibit 27. It's a letter from you to
14 Mike Hara dated March 21st, 1998. Did you send a
15 letter like that to Mr. Hara on or about the date
16 shown on the letter?

17 A Yes.

18 Q Is that a true and accurate copy of the
19 letter you sent to Mr. Hara?

20 A Yes.

21 Q May I just see it for a minute?

22 A Yes.

23 (Document tendered.)

24

L.A. REPORTING (312) 419-9292

700

1 BY MR. KAISER:

2 Q Why did you send Mr. Hara a letter back in
3 March of 1998?

4 A I wanted the issue to be resolved, and at
5 that point, I was hoping that we wouldn't have to go
6 through another busy season putting up with the
7 noise.

8 Q How did you find out that Mike Hara was
9 the person you should be talking to within LTD?

10 A Well, I had met with Mike Hara at that
11 first meeting at Bannockburn.

12 Q So you knew him -- had you met him at that
13 first meeting in January of 1997?

14 A Right.

15 Q I note that in your letter you mention the
16 name of the Illinois Environmental Protection
17 Agency's noise advisor Greg Zak. Do you recall who
18 directed you to Greg Zak or how you knew about Greg
19 Zak in March of 1998?

20 A You know, no, I don't.

21 (Complainants' Exhibit No. 45 marked
22 for identification, 11-3-99.)

23 BY MR. KAISER:

24 Q I'm showing you what's been marked for

L.A. REPORTING (312) 419-9292

701

1 purposes of identification as Complainants'
2 Exhibit 45. It's a letter from Greg Zak to you
3 dated April 1st, 1998. I would ask you to take a
4 look at that. Did you receive this letter from

5 Mr. Zak on or about April 1st, 1998?

6 A Yes.

7 Q Why were you corresponding with Mr. Zak in
8 the spring of 1998?

9 A At that point, I came to realize that LTD
10 wasn't -- wasn't going to cooperate and Lake Forest
11 and Bannockburn were going to be of limited help,
12 and I needed -- I needed some help, some advice.

13 Q I'm showing you what's been previously
14 marked for purposes of identification as
15 Complainants' Exhibit 29. It's a two-page document.
16 I would ask you to take a look at that. Tell me if
17 you recognize that.

18 A Yes, I do.

19 Q Is this -- what is this letter, document?

20 A It's a letter I wrote to Mike Hara. Still
21 at that point I was hoping that he would take this
22 letter seriously and try to reduce the noise.

23 Q I note that this -- so you sent this
24 letter to Mike Hara sometime in late April of

L.A. REPORTING (312) 419-9292

702

1 1988 -- 1998?

2 A Oh.

3 Q I note that it says up there at the top
4 1988. Did you actually send this in '88, or did you
5 send it --

6 A I've never been a secretary. Yes. '98.

7 Q 1998. Okay. Very good.

8 MR. KAISER: Mr. Kolar, would you have any
9 objection to Ms. Roti in her own hand striking the
10 eight and making it a nine so that at least for the
11 record it's clear when it was sent?

12 MR. KOLAR: No.

13 MR. KAISER: I would ask you to make the
14 correction there on the board's copy.

15 MR. KOLAR: That's probably the reason for all
16 the problems between LTD and the Rotis that Mike
17 thought she was complaining about something
18 happening two years before she moved in, in jest.

19 BY MR. KAISER:

20 Q The second paragraph of your letter to
21 Mr. Hara states as follows: I hope you'll
22 understand that I am taking these issues very
23 seriously. They do and will continue to have a
24 serious impact on the quality of my life, my family,

1 and my neighbors.

2 Was that your opinion in April of 1998?

3 A Yes, it was.

4 Q And when you mean these issues, what are
5 you referring to?

6 A The banging, slamming, air horns, vibrations
7 created from LTD's building.

8 Q And, again, throughout the fall of 1997,
9 you were able to hear these noises in your home with
10 the windows and doors shut?

11 A Yes.

12 (Complainants' Exhibit No. 46 marked
13 for identification, 11-3-99.)

14 BY MR. KAISER:

15 Q Showing you what's been marked for
16 purposes of identification as Complainants' 46,
17 which during your deposition was marked as
18 Respondent's Exhibit 16, it's a letter from Greg Zak
19 to you dated May 20th, 1998. Did you, in fact,
20 receive a copy of this letter sometime in late May
21 1998?

22 A Yes.

23 Q Why were you continuing to correspond with
24 Mr. Zak in the spring of 1998?

1 A I still hadn't gotten anywhere with Mike
2 Hara, and from conversations with Bannockburn and
3 Lake Forest, I got the impression that I wasn't
4 going to get anywhere with them. So I decided to
5 pursue it to try to put an end to it.

6 MR. KOLAR: Forty-five was the April 1st
7 letter; am I right?

8 HEARING OFFICER KNITTLE: Yes.

9 BY MR. KAISER:

10 Q I want to show you a letter that's
11 previously been marked for purposes of
12 identification as Complainants' Exhibit 22. It's a
13 letter from David Lothspeich to Mike Hara dated
14 February 18th, 1998. I see you're copied on that
15 letter. Did you receive a copy of that letter from
16 Mr. Lothspeich?

17 A Yes.

18 Q And I see that in this letter it states:
19 Please note that should LTD fail to provide
20 empirical results along with a compliance program by
21 April 1st, 1998, the village will direct Schomer &
22 Associates to perform a completely new study
23 including recommendations at LTD's costs.

24 Did you ever receive a copy of LTD's

1 empirical results along with the compliance program
2 in the late spring or early summer of 1998?

3 A I saw Tom Thunder's results. I don't
4 believe they were mailed to me. I believe I went to
5 Bannockburn village hall -- I don't remember the
6 day -- and they copied everything they had in their
7 file for me, and it was in those papers. If I
8 remember correctly, that's how I got them.

9 Q Right. And when you got them, do you
10 know -- was that probably in the spring of 1998, if
11 you know?

12 A Yes.

13 Q All right. Let me show you what's
14 previously been marked for purposes of identification
15 as Complainants' C-19, a letter report from Tom
16 Thunder to LTD dated January 8th, 1998. Is that the
17 Thunder report that you saw when you reviewed
18 Bannockburn's file?

19 A I don't think I've seen this before.

20 Q All right. So as far as you can tell,
21 this may be the first time you've seen Tom Thunder's

22 January 8th, 1998, report?

23 A Most of this. I think -- I think I may
24 have seen this or something like -- I think what I

L.A. REPORTING (312) 419-9292

706

1 saw was Schomer's response to this.

2 Q Let me show you C-20, a letter from Paul
3 Schomer to David Lothspeich dated January 26th,
4 1998. Does that look familiar to you?

5 A This is what I saw. There was a graph
6 on -- there was a graph, though, that I think was
7 with this.

8 Q All right. You saw those, though? I
9 mean, I don't think that's the central part of the
10 case when you saw these or if you even saw them.

11 A I don't think I saw this.

12 Q And by saying you saw this, meaning you
13 saw this meaning Schomer's report C-20, but to your
14 knowledge, you may not have seen Thunder's report,
15 C-19?

16 A Right.

17 Q And not to try to cross you up, but I'm
18 going to show you what's previously been marked as
19 Complainants Exhibit 33. It's a letter from Mike

20 Hara to Mike Grutza, president village of
21 Bannockburn, dated June 29th, 1998. I don't know if
22 you've ever seen a copy of this letter. Have you?

23 A No.

24 Q All right. Well, I direct your attention

L.A. REPORTING (312) 419-9292

707

1 to the first sentence of the second full paragraph
2 where Mr. Hara writes: Jack Voigt and I held a
3 meeting with Mr. and Mrs. Roti on Friday June 12th
4 in an attempt to resolve their complaint regarding
5 LTD's operations. We advised the Rotis of the many
6 new policies and procedures that LTD would be
7 conducting to help resolve the situation. And it
8 goes on to list those.

9 Do you recall whether you and your husband
10 met with Jack Voigt and Mike Hara on or about
11 Friday, June 12th, 1998?

12 A Yes, I do.

13 Q And did you, in fact, meet with them?

14 A Yes.

15 Q Where did that meeting take place?

16 A LTD.

17 Q Was there anyone present besides Jack
18 Voigt, Mike Hara, your husband, and yourself?

19 A No.

20 Q Do you recall who set up the meeting or
21 who scheduled the meeting or how that meeting came
22 about?

23 A I believe Mike Hara called me to schedule
24 the meeting.

L.A. REPORTING (312) 419-9292

708

1 Q And approximately how long did that
2 meeting last?

3 A I would say about an hour.

4 Q How would you describe the tone of that
5 meeting?

6 A It started off fairly amicable.

7 Q And did it take a turn at some point
8 during the course of the meeting?

9 A At some point, Mike Hara said something
10 that my husband interpreted as he didn't care about
11 our kids and the noise bothering our kids, and Mike
12 Hara said no, that's not what I meant. It got a
13 little heated. My husband got up to leave.

14 MR. KOLAR: Objection to what her husband

15 interpreted Mike Hara as saying. I mean, she can
16 say what was said.

17 HEARING OFFICER KNITTLE: Sustained.

18 THE WITNESS: What was said?

19 BY MR. KAISER:

20 Q Did Mike Hara say something about your
21 children and their reaction to LTD's noise?

22 A I don't recall what he said. I recall
23 that my husband said listen, if you don't care that
24 you're bothering my family and my kids, then we have

L.A. REPORTING (312) 419-9292

709

1 nothing more to discuss. And he got up, and he was
2 going to leave. Mike Hara said that's not what I
3 mean, and he sat back down.

4 Q Do you remember Mike Hara talking with you
5 about a noise wall?

6 A I believe at that meeting he said if they
7 built a noise wall, it might only reduce the noise
8 by ten percent. He -- I believe when we left that
9 meeting he was going to check with Bannockburn and
10 Lake Forest to see if they would help pay for the
11 wall or give him tax credits to pay for the wall. I

12 believe he asked if we would help pay for the wall.

13 Q And what did you say?

14 A No, we wouldn't.

15 Q I'm showing you what's previously been
16 marked for purposes of identification as C-34. I
17 ask you to take a look at that document. Do you
18 recognize that?

19 A Yes, I do.

20 Q What do you recognize that to be?

21 A This is the complaint that I filed.

22 Q Did you prepare that complaint?

23 A Yes.

24 Q Was it through your efforts that

L.A. REPORTING (312) 419-9292

710

1 Mr. Rosenstock and Ms. Weber joined you in the
2 complaint?

3 A Yes.

4 Q Why did you feel it was necessary in July
5 of 1998 to file a complaint with the Pollution
6 Control Board?

7 A I wasn't getting anywhere. We had had
8 this last meeting. He was going to be checking in
9 to the -- he told me they were going to put up a

10 guard house. We told him not to bother. He was
11 going to check into the tax credits. I didn't hear
12 from him. I -- in speaking with Dave Lothspeich,
13 Mary Ann Pekarek, I was under the -- I had been told
14 that they weren't --

15 Q Did you form an opinion as to whether
16 Bannockburn would take action against LTD?

17 MR. KOLAR: Objection. Asked and answered.
18 She said she already concluded Bannockburn and Lake
19 Forest were not going to help her in any regard.

20 HEARING OFFICER KNITTLE: I didn't hear that,
21 but if that's the case...

22 BY THE WITNESS:

23 A They had done all they could do.

24 HEARING OFFICER KNITTLE: Okay.

L.A. REPORTING (312) 419-9292

711

1 BY MR. KAISER:

2 Q By July of 1998?

3 A Yes.

4 Q Now, surely the condition improved in the
5 fall of 1998, didn't it?

6 A No.

7 Q What noise did you hear coming from LTD's
8 dock operations from late August -- or in late
9 August and through September, October, November, and
10 mid-December of 1998?

11 A Banging, slamming, air horns, vibrations.

12 Q Where were you when you heard the banging,
13 slamming, air horns, and vibrations that you
14 attributed to LTD's operations?

15 A At home in or outside the house.

16 Q Could you hear them both in and outside
17 the house?

18 A Yes.

19 Q And in the fall -- late summer and fall of
20 1998, could you hear these noises from LTD's dock
21 activities on both -- on the first floor of your
22 home?

23 A Yes.

24 Q Could you hear these noises from LTD's

L.A. REPORTING (312) 419-9292

712

1 dock activities on the second floor of your home?

2 A Yes.

3 Q Could you hear these noises from LTD's
4 dock activities even with your windows and doors

5 closed?

6 A Yes.

7 Q How often did you hear these noises from
8 LTD's dock activities?

9 A On a daily basis.

10 Q Was it once or twice a day or more
11 frequently?

12 A Throughout the day.

13 Q Did the noise stop when the sun went down?

14 A No.

15 Q How late into the evening would noise
16 continue to emanate from LTD's dock? And, again,
17 the time frame being August through middle December
18 1998.

19 A Through the night.

20 Q During the late summer, fall of 1998, did
21 you observe any change in your mood as a result of
22 noise from LTD's dock operations?

23 A Yeah. I was tired.

24 Q Did you maintain an even temper during

L.A. REPORTING (312) 419-9292

713

1 this time?

2 A No.

3 Q Why not?

4 A Well, you know, you start out on Sunday
5 morning -- Saturday night you've gotten a good
6 night's sleep, so Sunday morning you sleep in
7 because it's the greatest night you're going to have
8 all week. Sunday is really quiet. Monday morning
9 the first thing you wake up to is LTD making noise,
10 so by Monday night, you know, it's time to go to
11 bed. You can't fall asleep. Tuesday morning --

12 Q What's happening on Tuesday morning?

13 A Same thing again: You're woken up earlier
14 than you would like to be.

15 Q By what?

16 A By the noise.

17 Q From where?

18 A From LTD. By Tuesday night you're really
19 tired, and you go to bed, and you can't fall asleep.

20 Q Why not?

21 A Because they're making so much noise.

22 Q Who is making noise?

23 A LTD.

24 So now you lay in bed, and you're angry

1 and you're mad because you can't sleep.

2 Q What happens Wednesday morning?

3 A You're woken up again.

4 Q By what?

5 A The noise.

6 Q From where?

7 A My friendly neighbors LTD.

8 Q Surely there must be some relief by
9 Wednesday evening?

10 A There is.

11 Q How so?

12 A Tylenol with codeine or Benadryl or a
13 couple beers.

14 Q Would that enable you to fall asleep even
15 with the noise from LTD?

16 A Uh-huh.

17 Q Did you resort to having to take Tylenol
18 with codeine or a couple of beers in order to fall
19 asleep during the fall of 1998?

20 A Yes.

21 Q What did you hear when you woke up
22 Thursday morning during any week of the fall of
23 1998?

24 A Same thing.

1 Q Did it continue throughout the day on
2 Thursday?

3 A Yes.

4 Q Would it continue into the evening?

5 A Yes.

6 Q Were you able to fall asleep on Thursday
7 night of any given week in the fall of 1998?

8 A Some way or another, yeah, yes.

9 Q What did you hear when you would wake up
10 on a Friday morning during the fall of 1998?

11 A Same noise.

12 Q From where?

13 A LTD.

14 Q What time in the morning would that noise
15 from LTD begin?

16 A 4:30, 5:00, somewhere around there.

17 Q Would that noise continue throughout the
18 day?

19 A Yes.

20 Q Would you hear that noise when you tried
21 to go to sleep on a Thursday evening any given week
22 during the fall of 1998?

23 A Yes.

24 Q What did you hear when you woke up on

L.A. REPORTING (312) 419-9292

716

1 Friday morning?

2 HEARING OFFICER KNITTLE: We've just done
3 Thursday and Friday.

4 MR. KOLAR: Yes.

5 HEARING OFFICER KNITTLE: Because we've done
6 Thursday night twice now.

7 MR. KAISER: It's especially bad.

8 MR. KOLAR: My notes have got sleep on Thursday.
9 I guess I'll ask it.

10 MR. KAISER: Right.

11 HEARING OFFICER KNITTLE: So we would be on
12 Saturday morning. Actually, you never asked Friday
13 night.

14 BY MR. KAISER:

15 Q All right, Friday night. What sort of
16 noise, if any, would you hear on Friday nights
17 during the fall of 1998?

18 A I was usually out on Friday nights, but
19 when I came home, I would hear that noise.

20 Q And what -- on average, what time did you
21 come home after being out on a Friday night?

22 A 10:30, 11:00, 11:30.

23 Q You would hear noise?

24 A Uh-huh.

L.A. REPORTING (312) 419-9292

717

1 Q From where?

2 A From LTD.

3 Q Well, what about Saturday morning? What
4 would you hear on Saturday morning?

5 A Some more noise.

6 Q From where?

7 A From LTD. There were occasionally some
8 Saturdays that they did not work.

9 Q But there were Saturdays when LTD worked
10 and you heard noise?

11 A Yes.

12 Q What about by Saturday evening? What
13 would you hear come Saturday evening?

14 A It was usually at some point quiet.

15 Q So can you tell the board what would be
16 the effect of hearing noise from LTD virtually round
17 the clock from Monday morning until Saturday
18 afternoon?

19 A Probably make a rational person want to do
20 some irrational things.

21 Q Did you feel tense at all because of this
22 noise?

23 A Yes.

24 Q How long would this feeling of being tense

L.A. REPORTING (312) 419-9292

718

1 last?

2 A Through the week, and usually on Sunday
3 it -- on Sunday, you know, it was like whew -- you
4 know, you take a deep breath and go whew, it's
5 quiet.

6 Q Now, you've just described for us what you
7 experienced in essentially that week you just took
8 us through -- well, was that an unusual week, or was
9 that a typical week at your home on Wedgewood Drive
10 between roughly the middle of August of 1998 through
11 the middle of December 1998?

12 A It was fairly typical. It might be -- you
13 know, maybe one Monday night it made me crazy, and
14 Tuesday night, I -- you know, it maybe off by a day
15 or so on, you know, what night I was crazy had to go
16 to sleep or...

17 Q But in terms of frequency of the noise and
18 the types of noise?

19 A That was typical.

20 Q Typical?

21 A (Nodding head.)

22 Q Well, what about August of 1999? What did
23 you hear at your home in August of 1999?

24 A Beeping, nonstop beeping.

L.A. REPORTING (312) 419-9292

719

1 Q Was that new, the nonstop beeping?

2 A The beeping is -- is a lot worse this year
3 than it has been in the past.

4 Q What does that beeping sound sound like?

5 A It sounds like an alarm clock that beeps
6 going off day in and day out.

7 Q Can you hear that in your yard?

8 A Yes.

9 Q Can you hear that on the first floor of
10 your home?

11 A Yes.

12 Q Can you hear that on the second floor of
13 your home?

14 A Yes.

15 Q Do you hear that when you're in your home
16 with the doors and windows closed?

17 A Yes.

18 Q Have you determined where that beeping
19 sound is coming from?

20 A Yes.

21 Q How did you determine where it's coming
22 from?

23 A I can hear the vicinity it's coming from.
24 It's coming from LTD.

L.A. REPORTING (312) 419-9292

720

1 Q Are you certain it's not coming from some
2 vehicle entering or traveling north or southbound on
3 the tollway?

4 A Yes.

5 Q Are you certain it's not coming from the
6 garbage truck picking up garbage at the Corporate
7 100 headquarters?

8 A Yes.

9 Q That beeping sound that you're hearing,
10 are you hearing that on Lakeside Drive?

11 A No. I'm hearing it in the -- that area

12 right behind the building.

13 Q That I'm circling here?

14 A Yeah.

15 Q Just to the north of the north wall of
16 LTD's facility?

17 A Yes.

18 Q And in the vicinity of where these trucks
19 are shown parked on Respondent's Exhibit 89?

20 A Yes.

21 Q And that's essentially due south of your
22 home, isn't it?

23 A Yes.

24 Q About what time of day would you start to

L.A. REPORTING (312) 419-9292

721

1 hear that beeping sound in August of 1999?

2 A Early in the morning -- actually, it was
3 the end of July. Around 5:00, 5:30.

4 Q How late into the evening would you hear
5 that beeping sound in late July and August of 1999?

6 A Approximately 12:30.

7 Q That would be 12:30 a.m.?

8 A Yes.

9 Q And would you hear that beeping noise
10 throughout the day?

11 A All day.

12 Q Would you hear that beeping noise in July,
13 August, September, October of 1999 on Mondays?

14 A Yes.

15 Q Would you hear that beeping noise from
16 LTD's dock area from late July through the end of
17 October 1999 on Tuesdays?

18 A Yes.

19 Q Would you hear that beeping noise from
20 LTD's dock activity from late July until late
21 October 1999 on Wednesdays?

22 A Yes.

23 Q What about Thursdays and Fridays?

24 A Yes and yes.

L.A. REPORTING (312) 419-9292

722

1 Q Saturday?

2 A Yes, with the exception of this past
3 Saturday. I don't think they worked.

4 Q Now, is the beeping noise the only
5 noise -- is that the only noise that's been
6 disturbing you from LTD's dock activities since late

7 July of 1999 through the present?

8 A No. Along with the beeping, there's the
9 slamming and the banging, the horns.

10 Q Do you know what sound a truck makes when
11 it releases air from its air brakes?

12 A Yes.

13 Q Have you ever heard that sound, the sound
14 of a truck releasing air from its air brakes, coming
15 from the LTD dock area?

16 A Yes.

17 Q Have you heard the sound of air being
18 released from air brakes coming from the LTD dock
19 area during the late summer and fall of 1999?

20 A Yes.

21 Q How often during the course of a day
22 during the time frame of late July through late
23 October 1999 do you hear air being released from air
24 brakes at the LTD dock area?

L.A. REPORTING (312) 419-9292

723

1 A I don't know.

2 Q Would you say it's more than once a day?

3 A Yes.

4 Q Would you say it's more than twice a day?

5 A Yes.

6 Q How often during the course of a day
7 between late July and late October of 1999 do you
8 hear the sound of something slamming in the vicinity
9 of LTD's dock area?

10 A Probably six times a day.

11 Q Since late July of 1999 and through the
12 present, have you lost any sleep as a result of
13 noise coming from LTD's dock area?

14 A Could you repeat that?

15 MR. KAISER: Could you read that back,
16 please?

17 (Whereupon, the record was read
18 by the court reporter.)

19 BY THE WITNESS:

20 A Yes.

21 BY MR. KAISER:

22 Q How often have you lost sleep from --
23 since late July of 1999 as a result of noise from
24 LTD's dock activities?

L.A. REPORTING (312) 419-9292

724

1 A Almost daily.

2 Q When you lose that sleep, do you lose it
3 on the nighttime end falling asleep or on the
4 morning end waking up from sleep?

5 A Usually on the nighttime end. Sometimes
6 in the morning I can fall back to sleep after I've
7 been woken up.

8 Q In the time period from late July of 1999
9 through the present, have you ever been awakened
10 early by noise from LTD's operations?

11 A Yes.

12 Q Can you estimate how many times since late
13 July of 1999?

14 A (Shrugging shoulders.)

15 Q I'm sorry. Is that a no?

16 A No. I would have to look at a calendar
17 and count through daily and try to make an educated
18 guess from there.

19 Q Okay.

20 A Probably at least -- I've been woken up by
21 the noise probably at least three times in the
22 morning a week that I would lay there and not be
23 able to fall back asleep.

24 Q Three times a week where you couldn't fall

1 back to sleep?

2 A Right.

3 Q And more than three times a week where you
4 were awakened but could fall back to sleep?

5 A Right.

6 Q With the exception of the addition of the
7 back-up warning beeper which you've testified is
8 more pronounced in 1999 than it was in 1998, was
9 that your testimony?

10 A Yes.

11 Q With that exception, is there any material
12 difference between the noise you're hearing from
13 LTD's dock activities in the late summer and fall of
14 1999 as compared to the noise you heard from LTD's
15 dock activities back in the fall of 1998?

16 A Yes.

17 Q Could you explain, please?

18 A Last year, there was more of a vibration
19 that went on -- I believe it was the yard pig's
20 engine. It put out some kind of vibration that
21 vibrated in your ears. That is the -- that's the
22 difference. I don't notice that as much this year
23 as I did last year.

24 Q So throughout the fall of 1998, tell me

1 what you heard with respect to the yard pig's engine
2 and how you experienced that noise.

3 A It was a vibration that was constant. It
4 kind of drove you crazy. It would be in your ears,
5 in your head that this -- this noise.

6 Q Like a low frequency rumbling in your ear?

7 A Yeah, yes.

8 Q And that was more pronounced in 1998?

9 A Than as opposed to this year.

10 Q And could you -- would you experience that
11 sensation of vibration in your ears when you were in
12 your backyard back in 1998?

13 A I noticed it the most when I was laying in
14 bed trying to go to sleep.

15 Q And is your bedroom on the first or second
16 floor of your home?

17 A It's on the second floor.

18 Q Is it on the north or south side of your
19 home?

20 A The south side.

21 Q Did you observe vibration in your home at
22 any time from the fall of 1996 through the present
23 that you attributed to LTD's dock operations?

24 MR. KOLAR: Objection. Vague. I'm not sure if

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727

1 this is the ear vibrating or the home vibrating.

2 HEARING OFFICER KNITTLE: Can you rephrase it,
3 Mr. Kaiser?

4 MR. KAISER: Well, I'm looking for the home
5 vibrating.

6 BY MR. KAISER:

7 Q Did your home ever vibrate between 1996
8 and 1999?

9 A Yes.

10 Q And did you form an opinion as to what
11 caused your home to vibrate?

12 A Yes.

13 Q How did you form that opinion?

14 A By observing LTD, looking out the window,
15 going into the parking lot, hearing the noise over
16 and over and over again.

17 Q And what was the opinion you formed
18 concerning the source of the noise that caused your
19 house to vibrate between the fall -- at various
20 points between the fall of 1996 and the fall of

21 1999?

22 A That it was LTD's operations.

23 Q Did that vibration disturb you in any way?

24 A Yes.

L.A. REPORTING (312) 419-9292

728

1 Q How?

2 A The ear vibration?

3 Q Yes, the ear vibration and the vibration
4 of your house, did either of those experiences
5 disturb you?

6 A Yes.

7 Q Can you describe for the board how?

8 A It's like Chinese torture like if somebody
9 was dripping water on your forehead. It's just this
10 constant thing that it doesn't stop.

11 HEARING OFFICER KNITTLE: Mr. Kaiser, I take it
12 now -- we're talking about the ear vibrations now,
13 correct?

14 THE WITNESS: Right.

15 HEARING OFFICER KNITTLE: Okay.

16 BY MR. KAISER:

17 Q Now, between the time in 1996 when you
18 returned home with your husband from a night out and

19 became aware of noise that you later determined to
20 be originating at the LTD dock area until the
21 present, more than three years later, approximately
22 how much time have you spent trying to talk to the
23 village of Lake Forest, talk to the village of
24 Bannockburn, talk to LTD, talk with Greg Zak,

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729

1 prepare a complaint, participate in discovery,
2 attend hearing? How many hours have you spent
3 engaged in this process of trying to get LTD to
4 reduce its noise?

5 MR. KOLAR: Objection. Relevance.

6 HEARING OFFICER KNITTLE: Can you explain the
7 relevance, Mr. Kaiser?

8 MR. KAISER: Substantial interference with
9 one's use and enjoyment of their property. I mean,
10 surely if she wasn't engaged in this effort, she
11 would be free to use her time to be with her family,
12 to pursue other activities. This is time that's
13 essentially being stolen from her.

14 HEARING OFFICER KNITTLE: Yes?

15 MR. KOLAR: Well, there's the time off her

16 property. I think the regulations -- the statute
17 requires interference with the use and enjoyment of
18 the property, and if she's spending time away from
19 it, I don't think that's relevant to that issue.

20 HEARING OFFICER KNITTLE: I'm going to
21 overrule. I think there's enough time spent on the
22 property, and I think it probably extrapolates
23 outward as well.

24

L.A. REPORTING (312) 419-9292

730

1 BY MR. KAISER:

2 Q Do you recall the question?

3 A Hundreds of hours.

4 Q Was it any quieter at your home last night?

5 A I didn't notice the beeping to be so
6 prevalent last night but more of the banging, kind
7 of the slamming, the noise that sounds like, you
8 know, something exploded in the ground.

9 Q You heard those noises from -- where --
10 you heard those noises last night?

11 A Right, yes.

12 Q Where were you when you heard those
13 noises?

14 A In bed.

15 Q On Wedgewood Drive?

16 A Yes.

17 Q Did you form an opinion as to what the
18 source of those noises -- what the source of the
19 noise was last night?

20 A Yes.

21 Q What was the basis or the manner by which
22 you formed the opinion as to the source of the noise
23 you were hearing last night?

24 A Same noise I've heard for the last three

L.A. REPORTING (312) 419-9292

731

1 seasons before this.

2 Q And what is your opinion as to the source
3 of the noise that you heard while laying in bed last
4 night, the banging, slamming, and exploding sounds?

5 A LTD doing business.

6 MR. KAISER: Thank you. I have no further
7 questions, Ms. Roti.

8 HEARING OFFICER KNITTLE: Let's take a recess.
9 Go off the record.

10 (Whereupon, a recess was taken.)

11 HEARING OFFICER KNITTLE: Let's go back on the
12 record.

13 Mr. Kolar, your cross-exam, please.

14 MR. KOLAR: Yes. Thanks.

15 CROSS-EXAMINATION

16 BY MR. KOLAR:

17 Q Ms. Roti, remember I'm Joe Kolar?

18 A Yes.

19 Q Okay. Exhibit 88, you and your husband
20 purchased your home in 1990, right?

21 A Yes.

22 Q So in 1988, as shown on Exhibit 8, this
23 house would have been owned by the Browns?

24 A Yes.

L.A. REPORTING (312) 419-9292

732

1 Q Am I pointing at the home that you bought
2 from the Browns?

3 A Yes.

4 Q And circling it, I can put here Browns and
5 then Roti. That would be accurate, right?

6 A Yes.

7 Q Your husband knew Mr. Brown or knew of him
8 from the Board of Trade?

9 A Yes.

10 Q You and your husband paid \$525,000 for
11 your house, correct?

12 A Yes.

13 Q And you believe it was listed for about
14 \$699,000?

15 A At some point before that it was, yes.

16 Q If I recall, you signed the contract to
17 buy your home in March 1990? Is that accurate?

18 A Yes. I think it is, yes.

19 Q When did you actually move into the house
20 then?

21 A August.

22 Q You and your husband never discussed with
23 the Browns the tollway, the office -- or the office
24 building to the south, right?

L.A. REPORTING (312) 419-9292

733

1 A Not that I recall.

2 Q And you don't recall having any
3 discussions with the Browns regarding LTD
4 Commodities to the south, correct?

5 A Not that I -- not that I remember, no.

6 Q And before you purchased this home from
7 the Browns, you looked at other houses a little
8 north of the house, right?

9 A Yes.

10 Q You looked at at least three other homes?

11 A Yeah, at least in Lake Forest, several in
12 other areas.

13 Q You do not remember a comparable home
14 anywhere else in Lake Forest that was available for
15 \$525,000 in March 1990, right?

16 Let me make it more specific.

17 You cannot remember another house that you
18 looked at in the March 1990 time frame in Lake
19 Forest that was also available for \$525,000?

20 A I don't remember.

21 Q You don't remember any other homes
22 available at that price in Lake Forest, right?

23 A Right, right.

24 Q Nobody forced you and your husband to buy

L.A. REPORTING (312) 419-9292

734

1 that house from the Browns, right?

2 A No.

3 Q And in 1990, your husband was working in

4 downtown Chicago at the Board of Trade, right?

5 A Yes.

6 Q So there was no particular reason why you
7 had to live on Wedgewood in the Brown house, right?

8 A Right.

9 Q Before signing the contract to buy the
10 Brown home, you took a walk in the backyard, right?

11 A I think so, yes.

12 Q And at that time, you remember there was a
13 berm in the backyard?

14 A Yes.

15 Q And you walked on top of the berm, right?

16 A Yes.

17 Q And at that time when you were on the
18 berm, you looked to the south and saw the big LTD
19 building, right?

20 A I think so.

21 Q You did not, though, drive through the LTD
22 property before purchase, correct?

23 A No.

24 Q Is it correct what I said?

1 A Correct.

2 Q Did you make any investigation of LTD
3 before you purchased the house from the Browns?

4 A No.

5 Q Did you talk to anyone at Bannockburn
6 regarding what LTD did before buying the Brown
7 house?

8 A No.

9 Q Talk to anybody from Lake Forest regarding
10 what LTD did before buying the Brown house?

11 A No, not that I remember.

12 Q Now, Leslie Weber, the record would show,
13 testified she spoke to her husband about the
14 possibility of noise from the south impacting the
15 resale value of the lot they were considering. Did
16 you and your husband have a similar conversation
17 before you decided to buy the Brown's house? Did
18 you say to your husband, Tony, do you think the LTD
19 operation to the south might have an impact on our
20 ability to sell this house in the future?

21 A Not that I recall.

22 Q Did you have any discussion with your
23 husband Tony before you decided to buy the Brown
24 house whether the mere presence of the LTD house --

1 strike that.

2 Before you bought the Brown house, did you
3 have any discussions with your husband Tony about
4 whether noise from the LTD trucking operation would
5 impact your ability to resell the house in the
6 future?

7 A Not that I recall, no.

8 Q When you're on the berm looking to the
9 south, when you were considering buying the Brown
10 house, you saw the LTD truck docks, right?

11 A I must have.

12 Q And you saw the office building over to
13 the southeast, right?

14 A I must have.

15 Q And you knew at that time when you were
16 considering buying the Brown house that the tollway
17 was located a short distance to the west, right?

18 A Yes.

19 Q Today you know that there's a toll plaza
20 directly to the west of the southwest corner of the
21 LTD building, right?

22 A Yes.

23 Q And have you yourself used that toll plaza
24 to go north on the tollway?

1 A Yes.

2 Q So you know that trucks and cars pay tolls
3 there and accelerate out of that plaza onto
4 northbound 294?

5 A Yes.

6 Q Now, you mentioned that you hear the sound
7 of air brakes being released by trucks on the LTD
8 property?

9 A Yes.

10 Q Is that when the trucks shut down -- come
11 to a stop, like shut down, and then there's this
12 wush, release of air?

13 A You mean is the engine turned off?

14 Q Right.

15 A They're not moving. I know that.

16 Q Have you seen trucks coming north on
17 Lakeside Drive to turn into the LTD truck staging
18 area?

19 A Yes.

20 Q So you've seen trucks drive up Lakeside
21 Drive, come to a stop, and then you've heard that
22 air brake release noise, right?

23 A I've seen it -- I've seen it done when
24 they're turned around -- when they used to park on

L.A. REPORTING (312) 419-9292

738

1 Lakeside Drive I believe is where I remember seeing
2 it -- actually seeing it done.

3 Q Have you heard the noise -- as trucks came
4 north up Lakeside Drive and turned into the LTD
5 property and come to a stop, would you hear it at
6 that point in time?

7 A I don't know.

8 Q Is there anything that would help you
9 remember that if that has ever occurred?

10 A I don't know.

11 Q Have you ever heard the sound of tractor
12 trailers pulling out of the LTD truck staging area
13 and accelerating up the road onto Lakeside Drive?

14 A Yes.

15 Q And that bothers you?

16 A Sometimes, yes.

17 Q You've heard trucks accelerate away from
18 the tollbooths onto north to 294, right?

19 A Yeah. I think I have.

20 Q Have you heard the garbage truck ever when

21 it picked up garbage at the Corporate 100 facility?

22 A Yes.

23 Q I think Leslie Weber said maybe in the
24 last few years she's heard the back-up beeper on

L.A. REPORTING (312) 419-9292

739

1 that garbage truck 100 times. Let's ask you that
2 question.

3 Since November 1996, how many times do you
4 think you've heard the back-up beeper on the garbage
5 truck at the Corporate 100 garbage area?

6 A Do you want me to take a guess?

7 Q I want your best estimate based on living
8 in your home.

9 A I have not heard it this year. It must
10 come at a different time than it has in the past. I
11 think, if memory serves me right, it used to come
12 twice a week in years before that in the morning, so
13 twice a week times three years.

14 Q Twice a week. So that would be 104 times
15 a year, right?

16 A That would be my best guess.

17 Q So for two years, your best guess would be

18 about 200 times, right?

19 A Okay.

20 Q Yes?

21 A Yes.

22 Q And when you heard the back-up beeper on
23 those occasions, would you also hear the metal
24 garbage Dumpster clanking against the truck as it

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740

1 was emptied?

2 A I never actually saw it, but that's what I
3 would have assumed the noise was.

4 Q In your opinion?

5 A In my opinion, that's what was going on.

6 Q Would you also hear a noise when the
7 garbage containers were set back on the ground by
8 the garbage truck after being emptied?

9 A I don't recall that.

10 Q So the noise made by the clanking of the
11 garbage containers against the garbage truck, that
12 sounds similar to some of the clanking noises made
13 by the LTD trucks, right?

14 A Similar in that it's noise, but it's not
15 exactly the same. It's not coming from the same

16 place.

17 Q I agree with that.

18 But the noise of the garbage container
19 against the garbage truck a is metal-on-metal
20 slamming noise similar to noises that come from the
21 LTD truck operations, right?

22 A It's a noise, yes.

23 Q And you would agree it's a similar noise?

24 A Yes.

L.A. REPORTING (312) 419-9292

741

1 Q And the back-up beeper on the garbage
2 truck, you would agree that a back-up beeper noise
3 is a noise similar to the back-up beeper on the yard
4 tractor?

5 A Yes.

6 Q What time did your husband go to work this
7 morning?

8 A He left after I left, 1:00 o'clock.

9 Q He left at 1:00 p.m. today?

10 A Uh-huh.

11 Q What time did you leave the house this
12 morning?

13 A 9:30.

14 Q Did you talk to your husband before you
15 left as to whether you got a good night's sleep,
16 noises you heard last night?

17 A No.

18 Q This morning -- what time did you wake up
19 this morning?

20 A Around 6:30.

21 Q Did you wake up on your own, or did
22 something wake you up?

23 A I woke up on my own, I think.

24 Q Did you hear the LTD yard tractor back-up

L.A. REPORTING (312) 419-9292

742

1 beeper noise last night at all?

2 A I heard it faintly. It wasn't as loud as
3 it normally is last night.

4 Q Did you hear it at all this morning?

5 A I don't recall hearing it, no.

6 Q You can understand the purpose served by a
7 back-up beeper, right?

8 A Yes.

9 Q And what is that purpose in your mind,
10 your understanding?

11 A So that nobody is standing behind the
12 truck.

13 Q Nobody gets hit by the truck?

14 A Right.

15 Q Right. Okay.

16 And although you might not like the noise,
17 you would agree that that's a useful purpose?

18 A In some instances.

19 Q You can understand how there might be an
20 emergency situation that a warning from a yard
21 tractor or a garbage truck would alert a person, and
22 he would get out of the way of being hit by a
23 garbage truck or a tractor trailer?

24 MR. KAISER: Objection as to relevance of

L.A. REPORTING (312) 419-9292

743

1 Ms. Roti's thoughts on the necessity or benefits of
2 a back-up warning beeper.

3 HEARING OFFICER KNITTLE: How is it relevant,
4 Mr. Kolar?

5 MR. KOLAR: It's an exemption, and they're
6 claiming, I guess, it's not applicable. I ought to
7 be able to question a Complainant on exemption

8 provided by the regulations.

9 HEARING OFFICER KNITTLE: I'll allow the
10 question. Please answer, if you can.

11 THE WITNESS: Could you repeat that for me?

12 (Whereupon, the record was read
13 by the court reporter.)

14 BY THE WITNESS:

15 A In certain instances, yes.

16 BY MR. KOLAR:

17 Q Complainants' Exhibit 45, the April 1st,
18 1998, letter from Mr. Zak to you, you said that
19 that's a document that you received?

20 A Uh-huh.

21 Q Right. And you got this on or about
22 April 1st, 1998?

23 A Uh-huh.

24 Q Yes?

L.A. REPORTING (312) 419-9292

744

1 A Yes.

2 Q And you read at the bottom in the capital
3 letters and bold where Mr. Zak was referring to two
4 Pollution Control Board cases, and he said, quote,
5 while they won, I stress the importance of building

6 a strong case. You read that, right?

7 A Yes.

8 Q And in April 1998 when you got this
9 letter, did you read page 2 the section suggested
10 steps?

11 A Yes.

12 Q Did you read where it said keep a log of
13 the dates and times the noise bothers you, your
14 family, and neighbors?

15 A Yes.

16 Q And did you read the sentence: Also
17 include a description of noise and how it is
18 interfering with the use and enjoyment of your
19 property?

20 A Yes.

21 Q And you never prepared a log relating to
22 the LTD noise, correct?

23 A I attempted to.

24 Q Did you or did you not prepare a log?

L.A. REPORTING (312) 419-9292

745

1 A I would start a log and then not keep up
2 with it, and I didn't feel I really needed one.

3 Q Okay. So you disagreed with Mr. Zak's
4 recommendation to you in his April letter?

5 A It's not that I disagreed. I knew like
6 clockwork every hour to hour and a half for half an
7 hour the noise was going to go on.

8 Q So where is the log that you attempted to
9 keep?

10 A I'm sure it's thrown out.

11 Q Okay. How many times did you attempt to
12 keep a log?

13 A Probably at least a few times.

14 Q When did you throw the logs out that you
15 attempted to keep?

16 A I would probably start one one night and
17 then, you know, not keep up with it for a couple
18 days, and it would inadvertently get thrown out in
19 the garbage.

20 Q Well, did you ever intentionally throw out
21 a log that you had started?

22 A No. I don't think so.

23 Q Who inadvertently threw out the logs?

24 A You know what? They -- I probably did or

1 the kids or -- things get moved around.

2 Q On how many occasions total do you think
3 that you had started a log that later on was
4 inadvertently thrown out?

5 A Probably a few times.

6 Q What does that mean? Five times?

7 A No. Probably three times I probably had
8 intentions of starting it and maybe wrote one thing
9 down and then didn't keep up with it.

10 Q You agree that at your dep on March 3rd,
11 1999, you didn't volunteer to me that you had
12 previously kept logs and they were inadvertently
13 thrown away?

14 A No. I wouldn't consider them a log
15 because it was never more than -- I mean, it never
16 got anywhere.

17 Q Did you like keep it on a calendar where
18 you would write down on the particular day?

19 A No. I remember I had -- one time I had
20 just a regular piece of paper, and I wrote something
21 down on it, and then it was gone. I probably did
22 that a couple more times. It was never anything
23 that was detailed or in any way more than, you
24 know -- I felt I was probably being disrupted enough

1 to begin with. I didn't want to sit up and write
2 anything down.

3 Q Let me show you page 39 of your deposition
4 transcript. Again, do you recall giving your dep on
5 March 3rd, 1999?

6 A Yes.

7 Q At my office?

8 A Yes.

9 Q And you were placed under oath, correct?

10 A Yes.

11 Q Okay. On page 39, question line 16: Do
12 you yourself have a calendar or a log or lists of
13 every time you either could not go to sleep because
14 of noise or were awoken during the night because of
15 noise? Answer: No, I do not.

16 A That's right.

17 Q Did I read that correctly?

18 A Yeah. I didn't have one.

19 Q You'll admit that there on that date at
20 that deposition you didn't volunteer to me that you
21 had logs that you tossed away, right? Is that
22 correct?

23 A I didn't offer that I had tried --
24 attempted to start one.

1 Q Okay. And you have no tape-recordings or
2 any other readings of noise coming from LTD, right?

3 A I do not have a tape-recording. I had
4 attempted to make one at one point.

5 Q Mr. Kaufman was one of the original people
6 complaining about noise from LTD, right?

7 A Yes.

8 Q Do you know where he lives in relation to
9 the LTD warehouse on this Exhibit 89?

10 A I think he lives -- I think it's
11 Devonshire Court -- or Wedgewood Court behind --
12 behind my house to the north of our house.

13 Q Directly across the street or to the
14 northwest?

15 A No. I think right -- no, back over to --
16 no. Can I get up?

17 HEARING OFFICER KNITTLE: Yes. You can
18 approach.

19 BY MR. KOLAR:

20 Q Let's see if you can show us where
21 Mr. Kaufman lived to your knowledge.

22 You're looking at 89 which is 1999. If

23 you can't tell, that's fine.

24 A I think it was back here somewhere.

L.A. REPORTING (312) 419-9292

749

1 Q So you're pointing -- you're not sure, but
2 you're pointing north of your house or in the middle
3 of the area?

4 A Yeah. Is this Wedgewood here still? This
5 is my house here. I think he lives about there.

6 Q Is this your house right here on
7 Exhibit 89?

8 A Yes.

9 Q So what I'm circling right now is your
10 house?

11 A Yes.

12 Q We'll write Roti. That's accurate, right?

13 A Uh-huh.

14 Q So Mr. Kaufman is not a Complainant in
15 this case, right?

16 A Right.

17 Q And you purposely omitted him as a
18 Complainant in this case, right?

19 A Yes.

20 Q Was he at the January 1997 meeting at
21 Bannockburn?

22 A Yes.

23 Q And at that meeting, did he offer to sell
24 some vacant land to Mr. Hara for an area to turn his

L.A. REPORTING (312) 419-9292

750

1 trucks around?

2 A I thought he did.

3 Q And was that -- did he, to your knowledge,
4 own this vacant land immediately to your west?

5 A Yes.

6 Q And then you concluded in your mind --
7 your state of mind following that was that he's got
8 ulterior motives here, right?

9 A Yeah, yes.

10 Q He certainly had motives other than yours,
11 right?

12 A Right.

13 Q He wanted to have trucks turning around
14 directly to the west of your house?

15 A I thought that was possibly what he was
16 getting at.

17 Q Well, that's -- that's what you concluded

18 when he offered to sell his vacant lots to LTD,
19 right?

20 A Yeah.

21 Q And that was your state of mind when you
22 decided we don't want Mr. Kaufman part of our
23 Pollution Control Board complaint, right?

24 A No.

L.A. REPORTING (312) 419-9292

751

1 Q Well, isn't that the reason why you
2 omitted him from being a Complainant?

3 MR. KAISER: Objection. Misstates evidence
4 that's not in the record or assumes facts not in
5 evidence.

6 MR. KOLAR: Well, I'm asking her.

7 BY MR. KOLAR:

8 Q Is that the reason why you omitted him as
9 a Complainant?

10 HEARING OFFICER KNITTLE: Overruled. Please
11 answer, if you can.

12 BY THE WITNESS:

13 A Yes, at some point later.

14 BY MR. KOLAR:

15 Q Now, you -- at some point you prepared a
16 note that you sent to neighbors to try to get
17 additional people to join in the case against LTD,
18 right?

19 A I think it was just an information letter,
20 wasn't it?

21 Q Let me show you Respondent's Exhibit 10.
22 I'll give her the original for now. It's dated
23 October 22nd, 1998. Did you prepare this document?

24 A Uh-huh, yes.

L.A. REPORTING (312) 419-9292

752

1 Q And did you give this to your neighbors on
2 the north side of Wedgewood?

3 A Yes.

4 Q Okay. How many people do you think you
5 gave this letter to, Exhibit 10, besides
6 Mr. Rosenstock and possibly the Webers?

7 A Maybe five or six houses. The kids did
8 it.

9 Q Okay. After Exhibit 10 was given to five
10 or six other houses besides Complainants in this
11 case, nobody else came forward to join you as
12 Complainants against LTD, right?

13 A Not at that time, no.

14 Q Well, let's look at the letter. The
15 second paragraph of the letter says: We have filed
16 a suit along with the Webers and Paul Rosenstock
17 with the Illinois Pollution Control Board, right?

18 A Yes.

19 Q So this letter -- the purpose of this was
20 to get people besides the Rotis, the Webers, and
21 Mr. Rosenstock to pursue this complaint against
22 LTD, correct?

23 A It's asking for support. It's not asking
24 them to join the suit. It's asking for them to

L.A. REPORTING (312) 419-9292

753

1 maybe give a phone call, you know. It's more like,
2 you know, do you have any ideas?

3 Q Well, the last paragraph, any support you
4 might give us would be welcome, that's what you
5 wrote, right?

6 A Right.

7 Q So at that time in your mind, that would
8 have included people joining your complaint against
9 LTD Commodities, right?

10 A I think I had already filed the complaint.
11 I wasn't looking to add names on.

12 Q Well, nobody came forward and said
13 Ms. Roti, we're also bothered by the noise from LTD
14 Commodities, and we want to help finance your effort
15 against LTD, right?

16 A Yes, they have, as a matter of fact.

17 MR. KAISER: I'm sorry. I didn't hear the
18 answer there. Could you read it back, please, madam
19 court reporter?

20 (Whereupon, the record was read by
21 the court reporter.)

22 MR. KAISER: Thank you.

23 BY MR. KOLAR:

24 Q Well, when you sent that note to your

L.A. REPORTING (312) 419-9292

754

1 neighbors on the other side of the street, did any
2 of them express interest in becoming a Complainant
3 along with you, the Webbers, and Mr. Rosenstock?

4 A No, not at that time.

5 Q In fact, across the street you have
6 neighbors the Baseks, right?

7 A Yes.

8 Q And you were looking for their support
9 against LTD, right?

10 A Ideas, support, yes.

11 Q And you were told by the Baseks noise
12 doesn't bother them, right?

13 A They can't --

14 MR. KAISER: Objection. Hearsay.

15 HEARING OFFICER KNITTLE: Mr. Kolar?

16 MR. KOLAR: I think it goes to her state of
17 mind and how she came to the Complainants that were
18 part of the case.

19 MR. KAISER: It's going directly to the heart
20 of the issue at dispute: Is noise a problem or is
21 it not. And he's trying to get in some hearsay
22 testimony on that.

23 HEARING OFFICER KNITTLE: I'll sustain the
24 objection.

L.A. REPORTING (312) 419-9292

755

1 BY MR. KOLAR:

2 Q Did you ask -- simply yes or no, did you
3 ask your neighbors, the Baseks, across the street if
4 they could hear noise from the LTD trucking

5 operations?

6 A Yes.

7 Q Do the Baseks still live there?

8 A Yes.

9 Q Now, in that meeting that you and your
10 husband had with Mr. Hara and Mr. Voigt at LTD
11 Commodities, do you recall that?

12 A Yes.

13 Q At some point in that meeting, you
14 indicated that it got heated for a short period of
15 time?

16 A Yes.

17 Q You and your husband got up and were
18 walking out, and then Mike Hara said, no, that's not
19 what I meant?

20 A My husband got up. I didn't.

21 Q Well, at any point during that meeting did
22 you or your husband say to LTD -- say to Mike Hara
23 or Jack Voigt that you would contact the newspapers
24 and tell the reporters at the newspaper how LTD is

L.A. REPORTING (312) 419-9292

756

1 not a good neighbor?

2 A No. I did not, and no, I do not recall my

3 husband ever saying that.

4 Q So you have a -- strike that.

5 You were there the whole time your husband
6 was there?

7 A Yes.

8 Q And you can say with certainty that you
9 never threatened to go to the media about LTD being
10 a bad neighbor, right?

11 A Right, yes.

12 Q And as you sit here, you just simply don't
13 recall if your husband made such a comment?

14 A I -- as far as I can remember, no, he did
15 not ever threaten to call the newspapers or anyone
16 else.

17 Q Did he say something like that?

18 A Not to my recollection at all.

19 Q How is it that you're certain that you
20 didn't do anything like that but you're only, to the
21 best of your recollection, aware that your husband
22 didn't do that?

23 A I'm 100 percent sure that I didn't say
24 it.

1 Q So what percent sure --

2 A But I do recall my husband getting upset
3 that -- over this one little instance during that
4 meeting. I have absolutely no recollection of him
5 threatening Mike Hara in any way.

6 Q I'm not saying you threatened Mike Hara.

7 A It was listen, if you don't care, we're
8 going to leave.

9 Q So --

10 A So I'm 90 percent certain that he didn't
11 say I'm going to call the newspapers. You can ask
12 him yourself.

13 Q Well, have you asked him that prior to
14 testifying today?

15 A No.

16 Q Were you here when Mike Hara testified and
17 said that you or your husband had made a threat to
18 go to the newspapers and tell the newspapers that
19 LTD is a bad neighbor?

20 A No.

21 Q Before you bought your home in 1990, you
22 were aware of the tollway, right?

23 A Yes.

24 Q And at that time, you could hear the

1 tollway on the property that you were considering
2 buying?

3 A I think so, yes.

4 Q And can you hear the tollway noise on your
5 property better or is it louder on days when the
6 wind blows from west to east?

7 A Yes, it is.

8 Q And is it also louder on days when the
9 tollway is wet?

10 A I don't know. I've never paid attention.

11 Q Okay. You would agree that the wind blows
12 from west to east more often than it does from east
13 to west, right?

14 A I don't know.

15 Q Well, you watch weather forecasts on the
16 news at 10:00 o'clock at night, and you have seen
17 over the years how storms come from the west and
18 travel to the east, right?

19 A No.

20 Q No. Okay. So you don't know as a
21 layperson that generally wind and storms travel from
22 west to east across the United States?

23 A No.

24 Q No. Okay.

1 Now, in 1999, there was a new office
2 building being constructed to the southeast of the
3 Corporate 100 office building, correct?

4 A Yes.

5 Q And during the construction of that
6 building, you could hear construction noise on your
7 property, right?

8 A On occasion, yes.

9 Q And when was construction started on this
10 new office building, when was it complete?

11 A I don't remember.

12 Q Do you have any notes that would help you
13 remember that?

14 A No.

15 Q Now, are you the type of person that once
16 you wake up you cannot get back to sleep again?

17 A No. I can fall back asleep sometimes. It
18 depends.

19 Q Now, your husband today, does he still
20 work down at the Board of Trade?

21 A Yes.

22 Q And on a typical day, will he leave the
23 house at like 5:30 a.m.?

24 A When he's busy.

L.A. REPORTING (312) 419-9292

760

1 Q Well, how often during a typical week will
2 he leave the house at 5:30 a.m.?

3 A If he's busy, he'll leave five days a
4 week.

5 Q How often is he busy?

6 A He's been home for the last couple months,
7 so I guess it's been September was the last time he
8 was in. That's my guess.

9 Q How many months during the year is he busy
10 so that he gets up and leaves by 5:30 a.m. five days
11 a week?

12 A Six months at the most. It's been
13 different every year, so it's not the same --

14 Q When he gets --

15 A -- year to year.

16 Q Sorry.

17 When he gets up, he sets -- in order to
18 get up, he sets an alarm radio, right?

19 A Yes.

20 Q And then the radio goes off, and it wakes
21 him up, right?

22 A Yes.

23 Q And he gets up, and sometimes he rustles
24 around the room looking for things, right?

L.A. REPORTING (312) 419-9292

761

1 A Uh-huh, yes.

2 Q And sometimes when he's getting up prior
3 to 5:30, he wakes you up, right?

4 A If he's looking -- if he can't find
5 something and he's making a lot of noise, yes.

6 Q So on occasions when you wake up in the
7 morning before you intend to, it can be because of
8 your husband making noise in the bedroom?

9 A Yes.

10 MR. KOLAR: Did I ask her about the garbage
11 truck? I think I did, right?

12 THE WITNESS: Yes, you did.

13 HEARING OFFICER KNITTLE: Yes, you did.

14 MR. KOLAR: Okay. Right. Thanks.

15 HEARING OFFICER KNITTLE: I think. I don't
16 want to --

17 MR. KAISER: Yes, since she was able to say
18 it's different, it comes from a different direction,
19 and you said --

20 MR. KOLAR: I remember now. 104 times a year.

21 HEARING OFFICER KNITTLE: That's right, times
22 two.

23 MR. KOLAR: That's right. Okay. Thanks.

24

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762

1 BY MR. KOLAR:

2 Q Okay. In 1996, you listed your house for
3 sale with a realtor named Marsha Rowley, right?

4 A Yes.

5 Q You did -- you signed two listings with
6 her, right?

7 A Yes.

8 Q And then in 1997, you listed your house
9 for sale also with a realtor Karen Dickey, right?

10 A Yes.

11 Q And the reason both times in '96 and '97
12 that you wanted to sell your house was because five
13 kids, you wanted an extra bedroom, right?

14 A Yes.

15 Q And when you listed your house in 1996,
16 the noise from LTD was already a problem for you at
17 your property, right?

18 A No.

19 Q No?

20 A The house was listed before the noise
21 started.

22 Q Well, didn't you have a listing with
23 Marsha Rowley in September 1996?

24 A I think it was -- I think it was June,

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763

1 wasn't it?

2 MR. KOLAR: Bear with me here a second.

3 (Brief pause.)

4 BY MR. KOLAR:

5 Q Let me show you what I've previously
6 marked as Respondent's Exhibits 8 and 9.
7 Respondent's Exhibit 9, is that a true and accurate
8 copy of the first listing you had with Marsha Rowley
9 in 1996?

10 A I think so.

11 Q And this has your signature on it as of

12 June 1st, 1996, right?

13 A Yes.

14 Q That's the date you signed that document,
15 right?

16 A Yes.

17 Q And then Respondent's Exhibit 8, another
18 Prudential listing with Marsha Rowley, right?

19 A Uh-huh.

20 Q Yes?

21 A Yes.

22 Q And this one, Exhibit 9 -- strike that.

23 This one, Exhibit 8, you signed on

24 September 18th, 1996, right?

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764

1 A Yes. It appears that way.

2 Q And Exhibit 8, the one you signed on
3 September 18th, 199 -- 1996, under term, it says:
4 This contract shall be effective for 180 days when
5 it shall then terminate, right?

6 A Yes.

7 Q Then the following year, as you already
8 told us, you signed a listing agreement with Karen
9 Dickey of Remax, right?

10 A Yes.

11 Q And Respondent's Exhibit 7, is that a copy
12 of the listing agreement that you signed with Karen
13 Dickey?

14 A Yes.

15 Q In fact, after the Pollution Control Board
16 complaint was filed, you contacted Karen Dickey, I
17 think, earlier this year and asked her to send you a
18 copy of the listing, right?

19 A Yes, right.

20 Q And you gave it to Mr. Kaiser so he could
21 give it to me, right?

22 A Yes.

23 Q And this Karen Dickey listing, this was
24 for 19 -- you can see up at the top for a period

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765

1 terminating 9-30-97, right?

2 A Yes.

3 Q So as of September 18th, 1996, with the
4 second Marsha Rowley listing, was noise at that time
5 a problem from the LTD trucking operation?

6 A Yes.

7 Q Okay. And so then we know certainly as of
8 the fall of 1997 when you signed the listing with
9 Karen Dickey, noise was still a problem with the LTD
10 trucking operation in your mind, right?

11 A Yes.

12 Q In fact, I think in questioning from
13 Mr. Kaiser, you said -- or you agreed that you were
14 still concerned in April 1997 and July 1997 about
15 noise from LTD trucking operations, right?

16 A Yes.

17 Q And you never said to Marsha Rowley in the
18 fall of 1996, Marsha, our house shakes because of
19 noise from LTD Commodities, true?

20 A Not thI don't have five minutes to sit down
3 and -- you know, or to make notes about things. I
4 mean...

5 Q And did you have any doubt as to whether
6 when you got to hearing you would be able to
7 remember what the noise from LTD sounded like in
8 1996, 1997, 1998, and 1999?

9 A I felt that I was here under the right
10 circumstances; that I -- what I was doing was right,
11 I believe in what I'm doing, and that since 1996
12 every year, yes, the noise has prevented me from
13 enjoying my life.

14 Q And you can recall that without the
15 assistance of a log?

16 A Right.

17 MR. KOLAR: Thank you. I have no further
18 questions.

19 HEARING OFFICER KNITTLE: Do we have a
20 recross?

21 MR. KOLAR: No.

22 HEARING OFFICER KNITTLE: Oh, thank you.

23 Ms. Roti, you can step down.

24 There's no other witness here today.

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804

1 We'll meet you back here tomorrow.

2 Oh. You didn't want to move for
3 admittance of any of your exhibits, Mr. Kolar?

4 MR. KOLAR: No, not yet.

5 (Whereupon, the proceedings were continued
6 until November 4, 1999, at 9:30 a.m.)

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11 appears from the stenographic notes so taken and
12 transcribed by me.

13

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16

17 CSR No. 084-003896

18

19 SUBSCRIBED AND SWORN TO
before me this ____ day
20 of _____, A.D., 1999.

21 _____
Notary Public

22

23

24