

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STOP THE MEGA-DUMP, )

)

Petitioner, ) PCB NO. 2010-103

)

v. )

) DEPOSITION OF

COUNTY BOARD OF DEKALB ) JOHN HULSEBERG

COUNTY, ILLINOIS and WASTE )

MANAGEMENT OF ILLINOIS, )

INC., )

)

Respondents. )

DEPOSITION OF JOHN HULSEBERG, taken at the DeKalb County Legislative Center, 200 North Main Street, Sycamore, Illinois, on October 7, 2010, commencing at 3:16 p.m., before Callie S. Bodmer, Certified Shorthand Reporter and Notary Public in and for the State of Illinois, in pursuance to agreement of the parties in the above-entitled action.



## 1 APPEARANCES:

2 ATTORNEY GEORGE MUELLER,  
of the firm of Mueller Anderson, P.C.,  
3 603 Etna Road,  
Ottawa, Illinois, 61350,

4

Counsel for the Petitioner.

5

ATTORNEY AMY ANTONIOLLI,  
6 of the firm of Schiff Hardin, LLP,  
233 South Wacker Drive, Suite 7200,  
7 Chicago, Illinois, 60606,

8

Counsel for the Respondent,  
County Board of DeKalb  
County, Illinois.

9

10 ATTORNEY DONALD D. MORAN,  
of the firm of Pedersen & Houpt,  
11 161 North Clark Street, Suite 3100,  
Chicago, Illinois, 60601,

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Counsel for the Respondent,  
13 Waste Management of  
Illinois, Inc.

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20  
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INDEX

Witness: JOHN HULSEBERG

Examination	Page
Attorney Moran . . . . .	4

Certificate of Shorthand Reporter. . . .	21
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1                   JOHN HULSEBERG,  
2           being first duly sworn, was examined and  
3           testified as follows:

4           MR. MORAN: Let the record reflect this is  
5           the discovery deposition of John Hulseberg taken  
6           pursuant to notice and set by agreement of the  
7           parties.

8                   EXAMINATION

9           BY MR. MORAN:

10    Q. Mr. Hulseberg, my name is Don Moran, I'm an  
11       attorney representing Waste Management of  
12       Illinois, Inc. who had filed a site location  
13       application with the DeKalb County Board on  
14       November 30th, 2009. The County Board voted to  
15       approve that site location application on May  
16       10th of 2010. The Stop The Mega-Dump group  
17       appealed that decision to the Illinois Pollution  
18       Control Board. That appeal is now pending as  
19       Cause No. 10-103, and that appeal is the reason  
20       that we're here today.

21       I'm going to be asking you a number of  
22       questions relating to that appeal. As part of  
23       the deposition I will ask questions and I will  
24       try to ask them as clearly as I can, but when I

1 fail I would ask that you request clarification,  
2 because it's important that your answers be  
3 directly responsive to my questions.

4 A. Okay.

5 Q. Is that fair?

6 A. Yes.

7 Q. You'll also notice the court reporter is  
8 transcribing everything that is said, so it is  
9 important that all of your responses be verbal,  
10 as the court reporter can't take down nonverbal  
11 gestures or uh-huhs or huh-uhs.

12 A. I understand.

13 Q. Could you state your full name and spell your  
14 last name.

15 A. Sure. John Thomas Frederick Hulseberg,  
16 H-U-L-S-E-B-E-R-G.

17 Q. What is your address?

18 A. 462 West Exchange Street, Sycamore.

19 Q. What is your occupation?

20 A. I work at Northern Illinois University in the  
21 Physical Plant as the paint shop assistant  
22 foreman.

23 Q. When did you begin your service on the County  
24 Board?

1 A. Well, I was elected in November of 2006, sworn  
2 in I guess January of '07.

3 Q. And you're up for election in November?

4 A. Correct, uh-huh.

5 Q. What district do you serve?

6 A. District 4.

7 Q. What area does District 4 include?

8 A. The City of Sycamore. Do you want the exact  
9 parameters, streets?

10 Q. No, I think that's certainly sufficient. Do  
11 you serve on any committees on the County Board?

12 A. Yes, I do.

13 Q. Which committees?

14 A. The finance committee, and the planning and  
15 zoning committee, as well as the courthouse  
16 expansion ad hoc committee.

17 Q. Were you aware that the County and Waste  
18 Management of Illinois negotiated a host  
19 community agreement in connection with a  
20 possible proposed expansion of the existing  
21 landfill?

22 A. Yes, I was.

23 Q. How did you become aware of that?

24 A. Uhm, at a board meeting, gosh, in 2008 when we

1 received minutes of a committee that had been  
2 formed to discuss those matters.

3 Q. Did you directly participate in the negotiation  
4 of that agreement on behalf of the County?

5 A. No, I did not.

6 Q. Did you ultimately vote on whether to approve  
7 that agreement?

8 A. Yes, I did.

9 Q. And how did you vote?

10 A. I voted yes.

11 Q. And did the full County Board approve that  
12 agreement on March 18th of 2009?

13 A. That is correct, yes.

14 Q. Was it your understanding at that point that  
15 there would follow a formal request to approve  
16 the expansion of the landfill?

17 A. Could you repeat that?

18 Q. Yes. Was it your understanding at the time the  
19 County approved the host community agreement  
20 that there would still be a formal request  
21 submitted to the County to approve any  
22 expansion?

23 A. Yes.

24 Q. So that your vote to approve the host community

1 agreement was not a vote to approve the  
2 expansion?

3 A. That is correct.

4 Q. There were two different motions?

5 A. Right, separate.

6 Q. Are you aware that the site location  
7 application was, in fact, filed on November 30th  
8 of 2009?

9 A. Yes.

10 Q. Between March 18th, 2009 and November 30th of  
11 that same year did you receive any  
12 communications from any person about either the  
13 agreement or the anticipated site location  
14 application or expansion of the landfill?

15 A. Yes.

16 Q. What communications did you receive?

17 A. Directly from the County Board staff with  
18 regards to a potential landfill tour of a  
19 facility that Waste Management owns in -- is it  
20 Wilmington, Illinois I believe. I heard from a  
21 few constituents wanting further explanation of  
22 what was in the community host fee agreement, so  
23 I talked about that.

24 Q. To those individuals?

1 A. To those individuals, yes.

2 Q. Do you recall any of the names of those  
3 individuals at this point?

4 A. No, no, I can not.

5 Q. Were those phone calls placed to you, or  
6 letters, e-mails?

7 A. No, they would be just casual conversations in  
8 social or work settings.

9 Q. Any other communications from any persons about  
10 the expansion or the agreement during that  
11 period?

12 A. None that I remember.

13 Q. Did you take a tour of the Waste Management of  
14 Illinois facility in Wilmington?

15 A. Yes, I did.

16 Q. When did you do that?

17 A. On Saturday, November 21st, 2009.

18 Q. Did any other County Board members attend that  
19 tour with you?

20 A. Yes, one other.

21 Q. Who?

22 A. Julia Fauci.

23 Q. How did you get down to the facility?

24 A. I believe it was in Mr. Lee Adlemann's rental

1 car -- or it was his rental car.

2 Q. And was it Mr. Adlemann who gave you the tour  
3 of that facility?

4 A. Correct.

5 Q. How long was the tour that you received or that  
6 you took?

7 A. I believe we were on-site for two to two and a  
8 half hours. The facility was closed so we were  
9 the only three there, but we spent probably two,  
10 two and a half hours.

11 Q. Then you were taken back here to the  
12 Legislative Center?

13 A. That is correct.

14 Q. Had you been given any instructions with  
15 respect to whom you could talk to or communicate  
16 with upon the filing of the site location  
17 application?

18 A. Could you clarify? After the filing?

19 Q. Yes. Once the site location application was  
20 filed, had you been given any instruction as to  
21 any communications you could have with any  
22 person regarding the proposed expansion?

23 A. Yes.

24 Q. And what did you receive?

1 A. An e-mail I believe in -- well, a few months  
2 after the filing had been submitted by Waste  
3 Management for the expansion explaining ex  
4 parte.

5 Q. That would have been a memorandum from  
6 Mr. Bockman?

7 A. Yes, it was.

8 Q. It was a memorandum instructing you that it  
9 would not be appropriate to have communication  
10 about the proposed expansion with any person or  
11 entity involved in the site location  
12 proceedings?

13 A. Correct.

14 Q. Prior to that memo did you have any  
15 understanding about who you could or couldn't  
16 talk to regarding the proposed expansion or the  
17 site location application?

18 A. Yes.

19 Q. What was that understanding?

20 A. There would be no contact with Waste Management  
21 after they had filed for their siting.

22 Q. Did you have any communication, written or  
23 oral, with any representative or employee of  
24 Waste Management of Illinois, Inc. from the

1 approval of the host community agreement on  
2 March 18th, 2009 through May 10th, 2010, which  
3 was the vote on the application, other than the  
4 tour you took with Mr. Adlemann?

5 A. No, I did not.

6 Q. Did you have any oral or written communication  
7 about the proposed expansion with any person  
8 after November 30th, 2009 until May 10, 2010?

9 A. Yes.

10 Q. Can you describe those communications for us?

11 A. Those would be with, again, constituents of  
12 mine, and the nature of the communications would  
13 be more about the community host fee agreement  
14 and explaining what was within that. I found  
15 several of my constituents were unaware of what  
16 had happened with the community host fee  
17 agreement, so I brought them up to speed on  
18 that, and then explained to them the process  
19 that we're in now I cannot discuss because there  
20 are public hearings. Some people I had spoke  
21 with before the public hearings and some after,  
22 that I was unable to discuss those items in any  
23 great detail, but I felt it was my duty to at  
24 least explain to them and educate them as much

1 about the process as possible.

2 Q. What were the nature of those communications,  
3 person-to-person communications, phone calls,  
4 e-mails, letters?

5 A. All four. I received letters, and e-mails,  
6 phone calls, and face-to-face.

7 Q. Approximately how many such communications did  
8 you receive?

9 A. Oh, I would say 12 to 15 in total.

10 Q. Did those communications all come from your  
11 constituents?

12 A. No, no.

13 Q. Who were those persons who communicated with  
14 you who were not your constituents?

15 A. I couldn't tell you by name, but when I would  
16 receive a communication and look at the address  
17 it's pretty obvious whether or not they were in  
18 my district, and those I tended not to speak  
19 with or make an effort to speak with.

20 Q. Did you receive any communications from persons  
21 who were opposed to the proposed expansion?

22 A. Yes.

23 Q. How many of those did you receive?

24 A. The majority of those 12.

1 Q. How many?

2 A. A dozen.

3 Q. Did you respond to any of those communications?

4 A. Again, the constituents of mine I did, yes.

5 Q. And how would you respond, in what form?

6 A. I would try initially a phone call. I'm not a

7 big fan of e-mail, so initially a phone call.

8 Q. What would you say to them in response to what

9 they had sent you?

10 A. I appreciate them reaching out and letting me

11 know their feelings, and explained the whole

12 situation of where I was at and what I could

13 discuss and what I could not but I would be

14 willing to listen, if they wanted to continue

15 communicating with me that I was available to

16 listen.

17 Q. Did any of them follow up with you after you

18 sent them this communication?

19 A. Yes.

20 Q. How many of them?

21 A. I believe three, maybe four.

22 Q. Did they call you?

23 A. Yes.

24 Q. And did they explain to you the various reasons

1 why they were opposed to the expansion?

2 A. Correct, yes.

3 Q. Did you have any response to any of them other  
4 than to acknowledge what they were saying?

5 A. Yeah, just -- I didn't have any response, just  
6 that I appreciate them explaining that.

7 Q. Did you attend any of the public hearings?

8 A. Yes, I did.

9 Q. How many sessions did you attend?

10 A. Two, I believe.

11 Q. Did you talk with or have communications with  
12 any persons about the expansion during your  
13 attendance at the public hearings?

14 A. No, not about the expansion.

15 Q. Have you heard at any time that any County  
16 Board member had decided to either approve or  
17 deny the site location application before all  
18 the evidence was presented?

19 A. I heard of accusations of that, yes.

20 Q. What accusations did you hear?

21 A. That I believe Mr. Oncken and perhaps Julia  
22 Fauci had made up their mind early on in the  
23 process.

24 Q. And with regard to Mr. Oncken, what

1 specifically did you hear about his prejudgment?

2 A. That he made comments in public that I believe  
3 people in opposition of the landfill expansion  
4 overheard.

5 Q. And do you know what those statements were?

6 A. No, I don't recall.

7 Q. And you never learned subsequently what those  
8 statements allegedly were?

9 A. No, no.

10 Q. And with respect to Ms. Fauci, what did you  
11 hear?

12 A. That it was -- she had predetermined her makeup  
13 or her mind on the expansion.

14 Q. And from whom did you hear that?

15 A. Non-constituents of mine, people that had  
16 reached out to me via e-mail.

17 Q. What did they say about what Ms. Fauci had  
18 allegedly said?

19 A. My recollection is they did not quote anything  
20 she had said, they had just heard that it was a  
21 done deal and predetermined in Ms. Fauci's mind.

22 Q. Did you subsequently hear from any other source  
23 what Ms. Fauci allegedly had said?

24 A. No, I did not.

1 Q. Were you ever -- or did you ever hear any  
2 information that confirmed any of these  
3 statements that Ms. Fauci had allegedly made?

4 A. No.

5 Q. Had you ever heard any information confirming  
6 the alleged statements that Mr. Oncken had made?

7 A. No, I did not.

8 Q. Other than these two instances, had you heard  
9 any information at any point that the County  
10 Board as a whole had considered the site  
11 location application and expansion as a done  
12 deal?

13 A. No.

14 Q. Now, is it your understanding that in reviewing  
15 this site location application you were to  
16 consider whatever evidence was presented in the  
17 siting hearing or otherwise submitted in writing  
18 to the County Board in making your decision on  
19 the site location application?

20 A. Yes.

21 Q. And you weren't to consider evidence or  
22 information that was not submitted in the site  
23 location application presented at the public  
24 hearing or contained in a written submission to

1 the County Board?

2 A. That is correct.

3 Q. Did you consider any information that was not  
4 presented in the siting application, that was  
5 not presented at the siting hearing, or not  
6 submitted in writing to the County Board in  
7 making your decision on the siting application?

8 A. No, I did not.

9 Q. Did any information or evidence that was not  
10 presented in the siting application, not  
11 presented at the siting hearing, or not  
12 contained in any written submission to the  
13 County Board affect or influence your decision  
14 on the siting application?

15 A. No, it did not.

16 Q. Did you make your decision on the site location  
17 application before April 20th of 2010?

18 A. No.

19 MR. MORAN: Thank you, Mr. Hulseberg, I  
20 have no further questions.

21 MR. MUELLER: I don't have any questions.

22 MS. ANTONIOLLI: Neither do I.

23 THE WITNESS: Thanks.

24 MS. ANTONIOLLI: So at this time the court

1 reporter has transcribed your deposition, and  
2 you have the option of reviewing your deposition  
3 for errors and signing your deposition at that  
4 time; or you can simply waive signature and  
5 trust that she has transcribed your deposition  
6 accurately today.

7 MR. HULSEBERG: Since I have never done  
8 this before -- not doubting your accuracy -- I'd  
9 like to review it and sign it, if possible.

10 MS. ANTONIOLLI: You would be the third  
11 person that's chosen to --

12 THE WITNESS: Most have waived it? I'm  
13 sorry.

14 MS. ANTONIOLLI: That's okay.

15 (The deposition was concluded at  
16 3:34 p.m.)

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ERRATA SHEET OF JOHN HULSEBERG

I have read the foregoing transcript of my deposition taken on October 7, 2010, and

( ) It is a true and correct transcript of my deposition given on the day and date aforesaid.

(Or)

( ) I wish to make the following changes to my deposition:

Pg Ln Change

DATE:

JOHN HULSEBERG

## 1                   C E R T I F I C A T E

2           I, Callie S. Bodmer, a Certified Shorthand  
3           Reporter in and for the State of Illinois, do hereby  
4           certify that, pursuant to the agreement herein  
5           contained, there came before me on the 7th day of  
6           October 2010, at 3:16 p.m. at the DeKalb County  
7           Legislative Center, 200 North Main Street, Sycamore,  
8           Illinois, the following-named person, to-wit: JOHN  
9           HULSEBERG, who was duly sworn to testify to the  
10          truth and nothing but the truth of his knowledge  
11          concerning the matters in controversy in this cause;  
12          that he was thereupon examined on his oath and his  
13          examination reduced to writing under my supervision;  
14          that the deposition is a true record of the  
15          testimony given by the witness, and that the reading  
16          and signing of the deposition by said witness were  
17          not expressly waived.

18  
19                   I further certify that I am neither  
20                  attorney or counsel for, nor related to or employed  
21                  by, any of the parties to the action in which this  
22                  deposition is taken, and further, that I am not a  
23                  relative or employee of an attorney or counsel  
24                  employed by the parties hereto or financially  
                interested in the action.

                  In witness whereof I have hereunto set my  
hand this 12th day of October 2010.

                  Callie S. Bodmer  
                  Certified Shorthand Reporter  
                  Registered Professional Reporter  
                  IL License No. 084-004489  
                  P.O. Box 381  
                  Dixon, Illinois 61021

<b>A</b>	4:11 21:11 21:12 available 14:15 aware 6:17,23 8:6	1:18 comments 16:2 committee 6:14,15,16 7:1 committees 6:11,13 communicate 10:15 communicated 13:13 communicating 14:15 communication 11:9,22 12:6 13:16 14:18 communications 8:12,16 9:9 10:21 12:10 12:12 13:2,3 13:7,10,20 14:3 15:11 community 6:19 7:19,24 8:22 12:1,13 12:16 concerning 21:6 concluded 19:15 confirmed 17:2 confirming 17:5 connection 6:19 consider 17:16,21 18:3 considered 17:10 constituents 8:21 12:11,15 13:11,14 14:4 contact 11:20 contained 17:24 18:12 21:3 continue 14:14 control 1:1 4:18 controversy 21:6 conversations 9:7 correct 6:4 7:13 8:3 10:4,13 11:13 15:2 18:2 20:3 couldnt 11:15 13:15 counsel 2:4,8,12 21:11 21:12 county 1:6,7,16 2:8,9 4:13,14 5:23 6:11,17 7:4 7:11,19,21 8:17 9:18 15:15 17:9 17:18 18:1,6 18:13 21:4 court 5:7,10 18:24 courthouse 6:15	<b>B</b> back 10:11 behalf 7:4 believe 8:20 9:24 10:7 11:1 14:21 15:10,21 16:2 big 14:7 board 1:1,6 2:8 4:13 4:14,18 5:24 6:11,24 7:11 8:17 9:18 15:16 17:10 17:18 18:1,6 18:13 bockman 11:6 bodmer 1:18 21:2,18 box 21:20 brought 12:17	<b>C</b> call 14:6,7,22 callie 1:18 21:2,18 calls 9:5 13:3,6 cant 5:10 car 10:1,1 casual 9:7 cause 4:19 21:6 center 1:16 10:12 21:4 certainly 6:10 certificate 3:20 certified 1:19 21:2,19 certify 21:3,10 change 20:8,9,10,11 20:12,13,14 20:15,16,17 20:18,19,20 20:21 changes 20:7 chicago 2:7,11 chosen 19:11 city 6:8 clarification 5:1 clarify 10:18 clark 2:11 clearly 4:24 closed 10:8 come 13:10 commencing	<b>D</b> date 20:4,23 day 20:4 21:3,15 deal 16:21 17:12 decided	<b>E</b> early 15:22 educate 12:24 effort 13:19 either 8:12 15:16 elected 6:1 election 6:3 email 11:1 14:7 16:16 emails 9:6 13:4,5 employed 21:11,13 employee 11:23 21:12 entity 11:11 errata 20:1 errors 19:3 etna 2:3 evidence 15:18 17:16,21 18:9 ex 11:3 exact 6:8 examination	15:16 decision 4:17 17:18 18:7,13,16 dekalb 1:6,16 2:8 4:13 21:4 deny 15:17 deposition 1:6,15 4:5,23 19:1,2,3,5 19:15 20:2,4 20:7 21:8,9 21:12 describe 12:10 detail 12:23 didnt 15:5 different 8:4 directly 5:3 7:3 8:17 discovery 4:5 discuss 7:2 12:19,22 14:13 district 6:5,6,7 13:18 dixon 21:21 don 4:10 donald 2:10 dont 16:6 18:21 doubting 19:8 dozen 14:2 drive 2:6 duly 4:2 21:5 duty 12:23	<b>F</b> facetoface 13:6 facility 8:19 9:14,23 10:3,8 fact 8:7 fail 5:1 fair 5:5 fan 14:7 fauci 9:22 15:22 16:10,17,23 17:3 faucis 16:21 fee 8:22 12:13,16 feelings 14:11 felt 12:23 filed 4:12 8:7 10:20 11:21 filing 10:16,18 11:2 finance 6:14 financially 21:13 firm 2:2,6,10 first 4:2 follow 7:15 14:17 following 20:7 followingnamed 21:5 follows 4:3 foregoing 20:2 foreman 5:22 form 14:5 formal 7:15,20 formed 7:2 found 12:14 four 13:5 14:21	3:5 4:8 21:7 examined 4:2 21:7 exchange 5:18 existing 6:20 expansion 6:16,20 7:16 7:22 8:2,14 9:10 10:22 11:3,10,16 12:7 13:21 15:1,12,14 16:3,13 17:11 explain 12:24 14:24 explained 12:18 14:11 explaining 11:3 12:14 15:6 explanation 8:21 expressly 21:9	<b>G</b> george 2:2 gestures 5:11 given 10:14,20 20:4 21:8 going 4:21 gosh 6:24 great 12:23 group 4:16 guess 6:2	<b>H</b> half 10:8,10 hand 21:15 happened 12:16 hardin 2:6 hear 15:20 16:1,11 16:14,22 17:1 heard 8:20 15:15,19 16:20 17:5,8 hearing 17:17,24 18:5 18:11 hearings 12:20,21 15:7 15:13 hereto 21:13 hereunto 21:14 hoc 6:16 host 6:18 7:19,24 8:22 12:1,13 12:16 houpt 2:10 hours 10:8,10 huhus 5:11 hulseberg 1:6,15 3:3 4:1 4:5,10 5:15 5:16 18:19 19:7 20:1,24 21:5	<b>I</b> id 19:8 il 21:20 illinois 1:1,7,7,17,20 2:3,7,9,11 2:13 4:12,17 5:20 6:18 8:20 9:14 11:24 21:2,5 21:21 im 4:10,21 14:6 19:12
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8:18 9:13,19 10:2,5 12:4	5:20 9:8	19:16			
towit	writing 17:17 18:6	381			
21:5	21:7	21:20			
transcribed	written	<hr/> 4			
19:1,5	11:22 12:6	4			
transcribing	17:24 18:12	3:6 6:6,7			
5:8	<hr/> X	462			
transcript		5:18			
20:2,4	<hr/> Y	<hr/> 5			
true		<hr/> 6			
20:3 21:8	yeah				
trust	15:5				
19:5	year	603			
truth	8:11	2:3			
21:6,6	youll	60601			
try	5:7	2:11			
4:24 14:6	youre	60606			
two	6:3	2:7			
8:4 10:7,7,9	<hr/> Z	61021			
10:10 15:10		21:21			
17:8	zoning	61350			
<hr/> U	6:15	2:3			
uhhuh	<hr/> 0	<hr/> 7			
6:4	07	7			
uhhuhs	6:2	1:17 20:2			
5:11	084004489	7200			
uhm	21:20	2:6			
6:24	<hr/> 1	7th			
ultimately	10	21:3			
7:6	12:8	<hr/> 8			
unable	10103	<hr/> 9			
12:22	4:19				
unaware	10th				
12:15	4:16 12:2				
understand	12				
5:12	13:9,24				
understanding	12th				
7:14,18 11:15	21:15				
11:19 17:14	15				
university	13:9				
5:20	16				
<hr/> V	1:18 21:4				
various	161				
14:24	2:11				
verbal	18th				
5:9	7:12 8:10 12:2				
vote	<hr/> 2				
7:6,9,24 8:1	200				
12:3	1:16 21:4				
voted	2006				
4:14 7:10	6:1				
<hr/> W	2008				
wacker	6:24				
2:6	2009				
waive	4:14 7:12 8:8				
19:4	8:10 9:17				
waived	12:2,8				
19:12 21:9	2010				
want	1:17 4:16 12:2				
6:8	12:8 18:17				
wanted	20:2 21:4,15				
14:14	2010103				
wanting	1:4				
8:21	20th				
waste	18:17				
1:7 2:13 4:11	21				
6:17 8:19	3:20				
9:13 11:2,20	21st				
11:24	9:17				
west	233				
5:18	2:6				
whereof	<hr/> 3				
21:14	3				
willing	1:18 19:16				
14:14	21:4				
wilmington	30th				
8:20 9:14	4:14 8:7,10				
wish	12:8				
20:7	3100				
witness	2:11				
3:3 18:23	34				
19:12 21:8,9					
21:14					
work					

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STOP THE MEGA-DUMP, )

)

Petitioner, ) PCB NO. 2010-103

)

v. )

) DEPOSITION OF

COUNTY BOARD OF DEKALB ) JEFF METZGER

COUNTY, ILLINOIS and WASTE )

MANAGEMENT OF ILLINOIS, )

INC., )

)

Respondents. )

DEPOSITION OF JEFF METZGER, taken at the DeKalb County Legislative Center, 200 North Main Street, Sycamore, Illinois, on October 7, 2010, commencing at 5:08 p.m., before Callie S. Bodmer, Certified Shorthand Reporter and Notary Public in and for the State of Illinois, in pursuance to agreement of the parties in the above-entitled action.



## 1 APPEARANCES:

2

3 ATTORNEY AMY ANTONIOLLI,  
4 of the firm of Schiff Hardin, LLP,  
5 233 South Wacker Drive, Suite 7200,  
6 Chicago, Illinois, 60606,

7 Counsel for the Respondent,  
8 County Board of DeKalb  
9 County, Illinois.

10 ATTORNEY DONALD D. MORAN,  
11 of the firm of Pedersen & Houpt,  
12 161 North Clark Street, Suite 3100,  
13 Chicago, Illinois, 60601,

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15 Counsel for the Respondent,  
16 Waste Management of  
17 Illinois, Inc.

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4  
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6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

INDEX

Witness: JEFF METZGER

Examination	Page
Attorney Moran . . . . .	4

Certificate of Shorthand Reporter. . . .	19
--	----

1                   JEFF METZGER,  
2           being first duly sworn, was examined and  
3           testified as follows:

4           MR. MORAN: Let the record reflect this is  
5           the discovery deposition of Jeff Metzger, Jr.  
6           (sic) taken pursuant to notice and by agreement  
7           of the parties.

8                   EXAMINATION

9           BY MR. MORAN:

10    Q. Mr. Metzger, my name is Don Moran, I'm the  
11       attorney for Waste Management of Illinois, Inc.,  
12       who had filed a site location application to  
13       expand the existing DeKalb County Landfill. The  
14       County Board voted on that site location  
15       application on May 10th, 2010, and approved that  
16       application. Stop The Mega-Dump, a citizens'  
17       group, appealed that decision. That appeal is  
18       pending before the Illinois Pollution Control  
19       Board and is the reason that we are here today  
20       in this deposition. The number of that appeal  
21       is 10-103.

22       I'm going to be asking you a number of  
23       questions that relate to that appeal. I will  
24       try to make my questions as clear as I can, but

1 when I fail or when any question is unclear to  
2 you I would ask that you request clarification,  
3 because it's important that your answers be  
4 responsive to the questions I'm asking. Does  
5 that sound fair?

6 A. Yes.

7 Q. In addition, you'll note the court reporter is  
8 transcribing everything that's said, but in  
9 order to transcribe it we must speak verbally.

10 A. Right.

11 Q. Any nonverbal gestures or uh-huhs or other  
12 vague or unclear statements can't be taken down,  
13 so you just need to respond verbally --

14 A. I understand.

15 Q. -- in each instance.

16 Mr. Metzger, could you tell us your full  
17 name and spell your last name.

18 A. Sure. Jeffrey Lee Metzger, and I'm the senior.  
19 Last name is M-E-T-Z-G-E-R.

20 Q. What is your address?

21 A. 15640 South Memory Lane, Sandwich, Illinois,  
22 60548.

23 Q. So we have a Donnybrook Street, we have Easy  
24 Street, and now we have Memory Lane.

- 1 A. Yes.
- 2 Q. This a memorable series of addresses.
- 3 A. No pun intended.
- 4 Q. Right. What is your occupation?
- 5 A. Director of IT services at Elgin Community  
6 College.
- 7 Q. What is your highest level of education?
- 8 A. Two years in college.
- 9 Q. When did you begin your service on the DeKalb  
10 County Board?
- 11 A. I should have checked the date on that. I  
12 believe it was November or December 2005. I  
13 would have to check that, I would hate to give  
14 the wrong information, but I'm coming up on five  
15 years I'm quite certain.
- 16 Q. Were you appointed to the position?
- 17 A. Yes.
- 18 Q. Have you subsequently been elected?
- 19 A. Yes.
- 20 Q. And when was that election?
- 21 A. These are dates I should have checked. I -- I  
22 don't know what the date was.
- 23 Q. Are you coming up for election in November?
- 24 A. No, I'm not.

1 Q. The next time you would be up for election  
2 would be in 2012?

3 A. Yes, correct.

4 Q. What district do you serve?

5 A. District 12.

6 Q. What geographic area does District 12  
7 encompass?

8 A. The Sandwich area, southern end of the county.

9 Q. Do you serve on any committee?

10 A. Yes, I serve on -- I chair the health and human  
11 services committee, I also serve on economic  
12 development committee, and within the County I  
13 also serve as the County Board member for the  
14 E-911 Board.

15 Q. As a County Board member what are your duties  
16 and responsibilities?

17 A. Do the best we can to judge and collect  
18 information and make proper decisions on issues  
19 within the county.

20 Q. And do those --

21 A. Including financial.

22 Q. Does it include evaluating and determining a  
23 budget for the County?

24 A. Exactly, and that's what we're doing right now.

1 Q. Also making various policy decisions of various  
2 sorts?

3 A. Yes.

4 Q. And also performing certain legislative  
5 functions, such as passing ordinances,  
6 resolutions?

7 A. Yes.

8 Q. When did you become aware that Waste Management  
9 of Illinois, Inc. had filed a site location  
10 application to expand the existing landfill?

11 A. That would have been I believe early 2009. I  
12 don't recall the month. I think it was the  
13 spring of 2009. Does that sound right?

14 Q. Well, would this have been the application or  
15 the negotiations about a host community  
16 agreement?

17 A. Dates are going to be fuzzy.

18 Q. Well, the site location application was filed  
19 on November 30th, 2009.

20 A. Okay.

21 Q. So when you referred to when you first learned  
22 about a possible expansion, would that have been  
23 in connection with negotiations for a host  
24 community agreement?

1 A. Yes.

2 Q. Did you participate directly in the negotiation  
3 of that agreement with --

4 A. No.

5 Q. -- Waste Management of Illinois?

6 A. I did not.

7 Q. Did you vote on whether to approve that  
8 agreement?

9 A. Yes.

10 Q. And how did you vote?

11 A. Yes.

12 Q. And that vote took place on March 18th of 2009?

13 A. Yes.

14 Q. What was your understanding as to the role you  
15 were to play in reviewing the site location  
16 application that was filed on November 30th of  
17 2009?

18 A. As I recall there were nine criteria, and  
19 whether or not the nine criteria were met and  
20 our decision was based on the criteria.

21 Q. And also based on whatever evidence or other  
22 written submissions --

23 A. Yes.

24 Q. -- were presented to the County Board, either

1 at the public hearing or during any part of the  
2 process?

3 A. Absolutely.

4 Q. And would it be fair to say that your role in  
5 reviewing the site location application was  
6 different than the duties and responsibilities  
7 you had ordinarily as a County Board member?

8 A. Yes.

9 Q. And they were different because in this  
10 instance you were required to make a decision  
11 based on evidence presented as opposed to making  
12 a decision based upon the views of your  
13 constituents or based upon other --

14 A. Yes.

15 Q. -- considerations?

16 A. More of a judge position I believe.

17 Q. The role here would be more of a judge --

18 A. Correct.

19 Q. -- than as a legislator?

20 A. Exactly.

21 Q. Were you instructed that you were not to have  
22 any communication with any interested party to  
23 the site location process once the site location  
24 application was filed?

1 A. Yes.

2 Q. And that limitation included any communication  
3 with the applicant, Waste Management of  
4 Illinois, Inc.?

5 A. Yes.

6 Q. And also any person interested in the proposed  
7 expansion; that is, any resident, citizen, or  
8 other person who may have objected to the  
9 expansion?

10 A. Yes.

11 Q. Did you attend any of the public hearings that  
12 were set on the site location application?

13 A. No.

14 Q. Did you attend a tour of any Waste Management  
15 of Illinois facility?

16 A. No.

17 Q. Did you receive any written or oral  
18 communication from any employee or agent of  
19 Waste Management of Illinois, Inc. between  
20 November 30th, 2009 and May 10, 2010?

21 A. No.

22 Q. Did you receive any written or oral  
23 communication from any other person regarding  
24 the proposed expansion between November 30th of

1 2009 and May 10, 2010?

2 A. I don't believe so. If there would have been  
3 anything I would have deleted it.

4 Q. But as you're sitting here you don't recall?

5 A. No, I do not.

6 Q. Was the site location application filed on  
7 November 30th, 2009 made available to you for  
8 your review?

9 A. Yes.

10 Q. And that site location application consisted of  
11 nine three-ring binders?

12 A. Yes.

13 Q. Did you at any point hear any information that  
14 any County Board member had decided to either  
15 vote in favor or against the site location  
16 application before all the evidence was  
17 presented?

18 A. No, I did not.

19 Q. Did you at any point hear any information that  
20 any County Board member had prejudged the site  
21 location application?

22 A. No.

23 Q. Did you hear any information or hear any story  
24 that the entire County Board had considered the

1 expansion of the site -- the expansion of the  
2 existing landfill a done deal?

3 A. No, with the exception of an article in the  
4 Chronicle.

5 Q. What article in the Chronicle are you referring  
6 to?

7 A. It was after one of the hearings -- public  
8 hearings there was a hearsay and it was printed  
9 in the newspaper, that was the only time I had  
10 heard anything like that.

11 Q. And what was reported as having been said?

12 A. Someone overheard one of the County Board  
13 members stating something but the County Board  
14 member denied stating it.

15 Q. Do you remember who the County Board member  
16 was?

17 A. I think it was Riley Oncken, I believe.

18 Q. Do you recall what the statement he allegedly  
19 made was?

20 A. Not verbatim.

21 Q. Do you remember generally what it was?

22 A. I believe it was something along the lines that  
23 someone overheard him that they didn't  
24 understand -- that he didn't understand why they

1        were doing this because it was a done deal or  
2        something along those lines. I read it in the  
3        newspaper and dismissed it, so it's hard to  
4        remember.

5        Q. And you dismissed it for what reason?

6        A. I didn't believe it.

7        Q. And what was the basis for your not believing  
8        it?

9        A. Knowing Riley, he's on a committee with me, and  
10       I don't believe that he would have said  
11       something like that.

12       Q. When you voted to approve the host community  
13       agreement, was it your understanding that by  
14       that approval you were also approving a proposed  
15       expansion of the landfill?

16       A. Yes.

17       Q. Let's step back for a moment. The vote on the  
18       host agreement was in March of 2009.

19       A. So that was the first one just as the annual  
20       renewal?

21       Q. No, no, the host community agreement you  
22       indicated you voted to approve in March of 2009,  
23       correct?

24       A. Okay, uh-huh.

1 Q. At that point was it your understanding that  
2 there would have to be a formal request made of  
3 the County for approval --

4 A. Oh, yes.

5 Q. -- of the proposed expansion?

6 A. Yes.

7 Q. So by voting to approve the host community  
8 agreement, you did not believe you were at that  
9 time --

10 A. Oh --

11 Q. -- also agreeing to approve --

12 A. -- absolutely not.

13 Q. -- the proposed expansion?

14 A. I'm sorry, I misunderstood.

15 Q. So there were two separate --

16 A. Correct.

17 Q. -- responsibilities?

18 A. Yes.

19 Q. By approving the host agreement you were not  
20 also by that action approving the expansion,  
21 correct?

22 A. No.

23 Q. You knew there would be a --

24 A. Yes.

1 Q. -- subsequent request that would have to be  
2 acted upon?

3 A. Correct.

4 Q. And, in fact, that was the site location  
5 application filed on November 30th, 2009?

6 A. Yes.

7 Q. Did you consider any evidence or information  
8 that was not contained in the site location  
9 application --

10 A. No.

11 Q. -- that was --

12 A. I'm sorry.

13 Q. Let me just ask it again. Did you consider any  
14 evidence or information not contained in the  
15 site location application, not submitted or  
16 presented at the public hearing, or not  
17 submitted in writing to the County in making  
18 your decision on the site location application?

19 A. Absolutely not.

20 Q. Did any information that was not contained in  
21 the site location application, that was not  
22 presented at the public hearing, or that was not  
23 submitted in writing to the County affect or  
24 influence your decision on the site location

1 application?

2 A. No.

3 Q. Did you make your decision on the site location  
4 application before April 20th of 2010,  
5 recognizing that the County Board vote was on  
6 May 10th of 2010?

7 A. Can you rephrase that again?

8 Q. Yes. Did you make your decision on the site  
9 location application prior to April 20th of  
10 2010?

11 A. No.

12 Q. And what was your vote on the site location  
13 application?

14 A. Yes.

15 MR. MORAN: Thank you, Mr. Metzger.

16 THE WITNESS: That's it?

17 MR. MORAN: I have no further questions.

18 THE WITNESS: Oh, okay.

19 MR. MORAN: Unless Amy has something?

20 MS. ANTONIOLLI: I have no further  
21 questions for you.

22 At this time the court reporter has  
23 transcribed your deposition today, and at this  
24 time you can choose to either review the

1 transcript for errors and sign it at that time  
2 when it's ready; or you can waive your signature  
3 and trust that she's accurately transcribed your  
4 deposition today.

5 THE WITNESS: What is normal? I'm not  
6 sure if it is best to sign it or not. I usually  
7 read everything I sign but --

8 MS. ANTONIOLLI: I think all but two or  
9 three have waived signature.

10 THE WITNESS: Okay. I'll waive it then.

11 MS. ANTONIOLLI: Okay.

12 THE WITNESS: If there was something  
13 controversial or an issue that we couldn't  
14 resolve I'd probably want to reread it, but I  
15 don't think there's anything at this point.

16 MS. ANTONIOLLI: Okay. Your signature is  
17 waived then.

18 THE WITNESS: Okay.

19 (The deposition was concluded at  
20 5:22 p.m.)

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1                   C E R T I F I C A T E  
2

3           I, Callie S. Bodmer, a Certified Shorthand  
4 Reporter in and for the State of Illinois, do hereby  
5 certify that, pursuant to the agreement herein  
6 contained, there came before me on the 7th day of  
7 October 2010 at 5:08 p.m. at the DeKalb County  
8 Legislative Center, 200 North Main Street, Sycamore,  
9 Illinois, the following-named person, to-wit: JEFF  
10 METZGER, who was duly sworn to testify to the truth  
11 and nothing but the truth of his knowledge  
12 concerning the matters in controversy in this cause;  
13 that he was thereupon examined on his oath and his  
14 examination reduced to writing under my supervision;  
15 that the deposition is a true record of the  
16 testimony given by the witness, and that the reading  
17 and signing of the deposition by said witness were  
18 expressly waived.

19           I further certify that I am neither  
20 attorney or counsel for, nor related to or employed  
21 by, any of the parties to the action in which this  
22 deposition is taken, and further, that I am not a  
23 relative or employee of an attorney or counsel  
24 employed by the parties hereto or financially  
interested in the action.

          In witness whereof I have hereunto set my  
hand this 12th day of October 2010.

          Callie S. Bodmer  
          Certified Shorthand Reporter  
          Registered Professional Reporter  
          IL License No. 084-004489  
          P.O. Box 381  
          Dixon, Illinois 61021

**A**

aboveentitled  
1:21

absolutely  
10:3 15:12  
16:19

accurately  
18:3

acted  
16:2

action  
1:22 15:20  
19:12,14

addition  
5:7

address  
5:20

addresses  
6:2

affect  
16:23

agent  
11:18

agreeing  
15:11

agreement  
1:21 4:6 8:16  
8:24 9:3,8  
14:13,18,21  
15:8,19 19:4

allegedly  
13:18

amy  
2:2 17:19

annual  
14:19

answers  
5:3

antoniolli  
2:2 17:20 18:8  
18:11,16

appeal  
4:17,20,23

appealed  
4:17

appearances  
2:1

applicant  
11:3

application  
4:12,15,16  
8:10,14,18  
9:16 10:5,24  
11:12 12:6  
12:10,16,21  
16:5,9,15,18  
16:21 17:1,4  
17:9,13

appointed  
6:16

approval  
14:14 15:3

approve  
9:7 14:12,22  
15:7,11

approved  
4:15

approving  
14:14 15:19,20

april  
17:4,9

area  
7:6,8

article  
13:3,5

asking  
4:22 5:4

attend  
11:11,14

attorney  
2:2,7 3:6 4:11  
19:12,13

available  
12:7

aware  
8:8

**B**

back

14:17

based  
9:20,21 10:11  
10:12,13

basis  
14:7

believe  
6:12 8:11  
10:16 12:2  
13:17,22  
14:6,10 15:8

believing  
14:7

best  
7:17 18:6

binders  
12:11

board  
1:1,6 2:5 4:14  
4:19 6:10  
7:13,14,15  
9:24 10:7  
12:14,20,24  
13:12,13,15  
17:5

bodmer  
1:18 19:3,20

box  
19:22

budget  
7:23

**C**

callie  
1:18 19:3,20

cant  
5:12

cause  
19:7

center  
1:16 19:5

certain  
6:15 8:4

certificate  
3:20

certified  
1:19 19:3,21

certify  
19:4,11

chair  
7:10

check  
6:13

checked  
6:11,21

chicago  
2:4,8

choose  
17:24

chronicle  
13:4,5

citizen  
11:7

citizens  
4:16

clarification  
5:2

clark  
2:8

clear  
4:24

collect  
7:17

college  
6:6,8

coming  
6:14,23

commencing  
1:18

committee  
7:9,11,12 14:9

communication  
10:22 11:2,18  
11:23

community  
6:5 8:15,24  
14:12,21  
15:7

concerning

19:7

concluded  
18:19

connection  
8:23

consider  
16:7,13

considerations  
10:15

considered  
12:24

consisted  
12:10

constituents  
10:13

contained  
16:8,14,20  
19:4

control  
1:1 4:18

controversial  
18:13

controversy  
19:7

correct  
7:3 10:18  
14:23 15:16  
15:21 16:3

couldnt  
18:13

counsel  
2:5,9 19:12,13

county  
1:6,7,16 2:5,6  
4:13,14 6:10  
7:8,12,13,15  
7:19,23 9:24  
10:7 12:14  
12:20,24  
13:12,13,15  
15:3 16:17  
16:23 17:5  
19:5

court  
5:7 17:22

criteria  
9:18,19,20

**D**

date  
6:11,22

dates  
6:21 8:17

day  
19:4,16

deal  
13:2 14:1

december  
6:12

decided  
12:14

decision  
4:17 9:20  
10:10,12  
16:18,24  
17:3,8

decisions  
7:18 8:1

dekalb  
1:6,16 2:5  
4:13 6:9  
19:5

deleted  
12:3

denied  
13:14

deposition  
1:6,15 4:5,20  
17:23 18:4  
18:19 19:9  
19:10,13

determining  
7:22

development  
7:12

didnt  
13:23,24 14:6

different  
10:6,9

directly  
9:2

director  
6:5

discovery  
4:5

dismissed  
14:3,5

district  
7:4,5,6

dixon  
19:23

doing  
7:24 14:1

don  
4:10

donald  
2:7

donnybrook  
5:23

dont  
6:22 8:12 12:2  
12:4 14:10  
18:15

drive  
2:3

duly  
4:2 19:6

duties  
7:15 10:6

**E**

e911  
7:14

early  
8:11

easy  
5:23

economic  
7:11

education  
6:7

either  
9:24 12:14  
17:24

elected  
6:18

election  
6:20,23 7:1

elgin  
6:5

employed  
19:12,14

employee  
11:18 19:13

encompass  
7:7

entire  
12:24

errors  
18:1

evaluating  
7:22

evidence  
9:21 10:11  
12:16 16:7  
16:14

exactly  
7:24 10:20

examination  
3:5 4:8 19:8

examined  
4:2 19:8

exception  
13:3

existing  
4:13 8:10 13:2

expand  
4:13 8:10

expansion  
8:22 11:7,9,24  
13:1,1 14:15  
15:5,13,20

expressly  
19:10

**F**

facility  
11:15

fact  
16:4

fail  
5:1

fair  
5:5 10:4

favor  
12:15

filed  
4:12 8:9,18  
9:16 10:24  
12:6 16:5

financial  
7:21

financially  
19:14

firm  
2:3,7

first  
4:2 8:21 14:19

five  
6:14

followingnamed  
19:6

follows  
4:3

formal  
15:2

full  
5:16

functions  
8:5

further  
17:17,20 19:11  
19:13

fuzzy  
8:17

**G**

generally  
13:21

geographic  
7:6

gestures  
5:11

give  
6:13

given  
19:9

going  
4:22 8:17

group  
4:17

**H**

hand  
19:16

hard  
14:3

hardin  
2:3

hate  
6:13

health  
7:10

hear  
12:13,19,23,23

heard  
13:10

hearing  
10:1 16:16,22

hearings  
11:11 13:7,8

hearsay  
13:8

hereto  
19:14

hereunto  
19:15

hes  
14:9

highest  
6:7

host  
8:15,23 14:12  
14:18,21  
15:7,19

houpt  
2:7

human  
7:10

**I**

id  
18:14

il  
19:22

ill  
18:10

illinois  
1:1,7,7,17,20  
2:4,6,8,10  
4:11,18 5:21  
8:9 9:5 11:4  
11:15,19  
19:3,6,23

im  
4:10,22 5:4,18  
6:14,15,24  
15:14 16:12  
18:5

important  
5:3

include  
7:22

included  
11:2

including  
7:21

index  
3:1

indicated  
14:22

influence  
16:24

information  
6:14 7:18  
12:13,19,23  
16:7,14,20

instance  
5:15 10:10

instructed  
10:21

intended  
6:3

interested  
10:22 11:6  
19:14

issue  
18:13

issues  
7:18

**J**

jeff  
1:6,15 3:3 4:1  
4:5 19:6

jeffrey  
5:18

jr  
4:5

judge  
7:17 10:16,17

**K**

knew  
15:23

know  
6:22

knowing  
14:9

knowledge  
19:7

**L**

landfill  
4:13 8:10 13:2  
14:15

lane  
5:21,24

learned  
8:21

lee  
5:18

legislative  
1:16 8:4 19:5

legislator

10:19 level 6:7 license 19:22 limitation 11:2 lines 13:22 14:2 llp 2:3 location 4:12,14 8:9,18 9:15 10:5,23 10:23 11:12 12:6,10,15 12:21 16:4,8 16:15,18,21 16:24 17:3,9 17:12	note 5:7 notice 4:6 november 6:12,23 8:19 9:16 11:20 11:24 12:7 16:5 number 4:20,22	12:17 16:16 16:22 printed 13:8 prior 17:9 probably 18:14 process 10:2,23 professional 19:21 proper 7:18 proposed 11:6,24 14:14 15:5,13 public 1:19 10:1 11:11 13:7 16:16,22 pun 6:3 pursuance 1:20 pursuant 4:6 19:4	reread 18:14 resident 11:7 resolutions 8:6 resolve 18:14 respond 5:13 respondent 2:5,9 respondents 1:9 responsibil... 7:16 10:6 15:17 responsive 5:4 review 12:8 17:24 reviewing 9:15 10:5 right 5:10 6:4 7:24 8:13 riley 13:17 14:9 role 9:14 10:4,17	8:13 state 1:20 19:3 statement 13:18 statements 5:12 stating 13:13,14 step 14:17 stop 1:3 4:16 story 12:23 street 1:17 2:8 5:23 5:24 19:5 submissions 9:22 submitted 16:15,17,23 subsequent 16:1 subsequently 6:18 suite 2:3,8 supervision 19:8 sure 5:18 18:6 sworn 4:2 19:6 sycamore 1:17 19:5	two 6:8 15:15 18:8
M	O	Q	S	T	U
main 1:16 19:5 making 8:1 10:11 16:17 management 1:7 2:10 4:11 8:8 9:5 11:3 11:14,19 march 9:12 14:18,22 matters 19:7 megadump 1:3 4:16 member 7:13,15 10:7 12:14,20 13:14,15 members 13:13 memorable 6:2 memory 5:21,24 met 9:19 metzger 1:6,15 3:3 4:1 4:5,10 5:16 5:18,19 17:15 19:6 misunderstood 15:14 moment 14:17 month 8:12 moran 2:7 3:6 4:4,9 4:10 17:15 17:17,19	oh 15:4,10 17:18 okay 8:20 14:24 17:18 18:10 18:11,16,18 once 10:23 oncken 13:17 opposed 10:11 oral 11:17,22 order 5:9 ordinances 8:5 ordinarily 10:7 overheard 13:12,23	question 5:1 questions 4:23,24 5:4 17:17,21 quite 6:15	sandwich 5:21 7:8 schiff 2:3 senior 5:18 separate 15:15 series 6:2 serve 7:4,9,10,11,13 service 6:9 services 6:5 7:11 set 11:12 19:15 shes 18:3 shorthand 1:19 3:20 19:3 19:21 sic 4:6 sign 18:1,6,7 signature 18:2,9,16 signing 19:10 site 4:12,14 8:9,18 9:15 10:5,23 10:23 11:12 12:6,10,15 12:20 13:1 16:4,8,15,18 16:21,24 17:3,8,12 sitting 12:4 sorry 15:14 16:12 sorts 8:2 sound 5:5 8:13 south 2:3 5:21 southern 7:8 speak 5:9 spell 5:17 spring	taken 1:15 4:6 5:12 19:13 tell 5:16 testified 4:3 testify 19:6 testimony 19:9 thank 17:15 thats 5:8 7:24 17:16 theres 18:15 think 8:12 13:17 18:8,15 three 18:9 threering 12:11 time 7:1 13:9 15:9 17:22,24 18:1 today 4:19 17:23 18:4 tour 11:14 towit 19:6 transcribe 5:9 transcribed 17:23 18:3 transcribing 5:8 transcript 18:1 true 19:9 trust 18:3 truth 19:6,7 try 4:24	vague 5:12 various 8:1,1 verbally 5:9,13 verbatim 13:20 views 10:12 vote 9:7,10,12 12:15 14:17 17:5,12 voted 4:14 14:12,22 voting 15:7
N	P	R			W
name 4:10 5:17,17 5:19 need 5:13 negotiation 9:2 negotiations 8:15,23 neither 19:11 newspaper 13:9 14:3 nine 9:18,19 12:11 nonverbal 5:11 normal 18:5 north 1:16 2:8 19:5 notary 1:19	page 3:5 part 10:1 participate 9:2 parties 1:21 4:7 19:12 19:14 party 10:22 passing 8:5 pcb 1:4 pedersen 2:7 pending 4:18 performing 8:4 person 11:6,8,23 19:6 petitioner 1:4 place 9:12 play 9:15 point 12:13,19 15:1 18:15 policy 8:1 pollution 1:1 4:18 position 6:16 10:16 possible 8:22 prejudged 12:20 presented 9:24 10:11	read 14:2 18:7 reading 19:9 ready 18:2 reason 4:19 14:5 recall 8:12 9:18 12:4 13:18 receive 11:17,22 recognizing 17:5 record 4:4 19:9 reduced 19:8 referred 8:21 referring 13:5 reflect 4:4 regarding 11:23 registered 19:21 relate 4:23 related 19:12 relative 19:13 remember 13:15,21 14:4 renewal 14:20 rephrase 17:7 reported 13:11 reporter 1:19 3:20 5:7 17:22 19:3 19:21,21 request 5:2 15:2 16:1 required 10:10			wacker 2:3 waive 18:2,10 waived 18:9,17 19:10 want 18:14 waste 1:7 2:10 4:11 8:8 9:5 11:3 11:14,19 whereof 19:15 witness 3:3 17:16,18 18:5,10,12 18:18 19:9 19:10,15 writing 16:17,23 19:8 written 9:22 11:17,22 wrong 6:14
					X
					Y
					years 6:8,15 youll 5:7 youre 12:4
					Z
					0
					08 1:18 19:5 084004489 19:22
					1
					10 11:20 12:1

10103  
4:21  
10th  
4:15 17:6  
12  
7:5,6  
12th  
19:16  
15640  
5:21  
161  
2:8  
18th  
9:12  
19  
3:20

---

2

200  
1:16 19:5  
2005  
6:12  
2009  
8:11,13,19  
9:12,17  
11:20 12:1,7  
14:18,22  
16:5  
2010  
1:17 4:15  
11:20 12:1  
17:4,6,10  
19:5,16  
2010103  
1:4  
2012  
7:2  
20th  
17:4,9  
22  
18:20  
233  
2:3

---

3

30th  
8:19 9:16  
11:20,24  
12:7 16:5  
3100  
2:8  
381  
19:22

---

4

4  
3:6

---

5

5  
1:18 18:20  
19:5

---

6

60548  
5:22  
60601  
2:8  
60606  
2:4  
61021  
19:23

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7

7  
1:17  
7200  
2:3  
7th  
19:4

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STOP THE MEGA-DUMP, )  
)

Petitioner, ) PCB NO. 2010-103

)  
v. )

) DEPOSITION OF

COUNTY BOARD OF DEKALB ) CALVIN CLAY  
COUNTY, ILLINOIS and WASTE ) CAMPBELL  
MANAGEMENT OF ILLINOIS, )  
INC., )

)  
Respondents. )

DEPOSITION OF CALVIN CLAY CAMPBELL, taken  
at the DeKalb County Legislative Center, 200 North  
Main Street, Sycamore, Illinois, on October 26,  
2010, commencing at 3:35 p.m., before Callie S.  
Bodmer, Certified Shorthand Reporter and Notary  
Public in and for the State of Illinois, in  
pursuance to agreement of the parties in the  
above-entitled action.



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12

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Waste Management of  
Illinois, Inc.

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14  
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16  
17  
18  
19  
20  
21  
22  
23  
24

INDEX

Witness: CALVIN CLAY CAMPBELL

Examination Page

Attorney Moran . . . . .	4
Attorney Antonioli. . . . .	62

EXHIBITS

Exhibit Marked

Campbell Exhibit No. 1 . . . . .	5
----------------------------------	---

Certificate of Shorthand Reporter. . . . .	65
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1 CLAY CAMPBELL,  
2 being first duly sworn, was examined and  
3 testified as follows:

4 MR. MORAN: Let the record reflect this is  
5 the discovery deposition of Clay Campbell taken  
6 pursuant to subpoena, scheduled for today at 3  
7 p.m. It's a deposition taken in the appeal  
8 pending before the Illinois Pollution Control  
9 Board of Stop The Mega-Dump versus County Board  
10 of DeKalb County, Illinois and Waste Management  
11 of Illinois, Inc., PCB No. 10-103.

12 EXAMINATION

13 BY MR. MORAN:

14 Q. Mr. Campbell, my name is Don Moran, I represent  
15 Waste Management of Illinois, Inc., and as you  
16 have heard I will be asking you a number of  
17 questions regarding the appeal that's been filed  
18 by Stop The Mega-Dump in connection with the  
19 County's approval of the site location  
20 application filed by Waste Management of  
21 Illinois which approval occurred on May 10th of  
22 2010.

23 Before we begin, could you just state your  
24 full name and spell it for the court reporter.

1 A. My full name is Calvin, C-A-L-V-I-N, Clay,  
2 C-L-A-Y, last name is Campbell, C-A-M-P-B-E-L-L.

3 Q. Mr. Campbell, what is your address?

4 A. I live at 921 Berkshire Court,  
5 B-E-R-K-S-H-I-R-E, in Sycamore, 60178.

6 (Campbell Exhibit No. 1 marked  
7 for identification.)

8 Q. Let me show you what we will mark as Campbell  
9 Deposition Exhibit No. 1, and I'll ask if you  
10 recognize that exhibit?

11 A. I do.

12 Q. Is it the subpoena that was served upon you on  
13 October 9th of 2010 --

14 A. Yes, sir.

15 Q. -- commanding your appearance here today?

16 A. Yes, sir.

17 Q. What is your business or occupation,  
18 Mr. Campbell?

19 A. I'm a lawyer.

20 Q. Are you in private practice at the moment?

21 A. I'm in private practice here in Sycamore. I  
22 have basically a sole practice.

23 Q. And you are also running for public office?

24 A. I am, I'm the Republican candidate for DeKalb

1 County State's Attorney.

2 Q. Are you familiar with an organization called  
3 Stop The Mega-Dump?

4 A. I am.

5 Q. How are you familiar with that organization?

6 A. I think -- I was thinking about this the other  
7 day. I think that I became familiar with them  
8 shortly before the hearing out at Kish College.

9 I don't remember if somebody told me about it or  
10 if in campaigning somebody brought it up when I  
11 was in Cortland, some kind of scuttlebutt like  
12 that is how I heard about it. I wasn't like  
13 formally invited or anything. So I was trying  
14 to remember the first time I met Dan Kenney and  
15 Mac McIntyre, and I think it very well might  
16 have been like the first day out at Kish or  
17 shortly before that. So just in being around in  
18 the community and following the politics, I  
19 think that's how I heard about it.

20 Q. And the public hearings on the site location  
21 application commenced March 1st, 2010?

22 A. That's my recollection.

23 Q. And at that point had you already prevailed in  
24 the primary for the State's Attorney's position?

1 A. I had. That was on -- I think the primary this  
2 year was early, it was on February 2nd I  
3 believe.

4 Q. So when you first met Mr. McIntyre and  
5 Mr. Kenney in connection with their efforts for  
6 Stop The Mega-Dump you knew you were going to be  
7 running for the State's Attorney position on the  
8 Republican ticket?

9 A. I mean, I -- the only thing I'm not sure about  
10 is I might have known -- I have been in the  
11 community a long time, I might have known  
12 Mr. McIntyre peripherally before this, he runs  
13 the DeKalb County Online, and I think -- I had  
14 run for office before, I might have had some  
15 dealings. But I think it's accurate to say  
16 around that time that I became acquainted with  
17 them I think it's fair to say I probably was  
18 already the Republican nominee.

19 Q. Were you aware that in early 2009 DeKalb County  
20 and Waste Management of Illinois, Inc. were  
21 negotiating a host community agreement for a  
22 proposed expansion of the existing landfill?

23 A. I don't think I was specifically aware of it in  
24 terms of it kind of wasn't on my radar. I kind

1 of have a lot -- had a lot going on at that  
2 time. I might have noticed it in the newspaper,  
3 but I didn't really have any kind of nuts and  
4 bolts knowledge about the process or, to be  
5 honest with you, a host agreement, I have never  
6 really, you know, heard that term before. So a  
7 lot of the stuff was arcane to me, but I think I  
8 knew -- I think I knew generally that there was  
9 a dump situation that was kind of bubbling but I  
10 didn't know to the extent that it was.

11 Q. Did you first become ware of the existence of  
12 the host community agreement during the public  
13 hearings?

14 A. It would have had to have been during or  
15 shortly before, and that would have either been  
16 through conversations of people at the mega-dump  
17 or I might have -- you know, I might have talked  
18 to somebody in Cortland about it, but it would  
19 have been around that same time I think that's  
20 how I learned about it, yeah.

21 Q. Did you also learn that the site location  
22 application had been filed on November 30th of  
23 2009 during the public hearings?

24 A. I think, again, the same answer, I think either

1 I learned it then -- I really was, and you  
2 probably could see in my performance there, I  
3 was really educating myself on this as we were  
4 going along. I might have heard about that  
5 before, but I had never seen it or I had never  
6 really explored it or -- it was really mostly  
7 through the hearing.

8 Q. Did you ever attempt to either obtain a copy of  
9 the site location application or be able to  
10 review the site location application from the  
11 County?

12 A. I did not.

13 Q. Do you have any information as to whether any  
14 other person sought access to the site location  
15 application either for purposes of reviewing it  
16 or obtaining a copy of the application?

17 A. I think, you know, to be -- to try to recollect  
18 that, I think during the public hearing I  
19 remember -- and I'm not sure which individual it  
20 was, but I remember there being some complaints  
21 about somebody having gone over to the clerk's  
22 office and try to obtain some sort of  
23 documentation, I think there was some discussion  
24 about whether that should be available on disk

1 or whether -- the copying fees and all that, but  
2 I don't specifically remember who that was, and  
3 I think it came up kind of in the context of  
4 trying to argue that we're having difficulty  
5 getting that information. But I wasn't a part  
6 of telling somebody to go and get it, nor did I  
7 ever myself try to go and get it.

8 Q. What information had you heard that any persons  
9 were having difficulty or trouble getting  
10 information on the site location application or  
11 getting the site location application?

12 A. I think it was just that specific instance, and  
13 I hate to say a name, it might have been Mark  
14 Chavrot (phonetic) or one of the five or six  
15 very active people that were really active in  
16 the Stop The Mega-Dump it seems to me made an  
17 issue of it during that public hearing or talked  
18 about it shortly before, but that's the only --  
19 I can't honestly say as I sit here that I feel  
20 that there was any sort of -- that I have any  
21 personal knowledge of there being any sort of  
22 attempt to obstruct citizens from getting that.  
23 I do know that there was others that felt that,  
24 you know, that was the tenor of the group, but I

1 don't have any personal knowledge of that.

2 Q. And you have no information that anyone at the  
3 County denied access to any person to either  
4 review or obtain a copy of the site location  
5 application?

6 A. That would be correct.

7 Q. Are you a member of Stop The Mega-Dump?

8 A. That's a good question when you ask that. I  
9 don't know what membership means. I have -- I  
10 made a donation to them once, it was probably  
11 after the hearings occurred at Kish. I remember  
12 them saying that they had a lawyer, this is the  
13 first time I met the gentleman here today. But  
14 I remember them -- going to a kind of an  
15 informational thing over -- it had to be in  
16 Cortland, and I remember there being a  
17 discussion about hiring a lawyer and I think I  
18 made a donation or 200, \$250, one of the two.

19 But I don't know about like the  
20 membership, I don't know what that means. I  
21 don't -- I wasn't party to like the  
22 organizational development of it. I kind of  
23 came in from the side I think because of the  
24 politics. And then when they, you know, were

1 going to hire a lawyer I actually had people ask  
2 me, to be honest with you, and I told them I  
3 don't know anything about this stuff and if you  
4 want to, you know, get some expertise, you know,  
5 you're going to have to find somebody that knows  
6 more about this.

7 Q. Have you heard any information from any source  
8 to the effect that the DeKalb County Board had  
9 decided in advance of the hearing to approve the  
10 site location application?

11 A. The -- the only -- I mean, like in terms of --  
12 I don't have any personal knowledge, but there  
13 was one point during the hearing where somebody  
14 had come up to me and said that Mr. Oncken had  
15 made a comment, and I don't think that it was  
16 like the deal was already done but it was  
17 something to the effect of why is Mr. Campbell  
18 here, everybody wants this, and, you know, these  
19 people that are here protesting have nothing  
20 better to do, so it was -- I'm paraphrasing it  
21 because I did not hear it, but I heard some  
22 scuttlebutt then.

23 And then my -- my opinion on -- to answer  
24 your question, I don't have any -- I don't have

1 any personal knowledge that they actually had  
2 decided it before the formal hearing.

3 Q. My question was did you ever hear any  
4 information or hear any stories from other  
5 persons to the effect that the DeKalb County  
6 Board had already decided to approve the  
7 application?

8 A. Just to the extent that it -- and it strikes me  
9 as odd today as I sit here that the main  
10 discussions that I participated in in regards to  
11 that issue were the fact that the County had  
12 actually voted on an ordinance I think it was in  
13 February of 2010 to pay for -- or for the  
14 issuance of bonds to pay for the expansion of  
15 the courthouse and the expansion of the jail.  
16 And I don't have the ordinance in front of me,  
17 but I remember reading it and in that it makes a  
18 specific reference to proceeds from the dump  
19 expansion. So, you know, I put two and two  
20 together myself and it struck me as odd that the  
21 County Board would have already taken steps to  
22 spend the money before the decision had actually  
23 been made. That's probably the single biggest  
24 issue that bothers me about this.

1           And I think if you look at my argument  
2           there, you know, when we had public comment  
3           there at the end of it, the tenor of my argument  
4           was, you know, I'm a trial lawyer, I do criminal  
5           cases, and it just struck me as odd if the  
6           County Board was really going to put themselves  
7           out as a jury and they were the factfinders and  
8           to a certain extent they were supposed to be  
9           sequestered and not communicate during that  
10          process it struck me as odd that they would try  
11          to perpetuate the notion of impartiality when it  
12          seemed to me that they had already decided how  
13          they were going to spend the money.

14        Q.   When you appear -- you did appear at the public  
15          hearings?

16        A.   Yes, sir.

17        Q.   And as someone who appeared at the hearings  
18          were you participating in your individual  
19          capacity?

20        A.   That's correct.

21        Q.   You were not appearing at the hearings and  
22          representing any entity or organization?

23        A.   That's correct. In fact, I make it very clear  
24          to everybody that I was there as a citizen, as

1 a -- you could make the argument obviously that  
2 I'm a politician running for office, this is a  
3 hot button issue in the community, but to be  
4 honest with you I was actually there as a  
5 concerned citizen. It struck me as a huge  
6 project that, you know, I have a house probably  
7 -- you know, I live in south Sycamore so I'm  
8 probably three, four miles away from the dump,  
9 so it just struck me as something that I might,  
10 you know, pay attention to a little bit.

11 Q. Do you know Riley Oncken?

12 A. I do.

13 Q. How long have you known Mr. Oncken?

14 A. I have known Riley since -- I have got to think  
15 -- since he was in law school. I used to work  
16 at a firm here in town, Gallagher and Brady, and  
17 Riley came in as a law clerk I'm going to guess  
18 around 2000 or 2001, so I think I have known him  
19 for about eight years.

20 Q. Has Mr. Oncken ever worked for you?

21 A. No.

22 Q. Has he ever worked in connection with any  
23 political campaign that you have been involved  
24 in?

1 A. I think that when I ran before Riley walked in  
2 parades a couple times for me. He's probably  
3 made a donation if I went through, it would have  
4 been nominal, like \$50 or something. But I  
5 think he's both assisted me, contributed to my  
6 campaign, and he's an active member of the  
7 DeKalb County Republican party, as I am. So we  
8 have not only been professional colleagues as  
9 lawyers but also political -- I won't say allies  
10 because we have had disagreements, but we have  
11 participated in things together.

12 Q. Is he still associated with the law firm that  
13 you worked at when he initially worked as a law  
14 clerk?

15 A. No, I left there in I'm going to guess late  
16 2003, and either before I left or after I left  
17 when Riley became an attorney he went and worked  
18 I think directly for at the time it was Shawn  
19 Smith, I think at the time it was just him as a  
20 sole practitioner, and that employment there  
21 continues to this day. I think Riley was just  
22 made a partner about two weeks ago, so I think  
23 it's now Smith, Wykes and Oncken. So not only  
24 do I not work at that firm anymore, nor does he.

1 Q. And you mentioned about the fact that during  
2 the public hearing he was alleged to have made a  
3 statement dismissive of you and perhaps other  
4 objectors?

5 A. Correct.

6 Q. Is it accurate to say that you didn't hear his  
7 statement?

8 A. That's correct.

9 Q. You heard someone repeat the statement that he  
10 had made?

11 A. It sounded literally almost right after he said  
12 it someone walked up to me and said did you hear  
13 what Riley just said, and I think they just came  
14 up to me because it was a friend of mine that  
15 allegedly heard it, but it pertained to me, it  
16 was derogatory, but I did not hear it.

17 Q. Who was the person who told you about that?

18 A. Paulette Tolene, P-A-U-L-E-T-T-E, and I think  
19 her last name is T-O-L-E-N-E.

20 Q. How long have you known Ms. Tolene?

21 A. I'm going to guess probably about five years.

22 She also was a student member of the College  
23 Republicans at NIU, so again I met her through  
24 the Republican party.

1 Q. What is her business or occupation today?

2 A. I don't think she's employed now. She just had  
3 a baby about four or five months -- probably  
4 about four months ago so she's just a  
5 stay-at-home mom now.

6 Q. Does she work in connection with Republican  
7 efforts here in DeKalb County?

8 A. Used to be very active, and then I think in the  
9 last couple of years she met a guy and they got  
10 married and then she had a baby, so. But if you  
11 asked, you know, most kind of old-time  
12 Republicans around here they would know of her  
13 because she was one of those, you know, real  
14 worker bee type of students that got to know a  
15 lot of people. Ms. Tolene knows Mr. Oncken very  
16 well.

17 Q. So Ms. Tolene had attended that public hearing  
18 in which Mr. Oncken allegedly made his comment?

19 A. Yes, sir.

20 Q. And she then came to you, and what did she tell  
21 you?

22 A. She said, paraphrasing, something like did you  
23 hear what Riley said, I said I didn't hear it,  
24 and she said he said something to the effect of

1 is Clay here to tank his campaign, everybody  
2 wants this and doesn't -- don't these people  
3 have anything better to do. It strikes me it  
4 was those three lines, paraphrasing. I very,  
5 you know, distinctly remember the knock against  
6 me.

7 Q. Did you have any response to Ms. Tolene when  
8 she said this to you?

9 A. I said if Riley actually said it write it down,  
10 and I think she wrote it down because I remember  
11 having it in my possession actually her writing  
12 it down.

13 Q. She handwrote it down --

14 A. Correct.

15 Q. -- and then handed it to you --

16 A. Correct.

17 Q. -- during the hearing?

18 A. Correct.

19 Q. Did you then approach Mr. Oncken and ask if he  
20 had made that statement?

21 A. I don't think I did actually. I think I stuck  
22 that in my -- you remember how that was there.

23 I don't think I gave it much thought. I think I

24 stuck it in my -- you know, my folder of

1 documents and it sat there.

2 Q. Other than that date, had you seen Ms. Tolene  
3 at any other public hearings?

4 A. In regards to this or --

5 Q. Yes, I'm sorry, in regards to the proposed  
6 expansion.

7 A. I think that Paulette probably -- she must have  
8 attended three or four of them, I don't know  
9 whether the whole time, but I remember her being  
10 at a few of them.

11 Q. Did you have any subsequent conversations with  
12 her about what she had heard Mr. Oncken say?

13 A. I have to say that I probably did just because,  
14 you know, it's just her knowing Riley and the  
15 politics and stuff. I don't distinctly remember  
16 a specific conversation. I do remember that one  
17 that day but I don't remember any others  
18 distinctly.

19 Q. Have you ever had a discussion with Mr. Oncken  
20 about the alleged statements he made that were  
21 heard by Ms. Tolene?

22 A. I don't think so, and I think because I, number  
23 one, didn't hear it, but, number two, I was  
24 aware of the -- as I understood at the time, you

1 know, through Mr. Bockman's statements and I  
2 think the Hearing Officer's statements to the  
3 effect that this was truly supposed to be  
4 treated as a jury and they weren't to be -- so I  
5 kind of understood that they weren't to be  
6 approached and discussed about this. Obviously  
7 I had a lot of questions, but I respected the --  
8 I don't think I talked to any of them while it  
9 was going on.

10 Q. Did you at any point learn any additional  
11 information or facts that supported the  
12 contention that Mr. Oncken made these statements  
13 during the public hearing?

14 A. I only know of Paulette specifically saying  
15 that to me. It seems to me that there was some  
16 other people that were referenced, I don't  
17 recall.

18 Q. Where does Ms. Tolene live?

19 A. She lives -- I can take you there, I'm not sure  
20 of the street. She lives in DeKalb.

21 Q. Do you know what street she lives on?

22 A. I don't. It's right off of Hillcrest and  
23 Fourth Street.

24 Q. Do you know if she's currently employed?

1 A. I haven't talked to her since she had her baby.

2 I have got to say probably not.

3 Q. She's not working on your campaign?

4 A. Oh, no, no, no, no, although she did help me in

5 the primary, she was an active person, but I

6 haven't -- in fact, I probably kind of think

7 that around the -- I think she was pregnant

8 during the hearing so I think I kind of

9 recollect a time being where we would know she

10 would be so far along that she was going to be a

11 mother and focus on that.

12 Q. Did you become aware at some point that the

13 County Board members were precluded from having

14 any communication with any party to the siting

15 proceeding outside the context of the siting

16 hearing or the siting process?

17 A. I think that I became aware of that during the

18 public hearings at Kishwaukee College. It seems

19 to me, and I don't have a specific recollection,

20 but what triggered the dissemination of that

21 information, that idea that they're not supposed

22 to talk to anybody was I recall an e-mail that

23 Ray Bockman had sent around to the County Board

24 members. I didn't obviously get the e-mail, but

1 I seem to recall somebody showing it to me or  
2 somebody saying look what Mr. Bockman, you know,  
3 did. It struck me as odd for a couple of  
4 reasons. Number one, it seemed to me like it  
5 was legal advice, and I didn't understand  
6 Mr. Bockman -- that to be his capacity; but  
7 number two, it seemed kind of forcefully  
8 written. I kind of remember thinking to myself  
9 that it was almost like reprimanding children,  
10 and I think that's the tenor of the people at  
11 the time, the kind of discussion that was going  
12 on was that this was -- that people were fairly  
13 chagrined that all of the sudden he was taking  
14 this strong stance and kind of admonishing  
15 everybody not to speak.

16 Q. And was it your understanding that his  
17 admonishment related to only communications that  
18 might occur outside the public hearing or  
19 outside the siting process?

20 A. It was my understanding, and it still is to  
21 this day, that the County Board members that  
22 were part of the decision making process -- was  
23 there six of them or -- that they were not to  
24 have any communication with anybody else in

1        regards to the hearing except to the extent that  
2        what they were going to see and hear in the  
3        hearing itself. So it struck me as it being  
4        like a jury.

5        Q. So that any resident or any citizen of the  
6        County could have communicated with the County  
7        Board about the proposed expansion at the public  
8        hearing or by submitting written public comment  
9        to the County Board, was that your  
10       understanding?

11      A. That was my understanding. I -- I don't have  
12      a -- you know, again, my brain's not that great.  
13      It seems to me around that same time not only  
14      did Mr. Bockman's advice go out, but that  
15      citizens were contacting their board members and  
16      they were asking them questions about this and  
17      the general response was we can't talk to you  
18      because we have been told that we can't discuss  
19      this outside of the hearing.

20      Q. Did you have any information to the effect that  
21      the reason for Mr. Bockman sending out the  
22      e-mail was because a number of constituents  
23      were, in fact, communicating with County Board  
24      members outside the public hearing process?

1 A. I think that would be a fair statement. It  
2 struck me as a -- and again, I'd have to see it  
3 and refresh my recollection. It struck me as a  
4 reactionary e-mail, a cautionary e-mail, an  
5 admonishment to the County Board members, and it  
6 seemed to be in response to efforts being made  
7 by citizens to contact their County Board  
8 members and ask them about it.

9 Q. And you said that you thought you were shown  
10 this e-mail by someone, do you remember who that  
11 was?

12 A. I have got to think it was one of the -- either  
13 Mr. Kenney, Mr. McIntyre, maybe Ms. Mott. It  
14 was one of the people that were involved in the  
15 mega-dump group.

16 Q. Did you come to get any information as to how  
17 either or any of them would have obtained a copy  
18 of this e-mail?

19 A. I can't say for sure, but I think that one of  
20 the County Board members was bothered by it. I  
21 mean, I don't -- I mean, I got the impression  
22 here that not only were citizens angry about,  
23 you know, this impediment to communicating with  
24 their County Board members but that some County

1 Board members were upset that, you know, that  
2 Mr. Bockman had been so heavy-handed with them.  
3 That's the recollection of the tenor at that  
4 time.

5 Q. So the information you had was that there was  
6 probably a County Board member who released this  
7 e-mail to either members of Stop The Mega-Dump,  
8 or the Daily Chronicle, or someone else?

9 A. That would be correct, because I think that the  
10 e-mail that I saw it seems to me that had the --  
11 I mean, this was an e-mail specifically sent  
12 from Mr. Bockman to the County Board members so  
13 I think everybody was cc'd on that, so I seem to  
14 remember thinking, you know, this is going to  
15 all the County Board members and they're being  
16 told not to talk to their constituents.

17 Q. Did you have any information as to who that  
18 board member or board members were who leaked  
19 this to the press?

20 A. I wouldn't guess at that.

21 Q. And you didn't hear any stories or any  
22 information from anyone alleging who that may  
23 have been?

24 A. I'm trying to go back through the board

1 members. As this process was going on it was  
2 very evident that some of the board members were  
3 comfortable with the process, some of the board  
4 members in my opinion had already decided what  
5 they were going to do, some of the board members  
6 were kind of chagrined at how they were being  
7 treated. I really wish I could tell you, but I  
8 really can't specifically say.

9 Q. You said your impression was that some of the  
10 County Board members were chagrined at the way  
11 they were being treated, what do you mean by  
12 that and who are you referring to?

13 A. It -- it -- -- I mean, this is a small  
14 community, so you have certain County Board  
15 members that have been chosen, you know  
16 whatever -- I don't know how they were chosen to  
17 be a part of this hearing, but the County Board  
18 members and an awful lot more members than just  
19 those people who participated in the hearing.  
20 I -- I'm not sure if -- you know, which one of  
21 them came to the -- because you would have some  
22 County Board members that weren't decision  
23 making entities in the hearing come to the  
24 hearings and kind of listen to them. I don't

1 know if it was like Kevin Chambliss or, you  
2 know, there was a couple people that would show  
3 up. It always struck me as odd that -- it  
4 seemed to me like they ought to all be there but  
5 I'm trying to -- I definitely recall there being  
6 an atmosphere where this just wasn't a bunch of  
7 rube rousers, you know citizens that are just  
8 complaining. I distinctly remember not being  
9 alone in my feeling that there was some sort  
10 of -- that the communication atmosphere was not  
11 very good. But again, to specifically, you  
12 know, point to specific County Board members, I  
13 don't think I can do that because I don't to --  
14 number one, I don't want to guess, but number  
15 two, it's a -- my recollection is that it was an  
16 atmosphere that was not conducive to that sort  
17 of interaction.

18 Q. Now, when you say they were chagrined by the  
19 process, you mean your impression was that they  
20 were either unfairly or unreasonably limited in  
21 what they could do, they were not instructed or  
22 told how they should act during the process?

23 I'm trying to --

24 A. I can't tell whether it was the way Mr. Bockman

1 handled it. I don't know if you know  
2 Mr. Bockman very well but he's a brusque -- I  
3 mean, I could use a lot of adjectives but I'm  
4 going to be polite. He's a very, very, very  
5 direct person. I don't know whether the feeling  
6 I was getting was that they were angry at how he  
7 had approached -- I mean, here he sends out this  
8 e-mail saying nobody can talk and then that's  
9 it. I don't know if it was how they were being  
10 treated by him or whether it was the actual  
11 limitation that was being imposed on them, as I  
12 understood it, by the law, so I can't really  
13 tell you that.

14 Q. And you can't really identify any specific  
15 board members who it was your impression that  
16 they were somehow chagrined at how this played  
17 out?

18 A. I think that if I could come up with -- I  
19 remember sitting with Roger Steimel quite a bit,  
20 and he's a former County Board member. And, you  
21 know, I'm sure me and Roger had conversations  
22 about this. And I think Roger, as a former  
23 County Board member, you know, the source of it  
24 could be Roger. Can I say for sure? But I

1 remember him being extremely chagrined at how  
2 in his opinion it seemed that the County Board  
3 had gone from -- you know, maybe he was  
4 recollecting when he was on the board and maybe  
5 they were more active or it appeared like that,  
6 and it seemed to me that he was getting the  
7 impression that this was -- that Ray Bockman was  
8 more or less running the show right now, not the  
9 County Board.

10 Q. You also mentioned that your impression was  
11 that certain board members had already made up  
12 their minds in terms of how they were going to  
13 vote on the application. This would have been  
14 as of the public hearings?

15 A. Sure, sure, absolutely.

16 Q. And what board members are you referring to?

17 A. I'm still astonished at Ruth Anne Tobias's  
18 really lack of participation, arrogant attitude.  
19 I mean, personally I got quite a few looks from  
20 her like, you know, why are you here. So she's  
21 one that I never for a second thought had an  
22 open mind during this process. She certainly  
23 didn't act like a public official that -- you  
24 know, in my opinion if you're a public official

1       you have a certain obligation to treat citizens  
2       with respect; I never got that impression from  
3       her at all.

4           I thought Pat Vary was another one that I  
5       think at one point she was in Florida or she  
6       wasn't there. I remember thinking to myself,  
7       you know, this is a major, major decision and  
8       attendance at this thing seems to me to be  
9       mandatory. And I got the same impression from  
10      Pat Vary that I got from Ruth Anne Tobias.

11          You just had Ms. Fauci in here, I don't  
12      remember -- you know, again, this is awhile  
13      back, but I always get the impression that she  
14      was not interested in input on this issue.

15          I thought Mr. Stoddard and Mr. Anderson  
16      were your most open-minded participants, asked  
17      questions, seemed to be engaged, and didn't  
18      treat -- they were called objectors, didn't  
19      treat people with derision, and that's certainly  
20      how I think Ms. Vary and Ms. Tobias did.

21      Q. Did you have any impressions that any other  
22      County Board members had basically made up their  
23      minds to vote either yes or no regarding the  
24      application before all the evidence was in?

1 A. Well, let me give you an example. You know, I  
2 know Mr. Oncken personally, it's been an ongoing  
3 discussion at the courthouse for quite some time  
4 about whether to spend \$15 million to expand the  
5 courthouse. I'm sure that we have had  
6 conversations, myself and Mr. Oncken, about that  
7 issue. And I'm sure that prior to -- probably  
8 sometime last year I'm sure that Mr. Oncken made  
9 it clear to me that he disagreed with my  
10 position that we should leave the courthouse  
11 alone and we couldn't spend the money. So I got  
12 the impression that Mr. Oncken had decided that  
13 the courthouse expansion was necessary. Now,  
14 whether or not you want to take that conclusion  
15 and extrapolate that he necessarily was  
16 predisposed to approve this, I can't say that  
17 obviously.

18 But, again, I'm -- the most striking  
19 aspect of this entire process was the notion  
20 that if you went back through and determined who  
21 voted yes on the issuance of those bonds and  
22 that ordinance you're probably going to line up  
23 -- the same people are probably going to be the  
24 ones that voted for the dump expansion, and it

1       seems to me that a logical conclusion would be  
2       if they have already decided how they're going  
3       to spend the money then they're not very likely  
4       to come in and say we're not going to approve  
5       this that's going to give us revenue to complete  
6       our projects.

7       Q.   Would it be also appropriate to conclude that  
8       those who opposed either the jail or the  
9       courthouse expansion would similarly have been  
10      predisposed or inclined to vote against the  
11      proposed expansion prior to all the evidence  
12      being in?

13     A.   If you take the -- if you take the -- I don't  
14     even know if I call it logic, but if you take  
15     the previous example I gave you I could see how  
16     you could make that conclusion.

17     Q.   And did you have any information of any kinds  
18     to suggest that any County Board member had  
19     decided to vote no on the application before all  
20     the evidence was in?

21     A.   I don't think so. And, again, I didn't have  
22     any personal knowledge of yes or no, I'm just  
23     trying to express to you that the atmosphere  
24     here in the County, the courthouse, during the

1       hearings it was not an atmosphere of let's watch  
2       while this presentation is being made and let's  
3       see where our public officials go with their  
4       decision; it was an atmosphere of these projects  
5       were important to certain County officials, they  
6       were determined to get these projects completed,  
7       and this is one of the ways that they figured  
8       out how to finance it. That's the feeling that  
9       exists to this day here in the County.

10      Q. Was your stance on the proposed landfill  
11      expansion an issue in your campaign to run for  
12      State's Attorney?

13      A. I have made it -- I've probably had more  
14      conversations with that -- about that issue with  
15      citizens than just about any other issues, which  
16      has astonished me, but absolutely.

17      Q. And has your opponent made it an issue?

18      A. She's not discussed it at all. I think if she  
19      has discussed it it's to the extent that this  
20      has nothing to do with being a State's Attorney  
21      so I don't know why Mr. Campbell is belaboring  
22      this issue, but no, she hasn't gone into any  
23      detail on it.

24      Q. And, of course, you're aware that if you are

1 elected State's Attorney and this proceeding  
2 continues in some form, an appeal or perhaps  
3 some other decision by the board that might  
4 result in a remand --

5 A. Sure.

6 Q. -- that you would then be in the position of  
7 being the County's legal officer and required to  
8 represent the County when you have taken the  
9 position opposed to this proposed expansion?

10 A. I'm aware of that.

11 Q. Do you have any information to the effect that  
12 between November 30th, 2009 and May 10th of 2010  
13 that any employee, representative, or agent of  
14 Waste Management of Illinois, Inc. had any form  
15 of communication about the proposed expansion  
16 with any member of the DeKalb County Board?

17 A. Directly, no.

18 Q. Do you have any information that you obtained  
19 indirectly or generally regarding any such  
20 communication?

21 A. It struck me during the hearing that there had  
22 been an awful lot of financial discussion, both  
23 involved in the County and the Town of Cortland,  
24 in regards to compensation or remuneration or,

1       you know, whatever word you want to describe  
2       money that -- for instance, it seemed to me  
3       Cortland was aware that they were going to get a  
4       specific amount of money if this was to go  
5       through. That led me to believe that there had  
6       been discussions -- maybe through the host  
7       agreement or whatever, there had been  
8       discussions involving the benefit financially to  
9       the County and to the Town of Cortland with  
10      Waste Management.

11     Q. Well, I believe you said earlier that at no  
12      point did you review any part of the site  
13      location application?

14     A. That's right. That's right.

15     Q. And had you reviewed any part of the site  
16      location application you would have seen that  
17      contained within it was the memorandum of  
18      agreement or understanding between Waste  
19      Management of Illinois, Inc. and the Town of  
20      Cortland regarding this proposed expansion?

21     A. Correct.

22     Q. Did you ever become aware of the fact that  
23      there was an agreement in place?

24     A. During the hearing, and which is getting back

1 to my point a little bit that it struck me  
2 during the hearing -- and, again, I'm just  
3 sitting there observing it, it struck me that we  
4 were all kind of operating under this fiction  
5 that there hadn't been an agreement already  
6 reached, and it struck me as us kind of dancing  
7 around the idea that there had been an agreement  
8 reached in regards to you -- call it a  
9 memorandum, you know, however you want to phrase  
10 it, it struck me that the County Board was well  
11 aware of the financial benefit of approving this  
12 project, and Cortland was well aware of the  
13 financial benefit they were going to receive if  
14 this project was approved, and it struck me that  
15 those conclusions or negotiations or agreements  
16 or conversations or memorandum, whatever you  
17 want to call it, had occurred prior to the  
18 formal hearing at Kishwaukee College and that  
19 struck me as odd if we were going to engage in  
20 the notion that the County Board members that  
21 were sitting on that jury were supposed to be  
22 open-minded and partial and to only consider the  
23 information that was contained in the hearing.

24 Q. Did you have any other information that

1 suggested indirectly that there had been any  
2 communications between Waste Management of  
3 Illinois, Inc. and the DeKalb County Board or  
4 its members between November 30th, 2009 and May  
5 10, 2010 regarding the proposed expansion?

6 A. I see where you're going with your question. I  
7 couldn't tell you specifically, you know, what  
8 time frames I'm referring to. It strikes me  
9 from your question that you're saying that a lot  
10 of this stuff happened before November 30th. I  
11 have no reason to believe that that's not the  
12 case.

13 Can I specifically say that between  
14 November 30th and May that I heard anything, no.

15 Q. Do you have any information about whether any  
16 person who expressed any interest in attending  
17 and participating in the public hearings elected  
18 or chose not to do so?

19 A. Ask me that again.

20 Q. Do you have any information that would indicate  
21 that a person who had expressed a desire to  
22 attend the public hearing ultimately chose not  
23 to do so?

24 A. I recall numerous instances where people wanted

1 to attend and either because of work obligations  
2 or family obligations couldn't get to Kishwaukee  
3 College.

4 It was an interesting thing for me that it  
5 seemed as time went on we seemed to have more  
6 people there. And I remember there being a  
7 discussions amongst the various citizens that  
8 were there that they thought to have it during  
9 the week at a place that's a little bit outside  
10 of the DeKalb or Sycamore that they didn't feel  
11 that that was a -- I'm not going to say unfair,  
12 but that they thought that it wasn't -- that the  
13 time and place of the hearing wasn't chosen to  
14 be conducive to civic participation; in other  
15 words, people felt like if you're going to do  
16 this why not make it easy for people to attend,  
17 make it during a time frame when they don't have  
18 to work or deal with their kids. I do recall  
19 that being the biggest reason that probably  
20 jumps out at me if people had to change their  
21 plans, had wanted to attend and then couldn't.

22 Q. Were you aware that the County had a local  
23 ordinance that governed the matter by which  
24 these site location proceedings were going to be

1 conducted?

2 A. I suspect there is one. I have no personal  
3 knowledge of it.

4 Q. Did you sign up to participate at the public  
5 hearing?

6 A. I -- I -- I think that I did, because I think  
7 that the Hearing Officer -- his name escapes me  
8 -- I think at one point or a couple times  
9 probably came over to me, maybe when it first  
10 started introducing ourselves, and I probably  
11 put my name down on something as a -- you know,  
12 and giving that information.

13 Q. Well, isn't it true that, in fact, you kind  
14 signed up with the County clerk to participate?

15 A. Oh, I forget about that. Yeah, you're right.

16 Q. And how did you learn that there was an  
17 opportunity to sign up to participate at the  
18 public hearing?

19 A. It had to be through either, you know, one of  
20 these mega-dump members or it could have been  
21 through the local media, it could have been  
22 through the newspaper or some sort of posting.  
23 I mean, I can't specifically say how.

24 Q. Do you recall having gone into the clerk's

1 office and actually signing up?

2 A. I mean now that you mention it, yeah, I do.

3 Q. And I believe you signed up approximately a

4 week before the public hearing?

5 A. I think that's -- I think so.

6 Q. And your recollection is that you had learned

7 either in the paper or from one of the members

8 of Stop The Mega-Dump that you needed to sign up

9 with the County clerk in order to participate at

10 the hearing?

11 A. Absolutely.

12 Q. Were you aware of any person who had reviewed

13 or read the local siting ordinance and the

14 articles and the rules and procedures and

15 decided not to attend the public hearing because

16 of what was stated in the ordinance and the

17 articles about eligibility to participate in the

18 public hearing?

19 A. I don't recall any instance of that. And I

20 think at that time I made a statement, in fact

21 quite a few times, that my issue never was with

22 the -- you know, I think that, you know, the

23 Hearing Officer and yourself and I think

24 everybody there really made an effort to ensure

1 that if there was somebody else that wanted to  
2 speak or couldn't be there or wanted to submit  
3 something in writing I don't remember there  
4 being any sort of obstruction to that. I  
5 remember it being very, very, very -- the rules  
6 were very liberal in terms of ensuring inclusion  
7 from the start of the public hearing to the end.

8 Q. Did you object to the proposed expansion?

9 A. I did.

10 Q. What was the basis or what were your objections  
11 to the expansion?

12 A. And, again, if I had my transcript of what I  
13 said then, I think it was -- there was a couple  
14 of reasons. Number one, I did feel that it was  
15 unfair to the financial issues that I have  
16 already talked about here. I thought it was  
17 unfair to have discussions about how you're  
18 going to spend the money and then actually take  
19 action by the County Board on, you know, the  
20 anticipated revenue from this and start making  
21 plans on how you're going to spend it and then  
22 come into this hearing and suggest that you're  
23 going to be impartial, I thought that was a -- I  
24 thought that was a -- it didn't strike me as

1 being fair.

2 I was struck by the hydrogen sulfide  
3 issue, and I'm not a chemist, I'm not anybody  
4 versed in that. You saw me try to examine  
5 Dr. Serewicz. It struck me that the  
6 presentation by Waste Management was very  
7 comprehensive but it really stood out to me that  
8 the issue of noxious gases and hydrogen sulfide  
9 and that weren't really discussed by the  
10 experts. And I thought that one thing that --  
11 and this is in hindsight looking back on it, but  
12 I thought that we might have heard from somebody  
13 from Waste Management that could say, look, if  
14 you're worried about air and you're worried  
15 about this egg smell let me explain to you what  
16 it is, let me explain to you what we do about  
17 it, let me explain to you how it's not harmful.  
18 Dr. Serewicz convinced me that this wasn't quite  
19 the harmless issue that I think was the -- I  
20 think that your argument was essentially that  
21 this -- you know, that the public health and  
22 safety won't be jeopardized by approving this,  
23 and the more I learned about hydrogen sulfide  
24 the less convinced I became of that.

1 I think those were the two primary  
2 reasons.

3 Q. Did you have any objections or problems with  
4 the fundamental fairness of the public hearings?

5 A. I think that the hearings themselves were  
6 conducted in a fair manner.

7 Q. Did you have any problem with the fundamental  
8 fairness of the siting process, the way this  
9 process worked its way through the filing of the  
10 application, the hearing, the public submission  
11 of the written comment, and the County decision?

12 A. I think that we have a very flawed process  
13 here. I -- and when you say fundamental  
14 fairness, did it comport, you know, with the  
15 statute and were the notice requirements adhered  
16 to and did the Hearing Officer allow, you know,  
17 input from everybody? Absolutely.

18 Can I say that the hearing itself in its  
19 procedural aspects was fair? Absolutely.

20 But it struck me that we have a -- we have  
21 a gargantuan project here and the level of  
22 communication to the citizens of the County  
23 was -- it was almost criminal how little the  
24 average homeowner knew about this.

1 I'll give you an example. After the  
2 project had been approved, after the formal  
3 hearings had been concluded at Kish College the  
4 mega-dump group sought Cortland Township, you  
5 know, ordinance or some sort of action by the  
6 Township, you know, basically objecting to this  
7 and feeling that that might have some sort of  
8 force of law. I don't know enough about it to  
9 tell you anything about that conclusion. But  
10 when we -- when that hearing was actually had in  
11 Cortland I think it was the biggest public  
12 gathering that I've seen in this County in a  
13 decade of going to public events, I mean there  
14 was hundreds of people there. For a town the  
15 size of Cortland, that was an astonishing  
16 turnout. What it led me to believe was that  
17 most people in this county, certainly most  
18 people in Cortland, did not know that this was  
19 transpiring as it was transpiring.

20 So it -- when I say that I think that this  
21 process is flawed, I think that the County did a  
22 horrendous job of informing the public not only  
23 the extent of this project but the ramifications  
24 of the expansion of this project, and truly what

1 kind of a colossal decision it was for the  
2 County. Like I said, I don't remember a bigger  
3 decision. I have been here 23 years, this is  
4 the biggest decision I have seen the County  
5 Board make, and it was woefully publicized to  
6 the public.

7 To this day when I'm going door to door  
8 people are -- they're outraged. I mean,  
9 Sycamore is a fairly nice town, you got educated  
10 people here, I mean people are -- you know, I'm  
11 not talking kind of the -- sometimes there's a  
12 perception of protesters as being protesters.  
13 Your average middle class person in DeKalb  
14 County is absolutely astonished that this kind  
15 of occurred right under their noses.

16 Q. Are you aware of any violations of either the  
17 Illinois Environmental Protection Act or any  
18 principles set out in the case law as it relates  
19 to the fundamental fairness of this siting  
20 process?

21 A. I wouldn't be versed enough to be able to  
22 answer that, so I would say no.

23 Q. So when you talk about the problems with the  
24 process what you're talking about principally --

1 and correct me if I am wrong, I don't want to  
2 put words in your mouth -- is that the manner by  
3 which this site location application was  
4 communicated to people in this county, people in  
5 the town of Cortland, in the City of DeKalb was  
6 not sufficient to apprise them of the key  
7 landmarks or the key events that would occur in  
8 the County's consideration and vote on the site  
9 location application?

10 A. No question about it. It's -- as a -- and I  
11 really try to -- you know, I'm thinking as I'm  
12 coming over here today, I'm a criminal lawyer.  
13 This is a very, very, very -- it's a very --  
14 this struck me as very undemocratic. It struck  
15 me as very, very high-handed and I think it --  
16 although the strict compliance with the rules is  
17 certainly there, this process is not designed, I  
18 don't think, to ensure that the public is  
19 informed about this. There's kind of a  
20 presumption that, you know, if you follow the  
21 circulars that the County Board issues or you  
22 read the back of the, you know, newspapers for  
23 public notices that that's a sufficient notice  
24 in regards to this and, you know, I don't think

1 that it was at all and I don't think it's even  
2 close.

3 You know, I'm -- you know, when you ask me  
4 whether or not the ordinances or regulations  
5 were complied with, you know I sat there and  
6 watched you put on your hearing, you're an  
7 outstanding lawyer, it was a very well done  
8 process. But this is truly a -- when you talk  
9 about fundamental fairness, the overriding  
10 elephant in the room on the fundamental fairness  
11 issue is the notion that, you know, a town of a  
12 hundred thousand people could be impacted by a  
13 decision of this magnitude largely without their  
14 knowledge.

15 Q. Were you aware of any persons who were  
16 prevented from presenting their views, their  
17 evidence, or their information to the County  
18 Board regarding the proposed expansion?

19 A. No.

20 Q. Were you aware that there was indeed a notice  
21 of the County Board hearing at which a vote was  
22 to be taken on whether to approve the host  
23 community agreement?

24 A. I think probably being somebody that follows

1 everything, I think I was probably aware of it,

2 yeah.

3 Q. Were you also aware that in the first week of  
4 November of 2009 there was a publication in the  
5 Daily Chronicle indicating that Waste Management  
6 of Illinois, Inc. would file a site location  
7 application to expand the DeKalb County Landfill  
8 on November 30th of 2009 with the County Board?

9 A. I don't have a specific knowledge of -- or  
10 recollection of reading that, but it strikes me  
11 as something that probably came across my eyes.

12 Q. Were you also aware that a notice of the public  
13 hearing to commence on March 1st, 2010 was also  
14 published by or in the Daily Chronicle in, on,  
15 or about February 10th or 11th of 2010?

16 A. I think I remember that.

17 Q. In fact, I think there's been testimony from  
18 Mr. McIntyre that the impetus to form the Stop  
19 The Mega-Dump group came after an article  
20 appeared in the Daily Chronicle describing the  
21 fact that public hearings were to commence on  
22 March 1st of 2010?

23 A. I recall there being a -- kind of a rush there;  
24 in other words, I think that that -- I can -- it

1       seems to me that that's probably shortly after  
2       maybe Mr. McIntyre and them heard about it I  
3       probably learned about it shortly thereafter.

4           And, again, it struck me as I'm sitting  
5       through the hearing and I'm listening to the  
6       extent of this expansion and the case that  
7       you're putting on, another thing that jumped out  
8       at me was the County was totally outmanned in  
9       terms of the presentation. I mean, I realize we  
10      had a lawyer that was hired and there was an  
11      expert there, I can't remember his name. But as  
12      a lawyer myself, having done a lot of trials, I  
13      didn't feel at all that the County had done an  
14      adequate job in not only calling witnesses  
15      themselves to kind of challenge some of the  
16      witnesses of Waste Management, but in the  
17      cross-examination of the Waste Management's  
18      witnesses it was almost nonexistent and if --  
19      and a very nice lady, and I don't remember her  
20      name, the attorney for the County.

21    Q.   Renee Cipriano.

22    A.   Ms. Cipriano was very nice, but even the  
23      questions that she asked were very self-serving,  
24      they were very -- they weren't probing for

1 additional information, they weren't challenging  
2 of the witnesses, they were softballs, so I'm  
3 remembering that as I sit here.

4 To get back to the fundamental fairness,  
5 if Ms. Cipriano and that engineer that was  
6 sitting there, if that was the extent of the  
7 County's side of the case, if that's truly the  
8 extent that they had gone to this thing -- you  
9 know, as I understood it, Waste Management's  
10 presenting their case, County Board members are  
11 sitting as jurors, and this witness is  
12 representing the County Board, this attorney  
13 with an expert sitting there, I was  
14 astonished at the lack of -- I won't say  
15 preparation, but just no energy at all into the  
16 performance. Most of the great questions that  
17 came out of the public came from the objectors  
18 that were sitting there. There was much better  
19 questions asked out of the audience than there  
20 was from Ms. Cipriano.

21 So, you know, it's -- getting back to your  
22 original question on the fundamental fairness,  
23 that really struck me as the County Board not  
24 really taking its job seriously in terms of

1 challenging these witnesses on the presentation  
2 that they were making.

3 I'll give you an example, if I can belabor  
4 the point here. The traffic expert that was  
5 called, outstanding, you know his credentials  
6 were great, he was very well prepared. I think  
7 he was from Michigan. He got up there and  
8 talked about the impact that this would have on  
9 the local traffic flow and stuff. It come from  
10 Mr. Steimel I think when cross-examining him  
11 that farm implement traffic hadn't really been  
12 taken into account when you're considering the  
13 traffic going in and out of the facility. That  
14 led to a series of questions that led me to  
15 believe that again the County had not adequately  
16 prepared to cross-examine these witnesses on  
17 their preparation, their study, and their  
18 ultimate opinion, which really left the  
19 impression that this presentation was just so  
20 good that there was no need to ask questions,  
21 that Ms. Cipriano had no need to do that, and I  
22 thought that was a dereliction of the County  
23 Board's responsibility.

24 I think there was a couple County Board

1 members that never asked any questions, which  
2 again is astonishing to me that they're going to  
3 make a decision on a project of this size. I  
4 don't know if Ms. Vary asked any questions. I  
5 don't know if Ms. Tobias asked any.

6 Q. Now, Mr. Campbell, are you aware of the  
7 standards that were to be applied in reviewing  
8 the site location application and whether it  
9 should be approved or disapproved was, in fact,  
10 the nine criteria that are set out in the  
11 statute?

12 A. I specifically remember the nine criteria and I  
13 specifically recall, you know, there being  
14 evidence on each criteria. You were methodical  
15 in ensuring that, you know, with each criteria  
16 that was in the statute that there was evidence  
17 to support your argument that, you know, Waste  
18 Management had met its burden and therefore it  
19 should be approved. But, again, I'm struck by  
20 the notion that, you know, if I put a one-sided  
21 case on, if I am in a Grand Jury I can indict a  
22 ham sandwich. It's only when you have somebody  
23 else in there challenging it -- and I thought  
24 that the County was left to rely on a bunch of

1 volunteer citizens and a bunch of, you know,  
2 hack lawyers like me and a retired chemist  
3 professor, and it really struck me as the good  
4 fight that was going on in there -- and when I  
5 say good fight I don't mean to imply that the  
6 presentation that you made was faulty, it's  
7 simply to say that to truly get a good decision  
8 out of that process I think would have required  
9 both sides to be adequately prepared and kind of  
10 armed for battle, so-to-speak, like a trial, and  
11 it wasn't even close.

12 Q. Would it be fair to say that an appropriate  
13 evaluation of the evidence as it related to the  
14 criteria would have had to have required an  
15 appropriate understanding as to the proper  
16 considerations that would be applied in  
17 evaluating those criteria?

18 A. I think that's a fair statement.

19 Q. And that, in fact, there may have been evidence  
20 presented in terms of the cross-examination you  
21 just mentioned --

22 A. Sure, sure.

23 Q. -- of Mr. Miller -- who was from Barrington, by  
24 the way.

1 A. I'm sorry. Who was from Michigan? Or maybe he  
2 had done studies in Michigan?

3 Q. Yes, he had done work there.

4 A. That's right.

5 Q. But certainly from the standpoint of addressing  
6 some of those issues that were of concern and  
7 perceived of a concern to citizens and others  
8 may indeed not have truly been a relevant  
9 standard as it related to whether the criterion  
10 was met or not met; is that possible?

11 A. That's possible but I -- again, I just have to  
12 say this, if you put an expert on to say that  
13 the air quality is going to be fine or that the  
14 traffic patterns aren't going to be disrupted,  
15 if you put an expert on there with the  
16 credentials that your experts had -- and they  
17 were all excellent -- then if you don't counter  
18 those opinions with somebody of equal weight  
19 then you're really outmatched and you really  
20 aren't getting a full fleshing out of the issues  
21 that were before the County.

22 So I'm simply trying to say I thought the  
23 notion that having a guy that works in an  
24 engineering firm, an engineer, and having an

1 attorney sitting there and having that be the  
2 extent of the County's case it struck me as  
3 being -- and I think you recall me saying I have  
4 nothing against Waste Management, but it struck  
5 me as being a giant corporation that really did  
6 its homework going up against a County Board  
7 that didn't and it showed in the presentation.

8 Q. And do you have any information as to the  
9 amount of time that was spent by the County's  
10 consultant in reviewing the application and  
11 whether the application complied with any of the  
12 statutory criteria?

13 A. I only saw the -- him at the public hearings  
14 themselves. It just, again, struck me as -- you  
15 called eight or nine experts to testify in  
16 regards to the various criteria, and if I  
17 understood it correctly this guy was from, you  
18 know, an engineering firm, I never could tell  
19 whether he was an expert in all these different  
20 fields or whether he went back to his place and  
21 they had experts all in the fields. So again, I  
22 didn't -- I didn't -- that part of it didn't  
23 jive with me. I didn't feel like the County had  
24 called competing experts to try to, again, flush

1       this stuff out, which is what I think you need  
2       to do to make sure the County Board makes an  
3       informed decision.

4    Q.   Would it be accurate to say that your view is  
5       that the County consultant's performance at the  
6       hearing did not make the proceedings  
7       fundamentally unfair but perhaps might suggest  
8       that the review performed by the County was not  
9       what you would have expected or liked to have  
10      seen from the County?

11   A.   I think that if you're going to, as you did in  
12       this case, have a hearing and I think if what  
13       you're stating that you're doing in having this  
14       hearing pursuant to statute is that you're  
15       actually going to present these criteria to the  
16       County Board and have them make a decision on  
17       it, then I don't see how -- you know, you get to  
18       that fundamental fairness, I don't see how it's  
19       fundamentally fair to have such a one-sided  
20       presentation be made and then have us conclude  
21       that the information presented at the hearing  
22       that was used to decide whether or not each  
23       individual board member was going to approve it  
24       or disapprove it I think that, you know, there's

1 a flaw there in the process.

2 Now, I'm kind of getting, you know, where  
3 you're going with that. I don't think that -- I  
4 don't think that the process in itself is  
5 unfair, and I think that the process is designed  
6 there during the hearing that I witnessed to  
7 have ample opportunity for everybody to present  
8 their side. But, you know, again, I'm struck, I  
9 do think it's fundamentally unfair to have such  
10 a one-sided case be put on and to not have  
11 any -- I mean, we didn't even have any  
12 discussion amongst the County Board members. I  
13 never heard anybody talk about, you know, we  
14 have got a traffic expert that just testified,  
15 do we have a traffic expert? Do we have a -- I  
16 think you had a water hydrologist testify. I  
17 mean, it just struck me that we were kind of --  
18 I don't know if it was because of cost. In  
19 fact, it would be a curious factor to determine  
20 how much the County Board spent on this to hire  
21 these individuals and how much Waste Management  
22 spent. I suspect that if I looked at those  
23 numbers I might see the kind of disparity I  
24 would expect if you consider the presentation.

1 Q. Do you have any information to indicate whether  
2 the County, in fact, had experts review other  
3 portions of the application and other criteria  
4 even though those experts may not have attended  
5 the hearing and obviously they didn't testify?

6 A. I -- to answer your question, it's no. I  
7 suspect that's the only way I could walk out of  
8 there and think that they're going to be fully  
9 informed in making their decision.

10 Q. Did you ask anyone at the County whether, in  
11 fact, they that had experts who had reviewed --

12 A. I kept being told that I was violating the law  
13 if I tried to communicate, so I stayed away from  
14 everybody.

15 Q. You didn't ask Ms. Cipriano or one of the  
16 non-decision makers if --

17 A. I can't remember if I -- you know, the problem  
18 with her was she was so engaging, she was very  
19 nice, and obviously, you know, she knew the  
20 hearing process. But if there were other  
21 experts that were relied upon, I didn't hear or  
22 review their testimony. But, again, if you're  
23 getting back to fundamental fairness and this is  
24 a public hearing where the evidence is

1 presented, again, it strikes me as odd that the  
2 County would rely on experts that they didn't  
3 put forth and present to the public and to the  
4 County Board so we could all see what exactly  
5 information it was that they relied upon.

6 I realize that the -- I think you even  
7 made a point of it, I know the Hearing Officer  
8 did, that, you know, we're going to make these  
9 records available, I think you could download  
10 them onto a disk, and I think all of that stuff  
11 was -- I thought that was a nice part of it, but  
12 you're still talking about trying to -- you  
13 know, thousands and thousands of documents that,  
14 you know, I think the average middle class  
15 homeowner here just -- there's just no way that  
16 this information was going to get imparted to  
17 them.

18 Q. And I believe you also indicated that part of  
19 your objection to just the way this process has  
20 been set up is that it's not appropriately  
21 democratic; would that be correct?

22 A. Absolutely. If you're going to -- if you're  
23 going to call this a democratic process then to  
24 me, you know, that information that the public

1 gets, I mean you really have to go out of your  
2 way to let them know. I think -- I'll give you  
3 an example here. We have a -- what's the gas in  
4 basements that everybody worries about?

5 Q. Radon?

6 A. Radon. We have a radon problem here that goes  
7 on. So about every couple of months the City of  
8 Sycamore sends every resident a little IEPA or  
9 whatever it is saying, hey, just want to let you  
10 know we're working on the water problem but law  
11 requires us to inform you that the radon  
12 quantities in the water or the air in your  
13 basement exceeds state or federal law.

14 It struck me that some of the efforts that  
15 we see in communicating some of the issues to  
16 the public far exceeded the efforts that were  
17 made in this case to inform the public. And I  
18 realize it was in the paper and the public  
19 notices were there, but if you consider the  
20 communication effort and compare it to the  
21 gravity or the magnitude of the project it's not  
22 even close to me.

23 MR. MORAN: Well, thank you, Mr. Campbell.

24 I have no further questions.

1 EXAMINATION

2 BY MS. ANTONIOLLI:

3 Q. Well, you mentioned again that the County --  
4 let me start over.

5 Were you aware that the County had both  
6 technical and legal experts, consultants prepare  
7 a report that analyzed each of the criteria,  
8 that analyzed the application?

9 A. I did learn that.

10 Q. As well as took into consideration the comments  
11 that were filed throughout the end of the public  
12 comment period?

13 A. I did learn that. But, again, I want to make  
14 sure my point's clear, to not cross-examine  
15 those witnesses when they're there or not have  
16 the ability to call expert witnesses after those  
17 witnesses testified you're really diminishing  
18 the fact finding process. So I'm not disputing  
19 that the County didn't have other people review  
20 it, I'm not disputing, you know, that part of  
21 it. But if you're actually talking to me about  
22 the public hearing that I witnessed, not having  
23 those individuals there or that substantive  
24 cross-examination of the witnesses I think was

1 negligent.

2 Q. And you also mentioned back a ways in  
3 discussing the hearing that there may have been  
4 some County Board members that weren't decision  
5 making entities, am I --

6 A. I just mean that there -- obviously the full  
7 County Board ultimately voted on this so I know  
8 that everybody on the County Board had a part in  
9 making a decision on this case, whether up or  
10 down. I was just referring to there was a  
11 distinction for all of us during that hearing  
12 that those factfinders, County Board members  
13 that were acting as factfinders were a separate  
14 entity from the rest of the people on the County  
15 Board.

16 Q. But you understood that all of the entire full  
17 County Board voted on the application?

18 A. I did. I was actually there.

19 MS. ANTONIOLLI: Okay. I think that's all  
20 I have.

21 MR. MORAN: George?

22 MR. MUELLER: I don't have any questions.

23 MR. MORAN: Thank you, Mr. Campbell.

24 As you know, you have the opportunity to

1 review the transcript if and when it's prepared.

2 You would be notified, given the opportunity to

3 go to the court reporter's office and review it.

4 Otherwise you can trust that she's transcribed

5 everything accurately and waive signature.

6 THE WITNESS: I have actually had the  
7 privilege of working with this young lady, and I

8 trust her abilities far beyond mine. I waive

9 signature.

10 MR. MORAN: Very good.

11 (The deposition was concluded at

12 4:50 p.m.)

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1 CERTIFICATE  
2

3 I, Callie S. Bodmer, a Certified Shorthand  
4 Reporter in and for the State of Illinois, do hereby  
5 certify that, pursuant to the agreement herein  
6 contained, there came before me on the 26th day of  
7 October 2010 at 3:35 p.m. at the DeKalb County  
8 Legislative Center, 200 North Main Street, Sycamore,  
9 Illinois, the following-named person, to-wit:  
10 CALVIN CLAY CAMPBELL, who was duly sworn to testify  
11 to the truth and nothing but the truth of his  
12 knowledge concerning the matters in controversy in  
13 this cause; that he was thereupon examined on his  
14 oath and his examination reduced to writing under my  
15 supervision; that the deposition is a true record of  
16 the testimony given by the witness, and that the  
17 reading and signing of the deposition by said  
18 witness were expressly waived.

19 I further certify that I am neither  
20 attorney or counsel for, nor related to or employed  
21 by, any of the parties to the action in which this  
22 deposition is taken, and further, that I am not a  
23 relative or employee of an attorney or counsel  
24 employed by the parties hereto or financially  
interested in the action.

In witness whereof I have hereunto set my  
hand this 11th day of November 2010.

Callie S. Bodmer  
Certified Shorthand Reporter  
Registered Professional Reporter  
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<p><b>A</b></p> <p>abilities 64:8 ability 62:16 able 9:9 46:21 aboveentitled 1:24 absolutely 30:15 34:16 41:11 44:17 44:19 46:14 60:22 access 9:14 11:3 account 52:12 accurate 7:15 17:6 57:4 accurately 64:5 acquainted 7:16 act 28:22 30:23 46:17 acting 63:13 action 1:24 42:19 45:5 65:12 65:14 active 10:15,15 16:6 18:8 22:5 30:5 actual 29:10 additional 21:10 51:1 address 5:3 addressing 55:5 adequate 50:14 adequately 52:15 54:9 adhered 44:15 adjectives 29:3 admonishing 23:14 admonishment 23:17 25:5 advance 12:9 advice 23:5 24:14 agent 35:13 ago 16:22 18:4 agreement 1:23 7:21 8:5 8:12 36:7,18 36:23 37:5,7 48:23 65:4 agreements 37:15 air 43:14 55:13 61:12 alleged 17:2 20:20 allegedly 17:15 18:18 alleging 26:22 allies 16:9 allow 44:16 amount 36:4 56:9 ample 58:7</p>	<p>amy 2:5 analyzed 62:7,8 anderson 2:2 31:15 angry 25:22 29:6 anne 30:17 31:10 answer 8:24 12:23 46:22 59:6 anticipated 42:20 antoniolli 2:5 3:7 62:2 63:19 anybody 22:22 23:24 43:3 58:13 anymore 16:24 appeal 4:7,17 35:2 appear 14:14,14 appearance 5:15 appearances 2:1 appeared 14:17 30:5 49:20 appearing 14:21 application 4:20 6:21 8:22 9:9,10,15,16 10:10,11 11:5 12:10 13:7 30:13 31:24 33:19 36:13,16 44:10 47:3,9 49:7 53:8 56:10,11 59:3 62:8 63:17 applied 53:7 54:16 apprise 47:6 approach 19:19 approached 21:6 29:7 appropriate 33:7 54:12,15 appropriately 60:20 approval 4:19,21 approve 12:9 13:6 32:16 33:4 48:22 57:23 approved 37:14 45:2 53:9,19 approving 37:11 43:22 approximately 41:3 arcane 8:7 arent 55:14,20 argue 10:4 argument 14:1,3 15:1 43:20 53:17 armed 54:10 arrogant 30:18 article 49:19 articles</p>	<p>41:14,17 asked 18:11 31:16 50:23 51:19 53:1,4,5 asking 4:16 24:16 aspect 32:19 aspects 44:19 assisted 16:5 associated 16:12 astonished 30:17 34:16 46:14 51:14 astonishing 45:15 53:2 atmosphere 28:6,10,16 33:23 34:1,4 attempt 9:8 10:22 attend 38:22 39:1,16 39:21 41:15 attendance 31:8 attended 18:17 20:8 59:4 attending 38:16 attention 15:10 attitude 30:18 attorney 2:2,5,10 3:6,7 6:1 7:7 16:17 34:12 34:20 35:1 50:20 51:12 56:1 65:12 65:13 attorneys 6:24 audience 51:19 available 9:24 60:9 average 44:24 46:13 60:14 aware 7:19,23 20:24 22:12,17 34:24 35:10 36:3,22 37:11,12 39:22 41:12 46:16 48:15 48:20 49:1,3 49:12 53:6 62:5 awful 27:18 35:22 awhile 31:12</p> <p><b>B</b></p> <p>baby 18:3,10 22:1 back 26:24 31:13 32:20 36:24 43:11 47:22 51:4,21 56:20 59:23 63:2 barrington 54:23 basement 61:13 basements 61:4 basically 5:22 31:22</p>	<p>45:6 basis 42:10 battle 54:10 bee 18:14 belabor 52:3 belaboring 34:21 believe 7:3 36:5,11 38:11 41:3 45:16 52:15 60:18 benefit 36:8 37:11,13 berkshire 5:4,5 better 12:20 19:3 51:18 beyond 64:8 bigger 46:2 biggest 13:23 39:19 45:11 46:4 bit 15:10 29:19 37:1 39:9 board 1:1,6 2:8 4:9 4:9 12:8 13:6,21 14:6 22:13,23 23:21 24:7,9 24:15,23 25:5,7,20,24 26:1,6,12,15 26:18,18,24 27:2,3,5,10 27:14,17,22 28:12 29:15 29:20,23 30:2,4,9,11 30:16 31:22 33:18 35:3 35:16 37:10 37:20 38:3 42:19 46:5 47:21 48:18 48:21 49:8 51:10,12,23 52:24 56:6 57:2,16,23 58:12,20 60:4 63:4,7 63:8,12,15 63:17 boards 52:23 bookman 22:23 23:2,6 24:21 26:2 26:12 28:24 29:2 30:7 bockmans 21:1 24:14 bodmer 1:21 65:3,20 bolts 8:4 bonds 13:14 32:21 bothered 25:20 bothers 13:24 box 65:22 brady 15:16 brains 24:12 brought 6:10 brusque</p>	<p>29:2 bubbling 8:9 bunch 28:6 53:24 54:1 burden 53:18 business 5:17 18:1 button 15:3</p> <p><b>C</b></p> <p>call 33:14 37:8,17 60:23 62:16 called 6:2 31:18 52:5 56:15,24 callie 1:20 65:3,20 calling 50:14 calvin 1:6,17 3:3 5:1 5:1 65:6 campaign 15:23 16:6 19:1 22:3 34:11 campaigning 6:10 campbell 1:7,17 3:3,12 4:1,5,14 5:2 5:2,3,6,8,18 12:17 34:21 53:6 61:23 63:23 65:6 candidate 5:24 cant 10:19 24:17,18 25:19 27:8 28:24 29:12 29:14 32:16 40:23 50:11 59:17 capacity 14:19 23:6 case 38:12 46:18 50:6 51:7,10 53:21 56:2 57:12 58:10 61:17 63:9 cases 14:5 cause 65:8 cautionary 25:4 ccd 26:13 center 1:18 65:5 certain 14:8 27:14 30:11 31:1 34:5 certainly 30:22 31:19 45:17 47:17 55:5 certificate 3:20 certified 1:21 65:3,21 certify 65:4,11 chagrined 23:13 27:6,10 28:18 29:16 30:1 challenge 50:15 challenging 51:1 52:1 53:23</p>	<p>chambliss 28:1 change 39:20 chavrot 10:14 chemist 43:3 54:2 chicago 2:7,11 children 23:9 chose 38:18,22 chosen 27:15,16 39:13 chronicle 26:8 49:5,14 49:20 cipriano 50:21,22 51:5 51:20 52:21 59:15 circulars 47:21 citizen 14:24 15:5 24:5 citizens 10:22 24:15 25:7,22 28:7 31:1 34:15 39:7 44:22 54:1 55:7 city 47:5 61:7 civic 39:14 clark 2:11 class 46:13 60:14 clay 1:6,17 3:3 4:1 4:5 5:1,2 19:1 65:6 clear 14:23 32:9 62:14 clerk 15:17 16:14 40:14 41:9 clerks 9:21 40:24 close 48:2 54:11 61:22 colleagues 16:8 college 6:8 17:22 22:18 37:18 39:3 45:3 colossal 46:1 come 12:14 25:16 27:23 29:18 33:4 42:22 52:9 comfortable 27:3 coming 47:12 commanding 5:15 commence 49:13,21 commenced 6:21 commencing 1:20 comment 12:15 14:2 18:18 24:8 44:11 62:12 comments 62:10 communicate 14:9 59:13</p>
---	---	---	--	--	---

communicated 24:6 47:4	control 1:1 4:8	28:2 40:8	1:6,17 4:5,7	dixon 65:23	elephant 48:10
communicating 24:23 25:23 61:15	controversy 65:7	42:13 52:24 61:7	5:9 64:11 65:9,10,13	documentation 9:23	eligibility 41:17
communication 22:14 23:24 28:10 35:15 35:20 44:22 61:20	conversation 20:16	course 34:24	dereliction 52:22	documents 20:1 60:13	email 22:22,24 24:22 25:4,4,10,18
communications 23:17 38:2	conversations 8:16 20:11 29:21 32:6 34:14 37:16	court 4:24 5:4 64:3	derision 31:19	doesn't 19:2	doing 57:13
community 6:18 7:11,21 8:12 15:3 27:14 48:23	convinced 43:18,24	courthouse 13:15 32:3,5 32:10,13 33:9,24	derogatory 17:16	don 4:14	employed 18:2 21:24 65:12,14
compare 61:20	copy 9:8,16 11:4 25:17	credentials 52:5 55:16	describe 36:1	donald 2:10	employee 35:13 65:13
compensation 35:24	copying 10:1	criminal 14:4 44:23 47:12	describing 49:20	donation 11:10,18 16:3	employment 16:20
competing 56:24	corporation 56:5	criteria 53:10,12,14,15 54:14,17 56:12,16 57:15 59:3 62:7	designed 47:17 58:5	dont 6:9 7:23 10:2 11:1,9,19,20 11:21 12:3 12:12,15,24 12:24 13:16 18:2 19:2,21 19:23 20:8 20:15,17,22 21:8,16,22 22:19 24:11 25:21 27:16 27:24 28:13 28:13,14 29:1,5,9 31:11 33:13 33:21 34:21 39:17 41:19 42:3 45:8 46:2 47:1,18 47:24 48:1 49:9 50:19 53:4,5 54:5 55:17 57:17 57:18 58:3,4 58:18 63:22	energy 51:15
complaining 28:8	correct 11:6 14:20,23 17:5,8 19:14 19:16,18 26:9 36:21 47:1 60:21	criterion 55:9	desire 38:21	door 46:7,7	engage 37:19
complaints 9:20	correctly 56:17	crosssexamin... 50:17 54:20 62:24	development 11:22	download 60:9	engaged 31:17
complete 33:5	cortland 6:11 8:18	crosssexamine 52:16 62:14	didn't 8:3,10 17:6 18:23 20:23 22:24 23:5 26:21 30:23 31:17,18 33:21 39:10 42:24 50:13 56:7,22,22 56:22,23 58:11 59:5 59:15,21 60:2 62:19	dr 43:5,18	engaging 59:18
completed 34:6	cost 58:18	crosssexamining 52:10	different 56:19	drive 2:6	engineer 51:5 55:24
compliance 47:16	couldnt 32:11 38:7 39:2,21 42:2	curious 58:19	difficultly 10:4,9	duly 4:2 65:6	engineering 55:24 56:18
complied 48:5 56:11	counsel 2:4,8,12 65:12 65:13	currently 21:24	diminishing 62:17	dump 8:9 13:18 15:8 32:24	ensure 41:24 47:18
comport 44:14	counter 55:17		direct 29:5	earlier 36:11	ensuring 42:6 53:15
comprehensive 43:7	county 1:6,7,18 2:8,9 4:9,10 6:1 7:13,19 9:11 11:3 12:8 13:5,11,21 14:6 16:7 18:7 22:13 22:23 23:21 24:6,6,9,23 25:5,7,20,24 25:24 26:6 26:12,15 27:10,14,17 27:22 28:12 29:20,23 30:2,9 31:22 33:18,24 34:5,9 35:8 35:16,23 36:9 37:10 37:20 38:3 39:22 40:14 41:9 42:19 44:11,22 45:12,17,21 46:2,4,14 47:4,21 48:17,21 49:7,8 50:8 50:13,20 51:10,12,23 52:15,22,24 53:24 55:21 56:6,23 57:2 57:5,8,10,16 58:12,20 59:2,10 60:2 60:4 62:3,5 62:19 63:4,7 63:8,12,14 63:17 65:5	daily 26:8 49:5,14 49:20	directly 16:18 35:17	earliest 26:13 41:24 44:17 58:7 59:14 61:4 63:8	entire 32:19 63:16
concern 55:6,7	concerned 15:5	dan 6:14	disagree 32:9	effort 41:24 61:20	entities 27:23 63:5
concerning 65:7	concluding 45:3 64:11	dancing 37:6	disagreements 16:10	effect 12:8,17 13:5 18:24 21:3 24:20 35:11	entity 14:22 63:14
conclude 33:7 57:20	conclusion 32:14 33:1,16 45:9	date 20:2	disapprove 57:24	either 8:15,24 9:8,15 11:3 16:16 25:12,17 26:7 28:20 31:23 33:8 39:1 40:19 41:7 46:16	environmental 46:17
concluded 45:3 64:11	conclusions 37:15	day 6:7,16 16:21 20:17 23:21 34:9 46:7 65:4,16	disapproved 53:9	election 35:1 38:17	equal 55:18
conclusion 32:14 33:1,16 45:9	conductive 28:16 39:14	deal 12:16 39:18	discovery 4:5	eggs 43:15	escapes 40:7
conclusions 37:15	conducted 40:1 44:6	dealings 7:15	discuss 24:18	egg 43:15	essentially 43:20
concluding 45:3 64:11	connection 4:18 7:5 15:22 18:6	decade 45:13	discussed 21:6 34:18,19 43:9	eight 15:19 56:15	etna 2:3
conclude 33:7 57:20	consider 37:22 58:24 61:19	decide 57:22	discussing 63:3	evaluation 54:17	evaluating 54:17
concluded 45:3 64:11	consideration 47:8 62:10	decided 12:9 13:2,6 14:12 27:4 32:12 33:2 33:19 41:15	discussion 9:23 11:17 20:19 23:11 32:3 35:22 58:12	events 45:13 47:7	evaluating 54:17
conclusion 32:14 33:1,16 45:9	considerations 54:16	decision 13:22 23:22 27:22 31:7 34:4 35:3 44:11 46:1,3 46:4 48:13 53:3 54:7 57:3,16 59:9 63:4,9	discussing 63:3	everybody 12:18 14:24 19:1 23:15 26:13 41:24 44:17 58:7 59:14 61:4 63:8	evaluation 54:13
conclusions 37:15	considering 52:12	decide 57:22	discussion 9:23 11:17 20:19 23:11 32:3 35:22 58:12	evidence 31:24 33:11,20 48:17 53:14 53:16 54:13 54:19 59:24	events 45:13 47:7
concluding 45:3 64:11	constituents 24:22 26:16	decided 12:9 13:2,6 14:12 27:4 32:12 33:2 33:19 41:15	discussions 13:10 36:6,8 39:7 42:17	everybody 12:18 14:24 19:1 23:15 26:13 41:24 44:17 58:7 59:14 61:4 63:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9	consultant 56:10	decision 13:22 23:22 27:22 31:7 34:4 35:3 44:11 46:1,3 46:4 48:13 53:3 54:7 57:3,16 59:9 63:4,9	discovery 4:5	evangelical 3:5 4:12 62:1 65:8	events 45:13 47:7
conclusions 37:15	consultants 57:5 62:6	definitely 28:5	discuss 24:18	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11	contact 25:7	dekalb 1:6,18 2:8 4:10 5:24 7:13,19 12:8 13:5 16:7 18:7 21:20 35:16 38:3 39:10 46:13 47:5 49:7 65:5	discussed 21:6 34:18,19 43:9	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9	contacting 24:15	democratic 60:21,23	disparity 58:23	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15	contained 36:17 37:23 65:4	denied 11:3	disputing 62:18,20	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11	contention 21:12	deposition 16:2 18:9 23:3	disrupted 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9	context 10:3 22:15		dissemination 22:20	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15	continues 16:21 35:2		distinction 63:11	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11	contributed 16:5		distinctly 19:5 20:15,18 28:8	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,16 45:9			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusions 37:15			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
concluding 45:3 64:11			disruption 55:14	evangelical 3:5 4:12 62:1 65:8	evaluation 54:13
conclusion 32:14 33:1,1					

exhibits 3:10	59:23	followingnamed 65:6	goes 61:6	12:7,21 17:9	45:14
existence 8:11	familiar 6:2,5,7	follows 4:3 48:24	going 7:6 8:1 9:4	17:15 20:12	hydrogen 43:2,8,23
existing 7:22	family 39:2	force 45:8	11:14 12:1,5	20:21 38:14	hydrologist 58:16
exists 34:9	far 22:10 61:16	forcefully 23:7	14:6,13	43:12 50:2	
expand 32:4 49:7	64:8	forget 40:15	15:17 16:15	58:13	hearing 6:8 9:7,18
expansion 7:22 13:14,15	farm 52:11	form 35:2,14 49:18	17:21 21:9	10:17 12:9	I
13:19 20:6	fauci 31:11	formal 13:2 37:18	12:10 23:11	12:13 13:2	id 25:2
24:7 32:13	faulty 54:6	45:2	24:2 26:14	17:2 18:17	idea 22:21 37:7
32:24 33:9	february 7:2 13:13	6:13	27:1,5 29:4	19:17 21:2	identification 5:7
33:11 34:11	49:15	former 29:20,22	30:12 32:22	21:13 22:8	identify 29:14
35:9,15	federal 61:13	forth 60:3	32:23 33:2,4	22:16 23:18	iepa 61:8
36:20 38:5	feel 10:19 39:10	four 15:8 18:3,4	33:5 36:3	24:1,3,8,19	il 65:22
42:8,11	42:14 50:13	20:8	37:13,19	24:24 27:17	ill 5:9 45:1 52:3
45:24 48:18	56:23	fourth 21:23	38:6 39:11	27:19,23	61:2
50:6	feeling 28:9 29:5 34:8	frame 39:17	39:15,24	35:21 36:24	illinois 1:1,7,7,19,22
expect 58:24	45:7	frames 38:8	42:18,21,23	37:2,18,23	2:3,7,9,11
expected 57:9	fees 10:1	friend 17:14	45:13 46:7	38:22 39:13	2:13 4:8,10
expert 50:11 51:13	felt 10:23 39:15	front 13:16	52:13 53:2	40:5,7,18	4:11,15,21
52:4 55:12	fiction 37:4	full 4:24 5:1 55:20	54:4 55:13	41:4,10,15	7:20 35:14
55:15 56:19	fields 56:20,21	63:6,16	55:14 56:6	41:18,23	36:19 38:3
58:14,15	fight 54:4,5	fully 59:8	57:11,15,23	42:7,22	46:17 49:6
62:16	figured 34:7	fundamental 44:4,7,13	58:3 59:8	44:10,16,18	65:3,6,23
expertise 12:4	file 49:6	46:19 48:9	60:8,16,22	45:10 48:6	im 5:19,21,24 7:9
experts 43:10 55:16	filed 4:17,20 8:22	48:10 51:4	60:23	48:21 49:13	9:19 12:20
56:15,21,24	62:11	51:22 57:18	good 11:8 28:11	50:5 57:6,12	14:4 15:2,7
59:2,4,11,21	filing 44:9	59:23	11:8 28:11	57:14,21	15:17 16:15
60:2 62:6	finance 34:8	fundamentally 57:7,19 58:9	52:20 54:3,5	58:6 59:5,20	17:21 20:5
explain 43:15,16,17	financial 35:22 37:11,13	61:24 65:11,13	54:7 64:10	59:24 60:7	21:19 26:24
explored 9:6	42:15		governed 39:23	62:22 63:3	27:20 28:5
express 33:23	financially 36:8 65:14		grand 53:21	63:11	28:23 29:3
expressed 38:16,21	find 12:5		gravity 61:21	hearings 6:20 8:13,23	29:21 30:17
expressly 65:10	finding 62:18		great 24:12 51:16	11:11 14:15	32:5,7,8,18
extent 8:10 13:8 14:8	fine 55:13		guess 15:17 16:15	14:17,21	33:22 35:10
24:1 34:19	firm 2:2,6,10 15:16		17:21 26:20	20:3 22:18	37:2 38:8
45:23 50:6	16:12,24		28:14	27:24 30:14	39:11 43:3,3
51:6,8 56:2	55:24 56:18		guy 18:9 55:23	34:1 38:17	46:7,10
extrapolate 32:15	first 4:2 6:14,16		56:17	44:4,5 45:3	47:11,11,12
extremely 30:1	7:4 8:11		hack 54:2	49:21 56:13	48:3 50:4,5
eyes 49:11	11:13 40:9		hadnt 37:5 52:11	heavyhanded 26:2	51:2 53:19
	49:3		ham 53:22	help 22:4	55:1,22 58:2
	five 10:14 17:21		hand 65:16	hereto 65:14	58:8 62:18
	18:3		handed 19:15	hereunto 65:15	62:20
	flaw 58:1		handled 29:1	hes 16:2,5,6 29:2	impact 52:8
	59:11 62:18		handwrote 19:13	29:4,20	52:8
	flashed 44:12 45:21		happened 38:10	hey 61:9	impacted 48:12
	fleshing 55:20		hardin 2:6	highhanded 47:15	imparted 60:16
	florida 31:5		harmful 43:17	hillcrest 21:22	impartial 42:23
	flow 52:9		harmless 43:19	hindsight 43:11	impartiality 14:11
	flush 56:24		hasnt 34:22	hire 12:1 58:20	impediment 25:23
	focus 22:11		hate 10:13	hiring 11:17	impetus 49:18
	22:11		haven't 22:1,6	homeowner 44:24 60:15	implement 52:11
	folder 19:24		health 43:21	homework 56:6	54:5
	follow 47:20		hear 12:21 13:3,4	honest 8:5 12:2 15:4	important 34:5
	following 6:18		17:6,12,16	honestly 10:19	imposed 29:11
			18:23,23	horrendous 45:22	impression 25:21 27:9
			20:23 24:2	host 7:21 8:5,12	28:19 29:15
			26:21 59:21	36:6 48:22	30:7,10 31:2
			heard 4:16 6:12,19	hot 15:3	31:9,13
			8:6 9:4 10:8	houpt 2:10	32:12 52:19
				house 15:6	impressions 31:21
				huge 15:5	inclined 33:10
				hundred 48:12	inclusion 42:6
				hundreds	index 3:1
					indicate 38:20 59:1

indicated 60:18 indicating 49:5 indict 53:21 indirectly 35:19 38:1 individual 9:19 14:18 57:23 individuals 58:21 62:23 inform 61:11,17 information 9:13 10:5,8,10 11:2 12:7 13:4 21:11 22:21 24:20 25:16 26:5 26:17,22 33:17 35:11 35:18 37:23 37:24 38:15 38:20 40:12 48:17 51:1 56:8 57:21 59:1 60:5,16 60:24 informational 11:15 informed 47:19 57:3 59:9 informing 45:22 initially 16:13 input 31:14 44:17 instance 10:12 36:2 41:19 instances 38:24 instructed 28:21 interaction 28:17 interest 38:16 interested 31:14 65:14 interesting 39:4 introducing 40:10 invited 6:13 involved 15:23 25:14 35:23 involving 36:8 isnt 40:13 issuance 13:14 32:21 issue 10:17 13:11,24 15:3 31:14 32:7 34:11 34:14,17,22 41:21 43:3,8 43:19 48:11 issues 34:15 42:15 47:21 55:6 55:20 61:15 ive 34:13 45:12	job 45:22 50:14 51:24 jumped 50:7 jumps 39:20 jurors 51:11 jury 14:7 21:4 24:4 37:21 53:21	60:7,8,13,14 60:24 61:2 61:10 62:20 63:7,24 knowing 20:14 knowledge 8:4 10:21 11:1 12:12 13:1 33:22 40:3 48:14 49:9 65:7 known 7:10,11 15:13 15:14,18 17:20 knows 12:5 18:15	little 15:10 37:1 39:9 44:23 61:8 live 5:4 15:7 21:18 lives 21:19,20,21 llp 2:6 local 39:22 40:21 41:13 52:9 location 4:19 6:20 8:21 9:9,10,14 10:10,11 11:4 12:10 36:13,16 39:24 47:3,9 49:6 53:8 logic 33:14 logical 33:1 long 7:11 15:13 17:20 look 14:1 23:2 43:13 looked 58:22 looking 43:11 looks 30:19 lot 8:1,1,7 18:15 21:7 27:18 29:3 35:22 38:9 50:12	25:21,21 26:11 27:11 27:13 28:19 29:3,7 30:19 40:23 41:2 45:13 46:8 46:10 50:9 54:5 58:11 58:17 61:1 63:6 means 11:9,20 media 40:21 megadump 1:3 4:9,18 6:3 7:6 8:16 10:16 11:7 25:15 26:7 40:20 41:8 45:4 49:19 member 11:7 16:6 17:22 26:6 26:18 29:20 29:23 33:18 35:16 57:23 members 22:13,24 23:21 24:15,24 25:5,8,20,24 26:1,7,12,15 26:18 27:1,2 27:4,5,10,15 27:18,18,22 28:12 29:15 30:11,16 31:22 37:20 38:4 40:20 41:7 51:10 53:1 58:12 63:4,12 membership 11:9,20 memorandum 36:17 37:9,16 mention 41:2 mentioned 17:1 30:10 54:21 62:3 63:2 met 6:14 7:4 11:13 17:23 18:9 53:18 55:10 55:10 methodical 53:14 michigan 52:7 55:1,2 middle 46:13 60:14 miles 15:8 miller 54:23 million 32:4 mind 30:22 minds 30:12 31:23 mine 17:14 64:8 mom 18:5 moment 5:20 money 13:22 14:13 32:11 33:3 36:2,4 42:18 months 18:3,4 61:7 moran 2:10 3:6 4:4 4:13,14 61:23 63:21 63:23 64:10	mother 22:11 mott 25:13 mouth 47:2 mueller 2:2,2 63:22
	K	L	M	N	
	kenney 6:14 7:5 25:13 kept 59:12 kevin 28:1 key 47:6,7 kids 39:18 kind 6:11 7:24,24 8:3,9 10:3 11:14,22 18:11 21:5 22:6,8 23:7 23:8,11,14 27:6,24 37:4 37:6 40:13 46:1,11,14 47:19 49:23 50:15 54:9 58:2,17,23 kinds 33:17 kish 6:8,16 11:11 45:3 kishwaukee 22:18 37:18 39:2 knew 7:6 8:8,8 44:24 59:19 knock 19:5 know 8:6,10,17 9:17 10:23,24 11:9,19,20 11:24 12:3,4 12:4,18 13:19 14:2,4 15:6,7,10,11 18:11,12,13 18:14 19:5 19:24 20:8 20:14 21:1 21:14,21,24 22:9 23:2 24:12 25:23 26:1,14 27:15,16,20 28:1,2,7,12 29:1,1,5,9 29:21,23 30:3,20,24 31:7,12 32:1 32:2 33:14 34:21 36:1 37:9 38:7 40:11,19 41:22,22 42:19 43:21 44:14,16 45:5,6,8,18 46:10 47:11 47:20,22,24 48:3,3,5,11 51:9,21 52:5 53:4,5,13,15 53:17,20 54:1 56:18 57:17,24 58:2,8,13,18 59:17,19	lack 30:18 51:14 lady 50:19 64:7 landfill 7:22 34:10 49:7 landmarks 47:7 largely 48:13 late 16:15 law 15:15,17 16:12 16:13 29:12 45:8 46:18 59:12 61:10 61:13 lawyer 5:19 11:12,17 12:1 14:4 47:12 48:7 50:10,12 lawyers 16:9 54:2 leaked 26:18 learn 8:21 21:10 40:16 62:9 62:13 learned 8:20 9:1 41:6 43:23 50:3 leave 32:10 led 36:5 45:16 52:14,14 left 16:15,16,16 52:18 53:24 legal 23:5 35:7 62:6 legislative 1:18 65:5 level 44:21 liberal 42:6 license 65:22 liked 37:9 38:7 40:11,19 41:22,22 29:11 limited 28:20 line 32:22 lines 19:4 listen 27:24 listening 50:5 literally 17:11	mac 6:15 magnitude 48:13 61:21 main 1:19 13:9 65:5 major 31:7,7 makers 59:16 making 23:22 27:23 42:20 52:2 59:9 63:5,9 management 1:7 2:13 4:10 4:15,20 7:20 35:14 36:10 36:19 38:2 43:6,13 49:5 50:16 53:18 56:4 58:21 managements 50:17 51:9 mandatory 31:9 manner 44:6 47:2 march 6:21 49:13,22 mark 5:8 10:13 marked 3:11 5:6 married 18:10 matter 39:23 matters 65:7 mcintyre 6:15 7:4,12 25:13 49:18 50:2 mean 7:9 12:11	21:21,21 26:11 27:11 27:13 28:19 29:3,7 30:19 40:23 41:2 45:13 46:8 46:10 50:9 54:5 58:11 58:17 61:1 63:6 means 11:9,20 media 40:21 megadump 1:3 4:9,18 6:3 7:6 8:16 10:16 11:7 25:15 26:7 40:20 41:8 45:4 49:19 member 11:7 16:6 17:22 26:6 26:18 29:20 29:23 33:18 35:16 57:23 members 22:13,24 23:21 24:15,24 25:5,8,20,24 26:1,7,12,15 26:18 27:1,2 27:4,5,10,15 27:18,18,22 28:12 29:15 30:11,16 31:22 37:20 38:4 40:20 41:7 51:10 53:1 58:12 63:4,12 membership 11:9,20 memorandum 36:17 37:9,16 mention 41:2 mentioned 17:1 30:10 54:21 62:3 63:2 met 6:14 7:4 11:13 17:23 18:9 53:18 55:10 55:10 methodical 53:14 michigan 52:7 55:1,2 middle 46:13 60:14 miles 15:8 miller 54:23 million 32:4 mind 30:22 minds 30:12 31:23 mine 17:14 64:8 mom 18:5 moment 5:20 money 13:22 14:13 32:11 33:3 36:2,4 42:18 months 18:3,4 61:7 moran 2:10 3:6 4:4 4:13,14 61:23 63:21 63:23 64:10	name 4:14,24 5:1,2 10:13 17:19 40:7,11 50:11,20 necessarily 32:15 necessary 32:13 need 52:20,21 57:1 needed 41:8 negligent 63:1 negotiating 7:21 negotiations 37:15 neither 65:11 never 8:5 9:5,5 30:21 31:2 41:21 53:1 56:18 58:13 newspaper 8:2 40:22 newspapers 47:22 nice 46:9 50:19,22 59:19 60:11 nine 53:10,12 56:15 niu 17:23 nominal 16:4 nominee 7:18 nondecision 59:16 nonexistent 50:18 north 1:18 2:11 65:5 noses 46:15 notary 1:21 notice 44:15 47:23 48:20 49:12 noticed 8:2 notices 47:23 61:19 notified 64:2 notion 14:11 32:19 37:20 48:11 53:20 55:23 november 8:22 35:12 38:4,10,14 49:4,8 65:16 noxious 43:8 number 4:16 20:22,23 23:4,7 24:22 28:14,14 42:14 numbers 58:23 numerous 38:24



reduced 65:8	44:15	schiff 2:6	11:4 12:10	stated 41:16	subsequent 20:11
reference 13:18	requires 61:11	school 15:15	36:12,15 39:24 47:3,8 49:6 53:8	statement 17:3,7,9 19:20 25:1 41:20 54:18	substantive 62:23
referenced 21:16	resident 24:5 61:8	scuttlebutt 6:11 12:22	siting 22:14,15,16 23:19 41:13 44:8 46:19	statements 20:20 21:1,2 21:12	sudden 23:13
referring 27:12 30:16 38:8 63:10	respected 21:7	second 30:21	sitting 29:19 37:3,21 50:4 51:6,11 51:13,18 56:1	states 6:1,24 7:7 34:12,20 35:1	sufficient 47:6,23
reflect 4:4	respondent 2:8,12	see 9:2 24:2 25:2 33:15 34:3 38:6 57:17 57:18 58:23 60:4 61:15	situation 8:9	stayathome 18:5	suggest 33:18 42:22 57:7
refresh 25:3	respondents 1:9	seen 9:5 20:2 36:16 45:12 46:4 57:10	six 10:14 23:23	staying 57:13	suggested 38:1
regarding 4:17 31:23 35:19 36:20 38:5 48:18	response 19:7 24:17 25:6	self-serving 50:23	size 45:15 53:3	statute 44:15 53:11,16 57:14	suite 2:6,11
regards 13:10 20:4,5 24:1 35:24 37:8 47:24 56:16	responsibility 52:23	sending 24:21	small 27:13	statutory 56:12	sulfide 43:2,8,23
registered 65:21	retired 54:2	sends 29:7 61:8	smell 43:15	stayed 59:13	supervision 65:9
regulations 48:4	revenue 33:5 42:20	sent 22:23 26:11	smith 16:19,23	steimel 29:19 52:10	support 53:17
related 23:17 54:13 55:9 65:12	review 9:10 11:4 36:12 57:8 59:2,22 62:19 64:1,3	separate 63:13	softballs 51:2	steps 7:9 9:19 21:19 25:19 27:20 31:15	supported 21:11
relates 46:18	reviewed 36:15 41:12 59:11	sequestered 14:9	sole 5:22 16:20	stoddard 31:15	supposed 14:8 21:3 22:21 37:21
relative 65:13	relates 62:19 64:1,3	serewicz 43:5,18	somebody 6:9,10 8:18 9:21 10:6 12:5,13 23:1 23:2 42:1 43:12 48:24 53:22 55:18	stood 43:7	sure 7:9 9:19 21:19 25:19 27:20 29:21,24 30:15,15 32:5,7,8 35:5 54:22 54:22 57:2 62:14
released 26:6	reviewing 9:15 53:7 56:10	series 52:14	seriously 51:24	stop 1:3 4:9,18 6:3 7:6 10:16 11:7 26:7 41:8 49:18	suspect 40:2 58:22 59:7
relevant 55:8	right 17:11 21:22 30:8 36:14 36:14 40:15 46:15 55:4	served 5:12	set 46:18 53:10 60:20 65:15	stories 13:4 26:21	sworn 4:2 65:6
relied 59:21 60:5	riley 15:11,14,17 16:1,17,21 17:13 18:23 19:9 20:14	set 46:18 53:10 60:20 65:15	shawn 16:18	street 1:19 2:11 21:20,21,23 65:5	sycamore 1:19 5:5,21 15:7 39:10 46:9 61:8 65:5
rely 53:24 60:2	road 2:3	shes 18:2,4 21:24 22:3 30:20 34:18 64:4	shawn 16:18	strict 47:16	take 21:19 32:14 33:13,13,14 42:18
remand 35:4	roger 29:19,21,22,24	shorthand 1:21 3:20 65:3 65:21	shawn 16:18	strike 42:24	taken 1:17 4:5,7 13:21 35:8 48:22 52:12 65:13
remember 6:9,14 9:19,20 10:2 11:11 11:14,16 13:17 19:5 19:10,22 20:9,15,16 20:17 23:8 25:10 26:14 28:8 29:19 30:1 31:6,12 39:6 42:3,5 46:2 49:16 50:11,19 53:12 59:17	room 48:10	shortly 6:8,17 8:15 10:18 50:1,3	show 5:8 28:2 30:8	strikes 13:8 19:3 38:8 49:10 60:1	talk 22:22 24:17 26:16 29:8 46:23 48:8 58:13
remembering 51:3	rulers 28:7	showed 56:7	showed 56:7	striking 32:18	talked 8:17 10:17 21:8 22:1 42:16 52:8
remuneration 35:24	ruble 28:7	showing 23:1	shown 25:9	strong 23:14	talking 46:11,24 60:12 62:21
renee 50:21	rules 41:14 42:5 47:16	shown 23:1	side 11:23 51:7 58:8	struck 13:20 14:5,10 15:5,9 23:3 24:3 25:2,3 28:3 35:21 37:1,3,6,10 37:14,19 43:2,5 44:20 47:14,14 50:4 51:23 53:19 54:3 56:2,4,14 58:8,17 61:14	tank 19:1
repeat 17:9	run 7:14 34:11	shown 25:9	signed 40:14 41:3	stuck 19:21,24	technical 62:6
report 62:7	running 5:23 7:7 15:2 30:8	side 54:9	signing 41:1 65:10	student 17:22	tell 18:20 27:7 28:24 29:13 38:7 45:9 56:18
reporter 1:21 3:20 4:24 65:3,21,21	runs 7:12	sign 40:4,17 41:8	signed 40:14 41:3	students 18:14	telling 10:6
reporters 64:3	rush 49:23	signature 64:5,9	signing 41:1 65:10	studied 55:2	tenor 10:24 14:3 23:10 26:3
represent 4:14 35:8	ruth 30:17 31:10	signed 40:14 41:3	similarly 33:9	study 56:17	term 8:6
representative 35:13	safety 43:22	signing 41:1 65:10	simply 54:7 55:22	stuff 8:7 12:3 20:15 38:10 52:9 57:1 60:10	terms 7:24 12:11 30:12 42:6 50:9 51:24 54:20
representing 14:22 51:12	sandwich 53:22	signed 40:14 41:3	single 13:23	submission 44:10	testified
reprimanding 23:9	sat 20:1 48:5	signing 41:1 65:10	sir 5:14,16 14:16 18:19	submit 42:2	
republican 5:24 7:8,18 16:7 17:24 18:6	sat 20:1 48:5	signed 40:14 41:3	sir 5:14,16 14:16 18:19	submitting 24:8	
republicans 17:23 18:12	saw 26:10 43:4 56:13	signed 40:14 41:3	sit 10:19 13:9 51:3	subpoena 4:6 5:12	
required 35:7 54:8,14	saying 11:12 21:14 23:2 29:8 38:9 56:3 61:9	signed 40:14 41:3	site 4:19 6:20 8:21 9:9,10,14 10:10,11		
requirements	scheduled 4:6	signed 40:14 41:3	site 4:19 6:20 8:21 9:9,10,14 10:10,11		

4:3 58:14 62:17 <b>testify</b> 56:15 58:16 59:5 65:6 <b>testimony</b> 49:17 59:22 65:9 <b>thank</b> 61:23 63:23 <b>thats</b> 4:17 6:19,22 8:19 10:18 11:8 13:23 14:20,23 17:8 23:10 26:3 29:8 31:19 33:5 34:8 36:14 36:14 38:11 39:9 41:5 47:23 50:1 51:7 54:18 55:4,11 59:7 63:19 <b>theres</b> 46:11 47:19 49:17 57:24 60:15 <b>theyre</b> 22:21 26:15 33:2,3 46:8 53:2 59:8 62:15 <b>thing</b> 7:9 11:15 31:8 39:4 43:10 50:7 51:8 <b>things</b> 16:11 <b>think</b> 6:6,7,15,19 7:1,13,15,17 7:23 8:7,8 8:19,24,24 9:17,18,23 10:3,12 11:17,23 12:15 13:12 14:1 15:14 15:18 16:1,5 16:18,19,21 16:22 17:13 17:18 18:2,8 19:10,21,21 19:23,23 20:7,22,22 21:2,8 22:6 22:7,8,17 23:10 25:1 25:12,19 26:9,13 28:13 29:18 29:22 31:5 31:20 33:21 34:18 40:6,6 40:8 41:5,5 41:20,22,23 42:13 43:19 43:20 44:1,5 44:12 45:11 45:20,21 47:15,18,24 48:1,24 49:1 49:16,17,24 52:6,10,24 54:8,18 56:3 57:1,11,12 57:24 58:3,4 58:5,9,16 59:8 60:6,9 60:10,14 61:2 62:24 63:19 <b>thinking</b> 6:6 23:8 26:14 31:6 47:11 <b>thought</b> 19:23 25:9 30:21 31:4 31:15 39:8	39:12 42:16 42:23,24 43:10,12 52:22 53:23 55:22 60:11 <b>thousand</b> 48:12 <b>thousands</b> 60:13,13 <b>three</b> 15:8 19:4 20:8 <b>ticket</b> 7:8 <b>time</b> 6:14 7:11,16 8:2,19 11:13 16:18,19 20:9,24 22:9 23:11 24:13 26:4 32:3 38:8 39:5,13 39:17 41:20 56:9 <b>times</b> 16:2 40:8 41:21 <b>tobias</b> 31:10,20 53:5 <b>tobiass</b> 30:17 <b>today</b> 4:6 5:15 11:13 13:9 18:1 47:12 <b>told</b> 6:9 12:2 17:17 24:18 26:16 28:22 59:12 <b>tolene</b> 17:18,19,20 18:15,17 19:7 20:2,21 21:18 <b>totally</b> 50:8 <b>towit</b> 65:6 <b>town</b> 15:16 35:23 36:9,19 45:14 46:9 47:5 48:11 <b>township</b> 45:4,6 <b>traffic</b> 52:4,9,11,13 55:14 58:14 58:15 <b>transcribed</b> 64:4 <b>transcript</b> 42:12 64:1 <b>transpiring</b> 45:19,19 <b>treat</b> 31:1,18,19 46:16 <b>treated</b> 21:4 27:7,11 29:10 <b>trial</b> 14:4 54:10 <b>trials</b> 50:12 <b>tried</b> 59:13 <b>triggered</b> 22:20 <b>trouble</b> 10:9 <b>true</b> 40:13 65:9 <b>truly</b> 21:3 45:24 48:8 51:7 54:7 55:8 <b>trust</b> 64:4,8 <b>truth</b> 65:7,7 <b>try</b>	9:17,22 10:7 14:10 43:4 47:11 56:24 <b>trying</b> 6:13 10:4 26:24 28:5 28:23 33:23 55:22 60:12 <b>turnout</b> 45:16 <b>two</b> 11:18 13:19,19 16:22 20:23 23:7 28:15 44:1 <b>type</b> 18:14 <hr/> <b>u</b> <hr/> <b>ultimate</b> 52:18 <b>ultimately</b> 38:22 63:7 <b>undemocratic</b> 47:14 <b>understand</b> 23:5 <b>understanding</b> 23:16,20 24:10 24:11 36:18 54:15 <b>understood</b> 20:24 21:5 29:12 51:9 56:17 63:16 <b>unfair</b> 39:11 42:15,17 57:7 58:5,9 <b>unfairly</b> 28:20 <b>unreasonably</b> 28:20 <b>upset</b> 26:1 <b>use</b> 29:3 <hr/> <b>v</b> <hr/> <b>various</b> 39:7 56:16 <b>vary</b> 31:4,10,20 53:4 <b>versed</b> 43:4 46:21 <b>versus</b> 4:9 <b>view</b> 57:4 <b>views</b> 48:16 <b>violating</b> 59:12 <b>violations</b> 46:16 <b>volunteer</b> 54:1 <b>vote</b> 30:13 31:23 33:10,19 47:8 48:21 <b>voted</b> 13:12 32:21,24 63:7,17 <hr/> <b>w</b> <hr/> <b>wacker</b> 2:6 <b>waive</b> 64:5,8 <b>waived</b> 65:10 <b>walk</b> 59:7 <b>walked</b> 16:1 17:12 <b>want</b> 12:4 28:14	32:14 36:1 37:9,17 47:1 61:9 62:13 <b>wanted</b> 38:24 39:21 42:1,2 <b>wants</b> 12:18 19:2 <b>ware</b> 8:11 <b>wasnt</b> 6:12 7:24 10:5 11:21 28:6 31:6 39:12 39:13 43:18 54:11 <b>waste</b> 1:7 2:13 4:10 4:15,20 7:20 35:14 36:10 36:18 38:2 43:6,13 49:5 50:16,17 51:9 53:17 56:4 58:21 <b>watch</b> 34:1 <b>watched</b> 48:6 <b>water</b> 58:16 61:10,12 <b>way</b> 27:10 28:24 44:8,9 54:24 59:7 60:15 60:19 61:2 <b>ways</b> 34:7 63:2 <b>week</b> 39:9 41:4 49:3 <b>weeks</b> 16:22 <b>weight</b> 55:18 <b>went</b> 16:3,17 32:20 39:5 56:20 <b>whats</b> 61:3 <b>whereof</b> 65:15 <b>wish</b> 27:7 <b>witness</b> 3:3 51:11 64:6 65:9,10,15 <b>witnessed</b> 58:6 62:22 <b>witnesses</b> 50:14,16,18 51:2 52:1,16 62:15,16,17 62:24 <b>woefully</b> 46:5 <b>wont</b> 16:9 43:22 51:14 <b>word</b> 36:1 <b>words</b> 39:15 47:2 49:24 <b>work</b> 15:15 16:24 18:6 39:1,18 55:3 <b>worked</b> 15:20,22 16:13 16:13,17 44:9 <b>worker</b> 18:14 <b>working</b> 22:3 61:10 64:7 <b>works</b> 55:23 <b>worried</b> 43:14,14	<b>worries</b> 61:4 <b>wouldnt</b> 26:20 46:21 <b>write</b> 19:9 <b>writing</b> 19:11 42:3 65:8 <b>written</b> 23:8 24:8 44:11 <b>wrong</b> 47:1 <b>wrote</b> 19:10 <b>wykes</b> 16:23 <hr/> <b>x</b> <hr/> <hr/> <b>y</b> <hr/> <b>yeah</b> 8:20 40:15 41:2 49:2 <b>year</b> 7:2 32:8 <b>years</b> 15:19 17:21 18:9 46:3 <b>young</b> 64:7 <b>youre</b> 12:5 30:24 32:22 34:24 38:6,9 39:15 40:15 42:17 42:21,22 43:14,14 46:24 48:6 50:7 52:12 55:19 57:11 57:13,13,14 58:3 59:22 60:12,22,22 62:17,21 <hr/> <b>z</b> <hr/> <hr/> <b>0</b> <hr/> <b>084004489</b> 65:22 <hr/> <b>1</b> <hr/> <b>1</b> 3:12 5:6,9 <b>10</b> 38:5 <b>10103</b> 4:11 <b>10th</b> 4:21 35:12 49:15 <b>11th</b> 49:15 65:16 <b>15</b> 32:4 <b>161</b> 2:11 <b>1st</b> 6:21 49:13,22 <hr/> <b>2</b> <hr/> <b>200</b> 1:18 11:18 65:5 <b>2000</b> 15:18 <b>2001</b> 15:18 <b>2003</b> 16:16 <b>2009</b> 7:19 8:23 35:12 38:4 49:4,8 <b>2010</b>	1:20 4:22 5:13 6:21 13:13 35:12 38:5 49:13,15,22 65:5,16 <b>2010103</b> 1:4 23 46:3 <b>233</b> 2:6 <b>250</b> 11:18 <b>26</b> 1:19 <b>26th</b> 65:4 <b>2nd</b> 7:2 <hr/> <b>3</b> <hr/> <b>3</b> 1:20 4:6 65:5 <b>30th</b> 8:22 35:12 38:4,10,14 49:8 <b>3100</b> 2:11 <b>35</b> 1:20 65:5 <b>381</b> 65:22 <hr/> <b>4</b> <hr/> <b>4</b> 3:6 64:12 <hr/> <b>5</b> <hr/> <b>5</b> 3:12 <b>50</b> 16:4 64:12 <hr/> <b>6</b> <hr/> <b>60178</b> 5:5 <b>603</b> 2:3 <b>60601</b> 2:11 <b>60606</b> 2:7 <b>61021</b> 65:23 <b>61350</b> 2:3 <b>62</b> 3:7 <b>65</b> 3:20 <hr/> <b>7</b> <hr/> <b>7200</b> 2:6 <hr/> <b>8</b> <hr/> <hr/> <b>9</b> <hr/> <b>921</b> 5:4 <b>9th</b> 5:13
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STOP THE MEGA-DUMP,	)	
	)	
Petitioner,	)	PCB NO. 2010-103
	)	
v.	)	
	)	DEPOSITION OF
COUNTY BOARD OF DEKALB	)	GRACE MOTT
COUNTY, ILLINOIS and WASTE	)	
MANAGEMENT OF ILLINOIS,	)	
INC.,	)	
	)	
Respondents.	)	

DEPOSITION OF GRACE MOTT, taken at the DeKalb County Legislative Center, 200 North Main Street, Sycamore, Illinois, on September 15, 2010, commencing at 1:07 p.m., before Callie S. Bodmer, Certified Shorthand Reporter and Notary Public in and for the State of Illinois, in pursuance to agreement of the parties in the above-entitled action. Also present: Mac McIntyre.



1 APPEARANCES:

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19 Waste Management of  
20 Illinois, Inc.

21  
22  
23  
24

INDEX

Witness: GRACE MOTT

Examination

Page

Attorney Moran . . . . . 4

Attorney Antonioli . . . . . 59

Certificate of Shorthand Reporter . . . . . 63

1 GRACE MOTT,  
2 being first duly sworn, was examined and  
3 testified as follows:

4 EXAMINATION

5 BY MR. MORAN:

6 Q. Could you state your full name and spell your  
7 last name for the court reporter.

8 A. Grace Mott, M-O-T-T.

9 Q. What is your address?

10 A. 118 Oak Street, Number 101, DeKalb, Illinois.

11 Q. And how long have you been there?

12 A. In that residence I think three years.

13 Q. What is your business or occupation?

14 A. I work for E-World Links. We do business  
15 websites and an online newspaper.

16 Q. We're here today to conduct your deposition in  
17 connection with an appeal that's been filed by  
18 Stop The Mega-Dump with respect to the approval  
19 given by the DeKalb County Board to the site  
20 location application filed by Waste Management  
21 of Illinois, Inc. My name is Don Moran, I  
22 represent Waste Management of Illinois, Inc. in  
23 connection with the matter, and I'll be asking  
24 you a number of questions regarding or relating

1 to the appeal in this process.

2 Have you ever been deposed before?

3 A. No.

4 Q. Let me just lay out a few of the things that  
5 we'll try to accomplish today. I will ask you a  
6 number of questions. I'll try to make the  
7 questions as clear and concise as I can;  
8 however, when I don't I would ask that you  
9 request clarification of those questions,  
10 because it's important that your answers are  
11 responsive to the questions that I ask. Is that  
12 clear enough?

13 A. Yes.

14 Q. If you don't understand a question, please ask  
15 for clarification at any point. You'll also  
16 need to respond audibly, because the court  
17 reporter can't take down any nonverbal gestures  
18 or actions that you might make.

19 A. Okay.

20 Q. Does that make sense?

21 A. Yes.

22 Q. When did you first become aware that a site  
23 location application to expand the DeKalb County  
24 Landfill was going to be filed?

1 A. Depends on how you word that. I was aware  
2 DeKalb County was going to expand for our own  
3 use, for DeKalb County's use, via a proclamation  
4 I read from the DeKalb County Board that only  
5 talked about expanding for DeKalb County's use.  
6 The first time I heard it was going to be  
7 expanded for larger than my use was the  
8 announcement of the public hearing that was to  
9 be held in March that I read about in the paper.

10 Q. When did you learn about the proclamation of  
11 the DeKalb County Board?

12 A. It was several months before that. We read  
13 through minutes.

14 Q. Would it have been in 2009 or prior to 2009?

15 A. It could have been late 2009, early 2010. I'm  
16 not sure of the date of that.

17 Q. And this proclamation stated what?

18 A. That we -- the DeKalb County Board was  
19 considering expanding for our own use, that we  
20 done well on recycling and -- but irregardless  
21 of that, we needed to expand the dump for DeKalb  
22 County's use.

23 Q. When you say for our own use, are you referring  
24 to DeKalb County residents?

1 A. DeKalb County, correct.

2 Q. And then I believe you said you then learned  
3 about the site location application in  
4 connection with a notice of a public hearing?

5 A. Correct.

6 Q. And where did you observe or see this notice of  
7 public hearing?

8 A. In the Chronicle, Daily Chronicle.

9 Q. And when did you see it?

10 A. It was a couple of weeks before the March  
11 public hearing. It was the announcement that  
12 there was going to be a public hearing on the  
13 landfill. It was I'm guessing two weeks before  
14 the public hearing.

15 Q. And the public hearing began on March 1st,  
16 2010?

17 A. I was thinking it was more like the 11th but --  
18 of March 2010, wasn't it?

19 Q. Would you accept the fact that the hearings  
20 began March 1st, 2010?

21 A. Except that I think that they were March 11th,  
22 2010.

23 Q. Could that have been the last date of the  
24 public hearings?

1 A. If it is then my calendar is written down  
2 wrong.

3 Q. Did you attend the public hearings?

4 A. Yes, I did, every day.

5 Q. And how many days of public hearing were there?

6 A. I believe it was like nine.

7 Q. There were six, weren't there?

8 A. Was there?

9 Q. There were six.

10 A. Was it?

11 Q. It started Monday through Friday, March 1st  
12 through March 5th, 2010.

13 A. Okay. Maybe I'm thinking nine hours. You're  
14 right, it was six days of public hearing.

15 Q. Then the sixth day was March 11th, which was a  
16 Thursday.

17 A. Okay.

18 Q. You attended each of those days?

19 A. Yes, I did.

20 Q. And your recollection is that the notice of  
21 public hearing you first saw in the Chronicle  
22 about two weeks before March 1st?

23 A. Correct, it's my recollection. I could be  
24 wrong.

1 Q. And did the notice indicate in any way that a  
2 site location application had been filed with  
3 the County Board?

4 A. I believe it did, and that that's what the  
5 public hearing was going to be about.

6 Q. Did you become aware at any point in 2009 that  
7 Waste Management of Illinois and DeKalb County  
8 had negotiated a host community agreement that  
9 would apply to any expansion that might be  
10 approved of the existing landfill?

11 A. Ask me that question again, please.

12 Q. Did you become aware anytime in 2009 of the  
13 fact that a host community agreement had been  
14 negotiated between Waste Management of Illinois  
15 and DeKalb County Board that would apply to any  
16 proposed expansion?

17 A. I believe the proclamation that I read was the  
18 front page of that.

19 Q. Would have been the front page of the  
20 agreement?

21 A. It was the front page of a larger thing that I  
22 didn't read any more of because it sounded like  
23 we just needed to expand for ourselves, so I  
24 read that and I didn't read the rest of it, but

1 I believe it was about the host agreement.

2 Q. So you knew at some point in 2009 that a  
3 request would be made of DeKalb County to  
4 approve an expansion of the existing landfill?

5 A. For our own use was my understanding in 2009.

6 Q. Had you at any point had an opportunity to  
7 review the host community agreement that was  
8 approved by the DeKalb County Board in March of  
9 2009?

10 A. No.

11 Q. Did you ever become aware of the existence of  
12 that host community agreement at anytime?

13 A. Yes.

14 Q. And when did you become aware of the existence  
15 of that written agreement?

16 A. I don't think I was aware of that agreement  
17 until -- you know, what the extent of that  
18 agreement was and what it meant until 2010 when  
19 I first heard that it was other counties were  
20 involved and I started doing more investigating.

21 Q. And you learned that other counties were  
22 included within the service area in mid February  
23 of 2010?

24 A. Correct.

1 Q. Have you ever reviewed that host community  
2 agreement?

3 A. Only skimmed through very quickly, not read it.  
4 I have not read it.

5 Q. And was it in the host community agreement  
6 where you came to learn that the service area  
7 for the expansion included 17 counties?

8 A. No.

9 Q. How did you learn that the proposed expansion  
10 proposed a service area which included the 17  
11 counties?

12 A. That was in the Chronicle article about the  
13 public hearing.

14 Q. Did you ever seek to obtain a copy of the site  
15 location application?

16 A. Yes, I did.

17 Q. When did you seek to obtain a copy of the site  
18 location application?

19 A. After the Chronicle article came out and before  
20 the public hearing.

21 Q. So sometime between February 15th and February  
22 28th of 2010?

23 A. Yes, I would guess that was the dates.

24 Q. And what steps did you take in an effort to

1 obtain a copy of the site location application?

2 A. I came to the County Clerk's office.

3 Q. And did you go to the County Clerk's office by  
4 yourself, were you with other individuals?

5 A. I was with Mac McIntyre.

6 Q. So the two of you went to the County Clerk's  
7 office to obtain a copy of the site location  
8 application?

9 A. Yes.

10 Q. Do you remember what day of the week that was?

11 A. No idea.

12 Q. And you went to the office of Sharon Holmes,  
13 the County Clerk?

14 A. Yes.

15 Q. And tell me what you did when you went to her  
16 office.

17 A. A woman came up to us from that office, I do  
18 not know her name, and asked what we would like.  
19 We asked for a copy of the siting application.  
20 She told us that was not available to us, took  
21 me off guard a little, and I asked her to repeat  
22 that, she said it was not available. I asked  
23 her if I was going to have to file a Freedom of  
24 Information Act to get a copy of that siting

1 application, uhm, a FOIA, and she said hold on a  
2 minute, let me talk to somebody else. Then  
3 Sharon Holmes came out and she let us look at  
4 the nine volumes of the siting application. We  
5 sat in there awhile. We continued to ask for a  
6 copy of it on disk, and we were told no a couple  
7 of times. We asked Sharon if we would have to  
8 file a Freedom of Information Act, FOIA, to get  
9 a copy of the siting on a CD, and eventually she  
10 ended up giving us what she said was her only  
11 copy, and we left.

12 Q. Let's start with your entering the building in  
13 which the County Clerk's office is located.

14 A. Okay.

15 Q. As you walk into that building you need to walk  
16 up a flight of stairs, correct?

17 A. Correct.

18 Q. Then you turn to the right to go to the Clerk's  
19 office?

20 A. Correct.

21 Q. As you go to the Clerk's office on the  
22 left-hand side there's a counter and there are  
23 employees sitting -- or they're located behind  
24 the counter, and there are two offices with

1 doors leading to each on the right side of this  
2 aisle?

3 A. Yes.

4 Q. The far office is Sharon Holmes' office,  
5 correct?

6 A. Correct.

7 Q. And the office immediately before that is the  
8 office of I believe one of the deputies --  
9 deputy clerks; is that correct?

10 A. I believe it is.

11 Q. The site location application that you were  
12 able to look at, was it located in that first  
13 office --

14 A. Yes, it was.

15 Q. -- on the right?

16 But when you first came into the office,  
17 as you said, did you approach one of the  
18 employees behind the counter on the left?

19 A. Actually she was coming out of Sharon Holmes'  
20 office and walking towards behind the counter,  
21 and she just walked right up to us and asked if  
22 she can help us.

23 Q. Was she behind the counter when she asked you  
24 if she could help you?

1 A. No.

2 Q. She was facing you directly, she was in front  
3 of the counter and you were in front of the  
4 counter?

5 A. She was coming out of Sharon's office and going  
6 behind the counter and caught us first and asked  
7 if she could help us.

8 Q. What did the woman look like, if you remember?

9 A. I really don't remember.

10 Q. And you don't remember her name?

11 A. No.

12 Q. But the first thing that -- was it you or  
13 Mr. McIntyre who asked for a copy of the  
14 application?

15 A. I believe it was Mr. McIntyre that asked  
16 initially.

17 Q. And the response from this individual was the  
18 application was not available?

19 A. Correct.

20 Q. And those were her words as you best recall  
21 them?

22 A. Yes.

23 Q. Was there any explanation as to why the site  
24 location application --

1 A. No.

2 Q. -- was not available?

3 A. No.

4 Q. What was then said after you were told the  
5 application was not available?

6 A. Then I asked if we need to file a FOIA to get a  
7 copy of that application.

8 Q. To the same individual?

9 A. To the same individual.

10 Q. And what was the response?

11 A. "Uh, let me get somebody else."

12 Q. And then what did she do?

13 A. She went and got Sharon Holmes.

14 Q. And Sharon Holmes was in her office?

15 A. Yes.

16 Q. Sharon Holmes came out?

17 A. Yes.

18 Q. Did you or Mr. McIntyre speak first to  
19 Ms. Holmes, or did she speak first to you?

20 A. She spoke first.

21 Q. What did she say?

22 A. "Who's starting trouble out here."

23 Q. And did you respond to that question?

24 A. We just laughed.

1 Q. What did -- did she say anything else?

2 A. "What is it you guys need?"

3 Q. And who responded, you or Mr. McIntyre?

4 A. I don't remember.

5 Q. What was the response to Ms. Holmes?

6 A. Uhm, we'd like a copy of the site application  
7 on CD, and her answer was that we have it here  
8 in the book volume, you can come in and look at  
9 it, so we did that for about a half hour.

10 Q. When Mr. McIntyre first asked the other woman  
11 in the office for a copy of the site location  
12 application, did he ask her for a CD --

13 A. I don't remember.

14 Q. -- of the application?

15 Now, at this point before you came into  
16 the Clerk's office you were aware that there was  
17 a site location application on file with the  
18 County Clerk?

19 A. Yes.

20 Q. Did you know how many three-ring binders  
21 comprised that site location application before  
22 you got in the Clerk's office?

23 A. I knew it was big. I think I did know that it  
24 was nine volumes.

1 Q. And how did you acquire the information that  
2 there was nine volumes in this siting  
3 application?

4 A. Don't remember, I'm sorry.

5 Q. And when you came into the office were you  
6 aware that there was a CD version of the  
7 application?

8 A. I was.

9 Q. How did you become aware of that?

10 A. Again, I don't remember.

11 Q. Was Mr. McIntyre aware that there was a nine  
12 volume siting application on file with the  
13 Clerk's office before you went into the Clerk's  
14 office that day?

15 A. I believe he was.

16 Q. And how did he come to be aware that there was  
17 nine volumes in this written siting location  
18 application?

19 A. Again, I don't remember.

20 Q. Was Mr. McIntyre aware that there was an  
21 electronic version on file with the Clerk's  
22 office before you went in?

23 A. I -- I want to say I believe so, but we could  
24 have just been asking for it. I'm not real

1 clear on the details of that. I think you'll  
2 need to ask him.

3 Q. So you're not aware as you're sitting here  
4 whether he was aware of whether there was an  
5 electronic version of the application on file  
6 with the Clerk's office?

7 A. I think we assumed there was, but I don't know  
8 if he had definitive knowledge of that or not.

9 Q. Would it be fair to say that you simply assumed  
10 there was an electronic version, you didn't know  
11 that for a fact?

12 A. I wouldn't say that. We either knew or we  
13 assumed, and I don't remember which.

14 Q. But when Sharon Holmes came out the request  
15 that was made was for the electronic version?

16 A. I believe so.

17 Q. What was her response?

18 A. That that wasn't avail -- she only had one copy  
19 and -- but we could look at the books, so we did  
20 so.

21 Q. Did either of you ask Ms. Holmes why you had  
22 been told by this other employee in the office  
23 that the application was not available?

24 A. I don't remember.

1 Q. So you then were given the opportunity to look  
2 through the nine volume written site location  
3 application?

4 A. Yes.

5 Q. Where did you review the application?

6 A. Sitting at a desk in that office.

7 Q. When you say that office, that would have been  
8 the --

9 A. First office.

10 Q. -- first office --

11 A. Correct.

12 Q. -- on the right?

13 You and Mr. McIntyre were given seats at a  
14 table with the nine volumes?

15 A. Yes.

16 Q. And were these nine volumes being maintained or  
17 kept in that office from what you could tell?

18 A. Yes.

19 Q. How much time did you and Mr. McIntyre spend  
20 going through the written copy of the site  
21 location application?

22 A. I'd say about a half an hour, while we  
23 continued to ask for a CD copy, but we read the  
24 books.

1 Q. And who did you continue to ask about --

2 A. Ms. Holmes.

3 Q. -- getting an electronic version?

4 A. Ms. Holmes.

5 Q. Was she in the office you were in when you were  
6 reviewing the application?

7 A. She was in and out, yes.

8 Q. Each time she would come in one of you would  
9 ask her for the electronic version?

10 A. We had asked her initially and she said she was  
11 making some phone calls to see.

12 Q. And did she say who she was calling?

13 A. I believe she said she was calling Ray Bockman  
14 and did not get an answer.

15 Q. Did she indicate she called anyone else?

16 A. Not that I remember.

17 Q. So she said she tried to call Ray Bockman,  
18 couldn't reach him so she was still not willing  
19 to give you an electronic version of the  
20 application, correct?

21 A. For awhile. Eventually she did give us that  
22 copy and we walked out with it.

23 Q. And at some point did she come to you during  
24 your continued review of the hard copy

1 application and indicate that she would give you  
2 an electronic version?

3 A. At some point, yes.

4 Q. And what did she say when she gave you that  
5 version?

6 A. She was giving us her only copy.

7 Q. In what form did she give you the electronic  
8 version of the application?

9 A. On a CD.

10 Q. Was it a CD, a DVD, or some other form?

11 A. I think it was a CD.

12 Q. And who did she give it to, you or  
13 Mr. McIntyre?

14 A. Probably Mr. McIntyre.

15 Q. And she said it was her only copy?

16 A. Yes.

17 Q. Did she indicate she was going to charge you  
18 anything for that electronic version?

19 A. Yes, I believe we paid for that.

20 Q. What did she charge you for it?

21 A. I do not remember.

22 Q. What did you pay for it?

23 A. I do not remember. It wasn't much.

24 Q. Did she indicate the basis for her charging you

1 the amount that she quoted; in other words, give  
2 you a reason why she was charging you X as  
3 opposed to some other number?

4 A. Not that I remember.

5 Q. Did she say anything else to you at that time  
6 or during the course of your visit to the  
7 Clerk's office on that date?

8 A. Not that I remember.

9 Q. Did you say anything further to her on that  
10 date --

11 A. Not that I remember.

12 Q. -- that you haven't talked to us about?

13 A. Not that I remember.

14 Q. What did Mr. McIntyre then do with the DVD that  
15 was given to him by Ms. Holmes?

16 A. Brought it home and read it.

17 Q. Did you at any point review any --

18 A. I did not.

19 Q. -- part of that DVD?

20 So once it was received you never had  
21 occasion to look at it in any form at anytime?

22 A. I figured he did. I could ask him.

23 Q. Did you make any other efforts at any point to  
24 obtain a copy of either the written site

1 location application or the DVD?

2 A. No.

3 Q. Are you aware of whether Mr. McIntyre ever did?

4 A. No.

5 Q. Do you have any information about any other

6 persons who sought to obtain a copy of the

7 written site location application or the

8 electronic version from the County?

9 A. Ask that again, please.

10 Q. Are you aware of any other person who sought to

11 obtain a copy of the written site location

12 application or the electronic version from the

13 County?

14 A. Yes.

15 Q. Who?

16 A. I know Mark Charvat did.

17 Q. Who is Mark Charvat?

18 A. A member of Stop The Mega-Dump.

19 Q. What is Stop The Mega-Dump?

20 A. An organization comprised to stop the mega-dump

21 to come here -- from coming to DeKalb County.

22 Q. Are you a member of Stop The Mega-Dump?

23 A. Yes.

24 Q. Do you hold any positions or titles within that

1 organization?

2 A. No.

3 Q. When was Stop The Mega-Dump formed?

4 A. The night that the Chronicle article came out  
5 saying it was going to be for -- the expansion  
6 was going to be for more than just DeKalb  
7 County.

8 Q. Who formed Stop The Mega-Dump?

9 A. Mac McIntyre.

10 Q. Was Mac the only one who formed the  
11 organization or were there others?

12 A. He's the one who started it.

13 Q. Does he have a position within Stop The  
14 Mega-Dump?

15 A. I believe so.

16 Q. What is his position or positions?

17 A. I'm not sure.

18 Q. Are you aware of whether a facebook page was  
19 set up with respect to any communications by,  
20 among, or between members of Stop The Mega-Dump?

21 A. Yes.

22 Q. And was that facebook page set up or  
23 established on February 12th of 2010?

24 A. That sounds accurate.

1 Q. And would February 12th have been the date when  
2 the article appeared --

3 A. Probably.

4 Q. -- in the Chronicle with respect to the  
5 proposed expansion?

6 A. I would guess that would be correct.

7 Q. And therefore, would it be fair to say that  
8 Stop The Mega-Dump was formed on or perhaps the  
9 day after February 12th, 2010?

10 A. To my knowledge, yes.

11 Q. Now, Mr. Charvat was someone who you came to  
12 understand had also sought a copy of the  
13 application, and how did you become aware of  
14 that?

15 A. Just --

16 Q. Did he tell you?

17 A. He told me.

18 Q. When did you first become aware or become  
19 acquainted with Mr. Charvat?

20 A. I have known him for several years.

21 Q. When did he tell you that he had sought a copy  
22 of the site location application?

23 A. I'm thinking it was during the public hearing  
24 or -- that he told me about it, so it -- I

1 believe he attempted to get it right before the  
2 public hearing.

3 Q. Did he also tell you that he attempted to sign  
4 up and participate as a party in the public  
5 hearing?

6 A. I was not aware of that.

7 Q. What did he tell you about his attempts to  
8 obtain a copy of the site location application?

9 A. That there was not one available but that Ray  
10 Bockman personally delivered one to his home.

11 Q. And Ray Bockman delivered the nine volume site  
12 location application?

13 A. No, a CD copy of the siting application.

14 Q. How did Mr. Charvat become aware that the  
15 County had an electronic version of the site  
16 location application?

17 A. I'm guessing from the Stop The Mega-Dump group.

18 Q. But he didn't indicate to you how he had  
19 learned of the fact that the County had an  
20 electronic version of the site location  
21 application?

22 A. No.

23 Q. Did he indicate to you that he had requested a  
24 copy of the written site location application?

1 A. That's not something I remember.

2 Q. Did he indicate to you that he had been denied  
3 any access to the written site location  
4 application?

5 A. Again, I do not remember that.

6 Q. What he indicated to you was he had requested a  
7 copy of the DVD from Sharon Holmes or Sharon  
8 Holmes' office, correct?

9 A. Correct.

10 Q. And was told there was not one available,  
11 correct?

12 A. Correct.

13 Q. But that at some point afterwards Ray Bockman  
14 had delivered to him a copy of the electronic  
15 version?

16 A. Yes.

17 Q. Did he say anything else to you about his  
18 attempts to obtain an electronic version of the  
19 application?

20 A. No.

21 Q. Did he state to you what he did with the DVD  
22 that he was given by Mr. Bockman?

23 A. No.

24 Q. So you have no information as to whether he

1 looked at any of the contents in this electronic  
2 version or opened the electronic version or  
3 looked at it in any way?

4 A. I have no knowledge either way that way.

5 Q. Mr. Charvat did attend some of the public  
6 hearings?

7 A. Yes, I did see him there.

8 Q. He wasn't there every day, was he?

9 A. No.

10 Q. He attended on a couple of occasions as far as  
11 you know?

12 A. Uh-huh.

13 Q. You have to say yes.

14 A. Yes.

15 Q. Other than Mr. Charvat, are you aware of any  
16 persons who sought to obtain or review a copy of  
17 the site location application from the County?

18 A. No, I am not.

19 Q. Were you aware that there was a DeKalb County  
20 Siting Ordinance in place that would govern the  
21 public hearing that would occur in connection  
22 with the site location application?

23 A. You're going to have to restate that. A DeKalb  
24 County what?

1 Q. Were you aware that there was a DeKalb County  
2 Siting Ordinance that governed the public  
3 hearings that were to be held on the site  
4 location application?

5 A. No.

6 Q. Were you aware that there were rules --  
7 articles of rules and procedures in place that  
8 would also similarly govern the conduct of the  
9 site location proceeding and the public hearing?

10 A. Yes, I was.

11 Q. And how did you become aware of those rules and  
12 procedures?

13 A. I don't remember.

14 Q. Did you have occasion at any point to review  
15 those rules and procedures?

16 A. I just remember the -- I forget the gentleman's  
17 title who stood up front in the beginning of the  
18 public hearing, the moderator or -- he had a  
19 different name, title.

20 Q. The hearing officer?

21 A. The hearing officer. Explaining some of those  
22 rules in the beginning.

23 Q. Would it be fair to say that that was the  
24 extent of your knowledge of those rules and

1 procedures?

2 A. Initially, yes.

3 Q. At some later point did you review those  
4 articles and procedures?

5 A. No.

6 Q. Now, was there a meeting of the Stop The  
7 Mega-Dump group on February 18th of 2010?

8 A. I don't believe so.

9 Q. Was there any meeting of the Stop The Mega-Dump  
10 in February of 2010?

11 A. I really don't remember.

12 Q. Do you remember any discussions that you had  
13 with any person about the Stop The Mega-Dump  
14 group's attempts to prepare for the public  
15 hearing which was to begin on March 1st?

16 A. Please ask that question again.

17 Q. Did you have discussions with any person about  
18 the Stop The Mega-Dump group's preparation for  
19 the public hearings to begin on March 1st?

20 A. No.

21 Q. And you didn't participate in any such  
22 discussions?

23 A. No. We went in pretty blind.

24 Q. Did you hear any information or any statements

1           made by anyone to the effect that the proposal  
2           to expand the existing landfill was a done deal?

3    A.    Yes.

4    Q.    When did you first hear any such statements?

5    A.    The first time I heard it was at the public  
6           hearing about a half hour before it started.

7    Q.    This would have been on March 1st?

8    A.    Correct.

9    Q.    And where were you?

10   A.    Sitting in the auditorium waiting for the  
11           public hearing to start.

12   Q.    Okay, and who made the statement?

13   A.    Riley Oncken made it to Paulette Tolene, and I  
14           heard it secondhand.

15   Q.    When you say you heard it secondhand, you mean  
16           some other person heard Mr. Oncken's statement  
17           and then told you?

18   A.    Paulette -- Mr. Oncken talked to Paulette  
19           directly, and Paulette came up to me right  
20           afterwards and told me directly what he had just  
21           said to her.

22   Q.    And what did Ms. Tolene tell you that  
23           Mr. Oncken had said?

24   A.    "I'm not sure why all of these people are here,

1           they must have too much time on their hands,  
2           this is all a done deal, everyone wants this, we  
3           have been working on it a long time."

4    Q.    And your testimony is that you heard this  
5           before the public hearing commenced?

6    A.    On the first day.

7    Q.    At 9 a.m. on March 1st?

8    A.    Probably 8:40 on March 1st.

9    Q.    And did you then repeat what you had heard to  
10           any person?

11   A.    To Riley. I walked up to Riley directly and  
12           talked to him about it.

13   Q.    And did he have any response?

14   A.    He said, how are you today; I said, apparently  
15           I have too much time on my hands because I'm  
16           here; and he said that is -- yes, that is what I  
17           said; and I -- my answer was, well, Riley, that  
18           attitude is unfair and borderlines on illegal,  
19           you'd think you'd want to hear the testimony and  
20           questions before you make your mind up; and he  
21           just shook his head and looked the other way.

22   Q.    And did you state to him his alleged comment  
23           about this whole application and request being a  
24           done deal?

1 A. Yes.

2 Q. Did you use those terms to him when you  
3 approached him to talk to him about this  
4 statement?

5 A. I don't think I used the words done deal.

6 Q. You simply had indicated that you must not have  
7 anything to do because you're at the hearing to  
8 him?

9 A. Correct, and then when he said, yes, that's  
10 what I said, uhm, I said, well, that attitude  
11 is -- I was concerned that it would discourage  
12 public participation.

13 Q. Then he simply turned away?

14 A. Right.

15 Q. Did you have any conversations with Mr. Oncken  
16 after that?

17 A. Not that I remember.

18 Q. Did you hear any other information to the  
19 effect that any County Board member had decided  
20 this application before the public hearings had  
21 even begun?

22 A. Yes, I did. The fact that they were discussing  
23 what -- how to spend the money before the  
24 application was approved told me that they had

1 already decided to approve it.

2 Q. And which County Board members were discussing  
3 how they were going to spend the money before  
4 the application was voted on?

5 A. All of the County Board members in a County  
6 Board meeting discussed how they were going to  
7 spend the money.

8 Q. Which County Board meeting was this?

9 A. I can't give you a date.

10 Q. Was it a County Board meeting that occurred  
11 prior to the beginning of the public hearing on  
12 the application?

13 A. I believe it was between the public hearing and  
14 the decision being made on the public hearing,  
15 in that period of time.

16 Q. And can you identify any specific County Board  
17 member who made these comments about spending  
18 money that would come about as a result of  
19 approving the expansion?

20 A. No specific County Board member. It was an  
21 article about the County Board meeting that said  
22 they were discussing how to spend the tipping  
23 fees.

24 Q. Do you have any other information about any

1 County Board member who decided to approve the  
2 application before the public hearings were  
3 concluded?

4 A. No.

5 Q. Do you have any information about any County  
6 Board members who decided the application before  
7 all of the evidence was presented to the County  
8 Board?

9 A. No.

10 Q. Were you aware that the hard copy of the site  
11 location application was available not only in  
12 the County Clerk's office but also in the County  
13 Board office here in this building?

14 A. No, I was not.

15 Q. Were you aware that the site location  
16 application was available at the DeKalb Public  
17 Library?

18 A. No, I was not.

19 Q. Or the Cortland Library?

20 A. No, I was not.

21 Q. Or the Sycamore Library?

22 A. No, I was not.

23 Q. Or the City of DeKalb?

24 A. No.

1 Q. Or the Town of the Cortland Town Hall?

2 A. No.

3 Q. You weren't aware it was available at any of  
4 those locations?

5 A. No, sir. Later I learned it was available in  
6 the DeKalb Library, just recently, that was just  
7 recently.

8 Q. I believe you said earlier that at no point had  
9 you ever actually reviewed any part of the  
10 siting application other than what you have  
11 looked at in Sharon Holmes' office when you went  
12 in to get a copy of it; would that be fair?

13 A. Right.

14 Q. Are you aware of any information that would  
15 indicate that there were communications between  
16 any employee or representative of Waste  
17 Management of Illinois, Inc. and any member of  
18 the DeKalb County Board between November 30th of  
19 2009 and May 10, 2010?

20 A. When was the siting application submitted?

21 Q. November 30, 2009.

22 A. And you're asking me if I'm aware of it after  
23 that date?

24 Q. Yes, beginning with the filing of the

1 application on November 30th, 2009 --

2 A. No, I'm not aware of that.

3 Q. Are you aware of any communications between any  
4 member of the public or any person and any  
5 member of the County Board between November  
6 30th, 2009 and May 10, 2010?

7 A. No, I'm not.

8 Q. You didn't in any fashion, either by e-mail,  
9 telephone call, or correspondence, or personal  
10 meeting, communicate with any County Board  
11 member regarding the proposed expansion between  
12 November 30th, 2009 and May 10, 2010 outside of  
13 the public hearing?

14 A. No, I did not.

15 Q. And you said you're not aware of any individual  
16 who did --

17 A. Not to my knowledge.

18 Q. -- is that correct?

19 A. Correct.

20 Q. Are you aware of any persons who wanted to  
21 attend the public hearing but chose not to?

22 A. There was a gentleman who wrote a letter in the  
23 paper saying that, but I don't know who he is  
24 and I don't -- and I don't have a copy of that,

1 A. I provided comments.

2 Q. Did you submit any written public comment after  
3 the hearing was concluded?

4 A. Yes, I did.

5 Q. Did you provide any written comment or make any  
6 other submission to the County Board about the  
7 expansion before the public hearings began?

8 A. No, I did not.

9 Q. What was your objection to the proposed  
10 expansion?

11 A. I have many, many that I'm not prepared to  
12 answer. My basic objection is expanding for  
13 more than just DeKalb County.

14 Q. In other words, for the fact that the service  
15 area for this expansion included 16 counties in  
16 addition to DeKalb County?

17 A. Yes, sir.

18 Q. What other objections did you have?

19 A. I have an objection to the process. I believe  
20 it was wrong that Waste Management was able to  
21 take them on a tour and talk to the County Board  
22 for at least a year before the siting  
23 application was submitted, and during that time  
24 the County Board did not tell the public about

1           it at all other than they were thinking of  
2           expanding for ourselves. The first the public  
3           knew about it was the announcement of the public  
4           hearing, and that was already after the siting  
5           application was submitted, so ex parte had taken  
6           place. I believe that the County should have  
7           told the citizens about it during that same time  
8           they were talking to Waste Management about the  
9           benefits. The citizens should have been able to  
10          talk about the reasons we didn't want it before  
11          ex parte took place.

12    Q.    And when did you first become aware that the  
13          site location application had been filed on  
14          November 30th of 2009?

15    A.    I think the first one I heard of was you had  
16          the one before the site application that -- host  
17          agreement, uhm, I was aware of that. The first  
18          I knew of the site application was that letter  
19          in April -- or in February about the public  
20          hearing.

21    Q.    Do you know an individual by the name of  
22          Frankie Benson?

23    A.    Yes, I have met her.

24    Q.    When did you first meet Frankie Benson?

1 A. It was after the public hearing.

2 Q. Did she attend the public hearing?

3 A. I can't answer that. I don't know. I didn't  
4 know her during that time.

5 Q. Do you know an individual by the name of Robert  
6 Benson, her husband?

7 A. No, I do not.

8 Q. Do you know Roger Steimel?

9 A. Yes, I do.

10 Q. How long have you known Mr. Steimel?

11 A. I knew of Mr. Steimel because he was a County  
12 Board member. I didn't know him personally  
13 until the first day of the public hearing.

14 Q. What other objections besides the 17 county  
15 service area and your objections to the process  
16 did you have regarding the proposed expansion?

17 A. I believe that several of the requirements  
18 weren't met, the criteria weren't met. And --  
19 what was I just thinking -- I guess just that, I  
20 didn't believe that the requirements had been  
21 met, the criteria had been met.

22 Q. Did you communicate each of those objections to  
23 the County Board?

24 A. No, I wasn't allowed to talk to them.

1 Q. You said you had provided public comment.

2 A. I meant during my public comment, which is on  
3 public record, you can read that, and whatever I  
4 said in my public comment was my only  
5 communication with any County Board members.

6 Q. I believe you said you also submitted a written  
7 public comment?

8 A. Correct, those two.

9 Q. So both your oral public comment at the  
10 hearing --

11 A. Correct.

12 Q. -- and your written public comment after the  
13 hearing --

14 A. Yes, they would --

15 Q. -- were your communications to the County  
16 Board --

17 A. Yes, sir.

18 Q. -- that set forth your objections to this  
19 proposal?

20 A. Correct.

21 Q. Were you in any way prevented from presenting  
22 your objections to the expansion to the County  
23 Board?

24 A. Yes, because I should have been allowed to have

1 discussions with them be -- at the same time  
2 Waste Management was having discussions with  
3 them before ex parte took place.

4 Q. So what you're saying is that you have been  
5 prejudiced because you were unable to have a  
6 discussion with County Board members about a  
7 proposed expansion of the landfill prior to the  
8 filing of the site location application?

9 A. I would not say I was prejudiced because of  
10 that, unless I'm understanding your implication  
11 of that word differently. I would say I felt  
12 that was unfair.

13 Q. Well, did that unfairness result in any injury  
14 or prejudice to your rights?

15 A. Injury to my rights, yes. I don't like your  
16 use of the word prejudice.

17 Q. What injury to your rights did you suffer?

18 A. We should have been able to have this  
19 discussion before the ex parte took place.

20 Q. So before November 30th of 2009?

21 A. Correct.

22 Q. And what prevented you from having this  
23 discussion with any County Board member prior to  
24 November 30th of 2009?

1 A. The County Board not telling the public they  
2 were discussing expanding it for 17 counties.  
3 The only thing I saw from the County Board said  
4 it was going to be an expansion from us -- for  
5 us alone.

6 Q. And is that what the host community agreement  
7 stated, the host community agreement that was  
8 approved in March of 2009?

9 A. I don't -- I'm not sure.

10 Q. And so in your view it was the County Board's  
11 obligation to communicate with citizens and  
12 interested residents regarding a proposed  
13 expansion that would accept waste from outside  
14 DeKalb County?

15 A. Just like Waste Management was, yes, we should  
16 have had that same opportunity.

17 Q. Would you agree you had the opportunity but  
18 what you didn't have, and what you're saying, is  
19 the knowledge about what the expansion might  
20 include?

21 A. I would not agree it was the same opportunity  
22 because they -- Waste Management obviously  
23 already knew what you were proposing. The  
24 public should have known what was -- what was

1 being proposed as well, so we did not have the  
2 same opportunity.

3 Q. But weren't some of the aspects of the proposal  
4 contained in the host community agreement, which  
5 was signed by the County and Waste Management in  
6 April of 2009?

7 A. I don't know.

8 Q. Isn't it true that that agreement was a  
9 publicly available document as of April of 2009?

10 A. I don't have knowledge of that either. I was  
11 never told that it was available.

12 Q. So would it be accurate to say that your  
13 contention is it was not fair that Waste  
14 Management of Illinois had communications with  
15 the County Board about the proposed expansion  
16 prior to the filing of the site location  
17 application on November 30th of 2009?

18 A. It was not fair that Waste Management had that  
19 knowledge and the public didn't.

20 Q. And as a result of Waste Management having  
21 those communications and members of the public  
22 did not have those communications, what was the  
23 injury suffered by the members of the public?

24 A. Once we found out about it, ex parte had

1 already taken place and we were not allowed to  
2 have those discussions with our County Board  
3 members until after the vote was taken.

4 Q. Was there anything that prevented any citizen  
5 or interested person from communicating his or  
6 her views about the proposed expansion to the  
7 County Board after November 30th of 2009?

8 A. No. We were allowed to send letters but not  
9 have a discussion. I would not call those  
10 letters a discussion.

11 Q. And there was the opportunity to present  
12 evidence at the hearing, correct?

13 A. Correct, if you had signed up.

14 Q. And present any written comment to the Board up  
15 to 30 days after the close of the public  
16 hearing?

17 A. Again, that is not discussion, but yes, the  
18 written opportunity was available.

19 Q. I agree, they're not discussions, but they're  
20 communications directed --

21 A. Not the same.

22 Q. -- to County Board members --

23 A. Not the same.

24 Q. -- expressing the views of constituents; would

1           that be accurate?

2    A.    It's not the same.

3    Q.    You're saying communication is not the same as  
4           a discussion?

5    A.    Correct.

6    Q.    And your view is or your contention is that the  
7           citizens or residents should have had an  
8           opportunity to engage in a discussion with  
9           County Board members about the proposed  
10          expansion after the application was filed?

11   A.    No, before the application was filed. Just  
12          like Waste Management had that opportunity to  
13          discuss with them before the application was  
14          filed, the citizens should have had that  
15          opportunity to discuss with them before it was  
16          filed and ex parte took place.

17   Q.    Well, wouldn't it be accurate that nothing  
18          prevented the citizens from having a discussion  
19          with County Board members prior to the filing of  
20          the application?

21   A.    Yes, the County Board prevented that by not  
22          telling the citizens. Everything coming out of  
23          the County Board only said it was an expansion  
24          for us.

1 Q. Other than the proclamation you identified  
2 earlier, were there any other communications  
3 from the County Board to the community which  
4 indicated that the expansion only contemplated  
5 accepting waste from within DeKalb County?

6 A. Other than that communication I don't think I  
7 heard word one about it, so no.

8 Q. So it was only this proclamation that you were  
9 talking about that in your recollection had  
10 indicated that any expansion would only receive  
11 waste from within DeKalb County?

12 A. Yes, that was the only time the County let the  
13 public know they were even talking about it.

14 Q. Are you aware that there were various citizens  
15 who were, in fact, aware of the negotiations  
16 between Waste Management of Illinois and DeKalb  
17 County with respect to the proposed host  
18 community agreement in February of 2009?

19 A. Not until after the public hearing.

20 Q. And similarly, you weren't aware of citizens  
21 who knew and were aware of the approval of the  
22 host community agreement by DeKalb County in  
23 April of 2009?

24 A. No, I was not.

1 Q. When did you become aware that Waste Management  
2 of Illinois had allowed County Board members to  
3 tour one of its facilities?

4 A. I don't remember.

5 Q. Was it before or after?

6 A. I believe it was after the hearing.

7 Q. It was after the hearing, the public hearing?

8 A. I believe so.

9 Q. And what did you hear?

10 A. That they -- that the County Board had taken a  
11 tour to visit one of Waste Management's  
12 landfills.

13 Q. And were you told that it was the entire County  
14 Board that had toured one of Waste Management's  
15 landfills?

16 A. It was just the County Board, so I assumed it  
17 was everyone who could make it that day.

18 Q. Did you ever inquire as to whether you or any  
19 member of the Stop The Mega-Dump group could be  
20 offered a tour of a Waste Management facility?

21 A. No.

22 Q. That never occurred to you to even ask whether  
23 that was a possibility?

24 A. No.

1 Q. Because you had no interest in such a tour?

2 A. Because I know tours -- I have done tours, and  
3 I know tours can be made to show anything you  
4 want them to show so I don't put a lot of faith  
5 in them.

6 Q. Is part of your contention that the fact of the  
7 tours was unfair?

8 A. Yes, because it was part of the communication,  
9 the discussion that was going back and forth  
10 between Waste Management and the County Board,  
11 when I believe that they should have also been  
12 discussing with the citizens.

13 Q. Other than the person who wrote the letter to  
14 the Chronicle that you saw in the paper, were  
15 you aware of any other person who wanted to  
16 attend the public hearing but for whatever  
17 reason chose not to?

18 A. Only second and thirdhand, so. I don't know  
19 who those people are.

20 Q. And what did you hear second or thirdhand?

21 A. That a couple different people had read it in  
22 the Chronicle that you had to sign up first  
23 and -- to be allowed to go to the public hearing  
24 and so they decided not to. I have not been

1           able to track down any names.

2    Q.    And was it the fact that they had to sign up  
3           that they decided they did not want to do and  
4           therefore did not attend the hearing, or was it  
5           that they had missed the time period to sign up  
6           and therefore would not be allowed to attend the  
7           hearing?

8    A.    I think I heard one of both.

9    Q.    You don't remember the names of any of these  
10           people?

11   A.    There was no names.  If I tried to get names --  
12           I did not get names.

13   Q.    Who did you hear the second or thirdhand  
14           information from?

15   A.    I don't remember.

16   Q.    Would it be fair to say that you never talked  
17           to any such people?

18   A.    Yes, that would be fair to say.

19   Q.    Did you want to communicate or say anything to  
20           County Board members about the proposed  
21           expansion that you did not say either at the  
22           public hearing or in your written comment?

23   A.    Not that I can think of.

24   Q.    After the hearings concluded are you aware of

1 any persons requesting or asking others to  
2 contact County Board members directly regarding  
3 their opposition to the application?

4 A. No.

5 Q. Do you know of any individual who communicated  
6 or attempted to communicate with any County  
7 Board member regarding the proposed expansion  
8 after the public hearing?

9 A. No, I do not.

10 Q. Do you have any information or any facts that  
11 would support the claim that DeKalb County in  
12 any way limited, restricted, or discouraged  
13 public participation in the siting process?

14 MR. MUELLER: Other than what she's  
15 already stated?

16 MR. MORAN: Yes.

17 A. Please repeat.

18 Q. Do you have any information or facts that would  
19 support the claim that DeKalb County in any way  
20 restricted, limited, or discouraged public  
21 participation in the siting proceeding?

22 A. Is the siting proceeding the public hearing?

23 Q. It includes the public hearing, it includes the  
24 submission of any written public comment to the

1 County Board, it includes reviewing the siting  
2 application.

3 A. Uhm, just what I said before, the newspaper  
4 article that said you had to sign up seemed like  
5 that was restricting people from participating.

6 Q. Just the requirement that they sign up before  
7 the hearing, that was a restriction?

8 A. Yes.

9 Q. Anything else?

10 A. That's all I can think of.

11 Q. Other than what you have already described, are  
12 you aware of any information or facts that would  
13 support the claim that the site location  
14 application was not made available to members of  
15 the public?

16 A. Not other than what we have talked about.

17 Q. Do you know an individual by the name of Aubrey  
18 Serewicz?

19 A. Yes.

20 Q. Who is Mr. Serewicz?

21 A. A professor from Northern.

22 Q. How long have you known Mr. -- Dr. Serewicz?

23 A. I met him during the public hearing.

24 Q. Have you had any discussions with Dr. Serewicz

1 after the conclusion of the public hearing?

2 A. Yes.

3 Q. On how many occasions?

4 A. Several. Three, four.

5 Q. Have they been in conjunction with Stop The  
6 Mega-Dump group meetings?

7 A. No.

8 Q. And what has the substance of those  
9 communications been with Dr. Serewicz?

10 MR. MUELLER: I'm going to interpose an  
11 objection here. I think it's pretty far afield  
12 in terms of what she talked to other people  
13 about after the decision was made. I'll let her  
14 answer, but I think we're getting near the edge  
15 of what's relevant.

16 MR. MORAN: My question was after the  
17 public hearing, not just after the vote.

18 MR. MUELLER: If you restrict it to before  
19 the vote I don't have a problem.

20 Q. So after the public hearing and before May 10th  
21 of 2010.

22 A. Now what's the question again?

23 Q. Your communications with Dr. Serewicz and what  
24 the substance of those communications were with

1 him?

2 A. During that period of time I don't believe I  
3 had any communications with him.

4 Q. So all of your communication with Dr. Serewicz  
5 other than your communication with him during  
6 the public hearing occurred after May 10 of  
7 2010?

8 A. That I remember, yes.

9 Q. Do you know an individual by the name of Jason  
10 Hoshaw?

11 A. No.

12 Q. Do you know an individual by the name of  
13 Barbara Votaw?

14 A. Yes.

15 Q. Who is Barbara Votaw?

16 A. A woman I met during the public hearing. I --  
17 other than that, I don't know how to describe  
18 Barb Votaw.

19 Q. Have you had any conversations with Barb Votaw  
20 after the public hearing and before May 10,  
21 2010?

22 A. Not that I remember.

23 Q. So again, the only time you spoke with  
24 Ms. Votaw was during the public hearing?

1 A. And more recently.

2 Q. Yes, not -- I'm not asking you anything after  
3 May 10th of 2010. Have you had any  
4 communications about the proposed expansion with  
5 any member of the County Board since May 10,  
6 2010?

7 A. That was the night of the vote?

8 Q. Yes.

9 A. That evening.

10 Q. After the vote or before the vote?

11 A. After the vote.

12 Q. Which County Board members did you have a  
13 discussion with?

14 A. I'm trying to think of his name. He's another  
15 professor over at Northern.

16 Q. Mr. Stoddard?

17 A. Yeah, that one. I just told him I was  
18 disappointed in the decision.

19 Q. Did he have any response?

20 A. Not that I'd allow him to say. That was it, I  
21 walked away.

22 Q. You had no other communication with any other  
23 County Board member regarding the proposed  
24 expansion since May 10th?

1 A. No. Actually he did have an answer, his answer  
2 was, I had no choice and let me tell you why,  
3 and I wouldn't let him tell me why, but his  
4 answer was, I had no choice.

5 Q. And what was the reason why you didn't let him  
6 explain why he voted the way he did?

7 A. Because I had heard enough. The vote was  
8 already over, didn't really matter. I was  
9 upset.

10 Q. Did you at any point learn any other  
11 information about any of the reasons why any  
12 County Board member voted the way he or she did?

13 A. I have heard that several have said they had no  
14 choice, they had to vote yes, but I only heard  
15 that directly from Stoddard.

16 Q. And you heard it indirectly through?

17 A. Through other members of the Stop The Mega-Dump  
18 group.

19 Q. And that would have been after the vote on May  
20 10th?

21 A. Yes.

22 Q. And what specifically did you hear from the  
23 other Stop The Mega-Dump members about the  
24 reasons why certain board members voted the way

1           they did?

2    A.    Just that several said they felt they had no  
3           choice.

4    Q.    Did anyone identify which board members they  
5           were?

6    A.    They probably did, and I don't remember.

7    Q.    Other than what you have described this  
8           afternoon, are there any other objections that  
9           you have about the process that was employed  
10          here in connection with the site location  
11          application?

12   A.    Not other than what we have discussed.

13           MR. MORAN: Thank you. I have no further  
14          questions.

15           THE WITNESS: Thank you.

16           MR. MUELLER: She gets a chance to ask you  
17          questions too.

18           THE WITNESS: Oh.

19           MS. ANTONIOLLI: I just have one or two.

20           THE WITNESS: Okay.

21   EXAMINATION

22           BY MS. ANTONIOLLI:

23    Q.    You gave us your --

24    A.    And who are you?

1 Q. I'm Amy Antonioli, and I'm here on behalf of  
2 the County.

3 A. Gotcha.

4 Q. I heard you give your address at the beginning  
5 of the deposition, and how far -- about how far  
6 from the boundary of the landfill do you live,  
7 would your address be?

8 A. From the boundary of the landfill?

9 Q. From the landfill site.

10 A. I live in downtown DeKalb.

11 Q. Okay.

12 A. So however many miles. I'm not really good on  
13 miles.

14 Q. Okay.

15 A. A couple miles.

16 Q. Minutes in the car or anything?

17 A. Five minutes in the car.

18 Q. Okay, and you also mentioned that you believe  
19 several of the siting criteria weren't met --

20 A. Uh-huh.

21 Q. -- and that was one of the reasons why you feel  
22 the way that you do. What criteria were those  
23 specifically that you feel haven't been met?

24 A. I'd have to review to remember, but the

1 driving -- the traffic study was one of them,  
2 because they did not take farm vehicle equipment  
3 into consideration, nor proof of development in  
4 that path, that was one of them. I'd have to  
5 review the -- it's been a long time since I have  
6 reviewed the -- is it seven or nine criteria?

7 Q. Nine criteria.

8 A. I'd have to review them to remember and be able  
9 to delineate more what those were.

10 Q. Okay, and can you recall any specific piece of  
11 evidence or facts that you would rely on when  
12 you're making your determination that these  
13 criteria haven't been met?

14 MR. MUELLER: I'm gong to interpose an  
15 objection, I think that's beyond the scope of  
16 this proceeding and this deposition. This is to  
17 determine whether or not the proceedings were  
18 fundamentally fair. The issue as to whether or  
19 not criteria were proven will be resolved based  
20 upon the record that's already made.

21 That having been said, go ahead and answer  
22 the question if you can.

23 A. The question again?

24 Q. Well, I can -- you know, you had mentioned

1 before that you believe some of the criteria had  
2 not been met, so I can just leave it as you have  
3 answered which ones, you know, you mention the  
4 traffic.

5 I think that's all I have.

6 THE WITNESS: Okay.

7 MR. MUELLER: I don't have any questions.

8 Do you have any more, Don, based on that?

9 MR. MORAN: I have nothing more.

10 MR. MUELLER: Grace, you have the right to  
11 read the transcript of the deposition before it  
12 can be used for any purpose. The reading of it  
13 is just to make sure it's accurately  
14 transcribed, it's not to change any of your  
15 answers. We typically trust the court reporters  
16 to do a good job in typing it up. So you can  
17 waive that right; or you can reserve it, which  
18 means you'll have to then go to their office and  
19 read it at some point.

20 THE WITNESS: I'll waive it.

21 MR. MUELLER: Okay. Show signature  
22 waived.

23 (The deposition was concluded at  
24 2:22 p.m.)

## C E R T I F I C A T E

1  
2  
3 I, Callie S. Bodmer, a Certified Shorthand  
4 Reporter in and for the State of Illinois, do hereby  
5 certify that, pursuant to the agreement herein  
6 contained, there came before me on the 15th day of  
7 September 2010 at 1:07 at the DeKalb County  
8 Legislative Center, 200 North Main Street, Sycamore,  
9 Illinois, the following-named person, to-wit: GRACE  
10 MOTT, who was duly sworn to testify to the truth and  
11 nothing but the truth of her knowledge concerning  
12 the matters in controversy in this cause; that she  
13 was thereupon examined on her oath and her  
14 examination reduced to writing under my supervision;  
15 that the deposition is a true record of the  
16 testimony given by the witness, and that the reading  
17 and signing of the deposition by said witness were  
18 expressly waived.

19  
20 I further certify that I am neither  
21 attorney or counsel for, nor related to or employed  
22 by, any of the parties to the action in which this  
23 deposition is taken, and further, that I am not a  
24 relative or employee of an attorney or counsel  
employed by the parties hereto or financially  
interested in the action.

In witness whereof I have hereunto set my  
hand this 8th day of October 2010.

Callie S. Bodmer  
Certified Shorthand Reporter  
Registered Professional Reporter  
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