

Electronic Filing - Received, Clerk's Office, December 28, 2010

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1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STOP THE MEGA-DUMP,)

4)
Petitioner,) PCB NO. 2010-103

5)

v.)

6) DEPOSITION OF
COUNTY BOARD OF DEKALB) LEE ADDLEMAN

7 COUNTY, ILLINOIS and WASTE)

MANAGEMENT OF ILLINOIS,)

8 INC.,)

9)
Respondents.)

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16 DEPOSITION OF LEE ADDLEMAN, taken at the

17 DeKalb County Legislative Center, 200 North Main

18 Street, Sycamore, Illinois, on October 19, 2010,

19 commencing at 3:54 p.m., before Callie S. Bodmer,

20 Certified Shorthand Reporter and Notary Public in

21 and for the State of Illinois, in pursuance to

22 agreement of the parties in the above-entitled

23 action.

24

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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,

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233 South Wacker Drive, Suite 7200,

7 Chicago, Illinois, 60606,

8 Counsel for the Respondent,

County Board of DeKalb

9 County, Illinois.

10 ATTORNEY DONALD D. MORAN,

of the firm of Pedersen & Houpt,

11 161 North Clark Street, Suite 3100,

Chicago, Illinois, 60601,

12 Counsel for the Respondent,

13 Waste Management of

Illinois, Inc.

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1 LEE ADDLEMAN,
2 being first duly sworn, was examined and
3 testified as follows:
4 EXAMINATION
5 BY MR. MUELLER:
6 Q. State your name, please.
7 A. Yes, Lee Edward Addleman, A-D-D-L-E-M-A-N.
8 MR. MUELLER: Let the record show that
9 this is the discovery deposition of Lee Addleman
10 taken pursuant to notice, by agreement of the
11 parties.
12 Mr. Addleman, you have had your deposition
13 taken before, haven't you?
14 A. Yes.
15 Q. So you're familiar with the general ground
16 rules?
17 A. Yes.
18 Q. Sir, where do you reside?
19 A. I'm sorry?
20 Q. Where do you reside?
21 A. I live in Costa Rica.
22 Q. And besides being jealous, how long have you
23 lived there?
24 A. Three and a half years.

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1 Q. You were at one time an employee of Waste
2 Management of Illinois, weren't you?
3 A. Correct.
4 Q. Are you still?
5 A. I am a consultant to the company.
6 Q. When did you terminate your employment with
7 Waste Management?
8 A. May 23rd, 2006.
9 Q. My understanding, and correct me if I'm
10 wrong --
11 A. 2007, I'm sorry.

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12 Q. I'll let you finish.

13 A. Yeah, it would have to be 2006.

14 Q. My understanding is that you retired from Waste
15 Management and then moved to Costa Rica?

16 A. Correct.

17 Q. What was your final title or position when you
18 retired from Waste Management?

19 A. I was in business development.

20 Q. Did you have a specific title in business
21 development?

22 A. Vice president.

23 Q. How many years had you been with the company?

24 A. At the time that I left -- I joined the company

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1 August 11th, 1981. I -- right now would have
2 been 29 years, two months and eight days.

3 Q. And my understanding is that after you moved to
4 Costa Rica you have been back here from time to
5 time consulting with them on various projects?

6 A. Yes.

7 Q. Let's confine ourselves to the DeKalb County
8 Landfill expansion. Have you been a consultant
9 for them on this project?

10 A. Yes.

11 Q. And when did your efforts as a consultant on
12 this project commence?

13 A. I was offered a consultancy on the day that I
14 retired for one year.

15 Q. What do you mean for one year?

16 A. I was offered a one-year consultancy when I
17 retired to participate in this project.

18 Q. And was that year then extended from time to
19 time?

20 A. Yes.

21 Q. Are you still actively consulting on this
22 project?

23 A. Yes.

24 Q. And have you been continuously consulting since

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1 the time you retired?

2 A. Yes.

3 Q. With your living in Costa Rica logistically how
4 often do you -- well, strike that.

5 What's the longest continuous period of
6 time that you have been back in the United
7 States consulting on this project since it
8 began?

9 A. Physically --

10 Q. Yes.

11 A. -- here in Chicago?

12 10 days.

13 Q. So you literally have been doing a lot of
14 commuting back and forth?

15 A. Yes.

16 Q. Does Waste Management pay your commuting
17 expenses?

18 A. Yes.

19 Q. I take it you have a lot of frequent flier
20 miles?

21 A. Some.

22 Q. Were you involved in the negotiations on the
23 host agreement in connection with this project?

24 A. Yes.

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1 Q. Did you attend various meetings of the County's
2 ad hoc committee that dealt with the host
3 agreement?

4 A. Yes.

5 Q. How many of those meetings would you say you
6 attended prior to the host agreement actually
7 being adopted in March of 2009?

8 A. You're referring to the pollution control
9 facility committee?

10 Q. Whatever it was called, different County Board
11 members have called it different names, but I
12 believe that's a fair synopsis.

13 A. Actual presentations before the committee, one
14 took place on February 9th, 2009, there were --
15 there was possibly a meeting prior to that in
16 2008.

17 Q. So you think you have only been present for two
18 meetings of the committee?

19 A. Of the committee, yes.

20 Q. What about the full County Board prior to the
21 adoption of the host agreement?

22 A. There was a workshop that was held and the

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23 workshop was -- excuse me, the workshop was held
24 on the 24th of February 2009.

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1 Q. Did you make a presentation at that workshop?

2 A. Yes.

3 Q. What type of presentation did you make?

4 A. The presentation included the elements that
5 later were part and parcel of the negotiations
6 and the host agreement.

7 Q. Did the presentation include discussion of any
8 aspects of the proposed facility in terms of
9 design, features, size, and operations?

10 A. The workshop utilized, as I recall, two or
11 three graphics to describe the existing
12 facility, one; secondarily, a rendering of
13 potential end uses for the facility.

14 Q. Did you discuss any of the proposed design or
15 operational features of the facility?

16 A. I don't recall the level of detail.

17 Q. So your answer is you don't remember whether
18 you did or not?

19 A. Well, certainly those items that would later be
20 contained within the host agreement, various
21 portions of that were described, such as the
22 size of the facility.

23 Q. What about the presentation on February 9th,
24 2009, what was presented on that day?

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1 A. Actually that was relatively identical to the
2 workshop in that those same graphics were used
3 to show the committee the existing site, the
4 site to be developed on the western unit, and a
5 graphic to describe the eastern unit of the
6 expansion.

7 Q. You indicated you also went to a meeting in
8 2008?

9 A. There were -- there was another meeting prior
10 to this meeting, but I don't re -- I don't have
11 that date available, in which the premise was
12 first brought to the facility -- pollution
13 control facility committee.

14 Q. Are those the only three meetings of the County
15 Board or any committee of the County Board that

16 you attended prior to the adoption of the host
17 agreement?

18 A. No.

19 Q. How many other meetings did you attend?

20 A. Waste Management is required to apply for a
21 business license on an annual basis, and so I
22 attended two of those meetings on two subsequent
23 years in which we applied for a continuation of
24 our existing business permit. I attended that

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1 with Mr. Hoekstra wherein we provide details
2 about the remaining site life of the facility,
3 etcetera.

4 Q. Other than those five meetings, are those the
5 only ones you attended prior to the approval of
6 the host agreement?

7 A. Meetings?

8 Q. Of the County Board or any of its committees.

9 A. Yes.

10 Q. Am I correct in assuming that the annual
11 renewal of the business permit is obtained from
12 the County Board?

13 A. It is con -- it is granted by the Planning
14 Commission I believe.

15 Q. Which is an agency of the County?

16 A. Yes.

17 Q. And on each occasion you flew in to attend this
18 meeting and then flew back to Costa Rica; is
19 that correct?

20 A. In most cases that's correct.

21 Q. Is there a case where that's not correct?

22 A. I work on other projects.

23 Q. Well, you indicated that the longest you had
24 been in the United States continuously since

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1 your retirement was 10 days.

2 A. Correct.

3 Q. How many trips from Costa Rica have you made to
4 the United States in connection with this
5 project?

6 A. A period?

7 Q. From the time you began on this project.

8 A. I can provide the number and dates of the

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9 County Board meetings I have attended since

10 January of 2009 to the present. Uhm, in

11 general, I have attempted to appear at every

12 County Board meeting from that period to now.

13 Q. I think my question is how many trips have you

14 made back here? I don't need an exact number,

15 Mr. Addleman.

16 A. That's all right. I would recall possibly 10

17 per year.

18 Q. In 2009 there were a number of tours of the

19 Prairie View facility on which County Board

20 members were taken; do you recall those?

21 A. Yes.

22 Q. And there were, in fact, six such tours,

23 weren't there?

24 A. Yes.

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1 Q. Did you fly in for each one?

2 A. The tours were conducted during the weeks in

3 which I normally come back to Chicago to attend

4 the board meetings for DeKalb.

5 Q. Whose idea was it to conduct the tours?

6 A. Waste Management offers tours routinely.

7 Q. For the decision makers in landfill siting

8 cases?

9 A. In this case, yes.

10 Q. Whose idea was it to offer the decision makers

11 in this case private tours of the Prairie View

12 facility?

13 A. It was a combination of myself and

14 Mr. Hoekstra.

15 Q. And is there a reason why you didn't take all

16 the County Board members on a big bus at once as

17 opposed to taking small groups so that it became

18 six different trips?

19 A. Yes.

20 Q. What's that reason?

21 A. Scheduling.

22 Q. What do you mean by scheduling was the reason?

23 A. The board members who attended, 15 in all,

24 their schedules dictated the period in which

00014

1 they could attend such meetings.

2 Q. Did you accompany the board members that
3 attended to and from each tour, meaning that you
4 met them in Sycamore and came back with them to
5 Sycamore?

6 A. Yes.

7 Q. And what's the reason for that?

8 A. We hired a not-for-profit local transportation
9 company, Volunteer Action Network, and as the
10 host of the tour it appeared appropriate that we
11 participate. The driver, of course, was unaware
12 of the directions to the facility.

13 Q. I understand that on one occasion you actually
14 drove people to the tour and back?

15 A. That's correct.

16 Q. And you rented a car for that purpose, correct?

17 A. No.

18 Q. What vehicle did you use?

19 A. On the fifth tour I rented a vehicle from
20 Enterprise, a van, here in DeKalb. On the sixth
21 tour I used my normal rental car to conduct the
22 tour.

23 Q. Did you go with the County Board members as
24 they toured the facility?

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1 A. Yes.

2 Q. What was the typical tour agenda?

3 A. At the facility?

4 Q. Yes.

5 A. Okay, the normal course of the tour started
6 with receipt control so that individuals went
7 into the scale house and actually saw how the
8 trucks were logged in, their weights, the
9 videotapes that are taken of the license plate,
10 the driver, all of the typical considerations
11 for security that we do at all of our sites.

12 Q. What's the next thing then that --

13 A. After that we put them back on the bus and we
14 took them out to an active area so that they
15 could see day-to-day operations, and in this
16 particular case we had the good fortune to be
17 able to view a cell under construction and a
18 cell being capped.

19 Q. Who delivered the narrative or narratives

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20 during the actual tour?

21 A. Both Dale Hoekstra and myself.

22 Q. Did anyone else ever provide narrative input?

23 A. Not typically.

24 Q. Did County Board members frequently have

00016

1 questions about things they were seeing?

2 A. Yes.

3 Q. And would those questions be answered?

4 A. Yes.

5 Q. What was the purpose of these tours?

6 A. The Prairie View facility located in
7 Wilmington, Illinois is our closest facility, it
8 is of comparable size, of comparable daily
9 volume, and contains the design elements that
10 are part of the proposal in DeKalb.

11 Q. When you say comparable size, you mean
12 comparable size to the proposed expanded
13 landfill in DeKalb County?

14 A. Comparable acreage.

15 Q. When you say comparable daily volume, you mean
16 comparable to the proposed volume of the
17 expanded DeKalb Landfill?

18 A. Yes.

19 Q. Was lunch provided to the County Board members
20 that attended the tour?

21 A. Yes.

22 Q. When you first came up with Mr. Hoekstra with
23 the idea of conducting these tours, who did you
24 approach at the County level?

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1 A. The discussion on tours took place during the
2 negotiations of the host agreement.

3 Q. So it was already decided at that time?

4 A. It was offered.

5 Q. Did you have to renew your offer in the summer
6 of 2009, or did the County or some of its
7 representatives approach you about taking you up
8 on your previous offer?

9 A. The County Administrator, working with the
10 County Clerk posted tour dates where individuals
11 could sign up to participate.

12 Q. I understand that, but who determined that the

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13 tours would actually take place at the county

14 level to your knowledge?

15 A. Could you clarify that?

16 Q. You indicated that tours were offered during

17 the negotiations on the host agreement.

18 A. Uh-huh, yes.

19 Q. That would put us into a time frame of before

20 March 2009.

21 A. Before March 18th, 2009.

22 Q. The tours themselves began in July 2009.

23 A. Correct.

24 Q. Was there some conversation after the host

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1 agreement was adopted that everyone should go

2 forward with conducting and taking the tours?

3 A. The tours began in July because the weather is

4 more suitable to tours at that time of the year

5 than it is in the winter.

6 Q. At the time that the tours were offered before

7 March 18th, 2009 did anyone from the County

8 indicate to you that yes, the County Board would

9 like to have the tours?

10 A. It was indicated that board members might be

11 interested in tours.

12 Q. Who initiated the next contact after that with

13 regards to the tours?

14 A. At the County?

15 Q. Either at the Waste Management end or the

16 County end, whichever one initiated.

17 A. The County was responsible for producing the

18 notice that a tour would be made available.

19 Q. Right, but in order to get the dates they had

20 to coordinate --

21 A. Yes.

22 Q. -- with you?

23 A. Yes.

24 Q. That's my question, did they approach you to

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1 say we're ready to start taking the tours, give

2 us dates, or did you have to get back to them to

3 say something to the effect of are you still

4 interested in the taking the tours that we've

5 offered?

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6 A. The latter.

7 Q. And who did you contact for that purpose?

8 A. I discussed that with Mr. Bockman.

9 Q. And did those discussions then lead to your
10 providing him with suitable dates?

11 A. Yes.

12 Q. Does -- strike that.

13 Did you acquire the e-mail addresses of
14 any County Board members during the period of
15 2008 and 2009?

16 A. I printed off a copy of the board members off
17 of the website.

18 Q. Did that contain their e-mail addresses?

19 A. That does contain the e-mail addresses.

20 Q. How many different board members have you had
21 e-mail communications with in the last two
22 years?

23 A. Two.

24 Q. And who would those be?

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1 A. Riley Oncken on November 30th of 2009 wherein
2 an e-mail was sent to a Dave McCann indicating
3 my availability for a presentation to a -- to
4 the Sycamore Rotary -- Sycamore Rotary.

5 Q. Mr. Oncken initiated that contact to you,
6 didn't he?

7 A. No, he initiated an e-mail to Mr. McCann and
8 cc'd me.

9 Q. And what did you do in response?

10 A. I said that I would make myself available to
11 Mr. McCann.

12 Q. Was there -- or maybe I should back up. How
13 did Mr. Oncken get your e-mail address?

14 A. Business card.

15 Q. You said there was a second e-mail with a
16 County Board member?

17 A. Mr. Haines, who inquired as to the directions
18 to our Prairie View facility because he drove
19 himself.

20 Q. Now, Mr. Addleman, you're referring to some
21 notes here as we're talking?

22 A. Yes.

23 Q. And you're using those to refresh your

24 recollection?

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1 A. Yes.

2 MR. MUELLER: Mr. Moran, since he's using
3 them to refresh his recollection I presume we
4 can have a copy of those notes?

5 MR. MORAN: Sure.

6 MR. MUELLER: And we can make a copy after
7 the exhibit (sic) and mark it Addleman
8 Deposition Exhibit No. 1?

9 MR. MORAN: Certainly.

10 MR. MUELLER: Thank you.

11 After the host agreement was adopted and
12 before the siting application was filed there
13 was a pre-filing review of the application
14 conducted between the County's consultants and
15 some of the Waste Management consultants or
16 technical staff; are you aware of that?

17 A. Yes.

18 Q. Did you participate in any way in that
19 pre-filing review?

20 A. Technically, no. Participate in any way?

21 Q. Yes.

22 A. Okay. The pre-filing review is an element of
23 the siting ordinance offered up in the County's
24 siting ordinance. The County thought a

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1 pre-filing review would be a good idea and so
2 did Waste Management.

3 Q. Did you participate in the discussions wherein
4 it was determined that a pre-filing review would
5 occur?

6 A. We indicated to the County, Dale Hoekstra and
7 I, that we would engage in a pre-filing review
8 and pay for it.

9 Q. I believe that cost was \$75,000?

10 A. Yes.

11 Q. To your knowledge the consultant for the County
12 in that regard was Patrick Engineering?

13 A. Yes.

14 Q. Was Renee Cipriano also involved in the
15 pre-filing review?

16 A. I don't know.

17 Q. When was she brought onboard for the County?

18 A. My recollection, about the time of the host
19 agreement.

20 Q. Do you know -- let me go back.

21 Did Waste Management suggest her name or
22 recommend her for that position?

23 A. We provided input to the County Administrator
24 on hearing officers and legal counsel that we

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1 had -- were aware that had participated in
2 hearings in the past.

3 Q. Do you know how many people you identified as
4 being potential legal counsel?

5 A. We provided five hearing officers: Christine
6 Zeman; Larry Clark; John McCarthy; Liz Harvey;
7 and an attorney from Ottawa, George Mueller.

8 Q. I'm flattered. Who did you provide as
9 potential legal counsel.

10 A. We alerted the County to Mr. Helsten,
11 Mr. Porter, and Renee Cipriano as I recall.

12 Q. Did you sit in on any of the pre-filing review
13 meetings that may have occurred?

14 A. The technical?

15 Q. Yes.

16 A. The review was handled with our engineering
17 department.

18 Q. So your answer is no, you did not?

19 A. I did not physically participate in the
20 pre-filing review.

21 Q. Do you remember any of the changes in the
22 preliminary proposal that came out of the
23 pre-filing review?

24 A. I wasn't privy to that.

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1 Q. Were you present when the actual siting
2 application was filed on November 30th?

3 A. No.

4 Q. Did you have any communication with any County
5 employee or board member after November 30th,
6 2009 and before the date of the final vote,
7 which I believe as I'm sitting here is May 11th?

8 MR. MORAN: May 10th.

9 MR. MUELLER: May 10th, I apologize.

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10 A. With regard to County Board members, I attended
11 board meetings in which I may have offered
12 salutations, good evening. With regard to
13 members of the staff, I had phone conversations
14 with Mr. Bockman.

15 Q. How many such conversations would you say you
16 had with Mr. Bockman during this period of time?

17 A. The period of time being?

18 Q. November 30th through May 10th.

19 A. I'm not able to provide an exact number of
20 conversations, but our conversations that did
21 take place were related to scheduling, process,
22 procedure, or logistics.

23 Q. Would you say you had more than 10 such
24 conversations?

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1 A. There were weeks where I talked to Mr. Bockman
2 once or twice, there were weeks that went by
3 where I didn't talk to Mr. Bockman at all.

4 Q. Were you ever contacted by Mr. Bockman in
5 February 2010 regarding what procedures, if any,
6 the County should use to deal with individuals
7 who wanted to view or make copies of the siting
8 application?

9 A. No. That role was performed by Renee Cipriano.

10 Q. How many conversations, if any, did you have
11 with Ms. Cipriano between November 30th, 2009,
12 and May 10th, 2010?

13 A. Communications with Ms. Cipriano are handled by
14 Waste Management's attorney, Don Moran.

15 Q. So the answer is you didn't have any?

16 A. Other than normal salutations?

17 Q. Other than casual --

18 A. Yes, I know her, so.

19 Q. Right. Did you ever meet with Mr. Bockman
20 personally on any occasion other than seeing him
21 at County Board meetings or siting hearings
22 between November 30th, 2009 and May 10th, 2010?

23 A. Yes.

24 Q. And when and where did those meetings take

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1 place?

2 A. Typically on the date of the County Board

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3 meeting, because I was in town, I would stop to
4 see Mr. Bockman either in the morning or the
5 afternoon of the day on which the board meeting
6 was being held.

7 Q. For what purpose would you so stop?

8 A. Primarily to determine if he had any questions
9 for me in terms of scheduling or what --
10 typically the 172 process is not well-defined by
11 most county officials, so I provided him
12 information about timelines.

13 Q. There was a notice of public hearing that
14 appeared on the County's website in February
15 2010 which indicated that the application could
16 be viewed pursuant to a Freedom of Information
17 Act request. Were you involved in drafting that
18 notice?

19 A. I have no knowledge of that.

20 Q. Were you involved ever in submitting any
21 materials to the County for placement on their
22 website?

23 A. Could you rephrase that?

24 Q. Were you ever involved in submitting any

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1 materials to the County for placement on their
2 website?

3 A. No.

4 Q. What was your title on this project, by the
5 way?

6 A. I'm a business development consultant. Part of
7 the team.

8 Q. Did you consider yourself equal to, superior,
9 or inferior to Mr. Hoekstra in terms of the
10 authority and rank on the project?

11 A. Inferior to him.

12 Q. So you took direction from Mr. Hoekstra when it
13 was given?

14 A. I report to someone else in the organization,
15 but Mr. Hoekstra is the project manager.

16 Q. Who do you report to in the organization?

17 A. The president of the market area.

18 Q. And that is?

19 A. Steve Batchelor, B-A-T-C-H-E-L-O-R.

20 Q. Does Waste Management or did Waste Management

21 to your knowledge have anyone providing
22 information to it who is also a member of the
23 Stop The Mega-Dump group?

24 MR. MORAN: I object to the form of the
00028

1 question. I'm not sure what that refers to or
2 means. With respect to the expansion or with
3 respect to anything?

4 MR. MUELLER: With respect to the
5 expansion and the activities of the Stop The
6 Mega-Dump group.

7 A. I'm not sure I understood that, Counsel.

8 Q. Well, I think the informal way of saying it is
9 to your knowledge did Waste Management plant a
10 spy in Stop The Mega-Dump?

11 A. No.

12 Q. And you understand what I'm saying, right,
13 Mr. Addleman?

14 A. Yes.

15 MR. MUELLER: That's all I have.

16 MS. ANTONIOLLI: Would you like to go?

17 MR. MORAN: I have no questions.

18 MS. ANTONIOLLI: Okay. I don't have any
19 questions either.

20 THE WITNESS: Thank you.

21 MR. MUELLER: Mr. Addleman, you have the
22 right to review the transcript prior to its use,
23 or you can waive that right.

24 THE WITNESS: I understand, and I trust

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1 the veracity and accuracy of the transaction.

2 MR. MORAN: Signature waived.

3 (The deposition was concluded at
4 4:39 p.m.)

5 (Addleman Exhibit No. 1 marked
6 for identification at the
7 conclusion of the deposition.)

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1 CERTIFICATE

2

3 I, Callie S. Bodmer, a Certified Shorthand
Reporter in and for the State of Illinois, do hereby
4 certify that, pursuant to the agreement herein
contained, there came before me on the 19th day of
5 October 2010 at 3:54 p.m. at the DeKalb County
Legislative Center, 200 North Main Street, Sycamore,
6 Illinois, the following-named person, to-wit: LEE
ADDLEMAN, who was duly sworn to testify to the truth
7 and nothing but the truth of his knowledge
concerning the matters in controversy in this cause;
8 that he was thereupon examined on his oath and his
examination reduced to writing under my supervision;
9 that the deposition is a true record of the
testimony given by the witness, and that the reading
10 and signing of the deposition by said witness were
expressly waived.

11

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

15

In witness whereof I have hereunto set my
16 hand this 25th day of October 2010.

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Certified Shorthand Reporter
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00001

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STOP THE MEGA-DUMP,)

4)

Petitioner,) PCB NO. 2010-103

5)

v.)

6) DEPOSITION OF

COUNTY BOARD OF DEKALB) MARLENE ALLEN

7 COUNTY, ILLINOIS and WASTE)

MANAGEMENT OF ILLINOIS,)

8 INC.,)

)

Respondents.)

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15 DEPOSITION OF MARLENE ALLEN, taken at the

16 DeKalb County Legislative Center, 200 North Main

17 Street, Sycamore, Illinois, on September 15, 2010,

18 commencing at 10:27 a.m., before Callie S. Bodmer,

19 Certified Shorthand Reporter and Notary Public in

20 and for the State of Illinois, in pursuance to

21 agreement of the parties in the above-entitled

22 action.

23

24

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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,

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233 South Wacker Drive, Suite 7200,

7 Chicago, Illinois, 60606,

8 Counsel for the Respondent,

County Board of DeKalb

9 County, Illinois.

10 ATTORNEY DONALD D. MORAN,

of the firm of Pedersen & Houpt,

11 161 North Clark Street, Suite 3100,

Chicago, Illinois, 60601,

12 Counsel for the Respondent,

13 Waste Management of

Illinois, Inc.

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3 Witness: MARLENE ALLEN

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15 EXHIBITS

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Certificate of Shorthand Reporter 37

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1 MARLENE ALLEN,
2 being first duly sworn, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MR. MUELLER:

6 Q. Would you state your name, please.

7 A. Marlene D. Allen.

8 MR. MUELLER: Let the record show this is
9 the discovery deposition of Marlene Allen taken
10 pursuant to notice and scheduled by agreement of
11 the parties.

12 Ms. Allen, have you ever had your
13 deposition taken before in any case?

14 A. Not a deposition.

15 Q. Just briefly let me go through some of the
16 ground rules. I'm George Mueller, I'm the
17 attorney for the Stop The Mega-Dump
18 organization, and I'm here today to ask you some
19 questions regarding your involvement as a County
20 Board member and deciding on the Waste
21 Management application. Do you understand that?

22 A. Yes, sir.

23 Q. And everything that we say is being taken down
24 by a court reporter, so it's important to keep

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1 our answers and questions audible, not to talk
2 over each other. And if I ask you a question
3 that you don't understand, feel free to have me
4 rephrase it. Do you understand all of that?

5 A. Yes, sir.

6 Q. Ms. Allen, what is your address?

7 A. 207 East Third Street, Sandwich, Illinois.

8 Q. So you don't live in the immediate proximity to
9 the proposed landfill?

10 A. No.

11 Q. You are a County Board member?

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- 12 A. Yes, sir.
- 13 Q. How long have you been a County Board member?
- 14 A. I was sworn in in May of '91.
- 15 Q. And that means you have been re-elected from
- 16 time to time on numerous occasions?
- 17 A. Yes, sir.
- 18 Q. When are you next up for election?
- 19 A. Right now.
- 20 Q. Is anyone running against you?
- 21 A. No.
- 22 Q. Did anyone run against you in the primary?
- 23 A. No.
- 24 Q. What is your political party?

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- 1 A. Republican.
- 2 Q. What is the Republican, Democratic make-up of
- 3 the County Board?
- 4 A. Half and half.
- 5 Q. It's split?
- 6 A. Yes.
- 7 Q. How many members are there on the board?
- 8 A. 24.
- 9 Q. To your knowledge 12 Democrats, 12 Republicans?
- 10 A. Uh-huh.
- 11 Q. Historically what has been the balance?
- 12 A. Republicans have outnumbered the Democrats.
- 13 I'm not sure the number.
- 14 Q. Is the chairman Republican?
- 15 A. No.
- 16 Q. She's a Democrat?
- 17 A. Yes, sir.
- 18 Q. Did you vote for or against the landfill siting
- 19 application?
- 20 A. For.
- 21 Q. Were you a member of the committee that made
- 22 the recommendation?
- 23 A. Yes.
- 24 Q. Who were the members of that committee?

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- 1 A. Myself, Ken Andersen, Riley Oncken, Michael
- 2 Haines, I believe Anita Turner.
- 3 Q. Is this County Board laid out so that there are
- 4 two representatives from each district?

5 A. Yes, sir. Electronic Filing - Received, Clerk's Office, December 28, 2010

6 Q. Who are the representatives, if you know, from
7 the district in which the proposed facility is
8 to be located?

9 A. Would you repeat that?

10 Q. Do you know who the representatives are on the
11 County Board from the district in which the
12 landfill is located?

13 A. I believe it's Riley Oncken and Mr. Andersen.

14 Q. Did you attend the public hearings?

15 A. Only the last one, due to work.

16 Q. And I should ask you, what is your job, ma'am?

17 A. Well, I ride a -- I'm a bus aide on a special
18 needs bus in the City of Sandwich -- or the
19 school district of Sandwich, just part-time.

20 Q. When's the last time that you were employed
21 full-time?

22 A. About 12 years ago, I worked part-time at
23 Kishwaukee Hospital and at the school district.

24 Q. What was your -- I presume you're retired from
00008

1 full-time employment?

2 A. CNA.

3 Q. What's your highest level of education?

4 A. High school, with some other side courses.

5 Q. Ms. Allen, are you a member of the County Law
6 and Justice Committee?

7 A. Yes, sir.

8 Q. Are you, in fact, the chairman of that
9 committee?

10 A. Yes, sir.

11 Q. And is there a plan to expand the jail and
12 courthouse in DeKalb County?

13 A. Is there a plan?

14 Q. Yes.

15 A. The courthouse.

16 Q. How long has the discussion of expanding the
17 jail and courthouse been going on to your
18 knowledge?

19 A. I'm not on that committee. I think it's over a
20 year.

21 Q. Well --

22 A. It has not been discussed at committee level.

23 Q. What role does the Law and Justice Committee
24 play in the expansion of the courthouse and

00009

1 jail?

2 A. Very little.

3 Q. Does it play any role in that expansion?

4 A. No.

5 Q. Isn't it the job of the Courthouse and Jail
6 Committee to determine -- or to recommend, for
7 example, whether to build a new courthouse or
8 expand the existing one?

9 A. There was a special committee and it wasn't the
10 Law and Justice Committee.

11 Q. Ah.

12 A. And no one on the Law and Justice Committee is
13 on that committee.

14 Q. What committee was it that handled the planning
15 for that expansion?

16 A. The oversight of the courthouse addition.

17 Q. You're not on that committee?

18 A. No, sir.

19 Q. Has the Law and Justice Committee in its
20 official sessions ever dealt with or discussed
21 the issue of how the courthouse and jail
22 expansion are going to be financed?

23 A. No.

24 Q. If I can have just a minute, Ms. Allen. I'm
00010

1 not trying to trick you, but I thought I
2 recalled seeing some minutes to the contrary so
3 let me look for those.

4 Is there something called a Courthouse
5 Oversight Committee?

6 A. Yes.

7 Q. And is that to your knowledge the committee
8 that is dealing with the question of the
9 courthouse expansion?

10 A. Yes, sir.

11 Q. And do the members of your committee get
12 updates from the Courthouse Oversight Committee
13 on a regular basis?

14 A. Yes, sir.

15 Q. So, in fact, to the extent that there are

16 updates provided at your committee meetings
17 of -- meaning your committee meetings, the
18 Courthouse and Jail Committee, the expansion of
19 the courthouse is, in fact, discussed in your
20 committee meetings; isn't that true?

21 A. The -- in my committee the Oversight Committee
22 comes and explains what they're going to do. We
23 have no vote.

24 Q. And did you have an understanding back in
00011

1 February of this year as to how the courthouse
2 and jail expansion were going to be financed?

3 A. No.

4 Q. Are you aware of a discussion in various
5 committee meetings, including the Law and
6 Justice Committee, that the bonds -- or strike
7 that.

8 Are you aware of the idea that the
9 courthouse and jail expansion would be financed
10 through the sale of bonds?

11 A. Not for sure.

12 Q. Has that been an item though that's been
13 discussed and considered?

14 A. Not at my committee.

15 Q. Are you aware that the bonds to be sold were
16 going to be for the purpose -- or were going to
17 be guaranteed and backed by host revenues from
18 the landfill expansion?

19 A. No.

20 Q. You have never heard that discussed or
21 mentioned?

22 A. No.

23 MR. MUELLER: Amy, I have got a copy of
24 one set of minutes from the Law and Justice

00012

1 Committee which I would like to ask the witness
2 about. Is it possible that we can have a couple
3 copies made before we can mark it as an exhibit?

4 MS. ANTONIOLLI: Well, we don't -- can I
5 take a look at it?

6 MR. MUELLER: Yeah.

7 MS. ANTONIOLLI: We don't have this yet in
8 the record as part of the facts, uhm, but I

9 guess for purposes of today I can make copies of
10 it.

11 MR. MUELLER: I'm just going to mark it as
12 a deposition exhibit is all I want to do, ask
13 her whether those are authentic copies.

14 MS. ANTONIOLLI: Okay.

15 (A recess was taken at 10:40 a.m.
16 and proceedings resumed at 10:42
17 a.m.)

18 Q. While we're waiting we can move on to another
19 area of questioning so we don't take up too much
20 time. Ms. Allen, were you involved in
21 developing any of the rules and procedures for
22 the siting hearing?

23 A. Repeat that.

24 Q. Were you involved in developing any of the

00013

1 rules and procedures for the siting hearing that
2 started on March 1st, 2010?

3 MS. ANTONIOLLI: You know, maybe you had
4 done a question while I was out of the room, but
5 could you give her a little bit of background
6 about the rules that you're referring to?

7 MR. MUELLER: I actually did not do a
8 question while you were out of the room.

9 MS. ANTONIOLLI: Okay.

10 MR. MUELLER: I would not do that.

11 MS. ANTONIOLLI: Thank you.

12 Q. Are you aware, Ms. Allen, of a DeKalb County
13 Pollution Control Facility Siting Ordinance?

14 A. No.

15 Q. Are you aware of rules and regulations
16 promulgated pursuant to that ordinance?

17 MS. ANTONIOLLI: Do you want to talk? Do
18 you want to go off the record for a minute?

19 A. I don't understand your question.

20 Q. When was the committee that sat -- strike that.

21 The committee that you were on with Riley
22 Oncken, Ken Andersen, Anita Turner, and one
23 other individual, what was the name of that
24 committee?

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1 A. I don't remember.

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2 Q. Would it have been the Pollution Control
3 Facility Siting Committee?

4 (A discussion was held off
5 the record.)

6 MR. MUELLER: I'm sorry for the
7 interruption.

8 If you don't remember, that's fine.

9 A. I don't remember.

10 Q. When was that committee formed?

11 A. Oh my goodness. I don't remember.

12 Q. Would it have been more than a year before the
13 actual siting hearing began?

14 A. At least.

15 Q. Did that committee draft any -- draft or write
16 any rules and regulations for the way that the
17 siting hearing was going to happen?

18 A. I don't remember.

19 Q. So if I were to ask you whether the committee
20 recommended any ordinances or rules to the
21 entire County Board regarding the conduct of the
22 hearing, would your answer be that you don't
23 remember?

24 A. I don't remember.

00015

1 Q. Do you know who developed or made up the
2 procedures to be used at the hearing?

3 A. No.

4 Q. Were you involved in any way in doing that?

5 A. No.

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

8 Q. Let me show you, Ms. Allen, what I have marked
9 as Allen Dep Exhibit 1, and I'll hand your
10 counsel and Mr. Moran a copy as well, and I'll
11 ask you to review that document and tell me
12 whether you recognize it.

13 A. Yes.

14 Q. And what is this document?

15 A. This is the minutes of the Law and Justice
16 Committee.

17 Q. From February 22nd, 2010?

18 A. Yes, sir.

19 Q. And to your knowledge, Ms. Allen, does this

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20 appear to be a true and accurate copy of those
21 minutes?

22 A. Yes.

23 Q. Then I'll move on. During the course of this
24 landfill decision-making process did you ever

00016

1 have any personal conversations with any
2 representative of Waste Management?

3 A. No.

4 Q. Did you ever talk to Lee Adlemann?

5 A. No.

6 Q. Do you know who he is?

7 A. No -- yes.

8 Q. I'm sorry?

9 A. Yes.

10 Q. Yes, you know who Lee Adlemann is?

11 A. Yes.

12 Q. How do you know him?

13 A. I have seen him at County Board meetings.

14 Q. But you have never had a conversation with him?

15 A. Have I ever had a conversation -- not about
16 this, no.

17 Q. Well, how many times would you say you have
18 talked to him about anything?

19 A. I have seen him at County Board meetings, and
20 that would be when I have talked to him about
21 what the weather was like at his house.

22 Q. Everyone seems to be interested in
23 Mr. Adlemann's house.

24 A. I am.

00017

1 Q. And apparently for good reasons?

2 MR. MORAN: As we should be. It's a nice
3 place.

4 Q. Do you know Dale Hoekstra?

5 A. Yes.

6 Q. Have you ever talked to him about this
7 proposal?

8 A. No.

9 Q. Did you ever talk to Mr. Moran about this
10 proposal before the final decision was made?

11 A. No.

12 Q. Did you ever talk to any people that were known

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13 to you to be members of the Stop The Mega-Dump
14 organization about the landfill proposal?

15 A. No.

16 Q. Did any of them approach you in an attempt to
17 talk to you about it?

18 A. No.

19 Q. During the summer of 2009 did you have -- or
20 did you take a tour of a Waste Management
21 facility in the Joliet area?

22 A. Yes, sir.

23 Q. And do you recall when that happened?

24 A. No.

00018

1 Q. I know you don't know the exact date, but would
2 it be fair to say it was somewhere in the summer
3 of 2009?

4 A. Yes.

5 Q. And how did you find out about the tour?

6 A. It was arranged for County Board members that
7 would like to go.

8 Q. Do you know who arranged it?

9 A. I signed up with Mary, the secretary.

10 Q. That would be Mary Supple?

11 A. Yes.

12 Q. Who did you get your invitation from?

13 A. I don't remember.

14 Q. How did you get to the place that you toured?

15 A. By a bus.

16 Q. Do you remember where the bus left from?

17 A. From right here out of the parking lot.

18 Q. Parking lot of the County building?

19 A. Of the Legislative Center.

20 Q. Who all went with you?

21 A. There was a number of board members. I don't
22 remember.

23 Q. Would you happen to remember any of the other
24 ones that went with you on that tour?

00019

1 A. About what?

2 Q. Do you remember the names of anyone else that
3 was with you on that tour?

4 A. Pat Vary. There was a number of board members.
5 I do not remember.

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6 Q. How many in total would you say went?

7 A. I'm not sure.

8 Q. More than 10 or less than 10?

9 A. More.

10 Q. Was Mr. Bockman along on the ride?

11 A. I don't -- I do not believe so.

12 Q. Were any Waste Management employees or
13 representatives on the bus?

14 A. Lee -- I can't remember his last name.

15 MR. MORAN: Adlemann.

16 THE WITNESS: Yeah.

17 Q. Lee was on the bus?

18 A. Yeah.

19 Q. And do you remember which Waste Management
20 facility you toured?

21 A. The one at Joliet.

22 Q. Would the name of that facility be Prairie
23 View?

24 A. I don't know.

00020

1 Q. About what time of the morning did you leave
2 here?

3 A. 8:30 or 9.

4 Q. Do you remember what time you got to the
5 landfill?

6 A. No, I -- I don't know.

7 Q. Do you know who paid for the bus to get to and
8 from the landfill?

9 A. No.

10 Q. Can you tell us what the tour consisted of?

11 A. The tour consisted of the landfill site.

12 Q. I mean, do you remember what you looked at?

13 A. Well, yeah.

14 Q. What did you look at?

15 A. Well, we saw the office, how trucks are -- came
16 in, and then we went out and saw them working on
17 the landfill that day, covering up, and also we
18 saw them preparing another cell.

19 Q. So you did get to witness the process of cell
20 construction?

21 A. Yes.

22 Q. And I presume you saw an actual active
23 operation where trailers were being tipped and

24 emptied? Electronic Filing - Received, Clerk's Office, December 28, 2010

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1 A. Yes.

2 Q. And then you saw cover being applied to waste
3 that had already been placed?

4 A. No, because we were there -- I don't know when
5 that happens. We were there at 11 o'clock in
6 the morning. I saw where they were preparing
7 another cell, they weren't working on it but I
8 saw some of the construction of it.

9 Q. Did they give you like a piece of that liner
10 material to examine on the tour?

11 A. I don't remember.

12 Q. Was there a tour guide, if you will, that
13 explained to you what you were seeing and
14 answered questions?

15 A. Yes.

16 Q. And who was that?

17 A. That was Dale.

18 Q. That was Mr. Hoekstra?

19 A. Yeah.

20 Q. So he's the one that conducted the tour?

21 A. Yes.

22 Q. And did he answer questions about various
23 things that they were doing?

24 A. Yes.

00022

1 Q. Did people have questions?

2 A. Yes.

3 Q. Were you provided with lunch?

4 A. Yes.

5 Q. Where did you have the lunch at?

6 A. In a conference room right there.

7 Q. In a conference room at the office?

8 A. Yes.

9 Q. And my understanding is they just brought in
10 Jimmy John's sandwiches and soda pop?

11 A. Yeah.

12 Q. Anything else?

13 A. No.

14 Q. Did you do any touring after lunch?

15 A. I don't -- no, I don't think so.

16 Q. Well, how long would you say the entire tour

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17 lasted?

18 A. We left here about 8:30 in the morning and I
19 think we got back about 2 or shortly after that,
20 so -- 2 or 3.

21 Q. Somewhere between 2 and 3?

22 A. Yeah, got back, I don't remember.

23 Q. Did you get any souvenirs from the tour?

24 A. No.

00023

1 Q. Any pens or key chains or anything?

2 A. Not that I remember.

3 Q. And did Mr. Hoekstra explain that the way that
4 they were preparing a new cell at that Joliet
5 landfill was the way that they'd construct new
6 cells in the DeKalb County expansion?

7 A. Yeah.

8 Q. Did you talk to any Waste Management employees
9 other than Mr. Hoekstra and Mr. Adlemann during
10 the day?

11 A. No.

12 Q. Did Mr. Adlemann ride the bus back with all of
13 you from the tour?

14 A. I don't remember. I don't think so.

15 Q. Do you know whether the application that was
16 filed by Waste Management for the expansion
17 was -- or do you know where it was available to
18 be viewed?

19 A. We got minutes of all -- rephrase that.

20 Q. Are you aware of the siting application that
21 was filed by Waste Management?

22 A. I'm aware there was one.

23 Q. That was nine volumes?

24 A. It was more than that.

00024

1 Q. Did you get a personal copy given to you as a
2 County Board member?

3 A. Yes, sir.

4 Q. All right. Do you know where other copies were
5 available to be viewed?

6 A. It was on the computer I believe.

7 Q. Did you get a disk of the application also?

8 A. No.

9 Q. You did not?

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10 A. I got reams of paper.

11 Q. You just got the books?

12 A. Yes, sir.

13 Q. You didn't get a computer disk?

14 A. No. I didn't ask for that.

15 Q. And were you involved in deciding how members

16 of the public could get copies of that

17 application?

18 A. No.

19 Q. The tour that you were on last summer in the

20 summer of 2009 of the Joliet facility, was that

21 fairly impressive to you?

22 A. Repeat that.

23 Q. The tour that you were on, was that fairly

24 impressive to you?

00025

1 A. It was a tour.

2 Q. Well, I mean, did you learn a lot on the tour?

3 A. Yes.

4 Q. Did you have a lot of your questions answered?

5 A. Yes.

6 Q. Did the Waste Management operation look to you

7 like it was pretty clean?

8 A. Yes.

9 Q. Did it look to you like when they were

10 constructing that new cell they knew what they

11 were doing and were professional about the way

12 they were going about their business?

13 A. Yes.

14 Q. And did you -- would it be fair to say that you

15 left that tour with a positive impression of

16 what they were doing and how they were doing it?

17 A. Yes.

18 Q. You indicated you only attended one of the

19 public hearings, right?

20 A. Yes, sir.

21 Q. With regard to the public hearings that you

22 didn't attend, were there minutes that you got

23 of those?

24 A. Yes, sir.

00026

1 MR. MUELLER: Ms. Allen, that's all the

2 questions I have. Thank you very much.

3 MR. MORAN: I have a few questions.

4 THE WITNESS: Okay.

5 EXAMINATION

6 BY MR. MORAN:

7 Q. Ms. Allen, as a County Board member what are
8 your duties and responsibilities just generally?

9 A. What are my duties and responsibilities?

10 Q. Yes.

11 A. To represent my constituents.

12 Q. Do those duties also include policy making
13 functions or decisions?

14 A. Yes.

15 Q. Decisions on financial matters?

16 A. Yes.

17 Q. Decisions with respect to the enactment or
18 passing of ordinances or resolutions?

19 A. Yes.

20 Q. So would it be fair maybe to say that those
21 duties and responsibilities were primarily
22 legislative and maybe executive in nature?

23 A. Yes.

24 Q. And was that different than the kind of

00027

1 responsibility you had to review the site
2 location application for the expansion?

3 A. Yes.

4 Q. And the duty with respect to that site location
5 application was more of a judicial
6 responsibility?

7 A. Yes.

8 Q. One that required you to review the evidence
9 and testimony presented as part of the siting
10 proceeding?

11 A. Yes.

12 Q. And not any other information that wasn't
13 presented or made part of that siting
14 proceeding?

15 A. No.

16 Q. Would that be correct?

17 A. Uh-huh.

18 Q. You need to say yes.

19 A. Yes. Sorry.

20 Q. And is it your understanding that that site

21 location application was filed on November 30th
22 of 2009?

23 A. I believe so.

24 Q. And your responsibilities in that judicial
00028

1 capacity would begin -- or began on that date,
2 November 30th, 2009?

3 A. Yes.

4 Q. And those duties would continue through the
5 date the County Board voted on the siting
6 application?

7 A. Yes, sir.

8 Q. And that vote occurred on May 10th of 2010?

9 A. Yes.

10 Q. I think you indicated you voted to approve the
11 expansion --

12 A. Yes.

13 Q. -- correct?

14 Now, were you aware or told that your
15 decision on the application was to be based upon
16 the evidence presented at the siting hearing and
17 submitted within the 30-day period after the
18 public hearing?

19 A. Yes.

20 Q. And also any other written submissions that
21 were made to the County Board after the filing
22 of the application on November 30th until the
23 30th day after the public hearing concluded?

24 A. Yes.

00029

1 Q. And I believe also any documents that were
2 received or postmarked within 30 days of the
3 last day of the public hearing could be
4 considered, correct?

5 A. Yes.

6 Q. And that you were only to make a decision after
7 all of those submissions and all of that
8 evidence was presented to the County Board --

9 A. Yes.

10 Q. -- correct?

11 And did you also receive at some point a
12 communication from the County Administrator
13 regarding any communications with any of the

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14 parties?

15 A. Yes.

16 Q. And did that communication from the County
17 Administrator indicate that you were not to have
18 any communications with any parties outside of
19 the siting process or the siting hearing?

20 A. Yes.

21 Q. And did you abide by that instruction?

22 A. Yes.

23 Q. Did you consider any information or facts that
24 were not presented in the siting proceeding or

00030

1 not contained in the siting record in making
2 your decision on the siting application? Should
3 I repeat that question?

4 A. Please.

5 Q. Certainly. Did you consider any information
6 that was not presented as part of the siting
7 proceeding or not contained in the siting record
8 in making your decision on the siting
9 application?

10 A. No.

11 Q. Did any information or facts that were not
12 presented in that siting proceeding or not
13 contained in the siting record, did any of that
14 information affect or influence your decision on
15 the siting application?

16 A. No.

17 Q. And did you make your decision on the siting
18 application at any point prior to April 20th of
19 2010?

20 A. No.

21 Q. And the April 20th, 2010 date would have been
22 the period within which any evidence or persons
23 could submit written comment with respect to the
24 proposed siting application, correct?

00031

1 A. Right.

2 MR. MORAN: Thank you. Nothing further.

3 EXAMINATION

4 BY MR. MUELLER:

5 Q. In follow-up on that let me just ask a couple
6 more questions. You only attended one day of

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7 the siting hearings, right?

8 A. Right.

9 Q. And was there even -- the last day that you
10 attended was there even any evidence presented
11 on that day or was that a public comment day?

12 A. I believe there was evidence that day, the man
13 that --

14 Q. Some of that evidence was fairly technical in
15 nature, correct?

16 A. Right. Right.

17 Q. Did the tour that you took in the summer of
18 2009 of the Waste Management facility at Joliet
19 help you understand that evidence?

20 A. No.

21 Q. The -- did you consider anything you learned on
22 the tour in making your decision?

23 A. No.

24 Q. Then why did you even bother taking the tour?

00032

1 MS. ANTONIOLLI: I'm going to object,
2 that's invading the mind of the decisionmaker.

3 MR. MUELLER: Only with regard to the
4 tour, not with regard to why she made her
5 decision in this case.

6 MS. ANTONIOLLI: It's leading up to her
7 ultimate decision and consideration of the
8 evidence presented that she considered for
9 making her decision.

10 MR. MUELLER: Are you instructing her not
11 to answer?

12 A. I won't answer that.

13 Q. You won't answer that?

14 A. No.

15 Q. Why not? Are you refusing to answer my
16 question of why not?

17 MS. ANTONIOLLI: You can answer to the
18 best of your ability.

19 A. You're asking me why I bothered to take the
20 tour?

21 Q. Yes.

22 A. Because I wanted to learn what they did with my
23 garbage.

24 Q. And they indicated to you at the tour that the

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00033

1 expanded facility at DeKalb County would treat
2 garbage pretty much the same way as you were
3 viewing in Joliet, right?

4 A. Yes.

5 Q. Before this deposition, Ms. Allen, who did you
6 speak to to get prepared?

7 A. Mr. Moran.

8 Q. Anyone else?

9 A. No.

10 Q. When did you speak to him to get prepared?

11 A. About three or four weeks ago.

12 Q. How long did that meeting take?

13 A. About an hour.

14 Q. Was that in person or on the phone?

15 A. In person.

16 Q. And you're aware that County Board members are
17 supposed to base their decision only on the
18 evidence in this kind of case, right?

19 A. Yes.

20 Q. And Mr. Moran when he spoke to you emphasized
21 that point, didn't he?

22 A. Repeat that.

23 Q. When Mr. Moran spent an hour with you going
24 over your deposition and what to expect he

00034

1 emphasized that point?

2 A. Right.

3 MR. MUELLER: Thank you. That's all I
4 have.

5 MR. MORAN: I have a few follow-up
6 questions.

7 MR. MUELLER: Go ahead.

8 EXAMINATION

9 BY MR. MORAN:

10 Q. Ms. Allen, when I met with you to discuss this
11 appeal I was not instructing you or in any way
12 preparing you as to how to testify at this
13 deposition, was I?

14 A. No.

15 Q. In fact, I was asking you facts about what you
16 knew and what your involvement was in connection
17 with your review and consideration of this

18 application, would that be fair?

19 A. Yes.

20 MR. MORAN: That's all I have.

21 EXAMINATION

22 BY MS. ANTONIOLLI:

23 Q. And did you understand your role as a
24 decisionmaker before you made your decision on

00035

1 May 10th?

2 A. Yes.

3 Q. And that included your responsibility to make a
4 decision based on the evidence and the record?

5 A. Yes.

6 MS. ANTONIOLLI: Okay. That's all. Thank
7 you.

8 MR. MUELLER: Counsel, waiver of signature
9 or reservation?

10 MS. ANTONIOLLI: We discussed this
11 earlier, you have a couple -- two options with
12 respect to your deposition transcript today.
13 The court reporter has been here and she's been
14 transcribing everything we discussed on the
15 record so far today, and you can either choose
16 to go to the court reporter's office, review the
17 transcript for any errors or mistakes or things
18 that may not be -- might not represent what you
19 said and sign that deposition at that time; or
20 you can trust that she's transcribed the record,
21 what you said accurately today and waive your
22 signature.

23 THE WITNESS: I will waive.

24 MR. MUELLER: Thank you.

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1 (The deposition was concluded at
2 11:15 a.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
Reporter in and for the State of Illinois, do hereby
4 certify that, pursuant to the agreement herein
contained, there came before me on the 15th day of
5 September 2010 at 10:27 a.m. at the DeKalb County
Legislative Center, 200 North Main Street, Sycamore,
6 Illinois, the following-named person, to-wit:
MARLENE ALLEN, who was duly sworn to testify to the
7 truth and nothing but the truth of her knowledge
concerning the matters in controversy in this cause;
8 that she was thereupon examined on her oath and her
examination reduced to writing under my supervision;
9 that the deposition is a true record of the
testimony given by the witness, and that the reading
10 and signing of the deposition by said witness were
expressly waived.

11

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

15

In witness whereof I have hereunto set my

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16 hand this 7th day of October 2010.

17
18
19

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

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21
22
23
24

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00001

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
2
3 STOP THE MEGA-DUMP,)
4)
5 Petitioner,) PCB NO. 2010-103
6)
7 v.)
8) DEPOSITION OF
9 COUNTY BOARD OF DEKALB) RAY BOCKMAN
10)
11 COUNTY, ILLINOIS and WASTE)
12)
13 MANAGEMENT OF ILLINOIS,)
14)
15 INC.,)
16)
17 Respondent.)

18 DEPOSITION OF RAY BOCKMAN, taken at the
19 DeKalb County Legislative Center, 200 North Main
20 Street, Sycamore, Illinois, on September 29, 2010,
21 commencing at 10:23 a.m., before Julie K. Edeus,
22 Certified Shorthand Reporter and Notary Public in
23 and for the State of Illinois, in pursuance to
24 agreement of the parties in the above-entitled
25 action.

00002

1 APPEARANCES:
2
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4 of the firm of Mueller Anderson, P.C.,
5 603 Etna Road,
6 Ottawa, Illinois, 61350,
7
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10 Counsel for Respondent
Waste Management of
Illinois, Inc.

11
12 ATTORNEY AMY ANTONIOLLI,
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Chicago, Illinois, 60606,

14
15 Counsel for Respondent
County Board of DeKalb County,
Illinois.

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1 INDEX

2
3 Witness: RAY BOCKMAN

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10
11

12 EXHIBITS

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23
24 Certificate of Shorthand Reporter. 71

00004

1 RAY BOCKMAN,
2 being first duly sworn, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MR. MUELLER:

6 Q. Okay. Would you state your name, please.

7 A. Ray Bockman.

8 Q. Mr. Bockman, have you ever had your deposition
9 taken before in any case for any reason?

10 A. Yes.

11 Q. You're familiar with the ground rules of
12 depositions and I don't need to go over them
13 with you again?

14 A. No, no, you don't.

15 Q. Okay. What is your profession, sir?

16 A. My profession is public administration.

17 Q. And where are you presently employed?

18 A. DeKalb County.

19 Q. Do you want to provide me briefly with your
20 educational background?

21 A. Sure. I have a bachelor's degree in community
22 development from Northeastern Illinois
23 University. A master's degree in public
24 administration from Northern Illinois

00005

1 University.

2 Q. And when did you get that master's degree?

3 A. That was in December of 1980.

4 Q. How long have you been employed in DeKalb
5 County?

6 A. Tomorrow will make 30 years.

7 Q. And what is your current title?

8 A. County administrator.

9 Q. How long have you had that title?

10 A. Since the summer of 1984.

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11 Q. And who do you report to?

12 A. I report on a day-to-day basis to the chairman
13 of the board of DeKalb County.

14 Q. What are your general duties as county
15 administrator?

16 A. General duties include oversight of the
17 day-to-day operations of the County and its
18 various departments, 22 operating divisions.
19 Preparation and presentation of an annual
20 budget. Pre-policy research for the board and
21 post-policy implementation of their adopted
22 policies.

23 Q. How does the position of county administrator
24 compare in terms of responsibility and function

00006

1 to what you understand the position of a city
2 manager to be?

3 A. The day-to-day duties are similar. The primary
4 difference is that the city manager operates
5 under a form of government that's recognized in
6 Illinois law and a county administrator does
7 not. There is no county administrator form of
8 government available to counties in this state,
9 so the county administrator has those duties
10 which are given to him or her by the board, not
11 by statute.

12 Q. Sir, who did you talk to in preparation for
13 this deposition?

14 A. I talked to Mr. Moran -- Donald Moran.

15 Q. And when did you meet with him?

16 A. It was one day last week I believe. I don't
17 recall which day specifically.

18 Q. Roughly how long did that session last?

19 A. Approximately one hour.

20 Q. Now, Mr. Moran is not your attorney, is he?

21 A. No, he's not.

22 Q. Do you know Dale Hoekstra?

23 A. Yes, I do.

24 Q. How long have you known Mr. Hoekstra?

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1 A. I would say ten years at least. I'm not
2 exactly sure when I first met him, but I've --
3 I've known him -- I would say it's been at least

4 ten years. Electronic Filing - Received, Clerk's Office, December 28, 2010

5 Q. All right, and Waste Management has operated a
6 landfill in DeKalb County for a long time?

7 A. Yes.

8 Q. So I presume you got to know him in connection
9 with the operation of that landfill?

10 A. Yes.

11 Q. Do you have any social relationship with
12 Mr. Hoekstra?

13 A. I do not.

14 Q. Ever been to his home?

15 A. No.

16 Q. Ever been on a trip with him?

17 A. No.

18 Q. Do you know Lee Adlemann?

19 A. Yes.

20 Q. How long have you known Mr. Adlemann?

21 A. Again, at least ten years in connection with
22 the landfill.

23 Q. Do you have any social relationship with
24 Mr. Adlemann?

00008

1 A. No.

2 Q. Have you ever been to his home?

3 A. I have not.

4 Q. Have you ever been on a trip with him?

5 A. He may have accompanied me on a trip to the
6 landfill in Will County.

7 Q. Oh. Other than that?

8 A. Other than that, no.

9 Q. Ever been on a pleasure trip with him?

10 A. No.

11 Q. Ever been on a business trip with any
12 representative of Waste Management other than a
13 tour of the Prairie View facility in 2009?

14 A. No.

15 Q. Do you have a social relationship with any
16 employee or representative of Waste Management?

17 A. No, not -- not that I know of.

18 Q. Have you ever received anything of value of
19 more than \$20 from any representative of Waste
20 Management?

21 A. No.

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22 Q. Now, you have Mr. Adlenmann's e-mail address?

23 A. Yes.

24 Q. And you have Mr. Hoekstra's e-mail address?

00009

1 A. Yes.

2 Q. Do you e-mail with them on a regular basis?

3 A. Not so regular, no. We've exchanged e-mails,
4 but it's not a -- certainly not a daily
5 activity.

6 Q. Were you involved on an active basis with the
7 negotiation of a host agreement for this
8 landfill expansion?

9 A. Yes.

10 Q. And what committees of the County Board
11 considered or were involved in the negotiation
12 of that host agreement?

13 A. That would have been an ad hoc solid waste
14 committee that the County appointed in 2006 --
15 that were organized in 2006.

16 Q. All right. Am I correct in assuming that one
17 of your jobs is to attend meetings of county
18 committees?

19 A. Many, not all, but yes, I attend many of their
20 meetings.

21 Q. Were you generally in attendance at the ad hoc
22 solid waste committee meetings?

23 A. Yes.

24 Q. Who was the chairman of that committee?

00010

1 A. Ruth Anne Tobias.

2 Q. Did Waste Management representatives appear
3 regularly at those committee meetings?

4 A. Yes, they did.

5 Q. And did they make presentations on a regular
6 basis at those committee meetings with regard to
7 their plans and intentions?

8 A. They made presentations. I don't know what a
9 regular basis would include. They made at least
10 a couple that I recall. There may have been
11 more, but there were meetings at which they were
12 present and did not make presentations.

13 Q. All right. How did these negotiations
14 generally take place, at the ad hoc committee or

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15 in smaller groups?

16 A. No, the -- once the committee authorized the
17 negotiations I asked for a committee volunteer
18 and one of the members volunteered to join our
19 team and from that point on the negotiations
20 were conducted between Mr. Adlemann;
21 Mr. Hoekstra; myself; John Farrell, the state's
22 attorney; Paul Miller, the planning director;
23 and the committee member that volunteered.

24 Q. Who was that committee member?

00011

1 A. It was Ken Andersen.

2 Q. So it was the state's attorney, one board
3 member, another county employee, correct?

4 A. Yes.

5 Q. You and the two Waste Management
6 representatives?

7 A. Correct.

8 Q. And did that group meet on a regular basis to
9 iron out various provisions in the host
10 agreement?

11 A. We met off and on. I don't know that it was
12 regular. It wasn't like every Tuesday or the
13 second week of each month. I think each meeting
14 we would agree to set up a subsequent meeting
15 date based on people's calendars, you know, time
16 available, etcetera. There were definitely
17 pauses between the meetings. I believe they
18 started in -- I think the committee authorized
19 them -- September of '08 the committee directed
20 me to proceed with negotiations and those
21 negotiations continued from September of '08 to
22 February of '09, but like I said, they weren't
23 daily or weekly. They were just scheduled on
24 a --

00012

1 Q. You got the entire thing done in five months?

2 A. Yes.

3 Q. That's pretty good.

4 A. Yeah.

5 Q. Are you familiar -- well, obviously you're
6 familiar now with Mr. Moran. When did you first
7 meet him?

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8 A. Might have also been ten years ago or so, but

9 then I didn't see him for years and years.

10 Q. In these presentations that Waste Management

11 made to the ad hoc solid waste committee did

12 they ever use power points or models?

13 A. They had -- I don't recall -- I don't think

14 they used power points. They did use foam board

15 type presentations depicting the landfill and

16 the planned future expansions of same.

17 Q. Did they ever make a presentation to the entire

18 County Board in connection with the approval of

19 the host agreement?

20 A. Yes. In February of '09 there was a County

21 Board workshop held on the host fee agreement to

22 afford board members the opportunity to ask

23 questions and -- and the primary presenters at

24 that workshop were Waste Management officials.

00013

1 Q. That would have been Mr. Hoekstra, Mr. Adlemann

2 and a Mr. Plunkett?

3 A. Mr. Plunkett was there as I recall, yes. He

4 wasn't really a presenter though as I recall.

5 Q. Who was he?

6 A. He's a public relations guy that works for

7 Waste Management I believe.

8 Q. And how lengthy was that presentation?

9 A. An hour and a half, two hours maybe.

10 Q. Now, at some point then around February or

11 March of 2009 the full County Board approved the

12 host agreement, correct?

13 A. March -- in March of '09, yes.

14 Q. And some months thereafter a number of County

15 Board members were invited to and took tours of

16 the Waste Management facility in Will County,

17 correct?

18 A. Correct.

19 Q. Have you ever been to a Waste Management

20 facility except as part of those tours?

21 A. I've been to the DeKalb County facility before.

22 Q. Oh, let's exclude that one.

23 A. Okay.

24 Q. Ever been to a remote facility other than the

00014

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1 tour?

2 A. No, not that I recall. I don't -- no.

3 Q. Can you tell me how the idea of that tour came
4 about and developed?

5 A. I believe it was suggested by Mr. Adlemann.

6 Q. And who was it suggested to?

7 A. Probably the solid waste committee. I'm not
8 sure of that, but that would have been the most
9 likely place it would have come up.

10 Q. Did the solid waste committee disband after the
11 host agreement was approved?

12 A. They -- yes, as an ad hoc committee once their
13 work was completed it disbanded by -- they were
14 subsequently replaced with the pollution control
15 facility committee. Some of the same
16 membership, but not all.

17 Q. Now, who is your secretary?

18 A. Mary Supple.

19 (Bockman Exhibit No. 1 marked for
20 identification.)

21 Q. Mary Supple has testified that she authored or
22 authored with your help an e-mail in the summer
23 of 2009 that I'm going to show you a copy of.

24 This was previously marked I think Supple

00015

1 Deposition Exhibit No. 1, but we can show it
2 also as now Bockman Deposition Exhibit No. 1.
3 Have you seen that e-mail before, sir?

4 A. I don't recall it, but --

5 Q. Well, my question is a very simple one. After
6 the greeting of good morning, Ms. Supple writes
7 if you would like to view a 2,000 TPD working
8 landfill facility you are in luck.

9 A. Uh-huh, I see that.

10 Q. Who authored that sentence?

11 A. I -- I don't recall.

12 Q. Well, do you know what TPD stands for?

13 A. Tons per day.

14 Q. All right. If I were to tell you that
15 Ms. Supple didn't know when I asked her what TPD
16 stood for --

17 A. Uh-huh.

18 Q. -- would that refresh your recollection as to

19 whether or not you authored this particular
20 e-mail or that portion of it?

21 A. It could well have been me. I don't know. I
22 write several hundred e-mails in a day
23 sometimes.

24 Q. Is it possible that Waste Management

00016

1 representatives authored that sentence?

2 A. I really wouldn't know.

3 Q. All right. Who instructed Mary Supple to
4 invite County Board members to this tour?

5 A. I would guess it would have been me.

6 Q. And who designated the dates, because I see
7 there are -- or who designated the agenda?

8 A. The dates and agenda she probably would have
9 gotten from Mr. Adlemann because I have no way
10 of knowing what dates would work.

11 Q. She was authorized to communicate directly with
12 Mr. Adlemann in implementing your instructions?

13 A. Sure.

14 Q. I take it though that the decision to have the
15 tour is one that you would have made?

16 A. The decision to have the tour? No, that's
17 something that the board members would have
18 decided. I mean the decision to offer it I
19 certainly participated in, but the decision to
20 attend would have been theirs.

21 Q. Let me rephrase it.

22 A. Okay.

23 Q. Waste Management representatives approached
24 someone about touring Prairie View?

00017

1 A. Uh-huh.

2 Q. You don't know who they approached initially?

3 A. Again, I believe what I said was correct that
4 it first came up at a meeting of the solid waste
5 committee -- an offer to have a tour.

6 Q. And the implementation of the offer would have
7 been done by Mary Supple at your direction?

8 A. Correct, yes.

9 Q. Did you attend any of those tours?

10 A. I did.

11 Q. How many of them did you go on?

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12 A. I went on one.

13 Q. You didn't go on more than one?

14 A. No.

15 Q. On the one tour --

16 A. Why would I?

17 Q. To accompany other board members.

18 A. Oh, no, no. One was enough.

19 Q. On the tour that you went do you remember what
20 board members went with you?

21 A. I remember Pat Vary because we got into a fight
22 over something unrelated to the solid waste
23 business, but I do remember the encounter. I
24 really don't remember who else went on that

00018

1 trip.

2 Q. And the argument you and Pat Vary got into was
3 unrelated to the landfill expansion?

4 A. Very much unrelated to the landfill expansion.

5 Q. I understand this board is a half democrat,
6 half republican right now?

7 A. Roughly, yeah, split almost down the middle I
8 think.

9 Q. And historically what has been the balance of
10 power?

11 A. Prior to six, eight years ago it was
12 predominantly a republican board.

13 Q. Has it ever had a democratic majority --

14 A. Briefly.

15 Q. -- in your tenure?

16 A. Briefly. There was a one person -- I think
17 they had a one-person majority briefly.

18 Q. Is your position what you'd consider to be a
19 political position where if the County Board
20 changes to a working democratic majority your
21 job would be in jeopardy?

22 A. It used to be, but I've been placed on a
23 contract now that it's not tied to the -- I have
24 a date certain that I'm done here. I mean, they

00019

1 can still remove me for cause, but -- and they
2 can remove me for convenience, but they have to
3 pay me.

4 Q. Got it. What Waste Management representatives

5 accompanied you on the tour that you took?

6 A. I think Lee Adlemann was the only one on our
7 tour and -- who -- who went with us, who rode
8 the bus, was that your question?

9 Q. Yes.

10 A. Yes, Lee Adlemann.

11 Q. Who made presentations while you were at the
12 site?

13 A. Mr. Adlemann spoke and Mr. Hoekstra -- Dale
14 Hoekstra.

15 Q. Did you get an opportunity to watch the tipping
16 operation?

17 A. Yes.

18 Q. Did you get an opportunity to watch new cell
19 construction?

20 A. Yes.

21 Q. How long did the entire tour last?

22 A. An hour and a half roughly I think.

23 Q. Was there lunch included with the tour?

24 A. Yes.

00020

1 Q. You're talking about an hour and a half
2 on-site?

3 A. Yeah -- oh, yeah, well, longer. If you threw
4 in the travel time I think it was an hour and a
5 half to get there or around an hour and a half
6 to get there maybe.

7 Q. Did you find the tour to be educational?

8 A. I did.

9 Q. You don't remember which other County Board
10 members were with you besides Pat Vary?

11 A. I really don't. I just remember Pat Vary
12 because we had a discussion.

13 Q. Did Mr. Adlemann ride the bus back too?

14 A. That I don't remember.

15 Q. Am I correct in assuming that Waste Management
16 paid for the cost of transportation?

17 A. Yes, either paid or reimbursed us for the
18 expense.

19 Q. Do you remember what the method of conveyance
20 was?

21 A. I believe it was a bus provided by a local
22 not-for-profit called the Voluntary Action

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23 Center.

24 Q. Going back to the host agreement, one of the

00021

1 elements in the host agreement was that there

2 would be a pre-filing review of the application;

3 is that correct?

4 A. That's correct.

5 Q. Did that pre-filing review actually occur?

6 A. Yes, it did.

7 Q. Who were the engineers that were -- who's the

8 firm that the County hired for the pre-filing

9 review?

10 A. That would be Patrick Engineering.

11 Q. And how did you find them?

12 A. We had -- actually they were operating under a

13 contract extension. They had originally been

14 contracted -- chosen through a competitive

15 process to work with the solid waste committee

16 in 2006. They were conducted -- they were

17 selected through an RFP, an interview process by

18 the committee and when that work with the solid

19 waste committee was done we agreed to extend

20 their contract to include working with us

21 through the host fee and review process for the

22 application.

23 Q. What was the original scope of Patrick's work?

24 A. Really it was to lead the committee through a

00022

1 broad review of available options for the

2 disposal of solid waste. It was the -- the

3 board's wish that the -- the committee was

4 appointed because of a -- a sense that the

5 capacity of the current landfill was to be

6 exhausted in -- I think it was roughly seven

7 years was the estimate at that time and the

8 question obviously was what -- what would the

9 County do once that landfill was -- was full and

10 the committee hired Patrick Engineering to

11 assist them in that review.

12 Q. Did the scope of that work also then include

13 some technical assistance with the host

14 agreement?

15 A. Yes, they did provide some research with regard

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16 to the host agreement.

17 Q. And after the host agreement was finished their
18 contract was extended to do the pre-filing
19 review with Waste Management?

20 A. And the -- and the -- and assist the County in
21 reviewing the application once it was filed.

22 Q. Do you know what the cost of the pre-filing
23 review was that was charged by Patrick?

24 A. I don't know what their final billing was. I
00023

1 believe we required a filing fee of 75,000
2 roughly from Waste to cover our cost for
3 pre-filing review and I don't know that it was
4 all billed. What happened between us and
5 Patrick was that the billing continued on after
6 pre-filing ended and into the -- and we started
7 -- entered the hearing phase and their contract
8 continued and we received additional billings
9 and paid. We eventually paid out all of the
10 deposits.

11 Q. Did you participate actively in the-pre filing
12 review process?

13 A. No.

14 Q. Did you sit in on any of the meetings?

15 A. No.

16 Q. Do you know who the Patrick representatives
17 were that did the actual work on the pre-filing
18 review?

19 A. My contacts at Patrick -- I've never met --
20 during that period of time I never met anyone
21 from Patrick other than Chris Burger and Ron
22 Swagger (phonetic).

23 Q. Did either of those gentlemen share with you
24 during the pre-filing review period any progress

00024

1 reports on what subjects were being discussed
2 and what the issues were that were of concern?

3 A. Yes. They shared progress reports with myself
4 and Renee Cipriano who was our attorney.

5 Q. And did you share those reports either formally
6 or informally with the siting committee or any
7 other County Board members?

8 A. No.

9 Q. The progress reports on the pre-filing review
10 that you got, were those oral or written?

11 A. They were mostly oral and we had a couple of
12 meetings of -- Ms. Cipriano and I met once or
13 twice with Chris Burger. There were documents
14 at the meetings as well.

15 Q. When did Renee Cipriano come on board?

16 A. She would have been brought on board at about
17 the same time the pollution control facility
18 committee was organized. It would have been in
19 the latter part of 2009 -- October -- September,
20 October 2009. I don't have a firm date, but it
21 would have been around that time. Her
22 engagement was approved at the organizational
23 meeting of the pollution control facility
24 committee.

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1 Q. And the pre-filing review was still going on at
2 that time?

3 A. I don't recall when it ended exactly.

4 Q. All right. What was Ms. Cipriano's official
5 title when she was engaged?

6 A. I don't know -- I don't know that she had an
7 official title. Counsel to the -- to the board.
8 She -- the only way we can engage an attorney,
9 as you know, is with the consent of the state's
10 attorney, so if he gave her a title, I was not
11 made aware of it.

12 Q. I mean, was she a special assistant state's
13 attorney?

14 A. I don't know how that works honestly.

15 Q. All right. She --

16 A. I know I have to ask the state's attorney for
17 his consent if we want to use counsel other than
18 someone that's in his office.

19 Q. Okay, and he consented, right?

20 A. Yes, yep.

21 Q. And what was her job?

22 A. To assist the County through the hearing
23 process through the -- with the application and
24 anything else the pollution control facility

00026

1 committee needed.

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2 Q. So she assisted the County Board?

3 A. Yes, specifically the committee, but by
4 implication the whole board as well, yeah,
5 exactly. Started with the committee and then,
6 of course, involved the larger -- you know, the
7 parent body eventually.

8 Q. There was a report I think written -- actually
9 there were probably several reports written with
10 recommendations after the siting hearing,
11 correct?

12 A. Written by whom?

13 Q. Well, that's what I'm getting to. There were
14 several reports submitted after the siting
15 hearing and before the final decision?

16 A. Reports? There were reports written by Patrick
17 Engineering.

18 Q. Okay.

19 A. I think -- I don't recall, but Renee Cipriano
20 may have also written some findings and
21 recommendations. I believe she did.

22 Q. Do you know whether she and Patrick wrote
23 separate reports?

24 A. I don't recall.

00027

1 Q. Did you ever meet any Waste Management
2 employees or consultants during the pre-filing
3 review?

4 A. During the pre-filing review? No, I don't
5 recall.

6 Q. You recall the people that Waste Management put
7 up as witnesses at the hearing, right?

8 A. Some, yes. Chris Rubak, I recall him.

9 Q. Joan Underwood?

10 A. I've never met her.

11 Q. Well, that's my question. Are there any people
12 that testified at the siting hearing that you
13 had previously met besides Dale Hoekstra?

14 A. Well, I had met Chris Rubak before. I met him
15 years ago.

16 Q. Anyone else?

17 A. No.

18 Q. So none of the other consultants you've had any
19 interaction with?

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20 A. No.
21 Q. At some point in time there came into existence
22 a policy which has come to be known in these
23 depositions as the gag rule. Are you familiar
24 with that, sir?

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1 A. I am.

2 Q. And can you tell us the genesis of that policy?

3 A. Sure. The -- I was informed -- I don't recall
4 the date, but it was a Friday, I remember that.
5 I was informed in the morning -- I can't
6 remember by whom -- that the Stop The Mega-Dump
7 group had issued -- I don't know whether it was
8 in writing or on the Internet or what -- a call
9 for their members to quote/unquote spend the
10 weekend picking off County Board members
11 individually. I don't know what that means
12 exactly, but it didn't sound good to me. I
13 attempted to talk to the state's attorney about
14 issuing a legal memorandum to the board to
15 advise them of the problems associated with
16 ex parte meetings with anyone at that point. He
17 was not available. There had been a shooting at
18 NIU the night before and he was locked in his
19 office the entire day with various NIU
20 officials, police authorities, lord knows who,
21 but he just couldn't be gotten to. Late in the
22 day I decided to send a -- communicate an e-mail
23 to the board advising them that ex parte contact
24 with anyone in this matter was contrary to my

00029

1 understanding of the siting process.

2 Q. Would it be fair to say that your contacts with
3 Mr. Farrell and Ms. Cipriano prior to the filing
4 had made you at least generally aware of the
5 rules regarding ex parte contacts in siting
6 proceedings?

7 A. They made me somewhat aware of it, yes.

8 Q. Were there any policies or directives or memos
9 issued to board members regarding those rules
10 prior to your being reactive to the information
11 you had gotten regarding Stop The Mega-Dump?

12 A. I don't recall any written policies, etcetera.

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13 It's possible there were discussions, but I
14 don't recall any written policies being
15 promulgated.

16 Q. And what information again is it that you had
17 gotten that caused you this concern?

18 A. The information -- the information that I had
19 gotten was that the Stop The Mega-Dump group had
20 called for their members to pick off County
21 Board members over the weekend. Lobby them
22 against the project was my assumption --
23 individually.

24 Q. How had you gotten that information?

00030

1 A. It was a telephone call.

2 Q. Do you remember from whom?

3 A. I do not.

4 Q. So this directive would have gone out sometime
5 fairly close to when the siting hearing was
6 scheduled to begin, right?

7 A. I don't recall the date.

8 Q. But your belief is that it was after the
9 formation of the Stop The Mega-Dump group?

10 A. True, yes.

11 Q. DeKalb County has a Pollution Control Facility
12 Siting Ordinance. Are you generally aware of
13 that?

14 A. Yes.

15 Q. How long has that ordinance been in existence?

16 A. It was -- the current version was adopted in
17 September of 2007, siting ordinance and articles
18 of rules and procedures.

19 Q. So that would have been a full year before the
20 ad hoc -- or before the host agreement
21 negotiations got up and running, right?

22 A. Yes -- no, September of '07 was when it was
23 adopted. The -- yeah, it was a year, right, it
24 was a year, right.

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1 Q. Okay. Did Waste Management or any of its
2 representatives participate in any way in
3 providing research information or model language
4 with regard to that amended ordinance?

5 A. Not that I recall. I think it was the -- the

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6 -- the writing was all done by Patrick

7 Engineering is my recollection. It was part of
8 their contract.

9 Q. So your belief is that the technical content of
10 the ordinance and the rules and regulations was
11 primarily provided by Patrick?

12 A. Yes.

13 Q. Do you remember who recommended the hearing
14 officer for this project?

15 A. I think I got his name from the mayor over in
16 Rochelle. I think he had been the hearing
17 officer at the Rochelle landfill hearings.

18 Q. Was Waste Management involved in recommending
19 Mr. McCarthy?

20 A. Nope.

21 Q. Has there been in the past several years a
22 discussion of expanding the courthouse and jail?

23 A. Yes.

24 Q. And has there been a courthouse and jail

00032

1 expansion committee formed by the County Board
2 to address that issue?

3 A. Yes.

4 Q. When was that committee formed?

5 A. The courthouse expansion committee was formed
6 last year sometime and the jail expansion
7 committee had their first meeting this week.

8 Q. The courthouse expansion committee considered a
9 number of options, right?

10 A. Yes.

11 Q. How did they ultimately conclude that the
12 expansion would be paid for?

13 A. They ultimately -- well, the options that that
14 committee considered were more physical
15 questions about how to add to the building and
16 how much to add to the building. The financing
17 consideration was done earlier through work that
18 I did with a financial advisory firm.

19 Q. What was the financial advisory firm that you
20 did the work with?

21 A. The name of the firm is Scott Balice,
22 B-A-L-I-C-E.

23 Q. When did you do that work with them?

24 A. It probably started a couple years ago. I

00033

1 don't recall when we started.

2 Q. And was it the conclusion of the Scott Balice
3 firm that the -- the way to pay for the
4 courthouse expansion would be through host fees
5 realized by an expanded landfill?

6 A. No.

7 Q. Was that an option that they looked at?

8 A. No, not for the courthouse.

9 Q. Did they look at bonds --

10 A. Yes.

11 Q. -- as an option?

12 A. Yes.

13 Q. And --

14 A. Looked at a number of different types of
15 bonding.

16 Q. Was it their conclusion that the bonds would be
17 then paid off through host fee revenues?

18 A. Not for the courthouse.

19 Q. What were the host fee revenues then thought of
20 as being able to pay for?

21 A. Well, the host fee revenues were -- would be
22 used to pay for the jail expansion if they
23 became available. Revenues to retire the
24 courthouse bonds were coming from sales taxes, a

00034

1 current revenue stream.

2 Q. And the jail expansion has not yet been even
3 approved, has it?

4 A. It has not. The board authorized 45 million
5 dollars in bonds to be sold, but only authorized
6 the current bond issue of 16 million to be
7 retired from sales tax revenues. The remaining
8 29 million will not be sold until such time that
9 a sufficient revenue stream can be identified.

10 Q. All right. Let's do that again in little
11 pieces. The courthouse committee --

12 A. This would be the County Board.

13 Q. Or the County Board --

14 A. Right.

15 Q. -- has authorized 29 million --

16 A. 45 million in total.

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17 Q. For the jail and courthouse combined?

18 A. Correct.

19 Q. When did they do that?

20 A. I believe it was done in March of this year,
21 but I'm not positive.

22 Q. And of that amount 16 million is what?

23 A. For the courthouse expansion.

24 Q. Have those bonds been sold yet?

00035

1 A. They're in the process of being sold. They
2 were priced last week and they're closing next
3 week I think or the week after, so they're
4 basically sold.

5 Q. And those are a number that the County believes
6 it can pay for out of sales tax revenue, right?

7 A. Can pay for out of sales tax revenue.

8 Q. Can?

9 A. Yes.

10 Q. All right. The other 29 million is for the
11 jail expansion?

12 A. Yes.

13 Q. And those will not be authorized until a
14 revenue stream that can pay them back becomes
15 available?

16 A. Correct.

17 Q. And it's contemplated that if this expansion is
18 ultimately finally approved and built that those
19 host fees would then provide that revenue
20 stream, right?

21 A. That's correct, and they were listed in the
22 ordinance as one of the possible revenue
23 sources.

24 Q. Mr. Bockman, were you involved in any way with

00036

1 making decisions about public access to or
2 copying of the siting application that was
3 filed?

4 A. What type of decisions?

5 Q. Any decisions.

6 A. Yes.

7 Q. All right. The -- the siting application was
8 filed I believe December 1 -- or November 30th
9 2009, right?

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10 A. Uh-huh, yes.

11 Q. And at that time a copy was placed in the
12 county clerk's office?

13 A. Yes.

14 Q. And apparently one in the County Board office
15 which would -- I guess would be Ms. Tobias's
16 office, right?

17 A. Right. Ms. Tobias and Ms. Supple share an
18 office suite.

19 Q. The County maintained a website at that time,
20 correct?

21 A. Yes.

22 Q. Who's the webmaster?

23 A. Lisa Sanderson.

24 Q. Does she report to you?

00037

1 A. No.

2 Q. Who does she report to?

3 A. Gary Hansen.

4 Q. What's his title?

5 A. Deputy county administrator.

6 Q. He reports to you?

7 A. Yes.

8 Q. Was there a discussion at or about the time
9 that the siting application was filed as to
10 whether or not it would be placed up on the
11 County's website?

12 A. There was a discussion. Someone asked if it
13 was going to be on the website.

14 Q. And what decision was made?

15 A. That it would not be placed on the County
16 website.

17 Q. And who made that decision?

18 A. I don't recall. It might have been me. I
19 don't recall who made it exactly.

20 Q. What was the reason for deciding not to place
21 the application on the County's website?

22 A. The size of the file.

23 Q. Well, the County certainly had sufficient
24 bandwidth to accommodate a couple of gigabytes

00038

1 of data, didn't they?

2 A. You've used terms that I don't understand.

3 Q. You believe that the decision to not place the
4 application on the website was strictly based
5 upon some consideration of the website's
6 capacity to accommodate the file size?

7 A. I don't -- I don't think I meant to say it was
8 strictly based on that. I don't think the
9 application is required to be placed on the file
10 -- on the website.

11 Q. I'm not saying it was, sir.

12 A. Okay.

13 Q. I'm not even implying that it was required to
14 be placed on the website, but I am saying --
15 asking what other considerations were there then
16 in deciding not to place it up there?

17 A. I think amongst the considerations were the
18 fact that it wasn't required to be on the
19 website and that it was a voluminous file that
20 would be -- was going to be given, as I
21 understood it, fairly broad public dissemination
22 anyway.

23 Q. Did you give some consideration at or around
24 the time this decision was made to the fact that

00039

1 placing the application in its entirety on the
2 website pretty much eliminated all potential
3 issues regarding public access to that
4 application?

5 A. No. Our experience is that that creates more
6 issues than it resolves.

7 Q. How so?

8 A. The -- those who oppose initiatives of the
9 government always cite people who don't have
10 access to the world wide web as being
11 disadvantaged by their placement on the web and
12 that placement of these items on the web
13 discriminates against those who can't afford
14 computers, etcetera.

15 Q. Was that rationale part of your thinking here
16 in deciding not to put it on the web?

17 A. The problems associated with maintaining a
18 website are always part of our thinking here.
19 It's a wonderful tool. We recognize that it's
20 simply not available to everyone.

21 Q. Did Patrick Engineering weigh in on the
22 decision not to place the application on the
23 website?

24 A. I don't recall.

00040

1 Q. Did --

2 A. I don't believe so.

3 Q. Did Waste Management or any of its
4 representatives weigh in on that decision?

5 A. Not that I recall.

6 Q. In February of 2010 the county clerk began to
7 get requests for access to the application and
8 I'm making that statement generally as a
9 starting point. Are you familiar with that?

10 A. Yes.

11 Q. How did you become familiar with that?

12 A. Well, I would periodically ask the county clerk
13 if anyone had requested a copy of the
14 application.

15 Q. And what was your purpose in asking that
16 question?

17 A. Logistical concerns about the application.
18 Once we received it and were aware of the volume
19 involved, it was I believe in excess of 9,000
20 pages, it covered many volumes, one of our
21 concerns was physical capability to reproduce it
22 when asked. We didn't know if one person would
23 ask for a copy or if dozens would ask for
24 copies. And I had asked Mary Supple to inquire

00041

1 of local copy facilities -- this is not a giant
2 city here, there aren't that many people in the
3 business. I had asked her to get estimates of
4 how long it would take someone, if asked, to
5 reproduce a copy of this application and we were
6 concerned that if someone filed a request under
7 the Freedom of Information Act that we would be
8 able to make a timely response.

9 Q. Did she provide you with the names of local
10 vendors who could provide that service?

11 A. No, I didn't ask her. I just said ask around
12 and find out how long it was going to take.

13 Q. And she never told you what she found?

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14 A. I don't recall her having done that. You know,
15 she may have and I just -- I just wanted some
16 assurance that we could identify someone who
17 could and would stop what they were doing and
18 copy a 9,000 page application.

19 Q. Well, DeKalb has a major university in it,
20 right?

21 A. Northern Illinois University is here, yes.

22 Q. And I'm assuming that because that's a
23 good-sized university there are a number of copy
24 centers and other merchants in the community

00042

1 that provide the service of duplicating the
2 written word; isn't that true?

3 A. Uh-huh.

4 Q. Did you make arrangements with any of those
5 vendors for copying the siting application upon
6 public request?

7 A. No, I don't recall that we made arrangements
8 with anyone. I simply asked her to ask around
9 and see who was available and get a feel for the
10 approximate cost, etcetera.

11 Q. Did you ever get a feel for the approximate
12 cost?

13 A. She may have, but -- and she may have told me,
14 but I don't remember what it was. I just wanted
15 to know that if someone asked for a copy that we
16 would be able to in a timely fashion be able to
17 give them one.

18 Q. But it's fair to say that you did not
19 prearrange with any local merchant or vendor to
20 provide that service at a prearranged cost?

21 A. No, I don't recall having done that.

22 Q. So that is fair to say?

23 A. That's fair to say.

24 Q. Were you aware that Waste Management also filed

00043

1 with the hard copy of the siting application an
2 electronic version on a DVD?

3 A. Yes, I was. There were 30 electronic versions.

4 Q. And I assume that they were distributed to
5 County Board members?

6 A. And others.

7 Q. Who were the others that they were distributed
8 to?

9 A. Bob Drake, director of -- Bob Drake at the
10 health department, environmental health; Paul
11 Miller, the planning director, got a copy; I
12 believe Patrick Engineering; Ms. Cipriano; I
13 think the County Board office got one; 23 board
14 members got them, the town of Cortland; Cortland
15 library; Sycamore library; Patrick Engineering I
16 think got a couple -- at least one. There may
17 have been others, but --

18 Q. Are you generally aware that the cost and time
19 involved in copying a DVD is nominal?

20 A. Yes.

21 Q. Did you prearrange with anyone to make
22 electronic copies of the application that could
23 be offered to the public in lieu of the more
24 expensive hard copy?

00044

1 A. I did not.

2 Q. Did you instruct the county clerk or any
3 employee in that office either way with regard
4 to what to do if someone asked for the siting
5 application?

6 A. Yes.

7 Q. Who did you instruct?

8 A. Oh, Ms. Holmes is well aware that the reason it
9 was given to her was to make it available for
10 public inspection and she knows full well that
11 under the Freedom of Information Act anyone
12 requesting a copy of a document in her
13 possession is to be given one. She's the county
14 clerk, I mean, that's what she does.

15 Q. Did you instruct her alone or did you also
16 inservice her staff?

17 A. No, I only talked to her.

18 Q. And then you assumed it was up to her to get
19 the message across to her people?

20 A. By operation of law those people work for her,
21 not me.

22 Q. Did you give Ms. Holmes any guidance as to what
23 to do with the electronic version of the siting
24 application?

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00045

1 A. I did not. Not at the time of delivery.

2 Q. It didn't occur to you at any point in time
3 that if somebody came in they could just get a
4 disk for \$2 and be done with it?

5 A. No, it did not occur to me.

6 Q. Now, you twice mentioned the Freedom of
7 Information Act in answers here. Is it your
8 understanding that access to this siting
9 application was to happen pursuant to a request
10 under the Illinois Freedom of Information Act?

11 A. The application would not have -- reviewing the
12 application I don't believe would have required
13 anyone to file a Freedom of Information request.

14 It was placed on file for public viewing. You
15 don't need a FOIA request to review an
16 application that's been so placed on file.

17 Q. Well, but you've mentioned twice that people
18 would have been entitled to see it pursuant to
19 the Freedom of Information Act.

20 A. No. If I said that I didn't mean to. What I
21 meant was if they wanted a copy of it.

22 Q. All right. All right. So you distinguish
23 viewing the application and getting a copy?

24 A. Yes.

00046

1 Q. And in your view getting a copy required a
2 request under the Freedom of Information Act?

3 A. I don't think they would have to reference the
4 act to get a copy. I think they simply could
5 have asked and we would have given them one.

6 (Bockman Exhibit No. 2 marked for
7 identification.)

8 Q. Mr. Bockman, let me show you -- after I show
9 your counsel -- what I'm going to mark as
10 Bockman Exhibit No. 2. I've only got one extra
11 copy of that, folks.

12 I'm going to show you that, sir and tell
13 you it appears to be a page pulled down from the
14 DeKalb County website on February 18th, 2010.
15 And do you recognize this document as being
16 such?

17 A. I don't recognize this document.

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18 Q. Directing you to the last paragraph on the
19 first page -- actually the last three paragraphs
20 on the first page. That appears to be a copy of
21 a hearing notice with regard to the Waste
22 Management application, doesn't it?

23 A. Uh-huh, yes, it does.

24 Q. And presumably that notice was provided to the
00047

1 County --

2 A. Right.

3 Q. -- and the County decided to put that up on its
4 web page, right?

5 A. Yes.

6 Q. Now, if I can direct you to the last paragraph
7 of that page --

8 A. Uh-huh.

9 Q. -- starting with the application is on file and
10 available for public inspection. Do you know
11 who authored that paragraph?

12 A. I do not.

13 Q. All right, and the reason I'm asking is because
14 this paragraph would suggest that the
15 application was freely available for inspection
16 in the office of the county clerk or County
17 Board, but that it could only be duplicated
18 pursuant to a FOIA request. Do you see that?

19 A. I do see it, yes.

20 Q. Was that the County's decision to require a
21 FOIA request for reproduction of the application
22 or was that Waste Management's decision?

23 A. I honestly don't know the answer to that.

24 Q. Did you or anyone that reports to you author
00048

1 this paragraph?

2 A. I don't know who authored this paragraph.

3 Q. When you first heard that -- well, let me back
4 up one more time. This talks about the actual
5 cost of reproduction with regard to the
6 application. Do you see that in that last
7 paragraph?

8 A. I saw that, yes.

9 Q. Had the County determined the actual cost of
10 reproduction prior to placing this notice on its

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11 web page?

12 A. I don't know that.

13 Q. But it's fair to say that you had never
14 determined the actual cost of reproduction or
15 anyone that reported to you had never determined
16 it and told you, right?

17 A. I think the clerk -- I think all of the offices
18 have a per page fee that they charge for
19 reproducing documents. I have no idea what the
20 clerk's fee is.

21 Q. Now, is a per page fee the same as the actual
22 cost of reproduction in your parlance?

23 A. I believe they're supposed to be approximately
24 the same. The per page fee is supposed to

00049

1 reflect the actual cost of reproduction not
2 including any staff time.

3 Q. Do you have an approximate idea what the per
4 page fee is in the clerk's office?

5 A. I don't.

6 Q. How about in the County Board office?

7 A. I don't know that either. I'm sure it's very
8 reasonable whatever it is.

9 Q. When did you first learn that someone had
10 requested the -- I'll leave you with your notes.

11 When did you first learn that someone had
12 requested to view the application?

13 A. To view the application? I don't know that
14 anyone ever told me that someone had -- in the
15 clerk's office?

16 Q. Yes.

17 A. I don't recall someone telling me that someone
18 wanted to view the application.

19 Q. Did you learn that someone wanted to duplicate
20 or copy a portion of the application?

21 A. To my knowledge no one ever asked for a copy of
22 the application.

23 Q. To your knowledge did anyone ever ask for an
24 electronic copy?

00050

1 A. Yes, someone asked for an electronic copy.

2 Q. And --

3 A. One day I got a call from the clerk saying that

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4 a Mr. McIntyre was in the office and had asked
5 for a copy of the electronic version of the
6 application.

7 Q. Okay. We're now back to familiar territory.
8 Can you --

9 A. Familiar to you or to me?

10 Q. I think familiar to everybody in this room.

11 Can you tell us your version of what
12 transpired between you and the clerk with regard
13 to Mr. McIntyre?

14 A. I don't have a strong recollection of it. I --
15 I got a call and I don't remember if I was there
16 when she first called, but I recall calling her
17 back and through a series of conversations I
18 believe finally said -- told her why don't you
19 just give it to him and I'll get you another
20 one. That was my recollection. The problem was
21 she -- she only had one -- the problem she
22 presented me with is I only have one electronic
23 copy of this and if I give it to him I won't
24 have any others. That was one problem. The

00051

1 other one was I have no idea what to charge for
2 it. She apparently did not have a fee schedule
3 for CDs and my recollection of the conversation
4 when I said why don't you just give him yours
5 and I'll get you another copy and she -- I
6 believe she said does five bucks sound
7 reasonable for a copy and I said sounds good to
8 me.

9 Q. Did you -- or would you characterize this
10 conversation you had with Ms. Holmes as a heated
11 conversation?

12 A. Absolutely not.

13 Q. Was Mr. McIntyre known to you before that day?

14 A. Oh, sure.

15 Q. How was he known to you?

16 A. He's a community gadfly. He's known to
17 everybody in town.

18 Q. And what do you mean by gadfly?

19 A. He pops up at every public event in the
20 community.

21 Q. Is he perceived as being a vocal critic of

22 government?

23 A. Yes.

24 Q. And I take it that by the time you got this

00052

1 call from Ms. Holmes you were aware that he was
2 one of the, if not the founder of the Stop The
3 Mega-Dump group?

4 A. Yes, I was.

5 Q. How did you replace Ms. Holmes's copy of the
6 electronic version of the application?

7 A. Well, that turned into a problem. My plan was
8 to take the copy that was in the County Board
9 office that had been given to Mary Supple and
10 simply ask her to get a copy made and give it to
11 Ms. Holmes. When she tried to do so she was
12 told by our IT staff that it could not be
13 reproduced and that's when I found out that it
14 was -- that they were what are called read-only
15 files and that none of them could be copied. So
16 I think I did eventually get her a copy, but I
17 don't remember how I did it. I don't know if I
18 gave her Mary's and Mary got another one from
19 someone or what, but the copies that we had we
20 then discovered were not reproducible.

21 Q. So if I were to tell you that Mr. McIntyre was
22 able to reproduce his copy that would surprise
23 you?

24 A. Yes, it would.

00053

1 Q. Did you --

2 A. I said he was an objector. I didn't say he
3 wasn't smart. He's a very smart guy.

4 Q. Did you have any further involvement in the
5 process of members of the public accessing or
6 copying the application in any form?

7 A. Yes.

8 Q. What further involvement did you have?

9 A. I received a call from Ms. Cipriano subsequent
10 to that, I don't remember if it was the same day
11 or the same week or -- but anyways, after that
12 saying that another person had requested an
13 electronic copy of the application.

14 Q. And do you know how she got that information?

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15 A. I don't know how she was contacted. It may
16 have been -- I may have also been contacted by
17 John Farrell at the same time or near the same
18 time.

19 Q. And what did you do about that second request?

20 A. Well, I didn't do anything at first and then
21 later in the day I spoke again to Ms. Cipriano
22 and she told me that the -- as I understood it
23 there was -- there was a discussion internally
24 that I was not part of about a legal issue

00054

1 involving the electronic versions and the
2 request for same and etcetera and I was not a
3 participant in those discussions. I think
4 Ms. Cipriano was. Later in that day she
5 contacted me and said that a decision had been
6 made to give this individual an electronic copy
7 as well. That was Mr. Charvat.

8 Q. And what was your further involvement in it?

9 A. Well, I wound up delivering the thing to him
10 because the offices -- at the time of the
11 decision the county offices were -- I was out of
12 town and I was not in Sycamore, I was in DeKalb
13 and the offices were closing in 10 minutes or 15
14 minutes and the question became how to
15 physically get Mr. Charvat the copy he had
16 requested and I wound up calling I believe it
17 was Mr. Miller who I knew had an electronic copy
18 and I asked Mr. Miller to drop his copy off at
19 the County Board office because I don't think we
20 had one because my guess is probably Mary had
21 given hers to Sharon Holmes to replace the copy
22 she gave to Mr. McIntyre, so I picked up --
23 after the offices had closed I came back to
24 Sycamore and got the copy that Mr. Miller had

00055

1 left and physically drove it to Charvat's house
2 and put it in his mailbox.

3 Q. Is Mr. Miller a County Board member?

4 A. Mr. Miller?

5 Q. Yeah.

6 A. No, he's the planning director.

7 Q. During the course of the public hearing were

8 you present at all the sessions of the public
9 hearing?

10 A. Yes, I was.

11 Q. Have you ever seen an e-mail from a Lynn
12 Fazekus -- F-A-Z-E-K-U-S -- accusing you of
13 straying out of bounds during that public
14 hearing?

15 A. No, I haven't.

16 Q. Well, did you do anything at the public hearing
17 that could be construed as straying out of
18 bounds?

19 A. Construed by whom?

20 Q. By anyone.

21 A. I'm sure I did.

22 Q. All right. The gag order that was in place
23 that you had actually written up, did that apply
24 only to County Board members?

00056

1 A. I don't know the answer to that.

2 Q. Pardon me?

3 A. I don't know the answer to that question.

4 Q. Well, did it apply to you?

5 A. I don't have the authority to issue such an
6 order, so it didn't really apply -- whatever I
7 wrote didn't really apply to anybody.

8 Q. Let me ask you this: Between November 30th and
9 the final decision on May 10th did you have any
10 communication with any Waste Management
11 representative?

12 A. Give me the dates again.

13 Q. I think it's November 30th and May 10th.

14 A. Yes.

15 Q. Which Waste Management representatives did you
16 communicate with during that period of time?

17 A. Mr. Adlemann.

18 Q. For what purpose?

19 A. It was -- it was administrative purposes,
20 scheduling, logistics of the meetings, where and
21 when they would be held, who would be present,
22 what rooms would be used, how they would be set
23 up and things like that.

24 Q. And how frequently would you communicate with

00057

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1 Mr. Adlemann?

2 A. I would say some weeks several times a week,
3 other weeks not at all. It tended to be more as
4 an event approached and things needed to be
5 discussed.

6 Q. Did you communicate with anyone besides
7 Mr. Adlemann during this period of time?

8 A. No.

9 Q. Did you direct your staff while the application
10 was pending not to have any contact with Waste
11 Management representatives?

12 A. I don't recall having done that.

13 Q. At the public hearing did you ever hear any
14 County Board member make a statement that could
15 be construed as being derogatory toward the
16 opposition or any of its members?

17 A. Any County Board member, no, I don't recall
18 that.

19 Q. Well, for example, did you hear Mr. Oncken say
20 that the opponents were only at the hearings
21 because they had nothing else to do with their
22 time or words to that effect?

23 A. No.

24 Q. Did you ever --

00058

1 A. I heard an account after the fact alleging that
2 he had said that, but I was not present.

3 Q. Well, I'm only interested in what you may have
4 heard yourself.

5 A. I did not hear that, no.

6 Q. Did you hear any County Board member ever say
7 that this was a done deal --

8 A. No.

9 Q. -- or words to that effect?

10 A. No, I did not.

11 Q. Did you hear any County Board member ever say
12 that the County had no choice but to approve the
13 expansion or words to that effect?

14 A. I did not.

15 Q. I've got a number of exhibits that I want to go
16 over with you briefly and it's essentially just
17 to authenticate them, so it's not going to take
18 long. Mr. Bockman, how do you spell your last

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19 name?

20 A. B-O-C-K-M-A-N.

21 Q. So I was spelling it right all along.

22 A. Bless you.

23 MR. MUELLER: I just guessed that it was
24 not B-A. That's going to be 3.

00059

1 (Bockman Exhibit No. 3 marked for
2 identification.)

3 Q. All right. Let me show you, Mr. Bockman, what
4 I've marked as Bockman Exhibit No. 3. It's a
5 document consisting of four pages which purports
6 to be a draft of the ad hoc solid waste
7 committee meeting minutes of February 9th, 2009
8 and ask you to review it briefly and tell me if
9 it appears to be a true and accurate copy.

10 A. It does.

11 Q. All right, and I notice that it says on the
12 first page there Mr. Adlemann listed highlights
13 from the September 2008 meeting and handed out a
14 concept drawing to the committee that will be
15 considered by the full County Board. Do you
16 remember him handing out things to the committee
17 at various times?

18 A. Yes.

19 (Bockman Exhibit No. 4 marked for
20 identification.)

21 Q. Okay. Then let me show you, after I show your
22 counsel, a copy of what I've marked as Bockman
23 Exhibit No. 4. And I will tell you, sir, that
24 all these documents I'm showing you were

00060

1 actually provided to me by DeKalb County as
2 evidenced by their identification stamp at the
3 bottom. So this is Exhibit No. 4 and it appears
4 to be a summary or minutes of the DeKalb County
5 Board host community agreement workshop meeting
6 of February 24th, 2009. Does this appear to be
7 an accurate copy of the minutes of that meeting?

8 A. Yes, it does.

9 Q. And is this the meeting that you were referring
10 to where Waste Management made an approximately
11 90-minute presentation?

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12 A. Yes.

13 Q. And I notice, sir, that it refers to

14 Mr. Plunkett as participating in the
15 presentation. Does that refresh your

16 recollection as to whether or not he was one of
17 the presenters?

18 A. I don't recall him being a presenter. I do
19 recall him being at the meeting, but he may have
20 been and I just don't remember.

21 (Bockman Exhibit No. 5 marked for
22 identification.)

23 Q. Let me then show you what we've marked as
24 Bockman Exhibit No. 5. Let me hand you that,

00061

1 sir and that appears to be the minutes of the
2 meeting of the executive committee of March
3 10th, 2009. Does that appear to you to be a
4 true and accurate copy of those minutes?

5 A. Yeah.

6 Q. All right. If I can direct you to the third
7 page of those minutes, the paragraph at the very
8 top makes reference to some statements you made
9 regarding methane problems at the DeKalb
10 landfill and what Waste Management was doing to
11 remediate those problems. Do you see that, sir?

12 A. Yes, I do.

13 Q. Can you tell me at the time, which is March of
14 2009, what knowledge you had regarding methane
15 problems at the DeKalb landfill?

16 A. Someone had said that there were methane
17 problems at the landfill and my recollection is
18 I contacted Mr. Adlemann and/or Mr. Hoekstra and
19 asked them about those problems -- or the person
20 at the operation of the landfill.

21 Q. And did they tell you how they were going to
22 address the problems?

23 A. Yes.

24 Q. Is that what you relayed --

00062

1 A. Yes, it would have been the only way I would
2 have known.

3 Q. -- to the committee? Did you ever go out to
4 the landfill at or about this time to verify the

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5 existence of some odor issue?

6 A. No.

7 Q. Mr. Bockman, if you'd bear with me, I may be
8 done. I'm missing one.

9 So the group that you engaged to study the
10 financing options for the courthouse and the
11 jail expansion, did they ever prepare a
12 presentation to the County?

13 A. Yes.

14 Q. And was that done in connection with the
15 meeting where there was a resolution passed
16 authorizing a capital improvement program?

17 A. Yes.

18 Q. Was that resolution to your recollection passed
19 on October 21st, 2009?

20 A. I don't recall the date.

21 Q. Does that sound about right, the fall of 2009?

22 A. I don't recall the date.

23 (Bockman Exhibit No. 6 marked for
24 identification.)

00063

1 Q. Let me show you, sir, what I've marked as
2 Bockman Exhibit No. 6 and this appears to be a
3 page from -- actually Page 10 of a presentation
4 made by an organization called Scott Balice
5 Strategies.

6 A. Right.

7 Q. Was this a power point presentation?

8 A. I believe it was.

9 Q. And is this to your knowledge an accurate copy
10 of a page in that presentation?

11 A. It appears to be, yes.

12 Q. And was this presentation made to the County
13 Board sometime in 2009?

14 A. I don't remember the date.

15 Q. Just an approximate date or time if you can
16 recall that at all.

17 A. I cannot.

18 Q. Was this presentation made at the time that the
19 County authorized the capital improvement
20 program?

21 A. The presentation was made just prior to that.

22 MR. MUELLER: Okay, because that will

23 allow us to put a date on it.

24 With that, Mr. Bockman, I have no further

00064

1 questions. Thank you very much.

2 THE WITNESS: Certainly.

3 MR. MORAN: I have a few questions,

4 Mr. Bockman.

5 MS. ANTONIOLLI: Do you mind if we take a

6 break -- a five-minute break?

7 MR. MORAN: That's fine.

8 (A recess was taken at 12:02 p.m.

9 and proceedings resumed at 12:08

10 p.m.)

11 EXAMINATION

12 BY MR. MORAN:

13 Q. Mr. Bockman, you were asked some questions

14 about the workshop meeting that occurred on

15 February 24th of 2009 in which representatives

16 of Waste Management of Illinois were present.

17 Do you recall some of those questions?

18 A. Yes.

19 Q. And I believe you indicated that your

20 recollection is that the meeting lasted about an

21 hour and a half; is that correct?

22 A. Yeah, that's my recollection.

23 Q. And I think you also said that your

24 recollection was that Waste Management had made

00065

1 a presentation for an hour and a half?

2 A. No, the meeting lasted for an hour and a half.

3 I don't think their presentation lasted more

4 than maybe 20, 30 minutes.

5 Q. And the balance of that meeting was for board

6 members and any other interested persons there

7 to ask questions about what had been presented?

8 A. Right, yeah. If I said that I didn't mean to.

9 The presentation was what started the meeting

10 and then it was a question and answer session.

11 Q. You were also asked a question about whether

12 anyone had recommended John McCarthy as the

13 hearing officer and I believe you said that the

14 mayor of Rochelle had recommended Mr. McCarthy.

15 A. No, that's not what I thought I said. I

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16 thought I said that that's how I found out how
17 to contact him, that I called the mayor's office
18 to find out how to get ahold of Mr. McCarthy.

19 Q. Wasn't it also true that there was a request
20 made of Waste Management of Illinois, Inc. to
21 provide names of possible individuals who could
22 serve as a hearing officer?

23 A. Yes.

24 Q. And do you have any recollection as to what

00066

1 names Waste Management of Illinois, Inc. may
2 have provided as possible candidates to serve?

3 A. I don't remember the names. There were two or
4 three though I think that -- including
5 Mr. McCarthy -- whose names I had.

6 Q. Now, we talked also a little bit about the
7 siting ordinance -- the County's local siting
8 ordinance. Did that ordinance require that an
9 electronic version of the site location
10 application be filed with the County?

11 A. Did it require that an electronic version be
12 filed? Yes, I believe it did -- no, wait, no.
13 You know, I don't know if it required it. I
14 don't think it did. I think that was something
15 that we came up with simply to save copying of
16 what was a huge application.

17 Q. Was it your recollection that the request was
18 made of Waste Management of Illinois to provide
19 electronic versions on the thought that it might
20 be that some board members might prefer an
21 electronic version as opposed to the nine
22 volumes that was going to be filed?

23 A. Yes.

24 Q. Are you aware of whether any person asked

00067

1 Sharon Holmes or anyone from her office for a
2 hard copy of the site location application?

3 A. I don't -- I don't believe anyone ever did.

4 Q. Are you aware of any person who had expressed a
5 desire to attend the public hearing but decided
6 not to do so because of something they had seen
7 in the local siting ordinance?

8 A. No, I'm not.

9 Q. Now, Mr. Bockman, you had no vote on the site
10 location application; is that correct?

11 A. That's correct.

12 Q. And you at no time ever told any County Board
13 member how to vote on the site location
14 application; would that be correct?

15 A. That's correct.

16 MR. MORAN: Thank you. I have no further
17 questions.

18 MS. ANTONIOLLI: I have a few questions.

19 EXAMINATION

20 BY MS. ANTONIOLLI:

21 Q. Going back to the -- our discussions about the
22 ad hoc solid waste committee meetings. Were
23 those meetings public meetings?

24 A. Yes, they were.

00068

1 Q. So could members of the public attend those
2 meetings?

3 A. Yes.

4 Q. And do you remember that any members of the
5 public did attend those meetings on occasion?

6 A. Yes, there were some on occasion.

7 Q. Were the meeting dates and minutes of the
8 meetings posted on the County's website?

9 A. Yes.

10 Q. Okay, and we also talked about the Pollution
11 Control Facility Siting Ordinance -- or not the
12 siting ordinance -- the pollution control
13 facility committee ordinance -- the rules and
14 procedures.

15 A. Yes.

16 Q. Now, when we discussed the ordinance --
17 actually maybe this is the first time we're
18 talking about the pollution control facility's
19 rules and procedures. We also discussed the
20 siting ordinance which is a separate document?

21 A. Right.

22 Q. Now, would you -- would you agree that the
23 pollution control facility's rules and
24 procedures allow for the committee to retain

00069

1 professionals to review the siting application?

2 A. Yes. Electronic Filing - Received, Clerk's Office, December 28, 2010

3 Q. And is part of the duty of those professionals
4 to assist the County Board in creating a record
5 that could form the basis of an appeal? Do you
6 remember if that's maybe --

7 A. Yes.

8 Q. If you're familiar with the --

9 A. Yes.

10 Q. -- rules and procedures. And would you agree
11 that Ms. Cipriano was retained to assist the
12 committee in this matter?

13 A. Yes.

14 MS. ANTONIOLLI: Okay. I think that's all
15 that I have.

16 EXAMINATION

17 BY MR. MORAN:

18 Q. Okay. Just one follow-up based on what Amy
19 just asked you, Mr. Bockman and that is the
20 articles of rules and procedures of the
21 pollution control facility committee also did
22 not require the filing of any electronic version
23 of the site location application; would that be
24 correct?

00070

1 A. That's correct.

2 MR. MORAN: That's all.

3 MS. ANTONIOLLI: Okay.

4 THE WITNESS: You all done?

5 MR. MUELLER: Yes. Signature?

6 THE WITNESS: I've got some questions --
7 just kidding.

8 MS. ANTONIOLLI: Now today the court
9 reporter has transcribed what we've talked about
10 today and you have the option of going to the
11 court reporter's offices to review the
12 transcript and to -- for any errors. You can't
13 change what it says, but you can check for
14 errors in transcription and then you would sign
15 the your transcript at that time or you can
16 today choose to waive signature and trust that
17 the court reporter transcribed your deposition
18 accurately.

19 THE WITNESS: I'll trust the court

20 reporter. Electronic Filing - Received, Clerk's Office, December 28, 2010

21 MS. ANTONIOLLI: Okay. Thank you.

22 (The deposition was concluded at

23 12:16 p.m.)

24

00071

1 CERTIFICATE

2

3 I, Julie K. Edeus, a Certified Shorthand

Reporter in and for the State of Illinois, do hereby

4 certify that, pursuant to the agreement herein

contained, there came before me on the 29th day of

5 September 2010 at 10:23 a.m. at the DeKalb County

Legislative Center, 200 North Main Street, Sycamore,

6 Illinois, the following-named person, to-wit:

RAY BOCKMAN, who was duly sworn to testify to the

7 truth and nothing but the truth of his knowledge

concerning the matters in controversy in this cause;

8 that he was thereupon examined on his oath and his

examination reduced to writing under my supervision;

9 that the deposition is a true record of the

testimony given by the witness, and that the reading

10 and signing of the deposition by said witness were

expressly waived.

11

I further certify that I am neither

12 attorney or counsel for, nor related to or employed

by, any of the parties to the action in which this

13 deposition is taken, and further, that I am not a

relative or employee of an attorney or counsel

14 employed by the parties hereto or financially

interested in the action.

15

In witness whereof I have hereunto set my

16 hand this 5th day of October 2010.

17

18

19

Julie K. Edeus

20 Certified Shorthand Reporter

IL License No. 084-003820

21 P.O. Box 381

Dixon, Illinois 61021

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1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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3

STOP THE MEGA-DUMP,)

4)
Petitioner,) PCB NO. 2010-103

5)
v.)

6) DEPOSITION OF
COUNTY BOARD OF DEKALB) CHRIS BURGER

7)
COUNTY, ILLINOIS and WASTE)
MANAGEMENT OF ILLINOIS,)

8 INC.,)

9)
Respondents.)

10
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12
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16 DEPOSITION OF CHRIS BURGER, taken at the
17 DeKalb County Legislative Center, 200 North Main
18 Street, Sycamore, Illinois, on November 2, 2010,
19 commencing at 4:19 p.m., before Callie S. Bodmer,
20 Certified Shorthand Reporter and Notary Public in
21 and for the State of Illinois, in pursuance to
22 agreement of the parties in the above-entitled
23 action.

24

00002

1 APPEARANCES:

2 ATTORNEY GEORGE MUELLER,
of the firm of Mueller Anderson, P.C.,
3 603 Etna Road,
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4
Counsel for the Petitioner.

5
6 ATTORNEY AMY ANTONIOLLI,
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233 South Wacker Drive, Suite 7200,

7 Chicago, Illinois, 60606,

8 Counsel for the Respondent,

County Board of DeKalb

9 County, Illinois.

10 ATTORNEY DONALD D. MORAN,

of the firm of Pedersen & Houpt,

11 161 North Clark Street, Suite 3100,

Chicago, Illinois, 60601,

12 Counsel for the Respondent,

13 Waste Management of

Illinois, Inc.

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1 INDEX

2

3 Witness: CHRIS BURGER

4

5 Examination Page

6 Attorney Mueller 4

7 Attorney Moran 20

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20 Certificate of Shorthand Reporter. 24

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1 CHRIS BURGER,
2 being first duly sworn, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MR. MUELLER:

6 Q. State your name, please.

7 A. Chris Burger.

8 MR. BURGER: Let the record show this is
9 the discovery deposition of Chris Burger taken
10 pursuant to notice, in accordance with the
11 rules, and by agreement of the parties.

12 Is it okay if I call you Chris?

13 A. Sure.

14 Q. Thanks. You have had your deposition taken
15 before, haven't you?

16 A. Not since about 2000 or 2001.

17 Q. All right.

18 A. So one time, yeah.

19 Q. Are you generally familiar with the ground
20 rules here about not talking over each other,
21 one at a time, and so forth?

22 A. I believe so.

23 Q. Okay. Where are you employed?

24 A. Patrick Engineering.

00005

1 Q. What's your position there?

2 A. Vice president of engineering.

3 Q. What are your general duties as vice president
4 of engineering?

5 A. Currently manage the Springfield office.

6 Q. How long have you had that position?

7 A. Since 1996.

8 Q. What type of work does Patrick Engineering do?

9 A. A number of general engineering types of
10 services, stormwater management, field tech. We
11 have an energy sister company as well as a

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12 construction company. So civil engineering,
13 planning, mostly engineering and construction.

14 Q. Does Patrick have a little bit of a niche
15 practice in environmental engineering and waste
16 disposal?

17 A. We have a small waste niche market, if you
18 would like to call it that.

19 Q. And what type of things do you do in that part
20 of your business?

21 A. Primarily siting reviews for counties and
22 sometimes planning surfaces for counties.

23 Q. So your typical or primary clients are the
24 decision makers in siting cases?

00006

1 A. Typically, yes.

2 Q. How many siting reviews would you say you have
3 been involved in?

4 A. Probably about 10.

5 Q. Were you involved in the Waste Management
6 siting process in this case?

7 A. In this case, yes.

8 Q. What was your role in the DeKalb County case,
9 and by you I mean the company's?

10 A. Okay. We were the firm that essentially was
11 hired to review the application.

12 Q. The application was filed on November 1st --

13 MR. MORAN: November 30th.

14 Q. November 30th, 2009. Did you perform any
15 services prior to that time?

16 A. For DeKalb County?

17 Q. Yes.

18 A. Yes.

19 Q. Did you, first of all, perform some planning
20 services for them in connection with the
21 development of the host agreement?

22 A. We performed basically a feasibility type of
23 study starting in 2007. And when you said host
24 agreement, we were involved in looking at or

00007

1 commenting on the host agreement.

2 Q. When did the feasibility study terminate?

3 A. We gave a presentation to the solid waste
4 committee in April of '07. We probably did a

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5 little bit more work after that, I can't say

6 exactly.

7 Q. And I'm assuming this is in the nature of
8 evaluating various alternatives?

9 A. Correct.

10 Q. Such as transfer station, expansion, exporting
11 waste out of the county and so forth?

12 A. Right.

13 Q. What was your recommendation generally in the
14 feasibility study?

15 A. The feasibility showed -- study showed that a
16 landfill in the county was less expensive than a
17 transfer station and transferring waste out of
18 the county.

19 Q. You were then retained again in connection with
20 providing some technical support in evaluating
21 the host agreement, right?

22 A. It was a -- it was a continuing basically
23 expansion of the scope.

24 Q. Okay.

00008

1 A. Or basically an additional --

2 Q. I apologize for my phone ringing, it won't
3 happen again.

4 A. It was essentially a change order that allowed
5 us to do more work, yes.

6 Q. And am I correct in saying that the feasibility
7 study would have been paid for by the County?

8 A. Right.

9 Q. Do you know whether they were reimbursed by
10 Waste Management for that work?

11 A. I don't know, but I -- I don't have any
12 indication that they were reimbursed for that.

13 Q. The work in connection with the host agreement,
14 that was paid by the County, right?

15 A. I believe so, yes.

16 Q. Do you know whether they were involved -- or
17 reimbursed by Waste Management for that work?

18 A. I don't know.

19 Q. By the way, does Patrick have any work in
20 progress at the present time for Waste
21 Management or any of its affiliated companies?

22 A. Not to my knowledge.

23 Q. Have you worked for Waste Management in the
24 past?

00009

1 A. I have not. We -- I -- when I did a search a
2 few years ago, I haven't seen any work for many,
3 many years searching our files and projects.
4 Now, that's -- you know, I haven't -- if we had
5 somebody work for them that I don't know of, I
6 just can't tell you.

7 Q. Subsequent to approval of the host agreement
8 was Patrick retained to provide a -- or
9 participate in a pre-filing review process with
10 Waste Management?

11 A. Yes.

12 Q. When did that process start?

13 A. Approximately July, July 1st or soon
14 thereafter.

15 Q. When did it end?

16 A. November, shortly before the siting
17 application.

18 Q. Which County representatives were involved with
19 Patrick in conducting the pre-filing review?

20 A. None really. I mean, I reported to Ray
21 Bockman, but the filing review was really housed
22 by Patrick.

23 Q. Did Mr. Bockman participate in the review in
24 terms of sitting in on meetings and so forth?

00010

1 A. I had one meeting with Ray where I went over
2 drawings, and actually Renee Cipriano had just
3 been hired so we -- I basically brought them
4 both up to speed on the concept and tried to
5 bring them up to speed on any issues or
6 questions that we had on previous pre-filing
7 documents. Ray wasn't involved with any of our
8 discussions with Waste Management over our
9 concepts or our observations of their documents.

10 Q. All right. That meeting took place when, the
11 one with Ray Bockman and Renee Cipriano?

12 A. It was November 20th.

13 Q. Let's back up in time a little bit. Did Waste
14 Management during the review provide you with
15 drafts of various proposed sections of the

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16 application?

17 A. Yes.

18 Q. Which criteria did they provide you with drafts
19 regarding?

20 A. Criteria 2.

21 Q. Did you look at any other criteria in the
22 pre-filing review?

23 A. I don't believe so.

24 Q. So you didn't look at a traffic study, for
00011

1 example, ahead of time?

2 A. I don't believe so, no.

3 Q. So it was all Criteria 2 stuff?

4 A. Correct.

5 Q. That would be design, geology, hydrogeology,
6 groundwater monitoring, gas, and stormwater?

7 A. Yes.

8 Q. Okay. Anything I missed there or does that
9 pretty much cover it?

10 A. Did you catch leachate? Did you catch the cap?
11 I believe you did. I think you covered most, if
12 not all.

13 Q. When they originally gave you drafts of
14 portions of the application that related to the
15 subjects I just talked about did you provide
16 them -- them meaning Waste Management -- with
17 responses in terms of criticisms or suggestions
18 for improvement?

19 A. When we -- we develop basically a sheet of
20 notes and comments and observations on each of
21 the criteria. They submitted various
22 components, and we would review that component
23 and then we would write up a siting on that. We
24 provided that to Don Moran and he distributed it

00012

1 to whoever he thought was necessary.

2 Q. I mean, I participated in some of these in the
3 past, I don't know if I was actively involved in
4 any with you ever, although I think in Peoria
5 that you guys did one, but the process as -- and
6 tell me if I'm wrong, is that the reviewing
7 entity will do to some degree a quality control
8 check and look for errors and suggest things

9 that they may not like about a certain part of a
10 draft?

11 A. I have our professionals look at anything that
12 stands out as being not correct, that they have
13 a question on, if it's not clear, or that we
14 feel is an obvious flaw. So we do bring up
15 items that are minor and major if we can find
16 them.

17 Q. And this is an ongoing back-and-forth process,
18 correct?

19 A. Sometimes it can be and sometimes it can be
20 just, you know, here's our comments and we
21 provide them. In this case we typically had a
22 conference call going over our comments.

23 Q. Did the final version of the application that
24 was filed incorporate some of your comments and

00013

1 suggestions?

2 A. I believe the final version did have -- they
3 did incorporate the bottom liner location,
4 because we had concern about where the bottom
5 liner would be located; it was in the Henry and
6 that was a concern of ours.

7 Q. And your concern was remedied in the final
8 application?

9 A. Yes.

10 Q. Now, in this meeting on November 20th who was
11 present?

12 A. It was Ray Bockman, Renee Cipriano, myself, and
13 Steve Krull (phonetic), my hydrogeologist.

14 Q. And at that point did you -- as you said, you
15 indicated to them what had occurred in the
16 pre-filing review up to that point?

17 A. I basically brought the set of drawings and
18 rolled them out. One of the main goals was to
19 bring Renee up to speed on what they were
20 proposing, and if we had any issues with those,
21 and we try to keep it very brief because, you
22 know, we didn't want to get into too much
23 detail. So we basically laid out what they
24 were -- you know, what the current situation was

00014

1 out there and what we thought that they would

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2 propose as an expansion.

3 Q. Do you remember what Patrick was paid for the
4 pre-filing review?

5 A. It was somewhere around 50,000.

6 Q. Does the number 75,000 ring a bell?

7 A. That was the budget.

8 Q. And you did not expend the entire budget?

9 A. I -- not on the pre-filing review.

10 Q. Did you have any further meetings with Waste
11 Management or conversations with them after the
12 November 20th meeting and before the final
13 application was filed?

14 A. Not that I can recall.

15 Q. Was that the first time that Renee Cipriano had
16 been involved?

17 A. With?

18 Q. With this pre-filing review, November 20th.

19 A. Yes, as far as I know.

20 Q. I mean, she's the former head of the agency so
21 I presume that she's got some technical
22 expertise of her own, did she provide any input
23 at that meeting as to things that she would like
24 to see in the application?

00015

1 A. No.

2 Q. Subsequent to November 30th did you have any
3 more interaction with any Waste Management
4 representatives, employees, or consultants?

5 A. Not in relationship with this project.

6 Q. Okay. I take it then that Patrick conducted a
7 review of the application itself after it was
8 filed?

9 A. Correct.

10 Q. Who participated in that review?

11 A. Staff, under my guidance. Had a number of
12 different people. Do you want me to list them?

13 Q. I don't need them all listed. Just internal
14 staff to you, right?

15 A. Right.

16 Q. Did --

17 A. I'm sorry, and one subconsultant.

18 Q. Did Ms. Cipriano participate in that review?

19 A. She had a set of documents to review, I'm sure

20 she -- you know, we communicated.

21 Q. What do you mean she had a set of documents to
22 review?

23 A. I think she had her own set.

24 Q. She had the application?

00016

1 A. Yes.

2 Q. And so she was actively involved in that
3 process with you?

4 A. Yes. We didn't have ongoing meetings or
5 discuss the application until I believe just
6 prior to the hearing.

7 Q. Well, I wasn't at the hearing, but did Patrick
8 propose any questioning or lines of questioning
9 for various witnesses that Waste Management
10 presented?

11 A. Yes.

12 Q. And did you collaborate with Ms. Cipriano on
13 doing that?

14 A. Yes, yeah, just prior to the hearing.

15 Q. There was a Staff Report prepared after the
16 hearing, correct?

17 A. Correct.

18 Q. Who were the principal authors of that report?

19 A. Primarily be me, and I took into account the
20 comments from the other professionals: the
21 traffic engineer and the planning expert and our
22 hydrogeologist.

23 Q. There were portions of that Staff Report that
24 dealt with some legal issues, those weren't

00017

1 written by you, were they?

2 A. No, that was Renee Cipriano.

3 Q. So she was also one of the principal authors of
4 that report?

5 A. Yes.

6 Q. You and she collaborated on it?

7 A. Yes.

8 Q. Now, you have been involved in pre-filing
9 reviews in other places, right?

10 A. Correct.

11 Q. And have you ever been involved in those

12 reviews where one attorney worked with the staff

13 and a separate attorney would advise the County

14 Board?

15 A. Well, we had a situation I believe in Will

16 County that that occurred.

17 Q. That's interesting you say that because I call

18 it the Chuck Helsten model.

19 A. Okay.

20 Q. And Mr. Helsten has worked as the staff

21 attorney in reviews in the past that you have

22 been involved in?

23 A. Yes.

24 Q. And when he's done that there would be another

00018

1 attorney who would work with the County Board

2 directly, right?

3 A. Right.

4 Q. In this case Ms. Cipriano worked with the

5 staff, correct?

6 A. Right.

7 Q. And she also was the attorney that directly

8 advised the County; isn't that also true?

9 A. Yes.

10 Q. The comments that were developed by Patrick in

11 its review of -- pre-filing review of draft

12 portions of the application, were those kept, do

13 you still have them?

14 A. I have a copy of most of those.

15 Q. Do those also include responses by Waste

16 Management?

17 A. Some of them include my handwritten comments as

18 they were responding, so I would write down some

19 of the comments that they were making next to

20 the questions or comments we had.

21 Q. And I'm assuming portions of that pre-filing

22 review were just in the nature of getting more

23 information and getting questions answered,

24 right?

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1 A. Correct.

2 Q. Where you would say why are you doing it this

3 way?

4 A. Right.

5 Q. As opposed to that way?

6 A. Correct. Electronic Filing - Received, Clerk's Office, December 28, 2010

7 Q. And they would give you an answer typically?

8 A. Typically, yes.

9 Q. And if you weren't satisfied with the answer
10 you'd say, well -- you'd comment back again,
11 right?

12 A. Not necessarily, no. No, because it's really
13 up to them to decide if they want to take our
14 comments or not.

15 Q. So you view it as your job in the pre-filing
16 review to voice your questions and concerns and
17 point out obvious errors and make what you
18 believe to be constructive suggestions, but it's
19 up to the applicant to decide whether or not to
20 incorporate any or all of that?

21 A. That's correct.

22 MR. MUELLER: Thank you. That's all I
23 have, Chris.

24 MR. MORAN: I have a couple questions.

00020

1 EXAMINATION

2 BY MR. MORAN:

3 Q. Mr. Burger, the pre-filing review that you
4 engaged in began about what time, was it in
5 October of 2009 when you first started receiving
6 these portions of Criterion 2 that you talked
7 about, or was it September?

8 A. It was probably August or September we prob --
9 late August probably when we got the first one I
10 guess.

11 Q. And what you would receive would be what, just
12 a portion of Criterion 2?

13 A. Right, like the wetland section, I believe that
14 was our first that I recall.

15 Q. And then you would at some point after your
16 receipt of this portion of Criterion 2 then
17 provide a list of observations, questions,
18 comments, or concerns; would that be accurate?

19 A. Correct.

20 Q. And you would provide them to Waste Management
21 of Illinois, Inc.?

22 A. Right.

23 Q. And I believe what you said was then at some

24 point you would then have a phone conversation

00021

1 with some representatives of Waste Management of
2 Illinois, Inc.?

3 A. That's correct.

4 Q. And you would go through your list of items?

5 A. Right.

6 Q. And you would get some form of response to what
7 you had provided?

8 A. Yes, if they had a response, correct.

9 Q. In some instances there wasn't a response?

10 A. Right.

11 Q. And your understanding was that Waste
12 Management of Illinois could either accept your
13 comment or statement or ignore it, they would
14 basically be able to do whatever they thought
15 best?

16 A. Sure.

17 Q. Would that be correct?

18 A. Yeah.

19 Q. And other than the bottom liner within some
20 part of Henry, were you able to determine
21 whether any of the comments or suggestions you
22 had made were actually incorporated into the
23 final site location application?

24 A. You know, I never really kept a good list. I

00022

1 would have to assume some of them did, but most
2 of the comments were pretty minor because it's
3 Section 2, location standards, there's things
4 like that that are oftentimes fairly
5 straightforward.

6 Q. And from what you had viewed of Criterion 2 you
7 had not determined that there were any what you
8 would call fatal flaws in any submissions that
9 were made to you?

10 A. Correct. I mean, our biggest concern was the
11 liner location.

12 Q. And after the application was filed on November
13 30th, 2009 I believe you indicated that there
14 were no communications between you or anyone at
15 Patrick and any employee, representative, or
16 agent of Waste Management of Illinois, Inc.

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17 regarding the proposed expansion?

18 A. Correct.

19 MR. MORAN: Thank you. Nothing further.

20 MS. ANTONIOLLI: I don't either.

21 So at this time the court reporter has

22 transcribed your deposition today, and you have

23 the choice to review the transcript for errors

24 and sign at that time; or you can simply waive

00023

1 signature and trust that she's transcribed your

2 deposition accurately.

3 THE WITNESS: I'll waive signature.

4 MS. ANTONIOLLI: Okay.

5 (The deposition was concluded at

6 4:44 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 2nd day of

7 November 2010 at 4:19 p.m. at the DeKalb County

8 Legislative Center, 200 North Main Street, Sycamore,

9 Illinois, the following-named person, to-wit: CHRIS

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BURGER, who was duly sworn to testify to the truth

7 and nothing but the truth of his knowledge
concerning the matters in controversy in this cause;
8 that he was thereupon examined on his oath and his
examination reduced to writing under my supervision;
9 that the deposition is a true record of the
testimony given by the witness, and that the reading
10 and signing of the deposition by said witness were
expressly waived.

11

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

15

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

17

18

19

20

Callie S. Bodmer
21 Certified Shorthand Reporter
Registered Professional Reporter
22 IL License No. 084-004489
P.O. Box 381
23 Dixon, Illinois 61021
24

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00001

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
2
3
4 STOP THE MEGA-DUMP,)
5)
6 Petitioner,) PCB NO. 2010-103
7)
8 v.)
9) DEPOSITION OF
10 COUNTY BOARD OF DEKALB) JULIA FAUCI
11 COUNTY, ILLINOIS and WASTE)
12 MANAGEMENT OF ILLINOIS,)
13 INC.,)
14)
15 Respondents.)
16

17 DEPOSITION OF JULIA FAUCI, taken at the
18 DeKalb County Legislative Center, 200 North Main
19 Street, Sycamore, Illinois, on October 26, 2010,
20 commencing at 2:43 p.m., before Callie S. Bodmer,
21 Certified Shorthand Reporter and Notary Public in
22 and for the State of Illinois, in pursuance to
23 agreement of the parties in the above-entitled
24 action.

00002

1 APPEARANCES:
2 ATTORNEY GEORGE MUELLER,
3 of the firm of Mueller Anderson, P.C.,
4 603 Etna Road,
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6
7 Counsel for the Petitioner.
8
9
10
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Electronic Filing Received, Clerk's Office, December 28, 2010

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County Board of DeKalb
9 County, Illinois.

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Chicago, Illinois, 60601,

12
Counsel for the Respondent,
13 Waste Management of
Illinois, Inc.

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11

12 EXHIBITS

13	Exhibit	Marked
14	Fauci Exhibit No. 1.	15
15	Fauci Exhibit No. 2.	16
16	Fauci Exhibit No. 3.	17

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Certificate of Shorthand Reporter. . . . 48

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1 JULIA FAUCI,
2 being first duly sworn, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MR. MUELLER:

6 Q. State your name, please.

7 A. My name is Julia Lynn Fauci.

8 Q. Ms. Fauci, have you ever had your deposition
9 taken before in any case for any reason?

10 A. Never.

11 MR. MUELLER: Let the record show that
12 this is the discovery deposition of Julia Lynn
13 Fauci taken pursuant to notice, and in
14 accordance with rules, and by agreement of the
15 parties.

16 Let me give you a couple of ground rules.
17 First of all, I'm George Mueller, I'm the
18 attorney for Stop The Mega-Dump, and I am going
19 to be asking you some questions about the
20 process of applying for and expanding the Waste
21 Management landfill in DeKalb County.

22 A. Okay.

23 Q. Couple rules are both of -- you're under oath.

24 The court reporter is taking down everything

00005

1 that you're saying and that I'm saying, so it's
2 important that we don't talk over each other.
3 Do you understand that?

4 A. I do.

5 Q. It's also important that you keep your answers
6 verbal and audible as opposed to nodding your
7 head like you just did.

8 A. Okay.

9 Q. And because we have got an unusual seating
10 arrangement where you're not looking at the

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11 court reporter which normally helps her, you
12 need to be probably a little bit louder than
13 normal. Fair enough?

14 A. Fair enough.

15 Q. Okay. Ms. Fauci, what's your address?

16 A. 1114 North 13th Street in DeKalb, Illinois,
17 60115.

18 Q. What is your profession?

19 A. I'm by profession a graphic designer. I work
20 at Northern Illinois University Press where I am
21 the design production manager.

22 Q. How long have you had that job?

23 A. 23 years.

24 Q. What is your highest level of education?

00006

1 A. I have a Bachelor of Fine Arts from Northern
2 Illinois University.

3 Q. You said NIU Press?

4 A. Uh-huh.

5 (A discussion was held off
6 the record.)

7 Q. You are also a member of the DeKalb County
8 Board, aren't you?

9 A. Yes, I am.

10 Q. How long have you been on the board?

11 A. This November it will be eight years.

12 Q. Are you up for election this November?

13 A. Yes, I am.

14 Q. And who are you running against?

15 A. Sam Bandy, Jr.

16 Q. Do you want to spell that last name?

17 A. B-A-N-D-Y.

18 Q. What political party are you in?

19 A. I'm a Democrat.

20 Q. Now, you voted for the landfill expansion,
21 correct?

22 A. Yes, I did.

23 Q. Has your vote in that situation become an issue
24 in your re-election campaign?

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1 A. I have featured it on my campaign literature,
2 but I have gone door to door, almost 2,000 homes
3 I have contacted, and it has not been a major

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4 issue.

5 Q. Has your opponent made it an issue --

6 A. Yes.

7 Q. -- in his literature?

8 A. I have not seen his literature.

9 Q. Are you a member of any committees of the
10 County Board?

11 A. Yes, we're required to be members of two
12 committees. I'm a member of the forest preserve
13 committee, of which I chair, and the DeKalb
14 County economic development committee.

15 Q. Am I correct in understanding that some of the
16 host fees from the proposed landfill expansion
17 will go to the DeKalb County forest preserve
18 district?

19 A. That's correct.

20 Q. And do you know how much they're going to get?

21 A. I believe around a hundred thousand dollars a
22 year for educating DeKalb County children on
23 garbage and related topics.

24 Q. What does that have to do with the forest

00008

1 preserve district?

2 A. The forest preserve district has, by law, a
3 very strong educational component to it and we
4 work through the extension office and we work
5 through the Department of Health, there's a lot
6 of liaisons of sort of like-minded entities
7 coming together and that's one of them.

8 Q. Were you involved in negotiating the host fee
9 in any way, shape, or form?

10 A. I was very much for that hundred thousand
11 dollars for the garbage education, yes.

12 Q. Did you lobby actively to have that happen?

13 A. With my colleagues only.

14 Q. What do you mean by with your colleagues only?

15 A. Fellow County Board members.

16 Q. When did that lobbying take place?

17 A. We were deciding the host fee agreement, I
18 think it was in the spring of 2009, I actually
19 can't remember the date, I apologize, but during
20 that time that we were discussing the host fee
21 agreement that number was bandied about, and I

22 supported that because I strongly support

23 garbage education for our kids.

24 Q. Did you ever indicate to anyone that if there

00009

1 wasn't a significant amount of host fees set

2 aside for the forest preserve district that you

3 would not support the expansion proposal?

4 A. Never.

5 Q. Did you ever imply to anyone that that would be

6 the case?

7 A. No, that I can remember.

8 Q. Do you remember ever seeing any presentations

9 by Waste Management regarding the proposed

10 landfill prior to the actual siting hearing?

11 A. You mean the visit?

12 Q. No, we'll get to that also.

13 A. No.

14 Q. Did they ever -- was there a workshop regarding

15 the host fee where Waste Management made a

16 presentation to the entire County Board?

17 A. Not that I can remember.

18 Q. Prior to the landfill tour of last summer and

19 fall did you know any Waste Management employees

20 or representatives or consultants that were

21 involved in the project?

22 A. The guy driving us -- we didn't have a bus, we

23 had a car, I think he had made himself known

24 that he was the guy, but I was sort of ignoring

00010

1 him to be honest with you.

2 Q. Had he ever presented at a County Board

3 meeting, for example, to your knowledge?

4 A. Not to my knowledge.

5 Q. Now, as I understand it the total amount of the

6 host fee was negotiated between the County and

7 Waste Management but the allocation of that host

8 fee among various uses within the County was

9 determined by the County Board; is that right?

10 A. Correct.

11 Q. And you lobbied the County Board to try to get

12 a hundred thousand dollars for your forest

13 preserve district?

14 A. Correct.

15 Q. Apparently that was a successful effort on your
16 part?

17 A. Correct.

18 Q. Did you then in the summer of 2009 send an
19 e-mail to Dan Kenney regarding the Waste
20 Management proposal and your thoughts about it?

21 A. I suppose I did. I have not researched my
22 e-mails prior to this meeting.

23 Q. Well, we're going to show you a copy of it, but
24 while I'm digging that out, wasn't there some --

00011

1 first of all, you know Dan Kenney, don't you?

2 A. Very well.

3 Q. How do you know him?

4 A. I was chairman of the DeKalb Environmental
5 Commission, that's for the City of DeKalb, and
6 he was a member of that commission, and I also
7 know him through the interfaith network that
8 I'm -- I've been a member of in the past, I'm
9 sort of a fallen away member at this point, but
10 I know him through that too.

11 Q. So you were a member of his church?

12 A. No, no, it's an interfaith group that fights
13 war and oppression, I guess you'd say,
14 internationally. I think he's now the chairman
15 of it. We have like-minded political --
16 we've -- we are in like-minded political circles
17 together.

18 Q. And you're aware that you had sent an e-mail to
19 Dan Kenney in the summer of 2009 with regard to
20 your landfill thoughts at that time which he had
21 disclosed to other individuals, aren't you?

22 A. I -- without seeing it I can't recall it, I'd
23 have to see it.

24 Q. Well, haven't you had some discussions with Dan

00012

1 Kenney to the effect of you thought he betrayed
2 a confidence?

3 A. Yes.

4 Q. And what was the confidence that you thought he
5 betrayed?

6 A. Well, I can't remember exactly when but my
7 guess was it was after the host fee agreement

8 had been voted on that I saw him at the Jewel
9 grocery store, and I did not know that he was
10 part of a group, you know and he asked me, he
11 said what does it look like, you know, how do
12 you think it's going. And we had just almost
13 unanimously voted for the host fee agreement and
14 at the time I didn't really understand the
15 process, I wasn't part of the ad hoc committee,
16 and I just -- it sounded like everybody was --
17 my colleagues were all going for everything, I
18 didn't know the process ahead that well to be
19 honest with you, I was -- I said I'll deal with
20 it later, you know, I'm very busy with loads of
21 other things. And I said, well, it looks like
22 everybody's voted for the host fee agreement, in
23 my mind looks like everybody's feeling pretty
24 positive about it, that's what I sort of thought

00013

1 was everybody voted for the host fee agreement.

2 Q. As a matter of fact didn't you say, Dan, it
3 looks like it's a done deal?

4 A. Something to that effect, it just looked
5 positive. I might have used those words but in
6 the sense -- I don't know if I used those or
7 not, but I thought that things were going pretty
8 well. I didn't know what was up ahead to be
9 honest with you because I was busy with other
10 things.

11 Q. And certainly you were at that point strongly
12 in favor because you had gotten your money for
13 the forest preserve district, right?

14 A. No, no, I believed that I would follow the
15 process when it came. But right then I think we
16 had something else we were working on, a big
17 deal, I just didn't have the time to think about
18 it right then to be honest with you. But when
19 it came time to really follow the procedure I
20 did.

21 Q. Well, when Dan Kenney related to others that
22 you had told him it was a done deal, that got
23 back to you, right?

24 A. At the hearing.

00014

1 Q. And didn't you, in fact, then approach him and

2 tell him that you considered that to have been

3 such a betrayal of confidence that you were --

4 A. I was very angry.

5 Q. -- that that pretty much terminated your

6 friendship?

7 A. No, absolutely not, absolutely not.

8 Q. Have you talked to him since the hearings?

9 A. Yes.

10 Q. You guys are friends again?

11 A. Yes.

12 Q. You got over this?

13 A. Sure.

14 Q. Now, you never did say that he was -- his

15 recollection of the conversation was untrue;

16 isn't that right?

17 A. I wrote him and told him that that wasn't

18 what -- I did not mean that the vote in the

19 long-run was a done deal. I just meant that at

20 that time, at that moment in time when everybody

21 voted for the host agreement -- and I really did

22 not know that much about the process yet -- that

23 it appeared to me like things were going

24 favorable.

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1 (Fauci Exhibit No. 1 marked for

2 identification.)

3 Q. Now, let me show you what I have marked as

4 Fauci Deposition Exhibit No. 1.

5 MR. MORAN: This is Fauci 1?

6 MR. MUELLER: Yes.

7 A. Oh, this is to Barb Votaw.

8 Q. Well, isn't it, in fact, though beneath is what

9 you had sent to Dan Kenney, that's my question?

10 A. Where's the -- here's what I sent Dan Kenney on

11 the subject, okay, yes.

12 Q. Do you remember sending the -- this e-mail to

13 Dan Kenney, the one -- the portion that starts

14 with: Basically Waste Management had plans to

15 pull out of DeKalb County?

16 A. Uhm, I must have if I told Barbara that. Like

17 I said, I did not research my e-mails before I

18 came here.

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19 Q. Any question that this is a true and correct --
20 to the best of your recollection is this a true
21 and correct copy of the text of an e-mail that
22 you had sent to Dan Kenney in August of 2009?

23 A. Well, why don't you have the actual e-mail that
24 I sent to Dan Kenney? This is what I sent to

00016

1 Barbara.

2 Q. You know, Ms. Fauci, I have got to deal with
3 the document that I have so I'm doing the best I
4 can. My question is do you recall whether or
5 not you sent an e-mail to Dan Kenney that had
6 this text in it around the time indicated in the
7 header to Barb Votaw?

8 A. Well, my guess is that if that's what it says I
9 did, but I'm just curious why you don't have the
10 one that I sent to Dan.

11 Q. And I guess what I'm telling you is I don't
12 know the answer to your question, if I did I
13 would tell you. And did that express your
14 feelings at the time?

15 A. At the time it was my feeling that we had not
16 entered into the actual discussion of the nine
17 points. At this point were the general -- this
18 was the general discussion of the landfill issue
19 at this time. It did not mean that in the
20 future the nine points were not going to be
21 discussed and argued.

22 (Fauci Exhibit No. 2 marked for
23 identification.)

24 Q. Let me show you what I have marked as Fauci

00017

1 Exhibit No. 2, and I'll ask you if you recognize
2 that e-mail?

3 A. Yes.

4 Q. Who's that e-mail to?

5 A. Cele, a very good friend.

6 Q. Cele who?

7 A. Meyer.

8 Q. Was that sent on February 22nd, 2010?

9 A. Must have been.

10 Q. Does that accurately express your feelings at
11 that time?

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12 A. Yes.

13 Q. So that's a true and correct copy of that
14 e-mail, correct?

15 A. Yes, but once again, these are general concepts
16 about the project. It has nothing to do with
17 the nine points. This is general discussion
18 that could have been arrived at from minutes
19 from the ad hoc meeting.

20 (Fauci Exhibit No. 3 marked for
21 identification.)

22 Q. Let me show you what I have marked as Fauci
23 Exhibit No. 3, and ask you if that is a second
24 e-mail you sent to Cele Meyer after the one that

00018

1 was identified as Exhibit No. 2?

2 A. Yes, I must have sent this as well, knowing
3 that I shouldn't have contacted her. I mean,
4 these are all my friends.

5 Q. So that's a true and correct copy of that
6 e-mail as well; is that correct?

7 A. Yes.

8 Q. Now, did you go on a tour of the Waste
9 Management facility in the summer or fall of
10 2009?

11 A. Yes, I did.

12 Q. That's the Waste Management facility in Will
13 County, correct?

14 A. Correct.

15 Q. And you went in a vehicle driven by
16 Mr. Addleman?

17 A. Correct.

18 Q. You were provided lunch on the tour?

19 A. Yes.

20 Q. What did you see while you were on the tour?

21 A. It was closed down. Regretfully we could not
22 see the facility in operation because it was the
23 weekend so everything -- all the people were
24 gone. But we saw the building where the trucks

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1 would come in and be weighed, and that's where
2 we had the lunch. Then we went in his car and
3 traveled around, you know, parts of the
4 facility, which was an old arms facility I guess

5 that had been turned into a park, and then we
6 drove back.

7 Q. Did you -- did he show you different parts of
8 the facility, including an area where there was
9 a cell under construction?

10 A. Yes.

11 Q. Did he show you where the working face was?

12 A. Yes.

13 Q. And did he show you, for example, how the waste
14 was covered because the facility was closed?

15 A. Yes.

16 Q. Did the people that went on the tour have
17 questions?

18 A. It was just me and John Hulseberg.

19 Q. And did the two of you have questions during
20 the tour?

21 A. Yes, I'm sure we did.

22 Q. Was Mr. Addleman able to answer all of your
23 questions to your satisfaction?

24 A. I imagine so.

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1 Q. Did he indicate to you that the expanded DeKalb
2 County Landfill if it was built would have a
3 design characteristic similar to what he was
4 showing you?

5 A. Yes.

6 Q. Did he explain to you about the leachate
7 collection, for example, as a design
8 characteristic?

9 A. Yes.

10 Q. And did he explain to you about gas collection
11 as a design characteristic?

12 A. Yes, we were interested in that.

13 Q. Were you left with a favorable impression of
14 how a landfill operates based upon that tour?

15 A. I can't say yes or no on that. I -- it was
16 just an observational tour that we had to attend
17 with him allowing us on the site. When we went
18 to look at the wind farm all of us went without
19 the company hosting it because we could just see
20 them from the road, but I can't get into a
21 landfill without a Waste Management person
22 letting me in. That's the only reason I had to

23 go with him, otherwise I would have gone by
24 myself.

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1 Q. You didn't have to go on that tour, did you?

2 A. No, but I felt if I was going to vote for or
3 against something like that I at least had to
4 see it.

5 Q. So did this help you understand what it is that
6 was being talked about at the hearings in March?

7 A. Yes.

8 Q. I think one County Board member, for example,
9 has said during these depositions that as they
10 heard testimony in March they had things from
11 the tour in their mind's eye in terms of being
12 able to visualize what was being talked about.

13 MS. ANTONIOLLI: Objection.

14 A. I was going to say not really, not at all.

15 Q. You didn't have that impression?

16 A. No, not at all. When I thought of anything
17 with those nine points I thought of Cortland,
18 what is it going to look like in Cortland.

19 Q. But Waste Management did represent to you on
20 the tour, and specifically Mr. Addleman
21 represented on the tour that the size and volume
22 of what you were seeing in Will County
23 approximated what the size and volume of the
24 expanded DeKalb County Landfill would be, didn't

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1 he?

2 A. I was still just thinking about what was going
3 to be in Cortland.

4 Q. Well, my question is did he represent to you
5 that the size and volume of what you were seeing
6 on the tour was similar to the size and volume
7 of what you would be -- what the expanded DeKalb
8 facility would be like?

9 A. Somewhat, but as I said, I looked at those nine
10 points and how our landfill was going to be
11 constructed.

12 Q. So Mr. Addleman did compare the DeKalb -- the
13 expanded DeKalb facility with the Will County
14 facility in terms of volume?

15 A. I don't recall that being a main feature of

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16 that tour.

17 Q. But it was a feature of the tour?

18 A. A feature that I just put somewhere. What I
19 looked at was what was going to happen in
20 Cortland.

21 Q. Now, let me also ask you about the expansion of
22 the county jail or construction of a new jail.
23 Were you ever involved on any committee that had
24 to deal with the funding of that expansion?

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1 A. No.

2 Q. Do you have any knowledge as to the most
3 readily available source of funds for the
4 expanded jail?

5 A. You mean landfill money or just money in
6 general?

7 Q. Do you, as a County Board member, know where
8 the County's going to get the money to build a
9 new jail?

10 A. If the landfill expansion occurs, through the
11 gradual accumulation of money through the
12 tipping fees that will help to pay for that,
13 yes, that will be the backing that allows us to
14 get the money.

15 Q. And, in fact, the jail is on hold pending a
16 determination of whether or not these host fees
17 are going to be available, right?

18 A. Well, we still have some part of the bonds that
19 will go to the planning of the jail, but the
20 actual construction, you're correct, will happen
21 after the money from the tipping fees if the
22 jail -- I mean if the landfill is expanded.

23 Q. But you would agree that the need for a new
24 jail is now or even yesterday, right?

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1 A. Unfortunately, yes, but we're handling it.

2 Q. At a cost of \$600,000 per year to ship
3 prisoners to other counties, right?

4 A. That's what the voters have told us to do.

5 Q. Other than Dan Kenney and Cele Meyer, have you
6 sent e-mails regarding your feelings about the
7 landfill expansion at anytime to any other
8 individuals?

9 A. There were a few of my constituents who phoned
10 me and e-mailed me, and in an attempt to stay
11 neutral I had to sort of communicate that, you
12 know, I can't speak to you really on this but I
13 had to still nonetheless make them feel like
14 they were my constituents, but on this issue I
15 could not talk to them about it. And on
16 occasion, you know, they would be pumping me for
17 information and I might have revealed some
18 aspect of information that was known in the ad
19 hoc committee that was public information,
20 public. I did not tell them how I was going to
21 vote, I told them that I had not decided how I
22 was going to vote.

23 MR. MUELLER: That's all the questions I
24 have.

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1 MR. MORAN: I have some questions.

2 THE WITNESS: Sure.

3 EXAMINATION

4 BY MR. MORAN:

5 Q. Good afternoon, my name is Don Moran, I
6 represent Waste Management of Illinois, Inc.,
7 the applicant for approval to expand the
8 existing DeKalb County Landfill.

9 You'd indicated that you voted to approve
10 the host community agreement, correct?

11 A. Yes.

12 Q. And that vote took place on March 18th of 2009;
13 is that correct?

14 A. Yes.

15 Q. At the time you were voting on whether to
16 approve the host community agreement, was it
17 your understanding that by voting to approve the
18 host community agreement you were also voting to
19 approve a request to expand the existing DeKalb
20 County Landfill?

21 A. To be honest with you, I was not aware of that
22 completely.

23 Q. Well, and in fact, the vote to approve the host
24 community agreement was not a vote to expand or

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1 improve an expansion of the landfill; is that

2 correct? Electronic Filing - Received, Clerk's Office, December 28, 2010

3 A. Oh no, not at all.

4 Q. They were two entirely separate proceedings?

5 A. Oh yes, that I knew, that I knew, but I knew
6 this was sort of a forerunner agreement that,
7 you know, a negotiation of that kind is usually
8 done way before, you know, you're going to
9 really vote.

10 Q. Would it be accurate to say that one of the
11 purposes of the host community agreement was to
12 provide for certain agreements that would apply
13 in the event approval to expand the landfill was
14 granted by the County Board?

15 A. Correct.

16 Q. And that, in fact, the host community agreement
17 indicates expressly that by entering into the
18 agreement the County does not in any way express
19 an opinion as to whether any siting approval
20 request should be granted or denied?

21 A. The same thing happened with us with the
22 Potawatomi issue, we created an agreement in
23 anticipation whether or not they were given the
24 right to gamble or not on the site. The

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1 agreement had nothing to do with us being for
2 the gambling or not, it was just an agreement,
3 and that's how I looked at this agreement as
4 well.

5 Q. And, in fact, the agreement itself provided
6 that by approving the agreement the County was
7 not approving a request to expand the landfill?

8 A. Oh, of course. That was a separate thing.

9 Q. And was it your understanding that there would
10 be some process that would follow the approval
11 of the host community agreement which would
12 allow the County to then review a request to
13 expand the landfill and then vote to either
14 allow approval or deny it?

15 A. I knew that the process was coming, correct.

16 Q. So in the summer or fall of 2009 when you
17 encountered Dan Kenney at the Jewel --

18 A. I think it was earlier than that.

19 Q. Earlier than the summer of 2009?

20 A. Yeah, I think I encountered him pretty soon
21 after the host community agreement.

22 Q. And what did he say to you?

23 A. Well, he wanted to know what were the feelings
24 of the County Board, you know sort of like can

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1 you sense -- can you give me a sense of how
2 they're voting, and I said, well, they all voted
3 for the host agreement. So I think he took that
4 as a, you know, boom we're going to all vote for
5 the expansion and it was actually not true
6 because, as you see, the vote for the host
7 agreement was very close to unanimous, I mean it
8 was not totally unanimous, but the vote for the
9 landfill expansion was not, it was (indicating),
10 so you can see that it wasn't the same.

11 Q. When Mr. Kenney asked you for the feelings of
12 the board members he was asking that question in
13 relation to what --

14 A. I don't think --

15 Q. -- as you understood it at that time?

16 A. He didn't make that known that -- he did not
17 make it known whatsoever that he was part of a
18 group or would be some day part of a group. He
19 was just Dan Kenney and I was just Julia Fauci
20 by the cantaloupes, you know. It was -- that's
21 why I think I was a little perturbed that I
22 discover later that --

23 Q. And how long had you known Mr. Kenney before
24 this time approximately?

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1 A. Maybe like about two years, two or three years.

2 Q. And would it be accurate to say that your
3 understanding of his question related to what
4 information you may have had at that point about
5 whether County Board members were generally in
6 favor of an expansion or opposed to an
7 expansion, or was it just related to whether
8 they were favorable towards the host community
9 agreement?

10 A. That's where I think, uhm -- I think I got a
11 little confused, because his question was how
12 are things like looking, you know, that kind of

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13 thing, and I just said, well, everyone just
14 voted for the host agreement, things are looking
15 favorable. So I think, you know, I was just
16 thinking that way, the host agreement had been
17 pretty favorable.

18 Q. So your response to his question was based on
19 your knowledge that an overwhelming majority of
20 board members had voted to approve the host
21 community agreement?

22 A. Correct.

23 Q. And not that any County Board member had
24 decided to vote to approve an expansion of the

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1 existing DeKalb County Landfill?

2 A. Correct, correct.

3 Q. And did you have any information at that point
4 when you talked to Mr. Kenney that any County
5 Board member had already decided how he or she
6 was going to vote --

7 A. No.

8 Q. -- on the request to expand the landfill?

9 A. Absolutely not. I think we were just so busy
10 with other things. I don't want to keep going
11 back to that, but we always have something on
12 our plate so what's coming is sometimes not
13 something you're thinking about.

14 Q. And at that point you had not made up your mind
15 as to whether you were going to vote to approve
16 the site location application?

17 A. I had not made up my mind.

18 Q. And you had no information that any other
19 County Board member had already made up his or
20 her mind at that point?

21 A. No, but we hadn't had any testimony or we
22 hadn't had anything, so how could we.

23 Q. Well, the site location application had not
24 been filed at that point; would that be correct?

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1 A. We had nothing to base our decision on.

2 Q. Would that be correct?

3 A. Correct.

4 Q. The site location application was filed on
5 November 30th of 2009?

6 A. Correct. **Electronic Filing - Received, Clerk's Office, December 28, 2010**

7 Q. Was a copy of that site location application
8 made available for your review?

9 A. To be honest with you, it most likely was but
10 I -- at that time I did not see it, I can't
11 remember seeing it.

12 Q. Was a DVD (sic) of the site location
13 application made available for you?

14 A. Yes, that's what we got. That was in lieu of
15 all the paper, you know, that we were trying
16 to -- yes.

17 Q. So you received your own copy of the DVD of the
18 site location application?

19 A. Yes, uh-huh.

20 Q. Did you come to any understanding that once the
21 site location application was filed there was to
22 be no communications of any kind between you and
23 either the applicant, Waste Management of
24 Illinois, Inc., or any other person regarding

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1 the proposed expansion?

2 A. Well, to be honest with you, I heard from
3 Addleman I think is his name -- the Waste
4 Management guy --

5 Q. Lee Addleman?

6 A. Yes. We cannot talk after this date, he
7 said -- you know, he said I can sort of say hi a
8 little bit off to the side but we cannot talk,
9 he told me that. But I don't think I ever got a
10 full fledged discussion that I could not talk to
11 my constituents, and that I think is Ray
12 Bockman's e-mail, so some people probably knew
13 that but we're a large body, not all of us get
14 the notes.

15 Q. Did Mr. Bockman send out a memorandum or an
16 e-mail to all the County Board members in the
17 middle of February 2010?

18 A. Uh-huh, correct.

19 Q. And you received a copy of that memo?

20 A. Yes, I did.

21 Q. And did that clarify for you that the
22 limitation on any communications not only
23 extended to Waste Management of Illinois, Inc.

24 but any other person?

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1 A. Yes.

2 Q. Between November 30th of 2009 and May 10th of
3 2010 did you have any written, oral, or other
4 communication with any employee, representative,
5 or agent of Waste Management of Illinois, Inc.
6 regarding the proposed expansion?

7 A. Absolutely not.

8 Q. Are you aware or do you have any information to
9 the effect that any other County Board member
10 had any communication of any kind with any
11 employee, representative, or agent of Waste
12 Management of Illinois, Inc. regarding the
13 proposed expansion?

14 A. I don't have any knowledge of any other County
15 Board member.

16 Q. If I can go back for a minute to Fauci
17 Deposition Exhibit No. 1 which Mr. Mueller asked
18 you about --

19 A. Uh-huh.

20 Q. -- the three paragraphs in the e-mail you sent
21 to Mr. Kenney. Do you have that in front of
22 you?

23 A. Yeah, I do right now.

24 Q. If you look at the second paragraph where you

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1 begin, we tried to attract other waste handlers,
2 and then continues, and in the second sentence
3 it says, if we had to send our waste to another
4 county our bills would skyrocket, so yes, I
5 voted to allow them to expand. Do you see that
6 statement?

7 A. Yes, yes.

8 Q. When you said you voted to allow them to
9 expand, what were you referring to?

10 A. You know, I think this is once again my sort of
11 confusion about the process, and I really mean
12 this. I think the pre-knowledge that we were --
13 had a problem with where our garbage was going
14 to go, that was something that the ad hoc
15 committee tackled, they looked into all these
16 different -- where's our garbage going to go,

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17 and I think I just confused that with the host
18 fee agreement, I think that's where I got
19 confused.

20 Q. Would it be accurate to say that your statement
21 in Fauci Deposition Exhibit No. 1 that you voted
22 to allow them to expand referred to your vote to
23 approve the host community agreement?

24 A. Yes, definitely, yes. Yes.

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1 Q. It didn't relate to the fact that you had
2 already decided to approve any requested
3 expansion of the DeKalb County Landfill?

4 A. I guess you could say that I bought the
5 conclusions of the ad hoc committee, I bought
6 that first in general, but knowing that down the
7 road I had nine, you know, different things that
8 had to be decided in order for, by law, the
9 landfill expansion project to be approved. So
10 this really relates to the ad hoc committee
11 findings and the host fee agreement, knowing
12 though that later on I had those nine things
13 that I very diligently looked at.

14 Q. So when you wrote the statement in this e-mail
15 to Dan Kenney that you voted to allow them to
16 expand, what you meant to say was that you had
17 voted to approve the host community agreement
18 and not that you had voted to approve or request
19 to expand the landfill?

20 A. Yes, I think that I just got -- I know that I
21 got confused. I wasn't on the ad hoc committee.
22 I just got confused about that stage of it, not
23 knowing that -- when we finally entered into
24 that nine points I took that extremely

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1 seriously.

2 Q. And at the time that you wrote this e-mail to
3 Dan Kenney you had not decided to vote to
4 approve any request to expand the landfill?

5 A. Not at all, not in my mind for the final nine
6 points.

7 Q. And when you refer and you have referred to the
8 nine points throughout your answers at this
9 deposition, are you referring to the nine

10 statutory criteria that are set out in Section
11 39.2 of the Illinois Environmental Protection
12 Act?

13 A. Correct.

14 Q. Those criteria that relate to the need for the
15 facility?

16 A. Uh-huh.

17 Q. You need to say yes.

18 A. Yes.

19 Q. Whether the facility is designed and proposed
20 to be operated to protect the public health,
21 safety, and welfare?

22 A. Yes.

23 Q. Whether the facility is located so as to
24 minimize incompatibility with the character of

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1 the surrounding area?

2 A. Yes.

3 Q. And whether the facility is located so as to
4 minimize any effect on the value of surrounding
5 property?

6 A. Yes.

7 Q. And whether the facility is located outside the
8 hundred year floodplain?

9 A. Yes.

10 Q. And whether the facility has a plan of
11 operations which is designed to minimize the
12 danger of the surrounding area from fire,
13 spills, and operational accidents?

14 A. Yes.

15 Q. And whether the traffic patterns to and from
16 the facility have been designed so as to
17 minimize any effect on existing traffic flow?

18 A. Yes.

19 Q. And whether the facility is proposing to accept
20 hazardous waste whether a contingency plan has
21 been put in place to address any accidents that
22 might occur?

23 A. Yes.

24 Q. And whether the facility is consistent with the

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1 DeKalb County Solid Waste Management Plan and
2 any amendments?

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3 A. Yes.

4 Q. And finally, whether the facility is located
5 within a regulated recharge area?

6 A. Yes.

7 Q. Those were the points that you were referring
8 to as the nine criteria that you were going to
9 apply in determining how to vote on this site
10 location application?

11 A. Correct.

12 Q. Did you receive any communications, oral or
13 written, from any persons regarding the proposed
14 expansion between November 30th, 2009, and May
15 10, 2010?

16 A. You mean from like Waste Management or --

17 Q. From any person, from any constituent, any
18 person, any participant at the hearing.

19 A. Many constituents.

20 Q. And how did these constituents communicate with
21 you?

22 A. I'd say about 80 percent were e-mails, so
23 there's a degree of antisepticness, you know,
24 there was a removal of my contact with them just

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1 because it was written, and about 20 percent
2 were phone calls.

3 Q. And these were all from constituents?

4 A. No, some of them actually faked to be my
5 constituents and then I discovered later they
6 weren't at all.

7 Q. And how did they fake to be your constituents?

8 A. They would say that sometimes and then I would
9 say, well, where you live, and they refused to
10 tell me where they lived.

11 Q. What were the contents of these communications
12 with you?

13 A. I'd say primarily they were political in nature
14 in a sense that they were not dealing with those
15 nine criteria, they were generally dealing with
16 the points probably discussed at the ad hoc
17 committee. Now, on occasion when they were
18 points discussed in the ad hoc committee which
19 had all been done in open session I felt
20 somewhat justifiable in talking to them about

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21 those points, but when it came to the nine
22 points I told them I can't talk to you about
23 these things because I'm to be a juror and not a
24 legislator.

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1 Q. And how did you respond to them, by e-mail or
2 by phone or in person, by letter?

3 A. E-mail. You know, I think I must admit if I
4 noticed that they weren't part of my
5 jurisdiction I didn't answer them, to be honest
6 with you. Those people who were, I said that I
7 can't -- I'm not supposed to talk with you. And
8 those who called if they were talking about, as
9 I said, these general points I felt like we
10 could talk, but the nine points I said I
11 absolutely cannot talk to you about those, I'm a
12 juror and not a legislator at that point, which
13 they would become very upset.

14 Q. Were all the communications you received from
15 these various persons opposed to the proposed
16 expansion?

17 A. I think we had one union guy that was for it
18 because he thought there would be jobs.

19 Q. And approximately how many of these
20 communications did you receive?

21 A. I'm guessing 25, 30.

22 Q. Did you have any personal conversations with
23 any persons regarding the proposed expansion
24 between November 30th, 2009 and May 10th of

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1 2010?

2 A. One person called at about 10 at night, and I
3 understand he called all the board members at
4 about 10 -- or it was a woman, I can't remember.
5 But one guy was a constituent of mine who lived
6 on Pleasant Street, and we actually ended up
7 talking about other County Board issues because
8 I tried to sort of get him off the landfill, and
9 we did on occasion talk about ad hoc committee
10 issues. But I once again told him I can't talk
11 to you about this, you know, there's an ex parte
12 situation going on here, I apologize. He got
13 very -- he got upset. They wanted to be able to

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14 feel like they could talk to their elected
15 official.

16 Q. What was his name?

17 A. I can't remember.

18 Q. Do you remember the woman's name who --

19 A. No.

20 Q. -- called you?

21 A. It was late at night and she seemed to be
22 liking to call -- I think it was a woman, but it
23 was like 10:30 at night, something like that.

24 Q. And you understood that your role in this

00042

1 process was to consider the evidence and written
2 submissions made by any interested party in
3 reaching a decision?

4 A. Correct.

5 Q. And that you weren't to consider any
6 information that was not submitted as a written
7 comment or submission to the County Board or
8 contained in the siting application or presented
9 at the public hearing in making your decision?

10 A. Correct.

11 Q. Did you consider any information that was not
12 contained in the siting application, that was
13 not presented at the public hearing, or that was
14 not contained in a written comment or submission
15 to the County Board in making your decision on
16 the siting application?

17 A. Well, I keep referring back to the conclusions
18 of the ad hoc committee. If you followed their
19 recommendation that they saw no other choice but
20 to pursue, you know, an add -- an expansion,
21 then -- I don't want to keep referring back to
22 the ad hoc committee, but their findings were
23 very critical for me because once I believed
24 what they were saying then the nine points

00043

1 became a little more important, you know like I
2 had to just then look at the nine points. I'm
3 not saying that some of the conclusions of the
4 ad hoc committee did not affect how I thought
5 about the whole project, but legally it was just
6 those nine points of criteria, that's all I was

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7 allowed to look at.

8 Q. So are you saying that your decision on those
9 nine criteria were based on the information
10 contained in the site location application
11 presented at the public hearing and contained in
12 any written submissions or comments made to the
13 County Board?

14 A. Yes.

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

17 A. The vote was 2000 -- was that day, right? When
18 was the vote again, I forgot?

19 Q. If you recall, the vote was on May 10th of
20 2010.

21 A. Oh, that's right. I made my decision on this
22 issue the night before the vote.

23 Q. The night before May 10th?

24 A. Yes.

00044

1 MR. MORAN: Thank you. I have no further
2 questions.

3 EXAMINATION

4 BY MS. ANTONIOLLI:

5 Q. I have a question about what we have marked as
6 Fauci Deposition Exhibit No. 2.

7 A. Uh-huh.

8 Q. And do you have that in front of you?

9 A. Yes.

10 Q. That first sentence there of the e-mail to Cele
11 -- addressed to Cele, it says: This was not an
12 easy decision to make until all the facts were
13 in.

14 And you stated that you did not make your
15 decision on the siting application until the
16 night before the vote?

17 A. Correct.

18 Q. So that first sentence, can you explain what
19 you meant?

20 A. I think I'm -- once again, I'm referring back
21 to this ad hoc recommendation, that my decision
22 to then look at the landfill expansion and all
23 the nine points, you know, to really -- the ad
24 hoc committee recommendations were primary to

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00045

1 me, I mean they were the big picture issues
2 about this problem. When people would call me
3 they would really be talking about ad hoc
4 committee issues --

5 Q. So --

6 A. -- not the nine criteria.

7 Q. -- when you were referring to your decision,
8 were you referring to the decision on the host
9 fee agreement?

10 A. Yes, I guess you could say just the decision to
11 look into the expansion, you know. I -- it's
12 such a poor choice of words I suppose. For me
13 the ad hoc committee findings were critical, did
14 I accept those or not, were critical to the
15 issue in a large sense. Then the nine points
16 are the issue in the very controlled State
17 mandated sense, so that's probably what I meant.

18 Q. So as you said, your decision on the
19 application was made after this date in the
20 e-mail?

21 A. Oh definitely. The night before. I mean, you
22 could even subpoena my husband and he will tell
23 you that that is exactly what happened.

24 MS. ANTONIOLLI: Okay. Thank you.

00046

1 THE WITNESS: Uh-huh, thank you.

2 MS. ANTONIOLLI: That's all I have.

3 MR. MUELLER: I have got one more.

4 EXAMINATION

5 BY MR. MUELLER:

6 Q. Ms. Fauci, did you meet with anyone in
7 preparation for your deposition today?

8 A. I met with Mr. Moran.

9 Q. All right, and --

10 A. And then prior, right before I met with Amy.

11 Q. Right before this dep you meet with Amy, but
12 previously you had actually met with Mr. Moran
13 for an extended period of time?

14 A. In this room, but not for an extended time.

15 Q. How long would you say your meeting was?

16 A. An hour.

17 MR. MUELLER: Fair enough. That's all I

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18 have.
19 MS. ANTONIOLLI: Okay. The court reporter
20 has transcribed your deposition today, and you
21 have the option at this time to wait for it to
22 be prepared and review the deposition for any
23 errors and sign your deposition at that time; or
24 you can simply waive signature and trust that

00047

1 she's transcribed your deposition accurately,
2 which you do today on the record.

3 THE WITNESS: I'm sure that she has
4 transcribed it accurately.

5 MS. ANTONIOLLI: Okay. You can let the
6 record show she's waived signature.

7 (The deposition was concluded at
8 3:32 p.m.)

00048

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 26th day of
7 October 2010 at 2:43 p.m. at the DeKalb County
8 Legislative Center, 200 North Main Street, Sycamore,
9 Illinois, the following-named person, to-wit: JULIA
10 FAUCI, who was duly sworn to testify to the truth

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7 and nothing but the truth of her knowledge
concerning the matters in controversy in this cause;
8 that she was thereupon examined on her oath and her
examination reduced to writing under my supervision;
9 that the deposition is a true record of the
testimony given by the witness, and that the reading
10 and signing of the deposition by said witness were
expressly waived.

11

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

15

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

17

18

19

20

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

24

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00001

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
2
3 STOP THE MEGA-DUMP,)
4)
5) Petitioner,) PCB NO. 2010-103
6)
7) v.)
8) DEPOSITION OF
9) COUNTY BOARD OF DEKALB) MICHAEL HAINES
10) COUNTY, ILLINOIS and WASTE)
11) MANAGEMENT OF ILLINOIS,)
12)
13) INC.,)
14)
15) Respondent.)

16 DEPOSITION OF MICHAEL HAINES, taken at the
17 DeKalb County Legislative Center, 200 North Main
18 Street, Sycamore, Illinois, on October 5, 2010,
19 commencing at 10:38 a.m., before Julie K. Edeus,
20 Certified Shorthand Reporter and Notary Public in
21 and for the State of Illinois, in pursuance to
22 agreement of the parties in the above-entitled
23 action.
24

00002

1 APPEARANCES:

2
3
4 ATTORNEY GEORGE MUELLER,
5 of the firm of Mueller Anderson, P.C.,
6 603 Etna Road,
7 Ottawa, Illinois, 61350,
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ATTORNEY DONALD J. MORAN,

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Waste Management of
11 Illinois, Inc.
12

ATTORNEY AMY ANTONIOLLI,
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6600 Sears Tower,
14 Chicago, Illinois, 60606,
15 Counsel for Respondent
County Board of DeKalb County,
16 Illinois.
17
18
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00003

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2
3 Witness: MICHAEL HAINES

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14 Haines Exhibit No. 1	21

15
16
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18
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20

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21
22 Certificate of Shorthand Reporter. 48

23
24

00004

1 MICHAEL HAINES,
2 being first duly sworn, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MR. MUELLER:

6 Q. Would you state your name please.

7 A. Michael Haines.

8 Q. Mr. Haines, have you ever had your deposition
9 taken before in any case?

10 A. No.

11 Q. Let me go over a couple of ground rules then.
12 Everything that I say and you say is being taken
13 down by a court reporter, so it is important
14 that we do not talk over each other, that we
15 keep our answers verbal as opposed to answering
16 with gestures and that we avoid ambiguous
17 statements such as uh-huh and huh-uh. Do you
18 understand all of that?

19 A. Uh-huh, yes.

20 Q. Obviously you do. And you understand that
21 you're under oath here?

22 A. Yes, sir.

23 Q. Sir, what's your address?

24 A. 8723 River Lane, Kingston, Illinois.

00005

1 Q. And what's your profession, sir?

2 A. I retired from Northern Illinois University
3 after 26 years or so and I'm now a private
4 practice consultant which means I'm periodically
5 employed, episodically employed, otherwise
6 retired.

7 Q. Retired as what?

8 A. Retired from what or --

9 Q. Yes.

10 A. I directed the health promotion program at the
11 university for 18 years and then directed a
12 national center that was grant funded for the
13 last eight years.

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14 Q. What is your professional training in?

15 A. Mental health and sociology.

16 Q. And what's your highest degree, sir?

17 A. Master's degree in community mental health.

18 Q. Are you also a member of the DeKalb County
19 Board?

20 A. Yes.

21 Q. How long have you been on the board?

22 A. Seven years all total. There's two terms.

23 Q. When are you up again for election?

24 A. This November 2nd.

00006

1 Q. Are you running?

2 A. Yes.

3 Q. Do you have opposition?

4 A. Yes.

5 Q. Who's your opponent?

6 A. Russ Devereaux (phonetic).

7 Q. Are you a democrat, sir?

8 A. Yes.

9 Q. Is the landfill expansion to your knowledge or
10 by your understanding an issue in your election
11 campaign?

12 A. Not that I'm aware of.

13 Q. Has your opponent made your position an issue?

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

15 Q. Are you a member of any committees on the
16 County Board?

17 A. Yes.

18 Q. Which ones?

19 A. I'm on the ad hoc rules committee, I chair the
20 finance committee and I'm on the planning and
21 zoning committee.

22 Q. Does the finance committee concern itself with
23 the development and payment for the courthouse
24 and jail expansions?

00007

1 A. Yes.

2 Q. What's your understanding as to how the jail
3 expansion is going to be paid for if it ever
4 goes forward?

5 A. Well, if it ever goes forward there's two
6 options. The preferred option is that we let

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7 bonds to pay for it because that would not
8 involve any taxpayer money. The other option
9 would be to hold a referendum to be able to
10 increase taxes to support a general obligation
11 bond.

12 Q. In the event that you let bonds what would be
13 the revenue source to repay the bonds?

14 A. Well, when we did our legislation to --
15 resolution to the ordinance -- whatever it
16 was -- to let bonds for the courthouse
17 expansion, it included the possibility of the
18 jail expansion as well, we had to name potential
19 sources of collateral for those bonds and we did
20 have collateral -- or do have collateral for the
21 courthouse expansion bonds and indicated that
22 source of funds and that's county sales tax
23 revenue and we didn't have a source -- or don't
24 have a source for the jail expansion at this

00008

1 point and we indicated that the possibility of
2 the revenue from the landfill tipping fees in
3 the event that that went through would be a
4 source of collateral. The only other source
5 that we could think of was if the casino went
6 through is another possibility. There's --
7 that's pending out there in -- in federal
8 determination land. Those are the only two
9 possible nontax sources of revenue that we saw.

10 Q. And when did you identify the landfill tipping
11 fees as a possible source to collateralize the
12 bonds?

13 A. Oh, I can't remember the very first time that
14 was discussed. I'd have to go back and look at
15 finance committee meetings, but it certainly was
16 part of the ordinance or the resolution that was
17 passed in whatever time that was -- whatever
18 meeting that was. Sometime in --

19 Q. Would the resolution have been passed
20 approximately a year ago?

21 A. I'm not sure. It was -- it was before March.

22 Q. Meaning before the landfill siting hearings?

23 A. Yes, I believe so, yes.

24 Q. All right. Mr. Haines, did you attend the

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1 landfill siting hearings?

2 A. Yes.

3 Q. All of them?

4 A. Almost all of them. I was on the -- whatever
5 that committee is called -- the pollution
6 control facility committee or whatever that long
7 title is. I was a member of that -- one of the
8 seven members, so I attended most of the
9 hearings. I had to miss about, I don't know,
10 four or five hours altogether of the hearings.
11 I think there were 51 hours.

12 Q. During that hearing did you ever hear anyone
13 express -- other than in testimony -- any
14 sentiment that would be considered hostile to or
15 derogatory to the landfill opponents?

16 A. No, not that I can recollect.

17 Q. Did you ever express such a sentiment yourself?

18 A. No.

19 Q. During your attendance at that hearing did you
20 ever hear anyone who's on the County Board or a
21 County employee express any sentiment to the
22 effect of the decision being a done deal or a
23 foregone conclusion?

24 A. Well, I know that one of my fellow County Board

00010

1 members, Julia Fauci, was concerned about an
2 e-mail she had sent to Mr. Kenney of the
3 citizens group where she expressed something to
4 that nature.

5 Q. Did you ever have any conversations with her
6 about that?

7 A. Yeah, I talked to her about it -- or she talked
8 to me about that asking if she had done
9 something that was a problem or anything and I
10 said I didn't think so that I knew of.

11 Q. Do you recall what it is that she told you she
12 had expressed?

13 A. She said in her -- that she sent an e-mail to
14 Dan explaining that -- that somewhere in that
15 e-mail that it said something about this being a
16 done deal and he sent that back to her and said
17 it was going to be part of his commentary or

18 something. I'm not exactly certain.

19 Q. And what was the sentiment that you expressed
20 to her?

21 A. I said I didn't think that it was a big issue
22 as long as she proceeded with the -- what she
23 was told to do in terms of voting her conscience
24 and her -- what she knows from the information

00011

1 that she hears at the County Board level.

2 Q. During 2009 did you attend a tour of another
3 Waste Management facility?

4 A. Yes.

5 Q. Do you recall approximately when you went?

6 A. Early November or late October of '09.

7 Q. And do you recall who went with you on the
8 tour?

9 A. I drove to Wilmington to the Waste Management
10 facility there and parked my truck there and
11 then had a tour of the facility with
12 Mr. Adlemann I believe.

13 Q. So you drove yourself there?

14 A. Yes.

15 Q. You didn't go on the tour with any other County
16 Board members?

17 A. No, I didn't have time to go when those went,
18 so I just drove myself.

19 Q. You're aware that there had been organized
20 trips to that facility?

21 A. Yes, yes.

22 Q. And you didn't have a chance to go on any of
23 those?

24 A. Nope.

00012

1 Q. So you arranged directly with Mr. Adlemann to
2 have your own tour?

3 A. Well, not directly with him. I did it through
4 Mary Supple at the County Board office.

5 Q. All right. Were you reimbursed for mileage for
6 driving yourself to and from the tour?

7 A. I believe so. I still don't know whether I got
8 that money or not.

9 Q. Did you put in a mileage claim?

10 A. I think so.

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11 Q. To the County Board?

12 A. Yes, that's who should reimburse me.

13 Q. And you met Mr. Adlemann at the facility?

14 A. Yes.

15 Q. And can you tell us what you recall seeing on
16 the tour?

17 A. Oh, my goodness. I saw a cell that was open
18 and operating with the big tipping ramp and
19 transfer trucks coming in and tipping garbage
20 into the open operating cell and I saw the
21 compactors and the bulldozers moving the trash
22 around and compacting it. I saw an open cell
23 that was being prepared with its liner and the
24 like. I saw the shop where they repair the

00013

1 machinery, so I saw one of the compactors up
2 close and personal and I saw the leachate
3 pumping stations and spent some time in the
4 reception facility where I could see the
5 reception control of trucks coming in and the --
6 how they manage the tare weight and the security
7 of the loads that come in and that's pretty much
8 it. It was quite a big facility.

9 Q. All right. Mr. Haines, in the County's answers
10 to interrogatories they indicated that you
11 toured the facility on November 21st, 2009 with
12 Julia Fauci and John Hulseberg.

13 A. Well, that's wrong. I didn't.

14 Q. They were not there with you?

15 A. No. That might have been one that was
16 scheduled that I didn't make or maybe that was
17 one that they did but I didn't.

18 Q. Did you have a chance to ask questions while
19 you were on the tour and get answers to your
20 questions?

21 A. Yes.

22 Q. Did you find the tour informative?

23 A. Yes, very.

24 Q. Did you find it helpful?

00014

1 A. Yes.

2 Q. Did anyone from Waste Management provide you
3 information that day besides Mr. Adlemann?

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4 A. The lady in the reception area and I had some
5 comments, but that was about it, about her job
6 and how long she had worked there and what she
7 did in terms of managing those trucks and also
8 the view she had of the landscape and the
9 weather, because it was a glass room with about
10 a 180 view of some rather pretty countryside.
11 She occasionally sees deer.

12 Q. Did you -- do you know who Dale Hoekstra is?

13 A. Yes.

14 Q. How do you know him?

15 A. From attending the County Board meetings. He's
16 been coming to them for the last year and a
17 half --

18 Q. All right.

19 A. -- I believe.

20 Q. Let me back up a second. Do you have a social
21 relationship with Mr. Hoekstra?

22 A. No.

23 Q. Do you have a social relationship with
24 Mr. Adlemann?

00015

1 A. No.

2 Q. Do you have a social relationship with any
3 other Waste Management employee or
4 representative?

5 A. No.

6 Q. Was Mr. Hoekstra present on the day of your
7 tour of the facility?

8 A. I believe he was.

9 Q. And did he also provide you with information
10 during that tour?

11 A. No, just a handshake and a hello.

12 Q. So it was pretty much Mr. Adlemann just taking
13 you around one on one?

14 A. Yes.

15 Q. Were you provided with lunch?

16 A. Yes.

17 Q. Do you know approximately how long the entire
18 tour took from the time you got there until you
19 left?

20 A. Maybe two hours, two and a half hours. That's
21 a guess.

22 Q. Did Mr. Adelman represent to you during the
23 tour that the facility that you were touring
24 operated very much like the expanded landfill

00016

1 would operate if it was expanded?

2 A. Yes.

3 Q. Did you have any reason to disbelieve that
4 representation on his part?

5 A. No.

6 Q. When you were at the tour did you experience
7 any unpleasant odors at any portion of the
8 facility?

9 A. No, not that I recollect. I mean, there was a
10 lot of garbage, but I wasn't that close to it.
11 We were way up on a hill so that we could see --
12 we were on a hill of what evidently was already
13 covered cell looking down at the operation that
14 was going on. It was a wonderful vantage point
15 because it gave us the view of the opened and
16 lined cell that was going to be a new one as
17 well as the one that was operating, but it was
18 far enough away that I really didn't have any
19 odor or anything like that.

20 Q. You will recall that during the hearings on the
21 expansion of the DeKalb County landfill last
22 March there was testimony regarding odors at the
23 DeKalb County landfill?

24 A. Yes.

00017

1 Q. Specifically there was testimony about hydrogen
2 sulfide gas. Do you recall that?

3 A. Oh, absolutely.

4 Q. Did you ever make it a point to visit the
5 DeKalb County landfill to verify with your own
6 nose whether or not those odors were existent?

7 A. No.

8 Q. Have you ever been to the DeKalb County
9 landfill for any purpose?

10 A. I think I have dropped off refuse there once in
11 my 30 years.

12 Q. Have you ever had a tour of that facility?

13 A. No.

14 Q. Do you recall ever being asked questions by

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15 Board Member DeFauw regarding hydrogen sulfide
16 gas and possible groundwater contamination at
17 the existing landfill?

18 A. Yeah, I think Sally probably asked that.

19 Q. Was that an on-the-record or off-the-record
20 question?

21 A. I don't understand the question.

22 Q. Well, I mean, was that done in the course of
23 the public hearing or was that something that
24 she asked you privately?

00018

1 A. Oh, it was privately I believe.

2 Q. And where did that conversation take place?

3 A. I'm not sure whether we talked on the phone or
4 whether we talked at PJ's Courthouse Grill.

5 Q. And do you recall what she asked you and what
6 you responded?

7 A. I know we had discussions about the hydrogen
8 sulfide because as that came up everybody had
9 discussions about that and questions and the
10 like and I -- I don't recollect the content of
11 the conversation.

12 Q. Well, why would she ask you about it, you're
13 not an expert in landfill operations and gases,
14 are you?

15 A. No, but we do talk to each other -- many of the
16 board members do about all sorts of issues
17 whether it's -- whether it's an issue or a vote
18 on a forest preserve acquisition or a -- you
19 know, anything that's pending and particularly
20 anything that's controversial we discuss those
21 things amongst each other, especially those of
22 us who have the same party or see each other on
23 a regular basis at meetings or County Board
24 meetings. I was also on the committee which she

00019

1 wasn't and I think that she talked to me because
2 of that reason, you know, the pollution control
3 facility committee.

4 Q. Are you aware, sir, of a gag order that was put
5 out toward the end of February by the county
6 administrator, Mr. Bockman?

7 A. Well, I'm very much aware that we were told we

8 could not speak with anybody from Waste
9 Management about the landfill after November
10 30th. That was explicit. That was repeated.
11 Then there was the commentary that came sometime
12 before the hearings where we were informed and
13 it was at least in my case the first time I was
14 aware that we were not supposed to speak to
15 anybody period, not just Waste Management
16 people, but anybody and that was news to us.
17 And I mean, I -- it wasn't called a gag order.
18 It was just an explanation that the ex parte
19 agreement or ex parte condition required that to
20 be the case and that was sort of news to me. I
21 thought we just could not speak to the
22 Applicant.

23 Q. Where and from whom did you get the information
24 originally that you were not to have

00020

1 communication with Waste Management after
2 November 30th?

3 A. From Mr. Bockman.

4 Q. Was that information in the form of a memo or
5 letter?

6 A. I can't recall. It may have been both verbally
7 as well as that way. I can't recall for sure,
8 but I think we heard it more than once.

9 Q. Was it your belief, sir, that if this landfill
10 expansion was not approved that it would result
11 in a significant tax increase?

12 A. No. I'm concerned that the county citizens
13 don't want to pay taxes for anything. They want
14 services and services and services and they
15 don't want to pay taxes, so I'm very aware of
16 that. No, because as I said, we have -- if the
17 landfill didn't occur we had at least one other
18 possibility down the road which is this pending
19 casino issue. If the federal government finds
20 that the land in Shabbona is Indian land then
21 that casino will go through and that will be a
22 significant source of revenue for the County
23 which is nontax revenue. That could happen
24 tomorrow or it could happen ten years from now.

00021

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1 We have no control over that nor any way of
2 knowing when that will happen. If we had to
3 build a jail without landfill revenue and that
4 didn't come through then we'd have to go to the
5 taxpayers for some sort of income.

6 Q. Are you -- were you or are you concerned that
7 if the landfill expansion doesn't go through
8 taxes would significantly increase just for
9 waste disposal purposes?

10 A. Well, they could increase for waste disposal
11 purposes if we didn't have that other source of
12 funding or some unknown source that may come
13 along, but right now the only other source of
14 funding that's possible besides the landfill
15 that's nontax money would be the casino money.

16 (Haines Exhibit No. 1 marked for
17 identification.)

18 Q. All right. Let me show you, sir, what I have
19 marked as Haines Deposition Exhibit No. 1 and
20 I'll show it to your counsel and she can share
21 it with Don.

22 THE WITNESS: Which is marked --

23 MS. ANTONIOLLI: I think right here.

24 THE WITNESS: When was this? Oh, back in

00022

1 April of '09, okay.

2 MR. MORAN: Can I see it? Thanks.

3 Q. Mr. Haines, I'm showing you a document which
4 appears to be an e-mail written by you on April
5 3rd, 2009 to a Matt Pasteris. Do you recall
6 writing this e-mail?

7 A. I know I wrote one. I don't recall all that
8 content.

9 Q. Does this appear to be a true and correct copy
10 from what you can tell of the e-mail that you
11 wrote?

12 A. I guess so.

13 Q. And if I can direct you toward the bottom half
14 of the e-mail where you write our choices are,
15 at the end of Choice No. 1, which is let the
16 landfill close in 6.8 years, your conclusion was
17 watch your taxes double or more; isn't that
18 correct?

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19 A. Yes.
20 Q. And the very end of that e-mail your last words
21 also are watch your taxes double or more; isn't
22 that correct?

23 A. Right.

24 Q. Did you speak to anyone to prepare for today's

00023

1 deposition?

2 A. Did I speak to anyone?

3 Q. Did you meet with anyone to prepare for today's
4 deposition?

5 A. Amy, yes.

6 Q. Did you ever meet with Mr. Moran in
7 preparation --

8 A. Yes, yes.

9 Q. When did you meet with him?

10 A. A month, two months ago. I'm not sure.

11 Q. Do you know Dan Kenney personally?

12 A. I don't believe so.

13 Q. Have you ever had a conversation with him?

14 A. Yes.

15 Q. Where and when?

16 A. Probably during the hearing.

17 Q. Have you ever had a conversation with
18 Mac McIntyre?

19 A. Probably during the hearing. I don't know if I
20 ever had one at any other time with him or not.

21 MR. MUELLER: That's all I have,

22 Mr. Haines. Thank you.

23 THE WITNESS: All right.

24 MR. MORAN: I have a few questions.

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1 MR. HAINES: Oh, okay. I was going to say
2 that was pretty painless.

3 MR. MUELLER: We try to make it as
4 painless as possible. Actually it's more
5 painless for us too.

6 MR. MORAN: Yes.

7 EXAMINATION

8 BY MR. MORAN:

9 Q. Mr. Haines, were you involved in any way in the
10 negotiation of the host community agreement with
11 Waste Management of Illinois, Inc.?

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12 A. I attended one of the ad hoc solid waste
13 committee meetings and was concerned about
14 recycling and wanted to ensure that the
15 recycling aspect of our current agreement with
16 the landfill didn't change in a negative way and
17 so that's -- well, I attended to get
18 information, but as I was sitting there hearing
19 everything it became clear to me that the
20 recycling issue wasn't being addressed to my
21 satisfaction.

22 Q. What meeting did you attend?

23 A. It was in February of '09 I believe. Can I
24 just --

00025

1 MS. ANTONIOLLI: Should we take a break
2 now? Can we go off the record for a minute.

3 (A recess was taken at 11:08 a.m.
4 and proceedings resumed at 11:09
5 a.m.)

6 Q. Do you recall when the meeting that you
7 attended occurred?

8 A. I don't know the exact date. I know it was
9 before the host fee agreement came to the County
10 Board because it was still in the ad hoc
11 committee stage.

12 Q. And the host community agreement was approved
13 by the County Board on March 18th of 2009; does
14 that sound right?

15 A. Yes.

16 Q. So the meeting you attended was at some point
17 prior to that?

18 A. Yes.

19 Q. Was it a meeting of just the committee or was
20 it a meeting of the entire County Board to talk
21 about the --

22 A. It was just the ad hoc solid waste management
23 committee.

24 Q. And did you speak at this committee meeting?

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1 A. Yes.

2 Q. And you addressed your concerns about the
3 recycling that you mentioned?

4 A. Yes.

5 Q. And was your recycling concern addressed
6 appropriately in the host community agreement?

7 A. Well, yes, it was -- there was another
8 provision made for recycling which was to
9 actually increase the amount of money we now
10 have for recycling.

11 Q. Okay, and did you vote on whether to approve
12 the agreement?

13 A. Yes.

14 Q. And how did you vote?

15 A. In favor of it.

16 Q. Between March 18th of 2009 and November 30th of
17 2009 did you have any discussions or
18 communications with any employee or
19 representative of Waste Management of Illinois
20 regarding the proposed expansion?

21 A. Only the landfill tour with Lee. I don't
22 recall other discussions. If any did occur they
23 probably would have only occurred at the County
24 Board meeting when Lee and Dale and there's one

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1 other fella that attended those from Waste
2 Management.

3 Q. Bill Plunkett?

4 A. Yeah, Bill Plunkett, the public affairs guy,
5 right, because he was at that ad hoc committee
6 meeting I believe or --

7 Q. What do you understand your duties and
8 responsibilities as a County Board member to be?

9 A. They're multiple. To represent the people who
10 elected me to office, to represent the broader
11 citizenry of DeKalb County, so it isn't just
12 about Genoa and Kingston, to gather information,
13 listen to experts, the public and then make
14 informed decisions.

15 Q. Were those duties and responsibilities the same
16 as the ones you were required to perform as a
17 decision-maker considering the site location
18 application that was being filed?

19 A. Well, I thought they were until we were told
20 about the ex parte agreement and how everything
21 was a little bit different and that still I
22 think is hard for us all to get our heads

23 around, the idea of acting as a judge or jury as
24 opposed to a policy-maker or legislator and in
00028

1 that regard we're not supposed to be influenced
2 by people outside of the public record which is
3 not the usual course of affairs.

4 Q. And was it your understanding that you were not
5 to take into account any information or evidence
6 that was not received as part of the public
7 hearing or part of the siting process?

8 A. Yes.

9 Q. And as you indicated earlier, your
10 understanding was that you were not to have any
11 communications with any parties to the siting
12 proceeding from the date the application was
13 filed until the County Board vote on the
14 application?

15 A. Yes and yes.

16 Q. And when you hesitated you were hesitating
17 because there were such communications during
18 that period; would that be correct?

19 A. Yes, yes, and I think we did talk to Renee
20 Cipriani (phonetic) about that and -- if that's
21 the correct pronunciation.

22 MS. ANTONIOLLI: Cipriano.

23 A. Cipriano about that issue and --

24 Q. I don't want to hear what she told you because
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1 that would be attorney/client --

2 A. Oh, okay.

3 Q. -- communication.

4 MR. MUELLER: I do.

5 Q. So that between November 30th, 2009 and May
6 10th of 2010 did you have any written or oral
7 communication with any employee or
8 representative of Waste Management of Illinois,
9 Inc. regarding the proposed expansion?

10 A. Not that I recollect at all.

11 Q. Did you have any written or oral communication
12 with any other person regarding the proposed
13 expansion during this period?

14 A. Oh, yes, yes.

15 Q. Let's start with the written communications

16 that you had. Did you receive e-mails from

17 persons --

18 A. Yes.

19 Q. -- regarding the expansion?

20 A. Yes.

21 Q. How many such e-mails did you receive

22 approximately?

23 A. I'm not exactly -- I can't -- I know I got one

24 from my friend, David and I know I got one from

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1 Matt and I know I got numerous other ones from

2 people I didn't know.

3 Q. And were these sent to your home -- these

4 e-mails?

5 A. Yes.

6 Q. Were all the e-mails you received opposed to

7 the proposed expansion?

8 A. I received one in favor and all the rest were

9 opposed.

10 Q. Approximately how many were opposed --

11 A. Well, I'll say over 20.

12 Q. -- a dozen, two dozen?

13 A. I'll say over 20. That's just a guess.

14 Q. Did you respond to any of the e-mails you

15 received?

16 A. I responded to Matt's and I believe I responded

17 to DK's -- David's.

18 Q. And how did you respond to Matt's?

19 A. Evidently in that e-mail -- well, that wasn't

20 between that time period, yeah, so that wasn't

21 Matt's. The only one I received then that I

22 responded to was DK's.

23 Q. And DK is who?

24 A. Dave Kolars (phonetic).

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1 Q. And when did Mr. Kolars send you an e-mail?

2 A. Oh, boy, it had to be --

3 Q. Before or after the public hearing?

4 A. It would be before the public hearing.

5 Q. And what did he say in his e-mail?

6 A. He was concerned about the landfill issue and

7 that it was a -- that I should vote against --

8 well, it implied that I should vote against it.

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9 Q. And you responded?

10 A. Yes, I responded.

11 Q. By e-mail?

12 A. Yes.

13 Q. And what did you say?

14 A. Something to the effect that if he wanted to
15 meet and talk about this I would be happy to do
16 that with him.

17 Q. Now, was this before you had received the
18 e-mail from Ray Bockman indicating that you were
19 not to speak with any person regarding the
20 expansion?

21 A. I don't know whether it was before or after,
22 but it could have been either way.

23 Q. And did you ever meet with Mr. Kolars or
24 discuss with him his e-mail?

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1 A. No.

2 Q. And you didn't because of the direction that
3 you got from Mr. Bockman?

4 A. Perhaps.

5 Q. What would have been the other reasons why you
6 didn't meet with Mr. Kolars?

7 A. Because we didn't have the opportunity or he
8 didn't follow up on it.

9 Q. Did you receive any letters from any persons
10 between November 30th, 2009 and May 10th, 2010
11 regarding the proposed expansion?

12 A. Yes.

13 Q. How many letters did you receive?

14 A. I don't remember for certain.

15 Q. Approximately.

16 A. Probably five or six. It wasn't as many as the
17 e-mails.

18 Q. Did the persons who wrote the letters identify
19 themselves?

20 A. In some cases, yes.

21 Q. Do you recall who any of these people were?

22 A. No.

23 Q. Did you know if they were residents of DeKalb
24 County?

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1 A. No.

2 Q. Were all the letters opposed to the proposed
3 expansion?

4 A. Yes, every one.

5 Q. Did you respond to any of them?

6 A. Nope.

7 Q. Did you receive any phone calls from any
8 persons regarding the proposed expansion from
9 November 30th, 2009 to May 10th, 2010?

10 A. I recollect probably three that I can remember.
11 There may have been more, but I can remember
12 three for certain.

13 Q. When was the first phone call that you
14 received?

15 A. Probably the first one was from Mark Charvat
16 who called on my cell phone of all things and I
17 didn't -- I didn't know this man from anyone and
18 he wanted to -- it was clear he wanted to
19 wrastle about the landfill. He wanted to
20 harangue me about that.

21 Q. And did this call come to you before the public
22 hearings, during the public hearings or after
23 the public hearings?

24 A. It was either before or right at the very

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1 beginning of the public hearings.

2 Q. And what did Mr. Charvat say to you?

3 A. He wanted to tell me why the landfill shouldn't
4 occur or the problems with it. He was very
5 aggressive and argumentative and I told him I
6 couldn't talk about that and so then we talked
7 about funding and that's where I talked about
8 the possibility -- he talked about that we made
9 up our mind ahead of time and that -- that it
10 was clear that we -- the County Board had made
11 up our mind ahead of time because we were going
12 to use landfill tipping fees to build a
13 courthouse and I tried to explain to him that we
14 were not using landfill fees to build a
15 courthouse, that we had an order to do the
16 legislative process to let bonds for both the
17 jail and courthouse expansion -- well, not
18 courthouse -- I said courthouse -- I meant jail,
19 so I should reiterate that he was saying we had

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20 made up our minds ahead of time to fund the jail
21 expansion with landfill money and I explained to
22 him how in order to let the bonds -- to have the
23 authority to let the bonds for both the
24 courthouse expansion and the jail expansion we

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1 had to name sources of potential collateral and
2 that we named the landfill as a potential source
3 for the jail and sales tax revenue as a source
4 for the courthouse and then we talked about
5 couldn't we not do the courthouse and do the
6 jail first and I explained why that isn't the
7 case, it wasn't financially feasible and then I
8 brought up the alternative possibility that if
9 the casino came through we could use casino
10 money and then the next day I saw in The
11 Chronicle -- The Daily Chronicle blog that he
12 said Haines says we can use casino money instead
13 of landfill money which was really taking my
14 conversation out of context and at that point I
15 made a decision never to speak to that man
16 again.

17 Q. Do you recall anything else that was said
18 either by Mr. Charvat or by Mr. -- or by you in
19 this first phone conversation you had regarding
20 the expansion?

21 A. No, that was about it.

22 Q. How long did the conversation last?

23 A. Oh, it lasted a good while, probably 25 or 30
24 minutes back and forth.

00036

1 Q. Did he indicate that he had any information
2 that specific County Board members had already
3 made up their minds to approve the site location
4 application?

5 A. He just would not believe that nobody had
6 colluded with Waste Management ahead of time. I
7 mean, he asserted that as if it was an absolute
8 certainty that we must have been talking to and
9 colluding with Waste Management after the
10 November 30th time and I told him I knew nothing
11 of that sort and didn't know anybody who had and
12 I certainly hadn't.

13 Q. Did he provide any facts to support this
14 statement?

15 A. No.

16 Q. When was the next phone call you received
17 regarding the proposed expansion?

18 A. I could pinpoint it because I was out of state
19 at a meeting and my phone rang and I thought it
20 was my wife calling, I was in the hotel room and
21 it was 9 o'clock at night and it was Mark and I
22 hung up on him.

23 Q. Mark Charvat?

24 A. Yes.

00037

1 Q. Again?

2 A. Yes, the last person I wanted to hear from.

3 Q. Was this during or after the public hearing?

4 A. That was during or after -- it had to be after,
5 because it wasn't during. It was after I
6 believe.

7 Q. When was the next phone call that you received
8 regarding the proposed expansion?

9 A. I received one from Jenny Tompkins from DeKalb
10 -- or Sycamore just wanting to know about the
11 landfill issue about why -- had we considered
12 other alternatives in deciding on the landfill,
13 so on and so forth and I explained to her
14 everything that I knew about the host fee
15 agreement at the time.

16 Q. When did you receive this call, was it after
17 Charvat's second call to you?

18 A. I have -- it would -- probably after the first
19 call, but I don't know if it was after the
20 second call as well.

21 Q. And who is Jenny Tompkins?

22 A. A friend.

23 Q. Who lives in your district?

24 A. No, she lives in Sycamore in a district here,

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1 but she's just a personal friend.

2 Q. And how long did this conversation with
3 Ms. Tompkins last?

4 A. Probably 20 minutes or so.

5 Q. Was it before the first meeting of the facility

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6 siting committee to consider the application
7 after the conclusion of the 30-day written
8 comment period?

9 A. Say that again.

10 Q. Did this phone call occur prior to April 13th
11 of 2010?

12 A. Yes, I would think so.

13 Q. April 13th being the first time the committee
14 met --

15 A. Yeah.

16 Q. -- after the hearings were concluded to talk
17 about the application.

18 A. Yep, it was probably before then. That's a
19 guess, but I think so.

20 Q. And was Ms. Tompkins asking you to vote against
21 the application?

22 A. No, she was just looking for information. I
23 believe -- I had the idea that she may have been
24 opposed to it, but she was just looking for

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1 information. Just wanting to know -- she was --
2 I mean, we're friends and she knows that I'm
3 ecologically-minded and I'm a, you know,
4 big-time recycler and plant trees and you know,
5 am a green tree hugger type and she was
6 wondering how I could be approving a landfill
7 and so we had a long conversation about that.

8 Q. Did she indicate that she knew how you were
9 going to vote on the application?

10 A. No.

11 Q. And you hadn't at this point made up your mind
12 as to how you were going to vote on the
13 application?

14 A. No. I think I even told her that. I told her
15 that this is a tough decision and that it wasn't
16 one that was easy for any of us on the board to
17 make and that there was a lot of things to
18 consider and that we had heard a lot in the
19 public hearings or what have you. I believe
20 that's what I told her.

21 Q. Did you hear at any point or learn any
22 information that suggested that any County Board
23 member had decided how they were going to vote

24 on the application before all the evidence was
00040

1 submitted?

2 A. No.

3 Q. Now, you voted to approve the application?

4 A. Yes.

5 Q. And you voted on May 10th of 2010?

6 A. Yes.

7 Q. And other than what you've told us, you had no
8 other communication of any kind with any person
9 about the proposed expansion between the date of
10 filing and May 10th of 2010?

11 A. Oh, I talked to other County Board members like
12 John Hulseberg or -- as I had said earlier,
13 Julia and Sally, maybe Anita Turner as well, I'm
14 not sure, because a lot of us regularly after
15 County Board meetings go over to PJ's and then
16 we talk about all sorts of things, you know and
17 -- and I know I distinctly talked to John the
18 night before the vote in May and that was
19 probably the first time I came to the decision
20 that I was probably going to vote for it and
21 John indicated he was still undecided. In fact,
22 he even told me that as we walked into the
23 meeting on May 10th.

24 Q. So you had made up your mind as to how to vote
00041

1 on May 9th?

2 A. That's kind of when I finally -- I mean, I
3 tossed and turned and talked it over with my
4 wife and so on and then John and I talked that
5 evening before and then that's probably the
6 first time I really felt certain how I was going
7 to vote on it.

8 Q. Did you consider any of the information that
9 was communicated to you by these third persons
10 regarding the proposed expansion in making your
11 decision on the site location application?

12 A. Yes.

13 Q. And that information was the information that
14 you received from Ms. Tompkins or Mr. Charvat?

15 A. Not Mr. Charvat, no. If anything, he -- but
16 Ms. Tompkins and my friend, DK and other e-mails

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17 I got from other good friends -- they were good
18 friends who e-mailed me who were opposed to it
19 and that was a concern of mine.

20 Q. So you're saying you took that information into
21 account in making your decision?

22 A. I thought about it. I thought that I was going
23 to disappoint some very good friends if I made
24 the decision that I did.

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1 Q. Did you --

2 A. I have one who won't talk to me to this day.

3 Q. Aside from these communications did you
4 consider any information that was not presented
5 at the hearing or not submitted and made part of
6 the siting record in making your decision on the
7 siting application?

8 A. No.

9 Q. Did any information or evidence that was not
10 presented at the siting hearing or not contained
11 or made part of any of the written submissions
12 made in the record affect or influence your
13 decision on the siting application?

14 A. Say that again.

15 Q. Did any information that was not presented --

16 A. The television? The radio? The newspapers?

17 Q. Right. Anything that was not presented as part
18 of the siting hearing or not contained in a
19 written submission made to the County Board
20 which would have been part of the record affect
21 or influence your decision on the siting
22 application?

23 A. I read an article in The New York Times about
24 incinerating garbage in Europe that had me

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1 thinking about that possibility here, but I
2 don't know if you'd say it influenced my
3 decision because my decision -- I mean, it had
4 -- it had me hesitate and think and that was
5 outside of the record, but --

6 Q. Well, was the decision that you made on the
7 siting application based on the evidence and
8 submissions that were made as part of the siting
9 record?

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10 A. Yes, I think one of the -- I think one of the
11 key issues was the issue of safety. I forget
12 which criteria that one was, but that was public
13 -- the public safety issue is the biggie for me
14 and the -- and the key there in terms of the
15 instructions was the idea that the Applicant
16 didn't have to prove that a landfill is safe
17 beyond all possibilities, just that the landfill
18 had met the criteria of safety as described in
19 the application and that was a -- to me a key
20 factor in the decision-making.

21 MR. MORAN: Thank you, Mr. Haines. I have
22 no further questions.

23 MR. MUELLER: Actually I've got a couple.

24 EXAMINATION

00044

1 BY MR. MUELLER:

2 Q. Mr. Haines, the -- did you say you were on the
3 rules committee?

4 A. Yes.

5 Q. What is the rule, if you know it, with respect
6 to what constitutes a meeting in terms of number
7 of board members that are discussing business
8 together?

9 A. Three or more or four or more, something like
10 that.

11 Q. Was there ever any discussion in connection
12 with the landfill tours about breaking those
13 into smaller groups as opposed to taking the
14 entire County Board so as to avoid open meeting
15 requirements?

16 A. Not that I'm aware of. I didn't really have
17 anything to do with those.

18 Q. Your understanding though is that if -- based
19 upon the rules you know -- if there were five
20 County Board members that went together to a
21 tour of the Waste Management facility that
22 would, in fact, constitute a meeting for
23 purposes of open meeting requirements?

24 A. Yes, they talked about County Board business.

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1 I mean, if they -- as I understand it if they
2 ride in a bus and talk about the weather or what

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3 have you, that that's not an issue. It's if

4 they talk about County Board business.

5 MR. MUELLER: That's all I have. Thank

6 you.

7 EXAMINATION

8 BY MS. ANTONIOLLI:

9 Q. Would you have any reason to know that any of
10 the tours had more than five board members
11 attend?

12 A. No, I don't know how many attended.

13 Q. And would you have any reason to know whether
14 any County Board business was discussed on any
15 of the tours that you did not attend?

16 A. I don't have any idea what went on at any of
17 those frankly. Sorry.

18 Q. Okay, and referring back to the -- this e-mail
19 from Matt Pasteris that's been marked as Haines
20 Exhibit No. 1 --

21 A. Uh-huh.

22 Q. -- to be clear, this -- what is the date that's
23 on this e-mail?

24 A. It's April 3rd, 2009.

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1 Q. And do you remember receiving any other e-mail
2 from this same Matt Pasteris that you would have
3 received after November 30th, 2009?

4 A. Not that I can recall.

5 Q. That you remember is this the only e-mail that
6 you've received from this gentleman?

7 A. He may have responded to this one, but that
8 would be it as far as I can recall.

9 Q. And would the response have been after November
10 30th, 2009?

11 A. No, it would have been in April or May of this
12 -- close to this one --

13 Q. Uh-huh, okay.

14 A. -- that's my guess.

15 MS. ANTONIOLLI: I think that's all I
16 have.

17 MR. MORAN: I have nothing further.

18 MS. ANTONIOLLI: Okay.

19 MR. MUELLER: I'm fine.

20 MS. ANTONIOLLI: Thank you.

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21 THE WITNESS: I'm done?

22 MS. ANTONIOLLI: Yes. And Julie has
23 transcribed your deposition today and you have
24 the choice now to review the transcript for

00047

1 errors and sign it and you do that by going to
2 her offices and reviewing it there or you could
3 simply waive your signature today and trust that
4 she's transcribed the deposition accurately.

5 THE WITNESS: Where's your office?

6 THE REPORTER: Dixon. We can make other
7 arrangements though if it's an issue.

8 THE WITNESS: I don't know.

9 MS. ANTONIOLLI: Everyone has waived
10 signature thus far.

11 THE WITNESS: Oh, so it's not a big deal.
12 Okay, sure, I'll waive signature, Julie.

13 (The deposition was concluded at
14 11:35 a.m.)

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

2

3 I, Julie K. Edeus, a Certified Shorthand
Reporter in and for the State of Illinois, do hereby
4 certify that, pursuant to the agreement herein
contained, there came before me on the 5th day of
5 October 2010 at 10:38 a.m. at the DeKalb County
Legislative Center, 200 North Main Street, Sycamore,
6 Illinois, the following-named person, to-wit:

MICHAEL HAINES, who was duly sworn to testify to the
7 truth and nothing but the truth of his knowledge
concerning the matters in controversy in this cause;
8 that he was thereupon examined on his oath and his

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examination reduced to writing under my supervision;

9 that the deposition is a true record of the
testimony given by the witness, and that the reading
10 and signing of the deposition by said witness were
expressly waived.

11 I further certify that I am neither

12 attorney or counsel for, nor related to or employed
by, any of the parties to the action in which this
13 deposition is taken, and further, that I am not a
relative or employee of an attorney or counsel
14 employed by the parties hereto or financially
interested in the action.

15 In witness whereof I have hereunto set my
16 hand this 15th day of October 2010.

17
18
19
20 Julie K. Edeus
Certified Shorthand Reporter
IL License No. 084-003820
21 P.O. Box 381
Dixon, Illinois 61021
22
23
24

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00001

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
2
3
4 STOP THE MEGA-DUMP,)
5)
6 Petitioner,) PCB NO. 2010-103
7)
8 v.)
9) DEPOSITION OF
10 COUNTY BOARD OF DEKALB) SHARON HOLMES
11 COUNTY, ILLINOIS and WASTE)
12 MANAGEMENT OF ILLINOIS,)
13 INC.,)
14)
15 Respondents.)

16 DEPOSITION OF SHARON HOLMES, taken at the
17 DeKalb County Legislative Center, 200 North Main
18 Street, Sycamore, Illinois, on October 19, 2010,
19 commencing at 2:13 p.m., before Callie S. Bodmer,
20 Certified Shorthand Reporter and Notary Public in
21 and for the State of Illinois, in pursuance to
22 agreement of the parties in the above-entitled
23 action. Also present: Lee Addleman.
24

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Electronic Filing - Received, Clerk's Office, December 28, 2010

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3 Witness: SHARON HOLMES

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1 SHARON HOLMES,

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

4 EXAMINATION

5 BY MR. MUELLER:

6 Q. Would you state your full name, please.

7 A. Sharon Holmes, H-O-L-M-E-S.

8 Q. Sharon, I'm George Mueller, I'm the attorney
9 for Stop The Mega-Dump. I'm going to ask you
10 some questions about your office's involvement
11 in the Waste Management siting proceedings from
12 last spring, okay?

13 A. Sure.

14 Q. Have you had your deposition taken before ever?

15 A. I don't believe a deposition like this, no.

16 Q. Okay. Let me give you a couple quick ground
17 rules. Everything that I say and that you say
18 is being taken down by the court reporter, and
19 that means we should not talk over each other
20 and wait for each other to finish, we should not
21 use nonverbal gestures to answer questions, and
22 we should avoid saying uh-huh and so forth and
23 try to say yes and no as appropriate. Do you
24 understand all that?

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1 A. Okay.

2 Q. All right. What is your occupation?

3 A. I'm the County Clerk and Recorder.

4 Q. And those are elected offices, correct?

5 A. Yes.

6 Q. How long have you held those offices?

7 A. I'm in my 20th year.

8 Q. And what did you do before that?

9 A. I was the Chief Deputy County Clerk and
10 Recorder.

11 Q. How long have you worked in total in the County

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12 Clerk's office?

13 A. I'm in my 33rd year.

14 Q. Generally, Sharon, what are the duties of the
15 County -- of a county clerk?

16 A. Well, they're varied. Keeping the records for
17 the County Board, running elections, keeping
18 vital records; and as a recorder, all the land
19 record documents.

20 Q. Do you have any direct responsibility for or
21 oversight of the DeKalb County website?

22 A. No.

23 Q. And as an elected official your bosses are the
24 voters, correct?

00006

1 A. That's correct.

2 Q. What were the County Clerk's responsibilities
3 with respect to the Waste Management siting
4 application and hearing as you understood it?

5 A. The application -- a copy of the application
6 was placed in my office for the general public
7 to see.

8 Q. Did you provide the language for any prehearing
9 notices that would have been filed -- would have
10 been placed in the newspaper or on the County's
11 website?

12 A. I did not.

13 Q. Were you given any direction or input or
14 information with regard to how the public was to
15 access the siting application that was placed in
16 your office?

17 A. No.

18 Q. Have you ever been through a Section 39.2
19 siting hearing before?

20 A. I don't understand what Section 39.2 is.

21 Q. In your tenure has there been a previous
22 landfill siting hearing where your office had to
23 keep the siting application on file and make it
24 available to the public?

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1 A. No.

2 Q. So this was your first experience with this?

3 A. Yes.

4 Q. Nobody provided you with any input as to how to

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5 make that application available to the public?

6 A. No.

7 Q. How did you even know then that the public
8 could come and view it in your office?

9 A. Everything except birth certificates are public
10 record in my office.

11 Q. Were you given any information as to whether or
12 not people could copy or have your office or an
13 outside source make copies of the application or
14 any portions thereof?

15 A. I don't remember that anyone gave me specific
16 instructions.

17 Q. Did anyone give you any information or
18 suggestions as to the copying process should
19 anyone ask for a copy of the application?

20 A. Not that I remember.

21 Q. Did your office at any point make arrangements
22 with any outside services or vendors to provide
23 copying services for the application?

24 A. No.

00008

1 Q. Does your office have equipment with which to
2 make copies of the large engineering drawings
3 and maps that were filed with the application?

4 A. Yes, they do.

5 Q. Does your office have a posted list of copying
6 charges?

7 A. In the recorder's side of my office there is a
8 list, yes.

9 Q. What about in the clerk's office?

10 A. Not for -- no, not for those kind of copies.

11 Q. You keep marriage records too, don't you?

12 A. Correct.

13 Q. I recently happened to require in my law
14 practice a copy of a marriage license and I
15 think my office was charged -- it was in a
16 different county -- my office was charged \$17
17 for one page. How much do you charge for
18 marriage licenses?

19 A. A certified copy is \$12 for a marriage license.

20 Q. What if somebody wanted an uncertified copy of
21 the license, what would be the charge?

22 A. We don't sell uncertified copies.

23 Q. Do you sell uncertified copies of anything?

24 A. Very old birth records prior to 1916 we sell

00009

1 uncertified copies. If somebody wants just a

2 copy of a page we sell it for a quarter.

3 Q. Do you have a published schedule of those

4 charges anywhere?

5 A. Published?

6 Q. Or posted in your office.

7 A. Well, there is a -- let me think. Maybe not.

8 I guess there isn't.

9 Q. Well, I mean, how did you come up with that

10 price of a quarter for somebody wanting a

11 miscellaneous page of something?

12 A. Probably from talking to other county clerks at

13 our meetings and that's a general price for a

14 copy.

15 Q. So that price is not written down anywhere,

16 that's just your policy as a longtime clerk and

17 knowing what the going rate is?

18 A. Correct.

19 Q. And you instruct your staff accordingly?

20 A. Yes.

21 Q. How many employees do you have in the clerk's

22 office?

23 A. In the clerk's or -- not the clerk and

24 recorder, just the clerk?

00010

1 Q. Just the clerk.

2 A. Including elections?

3 Q. Just full-time people.

4 A. Eight.

5 Q. Who's your first deputy clerk?

6 A. Mary Lynn Misch (phonetic).

7 Q. Do you have an employee named Lynn?

8 A. I have two employees named Lynn.

9 Q. And they are -- what are their last names?

10 A. Lynne Kunde and Lynn Dander.

11 Q. What is Lynne Kunde's specific job?

12 A. She is a deputy in the elections department.

13 Q. Is that a Deputy County Clerk?

14 A. Yes.

15 Q. Are you familiar with this siting application

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16 that was placed in your office?

17 A. I know that there's nine binders in my office,
18 I'm familiar with those binders on my shelf.

19 Q. I'm not asking whether you're familiar with the
20 contents of every page.

21 A. Thank you, because I -- that would be no.

22 Q. I would hope you're not. But you're familiar
23 generally with the size and volume of this
24 thing?

00011

1 A. Yes.

2 Q. And you indicated it was nine binders, right?

3 A. Yes.

4 Q. And it was also, I believe, one large roll of
5 engineering drawings and maps?

6 A. Correct.

7 Q. If somebody had wanted a copy of the entire
8 siting application, how would your office have
9 made that?

10 A. I don't know. I'd have to think about that.
11 If they had asked for an entire copy of
12 everything, I don't know.

13 Q. You certainly didn't have a procedure in place
14 for how to do that?

15 A. Other than running it through the xerox
16 machine, no.

17 Q. And you could have run the large maps and
18 engineering drawings through a special large
19 copy machine that you have?

20 A. Yes, and that's in the recorder's side of the
21 office.

22 Q. What is your charge for copying large documents
23 like that?

24 A. \$5.

00012

1 Q. Do you know what your actual cost is for making
2 copies in your office?

3 A. I do not.

4 Q. And by actual cost I mean the cost of the
5 paper, toner, and wear and tear on the copy
6 machine.

7 A. No, I don't.

8 Q. There was also filed in your office a DVD (sic)

9 that contained an electronic copy of the siting

10 application, wasn't there?

11 A. Yes, there was.

12 Q. And were you given any instructions as to what
13 to do with that document -- or with that DVD?

14 A. When it was brought to me, no.

15 Q. Subsequently you had I believe an interaction
16 with a Mac McIntyre regarding the siting
17 application; is that correct?

18 A. Yes.

19 Q. Do you remember that interaction?

20 A. Some.

21 Q. If people wanted to view the siting application
22 where could they do it in your office?

23 A. We have a table in the elections department
24 that is generally open enough that can be used.

00013

1 Q. By generally what do you mean?

2 A. Right now it's filled with boxes of election
3 supplies.

4 Q. That's because the election is in a week -- or
5 several weeks away, right?

6 A. Two weeks today.

7 Q. Was that table open and available in February
8 of this year?

9 A. Well, the election was the first part of
10 February of this year, so depending on when in
11 February.

12 Q. What's the size of that table?

13 A. It's a six- or eight-foot typical folding table
14 that you see in offices. It's wider than this,
15 probably this long (indicating).

16 Q. How many chairs were available for people to
17 view the siting application?

18 A. At any given time there's probably about three
19 empty chairs in there.

20 Q. Mr. McIntyre testified that when he asked to
21 view the application there was insufficient
22 space for him to sit down and so he was required
23 to view it standing up; is that correct?

24 A. I have no idea about that.

00014

1 Q. Did -- or strike that.

2 Were you the person that Mr. McIntyre
3 originally talked to when he came to your office
4 to view the application?

5 A. No, I was not.

6 Q. Who was the person he originally talked to?

7 A. I -- it was probably Lynne Kunde.

8 Q. Okay.

9 A. I can't be sure.

10 Q. And what's the circumstance under which you got
11 called into that interaction?

12 A. I don't remember that I was called into it. I
13 walked into the room and was asked a question
14 about it.

15 Q. What did you observe when you walked into the
16 room?

17 A. Mr. McIntyre was sitting in a chair, as was his
18 friend sitting in a chair. Neither one of them
19 were at the table in question.

20 Q. Where was the application or any portion of it
21 that you could observe?

22 A. I don't -- I can't say if any of the binders
23 were off the shelf or not, but they're kept on a
24 shelf in plain sight about eight feet from where

00015

1 Mr. McIntyre was sitting.

2 Q. Do you recall whether he had one of the binders
3 on his lap --

4 A. No, I don't.

5 Q. -- when you saw him?

6 A. No.

7 Q. No, he didn't, or no, you don't recall?

8 A. No, I don't recall.

9 Q. Did you have a conversation with Mac about
10 that?

11 A. I'm sure I talked to him.

12 Q. What, as you recall, was the conversation in
13 terms of what you said and what he said?

14 A. He was talking about getting a copy of it and
15 asked about the DVD. I said I didn't know if
16 there would be a charge or if I could give him
17 the DVD, I didn't know, and he insisted on
18 finding out.

19 Q. And then what happened?

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20 A. I called Mary Supple's office, she was out. I
21 called Ray Bockman and he said go ahead and give
22 it to him.

23 Q. Mr. McIntyre testified that the conversation
24 you had with Ray Bockman was a heated

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1 conversation.

2 A. Really?

3 Q. Is that your recollection of the conversation
4 with Mr. Bockman?

5 A. I don't recall that it was a heated
6 conversation.

7 Q. Mr. McIntyre implied in his testimony that
8 Mr. Bockman was unhappy with the fact that you
9 had given him a copy of the DVD. Was that, in
10 fact, the case?

11 A. No, I believe it was Mr. Bockman that told me
12 to give it to him.

13 Q. How did you determine to charge \$5 for that
14 DVD?

15 A. Well, it's similar to a price that we charge
16 for DVDs when people ask for election -- or
17 voter registration lists.

18 Q. Those are now kept on DVDs electronically?

19 A. They're all computerized.

20 Q. And is it your testimony that when you sell
21 those records you charge \$5 for a disk?

22 A. Well, for the disk, for the price of the disk,
23 but it's a lot more than that depending on how
24 many names are put on the disk.

00017

1 Q. So there's -- with regard to election
2 information, there's additional charges based
3 upon content?

4 A. Correct.

5 Q. Okay, so it's your testimony that Ray Bockman
6 told you to give Mr. McIntyre a copy of -- or to
7 give Mr. McIntyre the only DVD that you had?

8 A. Uh-huh -- yes. I'm sorry, I apologize.

9 Q. Do you remember an interaction you subsequently
10 had with a Mark Charvat regarding a disk copy of
11 the application?

12 A. I don't believe Mr. -- I remember Mr. Charvat

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13 being in my office, I don't remember him asking

14 about a copy of the disk.

15 Q. Do you remember that Mr. Charvat videotaped
16 that interaction?

17 A. Mr. Charvat was in everybody's face videotaping
18 everything.

19 Q. So the answer is you do remember that he
20 videotaped that interaction?

21 A. Yes.

22 Q. And if I were to tell you that on that
23 videotape you are observed and heard to be
24 saying that you couldn't give him a DVD because

00018

1 you had given your only one away and did not
2 know at the time that you weren't supposed to,
3 would that refresh your recollection as to your
4 interaction with Mr. Charvat?

5 A. That was part of the interaction with
6 Mr. Charvat, yes.

7 Q. All right. When and from whom did you find out
8 that you were not supposed to give out the DVD
9 in your office?

10 A. I don't know. I don't know that anyone has
11 ever told me that.

12 Q. Well, you certainly, I believe, suggested that
13 to Mr. Charvat, didn't you?

14 A. I don't know, because that -- it could be. I
15 don't know.

16 Q. Did you ever learn from anyone that the DVD
17 that was on file in your office was not for sale
18 to the public?

19 A. I'm sure at sometime at a later date I was told
20 that, but it was too late.

21 Q. Who were you told that by?

22 A. I don't know.

23 Q. Did you have any means in your office for
24 someone who wanted to view the DVD of the

00019

1 application if they had wanted to see the
2 application in that fashion?

3 A. I'm not a technology person but I believe it
4 could have been put into a computer and viewed,
5 I don't know if it can be done that way.

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6 Q. Did anyone ever ask you or any of your
7 employees to your knowledge if they could view
8 the application electronically in your office?

9 A. Mr. McIntyre may have, I don't know, I don't
10 remember.

11 Q. All right. How many people asked to view the
12 siting application that you recall?

13 A. Maybe two or three. I'm not always in that
14 part of the office.

15 Q. To your knowledge.

16 A. I remember Mr. McIntyre, I remember
17 Mr. Charvat, and I remember one other lady
18 sitting at the table looking at the books and I
19 don't know her name.

20 Q. Did you or your staff require anyone who was
21 looking at the application or wanted to look at
22 the application to file a Freedom of Information
23 Act request?

24 A. No.

00020

1 Q. Are you aware of whether or not the notice of
2 public hearing contained a reference that a
3 Freedom of Information Act request would be
4 required to view the application?

5 A. I never saw a notice of the public hearing, so
6 I would say no.

7 Q. Do you recall a Freedom of Information Act
8 request to view any of the public records in
9 your office?

10 A. Any records ever? There's always been records
11 asked to be seen and sometimes they are FOIA'd
12 but not always.

13 Q. I guess my question wasn't clear. What types
14 of records do you require -- if any, do you
15 require people to submit a FOIA in order to be
16 able to see?

17 A. I don't require anybody to submit a FOIA to see
18 anything in my office that is public record.

19 Q. I understand your answer. If somebody wants
20 copies of public records in -- from your office,
21 do they need to submit a FOIA request?

22 A. No.

23 Q. So, for example, if I needed some records in

24 your office I could just call, order them, and

00021

1 pay for them?

2 A. You could call and come in and pay for them and
3 then I'll make them.

4 Q. Got to pay first?

5 A. You bettcha.

6 Q. Okay. Well, that's fair. Did you have any
7 interaction with the woman that was looking at
8 books --

9 A. No.

10 Q. -- in your office?

11 A. I don't recall that I did.

12 Q. Were the only two people that you had direct
13 interactions with regarding the siting
14 application Mr. McIntyre and Mr. Kunde -- or
15 Mr. McIntyre and Mr. Charvat?

16 A. And Mr. McIntyre's friend and I can't remember
17 her name right now.

18 Q. That would be Grace Mott?

19 A. Yes.

20 Q. Was there a form in your office for people to
21 use to register to participate in the siting
22 hearing?

23 A. Not until I made up a form, there wasn't until
24 that.

00022

1 Q. What caused you to make up a form for
2 registration?

3 A. A gentleman walked in and said he wanted to
4 sign the form to be able to speak at the public
5 hearing.

6 Q. Did you get any input from anyone with regard
7 to what to do for people that expressed that
8 desire to you?

9 A. Not prior to that I didn't.

10 Q. Well, after that person made that request did
11 you then get any input from Mr. Bockman or
12 anyone else as to how to handle those requests?

13 A. No, I did not.

14 Q. You just determined to basically create a
15 signup sheet?

16 A. Correct.

17 Q. And what information did you require people to
18 provide on the signup sheet?

19 A. Their name and address, maybe a phone number, I
20 don't know, I don't remember.

21 Q. Did you ever receive any direction from the
22 County, meaning Mr. Bockman or any County Board
23 member or anyone that works for Mr. Bockman,
24 regarding when to cut off signups for

00023

1 participation?

2 A. I don't believe anyone told me when to stop
3 letting people sign up.

4 Q. Did you ever stop letting people sign up?

5 A. Once the paper was picked up in my office then
6 there was nothing else to sign on.

7 Q. Did Mr. Charvat have an issue with you
8 initially about not being allowed to sign up as
9 a participant because he was late?

10 A. Secondhand information that's what his problem
11 was with my deputies before I came in to the
12 room, that they had nothing for him to sign on,
13 that was his problem.

14 Q. And --

15 A. I produced a piece of paper and he put his name
16 on it as I remember.

17 Q. Now, you say your deputies had nothing for him
18 to sign on, does that mean that the signup sheet
19 had been taken away or turned into someone else?

20 A. I don't remember the timing on all of that.

21 Q. Well, were you aware of any deadlines for when
22 people could -- could or had to sign up?

23 A. No, sir.

24 Q. Did you provide to Mr. Charvat that actual

00024

1 signup sheet that kept a tally of all the names,
2 or did you just provide him with a new piece of
3 paper?

4 A. I don't remember.

5 Q. What did you do with the signup sheets that
6 were filled out?

7 A. I gave them to Mr. Moran, I believe he and
8 Mr. Bockman were there together but I couldn't
9 be sure.

10 Q. And when was that in relation to when the
11 actual public hearing occurred?

12 A. Probably a day or so before the public hearing,
13 I don't know.

14 Q. Shortly before the hearing?

15 A. A day or two, I don't know.

16 Q. Had you had any other interactions or
17 communications with Mr. Moran in that period of
18 a couple weeks before the siting hearing other
19 than his coming in to pick up the signup sheets?

20 A. That's when I first met him and knew him by
21 name and was introduced to him.

22 Q. Who introduced you?

23 A. Mr. Bockman.

24 Q. Did you have any interactions or communications

00025

1 with any other Waste Management representatives
2 at anytime in this process?

3 A. Interaction or communication?

4 Q. Yes.

5 A. I have met two or three of the gentlemen at the
6 County Board meetings and that's the extent of
7 it, saying hello.

8 Q. And would one of those individuals be
9 Mr. Addleman, who's sitting to your right?

10 A. Yes, I met him at the County Board meetings.

11 Q. Did you have a deputy present or were you
12 present during all of the siting hearings?

13 A. I was not there and to my knowledge none of my
14 deputies were there as well -- either, rather.

15 Q. You didn't have any representative from your
16 office present at the public hearing?

17 A. I had no need to.

18 Q. Now, didn't you understand that the County
19 Clerk is the official keeper of the record of
20 the proceedings?

21 A. That's correct, of the County Board meetings.
22 I'm the keeper of the records of the business
23 that they conduct at their County Board
24 meetings.

00026

1 Q. So you never understood that you were the
2 official keeper of the record of the siting

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3 proceeding?

4 A. That's correct.

5 Q. There were exhibits admitted into evidence at
6 that siting hearing, were you ever the custodian
7 of any of those exhibits?

8 A. I believe that's what the other 10 bound items
9 are in my office at this time.

10 Q. When were those given to you?

11 A. I don't know. I -- they probably have a file
12 date on it somewhere but I don't know when I got
13 them, sometime obviously after the hearings and
14 somebody had time to print them.

15 Q. Had you had any previous interaction with
16 Mr. Charvat prior to the one that he videotaped?

17 A. No.

18 Q. How about Mr. McIntyre, had you had any
19 previous interaction with him?

20 A. I see Mac many times throughout the year around
21 the county.

22 Q. Did you ever instruct your staff on what to do
23 if anyone called or came in requesting copies of
24 the siting application?

00027

1 A. I don't know that I gave them specific
2 instructions to the siting application. Anybody
3 making requests of copies that they can have
4 copies of in my office, my staff knows to do
5 that.

6 Q. And they know to charge them 25 cents a page?

7 A. Yes.

8 MR. MUELLER: That's all the questions I
9 have, Sharon. Thank you.

10 THE WITNESS: Okay.

11 MR. MORAN: I have a few questions.

12 THE WITNESS: Okay.

13 EXAMINATION

14 BY MR. MORAN:

15 Q. Good afternoon, Ms. Holmes.

16 A. Good afternoon.

17 Q. My name is Don Moran, I represent Waste
18 Management of Illinois.

19 Sharon, do you recall when the site

20 location application was brought into your

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21 office?

22 A. I don't recall the exact date, but I recall
23 receiving them.

24 Q. Do you remember that a full set of the nine

00028

1 binders was brought to your office on November
2 30th of 2009, which was a Monday?

3 A. I can't swear to that date without looking at
4 the -- when we may have file stamped it, but if
5 that's the date then that's the date.

6 Q. And do you remember who brought that
7 application into your office on that day?

8 A. Mr. Bockman.

9 Q. And, in fact, Mr. Bockman had more than simply
10 a simple version because, in fact, the applicant
11 filed I believe 22 hard copies of that site
12 location application?

13 A. 22 of the nine binders?

14 Q. Yes.

15 A. Okay.

16 Q. When the application was first brought to your
17 office on November 30th --

18 A. Okay.

19 Q. -- was it put in the elections office that you
20 talked to us about before?

21 A. Yes, that's the only empty space I had
22 available.

23 Q. And you understood at that point that the
24 reason the application was being brought to your

00029

1 office was so that if any member of the public
2 or any citizen wanted to see it they could come
3 into your office and request the right to review
4 it?

5 A. Yes.

6 Q. Isn't that the understanding?

7 A. Yes.

8 Q. And you knew that full well from November 30th,
9 2009?

10 A. Yes.

11 Q. And, in fact, did your office make that
12 application available to any person who wanted
13 to come in and look at it from November 30th

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14 2009 until at least May 10th of 2010?

15 A. Yes.

16 Q. And your staff was aware of this as well?

17 A. Yes.

18 Q. Who was the first person that came in to
19 request the opportunity to review the hard copy
20 of the site location application?

21 A. I can't answer that. I don't know.

22 Q. Would it have been Mr. McIntyre and Ms. Mott
23 when they came in?

24 A. I can't -- I don't know for sure.

00030

1 Q. You don't remember anybody coming in before
2 they came in to ask, right?

3 A. Not that I'm aware of, but then I'm not always
4 in that part of the office.

5 Q. I'm only asking about what you know, what you
6 recall.

7 A. I don't know of anyone else.

8 Q. And when Mr. McIntyre came in he initially
9 spoke to one of your staff?

10 A. I believe he probably did.

11 Q. But you don't know what was discussed between
12 Mr. McIntyre and your staff?

13 A. No.

14 Q. You only first saw Mr. McIntyre when he was
15 sitting down at a desk, was it in the election
16 office?

17 A. Yes.

18 Q. And you said Ms. Mott was also sitting next to
19 him at that desk?

20 A. At a different desk, uh-huh, nearby.

21 Q. A different desk in the election office --

22 A. Yes.

23 Q. -- or in a different office?

24 A. In the election office.

00031

1 Q. Was Ms. Mott looking at anything as far as you
2 know, the binders, the papers, anything else?

3 A. I don't know.

4 Q. And when you came in and saw Mr. McIntyre
5 seated, did he speak to you first or did you say
6 something to him first?

- 7 A. I probably spoke first and said, hi, Mac, how
8 are you. Other than that, you know, he may have
9 started asking me questions, I don't know.
- 10 Q. And when you first saw him you had no idea why
11 he was there?
- 12 A. I don't think I -- it didn't occur to me right
13 away why he was there, no.
- 14 Q. Do you remember if at anytime he told you why
15 he was there?
- 16 A. Oh, I'm sure he did.
- 17 Q. And what did he say?
- 18 A. He talked about the application and I -- that's
19 probably when he asked about getting it on a
20 DVD.
- 21 Q. Did he ever ask you or anyone in your office
22 for a hard copy of the site location application
23 or any part of it?
- 24 A. I don't remember that he did.

00032

- 1 Q. Did Ms. Mott ever ask you or anyone in your
2 office for a copy of the written version of the
3 site location application?
- 4 A. Here again, I don't remember that they -- how
5 they asked for it.
- 6 Q. Your only recollection is that Mr. McIntyre
7 asked for an electronic version of the
8 application?
- 9 A. He started talking about that, yes, and how
10 could he get a copy.
- 11 Q. And he talked to you about whether he needed to
12 submit a FOIA request to get the DVD of the site
13 location application?
- 14 A. I don't re -- I don't know if he asked about a
15 FOIA request.
- 16 Q. And you told him that with regard to the DVD
17 you would have to inquire as to whether you
18 could provide him a copy of the DVD?
- 19 A. Yes.
- 20 Q. And you then called, as you said, Mr. Bockman?
- 21 A. (Nods head.)
- 22 Q. Correct?
- 23 A. Yes. I'm sorry.
- 24 Q. And Mr. Bockman instructed you to provide a

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00033

1 copy of the DVD to Mr. McIntyre?

2 A. I believe that was the conversation.

3 Q. And was it your understanding that you were
4 providing the DVD to both Mr. McIntyre and Ms.
5 Mott?

6 A. Yes.

7 Q. And you had then determined that you would
8 charge him \$5 for this DVD?

9 A. Yes.

10 Q. And he paid the \$5?

11 A. I'm sure he did.

12 Q. He didn't pay it to you, he paid it to somebody
13 else in the office?

14 A. Right.

15 Q. Did you have any other discussion after he was
16 given the DVD regarding the site location
17 application?

18 A. I don't remember that I did.

19 Q. Did Mr. McIntyre or Ms. Mott ever come back to
20 your office and ask for any other opportunity to
21 either review the site location application, to
22 get a copy of the application, or to get a DVD?

23 A. Not to my knowledge.

24 Q. Had you ever talked to either Mr. McIntyre or

00034

1 Ms. Mott after that occasion when you gave them
2 the DVD?

3 A. Not on that subject.

4 Q. And do you recall approximately the date when
5 Mr. McIntyre and Ms. Mott came in to ask for the
6 DVD?

7 A. I have no idea.

8 Q. Was it before or after you began taking names
9 of people who wanted to sign up to participate
10 at the hearing?

11 A. Oh it would have been before that.

12 Q. When was the next occasion after Mr. McIntyre
13 and Ms. Mott came to your office that you recall
14 a person coming in and requesting either the
15 right to review the application, to get a hard
16 copy of the application, or asking for a DVD of
17 the application?

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18 A. Probably the next time was when Mr. Charvat was
19 in my office.

20 Q. And how long after Mr. McIntyre and Ms. Mott
21 came in did Mr. Charvat come in, about a week,
22 about two weeks, about a couple of days?

23 A. It could have been two days, it could have been
24 a month, I don't know.

00035

1 Q. And as you said, Mr. Charvat had initially been
2 talking with members of your staff?

3 A. Yes.

4 Q. And had your member -- had the members of your
5 staff who were dealing with Mr. Charvat come to
6 you before you started talking with Mr. Charvat
7 to tell you of their experience with him?

8 A. At about the same time. And I would like to
9 say for the record that he wasn't just talking
10 to my members, to my staff, he was harassing
11 them, and I want that part of the record.

12 Q. When you say he was harassing them, what do you
13 mean?

14 A. He was shouting at them, he was pointing his
15 camera right in their face, he was accusing them
16 of trying -- not being cooperative, he was being
17 in general rude, and had he continued I would
18 have called the sheriff's department and had him
19 evicted.

20 Q. Did you hear any of the statements he was
21 making to your staff before you started talking
22 to him?

23 A. No, because as soon as I came into the office
24 from my lunch he turned on me and started asking

00036

1 me all the same questions.

2 Q. So the discussions he was having with your
3 staff occurred before you returned from lunch?

4 A. Right.

5 Q. Which was the reason you didn't know what all
6 the commotion was about?

7 A. Correct.

8 Q. As you came in Mr. Charvat immediately turned
9 to you, correct?

10 A. Yes.

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11 Q. Did he appear angry or upset to you?

12 A. Very agitated, and pointed his little camera in
13 my face and starting asking me questions about
14 why wasn't he allowed to sign the signup sheet.

15 Q. And what was your response when he made that
16 statement to you?

17 A. And I don't even know if that was the same
18 signup sheet, if it was gone, and maybe I just
19 said you can sign a paper and I'll give it to
20 whoever wants it. I -- I just wanted to get him
21 out of my office.

22 Q. So you offered him a piece of paper?

23 A. Yes.

24 Q. He signed his name?

00037

1 A. Yes.

2 Q. His address?

3 A. Yes.

4 Q. His phone number?

5 A. Probably.

6 Q. Any other information that you remember?

7 A. No.

8 Q. Did you then take the paper?

9 A. Yes.

10 Q. Did you have any further discussion with him at
11 that point?

12 A. Other than telling him to leave my office, no.

13 Q. He didn't ask for a copy of the site location
14 application?

15 A. Not to me.

16 Q. He didn't ask you for a DVD of the site
17 location application?

18 A. I don't remember that he did.

19 Q. And as far as you know sitting here, you don't
20 recall him having asked any member of your staff
21 for a hard copy of the site location
22 application?

23 A. I don't know that.

24 Q. And you don't know whether he asked any member

00038

1 of your staff to get -- to have the right to
2 review a copy of the site location application?

3 A. I don't know what he may have asked them before

4 I got there. **Electronic Filing - Received, Clerk's Office, December 28, 2010**

5 Q. How long did this exchange between you and
6 Mr. Charvat last approximately?

7 A. Too long. Probably four or five minutes.

8 Q. After Mr. Charvat was able to sign his name and
9 to register he left?

10 A. I believe that's about the time he left.

11 Q. Did this occur on a Friday, do you remember?

12 A. Oh, wow. I have no idea.

13 Q. Did you have any dealings with Mr. Charvat
14 after this --

15 A. No.

16 Q. -- exchange with him?

17 A. No.

18 Q. After the experience with Mr. Charvat was there
19 another time when any other person came to your
20 office to either review the application, ask for
21 a copy of the application, or a DVD of the
22 application?

23 A. Those are the only people that I had contact
24 with that were asking for anything.

00039

1 Q. And the person that you identified previously,
2 a woman who was in your office looking at the
3 application --

4 A. I saw her there looking at the book as I walked
5 through the office, yes.

6 Q. Was that before your experience with
7 Mr. Charvat or after?

8 A. That would have been before I'm sure.

9 Q. Was it before your interaction with
10 Mr. McIntyre and Ms. Mott or after?

11 A. I don't know.

12 Q. And you had no discussion with this woman or no
13 conversation with her; would that be correct?

14 A. I might have said something in passing like,
15 gee, that's interesting reading, but no, I
16 didn't have a --

17 Q. Was that woman reading or reviewing one of the
18 binders of the site location application?

19 A. Yes, she was.

20 Q. And was that in the election office --

21 A. Yes.

22 Q. -- where the application was being maintained?

23 A. Yes.

24 Q. And do you know whether that woman asked for a
00040

1 copy of any of the pages or any part of the site
2 location application?

3 A. I don't know. She may have asked for some
4 copies that were made for her, but that was not
5 by me.

6 Q. It would have been a member of your staff?

7 A. Yes.

8 Q. Did she ask for a copy of the DVD of the site
9 location application?

10 A. Not to me.

11 Q. Other than those three episodes, were there any
12 other occasions in which to your knowledge a
13 person had come in to request either the right
14 to review, get a copy of the hard copy
15 application, or the DVD?

16 A. No.

17 Q. Do you know whether the members of your staff
18 received any requests to review, copy, or obtain
19 the DVD of the site location application?

20 A. The only one I can say for sure would be the
21 lady, the unknown lady, may have asked for
22 certain pages to be copied.

23 Q. But that was not made to you, that request?

24 A. No. I didn't stay around.

00041

1 Q. Did you talk with anyone by phone who requested
2 an opportunity to review the site location
3 application?

4 A. I don't recall any conversations of somebody
5 wanting to see the application.

6 Q. Did you have --

7 A. I get so many phone -- I just want to say, I
8 get so many phone calls a day, somebody may have
9 called and said is it there, can I come see it
10 and I would have said yes, but I wouldn't have
11 even known who.

12 Q. But you don't have a specific recollection of
13 somebody asking you that?

14 A. No.

15 Q. Do you have a recollection about any person
16 calling you, you personally, and asking for a
17 copy, a hard copy of the site location
18 application?

19 A. No.

20 Q. Do you recall anyone calling you and asking you
21 for a DVD of the site location application?

22 A. No.

23 Q. Are you aware of whether any of your staff
24 received phone calls in which persons were

00042

1 requesting the right to either review the
2 application, get a copy of the application, or
3 get a DVD of the application?

4 A. I'm not aware of that.

5 Q. Now, you said you established the signup sheet
6 for anyone who wanted to participate in the
7 hearing when a person came in and requested to
8 sign up?

9 A. Correct.

10 Q. Did that person come in before or after
11 Mr. McIntyre and Ms. Mott came to your office?

12 A. I'm sure that would have been after.

13 Q. And were there a number of other persons who
14 also came to your office and asked to sign up to
15 participate at the hearing?

16 A. Yes.

17 Q. And would those requests have been made to
18 members of your staff?

19 A. Probably, because I'm not always there.

20 Q. And to your knowledge any person who came in
21 and requested the right to sign up to
22 participate at the hearing was allowed to do so?

23 A. Yes.

24 Q. There was no person who came in to request the

00043

1 right to sign up and participate at the hearing
2 that was turned away or refused; would that be
3 correct?

4 A. That would be correct, yeah.

5 Q. And Mr. Charvat was the last person who came to
6 your office and requested the right to sign up
7 and participate at the hearing?

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8 A. I believe he was.

9 Q. Do you have any information as to whether
10 Mr. Charvat was ever provided a DVD of the site
11 location application?

12 A. I don't have any information about that.

13 MR. MORAN: Thank you, Mrs. Holmes.

14 THE WITNESS: You're welcome.

15 MR. MORAN: I have no further questions.

16 MS. ANTONIOLLI: I have no questions.

17 MR. MUELLER: I don't have anything else.

18 MS. ANTONIOLLI: Okay. Well, today the
19 court reporter has transcribed your deposition,
20 and you have the option to review your
21 deposition for errors and sign your deposition
22 at that time; or you can simply waive signature
23 here today and trust that the court reporter has
24 accurately transcribed your deposition.

00044

1 THE WITNESS: I have no reason to believe
2 that she wouldn't make an accurate transcript of
3 everything I said, and I would waive my right to
4 sign it.

5 MS. ANTONIOLLI: Okay. Thank you.

6 (The deposition was concluded at
7 3:11 p.m.)
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I, Callie S. Bodmer, a Certified Shorthand Reporter in and for the State of Illinois, do hereby certify that, pursuant to the agreement herein contained, there came before me on the 19th day of October 2010 at 2:13 p.m. at the DeKalb County Legislative Center, 200 North Main Street, Sycamore, Illinois, the following-named person, to-wit: SHARON HOLMES, who was duly sworn to testify to the truth and nothing but the truth of her knowledge concerning the matters in controversy in this cause; that she was thereupon examined on her oath and her examination reduced to writing under my supervision; that the deposition is a true record of the testimony given by the witness, and that the reading and signing of the deposition by said witness were expressly waived.

I further certify that I am neither attorney or counsel for, nor related to or employed by, any of the parties to the action in which this deposition is taken, and further, that I am not a 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 24th 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

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1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
2
3
4 STOP THE MEGA-DUMP,)
5)
6 Petitioner,) PCB NO. 2010-103
7)
8 v.)
9) DEPOSITION OF
10 COUNTY BOARD OF DEKALB) GERALYNNE KUNDE
11)
12 COUNTY, ILLINOIS and WASTE)
13 MANAGEMENT OF ILLINOIS,)
14 INC.,)
15)
16 Respondents.)

16 DEPOSITION OF GERALYNNE KUNDE, taken at
17 the DeKalb County Legislative Center, 200 North Main
18 Street, Sycamore, Illinois, on October 19, 2010,
19 commencing at 3:18 p.m., before Callie S. Bodmer,
20 Certified Shorthand Reporter and Notary Public in
21 and for the State of Illinois, in pursuance to
22 agreement of the parties in the above-entitled
23 action. Also present: Lee Addleman.
24

00002

1 APPEARANCES:
2 ATTORNEY GEORGE MUELLER,
3 of the firm of Mueller Anderson, P.C.,
4 603 Etna Road,
5 Ottawa, Illinois, 61350,
6
7 Counsel for the Petitioner.
8
9 ATTORNEY AMY ANTONIOLLI,
10 of the firm of Schiff Hardin, LLP,
11

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233 South Wacker Drive, Suite 7200,

7 Chicago, Illinois, 60606,

8 Counsel for the Respondent,

County Board of DeKalb

9 County, Illinois.

10 ATTORNEY DONALD D. MORAN,

of the firm of Pedersen & Houpt,

11 161 North Clark Street, Suite 3100,

Chicago, Illinois, 60601,

12 Counsel for the Respondent,

13 Waste Management of

Illinois, Inc.

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1 INDEX

2

3 Witness: GERALYNNE KUNDE

4

5 Examination Page

6 Attorney Mueller 4

7 Attorney Moran 21

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20 Certificate of Shorthand Reporter 27

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1 GERALYNNE KUNDE,

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

4 EXAMINATION

5 BY MR. MUELLER:

6 Q. Would you state your full name, please.

7 A. GERALYNNE M. KUNDE.

8 Q. And do people call you Lynne?

9 A. Uh-huh.

10 Q. Okay if I call you Lynne?

11 A. Oh, that's fine.

12 Q. Thank you. Lynne, what is your profession?

13 A. I'm a DeKalb County Clerk employee in the
14 elections department.

15 MR. MUELLER: Okay. Let the record show
16 this is the discovery deposition of Lynne Kunde
17 taken pursuant to notice and by agreement of the
18 parties.

19 Have you ever had your deposition taken
20 before, Lynne?

21 A. Yes.

22 Q. So you're generally familiar with the ground
23 rules and procedures?

24 A. Yes.

00005

1 Q. Okay. How long have you worked in the DeKalb
2 County Clerk's office?

3 A. Full-time a little over 10 years, total maybe
4 almost 12 years.

5 Q. What are your general duties in the office?

6 A. I work in the elections office. I input voter
7 information, change addresses, prepare for
8 elections, do FPCAs, absentees, just general
9 overall elections information and that kind of
10 thing.

11 Q. Are you generally familiar with the Waste

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12 Management nine volume siting application that
13 was filed last November 30th, not its contents
14 but the books themselves?

15 A. Yes.

16 Q. We understand that when that was filed a copy
17 of that application was kept in the elections
18 office?

19 A. Yes.

20 Q. Can you describe the elections office
21 physically?

22 A. Well, there's two doors. If you go in on the
23 east door you come right to my desk. On the
24 other side of my desk is the shelving unit where

00006

1 we have suspended and cancelled voter cards,
2 registration cards, and some other files, some
3 materials that we need every day, and the books.
4 Then you go further back and there's Julie's
5 desk and Mary Lynn's desk, and to the left is
6 the conference room. Behind a short wall by my
7 desk there's Sharon's office, and then another
8 door.

9 Q. Where was the siting application physically
10 kept in the elections office?

11 A. Directly across from my desk.

12 Q. On a set of shelves?

13 A. Uh-huh, yes.

14 Q. And was there any table space available for
15 people to spread the volumes out and view them
16 if they wanted to?

17 A. Yes.

18 Q. How large was that table space?

19 A. Boy, six-by-three-foot table.

20 Q. About the size of the table that you and I and
21 the court reporter and your counselor are
22 sitting at now?

23 A. No, smaller than -- width wise it was smaller,
24 probably about the same length.

00007

1 Q. During the entire time that the application was
2 on file was that table kept clear for the
3 public's use in viewing the application, or
4 would that table be filled with other election

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5 related materials?

6 A. It might have had absentee boxes on it but it
7 would have only been two small envelope boxes on
8 one corner.

9 Q. After the application was placed in the
10 elections office were you given any instructions
11 by Sharon Holmes as to how, when, and under what
12 circumstances to allow members of the public to
13 view the documents?

14 A. I was told that anybody could view them, they
15 could sit at that table and they couldn't take
16 them out of the office.

17 Q. Who were you told that by?

18 A. Sharon.

19 Q. Sharon is your boss, correct?

20 A. Yes.

21 Q. Do you have an immediate supervisor that you
22 report to that's in between you and Sharon?

23 A. Sort of Mary Lynn.

24 Q. Were you ever given any instruction or
00008

1 direction as to whether or not people needed to
2 file a FOIA, or Freedom of Information Act,
3 request in order to see the application?

4 A. No.

5 Q. Were you ever given any instruction or
6 direction as to what to do if somebody wanted to
7 copy a portion of or all of the application?

8 A. I was just told to make copies.

9 Q. What if somebody had wanted to come in and copy
10 the entire nine volumes?

11 A. I would have charged them 25 cents a copy.

12 Q. And where do you get that number of 25 cents
13 per copy from?

14 A. It's our standard fee for anything that we make
15 copies of.

16 Q. Is that posted or written down anywhere, or is
17 that just what you have been instructed by
18 Sharon?

19 A. I believe it's posted at the recorder's side of
20 the office.

21 Q. Do you guys have -- does your office have
22 documents that are computerized and

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23 electronically archived?

24 A. Yes.

00009

1 Q. Do you have facilities for printing those out?

2 A. Yes.

3 Q. What is the per copy page -- or per copy cost
4 for printing out electronic documents?

5 A. It depends on what you're asking for.

6 Q. Are you familiar with procedures in the
7 recorder's office?

8 A. No.

9 Q. Do you ever go over to the recorder's office
10 and help out?

11 A. No.

12 Q. Does the County Clerk's office keep the County
13 Board minutes?

14 A. I believe so. I don't have firsthand
15 knowledge, but I believe so.

16 Q. Has anyone ever come in and asked for copies of
17 documents like that?

18 A. Not from me.

19 Q. You said you believe that that 25 cents per
20 page cost is published or posted in the
21 recorder's office?

22 A. Yes.

23 Q. Have you ever seen it or are you just believing
24 that?

00010

1 A. I thought I had.

2 Q. You're not sure though, are you?

3 A. No.

4 Q. How long has that charge for general copying
5 been 25 cents per page?

6 A. At least 10 years.

7 Q. Do you know what the clerk's office actual
8 costs are for making copies in terms of the cost
9 of the machines, toner, paper, and labor to make
10 the copies?

11 A. No, sir.

12 Q. Was there filed and stored in the elections
13 office with the siting application a number of
14 rolled up large engineering documents and
15 drawings and maps?

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16 A. Yes.

17 Q. Were those kept in the elections office as
18 well?

19 A. Yes.

20 Q. How would you have made copies of those if
21 someone had requested it?

22 A. Well, we have a machine that makes those copies
23 over in the clerk's office.

24 Q. What's the charge for those?

00011

1 A. I have no idea.

2 Q. Do you know if a DVD (sic) of the siting
3 application was filed with the application?

4 A. Yes, it was.

5 Q. Were you given any instructions on whether or
6 not to let anyone use that DVD to view files
7 electronically?

8 A. No.

9 Q. Does the clerk's office have a computer
10 available for the public's use in viewing
11 electronic records?

12 A. Yes.

13 Q. Where is that computer kept?

14 A. On the clerk's counter.

15 Q. And anyone from the public can come in and use
16 that?

17 A. I have personally worked with people to look at
18 elections materials, I don't know what else is
19 available to them on there.

20 Q. Do you recall having any interaction while the
21 siting application was on file with an
22 individual by the name of Mac McIntyre?

23 A. I did not have any personal contact with him.

24 I do know he was in the office.

00012

1 Q. Did you observe him in the office, or you just
2 know that from other people telling you?

3 A. I observed him.

4 Q. And tell us what you observed.

5 A. I saw him sitting in the corner at Julie's desk
6 at the computer watching the computer.

7 Q. Watching something on the computer?

8 A. Uh-huh.

9 Q. Did you overhear any of the conversations he
10 had with anyone regarding that visit or what he
11 was there for?

12 A. Some, yes.

13 Q. Was he there with anyone else?

14 A. Yes.

15 Q. Man or woman?

16 A. Woman.

17 Q. Do you know her?

18 A. Yes.

19 Q. Who was he with?

20 A. Grace Mott.

21 Q. And what con -- what did you observe her doing
22 when you observed Mac?

23 A. She was sort of sitting behind him looking at
24 the computer also.

00013

1 Q. What conversation did you overhear?

2 A. I don't recall to be honest with you. I know
3 they were talking, I wasn't really paying
4 attention.

5 Q. Are there any particulars of that conversation
6 that you recall?

7 A. Between Mac and Grace?

8 Q. No, between Mac and any employee in the office.

9 A. Yes.

10 Q. What do you recall?

11 A. I just remember Sharon and Mac talking about
12 the DVD itself, particulars I don't remember. I
13 just know that she -- the two of them were
14 talking.

15 Q. Were you present when a Mark Charvat came into
16 the office?

17 A. Yes.

18 Q. Let me back up before I go to Mr. Charvat and
19 ask you if there were any signup sheets for
20 people who wanted to register to participate in
21 the siting hearings?

22 A. Yes, there was.

23 Q. Were you given any instructions with regard to
24 those signup sheets?

00014

1 A. Yes.

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2 Q. What instructions were you given?

3 A. To have whoever wanted to participate sign it,
4 and that it was being kept in Sharon's office.

5 Q. Were you -- who were you told that by?

6 A. Sharon.

7 Q. Were you given any instruction on deadlines, if
8 any, for signing up?

9 A. No.

10 Q. Do you know whether those signup sheets were
11 taken away at some point in time?

12 A. I do know they were taken away.

13 Q. Do you know when?

14 A. No.

15 Q. Were you present when they were taken away?

16 A. No.

17 Q. Do you know if anyone came in and tried to sign
18 up after the signup sheets were taken away?

19 A. Yes.

20 Q. Who came in to try to sign up after the sheets
21 were taken away?

22 A. Mark Charvat.

23 Q. All right. Was his initial encounter with you
24 before Sharon Holmes stepped in?

00015

1 A. No.

2 Q. Who was his initial encounter with?

3 A. Julie Nollcamper (phonetic).

4 Q. And where were you during that encounter?

5 A. At my desk on the other side of the wall.

6 Q. Did you hear what was said between Julie and
7 Mr. Charvat?

8 A. Yes.

9 Q. Can you tell us what was said?

10 A. Not particulars, I don't remember exact
11 wording. I just know that it sounded a bit
12 heated so I went and got Mary Lynn and told her
13 that she needed to go out there.

14 Q. And then what happened?

15 A. I don't know, I kept on with my own work.

16 Q. Did you have any other participation in that
17 interaction besides what you have just told us?

18 A. Not directly. Just being in the room, being in
19 the office, yes, but not --

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20 Q. Well, what -- I'm sorry to cut you off.

21 Anything else you wanted to add?

22 A. Huh-uh.

23 Q. What else do you remember about that

24 interaction from your having been in the room?

00016

1 A. The major thing I remember was that he came in
2 taping everything and didn't ask for anybody's
3 permission.

4 Q. Do you remember any portions of the
5 conversation between Sharon Holmes and
6 Mr. Charvat?

7 A. Not exactly.

8 Q. Any parts of it that you remember specifically?

9 A. I can give you generalities, I can't give you
10 specifics.

11 Q. What are the generalities you recall?

12 A. He was not very happy with her -- the
13 employees, us, and he basically told her so, and
14 she defended us, and he shortly left and kind of
15 apologized.

16 Q. Now, did Mr. Charvat ever ask for a copy of the
17 DVD of the application, if you recall?

18 A. Not from me.

19 Q. Your recollection is that he initially came in
20 wanting to sign up to participate?

21 A. Yes.

22 Q. And that he was told that he was too late?

23 A. I can only assume that that's what he was told.

24 Q. Then he got unhappy?

00017

1 A. Uh-huh.

2 Q. Which led to an escalation that ultimately
3 resulted in Sharon Holmes having to come in and
4 deal with him herself?

5 A. Yes.

6 Q. And do you recall that she ultimately got a
7 piece of paper and let him sign up then to
8 participate?

9 A. I have no idea.

10 Q. Did you ever have any interaction in the office
11 with Mr. Moran?

12 A. In the office, no.

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13 Q. Then how do you know Mr. Moran?

14 A. I met him here. This is not my office.

15 Q. You met him here when?

16 A. In this room six weeks ago approximately.

17 Q. Did you know him before that time?

18 A. No.

19 Q. And that meeting six weeks ago was to go over

20 your likely testimony, questions you would be

21 asked?

22 A. Correct.

23 Q. Was anyone else present during that meeting

24 besides you and Mr. Moran?

00018

1 A. No.

2 Q. Did you attend any of the siting hearings?

3 A. No.

4 Q. Do you recall anyone else coming into the

5 office to view the siting application besides

6 Mac and Grace?

7 A. Yes.

8 Q. Who else came in to view it?

9 A. I don't know their names.

10 Q. How many other people were there?

11 A. Two.

12 Q. Together or separately?

13 A. Separately.

14 Q. And neither one of those were Mark Charvat,

15 correct?

16 A. Correct.

17 Q. Did anyone that came in ever ask for copies of

18 any portions of the application?

19 A. Yes.

20 Q. Who?

21 A. A lady.

22 Q. And what did you do with her request?

23 A. I went and made the copies.

24 Q. Do you remember how many copies she wanted?

00019

1 A. I don't remember exactly. I know it was under

2 \$2.

3 Q. So it would have been less than eight pages?

4 A. Uh-huh, yes.

5 Q. Because the price is 25 cents per page?

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6 A. Uh-huh, yes.

7 Q. You don't remember her name?

8 A. I never asked it.

9 Q. Is she the only person that requested any
10 copies?

11 A. No.

12 Q. Who else requested copies?

13 A. A gentleman came in and asked -- well, no, she
14 was the only one that got copies.

15 Q. Who else requested copies?

16 A. Nobody else did.

17 Q. Well, you were going to say something about a
18 gentleman?

19 A. A gentleman came in to view the books. I got a
20 little confused there.

21 Q. Do you remember who he was?

22 A. I never asked his name either.

23 Q. Do you know how many people in total came in to
24 sign the participation signup sheets?

00020

1 A. No.

2 Q. Were those kept in Sharon Holmes' personal
3 office?

4 A. The sheet itself?

5 Q. Yes.

6 A. Yes.

7 Q. Is the siting application still in the
8 elections office?

9 A. Yes.

10 Q. Was there another group of documents brought to
11 your office at some point in time after the
12 siting hearing?

13 A. Yes -- I don't know, I don't remember when they
14 were brought in. I know there was another set
15 brought to us.

16 Q. Another multiple volumes of materials, right?

17 A. Some books, not as much information.

18 Q. Who brought those to your office?

19 A. I don't know.

20 Q. Do you know what those documents consisted of?

21 A. No.

22 Q. Were you given any instructions as to whether
23 or not to let anyone in the public view those

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24 documents or records?

00021

1 A. No.

2 Q. Has anyone come in and asked to see or review
3 those books?

4 A. No, and I should say not from me.

5 MR. MUELLER: Lynne, that's all the
6 questions I have.

7 THE WITNESS: Okay.

8 MR. MORAN: I have a few questions.

9 THE WITNESS: Oh, okay.

10 MR. MUELLER: You can't go yet.

11 THE WITNESS: Oh darn.

12 EXAMINATION

13 BY MR. MORAN:

14 Q. To your knowledge did any person request a DVD
15 of the site location application?

16 A. Yes.

17 Q. And who is that?

18 A. Mac McIntyre.

19 Q. Did he receive a copy of the DVD?

20 A. He received the only one we had.

21 Q. Other than Mr. McIntyre, did any person request
22 a DVD of the site location application?

23 A. Not that I'm aware of.

24 Q. Other than the woman who received copies of the

00022

1 siting application, did any other person request
2 a copy of the site location application?

3 A. Someone called up on the phone about it, and I
4 told them how many pages it was and that it
5 would be 25 cents a copy.

6 Q. Did the person identify himself or herself?

7 Was it a woman or a man?

8 A. I believe it was a man.

9 Q. And you don't recall if he identified himself?

10 A. No.

11 Q. Did he call before or after Mac McIntyre
12 requested a copy of the DVD?

13 A. I don't recall.

14 Q. And you told this individual that the cost for
15 copying the site location application is 25
16 cents a page?

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17 A. Correct.

18 Q. What did the person say in response?

19 A. Exact wording I couldn't tell you. He was not
20 very happy with me, and I told him he could pull
21 it up on the internet, make his own copies.

22 Q. He could pull up what on the internet?

23 A. As far as I was told all of that information
24 was on our website.

00023

1 Q. Who told you that the site location application
2 was on the website?

3 A. Oh boy, that I couldn't tell you. It was more
4 of a discussion throughout the office.

5 Q. Did you ever confirm whether the site location
6 application was put on the County's website?

7 A. No.

8 Q. What else do you recall about that conversation
9 with the individual who called you?

10 A. Not much more than that.

11 Q. Did the person ask you how he could access the
12 site location application on the County's
13 website?

14 A. No.

15 Q. Did the person indicate that he nonetheless
16 wanted to get copies of the site location
17 application at 25 cents a page?

18 A. No, he did not.

19 Q. Was it your understanding after talking with
20 him that he had no interest in requesting and
21 getting copies of the site location application?

22 A. That would be correct.

23 Q. Other than Mr. McIntyre and this one male
24 caller, did any other persons request a copy of

00024

1 the site location application to your knowledge?

2 A. Not to my knowledge, no.

3 Q. And did you receive personally any requests
4 from individuals to sign up to participate at
5 the siting hearing?

6 A. No.

7 Q. These were other people in the office who
8 requested the opportunity for these folks to
9 sign up on the list to participate at the

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10 hearing, correct?

11 A. Uh-huh, yes.

12 Q. You really had nothing to do with that?

13 A. No.

14 Q. Other than Mr. McIntyre and the male who called
15 on the phone, did you receive any requests from
16 any person to review the site location
17 application in your office?

18 A. There was a gentleman that came in.

19 Q. And you didn't get his name?

20 A. No.

21 Q. Did he sit down at the desk in the elections
22 office to review some part of the application?

23 A. Oh boy, I don't remember. I know that he came
24 in, and I went to get Sharon and Julie then

00025

1 started helping him. I'm pretty sure he did,
2 but I -- once it was out of my hands I just sort
3 of let it go.

4 Q. Were there any other persons who requested an
5 opportunity to review the site location
6 application?

7 A. No.

8 Q. Do you have any information to indicate whether
9 any persons who wanted to sign up to participate
10 at the siting hearing were refused the
11 opportunity to do so?

12 A. Say that again, please.

13 Q. Do you have any information that indicated that
14 any person who came in to your office to sign up
15 to participate at the hearing was told they
16 couldn't sign up or were refused the opportunity
17 to sign up?

18 A. Not until after the sheet had been picked up
19 and we were told the deadline was over.

20 Q. And what person or persons were that?

21 A. That would be Mark Charvat was the only one
22 that I was aware of that was told that.

23 Q. And from what you understood Mr. Charvat was
24 given an opportunity to sign up by Ms. Holmes?

00026

1 A. After the -- yes, after -- after the whole
2 to-do that afternoon.

3 Q. So it would be fair to say that from what you
4 knew every person who had come in and requested
5 the right to sign up was allowed to do so?

6 A. Yes.

7 MR. MORAN: I have no further questions.

8 MS. ANTONIOLLI: Neither do I.

9 THE WITNESS: Okay, so I am done?

10 MR. MUELLER: You're done.

11 MS. ANTONIOLLI: Before you go, you
12 have -- today the court reporter has transcribed
13 your deposition, and you have the opportunity to
14 review the transcript for errors and sign your
15 deposition at that time; or you can simply waive
16 signature today here and trust that she's
17 transcribed the deposition accurately.

18 THE WITNESS: I'm not going to remember
19 word for word what I said so I'll just -- I'll
20 defer it to another time.

21 MS. ANTONIOLLI: Okay. Let the record
22 reflect that she waived signature.

23 (The deposition was concluded at
24 3:48 p.m.)

00027

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 19th day of
7 October 2010 at 3:18 p.m. at the DeKalb County
8 Legislative Center, 200 North Main Street, Sycamore,
9 Illinois, the following-named person, to-wit:
10 GERALYNNE KUNDE, who was duly sworn to testify to
11 the truth and nothing but the truth of her knowledge
concerning the matters in controversy in this cause;
that she was thereupon examined on her oath and her
examination reduced to writing under my supervision;
that the deposition is a true record of the
testimony given by the witness, and that the reading
and signing of the deposition by said witness were
expressly waived.

11

I further certify that I am neither

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12 attorney or counsel for, nor related to or employed
by, any of the parties to the action in which this
13 deposition is taken, and further, that I am not a
relative or employee of an attorney or counsel
14 employed by the parties hereto or financially
interested in the action.

15
In witness whereof I have hereunto set my
16 hand this 24th day of October 2010.

17
18
19
Callie S. Bodmer
20 Certified Shorthand Reporter
Registered Professional Reporter
21 IL License No. 084-004489
P.O. Box 381
22 Dixon, Illinois 61021
23
24

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00001

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
2
3 STOP THE MEGA-DUMP,)
4)
5 Petitioner,) PCB NO. 2010-103
6)
7 v.)
8) DEPOSITION OF
9 COUNTY BOARD OF DEKALB) RILEY ONCKEN
10)
11 COUNTY, ILLINOIS and WASTE)
12)
13 MANAGEMENT OF ILLINOIS,)
14)
15 INC.,)
16)
17 Respondent.)

16 DEPOSITION OF RILEY ONCKEN, taken at the
17 DeKalb County Legislative Center, 200 North Main
18 Street, Sycamore, Illinois, on October 5, 2010,
19 commencing at 5:20 p.m., before Julie K. Edeus,
20 Certified Shorthand Reporter and Notary Public in
21 and for the State of Illinois, in pursuance to
22 agreement of the parties in the above-entitled
23 action.

00002

1 APPEARANCES:
2
3 ATTORNEY GEORGE MUELLER,
4 of the firm of Mueller Anderson, P.C.,
5 603 Etna Road,
6 Ottawa, Illinois, 61350,
7
8 Counsel for the Petitioner.
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of the firm of Pedersen & Haupt,

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Chicago, Illinois, 60601-3242,

9

Counsel for Respondent
Waste Management of
Illinois, Inc.

10

11

12 ATTORNEY AMY ANTONIOLLI,

of the firm of Schiff Hardin,

13

6600 Sears Tower,
Chicago, Illinois, 60606,

14

Counsel for Respondent
County Board of DeKalb County,
Illinois.

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3 Witness: RILEY ONCKEN

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00004

1 RILEY ONCKEN,

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

4 EXAMINATION

5 BY MR. MUELLER:

6 Q. State your name, please.

7 A. Riley N. Oncken, O-N-C-K-E-N.

8 Q. Mr. Oncken, you're an attorney; is that right?

9 A. That's correct.

10 Q. So I'm going to presume that you're well
11 acquainted with the whole concept and structure
12 of depositions.

13 A. I am. This is my first time giving a
14 deposition, but --

15 Q. It's probably less fun to answer questions than
16 it is to ask them, but regardless, let me ask
17 you this: What is your educational background?

18 A. I received a bachelor's degree from Western
19 Illinois University, a double major in political
20 science and law enforcement and justice
21 administration in 2001. 2004 J.D. from Northern
22 Illinois University.

23 Q. And where are you employed now?

24 A. Smith, Wykes and Oncken.

00005

1 Q. And what do you do primarily in that firm?

2 A. Probably 50 percent of my practice is family
3 law with a splattering of everything else.

4 Q. Are you also a member of the County Board?

5 A. I am.

6 Q. And what district do you represent?

7 A. District 3.

8 Q. Which is the district in which the landfill is
9 located, correct?

10 A. That's correct.

11 Q. When were you first elected to the board?

12 A. 2008.

13 Q. So you're up for election again in 2012, right?

14 A. That's correct.

15 Q. What party are you in, sir?

16 A. Republican.

17 Q. Are you on any board committees?

18 A. I am.

19 Q. Which ones?

20 A. The law and justice committee and the economic
21 development committee as well as the ad hoc
22 rules committee, the jail planning committee and
23 a solid waste -- I guess pollution control
24 committee.

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1 Q. Speaking of the ad hoc rules committee and the
2 fact that you're an attorney, would you know off
3 the top of your head how many County Board
4 members can be together at once discussing
5 County business without violating the Open
6 Meetings Act?

7 A. Off the top of my head?

8 Q. Yes.

9 A. I believe that it is a majority of a quorum of
10 any committee.

11 Q. How many members are on the entire County
12 Board?

13 A. 24.

14 Q. So a quorum on that is 12 or 13?

15 A. It would be -- yeah, 12 plus one.

16 Q. 13. So a majority of a quorum would be 7 then?

17 A. I believe your math is correct.

18 Q. Okay, so as far as you're concerned if you had
19 five County Board members together discussing
20 business that would not be an open meetings
21 issue?

22 A. Like I said, I'm not an expert in the Open
23 Meetings Act and I wouldn't be in a position to
24 answer that without I guess getting advice from

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1 counsel.

2 Q. I'm not asking as an expert. I'm just asking
3 you what your belief is.

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4 A. I think it would depend on the topic of
5 conversation.

6 Q. Okay. With regard to the jail committee that
7 you're on, is that the committee that is
8 considering how to pay for the jail expansion?

9 A. It's through the planning process. The -- I
10 guess the focus of the committee is planning,
11 design and ultimately construction of a jail.

12 Q. And what is the current thinking as to how that
13 jail is going to get paid for?

14 A. One of two revenue sources. One would be from
15 the tipping fees in the event that the landfill
16 expansion is approved ultimately. The other
17 alternative would be through general obligation
18 bonds.

19 Q. How do you issue general obligation bonds
20 without raising taxes if you don't have a
21 readymade source of revenue?

22 A. I don't know.

23 Q. Do you know what the cost to the County is at
24 the present time from having to send inmates to

00008

1 other counties?

2 A. Approximately \$600,000 a year.

3 Q. In the year 2009 were you involved in
4 negotiations on the host agreement with Waste
5 Management?

6 A. Yes, I was.

7 Q. What was your role in those negotiations?

8 A. If my timing is correct, it was shortly after I
9 was elected when those negotiations were
10 finalized and ultimately voted on.

11 Q. That's correct. Were you actively involved in
12 negotiations with Waste Management at that time?

13 A. I don't believe so. I think -- again, I think
14 most of the negotiation was done prior to my
15 election.

16 Q. You weren't on the committee that did the
17 negotiating or on the actual negotiating team,
18 were you?

19 A. Not that I can recall.

20 Q. Did Waste Management ever make any
21 presentations to the County Board that you

22 remember with regard to their landfill plans and
23 the design of the expanded facility and so
24 forth?

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1 A. During which period?

2 Q. During the period of 2009 before the
3 application was filed?

4 A. I don't believe so.

5 Q. Do you know Lee Adelman?

6 A. Yes.

7 Q. How do you know him?

8 A. Through his affiliation with Waste Management.

9 Q. Have you ever met with him one on one anywhere?

10 A. No.

11 Q. Have you ever had any social interaction in
12 connection with him?

13 A. Other than I guess an invitation for -- or
14 putting him in contact with someone from my
15 rotary group to come and speak, that would be
16 the extent of any social contact we had.

17 Q. I mean, have you gone out for a cup of coffee
18 with him or a beer or anything like that?

19 A. No, no.

20 Q. How about Dale Hoekstra, do you know him
21 socially?

22 A. No.

23 Q. Did you attend a tour of the Waste Management
24 facility in Will County last summer?

00010

1 A. Yes, I did.

2 Q. Do you remember who went with you on that trip?

3 A. I believe Paul Stoddard and I want to say there
4 were probably three or four other members. I
5 can't off the top of my head recall.

6 Q. Were you involved in any way with the planning
7 for that tour?

8 A. I think we were asked of our availability for
9 certain dates in terms of coordinating a going
10 at the same time. Other than that I wasn't
11 involved.

12 Q. Were you ever involved in any discussions
13 regarding breaking that tour up into multiple
14 tours with small numbers of County Board members

15 so as to avoid Open Meetings Act violations?

16 A. No.

17 Q. Did Lee Adelman accompany your group from
18 Sycamore to the tour and then back?

19 A. He did, he drove the van.

20 Q. Who actually conducted the tour once you were
21 at the facility?

22 A. I think much of it was Lee himself and then
23 there was somebody from the facility there whose
24 name I don't recall.

00011

1 Q. Other than lunch at the tour, have you ever
2 received anything from anyone at Waste
3 Management of value?

4 A. I'm not sure of what value, but a sunglasses
5 holder -- I guess that's the easiest way to
6 describe it -- that attaches to a -- your
7 rearview mirror.

8 Q. Well, when did you get that?

9 A. I believe that was at the time of the tour they
10 were sitting on the table along with
11 informational packets.

12 Q. Did you ever receive anything from any Waste
13 Management representatives at any other time?

14 A. No.

15 Q. Do you have a social relationship with any
16 other employee or representative of Waste
17 Management?

18 A. No.

19 Q. Does your law firm do any work for Waste
20 Management or any of its subsidiaries that you
21 are aware of?

22 A. Not that I'm aware of.

23 Q. Are there any clients of your law firm -- well,
24 let me strike that.

00012

1 Do you know whether your law firm has ever
2 done work for Mr. Adelman or Mr. Hoekstra?

3 A. Not to my knowledge.

4 Q. And would it be fair to say that if your law
5 firm represents somebody who's just an employee
6 at the DeKalb landfill that's just incidental
7 and part of the fact that they live in this

8 county? Electronic Filing - Received, Clerk's Office, December 28, 2010

9 A. Yes, it would be.

10 Q. Do you know whether there are any such people?

11 A. Not to my knowledge. I think we may have had a
12 garbage hauler that we represented in a divorce
13 case, but I can't recall any specifics.

14 Q. Mr. Oncken, in November of 2009 there was
15 apparently an arrangement made for Mr. Adelman
16 to speak at a rotary club. Were you involved in
17 that?

18 A. That's correct.

19 Q. Do you want to tell us what happened?

20 A. I think someone from rotary asked me if I knew
21 anyone from Waste Management who would be
22 willing to come and speak about the expansion in
23 general terms and I said that I did, that I had
24 contact information for Mr. Adelman from having

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1 had contact with him and I provided I guess an
2 e-mail address and put someone from the rotary
3 club in contact with Mr. Adelman to coordinate
4 coming in.

5 Q. Before November 30th of last year had you ever
6 received any e-mails from Lee Adelman?

7 A. I don't know.

8 Q. Had you ever e-mailed him?

9 A. I don't know.

10 Q. Did you attend the landfill siting hearings
11 last March?

12 A. I did.

13 Q. There was apparently an incident at the hearing
14 where someone overheard you to make remarks
15 which they deemed to be derogatory toward
16 landfill opponents. Do you know what I'm
17 talking about?

18 A. I recall, yes.

19 Q. Do you want to tell us for the record what your
20 recollection of those events is?

21 A. I made an off-the-cuff comment to an
22 acquaintance of mine, Paulette Tolene --
23 T-O-L-E-N-E -- who I've known for several years
24 through mostly republican events, basically

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1 during one of those breaks that some people had
2 too much free time on their hands.

3 Q. And who were you referring to as in people had
4 too much free time on their hands?

5 A. I think at the time Mr. McIntyre and generally
6 that -- the group of people it seems oftentimes
7 associated with him.

8 Q. Have you ever during those hearings used the
9 term NIMBY?

10 A. During those hearings?

11 Q. Yes.

12 A. No. I've heard the term and I'm familiar with
13 the term, but --

14 Q. So what does NIMBY mean?

15 A. Not in my backyard.

16 Q. Did you hear anyone use that term during the
17 hearings?

18 A. Specifically I can't remember.

19 Q. Did you use the term at any time during those
20 hearings?

21 A. I can't remember.

22 Q. It's possible that you've -- that you would
23 have referred to people in the Stop The
24 Mega-Dump group as NIMBYs?

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1 A. It's possible.

2 Q. When you were at the Waste Management facility
3 in Will County did you notice any unpleasant
4 odors?

5 A. In Will County?

6 Q. Yes.

7 A. Yes.

8 Q. Just at the working face?

9 A. When we -- yeah, when we stepped out of the van
10 and were kind of observing it it had the smell
11 of garbage.

12 Q. All right. Are you aware of the controversy at
13 the siting hearing here regarding alleged
14 hydrogen sulfide at the DeKalb landfill?

15 A. Yes.

16 Q. Did you ever make it a point to go to the
17 DeKalb landfill yourself to verify or disprove
18 for yourself whether you could smell hydrogen

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19 sulfide?

20 A. No.

21 Q. Have you ever toured the DeKalb landfill?

22 A. No.

23 Q. Other than what we've already talked about, did
24 you at any time during the siting hearings say

00016

1 anything else that could be considered
2 derogatory to the landfill opponents or Stop The
3 Mega-Dump members?

4 A. Yes.

5 Q. What else did you say?

6 A. I think I had also said to Paulette Tolene that
7 I thought that it was foolish of Clay Campbell
8 to be involved in this considering he was
9 running for election.

10 Q. And did you say words to the effect of he's on
11 the wrong side and this is going to hurt him?

12 A. No. What I said was that I thought it was
13 politically foolish for him to be involved in
14 this at all. Regardless of the side, you're
15 going to alienate people and if you're running
16 for election in my mind it did not make sense to
17 get out in front of any hot-button topic and
18 having worked on Clay's campaign I thought it
19 was foolish for him to be taking a side one way
20 or the other.

21 Q. Are you still involved in Clay Campbell's
22 campaign?

23 A. I'm not.

24 Q. When did you stop that involvement?

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1 A. Clay is a -- I guess a relatively longtime
2 friend of mine. His first time running for
3 election I was on his campaign committee. Each
4 and every time he's run I've helped him put out
5 signs, I've supported him with financial
6 contributions and have -- I was at his
7 fundraiser that was just held recently.

8 Q. Does your no longer being active in his
9 campaign have anything to do with your position
10 on the landfill expansion or his position on the
11 landfill expansion?

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12 A. No.
13 Q. Did you ever say to anyone during the siting
14 hearings words to the effect of the landfill
15 expansion was a done deal or that County Board
16 members had no choice but to vote for it?

17 A. No, I did not.

18 Q. Did you ever hear any other County Board member
19 express that sentiment?

20 A. No, I did not.

21 Q. Did you ever hear any other County Board member
22 during the siting hearings express a sentiment
23 that could be construed as derogatory to
24 opponents or Stop The Mega-Dump members?

00018

1 A. No, I did not.

2 (Oncken Exhibit Nos. 1, 2 and 3
3 marked for identification.)

4 Q. Mr. Oncken, I've given your counsel some
5 exhibits and the attorneys have already looked
6 at them and to make this fast, we've got Oncken
7 Exhibit 1, Oncken Exhibit 2 and Oncken Exhibit
8 3. And I'll represent to you that each of these
9 documents was provided by DeKalb County's
10 attorneys to me as part of the discovery
11 responses received in this case. I'd ask you to
12 look at the documents and just indicate to me
13 whether or not each of them is a true and
14 correct copy of the e-mails purportedly sent by
15 you on the dates indicated.

16 A. Exhibit 1 is a true and accurate copy of my
17 e-mail, 2 is also and 3 is also.

18 Q. All right. Thank you. Let's talk about No. 2
19 for a second, the middle paragraph at the end of
20 that talking about Waste Management has been a
21 good neighbor for many years. Do you see that
22 sentence?

23 A. Yes.

24 Q. At the time you wrote this what was the basis

00019

1 for your conclusion that they were a good
2 neighbor?

3 A. I think just based on what I knew of Waste
4 Management in the community. It wasn't based on

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5 any specific experience that I had had with
6 Waste Management or any knowledge about how they
7 had handled anything, just generally speaking I
8 think from talking to other people they had a
9 relatively good reputation for handling things
10 within the county and at the existing site.

11 Q. When you were on the tour of the Will County
12 facility did Mr. Adelman or anyone else
13 associated with Waste Management represent to
14 you that the expanded landfill in LaSalle -- or
15 in DeKalb County, if it was approved, would have
16 similar design features?

17 A. I believe he did, yes.

18 Q. Did anyone express to you that the expanded
19 landfill, if it was approved, would have similar
20 operational characteristics?

21 A. I believe he did, yes.

22 Q. And I presume that as part of that tour you
23 would have been shown or had explained to you
24 the load-checking procedure?

00020

1 A. Yes.

2 Q. You would have been shown the leachate
3 collection system and had that explained to you?

4 A. Yes.

5 Q. Was your group shown new cell construction?

6 A. Are you talking about the liner --

7 Q. Yes.

8 A. -- material, yes.

9 Q. Right, placement of the liner. And was it
10 explained how that functions to retard
11 infiltration of leachate in to groundwater?

12 A. Yeah, I think in general terms, yes.

13 Q. Did you meet with Mr. Moran to prepare for this
14 deposition?

15 A. Mr. Moran came to my office, yes.

16 Q. And when did that happen?

17 A. I don't recall a specific date. If you'd like
18 me to tell you I can probably check my calendar.

19 Q. Approximately?

20 A. Six weeks ago.

21 Q. All right. Did you meet with Ms. Antonioli --
22 did I pronounce that correctly?

MS. ANTONIOLLI: Yes, very well.

23
24 Q. -- in preparation for this deposition?

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1 A. For about two minutes, yes.

2 Q. Just two minutes outside here immediately
3 beforehand?

4 A. That's correct.

5 MR. MUELLER: That's all the questions I
6 have. Thank you, Mr. Oncken.

7 MR. MORAN: I have a few questions.

8 THE WITNESS: Sure.

9 EXAMINATION

10 BY MR. MORAN:

11 Q. Mr. Oncken, did you vote on the proposed host
12 community agreement with Waste Management of
13 Illinois, Inc.?

14 A. Yes.

15 Q. And how did you vote?

16 A. I voted in favor of it.

17 Q. Did you consider your vote in favor of the host
18 community agreement to be your vote to approve
19 the request to expand the existing landfill?

20 A. No.

21 Q. You understood the two votes to be entirely
22 different and separate proceedings, correct?

23 A. That's correct.

24 Q. Did you hear any information from any other

00022

1 County Board member that either he or she viewed
2 their vote to approve the host community
3 agreement as a vote to approve the proposed
4 expansion of the landfill?

5 A. No.

6 Q. Now, this site location application was filed
7 on November 30th of 2009; is that correct?

8 A. Yes.

9 Q. And you said you took a tour of the Prairie
10 View facility in Will County in the fall or
11 summer of 2009?

12 A. At some point, yes.

13 Q. So as of the time that your tour took place the
14 site location application had not been filed,
15 correct?

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16 A. Correct.
17 Q. And there was no information presented to you
18 during that tour that described the proposed
19 design elements of the expansion; would that be
20 correct?

21 A. Yes.
22 Q. And there was nothing that had been presented
23 to you at the time of the tour that described
24 the proposed operation of the expansion; would

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1 that be correct?

2 A. Correct.

3 Q. And did you ever make a determination as to
4 whether the information that you learned during
5 the tour was the same information that was
6 presented in the site location application as it
7 related to design and operation of the
8 expansion?

9 A. I'm sorry. Can you ask the question again?

10 Q. Yes. Did you make a determination at any point
11 that the information you received during the
12 tour was the same information that was presented
13 regarding the design and operation of the
14 proposed expansion?

15 A. I didn't determine that they were the same.
16 There were I guess similarities in at least
17 parts of the proposed expansion that seemed
18 similar in application to what we saw physically
19 at the Prairie View facility.

20 Q. So certain of the design elements or concepts
21 were the same between the two facilities?

22 A. Generally speaking, yeah.

23 Q. But the information that you were given in the
24 tour was not the information on specific design

00024

1 elements for the expansion; would that be
2 correct?

3 A. That's correct, yes.

4 Q. And the same thing with respect to the proposed
5 operation of the expansion, the information
6 provided at the tour was different than what you
7 had heard or what you had seen in the site
8 location application?

9 A. That's correct.

10 Q. Now, were you under an understanding that your
11 role in reviewing the site location application
12 would be different than the types of reviews you
13 would conduct in your role as a County Board
14 member generally?

15 A. Yes.

16 Q. And how was it different?

17 A. Our role pursuant to the statute in the siting
18 facility procedure is as a judicial body. We're
19 limited to the evidence that's presented in the
20 hearing, we're prohibited from considering
21 outside evidence, from bringing in our own
22 prejudices and bias and are limited to only the
23 evidence that's presented and are required to
24 make a decision based on just the evidence

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1 that's presented through the hearing process.

2 Q. And based upon whether in your view that
3 evidence satisfied by a preponderance of the
4 evidence the nine statutory criteria set out in
5 the Illinois Environmental Protection Act; would
6 that be correct?

7 A. Absolutely correct, yes.

8 Q. Were you also advised that because of this
9 quasi judicial role you were prohibited from
10 having any communications with any interested
11 party to this site location application?

12 A. Yes.

13 Q. And those interested persons would be the
14 Applicant, Waste Management of Illinois, Inc.,
15 true?

16 A. Correct.

17 Q. And any other person, citizen, resident,
18 objector who had an interest in the siting
19 proceeding, correct?

20 A. That's correct.

21 Q. Other than the communication that you mentioned
22 in connection with Mr. Adelman speaking at the
23 rotary, did you have any oral or written
24 communication with any agent, employee or

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1 representative of Waste Management of Illinois,

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2 Inc. between November 30th of 2009 and May 10th
3 of 2010?

4 A. No.

5 Q. Did you have or receive any written or oral
6 communications from any other person regarding
7 the proposed expansion between November 30th,
8 2009 and May 10, 2010?

9 A. I received a handful of angry voicemail
10 messages that I deleted that I don't have I
11 guess a record of. I don't recall who called or
12 anything other than one that specifically stuck
13 out in my mind that if I knew what was good for
14 me I would vote against the expansion.

15 Q. And that was a voicemail message?

16 A. That was a voicemail message, correct.

17 Q. And who left that voicemail message?

18 A. It was a male. I don't -- he did state his
19 name, I don't remember and I -- I didn't take it
20 as a threat. I took it as I guess a political
21 threat that if I didn't vote against it my
22 constituents would toss me out come election
23 time. Other than those I don't believe there
24 was any other communications that took place.

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1 Q. Did you respond to any of the e-mails you had
2 received?

3 A. Specifically I don't believe I did. If I did
4 they would have been, in essence, to tell
5 someone that they needed to submit those
6 comments through the hearing process and that I
7 could not consider anything that they said to me
8 outside of the hearing process.

9 Q. And approximately how many e-mails did you
10 receive?

11 A. I don't know.

12 Q. Half a dozen?

13 A. Yeah, maybe a dozen, maybe a half a dozen.
14 Whatever I would have received would have been
15 previously provided.

16 Q. And were all of these e-mails opposed to the
17 proposed expansion?

18 A. No.

19 Q. How many were in favor of the expansion?

20 A. I think maybe one or two from what I can
21 recall.

22 Q. And the phone calls you received or the
23 voicemail messages left, were they all opposed
24 to the expansion?

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1 A. From what I can recall every one was opposed.

2 Q. And about how many voicemails were left for
3 you?

4 A. A handful.

5 Q. Half a dozen?

6 A. Yeah.

7 Q. Did you receive any letters regarding the
8 proposed expansion?

9 A. I may have. If I did they went in a -- I
10 believe they went in the garbage. If they did
11 not, they may have gone in a file somewhere.

12 Q. Did you receive these at your home or place of
13 business?

14 A. At home.

15 Q. Did you read the letters?

16 A. I believe so.

17 Q. You didn't respond to any of them?

18 A. No.

19 Q. Were all the letters opposed to the expansion?

20 A. Maybe with the -- I'm having a hard time
21 remembering those which I may have received
22 either prior to or outside of the hearing
23 process and those which were written comments
24 that were submitted and then I later read

00029

1 through the hearing process, so distinguishing
2 between those is difficult with the volume of
3 what I received, but a majority of I think the
4 written correspondence that was submitted would
5 have been in opposition -- from individual
6 people would have been in opposition to the
7 expansion.

8 Q. And your district includes the existing DeKalb
9 County landfill, correct?

10 A. Yes.

11 Q. Did you have any personal communications with
12 any persons about the proposed expansion between

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13 November 30th, 2009 and May 10th, 2010, in other

14 words, somebody maybe running into you on the
15 street, at your office or at a store?

16 A. There were times when, for example, in the
17 attorneys' lounge at the DeKalb County
18 Courthouse someone would bring up the topic of
19 the landfill or there would be other
20 conversations going on between other people
21 about the landfill. I did everything possible
22 to avoid engaging in those conversations or to
23 avoid being around them because of what we had
24 been instructed regarding disregarding any

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1 communications or anything outside of the
2 process.

3 Q. And notwithstanding those directions, were
4 people still able to state to you their view,
5 opinion or other statement about the proposed
6 expansion?

7 A. Oh, people did, yeah, fairly regularly at least
8 attempt.

9 Q. And you would tell them that you were not able
10 to --

11 A. I couldn't discuss it and I wouldn't discuss
12 it.

13 Q. And were all these people who spoke to you
14 personally opposed to the expansion?

15 A. No.

16 Q. There were some people who wanted to speak in
17 favor of the expansion?

18 A. There were some. There were some that
19 basically just wanted to push buttons I guess,
20 so to speak and brought up the topic because
21 they knew it wasn't something that I could talk
22 about. It was I guess more social banter
23 between attorneys having coffee than a real
24 in-depth discussion of the merits of the

00031

1 landfill expansion.

2 Q. Did you hear any information at any point that
3 any County Board member had prejudged the site
4 location application -- in other words, decided
5 to vote one way or the other before all the

6 evidence was in?

7 A. No.

8 Q. Did you consider any evidence or information
9 that was not presented during the public
10 hearing, that was not contained in the siting
11 application or that was not submitted as a
12 written filing as part of the siting proceeding
13 in making your decision on the site location
14 application?

15 A. No.

16 Q. Did any evidence or information that was not
17 contained in the siting application, not
18 presented as evidence at the hearing or not
19 included within a written submission to the
20 County Board or otherwise contained in the
21 record affect or influence your decision on the
22 site location application?

23 A. No.

24 Q. Did you make your decision on the site location

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1 application prior to April 20th of 2010?

2 A. No.

3 MR. MORAN: Thank you, Mr. Oncken. I have
4 nothing further.

5 MR. MUELLER: No additional questions.

6 THE WITNESS: I'll waive.

7 MS. ANTONIOLLI: I'm done as well and you
8 waived signature; is that correct?

9 THE WITNESS: That's right, unless you'd
10 advise me differently.

11 MS. ANTONIOLLI: No.

12 (The deposition was concluded at
13 5:55 p.m.)
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1 CERTIFICATE

2

3 I, Julie K. Edeus, 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 5th day of
7 October 2010 at 5:20 p.m. at the DeKalb County
8 Legislative Center, 200 North Main Street, Sycamore,
9 Illinois, the following-named person, to-wit:
10 RILEY ONCKEN, who was duly sworn to testify to the
11 truth 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.

11

12 I further certify that I am neither
13 attorney or counsel for, nor related to or employed
14 by, any of the parties to the action in which this
15 deposition is taken, and further, that I am not a
16 relative or employee of an attorney or counsel
17 employed by the parties hereto or financially
18 interested in the action.

15

16 In witness whereof I have hereunto set my
17 hand this 18th day of October 2010.

17

18

19

20 Julie K. Edeus
21 Certified Shorthand Reporter
22 IL License No. 084-003820
23 P.O. Box 381
24 Dixon, Illinois 61021

22

23

24

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00001

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
2
3
4 STOP THE MEGA-DUMP,)
5)
6 Petitioner,) PCB NO. 2010-103
7)
8 v.)
9) DEPOSITION OF
10 COUNTY BOARD OF DEKALB) PAUL STODDARD
11 COUNTY, ILLINOIS and WASTE)
12 MANAGEMENT OF ILLINOIS,)
13 INC.,)
14)
15 Respondents.)

15 DEPOSITION OF PAUL STODDARD, taken at the
16 DeKalb County Legislative Center, 200 North Main
17 Street, Sycamore, Illinois, on October 1, 2010,
18 commencing at 2:09 p.m., before Callie S. Bodmer,
19 Certified Shorthand Reporter and Notary Public in
20 and for the State of Illinois, in pursuance to
21 agreement of the parties in the above-entitled
22 action.

00002

1 APPEARANCES:
2 ATTORNEY GEORGE MUELLER,
3 of the firm of Mueller Anderson, P.C.,
4 603 Etna Road,
5 Ottawa, Illinois, 61350,

Counsel for the Petitioner.

5
6 ATTORNEY AMY ANTONIOLLI,
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7 Chicago, Illinois, 60606,

8 Counsel for the Respondent,

County Board of DeKalb

9 County, Illinois.

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of the firm of Pedersen & Houpt,

11 161 North Clark Street, Suite 3100,

Chicago, Illinois, 60601,

12 Counsel for the Respondent,

13 Waste Management of

Illinois, Inc.

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3 Witness: PAUL STODDARD

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1 PAUL STODDARD,
2 being first duly sworn, was examined and
3 testified as follows:
4 EXAMINATION
5 BY MR. MUELLER:
6 Q. Would you state your full name, please.
7 A. Paul Richard Stoddard.
8 Q. Mr. Stoddard, have you ever had your deposition
9 taken before in any case for any reason?
10 A. Yes.
11 Q. So you're familiar with the procedures?
12 A. Yes.
13 MR. MUELLER: Let the record show this is
14 the discovery deposition of Paul Stoddard taken
15 pursuant to notice, by agreement of the parties,
16 and in accordance with the rules.
17 Mr. Stoddard, where do you reside?
18 A. 824 Shipman Place, DeKalb, Illinois.
19 Q. What's your highest level of education?
20 A. PhD.
21 Q. In what field?
22 A. Geology.
23 Q. Pardon?
24 A. Geology.

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1 Q. And what is your profession, sir?
2 A. I'm an associate professor of geology and
3 environmental geosciences at Northern Illinois
4 University.
5 Q. And are you a member of the DeKalb County
6 Board?
7 A. I am.
8 Q. How long have you been on the board?
9 A. About four years.
10 Q. When are you next up for election?
11 A. 2012.

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12 Q. Your party affiliation, sir?

13 A. Democratic.

14 Q. What committees are you on on the County Board?

15 A. I'm currently on the finance committee and the
16 health and human services committee.

17 Q. How did you vote on the Waste Management
18 application for the landfill expansion?

19 A. I voted in favor of approval.

20 Q. Sir, were you involved in any fashion with the
21 negotiation of the host agreement between DeKalb
22 County and Waste Management?

23 A. No.

24 Q. Have you ever visited any Waste Management

00006

1 facility other than a tour in 2009?

2 A. Uhm, I'm not sure what you're getting at.

3 Other than -- no, I --

4 Q. Well, let me make it clear. Did you go on the
5 tour of the Prairie View facility in 2009?

6 A. Yes.

7 Q. All right. Other than that, and we'll talk
8 about that separately, have you ever been to any
9 Waste Management facility?

10 A. I've brought my recycling to the Summons Avenue
11 recycling facility in the past.

12 Q. Have you ever been to a tour or an open house
13 of any other Waste Management facility?

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

15 Q. Do you have a social relationship with any
16 employee, agent, or representative of Waste
17 Management?

18 A. No.

19 Q. How well do you know Lee Adlemann?

20 A. I met him several times as a result of this
21 particular process. I know him to say hi to
22 him.

23 Q. How well do you know Dale Hoekstra?

24 A. Not as well as I know Lee Adlemann.

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1 Q. During the summer of 2009 did you participate
2 in a tour of the Waste Management Prairie View
3 facility?

4 A. Not during the summer.

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5 Q. When did you tour the Prairie View facility?

6 A. Fall of 2009.

7 Q. And can you tell us the circumstances under
8 which you went on that tour?

9 A. I and two or three other members of the County
10 staff took a tour of that facility, I believe it
11 was in September or early October of 2009.

12 Q. Okay. You're saying members of the staff. I
13 presume you mean non-County Board members?

14 A. I don't remember if -- I don't remember
15 everybody who went on that tour, and I don't
16 remember if any of the other people there were
17 County Board members.

18 Q. Do you remember the identity of anyone that
19 went along with you on the tour?

20 A. Mr. Drake was there from the health department,
21 and he is the only one I really remember for
22 certain as being there on that particular trip.

23 Q. How did you get there and back?

24 A. We were driven by Mr. Adlemann.

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1 Q. In his personal vehicle?

2 A. I believe -- I don't remember if it was his
3 personal vehicle or not. It was a van, I don't
4 think it was his personal vehicle but I don't
5 know.

6 Q. All right. Was Mr. Adlemann available to
7 answer questions on the way there and on the way
8 back?

9 A. Yes.

10 Q. Were people asking questions and getting them
11 answered?

12 A. Yes.

13 Q. Can you tell us what the tour consisted of?

14 A. We went to the facility, we saw their check-in
15 gate where they weigh in the incoming loads, how
16 that process worked. We then went out onto the
17 working face of the facility, we saw them
18 dumping trash there, we saw the lining, how they
19 were putting together a lining in a new cell
20 that they were producing. We got a little bit
21 of -- it was an in-classroom session where they
22 sort of showed us plans of the facility, and

23 then that was about it.

24 Q. By the way, had Waste Management ever made a
00009

1 presentation of their plans for the DeKalb
2 Landfill expansion to the County Board or at any
3 other meeting that the County Board attended?

4 A. Uhm, yes, they have made -- they have made
5 presentations to the County Board.

6 Q. On how many occasions?

7 A. It seems to me they made one once around the
8 host fee agreement decision. Then I don't think
9 they made one -- at least not to my
10 recollection, I don't think we saw anything else
11 until the application itself was actually
12 submitted, at which point we saw the
13 application.

14 Q. Would that presentation around the time that
15 the host fee was adopted be a workshop that was
16 held for County Board members in connection with
17 the conclusion of the host fee negotiations?

18 A. I believe that's accurate.

19 Q. Dr. Stoddard, you have got some qualifications
20 here academically that are very germane to the
21 issue of landfill development; I presume you
22 know that?

23 A. Yes.

24 Q. Have you ever been involved in the past in any
00010

1 capacity with the geologic or hydrogeologic
2 investigation of a site to ascertain its
3 suitability for landfill development?

4 A. No.

5 Q. Have you ever been involved in the past
6 professionally in any way with landfill design?

7 A. No.

8 Q. Have you ever had any professional involvement
9 in the past with any company that is in the
10 waste business?

11 A. No.

12 Q. Ever been involved in the past professionally
13 with any aspect of oil or gas exploration?

14 A. Yes.

15 Q. Can you tell us briefly what that consisted of?

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16 A. I worked for three years for Conoco. I worked
17 one year in their Denver west office
18 evaluating -- doing advanced evaluation for a
19 potential fairway play. Then I worked for two
20 years in their Lafayette, Louisiana office doing
21 prospect generation.

22 Q. Ever been out on a drill rig?

23 A. Yes.

24 Q. When you took the tour of the Waste Management
00011

1 facility who were your tour guides?

2 A. I believe that would have been Mr. Hoekstra and
3 Mr. Adlemann.

4 Q. Anybody else participate in answering
5 questions?

6 A. The person manning the entry gate and weigh
7 station told us about what they did and may have
8 answered questions if somebody had asked, I
9 don't remember if anybody specifically asked
10 her.

11 Q. Do you remember whether or not any Waste
12 Management representatives during that tour or
13 on the way there or back made any
14 representations about how what you were going to
15 see or had just seen compared or would compare
16 to the design and operation of the expanded
17 landfill in DeKalb County?

18 A. Yes, they did.

19 Q. And what representations did they make?

20 A. Basically that what we were seeing there would
21 be similar to what was proposed for DeKalb.

22 Q. Were you favorably impressed with the tour?

23 A. Uhm, there are aspects of it I thought were
24 good and there were some aspects that I was not
00012

1 as impressed by.

2 Q. What specifically were you not impressed by?

3 A. Well, it was expected, but the thing did smell
4 rather badly -- bad.

5 Q. I presume then there were some questions by
6 tour participants about the smells?

7 A. I believe so, whether or not those were typical
8 for the facility, etcetera.

9 Q. Do you remember what explanation you were
10 given?

11 A. Uhm, I think, as best as I can remember it was
12 that yes, indeed that those smells were not
13 unusual.

14 Q. And were you given any explanation about how
15 those smells could be controlled or remediated?

16 A. This I don't remember.

17 Q. Do you remember being shown any aspects of a
18 gas collection system?

19 A. We were shown the flaring part of that system
20 but not the underground pipes, as they were
21 underground.

22 Q. Does that facility -- and I don't even know
23 whether this is the case -- convert gas to
24 energy, or do they just burn it off, if you

00013

1 know?

2 A. I don't know.

3 Q. What were the aspects of what you observed on
4 the tour that you recall being particularly
5 impressed with?

6 A. I thought the description of how they were
7 building the liner was impressive, the general
8 facility in terms of building the liner and
9 taking into account the future use of the liner,
10 the trucks rolling over, etcetera, the
11 precautions took -- that they took to ensure
12 that the liner maintained its integrity
13 throughout the life of the project.

14 Q. And I guess I'd generally categorize that as
15 cell construction and development?

16 A. Yes, that's reasonable.

17 Q. And you felt they did a good job with that?

18 A. From what I could see I thought so, yes.

19 Q. You were reassured, I take it?

20 A. Yes.

21 Q. Now, Dr. Stoddard, as a member of the finance
22 committee have you been involved in planning for
23 the construction and/or payment of the
24 courthouse and jail expansions?

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1 A. Yes.

2 Q. What's been the involvement that you have had
3 in those areas?

4 A. Basically in finance committee meetings and
5 then again in the full board meetings we have
6 been presented with plans as to how financing of
7 those projects could take place, we have been
8 presented with timetables and so forth under
9 which those projects could move forward.

10 Q. All right. Other than your being presented
11 with that as a board member, have you had any
12 leadership or active role in development of any
13 of those plans and alternative plans?

14 A. Not at this point.

15 Q. By the way, if you know, is it your intention
16 to run again for County Board in 2012?

17 A. Yes.

18 Q. Yes, you know, or yes, it is your intention?

19 A. Yes to both.

20 Q. Okay. What is your understanding of the
21 financing alternatives and payment alternatives
22 specifically for the jail expansion?

23 A. An option being considered is to finance the
24 jail expansion with bonds that would be paid off

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1 by income generated to the County from the
2 landfill facility is one option. I know it's
3 been said that if that does not move forward,
4 the landfill does not move forward, the County
5 would look for other options for funding that
6 project.

7 Q. At this point in time is there any other source
8 of funds besides potential host fees that is
9 available and realistic for the jail expansion?

10 A. There are alternatives, I don't know how
11 realistic they would be considered. One, there
12 would be the possibility of another referendum.
13 There would be the possibility of perhaps, the
14 money isn't all there, but some sort of mixture
15 perhaps of sales taxes from the County farm
16 property which was currently anticipated to go
17 towards the courthouse expansion. Those are not
18 enough to cover the jail, but conceivably you
19 could put together a package of those plus a

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20 reduced referendum. So there are other
21 alternatives.
22 Q. The referendum would be to increase taxes so as
23 to generate more revenue?

24 A. Yeah.

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1 Q. And right now those sale tax revenues that you
2 mentioned are earmarked for the courthouse
3 expansion?

4 A. Yes.

5 Q. Is it fair to say then that if the landfill is
6 not ultimately approved and the host revenues
7 are not forthcoming that the County would have
8 to find some new source of funds to pay for the
9 jail expansion?

10 A. That's my understanding.

11 Q. Would that have been your understanding during
12 the time that the landfill siting hearings were
13 going on and during the time that the decision
14 was being made?

15 A. By and large I would say yes.

16 Q. Dr. Stoddard, did you attend the siting
17 hearings?

18 A. Yes, I did.

19 Q. And during those siting hearings did you ever
20 express any sentiment to anyone that could be
21 construed as derogatory or hostile toward
22 landfill opponents?

23 A. Not that I'm aware of.

24 Q. Did you ever hear any other County Board

00017

1 members express such sentiments?

2 A. Not to me, no.

3 Q. Did you ever hear them express such sentiments
4 to anyone else where you would have just
5 overheard the expression?

6 A. No.

7 Q. Just give me one second, I may be just about
8 done.

9 Are you aware, sir, of any County Board
10 member who ever expressed to you or in your
11 presence statements to the effect of the
12 landfill approval being a done deal?

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13 A. No.
14 Q. Did you ever make such expressions to anyone
15 yourself?

16 A. No.
17 Q. Are you aware of any County Board members who
18 ever made an expression that they had no choice
19 but to vote for approval of the landfill or
20 words to that effect?

21 A. I am unaware -- I can't remember any specific
22 instance where anybody said that.

23 Q. Do you have any personal knowledge of the -- of
24 any issues related to the public's access to the

00018

1 siting application for purposes of viewing or
2 duplicating the same?

3 A. I'm sorry, could you repeat that?

4 Q. You're aware that the siting application which
5 was filed was on file at the County Board
6 offices and in the Clerk's office?

7 A. Yes.

8 Q. Do you have any personal knowledge of what
9 anyone would have experienced who attempted to
10 view or get copies of the application?

11 A. The only knowledge I would have of that was
12 from testimony presented during the siting
13 hearing, mostly by Mr. Charvat, perhaps also by
14 Mr. McIntyre during their testimony.

15 Q. Did you ever have any conversations with
16 Mr. Bockman about issues relating to access or
17 copying of the application?

18 A. I don't recall having done so.

19 Q. Did you ever have any conversations with Sharon
20 Holmes, the County Clerk, regarding any of such
21 issues?

22 A. No.

23 MR. MUELLER: That's all the questions I
24 have. Thank you, Dr. Stoddard.

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1 THE WITNESS: Thank you.

2 MR. MORAN: Dr. Stoddard, I have a few
3 questions.

4 THE WITNESS: Sure.

5 EXAMINATION

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6 BY MR. MORAN.

7 Q. You were asked about the presentation that was
8 made by employees of Waste Management at or
9 around the time the host fee was being
10 negotiated; do you remember those questions?

11 A. Yes.

12 Q. Would it be accurate to say that the nature of
13 the presentation made -- and I'm assuming this
14 presentation was made to the ad hoc solid waste
15 committee, or are you talking about the
16 presentation that was made to the full County
17 Board at the workshop that occurred in February
18 of '09?

19 A. I was referring more to the workshop
20 presentation.

21 Q. And that workshop presentation occurred on
22 February 24th or 26th of 2009 I believe?

23 A. I could not dispute that.

24 Q. And you were in attendance at that meeting?

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1 A. Yes.

2 Q. Would it be accurate to say that the
3 presentation made by Waste Management lasted
4 about 15, 20 minutes?

5 A. That seems reasonable.

6 Q. And the persons who made the presentation were
7 Mr. Adlemann and Mr. Hoekstra?

8 A. Yes.

9 Q. And the nature of their presentation was to
10 describe conceptually what a possible expansion
11 of the DeKalb County Landfill might look like?

12 A. Yes.

13 Q. And, in fact, that presentation did not track
14 precisely the actual proposal to expand the
15 landfill that was filed in November of 2009;
16 would that be correct?

17 A. I don't remember the details of the original
18 presentation well enough to know whether or not
19 it tracked identically with what the application
20 said.

21 Q. And the balance of that meeting, would it be
22 fair to say, that there were questions various
23 County Board members had of Mr. Hoekstra and

24 Mr. Adleman?

00021

1 A. Yes.

2 Q. And the meeting lasted entirely about an hour
3 and a half?

4 A. That seems about correct.

5 Q. You also pointed out that you took a tour of
6 the Prairie View Landfill which is located in
7 Will County, Illinois?

8 A. Correct.

9 Q. And you took that tour in the fall of 2009?

10 A. Correct.

11 Q. And I believe you indicated that you were shown
12 a few aspects of that operation during the tour?

13 A. Correct.

14 Q. Certain operations at the ticket office,
15 certain operations at the active face of the
16 landfill?

17 A. Yes.

18 Q. And you said there were certain things that you
19 were not impressed by, and the first thing you
20 mentioned was the odor?

21 A. Correct.

22 Q. Was that an odor that you detected in or around
23 the active face, did you detect it initially
24 upon entering the landfill, or maybe even before

00022

1 entering the landfill?

2 A. Probably I think the first time I noticed it
3 was while on the active face, then I think as we
4 were leaving the landfill the aroma stayed with
5 me for a little while.

6 Q. Was it a rotten egg aroma?

7 A. No.

8 Q. It was more of a garbage smell?

9 A. Correct.

10 Q. Were there any other things that didn't impress
11 you?

12 A. There was blowing trash, but they were doing a
13 fair job of confining that to the facility
14 itself. I would say that was probably the
15 main -- those were the main two things.

16 Q. And you said the tour lasted about an hour and

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- 17 a half?
- 18 A. I didn't. I would have thought maybe closer to
- 19 two hours, but an hour and a half could be
- 20 correct.
- 21 Q. Now, would it be fair to say that prior to your
- 22 visit to Prairie View that you were familiar
- 23 with the various design elements or components
- 24 of a solid waste landfill?

00023

- 1 A. I had a rough familiarity, yes.
- 2 Q. Meaning you had a rough familiarity with the
- 3 lining system or the liner system?
- 4 A. I knew that there was a liner; I knew that
- 5 there was an artificial component, a manmade
- 6 component; I knew that natural geology played a
- 7 role in it; I knew that there was a gas
- 8 collection system, that the gas was flared off;
- 9 I mean, I knew that they dumped garbage in the
- 10 facility.
- 11 Q. Were you familiar with the fact that there was
- 12 a leachate collection system?
- 13 A. Yes.
- 14 Q. And also a monitoring system?
- 15 A. I believe so.
- 16 Q. Would it be fair to say that during your tour
- 17 of Prairie View there was no discussion of the
- 18 geology at that site?
- 19 A. I believe that is a fair statement.
- 20 Q. And also there was no discussion of the
- 21 hydrogeology at the site?
- 22 A. That is a fair statement, yes.
- 23 Q. You were also asked a little earlier by
- 24 Mr. Mueller whether you were aware during the

00024

- 1 siting process and during your deliberation of
- 2 the site location application as to whether if
- 3 the landfill expansion were not finally approved
- 4 that the County would have to look or consider
- 5 alternative sources to fund the jail and the
- 6 courthouse expansions, correct?
- 7 A. The jail expansion in particular, yes.
- 8 Q. Not so much the courthouse expansion?
- 9 A. Not so much the courthouse.

10 Q. Was that in any way a factor in your decision
11 on the site location application?

12 A. No.

13 Q. There was also discussion about a memorandum
14 that Ray Bockman had sent out to all the County
15 Board members in the middle of February 2010.
16 Do you recall having received a memo from him in
17 or about that time?

18 A. Yes.

19 Q. And do you recall what the contents of that
20 memorandum were?

21 A. Substantially that since we were in a period
22 where we were not to have ex parte communication
23 with either side that we should refrain from
24 talking to either side, I believe, about this

00025

1 particular issue.

2 Q. And would it be fair to say that your
3 understanding was that this prohibition on any
4 communications applied to any party
5 participating in the siting process, the
6 applicant, citizens, residents, objectors,
7 anyone?

8 A. Correct.

9 Q. And was it your understanding that the site
10 location application was filed on November 30th
11 of 2009?

12 A. Correct.

13 Q. And that application consisted of nine volumes
14 of three-ring binders, approximately 6,000
15 pages?

16 A. Correct.

17 Q. And that application was made available to you
18 by the County Board office?

19 A. Yes.

20 Q. Did you have any written or oral communication
21 with any employee, representative of Waste
22 Management of Illinois, Inc. between November
23 30th, 2009 and May 10th, 2010?

24 A. Yes.

00026

1 Q. What communication did you have?

2 A. I arranged for Mr. Adlemann to speak to my

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3 local Kiwanis group during that time.

4 Q. And the nature of the written communication
5 between you and Mr. Adlemann were what?

6 A. As best as I can recall, any written
7 communication would have been about the timing,
8 the scheduling of that meeting, to verify that
9 it would be -- I believe it was on February 17th
10 of 2010.

11 Q. And the e-mail that you sent or that was sent
12 by Mr. Adlemann was sent on the afternoon of
13 November 30th of 2009; would that be correct?

14 A. That I don't remember.

15 Q. And are you aware of whether Mr. Adlemann ever
16 spoke?

17 A. He did. I left the meeting as he got up to
18 speak so as to not even give the appearance of
19 having any undue communication with him at that
20 time.

21 Q. Was this the only written communication that
22 you had with any employee or representative of
23 Waste Management of Illinois, Inc. between
24 November 30th, 2009 and May 10th, 2010?

00027

1 A. Yes.

2 Q. And you had no oral communication of any kind
3 with any employee or representative of Waste
4 Management of Illinois, Inc. between November
5 30th of 2009 and May 10th of 2010?

6 A. Other than to say hello at a meeting.

7 Q. And when you say to say hello at a meeting, to
8 whom would you have said hello?

9 A. Mr. Adelman.

10 Q. But nothing else?

11 A. Nothing else.

12 Q. During that same period, November 30th, 2009
13 and May 10th of 2010, did you have or receive
14 any written or oral communications from any
15 other person regarding the proposed expansion?

16 A. Yes.

17 Q. What such communications did you have or
18 receive?

19 A. May have received some e-mails, but I
20 immediately upon ascertaining that they were

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21 related to the landfill deleted them without
22 reading them. I did receive I believe one phone
23 call from Mr. Charvat during that time.

24 Q. When did you receive that call approximately?

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1 A. That would have been I believe not long after
2 the memorandum from Mr. Bockman, but I'm not
3 positive.

4 Q. And did Mr. Charvat call you?

5 A. Yes, he did.

6 Q. At your home or place of business?

7 A. At my home.

8 Q. And what did he say to you?

9 A. He wanted to discuss the landfill. I think he
10 did recognize that this was really not -- we
11 weren't really supposed to be discussing the
12 landfill, and my recollection of the
13 conversation was that we did not specifically
14 discuss any of the criteria upon which I had to
15 base my vote regarding the landfill, that we
16 ended up talking more about courthouse and jail
17 facilities and whether or not they should
18 proceed as County projects, and I think he might
19 -- I don't remember specifically, but he may
20 have tried to touch on the fairness issue that
21 we have been exploring today.

22 Q. Would it be the fairness issue from the
23 standpoint of the availability of the site
24 location application, or some other fairness

00029

1 issue?

2 A. I think more of the fairness in terms of
3 whether or not we should be able to allowed
4 to -- we, as County Board members, should be
5 allowed to speak with constituents on this
6 matter.

7 Q. And what was Mr. Charvat's statement in that
8 regard or statements to you?

9 A. I don't recall them clearly enough to want to
10 put words in his mouth.

11 Q. Did you have any response to his comments on
12 either the fairness issue, or the necessity or
13 propriety of expanding the jail and the

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14 courthouse.
15 A. Uhm, if I had anything to say on the expansion
16 topics it would have been on the jail since I'm
17 a bit more familiar with the need there than I
18 am on the courthouse. We might have discussed
19 the past referendum -- referenda on the jail and
20 what they actually stated and what their failure
21 meant in terms of whether or not to proceed with
22 the project. In terms of fairness, I would have
23 tried to explain to him our role in this
24 particular matter as a judicial siting board

00030

1 rather than as County Board members.
2 Q. How long did this phone conversation last?
3 A. It may have been a half hour, 45 minutes.
4 Q. Did you at any point hear or have a
5 communication with Mr. Stoddard (sic) again
6 regarding the expansion?
7 A. I'm Mr. Stoddard.
8 Q. I'm sorry. Mr. Charvat after that discussion?
9 A. I do not believe so.
10 Q. Do you recall ever having had any communication
11 with an Eleanor Hagland (phonetic) regarding the
12 proposed expansion?
13 A. Eleanor Hagland, uhm, I don't recognize the
14 name.
15 Q. I'm not going to mark this as an exhibit yet,
16 but let me show you a copy of a letter dated
17 September 17th, 2010. It was filed with the
18 Illinois Pollution Control Board. It is
19 addressed to the board, to whom it may concern,
20 signed by Eleanor Hagland, and it refers to a
21 communication that she may have had with you
22 regarding the expansion, and I just ask you to
23 look at that for a moment --
24 A. Sure.

00031

1 Q. -- to see if it refreshes your recollection.
2 MR. MUELLER: May I see that?
3 A. Okay. I don't remember Ms. Hagland's name, but
4 I may remember something of a conversation with
5 this woman.
6 Q. Do you remember when that conversation would

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7 have taken place?

8 A. It would have been during -- I believe it would
9 have been during the hearings, during one of the
10 breaks in the hearings.

11 Q. And the person with whom you remember having
12 this discussion raised the question about the
13 referendum?

14 A. I believe the discussion would have proceeded
15 along the lines of, you know, why isn't this
16 being voted on by the County, at which point I
17 would have said something that we as the siting
18 board have access to all of the data, all of the
19 submissions from Waste Management, from the
20 County, citizens, have heard -- or have access
21 to all the transcripts of the entire siting
22 hearing, and in that regard would be in a better
23 position to make an informed decision as to the
24 approval of the application based on the

00032

1 criteria as compared to a general citizenry who
2 has not followed this as closely as had the
3 members of the Board.

4 Q. Have you told us now about any written or oral
5 communication you had with any person regarding
6 the proposed expansion between November 30th,
7 2009 and May 10, 2010?

8 A. I believe to the best of my recollection I
9 have.

10 Q. Did you consider any of this information that
11 was communicated to you during the November
12 30th, 2009 through May 10, 2010 period in making
13 your decision on the siting application?

14 A. I'm sorry, which material in particular?

15 Q. The communications that you had with these
16 third persons right before the hearing, with
17 Mr. Charvat and then during the course of the
18 hearing of the siting proceeding with these
19 other unnamed individuals.

20 A. Okay, and again, you're asking did those
21 influence my decision?

22 Q. Yes, did they have any effect on the making of
23 your decision on the siting application?

24 A. No.

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00033

1 Q. And was it your understanding that your vote on
2 the siting application was only to be made after
3 all of the evidence and all of the written
4 submissions that were presented by the various
5 parties were submitted to the County Board and
6 made part of the record?

7 A. Correct.

8 Q. And did you consider any information that was
9 not presented in the siting hearing or not
10 contained in the siting record in making your
11 decision on the siting application?

12 A. No.

13 Q. Did any information that was not presented in
14 that siting hearing or not contained in the
15 siting record affect or influence your decision
16 on the siting application?

17 A. No.

18 Q. And did you make your decision on the siting
19 application prior to April 20th of 2010?

20 A. No.

21 MR. MORAN: Thank you. No further
22 questions.

23 MR. MUELLER: I have got a couple of
24 follow-up.

00034

1 EXAMINATION

2 BY MR. MUELLER:

3 Q. How did you know that Lee Adlemann was
4 available to be a speaker at a public -- or a
5 club function like Kiwanis or Rotary?

6 A. Prior to November 30th -- and I know it was
7 prior to November 30th because Mr. Adlemann was
8 very specific about not being able to talk to us
9 after that time -- I had asked him if he would
10 be willing to come and talk to our group.

11 Q. And why is it that you wanted him to come and
12 talk to your group?

13 A. Well, partially because our group is always
14 looking for interesting topics, interesting
15 speakers, and partially because I knew that this
16 was an issue of some interest to the community
17 and I felt he would be in a position to

18 enlighten the club a bit as to what was being
19 planned for DeKalb County.

20 Q. Did you call him to ask him to come and talk to
21 you?

22 A. No, this was decided at a -- very quickly, as I
23 said, at a meeting, I forget the exact date, I
24 said would you be willing to come, he said yes,

00035

1 he said probably sometime -- well, before the
2 hearings -- the siting hearings had started, and
3 so we decided that February would be the best
4 time. Then, as I told Mr. Moran, the actual
5 final setting of the date was handled by an
6 e-mail message.

7 Q. Prior to the application being filed are you
8 aware that the County had retained Patrick
9 Engineering to perform a pre-filing review?

10 A. I believe so, yes.

11 Q. Were you involved in that review for any
12 reason?

13 A. Uhm, my recollection of timing of things is --
14 gets a little fuzzy, but I do seem to remember
15 Patrick Engineering at some point making a
16 presentation to us about their findings.

17 Q. But I mean did you participate in that review
18 in any way, shape, or form?

19 A. No.

20 Q. Because you have had -- you have got some
21 expertise here that might have wanted someone to
22 include you in some of that, but you were not
23 included in the actual review process?

24 A. That is correct.

00036

1 Q. Did you speak with or meet with any attorneys
2 in preparation for your deposition today?

3 A. I met with Mr. Moran a couple of weeks ago to
4 go over the type of questions that might be
5 asked.

6 Q. I presume he told you to tell the truth?

7 A. Right, he did indeed.

8 MR. MUELLER: That's all I have.

9 MS. ANTONIOLLI: That's all I have as

10 well.

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11 At this point the court reporter has
12 transcribed your deposition, and you have a
13 choice of either once this is transcribed and
14 available to go to the offices of the court
15 reporter to review the transcript for errors and
16 at that time sign your transcript; or to waive
17 your signature today and trust that she has
18 transcribed it accurately.

19 THE WITNESS: What would you recommend?

20 MS. ANTONIOLLI: The choice is yours, but
21 at all of the depositions I have attended so far
22 in this matter signatures have been waived.

23 THE WITNESS: Okay. You did it at the --

24 THE COURT REPORTER: (Nods head.)

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1 THE WITNESS: Yeah, I'll waive it.
2 (The deposition was concluded at
3 2:54 p.m.)
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1 CERTIFICATE

2
3 I, Callie S. Bodmer, a Certified Shorthand

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Reporter in and for the State of Illinois, do hereby

4 certify that, pursuant to the agreement herein
contained, there came before me on the 1st day of
5 October 2010 at 2:09 p.m. at the DeKalb County
Legislative Center, 200 North Main Street, Sycamore,
6 Illinois, the following-named person, to-wit: PAUL
STODDARD, who was duly sworn to testify to the truth
7 and nothing but the truth of his knowledge
concerning the matters in controversy in this cause;
8 that he was thereupon examined on his oath and his
examination reduced to writing under my supervision;
9 that the deposition is a true record of the
testimony given by the witness, and that the reading
10 and signing of the deposition by said witness were
expressly waived.

11

I further certify that I am neither

12 attorney or counsel for, nor related to or employed
by, any of the parties to the action in which this
13 deposition is taken, and further, that I am not a
relative or employee of an attorney or counsel
14 employed by the parties hereto or financially
interested in the action.

15

In witness whereof I have hereunto set my

16 hand this 10th day of October 2010.

17

18

19

Callie S. Bodmer

20

Certified Shorthand Reporter

Registered Professional Reporter

21

IL License No. 084-004489

P.O. Box 381

22

Dixon, Illinois 61021

23

24

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00001

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
2
3
4 STOP THE MEGA-DUMP,)
5)
6 Petitioner,) PCB NO. 2010-103
7)
8 v.)
9) DEPOSITION OF
10 COUNTY BOARD OF DEKALB) MARY SUPPLE
11 COUNTY, ILLINOIS and WASTE)
12 MANAGEMENT OF ILLINOIS,)
13 INC.,)
14)
15 Respondents.)

16 DEPOSITION OF MARY SUPPLE, taken at the
17 DeKalb County Legislative Center, 200 North Main
18 Street, Sycamore, Illinois, on September 14, 2010,
19 commencing at 1:42 p.m., before Callie S. Bodmer,
20 Certified Shorthand Reporter and Notary Public in
21 and for the State of Illinois, in pursuance to
22 agreement of the parties in the above-entitled
23 action.
24

00002

1 APPEARANCES:
2 ATTORNEY GEORGE MUELLER,
3 of the firm of Mueller Anderson, P.C.,
4 603 Etna Road,
5 Ottawa, Illinois, 61350,

Counsel for the Petitioner.

5 ASSISTANT STATE'S ATTORNEY MEGAN BRANNON,
6 DeKalb County State's Attorney's Office,

Electronic Filing - Received, Clerk's Office, December 28, 2010
200 North Main Street,

7 Sycamore, Illinois, 60178,
8 Counsel for the Respondent,
9 County Board of DeKalb
County, Illinois.

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

12
13 Counsel for the Respondent,
Waste Management of
Illinois, Inc.

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00003

1 INDEX

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12 EXHIBITS

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24

00004

1 MARY SUPPLE,
2 being first duly sworn, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MR. MUELLER:

6 Q. Would you state your full name, please.

7 A. Mary C. Supple.

8 Q. Is it okay if I call you Mary?

9 A. Yes.

10 Q. Mary, I'm George Mueller, I'm the attorney for
11 Stop The Mega-Dump, the citizens' organization
12 that is appealing the County Board approval of
13 the Waste Management siting application. I have
14 a few questions for you today regarding that
15 process and your role in it. Do you understand
16 that?

17 A. Yes.

18 Q. Have you ever had your deposition taken before
19 in any case?

20 A. No.

21 Q. Let me give you a little bit of protocol and
22 some rules here. First of all, everything that
23 I say and that you say is being taken down by a
24 court reporter. Secondly, that means that we

00005

1 should not talk over each other, because she can
2 only take down one person at a time. Thirdly,
3 as you're nodding your head, we need to avoid
4 nonverbal gestures because the court reporter
5 can't take them down, so it's -- you know, we
6 try to say yes and no as opposed to uh-huh and
7 as opposed to nonverbal gestures. Do you
8 understand all of that?

9 A. Yes.

10 Q. Any questions about the process?

11 A. No.

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12 Q. You understand that you are under oath; is that
13 correct?

14 A. Yes.

15 Q. Also, if I ask you a question and you don't
16 understand it, feel free to have me rephrase it;
17 is that clear?

18 A. Yes.

19 Q. Thank you. Mary, where are you employed.

20 A. With the DeKalb County Board Office.

21 Q. And what is your specific job in the DeKalb
22 County Board Office?

23 A. I am the administrative assistant for Ray
24 Bockman, the County Administrator, and Chairman

00006

1 Ruth Anne Tobias.

2 Q. So you're basically the person that does all
3 the work, right?

4 A. Yes, I know I'm under oath, but --

5 Q. And how long have you been employed for the
6 DeKalb County Board?

7 A. Since November of '91.

8 Q. Were you employed in DeKalb County before that?

9 A. Yes.

10 Q. Was that in the clerk's office?

11 A. Circuit Clerk's office.

12 Q. And how long did you work in the Circuit
13 Clerk's office?

14 A. Uhm, less than a year, because I was promoted.

15 Q. How long have you been the administrative
16 assistant to the County Administrator and the
17 County Board Chairman?

18 A. Since November of '91.

19 Q. What are your general duties in that job?

20 A. Clerical. Mainly clerical.

21 Q. You do typing, phone calling, scheduling, and
22 so forth?

23 A. Uhm, some scheduling.

24 Q. Are you involved in making any policy decisions

00007

1 for DeKalb County?

2 A. No.

3 Q. Do you have anyone that works under you and
4 reports to you?

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5 A. I have an intern, Julian Magdaleno, who is an
6 intern for our entire office.

7 Q. But you don't have an employee who regularly
8 reports to you and does things that you assign
9 to him or her?

10 A. No.

11 Q. When did you first become aware that Waste
12 Management was seeking to expand their landfill
13 in DeKalb County?

14 A. I don't quite understand your question.

15 Q. When did you first learn in your job capacity
16 that Waste Management was seeking expansion of
17 their landfill?

18 A. Last year, January I want to say.

19 Q. That would be January of 2009?

20 A. January, February, uh-huh.

21 Q. Now, there's records that indicate that
22 negotiations between Waste Management and DeKalb
23 County regarding a host agreement were occurring
24 even before that date. Were you aware of those

00008

1 negotiations?

2 A. Can I ask for a clarification on that?

3 Q. Sure.

4 A. May I please have a clarification on that
5 question, and what I mean is, I mean, there are
6 committee meetings and -- but I don't quite
7 understand your question I guess is what I'm
8 trying to say here.

9 Q. Let's -- let me back up. I think that's a fair
10 point. Do you attend any committee meetings as
11 part of your job?

12 A. Yes.

13 Q. Which committees do you attend?

14 A. Uhm, executive committee, economic development
15 committee, County Board meetings, the finance
16 committee, law and justice committee, and health
17 and human services committee are my official
18 committees that I attend and take minutes for.

19 Q. That's my next question, do you take the
20 minutes of those meetings?

21 A. Yes.

22 Q. Who preliminarily approves those minutes before

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23 they are submitted in final form to the
24 committee?

00009

1 A. The County Board minutes, I apologize, I do not
2 take those minutes, that is done officially by
3 the County Clerk. I don't know who approves her
4 minutes before they're officially out there for
5 the public. My minutes are approved by the
6 chairman of the committee or the department head
7 who is assigned to that committee.

8 Q. Now, is it fair to say that the process of your
9 taking the minutes is that you make notes as the
10 meeting goes on, those are handwritten notes,
11 correct?

12 A. Yes.

13 Q. And after that's done if you have any questions
14 you would go to Mr. Bockman or whoever the
15 chairman of the committee is?

16 A. Uh-huh, yes.

17 Q. And then you would type up what you believe to
18 be the minutes?

19 A. Yes.

20 Q. At that juncture you would then have them
21 initially approved by the committee chairman or
22 Mr. Bockman?

23 A. Yes, or in the case of Finance by Mr. Hanson.

24 Q. And then after that they may or may not get

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1 revised, correct?

2 A. May or may not, yes, correct.

3 Q. And then they're submitted to the entire
4 committee for --

5 A. -- approval at the next month's meeting.

6 Q. So if there are committee minutes of the
7 executive committee, for example, from 2008
8 dealing with negotiations with Waste Management,
9 you would have taken those minutes?

10 A. Yes, sir.

11 Q. And it would be fair to say that rather than
12 questioning you about specific dates and
13 meetings, your actual knowledge at the time is
14 reflected in the minutes that you took?

15 A. Yes, sir.

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16 Q. Were you involved in any way in developing the
17 DeKalb County Ordinance that deals with the
18 application for a landfill expansion?

19 A. Uhm, no, I wasn't. You're talking about the
20 siting?

21 Q. Yes.

22 A. No.

23 Q. Were you involved in developing the rules and
24 regulations that deal with the siting process?

00011

1 A. No.

2 Q. Do you know Lee Adlemann?

3 A. Yes.

4 Q. When did you first meet him?

5 A. Sometime last year.

6 Q. In 2009?

7 A. That I can recall.

8 Q. And on how many times or occasions have you met
9 or seen Mr. Adlemann before the actual siting
10 hearing?

11 A. Before the actual siting hearing? Uhm, I don't
12 have an exact number.

13 Q. I presume you were present at the siting
14 hearing?

15 A. Uhm, yes, one day, yes.

16 Q. You don't have an exact number of how many
17 times you saw Mr. Adlemann before then, but can
18 you give us an approximation or an estimate?

19 A. Five or six times.

20 Q. So in your opinion it would be less than 10?

21 A. That I saw him, yes.

22 Q. And on how many occasions would that have been
23 in the DeKalb County Government Building that
24 we're in right now?

00012

1 A. I think it would be every time, yes, every
2 time.

3 Q. Do you know Dale Hoekstra?

4 A. Yes.

5 Q. And when did you meet him?

6 A. Awhile ago. Since I have been here since 1991,
7 I'd say years ago.

8 Q. During 2009 and in 2010 before the siting

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9 hearings began how many times would you say you
10 saw Mr. Hoekstra in the DeKalb County Government
11 offices?

12 A. I'm sorry, could you repeat those dates again?

13 Q. 2009 and 2010 before the siting hearing began
14 on March 1st.

15 A. Once or twice.

16 Q. Did you ever have any conversations with
17 Mr. Adlemann in 2009 about Waste Management's
18 proposal?

19 A. No. The actual proposal itself?

20 Q. The siting proposal.

21 MR. MORAN: When you say siting proposal,
22 George, I assume you mean the site location
23 application that was filed?

24 MR. MUELLER: That's correct.

00013

1 MR. MORAN: The one that was filed on
2 November 30th, 2009?

3 MR. MUELLER: Let me rephrase the
4 question.

5 Did you have any conversations at all with
6 Mr. Adlemann in 2009?

7 A. Yes.

8 Q. And how many conversations did you have that
9 you recall now?

10 A. One.

11 Q. And what was the subject of that conversation?

12 A. Oh, I'm sorry, two.

13 Q. Those two, what was the subject of those and
14 when did they occur?

15 A. One would have been last year around this time
16 in the summer about landfill tours that we had
17 to take. Another would be, uhm, not about the
18 landfill proposal, it would be more about where
19 he lives in Costa Rica.

20 Q. So one of those conversations is what I would
21 call casual small talk?

22 A. Yes.

23 Q. And the other one you said was about landfill
24 tours you had to take. What do you mean by you

00014

1 had to take?

2 A. I had to -- I had to send out a memo to the
3 board members, uhm, to ask them if they could
4 attend landfill tours, of which Mr. Bockman also
5 was, you know, involved in that conversation.

6 Q. Now, you say you had to send out a memo. Did
7 Mr. Adlemann tell you to send out the memo?

8 A. No.

9 Q. Who told you you had to send out the memo?

10 A. Mr. Bockman asked me to send out a memo.

11 Q. Was he a participant in this conversation with
12 Mr. Adlemann and you?

13 A. What I recall, yes.

14 Q. Where did that conversation take place?

15 A. In my office.

16 Q. So it would be fair to say that Mr. Adlemann
17 came to your office for the purpose of inviting
18 County representatives to tour a Waste
19 Management facility?

20 A. Uh-huh, yes.

21 Q. And then Mr. Bockman instructed you to follow
22 through on making that happen?

23 A. Mr. Bockman asked me to send out a memo to the
24 board members.

00015

1 Q. And actually you sent out several memos,
2 correct?

3 A. Yes.

4 Q. You coordinated dates and transportation and
5 did all of that?

6 A. Yes.

7 Q. That's what I mean by making it happen --

8 A. Yes, okay, I'm sorry.

9 Q. -- you did the real work.

10 A. Yes, well, sure.

11 (Supple Exhibit No. 1 marked for
12 identification.)

13 Q. Okay. Let me show you what I want to mark as
14 Supple Deposition Exhibit No. 1 and show you
15 that, if I may, and your counsel is looking at
16 it with you. Do you recognize this series of
17 e-mails?

18 A. Yes, sir.

19 Q. Okay, and am I correct that this is what we

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20 call an e-mail trail?

21 A. Yes.

22 Q. And they are always in reverse order so that
23 the first e-mail is on the last page?

24 A. Yes.

00016

1 Q. All right. First of all, does this exhibit
2 accurately reflect the e-mails that you sent to
3 the people who are indicated as being addressed?

4 A. Could I read this first?

5 Q. Sure.

6 (Witness peruses document.)

7 A. The first one, yes. The second one, yes.

8 Q. Is there a -- there's the e-mail that's on the
9 first page that starts with, I spoke with Lee
10 Adlemann.

11 A. Uh-huh, yes.

12 Q. Is that a correct copy of the actual e-mail
13 that you sent out?

14 A. Yes.

15 Q. And the one on the third page that starts with,
16 if you would like to view a 2000 TPD working
17 landfill, is that a true and correct copy of
18 what you sent out?

19 A. Yes.

20 Q. Mary, who wrote -- -- or I should say who
21 composed that first e-mail?

22 A. I want to say, from what I recall, myself and
23 Mr. Bockman.

24 Q. Do you know what TPD means?

00017

1 A. No, I can't recall.

2 Q. Would that lead you to believe that someone
3 else composed that paragraph?

4 A. I don't understand your question.

5 Q. Well, it says: If you would like to view a
6 2000 TPD working landfill facility, you are in
7 luck --

8 A. Uh-huh.

9 Q. -- exclamation point.

10 You typed that sentence I assume?

11 A. Uh-huh.

12 Q. But who composed it?

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13 A. Like I said, Mr. Bockman and I worked on this.

14 The only other person would be Mr. Bockman.

15 Q. You believe he may have given you a draft of
16 what to send?

17 A. From what I recall.

18 Q. From what you can recall the answer would be
19 yes?

20 A. Yes.

21 Q. All right, and who provided the schedule of the
22 available -- or the schedule of what would
23 occur?

24 A. Uhm, I don't know.

00018

1 Q. You didn't just create that schedule out of the
2 blue, someone would have given you that
3 information, right?

4 A. Yes.

5 Q. Did Lee Adlemann provide you with the schedule?

6 A. I don't recall.

7 Q. Is it possible that he could have?

8 A. No.

9 Q. Why is it not possible?

10 A. Because, like I said, Mr. Bockman and I worked
11 on this. I got that information from him.

12 Q. Okay. What is Voluntary Action Center, or VAC?

13 A. What is it?

14 Q. Yes.

15 A. It's Meals on Wheels located in Sycamore.

16 Q. Who selected them to provide transportation?

17 A. I don't know.

18 Q. You didn't; is that true?

19 A. That's correct, I did not.

20 Q. So you would have been told that they were the
21 ones providing transportation?

22 A. Yes.

23 Q. Did you go on this tour, by the way?

24 A. No.

00019

1 Q. Did you go on any of them?

2 A. No.

3 Q. And if I can direct you to the last e-mail you
4 wrote, which is the one on the first page of
5 this document that starts with, I spoke with Lee

6 Adlemann with Waste Management. Do you see

7 that?

8 A. Yes, sir.

9 Q. Is that another conversation with Mr. Adlemann
10 in addition to the ones that you have already
11 recounted?

12 A. Uhm, yes.

13 Q. Now, there's a schedule here of three
14 additional dates for the tour. Do you see that?

15 A. Yes.

16 Q. Who provided those dates to you?

17 A. Mr. Bockman gave me those dates.

18 Q. It says here that Mr. Adlemann's the one that
19 wanted you to extend this invitation. Was it
20 Mr. Adlemann that wanted you to do it or was it
21 Mr. Bockman that wanted you to do it?

22 A. I'm sorry, I'm trying to think that far back.
23 Mr. Bockman I believe.

24 Q. Did Mr. Bockman send out his own e-mails to
00020

1 people, or did he generally have them -- draft
2 them up and give them to you to type up and send
3 out?

4 A. Uhm, Mr. Bockman types many of his
5 correspondence. Every once in awhile he will
6 draft it and ask me to send it up.

7 Q. But he has an active e-mail account of his own
8 that he types that himself?

9 A. Yes.

10 Q. Are you empowered or authorized to monitor the
11 inbox in his e-mail account?

12 A. No.

13 Q. Do you ever send out e-mails on his account?

14 A. No.

15 Q. Does anyone ever send out e-mails on your
16 account other than you?

17 A. No.

18 Q. Did you have any conversations with any County
19 Board members regarding this tour or this series
20 of tours?

21 A. Yes.

22 Q. Which board members do you recall having
23 conversations with?

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24 A. For the landfill tours?

00021

1 Q. Yes.

2 A. Uhm, I believe all 16 of them that went on the
3 tours.

4 Q. How do you know that 16 of them went on the
5 tours?

6 A. Uhm, at the time that I wrote down the list I
7 recall 16 names.

8 Q. Was that just for the first tour or was that
9 for all of the tours combined?

10 A. All of the tours.

11 Q. Who asked you to keep a list of who had gone?

12 A. Oh, I did.

13 Q. Who asked you to follow up with board members
14 that didn't go on the first tour?

15 A. I don't recall.

16 Q. Would Mr. Bockman have asked you to follow up
17 with board members on that?

18 A. Yes.

19 Q. Did you ever have a conversation with any
20 County Board member after they took a tour?

21 A. I -- no.

22 Q. Because you say you talked to all -- to 16 of
23 them about the tour, but are you saying that you
24 talked to all of them beforehand?

00022

1 A. Beforehand.

2 Q. Meaning you got a verbal confirmation that they
3 would go?

4 A. Correct.

5 Q. Did you ever talk to any of them afterwards
6 about what they saw, or whether they liked it,
7 or whether it was hot, or whether lunch was
8 good, or anything else like that?

9 A. I believe I asked one of them did they get back
10 on time.

11 Q. Do you remember who you asked that question to?

12 A. No, I do not.

13 Q. Do you have that list of the board members that
14 went on the tour?

15 A. I -- no.

16 Q. What happened to that list?

17 A. I discarded it after they went on the tour.

18 Q. Was that a list that you kept on your computer
19 or was it a handwritten list?

20 A. Handwritten.

21 Q. Did anyone tell you to discard the list?

22 A. No.

23 Q. And you're sure that the list of 16 represents
24 all of the board members that went on any of the

00023

1 five days on which they had tours?

2 A. Of the 16 board members, yes.

3 Q. Were you involved in any capacity in preparing
4 the record of proceedings filed with the
5 Pollution Control Board as part of this appeal?

6 A. I don't understand that question.

7 Q. Well, were you required somewhere after the
8 first part of June of this year to be involved
9 in gathering up documents to be submitted to the
10 Pollution Control Board?

11 A. Who would have asked me that?

12 Q. I'm asking you if you were involved in that
13 process.

14 A. Yes.

15 Q. And who did ask you to be involved in that?

16 A. I'm thinking back now. Mr. Bockman.

17 Q. Were you also -- and what was the degree of
18 your involvement in that project?

19 A. To gather the copies that were requested of me
20 together and make photocopies.

21 Q. Were you ever involved in looking through your
22 e-mails and other documents and records in
23 connection with documents to be produced to Stop
24 The Mega-Dump?

00024

1 A. During what time?

2 Q. During the time period of July of this year.

3 A. I'm sorry, you're going to have to repeat that
4 again, that question.

5 Q. In July of this year, approximately two months
6 ago, were you involved in the assembly, sorting
7 or copying of documents related to this appeal
8 that were going to be given to Stop The
9 Mega-Dump as part of the exchange of documents?

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10 A. Yes.
11 Q. Did you have occasion to at that time look for
12 the list of attendees of the Waste Management
13 tours?

14 A. Uhm, I think so, yes.

15 Q. You could not find such a list?

16 A. No.

17 Q. Are you also the County FOIA officer?

18 A. Yes.

19 Q. What --

20 A. The County Board.

21 Q. Of the County Board?

22 A. Yes.

23 Q. What general responsibilities does that title
24 carry?

00025

1 A. To answer each and every FOIA request that
2 comes into our office in a timely manner.

3 Q. Are you involved with the maintenance and
4 content of the DeKalb County website?

5 A. No, sir.

6 Q. You have no involvement at all with the
7 website?

8 A. Clarify that question.

9 Q. Well, do you provide any content for the
10 website?

11 A. You mean am I the webmaster?

12 Q. Not the webmaster. Do you provide any
13 materials --

14 A. Minutes.

15 Q. -- for the purpose of them going onto the
16 website?

17 A. Minutes, agendas, County Board packets.

18 Q. You don't decide what goes up though and what
19 form it goes up in, do you?

20 A. No.

21 Q. Who decides that?

22 A. You mean like -- clarify that question.

23 Q. Well, the County website has an area called Hot
24 Topics.

00026

1 A. Yes.

2 Q. Who decides what goes in Hot Topics?

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3 A. Mr. Bockman.

4 Q. Who's the webmaster of the County website?

5 A. Lisa Anderson.

6 Q. Who does she work for?

7 A. IMO.

8 Q. Pardon me?

9 A. IMO, Information Management Office.

10 Q. Is that an office of the County?

11 A. Yes.

12 Q. Who's the head of that office?

13 A. Joan Berkes Hanson.

14 Q. But Lisa is the webmaster?

15 A. Yes.

16 Q. Mr. Bockman decides what's a hot topic, right?

17 A. For our department.

18 Q. Do you recall when the Waste Management siting

19 application was filed at the end of November

20 2009?

21 A. I remember.

22 Q. Because typically they come to your office

23 carrying many boxes?

24 A. Yes. I remember.

00027

1 Q. What was physically done with the materials

2 that were filed by Waste Management on November

3 30th of last year?

4 A. What was physically done --

5 Q. Yes.

6 A. -- with those materials?

7 Q. Yes.

8 A. They were dispersed to some County offices, my

9 office, library -- some libraries, and two town

10 halls.

11 Q. Was there a copy of the application that

12 remained on file in your office?

13 A. Yes, sir.

14 Q. Now, was that physically in your office?

15 A. Yes, in the room right next to my office, the

16 County Board Chairman's office.

17 Q. Maybe I need to find out from you about the

18 layout of the --

19 A. Okay.

20 Q. -- the County Board offices.

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21 A. Okay.

22 Q. Do you have your own personal office?

23 A. Yes.

24 Q. And are there other County Board employees --

00028

1 is there like -- are there other County Board

2 secretaries?

3 A. No.

4 Q. You are it?

5 A. Yes.

6 Q. So how many offices are there?

7 A. Uhm, there is one official County Board office

8 on the first floor of this building.

9 Q. How's that space divided up?

10 A. Myself and the chairman of the board.

11 Q. Each of you have your own room?

12 A. Yes.

13 Q. The chairman of the board is Ruth Anne Tobias?

14 A. Yes.

15 Q. The siting application that was filed was

16 physically kept on file in her room?

17 A. Yes.

18 Q. And I take it she's not in that office a great

19 deal; would that be correct?

20 A. That's correct.

21 Q. Is that room typically kept locked?

22 A. Mine is.

23 Q. Pardon me?

24 A. My door, my -- you have to enter into my office

00029

1 first before you get to her office.

2 Q. Okay.

3 A. So yes, that door is closed and locked.

4 Q. Your office is not locked, right?

5 A. My office is locked.

6 Q. So if I wanted to come see you I have got to

7 ring the bell or knock on the door?

8 A. If that door is closed you have to knock on the

9 door.

10 Q. But you're typically there all day every day?

11 A. Yes.

12 Q. Did anyone ever come to your office asking to

13 see a copy of that siting application?

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- 14 A. Yes.
- 15 Q. Do you remember who would have come to your
- 16 office to see it?
- 17 A. Uhm, the public.
- 18 Q. Well, how many members of the public physically
- 19 came to your door?
- 20 A. Four -- that I recall, four people.
- 21 Q. Do you remember who those four people were?
- 22 A. I remember a Rosemarie Slavenas.
- 23 Q. Anyone else?
- 24 A. That's all I recall.

00030

- 1 Q. And how do you remember her name?
- 2 A. She was very nice. I just remember she was a
- 3 very nice lady.
- 4 Q. As opposed to the other members of the public?
- 5 A. The others were nice too, but I just remember
- 6 her. She was very nice to me on a bad day.
- 7 Q. Did you let her see the application?
- 8 A. Yes.
- 9 Q. And how did you make it available to her?
- 10 A. I opened up one of our conference rooms, either
- 11 the Freedom Room or the Liberty Room, so that
- 12 she could view it all, you know, all of the
- 13 binders and everything on a large table.
- 14 Q. So you physically took the application out of
- 15 the County Board Chairman's office and put it in
- 16 a conference room on a table for Rosemarie to
- 17 view?
- 18 A. Yes.
- 19 Q. Did you do that for the other three members of
- 20 the public that came to look at the application?
- 21 A. Yes, of course.
- 22 Q. Was there a CD of the application that was on
- 23 file with you physically?
- 24 A. Yes, there was.

00031

- 1 Q. Did any member of the public ever ask for that?
- 2 A. To me --
- 3 Q. Yes.
- 4 A. -- personally? No.
- 5 Q. The four requests that you had were to see the
- 6 hard copies?

7 A. Yes, sir. **Electronic Filing - Received, Clerk's Office, December 28, 2010**

8 Q. Do you know whether the -- there was a series
9 of large maps and drawings with the application,
10 did you have those in the County Board
11 Chairman's office as well?

12 A. Yes, uh-huh.

13 Q. And they were like rolled up drawings, kind of
14 engineering size?

15 A. Yes.

16 Q. Did you make those available to those four
17 people?

18 A. I made everything available to them that I had
19 in that office.

20 Q. Did any of those individuals ask to copy all or
21 any portion of what they reviewed?

22 A. No.

23 Q. What would you have done had you been asked for
24 a copy of the application?

00032

1 A. I believe I would have made a copy for them.

2 Q. Of the entire nine bound volumes?

3 A. Oh, no. I would have to get a quote for them.
4 I mean, no one had asked me to do that, so I
5 would probably have to get a quote from a
6 printer to do that, how much that would cost.

7 Q. Did you have facilities here at your offices to
8 copy significant portions of the application?

9 A. Yes.

10 Q. So it could have been done?

11 A. I mean not in my office here, but in another
12 building.

13 Q. In another building?

14 A. Yes.

15 Q. What was the County's charge for making copies
16 of the application?

17 A. I don't know, sir, because no one asked me.

18 Q. Is there a standard County charge for making
19 copies of other documents?

20 A. Between 10 to 15 cents.

21 Q. And what does that price vary upon?

22 A. I'm talking about different offices. I don't
23 know why the other offices might be charging 15
24 cents or 10 cents, but that's what I have been

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00033

1 quoted before by people in other offices.

2 Q. If I were to come to your office and say, Mary,
3 would you be kind enough to get me last year's
4 County Board meeting minutes and copy them, what
5 would your charge be to do that?

6 A. I don't know. I would talk to Mr. Bockman
7 about that.

8 Q. So to your knowledge there is no published
9 schedule of copying charges for County Board
10 documents; is that true?

11 A. Yes.

12 Q. Where's Mr. Bockman's office?

13 A. Upstairs on the second floor of this building.

14 Q. So he's in this building also but on a
15 different floor?

16 A. Yes.

17 Q. Is there a computer available in your office or
18 near your office for people in the public to use
19 to view documents on disk?

20 A. No.

21 Q. If someone had asked for a copy of the CD or
22 DVD of the siting application that was in your
23 office or Ms. Tobias's office, what would you
24 have done?

00034

1 MR. MORAN: You mean Mr. Bockman's office?

2 MR. MUELLER: She indicated it was in the
3 County Board Chairman's office.

4 MR. MORAN: I thought you said Ms. Tobias.

5 A. I'm sorry, repeat that sir.

6 Q. You said the application came with a disk?

7 A. Yes.

8 Q. Where was the disk physically kept?

9 A. Inside the inside flap of the book, the first
10 book.

11 Q. All right, and to your knowledge no one asked
12 for the disk?

13 A. Yes, from my office no one asked.

14 Q. Did anyone else ever make you aware of requests
15 for the disk from other offices?

16 A. No, sir.

17 Q. Did you have a procedure in place for members

18 of the public to be able to view the contents of
19 that disk?

20 A. It would have been through the County Clerk's
21 office.

22 Q. To your knowledge the County Clerk has a
23 computer available to view materials on disk?

24 A. To the best of my knowledge, yes, I was told
00035

1 that.

2 Q. The individuals that requested the hard copy of
3 the siting application that you made available,
4 those four individuals, did you require them to
5 fill out FOIA requests?

6 A. No.

7 Q. Are you aware that the County Board website
8 indicated that anyone who wanted to view the
9 application had to fill out a FOIA request?

10 A. No.

11 Q. Were you ever told that people should be
12 required to fill those FOIA requests out if they
13 wanted to see the siting application?

14 A. If they wanted to view it?

15 Q. Yes.

16 A. I was never told that.

17 Q. Do you know who typed up the information that
18 went on the County web page indicating that a
19 FOIA request was required to view the
20 application?

21 A. No, sir, I don't.

22 Q. You don't recall typing that yourself?

23 A. No, sir.

24 Q. Now, I take it you speak on a regular basis
00036

1 with the County Board Chairman?

2 A. Yes.

3 Q. Have you ever heard Ms. Tobias make any
4 statement that is negative to the landfill
5 opponents or any of them?

6 A. No.

7 Q. Have you ever heard her make any statement that
8 the Waste Management proposal was a done deal or
9 pre-decided prior to the start of the hearings?

10 A. No.

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11 Q. Have you ever heard Mr. Bockman make any
12 statement that would be negative to any landfill
13 opponent?

14 A. No.

15 Q. Do you recall that there was a policy put into
16 place, and I think it was articulated by
17 Mr. Bockman, that County Board members were not
18 to talk to anybody about the siting application
19 after it was filed?

20 A. I'm sorry, please repeat that.

21 Q. Do you know whether or not County Board members
22 were told not to talk to people about the siting
23 application after it was filed?

24 A. I'd heard about it.

00037

1 Q. I think it was referred to as the gag order,
2 have you ever heard that reference?

3 A. I have heard that reference.

4 Q. All right. Do you know who put out the gag
5 order?

6 A. Uhm, I was told that it was Mr. Bockman.

7 Q. And who were you told that by?

8 A. A board member but I can't remember who that
9 was.

10 Q. Were you ever present during any conversations
11 that Mr. Bockman may have had with anyone about
12 whether or not there should be a gag order?

13 A. No.

14 Q. During 2009 and 2010 did you have any
15 conversations or meetings with any Waste
16 Management representatives other than
17 Mr. Adlemann, Mr. Hoekstra, and Mr. Moran?

18 A. No.

19 Q. Have you ever been to a Waste Management
20 facility for any reason?

21 A. No.

22 MR. MUELLER: That's all the questions I
23 have.

24 MR. MORAN: I have no questions.

00038

1 MR. MUELLER: We have the issue of
2 signature. You have the right to read the
3 transcript of this deposition if I want to have

4 it typed and have that -- review that for
5 accuracy of the typing only; or you can trust
6 the court reporter to type it accurately and
7 waive that right. It's your choice.

8 THE WITNESS: I don't want to waive the
9 right, I'd like to see a copy.

10 MR. MUELLER: Good enough. Signature is
11 reserved.

12 (The deposition was concluded at
13 2:34 p.m.)
14
15
16
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18
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20
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22
23
24

00039

1 ERRATA SHEET OF MARY SUPPLE

2 I have read the foregoing transcript of my
deposition taken on September 14, 2010, and
3

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

6 (Or)

7 () I wish to make the following
changes to my deposition:
8

9 Pg Ln Change

10 Pg Ln Change

11 Pg Ln Change

12 Pg Ln Change

Pg Ln Change

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13 Pg Ln Change
14 Pg Ln Change
15 Pg Ln Change
16 Pg Ln Change
17 Pg Ln Change
18 Pg Ln Change
19 Pg Ln Change
20 Pg Ln Change
21 Pg Ln Change

DATE:

MARY SUPPLE

24
00040

C E R T I F I C A T E

1 I, Callie S. Bodmer, a Certified Shorthand
2 Reporter in and for the State of Illinois, do hereby
3 certify that, pursuant to the agreement herein
4 contained, there came before me on the 14th day of
5 September 2010, at 1:42 p.m. at the DeKalb County
6 Legislative Center, 200 North Main Street, Sycamore,
7 Illinois, the following-named person, to-wit: MARY
8 SUPPLE, who was duly sworn to testify to the truth
9 and nothing but the truth of her knowledge
10 concerning the matters in controversy in this cause;
11 that she was thereupon examined on her oath and her
12 examination reduced to writing under my supervision;
13 that the deposition is a true record of the
14 testimony given by the witness, and that the reading
15 and signing of the deposition by said witness were
16 not expressly waived.

17 I further certify that I am neither
18 attorney or counsel for, nor related to or employed

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12 by, any of the parties to the action in which this
deposition is taken, and further, that I am not a
relative or employee of an attorney or counsel
13 employed by the parties hereto or financially
interested in the action.

14
15 In witness whereof I have hereunto set my
hand this 7th day of October 2010.

16
17
18
19
20 Callie S. Bodmer
Certified Shorthand Reporter
Registered Professional Reporter
21 IL License No. 084-004489
P.O. Box 381
22 Dixon, Illinois 61021
23
24

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00001

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
2
3 STOP THE MEGA-DUMP,)
4)
5 Petitioner,) PCB NO. 2010-103
6)
7 v.)
8) DEPOSITION OF
9 COUNTY BOARD OF DEKALB) RUTH ANNE TOBIAS
10 COUNTY, ILLINOIS and WASTE)
11 MANAGEMENT OF ILLINOIS,)
12 INC.,)
13)
14 Respondent.)

15 DEPOSITION OF RUTH ANNE TOBIAS, taken at
16 the DeKalb County Legislative Center, 200 North Main
17 Street, Sycamore, Illinois, on September 29, 2010,
18 commencing at 1:30 p.m., before Julie K. Edeus,
19 Certified Shorthand Reporter and Notary Public in
20 and for the State of Illinois, in pursuance to
21 agreement of the parties in the above-entitled
22 action.

00002

1 APPEARANCES:
2 ATTORNEY GEORGE MUELLER,
3 of the firm of Mueller Anderson, P.C.,
4 603 Etna Road,
5 Ottawa, Illinois, 61350,

Counsel for the Petitioner.

6 ATTORNEY DONALD J. MORAN,
of the firm of Pedersen & Houpt,

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7 161 North Clark Street, Ste. 3100,
Chicago, Illinois, 60601-3242,

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Counsel for Respondent
Waste Management of
Illinois, Inc.

9

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11 ATTORNEY AMY ANTONIOLLI,
of the firm of Schiff Hardin,
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Chicago, Illinois, 60606,

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Counsel for Respondent
County Board of DeKalb County,
Illinois.

14

15

16 ATTORNEY JOHN E. FARRELL,
DeKalb County State's Attorney,
17 State's Attorney's Office,
Sycamore, Illinois, 60178,

18

Counsel for Respondent
County Board of DeKalb County,
Illinois.

19

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3 Witness: RUTH ANNE TOBIAS

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00004

1 RUTH ANNE TOBIAS,
2 being first duly sworn, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MR. MUELLER:

6 Q. All right. Would you state your full name,
7 please.

8 A. Ruth Anne Tobias.

9 Q. And Ms. Tobias, where do you reside?

10 A. 21083 Donnybrook Lane, DeKalb.

11 MR. MORAN: So we have both an Easy Street
12 and a Donnybrook Lane in this case.

13 Q. What is your profession?

14 A. I'm a research associate with the university.

15 Q. In what area?

16 A. Community and economic development at the
17 center for governmental studies.

18 Q. What is your educational background briefly?

19 A. I have two master's degrees. One in
20 educational psychology and one in geography.

21 Q. You are also the chairman of the DeKalb County
22 Board?

23 A. I am.

24 Q. When were you first elected to the board?

00005

1 A. I was appointed to the board in 1999 to fill
2 out an unexpired term and elected in 2000,
3 elected in 2002 and -- and 2006 -- no, that
4 wouldn't be right. I'm up for election in 2012,
5 so I was elected in 2008 and I was elected board
6 chairman by the other board members in 2004,

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7 reelected as chair in 2006 and in 2008.

8 Q. You are not running for election this year?

9 A. I am not.

10 Q. Are you a republican?

11 A. No.

12 Q. So you are a democrat?

13 A. Yes.

14 Q. And what district are you a representative of?

15 A. District 6.

16 Q. Which encompasses geographically what area?

17 A. From the DeKalb -- the north DeKalb township
18 line to University -- not University -- Fairview
19 Boulevard, Annie Glidden on the east and DeKalb
20 township line on the west. So it's west of
21 downtown DeKalb, some of the university
22 dormitory buildings are in my district.

23 Q. Are you personally acquainted with any
24 representatives or employees of Waste

00006

1 Management?

2 A. No -- I mean, aside from meeting them at County
3 Board meetings.

4 Q. Right. Have you ever socialized in any
5 capacity with either Mr. Moran, Dale Hoekstra or
6 Lee Adlemann?

7 A. No.

8 Q. Have you ever met them for any reason outside
9 of DeKalb County?

10 A. No.

11 Q. Did you attend the landfill tour in 2009?

12 A. Yes, I did.

13 Q. Let me back up a little bit. About how many
14 times have you been to the existing DeKalb
15 County landfill?

16 A. I think once.

17 Q. When was that?

18 A. I don't recall that.

19 Q. Approximately?

20 A. I think I went by once several years ago to
21 drop off some landscape waste.

22 Q. You've never been there for a governmental
23 purpose?

24 A. Not that I recall. I mean, we may have gone

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00007

1 for -- no, I don't think so. I don't think we
2 have.

3 Q. Okay. In March of 2009 the County Board
4 approved a host agreement with Waste Management?

5 A. Correct.

6 Q. Were you involved actively or directly in the
7 negotiations for that host agreement?

8 A. No, I was not.

9 Q. There was a -- I believe an ad hoc solid waste
10 committee that --

11 A. Yes.

12 Q. -- was engaged in that?

13 A. Our county administrator did the direct
14 negotiations. The ad hoc solid waste committee
15 reviewed the negotiations and approved.

16 Q. Now, as I understand it as County Board
17 chairman you are a de facto member of all the
18 committees?

19 A. Yes, ex officio.

20 Q. Right. Is it your practice to attend a lot of
21 those committee meetings?

22 A. No.

23 Q. Did you attend meetings of the solid waste
24 committee that was formed to do those host

00008

1 negotiations?

2 A. Yes, I was chair of that committee.

3 Q. But you did not participate actively in the
4 negotiations?

5 A. No.

6 Q. Did Waste Management make presentations at
7 various times to the committee?

8 A. Yes. As I recall, they told us what the extent
9 of the operation would be.

10 Q. All right. Did those presentations include,
11 you know, visual aids such as foam boards with
12 drawings or photographs on them?

13 A. Yes, I think there was one of the -- the whole
14 extent of what the project would be.

15 Q. And did these presentations involve questions
16 and answers from the committee members -- or
17 questions from the committee members and answers

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18 from the Waste Management representatives?

19 A. When appropriate, yes.

20 Q. Was the public allowed to question during these
21 presentations?

22 A. I don't recall any member of the public being
23 there to ask questions.

24 Q. Generally speaking while all County Board
00009

1 committee meetings are open to the public to
2 attend and observe, isn't it true that they are
3 not available for the public to participate in?

4 A. You know, I don't know that I know how to
5 answer that. That is -- if the public is there
6 and the question is relevant it is often the
7 case that a question may be entered and
8 answered. If it's not -- if it's a public
9 hearing, that's, you know, a totally different
10 situation, but for committee meetings we rarely
11 have public attendance.

12 Q. How are committee meetings publicized?

13 A. The notice of the meetings -- the monthly
14 agenda is set out a week before the beginning of
15 the new month usually, so the whole month's
16 meetings are there. There are -- and they're
17 sent to the press and they're sent to all board
18 members and relevant department heads. They are
19 -- an e-mail is usually received every week as
20 to what the meetings are for that week and if
21 there are any changes to the meetings and
22 they're put on our website.

23 Q. After the host agreement was approved last
24 summer there were a number of tours of the

00010

1 Prairie View landfill conducted by Waste
2 Management; is that correct?

3 A. Correct.

4 Q. And do you know how the idea of touring that
5 facility came into being?

6 A. We discussed it at the committee, but I don't
7 know if it was at our -- I don't recall if it
8 was at our instigation or if it was at Waste
9 Management's instigation. We had -- the County
10 Board members had gone on tours individually or

11 with a company for our -- the first wind farm
12 proposal as well, so this has been done before.

13 Q. Did the wind farm litigation or hearings sort
14 of set in people's minds how this procedure was
15 going to work?

16 MR. FARRELL: I'll object to that on
17 relevance grounds.

18 MR. MUELLER: It's just preliminary to try
19 to get some background.

20 MR. FARRELL: Go ahead and answer if you
21 can answer the question.

22 A. I have no clue.

23 Q. Prior to this meeting or this deposition today
24 did you meet with anyone to prepare for the

00011

1 deposition?

2 A. Yes.

3 Q. And who did you meet with for that purpose?

4 A. My state's attorney.

5 Q. Mr. Farrell?

6 A. Mr. Farrell.

7 Q. Did you meet with Mr. Moran?

8 A. Yes, I did.

9 Q. When did you meet with Mr. Moran?

10 A. Several weeks ago.

11 Q. Did you meet together with Mr. Farrell and
12 Mr. Moran?

13 A. No, I did not.

14 Q. All right. Who organized the tours that were
15 conducted in 2009?

16 A. Waste Management with the assistance of County
17 Board Administrative Assistant Mary Supple.

18 Q. She reports to Mr. Bockman, correct?

19 A. And to me, yes.

20 Q. And Mr. Bockman reports to you, correct?

21 A. Yes.

22 Q. He indicated that he did?

23 A. Yes. I'm the boss.

24 Q. You'll be pleased to know that. Did you go

00012

1 along on any of the tours?

2 A. I did.

3 Q. How many of them did you go with -- or --

4 A. One. Electronic Filing - Received, Clerk's Office, December 28, 2010

5 Q. You went on one. Do you know who went with
6 you?

7 A. Anita Turner was on the tour, my husband was on
8 the tour. I don't remember who else. There
9 were maybe four of us, but I don't remember who
10 the other person was on that tour.

11 Q. Did Lee Adlemann ride with you to and from the
12 actual tour?

13 A. I think so.

14 Q. And was he available to answer questions on the
15 bus both before and after?

16 A. Yes.

17 Q. Can you tell us what the tour consisted of?

18 A. The bus ride to the tour and then time in the
19 office with staff explaining what their job was
20 and how the system worked when vehicles came in
21 to the facility and what happened with those
22 vehicles and then a tour out to the working face
23 of the landfill and I think we received a box
24 lunch.

00013

1 Q. Who were the individuals that provided actual
2 information during the tour?

3 A. I assume it was the manager of the landfill. I
4 don't know the person's name.

5 Q. Do you know Mr. Hoekstra?

6 A. Yes, I do.

7 Q. Was he a person that provided some information
8 during the tour?

9 A. Possibly. I'm sorry. My recollection is not
10 very strong. I remember Lee being there. I
11 remember the other board member and the person
12 who sits at the desk where the video screens are
13 where the trucks come in, they spent quite a bit
14 of time with us and the manager of the landfill
15 I think spent some time with us in the office.

16 Q. Did you go out to observe new cell
17 construction?

18 A. It was pointed out to us.

19 Q. Did they have, for example, samples of liner
20 materials that you could -- you could hold and
21 flex and so forth?

22 A. I don't think so. I think we saw it being laid
23 down. I think there was one working cell where
24 we saw some of that, but I -- there was some

00014

1 sample boards in one of the rooms that we were
2 in, but I don't recall exactly what was on them.

3 Q. Are you aware of a pre-filing review of the
4 siting application?

5 A. I don't think so. Where would that have taken
6 place?

7 Q. The look on your face told me that you probably
8 weren't, so let me try to be more specific.

9 Are you aware of a procedure by which
10 County staff, specifically Patrick Engineering
11 which had been contracted for that purpose, went
12 over an earlier draft of the siting application
13 before it was filed?

14 A. That was at I think one of our ad hoc solid
15 waste committee meetings. I mean, they were
16 reporting to us. We had hired Patrick
17 Engineering to review plans and they reported
18 back to us on where they thought changes might
19 need to be made or not, you know, is the --

20 Q. Changes made in what, in Waste Management's
21 plans?

22 A. I'm trying to remember and I remember the mayor
23 and I think that it was in the proposal, you
24 know, as to what we -- what was going to be

00015

1 accomplished and what kind of demands we could
2 make on Waste Management to ensure --

3 Q. When was Renee Cipriano brought on board?

4 A. I think last fall.

5 Q. And at whose suggestion was she brought on
6 board?

7 A. I think Mr. Bockman contacted several people
8 that he knew of to ask about who would be a good
9 person who had a good reputation in this area to
10 provide assistance to the committee.

11 Q. And did she advise the County Board from the
12 time she was brought on board with regard to the
13 application, the evidence on the application,
14 the procedures to be used and so forth?

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15 A. Yes.
16 Q. Are you familiar with an e-mail from
17 Mr. Bockman that has come to be known as the gag
18 order that was issued in February of this year?

19 A. Yes, I am.
20 (Tobias Exhibit No. 1 marked for
21 identification.)

22 Q. Well, I'm glad you are because I forgot to do
23 this with Mr. Bockman, so I can have you
24 identify this e-mail. I'm showing your counsel

00016

1 something I've marked as Tobias Exhibit No. 1
2 and I would ask you to take a look specifically
3 at the bottom half of that -- at an e-mail
4 purportedly sent from Ray Bockman on February
5 19th. Do you see that?

6 A. Yes, I do.

7 Q. Does that appear to be a true and correct copy
8 of the e-mail that was sent and that you would
9 have received on or about that date?

10 A. Yes, it is.

11 Q. Had the County Board been advised at any time
12 prior to that date in a formal manner regarding
13 rules about ex parte contacts?

14 A. We had been advised that once Waste Management
15 submitted their application there was to be no
16 further communication between us.

17 Q. And who had given you that advice?

18 A. Mr. Bockman I'm assuming through Mr. Matekaitis
19 or Mr. Farrell.

20 Q. Was that ever done in a formal way such as in a
21 memo that was circulated or was that just sort
22 of commonly understood?

23 A. I don't think there was a memo. If there was a
24 memo, it's in your records.

00017

1 Q. Well, and I haven't seen one. I guess that's
2 why I'm asking.

3 A. It was -- I am almost positive it was said to
4 us at the -- before we voted on the ad hoc
5 agreement and that we -- I mean, it was just
6 known all along that we certainly couldn't
7 communicate with Waste Management once the

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8 application was put in, but I think it was a
9 verbal communication.

10 Q. Who's the representative at the state's
11 attorney's office that handles civil matters and
12 typically sits in at County Board meetings?

13 A. You know, when this was happening it was
14 Mr. Farrell. He was the civil assistant.
15 Mr. Matekaitis was the state's attorney. I'm
16 trying to -- that was in --

17 MR. FARRELL: June of 2009 I was appointed
18 state's attorney.

19 Q. All right.

20 A. And I don't know that the civil assistant
21 normally sits in on County Board meetings. I
22 have not noticed that. It was the state's
23 attorney.

24 Q. Did you attend the siting hearings in March?

00018

1 A. Yes, I did.

2 Q. Every one of them?

3 A. Not the Friday meeting.

4 Q. So you attended all but one?

5 A. Yes.

6 Q. During that time did you hear any other County
7 Board members make any statements that could be
8 construed as disparaging of landfill opponents?

9 A. No, not that I remember.

10 Q. All right. It's been widely reported that
11 Riley Oncken made some disparaging statements
12 about landfill opponents. Are you aware of
13 those reports?

14 A. Oh, now I -- there was something that was
15 misconstrued I think from -- from my point of
16 view. It was a comment that was misconstrued.

17 Q. Well, then maybe if you would please enlighten
18 us as to what you think occurred.

19 A. I don't remember the exact wording, I couldn't
20 tell you that now, but I remembered feeling that
21 what was said was taken in the wrong way.

22 Q. Did you ever talk to Mr. Oncken about what he
23 had said?

24 A. I think just to say the same thing, that I --

00019

1 that I didn't agree with the interpretation that
2 had -- or the implication that had been made
3 from the statement.

4 Q. Well, you didn't hear his comments directly
5 though, did you?

6 A. I don't remember.

7 Q. And you don't recall whether you talked to him
8 about the controversy that arose after his
9 alleged comments?

10 A. As I said, just that I would say that I didn't
11 agree with the interpretation.

12 Q. If you don't recall what was said then what is
13 it that makes you recall you did not agree with
14 the interpretation that was placed on the
15 comments?

16 A. Because I didn't agree with the interpretation
17 that was made of a comment that I had made to an
18 opponent on a telephone call.

19 Q. What comment was that?

20 A. That I don't open my windows when I'm driving
21 on the highway which -- on Highway 88 which runs
22 past the landfill and the person that was
23 speaking to me said, oh, so you close your
24 windows every time you drive by the landfill and

00020

1 I said no, I don't, I always drive with my
2 windows closed on the highway. I never have my
3 windows open when I'm driving on the highway and
4 the person chose to ignore the last part of the
5 remark.

6 Q. Who did you have that conversation with?

7 A. His name has just got out of my head. It will
8 come back to me and I will tell you when I
9 remember it.

10 Q. Was it Mr. Kenney or Mr. McIntyre?

11 A. No, it was not.

12 Q. Were you aware that there were odor issues at
13 the existing landfill back in early 2009?

14 A. Yes.

15 Q. And did Waste Management at your ad hoc
16 committee meetings offer an explanation for
17 those?

18 A. Yes.

19 Q. Do you recall the explanation that was offered?

20 A. Severe weather, rain and it was after that that
21 the -- I think more gas wells were installed and
22 so it was to alleviate that -- to prevent that
23 problem from happening again.

24 Q. Now, that odor was represented as being

00021

1 methane, correct?

2 A. Yes.

3 Q. You understand that methane is different than
4 hydrogen sulfide?

5 A. Yes, I do.

6 Q. Did you ever have occasion to smell the methane
7 odor when you were in the Cortland area or on
8 the section of 88 that's near the landfill?

9 A. Yes, I think once I think when I was driving
10 with my windows closed and the smell came in
11 anyway, so --

12 Q. Did you ever make it a point to actually go
13 over there to -- to, you know, check out with
14 your own nose what the discussion was about at
15 the -- at the committee?

16 A. No, we were told it was being taken care of and
17 it would be taken care of and --

18 Q. So you basically casually confirmed it
19 accidentally?

20 A. Yes.

21 Q. And there's -- there was a controversy during
22 the hearing itself about there being hydrogen
23 sulfide emissions at the landfill. Do you
24 recall that?

00022

1 A. Yes, I do.

2 Q. Have you had occasion to be in the vicinity of
3 the landfill to confirm or to disprove to
4 yourself whether or not there's that type of
5 odor there now?

6 A. I made it a point to go to the landfill several
7 times -- past the landfill, go to the Cortland
8 elementary school area several times after the
9 hearing to try and see if there was an odor
10 problem and I did not notice one. I made it a
11 point to drive with my windows open on 38

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12 several times past the landfill.

13 Q. And you're telling me you didn't smell
14 anything?

15 A. Not on the times that I was there.

16 Q. And I presume we're talking about that window
17 from March to April and May?

18 MR. MORAN: Objection. She said after the
19 hearings.

20 Q. Well, what -- what do you mean by after the
21 hearings?

22 A. I went the next week certainly and then several
23 times after that.

24 Q. Are you talking about after the hearings in

00023

1 March?

2 A. Yes. It's very difficult to deal with odors in
3 this county. This is an agricultural county and
4 every time you go outside there's a smell -- or
5 I shouldn't say every time. Often when you go
6 outside there's a smell.

7 Q. So I guess it would be true to say that it
8 makes no sense to ask you whether the alleged
9 hydrogen sulfide smelled differently than the
10 methane because you never smelled the hydrogen
11 sulfide?

12 A. Correct, but I know what rotten egg smell is
13 and that's not what the landfill -- when they
14 had the odor problem that's not what it smelled
15 like.

16 Q. During the time from when the host agreement
17 was approved in March of 2009 until the final
18 decision approving the application in May of
19 2010 did you ever hear any other County Board
20 member express to you or in your presence a
21 sentiment such as this is a done deal or words
22 to that effect?

23 A. No.

24 Q. Did you ever hear any County Board member

00024

1 during that period of time express to you a
2 sentiment such as they felt they had no choice
3 but to vote for approval or words to that
4 effect?

5 A. No, no. Electronic Filing - Received, Clerk's Office, December 28, 2010

6 Q. Were you involved in any way with decisions or
7 procedures regarding public access to the siting
8 application?

9 A. No. We have, you know, a policy that material
10 that's received is available to the public.

11 Q. I guess that's not really where I'm going.

12 Where I'm going is were you consulted on
13 any kind of a case-by-case basis with regard to
14 any complaints from any member of the public
15 about access to the siting application or
16 copies thereof?

17 A. Not that I recall, I mean, other than to say
18 that material was on the website or it was in
19 the office. I mean --

20 Q. All right. The siting application was not on
21 the DeKalb County website. You're aware of
22 that, aren't you?

23 A. I -- no, I guess I'm not.

24 Q. Okay. If I misrepresent this I'm sure

00025

1 Mr. Moran will correct me, but it's my
2 understanding that a small portion of the
3 application was on the website, but the bulk of
4 it was not. My question to you is: Were you
5 involved in any way in the decision-making as to
6 whether or not the entire application would be
7 placed on the County's website?

8 A. Not that I recall.

9 Q. Now, the County passed a resolution in 2009
10 that I believe is called -- it's a resolution
11 authorizing a capital improvement program. Are
12 you familiar with that?

13 A. Yes.

14 MR. MUELLER: And let me mark this as
15 Tobias Exhibit 2.

16 (Tobias Exhibit No. 2 marked for
17 identification.)

18 MR. FARRELL: Do you need to look at it?

19 MS. ANTONIOLLI: I'll take a look.

20 Q. Do you have that in front of you, Ms. Tobias?

21 A. Yes, yes, I do.

22 Q. I've showed you what I've marked as Tobias

23 Exhibit No. 2 which purports to be a County
24 Board Resolution 2009-61 and ask you if that is

00026

1 a true and correct copy of the resolution
2 authorizing a capital improvement program dated
3 October 21, 2009?

4 A. Correct, it is.

5 Q. And that resolution makes reference to a
6 financing plan developed by Scott Balice
7 Strategies. It says that is attached to this
8 resolution and hereby incorporated by reference.

9 A. Yes.

10 Q. Now, I don't have that entire plan, but I do
11 have two pages of what I believe is part of that
12 plan and I would show those to you as Tobias
13 Exhibit No. 3.

14 (Tobias Exhibit No. 3 marked for
15 identification.)

16 Q. Do you have those in front of you, ma'am?

17 A. Yes, I do.

18 Q. And I've handed you what are two pages from
19 what appears to be a presentation by Scott
20 Balice Strategies and they appear to be Pages 6
21 and 10 of that presentation. First of all, do
22 those appear to be true and correct copies?

23 A. Yes, they do.

24 Q. Are these copies of power points, if you recall

00027

1 or did they hand it out like this without doing
2 the power point on screen?

3 A. I don't recall. I know we had a booklet and
4 I'm assuming it was a power point as well.

5 Q. Okay. How long has the County been mulling
6 over and considering the issue of courthouse
7 expansion?

8 A. Several years. There was a space study done
9 for the County perhaps within the last five
10 years.

11 Q. All right. How long has the County been
12 considering expansion of the jail, for the same
13 general period of time?

14 A. No, since 1994 or somewhere in that general
15 area.

16 Q. The jail is badly in need of --

17 A. Yes, it is.

18 Q. -- expansion?

19 A. Yes, it is.

20 Q. And has been for a long period of time?

21 A. Correct.

22 Q. And at the time that this resolution was
23 adopted it was contemplated that the bonds for
24 the jail expansion could not be sold unless a

00028

1 landfill application was approved and the host
2 revenues would be available to repay those
3 bonds?

4 A. Either the host revenues or some other source
5 of income could be identified.

6 Q. And the cost of the jail expansion is actually
7 significantly greater than the courthouse
8 expansion, isn't it?

9 A. Yes, at least double.

10 Q. To your knowledge does DeKalb County have to
11 ship jail inmates to other jurisdictions ever
12 because of lack of space here?

13 A. Yes, we do.

14 Q. How frequently?

15 A. Every month.

16 Q. There's a law and justice committee that deals
17 with that issue, isn't there?

18 A. Correct.

19 Q. Do you attend some of those meetings?

20 A. Occasionally. I have sat on -- I have sat on
21 that committee in the past.

22 Q. Yeah. Do you know the approximate inmate count
23 that is sent to foreign counties on average?

24 A. Somewhere in the range of 40 people or more.

00029

1 Last week we had 133 persons to be remanded to
2 the jail -- or in the jail and we have 89 beds,
3 but we can't use all of those beds because of
4 functional reasons.

5 Q. What's the cost to the County on a per diem
6 basis for inmates housed in other jurisdictions?

7 A. I'm not quite sure at this point what the
8 actual dollar cost is. I mean, we would have to

9 pay for inmates if they were housed here, but it
10 costs us more to send them to other
11 jurisdictions.

12 Q. And if you send them to other jurisdictions
13 it's a direct out-of-pocket cost where you have
14 to pay a check?

15 A. Correct.

16 Q. And do you know what the approximate amount of
17 that cost is?

18 A. I think we had 5 or \$600,000 in the budget this
19 year for that. We can look that up in the
20 budget online.

21 MR. MUELLER: That's all the questions I
22 have. Thank you very much.

23 MR. MORAN: I have a few questions.

24 THE WITNESS: Yes.

00030

1 EXAMINATION

2 BY MR. MORAN:

3 Q. You were asked about the memorandum that
4 Ray Bockman sent out in February of 2010 and I
5 think you indicated that that memorandum
6 indicated that you were not to have any
7 communication with any party to the siting
8 proceeding --

9 A. Correct.

10 Q. -- would that be correct? And was it your
11 understanding that that meant that you were not
12 allowed to have any communication with either
13 the applicant, any citizen, objector or any
14 other person who was interested in the siting
15 proceedings from the time the siting application
16 was filed until the County Board vote on the
17 siting application?

18 A. We certainly knew we weren't to talk to Waste
19 Management from the time the application was
20 filed. From this point on we knew we were not
21 to talk to anyone. There had not been much
22 communication with citizens up until that point,
23 if any.

24 Q. But that directive was intended to apply

00031

1 towards any communication regarding the proposed

2 expansion Electronic Filing - Received, Clerk's Office, December 28, 2010

3 A. Correct.

4 Q. -- with any citizen or with Waste Management of
5 Illinois or any interested party in the siting
6 proceedings?

7 A. Correct.

8 Q. And I think you indicated before that you had a
9 phone conversation with a person regarding the
10 proposed expansion during this period --
11 somebody called you?

12 A. Yes.

13 Q. And talked about rolling your windows up when
14 you were driving by the landfill?

15 A. Right.

16 Q. I think you said you didn't remember who that
17 was?

18 A. I just don't remember his name.

19 Q. Did you get other calls from other persons
20 regarding the proposed expansion during this
21 period?

22 A. Not that I recall.

23 Q. Did you receive any e-mails or any written
24 communications from any persons about the

00032

1 proposed expansion?

2 A. I think I received some once Mr. Bockman's
3 e-mail came out.

4 Q. And you received these communications from
5 whom?

6 A. Citizens.

7 Q. You don't recall the names of any of the people
8 who sent you those e-mails?

9 A. No.

10 Q. Did you respond to any of the e-mails?

11 A. Not once this was -- I don't recall any -- any
12 responses going back out this way. I mean, I
13 don't --

14 Q. So at no point did you ever respond either in
15 writing, orally or any other fashion to anyone
16 who had contacted you regarding the proposed
17 expansion --

18 A. Correct.

19 Q. -- during this period November 30th, 2009 to

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20 May 10th, 2010, would that be a correct

21 statement?

22 A. Yes.

23 Q. Did you have any communications of any kind

24 with any employee or representative of Waste

00033

1 Management of Illinois, Inc. regarding the
2 proposed expansion between November 30th, 2009
3 and May 10th, 2010?

4 A. No.

5 Q. And was it your understanding that you were not
6 to consider any such communications with any
7 persons that were received outside the siting
8 process in your determination as to how to vote
9 on the site location application?

10 A. Yes.

11 Q. And with respect to any of the information that
12 you received or any communications you received
13 from these other persons, did you in any way
14 consider that information in rendering your
15 decision on the site location application?

16 A. Only as it might have applied to the conditions
17 that we were to consider in voting on the
18 application.

19 Q. Did any of the information that was
20 communicated to you by these other persons in
21 any way influence or affect your decision on the
22 site location application?

23 A. No.

24 Q. Did you consider any information that was not

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1 presented either at the siting hearing or made
2 part of the siting record, that is by submission
3 of written comments, in making your decision on
4 the siting application?

5 A. No.

6 Q. Did any information that was not considered or
7 presented in the siting proceeding or that was
8 not submitted as written comment after the
9 hearing in any way affect or influence your
10 decision on the siting application?

11 A. No.

12 Q. Did you make your decision on the siting

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13 application prior to April 20th of 2010?

14 A. No.

15 MR. MORAN: That's all I have.

16 MR. FARRELL: I have nothing.

17 MS. ANTONIOLLI: Neither do I.

18 MR. MUELLER: Nor me.

19 MR. FARRELL: You've got the right to
20 review the transcript if you would like or you
21 can waive signature. I mean, if you want to --
22 the court reporter will type this up and it will
23 be provided to us. If you want to have the
24 opportunity to look at it -- you can't change

00035

1 your answers, but you can correct something if
2 there was a mistake, so that's -- that's your
3 call, whatever you'd like to do or you can waive
4 signature and rely upon the -- you know, the
5 accuracy of the transcript.

6 THE WITNESS: Oh, I'll rely on the
7 accuracy of the transcript. They did a good job
8 at the hearing, so --

9 (The deposition was concluded at
10 2:24 p.m.)

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

2

3 I, Julie K. Edeus, a Certified Shorthand
Reporter in and for the State of Illinois, do hereby
4 certify that, pursuant to the agreement herein

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contained, there came before me on the 29th day of

5 September 2010 at 1:30 p.m. at the DeKalb County
Legislative Center, 200 North Main Street, Sycamore,
6 Illinois, the following-named person, to-wit:
RUTH ANNE TOBIAS, who was duly sworn to testify to
7 the truth and nothing but the truth of her knowledge
concerning the matters in controversy in this cause;
8 that she was thereupon examined on her oath and her
examination reduced to writing under my supervision;
9 that the deposition is a true record of the
testimony given by the witness, and that the reading
10 and signing of the deposition by said witness were
expressly waived.

11

I further certify that I am neither

12 attorney or counsel for, nor related to or employed
by, any of the parties to the action in which this
13 deposition is taken, and further, that I am not a
relative or employee of an attorney or counsel
14 employed by the parties hereto or financially
interested in the action.

15

In witness whereof I have hereunto set my
16 hand this 10th day of October 2010.

17

18

19

Julie K. Edeus

20 Certified Shorthand Reporter

IL License No. 084-003820

21 P.O. Box 381

Dixon, Illinois 61021

22

23

24

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00001

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
2
3 STOP THE MEGA-DUMP,)
4)
5 Petitioner,) PCB NO. 2010-103
6)
7 v.)
8) DEPOSITION OF
9 COUNTY BOARD OF DEKALB) ANITA JO TURNER
10 COUNTY, ILLINOIS and WASTE)
11 MANAGEMENT OF ILLINOIS,)
12 INC.,)
13)
14 Respondent.)

15 DEPOSITION OF ANITA JO TURNER, taken at
16 the DeKalb County Legislative Center, 200 North Main
17 Street, Sycamore, Illinois, on September 29, 2010,
18 commencing at 3:54 p.m., before Julie K. Edeus,
19 Certified Shorthand Reporter and Notary Public in
20 and for the State of Illinois, in pursuance to
21 agreement of the parties in the above-entitled
22 action.

00002

1 APPEARANCES:
2 ATTORNEY GEORGE MUELLER,
3 of the firm of Mueller Anderson, P.C.,
4 603 Etna Road,
5 Ottawa, Illinois, 61350,
6
7 Counsel for the Petitioner.
8
9 ATTORNEY DONALD J. MORAN,
10 of the firm of Pedersen & Houpt,

Electronic Filing Received, Clerk's Office, December 28, 2010

7 161 North Clark Street, Ste. 3100,
Chicago, Illinois, 60601-3242,

8

Counsel for Respondent
Waste Management of
Illinois, Inc.

9

10

11 ATTORNEY AMY ANTONIOLLI,
of the firm of Schiff Hardin,
12 6600 Sears Tower,
Chicago, Illinois, 60606,

13

Counsel for Respondent
County Board of DeKalb County,
Illinois.

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1 INDEX

2

3 Witness: ANITA JO TURNER

4

5 Examination	Page
6 Attorney Mueller	4
7 Attorney Moran	17
8 Attorney Mueller	20

9

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11

12 EXHIBITS

13 Exhibit	Marked
14 Turner Exhibit No. 1	10

15

16

17

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18
19 Certificate of Shorthand Reporter. 22

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1 ANITA JO TURNER,
2 being first duly sworn, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MR. MUELLER:

6 Q. Would you state your full name, please.

7 A. Anita Jo Turner.

8 Q. And Ms. Turner, have you ever had your
9 deposition taken before in any case for any
10 reason?

11 A. No, I haven't.

12 Q. Where do you reside, ma'am?

13 A. At 714 Somonauk in Sycamore, Illinois.

14 MR. MUELLER: Let the record show this is
15 the discovery deposition of Anita Jo Turner
16 taken pursuant to notice and by agreement of the
17 parties.

18 Ms. Turner, let me give you a little bit
19 of background here. My name is George Mueller.
20 I'm the attorney for the Stop The Mega-Dump
21 group and I'm going to ask you a few questions
22 today about your participation in the Waste
23 Management landfill siting process. Okay?

24 A. Okay.

00005

1 Q. You have to keep your answers audible.
2 Everything we say is being taken down by a court
3 reporter. Try to avoid gestures and saying
4 uh-huh and huh-uh and if you don't understand
5 one of my questions feel free to have me
6 rephrase it; is that fair?

7 A. Yes.

8 Q. Thank you. What's your educational background?

9 A. My educational background?

10 Q. Yes.

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11 A. I have my -- well, I got my undergrad degree at
12 Northern Illinois University and I have my
13 master's and then I have hours past that.

14 Q. What's your profession?

15 A. I am a teacher, seventh and eighth grade,
16 St. Mary's in Sycamore.

17 Q. And you are also a County Board member?

18 A. Yes, I am.

19 Q. How long have you been on the County Board?

20 A. I've been on for five years now -- a little
21 over five.

22 Q. When are you next up for election?

23 A. Two years -- two and a half.

24 Q. Are you a republican or a democrat?

00006

1 A. Does that matter? I'm a democrat.

2 Q. Well, it's split 50/50 on the board, so it
3 doesn't much matter. It's just informational.

4 A. Okay.

5 Q. And you voted for the Waste Management
6 application; is that correct?

7 A. Yes, I did.

8 Q. Were you involved on the ad hoc solid waste
9 committee?

10 A. No, I was not.

11 Q. Were you a member of the pollution control
12 facility siting hearing --

13 A. No, I was not.

14 Q. -- committee? Do you remember going on a tour
15 of the Waste Management facility in 2009?

16 A. Yes, I do.

17 Q. And that's the facility that they have in Will
18 County?

19 A. Yes, it's on the old arsenal -- where the
20 arsenal is, so --

21 Q. Right, Prairie View I think is the name of it.

22 A. Prairie View, yes.

23 Q. How is it that you came to go on that tour?

24 A. We were invited for educational purposes and so

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1 that's why I went.

2 Q. What do you mean you were invited for
3 educational purposes?

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4 A. To find out how a landfill works and how this
5 would be a lot like the one that we were going
6 to have.

7 Q. Who said this one would be a lot like the one
8 that you were going to go view?

9 A. I don't recall.

10 Q. Was that a Waste Management representative that
11 said that to you?

12 A. I don't think so. I think it might have been
13 -- I don't know, Ray or someone. I'm not sure.

14 Q. Ray referring to Ray Bockman?

15 A. Bockman, uh-huh, possibly and I shouldn't
16 really say that. I don't remember.

17 Q. And did you, in fact, go on the tour?

18 A. Yes, I did.

19 Q. Who did you go with?

20 A. You know what? I can't remember. I'm sorry.
21 There was -- we went on a bus and Pat Vary might
22 have been with us, but I don't remember who else
23 went.

24 Q. Oh, by the way, I forgot to ask you, what are
00008

1 the approximate geographic boundaries of your
2 district?

3 A. Well, I'm in the old part of Sycamore that you
4 would consider the old part of Sycamore, so the
5 middle part. So I go from my house, which is on
6 Somonauk, down the street to Somonauk Meadows
7 and then I'm through the old part of town and
8 then there's a little sliver that goes over by
9 Freed Road, but I'm only on the south side.

10 Q. What did you experience on the tour?

11 A. We experienced an opening of a new cell, the
12 closing of a cell and one that was -- you know,
13 an existing one.

14 Q. Do you remember if Lee Addleman was on the bus
15 with you going back and forth?

16 A. Yes. Is he the one that lives in -- that's now
17 retired?

18 Q. Costa Rica?

19 A. Yes, Costa Rica, yes.

20 Q. The one that looks like an undertaker?

21 A. Yes, he was. Oh, I wouldn't say that, but --

22 Q. Did he do any of the presentation of the
23 landfill?

24 A. He -- no, I think that actually there were

00009

1 actual tour guides that did. He just told us
2 what we were -- that we would see an open cell,
3 you know, one that was being created and one
4 that was being closed.

5 Q. Who were the tour guides that provided you with
6 information?

7 A. The one gentleman was the one who -- I don't
8 remember their names -- he was the one who
9 helped to design the -- because I know his
10 background was horticulture and so he had helped
11 to design the plantings and everything at the
12 facility and then another gentleman that was
13 down there.

14 Q. Now, were these gentlemen available to answer
15 questions?

16 A. They were. They took us on the tour and -- and
17 they -- you know, we had a question and answer
18 -- you know, we could ask questions at any time.

19 Q. And you found it pretty helpful, right?

20 A. I found it very educational.

21 Q. Did they also provide you lunch?

22 A. They did.

23 Q. Do you remember what you had for lunch?

24 A. A sandwich or something.

00010

1 Q. Do you know what time you left for the tour?

2 A. What time in the morning?

3 Q. Yes.

4 A. I think it was 8 or something. Maybe it was
5 earlier.

6 Q. And what time did you get back?

7 A. 3 maybe. I'm not positive. I don't remember.

8 (Turner Exhibit No. 1 marked for
9 identification.)

10 Q. I'm going to show you what we've marked as
11 Turner Exhibit No. 1.

12 A. Okay.

13 Q. This purports to be an e-mail written on July

14 20th, 2009 from you to it looks like everybody

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15 else on the County Board

16 A. Right.

17 Q. -- and some other individuals or are those only

18 County Board members on the "to" list?

19 A. I don't know who those others are. I don't

20 know who those last people are -- those are all

21 people at the County.

22 Q. They're all County Board members or employees?

23 A. And employees, yes.

24 Q. And did you write this e-mail?

00011

1 A. I forgotten I had, but yes, I did.

2 Q. It starts out with the good morning everyone?

3 A. Yes.

4 Q. And it says I just wanted to encourage everyone

5 in the County government to go on the field trip

6 to the Waste Management facility in Joliet.

7 A. Yes.

8 Q. And then you went on to say besides having a

9 fascinating history, it was the most

10 fascinating, educational activity that I have

11 been to in quite a while.

12 A. Yes.

13 Q. Is that, in fact, how you felt afterwards?

14 A. I felt that it was very educational, yes.

15 Q. And then what was the last sentence that you

16 had here in your e-mail?

17 A. I feel that now when I attend the hearings in

18 our County that I will know exactly what is

19 being presented. I encourage you all to attend.

20 Have a great day.

21 Q. And when you attended the hearings did your

22 having been on this tour, in fact, help you

23 understand what was being presented?

24 A. It did.

00012

1 Q. And so I take it as you were hearing about

2 various concepts of construction and development

3 during the hearings you had in your mind's eye a

4 picture of the tour that you had been on and

5 what you had seen there, correct?

6 MR. MORAN: Objection.

7 MS. ANTONIOLLI: Objection.

8 MR. MUELLER: I'll withdraw the question.

9 Did you attend the siting hearings?

10 A. I did -- most of them.

11 Q. How many do you think you missed?

12 A. The last two maybe.

13 Q. Okay. During the siting hearings did you ever
14 say anything to any citizen or member of the
15 public that could be construed as hostile to
16 their opposition?

17 A. I don't think so. The only one that I did was
18 I asked a question about -- to Paul Stoddard
19 regarding Down syndrome because it was stated
20 that Down syndrome was caused -- could be caused
21 by landfills and I just mentioned to Paul that I
22 knew that Down syndrome is a chromosomal
23 disorder.

24 Q. Who stated that Down syndrome could be caused

00013

1 by landfills?

2 A. I don't remember.

3 Q. Was that in part of the evidence in the
4 hearing?

5 A. It was something that was mentioned, yes.

6 Q. And you made the comment to Mr. Stoddard that
7 you didn't think it could be?

8 A. Well, I said that it was a chromosomal
9 disorder.

10 Q. Did you make that comment on the record?

11 A. Did I what?

12 Q. Did you make that comment on the record?

13 A. No, it was after the hearing.

14 Q. Did you make that comment in the presence of
15 any members of the public?

16 A. I -- well, I didn't realize he was standing
17 there, but it was the man that wears the hat all
18 the time, Matt -- Mac --

19 Q. Mac McIntyre?

20 A. Yes.

21 Q. And did you make any comment at that time about
22 the person that suggested that Down syndrome
23 could be caused by landfills?

24 A. Not that I recall, just that it was -- it's a

00014

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1 chromosomal disorder.

2 Q. During those hearings did you hear any other
3 County Board member say anything that could be
4 construed as being derogatory to the opposition?

5 A. No, I sat by myself. I would come in --
6 because I teach and so as soon as my planning
7 period was there I would come out to the
8 hearing, so I sat in the back corner. The only
9 time I ever talked to anyone was at that point
10 with Paul during the hearings.

11 Q. And he's another County Board member, correct?

12 A. Yes.

13 Q. Do you know anyone who is associated with Waste
14 Management on a social level?

15 A. I don't think so.

16 Q. Were you aware that the County Board needed to
17 approve this landfill in order to get a funding
18 source for the jail bonds?

19 A. That is not true.

20 Q. You don't believe that's the case?

21 A. That -- no.

22 Q. What's your take on that issue?

23 A. We -- if it was approved we could use that for
24 that, but that was not the reason that we were

00015

1 approving it.

2 Q. The jail bonds still have not been approved,
3 have they?

4 A. No. We have an ad hoc committee on that right
5 now.

6 Q. Are you on that committee?

7 A. Yes, I am.

8 Q. And do you remember the -- the financing
9 consultants that did a presentation at the time
10 that you passed the resolution on that?

11 A. The financing -- I don't understand.

12 Q. Well, weren't there a group of consultants that
13 did a study on how to finance the courthouse and
14 jail improvements?

15 A. For the committee.

16 Q. Yes.

17 A. I wasn't on that committee. We -- for the jail
18 we just had our first meeting the other night.

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19 Q. What's it going to cost to do the jail?

20 A. I'd have to look it up. I don't remember.

21 Q. And how badly overcrowded is the jail?

22 A. It's very overcrowded.

23 Q. What is the approximate cost to the County of

24 having to ship inmates to other jails, if you

00016

1 know?

2 A. It's in the thousands.

3 Q. Thousands per day?

4 A. No. I don't know the exact figure.

5 Q. Do you remember ever being told that you should

6 not discuss the landfill siting with anyone

7 while the hearings were going on?

8 A. Yes.

9 Q. And who gave you that directive?

10 A. Well, it was given to us by Ray Bockman and it

11 was sent by Cipriano. I don't remember her

12 name. I'm really bad at names, sorry. I didn't

13 know I was supposed to know everybody's name.

14 Q. But it was Bockman who directed you guys to not

15 have any contact with anyone else?

16 A. From our attorney.

17 Q. Did you ever get anything in writing from

18 anybody to that effect?

19 A. Yes.

20 Q. Who was that?

21 A. From Ray and sent from our attorney.

22 MR. MUELLER: That's all the questions I

23 have.

24 MR. MORAN: I have a few questions.

00017

1 THE WITNESS: Okay.

2 EXAMINATION

3 BY MR. MORAN:

4 Q. Good afternoon.

5 A. Good afternoon.

6 Q. My name is Don Moran. I represent Waste

7 Management of Illinois, Inc., the Applicant in

8 this entire matter.

9 The directive not to communicate with any

10 parties, was it your understanding that that

11 directive applied to both the Applicant, Waste

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12 Management of Illinois, Inc. and any other
13 person who might participate in the siting
14 process or in the siting hearing?

15 A. Yes.

16 Q. And those persons could include citizens,
17 residents, other interested persons?

18 A. Yes.

19 Q. Did you have any oral or written communication
20 with any employee or representative of Waste
21 Management of Illinois, Inc. between November
22 30th of 2009 and May 10th of 2010?

23 A. No.

24 Q. Did you have or receive any communications

00018

1 either oral or written from any other person
2 regarding the proposed expansion during that
3 period?

4 A. I had one gentleman from my district call me
5 and I turned -- I -- it was on the recorder and
6 so I turned it over to Mary Supple.

7 Q. What was that gentleman's name, if you
8 remember?

9 A. I don't remember. I'm sorry.

10 Q. Did you listen to any part of what he had to
11 say?

12 A. No. I just heard that he just -- on the
13 recording he just said that he wanted to ask me
14 some questions on the landfill and so I sent it
15 to that -- it ended up being that he really
16 wasn't talking about the landfill, but he just
17 had some questions and so I just turned him over
18 to Mary Supple.

19 Q. You received no other written communication
20 from any other person about the proposed
21 expansion during that period?

22 A. No.

23 Q. Okay. Was it also your understanding that you
24 were not to consider any information that was

00019

1 not presented at the siting hearing or submitted
2 as written comment to the County Board in making
3 your decision on the siting application?

4 A. Yes.

5 Q. And did you, in fact, consider any information
6 that was not presented at the siting hearing or
7 submitted as part of the public record in making
8 your decision on the siting application?

9 A. No.

10 Q. Did any information that was not presented at
11 the siting hearing or submitted as written
12 comment affect or influence your decision on the
13 siting application?

14 A. No.

15 Q. And did you make your decision on the siting
16 application at any point prior to April 20th of
17 2010?

18 A. No, not until after I had read all of the
19 material that I had.

20 MR. MORAN: Thank you. I have no further
21 questions.

22 MR. MUELLER: I actually have one more
23 question.

24 EXAMINATION

00020

1 BY MR. MUELLER:

2 Q. Did you meet with any of the attorneys to get
3 prepared for today's deposition?

4 A. No. We just had -- I met with -- I met with
5 him for about like 15 minutes or so.

6 Q. Mr. Moran?

7 A. Yes.

8 Q. When was that?

9 A. It was after school started. Maybe in
10 September sometime.

11 Q. Okay, and it's still September now, right?

12 A. Yes.

13 MR. MUELLER: That's all.

14 MR. MORAN: Nothing further from me.

15 MS. ANTONIOLLI: I have nothing further.

16 So at this point in time before we let you go,
17 the court reporter has transcribed the
18 deposition today and you can either go to the
19 court reporter's offices to review your
20 transcript and at that time review the
21 transcript for any errors and at that time sign
22 that you've reviewed it or you can trust that

23 she has transcribed your deposition accurately
24 and waive signature today. The choice is yours.

00021

1 THE WITNESS: Oh. Is it okay?

2 MS. ANTONIOLLI: It's up to you. I think
3 in practice almost everyone has waived
4 signature.

5 THE WITNESS: Waive it, okay, sure, yes, I
6 will do that.

7 (The deposition was concluded at
8 4:12 p.m.)

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

2

3 I, Julie K. Edeus, a Certified Shorthand
Reporter in and for the State of Illinois, do hereby
4 certify that, pursuant to the agreement herein
contained, there came before me on the 29th day of
5 September 2010 at 3:54 p.m. at the DeKalb County
Legislative Center, 200 North Main Street, Sycamore,
6 Illinois, the following-named person, to-wit:
ANITA JO TURNER, who was duly sworn to testify to
7 the truth and nothing but the truth of her knowledge
concerning the matters in controversy in this cause;
8 that she was thereupon examined on her oath and her
examination reduced to writing under my supervision;
9 that the deposition is a true record of the

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testimony given by the witness, and that the reading

10 and signing of the deposition by said witness were
expressly waived.

11

I further certify that I am neither

12 attorney or counsel for, nor related to or employed
by, any of the parties to the action in which this
13 deposition is taken, and further, that I am not a
relative or employee of an attorney or counsel
14 employed by the parties hereto or financially
interested in the action.

15

In witness whereof I have hereunto set my

16 hand this 15th day of November 2010.

17

18

19

Julie K. Edeus

20 Certified Shorthand Reporter

IL License No. 084-003820

21 P.O. Box 381

Dixon, Illinois 61021

22

23

24

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1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
2
3 STOP THE MEGA-DUMP,)
4)
5 Petitioner,) PCB NO. 2010-103
6)
7 v.)
8) DEPOSITION OF
9 COUNTY BOARD OF DEKALB) PATRICIA VARY
10 COUNTY, ILLINOIS and WASTE)
11 MANAGEMENT OF ILLINOIS,)
12 INC.,)
13)
14 Respondent.)

15 DEPOSITION OF PATRICIA VARY, taken at the
16 DeKalb County Legislative Center, 200 North Main
17 Street, Sycamore, Illinois, on October 5, 2010,
18 commencing at 11:47 a.m., before Julie K. Edeus,
19 Certified Shorthand Reporter and Notary Public in
20 and for the State of Illinois, in pursuance to
21 agreement of the parties in the above-entitled
22 action.
23
24

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1 APPEARANCES:
2
3 ATTORNEY GEORGE MUELLER,
4 of the firm of Mueller Anderson, P.C.,
5 603 Etna Road,
6 Ottawa, Illinois, 61350,

7 Counsel for the Petitioner.

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7 ATTORNEY DONALD J. MORAN,
of the firm of Pedersen & Houpt,
8 161 North Clark Street, Ste. 3100,
Chicago, Illinois, 60601-3242,

9
Counsel for Respondent
10 Waste Management of
Illinois, Inc.

11
12 ATTORNEY AMY ANTONIOLLI,
of the firm of Schiff Hardin,
13 6600 Sears Tower,
Chicago, Illinois, 60606,

14
Counsel for Respondent
15 County Board of DeKalb County,
Illinois.

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1 INDEX

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3 Witness: PATRICIA VARY

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12 EXHIBITS

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1 PATRICIA VARY,

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

4 EXAMINATION

5 BY MR. MUELLER:

6 Q. Would you state your full name, please.

7 A. Patricia Susan Vary.

8 Q. And Ms. Vary, have you ever had your deposition
9 taken before in any case for any reason?

10 A. Yes, I was the chair of the biology department
11 at NIU and I inherited when I became chair a
12 case of a faculty member against the university
13 and so I had a deposition in that.

14 Q. So you're familiar with the general ground
15 rules and procedures of depositions?

16 A. It wouldn't hurt to repeat them. It's been a
17 long time.

18 Q. I'm George Mueller. I'm the attorney for the
19 Stop The Mega-Dump organization. I'm here to
20 ask you some questions today about your role as
21 a County Board member in that siting and
22 approval process. Everything that both of us
23 say is being taken down by a court reporter, so
24 it is important to answer audibly and to avoid

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1 answering with gestures meaning as you're
2 nodding your head that you need to be saying yes
3 in response to questions as opposed to nodding
4 your head and it's important that you understand
5 the questions. If I ask you a question and you
6 don't understand it feel free to have me
7 rephrase it. Is that fair?

8 A. Yes.

9 Q. Okay. What is your address, ma'am?

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10 A. 138 Mattek Avenue in DeKalb.

11 Q. And what is your profession?

12 A. I'm a retired microbiologist professor at NIU
13 and I'm on the County Board.

14 Q. When did you retire from the university?

15 A. 2003, but I have been working at the university
16 part-time. That's still going on.

17 Q. When did you start at the university?

18 A. Full-time tenure track in 1977, but I worked
19 part-time in that department with small kids
20 from 1973.

21 Q. So you basically came to the university the
22 year I left.

23 A. Oh, really?

24 Q. Are you still doing any consulting work?

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1 A. No.

2 Q. Because I saw in one of your e-mails that
3 you've made a reference that you needed to go do
4 some work in Germany. I was just curious what
5 that was about.

6 A. Okay. After I retired I got a very, very large
7 grant with a sequencing company in Maryland to
8 sequence the genome of the bacterium I've worked
9 on for 30 years and while we were -- before that
10 grant was allowed I was called by people in
11 Germany to help them because they were
12 sequencing another strain and so I went over
13 there and helped them some and we decided to
14 collaborate on this whole project and so they
15 were sequencing one strain, we were sequencing
16 the other. We actually got done first. Our
17 sequence helped them finish theirs. What we did
18 at NIU was to analyze all the sequence and we
19 put -- we layered -- a post-doc did this, I
20 could not do it on a computer, but he layered
21 all of our analysis onto their strain and we are
22 putting out a joint paper. In fact, it looks
23 like it's going to be two papers and that is --
24 it's delayed some mainly because coordinating

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1 three different universities has been a lot of
2 fun.

3 Q. Well, that's interesting, but unfortunately

4 I've got to move on to County Board business.

5 A. Yep.

6 Q. How long have you been on the County Board?

7 A. Since 2002.

8 Q. Where is your district?

9 A. It is essentially the whole south side of

10 DeKalb. It starts at the railroad tracks, goes

11 down to Gurler, it goes over to Webster past

12 Peace Road and it goes to Annie Glidden, but

13 there is one little gerrymandered point that

14 belongs to Stoddard and Fauci's district.

15 Q. Okay. Who's the other board member from your

16 district?

17 A. Pat LaVigne.

18 Q. What is your party affiliation?

19 A. Democrat.

20 Q. Are you up for election this year?

21 A. No.

22 Q. You're up again in 2012?

23 A. Yes.

24 Q. Do you know now as you sit here whether or not

00008

1 you intend to run in 2012?

2 A. I do not intend to run. I will have been on

3 the board for ten years, I will be 71.

4 Q. So if nominated you will not run, if elected

5 you will not serve?

6 A. Right.

7 Q. You voted in favor of this landfill expansion,

8 didn't you?

9 A. Yes.

10 Q. And what committees are you on on the County

11 Board?

12 A. I'm on the economic development and planning

13 and zoning and then I was on the solid waste

14 committee, I'm on the stormwater ad hoc

15 committee. I think that's it.

16 Q. Was that the ad hoc solid waste committee that

17 negotiated the host agreement?

18 A. Yes.

19 Q. So you participated in that process?

20 A. Yes.

21 Q. Who did you deal with primarily from Waste
22 Management in those negotiations?

23 A. Lee Adlemann and Dale --

24 Q. Hoekstra?

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1 A. -- Hoekstra.

2 Q. Do you know --

3 A. Yeah.

4 Q. Do you know either of them socially?

5 A. No.

6 Q. Do you know anyone that is employed by or
7 represents Waste Management on a social level?

8 A. No.

9 Q. Were you one of the members of the ad hoc
10 committee that was actually on the negotiating
11 team?

12 A. No.

13 Q. At meetings of the ad hoc committee did Waste
14 Management on at least one or more occasions
15 make presentations to the committee?

16 A. Yes.

17 Q. Would some of those consist of using
18 audio/visual aids such as large foam boards with
19 mockups on them and so forth?

20 A. I'm pretty sure that they -- yes, they did that
21 because we were telling them what we would want
22 if they went through with it.

23 Q. And were these presentations about the design
24 and proposed operation of an expanded landfill?

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1 A. Mainly the design.

2 Q. Did you also participate in a tour of the Waste
3 Management facility in Will County in 2009?

4 A. Yes.

5 Q. And who did you go on that tour with?

6 A. I would say probably 10, 15 of the County Board
7 members. I think there were a couple of staff,
8 but I can't give you names.

9 Q. Do you remember anyone specific that went on
10 the tour with you?

11 A. Actually only because I talked to her after she
12 had given a deposition and that was -- and I
13 remembered the incident afterwards and that's

14 Marlene Allen because we both remembered it
15 because she came out and she had a cool pair of
16 jeans on and I said, Marlene, you look -- you
17 even look good in a pair of jeans. She always
18 dresses to the -- very well, so we've talked
19 about it since then and that's why, okay, I
20 remembered that, but I couldn't tell you for
21 sure -- other than I was surrounded by board
22 members, I couldn't tell you for sure which
23 ones.

24 Q. If I were to tell you that the interrogatory
00011

1 answers of the County indicate that you and
2 Ms. Allen did the tour on different dates would
3 that surprise you?

4 A. That would surprise me.

5 Q. Because you specifically recall her being
6 present with you?

7 A. What I recall is commenting at some time on the
8 fact that she was wearing jeans and looked good
9 in them and I can't think of any other time that
10 would have happened, but that's all I recall.

11 Q. And the purpose of this tour was for County
12 employees and County Board members to get
13 acquainted with how a landfill operates, right?

14 A. Yes, I think it was for us to see something
15 that would be -- it's actually bigger than the
16 one that is proposed here, but that we could see
17 something that they were actually lining and
18 putting in all the safety lining.

19 Q. And it would be fair to say that that tour was
20 in anticipation of Waste Management filing an
21 application and seeking expansion of the DeKalb
22 County landfill?

23 A. Yes, I believe it happened after the host fee
24 agreement.

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1 Q. Right. And once the host fee agreement was
2 approved it was understood that Waste Management
3 would be filing an application for expansion?

4 A. Yes.

5 Q. And so this tour was to help you and other
6 County Board members understand the subject

7 matter of that application, specifically how a
8 landfill is designed, how it's built and how it
9 operates?

10 A. Correct.

11 Q. And did you find it to be helpful in terms of
12 explaining those things to you?

13 A. Yes.

14 Q. You say that emphatically?

15 A. Uh-huh.

16 Q. Did you find it to be helpful in terms of
17 answering any questions that you had?

18 A. Well, not all questions, but at least I had a
19 visual of what was -- the way it operated and we
20 visited the control place where the woman allows
21 the people to come in and everything, so the
22 operations.

23 Q. Did the tour actually allay any misconceptions
24 that you previously had about how landfills are

00013

1 constructed and operated?

2 A. I don't think so. I think I had a picture of
3 -- from what had been discussed before when we
4 were talking to our engineer and everything of
5 how it was going to have to be lined. I didn't
6 know it was as big as it was, the machines as
7 big as they are.

8 Q. So you already had a pretty good idea of what
9 to expect based upon presentations that Waste
10 Management had made at the ad hoc committee
11 meetings?

12 A. Yes, and our engineering firm.

13 Q. That would be -- that would be Patrick
14 Engineering?

15 A. Uh-huh.

16 MR. MORAN: Yes? You need to say yes.

17 A. Yes.

18 Q. Based upon the number of County Board members
19 that attended this tour, did you consider this
20 to be an official meeting of the board?

21 A. No.

22 Q. What's your understanding --

23 A. Well, I guess it would have to -- it -- I
24 didn't think of it as a meeting. I thought of

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00014

1 it as an informational tour, but the fact that
2 we had that many people on it that was more I
3 would guess than a quorum, it would have to be a
4 meeting I suppose.

5 Q. So do you know whether this tour took place in
6 violation of the Open Meetings Act?

7 A. No, I don't.

8 Q. Do you know whether any members of the public
9 or the press were invited on the tour?

10 A. I would assume the press, but I didn't -- I
11 can't remember -- you know, I didn't even think
12 of that at the time.

13 MR. MUELLER: If we could take a little
14 break now, I'm going to go do my conference call
15 and I'll cut it as quick as I can.

16 MR. MORAN: Want us to leave?

17 MR. MUELLER: No. I'll just walk out and
18 do it outside.

19 (A recess was taken at 12:02 p.m.
20 and proceedings resumed at 12:26
21 p.m.)

22 Q. Once again, I apologize for having delayed the
23 deposition and I thank you, Ms. Vary, for -- I
24 guess I should call you Dr. Vary -- for your

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1 patience.

2 A. It's quite all right. I go by Ms. around here.

3 Q. I think when I left off my questioning we were
4 talking about the tour that you took. Were you
5 provided with lunch?

6 A. I can't remember that. I think -- what I think
7 I remember is that we weren't provided with very
8 much on that and I thought it was a pretty good
9 thing because I didn't want it to seem like we
10 were being bribed or anything. I don't remember
11 it, but I can't -- I can't recall for sure.

12 Q. Do you remember how you got there and back?

13 A. On a bus.

14 Q. Was Mr. Adlemann with you on the bus both
15 coming and going?

16 A. I don't remember that.

17 Q. Did the tour help you understand the evidence

18 that was presented at the siting hearing?

19 A. Yes.

20 Q. Now, were you on the pollution control facility
21 siting committee that --

22 A. Yes.

23 Q. -- ran the hearing?

24 A. Yes.

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1 Q. So you were at the hearing sessions themselves?

2 A. I was not at five days of those hearings
3 because they scheduled it when I had a
4 time-share in Florida and I went there and I
5 came back and I read all of those hearing
6 transcripts, 2000 pages of hearing transcripts
7 and I also attended the sixth day, but I did not
8 attend the five.

9 Q. So you were there only one day?

10 A. Right.

11 Q. On the day that you were there did you hear any
12 other County Board member say anything that
13 could be construed as being critical of landfill
14 opponents?

15 A. Nothing -- I don't remember.

16 Q. Did you ever hear any other County Board member
17 say anything that could be construed as a
18 suggestion that the County Board had no choice
19 but to approve the application or that it was a
20 done deal?

21 A. No.

22 Q. Have you ever visited the DeKalb County
23 landfill?

24 A. No. I drive by it a lot, but I haven't ever

00017

1 visited it.

2 Q. During the siting hearing there was evidence of
3 hydrogen sulfide gas emissions from the DeKalb
4 County landfill, correct?

5 A. Yes.

6 Q. Did you ever take a trip over there to verify
7 for yourself whether or not there was noticeable
8 hydrogen sulfide gas?

9 A. No. That was something that happened before --
10 or at least the flare that they thought they had

11 was about a year before that came out in the
12 hearing.

13 (Vary Exhibit No. 1 marked for
14 identification.)

15 Q. All right. Let me show you, Ms. Vary, what
16 I've marked as Vary Deposition Exhibit No. 1
17 and it's a three-page document and it purports
18 to contain an e-mail from you to Dan Kenney
19 dated August 25th, 2009 and it starts on Page 1,
20 your e-mail finishes on Page 2 and then Dan
21 Kenney's e-mail to you is on the bottom of Page
22 2 and Page 3.

23 A. Okay.

24 Q. Have you ever -- have you ever seen -- or first

00018

1 of all, does that appear to be a true and
2 correct copy of the e-mail that you wrote to
3 Dan Kenney?

4 A. I need to read this a little bit.

5 Q. Oh, take all the time you want. I'm sorry.

6 A. And I also -- I don't even remember it. I
7 think -- I think it is, yes.

8 Q. Did you know Dan Kenney back in August of 2009?

9 A. Yes.

10 Q. What was the nature of your acquaintanceship
11 with him?

12 A. I've met him through the interfaith network
13 which he's very active in and I'm not too active
14 in, but I've -- and I've also -- I'm a unitarian
15 and he's a unitarian and I've gone to that
16 church some, although my church is in Geneva and
17 so I've met him there and I consider him a -- at
18 least an acquaintance and I respect him quite a
19 bit.

20 Q. What was that last statement?

21 A. I respect him quite a bit.

22 Q. So this appears to be a true and correct copy
23 of the e-mail that you sent him in August of
24 2009?

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1 A. Yes.

2 Q. All right. Let me show you then what I've
3 marked as -- well, before --

4 A. I actually didn't remember sending that, but --
5 but it does sound like me.

6 Q. All right. Did you e-mail on a regular basis
7 with Lee Adlemann during 2009?

8 A. No.

9 Q. Did you ever e-mail with Lee Adlemann?

10 A. Not that I recall. I may -- you know, I -- I
11 don't think so.

12 (Vary Exhibit No. 2 marked for
13 identification.)

14 Q. Well, then let me show you what we've marked as
15 Vary Deposition Exhibit No. 1. And Amy, I've
16 only got that copy and the one I'm holding, so
17 you're going to have to share with Don.

18 This is four pages and let me know after
19 you've taken a look at it and are ready to
20 answer questions about it.

21 A. Okay, yeah, I think I remember getting this. I
22 don't have it anymore on my computer -- at least
23 that.

24 Q. It's actually a very short e-mail from you and
00020

1 the rest of it are attachments that you got.

2 A. I'm trying to -- I'm trying to find the part --
3 MS. ANTONIOLLI: This is just --

4 A. -- other than saying that I'm just forwarding
5 it to the solid waste committee that's why we --
6 when we were trying to find as much information
7 as possible.

8 Q. Is it okay if I ask some questions?

9 A. Yes.

10 Q. Okay. Thank you. This appears to be an e-mail
11 chain, I guess is the term, which culminates
12 with an e-mail from Mary Supple to the entire
13 County Board, but the one immediately before
14 appears to be a very brief e-mail from you to
15 Mary Supple dated March 3rd of 2009 which reads:
16 Mary, would you forward this to the board and
17 the other solid waste committee and Paul and Roy
18 and thanks, signed Pat. Do you recall writing
19 that e-mail to Mary Supple?

20 A. I don't recall it. I can't believe that I
21 would put three little dots at the end of that,

22 but it looks like a -- we were trying to find
23 some information from something we talked about
24 at the solid waste committee.

00021

1 Q. And it appears underneath that that Lee
2 Adlemann had written you an e-mail that starts
3 with good afternoon, Pat?

4 A. Uh-huh.

5 Q. Do you remember receiving that?

6 A. Yes.

7 Q. And he attached some information from Bill
8 Plunkett who himself attached an article from
9 The Kankakee Daily Journal I believe is the name
10 of that rag?

11 A. I don't recall much of this.

12 Q. Well, if I were to tell you that this is
13 documentation actually produced to me by the
14 County's attorney in response to our requests as
15 indicated by the page numbering at the bottom
16 there, CTY 0133 through 0136, would that refresh
17 your recollection as to whether or not this
18 exhibit is a true and accurate copy of what you
19 sent to Mary Supple and what you received from
20 Lee Adlemann?

21 A. I cannot remember anything about this except
22 that I obviously was trying to get information
23 from -- with the solid waste committee, so I'm
24 not sure if I got all of this at all or just

00022

1 this, I do not know at this point. It's been a
2 long time ago.

3 MR. MUELLER: Amy, since this was produced
4 by the County would you stipulate that it's a
5 true and accurate copy of an e-mail chain that
6 was received by Mary Supple and that way it will
7 obviate the need to call Ms. Vary at the
8 hearing?

9 MS. ANTONIOLLI: I can -- I can stipulate
10 that we received it from Mary, yes.

11 MR. MUELLER: Okay.

12 Now, Ms. Vary, how did Lee Adlemann have
13 your e-mail address?

14 A. As far as I know I would -- and this is a guess

15 -- is that with the solid waste and wanting some
16 information I was asking him something and I
17 gave him my e-mail address so he could send it
18 to me.

19 Q. Does that refresh your recollection as to
20 whether or not you had e-mail communications
21 with him during 2009?

22 A. Yes, it does.

23 Q. Do you remember either way whether or not you
24 had other e-mail communications with him in

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1 2009?

2 A. No.

3 Q. No, you didn't or no, you don't remember
4 whether you did or not?

5 A. No, I don't remember whether I did or not, but
6 it would not have been much if I had had it.

7 Q. And why did you think it was important for the
8 entire County Board to have this information
9 about the experience in Kankakee?

10 A. Because I think this had come up in our
11 discussions on the solid waste committee and I
12 thought it was background information that was
13 important as we got -- I can't remember when the
14 host fee agreement was, but this was as far as I
15 know right in the middle of that sort of thing.

16 Q. Did you meet with Mr. Moran in preparation for
17 this hearing?

18 A. Yes.

19 Q. When did you meet with him?

20 A. A month ago.

21 MR. MUELLER: I don't have any further
22 questions. Thank you.

23 MR. MORAN: I have a few questions.

24 THE WITNESS: Okay.

00024

1 EXAMINATION

2 BY MR. MORAN:

3 Q. Ms. Vary, the tour you took of the Prairie View
4 Landfill, did Ray Bockman accompany you on that
5 tour?

6 A. I can't remember.

7 Q. Did Paul Miller accompany you on that tour?

8 A. I absolutely don't remember who was there.

9 Q. Okay, and do you recall that the tour took
10 place in the summer or the fall of 2009? Was it
11 warm when you went, was it a little cooler? Was
12 it sunny, rainy?

13 A. I have a feeling it was a little cool, but
14 that's all I -- I think I had a jacket.

15 Q. Did you receive any written materials from
16 anyone at Waste Management of Illinois when you
17 took the tour?

18 A. I think they passed out their brochure for the
19 Prairie View -- is it Prairie View I think --
20 yeah, there was a brochure, just one of those
21 triple-folds or something.

22 Q. Did any part of the information you received
23 during that tour contain information that was
24 presented in the site location application when

00025

1 it was filed?

2 A. I have no idea.

3 Q. So you didn't make any determination as to
4 whether the information contained in the site
5 location application was the same information
6 you received during the tour?

7 A. No.

8 Q. And I believe you said the information you
9 received during the tour related to certain
10 design elements of the Prairie View Landfill?

11 A. Yes.

12 Q. And did you make any determination as to
13 whether those design elements that were
14 described about Prairie View were the same as
15 the design elements that were proposed for the
16 expansion of the DeKalb County landfill?

17 A. I'm just thinking that I had a mental picture
18 of seeing the way they lined things when I was
19 reading the hearings and the presentation for
20 that, but as far as figuring out whether it was
21 4 millimeter or 10 millimeter lining and
22 everything else, no.

23 Q. The design proposed for the expansion of the
24 DeKalb County landfill was not the same as the

00026

1 design elements that were described to you for

2 Prairie View, were they?

3 A. I don't know.

4 Q. They certainly weren't the same facility; would
5 that be correct?

6 A. Yes, that one at least is bigger and I can't
7 tell how much.

8 Q. The Prairie View facility was a larger
9 facility?

10 A. Yes.

11 Q. Located in a different geographic and geologic
12 setting, correct?

13 A. Right.

14 Q. And there was no application on file at the
15 time you took the tour of the Prairie View
16 facility?

17 A. Correct.

18 Q. That is, no application to expand the DeKalb
19 County landfill; would that be correct?

20 A. Yes.

21 Q. Now, did you at some point receive
22 communication that you were not as a
23 decision-maker for this site location
24 application to have any communications with any

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1 interested parties?

2 A. Absolutely, and that was when they filed on
3 November 30th I think.

4 Q. And was it your understanding that you were not
5 to have any communications with the Applicant,
6 Waste Management of Illinois, Inc. beginning
7 November 30th, 2009?

8 A. Correct.

9 Q. And also you were not to have any
10 communications of any kind with any person
11 regarding the proposed application and proposed
12 expansion of the DeKalb County landfill and by
13 person I mean any citizen or any resident or any
14 interested party to the site location
15 proceeding?

16 A. We actually -- I think at about the same time
17 as it was filed we began to realize that we
18 could not speak to our constituents. I really

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19 had not known that before the filing.

20 Q. And was it your understanding that your role in
21 reviewing the site location application was to
22 make a decision based only upon the evidence and
23 written submissions made in connection with the
24 siting proceeding?

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1 A. Yes.

2 Q. Did you have any oral or written communications
3 with any agent or employee of Waste Management
4 of Illinois, Inc. between November 30th, 2009
5 and the date the County Board voted on the
6 application which was May 10th, 2010?

7 A. The only time that happened was when we were
8 mutually -- what's his name -- the --
9 Bill Plunkett was at a luncheon and we talked
10 socially and not anything about the application.

11 Q. You're saying you and Bill Plunkett had a
12 social conversation?

13 A. Right.

14 Q. At a meeting of --

15 A. At a luncheon. I can't remember what -- what
16 luncheon it was. I think it was at the
17 Kishwaukee Country Club or something and Waste
18 Management was a sponsor and so was the County,
19 so we were both there.

20 Q. All right, and when did this luncheon occur?

21 A. I haven't a clue except it was after the 30th.

22 Q. And before May 10th of 2010?

23 A. Yes, and we were very conscious -- I was very
24 conscious that I was not supposed to talk

00029

1 anything about the application.

2 Q. Did you have or receive any communications,
3 written or oral, about the proposed expansion
4 from any resident, citizen or other person?

5 A. I got lots of e-mails and phone calls from
6 citizens. Most of the e-mails I deleted without
7 reading because I was not supposed to be doing
8 that. The phone conversations, including one at
9 10:30 at night telling me not to vote for it and
10 I said you are not supposed to be contacting me
11 and they said thank you and hung up. It was a

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12 woman and --

13 Q. Did the woman identify herself?

14 A. No.

15 Q. Did you recognize the voice?

16 A. No.

17 Q. And when did this phone call --

18 A. It was about 10:30 at night sometime in the --

19 before the vote.

20 Q. A week or two before the vote, right before the
21 vote?

22 A. A week or two before the vote and -- and I got

23 some letters. Most of those I -- I think I put

24 unopen for a while, but I think I threw most of

00030

1 them. There were a couple that I didn't

2 recognize as a possible letter from a

3 constituent and I opened up and I put those in a

4 file and tried not to --

5 Q. And did you keep those letters?

6 A. I think that I turned over any letter that I

7 had during the FOIA.

8 Q. Did you read any of the letters?

9 A. I read the first line to find out who it was

10 from and what it was about and I turned --

11 Q. Turned it over to whom?

12 A. Oh, I turned it -- when the FOIA request came

13 out I put it in a folder -- some of them, most

14 of them I had thrown away.

15 Q. Did you read any of those e-mails or letters to

16 the point where you understood what position or

17 point of view the writer was taking on the

18 expansion?

19 A. It was impossible not to get that from the

20 first sentence.

21 Q. And were these e-mails and letters all in

22 opposition to the expansion?

23 A. Yes.

24 Q. So would it be accurate to say that you

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1 responded to none of the e-mails you received?

2 A. Correct.

3 Q. And you responded to none of the letters you

4 received?

5 A. Correct. **Electronic Filing - Received, Clerk's Office, December 28, 2010**

6 Q. And you had this one phone call where you told
7 the woman you couldn't talk to her?

8 A. Right.

9 Q. Did you have any other phone calls?

10 A. Not that -- no, I don't -- I'm not sure, but I
11 don't think so. There were people that would
12 come up to me in the grocery store, you know and
13 say don't vote for the wind farm and I would say
14 I have to only listen to the --

15 Q. The wind farm or the expansion?

16 A. Not the wind farm. I'm sorry. Yeah, that's
17 still going on too, but I would say I can't talk
18 about this.

19 Q. How many people approached you personally to
20 urge you to vote against the expansion?

21 A. Over a period of months I have no idea.

22 Q. A dozen times, a couple dozen times?

23 A. I'd say a dozen is close.

24 Q. Were they people you knew or people who were
00032

1 not known to you or both?

2 A. I would say both.

3 Q. And did you respond to them the same way?

4 A. Yes. I said I can't talk about this.

5 Q. Did you have any other communication or contact
6 with any other person about the proposed
7 expansion other than what you've just told us
8 between November 30th and May 10th, 2010?

9 A. Not that I know of.

10 Q. Did you ever hear any information or statements
11 about the fact that any other County Board
12 member had decided how to vote on the
13 application before all the evidence was in?

14 A. No.

15 Q. In looking at Vary Deposition Exhibit No. 1 --
16 MS. ANTONIOLLI: This one.

17 Q. -- the e-mail that you received on August 24th
18 of 2009 at 10:03 p.m. from Dan Kenney in which
19 he's responding to what you had sent to him, if
20 you could just direct your attention to the very
21 last paragraph of his e-mail where he says: On
22 another note, is the expansion of the County

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23 waste site a completed deal? If I remember

24 correctly from an article in The Chronicle, the

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1 board voted approval on this increase in waste.

2 If this is correct, would you tell me how you

3 voted and what influenced your vote. Do you see

4 that in Mr. Kenney's e-mail?

5 A. Uh-huh, yeah.

6 Q. Did you respond to this question or these

7 questions that Mr. Kenney asked you in the

8 e-mail either in writing or orally or --

9 A. Definitely not orally. I would have done it by

10 e-mail and I cannot recall doing that.

11 Q. As of August 24th of 2009 was the expansion of

12 the County waste site a completed deal?

13 A. No.

14 Q. How did you vote on the host community

15 agreement?

16 A. I voted yes.

17 Q. What influenced or determined your vote on that

18 agreement?

19 A. That we had looked at several alternatives and

20 actually had thought we could either have a

21 transfer station and that did not work out

22 according to our engineer and we thought that we

23 could then go to Rochelle and then Rochelle, we

24 were told, had put a cap on any new contracts

00034

1 there and I remember when we found that out we

2 sat around the table rather stunned saying,

3 okay, what do we do now and I saw that -- I saw

4 two alternatives left. One of them was direct

5 drive much farther than Rochelle that would have

6 been extremely costly for everyone in the county

7 or to expand the landfill, so I voted for the

8 host fee agreement. I thought it was a good

9 agreement with more money coming in and so forth

10 and cleaning up the site, but that did not mean

11 that I would approve the final proposal.

12 Q. So it was your understanding that by voting to

13 approve the host community agreement you were

14 not voting to approve the expansion of the

15 landfill?

16 A. That's correct.

17 Q. It was your understanding that there would have
18 to be a subsequent application presented to the
19 County requesting approval to expand the
20 landfill?

21 A. Yes.

22 Q. And did you have any information or reason to
23 believe that any other County Board member who
24 was voting to approve the host community

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1 agreement meant by that approval to also be
2 approving the expansion of the landfill?

3 A. No.

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

9 A. No. If that includes what our lawyer was
10 telling us and what the engineering company --

11 Q. Did any information that was not presented at
12 the siting hearing or not contained in the
13 siting application or not presented to the
14 County Board by a written submission or
15 otherwise affect or influence your decision on
16 the siting application?

17 A. No.

18 Q. Did you make your decision on the siting
19 application prior to April 20th of 2010?

20 A. The April 20th was --

21 Q. The April 20th was a date approximately 40 days
22 after the close of the public hearing.

23 A. Oh.

24 Q. In other words, there was a period after the

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1 public hearing which permitted the submission of
2 written comment. In addition, any written
3 comment postmarked within 30 days of the last
4 public hearing could also be considered meaning
5 that there might be documents received after
6 that 30-day period but received within nine days
7 thereafter, so that's why I asked about April
8 20th, 2010. Did you make your decision before

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9 all the evidence was in?

10 A. No. I read every single one of those public
11 comments.

12 MR. MORAN: Thank you, Ms. Vary. I have
13 no further questions.

14 MR. MUELLER: I don't have anything else.
15 Thank you.

16 MS. ANTONIOLLI: And neither do I. At
17 this point you can -- our court reporter has
18 transcribed your deposition today and you can
19 either choose to review your deposition for
20 errors and sign your deposition at that time or
21 you can choose to waive signature and trust that
22 the court reporter has accurately transcribed
23 your deposition.

24 THE WITNESS: Will you be reading these?

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1 MR. ANTONIOLLI: It's your choice. I
2 won't read them for errors, but --

3 THE WITNESS: How good are you? I think
4 at this point I would waive it.

5 MS. ANTONIOLLI: Okay. Thank you.
6 (The deposition was concluded at
7 1:01 p.m.)

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1 CERTIFICATE

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I, Julie K. Edeus, a Certified Shorthand Reporter in and for the State of Illinois, do hereby certify that, pursuant to the agreement herein contained, there came before me on the 5th day of October 2010 at 11:47 a.m. at the DeKalb County Legislative Center, 200 North Main Street, Sycamore, Illinois, the following-named person, to-wit: PATRICIA VARY, who was duly sworn to testify to the truth and nothing but the truth of her knowledge concerning the matters in controversy in this cause; that she was thereupon examined on her oath and her examination reduced to writing under my supervision; that the deposition is a true record of the testimony given by the witness, and that the reading and signing of the deposition by said witness were expressly waived.

I further certify that I am neither attorney or counsel for, nor related to or employed by, any of the parties to the action in which this deposition is taken, and further, that I am not a 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 17th day of October 2010.

Julie K. Edeus
Certified Shorthand Reporter
IL License No. 084-003820
P.O. Box 381
Dixon, Illinois 61021

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1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
2
3
4 STOP THE MEGA-DUMP,)
5)
6 Petitioner,) PCB NO. 2010-103
7)
8 v.)
9) DEPOSITION OF
10 COUNTY BOARD OF DEKALB) STEVE WALT
11 COUNTY, ILLINOIS and WASTE)
12 MANAGEMENT OF ILLINOIS,)
13 INC.,)
14)
15 Respondents.)

16 DEPOSITION OF STEVE WALT, taken at the
17 DeKalb County Legislative Center, 200 North Main
18 Street, Sycamore, Illinois, on November 16, 2010,
19 commencing at 5:04 p.m., before Callie S. Bodmer,
20 Certified Shorthand Reporter and Notary Public in
21 and for the State of Illinois, in pursuance to
22 agreement of the parties in the above-entitled
23 action.
24

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1 APPEARANCES:
2
3 ATTORNEY GEORGE MUELLER,
4 of the firm of Mueller Anderson, P.C.,
5 603 Etna Road,
6 Ottawa, Illinois, 61350,
7 Counsel for the Petitioner.
8 ASSISTANT STATE'S ATTORNEY MEGAN BRANNON,
9 of the DeKalb County State's Attorney's Office,
10 200 North Main Street,

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Sycamore, Illinois, 60178,

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

ATTORNEY DONALD D. MORAN,
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Counsel for the Respondent,
Waste Management of
Illinois, Inc.

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EXHIBITS

Exhibit	Marked
Walt Deposition Exhibit No. 1	10

20
21
22
23 Certificate of Shorthand Reporter. 26
24

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1 STEVE WALT,
2 being first duly sworn, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MR. MUELLER:

6 Q. Would you state your name, please.

7 A. Steven R. Walt.

8 Q. Is it okay if I call you Steve?

9 A. Yes, sir.

10 Q. Steve, my name is George Mueller, I'm the
11 attorney for the Stop The Mega-Dump group, and
12 I'm going to ask you some questions this
13 afternoon pretty briefly about your
14 participation as a County Board member in the
15 decision making process on the Waste Management
16 application.

17 Have you had your deposition taken in the
18 past for any reason?

19 A. I don't believe so, no.

20 Q. Let me give you a couple of simple ground
21 rules. Everything that anyone in this room says
22 is being taken down by a court reporter, so it's
23 important that we don't use nonverbal gestures
24 and that we don't talk over each other. Do you

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1 understand that?

2 A. Yes, sir.

3 Q. Okay. What is your address, sir?

4 A. 21063 Virginia Road in DeKalb, Illinois.

5 Q. And what is your profession?

6 A. Tool and die maker.

7 Q. Are you a member of the DeKalb County Board?

8 A. For another couple of weeks, yeah.

9 Q. So your term is almost done?

10 A. Yes, sir.

11 Q. Did you run for re-election?

12 A. Yes.

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13 Q. And you were defeated?

14 A. Yes.

15 Q. What district was that in?

16 A. Six.

17 Q. I take it you are a member of the Democratic
18 party?

19 A. No, I'm a Republican.

20 Q. Who won your seat?

21 A. Bob Brown.

22 Q. Now, how long had you been on the County Board?

23 A. Just one term, four years.

24 Q. Were you appointed that term or were you

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1 elected previously?

2 A. Elected.

3 Q. What committees were you on?

4 A. I started with economic development and highway
5 and then I -- for two years, and then for two
6 years I was on planning and zoning and forest
7 preserve.

8 Q. Talking of economic development, did that
9 committee have any responsibilities in
10 connection with planning for or investigating
11 the feasibility of the jail and courthouse
12 expansions?

13 A. No, not when I was on it.

14 Q. Did you -- strike that.

15 In the fall of 2009 I believe the County
16 Board voted to go ahead with the courthouse
17 expansion but the jail expansion was still left
18 on hold; is that correct?

19 A. What was the date on that again?

20 Q. Somewhere in the fall of 2009, about a year
21 ago.

22 A. Yeah, seems like November sometime.

23 Q. How did you vote on that?

24 A. I believe I voted for it with an amendment to

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1 do a study of alternatives to incarceration.

2 Q. Good for you. As a board member who voted for
3 that, what was your understanding as to how the
4 courthouse expansion or remodeling was going to
5 be paid for?

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6 A. The courthouse?

7 Q. Yeah.

8 A. Bonds.

9 Q. And what was going to guaranty the bonds?

10 A. Uhm, I'm thinking the property -- the county
11 farm property, sales tax that was coming in from
12 there, the opportunity fund.

13 Q. And what was the plan for how the jail
14 expansion would be paid for?

15 A. I really don't know.

16 Q. Was it contemplated that the jail expansion
17 would be also paid for by bonds but they'd have
18 to be guaranteed by revenues from the Waste
19 Management host agreement?

20 A. I believe that was probably the case, yes. All
21 I know is I tried to move the jail ahead of the
22 courthouse.

23 Q. That's because the need for the jail is
24 probably greater than the need for the

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1 courthouse at this point, right?

2 A. Well, when I was elected in the County Board
3 that was the number one priority.

4 Q. So the jail was an issue in terms of priority
5 even four years ago?

6 A. I believe we were putting money aside for it.

7 Q. And to your knowledge DeKalb County ships
8 prisoners out at a cost of hundreds of thousands
9 of dollars a year?

10 A. Yes, sir.

11 Q. Now, in the summer of 2009 did you attend a
12 tour of the Waste Management landfill in Will
13 County?

14 A. No.

15 Q. Were you offered an opportunity to attend that
16 tour?

17 A. I believe I was, yes.

18 Q. All right. How did you vote on the landfill
19 expansion?

20 A. I voted for it.

21 Q. Why didn't you attend the tour?

22 A. I work in Rockford, I wasn't willing to take
23 off work to go. I was busy at the time.

24 Q. I know we have had a hard time scheduling your

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1 deposition, so you're indicating it was just a
2 work conflict didn't make it possible?

3 A. Right.

4 Q. With regard to the landfill siting hearing that
5 occurred in March of this year, did you attend
6 any of those hearings?

7 A. Yes, I did.

8 Q. How many of them did you attend?

9 A. I was there for the whole day the last day and
10 I think part of the day the day before.

11 Q. Did you have any conversations during any of
12 those hearings with landfill opponents or people
13 that you knew to be landfill opponents?

14 A. Yeah, I think I probably did, yes.

15 Q. Do you remember who you talked to?

16 A. Uhm, I think I ran into Roger Steimel in the
17 bathroom and Lisa Wilcox in the back of the
18 auditorium.

19 Q. Did you say anything to either one of them on a
20 substantive level about the proposal or the
21 process?

22 A. No, I don't think so.

23 Q. It was just casual conversation with them,
24 pleasantries?

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1 A. With Roger, uhm, I think. It seems to me there
2 was little bit more with Lisa but I don't really
3 remember what it was. I don't really know her,
4 she introduced herself to me.

5 Q. Did you have any contact while the siting
6 application was pending with any Waste
7 Management representative?

8 A. No.

9 (Walt Deposition Exhibit No. 1
10 marked for identification.)

11 Q. Mr. Walt, let me show you what I have marked as
12 Walt Deposition Exhibit No. 1 and ask you if
13 you've seen this e-mail chain before?

14 A. Yes, I did.

15 Q. It's apparently -- you received an e-mail from
16 a Rosemarie Slavenas and then you responded to

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17 that e-mail?

18 A. Uh-huh.

19 Q. Correct?

20 A. Yes, I did, apparently.

21 Q. Does this appear to be a true and accurate copy
22 of the e-mail you received and your response?

23 A. I don't know, I haven't read the whole thing.

24 Q. Take as much time as you need.

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1 A. Yeah, I do, I recognize my reply.

2 Q. Is that a true and accurate copy of your reply?

3 A. I would say so, yes.

4 Q. And the date of that is May 10th, 2010; is that
5 correct?

6 A. I would guess so. I'm sure it was around --

7 Q. Right around the time the County Board voted on
8 it, correct?

9 A. Yes.

10 Q. Steve, that's kind of a strongly worded
11 response to the lady. What prompted you to say
12 that?

13 A. I think probably the fact that, you know, I
14 was, you know, hearing some things along the
15 way. I did get some e-mails from some people
16 that were upset. It didn't appear to me that
17 the purpose of the hearings was for some wing
18 nut to blivate about how they thought things
19 should be done, nor were the hearings set up so
20 I could blivate about how I thought it should
21 be done.

22 Q. When you say wing nut, who are you referring
23 to?

24 A. The writer of the letter. I have seen her a

00012

1 couple of times, I have heard from her a couple
2 of times, and I have seen her act a couple of
3 times. I saw her act at the hearing -- at the
4 public hearing. You should have been there, it
5 was priceless.

6 Q. So you were disgusted pretty much with that
7 whole hearing process?

8 A. With who?

9 Q. The hearing process.

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10 A. No, with her.

11 Q. Anybody else that fell into the wing nut
12 category?

13 A. No, she did a pretty fine job of it.

14 MR. MUELLER: That's all the questions I
15 have.

16 THE WITNESS: That's it?

17 MR. MORAN: Mr. Walt, I have a few
18 questions.

19 THE WITNESS: Go ahead.

20 MR. MUELLER: You're not off the hook yet.

21 EXAMINATION

22 BY MR. MORAN:

23 Q. Good afternoon, my name is Don Moran, I
24 represent Waste Management of Illinois, Inc. --

00013

1 A. I saw you at the hearing.

2 Q. -- the applicant who filed the site location
3 application to expand the existing DeKalb County
4 Landfill. That application was filed on
5 November 30th, 2009.

6 Mr. Walt, were you aware that the County
7 had negotiated a host community agreement with
8 Waste Management of Illinois, Inc. in early
9 2009?

10 A. Yes.

11 Q. You weren't part of the negotiating --

12 A. Nope.

13 Q. -- team from the County; is that correct?

14 A. Nope.

15 Q. Are you aware there was a workshop meeting set
16 up on February 24th of 2009 so that the terms of
17 that proposed community agreement could be
18 presented to the County Board?

19 A. I don't really recall.

20 Q. You don't recall having attended it?

21 A. No.

22 Q. Do you recall that the County Board voted to
23 approve that host community agreement --

24 A. Yeah.

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1 Q. -- on March 18th of 2009?

2 A. I remember that we voted on it and it seemed

3 like it was in the winter -- wintertime.

4 Q. And how did you vote on the host community
5 agreement?

6 A. I believe I voted in favor of it.

7 Q. Now, were you also aware that the actual site
8 location application was filed approximately
9 eight months later; in other words, as I
10 indicated, November 30th of 2009?

11 A. November 30th, yes.

12 Q. Was it your understanding that your vote on the
13 host community agreement was entirely separate
14 and distinct from any vote that you would make
15 on the site location application?

16 A. Yes.

17 Q. They were two entirely separate and distinct
18 processes, correct?

19 A. Yes, sir.

20 Q. And the fact that you voted to approve the host
21 community agreement in no way meant that you
22 were approving the site location application?

23 A. No.

24 Q. Is that correct?

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1 A. Correct.

2 Q. Were you also advised that once the site
3 location application was filed you were not to
4 have any communications with any interested
5 party to the site location application; that is,
6 any communication with Waste Management of
7 Illinois or its representatives, or any persons
8 who had an interest in the site location
9 application?

10 A. Restate that question.

11 Q. Yes. Did you become aware at some point that
12 once the site location application was filed
13 you, as a County Board member and decision
14 maker, were not to have any communications about
15 the proposed expansion with any representative
16 of Waste Management of Illinois, Inc., or any
17 other interested party to that site location
18 request outside the context of the public
19 hearing?

20 A. Yes.

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21 Q. And I think you indicated in response to a
22 previous question that during that period; that
23 is, November 30th of 2009 through May 10th of
24 2010, which was the date of the County Board's

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1 vote on the site location application, you had
2 no communications with any employee, agent, or
3 representative of Waste Management of Illinois,
4 Inc. regarding the expansion?

5 A. No.

6 Q. Would that be correct?

7 A. Yeah, that would be correct, I don't believe I
8 talked to anybody from Waste Management.

9 Q. But you also indicated that you did receive
10 some communications from other interested
11 parties about the proposed expansion during that
12 period, correct?

13 A. Yes.

14 Q. And you indicated one of those was Ms.
15 Slavenas?

16 A. Yes.

17 Q. And you did indicate that Ms. -- you were
18 present when Ms. Slavenas testified at the
19 hearing, correct?

20 A. On the stage.

21 Q. Yes, on the stage.

22 A. Oh yeah.

23 Q. And you recall her having gone into a long -- I
24 won't call it a discussion, I guess I would call

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1 it maybe a soliloquy on the needs and the
2 appropriateness of having adequate jail
3 facilities in the county and other matters that
4 frankly had a very limited relationship to what
5 we were there for; would that be correct?

6 A. I had no idea what she was talking about. I
7 would have to say yes.

8 Q. How had Ms. Slavenas communicated with you
9 outside the hearing, by e-mails, by letters, did
10 she meet you personally, did she call you up?

11 A. No, the e-mail that I was shown, I believe
12 that's the only time I ever got an e-mail from
13 her.

14 Q. Was it only on that one occasion she had sent
15 you an e-mail?

16 A. That was the only e-mail I got from her, right.

17 Q. She didn't call you?

18 A. No.

19 Q. Or send you letters?

20 A. No.

21 Q. And you never talked to her person to person?

22 A. No, I never have, huh-uh.

23 Q. Did you receive other communications from other
24 persons about the proposed expansion during that

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1 period from November 30th, 2009 to May 10, 2010?

2 A. I got some e-mails.

3 Q. How many did you get approximately?

4 A. Five maybe, and one phone call.

5 Q. From whom did you receive the e-mail? Do you
6 remember any names?

7 A. Lisa Wilcox was one. A neighbor that lives
8 down the street from me, I can't remember her
9 name right -- it will come to me though.

10 Q. What did Ms. Wilcox say in her e-mail to you?

11 A. I think she was talking about the school being
12 over there.

13 Q. Cortland Elementary School?

14 A. Cortland. I think that was her angle actually.

15 Q. Was she asking or urging that you vote against
16 the application because of what she included in
17 her e-mail?

18 A. Oh yeah, uh-huh.

19 Q. Did you respond to her e-mail?

20 A. Oh yeah, I did.

21 Q. By e-mail?

22 A. I believe I did, yes.

23 Q. Do you remember what you responded?

24 A. No, I -- I -- she wasn't mad at me, I know --

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1 she wasn't mad at me then, I know that, so I
2 wasn't fighting with her.

3 Q. Did you simply respond to her that you could
4 not communicate because you had been told that
5 you were prohibited from having any
6 communications with interested parties during

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7 this period?

8 A. No, I don't think I said that either believe it
9 or not. I really don't remember. I'm sure it
10 wasn't that. But like I said, she wasn't mad at
11 me at the time, so.

12 Q. How --

13 A. It wasn't the same response I gave --

14 Q. -- long before May 10th, the date the County
15 Board voted, did Ms. Wilcox send you this
16 e-mail, a couple days, a couple weeks?

17 A. Probably within a couple weeks, I would guess,
18 before that.

19 Q. And is that the same for the other e-mails you
20 received other than --

21 A. Yeah, roughly it was right around the same
22 time. It would have been, yeah, within a month
23 I suppose.

24 Q. And do you remember any of the responses that
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1 you provided to any of the e-mails you received?

2 Do you remember what you said in any of them?

3 A. No. I probably had something to say about the
4 school because I think that the e-mails were
5 about the school.

6 Q. Do you remember the phone call you received?

7 A. Uh-huh.

8 Q. When did you receive that again in reference to
9 the May 10th date, the day before, the same day,
10 a couple days before?

11 A. I'm thinking that was in March, because the
12 caller asked me what had happened for the gag
13 order Ms. Slavenas was talking about to come
14 about.

15 Q. Who was it that placed that call to you?

16 A. I think it was Mark Charvat I believe.

17 Q. Had you known Mark Charvat before you received
18 the call?

19 A. I know of him, I don't know him.

20 Q. What did you know of him at that point?

21 A. He's kind of active.

22 Q. He had called to talk to you about the gag
23 order?

24 A. Yeah, it seemed like he was trying to figure

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1 out what had happened for it to come about, I
2 think it was in March at some point, what had
3 happened. You know, I didn't --

4 Q. When you say the gag order, what are you
5 referring to?

6 A. E-mail from Ray Bockman that reminded County
7 Board members that you're not supposed to be
8 talking with anybody about it. Everybody called
9 it a -- I don't know where the gag order came
10 from, might have been the Chronicle or one of
11 the parties, I have no idea. I don't believe
12 Ray called it a gag order, but that's what it
13 became referred to is a gag order, so.

14 Q. And that was the memo that Mr. Bockman sent out
15 in the middle of February 2010 --

16 A. Is that when it was, February, okay.

17 Q. -- reminding board members that they should not
18 be communicating with any interested party
19 outside of the public hearing process?

20 A. Uh-huh, yes.

21 Q. Other than those e-mails and that phone call,
22 do you recall any other communications that you
23 received from any person during this November
24 through May period about the proposed expansion?

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1 A. I got a call from the County Board Chairman.

2 Q. I'm not talking about that at the moment. But
3 any other interested person?

4 A. Not that I can recall. You know, I wasn't -- I
5 wasn't getting that much -- I think I had a
6 couple of messages on my machine, somebody
7 telling me that it was a bad idea and vote
8 against it, but I don't know who they were.

9 Q. All the communications that you received in
10 this way, were they all opposed to the proposed
11 expansion?

12 A. I believe so, I believe everything was.

13 Q. Was it your understanding that the role that
14 you were to play here with regard to this site
15 location application was to make a decision on
16 whether to vote yes or no based on the contents
17 of the site location application, the evidence

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18 and testimony presented at the hearing, and any
19 written submissions that were made by any
20 interested parties to the County?

21 A. Uh-huh, based on --

22 Q. You need to say yes.

23 A. Yes. I'm sorry. Yes. Based on the nine
24 criteria, yes.

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1 Q. The nine statutory criteria?

2 A. Uh-huh, yes.

3 Q. Did you consider any information that was not
4 contained in the site location application, that
5 was not presented at the siting hearing, or that
6 was not contained in any of the written
7 submissions to the County Board in making your
8 decision on the site location application?

9 A. No.

10 Q. Did any information that was not presented in
11 the site location application, at the public
12 hearing, or in these written submissions affect
13 or influence your vote on the site location
14 application?

15 A. No.

16 Q. Did you make your decision on the site location
17 application before all of the evidence had been
18 presented to the County Board?

19 A. No.

20 MR. MORAN: Thank you, no further
21 questions.

22 George, anything further?

23 MR. MUELLER: Yeah, I do have one more.

24 EXAMINATION

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1 BY MR. MUELLER:

2 Q. You mentioned when Mr. Moran introduced himself
3 that you recognized him from the hearings.

4 A. Uh-huh.

5 Q. Did you meet with him at anytime after the
6 hearings and before today to go over questions
7 you were likely to be asked at this deposition?

8 A. No.

9 MR. MUELLER: That's all I have.

10 THE WITNESS: You're done with me?

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11 MR. MORAN: We are finished.

12 MR. MUELLER: With the exception of
13 signature.

14 MR. MORAN: Yes, the only point now, Mr.
15 Walt, is that the court reporter will be
16 transcribing what we said here today. You have
17 the opportunity to review that transcript,
18 although it will be very limited opportunity
19 because we're going to have this prepared right
20 away, or you can simply trust that she will
21 accurately transcribe everything we've said and
22 basically just trust that what she has done will
23 be accurately transcribed.

24 So you can either waive your right to look

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1 at it or look at it, although I will say that if
2 you want to go look at it it would be at her
3 office and probably within a very short period
4 between now and Friday.

5 Just so you're also aware, most of the
6 witnesses who have come in have waived signature
7 and just trusted the court reporter.

8 THE WITNESS: Well, I'm not taking off
9 work to go look at it --

10 MR. MUELLER: He's correct in all of his
11 representations.

12 THE WITNESS: -- I can tell you that. I
13 can waive it.

14 (The deposition was concluded at
15 5:30 p.m.)
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1 C E R T I F I C A T E

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3 I, Callie S. Bodmer, a Certified Shorthand

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Reporter in and for the State of Illinois, do hereby

4 certify that, pursuant to the agreement herein
contained, there came before me on the 16th day of
5 November 2010 at 5:04 p.m. at the DeKalb County
Legislative Center, 200 North Main Street, Sycamore,
6 Illinois, the following-named person, to-wit: STEVE
WALT, who was duly sworn to testify to the truth and
7 nothing but the truth of his knowledge concerning
the matters in controversy in this cause; that he
8 was thereupon examined on his oath and his
examination reduced to writing under my supervision;
9 that the deposition is a true record of the
testimony given by the witness, and that the reading
10 and signing of the deposition by said witness were
expressly waived.

11

I further certify that I am neither

12 attorney or counsel for, nor related to or employed
by, any of the parties to the action in which this
13 deposition is taken, and further, that I am not a
relative or employee of an attorney or counsel
14 employed by the parties hereto or financially
interested in the action.

15

In witness whereof I have hereunto set my
16 hand this 17th day of November 2010.

17

18

19

Callie S. Bodmer

20

Certified Shorthand Reporter

Registered Professional Reporter

21

IL License No. 084-004489

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Dixon, Illinois 61021

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