

Fayette County Transfer Station

(Trash Substation)

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The following items were scanned on Thursday, April 21, 2022

Scanning process was 2 hours and 10 minutes.

Start Time: 9:30am

Scanning Completed: 11:40am

April 19th, 2022

**Received by Christopher Allen Sutter (owner)
Countryside Disposal LLC.**

**Application for local siting Approval for proposed Solid
Waste Transfer Station Fayette County, Illinois prepared
for: Fayette County Board and countryside Disposal
(Owner Chris Sutter) April 19th, 2022.**

**Jessica Barker
Fayette County Clerk**

Date: 4-19-22

Signed: Jessica Barker

FILED
APR 19 2022
Jessica Barker
**COUNTY CLERK & RECORDER
FAYETTE COUNTY, ILLINOIS**

221 S. 7th St, Rm 106
Vandalia, IL 62471

JESSICA BARKER

Fayette County Clerk & Recorder

Office Hours: 8-4 Mon.-Fri.
Office: 618-283-5000
Fax: 618-283-5004
jbarker@fayettecountyillinois.org

COPY

COUNTRYSIDE DISPOSAL LLC D.B.A. SUTTER DISPOSAL P O BOX 323 BROWNSTOWN, IL 62418		70-1616/812	1828
PAY TO THE ORDER OF <u>Fayette County</u>		DATE <u>4-19-2022</u>	
<u>Twenty five thousand dollars & 00/100</u>		\$ <u>25,000</u>	
TSB TEUTOPOLIS STATE BANK 217-857-3166			Heat Reactive Ink
MEMO <u>Filing Fee For Waste Transfer</u>	<u>Chris Sutter</u>		MP
⑆081216169⑆ 1000381⑆ 1828			

FILED

APR 19 2022

Jessica Barker
COUNTY CLERK & RECORDER
FAYETTE COUNTY, ILLINOIS

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FAYETTE COUNTY, ILLINOIS
PUBLIC HEARING
TUESDAY, AUGUST 2, 2021
MOOSE LODGE #1447
328 S. 3RD STREET, VANDALIA, ILLINOIS

1 CHAIRWOMAN WAGGONER: I call this public
2 hearing to order at 1:00. Let's all stand for the
3 pledge of allegiance.

4 (Pledge of Allegiance.)

5 CHAIRWOMAN WAGGONER: Glenda Bartels?

6 BOARD MEMBER BARTELS: Here.

7 CHAIRWOMAN WAGGONER: Keith Cole?

8 BOARD MEMBER COLE: Here.

9 CHAIRWOMAN WAGGONER: Merrell Collins?

10 BOARD MEMBER COLLINS: Here.

11 CHAIRWOMAN WAGGONER: John Carlock?

12 Glenn Gurtner.

13 BOARD MEMBER GURTNER: Here.

14 CHAIRWOMAN WAGGONER: Matt Hall?

15 Jacob Harris?

16 BOARD MEMBER HARRIS: Here.

17 CHAIRWOMAN WAGGONER: Douglas Knebel?

18 BOARD MEMBER KNEBEL: Here.

19 CHAIRWOMAN WAGGONER: Mack Payne?

20 Ashley Towler?

21 BOARD MEMBER TOWLER: Here.

22 CHAIRWOMAN WAGGONER: Me. Deb Warner?

23 BOARD MEMBER WARNER: Here.

24 CHAIRWOMAN WAGGONER: James Wehrle?

1 BOARD MEMBER WEHRLE: Here.

2 CHAIRWOMAN WAGGONER: Joe Willis?

3 BOARD MEMBER WILLIS: Here.

4 CHAIRWOMAN WAGGONER: At this time, I'd
5 like to introduce our public hearing moderator, Scott
6 Kains. If you wouldn't mind reading the procedures.

7 MODERATOR KAINS: Thank you, Madam Chair.

8 I've coached enough baseball and
9 basketball over the years that I can raise my voice
10 and yell; I won't need the microphone I guess.

11 Procedures governing the public comment
12 period for today's hearing.

13 During the public comment hearing, the
14 Fayette County Board will receive public comments
15 regarding the siting application of a new Pollution
16 Control Facility at 1575th Highway 185, Brownstown,
17 Illinois, 62418.

18 Comments may be submitted in two forms:
19 Oral comments made at public hearing; and written
20 comments submitted at the public hearing or, if after
21 the hearing, submitted to the Fayette County Clerk and
22 Recorder's Office located at 221 South 7th Street,
23 Room 106, Vandalia, Illinois, 62471, to be submitted
24 by 4:00 p.m. on the 2nd day of September, 2022, one

1 month from today.

2 If you wish to observe the public
3 hearing, you must abide by the following rules so that
4 the hearing procedures -- so that the hearing proceeds
5 in an orderly manner.

6 Audience members must be seated and
7 quiet. Loitering in the hearing room is prohibited.
8 Any person who is unruly, disrupts, or attempts to
9 disrupt the hearing or otherwise engages in
10 inappropriate behavior will be expelled.

11 That will save my voice.

12 If you engage in inappropriate
13 behavior, you will be removed. Excessive applause,
14 jeering, or other commotion shall be considered
15 disruptive.

16 Speaking rules at public hearing.

17 Speakers must register in advance of
18 the public hearing or at the public hearing. If you
19 are wishing to speak to the County Board in this
20 hearing, you need to register. The sign-in sheet is
21 over here on the podium. And you need to register
22 there at this time.

23 I will recognize each speaker in turn,
24 at which time the speaker will step to the podium to

1 state and spell the speaker's first and last name.
2 This will permit the court reporter to prepare an
3 accurate transcript. Only one person may speak at a
4 time so the court reporter can transcribe what is
5 being said.

6 I will manage the time limit period for
7 each interested party. Each party shall have the
8 following time limit period:

9 Presentation of the applicant, two and
10 one-half hours.

11 Attorneys in opposition, two and
12 one-half hours. There are two attorneys, Mr. Porter
13 and Mr. Myers for the opposition, so they may -- and
14 they're working together, and so out of fairness, we
15 will allow them to have a total of five hours
16 combined.

17 Other speakers when it comes to the
18 open floor for public speaking comments, you will have
19 a five-minute time limit.

20 And then closing comments from the
21 attorneys. They will have 15 minutes each to address
22 the Board at the conclusion of the hearing.

23 Each speaker must adhere to the
24 appropriate time limit period. Any speaker exceeding

1 the time limit will be directed to stop speaking.
2 Speakers directed to stop speaking by me must do so
3 immediately. Time limits will be enforced by me.

4 All comments shall be in keeping with
5 proper and courteous conduct. Each speaker shall
6 direct comments to the County Board generally and
7 shall not direct comments at any individual or any
8 audience members.

9 I will take whatever action is
10 necessary to ensure that these rules are enforced and
11 the hearing proceeds in an orderly fashion, including
12 enforcing time limits.

13 Neither the Illinois Environmental
14 Protection Agency nor state statute provide for any
15 particular time period for the public hearing. The
16 public hearing does not have to last until every
17 person present has had the opportunity to be heard.
18 Time limits will be enforced so that as many persons
19 as possible may have the opportunity to speak at this
20 hearing.

21 The speaking order at the public
22 hearing:

23 First, opening comments of the
24 applicant and then attorneys acting as spokespersons.

1 Then other speakers, alternating turns based on a
2 stated position of being in opposition, followed by a
3 stated position of being in support of, followed by a
4 stated position of being neutral to the siting
5 application of a new pollution control facility at
6 1575th Highway 185, Brownstown, Illinois, 62418, the
7 application -- that's the siting application address.

8 Speaking priority will be given as
9 follows:

10 Speakers who are Fayette County
11 residents, business owners, or who own real property
12 in Fayette County and who have registered prior to the
13 public hearing at the Fayette County Clerk and
14 Recorder's Office.

15 They will be followed by speakers who
16 register prior to the public hearing at the Fayette
17 County Clerk's Office; followed by speakers who are
18 Fayette County residents, business owners, or who own
19 real property in Fayette County and register at the
20 public hearing before the hearing begins.

21 Speakers who register at the public
22 hearing or during the public hearing or speakers who
23 register at any time by providing first and last name,
24 but provide no other information.

1 Those who are seeking speaking priority
2 must provide all of the following information at
3 registration: First and last name; a valid, current
4 address; and a stated position of being in opposition
5 to, in support of, or a neutral position to the
6 pollution control facility. This information will
7 allow me to make a determination regarding such
8 speaking priority.

9 Then we will conclude with closing
10 comments by the attorney.

11 The public comment period. The County
12 Board will receive oral comments made at the public
13 hearing today, and if necessary, tomorrow. Then
14 written comments are invited as follows: They may be
15 submitted to me at the public hearing or after the
16 public hearing by 4:00 p.m. on September 2, 2022, at
17 the Fayette County Clerk and Recorder's Office, 221
18 South 7th, Room 106, Vandalia.

19 The stated purpose of the public
20 comment period.

21 The purpose of the public comment
22 period is to allow the applicant and the public an
23 opportunity to inform the Fayette County Board about
24 their views at a public hearing and to otherwise make

1 written comments regarding the siting application.
2 This public comment period will provide the County
3 Board will valuable input for its consideration while
4 the County Board reviews the siting application.

5 The County Board will take into
6 consideration all oral comments made at the public
7 hearing and all other written comments timely
8 submitted during the public comment period.

9 The County Board further appreciates
10 all public participation regarding this matter.

11 A few additional notes. For those of
12 you who attended or recall a prior hearing on the
13 issue of siting of a waste transfer station that
14 occurred in November of 2021, this is a separate
15 application for local siting approval. As such, this
16 is a completely separate hearing from the one
17 conducted last November.

18 To that end, the parties are to present
19 testimony and other evidence in support of or in
20 opposition to this new application that is before the
21 County Board. This means that some of the testimony,
22 attorneys' questioning, and certain exhibits may seem
23 as if they are already out in the public eye, but
24 please note that the presentation of all evidence must

1 be done once again in order to allow the County Board
2 to fully consider the evidence concerning this new
3 application.

4 In addition, the court reporter is
5 taking everything down to prepare a full and complete
6 record of these proceedings in the event there is an
7 appeal of the County Board's decision on the matter.

8 And one final note. The County Board
9 will not be deciding this matter until after the
10 written comment period closes in 30 days on
11 September 2 of 2022.

12 Thank you for listening to the ground
13 rules.

14 Mr. Shaw, you represent the applicant,
15 and you may call -- you may make an opening statement
16 if you wish. If you do not wish, you may call your
17 first witness.

18 MR. SHAW: Where is the witness stand?

19 MODERATOR KAINS: The witness is going to
20 be at the table at the far end.

21 MR. SHAW: And this is where I stand?

22 MODERATOR KAINS: Yes.

23 MR. HARMON: Scott, do you want to give
24 your microphone to your witness?

1 MODERATOR KAINS: Yes, I will.

2 MR. SHAW: Good afternoon. My name is
3 Patrick Shaw. I represent Countryside Disposal in
4 this application proceeding.

5 We filed the application a few months
6 ago. Hopefully, everyone has had time to review it
7 and hope you had a chance to review it. And what
8 we'll be presenting today is hopefully summarization
9 of that application as efficiently as we can possibly
10 do.

11 Thank you for your patience.

12 Could the witness please state your
13 name for the record.

14 COURT REPORTER: Excuse me for one moment.
15 Are we swearing in witnesses?

16 MODERATOR KAINS: Yes. Could you please
17 swear in the witness.

18 **CHRISTOPHER SUTTER**,
19 called as a witness herein, having been duly sworn on
20 his oath, testified as follows:

21 DIRECT EXAMINATION

22 CONDUCTED BY MR. SHAW:

23 Q. Now, if you would state your name and spell
24 it for the record.

1 A. Christopher Alan Sutter, S-u-t-t-e-r.

2 Q. Mr. Sutter, what is your current employment?

3 A. I'm the owner of Countryside Disposal and
4 Sutter Disposal.

5 Q. When did you start working in waste
6 management?

7 A. When I was about 14 years old.

8 Q. And in what capacity was that?

9 A. What's that? Sorry?

10 Q. In what capacity were you working at
11 14 years old?

12 A. At the time, I worked for my family as a
13 loader operator.

14 Q. Okay. What jobs have you held in the waste
15 management business since then?

16 A. I've operated, obviously, garbage trucks to
17 semi-trash trailers, payloaders, transfer stations,
18 items of, you know, ownership of a garbage company
19 myself, and managed and helped run another trash
20 business for my family.

21 Q. What specific responsibilities have you held
22 with -- involving waste transfer stations?

23 A. I've operated them by scaling trucks in,
24 loading trash trailers to driving the semi-truck and

1 trailer to the landfills.

2 Q. Do you have any licenses or certifications
3 in waste management activities?

4 A. All I have is just a certification from
5 SWANA stating -- in landfill operations.

6 Q. And that's in the permit application
7 materials?

8 A. That is correct.

9 Q. I should say siting application materials.
10 The permit is separate.

11 A. I think the battery is dead.

12 MODERATOR KAINS: Mr. Shaw and Mr. Sutter,
13 as you question and answer, I hate to have to ask you
14 to yell, but there's --

15 A. The battery died on it, so I'm just going to
16 try to --

17 MODERATOR KAINS: There's real important
18 people over here who need to hear the questions and
19 the answers. And there's equally important people
20 back here who also need to hear.

21 A. Yes, sir.

22 MODERATOR KAINS: I'm sorry that we don't
23 have better technology, but it is what it is.

24 A. That's all right. We'll get it done.

1 MODERATOR KAINS: You might have to yell
2 at Mr. Shaw.

3 **Q. Mr. Sutter, what is a waste transfer**
4 **station?**

5 A. It's a facility where garbage trucks or
6 other waste machinery comes in and unloads trash.
7 They go and unload on concrete floors. Then after
8 it's unloaded on a concrete floor, the items are
9 loaded into a trash trailer. And then after that, the
10 trash trailer is taken to a landfill.

11 It's just a temporary holding spot; not
12 an actual landfill where waste is buried in the
13 ground.

14 **Q. Where does the waste come from?**

15 A. It comes from a rear-load garbage truck, a
16 roll-off, or any kind of construction debris. Public,
17 if they bring it to that facility.

18 **Q. What happens when the waste first arrives at**
19 **a waste transfer station?**

20 A. When it first arrives?

21 So when the waste first arrives, it is
22 then scaled in at the scale house to make sure that
23 the waste is weighed in. And then they take it out to
24 the tipping shed and lay it on a tipping floor. And

1 at that point, they itemize and can go through and
2 make sure there's nothing hazardous in the waste.

3 So when it first arrives, it definitely
4 goes to the scale house first.

5 **Q. At that point, what's the next thing that**
6 **happens to the waste after it's brought in?**

7 A. At that point, they're directed out to the
8 tipping floor, tipping shed to unload the garbage
9 truck. Or unload the truck.

10 **Q. Where does the waste go after that?**

11 A. After that, it's like I said, it's screened
12 through to make sure that there's nothing that's
13 hazardous or looks like it's going to harm anything,
14 and it's loaded into a semi-trailer and then
15 transferred to a landfill nearby or farther distance
16 away.

17 **Q. Is there any waste left overnight?**

18 A. No, there is not.

19 MR. PORTER: Objection. At what facility?
20 What are we talking about?

21 MODERATOR KAINS: I'm going to overrule
22 it. Let's just discuss the basic operation as
23 Mr. Sutter understands it; how a waste transfer
24 station works.

1 MR. PORTER: My objection is relevancy if
2 we're not talking about that one.

3 MODERATOR KAINS: Overruled. Go ahead.

4 **Q. Should I re-ask the question?**

5 MODERATOR KAINS: Yes, ask the question.

6 **Q. Are waste transfer stations allowed to store**
7 **waste overnight?**

8 A. No, they are not.

9 **Q. Are waste transfer stations allowed to**
10 **permit waste to enter the environment in any way?**

11 A. No, they are not.

12 **Q. What are the advantages of a waste transfer**
13 **station?**

14 A. The advantage of a waste transfer station is
15 to where the garbage is actually brought in, like I
16 said, screened to make sure there's nothing hazardous
17 or anything that's going to, you know, ruin the ozone
18 or the pollution of the world. We get to be able to
19 make sure we can screen it. Unload it into a trash
20 trailer.

21 Items like that that would be, you
22 know, accidentally brought in there, you can actually
23 shut down the facility, make sure it's all properly
24 cleaned and got rid of the correct way.

1 The biggest perks of them is it makes a
2 shorter distance of driving time for garbage companies
3 and other garbage haulers so that way they don't have
4 to go as far as some landfills may be. After, you
5 know, being screened and checked and everything, you
6 can actually transfer the waste to a further
7 destination.

8 In some cases, if there's a landfill
9 that's nearby and you can get the trash further away
10 from that landfill, you can actually make it to where
11 it saves more life for that landfill in that area.

12 **MODERATOR KAINS:** Mr. Sutter, could you
13 raise your voice up just a little.

14 A. A little more? I feel like I'm screaming at
15 him.

16 **Q. Should I step back?**

17 A. Can you hear me good?

18 **Q. You're fine.**

19 **Mr. Sutter, I'm going to go through the**
20 **nine criteria with you --**

21 A. All right.

22 **Q. -- at this point.**

23 A. I'm gonna stand up, if that's okay. Maybe
24 if I stand up, I can get a little louder.

1 **Q. First criteria is need. How does the permit**
2 **or siting application address the need criteria?**

3 A. So like as of right now, Fayette County does
4 not actually currently have a municipality or solid
5 waste transfer station or landfill in this area.

6 The proposed transfer station will
7 result in reduced cost of transporting waste to a
8 regional landfill by consolidating smaller loads into
9 larger transfer vehicles which will also reduce the
10 fuel consumption and the collection of vehicle
11 maintenance costs over all the traffic and area
12 mentioned and road wear.

13 **Q. How far is the service area of the transfer**
14 **station?**

15 A. 30-mile radius.

16 **Q. How much trash could it handle per day?**

17 A. Right now I'm asking for the basics of 200
18 ton per day.

19 UNIDENTIFIED SPEAKER: How much was that?
20 I couldn't hear that.

21 MODERATOR KAINS: Mr. Shaw, could you
22 raise your voice too. I know you've yelled in the
23 past, so I just --

24 A. Go ahead and yell at me, it will be all

1 right.

2 MODERATOR KAINS: We're just going to have
3 to make do, folks, until we get batteries in the
4 microphone.

5 Q. I don't know if it would be better if I back
6 up and scream a little more.

7 Do you believe there is demand for
8 200 tons of waste per day in the area you've
9 identified?

10 MR. PORTER: Objection; foundation.

11 MODERATOR KAINS: Sustained. Go ahead,
12 lay a foundation for these questions.

13 Q. Are you familiar with the -- with waste
14 needs in the area of 30 miles from the proposed
15 transfer station?

16 A. Yes, I do.

17 Q. How are you aware of those?

18 A. Because two of the other haulers and I
19 have -- or have talked to each other on the fact of
20 needing a closer location so that way we're not
21 driving as far to unload. And to better ourself and
22 better our businesses for the community.

23 Q. And have these haulers made any statements
24 that have been included in the application materials?

1 A. There are two haulers that did put in
2 letters of support in the application. One being Doty
3 Sanitation and the other being DBS Disposal; two of
4 the largest haulers of Fayette County.

5 MR. PORTER: Same objection. The criteria
6 is whether or not there's a need for a transfer
7 station, not whether two competitors would like to
8 have one closer. He needs to lay a foundation that
9 would justify their opinion and he hasn't done so.

10 MODERATOR KAINS: I'm going to overrule it
11 and ask, Mr. Shaw, you know, you need to establish the
12 criteria that there is a need. And if Mr. Sutter and
13 his letter writers in his application can establish
14 that, then you've met the criteria.

15 But go ahead and ask another question.

16 **Q. Just to be clear, the statute says need is**
17 **based upon waste needs of the area it's intended to**
18 **serve.**

19 MODERATOR KAINS: Yes.

20 **Q. We have established the waste area. We're**
21 **asking who is currently providing waste service in**
22 **that area?**

23 A. Doty Sanitation, DC Waste, Countryside
24 Disposal, and DBS Disposal.

1 **Q. And based upon those waste haulers, they've**
2 **all indicated there's a need to -- for a transfer**
3 **station in that area?**

4 A. Yes, they have.

5 MR. PORTER: Objection; leading.

6 MODERATOR KAINS: Overruled. What was the
7 answer?

8 A. Yes, they have.

9 MODERATOR KAINS: Thank you.

10 **Q. Would there be any other benefits to Fayette**
11 **County from a transfer station for the county?**

12 A. Would there be any other benefits?

13 **Q. Yeah.**

14 A. Being able to reduce the cost for most of
15 the folks that live in this county. If we can make
16 the trucks where they don't have to travel as far,
17 it's not costing as much in diesel fuel and it keeps
18 the man hours down.

19 We can also try to help save the county
20 money. Gives an opportunity for the county, you know,
21 if they're doing any kinds of clean-ups or any sorts
22 or anything that they, you know, look forward to in
23 the next few -- future, it does give them an
24 opportunity to have a facility to take it to.

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Q. Turn to Criteria 2 which is design.

How does the siting application support the design needs for the facility?

A. So the proposed transfer station is actually located on a state highway. Access is designed for large trucks to use without impacting the traffic.

The Illinois Department of Transportation will also have to review and approve those entrances, but the location is also an agriculture area in which the nearest residence is actually over 1800 feet away.

Waste will be handled inside an enclosed building shown in our designs. An operation plan has been developed for the proposed facility which addresses waste acceptance criteria, facility operations, erosion control requirements -- requirements, drainage control, and water protection. There is disease and vector controls, signs and safety requirements. There will be access security requirements and facility inspection.

And this is all included in the operational plan that's in my application that is turned into the county. That has been turned into the county.

1 **Q. Mr. Sutter, what is the nature of the**
2 **surrounding area?**

3 A. Agriculture.

4 **Q. What is the -- how far, approximately, is**
5 **the nearest residence?**

6 A. 1800 feet.

7 **Q. How will the -- how does -- how will the**
8 **facility inspections take place?**

9 A. So we're gonna have -- obviously, there
10 would be myself there, but there's also going to be
11 trained personnels that will be, you know, hire to
12 make sure that nothing is going to leak out or, you
13 know, escape into the ozone or --

14 You know, it's all going to be managed
15 and ran professionally so that way everything is made
16 sure it's clean and safe for the environment.

17 **Q. With respect to Criteria 3, how does the**
18 **siting application address location requirements for a**
19 **waste transfer station?**

20 A. So the location of the proposed facility is
21 currently used as farmland. And like I said, the
22 surrounding area is agriculture with no residential
23 homes within 1800 feet. There are no zoning
24 classifications or restrictions on the use of this

1 property as a waste transfer station. There are no
2 known --

3 MR. PORTER: Objection. The witness is
4 just reading. He's just reading his testimony. He's
5 not refreshing his recollection, he's --

6 MODERATOR KAINS: This is a public
7 hearing, I'm going to allow it.

8 A. So really, there are no known incompatible
9 uses of the surrounding area which might affect the
10 value of the surrounding property.

11 Q. Mr. Sutter --

12 MR. PORTER: Objection; foundation. Once
13 again, there's no testimony that he's an expert in
14 determining what property --

15 A. Can I finish -- I said can I finish that?
16 There is --

17 MODERATOR KAINS: With that said -- Mr.
18 Sutter, let me talk.

19 A. Yep.

20 MODERATOR KAINS: With that said,
21 Mr. Porter, I would agree with you. However, I'm
22 going to let him testify as to his knowledge with
23 respect to this issue. You, of course, will have the
24 opportunity to cross-examine him about his expertise

1 on this issue.

2 So ask another question.

3 **Q. Did you finish your answer to that?**

4 A. I'm going to go ahead and finish if I can.

5 **Q. Yes.**

6 A. So I hired Mr. Kent Aumann. And he was
7 retained to evaluate the proposed site, location, and
8 projects. And as it shows in the application, this
9 engineer -- this gentleman went and actually done
10 testing to find out to make sure --

11 MR. PORTER: Objection. This is hearsay.
12 And it also misstates the report. There is no study
13 contained in this report.

14 MODERATOR KAINS: Is Mr. Aumann --

15 Move your microphone away. It's like a
16 bad Saturday Night Live sketch.

17 With respect to what Mr. Aumann --
18 you're testifying to Mr. Aumann. You can't do that.
19 But is Mr. Aumann's report contained in your
20 application for local siting approval?

21 A. Mr. Aumann's report is all inside the
22 application report; yes.

23 MODERATOR KAINS: If the Board wishes to
24 refer to anything from Mr. Aumann, absent his

1 testimony here, you have it in the permit application
2 and that carries whatever weight you wish to give it.

3 Now, we can't testify about what other
4 people say, okay? You can give statements of which
5 you have direct knowledge, but we can't testify about
6 what Mr. Aumann says. Mr. Aumann can testify or the
7 Board can look at his report contained in your
8 application.

9 Thank you, Mr. Sutter. Mr. Shaw, go
10 ahead.

11 MR. PORTER: I'm sorry, I need to make one
12 more objection.

13 MODERATOR KAINS: Okay.

14 MR. PORTER: In order to provide an
15 opinion concerning Criterion 3, that requires expert
16 testimony as to whether or not there's been some type
17 of property value loss. This is the public hearing.
18 Without the opportunity to cross-examine that expert,
19 it's not fundamentally fair for the Board to rely upon
20 a one-page -- actually, it's a one-paragraph
21 conclusion, when the expert is not here to testify.

22 So the process is fundamentally unfair
23 without that person being available for
24 cross-examination.

1 MODERATOR KAINS: I've already directed
2 that Mr. Sutter is not to testify as to anything
3 regarding property valuation unless he has personal
4 knowledge. Otherwise, the Board is to consider, if
5 there's a paragraph from Mr. Aumann in the permit
6 application, the Board may consider it, but give it
7 the weight that it should be given without having Mr.
8 Aumann here and the opportunity to hear from him, his
9 study, his opinion, and the opportunity for him to be
10 cross-examined.

11 Go ahead, Mr. Shaw; ask another
12 question.

13 We need to hear you too. Even if we don't
14 want to.

15 MR. PORTER: I hope you want to for the
16 safety of your county.

17 (BY MR. SHAW:)

18 **Q. Mr. Sutter, did you engage Mr. Kent Aumann**
19 **to provide a real estate appraisal for this**
20 **application?**

21 A. Yes.

22 **Q. Did you include that in the application**
23 **materials?**

24 A. Yes.

1 MR. PORTER: Objection. There is no
2 appraisal in the application material. That's just an
3 out-and-out lie. There's a one-paragraph statement,
4 it is not an appraisal. It mischaracterizes the
5 evidence.

6 MR. SHAW: That's not an objection, he's
7 arguing the facts. Does that document say it's an
8 appraisal?

9 MR. PORTER: No.

10 MR. SHAW: It doesn't?

11 MR. PORTER: No.

12 MR. SHAW: Okay. We know which one it is?

13 MODERATOR KAINS: I overruled the
14 objection, fellows. Mr. Shaw, ask another question.
15 The appraisal or the statement--whatever it is from
16 Mr. Aumann--is in the application. The Board can look
17 at it, the Board can think it's great, the Board can
18 think it's not great. But let's move on with this
19 criteria if you have any other questions for
20 Mr. Sutter.

21 (BY MR. SHAW:)

22 Q. Mr. Sutter, I'm going to move on to Criteria
23 5. Does the siting application -- how does the siting
24 application address the operations criteria?

1 A. So an operation plan has actually been
2 developed for this proposed facility which is to
3 minimize the risk from the fires and spills and other
4 operational accidents. The facility will not accept
5 hazardous or liquid waste.

6 With these criterias, we added the
7 emergency plan, the containment system, ETT. There
8 will be a fuel tank on site that is over 40 feet from
9 any standing structure. It is, in our engineered
10 plans and drawings, it is consistent of a 2500 UL 142
11 double-wall steel, horizontal steel storage tank. It
12 also has a 560-gallon UL 142 double-wall steel
13 horizontal -- horizontal fuel storage tank. This fuel
14 containment, it is in our plan.

15 Operationally, the main goal shall be
16 safety at the site. Defined truck paths are to be
17 always maintained. The facility on the site
18 contingency plan which is to be located within the
19 office. It is to be consulted in case of any
20 operational accidents.

21 The greatest potential for an
22 accidental spill is when stored leachate is outloaded
23 for offsite disposal. Leachate is defined as liquid
24 that has percolated from or come into contact with

1 refuse. The liquid source is generally--tongue is all
2 dried up--precipitation.

3 Any leachate generated at the facility
4 is to be directed to a collection system which
5 ultimately directs the leachate to a 1,000 gallon
6 above-ground storage tank. This tank is to be located
7 within a concrete containment structure.

8 The concrete containment will also
9 serve as collision protection. When the storage tank
10 is nearby capacity, the leachate is to be picked up by
11 a special waste hauler for offsite transport and
12 disposal.

13 Should any accidental spills occur
14 during this process, the spilled product is to be
15 confined to the site using portable booms, berms, or
16 dikes.

17 The biggest thing is to definitely try
18 to be safe -- safety first. Try to make sure that
19 nobody is doing anything that would cause a spill of
20 any sort. I mean I know you can't stop all accidents,
21 but the best thing is try not to be -- from having as
22 many accidents as possible.

23 **Q. How does the plan of operations minimize the**
24 **danger from fire?**

1 A. It has a sprinkler system inside. It also
2 has hose reels. It actually has ways to prevent the
3 fire from happening by making sure no burn barrels of
4 any sort is coming into contact; no burnt trash.
5 Which is all going to be itemized and made sure.

6 The other biggest thing is the fire
7 department is also only within five miles away, so
8 calling 911 will be a huge help. There will be enough
9 fire extinguishers to be provided to help with any
10 outbursts or outbreaks of a fire.

11 **Q. Okay. I'm going to skip ahead to Criteria 7**
12 **which is the hazardous waste plan. Would this**
13 **proposed facility handle hazardous waste?**

14 A. No, this facility will not handle hazardous
15 waste at all.

16 **Q. Criteria 8, the county Solid Waste**
17 **Management Plan. Have you seen the county Solid Waste**
18 **Management Plan?**

19 A. Yes, I have.

20 **Q. And have you included that plan with your**
21 **application materials?**

22 A. I put the plan in the application materials.
23 It also states Fayette County has adopted a Solid
24 Waste Management Plan. And there is no known

1 inconsistencies with this planning requirement.

2 MR. PORTER: Objection. The plan does not
3 state there's no known inconsistencies. Again, he's
4 reading from a document rather than answering a
5 question.

6 MODERATOR KAINS: I'm going to overrule
7 the objection. I don't think -- Mr. Sutter, the plan
8 doesn't say that, that's your conclusion; correct?

9 A. On which part again?

10 MODERATOR KAINS: The end -- Kathy, could
11 you please read the last question.

12 (The court reporter read back the
13 requested information.)

14 A. To my knowledge, there is no known
15 inconsistency.

16 MODERATOR KAINS: My question is to
17 clarify. That's your statement, it's not contained in
18 the plan that there's no inconsistency?

19 A. Correct.

20 MODERATOR KAINS: All right. Overruled.
21 Go ahead, Mr. Shaw.

22 **Q. How is the siting application consistent**
23 **with the county's Solid Waste Management Plan?**

24 A. So one of the items the solid waste plan

1 states in that there's a \$25,000 filing fee which I
2 have, you know, paid and put towards the application.

3 One of the other items says -- you
4 know, it doesn't state there's anything wrong with an
5 in-county or an out-of-county transfer station.

6 MR. PORTER: I'm going to object unless
7 they can point to a page that they're referring to in
8 this plan. And I assure you, there is no page that
9 talks about a \$25,000 fee to be paid. That was passed
10 by an ordinance about three months ago in this county.

11 But again, if we're going to make vague
12 statements as to what the plan provides, the public
13 has the right to see what language Mr. Sutter is
14 relying on. So I ask that they point out what page of
15 the plan they're referring to.

16 MODERATOR KAINS: I'm going to overrule
17 the objection. I think everybody in this room is
18 aware of the ordinance that was passed for the \$25,000
19 filing fee. You paid it.

20 A. That is correct.

21 MODERATOR KAINS: Whether it's in the
22 Solid Waste Management Plan or a separate ordinance,
23 the Board can decide whether your testimony is
24 credible with respect to that issue. And, Mr. Porter,

1 you may cross-examine Mr. Sutter with respect to that
2 issue.

3 Mr. Shaw, go ahead.

4 **Q. To the best of your knowledge, is the**
5 **application you filed consistent with the Solid Waste**
6 **Management Plan?**

7 A. Yes, best of my knowledge, it is.

8 MR. PORTER: Again, objection; foundation.
9 They didn't even reference what the plan provides.

10 MODERATOR KAINS: I'm going to overrule
11 it. The Board can determine that.

12 **Q. Moving to Criteria 9. To the best of your**
13 **knowledge, is the facility located within a regulated**
14 **recharge area?**

15 A. This facility is not located in one. The
16 closest one nearby is Peoria, Illinois. Which is in
17 the plan showing the saving of the recharge area.

18 MR. SHAW: I have no further questions.

19 MODERATOR KAINS: Thank you, Mr. Shaw.

20 Cross-examination, Mr. Porter.

21 MR. PORTER: Thank you.

22 CROSS-EXAMINATION

23 CONDUCTED BY MR. PORTER:

24 **Q. Mr. Sutter, you compiled the recent**

1 April 22nd, 2022, application materials; is that
2 correct?

3 A. Yes.

4 Q. Now, this is the fourth time that you've
5 filed an application and asked the County Board for
6 approval to site a transfer station; is that right?

7 A. Yes.

8 Q. So your first application was February 12 of
9 2021; is that correct?

10 A. Yep.

11 Q. That application consisted of approximately
12 four pages; is that correct?

13 A. That I can't recall.

14 Q. Your next application was April 13 of 2021;
15 is that correct?

16 A. Sure, yes.

17 Q. You then filed again on August 12 of 2021?
18 Is that right?

19 A. Yes.

20 Q. And we had a complete hearing on the
21 August 12th, 2021, application; is that correct?

22 A. That is correct.

23 Q. And you closed the evidence at that hearing;
24 is that right?

1 A. I dismissed it. I withdrew or the county
2 dismissed it at that time.

3 **Q. Did you understand that you withdrew the**
4 **application?**

5 A. I mean I obviously wanted to make sure that
6 everything was perfect. It doesn't say how many times
7 you can do it as long as it's not denied.

8 **Q. So you had communications with the county**
9 **before it was dismissed?**

10 A. No, I did not.

11 **Q. Did you inform the county that you were okay**
12 **with it being dismissed before it was dismissed?**

13 A. No, I did not. Had no clue they was even
14 dismissing it.

15 **Q. So if depositions are later taken with**
16 **County Board members, not one of them will testify**
17 **they had any conversations with you about that**
18 **application; is that correct?**

19 A. That is correct.

20 **Q. The -- I'm gonna jump right to a few things**
21 **you brought up in your direct.**

22 You mentioned that waste transfer
23 stations are not allowed to store waste overnight.
24 **Did I hear that correctly?**

1 A. That is correct.

2 Q. Have you ever reviewed the actual
3 regulations that regulate waste transfer stations?

4 A. You got to actually get permitting in order
5 to have them for 24 hours, but that is not what I'm
6 asking for.

7 Q. No, no, you didn't hear my question I guess.
8 Have you ever actually reviewed the regulations that
9 regulate waste transfer stations?

10 A. No, I have not.

11 Q. You've never reviewed them; is that right?

12 A. Not to that degree.

13 Q. So do you even know where they're found?

14 A. I'm sure the Illinois EPA.

15 Q. Well, it's actually the Illinois
16 Administrative Code.

17 A. Okay.

18 Q. So -- but it's your understanding that a
19 waste transfer station cannot have waste on site after
20 close; is that right?

21 A. That is correct. They're not allowed to
22 have it --

23 (Parties speaking simultaneously; court
24 reporter requested clarification.)

1 **Q. She's absolutely correct. And I did not**
2 **give you a chance to answer. Would you repeat your**
3 **answer, please.**

4 **A. I said that they do not allow you to leave**
5 **trash on the floor overnight. After you close, you**
6 **are not to leave garbage or waste on the floor after**
7 **you close the doors and leave that day.**

8 **Q. And so earlier when you said you cannot**
9 **leave waste on site overnight, what you really meant**
10 **was on the floor; is that right?**

11 **A. That -- yes. Same thing.**

12 **Q. As a matter of fact, your operation plan**
13 **explicitly provides that transfer trailer may be**
14 **loaded at the end of the day and wait until landfill**
15 **site opens the following day or the end of the weekend**
16 **or holiday; isn't that correct?**

17 **A. That does state that, but it does not state**
18 **that it is on the floor and left there overnight. It**
19 **has got to be in a contained -- container or a**
20 **shipping load of some sort, it has to be tarped, and**
21 **either inside the building or not allowed to be stayed**
22 **overnight on the floor. You're not to leave it on the**
23 **ground.**

24 **Q. Isn't it true that your application --**

1 strike that.

2 You've now stated you want leave to do
3 up to 200 tons of waste per day. Isn't it true that
4 there is simply no way that can happen with two
5 transfer trailer trucks and 15 garbage trucks? You
6 would have to leave over a hundred tons of waste at
7 the facility each night to be able to be removed the
8 next morning; isn't that correct?

9 A. That is incorrect.

10 Q. And let me also make that perfectly clear.
11 You have never been charged with operating a landfill?
12 I'm sorry, a transfer station? That's never been your
13 job, to be the operator of a transfer station?

14 A. That is incorrect.

15 Q. At what time were you ever the operator of a
16 transfer station?

17 A. The Effingham County Transfer Station.

18 Q. Isn't it true that you were a truck driver
19 for the Effingham County Transfer Station?

20 A. That is incorrect.

21 Q. And at any time is there any document that
22 has ever identified you as the operator of the
23 transfer station?

24 A. In the waste -- actually, yes. If you look

1 at DBS Disposal who done a letter of notification of
2 myself, he describes in it that he has actually
3 communicated with me operating a transfer station and
4 would like to work with me again operating a transfer
5 station.

6 Q. Other than some letter from a friend of
7 yours, is there any document that's ever been filed
8 with EPA, with any portion of the Bureau of Land, any
9 other official document that has listed you as the
10 operator?

11 A. No, there is not.

12 Q. Okay. Now, another thing that you stated
13 was that there were several haulers in the area that
14 you spoke to and they said, "Oh, yeah, it would be
15 nice to have a nearer transfer station." Apparently,
16 that's your belief as to what's required for need.

17 Are you aware that Doty has an
18 exclusive contract to take all of its waste to
19 Landfill 33 for five years?

20 A. If they do, they never provided that. They
21 put their own letter in that application. I didn't
22 make him do it, that's his signature.

23 Q. And do you know if that contract was entered
24 after that letter was entered?

1 A. Can't answer that question.

2 Q. Okay. So you don't know whether Doty
3 already has a contract that locks him up for providing
4 his waste somewhere else for five years; is that
5 correct?

6 A. If Doty had a letter --

7 Q. -- statement, correct --

8 (Parties speaking simultaneously;
9 court reporter requested.
10 clarification.)

11 Q. That's because he wasn't answering the
12 question.

13 Isn't it true that you don't know
14 whether there's a five-year exclusivity contract
15 already in place?

16 A. I will not answer that for that gentleman.
17 Not my problem.

18 Q. Do you know or don't you?

19 A. Not answering that. You're gonna get no
20 answer.

21 MODERATOR KAINS: Mr. Sutter, if you know
22 the answer, you need to give us the answer.

23 A. No, I do not know the answer to that.

24 MODERATOR KAINS: No. He doesn't know.

1 **Q. Now, you also mentioned that a portion of**
2 **the county plan and that the plan provides that there**
3 **is a \$25,000 fee. Can you point to what section of**
4 **the plan that is? I have it with us and will be able**
5 **to pull it up.**

6 **A. I can tell you it's in the operational plan**
7 **of my application I put in there. I do know that the**
8 **county did vote for a \$25,000 filing fee. And that's**
9 **the only thing I got that states I had to pay a**
10 **\$25,000 filing fee to go with this application.**

11 **Q. Okay. So when you stated it was in the 1995**
12 **county Solid Waste Management Plan, that was wrong?**

13 **A. I may have misstated that, yes.**

14 **Q. Not only do you misstate it here, you**
15 **misstate it in several locations in your application;**
16 **is that right?**

17 **A. Is that -- yes.**

18 **Q. I mean there are numerous times in your**
19 **application you had handwritten notes interjected into**
20 **your application where you reference this \$25,000 fee**
21 **as being in the plan. That is completely erroneous;**
22 **correct?**

23 **A. It's in the plan throughout, you just gotta**
24 **read through all the fine prints of it. There is**

1 areas that states that there is a filing fee. There
2 is areas that state that there's in-county,
3 out-of-county, that the county can stand alone and do
4 any sorts of different things with it.

5 Q. Okay. We will get to an in-depth of the
6 county Solid Waste Management Plan, but do you
7 understand that that plan identified the method that
8 ultimately -- the method, the process that was used
9 for the four counties to decide what their actual plan
10 was going to be? Do you understand that?

11 A. I understand that. And the county also has
12 the right to change that plan at any given time.

13 Q. And they haven't; correct?

14 A. Well, they obviously did, they put a \$25,000
15 filing fee that I had to pay.

16 Q. Oh, no, no, no. A filing fee is not part of
17 the planning related to solid waste. Do you
18 understand what solid waste planning is?

19 A. The Solid Waste Management Plan states that
20 they can stand alone or decide on their own as a
21 county if they would choose to.

22 Q. It doesn't, but we'll get there.

23 A. Okay.

24 Q. Are you aware that the plan sets out the

1 process that was used and ultimately comes to a
2 conclusion for each county that's listed on certain
3 tables as to what those counties selected as their
4 solid waste plan?

5 A. Yep.

6 Q. And the references that you just made were
7 in relation to the process that was being considered,
8 not the plan that was ultimately elected; correct?

9 A. Correct.

10 Q. And you -- well, we'll cover that in-depth
11 later.

12 Isn't it true that each time you file
13 an application, you added more paper?

14 A. I did what now?

15 Q. Each time you filed a new application, you
16 added more paper to it; is that right?

17 A. I believe at the last hearing it was told it
18 was not big enough, so this time I made sure it had
19 all of the information they wanted, that you needed
20 off it.

21 Q. And -- but I am correct that you personally
22 put together the application each time? You didn't
23 hire somebody else, a professional, to put together
24 your application; is that correct?

1 A. Between me and my engineer, we both kind of
2 worked together on it.

3 Q. Well, isn't it true that your -- you hired a
4 structural engineer who did some design drawings for
5 you and a four-page document that references traffic?
6 Other than that, there is no involvement of that
7 engineer; isn't that correct?

8 A. I would not agree with all that.

9 Q. Other than what I just described, what
10 portion of that is drafted by the engineer?

11 A. There's plenty of different things in there
12 to make sure that it's legal to be operational.

13 Q. Isn't it --

14 A. Operational plan, everything in there to
15 make sure it is legally able to be operated.

16 Q. Who owns the land where you're proposing to
17 build this transfer station?

18 A. It is owned by G-Bart Properties. Gary
19 Bartels.

20 Q. And isn't it true that a County Board member
21 is married to Gary Bartels?

22 A. That is correct.

23 Q. And as a matter of fact, Glenda Bartels is
24 the manager of that LLC; is that correct?

1 A. That I do not know. I can't say --

2 Q. Can you pull that up for me, Eric, please.

3 While my associate is finding us a
4 document; isn't it true that nowhere within your
5 application you mention that Glenda Bartels is a
6 managing member of the entity that owns the very land
7 where you're proposing to build this?

8 A. I spoke directly with Gary Bartels.

9 Q. Isn't it true that nowhere in your
10 application do you represent that a County Board
11 member has a financial interest in your application?

12 A. Never stated that.

13 Q. And so -- you know what, Mr. Hearing
14 Officer, at this time it's probably gonna be best if I
15 hand out my exhibit binder. Otherwise, I can already
16 tell it's very difficult to see these exhibits on the
17 wall here.

18 MODERATOR KAINS: Go ahead.

19 Q. All right. So this will take a moment.

20 MODERATOR KAINS: Sure.

21 And, folks, while they're handing out
22 exhibit binders to Board Members, I just want to make
23 one comment. I want to apologize to Mr. Porter for a
24 flippant comment I made. I made it jokingly and I

1 think he understood it as such, but I want to
2 apologize to him for saying, "We don't want to hear
3 what you have to say," or something like that.

4 I didn't mean that at all because,
5 obviously, Mr. Porter, Mr. Meyers, Mr. Shaw, their
6 clients are all very important members and
7 participants of this hearing.

8 I said it jokingly; I should not have.
9 But I've come to realize that the record is going to
10 reflect my stupid comment. And it wasn't meant to
11 harm Mr. Porter, his clients, or anybody else.

12 So I do apologize, sir.

13 **Q. So, if you would, I'd like you to turn your**
14 **attention to the Illinois corporate search for G-Bart**
15 **Properties which is contained in Exhibit 3 of the**
16 **binder that I just provided you.**

17 **Do you have that open in front of you**
18 **now?**

19 **A. Yes.**

20 **Q. And you'll see the managers are listed there**
21 **as Gary L. Bartels, Trustee of Bartels Descendant**
22 **Trust #2, and Glenda Bartels, Trustees of Bartels**
23 **Descendant Trust #1; is that correct?**

24 **A. That is correct.**

1 Q. Now, this time in the application, you
2 included materials including a contract which was
3 signed on April 14, 2022, which provides that you will
4 pay \$45,000 to the Bartels for a three-acre portion of
5 their property if you receive, quote, necessary
6 government approvals; is that right?

7 A. That is correct.

8 Q. So if the County Board approves this, you've
9 agreed to pay Ms. Bartels 45,000 dollars; is that
10 correct?

11 A. I agreed to -- if you read where it says
12 managers, the first manager is Gary Bartels. So I
13 agreed to pay Gary Bartels what his asking price was
14 of \$45,000.

15 Q. But only if they approve it for you;
16 correct?

17 A. Only if it gets approved.

18 Q. And you've already paid them a thousand
19 dollars; is that right?

20 A. That is correct.

21 Q. Now, what other agreements--oral or
22 otherwise--do you have with Mr. or Mrs. Bartels or
23 G-Bart regarding this transfer station?

24 A. I have no other agreements.

1 **Q. Well, are they going to share in any of the**
2 **revenue generated from the transfer station if its**
3 **sited?**

4 MR. SHAW: Objection; no foundation.

5 MODERATOR KAINS: Overruled.

6 A. Am I going to share any revenues with them?
7 Absolutely not. It's my facility. Once I buy the
8 property, then I gotta build it on that facility and
9 get a bank to loan me to do it. Which I've already
10 got that taken care of.

11 **Q. And the bank that is going to loan you to do**
12 **it is a bank that another board member is an official,**
13 **an officer at; is that correct?**

14 A. I'm glad you asked that question because
15 it's not. It's Teutopolis State Bank.

16 **Q. Do you know if Mr. Joe Wills has any**
17 **financial interest--or his lending institution--in**
18 **your project?**

19 A. He has no -- he has no money involved in
20 this project at all.

21 **Q. Do you know if his bank does?**

22 A. No, they do not.

23 **Q. Do you know why he abstained from voting on**
24 **the last application you brought?**

1 A. I'm guessing because he knows me personally.
2 I lived less than five miles from him. I mean that's
3 his decision on what he wants to do.

4 **Q. Have you talked to him about financing your**
5 **property?**

6 A. No, I have not.

7 **Q. Has anybody talked to him about financing**
8 **your project?**

9 A. Has anyone talked to me about --

10 **Q. Has anyone talked to him about financing**
11 **your project?**

12 A. Not that I'm aware of.

13 **Q. By the way, in the application -- strike**
14 **that.**

15 **Isn't it true that the application, you**
16 **indicate that the facility will take between 50 and**
17 **200 tons per day?**

18 A. I'm asking for the minimum of what the size
19 of my building can handle; yes.

20 **Q. Did the application provide that you are**
21 **seeking --**

22 A. Yes.

23 **Q. -- authority to take 50 to 200 tons per day?**

24 A. I'm asking that, yes.

1 Q. And isn't it true that the traffic analysis
2 you did did not assume 200 tons?

3 A. That was something the engineer done.

4 Q. And are you aware that that report failed to
5 consider peak operating approval?

6 A. I'm not gonna agree to that.

7 Q. So you don't know whether or not he assumed
8 200 tons per day; is that correct?

9 A. My engineer designed all that part.

10 Q. So you don't know whether or not he
11 assumed --

12 A. No, I do not.

13 Q. -- tons per day; is that correct?

14 A. No, I do not.

15 Q. Let's talk briefly about the notice you
16 published this time.

17 The notice you published did not
18 identify how many tons of material you are planning to
19 accept at the facility, nor how many trucks you're
20 anticipating; is that correct?

21 A. That is correct.

22 Q. And isn't it true--and my associate wisely
23 has thrown it up on the screen for us--that the law
24 requires that the nature and size of the development,

1 the nature of the activities proposed, and the
2 probable life of the proposed facility must be
3 identified in your pre-filing notice under 415 ILCS
4 5/3.922(b)?

5 A. That is correct. I mean it says that, yes.

6 Q. And your notice merely provided that, quote,
7 (as read:) The property will be used for purpose of
8 transferring waste from refuse collection vehicles to
9 transfer trailers. Right?

10 A. They had a whole bunch of stuff in it, so
11 yes, it probably stated that too.

12 Q. As far as the nature of the development,
13 that's all it said; correct?

14 A. Without having it in front of me. I mean I
15 know it said like a hundred by a hundred building. I
16 mean it states a handful of different things in it
17 throughout --

18 Q. And as far as the nature and activity
19 proposed, all it says is you're going to take refuse
20 from collection vehicles to --

21 A. That's correct.

22 Q. -- correct?

23 A. Yes.

24 Q. You, at no time, disclosed in your notice or

1 your application how many tons of garbage you're
2 seeking to process each day; right?

3 A. In my application it states I'm asking to do
4 200 ton a day.

5 Q. Well, actually it says you expect to do
6 between 50 and 200. That's what it says; correct?

7 A. Does it say expect?

8 Q. You tell me, it's your application.

9 A. From my understanding, application says 50
10 to 200 ton. I'm asking for --

11 Q. Regardless, your notice did not identify
12 even that; isn't that right?

13 A. Yes.

14 Q. And furthermore, your notice does not
15 identify how many trucks--garbage trucks, collection
16 vehicles--will be using the facility, nor transfer
17 trailer trucks and trailers will be using the
18 facility; is that correct?

19 A. That is correct.

20 Q. And are you aware when it comes to transfer
21 stations, the only way to identify the waste boundary
22 is by the volume of waste that flows through? The
23 throughput of a transfer station?

24 A. That is correct.

1 **Q. And your throughput is not referenced at all**
2 **in the notice; correct?**

3 **A. It's not in there.**

4 **Q. So a member of the public reading your**
5 **notice wouldn't have a clue if this is going to be a**
6 **minor imposition to the area with a few trucks or a**
7 **major problem and imposition because you didn't**
8 **identify the size of this undertaking; correct?**

9 **A. If that's what you want to state.**

10 **Q. Isn't it true that you selected this site**
11 **before you ever spoke to your structural engineer; is**
12 **that right?**

13 **A. There was actually a handful of Fayette**
14 **County people that owns a business in this county**
15 **called Redhawk Propane who actually is the one that**
16 **found the location and contacted me and said, "Hey, I**
17 **believe we need some competition in this area. I know**
18 **of an area that would be a nice place to put a waste**
19 **facility." That gentleman right there is where I**
20 **found the information.**

21 **Q. And who is that gentleman?**

22 **A. His name is Feezel, Clint Feezel.**

23 **Q. Does he have an economic interest in your**
24 **undertaking?**

1 A. No, he does not.

2 Q. Does anybody other than you have an economic
3 interest in your undertaking?

4 A. I believe we need good competition in this
5 county in this area, so I believe that I'm the one
6 that's going to build a transfer station in this
7 county.

8 Q. Okay. Do you not understand my question?

9 A. You asked if there's anyone else involved.
10 No, there is not, just myself.

11 Q. Thank you.

12 Now, isn't it true that earlier you
13 said that you were the owner of two companies?

14 A. I do own Sutter Disposal and I do own
15 Countryside Disposal. They are two different
16 entities.

17 Q. Isn't it true that you've indicated in the
18 past that your wife owns those entities?

19 A. That she what? My wife is owner of
20 Countryside Disposal with me. She's 50 percent
21 shareholder.

22 Q. Before you selected this site, you had not
23 hired any consultants, engineers, or experts to
24 consider this location versus other locations?

1 A. I hired an engineer after I found a site.
2 To make sure it was a good location.

3 Q. You did not hire an engineer to help you
4 consider alternative locations; correct?

5 A. I hired the engineer. Yes, correct.

6 Q. Isn't it true that after you filed your
7 first few pages that you called an application on
8 February 12 of 2021, you actually urged this Board on
9 April 8th of 2021, to sign the form that -- I think
10 it's called an LPCA8 form--that certifies that the
11 Board has held a public hearing, found all the
12 criteria are met, and approves your application?

13 A. No, I did not.

14 Q. So if the minutes of that meeting were to
15 make absolutely clear that you urged that form be
16 signed and that several board members advocated for
17 that, those minutes would be wrong?

18 A. If it's in the minutes, that's where you can
19 prove it.

20 Q. You don't have a recollection of that at
21 all?

22 A. I never asked them to sign nothing.

23 Q. So if these board members remember that,
24 they're remembering it wrong as well; correct?

1 A. If they took it that way. That's not what
2 was supposed to be stated that way. I never asked
3 them to sign anything.

4 **Q. Isn't it true that you urged them to sign**
5 **that knowing that no notices had been sent, no hearing**
6 **had been held?**

7 A. No, I did not.

8 **Q. Isn't it true that some board members,**
9 **including Ms. Waggoner, the county board chair,**
10 **actually urged that the document be signed?**

11 A. Not to my knowledge, no.

12 **Q. And you just have no recollection of that**
13 **despite the fact that you were here; is that correct?**

14 A. No, I didn't.

15 **Q. Now, within your application, there are**
16 **several places where documents have been copied from**
17 **other sources and then handwritten notes or**
18 **highlighting has occurred. Those notes and**
19 **highlighting were done by you; right?**

20 A. That's correct. Just to help out.

21 **Q. And under each of the criteria, there's some**
22 **bold text. That bold text is always yours; isn't that**
23 **correct?**

24 A. Refer to what you're talking about?

1 Q. Well, we'll do it -- so you don't recall
2 that under each of the criteria there's a page of bold
3 text?

4 A. Yes, yes. Sorry, sorry; there is.

5 Q. Okay. That was all written by you; is that
6 right?

7 A. That's correct. As I put the criteria
8 together, yes.

9 Q. You are not a civil engineer; is that
10 correct?

11 A. I am not.

12 Q. You are not a licensed traffic engineer; is
13 that right?

14 A. That is correct.

15 Q. You are not a real estate appraiser --

16 A. That is correct.

17 Q. -- is that correct?

18 A. That is correct.

19 Q. You are not a land use expert; is that
20 right?

21 A. That is correct.

22 Q. You are not an expert in solid waste
23 planning; is that correct?

24 A. That is correct.

1 Q. I have reviewed the entire application, and
2 isn't it true that nowhere in this application is
3 there any certification by a professional engineer
4 that Criterion 2 has been met and the facility is
5 designed and located to protect the public health,
6 safety -- I'm sorry, designed, located, and proposed
7 to be operated that the public health, safety, and
8 welfare is corrected; isn't that correct?

9 A. The engineer stamped it; so no, I don't
10 agree.

11 Q. Well, the -- a structural engineer stamped
12 some of your structural drawings; right?

13 A. He's went through a bunch --

14 Q. Is that correct?

15 A. Correct, yes.

16 Q. He didn't stamp any of the language that's
17 contained in the application; right?

18 A. No.

19 Q. And likewise, there is another engineer that
20 stamped some of the documents that reference the
21 roadway out there, but again, that engineer did not
22 stamp any of the conclusions that the criteria were
23 met; correct?

24 A. If he didn't stamp it, sure. I know he was

1 there. The traffic analysis is there so -- it's
2 stamped by CDI.

3 Q. Well, the conclusions that are reached in
4 the application that the criteria have been met are
5 not certified by any professional engineer; isn't that
6 right?

7 A. I won't agree with that, no.

8 Q. What's wrong with my statement?

9 Well, let's do it this way. Show me in
10 your application where any professional engineer has
11 certified that a specific criteria has been met?

12 A. It states right in the front page. It says
13 Wes Kistler. That's the traffic analyst.

14 Q. It say Wes Kistler.

15 A. It says CDI on the front page, which is the
16 engineer group --

17 Q. Okay. So now you're talking about Criteria
18 6 only; is that right?

19 A. You asked me --

20 Q. Is that correct?

21 A. Yes.

22 Q. And Mr. Kistler prepared a report related to
23 traffic; is that correct?

24 A. That's correct.

1 Q. Anywhere in that report does it say that
2 Criterion 6 is met?

3 A. It's been stamped by an engineer where they
4 did a study --

5 Q. Please answer my --
6 (Parties speaking simultaneously;
7 court reporter requested
8 clarification.)

9 Q. Answer the question.

10 A. Yes, correct.

11 Q. Thank you.

12 I'm sorry about that, Court Reporter,
13 but the problem is he's answering another question,
14 that's why I interrupt.

15 COURT REPORTER: I can't take you both at
16 the same time.

17 MODERATOR KAINS: Kathy is right, let
18 Mr. Sutter finish his statements. Go ahead now,
19 Mr. Porter, you may ask another question.

20 Q. So my statement is correct that nowhere
21 within the application has any professional certified
22 that the criteria, the nine criteria have been met;
23 correct?

24 A. No.

1 Q. But you can't point to any page on it where
2 that actually occurs?

3 A. I'm not an engineer.

4 Q. Well, you put together the application;
5 right?

6 A. I put together the application with an
7 engineer, but I will not stamp nothing that's
8 certified by myself. If they stamped it and certified
9 it, that's their decision.

10 Q. The only one that makes any conclusion that
11 a criterion has been met in that application is you
12 and not a professional engineer; correct?

13 A. If you say so. No, I won't agree.

14 Q. So when the County Board hopefully spent
15 some time with that application and they don't see any
16 certification by an engineer that a specific criterion
17 has been met, would you have a reason to dispute that?

18 A. It's their decision to look at it.

19 Q. By the way, there is a document within the
20 application that just -- it's entitled Siting
21 Criteria, but if you open it, it appears to be an
22 operational plan. Do you know the document I'm
23 talking about?

24 A. You're talking about the operational plan?

1 Q. If you can pull it up, Eric? And start with
2 the first page of that document.

3 All right. So that document is
4 actually entitled Waste Transfer Station Pollution
5 Control Facility Siting Criteria; right?

6 A. It's just part of the siting criteria.
7 That's just why it says --

8 Q. Was there something problematic with my
9 question? Isn't it true that the title --

10 A. Yes.

11 Q. Okay. Thank you.

12 Now, if you go into it, however, it
13 does -- go a page in, Eric. Another one. It does --
14 back one. It does say under purpose, (as read:) This
15 operation plan has been developed.

16 So it appears that actually what they
17 intended is some type of operating plan; is that
18 right?

19 A. This operation plan has been developed; yes.

20 Q. Okay. To your knowledge, did your engineer
21 ever prepare an operating plan for a waste transfer
22 station before preparing your document?

23 A. Not to my knowledge, I do not know.

24 Q. You never asked him, "Hey, have you ever

1 done this before?"

2 A. I've asked him, but there's --

3 Q. And didn't he tell you, "No, I've never done
4 this before"?

5 A. Yes.

6 Q. Okay. So you did know he hadn't done it
7 before?

8 A. Yes. Sorry.

9 Q. All right. Now, I've scoured this document.
10 I don't see any engineer's stamp on this document. Am
11 I correct?

12 A. You're correct.

13 Q. By the way, your document now makes
14 reference to a Sutter Sanitation Services Transfer
15 Station application. And you attached that to your
16 application for some reason. Do you remember doing
17 that?

18 A. You're asking what again?

19 Q. Your application now contains a complete
20 application from a whole different transfer station in
21 a different county; isn't that right?

22 A. Yes, that's correct. I forwarded that, yes.

23 Q. And you, for some reason, attached the
24 Sutter Sanitation Services application for the

1 **Effingham County Transfer Station; isn't that right?**

2 A. At the time, I pulled it from the county so
3 that way I had something to go off of so that way I
4 wasn't making anything up. If their's was true and
5 they passed it in Effingham County, what's the
6 difference in Fayette County's?

7 Q. So I guess I get it now. So you wanted to
8 use an application that had been drafted by an
9 engineering firm and filed in Effingham County as an
10 example for you to try to figure out what to do and
11 file your own application, is that --

12 A. That's why it's filed example; yes.

13 Q. Now, you didn't have anything to do with
14 drafting the Sutter Sanitation Services application;
15 isn't that correct?

16 A. I personally, no. Hurst-Rosche did it.

17 Q. Right. And Hurst-Rosche is actually
18 Hurst-Rosche Engineers, Inc.; isn't that correct?

19 A. That's correct.

20 Q. Now, that application actually had a traffic
21 study that was done which included data about accident
22 counts and the affect on roadways; right?

23 A. That's correct.

24 Q. Your application did not have any data about

1 **accident counts or affected roadways, did it?**

2 A. That's up to the engineer, so I can't answer
3 that question.

4 Q. So you never reviewed your own
5 transportation report that is in your --

6 A. I looked at it, yes. And to me, it looked
7 good.

8 Q. Are you aware there was no accident count or
9 a reference to the affected roadways other than Route
10 185?

11 A. Yes, I am aware of that.

12 Q. The Effingham County application that you --
13 by the way, who owns that transfer station now?

14 A. It's now owned by the Effingham Landfill or
15 Landfill 33.

16 Q. Right. My clients own that; isn't that
17 correct?

18 A. Now they do, yes.

19 Q. And isn't it true that that transfer station
20 is open and operating as we speak?

21 A. Yes.

22 Q. And as a matter of fact, it's only 11 miles
23 away from where you're proposing your transfer
24 station?

1 A. Yes.

2 Q. Are you aware that the Effingham County
3 Transfer Station has a throughput capacity of 300 tons
4 per day?

5 A. If they do, I don't know their -- I've not
6 seen that application, so I couldn't tell you.

7 So I'm not aware, no. There you go.

8 Q. Okay. Well, you actually attached the
9 application to your application?

10 A. But it doesn't state how many tons per day
11 it's doing.

12 Q. All right. Are you aware that they were
13 permitted to up to 300 tons per day?

14 A. That was not in the application.

15 Q. So you don't know; correct?

16 A. I don't know. As I said.

17 Q. Are you aware that it is running at about a
18 third of its capacity presently?

19 A. That I do not know. I do not run that
20 facility anymore.

21 Q. You mentioned that there were several waste
22 handlers and let's put -- putting Doty aside since
23 he's obligated to use Effingham facilities for at
24 least five years, but the other facilities, they're

1 **presently using landfills and transfer stations in the**
2 **area; is that correct?**

3 A. Can you repeat the question? Sorry.

4 **Q. The other waste haulers that you say you**
5 **spoke to are presently using facilities in the area;**
6 **isn't that right?**

7 A. They just state that they use Effingham
8 County Transfer Station. They don't tell me exactly
9 who they're all using.

10 **Q. And to your knowledge, have they ever had a**
11 **problem finding capacity for the waste that they are**
12 **picking up?**

13 A. Do you want the truth to this answer,
14 because here recently, yes.

15 **Q. When?**

16 A. As of Friday. Can I go ahead and state
17 this?

18 **Q. Sure.**

19 A. As of Friday, Mr. Brian Hayes asked DBS
20 Disposal, Damon Simmons, if he could take one load a
21 week to Mt. Vernon or to some other facility because
22 they could not handle, at this time, their waste
23 because they are down drivers or something at this
24 time.

1 Q. Are you aware that -- well, let's strike
2 right to this. Your needs analysis came strictly down
3 to some conclusion that your transfer station would be
4 helpful because it's closer to Vandalia; isn't that
5 right?

6 A. Most of Fayette County's trash, yes, I based
7 it out of the center of Vandalia.

8 Q. And isn't it true that you've selected a
9 30-mile service area?

10 A. Yes.

11 Q. And isn't it also true that there are many
12 communities within that 30-mile service area?

13 A. Yes.

14 Q. You did absolutely no analysis as to whether
15 or not those communities had access to a closer waste
16 facility with capacity, did you?

17 A. I already had -- I already had the studies
18 of knowing that the transfer station was there. And
19 there's nothing against competition.

20 Q. Your analysis looked at how far your
21 transfer station would be from Vandalia --

22 A. Yep.

23 Q. -- but you didn't consider how close various
24 waste facilities were to the other communities;

1 **correct?**

2 A. Can I give you my answer?

3 Q. Yes.

4 A. Okay. So when I did my studies, there was
5 obviously one in southern Illinois that was one
6 mile -- or three miles away from each other. So I
7 realized at that point there was two transfer stations
8 that close already in the State of Illinois.

9 The second studies that I done that
10 states this is back whenever the Effingham County
11 Transfer Station was built, they were less than
12 18 miles from the actual Effingham landfill at that
13 time, and Effingham approved that transfer station at
14 that point.

15 So at that point, I'm in a different
16 county, so I felt that, you know what, it does not
17 matter how many you have in the county --

18 Q. **Object; move to strike. It is not**
19 **responsive in the least to the question that I posed.**

20 MODERATOR KAINS: It's already in, it will
21 stay in.

22 Q. **May I try one more time to ask the question?**

23 MODERATOR KAINS: Yes. Please ask him a
24 question.

1 Mr. Sutter, answer his questions,
2 please.

3 A. Yes, sir.

4 Q. Isn't it true that your needs analysis did
5 not consider or reference at all how close the other
6 communities were to existing facilities?

7 A. I won't agree with that, no.

8 Q. Is there any reference in your needs
9 analysis as to how close another community is to
10 another facility?

11 A. I believe I state in the application that
12 the transfer station is 11 miles from it. I also
13 state how far Landfill 33 is from my facility. And
14 how far it is from Vandalia.

15 Q. All right, we'll get there. I'll show the
16 Board again that you are fabricating.

17 You're aware that my client, Effingham
18 Transfer Station and Landfill 33, purchased Sutter
19 Sanitation Services; is that correct?

20 A. That's correct.

21 Q. As a matter of fact, you were employed there
22 at the time; is that right?

23 A. Yep.

24 Q. And were you -- at some point earlier I

1 think you indicated that you considered yourself to be
2 an operator of that facility; is that right?

3 A. I did help out with operation at the
4 Effingham County Transfer Station.

5 Q. And so you were certainly in the know when
6 the company was sold; isn't that correct?

7 A. I was notified that they sold, yes.

8 Q. And you were involved in that
9 decision-making process?

10 A. Nope.

11 Q. You knew that --

12 A. I was not an owner, I was just an employee
13 of operations. I was not someone that was gonna make
14 that decision for the family members that sold that.
15 That's not my decision.

16 Q. You knew that part of the negotiations was
17 to allow you to continue to work there; is that right?

18 A. I'm pretty sure I put in my application that
19 shows exactly why I'm not working there.

20 Q. You knew at the time of sale that part of
21 the negotiations was to allow you to continue working
22 there; is that correct?

23 A. It's free enterprise. So no, I'm not gonna
24 agree with that. I was not gonna continue working

1 there. That's why I did not make it very long. Three
2 days maybe. No, I did not know.

3 Q. So you didn't stand up and give a speech
4 about working to be sure that Landfill 33 was able to
5 recoup their investment and -- to the entire workforce
6 at Sutter Sanitation Services?

7 A. No, I've never stood up and made a speech,
8 no.

9 Q. Okay. What was the purchase price for that
10 sale?

11 A. I could not tell you 'til this day. Never
12 been told.

13 Q. As part of that deal, it was agreed that the
14 Sutter family business was sold entirely to my client;
15 is that correct?

16 A. That the entire company was?

17 Q. Yes.

18 A. Yes.

19 Q. And as part of that, there was a
20 non-competent agreement put in place; is that right?

21 A. Yes, but not for myself because I was not an
22 owner.

23 Q. And as part of that agreement, it was agreed
24 that Sutter Sanitation Services would stop using that

1 name; is that correct?

2 A. That's between them. I don't know. I
3 couldn't answer that.

4 Q. You were offered a job as part of that
5 agreement; is that right?

6 A. Never was offered anything.

7 Q. You accepted that job and worked there for a
8 short time; is that correct?

9 A. I worked there until I found another job.

10 Q. And at no time before accepting their
11 employment did you tell Mr. Hayes or Mr. Diebold that
12 you had any problem with them because of an
13 altercation that occurred between you and Mr. Diebold
14 in 2009, did you?

15 A. Mr. Diebold already knew that answer. And
16 if he was here, I'm sure he would tell you. But he's
17 not.

18 Q. So interestingly, in your application, for
19 some reason, you made some reference that you decided
20 you couldn't work at Sanitation Services because of a
21 confrontation that you had with Mr. Diebold six years
22 before you accepted the employment at Sanitation
23 Services; is that right?

24 A. Can you repeat that again? Sorry.

1 **Q. In your application, you made some reference**
2 **that the reason you stopped working at Sanitation**
3 **Services is because you couldn't work there because**
4 **you had a confrontation with Mr. Diebold in 2009? Is**
5 **that --**

6 **A. If you remember correctly, you guys were**
7 **trying to tell me that I worked there and I was going**
8 **to stay working there; however you guys want to**
9 **fabricate it the last time by putting words in my**
10 **mouth. But no, there was never an agreement that I**
11 **was gonna work for somebody who did what he did to**
12 **myself. They knew I wasn't going to stay. They**
13 **already knew that from the day one.**

14 **Q. Right now my only question is isn't it true**
15 **that your application contained some reference to some**
16 **altercation --**

17 **A. Yes, it --**

18 **Q. -- 2009 with Mr. Diebold. And you assert**
19 **that that's the reason you couldn't work at Sanitation**
20 **Services; correct?**

21 **A. Yes, yes.**

22 **Q. Isn't it actually true that you got fired**
23 **from Sanitation Services because you were soliciting**
24 **their clients?**

1 A. If I got fired, then I would have been able
2 to draw unemployment; correct?

3 **Q. Do you not understand my question?**

4 A. I did not get fired. I quit. I left. I
5 walked out.

6 **Q. And -- okay. You left, you walked out after
7 being called off of your route and into an office and
8 confronted by the solicitations that you were handing
9 out to my client's customers; is that correct?**

10 A. No, that is incorrect. No, that's
11 incorrect.

12 **Q. So that meeting never occurred; is that --**

13 A. They had that meeting, but I had already
14 quit. I hadn't been there for over a week by that
15 time.

16 **Q. Now, this confrontation that you reference
17 in this application materials; isn't it true that that
18 was the result of Mr. Diebold being upset that you
19 were driving your garbage truck and crossing the
20 center line in order to terrorize Mrs. Hayes and her
21 children who were traveling in a car?**

22 A. No, that's not correct.

23 **Q. That occurred; correct?**

24 A. No, that did not occur.

1 Q. It occurred several times, as a matter of
2 fact, isn't --

3 A. No, never --

4 Q. -- correct?

5 A. No.

6 Q. So that's all figment of people's
7 imagination; is that right?

8 A. I'd say they got a pretty good one.

9 Q. Mm-hmm.

10 Now, up on the screen is Exhibit 13.
11 Isn't it true that that is one of the fliers that you
12 were handing out while you were employed for my
13 client?

14 A. Yep, those were done around probably
15 January, maybe even February of 2016.

16 Q. And so you saw no problem with soliciting my
17 client's business -- customers while you were employed
18 by them; is that correct?

19 A. In the waste industry, it's a free
20 enterprise, sir. So no, I do not see any issue with
21 it as long as someone wants to make a better part for
22 his life. And I decided on my own that I would pass
23 out fliers to every single person throughout the area.
24 They did not haul them all, there was Doty Sanitation,

1 there was Sutter Sanitation, Sanitation Service,
2 French Sanitation. There was multiple different
3 haulers. DBS Disposal. Ray Sanitation actually had
4 sold out; they bought out.

5 So there was more than just one hauler
6 at the time whenever I decided that I wanted to start
7 my own business.

8 **Q. And so while you were employed with my**
9 **client, you handed out this flyer stating, quote, (as**
10 **read:) Don't get caught up in the new buyout of**
11 **Sutter Sanitation. Contact us to keep this third**
12 **generation going. Sutter Disposal. Right?**

13 A. That's incorrect. No.

14 **Q. So it doesn't say that?**

15 A. No, it says that, but there's one problem
16 you got. They bought the company in December. I
17 didn't start my business until after January. So if
18 you would like to phrase it and put the correct way,
19 make sure you state it the way that it happened. I
20 was already doing that after I had quit those folks.

21 **Q. You do agree that the flyer explicitly says**
22 **(as read:) Don't get caught up in the new buyout of**
23 **Sutter Sanitation. Contact us to keep this third**
24 **generation going. Is that right?**

1 A. That's correct. After --

2 Q. Your intention was to convince the people
3 that had been prior Sutter customers that you were
4 continuing the Sutter business; correct?

5 A. Can I ask you one question?

6 Q. Is that correct or not?

7 MODERATOR KAINS: Answer the question,
8 please.

9 A. No, that's not correct.

10 Q. What's wrong with the statement?

11 A. Go ahead with whatever next question you
12 would like.

13 Q. So other than just wanting to say no, is
14 there anything wrong with my question?

15 A. Other than you're trying to put words in my
16 mouth that's not true.

17 Q. Isn't it true that you tried to convince
18 people that you were continuing the Sutter business?

19 A. No, I did not convince anyone --

20 Q. Okay. So if you turn to the next one,
21 please, Mr. Borneman.

22 So the very next page on the
23 exhibit--hoping you guys can see it because it's very
24 difficult to see on the wall there--is again a

1 solicitation that you were handing out while employed
2 by my client; is that correct?

3 A. Nope.

4 Q. This solicitation states that (as read:)
5 Hello. I'm Chris Sutter, owner and operator of Sutter
6 Disposal. I'm here to offer those who would like to
7 continue with Monday service of your trash removal.

8 And then it later says, (as read:) If
9 this is something you would be interested in and would
10 like to keep the Sutter name continuing, please
11 contact me. And your phone number; correct?

12 A. As long as I'm telling the truth. So yes, I
13 made that letter.

14 Q. So again, you were attempting to convince
15 people that they could continue with Sutter by calling
16 you; is that right?

17 A. That's incorrect.

18 Q. Okay.

19 A. My last name is Sutter.

20 MODERATOR KAINS: Mr. Porter, do you have
21 anything on the nine criteria?

22 Q. I sure do. We are not even close to getting
23 through it.

24 All right. I will jump a little ahead

1 here. Let's talk about your need. You've never been
2 personally trained in how to conduct a waste capacity
3 needs analysis; correct?

4 A. That's correct.

5 Q. Are you aware that there are professionals
6 who do just that?

7 A. Yes, there are.

8 Q. You did not pay for one of those
9 professionals to conduct a needs analysis; correct?

10 A. No, I didn't.

11 Q. And that's because you're trying to do this
12 as cheaply as possible; isn't that right?

13 A. Trying to save money in this economy; yes.

14 Q. And that's because you can't afford to do a
15 proper analysis; is that right?

16 A. I would not agree with that, no.

17 Q. Are you aware that transfer stations are
18 inherently dangerous?

19 A. Oh, absolutely.

20 Q. There is a substantial amount of traffic in
21 a confined space with multiple employees and the
22 possibility of environmental damage and personal
23 injury; correct?

24 A. Yep.

1 Q. That's why we require a local siting hearing
2 to determine whether or not there's need and safety
3 with a proposal; correct?

4 A. That's correct.

5 Q. That's why you need to have an operator who
6 knows what they're doing; isn't that right?

7 A. I would not agree with that, no.

8 Q. You don't need an operator that knows what
9 they're doing? Is that right?

10 A. I think I can operate it.

11 Q. And that's why you need to be sure that
12 someone has the financial wherewithal to install all
13 the safety mechanisms and do the proper studies before
14 ever approving one of these applications; isn't that
15 correct?

16 A. If you read in the application, it states in
17 that application that if a person wants a waste
18 facility, they have the right to do however they would
19 like.

20 Q. So your opinion is if you want it, that's
21 good enough? Right?

22 A. It says it right in the Illinois EPA papers.

23 Q. And you don't even meet any of the criteria,
24 show that any of the criteria are met in your mind; as

1 **Long as you want it, it should be approved; correct?**

2 A. I would not agree with that all the way.

3 **Q. You would agree with it some of the way?**

4 A. I'm just telling you that I believe that if
5 you want something, you can fight hard enough to get
6 it. You don't have to pay all these high-dollar
7 engineers to get all that stuff done whenever it can
8 be sent off and if it's not correct, the Pollution
9 Control Board would kick it out.

10 **Q. So even though you haven't done the studies**
11 **that are normally done in order to determine whether**
12 **or not there's a need, safety plan consistency, and**
13 **traffic, your belief is it's okay because we can**
14 **appeal to the Pollution Control Board and sue the**
15 **county and you and they'll throw it out later --**

16 A. I think --

17 **Q. -- is that right?**

18 A. -- my engineer would not put his name on
19 them designs if he felt like that wasn't a good
20 application.

21 **Q. Your engineer had never had any experience**
22 **at design of a waste transfer station; is that**
23 **correct?**

24 A. No, but when he puts his name on it, he's

1 got to be standing behind it, so --

2 Q. Correct?

3 A. -- right now, he's standing behind it.

4 Q. So my statement was correct, this is the
5 first one he's ever designed; correct?

6 A. That is correct.

7 Q. Now, you've asserted that your service area
8 will be a 30-mile radius around the proposed transfer
9 station; right?

10 A. Yes.

11 Q. At the last hearing, you stated it was a
12 50-mile service area; is that correct?

13 A. Yes. The last --

14 Q. So what happened? You have 20 miles less of
15 service area?

16 A. If you remember the last application, I was
17 asking for the maximum of 400 ton of what my building
18 can handle. At this time, I'm asking 200 ton, so my
19 miles radius would go down to 30 mile.

20 Q. Okay. Isn't it true you did not review any
21 of the waste needs or capacity reports from any of the
22 counties referenced in your service area?

23 A. I done the studies by talking to the
24 haulers. Of what they want to see.

1 Q. Again, it's gonna go so much quicker --

2 A. No, I did not.

3 Q. We heard what you did --

4 A. Yes.

5 Q. -- I'm asking about what you didn't do.

6 A. Okay.

7 Q. You didn't review any waste needs or
8 capacity reports from any of the counties referenced
9 in your service area; correct?

10 A. No.

11 Q. You did not consult with or hire any
12 demographic study to be done to determine the
13 anticipated population growth or retraction for the
14 service area; is that correct?

15 A. No.

16 Q. My statement was correct?

17 A. Yes, your statement is correct.

18 Q. You did not do any analysis of the
19 industrial, commercial, and residential property in
20 the service area; correct?

21 A. That is correct.

22 Q. You simply had no data on the amount of
23 waste generated per day in the service area; isn't
24 that right?

1 A. Only what I can go off with my own haulers,
2 so that's correct.

3 **Q. But there are resources and experts that can**
4 **and do determine the actual amount of waste generated**
5 **per day in a service area. And that's what they do as**
6 **the first step in a needs analysis. Are you aware of**
7 **that?**

8 A. Yes, I'm aware of that.

9 **Q. You just decided not to do it; right?**

10 A. There's engineers out there that will do all
11 that for a high dollar figure.

12 **Q. Did you even quote one? Ask an engineer how**
13 **much it would cost to do a proper needs analysis?**

14 A. Are you asking --

15 **Q. Yes, did you ask an engineer, "How much is**
16 **it going to cost me to do a needs analysis?"**

17 A. No, I did not.

18 **Q. Okay. So you're just assuming it was going**
19 **to cost a fortune; is that right?**

20 A. Sure, yes.

21 **Q. You've listed some of the facilities which**
22 **you could accept waste in the area and their distances**
23 **from Vandalia; is that right?**

24 A. Yeah.

1 Q. And, Eric, if you could find the slide where
2 he references Litchfield, Taylorville, and the list --
3 there it is.

4 So unfortunately, everybody, the
5 application is not page numbered, so I can't even
6 direct you exactly where anything is in this
7 application. But somewhere around where he has a page
8 that references Criterion 6, you'll find this.

9 And this references the distances
10 between particular waste facilities in the area and
11 Vandalia; is that correct?

12 A. From the center point of Vandalia; yes.

13 Q. Okay. But there's no reference to any other
14 community; is that right?

15 A. Just states exactly how far away each
16 landfill is.

17 Q. And you do mention, by the way, Landfill 33.
18 You see that?

19 A. Yes. 34 miles, three to five years.

20 Q. Okay. So when I read through this needs
21 analysis, your biggest point is that when Landfill 33
22 reaches capacity, you guys are going to have to start
23 traveling a lot further for waste disposal; is that
24 right?

1 A. That's correct.

2 Q. As a matter of fact, it's repeated multiple
3 times in your bold -- in bold-faced text that when it
4 hits capacity, there's going to be a problem?

5 A. Could be a problem, yes.

6 Q. Right now there is no problem; isn't that
7 right?

8 A. I don't own that facility so I can't tell
9 you.

10 Q. As a matter of fact, I think you even --
11 well, keep that up here.

12 So if I understand your point, there's
13 over a hundred years of capacity that you're
14 referencing on here. So Marissa has got 69 years of
15 life; Taylorville 26; Litchfield 21; Effingham
16 Landfill 33 three to five years; is that correct?

17 A. That's correct.

18 Q. And so to the point it's over a hundred
19 years of capacity left in the area, you still think
20 there's a need for another transfer station due to the
21 distances that a hauler will have to travel from
22 Vandalia to other landfills when Landfill 33 hits
23 capacity; right?

24 A. The distance -- yes, the distance.

1 Q. Okay. And so that's the big problem in your
2 mind, that when Landfill 33 hits capacity, we're going
3 to have to go a lot further; correct?

4 A. It -- I mean yeah, I agree with that one.

5 Q. Okay. So in one section of your application
6 in which you discuss need, that you do so before the
7 section labeled as Criteria 1, you state that the next
8 closest landfill with a three to five-year life
9 expectancy is again Landfill 33.

10 I'm going to withdraw that question.

11 On that page, if you can find that one,
12 Eric. I think it's a couple back before this one.
13 There it is. You'll see that there's a reference
14 there that, (as read:) There's a transfer station
15 within Effingham County, but if for any unknown reason
16 that Effingham landfill does not get approved, that
17 facility would have a hard time handling all our needs
18 as provided it will cost us to drive even further to
19 unload our trucks and surrounding companies also.

20 You see that language?

21 A. I see it.

22 Q. And you wrote that language?

23 A. Yep.

24 Q. You then went on to state that, (as read:)

1 The Region 4 only has Effingham as the next closest,
2 but as the waste capacity shows, they're close to
3 filling up, so the only other facility in that region
4 would be Coles County Transfer Station. But then
5 again, as a direct haul, the distance is far for
6 current haulers, it's 68 miles, 1 hour 24-minute
7 drive; right?

8 A. Yep.

9 Q. And then there's, you know, beating a dead
10 horse which is all that this needs analysis is. (As
11 read:) So this being shown and noted, the regional
12 waste disposal capacity appears to accommodate
13 residence capacities generated in Fayette County and
14 the surrounding area in the near future.

15 So you agree that right now, there's
16 sufficient capacity; correct?

17 A. I would not agree to that a hundred percent;
18 not now after what I found out Friday.

19 Q. Well, let me read your language again. (As
20 read:) So this being shown and noted, the regional
21 waste disposal capacity appears to accommodate
22 residence capacities generated in Fayette County and
23 the surrounding county in the near future.

24 Did you write that?

1 A. Yes.

2 Q. You then did say though, (as read:)

3 However, the current dilemma exists in maintaining a
4 viable out-of-county waste disposal source and a
5 method to transfer county-generated waste to one or
6 more of these facilities. Again, it's noted that
7 conventional refuse trucks will not routinely travel
8 excessive distances without operation maintenance.

9 So throughout your needs analysis, the
10 whole point is Landfill 33 is going to close in three
11 to five years, that's why you need a transfer station;
12 right?

13 A. That's incorrect. It's the distance of
14 driving the 34 miles.

15 Q. Well, okay, you're going to have to drive
16 further once Landfill 33 closes?

17 A. That's incorrect. That's not what I'm
18 saying. Even if they get approved, you still are
19 driving 34 miles. My distance from there is 8 miles.
20 So it's going to save the haulers a lot more money.
21 And we need competition in the area.

22 Q. Isn't it true that there's already a
23 transfer station that is just 11 miles from yours?
24 The one your family owned and sold to my client?

1 A. Yes, it's 11 miles away.

2 Q. Are you aware --

3 A. Not from Vandalia.

4 Q. Are you aware that the Shelby Transfer
5 Station closed because -- Shelbyville--excuse
6 me--Transfer Station closed because of the lack of
7 need?

8 A. I was the very last guy to unload in that
9 facility.

10 Q. And it closed because there were nearer by
11 landfills and other transfer stations so there was no
12 need for the Shelbyville Transfer Station?

13 A. No, sir. She had a stroke. And I was there
14 to help her. So that's the truth to that. She had a
15 stroke and they sold the company to Advanced Disposal.
16 I personally was the last load in that building. I'm
17 the one that helped clean it all up.

18 Q. Are you aware that Advanced Disposal closed
19 it because it wasn't needed?

20 A. Advanced Disposal closed it and then sold
21 out to Waste Management later.

22 Q. Do you know if the stated reason that
23 Advanced Disposal closed the transfer station is
24 because there were nearby facilities and the transfer

1 **station was not needed?**

2 A. The facility was ran down and the license to
3 that facility is still open in the State of Illinois.

4 Q. So if Advanced Disposal would indicate
5 that's the reason, that wouldn't bother you at all; is
6 that correct?

7 A. Can't answer that for Advanced.

8 Q. If I understand correctly, it doesn't matter
9 to you if indeed the reason Advanced closed the
10 transfer station was because there was no need for it;
11 correct?

12 A. I would not agree with that, no. The
13 facility was ran down. It was not --

14 Q. The stated --

15 A. -- operatable. It was not operatable,
16 that's the answer.

17 It was gonna get shut down either way.
18 It was not operatable. The whole place was falling
19 in.

20 Q. Once again, it doesn't matter to you if
21 Advanced stated reason for closing it was a lack of
22 need; correct?

23 A. I have no answer for that.

24 Q. Why not? Does it matter to you or --

1 A. I'm not answering for Advanced Disposal.

2 Q. I'm not asking you to. Does it matter to
3 you that their stated reason was there was no need.

4 A. The reason I see now that they closed it, it
5 just made need for me.

6 Q. Sir, you've offered an opinion regarding the
7 need for transfer stations. Don't you agree that it's
8 relevant to determining whether or not a very nearby
9 transfer station was recently closed for lack of need?

10 A. I don't agree with you, no.

11 Q. You don't care; correct?

12 A. No, I will not agree to that.

13 Q. I'll move on.

14 Are you aware -- I can pull it out if I
15 need to, but somewhere in your needs analysis you
16 actually make a statement that the transfer station is
17 needed because as people continue to populate the
18 Southern Illinois area and Fayette County, there needs
19 to be more available space.

20 Do you recall making that statement,
21 that the population is growing in our area?

22 A. To my understanding, it is. Because right
23 now I'm at full capacity with all my garbage routes
24 that there are people needing trash service and I will

1 not provide them none right now.

2 Q. Okay. So did you bother to review any of
3 the internet readily available sources that show
4 population trends?

5 A. I'm just going off what I'm having trouble
6 with my personal self.

7 Q. So is my statement correct? You didn't even
8 look on the internet to determine whether or not
9 there's actually population growth in the area before
10 making a statement in your -- in your filed
11 application that the reason there's need is because of
12 population growth; is that right?

13 A. I'm the one that got the numbers off the
14 internet. That's where they came from that states how
15 many people are living in each population. How close
16 they are growing each year. There's over a hundred
17 some --

18 Q. You actually stated more people keep moving
19 down state; is that right?

20 A. There are more people moving in this area,
21 yes. Building --

22 Q. But you didn't do --

23 A. -- houses in the country.

24 Q. -- any research to determine whether or not

1 **there actually is a population growth trend; correct?**

2 A. I can only go off the research that I done
3 for myself for my own waste -- for my own waste
4 business. Of what is happening and the issues at this
5 time.

6 Q. Eric, if you would pull up the population
7 information for Effingham County.

8 So a 30-second search on my part came
9 across the Fayette County population data. And it
10 goes back to 1950. And since 2012, ten years, there
11 has been a steady downward trend; isn't that correct?

12 A. By what your study shows; yeah.

13 Q. As a matter of fact, in that last decade,
14 it's down by over 4 percent; is that right?

15 A. What your study shows, yes.

16 Q. And if you go down to 1950, it's actually
17 way down compared to those days; correct?

18 A. That's correct. But you also have
19 fluctuations where they go up and down throughout the
20 rest of the years.

21 Q. So the statement that the population is
22 growing is just wrong?

23 A. Going off of what my business is trying to
24 handle at this time. They've also been referred to

1 call Sanitation Service or contact any other haulers
2 out there and they've been told the same thing --

3 **Q. But the --**

4 **A. -- they won't come to Fayette County and**
5 **haul them.**

6 **Q. When you draft something in your**
7 **application, you do so in order to try to persuade**
8 **this board to approve it; right?**

9 **A. I'm not going to persuade the board to do**
10 **anything. They can approve whatever they would like.**

11 **Q. So don't you think there's a responsibility**
12 **to try to at least confirm the statements of fact that**
13 **you purport to be making within your application, like**
14 **that the population is growing when it actually isn't?**

15 **A. I believe that it is growing in the areas**
16 **that I haul in.**

17 **Q. Based on zero actual study of population**
18 **data?**

19 **A. I'd have to go and give you all my**
20 **information out of my computer for all that for my**
21 **business.**

22 **Q. Now, the big punch line here; are you aware**
23 **that Effingham Crossroads has been permitted?**

24 **A. If they did, they got it permitted within**

1 the last six months.

2 Q. So assuming, and I'll --

3 A. Or three months. Sorry.

4 Q. -- produce the permit. Well, I'll just do
5 it now. Why don't we turn to Exhibit -- what exhibit
6 is it, Eric?

7 Exhibit 15 is the readily available
8 operating permit, public record, for -- it's actually
9 a development and operating permit for Effingham
10 Crossroads Landfill. And as Exhibit 15, we've
11 included the first page. The second page which shows
12 the permit has been granted to Effingham Crossroads
13 Landfill, owner and operator. The application
14 approved by this permit consists of the following
15 documents. And then executed by Kenneth Smith,
16 manager of the permit section.

17 So are you aware now that there is
18 actually 30 more years of capacity readily available
19 to this area?

20 A. Is that for their expansion or is that for
21 the new landfill? Because they asked for two
22 different things at one time. They had to go back and
23 do an expansion to do --

24 Q. This is for Effingham Crossroads Landfill?

1 A. Okay.

2 Q. But you're correct, that there's also an
3 expansion of the existing landfill --

4 A. Which is --

5 Q. -- make sure the board understands this.
6 Which means that not only is there several years
7 capacity left at Landfill 33, there's now 30 plus
8 years of capacity for Crossroads Landfill; isn't that
9 correct?

10 A. Is that facility developed?

11 Q. Do you understand what it means to have
12 capacity available?

13 A. Yes.

14 Q. Okay. And you understand that that is one
15 of the fundamental things that you're supposed to be
16 considering when doing a needs analysis?

17 A. And I do understand that the transfer
18 station built at Effingham County Transfer Station has
19 got built less than 20 miles from their landfill that
20 was then at that point expanding again. So I do not
21 see there's any issue for Fayette County and myself to
22 have a transfer station later down the road.

23 Q. So you don't care if there's a need for
24 additional capacity, you only care that you get a

1 chance to make the same revenue that my clients made;
2 right?

3 A. I agree we need good competition in the
4 area. It makes everything better and it gives a lot
5 of growth for the area for then. Effingham County is
6 growing also.

7 Q. And your desire for competition in the area
8 is what you did instead of deciding -- if you pull up
9 the language for Criteria 8, Eric.

10 So you decided that your desire for
11 competition trumps the questions of whether the -- if
12 the facility is to be located in a county where -- in
13 the county where the County Board -- no, I'm sorry, I
14 wanted 1. Did I say 8? Sorry, I meant Criteria 1.

15 Isn't it true that Criteria 1 required
16 an analysis and a conclusion by this board as to
17 whether the facility is necessary to accommodate the
18 waste needs of the area it is intended to serve? It
19 in no way involves whether or not we want to foster
20 competition; correct?

21 A. Its analysis is the fact that this is
22 Fayette County. So there's no transfer station, no
23 waste facility in this county already. So the needs
24 for this facility is the fact there is nothing here

1 already.

2 Q. Okay. So you understand that a service area
3 is what you determine whether or not there's a need?
4 And you even selected the service area --

5 A. And you can use a service area --

6 Q. -- includes a 30-mile area way outside just
7 Fayette County; correct?

8 A. Correct.

9 MODERATOR KAINS: Mr. Porter, how much
10 more do you have?

11 MR. PORTER: At least an hour.

12 MODERATOR KAINS: Okay. We're gonna take
13 a break. Kathy's fingers are probably about ready to
14 take a break. So it's two minutes until three; let's
15 come back and reconvene at 3:10.

16 (Whereupon a recess was taken.)

17 MODERATOR KAINS: Real quick, folks, we
18 have received two letters written to Fayette County
19 Board members. One is from a Matt Mattes,
20 M-a-t-t-e-s. And one is from a Dustin Sefton,
21 S-e-f-t-o n.

22 These letters will be photocopied. All
23 County Board members will receive a copy, as well as
24 counsel for the parties. And these letters will be

1 included in the written comments and made part of the
2 record of this hearing. I'm going to give them to
3 Jessica.

4 I'll give them to Dustin. Please make
5 sure they are copied for everybody, including counsel.

6 Mr. Porter, go ahead.

7 (BY MR. PORTER:)

8 Q. So I'm not going to go through all of these.
9 Mr. Moose is going to address all of the communities
10 in your service area and how they are actually closer
11 to other facilities, but if I just point one out.
12 Eric, the Salem community.

13 So how -- you did not study at all how
14 far these other communities within your service area
15 were to your facility; is that correct?

16 A. Just did the 30 miles radius.

17 Q. And -- but isn't it true that with Salem,
18 they are 39.6 miles from your proposed site?

19 A. That's correct.

20 Q. And 26.7 miles from the current transfer
21 station?

22 A. That's your say.

23 Q. What.

24 A. I didn't do that study, that's your studies.

1 Q. I know you didn't --

2 A. I'm gonna take your word, yes.

3 Q. -- but would you agree that it would make no
4 sense for Salem to drive to your facility and back
5 versus going to Effingham County Transfer Station?
6 It's 12 additional miles. Or 13 additional miles.

7 A. I don't know from that boarder line how far
8 it is from up there. You measure from the center of
9 Salem, which is fine, but I don't know how far their
10 garbage company goes. I don't know who's hauling it
11 all. DBS Disposal hauls in town sales, but DBS is not
12 from Salem.

13 Q. All right. Garbage from the City of Salem
14 to the Effingham County Transfer Station is a shorter
15 distance than to your proposed station; correct?

16 A. From what you're showing; yes.

17 Q. And assuming that we're not lying about the
18 mileage; correct?

19 A. Exactly.

20 Q. Why don't you show me Greenville too.

21 Okay. And how far is -- well, strike
22 that. You don't know how far Greenville is from your
23 facility except for what I've put on the screen;
24 right?

1 A. I know they're approximately 30 miles.

2 Q. Okay. And are you aware that they are
3 approximately 27.7 miles from the Envotech Landfill?

4 A. I am aware of that. I drove it.

5 Q. And so it would make zero sense to travel
6 29 miles to your transfer station and then travel
7 back, at the same time then having a transfer trailer
8 travel all the way over to the Envotech Landfill or
9 some other distant landfill; correct?

10 A. To your studies. Not to the people who own
11 them trash businesses. I can't agree to that.

12 Q. You would agree that if they were to use
13 your transfer station, you're actually increasing the
14 amount of emissions to the air from vehicular traffic?

15 A. I wouldn't agree to that.

16 Q. Well, you're going to travel all the way to
17 your transfer station and then a transfer trailer is
18 going to have to go to the landfill; right?

19 A. Do you know where the stopping point is for
20 their garbage company to go --

21 Q. Again, the beauty of this is I get to ask
22 you questions.

23 A. I know, yes. So yeah, I see what you're
24 saying. But the transfer trailer is also for the

1 competition and also for the fact of letting other
2 haulers have an opportunity to use other locations.

3 Q. Would it surprise you to know that other
4 than Vandalia, every single community in your service
5 area is closer to a readily available waste facility
6 with capacity than your transfer station?

7 A. The community of Brownstown is closer to me.
8 The community of St. Elmo is closer to me.

9 Q. Okay.

10 A. The community of Vandalia is closer.
11 St. Peter. Do we want to go through all these towns,
12 because there's a bunch of them.

13 Q. We will. And Mr. Moose is going to do that.

14 A. That's fine.

15 Q. You did not, in your application; is that
16 correct?

17 A. I did not because I know the haulers.

18 Q. I mean you would agree that it would be
19 silly for the City of Carlyle to first be trucked to
20 the proposed transfer station in Fayette County and
21 then a minimum of another 30 miles from the transfer
22 station to a landfill instead of just going directly
23 to the Cottonwood Landfill; correct?

24 A. It's their decision on what they want to do

1 with their waste.

2 Q. But to --

3 A. Price does --

4 Q. -- make sense; isn't that right?

5 A. Competition and price can change a lot of
6 things.

7 Q. So it's not need, it's competition and price
8 that you think is going to drive your volume; right?

9 A. Anything that saves anybody money.

10 Q. Okay. Let's move on to Criterion 2. Once
11 again, you have no training in transfer station design
12 nor environmental health and safety; correct?

13 A. That's correct.

14 Q. You have a totality of one paragraph in your
15 entire application that addressed Criterion 2;
16 correct?

17 A. What is that again? Sorry.

18 Q. If you could put it up for me, Eric. I'm
19 sorry, I'd give you a page but I can't because there
20 isn't one. Page number.

21 It's 113 in our Bates stamped document.
22 We page numbered it for you on our copy.

23 Okay. Is there a way so that you can
24 make that so we can see the whole thing?

1 **Isn't it true that this page says**
2 **Criterion 2 is the only statement in the entire**
3 **document that explicitly tries to address that the**
4 **facility is so designed, located, and proposed to be**
5 **operated that the public health, safety, and welfare**
6 **will be protected?**

7 A. I won't agree with that without seeing the
8 application in front of me so I can tell you exactly
9 what else is going with that criteria.

10 **Q. Well, I'll tell you, since you obviously**
11 **don't know your application --**

12 A. I do, but you --

13 **Q. -- What is attached --**

14 MODERATOR KAINS: Time out.

15 A. Sorry.

16 MODERATOR KAINS: You've got to stop
17 jumping on each other, please. Okay?

18 **Q. Within that --**

19 MODERATOR KAINS: Mr. Porter asks
20 questions. You need to listen to them, Mr. Sutter,
21 and then answer the question. You know, sometimes the
22 question will be, "Are you aware of," and that's a yes
23 or no answer.

24 A. Okay.

1 MODERATOR KAINS: I know you want to
2 explain it. But please, gentlemen, ask questions and
3 answer the specific question. You can't jump on each
4 other.

5 A. Okay.

6 MODERATOR KAINS: Go ahead, Mr. Porter.

7 Q. So the only text that addresses Criterion 2
8 is indeed that one page, but right behind it is your
9 operation plan. And that's it, that's all that you've
10 done as to Criterion 2; is that correct?

11 A. Yes, sir.

12 Q. And the operation plan is actually there
13 because of Criterion 5, not 2; isn't that right?

14 A. Yes.

15 Q. Okay. And the totality of your analysis as
16 to whether or not the facility is designed, located,
17 and proposed to be operated that the public health,
18 safety, and welfare will be protected is this
19 language, (as read:) The proposed transfer station is
20 located on a state highway with access designed for
21 large trucks to use without impacting traffic. The
22 Illinois Department of Transportation will need to
23 review and approve the entrances. The location is
24 also in an agricultural area which the nearest

1 residence is over 1800 feet away. Waste will be
2 handled inside an enclosed building shown in our
3 designs. An operation plan has been developed for the
4 proposed facility which addresses waste acceptance
5 criteria, operations, erosion control requirements,
6 drainage control, water disease infection control,
7 signs and safety requirements, access and security
8 requirements, and facility inspections. Operational
9 plans attached for this criterion. That's it; right?

10 A. Yes.

11 Q. There's absolutely no data, study, analysis,
12 model at all performed to come to your conclusion that
13 the facility is designed, located, and proposed to be
14 operated that the public health, safety, and welfare
15 will be protected; right?

16 A. Yes.

17 Q. And you do not have any engineering degree
18 that would give you the qualifications to even make an
19 opinion that it is proposed to be located, designed,
20 and operated to protect the public health, safety, and
21 welfare; right?

22 A. Correct.

23 Q. Matter of fact, you even wrote portions of
24 the operation plan, didn't you?

1 A. I did what now?

2 Q. You even wrote portions of what you've said
3 is the engineer's operation plan; correct?

4 A. I put my pieces to what needs to be in
5 there, yes. For it -- so it would be more safer; yes.

6 Q. For example, within the operations plan you
7 reference that (as read:) Attached to this
8 application is our agreement between me and G-Bart
9 Properties; is that right?

10 A. Yes, sir.

11 Q. So even the operations plan was not the sole
12 work product of an engineer; correct?

13 A. Yes, sir.

14 Q. All right. Isn't it true there's no study
15 in any portion of your application about the soils and
16 hydrogeology of the site?

17 A. That would be a question for the engineer,
18 so I can't answer that.

19 Q. You don't recall any portion of your
20 application actually considering the soils or
21 hydrogeology of the site; right?

22 A. Not to my knowledge.

23 Q. You are aware that transfer stations create
24 Teachate; right?

1 A. Yes, sir.

2 Q. And you know that leachate is, you know,
3 contaminated water? Water that comes in contact with
4 waste; correct?

5 A. Yes, sir.

6 Q. And therefore, there is a possibility that
7 leachate could escape to the ground when you operate a
8 transfer station? Something you have to consider;
9 correct?

10 A. Yes, sir.

11 Q. And so isn't it necessary to determine if
12 the public health, safety, and welfare is being
13 protected to look at the hydrogeology of the area to
14 determine if you've got a chance of affecting
15 someone's well or the groundwater? Where it's going
16 to flow? It's an absolutely essential part of doing
17 an analysis under Criterion 2; correct?

18 A. Yes, sir.

19 Q. And it didn't happen here? That analysis
20 was not done; right?

21 A. Correct.

22 Q. Likewise, there is not even a stormwater
23 management plan even in your operation plan; isn't
24 that correct?

1 A. Stormwater management plan?

2 Q. Correct.

3 A. Which would be a leachate tank sitting
4 outside the building?

5 Q. No. It's a plan of how they do it with your
6 stormwater that hits your facility. How that's going
7 to be regulated, effective, trenched. Whatever your
8 plan is, it doesn't exist in your application;
9 correct?

10 A. I believe it is in the application. That is
11 another engineer question.

12 Q. Okay. You're not sure -- well, you refer to
13 your engineer whether or not there's a stormwater
14 management plan somewhere in the operation plan; is
15 that right?

16 A. I believe that he had it in there, I just
17 don't know exactly where it was at. There's a lot of
18 things in that application.

19 Q. Now, you are aware that this property is in
20 an area that is prone to flooding; isn't that right?

21 A. Not that I've ever seen my own personal
22 self.

23 Q. Did you do any study, interview anybody,
24 conduct any investigation to figure out if the very

1 property that you are considering and the roadway
2 surrounding it are prone to flooding?

3 A. I did not do; no, sir.

4 Q. Likewise, isn't it true that there was no
5 study done as to the traffic routes to and from the
6 facility?

7 A. Once again, that's engineer, so no, I did
8 not do that myself.

9 Q. There was no study done about the
10 obstructions in visibility for trucks entering and
11 exiting Route 185, was there?

12 A. Another engineer question. I did not do any
13 studies, no.

14 Q. There was no studies done about sight lines
15 that one would have if they were to build a transfer
16 station at that location; correct?

17 A. Correct.

18 Q. Do you have any idea how many school buses
19 stop in and around that location?

20 A. I personally do not know.

21 Q. Anywhere in the several paragraph traffic
22 study is there any investigation about school bus
23 stops in the area?

24 A. Not to my knowledge, no.

1 **Q. Now, how far is the front of your proposed**
2 **building to the center of the highway?**

3 A. That would be another engineer question;
4 could not tell you off the top of my head.

5 **Q. Would it surprise you to learn that the**
6 **front of your building is 72 feet from the center of**
7 **the highway?**

8 A. It could be. I mean like I said, I don't
9 have that study my own personal stuff.

10 **Q. Do you know if there are any safety**
11 **regulations in Fayette County that explicitly provide**
12 **for how far from -- the building has to be to the**
13 **center of a highway?**

14 A. Other than there's no zoning in Fayette
15 County, I do not know that answer.

16 **Q. Do you know what a location standard is?**

17 A. I would expect that my engineers would.

18 **Q. You do not know --**

19 A. I do not know, no.

20 **Q. Isn't it true that the location standards of**
21 **what you're supposed to consider in determining**
22 **whether or not a pollution control facility should be**
23 **placed at a specific location such as safety**
24 **restrictions in county ordinances? Do you know?**

1 A. No, I do not.

2 Q. Isn't it true that there is absolutely no
3 study or request of IDNR concerning whether or not
4 this project--which would have to be authorized by
5 this board--could impact threatened or endangered
6 species?

7 A. I know that there was a letter sent out
8 about habitat and all that, and they did send back
9 later stating there was no issues that they seen.

10 Q. Isn't it true that the letter that was sent
11 to IDNR only asked about historical sites? It did not
12 ask about endangered or threatened species?

13 A. Again, my engineer is the one who put that
14 together, so I could not answer.

15 Q. And so if your application does not have any
16 such letter in it that a consultation was sought by
17 IDNR regarding threatened or endangered species? If
18 there is nothing talking about threatened or
19 endangered species, you have no reason to dispute that
20 it wasn't done; right?

21 A. I can't answer that question.

22 Q. Because you just don't know if it was done;
23 correct?

24 A. My engineer I would have expected done most

1 of them.

2 Q. You know that it's a requirement that that
3 analysis be done to determine if a project that a
4 county has to approve affects threatened or endangered
5 species or their habitats; right?

6 A. I would expect, yes.

7 Q. And it would be wholly improper and unsafe
8 for a county to approve such a project if that study
9 hasn't been done; correct?

10 A. I would expect if my engineer did not design
11 it correctly, that yes, it would endanger anything in
12 life. But with him putting his name on it, I would
13 have a hard time believing he's going to endanger
14 anybody or endanger species.

15 So at this point, I don't agree with
16 all that a hundred percent. So I believe my engineer
17 can answer that in a better form.

18 Q. What types of waste are you actually
19 proposing to accept other than municipal solid waste?

20 A. So you got municipal solid waste, you got
21 construction debris which is -- oh, I'm trying to
22 think exactly here. You have construction debris from
23 like roll-off companies. You have people who
24 obviously clean out homes, do different sorts of that

1 kind of stuff. And then obviously compacted waste
2 from solid waste trucks --

3 Q. What about -- I'm sorry for interrupting.
4 Were you done?

5 A. No hazardous or anything like that would be
6 allowed to come in.

7 Q. Okay. You're going to accept tires; is that
8 correct?

9 A. Absolutely not.

10 Q. Are you going to accept white goods?

11 A. You talking like recyclable white goods?

12 Q. Large appliances, white --

13 A. So you're talking metals. No, they are
14 going to be directed to a metal company.

15 Q. Are you accepting bulky items?

16 A. Describe in detail.

17 Q. I'm not exactly sure, I think that's a term
18 of art, but I would suggest something like sofas, that
19 type of thing?

20 A. I'm sure, yes. Yeah, mattresses and those
21 items, yes, they would be accepted.

22 Q. What about landscape waste? Are you going
23 to accept that?

24 A. No, There is no acceptance of landscape

1 waste.

2 Q. So when these materials that you say you're
3 not going to accept come into your facility, they have
4 to be segregated somehow; right?

5 A. Yes, sir.

6 Q. And isn't it true that your operation plan
7 does not provide any floor area or description as to
8 where or how you're going to be able to segregate
9 these materials and still operate the transfer
10 trailers and the collection vehicles and the tractors
11 that are on this small site?

12 A. It says in the application there are berms
13 and dikes and other items that will be segregated.
14 And also, that there is a person on hand that does a
15 safety inspection if they see it or -- with their own
16 eyes. Then at that point, to shut down the operations
17 to make sure that everything is safe before they are
18 to reload it into a trailer.

19 So I do believe that the way that my
20 facility is designed, yes, it would be able to control
21 all that so that way none of that gets out into the
22 environment.

23 Q. Let me ask it one more time. Isn't it true
24 that there's nowhere in the operation plan or the

1 design that identifies an area where you'll store
2 loads of this segregated material on the tipping room
3 floor?

4 A. I disagree with that.

5 Q. Can you point me to one design that shows
6 that?

7 A. I mean obviously in my design is the tipping
8 floor area. But that is, once again, where we itemize
9 and look at it our own personal selves with safety --
10 with the right safety people that's making sure that's
11 correct.

12 Q. So you can't point to it today? You intend
13 to provide for it later; is that right?

14 A. Yes, yes.

15 Q. But you understand that this is the only
16 opportunity this board has to consider whether or not
17 your project is safe; correct?

18 A. I would expect that they wouldn't let me put
19 it together if it wasn't safe.

20 Q. I hope so.

21 Isn't it true that the need to store
22 these different materials will reduce the amount of
23 area on the tipping room floor available for waste?

24 A. Repeat that again?

1 **Q. Isn't it true that the need to store these**
2 **segregated materials that you've just said you're not**
3 **going to accept--tires, white goods, any hazardous**
4 **materials, landscape waste--you're going to have to**
5 **have area on your tipping room floor to segregate**
6 **those materials so they can be then compiled and sent**
7 **to the appropriate facilities?**

8 A. That is correct. Which you can use
9 containers to do that with which states that in my
10 operation plans, there is containers available to
11 where you can put those items into if we need to
12 remove it.

13 **Q. But your design for the interior traffic**
14 **flow takes no account of those extra areas that you're**
15 **going to need in this building; correct?**

16 A. In the designs; correct. Only in the
17 operational plans.

18 **Q. Isn't it true that household containers**
19 **often contain hazardous waste?**

20 A. Yeah, anything can get in there and make it
21 hazardous waste.

22 **Q. The plan that's with your report does not**
23 **contain a detailed inspection of each load, does it?**

24 A. That is something that the scale house

1 operator must make sure happens. And the guy that's
2 running the loader must make sure happens.

3 There are -- matter of fact, I just did
4 one at Effingham County Transfer Station literally a
5 week ago on my own personal self. Which if they want
6 to know how they operated that, I just signed a piece
7 of paper and he never even looked at the load.
8 Because that's not how you run the right operations of
9 a transfer station. You should go out there and
10 actually look at each itemized load that's coming out
11 of them trucks.

12 **Q. Okay. Your plan does not anywhere state**
13 **that there's going to be a detailed inspection of each**
14 **load, does it? To the contrary, what it explains is**
15 **that on a weekly basis, there may be a couple loads**
16 **that are segregated and given that detailed**
17 **inspection?**

18 A. In the application it states --

19 **Q. Is that correct?**

20 A. Yes, sir.

21 **Q. So your statements just now and to this**
22 **board earlier that there are detailed inspections of**
23 **each load is simply untrue; correct?**

24 A. I would expect that the guys hired to run

1 the loader better be paying attention to what he's
2 seeing.

3 Q. Well, isn't it true that a detailed
4 inspection is more than just a quick, visual
5 inspection of a load that comes through?

6 A. Yes, sir.

7 Q. And so you sample some loads in order to
8 make sure the hauler is indeed telling you the truth.
9 But you lied to this board when you said you were
10 going to do a detailed inspection of each load because
11 it's not true; right?

12 A. I don't agree with that.

13 Q. Why did you say it then?

14 A. I'm stating the fact that they would have to
15 do an itemized check each time they unload. So I
16 would expect my employees to do their job correct.
17 That's what they're hired for.

18 Q. But they don't do an itemized check on every
19 load. That would be impossible. You could never get
20 through a day, could you?

21 A. You would not be able to get through an
22 entire day.

23 Q. So you're just fabricating that when you say
24 that to the board in one breathe and in the next

1 breathe admit it's not true; right?

2 A. I don't agree with that.

3 Q. Let's talk about your tipping floor
4 capacity. Isn't it true that in your very abbreviated
5 traffic study, you stated--and I think this is a fact
6 you gave your engineer--that there will be two
7 transfer trailers making three round trips on a daily
8 basis?

9 A. Now be what again? Sorry.

10 Q. That there would be two transfer trailer
11 trucks making three round trips on a daily basis?

12 A. There can be anywhere from -- sorry, two
13 trucks could be doing three apiece. And then any
14 excess overload can be transferred out of there with
15 extra trucks that I can provide, as it says in my
16 application. It states in my application whatever I
17 need to make operations go through to handle 200 ton a
18 day.

19 Q. Okay.

20 A. So if there's four loads, that's --

21 Q. So let's -- so people understand, your
22 application and your traffic study only refer to two
23 transfer trailers, but you're acknowledging for
24 200 tons per day it would take a lot more transfer

1 trailer traffic than that; correct?

2 A. No, I don't agree.

3 Q. Well --

4 A. My application --

5 Q. -- isn't it true that there's no way you
6 could do 200 tons per day with two transfer trailers
7 on three trips? It's mathematically impossible, they
8 can't carry that much refuse?

9 A. You are correct. They can only do 25 ton a
10 day per -- or 25 ton per trailer per day.

11 Q. And worse, if I understand correctly, it
12 takes three and a half to four hours for a transfer
13 trailer drive time round trip to get to the landfills
14 that you're using; is that correct?

15 A. Which landfills are you using?

16 Q. The ones you intend to use according to your
17 application?

18 A. To use Marissa would be two and a half --
19 two hours --

20 Q. Round trip?

21 A. Round trip would be almost four hours.

22 Q. Correct.

23 A. And then we also have Roxanna. That's also
24 closer.

1 Q. Which is three and a half hours; right?

2 A. Roxanna?

3 Q. There and back?

4 A. Probably less than that. I honestly would
5 have to go recheck it, but I know that they have
6 reached out possibly wanting to bring loads there.

7 Q. Isn't it also true that the proposed
8 transfer station is going to close at 3:00 p.m.?

9 A. The transfer station would be closed at
10 three?

11 Q. That's what you said in your application?

12 A. Yes, yes, six to three. Sorry.

13 Q. And are you aware that Southern Illinois
14 Landfill and Prairie Ridge Landfill close at
15 4:00 p.m.?

16 A. That is correct, yes.

17 Q. And Cottonwood Landfill closes at 3:00 p.m.;
18 is that right?

19 A. That is correct, yes.

20 Q. Therefore, it is impossible for a transfer
21 trailer to make three, four-hour round trips with all
22 pickups occurring between the operating hours of 6
23 a.m. to 3 p.m.; correct?

24 A. I would not agree with that.

1 **Q. Isn't it true that all drop-offs -- isn't it**
2 **true it would take about 12 hours to do three trips**
3 **and there's only nine hours from six to three?**

4 A. The operation of the building opening at
5 6:00 in the morning is only for taking in waste. The
6 semi-trucks are allowed to leave earlier because of
7 the fact that they have to make a longer trip than us.
8 So they would have to leave out at 4:00 in the morning
9 in order to make three round trips per day--which I've
10 personally done--and it would put you at the
11 Cottonwoods at 2:15 to 2:30 in the afternoon and you
12 just said they close at 3:00.

13 **Q. So while your operation is six to three,**
14 **your actual intent is to load the transfer trailers**
15 **each night so that they're ready to go first thing in**
16 **the morning? And so they're going to sit overnight;**
17 **correct?**

18 A. Every transfer trailer will be loaded per
19 day every day.

20 **Q. And they're going to sit overnight**
21 **completely loaded; is that right?**

22 A. You will usually only have one trailer on
23 each semi-truck that is tied up literally staying
24 inside the building, inside the trailer, not on the

1 floor, being ready to transfer out at 4:00 in the
2 morning to be able to head to a landfill so that way
3 there's no trash left behind.

4 **Q. So when you looked this board in the eye**
5 **earlier today and said, "There won't be any waste in**
6 **that facility overnight," it was simply patently**
7 **untrue and false?**

8 A. No, sir, that's not what I said. I said
9 there will be no waste left on the floor of my
10 facility. On the tipping floor. There will be waste
11 in my trash trailers in order to be leaving out for
12 the next day. It's just part of the operation.

13 **Q. So there will be odors throughout the night**
14 **and the weekends and the holidays from loaded transfer**
15 **trailers; correct?**

16 A. Staged inside my building, inside trailers
17 like it states that you're supposed to do by the
18 Illinois EPA.

19 **Q. But even if you had that, where you've got**
20 **your transfer trailers already loaded in the morning,**
21 **and you only have two trucks, it would still be**
22 **impossible to do 200 tons per day? You're going to**
23 **need more transfer trailers in order to accomplish**
24 **that; correct?**

1 A. Well, 25 ton times ten loads is 250 tons, so
2 if we take 20 ton and break it down, how many loads am
3 I gonna need? So my answer to you is I can do it with
4 exactly what I got. You can do it in eight
5 semi-trailers, ten maximum.

6 Having a spare semi to be able to
7 transfer the other two loads. He's not going to be
8 leaving out on the other times that the other one is.

9 **Q. Isn't it true that in order to do 200 tons**
10 **per day, you would need at least four transfer trailer**
11 **trucks operating?**

12 A. That is not true. You can do it with three.

13 **Q. But your application only says there's going**
14 **to be two?**

15 A. No, it says what I can -- whatever I need is
16 what it says in my application. It says that in my
17 operational plans. Whatever I may need to make sure
18 all waste is gone from the facility and not left on
19 the floor is what it states.

20 **Q. In order to get 200 tons per day, you would**
21 **have to have 34 collection vehicles coming to and from**
22 **your facility; correct?**

23 A. Can't agree with that either because --

24 **Q. Well, how many tons does a collection**

1 **vehicle carry?**

2 A. Well, you got front loaders that can haul up
3 to dang near 18 ton. You got rear load 25-yard trucks
4 that can haul anywhere from 12 to 14 ton, so --

5 **Q. Isn't the usual six tons of waste? In a**
6 **waste collection vehicle?**

7 A. I would say probably right now on average
8 probably eight ton. Average. Maybe eight to nine.
9 Per collection vehicle on average.

10 **Q. Okay. If the engineers who have been**
11 **practicing in the industry for--what do you think,**
12 **40 years--40 years indicate that the industry standard**
13 **is six tons of waste for a collection vehicle, would**
14 **you have a reason to dispute that?**

15 A. I wouldn't dispute whatever they get their
16 knowledge from, no, but in our area --

17 **Q. So in order to carry 200 tons of waste, you**
18 **would need, on general, 34 collection vehicles to**
19 **balance that; isn't that right?**

20 A. I can't tell you how much they're going to
21 haul in their trucks, so I wouldn't agree with how
22 many trucks it would bring to come in there.

23 **Q. Okay. Isn't it true there is no way that**
24 **you can haul 200 tons of waste with 15 trucks?**

1 A. We never even had 15 trucks coming into
2 Effingham County Transfer Station and was doing almost
3 130-ton per day whenever our family owned it. Between
4 128 and -- 128 and 150 maximum. And on a holiday, we
5 would make it up to about 190. And there was not 15
6 trucks coming there even per day because of the fact
7 that there's not that many haulers that own that many
8 trucks.

9 **Q. Isn't it true that your purported**
10 **transportation analysis assumes that there's only**
11 **going to be 15 trucks coming or leaving the facility?**

12 A. Based off of what all the haulers in this
13 area have; yes.

14 **Q. And if they follow industry standards of**
15 **6 tons of waste, 15 trucks would only be able to haul**
16 **90 tons of waste; correct?**

17 A. That would be correct. Which would be
18 better so that way less trucks are coming up and down
19 the highway.

20 **Q. And isn't it true that when you do a traffic**
21 **study, you're supposed to assume the highest value**
22 **that you are asking a board to approve in order to**
23 **determine whether or not it's safe? And that the**
24 **roadways are going to be sufficiently protected and**

1 there's gonna be sufficient area to get in and out of
2 traffic; correct?

3 A. Correct.

4 Q. You didn't do that? You assumed the least
5 amount of waste that you intend to collect of 90 tons
6 per day; right?

7 A. So the answer to that question, if I reach
8 my maximum, I have to turn away the customer just like
9 the family members that own it now just did Friday
10 because they could not handle all that waste. They
11 had to turn him away and tell him to go to another
12 location.

13 If that was to come to a problem,
14 there's one of two things. I can do one, call the
15 Illinois EPA and file paperwork to ask for more
16 volume, more tonnage so I can handle more waste, or
17 two, I gotta tell the customer "I'm sorry, but at this
18 time we're at capacity."

19 Q. Okay. All of that has been interesting, but
20 what I'm getting at is when you file an application
21 for siting approval, you're supposed to do a
22 conservative analysis in order to assume worst-case
23 scenarios so that when you ask for an approval, you
24 know that something has a margin of safety. Do you

1 understand that?

2 A. I do, yes.

3 Q. You didn't do that, nor did your engineer.
4 Instead, you assumed a low amount of waste volume in
5 order to come to some conclusion that the traffic
6 study was appropriate and that you will have
7 sufficient time to get the trucks in and off the
8 roadway; correct?

9 A. I designed my building to be able to handle
10 anywhere from 50 up to 400-ton per day. So at that
11 point, if I'm doing less or more, that will change the
12 directions of how much traffic is going to be on that
13 highway.

14 At that point, you cannot do a
15 100 percent analyst. So no, I don't have a hundred
16 percent dead on, but I know exactly how many trailers
17 I need to do for my 200-ton per day if I was using
18 maximum capacity.

19 Q. But you earlier testified that Criterion 6
20 had been -- by the way, can you put that up, please.

21 Criterion 6 is (as read:) The traffic
22 pattern to or from the facility are so designed so as
23 to minimize impact on existing traffic flows.

24 Am I right? That that's what your

1 application indicates?

2 A. Yes.

3 MR. SHAW: Objection. He just offered
4 testimony on criteria, traffic criteria. He has not
5 asked any criteria -- questions on traffic --

6 Q. Your counsel is actually correct. And I'm
7 going to withdraw that question.

8 All right. Let's talk about your
9 tarping activity. Assuming a transfer vehicle has
10 been just loaded, I'd like you to please, with your
11 own words, walk us through the tarping process that
12 you intend to employ at your transfer station?

13 A. All right. So if the trailer comes back
14 empty, the tarp is already actually closed. So before
15 you -- from my facility, due to the fact that it is a
16 drive-through style facility, the gentleman will open
17 the tarp with an empty trailer, he will drive it down
18 into the pit. He will then, at that point, be loaded.

19 Once the trailer is loaded, the
20 gentleman will be able to tarp it inside the building
21 because it's got a drive-thru pit you can go back out.
22 He will be able to step out of the truck, make sure
23 that everything, tires are safe, nothing can be ran
24 over in the pit to where, you know, I'm not having any

1 issues with my trailers.

2 At that point, we will then tarp that
3 trailer inside the building, pull it around the
4 facility to weigh it to make sure it will not go to
5 the Highway 185 over weight. And if it does, then
6 obviously, we take weight back off of it. But it has
7 to be tarped 100 percent before it goes.

8 Now, there are roll-style tarps which
9 is made by Gorilla Mesh Tarping system. Or you can
10 use what's called an automated tarper. An automated
11 tarper, which there's multiple different styles, but
12 it actually will stand up on the side of the trailer,
13 and at that point, will automatically be closed back
14 down. They are ratchet strapped down with ratchet
15 straps for safety on the front, on the side, and on
16 the back all the way around. There's probably
17 approximately six maybe even eight straps total around
18 the whole trailer.

19 **Q. Okay. So your application does not identify**
20 **whether or not you intend to tarp outside or inside.**
21 **You've just now told us you intend to tarp inside.**
22 **And so isn't it true there's nothing in your design or**
23 **plans that allow for a separate tarping area? And so**
24 **you're going to have to do that at the tipping room**

1 floor and you're going to have to slow down all
2 traffic getting in and out while tarping is being done
3 inside; correct?

4 A. That's incorrect. We're not slowing down
5 traffic.

6 Q. Isn't it true that many facilities have the
7 room and capability to move out of the way and
8 sufficient room to allow tarping? Yours does not?

9 A. If you look at my application and my plan,
10 yes, it shows you where darr states trailers and where
11 them states trailers are at is exactly where you can
12 leave them setting in order to make sure everything is
13 safety before it leaves the facility.

14 Q. Isn't it true if you do your tarping inside,
15 your operation is going to be very slow, inefficient,
16 and the workers' safety would be compromised given the
17 amount of time they're already in crowded premises
18 with moving vehicles?

19 A. The drivers of that facility and that semi,
20 with it being a drive-thru is actually gonna be faster
21 than the one that has to be backed down into because
22 at that point, you are slowing down the traffic. Mine
23 will not. Mine will be able to operate as a complete
24 100 percent drive-thru facility to where the transfer

1 trailers, the driver can do everything on hand,
2 on-site which is safer than driving it back outside
3 and then tarping it and then taking it to another
4 location to unload.

5 Q. If you can put the Criterion 3 language up
6 for me, Eric.

7 While he's doing that, by the way,
8 isn't it true that you have not been approved for a
9 loan at Teutopolis State Bank for a transfer station?

10 A. I've only sat down and talked with them
11 about it. I've not designed nothing yet. I'm not
12 gonna put all that in there until I get approved here.

13 Q. So earlier when you said you had your
14 funding at Teutopolis State Bank, you had that all
15 lined up, that was again a lie; is that correct?

16 A. That is not correct.

17 Q. You have not decided where you're going to
18 get your financing from yet nor have you been approved
19 for any financing from any institution yet; correct?

20 A. Gerry Runde, Teutopolis State Bank.

21 Q. Are you indicating that you are approved at
22 Teutopolis State Bank?

23 A. I have -- well, I'm not gonna tell you what
24 my credit line can be, so --

1 **Q. Are you approved at Teutopolis State Bank?**

2 **A. I'm approved enough to build a transfer**
3 **station, I can tell you that. And I don't have to**
4 **argue with you, sir. So yes, I am approved in a**
5 **different way of not -- you're not going to find it**
6 **like that because I ain't filed papers, I just have an**
7 **approval through a banker that says it will be done.**

8 **Q. You've entered into no financing contracts**
9 **related to this, have you?**

10 **A. Not yet.**

11 **Q. Okay.**

12 **A. But prepared to.**

13 **Q. Okay. My associate has put up for me the**
14 **language for Criterion 3.**

15 **Now, you referenced what you called a**
16 **report and your attorney called an appraisal relating**
17 **to Criterion 3. Isn't it true that criterion actually**
18 **requires that this board determine whether the**
19 **facility is located so as to minimize incompatibility**
20 **with the character of the surrounding area and to**
21 **minimize the effect on the value of surrounding**
22 **property?**

23 **A. Yes, I'm aware of that criteria.**

24 **Q. And you have not and are not going to bring**

1 your -- the appraisal -- the appraiser that gave you
2 the one-page report in your application; is that
3 correct?

4 A. At this time, I'm guessing he must be busy
5 or it's hard saying what he might be up to. I just
6 know that he gave me -- he is a commercial appraiser,
7 so whenever he went out and done his studies, not only
8 did he do the study of the location, he also went to
9 Effingham County Transfer Station and noticed all
10 their facility and homes around their facility and
11 stated that there is nothing that has jeopardized
12 anything for them homes -- for their homes value, the
13 corn, the crop, or anything nearby.

14 So at that point, he also stated that
15 Effingham County runs a nice facility, keeps it nice
16 and clean, so he was, I'm guessing, expecting me to do
17 the same so that way it keeps the property value safe
18 around.

19 Kent Aumann is a hired appraiser. He
20 also went through the entire studies of stating that
21 it does not affect any property values near or around.

22 Q. Okay. I'm gonna trust that the board will
23 actually take a moment to take a look at the one,
24 maybe it's two-paragraph, one-page document from Kent

1 Aumann dated April 14, 2022.

2 And isn't it true that Mr. Aumann --
3 well, let me ask you this, sir: Are you aware that in
4 order to determine whether or not there's going to be
5 impact on neighboring property values, there is a
6 methodology that certain professionals--including some
7 appraisers--know how to employ to do that study to
8 make that determination? Are you aware that exists?

9 A. I would expect Kent Aumann to know that,
10 yes.

11 Q. You don't know?

12 A. I don't know, but I'm sure he does.

13 Q. And Kent Aumann, again, is not here to
14 testify; is that right?

15 A. Correct.

16 Q. And would it surprise you to learn that it
17 actually involves performing either a regression
18 analysis or a paid sales analysis where the appraiser
19 will look to a community that is near the same type of
20 proposed use and perform sales data analysis on
21 whether or not that posed -- that community has
22 sustained any type of loss, then reconcile it to your
23 own community. And again, having to adjust
24 comparables in order to do so. Have you ever seen

1 such a study?

2 A. No, sir, not myself.

3 Q. Mr. Aumann didn't do that study; correct?

4 A. He done the study on his own and went over
5 there and did it and actually is the one that gave me
6 all this information.

7 Q. There is no paired sales analysis or actual
8 appraisal report, photos of comparables, photos of
9 adjacent communities, photos of the opposing
10 landfills, and sales data concerning homes anywhere
11 contained in this five, six sentence document;
12 correct?

13 A. That's what he gave me so that's what I had
14 to go off of.

15 Q. I gotta ask. How much did you pay for this
16 one-page report?

17 A. How much do I got invested in that?

18 Q. Yeah.

19 A. I honestly couldn't tell you off the top of
20 the head because of the fact that --

21 Q. It had to be less than 500 bucks; right?

22 A. No, it was more than that. I'm sorry.

23 Q. Are you aware that in order to do an actual
24 analysis as to whether a waste pollution facility

1 causes impact on property values is an extensive study
2 that requires at least weeks of data compilation,
3 interviews of assessors, compilation of comparables
4 from the area?

5 A. So where I got my information from is if you
6 go back to my application of the examples in the back,
7 when the Effingham County Transfer Station was built,
8 they used just one guy out of Shelbyville, Illinois,
9 which really only appraised like homes and commercial
10 properties and he did not have nothing in there
11 stating any of all that.

12 So as I hired this guy as a commercial
13 appraiser, he was the only one that could handle
14 Fayette County and handle Fayette County commercial
15 properties. And that's the only person that was
16 suggested to me after I checked with five locations
17 and they said, "This is the gentleman to use" to make
18 sure that property values are done, you know,
19 perfectly or to the best of his knowledge. And that's
20 why he gave me that information.

21 Q. To your knowledge, has Mr. Aumann ever
22 performed a study as to whether or not a pollution
23 control facility has caused economic impacts on
24 neighboring properties?

1 A. When I --

2 **Q. To your knowledge has he ever done it?**

3 A. As far as I know, yes, he -- yes, he has,
4 because he knew what a transfer station was, so I'm
5 guessing he had to have done something.

6 **Q. Okay.**

7 A. Because he explained it to me before I even
8 knew anything.

9 **Q. So all you know is that he's an appraiser
10 and he knows what a transfer station is. You didn't
11 do any investigation as to whether or not he had ever
12 done a study on whether or not Criterion 3 had been
13 met; correct?**

14 A. He wouldn't put his name on that line right
15 there in that book if he thought that his appraiser
16 wasn't -- appraisal wasn't good enough. He
17 wouldn't -- he would have told me no and said, "No,
18 I'm not going to do that." He would not have put his
19 name on the line.

20 **Q. He's not here to tell us that though; is
21 that right?**

22 A. He wouldn't have give me that piece of paper
23 that said, "Mr. Sutter, apply this with your
24 application" either.

1 Q. Nowhere on this piece of paper, by the way,
2 does it say that Criterion 3 has been met; correct?

3 A. The very first paragraph says I believe,
4 ain't it? Or not on the --

5 Q. There's not a reference anywhere in here to
6 415 ILCS 5/39.2(a) (3); correct?

7 A. I agree. It don't say that, but I know it's
8 been met by that guy turning his information in.

9 Q. So to your knowledge, he's never even looked
10 at the statute that you're saying he -- this report
11 indicates that it's been met?

12 A. He wouldn't put his name on the line if he
13 wouldn't.

14 Q. Again, that's your conjecture --

15 A. That's correct.

16 Q. -- right?

17 You didn't know Mr. Aumann before you
18 reached out to him in regard to this project; is that
19 right?

20 A. I was directed to him by --

21 Q. You didn't know Mr. Aumann before you
22 reached out to him in regard to this project; is that
23 right?

24 A. That's correct.

1 Q. Okay. You have no personal knowledge about
2 his ethics, his experiences, his -- whether or not
3 he's had any professional education regarding the
4 proper analysis of determining if a proposed use has
5 impacts on neighboring areas; correct?

6 A. Correct.

7 Q. By the way, are you aware that when it comes
8 to Criterion 3, normally there are at least two
9 experts that testify?

10 If you put it back up for us, Eric.

11 Criterion 3 actually has two
12 components. The first being the facility is located
13 so as to minimize incompatibility with the character
14 of the surrounding area. The second is whether or not
15 it's designed to minimize the effect on the value of
16 surrounding property.

17 So on the second topic, the statute
18 actually presumes there is an effect, and then they
19 look to determine whether or not there's been anything
20 to minimize it.

21 Anywhere in this application are you
22 proposing a property value protection plan?

23 A. If the County Board would like to maybe do
24 something later, I'm guessing they can put something

1 together of that sort that I would have to agree upon
2 before allowing me to -- you know, making sure
3 properties near me wasn't going to be damaged. That's
4 up to them.

5 I think Effingham County Board did do
6 something with their new landfill that states that if
7 there is -- something about damaging other property,
8 that the Hayes family or Diebold family would have to
9 purchase that property if two different appraisers
10 looked at it and still didn't come to an agreement.
11 I'd have to go back and look at those minutes.

12 So my answer to that would be that
13 would be up to the County Board if they want to put
14 anything else onto that.

15 **Q. So not only did you hire someone that you**
16 **don't know if he's ever even read the statute, you**
17 **don't know if he has any experience concerning**
18 **determining whether or not the statute has been met,**
19 **you also did not include a property value protection**
20 **plan in your application; correct?**

21 **A. Correct.**

22 **Q. Now, the first part is something different.**
23 **And that is compatibility -- minimizing**
24 **incompatibility with the character of surrounding**

1 area.

2 Are you aware that normally, a
3 pollution control facility developer would hire a land
4 planner to look at the proposed design, suggest
5 changes as to the location, layout, suggest
6 landscaping and other opportunities to minimize impact
7 on -- visual impact on surrounding areas? You did not
8 do that, you never hired a land planner to consider
9 any of those topics; is that correct?

10 A. I would expect that my engineer did, so I
11 did not.

12 Q. Your engineer didn't hire a land planner,
13 did he?

14 A. So like I said, no.

15 Q. Okay. So your transfer station is just
16 going to be completely visible to everybody around
17 it--including those driving on 185--and the garbage
18 being hauled in and out; is that right?

19 A. No different than any other transfer station
20 in the State of Illinois.

21 Q. So a transfer station that is operated by
22 larger companies that are financially capable of
23 operating them do indeed include berming, landscaping,
24 visual impairment to roadways so you don't necessarily

1 see them operating from off of the road. Yours
2 doesn't do any of those?

3 A. I think the grain bins right next door to it
4 make it look like a farm place, so actually, it does
5 look very, very close to more of the people won't
6 recognize it as much. Just like the Effingham County
7 Transfer Station. There's many people that drive past
8 that and don't even know that's a land -- or a place
9 to unload garbage at.

10 Q. So the fact that there are grain bills will
11 mask the fact that garbage trucks are hauling in and
12 out and waste transfer trucks are hauling garbage in
13 and out; is that correct?

14 A. Yes.

15 Q. All right. Let's move on to Criterion 5.
16 If you would throw that up for us.

17 Now, this is actually what someone is
18 supposed to testify and certify within an operation.
19 (As read:) That the plan of operations for the
20 facility is designed to minimize the danger to the
21 surrounding area from fire, spills, or other
22 operational accidents.

23 Nowhere in your application is there
24 any certification by any professional that that

1 criteria has been met; correct?

2 A. I won't agree with that, no.

3 Q. You can't point to it? There's nowhere that
4 you could pull a page out and show me, "See, the
5 engineer saying Criterion 5 has been met?"

6 A. Would be a good question for my engineer.

7 Q. Okay. Isn't it true that nowhere in the
8 application is there any indication or design provided
9 for a water source for the sprinkler systems you
10 mentioned earlier?

11 A. Once again, good question for my engineer.

12 Q. You don't recall there being any
13 indication -- strike that. Do you know where you're
14 going to get your water from?

15 A. Yes. Fayette County Water, FWC.

16 Q. All right. Is the property presently hooked
17 up to water?

18 A. Is this what?

19 Q. Is the property presently hooked up to
20 municipal water?

21 A. At this time? No, it's not.

22 Q. Okay. So it's not in your plans anywhere,
23 but that has to occur is what you assume; is that
24 right?

1 A. That the engineer has already checked into
2 that; yes.

3 **Q. Have you looked into the cost of getting**
4 **city water to your -- to that site?**

5 A. Yes. They have -- they actually do have a
6 deal where they state that they do come out there.
7 Matter of fact, I believe they even said something
8 possibly about even putting a fire extinguisher -- or
9 not extinguisher, fire hydrant possibly out there in
10 that area because of any other homes or any issues
11 that could catch fire, firetrucks could get to a
12 closer area to be able to get it.

13 They're also talking maybe even doing
14 three phase, which I have --

15 **Q. Which one is they?**

16 A. Well, one neighbor is Don Bunker. And then
17 you got the Fayette County Water Company that states
18 that that's what they could do. And the Brownstown
19 Fire Department actually would like to see a fire
20 hydrant out there so they can get to water if there is
21 anything in that area that catches on fire --

22 **Q. None --**

23 A. -- way back.

24 **Q. -- of your materials identified any proposed**

1 fire hydrant locations; is that correct?

2 A. That's correct.

3 Q. None of your materials show -- well, strike
4 that. Fire department has not approved any plans
5 related to that facility; is that right?

6 A. That's correct.

7 Q. We're gonna skip this and do that -- let's
8 go to cry Criterion 8.

9 Now, you drafted all of the language in
10 the application related to Criterion 8; is that
11 correct?

12 A. That's correct, so that way every board
13 member could have a chance to read it if they would
14 like.

15 Q. Okay. And Criterion 8 explicitly requires
16 that this board determine if the facility is to be
17 located in a county where the county board has adopted
18 a Solid Waste Management Plan, that the facility is
19 consistent with that plan.

20 Now, you're admitting and acknowledging
21 this county has a plan; correct?

22 A. At this time, yes, they do.

23 Q. And it's in the application?

24 A. I've put the plan in the application.

1 Q. And so when one dives into that, there are
2 some highlighting and handwritten notes on the county
3 plan. That's where you did your analysis; is that
4 right?

5 A. I did that so that way I knew exactly where
6 certain questions or certain things could be if I
7 needed to go back and look at them my own personal
8 self at the time. To make sure I wasn't doing
9 anything illegal for Criteria 8.

10 Q. Okay. Well, it's not illegal, it just isn't
11 true that the plan calls for any county construction
12 of a transfer station --

13 A. It says --

14 Q. -- and so -- we'll get there. Now, whether
15 or not that's perjury is another issue --

16 MR. SHAW: Objection.

17 Q. -- we'll get to the question.

18 MODERATOR KAINS: The objection is
19 overruled. We're not going to get into any discussion
20 of perjury.

21 Q. If we could go to the one-page language in
22 that super big text we've got. It's actually on our
23 Bates stamp 209.

24 So this is the entire analysis for

1 whether or not, in Mr. Sutter's opinion, your plan
2 would allow for the construction of a transfer station
3 in the county. This is it. This is all of the
4 language that he's provided other than some
5 highlighting and some handwritten notes.

6 So I'm gonna read this into the record
7 and try to decipher what it's trying to say.

8 So it says -- well, before I do that;
9 you wrote this text; right?

10 A. Yes, sir.

11 Q. Okay. To go with Criterion 8, (as read)
12 The waste plan has been FOIA for Christopher Sutter
13 from Lacy Crites, Fayette County Deputy Clerk, via
14 email. Provided throughout it, I have highlighted key
15 items on helping Fayette County Board understand how
16 they can stand as a single county for decision-making
17 as long as the applicant has passed and provided in
18 the application the (nine) criteria.

19 As part of the -- so so far, that
20 first--I guess that's a sentence--has no analysis.

21 The next one. (As read:) As part of
22 the waste plan, it states they can support the
23 construction of any county transfer station.

24 So that's Mr. Sutter telling you that

1 the plan states it allows for in-county transfer
2 station. Remember that as we go through this.

3 Thus -- I'm sorry, (as read:) The plus
4 about an in-county transfer station, it's a temporary
5 holding facility that waste is not getting buried in
6 the ground. This facility is designed for waste to
7 come in and then leave the same day to an
8 out-of-county landfill.

9 That sentence, again, has absolutely no
10 analysis of the county plan, that's just Mr. Sutter
11 telling you why he thinks transfer stations are a good
12 idea. Again, completely disregard that. So far, the
13 only sentence where he actually talks about the plan
14 is the prior one and he says that it calls for
15 construction of in-county transfer station.

16 Last sentence. (As read:) Which is
17 what I believe best fits the criteria for Fayette
18 County and their needs.

19 Again, nothing to do with consistency
20 with your Solid Waste Management Plan, this is just
21 his opinion that somehow having a transfer station is
22 consistent with your need.

23 Then final sentence, (as read:) Also
24 in the plan it states there's a \$25,000 filing fee

1 from the county that I, applicant Chris Sutter, have
2 to pay that has been paid on April 19, 2022. So as
3 part of this plan, I have met this criterion by
4 reading the waste plan and making sure it fits
5 Criterion 8.

6 Again, that last part about the plan
7 calls for a payment of a \$25,000 fee you're going to
8 hear, and you know because you passed that ordinance,
9 it's not in the plan. So we'll cover that. And it's
10 blatantly obvious that that's untrue.

11 So the only analysis is his one
12 sentence that says (as read:) As part of the waste
13 plan, it states they can support construction of an
14 in-county transfer station. Okay, let's figure out
15 how he got there.

16 What he does is he invites you to flip
17 through the several-hundred page document and find his
18 highlighting and handwritten notes. And that's the
19 professional that you're relying upon operating the
20 very dangerous activity of a solid waste transfer
21 station in your community for the next 30 years.

22 So hopefully, you actually did that and
23 went through this application and tried to find his
24 highlighting and his notes. And if you did, I

1 guarantee you came away with the same conclusion that
2 I did which is that that isn't the plan.

3 So let's talk about it. You've got two
4 documents in here. The first one is a Phase 1 solid
5 waste needs assessment study. Correct?

6 A. Yes, sir.

7 Q. Do you understand that that was a study that
8 was done regarding a need issue back in 1992 that
9 resulted in a decision that there was gonna be a
10 four-county collaboration for drafting -- for studying
11 and drafting a Solid Waste Management Plan? That
12 whole needs analysis was just a setup to decide,
13 "Okay, we're gonna have these four counties get
14 together and do a study and come up with their own
15 plans." You understand that's all that document is;
16 correct?

17 A. Yes, sir.

18 Q. That is not the plan, right? That Phase 1
19 solid waste assessment study is not a plan?

20 A. That's just their study.

21 Q. Right.

22 A. Where they get their solid waste plan.

23 Q. So then you go on to -- you do have the
24 actual plan in here. And it's called Phase 2 Regional

1 Waste Management Plan 1995 to 2015; correct?

2 A. That's correct.

3 Q. All right. So in your -- and it's very hard
4 to prove a negative, but -- well --

5 So in your application, you attached
6 the '95 plan and you highlighted and scribbled some
7 comments on some pages. Those are your highlights and
8 your scribbblings; correct?

9 A. Yes.

10 Q. Okay. So if you turn now to page 3-25 of
11 the Regional Waste Management Plan. It's in his
12 application if you guys can find it; otherwise, Eric,
13 do your best to make it visible.

14 So on this page, it's entitled Landfill
15 Disposal; is that right?

16 A. Yes, sir.

17 Q. And you made the highlighting and written
18 comments again on this page; correct?

19 A. Yes, sir.

20 Q. And you wrote, quote, Fayette County has the
21 right to support a transfer station, on the right-hand
22 side; is that correct?

23 A. Yes, sir.

24 Q. And you're using that language to come to

1 that conclusion; is that right?

2 A. From what the waste plan says; yes.

3 Q. It says (as read:) Landfill disposal
4 options that were presented to the single county Solid
5 Waste Advisory Committee memberships for consideration
6 were divided into the following four categories. And
7 then they list the four categories, the last one of
8 which is construction of an in-county transfer station
9 or transport of local waste out of county landfills.
10 Is that right?

11 A. Yes, sir.

12 Q. So isn't it true that this Section 3-25 is
13 merely identifying those options that the advisory
14 committee members took under consideration; it is not
15 the plan that was selected; correct?

16 A. Again, my favorite part of what you keep
17 repeating is option. The county has the option to
18 choose any of those four if they choose to.

19 Q. That isn't their option now? They were
20 considering options for their plan for the next
21 20 years and that was one of the options that they
22 were considering; correct?

23 A. And they can change their plan at any given
24 time.

1 Q. And they never have; correct?

2 A. At this point, I do not know that.

3 Q. So will you answer the question? Isn't it
4 true that you explicitly cited only the options that
5 were being considered back in 1995 as evidence that
6 that was the plan for today?

7 A. That is their plan they currently have, yes.

8 Q. Are you testifying that's the plan? To
9 allow for in-county construction of a transfer
10 station?

11 A. I'm contesting that that is the current
12 waste plan that Fayette County has that on Criteria 8
13 says do I match what this says.

14 Q. Did you bother to read the plan?

15 A. Yes, I read through the whole thing.

16 Q. Do you not understand that all that page is
17 doing is identifying the various options that the
18 counties were considering back then?

19 A. Yes, sir.

20 Q. And then they moved on to select options of
21 which Fayette did not select the one that you're
22 telling them they did; correct?

23 A. They have not chosen any of that option yet.
24 That's their decision when they want to because they

1 can set their waste plan whenever they would like.

2 Q. So your position is that while the current
3 plan doesn't call for in-county waste transfer
4 stations, this board can change that later; right?

5 A. If they choose to.

6 Q. But you're acknowledging the current plan
7 does not call for construction of in-county waste
8 transfer stations; correct?

9 A. Yes, sir.

10 Q. All right. And let's prove that. So there
11 are various times throughout his highlighting that he
12 references the planning mechanisms before the options
13 were selected. And he highlights them and then leaves
14 a comment that that means you can do this. But the
15 reality is, let's turn right now to the actual table
16 that a plan is selected which appears at 6-2.

17 You know what, I apologize, guys, I
18 have to take you through some of these fabrications
19 that occurred. If you would go first, Eric, to 3-28.

20 And on this page -- I'm sorry, it's our
21 Bates stamp 357. I'm gonna read to you, I know you
22 don't have the application in front of you. On this
23 page, isn't it true, Mr. Sutter, that you wrote, (as
24 read:) This portion shows the county excepted--and I

1 think you mean accepted --

2 A. Accepted, yeah. Sorry.

3 Q. -- this for an option for our town that fits
4 the need criteria; is that right?

5 A. This is correct.

6 Q. And then you highlighted a bunch of text?

7 A. Yes.

8 Q. But isn't it true, as clearly pointed out on
9 page 3-25, that Table 10--if you go back to that
10 page--is not the option selected by the county, but
11 rather, is only the options that were being considered
12 and evaluated?

13 A. At that time, yes, sir.

14 Q. So when you wrote there this portion shows
15 the county accepted this for an action, you knew when
16 you wrote that that that wasn't what was accepted as
17 the option, those were just the options that were
18 being considered. And you did that in order to
19 convince this board that Criterion 8 was met; correct?

20 A. I do not agree with that. There's four --

21 Q. Well, why else would you write that this is
22 the option that was accepted when one bothers to read
23 it, it plainly was not, it was just one of the options
24 that were considered. Why would you write that when

1 **it's patently untrue?**

2 A. Okay. So if you go back and it said the
3 four counties, correct? Effingham County is part of
4 that four counties if you do recall reading that waste
5 plan. In that waste plan of the four counties, if
6 this waste plan was not true, Effingham County
7 transfer station would not exist because they would
8 have told the people or the public or anyone else that
9 you can not build a waste transfer station because our
10 four counties all agreed that there would be no
11 in-county transfer station.

12 This is the same waste plan that
13 Fayette County has. So by my example of stating this
14 right here, they can do whatever the board chooses to
15 do. They don't have to accept it if they don't want
16 to, but they accepted to go with the four-county plan.
17 And with the four-country plan, it states in there
18 that there can be a waste transfer station, same way
19 Effingham County approved there's. They can --

20 **Q. Do you have any --**

21 A. -- change it at any time.

22 **Q. -- legal authority for the premise that this**
23 **County Board can ignore its duly passed and authorized**
24 **plan?**

1 MODERATOR KAINS: Do you have knowledge of
2 that?

3 A. What's that? Sorry. I didn't hear that.

4 MODERATOR KAINS: Kathy, please read the
5 question back.

6 (The requested material was read.)

7 MODERATOR KAINS: Do you have legal
8 authority?

9 A. No, I do not.

10 MODERATOR KAINS: Thank you.

11 Q. Okay. Thank you. If you turn now to Table
12 15.

13 Okay. Once again, you've got some
14 handwritten text in here. And on Table 15 you state,
15 quote, (as read:) Construct an in-county transfer
16 station for the transport of Fayette County waste to
17 out-of-county landfills.

18 You see that language?

19 A. Yep. And if you see where it's highlighted
20 there, it tells you that.

21 Q. So -- I'm sorry, I'll read the whole thing.
22 (As read:) Alternatively B states for Fayette County
23 that they can support the idea to construct an
24 in-county transfer station for the transport of

1 **Fayette County waste to out-of-county landfills;**
2 **correct?**

3 A. Yep, you said it.

4 Q. You wrote that?

5 A. Yeah.

6 Q. And then you highlighted Alternative B that
7 says, (as read:) Construct an in-county transfer
8 station for the transfer of Fayette County waste to
9 out-of-county landfills, you highlighted that;
10 **correct?**

11 A. Yes, sir.

12 Q. And you did that knowing that that was not
13 the plan, that again was just one of the options that
14 was being considered; correct?

15 A. That's one of the options they can choose on
16 their own.

17 Q. And they didn't choose that option; correct?

18 A. They can choose it if they'd like.

19 Q. No. The plan all leads to a final table
20 that shows what the county adopted. Don't you get
21 that?

22 A. I get that.

23 Q. They can't go back and redraft their plan at
24 a local siting hearing? That would be wholly illegal;

1 correct?

2 A. That would be correct.

3 Q. Okay. But you wrote on there that that
4 table, Table 15, shows that Fayette County selected
5 Option B, Alternative B, when it did not? It was
6 simply a lie; right?

7 A. I would not agree with that; no.

8 Q. Well, it was untrue?

9 A. No, I would not --

10 Q. They never selected that option?

11 A. The county -- four counties selected
12 whatever options they would like.

13 Q. And they did not select Alternative B that
14 you've highlighted and said they selected.

15 A. Same thing Effingham County says too. And
16 they got a transfer station.

17 Q. Effingham County has a different Solid Waste
18 Management Plan, a different table within this
19 document; is that correct?

20 A. Not in 2003 they did not. When the transfer
21 station was built.

22 Q. You're simply wrong. All four counties had
23 their own table when this plan was adopted that showed
24 what options they were selecting; right?

1 A. Do you have proof of Effingham County's?

2 Q. I'm not going to spend any time going
3 through Effingham County, but let me assure you --
4 well, let's do this it this --

5 MODERATOR KAINS: Answer the question.

6 Q. -- way, let's look at Table 16.

7 MODERATOR KAINS: Kathy, read back the
8 question, please.

9 (The requested information was
10 read.)

11 MODERATOR KAINS: Do you know the answer
12 to that?

13 A. I just know by what that waste plan says.

14 Q. So you don't know what the culmination of
15 the waste plan was for each county to make its own
16 plan that's referenced in its own table? You don't
17 know that; is that right?

18 A. I know that all four counties were together,
19 that's all I know. So I don't know if this county
20 done that, no. I just know that all four counties
21 made their decision on their own.

22 Q. Okay. But if this board were to take a few
23 moments and read the plan, they would ultimately see
24 that each county has its own table and its on specific

1 **selected plan; right?**

2 A. I would have expected that the board read
3 the plan before they would even let this go this far
4 or they would dismiss it.

5 Q. Oh, God, I wish they had because clearly you
6 are not consistent with the plan.

7 Please turn to Table 16. This is the
8 recommended waste management plan for Fayette County
9 that was ultimately passed and approved which
10 explicitly provides at year one that Fayette supports
11 the continuation of disposal of Fayette County waste
12 in out-of-county landfills. It supports the expansion
13 of the D&L Landfill beyond its current permitted
14 capacity. D&L Landfill, by the way, was out of
15 county; correct?

16 A. Yes.

17 Q. It also said if the D&L Landfill was not
18 expanded, support the export of waste to out-of-county
19 landfills through the recently constructed transfer
20 station at D&L Landfill. And again, that transfer
21 station was out of county; correct?

22 A. Correct.

23 Q. I apologize for not knowing, guys. I think
24 that's Coles County? What county is D&L?

1 A. That's Bond County.

2 Q. Vond County?

3 A. Bond.

4 Q. Bond, got it.

5 Table -- the table continues -- so that
6 was the first year. The first year was continue
7 disposal of Fayette County waste at out-of-county
8 landfills or use the D&L facilities which were in Bond
9 County?

10 A. Yes, sir.

11 Q. Then we go on to the next page which is
12 again Fayette County's plan, 6-3, for the years 2
13 through 4 which was no additional programs or
14 facilities. That was your plan.

15 The next one was at 6-4 for years 5 to
16 10 and 11 to 20. Again, no additional programs or
17 facilities, no additional programs or facilities.

18 What you will see on each of those
19 years, there was a big emphasis on source reduction --
20 well, strike that.

21 Do you agree that the plan for the
22 years 5 through 10 and 11 through 20 was no additional
23 programs or facilities as for landfill disposal?

24 A. For what shows there, yes.

1 Q. And what you -- isn't it true that in
2 Fayette County, there was a big emphasis on source
3 reduction--recycling and composting--and then shipping
4 to out of town -- when there was waste, shipping that
5 out of county? That was the plan; correct?

6 A. Yes.

7 Q. So your application for construction of a
8 transfer station is by the plain language absolutely
9 inconsistent with the county's present Solid Waste
10 Management Plan; correct?

11 A. I won't agree with that, no.

12 Q. I know you won't agree, but it's the truth,
13 right?

14 A. If that's how you want to put it, yes.

15 Q. And isn't it also true that recently, the
16 county contemplated changing its plan but decided not
17 to move forward with that?

18 A. If that's their decision, that's up to them.
19 I'm hoping to be the waste solid -- the Solid Waste
20 Management Plan for Fayette County by bringing a
21 transfer station to the county.

22 Q. Okay. You understand that the way solid
23 waste planning works under the local Solid Waste
24 Planning Act is the county passes a plan and then they

1 institute based on what they decided to do? You don't
2 do it the other way around by approving a project and
3 then amending your plan later? That would be exactly
4 contrary to section 39.2; okay?

5 A. Yes.

6 Q. Okay. May I take a few minutes just to make
7 sure that we don't have anything? I think I'm done.

8 MODERATOR KAINS: Sure.

9 MR. PORTER: So maybe a five-minute break?

10 MODERATOR KAINS: Okay. Let's just go
11 ahead and take a ten-minute break. And that way
12 everybody can go outside or go to the bathroom. It's
13 4:32 now; let's come back at 4:42, please.

14 (Whereupon a recess was taken.)

15 MODERATOR KAINS: Okay. Let's reconvene.

16 Mr. Porter, you were in the midst of
17 cross-examination of Mr. Sutter.

18 MR. PORTER: I have no further questions
19 for Mr. Sutter.

20 MODERATOR KAINS: Thank you.

21 Mr. Shaw, you have the opportunity for
22 redirect of Mr. Sutter if you so choose.

23 MR. SHAW: I do not choose.

24 MODERATOR KAINS: Okay. Call your next

1 witness then, sir.

2 MR. SHAW: Adam.

3 ADAM BOHNHOFF,

4 called as a witness herein, having been duly sworn on
5 his oath, testified as follows:

6 DIRECT EXAMINATION

7 CONDUCTED BY MR. SHAW:

8 Q. May the witness state his name for the
9 record?

10 A. Adam Bohnhoff.

11 Q. Mr. Bohnhoff, what is your current
12 employment?

13 A. I'm a civil and structural engineer for
14 Civil Design, Incorporated.

15 Q. Where is that located?

16 A. Effingham, Illinois, is our branch office
17 where I work.

18 Q. How long have you worked there?

19 A. Seven years.

20 Q. And what is your -- what is your title at
21 the firm?

22 A. Project manager. So -- and also, I help
23 with the office management duties.

24 Q. Okay. What are the project manager duties?

1 A. So assembling plans and specifications for
2 projects such as this.

3 **Q. What is your highest educational attainment?**

4 A. I have a Master's Degree from the University
5 of Wisconsin in Civil Engineering.

6 **Q. Do you have any engineering licenses?**

7 A. I do. I have a civil engineering license to
8 practice civil engineer in the State of Illinois; a
9 structural engineering license to practice structural
10 engineering in the State of Illinois, and then I'm
11 licensed as a civil engineer in nine other states.

12 **Q. What has been your involvement with the**
13 **transfer station project?**

14 A. Yeah, so project management. So -- and then
15 also as it relates to the structural engineering of
16 the building. Oversight with the civil engineering as
17 well. Just hands-on project.

18 **Q. Did you help prepare any portion of the**
19 **siting application?**

20 A. Not -- I guess I want to be specific. I'm
21 not sure about the application itself, but certainly
22 exhibits and, you know, helping with some of the
23 criteria; some of it as it pertains to us, you know,
24 as it pertains more to the engineering focus of it.

1 Q. Well, since you mentioned criteria, I'm
2 going to identify a few criteria for you to provide
3 some more discussion.

4 Criteria 2, design. The facility is so
5 designed, located, and proposed to be operated that
6 the public health, safety, and welfare would be
7 protected.

8 My question to you is how does the
9 design of the building protect public health, safety,
10 and welfare.

11 A. Yeah. So the --

12 MR. PORTER: Objection.

13 MODERATOR KAINS: Sir, could you please
14 use the microphone.

15 A. I'm not sure, is it on?

16 MODERATOR KAINS: And now, Mr. Porter,
17 your objection?

18 MR. PORTER: My objection is lack of
19 foundation. There is no information that he was
20 involved at all in a study of whether Criterion 2 has
21 been met. As I understand it, he may have been
22 involved in drafting some designs, but that is
23 completely different than what has been asked.
24 There's no foundation.

1 MODERATOR KAINS: The objection is
2 sustained. Lay a foundation.

3 **Q. What are the design components of the siting**
4 **application that you prepared that are for the purpose**
5 **of protecting public health, safety, and welfare?**

6 A. So that would be the plan specifications for
7 the building and the site.

8 **Q. And how do the plans and specifications for**
9 **the building and site protect public health, safety,**
10 **and welfare?**

11 A. Okay. So we're looking at entrances, let's
12 start with the beginning maybe. We're looking at the
13 traffic analysis report. Doing an evaluation of
14 vehicles--number of vehicles, peak hour of traffic as
15 was suggested earlier.

16 Getting on -- getting into the plans
17 and specifications, we're using materials that would
18 be what you would expect for a facility such as this,
19 so concrete, concrete bush walls, containment devices
20 for the hazardous -- for like the flammable materials.

21 And then having a measure -- a safety
22 plan, I would say, in place for stormwater. I think
23 it was mentioned earlier there was not a stormwater
24 pollution prevention plan. There is, and that was

1 part of our duties, you know, in this -- is assembling
2 these documents.

3 Q. Well, we heard some discussion earlier, I
4 assume -- you were here for the previous testimony; is
5 that correct?

6 A. Correct.

7 Q. We heard some discussion about concerns
8 about handling of leachate at the facility. How is
9 the leachate going to be handled to protect public
10 health, safety, and welfare?

11 A. Okay. So the tipping floor is grated
12 such -- so that the leachate, any leachate that would
13 present itself would flow to area inlets and
14 containment and then ultimately end up in containment
15 to be handled safely and properly.

16 Q. And how is the facility designed to address
17 stormwater issues?

18 A. So stormwater issues, we're trying to, you
19 know, first and foremost, set the site to receive, as
20 it naturally would, water, and then to handle it with
21 a detention pond. And then outlet it according to,
22 you know, state guidelines.

23 Q. And how does the design protect against fire
24 issues?

1 A. There is -- there are -- there are
2 instructions in the drawings for a fire protection
3 system. There are fire extinguishers. There are hose
4 reels connected to the water system that would maybe
5 be helpful, you know, to prevent quickly -- for one of
6 the employees to quickly get out -- put out a
7 potential start to a fire maybe if they recognize heat
8 or smoke.

9 And then like it was mentioned earlier,
10 the -- you know, the proximate distance to the
11 Brownstown Fire Department is relatively close.

12 Just the overall safety plan I think
13 is -- like Chris alluded to earlier is probably the
14 most important thing in, you know, having good
15 instruction to the employees operating the facility.

16 **Q. In your professional opinion, is the**
17 **facility designed, located, and proposed to protect**
18 **public health, safety, and welfare?**

19 A. You know, it is. And I -- you know, if
20 you're looking for a site, I'm not sure you'd find a
21 better site. This is the perfect site for it.

22 **Q. The next criteria, Number 4, floodplain**
23 **protection for facility other than sanitary landfill**
24 **or waste disposal site must be located outside the**

1 boundary of the 100-year floodplain.

2 Did you research whether or not the
3 facility was within a 100-year floodplain?

4 A. We did the research on that and it is
5 outside that; yep.

6 Q. Criteria 6, traffic. The traffic patterns
7 to or from the facility are so designed as to minimize
8 the impact on existing traffic flows. Did you do any
9 analysis of the traffic?

10 A. Yeah, we did. And, you know, expanding more
11 on that from what was said earlier, even if we use 34
12 trucks, the number doesn't change much. It goes up
13 another percent to two and a half --

14 MR. PORTER: Objection; foundation. Has
15 he done any study related to 34 trucks?

16 MODERATOR KAINS: I'm going to overrule
17 it. Just go ahead and testify.

18 A. Yeah, you mentioned 34 trucks, I was just
19 saying the 34 trucks in your analysis to come up with
20 the 200 tons would raise the number from one and a
21 half percent more vehicles to two and a half percent
22 more vehicles; still well within our judgment of it
23 being an acceptable operational level.

24 So also, we're in -- as it relates to

1 that, the peak hour, what we're looking at for the
2 road is -- what you're looking at now would be
3 probably -- you know, I'd have to look at the numbers,
4 but it's probably eight to nine and then probably
5 again three to four, four to five.

6 So that's morning and rush coming -- I
7 say rush, it's not really rush hour, but the highest
8 level of vehicles are going to be between those two
9 hours. And probably not very common that those trucks
10 are coming to the facility those hours.

11 So in our judgment, in our professional
12 opinion, we're not changing the level of service on
13 this road.

14 And we've submitted several, numerous
15 of these similar reports to IDOT District 7. This
16 would be no different than something we've submitted
17 and had approved and studied and reviewed in the past.

18 **Q. What is IDOT controlling the traffic issues**
19 **here?**

20 A. So IDOT is the state highway. They maintain
21 and operate, control the state highway that the
22 facility is located on. And so they are -- they're
23 going to review drainage and they're going to review
24 any controlled access by the entrances and egresses.

1 So when we submit to them for their
2 review of the entrances, we follow their standards.

3 **Q. What is -- could you describe the traffic**
4 **patterns to and from the facility?**

5 A. Yeah. So the road runs east and west. Like
6 I said, it's a state highway. There's less than 1500
7 vehicles per day. And the number of vehicles that we
8 used, like I said, it changed when we used our numbers
9 that we had expected, what we got from Chris and
10 talked about, I think the change in traffic was one
11 and a half percent.

12 So it wouldn't -- in our professional
13 opinion, it would not warrant us to look at it much
14 differently. We would not do an intersection design
15 study; we're not affecting the intersection. We
16 obviously would not -- this would not justify traffic
17 lights.

18 We would work with IDOT to see if they
19 believe it might warrant a safety sign saying slow
20 trucks ahead something of that nature.

21 So that's the overall process.

22 **Q. Just for reference, you said 1500 vehicles a**
23 **day. What type of range in other traffic analysis**
24 **that you have seen did the number of vehicles -- you**

1 **know, what's high? What's low? What's in between?**

2 A. That's very low. For a state route, that's
3 a very low number. You know, interstates, you're
4 talking 75,000 vehicles per day. Township roads,
5 you're talking depending anywhere from 700 -- or 75 to
6 200. So a state -- this state highway--I think the
7 number is actually 1350, so it's even less than
8 1500--is a very low-traveled roadway.

9 **Q. In your professional opinion, did the**
10 **traffic patterns minimize any impact on existing**
11 **traffic flow?**

12 A. No. Very little, very minimal. So also
13 things, you know, we would look for--school buses was
14 mentioned earlier--we'd definitely look at if there
15 was a school, if there was a park, if there was a
16 hospital, if there was something nearby that warranted
17 these two -- the type of vehicle that might be
18 expected coming into this facility, the slowdowns and
19 the turning them out onto a state highway.

20 You know, they -- each facility has its
21 own justification for how deep, how far you go into
22 some of that analysis. And this didn't warrant it.

23 **Q. I may not have asked that question correctly**
24 **because it -- just maybe listen carefully. In your**

1 professional opinion, do the traffic patterns to and
2 from the facility minimize any impact on existing
3 traffic flow?

4 A. Yeah, I think -- I mean it's minimal traffic
5 flow.

6 MR. SHAW: I have no further questions.

7 MODERATOR KAINS: Mr. Porter,
8 cross-examination.

9 CROSS-EXAMINATION

10 CONDUCTED BY MR. PORTER:

11 Q. Good evening -- good afternoon. Can you
12 restate your name for me so I don't butcher it?

13 A. Adam Bohnhoff.

14 Q. Bohnhoff. Mr. Bohnhoff, this is the first
15 time you have ever been involved with design of a
16 transfer station; is that correct?

17 A. No, that's not correct. I heard that come
18 up earlier. It is the first time I will be the
19 responsible engineer of record, but at a previous
20 place of employment, I was involved in a waste
21 transfer station design.

22 Q. You have never testified concerning whether
23 or not the Section 39.2 criteria have been met other
24 than for Mr. Sutter; is that right?

1 A. Correct.

2 Q. And so this is the first time you've ever
3 been involved in a transfer station siting hearing; is
4 that right?

5 A. Correct.

6 Q. And as I understand it, you are only
7 providing testimony as to Criterion 2, 4, and 6; is
8 that correct?

9 A. Yeah, I don't want to -- I can talk about
10 other things to my abilities, but yeah, that's my
11 focus.

12 Q. Okay. So you are not offering any opinion
13 that Criteria 1, 3, 5, 7, or 8 have been met; isn't
14 that right?

15 A. No, I -- like I said, I can answer questions
16 if you have them for me --

17 Q. Well, I'm asking what your opinions are.
18 You're offering no opinions concerning Criteria 1 --

19 A. Correct.

20 Q. -- 3, 5, 7, 8, and 9; is that correct?

21 A. Correct.

22 Q. And you're not offering any opinions
23 regarding operating history of Mr. Sutter or his
24 company; is that correct?

1 A. That wouldn't be my place.

2 Q. So as to Criterion 2, the only analysis that
3 you did was a traffic study and drew up some designs
4 for a transfer station; is that correct?

5 A. Yeah, not to minimize it; but yeah.

6 Q. You did not do any hydrogeology study; is
7 that right?

8 A. No hydrogeology study, but if I can maybe
9 explain a little about the geotechnical, I think --

10 Q. Well, if you did not do a hydrogeology
11 study, that's all I need.

12 A. All right.

13 Q. So you understand that landfills create --
14 I'm sorry, you understand that transfer stations
15 create leachate?

16 A. They can, yeah.

17 Q. And you understand how important it is to
18 understand the hydrogeology in order to know whether
19 or not that leachate could impose a risk; is that
20 correct?

21 A. Could you ask that again?

22 Q. You understand that it's important to
23 understand the hydrogeology of a location to know
24 whether or not a leachate release would pose a danger;

1 **isn't that correct?**

2 A. Yeah, I -- it is correct. And how we take
3 it into account in this project, concrete floors,
4 concrete walls, containment. I'll use that word a lot
5 here probably, controlling.

6 So I think if you look through the
7 plans, we're -- we're absolutely doing our best, you
8 know, best management to take care of leachate and
9 control it.

10 **Q. Okay. But in that process, you never**
11 **bothered to determine what would happen if there is a**
12 **release; right?**

13 A. You're getting into hypotheticals? What
14 would happen? Is that what you're saying?

15 **Q. Correct. In order to --**

16 A. Correct.

17 **Q. -- to offer an opinion regarding the**
18 **propriety of this location, you have to make a**
19 **determination as to what would happen if there was a**
20 **release. And you guys did not do that study; isn't**
21 **that right?**

22 A. No more than if an oil tanker would roll
23 over anywhere else on a different project that we
24 worked on for sure.

1 Q. By the way, I think you mentioned the SWIPP,
2 but I looked -- so it's a Stormwater Pollution
3 Prevention Plan, is what a SWIPP is; is that right?

4 A. Yes.

5 Q. And I've scoured what we call an application
6 here and I don't see a SWIPP anywhere in there. So
7 there's no -- the application doesn't include a
8 stormwater pollution prevention plan, does it?

9 A. I don't know if the application does, but
10 the drawings do. So contract documents would --

11 MODERATOR KAINS: Mr. Porter, you might
12 want to take three or four steps down. That's the
13 only solution can I think of.

14 Q. My voice is really loud. If it doesn't
15 work, I will start yelling.

16 A. I would say, Mr. Porter, you know, if -- I
17 have them right here in front of me. C-8, C-9, C-10.
18 In fact, three of the 14 civil sheets pertain to --
19 so almost, you know, 20 plus percent of the civil
20 drawings pertain to SWIPP.

21 Q. Okay. But a stormwater pollution prevention
22 plan isn't just a drawing, it's a plan on how to deal
23 with stormwater when it impacts your facility and it
24 involves substantial tests and usually drawings;

1 **correct?**

2 A. It's got -- I mean if you looked at it, I'm
3 not sure if you looked at, on page C-8, it's
4 100 percent text. I mean I don't know if I can hold
5 this up or something, but --

6 **Q. Okay. So you're indicating your SWIPP is**
7 **contained in your drawings?**

8 A. Yes.

9 **Q. Okay.**

10 A. Which has been acceptable on projects in the
11 past.

12 **Q. Now, in order to offer an opinion regarding**
13 **Criterion 2, do you understand that you're supposed to**
14 **consider location standards?**

15 A. Be more specific on location standards. So
16 you're saying the building -- you were saying earlier
17 that the offset building from the -- how it's measured
18 horizontally from the state highway?

19 **Q. Aren't you aware that you're supposed to**
20 **consider whether or not there are issues around the**
21 **facility that might make it an in appropriate**
22 **location?**

23 A. Yeah. All the time we would give owners or
24 developers, contractors, municipal clients

1 suggestions, advice on those types of things.

2 Q. Well, one of the things you're supposed to
3 consider is whether or not there are safety ordinances
4 in place that would restrict or disallow the design
5 proposed; isn't that correct?

6 A. Correct.

7 Q. And are you aware that there is a resolution
8 in place in Fayette County that explicitly requires
9 that all buildings be set back at least 90 feet from
10 the center of a highway?

11 A. No, I'm not. I would refer to my surveyor
12 on that, but no, I'm not aware of that.

13 Q. And isn't it true --

14 A. I doubt that would be the case though. I
15 find that really hard to believe, that 90 feet
16 property setback. Some buildings -- some properties
17 wouldn't even be 90 feet large.

18 Q. So if Fayette County had a resolution in
19 place since 1961 that provides that on or along all
20 state aid roads -- I'm sorry, on or along all roads in
21 the system state highways except the State A roads
22 described in the above National System of Interstate
23 Defense Highways, the building or setback line shall
24 be a line parallel 90 feet distant from the center

1 line on the surface of the road. That would surprise
2 you?

3 A. It surprises me a little bit. I'm not sure
4 on the -- if the -- if the governing body is enforcing
5 that, I'm not sure. But yeah, that surprises me.

6 Q. Okay. And isn't it true that the proposal
7 here has a -- the building is just 72 feet from the
8 center line of Highway 185?

9 A. Yeah, it looks as if that -- I'm not sure,
10 I can't sit here and say yes or no, but that sounds
11 about right.

12 Q. Well, you can look at your drawings --

13 A. Well, I don't think --

14 Q. -- and it shows the drawings, the 27 feet of
15 building. And then if you look at the highway drawing
16 and do the math, it adds up to 72 feet; right?

17 So your very drawings prove that this
18 restriction of Fayette County which was been passed
19 for the safety of the citizen is not met by the design
20 that you designed; correct?

21 A. Yeah, you're kind of putting words in my
22 mouth, but yeah.

23 Q. Well, that's my job.

24 By the way, you didn't draft the

1 **traffic study; correct?**

2 A. Under my supervision, yeah. So we have, I
3 mean complex projects, we have multiple people working
4 on them. So I was working alongside Wes who was the
5 lead designer on that.

6 **Q. Okay. Wes is not here to testify; is that**
7 **right?**

8 A. Yeah, we couldn't bring everybody.

9 **Q. And I think we all know the answer to this,**
10 **but isn't it true that you were told by Mr. Sutter**
11 **that the facility will not see more than 15 trucks a**
12 **day delivering to the facility?**

13 A. Yeah, we -- that's routinely what we would
14 do, we would talk to the developer, the owner, the
15 operator to find out what their traffic needs are for
16 the facility, but -- I'm not sure if you're paying
17 attention.

18 **Q. I am. I know I don't look like it, but --**

19 A. Okay. Also, the number of employees they
20 have at the facility, you know, coming in and out. So
21 we have data to suggest from other projects that we
22 would -- you know, such as let's say a truck center or
23 travel center, a gas station, an office --

24 **Q. Okay. I don't know why we're talking about**

1 those. I only asked you isn't it true that you
2 assumed, quote, (as read:) The facility will not see
3 more than 15 trucks a day delivering to this facility?

4 A. That was the number we used.

5 Q. And isn't it true that in order to allow for
6 200 tons of refuse per day, the sheer math of it would
7 require many more than 15 trucks?

8 A. I see where you're going with the math. I'm
9 relying on your analysis, not my personal analysis.
10 But what I was saying earlier is, okay, even if we
11 bump that number up to what you suggested earlier of
12 34 trucks, the percent of vehicles, the percent
13 increase goes from 1.5 percent to 2.5 percent,
14 still -- it might be a different way --

15 Q. We're going to be here a really long time if
16 you don't answer the questions that I ask. So I'm
17 going to try again. Isn't it true that at 200 tons
18 per day, there is no way mathematically that 15 trucks
19 that the industry standard carries six tons per --

20 A. If I use your analysis, it's true.

21 Q. -- could possibly result in 200 tons at the
22 facility?

23 A. Following your analysis, that sounds
24 correct.

1 Q. Okay. And so your company's analysis did
2 not presume worst-case scenario when you did your, I
3 guess it's a traffic study? Is that right?

4 A. Yeah, you keep belittling it. Yeah.

5 Q. Well, I've read other traffic studies. And
6 this one doesn't do a gap analysis; is that right?

7 A. So like I said earlier --

8 Q. Is that correct?

9 A. That's correct.

10 Q. This one does not determine the peak volume
11 of traffic or the hours of peak volume of traffic; is
12 that correct?

13 A. The report doesn't. I went into it a little
14 bit earlier in my commentary, but no, it doesn't.
15 It's not in there.

16 Q. And isn't it absolutely important to
17 understand the peak volume of traffic in conjunction
18 with the peak volume of operations that will occur at
19 a transfer station?

20 A. Absolutely. That's what I was saying
21 earlier about they're probably not going to. So some
22 of the work that goes into a report doesn't show up in
23 the report, that doesn't mean we didn't do the work,
24 you know.

1 **Q. Okay. But there's no reporting what the**
2 **peak hours of operation are, nor the peak volume of**
3 **traffic?**

4 A. Not in that report.

5 **Q. Well, is there any document that you can**
6 **tell me what the peak volume of traffic is?**

7 A. Not sitting here I can't, but like I said,
8 what we would do is, you know, Chris alluded to
9 earlier, his trucks may be probably leaving at 6 a.m.;
10 that's not the peak hour volume for that road,
11 Illinois 185; it's just not. It's more like eight to
12 nine or seven to nine.

13 So what we would do is take that peak
14 volume for the number of vehicles in that peak volume
15 and add to it what we would expect to be receiving
16 from this new facility. And it's -- the hours of
17 operation just aren't there. They're not aligning
18 with the peak hourly volume of the road.

19 **Q. Isn't it true that in coming to your**
20 **analysis regarding Criterion 2, you did not consider**
21 **any of the newer state-of-the-art border control**
22 **systems that could be employed and whether or not they**
23 **should be employed?**

24 A. Such as like traffic signals? What are you

1 implying, state-of-the-art?

2 Q. Do you know what the state-of-the-art --
3 strike that. You have -- other than this project,
4 have you done any study concerning the operating
5 facilities at a transfer station?

6 A. Not at a transfer station. We do traffic
7 studies for the State of Illinois all over the state
8 though, so --

9 Q. But isn't it true that your traffic study
10 completely ignores the routes to and from the
11 facility? There's no discussion of it?

12 A. Yeah, that's -- I mean I don't know that --
13 we assume all vehicles are coming on 185. I think
14 that's part of Chris's plan, so I think that's why we
15 took the plan and incorporated that into our traffic
16 report.

17 Q. By the way, you didn't stamp, or anybody at
18 your firm stamp the operation plan; correct?

19 A. I don't believe so.

20 Q. And there's nothing in the application that
21 states that the Criterion 2, 6 were met; is that
22 correct?

23 A. No, I don't think so.

24 Q. And are you aware that under the National

1 **Society of Professional Engineers Code of Ethics, that**
2 **an engineer shall only perform services in the areas**
3 **of their competence?**

4 A. I am certainly aware of that. Are you
5 implying that I'm not?

6 Q. Other than this siting hearing, you have
7 never been involved in another siting --

8 A. No, I led off by saying that I had. In Cape
9 Girardeau. I said that another firm I worked --
10 sorry, sorry, sorry, take it back. Not at a hearing.
11 Sorry. I thought you were saying --

12 I don't think you sign or seal anything
13 at a hearing. But I've worked on a waste transfer
14 station project in the past.

15 Q. Well, you understand that what you're doing
16 here is not just providing some drawings for a
17 transfer station, you're literally testifying that the
18 health, safety, and welfare is being protected by not
19 only the design, but the location and proposed
20 operation. And yet you have no experience in
21 providing those opinions; correct?

22 A. I think you're generalizing saying I have no
23 experience. You know, I didn't have experience
24 designing my first gas station when I did my first

1 one. I didn't have experience designing my first
2 shopping center, my first bank.

3 So I've designed hundreds of facilities
4 that all take into account the health, safety, and
5 welfare of the public, the people who -- the
6 customers, the clients, the employees. So to say I
7 don't have any experience in that is a generalization.
8 Very specifically at waste transfer stations, this is
9 my first one at a hearing.

10 **Q. Are you aware that this proposed facility is**
11 **on a parcel of property that is within 1,000 feet of a**
12 **dwelling?**

13 A. No.

14 **Q. Are you aware -- and I take it you did not**
15 **study that; is that correct?**

16 A. No, we did. And we did not find it was
17 within a thousand feet of a dwelling.

18 **Q. Okay. Are you aware that the county records**
19 **still only show a 40-acre parcel? There is no**
20 **separate 3-acre parcel identified by the county tax ID**
21 **records?**

22 A. That's correct.

23 **Q. And are you aware that there is indeed a**
24 **property, the Fisher property, that's in a thousand**

1 **feet of that 40-acre parcel?**

2 A. The 40-acre property, yes; not the 3-acre
3 where the site is proposed. I don't think the site is
4 proposed on the 40, acres. It's proposed to sell a
5 3-acre piece. Within the -- once that occurs, it will
6 be well outside of the thousand feet.

7 **Q. Right. But as we sit here today, at the**
8 **time of the application, there is no separate parcel;**
9 **right?**

10 A. I don't think so, no. Because I think
11 it's -- the agreement, as I understand it, as I've
12 been listening here is that the agreement is
13 contingent upon approval. So I don't know that --

14 So yeah, the 40-acre piece is very long
15 and narrow and there's a property I think you're
16 talking about is on the far north side of that
17 property, but it is nowhere near close to the site of
18 the proposed waste transfer station. There would be a
19 37-acre buffer there.

20 **Q. Have you done any analysis concerning the**
21 **fact that the plan does not identify the areas where**
22 **the unacceptable waste will be segregated?**

23 A. State that again? Am I aware that --

24 **Q. It was a terrible question. I withdraw it.**

1 **Isn't it true that there's no drawing**
2 **that identifies a location for the unacceptable waste?**

3 A. Yeah. So the drawing -- I don't know that
4 it delineates it, if that's what you're asking
5 specifically. I don't know that we delineate it. I
6 think that would be more Chris's responsibility as the
7 operator.

8 **Q. Isn't it true that there's no drawing or**
9 **discussion anywhere in the application that identifies**
10 **a water source for a sprinkler system?**

11 A. No, I do not believe it's showing here, but
12 I do know there is one that exists. But again, I'm
13 not sure how much of that was plans were put in place
14 contingent upon it not -- you know, I think just like
15 the purchase of the land, I think the water source
16 would have to be hooked up once Chris -- or you know,
17 the developer, Chris himself, purchases the property.

18 **Q. And there's no plan --**

19 A. I'm -- what I'm saying, I guess I'll clarify
20 that. I don't know that he would tap a waterline to
21 nowhere at this time. So that would come during
22 construction.

23 **Q. And there is no design that references any**
24 **type of fire hydrants on the property; is that**

1 **correct?**

2 A. It's not specific in these plans, but it
3 also states that it shall happen with the work of
4 the -- during the work of construction.

5 **Q. You've done absolutely no study concerning**
6 **waste generation in the area; is that correct?**

7 A. Correct.

8 **Q. Has anybody at your firm ever done an actual**
9 **needs analysis for any pollution control facility?**

10 A. No. We do needs analyses, like I said, like
11 I was saying earlier, we do them. We haven't done one
12 specifically for a waste transfer station. So
13 hopefully, you know, we've done our first one and
14 we'll do more to come after this.

15 **Q. Well, you haven't done a needs analysis in**
16 **this case; correct?**

17 A. Correct.

18 **Q. Likewise, you've not done any analysis as to**
19 **compatibility in the area; correct?**

20 A. So not every project justifies a needs
21 analysis for that, you know. Sometimes it may be more
22 complex if you're in an urban setting. So we're
23 doing a -- we're making sure we're following zoning or
24 landscape ordinances, traffic -- so a state route

1 maybe or --

2 Q. Okay, I'm not asking about your general
3 practice, I'm talking pollution control facilities.
4 It's required that this board make a finding as to the
5 need criteria. And in order to do that, they need
6 professional opinion on the topic; correct?

7 A. Yeah. Restate the question, please?

8 Q. Okay. Actually, my question was you have
9 actually done no study concerning compatibility or
10 property value loss?

11 A. No, we don't get into property value loss.

12 Q. And I apologize, you started talking about
13 need, so that's why I got off track.

14 The entrances that are reflected on
15 your traffic study, there's no reference therein as to
16 how many trucks -- strike that. As to where the
17 trucks are going to be entering and exiting, is there?

18 A. Yes. I think we show a traffic flow pattern
19 on page C-12 and C-13.

20 Q. But the plan itself does not identify one
21 entrance has to be used versus the other, does it?

22 A. I don't know that we identify it, but it's
23 the flow of traffic. I think Chris, as the operator,
24 it makes sense to go west to east. The flow of it --

1 we show it as a diagram in our drawing, but we don't
2 say, "Thou shalt enter at west and thou shalt exit at
3 east."

4 **Q. And in your traffic analysis, you've also**
5 **presumed that there will only be two transfer trailer**
6 **tractors using the facility --**

7 A. I think three. Is that what you're asking?

8 **Q. Does the report reference two on three**
9 **trips?**

10 A. Two, three trips; yep, that's correct.

11 **Q. And isn't it true that, again, that would be**
12 **impossible for 200 tons of waste?**

13 A. Yeah, I don't think that's -- I think that's
14 more a question for Chris as the operator. But your
15 analysis, what you're saying the analysis is based on
16 another person sitting in the audience's opinion on
17 truck size. If I take that for the truth, then yes, I
18 agree with it.

19 **Q. Well, it's not my opinion. These are**
20 **transfer trailers, they hold 25 tons.**

21 A. I think you're just saying based on the math
22 if you're using the six. It sounds like Chris was
23 disputing the six, but industry standard --

24 **Q. I'm sorry, I'm talking about the transfer**

1 trailers now.

2 A. Okay.

3 Q. Isn't it true that if you assume there will
4 only be two utilizing the facility, in reality, if
5 there's 200 tons, there would be more than two
6 transfer trailers utilizing the facility?

7 A. Yeah.

8 Q. Okay.

9 A. I don't know substantial, but --

10 Q. Have you -- strike that. You know there are
11 some grain bins and farm operation right there?
12 They're going to be using the same entrances; is that
13 right?

14 A. I don't know that. I think it would be a
15 different property. So they would have to work out an
16 entrance agreement, like an easement agreement for
17 them to do that, but --

18 Q. Okay. Well, regardless, that farming
19 traffic is going to be on the road immediately
20 adjacent to the transfer station; correct?

21 A. So the way the farming seasons work is for
22 grain bins specifically, you're only using them during
23 harvest. Or maybe unloading at off times during the
24 year.

1 Based on the size of those grain bins,
2 there are probably only a couple of vehicles that
3 would use it. In my opinion, they should not be using
4 that entrance because it's a different property. I
5 don't know why you'd pull onto one property to go to
6 another property. I don't know if that's -- that's
7 between them.

8 **Q. Okay. Has there been any study of those**
9 **grain bins and the impacts on traffic?**

10 A. No.

11 **Q. Okay.**

12 A. Because in my professional opinion, what I
13 was saying, maybe that's -- maybe that's one more semi
14 per day and maybe one tractor with an auger per day.
15 And they can come any time from say 4:00 a.m. to 8 or
16 9:00 p.m. So to add one more vehicle still doesn't
17 bring it to the level of service that would justify
18 signals, traffic markings. I agree, I think signing
19 would be a good thing. I think we could talk with DOT
20 about signing. There's nothing wrong with -- being
21 more safe is better. But you start adding guardrail,
22 you started widening the road for something like this,
23 I just don't see the justification.

24 **Q. By the way, those entrances--ingresses or**

1 egresses, whichever one you reviewed--have not been
2 approved by the Illinois Department of Transportation;
3 is that correct?

4 A. Correct.

5 I certainly think they will. We follow
6 every standard that they put up for themselves, so I
7 don't have any -- I can sit here and say I don't have
8 any reason why they would not accept them. But
9 currently, it's not accepted yet.

10 Q. You personally are not an engineer that has
11 emphasized or specialized in the transportation and
12 traffic studies; correct?

13 A. Oh, I do traffic studies, yes. There's
14 another certification for a PTOE certification. We
15 have those individuals working for us.

16 Q. Explain what a PTOE is?

17 A. Sure. A Professional Traffic Operations
18 Engineer. So they are doing higher level, the
19 queueing analysis, the turning movements, intersection
20 design studies, and --

21 Q. None of that was done here; right?

22 A. No, it -- we absolutely did some of that.
23 Like I said, you know, we would initially take a look
24 at it and we would say, "We're adding--let's use your

1 number--34 trucks." I mean it would be a five minute
2 conversation. We do this --

3 Q. You are not a PTOE; is that right?

4 A. Correct.

5 Q. Are you aware that -- well, strike that.
6 Did you make any of the consultations or seek any
7 consultations in relation to this application?

8 A. No.

9 Q. Are you aware that there is a requirement
10 that IDNR be consulted?

11 A. Oh, okay. I guess I didn't understand your
12 first question, was I consulting for the application.
13 Certainly. And I'm not sure about --

14 Q. Wait. Let me ask a question.

15 A. Go ahead.

16 Q. Isn't it true that IDNR was never consulted
17 about endangered or threatened species?

18 A. No, that's untrue. I'm not sure that it
19 was -- that it was put in there, but we have a
20 checklist that we use and it certainly would --

21 Q. Can you pull up the IDNR report.

22 A. It certainly would have gotten, you know,
23 taken care of with our process. So you know, there's
24 multiple things that we send to IDNR. So if it didn't

1 get returned, you know, it's something I'll take a
2 look at when I get back to the office, but I'm certain
3 it was part of our process to be sent out to IDNR.

4 And that's typical not just for this
5 project, but it's typical for all projects.

6 Q. Okay. It's 69, if you would.

7 A. Are you talking to me?

8 Q. No. We have Bates stamped the application
9 that was unnumbered as far as pages and I'm telling my
10 associate where the IDNR report is.

11 By the way, have you ever filed an
12 application without providing page numbers to it?

13 A. Page numbers?

14 Q. Have you ever done that before today? I
15 mean your traffic study has no page numbers; why is
16 that?

17 A. It was very abbreviated.

18 Q. I agree. Okay, so this is the IDNR
19 report --

20 A. You know, I mean you laugh about it, but it
21 was abbreviated because I get back to it, I'll say it
22 again, you know, 21 -- the level of service that this
23 road can handle, 21 trucks is not that big of a deal
24 for this road, so --

1 Q. I'm moving on, if you don't mind. This is
2 the IDNR report. And this is clearly in response to
3 Adam Bohnhoff. That would be you; right?

4 A. Yes.

5 Q. And it is strictly a response by the
6 Illinois State Historic Preservation Office through
7 the IDNR and specifically responding to whether or not
8 there are any historic properties or archeological
9 resources on the site; correct?

10 A. That's correct.

11 Q. This is not a response to an inquiry as to
12 whether or not there are endangered or threatened
13 species?

14 A. That's correct. It would have been a
15 separate document.

16 Q. And there is no such document in the
17 application which was filed in April of 2022; correct?

18 A. I can't speak to that, but I'm -- I can
19 say -- I'm not going to say absolute certainty, but
20 I'm going to say with my certainty that it should have
21 been sent out or was sent out. So maybe it didn't get
22 put in this application, but I'm sure it was sent out.

23 Q. Okay. And you understand that you have to
24 file the application at least 90 days before the

1 **hearing; right?**

2 A. Okay.

3 **Q. Do you know that?**

4 A. Yeah, I'm not sure if the letter -- I
5 would -- I would be surprised if the letter didn't get
6 sent out at the same time; the other DNR for endanger
7 species.

8 **Q. By the way, you guys did not perform any**
9 **type of sight-line analysis for this facility, did**
10 **you?**

11 A. Yes, we did. And there's -- so if they're
12 going along Illinois 185, you know, maybe it's not
13 showing up in here, but if it's going along 185, there
14 are no obstructions to turning movements. So the turn
15 that you're probably talking about, the sweeping turn
16 far enough to the east would not -- no further study
17 would be required; by inspection, it would be fine.

18 **Q. Okay.**

19 A. Is that what you're getting at?

20 **Q. There is no language, analysis, study**
21 **contained anywhere in the report about a sight-line**
22 **study for the ingress and egress to the facility and**
23 **the nearby roadways of traffic entering and exiting**
24 **from the facility; right?**

1 A. Just because it wasn't in there doesn't mean
2 it didn't happen, but I agree, it's probably not in
3 there. That probably meant that it wasn't even an
4 issue, so we didn't even discuss it.

5 MR. PORTER: Okay. I have nothing
6 further.

7 MODERATOR KAINS: Mr. Shaw, redirect to
8 the witness?

9 MR. SHAW: No further questions.

10 MODERATOR KAINS: Okay. Thank you,
11 Mr. Bohnhoff. Thank you for your time, you are done.

12 Mr. Shaw, call your next witness.

13 MR. SHAW: Those are our witnesses. We
14 close.

15 MODERATOR KAINS: Okay, you rest.

16 Mr. Porter, call your first, but let's
17 talk about it? Who's your first witness?

18 MR. PORTER: That was going to be
19 Mr. Moose.

20 MODERATOR KAINS: Is he gonna take longer
21 than 25 minutes?

22 MR. PORTER: Without a doubt.

23 MODERATOR KAINS: Okay.

24 MR. PORTER: I would suggest --

1 MODERATOR KAINS: Do you have other
2 witnesses that you would like to call? Clients of
3 yours that you told me about?

4 MR. PORTER: Yes. So what -- I'm going to
5 ask some of my clients--you know who you are--to raise
6 your hand if you'd like to speak tonight before I
7 start calling you up.

8 I know you're smiling. So one of my
9 clients is -- so this is Leah Washburn, that would be
10 my next witness.

11 MODERATOR KAINS: Very good.
12 Ms. Washburn, go over there.

13 MR. PORTER: Cassie Washburn.

14 CASSIE WASHBURN,
15 called as a witness herein, having been duly sworn on
16 her oath, testified as follows:

17 DIRECT EXAMINATION

18 CONDUCTED BY MR. PORTER:

19 Q. Mrs. Washburn, thank you very much for
20 agreeing to do this a little bit out of order. It
21 made no sense to get our engineer on when we're going
22 to have to break in a few moments here.

23 So if you would, state your name for
24 the record.

1 A. Hello, everyone. Can you hear me? I am
2 Cassie Washburn. I'm a resident of Brownstown,
3 Illinois.

4 **Q. And do you have a statement to make?**

5 A. I actually have a checklist of questions I
6 would like to ask prior to voting.

7 **Q. And please do. And I don't think the mic is**
8 **working.**

9 A. Can everyone hear me all right?

10 **Q. There we go.**

11 A. All right. I have 12 questions here to ask.
12 I know we're probably not going to get all the
13 answers, but my first question is why did Sutter start
14 with a service area that was a carefully drawn hexagon
15 with several landfills in the service area as outside
16 to the 30-mile circuit in the application. What is
17 the true service area?

18 Question two. Why did Sutter continue
19 to use the 40-acre description in his August 12th
20 application when the helicopter was in the sky in
21 July? And he said under oath he had verified the
22 boundaries of the transfer station versus the 40-acre
23 legal with the Illinois EPA. Sutter chose not to
24 correct it until Porter made it an issue. Why did

1 Sutter include the 40 acres on the next application
2 when he knew it wasn't accurate? What was planned for
3 the other 37 acres?

4 Question 3. What did -- why didn't the
5 bank VP and those of you who own parcels not notice
6 the incorrect legal or know why the 40-acres was legal
7 was used?

8 Question 4. Why did Sutter -- I'm
9 sorry. Why did Sutter present his application to both
10 Fayette and Effingham County to be signed without
11 public hearings? Is he someone to trust to run a
12 pollution facility?

13 Question 5. Why did Sutter move the
14 trash trailer 500 feet to one of one of the Bartels'
15 properties other 47 parcels? Why did Sutter move the
16 trash trailer to a 10,000 square foot facility with
17 three roll-up doors 20 miles south of the original
18 site of Effingham that was by his and Doty's storage?

19 Question 6. If Sutter's concerned
20 about the mileage, why he is planning to continue the
21 truck transfer station trash to the landfill that
22 triples the miles versus the Effingham landfill? His
23 truck storage is 30 miles north of the transfer
24 station too.

1 Question 7. Why is the transfer
2 station opening at 6:00 a.m.? Haulers do roll early,
3 but the usual dump at the end of the route is, is this
4 because the Countryside trucks will be leaving the
5 location at 6? Possibly earlier?

6 The app shows no movement of his trucks
7 and dumpsters on the site nor on his office where he
8 could let the office person weigh his trucks in
9 between office duties. And get the floor scooped at
10 the end of the day by them or the driver. All that's
11 in the app is a 10,000 square foot building, a square,
12 and a scale house.

13 Question 8. Why is Sutter limiting the
14 transfer station to 15 trucks a day versus the general
15 public, like contractors? Our ability to get rid of
16 dumpsters and pull trailers to pull trash, and let's
17 not forget the farmers using the scales.

18 Question 9. Why was the farmer
19 donating three acres, but didn't change the leasing to
20 three acres? Why would you invest over a million
21 dollars on a leased property? Who is really involved
22 in this transaction? Who is financing it? Who is
23 building it? Who is the trucking contract? I think
24 we need to know everyone that's involved that benefits

1 so we know who needs to abstain from voting.

2 Question 10. The 10,000 square foot
3 roll-up doors that fit two trucks is the only thing
4 that has been -- remained static in 18 months. Why is
5 there three doors if the trash is scooped below
6 frequently, how long will the trash really sit on the
7 tipping floor? Have you compared the size and numbers
8 of the doors to the existing transfer station?

9 Question 11. Has the Fayette County
10 Board discussed the ordinance to look up into the
11 trash service than other current disposals?

12 Question 12. Why did the trash
13 ordinance up in the vote of April of 2021 get tabled
14 in May and then disappear despite a request to put
15 back on the agenda? This would have dealt with our
16 concern of blowing trash, leaking trucks contaminating
17 our water.

18 So step one, Sutter's lawyer said it
19 best in November that it was used when Hayes was asked
20 if he was afraid of competition. This is exactly what
21 is said. Sutter moved to Effingham County site not
22 500 feet, but over 20 miles to go into direct
23 competition. In my opinion, you couldn't have picked
24 a better location. Everyone in this room should know

1 that the competition is almost direct overlay of two
2 service areas next to the 10,000-foot -- 10,000 square
3 foot facility on this location necessarily to support
4 the true service area or is it really just
5 competition?

6 In my opinion, you must vote no and
7 protect the Fayette County citizens from potential
8 harm and lawsuits from the opposition and operation
9 proposed of the pollution control facility.

10 And that's all I have.

11 MODERATOR KAINS: Mr. Porter, any
12 questions of Ms. Washburn?

13 MR. PORTER: No. Thank you very much.

14 MODERATOR KAINS: Mr. Shaw,
15 cross-examination of Ms. Washburn?

16 MR. SHAW: No questions.

17 MODERATOR KAINS: Okay. Thank you,
18 Ms. Washburn.

19 THE WITNESS: You're welcome.

20 MODERATOR KAINS: Call your next.

21 MR. PORTER: We would call Susan Tackett,
22 please.

23 Susan Tackett, please.

24 THE WITNESS: Yeah, I'm coming.

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SUSAN TACKETT,

called as a witness herein, having been duly sworn on her oath, testified as follows:

DIRECT EXAMINATION

CONDUCTED BY MR. PORTER:

Q. Please state your name for the record.

A. Susan Tackett.

Q. And if possible, if you could use the microphone. Where do you live?

A. Hang on. I live 1584 North 1475 Street, Brownstown, Illinois. Susan Tackett, T-a-c-k-e-t-t.

Q. I apologize, but your microphone is not working.

Ms. Tackett, have you prepared a statement for tonight?

A. Yes.

Q. And why don't you just go ahead and provide it and I'll ask follow-ups if appropriate. Thank you.

A. I had this printed out, but I made some changes as we went today, so I'm just going to have to read it off the screen.

So what I speak today are my beliefs and opinions based on research and observations and it is not my intent to cause harm to anyone's character.

1 Can you hear me?

2 Q. Ms. Tackett, wait just a second. We're
3 going to give you this mic.

4 A. We are here because according to Sutter's
5 Facebook page post last year, he has a dream for a
6 long time of having a transfer station.

7 How many on the board have received
8 complaints from residents prior to the fall of 2020
9 from Fayette County residents that our trash needs
10 were not being met? Do you know that Vandalia, our
11 largest city, has not put their trash contract out for
12 bid the last two times? And the most recent was this
13 summer.

14 This all started in late 2020, when
15 Sutter wanted to put a trash trailer in Effingham
16 County. The location was near where Sutter and his
17 cousin Doty have their offices and truck storage, all
18 in Effingham County.

19 So on Slide 1, this shows the trash
20 trailer that Sutter said Effingham County would have
21 approved. But he had to move it 500 feet from a
22 house. And he was also told -- he was also told a
23 public hearing was needed.

24 G-Bart Properties had over 45 parcels

1 and 1200 acres at the time in Fayette County according
2 to the GIF website, and who knows what else in
3 Effingham County. But here we are over 20 miles away,
4 it's not a trash trailer, but it's a 10,000 square
5 foot facility.

6 Slide 2 is the original service area
7 Sutter first used which is a carefully drawn hexagon
8 with landfills within the boundary and nearby. Then
9 the service area changed to a 50-mile circle, and now
10 it's 30 miles.

11 Let's be honest, Sutter chose this site
12 to go into direct competition. The two service areas
13 are almost the same based on garbage companies. And
14 there's no needs analysis model to support an
15 additional transfer station. The service area in the
16 application isn't accurate, so that's an issue in
17 voting yes on Step 1.

18 The February 2021 Leader Union
19 Article--and I passed that out the last meeting--first
20 broke the news of our, quote, trash crisis, nowhere to
21 take our trash because Landfill 33 was reaching end of
22 life. All of us know Crossroads Landfill is replacing
23 Landfill 33, and the public hearing had even occurred
24 at that time.

1 There have been so many inconsistencies
2 with the Leader Union article. It fails to mention
3 the existing transfer station Hayes bought as part of
4 Sutter Sanitation. And that's where our trash goes
5 today, but yet, we would have had nowhere to take our
6 trash.

7 Sutter stated under oath in November
8 why he and his cousin didn't want to buy the business
9 when his family wanted to retire. But yet he started
10 Sutter Sanitation in January, the month after his
11 family sold Sutter Sanitation. And this is according
12 to his Facebook page. It was not in February, as he
13 said under oath.

14 Sutter's lawyer said it best in
15 November when he asked Hayes if he was afraid of
16 competition. This is actually direct competition, and
17 that's why there's Step 1.

18 The Leader Union article continues.
19 Trash will be efficiently scooped in 10 to 15 minutes
20 a day versus what he wants you to believe today.
21 There's a reason for three roll-up doors. Because I
22 believe trash will lay on the tipping floor throughout
23 the day. Do you need to spray garbage if it's not
24 going to be sitting on the tipping floor? Do you

1 really need three doors for what he says will only be
2 15 trash trucks?

3 Why would anyone open a trash transfer
4 station limiting it to trash trucks only? But that's
5 everywhere in his application, including the traffic
6 study, so he needs to be held to that. So trash
7 trucks only.

8 At the end was a quote. Our goal is to
9 get the project approved by the County Board and be
10 ready to open by November 1 of that year. The
11 building could take as long as 11 months to construct,
12 so it's in the County Board's hands now, he said.

13 The agenda for the April 2021 board
14 meeting had, and I quote, discussion and possible
15 approval for the EPA certification of Sutter. This is
16 the meeting where Sutter brought a completed LPCPAA.
17 We hear his testimony last year and we heard it again
18 today; that he didn't ask you to sign it and break the
19 law. But based on his February quote, it would make
20 sense to skip the public hearing and all the notice
21 periods required if you're going to open by November 1
22 of that year.

23 I have minutes from Effingham County
24 that shows that he tried to ask Effingham County to

1 approve his application without a public hearing too.

2 Do you know it would have been illegal
3 for you, the Fayette County Board and Effingham County
4 to vote on the nine steps? I questioned his integrity
5 and found he had 14 cases between the two counties on
6 judici.com. And two were last year, with one being
7 hunting without a deer permit.

8 The question is will Sutter do what is
9 required when no one is watching at the pollution
10 control facility? Does the application represent how
11 the facility will really be operated? Is trash
12 scooped at the end of the day or will it be 10 to
13 15 minutes all at once?

14 Just yesterday we found -- or this
15 morning actually, we found that noise is actually
16 going to start at 4:00 a.m. instead of 6:00 a.m. which
17 is in his application.

18 The article says contractors and the
19 general public pulling trailers can use the facility.
20 The worst will be farmers that he said at one time
21 could use his scale also.

22 It's a horrible location based on the
23 55-mile-an-hour speed limit, the crops, and the curve
24 in the road, and the flooding that occurs. We had

1 flooding last week and there was actually debris out
2 on the road in front of the grain bin. If there's an
3 accident either in the facility or on 185, is the
4 county liable knowing everything that has been
5 presented at the public hearing? That is the real
6 question that you guys need to ask yourself.

7 Slide 3. It's been a little while
8 since we've seen the hexagon, but compare -- this is a
9 different one. Sorry.

10 I want you to compare the 3-acre legal
11 description at the top to a 40 -- excuse me, the top
12 one is the 40-acre legal and the bottom is the 3-acre
13 legal. Do you notice a difference between the two? I
14 know one of you is a VP at a bank, some of you are
15 farmers. I think it's quite obvious what a 3-acre
16 versus a 40-acre description is.

17 We saw the helicopter in the sky on
18 July 11th and 12th, last summer, and Sutter pulled his
19 application that afternoon. We were shocked when he
20 reapplied a month later and continued to use the
21 40-acre legal description.

22 Sutter said under oath in November that
23 he had called the Illinois EPA asking about boundary
24 lines for the transfer station versus the 40-acre

1 legal boundaries. I can't believe he didn't notice
2 this because it's the only thing on page 1 in every
3 single legal notice. Why didn't any of you notice
4 this? More importantly, why didn't you guys ask about
5 this last November?

6 The only reason the 3-acre legal was
7 changed and is used today is because of the Fisher
8 residence. So my big question is why was the 40-acre
9 legal used by Sutter when he knew it was wrong? I
10 think he knew it was wrong, he called the Illinois EPA
11 to verify it, he talked under oath about it last
12 November, but when he went and reapplied the next
13 month, he used the 40-acre legal.

14 So the million dollar question is
15 what's planned for the other 37 acres? Why would he
16 use the 40-acre legal when he knew it wasn't correct?

17 If Sutter is concerned about mileage,
18 why is he taking his trash triple the miles versus the
19 closer landfill? Will his haulers return to Shumway
20 30 miles north or is Sutter moving his office, his
21 dumpsters, and his trucks to our neighborhood? I've
22 seen how he keeps his lot, and nothing should be
23 moving from Shumway because it's not in the
24 application.

1 I think you know this is going to be a
2 big impact on our rural life. I've got a four-page --
3 the four-page ordinance that I didn't bring up with
4 me, but it's the ordinance that approved penalties for
5 wind-blown debris and leaking garbage trucks. It was
6 typed, it was ready to be signed at the April 2021
7 board meeting. Bartels made a motion to table the
8 ordinance until May. The ordinance has never
9 reappeared on any board member agendas to my
10 knowledge, even though I requested it last November in
11 the public hearing.

12 Otego Township is here tonight too, and
13 they are here to speak about the road and the trash
14 impact.

15 Sutter says it's being built in a
16 farming area, but I counted 26 of us in the audience,
17 and I think about 24 of us are opposed because I
18 recognize most of the people evident too. My
19 neighbors are concerned about this transfer station
20 and the bias of the board.

21 All of you have got to know that this
22 is going to impact us in the neighborhood. He says
23 it's an enclosed facility, but it does have several
24 doors. Garbage trucks make noise backing on the

1 aprons, so you will hear noise. And I think all of us
2 will agree there will definitely be more road litter.
3 I know fair week on 40, it's horrible just because
4 you've got more people in your neighborhood, you
5 automatically get litter. In this case, it's people
6 pulling trash to the dump -- to the transfer station.

7 We only see trash trucks in our area on
8 the third Friday of the month. Now we will have 15 a
9 day. And who knows who else he will open this up to
10 once it's approved.

11 I do know what he said in the Leader
12 Union article to compare to what is in his
13 application. Those near the facility aren't worried
14 about selling value, but actually the ability to sell
15 their property. My husband built that two-story blue
16 house that's right next to the transfer station.
17 There are several who bought their acreage to hunt and
18 this will also be impacted. So it's not just about
19 property value.

20 There's no new employees promised
21 between the two transfer stations which isn't part of
22 the vote anyway. There's a lot of efficiency where
23 you could move your office and weigh your trucks and
24 scoop in between. It's similar to what he did when he

1 bought Countryside. You just combine two lines of
2 business and you automatically have some efficiency.
3 There's no promise of trash rates being lower. You
4 can only imagine the debt load that this will carry.

5 I also wonder who is really involved in
6 all this and who should really abstain from voting.
7 First it was a farmer donating the land who, by the
8 way, owns the concrete company. Then Sutter was going
9 to lease the three acres. Leasing a building, a
10 10,000 square foot facility, that kinda sounds suspect
11 to me. But now he's buying the three acres for
12 \$45,000; that's 15,000 an acre.

13 There is definitely something not right
14 here. Sutter says that no one else is involved, but I
15 think we all agree there are people who would benefit
16 and I think those should be identified.

17 Sutter wants you to think Fayette
18 County needs a transfer station because we don't have
19 one. But trash doesn't have county boundaries.
20 Sutter thinks that this is free enterprise and if you
21 want to build one, you should be able to build one.
22 And it's probably true that haulers will come to the
23 closest regardless of county lines, but that's why the
24 Illinois EPA has step one, so they aren't built

1 wherever someone wants to go in competition.

2 This isn't about free enterprise. This
3 is a highly regulated facility; not only to get it
4 approved, but ongoing. The Illinois EPA has
5 requirements that must be met in an application. And
6 a reporter has shown they simply are not there.

7 The Illinois EPA step one asks is this
8 10,000 square foot facility at this location based on
9 the true service area? Is it necessary? The EPA
10 doesn't want more facilities to regulate if it's not
11 necessary, and they also want to protect those that
12 have invested in landfills and transfer stations.

13 You must vote no on step one and
14 protect my neighbors and Fayette County from potential
15 harm and lawsuits from the operation of this proposed
16 pollution control facility.

17 Thank you for your time.

18 MODERATOR KAINS: Thank you, ma'am.

19 Mr. Porter, any other questions of
20 Ms. Tackett?

21 MR. PORTER: I do not.

22 MODERATOR KAINS: Very well. Thank you.

23 Mr. Shaw, cross?

24 MR. SHAW: No questions.

1 MODERATOR KAINS: Okay. Thank you,
2 Ms. Tackett.

3 Madam Chairman, I see it is two minutes
4 until 6:00. It is up to you to put us in recess until
5 tomorrow.

6 CHAIRMAN WAGGONER: All right. I will
7 entertain a motion to put the public hearing in recess
8 until tomorrow at 9:00 a.m.

9 MS. TOWLER: So moved.

10 MS. WORNER: Second.

11 CHAIRMAN WAGGONER: All right.

12 (Hearing adjourned to 9:00 a.m. on
13 August 3, 2022.)
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1 STATE OF ILLINOIS)

2 COUNTY OF CHRISTIAN)

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CERTIFICATE

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I, KATHY J. SULLIVAN, CSR, RPR, and CRR,
affiliated with Associated Court Reporters,
P.O. Box 684, Taylorville, Illinois, do hereby
certify that I reported in shorthand the
foregoing proceedings and the foregoing is a
true and correct transcript of my shorthand
notes.

I further certify that I am in no
way related to or associated with any of the
parties or attorneys involved herein, nor am I
financially interested in the action.

KATHY J. SULLIVAN, CSR, RPR,
CSR LICENSE NO. 084-002768

Dated this 22nd day of August, 2022.

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FAYETTE COUNTY, ILLINOIS
PUBLIC HEARING
WEDNESDAY, AUGUST 3, 2021
MOOSE LODGE #1447
328 S. 3RD STREET, VANDALIA, ILLINOIS

CHAIRWOMAN WAGGONER: It is 9:02 and we're going to resume the public hearing.

Scott Kains.

MODERATOR KAINS: Thank you, Madam Chair.

Good morning, everyone. A couple of housekeeping matters.

First, I have been handed three additional letters addressed to the County Board. We have a letter from a Doris McConkey. States she is opposed. I have a letter from Jebadiah Small and Amber Small. The gist is please vote no. And then I have a wonderful hand-written note from Linda Mattes of Brownstown. And she wants to thank Peggy for all that she had done during her lifetime with respect to

1 this.

2 So these letters will be received into
3 evidence here. They will be photocopied for each
4 County Board member and made part of the record. And
5 also copies to counsel for the interested parties.

6 While we're on the subject of exhibits;
7 Mr. Shaw, do you have any exhibits that you wish to
8 put in as evidence for this hearing other than I
9 believe Mr. Sutter's application is already part of
10 the record and that's why we're here, but do you have
11 any exhibits that you wish to enter into the record
12 and make part of this proceeding?

13 MR. SHAW: No.

14 MODERATOR KAINS: You do not?

15 MR. SHAW: No.

16 MODERATOR KAINS: Okay. Mr. Porter?

17 MR. PORTER: Yes, thank you. So
18 yesterday, we handed out binders to all of the county
19 board members and yourself as the hearing officer.
20 Those are our exhibits. And right now, we don't have
21 any extras beyond that. I would just move for
22 admission of those.

23 MODERATOR KAINS: Those exhibits will be
24 admitted into evidence.

1 MR. PORTER: I have extra copies; should I
2 give that to the clerk?

3 MODERATOR KAINS: Yes, that would be
4 great. Every board member has the objector's exhibit
5 binder; is that correct?

6 Okay.

7 And then a point of information for the
8 board. This hearing as we know is a new hearing and
9 completely separate from the hearing that was
10 conducted last November. This hearing relates solely
11 to the application that was filed in I believe April?

12 MR. PORTER: April 19th.

13 MODERATOR KAINS: April 19, 2022; thank
14 you, Mr. Porter. This relates only to that
15 application. Anything regarding the other application
16 is not relevant for your consideration of this
17 particular issue.

18 You are to consider only the exhibits
19 that have been admitted in evidence, including the
20 petition that was filed on April 19th. But the only
21 exhibits, the only information you are to consider are
22 things that have been admitted into evidence in this
23 hearing.

24 Now, one other thing. There have been

1 statements under oath by witnesses that have discussed
2 credibility of certain witnesses and certain other
3 individuals. Those issues of credibility are to be
4 decided by you, the county board, in voting on this
5 matter. You are to decide whether certain statements,
6 any testimony is credible or not credible.

7 You are the finders of fact, you are
8 the ones who are charged with believing what you think
9 came from -- because there's going to be different
10 testimony today from what we heard yesterday. There's
11 going to be an engineer testifying today on behalf of
12 the opposition. There was an engineer who testified
13 yesterday on behalf of the petitioner.

14 You're going to be the sole judges of
15 the credibility of the witness. Anything that was
16 said about anyone, anything that was said about any
17 project, design, plan, you are the ones to decide
18 whether that testimony is credible or not.

19 Now, one other housekeeping matter. In
20 the procedures to have testimony presented, we had
21 four witnesses testify yesterday: Mr. Sutter,
22 Mr. Bohnhoff, Ms. Cassie Washburn, and Ms. Tackett.
23 They were given the opportunity to be questioned by
24 both of the interested parties. I am sorry, but I

1 neglected to ask you, the county board, the decider of
2 this matter, the opportunity to ask questions of any
3 witness.

4 So right now we're going to open it up
5 to the board to ask specific questions of first
6 Mr. Sutter. Does any member of the county board have
7 any questions relating to Mr. Sutter's testimony
8 yesterday?

9 Thank you.

10 The next witness was Mr. Adam Bohnhoff,
11 the engineer who testified on behalf of the
12 petitioner. Does any member of the Fayette County
13 Board have any questions for Mr. Bohnhoff?

14 The first witness for the opposition
15 was a Ms. Cassie Washburn. She testified late in the
16 afternoon yesterday. Does anyone on the Fayette
17 County Board have any questions for Ms. Cassie
18 Washburn?

19 And finally, the last witness was
20 Ms. Susan Tackett. She testified about quarter to six
21 yesterday. We were all awake enough to remember her
22 testimony I'm sure, but does anybody have any
23 questions for Ms. Tackett at this time?

24 One other piece of information.

1 Ms. Tackett asked if she could just address the board
2 during the five-minute public comment period. I think
3 we need to reserve a ruling on that to see where we
4 are when we get to around 12 or 12:30. I don't want
5 to prohibit anyone from speaking, but if we're running
6 out of time, Ms. Tackett did have her 15-minute -- or
7 13-minute, rather, bite at the apple. I don't have a
8 problem with it if she wants five minutes, but that's
9 up to the board.

10 I believe that's all the housekeeping.
11 Mr. Shaw, can you think of anything else?

12 MR. SHAW: No.

13 MODERATOR KAINS: Okay. Mr. Porter?
14 Mr. Myers?

15 MR. PORTER: There was a lot there
16 obviously, I just need to backtrack on one. The only
17 exhibits that have been admitted that are being
18 considered are the application and my exhibits; is
19 that correct? Other than -- Mr. Moose is pointing out
20 and the transcript.

21 MODERATOR KAINS: Sure.

22 MR. PORTER: And then public comment that
23 has been accepted that you mentioned as we move along;
24 is that accurate?

1 MODERATOR KAINS: Yes, that is accurate.
2 So we're to only consider exhibits in evidence and
3 exhibits that will come in evidence today. So those
4 are the things that you are to consider. Not anything
5 from a previous hearing, just the exhibits that have
6 been admitted to this point and the future exhibits
7 that we'll admit subject to discussion from opposing
8 counsel.

9 All right. With that said, I was gonna
10 tell you to call your next.

11 MR. PORTER: I assumed that's where you
12 were going. And, Mr. Kains, we are going to call one
13 more witness a little bit out of order because she has
14 to get to work. So we're gonna call Lynn Sefton.

15 LYNN SEFTON,
16 called as a witness herein, having been duly sworn on
17 her oath, testified as follows:

18 DIRECT EXAMINATION

19 CONDUCTED BY MR. PORTER:

20 **Q. Please state your full name for the record.**

21 A. My name is Lynn Sefton.

22 **Q. And where do you live?**

23 A. I live in Brownstown.

24 **Q. And do you have a statement today?**

1 A. I have a statement.

2 Q. Please, provide your statement. Thank you.

3 A. Okay. I've got notes, so --

4 Anyway, to the Fayette County Board
5 members. As I set through two days of hearings in
6 November, I can't believe we're doing this again,
7 spending time and money on a transfer station that's
8 nothing more than direct competition to the one
9 12 miles west. So please vote no on Step 1 and put us
10 out of our misery.

11 I personally knew Peg Washburn because
12 she was my aunt, she was my mom's sister. I know how
13 much time she spent on the transfer station the year
14 prior to her death while still doing cancer
15 treatments. I believe the hearing is where she caught
16 COVID because she went on a vent December 1 and died
17 ten days later.

18 The transfer station already is
19 responsible for one death. It's a horrible location
20 on 185 to curve in the road, so let's stop at Peg's
21 death.

22 Sutter already asked you to sign his
23 two-page site approval in April which if you'd signed
24 would be breaking the law. Wasn't this enough about

1 his character? Let's add in starting a competing
2 business the month after his family sold Sutter
3 Sanitation.

4 I truly appreciate the fact that
5 Mr. Hayes was there to protect us in November and here
6 he will be protecting us again in August.

7 I've heard enough about Sutter's
8 character during the hearing and I've seen how his
9 application changes with each submission. He starts
10 with a trash trailer in Effingham and moves it 20
11 miles south in direct competition to the one his
12 family sold. I've seen him change his service area
13 from a hexagon to a 30-mile circle to the present.
14 You just can't believe any of this, but I do know it's
15 just competition against those that bought his
16 family's transfer station when they wanted to retire.

17 I've heard enough about his character.
18 I believe he isn't responsible enough to run a
19 pollution control facility. And I search at
20 judici.com when I want to see what they have been
21 doing and he has plenty of information to look at.

22 You know enough about his character, so
23 why would you allow him to run a transfer station that
24 has the ability to poison not only others, but our

1 environment with its sound, litter, air, traffic
2 situations, and water.

3 My friends and I pick up litter. And
4 all a transfer station means at this location is more
5 litter either from the trucks leaving without their
6 hopper closed or from others using the transfer
7 station. Just like during fair week, Route 40 is
8 trash. More people and vehicles automatically means
9 more trash. But in this case, it's more because
10 they're hauling trash sometimes unsecured. It's going
11 to be a constant for Otego Township. Why would you
12 subject your citizens to this starting at 6:00 a.m.?

13 The legal team did an outstanding job
14 in November. I'm hoping to be there in August, but
15 not knowing when it's my turn to speak, I'm submitting
16 this letter. Please vote no for this transfer station
17 and protect Fayette County residents. And truthfully,
18 thank you, Lynn Sefton.

19 MODERATOR KAINS: Thank you, ma'am.
20 Please stay seated.

21 Mr. Porter, do you have any other
22 questions of Ms. Sefton?

23 MR. PORTER: I have none.

24 MODERATOR KAINS: Mr. Shaw,

1 cross-examination of Ms. Sefton?

2 MR. SHAW: No questions.

3 MODERATOR KAINS: Thank you. Members of
4 the board, do you have questions for Ms. Sefton?

5 Thank you. Now you may step down.

6 Mr. Porter, call your next witness.

7 MR. PORTER: We would call Devin Moose.

8 DEVIN MOOSE,

9 called as a witness herein, having been duly sworn on
10 his oath, testified as follows:

11 DIRECT EXAMINATION

12 CONDUCTED BY MR. PORTER:

13 Q. Mr. Moose, while we're pulling up your
14 PowerPoint, if you would, provide the board with a
15 brief dissertation about your experience and
16 background and then go ahead and launch into your
17 presentation.

18 A. Devin Moose, M-o-o-s-e, live in St. Charles,
19 Illinois.

20 This is like deja vu all over again.

21 Q. Mr. Moose, I'm going to interrupt right
22 away. I'm sorry.

23 Everybody, his presentation, if you
24 can't see it on the board there, is Exhibit Number 1

1 in your binder. And if anybody forgot their binder,
2 we have a couple extras.

3 A. I'm the National Director of Solid Waste
4 Engineering for APTIM. APTIM is an engineering
5 construction firm with revenues of about \$1.3 billion
6 a year. I work all over the country. I currently
7 have over 100 open projects throughout the United
8 States.

9 I have a degree in civil engineering
10 from University of Missouri Rolla. I'm a Registered
11 Professional Engineer in Illinois and numerous other
12 states. I've been awarded the title the Diplomat of
13 the American Academy of Environmental Engineers.

14 I have 40 years of experience doing
15 solid waste-related projects. Have been engineer for
16 many transfer stations in Illinois and elsewhere.
17 I've been permitted -- I've permitted more transfer
18 stations than any other person I think in the State of
19 Illinois.

20 And I authored the SWANA, Solid Waste
21 Association of North American training manual on
22 transfer station design and operations, and I've also
23 taught many of courses found at -- through SWANA.

24 And I also want to say engineers are

1 not overpriced. The attorneys are overpriced; the
2 engineers are not. It's like my dad said, my dad was
3 a contractor and he said, "Quality doesn't cost a
4 thing." So invest in engineers, not the attorneys.

5 So the Illinois siting law. Obviously,
6 we've gone through this before. This is unusual for
7 most counties. You guys are starting to get used to
8 it. But there's a reason for this. These are
9 pollution control facilities. Banks don't have to do
10 this, shopping centers don't have to do this, gas
11 stations don't have to do this. And those experiences
12 designing a gas station or a bank is nothing like
13 pollution control facilities.

14 The Legislature recognized the
15 uniqueness of these facilities. These facilities can
16 threaten the public health, safety, and welfare.
17 Designing a bank parking lot is not threatening the
18 public health, safety, and welfare. That's why these
19 are different.

20 And you need to know what you're doing
21 when you do these types of facilities. It's a quality
22 of life issue. You guys represent all the citizens of
23 this county and are responsible to listen to this
24 application, judge this application to judge the

1 quality of life.

2 It's required that they submit
3 sufficient details. That's in the law, it says
4 sufficient details. Not an abbreviated traffic
5 report, sufficient details. And that doesn't mean
6 that you put 17 pages of an application together and
7 just copy something from the internet and quote it on
8 the back.

9 We have to have sufficient design
10 details to evaluate to make sure this is safe. This
11 application doesn't do that. It's failed once again
12 in providing those sufficient details.

13 I'm on slide 3.

14 The nine criteria; arguably ten. I
15 think we're pretty familiar with them, but I need to
16 go through them for the record.

17 Number 1, the facility is necessary.
18 That's the word, necessary. Not I want a transfer
19 station, not to increase competition, it says
20 necessary.

21 Legislators, when they wrote the law,
22 were having -- back in the 80s were having a
23 proliferation of these facilities. Everybody was
24 putting landfills and transfer stations all over the

1 place.

2 And the purpose of the law is to
3 regulate the number of facilities so they're not on
4 every corner because they're pollution control
5 facilities. You don't want to build more pollution
6 control facilities than are necessary because every
7 pollution control facility is a threat. It's not "I
8 want one," it is necessary. That word is there for a
9 purpose, there's a reason it's there.

10 They have not met that criteria. I'm
11 gonna go through that, but it's pretty confusing to
12 me, but I'll try to distill it.

13 Number 2, the facility is designed,
14 located, and proposed to be operated to protect the
15 public health, safety, and welfare.

16 The only person that can say this
17 facility is designed to protect the public health,
18 safety, and welfare, located and proposed to be
19 operated, the only person in the State of Illinois who
20 can do that is a Registered Professional Engineer in
21 the State of Illinois.

22 A registered Professional Engineer did
23 not certify the Criterion 2 in that. There is no
24 engineer that has testified that each of the criterion

1 of 2 is met. No person has the legal authority to
2 even say that. They don't have the ability to do the
3 expert things.

4 We'll get into the design and why it
5 falls short, but keep in mind that the only person
6 that can do that is a professional engineer. No
7 professional engineer has done that.

8 3. The facility is located to minimize
9 incompatibility with the character of the surrounding
10 area and to minimize the effect on the value of the
11 surrounding property.

12 Again, this criterion is not met.
13 Think of yourself. What did they do in the design,
14 location, positioning of this facility to minimize
15 incomparability with the surrounding area? Did they
16 do landscaping? Did they do screening? Did they do
17 berming? Did they do anything?

18 Did they orient the doors in a
19 particular direction so that the wind is not
20 impacting? So you can't see it from the highway? Did
21 they do anything to try to minimize incompatibility?

22 They did nothing.

23 I could come up with 30 things on the
24 site to minimize the incomparability. They didn't do

1 anything.

2 4. The facility is located outside the
3 100-year floodplain. They met that criterion and an
4 engineer testified to that.

5 5. The plan of operations for the
6 facility is designed to minimize the danger to the
7 surrounding area from fire, spills, and other
8 operational accidents.

9 Again, no engineer testified that
10 Criterion 5 has been met. They have not met this.
11 And in my testimony this morning I'll specifically
12 explain to you why this is a danger. And why they're
13 negligent in not addressing this issue properly.

14 6. The traffic patterns to and from
15 the facility are designed to minimize the impact. We
16 didn't -- again, all we heard was, "I did an
17 abbreviated report and it's no impact." That's not
18 what the criteria is. What did we do to minimize
19 impact? What are the impacts and what are we doing to
20 minimize these impacts? I'll discuss this later on.

21 Also that criterion has not been met.

22 Criterion 7. If the facility will be
23 treating, storing hazardous waste, an emergency
24 response plan and so forth is necessary.

1 That criterion has not been met.
2 You're required to have a spill reaction control plan
3 if this material shows up in your facility. And over
4 the life of the facility, let's say it's 20 or
5 30 years, there's a very high probability this type of
6 material will show up. What's the training? Where
7 are your spill kits? How are you going to do that?
8 Have you contracted with an emergency response
9 contractor? Are you going to call the fire department
10 and put the burden on them? You don't want that.
11 That's not how this is done.

12 You put a plan together so if this
13 stuff shows up in your transfer station, your
14 employees are trained. I want to see how these
15 employees are trained. I want to see the training
16 that they're going to undergo within this application
17 so that we know that it's sufficient.

18 I want to understand that you have a
19 contract with a response contractor so not only can we
20 recognize it, we can contain it, but we have somebody
21 to come and clean it up. None of that's in this
22 application. Nothing.

23 If the facility is located in a county
24 where the board has adopted a Solid Waste Management

1 Plan, is the facility consistent? I can tell you
2 definitively this facility is inconsistent with the
3 plan. It is not considered in the plan.

4 All of that questioning back and forth
5 didn't even get to the point. I will show you
6 specifically how the plan was developed and that this
7 is not part of your plan. And you guys, your previous
8 county board passed an ordinance that said you will
9 abide by your plan.

10 Regulated recharge, Criterion 9. They
11 met that criterion.

12 Number 10, and this really is the
13 unnamed criteria, the County Board may also consider
14 as evidence previous operating experience.

15 There's no previous operating
16 experience at all. They never designed a transfer
17 station, a permanent transfer station. This is --
18 this is -- there's a reason why this is in there.
19 You've got to have experience, expertise in the area
20 that you practice. I can't go out and do structural
21 engineering because I'm not a structural engineer.
22 And you should know what you're doing when you do this
23 type of work also.

24 There's insufficient demonstration of

1 need. We'll get into this. Again, this is a summary
2 of all the things I just spoke of, so I'm gonna skip
3 this slide.

4 So it's more than the needs analysis is
5 flawed, there's basically no needs analysis at all.
6 Drew a circle and said that competition is good.
7 That's not the facility is necessary. Remember the
8 criterion.

9 There's no analysis of the waste
10 generation in the area. In fact, they say the
11 population is going up and the population is not going
12 up, it's going down. There's no analysis of other
13 facilities that currently service this area and how
14 that impacts that need. There's no transportation
15 analysis. There's no capacity analysis or service
16 area overlap of existing facility analysis. There's
17 no economic evaluation whatsoever within the
18 application. There's no analysis of environmental
19 impact compared to other existing facilities. These
20 are the types of things that go into a needs analysis.

21 I know this is the fourth time for this
22 site. You've never seen a needs analysis. I
23 apologize for that. You deserve -- the applicant's
24 responsibility. The burden of proof is on them, not

1 on us. They're supposed to give you this stuff and
2 educate you and tell you why there's an urgent need
3 for this facility. They've never done that. Fourth
4 time, they still haven't done it.

5 You know, they didn't even take the
6 time to figure out that Effingham has got a permit for
7 a new landfill, has sited an expansion to the existing
8 landfill, and the permit is pending for the expansion
9 of the existing landfill.

10 The truth of the matter is as simple as
11 this: This area has been served by multiple
12 facilities for decades. Is anybody's garbage not
13 getting picked up? Do we have a garbage crisis that
14 I'm not aware of?

15 The fact of the matter is multiple
16 facilities serve this area and have been for decades.
17 And all of these facilities that serve your county
18 have decades of life left. Decades.

19 So I'm not gonna do a complete needs
20 analysis, but we're gonna give you a taste of what
21 portions of that that will demonstrate there's no
22 need.

23 So we use his 30-mile service area.
24 And I know that it changes every application, the

1 service area changes which is enough to draw a
2 jaundice eye of questioning on what the hell he's
3 doing because --

4 Q. Mr. Moose, I apologize, I need to interrupt
5 for just a second.

6 Isn't it true that you have slightly
7 amended your slides compared to what has been admitted
8 into evidence to date?

9 A. Yes.

10 Q. And you'll notice this one has an extra
11 bullet point--is that correct--than what was in
12 existence when we admitted it into evidence; is that
13 correct?

14 A. It appears so; I'm not aware.

15 Q. Okay. And, Mr. Hearing Officer, so you're
16 aware, we will provide copies in the public comment
17 period sufficient for the entire board of Mr. Moose's
18 amended comments.

19 MODERATOR KAINS: Okay, very good. Which
20 bullet point has been added?

21 MR. PORTER: Well, on this one, it's the
22 third bullet point. But there are other slides
23 slightly amended as well. I don't want to interrupt
24 every time, I just wanted people to be aware when

1 looking down and seeing it's slightly different than
2 what's on the screen, that's what's going on.

3 MODERATOR KAINS: But you will be
4 providing the board with an exhibit that will be the
5 updated --

6 MR. PORTER: Correct.

7 MODERATOR KAINS: -- PowerPoint that he's
8 testifying to now?

9 MR. PORTER: Correct.

10 MODERATOR KAINS: And you will do that at
11 the conclusion of his testimony?

12 MR. PORTER: I'll let you know.

13 MODERATOR KAINS: Okay. Before the end of
14 the -- well, you have 30 days.

15 MR. PORTER: Correct. I may have to do it
16 then just because we don't have copying ability here.

17 MODERATOR KAINS: Understood. Proceed.

18 A. So Slide 7 shows the applicant's 30-mile
19 service area. And then what we did is we took the
20 other facilities that service Fayette County and his
21 service area that are outside or inside that service
22 area and we drew 30-mile radius around those.

23 And if you see, there are one, two,
24 three, there are four facilities that service the

1 majority of the applicant's service area. In fact,
2 there's only 7 percent of the applicant's service area
3 that is not served by other facilities. And of that,
4 none of it's in Fayette County.

5 Fayette County, as you can see, has
6 three different facilities already servicing the
7 entire county. This -- and all of those facilities
8 have decades of life. This one exhibit alone
9 demonstrates there's no need. But we have empirical
10 evidence also.

11 Next slide, please.

12 The Shelbyville Transfer Station closed
13 because of lack of need. This is an excerpt from an
14 IP inspection report where they found it was cheaper
15 just to drive directly to the landfill than use the
16 existing Advanced Transfer Station.

17 Again, the applicant testified that
18 they closed it because it was falling down and
19 dilapidated. There's no evidence in the record to
20 that. None at all. This -- and part of our
21 submission is the IEPA inspection report. This is a
22 piece of the IEPA inspection report. It's their job
23 to submit evidence, not hearsay thought. We have
24 evidence why they closed the facility, it's the IEPA

1 inspection report.

2 Third piece. Let's take a look at the
3 population centers. And this map is a heat map based
4 on the darker the blue is, the greater the current
5 population density is. And if you take a look at the
6 major municipalities in or near the service area, all
7 of those areas have a shorter distance to travel, are
8 closer to existing landfills or transfer stations than
9 the proposed site except Vandalia.

10 So all of the major population centers
11 that's in or near his service area, there's only one
12 town that stands closer to his business, that's
13 Vandalia. That's it. The rest of them in that whole
14 30-mile area will travel somewhere else because
15 they're closer than going to his transfer station.

16 Next slide, please.

17 This is a table that shows the distance
18 from the center of the population area to the transfer
19 station. And it's pretty evident that Hillsboro,
20 you're gonna stay -- travel 28 miles further to go to
21 the applicant's transfer station. You're not going to
22 do that. In fact, they're driving straight to a
23 landfill.

24 Disposal fees at transfer stations are

1 greater than disposal fees at landfills because you
2 have to pay the transfer fee. The landfill dump just
3 puts it in the truck and then drives it to the
4 landfill. So you're gonna drive to the landfill if
5 it's closer all the time than if you're going to drive
6 to a transfer station.

7 So Hillsboro won't come here.
8 Effingham won't come here. Pana won't come here.
9 Salem won't come here. Shelbyville won't come here.
10 Flora won't come here. Greenville maybe, but again,
11 they're hauling directly to a landfill, not to a
12 transfer station, so it's doubtful that they'll come
13 here. Maybe Carlyle and maybe Vandalia, but the
14 majority of the population are not going to use this
15 transfer station.

16 Again, is this necessary? We've
17 proven -- I've just proven we're serving the entire
18 county with other facilities.

19 We all know from our own experience
20 that there's emergencies. We have empirical evidence
21 from the IEPA that transfer stations are siting,
22 permitted, operating, and closed because of lack of
23 need. We have a transportation analysis now that
24 shows virtually every major population center within

1 his service area is closer to go somewhere else other
2 than his facility.

3 Q. Mr. Moose, before you move on, you mentioned
4 the Shelbyville and the IEPA inspection report
5 concerning Shelbyville; correct?

6 A. Yes.

7 Q. And let me show you a document that I'm
8 gonna mark Exhibit 17. This is actually not in the
9 record yet and that's why I'm interrupting your
10 presentation. Is that indeed the IEPA document you
11 referenced?

12 A. Yep.

13 Q. And indeed, isn't it true that on page 2, it
14 provides, (as read:) At the current time, Advanced
15 Disposal is not in need of a transfer station as
16 garbage trucks came from Decatur to service customers
17 and then returned to Decatur on the day services are
18 performed in Shelbyville area?

19 A. Yes.

20 Q. Okay. And I move for admission of 17,
21 please.

22 MODERATOR KAINS: Mr. Shaw?

23 MR. SHAW: No objection.

24 MR. PORTER: Can I impose upon the Board

1 to write on 17. And I'll get --

2 MODERATOR KAINS: You can write on
3 Exhibit 17.

4 MR. PORTER: Okay, I'll do it.

5 MODERATOR KAINS: We don't require
6 stickers here.

7 This exhibit will be admitted. It is
8 Exhibit 17. And you will have it photocopied at a
9 later time?

10 MR. PORTER: No, I have copies, we just
11 didn't have it marked.

12 MODERATOR KAINS: All right. Then 17 will
13 be admitted and distributed to all county board
14 members and Mr. Shaw. The exhibit is in.

15 Mr. Moose.

16 A. So really, the only population center that's
17 likely to use this transfer station is Vandalia.
18 Vandalia produces about 16 tons per day of waste.
19 He's asking for 200 tons per day. So is this needed?
20 Do you really need 200 tons per day? They didn't put
21 any evidence in that this is needed at all.

22 The reverse of that question is if
23 people did use the facility, it's gonna cost more than
24 they are now, so this goes to the competitiveness.

1 On Slide 11 you'll see that the
2 additional miles that it takes to go to these other --
3 for these population centers to use the applicant's
4 transfer station increases mileage significantly.
5 Mileage is time. I think we all know that increased
6 mileage is increased cost.

7 So if the applicant were to argue that
8 these towns, these populations, major population
9 centers were to use his facility, it would be more
10 expensive. It's not a competitiveness issue. This is
11 an applicant that wants a transfer station for
12 whatever reason. But that's not the law, it's need.

13 Criterion 2. There's just a total lack
14 of information again--and I know I said this last time
15 I was here--to demonstrate that this facility is
16 designed, proposed to be operated, and located to
17 protect the public health, safety, and welfare.

18 And I know I used as a prop last time
19 the siting application, but I meant that that siting
20 application had to be filled with relevant material,
21 not just copying stuff off the internet and sticking
22 in there to make it look thick. 90 percent of the
23 application is irrelevant to siting. It's just copies
24 of the solid waste plan, copies of the capacity

1 reported. I don't even understand why they're in
2 there.

3 So again, we don't have sufficient
4 detail, we don't have evidence to prove that the
5 facility is safe.

6 The engineering drawings that are
7 contained, and here's the -- this goes to the
8 experience and expertise issue. The engineering
9 drawings that are in the application; there's 28
10 drawings in there. Most of them are structural
11 drawings and design details on how to build the
12 building. That's got nothing to do with 39.2.

13 His structural engineer got money to
14 design something that you do for a building permit.
15 That kind of stuff is handled at the building permit
16 stage, not at this stage. Those drawings are, for the
17 most part, irrelevant. The SPCP plan, Spill
18 Prevention and Control Plan that the engineer said was
19 contained within the application; again, he doesn't
20 understand what we're here for.

21 It's an SPC plan for the period of
22 construction; while they're building the building.
23 How they contain erosion control during the
24 construction of the building. It's got nothing to do

1 with how you contain the potential contaminants from
2 the transfer station when it's operating.

3 The fact that we've got footing details
4 misses the point. The Legislature knew that you're
5 going to have to get a building permit. This part is
6 unique to pollution control facilities. We don't care
7 what size the footing is, the building department can
8 take care of that. That's not what we're here for,
9 we're here for the health, safety, and welfare issues.

10 Again, it just goes back to demonstrate
11 that we have people putting these applications
12 together, standing up here and testifying, that don't
13 have enough experience or expertise in this particular
14 area.

15 And in fact, the applicant tried to
16 demonstrate his expertise in transfer stations by
17 taking a course through the Solid Waste Association of
18 North America which is a national association that
19 does education and training in the area of solid
20 waste. But he took the course in landfill management.
21 There's a course in transfer station design and
22 operations. He didn't take that one.

23 He took the one in landfill management
24 and then said here, "I've got training." It's not

1 even the same thing. They're completely different
2 animals. But there's a course there he could have
3 taken. The one that I wrote.

4 I'm on Slide 13.

5 There's insufficient queueing analysis.
6 We have to make sure when these trucks arrive we know
7 how much are in the trucks; how long they take to
8 scales. We don't want trucks backing up on the
9 highway.

10 We have to analyze not only the trucks
11 that come in with the garbage, but the semis, the
12 private haulers, people with trailers that are
13 dumping. Is there room to get off the highway?
14 There's no analysis really on how that occurs.

15 They have a drawing that shows four or
16 five trucks, but they don't do a queueing analysis. A
17 queueing analysis is part of every application. It's
18 just absent. So it's hard to criticize if nothing
19 exists. It's not there.

20 Turning analysis demonstrates safe
21 internal traffic. Again, they have a drawing that
22 shows the turning analysis of the semis, but their own
23 turning analysis shows that that site is too small.
24 The bottom line, the site, the three-acre piece of

1 property is too small to do what they're asking. The
2 building is too small to do what they're asking. It's
3 just too small.

4 There's no demonstration on the tipping
5 floor that they can store the garbage; that they can
6 segregate the garbage. We've got bulky items, we've
7 got white goods, we have a spill, there's no analysis
8 of how they're going to handle this.

9 Just saying, "I'm going to train the
10 end loader operator;" all right, show us the training
11 program. Show us where you're gonna store this stuff.
12 Because when you store this stuff on the tipping
13 floor, things get crowded pretty quickly. None of
14 that's in the application.

15 No calculations to demonstrate the
16 stormwater. There's no stormwater analysis here. We
17 all know the area is prone to flooding. Have they
18 sized the culverts? Have they done any stormwater
19 analysis? I haven't seen it. It's not in the
20 application.

21 They have a building plan, but I have
22 not seen any analysis to show that those ditches are
23 sized properly. And this is important at a transfer
24 station because you don't want stormwater flooding the

1 building.

2 Most transfer stations are paired with
3 a company's other important businesses. So you notice
4 they do have a fuel tank to refuel their trucks.
5 Where are those trucks going to be parked overnight?
6 Most of the time, a hauler wants his trucks parked
7 right next to the transfer station to minimize travel
8 time. Not addressed.

9 Where are the containers? Garbage
10 trucks use -- I'm sure we're all familiar with
11 roll-off boxes at construction sites. Where are
12 those? Are those gonna be stored anywhere nearby?
13 Most haulers want those stored right next to their
14 transfer station also. None of that is addressed.

15 It's like they don't -- don't look at
16 that. None of that is addressed at all. But I can't
17 look at the application and say this is a problem
18 because there's nothing there.

19 Slide 14. We'll talk more about this,
20 but I heard for the first time yesterday that they're
21 gonna get water from the Fayette County Water Company.
22 None of that's in the application. But this causes a
23 problem.

24 They said the building is gonna be

1 sprinklers, so they've upgraded it from the last time.
2 From application number 3, they added the sprinkler to
3 application number 4. That's a good thing.

4 How are we going to actually operate
5 the sprinkler? The water company doesn't have enough
6 pressure to operate a sprinkler on a high hazard
7 building. That doesn't -- that doesn't work like
8 that.

9 So they either have to get water from
10 the water company, put it into a tank, keep it from
11 freezing, put into that tank a high-pressure pump to
12 run the sprinklers, and they have to have a backup
13 generator so when the power goes out during a fire,
14 the sprinklers work.

15 None of that is shown on the site.
16 Where are we gonna put a big water tank? There's not
17 room now to operate. When we start adding those types
18 of features to the site plan, they conflict with the
19 operations.

20 Alternately, you can do a well, but you
21 still -- you're still gonna need a tank, you're still
22 gonna need a big pump house, and you're still gonna
23 need an emergency generator. That's prior to.

24 None of that is shown. If this was --

1 trust me, we'll get it done, but everything impacts
2 something else on that facility.

3 15. There's no discussion of how the
4 stormwater will be conveyed to the ditch. It appears
5 it's going to be sheet flowed to the ditch, but there
6 are parts of the site that's not clear. There's no
7 delineation of the catchment area. There's no
8 delineation of if there's any stormwater runoff from
9 off site. There's no discussion of whether there's
10 farm tiles in the area and how those farm tiles are
11 going to impact the stormwater management system.

12 There's no calculations at all in the
13 application concerning stormwater. Is the ditch sized
14 correctly? Are the culverts sized correctly? There's
15 nothing. We need to see that stuff to make sure it's
16 sized and designed properly. There's nothing in the
17 application.

18 No discharge rates. Not even a guess,
19 not even a statement that stormwater from this
20 facility will be discharged at this rate, higher or
21 lower. There's just nothing. There's nothing.

22 And keep in mind, stormwater at a
23 transfer station, when they have a pit seven feet
24 below the ground and are storing garbage--and you'll

1 hear my testimony as to that, storing a hundred ton of
2 garbage overnight. And we know historically that
3 section has flooding. We can't allow that stormwater
4 to come in contact with the garbage. That's why
5 stormwater is important. It was ignored.

6 This is a drawing from their
7 application that tries to demonstrate there's
8 sufficient room for the semi-trailers to come in and
9 service the facility. But it actually demonstrates
10 quite the opposite.

11 Semi-trucks come in--and it's hard to
12 see, but you have the application--and the driver has
13 to make a perfect turn within inches of the pavement
14 to make it into the facility.

15 The second choke point is over here.
16 It's actually two. Again, the driver has to get
17 within inches of the edge of the pavement, perfect
18 turn every time to make that turn. Then he has to
19 pull up and he has to do a three-point turnaround. So
20 then he has to pull up, then he has to back up, and in
21 this case, they're actually showing the truck over the
22 pavement to be able to make it into the pit.

23 And while all this maneuvering, this
24 perfect maneuvering is occurring, don't forget we have

1 refuse trucks coming and going. How this semi does
2 this three-point turnaround perfectly every time
3 within inches of the edge of the pavement and in some
4 cases over the edge of the pavement, and not backup
5 traffic; we all know that's not gonna happen. There's
6 a conflict here. They didn't take the time to resolve
7 this conflict.

8 Next slide, please.

9 Again, this is an exhibit demonstrating
10 their queueing capability and where there are one,
11 two, three, four, five trucks on the scale and before
12 the scale. But if you look at the transfer trailers
13 when they're queueing, what happens to the transfer
14 trailer when it tries to enter the site? Where is it
15 going to go?

16 What if another truck's on the highway
17 and wants to enter? The whole abbreviated traffic
18 analysis doesn't show us how this stuff is resolved.

19 And you know, again, the design is
20 located -- this county board has an ordinance called
21 building setback regulation. These are the words of
22 the resolution, (as read:) Whereas, so the adequate
23 safety may be secured and congestion of public roads
24 and state highways, you need to be 90 feet from the

1 center line of the road to the building.

2 That's your ordinance. That's what --
3 that's what -- that's what you guys say you need to do
4 to be safe. That's your ordinance. That's your law.
5 They ignored that.

6 And you can't move the building another
7 whatever feet to make it safe; it changes the whole
8 site design. It goes back to it's not located to
9 protect the health, safety. By definition, your
10 ordinance says it's not safe. So we've -- we've got a
11 problem here.

12 And they can't move the building back
13 unless they increase the site. That goes back to my
14 original stance the site's too small, it needs to be
15 bigger. It needs to be bigger to do what they're
16 proposing to do. And it goes back to they just don't
17 have the expertise and experience.

18 Next slide. This a schematic of the
19 transfer station. And what we're showing here is how
20 much garbage can be safely stored on the floor. The
21 300 cubic yards in the lower left-hand corner
22 demonstrates the maximum amount of garbage they can
23 safely store in this facility. That blue area is a
24 plateau of eight foot which is the height of their

1 tipping push wall. And the white area is just a
2 one-by-one area coming down to the floor.

3 We show the three trucks in there, but
4 remember, you also have an end loader that still has
5 to be in there. And that would be parked behind the
6 uppermost truck. There's no other room to move.
7 That's how much room they have to store.

8 Now, we've already heard testimony that
9 they're going to select areas of the transfer station
10 floor to store bulky items, items that are
11 unacceptable at the transfer station. Every transfer
12 station has that. They get a tire, they throw them in
13 the corner until they get a load. This application
14 says they're gonna do that, but they don't show where
15 they're gonna do that.

16 This goes to the problem again. These
17 are dangerous facilities. People die in these
18 facilities and backing up is a dangerous thing in a
19 confined space.

20 So on the best day, they can store
21 300 cubic yards. Without everything else they're
22 doing. The problem is at 200 tons a day, they're
23 gonna need a lot more storage than that.

24 And again, this is part of every siting

1 application for every transfer station I've been
2 involved with. How much are we gonna move? How much
3 storage do we really need? There needs to be some
4 analysis, some thought given to it. There's no
5 analysis, no thought whatsoever given to it.

6 So let's -- although it's not our job,
7 it's their job, we'll walk through this a little bit.

8 So slide 20 shows different landfills
9 that they may use. And the point of this slide is
10 it's about four hours round trip from their proposed
11 transfer station to go to the landfill, to go up the
12 hill, dump, and come back. And this demonstrates the
13 travel time between the proposed transfer station and
14 the landfill. It does not include time once you're in
15 the gate; that's usually 15 or 20 minutes.

16 So 200 tons a day. A transfer trailer
17 holds 25 tons. We heard that and we agree with that.
18 That means you need eight transfer trailers a day to
19 get the garbage out of there. He says that they're
20 gonna use two transfer vehicles to deliver eight
21 loads.

22 And the problem with that is in the
23 morning, you don't have enough garbage to fill the
24 transfer trailer. There's not enough garbage there

1 until midmorning.

2 And the problem also is that the
3 landfills closes--depending on which one you go to--at
4 4:00 in the afternoon.

5 And we heard yesterday for the first
6 time that we're gonna be storing garbage in the
7 transfer station overnight. That's not in the
8 application. How much are we going to be storing --
9 how much garbage are we going to be storing in the
10 transfer station overnight? We will find -- well, a
11 hundred tons.

12 A hundred tons of garbage is going to
13 be stored in that transfer station overnight. Every
14 day. And what are they going to do on Friday? It's
15 going to sit there all weekend. You don't think odor
16 is going to be an issue? How about fire? You've got
17 a hundred tons of garbage sitting in that transfer
18 station overnight. Every night. Nobody there.

19 The hundred tons of garbage should have
20 been said that we're gonna leave a hundred tons of
21 garbage overnight. The whole town of Vandalia only
22 produces 16 tons a day. This is a lot of garbage.

23 So we got into some cross-examination
24 questions yesterday that again, I just don't

1 understand why we just don't answer the question.
2 They just don't answer the question.

3 This is part of their application.
4 This is an Effingham County Transfer Station receipt
5 for the last two weeks of August. This is the
6 applicant's bill at the transfer station as part of
7 the application.

8 Remember that discussion that how many
9 tons are in a packer truck? Oh, I don't know, maybe
10 it's ten or eight, I don't know, I don't know where
11 the six came from. Whether -- the six has been pretty
12 well documented. And maybe if he'd taken the class in
13 transfer stations, he'd understand that.

14 But this is his own bill. And if you
15 take the 14 loads from the last two weeks of July of
16 2018--and July is a big garbage month. You produce
17 more garbage in the summer than you do in the winter,
18 so this is a heavy garbage month. You take those 14
19 loads and you divide them and how much do you think it
20 comes out to per truck in a heavy -- on the heaviest
21 garbage month of the year? I didn't make this up.
22 6.66 tons per truck. So the evidence of that is in
23 their own stuff.

24 This is a through-put analysis. Again,

1 this isn't supposed to be done by us, it's supposed to
2 be done by them. You have to do this to know how to
3 design the facility. If you don't do something like
4 this, you don't know how to design the facility.

5 The facility is a functional facility.
6 We need to know the rate of the garbage coming in and
7 we need to know the rate going out so that we know how
8 much we have to store on the floor so that we make the
9 transfer station big enough to store the amount we
10 need. That was never done. It's part of every
11 transfer station design. So we did it.

12 The bottom line is it shows the
13 incoming tons--and this is based on hundreds of
14 transfer stations that we've worked on over the years.
15 Basically, when the garbage arrives and the ability to
16 load out and the load out.

17 And what it demonstrates, really, is
18 that -- the bottom line is we need 500 cubic yards of
19 storage. We don't have 500 -- we had 300 cubic yards
20 of storage. We need almost twice as much as we had.
21 And we haven't even accounted for those other things
22 that we're storing on the floor.

23 What happens when we don't have enough
24 storage? They start tipping with the truck body

1 outside. The garbage approaches the door. We get
2 litter outside the door. We don't have any idea
3 what's going on with the stormwater. Again, that's
4 absent.

5 And at the end of the day, when all the
6 facilities are closed, at 200 tons a day, we still
7 have a hundred tons of garbage in the transfer
8 station. We're only able to get rid of half of it
9 because of the hours of operation.

10 So we heard yesterday it's not going to
11 be on the floor. So he's going to apparently load
12 these transfer trailers and keep them in the transfer
13 station. But there's going to be a period of time
14 where he's going to have loaded transfer trailers
15 sitting out on the parking lot somewhere because you
16 can't operate the facility and park loaded trailers in
17 the inside either. How that dance works? None of
18 it's explained.

19 None of it's explained and it's because
20 there's no design. We're just building a building
21 that looks like this and we will ask for 400. No,
22 that was number 3. Number 3 we were going to have for
23 400. Now we're back to the application 4, there's
24 200. There's just no thought put into this.

1 When you have a facility that is taking
2 more garbage than it's designed to take, you end up
3 with litter outside. You end up with parked trucks of
4 garbage outside because there's just not room.

5 We know from the three-acre site,
6 there's no room to park semis. Where are they going
7 to park the semis on that site and not interrupt
8 traffic flow? There's nowhere to put it.

9 Again, the building is too small, the
10 site is too small, the design is arbitrary, the
11 request for tonnage is arbitrary.

12 If you look at the need, there's
13 18 tons a day maybe for Fayette, but nobody else has
14 got the need, everyone else is serviced. So the whole
15 thing is arbitrary, no thought put into any part of
16 this.

17 The real estate appraiser, Mr. Aumann,
18 offered no opinion on Criterion 3. Really, he didn't
19 offer anything on Criterion 3. So we have no expert
20 that has evaluated Criterion 3 and said, "In my expert
21 opinion, this meets Criterion 3." He wasn't here, we
22 didn't have a chance to cross-examine him.

23 He assumed in his letter--it's a
24 one-page letter as I recall--that the facility is to

1 be emptied and cleaned out every night. Huh-uh, it's
2 not going to be emptied and cleaned out every night.
3 It's going to have a hundred ton of garbage every
4 night. Every night. And on Friday, it gets to stay
5 there until Monday morning. I don't know what you do
6 on Memorial Day or Labor Day, I guess it stays until
7 Tuesday.

8 No plan for what happens when the bad
9 stuff shows up. It will show up. 200 tons a day over
10 decades of service, you're gonna have some bad stuff
11 show up. What are we gonna do with it? How are we
12 gonna do it? How are we gonna do it so it doesn't
13 burden the taxpayer? It's not your responsibility for
14 the fire department to go out there and clean this up,
15 it's their responsibility.

16 They should have a plan, they should
17 have training, and they should have a contract with a
18 response contractor in there that says, "We're ready
19 to go if that happens." None of that is there.
20 Nothing.

21 I talked about sprinklers. Adding the
22 sprinkler from version 3 to version 4 was great, but
23 how are you going to run it? I already talked about
24 this. These are low-pressure water mains, they don't

1 have the ability to run a sprinkler. Especially the
2 volume that we're talking about.

3 So I would think the only way to do it
4 is you would have to either put in a tank, heat the
5 tank, put a pump in that gives -- that provides the
6 high pressure. And you have to have a backup
7 generator so that when the power goes out during a
8 fire, it continues to operate.

9 Where are you putting all that stuff?
10 If you do it well, it's even worse. If you do it
11 well, you need all of that stuff plus there's a
12 minimum setback from the leachate tank to the well.
13 Where is -- there's no place -- it doesn't show us
14 where we're putting all this stuff.

15 We already know there's congestion on
16 the site. We already know when that guy is doing a
17 three-point turnaround and we have to park three or
18 four transfer trailers while we're still operating the
19 facility out in the parking lot somewhere, we don't
20 even know where these things are. There's just not
21 enough room to do what they're saying they want to do.

22 You know, these things burn down. It's
23 not unusual. I mean I'm -- maybe the applicant does
24 not, but I'm part of a new service that gets emails

1 every day on fires in solid waste businesses. And
2 every week, one of these facilities burns down. Every
3 single week somewhere around the country.

4 And they're big fires. These are not
5 small fires. When you have a hundred tons of garbage
6 and it starts on fire, that doesn't get out with a
7 hose reel or fire extinguisher. That's a lot of
8 water. A lot of water. 12,000 gallons they measured
9 it at. Do you know how much water that is?

10 And the fires are becoming more
11 frequent since the advent of lithium batteries.
12 People throw those small lithium batteries in the
13 garbage and they create fires at these facilities.
14 It's doubtful that these lithium batteries are going
15 away anytime soon, so expect more and more fires.

16 Six hours to put that fire out.

17 We don't -- they haven't told you how
18 they're going to handle it. This sprinkler system,
19 that doesn't work. There's a lot more to it than just
20 writing a one-sentence line. It's more complicated
21 than that.

22 You deserve a full traffic
23 analysis--your citizens deserve it--not an abbreviated
24 version. Not somebody who says, "Oh, we did that, we

1 did that, we looked at it." But none of it's in the
2 application. None of it's in there.

3 We know that the traffic counts that
4 they used are wrong. Then the traffic engineer says,
5 "Well, even if you're right and there are 34 trips a
6 day, it's still fine."

7 Well, there's -- the fact that they put
8 a traffic report together with the wrong counts is
9 kind of critical. You're supposed to do a traffic
10 analysis based on the worst-case scenario. And I'm
11 not even going to tell them what the worst-case
12 scenario is because it's more than 34. But we've
13 demonstrated it's a lot higher than there's.

14 There's no gap analysis. I think we
15 all know, you take a truck, a garbage truck that's a
16 semi loaded with 25 tons of garbage and you pull out
17 on that state highway, it's going to be going -- it
18 won't get up to speed for miles. We know that. And a
19 gap analysis takes the speed of traffic, the amount of
20 traffic, and determines whether there's sufficient
21 gaps in the highway to allow a heavy truck like that
22 to pull out on the highway and get up to speed safely.
23 That is a thing that should have been done. No, it's
24 fine.

1 That's an analysis that their traffic
2 engineer could perform. That's a good question. Can
3 they? Why didn't we see that? I'd like to see it.
4 And if it fits, that's fine. But we probably will
5 hear, "Oh, we did that and it's fine." But there's
6 nothing in the application about that.

7 Line of sight. You know, again, the
8 grain bins, the corn, that's a -- that's a figure that
9 could be developed to demonstrate if the line of sight
10 and the speed limit that's on that highway that goes
11 into the line of sight analysis. It's an analysis.
12 Why didn't we see that?

13 These guys are traveling 60, probably
14 65 miles an hour down that highway. How much distance
15 do we need to get out safely? That analysis wasn't in
16 here. We had the abbreviated version.

17 Is there a right-hand turn lane? As we
18 pull into the facility and decelerate, these
19 trucks--as they talk in their own exhibits--have to
20 make perfect turns to make it into that driveway.
21 Perfect within inches. That means they're going to
22 have to slow down to three miles an hour to make those
23 terms. Is a deceleration lane, a right-hand turn lane
24 required? They didn't address it. That's an analysis

1 that could be done and prove that it's needed or not
2 needed.

3 Is a left-hand turn lane required? As
4 they're pulling in and taking a left-hand turn lane
5 40, 50 times a day, do we need a left-hand turn lane
6 so that the traffic behind us can pass unobstructed?
7 That's an analysis that a traffic engineer can
8 perform. It wasn't performed here.

9 Is there a change in speed limit
10 required? Maybe because we've got these trucks coming
11 out, we need to reduce speed for that area. Or put up
12 reduce signage. None of that was addressed. A
13 traffic engineer has methods and analyses that can be
14 done to demonstrate all these things so we wouldn't be
15 sitting here wondering whether it's needed or not.

16 And it's their burden. Remember the
17 first part? Sufficient evidence. There's not
18 sufficient evidence at all in this as it goes
19 towards -- well, frankly, to anything.

20 I think we've hit traffic. Let's go --
21 you know, these state highways are dangerous. I
22 showed these slides last time. These are all 185. A
23 traffic analysis also looks at accidents: Where they
24 occurred; why they occurred; what were the

1 circumstances? Is this facility gonna impact the
2 accident rate?

3 Another analysis that's part of a
4 traffic report. It's not here. And we -- you know, a
5 simple internet search proves that 185 can be deadly.

6 Wow, that was confusing. Whether this
7 is consistent with the plan or not. It's really not
8 hard. It's not consistent with the plan. And it is
9 inconsistent with the plan.

10 So the half hour of cross-examination
11 where there was, "We need competition. It's not
12 inconsistent," none of that has anything to do with
13 need. The idea that it's not inconsistent, what's
14 that mean? It means it's not consistent if you look
15 at the entire plan.

16 The plan did not recommend any transfer
17 station in Fayette County period. So we'll walk
18 through this a little bit. Next slide, please.

19 This is a copy of the cover of the
20 plan.

21 Next slide, part two of plan.

22 The first part is the needs analysis
23 that demonstrates -- looks at how much garbage is
24 produced, looks at population projections. And if the

1 applicant even read the thing, he would have been able
2 to project less garbage in the future than they had
3 back in the 90s when they wrote this. So I don't
4 know.

5 Next slide, please.

6 So this is a page out of the
7 application. And what's notable here is two things.
8 One is this is page 325. So this is the third chapter
9 of the plan. There's six chapters, I think.

10 Yes, there's six chapters to the plan.

11 The way these plans work, you look at
12 all of the available options to reduce waste:
13 recycle, divert waste. And then you go through the
14 waste hierarchy of how to get rid of yours. Do you
15 waste the energy? Do we do landfills? Do we do
16 transfer stations?

17 And the plan works for that matrix and
18 then works with the elected officials, advisory
19 committee, citizens participation, and you ultimately
20 end up at a consensus of what you want to do.

21 This page is still talking about the
22 alternatives. This is not -- this is talking about
23 all of the alternatives. And the applicant, you know,
24 highlights certain sentences out of the third

1 paragraph of the plan--we're not even halfway through
2 the plan yet--and says that, "You know what, this
3 supports the plan."

4 This is not the plan. This is -- this
5 is -- this is like stopping a book halfway through and
6 saying, "Yeah, I know how this is gonna end." You're
7 only halfway through the book and he's drawing
8 conclusions that it's consistent. And if you've read
9 the pages front and back of this, it's not at all
10 what's going on.

11 Next slide, please.

12 Again, we're still evaluating -- we're
13 still evaluating alternatives. We're in chapter 4 and
14 are narrowing down the alternatives for Fayette
15 County. We're on chapter 4 out of 6. Again he
16 highlights something on alternative B. They now have
17 it down to three alternatives A, B, and C. And he
18 highlights B and the conclusion this is Fayette
19 County's plan. It's not. At that time, they
20 considered it and it was called alternative B, but in
21 the end you'll see that's not what they picked. They
22 didn't pick alternative B.

23 Now, let's go to the next slide.

24 So now we get to chapter 6. This is

1 the plan. Now we're at the end of the book. The
2 final step in the selection process was to choose the
3 program and facility options that would be included in
4 the plan. Table 16 displays the recommended program
5 and facility options by the state's hierarchy. The
6 recommended plan is in table 16, not -- we finally got
7 to the end of the book.

8 This is a resolution passed by your
9 board in 1995 that says Fayette County intends to
10 comply with the Solid Waste Planning and Recycling Act
11 by preparation and adoption and implementation of the
12 solid waste plan which is table 16. This is the plan,
13 table 16. You adopted the plan, you agreed to abide
14 by the plan, this is the law.

15 Table 16 shows the plan. At the top it
16 says Recommended Waste Management Plan Fayette County.
17 There's -- go through here. They wanted to export the
18 garbage to landfills that are out of county and then
19 support expansion of D&L which eventually went out of
20 business or closed. But it's exporting garbage with
21 the existing infrastructure.

22 It doesn't propose building a landfill
23 in the county. It doesn't propose building a transfer
24 station in the county. There's nothing about

1 competition. This is the plan. This is it. You
2 agreed to it, you passed a resolution that you would
3 follow it, this is the plan. It's really that simple.

4 Now I've lost my spot.

5 COURT REPORTER: Excuse me. Can we take a
6 short break?

7 MODERATOR KAINS: Absolutely. Let's take
8 a break. It's 10:22. Let's come back at 10:32.

9 (A break was taken.)

10 CHAIRPERSON WAGGONER: It is now 10:34 and
11 we will resume.

12 MODERATOR KAINS: Can you do this without
13 your lawyer for a few minutes?

14 MR. MOOSE: Sure. I've got other people
15 to work with.

16 MODERATOR KAINS: And here he is.

17 All right. Mr. Moose, go ahead.
18 You're still under oath, sir.

19 A. Next slide, please.

20 The applicant -- the burden of proof is
21 on the applicant, not on the objectors, to demonstrate
22 the lack of evidence. It's purely on them to show
23 that these questions have been addressed.

24 They failed to meet Criterion 1.

1 There's virtually no needs analysis contained within
2 the application. We've done a needs analysis that
3 shows that this service area, albeit but 7 percent of
4 it, is already covered by other facilities.

5 We had empirical evidence that
6 demonstrates transfer stations in the facility are
7 closing because of lack of need.

8 We have our own experience we know
9 there's no solid waste disposal crisis in the county.

10 We've demonstrated in Criterion 1 that
11 using the proposed facility, the vast majority of
12 areas within the service area will increase distance
13 and cost.

14 We've demonstrated that there's no
15 need. Their job is to prove need, we've demonstrated
16 no need.

17 Criterion 2 which is really important
18 to me is that the facility is designed, located,
19 proposed to be operated to protect the public health,
20 safety, and welfare. This is the fourth bite at the
21 apple; they still haven't gotten this down right.

22 They have not demonstrated that this is
23 safe. We've demonstrated in two or three areas that
24 it's not safe.

1 We've demonstrated that they're not
2 gonna get the garbage out of the facility at the end
3 of the day. That there's gonna be 200 tons a day, a
4 hundred tons of it will remain overnight. They
5 haven't said where they're gonna put that garbage.
6 They can't put trailers out in the yard at 2:00 in the
7 afternoon or 3:00 in the afternoon when the landfills
8 close because there's nowhere to put them.

9 We know that the transfer trailers have
10 to take this ridiculous perfect three-point turn to
11 get into the facility. It doesn't work, the site is
12 too small.

13 We know that they need almost twice as
14 much storage capacity on the floor at 200 tons a day.
15 We've demonstrated that. They should have proved to
16 us that it was sufficient.

17 We've demonstrated there's no provision
18 where to store rejected goods.

19 We've shown that there's no emergency
20 response plan for hazardous waste spill.

21 We've shown that -- they just said
22 they're gonna get a sprinkler system, but a
23 one-sentence line doesn't demonstrate that they've
24 come up with a fire protection plan that's adequate

1 for these types of high-hazardous facilities.

2 This is a low pressure, low volume
3 water system. It can't handle the volume and
4 pressures that are necessary to sprinkler a facility
5 like this. We know a similar size building is
6 15,000 gallons. These fires burn sometimes for days.
7 There needs to be an adequate fire protection plan
8 done, not just saying we're gonna do something.

9 Let just -- where's the tank going,
10 where's all this stuff going on a site where there's
11 no room to move around? It hasn't been planned for.

12 We know that the facility violates your
13 own ordinance when it comes to safety. Your ordinance
14 said to be safe, you've got to be 90 feet from the
15 highway; from the center line to the building.
16 They're 72 feet. Your own definition of safe, they
17 haven't even met that. We got that from their
18 drawings. We scaled the distance from the center line
19 of the highway to the point of the building. It's
20 72 feet plus or minus.

21 There's a lot more on safety, but
22 that's enough to reject it.

23 Stormwater. No calculations. We know
24 the area floods. We know we're keeping a hundred tons

1 of garbage a night. We know we're spilling a tip at
2 seven in the ground. How are they handling all this
3 stormwater? They haven't met Criterion 3.

4 5, traffic. You know, the -- traffic
5 is an important issue on this also. The idea that you
6 don't really do a traffic analysis and you just say,
7 "Well, we're only gonna go up 2 percent, that's close
8 enough, we're fine."

9 We all know these trucks are pulling
10 out into traffic that's going 65 miles an hour. A
11 traffic engineer has the ability to do analysis and
12 calculations to demonstrate the safety, it's just not
13 there.

14 You don't -- but an abbreviated traffic
15 report sounds like an abbreviated safety report.
16 Well, it's not -- it's kind of safe, we think. I
17 don't know. They don't even know what that means.

18 It's not consistent with the plan.
19 Taking something in the middle of the plan while
20 they're evaluating alternatives and to ignore the
21 conclusion, I don't -- I don't understand why you
22 would do that. But the conclusion is there's no
23 transfer station planned for Fayette County. You
24 passed an ordinance that adopt that plan. Chapter 8,

1 not chapter 4.

2 And this all goes to and the reason
3 we're here for the fourth time is that it all goes to
4 lack of expertise and lack of experience.

5 Thank you.

6 MODERATOR KAINS: Do you have any other
7 questions for Mr. Moose, Mr. Porter?

8 MR. PORTER: I do not.

9 MODERATOR KAINS: Cross-examination,
10 Mr. Shaw?

11 MR. SHAW: Yes.

12 MR. MOOSE: I'm gonna take a seat if
13 that's okay.

14 MR. SHAW: Sure.

15 MODERATOR KAINS: Keep your mic on.

16 Mr. Shaw, you may proceed with
17 questions of Mr. Moose.

18 CROSS-EXAMINATION

19 CONDUCTED BY MR. SHAW:

20 **Q. Mr. Moose, how many pollution control**
21 **facility siting proceedings have you testified in as**
22 **an expert?**

23 A. Probably over 40.

24 **Q. Isn't the Effingham County Transfer Station**

1 smaller than the one proposed here?

2 A. I have no idea.

3 Q. You have no idea about the Effingham County
4 Transfer Station?

5 A. No. I was not involved in the design,
6 siting, permitting of that facility.

7 Q. You have testified today about other
8 transfer stations in the downstate area, have you not?

9 A. No, not that I recall.

10 Q. You just mentioned the status of various
11 transfer stations that you suggested were exemplary.

12 A. I assessed their existence and service area,
13 not the design.

14 Q. But you have no curiosity about the only
15 transfer station that is within 30 miles of the
16 proposed facility?

17 A. That's not the subject of this hearing.

18 Q. So you have no way of knowing whether or not
19 the Effingham County Transfer Station is so situated
20 it could handle capacity waste needed in that area?

21 A. Can you repeat that?

22 Q. Can you read that?

23 (Court Reporter read back the
24 requested information.)

1 A. I didn't evaluate the capacity of that
2 transfer station. Purely the applicant's job.

3 **Q. The applicant of the Effingham County**
4 **Transfer Station?**

5 A. No, your -- your client's responsibility.
6 That would be part of the needs analysis.

7 **Q. You testified that there were capacity**
8 **issues at the transfer station --**

9 A. That isn't in the record if that's true.

10 **Q. Okay. Have you been to the proposed**
11 **location of this facility?**

12 A. Yes.

13 **Q. Are you claiming that this transfer station**
14 **will be treating, storing, or disposing of hazardous**
15 **waste?**

16 A. I'm testifying there's high likelihood that
17 that will show up at some period during the course.

18 **Q. Are you aware that --**

19 MR. PORTER: Objection. Please allow him
20 to finish his answer.

21 MODERATOR KAINS: Objection stained.

22 Mr. Moose.

23 A. Their plan for the arrival or inappropriate
24 delivery of material should be part of the

1 application, that it's not knowingly accepted.

2 Q. Isn't it true that Criteria 7 states, quote,
3 (as read:) If the facility will be treating, storing,
4 or disposing of hazardous waste, various requirements
5 apply. Is that correct?

6 A. Yes.

7 Q. Are you saying that this facility will be
8 treating, storing, or disposing of hazardous waste?

9 A. I'm saying it's likely to show up at some
10 period during the operations.

11 Q. You're not answering the question. Isn't it
12 true that a facility that's treating, storing, or
13 disposing of hazardous waste will ultimately need to
14 get a hazardous waste permit from the Illinois
15 Environmental Protection Agency?

16 A. I don't think there's a permit for transfer
17 of hazardous waste that exists.

18 Q. Do all facilities, all transfer stations
19 treat, store, or dispose of hazardous waste?

20 A. No.

21 Q. Why does this facility treat, dispose, or
22 store hazardous waste?

23 A. I'm saying that it's likely that it shows up
24 at some period. That they should have a hazardous

1 response plan. Part of the problem with the
2 application that I hope that the county knows is it's
3 deficient. So when it comes to the load checking
4 program, how they ensure that their customer is not
5 bringing hazardous waste to the site.

6 There's normally a load checking
7 program that's part of the siting application. That
8 load checking program goes through the customer list,
9 identifies those customers that have certain
10 industrial, commercial accounts. They audit those
11 customers and then they check those loads as they come
12 into the transfer station.

13 They also do random loads checking of
14 waste as it arrives on the floor. During the course
15 of the week, they might do three random load
16 evaluations. And they keep those records so they're
17 sure that this type of material is not getting in.
18 And then based on the frequency of identifying
19 unacceptable waste, they make a reaction plan. They
20 either increase the number of load checking, but the
21 rule is they go back to the root cause; where is that
22 coming from? And it starts with going through
23 customers.

24 That should have been in the

1 application. It's completely absent from the
2 application. And that's why, if you've got somebody
3 with lack of experience, without doing load checking,
4 they didn't say they were going to do any of that,
5 it's very highly likelihood you're going to end up
6 with that material in this facility.

7 **Q. Mr. Moose, you testified this facility does**
8 **not meet Criteria 7. To be subject to Criteria 7, the**
9 **facility must be treating hazardous waste. Is this**
10 **facility planned to treat hazardous waste?**

11 **A. No.**

12 **Q. Is this facility planned to store hazardous**
13 **waste?**

14 **A. No.**

15 **Q. Is this facility planned for disposing of**
16 **hazardous waste?**

17 **A. No.**

18 **Q. Did you review the county Solid Waste**
19 **Management Plan?**

20 **A. Yes.**

21 **Q. That plan is for years 1995 to 2015, is it**
22 **not?**

23 **A. It is still in effect.**

24 **Q. The chart that you highlighted, which I**

1 believe is table 16, has different recommendations for
2 different years; isn't that correct?

3 A. Yes.

4 Q. And it has a recommendation for year one
5 and that would reflect the requirements of 1995; isn't
6 that correct?

7 A. Yes.

8 Q. Isn't it true that there are no requirements
9 for 2022 on that chart?

10 A. Yes, that means they're not proposing a
11 transfer station. If they proposed a transfer
12 station, there would be something in there. They
13 evaluated transfer stations under alternative B --

14 Q. 2022 --

15 MR. PORTER: The answer is clearly
16 responsive, he needs to be allowed to finish.
17 Objection.

18 MODERATOR KAINS: Mr. Shaw, just allow him
19 to finish and then you'll be able to ask your next
20 question. Mr. Moose, you can continue your answer.

21 A. If you review the entirety of the plan, as
22 required by the 1988 Planning and Recycling Act,
23 counties are required to develop a solid waste plan
24 and review all alternatives. And those alternatives

1 have a hierarchy. Everything from building an
2 incinerator to handle the county's garbage was
3 considered, as required by law.

4 Transfer stations were also evaluated.
5 And that was under an early scenario called
6 Alternative B. That scenario was rejected.

7 **Q. Isn't it true that the Chapter 7 of the plan**
8 **contemplates requiring a \$10,000 to \$25,000 filing fee**
9 **as a means of funding the requirements of the plan?**

10 **A. I don't recall that portion of that.**

11 **Q. No further questions.**

12 **MODERATOR KAINS: Mr. Porter, redirect of**
13 **the witness?**

14 **REDIRECT EXAMINATION**

15 **CONDUCTED BY MR. PORTER:**

16 **Q. In regard to the funding in the plan, isn't**
17 **it true that all the plan mentions is that counties**
18 **can establish revenue streams in relation to solid**
19 **waste management, one of which is charging application**
20 **fees? That was just one of the things that was**
21 **referenced could be done in the plan but was never**
22 **adopted by Fayette County?**

23 **A. I did not evaluate the fees.**

24 **Q. Counsel brought to your attention that the**

1 plan references that's a 20-year plan. Isn't it true
2 that there's a procedure that can be employed to amend
3 and/or redo a plan?

4 A. Yes.

5 Q. And it can be or generally is done every
6 five years by counties that are diligent; is that
7 correct?

8 A. Yes.

9 Q. This plan has never been amended; is that
10 right?

11 A. No.

12 Q. So the plan --

13 A. Yes, that's correct.

14 Q. By the way, you looked at the ordinance that
15 explicitly adopted this plan; is that correct?

16 A. Yes.

17 Q. And did you happen to bring that with you
18 today?

19 A. I thought I showed it.

20 Q. Did you? I think it's on one of your
21 slides.

22 A. Yeah. I've got my slides out of order.

23 Q. I'm sorry, it's not yet an exhibit.

24 Have you now handed me the ordinance

1 that you referenced?

2 A. Yes.

3 Q. And I would move for admission of same as
4 Exhibit -- number?

5 MODERATOR KAINS: I think you're on 18.
6 Isn't that right, Eric?

7 MR. BORNEMAN: That's right.

8 MODERATOR KAINS: Mr. Shaw, any objection
9 to this document being marked and admitted as
10 Exhibit 18?

11 MR. SHAW: No objections.

12 MODERATOR KAINS: It is so admitted.

13 MR. PORTER: And I'll supply copies as
14 soon as I can.

15 MODERATOR KAINS: Okay. Copies will be
16 provided. I think the board is well aware of its
17 ordinance though, but a copy of Exhibit 18 will be
18 provided to you at all within the 30-day written
19 comment period.

20 MR. PORTER: I have nothing further.

21 MODERATOR KAINS: Okay. Mr. Shaw, any
22 recross?

23 MR. SHAW: No recross.

24 MODERATOR KAINS: Very good.

1 Members of the Fayette County Board,
2 you may now ask questions if you so choose of
3 Mr. Moose. Are there any questions from the County
4 Board members?

5 CHAIRMAN WAGGONER: So just one question.
6 If the waste management plan has expired in 2015, then
7 why are we still under the same rules if it's expired?

8 A. It doesn't expire. It's still in effect.
9 They had a planning window and they recommended the
10 plan be updated every five years. And for whatever
11 reason, that wasn't done, but the plan is still in
12 effect.

13 CHAIRPERSON WAGGONER: So it's not --

14 A. It doesn't expire because you're required by
15 law to have a solid waste plan.

16 CHAIRPERSON WAGGONER: Correct, correct.
17 But if it was never updated, then is it like a lame
18 duck?

19 A. It's either not updated because you found it
20 sufficient or you didn't feel the need for it to be
21 changed or it fell through the cracks, but the plan is
22 still there. It doesn't go away because you have to
23 have one.

24 CHAIRPERSON WAGGONER: What year is that

1 ordinance? I'm sorry.

2 A. I don't have it front of me now.

3 MR. PORTER: Passed December 13, 1994.

4 CHAIRPERSON WAGGONER: Okay, so yeah,
5 honestly -- okay, I got it.

6 MODERATOR KAINS: Any other questions from
7 the board for Mr. Moose?

8 BOARD MEMBER WEHRLE: Does the EPA allow
9 trash to be on the tipping floor overnight?

10 A. No.

11 BOARD MEMBER WEHRLE: So everything has to
12 be at least loaded?

13 A. At least loaded, and they generally limit
14 that. For example, you don't want -- you want --
15 normally, you want it, like if you've got a partially
16 filled transfer trailer, they allow you to have one
17 partially filled transfer station because you run out
18 of garbage to fill it. And then maybe one more. But
19 having, you know, 50 percent of the garbage stored
20 over the weekend is an extraordinary ask.

21 MODERATOR KAINS: Any further questions
22 from the board for Mr. Moose?

23 Thank you, folks. Mr. Moose, thank
24 you, you may step down.

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Mr. Porter, caller your next witness.

MR. PORTER: We would call Brian Hayes.

BRAN HAYES,

called as a witness herein, having been duly sworn on his oath, testified as follows

DIRECT EXAMINATION

CONDUCTED BY MR. PORTER:

Q. State your name for the record, please.

A. Brian Hayes.

MODERATOR KAINS: Could you spell your first and last name for the record?

A. B-r-i-a-n. H-a-y-e-s.

Q. Thank you. And where do you live, Mr. Hayes?

A. Effingham, Illinois.

Q. And what do you do for a living?

A. Manage and operate Sanitation Service, Incorporated which is a hauling company; Landfill 33, Ltd. which is a disposal facility or landfill, solid waste landfill.

Q. Is one of the facilities that you are owner of, your company as an owner of the Effingham County Transfer Station?

A. In addition, yes, Effingham County Transfer

1 Station.

2 Q. And from where -- how did you come -- your
3 company come to be an owner of Effingham County
4 Transfer Station?

5 A. We were approached by the operators at that
6 time if we would be interested in purchasing their
7 whole operation including their hauling company, the
8 transfer station, and the good will of their
9 customers.

10 Q. And when you purchased it, was it operating?

11 A. Yes.

12 Q. And had it already gone through its own
13 siting hearing in Effingham County?

14 A. Yes.

15 Q. And did you purchase the entire Sutter
16 Sanitation Services business?

17 A. Yes, we did.

18 Q. And did that include its good will, its
19 customers, its agreement that the name would no longer
20 be used?

21 A. Very much so. That was very important to
22 us.

23 Q. And when all that occurred, was Mr. Sutter
24 an employee of Sutter Sanitation?

1 A. Yes, he was.

2 Q. And was he the operator of their transfer
3 station?

4 A. No, he was not.

5 Q. What did he do for them?

6 A. Drove a rear load garbage collection truck.

7 COURT REPORTER: Excuse me, you might want
8 to pin that mic on, I believe they are having trouble
9 hearing you in the back.

10 Q. And actually, I didn't hear it very well
11 either. If you could repeat your last answer. What
12 did Chris Sutter do at -- when you acquired Sutter
13 Sanitation? What was his role as an employee there?

14 A. Drove a rear load collection truck.

15 Q. Now, in Mr. Sutter's direct testimony, in
16 his application, he has referenced that he never
17 intended to work for you guys. Was that your
18 recollection of what went down at that time?

19 A. I've got a very clear and vivid
20 recollection. When I went out and spoke to the
21 employees of Sutter Sanitation and the Effingham
22 County Transfer Station, that Chris stepped out in
23 front of everybody and thanked us for purchasing his
24 family's company and encouraged everyone to work hard

1 to help us recoup our investment.

2 Q. So obviously, he was making a speech that he
3 was grateful to continue to be an employee and was
4 urging others to work hard to recoup the investment;
5 is that right?

6 A. Very much so.

7 Q. And you heard Mr. Sutter again deny he ever
8 made that statement. Was that true?

9 A. I did hear that.

10 Q. Was his statement true?

11 A. No.

12 Q. Now, let me show you what's been marked I
13 think Exhibit 13.

14 I don't know if you guys noticed, but
15 yesterday I broke my glasses. I have no choice to
16 read it in front of me, I can't see that to save my
17 life. Sorry.

18 Now, Exhibit 13 is two documents
19 actually. And what are those documents?

20 A. Solicitations for Chris Sutter to continue
21 the third generation of Sutter Sanitation and to
22 attempt to maintain and keep the customers that we had
23 purchased.

24 Q. How did you come to acquire these documents?

1 A. Various ways. We were just made aware that
2 they were being distributed.

3 Q. And let's go through a couple of them real
4 quick. So the one with the family picture on it says,
5 (as read:) So don't get caught up in the new buyout
6 of Sutter Sanitation. Contact us to keep this third
7 generation going. Is that correct?

8 A. Yes, it does.

9 Q. And then the next one says, (as read:) If
10 you'd like to continue with Monday service of your
11 trash removal and would like to keep the Sutter name
12 continuing, please contact Chris Sutter at his phone
13 number; is that correct?

14 A. Yes, it is.

15 Q. Now, when you learned that that was
16 occurring, did -- was a meeting held at your facility?

17 A. Yes. We --

18 Q. Just tell us how that happened?

19 A. We contacted Chris to come into our office,
20 that we needed to discuss -- have a talk. Myself was
21 present, Julie Hayes was present, Richard Diebel was
22 present, our attorney at the time was present.

23 And he was made aware that we were --
24 that we were made aware of the fact that he was

1 distributing pamphlets soliciting his own collection
2 company while he was still employed for us. And that
3 we accepted those solicitations as his resignation.

4 Q. And at no time prior to that meeting had he
5 quit; is that correct?

6 A. No.

7 Q. Let me show you a document which is one of
8 our exhibits. So I'm showing you and the board
9 Exhibit 12. Is this something that you put together?

10 A. Yes.

11 Q. And what is that?

12 A. This is obviously a map of I'll say south
13 central Illinois that depicts the different pollution
14 control facilities that are in the area.

15 Q. And what are the white pegs?

16 A. The white pegs represent existing landfills.

17 Q. And what are the red pegs?

18 A. Red pegs demonstrate operating transfer
19 stations.

20 Q. And there's a yellow peg; what is that?

21 A. That is the proposed location of the subject
22 of this hearing today for Fayette County Transfer
23 Station.

24 Q. Okay. Anywhere -- and so approximately --

1 so what are the concentric circles? Let's start with
2 that.

3 A. They're basically ten-mile circles from the
4 Effingham landfill.

5 Q. Okay. In this one, I think the furthest
6 circle is actually 50 miles; is that correct?

7 A. Right. And the 40-mile circle is in I think
8 blue. It's hard to see, but you can -- it would be
9 halfway between 30 and 50.

10 Q. Okay. And so best estimate, how far out do
11 the pegs go? The white pegs?

12 A. Oh, looks like 70 miles, 80 miles possibly.

13 Q. Okay. And in that approximate 70, 80-mile
14 circumference area are there any waste pollution
15 facilities as close to each other as the Effingham
16 County Transfer Station and the new proposed transfer
17 station if this board were to somehow allow it?

18 A. Not even remotely.

19 Q. And how far is the Effingham County Transfer
20 Station from Mr. Sutter's proposed site?

21 A. I believe it's 11 or 12 miles, somewhere in
22 that vicinity.

23 Q. Now, do your -- does your company serve the
24 now 30-mile proposed service area of Mr. Sutter's?

1 A. Yes, it does.

2 Q. And at any time have you had any problems
3 providing capacity for that service area?

4 A. No, we have not.

5 Q. Now, Mr. Sutter mentioned something that
6 happened last Friday. That somebody allegedly told
7 him that Effingham County Transfer Station did --
8 urged a particular load not to come into the facility.
9 Do you recall that testimony?

10 A. Yes, I do.

11 Q. And Mr. Sutter and his attorney just a
12 moment ago seemed to suggest that that was a capacity
13 problem for the Effingham County Transfer Station.
14 Did you hear that?

15 A. Yes, I did.

16 Q. What was actually the situation, if you
17 would?

18 A. Well, his first mistake was the statement
19 that I made the statement that loads were being
20 refused from the transfer station which actually was
21 not true.

22 And the reality of the matter is the
23 two drivers that we have that take the trash from the
24 transfer station to the landfills that we use, one of

1 those two drivers had a daughter that was involved in
2 a traffic accident in Indiana. And during the whole
3 course of that week, he was there, not there,
4 traveling back and forth between Effingham and Indiana
5 to accommodate or be with his daughter as a result of
6 the accident.

7 We covered for him that whole week. It
8 was only on the following Monday that I got a call
9 from a hauler that just asked me what was going on and
10 why the -- really, one of the operators that has been
11 at the transfer station forever asked this hauler as a
12 personal favor to him because they worked together for
13 all the years they been taking trash to our transfer
14 station, if he would just divert one load on Friday to
15 help us get caught up because of the fact that we had
16 a driver that was missing because of his daughter that
17 was involved in a traffic accident that ultimately
18 ended up with the amputation of her leg.

19 **Q. Okay. So you had a very short-term**
20 **personnel issue due to an extreme crisis of one of**
21 **your drivers, and another employee asked that someone**
22 **go somewhere else that day; is that right?**

23 **A. Yes. And we had already made arrangements**
24 **to have a new driver to show up on that following**

1 Monday. Which is when I first heard this whole
2 scenario.

3 And even to back that up, the driver
4 that had just retired from us said he would be more
5 than happy to help us out whenever it was necessary
6 and he was on vacation out of town. So we did have
7 another driver that showed up on that Monday. That's
8 when I was made aware that there was a request for one
9 load to be diverted.

10 I went to the transfer station, I
11 talked to our employee, made sure I knew what was
12 going on and what we needed to do to resolve it. And
13 the driver that we had in place was able to take a
14 third load that day and we were caught up within one
15 day.

16 **Q. Okay. So what is through-put capacity, the**
17 **permanent through-put capacity for the Effingham**
18 **County Transfer Station?**

19 A. 300 tons.

20 **Q. And approximately how many tons does it see**
21 **flow through it at the present time?**

22 A. 120 on average.

23 **Q. And the one day that one of your employees,**
24 **actually the one week that one of your employees was**

1 dealing with the amputation of his daughter's leg, is
2 that a usual occurrence for your business?

3 A. No, it is not.

4 Q. And do you slight the employee that was
5 trying to accommodate that father?

6 A. Absolutely not.

7 Q. Can and does the Effingham County Transfer
8 Station serve the service area that Mr. Sutter is
9 proposing?

10 A. Yes, it does.

11 Q. Is there any need for Mr. Sutter's transfer
12 station to increase capacity or reduce costs?

13 A. Not at all. If you'd like me to elaborate;
14 his business plan is absolutely identical to our
15 business plan.

16 Q. Go ahead and explain that, please?

17 A. He's taken the operation that we have and
18 duplicated that with the same service area, same
19 customers, same volume, same number of trucks, and
20 possibly the same landfills that we use. It's a
21 mirror of our present operation.

22 Q. And so it's strictly an effort by this
23 applicant and the owners of that land to garner
24 revenue; is that correct?

1 A. That can only be my assumption. I'm not --
2 it's hard to tell what's all going on there.

3 Q. You've been in the business for how long?

4 A. Oh, will be 30 years in June.

5 Q. And Mr. Sutter's statement that, well, in
6 his experience, there's more population in the area
7 now even though the census doesn't agree with him;
8 have you had that experience in your business?

9 A. An increase in the population or --

10 Q. So he's testified that he's basing his
11 belief that there's a need on his belief that he's got
12 more work now than he did before, I guess. Has that
13 been your experience, that the population is growing?

14 A. No.

15 Q. Okay.

16 A. No.

17 Q. By the way, you heard Mr. Sutter's testimony
18 as to need, and it relied almost completely on his
19 belief that Landfill 33 would be reaching capacity in
20 three to five years. Do you recall that?

21 A. Yes, I do.

22 Q. And isn't it true that you brought an
23 application for a landfill immediately adjacent to
24 Landfill 33?

1 A. Yes.

2 Q. And the name of that landfill is Effingham
3 Crossroads Landfill; is that correct?

4 A. Correct.

5 Q. And what's the status of the permit in
6 relation to that landfill?

7 A. We have an approved permit inhouse that has
8 went through the local siting unanimous and was also
9 approved by the EMA.

10 Q. So if needed, facilities will be able to use
11 that landfill in the near future; is that correct?

12 A. Absolutely.

13 Q. And in the meantime, is there capacity
14 available at Landfill 33?

15 A. Yes, there is.

16 Q. And as a matter of fact, has an expansion of
17 that been allowed by the local siting authority?

18 A. Yes. We also received unanimous approval
19 through local siting.

20 Q. And that allowed for a reconfiguration of
21 the waste such that there's actually more capacity now
22 under that expansion; is that correct?

23 A. Correct.

24 Q. So would you agree that Mr. Sutter's entire

1 premise for need fails?

2 A. Yes.

3 Q. We also know, shockingly, Mr. Sutter
4 included some medical bills in his application which I
5 don't see anybody with the application in front of
6 them, but if you dive into that, you'll find two
7 medical bills that Mr. Sutter has included. And he
8 puts in there something about "This is to address
9 those that would suggest that I'm lying."

10 When you had that meeting with Mr.
11 Sutter, did he make some statement to you about why it
12 was unnecessary for you to worry about getting back
13 your customers?

14 A. Well, it wasn't in that same meeting, but it
15 was after some time had passed. But yeah, we covered
16 that before, and it's hard to even mention, but for
17 the sake of the record, he explicitly told me he had
18 six months to live, was dying of terminal cancer. You
19 know, it was his life-long wish to run his collection
20 company.

21 Q. And that conversation took place six years
22 ago; is that correct?

23 A. That's correct.

24 Q. Isn't it true that the two bills--one for

1 \$30 and one for \$50--make no mention of a diagnosis of
2 cancer?

3 A. No, I can't make any correlation with those
4 whatsoever.

5 Q. One is a bill to an insurance company,
6 doesn't say anything about what it's for, and the
7 other is from a radiologist; is that right?

8 A. Correct.

9 Q. Now, we also heard about -- and again,
10 shockingly, there was some reference in Mr. Sutter's
11 application about an altercation between Richard
12 Diebel and him in 2009. Do you recall that?

13 A. Yes, I do.

14 Q. And who is Richard Diebel; let's start
15 there?

16 A. That would be my brother-in-law.

17 Q. And -- your wife's brother; is that correct?

18 A. Yes.

19 Q. And do you know what the -- well, strike
20 that.

21 When you bought Sutter Sanitation, did
22 Chris Sutter mention that altercation ever?

23 A. No.

24 Q. And to the contrary, he gave a speech as to

1 **how great it was that you guys had merged; is that**
2 **correct?**

3 A. Correct.

4 **Q. And what was the reason for that**
5 **confrontation?**

6 A. Well, it is the culmination of just
7 extremely irrational behavior, in my opinion, from
8 Chris that started by -- where we live on Route 3233,
9 which is a state highway just like Route 185, when he
10 would be driving his garbage truck and my wife would
11 pull out of our driveway taking the kids to school --

12 **Q. We can --**

13 A. He would swerve his truck over the center
14 line.

15 **Q. So if I understand correctly, while driving**
16 **a collection -- a waste collection vehicle, Mr. Sutter**
17 **was intentionally swerving toward your family; is that**
18 **correct?**

19 A. So many times that the kids had to ask, "Who
20 is that guy?" And I've personally experienced it.
21 Leaned out the window of the truck, banging on the
22 side of the door and screaming at me.

23 **Q. And Julie's brother took offense to that; is**
24 **that right?**

1 A. Well, it was a combination of that behavior
2 and it was my understanding that Richard was in a
3 vehicle in very close approximation to a garbage truck
4 that Chris was driving, and he honked the air horn
5 that scared or intimidated or just alarmed Richard.

6 And it was just a matter of smacking
7 the bear in the ass one too many times and the bear
8 growls back, is the way I would -- it was 100 percent
9 totally initiated by the actions by Chris Sutter.

10 MODERATOR KAINS: Mr. Porter, could we
11 move on to something that's a little more relevant.

12 **Q. Well, I'll address that. I can't think of**
13 **anything more relevant than how Mr. Sutter conducts**
14 **himself while operating waste vehicles in a wholly**
15 **dangerous and unsafe manner. This completely goes to**
16 **his operating history.**

17 MODERATOR KAINS: Ask another question.

18 **Q. Actually, that was my last one,**
19 **interestingly.**

20 MODERATOR KAINS: There you go.

21 **Q. Anything else you would like to add, Mr.**
22 **Hayes?**

23 A. Just let me look at my notes here.
24 There were a couple things.

1 **Q. Oh, I'm sorry, yeah. So did you have an**
2 **opportunity -- I -- did you have an opportunity to go**
3 **out to the site recently?**

4 **A. Yes, I did.**

5 **Q. And what did you see?**

6 **A. It was July 27th of this year --**

7 **Q. I need to stop you for a second. Did you**
8 **have a chance to go out to the proposed location of**
9 **Sutter's transfer station?**

10 **A. Yes, Route 185 and 1575th, I believe.**

11 **Q. And what did you see?**

12 **A. The first thing that I saw, obviously, on**
13 **1575th as I'm coming would be north to Route 185,**
14 **there's debris on the road that was the result of high**
15 **water. You could see where the waterline has stopped**
16 **and debris was right in the middle of the road**
17 **immediately in front of the proposed location.**

18 **Q. Okay. So you saw that there had been recent**
19 **flooding at that proposed location; is that accurate?**

20 **A. Yes; in addition to all the photos that were**
21 **shown at the last hearing of the high water in that**
22 **exact same location. So it seems like a recurring**
23 **occurrence.**

24 **Q. Did you also take some photos yourself about**

1 that area?

2 A. Yes. I proceeded what I would call west on
3 185 towards 1525th. The long, slow curve that is
4 there.

5 Q. So let me show you a document I'm going to
6 have marked as Exhibit 19. Is that the curve that you
7 are talking about?

8 A. Yes.

9 Q. And why did you take a picture of that
10 curve?

11 A. Well, it's very close proximity to where the
12 trucks would be entering and existing the highway to
13 use the transfer station -- proposed transfer station.

14 Q. And does it show that there is a sight line
15 problem because of the curve?

16 A. Absolutely.

17 Q. Okay. Let me show you another view and you
18 can -- and this one we'll have marked as Exhibit 20.
19 And it references 1525 north. Do you see that?

20 A. Yes.

21 Q. And just tell us what that picture is of,
22 please?

23 A. Well, this picture here would demonstrate
24 where I was when I took this picture which would be

1 just somewhere down in this location between this
2 cable box and these grain bins. Which the facility is
3 actually gonna be to the west of these grain bins, so
4 well out into this cornfield here, the start of this
5 curve.

6 But as I looked to the left, you can
7 obviously see the line of sight is around the curve
8 with what's presently a bean field there. But as we
9 all know, as we alternate crops, next year when that's
10 corn and the height of our corn in southern Illinois,
11 your sight line will be restricted all the way back to
12 this cable box which will be, in my estimation, a
13 75 percent reduction in your line of sight.

14 **Q. Okay. And let me show you one last photo,**
15 **please. Is that from the same area?**

16 A. Yes. This is at the corner of 1525th and
17 185 looking to the right, what I would call west.

18 **Q. Okay. And we're gonna have that marked as**
19 **Exhibit 21. So tell me what you're seeing there?**

20 A. Extremely tall weeds that blocks total view
21 of the traffic coming from the west.

22 **Q. So if you're looking the other direction and**
23 **that would happen to be corn, would you expect the**
24 **same type of view when corn is planted?**

1 A. Yes.

2 Q. Okay. Now I have nothing further.

3 MODERATOR KAINS: All right. Mr. Shaw.

4 A. Wait, can I --

5 Q. I'm sorry. Do you have anything else to
6 add, Mr. Hayes?

7 A. I do.

8 Covered that.

9 I just did -- I really want -- passing
10 the accolades that have been directed to me for the
11 helping the safety of Fayette County residents and
12 really pass that on to Peg Washburn. She was the one
13 that brought this to our attention.

14 And I will say that it's been my
15 pleasure to have met Peg. And when she brought this
16 information to us, just basically said, "This doesn't
17 seem right." And she showed us all the information
18 she had to where there was a document that was being
19 presented to the Fayette County Board ready to sign
20 for a transfer station, and she just said, "This
21 doesn't seem right."

22 And I just want the board to know that
23 our involvement from that point has always been one to
24 try to help the board make the right decision when it

1 comes to siting a pollution control facility.

2 Our first reaction was to provide the
3 State's Attorney and the county board chair with all
4 the regulations necessary to conduct a hearing for a
5 solid waste transfer facility. So -- and we've
6 always -- we've always been and even our commitment to
7 buy the Effingham County Transfer Station, our
8 commitment was also to our service area which includes
9 Fayette County.

10 So we've been in the hauling business
11 for 60 years, the landfill business for 40 years.
12 Which for a single family to be in the landfill
13 business at this day and age is unheard of.

14 So our purchase of the Effingham County
15 Transfer Station and that hauling was just another
16 commitment to our service area which includes Fayette
17 County. It's just a preservation of that is just as
18 much why we're here, in addition to really helping
19 Fayette County to make the right decision and make
20 sure it's done properly.

21 And I believe that will be it.

22 MR. PORTER: Thank you very much. I have
23 no further questions.

24 MODERATOR KAINS: Okay, thank you.

1 Mr. Shaw, cross-examination of
2 Mr. Hayes.

3 CROSS EXAMINATION
4 CONDUCTED BY MR. SHAW:

5 Q. Mr. Hayes, how many acres is your waste
6 transfer station located on?

7 A. I don't have that information in front of
8 me.

9 Q. Have you been to your waste transfer
10 station?

11 A. Yes, I have.

12 Q. Have you ever signed any applications or
13 permits that indicate the number of acres your waste
14 transfer is authorized to operate on?

15 A. No, I have not.

16 Q. You have not signed any regulatory language
17 for permits for the waste transfer station?

18 A. Well, that's a pretty broad question, but
19 the way I understand it, no.

20 Q. Is the waste handling business declining for
21 either your landfill or waste transfer station
22 operations?

23 A. I guess I need you to rephrase that. Is our
24 business declining?

1 Q. You were just asked about the -- whether or
2 not the areas are increasing or declining. I'm asking
3 specifically about waste issues. Is waste issues --
4 or is the waste you're handling increasing or
5 declining at either the transfer station or the
6 landfill?

7 A. It's consistent.

8 Q. Has Mr. Sutter been allowed to use Landfill
9 33?

10 A. Glad you brought that up. When Mr. Sutter
11 made the decision to try and take back from us all the
12 accounts that we had just purchased from his family,
13 that he had the opportunity to purchase, we had a
14 sit-down meeting in our lunchroom where Chris Sutter
15 specifically requested to dump only at the transfer
16 station and had no desire to dump at the landfill
17 because he wanted to dump on the concrete pad. And we
18 agreed on the price that he would pay.

19 And it was a very cordial meeting and
20 everyone left with the perfect understanding of what
21 he wanted and that's exactly what we offered to him.

22 We could have been bitter and not even
23 allowed him to dump there, but that's not the route
24 that we chose. Our hope was that at some point in

1 time, we would always get those accounts back to us.

2 **Q. In the last year, has your waste transfer**
3 **station ever been cited for waste left in the facility**
4 **beyond the allowed time period?**

5 MR. PORTER: Objection, relevance.

6 MODERATOR KAINS: I think it's very
7 relevant. Overruled.

8 MR. PORTER: May I --

9 MODERATOR KAINS: Overruled.

10 MR. PORTER: May I restate an objection?

11 MODERATOR KAINS: Sure.

12 MR. PORTER: Mr. Hayes's facilities are
13 not here asking for siting. Whatever their operating
14 history is is totally irrelevant. Nonetheless, if
15 it's overruled, it's overruled.

16 MODERATOR KAINS: Overruled. I think the
17 board wants to know.

18 A. To my knowledge, I'm not aware of any
19 violations that we have that have been cited by the --
20 our governing body, by our inspector.

21 **Q. Does the Illinois Environmental Protection**
22 **Agency regularly inspect the facility?**

23 A. Yes.

24 **Q. So if there were issues with waste stacking**

1 up, there would be a record of it; correct?

2 A. Correct.

3 Q. Isn't it true that your main concern today
4 in these proceedings today and last proceedings is you
5 don't want the competition?

6 A. That absolutely is not true.

7 MR. SHAW: No further questions.

8 MODERATOR KAINS: Redirect?

9 REDIRECT EXAMINATION

10 BY MR. PORTER:

11 Q. One quick follow-up. Earlier you mentioned
12 that Mr. Sutter's proposed operation is a mirror. His
13 operating plan isn't the same as yours; is that
14 correct.

15 A. In detail I guess I couldn't comment, but --

16 Q. What you meant is the amount of trucks and
17 the amount of waste that he's trying to garner is the
18 same; is that right?

19 A. I would say, yeah, the amount of trucks that
20 he proposed and where they were going and the service
21 area.

22 MR. PORTER: Nothing further.

23 MODERATOR KAINS: Mr. Shaw?

24 MR. SHAW: No.

1 MODERATOR KAINS: Members of the Board,
2 time now for questions if you have any for Mr. Hayes?

3 CHAIRPERSON WAGGONER: Any police reports
4 about the said incident or any other documentation of
5 said incident between Mr. Sutter and your wife? Or is
6 it just hearsay?

7 MR. PORTER: It's not hearsay.

8 CHAIRPERSON WAGGONER: Is there any
9 documentation on paper about these alleged incidents?

10 A. There is none that I'm aware of because my
11 advice to Julie was you have to ignore him. If you
12 respond to him, that's exactly what he wants. He
13 wants to know that he's getting irritating. And has
14 gone full circle to finally come back to be able to
15 tell a story today.

16 CHAIRPERSON WAGGONER: Okay. We've done
17 our research. The board is not stupid. And I've been
18 asked by multiple environmental engineers, EPA
19 representatives, and other transfer station operators
20 why does a private landfill owner in Effingham County
21 care what happens in Fayette County?

22 MR. PORTER: Is that a question?

23 CHAIRPERSON WAGGONER: Yeah.

24 A. I think we made it very obvious that we

1 purchased the Effingham County Transfer Station that
2 included the service area that encompasses all the
3 Fayette County. And I will say that we have made a
4 total commitment to our service area. That included
5 the opportunity to buy the Effingham County Transfer
6 Station. Our service, our commitment to the solid
7 waste industry has been uninterrupted.

8 I know that in the time that Chris
9 worked for us, and his dad Tracy worked for us, I was
10 informed at least two times that Christopher was out
11 of the trash business, left and went to go work
12 somewhere in Indiana. Our commitment is nonstop.

13 CHAIRPERSON WAGGONER: Okay. So we can
14 assume that you have absolutely no reason to protect
15 your business ventures by eliminating competition?

16 A. Say that again.

17 CHAIRPERSON WAGGONER: I said so we can
18 assume that you have absolutely no reason by being
19 here is to protect your business venture by
20 eliminating the competition? By not allowing another
21 transfer station to exist?

22 A. No. I think all the testimony has proven
23 it's just not necessary.

24 CHAIRPERSON WAGGONER: Okay. Next

1 question. At your landfill in Effingham County, do
2 all companies that haul into and dump pay the same
3 dollar per load or time or however you --

4 A. I don't have that information in front of
5 me.

6 CHAIRPERSON WAGGONER: You own the
7 business though; right?

8 A. Yes, we do.

9 CHAIRPERSON WAGGONER: Okay. So the same
10 question about Effingham Transfer Station. Does each
11 solid waste trash company pay the same fee?

12 A. I can tell you that every hauler that comes
13 through that Effingham County Transfer Station sat
14 down and agreed to the price that they were gonna pay
15 and there was never any questions in regards to that.

16 CHAIRPERSON WAGGONER: So they do not pay
17 the same? It is not a flat fee per hauler?

18 A. No. There's always variations.

19 CHAIRPERSON WAGGONER: Okay. Anyone else?

20 BOARD MEMBER WEHRLE: And that's not a
21 contractual business? Basically, you could stop at
22 any time -- can you refuse service?

23 So if I'm a licensed hauler and I bring
24 to the transfer station, you do have the right to

1 refuse?

2 A. Well, I think that's been a hot topic of any
3 business I guess lately. You know, you hear things of
4 people or religious reasons are not trying to refuse
5 business. I don't know, I'd never refuse business
6 unless I had a legitimate reason to do so.

7 BOARD MEMBER WEHRLE: I understand, I'm
8 just asking if do you have a right --

9 A. Yeah, I would assume.

10 BOARD MEMBER WEHRLE: Okay. I didn't know
11 if there was -- you have a contractual agreement. So
12 you sat down with these individuals and negotiated a
13 price, but that's not a contractual agreement that
14 says, "For the next two years, I'm going to accept --
15 "

16 You can basically terminate at will?

17 A. Well, I guess, yeah. There's been verbal
18 agreements we got. As we mentioned yesterday, there's
19 a five-year written agreement with one of our haulers.

20 Does that answer your question?

21 BOARD MEMBER WEHRLE: Yes.

22 MODERATOR KAINS: Any other questions from
23 the Fayette County board members for Mr. Hayes?

24 In light of the questions from the

1 board, Mr. Porter, do you have any questions of the
2 witness?

3 REDIRECT EXAMINATION

4 CONDUCTED BY MR. PORTER:

5 Q. Yes. Following up on the last county board
6 member's question. Isn't it true that there can and
7 there are agreements entered into in the waste
8 industry that do require a landfill or transfer
9 station to accept waste called exclusive agreements?

10 A. Yes.

11 Q. And as a matter of fact, there are some that
12 would affect this area; correct?

13 A. Yes.

14 Q. So you -- there are agreements that indeed
15 obligate your company to take waste at your transfer
16 station?

17 A. Yes.

18 Q. And some of the haulers that operate in this
19 very community are involved in those agreements; is
20 that correct?

21 A. Yes.

22 MR. PORTER: Nothing further.

23 CHAIRPERSON WAGGONER: Okay. One more
24 question. Does the EPA, it could be for -- have a

1 like a no-compete clause with transfer station and/or
2 landfills? Kind of like that way you can't have them
3 too close together? Is there any legal reasons why --

4 You know what I mean when I say
5 no-compete clause? Like it has to have so many miles
6 between transfer stations so they don't have too many
7 in one location?

8 MR. PORTER: There --

9 A. My answer is that would be --

10 MODERATOR KAINS: He answers, not you.

11 A. My answer would that be -- I think Mr. Moose
12 covered that in his professional testimony that the
13 reason that they have proceedings like this is to make
14 sure it's predicated on need.

15 CHAIRPERSON WAGGONER: So there's not a
16 set mileage between?

17 A. I think we're all aware of the nine
18 criteria.

19 CHAIRPERSON WAGGONER: Well, yes, but this
20 is not -- that's for that, but I didn't know if they
21 had a different -- like I said, you can only have so
22 many per square miles.

23 MODERATOR KAINS: Are you aware of any
24 such regulations or statutes?

1 A. No, I wouldn't be aware. Not saying they
2 don't exist, I'm not --

3 MODERATOR KAINS: Sure. Any questions
4 from any other board members?

5 In light of Ms. Waggoner's questions,
6 do you have any questions for your witness,
7 Mr. Porter?

8 MR. PORTER: I guess one follow-up. Isn't
9 it true that the whole purpose of this proceeding is
10 to determine whether or not there's a need and that
11 that that has been delegated to the local siting
12 authority by Pollution Control Board?

13 A. Yes.

14 MR. PORTER: Nothing further.

15 MODERATOR KAINS: Mr. Shaw, in light of
16 the questions from the board members and the redirect
17 from Mr. Porter, did you have any recross examination
18 of Mr. Hayes?

19 REXCROSS-EXAMINATION

20 CONDUCTED BY MR. SHAW:

21 **Q. Just one question. Isn't it true Mr. Sutter**
22 **has never signed a no-compete agreement with any of**
23 **your facilities?**

24 A. Could you repeat that question, please?

1 **Q. Isn't it true that Mr. Sutter has never**
2 **signed a no-compete agreement with any of your**
3 **businesses?**

4 A. That is true.

5 MR. SHAW: That's all.

6 MODERATOR KAINS: Thank you. Mr. Porter?

7 MR. PORTER: No questions.

8 MODERATOR KAINS: The board?

9 Mr. Hayes, thank you. Please step
10 down.

11 Mr. Porter, call your next witness.

12 MR. PORTER: I have several witnesses on
13 our witness list. I want to ask people in the room is
14 there anybody that needed to get on quickly before I
15 start going down the list?

16 Seeing no hands. Shelley Dowel?

17 Kirk? Kirk Doehring?

18 **KIRK DOEHRING,**

19 called as a witness herein, having been duly sworn on
20 his oath, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. PORTER:

23 **Q. Please have a seat there, Mr. Doehring.**

24 A. All right. Hope you guys don't mind, I

1 condensed my speech after hearing all the testimony.

2 Q. And if you would, go ahead and state your
3 name?

4 A. Kirk, K-i-r-k, Doehring, D-o-e-h-r-i-n-g.

5 Q. Thank you. Perhaps pull the mic a little
6 closer to yourself. Just the microphone.

7 And where do you live?

8 A. Is that better?

9 Q. It is. Where do you live?

10 A. I live in Vandalia. My family grew up near
11 this property.

12 Q. Do you have a statement with you today?

13 A. Yeah. I've just got some stuff.

14 Q. Please provide your statement.

15 A. All right.

16 You know, it seems like we were just
17 here. I mean I hear nothing different from this
18 procedure than I heard before.

19 The number one thing of the nine is
20 need. I think that right there shows us it's not
21 necessary. We're not talking about competition.
22 There's nothing here that's going to lower your trash
23 rate; especially if we have -- not we, if the proposed
24 transfer station has to haul several miles. Just the

1 price of gas today alone puts that in prospective.
2 Diesel.

3 Anyway, you know, this is the fourth
4 time. Is there going to be a fifth? Is there going
5 to be a sixth? You know, what -- what's the situation
6 here? Nothing has changed.

7 I can guarantee you if you drive in
8 that territory out there, it's all beans. Next year
9 it's gonna be all corn. Where Mr. Bartels farms,
10 that's going to be corn I assume; it's beans this
11 year. My field next to it was wheat, double trap
12 beans, it'll be corn next year. The field on the
13 other side is beans, it will be corn next year. The
14 field across the road, those are beans, that's all
15 going to be corn.

16 So when you're looking at these
17 pictures, keep that in mind. And those are big
18 curves.

19 And the rain, that four or five inches
20 that came what, week, two weeks ago? The debris was
21 out there. The county, the state, whomever, has flood
22 signs out there all the time. I've seen them hundreds
23 of times through the years. And there's a bunch of
24 water.

1 And one of my properties is right --
2 there's a small ditch between Mr. Bartels and my
3 field. When that five inches of rain comes through
4 there, that water floods. It comes across those
5 fields, across my field to another waterway. Besides
6 the water that runs to the ditch down 185.

7 So if you're familiar with that
8 territory, it happens any time. Needless to say, the
9 8, 9, 10, 15 inches of rain that are going on today,
10 it's a matter of when that's gonna happen when this is
11 there.

12 And no matter what you do, there's
13 gonna be problems sometime. When that comes across my
14 ground, who's gonna protect me if, if there are things
15 that are not supposed to be in this transfer station.
16 Batteries, whatever. Paint. Things that we all
17 common sense know, maybe assume, people put in their
18 trash. It's not supposed to happen, it does.

19 My family's owned that 130 acres around
20 there for over a hundred years. You know, it's --
21 would keep my descendents from building on that
22 property.

23 In my opinion, the environment would be
24 forever changed in that local area. With that being

1 said, I already talked about the rain, I don't need to
2 get into that. If there's stuff being left in there
3 over the weekend, whenever. My sister lives in that
4 two-story blue house that they were talking about. I
5 travel that 1525 all the time, 185.

6 I don't -- I don't see the need. I
7 have nothing personal about anybody trying to put any
8 business in, but looking at these nine criteria, the
9 number one is not met. And the EPA is black and white
10 on that.

11 The traffic, obviously I mentioned, if
12 that's corn, you know, there's just danger there. And
13 I can go on and on; I don't think it's necessary.
14 We've all heard the same thing. We heard this the
15 last time. What has changed since then?

16 You know, any of you guys want this
17 next to your property that your family owned over a
18 hundred years? May devalue the property. I don't
19 know, I'm not an expert in that, I'm just assuming.

20 Really nothing else. Like I said, I
21 can go on and on, but I'm not here to throw stones.
22 Although years ago, when I was young, I could throw a
23 baseball from my our property line to where that
24 transfer station is going to be easily.

1 MODERATOR KAINS: Thank you, Mr. Doehring.

2 Any questions, Mr. Porter?

3 MR. PORTER: No questions. Thank you.

4 MODERATOR KAINS: Mr. Shaw? Questions of
5 Mr. Doehring.

6 CROSS-EXAMINATION

7 BY MR. SHAW:

8 Q. I just have one question. Is there a
9 trucking business in the area?

10 A. A trucking business?

11 Q. Yes.

12 A. I don't know Mr. Blumburg personally. Is
13 that who you're referring to?

14 Q. That's who I'm referring to. So he operates
15 semi-trucks in the area?

16 A. I have no clue how many go in and out of
17 there. I see maybe one parked there sometimes. I
18 wouldn't know Mr. Blumburg if he walked in here.

19 MR. SHAW: No further questions.

20 MODERATOR KAINS: Members of the board,
21 questions for Mr. Doehring?

22 Thank you, sir.

23 Now, Mr. Porter, call your next?

24 MR. PORTER: How about Brent Doehring?

1 MR. DOEHRING: He's traveling home from
2 Ireland. He sent a letter.

3 MR. PORTER: He's provided a letter?

4 MODERATOR KAINS: It's already been
5 admitted.

6 MR. PORTER: Sherry Beckles.

7 Thomas Diveley.

8 UNIDENTIFIED SPEAKER: He sent a letter.

9 MR. PORTER: Richard Perry.

10 MR. PERRY: Yes.

11 **RICHARD PERRY,**

12 called as a witness herein, having been duly sworn on
13 his oath, testified as follows:

14 DIRECT EXAMINATION

15 CONDUCTED BY MR. PORTER:

16 **Q. Please state your name for the record?**

17 A. Richard Perry, R-i-c-h-a-r-d, P-e-r-r-y.

18 **Q. And where do you live?**

19 A. I live in Otego Township approximately
20 1.8 miles from this site.

21 **Q. And do you have a statement today?**

22 A. I have a short letter of opposition that I'd
23 like to read.

24 **Q. Please do.**

1 A. My name is Richard Perry. I live in Otego
2 Township in Fayette County, Illinois, with my wife
3 Jill. Our home is approximately 1.8 miles from the
4 proposed site of the transfer station.

5 I am opposed to this transfer station.
6 I believe that the proposed location of the trash
7 station will create dangerous traffic conditions on
8 Illinois Route 185 which we drive several times a day.

9 There will be dozens of garbage trucks
10 and semi trucks entering and exiting this facility
11 multiple times every day on a narrow section of rural
12 highway. This section of highway is surrounded by
13 agricultural crop fields, and during the growing
14 season, these crops will restrict visibility of trucks
15 entering and exiting this facility creating a
16 dangerous situation.

17 It is also my opinion that Fayette
18 County does not have a need for a transfer station
19 when there is an existing transfer station only
20 12 miles from this proposed site. There's also an
21 established landfill in Effingham County that is
22 entirely capable of handling all of our trash
23 disposal. There is simply no need whatsoever to build
24 a transfer station in Fayette County.

1 I would also like to make a few
2 comments about my observations of this county board.
3 I have attended every hearing that has been held on
4 this proposed station and I have to tell you that I
5 have been shocked by the attitudes of some of the
6 board members.

7 It certainly appears from my
8 observations that several board members seem to have
9 an agenda on this issue and have displayed bias toward
10 wanting this station to be approved.

11 Some board members have been very rude
12 and condescending and appear to be irritated that
13 people are opposed to this transfer station.

14 I cannot help but notice that it
15 appears that a few people on this board have
16 connections to the people applying to build this
17 station. This is by definition a conflict of
18 interest. Those members should not only abstain from
19 voting on this issue, they should not even participate
20 in the hearings. There is no question their bias can
21 influence other board members' decisions on how to
22 vote on this issue. Unfortunately, we are 18 months
23 into there issue and their influence most likely has
24 already taken root. This issue of possible influence

1 has been mishandled from day one.

2 I would also like to remind members of
3 this county board to remember that their job is to
4 make decisions best -- based on what is best for
5 Fayette County and not to make decisions based on
6 doing favors for friends, relatives, or acquaintances.

7 And that's all I have.

8 MODERATOR KAINS: Mr. Porter, questions of
9 Mr. Perry?

10 MR. PORTER: I do not, thank you, no.

11 MODERATOR KAINS: Mr. Shaw?

12 MR. SHAW: I do not.

13 MODERATOR KAINS: Members of the board,
14 questions of Mr. Perry.

15 A. Thank you very much.

16 MODERATOR KAINS: You may step down.

17 Mr. Porter.

18 MR. PORTER: Rose Hoover.

19 ROSE HOOVER,

20 called as a witness herein, having been duly sworn on
21 her oath, testified as follows:

22 DIRECT EXAMINATION

23 CONDUCTED BY MR. PORTER:

24 Q. Ms. Hoover, you've heard the drill here,

1 **please, state your name for the record.**

2 A. My name is Rose Hoover. And I live at
3 Brownstown. I am just a little ways from this site,
4 proposal site.

5 **Q. And you prepared a statement for today?**

6 A. Yes, I have.

7 MODERATOR KAINS: Ms. Hoover, before
8 you beginning reading, could you take the microphone,
9 just move it a little closer to you. Can you either
10 wear it --

11 A. I'll stick it somewhere.

12 MODERATOR KAINS: You can become a TV news
13 anchor or you may have it on the table in front of
14 you.

15 **Q. Proceed with your statement.**

16 A. I want to thank you once again for allowing
17 everyone the opportunity to express their opinion in
18 regard to yet another transfer station request.

19 To be honest with you, it is a little
20 unbelievable that we are here again to discuss
21 something that so many people outside this room cannot
22 understand why this has gone this far, myself
23 included.

24 I keep asking myself the same question

1 and the most number of times that I have spent with
2 Peg Washburn it was repeating things that every time
3 that Mr. Sutter claimed to be true turned out to be
4 one fabrication after another. That is not my
5 opinion, that is just what we discovered in trying to
6 find the truth behind all the claims.

7 Effingham County never approved his
8 transfer station. In fact, that is in their minutes
9 that Countryside Disposal, Chris Sutter would have to
10 have public hearings and that an application must be
11 filed with the County Clerk, 2/8 of '21, legislative
12 committee.

13 Knowing that Sutter came to Fayette
14 County with the same application request and what
15 that -- what appeared to be the help of someone on the
16 county board tried to get the board to sign his
17 application form at the April 2021 meeting. Thank
18 Lord that Peg Washburn was looking out for Fayette
19 County when she stopped that from happening. You were
20 knowingly being asked to break the law. Now here we
21 are, three to four attempts later.

22 Then followed the scare tactic there
23 wasn't going to be a landfill if the transfer station
24 wasn't passed. Did anyone at the county ever hear

1 from the big landfill company?

2 The first hours of the first hearing
3 were devoted to exposing Mr. Sutter's character; not
4 attacking it as it was reported. But I don't want to
5 get into all of that again. Hearing it once again was
6 enough for me and for you.

7 I also keep asking myself why didn't
8 Mr. Sutter buy his family business? Fayette County
9 would have been spared the untold time and money that
10 has been spent to date.

11 It also appears to so many people
12 outside this room that this transfer station is not
13 even needed. It is 12 miles from the facility his
14 family just sold. You need to reward the people that
15 make that investment, not the ones asking you to break
16 the law too take it.

17 Again, I ask myself would Mr. Sutter be
18 here today if his family still owned the Effingham
19 Transfer Station?

20 Also keep in mind that Mr. Sutter's
21 first location choice in Effingham County was about
22 10 miles northeast of St. Elmo by the Moccasin Road.

23 The traffic that is by my house in
24 front of my house is very dangerous. We had that five

1 inches last spring. This was backed up in our
2 backyard across from the Four-Mile Christian Church.
3 It was backed up across Route 185. On down the road,
4 across from the proposal site, it was across the road
5 there too. It has been across the road numerous
6 times. And there is evidence that can be proved of
7 that and it was shown today.

8 Personally, I don't see the need to
9 upset my neighbors and long-time residents of Fayette
10 County. The road in front of the transfer station
11 floods. The visibility at the intersection of the
12 roads close to the transfer station is terrible.

13 Why have we gone this far? If you
14 stand back and look at all the facts with open eyes,
15 many of which were first brought to light by Peg, it
16 appears to be as simple as right versus wrong. I ask
17 that you respect your oath to protect and represent
18 the best interest of all of Fayette County residents
19 and base your decision on the fact that this transfer
20 station is not needed. It is not necessary to disrupt
21 the residents of this area, and up until this point
22 there was no problem. Please do the right thing.

23 Thank you.

24 MODERATOR KAINS: Thank you, Ms. Hoover.

1 Questions for Ms. Hoover; first,
2 Mr. Porter?

3 MR. PORTER: No, thank you.

4 MODERATOR KAINS: Mr. Shaw?

5 MR. SHAW: No questions.

6 MODERATOR KAINS: Members of the Fayette
7 County Board, questions for Ms. Hoover?

8 Thank you.

9 Ms. Hoover, thank you, you may step
10 down.

11 Call your next witness.

12 MR. PORTER: That was everybody on the
13 witness list. We are asking to recall Ms. Tackett.

14 MODERATOR KAINS: You do have the right to
15 recall a witness.

16 MR. PORTER: Oh, I just -- I got one more.
17 Leah Washburn.

18 MODERATOR KAINS: Okay. Ms. Washburn,
19 then Ms. Tackett, then your done?

20 MR. PORTER: Yes.

21 MODERATOR KAINS: Okay.

22 LEAH WASHBURN,
23 called as a witness herein, having been duly sworn on
24 her oath, testified as follows:

DIRECT EXAMINATION

CONDUCTED BY MR. PORTER:

1 Q. I apologize for that, Ms. Washburn. Please
2 state your name for the record.

3 A. My name is Leah Washburn, L-e-a-h,
4 W-a-s-h-b-u-r-n.

5 Q. And where do you live?

6 A. I live at 1541 North 1525 Street,
7 Brownstown, Illinois.

8 Q. And do you have a role at Otego Township?

9 A. I do. I'm a trustees on Otego Township.

10 Q. And do you have a statement on behalf of
11 Otego Township?

12 A. I do.

13 Q. Please provide that statement.

14 A. Okay.

15 To the members -- I want to make sure I
16 am heard, that everybody can hear me.

17 To the members of the Fayette County
18 Board. The Otego Township Board of Trustees objects
19 to and respectfully requests the Fayette County Board
20 deny Countryside Disposal and Christopher Sutter's
21 application for siting approval of a solid waste
22 transfer station to be located at 1575th Highway 185,
23
24

1 Brownstown, Fayette County, Illinois.

2 The County Board should deny the
3 application because the proposed waste facility;

4 1. Will likely cause damage to the
5 roads and infrastructure of Otego Township, Fayette
6 County, and the neighboring communities.

7 2. Will likely make traveling upon the
8 roads, highways, and bridges of Otego Township,
9 Fayette County, and the neighboring communities less
10 safe.

11 3. Will harm the environment and
12 aesthetics of Otego Township; and

13 4. Is not needed in the community.

14 First, the increased industrial vehicle
15 traffic that will result from the proposed waste
16 transfer station will likely cause significant and
17 unnecessary harm to the roads, highways, and bridges
18 of Otego Township.

19 According to the operational plan
20 submitted by the applicant, the proposed waste
21 facility is designed to accept, process and haul up to
22 200 tons of construction and demolition, commercial,
23 and municipal solid waste per day. This waste will be
24 brought to the property by trucks and hauled away by

1 even larger semi trucks.

2 On average, the trucks transporting
3 waste to the site can hold up to 6 tons of solid
4 waste. Therefore, the proposed transfer station will
5 case up to 34 collection trucks to travel to and from
6 the waste transfer station every day, Monday through
7 Friday, and up to an additional eight outbound trips a
8 day from the larger semi trucks.

9 Such an excessive increase in
10 industrial vehicle traffic will cause significant and
11 lasting damage to the roads of Otego Township, Fayette
12 County, and neighbor communities.

13 And I am not talking about just Route
14 185, because these trucks that will be hauling trash
15 will be coming through all of Otego Township country
16 roads which are narrow, will have school buses,
17 traffic, people going to and from work. So I'm not
18 talking about just the traffic and the damage on 185.

19 Second, this increased industrial
20 traffic will make traveling the roads, highways, and
21 bridges of the community much less safe.

22 The designs of ingress and egress to
23 and from the site on Illinois Highway 185 which is a
24 two-lane highway with traffic in opposite directions

1 and a speed limit of 55 miles per hour.

2 Said design does not provide for the
3 addition of turn lanes or for the expansion of highway
4 shoulders; therefore, the increased commercial vehicle
5 traffic caused by the waste facility will make the use
6 of the roads, highways, and bridges of Otego Township
7 and Fayette County more dangerous.

8 Third, the increase in industrial waste
9 collection vehicles and the waste transfer station
10 itself will cause an increase in litter, air
11 pollution, noise pollution, and foul odors harming the
12 public health, environment, and aesthetics of Otego
13 Township's presently people -- presently peaceful and
14 rural community.

15 Fourth, there is no need for the
16 proposed waste transfer station. An existing fully
17 operating waste transfer station is already located
18 just 11 miles to the east of the proposed site in
19 Effingham County, Illinois.

20 In addition, the area is currently
21 served by a network of existing transfer stations and
22 landfills. This existing network adequately serves
23 the needs of Fayette County and surrounding counties.
24 There is simply no need for another transfer station.

1 As an added note, the township will not
2 receive any additional motor fuel tax. The tax is
3 determined by how many road miles that are in the
4 township which is already set by the state. So we
5 will be receiving no additional motor fuel tax.

6 It is clear that the host of harms the
7 proposed weigh station brings with it outweigh any
8 possible benefits. Therefore, the Otego Township
9 Board of Trustees objects to the application and
10 requests the Fayette County Board deny the application
11 for siting approval.

12 MODERATOR KAINS: Mr. Porter, do you have
13 any questions of Ms. Washburn -- oh, you're still
14 going?

15 A. Yes.

16 MODERATOR KAINS: Oh, I'm sorry. I'm so
17 sorry. You sounded done.

18 A. I was done with the Otego Board part.

19 MODERATOR KAINS: I am so sorry, ma'am.

20 A. That's okay.

21 MODERATOR KAINS: You may proceed.

22 (BY MR. PORTER:)

23 Q. Before you do, I do have -- now, that
24 statement you just provided was voted upon and

1 authorized by the board; is that correct?

2 A. That is correct.

3 Q. And do you have something more to add?

4 A. Yes.

5 MODERATOR KAINS: Please go ahead. Accept
6 my apologies.

7 A. That's all right.

8 So on a personal note, we live, my
9 husband and I, Jon Washburn, J-o-n, we live
10 three-quarters of a mile from the proposed site. We
11 have well water. We did not sign up for city water;
12 we have well water. And I'm very concerned that this
13 station is going to harm our water.

14 Jon told me that old-timers have always
15 told him that there was an underground lake under the
16 Doehring property. I don't know ---

17 MR. DOEHRING: I forgot to bring that up.

18 A. Yeah, there's an underground lake. And
19 there's a lot of natural springs that run through all
20 of our properties. So there does need to be some kind
21 of a study done into whether this is going to
22 contaminate our water. And that is very much of a
23 concern of mine.

24 And then like I said, we live on Road

1 1525, and it floods a lot. And in the winter, when it
2 snows, there's big drifts across that road from the
3 wind. So it blows snow, so I'm sure it's gonna blow
4 trash.

5 And then as we pull out onto 185 from
6 our road, it is a very dangerous intersection there.
7 Sometimes you can't see the cars coming around that
8 curve when you pull out, and the next thing you know,
9 you look in your rearview mirror and there's a vehicle
10 on your tail that you didn't even see. So it's a very
11 dangerous intersection right there.

12 So that's all I have.

13 MODERATOR KAINS: Okay. Thank you,
14 Ms. Washburn. Now, Mr. Porter?

15 MR. PORTER: Now I do not have further
16 questions.

17 MODERATOR KAINS: Cross-examination,
18 Mr. Shaw?

19 MR. SHAW: Yes.

20 CROSS-EXAMINATION

21 CONDUCTED BY MR. SHAW:

22 Q. Isn't it true that townships do not have any
23 legal authority involving roads and bridges other than
24 township roads?

1 MR. PORTER: Objection to the extent it
2 calls for a legal conclusion from a lay witness.

3 MODERATOR KAINS: I'm going to overrule
4 the objection and the board can hear the answer if she
5 knows.

6 A. Could you repeat that because I couldn't
7 hardly hear you.

8 Q. Could you repeat it?

9 (Court reporter read the requested
10 material.)

11 A. No legal authority. Trustees have no legal
12 authority. The road commissioner is the one that
13 takes care of the roads.

14 Q. But those would just be township roads;
15 correct.

16 A. Correct.

17 Q. And you've indicated -- you had testimony
18 regarding Highway 185; correct? Or 1575?

19 A. 1525.

20 Q. 1525. I dropped a number, I'm sorry. Thank
21 you.

22 1525; what jurisdiction is that road
23 under?

24 A. Which jurisdiction?

1 Q. Yes. What type of road is it?

2 A. It's a township road.

3 Q. Is the facility located on 1525?

4 A. Is the facility? The proposed site?

5 Q. Yes.

6 A. No.

7 Q. 1525 then connects to --

8 A. 185.

9 Q. 185. And what jurisdiction is 185 under?

10 A. County.

11 Q. It's not a township road?

12 A. Correct.

13 MR. SHAW: No further questions.

14 MODERATOR KAINS: Mr. Porter?

15 MR. PORTER: No follow-up.

16 MODERATOR KAINS: Okay. Members of the
17 board, questions for Ms. Washburn?

18 BOARD MEMBER HARMON: I have one. Does
19 Otego Township have a weight limit on their roads?

20 A. Yes.

21 BOARD MEMBER HARMON: What would that be?

22 A. I have no idea.

23 MODERATOR KAINS: Any other questions from
24 the board for Ms. Washburn?

1 Based upon the questions from the
2 board, Mr. Porter, any redirect?

3 MR. PORTER: No.

4 MODERATOR KAINS: Okay. Mr. Shaw, any
5 questions?

6 MR. SHAW: No. Thank you.

7 MODERATOR KAINS: Okay.

8 BOARD MEMBER HARRIS: I do have one
9 question.

10 MODERATOR KAINS: I'm sorry. Mr. Harris.

11 BOARD MEMBER HARRIS: Could you get us,
12 the board, the minutes or the day you took the vote or
13 minutes from that meeting? Could you give that --

14 A. The day we accepted --

15 BOARD MEMBER HARRIS: The day you guys
16 voted to oppose the siting application.

17 A. Okay.

18 BOARD MEMBER HARRIS: Could you get those
19 minutes to the clerk so the clerk gets them?

20 A. Yes. Okay.

21 BOARD MEMBER HARRIS: Thanks.

22 MODERATOR KAINS: Could you please do that
23 within the 30-day written comment period no later than
24 September 2 at 4:00 p.m.?

1 A. Okay.

2 MODERATOR KAINS: Thank you, Ms. Washburn.
3 Very good. Ms. Tackett.

4 MR. PORTER: We would recall Susan
5 Tackett.

6 MODERATOR KAINS: Anyone from the audience
7 who has not signed in yet for public comment? That's
8 coming up next.

9 BOARD MEMBER HARRIS: Scott, can you
10 clarify that her previous oath is still in affect or
11 does she need re-sworn?

12 MODERATOR KAINS: She can be re-sworn.

13 SUSAN TACKETT,
14 called as a witness herein, having been duly sworn on
15 his oath, testified as follows:

16 DIRECT EXAMINATION

17 CONDUCTED BY MR. PORTER:

18 **Q. Ms. Tackett, I understand you have an**
19 **additional topic you'd like to discuss; is that**
20 **correct?**

21 A. Well, a couple different ones. It started
22 as kind of observations, some suggestions going
23 forward, and some thank yous.

24 **Q. Please proceed.**

1 A. Okay. I've spent a tremendous amount of
2 time on this and I want to give you some observations,
3 suggestions going forward, and some thank yous.

4 I was sorting through my box last night
5 to put it away and I hope it's for the last time.
6 This started in February of 2021 with the Leader Union
7 article. The primary basis for the facility is we
8 were headed to a trash crisis because Landfill 33 was
9 reaching end of life, but yet we needed to get it up
10 and going November 1. So what does that tell you?

11 I immediately googled Landfill 33 and
12 found that the Crossroads public hearing had already
13 occurred. I went and I talked to Kerry Hirtzel, the
14 Effingham Clerk and Recorder, about the landfill. And
15 that's when he gave me the four meeting minutes of
16 Sutter trying to get his trash trailer approved there
17 and being told a public hearing was required.

18 That's why when I read the April agenda
19 and the minutes and compared it to the Leader Union
20 article that Sutter was trying to get the transfer
21 station up and running by November 1 that I was
22 dumbfounded. And I really started questioning how he
23 was going to operate a facility when no one was
24 looking.

1 So I gave you a slide in November that
2 recapped the minutes. So I have the four minutes from
3 Effingham County--I don't know if they can be entered
4 as exhibits--but I'd like to read them so they're in
5 the recording.

6 (As read:) December 14th, Chris
7 Sutter, Countryside Disposal. Chris Sutter of
8 Countryside Disposal of Shumway attended this meeting
9 to ask for approval of a disposal site and trailer in
10 the county. The site would be at the corner of Route
11 128 and Moccasin Road and would consist of a trailer
12 for storing customer trash pickups and then
13 transporting the trailer to a landfill in Desoto,
14 Illinois. The EPA is required to give approval of the
15 site, but must have county approval first.

16 Someone -- chair D. Campbell asked that
17 Mr. Sutter come back for the Thursday, December 17th
18 meeting of the Tax and Finance Committee as a whole
19 with proposed siting language.

20 **Q. I'm sorry for interrupting. December 17th**
21 **of what year?**

22 A. 2020.

23 **Q. I'm going to ask a question. So on December**
24 **17, 2020, Mr. Sutter attempted to have a transfer**

1 station approved in Effingham County without having a
2 hearing or providing notice; is that correct?

3 A. Well, I'm only reading the minutes from
4 December 14th. He was asked to come back on December
5 17th. So I have those.

6 Q. I misspoke as far as the date.

7 A. That's okay. So moving on to December 17th,
8 2020. (As read:) Unfinished business, Chris Sutter,
9 Countryside Disposal. Chris Sutter addressed this
10 committee regarding the use of a transfer trailer in
11 Effingham County. Mr. Sutter has a site. He
12 distributed the paperwork describing the trailer and
13 presented an application for the ILEPA. The ILEPA
14 requires county board approval as to site and the
15 trailer before they will approve. D. Campbell will
16 take the information to State's Attorney Bryan Kibler
17 for review.

18 So that was on December 17th.

19 On January 11th. (As read:) More
20 unfinished business, Countryside Disposal, Chris
21 Sutter. States Attorney Bryan Kibler spoke with
22 Mr. Sutter with concerns about the application that
23 Mr. Sutter has asked the county board to sign.

24 And I will repeat that, he asked the

1 county board to sign. I know the guy who writes these
2 minutes, he's very OCD, he's worse than me, so when he
3 rights he asked the county to board to sign, I believe
4 it.

5 SA Kibler asked that this item be
6 tabled in order for him to do more research so he
7 knows how to advise the county board. Member J. Perry
8 motioned to table, they seconded, the motion was
9 carried.

10 Next, February 6th. This is right --
11 couple weeks before the Leader Union article actually.

12 (As read:) Countryside Disposal, Chris
13 Sutter. Mr. Sutter attends this meeting to give an
14 update on his activities regarding his installing a
15 waste facility in the northwestern part of the county.
16 There is a home within 1,000 feet of the proposed
17 site, so Mr. Sutter is exploring with property owners
18 to move the site to the north about 500 feet. The
19 site will require a public hearing and that request
20 will be filed with the Effingham County Clerk when it
21 is prepared. They motioned, they seconded, and they
22 carried it.

23 But yet if I go back to the April
24 agenda, (as read:) Discussion and possible approval

1 of the EPA certification of siting for Chris Sutter,
2 owner of Fayette County Transfer Station.

3 So these are your -- this is your
4 agenda. I went and I got a picture of it. So here
5 are the minutes from Effingham County. They do keep
6 them all on line, unlike some of our minutes.

7 **Q. Give me one second before you continue,**
8 **okay?**

9 For the record, you've handed me
10 minutes of Monday, December 14th, 2020, which I would
11 have marked as Exhibit 22.

12 And you've handed me the minutes from
13 Effingham County Board of December 17th, 2020, which I
14 would have marked as Exhibit 23.

15 And you handed me the minutes from
16 Monday, January 11, 2021, which I have marked as
17 Exhibit 24.

18 And finally, you've handed me the
19 minutes from February 8, 2021, and I have that marked
20 as Exhibit 25.

21 Mr. Hearing Officer, I believe I've
22 already moved for admission of 17 and 18.

23 MODERATOR KAINS: You have.

24 MR. PORTER: And I believe those were

1 allowed?

2 MODERATOR KAINS: Yes, sir.

3 MR. PORTER: I now move for admission of
4 Exhibits 19 through 25.

5 MODERATOR KAINS: Mr. Shaw.

6 A. Do you want the agenda?

7 MR. SHAW: No objection.

8 A. You want the agenda?

9 MODERATOR KAINS: No objection --

10 A. It's online.

11 MODERATOR KAINS: With there being no
12 objection from Mr. Shaw, Exhibits 19, 20, and 21
13 photographs will be admitted. Exhibits 22, 23, 24,
14 and 25 meeting minutes and agenda will also be
15 admitted into evidence. And they are to be considered
16 as evidence by this board in determining the outcome
17 of this siting matter.

18 Mr. Porter --

19 Q. So --

20 MODERATOR KAINS: -- questions of
21 Ms. Tackett?

22 Q. Yes. So when Mr. Sutter filed his first
23 application here in Fayette County on February 12,
24 2021, he was already aware that said applications

1 required a public hearing and notice before they could
2 be voted upon; is that correct?

3 A. According to the minutes that Kerry Hirtzel
4 gave me, that would be true.

5 Q. Please continue with your statement.

6 A. So even after the March and April meetings,
7 you accepted his April 19th application. I looked at
8 it last night and I just shook my head thinking how
9 much county time and money has been spent on the four
10 applications of a facility that is not necessary.

11 I know this time you actually charged
12 an application fee, and I believe it was actually
13 Brian Hayes who had suggested that at one time. I
14 think he's -- he testified earlier, you know, he's
15 seen -- I think sometimes he's tried to be represented
16 as the outsider from Effingham County, but that's
17 where a lot of our trash goes today.

18 And he is meeting our trash needs. And
19 I think he's here to help protect you. He's not --
20 he's not here like to cause a lot of problems, but
21 he's trying to protect his investment and he's
22 actually trying to protect us. Okay.

23 I'm just saying that a little bit of
24 research on your part could have prevented all this.

1 I've learned more about solid waste than I ever want
2 to know, and I'm sure you feel the same way, but
3 that's why professionals are hired like Porter in
4 which to fill in the gaps.

5 The Illinois EPA requires a tremendous
6 amount of details. And even though Sutter has added
7 more pages to each application, the content is simply
8 not there.

9 If you pass this and it goes to appeal,
10 it will be interesting to read the depositions of
11 people who brought this application to the County
12 Board April of 2021.

13 So my neighbors are glad that Mr. Hayes
14 is here to protect us. He's here to protect the board
15 from approving something they shouldn't.

16 And most important, I do believe that
17 there would be issues from this. I mean I'm just
18 surmising this, but obviously, there's not controls in
19 place. Fires do happen. There's accidents out on
20 185. So I'm glad that a lot of this information has
21 been brought to light.

22 Without Brian Hayes and Peg Washburn, I
23 wonder how you would have voted last summer on the
24 20-page application if that hearing would have

1 occurred.

2 I know that a few of you are personal
3 friends of Sutter which means there's influence of
4 others on the board. I think Willis is more than a
5 neighbor that lives five miles away as Chris Sutter
6 said yesterday because I've seen his name on documents
7 in Effingham and Fayette County when I search on
8 Sutter's name going back several years and as recently
9 as last December. And I did notice the six week lag
10 on recording that document at the Fayette County
11 Clerk's Office.

12 MODERATOR KAINS: Ms. Tackett, if you
13 could, you can proceed, but personal attacks on
14 anybody in the room are not allowed.

15 A. That's fine. Okay.

16 The cost of fuel has driven up
17 everything since January 2021. Unfortunately, this
18 facility is not needed and you don't approve it simply
19 because it's been someone's dream and he would like to
20 live some -- he would like somewhere closer to take
21 his trash.

22 I spoke to you at the May 2, 2021,
23 board meeting--I don't know if you remember my
24 speech--because I was concerned about you doing your

1 own research, asking questions, and making your vote
2 your vote. I can't imagine any of you wanting to live
3 by this transfer station or having it in your
4 district.

5 I was surprised by some of the public
6 comments -- I'm just gonna skip that.

7 I was hoping -- I've been very
8 disappointed in your lack of questions. They seem
9 very one-sided. So I think they represent how you
10 think you're gonna vote. And I hope that wasn't
11 something that you decided even before you came into
12 the public hearing.

13 I want you to come in with an open
14 mind, listen to what's presented, and vote the way
15 that you need to vote, and it needs to be your vote.
16 I was hoping that you would question what was being
17 said so that your vote was an educated vote.

18 I am glad that Porter and Moose are
19 here to educate everyone, and I'm really proud of my
20 neighbors from standing up against this.

21 I have a friend in Farina who
22 spearheaded the vote against the nuclear waste dump
23 that they tried to put in our county. I don't know if
24 any of you remember that. My friend said the board

1 was really for it, but it got defeated because of the
2 neighbors. So I want to thank my neighbors for
3 standing up for what they believe and fighting the
4 fight even though you didn't think that it would make
5 a difference, because it really can.

6 I do have some suggestions on changes
7 going forward. I think the board needs to be more
8 transparent. Because no one should need to be a Rose
9 Hoover and go to every meeting. I do thank Rose for
10 keeping people on their toes and reporting back to us.
11 So here's some recommendations.

12 All board and committee meeting minutes
13 need to be posted online in a timely manner. In
14 February--and I have a screen shot of this--you hadn't
15 posted minutes going back to May. I understand the
16 one-man flag, but they are typed and all the months of
17 the years are already listed on the website. It's a
18 matter of changing the link name and doing a drag and
19 drop to the minutes.

20 So please consider that. I've been --
21 I've done website design, it's -- once they're typed,
22 it's a matter of a couple minutes to get them moved.

23 It would also be nice if you recorded
24 meetings and even televising them so that we could see

1 them at home would be nice.

2 I'd like to see you keep your agendas
3 online like you do -- like you used to for the
4 board -- wait --

5 I'm talking about the agendas, not the
6 minutes. I want you to keep the agendas online and
7 don't delete them when you post the minutes. You used
8 to do that. I don't know why you changed.

9 Make the agenda and minutes so that you
10 can actually do a search, like control F find, on the
11 document. Which you used to be able to do on the
12 older ones and I can't do that on the more recent
13 ones.

14 And to Sutter, please put page numbers
15 on your applications.

16 I do want to thank Cassie Washburn for
17 scanning in the application this time and saving on
18 our paper copies and fees.

19 Last, I didn't bring it up here with
20 me, but can we please put the litter ordinance back on
21 the August agenda? We need to clean up our county as
22 we have way too much litter. Citizens need to do a
23 better job of keeping their property clean. The
24 merchants need to do a better job of cleaning up their

1 parking lots. And if we had a local ordinance that
2 you could easily enforce, maybe they would do a better
3 job of strategic trash can placement and clean up.

4 Garbage trucks need to be airtight and
5 not leak garbage juices. Or as all of us have
6 learned, the real term for that is leachate. Which I
7 didn't any know a year and a half ago.

8 There's a lot of inoperable vehicles
9 and appliances poisoning our environment. It will
10 also give the county some revenue with the fines that
11 can be assessed. You took the time to write the
12 four-page ordinance, so please, please, can we put it
13 back on the agenda. Make whatever changes are needed,
14 but please, let's get this approved.

15 That's all I have.

16 MODERATOR KAINS: Mr. Porter?

17 MR. PORTER: No questions.

18 MODERATOR KAINS: Mr. Shaw?

19 MR. SHAW: No.

20 MODERATOR KAINS: Members of the board,
21 questions for Ms. Tackett?

22 BOARD MEMBER HARRIS: I have more of a
23 statement. I just want to address this because it
24 keeps coming up.

1 The reason why the windblown debris
2 ordinance has never been brought back up is because
3 the county board couldn't figure out a mechanism that
4 was effective in enforcing it.

5 Now, if anybody out there has any
6 ideas, I'm willing to listen to them to --

7 A. You mean like the sheriff?

8 BOARD MEMBER HARRIS: Right. But say you
9 have debris blowing across your yard; how do you know
10 where it came from? That's -- it becomes an
11 nightmare.

12 A. No, but I think you can document it. I mean
13 it --

14 BOARD MEMBER HARRIS: How?

15 A. I mean especially like the bag that I threw
16 out in November --

17 BOARD MEMBER HARRIS: How are we going to
18 enforce it? If you have any ideas, I'm willing to get
19 with you on the side and we can talk about it.

20 A. Okay.

21 BOARD MEMBER HARRIS: But that's the
22 reason why it was not been brought back up.

23 A. That there's no way to enforce it. Okay.

24 MODERATOR KAINS: Any other questions for

1 Ms. Tackett? Based on the back and forth, any
2 questions, Mr. Porter?

3 MR. PORTER: That was my last witness.

4 MODERATOR KAINS: Do you have any
5 questions?

6 MR. SHAW: No.

7 MODERATOR KAINS: Okay.

8 MR. PORTER: That was my last witness.
9 I just want to check again here.

10 MODERATOR KAINS: Thank you,
11 Ms. Tackett, you may step down.

12 MR. PORTER I have no further evidence.

13 MODERATOR KAINS: All right. Evidence
14 in rebuttal. Mr. Shaw?

15 MR. SHAW: We have none.

16 MODERATOR KAINS: Okay. Thank you.

17 All right. Now it's time for the
18 public comment period. Folks, you've got to help me
19 out. I'm a Springfield guy. The connection with
20 Fayette County was my grandmother lived here for many
21 year, but I'm not sure, is St. Elmo in Fayette County
22 or is it Effingham County?

23 It's in Fayette, very good. And I know
24 Brownstown is because I've been there. How about

1 Farina?

2 CHAIRWOMAN WAGGONER: Scott, let's do a
3 five minute while you get that organized.

4 MODERATOR KAINS: Yep. Let's take five
5 minutes. The time is 12:33.

6 (Whereupon a recess was taken.)

7 MODERATOR KAINS: Okay. It's time now for
8 the public comment period. We want you to comment on
9 the petition or comment on the application and the
10 criteria for the board to consider. I've already
11 cautioned several folks about we don't do personal
12 attacks on individuals. You may address the board
13 with things like this packet just says, if you find
14 some things are problems with the way it was
15 processed, but we're not singling out individuals.
16 That's -- this is not the forum for that.

17 But for public comment period, we will
18 give you five minutes. And there's an order we go in.
19 And we go opposed, in favor, opposed, in favor.
20 Opposed who live in Fayette County. I think we only
21 have one gentleman who is not a Fayette County
22 resident, Mr. Slifer. You'll get to go last.

23 So we will start at the top of the list
24 as far as opposed. Dustin Sefton.

1 UNKNOWN SPEAKER: He sent a letter.

2 MODERATOR KAINS: He did, he did. But he
3 also signed in.

4 Okay. Jebadiah Small.

5 He sent a letter also, okay.

6 Then Max Mattes. He sent a letter
7 also.

8 MR. MATTES: I sent it, I don't want to
9 get up there.

10 MODERATOR KAINS: Very good. Thank you,
11 sir, for your letter.

12 Doris McConkey?

13 She sent a letter also, okay.

14 Then that is everyone who was opposed
15 to or signed in as opposed.

16 So then we have Tony Koberlei,
17 K-o-b-e-r-l-e-i.

18 UNIDENTIFIED SPEAKER: I saw him here
19 yesterday. He couldn't make it today.

20 MODERATOR KAINS: Okay, thank you.

21 Then we have Mr. David Simmons, if you
22 would come forward.

23 Counsel, during public comment there is
24 no cross-examination. We're just making public

1 comment.

2 Mr. Simmons, if you could have a seat
3 at this table. Use the microphone. You don't have to
4 clip it on if you like, just have it close to you.

5 (Damon Simmons sworn.)

6 MODERATOR KAINS: Okay. Mr. Simmons, if
7 you could please state your name, spelling your first
8 and last name, and give your address.

9 MR. SIMMONS: First, I'm nervous.

10 MODERATOR KAINS: That's okay, buddy.

11 MR. SIMMONS: I'm Damon Simmons.

12 MODERATOR KAINS: Nobody is going to
13 question you.

14 MR. SIMMONS: Well, I wish you would, it
15 would be easier. I'm Damon Simmons, D-a-m-o-n,
16 Simmons, S-i-m-m-o-n-s. I am the owner of DBS
17 Disposal.

18 MODERATOR KAINS: You live in Farina?

19 MR. SIMMONS: I live in T town, about
20 three miles away from his landfill.

21 MODERATOR KAINS: Okay, very good. Now go
22 ahead, whatever you want to say, sir.

23 MR. SIMMONS: Been in business since 1986.
24 And learned a lot. I'm getting emotional because this

1 is totally wrong what's happened today. There's been
2 lies I've heard. I'm not attacking nobody, you can
3 take it the way you want it.

4 People's afraid to show up because they
5 know the consequences. And I'm telling you right now,
6 I will pay the price. After 40 years in the business,
7 started with three customers. His grandpa has been
8 taking away customers and been unsafe. His grandpa
9 greeted me into the business. I took three customers
10 in LaCleda, Illinois, where I grew up all my life.

11 And you know, my mind is racing all
12 over, I want to tell you everything. I could write a
13 book, that Landfill 33 rubbish gobbler done to me, my
14 company, me personally. No physical, absolutely none.
15 Threatened, yeah, in roundabout way. Tried to run out
16 of business multiple times.

17 Now here I am setting with 8,000
18 customers, now I'm too big to be run out. I could be
19 brought out. My business is for sale right now
20 reasonable.

21 But I'm stating the fact is when
22 somebody tells you, please open your eyes and ears,
23 because when somebody tells you they're not here for
24 the competition or -- don't you think it's gonna hurt

1 Brian Hayes and Julia Hayes' pocket? Absolutely.

2 Will I still service -- go to their
3 facility? Absolutely. I'm a businessman. If I come
4 from Altamont, which I pick up there, if I go to
5 Altamont, my shop is Farina, you think I'm going to
6 Brownstown? Absolutely not, don't make sense.

7 And these guys worrying about tearing
8 their country roads up. All I can say, where am I
9 gonna come from Farina or anywhere I pick up? I'm
10 coming down the highway or the main country road.

11 I've had calls because of Chris Sutter
12 wanted to get this transfer station up. They was
13 gonna willing to pay me almost anything I asked to
14 come in the country. And they're worried about these
15 country roads getting tore up or unsafe? If I was
16 bringing my load from Brownstown, I haul Brownstown,
17 where am I gonna do it? Am I gonna by Mrs. Washburn's
18 house? Absolutely not.

19 I mean it's -- you guys set here
20 patiently, I could read to all of you. You guys don't
21 want to be here either. I don't want to be here
22 either. I been up all night. When will I sleep?
23 When I die.

24 And I just don't know what else to say.

1 Use your head and it will lead you right. Sometimes
2 don't believe your heart, use your mind. Read these
3 people; their only concern is Chris Sutter, young gun.
4 Is he naïve? Probably so. I wish I had his guts when
5 I was that age. I wouldn't be sitting here.

6 And if you guys got any kind of
7 questions, I want you to call me. My cell phone is my
8 business number, that's the way I operate. I operate
9 with desire and heart of the people. I almost bet you
10 my rates are cheapest in the whole county. And what
11 does it get me? Nothing. No gratitude from the
12 people I'm trying to save. Wait until I sell out and
13 see what happens.

14 Christopher is trying to save you guys
15 and the neighbors. If you just trust my opinion, I'm
16 not talking about saving couple dollars, I'm talking
17 saving \$50 a month per person.

18 MODERATOR KAINS: Mr. Simmons, I'm going
19 to have to cut you off, that's five minutes. But we
20 certainly do appreciate your comments.

21 MR. SIMMONS: Just use your heads.

22 MODERATOR KAINS: Thank you.

23 MR. SIMMONS: Thank you.

24 MODERATOR KAINS: Mr. Paul Slifer.

1 MR. SIMMONS: Can I leave now?

2 MODERATOR KAINS: Absolutely, sir.

3 (Paul Slifer was sworn.)

4 MR. SLIFER: My name is Paul Slifer,
5 P-a-u-l, S-l-i-f-e-r.

6 MODERATOR KAINS: And where do you live,
7 sir?

8 MR. SLIFER: Shumway, Illinois.

9 MODERATOR KAINS: Very good. Go ahead and
10 say what you want to say.

11 MR. SLIFER: Okay, thank you.

12 I've been hearing lots and lots and
13 lots of talk about need. Do we really need another
14 land transfer station.

15 Well now, if any of you want to start a
16 business and somebody else has a business right across
17 the road, and you both be doing the same thing. Go
18 out to the rural community, say it's fertilizer.
19 Would that person be shut out that wants to put in a
20 new building for need?

21 What about people who can -- you know,
22 you got to have competition out there for anything and
23 everything.

24 But anyhow, that is more or less the

1 brunt of what I've got to say. And you got to have
2 competition and the competition will carry through.
3 And if someone is not doing something right,
4 competition, it will kill itself. You don't have to
5 worry about that.

6 Anyhow, I've known the Sutter family
7 for years. I've known that young man for quite a
8 while. And if he says he's gonna do something, you
9 can bet that's the way it's going to be.

10 That's just about all I've got to say.
11 Thank you.

12 MODERATOR KAINS: Thank you, Mr. SLifer.
13 We appreciate your comments.

14 That concludes the public comment
15 portion.

16 Now it is time for -- we've arranged
17 for a 15-minute window for each counsel to address the
18 board.

19 Mr. Shaw?

20 MR. SHAW: I'm gonna submit my comments in
21 writing.

22 MODERATOR KAINS: And you have every right
23 to do that.

24 MR. SHAW: Closing argument in writing.

1 MODERATOR KAINS: Mr. Shaw has chosen to
2 put it in writing. So he will have the 30-day written
3 comment period. It is due to the County Clerk and
4 Recorder, Ms. Baker, no later than September 2, 2022,
5 at 4:00 p.m.

6 Mr. Porter?

7 MR. PORTER: Thank you.

8 Before I get going here, please show
9 that I'm handing Exhibits 18 through 25 to Ms. Baker.

10 MODERATOR KAINS: Yes, let the record show
11 that Exhibits 18 through 25 are being submitted to the
12 County Clerk at this time.

13 MR. PORTER: And we do have copies of 18
14 through 21 which we will provide to the county shortly
15 after my statement.

16 MODERATOR KAINS: Very good.

17 MR. PORTER: To County Board members.

18 MR. BORNEMAN: Scott, point of order. So
19 earlier, I believe 26 was referred to as the agenda
20 that was presented. I'm not sure that was ever
21 collected.

22 MR. PORTER: I think she just kept it with
23 her. And I didn't moved for admission of it. I just
24 wanted clarification.

1 MODERATOR KAINS: And before anybody
2 leaves, I just want to remind everyone that written
3 comments may come from anyone as long as they're
4 submitted to Ms. Baker, the County Clerk and Record,
5 Room 106 at the courthouse, no later than September 2
6 at 4:00 p.m.

7 So you have the opportunity to submit
8 any comments you want to the county board members in
9 writing, and Ms. Baker will disperse them to the
10 county board members.

11 Okay, that concludes my remarks. Now,
12 Mr. Porter, you have the floor for 15 minutes.

13 MR. PORTER: Good afternoon. As you all
14 know, my name is Rick Porter. We do want to thank you
15 for your time and attention today. I'm an attorney at
16 Hinshaw and Culbertson, and I'm here today with my
17 co-counsel Rick Meyers, a local attorney, and my
18 associate, Eric Borneman from my firm.

19 We collectively represent numerous
20 objectors to this application and have filed an
21 appearance form specifically to represent Otewgo
22 Township, Ken Crites, Cassie Washburn, Leah Washburn,
23 Susan Tackett, Shelly McDowell, Thomas Diveley,
24 Richard Perry, Kirk Doehring, Brent Doehring, Brian

1 Hayes, and Julia Hayes, as well as Effingham County
2 Transfer Station, Landfill 33, Limited, and the
3 Effingham Crossroads Landfill, LLC.

4 As you know, you're here to be a judge.
5 So you have to limit your decision to the evidence
6 that was submitted today and yesterday. That is an
7 application--which by the way, I have not seen one
8 hard copy of in front of any of you at this present
9 hearing. I do hope that you will take the time to
10 look through the papers that Mr. Sutter as filed and
11 you will see the slovenly, unprofessional nature of
12 it.

13 That's one exhibit. The only other
14 exhibits are -- have been marked 1 through 25, and
15 then public comment. That is all that you are to
16 consider. Out of county -- or out of hearing
17 statements, information, emails, texts, all of that is
18 improper and cannot be considered.

19 You're a judge. It's a weird thing for
20 a county board member to be. This is different than
21 constituents talking to you in the hallway and you
22 deciding based on out-of-hearing statements. That is
23 not testimony. You have to base your decision on what
24 you heard here today.

1 You heard today and yesterday that this
2 application unequivocally fails to meet Criterion 1
3 and Criterion 8 to start. There is simply zero doubt
4 about it.

5 It was essentially conceded as to
6 Criterion 8 by Mr. Sutter yesterday. And you will
7 recall that he even at one point stated that if the
8 board decides to approve the application siting
9 approval, its decision will almost certainly be
10 overturned on appeal by the Illinois Pollution Control
11 Board. Mr. Sutter himself acknowledged that.

12 Why would you want to subject
13 yourselves to yet another appeal? Why would you want
14 to subject yourselves to the depositions that will
15 occur in and out -- and out-of-hearing discovery that
16 will occur? Your phones, your texts, et cetera, are
17 all going to be looked at.

18 And it is clear from what we have heard
19 that there has been numerous out-of-hearing statements
20 that have been taking place in regard to this
21 application.

22 So that is what we're going to be
23 looking into if you were to approve an application
24 that so clearly failed.

1 So the application by Chris Sutter
2 should be denied as proposed as it's not safe for the
3 Fayette community. It's not needed for your service
4 area. It's not allowed under your county's Solid
5 Waste Management Plan.

6 And now this is the fourth time Mr.
7 Sutter has attempted to bring an application to site a
8 transfer station, the first one being February 12,
9 2021. And whether your minutes reflect it or not, you
10 all were here when he amended that on April 13, 2021,
11 and then urged your board to approve it at a county
12 board meeting.

13 And Ms. Waggoner encouraged a vote on
14 that approval on the very evening that first came in
15 front of this board and was supposed to be for filing.
16 No notice had occurred, no hearing had occurred. And
17 you heard today Mr. Sutter was aware at that time that
18 there had to be notice and a hearing because he had
19 already been told in Effingham County you can't do it
20 this way, you have to publish notice, you have to have
21 a hearing.

22 So the reason so many versions of the
23 application have been filed is simply because Chris
24 Sutter and his company continue to refuse to spend the

1 resources necessary to properly study an application
2 and they simply do not know what they're doing.

3 There's no denial of that. You heard
4 Mr. Sutter say, "Well, I didn't hire any experts on
5 need or Criterion 8, Criterion 1 or Criterion 8,
6 because I didn't want to pay for it, that was going to
7 be super expensive." And then I asked him, "Well, did
8 you get a price for doing any analysis?" "No."

9 He simply didn't bother. All that he
10 did was hire a structural engineer to provide you some
11 design drawings, an abbreviated report by that same
12 structural engineer on transportation issues that he's
13 wholly unqualified to provide, and none of the data
14 that allegedly supports any of that.

15 And then you get a one-page document on
16 Criterion 3 from an appraiser we don't even hear from,
17 not subjected to cross-examination, and did not in any
18 way utilize the proper methodology in determining
19 whether there's an impact on property value.

20 You do not have the evidence even close
21 to accept some of the criterion. You heard their own
22 alleged expert admit he had no opinions concerning
23 Criterion 1, Criterion 3, 5, and 8. And 7. They had
24 no expert testimony in relation to that.

1 And if anything, you and I know Chris
2 Sutter is not an expert in this. He's never owned,
3 he's never operated a transfer station. He has
4 pathetically attempted this application four different
5 times at great expense to everybody in the room,
6 including my clients. None has been successful. And
7 it is completely unprofessional and should not be the
8 subject of your community for the next 30 plus years.

9 Of course, we don't actually know how
10 long it's going to be because he never informed us of
11 that.

12 So I have an incredibly abbreviated
13 time. In order to actually do an affective closing, I
14 would need to go through each and every criteria.
15 There's simply no way to do that in 15-minutes. But I
16 will do by best in the time that's been allotted.

17 And it's ludicrous, by the way, that in
18 a project that is so important to the Illinois
19 Environmental Protection Agency that we have separate
20 laws in relation to it that requires this hearing
21 that this board for some reason is of the opinion that
22 it's not important enough to even allow a thorough
23 closing statement. Those are the rules you've
24 established. They are fundamentally unfair, and we'll

1 move forward.

2 I'm here to talk about fundamental
3 fairness briefly. Because there are several board
4 members in this board that have shown absolute bias.
5 It was raised by one of my clients actually. That is
6 improper and I have to mention it because I have to
7 mention it in order not to it be argued it's waived
8 later on if we have to appeal if this is approved
9 despite the evidence.

10 And the problem is that -- and I'm
11 going to do it very quickly. Ms. Bartels and Mr.
12 Willis. They've already abstained on two occasions
13 regarding this -- this proposed project. So they have
14 already admitted that they have an interest of some
15 type. Ms. Bartels, blatantly obvious she has a
16 financial interest. It's her land where this is
17 taking place. It's a no-brainer that she has a bias
18 on previous occasion and it's actually conflicting and
19 I suspect she will abstain.

20 Mr. Willis, we assumed it was because
21 of his relationship with his bank and the finance.
22 We're not sure of that anymore. We can't tell because
23 Mr. Sutter told us that's not what it is, but Mr.
24 Sutter has proven himself to be completely incredible.

1 You don't have a clue what he's telling you is the
2 truth or not the truth.

3 So right now, we don't know what
4 Mr. Willis conflict is. But we do know that he
5 perceived it and has already abstained.

6 So that brings us then to Ms. Waggoner.
7 And unfortunately, we have a large paper trail of
8 absolute bias on behalf of your county board chair.
9 It culminated last hearing with aggressive,
10 adversarial cross-examination of only objectors'
11 witnesses. And it will be borne out. We have the
12 transcripts, we will show it if Ms. Waggoner decides
13 to try to vote here and does not disqualify herself.

14 Worse, we have Ms. Waggoner running a
15 meeting in April of 2021 where she encouraged a vote
16 on something that had not been applied for and there
17 had been no hearing. And after Mr. Meyers informed
18 her, "You can't do that." It didn't matter, she was
19 trying to railroad it through.

20 This got progressively worse to the
21 point where yesterday, this county responded in part
22 to a Freedom of Information Act request that we sent
23 mid-July, I believe it was July 15th. You're supposed
24 to respond in five days. We got a response yesterday

1 in relation to that request for texts between members
2 concerning this application.

3 And sorry, I'm going to have to take a
4 second here to find it.

5 One of those was the following text.
6 We received this today. I'm sorry, yesterday. And
7 it's a text from Ms. Bartels that provides, (as read:)
8 Good morning, all. Christopher Sutter reached out to
9 me this morning and wanted to know how the progress
10 was coming on the solid waste management plan. This
11 is February 11th, 2022. If we had done anything. I'd
12 like to call a committee meeting next week so we can
13 look at what we have; if it's as simple as to amend
14 the solid waste plan to say we'll take care of our own
15 county waste.

16 So from Ms. Bartels' perspective, we
17 know she's in communication with Chris Sutter. Chris
18 Sutter denied it. On the stand, hand in the air,
19 swore to tell the truth, and said, "No, I haven't
20 talked to any county board members about this or my
21 application." It's insane. It's completely
22 incredible.

23 Worse, this is clear evidence that we
24 believe the applicant--which is what Ms. Bartels

1 is--is completely aware that the Solid Waste
2 Management Plan doesn't allow for construction of any
3 county transfer station. It's already in your plan.
4 They know it. And they sought to amend it, but for
5 some reason, didn't move forward with that. Probably
6 because it was a bad idea. You've already got a
7 transfer station 12 miles away, there was absolutely
8 no need for it. So why would you amend your plan?
9 But regardless, that's there.

10 All of the communications among
11 yourselves, including the texting we've seen today
12 obviously between county board members, Ms. Waggoner
13 being one of them, and communications that result in
14 questions by Ms. Waggoner from Mr. Willis and
15 Ms. Bartels, all of which are discoverable.

16 And so one of my warnings to you is do
17 not destroy pieces of paper that were handed to you,
18 do not delete your text messages. All of those are
19 going to be found in discovery.

20 So talking further about then
21 Ms. Bartels. This culminated with an email -- I'm
22 sorry, Ms. Waggoner. Culminated with an email dated
23 April 19, 2022, to a third party, where she's talking
24 about this very application. And this is quote, (as

1 read:) We got our butts handed to us last time and
2 I'd like that not to happen again.

3 So who is the we? The we is Chris
4 Sutter, who had his application dismissed because it
5 failed to even establish jurisdiction. That's clear
6 evidence of bias on behalf of Ms. Waggoner and we are
7 urging you to abstain from a further vote. We believe
8 it is a disqualifying bias.

9 I would love to not have to waste my
10 time talking about this, but if I did, at the
11 Pollution Control Board, if I had to appeal this,
12 someone could argue that I didn't raise it at this
13 hearing. So that's why I had to spend time doing it.

14 MODERATOR KAINS: Mr. Porter, you have two
15 minutes.

16 MR. PORTER: So that's totally unrealistic
17 and I would object, Mr. Kains. I have about 15 more
18 minutes to go.

19 MODERATOR KAINS: You can put comments in
20 writing until September 2.

21 MR. PORTER: Okay. So let's talk real
22 quick then about what the county has to find. You
23 have to find that all eight criteria -- I'm sorry, all
24 nine criteria are met. You cannot read that plan and

1 come to a conclusion that this application is
2 consistent with it.

3 That plan calls for no out -- no
4 in-county waste facilities, no landfills, no transfer
5 stations. That's explicitly in the plan. If you were
6 to find anything other than that, you would be
7 ignoring the plan language, you would be completely in
8 derogation of your duties as public officials.

9 You have to employ the law that exists.
10 You are our trier. We have nine issues that we have
11 to address. That one in and of itself ends this
12 equation.

13 Likewise, the needs analysis. They're
14 undeniable that no actual study had been done by Mr.
15 Sutter. And then you heard the experts that have been
16 in the field for 40 years tell you there's ample
17 capacity in this area. And you heard by admission by
18 Mr. Sutter himself, he just wants to foster
19 competition.

20 That is not what the needs criteria is.
21 You have to employ the criteria and determine whether
22 or not it's necessary.

23 It's because unlike the -- you know,
24 waste -- the contractor that one member of the public

1 brought up, this is not just free enterprise. Because
2 we understand pollution control facilities are
3 dangerous. We don't want them on every corner.

4 And that's why you're here, to
5 determine whether or not there's an actual need.
6 There is not. And because that is the evidence in
7 this case, you must deny.

8 MODERATOR KAINS: Thank you, Mr. Porter.
9 Time is up. You may put the rest of your closing
10 argument in writing and submit it to Ms. Barker, the
11 County Board -- or the County Clerk and Recorder. And
12 that concludes the hearing.

13 MR. PORTER: Thank you very much.

14 MODERATOR KAINS: And, Ms. Waggoner, if
15 you would entertain --

16 CHAIRPERSON WAGGONER: Motion to
17 adjourned?

18 MS. TOWLER: So moved.

19 MR. HARRIS: Second.

20 CHAIRPERSON WAGGONER: All in favor, say
21 aye. Motion passes.

22 (Hearing adjourned.)

23

24

1 STATE OF ILLINOIS)

2 COUNTY OF CHRISTIAN)

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CERTIFICATE

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I, KATHY J. SULLIVAN, CSR, RPR, and CRR,
affiliated with Associated Court Reporters,
P.O. Box 684, Taylorville, Illinois, do hereby
certify that I reported in shorthand the
foregoing proceedings and the foregoing is a
true and correct transcript of my shorthand
notes.

I further certify that I am in no
way related to or associated with any of the
parties or attorneys involved herein, nor am I
financially interested in the action.

KATHY J. SULLIVAN, CSR, RPR,
CSR LICENSE NO. 084-002768

Dated this 22nds day of August, 2022.

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