ILLINOIS POLLUTION CONTROL BOARD

SIERRA CLUB, PRAIRIE RIVERS NETWORK, and NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,	)	
Complainants,	)	
-vs-	)	Case No. PCB 18-11
	)	(Enforcement - Water)
CITY OF SPRINGFIELD, OFFICE OF PUBLIC UTILITIES d|b|a CITY WATER, LIGHT AND POWER,	)	
Respondent.	)	

HEARING
MAY 5, 2026
9:00 a.m. CST

ILLINOIS POLLUTION CONTROL BOARD
WHITE OAK 2 CONFERENCE ROOM (ROOM 1.005)
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I N D E X

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BEFORE HEARING OFFICER:
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APPEARING ON BEHALF OF COMPLAINANTS:
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ALSO PRESENT:

Mr. Joaquin Garcia

COMPLAINANT WITNESS:

MS. WEBB: Good morning. My name is Carol Webb, and this is the hearing for PCB 18-11, Sierra Club, Prairie Rivers Network, and the NAACP versus City Water, Light and Power, also known as CWLP.

It is May 5th, and we are beginning at 9:00 a.m. On September 27th, 2023, the Board granted Complainants' motion for partial summary judgment. The Board held that CWLP violated Section 12(a) of the Environmental Protection Act and Section 620.115, 620.301(a), and 620.405 of the Board's groundwater rules for the discharge of boron, sulfate, and TDS at its facility in Springfield, Sangamon County.

The purpose of this hearing is to assist the Board in determining a remedy for these violations. Today is part one of the hearing for this case focusing on testimony from Complainants' expert.

Part 2 of this hearing will be scheduled either at the end of this hearing or at a later date. There are a couple members of the public present, but no one wishes to make a public comment. Written public comment may be filed with the clerk of the Pollution Control Board and a deadline for public

comment will be set during part two of this hearing.

The Pollution Control Board members will make the final decision in this case. My purpose is to conduct the hearing in a neutral and orderly manner so that we have a clear record of the proceedings.

This hearing was noticed pursuant to the Act and the Board's rules and will be conducted pursuant to Sections 101.600 through 101.632 of the Board's procedural rules.

At this time I would like to ask the parties to please make their appearances on the record.

MS. BUGEL: I am Faith Bugel, appearing for Sierra Club in this matter. With me I have Joaquin Garcia, a legal assistant who's helping with exhibits today.

MS. WEBB: Okay. Thank you.

MS. WILLIAMS: And I'm Deborah Williams. My title is regulatory affairs director, but today I'm appearing as special assistant corporation counsel for the city public utilities, often referred to as City Water, Light and Power. And I have with me from my staff Emily Rosenberger,

and also Eric Staley and Brad Hunsberger, our senior technical expert.

MS. BUGEL: Ms. Webb, I just needed to add I'm also appearing -- I'm representing Prairie Rivers Network and the NAACP. Thank you

MS. WEBB: Okay. Thank you. Are there any preliminary matters to discuss on the record?

MS. BUGEL: Yes.

MS. WEBB: Yes?

MS. BUGEL: I don't know if you want these on the record or off the record. They're procedural.

MS. WEBB: Either way.

MS. BUGEL: Okay. So I know we have talked a lot about the lengthy exhibits. We have been able to make excerpts of lengthy exhibits. We will be submitting one full set of exhibits with all of the lengthy exhibits in total to the Board so the Board will have a full and complete copy.

I did want to ask you how you wanted to handle the excerpts. We did not mark them with exhibit stickers or exhibit numbers. You mentioned wanting -- possibly wanting them as demonstratives.

We have enough copies to make them demonstratives, but I didn't know how to mark them.

MS. WEBB: Well, why don't we maybe discuss that off the record. And if you want to, you know, I don't know if -- we'll stay on the record right now. Deborah, do you have -- would you like to weigh in on anything?

MS. WILLIAMS: No. Whatever works for you, Carol, is fine.

MS. WEBB: Okay.

MS. WILLIAMS: I just want to understand, I guess, so I'm clear what's happening is fine.

MS. WEBB: We could number them separately as, you know, Demonstrative Exhibit 1, Demonstrative Exhibit 2, something like that, D1, D2, something like that.

MS. BUGEL: Okay. When we get to the excerpts.

MS. WEBB: Yeah, let's just do that. Was there anything else?

MS. BUGEL: I do have -- we have Complainants' exhibit list with the numbered exhibits now if we might distribute a copy of that.

MS. WEBB: Yes, that sounds good. I'd like that.

MS. BUGEL: And may we approach?

MS. WEBB: Yes, absolutely.

MS. BUGEL: And we did distribute the stipulated exhibit list, which is in the pre-hearing memo, ahead of time so we did not bring copies of that, but if anybody needed it --

MS. WEBB: Okay. Anything else?

MS. BUGEL: No, that's it.

MS. WEBB: Okay. Would you like to make an opening statement?

MS. BUGEL: I would not. Thank you.

MS. WEBB: Okay. Ms. Williams, would you like to make an opening statement?

MS. WILLIAMS: We're going to reserve opening statement for the part two hearing.

MS. WEBB: Okay. All right. Sure.

MS. BUGEL: May we reserve for part two hearing as well?

MS. WEBB: Yes. Okay. So, Ms. Bugel, you may call your witness.

MS. BUGEL: Complainant -- oh, I'm sorry. Before we call our witness, I think we had

discussed us moving for the admission of the stipulated exhibits right away. Because they're stipulated, we don't need to --

MS. WEBB: Yeah.

MS. BUGEL: So if you're ready, Complainants move for the admission of Complainants -- of the stipulated exhibits, which are numbered 1 through 13. Initially they had been numbered 1 through 14, but we are no longer relying on Exhibit 14, the ELG rule, so we move for the admission of 1 through 13. May we approach and have a moment to distribute those?

MS. WEBB: Yes. And I'm assuming, Ms. Williams, you have no comments on that?

MS. WILLIAMS: No. That's great. I would suspect that the numbering is one off on this list then.

MS. BUGEL: We are starting with 15 so we're skipping 14, yep.

MS. WEBB: So Exhibits 1 through 13 are admitted into evidence.

MS. BUGEL: Here's a set for you. This does not contain the lengthy exhibits. When we get to those, we'll distribute excerpts.

MS. WEBB: Okay. Thank you.

MS. BUGEL: Hearing Officer, will you need us to ask if we can approach?

MS. WEBB: No. Go ahead. Standing permission for everyone to approach.

MS. BUGEL: Okay. So Joaquin can help mark, find the exhibits that he needs in all these boxes here. Okay.

MS. WEBB: So if you want to go ahead and call your witness, and I will ask the court reporter to please swear him in.

MS. BUGEL: Joaquin, before you do that, can you grab Exhibit 15? Thank you. Appreciate that. Complainants call Mark Hutson.

MS. WEBB: Would the court reporter please swear him in?

THE COURT REPORTER: Please raise your right hand.

MARK HUTSON,

called as a witness, after having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. BUGEL:

Q. Mark, can you please introduce yourself for

the record?

A. Yeah. I'm Mark Hutson. I'm a geologist with Geo-Hydro, Inc. I live in Littleton, Colorado. I have 46 or 7 years of experience in various aspects of hydro-geology, site characterization, site remediation, all related to groundwater contamination and|or waste disposal in some fashion.

Q. And, Mark, if I can interrupt, we have an exhibit here that's going to help with some of this. Complainants are placing an exhibit in front of you that has been marked Exhibit 15, and let me start by asking, are you familiar with this document?

A. I am.

Q. And can you please describe what this document is for the record?

A. This is my January 2025 report on the closure permit application and other materials on the CWLP impoundments.

Q. And does this have attachments to it?

A. It does.

Q. And can you just tell us one by one what those attachments are?

A. The first -- oh, there's a table.

Q. You can start with the table, please.

A. Oh, okay. Table 1 is just a listing of units that have been closed by removal of CCR, or coal combustion residuals, as of -- what we knew at that time.

MS. WILLIAMS: Do you want to move to enter?

MS. BUGEL: Yes.

MS. WILLIAMS: There's just one of the attachments that we're objecting to the foundation of, but he can go through them.

Q. (by Ms. Bugel) Okay.

A. Attachment A is the 2021 potentiometric surface map. Attachment B is the 2022 monitoring data summary. Attachment C is the AP-4 boring log. Attachment D is the printout of the FEMA flood map. And the appendix is my resumé.

Q. And so your resumé is the appendix, also called a CV, or curriculum vitae, sometimes?

A. Yes.

MS. BUGEL: Okay. And Complainants move for the admission of Exhibit 15 into the record.

MS. WILLIAMS: We're going to object to the use of Table 1. I think it's been pretty well established, even within Mr. Hutson's report, that he

didn't prepare the table. He doesn't know what definitions the folks used who prepared the table to categorize one topic to another. He's not the appropriate witness to be able to lay the foundation for this exhibit.

MS. BUGEL: And it is not a requirement that a witness prepare every attachment themselves. That's never been a requirement. The requirement is that the evidence is material, relevant, and would be relied upon by prudent persons.

While Mr. Hutson didn't prepare the table, he can say who prepared it, he can describe what is on the table, and this would be useful information to the Board in deciding this matter.

MS. WEBB: Well, why don't we go ahead and hear the testimony. I'll take the testimony as an offer of proof and then if everything, you know, if you answer those questions we can discuss admission of that table but the remainder of Exhibit 15 is admitted.

Q. (by Ms. Bugel) Okay. Mark, I'd like to start by discussing your experience.

A. Okay.

Q. Can you tell us what field -- I think you said 46 years of experience?

A. Depending on how you count it, 46, 47.

Q. Okay.

A. It's getting up there.

Q. Can you tell us in what field that experience is?

A. It's a combination of geology and groundwater hydrology or geohydrology.

Q. Okay. So -- and in your report you have a -- at the beginning you discuss your qualifications. I'm looking at page 4 of your report, starting at the bottom.

A. Oh, yes. Okay.

Q. And you mentioned somewhere in here that -- I'm looking at the top of page 5, the third line down, that your career has been focused on regulatory site characterization and remediation issues related to waste handling and disposal practices and facilities. Do you see that?

A. I do.

Q. And can you explain what site characterization is?

A. Site characterization is basically doing

the, oh, the drilling and sampling of soils and groundwater to characterize existing conditions at the time that you're investigating the site, establish whether or not there's a -- if the site is useful for its intended purpose or whether it is -- if it's already developed, causing a problem.

Q. And you also mentioned remediation issues in that list. Can you tell us what sort of remediation issues you have experience in?

A. Oh, I've done a variety of things. I managed an RIFS at a Superfund landfill in Colorado.

Q. Can you say what RIFS stands for?

A. Remedial Investigation Feasibility Study. I managed, geez, everything from asbestos soil removal to JP-4, jet fuel contaminated groundwater site. A variety of things.

I've worked for people like Phillips Petroleum, Motorola, Waste Management, basically doing characterization and helping to come up with remedial options.

MS. WEBB: Sir, it would help if you could actually face your attorney.

THE WITNESS: Oh, I thought I was telling you.

MS. WEBB: You need to tell the woman on the other side of you. That's really who needs to hear you.

Q. (by Ms. Bugel) Thank you. So have you done hands-on remediation?

A. I have.

Q. Okay.

A. Yes.

Q. Can you just summarize your hands-on remediation experience?

A. Oh, I put in a petroleum recovery system at the Hess Oil Refinery in Saint Croix. I put in -- or I removed a PCB impoundment at Cavalier Air Force Base in North Dakota. I have done a series of soil removals at a couple of different sites on asbestos soils and|or PCB or solvent contaminated sites.

Q. And you've also -- well, let me strike that. Has all your experience been in private practice?

A. No. The first two years of my experience was with the Illinois EPA as a landfill inspector with the land pollution group. And then I went to work for a company that had a contract with the Federal EPA in Chicago, and we did the initial site

characterizations, basically to score sites that were being considered at that time way back then for inclusion in the Superfund list.

Q. And --

A. Actually, I can augment that. I've also worked on several contracts for the Air Force doing work on contaminated ground. I worked for ten years on the contaminated groundwater plumes from the Air Force base out on Cape Cod. There's -- oh, I did characterization work for Department of Energy, characterizing -- some of the initial characterization of plutonium contamination in the soils and groundwater in Rocky Flats Plant. So it's been a wide variety of clients and sites.

Q. And in your work on waste handling and disposal facilities, what sorts of issues were you dealing with?

A. Everything -- well, if we include the coal combustion residual sites, it's typically establishing whether or not the sites are impacting groundwater and what they -- appropriate remedy would be.

If we're talking about other sites, it could be installing wells. It could be -- you know, we worked

for Midwest Generation up in Joliet, and I wrote the groundwater impact assessment for the Lincoln Stone Quarry. At that time we were trying to control a contaminant plume that was being drawn off site by a newly installed quarry on adjacent property.

Q. And so Midwest Generation was your client for that work?

A. Yes.

Q. And what kind of company is Midwest Generation?

A. They're an electrical generating facility, company. Company. Or they were. I'm not sure who owns them now.

Q. And do you know what sort of fuel they used?

A. Oh, it was coal generation, yeah, at that time.

Q. And you mentioned Lincoln Stone Quarry. What is Lincoln Stone Quarry?

A. It's an old limestone quarry that has been used to dispose of coal ash.

Q. And your -- looking at your report again, I'm looking at the page 5, still looking at your discussion of qualifications. In the third to last

sentence, you say: Much of my consulting activity over the last eighteen years has been related to groundwater contamination and permitting issues at coal ash storage and disposal sites in numerous states. Do you see where you wrote that?

A. I do.

Q. Can you give us an approximation of how many sites you've worked on in those eighteen years?

A. I thought you might ask me that because I got asked that the last time I talked about this. I did a quick list, and I came up with thirty-two that I recall working on.

Q. And can you explain what that work has involved?

A. Primarily it's been records reviews, testimony to describe the problems that are being associated with the sites, and talk about what the appropriate remedy would be.

Q. And what sorts of tasks has that involved besides testimony and record reviews?

A. Gone out and walked the facilities, looked at the lay of the land at each of these things, prepared reports, and testified in some cases. I think I've testified maybe seven or eight times.

Q. As an expert witness?

A. As an expert witness.

Q. And have you ever worked on a site where you haven't found concerns or issues?

A. Yeah. Was it -- it was just last year. I was hired by EIP, Environmental Integrity Project, to take a look at the Valmont facility in Boulder, Colorado. And they wanted -- they were working with the county health department and the citizens group up there, and they wanted an independent review of what Excel Energy has been doing and a proposal for closing the site.

And I did my review and went to the public meeting, and to much of their surprise, I think, got up and said, you know, this is -- there could be improvements but it's not bad. So, yeah, it happens.

Q. And when you say there could be improvements but it's not bad, can you tell us a little more what that means?

A. Well, there was one area where there was potential for drainage off in a different direction than had been the focus of their efforts, and I made some recommendations that they put in some more monitoring along that particular drainage location to

see if there was a problem in that vicinity.

Q. Okay. I think we're ready for Exhibit 16. And we have placed a document in front of you that has been marked as Exhibit 16. Are you familiar with this document?

A. I am.

Q. And can you please describe what this document is?

A. These are the comments about the revised closure plans for the CWLP impoundments that I prepared last winter.

Q. And does this document have any attachments?

A. Not on my copy.

Q. And can you just tell us a little bit more about the content of this document? Could you just quickly summarize it or explain it?

A. Basically I -- this was written as a series of comments, basically, about the revised plans. The current closure plan is for the coal ash and the Lakeside impoundment to be -- the dry portion be excavated and put on top of the Dallman pond.

And then the plan is to sluice the wet ash up to the top of the Dallman facility and sluice the coal

ash into geotextile tubes to facilitate the watering of the coal ash through the permeable tube, and it holds it together while it's doing that.

So basically you would -- the idea would be to remove as much of the Lakeside ash as they can remove, it appears, without undermining the adjacent dam and create a wetland in that area. The creation of the wetland in the place of the previous Lakeside impoundment I think is a really good improvement to the whole plan.

Q. I just want to interrupt you for a second. The plans that you were just describing, are those found in a series of 2025 documents that you reviewed?

A. Yes.

Q. Okay.

A. And they're listed right here on the first bullets.

Q. Okay. And for the record, can you just list off what those documents are?

A. Yep. Let's see. The first one is the Assessment of Corrective Measures, dated September 23rd, 2025. The next one is the Interim Measures Report, dated September 23rd, 2025. The

third is the Closure Plan, dated September 23rd, 2025. The fourth is the Nature and Extent Report, dated September 22nd of 2025. And the last one is the CCR Surface Impoundments and FGDS Unit 2 Landfill, Flow Path Report dated September 22nd, 2025.

Q. And to be clear, those appear as Exhibits 1 through 5 on the stipulated exhibit list. And so prior to 2025, was there a previous proposal for the closure of the Dallman and Lakeside ash ponds?

A. Yes, there was.

Q. And --

A. Did you want me to finish talking about the rest of these options first before you move on to the next?

Q. Sure. Go ahead.

A. We only talked about removing the waste from Lakeside.

Q. Oh, thank you. Did you mean removing the waste from Lakeside?

A. Well, yeah, excavating it or sluicing it and putting it over on top of Dallman. So the waste that would be placed up over the Dallman plan, the plan for that is, at least the last I saw, was to

grade it and contour it and put it beneath a geotextile or it's called closure turf, artificial turf with a geotextile cover beneath it.

And then it also installed a dewatering system, which I don't remember the number of wells offhand, but it's several wells through the Dallman plan, basically there to be used for dewatering the waste that's currently on the facility and stay there, apparently, to be used in case they're needed for removal of interaction with groundwater or infiltration through the cap or whatever.

MS. WEBB: I'll remind you, if you could please try to remember the court reporter. Thank you.

A. So it's a combination of putting a cover in place over the top of the Dallman facility and a groundwater dewatering system inside the facility, extending I think maybe two feet beneath the bottom of the Dallman facility.

Q. Thank you. So, Mr. Hutson, I'd like to draw your attention to Exhibit 7 in your collection of exhibits there. Just to be clear, this is a document that we have excerpted, and Mr. Garcia is going to pass out the excerpts. And we have not

premarked this, so I'm -- this will be exhibit -- I guess it will be Exhibit D1, Demonstrative 1.

MS. WEBB: So Exhibit D1 is an excerpt from Exhibit 7?

Q. (by Ms. Bugel) Exhibit D1 is an excerpt from Exhibit 7, and these are all the excerpts from this document that we'll be referring to bundled together. And this document has been labeled with PDF page numbers as well for ease of identifying different pages.

Okay. So, Mr. Hutson, was there a previous proposal for the closure of Dallman and Lakeside ash ponds?

A. Yes, there was.

Q. And can I direct you to PDF page 932 in your exhibit, and that is going to be towards the end and these -- there are paperclips that are separating the different bundles of excerpts.

A. Okay.

Q. Have you found page 932?

A. I have.

Q. Okay. Is this the previous closure plan for the Dallman and Lakeside ash ponds?

A. Yes.

Q. And can you please tell us what this closure plan entailed?

A. Basically this was to cap both impoundments in place with the waste remaining where it is.

Q. And so I'm going to refer to this as the 2022 closure plan when we come back to it. Do you know why the proposal changed in 2025, the proposal being the closure plans for the two ash ponds?

A. I do not know what their thinking was. I could only guess.

Q. So you don't need to guess. Thank you. I'd like to turn back to Exhibit 16, which is your report, and starting on page 2 you discuss the plans for the Lakeside impoundment starting on page 2 of your report. Do you see that?

A. Yes.

Q. And I just want to ask you, is an ash pond the same thing as an impoundment?

A. Yeah. In this case, yeah.

Q. And how about a CCR surface impoundment, is that the same thing?

A. That would be the same thing.

Q. And starting on page 2, you list some of the benefits of the 2025 plan for the Lakeside ash

pond. Do you see that?

A. I do.

Q. What did you view as some of the benefits of that closure plan?

A. Well, first of all, you're moving the source of the contamination, some of the contamination downgradient of Lakeside, up and out of the groundwater and getting it away from the edge of the dam. That effectively removes any real concern that I could have had about -- in an eventual flood that might overtop the dam, I was concerned that floodwater could run down the drainage ditch, down the slope of Lakeside, and cause erosion of the berms potentially, extreme case, leading to a substantial potential release. With Lakeside being gone, there's not an opportunity for that to happen anymore.

Another benefit that I see to this removal is that turning the Lakeside impoundment into a wetland after the ash is removed has the potential to basically serve as a groundwater sink, which means it'll intercept some of the flow of the groundwater that comes from the southeast corner of the property and flows to the northwest, and thereby it'll slightly, to some extent, lower the elevation of the

potentiometric surface across the facility, across the site.

What I don't know is, I've not seen an evaluation that tells me how much, how much difference that groundwater sink in the previous Lakeside site would make to the water table.

Q. And I want to ask you a question about that. Do you know if the new wetlands at Lakeside will reduce groundwater to the extent that it's no longer in contact with ash?

A. I don't know for sure.

Q. And why not?

A. Well, in order to investigate that you'd need to do a numeric groundwater model to basically model the site the way under current conditions and then take out that big volume of waste in the lake, under the Lakeside footprint, to the point that you can evaluate how much discharge would go through that new wetland versus going across the rest of the facility and I've not seen that done.

Q. And in the 2025 documents that you listed at the beginning of your report, Exhibit 16, did you see any modeling in those documents?

A. There may have been a HELP model, which is

on the new cap in one of the attachments. The HELP model is not a groundwater flow model, it's an infiltration. It gives you an estimate of how much water comes in through a cap and how much water goes through each individual layer underneath it and eventually discharges out the bottom. It doesn't describe flow across the site.

Q. And are there any other benefits listed here of the plan, the 2025 plan for the Lakeside impoundment?

A. Let's see. Reduces the volume of waste and contact with groundwater. Removes the source. Removes the flood danger and removes -- potentially could have a beneficial impact to reducing the level of groundwater. I think that's it.

Q. In the third bullet point you mention reducing the hydraulic head beneath the entire property?

A. Yeah.

Q. Can you explain what that is?

A. A hydraulic head is the level to which water will rise from a confined or semi-confined aquifer under the pull of gravity.

Q. And did you see any quantification of the

hydraulic head, how much it would be reduced?

A. No, no. Not at all.

Q. Do you know what would be needed to estimate the hydraulic head?

A. Well, you can directly measure the hydraulic head as it is. In order to estimate the post -- if they were to implement this, what you would want to know is prediction of what the head beneath the rest of the site would be following removal of Lakeside.

Q. Okay. And what would one need to do to make an accurate prediction of what the hydraulic head would be?

A. I would recommend a numeric groundwater flow model.

Q. And, again, did you see a numeric groundwater flow model that predicted the hydraulic head for the 2025 plans?

A. No. You need to do a baseline and then take out the waste from Lakeside and see what effect it has.

Q. I would like to turn to the deficiencies discussed on page 2 of Exhibit 16 as well. Do you see those at the bottom of page 2?

A. Yes.

Q. Can you please tell us what deficiencies you identified in the 2025 plans for Lakeside?

A. Uh-huh. I had made a comment that I wanted to see the final NPDES permit. The plan is to discharge the dewatering liquids through the clarification pond, which discharges to Sugar Creek under a NPDES permit.

The reason I asked for that is it's amazing how many sites I've seen over the years which have NPDES permits for their discharges from things like clarification ponds that don't actually have requirements or limits for monitoring appropriate parameters.

In this case I've since, since I wrote that, seen at least a public notice from IEPA about the NPDES permit that they're considering. I've not seen the final. The public notice at least has the appropriate parameters and has got downstream monitoring required, downstream of the impoundments. So I'm feeling better about that if the final NPDES permit comes out and is similar to this, to what I've seen.

Q. So did your review of the NPDES permit

resolve your concerns about discharges to Sugar Creek?

A. It's a good indication. I've not seen the final so I don't know what the final permit would be.

Q. Okay. And with your report here, we touched a little bit on flooding at the Lakeside and Dallman site. I would like to turn to Exhibit 17, which is a previous report of yours. And while Mr. Garcia is gathering that, I'd like to move for admission of Exhibit 16 into the record.

MS. WILLIAMS: No objection.

MS. WEBB: Exhibit 16 is admitted.

Q. (by Ms. Bugel) And Mr. Garcia is placing a document in front of you that is marked Exhibit 17. Can you tell me, are you familiar with this document?

A. I am.

Q. And can you please describe what this document is for the record?

A. This is my rebuttal report on comments that were made by Mr. Hunsberger.

Q. And as we -- regarding Exhibit 16, you mentioned flooding. Can you tell me, even with the Lakeside wetlands, are there -- does flooding still pose a concern to you at the site?

A. Yeah. Even if the Lakeside impoundment is removed, the sides, bottom sides, of the Dallman impoundment will still be subject to some pretty rapid flow rates from Sugar Creek during a high water event.

When we were out -- you and I were out there years ago, we saw a monitoring well that had the steel protective casing bent over after a high water event. It takes some fast flowing water to do that sort of thing.

So the other -- so the potential for some likely continuing erosive problems along the outside of the berm, and you've also got the potential for during a flood event groundwater rising up beneath the facility to re-wet the coal ash that may not be wet all the time. Or some of the coal ash that may not be wet all the time.

Q. Can you explain when the groundwater rises up, where is that happening?

A. Where is it happening?

Q. Well, is it visible? Is it --

A. Well, the surface water flow in Sugar Creek would be visible, but the rising up of the water inside the impoundment would not be.

Q. Okay. And when you talk about groundwater rising up beneath the waste and re-wetting the waste, can you explain just where is that happening?

A. At the bottom -- let's say for argument sake that the water beneath the impoundment is right at the bottom of the dominant impoundment under normal conditions. During a high flow in the creek, it could raise the head inside the impoundment to the point that some number of feet of fill gets re-wetted during the high water event.

Q. Okay. And we have placed an exhibit in front of you that's been marked as Exhibit 17. Are you familiar with this document?

A. Oh, there's 17. I've got it.

Q. And --

A. Yes, I am.

Q. Can you please describe what this document is for the record?

A. This is my rebuttal report.

Q. And can you explain what were you rebutting in your rebuttal report?

A. Oh, Mr. Hunsberger had written some comments about my testimony during a deposition, and I replied to some of those comments.

Q. And so let's turn to page 3 of this report. On page 3 you have a comment numbered comment 4. Do you see that?

A. I do.

Q. And in this comment you provide some examples of, in Illinois, of flooding overtopping dams. Do you see that?

A. I do.

Q. Can you please summarize some of those examples for us?

A. Well, sure. There's -- I don't remember the year.

Q. I'll direct you to the last sentence of the first paragraph.

A. Ah, okay, 1996. The floods in northern Illinois. The Illinois Association for Floodplain and Stormwater Management describes the 1996 floods in northern Illinois saying that three dams in the region experienced complete failure and numerous others were overtopped. Basically this is just providing an example that the potential for or risk from a flood is not zero. It's -- it does happen and it has happened in Illinois.

Q. And in footnote 8, are you relying on

another document for some of that information?

A. Yes. It's the Website from this organization, Illinois Association for Flood Plain and Storm Water Management.

Q. Okay. And we have an exhibit that we have marked as Exhibit 18 that Mr. Garcia is going to place in front of you. And is this the -- a printout of the Website that you relied on for that flooding information?

A. Yes, it is.

Q. And can you give us a quick overview of what this document, what information this document provides?

A. This document is -- basically it's just a thumbnail description of some of the major flooding, flooding events that have happened in Illinois over the -- since 1996 appears to be the -- no, 1993 is the earliest one.

MS. BUGEL: Okay. And Complainants move for the admission of Exhibit 18 into the record.

MS. WILLIAMS: No objection.

MS. WEBB: Exhibit 18 is admitted. You did not -- did we do 17?

MS. BUGEL: I haven't moved for 17

yet.

MS. WEBB: Okay. Thanks.

Q. (by Ms. Bugel) And I think we can set that aside. So let me just ask you, Mr. Hutson, even with the proposed Lakeside wetlands, do you still have concerns about the Dallman ash pond -- the location of the Dallman ash pond?

A. Yeah. What we're doing is creating a permanent repository for these wastes, enclosing the coal ash pond, but we're creating this permanent repository on the floodplain within fifty feet or so of the edge of Sugar Creek and it's just not a great location for permanent storage of waste.

MS. BUGEL: So with that, Complainants would move for the admission of 17 into the record.

MS. WILLIAMS: No objection.

MS. WEBB: Exhibit 17 is admitted.

Q. (by Ms. Bugel) Okay. So we can set 17 aside for a moment, and I would like to turn back to Exhibit 16. And do you recall -- and we were talking a little bit about hydraulic head and modeling. Mr. Hutson, do you recall if CWLP did migrate modeling for the 2022 closure plans?

A. Yes.

Q. Okay. Did CWLP do new migrate modeling for the 2025 closure plans?

A. Not that I've seen.

Q. And do you have an opinion on what sort of -- what modeling program, I guess, I don't know if that's the right word, what modeling program should have been done?

A. Because of the -- well, in 2022, for the 2022 plan are we talking about?

Q. Yes.

MS. WILLIAMS: Wait. I just want to clarify. So you're asking him now about what was wrong with the modeling on the old plan that's not the current plan? Not --

MS. BUGEL: Yeah.

MS. WILLIAMS: Not what modeling should be done today?

Q. (by Ms. Bugel) You know what, let's strike that and let me rephrase the question.

Mr. Hutson, do you have an opinion on what modeling should have been done under any plan for the CWLP site?

A. I would have recommended that a typical modulo model be used. Maybe MODFLOW plus MT3D, a

flow and transport model, be used so that you could evaluate changes in head beneath the facility, the directions of flow and flow paths and also numerical quantification of what the potential downgradient concentrations of contaminants might be.

MS. WILLIAMS: Can I ask him to repeat his answer here when he said MODFLOW plus and then --

THE WITNESS: Oh, MT3D.

MS. WILLIAMS: MT3D. I couldn't hear.

Q. (by Ms. Bugel) And that's M, as in Mary, T, as in toy, 3, and then D or B?

A. D.

Q. D as in dog?

A. Yes.

MS. WILLIAMS: Thank you.

Q. (by Ms. Bugel) And did you -- so let me start with -- I'm going to ask about the 2025 plans. Did you see any modeling investigate horizontal flow into or out of the ash pond in the 2025 plans?

A. I did not.

Q. Did you see any groundwater modeling that investigated horizontal flow into and out of the ash ponds under the 2022 plans?

A. Yes.

Q. Okay.

A. Wait, did you say flow?

Q. Horizontal flow.

A. No, no. No horizontal flow.

Q. And can you just tell me, and if you need to you can refer to your Exhibit 17, page 10, can you tell me why is horizontal flow important?

A. Well, horizontal flow, it's very important because typically in fluvial sediments like these, the horizontal component of flow, the hydraulic conductivity is typically higher in the horizontal direction than in the vertical direction.

Q. Can you explain why?

A. Yeah. I can talk about this for a while. When these things are deposited, the minerals tend to fall out of water, or the clay, the clay particles tend to fall out of the water. And they're plate-like structures, and they fall in the water column and accumulate on the bottom so that their long axis is horizontal rather than up and down.

Q. Okay. So I'd like to turn to page 2 of your -- of Exhibit 16, and I think we discussed discharges to Sugar Creek, but you have a second deficiency that you identified relative to the plans

related to closure of Lakeside ash pond. Can you explain what the second deficiency is?

A. Yeah. The second deficiency is that I see no indication that there's a plan and -- there needs to be a plan to update the background data set once the Lakeside waste has been removed and the AP-4, the upgradient well, which is currently sitting downgradient of the Lakeside ash and beneath a ten foot layer of ash outside the berms, that well needs to be taken out of the data set and a new background data set calculated.

Q. Okay. And this is a concern that you have relative to Dallman ash pond, too?

A. Well, the background -- it's one of two background wells. One of the two background wells currently existing that's used in the background data set is actually located downgradient of the coal ash pond, and it's no surprise that it detects way higher than normal background arsenic.

Q. We're going to come back to this a little later. I just wanted to ask one clarifying question. Let's turn to Dallman ash pond. On page 3 of Exhibit 16, do you see where you begin discussing Dallman ash pond on this page?

A. Yes.

Q. And looking at the very first sentence, you mention your testimony before the Illinois Pollution Control Board. Do you see that?

A. I do.

Q. Can we please have Exhibit 18? I'm sorry. It's Exhibit 19. And Mr. Garcia is gathering another exhibit for us. We have marked it as Exhibit 19.

So Mr. Garcia is placing an exhibit in front of you marked Exhibit 19, and let me start by asking, are you familiar with this document?

A. I am.

Q. And can you please describe for the record what this is?

A. This is the -- what do you call this? The pre-filed testimony that I filed with the Illinois Pollution Control Board about the Illinois CCR rules.

Q. Okay. And can you -- do you rely on this document in your discussion of Dallman ash pond?

A. Let me see. Where is that again?

Q. I'll refer -- page 3, footnote 1.

A. I'm starting to get a buildup of paper over here. Page 3, footnote 1. Yes, I have a notation that references back to this pre-filed testimony.

Q. And what -- in what -- sorry. For what purpose are you relying on this testimony, this pre-filed testimony?

A. Basically I'm -- I was warning that allowing waste to go from one impoundment that needs to be closed and putting on top of another is simply just adding more source material for, you know, for future problems should something happen.

Q. And can you explain what source material is?

A. Coal ash.

Q. And when you say for future problems, what sort of problems are you referring to?

A. Basically if a cap begins -- if it's capped in place and then the cap begins to leak, you've got just that much more of volume of metals, leachable metals in the impoundment which contains the combined waste.

MS. BUGEL: And Complainants move for Exhibit 19 to be admitted into the record.

MS. WEBB: Exhibit 19 is admitted.

Q. (by Ms. Bugel) And in the first paragraph you also mention a performance standard. Do you see that, in the second sentence of the first paragraph?

A. Oh, yes. Okay.

Q. And can you explain what the performance standard is?

A. The crux of the performance standard is that a site remedy has to be able to separate the waste from groundwater, or from water, I should say. And groundwater which either can come up from below or laterally from the sides and flow through the waste is still water that is in contact with the waste.

Q. And can you explain -- and I'm looking again at the second sentence, footnote 3. Can you explain where the performance standard is found?

A. Footnote 3. Yeah, the Illinois Administrative Code, Section 845.750(a)(1).

Q. And are those -- let me -- when you offered your pre-filed testimony before the Pollution Control Board in 2020, what rules were you testifying on?

A. The proposed Illinois rules.

Q. And is that also the rules that you're citing to in footnote 3?

A. I believe so.

Q. And can you explain how the performance standard is relevant to the 2025 closure plan for the

Dallman ash pond?

A. Well, one of the comments that I made about the Dallman ash pond is that we really need an evaluation, a numerical evaluation of what the effect on water levels beneath the facility would be if implemented as is currently proposed.

You know, it's possible that it might not have any effect if there's not enough discharge to this newly created wetland. It's possible that a lot of water may discharge into this newly created wetland and lower the water levels beneath the whole site. We just don't know at this point.

Q. In the first scenario you said it's possible that there might be no effect on water levels. What would that mean for the ash in the Dallman ash pond?

A. The Dallman ash pond now, the bottom of the waste sits below the potentiometric surface, so it's subject to water entering from below and beneath the berms.

Q. And in your opinion is that consistent with the performance standard?

A. It would be a violation of the performance standard because the whole performance standard is to

keep water out of the waste.

Q. Okay. I would like to move on to the second paragraph on page 3, and in the second paragraph you discuss U.S. EPA's position on the addition of CCR to a pond during closure. Do you see that?

A. I do, yeah.

Q. What is U.S. EPA's position?

A. The position is that once an impoundment is identified as needing to be closed under the rules, additional CCR cannot be -- or should I say coal ash should not be deposited onto the site.

Q. And I'm looking at footnote 4. Can you tell us where you found U.S. EPA's position articulated?

A. Yeah. Back in 2022, EPA sent out a series of letters to various facilities and in each of those cases articulated that adding additional CCR to a site that's required to close is not a beneficial use of the CCR.

Q. And we have a couple of documents that we are going to put in front of you that we have marked as Exhibits 20 and 21, and let's look at 20 first. And can you tell me -- I'm going to wait a moment for

everyone to get a copy.

Looking at Exhibit 20, are you familiar with this document?

A. I am. This is one of the documents sent by EPA.

Q. And can you please tell us what Exhibit 20 is?

A. This is the proposed denial of the alternative cleanup or closure schedule or deadline for the Ottumwa, Iowa, site.

Q. And I'm just going to spell Ottumwa for the record. O-T-T-U-M-W-A. In footnote 4, what do you cite this proposed denial for?

A. Let's see. The proposal for adding coal ash to a site that needs to be closed.

Q. And in this document, what was U.S. EPA's response to that proposal?

A. They said it's not an appropriate use of coal ash to put it on top of another facility that needed to be closed. I'm just looking to find the specific point if I can find it.

Q. And I'll refer you to page 35 and 36 --

A. That may take a while for me to get there.

Q. -- which is what you cite in footnote 4.

A. All right. IPL's claim that the placement of CCR in the OGS ash pond is of beneficial use is irrelevant because the regulation does not distinguish between placement that might be considered beneficial use and placement that might be considered disposal for units that are required to close.

Q. And that was a quote that you were reading from this document from Exhibit 20, correct?

A. Correct.

MS. BUGEL: Complainants move for Exhibit 20 to be admitted into the record.

MS. WEBB: Exhibit 20 is admitted.

Q. (by Ms. Bugel) And now I'd like to turn your attention to Exhibit 21. Do you have that in front of you?

A. I do.

Q. And are you familiar with this document?

A. I am.

Q. And can you please describe what this document is?

A. This is a letter to Duke Energy on the -- this is the Gallagher site in Indiana. And as part of this they also say that -- at the very end of the

letter, they say that finally because of north ash pond and the primary pond ash fill, it must close pursuant to 40 CFR 257.101(a). Any further receipt of CCR into those units is prohibited.

Q. And that was a quote that you were just reading from Exhibit 21, correct?

A. Correct.

Q. And you -- in footnote 4, are you -- in footnote 4, what are you relying on this document for?

A. Basically it's to show the EPA's rulings, that additional placement of CCR on top of impoundments that are required to close is not allowed.

MS. BUGEL: Okay. And Complainants move for Exhibit 21 to be admitted into the record.

MS. WEBB: Exhibit 21 is admitted.

Q. (by Ms. Bugel) And I'm now turning back to Exhibit 16. Looking at the last paragraph on page 3, in the first sentence do you identify a post closure groundwater elevation?

A. Yes. I reference a document from Andrews of a closure alternatives assessment, contaminant transport model, where they indicated that the post

closure groundwater elevation would be approximately 528 feet.

Q. Okay. And I want to turn your attention back to the excerpts from Exhibit 7, and this is Exhibit D1 or Demonstrative 1. Do you still have that in front of you?

A. I don't know.

Q. Joaquin can come help you.

MS. WEBB: I think it's the one you're holding.

THE WITNESS: This?

Q. (by Ms. Bugel) Yes. But it was -- Mark, it was bundled together with a bunch of others. Okay.

A. Yeah.

Q. We're good. So turning to Exhibit 7, the excerpt, can you describe what Exhibit 7 is? I'm sorry. It's Exhibit 7 in its entirety or Exhibit D1. Can you please describe what this is for the record?

A. This is an excerpt from the 2022 closure construction permit application.

Q. And looking at footnote 5, you are referencing the closure alternatives assessment from 2021, contaminant transport model. Do you know if

that is attached to the closure construction permit application?

A. I believe it is.

Q. Okay. Can you please turn to -- in your excerpts, can you please turn to PDF page 756?

MS. WEBB: And I just want to clarify for the transcript, all references to footnotes are Exhibit 16, page 3.

Q. (by Ms. Bugel) Thank you.

A. It's --

Q. The font is teeny tiny but --

A. Oh, there is a number up there.

Q. But I will represent for the record that PDF page 756 is part of this bundle. And can you please describe what you're looking at for the record?

A. Yeah. This is the conceptual model for the HELP and migrate modeling that they did under the previous closure scenario.

Q. And I'll represent for the record that this is figure 4 from the contaminant transport model, which is attachment 2 to the closure alternatives assessment, which is attachment 11 to the closure construction permit application. And I did it.

That's a lot of attachments to follow, but hopefully that is clear where that can be found in the record.

And in the -- on figure 4 on page PDF 756, did you find a groundwater elevation?

A. Yes.

Q. And is this the predicted or the estimated post closure groundwater elevation?

A. Yes.

Q. And what is that?

A. 528.

Q. Okay. We can set this aside. Oh, let me just ask one more question. Where on figure 4 do you find that 528 groundwater elevation?

A. Just -- between Sugar Creek and the site of the impoundment there's -- in blue ink, there's a groundwater symbol with elevation 528.

Q. And that's on the left-hand side of the page?

A. Yes. Between the creek and the impoundment.

Q. Okay. I'd like to draw your attention to -- back to -- well, we can set aside the excerpts for a moment. Can you look back at Exhibit 16, page 3, the last paragraph, second sentence?

A. Oh, yeah. Okay.

Q. Can you generally explain how that groundwater elevation of 528 feet estimated compares to the pond bottom?

A. The borings that were -- that I referenced here in this document showed that the bottom of the actual Dallman pond raised from 526 down to 523, another 526, and then a 529.

Q. And how does that compare to the estimated groundwater elevation?

A. Three of the four are below the estimated groundwater elevation.

Q. Okay. And Mr. Garcia has another set of excerpts for us. For the record, these are excerpts from Exhibit 6 and Exhibit 6 is stipulated. It is CWLP's response to Illinois EPA regarding the construction permit application, and this response is dated September 9th of 2024.

Looking at the first page of that excerpt, Mr. Hutson, are you familiar with this document?

MS. WEBB: I'm sorry. This is -- is this D2?

MS. BUGEL: Yes. I have not said that yet.

MS. WEBB: That's okay. This is still Exhibit 7?

MS. BUGEL: No, no.

MS. WEBB: I'm sorry. I don't know what this is.

MS. BUGEL: Thank you for raising that. This is now -- this is -- can we mark this as Exhibit D2, also a demonstrative? And just to be clear, this is -- these are the excerpts from Exhibit 6.

MS. WEBB: Oh, Exhibit 6.

MS. BUGEL: And Exhibit 6 is one of the stipulated exhibits.

MS. WEBB: Okay. Thank you. Sorry about that.

Q. (by Ms. Bugel) Sure. No problem. Any time. I'm just going to re-ask the question, which is now that you've had a moment to look at this, Mr. Hutson, are you familiar with this document?

A. Now that I see what's back here in the back, yes.

Q. Okay. And did you previously review this document?

A. I did.

Q. Okay. And can you please describe what this document is for the record?

A. These are CWLP's responses to comments from IEPA.

Q. And what were the comments on; do you know?

A. Oh, a variety of things, including the hydrogeologic report and the groundwater monitoring program.

Q. Do you know if these are in relation to the construction -- CWLP's construction permit application?

A. I don't recall.

Q. Can you please, if you turn to page -- PDF page 2, does this -- do you see under the "re" line, r-e colon, looking at the fifth line down, does that refresh your recollection on what the subject of this response was?

A. Yes. It was on the coal combustion residual, surface impoundment, operating and construction permit.

Q. And was it a permit or a permit application; do you know?

A. Oh, yes, permit application.

Q. Okay. Let's -- can you please turn to PDF

pages 18 and 19?

A. Yes.

Q. And looking at -- looking at this page, does -- can you please describe what you found towards the bottom of PDF page 18 in relation to Item 1.7.15?

A. This is basically the agency's comments and, I assume, responses about the base of the Lakeside and Dallman ash ponds being below the flood zone on the FEMA flood map.

Q. And turning over to page 19 and the response on page 19, does this discuss borings taken in the Lakeside and Dallman ash ponds?

A. Let me get there. Yes.

Q. And what was the result of those borings regarding the bottom of Lakeside ash pond?

A. Lakeside, the four borings showed the bottom of Lakeside was at 534-1|2, 530-1|2, 553, and 530 feet above mean sea level.

Q. And do you know how that compared to previous estimates regarding the bottom of Lakeside ash pond?

A. It's deeper, but I don't remember what the --

Q. And going on to Dallman ash pond, does this also discuss borings in Dallman ash pond?

A. It does.

Q. And what was the result of those borings?

A. The borings showed the bottom of the pond at 526, 523, 526.2, and 529.5 mean sea level.

Q. And is this what you relied upon for the discussion of the pond bottom elevations in Exhibit 16 on page 3, last paragraph?

A. Yes, that's where the data came from.

Q. And how did those elevations compare to the previous estimate of the bottom of the Dallman ash pond?

A. They were lower.

Q. And you also said this was Andrews response. Can you explain who Andrews is?

A. Oh, the consultant working for CWLP.

Q. Okay. And is Andrews Andrews Engineering?

A. Yes.

Q. We can set Exhibit D2 aside; although, we will come back to it.

A. Which one is D2?

Q. The excerpts that we were just looking at from the September 9th letter from Andrews

Engineering, with Andrews Engineering cover sheet.

So just one more question on this, Mark. What is the significance of the elevations of the pond bottoms compared to the groundwater elevation?

A. Well, what you're looking at is how many feet of saturated ash that could be in the impoundment. Take the elevation of the water and subtract the elevation of the pond bottom.

Q. And looking again at the Exhibit 16, the last paragraph, what was your conclusion about the bottom of the impoundment based on the borings compared to the groundwater elevations?

A. Comparing the estimated 528 feet for the groundwater elevation to the pond bottoms of 526 to 523, 526 and 529, three of the four would have waste below the water elevation.

MS. BUGEL: Okay. All right. I want to move on to page 3, but I also -- I want to be mindful of the time and whether anyone needs a break.

MS. WEBB: Well, it's 10:45. Would anyone like to take five?

MS. WILLIAMS: I wouldn't object.

MS. WEBB: Okay. Why don't we take ten.

(Whereupon a break was taken.)

MS. WEBB: We are back on the record.

MS. BUGEL: And Complainants move for Demonstrative Exhibit D1 and Demonstrative Exhibit D2 to be admitted into the record.

MS. WEBB: All right. Exhibit D1 and D2 are admitted into the record.

Q. (by Ms. Bugel) Okay. So I want to turn to page 4 of your report, Mr. Hutson, about halfway down the page, and again the report I'm looking at is Exhibit 16. About halfway down the page you list a series of benefits of the revised closure plan, which is the 2025 closure plan. Can you please identify those benefits? And this is in relation to Dallman ash pond.

A. Sure. The way I see the new proposed closure plan for Dallman, there could be some benefit to the removal of the Lakeside impoundment in that it potentially might somewhat lower the high potentiometric surface if there's enough discharge into the Lakeside impoundment.

The installation and operation of dewatering wells is a good thing, especially since the dewatering wells are intended to stay there now to be

used as necessary to lower or remove groundwater that might flow in or, you know, water that might percolate down and enter the waste.

And the proposed geosynthetic cap will probably be very effective for a period of several decades at least. The design life that I've seen is a hundred plus years, so at least for all of our lives it'll -- it should be effective at reducing infiltration into the waste.

Q. Okay. And below that you also discuss deficiencies for the 2025 closure plan for Dallman on page 4. Do you see that?

A. Yes.

Q. Can you please tell us what the first deficiency is?

A. The first one is just that the proposed closure plan needs to describe how it would be a permanent fix. If the waste is going to stay on the flood plain, fifty feet from the creek in an area of high groundwater, it needs to just basically force feed, there's a potential need that it could be a permanent operational issue or problem to be rectified.

Q. Does your first bullet point mention the

performance standard?

A. It does.

Q. And what is your opinion on the performance standard in relation to Dallman ash pond and the 2025 closure plan?

A. It remains to be seen. That's why I said that we would really like to see some modeling to see how the groundwater elevation beneath the site would respond to eliminating the Lakeside pond.

Q. And we've already discussed modeling. I don't want to go through that again, but I do want to ask, aside from modeling is there any other way to get a reliable estimate of what the groundwater level will be following the removal of Lakeside?

A. Not until the material is removed.

Q. Okay. So -- and when you say material, what are you referring to?

A. The coal ash.

Q. So there's -- aside from modeling, there's no other way to get an estimate ahead of the removal of the coal ash? And by estimate, I'm referring to estimate of groundwater level.

A. Well, everything is going to require some assumptions. Nothing for sure.

Q. Okay. I'd like to turn to your second bullet point. What is the second deficiency that you discuss there?

A. That is the discussion that we had earlier about the EPA's position on moving waste from one coal ash impoundment that's required to close to another coal ash impoundment that's required to close. Basically just it's unclear how the proposal gets around that policy.

Q. Okay. And moving on, I'm looking at the last bullet point on page 4, what is the deficiency that you discuss there?

A. The four borings that identified the base of the impoundment in Dallman, it's a big impoundment for four data points. I indicated that a systemic boring program was needed to really determine the actual elevation of impoundment.

Q. And can you just explain why more borings are needed?

A. Well, because we saw that based on the first four, the first four borings that were reported, three of the four showed the elevation of the bottom of the pond beneath the projected post closure water elevation. So if three of the four

were put in and identified to be that deep, how much more of the pond could we expect to be below the water elevation.

Q. Okay. I'd like to turn to page 5 and the first bullet point on page 5. Can you tell us what concern you're raising here?

A. On the geotextile cover?

Q. Yes.

A. The proposal is for -- it's the same thing I said just a few minutes ago. These things will likely be effective for several decades, and by the time they are no longer effective, by the time the UV light degrades the material or there's some physical damage that allows infiltration into the waste, nobody will be looking at that point unless we're going to continue to have regular monitoring past the thirty year operation of the maintenance period.

Q. And do you know if there is a post closure care plan in relation to the 2025 closure plans?

A. I believe there is.

Q. Okay. All right. We have another excerpt, and for the record this is -- these are excerpts of Exhibit 3, and Exhibit 3 is the 2025 closure plan. And we have not previously marked this, so I am

marking my copy as Exhibit D3. And, Joaquin, could you please mark Mark's copy for him.

A. I can do it. What is it?

Q. So we're marking this as Exhibit D3, which is also a demonstrative. And looking at this exhibit, can you see whether -- if the post closure care plan is appended to the 2025 closure plan? And to help you out with that, you can turn to PDF page 617.

A. Okay.

Q. And so I just -- I'll just ask you a question. Can you see if based on this exhibit, does the post closure plan appear to be an appendix or appended at the end of the 2025 closure plan?

A. It does. At least it was that way on the copy that I downloaded.

Q. And I've been referring to a post closure care plan. Do you know if a post closure care plan and a post closure plan are the same thing?

A. That would be my interpretation.

Q. And can you tell me, is monitoring past thirty years covered by the post closure plan that we're looking at as part of Exhibit D3?

A. Past the thirty years?

Q. Yes.
A. No.
Q. And can you tell me where you're looking to get that answer?
A. Well, let's see. On PDF page 624, post closure care period. Under Item 5, post closure care period. Post closure care period must be conducted for thirty years unless the CCR unit is operating under assessment monitoring.
Q. Okay. And so is -- and is there monitoring of the pond included as part of the post closure plan?
A. Monitoring of the pond. What --
Q. Let me rephrase that. Is there monitoring of the water levels in the pond included as part of the post closure plan?
A. No, not that I've seen.
Q. And can you explain how monitoring of the water levels in the pond is related to the design life of the cover?
A. Yeah. Basically it would be beneficial to have piezometers inside the impoundment during and after the post closure care period to check water levels inside the impoundment, basically to see if

you can detect when the cap starts to deteriorate and would need to be replaced.

Q. Why would the cap deteriorating affect water levels in the pond?

A. Because it would -- as the cap deteriorates, infiltration through the cap could increase.

Q. Infiltration of what?

A. Water.

Q. Okay. So I want to turn back to page 5 of Exhibit 16, and the second bullet on that page discusses dewatering valves. Do you see that?

A. Just a second. The second bullet on page 5?

Q. On page 5, yes.

A. Okay. I see it.

Q. And do you see that this discusses or you discuss in this bullet dewatering wells?

A. Yes.

Q. And what concern are you raising regarding the dewatering wells?

A. What I was looking for in the closure plan was an explanation of how the wells would be operated, specifically at what elevation would

pumping start, would it start automatically, would there be a float system that would cause the pump to start to work should water reach a certain elevation, or does somebody have to go out and physically take a measurement and decide, well, we've got too much water in here. It's time to start the pumps.

Where I've worked on extraction systems before, there's always been an electronic readout that shows how much -- what the water level is, what the pumping rate on a particular day was, how much was pumped. I just want some -- I was looking for some specific information about how would you go about operating this thing and make sure that the water stays out.

Q. And did you find that in the post closure plan?

A. I did not.

Q. And can you tell me what is included in the post closure plan regarding the dewatering wells?

A. The basic design of the wells and the location. That's about it.

Q. And is -- okay. I'm looking at page 5. I'm sorry. Strike that. Okay. So can we turn to the third bullet on page 5 of Exhibit 16?

A. Okay.

Q. And do you discuss plans to operate the dewatering system past thirty years in this bullet?

A. Yes.

Q. And what concern are you raising in this bullet?

A. If we were to allow the waste to stay in impoundment, that waste will still be sitting there underneath a cap ready to -- ready and able to leach metals into the water whenever water is allowed to come in contact with it for an extended period. So it doesn't -- the leaching of the metals into the water will not automatically stop at thirty years. We need to look as a permanent system.

Q. And what is included in the post closure plan regarding operating the dewatering system past thirty years?

A. Nothing. It stops at thirty years, as far as I can tell.

Q. And moving on to your next bullet that talks about maintaining the dewatering system on page 5, do you see that bullet?

A. Yes.

Q. And can you tell us what concern you're raising in this bullet point?

A. Yeah. This is basically a heads up because, based on my experience, when you put extraction wells into water containing high concentrations of metals, there's an awful lot of fouling of the equipment. It's a maintenance headache. Basically it requires a regular maintenance schedule for the well, for the well and the pumping systems to keep things operational.

Q. And what is in the post closure plan regarding maintenance of the dewatering wells?

A. Nothing.

Q. Well, I'm looking at page 5 of the closure plan, PDF page 624.

A. Yikes, 624. Okay. Oh, you mean the schedule?

Q. Well, what's included regarding maintenance activities?

A. Mowing the berms, final cover inspections, berm inspections, drainage structures, dewatering wells, and groundwater monitoring wells.

Q. So for the dewatering wells, what -- what's the maintenance plan?

A. Quarterly -- or do inspections and maintenance quarterly or when not functioning

properly.

Q. And does the post closure plan include any information on what maintenance activities will be conducted?

A. No, not that I've seen.

Q. And the idea of doing maintenance when they're not functioning properly, what's -- do you have an opinion on that?

A. I think they need to be -- the performance of the pumping systems needs to be monitored to show that it's continuing to operate properly as opposed to waiting for a quarterly inspection.

Q. And so you mentioned having previous experience with extraction wells?

A. Yes.

Q. Can you tell us what -- where that experience took place?

A. Initially my first experience with extraction wells was on the Saint Croix refinery, Hess Oil Saint Croix refinery in the Virgin Islands. But after that I worked on the Joliet Lincoln Stone Quarry facility, and that's where I observed the effects of pumping coal ash leachate on the equipment that was used in the pumping system.

Q. And what were the effects on the Lincoln Stone Quarry extraction wells?

A. The screened intervals of the wells would crust over rapidly. The mechanism for the pumps would degrade and they would stop working within weeks. At one point there was a person assigned full time to keeping the pumping system going.

Q. And how long a period were these wells in place before you started to see issues with -- maintenance issues?

A. Within a week or two. It was very quick.

Q. Okay. Can you just tell me, how do extraction wells compare to dewatering wells?

A. Basically the same thing. It's just a different term.

Q. Okay. At this point I would like to put aside Exhibit 16, and can we please turn back to Exhibit 15. And if you need help finding it, Joaquin can help you. And Exhibit 15, just while you're looking for it, is the January 5th, 2025, your report of January 5th.

A. Ah-ha, yes. Thank you.

Q. And regarding your January 5th, 2025, report, can you give us just a brief overview of your

recommendation in this report? And I'm looking in the introduction, second paragraph on page 1.

A. Oh, the final recommendation?

Q. Yeah. What's your recommendation?

A. I recommended that the waste be excavated and either taken off site for disposal at a secure location or beneficially reused.

Q. And is that the waste from both Lakeside and Dallman ash ponds?

A. Yes.

Q. And at the time that you wrote this report, do you recall the proposed closure plan for Dallman and Lakeside ash ponds?

A. It was to close the impoundments in place with the waste remaining in Lakeside.

Q. With the waste remaining in Lakeside and Dallman?

A. Yes. Both of them, yeah. It wasn't going to be removed.

Q. Okay. So I'd like to turn to the discussion, and looking at page 5.

A. Looking at page 5. Okay.

Q. So on page 5, under discussion, the first thing you talk about is impoundment location and

construction. Do you see that?

A. Yes.

Q. And can you give us a very quick summary of what's relevant about the location and construction of the impoundments?

A. They are constructed on fluvial sediments adjacent to the creek, to Sugar Creek, over the top of abandoned meandering stream channels that meander at least under Dallman. The berms have been elevated over the course of years and -- I don't know. What else do you want to know?

Q. That is sufficient for that. Can you please turn to page 7, at the top of page 7 where you discuss site geology?

A. Yes.

Q. Can you give us a really quick summary of the site geology?

A. Yeah. The bedrock beneath the area is the Pennsylvanian shale. It's overlain by a series of generally -- it's a fine upwards sequence of fluvial sediments with a basal sand layer which is the cleanest sand on the site. Overlain by a lower -- what they call a lower cohesive unit and it's a clay -- not clay. It's a clay-rich unit in most

places; although, in some locations it's cited as having 45 percent sand in the unit. There's an upper sand layer above that and an upper confining layer, another more clay-rich unit above that.

Q. You mentioned 45 percent sand. What's the significance of having -- of the layer being 45 percent sand?

A. Well, it's -- the more sand you have in a layer, generally the higher the hydraulic conductivity. The -- let me back up. Fluvial deposits are, by nature, very variable in terms of thickness of units, in terms of composition of units. If you go from one place in a -- look at a layer and take a sample ten feet away, it can look very different depending on where you're at.

So the ability of anybody to characterize the natural fluvial materials sufficiently to show that water and|or contaminants can't migrate through them is very problematic just because of that variability of these materials.

Q. Okay. And in the first paragraph on page 7, the second sentence, you discuss -- or it's the second and third sentence. You discuss the relocation of Sugar Creek. Do you see that?

A. Where is it?

Q. Under site geology, on page 7, in the first paragraph. I'm looking at the third sentence.

A. Yeah, okay. Uh-huh.

Q. Can you tell us what is the significance of the relocation of Sugar Creek?

A. The relocation, it's a couple of things. It creates a potential conduit through the finer layer of materials underneath Dallman, and it -- the relocation of the channel from on the southeast corner of Dallman, all the way over to the north, where the northwest corner is, that raises the base or discharge level.

So over time what water that used to discharge into the creek over near where the landfill is now in the southeast corner of the Dallman impoundment where the old meander comes through there, that water now has to go across Dallman, further downgradient.

That provides an opportunity for the water level to rise over time to create that -- to create the gradient to get it to migrate all the way across to the new channel location.

Q. And you've talked about the places where there could be a conduit under the pond. What's the

concern with there being a conduit?

A. Well, the documents up until most recently have always described the channel fill materials as being highly variable. In fact, even the most recent one may still say, make a statement something like further characterization is difficult because of the variation and the materials in the channel fill.

The water in the basal sand is under hydraulic head, which means that if you put a well into the basal sand it comes up higher than the overlying confining unit. If there is a conduit, if there's a channel, part of the channel which has a permeable fill material, that becomes a conduit to let water rise from that confining -- confined aquifer, or semi confined, in the basal sand and into the waste, into the coal ash.

Q. Okay. So in your pile of exhibits in front of you, there's an exhibit marked Exhibit 11. This is stipulated so it's already admitted. And Joaquin can come over and help you find that.

Okay. And do you have Exhibit 11 in front of you?

A. I do.

Q. Okay. And are you familiar with this

document?

A. It looks familiar. I don't know the details of it.

Q. Have you reviewed this document before today?

A. I have, yeah. I've seen it before.

Q. And referring to Exhibit 16, page 7, footnote 17, is this the document that you rely on regarding the relocation of Sugar Creek?

A. What was the footnote again?

Q. Seventeen.

A. Seventeen.

Q. We're on Exhibit 15, your January 5th report.

A. There we go.

MS. WEBB: Exhibit 15, page 7, footnote 17.

Q. (by Ms. Bugel) Correct.

A. Ah, there we go. Yes, this is it.

Q. And can you please very briefly describe what this document is?

A. This is the permit application to allow CWLP to relocate the creek in order to build Dallman.

Q. Okay. And we can put Exhibit 11 aside.

We're going to stay on Exhibit 15. And we can turn to page 10, site hydrogeology.

A. Okay.

Q. And can you give us a quick summary, just a couple sentences on the site hydrogeology?

A. Sure. The water as measured in the sediments just above the bedrock flows in at a high head or high elevation on the north -- be the southeast corner of the property and probably along the eastern edge but it's not well monitored over there.

But it flows generally from high head in the southeast toward the west-northwest end north. And underneath the Dallman facility there's some radial flow just driven by the high leachate elevation inside the impoundment.

Q. And turning to page 12, again of Exhibit 15, I am looking at the -- I'm looking at the middle paragraph, middle paragraph on the page that begins "capping." I'm looking at the second sentence in that paragraph. And in here do you discuss the natural low conductivity materials have been replaced with fill beneath portions of the impoundments? Do you see that?

A. Yes.

Q. And is that -- does that pertain to the discussion we were just having regarding concerns about the conductivity of the material below the impoundments and the creek being relocated?

A. Yep.

Q. Okay. And for footnote -- for that sentence, for footnote 4, what I'm --

A. Footnote 4?

Q. I'm sorry. Footnote 44. What do you rely on to support your opinions regarding the materials beneath the impoundments?

A. This was a -- references the stabilized report from 2010, which was a hydrogeologic report of the Dallman impoundment.

Q. And Joaquin is retrieving that from your stack of materials. It has been marked as Exhibit 12. And are you familiar then with this document?

A. I am.

Q. And can you please describe what it is?

A. It's a hydrogeologic assessment of Dallman pond area.

Q. And can you explain what you relied on this

document for?

A. Basic information about the geology and materials beneath the site.

Q. Okay. And staying on page 12, I now want to direct your attention to the next paragraph. And so in the next paragraph, what concern are you raising?

A. That leaving the Dallman impoundment in place in contact with groundwater flowing in at high head on the southeast and exiting at lower head on the south -- or the west and north and northwest, and east in some cases, does not meet the performance standard of the Illinois regs.

Q. And -- well, and in this paragraph are you -- what do you cite for support regarding your opinion that it's not okay to leave ash in contact with groundwater?

A. Well, EPA has said repeatedly that the federal performance standard does not allow ash to remain in contact with groundwater.

Q. And do you know if the federal performance standard and the Illinois performance standard are the same or virtually the same?

A. At least very close. I don't recall if

there's a word change in there somewhere or not.

Q. And I'd like to turn to Exhibit 21. Exhibit 21 should already be in front of you. We looked at it earlier.

A. I got it.

Q. And in this portion of your discussion, what do you rely on Exhibit 21 for?

A. I just lost this portion of my discussion. Where are we?

Q. We're looking at the January 5th report, which is Exhibit 15, page 12, towards the bottom of that page.

A. Oh, this is -- in this letter is where the EPA states that leaving the waste in contact with groundwater doesn't meet the performance standard.

Q. Okay. All right. We can set Exhibit 21 aside, and I want to turn to the bottom of page 12, carrying over to page 13. Can you discuss the Alabama Department of Environmental program, how U.S. EPA denied approval of that program? Do you see that discussion starting at the very bottom of page 12?

A. I do.

Q. And can you tell us, can you explain what your -- what point you're making there?

A. Alabama had applied for approval of or the ability to run their own CCR regulations, and the EPA had denied it because of Alabama's allowing closure of coal waste sites with waste in contact with groundwater.

Q. Okay. And we have what we have previously marked as Exhibit 22. Joaquin is placing it in front of you. And are you familiar with this document?

A. This would be the federal -- the Alabama denial.

Q. And can you explain what you relied on this document for?

A. Let's see. This is just -- this is the support where -- that shows that EPA had denied the state rules or the ability to implement rules by not meeting the minimum standard of separating waste from groundwater.

MS. BUGEL: And Complainants move for admission of Exhibit 22 into the record.

MS. WEBB: Exhibit 22 is admitted.

Q. (by Ms. Bugel) And continuing with Exhibit 15, can you please turn to page 14 and halfway down this page, or a little more, you have the heading Brown Water Quality Monitoring. Do you

see that?

A. Yes.

Q. And in the very first sentence, do you offer an opinion about whether the impacts to groundwater quality downgradient of the ash ponds continue?

A. Yes. I say it has continued.

MS. BUGEL: Okay. Can we please get the demonstratives? And Joaquin just reminded me for a little bit of cleanup, I need to make a motion for Exhibit D3, which is one of Complainants' demonstrative exhibits to be admitted into the record.

MS. WEBB: That was an excerpt from --

MS. BUGEL: It was an excerpt from the 2025 closure plan, and off the top of my head -- Exhibit 3, yes.

MS. WEBB: D3 is admitted.

MS. BUGEL: And we are now placing an exhibit in front of you, which is Complainants' Second Amended Demonstratives. I believe we are at Exhibit D4, and these were pre-filed before the start of this hearing.

MS. WILLIAMS: Can we just take a

couple minutes to look over the old version, make sure we're clear on what the difference from --

MS. WEBB: Sure.

MS. BUGEL: And can I just represent for the record that the difference is that we pulled out the first graph on arsenic.

MS. WEBB: Okay. That's helpful. I'll still give Deborah, Ms. Williams, a minute to check for herself.

MS. BUGEL: Of course.

MS. WILLIAMS: And it was the first graph in the second version?

MS. BUGEL: Yes.

MS. WILLIAMS: The second graph in the first version, I think, right? But otherwise the graphs are the same, I assume.

MS. BUGEL: Yes.

MS. WILLIAMS: Okay. You can go, move ahead.

Q. (by Ms. Bugel) Okay. So, Mr. Hutson, can you please turn to the first page of graphs that is titled Sulfate Concentrations?

A. Yes.

Q. And can you please -- can you please

describe what this graph is showing?

A. This -- well, let me back up. I find it particularly instructive on a lot of sites to look at how concentration trends have evolved over time. And so since many of the new wells don't have a long history of being sampled, I basically took an old graph I had done some years ago and updated it with continuing information for those wells that have a long-term concentration history.

And what this graph is showing us is that AP-1, the well with the little blue squares, AP-2, which is the green line with the orange squares, and AP-3 have been showing just an -- overall just an increasing concentration of sulfates in the water over the time and it hasn't resolved with the discontinuation of sluice water going into the impoundment, Dallman impoundment.

Q. And on this graph, do you compare the well concentrations to any sort of standard?

A. Yeah. On the graph, I have the Class 1 groundwater standard of 400 milligrams in the yellow line and the background, reported background, of 55.5 milligrams per liter in the purple line, I guess it is.

Q. Purple or pink maybe?

A. Maybe it's pink.

Q. And how do wells AP-1, 2, and 3 that you highlighted compare to the Class 1 standard?

A. They're above the standard that the -- did you say AP-1 and 2?

Q. I said AP-1, 2, and 3.

A. Okay. AP-1 and 2 have been above standard for quite some time. AP-3 has shown an increasing trend that it's come into above standard over the last couple of years.

Q. And let's turn to the next page, which is boron. Do you have that in front of you?

A. I do.

Q. And can you tell us what is -- what the overview is of boron at the CWLP ash ponds?

A. Yeah. There are three wells that are typically above the Class 1 standard. Now, this is three wells of the long-term monitoring program wells, not -- there may be other wells out there, and there certainly are, that have other concentrations.

But AP-1 is currently showing the highest concentrations, in the low twenties milligrams per liter. AP-2 has got lower concentrations, around

five or so, but not as high as AP-1. And interestingly, AP-3 has shown somewhat of a decline; although, it's still above the Class 1 standard.

Q. Okay. How about compared to background?

A. Oh, the background is -- well, depends on which report you're looking at. There's different backgrounds reported between the federal and the state monitoring reports. I think -- I believe this .14973 came from the state report.

Q. Okay. And can we please turn to the next page, which is TDS. T as in toy, D as in dog, S as in sulfate.

A. All capital.

Q. And what is TDS?

A. Total dissolved solids.

Q. And can you please tell us what this graph shows?

A. This graph shows that AP-1 is still above the Class 1 standard of 1200 milligrams per liter in the most recent samples, and up until recently AP-2 had also been there. Remains to be seen whether it stays. Also, you might notice AP-3, which is showing an overall slowly increasing trend, coming close to Class 1 standard but not exceeding it yet.

Q. And how about compared to background?
A. Compared to background, all three of those wells are regularly above background.
Q. Okay. And I want to have -- I want to make sure we tell the Board where it can find the data that supports these charts. Besides groundwater monitoring reports, where else does that data appear?
A. It's in the construction -- is it the construction -- I can't think of it. I'm not sure if it's the construction application or --
Q. Well, let's --
A. -- closure application.
Q. Let's grab the operating permit application to start.
A. Okay. Where would I find that?
MS. BUGEL: That would be in front of you. And do you -- what number is the operating application? Okay. So let me do a little cleanup here and simply start by Complainants move for Exhibit D4 to be admitted into the record.
MS. WILLIAMS: Can we just do one -- I don't want to object at all, but I would like it if he could explain for foundation about how information got from -- like did he by hand take data from

reports and plot it? Can we talk to him a little bit? How did this chart get made? I think he made it, right?

THE WITNESS: I made it.

MS. WILLIAMS: Yeah. Let him -- would you mind just --

Q. (by Ms. Bugel) Not at all. Mark, can you explain how you made this chart, these charts?

A. I took PDF -- I have PDF documents that have the groundwater monitoring tables in them, ran them through optical character resolution and copied them over, which I will say is not a hundred percent infallible and it gives problems where there's -- especially where there's less than values. And then created a master sheet off of that and created the graph.

MS. WILLIAMS: Thank you.

MS. BUGEL: Okay. So Complainants renew their motion for --

MS. WEBB: Exhibit D4 is admitted.

Q. (by Ms. Bugel) And now we are -- we have another set of excerpts, and this is from Exhibit 10, which is the CWLP operating permit application. I am marking mine as Exhibit D5 because this is a

demonstrative.

MS. WEBB: D5 -- I'm sorry. D5, and it was an excerpt from --

MS. BUGEL: Exhibit 10.

MS. WEBB: Okay. Thank you.

Q. (by Ms. Bugel) And, Mark, you should have that in front of you now.

A. Yep.

Q. Can you please -- are you familiar with this document?

A. I am.

Q. And you've reviewed this document before today?

A. Yes.

Q. And I'm going to turn to -- well, I'm going to turn to attachment 11, and does this have -- this might be one of the moments. Appendix H. Do you see -- and we might not have Appendix H attached. I'm not sure at this moment. So this might require you pulling out the big version of Exhibit 10.

A. Okay. Maybe I pulled out more than I needed. Okay.

Q. Okay. So if you look at Attachment 12 -- no. I'm sorry. Attachment 11, Appendix H to

Attachment 11, does that contain the groundwater -- tables with groundwater data, groundwater quality monitoring data?

A. It may take me a little time to get there.

MS. ROSENBERGER: What PDF page is that?

THE WITNESS: Is there a PDF that goes along with that?

MS. BUGEL: Yes. It is -- begins at PDF page -- bear with me one second. Appendix H begins at PDF page 541 and it goes through 559.

MS. WEBB: And this is D5?

MS. BUGEL: No, this is not excerpted in D5.

MS. WEBB: Oh, okay.

Q. (by Ms. Bugel) So this requires going back into Exhibit 10.

A. Oh, okay. Got it.

Q. Okay. So I just want to ask you quickly, does Appendix H to Exhibit 10 contain groundwater monitoring quality data that supports your graphs?

A. It does.

Q. Okay. Now, I know this is painful and I apologize ahead of time. Can we please -- can you

please talk about and tell us what range of years this appears to cover?

A. Oh, let's see, 2012 was it? 2012 through --

Q. Do you see 2012 on here?

A. Yeah. April of 2012.

Q. Do you have a PDF page you're looking at?

A. Oh, 542.

Q. Okay. And do you know where that extends to or, I'm sorry, what date that it finishes at?

A. Last one I see is 2021.

Q. Okay. Okay. So we can actually set that aside for a moment. And does that cover the full range of dates in your charts?

A. No.

Q. Okay. So I am looking now for Exhibit 27. And we are placing what has been marked as Exhibit 27 in front of you, and are you familiar with this document?

A. I am.

Q. And have you reviewed this document before today?

A. I have.

Q. Can you please briefly explain what this

document is?

A. It's the annual groundwater monitoring and corrective action report for year ending December 31st, 2022.

Q. And does this also contain groundwater quality monitoring data?

A. Yes.

Q. Can you tell us where we can find that data?

A. The summary of exceedances is on PDF -- is there a PDF page on this?

Q. There are not PDF pages.

A. Oh, okay. In the tables in the back, followed by the summary of all the samples in table form.

Q. And is this one of the groundwater quality monitoring reports that you used to create your charts?

A. Yes.

MS. BUGEL: Complainants move for Exhibit 27 to be admitted into the record.

MS. WEBB: Exhibit 27 is admitted.

Q. (by Ms. Bugel) And I'm not going to pull it out right now but, just for the record, did you

also use additional reports like this one after this report?

A. Yes, uh-huh.

Q. Okay. What other report would you have used?

A. Starting in -- is it 3, the '23 data, I think, there were annual reports posted on the Illinois compliant Website that I was able to get.

Q. Okay. And we will come back to some of those reports later. I do want to ask you, why -- well, let me ask. This Exhibit 27, is this a report for the state program, the state CCR program, or the federal CCR program?

A. I have to check. I think it's federal.

Q. And if you look at the table of contents, does that tell you?

A. 40 CFR, that gives you a hint, I guess.

Q. So has that refreshed your memory?

A. Yeah. It's a federal report.

Q. Okay. And why -- when you were working on your reports for this proceeding, why did you rely on federal reports?

A. Because until the 2023 data, I think, there were not actual groundwater monitoring reports on the

Illinois compliant Website. It was basically just laboratory sheet dumps that would have taken a heck of a long time to create graphs.

Q. And I also want to ask, then, how did you come to your conclusions regarding exceedances at the state level?

A. By comparing the background and Class 1 standards to the parameters, to the concentrations.

Q. And when you refer to concentrations, what are you referring to?

A. The chemical concentration?

Q. What concentrations from where?

A. Oh, from the analyses.

Q. Okay. And --

A. Any chance we can take a break again one of these days?

MS. BUGEL: Yeah. I think we have one more motion. I apologize for doing some housekeeping over here. Hearing Officer, what would you like to do as far as breaks?

MS. WEBB: How about when you come to your next convenient stopping point, let's break for lunch.

MS. BUGEL: Okay.

MS. WEBB: I don't want to interrupt you mid thought.

Q. (by Ms. Bugel) Okay. I think I just have two more questions on this, and then I'm at a good stopping point. So I want to refer to your report at page 16.

A. Which report?

Q. And I'm looking at Exhibit 15, January 5th, 2025, report, at page 16, and I am looking at the last full paragraph on the page.

A. Okay.

Q. The last sentence in that paragraph refers to a groundwater protection standard. And -- I'm sorry. And that actually refers to a published groundwater protection standard. What are you referring to when you say published groundwater protection standard?

MS. WILLIAMS: Where are we at? I heard page 16.

Q. (by Ms. Bugel) Page 16. It's the last full paragraph on the page. The last sentence in the paragraph, like three lines up from the bottom of the paragraph says published groundwater protection standard.

A. Oh, I see where you're at. Okay. That's the MCL.

Q. And what is the MCL?

A. Maximum contaminant limit, I think.

Q. Okay. And is that a federal standard or a state standard?

A. Well, the MCL is a federal.

Q. Okay. And you say that it's 0.01 micrograms per liter.

A. Whoops. I sure do.

Q. Is that a mistake?

A. That's a mistake, yeah.

Q. What is it meant to be?

A. Milligrams.

MS. BUGEL: Okay. And then those are all the questions I have on this line of questions and we're at a good stopping point.

MS. WEBB: Okay. Well, why don't we break for lunch and meet back at 1:15. Does that sound good to everybody? Okay. We'll go off the record. Thank you.

(Whereupon a break was taken.)

MS. WEBB: Let's go back on the record.

Q. (by Ms. Bugel) Okay. Mr. Hutson, we are -- we should still have Exhibit 15 in front of us, which is your January 5th, 2025, report.

A. Wait a minute.

Q. And I would like -- I'll wait for you to get there. And can you also get Exhibit 13 out of the box? In Exhibit 15 -- I'm sorry. Exhibit 15, can you please turn to pages 15 and 16 or starting on 15?

A. Okay.

Q. And on page 15, I'm looking in this latter half of the page. There's a table at the very bottom of the page, and I'm looking at the paragraph right above that table. And right in the middle of that paragraph you say -- there's a sentence that reads, in part, CWLP will be proposing to revise, in parentheses, increase the background concentration for arsenic. Do you see where it says that?

A. I do, yeah.

Q. Okay. I want to talk a little bit about why you opined that background was increasing. If you -- and did you pull Exhibit 13 out? Okay. We pulled Exhibit 13 out of your box, and do you see --

MS. WILLIAMS: I think I'm going to

object here about the relevance of this and what factor we're going towards here, talking about background levels for a parameter you took out of his testimony. So what is the relevance here?

MS. BUGEL: The relevance -- well, the relevance is background and how -- and concerns that our expert has had about how background is set and whether it reflects -- accurately reflects the groundwater contamination. And we have also had an ongoing discussion about arsenic and whether arsenic indicates whether the groundwater contamination is getting better or getting worse and background is relevant to that comparison.

MS. WEBB: And I did say I would allow a limited discussion about -- they did allege arsenic in the amended complaint. That was one of the constituents, and I did say you could summarize.

MS. WILLIAMS: Right. We just want to avoid getting to a point where my witnesses then have to put on a factual case that the allegations are not proven. Nobody wants to complicate any of that. And I felt when you revised your demonstrative exhibit maybe we were going to narrow. So far we haven't talked about this issue at all. I know it's in the

reports.

MS. BUGEL: Right. So we've narrowed it because we haven't talked about it at all today. What we're going to talk about right now is arsenic and background, and then we are going to spend a little time on recent arsenic levels just to establish that the contamination is not getting better.

MS. WEBB: Okay. Go ahead.

MS. WILLIAMS: Am I allowed to enter your demonstrative exhibit that you took out on my turn? Can I re-use the old one when I go to cross to explain?

MS. BUGEL: I mean, I can't answer that right now because that just -- I'm just completely caught off guard on that question, and I need to think about it a little bit.

MS. WEBB: Okay. Go ahead.

Q. (by Ms. Bugel) Thank you. So you have Exhibit 13 in front of you?

A. I do. Thirteen? Yes.

Q. And can you just identify what Exhibit 13 is for the record?

A. It's the Annual Groundwater Monitoring and

Corrective Action Report for year ending 2023.

Q. And the date on it, it was submitted in January of 2024?

A. Yes.

Q. Okay. And can you please identify what the background is for arsenic in that report? And when you find the page, can you tell us what page you're looking at?

A. Here we go. What page is this? I don't see PDF markers on it.

Q. Yeah. It might not have PDF markers on it. Just tell us like the attachment, the table and the attachment you're looking at.

A. It's Table 1. The second page of Table 1. The Table 1 is the 2023 groundwater analytical results summary table, and on the second page of it arsenic appears with a site specific background of 0.0266.

Q. Okay. And could you now please turn to Exhibit 9 of your stipulated exhibits, which is the -- can you just tell us what this exhibit is for the record?

A. This is the surface impoundment operating and construction permit application.

Q. Is it the application or --
A. Permit -- oh, permit application review letter.
Q. And the date on that letter?
A. October 30th, 2024.
Q. Okay. And you've reviewed this document before today?
A. Let me double-check. Yes, uh-huh.
Q. Okay. And in your report at page 15, looking at footnote 55, what did you rely on this document for?
A. Oh, provides their proposed new arsenic background data.
Q. And what -- what background did the October 30th letter to IEPA, Exhibit 9, what did it propose as a new background level? And if you need guidance, it's Attachment B and attached then going to Attachment A, which is attached to Attachment B.
A. Attachment A which is attached to Attachment B.
Q. Attachment A to Attachment B.
A. Ah, statistical calculation.
Q. Yeah.
A. Okay. Here we go. What's the question?

Q. The question is what arsenic background level did this propose to Illinois EPA?

A. .0375 milligrams per liter. The table, it's in micrograms per liter.

Q. And how does that compare to the federal background that you were aware of?

A. It's higher.

MS. WILLIAMS: Federal background?

Q. (by Ms. Bugel) Sorry. Arsenic background in the federal groundwater monitoring reports.

A. It's higher. I wasn't aware that they had two different sets of reporting, two different sets of background.

Q. When you became aware that they were reporting two different sets of background for state levels versus federal levels, what was your reaction?

A. Surprise.

Q. Why?

A. I've never seen that done before.

Q. Can you elaborate?

A. I've reviewed a lot of groundwater monitoring programs and their reports. I've never seen the background wells based on two background -- the background values based on two background wells

varied between the federal and the state.

Q. Okay. And do you know if the federal background level was changed from .0266 in 2024?

A. I would have to look it up.

Q. Okay. Let's -- I think we can pull that out. It's Exhibit 8 from your stipulated groundwater monitoring reports -- or stipulated exhibits.

A. Okay. What's the question?

Q. The question is what was background, arsenic background, in the federal groundwater monitoring reports in 2024?

A. 0.0266.

Q. And do you know, is that the same as it was in 2023?

A. I believe that was the same number.

Q. Okay. You can put the groundwater monitoring reports aside. I just want to turn to Exhibit 15. I'm sorry. Exhibit 15 again, page 15 to 16. And can you tell us, what's your primary concern that you're raising in this discussion on these pages?

A. Hang on a minute. Fifteen?

Q. You've got it. It's the one you have opened to your right. That's it right there.

A. No wonder I can't see the document. Okay. What's the question?

Q. The question is in pages 15 and 16, what's the primary concern that you're raising?

A. Oh, this is the discussion about using AP-4 as a background monitoring well. AP-4 is located hydraulically downgradient of the Lakeside ash pond. It penetrates a ten-foot layer of coal ash, or it penetrated a ten-foot layer of coal ash when it was installed, and it, not unsurprisingly, returns high arsenic.

MS. WILLIAMS: I'm going to object again to explain the relevance of arsenic background wells and what factor under Section 42(h) this testimony is relevant for.

MS. BUGEL: Section 33(c), not 42(h).

MS. WILLIAMS: Okay. I mean, 42(h) is the penalty factors, right? Am I citing it correctly?

MS. WEBB: Honestly, I can't keep it straight.

MS. BUGEL: 42(h) is the penalty factors, but our pre-hearing memo made clear that we're not asking for a penalty. We're just asking

for removal as the remedy.

MS. WILLIAMS: Thank you.

MS. BUGEL: So Section 33(c), this is relevant to whether or not the ash ponds are coming into compliance with the standards, including the Environmental Protection Act, and it's relevant because the higher the background is the fewer exceedances you have. And that goes directly -- the exceedances go directly to whether or not the ponds are coming into compliance.

MS. WEBB: I'm going to go ahead and --

MS. WILLIAMS: Exceedances of boron, sulfate, or TDS, or exceedances of anything that hasn't been proven to be caused by the ash pond? So there has not been evidence made that the ash ponds cause exceedances of arsenic. That has not been settled in this case. We can bring that into it if it's rele -- if it needs to be relevant for the remedy, we will put on testimony as to why arsenic levels are not caused by the ash pond. We can and we will, but I don't think it's relevant to the remedy for boron, sulfate, and TDS what the background number for arsenic is.

MS. WEBB: Well, you're right, this is not a liability hearing, it's a remedy hearing, but I did say I would allow limited testimony on the constituents that were alleged in the amended complaint as long as they relate to 33(c), 42(h). So I am going to --

MS. WILLIAMS: Can we ask for what 33 -- did you explain what 33(c) factor it is?

MS. BUGEL: Yeah. The continuing whether the company is coming into compliance.

MS. WILLIAMS: All right.

MS. WEBB: Okay. Go ahead.

MS. WILLIAMS: I may still object again. I'll let it go for a bit.

MS. BUGEL: Just for expediency, I am willing to agree to an ongoing objection so that we don't re-argue the same point.

MS. WEBB: I am, too, a standing objection.

MS. WILLIAMS: I mean, I'm not worried. You said limited, so at some point am I allowed to make a new objection that it's not limited anymore, is that fair, or are you just always going to --

MS. WEBB: Yes, yes, yes.

MS. WILLIAMS: I mean, I'm assuming you would probably keep it limited.

MS. WEBB: Yes. Well, I mean, it is self limiting in the sense that we have about an hour and a half left for Complainants' questioning.

Q. (by Ms. Bugel) Okay. So I want -- let's see. Now I lost track of where I was.

Okay. So, Mr. Hutson, you were talking about your concern regarding AP-4?

A. Oh, yeah.

Q. Can you please -- could you please go on with your concerns regarding AP-4?

A. I think I pretty much summarized it in a nutshell. It's actually located downgradient of the ash in Lakeside, and it penetrates a ten-foot layer of coal ash where it was bored. So we now know that -- because of that well, we know there is actually ash outside the berms of the Lakeside impoundment. We've got limited amount of data on the extent and that sort of thing, but it's there.

Q. And just on whether or not AP-4 is downgradient, your Exhibit 15 has attachments to it, right? I want to turn to Attachment A.

A. Yes. Potentiometric surface maps.

Q. Wonderful. And can you please turn to the fourth of those maps?

A. Okay.

Q. And can you maybe just -- and I realize it's hard to do because the record won't, but can you explain for the record where AP-4 is located on that map?

A. It is between the west side of the Lakeside impoundment and Sugar Creek just downstream from the dam. Not too far from the dam. I don't know how far that is.

Q. And do you see --

A. A few hundred feet.

Q. Do you see the red arrows on that map?

A. Yes.

Q. What are the red arrows? What are they supposed to represent?

A. The groundwater flow direction.

Q. Do you have an opinion on whether these flow arrows are drawn correctly?

A. Oh, in this case they're supposed to be perpendicular to the contour lines and actually they're at an angle to the contour lines here.

Q. And if the arrows were drawn correctly, what would they show?

A. They would show flow toward the -- from the northeast to the southwest.

Q. And what would they show in terms of AP-4?

A. AP-4 is downgradient of -- the actual flow between AP-5 and AP-4 is not well represented here anyway because if you look at the head differential between AP-5 and AP-4, it's clear that there's a downgradient component of flow that's straight between those two.

Q. Okay. And do you also have the boring log for AP-4 attached to your report, the Exhibit 15 report?

A. I don't know. Oh, I do.

Q. And can you tell us where to find that?

A. Yeah. It's Attachment C, AP-4 boring log.

Q. And what does the AP-4 boring log show?

A. If you look at the boring log, you hit a -- let's see, the one, two, three, fourth description, material description down from the top of the boring, five inches of brown sand transitioning to black fly ash at 9.4 feet. Very stiff. Slightly moist.

Black fly ash continues all the way down to a

little over eighteen feet it appears. No, I take that back. A little -- about twenty feet. So about ten feet of coal ash.

Q. Okay. Okay. And I'd like to turn to page 19 of your report, and on page 19 do you have a -- I'll wait for you to get there. Do you have a discussion of closure alternatives?

A. I do.

Q. What is the first closure alternative that you have here?

A. Leachate collection and treatment.

Q. And can you summarize what leachate collection and treatment entails?

A. Basically it's -- well, it would be similar to the dewatering system that is proposed under the new plan. It's installing extraction wells and collecting leachate from inside the impoundment.

Q. And what's your recommendation on leachate collection and treatment?

A. I recommended against it for a couple of reasons. One is that it's difficult to do a collection in fluvial sediment and be sure that you're going to get, capture all the material, all the contaminants just because of the heterogeneity of

the sediments.

I've worked on some sites where I've been trying to capture CCR leachate for a coal strip up in Montana. They've worked on it for probably twenty years trying to capture the contaminant plumes or at least control them at the source with pumping. And because of the heterogenous nature of the fluvial sediments up there, it makes it very difficult to be successful.

Q. Okay. Can you turn to page 20, and on page 20 you discuss collection and treatment of contaminated groundwater?

A. Uh-huh.

Q. Can you summarize what that is?

A. That would be like infiltration -- groundwater collection galleries or pumping well systems designed to capture the plumes after it's left the impoundment.

Again -- in fact, I see that I even reference the coal strip again in this section because of the problems that they've had trying to capture the plumes in fluvial sediments just because of the heterogeneity of the system.

Q. And what is your recommendation regarding

collection and treatment of contaminated groundwater?

A. It would be very difficult at the CWLP ponds, ash pond, because there's so little distance between the edge of the impoundments and Sugar Creek. If you put a pumping system in or a collection trench in downgradient of the ponds at CWLP, it would be collecting a lot of creek water in addition to whatever comes down from the site, the impoundment site.

Q. And can you please turn to page 21, and this discusses physical barriers, correct?

A. Uh-huh, yep.

Q. Can you summarize what physical barriers?

A. Well, when I'm talking physical barriers, my meaning is things like low permeability barrier walls, slurry walls, things that basically are meant to contain the containment and ash inside the perimeters of the impoundment.

Q. And what's your recommendation?

A. It could be somewhat helpful maybe if it was paired with other things like pumping from within. The problem is that there's no bottom on the coal strip other than all the way down to bedrock. You have to take it down to the rock to get a good

bottom on the barrier.

Q. And you said coal strip.

A. Did I say coal strip?

Q. There's no bottom on coal strip. Did you mean --

A. Actually there's no bottom on CWLP is what I meant, but I'm thinking coal strip.

Q. And by bottom, what are you referring to?

A. You'd have to take your permeability, low permeability systems, down to the bedrock to get a good seal on the bedrock in order to get it contained.

Q. Okay. And let's look at, same page, you talk about retrofitting impoundments as an alternative?

A. Uh-huh.

Q. Can you summarize what's involved there?

A. This may have made sense if they still needed the room for disposal of additional coal ash, but basically I've seen some sites where they've gone in and pulled ash from one side of the pond to the other, backfilled some clean backfill and then put a liner in and basically line the pond. Create a lined pond in place of an unlined pond.

Q. And what's your recommendation on this for CWLP?

A. Oh, I don't think it makes any sense since they don't need any more CCR disposal.

Q. Let me ask you this. Why, even if they don't need any more, if they wanted to leave the ash there instead of removing it, why wouldn't retrofit make sense?

A. Well, you'd already have to move the ash once to get it out of the way to be able to retrofit it, so why then move it back into the same spot?

Q. Okay. So then on page 22, you discuss in situ stabilization. And situ is S-I-T-U. And what's -- can you summarize what that is?

A. What is done in these situations is chemically stabilize the ash that is -- at least the ash that's potentially in contact with water. So I was contacted to see if I would consult on the Gibson station in Indiana to talk about how far up the sediment column or waste column they would need to stabilize in order to keep the materials that are located below water table solid and not let them leach.

I declined to do that because I'd already been

working for another organization over there, but that's how I know that that was their plan was to institute stabilization.

Q. And what's your recommendation on this for CWLP?

A. You know, I -- actually, I believe I said that I thought, you know, that might be something that could be useful.

Q. And how -- in your opinion, how does this compare to removal, excavation and disposal or excavation with beneficial reuse?

A. Well, the benefits of just either excavation or disposal or excavation and reuse is it physically gets the waste up out of the flood plain and away from the creek. So it's more of a -- it's just a safe alternative. Stabilization could, it could, I would have thought it would be something that would be looked at, but not that I know of so far.

Q. Okay. And turning to at the bottom on page 22 your discussion of cap in place begins. Do you see that?

A. Uh-huh.

Q. And it carries over to page 23. Can you

summarize -- we've already discussed cap in place as a proposal for CWLP, correct?

A. Yeah.

Q. So I don't think we need to summarize what it is. But on page 23, you have a series of bullet points and do these bullet points capture the reasons for your recommendation?

A. Yeah.

Q. And what's your recommendation?

A. I just -- I think there are better alternatives than capping the waste in place in an area on the flood plain next to the creek with a shallow potentiometric surface.

Q. Okay. And I don't want to reiterate anything that we've already discussed, but do any of these bullet points touch on anything that we haven't discussed yet as a reason for your recommendation? You know what, I'm going to direct you to the very first bullet point. Can you tell us what that bullet point covers?

A. It's talking about the ponds and their close proximity to the uppermost aquifer.

Q. And does this indicate that they are within five feet of the high water table for the uppermost

aquifer?

A. Yes.

Q. And where does that five foot measurement come from?

A. Well, I've got a reference to a 2018 evaluation of CCR location restrictions document.

Q. And do you know what the location restrictions are?

A. You need to have a five foot separation between the bottom of the waste and uppermost aquifer.

Q. Okay. And do the CWLP ponds have that?

A. They've got -- the actual aquifer is probably lower than five feet below. It's the potentiometric surface that's not.

Q. Okay. Okay. Okay. Okay. So I want to pull up Exhibit 17, which is your reply report in response to Mr. Hunsberger. Do you have Exhibit 17 in front of you?

A. I do.

Q. That doesn't -- and the attachments are still there because we might need those.

A. I don't know about attachments.

Q. Yeah, we will need the attachment, which

was the Epry report.

A. Oh, I saw that. There it is.

Q. Okay. So if you could turn to page 11 of this report, and do you see the heading Hunsberger Deposition Comment 2? Do you see that?

A. I do.

Q. And looking at the first paragraph, first sentence, are you responding to an argument that Mr. Hunsberger made that the source of contamination will be cut off once the leachate head within the impoundment is reduced?

A. That's what I'm responding to, yep.

Q. All right. And what's your response to that?

A. Well, that's -- at multiple sites I've noticed that you may get a reduction in contamination during the initial dewatering of a facility. And cut off -- how did he say it? Once the leachate head is reduced.

But the problem is that that reduction in head also reduces the velocity with which water moves through the impounded coal ash. Slower moving water that's moving through the coal ash has more contact time between the ash and the water, which actually

allows the concentrations in some cases to increase over what there was before.

This is something that I first observed at the Roxboro site in North Carolina, but it was kind of early in its development at that point. But after I was involved with that, I was given a copy of this Epry document. This Epry investigation, this is from 2001. It's called Evaluation and Modeling of Cap Alternatives at three unlined coal ash impoundments.

What they did was they went to three different coal ash impoundments. They were trying to show that just by dewatering the impoundments that the contamination would be cut off and the problem could be solved just by dewatering.

On two of the impoundments they simply dewatered and monitored to see what the results were. On the third they dewatered and put a cap over the top. After a period of time, after they dewatered these facilities, they found that two of the three there was an improvement. But much to their surprise the third impoundment showed increasing concentrations of coal ash constituents in the groundwater after it was dewatered.

And they concluded in this document that it was

a function of the slow down of the flow, allowing more contact time with the waste, allowing dissolved metals to reach higher concentrations in the one that had been left inadvertently in contact with groundwater. One of the three they did not know had been left in contact with groundwater and, therefore, the contaminants went up in concentration.

Q. And can you please turn to Exhibit D4, which is our demonstrative. And I want to turn to -- you have a couple or three or four charts on Sutherland. Can you tell us generally about -- can you tell us what Sutherland is an example of?

A. This is part of some work I've been doing over the last couple of months on another project, basically looking at some of these other sites that have been closed and still have groundwater in contact with the waste. They've been closed by capping, including this one. Sutherland is in Iowa. The first -- is that the first one?

Q. Sutherland is the first one.

A. Boron and groundwater at Sutherland, you can see the remediation was done in 2019 and 2020. It was finished in 2020. Since then the concentration of boron in downgradient well MW306 has

increased from 2500 to 3500 at the latest sample. It's an example of a site that was capped in place while still leaving the waste in contact with groundwater.

The next slide is lithium and groundwater. By the way, these are all graphs that were prepared in the annual report by the Sutherland facilities. These are not graphs I put together.

And you can see, if you look at lithium, groundwater concentrations of lithium are increasing at MW306, MW301, and interestingly going down a little bit in MW303. It's not uncommon to see water quality deteriorating in some locations, generally the more direct downgradient locations, or near a low point and water quality improving in some.

And that's because as you dewater these things and cap them, it's no longer as much a radial flow. So some of these wells that had been impacted are no longer being affected by the radial flow and water quality improves in some of those locations.

The next graph is molybdenum in groundwater at Sutherland. And you can see since 2020 molybdenum has taken a jump in MW306, MW305, and again declined in MW303, similar to the previous situation.

Q. Can you just turn back to lithium? I know you said it was decreasing in 303. Was -- can you explain how that compares to the number of wells where it's increasing?

A. How it compares to the number of wells?

Q. Well, you said in some wells it's decreasing?

A. Yeah.

Q. And I'm wondering just in terms of sheer number of wells, how many are decreasing versus how many are increasing?

A. Oh, there's two increasing and one decreasing. And again that is a reflection of transitioning from radial flow, which is impacting wells that wouldn't ordinarily be impacted, and straight through thru-flow.

Q. And can we turn to Hennepin and discuss Hennepin now?

A. Sure. The next graph is a graph of water quality at the old west ash pond from Hennepin. It's another site that I've just looked at in the last two or three months as part of another project. And you see that the -- again, there are some wells that are increasing over time since the completion of the

capping in 2020, and there are a few wells again that are no longer affected by the radial flow and the concentrations are declining.

So it's the combination of wells being downgradient or in an affected area under normal conditions as opposed to radial flow conditions.

Hennepin, the next page, is sulfate. Sulfate shows big increases in concentrations at well 35, pretty stable at well 23, and some of the others are declining slowly. So it's variable from location to location, and it depends on how much of these wells were impacted by the radial flow beforehand.

And then the last one is arsenic concentrations at Hennepin old west ash pond, and you can see two of these wells -- let's see. What well is that, 21, 21R, and 49 showed a big increase in arsenic over what they had previously contained; although, the values are still fairly small compared to some of the ones that we see around CWLP.

Q. Okay. So I think -- let me -- and can you please turn back to Exhibit 15, your January 5th report, page 24. And on page 24 you discuss excavation and beneficial reuse. Do you see that?

A. Yes.

Q. And can you summarize what excavation and beneficial reuse entails?

A. That would be, oh, taking the ash out of the ponds and -- oh, there was an example given in somebody's deposition about using the ash in construction of a highway interchange. If I'm not mistaken, there's been a history of taking the ash for mine reclamation, things like that. Anything that could use the coal ash in a beneficial manner.

The Valmont site in Boulder, they entered an agreement for a company to come in and recycle the ash into cement or use it in their cement making operations. So anything that would get it out of the ground, get it off the floodplain, get it away from the creek, and eliminate the source of contamination from the environment.

Q. And can you turn to excavation and disposal?

A. Yes.

Q. And can you summarize what that is?

A. That would be excavate the material and take it to another site, take it to a new landfill on-site, take it to a better disposal area than the floodplain along Sugar Creek.

Q. Is this the same as removal?
A. Yeah. I guess it would be, yeah. Did I say removal?
Q. No, no. I want to get the terminology straight for the record because it can be referred to by different names. How does excavation and disposal compare to clean closure?
A. Typically excavation and disposal would be clean closure.
Q. What does clean closure mean to you?
A. That means the coal ash and its contaminated underlying sediments are removed and disposed of properly.
Q. And what's your recommendation on excavation and disposal?
A. I think it's an appropriate tool to be used at this facility.
Q. And did I ask you your recommendation on excavation and beneficial reuse? I can't remember now. I think I might have missed it.
A. I don't know, but I think I said I would support that being looked at.
Q. And why do you support these two options?
A. Because it gets the waste up and off the

floodplain and away from the groundwater and disposed of properly.

Q. So we've talked a little bit about removal. You have some experience with removal sites, right?

A. I do.

Q. Is Plant Wansley --

A. Wansley in Georgia.

Q. Is that one of them?

A. Uh-huh.

Q. Can you tell us about that?

A. Oh, it's one of Georgia Power's coal ash plants that had, I don't know, at least two or three ponds on it. I went down there and met with the state and talked with them and talked with consultants for Georgia Power. And the last I heard, it was at least one or two of the ponds that they'd agreed to back them up or -- back them up -- to excavate them and remove them. Wansley, I believe, goes to an off-site landfill.

Q. And what about Plant Hammond in Georgia?

A. That is the same kind of a thing. I was down there working for another organization and met with the state, and they finally agreed to excavate and dispose of. I'm trying to remember where their

waste goes. I don't recall offhand. But they were going to excavate and treat it, you know, put it into either on-site landfill or off site.

Q. And can we move on to sites in North Carolina?

A. Uh-huh.

Q. How about Belews?

A. Belews Creek. That's a big coal ash impoundment that is being excavated, and that one I believe has a new on-site landfill that they're taking the ash to.

Q. Okay. And how about Mayo in North Carolina?

A. The same thing, they're excavating and taking that one to a new on-site landfill.

Q. And do you know if Mayo appears in Table 1, the attachment?

A. Table 1R. Does Mayo appear? I don't know.

Q. And these do look like they're alphabetical for ease of finding.

A. Yes, Mayo does.

Q. Okay. And how about Roxboro in North Carolina?

A. Roxboro. I don't see Roxboro on here, do

I?

Q. Well, can you tell us about Roxboro?

A. Yeah. That's a huge site. There's a combination of remedies going on there. One area is being -- is having a slurry wall put in around it to control the subsurface and then a cap over the top of it. And other areas are being excavated and removed for disposal off site at a nearby landfill.

Q. And how about -- how about sites in South Carolina?

A. Okay. Wateree.

Q. Wateree.

A. Yep. Wateree is one I went to and visited while they were in the process of excavating it. It was -- it's completely done. It's been done for a while now. And they were excavating it and moving it to a facility, a new facility maybe a couple miles away.

Q. And does Wateree appear in Table 1?

A. I don't know. Yes, it does.

MS. BUGEL: So based on that testimony, Complainants would renew our motion for exhibit -- the Table 1 in Exhibit 15 to be included in the exhibit.

MS. WEBB: Do you still have questions about --

MS. WILLIAMS: I still believe he doesn't understand the table and how it was prepared, and I can ask a bunch of questions that show that on cross. It might mean we're going to be here later than otherwise.

MS. WEBB: Okay.

MS. BUGEL: Hearing Officer, if I could respond. I just -- I don't believe that he needs to understand how it was prepared. Experts can rely on all sorts of records without understanding how they're prepared. The relevant question is, is it relevant? Is it useful to the Board?

MS. WILLIAMS: As you said, we talked about is it something they could reasonably rely on, right? And so we know that someone, not the witness, went onto a Website, manipulated the data on the Website and printed it out, and no one -- and made a table from that, right? That's what you did, right? You can't go to a Website and find this table as it is. That information you can go find, but you can't like just find this table.

MS. BUGEL: But you're representing

that I made this table, and that's not accurate.

MS. WILLIAMS: Well, that's what was in the witness' testimony. He said they made the table. I don't know --

MS. BUGEL: I think he said I gave it to him.

MS. WILLIAMS: So I don't know who made the table, but somebody made it. It's not like I can just go out on the Website and find the same table. You have to choose factors that get it. And we don't know what caused the site to get on the table or off the table. That was my concern.

I wanted to present it with someone who could explain why is this site not on the table and this one is. I can ask him about some of the sites he talks about, what I know about why they may or may not be on there, but it's offered for the proof of the matter asserted, which is lots of people are doing removal. That's what he uses it for and so, therefore, look at this table. Lots of people are doing removal. So if we're going to let it in, I will be asking cross about it.

MS. WEBB: I think it is a fair point that you make, but let's just leave it as an offer of

proof and you can argue in your post hearing briefs for the admission but I understand your questions about the document.

Q. (by Ms. Bugel) Okay. Moving on. Can you please pull up -- well, there's one -- there's actually one question I want to go back to where -- one topic I want to go back to very quickly. On the topic of arsenic in Exhibit 15, back on pages 15 and 16, there's one item I forgot to cover. And at the top of page 16, Mr. Hutson, you -- you talk about poor water analysis from Dallman and Lakeside ash ponds.

A. Right.

Q. Can you please explain --

MS. WILLIAMS: I'm going to object again. So we're going to go back again? So now you're going to be presenting evidence about whether arsenic concentrations are caused by the ash ponds or not, right? That is what this line of evidence looks like to me.

I don't know if you've thought through why you're asking these questions, but that's what I see in the questions and I think it would be really -- make things really difficult for the Board for us

then to have to argue about all the reasons we don't think the arsenic concentrations are caused by the ash pond.

MS. BUGEL: Okay. This is in his report.

MS. WILLIAMS: I asked for it to be redacted in my motion for that reason.

MS. BUGEL: And your motion wasn't granted.

MS. WILLIAMS: And you were granted limited leeway to present things. So explain -- if that's not true, if that's not what you're -- is that not what you're trying to show with the questioning? Let's agree on this so we don't have it in there and have to take it out.

MS. BUGEL: I was granted limited leeway. I don't think I've exceeded the bounds in the amount that we've discussed arsenic. It's been very limited.

MS. WEBB: No, I think it has been limited, but she's right. We've already -- you've already agreed not to try to show that the ponds were the cause of the arsenic.

MS. BUGEL: I don't think I agreed to

that. I think in my response --

MS. WEBB: Oh, you agreed not to pursue it?

MS. BUGEL: No. It was my response on the motion in limine.

MS. WILLIAMS: We already talked about that before that.

MS. BUGEL: The stipulation is the same. The stipulation is about isolated arsenic in only certain wells and that they were -- and it was just certain wells at certain times. Once arsenic got beyond that, then it was an issue not covered by our stipulation and that's what I pointed out in my motion in limine, that we're talking about different wells and we're talking about arsenic that is not just isolated exceedances, one here, one there.

This, you know, I do think it's relevant that the arsenic -- whether or not the arsenic is coming from the pond because that adds to the evidence that the groundwater is actually getting worse and that there's not compliance.

MS. WEBB: Well, I'm concerned about the fact that we're bringing new wells in at this stage, as well as the cause for the exceedances. I

mean, I guess I was anticipating that you would just talk about, you know, you would just kind of summarize that, you know, there was arsenic in wherever but that it wouldn't, you know, that most of your questioning would focus on the sulfate, TDS, and boron.

MS. BUGEL: I think, though, the reason to bring new wells is this is a recent problem that came up after the Board's liability decision, and that's why we're focusing on these more recent years like 2024 and the fact that at the time that we made this stipulation, yes, arsenic was isolated.

Arsenic was only appearing in AW3, and then since then it's actually appearing in new wells and that's our concern and this is where the public health concern, the concern about to the groundwater is actually even worse because of the harm that arsenic can cause.

MS. WEBB: I understand, but there wasn't an amended complaint and I just don't feel like they had enough opportunity to prepare a response to that for today.

MS. BUGEL: And I think, though, we're looking at reports that are dating back to January of

2025, and there was time after Mr. Hutson's report to actually respond on arsenic.

MS. WILLIAMS: We did. We filed a motion in limine. We deposed him on it. And that's fine, but I filed the motion in limine to say I think it's wasting the Board's time. I know it's there and that's why I filed the motion in limine because I think it's a waste of the Board's time to bring these issues in they can't influence where there was no liability finding. We'll have to come back and be prejudiced by it. It's prejudicial, it's not -- and now we'll have to come back and defend that we aren't causing this arsenic.

I don't know why it matters. Under Illinois law, boron, sulfate, and TDS is enough to require a remedy. Why would we need to complicate things for the Board to focus on something that hasn't been established as a liability? Under federal law that's not necessarily the case, and that's why there's a lot of attention on arsenic in these reports. But under Illinois law, we have to fix the boron, sulfate, and TDS. It's not relevant.

MS. WEBB: I think we're getting lost in the weeds. I mean, I'm going to give you a few

more questions so you can complete your thought but, you know, it's really -- you don't need it. You got the adjudication already on the boron, sulfate, and TDS.

I'd like to redirect you sort of. I don't think you need this for your remedy. And I'm not sure how much -- how fair it is. I feel like there was no discussion about arsenic for a number of years, and then it just kind of resurfaced here at the end right as we were getting ready for hearing. So I think, you know, I don't want to get lost in the weeds on this issue.

MS. BUGEL: Okay.

MS. WEBB: But I will let you ask, you know, summarize your point, and let's maybe move on to other constituents or whatever else you have.

MS. BUGEL: One of the lines of questions that I haven't done yet is the January -- the 2024 groundwater monitoring reports, and I was going to ask Mr. Hutson to summarize arsenic, what he sees in arsenic in those reports. I want to just ask you right at the moment, is that in or out because I won't ask -- if you're ruling that that is out, then I won't ask those questions.

MS. WEBB: You know, I just don't want to waste a lot of time on it. I don't think we need it. If he can summarize it briefly. I feel like this whole conversation is taking away from your time for you to pursue other options.

MS. BUGEL: Okay. I'm going to check the time and I'm going --

MS. WEBB: It's 2:20.

MS. BUGEL: Yes. I'm going to check the time and see what I have left. So let me ask this. Can I proceed with -- I can't even find my outline anymore. I want to look at what I have left. Okay. So I think I have time and I will be able to finish by 3:00 o'clock, and I will ask just two more questions about arsenic.

MS. WEBB: Okay. Sounds good.

Q. (by Ms. Bugel) Top of page 16, Mr. Hutson, where --

A. Exhibit 15?

Q. Exhibit 15, at the top of page 16, can you please explain what the arsenic testing of Lakeside poor water showed?

A. Oh, okay. Yeah, total arsenic concentrations detected in Lakeside range from 32.8

to 139 micrograms. So that's .0328 to 0.139 milligrams.

Q. Okay. And I want to turn to the January 2024 groundwater monitoring report if we -- and I believe that is in our stipulated exhibits and Joaquin is going to come help find that in your stack of exhibits.

MS. WILLIAMS: Thirteen, does that sound right?

Q. (by Ms. Bugel) Wait a minute. Thirteen is dated January of 2024. I think we want the one that's dated January of 2025 for the year of 2024. It is Exhibit 8. And can you please look at that groundwater monitoring report and tell us what your observations are about arsenic?

A. Okay. This is 2024 data. Exceedances of background was 0.0375 in AP-4. AP-7 had exceedances all four quarters, and RW-3 had exceedances in all four quarters.

Q. Okay. And let's turn to your -- what we've called your reply report, which is Exhibit 17, and this report is dated August 1st of 2025. Let me know when you have that in front of you.

A. Yep. Got it.

Q. And I would like to turn to page 6.
A. Okay.
Q. And under comment 6, can you explain what argument you are responding to? And I would look not at the italics but your first sentence saying "Mr. Hunsberger suggests."
A. That the indicator parameters arsenic, boron, sulfate, and TDS will be found at elevated concentrations at all leaking CCR sites.
Q. Do you agree with that?
A. No.
Q. Why not?
A. Because in my experience many of these sites have -- some have boron, some have arsenic, some have two or three of them. Some have molybdenum. I did a study a few years ago of -- I don't remember who for now -- reviewing the background -- or not background. Impacted downgradient CCR groundwater quality at sites all over the country.
Boron was by far the number one most frequently detected contaminant. Number two was lithium. That's found at many sites. But cobalt, molybdenum, manganese, arsenic, a variety of other sites, and

this really seems to be dependent on the coal source, what mine did the coal come from, as well as how it was processed, what the difference is between the equipment that burned the coal with was.

You can see at one site I worked on there was talk of digging up a small area of the coal ash, which had been shown by sampling to contain very high concentrations of contaminants with the idea that by taking out that small area the impacts to groundwater downgradient would be improved. So it changes over time at a single plant even. When the contracts for supplying coal change from one mine to another, you can get different suites of contamination.

Q. Okay. Can you please turn to page 9?

A. Okay.

Q. And comment 11 on page 9.

A. Uh-huh.

Q. And this discusses lenses, right?

A. Uh-huh.

Q. Can you explain what lenses are?

MS. WEBB: Sorry. Which exhibit?

MS. BUGEL: I'm sorry. We're in Exhibit 17 still.

MS. WEBB: Seventeen. Okay.

Q. (by Ms. Bugel) On page 9, comment 11.

A. I use the term lenses. That's a term that's commonly used in alluvial sedimentology to describe discontinuous bodies. These fluvial sediments tend to be more like inter-fingering bodies as opposed to laterally continuous homogenous bodies.

If you look at them in cross section, you can see -- go from an area that shows silty sand or silty clay in this area, move down ten feet and it's a different composition. You can have either finer or courser materials. It's very heterogenous.

So that's why I use the word lenses. And it also carries over from -- I did my Master's thesis in fluvial sedimentology, so I'm used to describing it like that.

Q. And we have one last exhibit that we're distributing. This is Exhibit 26, and we're going to take a moment for you to take a look at that. And are you familiar with this exhibit?

A. What's the date on this one? Is there a date on it?

Q. It would be great to find a date. I can -- my understanding of the date on it is that it's 2017.

A. Oh, okay.

Q. But I would love to -- October of 2017. I'd love to actually find someplace in here that indicates that.

MS. WILLIAMS: I think I would object to this as cumulative, maybe, but obviously I'll give you a chance to clarify what we need this for.

MS. BUGEL: Yes. You had indicated that you were objecting to this. Just for purposes of a date stamp, I am looking at the figures towards -- the figures attached to the back, and Figure 3 has a date of 2017 on it. I know there's no date on the front cover.

MS. WILLIAMS: Did you respond?

MS. BUGEL: I haven't made a motion yet, but I don't know. Hearing Officer --

MS. WILLIAMS: If it's too early to object, fair enough.

MS. WEBB: Yeah. Can I hear a little more?

MS. WILLIAMS: Yeah. No, I do too. That's fine. I think it's cumulative, but I don't know what she's going to use it for.

MS. WEBB: Okay. Okay.

Q. (by Ms. Bugel) So we've placed a document

in front of you, and are you familiar with this document?

A. Yes, I am.

Q. And have you relied on this document in the course of writing your reports?

A. I believe I've referenced this document.

Q. And -- well, what do you find relevant about this document?

A. Okay. Part of the descriptions of the geologic materials, it was interesting discussions in here. For instance, at the top of page 5 -- well, actually starts on the bottom of page 4. Movement within the creek fill materials is complicated because of the highly variable hydraulic characteristics of the fill materials and their random placement. In some areas, there appears to be direct hydraulic communication between fill materials, shallow sand, and basal sand.

That's actually what I would kind of expect for a site that the construction plans made note that we channel -- preexisting channel was not to be backfilled during construction of the impoundment.

And the combination of highly variable conditions or materials and the presence in the

channel, previously existing channel, can create the potential for cross-contamination or cross-movement water into contaminants vertically.

Q. And can you explain how that discussion relates to Mr. Hunsberger's criticism of the use of the word lenses?

A. I'm not sure I understand.

Q. Okay. Well, so I'm looking at the very last sentence under comment 11 in your response to Mr. Hunsberger.

A. Yeah.

Q. The very last sentence in your response where you say: These are sedimentary lenses, not continuous layers of homogenous materials that extend all across the site.

How does what you were finding in the 2017 groundwater monitoring program relate to that point?

A. The materials that are in the creek fill are highly variable, and it's known that the fine grain materials are missing in locations above the creek fill so that allows the possibility for vertical flow either in and out of the impoundment.

Q. Okay.

MS. WILLIAMS: Can I interrupt and

withdraw my objection? I want to apologize to the hearing officer and I don't want to interrupt your flow, but I was getting this one confused with No. 5. I didn't object to this as cumulative. It's not cumulative. You've taken out the one that was cumulative. Sorry. I just want to apologize.

MS. WEBB: Okay. Thank you.

MS. BUGEL: Then on that note, I will make a motion for Exhibit 26 to be admitted into the record.

MS. WEBB: Exhibit 26 is admitted. Also, I think we did not -- did we admit D5? I don't have that we admitted D5, that you moved to admit that.

MS. BUGEL: You know what, just -- I'll make a motion to admit Exhibit D5 into the record.

MS. WEBB: Okay. Yes, Exhibit D5 is admitted. Okay.

MS. BUGEL: And while we're doing housekeeping, I wanted to double-check on Exhibit -- I know we didn't admit Table 1 to Exhibit 15, but did we admit the rest of Exhibit 15?

MS. WEBB: Yes.

Q. (by Ms. Bugel) Okay. Wonderful. Okay. So then just to go back to this line of questions.

A. Can I point out something else?

Q. Yes.

A. I just want to point out that in Section 2.3 of this report, under uppermost aquifer, the statement is -- oh, let's see. In some areas -- in some locations the creek fill materials, ranging from silty clays and organic silty clays and clayey sands were found to be in direct hydraulic communication with the basal sand that directly overlies the bedrock surface. Due to the highly variable hydraulic characteristic and random placement of the creek fill materials, further characterization is difficult. I've seen that statement in different documents.

MS. WILLIAMS: That's what I was getting at with cumulative. Some of this stuff appears many times in many, many places.

THE WITNESS: Right, but it's true.

Q. (by Ms. Bugel) Okay. Let's move on, then. Okay. Can you please -- can we move on to page 9?

A. Of?

Q. Page 9, Exhibit 17.

A. Okay.

Q. And I am looking at comment 12, which starts at the very bottom of page 9. So Mr. Hunsberger indicated that you erroneously indicated that upgradient monitoring well AP-5 measures head in the basal sand unit. What's your response to that?

A. It measures head in the sediment that directly overlie the shale where the sand is, when the sand is present, but also that the groundwater monitoring program that I reference here describes it as the screen elevation located at the top of the Pennsylvanian shale and across the basal sand at this location. That's a quote from their documents.

Q. Okay. And looking at page 8 of Exhibit 26, which is the 2017 groundwater monitoring program --

A. Exhibit what?

Q. I am looking at Exhibit 26, and I'm looking at page 8 and I'm looking at the third paragraph under Background Quality.

A. Okay.

Q. And that -- looking at the third sentence in that paragraph.

A. Oh, yeah. Uh-huh.

Q. Does that support your position?

A. Yes. It says the screened section of AP-5 is also located at the top of the Pennsylvanian shale and screened across the basal sand at this location. Yep.

Q. Okay. And turning to page 11 of Exhibit 17. I am looking at comment 3, all the way on the bottom of page 11. And this states that --

A. Ah, I remember that one.

Q. Yeah. Do you want to explain what Mr. Hunsberger's theory is and your response?

A. Yeah. His theory is that if CWLP were to completely dewater the waste contained in the impoundments that the waste would compact sufficiently that it would preclude interaction with groundwater.

And that is simply not the case. As the Epry study showed, they dewatered these cells and not only did -- in the case where it was still in contact with groundwater, the concentrations not only didn't go down but they actually started to go up.

Q. And can you talk to me about institute chemical stabilization and how that also calls into question the theory that you can compact waste

sufficiently to preclude interaction with groundwater?

A. Well, if you could do water waste and have it compact enough that it would no longer interact with groundwater, then people wouldn't be going around and doing institute stabilization of the wastes that are below the water table. They wouldn't need to anymore.

MS. BUGEL: Okay. And with that, I have no further questions.

MS. WEBB: Okay. Would you like to take -- should we take a ten minute break before we move on?

MS. WILLIAMS: It's really up to the witness. I can get started.

THE WITNESS: I could use a quick one.

MS. WEBB: Okay. Let's do that.

(Whereupon a break was taken.)

MS. WEBB: Okay. Looks like everyone is ready. We'll go back on the record and we will take up with Ms. Williams' cross-examination.

EXAMINATION

BY MS. WILLIAMS:

Q. Good afternoon, Dr. Hutson. Is it -- it's

doctor?

A. No, Mister.

Q. Mister. I just want to say good to see you again and congratulations on your much deserved retirement.

A. Thank you.

Q. I'm not going to spend much time on your qualifications. I don't think there's any dispute you've had a long and good career in this field. So we met in person the first time you visited our site, right?

A. Yeah. That's right, yeah. I'm not sure when that was.

Q. I was going to say, do you remember when that was?

A. I don't remember when that was. It was quite a while ago.

Q. Okay. And you mentioned a number of other coal ash sites that you've worked on during this sort of last eighteen years of your career?

A. Yeah, twenty.

Q. Have you done many of those site visits like this to the other facilities, or was this kind of unusual?

A. Oh, no. I've done quite a few site visits.
Q. Okay. How many do you think?
A. Oh, geez. Probably -- I don't know. Probably eight or nine.
Q. And when you came out to our facility, do you remember if we still had four coal-fired power plants at that time running?
A. I don't recall.
Q. Do you remember if we were still sluicing ash to the ash ponds at that time?
A. I believe so.
Q. How about were we still sending lime sludge material from the drinking water plant?
A. It was still there. I'm not sure if you were still sending it or not.
Q. Had we built new --
A. No.
Q. -- lagoons for the drinking water plant yet at that time? Not yet. So you don't -- do you recall when CWLP stopped sending material to the ash pond?
A. I do not off the top of my head, no.
Q. And do you know if we've started dewatering the ash pond?

A. I do not know that.
Q. But you did take a look at the NPDES draft?
A. At the draft.
Q. I'm just going to -- I'm not convinced we're going to enter this as an exhibit because if you don't know what it is then it's just for identification, but I'll mark it -- what are we on?
MS. WEBB: Is this demonstrative or what is -- would it be easier to just call it Respondent's Exhibit 1?
MS. BUGEL: We left off at 27.
MS. WEBB: Yes, we did.
MS. BUGEL: I worry about overlapping exhibit numbers.
MS. WEBB: Okay. We can do 28. You want to do 28?
MS. WILLIAMS: Sure, yeah.
MS. WEBB: Okay.
Q. (by Ms. Williams) I'm not sure, but for identification I've just marked this as No. 28. It's possible you won't be able to authenticate this exhibit and we won't enter it, but I just want to see if you have ever seen this and know what it is.
A. I've not seen this particular one, I don't

believe. Wait a minute. Maybe I just haven't seen the cover page. I don't believe I've seen this.

Q. Okay. So when you talked about looking at an NPDES permit, it wasn't this one?

A. No.

Q. Okay. I will not move to enter 28. We'll just -- I still go back to your earlier testimony that you felt that what you had reviewed, the earlier version that you had reviewed had addressed your concerns about Sugar Creek.

A. As I said --

MS. BUGEL: I'm going to just object to misstates the witness' testimony.

MS. WILLIAMS: Okay.

MS. BUGEL: I don't believe the witness said it resolves his concerns about Sugar Creek. I think he said it resolved some of his concerns.

MS. WEBB: What did you say?

THE WITNESS: I don't know.

MS. WEBB: I don't recall.

THE WITNESS: I don't either.

Q. (by Ms. Williams) I'm not going to ask the court reporter to read that back, that's for sure.

A. Anyway, the reason I had that comment in there is that I've seen lots of permits written on these sites which the analytical parameters and the limitations on the effluence have nothing to do with CCR constituents.

Q. You would agree EPA's placed substantial and appropriate monitoring in the permit to address --

A. I thought it was much better than it could have been, and I was pleased to see the downstream monitoring.

Q. So when you did talk about your past experience, most of your hands-on remediation activity was prior to the CCR world time?

A. That's correct, yes.

Q. But you spent time as a consultant?

A. Uh-huh.

Q. Primarily for environmental groups, correct, reviewing CCR sites?

A. For the last eighteen to twenty years primarily, except for a few projects for people like Midwest Generation or Motorola or things like that.

Q. You mentioned there was one site that you looked at for environmental groups even where you

were able to say, yep, this one is being adequately addressed?

A. Uh-huh.

Q. Do you recall which one you said that was?

A. Yeah. That was just this past year. It was Valmont.

Q. And the -- can you just describe for everyone again quickly what Valmont is doing?

A. They are removing -- well, back up. They've entered into an agreement with a recycling company to recycle the material they're excavating to keep it up. The low areas, basically, to get it up. Anything that's potentially or is in contact with groundwater, they're moving it and going to have it recycled. And the stuff that is up, well out of the groundwater with a buffer zone, they're going to cap that in place.

Q. Okay. So this is not a site where all of it's going to be excavated for beneficial reuse, only parts of it?

A. The parts that are down in groundwater.

Q. And you've testified, I believe, but you can tell me if it's not correct, that you don't know for sure, based on what you've been able to review,

whether, and to what extent, ash will remain in contact with groundwater after closure at this site, correct?

A. Under the new proposed plan?

Q. Correct.

A. Yeah, I think there are some -- there's a potential that the water levels across the entire site could decline somewhat if the Lakeside -- new Lakeside wetland intercepts -- becomes a groundwater sink and intercepts groundwater, such as flowing from the high elevation or high potentiometric surface area to the southeast onto the site. I would hope that would be the case.

Q. And I'm not asking you if you agree with the opinion, but I would like to ask you if from having reviewed so many of CWLP's materials, is it your understanding that CWLP's position is that after closure waste will not be in contact with groundwater? Again, not that you agree with that, but is that what your read is of what CWLP has said?

A. I believe so. I believe under both the old and the new.

Q. That was their position. And you -- okay. Thank you. And did you perform any of your own

modeling on the groundwater?

A. No.

Q. Okay. I'm going to try to very quickly talk about this issue with the background at AP-4 and not -- I don't think I'm even going to get into some of it, but just the part where you were trying to explain the one statement in your report about increasing background. Do you remember us talking about this at your deposition?

A. I do. That's why I went to find out where that came from.

Q. So do you agree that if we were to show a chart of the background for that well, it would have been higher prior to the period you were just -- so in your testimony with Faith you talked about a .03 versus a .02. Do you agree that prior to that the background had been .07? Do you recall us talking about that?

A. I recall it's changed multiple times. I don't know the number.

Q. And so is that -- I mean, that's not -- there are reasons for backgrounds to change, right?

A. I just don't -- yeah, yeah. It's a little uncommon for it to change multiple times.

Q. I would agree with you. I would agree. Is it possible, too, that the reason -- I think you testified I wouldn't expect to see a U.S. EPA number be different than a state number, and I think that's a fair point, but is it possible that could also be explained by data changing over time as opposed to one, if you looked at a later report for the other agency versus an earlier? Does that make sense? Is that possible?

A. You would think that the numbers would change in tandem if there's a reason rather than showing one report for -- or one number for a couple years and a different number for another couple years to the other agency.

Q. I would agree with you that would make sense. Would you agree there's been a lot of work done in the last few years at this site?

A. It appears to be; although, I've not been out there to see what's been going on.

Q. And I say that in terms of paperwork at least, that there's been a lot of paperwork created since the time you came out to the site as far as studies and samples and such?

A. Yes, indeed.

Q. You talked about a couple other plants. I mean, you talked about several other plants, and that's understandable, in your testimony, but with regard to this demonstrative chart with the colorful pictures, there was two plants. Sutherland, which I think that was Iowa?

A. Yeah.

MS. WEBB: Is this D4 you're looking at?

MS. WILLIAMS: Yes, D4. Sorry.

MS. WEBB: Okay.

THE WITNESS: I should get it out.

Q. (by Ms. Williams) I don't even think you'll have to get it out. And then the other one was Hennepin, right?

A. Right.

Q. So when we had your deposition last year, do you remember me asking you if you knew anything about the Hennepin site?

A. I remember. I only remembered it because I took a look at the deposition.

Q. And what did you say at that time?

A. I said nope, don't know a thing about it.

Q. And then today you're testifying as an

expert witness about Hennepin. Can you tell us about what's changed since then about how you became an expert on that?

A. Well, I'm in the middle of doing work. This is a part of the work that I've been doing for the last two or three months, looking at various sites that have been closed with their waste in contact with groundwater and how the groundwater concentrations of CCR contaminants have reacted to that.

Q. Okay. So with regard to a site -- so you're saying, and I will just take it as a given because I don't know about that site because I don't have to worry about that site, but we'll say -- we'll accept that it's been closed by capping it in place with waste.

A. Clearly under the water table.

Q. Yeah. Do you know if there were other corrective actions then proposed to address groundwater contamination there?

A. No. I looked at what closure method had been selected and what the water quality impacts were. I don't know what else may have been done out there eventually.

Q. But there is -- I mean, corrective action is different, may not necessarily be addressed by closure in a lot of these sites in a way that is being discussed here, right? There's very likely groundwater corrective action that's established?

A. Oh, well, this was just a site capping and closure.

Q. So are you saying there was no groundwater corrective action proposed or you don't know if there was other groundwater corrective action?

A. I don't know if there was anything else proposed that wasn't implemented.

Q. Thank you. And then do you agree that this pond at Hennepin that you were looking at had waste added to it from an old polishing pond like we talked about?

A. Yeah. The -- what would that be? The west end of that pond was a polishing pond. It was connected right to the same site.

Q. And, I mean, would you consider that closure by removal of the polishing pond?

A. You know, I really wasn't looking at the polishing pond. I was looking at the ash pond.

Q. No. I think it's fine. I think, you know,

CWLP hasn't suggested that its revised closure plan would meet a closure by removal standard, have they?

A. Not that I've seen.

Q. Is there a -- do you have an opinion or is there a concept, I mean, because the federal rule just has removal or in place. There's just two buckets. But would you agree in a lot of sites the in place may have some type of consolidation that's going on or some type of narrowing, kind of what you discussed at Valmont? What would you describe at Valmont?

A. At which one? Oh, Valmont, yeah. It's actually multiple different units on Valmont. So the one closest down to the -- there's a big cooling lake right there. The one closest down by the water, which has got the waste and contact with the water, the groundwater, that's the one that's -- or maybe there's two of them. Those are being recycled.

Q. Okay. So -- and so the remaining units then would be closed in place?

A. Yeah. Because the bottoms of the waste are at least five feet above the water table.

Q. So -- well, let's talk a little bit about -- is this fair to say that you felt the 2025

closure plan was an improvement and better for the environment than the 2022 closure plan?

A. Yes.

Q. But if I'm reading your report right, even though we're all in agreement it's better for the environment, your concern is it's not legal? Is that -- I may be misstating. You state it.

MS. BUGEL: Objection. Calls for a legal conclusion.

THE WITNESS: Are we talking about the EPA statements?

Q. (by Ms. Williams) Uh-huh.

A. Whether that's legal or not, I'm not --

MS. WEBB: He can answer if he knows. He's an expert.

THE WITNESS: I'm not the lawyer. I don't know.

Q. (by Ms. Williams) I used the trigger words. I said, oh, you don't think it's legal. Well, is it different if I say you don't think it's consistent with U.S. EPA directives? That's right in his testimony.

A. I think that's fair because they've repeatedly said that.

Q. And when I listen to -- I went through the exhibits. I listened to your testimony. They said what?

A. I'd have to look it up. If you want a quote --

Q. Well, no. I don't need a quote. You just summarize what you think would be against the directives and see if I can make a distinction at our site.

A. They say that when two sites are not -- when two sites are required to close, it's not appropriate -- what's it called?

Q. Beneficial reasons?

A. Beneficial reasons.

Q. I agree with you. I agree with you. Now, I'm going to show you Exhibit 6. Now, Exhibit 6, I'm going to apologize, Hearing Officer, but I'm going to try to be really clear for the record, is not part of the excerpts you have, but I want him to look at -- does he have a complete copy of Exhibit 6? I need him to look at a complete copy of Exhibit 6.

A. What is Exhibit 6?

Q. Exhibit 6 is the --

MS. BUGEL: It's the September 9th

letter in response to the permit application.

THE WITNESS: Oh, there.

MS. WEBB: It's here. It's here. It's large.

Q. (by Ms. Williams) It's the one we responded to EPA's questions about the permit applications. So it's huge --

A. Yeah.

Q. -- but it started out with a letter. So it's going to be the letter. I don't need all the stuff at the back. It'll be within the first fifty pages or whatever. And I think the page, if you can find it, PDF page 47.

A. Okay.

Q. And there's hopefully on your page, like mine, there's a question number 2.4.7. It's very short.

A. Oh, yeah.

Q. Could you take a quick look at that?

A. Okay.

Q. So after having looked at that, would you agree that CWLP has represented to IEPA that it will not be beneficially reusing any other CCR material at its surface impoundments is what you described. Or

can you explain what -- why don't you explain what you think the question and the answer in 2.4.7 is about.

A. It sounds to me like CWLP has committed not to bring additional CCR from somewhere off site.

Q. Or from somewhere on site that's the operating plant, I would think, too, right? When you say on site, I don't know how you're defining --

A. I was thinking of the impoundments.

Q. Right. Committing not to bring new material, correct?

A. Additional CCR material for -- not to bring it on site. Okay.

Q. I think we already established you're not sure what date we stopped sending material --

A. No.

Q. -- to the site, but you would agree we're not sending any more material?

A. That's my understanding.

Q. I'm going to show you an exhibit we've marked as 28 for identification.

MS. WEBB: What's the deal with the first 28?

MS. WILLIAMS: Oh, shoot. We should

have marked it 29. We skipped 27.

MS. WEBB: No, we didn't, but I don't know what to do with it. Do you want to withdraw it or --

MS. WILLIAMS: Yes. Thank you. Sorry. Let's withdraw the other 28 and make this 28 again. Is that okay, Faith?

MS. BUGEL: That is fine with me.

MS. WEBB: Okay.

Q. (by Ms. Williams) Okay. Thank you. Are you familiar with this? This U.S. -- I'll identify it. It says: Frequent Questions about, Closure and Post Closure, Implementing the Final Rule Regulating the Disposal of Coal Combustion Residuals, just to identify it.

A. I've not seen this. Is this a Website?

Q. Yes. So you did not review other -- you did not review these frequently asked questions when you determined what U.S. EPA guidance, the closure plan may have complied with or not?

A. I didn't review this Website.

Q. Do you agree that CWLP has identified its facility as a multiunit system? Have you seen that?

A. I believe it's identified as a multiunit

groundwater monitoring program. I don't know of any other multiunit designation.

Q. Are you familiar with other sites that have in the closure process reduced their footprint in doing so? Like -- go ahead.

A. I believe so. I'm having a hard time drawing a beat on which ones, but I believe I have.

Q. And why would they do that?

A. It would be site specific. I don't know.

Q. But in site specific cases, would it often mean a smaller impact to groundwater to have a smaller footprint to an ash pond?

A. It could. Not necessarily. It may -- it could be just a combining all the contaminant source into one concentrated area.

Q. And then you can either -- do you agree or disagree that U.S. EPA guidance provides that CCR operators may move material within a multiunit system without triggering the issues you referred to of putting new material in?

MS. BUGEL: I'm going to object to the question, number one, without any exhibits representing what U.S. EPA guidance says. Number two, form of the question because to say do you agree

or disagree, I don't think that's a proper form of a question.

MS. WILLIAMS: I don't think it was confusing to the witness.

MS. BUGEL: I don't think it's about confusing. It's about whether it's fair, and it is a compound question to say agree or disagree.

MS. WEBB: Can you repeat the question?

Q. (by Ms. Williams) I can also try to rephrase. I'll just ask are you aware of any U.S. EPA guidance on moving materials within a multiunit system?

A. That is nothing that I've been involved with working on making those decisions. I'm usually working on the site, you know, the groundwater contamination and subsequent activities.

Q. And you can understand why, I mean, if we're saying an alternative is better for the environment, it would be desirable to also conclude it was legal, right? You wouldn't want to have to say, oh, we can't do this thing so -- you didn't fully explore whether there could be any guidance out there that would allow for this?

A. That's why I put that comment in my report saying, you know, this appears to run afoul of the guidance. Do you guys have a plan for getting around this? I don't understand.

Q. Gotcha. But you haven't reviewed this particular guidance document that I presented to address that or not?

A. Is this a guidance document? Oh, it's a frequently asked questions. No, I've not seen these questions before.

Q. Okay. That's great. We can move on. So do we agree -- do you agree that in your 2026 report -- so I will refer to your 2025 report and your 2026 report. Will you know what I mean?

A. Yep.

Q. I believe 2026 is 16, Exhibit 16 for the record, and 2025 would be Exhibit 15.

A. Do I need them?

Q. No.

MS. BUGEL: Confirmed, 2026 is 16 and 2025 is 15.

Q. (by Ms. Williams) Okay. So in your 2026 report, I believe I heard you testify this morning that your most significant concerns related to

catastrophic impacts on flooding was addressed by the new closure plan; is that correct?

A. Correct.

Q. And you would agree that this site where the ash pond and the current landfill is located is not an appropriate site to create a new on-site landfill; is that correct? Have we discussed that? I feel like we've discussed that before, that making a new on-site landfill because of the floodplain issues would not be appropriate at this time?

A. Yeah. The whole thing is covered with the floodplain. I don't know where the boundary -- you know that little house where the environmental offices are?

Q. Yeah. Well, that's where the lime ponds are now, I'm afraid. There's no house anymore.

A. Oh, there's not? Okay.

Q. We had to move them out in favor of environmental remediation.

A. Oh, okay.

Q. It was very sad, actually.

A. I would have thought, well, maybe up there on that hill.

Q. Fair enough. Fair enough. But other than

up on the hill, which in general the area in the floodplain you wouldn't recommend putting it on?

A. Typically putting permanent waste disposal facilities in the floodplain is not a good idea.

Q. And I don't think we're disagreeing with you. This is what was done, right? We can't undo it. But you would -- would you also agree that then when you are talking about off-site permanent disposal, there are other environmental impacts that you have to take into account in order to accomplish that?

A. Yeah, there are some. Or potentially at least there are.

Q. Potentially, yes. And are you aware, do you have any examples of sites that you've been involved with that have done off-site permanent disposal?

A. Yeah. I've removed --

Q. I mean CCR sites.

A. Oh, CCR.

Q. Yes. Obviously you're not --

A. Let's see. Which one. The Georgia -- which one of the Georgia sites is taking their facility or taking their waste to the Hoffaker Road

landfill. It's either Wansley or -- I'd have to look it up. One of the Georgia sites. It's about five miles away.

Q. And you're not aware of any Illinois sites doing that?

A. Illinois sites. Well, I haven't worked recently on too many Illinois sites and so I don't know exactly what's happening with the Illinois sites.

Q. Let's switch gears since I brought up Illinois sites. You reminded me of something I wanted to follow up on. You did mention one Illinois site that you had worked on, Lincoln Stone Quarry.

A. Yeah.

Q. And I just kind of wanted to -- and you made some recommendations, which I think is fine, for being sure to be doing maintenance on pumps and wells. I just want to get a little context, though. I mean, can you explain a little bit about the magnitude of the type of pumping involved at that site in comparison to this site?

A. Seems to me that there were eight or ten pumping wells along the south side of the quarry, pumping at perhaps twenty or twenty-five gallons a

minute.

Q. All the time?

A. All the time.

Q. Permanently?

A. Yeah. Well, at least at the time they were trying to control a contaminant plume that was moving off site in an unplanned direction.

Q. Yeah. And so I just don't want to leave the Board with -- I don't disagree with your testimony about any time you install something like there has to be a maintenance program, but I don't want to leave the Board with sort of the impression that after two or three days or whatever, like you said, that that's going to happen at the site with this level of --

A. The reason I -- I think I said it this morning. The reason you can put that in there is kind of a heads up to, you know, put it in your dewatering wells, absolutely. Just be aware that keeping them in operation pumping the high TDS, high metals water out of the impoundment is hard on equipment.

Q. Okay. So we talked about Hennepin. You were not sure about groundwater corrective action.

What about Sutherland? Is it true that Sutherland had selected gradient control as their groundwater corrective action?

A. Gradient control, not on the site that I have been looking at.

Q. That's not your understanding?

A. Yeah.

Q. Do you know when they began groundwater corrective action at Sutherland or if they have groundwater corrective action besides closure, either way?

A. We're talking about capturing the plume, is that what we're talking about?

Q. Uh-huh.

A. Oh, no. I've just been looking at the monitoring data.

Q. Okay. So it's possible that these issues of monitoring data may have to do with what's going on with the plume in the groundwater corrective action, we don't know?

A. It's more than likely it's the reduced head inside the impoundment is causing -- rather than radial flow from the middle out, it's allowing flow all the way through, across the pond at a lower rate.

Q. Horizontally because of saturation?

MS. BUGEL: I'm sorry. The witness hadn't finished his answer.

MS. WEBB: All right. I didn't hear your question anyway, so why don't you finish your answer and then --

THE WITNESS: Did I say vertically? The groundwater is flowing all the way across through the pond and at a lower gradient because there's no more mounding and it gives more time for the water to dissolve metals.

Q. (by Ms. Williams) You were involved when the Board adopted the 845 regulations, correct?

A. Well, I wasn't much involved. I testified.

Q. You were one of the witnesses. You testified. Okay. So do you agree that under -- well, when I say part 845, you understand what I'm talking about? That's the --

A. The Illinois rules?

Q. Yeah. Under 845, Illinois EPA has the authority to review and approve or deny closure plans for CCR impoundments, correct?

A. That's my understanding. I've not reviewed the rules specifically for something like that for a

while.

Q. Do you agree that CLWP's closure plan is currently pending before Illinois EPA under 845?

A. That's my understanding, but I don't know for sure. I assume it is.

Q. And then you're aware that CWLP entered into a consent agreement and final order with U.S. EPA, right?

A. Right. I read that.

Q. I guess we're going to mark Exhibit 28 right now, but this time I'm confident. I'm going to show you what's been marked Exhibit 28 for identification. The title is Consent Agreement and Final Order. Have you seen this document before?

A. I have, uh-huh.

MS. WILLIAMS: Can I move to enter this exhibit?

MS. BUGEL: We have no objection.

MS. WEBB: I just have a question. So the EPA frequent questions is withdrawn?

MS. WILLIAMS: I will withdraw it. I'll bring them back in part two, yes.

MS. WEBB: Okay. But you're not moving to admit this?

MS. WILLIAMS: I am not moving to admit.

MS. WEBB: Okay. So Exhibit 28, which is the Consent Agreement and Final Order, okay, that is admitted into evidence.

Q. (by Ms. Williams) So would you agree this Consent Agreement and Final Order establishes a framework for federal oversight of CWLP's surface impoundment closure?

A. Establishes a framework for federal oversight?

Q. Fancy word.

A. I don't know that I know what you mean by that.

Q. Okay. Do you agree that the closure plan has to be submitted to U.S. EPA?

A. Oh, I think that's correct.

Q. Okay. And they get a chance to approve, comment on it, disapprove of it, or whatnot?

A. I would have to look at the details. I would assume that would be correct.

Q. And the September 2025 closure plan that we've talked about today, the new closure plan, that was specifically prepared to address requirements in

this Consent Agreement and Final Order, correct?

A. That's my understanding.

Q. And U.S EPA is currently reviewing that, as far as you know?

A. As far as I know.

Q. As far as we all know. If U.S. EPA determines that the closure plan does not meet the federal performance standards, would you agree they have authority under the CAFO to require modifications to the closure plan?

A. Wow. This sounds like a legal question to me.

Q. Okay. Would that be how just generally as a common technical person, would you assume that under what you understand of the agreement that if they don't like it they're just stuck with it or is there something they can do about it?

A. Oh, I assume that there's some back-fall for them to do something else.

Q. To make sure --

A. Yeah.

Q. -- it's adequate at the end of the day, right, would you assume?

A. I would assume that, but again it's been a

while since I've gone through this.

Q. And if Illinois EPA determines that the closure plan does not meet the performance standards, Illinois EPA can deny the permit, correct?

A. Again, I would assume so, but I've not really concentrated on the permitting process.

Q. So can you think of some reason that between U.S. EPA and Illinois EPA together that there's something missing, some need for the Board to order a remedy outside that process?

A. It depends on what the agencies would come up with.

Q. So it may be that the agencies like with the NPDES permit, you would look at it maybe and say, oh, that was good, we didn't need the Board to intervene because --

A. Possible.

Q. -- once I see it. But you haven't seen it yet to know for sure?

A. Right. I hate to do this, but that soda I had for lunch --

MS. WILLIAMS: That would probably help speed things up for me, to kind of go through, mark off what I --

MS. WEBB: Do you want to take five minutes? All right. We'll go off the record for five minutes.

(Whereupon a break was taken.)

MS. WEBB: We're ready to go back on the record, and we will resume with Ms. Williams' questioning.

Q. (by Ms. Williams) I'm very close to being done, I think, but there was one comment that you made I wanted to -- I won't say correct, but specify. I believe when you were being questioned by Ms. Bugel you mentioned that the berms had been elevated over the years at the ash pond. Would you agree that's only true of the Lakeside ash pond and not the Dallman?

A. Oh, did I say both?

Q. What?

A. Did I say both?

Q. You didn't specify, but it implied both, yes. I wanted to clarify it was just the --

A. Yeah, as far as I know. I don't --

Q. Can you repeat? As far as you know what?

A. As far as I know, I don't know that the Dallman has been elevated.

Q. Only the Lake?

A. Only the Lakeside. The Lakeside is the one that had trouble with the seepage coming through the berms and, who knows, may still have some.

MS. WILLIAMS: All right. I think that'll do it.

MS. BUGEL: I have just a couple real short questions.

MS. WEBB: Okay.

EXAMINATION

BY MS. BUGEL:

Q. Mark, Debbie talked to you, you two conversed about a multiunit system, right?

A. Correct.

Q. What evidence have you seen at the site that it is not a multiunit system?

A. Well, there's two separate ponds. The two are separated by the clarification pond and the landfill. One is much older than the other. One took in wastewater treatment sludge and, to my knowledge, the other one hasn't. It just basically operated as two separate facilities.

Q. And Deborah also talked to you about U.S. EPA and Illinois EPA oversight. Do you know if there

was a violation notice from IEPA over the ash ponds at CWLP?

A. I believe there was. It's been a while since I've looked at that. But, yeah, I believe there was.

Q. Do you know how that violation notice was resolved?

A. Not off the top of my head, no.

Q. Do you know if it was resolved?

A. I do not know.

MS. BUGEL: All right. Those are all.

MS. WILLIAMS: Can I follow up on that violation notice?

MS. WEBB: Yes.

EXAMINATION

BY MS. WILLIAMS:

Q. Do you know what parameters were at issue in that violation notice?

A. No, I do not know. I don't remember.

MS. WILLIAMS: Okay.

MS. BUGEL: I have no further questions.

MS. WEBB: Well --

THE WITNESS: Hallelujah. Call that a

career.

MS. WEBB: You're all done here. I think we're done with you right now. Did you have anything else you wanted to present today?

MS. BUGEL: Not today. Thank you.

MS. WEBB: Okay. But you're not -- are you concluding with your case?

MS. BUGEL: No, we are not concluding with our case.

MS. WEBB: Okay. Just checking. Do you want to schedule part two of the hearing now or should we adjourn and regroup and figure something out later?

MS. WILLIAMS: I think we want to set a status and talk about it later. Is that okay?

MS. BUGEL: Yeah. I think you and I should talk.

MS. WILLIAMS: Yeah. We haven't talked about dates yet.

MS. WEBB: Okay. All right. Does anyone have anything else before we adjourn?

MS. BUGEL: I have just one or two procedural issues. And maybe -- I haven't talked to Deborah about this yet, but it's Exhibits, stipulated

exhibits, 1 through 5. We didn't use all of them today. There were -- actually there were ones that Mark has indicated that he would have reviewed and relied on them, but we didn't actually ask questions about all of them. We only asked questions about --

MS. WILLIAMS: We were marking it off. I think we did.

MS. BUGEL: The only questions I asked about them were that Mark reviewed them and relied on them.

MS. WILLIAMS: I gotcha.

MS. BUGEL: So there are a couple of exhibits in there that we didn't actually ask substantive questions about, and my only question would be should we leave them in the record because you know that Debbie knows that their witnesses might be coming, relying on them later, or are these ones where we feel like they're mucking up the record and making it too lengthy?

MS. WEBB: Well, that might be something you want to discuss, you know, when we're getting ready for part two.

MS. BUGEL: Okay. Okay. We could always withdraw them at a later time.

MS. WEBB: Yes. No reason to do it now. We don't need to. Okay. So this hearing will be continued at a later date. We will adjourn today, and I thank you all for your participation.

(Off record at 3:52 p.m. CST.)

STATE OF ILLINOIS)
)
COUNTY OF CHAMPAIGN)

I, Janet E. Cummings, a Certified Shorthand Reporter, in and for the County of Champaign, State of Illinois, do hereby certify that the above-captioned matter was taken on May 5, 2026;

That said is a true record of the proceedings and was taken down in stenograph notes and afterwards reduced to typewriting under my instruction.

I do hereby certify that I am a disinterested person in this cause of action; that I am not a relative of any party or any attorney of record in this cause, or an attorney for any party herein, or otherwise interested in the event of this action, and am not in the employ of any attorneys for any party.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of June 2026.

_____
JANET E. CUMMINGS, CSR