

1 A P P E A R A N C E S:

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3 HEARING TAKEN BEFORE:

4

5 Illinois Pollution Control Board,
6 100 West Randolph Street
7 Suite 11-500
8 Chicago, Illinois 60601
9 (312) 814-4825
10 BY: MR. JOEL J. STERNSTEIN

8

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10 ILLINOIS POLLUTION CONTROL BOARD MEMBERS

11 Mr. Nicholas J. Melas
12 Ms. Elena Kezelis
13 Ms. Marili McFawn
14 Mr. Anand Rao

13

14

15 THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

16 Mr. Stephen C. Ewart, Deputy Counsel
17 Mr. Richard Cobb, P.G.
18 (Illinois Environmental Protection Agency)
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E X H I B I T S

EXHIBIT NO.	MARKED FOR I.D.	ADMITTED
No. 2	11	11
No. 3	12	12
No. 4	12	12
No. 5	13	13
No. 6	14	14
No. 7	14	14
No. 8	15	15
No. 9	16	16
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No. 12	46	46
No. 13	47	47

1 HEARING OFFICER STERNSTEIN: Let's go
2 on the record.

3 Good afternoon. My name is Joel
4 Sternstein. I've been appointed by the
5 Illinois Pollution Control Board to serve as
6 hearing officer in this proceeding, which is
7 entitled, In the Matter of Proposed MTBE
8 Groundwater Quality Standards Amendments, 35
9 Illinois Administrative Code 620. The
10 docketing number for this rulemaking is R 0114.

11 Sitting to my right is Nicholas
12 Melas, the Board Member assigned to this
13 matter.

14 BOARD MEMBER MELAS: Hello.

15 HEARING OFFICER STERNSTEIN: Also
16 present today to Board Member Melas's right is
17 Board Member Elena Kezelis.

18 BOARD MEMBER KEZELIS: Good
19 afternoon.

20 HEARING OFFICER STERNSTEIN: To my
21 left is a member of our technical unit, Anand
22 Rao.

23 MR. RAO: Good afternoon.

24 HEARING OFFICER STERNSTEIN: And to

1 to Mr. Rao's left is Board Member Marili
2 McFawn.

3 For the record, today's date is April
4 5th, 2001, and it is approximately is 1:40 p.m.

5 This is a rulemaking subject to the
6 Board's Procedural Rules, and, therefore, all
7 relevant, nonrepetitious and nonprivileged
8 testimony will be heard at this, the second
9 hearing of this proceeding. The first hearing
10 was held on March 1st, at the Board's
11 Springfield offices.

12 The Illinois Environmental Protection
13 Agency filed this matter on September 1st,
14 2000. On September 7th, 2000, the Board
15 accepted this matter for hearing.

16 At the table at the south end of the
17 room are copies of the current notice and
18 service lists. Also on that table, you'll find
19 copies of the Board's Accept for Hearing Order
20 in this matter, dated September 7th, 2000, and
21 copies of the hearing officer order, dated
22 January 29th, 2001.

23 The Agency has submitted copies -- an
24 Italian article -- which was discussed at the

1 first hearing; also a cost comparison summary
2 prepared by Mike Curry, P.E.; copies of the
3 materials submitted by Professor Curtis at the
4 first hearing are also on that table; and
5 copies of Exhibit 1, which was admitted at the
6 first hearing are also on the table.

7 The purpose of today's hearing is
8 twofold. First, we will address the economic
9 impact statement for ECIS for this Rule.
10 Pursuant to Section 27(b) of the Illinois
11 Environmental Protection Act, the Board is
12 required to request the Department of Commerce
13 and Community Affairs, or DCCA, to conduct an
14 ECIS on certain proposed rules prior to the
15 adoption of those rules. If DCCA chooses to
16 conduct the ECIS, DCCA has 30 to 45 days after
17 such request to produce a study of the proposed
18 rules. The Board must make the ECIS to DCCA's
19 explanation for not conducting the ECIS
20 available to the public at least 20 days before
21 public hearing on the economic impact of the
22 proposed rules.

23 In accordance with Section 27(b) of
24 the Act, on January 24th, 2001, the Board

1 requested that DCCA conduct an ECIS for Docket
2 R01-14. In the request, the Board stated that
3 if it did not receive a reply from DCCA within
4 10 days, it would rely on a March 10th, 2000
5 letter from DCCA. That March 10th, 2000 DCCA
6 letter notified the Board that DCCA lacked the
7 technical and financial resources to respond to
8 any rulemakings. The Board did not receive a
9 reply from DCCA within the 10-day period.
10 Accordingly, the Board relies on the March
11 10th, 2000 DCCA letter as an explanation for no
12 ECIS being submitted for Docket R01-14.

13 Section 27(b) of the Act also
14 requires the Board to have a hearing on either
15 the ECIS or DCCA's explanation not to perform
16 the ECIS. Thus pursuant to the hearing officer
17 order in this matter, dated January 29th, 2001,
18 we will hear the testimony from anyone who
19 wishes to comment on DCCA's decision not to
20 conduct an ECIS for R01-14.

21 Then, on the prefile testimony, the
22 Agency's prefile testimony was entered into the
23 record at the first hearing as Exhibit 1. I'm

24 not going to have the witnesses read their

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1 testimony again, but I'm sure they'd be glad to
2 if so requested.

3 We have one item of prefile testimony
4 that was submitted for the hearing today, and
5 that is the testimony of Professor Craig
6 Curtis, JD, Ph.D. Since Professor Curtis is not
7 here today to deliver his testimony in person,
8 we'll be admitting that as a public comment.

9 A couple of items about decorum:
10 Anybody who testifies will be sworn in by the
11 court reporter. I just ask that you speak one
12 at a time. If you're speaking over each other,
13 the court reporter will not be able to get your
14 questions on the record. And when answering
15 questions, please be sure to say yes or no
16 instead of nodding or shaking your head. And,
17 also, if everyone could just make sure that
18 their beepers and cell phones are turned off.

19 Mr. Melas, is there anything else
20 you'd like to add?

21 BOARD MEMBER MELAS: It's nice to
22 have you up here today.

23 HEARING OFFICER STERNSTEIN: First of

24 all, is there anybody here who wishes to

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1 comment on DCCA's decision not to perform an
2 ECIS in this matter?

3 (No response from the
4 Hearing Participants.)

5 HEARING OFFICER STERNSTEIN: Seeing
6 no one, we will proceed with the Agency's
7 presentation. Before we proceed with the
8 Agency, I'd just like to mention for the record
9 that we do have one member of the Public here
10 today, and he is Matthew E. Cohn, and he is
11 with the firm of Arladis, Geraghty & Miller.

12 At this point, I will turn it over to
13 Mr. Ewart with the Agency, so that the Agency
14 can make their presentation for today.

15 MR. EWART: Thank you, Mr. Hearing
16 Officer.

17 My name is Stephen Ewart. I'm an
18 attorney with the Illinois EPA. And I brought
19 as witnesses for this proceeding to my left,
20 Dr. Thomas Hornshaw, toxicologist with the
21 Illinois EPA; and to my right, Richard Cobb,
22 who is a geologist and head of the geologist

23 section of the Division of Public Water Supply
24 of the Illinois EPA. I also, in response to

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1 requests and for other reasons, we have
2 exhibits to identify and admit to the record --
3 and move to admit to the record. And I have
4 given you seven copies, and I would like to
5 distribute one, of course, to the court
6 reporter.

7 This will be Exhibit 2.

8 HEARING OFFICER STERNSTEIN: Okay.

9 Well, actually -- can we go off the
10 record for a second?

11 MR. EWART: Sure.

12 (Discussion held off the record.)

13 MR. EWART: The first exhibit that I
14 would like to identify as Exhibit No. 2 is the
15 Italian article, and it's entitled,
16 "Methyl-Tertiary-Butyl Ether (MTBE) -- a
17 Gasoline Additive -- Causes Testicular and
18 Lymphohaematopoietic Cancers in Rats." This is
19 a paper done by Fiorella Belpoggi, Morando
20 Soffritti and Cesare Maltoni. This was
21 published in the Toxicology and Industrial
22 Health Journal, Volume 11, No. 2, Pages 119 to

23 149 in 1959 -- 1995. Strike that. In 1995.

24 I would like that identified as

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1 Exhibit No. 2.

2 HEARING OFFICER STERNSTEIN: I'll go
3 ahead and officially admit that right now.

4 Are there any objections to the
5 admission of the Belpoggi article as Exhibit
6 No. 2?

7 (No response from the
8 Hearing participants.)

9 HEARING OFFICER STERNSTEIN: Then
10 that exhibit will be admitted as Exhibit No. 2
11 for Docket R01-14.

12 (Whereupon, said document was marked
13 as Exhibit No. 2, for identification,
14 as of 4-5-01, and admitted into
15 evidence.)

16 MR. EWART: For identification is
17 Exhibit No. 3. I have a one-page article
18 entitled, "Cost Comparison Summary Prepared by
19 Mike Curry, P.E.," or Professional Engineer.
20 This was part of an East Alden study dated
21 June, 2000.

22 HEARING OFFICER STERNSTEIN: Are
23 there any objections to the admission of the
24 "Cost Comparison Summary Prepared by Mike

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1 Curry," as Exhibit 3?

2 (No response from
3 the Hearing participants.)

4 HEARING OFFICER STERNSTEIN: That
5 table is admitted as Exhibit 3.

6 (Whereupon, said document was marked
7 as Exhibit No. 3, for identification,
8 as of 4-5-01, and admitted into
9 evidence.)

10 MR. EWART: The next document that I
11 would like to identify as Exhibit No. 4 is a
12 one-page document entitled, MTBE Groundwater
13 Clean-up Levels for LUST Sites: Current and
14 Proposed. And this was prepared by Delta
15 Environmental Consultants, Inc., dated, 2001.

16 HEARING OFFICER STERNSTEIN: So
17 we'll admit the MTBE Groundwater Clean-up
18 Levels for LUST Sites: Current and Proposed
19 map as Exhibit 4.

20 (Whereupon, said document was marked
21 as Exhibit No. 4, for identification,

22 as of 4-5-01, and admitted into
23 evidence.)
24 MR. EWART: Identified at Exhibit

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1 No. 5, a document entitled, "State Drinking
2 Water Regulations and Guidelines for MTBE --"
3 and in paren, it's micrograms per liter, or
4 ug/L.

5 This was prepared by U.S. EPA, dated
6 February, 2001.

7 HEARING OFFICER STERNSTEIN: If
8 there are no objections, the board will admit
9 the map entitled, State Drinking Water
10 Regulations and Guidelines for MTBE, U.S. EPA,
11 February, 2001, as Exhibit 5.

12 (Whereupon, said document was marked
13 as Exhibit No. 5, for identification,
14 as of 4-5-01, and admitted into
15 evidence.)

16 MR. EWART: Identified as Exhibit
17 No. 6 is a paper done by James E. Landmeyer and
18 others, entitled, "Methyl tert-Butyl Ether
19 Biodegradation by Indigenous Aquifer
20 Microorganisms under Natural and Artificial

21 Oxic Conditions." This was a paper that was
22 published in the Environmental Science and
23 Technology Journal at Volume 35, No. 6, dated
24 March 15th, 2001.

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1 HEARING OFFICER STERNSTEIN: If
2 there are no objections, the Board will admit
3 the Landmeyer article as Exhibit No. 6 for this
4 proceeding.

5 (Whereupon, said document was marked
6 as Exhibit No. 6, for identification,
7 as of 4-5-01, and admitted into
8 evidence.)

9 MR. EWART: The other attached
10 article is by Paul M. Bradley and others,
11 entitled, "Widespread Potential for Microbial
12 MTBE Degradation in Surface/Water Sediments,"
13 from the Environmental Science and Technology
14 Journal, Volume 35, No. 4, 2001.

15 HEARING OFFICER STERNSTEIN: If
16 there are no objections, the Bradley article
17 that Mr. Ewart just described will be admitted
18 as Exhibit No. 7 in this proceeding.

19 (Whereupon, said document was marked
20 as Exhibit No. 7, for identification,

21 as of 4-5-01, and admitted into
22 evidence.)

23 MR. EWART: I have some other posters
24 that we would like to submit as part of this.

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1 This is in reference to the other proposed
2 amendments in this proceeding for --
3 specifically for Section 62505 A5. These are
4 posters that the Agency used in proceeding
5 against Stonehedge. It was an enforcement case
6 in McHenry County, Illinois. The first which I
7 would like to identify as the next number,
8 which I believe is 8 --

9 HEARING OFFICER STERNSTEIN: 8.

10 MR. EWART: -- is a site location for
11 Stonehedge, Wonder Lake, McHenry County,
12 Illinois, and this is basic source of
13 information about the site.

14 HEARING OFFICER STERNSTEIN: I'll be
15 marking the site location for Stonehedge,
16 Incorporated, Wonder Lake, McHenry County,
17 Illinois, oversized map as Exhibit No. 8 in
18 this proceeding.

19 (Whereupon, said document was marked

20 as Exhibit No. 8, for identification,
21 as of 4-5-01, and admitted into
22 evidence.)

23 MR. EWART: Identified as Exhibit
24 No. 9 are field photographs for Stonehedge,

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1 Inc., and adjacent areas in Wonder Lake.
2 Again, this is source information on this case.

3 HEARING OFFICER STERNSTEIN: If
4 there's's no objections, I'll admit the
5 oversized map and photographs entitled, Field
6 Photographs for Stonehedge, Incorporated, and
7 Adjacent Areas in Wonder Lake as Exhibit 9.

8 (Whereupon, said document was marked
9 as Exhibit No. 9, for identification,
10 as of 4-5-01, and admitted into
11 evidence.)

12 MR. EWART: Identified as Exhibit 10
13 are the Wonder Lake Aerial Photograph and
14 Private Well Chloride Assessments.

15 HEARING OFFICER STERNSTEIN: If
16 there are no objections, I will admit the
17 oversized chart showing charts and a map
18 entitled, Wonder Lake Aerial Photograph and
19 Private Well Chloride Assessment as Exhibit

20 No. 10.

21 (Whereupon, said document was marked
22 as Exhibit No. 10, for identification,
23 as of 4-5-01, and admitted into
24 evidence.)

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1 MR. EWART: And as identified at
2 Exhibit No. 11 are cross-sections through
3 Stonehedge and Wonder lake area involving this
4 case.

5 HEARING OFFICER STERNSTEIN: If
6 there's no objections, I'll be admitting the
7 oversized diagram which show the cross-sections
8 through Stonehedge and Wonder lake area as
9 Exhibit No. 11 in this proceeding.

10 (Whereupon, said document was marked
11 as Exhibit No. 11, for identification,
12 as of 4-5-01, and admitted into
13 evidence.)

14 HEARING OFFICER STERNSTEIN: Mr.
15 Ewart, does the Agency have any other exhibits
16 to admit?

17 MR. EWART: Not at this time,
18 Mr. Hearing Officer.

19 HEARING OFFICER STERNSTEIN: Not at
20 this time.

21 Does the Agency witnesses have any
22 testimony or anything they'd like to say with
23 respect to the exhibits or anything else in
24 this matter at the present time?

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1 (No response from the
2 Hearing participants.)

3 HEARING OFFICER STERNSTEIN: Why
4 don't we swear in both Mr. Cobb and
5 Dr. Hornshaw right now?

6 (Whereupon, the witnesses were duly sworn.)

7 HEARING OFFICER STERNSTEIN: Go ahead,
8 Mr. Cobb.

9 MR. COBB: The exhibits that were
10 just entered in regard to the Stonehedge,
11 Inc.'s site, I want to walk through those. And
12 my purpose in bringing those is to give you --
13 give a little bit more support for the record
14 here in regards to the amendments to Section
15 62505, which essentially are -- involves
16 compliance point determinations for groundwater
17 standards.

18 I'm going to Exhibit 8, first, just

19 to -- which is just really kind of a locational
20 map. This case, Stonehedge, Inc., involve a
21 placement of a salt pile greater than 50,000
22 pounds on the ground. We received some
23 requests for assistance from the McHenry County
24 Health Department. There were several private

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1 wells in which the salt pile, which was greater
2 than 50,000 pounds, was within the setback of,
3 and the salt pile was a potential secondary
4 source of groundwater contamination under the
5 Illinois Environmental Protection Act, as well
6 as there were other numerous complaints about
7 the taste of the water.

8 And the McHenry County Health
9 Department had conducted numerous samplings of
10 the private wells in the area. So they called
11 us in for some assistance on this case. But
12 this just gives you the general site up in
13 McHenry County, kind of up in the northeast
14 corner. This is an aerial photograph map --

15 HEARING OFFICER STERNSTEIN: That's
16 the photograph on the --

17 MR. COBB: On the right-hand side of

18 Exhibit No. 8.

19 -- which shows the private wells that
20 were sampled, and also shows the location of
21 the salt pile at Stonehedge, Inc.

22 HEARING OFFICER STERNSTEIN: Any
23 questions on Exhibit 8?

24 BOARD MEMBER KEZELIS: I'm trying to

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1 figure out if there's any way we can see it.

2 MR. COBB: I could get in the center,
3 too, seriously.

4 BOARD MEMBER KEZELIS: You know, you
5 may need to do that. That may be easier.

6 HEARING OFFICER STERNSTEIN: Go off
7 the record for a second here.

8 (Discussion held off the record.)

9 HEARING OFFICER STERNSTEIN: Back on
10 the record.

11 Board Member Kezelis has a question
12 about Exhibit 8.

13 BOARD MEMBER KEZELIS: The aerial
14 photograph on the far right-hand side of
15 Exhibit 8 has a number of red dots. Those are
16 the wells?

17 MR. COBB: Those are private potable

18 water supply wells.

19 BOARD MEMBER KEZELIS: Thank you.

20 MR. COBB: The second exhibit -- and
21 once again, it just kind of gives you some
22 locational information. And in this case --

23 MR. EWART: Excuse me, Rick. Would
24 you identify that as Exhibit No. 9?

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1 MR. COBB: Exhibit No. 9, once again,
2 is a further exhibit showing locational
3 information. The same aerial photograph is on
4 Exhibit No. 8, but now we're showing, tying in
5 an aerial photograph -- a field photograph --
6 of the salt pile, which is right here, so you
7 can kind of see what the salt pile looks like.
8 And it's actually located right here where the
9 little black triangle is (indicating).

10 And then across the street is a home,
11 which is this home right here, that's
12 associated with Well -- Private Well 7415
13 (indicating). So once again, it's just kind of
14 locational information.

15 HEARING OFFICER STERNSTEIN: Any
16 questions on Exhibit 9?

17 (No response from the
18 Hearing Participants.)

19 HEARING OFFICER STERNSTEIN: Okay.
20 Go ahead.

21 MR. COBB: The next exhibit shows the
22 concentrations of chlorides sampled in those
23 same private wells and in adjacent to
24 Stonehedge, Inc., where the salt pile was

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1 located. This salt pile was sitting outside
2 without a cover on it. So when it rained, it
3 essentially leached into the groundwater table.
4 And in this case, there were suggestions by the
5 other parties that this was due to road salting
6 and other things. So we looked at the
7 concentrations of chlorides over time, and we
8 also looked, then, at the rainfall and
9 precipitation events over time. And, in
10 effect, we had one of the driest springs on
11 record during that particular year. And then
12 they had --

13 BOARD MEMBER MC FAWN: That would be
14 1992?

15 MR. COBB: That's correct, 1992.
16 And, actually, prior to that.

17 HEARING OFFICER STERNSTEIN: And the
18 weather you're talking about is reflected in
19 the minichart there entitled McHenry County
20 Climactic Data?

21 MR. COBB: That's right.

22 HEARING OFFICER STERNSTEIN: Okay.

23 MR. COBB: In fact, we've got
24 precipitation and snow, and then we also have

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1 monthly mean air and soil temperature. And
2 there is -- this is actually from stations up
3 in McHenry County. The state is collected by
4 the Midwest Climate Center down at the U. of I.

5 Essentially, we looked at the
6 chloride concentrations over time, and what we
7 saw is that the wells -- topographically,
8 here's Wonder lake down here at this elevation,
9 and up here is Stonehedge, Inc. This is
10 actually going downhill as you proceed down to
11 the lake.

12 HEARING OFFICER STERNSTEIN: That's
13 from going downhill from East Wonder Lake Road
14 towards East Lake Shore Drive?

15 MR. COBB: Correct.

16 BOARD MEMBER MC FAWN: How big is
17 Stonehedge, Inc.'s property?

18 MR. COBB: It's --

19 BOARD MEMBER MC FAWN: I mean, can
20 you just kind of circle or explain it on the
21 chart?

22 MR. COBB: I think I could better
23 explain it on -- maybe with this one.

24 HEARING OFFICER STERNSTEIN: We're

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1 back to --

2 MR. COBB: Exhibit No. 9.

3 HEARING OFFICER STERNSTEIN: Exhibit
4 No. 9.

5 MR. COBB: This is Stonehedge,
6 Inc.'s --

7 BOARD MEMBER MC FAWN: Salt pile?

8 MR. COBB: Salt pile. And their site
9 was maybe, oh, another lot -- maybe a lot size
10 bigger than this with a building on it, and
11 then some open area to the south of this salt
12 pile. So it wasn't a tremendously big --

13 BOARD MEMBER MC FAWN: What is
14 Stonehedge, Inc.?

15 MR. COBB: Pardon?

16 BOARD MEMBER MC FAWN: What is
17 Stonehedge, Inc.?

18 MR. COBB: Well, essentially, this
19 guy had kind of an off-side business in terms
20 of just applying road salt. Other than that,
21 he didn't seem to have any other business
22 activities.

23 BOARD MEMBER MC FAWN: So do you
24 know -- I'm sorry.

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1 MR. COBB: Go ahead.

2 BOARD MEMBER MC FAWN: On this --

3 HEARING OFFICER STERNSTEIN: Just for
4 the record, we're talking about Exhibit 10,
5 again?

6 BOARD MEMBER MC FAWN: Yes.

7 On Exhibit 10 --

8 MR. COBB: This one is -- yeah,
9 Exhibit 10.

10 BOARD MEMBER MC FAWN: On Exhibit 10,
11 then, where it's labeled "Stonehedge, Inc.'s
12 Salt Pile," is that where the salt pile is?

13 MR. COBB: Yes.

14 And back to the wettest -- or the

15 driest spring on record, almost -- I think it
16 was the second driest spring, almost, in record
17 since the Midwest Climate Center began keeping
18 records, they had the second highest rainfall
19 that they've ever had in and around July of
20 that same year. Following that, then, is when
21 we had some of the highest spikes in the
22 downgradient wells, in particular, here, and in
23 a couple of the other wells --

24 HEARING OFFICER STERNSTEIN: Each of

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1 the red dots and the four digit numbers
2 represents a separate well?

3 MR. COBB: A well, yes.

4 BOARD MEMBER MC FAWN: And those are
5 the downgradient ones --

6 MR. COBB: Yes.

7 BOARD MEMBER MC FAWN: -- by South
8 Drive and --

9 MR. COBB: Yes.

10 And this histogram goes up to around
11 4500 --

12 BOARD MEMBER MC FAWN: Can you name
13 that chart?

14 MR. COBB: This is chloride

15 detections at 7417 South Drive and that well.
16 And these chloride concentrations go up to
17 around 4500; and, of course, seawater is around
18 10,000. So I mean, it was pretty chloride-rich
19 water. So we -- not only was there a setback
20 violation here at this particular site, but
21 there was also some pretty good evidence that
22 showed the association with from the salt pile
23 to the contamination of the wells. I mean, it
24 obviously wasn't due to road salting because

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1 the highest spikes were in July after one of
2 the second largest rainfalls on record at the
3 Midwest Climate Center in July during the
4 summer. And those concentrations all seem to
5 follow after precipitation events, not so much
6 in the winter, but more in the spring or in the
7 summer.

8 So there's pretty good data here to
9 make a case.

10 BOARD MEMBER MC FAWN: How deep are
11 those wells?

12 MR. COBB: Well, I think I can
13 explain that a little bit better with this.

14 MR. RAO: You mentioned that the
15 facility was violating the setback distances?

16 MR. COBB: Yes.

17 MR. RAO: Did they ever get an
18 exception or --

19 MR. COBB: No.

20 MR. RAO: No?

21 MR. COBB: They didn't come for a
22 waiver and exception. So we sued them, and we
23 won that case. And they moved the salt pile.

24 MR. RAO: How did they move that,

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1 then?

2 MR. COBB: They just picked it up and
3 moved it.

4 MR. RAO: Okay.

5 HEARING OFFICER STERNSTEIN: What is
6 the state chloride limit for --

7 MR. COBB: 200.

8 HEARING OFFICER STERNSTEIN: And what
9 units are you using there?

10 MR. COBB: Milligrams per liter I'm
11 sure, but let me make sure. 200 milligrams per
12 liter.

13 HEARING OFFICER STERNSTEIN: Just to

14 clarify, you had mentioned that some of those
15 spikes --

16 MR. COBB: 4500 milligrams per liter.

17 HEARING OFFICER STERNSTEIN: And
18 seawater is 10,000 milligrams?

19 MR. COBB: 10,000. Seawater is
20 typically around 10,000 milligrams.

21 HEARING OFFICER STERNSTEIN: And just
22 to clarify on Exhibit 10, each of those colored
23 graphs there represent individual wells and
24 represent the chloride levels in the individual

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1 wells?

2 MR. COBB: Yes. Each of the graphs
3 represent an individual well. And then each
4 color is a different time -- actually, some of
5 these times go clear back to 1991. But the
6 colors in the graph are sequential over time,
7 you know, from early to the latest set of
8 samples.

9 HEARING OFFICER STERNSTEIN: From
10 left to right?

11 MR. COBB: In particular this spike
12 right here -- 4500 milligrams per liter was

13 9-17-1992. So in September of 1992.

14 HEARING OFFICER STERNSTEIN: And
15 which graph is that?

16 MR. COBB: It's the chloride
17 detections for Well 7417 South Drive. And
18 then, also, here's the chloride detections for
19 410 East Drive, which is also in proximity to
20 the salt pile; in fact, it's right next to it.
21 You can walk through the side yard and look
22 through the fence, and you can see the salt
23 pile. You can see there the concentrations
24 were up to around 400 milligrams per liter.

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1 Also, on this well -- 7421 South Drive, which
2 is up here -- you can see that we had a
3 chloride sample of 800 milligrams per liter.
4 So we had some definite chloride contamination
5 going on there.

6 BOARD MEMBER KEZELIS: Mr. Cobb, when
7 was the salt pile placed there by Stonehedge?

8 MR. COBB: The salt pile was placed
9 there in August of 1998, and the -- from --

10 MR. RAO: 1988 or --

11 MR. COBB: I mean -- I'm sorry.

12 1988. I'm sorry. Thank you.

13 1988. And we had estimates on the
14 size of anywhere from 100 to 400,000 pounds.
15 And those came from records that we obtained
16 from the -- and observations made and estimates
17 made from the McHenry County Health Department.

18 BOARD MEMBER KEZELIS: And when was
19 the salt removed?

20 MR. COBB: The salt was removed --

21 BOARD MEMBER KEZELIS: The remaining
22 salt.

23 MR. COBB: Yeah. The remaining salt
24 was removed, my best guess, is in 1993. It was

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1 before we went to hearing, and so we were still
2 interested in clean up and restoration of the
3 wells and -- because some of these people
4 actually drilled deeper wells because of this.

5 Getting back to the geologic
6 questions and the depths --

7 HEARING OFFICER STERNSTEIN: This is
8 Exhibit 11?

9 MR. COBB: -- of the wells, I'm now
10 showing you Exhibit No. 11, which first shows a
11 topographic map of the Wonder Lake area. You

12 can see that Stonehedge up here is around 840,
13 30 foot contour, whereas the lake -- the
14 elevation of the spillway, for example, is at
15 802. So there's quite a topographic drop here.
16 Actually, it's pretty steep. So what we did --
17 actually walked through this area myself. And
18 we went out there with the County, and we
19 obtained all of the existing geologic well
20 records that were available for these wells.
21 And as a result of that, we put together these
22 two geologic cross-sections -- A to A-prime,
23 going from west to east; B to B-prime, going
24 from sort of the southwest to the northeast,

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1 through the area in which Stonehedge and the
2 wells are located. And, essentially, what we
3 got, there is a very shallow sand and gravel
4 aquifer at the surface. And then that's
5 separated by a plate hill layer. And then
6 there's a lower sand and gravel aquifer
7 followed by a bedrock aquifer below that. The
8 wells that were impacted in the -- that I
9 showed you in Exhibit No. 10, were the shallow
10 wells, up in the sand and gravel on which the
11 salt pile was sitting. One of the issues that

12 we came across, however, is that -- and this
13 gets back to the depth of the wells -- these
14 were sand point wells. And a sand point well
15 is almost like a monitoring well; it's a steel
16 casing with a point on the end of it. It's
17 driven into the ground. It's a very small
18 diameter and very shallow -- 20 to 50 feet in
19 depth.

20 What we got hung up on is that even
21 though this is sand and gravel and those wells
22 aren't too much different than any other
23 monitoring well that you might see -- in other
24 words, it's going to do a good job of

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1 monitoring in situ groundwater -- sand point
2 wells, in terms of the new water law
3 construction code, do not meet code. So we
4 kind of came across the thing that we hadn't
5 thought of in the Groundwater Quality Standards
6 in that you had to have a well log and you had
7 to have a construction record to have to be in
8 Code to be a compliance point for determining
9 compliance with the Groundwater Standards.

10 However, we had logs all around that

11 area and adjacent to some of the wells that
12 were impacted. We knew those were sand point
13 wells; we knew those wells were in this unit,
14 and we could correlate enough that we could
15 make this official geologic map with confidence
16 and have a feeling that we could use these as
17 compliance point determinations.

18 Any other questions before I go sit
19 back down?

20 BOARD MEMBER MELAS: Your initial
21 statement -- what was the actual number of the
22 of -- where the amendment is going -- 630 --

23 MR. COBB: Section 620.505.

24 BOARD MEMBER MELAS: 620?

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1 MR. COBB: Section 620.505.

2 Now, if we go to Section
3 620.505(a) -- Subsection (a)(5) -- essentially
4 what (a)(5)(a), for example, what I was trying
5 to do with that amendment is somewhat build off
6 of this example where we may have other
7 portable wells in the area where we have
8 construction records, and it's in an immediate
9 area of, say, 1,000 feet. So that we know,
10 then, that this well that we don't have a well

11 log for by a professional judgment is it the
12 same hydrogeologic materials as the other
13 wells? It's in very close proximity. It's a
14 correlation. And, in fact, then what we were
15 also, then, trying to do is, okay, that's a
16 hydrogeologic correlation and a professional
17 judgment. But to further safeguard, let's go
18 ahead and add that Subsection 5(c), which also
19 assures some safeguards there with respect to
20 representing in situ groundwater conditions.

21 In addition, let's exclude -- let's
22 be more specific in terms of the exclusions for
23 certain water wells, and we added those under
24 Subsection 6. It starts out, "For groundwater,

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1 any potable well listed below, monitoring shall
2 not be conducted."

3 HEARING OFFICER STERNSTEIN: That's
4 Section 620.505(a)(6). And just to clarify,
5 all the oversized exhibits have been admitted
6 in order to prove the point there to support
7 the Agency's addition of that language.

8 MR. COBB: That's correct,
9 Mr. Hearing Officer. What I was trying to do

10 was to show you the origin of where we were
11 overturned and, in essence, that was remanded
12 or --

13 HEARING OFFICER STERNSTEIN: In the
14 enforcement case?

15 MR. COBB: In the enforcement case.
16 We couldn't bring a groundwater standards
17 enforcement case, even though I think the
18 exhibits that I showed were rather
19 demonstrative in terms of showing the
20 relationship and exclusion of other sources.
21 However, even though these were existing
22 potable wells that people had to drill new
23 wells to replace those because of the excessive
24 chloride contamination, we just kind of found a

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1 weak point in the compliance point
2 determinations as it was previously drafted.
3 So this is the purpose for these amendments.

4 HEARING OFFICER STERNSTEIN: Is there
5 any further testimony on the exhibits from the
6 Agency?

7 (No response from the
8 Hearing participants.)

9 HEARING OFFICER STERNSTEIN: Any

10 further questions for the Agency witnesses from
11 the Board or from the public?

12 BOARD MEMBER KEZELIS: Is this the
13 only situation that you've come across that
14 would have caused this type of a discrepancy?

15 MR. COBB: So far, this is the only
16 area where we've had this kind of a problem.
17 But we anticipate that we might have it again.

18 BOARD MEMBER KEZELIS: Were the --
19 how old were the wells in the Wonder Lake area?

20 MR. COBB: I would say they were
21 probably 20-plus years old. They were still
22 serving fine as potable wells. It's kind of an
23 interesting situation there. Even if you --
24 with it being sand and gravel and unconfined at

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1 the surface down to the bottom of the well
2 screen, it really couldn't even seem being too
3 much more protective, even if you put in a well
4 that was to Code and you cemented it. Unless
5 there was something right adjacent to the well
6 where you were over landflow, but, primarily,
7 it's going to -- anything that's leached out
8 onto the ground or is spilled onto the ground

9 is going to sink in, and that surface casing
10 and grouting really isn't -- it's still going
11 to go down and get into that well and, in this
12 case, in my opinion, then, the sand point wells
13 are not much different than a dedicated
14 monitoring well. In fact, there's sand and
15 gravel packed around the well, simply because
16 they're giving in.

17 HEARING OFFICER STERNSTEIN: Any
18 further questions from the Agency?

19 (No response from the
20 Hearing participants.)

21 HEARING OFFICER STERNSTEIN: Does
22 the Agency have anything further to add?

23 MR. EWART: Mr. Hearing Officer, I
24 would wish to move to admit all the exhibits

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1 that I submitted today from 2 through -- 10, is
2 it?

3 HEARING OFFICER STERNSTEIN: 11.

4 MR. EWART: 11.

5 HEARING OFFICER STERNSTEIN: Actually,
6 I think I've already taken care of that, so
7 they've all been admitted.

8 MR. EWART: Well, okay. I'm sorry.

9 We do want to -- one of the exhibits that we
10 submitted -- Exhibit No. 6, I believe -- the
11 article by Landmeyer involving biodegradation
12 in an aquifer under natural and artificial oxic
13 conditions.

14 MR. COBB: I just wanted to comment
15 on that article a little bit.

16 HEARING OFFICER STERNSTEIN: Go right
17 ahead.

18 MR. COBB: Actually, yesterday,
19 Mr. Ewart and myself contacted Mr. Landmeyer
20 and got a little bit more insight as to the
21 article. It's got a publication date, which
22 was very recent. And, essentially, what this
23 is showing -- and we're seeing more and more of
24 this type of thing in remediation -- is the use

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1 of oxygen-releasing compound -- ORC. And
2 that's essentially what one of the things that
3 they did here to enhance the degradation and
4 the growth of indigenous microorganisms to
5 attack the MTBE. And according to
6 Mr. Landmeyer, we had this personal
7 conversation yesterday, once that they added

8 the oxygen via the oxygen-releasing compound --
9 this ORC -- they had a reduction of 80 percent
10 mass in a 60-day period. Now, keep in mind the
11 other thing that Mr. Landmeyer emphasized and
12 emphasizes in the article here is that this is
13 when you're outside of a well capture zone.
14 For example, we talked about East Alton in the
15 previous hearing and about the leaking
16 underground storage tanks within the protruding
17 and recharge area -- the capture zone -- in
18 East Alton wells. And, really, we probably
19 have an MTBE plume within the capture zone of
20 all the wells, obviously, that have detections
21 where we found detections and presented that
22 information.

23 The point is is that what he -- the
24 point he made there is that the velocity of

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1 groundwater flow, once you're in that setting,
2 would overcome the enhanced biodegradation
3 through oxygen-releasing compound and can
4 overcome that and probably wouldn't be as
5 protective because the plume would be moving
6 faster and the risk would be greater in that
7 situation. However, if you were outside of

8 that, say, doing a remediation on a leaking
9 underground storage tank or some other site
10 where you have MTBE, and you remediated the
11 site and got it at the point where when it was
12 still on-site or not within a capture zone of
13 the water supply well, then I think this shows
14 some promise in terms of clean up. And I'm
15 sure, then, it goes to the economics of clean
16 up with respect to leaking underground storage
17 tanks and other sites within the MTBE.
18 However, once it gets from that capture zone,
19 then we get back into the scenario of the
20 groundwater is moving too fast; it moves faster
21 than at which the rate of degradation can occur
22 and may not be that effective. Plus, if it
23 gets into a well, then you get into the water
24 treatment scenarios, similar if we have high

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1 concentration plumes than you can essentially
2 see -- what's the --

3 HEARING OFFICER STERNSTEIN: Referring
4 to Exhibit 3 -- the cost comparison summaries
5 by Curry?

6 MR. COBB: Exhibit 3, once again,

7 lays out the cost analysis done for different
8 treatment options at East Alton. And you can
9 see it's -- if we're not preventive, with
10 respect to the MTBE, it can be quite costly in
11 terms of treatment at the well-heads or at the
12 water treatment plant. Essentially, there's
13 four different options there that Mr. Curry put
14 together -- all the way out to getting a new
15 well-field and obtaining a low interest loan,
16 say, with -- from Illinois EPA with a low debt,
17 no coverage, 3 percent interest. But you can
18 see those cost figures keep going up as you add
19 on more treatment. The air stripping, the
20 granulated activated carbon example is about as
21 much as drilling a new well-field. And down
22 there, in that particular area, they didn't
23 really have any options or anyplace to go to
24 drill a new well-field. And they had an

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1 existing -- what isn't shown here is the fact
2 that they just built a new water treatment
3 plant; and not only did they just build that
4 plant, but they still had a million dollars out
5 on bond.

6 BOARD MEMBER MELAS: Just a quick

7 simple question.

8 MR. COBB: Sure.

9 BOARD MEMBER MELAS: Oxidic condition,
10 does that relate to oxygen?

11 MR. COBB: Yes. The oxygen-releasing
12 compounds --

13 BOARD MEMBER MELAS: Anoxic would be
14 the --

15 MR. COBB: That's correct. That's a
16 reducing -- anoxic versus oxidic would be an
17 oxygen-rich.

18 Now, when they did that -- back to
19 that just for a second. When they did that
20 study, they didn't bubble any gas through there
21 because that could adsorb some of the MTBE and
22 result in losses that way, just through
23 bubbling it out through the atmosphere.

24 So they actually did this with the

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1 oxygen-releasing compound in situ, put it down
2 into the aquifer --

3 BOARD MEMBER MELAS: Into the
4 aquifer?

5 MR. COBB: Into the aquifer so they

6 know that they oxygen-enriched it, and then
7 they saw resultant cause and effect with the
8 reduction in the mass of MTBE.

9 BOARD MEMBER KEZELIS: Whereas air
10 stripping would be the actual bubbling --

11 MR. COBB: Transfers.

12 BOARD MEMBER KEZELIS: -- and
13 releases gas?

14 MR. COBB: Correct.

15 HEARING OFFICER STERNSTEIN: So we're
16 clear for the record that the previous set of
17 questions and answers was with respect to
18 Exhibit 6.

19 Anything else from the Agency?

20 (No response from the
21 Hearing participants.)

22 HEARING OFFICER STERNSTEIN: They're
23 indicating no.

24 At this point, I know that Mr. Rao

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1 had a couple of items he's like to very briefly
2 discuss.

3 Mr. Rao, go right ahead.

4 MR. RAO: Basically, what I wanted to
5 bring up in this proceeding was that, you know,

6 the Exhibit No. 4 that you introduced today. I
7 think the same document was also introduced in
8 another proceeding before the Board R0-126,
9 which deals with underground storage tank
10 regulations. And when we were looking at that
11 exhibit a couple of days ago, and I think the
12 second page of that exhibit -- let me just --
13 No. -- Exhibit No. 5 in this proceeding. We
14 are looking at the states which have drinking
15 water standards for MTBE, and we saw that there
16 were five states which had drinking water
17 standards for MTBE. And out of those five
18 states, four of them had numbers which were
19 lower than the MTBE number that's been proposed
20 in this rulemaking. And with the little time
21 we had, we tried to see, you know, what were
22 the bases of those drinking water standards
23 adopted by the other states, and we were able
24 to find a couple of documents, one from

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1 California and another one from New Hampshire.
2 And we also contacted New York, and they sent
3 their rule and they sent information, but we
4 have not received that information.

5 There are two documents that we have
6 which we'd like to introduce into the record
7 and request the Agency to, you know, review
8 those documents and provide comments to, you
9 know, what do you think about those. The bases
10 of justifications which were provided by State
11 of California and New Hampshire. I'll read the
12 titles of the documents, and if the Agency or
13 anybody else doesn't have any objections, I'd
14 like to introduce it into this record.

15 The first one is from the State of
16 California, prepared by Office of Environmental
17 Health Hazard Assessment, California
18 Environmental Protection Agency, dated March,
19 1999. The document is entitled, "Public Health
20 Goals for Methyl-Tertiary-Butyl Ether (per
21 MTBE) in Drinking Water. "

22 HEARING OFFICER STERNSTEIN: Okay.
23 Are there any objections to the admission of
24 this document?

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1 (No response from
2 Hearing participants.)

3 HEARING OFFICER STERNSTEIN: Seeing
4 none, I'll mark it as Exhibit 12.

5 (Whereupon, said document was marked
6 as Exhibit No. 12, for identification,
7 as of 4-5-01 and admitted into
8 evidence.)

9 MR. RAO: We have copies for the
10 Agency.

11 HEARING OFFICER STERNSTEIN: And for
12 the court reporter.

13 MR. RAO: Yes. And the second
14 document, which is from the State of New
15 Hampshire, it's entitled Draft Final, Technical
16 Support Document: Derivation of Proposed
17 Primary and Secondary Drinking Water Standards
18 for Methyl tert-Butyl Ether in New Hampshire
19 Drinking Water Supplies, dated February, 2000.
20 And this was prepared by the New Hampshire
21 Department of Human -- no, sorry. It's New
22 Hampshire Department of Health & Human
23 Services, Office of Community and Public
24 Health, in Cooperation with Janet

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1 Keating-Connolly, MS, GZA Geoenvironmental,
2 Inc.

3 HEARING OFFICER STERNSTEIN: Are

4 there any objections to the admission of the
5 document that Mr. Rao just described?

6 MR. EWART: No objection.

7 HEARING OFFICER STERNSTEIN: We'll
8 mark that as Exhibit 13, please.

9 (Whereupon, said document was marked
10 as Exhibit No. 13, for identification,
11 as of 4-5-01 and admitted into
12 evidence.)

13 HEARING OFFICER STERNSTEIN: For the
14 record, Mr. Rao, you found both of these
15 documents on the Internet; is that true?

16 MR. RAO: Yes.

17 HEARING OFFICER STERNSTEIN: And I'd
18 just like to again mention for the record that
19 if anybody who's reading this transcript would
20 like those documents or copies of those
21 documents, they will either be on the Board's
22 web site or there will be a link to them on the
23 Board's web site or that link. Or the document
24 is not there, those persons should call me at

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1 my office in Chicago and I'll make sure that
2 they are able to find them.

3 Is there anything else?

4 MR. RAO: No, that's all.

5 BOARD MEMBER MC FAWN: I was
6 wondering, you mentioned that you've requested
7 documents from New York?

8 MR. RAO: Yes.

9 BOARD MEMBER MC FAWN: And those
10 would be supporting drinking water standards?

11 MR. RAO: I think the person I talked
12 to was not very sure about what, you know, the
13 documents would be, so let me take a look when
14 it comes in and see whether it's relevant.

15 BOARD MEMBER MC FAWN: Thanks.

16 DR. HORNSHAW: Who did you talk with
17 in New York? Is it Nancy Kim?

18 MR. RAO: No, somebody else.

19 MR. COBB: Another thing, too. These
20 are proposed drinking water --

21 MR. RAO: Actually, in the California
22 one, they have adopted the standards already,
23 and New Hampshire has adopted the standards.

24 MR. COBB: Versus groundwater?

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1 MR. RAO: Yes. They are drinking
2 water standards, and the reason I thought it

3 was relevant was most of our groundwater
4 standards are based on drinking water
5 standards, if I'm correct.

6 MR. COBB: All of them have been
7 based on U.S. EPA drinking water standards.

8 MR. RAO: Yes, yes. And the
9 California report has been peer reviewed by
10 U.S. EPA and some other academic institutions.

11 DR. HORNSHAW: I've actually had
12 discussions with George Alexeeff, one of the
13 preparers of the document. He's on the Acute
14 Exposure Guideline Committee that I'm on with
15 U.S. EPA. We've actually talked with Nancy Kim
16 from New York State Department of Health, who I
17 thought you had talked to about getting the New
18 York standard. All of these are based on
19 cancer as an endpoint, and we've always
20 operated under the assumption that if we're
21 going to have a standard based on cancer as an
22 endpoint that cancer determination would be
23 made by U.S. EPA. California, I know, has made
24 that determination on their own, and I know

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1 from talking with Nancy Kim that they've also
2 made that determination on their own. We would

3 have to kind of step beyond how we usually do
4 this if we were to use cancer as an endpoint
5 for the MTBE standards.

6 MR. RAO: Yeah. I -- you know, I'm
7 not asking that you propose a number based on
8 the studies that they have used. But looking
9 at the numbers that they have and what was
10 proposed, and I thought it would be helpful to
11 the Board to have this information and comment
12 from you because you have the expertise to look
13 at the document and provide comments on those
14 documents.

15 MR. COBB: I think the dialogue that
16 just occurred is good to hear. I mean, you
17 provided the documents, and then Tom's reply, I
18 think --

19 MR. RAO: Tom's expertise is in
20 toxicology. You know, we really appreciate to
21 hear from you -- what you can come up with.

22 MR. COBB: Another comment, too, on
23 the -- in the original statement of reasons.
24 If you go to Exhibit No. 2, you'll see that

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1 those numbers there, there have been some

2 changes since August of 2000. But some of
3 those are very similar to the -- some of the
4 concentrations you see are on Exhibit 5 and
5 Exhibit 4. And, in particular, I think an
6 interesting one to look at on Exhibit 4 is the
7 Wisconsin standard. The Wisconsin standard is
8 a groundwater standard with a preventive action
9 limit -- a PAL as they call it. And you'll see
10 that their groundwater standard is set at 60,
11 and preventive action limit is set at 12. And
12 these are groundwater standards, not drinking
13 water. Pretty similar to the Illinois approach
14 with that preventive response level down to 20,
15 and Wisconsin's groundwater standards is a 60.
16 So just -- I think further reflecting upon this
17 and the previous Exhibit No. 2 and the
18 statement of reasons.

19 In addition, there are a number of
20 states that have MTBE clean up and/or
21 groundwater soil standards greater than 70
22 parts per grade: Connecticut, New Mexico,
23 Oregon, Utah, Wyoming.

24 HEARING OFFICER STERNSTEIN: And,

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1 again for clarification, Mr. Cobb, you were

2 talking about Exhibit 4 to the Agency's Motion
3 for Acceptance, correct?

4 MR. COBB: Yes. When I was speaking
5 about Wisconsin, the testimony was Exhibit
6 No. 3.

7 HEARING OFFICER STERNSTEIN: I'm
8 sorry. Exhibit 4 for today's hearing. I'm
9 sorry.

10 MR. COBB: Now, I was -- previously,
11 I was talking about Exhibit No. 2 and the
12 Statement of Reasons.

13 HEARING OFFICER STERNSTEIN: Okay.
14 I'm sorry.

15 MR. COBB: By the way, the
16 concentrations in either Exhibit No. 2 from the
17 Agency's original Statement of Reasons or from
18 today's Exhibit No. 4, those concentrations
19 are, in part, per million or micrograms per
20 liter.

21 BOARD MEMBER MC FAWN: On Exhibit
22 No. 4, maybe I need a little help knowing how
23 to read this because when you just identified
24 that with the 60/12 limit for Wisconsin, how

1 would I have been able to know that that's what
2 it meant -- that it was a groundwater standard
3 and preventive response standard?

4 MR. COBB: Well, a part of that
5 comes -- you may not have read the footnote in
6 No. 6. Just because back in 1990 and 1988,
7 1999, I studied all the other state groundwater
8 standards that were promulgated, and I became
9 pretty familiar with Wisconsin's regulations
10 because I reviewed all those regulations and as
11 a preparation for the original Part 620
12 proposal that we proposed. So I just know that
13 the WDNR NR 140 enforcement standard is an
14 enforceable groundwater standard.

15 In addition, I know that the
16 preventive action, one of the goals is a
17 preventive action one. And I guess even more
18 clearly, I have a letter that I got back on
19 September 1st of 2000, from Dave Lyndorf
20 (phonetic) of the Wisconsin DNR describing
21 that's their standards.

22 BOARD MEMBER MC FAWN: Well, how -- I
23 mean, it's probably very evident, but for
24 instance, with Connecticut, how do I know what

1 the 100 represents?

2 MR. COBB: That doesn't have any
3 footnotes, so I assume that you go back to
4 the -- and it is the Connecticut has -- there's
5 two ways: Number 1, the title at the top;
6 Number 2 is the key under where it says
7 January, 2001, and the dark blue states are
8 MTBE Clean-up/action Levels. So I know that
9 that's a clean up/action level for Connecticut
10 for LUST sites.

11 HEARING OFFICER STERNSTEIN: Of 100
12 micrograms per liter?

13 MR. COBB: 100 micrograms per liter.

14 DR. HORNSHAW: If you'd like, I could
15 explain how New York's work because I've talked
16 with Nancy Kim about that.

17 BOARD MEMBER KEZELIS: Please.

18 DR. HORNSHAW: If an organic chemical
19 is detected in groundwater or public water
20 supply, its standard is automatically 50
21 micrograms per liter, 50 parts per building so
22 that's why you see 50 as the footnote says,
23 "Enforceable drinking water standard," that's a
24 statewide standard that's a default value and

1 it's on the books until it's changed by a new
2 value. And the first value -- the 10 that's
3 there -- the footnote says, "Unenforceable
4 guidance criteria." That's the first step of
5 that's the last step before it becomes a
6 standard. And when I talked with Nancy about
7 this at our last Acute Exposure Guideline
8 committee meeting in January, she told me at
9 that point that the conversion from 50 to 10
10 was imminent; it was just a matter of some
11 paperwork that had to be completed. So it may
12 already be 10 as an enforceable standard at
13 this point. And that's also based on cancer as
14 an endpoint. And the reason it's 10 instead of
15 13 is because they round to the nearest digits.

16 MR. RAO: We had a press release from
17 Governor Patacki's office when he signed the
18 legislation for MTBE which basically got at the
19 Department of Environmental Conservation and --
20 let me see -- the State Department of Health,
21 directing them to allow the 10-part-per-billion
22 MTBE standard. So I was also under the
23 impression they were going to the rulemaking to
24 make that their final standard.

1 DR. HORNSHAW: Right.

2 HEARING OFFICER STERNSTEIN: Are
3 there any further questions for the Agency or
4 for Mr. Rao?

5 Go ahead, Member Kezelis.

6 BOARD MEMBER KEZELIS: You testified
7 a few moments ago that the use of cancer as an
8 endpoint was what California had done instead
9 of relying on U.S. EPA standards.

10 DR. HORNSHAW: That's correct.

11 BOARD MEMBER KEZELIS: Do you have
12 any sense of any movement in the near future
13 that the U.S. EPA may anticipate with respect
14 to MTBE, or do you envision states moving to
15 reliance on cancer as an endpoint for purposes
16 of MTBE throughout the country?

17 DR. HORNSHAW: I haven't talked with
18 anybody from U.S. EPA about this in quite a
19 while now. I was under the impression,
20 probably about a year ago, that they were
21 pretty close to making a final determination.
22 But I haven't seen any further discussion of
23 that or haven't heard any new entries in the
24 integrated risk information system database

1 that we use all the time. So I'm not sure
2 where that is at the federal level.

3 BOARD MEMBER KEZELIS: So you see,
4 instead, that more and more states will
5 probably proceed as these footnotes indicate
6 and adopt their own standards, given the lack
7 of further guidance from the U.S. EPA?

8 DR. HORNSHAW: I think the states
9 have to because they're stuck with no
10 enforceable levels, you know, when it comes to
11 clean-up, and this chemical seems to be showing
12 up more often. So it's something that the
13 states just have to do, but until the U.S. EPA
14 makes their final determination.

15 HEARING OFFICER STERNSTEIN: Any
16 other questions for the Agency?

17 (No response from the
18 Hearing participants.)

19 HEARING OFFICER STERNSTEIN: I had a
20 couple -- just a couple of leftovers from the
21 last hearing. Towards the end, actually, Page
22 64 of the first hearing transcript, Mr. Rao had
23 asked the Agency a question about the
24 definition for licensed professional

1 geologists. And I had pointed out what I think
2 is a drafting error at 620.505 (a)(5)(c). Will
3 the Agency be addressing those in public
4 comments?

5 MR. EWART: Yes.

6 HEARING OFFICER STERNSTEIN: Just
7 wanted to check. Thanks.

8 MR. COBB: Another thing, too, I
9 think we need to check on is when we were
10 there, I thought that Mr. King also testified
11 that there's three different definitions.

12 HEARING OFFICER STERNSTEIN: For LPG?

13 MR. COBB: Yes. And so --

14 MR. RAO: As long as we get a
15 definition that is compatible with the
16 rulemaking. That's where I'm going right now.

17 MR. EWART: I think representatives
18 of all three proceedings should get together
19 very soon.

20 BOARD MEMBER MC FAWN: I will agree
21 with that very soon (Laughter).

22 HEARING OFFICER STERNSTEIN: Are
23 there any other questions for the Agency?

24 Let's go off the record for just a

1 second.

2 (Discussion held off the record.).

3 HEARING OFFICER STERNSTEIN: Back on
4 the record.

5 Does anybody present have any further
6 comments on this Rulemaking R01-14 with a
7 decision by DCCA not to conduct an economic
8 impact study?

9 (No response from the
10 Hearing participants.)

11 HEARING OFFICER STERNSTEIN: Okay.
12 Request for additional hearings will
13 be accepted pursuant to the Board's Procedural
14 Rules, then 35 Illinois Administrative Code
15 102.412 Subpart B. Those are the new
16 Procedural Rules. That Rule requires the
17 proponent or any other participants to
18 demonstrate in a motion to the Board that
19 failing to hold an additional hearing will
20 result in material prejudice to the movant.

21 The transcript for this hearing
22 should be able within 10 business days. If
23 anybody would like a copy, you can download the
24 hearing from the Board's web site; you can

1 speak to the court reporter directly; contact
2 the Board's clerk's office in Chicago for a
3 hard copy, which is 75 cents a page; or contact
4 me.

5 Public comments in this matter must
6 be filed by May 18th, 2001. The mailbox rule
7 will not apply. Anyone may file public
8 comments with the clerk of the Board. When
9 filing comments with the Board, an original and
10 nine copies are required. You must also
11 simultaneously deliver your comment to all
12 persons on the notice list and include an
13 attached notice sheet, proof of service and a
14 copy of the current service list. You should
15 check the Board's web site or contact the
16 clerk's office to make sure you have an updated
17 service list.

18 Of course, public comments may also
19 be filed after the issuance, and the first
20 notice, opinion and order as well.

21 Is there anyone else present who
22 would like to testify today?

23 Seeing no such person, that concludes
24 today's hearing. Thank you all very much for

1 your time, attention and effort. This hearing
2 is adjourned.

3 (Whereupon the above-entitled
4 proceedings were adjourned.)

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1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF C O O K)

4 I, MARY ELLEN KUSIBAB, a Notary
5 Public in and for the County of Cook, State of
6 Illinois, do hereby certify that the foregoing
7 61 pages comprise a true, complete and correct
8 transcript of the proceedings held on the 5th
9 day of April A.D., 2001, at 100 West Randolph
10 Street, Room 8-033, Chicago, Illinois, In the
11 Matter of: Proposed MTBE Groundwater Quality
12 Standards Amendments: 35 Ill. Adm. Code 620,
13 in proceedings held before JOEL J. STERNSTEIN,
14 Hearing Officer, and recorded in machine
15 shorthand by me.

16 IN WITNESS WHEREOF, I have hereunto
17 set my hand and affixed my Notarial Seal this
18 17th day of April A.D., 2001.

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22
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Mary Ellen Kusibab, CSR
Notary Public, Cook County, IL
Illinois License No. 084-004348

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