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BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

RESIDENTS AGAINST A POLLUTED)	
ENVIRONMENT and THE EDMUND B.)	
THORNTON FOUNDATION,)	
)	
-vs-)	No. PCB 96-243
)	
COUNTY OF LASALLE and LANDCOMP)	
CORPORATION,)	
)	
Respondent.)	

TRANSCRIPT OF PROCEEDINGS of the public hearing held
in the above-entitled matter; taken before MARGARET M.
BALESTRI, C.S.R., a Notary Public in and for the County of
LaSalle, State of Illinois, at Koolie's Banquet Hall, 1504
Poplar Street, Ottawa, Illinois, on the 23rd day of July,
1996, commencing at the hour of 6:00 p.m.

PRESIDING: MS. DEBORAH FRANK, Hearing Officer.

1 APPEARANCES

2

3 HOFFMAN, MUELLER & CREEDON
Attorneys at Law
4 BY: MR. GEORGE MUELLER
501 State Street
5 Ottawa, Illinois 61350

6 appearing on behalf of the Petitioner;

7 MR. ROBERT M. ESCHBACH
Special Assistant State's Attorney
8 728 Columbus Street
Ottawa, Illinois 61350

9 appearing on behalf of the County of
10 LaSalle.

11 BUTLER, RUBIN, SALTARELLI & BOYD
Attorneys at Law
12 BY: MR. KEVIN J. O'BRIEN
Three First National Plaza
13 Chicago, Illinois 60602

14 appearing on behalf of LandComp
Corporation.

15 ALSO PRESENT: Audrey Lozuk-Lawless, Attorney
Charles M. Feinen, Attorney
16 Members of the public.

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(WHEREUPON, the following
proceedings were held in this
cause on this date.)

HEARING OFFICER FRANK: Hi. Good Afternoon, or Good
Evening, everyone.

My name is Deborah Frank and I'm the Illinois
Pollution Control Board Hearing Officer for this case that
was continued from yesterday at about 4:15 to here in
to allow some more time for public input.

Before I get started I'm going to reiterate some
of the things that I talked about yesterday. I apologize
for those of you that it's a repeat for, but I think since
there are so many Members of the Public here it's worth
stating.

First, you should know a little bit about the
Board's process. It is the Board that makes the decision
in this case and not me. I'm the Hearing Officer. My job
is to rule on evidentiary motions and also to guide the
transcript in the case, so that when the Board reads it
it's easier for them to understand and keep things
orderly.

Because of this I'm also allowed by the Board's

1 Rules to ask questions of witnesses if I think that is
2 necessary, or ask for clarification if I think that's
3 necessary.

4 I caution everyone that at this hearing, the
5 statute on Landfill Siting Appeal specifically states
6 that: "No new or additional evidence in support or
7 opposition to any finding, order, determination, or
8 decision of the County Board shall be heard by the
9 Pollution Control Board."

10 So you need to confine your comments to things
11 about the hearing. That you can't talk specifically about
12 any of the siting criteria. Because we can't hear any new
13 evidence on the siting criteria.

14 The Board rules do allow that Members of the
15 Public shall be allowed to be at hearing or submit a
16 written statement. And the only hitch to that is that you
17 will have to come up and be sworn by our court reporter.
18 You will to have give your name and spell it for her so

she

19 can transcribe it. And then you will be subject to cross
20 examination by the attorneys if any of them wish to do so.
21 But we will be having the public come up and make
22 comments.

23 At this time, though, we do have one witness, I
24 believe, that the County wishes to call. And Mr. Mueller

1 has told me he has one witness that he would like to call
2 in rebuttal.

3 And then after that we will begin with the
public
4 comment portion. So if the attorneys could go ahead and
5 come forward and begin.

6 Can you swear the witness as she goes by, too?

7 M A R Y J A N E W I L K I N S O N,
8 Having been called as a witness on behalf of the
9 Respondent, LaSalle County, after having first been duly
10 sworn upon her oath, was examined and testified as
follows,
11 to-wit:

12 (Witness sworn.)

13 DIRECT EXAMINATION

14 BY: MR. ESCHBACH

15 MR. ESCHBACH: Would you state your name, please?

16 THE WITNESS: Mary Jane Wilkinson.

17 Q. And, Mrs. Wilkinson, what is your occupation?

18 A. LaSalle County Clerk.

19 Q. And how long have you been the LaSalle County
20 Clerk?

21 A. December of 1990.

22 Q. Is your microphone on?

23 A. I don't think so. Can you hear me now? Okay.

24 Q. Was the LandComp Application filed with your

1 office on October 31st, 1995?

2 A. Yes, it was.

3 Q. And were receipts issued at that time
4 acknowledging receipt of the Application, as well as the
5 filing fee?

6 A. Yes.

7 Q. And was there at least one copy of Volumes 1
8 through 6 of the Application on file in your office from
9 the date of filing until the record of this proceeding was
10 sent to the Pollution Control Board on June 27th, 1996?

11 A. Yes, there was.

12 Q. And do you know how many copies were on file in
13 your office?

14 A. There was always at least one complete set. At
15 one time we did have two sets placed on file in the
office.

16 Q. Okay. Was the Application available for public
17 inspection during that entire period?

18 A. Yes, it was.

19 Q. Was there a procedure that was established in
20 your office to be followed if a Member of the Public asked
21 to view the application?

22 A. Yes, there was.

23 Q. And would you describe that procedure?

24 A. On the date that the Application was filed in my

of 1 office I called a staff meeting with the full complement
2 employees from the office. They were instructed at that
3 time if anyone came in and had any questions in regards to
4 the Application or the viewing of it, that they were to
5 contact either myself or one of my deputies, June Clemens.
6 Q. Are you aware of any instance where any of the
for 7 Member of the Public was told that it was not available
8 inspection?
9 A. No, I'm not.
Bernabei 10 Q. Are you aware of any instance where Joan
11 asked to review the Application?
12 A. No, I'm not.
if 13 Q. At my request did you inquire of June Clemens
14 she was aware of any instance where the LandComp
15 Application was not available to a Member of the Public?
16 A. Yes, I did.
17 Q. What was her reply?
18 A. She was not aware at any time that anyone from
19 the public was denied access to the Application.
20 Q. And at my request did you make the same inquiry
21 of the rest of your staff?
22 A. Yes, I did.
23 Q. What was the result of that?
24 A. I called a staff meeting this morning and asked

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1 all of the employees of the office if they were aware of
2 any time anyone from the public requested to review the
3 Application and they were denied. And no one from my
4 office could recall any such incident.

5 Q. By the way, is there a reason why June Clemens
6 cannot be here tonight?

7 A. Yes. She's out of state attending a funeral.

8 Q. Now you had indicated that originally there were
9 at least two copies of the Application on file with your
10 office?

11 A. Yes. That's correct.

12 Q. And was there a time when one of those copies
was 13 given to somebody to take from the Clerk's Office?

14 A. Yes, there was.

15 Q. And who was that copy given to?

16 A. Melody Carr.

17 Q. And was that given to Melody Carr to her as a
18 representative of the Residents Against Polluted
19 Environment Organization?

20 A. Yes, it was.

21 Q. And do you know when that copy was given to
22 Melody Carr?

23 A. No. I can't say for certain an exact date. To
24 the best of my recollection I would say it had to be
within

1 a week to 10 days filing, following the filing of the
2 Application on October 31st.

3 Q. And was a receipt obtained from Miss Carr
4 verifying that she had received Volumes 1 through 6 of the
5 Application as well as the drawings?

6 A. Yes.

7 Q. And do you have a certified copy of that receipt
8 with you?

9 A. Yes, I do.

10 Q. Is that it?

11 A. No. It's on the table.

12 Q. Would you mark that No. --

13 (Whereupon, Respondent County
14 Exhibit No. 1 was marked for
15 identification by the Hearing
16 Officer.)

17 MR. ESCHBACH: Now, Mary Jane, I'm going to hand you
18 what has been marked as Respondent County Exhibit No. 1,
19 and ask if you can identify this document, please?

20 THE WITNESS: Okay. It is a two-page document. The
21 top copy being a certificate of copy stating that I am
22 certifying that this following page, the second page is on
23 file in my office. The second page is acknowledged

receipt

24 signed by Melody Carr as a representative of RAPE

1 indicating that she received one set of LandComp
2 Corporation's Application from the local siting approval
3 from the Pollution Control facility filed October 31st,
4 1995 with the County Clerk's Office consisting of Set 17,
5 Volume 1 through 6, plus hydrogeologic exhibits and design
6 drawings.

7 MR. ESCHBACH: Thank you. I have no further
8 questions.

9 HEARING OFFICER FRANK: Mr. Mueller?

10 CROSS EXAMINATION

11 BY: MR. MUELLER

12 MR. MUELLER: Mary Jane, what exactly was filed with
13 your office on October 31st?

14 THE WITNESS: There was a complete set of the
15 Application filed.

16 Q. What was a complete set of the Application? What
17 did that consist of?

18 A. Seven volumes.

19 Q. What happened to the 7th volume?

20 A. Susan Grandone-Schroeder took those into her
21 possession.

22 Q. So it was never given you?

23 A. It was brought into the office, but the same day
24 that it was filed Susan took it with her.

1 Q. How long was the information in your control?
2 A. I can't give you an exact time. I would say
3 hours. Possibly two or three hours it may have been in
the
4 office, if that long.
5 Q. Was, in fact, Susan, in fact, present with the
6 Application, present when the Application was filed
because
7 they made a big press production out of the very act of
8 filing of it?
9 A. Yes. She came into the office. And to be very
10 honest with you, I can't say if she was there at the exact
11 moment that the Application was brought in, but it was
12 shortly thereafter.
13 Q. And, in fact, Volume 7 was removed before it was
14 ever given to the Clerk's possession; wasn't it?
15 A. I can't say specifically, if it was set on the
16 counter and then taken back, or if it went into the
17 conference room and was taken out of there. But it did
18 leave the office that same day, yes.
19 Q. You never furnished a copy of the Application to
20 the Ottawa Public Library System, did you?
21 A. No, I did not.
22 MR. MUELLER: Thank you.
23 HEARING OFFICER FRANK: Mr. Eschbach? Mr. O'Brien?
24 MR. O'BRIEN: No. I have nothing.

1 MR. ESCHBACH: At this time I'd move to offer County
2 Exhibit No. 1 into evidence.

3 HEARING OFFICER FRANK: Is there any objection?

4 MR. MUELLER: No objection.

5 HEARING OFFICER FRANK: Okay. Then it's entered as
6 County Exhibit No. 1.

7 Do you have any further witnesses?

8 MR. ESCHBACH: No.

9 HEARING OFFICER FRANK: Okay. Mr. Mueller, did you
10 have someone you wanted to call?

11 MR. MUELLER: We'll call Carol Feldberg.

12 MR. O'BRIEN: Miss Hearing Officer, I'm sorry.

Before

13 we start, my understanding was that the Residents had
14 finished their presentation. Can I ask if this is a
15 rebuttal witness or a new witness?

16 MR. MUELLER: This is a rebuttal witness.

17 MR. O'BRIEN: Thank you.

18 C A R O L F E L D B E R G,

19 Called as a witness on behalf of the Petitioner in
20 Rebuttal after having been duly sworn upon her oath, was
21 examined and testified as follows to wit:

22 (Witness sworn).

23 DIRECT EXAMINATION

24 BY: MR. MUELLER

1 MR. MUELLER: Would you identify yourself for the
2 record, please?

3 THE WITNESS: Yes. I am Carol Feldberg, and I'm
4 employed at Reddick Library here in Ottawa.

5 Q. Spell your last name for the reporter?

6 A. F as in Frank, e-l, D as in David, B as in boy,
7 e-r-g.

8 Q. Carol, what -- you're employed at the Ottawa
9 Public Library?

10 A. Yes, I am.

11 Q. And what --

12 A. I'm the Assistant Director.

13 Q. And who's the Director of that library?

14 A. Allan Woeckel.

15 THE COURT REPORTER: Would you spell that?

16 THE WITNESS: Allan is A-l-l-a-n; Woeckel,
17 W-o-e-c-k-e-l.

18 THE COURT REPORTER: Thank you.

19 MR. MUELLER: Carol, does the Ottawa Public Library
20 have a copy of the Siting Application?

21 THE WITNESS: No, we don't.

22 Q. Have you been desirous of getting a copy of the
23 Application for Siting Approval filed by LandComp?

24 A. Yes. We've tried to get a hold of a copy of it

1 on file in the library, because we did have people that
2 have requested to review it. And as of today there is no
3 staff member at Reddick Library that has ever been able to
4 get a hold of a copy.

La

5 Q. Have you ever told any person at the County of
6 Salle that you are not interested in having a copy of the
7 Application?

8 A. Absolutely not.

9 Q. Have you told your staff to see whether any of
10 them have said anything like that to any County
11 representative?

them

12 A. Yes. I did yesterday and I did again today, and
13 asked questions of all of them; if anyone had ever talked
14 to anyone and said we were not interested. And all of
15 said that it was not their authority to do so. That it
16 would have been turned over either to Allan and myself.

17 Q. You conferred with him, also?

18 A. Yes, I have.

19 Q. By the way Carol, you're not a member of
20 Residents Against A Polluted Environment or any other
21 environmental organizations in this county, are you?

22 A. No, I'm not.

23 MR. MUELLER: Thank you. No further questions.

24 HEARING OFFICER FRANK: Is there cross?

1 MR. ESCHBACH: I don't think so.

2 MR. O'BRIEN: No.

3 HEARING OFFICER FRANK: Okay. Thank you.

4 MR. MUELLER: Thanks, Carol. You're done.

5 THE WITNESS: Good. I can go back to a staff
meeting.

6 HEARING OFFICER FRANK: Is there anything further
from

7 the attorneys at this time?

8 MR. ESCHBACH: Not at this time.

9 HEARING OFFICER FRANK: Okay. Then what I'm going to
10 do is invite Members of the Public come up and speak. If
11 there's anyone who wants to make a statement on the record
12 can use this microphone.

13 Can I just see the hands of anybody who's
14 interested in coming up?

15 Okay. Why don't we start at this end. Sir?

16 MR. ESCHBACH: Madame Officer, may I make a comment?

17 HEARING OFFICER FRANK: Sure.

18 MR. ESCHBACH: I know that generally in these types
of

19 hearings when the Public speaks that a certain degree of
20 latitude is allowed that might not otherwise be. But
21 because we have some definite rules here from the
Pollution

22 Control Board as to the scope of this hearing, it seems to
23 me that that would be appropriate that there would be some
24 indication to the Members of the Public exactly what the

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1 scope of review is here. And that the comments be limited
2 to that, those areas.

3 HEARING OFFICER FRANK: Well, as I said in my opening
4 statement there will be no new comment on the siting
5 criteria. And the Pollution Control Board has ruled that
6 any ex parte contacts prior to the filing of the
7 Application are not relevant to this case. Which means
8 that you need to confine your comments to things that
9 happened after the Application was filed.

10 But as you noted, Mr. Eschbach, there is
11 generally latitude given in these situations. The Board
is
12 well aware of what is relevant, and what can and cannot be
13 looked at under the statute. And we tend to give some
14 leeway to the public.

15 MR. ESCHBACH: Okay.

16 HEARING OFFICER FRANK: Okay, sir. Why don't you
come
17 on up.

18 P H I L G A S S M A N,

19 Having been first duly sworn upon his oath, gave a
20 statement as a Member of the Public as follows:

21 (Witness sworn.)

22 HEARING OFFICER FRANK: You just need to state your
23 name.

24 Can you state your name for the record and spell

1 it for our court reporter?

2 MR. GASSMAN: My name is Phil Gassman, G-a-s-s-m-a-n.

3 HEARING OFFICER FRANK: Okay. You can go ahead and
4 begin.

5 MR. GASSMAN: I became involved in opposing the
6 proposed landfill site because of my concerns about the
7 increase of traffic to the roads that I bicycle, and the
8 close proximity to the landfill to the I & M Canal trail.

9 I was also concerned about the Brockman Landfill
10 Site being so close to the proximity of the proposed
11 landfill site, and the toxic waste already flowing into
the
12 I & M Canal, and then into the Illinois River as
documented
13 in a complaint filed by the Illinois Office of the
Attorney
14 General on August 18th, 1995.

15 In November of 1995 I phoned my County Board
16 member, Jim Cogdal, to express my concerns about these
17 issues.

18 What I discovered while speaking to him was that
19 he was a garbage hauler and had a conflict of interest
20 regarding landfill siting. And while I expressed my
21 concerns he defended the proposed site.

22 Prior to the hearings, I felt that County Board
23 Members should hear from the Department of Natural
24 Resources, the responsible party of the I & M Canal, with

1 their concerns about the proposed landfill site.

2 I contacted the DNR in Springfield to alert them

3 to the hearings, and expressed my concerns. They stated

4 that I should go through the chain of command, and contact

5 the local site supervisors and then the regional
supervisor

6 of the I & M Canal. I did that and all three supervisors

7 wrote letters to oppose the location of the proposed

8 landfill.

9 Springfield Department of Natural Resources then

10 wrote a letter of opposition of the proposed landfill on

11 March 21st, 1996.

12 However, on April 16th, 1996 after a meeting
with

13 LandComp officials, an attorney, an engineer, the

14 Department of Natural Resources reversed their decisions.

15 It was brought to my attention that this letter

16 of reversal was distributed to select Board Members,
County

17 Board Members to make them aware of the Department of

18 Natural Resources' reversal.

19 However, this distribution of letters was not

20 done, or the distribution was not done for all letters and

21 statements of opposition.

22 It's a sign to me that there was favoritism

23 towards the proposed site.

24 It is my opinion that the decision to locate

1 landfill was decided by the County Board before any Public
2 citizens had a chance to make public comments for their
3 concern. The process may have met all of the legal
4 requirements.

5 But to me it was a scam. But to me, but it made
6 a scam out of the process of the public input.

7 This decision to site the landfill was made on
8 the bottom line, the fact of money, politics, and big
9 business. The health, safety, and welfare of individuals
10 was not the primary factor in this decision to locate this
11 landfill.

12 HEARING OFFICER FRANK: Just a moment, sir. Were
13 there any questions from the attorneys?

14 MR. ESCHBACH: No.

15 MR. O'BRIEN: No.

16 HEARING OFFICER FRANK: Okay. Thank you, very much.

I

17 believe there was a woman over here. Come on up.

18 Swear the witness, please.

19 D A P H N E M I T C H E L L,

20 Having been first duly sworn upon her oath, gave a
21 statement as a Member of the Public as follows:

22 (Witness sworn.)

23 HEARING OFFICER FRANK: Could you please spell, state
24 your name and spell it for our court reporter?

181

1 MS. MITCHELL: My name is Daphne, D-a-p-h-n-e;
2 Mitchell with two L's.

3 HEARING OFFICER FRANK: You may begin.

4 MS. MITCHELL: I'm speaking as a private citizen, and
5 as a private citizen who is a nurse. And one of my main,
6 my main job is concerned with the health and well-being of
7 all people; not only in this County, but whatever patients
8 I work with.

9 And I have been involved as a member of the RAPE
10 Organization for 16 years, originally becoming involved
11 because I was a nurse. And I have felt very strongly on a
12 lot of different issues, and have watched things happen in
13 this county for quite a while.

14 I really could not believe that on this past
15 July 1st of this year, just a few short weeks ago, the
16 County Board in conjunction with a private vendor,
LandComp
17 Corporation, managed to cut the people of Ottawa and
18 LaSalle County off from our day in court, being for the
19 Pollution Control Board, by filing a motion in limine
20 barring citizens from presenting any evidence that
regarded
21 pollution between the County Board and LandComp before
22 November 1st.

23 And my feeling was: How convenient this is that
24 all of the years, and all of the history, and all of us;

1 some of our members and people in the community who have
2 died who worked so hard to prevent a toxic landfill from
3 coming in and fighting on this particular issue can say
4 nothing about it before what our state gives us as our day
5 in court barring much of what we have had to present.

6 I was very distraught. I still am. And again
in
County
7 conjunction of what Mr. Gassman said I feel that the
8 Board has continued to ignore the desires of the people of
9 LaSalle County from the time of our vote, our referendum
10 that voted for public ownership of a landfill. We were
11 denied that. They ignored the overwhelming vote of the
12 public, and went right ahead with private ownership and
13 have continued to hold the needs of a private vendor who
14 owns LandComp Corporation above the health, safety, and
15 welfare of the common man.

16 And I feel again that money has won out; not the
17 needs of the people. And I really feel that we should be
18 looking to our elected officials and asking them again why
19 our need is not being met? Why are the needs of a person
20 who does not live in Ottawa, who does not live in LaSalle
21 County, be held above all of our needs and our health,
22 safety, and welfare? Thank you.

23 HEARING OFFICER FRANK: Ma'am, if you'd wait just a
24 second. Are there any questions from the attorneys?

else

one

1 MR. O'BRIEN: No.

2 MR. ESCHBACH: No.

3 HEARING OFFICER FRANK: Now moving this way. Who

4 wants to speak? Was there anyone at this next table?

5 Anyone over here? Okay.

6 How about this end of the room? The table next
7 to the attorneys. Does anyone wish to speak? Behind you?

8 I know that there are a bunch of people. Can you just

9 raise your hands who want to speak, and just come on up

10 at a time. Just come on up one at a time. Whoever wants

11 to go first, that's fine. Swear the witness, please?

12 M E L O D Y C A R R,

13 Having been first duly sworn upon her oath, gave
14 a statement as a Member of the Public as follows:

15 (Witness sworn.)

16 HEARING OFFICER FRANK: State your name and spell it
17 for the record, please?

18 MS. CARR: My name is Melody Carr; M-e-l-o-d-y
19 C-a-r-r.

20 HEARING OFFICER FRANK: Okay. Thank you.

21 MS. CARR: On February 8th, 1996, Residents Against a
22 Polluted Environment was invited to speak on the morning
23 coffee of the WRKX Radio Station.

24 I am a LaSalle County employee and I work at the

1 Governmental Complex on Etna Road. On that day the RAPE
2 group was to speak. And I think it was to start about
3 approximately 10:30. At 10:45 a co-worker of mine
4 approached me and said: You should go across the hall to
5 the Auditor's Office. This is something that you should
6 see.

7 At that time I got off and I went to Auditor's
8 Office. At which time I saw Mr. DeGroot on the officer
9 manager's telephone in the Auditor's Office.

10 I couldn't believe it actually, because
11 Mr. DeGroot, for quite some time we have connected
12 Mr. DeGroot with Mr. Johnson and the dealings of the
13 landfill. And I just couldn't believe at the time that
14 Mr. DeGroot would be taking a chance having been on Gerald
15 Johnson's office manager's telephone.

16 But I left. I came back to see if he was still
17 on there, at which time he was. I went back to my office
18 and I turned on the radio. I did hear Mr. DeGroot. He

was

19 on the radio and he was defending the landfill. So I knew
20 what he was saying in the Auditor's Office was not, in
21 fact, any emergency call, which the complex uses those
22 telephones for outside of the County employees. But, in
23 fact, stating his issues of the landfill.

24 I went to my co-worker and I asked her: Did you

1 just happen to stumble upon this, or how did you see him?
2 She said: I just happened to be down the hall, and I saw
3 him in the office. And I knew that it would be something
4 that you'd want to see.

5 But she said just prior to that, we had received
6 a phone call in our office from a woman who said she'd
been
7 trying constantly to get to the Auditor's Office and could
8 not get through. That the phone was busy time after time.
9 And at that time one of the girls in our office had went
10 across the hall to see why that phone had been tied up for
11 so long. At that time, this was approximately quarter to
12 11.

13 Throughout my job, I have to give cash receipts
14 throughout the complex. So I took the opportunity to go
by
15 the Auditor's Office, at which time even until 11:00
16 Mr. DeGroot was still on the phone, on the Auditor's
17 phone. At 11:00, I do take my lunch hour from 11 until
18 11:30. So I took the opportunity to take that time
instead
19 of my lunch but to see if Mr. DeGroot was still on the
20 phone, of which he was. And at 11:10 I decided this is
21 ridiculous. He's been on the phone for between 20 and 25
22 minutes on our County phones tying up those phones talking
23 about the landfill to the radio station.

24 I decided at that time to stop in front of the

1 Auditor's Office and just stay there until he got off the
2 phone. Just a couple minutes later he did. And so I
3 decided to go back to my office. I knew how long he had
4 been on the phone for approximately 25 minutes, and that
5 was enough for me. I was totally disgusted by that point.

6 He called out for me and asked me how I was
7 doing. And I said: Well, I guess I'm doing okay. And
then
8 I was going to my office, at which time he called out for
9 me again. I said: Paul, I don't have time to argue about
10 this. I'm working. And I went into my office and I shut
11 the door.

12 So after I got thinking about it I thought maybe
13 I should go back and talk to the office manager and tell
14 her that somebody was trying to get ahold of the Auditor's
15 Office for so long, and that no one on could be reached
16 because Mr. DeGroot was on the phone.

17 So at 20 after 11 I went back into the Auditor's
18 Office. At which time Mr. DeGroot was still in the
19 Auditor's Office talking to the office manager.

20 When I approached I couldn't believe that he was
21 still there to begin with. And then in talking to Delores
22 I thought that he would leave after he was exposed as
being
23 in that office talking on the phone for so long. But that
24 didn't really stop him.

1 I think he was still there. Delores, the office
2 manager, spoke up when she did see me. And she said:
3 Melody, I don't know why you're so upset about Paul being
4 on the phone. You use the phone all the time. I said:
5 Well, this really isn't about me, Delores. I'm a county
6 employee, and I have the right to use the phone.
7 Mr. DeGroot is a garbage man who has no right to use the
8 phone, and defending the landfill on a public phone.

9 And then at that point I said: Well, you're
10 wrong for using the phone. And I left the office and that
11 was the end of my confrontation with Mr. DeGroot and with
12 the Auditor's Office.

13 I would like to state that Mr. DeGroot is very
14 familiar with the complex and with the complex offices.

He

15 frequents them often. He knows where Mr. Johnson's office
16 is, and who the auditor is. And he is very familiar with
17 Delores, our office manager in the Auditor's Office, and
18 actually on a first name basis. If he has said something
19 other than this, then he is not being truthful.

20 Thank you.

21 HEARING OFFICER FRANK: Are there any questions from
22 the attorneys?

23 MR. ESCHBACH: No.

24 MR. O'BRIEN: I have one.

1 HEARING OFFICER FRANK: Okay. Mr. O'Brien?

2 EXAMINATION BY:

3 MR. O'BRIEN

4 MR. O'BRIEN: Miss Carr, I just want to make sure of
5 the facts right here.

6 This was the office of Mr. Johnson; correct?

7 MS. CARR: Of Gerald Johnson, yes.

8 Q. Okay. And his position with the County is what?

9 A. He is Auditor, and he was the prior County Board
10 Chairman.

11 Q. Okay. Is he a member of the County Board today?

12 A. No, he is not.

13 Q. Now when you saw Mr. DeGroot talking on the
phone
14 was he in Mr. Johnson's office, or was he at his
15 secretary's desk?

16 A. He was at his office manager's desk.

17 Q. Okay. And that's not in Mr. Johnson's office?

18 A. It was right next door.

19 Q. Okay. Now was Mr. Johnson present during any of
20 the times you saw Mr. DeGroot?

21 A. I did not see Mr. Johnson.

22 Q. Did you see at any time when Mr. DeGroot was on
23 the phone?

24 Did you see any members of the County Board

1 present?

2 A. No, I didn't. In fact, I'd just like to make
the
3 statement that Mr. Johnson, I did not see him, but he's
4 rarely there.

5 MR. O'BRIEN: Thank you, very much.

6 HEARING OFFICER FRANK: Are there any other
7 questions? Okay.

8 From that table again. I know there were other
9 people. Can the next person come on up?

10 Okay. We don't need to re-swear you. I just
11 remind you that you're still under oath. But you will
need
12 to state your name because we have a new court reporter.

13 A N D R E E - M A R I E K O B A N,
14 Having been first duly sworn upon her oath, gave a
15 statement as a Member of the Public as follows:

16 (Witness previously sworn.)

17 MS. KOBAN: Okay. My name is Andree-Marie Koban
18 spelled A-n-d-r-e-e hyphen Marie. The last name is
19 K-o-b-an.

20 And tonight I'm speaking before you as a private
21 citizen. And I'd like to thank the Pollution Control
Board
22 for letting us at least have the opportunity to say what
we
23 have been wanting to say, and not denying us the privilege
24 of saying any information that might have been before

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1 November 1st of '95.

2 And I have the same feelings as Daphne Mitchell
3 when she said that it's ironic that LandComp was able to
4 get a motion to prevent any information that was given
5 before November 1st of '95. Because that is really where
6 all this has been starting from.

7 I'm not going to present very many facts
tonight,
8 because I think a lot of it has been presented during the
9 course of all of this.

10 But I do want to say, is that I did come here
11 from Chicago in February of '92. I had no previous
12 knowledge of how the County Board worked, how County Board
13 Members had their dealings. I did not know any of the
14 names of the people who are involved in all of this.

15 One, the reason why I did come to Ottawa, my
16 husband and I, is because our real estate agent had a
17 plaque in her office, and she'd been at one time president
18 of the group, Residents Against Polluted Environment. And
19 I said to myself this must be a wonderful place if
citizens

20 can be involved in her community and what goes on. And I
21 really should have said to myself: Boy, I think this
22 community has some problems that obviously officials can't
23 take care of. That the citizens have to get involved.

24 My concerns are with the County Board and with

1 their complete lack of representation of the citizens.
2 That Public includes you and myself, your children, my
3 children, our neighbors, and all of the children who are
4 going to be born and live the rest of their lives in this
5 County.

6 It seems that if all of the logical ways that
7 could have been taken to handle this landfill have not
been
8 done so, and instead extremes were taken.

9 Some of the key players who have been involved
in
10 this issue from the beginning are not here. They are not
11 being held accountable because of the motion that was put
12 forth to the Pollution Control Board that said no
13 information is to be given before November 1st of '95.

14 The issues of public vs. private came before the
15 public people. They were given a chance to vote as to
what
16 they wanted. And the question was: Do you want a public
17 landfill for LaSalle County garbage only? 70 percent of
18 you voted yes for that. The County Board completely
19 ignored that, and went ahead and voted 18 to 10 for a
20 private landfill.

21 MR. O'BRIEN: Excuse me, Miss Koban, for just a
22 moment. I don't mean to interrupt. But, I need to make
an
23 objection for the record for the testimony of facts that
24 have been barred by the Board's order. And I'll await the

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1 Hearing Officer's ruling. I apologize.

2 HEARING OFFICER FRANK: At this point is what she's
3 talking about is sort of background information. And as I
4 said there is a kind of leeway in this public information
5 situation. If the facts continue to go into ex parte
6 contacts or any type of collusion between the parties, I
7 will ask her to stop.

8 But this background information isn't hurting
9 anything. You may continue.

10 MS. KOBAN: Thank you.

11 There was also a public hearing that was put
12 before the citizens to come forth and say what they had to
13 say, and over 300 citizens attended. And over the years
14 the citizens have become very disgusted with what has
15 happened. And as tonight there are probably about 30 of
16 here. Because everyone I talk to keeps saying it's
17 done and there is nothing left we can do.

18 But at one time there were over 300 citizens
19 came to a public hearing, and 50 of you spoke and gave
20 suggestions as to what could make it a better landfill if
21 we were to have a landfill.

22 And one of them there was for a transfer station
23 which would take only our garbage and transfer it out to a
24 landfill which was already built somewhere else. That

us

already

that

also

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1 was ignored by the County Board.

2 The County Board has hired consultants to review
3 applications. And the County Board has ignored what the
4 consultants have said about financial records or anything
5 else.

6 Once again the County Board has decided that
they
7 were going to make the decisions on this on their own,
8 whether the people have any say, or even consultants which
9 have been paid to make certain decisions.

10 And at this point I won't go on any further with
11 any other facts. Just to say that the County Board has
12 continued to ignore the people. And that the Pollution
13 Control Board hearing was going to be our last chance to
14 get all of this information across.

15 We finally said: Here is a fair hearing for us,
16 because nothing fair happened at the County Board
17 hearings.

18 And so I'd like to thank you once again for
19 listening to us.

20 HEARING OFFICER FRANK: Are there any questions?

21 MR. O'BRIEN: No.

22 MR. ESCHBACH: No.

23 HEARING OFFICER FRANK: Okay. Thank you. Come on up.
24 You can come on up. Please swear the witness.

1 K A T I E T R O C O L L I ,

2 Having been first duly sworn upon her oath, gave a
3 statement as a Member of the Public as follows:

4 (Witness sworn.)

5 MS. TROCOLLI: Do you want my name?

6 HEARING OFFICER FRANK: Why don't you to go the
7 microphone.

8 MS. TROCOLLI: My name is Katie Trocolli, K-a-t-i-e
9 T-r-o-c-c-o-l-i.

10 HEARING OFFICER FRANK: Okay.

11 MS. TROCOLLI: It disturbs me to have to be here this
12 evening, that this has to go to this extent.

13 I go back a long ways with the planning for the
14 County of LaSalle to develop a plan to handle the waste
15 needs for this County. We didn't want to be people whom
16 said we wouldn't take care of our own waste. We wanted to
17 be people who would recycle, and we'd be conservative, and
18 that would take care of this problem of waste in our own
19 county.

20 However, throughout the planning we said we
21 didn't want to take care of the needs of other people who
22 may not recycle to the level that we would, or who
wouldn't
23 have the incentive to take care of our community the way
24 that we would.

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in 1 Throughout the committees which I was involved
across 2 they were heavily stacked with waste haulers. I sat
3 the table many times from Mr. DeGroot and had many
4 arguments about his position.
5 I watched him bring in consultants whose
6 information was submitted and influenced the --
7 HEARING OFFICER FRANK: Ms. Trocolli, I need to ask
8 you a question. Are you talking about Siting Committees,
9 or are you talking about a different committee?
10 MS. TROCOLLI: Citizens Advisory Committee meetings.
Application 11 HEARING OFFICER FRANK: Was this after the
12 was filed or before?
13 MS. TROCOLLI: This was throughout the process.
14 Probably before the siting.
those 15 HEARING OFFICER FRANK: Okay. The information in
16 committees from before when the Application was filed is
17 not, I think --
is 18 MS. TROCOLLI: I'm giving some background, I guess,
19 what I'm trying to do. I don't have a script in front of
20 me, so --
21 HEARING OFFICER FRANK: Right.
22 MS. TROCOLLI: I'll try and do my best.
23 HEARING OFFICER FRANK: Right. And as to your
to 24 frustration with what happened in those committees prior

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1 the Application that's been filed, also, I understand that
2 it's been ruled inadmissible. Okay?

3 MS. TROCOLLI: Well, that's my point. The public
4 seems to be inadmissible with regards to Paul DeGroot and
5 the siting of this landfill.

6 I believe that if we were able to look at the
7 financial documents we would find that Superior had much
8 better financials than Mr. DeGroot, or whatever
corporation
9 he deems to put this under.

10 Unfortunately, we haven't been privy to that
11 information, either.

12 It's unfair what is happening to this community.
13 The one place where we have the opportunity before the
14 Pollution Control Board to present our case has been taken
15 away from us. I believe that a gag order has been put on
16 the attorney who represents the County. And, you know, I
17 just think it's wrong.

18 I believe that Jerry Johnson -- I was in the
19 County Board room when he said I'm behind you all the way,
20 Paul. I'm sorry I was there. It's in the newspaper. How
21 much more evidence do we need? This is wrong.

22 HEARING OFFICER FRANK: Are there any questions?

23 MR. O'BRIEN: No.

24 MR. ESCHBACH: No.

1 HEARING OFFICER FRANK: Okay. Thank you.

2 Again I remind you you're already under oath.
3 You testified yesterday, didn't you?

4 B R U C E M A R K W A L T E R,

5 Having previously been sworn during the Pollution
6 Control Board Hearing, gave a statement as a Member of the
7 Public as follows:

8 (Witness previously sworn.)

9 THE COURT REPORTER: I need your name and the
spelling
10 of it?

11 MR. MARKWALTER: My name is Bruce Markwalter, spelled
12 M-a-r-k-w-a-l-t-e-r. And I reside at 1210 Lincoln Avenue,
13 on the south side of Ottawa.

14 I'm also the President of the Residents Against
A
15 Polluted Environment. It's one of the oldest non-profit
16 501-3C organizations registered with the State of
17 Illinois. We organized back in '79, and were incorporated
18 the following year. And our organization's comprised of
19 professional community minded people with a myriad of
20 professional backgrounds that you will see.

21 I appear tonight to speak on the issue of
22 fundamental fairness in the Siting Process conducted by
23 LaSalle County in the matter of LandComp's Application to
24 construct a regional landfill in the Ottawa Township.

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1 RAPE has been a primary player not only in the
2 development of a LaSalle County Solid Waste Management
from
3 the beginning of this long and arduous process.
Commencing
4 as early as January of 1989 and over the past six years
our
5 organization has endeavored to be part of the process by
6 reviewing County ordinances, participating in citizen and
7 advisory committees and groups, siting location criteria
8 committees, and public hearings.
9 I bring to this hearing a strong background, and
10 as strong as anyone sitting in this room. As I've
attended
11 a majority of even the earliest County Committee meetings.
12 And by way of illustration, historical
13 background, let me review some of the key years in the
14 process that brings us here this evening.
15 In December of '92 the Solid Waste
Implementation
16 Committee known as SWIC, voted and recommended a privately
17 owned and operated landfill over the alternative option of
18 noted public ownership and private operation.
19 In the Fall of '92 the Citizens Advisory
20 Committee also voted and recommended the same.
21 In '93 the Siting Location Criteria Committee
22 concluded their work on the conditions to be concluded in
23 the host agreement incorporated in this proceeding.
24 I personally served on the Citizens Advisory

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1 Group, subsequently as chairman of that group, before it
2 was disbanded, as well as the Siting Criteria Committee.
3 And I was appointed by then County Chairman Jerry Johnson.
4 So what, I guess what my comments have to do
have
5 a basis, a root, in the fact that we've been a primary
6 intervenor in the siting hearing as evidenced by the
record
7 conducted by the County. Along with the Edmund B.
Thornton
8 Foundation we petitioned the Illinois Pollution Control
9 Board to review the Landfill Siting Hearings, not only on
10 the merits of the Application that were discussed, but
more
11 appropriately the technical shortcomings of the Applicants
12 proposal.
13 But more importantly, on the issues that strike
14 at the basic issue of fundamental fairness in the
15 proceedings.
16 When then I conclude then for my historical
17 review and our participation of these, that by my
18 credentials I've listed on the committees as such, that
I'm
19 a perfect example illustrating the fairness of the
process,
20 the public input.
21 And although I'm precluded from citing examples
22 and illustrations, I can unchategorically say that is
23 pretextual at best. And that the composition of
committees
24 that I'll -- that we'll describe left no opportunity for

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1 meaningful public, substantial public input to influence
2 the process.

3 So I'm painfully aware of the Illinois Pollution
4 Control Board has ordered that no allegations of
unfairness
5 will be considered prior to October 31st, 1995, the date
at
6 which LandComp filed its Application with the County.

7 And I appreciate the latitude that the Hearing
8 Officer has offered some of the members of the community
9 here.

10 Furthermore, I understand that anything I say
11 here tonight will be given its due weight based on this
12 order.

13 But nevertheless it's important for me to go on
14 the record saying that the Board's decision to restrict
15 this information, to bar discovery, and to quash subpoenas
16 of essential witnesses to substantiate that we have made
in
17 our prior injunction and also part of this record, only
18 compounds the harm we've already experienced, the citizens
19 have experienced throughout the entire process. And I
20 think the previous speakers, each and every one so far as
21 what I've heard illustrate that frustration.

22 Our position is that we have not been given a
23 full and unencumbered opportunity to inquire into whether
24 or not the Application was consistent with that management

1 plan that we helped to try to influence its design to
2 protect the public.

3 Because we were not given a full and
unencumbered
4 opportunity to review all of the materials in the plan.

5 Moreover, our position is that when there was an
6 abundance of documented circumstances involving the
7 concerted efforts of a few to abridge and undermine the
8 legislative intent that we felt that the Senate Bill
9 provides in terms of local siting, that we thought that it
10 would behoove the Illinois Pollution Control Board, as
well
11 as the County Board Members to at least give us that
leeway
12 during this, the hearing, yesterday's hearing, primarily
so
13 that we could have discovery of substance and review.

14 Because as you're well aware it's very, very
15 difficult by the very nature of our claims of collusion
and
16 undue influence to prove, since typically those parties
17 that are involved have failed to come forward and admit to
18 any wrongdoing.

19 So of the 36 issues and allegation that we are
20 prepared to prove by way of documentation, by way of
21 witnesses, we were only able to present seven of those
22 issues yesterday.

23 So we were, we thought that the quashing of our
24 witnesses and restricting that information to a time
period

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1 after the fact was basically closing the door after the
cow
2 left.

3 One of the biggest concerns that we had during
4 the siting hearing, things that we can testify to, have
not
5 been fully illustrated in terms of its implication,
6 although it goes to a lot of the allegations that happened
7 prior to that period of time. Volume 7 of the
Application,
8 for example, was restricted from access.

9 Technically it's difficult for me to understand
10 it from a technical point of view if it's submitted to the
11 County Clerk's Office officially, but, yet it's not
12 retained by the County Clerk's Office in another position.

13 I think it's a travesty of the people of this
14 county, and particularly the Ottawa Township, that the
15 Board's action compounded this injury by not letting us at
16 least view that information. Albeit confidential data, we
17 weren't arguing that. We were never arguing that. We
just
18 thought that we should have access to it, and we would
even
19 be prepared to sign a confidential agreement so that we
can
20 review it.

21 Because one of the primary issues was that the
22 Application that was being proposed, and the details of
the
23 construction and the operation of this new regional land
24 facility could not be supported by a stable financial

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1 background by the applicant.

2 And again we were precluded from talking about
3 other evidence we were prepared to show that, and other
4 independent sources.

5 Allen Schoenberger, the Hearing Officer during
6 that siting hearing, barred us from inquiring whether or
7 not that applicant met the requirements of the plan from
8 this aspect. So we weren't able to ever test that to see.
9 Although prior history, which we're barred from talking
10 about, indicates so in our opinion.

11 And it's a matter of record and part of the
12 transcript that during the preliminary meetings of the
13 LaSalle County hearing meeting that an individual sitting
14 here tonight, Susan Grandone-Schroeder, had basically led
15 the hearing Committee through certain procedures and
16 basically what was going to happen, what they could
predict
17 to happen during the siting hearing.

18 And one of the things I can remember and was
also
19 available in the transcript was she was asked whether or
20 not the Hearing Officer, Mr. Schoenberger would be giving
a
21 recommendation or summation. And she indicated, yes. And
22 it would be very, very short, a short recommendation.

23 Well, as it turns out, Mr. Schoenberger's short
24 recommendation was over a hundred pages.

1 And I think one of the unfairness issues that I
2 would like to draw the Board's attention to when they
3 review the public comments here is specifically that fact.
4 But more importantly, what he says and does not say.
5 Particularly how he handles the applicant's witnesses.

6 I think that if they read this in a critical
7 nature, and the Board review it, and their staff reviews
8 it, they'll see a clear bias on the analysis and summation
9 when it comes to the applicant's witnesses as giving
higher
10 credibility or greater emphasis in terms of background and
11 credentials, and collaborating evidence that they, that
the
12 applicants, Patrick Engineering, had provided, as opposed
13 to when any of the intervenors or opponents of the
14 application provided witnesses and technical specialists.

15 So again from that prospective we were concerned
16 about that. And we would like you to review that.

17 You know that some say that we have to exhaust
18 all of the media remedies here in this hearing. That it
is
19 a done deal, and that you can't fight City Hall. And I
20 hate those kind of comments. I truly don't believe those
21 comments. I believe that the process is a democratic
22 process. If it's fair and open it will overcome those
23 things. Just the weight of the argument and honesty will
24 overcome those things. The preponderance of the evidence

1 will speak for itself.

2 But the plan that was originally developed and
3 denied to insure that fairness and impartial process not
4 only in terms of addressing the needs of LaSalle County
for
5 solid waste disposal, but also in terms of setting up a
6 structure, a committee structure, including the RFB
request
7 for, request for a proposal committee was selecting the
8 vendor.

9 Those processes outlined in the plan were not
10 followed. And that's what we claimed during the hearing.
11 And that's why we wanted to go to the Pollution Control
12 Board. We felt that decisions that were made that were
13 substantial to interpreting the Application. Instead
14 following the plan, for example, the Citizens
15 Implementation Committee reporting directly to the County
16 Board, were diverted through county development.

17 Again that happened prior to the time period,
and
18 I know that.

19 So, but the fact is when one of the criteria in
20 the review of the applicant's proposal is whether or not
21 it's consistent with the plan. That aspect of the
22 development of those and why. And how and why it was
23 amended seems to be germane to this discussion and to our
24 claim. It certainly is important to our claim. But I

1 guess the future will be the judge of that.

2 I mean the ideals of that plan, they were
3 wonderful and they were solid, and they were consistent
4 with what we thought as a citizens' group and serving on
5 that group I thought would be a fair and unbiased process.
6 But unfortunately things can get screwed up in the
7 working. And I mean the frustration that's experienced,
8 both by a few County Board Members influencing a plan.

9 I guess one of the situations is to make our
10 decision and our displeasure known before those County
11 Board Members in the ballot box. In fact, indeed it was
12 quoted by the, and suggested by that in the County of
13 LaSalle's motion before this Board when they asked to bar
14 discovery.

15 In fact, they cited Fletcher and Peck, saying
16 that: Even if the developments to the solid waste
17 management plan in selection of a vendor was accompanied
by
18 bribery, this Board, meaning the Illinois Pollution
Control
19 Board, should indeed and must treat this as if it were
20 valid nevertheless. Because it was part of a legislative
21 process, a shield, that we cannot go and examine that
22 process.

23 Furthermore, the county through its Special
24 Assistant State's Attorney suggested that the proper
remedy

1 for someone objecting to the results of the legislative
2 action is the ballot.

3 So we find ourselves in a Catch 22. If we go
4 before the Illinois Pollution Control Board we find that
5 we're restricted in scope and breadth by its legal
6 maneuvering of the Applicant's attorney and the County's
7 State's Attorney. If we go to the court as we tried to do
8 on a preliminary injunction, we find that our claim is not
9 yet ripe, or that the courts are restricted with
10 interfering with the "legislative process".

11 Again some just say that this is politics, and
12 maybe that's true what people come to believe about
13 politics. Perhaps it explains the current attitude, not
14 only about politicians, but the political games they play.

15 But it's suddenly clear to me and understandable
16 why those pessimists frustrate us with this process and
17 they define politics and why they define politics in a
18 negative way. For example, in examining the term
19 entomology --

20 THE COURT REPORTER: Would you slow down a little?

21 MR. MARKWALTER: Of course. The Latin root of
22 politics is poly, meaning many, combined with tics, which
23 as most people in this room know, bloodsucking parasites
24 who attach themselves to a warm and unassuming host.

how

1 HEARING OFFICER FRANK: I'm sorry. You still need to
2 slow down, Bruce.

3 MR. MARKWALTER: And I never, you know, have really
4 been a negative and pessimistic person in terms of
5 politics. In fact, I enjoy that process. But, it's at
6 times like this that I'm inclined to extend a pessimist's
7 viewpoint with an appropriate analogy, that despite the
8 fact that we had an impact by bringing public attention to
9 the clear bias of certain County Board Members,
10 specifically, the County Chairman indicated and colored it
11 that way, who have not indeed even served as a voting
12 member of one of his own committees.

13 And, in fact, that's in spite of the fact that
14 citizens summarily dismissed former County Board Member,
15 Citing Committee Chairman Robert Renwick, in the ballot
16 box, the damage and the corruption of the process
17 originally designed to provide a fair and bold and public
18 input had already been done. These County Board Members
19 and others that have been the blood sucking tic on the
20 plump and juicy back of local democracy, these are the
21 that will be remembered.

22 And, unfortunately, the process that is supposed
23 to be fair, and unbiased, and unfettered has been stymied.

24 Now even though the voters can pluck away the

ones

sac

1 of the tic parasites, as you know, the tent sores have
2 remained imbedded in the host.

3 So we still deal with that. We cannot get at
4 it. And sad to say, no matter how we attempt to stomp on
5 it, dig at it, burn it out, that has still this day
remains
6 in the siting process.

7 So in conclusion, let me ask and state that the
8 Illinois Pollution Control Board look at the record in
9 detail. Look at the recommendations made by the Hearing
10 Officer. Look at the seven points that we had indicated
to
11 you, and was testified tonight as to Mr. DeGroot's
12 influence on the County Board by implication, specifically
13 Jerry Johnson, demonstrating over a 20 minute period on
the
14 telephone in order to control the phone of a radio talk
15 show.

16 The selective distribution by the current County
17 Chairman's office of Mr. Lambert of the Department of
18 Natural Resources letter reversing their objection to the
19 application which was brought up in testimony yesterday.

20 The selective criticism and weight applied to
21 documents solicited by opponents of the application. For
22 example, Professor Brown's letter indicating that there is
23 archeological significance to the location to Native
24 Americans.

fact 1 A document that despite much was made of the
2 that it was sent to Chairman Lambert's office belying the
3 same method of discovery and subsequent distribution of
the 4 DNR letters. So there was unequal treatment there and
5 select treatment. The denial of access even
confidentially 6 reviewed of Volume 7.

7 All of these things that lead towards the
8 question that the citizens don't know what to do. They
9 start to lose confidence in the process. No longer do
they 10 have the right to question this.

11 And we hope that the Illinois Pollution Control
12 Board will not let the fundamental unfairness that's
13 indicated in this record and alludes to prior happenings
of 14 the process escape their attention.

15 In fact, when taken in total they should be
aware 16 that this is undermining the legislative process that we
17 involve ourselves with as an open process and a fair
18 process to site a landfill so that it would protect the
19 health, safety, and welfare of our community.

20 So for these reasons, the Residents Against A
21 Polluted Environment ask that the board reject the siting
22 decision by the County Board, and remand it for fair and
23 open evaluation to the County Board or other agency.

24 HEARING OFFICER FRANK: Thank you.

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1 MR. MARKWALTER: Thank you.

2 HEARING OFFICER FRANK: Are there any questions of
3 this witness?

4 MR. ESCHBACH: No.

5 MR. O'BRIEN: No.

6 HEARING OFFICER FRANK: Thank you, Bruce.

7 Is there anyone else who would wish to come up
8 and speak?

9 Ma'am, please come up. You need to be sworn by
10 our court reporter.

11 P A T R I C I A J A N Z,

12 Having been first duly sworn upon his oath, gave a
13 statement as a Member of the Public as follows:

14 (Witness sworn.)

15 MS. JANZ: My name is Patricia Janz.

16 THE COURT REPORTER: How do you spell your last name?

17 MS. JANZ: J-a-n-z.

18 THE COURT REPORTER: Thank you.

19 MS. JANZ: I'm speaking as a landowner in the area
20 directly south of the proposed landfill. What I have to
21 say is rather an old story, I'm sure, and has been said
22 many times before.

23 But I felt after the present range we've had
that
24 it was necessary to say it again. And that's the fact of

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1 the worry that I have for the water control in the area.

2 I understand that the maximum rainfall for this

3 landfill has been set at six inches. All of you know that

4 we had far in excess of that. And there is no one who can

5 predict when we'll have it again. We may not. We may.

We

6 all know that.

7 Nevertheless, as a landowner next to the

property

8 I have a small ravine which runs through the property.

And

9 water is constantly in that ravine. You can imagine how

10 much water was there after these rains.

11 We have built many bridges over that small

ravine

12 to get from one part of the farm to another over the last

13 100 years. But let me tell you the last one took out

14 everything as the water came off the land down towards the

15 river since the water flows from north to southeast.

16 My main worry is how it effects the water that

17 the people south of there, such as in the LaSalle County

18 Home. How would it effect their drinking water and the

19 water they must use? How will it effect the water that I

20 have to use?

21 It seems sort of secondary for me to say that,

22 but it's a worry that I have.

23 I think there are other things that the water

24 flows into; the Illinois River and thence toward LaSalle,

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1 Peru, Peoria, all of which use water from that river for
2 their drinking water.

3 I don't believe there is anyway that Mr. DeGroot
4 or Landfill Comp, LandComp can control this. I don't
think
that
5 he has even attempted to try to do so. He has told me
6 if I wish to have protection for my land, I must build a
7 berm myself on my land. I find that terribly unreasonable
8 since I believe he has offered protection to other people.

9 But at this point there is very little that any
10 of us can say because it appears to be a done deal as
Bruce
11 has said to you.

12 I hope that you will take into consideration the
13 feelings of all of us here, and the thoughts, and the
time,
14 and the work that they have put into this to try to help
15 the citizens of LaSalle County. And how our County Board
16 could possibly be so thoughtless as to simply go ahead
with
17 something that they felt that they benefited from. And I
18 do feel they benefited from it. I think from the
beginning
19 as everyone has said, it was a done deal, no matter what
20 any one of us said or thought, made a little difference.

21 As we go along every day now, I hope that you
all
22 will think about us and finally come to some conclusion
23 that will benefit the entire population of this community.

24 Thank you.

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1 HEARING OFFICER FRANK: Are there any questions?

2 MR. O'BRIEN: No.

3 MR. ESCHBACH: No.

4 HEARING OFFICER FRANK: Thank you. Is there anyone
5 else who wishes to speak?

6 Ma'am, I believe you spoke yesterday. Do you
7 have something to say?

8 MS. BERNABEI: Yes, I am under oath.

9 HEARING OFFICER FRANK: Okay. Please come up. As you
10 stated you're still under oath. But you will need to give
11 your name again to our new court reporter.

12 J O A N B E R N A B E I,

13 Having been previously sworn upon her oath, gave a
14 statement as a Member of the Public as follows:

15 (Witness previously sworn.)

16 MS. BERNABEI: Joan, J-o-a-n; Bernabei,
17 B-e-r-n-a-b-e-i.

18 I just want to reiterate and expound upon
19 Mrs. Janz's previous comments. No. 4 of my filed April
20 10th to Mary Jane Wilkinson, In The Matter Of: The
21 Application of Local Siting Approval For The New Pollution
22 Control Facility Submitted by LandComp Corporation. No. 4
23 said that the facility is located outside the boundary of
24 the 100 year flood plain, or is flood proof.

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1 My comment is drainage from Wallace Township
goes
2 through the site to the Illinois River. I'm going to
refer
3 to Mr. Schoenberger's comments: LandComp Corporation's
4 Application for siting approval from Professor Allen
5 Schoenberger. "The nearest flood plain is over a thousand
6 feet south of the site along the Illinois River Valley".
7 No witness or intervenor has taken any
8 substantive issue with the application on this criteria,
9 either during the hearing or subsequent to the hearing.
In
10 brackets, beginning of bracket: [A comment by Joan
11 Bernabei filed April 10th confuses this requirement with
12 drainage]. End of bracket.
13 My final comment is if there is drainage going
14 through the site, and it's washing away a bridge so she
15 can't get to her back 22 acres. Then I think we need to
be
16 concerned with more than a hundred year flood plain. End
17 of comment.
18 HEARING OFFICER FRANK: Wait Ma'am. Ma'am, wait just
19 a second. Were there any questions?
20 MR. O'BRIEN: No.
21 HEARING OFFICER FRANK: Okay. Thank you.
22 Is there anyone else who wishes to speak?
Please
23 come on up.
24

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1 J U L I E K I N N E Y,

2 Having been first duly sworn upon her oath, gave a
3 statement as a Member of the Public as follows:

4 (Witness sworn.)

5 MS. KINNEY: My name for the record is Julie Kinney.
6 I'm here tonight -- K-i-n-n-e-y.

7 My statement probably won't go in any certain
8 order. It might hop a little bit all over the place.

9 I've been involved in this process, just for a
10 very brief background, for the past three and a half years
11 since I came back to Illinois from out in Iowa after
12 school, et cetera.

13 During that time we were at quite a few
committee
14 meetings, all of the hearings. I might add that it's the
15 first two nights that Patrick Engineering hasn't been,
16 yesterday and today, for the past three and a half years.
17 All the meetings that we've been at that they have not
been
18 here. Very first two. And I find it quite ironic
19 considering the Pollution Control Board is here.

20 Second fact. During the process, the Senate
Bill
21 Hearing Process, the siting committee where they sit there
22 and here, we're afforded the opportunity to have, as
23 Andree-Marie said, our officials represent us with the
24 County Board and to hear the information and make the

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1 decision.

2 I find it hard to have my officials that are
3 representing me, not one of them were from the Ottawa area
4 might I add, on that committee. Ario was a back up
5 committee person, and he was from Naplate. That's as
close
6 as we got.

7 I find it hard to believe that from this 29
8 member committee we can't find anyone willing from the
9 Ottawa area to be on it.

10 The next part of it to be represented I would
11 think that my siting hearing committee members should be
12 awake during this. And I'm not saying that facetiously.
I
13 mean literally awake. We have hours of tape, which Dr.
14 Schoenberger said we could only have one record for the
15 thing. But we also taped it. There were quite a few
16 people with video tape. And I realize they could home
17 afterwards and get a transcript. I find it hard to
believe
18 that if they sleep through eight hours during the day,
that
19 they're going to be able to stay awake during at night to
20 read the transcripts and yet make a decision on a landfill
21 that's going to effect us.

22 We also -- during the hearing I made a comment.
23 Mr. Krogulski, who had been on a previous committee, and I
24 won't go into the past with him. He's an official for

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1 Carus Chemical that Mr. DeGroot also does operations for,
2 was present at some of the last few meetings at the Senate
3 Hearing Process and Joe Panzica from Peru, or is it
4 LaSalle? I never did -- LaSalle, was sitting there. And
5 very ironically he turns around during the middle of the
6 process and he says: Kenny, we're bound by the -- we're
7 limited during the Senate Bill Process to ask questions as
8 intervenor, which I did file as an intervenor. And I

can't

9 ask until Mr. Mueller was done asking questions. Then the
10 applicant's attorneys asked questions, and intervenors get
11 to go in order, and then you can't go back.

12 Well, Mr. Panzica, who couldn't ask a question
13 except that they would give written ones every now and
14 then, while Susan and Mr. Eschbach, they passed their
15 little written notes and everything back and forth from
16 every now and then, which most of them ended out turning
17 out being drawings from one of our board members. She's
18 famous for that.

19 He turned around to Kenny Krogulski, and he
says:

20 Kenny, he says, do you have any questions you want me to
21 ask? And I immediately tried to get Dr. Schoenberger. I
22 asked him, and this is in the record, too. I wanted to be
23 afforded the same opportunity to ask questions that
24 Mr. Krogulski, who was such an integral part of this whole

1 process during the past four or so many years as chairman
2 of these various committees, was being afforded sitting
out
3 there in the public, that I couldn't have.
4 Still at this point, but it's during the Senate
5 Bill Process, though, that I wasn't afforded that.
6 HEARING OFFICER FRANK: Is Mr. Krogulski a County
7 Board member?
8 MS. KINNEY: He's not at this time. He was voted
out.
9 HEARING OFFICER FRANK: But was he a County Board
10 member at the time?
11 MS. KINNEY: Of the Senate Bill?
12 HEARING OFFICER FRANK: During the process. At the
13 time you're talking, about was he a County Board member?
14 MS. KINNEY: No.
15 HEARING OFFICER FRANK: Okay.
16 MS. KINNEY: Okay. He was not a County Board member
at
17 that time. He is an appointee of the County Board as an
18 environmental or something, liaison of some sort, is he
19 not? What is that position? Can you guys state that for
20 the record? He is an appointee of the County Board of
some
21 sort for environmental.
22 HEARING OFFICER FRANK: That's fine. Please
continue.
23 MS. KINNEY: Okay. After -- I was present at most.
24 I say most. If there were 10 meetings and I can't go back

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1 over it. I tried to get all of that information, but I
2 have two young ones at home and some of the papers seems
to
3 disappear every now and then. Of the meeting dates, I was
4 present at maybe three-quarters of them. I took my
5 vacation time. I went during the day meetings. I went at
6 night. I couldn't wait.

7 I couldn't believe at the time the discussion
8 came at the end to decide how they were going to vote that
9 it was closed. I realize that the transcripts at the end
and
10 were available. But at this time of the public process
11 being so involved and being so open, that the time that it
12 came for them to decide which, you know, there were no
13 closed meetings supposedly, no closed or anything, that
the
14 time that they would discuss this, to go over it, to show
15 me, to prove to me in my estimation that this has been a
16 fair process, that they actually listened to the material.
17 Which like I said, they slept through.

18 They had had it closed to see that
19 Dr. Schoenberger, the day he gives his recommendation is
20 the day they hold their first meeting on the record, is
21 closed, for them to go over.

22 I find it hard to believe that after reading
23 this, and as Mr. Markwalter stated, it'd be so biased. I
24 understand him coming from the other point of view. And

1 you will read, and hopefully and hear both sides of this,
2 that even the comments in here that Dr. Schoenberger is an
3 impartial, partial judge states him on Page 33 about Bill
4 and Diane Gassman who have been an opposing and
intervening
5 party, also, on behalf of Starved Rock Cycling
6 Association. They presented a tape of garbage, and it's
in
7 the record. And they contended that it showed
considerable
8 garbage and this debris which supposedly was generated
from
9 state land. And Dr. Schoenberger states in here, which
was
10 supposedly generated.

11 He doesn't state here anywhere that that was
12 actually a tape provided by the DNR. You know, it wasn't
13 supposedly done. It wasn't a doctored tape. It was a DNR
14 tape.

15 And it's also on record that they did meet,
16 Mr. DeGroot and that, with the DNR, who stated that they
17 have a history with the garbage.

18 But there's statements like this made throughout
19 supposedly as Mr. -- as Dr. Schoenberger would say, and
20 unbiased or unfavored opinions. And to me the statements
21 throughout this, he -- we bring in, we bring in witnesses
22 and they allege, our witnesses allege and everything else
23 is considered gospel, even though we won't have, when we'd
24 show points in opposite of the applicants, ours is an

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1 allegation or an alleging of a fact. Whereas the others
2 never stated that anything. It's just the applicant gave
3 everything and it would be true. And ours is an
4 allegation.

5 I sat through yesterday's meeting, also. And I
6 know it's been several weeks now sitting through those
7 Senate Bill Hearing processes, and also being aware that
8 they had had that CDM document that everyone keeps
9 referring to, the documents that yesterday you did put on
10 the record that we could get copies of it.

11 Even in Dr. Schoenberger's recommendations, he
12 states for the record, he puts that on himself that:
13 Mr. Eschbach, if you're asking or acknowledging here that
14 we had -- we were inquiring about this hundred page
15 document. I don't know if that's the exact number of
16 pages. But they do acknowledge the document.

17 Dr. Schoenberger put it in writing. Mr.
Eschbach

18 states on the record under cross examination that the
19 meeting and about a CDM document. There is one.

20 That yesterday it would come from a document to
21 Mr. Eschbach saying yesterday. Now it's: No. It was an
22 application review. That was the document yesterday. It
23 was an application review.

24 This document seems to go from a document under

1 testimony and oath to an application review, to working
2 document, to one or two pages of facts. And for the
3 record, I don't know what we have out there. But I would
4 question as to whether we're really going to get it all.
5 And I understand yesterday that some pages could have been
6 discarded. And that -- and to me, I find that very
7 convenient once again for our County Board in the process.

8 I think that's all right now.

9 HEARING OFFICER FRANK: Are there any questions from
10 this witness?

11 MR. O'BRIEN: No.

12 MR. ESCHBACH: No.

13 HEARING OFFICER FRANK: Thank you. Thank you. Is
14 there anyone else who wishes to speak? Sir?

15 A MEMBER OF THE PUBLIC: I had something I want to
16 submit as commentary. Is that allowable, or does that
have
17 to be read into the record?

18 HEARING OFFICER FRANK: No. You're allowed to submit
19 written comments. And once we were done with the oral
20 comments I was going to tell everybody about how they're
21 doing that. You can just give it to me and I will take it
22 to the Pollution Control Board. But people will also have
23 the opportunity to write statements to the Board.

24 Is there anyone else who wishes to speak at this

1 time? This will probably be the last opportunity.

2 Yes, Ma'am? You need to be sworn.

3 J O A N Q U I G L E Y,

4 Having been first duly sworn upon her oath, gave a
5 statement as a Member of the Public as follows:

6 (Witness sworn.)

7 HEARING OFFICER FRANK: Okay. You need to go to the
8 microphone.

9 MS. QUIGLEY: My name is Joan Quigley, Q-u-i-g-l-e-y,
10 spelled J-o-a-n. I have been not too well this year. And
11 in some ways perhaps out of touch. But I think that at

the

12 very least a person living in this town can do is to know
13 that we have, we deserve to have some mercy shown to us.
14 We deserve to have some consideration shown to us.

Because

15 we have already had it. We cannot trust any government

too

16 very much when you consider that the results of radium

dial

17 are finally being taken out of this town. And if you will
18 look up what decade that was in. I mean really.

19 How can we trust anyone to clean this up before
20 it is like that? We cannot. We have seen history. We
21 have had it. Our drinking water now the last I knew did
22 not fit Federal standards. Why? How can you do anything
23 but give us every last inch of possible prejudice in favor
24 of not damaging our health anymore?

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1 HEARING OFFICER FRANK: Were there any questions?

2 MR. O'BRIEN: No.

3 MR. ESCHBACH: No.

4 HEARING OFFICER FRANK: Thank you, Ma'am.

5 Is there anyone else who wishes to speak? Yes,
6 sir.

7 MR. FRANZETTI: I do.

8 A R I O F R A N Z E T T I,

9 Having been first duly sworn upon his oath, gave a
10 statement as a Member of the Public as follows:

11 (Witness sworn.)

12 MR. FRANZETTI: My name is Ario Franzetti.

13 HEARING OFFICER FRANK: You need to spell it for our
14 court reporter.

15 MR. FRANZETTI: It's Capital A, r-i-o, Capital F,
16 r-a-n-z-e-t-t-i. I'm a County Board member. And I guess

I

17 go back quite a'ways when we start talking about
landfills,

18 and incinerators, or any other type of a pollution control
19 facility that might be placed here in LaSalle County.

20 I'm very much concerned about the area in
21 question. And because its proximity basically to the
22 Illinois River and to the St. Peter Sandstone Aquifer,

plus

23 the idea that it's very close to our nursing home, which

is

24 in my district. And also that there is a lot of farmland,

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1 and there is a lot of other polluted areas that are being
2 defined already.

I

3 And placing a landfill in this particular area,
4 felt that it's not -- it was probably one of the worst
5 places in this, in our County, we could have placed the
6 landfill.

on

7 And I served on these committees. In fact, I
8 served on every one of the committees. But basically,
9 maybe it's my imagination, but I felt that they stuck me
10 there just like icing on a cake.

there

11 Well, we're being fair because we got Ario on
12 here. But it seems to me that like every time we had a
13 vote, the vote was 5 to 1, 6 to 1. So having Ario on
14 didn't make much difference.

15 And what's very alarming to me is that when we
16 argued whether we're going to go public or private, that
17 first of all, everybody was concerned about -- in fact, we
18 even had people come in and studied the area about being a
19 public landfill, 50 acres.

We

20 Well, then all of a sudden the worms start
21 turning. I don't know where it was at. But somehow
22 everybody started saying we don't want public landfill.
23 don't want a public landfill.

24 So then a few of us decided, the environmental

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1 groups in this County, decided that maybe we should see
2 what the public wanted. And the public came out loud and
3 clear throughout all of LaSalle County with about 67
4 percent of the vote that they wanted a public landfill in
5 LaSalle County, garbage only. And that was presented to
6 the County Board. The County Board members choose to
7 ignore this. And they went private with their landfill.

8 And it turned out that from a LaSalle County
9 landfill only, and all of a sudden it became a
10 regional-type landfill. Taking in about, well, at one
time
11 it was going to take in probably around 13 counties and
12 then we narrowed it down to 10.

13 But what's very disturbing is that the reason
14 that they said that they wanted to go private was that
they
15 didn't want the responsibility of having a landfill in
16 LaSalle County, and it'd be public landfill, where they
17 would have the responsibility to take care of it.

18 And they didn't want also the financial
19 worthwhile of it. It would be the responsibility and the
20 financial responsibility that they would have, and they
21 didn't want this.

22 So then we went through a process of trying to
23 find, you know, vendors. So we narrowed it down to three
24 vendors.

1 And before I get into that. I'd like to just
2 reiterate see that we went -- we had a plan.

3 HEARING OFFICER FRANK: Sir, as you're well aware the
4 Board has ruled that how you chose your vendors and how
you
5 set up your plan is not relevant to the proceedings. And
6 although I've allowed to you to kind of give us some
7 background information, you really need to focus on what
8 happened after the Application was filed. Because the
9 other information will not be heard by the Pollution
10 Control Board.

11 Thank you.

12 MR. FRANZETTI: Well, what I'm doing is not really
13 trying to give any pertinent information, except that I'm
14 trying to iterate that all through the process, through
the
15 hearings as far as formulating the plan and as far as also
16 going through the process of the hearings, that the
17 fundamental fairness issue is very much alive.

18 And that's basically what I'm trying to iterate,
19 rather than trying to be technical on this situation.

20 HEARING OFFICER FRANK: You need to concentrate,
21 though, on the fundamental fairness of the hearing, the SB
22 172 Senate Bill Hearings, that that's where your focus
23 needs to be.

24 MR. FRANZETTI: This is basically what I'm talking

1 about right now, the fundamental fairness issue. Is that
2 it's awful surprising, that because they didn't want the
3 liability and the responsibility they happen to pick --
4 when we start to start talking about fundamental fairness,
5 they pick. And I know because I was on that committee.
6 They picked the one who would give them the most liability
7 and the most responsibility.

8 MR. O'BRIEN: Excuse me, Mr. Franzetti. For the
9 record, I to have object again. We are now testifying to
10 facts regarding the selection of a vendor and the RP
11 process, which the board has ruled is outside the scope of
12 this hearing.

13 MR. FRANZETTI: I'd not mentioned any value.

14 MR. O'BRIEN: I'd like a ruling from the Hearing
15 Officer.

16 HEARING OFFICER FRANK: Mr. Franzetti, as I said
17 before, you need to confine your comments to the issues
18 that are directly before the Board. And the Board has
19 ruled that it will not hear about host agreement, about
20 selection of vendors.

21 I know that this is frustrating. But the Board
22 will not be able to view the information you're giving it
23 any way.

24 So you need to confine your statement and use

the

1 this time for things that the Board will hear.

2 MR. FRANZETTI: I'm trying to be as broad as I can,
3 you know. And I have not stated anything impersonal. All
4 I'm doing is giving you a broad history of the fundamental
5 fairness issue. And what I'm trying to bring out now is
6 how this fundamental fairness turned out to be that it
7 wasn't that fair.

8 That all along, what I'm trying to bring out
that
9 all along, we could have five years ago saved the County a
10 lot of money and just said: Hey, there is the vendor.
For
11 the simple reason it was preordained, and this is how I
12 feel.

13 And I feel this way because I've lived it and
14 been through it. And if anybody wants to come up here and
15 challenge me on it, I'll be glad to challenge anybody,
16 anybody in this room. And anybody -- who anybody wants to
17 choose to come forward. I don't care whether it's from
18 LandComp or from the County Board itself.

19 HEARING OFFICER FRANK: Mr. Franzetti, now you're
20 really going far afield. You need to make your statement
21 about the hearing process, and how you feel about that.
22 But challenging LandComp is not going to help the
23 situation. The Pollution Control Board doesn't need that
24 information on the record.

1 So if you can confine your statement, I would
2 appreciate it.

3 MR. MUELLER: I'm going to object to your comments,
4 Miss Frank. I think the witness is entitled as a County
5 Board member to state that the approval of this
Application
6 has been preordained for five years. Who's in a better
7 position to know than Mr. Franzetti?

8 HEARING OFFICER FRANK: Mr. Mueller, as you know, the
9 Board has ruled that whether or not there were ex parte
10 contacts and things that went on prior to the Application
11 is barred from evidence. And we did not allow evidence at
12 the hearing, and we will not allow evidence this evening
of
13 that.

14 So you know that that was the Board's ruling,
and
15 you can object all you want. But I'm going to stand by
the
16 Board's ruling at this time.

17 MR. FRANZETTI: You know, I just can't quite
18 understand where you're coming from. I hope you're not
19 objecting because he got up and said something about it.
20 Because I think I'm being very broad.

21 I haven't mentioned any names. I haven't
22 mentioned any names on my dysentery (sic) here as far as
23 bringing out these remarks. I have not mentioned anybody
24 in particular. I've been really broad and general. I
have

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1 not said a word --

2 HEARING OFFICER FRANK: Well, at this point I'll

3 remind you that we have a half an hour left for everyone

to

4 speak.

5 So if you could continue with your comments and

6 get through them, so that if there's anyone else who

wishes

7 to speak that we can also call them up. I would

appreciate

8 it.

9 But fighting with me is wasting everyone else's

10 time. So please continue.

11 A MEMBER OF THE PUBLIC: I don't think he's fighting

12 with you, Ma'am.

13 MR. FRANZETTI: Well, there's one point that I want

to

14 bring out that I'm very much concerned about. And that

15 is -- and this happened during the hearing. Okay?

16 As you know I was an alternate, and I attended

17 every meeting I could except for the short time that I was

18 in the hospital. And I read all the transcripts from that

19 period.

20 Well, one particular day when I was there, I

21 can't give you the exact date, but I can give you the

22 circumstances. You know, I was an alternate on the

23 committee. And they had a meeting held, the committee

did,

24 and I was not invited. I was there, but nobody told me.

I

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1 didn't know anything about the meeting until after they
2 came back.

3 In fact, there was some hullabaloo about the
4 meeting, for the simple reason one of the people from the
5 opposition to the landfill seen them inside this meeting.
6 And there was some controversy about who else was in
7 there. But there was definite, and the Board members did
8 not deny that they had a meeting. And I was not asked to
9 attend. And that was one of the disturbing things that
10 bothers me.

11 Being an alternate, you know, I was supposed to
12 attend all of meetings because I was going to have to make
13 a decision on the landfill. If one of them could not make
14 it, or they were sick, or whatever.

15 Well, anyway, that's one point that I would like
16 to bring across.

17 But anyway, as a resident, as a resident of the
18 area and a person who lives not too far away from that
19 proposed landfill, that I am very, very much concerned, as
20 I told you earlier, about the area itself.

21 I feel myself just as a common citizen, as a
22 sidewalk engineer, that this is probably one of the worst
23 places in our County that you should put a landfill.

24 Sure, the land was all tore up from strip
mining,

1 and it was nice cheap land. So somebody could just say:
2 Okay. I'll start filing these holes up.

3 So, I mean it was a classic for being, for
4 landfills to be located there. But nobody was taking into
5 consideration what was underneath. We have a very
6 important aquifer underneath that landfill, the St. Peter
7 Sandstone, which it encomforts (phonetic) the whole
8 northern part of Illinois and it goes up into Wisconsin.

9 Now that is what I'm concerned about. You know,
10 everybody wants to say we want to save our water. We want
11 to do this, and we want to do that. But then when it
comes
12 down to it, nobody tries to protect it.

13 And sometimes, you know, I have a lot of battles
14 with the EPA and also the Pollution Control Board on this
15 very issue.

16 You know, sometimes I sit and wonder like, you
17 know, you listen, you listen, and you hear, and you can
18 remember the poem, Silas Mariner (sic), it says: "Water,
19 water everywhere. And how the boards would shrink. Water
20 water everywhere, and not a drop to drink."

21 And don't think that can't happen. And the way
22 we go at it, believe me, and the way I can remember when I
23 was a boy yet, you know, it seems like more people,
there's
24 more automobiles. There's more people. I mean more --

1 there's ground being covered. There is more houses being
2 built. I mean there's more people being put on this
3 planet. And I think we're just touching the tip of the
4 iceberg, and we're not one bit concerned.

5 It's my estimation we are not, that we are not
6 very much concerned what we are doing to the water and
what
7 we are doing to our air.

8 And like people were saying about our economic
9 background, you know they're saying: Hey, we're borrowing
10 a credit card from our future generation.

11 A MEMBER OF THE PUBLIC: That's right.

12 MR. FRANZETTI: Hey: We're killing our future
13 generation today. And I'll tell you right now, if
14 something like this don't stop, we're in for big trouble.
15 Not maybe me, because I've only got a few more years left.

16 But I'll tell you this, our kids and their kids
17 are going to feel the effect of what we do or what we
don't
18 do today.

19 Thank you.

20 (Applause from audience.)

21 HEARING OFFICER FRANK: Are there any questions for
22 Franzetti? Did you have any questions?

23 MR. MUELLER: Mr. Franzetti, I have some questions.

24 HEARING OFFICER FRANK: Okay.

1 MR. FRANZETTI: Don't make them too much, George.

2 MR. MUELLER: Ario, this will be easy.

3 HEARING OFFICER FRANK: George, could you come up to
4 make sure our court reporter gets you? Thanks.

5 EXAMINATION BY:

6 MR. MUELLER

7 MR. MUELLER: Ario, which committee were you an
8 alternate on?

9 THE WITNESS: I was an alternate, I was an alternate
10 on the designing committee.

11 Q. That's the siting hearing committee that
listened
12 to the evidence at the actual siting hearing?

13 A. That's right.

14 Q. And when was this meeting of the committee that
15 you were not invited to participate in?

16 A. It was during one of the siting meetings, the
17 hearings.

18 Q. And was that the meeting the committee had with
19 Mr. Eschbach to discuss whether or not to release the CDM
20 documents?

21 A. Yes. That's the meeting.

22 Q. And you did not get to participate in that
23 meeting?

24 A. No, I did not.

1 Q. Or even be present?

2 A. No, I did not.

3 Q. And that's because you were a known opponent of
4 this application; right?

5 MR. O'BRIEN: Object to the form of that question.

6 MR. MUELLER: Withdrawn. No further questions.

7 (Applause from audience.)

8 HEARING OFFICER FRANK: Is there cross examination?

9 MR. O'BRIEN: Let me ask one question.

10 HEARING OFFICER FRANK: Okay. Mr. O'Brien?

11 EXAMINATION BY:

12 MR. O'BRIEN

13 MR. O'BRIEN: One question, Mr. Franzetti, just so
14 we're clear.

15 The meeting that you're referring to is this the
16 meeting that Miss Thornton testified about during the
17 hearings?

18 THE WITNESS: Yeah, that was one of the meetings,
yes.

19 Q. Is this the meeting -- is the meeting that Miss
20 Thornton testified about during the hearings, is that the
21 one that you claim that you were not invited to?

22 A. That's the meeting.

23 MR. O'BRIEN: Thank you.

24 HEARING OFFICER FRANK: Mr. Mueller, do you have

1 anything else?

2 MR. MUELLER: Nothing further.

3 HEARING OFFICER FRANK: Okay. Thank you,

4 Mr. Franzetti. Thank you, for your comments.

5 Is there anyone else who wishes to come up and
6 speak? Sir?

7 MR. PAUL SMITH: It sounds kind of odd, but I don't
8 have my glasses. Can my wife read this in for me, and

I'll

9 stand up there with her?

10 HEARING OFFICER FRANK: Actually by putting it into
11 the record in written form it's entered as if read.

12 A MEMBER OF THE PUBLIC: Maybe it's something we
13 should hear.

14 HEARING OFFICER FRANK: Okay. That's fine if you
want

15 to read it. Just so that you're clear, if people enter
16 written comments later, the Board uses them as though they
17 were statements at hearing. So you can still come forward
18 and do that. But I just don't want, you know, you to

think

19 that the Board isn't going to read statements that come in
20 later.

21 Okay. If your wife's going to read it, she'll
22 need to be sworn.

23 L I N D A S M I T H,

24 Having been first duly sworn upon her oath, gave a

1 statement as a Member of the Public as follows:
2 (Witness sworn.)
3 THE COURT REPORTER: I need your name, please, sir?
4 MR. SMITH: Paul Smith.
5 THE COURT REPORTER: S-m-i-t-h?
6 MR. SMITH: S-m-i-t-h. Can I preface this?
7 HEARING OFFICER FRANK: Sure. But she -- did you
give
8 your name to the court reporter, too, Mrs. --
9 MRS. SMITH: I'm Linda Smith. L-i-n-d-a.
10 THE COURT REPORTER: I did not swear in Mr. Smith. I
11 only swore in Mrs. Smith.
12 HEARING OFFICER FRANK: Mr. Smith, you need to be
sworn
13 in, also.
14 P A U L S M I T H,
15 Having been first duly sworn upon his oath, gave a
16 statement as a Member of the Public as follows:
17 (Witness sworn.)
18 HEARING OFFICER FRANK: I just caution you, that in
19 order for the court reporter to follow you, you can't jump
20 back and forth. So you --
21 MR. SMITH: We won't.
22 HEARING OFFICER FRANK: Okay. That's fine.
23 MR. SMITH: At the hearing, the Hearing Officer,
Allen
24 Schoenberger read a 100-page summary, and that summary was

1 given to the County Board Members. And it was a
2 recommendation. He told them how he felt they should vote
3 on the Siting Application.

4 And I read that summary. In fact, I read it a
5 couple of times. And I feel it's an example of extremely
6 biased writing. I feel it prejudiced the opponents
7 positions. And I feel that the Pollution Control Board
8 should be aware of some of the things that were said in
9 that, in that document in a context of biased language.

read 10 And that's what this is now. If you haven't
11 the report then this may not make a lot of sense. But if
12 you have, I think it may sound kind of familiar.

13 MRS. SMITH: As a result of LandComp's success in
14 obtaining a gag order prohibiting testimony or the present
15 damage of evidence showing a lack of fundamental fairness
16 in the vendor selection process, the development of siting
17 criteria, and the role of the applicant in developing the
18 County Solid Waste Plan, all of which occurred prior to

the landfill 19 actual SB 172 hearing. Proponents to the proposed
20 find the deck yet once again almost hopelessly stacked
21 against them.

22 Even so, I feel the hearing process itself has
23 ample evidence to indicate the preferred status that
24 LandComp has enjoyed throughout this entire process.

1 I limit my comments below to the 100 page plus
2 summary submitted by Professor Allen Schoenberger, the
3 hearing officer hired by the county to preside over the
4 Siting Hearing.

5 The LaSalle County Board asked Schoenberger to
6 provide them with a summary of.

a 7 HEARING OFFICER FRANK: Ma'am, you need to slow down
8 little bit.

9 MRS. SMITH: The LaSalle County asked Schoenberger to
10 provide them with a summary of and apparently a
11 recommendation on the Application by LandComp.

12 Mr. Schoenberger approached this task with such
13 obvious enthusiasm for the Applicant's case, and such
14 disregard for opponents' arguments that he created what
15 could probably serve as a text book example of biased
16 writing.

17 I feel this report alone makes a strong case for
18 a lack of fundamental fairness in the process. Chief
among

19 Schoenberger's biases in this treatment of his witnesses.
20 All witnesses supporting the Applicant are at some point
21 credited with their credentials. While I may have missed

a 22 few, these witnesses include William McCann, Jay
23 Christopher Linert (phonetic), David Miller, Dr. William
E. 24 Southern, Devin Moose, and Jeffery C. Schou. Full names

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1 are given for all along with titles, work history, et
2 cetera.

3 By contrast opponents' witnesses are referred to
4 only as Mr. Morris and Mr. Hindron (phonetic).

5 The one qualifying comment that Schoenberger
does
6 make about Morris characterizes him as someone who does
7 seem to testify only on one side of such dispute.

8 Ironically, most of the remainder of Page 83 is
9 given over to a flowing biography of Devin Moose,
10 LandComp's chief engineer.

11 Non-expert witnesses received much of the same
12 treatment from Schoenberger. His comments concerning
13 Criteria 3, Pages 20 to 37 offers several examples of his
14 treatment of such objectors. 11 pages, 20 through 31 are
15 devoted to and at times almost verbatim reinstatement of
16 LandComp's arguments. Only two pages are given to a
17 summary of all opponents arguments peppered with
qualifying
18 words such as: Assertive, alleging, contended, and
19 supposedly.

20 One would be hard pressed indeed to find any of
21 the pro-applicant testimony characterized in this manner.
22 To make sure County Board Members saw opponents' arguments
23 in a light favorable to LandComp, Schoenberger spends the
24 next three pages, 33 to 35, rebutting them, and follows

1 with a recommendation the Board finally -- I'm sorry.
2 With a recommendation the Board finds the facility
3 satisfies Criteria 3.

4 In general for each criteria Schoenberger
5 restates LandComp's arguments voluminously accepting them
6 as facts.

often 7 Opponents arguments, on the other hand, are
8 left out as exemplified by Schoenberger's treatment of
9 Criteria 6, pages 37 to 44. The rare mention of an
10 intervenor's or an objector's argument seems to have been
11 included that Schoenberger can rebut them.

12 In some cases an objector's argument seems
13 twisted in some fashion, usually by taking it out of its
14 original context, so that it can be used to support a
15 LandComp position.

16 Lines 4 through 6 on Page 13, and lines 17
17 through 21 on Page 28 are examples of his tactics.

18 In the former Schoenberger quotes a portion of a
19 sentence out of a much longer package supporting a smaller
20 landfill and uses it to bolster LandComp's much larger
21 facility. In the latter he uses another quotation out of
22 context to again support the opposite view.

23 In fact, he altered the quote just to his
24 purposes. Schoenberger quoted me. It came from my
written

1 commentary, as saying that Libbey Owens Ford and US Silica
2 down on the floor of the Illinois River Valley are not
even
3 visible from the proposed sites.

4 If you read my testimony you will see that I
5 actually said: Libbey-Owens Ford and US Silica are, in
6 fact, a mile away within the city limits of Naplate and
7 Ottawa down on the floor of the Illinois River Valley, and
8 not even visible from the proposed site.

9 I underline the portion that Schoenberger left
10 out. I believe he did not intentionally, since leaving it
11 in would not have allowed him to equate the view from
these
12 industries with a view from the canal which was his
purpose
13 in using the quote.

14 Sometimes Schoenberger makes obviously
subjective
15 statements to support LandComp or its owner, Paul DeGroot.
16 The best example of this that I can find is on
17 Page 48, when he says: "While various objectors attempted
18 to shake Mr. DeGroot's credibility on cross-examination,
it
19 is hard to conclude that anyone succeeded".

20 By what yardstick is Schoenberger measuring the
21 listeners belief or disbelief of DeGroot during his
22 testimony?

23 I know that Schoenberger says in the beginning
of
24 the summary, that what he says in his opinion and the

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1 LaSalle County Board, is free to make up his own mind.
2 He also has to note, however, that they hired
him
3 on the basis of his experience and expertise, and
requested
4 his summary to provide them with some sense of direction.
5 It was incumbent upon Schoenberger to show some degree of
6 fairness in this summary. Even if in the end he
7 recommended approval.
8 I feel the obvious bias he showed towards
9 LandComp, the almost flaunting attention he lavished on
10 Paul DeGroot and his experts, that the contempt shown to
11 opponents and their experts, the deliberate distortion of
12 opponents arguments and testimony, all show a fundamental
13 lack of fairness.
14 This testimony was presented to the Board
Members
15 voting on the landfill, and read as though it could have
16 been written by LandComp themselves.
17 It's unfair. It's wrong. And I deeply resent
18 the fact that it's almost certainly made my County Board
19 more likely to vote for the proposed facility. Paul L.
20 Smith.
21 (Applause from Audience.)
22 HEARING OFFICER FRANK: Do you have any questions for
23 this witness?
24 MR. O'BRIEN: No.

of
1 HEARING OFFICER FRANK: Okay. May I have that piece
2 paper?
3 MR. SMITH: Yes.
public
4 HEARING OFFICER FRANK: It will be entered as a
5 comment.
6 At this time I don't know if we have any other
7 public comments. So I don't know if we can give it a No.
8 1. If it's No. 1, it will be No. 1. If it's No. 5, it's
9 No. 5. So I can't tell you the exact number at this time.
10 Bruce, did you have a questions?
11 MR. MARKWALTER: I'd like to suggest that you
12 designate it as RAPE No. 1.
13 HEARING OFFICER FRANK: Actually our public comments
14 just come in as public comments. And because our Clerk's
15 Office probably will be taking public comments from all
16 over, there won't be given any specific designation. I
17 think it's clear from the hearing records now that it was
18 for RAPE, and what the purpose of the comment was. It
just
19 would be too impossible to do that as more comments come
20 in.
21 Is there anyone else who wishes to speak?
22 Ma'am?
23 MS. MITCHELL: I have already spoke, but I would just
24 like to say a couple words.

1 HEARING OFFICER FRANK: You need to come back up to
2 the microphone and restate your name. And I remind you,
3 you're still under oath.

4 D A P H N E M I T C H E L L ,

5 Having previously been duly sworn upon her oath, gave
6 a statement as a Member of the Public as follows, to-wit:

7 (Witness previously sworn.)

8 MS. MITCHELL: My name is Daphne Mitchell. The only
9 reason I came back up is because over the years those of

us

10 who have known Ario have really never thanked him for all
11 the work he has done. And we've all stood here tonight
12 saying our County Board has really absolutely buried us.
13 And I'm also a county employee.

14 I thank the people who are here tonight like Tom
15 Liberg (phonetic), and Jim Lester, and Andree-Marie Koban,
16 and especially Ario Franzetti --

17 (Applause from Audience.)

18 MS. MITCHELL: -- who has taken care of the people of
19 LaSalle County. Who has been an expert. Who people have
20 called from all over the United States, and yet is not
21 respected by some of our County Board Members. And he has
22 more knowledge than any scientist, any geologist, any
23 lawyer. Ario knows the environment.

24 And I want to thank him personally for all of

the

1 years. We cannot thank you enough, Ario, and God Bless
2 you. Thank you.

3 (Applause from Audience.)

wishes 4 HEARING OFFICER FRANK: Is there anyone else who
the 5 to make a comment about the things that are relevant to
6 Board? I understand her need to do that, and that's fine.
7 But before we run out of time I want to make sure that
8 there is no one else who wishes to come forward and speak.

this 9 Okay. Do the attorneys have anything more at
10 time?

11 MR. ESCHBACH: I have nothing.

12 MR. O'BRIEN: Nothing.

13 HEARING OFFICER FRANK: Okay. Are we --

14 A MEMBER OF THE PUBLIC: You said more written things
15 could be --

16 HEARING OFFICER FRANK: Yes. I will get to that.

17 At this time do the attorneys have closing
18 statements, or are we in agreement that we are done now
19 with the hearing portion?

20 Mr. Mueller, do you have anything further?

21 MR. MUELLER: I'll submit my arguments in writing.

22 HEARING OFFICER FRANK: Okay. Mr. Eschbach?

23 MR. ESCHBACH: Nothing.

24 HEARING OFFICER FRANK: Mr. O'Brien?

1 MR. O'BRIEN: No.

2 HEARING OFFICER FRANK: So we are not returning to
3 hearing tomorrow; is that correct?

4 MR. O'BRIEN: That's correct.

5 HEARING OFFICER FRANK: Then I will remind the
6 attorneys that the transcript's due on August 2nd. And at
7 that time also the CDM documents are due. The first brief
8 is due on August 9th. The second response brief is due on
9 August 16th, and any reply briefs would then be due on
10 August 21st.

11 The Board will probably be making its decision
at
12 the September 19th Pollution Control Board meeting.

13 The people are welcome to come to that meeting.
14 I just don't know if anyone has gone through this process
15 before.

16 I want you to know that you are not allowed to
17 speak and make public comments at Pollution Control Board
18 meetings. They will just be voting on their written order
19 and issuing a written order. But you are welcome to come.

20 I also need to make a statement at this time
21 about witness credibility. And for the record I found all
22 of the witnesses credible, and will also be including that
23 in my written report of the hearing.

24 And getting to the public comments. The public

250

1 comments will be due to the Pollution Control Board by
2 August 2nd. Which means that they have to be mailed by
3 August 2nd. That's how our rules work. So they don't
have
4 to actually be received in our office, but you have to put
5 them in a mail box by August 2nd. The Pollution Control
6 Board will not accept any faxes. If you fax them a copy
of
7 your comments, they will be thrown out. So make sure that
8 you put them in an envelope, or bring them in. You can
9 hand deliver them. But please do not send any facsimile
10 copies.

11 I have the address and the name of the person
you
12 need to send them to. I'm also going to give this to
Bruce
13 when the hearing is over so that he will have a copy of
it,
14 so that if anyone wishes to get in touch with them, you
15 will be able to do that.

16 But the person you need to send your comments to
17 is: Adeleen Hogan, A-d-e-l-e-e-n H-o-g-a-n. She is the
18 Assistant Clerk. You need to send it to the Illinois
19 Pollution Control Board. And you can put IPCB, if that's
20 Okay. It's at 100 -- or, I'm sorry. It's at the James R.
21 Thompson Center, 100 West Randolph, Suite 11-500, Chicago,
22 Illinois, 60601.

23 And you if you can remember to do it, it would
be
24 really helpful if you put PCP 96-243 on your comments.

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1 That designates this case.

2 So we'll make sure it gets in the right file.

3 So it's pretty important that you include it. And I've also

4 put that on the note for Bruce.

5 Yes.

6 A MEMBER OF THE PUBLIC: Where's the location of the

7 hearing that the decision will be made?

8 HEARING OFFICER FRANK: The decision is in the

9 Thompson Center on the 9th floor, assuming that they have their

10 board meeting at, in their normal place. I can't imagine

11 why -- sometimes we get moved around. But it would be

12 noticed there, yeah.

13 A MEMBER OF THE PUBLIC: I came in a few minutes

14 late. Who are the people at the table?

15 HEARING OFFICER FRANK: I'm sorry. This is Audrey

16 Lozuk-Lawless. She was here yesterday, as you know. She

17 is Board Member Ron Flemel's Attorney Assistant, and also

18 we have Chuck Feinen, who is an Attorney Assistant for

19 Board Member Joseph Yi. And I apologize for not

20 introducing them.

21 Okay. Are there any other questions at this

22 time?

23 Yes, Miss Kinney?

24 MS. KINNEY: Can I get the phone number, also, to

verify when the meeting is?

is

1 HEARING OFFICER FRANK: Sure. My work phone number
2 (217) 356-5275.

3 But just so that you know, I have several
4 hearings scheduled between then and now. It may be hard.
5 You're welcome to call me when I'm there. I'd be happy to
6 talk to you. But you may get that message that says I'm
7 out at a hearing.

8 A MEMBER OF THE PUBLIC: Your name, please?

9 HEARING OFFICER FRANK: Deborah Frank.

10 A MEMBER OF THE PUBLIC: Do you have the Pollution
11 Control Board's number, also?

12 HEARING OFFICER FRANK: The general number is (312)
13 814-3620.

14 A MEMBER OF THE PUBLIC: Thank you.

15 HEARING OFFICER FRANK: Okay. And does anyone else
16 have any other questions about filing, submitting
comments,
17 or anything additional?

18 Okay. Well, then that concludes our hearings
19 here. I appreciate you all for coming and showing your
20 support or nonsupport, for being here.

21 And the hearings are now concluded. And the
22 record will be closed on the 21st with the final brief.

23 Thank you.

24 (Which were all the proceedings

) 1 had in this cause on this date.

2 STATE OF ILLINOIS)
) SS.
3 COUNTY OF LASALLE)

4

5 I, MARGARET M. BALESTRI, a Certified Shorthand
6 Reporter and Notary Public in and for the County of
7 LaSalle, State of Illinois, do hereby certify that I
8 reported the public hearing in the above-entitled matter
by 9 means of machine shorthand and reduced it to writing by
10 computer aided transcription; that said hearing was taken
11 at Koolie's Banquet Hall, 1504 Poplar Street, Ottawa,
12 Illinois; and that the foregoing is a true, correct, and
13 complete transcript of my shorthand notes so taken
14 aforesaid.

15 I further certify that I am not counsel for nor
16 in any way related to any of the parties in this matter,
17 nor am I in any way interested in the outcome thereof.

18 IN TESTIMONY WHEREOF, I have hereunto set my
hand 19 and affixed by Notarial Seal this 31st day of July,
1996.

20

21

22

23

24

MARGARET M. BALESTRI
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